Report on Proposed Changes to Windham Zoning Regulations

The Windham Planning Commission met on January 9, 2019 and approved the following changes in the town’s zoning regulations. These changes were made after consulting with the town’s attorneys in order to make the zoning regulations more precise and consistent with the goals and policies of the Town Plan and the town’s Enhanced Energy Plan, especially in regard to regulations pertaining to wind energy systems and solar energy systems that are permitted within the town.

The specific changes to the zoning regulations that were made on 1/9/19 are as follows:

I. Point #4, Sec. 207 (top of page 21) and point #10, Sec. 209 ( page 22) were changed to read as follows:

Ridgelines are defined as all land above 2000 feet.  Ridgelines shall be left in their natural condition, free from all development, including roads, building structures, utilities, wireless broadcast telecommunications facilities, and industrial wind turbines, with the following exception:

1. Existing homes above 2000 feet may install solar arrays or wind energy systems for on-site electricity consumption if they abide by all relevant zoning regulations.

II. Section 505 (p.31) was retitledWIND ENERGY SYSTEMS and the beginning of the first sentence was changed to clarify that the zoning regulations pertain to “*Wind energy systems operated solely for onsite electricity consumption* which are subject to municipal zoning regulations (i.e. systems not subject to 30 V.S.A. § 248) shall comply with the following provisions.”

The following sentence was added to the first bullet point to clarify how blade height is measured. “Highest blade height is measured from the base of the turbine to the tip of a blade in its upright, vertical position.”

The sixth bullet point in this section further clarifies the maximum allowable height of a wind turbine. “The highest blade height allowed, as measured from the base of the turbine to the tip of a blade in its upright, vertical position is 120 feet; maximum blade length is 20 feet.”

The seventh bullet point in this section has been changed. The original statement said “The rated capacity of the systems shall not substantially exceed the on-site electric usage of the end-user *and shall not be interconnected to the electric utility system*”.The words in italics have been eliminated on advice of counsel because they are superfluous. Local zoning has no authority to regulate interconnected systems.

The final bullet point in this section clarifies that wind energy systems are subject to the regulations which govern development on Windham’s ridgelines. “Turbines are subject to restrictions set out in Sections 207 and 209 of these regulations.”

III. The zoning regulations were changed to make wind turbines a conditional use in the Forest, Rural Residential, and Recreational/Commercial zoning districts.

IV. Screening regulations for commercial property (see new Sec. 401 C, p.29) were enhanced and made more specific so that they are compatible with the screening regulations for solar energy systems in Sec. 506 B (p.32)

401 C Screening Regulations shall read as follows:

The purpose of screening regulations is the preservation of the rural and scenic character of Windham while protecting the privacy of abutting landowners. Screening for commercial property is not intended to hide the view of the parking area but to have a landscape edge along the public highway. In such instances:

a) Topography and Natural Barriers shall serve as screening where feasible.

b) Existing flora shall be preserved, where feasible, to block the view from public roads and residences. c) Should new screening need to be developed, the use of year round solid vegetative barrier of non-invasive, zone appropriate plant materials will be used.

d) Screening will be maintained – Any diseased or dead plant materials will be replacedno later than the spring of the following year.

Where solid screening may be required is along adjoining property lines to obscure the parking area from abutter view. This solid barrier should conform in such a manner that insures the abutter’s privacy. These may consist of an evergreen hedge or solid fence no less than 8 feet in height or any combination thereof.

V. In an effort to be clearer, all references to Side and Rear setbacks in Sections 201.1, 202.1, 203.1, 204.1 and 206.1, shall say “side and rear setbacks from the property line.”

VI. Section 506 (p.32) was retitled SOLAR ENERGY SYSTEMS and the beginning of the first sentence changed to clarify that the zoning regulations “apply to solar installations operated solely for on-site electricity consumption except as otherwise noted.  Solar installations are subject to restrictions set out in Sections 207 and 209 of these regulations.”

Setback requirements for solar energy systems were simplified in Sec. 506A as follows: “A ground-mounted solar energy installation must comply with all setback requirements for the zoning district in which it is located.”

The first paragraph of Sec.506B was rewritten as follows to clarify the kind of solar energy systems that are subject to screening regulations:

The purpose of these screening regulations is the preservation of the rural and scenic character of Windham while promoting the use of renewable resources.  These requirements apply to ground-mounted solar installations operated for on-site electricity consumption (i.e. installations that are subject to zoning regulations) and to ground-mounted solar installations that are net-metered or operated for off-site electricity consumption (i.e. installations that are subject to 30 V.S.A. § 248) (see 30 V.S.A. § 248(b)(1)(B)).

Sec. 506B, bullet point #4 has been changed to say: “Screening will be maintained – Any diseased or dead plant materials will be replaced *no late than the spring of the following year.”*

Sec. 506 D, point #1 was slightly altered to clarify that “1.Physical removal of all ground mounted solar unit installations including the structures, equipment, security barriers, and  *distribution* lines from the site. (Not transmission lines as formerly stated.)

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