

Town of Mount Hope, NY Planning Board – Zoning

Chapter 250 (Zoning)

Article IX (Planning Board)

Section §250-42 (Special requirements for conditional uses.)

Source: <http://ecode360.com/29387879>

X. Public communications utility towers/antennas.

Public communications utility towers/antennas. The construction or erection of new radio antennas, radio towers and other public communications utility towers and equipment mounted thereon, and/or the reconstruction, addition or alteration to existing such towers, antennas and equipment mounted thereon used to send, receive, and relay transmissions, shall constitute a conditional use subject to special permit in the LB, ORIP, and RP-2 Districts only, subject to the restrictions and requirements of this section. The Town of Mount Hope desires to preserve the visual and community character of the bulk of its residentially zoned areas, and, in particular, desires to preserve the unique scenic and visual qualities of the Shawangunk Ridge and its viewshed, with the objective of limiting the visibility of communications towers above the skyline and mountain ridge tree line, so as to reduce or avoid visual impacts connected therewith. The Town notes the visual incompatibilities of tall and highly visible structures such as public utility communications towers and devices mounted thereon with the Town's residential areas in general. The Town particularly notes the visual incompatibilities with locating such structures on the easterly slopes of the Shawangunk Ridge, which are open, more gently sloped and less wooded, and therefore on which such towers and devices are more prominent and more visually intrusive to greater land areas. The Town further recognizes that the placement of such structures and access drives thereto may be needed within selected areas of the Town, notwithstanding their undesirable prominence and the general visual incompatibility of such towers and utility structures with the primarily residential character of the Town, in order to provide vital utility services within the Town and/or its surrounding region. Accordingly, the Town Board has provided for the needs of public utility communications within the Town of Mount Hope in the following way:

(1) The utility requesting to site a public utility communications device shall constitute a genuine public utility providing commercial communications services to the public. Any public utility communications device to be located within the Town of Mount Hope shall fully conform to the Federal Communications Commission's (FCC's) current regulations and requirements concerning radio frequency emissions, as the same may be amended from time to time.

(2) Public utility communications towers and devices shall be a conditional use in the ORIP and LB Districts, subject to the procedures and special permit requirements listed hereinbelow and the requirements of site plan approval.

(a) In the event that, due to technical reasons, the necessary service cannot be provided by siting such facility in the ORIP and/or LB Districts, the utility requesting such use shall

make application to the Town of Mount Hope Planning Board and shall demonstrate this factually to the satisfaction of said Planning Board. Said utility shall then endeavor to locate the proposed communications device(s) on existing communications or other existing towers within the RP-1 District of the Town of Mount Hope, subject to the requirements of site plan approval and the requirements listed hereinbelow.

(b) In the event that the necessary service cannot be provided by locating such device(s) on existing communications or other existing towers in the RP-1 District, the utility requesting such use shall demonstrate same factually to the Town of Mount Hope Planning Board, and shall then endeavor to locate said communications device within the RP-2 District, subject to the requirements of site plan approval and the requirements of this section. The Planning Board may require a good faith demonstration that the owner(s) of such structure(s) were contacted and either denied permission for such shared use, required economically infeasible lease or rental provisions, or in the alternative, the applicant may demonstrate factually to the satisfaction of the Planning Board that the necessary service cannot be provided by use of such locations.

(3) Lot size and setbacks. The lot size and setback requirements for a public communications utility tower/antenna shall be related to the height of said tower/antenna. Pursuant to the requirements of this chapter, said structure shall be located in the center of a lot, which lot shall measure not less than 1/2 the height of said tower in all directions, so that in the event said tower should collapse or fail, no structure or persons on any adjoining properties will be placed at risk.

(4) Accessories.

(a) Any antenna or other communications device that is accessory to and attached to a building located in the LB or ORIP Districts which does not exceed the height limitation for buildings in said districts by more than 10 feet shall be considered a permitted accessory thereto. Such device shall not require further review pursuant to this section, except pursuant to Subsection X(5) and (7) of this section, to the extent that they apply. Such accessory communications devices shall be camouflaged by making it resemble a structural or architectural element of the building to which it is accessory to the extent possible.

(b) Other utility structures, such as storage buildings necessary to the operation of said tower/antenna may be located on the same lot if such location is necessary for the operation of said facility, subject to site plan approval by the Planning Board as to color, location, visual screening, access control and/or other valid site plan review considerations.

(5) Visual impacts. All public utility communications structures shall be sited to create the least practicable adverse visual impact on the surrounding community. Any applicant pursuant to this section shall provide visual impact assessment information as reasonably required to evaluate the visual effects of a proposed communications tower/antenna or device pursuant to this section, with particular attention to key vantage points or viewshed areas both within the Town of Mount Hope and in other municipalities as may also be affected during both daytime and nighttime conditions. To

the extent practicable, reasonable screening shall be provided from scenic vantage points, and/or other means of minimizing the visual effects of said facility, including but not limited to the color of the tower and appurtenances, which shall be light grey or have a galvanized finish above the tree line, and a grey, green, or black finish below the tree line, to the extent that such color is not preemptively regulated by the Federal Aviation Administration (FAA). The Planning Board may permit the use of vegetation, either alone or in combination with topography, fences, walls or other features to achieve sufficient screening. If vegetative plantings are proposed for screening purposes, the Planning Board shall require planting and replacement specifications to ensure that the intended effect is achieved and maintained. Siting of such facilities shall where possible avoid the need for compliance with FAA lighting and painting requirements.

(6) Access and parking. The Planning Board shall review the means of access to the public communications utility tower/antenna site and shall consider its sufficiency with regard to relevant factors including but not limited to width, surfacing, slope, side slopes, drainage and erosion control, access control device(s) restricting unauthorized entry, as appropriate to the utility and any emergency vehicles needed to access the site. Adequate parking and turnaround area shall be provided for the site. Care shall be taken to minimize the visual impacts of such means of access, parking and turnaround area as seen from key vantage points, and the visual impacts of the same shall be evaluated and mitigated as set forth in Subsection X(5) of this section.

(7) Public safety. The applicant shall demonstrate that the proposed communications utility tower/antenna and/or appurtenant device(s) will not pose a threat to public health and safety as a result of falling or blowing ice and/or other debris, that public access to the same has been restricted so as to prevent climbing or other trespass on the structure itself, and/or any other relevant health and safety concern under the jurisdiction of this chapter.

(8) Nothing herein shall be construed as preventing the continued existence of any public communications tower/antennas that are lawfully in existence at the date of enactment of this chapter. Further, nothing herein shall be construed as preventing the maintenance and continued operation of such preexisting facilities, including the utilization of "state of the art" equipment for the facility in order to maintain its existing level of service consistent with current technology. However, any increases in tower/antenna height or visibility for the purpose of increasing the service area or population shall be considered a new application and shall conform to the locational and other requirements set forth in this section.

(9) Inspection. The Town Building Inspector or any authorized agent for the Town shall have the right to enter upon any area with existing or proposed towers in order to inspect the same for any lawful purpose, including but not limited to safety, structural integrity, visual impacts, conformance to approved plans and the requirements of this chapter and any other applicable statutes, rules and/or regulations.