

Town of Northumberland
Public Hearing
June 3, 2010

Supervisor Willard Peck called the Public Hearing on proposed Local Law #2 of 2010 – “Town of Northumberland Siting of Telecommunications Towers, Antennae and related Facilities” to order @ 7:00 PM. Following the salute to the flag, roll call was taken. Those attending included Supervisor Willard Peck, Councilman Daniel Gale, Councilman George Hodgson and Councilwoman Patricia Bryant. Councilman Paul Bolesh was absent. Also attending were Clerk Denise Murphy, Building and Zoning Administrator Richard Colozza and Town Attorney Douglas Ward.

The proposed Local Law #2 of 2010 was made available at the Town Hall and on the Town’s Web Site.

LOCAL LAW #2 OF 2010
TOWN OF NORTHUMBERLAND
SITING OF TELECOMMUNICATIONS TOWERS, ANTENNAE AND RELATED
FACILITIES

The Zoning Ordinance of the Town of Northumberland is hereby amended to add a new Article 5-A to read as follows:

SITING OF TELECOMMUNICATIONS TOWERS, ANTENNAE AND RELATED FACILITIES

Purpose and Legislative Findings

The Telecommunications Act of 1996 affirmed the Town of Northumberland's authority concerning the placement, construction and modification of Telecommunications Towers. The Town Board of the Town of Northumberland finds that Telecommunications Towers and related facilities may pose a unique hazard to the health, safety, public welfare and environment of the Town of Northumberland and its inhabitants. In order to ensure that the placement, construction, or modifications of Telecommunications Towers and related facilities is consistent with the Town's land use policies, and to fulfill our obligations under the State Environmental Quality Review Act, the Town is adopting a single, comprehensive, Telecommunications Tower application, zoning and permit process. The intent of this law is to minimize the potential negative impacts of Telecommunications Towers, minimize the number of towers in the community by encouraging shared use and the use of existing structures, establish a fair and efficient process for review and approval of applications, assure an integrated comprehensive review of

Town of Northumberland

Public Hearing

June 3, 2010

environmental impacts of such facilities, and protect the health, safety, and welfare of the people of the Town of Northumberland. The Town Board, recognizing that it cannot ban such facilities from the Town, intends to implement this law so as to minimize to the maximum extent possible the negative aesthetic impact of such facilities.

Section I Required Approvals

As of the effective date of this law, no person shall site, build or prepare any site for the placement or use of any Telecommunications Tower, antenna(e) or related facilities without first duly applying for and obtaining a Telecommunications Development District (TDD) zoning amendment from the Town Board pursuant to this Local Law and obtaining the written approval of the Town Planning Board (hereinafter "Telecommunications Siting Permit" or "Permit") according to the procedures and requirements of this Law.

Section II Definitions

ANTENNAE - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal communication services, and microwave communications.

APPLICATION - The form, together with all necessary and appropriate documentation required of the applicant to receive a "Telecommunications Development District (TDD) zoning amendment" and "Telecommunications Siting Permit".

COLLAPSE ZONE - The area in which any portion of a Telecommunications Tower could or would fall, collapse or plunge to the earth. The collapse zone shall be no less than the lateral equivalent of the height of the structure.

HEIGHT - When referring to a Telecommunications Tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an Antenna.

Town of Northumberland

Public Hearing

June 3, 2010

APPLICANT - Shall include, any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons, limited liability company, or entity that submits an application.

TELECOMMUNICATIONS TOWER - Structure or locations selected, designed, or intended to be used to support an antenna. It includes without limit, free standing towers, guyed towers, monopoles, and structures of similar height including, but not limited to structures such as buildings, church steeples, silos, water towers, utility towers and poles, signs or other similar structures. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal communications, services, or microwave communications, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizens band, amateur radio and other similar communications that do not exceed height limitations addressed elsewhere in Town regulations.

COLLOCATION - The use of the same Telecommunications Tower or structure to carry two or more antennae for the provision of wireless services by two or more persons or entities.

EAF - Environmental Assessment Form

FAA - The Federal Aviation Administration

FCC - The Federal Communications Commission

NIER - Non-Ionizing Electromagnetic Radiation

SATELLITE ANTENNA - Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, light, microwave or other electronic signals, waves and/or communications from space satellites or airborne sources.

RELATED FACILITIES - Any accessory facility or structure serving or being used in conjunction with a Telecommunication Tower, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Town of Northumberland
Public Hearing
June 3, 2010

TELECOMMUNICATIONS - The transmission and reception of audio, video, data and other information or signals by wire, radio, light or other electronic or electromagnetic systems.

Section III Telecommunications Development District and Requirements

1. The Telecommunications Development District (TDD) is hereby established as a floating zone with potential applicability to any property in the Town where its use will serve to further the Legislative intent of this Article. The boundaries of each TDD shall be fixed by amendment to the Zoning Map wherever the district is applied. A metes and bounds description of each such district shall be kept on file in the office of the Town Clerk. Although it is anticipated that the TDD rezoning applications will be submitted to the Town Board on a voluntary basis by applicants, the Town Board may, on its own motion, rezone property to a TDD. This district is intended for sites of sufficient size suitable for the location of a telecommunications tower and related facilities, with appropriate setbacks in compliance with the requirements of this Zoning Ordinance.
2. The TDD procedure provides a flexible land use and design regulation through the use of performance and design criteria so that sites can be selected and development may be matched with sensitivity to a selected site in a manner not otherwise possible through strict application of land use regulations and requirements. The conventional use, area, bulk, height, and density specifications set forth in other sections of this Ordinance are intended to be replaced by the TDD plan established by the Town Board. While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with the Town Comprehensive Land Use Plan, municipal service capability, and the purpose of this Ordinance, as specified in Article 1 of this Zoning Ordinance, shall ensure the general public welfare through uniform treatment under the law, as well as precise control of aspects of development as approved.
3. In order to carry out the intent of this Article, the TDD shall achieve the following objectives:

Town of Northumberland

Public Hearing

June 3, 2010

- a) The preservation of trees, outstanding natural topography and geologic features and preservation of soil erosion;
 - b) A creative use of land and related physical development which allows an orderly transition of land from one use to another;
 - c) An effective use of land resulting in smaller networks of utilities and streets and thereby lower housing costs;
 - d) A development pattern in harmony with the objectives of the Town of Northumberland Comprehensive Land Use Plan;
 - e) A more desirable environment and a demonstrable benefit to the Town than would be possible through the strict application of the other articles of this Ordinance; and
 - f) Maximizing choice of locations of Telecommunications Towers and appurtenant facilities and encouraging the collocation of such facilities to allow for the effective provision of wireless services while preserving open space, community character and the natural resources of the Town, consistent with the Town's Comprehensive Land Use Plan.
4. The developer shall submit an application for approval for a TDD. This application shall have the form and content required by Section V hereof unless otherwise modified by resolution of the Town Board. The Town Board, at its next regularly scheduled meeting, may, if it determines that the proposal merits review, refer the application for TDD approval to the Planning Board for review and recommendation. If the Town Board determines that the proposal does not merit review because it does not meet the goals and objectives of the Town's Comprehensive Land Use Plan or the objectives of this Article, it shall state the reasons for this determination in writing and it shall not refer the application to the Planning Board. In such event, no further action on the application shall be taken by the Town Board or the Town Planning Board.
5. If the Town Board determines that the proposal merits review by the Town Planning Board, it shall refer the application to the Town Planning Board together with such draft conditions as the

Town of Northumberland
Public Hearing
June 3, 2010

Town Board may reasonably require. The application shall be placed on the agenda for the next available Planning Board meeting. The Town Planning Board shall review the TDD application contemporaneously with its review of the applicant's permit application under Section IV hereof.

6. The Town Planning Board may require additional changes deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the Town. In making its recommendations on the proposed development and changes, if any, the Town Planning Board shall consider all the standards set forth in Sections III(2), VI hereof.
7. Within a reasonable time of the referral from the Town Board, or from the date that all information requested by the Town Planning Board is submitted, the Town Planning Board shall recommend approval, approval with modifications, or disapproval to the Town Board of such TDD application.
8. The Town Board may retain the services of consultants or experts to assist it in reviewing applications pursuant to this Zoning Ordinance.
9. Prior to issuing a decision on the TDD application, a public hearing shall be held by the Town Board, notice of which shall be published in the official newspaper for the Town no less than ten (10) days in advance. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within fifteen hundred (1500) feet of the property line of the parcel on which the TDD is proposed. Notification, in all cases, shall be made by certified mail or other reliable method acceptable to the Town Board no less than ten (10) days in advance of the hearing. Proof of notification shall be submitted to the Town Board at least seven (7) days prior to the hearing. This hearing may be held contemporaneously with any hearing held by the Town Planning Board as required by Section VII hereof. The Town Board in reaching its decision on the proposal shall consider the standards and factors set forth in Sections III (2), VI and the recommendations of the Town Planning Board.

Town of Northumberland
Public Hearing
June 3, 2010

10. If approved, or approved with conditions, the Zoning Map shall be amended with the boundaries of the TDD defined subject to the submission of a survey of the property by a licensed surveyor.
11. All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of the TDD, or any portion thereof, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any Certificate of Occupancy issued for any use or structure in such TDD.

Section IV Town Planning Board Approval -- Policy and Practice

1. Applicants must obtain written approval of the Town Planning Board for a Telecommunications Siting Permit in accordance with the requirements of this section in order to own, site, construct, or operate Telecommunications Towers and related facilities in a TDD in the Town of Northumberland.
2. The Town of Northumberland's policy is to minimize the impact of Telecommunication Towers in the Town and mitigate the impact of such facilities as are required.
3. The Town finds that collocation and effective camouflaging of telecommunications facilities is in the public interest and should be encouraged. As hereinafter described, the Town Planning Board will waive such requirements of the permit application required by this local law as are inappropriate in the case of applications for facilities to be collocated on existing structures, or for facilities which will be effectively camouflaged (sometimes called "Stealth Facilities") in either existing or new structures. The Town Planning Board will expedite review and approval of such applications.
4. The Town Planning Board may retain the services of consultants or experts to assist it in reviewing applications pursuant to this law.
5. The Town Planning Board may conduct pre-application meetings with potential applicants, at the applicant's request.

Town of Northumberland

Public Hearing

June 3, 2010

6. Except for the Telecommunications Siting Permit and approval, necessary building permits and subsequent certificates of compliance, and the TDD zoning amendment described in Section III hereof, no additional permits or approvals from the Town of Northumberland will be required for facilities covered by this law.
7. The Town Planning Board will undertake review of applications pursuant to this law in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
8. Given the public's perception of the risks of radio frequency technology, the Town Planning Board may hold one or more public information sessions for purposes of addressing the public's concerns regarding the health and safety implications of the applicant's requested permit, and may compel that the applicant be available to answer questions. The Town Planning Board may not, however, refuse to issue a Telecommunications Siting Permit on the grounds of the public's concern regarding the health and safety of the proposed facility's RF emissions if the parameters of the RF emissions comply with applicable federal law.

Section V Content of Application

1. Applications under this law must contain at least the information required by this section. The application must be verified by a responsible officer of the applicant. The landowner, if different than the applicant, shall acknowledge the application and verify that he is aware of the application and is aware that the Town Planning Board may deny the application or issue a permit with conditions. Where this section calls for "certification", such certification shall be by a qualified person acceptable to the Town Planning Board, unless otherwise noted. All applicants should seek pre-application meetings with the Town Board and/or the Town Planning Board.
2. The Town Planning Board will, upon the applicant's request, waive some of the provisions of this section in cases where the application is for a collocated facility or an effectively camouflaged

Town of Northumberland
Public Hearing
June 3, 2010

(i.e. “Stealth”) facility. The applicant should seek a pre-application meeting with the Town Planning Board to review such a proposed application and settle the waivers or establish provisions which will help to expedite review and permitting for such applications. The purpose to such waivers or other alternative procedures shall be to expedite and minimize the cost to the applicant and the Town Board and Town Planning Board for review and permitting for collocation and other applications that meet the minimization and mitigation goals of this law.

3. An application for a permit under this law shall contain at least the following information:
 - a) Names(s) and address(es) of person(s) preparing the report and telephone number of a contact person;
 - b) Name(s) and address(es) of the proposed property site owner, operator, and applicant;
 - c) Postal address and sheet, block and lot or parcel number of the proposed property site;
 - d) Zoning District in which the proposed site is situated;
 - e) A map showing the size of the proposed property site and the location of all lot lines;
 - f) Location of nearest residential structure;
 - g) Location of nearest habitable structure;
 - h) Location of all structures on the proposed property site, which is the subject of the application;
 - i) Location, size and height of all proposed and existing antennae and all appurtenant structures, and showing the “collapse zone” on the drawing;
 - j) Type, size and location of all proposed and existing landscaping;
 - k) The number, type, and design of the tower and antenna(e) proposed, the basis for the calculations of tower and system capacity, and the grounding for the installation;
 - l) The make, model and manufacturer of the tower and antenna(e);
 - m) A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting;

Town of Northumberland

Public Hearing

June 3, 2010

- n) The frequency, modulation and class of service of radio equipment;
- o) Transmission and maximum effective radiated power of the antenna(e);
- p) Direction of maximum lobes and associated radiation of the antenna(e);
- q) Applicant's proposed tower maintenance and inspection procedures and record systems;
- r) Certification by a qualified professional that NIER levels at the proposed site are within parameters adopted by the FCC;
- s) Certification by a qualified professional that the proposed antenna(e) will not cause interference with existing communication devices;
- t) Certification by a New York State Licensed Professional Engineer that the tower and attachments as designed meet all structural requirements for such items as loads, wind, ice, etc.; after construction, the applicant shall certify that "as built" the structure also meets all applicable requirements;
- u) A written statement wherein the applicant agrees to defend and indemnify the Town and any of its servants, agents or employees from any and all claims made in connection with the siting, installation, construction, use or operation of the Telecommunication Tower and related facilities; in connection herewith, the applicant shall supply proof of insurance acceptable to the Town Supervisor. Applicant shall name the Town as an additional insured on its insurance policy, in a reasonable amount to be agreed upon between the applicant and the Town Supervisor;
- v) A copy of the FCC license applicable to the application;
- w) The applicant's plan for a period of at least two years for telecommunication facilities located or to be located in the Town and all adjoining municipalities; The applicant shall identify and disclose the number and locations of any additional sites that the applicant has, is, or will be considering, reviewing, or planning for any towers, antenna(e) or related facilities in the

Town of Northumberland
Public Hearing
June 3, 2010

- Town, and all towns adjoining the Town for a period of at least two years from the date of the submittal of the application;
- x) The applicant shall demonstrate its review of proposed alternatives as required by this law. An applicant may not omit analysis of appropriate alternative sites of lesser impact on the grounds that the site presented is the only site leased or selected. An application shall address collocation as an option and if such option is not proposed, the applicant must explain why the option is not feasible;
 - y) In the case of an application for a new Telecommunications Tower, the application must examine the feasibility of designing a proposed tower to accommodate future demand for at least two (2) additional commercial applications (*i.e.* future collocations). The tower must be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. The requirement to construct a tower that can accommodate collocation may be waived by the Town Planning Board, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon consideration such as, for example:
 - 1. The number of FCC licenses foreseeable available for the area;
 - 2. The kind of tower site and structured required;
 - 3. The number of existing and potential licenses without tower spaces/sites;
 - 4. Available spaces on existing and approved towers, and
 - 5. The potential for significant adverse visual impact of a tower designed for shared use.
 - z) The applicant may be required to address the impact upon property values in the neighborhood brought about by the proposed tower;
 - aa) The applicant shall set forth alternative tower designs, color schemes and disguises for the Telecommunication Tower, antennae and related facilities, including a design which

Town of Northumberland
Public Hearing
June 3, 2010

- effectively camouflages the facility (“Stealth Facility”) or avoids the use of a free standing metal tower. The applicant shall explain why a towerless system, such as a system that uses cable television or other technologies, is not feasible;
- bb) The applicant shall submit copies of their site prioritization and propagation studies or analyses;
- cc) The applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four (4) miles (unless the applicant can show that some other distance is more reasonable) of any proposed new tower site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction;
- dd) The applicant shall submit a complete New York State SEQRA long EAF Part 1 and visual EAF addendum Appendix D. The Town Board or Town Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF;
- ee) The applicant shall submit a Visual Impact Assessment which should include:
1. A “Zone of Visibility Map” to determine locations where the tower may be seen;
 2. Representations of “before and after” views from key viewpoints both inside and outside of the town, including but not limited to: state highways, and other major roads, state and local parks, other public lands, preserves and historic sites, and from any other location where the site is visible to a large number of visitors or travelers. If requested by the applicant, the Town Planning Board acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key site assessment of the visual impact;
- ff) The applicant shall explain in detail its proposed method of effectively screening from view its proposed tower base and all related facilities.

Town of Northumberland

Public Hearing

June 3, 2010

4. The Town Planning Board may require the applicant to supply such further and additional information as it deems necessary in order to carry out its responsibilities under the law.
5. The Town Code Enforcement Officer shall determine the number of copies of the application which must be submitted. The applicant is encouraged to confer with the Code Enforcement Officer to explore whether some portions of the application need not be reproduced in all copies. Absent a determination by the Code Enforcement Officer, the applicant must submit 12 copies of the complete application.

Section VI Terms and Conditions

1. An applicant must demonstrate to the Town Planning Board's satisfaction that the Telecommunications Tower, antenna(e) and related facilities will meet these conditions. In all cases the burden of proof shall be upon the applicant.
2. Applicants for Telecommunication Towers and antennas shall locate, erect and site said facilities in accordance with the following priorities:
 - a. collocation on existing towers or structures;
 - b. camouflaged or Stealth Facility;
 - c. locations where topography and cover minimize the visual impact;
 - d. in industrial areas.
3. No new Telecommunication Tower, which would have an adverse visual impact upon sensitive areas, such as historic sites, lakes and scenic places, shall be approved. Modification of existing towers or addition of antenna(e) to existing towers or stations in such sensitive areas may be acceptable, if otherwise consistent with this law. The Town Board may establish a list of such areas.
4. At all times, collocation on existing towers and appropriately camouflaged use of existing or new structures shall be preferred over the proposed construction of new towers.

Town of Northumberland

Public Hearing

June 3, 2010

5. Towers shall be no higher than the minimum height necessary. Unless waived by the Town Planning Board upon good cause shown, the presumed maximum height will be 140 feet, based on three collocated antenna arrays and an ambient tree height of 80 feet.
6. If a new structure is required, structures that effectively camouflage the facility shall be preferred.
7. Except for good cause shown, towers shall not exceed the height requiring artificial lighting. Telecommunications Towers shall not be artificially lighted or marked except as required by Law. Towers shall be of appropriate materials and color to harmonize with the surroundings. Towers should be designed and sited so as to avoid application of lighting requirements.
8. Telecommunication Towers shall be permitted one sign no larger than two (2) square feet to provide adequate notification to persons in the immediate area of the antenna(e) that it has transmission capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any antenna(e) tower, unless required by Law.
9. Telecommunication Towers and antenna(e) shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public. All antenna towers, monopoles, and other supporting structures including guy wires, shall be made inaccessible to persons and constructed or shielded in such a manner that they cannot be climbed or run into. Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are readily accessible only to persons authorized to make such adjustments.
10. All proposed Telecommunication Towers and related facilities shall be setback from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from a tower failure and preserve the privacy of any adjoining properties. Telecommunication Towers shall be set back from all lot lines by a distance equal to or greater than the height of the

Town of Northumberland
Public Hearing
June 3, 2010

tower. Accessory structures shall comply with the minimum setback from lot lines as required by the Town Planning Board.

11. All utilities leading to and away from any new telecommunication site shall be installed underground and in compliance with all the laws, rules and regulations of the Town. The Town Planning Board may waive or vary the requirements of underground installation whenever, in the opinion of the Town Planning Board, such variance or waiver shall not be detrimental to the public health, safety, general welfare or environment, including the visual and scenic characteristics of the area.
12. All Telecommunication Towers and related facilities shall be sited to the maximum extent practicable to have the least adverse visual effect on the environment, visual view shed and residences in the Town.
13. Related facilities shall maximize use of building materials, colors, textures and architectural styles designed to blend with the surroundings.
14. Existing on-site vegetation shall be preserved to the maximum extent possible consistent, however, with the Town Planning Board's determinations concerning site plantings and screening.
15. There must be adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
16. In the event a Telecommunication Tower and/or related facility is no longer used for the purpose specified in the application, or the Telecommunication Tower and/or related facility ceases operations for a continuous period of one hundred and eighty (180) days, the Town Planning Board may by resolution after hearing held upon due notice require the applicant or its successors or assigns to dismantle and remove such tower, structures and facilities from the site and restore

Town of Northumberland
Public Hearing
June 3, 2010

the site (in the fashion as ordered by the Town Planning Board) within ninety (90) days of receipt of written notice from the Town Planning Board.

17. After construction and prior to receiving a certificate of compliance, the applicant shall provide certification acceptable to the Town that the Telecommunications Tower is grounded so as to protect person and property and installed with appropriate surge protectors.
18. Telecommunication Towers shall be designed so that in the event of failure they will fall within the setback area or collapse zone, and not threaten neighboring properties.
19. Noise producing equipment shall be sited and mitigated to produce the lowest possible off-site noise impact.
20. The Town Planning Board may require the applicant to accept in writing the terms and conditions of a permit.
21. Applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit the ability of the applicant to share any new Telecommunications Tower.
22. No applicant or owner shall enter into any agreements that limits, prohibits or precludes, or has the effect of limiting, prohibiting or precluding, the right or ability of any person or applicant to share space on a Telecommunications Tower in the Town.
23. Applications for construction of new Telecommunication Towers shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated within Federal Aviation Regulations (FAR) Part 77. Additionally, no application for construction of a new Telecommunication Tower will be approved if the proposed tower violates the criteria for obstruction to air navigation as established by FAR Part 77 Subpart C-Obstruction standards.

Section VII Procedures, Notification and Hearings

1. Prior to issuing a Telecommunication Facility Siting Permit, a public hearing shall be held by the Town Planning Board, notice of which shall be published in the official newspaper for the Town

Town of Northumberland

Public Hearing

June 3, 2010

no less than ten (10) days in advance. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within fifteen hundred (1500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal park lands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail or other reliable method acceptable to the Town Planning Board no less than ten (10) days in advance of the hearing. Proof of notification shall be submitted to the Town Planning Board at least seven (7) days prior to the hearing. This hearing may be held with the TDD zoning amendment hearing required by Section III(9) hereof.

2. The Town Planning Board will schedule the public hearing referred to above once it tentatively finds that the application is complete. The Town Planning Board at any stage prior to issuing a permit may require such further information as it deems necessary.
3. The applicant, its successors or assigns, shall file annually with the Town Building Department, within 30 days of the anniversary date of the permit, certification (1) that the applicant, its successors or assigns, are complying with its maintenance and inspection procedures, including all visual screening conditions in the permit, (2) that the tower and related facilities are not a hazard or a threat to the health, safety, welfare of the public and to the environment, (3) that RF emissions comply with current FCC or other applicable standards, (4) that the insurance and financial undertakings required by this local law are in effect, and (5) that the facility is in use. If the applicant, its successors or assigns, fail to make certification, the Town Planning Board, upon reasonable notice and giving the applicant an opportunity to cure, may by resolution revoke the permit.
4. In order to keep neighboring municipalities informed, and to facilitate the goal of collocation and shared use, an applicant who proposes a new Telecommunication Tower shall notify the legislative body of each municipality that borders the Town, and the Saratoga County Planning

Town of Northumberland
Public Hearing
June 3, 2010

Board. Notification shall include the exact location of the proposed tower, a general description of the project, including but not limited to, the height of the tower and its capacity for future shared use. Proof of this notification shall be submitted to the Town Planning Board at the time of application.

Section VIII Telecommunication Facility Siting Approval and Permit

1. The Town Planning Board may issue a permit approval, a permit approval with conditions, or deny the application. Its decision shall be in writing, and based on substantial evidence, upon a record. The burden of proof is upon the applicant. This permit approval may not be issued unless and until the Town Board has approved the applicant's application for the TDD zoning amendment pursuant to Section III hereof.
2. Before the Town Planning Board issues any permit approval, it shall find that the applicant has complied with all requirements of this Local Law.
3. The permit shall be issued by the Northumberland Building Department, in accordance with the terms and conditions of the approval of the Town Planning Board's approval.
4. The permit shall be comprehensive and not severable. If part of a permit is overturned by a competent authority, the permit shall be void in total.
5. The Town Planning Board may waive provisions or requirements of this section when such waiver advances the goals and purposes of this law, or where particular provisions would impose a material adverse financial impact upon an applicant.
6. For good cause shown the Town Planning Board may review a permit if industry or scientific standards raise new relevant information concerning the health and safety of the facility. Upon review the Town Board may require the applicant, its successors or assigns, to take appropriate mitigation and abatement steps, to the extent allowed by law.
7. Permits shall be for a five year term. The owner shall be entitled to renewal of the permit if the facility (1) is in compliance with this law, (2) is in compliance with all the permit conditions, and

Town of Northumberland

Public Hearing

June 3, 2010

(3) is in compliance with all current applicable federal standards regarding RF emissions. Ninety (90) days before the permit expires the owner may submit a brief written request for a permit renewal, certifying the compliance of the facility with this section of the law. Within a reasonable time after receipt of the written request demonstrating compliance with this provision, the building inspector shall issue a renewed permit, incorporating by reference the relevant conditions from the initial permit.

Section IX Fees

1. Applicants shall comply with the Telecommunications Development District Fee Schedule set forth in Section VI(A) of the Town's Permit Fee Schedule Requirements (Local Law No. 2 of 2006, as amended).
2. All applicants will be required to deposit with the Town funds sufficient to reimburse the Town for the actual reasonable costs of the Town's consulting engineer, attorney, or other consultant and expert assistance to the Town Board in connection with review of the application. The Town Building Department will maintain a separate account for all escrow deposits. The Town's consultants shall provide at the Town Board's or Town Planning Board's request (as the case may be) estimates and the basis for their charges, and shall bill the Town monthly for their services in reviewing such application and performing their duties. These monthly billings shall be charged against the applicant's escrow balance. If at any time during the review and approval process the applicant's escrow account shows a negative balance, additional funds must be submitted to the Town Building Department before any further action can be taken on the application. If at the conclusion of the review and approval process the amount of such services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the Town Building Department prior to the issuance of any building permits or certificates of compliance, and in the event that the amount held in escrow by the Town Building Department is more than the amount of the actual billing the difference shall be refunded to the applicant.

Town of Northumberland
Public Hearing
June 3, 2010

Section IX Miscellaneous

1. Information for Assessor. Before a building permit is issued for any Telecommunications tower or facility, the applicant shall provide to the assessor of the Town of Northumberland, such information concerning the deed, lease or license as is reasonably required by the assessor for real property tax purposes. The applicant or owner will have an on-going duty to report the cost of any material improvements to the site. Such information may be exempt from public disclosure pursuant to Public Officers Law § 87(2), or similar provisions of law.
2. Severability. If any provision of this law or its applications to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this law which can be given effect without the invalid provision of application, and to this end, provisions of this law are separable.
3. Bond. The applicant and the owner of record of any proposed property site shall be jointly required to execute and file with the Town a bond or other form of security acceptable to the Town Attorney and Town Supervisor as to form and manner of execution in an amount deemed sufficient by the Town Planning Board for the faithful performance of the terms and conditions of this Town law and permit. The bond or security shall remain in full force and effect until the removal of the tower and related facilities, and site restoration.
4. Enforcement of Permit Conditions
 - a. The Town of Northumberland Building Department shall be charged with enforcing the terms and conditions of the permit, and any ongoing obligations imposed by this law. The Town, acting through its Building Department or other authorized agent, may enforce the conditions of a permit in a court of competent jurisdiction.
 - b. Violation of a condition of a permit is a violation of this law and is prohibited.

Town of Northumberland
Public Hearing
June 3, 2010

- c. Violation of a permit condition shall be subject to a civil penalty of \$500 per day for each violation. The Town, acting through its Building Department or other authorized agent, may, in addition to any other remedy available, recover civil penalties through a civil action in a court of competent jurisdiction.
5. Local Law No. 2 of 2006 shall be amended to add a new Section IV(A) as follows:

Section IV(A) Telecommunications Development District Fee Schedule
 - a. Telecommunications Development District Application and Review
 1. An application for a new Telecommunications Siting Permit shall be accompanied by an application fee of \$1,000.00.
 2. However, in the event that such an application for a Telecommunications Siting Permit is for collocation on existing towers, or completely camouflaged (i.e., “stealth”) installations, the application fee shall be \$100.00.
 3. The application fee for renewal of a Telecommunications Siting Permit shall be \$50.00.
6. The Zoning Ordinance of the Town of Northumberland (Local Law No. 4 of 2006) shall be amended as follows:
 - a. Article II(B)(33) is hereby deleted.
 - b. Article IX(H)(17) is hereby deleted.
 - c. Attachment A Schedule of Permitted Uses is hereby amended with the following deleted: commercial communications radio tower and the related dimensional requirements, minimum lot sizes, area and bulk regulations – I Industrial.
7. Effective Date. This local law will be effective upon filing with the Secretary of State.
8. Authority. This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law Sections 130, 261, 262, 263, 264, 265, 267, 268, 269, and 274-a, to the extent inconsistent with the same, and to the extent

Town of Northumberland

Public Hearing

June 3, 2010

permitted by the New York State Constitution, the Municipal Home Rule Law, or any other statute.

Section 9(H)(17) of the Zoning Ordinance of the Town of Northumberland is hereby repealed.

There were no comments from the Public. Councilman Daniel Gale made a motion @ 7:15 PM to adjourn the Public Hearing. Councilwoman Patricia Bryant seconded the motion. All in favor, motion carried.

Respectfully submitted,

Denise D Murphy
Town Clerk