



## Milwaukee Historic Preservation Commission Staff Report

LIVING WITH HISTORY

**HPC meeting date: 11/4/2019**  
**Ald. Nik Kovac Dist. # 3**  
**Staff reviewer: Carlen Hatala**  
**PTS# 114594 CCF #191022**

**Property** 2581 N. Terrace Ave. North Point North Historic District

**Owner/Applicant** Susan LaBudde  
2581 N. Terrace Avenue  
Milwaukee, WI 53211

### Proposal

The applicant appeared before the HPC on September 4, 2018 for retroactive approval for the installation of four solatubes on her roof. The HPC approved the solatube on the rear roof slope but denied the two solatubes on the north roof slope and the one on the front roof slope.

The applicant appealed the decision but on October 9, 2018 ZND upheld the HPC's decision.

The applicant has since removed one solatube, the one on the front slope of the roof.

She has now asked the HPC to reconsider their decision so that she can keep her solatubes and re-install the one on the front roof slope. She has supplied information that she believes the HPC had not considered previously. She further argues that the state statute overrules the HPC's prior decision.

The applicant has cited a 2001 court decision pertaining to a wind energy system in Mequon as being applicable to this COA application. However, the Milwaukee City Attorney has since issued an opinion based on a 2009 Calumet County case involving a wind energy system. The Milwaukee City Attorney's 2013 opinion cited that the Milwaukee Historic Preservation Commission has the ability to make determinations within the three conditions listed in the statute. See below.

## Staff comments

Solatubes are a form of daylighting that passively directs sunlight (through a domed structure) to an interior space through a series of metal tubes. On the interior the sun light is directed through a ceiling fixture. By its very design, the solatube is intended for rooftops and is not for ground mounting.

Unlike photovoltaic cells installed as groups, each solatube is an independent unit and not connected to the residential property's electrical system or the power grid.

Its one electronic feature is a small photovoltaic panel that stores solar energy and emits a soft glow like a nightlight to the ceiling fixture. This can be compared to the small cells in sidewalk path lights that collect sunlight and glow after dark without any connection to a home's electrical system.

Section 66.0401m Wis Stats., refers to solar systems and wind systems but does not indicate whether solatubes are or are not solar energy systems. However, after review, it was determined by the Office of the City Attorney that the solatubes are a type of solar energy system under the statute

Under state law, the city does not have the ability to reject a solar energy system entirely. Restrictions on systems are allowable as long as they are considered case-by-case, do not establish a policy, and meet one of the following criteria:

- (a) Serves to preserve or protect the public health or safety
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

Efficiency is primarily a function of the components of the system. The statute gives no direction on how to define efficiency. If any one of the above conditions can be met, the requirements of Milwaukee's Historic Preservation Ordinance still apply.

The North Point North Historic District guidelines do address the installation / construction of rooftop elements. To quote:

*Retain original roof shape. Dormers, skylights, and solar collector panels may be added to roof surfaces if they do not visually intrude upon those elevations visible from the public right of way. Avoid making changes to the roof shape that would alter the building height, roofline, and pitch or gable orientation.*

The rear solatube was approved by the HPC on September 4, 2018 as it was not visible from the street.

The front solatube was denied by the HPC in 2018 and was subsequently removed. The applicant wants to re-install this solatube.

The two solatubes on the north roof slope were likewise denied on the basis of their visibility.

Since each solatube is a separate system, and the HPC has approved one of them, staff believes it has fulfilled its obligation under the statute to approve a system.

Had the applicant and the installer met with the HP staff before the installation, perhaps an alternative solution could have been found. It seems probable that the efficiency of each solatube would have remained the same and the cost would have remained the same if all of them had been installed on the rear roof slope. (Statute criteria B and C)

**Recommendation**

Stand by prior decision.

Approve of solatube at rear roof slope as was determined previously.

Deny request to reinstall solatube at front roof slope.

Deny the two solatubes on the north roof slope.

**Conditions**

Should the HPC approve the solatubes, any motion should include the language that future applications for solar energy devices/equipment will be decided on a case by case basis, based on provisions of 66.0401, Wis. Stats.

**Previous HPC action****Previous Council action**