

Agenda
Tolland Green Historic District Commission
21 Tolland Green, Tolland, Connecticut
Wednesday, May 15, 2024 at 7:00 p.m., via Zoom
Remote Participation Only

1. Call to Order

2. Seating of Alternate(s)

3. Additions to Agenda

4. Public Comment - Any person wishing to ask a question, make a comment or put forward a suggestion for any item or matter other than a public hearing item (2 minute limit).

5. Public Hearing

- 5.1. **HDC #24-04 Certificate of Appropriateness**- Request to remove old siding and replace with cedar clapboard siding at 34 Tolland Green

6. New Business

- 6.1. Consideration of the COA at 34 Tolland Green by the Commission, and vote thereon

7. Old Business

8. Correspondence

9. Approval of Minutes – April 17, 2024 Regular Meeting

10. Adjournment

To join the Zoom meeting, either click:

<https://us06web.zoom.us/j/88197542716?pwd=1rMG0WZ2NX2vd6abgUZ5QHz7Pse6bg.1>

One tap mobile: +13092053325,,,88197542716#,,,*05152024# US

Or call: 1-646-876-9923 and input:

Meeting ID: 881 9754 2716

Passcode: 05152024

Agenda Item

5.1

**Legal Notice
Public Hearing**

Tolland Green Historic District Commission

The Tolland Green Historic District Commission will hold a Public Hearing on Wednesday, May 15, 2024, commencing at 7:00 p.m., to hear and discuss the following:

34 Tolland Green – Request to remove the old siding and replace with cedar clapboard wooden siding.

A copy of these applications are on file and available for review online:

<https://www.tollandct.gov/historic-district-commission/pages/applications-pending>

To be advertised twice in the Journal Inquirer: Thursday, May 2, 2024 and
Tuesday, May 7, 2024



TOLLAND GREEN HISTORIC DISTRICT COMMISSION
Application for a Certification of Appropriateness

Property Information

Property Address: 34 Tolland Green, Tolland CT 06084
Property Owner: Debra H. Sanders
Phone Number: [REDACTED]

Applicant Information

Applicant Name: Debra H. Sanders
Applicant Address: 34 Tolland Green, Tolland CT 06084
Phone Number: [REDACTED] Email Address: [REDACTED]

Project Information

Type of Building: Residence
Nature and description of work to be done as it affects exterior appearance. Attach appropriate drawing or plans giving the position of the house or structure on the site, ground plan of house with proposed addition, and all pertinent elevations showing size and style of windows, dormers, doors, exterior wall finishes, roofing material, chimneys, vents and ornamentation. (If more space needed, attach sheet to application.)

Remove old siding and replace with cedar clapboard
wooden siding. House was previously clapboard.
Replace trim around windows and install new corner
boards - cedar. Color will remain white. 5" exposure.
Smooth side will be visible.

Estimated Start and Completion Dates: - no date set. Will take 2 weeks
Start: _____ Complete: _____

1. Attach a photograph of the existing structure or place to be changed as viewed from the street showing that portion of the structure to be altered, together with a drawing of the proposed alteration or change.
2. Application fee of \$75.00 must accompany application (make checks payable to Town of Tolland).
3. Application form, fee, plans, photograph and drawing must be submitted to Planning & Building Department. Public Hearings will be scheduled within not more than sixty-five days after the filing of an application.

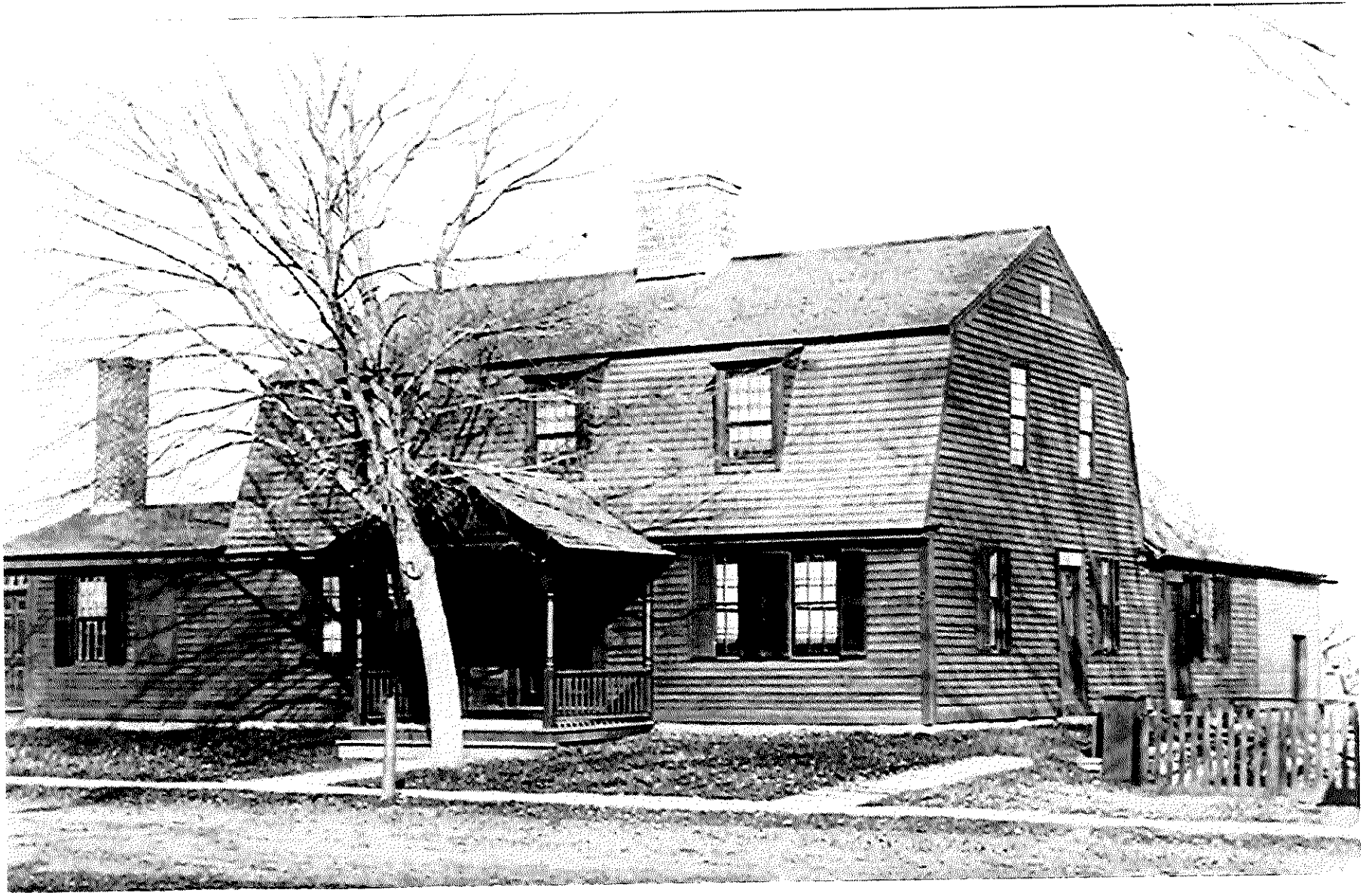
Certificate of Appropriateness will expire 1 year from date of approval.

APR 22 2024

This application form and all accompanying plans and materials are accurate and complete:

Applicant Signature: Debra H. Sanders Date: 4-18-24
Property Owner Signature: Debra H. Sanders Date: 4-18-24

| | |
|--|-----------------------------------|
| Received & Fee Paid: <u>[REDACTED]</u> | Hearing Scheduled: <u>5/15/24</u> |
| Hearing Advertised: <u>5/2/24 + 5/7/24</u> | Action: _____ |
| Notice of Action to Applicant: _____ | HDC Due Date: <u>6/26/24</u> |









Agenda Item 9

**Regular Meeting Minutes
Tolland Green Historic District Commission
21 Tolland Green, Tolland, Connecticut
Wednesday April 17, 2024 at 7:00 PM via Zoom
Remote Participation Only**

Note: audio and video recordings of the meeting are available on the Town web site

1. Call to order at 7:07 PM

Roll Call:

Members: Jodie Coleman-Marzialo (Chair); Celeste Senechal (Vice Chair); Kathy Bach; Ann Deegan; Frederick Day-Lewis (clerk)

Alternate: John Hughes

Tolland Building Inspector: James Paquin

Guests: Carl Landolina (attorney); Kevin Thompson (United Congregational Church of Tolland, UCCT); Dory Famiglietti, Attorney (Kahan, Karensky and Capossela, representing the UCCT); Jan Rubino; Bruce Mayer; Bailey Brenn (UCCT); Christopher Lewis; Melissa Sewell; Linda Calabrese; Cathy Wilcox; Liz Gray

2. Seating of alternates

F. Day-Lewis recused himself for the hearing and consideration of *HDC #24-02*, saying he had written a letter of support prior to his appointment to the Historic District Commission (HDC), this letter is in the packet, and it might appear as prejudgment or bias in regard to the COA application. Where HDC members should not interact with the public or applicants prior to hearings, he felt recusal was appropriate. He said he would still serve as clerk if there were no objections, stating he believed he could do so in an unbiased manner.

J. Hughes was seated as a voting member, replacing F. Day-Lewis solely for *HDC #24-02*.

3. Additions to agenda

J. Coleman-Marzialo suggested moving item *Discussion with counsel regarding legal and procedural questions*, earlier in the agenda, to precede the public hearing for *HDC #24-02*. This change would relieve Attorney Landolina of staying for the entire meeting.

Motion: To move agenda item 6.1 to 4.1.

By: A. Deegan; 2nd F. Day-Lewis

4. Public comment

None.

4.1. Discussion with counsel regarding legal and procedural questions

J. Coleman-Marzialo introduced Attorney Landolina, who is representing the HDC in a legal matter and was present tonight to answer some questions posed by the HDC; these questions were submitted by the HDC to town manager Brian Foley who then forwarded them to Attorney Landolina.

J. Coleman-Marzialo said the first question arose in the last regular meeting and pertained to whether an applicant with an open and active COA and apply for a second COA.

Attorney Landolina read the first question: In your opinion, can an applicant apply for a COA when they currently have an approved and active COA for the same thing. In other words, is the HDC obligated to hold another hearing if the applicant changed their design several months later. Should the applicant withdraw the approved COA before submitting the new one? Should the HDC deactivate the approved COA?

Attorney Landolina explained that when a COA is approved it becomes a property right in favor of the applicant. The HDC cannot deactivate or take it away. For example, if a window layout were approved and the applicant came back asking for a change, the applicant has the right to have that change considered. He said that if the new application were not approved, the applicant would still have the right to act under the previous approval. The HDC cannot take that away. He gave another hypothetical example, where an application was approved to install a feature on the left side of a building. Later the applicant came back with a new application to put the feature on the right side. He said the HDC would have the right, in considering the new application, to ask if the feature was being relocated in the design or, rather, if it would be added on both sides of the building. He said the new application could be considered in light of this information. He said the HDC could ask the applicant if the second application were 'in addition to' or 'instead of' and could be judged accordingly. He said the HDC could condition the new COA appropriately. J. Coleman-Marzialo asked about language for applying such a condition in a COA, and terminology of 'superseding' was suggested.

Attorney Landolina read the second question: Is a COA considered active/open while under an appeal or lawsuit? He said in general, Yes. He said if someone with standing appealed an approved COA, the applicant would have the right to act on the COA unless a court put a stay on the approval. He said the applicant could make changes to their property in the absence of stay, but at risk of the court could require them to change back to the state of the property before the COA was approved. As another hypothetical scenario, he said if the HDC gave someone a COA and the applicant did not like conditions on the COA, the applicant would have the right to act on the permit. The HDC would have the right to ask the court to order a stay on the approval during the appeal.

Attorney Landolina read the third question: Should a COA application be considered based only on information provided by the applicant? He said No, not necessarily. There is input in public hearings. The HDC is the finder of fact and can consider credibility issues, weigh expert testimony, and make the call on whose testimony carries more weight. He said no HDC members come with closed minds but rather come with opinions. But he said the HDC has to follow the law, and if members use what they know personally—as members of the community or knowledge the public might not have—they still must hold a fundamentally fair hearing. During

the public hearing process, information or expertise must be communicated. Information that the HDC relies on should be shared during the public hearing. He gave a hypothetical example in which an HDC member had expert knowledge of window construction and pricing. He said information used in decisions needs to be in the public record. In general, the burden is on the applicant to make their case. The HDC's role is to determine if the applicant has met that burden and is entitled to the COA based on the state statutes and other guiding information at the HDC's disposal.

Attorney Landolina read the fourth question: Can an active member of the HDC file a lawsuit/appeal against the HDC and still remain an active member? Should this be considered a conflict of interest? To the first part of the question he answered, Yes, a member of the HDC who applies for a COA and receives an adverse decision or disagrees with conditions placed on an approved COA does not lose their rights as a citizen of the town or as property owner in the district. The HDC member has the right to appeal. That would not be a basis for removal. Nor would it be a COI. The person has rights as a HDC member and rights as a property owner in the HD.

Attorney Landolina read the fifth question: Can the HDC choose its own attorney instead of the Town when it is not the town attorney, i.e., if the town attorney has indicated to us that he cannot be part of a proceeding or in a matter where there's a controversial application and the town attorney is unavailable. He answered Yes, to the extent funds are available and approval is obtained from whomever needs to approve. He said he felt the HDC should have a role in choosing its representation.

Attorney Landolina read the first of the next batch of eight questions: When there is a dispute between or among neighbors about an application is it better for the HDC to work out a reasonable compromise solution, even if it is a reduction in number of solar panels, or is it better to deny the COA outright and have the applicant come back? He said the HDC is not an arbiter, but rather a finder of fact and maker of decisions. It's not the HDC's role to find a compromise in a dispute between neighbors. As for denying the COA outright, he said No, even if there are objections to the application, the HDC needs to go by state statutes and other documents that give the HDC authority guide decisions. Public opposition to an application is not binding on the HDC. The HDC doesn't make decisions based on the public's votes or ask for a show of hands. It's nice when people agree but it's not your job to make sure they do. If someone is entitled to a COA, the objections of one or two neighbors—or even everyone else in the District—shouldn't in general be weighed.

Attorney Landolina read the next question: When working with an applicant toward an amicable solution when there is a disputed application, what is the legally accepted reduced range of energy that can be granted to the applicant to make a working solution? For example, can a COA go as low as 75%? He said it's not the HDC's job to come to an amicable solution but rather to be the finder of fact and decide whether standards and statutes are complied with. He questioned the term 'disputed application' and said none of the applications coming before the HDC should be disputed by the HDC members. The HDC can't take a position until after the public hearing is closed, and then it looks at the evidence and makes a decision based on the evidence. You don't dispute the applicant along the way. With regard to objections from neighbors, those can be

considered if their reasons are relevant under the statutes and guidelines. As for acceptable reduced range, there's nothing in the statute about this. If someone wants 90% or 100% of their energy covered by panels, that's what they're asking for. He said the statute states that the HDC cannot put stipulations or conditions on a solar application that significantly impair its effectiveness. What that means is not clear. He didn't think it was up to a court to come up with a number on production, that would be the purview of the legislature. It is a judgment call. He said he was unaware of relevant court cases in the state of CT.

Attorney Landolina read the next question: How does the Town communicate and enforce that there can be no sale of electricity or income from electricity from solar panels in the VCZ. He asked for clarification of where the VCZ is relative to the HDC. J. Coleman-Marzialo clarified the HDC is inside the VCZ. He said the HDC has no jurisdiction outside the HDC but could take a position as a commission and write a letter. It seems to him that this is controlled by zoning regulations. He said he's not familiar with the relevant zoning and regulations in Tolland. He said commercial solar farms are generally controlled by the state.

Attorney Landolina asked for clarification from the HDC regarding the next question: How would you advise the HDC handle the explanation between a standalone historic building vs. a building application? K. Bach explained that there are historic buildings outside the HDC and people in the town are confused, with applicants often pointing to examples of historic buildings that are not in the HDC. K. Bach said the HDC only handles buildings inside the HDC. Attorney Landolina said buildings outside the HDC don't require a COA from the HDC. They're outside the HDC. He said the HDC could take a commission position and write a letter to the arbiter of the process for those historic buildings outside the HDC. K. Bach said a standalone doesn't come under the same rules and guidelines. Attorney Landolina said it's a matter of education. Applicants might base arguments on historic houses outside the district and those examples may not be relevant. He said it's a matter of reminding people the HDC's jurisdiction is only the District and what's outside is not relevant.

Attorney Landolina read the next question: In your opinion is the HDC supposed to give more weighted consideration to an applicant of solar than to other residents of the HD? In other words, is the HDC supposed to rubber stamp solar applications based on the current political climate? He said No, nothing should be rubber stamped, everything has some standards. He said that the statute that has to do with solar says no application for a COA for an exterior architectural feature such as a solar energy system designed for utilization of renewable resources shall be denied unless the Commission finds the feature cannot be installed without substantially impairing the historic character and appearance of the district. He said this begs the question of whether this is intended to be a burdenship. Normally the burden would be on the applicant to prove they're entitled to a COA based on statues and standards. He said there were no cases to rely on, but the language might be interpreted to be putting the burden on the HDC. He said the next section of the language allows limits but still says 'shall not be denied.' He said the language has been around over 40 years. He said that the discussions and testimony in the legislature when the language was incorporated into the statute might be available. The legislative history for this might be useful to interpreting burdenship. He said he didn't have a clearcut answer. As for weight, he asked do you mean other applicants for non-solar COAs or other residents with feelings about solar on a particular building? He said if someone objects to

solar on a particular building, the HDC is still guided by the language in the statute. K. Bach asked if the public's opinion should be weighed. Attorney Landolina said if the public comment informed on the degradation of the district it could be weighed, but that the statute says the application cannot be disapproved unless it substantially impairs the character and appearance of the district.

Attorney Landolina read the next question: How many COAs can an applicant hold at one time? K. Bach said this has been asked and answered.

Attorney Landolina read the next question: How often can someone apply for a COA? K. Bach said this has been asked and answered. Attorney Landolina said there's no language in the statute that limits this. He said if an application is approved and the applicant comes back with a new application, votes should be the same as for the first. The law says you can't change your mind just because you want to.

Attorney Landolina read the next question: Can the HDC put a deadline on submission to our packets prior to meeting dates? He said many commissions do this, but the reality is the hearings are public, so new documents can be brought to the public hearings, and you have to take them in. He said you have 65 days to consider an application if you need to hold off on a decision. You can call special meetings as needed.

Attorney Landolina moved onto the first of the next batch of three questions: The first pertained to burden with solar applications and had been covered.

Attorney Landolina moved onto the next question: This question pertained to due process. He said there should be no communication between the HDC members while a public hearing is open. He said the HDC shouldn't be discussing anything before a public hearing is open. He cautioned about even two members meeting and referred to the FOI statute about illegal meetings. He said the Commission and Chair should not be reaching out to people to gain support for or against—that's inappropriate. People should get the public notice the way they do and come if they want. He said if someone is going out and doing that, they should recuse or not be on the Commission at all. It's not appropriate. J. Coleman-Marzialo asked about putting links on Facebook to upcoming meetings and said the e-blasts don't go out for the HDC, as they do for Planning and Zoning. She said the public notice is only online at the Journal Inquirer. Attorney Landolina said people can ask for agendas under the FOIA. He said the HDC could also establish a notice provision about neighbors of COAs or else require signage by changing regulations. J. Coleman-Marzialo mentioned a case where the Town let a notice be posted. Attorney Landolina cautioned about putting notices up for some applications but not others. J. Coleman-Marzialo asked about putting them up for cases with clear changes to appearance. Attorney Landolina said it should be for all or none. He suggested considering changes to regulations to require notification or signage, e.g., putting signs up on lawns about public hearings.

A. Deegan said applicants are allowed to advertise and look for people to agree or disagree but asked if commissioners should not? He said absolutely not. Commissioners would taint proceedings in doing so, and this would show a personal view prior to seeing the evidence. If you have a personal interest you shouldn't participate.

F. Day-Lewis asked to underscore the previous response, saying that it's totally inappropriate for commission members to solicit letters of opposition or speak about cases with the public.

Attorney Landolina moved onto the next question about prejudice and conflicts of interest. He told an anecdote about a wetlands commission meeting in another town and said two members of that commission were posting material on social media negative to the application. Both of those commissioners were asked to recuse themselves. Regarding conflicts of interest, he said even if there's an appearance of a conflict, you should recuse yourself. He suggested leaving the room when recused to avoid making eye contact or expressing an opinion non-verbally. As for prejudice and bias, he said that's harder—we come with opinions and aren't blank slates. He said if a commissioner feels that they have strong feelings about an application and can't be fair, that commissioner should not participate. He said if you have feelings but can put feelings aside, hear evidence, and vote accordingly under standards, that's fine. He said an applicant can also ask a commissioner to recuse based on their knowledge of that commissioner, e.g., past comments. The decision is up to the commissioner, but he advised the Chair should help guide that decision. He said unless you have a dying desire to participate, just step aside. He said if no one asks you to step down, they cannot later say that you should have recused.

Attorney Landolina said it was not his intent to give advice or counsel on anything before the HDC tonight but rather provide general information in response to the questions posed.

5. Public Hearing(s)

The public hearing for *HDC #24-02* was opened in the March regular meeting, and the Public Notice for *HDC #24-02* appeared prior to that meeting in the Journal Inquirer; this notice is embedded in the meeting packet.

5.01 Testimony Received

J. Coleman-Marzialo referred to testimony received and confirmed the HDC had seen these materials.

5.1. HDC #24-02 Continuation of Certificate of Appropriateness- Request to install building mounted solar arrays.

J. Coleman-Marzialo asked about changes from the design in the March packet. Attorney Dory Famiglietti said she believed the design was the same but would defer to Kevin Thompson. J. Coleman-Marzialo said she counted 35 panels on the main roof and 102 altogether, and now counts 45 on the main roof and 121 in total.

Attorney Famiglietti said she was from Kahan, Karensky and Capocella representing the applicant. She said she wanted to pick up where Attorney Landolina left off on the topics of predisposition and bias. She said it was the right of the applicant to a fundamentally fair hearing and that involves commission members reviewing matters with an open mind, remaining impartial and non-judgmental during the proceeding. Public statements made indicating a pre-

conceived opinion have been found by courts as grounds for disqualification. She said while an applicant cannot compel a commissioner to recuse themselves, they can ask. She made a formal request that K. Bach recuse herself because of comments recorded in the minutes and audio recordings of the February and March HDC meetings clearly reflect that she morally opposes solar and stated that it is third-world inhumane. She said that reflects a clear bias against the application. The applicant feels her participation prejudices the applicant and negatively influences other members against the application.

K. Bach said she respects the request. She said she has a personal feeling about these things but that she didn't think it would affect her. She said if it would make the applicant more comfortable, she would recuse herself from the discussion and vote.

Attorney Famiglietti said she appreciated that K. Bach was willing to recuse, that it would make the applicant more comfortable. She sought clarification that recusal from the discussion meant all participation in the agenda item. K. Bach confirmed that this was her intent.

D. Famiglietti asked all other commission members for the record if they had solicited one or more comments in connection with this application and feel that they need to recuse themselves. She said she had no knowledge that any had.

J. Coleman-Marzialo, C. Senechal, A. Deegan, and J. Huges all answered No, they had not. Attorney Famiglietti said the applicant had no objection to the others sitting.

J. Paquin asked if an email soliciting a letter regarding a solar application qualified. J. Paquin said there was an email in the packet where a commission member did solicit an email from a resident (H. Barnas). J. Coleman-Marzialo said this was for 95 Tolland Green and did not say anything about the church. The exchange is embedded in the packet.

J. Hughes said it would be nice to clear up our participation and avoid more lawsuits. He wanted people to follow Attorney Landolina's legal advice.

K. Bach said she had recused herself even though she was entitled to her opinion. She said her personal feelings would not color her objectivity. She was doing this out of consideration for the application. As Attorney Landolina suggested, she wanted people to know in two meetings her feelings about sourcing and recycling of solar in response to others stating how solar was morally wonderful for the earth. She wanted people know that there was another side to the issue. She said she was perfectly willing to step aside but asked that others not get on a soap box.

A. Deegan asked for clarification about family members of commissioners—if they do Facebook or facilitation of writing in letters, is that ok? J. Coleman-Marzialo asked for comment from D. Famiglietti. Attorney Famiglietti said that in her experience and research, a husband, wife or sibling does not impute to the sitting member. But it's all fact-specific as to whether the member can be objective and not be unduly influenced by their spouse or whomever.

J. Coleman-Marzialo started to ask about the differences in design. Attorney Famiglietti asked to continue with her presentation. She spoke of the role of the Commission and the requirement that

it follow its rules and procedures, per the statutes and code of ordinances. She referred to Section 7-147f in the General Statutes, which state that “exterior architectural features such as solar energy systems shall not be denied unless the commission finds it cannot be installed without substantial impairment to the historic character and appearance of the district.” She put this in the context of the HDC code, Section 96-4, which defines an exterior architectural feature: “Exterior architectural features including such portions of the exterior of a structure that are open to view from the public street.” The code goes on to say that exterior architectural features on the side or rear of a building and only incidentally visible from the street are not open to public view. She said an exterior feature only incidentally visible is not in the HDC’s purview and does not require a COA. She said the HDC should therefore ask these two questions in order: (1) Are these solar panels even exterior architectural features; and, only if yes, (2) Is there a substantial—not modest or minor—but *substantial* impairment. She said that the only relevant visibility is from a public street, not a neighbor’s window or property.

K. Thompson provided an overview of the plan. He said a lot of work went into the new design, which does differ in that the new design has 100% black and non-reflective panels. The panel size is smaller than those in the last design, but the overall footprint is the same.

C. Senechal and A. Deegan asked for confirmation that the total coverage was the same as before, just with more but smaller panels. K. Thompson confirmed.

K. Thompson shared his screen and presented material included in the meeting packet. He thanked the HDC. He said the church feels it needs to look to new means of meeting its energy needs. He said the proposal is based on consideration of carbon footprint. He discussed other green-energy initiatives made by the church to reduce its carbon footprint. He spoke of the church’s role and work in the community. He summarized the various iterations of the designs presented to the HDC, going back to October 2023. The initial design presented in October would have cost \$144K, involved 60 panels on the main church roof, and had an 8-year payback period. The HDC called for a reduction in panels with fewer on the main roof. In November, a design was presented with panels moved to a ground-based array; however, it was later determined that this project would cost \$225K, with a payback period of 15 years. This was determined to be a non-viable investment. The design tonight is a compromise proposal with a reduction of 42% of the footprint on the main church. The new design has a 130 ft setback from the road to the first panels. The project cost is \$185K, with an 11-year payback. He said this approach would help continue the church and minimize impact on the HD. He showed graphics of the panels, as requested by the HDC Chair. He also showed that the panels will not be located on the historic part of the church, but rather on additions. He showed pictures of buildings with the panels to be used. He said the CT State Office of Historic Preservation (SHPO) approved the latest design. The panels would be only incidentally visible and would not substantially impair the district, while supporting the long-term continuation of the church and presence in the community. He requested approval for the COA and thanked the HDC.

Attorney Famiglietti said the design put panels on non-historic additions consistent with guidance from the National Trust for Historic Preservation and Department of Interior.

J. Coleman-Marzialo asked about approval from the SHPO and asked if there was documentation. K. Thompson explained the church had a grant for steeple restoration several years ago, and under the terms of the grant, the church is required to obtain approval from SHPO for architectural changes; this approval was obtained. He offered to forward emails showing approval.

A. Deegan pointed out that one of the historic houses he showed with solar panels was not in an historic district. She said she knows the statute says ‘substantial impairment’ but a house in Vernon on a busy street isn’t in her view the same as the church on Tolland Green.

J. Coleman-Marzialo said she’d seen that and other houses in the photos. She said one of the photos showed another Congregational church in Guilford. She also looked at the Salisbury church. She said we’re here for a COA. Is the roof a prominent feature? She said the DOI guidelines discuss prominent features and how the installation of panels on a roof could be inappropriate if the roof were prominent.

C. Cenechal asked about the names of parts of the church building and whether the east roof could work as well for solar as the west. She asked whether solar could be put on a flat section of roof. K. Thompson said this was the church’s best design. He said the flat roof had leak issues and would not work for solar.

J. Hughes commended the church for its efforts to mitigate the view from the street, which incurred considerable cost. He felt the church went above and beyond, investing \$40K more, to make it appeal.

C. Senechal asked about a section of roof over a side entrance and why this wasn’t used. K. Thompson said he had explored this with the solar company, but it wasn’t large enough. K. Thompson said this was the eighth design.

C. Senechal pointed to p. 30 in the packet and said the whole roof is exposed. She said it’s very visible. J. Coleman-Marzialo agreed and said the roof is a prominent feature and the public wouldn’t know what part of the structure was historic and what part addition—there’s no dividing line. She said the church was a meeting place and place where the community gathered, and it’s across from the jail, and next to the Board of Ed, which was a bank. She said in google maps there’s a picture from October with no leaves on the tree. She said there are no leaves from October into April, so for more than half the year there would be no leaves to provide screening. She said the solar panels are rated for 25-30 years. She didn’t think the tree would be there for another 25-30 years, and then there’d be no screening. She said because the roof is so tall compared to other structures on the Green, it’s extremely visible. It’s large, prominent, visible 100%. She asked why the east facing roof wasn’t utilized? She suggested moving panels to that section of roof.

K. Thompson said this was the eighth design iteration and this was their final compromise solution. He said the normal person driving by would see an incidental view, per the statute. Attorney Famiglietti said HDC members would look much more carefully than the typical person. When she drove by, she had to drive slowly and pull into the church’s parking lot to

really see where the panels would be. From the public street, it's not that visible. She said the roof is tall, not steep, and not as defining or prominent as the steeple. She said the panels would be black like the rest of the roof. She said it's up the Commission to decide if it's substantially impairing historic character. And before that, is it more than incidentally visible?

J. Rubino, 296 Weigold Rd., said she appreciated the legal opinions. She said she had listened to several months of meetings. She didn't feel the application had been fairly heard. She thanked K. Bach for recusing herself because she'd made moral judgments against solar. She said the Chair, who's not a solar engineer, continues to question the professionals to find another way to meet what she would like to see. She said this is not the role of the Commission. She said two members of the Commission were suing the town of Tolland and asked how these members could represent the HDC? It was beyond her. She said she was for this project.

Bruce Mayer said the UCCT is a great neighbor. He said the church was there over 300 years, long before the HDC. He said the church had done all they could to preserve the historical character of the Green. He said this plan is sensitive to historical nature. He said that as for the roof, it's covered in asphalt shingles, which have been around for about 100 years. He said asphalt shingles aren't historic.

Tonja Kelly, 64 Tolland Green, said she sees the church from her house. She said the roof is not a prominent feature, as are the front door and steeple. She said not accepting this would be undue hardship to the church. She said the church pays its bills through its members, and membership in mainline churches is decreasing. To preserve historic buildings, such as the church, we need to move into the 21st century. She said 20 years ago, when she was serving on the commission, she would not have approved solar, but we've come far. She wholeheartedly supports this. She asked the Commission to open their minds because they are looking for the faults when looking at a property.

C. Cenechal asked if the solar had a warranty for the color and working of the panels. K. Thompson said there was a 10-year warranty for performance, and this was satisfactory to the church.

J. Coleman-Marzialo asked if the mounting hardware was matte black. K. Thompson said if matte black was available, they would do that where visible. J. Coleman-Marzialo said minimizing shine is important, as asphalt is non-reflective and solar panels, being glass, are reflective. She said she has solar on a property and the panels are reflective. She asked if panels shown in the packet, which show reflections, are what will be used? K. Thompson confirmed they were, and some sheen may be seen at some time of day.

J. Coleman-Marzialo asked if the design engineer was present. K. Thompson said the solar company was not. The church deliberately did not ask them to be present, as they had spent considerable time through the eight design iterations and were finished redesigning.

J. Coleman-Marzialo asked about whether there were schematics showing how much sunlight different parts of the roof would receive, as she'd seen in other packets. She asked about sunlight received by various roofs. D. Famiglietti said the design was made in light of HDC concerns,

energy production needs, etc. J. Coleman-Marzialo said there were panels on the east side previously and wondered why that could not be done now? She suggested taking 10 panels off the main roof and moving them to the east-facing roof. J. Coleman-Marzialo referred to the DOI, State, and HDC guidelines about visibility. She said she had solar on a property, so perhaps she herself was biased for solar. She said the visibility here is overwhelming. There is no area that shows old and new. She understands the front of the church is the best prominent feature, but because there's such as distance to the next property, the visibility is more than it would be elsewhere where houses are closer together. Attorney Famiglietti said visibility from other properties is not relevant, only from the street. J. Coleman-Marzialo said that's what she was talking about. Approaching on the street from the south to the north, because there's a gap, the street view of the property is bigger, as shown on p. 30 of the packet.

Attorney Famiglietti asked K. Thompson about the width of a column of panels. The answer was 68 inches. D. Famiglietti said moving ~140 inches from one side to the other was not a substantial effect one way or the other. She said there will still be panels about 130 feet back from the road. She said removing that small amount of panels would put visibility elsewhere without substantially changing the original side. She suggested trusting that the designers are doing the best they could. J. Coleman-Marzialo suggested moving panels off the main roof would reduce visibility. She suggested moving two rows of panels. She asked about roofs at the back parking lot where 2 or 4 more panels might be fit. She suggested those panels would receive significant sun.

K. Thompson cautioned about trying to redesign the system based on photoshopped, google views. He had asked some of these questions and was told the design was constrained by building code or other requirements. He said this design is as good as it gets. He said the designers had done as well as they could.

Bailey Brenn said solar panel placement was constrained by the fact the church had two electrical meters and systems for different buildings. Moving panels between roofs could mean too little power production for one building or the other. He said the church had taken on considerable expense trenching to come in this compromise design, and some of the changes being suggested could require additional trenching. J. Coleman-Marzialo asked if the church could combine meters, if there would be advantage in this? B. Brenn said there had always been two meters, from before the HDC was formed.

Christopher Lewis said the amount of work that went in by Bailey, Kevin, and others amounted to thousands of man hours to redesign the system and satisfy the Commission; this was a problem in constrained optimization. He said to sit here now and try to negotiate the configuration doesn't make sense. That's already happened. The compromise put forth is \$40K more than the original compromise. This is a significant amount of the church's operating budget. He commended the team at UCCT, reinforced his support, and questioned why the specifics were still being renegotiated.

Melissa Sewell, 11 Elgin Drive, said she was concerned about the continued suggestions by the Chair as to where and how to place solar panels and manage electrical billing accounts. She said this was overstepping the role of the Commission and HDC, per Attorney Landolina's comments.

She said the church had received proposals and expert advice from professionals. She said the role of the Commission is to hear those facts and not make suggestions on things outside their purview, such as how many solar panels or where, particularly based on things that aren't fact, like "the east side of my house is warm," or I see a lot of sun there, so put some panels there. The church and professionals have put a lot of time and effort into this. She said she feels this discussion of negotiation is not the commission members job, neither here nor in the real world.

Linda Calabrese, 59 Tolland Green, said she walks to church and around the Green. She said if the solar panels were on the main building at the front, she might have been disappointed the first time she walked by, and then she'd have forgotten it. But she's thrilled the church has made this amazing accommodation of reconfiguring to minimize exposure from the street. She said the traffic is such that anyone looking for solar panels on any building, you're endangering yourself and other people—and likely to hit a house, as has happened! And if you're walking by, you had better look at the sidewalk which isn't safe. No one will see the panels except in a flash. But she said her opinion doesn't really matter compared to the letter of the Law, which you now know and need to heed.

Cathy Wilcox, 535 Old Stafford Rd., said there've been excellent points raised but we shouldn't try to fine tune something so much time has been put into. If we are going to keep historical buildings we need to ensure we can afford to keep them up. This is good for the planet and continues this historic building. It is 2024. Looking at the Green, you see signs, traffic lights, cars.... We need these things, they make sense, and so does solar. She's had solar since 2014 and is very happy with it. She thanked everyone who worked on this. She said there's been enough presented to say Yes, this is a good thing for the community.

Liz Costa, 54 Josiah Lane, said there's a saying that if you overengineer a problem you lose the solution. She said it also costs money. She said no one will see the panels when driving, and the sidewalks are so horrible people need to look down when walking. She said the church had done more than its due diligence and asking for more would be silly.

Attorney Famiglietti said we need to focus on the statute and ordinance. She said there's no question that the HDC can put stipulations and impose design modifications, but first you need to find there's a substantial impairment. She didn't see how the HDC could find this. The panels are black, 130 feet from the road, going over non-historic asphalt. She said the ordinance is clear that if it's only incidentally open to view, it is not even an exterior architectural feature. Arguably, if it were substantially visible, is it substantial impairment? She said she looked back at the legislative history around the language in the statute. The original bill would have removed solar from the jurisdiction of HDCs altogether. The compromise was to retain HDC review but only allow denial in extreme cases. She said her client was not open to modification and if the HDC sought to modify as condition of approval, her client would have the right to appeal. She hoped the HDC would find this application to be a compromise balancing the needs of the UCCT and preservation of the District.

J. Coleman-Marzialo asked for a motion to close the public hearing.

Motion: To move close the public hearing.

By: C. Cenechal; 2nd J. Hughes
In favor: J. Coleman-Marzialo, C. Cenechal, A. Deegan, J. Hughes
The motion passed unanimously.

5.1.1 Refer to Testimony Received (5.01)

J. Coleman-Marzialo noted the large number of people who came in support. She referred to testimony received, which included a letter from Tammy Nuccio. She read parts of that letter. She referred to the letter from Amanda Frost, which questioned the screening afforded by the tree in front of the church. She noted there were letters from neighbors on the Green and also letters of support in the packets from previous months.

J. Coleman-Marzialo asked for a motion to vote.

J. Hughes moved to approve the COA application as presented. C. Cenechal offered an amendment to the motion to reflect that this approval supersedes any other active COA to the UCCT regarding solar on record with the Town of Tolland. J. Hughes accepted the amendment and C. Cenechal seconded the motion.

Motion: To approve the COA application as presented, superseding any other active COA to the UCCT regarding solar on record with the Town of Tolland.

By: J. Hughes
2nd: C. Cenechal

A. Deegan said she feels this would represent a substantial impairment. She feels that solar panels do not belong in an historic district and the statute implies that substantial impairment to the character and appearance of the district is an opinion, just as it's an opinion when other people say it isn't a substantial impairment.

J. Coleman-Marzialo said she would like to amend the motion to utilize the east facing roof to reduce visibility.

J. Paquin called a point of order that a vote was underway.

A. Deegan said the applicant had already said they wouldn't accept modifications.

K. Bach and C. Senechal agreed that the motion on the floor required voting.

A. Deegan said she votes No.

K. Bach as a point of order commented that you need to specify 'and issue a COA' in the motion so they get the COA.

J. Hughes accepted the change and C. Cenechal seconded the change.

J. Coleman-Marzialo voted Yes but said she wished the east roof had been used more, as it had in the previous application. If it was good enough before, it should be good enough now, especially because of the tree. She said it would look like a billboard on the side of an 1800's church in the center of our district on a nationally registered building, in a nationally registered district, across from a nationally registered Green, on a state-designated scenic road.

Vote on the motion: To approve and issue a COA application as presented and issue the COA, superseding any other active COA to the UCCT regarding solar on record with the Town of Tolland.

In favor: J. Hughes, C. Cenechal, J. Coleman-Marzialo

Opposed: A. Deegan

The motion passed.

7. Other Business

J. Coleman-Marzialo discussed correspondence from 34 Tolland Green about replacing cedar shingles with clapboard, which had been there originally. She mentioned that the porch at 63 Tolland Green had similarly been restored to an earlier configuration. She asked if the conversion from cedar shingle to clapboard might be considered maintenance and not require a COA, as it's wood-for-wood and represents reversion to a more original state. K. Bach asked if we need a motion. J. Coleman-Marzialo clarified that this was for information not approval.

J. Coleman-Marzialo discussed correspondence from 88 Tolland Green about window replacement, completing the second floor and using Harvey windows with wood core. The first-floor windows were previously replaced with the same windows under a COA which has since expired. She asked if this should require a new COA. C. Senechal said if they had received a COA before, they should obtain another. There was discussion about maintenance vs. replacement with a different product than is there. F. Day-Lewis asked if there was a process around COAs, and J. Coleman-Marzialo said if a COA had been approved for the same thing, it might be possible to save time and expense. C. Senechal said we should be consistent and apply for the COA. If someone is replacing windows they need a COA.

A. Deegan asked if the original COA had covered these windows, and J. Coleman-Marzialo said that COA had expired.

F. Day-Lewis said liked the idea of reducing workload for the HDC and reducing expense and time for homeowners, but he asked J. Paquin about process in other towns--are there applications that circumvent the COA process? J. Paquin said in his opinion, if something needs a COA, then it needs a COA. Inconsistency would be a can of worms. A. Deegan agreed.

8. Old Business

8.1. Discuss COA application requirements

Motion: To table

By: K. Bach; 2nd: A. Deegan

Vote: Unanimous in favor
The motion passed.

9. Correspondence

As discussed above.

10. Approval of Minutes – February 21, 2024 Regular Meeting; March 20, 2024 Regular Meeting; and April 10, 2024 Special Meeting

HDC members thanked F. Day-Lewis for taking minutes and redlining the amendments as reflected in the packet. Corrections were briefly discussed.

Motion: To approve the minutes for February 21, 2024 Regular Meeting; March 20, 2024 Regular Meeting; and April 10, 2024 Special Meeting.

By: A. Deegan; 2nd: C. Cenechal

Vote: Unanimous in favor

The motion passed.

11. Adjournment

Motion: To adjourn at 9:55PM

By: C. Cenechal; 2nd: A. Deegan

Vote: Unanimous in favor

The motion passed.

Respectfully submitted,
Frederick Day-Lewis, Clerk

Amended Minutes
Tolland Green Historic District Commission
21 Tolland Green, Tolland, Connecticut
Wednesday March 20, 2024 at 7:00 PM via Zoom
Remote Participation Only

Note: audio and video recordings of the meeting are available on the Town web site

1. Call to order at 7:02 PM

Roll Call:

Members: Jodie Coleman-Marzialo (Chair); Celeste Senechal (Vice Chair); Ann Deegan; Kathy Bach; Frederick Day-Lewis (clerk)

Alternate: John Hughes

Tolland Building Inspector: James Paquin

Guests: Kevin Thompson (UCCT); Dory Famiglietti (Kahan, Karensky and Capossela); Heather and Matthew Ferretti; Denmar Lawrence; Marilu Medina; Liz Gray Costa; Susan Lucek-Hughes; Denis Deegan; Heather McCann; Bruce Mayer; Tonja Kelly

F. Day-Lewis recused himself from his role as a voting member for the matter of *HDC #24-02*, saying that he had written a letter of support for the applicant's previous application prior to being appointed to the Commission, and that letter was included in the current packet.

J. Hughes recused himself from his role as an alternate for the matter of *HDC #24-03*.

2. Seating of alternates

J. Hughes was seated for the meeting to vote on *HDC #24-02*.

3. Additions to agenda

None.

4. Public comment

None.

5. Public hearings

F. Day-Lewis read the Public Notice for *HDC #24-02* and *#24-03* as it appeared in the Journal Inquirer, where it ran 7-March 2024 and 14-March 2024; this notice was also posted in the meeting packet online.

5.01 Testimony received

Testimony was received and included in the meeting packet: (1) an emailed letter and attached article from Susan Lucek-Hughes to the Historic District Commission (HDC) and Town Council, and (2) an emailed letter from Holly Barnas; these are both appended to the minutes.

5.1.1. Reference to testimony received

The HDC members affirmed that they had seen the testimony received.

J. Coleman-Marzialo asked K. Thompson representing the UCCT to confirm that the UCCT would rescind their open, approved COA in order for another to be considered. J. Paquin asked for clarification as to whether withdrawal of the existing COA would be contingent on approval of the new application, i.e., HDC-02 would be evaluated as a revision to the approved COA. J. Paquin said it was unreasonable to expect the UCCT to relinquish an approved COA to be able to apply for another. There was discussion of whether the UCCT should be required to rescind a COA already granted. C. Senechal asked for a legal opinion, and J. Coleman-Marzialo said that she had reached out to an attorney but not heard back, and that she did not believe it was possible to apply for a second COA to be considered when one had been obtained already for the essentially the same purpose. J. Coleman-Marzialo said that she had reached out to multiple town HDCs or town planners and was unaware of instances of applications for COAs where a pre-existing COA was open. J. Paquin asked what the problem would be in considering the new application, given that the applicant would obviously not install two roof-mounted systems, the previous application was already approved, and the new design would not be implemented without approval of the HDC.

Motion: To open the public hearing

By: K. Bach; 2nd C. Senechal

The public hearing was opened.

Motion: To get a legal opinion about having previously accepted a COA on 45 Tolland Green and now getting a second request for a COA

By: K. Bach; 2nd C. Senechal

K. Thompson of the UCCT asked the UCCT's attorney, D. Famiglietti, to comment on the question of how to proceed. D. Famiglietti said that the HDC had the right obtain a legal opinion itself, but she said that in her own legal opinion no ordinance in the HDC's jurisdiction nor statute would require an applicant to rescind one application to apply for another. She agreed with J. Paquin that considering the new application would allow the applicant to go forward with either, if it were to be approved, and said that clearly the applicant could not go forward with both plans. She said she hoped that we could move forward tonight, but if the HDC wanted to consult its own attorney, then there would be no point in making the presentation tonight.

J. Coleman-Marzialo asked for a neutral opinion given that D. Famiglietti was representing the applicant. D. Famiglietti pointed out that J. Paquin, although not an attorney was a town official, and his opinion was consistent with her own.

J. Coleman-Marzialo said that she had reached out earlier to the state historic preservation office and was advised to get a legal opinion. She asked voting members and the seated alternate their opinions. C. Senechal preferred to wait for a legal opinion. K. Bach said that she was not comfortable working on the case in the meeting, and that she would not pass the application as-is. K. Bach said there were many legal issues to consider in addition to the double COA.

J. Hughes said it was his opinion that the new application was separate so did not see any conflict. He asked why the HDC could not act on the new application.

K. Bach said she had been asking for an attorney to go over a number of items, not limited to the application. She said she did not want to prejudice this application or the next until discussing some issues with an attorney. She asked for discussion with an attorney to avoid putting Town, HDC, or applicants at risk.

Motion: To table the application until the next scheduled meeting on 17-April.

By: J. Coleman-Marzialo; 2nd C. Senechal

In favor: J. Coleman-Marzialo; A. Deegan; C. Senechal; K. Bach

Against: J. Hughes

The motion passed.

J. Paquin pointed out that the application would be approved by default on 25-April if the HDC were not to act prior to that date.

K. Bach discussed a motion to obtain legal counsel on a number of questions that have been coming up in discussions—a broader scope of issues that might require executive session.

J. Paquin said such a motion would be better under New Business. He said he could not guarantee access to the attorney.

K. Thompson asked about the recusal of church members and whether K. Bach, as a church member, would be involved in this matter. K. Bach said she had not been active in the church for the past year.

5.2. HDC #24-03 Certificate of Appropriateness- Request to install building-mounted solar arrays.

5.2.1. Reference to testimony received (see 5.1.1)

J. Coleman-Marzialo noted the change in voting members, with F. Day-Lewis voting and J. Hughes recusing himself.

Motion: To open the public hearing on HDC#24-03 for a COA

By: K. Bach; 2nd F. Day-Lewis

The public hearing was opened.

J. Hughes thanked the HDC for its time and presented the COA application for installation of roof-mounted solar panels. He said that his contractor redesigned the system previously presented, moving panels to the back roof, which will cost him more but reduce visibility of the panels from the street. J. Hughes referred the HDC to the state statutes and said the statutes are clear that the HDC cannot disallow solar because of members' moral objections, neighbors not liking them, or otherwise thinking solar is a bad idea. He said the state law allows solar. He has tried to reduce the visibility from the street and does not feel the design would significantly affect the historic district (HD), which already has solar panels elsewhere. He said the configuration would be minimally visible from the street.

J. Coleman-Marzialo asked a series of questions about the number of panels and whether the three panels nearest the road could also be moved. J. Hughes said that he had moved as many panels as possible to the back of the house.

D. Lawrence, representing the solar contractor, said that they moved 9 panels to the back roof, as many as possible, and reoriented panels all to be in landscape orientation.

J. Coleman-Marzialo said she had done research on solar, visiting other HDs with settings and houses similar to Tolland, where historic properties have character-defining features. She said we are here to decide whether this installation would substantially impair the historic character and appearance of the property and district as a whole. She said that the HDC's charge is to preserve the integrity and character of the Green and its properties as defined in the HDC's guidelines and the DOI's guidelines. She said she appreciated that panels were being relocated to the back of the property.

J. Coleman-Marzialo said that she had visited the solar company Earthlink. Based on her research, she said the average person looks for 70% of their electric use from solar. She said the applicant in the previous meeting said his average bill was about \$500, which she thought high for the size of the house. Her own electric bill is less yet she has old appliances, displays abundant lights at Christmas. She asked if the applicant was looking for 90% offset.

J. Hughes confirmed his goal of achieving 90% offset from solar. He said he and his family have needs for which he should not be faulted. He would prefer 100% offset, but that would result in too much visibility from the road. He said the new plan achieves minimal visibility from the road and whether he aims for 70, 80, or 90% should not matter to the HDC.

F. Day-Lewis said electricity usage depends strongly on the type of water heater, heating system, A/C, etc., explaining variability between residences aside from discretionary use.

C. Senechal said she would like an attorney's opinion as to how many times an applicant may apply for essentially the same COA. F. Day-Lewis said that the HDC had encouraged J. Hughes to revise the plan, resubmit, and that the HDC would even waive the fee for the new application.

J. Paquin said that in his understanding, the law does not prevent someone from continuing to submit applications when rejected, that this is standard in any land-use procedure.

J. Coleman-Marzialo asked for a street-view photograph that would show how the layout would appear. She said the property was very close to the neighbor. C. Senechal agreed. J. Coleman-Marzialo said that she felt like she might not have enough information to make a decision based on the application materials. She wanted relevant information about visibility. M. Medina, representing the solar contractor, said she had some additional photographs not in the packet.

F. Day-Lewis said Google Street View had good images of the house and suggested J. Hughes or his contractor might pull up the street view.

J. Coleman-Marzialo said she wanted more photographs in the packet providing a more realistic depiction than the purple squares that look like sticky notes in the application pictures. She said that it might be best to table the application and get more photos.

K. Bach asked if J. Hughes had discussed the new proposal with his neighbor. J. Hughes said he had not spoken to them.

K. Bach said she wanted to hear the neighbors' opinion because the houses are so close, and the plan last time was so impactful on them. She had two problems with the previous application. The first is personal—not liking the sourcing of solar, which she said is third-world-country-inhumane at the beginning of the process and there's not a good end life to them, so it's not well-thought out as a product. Second, she said we also have to be cognizant of the neighborhood and respectful of neighbors. She said the neighbors are not present tonight, and she wanted to hear neighbors' opinion.

F. Day-Lewis said the neighbors had the opportunity to be here, speak, or write a letter.

The subject neighbors, H. and M. Ferretti, were in fact, in attendance. They said the new proposal is similar to the Hughes' 2020 application. They appreciated panels being moved to the back of the property but said that the new configuration was still very visible. M. Ferretti said maybe his opinion didn't matter given state statutes, but their opinion had not changed from the previous meeting. H. Ferretti said the view from their upper windows would be of solar panels and this would make selling the home difficult.

J. Coleman-Marzialo asked for a motion to table and request more information with realistic pictures.

Motion: To deny the COA because of the incomplete packet.

By: C. Senechal; 2nd K. Bach

Discussion:

J. Paquin said it was difficult to make the case that the packet was incomplete given the amount of information in the packet and fact that everyone voting is familiar with the residence and layout. He cautioned making a denial based on incompleteness.

M. Medina, representing the solar contractor, said that she had photographs from the previous packet and could show those.

Motion withdrawn: K. Bach withdrew her second. C. Senechal withdrew the motion to table.

C. Senechal said that this COA was yet another with multiple applications for the same property.

J. Hughes suggested letting M. Medina show photographs by screenshare to alleviate problems of not seeing the layout. He encouraged members to read the state statute. J. Coleman-Marzialo said the statute was in the HDC's guidelines. J. Hughes read it, with J. Coleman-Marzialo finishing the final sentence: "No application for a certificate of appropriateness for an exterior architectural feature, such as a solar energy system, designed for the utilization of renewable resources shall be denied unless the commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the district." He said it does not mention moral objections. K. Bach and J. Coleman-Marzialo said no one had said anything about that.

J. Coleman-Marzialo added that the statute says the COA may include stipulations for design modifications and limitations on the location of the feature that do not significantly impair its effectiveness. She said she had asked an employee of the solar company, Earthlight, for his definition of "significantly impairment impair its effectiveness." She said it was his opinion that "significantly impair its effectiveness" meant putting panels on the north side of a house. She asked J. Hughes if that was a fair assessment of what impairment to effectiveness means.

J. Hughes said in his mind impairment would mean reducing the number of panels or moving them out of the area where they get enough light. He said that if the panels were being moved in ways that limit effectiveness, that was impairment.

L. Gray Costa, a Tolland resident, said that she had watched the previous three or four HDC meetings. She said Mr. Hughes has not been respected through this process. She said it was offensive last month when people commented on the price of the applicant's house. She said it was the third time she'd seen solar turned down. She said if we're going to have a HDC in the future, we need to allow solar to keep costs down. She said she was appalled that this could be turned down when there are solar panels on the fronts of houses. She said she understood the neighbors' concern but suggested most people don't object to solar panels. She commended Mr. Hughes for improving the property and recalled the deplorable condition it was in 35 years ago. She said it is not the HDC's job to question whether he should be allowed 90, 70, or 110% electrical offset from solar—it's not the HDC's job. She said the UCCT is trying to endure and we need to honor that. She said the HDC needs to consider the entire community and also to treat people as neighbors.

F. Day-Lewis said he had spoken to an attorney about the impairment question. In his understanding, the HDC has a role in asking questions aimed at minimizing impact, but he said the burden of proving a project would substantially degrade the HD is really on the HDC or the Town and not on the applicant. This is the only instance in the statute where this is spelled out. He thinks we're right to ask questions but not to force the applicant to move panels out of the sun or reduce their number.

S. Lucek-Hughes thanked L. Gray Costa for her comments. She said that she appreciated that J. Coleman-Marzialo had done research on solar and how to run a meeting, but she asked that the Chair listen when people are trying to speak and not talk over them. She said in regard to consideration of neighbors, that she and J. Hughes had gone to the expense of buying adjacent property for a garage in order to respect those neighbors' privacy and let the neighbors use the driveway between the houses, which she owned. She said the neighbors' view was of a roof when they bought their house and that view would not change, whether it was of a roof with solar or of just a roof.

D. Deegan said it was interesting listening to the past couple meetings. He said he felt for the neighbors H. and M. Ferretti. He said that he had owned a house that lost value when his neighbors made changes. He said in a HD, one should be able to expect that properties will not change. He finds it appalling that there's no respect given to what the neighbors are seeing in terms of changes. The Hughes' house was previously not a residence. He said it was shameful that people only think about themselves and about money. He said money drives wedges between people. In his view, solar doesn't belong on an historic property or in a HD.

J. Coleman-Marzialo shared her screen, showing photographs from the previous packet. With photographs displayed in Zoom, there was discussion between J. Coleman-Marzialo, J. Hughes, and K. Bach regarding the placement of panels relative to windows and other property features, as well as views from the neighbors' house. F. Day-Lewis said that the redesign addressed a previous request from some HDC members to orient all panels the same. There was discussion about the visibility of electrical panels, which can be painted, as recommended in the HDC guidelines. J. Hughes said he could also block the view of the utility panels from the street with vegetation.

J. Coleman-Marzialo asked whether the three panels closest to the street could be removed. J. Hughes said that this would significantly reduce solar production.

J. Coleman-Marzialo asked if there was visible silver in the panels. D. Lawrence confirmed that the panels were essentially all-black although silver could be seen on close inspection. J. Paquin said the panel details were included in the previous packet. J. Coleman-Marzialo said she wanted to see exactly what the panels would look like. She asked about the pitch of the roof and said that pitch and height matter to visibility. J. Coleman-Marzialo asked to see photographs of a house with the panels installed. M. Medina showed photographs by screen share.

J. Coleman-Marzialo said silver could be seen in the panels at 63 Tolland Green and also the panels on the house on Tolland Stage Rd.

F. Day-Lewis asked the applicant if he felt that he had done the best he could to minimize visibility while achieving his cost and production objectives. J. Hughes confirmed that he had done everything he could in this regard.

J. Coleman-Marzialo said she did not like the three panels closest to the street because they lacked symmetry. She suggested removing them. She said the roof is a character-defining feature because it's such a large roof.

J. Coleman-Marzialo asked F. Day-Lewis what percent production he had with his solar. F. Day-Lewis said that he did not think this information was relevant to the case before us. J. Coleman-Marzialo said she thought it was a legitimate question, how many solar panels a house of a certain size needed. F. Day-Lewis said one's deal with Eversource depends on when installation happened, the deal with the installer, renting vs. buying panels. He said that it is not reasonable to assign a number of panels per square foot given variation in electrical needs. J. Coleman-Marzialo said F. Day-Lewis had installed mini-splits and she could see the Day-Lewis' cars plugged in.

H. McCann, Tolland resident, said that discussing people's costs and savings is out of the HDC's lane.

B. Mayer, Tolland resident, agreed with the previous speaker that it is irrelevant whether the applicant is looking for 70, 80, or 90%. He said he felt for J. Hughes being put through the ringer, being questioned repeatedly, and not getting a fair hearing. He said J. Hughes was improving his property and was a good neighbor. He felt J. Hughes had bent over backwards to address HDC concerns. B. Mayer has happily had solar for 9 years and feels for the Hughes who have been denied that opportunity to help the planet.

J. Coleman-Marzialo said this decision affects all the people who live in the HD, which is on the national register. She said the HDC has been charged to preserve and promote preservation and try to retain the integrity and historic character and appearance of this nationally registered place. She said the property was formerly a grange where no one slept, and it has historic value to the district, as does the church. She said that she considers the property unique on the Green. She said that the HDC has to look at historic trajectories, integrity, visibility, compatibility, and that she's following what guidelines we have.

T. Kelly, Tolland Green resident, said we will not be able to maintain historic buildings if we do not keep up with the times. She said she pays \$600/mo for electricity and would love to put solar panels on her roof. She said the Church needs to keep up with the times. She said in 1991 the TC voted for a HD, many residents were not in favor of the HD. She said the HDC only came about because of one vote influenced by a photograph of a house torn down. She said she had served on the HDC in the past. She said the HDC has gone too far. She said the guidelines are totally subjective, 'substantially' is a subjective term. We need to use common sense. She said J. Hughes is a prime example of how this HD began. She said it's ridiculous that this was a 2-hour meeting, and the Church, which brought legal counsel, did not even get to make its presentation. She said that this is a neighborhood, and maintaining these old buildings is expensive, and we need to treat each other with respect, and J. Hughes is a prime example of what a HD is about. She said that J. Hughes had built an incredible home for his daughter, so that it's accessible, which is more important than the number of solar panels on a roof.

S. Lucek-Hughes referred to the article included in her letter, which quotes the State Historic Preservation Office and statistics on solar in HDs. Out of 300 applications for solar, only 10 were denied, and all were worked out and approved eventually. She referred to a photograph of a Victorian home on the state web site with solar on a zero-lot line with solar at the front of the

house. If the State can use a photo like that on the ct.gov energy efficiency web site, is the HDC really going to require more hours, meetings, photographs? How is it possible that Tolland is requiring this? She did not understand how the HDC could go around in circles the way it does.

Motion: To close the public hearing
By: C. Senechal; 2nd K. Bach

6. New Business

6.2. Consideration of the COA at 95 Tolland Green by the Commission, and vote thereon

J. Coleman-Marzialo asked for a motion to deny, accept, or ask for stipulations or modifications, which may require design modifications and limitations on the location of the feature that do not significantly impair its effectiveness.

Motion: To accept the application as presented.
By: F. Day-Lewis

J. Coleman-Marzialo said that she would like to make a motion to remove the three panels closest the road, and that she did not think doing so would not significantly impair effectiveness. She said that some solar is better than no solar. She said the house is close to its neighbors, and she feels for the neighbors. She said that this is a gray area as to whether the installation would significantly, substantially impair the historic character and appearance of the district.

There was discussion of various possible alternative configurations of panels to reduce visibility, achieve symmetry, and maintain effectiveness.

J. Paquin said removal of 3 panels (1.275 kW) might be significant. He also said solar panels are not considered “permanent features” and could be removed in the future. F. Day-Lewis said that an historic architect had said the same to him, that the panels are not permanent fixtures, and perhaps would not be necessary in the future. There was discussion of the lifespan of solar panels relative to roofs and the age of the homes in the district. J. Coleman-Marzialo asked about the age of the Hughes’ roof.

Motion: To amend the motion by removing the three extra panels on the east end of the south-facing roof, and relocate the next row to make four rows of five panels.
By: J. Coleman-Marzialo; 2nd C. Senechal
Discussion:

K. Bach said she feels this does impact the defining features of the district. She said this does not preserve the character of the district. She feels the photographs we get are not from HDs. She said she would vote yes but with big concerns.

F. Day-Lewis said he would have preferred to grant the application as presented with all the panels. He said at some point our personal feelings and concerns need to be secondary to the guidelines and statutes. We may have our opinions, but if something is a right of someone in the

district to do with their house, we should not abuse our authority or go beyond our scope in denying it. He thought the application should be accepted as-is but said he would vote yes to allow them at least the amended version.

Vote on the motion:

In favor: J. Coleman-Marzialo; C. Senechal; A. Deegan; K. Bach; F. Day-Lewis

The amended motion passed: To accept the COA with stipulations removing the three extra panels on the east end of the south-facing roof and relocating the next row to make four rows of five panels.

K. Bach said that she had a question for J. Paquin in reference to the “The Great Pumpkin” house, which has solar, and was an exception being on the edge of the HD. She said that there is concern about the number of panels on that house and whether the owner was selling energy back to the grid. She asked if you can make a business of selling energy back to the grid in the Village Center Zone. J. Paquin said that he does not do zoning but can speak confidently regardless. He said a stand-alone solar field is not acceptable in a residential zone, but that’s not what this is—this is not considered a business. It’s a homeowner. Some months the house would produce more, some less. He said Eversource ensures homeowners cannot put in substantially oversized systems and profit. He said there is no violation here of zoning regulations. K. said that Jim’s response clarified that the system is self-regulating. There was further discussion around limitations on panel placement and coverage. K. Bach thanked J. Paquin for his clarifications. She said this would keep the HDC more in its lane. J. Coleman-Marzialo said that this has been an educational experience for the HDC and thanked people who had done research and provided information.

J. Coleman-Marzialo reiterated that the COA was approved with the stipulations of (1) removing the three extra panels, and (2) relocating the next row to the bottom of the layout, for a total of 20 on the main structure as far to the west as possible, and 9 on the roof of the back addition. F. Day-Lewis asked J. Coleman-Marzialo to confirm that the applicant could put the 3 panels lost on the back roof not visible from the street; this was confirmed as being fine because the panels would be out of public view.

6.3. Discuss COA application fees and application requirements

J. Coleman-Marzialo said that based on increasing costs of publishing legal notifications, town staff recommended doubling the fee from \$75 to \$150 to cover the cost of advertising.

Motion: To increase the COA fee from \$75 to \$150.

By: C. Senechal; 2nd K. Bach

In favor: J. Coleman-Marzialo; A. Deegan; F. Day-Lewis

Opposed: None

The motion passed.

J. Coleman-Marzialo said she would draft changes for consideration in a future meeting.

K. Bach asked for the draft changes to be included in the next packet. She said the HDC should revisit its practice of waiving fees, because advertising is expensive and comes out of the budget. J. Paquin said that fees are not, in fact, waived, and waiving fees is not possible.

J. Paquin had spoken with Attorney Conti and explained that it is not within the HDC's authority to raise the fee, but that the HDC's motion would be communicated to the TC as a recommendation.

J. Coleman-Marzialo asked J. Paquin to ask the TC about filling the seat of the alternate.

There was discussion of the need for an enforcement officer; this was left to appointment of another alternate.

7. Old Business:

None.

8. Correspondence:

J. Coleman-Marzialo referred to letters in the packet and said Stella Demand had also reached out and said she felt the same as before.

9. Approval of minutes:

K. Bach said she had corrections to the minutes. She suggested drafting less detailed minutes and instead referring to the recording. F. Day-Lewis said he was using the TC minutes as a guide but asked if there were actual guidelines. She said the important things are to get the motions, speakers, and seated members right. K. Bach said she had corrections to the minutes from the previous meeting. J. Coleman-Marzialo suggested sending changes by email. K. Bach said she would send changes for implementation and voting next month. There was discussion of the importance of getting motions right. J. Paquin said highly detailed minutes are not required but do help with transparency and save people having to listen to hours of recordings. K. Bach thanked F. Day-Lewis for keeping minutes, having done so herself for many years.

K. Bach asked for additional detail in the agenda to help reduce people speaking out of turn. J. Paquin said that more detail could be added to headings to help people who don't know how public meetings operate. F. Day-Lewis suggested the Chair could also introduce the different parts of the meeting with explanation for newcomers.

Motion: To adjourn the meeting at 9:44 PM

By: C. Senechal; 2nd K. Bach

In favor: Unanimous.

The motion passed.

Respectfully submitted,
Frederick Day-Lewis, Clerk

Laura Smith

From: Susan Lucek <[REDACTED]>
Sent: Monday, March 18, 2024 11:06 AM
To: Laura Smith; Town Council; Jim Paquin
Cc: Hughes, John
Subject: [EXTERNAL]Examples of historic solar in CT-for 3/20 HDC meeting
Attachments: hdc_21-05_article.pdf; Branfordsolar.jpg; Salisburyhistoricsolar.png

To the Tolland Historic District Commission and Tolland Town Council:

I would like to submit the below information and attached articles and photos in support of the two applications for solar panels in the Tolland Historic District that will come before the HDC for the second and third time on Wed. March 20.

As stated in Chapter 97, Sec. 7-147f of the Connecticut statutes prohibit a commission from denying an application for a certificate of appropriateness for a "solar energy system designed for the utilization of renewable resources" unless "the commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the district."

From the attached Energy News Network article which quotes the CT State Historic Preservation Office:

"Historic preservation boards are seeing more requests related to solar panels and increasingly finding compromise."

Historic preservation boards are increasingly finding ways to compromise with homeowners who want to install solar panels in historically significant areas.

The acceptance of solar comes as technology helps to make systems less obtrusive, and also as more historic preservationists recognize the urgency to address climate change.

Cases involving solar panels are also becoming more common. In Connecticut, about a tenth of the state's 3,000 historic preservation cases last year involved solar installations. That's a significant increase from five years ago, said **Todd Levine, an architectural historian for the state's preservation office.**

Of those 300 solar cases, only 10 were concluded to have adverse effects, but even in those cases the state office was able to work with stakeholders and ultimately approve them all."

I would also call your attention to the photos attached, which show multiple historic CT buildings, with solar systems, one posted on a Ct.gov main page showing a roof mounted solar system on a historic home, zero lot line.

The below links clearly show the preferred use of solar on side facing roof surfaces of historic homes and buildings.

Salisbury Historic District Commission Solar Guidelines – "To Do" photo included in booklet:
<https://www.historicsalisburyct.org/solar-energy-booklet-information>

CT.gov photo on main page shows roof mounted solar on historic home, zero lot line:
https://portal.ct.gov/DECD/Content/Historic-Preservation/03_Technical_Assistance_Research/Energy-Efficiency-For-Historic-Houses

Energy News Network article quoting CT SHPO:
<https://energynews.us/2019/03/04/connecticut-historic-preservation-boards-warming-up-to-solar-panels/>
(hdc_21-05_article.pdf full text attached)

In accordance with state guidance and statutes and many other CT historic districts, we appreciate your prompt review and approval of these solar applications.

Thank you.

Susan Lucek-Hughes

95 Tolland Green

ENERGY NEWS NETWORK

Connecticut historic preservation boards warming up to solar panels



by Meg Dalton March 4, 2019



A historic district in New London, Connecticut.

Historic preservation boards are seeing more requests related to solar panels and increasingly finding compromise.

Historic preservation boards are increasingly finding ways to compromise with homeowners who want to install solar panels in historically significant areas.

The acceptance of solar comes as technology helps to make systems less obtrusive, and also as more historic preservationists recognize the urgency to address climate change. Cases involving solar panels are also becoming more common. In Connecticut, about a tenth of the state's 3,000 historic preservation cases last year involved solar installations. That's a

significant increase from five years ago, said Todd Levine, an architectural historian for the state's preservation office.

Of those 300 solar cases, only 10 were concluded to have adverse effects, but even in those cases the state office was able to work with stakeholders and ultimately approve them all.

"In some ways, the solar panels help the historic structure and don't harm it," said Catherine Labadia, deputy state historic preservation officer. "That's not to negate the few cases when it's bad."

The National Trust for Historic Preservation and the Department of the Interior recommend installing solar panels on the area least visible to the public or on any new addition on the property, like a garage. Typically, historic commissions don't want panels on the principal facade of the building facing the public right-of-ways. If they have to be on the roof, it's better to have them on the non-street-facing part, or even ground-mounted in a backyard. They also suggest solar panels and mounting systems that match the roof's color scheme. In general, the lower the profile the better.

'In some ways, the solar panels help the historic structure and don't harm it.'

While the Department of the Interior provides guidance for installs in historic districts, the responsibility ultimately falls on the local historic commissions. In Connecticut, the state historic preservation office also provides resources and guidance, as well as handles cases that require state or federal permitting.

In New Haven, Connecticut, a home in one of the city's three historic neighborhoods is the latest to successfully petition for approval from its local Historic District Commission. Nestled on a sunny street corner in Fair Haven, the single-family home received immediate approval from the commission last month to install a rooftop solar array, despite a few hiccups during the approval process.

Trinity Solar, the company behind the install, approached the commission in January with a mea culpa after starting the installation before getting formal approval from the commissioners. After realizing its mistake, the company apologized and temporarily stopped the installation, deciding to wait for the commission's approval before proceeding. Since the planned solar array was street-facing and highly visible, the commission's approval was critical.

After making some adjustments — including moving some equipment inside — Trinity Solar received unanimous approval for the three-panel array on the home's rooftop. This case is one example of the evolving relationship between historic preservation and green technology in Connecticut and across the nation.

"It's something people want to see happen and in a way that respects historic integrity in these buildings," said Elizabeth Holt, director of preservation services at the New Haven Preservation Trust.

That hasn't always been the view of historic preservationists. Several cities and towns have pushed back against solar on certain properties, believing it would compromise their historic character. In Washington, D.C., a local commission denied homeowners from installing visible rooftop solar panels on their house in the historic Cleveland Park district in 2013. This year, the same commission loosened its restrictions, allowing for visible solar panels, at least in some cases.

"I have a sense that there's rapidly growing sophistication among preservationists that there's a societal mandate to achieve greater sustainability and energy efficiency," said Anthony Veerkamp, director of policy development at the National Trust for Historic Preservation. He only has an anecdotal sense of what's happening on the ground, but noted a shift from commissions defaulting to "no." More boards seem open to working with property owners, whether that means adjusting where to situate an array, or opting for ground-mounted panels instead. He attributes the shift partially to improved technology, with solar panels becoming more streamlined in recent years, as well as the emergence of solar roof tiles. It's analogous to television antennas or satellite dishes. "First, TVs were the size of car, and now they're the size of pizza pan," Veerkamp said.

Plus, a home solar installation can make a difference for state or city climate goals. Municipalities can't just rely on new housing to reduce carbon footprints; they need to maximize older stock, too.

"I want to believe historic commissions around country are looking for ways that historic buildings can help contribute to reaching carbon goals," Veerkamp said. As a preservationist, Holt thinks the realities of climate change mean that preservation and sustainability must go hand in hand. New Haven's commission has become flexible and collaborative, and she believes they can do that while still championing New Haven's historic architecture.

"Each case should be reviewed individually to find a solution that respects the historic integrity of the building and maximizes the effectiveness of the solar panels," she said. At the state level, the historic preservation office has partnered with the quasi-public clean energy agency, the Connecticut Green Bank, to mitigate any adverse effects installs could have on historic properties. Together, they're developing a publication they plan to distribute in the coming months outlining best practices on the intersection of energy efficiency, renewable energy, and historic preservation.

MEG DALTON

Meg is a freelance journalist and audio producer based in Connecticut who reports on the environment, gender and media. She's reported and edited for the Columbia Journalism Review, PBS NewsHour, Architectural Digest, MediaShift, Hearst Connecticut newspapers, and more. In addition, her audio work has appeared on WSHU, Marketplace, WBAI, and NPR. Meg covers Connecticut and Rhode Island.





Laura Smith

From: Jodie Coleman-Marzialo [REDACTED]
Sent: Tuesday, March 19, 2024 11:02 PM
To: Laura Smith
Cc: Jim Paquin
Subject: [EXTERNAL]Fw: HDC Public hearings

Hi Laura,

For the mtg packet please.

Thanks,
Jodie

From: Hollie Barnas [REDACTED]
Sent: Tuesday, March 19, 2024 5:08 PM
To: Jodie Coleman-Marzialo [REDACTED]
Subject: Re: HDC Public hearings

Hi Jodie,

As I noted in a previous email, we are not opposed to solar panels as long as 2 conditions are met: 1. Panels are not visible from the street and 2. Tall trees must be planted to obscure any street visible panels as well as for any panels that are noticeable to other residents' sight lines; front, side or back. The church took down all the tall trees which used to obscure our side and back view, now leaving us a view of a parking lot and roof proposed for solar panels. Therefore, I object to any proposed solar panels on the church roof unless they are willing to restore the trees and allow for our view to be obscure thereby restoring our historic ambience. Thank you for allowing comment, Hollie

On Fri, Mar 15, 2024 at 11:37 AM Jodie Coleman-Marzialo <[REDACTED]> wrote:
Hi Hollie and Dave,

I wanted you to know that there is a PH next Wednesday for solar panels on the UCCT and [95 Tolland Green](#). Please consider sending an email and/or attending the meeting via Zoom regarding your opinion. The packet link is below.

Thanks,
Jodie

https://www.tollandct.gov/sites/g/files/vyhlif11831/f/uploads/2024-03-20_meeting_packet_amended.pdf