

EDGMONT TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
June 22, 2009

Work Session – Members of the Planning Commission, municipal professionals, the Township Manager, and the Assistant to the Township Manager attended an advertised work session, which began at 6:30 p.m. Those in attendance generally discussed matters on the agenda. No action was taken.

1. Open Meeting & Pledge of Allegiance: Mr. Miller called the meeting to order at 7:00 p.m. with the Pledge of Allegiance. In attendance were Chip Miller, Chairman; Joseph Raspa, Vice-Chairman; Randy Bates, Member; Robert Bristol, Member; Eleanor Tickner, Member; Samantha Reiner, Township Manager; Michael Conrad, Township Engineer; Edward Theurkauf, Township Land Planner; David Malman, Esq., Planning Commission Solicitor; and Christopher Bashore, Assistant to the Township Manager. There were 5 guests.
2. Public Comment: There was no public comment at this time.
3. Approve Agenda: Mr. Raspa made a motion to approve the agenda for the June 22, 2009 regular meeting of the Planning Commission. Upon learning that no Zoning Hearing Board applications were received, Mr. Raspa proposed that the agenda be reflected to reflect the change. Mr. Bates seconded the motion. There was no further discussion and the motion approving the agenda passed unanimously.
4. Meeting Minutes: Mr. Bristol made a motion to approve the minutes from the May 18, 2009 regular meeting as presented. Mrs. Tickner seconded the motion. Mr. Raspa and Mr. Bates abstained due to their absence at the May meeting. There was no further discussion and the motion approving the minutes passed with three (3) “Yes” votes and two (2) abstentions.
5. Manager’s Report: Mrs. Reiner read her Manager’s Report. Copies of the report were available to those in attendance and are also available at the Township building during regular business hours.
6. Old Business:
 - a. Proposed Ordinance
 - (1) Ground Source Heat Pumps (Geothermal): Mrs. Reiner stated that Ground Source Heat Pumps are not new and have been installed throughout Delaware County for decades. As energy deregulation approaches us all, Edgmont Township is looking at promoting ways to encourage alternate, renewable and sustainable means for residents to continue supplying energy to their businesses and residences. At the same time, the Township must protect the health, safety, welfare and rights of future property owners.

The Township Supervisors feel it is in the best interest of the Township to recognize and establish regulations for the installation and maintenance of ground source heat pumps within the Township. The Alternative Energy committee members worked on these amendments along with Zoning Ordinance

amendments to regulate windmills and solar energy collectors. They recognized the primary water source for many of the land uses in Edgmont is provided by groundwater, spring or surface water. The proposed Ordinance recognizes that while the use of ground source heat pumps may be a benefit to property owners, their installation may adversely affect the safe, reliable and adequate water supply available to support land use. Chester County Health Department regulations were reviewed by the Committee. Industry standards were presented by G.S.H.P. installers.

Text on this matter was last reviewed by the Planning Commission during the May joint work session with the Board, at which time it was suggested that the Ordinance be adopted as a stand alone regulation, and isolation distances be streamlined and verified with the Township's Sewage Enforcement Officer (S.E.O.). There was some discussion on the restriction against open-loop systems, but no amendments were proposed.

Mr. Bates made a motion to recommend the amended ordinance, proposed by the Ordinance Committee, outlining regulations for governing the installation and maintenance of ground source heat pumps, be advertised for possible adoption by the Township. Mrs. Tickner seconded the motion. There was no further discussion and the motion unanimously.

b. Proposed Zoning Ordinance Amendments

(2) Solar Energy: Mr. Miller stated that the proposed ordinance will amend the Edgmont Township Zoning Ordinance and is designed to regulate the installation and maintenance of solar energy apparatus, including panels, fences, etc. on both commercial and residential properties. The proposed ordinance has been revised to address the issue of setbacks as suggested by the Delaware County Planning Department.

Mr. Raspa made a motion to recommend the Zoning Ordinance Amendments proposed by the Ordinance Committee, including regulations for governing the installation and maintenance of solar energy collection devices, be advertised for possible adoption by the Township.

(3) Billboards: Mr. Miller stated that billboards are proving to be controversial in communities throughout Delaware County and the nation. Newspaper headlines highlight heated cross examinations, protesting residents, and civic associations speaking out with anti-billboard sentiments as meeting rooms are packed with angry residents wrangling with the issue of allowing billboards as a means of outdoor advertising. Local governments that have prohibited billboards are finding their ordinances challenged in court.

Years of case law establishes that Townships must zone for legitimate business uses, such as billboards, and can regulate the size, height, lighting, location and number per property of on- and off-premises commercial signs. As to content, Townships may regulate the speech contained in the signs in a 'content-neutral' manner and must do so within the constitutional confines of the First Amendment of the United States Constitution.

Edgmont Township established an ordinance task force that has been working since January 2009 to create regulations for billboards to achieve the following purposes:

- Meet the legal requirements for municipalities to accommodate commercial uses
- Support the first amendment rights of advertisers while protecting the character of the Township
- Ensure safety in the location and construction of billboards
- Place reasonable limits on the number and size of billboards in the Township
- Promote dissemination of emergency and public service information
- Establish standards of quality, safety, and appearance with advanced digital technology.

In its deliberations, the Committee examined reports and data from industry and independent researchers to devise effective and reasonable standards for size, safety, location, design, and impact mitigation. Specifically, the Committee reviewed:

- Zoning Practice Standards on Billboards Published by the American Planning Association
- Best Practices for Drafting a Constitutional Sign Ordinance by the International Municipal Lawyers Association
- Existing billboard ordinances in Pennsylvania and in other states
- American Association of State Highway and Transportation Officials (AASHTO) standards for safe stopping sight distances
- Report on research on driver distraction and accidents prepared by SRF Consulting Group for the City of Minnetonka, Minnesota
- Standards for Safety, Aesthetics, and Regulation of Billboards published by the Pennsylvania Resources Council, Inc.
- Case studies Township of Exeter v. Zoning Hearing Board of Exeter Township and Land Displays, Inc. and Upper Southampton Township v. Upper Southampton Township Zoning Hearing Board.

In crafting the language of the ordinance, the Township consulted with neighboring municipalities in both Delaware and Chester County, including Marple Township, Delaware County and East Caln Township, Chester County. Township staff met with Carol Butler of PRC, specializing in billboards, who provided materials including

- Effective Control of Outdoor Advertising and Billboards, Outdoor Advertising, and Your Community, a report prepared by PRC.

The following information was provided from East Caln Township, Chester County and includes information from the Outdoor Advertising Association of America (OAAA). This information included recommended guidelines for state and local governments to follow and sample ordinance language:

- “About Digital Billboard Technology” (OAAA website article)
- “State Message Dwell Time Regulations” (OAAA website article)
- Suggested Regulatory Approach and Conclusions and Recommendations from a report entitled Dynamic: Signage Research Related to Driver Distraction and Ordinance Recommendations prepared for Minnetonka, Minnesota.
- “Brightness Criteria” (OAAA website article)
- “Industry Code” (OAAA website article)

The proposed ordinance will advance the Township’s responsibility to protect the public health, safety, and welfare while accommodating legitimate use of property.

John Pickett, Director of the Delaware County Planning Department, was in attendance. Mr. Pickett commended the Township for taking a proactive approach on this issue as litigation over billboards exists in nearly a half-dozen townships in Delaware County. Mr. Pickett stated that the County is looking to establish a model ordinance that other municipalities can adopt. The Commission thanked Mr. Pickett for attending the meeting and for the consistency of his department’s reviews, as well as the helpful staff review and commentary. Commission members suggested clarification of the lot area required for billboards in a future amendment and limiting one (1) per lot.

Mr. Bristol made a motion to recommend the proposed Zoning Ordinance text amendments addressing billboards in the Township be considered by the Supervisors for adoption. Mr. Raspa seconded the motion. There was no further discussion and the motion recommending the proposed ordinance passed unanimously.

7. New Business:

a. 3954 Miller Road, Clear Wire Communications

1st Presentation

Plans dated May 13, 2009

90-day Clock: September 22, 2009

Present: Richard Lemanowicz, Esq., Lemanowicz LLP, Applicants Attorney
Arnold Dawinan, RF Engineer, Clear Wire Communications
Mario Calabretta, P.E., Sdg LLC
Frank Washart, American Tower
Patrick O’Reilly, American Tower

Mr. Lemanowicz stated that this is the applicant’s first appearance before the Planning Commission. Plans were prepared by American Tower Structural Engineering, dated May 13, 2009. The applicant is proposing the co-location of three (3) Clear Wire antennas at an elevation of 105 feet on the existing 120-foot cellular communications tower and three (3) dish antennas at 105 feet. They are also proposing the location of ground equipment in the equipment compound at the tower’s base. There is no expansion of the tower or the lease area being proposed. Mr. Lemanowicz stated that Clear Wire is fully licensed by the Federal Communication Commission and is a subsidiary of Sprint.

Mr. Malman asked about the proposed microwave dishes. Mr. Lemanowicz stated that the microwave dishes provide back-up services to the national LAN server. Mr. Dawinan stated that the microwave dishes allow for faster service and more coverage than a T-1 internet line. Mr. Bates questioned the location of the switch. Mr. Dawinan stated that it will transmit to Philadelphia. Mr. Miller asked if there was already a Sprint antenna on the tower. Mr. Lemanowicz stated that there was not an existing antenna.

Mr. Conrad stated that a certified inspection report should be obtained in order to learn the accurate elevations of the existing antenna arrays. The tower should also be inspected in order to verify the condition. Mr. Conrad stated that he would like to see the original design calculations for the tower. Mr. Miller noted discrepancies between the most recent structural analysis and the one previously submitted. The report should be revised to address the integrity of the tower at 85 mph basic wind speed and 74 mph wind speed with a ½" of radial ice.

Mr. Conrad noted that the landscaping from the Cricket Communication application has not been installed. Mr. O'Reilly stated that the landscaping will be installed in the fall as planting in the summer could be detrimental to the life of the trees. Mr. Conrad referenced sheet A-1 of the plan and stated that scale dimensions must be examined.

Mr. Conrad noted that the Township understood that a 10-foot separation between antenna arrays was necessary in order to prevent interference. This application indicated overlap, as the proposed array is at elevation 105 and the next existing antenna is at elevation 110. The Township's professionals would need to be provided with an interference study. Mr. Lemanowicz stated that a study has been performed and will be forwarded to the Township. Mr. Dawinan stated that any interference would jeopardize Clear Wire's FCC license. Mr. Dawinan stated that separation is based on decibel levels and anything under 30 dB would cause interference. The separation as proposed is 49 dB. Mr. Raspa asked if there was any room to place the array at 100 feet. Mr. Conrad stated that there is an array at 100-feet already.

Mr. Miller asked if any of the existing technology has been replaced in the last few years. Mr. Lemanowicz stated that he was not sure. Mr. Miller stated that a caveat should be added to the approval recommendation that would require any adjustments to be approved by the Township Engineer. This matter will be discussed further at a future meeting. No action was taken.

b. 1010 Gradyville Road, Clear Wire Communications

1st Presentation

Plans dated June 3, 2009

90-day Clock: September 22, 2009

Present: Richard Lemanowicz, Esq., Lemanowicz LLP, Applicants Attorney
Arnold Dawinan, RF Engineer, Clear Wire Communications
Mario Calabretta, P.E., Sdg LLC
Frank Washart, American Tower
Patrick O'Reilly, American Tower

Mr. Lemanowicz stated that this is the applicant's first appearance before the Planning Commission. Plans were prepared by American Tower Structural Engineering, dated April 30, 2009, last revised May 20, 2009. The applicant is proposing the co-location of three (3) Clear Wire antennas at an elevation of 167.5 feet on the existing 183-foot cellular communications tower and three (3) dish antennas at 171.5 feet. They are also proposing the location of ground equipment in the equipment compound at the tower's base. No expansion of the tower is proposed, nor is there a proposed expansion of the ground equipment area.

Mrs. Reiner noted that no certified mail receipt cards were presented to the Commission. Mr. Raspa stated that he would like those presented at the next meeting. Mr. Conrad noted discrepancies between the structural analysis submitted for Clear Wire and the one previously submitted for Metro PCS, including existing antenna heights. Mr. Conrad also noted that the plan reviewed did not indicate that any antennas would be removed. The plan must be revised to be consistent with the application. Furthermore, the structural analysis also did not indicate any antennas to be removed. Mr. Raspa asked if anything was being replaced on the existing tower. Mr. Dawinan stated that six of the Sprint antennas will be removed and replaced. This matter will be discussed further at a future meeting. No action was taken.

8. Miscellaneous Discussion:

- a. Annual Report: Mr. Bates made a motion to accept the 2008 Annual Report of the Planning Commission. Mrs. Tickner seconded the motion. There was no further discussion and the motion passed unanimously.

9. Announcements

- a. The Board of Supervisors will meet on Wednesday, July 15, 2009 at 7:30 p.m. for their July regular meeting, with a work session at 6:30 p.m.
- b. The Planning Commission will meet for their July meeting on Monday, July 27, 2009 at 7:00 p.m., with a work session at 6:30 p.m.
- c. The Zoning Hearing Board will not meet in June as no applications were received. Pending the receipt of applications, the Zoning Hearing Board will meet on July 28, 2009 at 7:00 p.m.

Adjournment: At 8:40 p.m., Mr. Miller made a motion to adjourn the meeting. Mrs. Tickner seconded the motion. There was no further discussion and the motion adjourning the meeting passed unanimously.

Respectfully submitted,

Samantha Reiner, Recording Secretary
Township Manager

Chip Miller, Chairman
Planning Commission