

VILLAGE OF OLD BENNINGTON
MINUTES OF THE PLANNING COMMISSION
REGULAR MEETING

December 11, 2023

Members Present: Nancy Coseo (Chair), Galen Jones (Vice-Chair), Carl Feltz, Renny Ponvert, Brian Scheetz

Others Present: Callie Fishburn (Bennington County Regional Commission), Deborah Towslee (Zoning Administrator), Anne Slattery (Board of Trustees)

Community Members Present: Marta Kozlowsky, Charles Kozlowsky, Mary Walsh and others.

Call to Order: 6:59:51 PM

Changes to Agenda: Mrs. Coseo noted that Ms. Fishburn (BCRC) was in attendance and agreed to offer guidance on state laws governing renewable energy installation. Mrs. Coseo recommended amending the agenda to discuss solar installation first. Agreed unanimously.

Motion: To approve Minutes of the Planning Commission Regular Meeting October 9, 2023. Motion by Mr. Feltz, second by Mr. Jones. Approved unanimously.

Public Comment: Ms. Walsh asked if the commission could clarify the difference between a bylaw and an ordinance. Mrs. Coseo offered to address the question more thoroughly during the Planning Commission Update at the next trustees' meeting.

Ms. Coseo asked that Ms. Fishburn begin the discussion for the members and the public by addressing a municipal Enhanced Energy Plan (EEP) and when adopting one, the impact the Plan has or does not have on solar installation.

Ms. Fishburn began by clarifying substantial deference¹ consideration by the Public Utility Commission (PUC) when it receives a request for residential solar installation. Land use regulations or bylaw pertaining to solar installation adopted previously without having adopted an EEP are not enforceable, Ms. Fishburn advised. Ms. Fishburn fielded several questions from members:

- Going through the process of developing screening standards in an adopted EEP and thereafter revising bylaws to support the EEP *may* have greater weight with the PUC when considering residential solar installations; however,
 - Residential solar installation does not require a local municipality zoning permit and municipalities cannot require that a permit be obtained.
 - The PUC is not required to notify a local municipality when obtaining or approving a request for residential solar installation.
 - Residential renewable energy installation is governed by state and regional constraints:
 - Regional constraints in Bennington County include:
 - Historic districts are traditionally not ideal locations for substantial renewable energy installation.
 - The state would prefer that large renewable energy projects be installed on old, unused industrial site locations.
 - Vermont has a goal of meeting 90% of its energy be served by renewable energy sources by 2050.

- A Solar Screening Ordinance shall apply to ground mounted solar electric generation facilities in excess of 15kW AC.
- The PUC has absolute discretion over residential solar installation.
- The Villages of Landgrove, Old Bennington, and North Bennington are the few municipalities in the region without an EEP approved by the regional planning commission and provided to the state.
- 2016 Vermont Comprehensive Energy Plan includes the following benchmarks:
 - Reduce total energy consumption per capita by 15% by 2025.
 - Meet 25% of the remaining energy need by renewable energy sources by 2025.
 - 40% by 2035
 - 90% by 2050

Discussion continued regarding a timeline for updating the Village of Old Bennington Plan of Development, Zoning Bylaws, and to develop an Enhanced Energy Plan. Ms. Fishburn clarified what state grant funds are available to support the expense of hiring a consultant, such as the BCRC, to assist the Village.

Ms. Fishburn left the meeting at approximately 8:39:13 PM.

The committee members shared their conclusions with one another after which there was careful deliberation about whether the cost and extraordinary time necessary to produce an EEP for the Village made sense given that the state has limited the capacity to regulate residential solar installations.

After another brief discussion and opinions shared by the committee members, the consensus was that state legislation passed July 1, 2023 ([Vermont HOME Act of 2023, Act 47 \(S.100\)](#)) warrants that the committee prioritize amending the Village of Old Bennington Plan of Development.

Mr. Jones distributed the latest draft of revisions to the Tree Removal Ordinance, and Mr. Scheetz distributed the latest draft of revisions to the Lighting Ordinance for review by the members without deliberation but rather for their consideration and comments at the next Regular Meeting of the PC and in future meetings of the PC until such time that the committee votes on and agrees unanimously on amended final drafts.

Motion: To Adjourn. Made by Mr. Ponvert, second by Mr. Jones. Agreed unanimously at 9:29:08 pm.

Respectfully submitted,

Deborah Towslee

Zoning Administrator

[Friday, December 15, 2023, 11:38:05 am]

¹ **Substantial deference** means the land conservation measures in the plans of the affected municipality and the recommendations of the affected municipality's local legislative bodies and local or regional planning commission regarding their respective plans *are presumed correct, valid, and reasonable unless there is good cause to find otherwise.*

Good cause means a showing of evidence that deferring to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively, *would create a substantial shortcoming detrimental to the public good or State's interests in 30 V.S.A. § 202c.*