

ASSEMBLY, No. 3165

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

SYNOPSIS

Clarifies that application to collocate wireless communications equipment be reviewed by administrative officer.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the collocation of wireless communications
2 equipment, and amending P.L.1975, c.291 and P.L.2011, c.199.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 9 of P.L.1975, c.291 (C.40:55D-18) shall be
8 amended to read as follows:

9 9. Enforcement. The governing body of a municipality shall
10 enforce this act and any ordinance or regulation made and adopted
11 hereunder. To that end, the governing body may require the
12 issuance of specified permits, certificates or authorizations as a
13 condition precedent to (1) the erection, construction, alteration,
14 repair, remodeling, conversion, removal or destruction of any
15 building or structure, (2) the use or occupancy of any building,
16 structure or land, and (3) the subdivision or resubdivision of any
17 land; and shall require the issuance of a zoning permit as a
18 condition precedent to the collocation of wireless communications
19 equipment pursuant to section 1 of P.L.2011, c.199 (C.40:55D-
20 46.2). The governing body of a municipality shall establish an
21 administrative officer and offices for the purpose of issuing such
22 permits, certificates or authorizations; and may condition the
23 issuance of such permits, certificates and authorizations upon the
24 submission of such data, materials, plans, plats and information as
25 is authorized hereunder and upon the express approval of the
26 appropriate State, county or municipal agencies; and may establish
27 reasonable fees to cover administrative costs for the issuance of
28 such permits, certificates and authorizations. The administrative
29 officer shall issue or deny a zoning permit within 10 business days
30 of receipt of a request therefor. If the administrative officer fails to
31 grant or deny a zoning permit within this period, the failure shall be
32 deemed to be an approval of the application for the zoning permit.
33 In case any building or structure is erected, constructed, altered,
34 repaired, converted, or maintained, or any building, structure or
35 land is used in violation of this act or of any ordinance or other
36 regulation made under authority conferred hereby, the proper local
37 authorities of the municipality or an interested party, in addition to
38 other remedies, may institute any appropriate action or proceedings
39 to prevent such unlawful erection, construction, reconstruction,
40 alteration, repair, conversion, maintenance or use, to restrain,
41 correct or abate such violation, to prevent the occupancy of said
42 building, structure or land, or to prevent any illegal act, conduct,
43 business or use in or about such premises.
44 (cf: P.L.2001, c.49, s.1)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. Section 1 of P.L.2011, c.199 (C.40:55D-46.2) is amended to
2 read as follows:

3 1. a. An application **【for development】** for a zoning permit to
4 collocate wireless communications equipment on a wireless
5 communications support structure or in an existing equipment
6 compound shall not be subject to site plan or other land use board
7 review, and shall be approved by the administrative officer pursuant
8 to section 9 of P.L.1975, c.291 (C.40:55D-18), provided the
9 application meets the following requirements:

10 (1) the wireless communications support structure shall have
11 been previously granted all necessary approvals by the appropriate
12 approving authority;

13 (2) the proposed collocation shall not increase (a) the overall
14 height of the wireless communications support structure by more
15 than ten percent of the original height of the wireless
16 communications support structure, (b) the width of the wireless
17 communications support structure, or (c) the square footage of the
18 existing equipment compound to an area greater than 2,500 square
19 feet;

20 (3) the proposed collocation complies with the final approval of
21 the wireless communications support structure and all conditions
22 attached thereto and does not create a condition for which variance
23 relief would be required pursuant to P.L.1975, c.291 (C.40:55D-1 et
24 seq.), or any other applicable law, rule or regulation.

25 b. For purposes of this section:

26 "Equipment compound" means an area surrounding or adjacent
27 to the base of a wireless communications support structure within
28 which is located wireless communications equipment.

29 "Collocate" means to place or install wireless communications
30 equipment on a wireless communications support structure.

31 "Wireless communications equipment" means the set of
32 equipment and network components used in the provision of
33 wireless communications services: including, but not limited to,
34 antennas, transmitters, receivers, base stations, equipment shelters,
35 cabinets, emergency generators, power supply cabling, and coaxial
36 and fiber optic cable, but excluding wireless communications
37 support structures.

38 "Wireless communications support structure" means a structure
39 that is designed to support, or is capable of supporting, wireless
40 communications equipment, including a monopole, self-supporting
41 lattice tower, guyed tower, water tower, utility pole, or building.

42 (cf: P.L.2011, c.199, s.1)

43

44 3. This act shall take effect immediately.

STATEMENT

This bill clarifies current law by providing that certain applications to collocate wireless communications equipment on preexisting support structures be processed administratively and be approved by permit. A 2011 amendment to the Municipal Land Use Law (MLUL), P.L.2011, c.199 (C.40:55D-46.2), provided that an application to collocate wireless communications equipment on a preexisting wireless communications support structure is not subject to site plan review if: (1) the support structure has been previously granted all necessary approvals, (2) the proposed collocation will not increase the support structure's height by more than ten percent or expand the width of any existing equipment compound beyond 2,500 square feet, and (3) the support structure will be substantially consistent with the terms and conditions of the underlying approvals.

Consistent with P.L.2011, c.199, most municipalities assign review of collocation applications to an administrative officer for review and, if an application satisfies the three conditions set forth in the 2011 amendment to the MLUL, an administrative approval. However, some municipalities require zoning boards of adjustment to review all collocation applications to determine whether they satisfy the conditions set forth in the 2011 amendment to the MLUL. Subjecting collocation applications which are statutorily exempt from site plan review to zoning board of adjustment review and approval is inconsistent with current law and undermines the purposes of the 2011 amendment by imposing undue costs and delays on an applicant.

This bill addresses this issue by specifying that collocation applications are to be submitted to an administrative officer for review, and that an administrative officer may approve a collocation application by issuing a zoning permit. If an administrative officer determines that an application does not meet the requirements of the 2011 amendment, the administrative officer would deny the application.