

RENEWABLE ENERGY SEMINAR

January 31, 2011

Warren County

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1. Statutory Changes.

a. Definition of Inherently Beneficial Use amended (N.J.S.A. 40:55D-4) now includes wind, solar or voltaic energy facility or structure.

1. Analyze impact of Inherently Beneficial status of such applications.

- SICA balancing test.
 - Identify the public interest at stake
 - Identify the detrimental effects that would ensue from the grant of the variance
 - Determine whether it can reduce the detrimental effect by imposing reasonable conditions
 - Weigh the positive and negative, that is the public interest versus the public detriment and determine whether on balance the grant of the variance would cause a substantial detriment to the public good.

2. Solar Panels and Impervious Coverage (N.J.S.A. 40:55D-38.1).

- Panels are not to be included in the calculations for impervious surface or impervious coverage.
 - Impact on site plans.

3. Limitations on Ordinances for Solar Energy.

- Blanket prohibitions of solar panels are rejected on residential property.
- Ordinances may control such panels on residential facilities, but may not exceed these standards.
- Equipment does not extend more than 12 inches beyond the edge of a roof line or 12 inches above the highest point of a roof.

- Surface level or ground mounted panels consisting of no more than 10 panels and situated more than 50 feet from the property line.
- Indicates municipalities may adopt ordinances regulating installation of on-residential property that do not meet the standards but they are subject to variance from any ordinance.
- The Municipal ordinance may not require payment of any fee that exceeds the municipality's processing cost.

4. Wind and Energy Statute (N.J.S.A. 40:55D-66.12).

- Limits municipality's ability to regulate small wind energy systems as follows:
 1. Prohibiting them in all districts
 2. Restricting tower height or system height through generic ordinance that does not specifically address allowable tower height for small wind energy system.
 3. Requiring a setback on property lines that is greater than 150% of the system height.
 4. Setting noise level limits lower than 55 decibels measured at the property line.
 5. Setting electrical or structural design criteria that exceed State Uniform Construction Code.
- Small wind energy systems are defined as wind energy conversion systems consisting of wind turbine, a tower and associated control or conversion electronics which has a rated capacity consistent with applicable provisions of the State Uniform Code and which are used primarily for on-site consumption.
- Other bill dealing with solar energy.
 - S2429/A3208 requires the incorporation of solar panels in the design and construction of new public school facilities.
 - S2499/A3616 encourages purchase of New Jersey solar panels and wind turbines for state projects and state funded projects.