

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
JANUARY 3, 2018**

ROLL CALL:

Members Present: Andy Kidd, Acting Chairman
 Timothy Bergin, Acting Secretary
 Jessica Scorso

Alternate Members Sitting: Patrick Kennedy
 Julian Stoppelman

Alternates: Teresa Ike

Also Present: Gary Anderson, Director of Planning
 Matthew Bordeaux, Environmental
 Planner/Wetlands
 Agent
 Nancy Martel, Recording Secretary

The Acting Chairman opened the Public Hearing at 7:04 P.M. The Acting Secretary read the legal notice when the call was made.

Mr. Kidd announced to members of the public that the applicants for two items on the agenda, the Trustees of North Methodist Church and the Church of Pentecost, have requested 65 day extensions, which most likely will be granted.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – For revisions to Art. I, Sec. 2 (Definitions), Art. II, Sec. 1 (General Requirements for Residential Zones), Art. II, Sec. 9 (General Requirements for Business Zones), Art. II, Sec. 16 (Industrial Zone), and Art. II, Sec. 18 (Historic Zone), relating to Solar Energy Systems; and to add a new section, Art. IV, Sec. 6: Solar Energy Systems. – Zoning Regulation Amendment (2017-107)

Mr. Matthew Bordeaux, Environmental Planner with the Planning Department, introduced himself. Mr. Bordeaux noted that the Planning Department had been working on the regulation for quite some time and held a workshop in the past. Following staff review and input from the Zoning Enforcement Officer, regulations had been drafted, he said. Mr. Bordeaux presented the proposed regulations of solar energy systems as follows:

Definitions:

- Solar Energy System – solar collection system consisting of linked series of photovoltaic modules and all components thereof, with the primary purpose to provide for the collection, inversion, storage and distribution of solar energy for electricity generation, space heating,

space cooling, or water heating on-site or to be delivered to a power grid to offset the cost of energy on-site.

- Freestanding (Ground- or Pole-Mounted) - A solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is independent of and accessory to any principal building or structure.
- Parking Lot Canopy - A solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is independent of any building or other structure, which is used in a parking lot or the top story of a parking structure to shade vehicles parked in such lot or structure.
- Roof-mounted - A solar energy system that includes integrated solar shingles, tiles or panels as the surface layer of the roof or awning structure with no apparent change in relief or project, or separate flush or rack-mounted solar panels mechanically fastened to and/or secured with ballast on the roof surface.
- Awning – A protective, roof-like covering, as over a window or storefront.

Proposed Regulation of Solar Energy Systems:

- Residential vs. Non-Residential.
- Listed as Accessory Uses, generally permitted.
- Subject to Special Exception criteria when exceeding a certain size or when proposed to be located in a front yard.
- Roof-mounted regulation is minimal, mostly controlled by existing physical and economic conditions, limited to surface area of roof, not to exceed height of structure.
- Ground-mounted regulation limits size and impact on lot coverage, restricted to side and rear yards, not to exceed height of accessory structure.

Regulation in Historic Zone:

- Provisions for Residential applications apply.
- Cheney Brothers National Historic Landmark District Commission to provide advisory recommendation to PZC prior to decision.
- Detailed Plan to be in conformance with U. S. Secretary of Interior Standards for Rehabilitation and Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings.

Mr. Bordeaux stated that, should the Commission approve the regulation amendment, the Senior Planner suggested the addition at the end of Article II Section 18.02.10, the Historic Zone provisions, that applications would be in accordance with Article IV Section 6.05, which are the provisions outlined in the new regulations. In addition, he said, the Director of Planning shared the proposed regulations with the Cheney Commission.

Mr. Gary Anderson, Director of Planning and Economic Development, noted that the Co-Chairs of the Cheney Commission were in attendance. He summarized the Cheney Commission's comments, noting they are sympathetic to limiting energy costs via sustainable energy, though their charge is to protect the unique asset of the National Historic District. The Cheney

Commission is particularly concerned about the use of solar energy systems in the Cheney Mansion District, he said.

Mr. Anderson noted that the Cheney Commission suggested reversing sentences in the proposed regulation to clearly dictate the order of the process, i.e., the Cheney Commission reviews the application and they then make recommendations to the Planning and Zoning Commission, which occurs for all applications within the Historic Zone. He noted the Cheney Commission suggested two options:

1. Prohibit solar installations within the Mansion area of the Historic Zone that can be viewed from a public street.
2. Require within the regulation that any system within the Mansion area of the Historic Zone be approved by the Cheney Commission.

Mr. Anderson stated that a summary of the Secretary of the Interior's standards, which would be utilized by the Cheney Commission in their review, was included in the meeting packet.

Mr. Kidd inquired whether the Secretary of the Interior's standards could be improved upon to be more stringent by the Planning and Zoning Commission.

Mr. Anderson responded that those standards could not be changed, though they are flexible enough to serve as guidelines. He noted that, under the regulation, the Cheney Commission would be reviewing proposals according to the standards.

Mr. Kidd asked if the standards mandate whether a solar energy system can be viewed from the street.

Mr. Anderson noted that is not part of the standards. He noted that every case is different and, therefore, the Cheney Commission must review each proposal on a case-by-case basis.

Mr. Kidd requested that Mr. Bordeaux clarify the comment from the Senior Planner.

Mr. Bordeaux referred to Art. II, Sec. 18, provisions for the Historic Zone, and said that "and solar energy systems" was added at the end of the list of accessory uses at Sec. 18.02.10. The Senior Planner requested the addition of the language "in accordance with Sec. 6.05" in the new regulation for solar energy systems, which applies specifically to solar energy systems in the Historic Zone. He noted the wording is to provide a reference in Art. II Sec. 18 to the new provisions of Art. IV Sec. 6.

Mr. Stoppelman noted that Art. II Sec. 9.14.02 states that anything above 600 sq. ft. in a business zone would require a special exception. He stated there did not appear to be a similar requirement for the industrial or residential zones.

Mr. Bordeaux referred to special exception uses, ground-mounted solar systems that exceed 600 sq. ft., specific to the general requirements for business zones. He noted that the special

exception use is not applied to the Industrial zone and residential applications are limited to 600 sq. ft.

Mr. Anderson inquired whether the business zone includes the industrial zone.

Mr. Bordeaux responded that there is a single Industrial zone, not a series of industrial zones. He stated that if the Commission wished, the Planning and Zoning Department could include the Industrial zone.

Mr. Stoppelman restated that the regulation limits residential to 600 sq. ft. to which Mr. Bordeaux agreed. Mr. Stoppelman noted there is no limit in the Industrial zone and he recommended including that as a special exception.

Mr. Bordeaux explained that the limit on ground-mounted systems in the Industrial zone would be 50% of the square footage of the building footprint. Mr. Bordeaux noted that there is no provision for a special exception. The regulation states that systems that exceed 600 sq. ft. in business zones require a special exception and questioned whether that would be necessary in the Industrial zone.

Mr. Bergin noted that, after reading through the regulations, he questioned whether a solar energy system on a carport would be a parking canopy structure or a roof-mounted structure. In addition, he asked if the carport would be required to be screened.

Mr. Bordeaux replied that this topic was discussed with the Zoning Enforcement Officer and the Fire Marshal. He reported there are no screening requirements for ground-mounted solar energy system applications. The ZEO, Mr. Bordeaux noted, does not view a driveway as a parking lot. He explained the limit on a ground-mounted system in a residential zone is 600 sq. ft., more than enough to park under. However, he noted, there is no screening provision for ground-mounted systems in a residential zone.

Mr. Anderson added that currently a resident could construct a carport, and with this regulation, a resident could construct a solar energy system on the top.

Mr. Bergin reported his concern was if the Town were to treat the structure as a canopy, the resident would be subject to a screening provision, though a standard carport is not required to be screened. He stated he appreciated the definition of an awning structure.

Mr. Kidd referred to the definition of “roof-mounted,” a solar energy system that includes integrated solar shingles, tiles, or panels as a surface layer, and noted that Tesla is developing solar shingles that look like standard roofing shingles. He questioned whether those systems are regulated and, if so, what would be the need for regulation.

Mr. Bordeaux responded that solar shingles would be regulated. He noted he had not seen an application for such a system and to his knowledge there is still a glare. Per this regulation and per the ZEO’s interpretation, Mr. Bordeaux explained, those systems would be regulated.

Mr. Anderson noted that part of the intent of the regulations was to allow roof-mounted systems by right.

Mr. Kidd opened the hearing to the public.

Ms. Mary Fish, 19 Strickland Street, introduced herself. In her opinion, she stated, it is very important for the Commission to look at solar systems. Ms. Fish noted that the solar systems mounted flat on the roof are not a problem. The problem lies, she explained, in ground-mounted systems, as they are 18 ft. high, mounted on metal frames. Ms. Fish noted that ground-mounted systems are rotated depending on the location of the sun. She reported that in reviewing the zoning regulations under General Requirements for Residential Zones, Art. II, Sec. 1.03.05, in the residential area, no fence is allowed greater than 6 ft., which would not mask a ground-mounted solar energy system. Ms. Fish reported that under the General Requirements for Business Zones, there is more information regarding screening, though if there is a lack of room, the Commission does not require an 8 ft. buffer with evergreen trees. In her opinion, the Commission must review the information, as there could be many neighborhood issues. Ms. Fish reported that some towns on Cape Cod have gone to special exception for all ground-mounted solar panels. Many residents on Cape Cod install the maximum-allowed systems in order to sell power back to the grid. Ms. Fish urged the Commission to consider screening of solar energy systems.

Ms. Bettie Kramer, Cheney Commission Co-Chair, introduced herself. She reiterated the points in the Cheney Commission's letter to the Planning and Zoning Commission members. Ms. Kramer impressed upon the Commission that not many residents of the Town understand the importance of the Cheney District as a National Landmark Historic District. She enumerated many of the structures within the historic district, including the mansions and the mill village. Ms. Kramer noted that the Cheney Commission's mission is the preservation of the area. She noted the Cheney Commission's highest concern is regarding solar energy systems in the Mansion district, as changes to properties in the mansion district are more impactful than changes in the mill village area.

Ms. Lynne Ferrigno, Cheney Commission Co-Chair, introduced herself. She reported that in prior Cheney Commission meetings, no member was opposed to solar systems in the historic district, though the main concern was with the Mansion area. In the Cheney Commission's discussions, Ms. Ferrigno noted, the attraction and integrity of the Mansion area is not just the mansions themselves, it is also the landscaping, the Great Lawn, and the view from Hartford Road and Forest Street that makes the area special. She reported that the consensus of the membership was that the Cheney Commission needs to be a strong voice in what happens in the Mansion area with solar systems, specifically that solar panels be prohibited if they are visible from the public roadways in the Mansion area. Ms. Ferrigno noted that there has been increased investment in the Mansion area in recent years. She explained the Cheney Commission does not necessarily believe solar energy systems should be prohibited, but the Commission believes it is imperative they have a voice in the Mansion area.

Mr. Kidd requested Mr. Bordeaux clarify what will be permitted as of right vs. by special exception in the new regulation.

Mr. Bordeaux responded that the roof-mounted systems are permitted as of right. In the general provisions for business zones, the systems are either an accessory use listed in Art. II Sec. 9.13, in accordance with Art. IV, Sec. 6, or when a ground-mounted system exceeds 600 sq. ft., it would be a special exception use. In the Industrial zone, he noted, they are permitted as accessory uses in accordance with Art. IV, Sec. 6. In Art. IV, Sec. 6, the only other location where a special exception is necessary is if one seeks to provide a parking lot canopy in the front yard of a building. Mr. Bordeaux noted that there may be situations where the site is awkwardly laid out, i.e., the front yard is basically the only yard available, or based on the character of the area, the proposal would actually be compatible and functional.

Mr. Kidd questioned whether there was a distinction regarding the Mansion area.

Mr. Bordeaux replied that there was no distinction. The application for solar energy systems in the Historic zone would be consistent with the residential zones.

Mr. Kidd asked if a mansion owner would be allowed to install a roof-mounted system as of right.

Mr. Anderson reminded the Commission that they have purview over any exterior changes in the Historic zone. The Cheney Commission reviews proposals and provides recommendations, he reported; therefore, the Commission has the ability to rule on any changes.

Mr. Kidd reiterated that, in his opinion, solar energy systems would be acceptable under the regulations.

Mr. Anderson stated it would be allowed under the Commission's purview of exterior changes.

Mr. Kidd noted there are design standards in the historic district.

Mr. Anderson responded there are guidelines which have been cited in the Cheney Commission's review. He explained the Cheney Commission would continue to review changes in the Historic zone.

Mr. Kidd referred to the comment regarding free-standing systems and noted the detailed discussion at the recent workshop. He stated that he appreciated the special exception language to allow the Commission to have extra purview. He acknowledged that he would be interested in reviewing the special exception for free-standing systems.

Mr. Anderson explained that the proposed regulations include setback restrictions to include ground-mounted systems. The language states that free-standing systems can be in the rear yard, set back at least as high as the height of the structure, and 50% of the area would be counted toward the maximum lot coverage. He noted that if there is a large house on a small lot, a large system would be prohibited. Mr. Anderson reported that the intent is to make solar energy systems as accessible as possible while maintaining standards, but agreed that requiring a special exception is an option as well.

Mr. Kidd agreed with the intent of not making the process too onerous, though he thought it may be prudent to be stringent with the regulations rather than having to tighten regulations in the future. He reported that he is not clear regarding the process in the Mansion district. Mr. Kidd stated he would not approve of solar panels on the mansion roofs and noted it appears as though the Commission has the ability to allow them. He said he was concerned about the future and potential changes to the Commission.

Mr. Anderson explained the Cheney Commission is requesting the Commission not allow solar panels to be visible from a public street.

Mr. Kidd surmised it may not be as unpleasant if the panels were not visible from the road.

Ms. Scorso commented that it is difficult to conceive of a solar panel on a Cheney mansion, though the Commission must consider clean energy systems. She noted that, as the Commission will have the ability to review proposals, perhaps there will be creative solutions. In her opinion, the Commission should not prohibit solar panels in the historic area, and each proposal should be reviewed on a case-by-case basis.

Mr. Stoppelman suggested that ground-mounted solar panels should be prohibited in the historic district.

Mr. Kidd stated the Commission should consider the Mansion area, noting that Option 1 makes sense. He also reported that he is in favor of further discussion regarding special exceptions for ground-mounted systems in residential zones. He questioned whether it would be prudent to review the proposed regulations and meet in the future.

Mr. Anderson noted there are at least three to four issues with the proposed regulations and suggested the Commission leave the public hearing open, consider options, review other communities' regulations regarding ground-mounted systems, consider the Cheney Commission's request, and revisit the item.

Mr. Kidd said he was in favor of Mr. Anderson's suggestion.

Mr. Stoppelman noted that there is only one industrial zone and there is discussion of a solar farm in that zone. In his opinion, he stated, solar energy systems should be a special exception.

Mr. Kidd re-opened the meeting to the public.

Ms. Kramer referred to the Secretary of the Interior's Standards and reported that both the Cheney Commission and the Planning and Zoning Commission judge whether solar installations follow the guidelines, which will rule out many solar installation proposals.

Ms. Ferrigno added that she shares Mr. Kidd's visceral reaction to solar panels on the mansions as they are not compatible with the historic nature of the district. She agreed with Mr. Anderson's statement that solar energy systems should not be visible from the street.

Ms. Kramer interjected that most roofs in the Great Lawn area are visible from either Hartford Road or Forest Street.

Ms. Ferrigno noted that looking at proposals on a case-by-case basis is essential. She noted that the Secretary of Interior's Guidelines are just guidelines and Manchester can have a more stringent approach. Ms. Ferrigno stated that another concern is an owner removing ancient plantings in order to allow greater solar capture.

Mr. Stoppelman reiterated his opinion that the Commission should continue to review any exterior changes to the Mansion district.

Mr. Kennedy stated that, if the regulations are approved with the restriction that solar panels cannot be viewed from the street, in the event that it proved overly onerous, the Commission could always revise it. He noted that there is no need for a special exception for the Industrial zone as the aesthetic sensibilities are not of a high value. A special exception in residential areas is onerous; there are standards that can be applied without going to a special exception, he said.

Mr. Bergin stated the shingle technology makes him reluctant to completely prohibit systems visible from the street, if the shingle technology could aesthetically meet the design of the building without being an obvious solar energy system. He agreed with reviewing every plan on a case-by-case basis and noted that regulations can always be tightened up.

Mr. Kidd stated he does not agree with Mr. Kennedy's comment regarding special exceptions for residential zones. While noting that it would be onerous, Mr. Kidd said, in his opinion, the Commission should review this item. As an example, he noted, if solar panels facing the street are not allowed, a solar panel that is imperceptible should be allowed. He questioned the opinion of the Commission members on whether the issue should be kept open.

Mr. Kennedy questioned the future agenda.

Mr. Anderson stated the future agenda is not full and suggested extending the public hearing for two weeks.

Mr. Kennedy noted that, since the topic is Commission-driven, there is no deadline.

Zoning Regulation Amendment (2017-107)

MOTION: Mr. Kennedy moved to continue the public hearing to January 17, 2018. Mr. Stoppelman seconded the motion and all members voted in favor.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – To revise Art. II, Sec. 15.04.02 (Central Business District) to add provisions regarding referral of design plan reviews to the Planning and Zoning Commission. – Zoning Regulation Amendment (2017-108)

Mr. Anderson explained the proposal is a technical change to the regulations dealing with Downtown specifically and façade changes in particular. He explained that when the Chairman

and he act administratively, it is on behalf of the Commission. If there is a disagreement or a need for clarification, the matter goes to the full Commission. However, Mr. Anderson noted, this process is not clear when looking at façade changes Downtown. He reported that the Chairman and he look at the downtown design guidelines (which the Planning Department is looking at revising in the next year), but it is not clear that they can refer applications back to the Commission.

Mr. Kidd noted it appears the proposal is attempting to streamline the process and enable flexibility.

Ms. Mary Fish, 19 Strickland Street, introduced herself. She stated that, upon reviewing the language of the proposed revisions to the regulations, her initial reaction was one of serious concern. It appeared that the language would lead to a one-dimensional political decision-making process rather than encouraging a consensus formed through measured research and rational thought, in her opinion. Ms. Fish noted that staff has been extremely helpful in explaining both the legal and practical reasons behind the revisions and that the intended goal is clarity and consistency. Given the highly-publicized Eleganza Moda sign, clarity and consistency are required, she said. She suggested that, when supporting a change to the regulations, the Commission members must be mindful of the impression left on the public when a vote is made to overturn what is the consensus of the PZC Chair, the Director of Planning, and the Zoning Enforcement Officer. Ms. Fish stated that it is very important the public does not come away with the impression that the regulations are interpreted in an arbitrary fashion, thus undermining all the time and effort devoted to strengthening the regulations to serve all constituents and not just a few loud voices. She explained that, in her opinion, there appeared to be a lack of communication with the Board of Directors about the actions surrounding the matter. She reported that when residents read things in the paper and do not understand what goes on in the background, it appears arbitrary if a sign is allowed or not allowed and, if boards appear to be arbitrarily interpreting regulations, it could lead to legal issues and would not be supported in court.

Ms. Ike referred to a statement in Ms. Bertotti’s memo about the budget for Fiscal Year 19 including funds allocated to rewrite or revise the Main Street Architectural Guidelines, and questioned who reviews the rewrite or revisions of the architectural guidelines.

Mr. Anderson replied that it would be the Commission and the Special Services District.

MOTION: Mr. Kennedy moved to close the public hearing. Mr. Bergin seconded the motion and all members voted in favor.

The Acting Chairman closed the public hearing at 8:12 P.M.

I certify these minutes were adopted on the following date:

February 5, 2018 _____
Date

_____ _____
Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.