



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes

ZONING CODE TECHNICAL COMMITTEE

TEODROS MEDHIN, CHAIR

Stuart Mukamal, Ed Richardson, and Michael Mannan

Staff Assistant, Chris Lee, 286-2232

Fax: 286-3456, clee@milwaukee.gov

Legislative Liaison, Ted Medhin, 286-8680,

tmedhi@milwaukee.gov

Wednesday, November 1, 2017

2:30 PM

Room 301-B, Third Floor, City Hall

Meeting convened at 2:31 p.m.

Present 4 - Medhin, Mukamal, Richardson and Mannan

1. [170926](#) A substitute ordinance relating to solar panel array installation.

Sponsors: Ald. Zielinski

Individuals appearing:

Ald. Tony Zielinski, 14th Aldermanic District

David Rhodes, DNS Development Center

Ald. Zielinski said that the proposed ordinance originated in response to a constituent having an issue with a neighbor erecting a structure that obstructs sunlight from reaching the constituent's solar panels, will protect environmental efforts, and protect property owners with solar panels from sunlight obstruction.

Mr. Richardson said that the proposed ordinance is not consistent with the format of the zoning code and is not administratively efficient. Placing a maximum height restriction on a building, with an adjacent property that has an existing solar array, in table 295-505-2 (Principal Building Design Standards) is not appropriate and has not been done before. As it currently stands, the proposed ordinance does not and should not apply to multifamily and commercial districts, which have higher height limits. The proposed ordinance is difficult to read and does not address accessory structures like garages. The proposed ordinance would cause a burden to acquire additional staff and equipment to measure 75% of daylight hours. Plan examiners would have a tracking issue to identify all locations with a solar energy system, which would create another level of bureaucracy. The Environmental Collaboration Office is only aware of two cases in Wisconsin of the obstruction of shade on a property with a solar array. Section 700.41 of the Wisconsin Statutes allows an owner of a solar energy system to receive damages and court costs from someone taking away his or her solar shade. He is not aware of any other community with this type of legislation. Vegetation, another cause of interference, should be included in the legislation.

Mr. Mannan said that it would be difficult to track the number of solar installations and permits in the city. Another burden would be identifying adjacent buildings with solar equipment installations for every building being erected.

Atty. Mukamal said that there are also some legal problems. The problem is more of

a building code issue and should be addressed in the building code instead of the zoning code. The issue is not a property regulation. The Board of Zoning Appeals is not an appropriate agency to review issues of this type. The wording of the proposed ordinance is vague with respect to definition of the terms "overshadow" and the standard "middle 75% of daylight hours". Time shifts every day. The proposed ordinance cannot require an alteration of an existing building and cannot apply to an existing building in the city. There are two state statutes that should be explored, Wis. Stats. Sections 66.0401 and 66.0403. Section 66.0401 contain solar collector regulation within certain parameters. Sec. 66.0403 deals with the granting of municipal permits that give rights to property owners against impermissible interference with a solar collector system. Resolution of this issue is through private adjudication, enforcement, and litigation. The proposed ordinance should be altered to be less vague, consider private enforcement, and taken out of the zoning code. There is nothing to preclude this type of regulation. The City website has links to information on solar equipment and State legislation.

Atty. Mukamal inquired about the City having a solar anti-interference permit process.

Mr. Rhodes commented. His office did advise the particular constituent in question about the right to pursue civil litigation. The Development Center offers solar panel installation permits but does not have an anti-interference permit.

Ald. Zielinski commented. He will research on how to proceed legislatively and how other communities are implementing this type of provision. There should be due diligence to have households with solar panels register to enable tracking of them. He will also pursue legislation to acquire a solar anti-interference permitting process for the City. Absent new legislation, people can be referred to the State statutes for civil action.

Ald. Zielinski asked that written information be given to him from members to assist him to proceed further legislatively.

Members said that a new legislative file on protecting solar panel from sunlight interference should be pursued, the proposed ordinance be placed on file, and legislation on permitting solar anti-interference be pursued.

Mr. Richardson moved that the proposed ordinance does not meet the criteria for administrative efficiency, consistency with the format of the zoning code, and has serious questions pertaining to legality and enforceability. There were no objections.

Meeting adjourned at 2:58 p.m.

**Chris Lee, Staff Assistant
Council Records Section
City Clerk's Office**