



# TOWN OF NEWINGTON

200 Garfield Street Newington, Connecticut 06111

## Town Planner

Paul Dickson  
Town Planner

### Memorandum

**To:** TPZ Commission  
**From:** Town Planning Staff  
**Date:** May 9<sup>th</sup>, 2025  
**RE:** **Petition TPZ-25-4:** Zoning Regulation Text Amendment To Add Sec. 6.9  
Alternative Energy Accessory Structures. Applicant: Newington TPZ, Contact:  
Paul Dickson.

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#### **5/9 update:**

Staff has continued research for laws that would permit a level of surety in regards to decommissioning. To date, we have not found language in the current statutes for bonding or other form of surety for this purpose.

Staff plans to have more information to present to the commission at the meeting for the current regulations that will apply to a BESS system and welcomes final discussion or questions regarding the proposed amendment before the closure of the public hearing.

#### **4/17 update:**

Staff has met with the Town Attorney to discuss the decommissioning of BESS systems. This research is ongoing, however to date we have not yet found a path for an enforceable decommissioning plan. During discussion during the hearing, decommissioning plans in other states were discussed. In other states with more robust regulation of Battery Energy Storage System, the laws tend to be more mature and developed. Staff will continue this research and report back to the TPZ at the meeting.

#### **4/3 update:**

In response to questions from the Commission and a request for review by the Town Attorney, staff has discussed the possible paths for an enforceable decommissioning plan with the Town Attorney. Additional research is in process. The first draft of the proposed language is attached; however, this may change depending on final review from the Town Attorney and is included for discussion. The current draft for the decommission language is below:

#### **E. Decommissioning Plan**

1. Prior to the issuance of a Certificate of Completion/Compliance and before any BESS may be energized, a decommissioning plan, endorsed by both

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the operator and the property owner, shall be filed on the land records and provided to the Fire Marshal. Such plan should include information pertaining to:

- i. A description of the activities necessary to allow for the BESS to be safely deenergized and readied for removal from the premises.
- ii. A provision for the notification to all local agencies having jurisdiction prior to the commencement of any decommissioning activities.
- iii. A statement confirming that the obligations associated with the operation of any such system shall be binding upon any future property owner (regardless of changes to the system operator) for the duration such system is energized or operational.

### **Previous Report:**

Town Planning staff has included the attached regulation amendment for the TPZ's consideration.

Staff introduced the use of BESS to the TPZ on 7/10/24, and a pre-application was presented for a BESS at 375 East Cedar Street at the 7/24/24 meeting. The pre-application proposed a BESS in the front yard adjacent to East Cedar Street and required the applicant to propose a zoning regulation amendment allowing an accessory BESS to be located in the front yard. The regulation of a BESS was also discussed with the TPZ during the meeting on 11/24/24. During the November meeting, staff discussed the change in the pre-applicant's plans to move the proposed BESS from the front of the property to the side. This relocation made the proposal more compliant with the zoning regulations addressing accessory structures. At that meeting, the Commission provided general guidance and supported an administrative review and approval process for an accessory BESS installation, understanding that the installation would also require full permit review for Building and Fire Code by the respective parties.

Most recently, staff discussed the Alternative Energy Accessory Structures amendment at the 2/26/25 TPZ meeting and discussed some minor changes that were made to the proposed regulation in consultation with the future applicant to their plan to install an accessory BESS in town and with the Town's planning consultant. The proposed regulations provide zoning controls for accessory BESS installations. The regulations do not allow for administrative approval of a BESS as a primary use nor a BESS over 1 megawatt which falls under the jurisdiction of the CT Siting Council.

In addition to the proposed zoning regulations, a BESS will be regulated by applicable Building and Fire Codes. NFP 855, Standard for the Installation of Energy Storage Systems 2020, is the most notable code. NFP 855 provides fire protection standards, signage, and other safety considerations for installing energy storage systems.

The Zoning amendment is proposed to occupy the vacant Section 6.9 of the Newington Zoning Regulations. It will provide a future framework for alternative energy accessory structures, including ground-mounted solar panels, which have been permitted as accessory structures but are not explicitly codified.