MINUTES OF WORKSHOP
HELD BY THE PLANNING AND ZONING COMMISSION
JULY 5, 2017

ROLL CALL:

Members Present:	Eric Prause, Chairman Jessica Scorso Timothy Bergin
Alternate Members Sitting:	Julian Stoppelman Patrick Kennedy
Alternates:	Teresa Ike
Absent:	Andy Kidd, Vice Chairman Michael Stebe, Secretary
Also Present:	Gary Anderson, Director of Planning Renata Bertotti, Senior Planner Matthew Bordeaux, Environmental Planner/ Wetlands Agent Nancy Martel, Recording Secretary
Time Convened:	7:48 PM

REGULATION OF SOLAR ENERGY SYSTEMS

Mr. Bordeaux stated the Planning Department considered the Commission's comments regarding solar energy systems and wanted to delay review until after the Commission had an opportunity to hear the application regarding the mall. He stated he has begun a conversation with the Zoning Enforcement Officer to confirm that he is in favor of the approach, but has not received the feedback yet. Mr. Bordeaux questioned whether the Commission is comfortable with the draft. If minor changes are needed, they can be made and then an application can be submitted and a public hearing held, he said.

Mr. Bordeaux identified what would be considered a flat roof according to the Building Department. The discussion included increasing the height of panels installed on a pitched roof so angles could be factored in depending upon the direction of the roof and the roof line. One of the issues talked about in residential zones was how much of a setback to have for any freestanding structures, which will only be permitted in the side and rear yard. This draft includes having a setback equal to the height of the structure, so if there is a maximum 18-foot height for a structure, he said, it would require an 18-foot setback from the side yard.

Mr. Bergin asked if that would apply to a freestanding solar structure in a side yard and asked for clarification of the language "on a corner lot, no closer to the street than the minimum front yard requirement."

Mr. Bordeaux responded that perhaps those should be separated. He read from the draft text, freestanding systems "shall be allowed in the rear yard and set back from the property line a distance equal to the height of the structure and shall not be located between the public street and any plane of the principal building that faces the public street." It is a difficult concept, he said, which is the reason he is seeking feedback from the Zoning Enforcement Officer. Mr. Bordeaux observed the intent is to not include the entire side yard. He stated it would not be set back from the property line anywhere, but would be from the front plane basically of any principal structure, back.

Mr. Kennedy assumed it would not be between the house and the street. Mr. Bordeaux replied that was correct and read, "On a corner lot, no closer to the street than the minimum front yard," regardless of which side. If the front yard is 15 feet, then on the side yard that is not the direction the house is facing, a structure would have to be at least 15 feet from that curb.

Mr. Bergin asked what determines that 15-foot requirement, and Mr. Bordeaux explained it comes from the front yard setback, though he would prefer it to be simpler.

Mr. Bergin asked if the setback from the property line would be equal to the height of the structure. Mr. Bordeaux confirmed the setback from any property line would be equal to the height of the structure. Mr. Prause asked if that is only for rear installations. Mr. Bordeaux answered it would be only for the rear as it is only allowed in the rear of the front plane of the home.

Mr. Prause stated he does not understand the third and the fourth paragraphs because the fourth paragraph mentions meeting the setback requirements of the accessory structure in the zoning district. He assumed it should state that the setback is the minimum of that or the distance from the property line based on the height of the structure.

Mr. Bordeaux noted the fourth paragraph should be eliminated. Mr. Prause questioned whether it would be a minimum of both. Mr. Anderson felt one should be chosen.

Mr. Bordeaux explained that the setback requirement for accessory structures is five feet. If the Commission wants a greater setback in a residential zone, it should be the height of the structure.

Mr. Prause agreed that the fourth paragraph should be removed.

Mr. Bordeaux noted that in the fourth paragraph for the freestanding systems in all zones, included is "See Art. II, Sec. 9," which should be eliminated as nothing has changed. Mr. Bordeaux stated there was a discussion of the parking lot canopies and permitting them in a front yard subject to a special exception; otherwise, they would be rear and side yards again.

Mr. Bergin questioned why not rear yard. Mr. Bordeaux sought clarification if Mr. Bergin was referring to a parking lot canopy. Mr. Bergin agreed. He speculated if Broad Street was redeveloped into some sort of center style area where the parking was internal and the businesses

were around the perimeter and the developer wanted to put in a canopy, whether that would be to the rear of their lots.

Mr. Bordeaux replied that he is not sure what the rear yard would be. It would be permitted in a rear yard, he said. If the idea is to create that street, everything is fronting the main road, closer to the road than typical.

Mr. Bergin rescinded his comment as he read it as "shall not be allowed."

Ms. Bertotti noted that if a solar panel is sought for the front yard, it would require a special exception. Mr. Bordeaux surmised that in that situation, it would get a little complicated depending on the lot layout. Mr. Anderson stated it would be complicated but the Form-Based code has design control.

Mr. Stoppelman pointed to "freestanding systems should not exceed the height limits of accessory structures." He assumed the accessory structures are one or two stories. Mr. Bordeaux explained that accessory structures are limited to 18 feet.

Mr. Stoppelman noted that there is a difference between looking over a fence and seeing a building and looking over a fence and seeing the top of solar arrays. He would prefer limiting the height to six feet and wondered if that would be practical. Mr. Bordeaux did not believe it would be practical. In the only examples currently, one has a height variance for 20 feet and the other is not in a residential zone.

Mr. Anderson questioned whether one of the examples was the Housing Authority. Mr. Bordeaux stated it was not. Mr. Stoppelman commented that the one at the hospital is well disguised. Mr. Anderson questioned if he was referring to the one across from the hospital. Mr. Bordeaux agreed. Mr. Stoppelman also referred to the one off of Keeney Street, which is 16 feet and was allowable in the side yard in a corner lot. He wondered if it would make sense to allow that to be visible over screening. Mr. Stoppelman supposed that, as stated, for practical purposes, it needs to get up to 16 feet. Mr. Bordeaux agreed and stated certainly more than six.

Mr. Anderson noted that the Planning Department struggled with this issue and deferred to the current regulations, which limit the height to 18 feet for any accessory structure.

Mr. Stoppelman reiterated there is a difference between an accessory structure and a solar panel.

Mr. Bordeaux explained it would be unreasonable to expect anyone to install screening that is 18 feet high and, therefore, the only option would be to reduce the height of the solar panels, he said. Mr. Bordeaux felt it would be at the discretion of the Commission.

Mr. Stoppelman clarified that these would not effectively generate enough electricity to make it worthwhile. Mr. Bordeaux disagreed as he is not a professional in that area, though based on the examples so far, yes.

Mr. Kennedy observed a certain height should be maintained so the panel is not blocked by shadows or surrounding trees. Mr. Bordeaux agreed.

Mr. Stoppelman requested clarification whether the corner lot problem has been eliminated.

Mr. Bordeaux replied that it has been eliminated depending on what zone the structure is in. The minimum front yard in any residential zone is 15 feet; at a minimum, that would be the corner lot solution, he stated.

Mr. Stoppelman asked what the screening requirements are. Mr. Bordeaux stated he is referring to residential zone screening in the Commission's consideration of alternatives. The present screening for all zones is the eight foot landscaping perimeter with six foot arborvitae or something similar, he said, and fencing is limited to six feet. Fencing higher than six feet requires a variance, Mr. Bordeaux stated, and the smallest front yard is 15 feet even in the densest neighborhoods.

Ms. Bertotti commented that is aside from zones such as General Business and some Business zones; in Residential, the smallest front yard is 15 feet.

Mr. Prause noted that in the definitions of solar energy systems, panels are mentioned. However, he said, the inverter or any type of electrical components are not discussed. The parking canopies have the wire down into a junction box as part of the canopy frame, he explained. Mr. Prause wondered how the freestanding solar panels are wired, and if they are wired through a conduit underground to a box on the house or whether there is a freestanding electrical inverter box by the array. He expressed concern that, if the electrical portion is not defined as part of the system, that portion could be closer to the property line.

Mr. Stoppelman explained that the latest inverters are now part of the solar panels individually, preventing a complete failure if one of the panels has a malfunction.

Mr. Bordeaux suggested adding "any component thereof" to the definition of solar energy systems. In his opinion, a system refers to the entirety, and he proposed "or any component thereof with the primary purpose to provide for the collection, inversion, storage and distribution."

Mr. Prause stated his concern is in regard to the freestanding solar. Mr. Bordeaux replied it should be located in the solar energy system. Mr. Prause agreed it would apply to all solar structures, though in his opinion it will work into the calculation. He suggested making sure that applies in the setback too.

Regarding a roof-mounted system, Mr. Prause commented the unit should not extend past the allowable height of the building. However, in terms of a panel being parallel to the roof, he assumed the unit should be at a right angle to the sunlight, and if they are on a flat roof, it should definitely be angled. Mr. Anderson agreed that would be the case in order to obtain the most energy, though he is not certain the units are all angled on flat roofs.

Mr. Bordeaux speculated there must be a better way to refer to the "two feet." He stated his intent is not to declare that it cannot exceed two feet above the roof.

Ms. Bertotti clarified "off of that."

Mr. Prause expressed that the unit cannot go above two feet. Therefore, he questioned whether that is practical for the flat roof mounted panels. Mr. Bordeaux informed the Commission the

wording is part of a regulation he acquired from another town, and scientifically he cannot speak to that.

Mr. Prause stated there is a unit on top of Fuss & O'Neill.

Mr. Bordeaux maintained there must be a maximum pitch.

Ms. Bertotti replied the regulation would just require smaller units rather than a large plate on top of the roof.

Mr. Prause suggested this is a good place to start and seems reasonable.

Mr. Bordeaux stated he should strike parallel, replacing it with "greater than two feet from." Ms. Bertotti indicated the new wording makes sense, and Mr. Prause agreed.

Mr. Bordeaux asserted he would ask the ZEO to obtain his interpretation.

Mr. Stoppelman asked about the reference to Art II, Sec. 1.03, Accessory Uses, at the end of the document. Mr. Bordeaux explained that is the location in the regulations where this language would be added. He stated he would add Item T, "Building mounted and freestanding solar energy systems in accordance with the provisions of" referring back to this regulation.

Mr. Stoppelman noted the reference to Art II, Sec. 9 at the end of the document, saying it would require a special exception for the solar panels to be more than 20 x 30 feet.

Ms. Bertotti explained that Art II, Sec 9 is general standards for both business zones. If a ground-mounted solar system is over 600 square feet and located on a Business I or Business II parcel, she stated, a special exception is required. In residential zones, the draft text is signifying that this is not allowed, Ms. Bertotti said, and in business zones, it can be provided as a special exception.

Mr. Anderson referred to the top of the second page in the section of the draft about solar systems in residential zones, which states, "the cumulative surface area of the photovoltaic panels, regardless of fixed angle, shall not exceed either 50 percent of the area of the principal building footprint or 600 square feet, whichever is greater." There is no opportunity for a special exception for that size in a Residential zone, he said. Mr. Anderson also informed the Chairman that Mr. Kidd had e-mailed questions in this regard.

Ms. Bertotti stated that Mr. Kidd asked if there was an option to regulate or require bonding for maintenance and removal of these types of installations. In the Planning Department's opinion, Mr. Kidd's concern is essentially what would happen if one of these companies were to go bankrupt and abandon the site or to not maintain it, and the site becomes an eyesore. Ms. Bertotti explained that there is a State statute that was revised to severely restrict the ability of planning commissions to apply for bonds or seek sureties and financial guarantees. Essentially, as in the case when the zoning regulations were updated, we can charge a financial guarantee for erosion and sediment control and in certain cases for subdivisions in certain types of situations, she said. No long-term maintenance bonds are allowed by State statutes, Ms. Bertotti stated, and the Town has a property maintenance code and a building code. Therefore, in the case of a

safety issue, the building code would come into play. If it became an eyesore, she said, the property maintenance code or blight ordinance would be utilized.

Mr. Anderson stated it would not be recommended and it is the Planning Department's consensus that it would not be legal. Ms. Bertotti agreed it cannot be in the regulations.

Mr. Prause questioned the last paragraph in each of these sections that states that 50% of the surface area of the system will be calculated as part of the maximum lot coverage. That is referring to how to make future calculations, he surmised, and questioned if the intent was referring to a lot. Mr. Bordeaux stated the intent is to limit the area of impervious coverage overall on a lot.

Ms. Bertotti requested clarification from the Chairman whether he was referring to the sentence "the system shall not cover more than 50% of the parking lot."

Mr. Prause replied that, in the two sections having to do with freestanding solar electric systems, there is a part that says "50% of the surface area of ground and pole-mounted solar energy systems, regardless of mounted angle, shall be calculated as part of the maximum lot coverage of all buildings where lot coverage standards apply." It was his opinion that is referring to future building area calculations and only counts 50% toward coverage.

Mr. Anderson asserted that it was his opinion it was referring to the angled units that move and then the whole surface would be counted. He further stated that he assumed the wording is to reiterate the entire surface of the moveable portion would be counted. Mr. Bordeaux interjected that would include 50% of the total surface. Mr. Anderson reiterated that he assumed it was just to reiterate that point.

Mr. Bordeaux disagreed and stated it would be related to the maximum lot coverage. With a 600 foot total canopy surface area, he said, 300 square feet would be included in the maximum available lot coverage.

Mr. Anderson again stated that, in his opinion, the reason this was included pointed to one of the moveable panels, regardless of the angle and, therefore, it would count the entire main surface which would be factored in when calculating 50% of that.

Ms. Bertotti agreed that is the reason it is counted, but in her opinion, 50% is utilized because we are trying to encourage this as opposed to just flat parking or a building roof or something like that. She stated this is considered a clean runoff and essentially a green energy surface. Because of that, Ms. Bertotti informed the Commission, it really does not count the same as impervious surface calculations.

Mr. Bordeaux questioned whether that relates to an existing lot or anything that is proposed in the future.

Mr. Prause replied that he is not sure he understands the point of the wording. For instance, if it only counts 50% against the building area, for a 600 square foot main building, 300 square feet of solar array would be allowed. Mr. Anderson disagreed.

Ms. Bertotti gave an example that a lot has 30% maximum coverage allowed and all the buildings on that lot count toward that coverage. This would count 50%, she said, and would not be a full count.

Mr. Prause suggested if close to the maximum allowable coverage, this only counts half towards that. He said the first paragraph states that the surface area of the photovoltaic system can be up to 50% of the area of the principal building footprint, so if it is a 600 square foot building, a 300 square foot system would be allowable. He surmised this does not mean that a 600 square foot system is being considered a 300 square foot system; that is not going into this calculation, he said, but to the calculation of maximum lot coverage.

Mr. Bordeaux stated he misunderstood the question completely.

Mr. Prause suggested rewriting that statement because it does not follow the same type of sentence structure. He stated that the point of it being about lot coverage is at the very end. He recommended stating this shall impact the maximal lot coverage by only 50%.

Mr. Kennedy expressed that there are some different 50%'s sprinkled throughout the draft regulation. He referred to the one for the parking lot canopy systems and the second paragraph says "System shall not cover more than 50% of the parking lot or where the parking structure is located." Mr. Kennedy questioned the reasoning as, in his opinion, no one would look out their window and report that a solar array is blocking the view of the asphalt. He asked what would be the difference if there is a covered parking lot and it meets all the other requirements.

Mr. Bordeaux agreed. He stated if a property owner wishes to cover their parking lot, fine. The wording was taken from Hartford; they are the only one with parking lot structures generally. It is no better or worse looking than asphalt and he speculated that this limitation should be eliminated.

Mr. Anderson stated that there is an esthetic issue, as the solar energy system should not dominate the landscape. He also said a parking lot is made up of trees, landscaping, and signage. He speculated that might be what the wording is getting at. Having just a solar panel parking lot, Mr. Anderson stated, would be problematic.

Ms. Bertotti agreed that, for a garage or parking structure, covering the whole floor would make no difference. Mr. Prause noted that garages usually have a top floor that is open to the air. Mr. Anderson suggested "parking structure." Ms. Bertotti reported she does not know that it matters as much as a parking lot, which could obstruct the entire view of the building.

Mr. Bordeaux reported this is only permitted in the rear yard; the Commission has discretion in the rear and side yard, the front yard being the view. Also, he stated, trees and landscaping are important.

Mr. Anderson explained it would not be practical for anyone to actually cover the entire parking lot. In his opinion, the aisles could not be covered, especially considering large trucks attempting to go underneath it. That would not work practically, he stated, and he does not believe anybody would propose that.

Mr. Kennedy considered there would be landscaping requirements and specific requirements and if all those are met, he asked what would happen if it is 58%.

Ms. Bertotti asked if it should be regulated.

Mr. Prause referred to the conversation with Tim O'Neil six months ago about special exceptions and the ability to deny something because it is disliked. He questioned how an argument could be made because the Commission does not like the covered parking canopy.

Ms. Scorso questioned if Mr. Prause was suggesting even though all criteria were met, i.e., there was enough landscaping, etc.

Mr. Prause reported there is nothing specifically that says something would be allowed by special exception if it meets some design criteria. There are no criteria and the way to allow it would be by special exception.

Mr. Anderson stated it would have to meet the regular special exception criteria.

Ms. Bertotti reported solar arrays would not generate additional traffic or additional noise.

Mr. Prause suggested only neighborhood compatibility would apply.

Ms. Bertotti informed the Commission it would be difficult to defend in court.

Mr. Kennedy stated, with an upper end type business looking for a certain feel, parking should not be in front of the building in the first place. The question of putting solar on top of the parking is a subsidiary issue, in his opinion, and perhaps parking should not be allowed in the front of the building but to the side or the rear.

Ms. Scorso asked about the Historic zone. Mr. Anderson explained the Commission has purview over any changes. Mr. Stoppelman requested confirmation that this would not affect the Commission's purview of the Historic zone. Mr. Anderson replied that it would not affect the purview in the historic zones because it would be a structure.

Ms. Bertotti reported it would be a site plan review.

Ms. Bordeaux conveyed that the original draft included "not permitted in historic zones."

Mr. Anderson stated the Commission could inform the Cheney Commission that Fuss & O'Neill has them. He assumed the Cheney Mills would not allow them on top. However, Mr. Anderson stated, the wording could include that ground mounted solar systems are not allowed in the Historic zone. He asserted it might be safer to not allow freestanding solar systems in the Historic zone. However, he also noted that, even on the roof, that is a structure and the Commission has purview over that. He reported that, in Middletown, solar panels have been placed on the Historical Society and when there were complaints, they were deemed appropriate.

Mr. Stoppelman agreed that they should not be ground mounted. He noted that Fuss & O'Neill disguised their system very nicely.

Mr. Kennedy asserted there should be an outlet for disguised roof mounted because one of the problems with those buildings is how expensive they are in utility costs.

Mr. Bordeaux questioned whether this topic could be put before the Cheney Commission. Ms. Bertotti reported it would go to them. Mr. Stoppelman reiterated only on roofs.

Mr. Anderson questioned whether it would be legal to state they are not allowed. He understood there is legislation allowing panels on roofs.

Mr. Bergin questioned the freestanding calculations, and what the effect is of stating 50% of the principal building but up to 600 feet and not just saying up to 600 feet in residential zones. He understood that in non-residential, the allotment is up to 50% of the principal building.

Ms. Bertotti replied that some of the lots have small houses and small lots and the intent was to not have an 800 square foot house and a 600 square foot unit.

Mr. Bergin interpreted the current wording as they would get the 600 square feet because it is whatever is greater. Mr. Bordeaux responded that it is the opposite.

Mr. Bergin questioned, if you had a 2,000 square foot house and you met all the other requirements, whether you could put up a 1,000 square foot array. Mr. Bordeaux responded that is limiting the scale.

Ms. Bertotti was concerned about small houses on small lots with large solar arrays.

Mr. Bordeaux replied there are other constraints. Ms. Bertotti added locations and setbacks.

REGULATION OF SIGN MATERIALS

Mr. Anderson requested confirmation before filing an application for a zoning regulation amendment. He stated there had been discussion about sign materials recently. His sense was this may be a place to start because the Commission does not like a particular material. Mr. Anderson reported that he met with the Zoning Enforcement Officer and the Chief Building Official about tightening up the process, e.g., when an application for sign permit is submitted, especially a downtown sign, staff would ask for more information about the material. Currently, he said, Planning requests a picture. In his opinion, the administrative process can be improved. Mr. Anderson requested further feedback.

Mr. Bergin still has a concern about amending the regulations and not extending corrugated signs to window signs. Mr. Anderson requested clarification. Mr. Bergin explained that he read the proposal as meaning that the only time a business could have a corrugated sign is if it is a novelty sign. Many businesses currently post signs made of corrugated material on the inside of their windows, he said. He thought this requirement would say it is either temporary and subject to a permit process, or they are going to create those signs out of something far more rigid and permanent.

Mr. Anderson stated the zoning regulations do not currently regulate signs in the windows, but he understood Mr. Bergin's concerns. He suggested staff could add language about what types of signs are not allowed to be corrugated plastic, which would include wall signs, freestanding signs and projected signs.

Mr. Bergin stated he does not disagree with any of those, but if a company wanted to produce a corrugated cardboard sign for hours of operation, that took up a very minimal amount of space, adopting this amendment as-is would make that confusing.

Mr. Anderson stated staff could add some language to make sure that is not the case.

Mr. Stoppelman asked whether the prohibition of internal illumination at Art. IV Sec. 13.04.02 applies to window signs and whether, as long as they are not flashing, it would be permitted.

Mr. Anderson responded that Art. IV Sec. 13.04.02 is not changing. The only thing changing is Art. IV 13.05.05; the other just happens to be on the page of the regulation.

Mr. Kennedy presumed if the proposed regulation stated "except for novelty signs and window signs," that would work. Mr. Anderson agreed but referred the question to Mr. Bergin. Mr. Bergin said that would probably work, though he would have to look at the underlying regulations on the directional signs. He said the Commission could take that suggestion.

MOTION: Mr. Kennedy made a motion to adjourn the workshop.

Mr. Stoppelman seconded the motion and all members voted in favor.

The Chairman closed the meeting at 8:45 PM.

I certify these minutes were adopted on the following date:

August 14, 2017 _____
Date

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Eric Prause, Chairman