

MINUTES OF A MEETING AS HELD BY THE  
TOWN OF AURORA PLANNING & CONSERVATION BOARD

February 1, 2017

Members Present: Donald Owens, Chairman  
Douglas Crow  
Laurie Kutina  
David Librock  
Norm Merriman  
William Voss

Alternate Member: Jerry Thompson

Absent/ Excused: Timothy Bailey  
Richard Glover

Also Present: Bill Kramer, Code Enforcement Officer  
Jeff Harris, Town Councilman  
2 members of the public

Chairman Don Owens presided over the meeting which began at 7:00 p.m. at the Town Hall, 300 Gleed Avenue, East Aurora, New York. William Voss led the recitation of the Pledge of Allegiance to the Flag.

**Douglas Crow made a motion to accept the minutes of the January 4, 2017. The motion was seconded by Norm Merriman. Motion carried.**

Don Owens welcomed Boy Scout Robert to the meeting this evening. Robert is working on his Citizens in the Community badge.

OLD BUSINESS:

Review of the Draft of the Solar Code.

Don Owens noted that the solar code is very complex. He thanked Laurie for her recommendations and the time spent. He asked to review the code by section and compare what the Town Board has proposed and Laurie's suggestions.

Laurie Kutina indicated that she would like to see the code reflect the value of solar (§200-198 as codified on Laurie's notes). She further noted that solar energy as electricity generation employs more than oil, coal, and gas combined. It has grown 5000% in the last 5 years in NYS. There are environmental and huge economic benefits to this technology. She expressed concern that the impression that the code gives is that we want to limit solar development in the Town of Aurora.

This is why she wants to include point B under §200-198.

Laurie Kutina noted her appreciation for the changes in the definitions.

Bill Kramer noted the changes in the language used specifically, from "solely" to "primarily."

Laurie Kutina mentioned the Community Solar program offered under NY Sun. This program encourages people to use agricultural land for solar. She also mentioned the Solarize program where a municipality negotiates a discounted rate so that property owners can install systems. Another program is where a group of property owners collaborate to install a common system. She agreed with the limiting the location of the utility-sale solar system to the commercial property, due to the looseness of the current Agriculture zoning code.

Don Owens noted that the RR and RA referenced codes have not been adopted.

Bill Kramer stated that the codes are all going together.

Don Owens asked when this may be completed.

Bill Kramer noted that possibly later this month or early next.

Bill Kramer further noted the inclusion of item E under definitions (§200-200).

Jeff Harris asked about solar water heating systems.

Laurie Kutina discussed this system and indicated she has seen them installed in NY.

Bill Voss noted that these systems aren't photovoltaic, but that the pipe system is on the roof underneath the panel.

Laurie Kutina agreed and noted that they look slightly different.

Laurie Kutina noted the addition of Registered Architect in the code and agreed with it.

Laurie Kutina mentioned her recommendation to change the 20kw requirement to 25kw. She stated that her reason for making this request is so that it matches the NYS program requirements or credits that may be obtained by a property owner.

Members discussed net metering and average electric use of a Town residence that would equate to about a 4kw system.

Bill Voss asked about why the 20kw limit was established.

Bill Kramer noted that a system 20kw would be very large for a residence.

Laurie Kutina mentioned that it would be unlikely to have a 20kw system on a residence today. 20 years from now this may change due to changes in technology and that is a big reason why you may not want to put a kw number in the code. A commercial setting is entirely different.

Bill Kramer indicated that changing the 20kw to 25kw to align with some of the State programs makes sense.

Doug Crow mentioned that it's difficult to say that 20kw vs 25kw systems are really different.

Laurie Kutina discussed the difficulty with limiting the height of the panels above a flat roof (§200-202A). She suggested removing the limit or wording it to read that the panels wouldn't be seen from the roadway.

Bill Kramer noted that the 3' limit takes into account residential applications, so that the panels aren't more than 3' off the roof surface. He clarified that Laurie's concerns are more with a commercial application and a flat roof situation and that the 3' would cause problems.

Laurie Kutina suggested a clarification to the building mounted systems (§200-202B) to include "in height" after roof line or parapet wall. She indicated this wasn't clear.

Laurie Kutina expressed displeasure of the double setback for a ground-mounted solar system. She feels this is more restrictive than it needs to be and should just meet the requirements of the underlying zoning district.

Jeff Harris mentioned that the double setback is because the Town Board is concerned about the potential for neighbor issues. The panels have to be located specifically on a lot (out of the shadow of houses, away from trees, glare concerns etc) and that is why they have addressed it a bit differently from an accessory structure.

Laurie Kutina noted that for these same reasons, the system may need to be pushed into that setback which would limit it.

Bill Kramer indicated the possibility for a variance in this instance. He further mentioned that the Town Board could change the code if this happens frequently; but if it is a very rare occurrence, then a variance would be appropriate.

Laurie Kutina discussed the total surface area allowed in ground-mounted systems (§200-202 C 5 & 6). She noted that in item 5, if you have a lot that is less than 2 acres, you can have a 2000 sqft system; but if you have a lot that is just over 2 acres, you would be limited to less than 2000 sqft. It's a math problem. She suggested changing the wording in item 6 to say that if you have over 2 acres you can have a 2000 sqft system but that it can't exceed 5% of the total sqft of the lot.

Bill Voss noted that a 5% of a 20 acre lot would allow over 2000 sqft for the system.

Laurie Kutina discussed the requirement to notify the building department once use is discontinued (§200-202L).

Doug Crow agreed and noted that it seems excessive because unless there is a health and safety issue, we don't require people to tear down sheds/barns that are in disrepair.

Jeff Harris noted concerns about the contents of the panels and vandalism or possibly environmental concerns.

Bill Kramer noted that this doesn't exclude private residences.

Clarification was made on item L that this is only for systems which require a special use permit which includes both utility-scale systems and those very large over 20kw systems (as this code currently states) for private residences.

Laurie Kutina noted the SEQRA verbiage appears to reflect Greg Keyser's recommendations.

Bill Kramer confirmed that item A (§200-203A) reflects Greg's recommendations for a long form.

Laurie Kutina noted the inclusion of the agreements from the utility to purchase electricity in item 4 (§200-203 B4).

Laurie Kutina discussed the 50 acre requirement and noted that those systems are going to be huge systems, megawatt systems (§200-204A). She indicated she didn't feel the Town wants systems that size. She suggested smaller sites.

Bill Kramer noted that this is the maximum lot area. He indicated that this is the largest lot size allowed to have a system.

Laurie Kutina indicated that if you had a 100 acre property, you could only use 50 acres for the size of the project.

Doug Crow noted that you can only have one system per property as well. So if you had 100 acres, you would have to split the property into two lots.

Bill Voss asked about the 5% limit and on a 50 acre lot that would be 2.5 acres for the panels.

Doug Crow noted that the system is limited in two ways with the 5% rule and the maximum lot size for a system.

Bill Voss asked if someone would bother to put in a utility-scale system as proposed.

Laurie Kutina noted that utility-scale programs in NYS are about 200kw and above.

Laurie Kutina expressed concern about the code being confusing.

Doug Crow noted that for utility-scale installations, the necessary research will be conducted by professionals.

Bill Kramer noted that they will look at the code to help make it clearer.

Doug Crow suggested adding wording to reflect maximum ground area coverage of 2.5 acres.

Laurie Kutina mentioned that utility-scale projects she has worked on are huge and that the Town should determine what the maximum size utility-scale projects here should be.

Don Owens restated the suggestion to say maximum lot size of 50 acres with a maximum of 2.5 acres of panels.

Doug Crow suggested omitting the 50 acre lot limit and just stating maximum panel coverage of 2.5 acres.

Laurie Kutina mentioned she would calculate how much power the 2.5 acres would be.

Bill Kramer asked for that information as soon as possible.

Laurie Kutina discussed the 750' setback from a school or park is a lot. She asked what if it is the school that wants to put in a system.

Doug Crow mentioned that schools might argue that they are not subject to zoning regulations if the SED approves it.

Laurie Kutina noted that for schools and parks setbacks are different due to noise and air quality issues. These systems aren't going to have any noise or air quality concerns; it will just be a fence. And a 750' setback is too much and it will be limiting.

Bill Kramer mentioned that this code is similar to Town of Lockport's code and it has been passed.

Dave Librock suggested these systems may be an attractive nuisance near a school/park.

Laurie Kutina suggested 100' setback rather than 750'.

Bill Voss noted that utility-scale systems will be surrounded by a fence as noted in item L (§200-204).

Dave Librock noted that a berm may be required if the setback is changed.

Bill Voss asked about item E, Continued Operation (§200-205) usage documentation requirement.

Bill Kramer noted that the documentation may never be requested, but this is in the code in the event documentation is needed.

Bill Voss discussed the online class he took regarding the fire departments, PV installations and the extensive labeling required for systems.

Bill Kramer noted that the State does have labeling requirements. He further mentioned that he sent the code to the FD chief for review.

Bill Voss also mentioned the storage batteries and regulations regarding those.

Doug Crow noted that this code references the NYS requirements for storage batteries.

Don Owens asked if there were any additional comments. With none, he closed the solar code discussion.

Don Owens asked if there were other questions or correspondence.

There was no correspondence.

Bill Voss asked about the West Herr parking lot and indicated that he thought that the new parking lot on Olean Rd would be it.

Doug Crow agreed and indicated that both verbally and in the written materials provided it was stated that the new lot would consolidate their lots in the area and that they wouldn't need more.

Jeff Harris noted that West Herr is asking for more parking at the lot near Major's Park entrance.

Bill Kramer mentioned that West Herr is asking the Zoning Board for approval to increase the number of cars at that lot.

Dave Librock asked if the parking lot was split from the building.

Bill Kramer indicated it was recently.

Laurie Kutina noted that she drove by a couple of weeks ago and a trailer was off-loading vehicles on Olean Rd.

Doug Crow asked if anyone knows about the clearing of a lot on Davis Rd in the flood-prone area south of Ellicott Rd. He has noted the installation of a culvert and driveway and the lot being cleared is just south of the old Country Breads and More building. He expressed concern about possible wetlands in the area.

Bill Kramer mentioned that a highway permit would be necessary for the culvert, but not to clear.

Don Owens noted that a DEC wetland can't be cleared and that generally DEC wetlands are 12.4 acres or larger.

Don Owens noted he would drive by and look at it.

Doug Crow mentioned that this area on Davis Rd is prone to flooding.

A motion was made by Bill Voss and seconded by Dave Librock to adjourn at 8:30PM.

**THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY March 1, 2017 AT 7:00 P.M. AT THE TOWN HALL, 300 GLEED AVENUE, EAST AURORA, NEW YORK**