



TOWN PLAN AND ZONING COMMISSION

SPECIAL MEETING

Wednesday, September 9, 2015

Town Hall *Conference Room L-101*
131 Cedar Street, Newington, CT 06111

6:00 p.m.

A G E N D A

I. ROLL CALL AND SEATING OF ALTERNATES

II. REVIEW OF ZONING REGULATIONS

- a. Procedures for approving ground-mounted solar panels
- b. Temporary renting of private residences via AirBNB
- c. Section 6.10: Green Space, Landscaping and Buffer Requirements
- d. Section 6.11: Sale, Rental Service or Storage of Motor Vehicles
- e. Section 6.12: Willard Avenue Development District

III. ADJOURN

Submitted,

Craig Minor, AICP
Town Planner

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NEWINGTON LAND RECORDS

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BY Tanya D. [unclear]
TOWN CLERK

STAFF REPORT
Complete Review of Zoning Regulations

September 3, 2015

Petition #02-15:
Zoning Amendments Town-wide
Town Plan and Zoning Commission, applicant

Description of Petition #02-15:
This is a complete review of the current zoning regulations, making for minor adjustments.

Staff Comments:

1. Procedures for approving ground-mounted solar panels:

The phrase “accessory building or use” is defined in Section 9.2 (Definitions) as

“A building or use which: (1) is subordinate to and serves a principal building or use; and (2) is subordinate in area, extent, or purpose to the principal building or principal use served; and (3) is located on the same zoning lot as the principal use or use served.”

In my opinion a ground-mounted solar panel whose purpose is to create electricity to be used by the principal building (private dwelling or commercial building) meets this definition of “accessory building” and is therefore allowed “as of right” per Section 3.22 (Accessory Buildings and Uses Permitted in Residential Zones) and Section 3.23 (Accessory Buildings and Uses Permitted in Business, Industrial, and PD, CD and PL Zones).

However, a large number of ground-mounted solar panels whose purpose is to create electricity to be sold to “the grid” has a purpose that goes beyond serving the principal building. Therefore it is within TPZ’s authority to regulate them. If the Commission feels that the lack of a regulation is a problem, I would be happy to draft one for the Commission’s consideration.

2. Temporary renting of private residences via AirBNB:

This is an issue that has been vexing TPZ’s around the country for the past year or so. I polled my colleagues in other towns, and while some TPZ’s have adopted regulations to cover the temporary renting of homes, I think the predominant response is to leave it alone. The feeling is, “we don’t regulate the sale or renting of houses, so why start now?”

I would say that there is a difference between renting an entire house and renting just a room. “Bed and breakfast” and “Rooming houses” are uses that are typically regulated by a TPZ, and the AirBNB model is simply a modern adaptation of a very old practice.

Having said that, unless the TPZ feels that the AirBNB phenomenon is a problem, I do not feel that any action by TPZ is required at this time. A “wait and see” position may be appropriate.

3. Section 6.10 (Green Space, Landscaping and Buffer Requirements), Section 6.11 (Sale, Rental Service or Storage of Motor Vehicles) and Section 6.12: (Willard Avenue Development District): See attached.

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Section 6.9 Reserved

Section 6.10 Green Space, Landscaping and Buffer Requirements

6.10.1 Minimum Landscaped Area

Notwithstanding other portions of this regulation, no **use development** shall be permitted in any zone which does not leave **a minimum landscaped area of at least** 10 percent of the total lot area free of any building, impervious surface material or other structures, ~~not including required yards.~~ **Land in the front, side and rear setback areas shall not count toward the minimum landscaped area.** Such minimum **landscaped** area shall be planted with grass, moss, ground cover or trees in such a way as to allow natural percolation of rainwater and not to interfere with adequate drainage of rainwater from surfaced or built-up portions, and to promote proper environmental design, including the implementation of low impact development techniques.

6.10.2 Location

Generally, ~~the~~ green space will be located in the yard areas and most particularly, in the front yard.

6.10.3 Town Center

In the B-TC Zone, the green space may include the landscaped space required in the parking regulation. *[There does not appear to be any "green space requirement in the Town Center regulations (Section 3.12, Section 3.12A, and Section 3.13)]*

6.10.4 Berlin Turnpike

On the Berlin Turnpike, the front yard green space and landscape area is most important to the public interest for the preservation and enhancement of property values, the implementation of vegetative low impact development techniques, and the control of traffic function and reduction of hazards.

- A. Alteration and additions affecting 25 percent of the gross floor area or more for business and industrial uses shall make substantial effort to add green space and landscaping, particularly in the front yard.
- B. ~~New construction of business and industrial uses shall provide front yard green space and landscaping of at least 35 feet. The Commission may waive this requirement in whole or in part in accordance with the procedures of Section 6.10.5 C. When requested to waive this standard the Commission will take into account access management measures and parking lot green space enhancements proposed by the applicant and the implementation of vegetative low impact development techniques. No accessory structures, above-ground utilities, or pavement shall be placed in the front yard setback area.~~

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6.10.5 Buffers

Where buffer **areas** are required **elsewhere** in this Regulation, the following standards shall be met:

- A. If, in the judgment of the Commission, a buffer **area** is necessary to protect residential areas within or adjacent to the proposed area, the Commission may require landscaping, fencing or other appropriate screening within any required front, side or rear yard, in an amount and location appropriate to the need for such screening.
- B. **A minimum A** buffer area shall be not less than 25 feet in width and planted with evergreens no fewer than 2 rows nor further than 15 feet apart, with trees planted no more than 15 feet apart along each row, staggered to provide maximum screening, and using trees not less than 5 feet in height at time of planting. Suitable existing tree cover may be substituted. When the proposed new development abuts existing Town-owned open space or a designated greenway, the minimum buffer area shall not be less than 50 feet in width. Suitable existing tree cover may be substituted when approved by the Commission. (Effective 3-4-2011) Where authorized by the Commission, the buffer area may be used for stormwater management and implementation of vegetative low impact development techniques.
- C. ~~*The Commission reserves the right to alter the buffer requirement when, in its opinion, the individual natural, topographical, or manmade utilities of the site clearly indicate that the buffer requirement is inappropriate. The buffer may not be increased to more than double nor decreased to less than half the requirement herein, and any such action shall require a two-thirds vote of the Commission members present.*~~

Section 6.11 Sale, Rental, Service or Storage of Motor Vehicles (effective 01/17/2015)

The Commission may grant a special exception for the sale, rental, service or storage of motor vehicles in certain zones only, subject to the following conditions and to the provisions of Section 5.2 (Procedures and Standards for All Special Exceptions), Section 3.15 (Special Exceptions Permitted in B-BT Business Berlin Turnpike Zone), and Section 3.17 (Special Exceptions Permitted in I Industrial Zones).

For the purpose of this section, "motor vehicle service uses" include but are not limited to those of a limited repairer as defined in Sec. 14-51(a)(4) of the Connecticut General Statutes; the lubricating of motor vehicles, adding or changing of oil or other motor vehicle fluids, changing of tires and tubes, including the balancing of wheels, or installing of batteries or light bulbs, windshield wiper blades or drive belts as described in Sec. 14-51(b) of the Connecticut General Statutes; **car and truck rental businesses with no on-site storage of vehicles**, and the sale of gasoline or any other product under the provision of Sec. 14-319 of the Connecticut General Statutes. Motor vehicle service uses are allowed, by special exception, in the I zone, B-BT zone, and PD zones only.

For the purpose of this section, "auto-related uses" include but are not limited to dealers and repairers as defined in Sec. 14-51 (a) (1), (2), and (3) of the Connecticut General Statutes, car washes, and car and truck rental businesses **with on-site storage of vehicles**. Auto-related uses area allowed, by special exception, in the I zone only.

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- 6.11.1 Auto-related uses, motor vehicle service uses, and equipment such as fuel dispensers shall be at least 30 feet from any street right of way line.
- 6.11.2 Auto-related uses and motor vehicle service uses which include repairs shall be entirely within a building and at least 30 feet from any street right of way line.
- 6.11.3 Entrances and exits for auto-related uses and motor vehicle service uses shall be at least 100 feet from a church, school, playground, hospital or any residence.
- 6.11.4 No display, sale, rental, or storage of any motor vehicle is permitted in the required front yard or in the street right-of-way.
- 6.11.5 No portion of any use relating to motor vehicles shall be within 100 feet of a residential zone.
- 6.11.6 The façade of the building shall be a combination of brick, split face block or dryvit. Wall signage shall be uniform in size, design and lighting. The architectural style and design shall provide for a good appearance and blend harmoniously with adjacent buildings, and shall be approved by the Commission.
- 6.11.7 Overhead service doors shall not be permitted on the public street side of an auto-related use or a motor vehicle service use.
- 6.11.8 The minimum lot area for a parcel containing an auto-related use or a motor vehicle service use shall not be less than one (1) acre. Such uses may be combined with other commercial uses when the total parcel size is not less than three (3) acres.
- 6.11.9 Pursuant to Sec. 14-321 of the Connecticut General Statutes, effective June 6, 2006 the Town Plan and Zoning Commission shall act as the local authority in approving Certificates of Location (Gasoline and Motor Oil Sales).
- 6.11.10 Pursuant to Sec. 14-54 and Sec. 14-55 of the Connecticut General Statutes, effective June 6, 2006 the Town Plan and Zoning Commission shall act as the local authority in approving Certificates of Location (Dealers and Repairers Licenses).

Section 6.12 Willard Avenue Development District-Special Permit Zone

- 6.12.1 For the purposes of promoting the public health and welfare, and of conserving property values and promoting appropriate uses in the Willard Avenue area as herein defined, there is hereby established the Willard Avenue Development District Special Permit Zone. The Special Permit Zone shall be an overlay zone within the area so defined. Existing zoning categories in the underlying zone shall control for all permitted and special permit uses within such underlying zoning categories. The uses and structures under this section shall be permitted only as a special permit meeting the standards as listed below and in accordance with Section 5.2.
- 6.12.2 Special Permit uses within the Willard Avenue Development District shall be as follows:
 - A. Professional office use, providing such office use is limited to the first floor of the building, and the remainder of such building is devoted to residential use.

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- B. Multi-family use may be permitted within existing structures providing the requirements in Table A are met. Existing structures may be expanded providing such expansion does not exceed 20% of its current square footage, and that such expansion be architecturally compatible with the existing structure. Open space areas equal to 2,500 sq. ft. shall be provided for each multi-family unit created within an existing or expanded structure.
- 6.12.3 Standards. No Special Permit shall be granted unless the Commission finds that the standards of Sections 5.2 and 5.3 as well as the following are complied with:
- A. Where the structure proposed for Special Permit use under this section is determined to be historical significance by the Commission, applications shall contain a report detailing the manner of restoration of such structure. The standard for restoration of a structure shall be Standards for Rehabilitation as published by the Department of Interior.
 - B. Parking spaces in conjunction with professional office use shall not be located within any required front yard. Additionally, such parking areas shall be buffered in accordance with Section 6.10.5.
 - C. Buffers in accordance with Section 6.10.5 shall be required along the side and rear property lines of parcels granted a Special Permit under this section.
 - D. Signs utilized in conjunction with any office use permitted as a Special Permit shall not exceed (2) sq. ft.
- 6.12.4 As a condition of an approval, the Commission may require facade easements for historically significant buildings to ensure preservation of their exterior appearance. Additionally, when it is proposed to utilize existing structures for professional office use, the Commission may require deed restrictions as to the type of occupancy for such professional office use.
- 6.12.5 In approving Special Permits under this section, the Commission, in addition to other requirements of these regulations, must make the following findings:
- A. The proposed Special Permit use is in harmony with the surrounding uses and will tend to help preserve the value of the existing property.
 - B. The proposed Special Permit use is suited for the building as existing or as it is proposed to be renovated.
 - C. The traffic generation from the proposed Special Permit use will not be unduly disruptive to the neighborhood.
- 6.12.6 Applications for Special Permit under this section shall be on forms as required elsewhere in these regulations. Such applications shall be accompanied by a completed site plan as well as by a rendering of the structure as it is proposed to be renovated. The approved site plan shall be controlling for all uses of the property which are granted a Special Permit. All uses, other than those shown on the approved site plan, shall require an additional review and approval by the Town Plan and Zoning Commission.