



New Albany Architectural Review Board
Monday, February 13, 2023 7:00pm
Meeting Minutes

I. Call to order
Chair Hinson called the February 13, 2023 regular session meeting of the New Albany Architectural Review Board to order at 7:01 p.m.

II. Roll call
Those answering roll call:

Mr. Alan Hinson, Chair	Present
Mr. Jonathan Iten, Vice Chair	Present
Mr. Jim Brown, Secretary	Absent
Mr. Andrew Maletz	Present
Ms. Traci Moore	Present
Mr. Francis Strahler	Present
Council Member Andrea Wiltrout	Present

Staff members present: Anna van der Zwaag, Planner II; Steve Mayer, Planning Manager; Chelsea Nichols, Planner; Christina Madriguera, Deputy Clerk.

III. Action on minutes
Chair Hinson asked if there were any additions or corrections to the minutes from the January 9, 2023 meeting.

Board Member Iten stated that the application number on the Record of Action for the Certificate of Appropriateness for the construction of a parking garage in the Village Center was incorrect and further that it was missing the three conditions of approval imposed by the board.

Planner van der Zwaag responded that the Record of Action would be corrected.

Board Member Iten moved to approve the minutes of the January 9, 2023 meeting, as corrected. Chair Hinson seconded the motion.

Upon roll call: Mr. Iten, yes; Mr. Hinson, yes; Mr. Strahler, abstain; Ms. Moore, yes; Mr. Maletz, yes. Having 4 yes votes, and 1 abstention, the minutes were approved as corrected.

IV. Additions or corrections to agenda
Chair Hinson asked if there were any additions or corrections to the agenda.

Staff answered that there were not.

Chair Hinson noted a staff presentation was the only item on the agenda and that the person in the audience was not planning to address the board. Chair Hinson administered the following oath to staff who wished to address the board, "Do you swear to tell the truth and nothing but the truth."

V. Cases
There were no cases scheduled for consideration.

VI. Other business
New Albany Solar Energy Initiative Best Practices Report.

Planning Manager Steve Mayer explained that currently the zoning code is silent on solar and tonight's meeting would be a focus-group style discussion. He introduced Planner van der Zwaag, who would be delivering the New Albany Solar Energy Initiative Best Practices Report. He explained that Planner van der Zwaag has taken the lead on a solar panel code update. To that end that staff was seeking comments and recommendations from the board on the report which was prepared with the assistance of consultant, MKSK. He explained that the Planning Commission would be reviewing the report at its upcoming meeting this month. Code updates would be drafted and workshopped this spring. He stated that feedback on the entire report was welcome and they were particularly interested in feedback on the 8 recommendations.

Board Member Iten clarified where the recommendations were in the report, and asked as primary matter, what he was meant by the verb "workshop."

Planning Manager Mayer responded that even though proposed updates to the code of this kind do not require review and or approval by the board, tonight's meeting was intended to provide guidance to staff when drafting the proposed updates. He further explained that the proposed updates would be presented to this and other boards for review and comment prior to being considered by city council.

Planner van der Zwaag thanked the board for their time and delivered the staff report which consisted of several slides covering the following: the impetus of the report; recent solar legislation; types of solar applications; solar trends and emerging technologies; peer communities; best practices for solar applications; and next steps.

Planner van der Zwaag explained that as a result of recent Federal and state law changes granting tax subsidies, she anticipated an increased demand for permits to install solar panels.

Planning Manager Mayer added that indeed there had already been an increased demand in New Albany for permits to install solar panels.

Board Member Iten stated that he has read all of the founding covenants of the New Albany Country Club Communities and that they are silent regarding solar panels. Can those covenants be amended now to include a restriction on the installation of solar panels?

Planning Manager Mayer responded that his understanding was that the legislation would deem deed covenant restrictions on the use of solar panels unconstitutional.

Board Member Iten continued that the city is the only refuge.

Planning Manager Mayer agreed.

Planner van der Zwaag encouraged the board members to offer their comments as they arose during the course of the presentation as this meeting was intended to be a dialogue.

Council Member Wiltout asked whether there had been dialogue with any of the home owners associations (HOAs) regarding reasonable restrictions on the use of solar panels.

Planning Manager Mayer responded that at this point they had not had any direct correspondence with HOAs as part of this process. This report was the first step in the information gathering process and they are currently looking into the best way to gather feedback from the HOAs and the community at large.

Chair Hinson stated he could only recall 2 houses in New Albany with visible solar panels, 1 of which was located in the Country Club Community.

Board Member Strahler stated that he has seen a house in New Albany with a solar panel mount in the backyard.

Planner van der Zwaag stated that there is still a lot in the air, and that the legislation (SB 61) provides that associations that do not prohibit solar panels may only place reasonable restrictions on their use. She continued that the deed would have to be examined to determine whether there are restrictions.

Board Member Iten agreed and stated that he had read SB 61.

Council Member Wiltrout wondered whether, if a deed contained a covenant restricting the use of solar, whether that would be an unenforceable covenant, like other unenforceable covenants.

Board Member Iten, Council Member Wiltrout, and Planner van der Zwaag agreed that that time and litigation would make that answer clear.

Board Member Iten stated that it was clear that the time for the city to do something was ripe.

Planner van der Zwaag discussed the main sections of the report and reviewed the following 8 draft recommendations for solar trends:

Highly encourage the use of building-integrated photovoltaics in new construction and renovation projects.

Create internal criteria for when solar tracking mounts are appropriate uses.

Allow the use of solar energy storage in all use applications.

Explore the use of floatovoltaics as an alternative to ground-mounted array proposals on applicable properties.

Consider a solar-ready design regulation for new buildings.

Analyze the potential for PV noise barriers as a possibility for New Albany.

Consider implementing solar panels as part of the parking lot design code for future parking lots built in New Albany.

Consider applying to the SolSmart Designation program to recognize New Albany's commitment to solar energy.

Planning Manager Mayer acknowledged that this is an emerging and changing technology and then asked for the board's thoughts on the recommendations.

Board Member Iten stated that he had several observations. First, was that he bought into New Albany's Strategic Plan and the rules of that plan and he further commented that board was in place for good design. He encouraged staff to keep in mind that decisions made now would be visible for a long time. For example, with the advent of the usage of electricity in residences there were poles and wire after wire after wire in order to retrofit the brownstones and mansions on Park Avenue in NYC. Once those wires were there, they were there for a long time before the city was able to locate them underground. It is important for us to keep our design aesthetic in mind here. Solar panels are modern but they are not intrinsically attractive. The attractiveness of most of today's panels is limited to the virtue they signal through their presence and his hope was that solar panels could be incorporated in such a way as to retain New Albany's design aesthetic. And he particularly encouraged hiding solar panels within building materials in areas where aesthetic is important.

Chair Hinson remarked that New Albany has always been a community with 4-sided architecture which would make hiding house-mounted solar panels difficult.

Board Member Iten stated that using Google streetview to look at the JP Morgan Chase property, the mounted solar panels are screened by mounding and vegetation. But, he recalled from an article that the parking lot photovoltaics were 30 ft off the ground and while it is appealing he was unsure whether that example would translate to New Albany.

Board Member Iten further stated that Upper Arlington was a planning disaster, and New Albany should be reluctant to follow its example.

Board Member Iten stated that permissive authority for the usage of solar is a lot different than requiring it. He cautioned that one California is enough – in terms of regulation. Regarding the SolSmart designation, he would rather New Albany have it right than chase down what another community does in service of a designation.

Board Member Strahler stated that the focus of regulation for New Albany should be on maintaining the design aesthetic and uniformity in residential areas, rather than placing a restriction on usage within view of the public right of way. He further explained that placing a restriction on visibility from the public right of way would lead to litigation in situations where a homeowner was seeking the economic benefit of using solar panels but could not overcome the aesthetic restriction. Disparate treatment of otherwise equally situated homeowners could force New Albany to allow solar panels without regard to their appearance or their visibility.

Board Member Iten agreed and stated that he would prefer a rule to require the usage of building integrated photovoltaics everywhere to a rule that would permit the usage of unattractive photovoltaics as long as they were not visible from the right of way.

Planning Manager Mayer thanked the board for their comments and discussion.

Planner van der Zwaag invited comments regarding the recommended appropriate use for various types of solar.

Board Member Strahler encouraged the use of screening for solar tracking mounts.

Board Member Iten echoed Board Member Strahler's observation about requiring screening, particularly in the Village Center.

Board Members Iten and Strahler agreed with the recommended appropriate usage, as long as the usage was fully screened.

Planning Manager Mayer stated that rules requiring screening could be added. And assured the board that this plan did not recommend usage of tracking mounts or floatovoltaics in the Village Center.

Board Member Item asked what was meant by solar-ready building design.

Board Member Moore stated in response that there were examples of photovoltaics built into building materials and that would work well in commercial contexts.

Board Member Maletz had comments about the difficulty of regulating usage of solar based upon today's technology. He questioned the long-term applicability of today's photovoltaics. He observed that this initiative gave him pause because although there is economic value to using today's technology, the evolutionary pace of this technology is rapid and thus could render regulations moot. And further that today's integrated panels have not been thoroughly tested and have not been tested over a 20-year lifespan. He stated that we need to avoid unanticipated consequences and unnecessary risk.

Board Member Maletz stated that underlying issue here is that the design guidelines and Georgian architecture are incompatible with what the solar recommendations are seeking to accomplish, for example, the steep roof pitches, and the 4-sided architecture. The saw-toothing of panels is quite unattractive. Furthermore, that allowing solar panel use is a lot different, and much more preferred, than encouraging solar panel use. He also recommended considering regulation regarding the unwinding, for example requiring removal of non-performing panels (like satellite dishes). He referenced a recent mailing from the New Albany Country Club Homeowners Association reminding member homeowners of the architectural review and approval requirements that must be met before members make changes to their homes.

Board Member Maletz stated that regulation of solar usage should require review for appropriateness early in the process. It should be in conjunction with the appropriate HOA review during the concept phase. Upon approval at the concept phase then the anticipated solar usage should be included in the requests for zoning and building permits submitted to the city. He reiterated that Georgian architecture is at odds with the appearance of the technology.

Council Member Wiltout asked if the feelings about residential were the same as the feeling about commercial, for example a bank or a school, particularly if solar power can be stored.

Board Member Maletz agreed that the architectural standards for residential and commercial could be different.

Board Member Iten agreed that residential usage could be distinguished from commercial usage, and further that commercial could be distinguished into business park commercial and Georgian style commercial.

Planning Manager Mayer stated that this was a great conversation and as currently drafted, the recommendations were categorized such that usage for business were different than the recommendations for residential. He then began the discussion of application recommendations for residential usage.

Board Member Maletz stated that it would be interesting to study all the existing assets in New Albany and to know of those, how much and how significantly residential rooftops contribute. He was unsure what the return on investment would be for usage on residential rooftops and he was interested to know what the impact could be, energy-wise, in residential areas. If the energy capture is marginal, then it may not be worth installing solar panels.

Planner van der Zwaag stated that this process is about considering the balance between regulations and a property owner's right to place a solar panel on their property.

Board Member Iten stated that he didn't know whether a property owner has a right to a solar panel, the important thing is that all property owners are treated equally.

Board Member Maletz asked whether it is possible to do a rooftop energy study, that data would greatly inform this conversation.

Council Member Wiltout stated that she was sure it was and wondered when would be the appropriate time, would it be now or in 2025.

Board Member Maletz said he was open to calibrating it to the most appropriate time.

Planner van der Zwaag responded that the data was not presently ready but was open to conducting an energy study.

Board Member Moore stated that if the study is conducted and we find that solar panels in residential areas are not feasible then perhaps it would still be feasible on the highway as a part of noise barriers, and that the energy could be stored. There are inspiring examples of such usage of solar panels along the roadway in Italy.

Planning Manager Mayer responded that it was definitely a consideration; he mentioned usage of retention basins and usage of parking lots, and agreed there were many opportunities. Even without doing a study, there is a lot of low-hanging fruit in the business park. In the business park there are many areas to place solar panels that are fully out of view of the public.

Board Member Iten stated that the city is not going to pay for it in the business park and further that, regarding the noise barriers, it is the state's duty to place solar panels on SR 161 and that the city would not probably be able to prevent or regulate usage on the highway.

Planner van der Zwaag asked what the board's thoughts were on ground-mounted solar in commercial areas.

Board Member Iten stated that he was indifferent overall. He asked whether plowing (of snow) could realistically take place under ground mounted solar panels in parking lots, and further what would happen to the snow that collected on top of the solar panels.

Board Member Maletz stated that he was ambivalent and stated that this was a question of best and highest usage. He commented that usage could result in density voids and wondered whether the market would dictate.

Council Member Wiltout added that this could be similar to the market evolution for Direct TV.

Board Member Iten further observed that if a company in the business park, such as Intel, installed them on property screening mounds, that would be fine.

Board Member Maletz wondered whether this is a dead-end technology. And remarked that, if so, it may be difficult to take down.

Planning Manager Mayer thought those were great comments and stated that staff could look into how other communities have addressed this issue.

Board Member Iten observed that we need to be careful about passing design guidelines or making recommendations that are in conflict with deed covenants and HOA design requirements.

Planning Manager Mayer agreed and stated that existing rules and covenants would certainly be taken into consideration in the drafting of proposed code updates regarding usage of solar.

Board Member Iten stated that we could encourage this with schools and commercial structures but we still do not want them to be unattractive.

Planning Manager Mayer asked the board what their thoughts would be if their neighbor had a ground-mounted solar panel. Should ground-mounted solar go before a board or commission? He continued that the board could feel free to consider the hypothetical and get back to him.

Board Member Maletz responded that he thinks there is a way to develop criteria, but (candidly) it does not appear to be in the current draft application recommendations. He stated that he thought that each might need to be reviewed subjectively.

Board Member Iten responded that he thinks objective standards are possible but it is up to council to provide the standards.

Planning Manager Mayer said that the aim of the meeting was to conduct a focus-group type of discussion and welcomed guidance from the board.

Planner van der Zwaag said that she planned to have these discussions with multiple boards.

Board Member Iten stated, regarding accessory structures, that he did not think it was possible in the country club communities to have accessory structures.

Board Member Maletz explained that some accessory structures were permitted.

Planning Manager Mayer said that the city had already loosened the code in order to permit some detached accessory structures.

Board Member Maletz asked whether it would be possible, as part of permitting criteria, to require that new structures be designed with solar in mind. He acknowledged that this would not apply to retrofitting, however, basic criteria could be established at the conceptual and design phase. He recommended that approach if possible.

Planner van der Zwaag stated that she thought it was part of the solar- ready recommendations.

Board Member Moore raised that ground mounted panels could still be visible from a second story window, even if there was adequate screening on the ground level. She observed there could be complexity with appropriate screening that does not obscure and diminish the effectiveness of the solar panel.

Board Member Strahler agreed and stated that there needed to be the appropriate amount of setback and screening while maintaining the panel's ability to capture solar rays.

Board Member Iten observed that depending on the setback there is probably not enough room in a typical residential setting.

Board Member Strahler stated that rules needed to be put in place because usage of solar panels is imminent. He recalled when satellite dishes became available and were marketed to consumers. First there was a prohibition on their usage, then a rule was passed requiring screening as a condition of installation and usage.

Board Member Iten stated he was hopeful that staff had gotten enough high-level comments and overall flavor of the board's view.

Planning Manager Mayer asked the board to review the Village Center recommendations.

Regarding V.1, "Highly encourage the use of building-integrated solar as the preferred solar energy application in the Village Center."

Board Member Iten suggested and the board agreed that the word "encourage," should be changed to "allow."

Planning Manager Mayer stated there were many unknowns at this time.

Regarding V.2, "Give preference to flat-roof installations over pitched-roof installations, and require that pitched-roof installations be fully concealed from public right of way."

Planning Manager Mayer confirmed that the board preferred flat-roofed installations.

Regarding V.3, "Using similar regulations for pitched and flat-roof installations as those outlined in the residential and commercial best practices."

The board agreed with this recommendation as edited by their conversation.

Regarding V.4, "As solar technology evolves, continue to monitor new technologies and analyze whether these can be integrated into the Village Center."

The board recommended that the website be updated as technology changes to provide more resources.

Planning Manager Mayer asked whether the initial regulation approach should be more liberal or conservative as we learn more.

Board Member Iten advised that the recommendations for residential and the Village Center should err on the side of conservative, on the theory that a more liberal approach could be adopted later.

Planner van der Zwaag asked the board whether, regarding the 4-sided architecture in residential, it was all or nothing.

Board Member Maletz responded that allowance of usage of the panel should not be contingent on whether it is visible from the public right of way. There are examples of designs that would turn the panels inward such that they are inconspicuous. The design should be acceptable on any side and felt confident it could be done.

Chair Hinson acknowledged usage of exceptions on isolated sites in the Village Center and in residential, but recommended the city find a design that was not disruptive.

Planner van der Zwaag thanked the board and stated that she could send out the presentation slides.

Board Member Iten remarked that the board had the luxury of an excellent staff.

Planning Manager Mayer thanked the board.

VII. Poll members for comment.

Chair Hinson asked if there were further comments from the board. There was no response.

VIII. Adjourn

Having no more business to discuss, Chair Hinson asked whether there was a motion to adjourn.

Board Member Maletz moved to adjourn. Board Member Moore seconded the motion.

Upon roll call: Mr. Maletz, yes; Ms. Moore, yes; Mr. Strahler, yes; Mr. Hinson, yes; Mr. Iten, yes. Having 5 yes votes, the meeting was adjourned at 8:01 p.m.

Submitted by Christina Madriguera, Deputy Clerk.