

**AGENDA**  
**POCONO TOWNSHIP PLANNING COMMISSION**  
**REGULAR MEETING**  
**SEPTEMBER 12<sup>th</sup>, 2016 – 7:00 p.m.**

- A. CALL TO ORDER** (followed by the Pledge of Allegiance)
- B. ROLL CALL**
- C. NOTIFICATIONS OF COMMENTS**
- D. CORRESPONDENCE**
  - 1. Spa Castle Time extension letter dated 09/06/2016
  - 2. Margaret and Christopher Kinsley Time extension letter dated 09/06/2016
- E. MANAGER'S REPORT – TBD**
- F. MINUTES:** Minutes of the Pocono Township Planning Commission Regular Meeting 08/22/2016
- G. NEW PLANS AND SUBMISSIONS FOR PLANNING COMMISSION REVIEW:**
- H. FINAL PLANS UNDER CONSIDERATION:**
  - 1. Kinsley Minor Subdivision – This minor subdivision contains 4 lots, 2 of which are new. A long private access drive is proposed. The plans were administratively accepted at the April 25<sup>th</sup>, 2016 P.C. mtg. Tabled at the 08/22/2016 mtg. A time extension letter was received until 12/19/2016. The BOC at their 09/06/2016 mtg. granted the RFM for SALDO SEC. 3.208.M.
  - 2. G.M. and Kailas Amin – 4 lot Minor Subdivision. The plans were administratively accepted at the May 9<sup>th</sup>, 2016 P.C. mtg. Tabled at the 08/22/2016 mtg. The developer/applicant provided an extension of time to September 30, 2016. Revised plan and comment letter received from the applicant on 09/06/2016.
- I. PRELIMINARY PLANS UNDER CONSIDERTATION:**
  - 1. Sheldon Kopelson, Commercial Development (Lot 3)- Plan was accepted at the 08/13/2013 P.C. mtg. The configuration of the minor subdivision is dependent on the Rt. 715 realignment. Tabled at the 08/22/20016 mtg. A resubmission has not occurred. Deadline for consideration extended to June 30,2017.
  - 2. Spa Castle Land Development – Plan was accepted at the 12/14/2015 mtg. The Planning Modules for this project was rejected by the Commissioners. Tabled at the 08/22/2016 mtg. The developer/applicant has provided a time extension letter until 04/17/2017.

3. Camelback Lot 13 and Hotel – Plan was accepted at the 06/13/2016 PC mtg. Tabled at the 08/22/2016 mtg. Application period runs until 09/1/2016.
4. Sanofi Pasteur Tier One Parking Deck – Plan was accepted at the 07/11/2016 P.C. mtg. The application period runs until 10/09/2016. Tabled at the 08/22/2016 mtg. Applicant has requested the plan be tabled.

**J. SKETCH PLANS**

**K. PERMITS**

**L. PRESENTATION OF VARIANCE, SPECIAL EXCEPTIONS, CONDITIONAL USE, ET AL, APPLICATIONS**

1. Summit Health Center Conditional Use Application Hearing is scheduled for 09/29/2016.
2. Adam's Outdoor Advertising and Anthony Covello – Special Exception, Validity and Variance – application received 07/22/2016
3. Adam's Outdoor Advertising Sign – 198 Stadden Road, Anthony and Elizabeth Casciano Special Exception, Variance, Appeal, Interpretation and Validity Challenge, Application dated 08/05/2016.

**M. UNFINISHED BUSINESS**

1. SALDO – Final draft revisions

**N. NEW BUSINESS: - none**

**O. COMMENTS BY AUDIENCE**

**P. ADJOURNMENT:**

**POCONO TOWNSHIP PLANNING COMMISSION**

**REGULAR MEETING MINUTES**

**AUGUST 22<sup>nd</sup>, 2016**

**7:00 P.M.**

The Pocono Township Planning Commission Regular Meeting was held on August 22<sup>nd</sup>, 2016 at the Pocono Township Municipal Building, Tannersville, PA, and opened by Chairman Ron Swink at 7:00 p.m. by the Pledge of Allegiance.

**ROLL CALL:** Ron Swink, present, Scott Gilliland, present; Marie Guidry, present; Robert Demarest, present; Robert DeYoung, absent; Dennis Purcell, present; Jeremy Sawicki, present.

Lisa Pereira, Planning Commission Solicitor, and Jon Tresslar, Township Engineer, were present.

**ACKNOWLEDGEMENT OF COMMENTS:** Chairman R. Swink noted the Planning Commission meets the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month at 7:00 p.m. to 9:00 p.m. The board will address 5 comments per plan and noted each visitor has the right to comment at this time or before any action is taken on a matter.

**CORRESPONDENCE:** A time extension Camelback Hotel was received.

**MANAGER'S REPORT:** Introduction of Charles Vogt, Pocono Township Manager.

**MINUTES:**

D. Purcell made a motion, seconded by M. Guidry, to approve the minutes of the 07/25/2016 meeting. All in favor. Motion carried.

**NEW PLANS AND SUBMISSIONS FOR PLANNING COMMISSION REVIEW: None**

Kinsley Minor Subdivision - Plan fees paid. Plan accepted at the 04/25/2016 P.C. Meeting. Tabled at the 07/25/2016 mtg. Revised plans submitted 06/17/2016. Deanne Schmoyer, Borton-Lawson, Inc. represented the plan and requested an additional RFM. M. Guidry Made a motion, seconded by S. Gilliland, to recommend approval for SALDO Sec. 3.208.M - Maximum grade on local access street to be 10%. All in favor. Motion carried.

J. Sawicki made a motion, seconded by S. Gilliland, to table the Kinsley Minor Subdivision Plan. All in favor. Motion carried.

G. M. and Kailas Amin - 4 Lot Minor Subdivision - Plan fees paid. Plan accepted at the 05/09/2016 P.C. meeting. Tabled at the 07/25/2016 mtg. B. Demarest made a motion, seconded by M. Guidry, to table the G.M. and Kailas Amin - 4 lot Minor Subdivision. All in favor. Motion carried.

**PRELIMINARY PLANS UNDER CONSIDERATION:**

Sheldon Kopelson - Commercial Development (Lot 3) - Plan accepted at the 08/13/2013 P.C. mtg. Tabled at the 07/25/2016 mtg. Deadline for consideration is 06/30/2016. S. Gilliland made a motion, seconded by D. Purcell, to table the Sheldon Kopelson - Commercial Development (Lot 3) All in favor. Motion carried.

**PRELIMINARY PLANS CONT:**

Spa Castle Land Development - Plan accepted at the 12/14/2015 mtg. Plan fees paid. Planning modules rejected by the Commissioners. Tabled at the 07/25/2016 mtg. Deadline for consideration is 09/26/2016.

B. Demarest made a motion, seconded by M. Guidry, to table the Spa Castle Land Development Plan. All in favor. Motion carried.

Camelback Lot 13 and Hotel - Plan fees paid. Plan was accepted at the 07/25/2016 mtg. J. Sawicki made a motion, seconded by B. Demarest, to table the Camelback Lot 13 and Hotel LDP. All in favor. Motion carried.

Sanofi Pasteur Tier One Parking Deck - Plan fees paid. The Plan was accepted at the 07/11/2016 Mtg. The plan was tabled at the 07/25/2016. B. Demarest made a motion, seconded by B. DeYoung, to table the Sanofi Pasteur Tier One Parking Deck. S. Gilliland abstained. All in favor. Motion carried.

**PRESENTAION OF VARIANCE, SPECIAL EXCEPTIONS, CONDITIONAL USE, ET AL, APPLICATIONS: None**

Summit Health Systems Conditional Use Application - Application was accepted at the 06/13/2016 Mtg. Extension granted until 08/31/2016. Marc Wolfe, Newman, Williams, Mishkin, Corveleyn, Wolfe & Fareri, P.C., represent the Application. Rob Hoffman, Traffic Planning and Design; and Nate Oiler, RKR Hess Associates/UTRS, represented the application. Jon Tresslar, Twp. Engineer, reviewed his letter dated 08/18/2016.

#5 - Roadway improvements - Discussion followed on the traffic impact study including the total of three phases. M. Wolf explained PMC is a stand-alone project. The applicant is willing to place a note on the plan to state it is only for Phase I.

#7A - Flow data for sewage usage. Nate Oiler, RKR Hess Associates, will provide the data to the Township.

#8 - Regional Impact Development - Discussion on the future projects. J. Tresslar noted since it is to be determined a stand-alone project, the comment has been addressed.

#21 - 35% steep slopes - M. Wolf will provide a Declaration of restrictions for Phase II property containing the steep slope areas.

#25 - Grading - M. Wolf will include drainage easements.

#26 - Parking spaces - Discussion followed on the determination of the parking spaces.

#30 - Setback streams/wetlands. N. Oiler noted a new study is underway to verify the setbacks.

#33 - Fire Lanes - The Pocono Fire Company had favorably reviewed the plans. N. Oiler explained the proposed fire lane locations.

P. Finkbeiner noted the gas station had received a deferral to connect to the sewer system and questioned if a lateral could be provided to the station. N. Oiler and J. Tresslar will review.

J. Sawicki made a motion, seconded by B. Demarest, to recommend approval of the Summit Health Systems Conditional Use Application

Adams Outdoor Advertising and Anthony Covello - no action taken.

Adams Outdoor Advertising - 198 Stadden Road - no action taken.

**UNFINISHED BUSINESS:**

SALDO - J. Tresslar noted the draft SALDO will be submitted for PC review for the 09/12/2016 mtg.

**NEW BUSINESS:** S. Gilliland questioned if the Capital Improvement Plan. P. Finkbeiner noted the Board of Commissioner had set the 2017 Capital Improvement committee to meet 08/29/2016.

P. Finkbeiner noted the recent resignation of Jeffry Clapper, Public Works Director.

**ADJOURNMENT:** J. Sawicki made a motion, seconded by M. Guidry, to adjourn the meeting at 8:00 p.m. All in favor. Motion carried.



**Borton  
Lawson**

**ENGINEERING  
ARCHITECTURE**

September 6, 2016

Pocono Township  
Attention: Charles Vogt, Township Manager  
P.O. Box 197  
112 Township Drive  
Tannersville, PA 18372

**RE: TIME EXTENSION  
MINOR SUBDIVISION PLAN APPLICATION  
MARGARET AND CHRISTOPHER KINSLEY  
POCONO TOWNSHIP, MONROE COUNTY, PA**

BL No.: 2015-1863-001

Dear Mr. Vogt:

On behalf of Margaret and Christopher Kinsley, the applicant is granting Pocono Township an extension for the review of the Minor Subdivision Plan Application under the Pennsylvania Municipalities Planning Code (MPC) until December 19, 2016.

If you have any questions, you can contact me at (570)821-1994, ext. 1304 or email at [dschmoyer@borton-lawson.com](mailto:dschmoyer@borton-lawson.com).

Sincerely,

Deanna L. Schmoyer, PE  
Project Manager

Bethlehem  
Harrisburg  
Pittsburgh  
State College  
Wilkes-Barre

**WILKES-BARRE**  
613 Baltimore Drive  
Suite 300  
Wilkes-Barre, PA 18702

Voice: 570.821.1999  
Fax: 570.821.1990

[borton-lawson.com](http://borton-lawson.com)

**Brian D. Courtright, P.L.S.**  
**Professional Land Surveyor**

P.O. Box 333  
Pocono Summit, PA 18346  
phone/fax (570) 839-9986  
Email: bdcsurveying@verizon.net

RECEIVED  
SEP 06 2016  
POCONO TOWNSHIP

To: Pocono Planning Commission  
From: Brian

September 6, 2016

RE: Amin Minor Subdivision

Dear Members:

We offer the following responses to the review letter from Jon Tressler, P.E., P.L.S. dated July 22, 2016:

**Subdivision and Land Development Ordinance**

- 1.
- 2.
3. The courses have been added to the plan.
4. Modification has been requested.
5. Easement has been added and flow arrows added to the plan.
6. Easements have been added to the plan. The note has been revised. The township requested the easements for their use therefore it should be the township's responsibility.

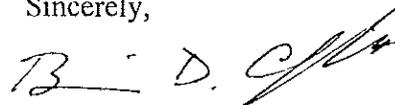
**Stormwater Management**

1. See note 19. Prior to any construction the Stormwater Management Ordinance will be complied with.

**Additional Comments**

1. The existing driveway is now labeled.
2. The FIRM panel number has been revised.
3. No watercourse is visible.
4. "Supervisors" have been replaced by "Commissioners"

Sincerely,



Brian D. Courtright, P.L.S.



**Borton  
Lawson**

ENGINEERING  
ARCHITECTURE

September 6, 2016

Pocono Township  
Attention: Charles Vogt, Township Manager  
P.O. Box 197  
112 Township Drive  
Tannersville, PA 18372

**RE: TIME EXTENSION  
LAND DEVELOPMENT PLAN APPLICATION  
SPA CASTLE GRAND POCONO RESORT (BIRCHWOOD)  
POCONO TOWNSHIP, MONROE COUNTY, PA**

BL No.: 2014-1182-001

Dear Mr. Vogt:

On behalf of C. Castle, LLC., the applicant is granting Pocono Township an extension for the review of the Land Development Plan Application under the Pennsylvania Municipalities Planning Code (MPC) until April 17, 2017.

We recently received information that our decommissioning plan has been approved from the Pennsylvania Department of Environmental Protection (PADEP) to decommission the existing wastewater treatment plant on site. We will be submitting demolition permits to Pocono Township to start the process of the removal of the treatment plant. We also received new information from PADEP regarding sewage effluent discharge limitations for the subject property. With this new information, we need to evaluate new permits that would be required.

If you have any questions, you can contact me at (570)821-1994, ext. 1304 or email at [dschmoyer@borton-lawson.com](mailto:dschmoyer@borton-lawson.com).

Sincerely,

Deanna L. Schmoyer, PE  
Project Manager

c: Ralph Matergia  
C. Castle, LLC

Bethlehem  
Harrisburg  
Pittsburgh  
State College  
Wilkes-Barre

**WILKES-BARRE**

613 Baltimore Drive  
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**BEFORE THE ZONING HEARING BOARD OF POCONO TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA**

**IN RE: ANTHONY COVELLO and            )  
ADAMS OUTDOOR                        )  
ADVERTISING, INC.                    )**

**FIRST AMENDED**

**REASONS FOR APPEAL**

**I.     BACKGROUND**

Anthony Covello (Covello) is the record owner of property located on the East side of Pa. Route 611, Pocono Township, Monroe County, Pennsylvania 18370 having a property address of 2039 Route 611, Swiftwater, Pennsylvania. The Tax Property No. is 12/11/1/6, the Pln Number is 12636402854242. The land is located in the Commercial (C) Zoning District. An outdoor advertising sign (identified in the current Pocono Township Zoning Ordinance as an "off-premises freestanding advertising sign" and hereafter sometimes referred to as a "sign")<sup>1</sup> is located on the South side of the property which was constructed prior to zoning in Pocono Township, and is therefore non-conforming as to zoning subsequently enacted in Pocono Township. The land is also now used by Covello as a residence. The sign is double faced and illuminated and more fully described hereafter. Permits relating to the sign were issued

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<sup>1</sup> Covello and Adams reserve their right to seek conditional use approval of the proposed sign under the Use Schedule Classification "Billboards", as conditional uses in the "C" and "T" Zoning Districts for which there are no dimensional constraints.

historically to Adams Outdoor Advertising, Inc., (Adams) and its predecessor in interest, Pocono Outdoor Advertising Company, Inc. recognizing the nonconforming use/structure.

Covello and Adams propose to remove the existing sign, and erect a new sign approximately 300 feet North of its present location. The new sign which is proposed is permitted as of right under Article VII, Section 701.B.2 of the Pocono Township Zoning Ordinance (Ordinance). The reason for the removal of the existing sign and erection of the proposed sign is that the sign is interfering with a PennDOT highway construction project.

The existing outdoor advertising sign is an illuminated, double-faced "V-shaped" sign having a total sign area on one side of 12 feet x 24 feet (288 square feet), reading to southbound traffic, and 5 feet by 10 feet (50 square feet) reading to northbound traffic. The sign observes a height of 15'9". The sign was erected prior to the first zoning ordinance enacted in Pocono Township, and existed at the time of enactment of Zoning Ordinance No. 68 in 1995, and Ordinance No. 110 enacted in 2003.

The proposed sign will be non-conforming like the old sign. The degree of nonconformity between the existing sign and the proposed sign does not vary significantly. Indeed, the extent of certain elements of nonconformity will be diminished.

A comparison of the dimensional setback of the existing sign, and proposed sign are as follows:

Ordinance Section	Existing Advertising Sign Structure	Proposed Advertising Sign Structure	Variance
<b>701B(2)</b> Advertising signs must be on vacant land	Residence on parcel	Residence on parcel	Yes
<b>701B(2)(a)</b> Maximum sign face size of 50 sq. ft. - Face 1 - Southbound - Face 2 - Northbound	288 sq. ft. 50 sq. ft.	288 sq. ft. 288 sq. ft.	Yes - 238 sq. ft. Yes - 238 sq. ft.
<b>701B(2)(b)</b> Total Height - 16' Area below sign face - not less than 3' - Face 1 - Southbound - Face 2 - Northbound	15'0" 4'10" 10'8"	17' 5' 5'	Yes - 2' No No
<b>701B(2)(c)</b> Minimum parcel setbacks - Front 15' - Side - North 50' - Side - South 50' - Rear 50' Minimum spacing to other signs 300'	-4' 432' 128' 286' >300'	18' 117' 458' 237' >300'	No No No No No
<b>701B(2)(d)</b> Illumination - External/Indirect	Yes	Yes	No
<b>701B(2)(e)</b> No sign in clear sight triangle	No	No	No
<b>702R</b> No more than 2 signs No interior angle	2 Interior Angle 27° V	2 Interior Angle 9° 9 7/8° V	No Yes

One of the basis for the request for zoning relief is predicated on special exception and variance relief based on reasons hereafter stated.

In the alternative, Covello and Adams believe that the Ordinance constitutes a de facto exclusion of outdoor advertising signs because limitations contained in the ordinance effectively exclude outdoor advertising signs as a land use. The Ordinance contains various restrictions that make it impossible to erect an outdoor advertising sign in any zoning district. Such restrictions include size, setback, spacing, and location, and temporary use. These restrictions present such physical, topographic, and economic impediments such as to make use of the premises in Pocono Township for an outdoor advertising sign an impossibility.

In the alternative, Covello and Adams believe the Ordinance contains "content based" regulation. Covello and Adams believe that the Ordinance violates rights to free speech under the U.S. and Pennsylvania Constitutions.

As stated in more detail hereafter, the Pocono Township Ordinance limits off-premises freestanding advertising signs to business purposes. The Ordinance prefers commercial speech over political speech.

"Content based" regulations impacting the opportunity to erect outdoor advertising signs violates rights guaranteed under the U.S. and Pennsylvania Constitutions relating to "free speech".

## II. SPECIAL EXCEPTION/VARIANCE

### Statutory Relief - Non-Conforming Use/Structure

Covello erected the sign prior to zoning in Pocono Township. The existing sign is as much a business use made by Covello of his land as any other business use.

Covello/Adams request zoning relief under Section 510.C.1 of the current Zoning Ordinance of Pocono Township (Ordinance) which permits a non-conforming use to be "enlarged, altered, extended, reestablished, restored. . ." by special exception from the Zoning Hearing Board. The proposed special exception request meets all of the applicable specific requirements of Section 510.C.

Similarly, under Section 511, the non-conforming structure may be ". . . structurally altered. enlarged" providing that such action does not increase the degree of or create any new non-conformity. As previously noted, in some respects the dimensional nonconformity will be diminished.

Given the foregoing, Covello/Adams respectfully request the grant of special exception/variance relief under provisions contained in the Ordinance so as to permit the existing non-conforming sign to be removed, and a new sign erected.

### III. VARIANCE - CASE LAW

#### (a) Case Law - nonconforming rights

The law protects non-conforming uses/structures. In the case of *Hanna v. Board of Adjustment*, 408 Pa. 306 at p. 312, 183 A.2d 539 at p. 543 (1962), the Pennsylvania Supreme Court stated the following:

“ . . . the continuance of nonconforming uses under zoning ordinances is countenanced because it avoids the imposition of a hardship upon the property owner and because the refusal of the continuance of a conforming use would be of doubtful constitutionality. . . ”

A statement of the applicable law is contained in *Pierce Appeal*, 384 Pa. 100, 105, 119 A.2d 506, 509 (1956). The Pennsylvania Supreme Court stated the following:

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~~“The clear implication of our decision in *Humphreys v. Stuart Realty Corporation*, 364 Pa. 616, 621, 73 A.2d 407, is that a nonconforming use may be extended in scope, as the business increases in magnitude, over ground occupied by the owner for the business at the time of the enactment of the zoning ordinance. As our present Chief Justice pertinently stated in the *Humphreys* case supra, ‘a nonconforming use cannot be limited by a zoning ordinance to the precise magnitude thereof which existed at the date of the ordinance; it may be increased in extent by natural expansion and growth of trade, neither is it essential that its exercise at the time that the ordinance was enacted should have utilized the entire tract upon which the business was being conducted. . . .’~~

Under applicable case law, zoning relief should be granted.

#### (b) Dimensional Variance - Hardship Burden Diminished

The changes to the dimensional requirements under the Ordinance are minor.

In *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998) the Pennsylvania Supreme Court recognized that the hardship to justify a

dimensional variance is much less than a use variance. The Pennsylvania Supreme Court stated the following:

“ . . . In addition we now hold that in determining whether unnecessary hardship has been established, courts should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, courts may consider multiple factors, including the economic detriment of the applicant if the variance is denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. . . .” 72 A.2d at 50”

The hardship which Covello/Adams suffer is that the existing sign predates zoning, and the continued presence of the existing sign at the current location is no longer viable. The variance relief requested is minimal.

The need to erect a new sign is not self-created. A hardship is stated.

Zoning relief is requested.

(c) De Minimus Change

In *Pzydrowski v. Pittsburgh Board of Adjustment*, 437 Pa. 481, 263 A.2d, 426 (1970), the Pennsylvania Supreme Court adopted the doctrine of a de minimus variance relief. The case law moreover developed so that a de minimus request to vary the provisions of an ordinance require no hardship at all.

**IV. IN THE ALTERNATIVE - VALIDITY CHALLENGE - CONSTITUTIONAL ISSUES**

a. Content Based Regulation

Article 7 of the Ordinance permits “off-premises free-standing advertising signs.”

The use of the term “off-premises” and “on-premises” is important to an analysis of the types of signs permitted under the Ordinance.

An "advertising sign" is an "off-premises" sign and defined under Article 2 of the Ordinance, as follows:

"SIGN, ADVERTISING -- An advertising sign is a sign which directs attention to a business, commodity, service or entertainment, conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed. . . ." (Emphasis Supplied)

A business sign is an "on-premises" sign and directs attention to the "business, profession, or industry conducted on the premises. . .". (Emphasis Supplied)

The definition of a business sign is as follows:

"SIGN, BUSINESS -- A business sign is a sign which directs attention to a business, profession or industry conducted on the premises or to products, services or entertainment sold or offered, manufactured or assembled upon the premises where such sign is located or to which it is affixed. Signs offering premises for sale, rent or development or advertising the services of professionals or building trades during construction or alterations shall not be deemed a business sign."

The definition of "Sign" is as follows:

"SIGN -- Any identification, description, illustration, or advertisement or device, illuminated or non-illuminated which is visible to the general public and directs attention to a ~~product, service, place, activity, person, institution, business or solicitation, including any~~ permanently installed or situated merchandise or any emblem, painting or plaque designed to advertise, identify or convey information. Except as otherwise provided in this Ordinance, a sign shall include the structural and framing elements which do not form an integral part of the display." (Emphasis Supplied)

So, the definition of a Sign includes an opportunity to "direct attention" to an "activity, person, institution. . ." but neither a "business sign" nor an "off-premises freestanding advertising sign" can be used to disseminate information by a person running for political office or for political thought even though such speech is recognized by the definition of a "sign". The opportunity to disseminate political thought under the Ordinance is limited to a "Temporary Sign" having extensive limitations as to location, size, number, time, height, setback and content.

Section 701.L.3 states as follows:

3. Political campaign signs. Signs announcing candidates seeking public office, political parties and/or political and public issues contained on a ballot shall not exceed 3 square feet in gross surface area per side. No political campaign signs (including posters) shall be placed or erected earlier than 15 days prior to any election and shall be removed no later than 5 days following said election day. A maximum of 50 political signs per candidate shall be permitted in the Township. Only one sign per candidate shall be permitted on any lot. There shall be a minimum separation distance of 50 feet between signs for the same candidate. This Subsection I(3) shall not apply to any political advertisement which appears on permitted advertising signs."

Covello and Adams believe the Ordinance effectively bans political speech; the Ordinance prefers commercial speech over political speech; the Ordinance regulates signs predicated on the type of speech disseminated; the Ordinance restricts political speech by a candidate to signs that are "temporary". The Ordinance predicates a right to a sign on the type of speech disseminated; and the Ordinance is on its face unconstitutional.

Under the Federal and State Constitution, a municipal government vested with state authority, has no power to restrict expression because of its message, its ideas, its subject matter, or its content.

The Ordinance is constitutionally infirm. The remedy is to declare the Ordinance illegal, and grant site specific relief.

b. de jure/de facto exclusionary zoning - "50 square feet"

Article 7 limits "off-premises, free-standing advertising signs" to a sign area "not exceeding 50 square feet. . .". The limitation on the sign area (along with other limitations) does not provide a reasonable level of viable advertising signs within the Township.

In reviewing the constitutionality of a zoning ordinance under provisions of Federal and State Constitution on the basis of protection of a citizen's right to the enjoyment of private property and the Fifth and Fourteenth Amendments to the United States Constitution relating to due process and equal protection, the courts employ a substantive due process inquiry, involving

a balancing of landowners' rights against the public interest sought to be protected by an exercise of the police power

Zoning ordinances that exclude uses fall into one of two categories: de jure or de facto.

In a "de jure" exclusion case, the challenger alleges that a zoning ordinance on its face totally excludes a use.

In a "de facto" exclusion case, the challenger alleges that a zoning ordinance appears to permit a use, but under such conditions that the use cannot in fact be accomplished.

Since billboards are not objectionable per se, a blanket prohibition on billboards without justification cannot pass constitutional muster.

The ordinance prohibiting signs from exceeding a size of 50 square feet is a de facto exclusion of billboards. A 50 square-foot sign cannot function effectively as a billboard because it is too small to contain and convey an advertising message to the motoring public.

The restrictions imposed on "off-premises, free standing advertising signs" are exclusionary and constitute an unduly restrictive technique designed and intended to prohibit a reasonable level of viable outdoor advertising signs in the Pocono Township. The Ordinance is de jure/de facto exclusionary

c. de jure/de facto exclusionary zoning - "vacant land".

Article 7 requires that "off-premises, free standing advertising signs" only be erected on vacant land." The requirement of vacant land (along with other limitations contained in the Ordinance), constitute de jure/de facto exclusionary zoning and fail to provide a reasonable level of viable advertising sign within the township. There is no vacant land available in the Township appropriately zoned to permit a sign.

The "vacant land" requirement has no rational basis and not rationally related to a legitimate state interest, and violated due process equal protection clauses of the U.S. and Pennsylvania Constitutions.

d. Improper distinction - "vacant land"

Article 7 of the Ordinance requires that "off-premises, free-standing advertising signs" only be erected on vacant land, The requirement that the land be vacant is not imposed with respect to any other uses under the Ordinance.

The "vacant land" requirement for signs has no rational basis, is discriminatory and not rationally related to a legitimate state interest and violates the due process and equal protection clauses of the U.S. and Pennsylvania Constitutions. It represents an impermissible distinction between use of property for "off-premises, free standing advertising signs", and other uses permitted under the Ordinance. An examination under the strict scrutiny standard renders the Zoning Ordinance facially invalid.

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The Zoning Ordinance fails to bear a substantial relation to the health, safety, moral or general welfare of the community.

e. Improper distinction - "non-conforming signs".

Article 7 prohibits a non-conforming sign to be "enlarged, extended, structurally reconstructed or altered in any manner unless the enlargement, extension, reconstruction or alteration will result in the elimination of the non-conforming features of the sign. The treatment of non-conforming signs is at odds with the treatment of other non-conforming uses and non-conforming structures and dimensions under Article V of the Ordinance.

The requirement is discriminatory and violates the due process and equal protection clauses of the U.S. and Pennsylvania Constitutions

For all the reasons stated, and others to be presented at the hearing, Adams requests that the validity challenge be granted, and site specific relief awarded.

V. APPEAL

The review letter of the Zoning Officer dated May 17, 2016 is based on an unconstitutionally infirmed Ordinance, and relies on provisions of the Ordinance which are not enforceable.

VI. INTERPRETATION

The Zoning Hearing Board is requested to interpret the Ordinance, and apply regulations determined in a way which recognize the constitutional rights of Covello and Adams.

00871951.DOCX  
07/13/2016

013949

DATE: 7/21/2016

CHECK: 0000513949

COMMENT:

VENDOR: POCOTWP

REMIT TO: Pocono Township Zoning Office

INVOICE	DATE	VOUCHER	COMMENT	AMOUNT	DISCOUNT	NET AMOUNT
Appeal	7/21/2016	0000007415		300.00	0.00	300.00
TOTALS:				300.00	0.00	300.00

THIS DOCUMENT HAS A REMOVABLE FOUR-PART MICR BACKGROUND AND MICR CAPTION SIGNATURE LINE. MICR NUMBER: 10310005031

**adams**  
6053 ROUTE 209 • STROUDSBURG, PA 18360

WELLS FARGO BANK, N.A. 3-50510

NO. 013949 CHECK NO.

PAY TO THE ORDER OF: Three hundred and xx / 100 U.S. Dollar

Pocono Township Zoning Office  
112 Township Drive  
Tannersville, PA 18372

DATE: 7/21/2016 AMOUNT: \*\*\*\*\*300.00

*Kim R. Foley*  
AUTHORIZED SIGNATURE MP

10310005031 13051197651



July 22, 2016

RE: Covello -- ZHB Amended Appeal and Validity Challenge

Pocono Township Zoning Hearing Board  
112 Township Drive  
Tannersville, PA 18372

Dear Zoning Board Members,

Please find this amended appeal to the Covello -- zoning hearing board case. The case is scheduled to be heard on August 23, 2016. As part of the amended appeal we are filing validity challenge. We are submitting check # 013949 in the amount of \$300.00 as payment for the amended appeal filing fee.

Respectfully submitted by,

A handwritten signature in cursive script that reads 'Kolby Kauffman'.

Kolby Kauffman  
Real Estate Manager, Adams Outdoor Advertising  
Direct Line: 570-402-6414

Enclosures:

RECEIVED  
JUL 22 2016

POCONO TOWNSHIP

1:15 PM  
DA



August 15, 2016

RE: Billboard Location at Interstate 80 and Stadden Road (T481)

Mr. Michael Tripus  
Zoning Officer  
Pocono Township  
112 Township Drive  
Tannersville, PA 18372

Dear Mr. Tripus,

Please find an enclosed Application for a Zoning Permit or Appeal along with the following information:

- Site Plan (16 copies)
- Structural Print (16 copies)
- Check # 14022

If you require any additional information, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads 'Kolby Kauffman'.

Kolby Kauffman  
Real Estate Manager, Adams Outdoor Advertising  
Direct Line: 570-402-6414

Enclosures

**APPLICATION FOR A ZONING PERMIT OR APPEAL  
REQUIRING ACTION BY THE ZONING BOARD OF ADJUSTMENT  
POCONO TOWNSHIP, MONROE COUNTY, PENNSYLVANIA**

**ACTION REQUESTED:** Special Use or Exception           X           Variance           X            
 Appeal           X           Interpretation           X            
 Validity Challenge           X          

Date 8/15/16

**FEE \$ 300.00**

1. Applicant's Name Anthony Casciano and Elizabeth Casciano and Adams Outdoor Advertising  
 Address 6053 Route 209, Stroudsburg, PA 18360  
 Phone 570-402-6414

2. Applicant's Attorney Victor F. Cavaoini, Esquire  
 Address Gross McGinley, LLP, 33 S. 7th Street, PO Box 4060, Allentown, PA 18105-4060

3. Interest of Applicant Lessee/Landowner

4. If interest is other than owner, furnish name and address of owner Anthony Casciano and Elizabeth Casciano, 198 Stadden Rd., Stroudsburg, PA 18360

5. Property Location 198 Stadden Rd., Stroudsburg, PA 18360  
 and alternate parcel ID # 12 9 1 10-1  
 PIN # (Property Identification Number) 12637200418205 Zone Commer Present Use Residence

6. Interpretation, Special Use or Exception, or Variance sought: See attached reasons for appeal

7. Grounds for appeal or interpretation or reasons for special use or variance are: See attached reasons for appeal

8. For an appeal for interpretation, attach a true copy of the order, requirement, decision or determination of the Zoning Official.

9. Number of copies: 16  
 Signature of Applicant: Anthony Casciano, Elizabeth Casciano  
 Adams Outdoor Advertising  
 By: Kelly Kauff, RE MGR ADAMS

Received	Fees	Received
Publication	Notices	
Hearing	Referred to Planning Commission	
Order	Planning Commission Action	

**NOTE:** This application must be accompanied by a detailed site plan indicating property boundaries, relation to existing streets or roads, buildings, etc., proposed buildings, parking areas, landscaping or screening, lighting, signs, etc. This plan shall include all necessary dimensions, including yards and North shall be indicated by arrow. All information submitted supporting this application shall become a part of the record and cannot be returned.

**BEFORE THE ZONING HEARING BOARD OF POCONO TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA**

**IN RE: ANTHONY CASCIANO and            )  
      ELIZABETH CASCIANO, H/W and    )  
      ADAMS OUTDOOR                    )  
      ADVERTISING, INC.                )**

**REASONS FOR APPEAL**

**I.    BACKGROUND**

Anthony Casciano and Elizabeth Casciano ("Casciano") are the record owners of property located at 198 Stadden Road, Stroudsburg, Monroe County, Pennsylvania 18360-7653 which is adjacent to Interstate 80. The Parcel, Tax I.D. Number is 12637200418205 (Alternate Parcel ID number is 12 9 1 10-1) ("the property"). The land is located in the Commercial (C) Zoning District. A residence is now erected on the property occupied by Casciano.

Casciano and Adams propose to erect a new double-faced digital sign on the property which will be directed to motorists traveling on Interstate 80. The sign will observe a height of 80 feet which would be 44 feet above Interstate 80. The proposed sign face is 14 by 48 or a total of 672 square feet. The proposed sign will observe all of the setback requirements. Casciano and Adams request zoning relief relating to height and sign area and vacant land requirement. The interior angle of the proposed sign will also require variance relief.

One of the basis for the request for zoning relief is predicated on variance relief for reasons hereafter stated.

In the alternative, Casciano and Adams believe that the Pocono Township Zoning Ordinance ("Ordinance") constitutes a *de facto/ de jure* exclusion of "off-premises freestanding advertising signs" because limitations contained in the ordinance effectively exclude such signs as a land use. The Ordinance contains various restrictions that make it impossible to erect such signs in any zoning district. Such restrictions include size, setback, spacing, and location, and temporary use. These restrictions present such physical, topographic, and economic impediments such as to make use of the property in Pocono Township for an outdoor advertising sign an impossibility.

In the alternative, Casciano and Adams believe the Ordinance contains "content based" regulation. Casciano and Adams believe that the Ordinance violates rights to free speech under the U.S. and Pennsylvania Constitutions.

As stated in more detail hereafter, the Pocono Township Ordinance limits off-premises freestanding advertising signs to business purposes. The Ordinance prefers commercial speech over political speech.

"Content based" regulations impacting the opportunity to erect outdoor advertising signs violates rights guaranteed under the U.S. and Pennsylvania Constitutions relating to "free speech".

## **II. VARIANCE**

Casciano and Adams do not believe that the height restrictions and sign area limitations contained in the Ordinance permit Adams to engage in uses permitted under Article 7 of the Ordinance entitled "Signs". Section 701B2 entitled "Off-Premises Freestanding Advertising Signs" speaks to a use that is sometimes referred to generally as an outdoor advertising sign.

Another distinct use permitted under the Ordinance is a "billboard"<sup>1</sup> which is identified in the "Use Schedule" of the Ordinance. The nature of an off-premises advertising sign is that it relates to uses not conducted on the premises where the sign is located, but rather elsewhere. In the outdoor advertising industry, there are standards that have evolved over time relating to the size of outdoor advertising signs of 300 square feet in urban areas and along secondary highways, and 672 feet along limited access highways typically adjacent to the Interstate Roadway System of the United States.

An argument is set forth hereafter that the Ordinance is *de jure/de facto* exclusionary given the limitations relating to height and sign area and vacant land requirement and interior angle contained in the Ordinance. Casciano and Adams believe that the exclusionary aspects of the Ordinance also give rise to a hardship to the extent that a use is defined in the Ordinance, but unduly restricted. The hardship consists of an inability to a use that has gained nationwide acceptance and found under Pennsylvania Law to constitute a lawful land use.

The zoning request is dimensional. In *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998) the Pennsylvania Supreme Court recognized that the hardship to justify a dimensional variance is much less than a use variance. The Pennsylvania Supreme Court stated the following:

" . . . In addition we now hold that in determining whether unnecessary hardship has been established, courts should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, courts may consider multiple factors, including the economic detriment of the applicant if the variance is denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. . . ." 72 A.2d at 50"

---

<sup>1</sup> Casciano and Adams reserve their right to seek conditional use approval of the proposed sign under the Use Schedule Classification "Billboards", which is permitted as a conditional use in the "C" and "T" Zoning Districts for which there are no dimensional constraints.

Casciano and Adams request such zoning relief as necessary to permit the use requested.

### III. IN THE ALTERNATIVE - VALIDITY CHALLENGE - CONSTITUTIONAL ISSUES

#### a. Content Based Regulation

Article 7 of the Ordinance permits "off-premises free-standing advertising signs."

The use of the term "off-premises" and "on-premises" is important to an analysis of the types of signs permitted under the Ordinance.

An "advertising sign" is an "off-premises" sign and defined under Article 2 of the Ordinance, as follows:

"SIGN, ADVERTISING -- An advertising sign is a sign which directs attention to a business, commodity, service or entertainment, conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed. . . ." (Emphasis Supplied)

A business sign is an "on-premises" sign and directs attention to the "business, profession, or industry conducted on the premises. . .". (Emphasis Supplied)

The definition of a business sign is as follows:

"SIGN, BUSINESS -- A business sign is a sign which directs attention to a business, profession or industry conducted on the premises or to products, services or entertainment sold or offered, manufactured or assembled upon the premises where such sign is located or to which it is affixed. Signs offering premises for sale, rent or development or advertising the services of professionals or building trades during construction or alterations shall not be deemed a business sign."

The definition of "Sign" is as follows:

"SIGN -- Any identification, description, illustration, or advertisement or device, illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting or plaque designed to advertise, identify or convey information. Except as otherwise provided in this Ordinance, a sign shall include the structural

and framing elements which do not form an integral part of the display.”  
(Emphasis Supplied)

So, the definition of a Sign includes an opportunity to “direct attention” to an “activity, person, institution. . .” but neither a “business sign” nor an “off-premises freestanding advertising sign” can be used to disseminate information by a person running for political office or for political thought even though such speech is recognized by the definition of a “sign”. The opportunity to disseminate political thought under the Ordinance is limited to a “Temporary Sign” having extensive limitations as to location, size, number, time, height, setback and content.

Section 701.I.3 states as follows:

3. Political campaign signs. Signs announcing candidates seeking public office, political parties and/or political and public issues contained on a ballot shall not exceed 3 square feet in gross surface area per side. No political campaign signs (including posters) shall be placed or erected earlier than 15 days prior to any election and shall be removed no later than 5 days following said election day. A maximum of 50 political signs per candidate shall be permitted in the Township. Only one sign per candidate shall be permitted on any lot. There shall be a minimum separation distance of 50 feet between signs for the same candidate. This Subsection I(3) shall not apply to any political advertisement which appears on permitted advertising signs.”

Casciano and Adams believe the Ordinance effectively bans political speech. The Ordinance prefers commercial speech over political speech. The Ordinance regulates signs predicated on the type of speech disseminated. The Ordinance restricts political speech by a candidate to signs that are “temporary”. The Ordinance predicates a right to a sign on the type of speech disseminated. The Ordinance on its face is unconstitutional.

Under the Federal and State Constitution, a municipal government vested with state authority, has no power to restrict expression because of its message, its ideas, its subject matter, or its content.

The Ordinance is constitutionally infirm. The remedy is to declare the Ordinance illegal, and grant site specific relief.

b. *de jure/de facto* exclusionary zoning - "50 square feet"

Article 7 limits "off-premises, free-standing advertising signs" to a sign area "not exceeding 50 square feet. . .". The limitation on the sign area (along with other limitations) does not provide an opportunity to erect a viable advertising sign within the Township.

In reviewing the constitutionality of a zoning ordinance under provisions of Federal and State Constitution on the basis of protection of a citizen's right to the enjoyment of private property and the Fifth and Fourteenth Amendments to the United States Constitution relating to due process and equal protection, the courts employ a substantive due process inquiry, involving a balancing of landowners' rights against the public interest sought to be protected by an exercise of the police power

Zoning ordinances that exclude uses fall into one of two categories: *de jure* or *de facto*.

In a "*de jure*" exclusion case, the challenger alleges that a zoning ordinance on its face totally excludes a use.

In a "*de facto*" exclusion case, the challenger alleges that a zoning ordinance appears to permit a use, but under such conditions that the use cannot in fact be accomplished.

Since billboards are not objectionable per se, a blanket prohibition on billboards without justification cannot pass constitutional muster.

The ordinance prohibiting signs from exceeding a size of 50 square feet is a *de facto* exclusion of billboards. A 50 square-foot sign cannot function effectively as a billboard because it is too small to contain and convey an advertising message to the motoring public.

The restrictions imposed on “off-premises, free standing advertising signs” are exclusionary and constitute an unduly restrictive technique designed and intended to prohibit a reasonable level of viable outdoor advertising signs in the Pocono Township. The Ordinance is *de jure/de facto* exclusionary

c. *de jure/de facto* exclusionary zoning - “vacant land”.

Article 7 requires that “off-premises, free standing advertising signs” only be erected on vacant land.” The requirement of vacant land (along with other limitations contained in the Ordinance), constitute *de jure/de facto* exclusionary zoning and fail to provide a reasonable level of viable advertising sign within the township.

The “vacant land” requirement has no rational basis and not rationally related to a legitimate state interest, and violates due process equal protection clauses of the U.S. and Pennsylvania Constitutions.

d. Improper distinction - “vacant land”

Article 7 of the Ordinance requires that “off-premises, free-standing advertising signs” only be erected on vacant land. The requirement that the land be vacant is not imposed with respect to any other uses under the Ordinance. The Zoning Ordinance fails to bear a substantial relation to the health, safety, moral or general welfare of the community.

The “vacant land” requirement for signs has no rational basis, is discriminatory and not rationally related to a legitimate state interest and violates the due process and equal protection clauses of the U.S. and Pennsylvania Constitutions. It represents an impermissible distinction between use of property for “off-premises, free standing advertising signs”, and other uses permitted under the Ordinance. An examination under the strict scrutiny standard renders the Zoning Ordinance facially invalid.

For all the reasons stated, and others to be presented at the hearing, Casciano and Adams requests that the validity challenge be granted, and site specific relief awarded.

**IV. APPEAL**

The review letter of the Zoning Officer is based on an unconstitutionally informal Ordinance, and relies on provisions of the Ordinance which are not enforceable.

**V. INTERPRETATION**

The Zoning Hearing Board is requested to interpret the Ordinance, and apply regulations determined in a way which recognize the constitutional rights of Casciano and Adams.

**VI. OTHER ZONING RELIEF**

Casciano and Adams request any other zoning relief as may be necessary to permit the use that is the subject of the within Appeal.

00884339.DOCX



# POCONO TOWNSHIP

www.poconopa.gov

August 15, 2016

Adams Outdoor Advertising  
6053 Route 209  
Stroudsburg, PA 18360

Re: Zoning Application for a Billboard sign

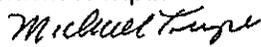
PROPOSED SIGN LOCATION:  
198 Stadden Road, Pa 18360  
PIN #: 126372004148205  
Tax #: 12/9/1/10-1

Mr. Kauffman;

The Zoning Office of Pocono Township is in receipt of your application to construct a billboard type sign at the above referenced property. The property is located in a C-Commercial Zone which permits such a sign only as a Conditional Use, which requires approval by the Pocono Township Board of Commissioners as stated in the Zoning Ordinance #110 Section 405 B 3.

Additionally, Section 702 R states that "No sign shall contain more than two faces, with each face being a backup to the other without any interior angle the proposed billboard as designed has an interior angle. The proposed sign is an "off-premise" sign which is only permitted on vacant land per the Pocono Township Zoning Ordinance #110 Section B (2). Currently there is a residence on the property. Per Section 701 B (2) (a), the maximum sign face area is restricted to 50 sq. ft., the proposed sign has sign faces of 672 sq. ft. Section 701 B (2) (b) limits the sign height at 15' above grade, the proposed sign height is 80' above finished grade.

Based on the plans and application submitted, variances would be needed before approval of this application can be granted, in addition to your Conditional Use being granted by the Board of Commissioners.

Respectfully;  
Michael Tripus  
  
Pocono Township  
Zoning Officer

Cc: Anthony and Elizabeth Casclano

Notes:

[a] 1.5 inches Wearing + 6.0 inches Binder [c] 1.5 inches Wearing + 2.5 inches Binder

[b] 1.5 inches Wearing + 4.0 inches Binder [d] 1.5 inches Wearing (see §607.7,H)

**607.10 Road Right-of-Way, Travelway, and Shoulder Widths; and, Cross Sections**

~~Road right of way, travelway and shoulder widths shall be provided to the minimum standards provided in Table VI-1. Vertical curves shall be used at changes of grade exceeding one (1%) percent. The minimum length of vertical curves for local roads shall be thirty (30) times the algebraic difference in grade for crests and sage curves. Any road classification higher than a local road shall be designed to Penn DOT standards relative to vertical curves.~~

A. Shoulder surfaces shall be graded at a slope of three-fourths (0.75) inch per foot away from the pavement edge.

B. The finished paved travelway surface of tangent sections and curve sections not required to be superelevated shall be crowned at one-quarter (0.25) inch per foot away from the center-line.

C. Properly superelevated cross sections shall be required on collector roads in accord with most current AASHTO-PennDOT Publication 13M, Design Manual Part 2, Highway Design, latest edition standards. The maximum permissible superelevation shall be 0.08 feet per foot.

**607.11 Easements**

Easements for utilities shall be provided and shall conform in width and alignment to the recommendations of the appropriate utility company. Easements shall also be provided for all storm water drainage ditches, sewers, and watercourses. All easements shall be shown on the Preliminary and Final Plans.

**A. Access Easements**

1. Access easements shall be shown and labeled on the plans to indicate the purpose, easement users, and the rights of said users.
2. Ownership and maintenance responsibility shall be noted on the plans for each easement.

**B. Utility Easements**

1. Utility easements shall be a minimum of ten (10) feet in width and shall be provided along all road rights-of-way in addition to the required road width.
2. All existing and proposed utility easements shall be shown and labeled on the plan and included in the restrictive covenants as appropriate.
3. Existing and proposed utility easements shall be included in lot sizes unless otherwise restricted by the utility.

**607.12 Road Alignment**

Road alignment shall be designed as follows:

**607.14 Vertical Curves**

Vertical curves shall be used at changes of grade exceeding one (1) percent and shall be designed in accord with AASHTO PennDOT Publication 13M, Design Manual Part 2, Highway Design, latest edition requirements based on average daily traffic for the road. The following vertical curve information shall be shown on the road profiles:

- A. Length of vertical curve.
- B. Elevation and stationing of the Vertical Point of Intersection, Vertical Point of Curvature, Vertical Point of Tangency, and Middle Offset.
- C. Road grades.
- D. Sight distances.

**607.15 Clear Sight Triangles**

At all road intersections and all land development driveways/accesses a triangular area shall be graded and/or other sight obstructions removed in such a manner as not to obscure vision between a height of two (2) to ten (10) feet above the center-line grades of the intersecting roads.

- A. The clear sight triangle shall be guaranteed either by deed restriction, by lease restriction or by plan reference, whichever method is applicable. Vegetation shall not be planted or allowed to grow in such a manner as to obscure vision between a height of two (2) to ten (10) feet above the centerline grades of the intersecting roads.
- B. Such triangular area shall be determined by the intersecting road centerlines and a diagonal connecting the two points, one point at each road centerline, each of which points is:
  - 1. One hundred fifty (150) feet from the intersection of such road centerlines if either road is an arterial road.
  - 2. One hundred (100) feet from the intersection of such road centerlines if either road is a collector or connector road.
  - 3. Seventy-five (75) feet from the intersection of such road centerlines if both roads are local roads or private access roads.

**607.16 Driveways and Access Drives**

Driveways shall comply with the following standards and at least one (1) location meeting the standards shall be shown for each lot and the notes required by §402.5.BB.10, §404.2.FF.10, §405.2.FF.6, and §406.5.BB.10 shall be included on the Plan:

- A. Driveways shall not be permitted to have direct access to public roads unless authorized by the Township or the Pennsylvania Department of Transportation, as applicable, via issuance of a highway occupancy permit.

B. Lots shall not be platted which would result in driveways which would exceed twelve (12) percent in grade or as otherwise required by state or Township regulations.

C. Entrances shall be rounded at a minimum radius of five (5) feet or shall have a flare construction that is equivalent to this radius at the point of intersection with the cartway edge.

D. Future driveways which are to be constructed adjacent to a road intersection shall be shown on the Preliminary and Final Plans.

E. A leveling area not exceeding four (4) percent in grade and not less than twenty-five (25) feet in length shall be provided where a driveway intersects with the right-of-way of the adjoining road.

F. Adequate provision shall be made for parallel drainage facilities.

G. The minimum vertical curve for residential driveways shall be two (2) feet per one (1) percent change in grade.

H. The minimum distance between a driveway or point of access and the nearest intersecting road shall be as follows:

Type of Subdivision or Land Development	Distance between center lines of driveway and nearest intersecting road right-of-way by type of intersecting road. The nearest intersecting road shall be construed as being on the same or the opposite side of the road on which the driveway is proposed.		
	Arterial	Connector-Collector	Local/Private Access
Residential	150 ft.	100 ft.	75 ft.
Nonresidential	300 ft.	200 ft.	150 ft.

I. Driveways shall maintain a setback of not less than ten (10) feet from adjoining properties.

A. All driveway and access drive related improvements shall be located and constructed in such manner as to provide safe access to Township and state roads and not to impair the drainage or normal maintenance within road rights-of-way, to alter the stability of any roadway, subgrade, or roadway embankment, to change the drainage of adjacent areas, nor to interfere with the traveling public. Sufficient area for access to off-road parking shall be provided.

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B. Sight distance requirements for all driveways and access drives intersection a state, Township or private road shall be in accordance with the Pennsylvania Code, Title 57, Transportation, Chapter 441 "Access To and Occupancy of Highway by Driveways and Local Roads", last edition. All sight distance obstructions, including, but not limited to, embankments and vegetation, shall be removed by the Applicant to provide the required sight distance.

intersecting

by the Applicant's Professional

C. Clear sight distance shall be verified in the field and be found acceptable by the Township prior to preliminary plan or preliminary/final plan approval.

shared case

D. No more than three (3) lots shall be served by a private residential driveway in ~~case~~ of common ownership or shared use of a private residential driveway. As a condition to final plan approval, an agreement providing for the maintenance, repair, construction and reconstruction including drainage facility maintenance and snowplowing of the ~~shared~~ driveway, shall be submitted for review by the Township and, following approval, shall be recorded against the lots in question.

E. Private residential driveways, whether individual or shared, on corner lots shall be located at least seventy-five (75') feet for local roads and one hundred (100') feet for collector and one hundred-fifty (150') feet for arterial roads from the centerline of driveway to the point of intersection of the nearest road right-of-way line. Access drives shall be located at least 150', 200', and 300' feet respectively for local, collector and arterial roads from the centerline of the access drive to the point of intersection of the nearest road right-of-way.

This exceeds allowable lot width requirements in the zoning ord. & seems excessive.

F. Except for the return radius at the intersection with the road, no driveway shall be situated within ten (10') feet of a side or rear property line, except where shared driveways are utilized.

G. Where on-~~road~~ parking is permitted, the layout of the curb cuts of the driveways shall be designed to maximize the number of on-~~road~~ parking spaces.

H. Adequate provisions shall be made to maintain uninterrupted parallel drainage along a public street at the point of driveway or access drive entry.

I. Driveways and access drives shall intersect roads as nearly as possible at ninety (90) degrees, but in no case less than seventy-five (75) degrees or greater than one hundred-five (105) degrees.

J. Where access is to a State road, a valid State Highway Occupancy Permit shall be obtained prior to plan recording. Where PennDOT standards differ from those of the Township, PennDOT regulations shall apply.

the more restrictive

K. All access driveways shall be paved in their entirety in accordance with design specifications of Section 620D.

L. Residential Driveways:

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1. Driveways to corner lots or lots having access to more than one road shall gain access from the road of lower classification when a corner lot is bounded by roads of two different classifications.

2. Except for connections to local or private roads, driveway ~~accesses~~ from any given lot shall be limited to no more than one access point to a public road.

3. The driveway within the legal right-of-way of the public road, or for a distance of at least twenty (20') feet from the edge of the cartway, whichever is greater, shall not have a grade in excess of four (4%) percent. At no point shall the maximum grade of any driveway exceed twelve (12%) percent.

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4. For driveways exceeding two hundred-fifty (250') feet in length and where the grade of a driveway, at any point, exceeds eight (8%) percent, a minimum of one (1) off-road parking space shall be required. The off-road parking space shall be located before the grade of the driveway, at any point, exceeds eight (8%) percent and shall be outside the driveway access aisle and outside the public right-of-way. Such off-road parking spaces shall be a minimum of nine (9') feet by eighteen (18') feet.

5. For driveways serving single residential units, the minimum width shall be twelve (12') feet. Width of shared driveways shall be minimum of fifteen (15') feet. Pullover areas shall be required to provide safe passage of two (2) vehicles.

6. New driveways shall provide for a safe turnaround area outside of the road right-of-way so that vehicles will not be required to back into the adjoining road. Safe turnaround areas shall in all cases be required where driveways access arterial or major collector roads.

7. The driveway shall be constructed with a base of stone compacted to six (6") inches and a surface of a minimum of one and one-half (1 1/2") inch superpave bituminous wearing course or approved equal. Driveway material standards shall apply to driveways for a minimum of twenty (20') feet from the edge of the cartway or curb. The use of pervious pavement is encouraged to minimize stormwater runoff.

M. Access Drive:

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1. The access drive within the legal right-of-way of the public road, or for a distance of at least twenty (20') feet from the edge of the cartway, whichever is greater, shall not have a grade in excess of four (4%) percent. The grade of any access drive shall not exceed ten (10%) percent.

2. Access drive entrances into all non-residential and non-agricultural use properties shall be no less than twenty-four (24') feet in width, shall not exceed thirty-six (36') feet in width at the road line, unless provided with a median divider, and shall be clearly defined by curbing. The curbs of these driveway entrances shall be rounded with a minimum radius of twenty (20') feet from where they intersect a road.

3. Access drives shall be paved in their entirety. The specifications for such pavings shall be approved by the Township as applicable for the specific use proposed in accordance with Section 620E. Alternate dust-free, all weather surfaces for access may be permitted by the Township where appropriate.

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4. To the greatest extent practicable, access to new individual uses shall be by way of internal access drives. Access drives shall be limited to one (1) along the frontage of any single major collector or arterial road and two (2) along the frontage of any other single road. Where two access drives are permitted, their centerlines shall be spaced a minimum of two hundred-fifty (250') feet apart.

N. Concrete aprons shall be provided for all access drives with concrete sidewalks. Concrete aprons shall be a minimum of six (6") inches of Class AA concrete (a twenty-eight (28) day minimum compressive strength of 3,500 psi and six (6) percent air entrainment by volume) and shall be structurally reinforced with 6" x 6" gauge welded wire fabric on 4" 2A aggregate.

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6" of

Individual wells in a rural area. How do they have adequate fire protection?

E. Well construction shall be consistent with generally accepted practice and the guidelines of the PA Department of Environmental Protection.

F. Documentation of the effect of the projected area-wide draw down of the water table may be required by the Township if the anticipated pumping of groundwater warrants such documentation.

611.4.4 Water Supply and Fire Protection.

A. Each dwelling unit, commercial or industrial building in all subdivision and land developments hereafter granted approval shall have an adequate supply of potable water for domestic use and an adequate supply of water for fire protection.

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B. Where the Applicant proposed that individual on-site water supply systems shall be utilized, the Applicant shall be responsible either to install such facilities or to guarantee (by deed restriction or otherwise), as a condition of the sale of each lot or parcel within the subdivision, that the facilities can be installed by the purchaser of such lot or parcel. The proposed locations of wells shall be shown on the preliminary plan for each lot; existing wells on the property or on adjoining properties must also be shown; Isolation distances (a circular area whose radius conforms to PA DEP regulations) from on-site sewage systems, where proposed, must also be indicated on the plan. Individual water supply systems shall be designed and installed in accordance with all applicable standards of the PA DEP, and the Township's regulations concerning installation of such systems.

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C. Where water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or land development, the Applicant shall present evidence to the Township that the subdivision or land development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence. Such evidence shall be provide prior to recording of the final plan.

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D. The design and installation of any central (public or community) water supply system shall be subject to the approval of the Township, the PA DEP and other regulatory bodies having jurisdiction. Any such system shall be further subject to satisfactory provisions for the maintenance thereof. Standards and materials for the construction of any central water supply system shall meet or exceed those requirements described in the "Public Water Supply Manual of the Pennsylvania Department of Environmental Protection" and shall be subject to the approval of the Township.

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E. In all subdivisions and land developments served by a central water system, the following water pressure and gallonage requirements shall apply:

- 1. Residential Use -- minimum working pressure of 30 pounds per/square inch shall be provided at each house to be connected to the water supply main with sufficient capacity to supply a minimum of 300 gallons of water per residential unit per day.
- 2. Commercial or industrial use a minimum working pressure of 30 pounds per square inch shall be provided at each commercial or industrial building connected to the water supply main. *Where wishes* When a building wishes to connect to a central water system, a study shall be made to determine if there is adequate water supply in the system to supply the building and use.
- F. In all subdivisions and land developments served by a central water system, the following fire protection standards shall apply to the design and construction of the water system:
  - 1. Fire hydrants suitable for the coupling of equipment serving the Township shall be installed as specified by the Insurance Services Office of Pennsylvania and shall comply with applicable fire company standards. Location of hydrants shall be approved by the Township.
  - 2. All fire hydrants will be located on an eight (8") inch line or a looped six (6") inch line. *Where* Where a dead-end line contains a fire hydrant, the portion of the line between the main loop and the hydrant shall be *at least* eight (8") inches minimum diameter.
  - 3. Fire hydrants shall be spaced so that all proposed building(s) will be not more than six hundred (600') feet from a hydrant measured along travel ways (driveway, roads, etc.). *m*
  - 4. All hydrant locations shall be marked by the installation of raised pavement markers, subjected to the approval of the Township. The raised pavement markers shall be installed after the final pavement wearing surface has been placed and shall be two-way, blue snow plowable markers.
- 5. Residential Use.
  - a. For purposes of fire protection of residential uses, the system shall be capable of providing fire-flow water for a minimum of two (2) hours or not less than one thousand (1,000) gallons per minute for one (1) or two (2) family dwellings having a fire-flow calculation area not in excess of three thousand six hundred (3,600) sq. ft. Fire-flow and flow duration for dwellings having a fire-flow calculation area in excess of three thousand six hundred (3,600) sq. ft. shall not be less than that specified in the then-current edition of the Pennsylvania Uniform Construction Code.
  - b. A reduction in the required fire-flow of fifty (50%) percent may be permitted when all buildings within a development are required to be provided with approved automatic sprinkler systems in accordance with

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the International Fire Code as adopted by the Pennsylvania Uniform Construction Code, as amended from time to time.

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6. Commercial or Industrial Use.

a. For purposes of fire protection in commercial and industrial uses, the system shall be capable of providing fire-flow and flow duration based on the type of use, hazard, and construction as specified in the Pennsylvania uniform Construction Code as amended from time to time; however, the fire-flow shall not be less than one thousand five hundred (1,500) gallons per minute.

b. A reduction in the required fire-flow by fifty (50%) percent may be permitted when all buildings within a development are provided with an approved automatic sprinkler system in accordance with the International Fire Code as adopted by the Pennsylvania Uniform Construction Code as amended.

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G. Any Applicant proposing a central water supply system shall submit a Proposed Water Supply Study" evidencing sufficient water supply quality and quantity. This study shall include those specific items described in the Public Water Supply Manual of the Pennsylvania Department of Environmental Protection. Where the water supply system occurs under the jurisdiction of the Pennsylvania Public Utility Commission, the water supply study also shall include those items of information required by the PUC,

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1. The Applicant, landowner, or developer shall submit with the Preliminary Subdivision Plan, five (5) copies of documentation, which shall be designated as "proposed water supply study".

2. The water supply study shall contain the name, address and telephone number of the proposed water supplier (the company, water company, public utility or association) proposed by the Applicant to supply water to the subdivision or land development. In addition, there shall be provided a complete description of the source of the water supply, the quantity of water available from the source or sources, the capacity of existing or proposed reservoirs and their locations, and other pertinent data.

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3. If wells are to be utilized as a part of the proposed water supply system, the number of wells, the pumping capacity of each well, the number of hours per day that each well pump operates, the depth of each well, depth of water table in each well, diameter of well casing, draw down rated capacity of each well, the maximum sustained yield from the well test together with a copy of the well test data all shall be supplied with the proposed study.

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4. The study shall outline the size of proposed water mains to be utilized for the subdivision and land development, and the number and location of proposed fire hydrants within or near the development. Further, the study shall contain the number of residential customers on the existing system (if any), the

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number of proposed new residential, commercial or industrial customers, and the estimated number of gallons required to service both ~~and~~ existing (if any) and proposed system when the subdivision or land development plan is completed.

5. Within the study a description shall be provided outlining the service area of customers to be provided and if the utility is regulated by the Public Utility Commission of the Commonwealth of Pennsylvania, a notation shall be made as to whether the proposed subdivision or land development falls within the supplier's approved franchised area. If it is necessary to obtain PUC approval to extend a franchise area to the site to be covered, such approval shall become a condition precedent to the recording of a final subdivision or land development plan.

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6. The proposed public water supply study submitted by the Applicant shall be reviewed by the Township Engineer in conjunction with the subdivision or land development plan. The Township Engineer shall provide commentary to the Township with respect to the Applicant's compliance with this section of this Ordinance. The Township reserves the right in its sole discretion to require a further independent engineering study as to the adequacy of the proposed water supply system in the event the Township Engineer does not approve the study submitted. The Applicant, landowner, or developer must bear the cost of such confirming independent engineering study. A Final Plan will not be approved unless all of the above requirements and the following requirement listed below are fully met.

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7. With regard to minimum water supply requirements, each new residential dwelling shall be provided with a minimum domestic pressure of thirty (30) pounds per square inch at the house connection and each such dwelling shall be provided with a minimum of three hundred (300) gallons of water per residential unit per day. For any new commercial or industrial use, a minimum pressure of thirty (30) pounds per square inch shall be provided which shall meet all potable water supply requirements for the intended use in addition to providing fire-flow water requirements for a minimum duration of two (2) hours of not less than five-hundred (500) gallons per minute at residual pressures of thirty (30) pounds per square inch. Fire hydrants for either residential, commercial, or industrial development shall be spaced every six hundred (600') feet within the proposed development.

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8. The water supply study shall demonstrate that all potable water required for the subject subdivisions and/or land developments shall meet the water quality standards as established by the U.S. Environmental Protection Agency, originally listed as the National Interim Primary Drinking Water Regulations, EPA Document No. 570/9-76-003, and as further amended in the Federal Register, Wednesday, December 24, 1975 through Wednesday, August 27, 1980 and including the National Secondary Drinking Water Regulations as listed in the Federal Register, Thursday, July 19, 1979. In addition, any known carcinogens which have been identified as of the date of

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this Ordinance and which might be identified after the date of this Ordinance, shall be identified in any and all testing procedures of the proposed public water supply and water supplies exceeding the established carcinogenic levels shall not be utilized for domestic purposes.

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H. Any Applicant proposing a central water supply system shall further submit a "Business Plan" pursuant to applicable regulations, manuals or guidelines of the Pennsylvania Department of Environmental Protection. The Business Plan shall demonstrate that the fees assessed to the end users shall cover the operational maintenance and capital replacement costs affiliated with the operation of the entire system. Further, the fees assessed shall be reasonable compared to other central water supply systems. Further, the estimated monthly or quarterly fees shall be disclosed to all potential buyers within the area served by the central water supply system.

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In addition, the Applicant shall, prior to recording of a Final Plan for subdivision or land development, post security in a form acceptable to the Township, in an amount sufficient to pay for a period of five (5) years the cost of operation, maintenance, repair and personnel necessary to operate the system in the event that the system owner fails to properly staff, maintain and operate the system within permit standards. Following completion of construction and expiration of applicable maintenance periods hereunder, when the system is turned over to the homeowners' association or lot owners for maintenance, the security shall be replaced with security provided by the homeowners' association and/or lot owners in a form acceptable to the Township, in an amount sufficient to pay for a period of five (5) years the cost of operation, maintenance repair and personnel necessary to operate the system in the event that the system owner fails to properly staff, maintain and operate the system within permit standards. The security shall remain in effect for the length of time the system remains in operation.

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I. Construction Standards.

1. Distribution mains of the overall system shall be connected into loops so that the supply may be brought to the consumer from more than one direction.
2. In balancing loops in the design, the Hardy-Cross, or an equivalent, method shall be used.
3. Dead-end lines shall be permitted within the design of a looped system provided that there is a maximum of twenty (20) dwelling units (or 50 dwelling units temporarily) on a dead-end line. When dead-end lines are used, they shall be provided with a hydrant or blow off at the terminus as a means of flushing. For dead-end lines to be approved on a temporary basis, the remainder of the looped system must be secured to the Township pursuant to Article V of this Ordinance.
4. Water mains shall be configured to form a loop system to enhance the continual supply of fresh water. When dead-ends occur on new mains, they shall all be closed with cast iron plugs and caps, with a blow-off valve, with a concrete anchor, or fire

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building. Varying shall be in accordance with the Plumbing Subcode of the PA Uniform Construction Code.

17. Curb stops and water meters shall be located as specified by the public or private water supplier.

18. Common water service connections shall be permitted where allowed by the Plumbing Subcode of the Uniform Construction Code.

19. Where water system extensions are constructed by a developer and meter fees are not paid by the Developer, the water meter(s) shall be furnished by the Developer and shall be of a manufacture and type approved by the Township. The meter(s) shall read in volume units as determined by the Township. Where meter fees are paid the developer, the meter(s) shall be furnished by the municipality or water authority.

20. Pipe size shall comply with the following requirements:

- a. Water mains shall be a minimum diameter of eight (8") inches except at the end of a permanent cul-de-sac, unless another size is required for fire flow or other criteria. A six (6") inch main may be used when it serves not more than twenty (20) dwelling units and only one (1) fire hydrant.
- b. Building service connection pipe shall have a minimum diameter of three-quarters (3/4") of an inch.
- c. The design capacity of water mains shall be such as to maintain a minimum pressure of twenty (20) pounds per square inch (psi) at street level under all flow conditions.

21. Pipe material used in the construction of water mains shall be cement lined ductile iron pipe, prestressed concrete cylinder pipe, reinforced concrete pressure pipe, or PVC pipe. All pipe and appurtenances shall comply with the applicable AWWA standards in effect at the time of application.

a. Ductile iron pipe, appurtenances, and fittings shall comply with the following standards:

- i. ANSI/AWWA C110/A21.10 (fittings)
- ii. C111/A21.11 (gasket joints)
- iii. C115/A21.15 (flanged joints)
- iv. C151/A21.51 (pipe)
- v. Thickness shall be designed in accordance with ANSI/AWWA C1150/A21.50

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- vi. Ductile iron pipe shall be cement mortar-lined in accordance with ANSI/AWWA C104/A21.4
  - vii. Joints shall be gasketed, push-on joints or mechanical iron pipe shall be covered with an asphaltic epoxy-type coating. In aggressive soils, ductile iron pipe wrapped in polyethylene in accordance with ANSI/AWWA C105/A21.5 shall be used.
  - b. Prestressed concrete cylinder pipe with rubber and steel joints shall conform to ANSI/AWWA 0301.
    - i. Reinforced concrete pressure pipe (steel cylinder) type shall meet ANSI/AWWA C300.
    - ii. Concrete pressure pipe (bar-wrapped steel cylinder type) shall meet ANSI/AWWA C303.
  - c. PVC pipe, appurtenances, and fittings shall conform to ANSI/AWWA C900 or AWWA C909 for pipe sizes four (4") inches to twelve (12") inches and shall conform to AWWA C905 for sizes fourteen (14") inches through thirty-six (36") inches.
    - i. Joints shall be elastomeric-gasket couplings of a corresponding size. Laboratory performance requirements, as specified in ASTM D3139, shall be met. Solvent-cement coupling shall not be permitted.
    - ii. PVC pipe installations shall be provided with a metallic locator tape.
  - d. Where transitions to flanged fittings are made, adapters approved by the Township shall be used.
  - e. Building service connection pipe shall be type K copper or polyethylene (PE) pressure pipe that complies with ANSI/AWWA C901.
  - f. Ductile iron pipe shall be used at all locations where water lines cross sewer lines and are separated by less than twelve (12") inches vertically. At these locations a twenty (20') foot section of ductile iron pipe shall be installed centered on the sanitary sewer line.
  - g. Ductile iron pipe shall also be used any time a water line crosses a stream or active drainage-way. The ductile iron pipe should extend for a distance of twenty (20") feet on either side of the stream bank.
22. Pipe bedding and backfill shall be installed in accordance with the pipe manufacturer's recommendations.

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23. To avoid settlement under paved roadways, Penn DOT 2A stone shall be used to backfill waterline trenches when they pass under paved roadways.

J. Approvals/reviews. No construction of any water distribution system shall commence prior to written approvals and/or comments from the Department of Environmental Protection, the fire department and the Township.

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K. If the proposed subdivision or land development will utilize groundwater as the source of potable water, a Hydrogeology Study shall accompany the Preliminary Plan.

L. Testing and Inspections.

1. All newly installed water mains shall be inspected by Township personnel and be pressure tested and disinfected in accordance with AWWA Standards AWWA C600 and AWWA C651 respectively. Testing shall include programs for adequate flushing, disinfection and microbiological testing of all water mains. At least one satisfactory bacteriological sample must be obtained from the water main and analyzed by a certified laboratory, with acceptable test results, before the main is placed into service.

2. All testing, disinfection, and laboratory analysis required shall be arranged for and paid by the Applicant/Developer.

3. Any deficiencies encountered shall be corrected by the Applicant/Developer and any required follow up testing shall be conducted and found acceptable before the system is placed into service.

Water Distribution System

A. The system design shall follow good engineering practice and the requirements of the PA-DEP and/or the Public Utilities Commission. The distribution system shall be designed and sized to provide the design flows at a minimum pressure of twenty-five (25) pounds per square inch at curb steps.

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B. Pipe classes shall be consistent with design pressures.

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C. Before being placed into service, the system must be tested and disinfected by procedures established by Department of Environmental Protection.

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D. The proposed utility shall provide for adequate flow of water for the subdivision supplied, by interconnecting two or more wells or by providing storage for a minimum of one (1) day's demand.

E. Service connections shall be a minimum of three-fourths (3/4) inch diameter.

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611.4.5 Flow Rates

Distribution systems serving commercial or industrial developments shall provide for a minimum flow rate of at least two and one half (2.5) times the projected average daily flow rate or a minimum

1. If the required fee would be greater than \$2,000, and the applicant and the Board of ~~Supervisors~~Commissioners mutually agree in a binding development agreement to the payment of all such fees prior to the issuance of any building permits within each clearly defined phase or sub-phase of the development, then such fees are not required to be paid prior to recording of the final plan, but may instead be paid within the requirements of that development agreement.

2. If the applicant and the Board of ~~Supervisors~~Commissioners mutually agree to the payment of such fees in installments, then all such fees shall not be considered to be paid for the purposes of any applicable time limitations for use under the Municipalities Planning Code until all such fees are paid in full, including all installments and phases.

K. Timing of Non-Residential Fees - Fees required by this §619 for any non-residential subdivision or land development shall be paid prior to the recording of the final plan of a subdivision or land development, as applicable.

L. Facilities in Place of Land or Fees - If there is mutual agreement by the Board of ~~Supervisors~~Commissioners and the applicant, the requirements of this §619 may be met:

1. By the applicant constructing agreed upon permanent noncommercial recreation facilities within the proposed subdivision or land development or on nearby public open space, if the applicant clearly proves to the satisfaction of the Board of ~~Supervisors~~Commissioners that those facilities will be approximately equal in market value to the land or fees that would otherwise be required, and would reduce the future burden upon the Township in providing for recreational facilities. Such facilities do not necessarily need to be open to the public if they are not constructed on publicly owned land, but such facilities shall, at a minimum, be open to residents of the subdivision or land development in connection with the approval of which the facilities are constructed; or,

2. If the applicant donates appropriate public recreation land to the Township or the Pocono Mountain School District, which the Board of ~~Supervisors~~Commissioners determines to be suitable for public recreation. In such case, the applicant shall provide a written appraisal from a Pennsylvania licensed real estate appraiser that the fair market value of the donation is equal to or greater than the amount of the value of land that would otherwise be required to be dedicated or the amount of the fee-in-lieu of dedication.

**620. Off-Street Parking & Loading.**

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A. General Requirements. The standards herein shall apply to any parking or loading area except where otherwise specifically provided.

1. The number of required parking and loading spaces shall be as set forth in the Pocono Township Zoning Ordinance.

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2. Every parking or loading facility shall be designed so that its use does not constitute a nuisance, hazard or unreasonable impediment to traffic.

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safe

3. Every parking area shall be arranged for orderly, safe movement. Parking areas containing thirty (30) or more parking spaces shall have a curbed internal road system with a landscaped island or strip of a minimum width equal to one parking space separating the road system from the parking area to provide safe and orderly movement of traffic and discouragement of cross-aisle driving. The internal road system shall be designed to minimize the need for cross-pedestrian traffic.

4. In no case shall parking areas for four (4) or more vehicles or any loading area be designed to require or encourage cars to back into a public or private street in order to leave a lot.

5. Every parking area shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle, except on-site parking associated with a single family dwelling.

6. All parking areas for four (4) or more vehicles shall include clearly defined and marked traffic patterns, with the utmost care taken to provide for safe internal traffic movement and to avoid conflicts between vehicles and pedestrians.

7. All off-street parking spaces shall be marked to indicate their location and use.

8. Common parking lots serving multifamily dwellings, commercial and business uses, and other recreational uses shall provide parking for the physically disabled in accordance with the requirements of the Americans with Disabilities Act (Public Law 101-336), and local, State, and Federal Codes which implement the Act.

Was a width of 9' discussed?

**B. Parking Spaces and Aisles.**

Parking space and aisle dimensions shall be no less than those listed in the following table:

Angle of Parking	Parking Width	Stall (Space) Depth	Aisle Width	
			One Way	Two Way
90	10'	18'	20'	24'
60	10'	21'	18'	not permitted
45	10'	20'	13'	not permitted
30	10'	18'	12'	not permitted
Parallel	8'	22'	12'	18'

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**C. Grading, Surface Drainage.**

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1. Except for areas that are landscaped and so maintained, all portions of required parking and loading facilities shall be graded, surfaced with asphalt and drained to the extent necessary to prevent dust, erosion, or excessive water flow across streets or adjoining properties.

5. No such facilities shall be designed or used in any manner so as to constitute a nuisance, a hazard or an unreasonable impediment to traffic.

**621. Highway Capital Improvement Fund.**

A. A Highway Capital Improvement Fund account is hereby established which shall be maintained as an account into which funds shall be maintained for roadway capital improvements.

B. The Highway Capital Improvement Fund shall be used for major highway improvement projects on roads within the Township and not for general road maintenance. Major highway improvement projects could include, but not be limited to, a uniform widening of an existing roadway in a coordinated fashion, a uniform installation of curbs and/or sidewalks in a coordinated fashion and any combination thereof. The Board of Commissioners specifically finds that uniform, coordinated construction projects are more economical to both property owners and the Township and avoid piecemeal and disjointed improvement of the Township's roads.

C. The Board of Commissioners, where it deems appropriate, may waive or defer the construction of roadway improvements along the frontage of any proposed subdivision or land development within the Township and accept a contribution to the Highway Capital Improvement Fund to fund highway improvement projects which require coordination along more than a single property boundary and/or single subdivision or land development. The Board of Commissioners shall, by resolution, set the amount of the contribution, which amount may re-adjusted on an annual basis to reflect costs as of the date the resolution is adopted, which may occur as part of the resolution establishing the Township Fee Schedule.

D. The Board of Commissioners, where it deems appropriate, may also waive the construction of roadway improvements within any proposed subdivision or land development within the Township and accept a capital contribution to the Highway Capital Improvement Fund to fund those improvements when they are required. The Board of Commissioners shall, by resolution, set the amount of the contribution, which amount may re-adjusted on an annual basis to reflect costs as of the date the resolution is adopted, which may occur as part of the resolution establishing the Township Fee Schedule.

E. The Highway Capital Improvement Fund account shall be maintained as a separate ledger account of the Township and a record shall be maintained of contributions made to the account and of highway projects funded from the Highway Capital Improvement Fund. The Board of Commissioners may, from time to time, authorize road improvement at such time and in such locations as it deems appropriate, in its sole discretion.

**622. Traffic Impact Study**

A. Applicability. Traffic Impact Study shall be submitted to the Township, as part of a Preliminary Plan and Final Plan for any subdivision or land development application expected to generate more than 250 new trips per day.

B. Purpose. To identify any traffic problems likely to result from the proposed development in relation to ingress/egress, road capacities, off-site traffic flow, public transportation, and pedestrian and other non-vehicular circulation.

Does this apply to all Subdivisions w/in the Township?  
~~If a developer~~  
Will a developer be able to get a waiver from ~~internal road~~ ~~ext~~ frontage or internal road improvements w/o contributing to the Capital Improvement Fund?

C. Contents.

1. A study area for the Traffic Impact Study shall be defined as mutually agreed upon by the Applicant and the Township Engineer, subject to the minimum requirements of Section 622.C.4 below.

2. The Traffic Impact Study shall enable the Township to assess the likely impacts of the proposed development on the existing transportation network of the Township and surrounding area

3. The Traffic Impact Study shall be prepared by a civil engineer licensed to practice in Pennsylvania with experience preparing such studies in accordance with the Institute of Transportation Engineer's (ITE) Recommended Practice *Traffic Access and Impact Studies for Site Development*, current edition, and PennDOT Publications 201 and 282, current editions.

4. The Traffic Impact Study shall include, but not necessarily be limited to, an analysis of expected traffic generation to, from and upon surrounding roads within a radius of 2- miles from the proposed development site, particularly showing AM and PM peak hours of existing traffic flow during a normal business day, in comparison with what is anticipated after the proposed development is fully completed, and, if applicable, upon the completion of each stage. Estimated peak hour trip generation shall be based on procedures set forth in the most recent editions of the ITE Trip Generation Manual. ~~Existing traffic flows shall be based on actual counts; if these cannot be obtained, an alternative source, subject to approval the Township, may be used.~~

5. The Township shall review the methodology, assumptions, findings, and recommendations of the Traffic Impact Study and may require specific improvements necessary to accommodate the impacts of the propose development.

Always can  
get actual  
counts.  
Does the Board

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want to end  
up making  
decisions on  
this & everything  
it comes up.