

**RESOLUTION  
TOWN OF OSSINING PLANNING BOARD (Adopted December 16, 2020)**

**Application of Ecogy Energy New York II LLC  
Property: 75 Ryder Road (Section Block and Lot 90.06-1-1 and R-40 Zone)**

**Resolution of Planning Board Approval**

**Background**

WHEREAS, Ecogy Energy New York II LLC. (the "Applicant") and the Catholic Foreign Mission Society of America Inc. ("Property Owner") are seeking to develop a Tier 3 solar energy system under the Town's Solar Energy System Floating Zone at 75 Ryder Road, Section Block and Lot 90.06-1-1 ("Project Site").

WHEREAS, the subject premises is located in a Residential (R-40 District) Zone;

WHEREAS, the Applicant proposes to install a 666 kW AC solar canopy system over two existing parking lots. The canopy system would range from 17 feet 8 inches to 21 feet and 11 inches high.

WHEREAS, the Applicant submitted an application to the Planning Board for a conditional use and site plan approvals.

WHEREAS, 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 an Unlisted Action under NYS DEC 617.5 and issued a Negative Declaration on October 21, 2020.

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 required a zoning map amendment for the application of a Solar Energy System floating zone from the Town Board as required as per Section 200-31.3 of the zoning code which was granted on December 8, 2020 by the Town Board.

WHEREAS, the Applicant requested a zoning text change from the Town Board to 200-31.3 Table 3 of the Zoning Code to increase the maximum height from 15 feet to "23 feet for a canopy that is placed exclusively over impervious surfaces or surfaces without vegetation that are used as parking lots" and the Town Board granted the zoning text amendment on December 8, 2020.

WHEREAS, the Applicant had made a preliminary presentation to the Planning Board on August 19, 2020, and September 2, 2020 thereafter, the Planning Board conducted a duly noticed public hearing on October 7, 2020 and continued the public hearing on October 21, 2020 and December 16, 2020 at which time all those wishing to be heard were given the opportunity to be heard, and the public hearing was closed on December 16, 2020.

WHEREAS, at the Planning Board's December 16, 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:

1. Town Board application and narrative dated April 21, 2020;
2. Planning Board application and narrative dated August 5, 2020;
3. Short Environmental Assessment Form (EAF) revised September 24, 2020;
4. Site Plan revised September 22, 2020;
5. Zoning letter from the Town Building Inspector dated July 27, 2020; and
6. Response to comments dated August 28, 2020.

WHEREAS, the Planning Board has also reviewed and examined letters, reports, and memorandum from Town staff, and the Board's consulting engineer, Dan Ciarcia PE, and planner Valerie Monastra, AICP, including the following documents:

- a. Memorandum dated August 17, 2020 and October 5, 2020 from town planner; and
- b. Memorandum dated October 7, 2020 from the town engineer; and
- c. Zoning letter from the Town Building Inspector dated July 27, 2020

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 and Conditional Use approval involves to the installation of a 666 kW AC solar canopy system over two existing parking lots. The canopy system would range from 17 feet 8 inches to 21 feet and 11 inches high. In addition, the project would create an area for the installation of the mechanical equipment associated with the installation of the solar canopies. The overall disturbance to the existing site is minimal with the greatest impact resulting from the installation of the mechanical equipment. 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.

#### **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 and Conditional Use approval 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 I, specifically:

- 1) Tier 3 solar energy systems shall be screened to the maximum extent reasonably possible from public roadways and adjacent properties through the use of architectural features, earth berms, landscaping, fencing or other screening methods which harmonize with the character of the subject property and the surrounding area. The canopies will be screened by existing vegetation and the proposed location of the canopies are set farther into the property which cannot be seen readily from public viewpoints and roadways.
- 2) Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. Any lighting will be minimal and meet the requirements of the code.
- 3) The clearing of vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Tier 3 solar energy system. Solar energy systems shall not be sited within any required buffer areas. The proposed project will be located over existing parking lots and area and therefore, any clearing required is minimal.
- 4) The solar panels have an antireflective coating. The solar panels will have anti-reflective coating.

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. Planning Board application and narrative dated August 5, 2020;
- b. Site Plan revised September 22, 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, including all outstanding approvals from the Town Board, 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 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. 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: The existing vegetative screening on site shall be maintained and if the existing screening is damaged or dies, the Applicant needs to replace the vegetative screening. All replacement landscaping 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.

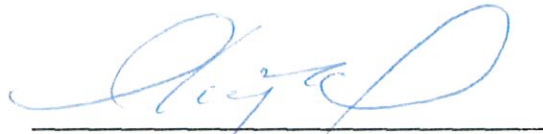
Individual species that do not survive beyond the first and second year shall be replaced at the beginning of the next growing season with another native species suitable for the site conditions.

- 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.
- 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 the following plans per Section 200-31.3 H and I for final review and approval by the Building Inspector:
    - a. Decommissioning Plan; and
    - b. Property Operation and Maintenance Plan.

Dated as of December 16, 2020

  
Chairman

Motion by: Carolyn Stevens

Seconded by: Jim Bossinas

In Favor: All

Opposed: None

Abstaining: None