



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

In the matter of Site Plan Approval request by:
Lisa Winkler & Liston Freeman
12 Windwood Lane
Hurley, NY 12433
For a ground mount solar array

WHEREAS:

Introduction

1. The Applicant, Solar Generation (hereafter "Applicant"), applied for a Building Permit and a Unified Solar Permit on behalf of the Property Owners, Lisa Winkler & Liston Freeman (hereafter "Property Owners") to the Town of Hurley Building Department on ?????, to construct a 7.2kW ground-mounted solar array (hereafter "array") on the Property Owner's property, located at 12 Windwood Lane in the R-1 zoning district at tax map number 38.1-3-6 (hereafter "Property"). The Property consists of 2.4 acres. The Property has two front-yards, Windwood Lane and Maverick Road. The array is proposed to be in the front yard of the Property, towards Maverick Road.

Process

2. Upon receipt of said Applications for Building Permit and Unified Solar Permit on ???, the Zoning Enforcement Officer, Tom Tryon, completed a Code Compliance Review, dated March 28, 2023.
3. The Code Compliance review was sent to the Applicant and Property Owner on April 3, 2023, making a determination that the proposed array would require Site Plan Approval from the Town of Hurley Planning Board (hereafter "Planning Board"), per Town of Hurley Zoning Law §210, Attachment 1 and §210-71, before any permits could be issued.

Planning Board Procedural History

4. The Applicant submitted an Application to the Town of Hurley Planning Board Clerk on May 4, 2023 for Site Plan Approval, accompanied by a Short Environmental Assessment Form, a site plan and the appropriate associated fees.
5. With the Site Plan Application requirements being submitted by the Planning Board meeting deadline, the Planning Board Clerk placed the Application on the May 25, 2023 Planning Board Agenda as "New Business."



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

6. The Application, and all its materials, were referred to the Planning Board's Planning Consultant, Bonnie Franson, AICP, of the planning firm of Nelson Pope Voorhis (hereafter "Planner") and to the Planning Board's Attorney, John Lyons, ESQ. and Kim Garrison, ESQ. of the law firm of Grant & Lyons, LLP (hereafter "Attorneys") to assist the Board in its review.
7. At the May 25, 2023 meeting, the Planning Board made a Determination that the Application met the Type II criteria for the State Environmental Quality Review Act (hereafter "SEQRA") pursuant to Part 617.5(12) of Regulations, as a construction of a minor accessory/apurtenance residential structure. A motion was made to classify the proposed project as a Type II action. Then by an affirmative vote of Seven (7) ayes, Zero (0) nays, One (1) absence and Zero (0) abstentions. No further environmental review action under SEQRA was required, and no Environmental Impact Statement was necessary.
8. At the May 25, 2023 meeting, the Planning Board reviewed the materials in the Site Plan Application, and discussed the Planner's Memo.
9. Both the Planner and Attorneys identified several items that prevented the Board from deeming the Application complete, including the fact that the ZEO determined the existing house does not meet the required rear yard setback and that the proposed array was proposed in the front-yard as defined in the Town of Hurley Zoning law. Pursuant to Town of Hurley Zoning Law §210-71(D)(2), a ground-mounted small-scale solar energy system shall not be located in the front yard unless the applicant applies to, and demonstrates to the Planning Board, that the front yard is the only area where the solar energy system can reasonably function, and that appropriate screening is implemented to screen the solar energy system to mitigate impacts on adjoining properties.
10. The Planner informed the Planning Board that a public hearing for this type of application is optional. After discussion, the Planning Board determined that a public hearing would be scheduled for the June 22, 2023 Planning Board meeting. By a motion and second with an affirmative vote of Seven (7) ayes, Zero (0) nays, One (0) absence and Zero (0) abstentions, the Planning Board scheduled the public hearing for the June 22, 2023 regularly scheduled Planning Board meeting, at 6:10 pm at the Town of Hurley Town Hall located at 10 Wamsley Place Hurley, NY. The Planning Board Clerk was directed to run the appropriate legal notice and notify the neighbors by certified mail.
11. The Planning Board also determined a site visit would be conducted by all available members on June 7, 2023. The purpose of said site visit was to observe first-hand on-site conditions, property characteristics, setting, surrounding environment and the character of the surrounding neighborhood. No business or deliberations were conducted during the site visit.



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

12. A legal notice ran in the Daily Freeman, the Town of Hurley's paper of record, on June 12, 2023 and a letter was sent via United States Postal Service certified mail to all neighbors of the Property within 250' (two-hundred-fifty-feet) from the perimeter of the Property. The neighbors were identified using the data on the Ulster County Parcel Viewer, which identified a total of eight (8) neighbors.
13. With a quorum of Planning Board members present at the June 22, 2023 meeting, the Planning Board opened the public hearing by motion, a second, and affirmative vote of Seven (7) ayes, Zero (0) nays, One (1) absent and Zero (0) abstentions at 6:11 pm at the Town Hall.
14. Public comments were received regarding the proposed array. The concerns were focused on two (2) issues: (1) screening of the array; and (2) concern of the timeliness of receiving the public hearing notice, as some neighbors indicated they did not receive the notice until close to the meeting. The Planning Board Clerk confirmed the public hearing notices sent by certified mail.
14. The Planning Board discussed the site visit and reviewed pictures taken by Chair Peter McKnight of the Property, the surrounding area and the array. The Planning Board Members in reviewing the pictures taken and confirming from their own site visit, identified an area at the front corner of the lot on Maverick Road that would require additional screening of the array in order to be "substantially screened," as required in the Zoning Law.
15. The Planning Board discussed the fact that the array was proposed in the front-yard. The Planning Board determined that, based on the current setbacks of the Property, the location of the existing house towards the rear of the property, including the location of the well and septic location, and lack of consistent sunlight if the array were placed in back of the house, the front yard was the only area where the array could reasonably function.
16. The Planning Board continued the public hearing to the July 27, 2023 regularly scheduled meeting in order to assure that all adjoining neighbors had the opportunity to fully review the proposed project and provide any comments they may have. A motion was made, and seconded, and passed by a vote of Seven (7) ayes, Zero (0) nays, One (1) absent and Zero (0) abstentions to continue the public hearing to the July 27, 2023 Planning Board meeting at 6:11PM.
17. To confirm that all neighbors received the public hearing notice, the legal notice ran again in the Daily Freeman, the Town of Hurley's paper of record, on June 12, 2023 and a letter was sent via United States Postal Service certified mail to all neighbors of the Property within 250' (two-hundred-fifty-feet) from the perimeter of the Property. The neighbors were identified using the data on the Ulster County Parcel Viewer, which identified a total of eight (8) neighbors.



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

18. At a duly noticed public meeting and public hearing on July 27, 2023, public comments were received regarding the proposed array. Comments were again raised on screening. The Planning Board requested that the Applicant propose a landscape plan, focusing on a particular spot located in the corner of the Property by Maverick Road, where the Planning Board members had noticed the area to be open and in need of screening for the arrays.
19. The Planning Board motioned, seconded and passed with a vote of Seven (7) ayes, Zero (0) nays, Zero (0) absent and Zero (0) abstentions, to continue the public hearing at the September 28, 2023 at 6:11PM, and requested that the Applicant submit a proposed landscape plan by the deadline for the meeting.
20. The Applicant and Property Owner submitted a 2-page revised Site Plan on September 7, 2023, depicting a proposed landscape plan that consisted of three (3) blue spruce with a typical height of ten (10')-twelve (12') that will be planted along the front corner of the property in the fall.
21. The Planner's review and the proposed landscape plan were discussed at the Planning Board meeting on September 28, 2023 with the Planning Board. The primary question that was discussed was whether the proposed landscape plan would "substantially screen" the array as required in the Zoning Law.
22. The Planner's review also indicated ???????
23. At a duly noticed public meeting and public hearing on September 28, 2023, [public comments were received regarding the proposed array] or [no additional comments were received from the public.] The Planning Board motioned, seconded and passed with a vote of xxxxx(xx) ayes, xxxxxxxx (xx) nays, xxxxxxxx (xx) absent and xxxxxxxx (xx) abstentions, the public hearing was closed on September 28, 2023.
24. The Applicant submitted topography readings on the site plan dated 2023-06.
25. Having held several public hearings, reviewed the Applicant's submissions, and conducted a site visit, the Planning Board determined that the application for the proposed ground-mounted solar energy system proposed by the Applicant and Property Owner was complete.

Findings of Facts and Conclusions of Law

26. A ground-mounted, small-scale solar energy system is a permitted accessory use and structure in all zoning districts, including the R-1 Zoning District, subject to site plan approval by the Planning Board.



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

- 27 . By definition in the Town of Hurley **code in §210-5**, a small-scale solar energy system cannot produce more than 12 kW of energy. The Applicant proposes a ground-mounted solar energy system with a DC system size of 7.2kW.
28. A ground-mounted, small-scale solar energy system is permitted to serve only the building(s) and structure(s) on the lot upon which the system is located. The proposed 7.2 kW array is proposed to only service 12 Windwood Lane.
29. The Planning Board confirmed at their regular public meeting on May 25, 2023 that the proposed array is located in the front yard of the Property. The Applicant has demonstrated that the front yard is the only area where the array could reasonably function due to the current layout of the Property, location of the existing residential structure, well and septic location, and lack of consistent sunlight if the array were to be located in the rear yard behind the house. The small-scale solar energy system is not located within the minimum required front, side and rear yards for the R-1 Zoning District.
30. The Hurley Zoning Law requires that solar collectors and related equipment must be substantially screened from view from adjoining properties and public roadways. Having conducted a site visit, reviewed and accepted the annexed landscape plan, and reviewed readings of the topography and array height, the Planning Board determined that the proposed landscape plan will substantially screen the system from adjoining properties and public roadways.
31. The Planning Board also determines that the array as well as the existing structures will not exceed the maximum lot coverage of fifteen percent (15%). The lot coverage for this project will be fifty five percent (2.6%).

Action by Resolution

NOW, THEREFORE BE IT RESOLVED, based on all the facts described above and upon the reasoning described above, as follows:

- Section 1. The Planning Board approves the proposed small-scale solar energy system for the Property, specifically a 7.2kW DC system energy having a ground-mounted solar array as depicted on the signed site plan, a copy of which is annexed to this resolution as Attachment #2.
- Section 2. The granting of such site plan approval shall be expressly contingent upon the following conditions being met:



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

- A. The proposed ground-mounted solar energy system shall be designed and installed in accordance with all applicable laws, codes and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code and other state code provisions.
- B. The proposed ground-mounted solar energy systems shall be installed by the Applicant, Solar Generation, in strict accordance with the plans approved by this Board.
- C. Prior to putting the system into operation, all electrical connections must be inspected and approved by the Town ZEO and by a qualified electrical inspector.
- D. The Property Owner, and all successors in ownership of the Property, shall maintain the proposed ground-mounted solar energy system in good working order throughout its operating life, and the Property Owner shall not change or alter the approved system without first obtaining the necessary approvals to do so from this Board.
- E. The Property Owner, and all successors in ownership of the Property, must implement and maintain the landscaping plan exactly as it has been approved by the Planning Board. It is an express condition of this approval that all landscaping and screening shown on the approved landscape plan must be maintained in good condition throughout the operating life of the small-scale solar energy system. This expressly includes the maintenance of all plants and other screening mechanisms. All plants shall be maintained in good health and in a condition that accomplishes screening. Plants that die or fall into poor health shall be replaced promptly by the Property Owner with new plants that comply exactly with the requirements of the approved landscape plan.
- F. The Property Owner, and all successors in ownership of the Property, shall remove the ground-mounted solar energy system and all associated equipment and structures if the small-scale solar energy system ceases to be operational or be used for its intended purpose for a period of twelve (12) consecutive months. The Property Owner shall remove and dispose of the system and all related equipment and structures in complete compliance with all applicable town, county, state and federal laws, rules and regulations.

Section 3. The granting of this site plan approval shall be expressly contingent upon the Applicant and Property Owner's full payment to the Town of Hurley of any and all fees and escrow deposits due in connection with this application and in full compliance with Chapter 19 "Escrows and Consultants Fees" of the Town of Hurley Zoning Code.



TOWN OF HURLEY PLANNING BOARD
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6

Determination of Site Plan approval for File 2023-#09-Freeman-SBL-31.8-3-6

Section 4. The granting of this approval does not absolve the Applicant and the Property Owner from having to secure any other required permits and/or approvals.

The motion being made and seconded was brought to the following vote:

The Clerk conducted the following roll call:

Chair Peter McKnight-

Vice-Chair Kathryn Kiewel-

Member Karl Brueckner-

Member Debbie Kossar-

Member Griff Liewa-

Member Dennis O'Clair-

Member Diana Cline-

Upon a roll call of the members present, the Resolution *passed/failed* with AYES, NAYS, ABSTENTIONS and ABSENT,

Dated this day of , 2023

Maggie Colan, Clerk

Filed with the Town Clerk on the ____ Day of 2023

Annie Reed, Town Clerk