

VILLAGE OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2015-39

A RESOLUTION APPROVING AN APPLICATION AND ISSUING A SPECIAL USE PERMIT TO NETWORK BUILDING & CONSULTING, LLC FOR MODIFICATIONS TO ITS EXISTING WIRELESS TELECOMMUNICATIONS FACILITIES INCLUDING TO ADD REMOTE RADIO HEADS TO THE EXISTING AT&T WIRELESS ANTENNA ON THE TOWER AT 3472 LEBANON ROAD IN THE VILLAGE OF SOUTH LEBANON, AND DECLARING AN EMERGENCY

WHEREAS, the Council adopted Resolution No. 2001-13 to insure the placement, construction or modification of wireless telecommunications facilities in the Village is consistent with the Village's land use policies and to minimize the negative impact of such facilities, etc. to protect the health, safety and general welfare of the Village; and,

WHEREAS, Ordinance 2001-13 requires a Special Use Permit be issued for any construction of new wireless telecommunications facilities or modifications, and further designates the Council as the approving authority or issuer of such permits deemed in compliance with the said Ordinance; and,

WHEREAS, Section 16 (C) of Ordinance 2001-13 provides if an application for a Special Use Permit is for collocating on an existing Telecommunications Tower or high structure, where no increase in height of the Tower or structure is required, no public hearing will be required prior to the approval of the application; and,

WHEREAS, Section 6409(a) of the Middle Class Tax Relief and Jobs Creation Act of 2012 (known as the "Spectrum Act"), codified in 47 U.S.C. 1455, requires local governments to approve an eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station; and,

WHEREAS, the FCC has interpreted the Spectrum Act to require the local government to approve the application within 60 days of the date on which an applicant submits an application seeking approval for a request for a modification of an existing tower or base station that the local government determines does not result in a substantial change to the physical dimensions of such tower or base station; and,

WHEREAS, on December 2, 2015, Network Building & Consulting, LLC, as agent for AT&T Wireless, filed a Special Permit Application with the Village relating to

collocating on its wireless communications facilities at 3472 Lebanon Road in the Village; and,

WHEREAS, Ordinance 2001-13 allows the Council to delegate or designate other officials of or agents on behalf of the Village to accept, review, analyze, evaluate and make recommendations to Council with respect to applications for such Special Use Permits; and,

WHEREAS, the Village Administrator has completed his analysis and recommendation to Council, a copy of which is attached hereto and incorporated by reference herein; and,

WHEREAS, immediate action is required to complete a fair and efficient process as required by Ordinance No. 2001-13 and the timely review as mandated by the aforementioned federal law, and such action is necessary in order to preserve the public peace, health, safety or welfare of the Village.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of South Lebanon, at least two-thirds of all members elected thereto concurring:

Section 1. The attached analysis and recommendation of the Village Administrator are hereby adopted by the Council as its findings of fact and conclusions of law.

Section 2. That the Council does hereby approve the Special Use Permit applied for by Network Building & Consulting, LLC, Inc. as agent for AT&T Wireless relating to its wireless communications facilities at 3472 Lebanon Road in the Village.

Section 3. That a certified copy of this Resolution shall be deemed the Special Use Permit.

Section 4. That the Council is acting in its administrative capacity in passing this Resolution.

Section 5. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 6. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate

preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

Section 7. That it is found and determined that all formal actions of the Council concerning and relating to passing this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 17th day of December, 2015.

Attest: Sharon Louallen Lionel H. Lawhorn
Sharon Louallen, Fiscal Officer/Clerk Lionel Harold Lawhorn, Mayor

Rules Suspended: 12/17/2015 (if applicable)	Effective Date - 12/17/2015
Vote - <u>6</u> Yeas ___ Nays	
First Reading - / /2015	Effective Date - / /2015
Second Reading - / /2015	
Third Reading - / /2015	
Vote - ___ Yeas ___ Nays	

Prepared by and approved as to form:

BRUCE A. MCGARY
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: Bruce A. McGary
Date: 12/17/2015