



Township of Bedminster

To: Judy Sullivan – Township Administrator

From: Geoffrey B. Price – Zoning Officer

A handwritten signature in black ink, appearing to read "Geoffrey B. Price", is written over the "From:" line.

Subject: ZONING VIOLATION
344 AIRPORT ROAD
BLOCK 62, LOT 8

Date: February 13, 2013

Judy – as a result of your distribution of the above subject email from a Township resident, please find below responses from engineering, construction and zoning.

Since 2004, twenty plus solar installations have been constructed in the township with all the appropriate permits and approvals.

The position the Township has always taken is that solar arrays and solar power are inherently beneficial uses and are considered accessory to the principal use. Installations that are roof or ground mounted are regularly reviewed for compliance requirements by construction, engineering and zoning.

Based on the line of reasoning below, there are no violations related to this matter and no enforcement action is necessary.

Solar energy systems that are accessory to residential/agricultural uses have been permitted throughout the Township. They meet the definition of “accessory uses” in the ordinance:

Accessory building, structure or use shall mean a building, structure or use which is customarily associated with and is subordinate and incidental to the principal building, structure or use and which is located on the same lot therewith, including, but not limited to, garages, carports, barns, kennels, sheds, non-portable swimming pools, guest houses and all roofed structures. Any accessory building attached to the principal building shall be considered part of the principal building.

House scale, behind the meter solar systems are “customarily associated with and ... subordinate and incidental” to the principal residential use on the property.

Just as the ordinance does not have language that permits emergency generators, mailboxes, swing sets, birdhouses, etc., there is not language that identifies solar systems as an accessory use. It has been determined this is not necessary. They are treated as accessory structures, required to meet accessory structure setbacks and the horizontal projection is counted towards lot coverage.

When or if a separate ordinance is adopted to create special standards for solar systems, those regulations will be reviewed. An example of an accessory structure that has its own section in the ordinance now is a fence.

Wind power systems are completely different. They are not common enough, especially at the “behind the meter, residential scale” level, that could be considered “customary or incidental”.

Especially in the case of a solar system, utility level systems are NOT customarily associated with or subordinate to a residential use. They would be a separate, principal NON-PERMITTED use.

We do not have an ordinance regulating the size and location of power lines coming in from the street, the size or location of private power poles and the size and location of electric meters and meter pans. Also, we have no ordinance regulating the size of generators

Solar power is an inherently beneficial use and is accessory to any structure. Each system is limited in size to the specific electric usage of the property to prevent power generation back to the grid. An ordinance regulating them could be enacted however it does not appear to be required. There have been no violations, and enforcement action is not necessary.

If we need to take action on solar installations, we will need to take action on all generators, private transformers and private power poles for overhead service.

CC

Paul Ferriero, PE – Township Engineer
Kenneth O. Rogers, CFM – Construction Official
Joseph Haggerty, TACO