

**RESOLUTION
TOWN OF OSSINING PLANNING BOARD
(July 15, 2020)**

Application of Sunrise Solar, LLC

Property: 584 North State Road (Section Block and Lot 90.15-2-1 and GB Zone)

Resolution of Planning Board Approval

Background

WHEREAS, Sunrise Solar Solutions (“Applicant”) located at 510 North State Road in Ossining, New York submitted an application for amended Site Plan approval to install a Tier One solar array on the roof of the existing fitness club building owned by Briarcliff Racquet and Fitness Club Associates doing business as Club Fit (the “Owner”) at 584 North State Road, Section Block and Lot 90.15-2-1 (the “Project Site”).

WHEREAS, the subject premises is located in a General Business (GB District) Zone;

WHEREAS, the Applicant seeks to install ground mounted solar equipment on the north end of the existing Club Fit building, for a proposed Tier One rooftop solar installation. The proposal includes the construction of concrete pads for the solar equipment, trenching for utility lines, a chain link fence with privacy slats to match existing fencing on site, installing a retaining wall, and removal of seventeen trees.

WHEREAS, the in accordance with Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act) and the implementing regulations in 6 NYCRR Part 617, the Planning Board considered all of the impacts of the action and determined that the proposed action was a Type II Action under NYS DEC 617.5 (c) for the “installation of solar arrays on existing structure”.

WHEREAS, with Section 239 of the New York State General Municipal Law, the Planning Board referred this application to the Westchester County Planning Board for their review and comments.

WHEREAS, this application will require a Solar Energy System Permit from the Building Department as required as per Section 200-31.3 of the zoning code and a Tree Removal Permit from the Building Department as required as per Chapter 183, Tree Protection of the Town Code.

WHEREAS, with Chapter 183, Tree Protection of the Town Code the Planning Board referred this application to the Environmental Advisory Council for their review and comments.

WHEREAS, the Applicant had made a preliminary presentation to the Planning Board on May 20, 2020, and June 3, 2020 thereafter, the Planning Board conducted a duly noticed public hearing on July 1, 2020 and continued the public hearing on July 15, 2020 at which time all those wishing to be heard were given the opportunity to be heard, and the public hearing was closed on July 15, 2020.

WHEREAS, at the Planning Board's July 15, 2020 meeting, the Board deliberated in public on the Applicant's request for approval.

WHEREAS, The Planning Board has carefully examined the Application and the Applicant's materials as follows:

- a. Planning Board application dated March 31, 2020.
- b. Letter dated April 13, 2020.
- c. Site Plan S-1 to S-3 by Insite Engineering dated April 13, 2020 and revised May 26, 2020 and June 22, 2020.
- d. Short Environmental Assessment Form dated April 8, 2020.
- e. Club Fit Structural Certification dated April 17, 2020.
- f. Electrical Wiring Plan by Sunrise Solar dated April 13, 2020.
- g. Solar Panel Details by Sunrise Solar dated April 13, 2020.
- h. Letter to the Planning Board dated May 26, 2020 and June 22, 2020.
- i. Letter to the Building Inspector Dated May 26, 2020.
- j. List of Trees to be Removed dated May 26, 2020 and June 22, 2020.

WHEREAS, the Planning Board has also reviewed and examined letters, reports, and memorandum from Town staff, the Town Environmental Advisory Committee, Briarcliff Fire Department, and the Board's consulting engineer, Dan Ciarcia PE, planner Valerie Monastra, AICP, and Tree Warden, Craig Stevens, including the following documents:

- a. Memorandum dated May 19, 2020; June 1, 2020; June 16, 2020; and June 26, 2020 from town planner;
- b. Memorandum dated May 20, 2020; and May 29, 2020 from the town engineer;
- c. Letter from the Environmental Advisory Council dated June 16, 2020;
- d. Letter from the Briarcliff Fire Department dated June 10, 2020; and
- e. Memorandum dated June 3, 2020 from the Town Tree Warden.

WHEREAS, the Board is familiar with the property and all aspects of the application and has determined that the proposal is consistent with the standards as set forth in the Town of Ossining Zoning Code ("Code"), Section 200-50.

Hearing Testimony and Documentation Evidence

The application for Site Plan approval involves to the installation of ground mounted solar equipment on the north end of the existing racquet club building, for a proposed as-of-right Tier One Solar Installation on the roof of the existing Club Fit building. In addition, the project would create an area for the installation of the mechanical equipment associated with the installation of the solar panels. The overall disturbance to the existing site is minimal with the greatest impact resulting from the removal of 17 trees. No changes to the existing traffic patterns, parking or circulation would result from this project. No existing natural features would be disturbed as a result of this project. The project would require removal of 17 trees to accommodate the mechanical equipment and relocation of the air conditioners. The Applicant has agreed to replace trees or pay into the Tree fund in accordance with Chapter 183 Tree of the Town Code. Additional lighting will be installed but would not affect the neighboring property. The Applicant will provide a Knox box to ease emergency access to the mechanical equipment.

Planning Board Determination

NOW FOR IT BE RESOLVED, the Planning Board determines that based upon the findings and reasoning set forth below, the application for Site Plan amendment is granted subject to the conditions set forth below.

I. Findings

The Planning Board is familiar with the Subject property and the general vicinity and has reviewed the application in accordance with Chapter 200, Zoning, of the Town Code.

The Planning Board has conducted an extensive review of the Applicant's proposal and finds that the Applicant has satisfactorily addressed the criteria for granting Section 200-50 of the Town Code.

In accordance with Section 200-50 the Planning Board finds the application took into account the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood.

The Board considered, among other things, traffic access; circulation and parking; landscaping and screening; lighting; natural features; and whether these elements will exceed the capabilities of existing municipal roads or utility services.

Further the Planning Board finds that the proposed solar panels meet Section 200-31.3 E, specifically:

- 1) Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
- 2) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached. The proposed solar panels will be placed on the easterly and westerly facing pitched roofs of the existing Club Fit building.
- 3) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- 4) The solar panels have an antireflective coating.
- 5) Roof-mounted solar energy systems will comply with the height limitations of 4 feet above the roof.

II. Approved Plans:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning Board and approved by the Planning Board as follows:

- a. A Planning Board application dated March 31, 2020;
- b. Site Plan S-1 to S-3 by Insite Engineering dated June 22, 2020:
 - i. S-1 "Site Plan"
 - ii. S-2 "Enlarged Site Plan"
 - iii. S-3 "Details"
- c. Club Fit Structural Certification dated April 17, 2020;
- d. Electrical Wiring Plan by Sunrise Solar dated April 13, 2020; and
- e. Solar Panel Details by Sunrise Solar dated April 13, 2020

III. General Conditions

- a. Prerequisites to Signing Site Plan: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan ("Final Site Plan"):
 - i. The Planning Board's approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans and evidence of

such must be submitted to the Town Planning and Building Department.

- ii. The Applicant must address, to the full satisfaction of the Town Engineer, all outstanding storm water, and engineering issues raised in the hearings and documents submitted to the Board. Approval by the Town Engineer is contingent upon full compliance with all local, state and federal permits including storm water and floodplain development permit, approvals and requirements, including but not limited to Westchester County Department of Health and New York State Department of Environmental Conservation.
 - iii. If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Town Engineer and Town Planner, they shall also be considered "Approved Plans."
 - iv. The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.
- b. Force and Effect: No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) the Final Site Plan is signed by the chair of the Planning Board and (3) the Final Site Plan signed by the Planning Board has been filed with the Town Clerk.
 - c. Field Changes: Any further modification of the subject premises beyond those approved herein shall be subject to further Board review and approval except for grading changes that would result in the reduction of the height of the retaining wall which only requires review and approval from the Town Engineer. The Applicant is subject to all permits, time limits, and applicable fees as set forth in NYS Town Law and the Town Code.
 - d. Landscaping: All landscaping on the Approved Plans shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first and second year of installation. Individual species that do not survive beyond the first and second year shall be replaced at the beginning of the next growing season with another native species suitable for the site conditions.

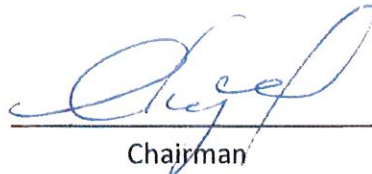
- e. Commencing Work: No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained, including the Solar Energy System Permit and Tree Removal Permit, and to establish an inspection schedule. The project must adhere to all applicable State and Town Codes.
- f. Prior to Issuance of Certificate of Occupancy: The Building Inspector shall inform the Board of the Applicant's request for a Certificate of Occupancy and the Board reserves the right to make a field inspection of the site prior to the issuance of said Certificate of Occupancy, and to require any reasonable modifications to site details, which modifications shall be a condition of said Certificate of Occupancy.
- g. Issuance of Final Certificate of Occupancy: A Final Certificate of Occupancy shall be issued for the Site upon completion of all improvements shown on the site development plan and, if applicable, all easements and property interests have been duly granted or dedicated to the Town. The Applicant must enter into an agreement with the Town for the operation and maintenance of the storm water system. This agreement must satisfy the Town Engineer.
- h. Expiration of Site Plan: In accordance with section 200-50 C (9) site plan approval shall expire if:
 - i. All of the conditions required to be fulfilled prior to the signing of the site plans by the Planning Board Chairman are not fulfilled within one year from the date of the adoption of site plan approval and if said plans are not submitted for endorsement by the Chairman within said one-year period.
 - ii. All required improvements are not maintained and if all conditions and standards of the site plan approval are not complied with throughout the duration of the approved use.
 - iii. A bona fide application for a building permit or a certificate of occupancy is not made within one year from the date of the endorsement of the site plans by the Planning Board Chairman.
 - iv. All required improvements are not substantially completed within two years from the date of the endorsement of the site plans by the Planning Board Chairman. The staging of a development over a longer period may be specifically provided for by the Planning Board in its resolution of site plan approval.

The Planning Board may extend site plan approval if, in its opinion, such extension is warranted by the particular circumstances involved.

IV. Specific Conditions: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan ("Final Site Plan"):

- a. The Applicant must submit a Final Site Plan that reflects the Town of Ossining Tree Warden's determination which trees marked for removal meet the Tree Permit exemption conditions in Section 183-6 (D) and 6 (F) and which trees require a Tree Removal Permit.
- b. The Applicant must provide to the satisfaction of the Building Department before a Final Certificate of Occupancy can be issued that they met the requirements of Section 183-12 G based upon the Tree Warden's determination of which trees require a tree permit. The Applicant may propose replacement of trees or payment into the Tree Fund or some combination thereof to meet the requirements.

Dated as of July 15, 2020



Chairman

Motion by: Jim Bossinas
Seconded by: Donna Sharrett
In Favor: All In Favor
Opposed: None
Abstaining: None