



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

Town Planner's Review
Wednesday, April 11, 2018

- X. **Solar Energy Systems**. Proposed amendments to the Zoning Ordinance to accommodate solar energy systems as both accessory uses and principal uses. Draft ordinance developed by the Durham Energy Committee.
- I recommend that the board discuss the proposed amendments and schedule a public hearing for April 25.

Please note the following:

- 1) **Draft ordinance**. The Durham Energy Committee voted unanimously (9-0) on Tuesday night to endorse the proposed amendments and to request that the Planning Board review them. The Planning Board is empowered to initiate zoning amendments, so if the board deems the draft ordinance acceptable it can vote to formally initiate the amendments. The amendments would then be passed on to the Town Council for consideration.
- 2) **Impetus for ordinance**. Presently, there are no provisions in the zoning ordinance addressing solar energy systems (or “solar arrays”). The issue came to the attention of both the Planning Board and the Energy Committee after several freestanding arrays were installed in town for single family houses and pursuant to the Energy Chapter of the Master Plan which promotes solar energy (including for larger commercial or utility-type systems).
- 3) **Current ordinance**. The only current references to “solar” in the ordinance are in the definitions section for Building Height specifying that solar arrays are not considered part of building height and noting that solar panels are exempt from HDC review if they are not visible from the street. The current ordinance present both too little restriction - in not providing standards for accessory freestanding arrays - and too much restriction, in not allowing larger systems other than for public utilities.
- 4) **Concerns**. There has been some debate in the community about potential conflicts between promoting solar energy (particularly with freestanding systems) and protecting scenic views and neighborhood character. The Energy Committee sought to balance these concerns but it will now be up to the Planning Board to evaluate this issue.
- 5) **Development of ordinance**. Charlie Forcey, former chair of the Energy Committee, requested assistance in putting together a draft ordinance for the committee to

review. Mr. Forcey, Barbara Dill, Planning Board and Energy Committee member, Audrey Cline, Building Official, and Michael Behrendt, Town Planner put together the first draft for the committee. The Energy Committee then reviewed the draft and made a number of changes before endorsing it on April 3.

- 6) There are a number of parts of the draft ordinance, as follows, in order:
 - a) Definitions section
 - b) Table of Uses: adding specific uses related to solar energy systems.
 - c) WCOD and SPOD: allowing for solar energy systems within the wetland conservation and shoreland protection overlay districts, as appropriate.
 - d) The main section: to be added under Article XX – Standards for Specific Uses
 - e) Review process: a table explaining the process for the various types of applications
- 7) Three types of applications. Regarding the main section, see subsection 3, 4, and 5. There are essentially three types of applications, with different treatments for roof/building mounted and freestanding systems:
 - a) an accessory array for the single family/duplex serving just the subject property;
 - b) an accessory array for all other uses, including multiunit, commercial, and shared systems; and
 - c) a principal use, called an enterprise solar energy system. This could be a large scale commercial application, a utility, a nonprofit venture, or a municipal system like the one created by the Town of Durham in Lee.
- 8) Single family. For single family/duplex systems, any freestanding system must be located at least as far back as the house (i.e. in side or rear yards), in order to mitigate the impact upon the view from the road. If it is not practical for a homeowner to place a freestanding system beyond the front face of the house, the array may be placed in the front by special exception. The Energy Committee deliberated whether to also require buffering when a system is approved for the front by special exception but decided against such a requirement due to the additional cost of landscaping and challenge of buffering systems in an effective manner.
- 9) Public hearing. The board would need to schedule a public hearing prior to initiating the amendments.
- 10) Next steps. The Planning Board may respond to the request from the Energy Committee in any manner that it sees fit: it could reject the proposal, it can simply schedule a public hearing to obtain input, it can make changes prior to scheduling a public hearing, or it could even send the draft back to the Energy Committee if there were particular concerns to be addressed.