

**Village of Upper Nyack Planning Board Meeting
Wednesday, January 24, 2024**

MINUTES

A meeting of the Planning Board of the Village of Upper Nyack was held on the above date and called to order at 7:32 p.m. by the Chairman, William Pfaff.

Other Board Members present: Karen Olson, Ellen Simpson, Joseph Heider, and Zara Crowley

Also present: Dennis Letson, P.E., Village Engineer/Zoning Inspector; Janet Guerra, Board Secretary; and Noelle Wolfson, Esq., Consulting Attorney.

Applications:

1. **John and Allison Rohlwing, 23 West End Road, County Map 60.17-03-04.** *Continuation from November 15, 2023.* Application for site plan approval of replacement of front porch on property improved with an existing single-family residence located in the Residence R-10 Zoning District.
2. **James Bumgardner and Louis Tharp, 515 N. Midland, County Map 60.13-03-01.01.** *Continuation from December 20, 2023.* Application for site plan approval to install ground mounted solar panel array on property improved with an existing single-family residence located in the Residence R-20 Zoning District.

7:33 p.m. The Chairman reviewed the agenda.

7:33 p.m. Review of the minutes from the December 20, 2023 meeting.

There were no comments from the Board Members on the December minutes.

Motion to approve the minutes of the December 20, 2023 meeting.

Motion: Karen Olson

Second: Zara Crowley

Vote: 5 (yes- Pfaff, Olson, Simpson, Heider, Crowley) – 0 (no)

7:34 p.m. **John and Allison Rohlwing, 23 West End Road, County Map 60.17-03-04.**

Continuation from November 15, 2023. Application for site plan approval of replacement of front porch on property improved with an existing single-family residence located in the Residence R-10 Zoning District.

Applicant representative: Kier Levesque, Architect.

This application (for the addition of a new covered front porch) was reviewed by the Planning Board at the November 15th meeting. At that time it was referred to the ARB and ZBA for review.

Mr. Levesque explained that the required variances for FAR and the front yard setback were granted by the Zoning Board of Appeals. The Architectural Review Board recommended approval of the application.

He further explained that there were no changes to the site plan other than to add the indication that the variance was granted. Additionally, the front yard setback dimension was corrected on the plan.

The Village Engineer's comments were read into the record as follows:

Information Reviewed

ARB Recommendation Form dated 12/5/23.

Cover letter to ZBA by Kier Levesque dated 12/12/23.

Site Plan by Kier Levesque dated 7/31/23, last revised 12/13/23.

Architectural Plans by Kier Levesque, sheets A-1 to A-3 dated July 31, 23.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c11, the project is a Type 2 action. No further review under SEQR is required.

Zoning

1. Variances for front yard setback and FAR granted by the ZBA 12/11/23.

Site Plan

1. No new comments on the site plan.
-

Village Engineer Letson also noted that in the portion of the plan near the bay window there is a notation for a two-car garage where the living room is located. He asked that the two-car garage notation be removed from the plan.

This application was subject to review by the Rockland County Department of Planning pursuant to 239-m of the General Municipal Law. By Letter dated November 9, 2023, Rockland County Planning recommended approval with no modifications.

The public hearing was opened at the November 15, 2023 meeting. The Chairman opened the meeting to comments from members of the public. There were no members of the public who wished to speak on the application.

Motion to close the public hearing.

Motion: Karen Olson

Second: Joseph Heider

Vote: 5 (yes- Pfaff, Olson, Simpson, Heider, Crowley) – 0 (no)

Motion to approve Site Plan titled Rohlwing Porch, 23 Westend Avenue, Upper Nyack, NY, prepared by Kier B. Levesque, RA, consisting of the following plans:

- *Site Plan*, dated July 31, 2023, last revised December 13, 2023
- *Porch Plans & Specifications (A-1)*, dated July 31, 2023
- *Elevations (A-2)*, dated July 31, 2023
- *Details & Section (A-3)*, dated July 31, 2023

(collectively, the “Site Plan”), subject to the following conditions:

- 1. Under the provisions of SEQR this is a Type II action requiring no further review.**
- 2. The applicant shall address to the reasonable satisfaction of the Village Engineer the comments raised in his report dated January 24, 2024 and which are specifically set forth herein as conditions of approval: Zoning Comment 1.**
- 3. The Applicant shall comply with the conditions and requirements set forth in the letter from the Architectural Review Board to the Planning Board submitted on this application (ARB Public Hearing Date December 4, 2023), which requires compliance with the architectural plans and finish schedule referenced in such letter.**
- 4. The notation of a two-car garage shall be removed from the site plan prior to the Chairman’s signature on the site plan.**
- 5. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of an as-built survey signed and sealed by a licensed professional to the Zoning Inspector.**
- 6. The Site Plan shall be revised to include an entry in the revision note section to indicate the date that the plan is submitted for Planning Board signature. The description for the revision date note shall read “For PB Signature.”**
- 7. The Applicant shall comply with the requirements of the New York Uniform Fire Prevention and Building Code, all Village of Upper Nyack laws and ordinances, and all other applicable laws and regulations of any governmental entity or agency with jurisdiction over the Property or its use.**
- 8. Unless otherwise specifically modified by this Resolution or the plans approved hereby, all conditions of any prior approval of any board, department or officer of the Village of Upper Nyack shall remain in full force and effect.**
- 9. This final site plan approval authorizes the applicant to undertake only the activities specifically set forth herein, in accordance with this resolution of approval and as delineated on the final site plan endorsed by the Planning Board Chairman. Any changes or modifications to such plan require amended site plan approval from the Planning Board.**

10. **Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 18 months of the date that the Site Plan is signed by the Planning Board Chairman, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued.**

Motion: Karen Olson

Second: Joseph Heider

Vote: 5 (yes- Pfaff, Olson, Simpson, Heider, Crowley) – 0 (no)

7:43 p.m. James Bumgardner and Louis Tharp, 515 N. Midland, County Map 60.13.-03-01.01. *Continuation from December 20, 2023.* Application for site plan approval to install ground mounted solar panel array on property improved with an existing single-family residence located in the Residence R-20 Zoning District.

Applicant Representative: Courtney Roberts, Empire Solar Solutions.

This is an application to install an approximately 914 square foot ground mounted solar array in the rear yard of the subject property. The array will consist of approximately 44 panels.

Ms. Roberts explained that a new engineer, Jay Greenwell, was retained by the homeowner and submitted an updated site plan.

She acknowledged receipt of the Village Engineer's comments.

The Village Engineer indicated that earlier in the day Mr. Greenwell submitted a plan by email which included an updated bulk table. The bulk table on the submitted plan was based on the bulk table on the 2021 site plan, which was based on the prior zoning law. Mr. Greenwell's updated plan provided a bulk table in compliance with the current Village Zoning Law. Substantively, the bulk requirements of the prior zoning law (R-3 District) are substantially similar to the current R-20 District requirements. He indicated that the coverage will change slightly to go from 17.3 percent existing to 23.6 percent, where a maximum of 25 percent is permitted. The 23.6 percent coverage represents the additional area of coverage due to the addition of the solar array.

The Village Engineer's comments were read into the record as follows:

Information Reviewed

Site plan by Jay Greenwell, PLS dated 12/28/23 and last revised 1/4/24; new site plan for this application.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617, the project is an Unlisted action.

Draft EAF Parts 2 and 3 were prepared for the 12/20/23 meeting.

It appears a negative declaration would be appropriate for this action.

Zoning

1. Ground mounted solar collectors are a permitted accessory use in this district.
2. Zoning district is now R-20, bulk table should be revised as needed.
3. The location of the proposed panel installation conforms to the required side and rear yard setbacks.

Site Plan

1. The Board asked for a section drawing to review the potential impact on the lot to the south.
 2. A trench detail should be added to the plan set.
 3. Waiver of submittal requirements should be requested where information is not shown.
 4. As this site has secured previous approvals from the Board, suggest the note "This plan and approval is valid for the installation of accessory solar panel use. All conditions of previous site plan approval dated Jan. 20, 2021 shall remain in full force and effect except as modified by this approval" be added to the plan.
-

The Chairman reviewed the information that the Board asked the applicant to provide at the December meeting. He asked if the applicant had a section through the property showing the view of the panel from the neighboring property and if there is a detail of the conduit trench. Neither item was included in the submission for this meeting.

Ms. Roberts explained that the applicant has hired a separate engineer and is not using the solar company's engineer for this application. The Village Engineer explained that a standard trench detail is required and will have to be provided. The Chairman advised that the solar company's engineer should coordinate with the applicant's new engineer so that the relevant information can be provided.

The Chairman noted that the site plan was improved from the plan submitted in December, however, the Board will require the additional material requested at the December meeting for the application review to proceed. That material includes

1. A rendering of the panel array in the context of the Property.
2. Topographical survey.
3. South north section view. This view should provide the view of what the array will look like from the Baroni property, including the existing vegetation on the property.
4. The trench detail

The Village Engineer showed an aerial photograph of the Property on Google Maps and explained with reference to the aerial photograph where the panel array would be located—generally in the flat lawn area at the rear of Tax Lot 1.1.

Ms. Roberts explained that it was her understanding that the array was supposed to be further back in the rear yard (to the east) in the brush area on Tax Lot 1.2.

Village Engineer Letson indicated that Tax Lot 1.1 and Tax Lot 1.2 had been illegally subdivided by deed without required review. The applicants are in the process of having that corrected. At

present, the array cannot be located on Tax Lot 1.2 because it does not have a principal use, but once the lot line is corrected and the property is one lot the panel array can be relocated to the east within that area.

There was a brief discussion about the view of the panel array from the property to the north. It was noted that the property to the north is vacant and there is existing vegetation separating this property from the location of the array. Additionally, the panels will be pitched facing south so potential for visual impacts from the north are minimal.

There was a question about whether there would be glint from the panels off the property to the south. The Village Engineer indicated that he would run a glint analysis to evaluate this.

The Chairman asked Ms. Roberts about the ground cover in the area labeled overgrown area to be cleared. He asked if it was brush or if it was lawn and said that the site plan should be revised to accurately reflect the ground cover here, both currently and if it is going to be modified as a part of the installation of the array. That should be addressed in the next submission in addition to the previously listed items.

The Chairman asked Ms. Roberts if she had any questions about what must be submitted for the next meeting and Ms. Roberts indicated that she did not have any additional questions.

Board Member Olson asked about the submission deadline for the February meeting, and it was suggested that the applicant make a resubmission to Village Engineer/Zoning Inspector Letson to confirm that the application includes all of the required materials before it is reviewed further by the Board.

In order for that review to occur, the submission will have to be made to the Village Engineer/Zoning Inspector no later than February 7, with the full submission to the Planning Board made no later than February 14, provided that the Village Engineer/Zoning Inspector finds the resubmission to be complete.

Ms. Roberts indicated that the applicant could meet that submission deadline.

The public hearing on this application was opened at the December 20, 2023 meeting. No members of the public were present to comment on the application.

Motion to adjourn the public hearing on this application to the Board's February 28, 2024 meeting.

Motion: Karen Olson

Second: Joseph Heider

Vote: 5 (yes- Pfaff, Olson, Simpson, Heider, Crowley) – 0 (no)

8:10 p.m. Motion to close the meeting and adjourn.

Motion: Karen Olson

Second: Joseph Heider

Vote: 5 (yes- Pfaff, Olson, Simpson, Heider, Crowley) – 0 (no)