

July 1, 2020

A MEETING OF THE PLANNING BOARD of the Town of Ossining was **held on July 1, 2020 at 7:30 p.m. by video conference** pursuant to Governor's Executive Order 202.1 dated March 12, 2020. Members of the public were able to view and join the meeting via computer or mobile app as follows:

<https://us02web.zoom.us/j/83136365218>

Meeting ID 831 3636 5218

There were present the following members of the Planning Board:

Ching Wah Chin, Chair
Jim Bossinas, Member
Gareth Hougham, Member
Carolyn Stevens, Member
Donna Sharrett, Member
Jesus Lopez, Alternate Member

Also Present:

Kathy Zalantis, Attorney, Silverberg, Zalantis LLP
Valerie Monastra, AICP, Nelson, Pope & Voorhis, LLC
Daniel Ciarcia, PE, Consulting Town Engineer
Sandy Anelli, Secretary

Marricco, 125 Morningside Drive, New Single-Family Residence, Architectural Review PUBLIC HEARING CONTINUED

John Marricco (the "Applicant" and "Owner") is seeking Architectural Review Board (ARB) approval to construct a single-family house at 125 Morningside Drive Section Block and Lot 90.1- 1-11.3 (the "Project Site"). The Project Site is a 45,518 square foot parcel and the Applicant is looking to create a single-family home consisting of 2,130 square feet of livable floor area. A draft resolution was circulated to the Board and the Applicant for review.

Mr. David Arango, Architect, and Mr. Neil Nittolo, Builder, were in attendance. Mr. Arango addressed some concerns from the Board with regard to adding additional screening for a neighbor in the area of the driveway corner and septic area and the addition of a window to the second floor side elevation view from the driveway approach. Mr. Arango noted that they added additional screening as requested at the last meeting. In the septic area they are using plants with smaller root systems. Mr. Arango also addressed the addition of a fourth window on the side elevation that you see when coming up the driveway. He said they spoke with the modular company to add an additional window and mentioned that there is the need to add a structural header for this. The window is not in alignment with the lower level window.

Mr. Ciarcia noted that his previous comments have been addressed. Ms. Monastra reviewed her memo which noted that the applicant addressed the Board's concerns with the additional native plantings and the addition of the window.

Mr. Bossinas discussed the issue of the header and other possible options. Mr. Arango said this concept was doable with the modular company. Ms. Sharrett said she is not satisfied with the placement of the fourth window because it is off center. Ms. Sharrett recommended aligning all four windows on this side of the home to match the other side where the windows are symmetrical. Mr. Arango argued that they did not want a window in the walk-in closet, so they tried to center the windows for furniture placement inside the master bedroom. Ms. Sharrett recommended reversing the floor plan. Mr. Arango said this is not possible, this changes too much with regard to the stairs and connections to the first floor level of the home.

Mr. Bossinas recommended another option of possibly having the windows centered on the ridge. Ms. Sharrett agreed with this. Again, Mr. Arango said this limits the homeowner with regard to the interior of the bedroom and placement of any large furniture. Mr. Arango noted that they need to consider the options for the homeowner and offering different layouts of where they would like to put their bed or other large pieces of furniture. They do not want to be limited because of the window in the center. After some discussion, Mr. Nittolo said a window in the walk-in closet would be fine. It was agreed that they would put the window in the walk-in closet instead of all of the previous options.

Marricco continued

This aligns the first floor windows with the second floor. Mr. Arango said okay and asked the Board for an approval with the condition of the window.

Ms. Sharrett discussed the new landscaping plan. Ms. Monastra clarified that the additional planting plan includes three shade bushes, five spice bushes and four Arrowroot. Ms. Sharrett noted that there is a Viburnum Beetle that will take out the Arrowroot in less than two years. Ms. Sharrett asked if there were any evergreens for screening to the neighbor. Mr. Arango said they are using smaller plants because of the septic system and the new home is much higher than the neighbor. The neighbor's home is only one level and the plants are being placed above so it does provide ample screening. Ms. Sharrett recommended a different species of Viburnum but said the other proposed plants are very nice. Mr. Arango said they tried to follow a guide on Westchester County's website. Dr. Hougham recommended planting on the neighbor's property slightly and providing a better screening tree. Ms. Monastra noted that the planting has to be placed on the property in question.

Mr. Arango said they are trying as much as possible to stay away from the septic and stay on their own property lines, they are limited. Dr. Hougham recommended giving the neighbor the option to have trees planted on his property. Mr. Bossinas said he is comfortable with what the applicant is proposing at this time. Mr. Bossinas noted that there is no way to completely screen it to create complete visual separation between the two homes. The applicant has provided some screening which is appropriate. Mr. Bossinas urged that it's more important that the plants being proposed thrive then completely block the neighbor's view. Ms. Monastra said maintaining the plants in good health can be condition of their Resolution of Approval.

Mr. Chin asked the Board if an approval with these two conditions can be considered by the Board at this time. Ms. Stevens concurred. Ms. Sharrett noted that before anything is signed she would like to see a plan with the windows on it. Mr. Arango said he can provide that by Friday. Mr. Arango asked for a firm confirmation that the second floor window is to be placed in the walk-in closet symmetrically placed on that elevation in line with the other windows on the first floor. The Board agreed.

A motion was made by Ms. Stevens, seconded by Mr. Bossinas and it was unanimously agreed by the Board to **adjourn the Marricco, 125 Morningside Drive, Architectural Review Public Hearing and to have a Final Resolution of Approval prepared for review and consideration at the next meeting of the Planning Board July 15, 2020.**

Fiorito, 39 Old Albany Post Road, New Duplex, Architectural Review PUBLIC HEARING CONTINUED

Bruce Fiorito (the "Applicant" and "Owner") is seeking Architectural Review Board (ARB) approval to construct a two-family house at 39 Old Albany Post Road Section Block and Lot 80.14-1-28 (the "Project Site"). The Project Site is an 11,553 square foot parcel and the Applicant is looking to create a two-family home consisting of two three-bedroom units with 1,335 square feet of livable floor area for each unit. A draft resolution was circulated to the Board and the Applicant for review.

Mr. Fiorito was in attendance a plan was submitted with the addition of the front gardens the walkway and additional plantings as requested at a previous meeting. Ms. Monastra recommended a complete and final set of plans be submitted. Mr. Ciarcia noted the applicant has responded to all of his memo items and comments.

Ms. Sharrett said none of the plants are native. Although, this is an Architectural Review and not a site plan, if the rest of Board is comfortable that this plan is in keeping with the neighborhood then she is in agreement. However, it would be great for the Town to go forward with plantings that respond to an ecological responsibility. Ms. Sharrett also noted that one plant, Festival Burgundy Cordyline, mostly survives winter in states from North Carolina down to Florida not here where it gets very cold. Ms. Sharrett also said that the house looks really nice. Mr. Fiorito noted that they can plant something different if these don't survive. Ms. Sharrett said it would be nice to have some things from the Town's native list of recommendations.

Fiorito continued

Mr. Chin agreed that native plants would probably survive better in this area and asked if any of the proposed plants are invasive. Ms. Sharrett noted that all of the other plants are fine, it was only that particular one that probably won't survive.

Mr. Chin asked the Board and anyone in the audience would have any additional comments or concerns at this time. There were none. Ms. Monastra noted that a final resolution can be prepared for the next meeting and the applicant should have a completed and final set of plans ready as well.

This is not directed at Mr. Fiorito, Mr. Chin announced that there is an issue with submissions coming in at the last minute. Town Consultants and Board members need time to review submissions in advance of the meeting. Going forward, the applicants will have to be a little bit more diligent about getting submissions in on time instead of a day or two before the next meeting date.

Mr. Fiorito said he understands, but his architect is very busy and he only received his plan 4:00 p.m. on Tuesday. Mr. Fiorito said they have tried to accommodate multiple changes that were asked of him by the Board. Mr. Chin asked if there was anyone from the public in attendance to comment on this hearing. There were none.

Ms. Stevens made a motion, seconded by Mr. Bossinas and it was unanimously agreed by the Board to **adjourn the Fiorito, 39 Old Albany Post Road Architectural Review Public Hearing and to have a Final Resolution of Approval prepared for review and consideration at the next meeting of the Planning Board July 15, 2020.**

Sunrise Solar Solutions, LLC, Club Fit Briarcliff, 584 North State Road, Site Plan Amendment, PUBLIC HEARING

Sunrise Solar Solutions ("Applicant") located at 510 North State Road in Ossining, New York is seeking 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"). The Applicant seeks to install ground mounted solar equipment on the north end of the existing Club fit building, for a proposed Tier 1 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, earthwork and a retaining wall, and removal of seventeen trees.

Ms. Dawn Mackenzie, Insite Engineering, Mr. Doug Hertz, Sunrise Solar LLC, and Mr. Bill Beck, Property Owner and applicant were in attendance. Ms. Mackenzie told the Board that they met with the Town's Environmental Advisory Committee and gave an introduction to the project. Since that time, the EAC made a site visit and provided a comment letter which was circulated to the Board and the Applicant. Also, Tree Warden, Mr. Craig Stevens, provided an analysis and report. Ms. Mackenzie noted that this submission is in response to those recommendations. Also, the applicants met with Con Edison at the site. The Con Ed transformer is located within the compound. Con Ed preferred to have the transformer relocated outside of the compound shown on the plan. Because of this, they had to modify the landscaping slightly. They relocated one of the Arborvitae and added another planting and maintained all of the planting in the equipment area. Another item is a gravel area already existing which provides access to the equipment area and they are just going to put a fenced in area to the equipment with a lock on it. Another comment received from the Briarcliff Fire Department Chief was to provide a Knox Box at the gate into the equipment area to provide the Fire Department with access.

Ms. Mackenzie reported that they have updated the trees to be removed and to correctly identify some of the tree species and proposed calculations for tree replacement. They are providing for 18 inches of replacement planting between the trees and shrubs provided. There are 17 trees to be removed, 2 of the trees are dead and don't require a permit to be removed and 7 of the trees are on the New York State Invasive Species Tree list. There are 7 remaining trees to be removed and it is the applicant's opinion that they are in poor health and hazardous and should be able to be removed without a permit. They have based their tree replacement calculation on this number. However, they would like to discuss with the Board and come to a consensus on this.

Club Fit Solar continued

The applicant is under time constraints and would like to move this forward. Ms. Mackenzie asked the Board if they would consider coming to an agreement as to what is required as far as tree replacement. Mr. Hertz thanked Dawn and the Board Members. He said they discussed with the applicant if there were other areas on site where they wish to relocate, should they need to relocate additional trees and the feeling was they do not want to add additional trees at this time. Mr. Hertz asked what the Board is going to require in order to move forward with a resolution tonight.

Ms. Monastra noted that her recent comments revolve around the tree permits and the requirements for that. As the applicant described, there seems to be a discrepancy on the interpretation of what is exempt and not exempt from the tree permit and it is recommended that the Board bring back the Tree Warden and have him identify trees to be removed and having him verify if they meet the requirement of needing a tree permit, or not needing a tree permit. This will alleviate the EAC's concerns and give better direction to the Planning Board. In addition, the law itself requires that they identify the trees and that there needs to be tree replacement based on 50% total aggregate diameter of trees proposed for removal. The applicant is required this replacement per the Town Code.

Mr. Hertz urged that they are under some extreme time constraints at this point and they have a different interpretation. This is costing the applicant time and money and the potential of loss here NYCERTA incentives among other things. Another delay to this project is significantly detrimental to the project and the applicant.

Ms. Mackenzie noted that the code does state that trees on the invasive list can be removed without a permit. That goes for Black Locust, which leaves seven trees. Ms. Zalantis reported that if they cannot replace the trees they have the option of paying into the tree bank fund. First there needs to be an agreement on the amount of the trees being removed. Ms. Stevens asked if the applicant finds this acceptable. Mr. Chin asked the Board if there were any comments or concerns.

Mr. Ciarcia said this plan is acceptable, however, he reiterated his original recommendation to reduce the retaining wall and working in cooperation with the neighbor and reduce grading. If and when construction begins, if they can get cooperation of the neighbor and are able to grade that area off which will be a better situation for the survival of the trees going in. Mr. Ciarcia's recommendation asks to leave the Resolution open with the option as a field change if the opportunity presents itself, rather than coming back to the Board as a site plan amendment. Mr. Chin said personally he does not have any objection to that.

On the issue of the tree fund, Mr. Ciarcia said there can be leeway with regard to if the applicant changes their mind and find that they can replant perhaps they can have some type of flexibility towards that. Mr. Beck said they are willing to do whatever is legal and can help them move forward as quickly as possible. Currently, Club Fit is closed and they would like to continue with the project but financial constraints are making it difficult. They want to do what's best for the Town and for their project.

Mr. Chin asked the applicant if they would be amenable to providing the tree bank funds as a worst case scenario. Mr. Ciarcia recommends an estimated calculation to get a better idea of how much this would be. Ms. Mackenzie noted that it's approximately 74 inches, not including the Black Locusts which are on the invasive species list, and 50% of that would be 37 inches of replacement. According to the plan they are providing 18 inches of new plantings, of the 37 this leaves 19 inches at \$165.00 per inch which would be a total of \$3,135.00 to go to the tree fund. Ms. Monastra recommended the Town's Tree Warden return to the site and see if he is in agreement with this. Ms. Mackenzie reviewed the Tree Warden's previous memo which identifies the Black Locusts.

Mr. Hertz requested the Board to consider that the applicant has endeavored to do a project that has benefits town wide with huge environmental advantages. His business has not been able to generate a single dollar for months and months because it has been closed. Mr. Hertz made an extraordinary request that the Board wave the fee in lieu of tree replacement simply to help the applicant to do a project in everyone's best interest.

Club Fit Solar continued

Ms. Zalantis said the Planning Board cannot make exceptions or negotiations to the tree law. It is a separate code provision and the Planning Board does not have the authority to make considerations on that request. Mr. Hertz said okay, then said they will move forward with the payment.

Ms. Sharrett reiterated her concern that the proposed trees are going to be planted in this berm area which is less than ideal particularly for this type of tree that really likes to be next to a stream. Ms. Sharrett asked the applicant how they propose to water the trees without having any impact on the equipment. Ms. Mackenzie noted that the trees are above the wall and they are six feet away. There's gravel in between the equipment so they are not right up against the equipment. Also, Ms. Sharrett noted that the trees they are proposing are great trees but won't necessarily make up for tree canopy loss of the removed trees. At an earlier meeting, Ms. Sharrett recommended cleaning out and protecting the natural tree area on the opposite side of this in order to maintain and preserve survival of the trees on that side. Mr. Beck said they can take a look at that.

Ms. Stevens noted that if the applicant is in agreement with the tree fund proposal and Mr. Ciarcia's recommendation of flexibility for a field change, she is in favor of approving this. Dr. Hougham said he is in agreement with Ms. Sharrett's comments and also if there were a mechanism in place to use the tree fund for vine removal and preserving natural tree areas he is in favor of letting them use that allocation of money for that purpose. Dr. Hougham said overall this is a terrific project, good for us as a Town and good for the environment and is admirable that the applicant is continuing with this project despite the other financial burdens that they and other businesses are going through. Dr. Hougham agreed that he would like to go forward and get them approval as quickly as possible. Mr. Bossinas said given the area that they are working within, this is as good as we can ever hope and also would like to move forward on this. Mr. Lopez is in agreement with the Board and concurs with Dr. Hougham that this is a great project for the Town and for Club Fit and would like to move it forward as well.

Mr. Chin asked if there were any comments from anyone in the audience. There were none. Mr. Chin asked for a motion to adjourn the public hearing and direct staff to prepare a resolution.

Ms. Stevens made a motion, seconded by Dr. Hougham and unanimously passed by the Board **to adjourn the public hearing and direct staff to prepare a Resolution of Approval for Club Fit Solar Project, 584 North State Road, for July 15, 2020.**

Miscellaneous

MGM Subdivision, 5 Hawkes Avenue Extension of Resolution Request Mr. Ed Gemmola was in attendance requesting an extension of time for their Resolution of approval. Mr. Gemmola noted they are working on their highway items with NYS DOT and they've ordered a final Survey Plat Plan which is currently being done by Joseph Link, Surveyor.

A motion was made by Mr. Bossinas, seconded by Ms. Stevens and unanimously passed by the Board **to grant a 90-day extension of time to MGM Subdivision, 5 Hawkes Avenue to complete resolution items.**

Village of Ossining Water Treatment Plant, 25 Reservoir Road Extension of Resolution Request and DEC Letter Amendment

Ms. Julie Herzner and Ms. Ruby Wells from Hazen & Sawyer were in attendance. Ms. Herzner noted that the Village has been awarded a grant for the green roof. There are DEC responses that need to be addressed in the letter that was previously submitted from the Town Planning Board. Ms. Monastra reviewed minor corrections to the letter with respect to having from the Village of Ossining to the Town and modified the item regarding having to do with the time of year of the project and Bald Eagle nest would be outside of 660 feet and the Westchester County Department of Health permit that was attached to the letter expired in 2017. It was recommended to have the updated version of permit submitted and ask the DEC to identify the nest location. Ms. Herzner is in agreement with these changes. Mr. Chin asked the Board if there were

July 1, 2020

any questions or concerns from the Board. There were none.

Village of Ossining Water Treatment Plant continued

Ms. Herzner also asked for an extension of time on the Resolution of Approval. After some discussion, the Board was in agreement with the applicant that granting two 90-day extensions would be appropriate.

Ms. Stevens made a motion, seconded by Dr. Hougham and unanimously passed by the Board to **grant two 90-day extensions for the Village of Ossining Water Treatment Plant, 25 Reservoir Road, Site Plan Amendment Resolution of Approval, to complete items as discussed.**

Minutes

A motion was made by Ms. Stevens, seconded by Mr. Bossinas and unanimously passed by the Board **to adopt the minutes of Planning Board Meeting June 17, 2020.**

Adjournment

A motion was made by Ms. Stevens, seconded by Ms. Sharrett and it was unanimously passed by the Board **to adjourn the meeting to July 15, 2020.**

Time Noted: 9:25 p.m.

Respectfully submitted,

Sandra Anelli

Sandra Anelli, Secretary
Town of Ossining Planning Board

APPROVED: August 19, 2020