

Bedford Hills, New York
May 21, 2013

A public hearing was held by the Town Board of the Town of Bedford on May 21, 2013 at the Town House, 321 Bedford Road, Bedford Hills, New York to consider Local Law No. 1-2013, an amendment to Chapter 125 of the Code of the Town of Bedford regarding approvals of special permit uses. The meeting was called to order at 7:55 P.M. by Supervisor Roberts.

Present:	Lee V. A. Roberts	: Supervisor
	Peter Chryssos	: Councilman
	Francis T. Corcoran	: Councilman
	Chris Burdick	: Councilman
	Lisbeth Fumagalli	: Town Clerk
	Eric Gordon	: Town Attorney
	Kevin Winn	: Commissioner of Public Works
	Jeffrey Osterman	: Director of Planning
	Harry Girdlestone	: Sole Assessor
	Edward Ritter	: Town Comptroller
	William Hayes	: Chief of Police
	Amy Pectol	: Receiver of Taxes
Absent:	David Gabrielson	: Councilman

And seven (7) residents/observers.

Proof of Publication was presented and ordered filed. The public notice was published in the Bedford Pound Ridge Record Review on May 10, 2013.

Mrs. Roberts introduced Town Planner Jeffrey Osterman who explained the proposed local law.

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Burdick
Nays: None
Absent: Gabrielson

RESOLVED that the Town Board does hereby close the public hearing on the local law to amend Chapter 125 of the Code of the Town of Bedford regarding approvals of special permit uses.

On a motion by Mr. Burdick, seconded by Mr. Corcoran, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Burdick
Nays: None
Absent: Gabrielson

RESOLVED that the Town Board does hereby issue a negative declaration relative to the local law to amend Chapter 125 of the Code of the Town of Bedford regarding approvals of special permit uses as this local law will have no adverse physical or environmental effects on the Town of Bedford.

On a motion by Mrs. Roberts, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Burdick
Nays: None
Absent: Gabrielson

RESOLVED that the Town Board does hereby adopt the following legislation:

LOCAL LAW NO. 1 OF 2013

**TOWN BOARD
TOWN OF BEDFORD**

**LOCAL LAW TO AMEND
CHAPTER 125
OF THE CODE OF THE TOWN OF BEDFORD**

A LOCAL LAW to amend Chapter 125 of the Code of the Town of Bedford concerning approvals for special permit uses

BE IT ENACTED by the Town Board of the Town of Bedford as follows:

Section 1. Article VIII of Chapter 125 of the Code of the Town of Bedford, titled “Additional Standards and Requirements for Particular Special Permit Uses” is hereby amended as follows:

§ 125-76. Public utility substation, communication relay station.

In any district, the ~~Town~~ Planning Board may grant a special permit for the construction of a public utility substation, communication relay station, provided that:

- A. The facility shall serve the area of the Town of Bedford and/or immediately adjacent communities.
- B. The minimum lot for a public utility facility shall be that required by the zoning district in which it is located or one acre, whichever is greater. The maximum building area, in percentage of the lot, shall be 25%. There shall be provided suitable fencing to protect the public and evergreen planting of sufficient height and density to screen effectively the substation from surrounding property.
- C. Setbacks.
 - (1) All structures, including required fencing, shall be set back from the boundaries of the parcel a horizontal distance equal to the greatest of the following:
 - (a) The height of the structure, measured from its nearest base.
 - (b) The yard requirements of the zoning district.
 - (c) Thirty feet.
 - (2) The Planning Board may increase these required setbacks or attach other conditions in order to ~~present~~ prevent any hazard to the public or noise nuisance to surrounding property. Substations which would be a nuisance to surrounding property because of smoke, gas, odor, heat or vibration shall not be permitted in any residence or business district.

§ 125-77. Public utility transmission line.

In any district, the ~~Town~~ Planning Board may grant a special permit for the construction of public utility transmission lines, provided that:

- A. The provisions of this section shall not apply to telephone, electric light and power distribution lines usually located along public highways or to local underground

conduits, cables, gas, sewer and water distribution mains or pipes, provided that such lines are installed in accordance with nationally recognized standards in such a manner and location so as not to create an unusual hazard or otherwise jeopardize public safety.

- B. The lines shall serve the area of the Town of Bedford and/or immediately adjacent communities, and it shall be clearly demonstrated that such lines will not endanger the public or the surrounding property.
- C. A right-of-way of sufficient width shall be provided to permit the safe construction and maintenance of the transmission line and to prevent any nuisance or hazard to surrounding property. Transmission towers shall be located along the center line of the right-of-way. The right-of-way shall be of sufficient width so that the horizontal distance between any base of any transmission tower and the boundary of the right-of-way is at least equal to the height of the tower.
- D. In built-up areas, the Planning Board may require that the lines be located underground.
- E. The Planning Board shall require suitable fencing and landscaping of the right-of-way and of the towers or other structures, where such fencing and landscaping is required for the safety of the public or conservation of the values of surrounding property.

§ 125-82. Philanthropic or eleemosynary uses.

In any residence district, the ~~Town~~ Planning Board may grant a special permit for a philanthropic or eleemosynary use or institution. Such use or institution shall have frontage and access on a county or state road. Applicants for this permit shall ~~be~~ be required to demonstrate their nonprofit status as well as their community purpose. For the purposes of promoting the public health, safety, morals and general welfare, the Planning Board may establish conditions to mitigate the effect of such use ~~from~~ on neighboring properties.

§ 125-84. Group-care facilities.

In any residence district, the ~~Town~~ Planning Board may grant a special permit for the operation of a group-care facility, subject to the following:

- D. In addition to all other normally required items of information, the following additional documentation shall also be submitted with the special permit application:

- (4) A complete statement of the applicant's plans for the social and economic integration of the projected residents into the community, including their educational, employment and recreational needs, transportation and service requirements and any other such information as may be relevant and determined necessary by the ~~Town~~ Planning Board.

§ 125-85. Solid waste transfer station.

In the LI District, the ~~Town~~ Planning Board may grant a special permit for the operation of a solid waste transfer station, provided that the site is located on a state or county road and will not adversely affect traffic on residential roads.

§ 125-85.2. Cellular tower.

- D. Special permit and requirements. In any district, the ~~Town~~ Planning Board may grant a special permit for the construction of the wireless telecommunication facility for a period of five years (renewable):

- (1) Annually on the anniversary date the issuance of said special permit, the permittee must submit to the ~~Town~~ Planning Board an affidavit by an engineer that it is in compliance with the safety provisions of the Federal Telecommunications Act of 1996.
- (2) It shall be priority of the Town to maximize the separation between wireless telecommunication services facilities and residences and residential properties. Unless otherwise modified by the ~~Town~~ Planning Board in an effort to accommodate collocation or other purposes of this section, freestanding wireless telecommunication services facilities shall be located not less than two times the otherwise applicable setback requirements for principal structures for the district in which the property is located, or the height of the facility plus the otherwise applicable setback requirements for principal structures for the district in which the property is located, whichever shall be greater. It shall be demonstrated to the satisfaction of the ~~Town~~ Planning Board that the proposed facility is set back adequately to prevent damage or injury resulting from ice-fall debris resulting from failure of a wireless telecommunication services facility or any part thereof, and to avoid and minimize all other impacts upon adjoining properties. Wireless telecommunication services facilities structurally mounted to the roof of an existing building shall be set back no less than 50% of the height of the tower.
- (3) The applicant for a special permit under this section must provide a performance bond ~~in an amount to be determined by the Town of Bedford~~ in an amount determined by the Planning Board as sufficient to guarantee removal of the facility in accordance with paragraph P of this section.

E. Collocation. The shared use of wireless telecommunication service facilities shall be strongly encouraged in order to preserve the aesthetic and scenic values of the Town. Collocation shall be required unless it has been demonstrated to the satisfaction of the ~~Town~~ Planning Board that:

I. Setback. Any facility attached to a support structure shall be set back from the property line of the lot on which it is located a distance equal to not less than the total height of the facility, including support structure, measured from the highest point of such support structure to the finished grade elevation of the ground on which it is situated, plus 10% of such total height. The ~~Town~~ Planning Board may reduce such setback requirements based upon consideration of lot size, topographic conditions, adjoining land uses, landscaping, other forms of screening and/or structural characteristics of the proposed support structure.

J. Facility plan. Any proposal to provide or operate a facility shall be accompanied by a facility plan, complying with the site plan requirements of this chapter, which shall include all the information necessary to allow the ~~Town~~ Planning Board to understand the existing, proposed and long-range plans of the applicant. The facility plan shall include the following information:

(20) The operator(s) of the wireless telecommunication service shall submit a copy of the relevant FCC licensing and shall demonstrate to the satisfaction of the ~~Town~~ Planning Board that there is a public need for each such facility at the location(s) proposed by applicant to provide adequate coverage or adequate capacity in Bedford. Such demonstration shall include the preparation of existing and master effective service area plans which:

(a) Demonstrate that existing facilities do not and cannot provide adequate coverage or adequate capacity to Bedford. In no case shall the provision of adequate coverage and adequate capacity constitute a

public need for a new or additional wireless telecommunication services facility in Bedford unless the applicant demonstrates to the satisfaction of the ~~Town~~ Planning Board, in consultation with its engineer, that:

- (21) Any application for a wireless telecommunication services facility shall include a statement and appropriate documentation demonstrating to the satisfaction of the ~~Town~~ Planning Board and in consultation with its consulting engineer that the Town's existing facilities have been reviewed and, to the extent relevant to provide wireless telecommunication services in the area in the Town of Bedford which is the subject of such application, that all reasonable efforts have been made to collocate such facility on all sites identified in such existing facilities and all other existing sites with communication antennas within the service area.
- K. Escrow for review costs. The applicant shall be required to provide funds to an escrow account held by the Town of Bedford to allow the ~~Town~~ Planning Board to retain such technical experts as may be necessary to review the proposal, including, but not limited to, the review of financial and technical aspects of the proposal and of the financial and technical practicability of alternatives which may be available to the applicant, provided that no funds shall be deposited until a scope of work is agreed upon among the applicant, the expert and the Planning Board.
- L. Application fee. Application to the ~~Town~~ Planning Board for a special permit under this section shall be accompanied by a fee as set forth on the fee schedule of the Town of Bedford.
- M. SEQR compliance. Prior to or concurrent with the filing of a formal application to the ~~Town~~ Planning Board to obtain a special permit under this section, the applicant shall submit information needed to meet the requirements of the New York State Environmental Quality Review Act (SEQR).
- N. Additional requirements:
- (1) Visual environmental assessment form (EAF) addendum. A visual EAF addendum shall accompany the applicant's SEQR submission to be submitted with the application. The visual EAF addendum shall address impacts on viewsheds, scenic features and historic sites and structures identified by the ~~Town~~ Planning Board as significant, as well as visual compatibility with nearby land uses.
- *****
- O. Public hearing; notice. The ~~Town~~ Planning Board shall hold a public hearing on due notice within 60 days after submission of a formal completed application, including such technical information from the applicant as may be required by the ~~Town~~ Planning Board for a special permit under the provisions of this section. Notice of the public hearing shall be by publication in the official newspaper of the Town at least 10 days in advance of the hearing. The hearing notice shall indicate that the application may be examined and further information is available from the ~~Town~~ Planning Board office during regular business hours. Copies of the publication order shall be mailed by the applicant to the owners of property within 500 feet of the property which is the subject of the application, and an affidavit of service thereof shall be filed with the ~~Town~~ Planning Board due on or before the date of the hearing.

- R. Decisions. All decisions of the ~~Town~~ Planning Board involving applications for wireless telecommunication services shall be in writing and supported by substantial evidence contained in a written record.

Section 2. All applications for special permit uses filed prior to adoption of this local law shall proceed pursuant to the law as it existed at the time of filing and shall not be affected by the changes of law set forth herein.

Section 3. This local law shall take effect immediately upon filing with the Office of the Secretary of State.

There being no further discussion the hearing was adjourned at 8:02pm.

Lisbeth Fumagalli, Town Clerk