

**TOWNSHIP OF DERRY
BOARD OF SUPERVISORS
PUBLIC HEARING MINUTES
AUGUST 23, 2016 – 6:00 PM**

CALL TO ORDER

Chairman Marc A. Moyer, called the August 23, 2016 Public Hearing of the Township of Derry Board of Supervisors to order at 6:00 pm in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. A roll call was performed.

IN ATTENDANCE:

SUPERVISORS

Marc A. Moyer, Chairman
John W. Foley, Jr., Vice Chairman
Justin C. Engle, Secretary
Matthew A. Weir
Susan M. Cort

ALSO PRESENT:

James N. Negley, Township Manager and Treasurer
Jill Henry, Assistant Township Manager
Chuck Emerick, Director of Community Development
Brandon Williams, Assistant Director Community Development
Lauren Zumbrun, Economic Development Manager
Jon A. Yost, Township Solicitor
Julie Echterling, Recorder

Public in Attendance:

James Strong, John Shive, Peter Pray, and Charles Huth.

INTRODUCTION:

Chairman Moyer stated this is a public hearing regarding proposed Ordinance No. 672, which would amend Chapter 225 (Zoning) of the Code of the Township of Derry regarding communications antennas and communications towers, as well as the addition of severability clause to Chapter 225.

PRESENTATION

Mr. Williams stated the zoning text amendment was originally presented to the Board of Supervisors on January 26, 2016. Action on the amendment was tabled as Staff was instructed by Verizon's legal counsel. They thought there were discrepancies between the proposed Ordinance and Federal/State regulations governing the construction of communications antenna.

Staff discussed with several wireless installers (including AT&T and Verizon) and made revisions to the original Ordinance amendment. The changes were primarily to regulations pertaining to the administrative review process. The timelines for review and the process for review of antennas on existing structures are now consistent with Federal and State requirements. These changes were substantial enough which required the Ordinance be sent back to the Township and County Planning Commissions for their review and comment.

The Township Planning Commission is recommending adoption of the Ordinance as drafted, and the minutes from their July meeting have been provided. The County Planning Commission is recommending approval of the Ordinance as written, but they recommended an advisory comment that we have the Township Solicitor review the section where it indicates a land development plan would not be required for construction of a communication antenna.

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He feels that this requirement would comply with available case law that indicate structures such as communication antenna and billboards would not require land development plan approvals. However, if a subdivision of land occurs in order to construct a communications antenna, a subdivision plan would still be required under current regulations. In addition, stormwater management impacts would be addressed under the Stormwater management ordinance.

He stated they are recommending approval of the regulations as written. This ordinance is consistent with what other municipalities have in place and is adequately consistent with the communications industry at present. Derry Township is a prime location for these new technologies, with one pending project known at this time. He feels moving forward with these proposed regulations now offers the best protection to the Township. He stated if the Board finds the regulations acceptable, it could be on the agenda for action at the September 27th meeting.

BOARD QUESTIONS/COMMENTS:

Supervisor Weir asked about the trigger for stormwater for these types of towers. Mr. Williams stated if it would disturb 5% or 1,000 feet it would require a stormwater plan. Chairman Moyer asked about the severability clause. Mr. Williams stated the severability clause is there in case there could be a challenge to this amendment so the specific clause can be severed from the ordinance. Otherwise, the whole ordinance could be thrown out by a court and require a new ordinance.

Chairman Moyer asked if this amendment would address a situation similar to a large communication tower on the outskirts of Derry Township, which is objectionable by some residents. Mr. Williams stated if the tower is 100-500 feet, there is a regulation about where they can be in a residential area, it would be a special exception use and would be heard by the Zoning Hearing Board. For new technology where the tower is attached to an existing structure there would be a permit required with regulations to address them. Chairman Moyer asked if this amendment would adequately address the issue of residents living in the shadow of a large tower and guide wires and does it allow the Board of Supervisors discretion to deal with these issues. Mr. Williams stated there is one outside the Township that they can't address, but for Derry Township, he feels they have addressed these issues including underground wires.

PUBLIC COMMENTS

There were no public comments

ADJOURNMENT:

Vice Chairman Foley made a motion to adjourn this portion of the public hearing at 6:10 pm. Chairman Moyer seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Justin C. Engle
Township Secretary

Julie Echterling
Recorder