

**Northumberland County Planning Commission
December 21, 2023
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on December 21, 2023 at 7:00 p.m. in person at the Northumberland Courts Building and using Zoom (telephonic meeting) with the following attendance:

Chris Cralle	Present	Garfield Parker	Present
Vivian Diggs	Present	Roger McKinley	Absent
Alfred Fisher	Present	Heidi Wilkins-Corey	Present
Ed King	Absent	Charles Williams	Present
John Kost	Present	Patrick O'Brien	Present
Richard Haynie	Present		

Others in attendance:

Stuart McKenzie (County Planner)

Philip Marston (Zoning Administrator)

RE: CALL TO ORDER

The meeting was called to order by Mr. Fisher, Mr. McKenzie noted that there was a quorum.

Mr. Parker gave the invocation, and Mr. Fisher led the commission in the Pledge of Allegiance.

RE: AGENDA

Mr. Kost made a motion to accept the agenda, and Mr. O'Brien seconded the motion. All members voted to accept the agenda as submitted.

RE: MINUTES-November 16, 2023

Mr. Kost made a motion to accept the November 16, 2023 minutes, and Mr. O'Brien seconded the motion. All members voted to accept the minutes as submitted.

RE: COMMISSIONERS' COMMENTS

There were no commission members comments

RE: STAFF MEMBERS' COMMENTS

There were no staff member comments.

RE: CITIZENS' COMMENTS

There were no citizen comments.

RE: PUBLIC HEARINGS

There were no public hearings scheduled.

RE: WORK SESSION ITEMS

There were no work session items scheduled.

RE: DISCUSSION ITEMS

Chairman Fisher asked staff to pick up where we left off with the Solar Energy Facility Zoning Ordinance review. Mr. McKenzie went through the changes that were made to the solar ordinance reflecting the changes the commission wanted to make. The changes were to increase the minimum setback from 25 feet to 50 feet (to accommodate the required 25 foot vegetated buffer), to require the first review of the solar energy facility decommissioning plan after two years of operation, and from then on, review the decommissioning plan every five years, and to explicitly state that after each decommissioning plan review, if the cost to decommission has increased, the surety bond shall be increased by the same amount shown in the newly revised decommissioning plan. Mr. Fisher asked if staff wants to advertise the revisions to the solar ordinance, and staff replied not yet. Mr. O'Brien asked if Dominion Energy was to come to a future Planning Commission to speak. Mr. McKenzie stated that the Dominion Energy representative wanted to speak to a joint meeting of the Board of Supervisors and the Planning Commission. Mr. McKenzie explained that only the Board can call a joint meeting, so he told the Dominion representative to talk to Mr. Tadlock to coordinate that with the Board of Supervisors. Mr. McKenzie stated he did not think any dates have been proposed for that meeting, but suspects it will be in February or March.

Mr. O'Brien referenced the state regulations on small energy generators that the Northern Neck Electric Cooperative representatives sent to the county to distribute to the Planning Commission members via email. Mr. O'Brien stated that the state defines small energy generators into three levels: Level 1 - less than 500 Kw, Level 2 – less than 2 Mw and Level 3 – a small energy generator that does not fit the definition of Level 1 or 2. Mr. O'Brien thought it would be best to change Northumberland County solar energy facility classification of small, medium and large solar energy facilities to parallel the state definitions. Mr. Kost stated whatever the county proposes should not be in conflict with state regulations. Mr. O'Brien stated that if the county solar energy facility definitions mirrored the state small energy facility classifications, it would make it easier on the applicants, since they would be consistent. Mr. McKenzie stated that the state regulations are made to cover the entire state and Northumberland County's ordinances only pertain to Northumberland County. Mr. McKenzie stated that the existing solar energy facility definitions work well for Northumberland County and fits our needs, based on wattage and area coverage. Mr. Marston stated he thought the existing solar energy facility definitions are fine and that the county's simplistic zoning definitions helps citizens

understand that there are three types of solar projects in Northumberland County; 1) Residential, 2) Business energy supplement, and 3) Utility Scale (where they generate power to sell). Mr. Kost stated he did not think we need to redo the definitions, and Mrs. Wilkins-Corey agreed leaving the solar energy facility definitions as is.

Mr. O'Brien then stated that Liability Insurance needs to be addressed. Mr. Fisher stated that there needs to be a requirement that the applicant keep liability insurance on the facility through the entire decommissioning process of the solar energy facility. Mrs. Wilkins-Corey asked who is the beneficiary? The consensus of the commission was that it is for the property owner and the applicant. Mrs. Wilkins-Corey queried if it is not protecting the county, then why are we concerned with it? Mr. Fisher stated that maybe the liability insurance can protect the county's first responders. Mrs. Wilkins-Corey stated that the State mandates the minimum amount of insurance needed and it is up to the corporation to make a decision on how big an insurance policy they need to purchase, the county should not dictate an amount of liability insurance that is needed. Mr. O'Brien stated that a lot of attorneys will include the local government in a lawsuit to cover all their bases, that it could cover personnel issues, as well as the situation when the land reverts to the county. Mr. Haynie stated that county insurance will not cover a solar facility. Mr. O'Brien stated that a wounded asset, uneconomical solar farm could be transmitted by a corporation to a shell company, and then underfund the liability insurance. Mr. McKenzie reminded the commissioners that the existing solar energy facility ordinance states, the applicant must maintain adequate liability insurance. Mr. Kost stated that the term adequate is vague. Mr. Cralle stated that adequate is indeed vague, but is used often by insurers. The insurance company representative does not make a decision, but instead offers options for the client to decide how much coverage they want. Mr. O'Brien asked Mr. Kost if he addressed additional homeowner's insurance with his own personal residential solar installation, and Mr. Kost said he discussed it with the solar installer, but that they felt additional insurance was not needed. Mr. O'Brien asked Mr. Kost what is the capacity of his residential solar installation, and Mr. Kost replied 22 Kw, which, under the state definitions is Level 1.

Mr. O'Brien then made a motion to amend the section of the solar energy facility zoning ordinance that deals with liability insurance to meet or exceed the minimum amounts cited in the State regulations for small electric generators. Mr. Kost seconded the motion, and the commission voted on the motion, with the results below.

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O'Brien	Aye

Thus, the motion passed. Mr. Marston asked Mr. O'Brien if he meant only medium and large solar energy facilities, as defined by the county zoning ordinance. Mr. O'Brien stated yes, only the medium and large solar energy facilities.

Mr. O'Brien made another motion to require the solar energy facility applicant to maintain liability insurance through the duration of the decommissioning process. Mr.

Kost seconded the motion, and the commission voted on the motion with the results below:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O'Brien	Aye

All members present voted aye, so the motion passed.

Mr. O'Brien made a motion that the county be added as an additional insured party of the liability insurance policy, with broad as possible language to protect the county's first responders. Mr. Williams seconded the motion and the commission voted as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O'Brien	Aye

All members present voted aye, so the motion passed.

Mr. O'Brien made a motion to adopt the state definitions regarding small electric generators for our solar energy facility zoning definitions. There was no second to the motion and the motion failed.

Mr. McKenzie stated that he liked Mr. O'Brien's idea that we should not advertise and hold a public hearing until we have had the meeting with Dominion Energy. Chairman Fisher agreed and transitioned to the next item on the agenda.

Chairman Fisher stated the reason we are revising the boathouse ordinance is that boat canopies do not conform to the existing boathouse zoning ordinance. Mr. McKenzie stated that the Planning Commission asked for permission from the Board of Supervisors to examine possible revisions to the boathouse zoning ordinance regarding boat canopies, and was granted that permission. Mr. McKenzie stated that staff would like to add a definition to the zoning ordinance, entitled Boathouse Canopy, Private. The definition would read "A metal framed structure with a fabric canopy over a tidal waterway attached to pilings that shelters a boat by complete or partial enclosure." Several members question a canopy over a tidal waterway, and staff mentioned that was to prevent citizens from putting a boat canopy over their dock to shade them from the sun. Mr. O'Brien asked Mr. Haynie what he thought of the definition. Mr. Haynie stated that the existing Boathouse Ordinance doesn't talk about sheltering a dock, it is a boat canopy, not a dock canopy. Mr. Kost read part of the new definition of Boathouse Canopy, and questioned the phrase "partially shelters a boat." Mr. Kost stated that most people would want to completely shelter their boat. Chairman Fisher suggested that we talk to the Zoning Administrator, as he is the one that has to enforce the ordinance. Mr. Marston stated he could see the "enclosure" problem, but he would point to other parts of

the ordinance that says “open sided”. Mr. Marston stated the purpose of a boathouse or boat canopy is covering the homeowner’s boat. Several members of the commission questioned the “Private” term on the boat canopy definition and Mr. Marston stated that term is to differentiate between a commercial boathouse or commercial boathouse canopy. Mr. Marston explained that the problem with adding new definitions to the zoning ordinance is that it could possibly be not consistent with our other definitions, so that is why we mirrored the existing definition for boathouse to form the basis of our boat canopy definition. Mr. Kost made a motion to accept the Boathouse Canopy, Private definition for the zoning ordinance as presented. Mr. Parker seconded the motion, and the vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O’Brien	Aye

The motion passed unanimously.

Mr. O’Brien asked since we adopted that definition, then we are eliminating complete coverage of a boat? Mr. Williams explained that partially covered means the boat is only covered on the top and not the sides.

Mr. McKenzie then went over the proposed changes to the boathouse ordinance. Mr. McKenzie stated that in item 5 of the Boathouse Ordinance, which discusses building materials of a boathouse, will add the phrase, “except for Boathouse Canopies, Private.” In item 6, which discusses minimum roof pitch, adding language that states “except for Boathouse Canopies, Private.” In item 8, regarding requiring a fire extinguisher for a boathouse, added the exclusion “except for Boathouse Canopies, Private.” Mr. O’Brien asked why staff did not think a fire extinguisher was necessary for a boathouse canopy. Mr. McKenzie stated that staff did not think that a boat canopy is as much a fire danger as a wooden boathouse, since the canopy is made of metal. Mr. Kost made a motion to adopt the changes to the Boathouse Ordinance as written. The motion was seconded by Mr. Parker. The vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O’Brien	Nay

The motion passed with Mr. O’Brien voting against the motion.

Mr. Fisher asked staff about the next Planning Commission meeting, and Mr. McKenzie stated it will be held on Thursday, January 18, 2024. Mr. Fisher asked if the proposed joint meeting between the Board of Supervisors, the Planning Commission and the Economic Development Commission has had the date set. Mr. McKenzie explained that the Chairman of the Economic Development Commission, Mr. Bullard requested the

joint meeting be held at 5:30 pm, January 18, 2024, before the regularly scheduled Planning Commission meeting, but that the Board of Supervisors has not committed to that date yet. Mr. McKenzie stated that members should hold that 5:30 pm to 7 pm time slot open on January 18 as that could end up being the date for the meeting, if the Board of Supervisors approve it. Mr. McKenzie stated he would send notice out to the Planning Commission members as soon as he is notified of the joint meeting date. Mrs. Wilkins-Corey stated that the joint meeting between the Board of Supervisors, the Planning Commission and the Economic Development Commission to brainstorm how to attract businesses to Northumberland County is a good idea.

Chairman Fisher stated this was his last Planning Commission meeting, as he has been elected to serve on the Board of Supervisors. Mr. Fisher stated he has enjoyed working with the Planning Commission for the past 35 years, that he appreciates the commission members and the good discussions they have had. Mr. Fisher stated that the commission members are dedicated, and we most always have a quorum to conduct business. Mr. Kost stated he appreciates Mr. Fisher's institutional knowledge and insight, while Mrs. Wilkins-Corey told Mr. Fisher that his job was well done. Other commission members congratulated Mr. Fisher and told him he would be missed.

RE: PUBLIC COMMENTS

There were no public comments.

RE: ADJOURNMENT

At 8:32 pm, Mr. Parker made a motion to adjourn, seconded by Mr. Kost. The adjournment vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Absent
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Absent	Charles Williams	Aye
John Kost	Aye	Patrick O'Brien	Aye