

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Sam St. John Trustee**

Owner/Applicant(s) Mailing Address: P O Box 8118 Brattleboro, VT 05304-8118

Address of the subject property: 53 East Main Street

Tax Map: # **021-22-033**

A copy of the request is filed in the office of the Board and is referred to as: **Case #2017-025**

Description of Case per Public Notice:

Application #2017-025: Owner: Sam St. John Trustee. Agent: Integrated Solar Applications Corp. (Katrina Wilson). Application is being made to install an 83.3 KW solar array on the roof of the Family Dollar/Bucket of Suds Laundromat. Village zoning district: Section 730: Location 53 East Main St

Notice for a public hearing was published in the Valley News on: **June 1, 2017**

Notice was posted in three public places on: **June 1, 2017**

A copy of the notice was mailed to the applicant on: **June 1, 2017**

A copy of the notice was mailed to the abutters on: **June 1, 2017**

A public hearing was held on June 19, 2017

There was no Site Visit.

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environmental Court.

Appeal period for this Case expires on: August 17, 2017

Approval expires on: July 17, 2019

In *addition* to the Applicant/Agent the following persons, the following presented testimony on behalf of the Applicant or an Interested Person:

Andy Cay--Agent

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or Interested Person:

1. Application including Abutters List
2. Town of Wilmington Map of location
3. Drawing of layout of panels on building
4. Sample picture of panels on house

SYNOPSIS

The applicant proposes to install Solar Panels on the rear side of the roof of the Family Dollar Store building at 53 East Main St.”.

APPLICABLE DISTRICT

Finding of Fact: Subject property is identified as Tax Map:- #021-22-033 and has an address of 53 East Main Street

Conclusions of Law: The proposed installation of Solar Panels is in the Village Zoning District: Sections 721, 722, 730, and 732J apply.

ARTICLE VII STANDARDS

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards shall apply to all uses and land development in the town.

- A. Vibration: No permanent, ongoing vibration shall be produced which, when transmitted, is discernible at the property line without the aid of instruments.
Temporary vibration created during land development should be limited to daylight hours to preserve quality of life in neighboring properties.

Findings of Fact: Passive solar panels create no vibration in their operation.

Conclusions of Law: Not applicable

B. Noise: continuous, permanent or ongoing noise in excess of that of a normal conversation (in the judgement of the Development Review Board) must not exist at the property boundary line. Recurring periodic or intermittent noises in excess of that of a normal lawn mower (in the judgement of the Development Review Board) at the property line is allowed provided it does not occur between the hours of nine (9) PM and seven (7) AM, and does not significantly detract from or diminish other property's allowed use or land development.

Findings of Fact: Passive solar panels create no noise in their operation

Conclusions of Law: Not applicable

C. Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or other particulate matter:

1. Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity.
2. Which can cause contamination of the subject property or beyond the property boundaries.
3. Which is composed of solid or liquid particles in concentrations exceeding current state authority standards.
4. Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive.

Findings of Fact: Passive solar panels create no emissions.

Conclusions of Law: Not applicable

D. Injurious or Noxious Practices: No operations or use shall create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which may cause injury or damage to human or animal health, vegetation, or property.

Findings of Fact: Passive solar panels do not create injurious or noxious practices as defined above.

Conclusions of Law: Not applicable.

Section 721: Conditional Use – General Standards

In all districts, all Conditional Use development shall protect from undue adverse effects. No Land Development or use shall result in an undue adverse effect on any of the following:

A. The capacity of existing or planned community, municipal or educational facilities;

Findings of Fact: No additional employees are required.

Conclusions of Law: Not applicable

B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity;

Findings of Fact: It is a roof top installation.

Conclusions of Law: Not applicable

C. By-laws and ordinances in effect at the time;

Conclusions of Law: Not applicable.

D. Utilization of renewable energy resources;

Findings of Fact: Not applicable

Conclusions of Law: Not applicable

E. Air quality;

Findings of Fact: See Section 710 C above.

Conclusions of Law: Not applicable

F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan..

Findings of Fact: The installation of the Solar Panels will be on the rear-facing part of the roof not visible from the street.

Conclusions of Law: This standard is satisfied.

Section 722: Conditional Use – Preserving the Character of the Town

Land development and uses in all Districts shall preserve the character of the town consistent with its rural and agricultural heritage, conforming to the following:

A. Preservation of the Town's Character:

Findings of Fact: The installation of the Solar Panels will be on the rear-facing part of the roof not visible from the street.

Conclusions of Law: This condition is satisfied.

B. Economic Development Contributing to the Character of the Town: Will not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

Findings of Fact: It is a roof top installation not visible from any public way.

Conclusions of Law: Not applicable.

C. Development Consistent with the Rural, Agricultural and Historic Nature of the Town

Findings of Fact: Roof top installation not visible from any public way on a pre-existing commercial building..

Conclusions of Law: Not applicable

D. Formula Businesses: Visual appearance shall harmonize – See Appendix I

Conclusions of Law: Not applicable.

- E. Maximum Square Footage for Retail: Exceeding 2000 square feet if:
1. Consistent with the character and ambiance of the community
 2. in the best interest of the community
 3. Is the minimum size required to reasonably accommodate the business
 4. Enhance or preserve the economic base and economic diversity
 5. Create economic stability and viability

Conclusion of Law: Not applicable

- F. Building Scale Conformity: Conform to the scale of the established neighborhood.

Findings of Fact: Not applicable.

Conclusions of Law: Not applicable.

- G. Utility Placement:

Findings of Fact: Not applicable.

Conclusions of Law: Not applicable

Section 730: Conditional Use – Specific Standards

- A. Lighting and Glare: Lighting in the Historic Design Review District and Village District shall be in keeping with the historic character. All exterior lighting shall be shielded and downcast. Interior and exterior lighting glare or reflections are prohibited if they:

1. Constitute an unreasonable nuisance;
2. Are found not to contribute to the aesthetics, scenic value or character of the area and community;
3. Found to impair the vision of pedestrians or the driver of a motor vehicle or an aircraft.

Findings of Fact: No lighting proposed.

Conclusions of Law: Not applicable

- B. Safety: Shall minimize physical hazards where there are potential safety hazards.

Findings of Fact: No physical hazards contemplated. Not applicable.

Conclusions of Law: Not applicable

- C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure safe and efficient navigation by foot or bicycle. Special consideration shall be made for children's safety. Traffic patterns will be review for safety, ease of traffic flow and efficiency.

Findings of Fact: Roof top installation. Not applicable.

Conclusions of Law: Not applicable

- D. Road Development: New roads, public and private, shall conform to the town's Highway Ordinance.

Findings of Fact: There are no roads proposed.

Conclusions of Law: Not applicable.

- E. Landscaping, Screening and Buffer Areas:

1. Landscaping

2. Screening & Buffer Areas: See By Law

Findings of Fact: Roof top installation.

Conclusions of Law: Not applicable

F. Land and Water Management: Protect properties, transportation systems, and public safety by:
a. providing safe and appropriate water management including water supply/availability, storm water retention/absorption, and impervious surface/runoff management.

b. prevent and control against water pollution

c. make provision for management of erosion, preservation of rivers & streams, river/stream bank management, wetland protection, waterway and channels management, and agricultural land protection

d. preserving and promoting scenic or aesthetic features and open spaces

Findings of Fact: Roof top installation. Not applicable.

Conclusions of Law: Not applicable.

H. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, river access and other natural features shall be preserved to the extent possible and to the extent that they will enhance and promote the natural assets of the town. Clearing of land to create pastureland and scenic spaces/vistas is allowed provided it does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural land features. It shall not have an undue adverse impact on natural features, natural resources or renewable energy. This includes no adverse impact on forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soil unsuitable for development, impervious surfaces essential to storm water detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Conclusions of Law: Not applicable

I. Wildlife Protection: No adverse impact on wildlife habitats or corridors

Conclusions of Law: Not applicable

J. Shoreland Protection: Shall be in conformity with the Shoreland Protection act – within 250 feet of a body of water equal to or greater than 10 acres

Conclusions of Law: Not applicable.

K. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District.

Conclusions of Law: Not applicable.

Section 732: Conditional Use – Other Specific Standards

J. Solar Projects: Pursuant to 24 V.S.A. 4414(15) the Public Service Board shall enforce the requirements of this ordinance. No solar energy generation land development or facility shall be approved that is not in conformity with the following municipal requirements:

Setbacks: Ground mounted solar generating development shall meet a minimum setback of:

For developments plans with a plant capacity of 15 – 150 Kilowatts:

-40 feet from any state or municipal highway, and

-25 feet from each property boundary that is not a state or municipal highway

All solar installations on residential and commercial structures shall provide for fire safety.

Findings of Fact: The project is 83 kilowatts and is beyond 40 feet from road and 25 feet from any other property. Solar panels will as required have a fire safety shutoff for the fire department on the ground floor of the building.

Conclusions of Law: This standard is satisfied.

CONDITIONS:

The application for development is approved with the following conditions:

1. Applicant will install a fire safety shutoff on the ground floor of the building.

The applicant is responsible for obtaining all state and federal permits.

If unused, this Approval expires two years from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit must be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval does not relieve you, as applicant, from obtaining any and ALL applicable State and other local permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Fred Houston
Tim Hall
Paul Lockyear

OPPOSED:
None

ABSTAINING:

None

For the Board: Fred Houston, Vice Chairperson

Date: July 17, 2017

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.