Solar Panel Array/Siting: New Hampshire Supreme Court Applies State Solar Development Statute

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The Supreme Court of New Hampshire ("Court") addressed in April 9, 2024 Opinion issues arising out of the installation of a solar array. *See Mojalaki Holdings, LLC. v. City of Franklin*, 2024 N.H. 17, 2024 WL 1514612 (N.H. 2024).

The Court addresses the application of New Hampshire statutory language addressing siting of solar projects.

Mojalaki Holdings, LLC. ("Mojalaki") and GSSG New Hampshire, LLC. ("GSSG") appealed a denial by the City of Franklin Planning Board of a site plan application to install a solar array. The proposed project would occupy approximately six and a half acres of a 96-acre parcel that was formerly a golf course. Mojalaki and GSSG challenged the Board's decision under New Hampshire's site plan review statute. The provision incorporates environmental and energy policy considerations. RSA 672:1, III-a, and states:

...Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation. Therefore, the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy shall not be unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such powers except where necessary to protect the public health, safety, and welfare...

The City Planning Board denied the application based on general "purpose" provisions in the site plan regulations. It cited aesthetic concerns, neighborhood character, and the removal of mature trees. The two companies argued that these reasons lacked specificity and that the project complied with all technical environmental and zoning requirements.

The Court agreed. It cited RSA 672:1, III-a, which encourages the development of renewable energy systems and prohibits unreasonable municipal restrictions.

The Court found that the City Planning Board had improperly relied on vague and subjective purpose provisions rather than specific regulatory criteria. The decision emphasized that general aesthetic or character-based objections cannot override statutory mandates supporting renewable energy development.

Notably, the Court found that solar energy development must be evaluated under objective standards. It cannot be rejected on the basis of local opposition or speculative harm to scenery or property values.

Once a project complies with applicable site plan regulations and zoning laws, it cannot be denied simply because it may alter the visual or ecological character of the surrounding landscape.

The Court ordered a *builder's remedy*. It granted Mojalaki and GSSG the right to proceed with the project, recognizing that they had met their burden of proving the project's reasonableness and compliance with environmental and energy policies embedded in state law.

The Court therefore reversed and remanded the case, affirming that municipalities may not impose ad hoc or aesthetic objections to prevent solar development when state law prioritized renewable energy an environmental sustainability through clear statutory protections.

A copy of the decision can be downloaded here.