

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

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**Case No. S-2747**

**PETITION OF NEW CINGULAR WIRELESS PCS, LLC, d/b/a AT&T MOBILITY AND  
WALTER R. HUNGERFORD**

**OPINION OF THE BOARD**

(Opinion Adopted: October 28, 2009)

(Effective Date of Opinion: December 3, 2009)

Case No. S-2747 is an application for a special exception under Section 59-G-2.58 of the Montgomery County Zoning Ordinance to permit a telecommunication facility. The Hearing Examiner for Montgomery County held a hearing on the application on July 2, 2009, closed the record in the case on August 10, 2009, and on October 9, 2009 issued a Report and Recommendation for approval of the special exception.

The subject property is located at 14615 Clopper Road, Boyds, MD 20874 in the I-1 Zone.

Decision of the Board:                      Special Exception **Granted** Subject to  
The Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on October 28, 2009. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. Petitioners shall be bound by all of the testimony of their witnesses and exhibits of record, including the Site Plan and detail sheets, Exhibits 4(a) through (e), and by the representations of counsel identified in the Hearing Examiner's Report and Recommendation and in the Board's Opinion.
2. The subject facility must not have any exterior lighting or signage, with the exception of the warning sign required under Section 59-G-2.58(a)(8). Under that provision, the support structure must be identified by a sign no larger than 2 square feet, affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership.

3. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or a use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Walter S. Booth, with Stanley B. Boyd, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 3<sup>rd</sup> day of December, 2009.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.