



# TOWN OF AMENIA

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## TOWN OF AMENIA PLANNING BOARD

Amenia Town Clerk

Resolution # 2 for 2024

### Resolution Granting Site Plan Approval for Ground Mounted Solar Energy System Topolsky

February 14, 2024

**WHEREAS**, Kenneth Topolsky (the "Applicant") is the owner of approximately 50.73 acres of residential land located at 95 Cascade Mountain Road in Amenia, New York (the "Property") which is situated in the Rural Residential (RR) and Rural Agriculture (RA) Zoning Districts, with a portion of the Property in the Upland Aquifer Overlay District and the Scenic Protection Overlay District; and

**WHEREAS**, on or about December 22, 2023, Empire Solar Solutions, the Applicant's project sponsor, submitted to the Town of Amenia Planning Board (the "Planning Board") an application for site plan approval to allow for the construction of a 498.48 square foot (10.08 kilowatt) accessory ground-mounted solar energy system ("GMSES") at the Property (the "Project"); and

**WHEREAS**, the Project is sited within the RR Zoning District and the Upland Aquifer Overlay District and is a permissible use in these Districts subject to Site Plan approval from the Planning Board; and

**WHEREAS**, the documents submitted by the Applicant as part of its application consist of the following: (1) Land Use Application; (2) Site Plan prepared by Empire Solar Solutions, dated October 12, 2023; (3) Short Environmental Assessment Form ("SEAF"); (4) Agricultural Data Statement; (5) Engineer Certification; (6) construction specifications and details prepared by Empire Solar Solutions; (7) the requisite filing fee and escrow amount for the application; and (8) additional information, including supplemental information sought by the Planning Board (the "Application"); and

**WHEREAS**, at a meeting on February 14, 2024, the Planning Board reviewed and considered all of the above referenced documents submitted by the Applicant as part of its Application, including updated information sought by the Planning Board; and

**WHEREAS**, pursuant to the Town of Amenia's Local Law 2 of 2019 ("Local Law 2 of 2019"), which amended Chapter 121 of the Town of Amenia Zoning Law (the "Zoning Law"), a GMSES is permitted as an accessory structure to residential property located in the RR and RA Zoning Districts, subject to site plan approval by the Planning Board, so long as the surface area of the solar panels measures less than 50% of the footprint of the primary structure; and

**WHEREAS**, some of the Planning Board members visited the Property, where the proposed Project location had been staked, and reported that they did not believe that the Project would be visible from adjacent properties and that no additional screening appeared necessary or warranted; and

**WHEREAS**, in reviewing this Application the Planning Board considered several factors, including without limitation that: (1) the surface area of the Project will comprise less than 50% of the footprint of the primary structure on the Property; (2) the Project involves an existing developed residential site; (3) the proposed GMSES will be placed in an open area adjacent to the existing home; that the GMSES is substantially screened from adjacent property by existing buildings and vegetation; (4) there will be no grading, clearing, or substantial site work or tree removal involved in the Project except for trenching for the new utility lines from the installation to the existing house; (5) no other modifications to the Property are proposed; and (6) sufficient information was provided to evaluate the installation of the GMSES. As a result, the Planning Board has determined to waive those items required by Section 121-65(C) of the Zoning Law typical for more substantial site plan applications, including, but not limited to, on-site utility systems, topography, traffic flow, detailed elevations and plans for construction and demolition debris; and

**WHEREAS**, the Planning Board has determined that the Project qualifies as a minor project pursuant to Section 121-60(C)(1) of the Zoning Law; and

**WHEREAS**, the Project is a Type 2 action under the State Environmental Quality Review Act because it entails the construction of a minor structure accessory to a residential use which does not change land use or density (6 NYCRR § 617.5(c)(12); and

**WHEREAS**, due to the Project's proximity to a farm operation within Agricultural District #21 the Application was referred to the Dutchess County Planning Department ("County Planning Department") pursuant to GML 239-m and the County Planning Department determined that the Project is of local concern only, providing no additional comments and requiring no modifications; and

**WHEREAS**, in accordance with Section 121-67(D) of the Zoning Law, in its sole discretion, the Planning Board finds that no public hearing is required for this minor project site plan; and

**WHEREAS**, the Planning Board has determined that the Project requested in the Application will comply with all Zoning district, overlay district, and other specific requirements of the Zoning Law and other chapters and regulations of the Town Law, and will be consistent with the purposes of the Zoning Law, Local Law 2 of 2019, and the RA Zoning District and applicable overlay districts; and

**WHEREAS**, the Planning Board has determined that the Project requested in the Application will comply with the applicable site plan criteria in Section 121-65(D) of the Zoning Law and will not adversely affect neighboring properties; and

**WHEREAS**, the Planning Board's determinations outlined above are based on the Applicant's representations contained in all of the Application materials submitted to the Planning Board and the Applicant's compliance with the Town of Amenia Code, including the Zoning Law.

**NOW, THEREFORE, BE IT RESOLVED**, that in accordance with Section 121-65 of the Town's Zoning Law, the Planning Board hereby approves the Site Plans, entitled:

- (i) Sheet-S-1 – “Project Site Plan – Topolsky Residence” prepared by Empire Solar Solutions, dated October 12, 2023;
- (ii) Sheet-S-2 – “Solar Panel Layout Plan – Topolsky Residence” prepared by Empire Solar Solutions, dated October 12, 2023;
- (iii) Sheet-S-3 – “Solar Panel and Inverter Specifications – Topolsky Residence” prepared by Empire Solar Solutions, dated October 12, 2023;
- (iv) Sheet-S-4 – “Solar Panel Signage – Topolsky Residence” prepared by Empire Solar Solutions, dated October 12, 2023; and
- (v) Sheet-S-5 – “Solar 3-Line Diagram – Topolsky Residence” prepared by Empire Solar Solutions, dated October 12, 2023.

(together, the “Approved Site Plans”) subject to the following conditions:

- (1) Address all comments to the Planning Board from the Town Engineer, to the satisfaction of the Town Engineer; and
- (2) The Applicant shall pay all of the outstanding invoices for the Planning Board's consultants prior to the signing of the Approved Site Plans by the Planning Board Chairman and prior to the issuance of a building permit by the Building Inspector; and
- (3) At all times, the Applicant shall comply with the Approved Site Plans including, without limitation, all notes set forth on the plans; and

**BE IT FURTHER RESOLVED**, that, in accordance with Section 121-65(C) of the Zoning Law, the Planning Board hereby waives those items required by Section 121-65(B) typical for more substantial site plan applications, including, but not limited to, on site utility systems, topography, traffic flow, detailed elevations and plans for construction and demolition debris; and

**BE IT FURTHER RESOLVED**, that the Planning Board hereby authorizes the Planning Board Chairperson to stamp and sign the Approved Site Plans upon the Applicant's compliance with all applicable conditions; and

**BE IT FURTHER RESOLVED**, that in accordance with Section 121-68(E) of the Town's Zoning Law: (1) this site plan approval shall expire if the Applicant fails to commence construction, to obtain the necessary Building Permits, or fails to comply with the conditions of the site plan approval within 18 months of its issuance. The Planning Board may grant a one-time six-month extension; (2) this site plan approval may be revoked by the Planning Board if the Applicant violates the site plan approval or its conditions or engages in any construction or alteration not authorized by the site plan approval; (3) any violation of the site plan approval or its conditions shall be deemed a violation of the Zoning Law and shall be subject to enforcement action; and

**BE IT FURTHER RESOLVED**, that a copy of this Resolution shall be filed in the office of the Town of Amenia Town Clerk within five (5) days of the date of this Resolution, and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with all members of the Planning Board voting and signing as follows: *Motion Made by: Nina Peek, seconded by: John Stefanopoulos*

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Robert Boyles, Jr. Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nina Peek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James Walsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
John Stefanopoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neal Kusnetz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Matthew Deister	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Walter Dietrich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Dated: February 14, 2024  
 Amenia, New York

*Judith Westfall*

Judith Westfall, Secretary  
 Town of Amenia Planning Board