

CITY OF ORANGE HISTORIC PRESERVATION COMMISSION

DATE: JUNE 21, 2023

NUMBER: 13-2023

TITLE: A RESOLUTION OF THE CITY OF ORANGE TOWNSHIP HISTORIC PRESERVATION COMMISSION GRANTING CERTIFICATE OF APPROPRIATENESS FOR 562 McCHESNEY STREET, CITY OF ORANGE TOWNSHIP, N.J., BLOCK 6006, LOT 3 ON THE CITY OF ORANGE TOWNSHIP TAX MAP, TO INSTALL SOLAR PANELS ON THE RIGHT SIDE OF THE ROOF

WHEREAS, the Owner Nicholas Williams together with the Applicant Suntuity Solar, LLC, submitted an Application for a Certificate of Appropriateness from the Orange Historic Preservation Commission (OHPC) for the installation of solar panels on the roof of the Owner's residential home at 562 McChesney Street, which is Block 6006, Lot 3 on the City of Orange Township Tax Map; and

WHEREAS, the Commission received and reviewed the Application dated February 15, 2023 together with a plan set dated November 10, 2022 submitted with the Application which consisted of four (4) sheets the cover sheet PV-1.0 (Site Plan), PV-2.0 (Array Layout), PV-3.0 (Structural, with Mounting Load Calculation), and PV-4.0 (Electrical Line Diagram), along with the Engineer's Letter dated November 12, 2022, at its meeting on March 15, 2023; and

WHEREAS, the Commission listened to the sworn testimony of Meaghan Keple for Suntuity Solar, LLC on behalf of the Owner, after which it was determined to refer the Application to the Technical Review Committee for a site visit as to the visibility of the solar panels on March 17, 2023, to be attended by Chair Troy Simmons and Commissioner Jody Leight; and

WHEREAS, the Application was the subject of public notice by virtue of the publication of the agenda of the Orange Historic Preservation Commission, and the Commission provided an opportunity for comments from the public and interested parties and all members of the Commission voting on this resolution attended the public hearing(s) or have certified that they have read the transcript(s) or listened to the tape(s) of the hearing pursuant to N.J.S.A. 40:55D-10.2; and

WHEREAS, the Commission reviewed the OHPC's counsel's letter dated April 10, 2023 based on Chair Simmons' report to counsel following the Technical Review Committee site visit that occurred on March 17, 2023 and re-visited the visibility issue on May 17, 2023 and is granting approval in reliance upon the representations made in the Application, plans, and (if any) revised plans and specifications, together with the sworn testimony of Ms. Keple in the public presentation by the Applicant on March 15, 2023 and the TRC report through counsel;

WHEREAS, the Commission, after carefully considering the evidence submitted by the Applicant, its own professionals and City's professional staff, if any, and the general public, makes the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

- A. Nicholas Williams, the owner of the subject property located at 562 McChesney Street, City of Orange Township, designated at Block 6006, Lot 3 on the City of Orange Township Tax Map, was represented at the hearing on this Application by representatives of Suntuity Solar, LLC.
- B. The Application dated February 15, 2023 was signed by the owner and by Meaghan Keple for Suntuity and was submitted for the purpose of placing eighteen (18) photovoltaic solar panels on the right side of the relatively flat roof of the main structure at the subject property. A Technical Review Committee meeting was scheduled at the meeting on March 15, 2023 for March 17, 2023 to ensure that the solar panels would not be visible from the street because the plans showed a hipped roof and it was not clear whether the panels would be visible or not.
- C. Upon inspection on March 17, 2023, it was determined by Commission Chair Troy Simmons, Architect, and Commissioner Jody Leight, Esq., after re-inspection on or about May 18, 2023, that the panels will not be visible from the street because the roof, despite being slightly hipped in the middle, is relatively flat, nor from the side street, Langdon Street, because of the foliage of the tree which hides a very small and therefore de minimis amount of the right side roof that can be seen when there are no leaves on the trees that are deciduous.
- D. Accompanying the Application were three (3) color photographs depicting the front of the house, and the right side and the left side of the house and the roof to the extent that it could be seen from the street. Also included was a letter dated November 12, 2022 from Scott E. Wyssling, P.E. N.J. license # 41996, stating that the existing roof system will adequately support the additional loading imposed by the solar system with the racking and mounting as specified. The letter was signed and sealed by Mr. Wyssling. Also included was a plan set prepared by Suntuity, of Holmdel, N.J., consisting of four (4) sheets the cover sheet PV-1.0 (Site Plan), PV-2.0 (Array Layout), PV-3.0 (Structural, with Mounting Load Calculation), and PV-4.0 (Electrical Line Diagram), all of which was consistent with the Application and Mr. Wyssling's letter. The OHPC relies on the Engineer's recitation in his letter and representations.
- E. Based on the representations in the Application and supporting materials, the color photographs showing all relevant elevations, and the plan set consisting of those pages previously described in Para. D and the Commissioners' observations at the site visit on March 17, 2023 and May 18, 2023, it is clear that the layout of the solar panels per plan set sheet PV-2.0 will not be visible from the street after installation and will be only minimally visible from Langdon Street and only during months when there is no foliage. As such, the Orange Historic Preservation Commission approves the Application for a Certificate of Appropriateness on the following conditions.
- F. At the public hearing portion of the meeting, there were no comments from the public.
- G. No trees will be, or may be, removed and or significantly pruned in the process of installing the solar system, nor is tree removal required to avoid shade.

II. CONCLUSIONS OF LAW

- A. The approval of the Certificate of Appropriateness is specifically based upon the Application itself signed by the owner, the color photographs, the plan set submitted, technical information from the manufacturer/distributor, Engineer's letter, and the representations therein, by both the professional engineer and Suntuity, and the observations of the Commissioners in attendance at the TRC site visit on March 17, 2023 and May 18, 2023. The Application, plans, photographs, attachments and TRC observations form the basis of the approval, and are incorporated herein as if fully repeated.
- B. The Commission agreed that Application warranted the relief requested, and would advance the goals of the Historic District, the City's Master Plan, the zone plan and ordinance, Design Guidelines, and the Municipal Land Use Law, and will not impair the intent or purpose of the zone plan or zoning ordinance nor cause any substantial detriment to the public good.
- C. The Commission found that the Owner and Applicant demonstrated that the relief sought in the Application is warranted, and that a Certificate of Appropriateness shall issue for the installation of the solar panels per the plan set prepared by Suntuity Solar, LLC dated November 10, 2022.
- D. No changes or deviations may be made to the proposed design and installation of the solar panels on the roof exterior in the field during installation, as approved per the revised plan set. Installation of the solar panels and related equipment must be strictly in accord with and as depicted on the plan set. Changes to the approved plans must be approved in advance by the OHPC.
- E. This is not a zoning approval. The OHPC does not examine applications with respect to either zoning or use including bulk variances such as setbacks. This is not a building or construction permit. This is not an approval of any side yard, rear yard or front yard setbacks, maximum lot coverage, floor area ratio, impervious surface, or compliance with any other local land use ordinance requirement, site plan ordinance requirement, or any other code, including but not limited to International Residential Code, National Electrical Code, National Standard Plumbing Code, International Energy Conservation Code, International Mechanical Code, International Fuel Gas Code, N.J. Rehabilitation Sub-code, and the N.J. Barrier Free Sub-code.

III. ADDITIONAL CONDITIONS OF APPROVAL

- A. **AS A CONDITION OF THIS APPROVAL, THE CONSTRUCTION MUST PROCEED IN STRICT COMPLIANCE WITH THE PLANS AND/OR REPRESENTATIONS MADE IN THE TESTIMONY SUBMITTED, AS THOSE PLANS AND THE REPRESENTATIONS MADE BY THE APPLICANT IN HIS, HER OR ITS TESTIMONY ARE WHAT IS APPROVED BY THE COMMISSION. SHOULD ANY CHANGE BE MADE INCONSISTENT WITH THE PLANS OR TESTIMONY, THE APPLICANT MUST RETURN TO THE HISTORIC PRESERVATION COMMISSION FOR AN AMENDED CERTIFICATE OF APPROPRIATENESS. "FIELD ADJUSTMENTS" THAT RESULT IN ANY SIGNIFICANT CHANGE WILL NOT BE TOLERATED AND A STOP WORK ORDER WILL ISSUE, NECESSITATING A RETURN APPEARANCE BEFORE THE COMMISSION AT THE FOLLOWING MONTHLY MEETING. ANY DELAY OR DELAY DAMAGES ASSERTED BY THE CONTRACTOR OR OTHERS WILL BE STRICTLY THE FAULT OF THE OWNER, APPLICANT AND/OR CONTRACTOR FOR NOT PROPERLY**

EXECUTING THE PLANS OR ABIDING THE TESTIMONY SUBMITTED WHICH RESULTED IN THIS APPROVAL.

- B. **PLANS:** All revisions to the Application as described and the papers submitted, including plans and drawings (if any) after the first submission must be properly identified on subsequent submissions and submitted for review and become part of the file for this property at the City of Orange Township.
- C. **UTILITIES, PROTECT ADJACENT CONSTRUCTION, AND INHABITANTS/NEIGHBORS:** Comply with all applicable requirements of governing authorities including, but not limited to, public utilities (provide mark-out and 24 hour notification of any discontinuity of utility services with owner). Provide temporary facilities, service utilities, and protection as required to safely execute all work.
- D. **CONSTRUCTION DEBRIS:** Contractor shall be responsible to remove and legally dispose of all materials from the job site. A permit may be required to place a unit for storage of debris at the job site or in the street. This is the Applicant's responsibility to obtain.
- E. **PLANS AND DRAWINGS:** The contractor shall prepare and maintain a complete set of record construction drawings (if any) indicating all actual work, modification and revisions to the work delineated on the construction drawings as well as any concealed construction work. Include any other information which would be helpful to the owner, at the site.
- F. **SUBSTANTIAL COMPLETION:** At project closeout, contractor shall procure final certificate of occupancy upon completion of the project and forward same to the owner. Contractor shall clean premises, test applicable systems, and leave ready for occupancy.
- G. **PERMITS:** The Applicant shall be responsible for obtaining and paying for all the required permits, inspections, etc.
- H. **PROJECT COMPLETION:** Upon FULL completion of the project, architect and/or contractor to submit certificate of occupancy or continued certificate of occupancy approved by the Building Department to the owner.
- I. **CODE AND STANDARDS COMPLIANCE:** All work, materials, and equipment shall meet the latest requirements of all applicable state & local building codes, regulations, the requirements of the authorities having jurisdiction over this work and project, and where applicable, with the standards of the Secretary of Interior for Rehabilitation and the requirements of the NJUCC Barrier Free Subcode and/or Americans With Disabilities Act (ADA).

NOW, THEREFORE, BE IT RESOLVED, by the City of Orange Township Historic Preservation Commission that the Application for a Certificate of Appropriateness for the work described in the Application, is approved and granted subject to the foregoing conditions in Section I. A through G, Section II. A through E, Section III. A through I, and Section IV. A-D, hereof, and the following additional conditions of Section V to VIII, where applicable:

IV. PLAN REVISIONS AND SUBMISSIONS

Prior to signing the final site plan approval, Applicant shall submit any requested revisions to the plans or otherwise provide studies, plans, or documents, as follows:

- A. The Applicant should address all of the findings, if any, in the comments and reports made by the City Engineer, Police Department, Fire Department, and any other relevant departments and agencies, in addition to the Department of Public Works and all of its officers and divisions, if any.
- B. Pursuant to City of Orange Township municipal ordinance, prior to the issuance of building permits, the Applicant shall have installed or shall have furnished any required performance guarantees for the ultimate installation of all streets, street signs, curbs, gutters, sidewalks, street lighting, shade trees, storm drains, sanitary sewerage and utilities, monuments, and/or top soil required, if any, by this approved work.
- C. The Applicant shall ensure that its general contractor and subcontractors do not damage the roadway pavement, curbing, sidewalk, grass strip between the curb and the sidewalk or any other improvements in the public right of way, whether on the public right of way or the privately owned property including but not limited to slate or bluestone sidewalks and walk ways. A note shall be added to the plans stating, "Any damage to the right of way including the sidewalk must be repaired / installed to equal standards."
- D. OTHER APPROVALS. Prior to signing the final site plan, Applicant shall submit any requested revisions to the plans or otherwise shall obtain and comply with the requirements of all outside agencies from which approval is required, and it shall be Applicant's duty to determine whether such further approvals are required, including but not limited to:
 - 1. Final approval of the Essex County Planning Board, if required.
 - 2. Final approval from and comply with the requirements of the Essex County Soil Conservation Service, if required.
 - 3. All other necessary approvals from applicable county, state, regional and federal agencies, as required.

V. TAXES

Applicant shall pay any outstanding real estate taxes and assessments within fourteen days of this Resolution and provide proof by an official search for municipal liens.

VI. FEES

Applicant will post an escrow fee to cover and pay for the professionals' review of this application and preparation of this Resolution in accordance with City ordinance. Applicant will pay all outstanding escrow and application fees within fourteen days of the Resolution and receipt by Applicant of the bills for such charges including those that arrive after the Resolution is memorialized. No construction permits will be issued until this section is satisfied.

VII. INSPECTION FEES

Applicant shall post inspection fees, in an amount to be determined by the City Engineer, before any improvements are installed, if and as required by the City.

VIII. SATISFACTION OF CONDITIONS

This approval of the Certificate of Appropriateness shall not be deemed satisfied and construction permits shall not be issued until such time as the Director of the Department of Public Works and/or his designee and/or the City Engineer finds that all conditions of approval have been satisfied.

ROLL CALL ROLL CALL ON MOTION OF TECHNICAL REVIEW COMMITTEE TO APPROVE:

	Yea	Nay	Absent	Abstain
Keith Carroll			X	
Kathy Dowd	X			
Jody Leight	X			
Brandon Matthews			X	
Janice Morrell	X			
Troy Simmons			X	
Abdiel Velez			X	
Karen Wells			X	

MEMORIALIZATION:

This Resolution of the OHPC adopted this 21st day of June, 2023 memorializes the action taken at a meeting of the City of Orange Township Historic Preservation Commission with the roll call vote on the memorialization as follows:

	Yea	Nay	Absent	Abstain
Keith Carroll				
Kathy Dowd				
Jody Leight				
Brandon Matthews				
Janice Morrell				
Troy Simmons				
Abdiel Velez				
Karen Wells				

I hereby certify that the foregoing is a true copy of a Resolution of the City of Orange Township Historic Preservation Commission memorialized on June 21, 2023.

Adopted:

Joyce Lanier
Secretary

Troy Simmons
Chair