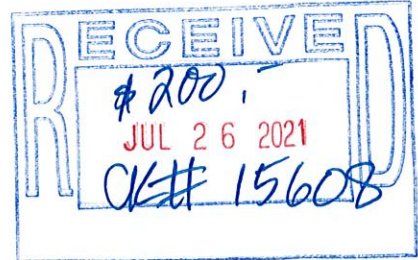


52 Catherine Street  
Newport, RI 02840  
July 26, 2021

Ms. Stephanie Pires  
Mr. Guy Weston  
Zoning Board of Review  
City of Newport  
43 Broadway  
Newport, RI 02840



RE: Appeal of the Decision of the Historic District Commission regarding the Application of Dr. George Kates and Ms. Demetra Kates, Trustees, 52 Catherine Street, Plat 22, Lot 117, for permission to install solar panels.

Dear Ms. Pires and Mr. Weston,

The denial is in clear error and lacks support by the weight of the evidence.

The building is a "non-contributing building." (page 1, line 30, and page 2, line 10)\*

The Secretary of the Interior guidance on solar panels in historic districts (page 1, lines 41 and 42)\* makes no mention of "non-contributing buildings." In each example given by Technical Preservation Services ("stewards of the Secretary of the Interior's Standards for the Treatment of Historic Properties") the building used as an example is referred to as "historic."

Solar panels are not mentioned in the Historic District Commission's guidelines (page 1 lines 43 and 44).\*

Furthermore, Newport Standards for Treatment of Historic Properties (page 2, lines 23 thru 34):\*

17.80.060.B.1 Compatibility-

-this Standard makes no mention of "if panels can be seen from the street" (page 1, line 35)\* and "panels seen from the public right of way is a problem." (page 1, lines 38 and 39)\*

17.80.060.B.2. Preserving Character Defining Features

-this standard states "The Commission may encourage but shall not require..."

Because of the facts listed here, the appellant requests that the decision by the Historic District Commission be reversed.

Respectfully submitted,

George A Kates, appellant

Enc:

1. Copy of Decision of the Historic District Commission, Re: Application of Dr. George Kates and Demetra Kates, Trustees, 52 Catherine Street, Plat 22, Lot 117, for permission to install solar panels.
2. Personal check for \$200

\*Reference enclosed document "Decision"

1 **STATE OF RHODE ISLAND**  
2 **NEWPORT, Sc.**

**HISTORIC DISTRICT COMMISSION**  
**CITY OF NEWPORT**

3  
4  
5 **In Re: Application of Mr. George Kates and Demetra Kates,**  
6 **Trustees, 52 Catherine Street, Plat 22, Lot 117, for**  
7 **permission to install solar panels.**  
8

9 **DECISION**  
10

11 This matter came before the Newport Historic District Commission on June 1,  
12 2021. Applicant George Kates and solar panel representative Edmund DiTroia  
13 were present to represent the application.  
14

15 The following testimony was heard on the matter:  
16

- 17 1. Mr. Kates testifies that 28 solar panels are requested and the panels will be  
18 barely visible.  
19
- 20 2. Mr. Kates presents photographs of proposed solar panel locations and  
21 photographs of property from the public right of way.  
22
- 23 3. Mr. Kates testifies that the panels to the South will not be visible but the panels  
24 on the garage will be slightly visible from the public right of way but says the  
25 panels will be black and blend with the roof.  
26
- 27 4. Mr. Kates testifies that the building was constructed 1976 and it is not historic.  
28
- 29 5. Commissioner Bjork cites the staff report stating that the property is listed as a  
30 non-contributing building  
31
- 32 6. Mr. DiTroia testifies that all conduit runs will be hidden and the panels are  
33 high end and will blend with the roof.  
34
- 35 7. Commissioner Elliott says that if panels can be seen from the street the panels  
36 should not be installed or the panels should be installed elsewhere.  
37
- 38 8. Commissioner Ross states that panels seen from the public right of way is a  
39 problem.  
40
- 41 9. Chairman Bjork references the Secretary of the Interior guidance on solar  
42 panels in historic districts. Visibility from the street is where the line is drawn  
43 according to those guidelines. He also states solar panels are not referenced  
44 directly in the Commission's guidelines.  
45



10. Mr. Kates references two other homes in the neighborhood that have solar panels and reminds the commission that the home is from 1976.

After consideration of testimony and evidence introduced at hearing, the Commission considered the following as findings of fact:

1. 52 Catherine Street is located within the Kay Catherine Old Beach Road National Register Historic District and the Newport Local Historic District.

2. 52 Catherine Street is listed as a non-contributing building in the Kay Catherine Old Beach Road National Register Historic District as the following:

House (ca 1976): A 1½-story, 5-bay-façade, center-entrance, L-plan, saltbox gambrel-roof Neo-Colonial house with poured-concrete foundation, brick-clad façade, off-center principal entrance with sidelights, 2-stall garage in ell that extends north from east end of east elevation, and small chimney north of the east end of the ridgeline. This house was constructed on a lot subdivided in the 1950s from the mid-19th-century Van Rensselaer estate, which occupied a large lot extending along Catherine Street from Ayrault Street to Rhode Island Avenue.

3. The applicable Newport Standards for Treatment of Historic Properties are:

**17.80.060.B.1. Compatibility** – The alteration of a Non-Contributing Structure shall be generally of such size, scale, siting, massing, set back, materials, and detail as will be compatible with other structures in the surrounding historic district.

**17.80.060.B.2. Preserving Character Defining Features** – The Commission may encourage but shall not require owners to preserve distinctive features, finishes, construction techniques or examples of craftsmanship that are present in a Non-Contributing Structure which add to the character of the surrounding district.

Upon a motion duly made and seconded, the Commission found that the proposed changes being in conflict with the aforementioned Newport Standards for Treatment of Historic Properties; therefore the request for a Certificate of Appropriateness was denied on a 5-0 vote. Nay: Mr. Adams, Mr. Ryan, Mr. Ross, Mr. Elliott, Mr. Bjork

The application failed to receive four or a majority of affirmative votes from the seven members voting, therefore pursuant to Section 17.88.040(C)(3)(f) of the code, the application was denied.

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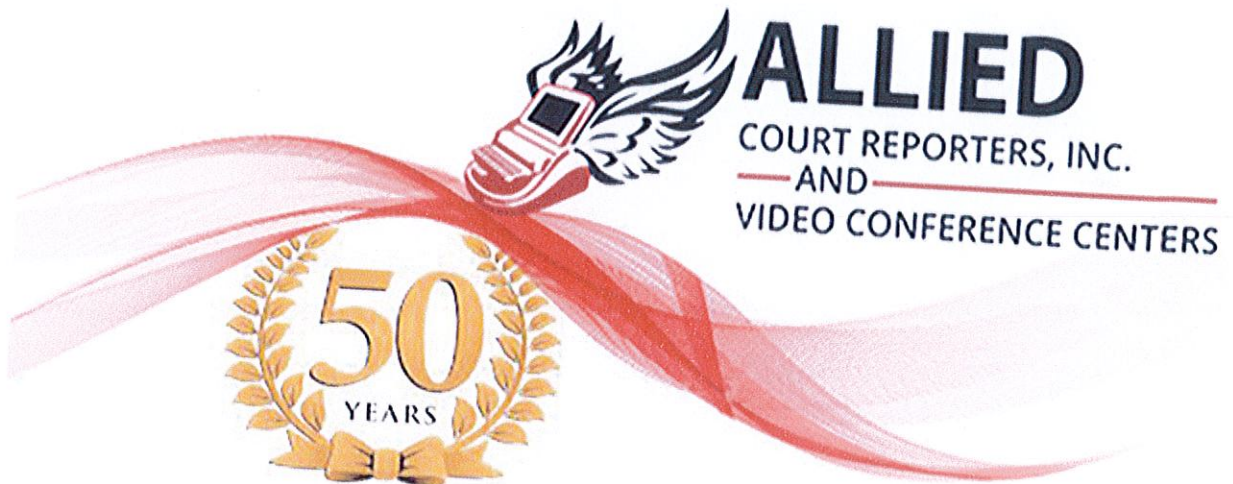
Karl Andrew Bjork, Chair

**In The Matter Of:**

*Newport Historic District Commission*

*52 Catherine Street, Plat 22, Lot 117*

*June 1, 2021*



STATE OF RHODE ISLAND  
CITY OF NEWPORT  
HISTORIC DISTRICT COMMISSION

PORTION OF PROCEEDING IN RE:  
Application of George Kates and Demetra Kates,  
Trustees, 52 Catherine Street, Plat 22, Lot 117.

DATE: June 1, 2021  
TIME: 6:00 p.m.

(MEETING HELD REMOTELY IN COMPLIANCE WITH  
EXECUTIVE ORDER 21-22(2) AND 20-46-1(a))

MEMBERS PRESENT VIA VIDEOCONFERENCE:

Karl Bjork, Chairperson  
Michael Ryan, Secretary  
Howard Elliott  
Donald Ross  
Richard Adams

ALSO PRESENT VIA VIDEOCONFERENCE:

Helen Johnson, Historic Preservation Planner

## I N D E X

## WITNESS

## PAGE

GEORGE KATES.....3

EDMUND DITROIA.....5

## E X H I B I T S

No exhibits marked at this portion of hearing.



1 THE CHAIRPERSON: All right. We will  
2 move to the next Application for 52 Catherine  
3 Street. Mr. Adams, if you can read that  
4 Application.

5 MR. ADAMS: This is the Application of  
6 Mr. George Kates and Demetra Kates, Trustees,  
7 52 Catherine Street, Plat 22, Lot 117, for  
8 permission to install solar panels.

9 THE CHAIRPERSON: Mr. Kates, if you can  
10 turn your video on, and be sworn in.

11 GEORGE KATES

12 Being present via videoconference, and by the  
13 Executive Order by the Supreme Court of Rhode  
14 Island regarding COVID-19, and by agreement of the  
15 parties not being required to see a valid form of  
16 identification, being duly sworn, testifies as  
17 follows:

18 COURT REPORTER: State your name for the  
19 record.

20 THE WITNESS: George Kates.

21 THE CHAIRPERSON: Welcome, Mr. Kates. Do  
22 you have something you want to share on your  
23 screen, and talk to us about your project?

24 THE WITNESS: Well, I'm not really too  
25 computer savvy. I sent you all of the pictures,



1 which you, all, have; and, apparently, you have  
2 them somewhere on the computer. If you want to  
3 hook me up to that, that's fine; but I think it's  
4 pretty simple, we want 28 solar panels. If you,  
5 all, have the pictures there in front of you, on  
6 the very high roofs, we have two roofs where they  
7 are going to be placed, 20 on the south roof -- and  
8 Mr. Ditroia, he is from the Renewable Energy  
9 company.

10 MR. DITROIA: Sorry about that; just  
11 figuring out how to use the phone.

12 THE WITNESS: Anyway, I think you have  
13 all of the data and the photos. I tried to take  
14 pictures from every angle to see if you can see  
15 them, and they are barely visible, if that's what  
16 is what you are concerned about. As far as the  
17 technical data, they have all of the data sheets.  
18 There are 28 panels, 370 watts per panel.

19 I will open it up for questions now.

20 THE CHAIRPERSON: First, some procedural  
21 stuff. Mr. Ditroia, I see you have joined. Nancy,  
22 if you can have Mr. Ditroia sworn in. You need to  
23 take yourself off mute, sir.

24 MR. KATES: You're on mute, Ed. You have  
25 to unmute.

1 EDMOND DITROIA

2 Being present via videoconference, and by the  
3 Executive Order by the Supreme Court of Rhode  
4 Island regarding COVID-19, and by agreement of the  
5 parties not being required to see a valid form of  
6 identification, being duly sworn, testifies as  
7 follows:

8 COURT REPORTER: State your name for the  
9 record.

10 THE WITNESS: Edmond Ditroia.

11 THE CHAIRPERSON: Mr. Kates, it's  
12 generally helpful for the Commission if we can see  
13 the project.

14 (INAUDIBLE/FEEDBACK NOISE)

15 THE CHAIRPERSON: Mr. Ditroia, if you can  
16 go back on mute, that would help.

17 You did submit things, and I will say that I  
18 have looked at them; but in the public setting,  
19 it's easier for us to look at them again. Are you  
20 able to share your screen? I am happy to help do  
21 that.

22 MR. KATES: I need guidance. I'm not a  
23 real techie here.

24 THE CHAIRPERSON: Do you have your  
25 Application on your computer somewhere?

1 MR. KATES: Do I have it on the computer?  
2 No, it's not on my computer. I didn't know I had  
3 to do that. It's all new to me.

4 THE CHAIRPERSON: I am going to share my  
5 screen, and find your Application.

6 MR. KATES: Oh, terrific.

7 THE CHAIRPERSON: Bear with me.

8 (SCREEN SHARING)

9 THE CHAIRPERSON: All right. So  
10 everybody should be seeing my screen, but this is  
11 your Application, Mr. Kates?

12 MR. KATES: Yes, it is.

13 THE CHAIRPERSON: I will move through the  
14 slides, if you want to tell us what is going on.

15 MR. KATES: Okay. I took this  
16 photograph, as it says at the top, from Rhode  
17 Island Avenue, and it's showing the two roof  
18 surfaces that will be covered with solar panels.  
19 As you can see, you can't see them at all from  
20 Rhode Island. This is from Catherine Street to the  
21 east, and I really stretched it. You won't be able  
22 to see the south-facing panels, but you will see  
23 the ones above the garage a little bit, but you  
24 have to look pretty carefully. Am I correct your  
25 concern is the appearance, that is what you are



1 concerned with?

2 THE CHAIRPERSON: Generally, in a  
3 historic district, yeah, what can be seen from the  
4 street, and so forth, and from the houses.

5 MR. KATES: Okay. That's what I thought.  
6 If you can go to the next picture, this is from the  
7 corner of Catherine Street and Rhode Island Avenue,  
8 and I would challenge anybody to see the panels  
9 when they are up there, because I think it's called  
10 a mansard roof, Helen, told me, where it's the more  
11 horizontal part, then the vertical. They won't be  
12 on the vertical, of course. They will be black to  
13 match the color of the roof.

14 Next picture. This is way up west on  
15 Catherine Street, actually, in front of 47, where  
16 you would be able to see them slightly. You can't  
17 see the ones over the garage, but that was the only  
18 place where I thought, you know, you could see  
19 them. But I don't think anyone would notice,  
20 because they blend with the roof shingles. I think  
21 that's the last picture, except for the aerial  
22 view. So this is from the Aurora program that the  
23 wonderful engineers use now from a satellite, and  
24 it shows 20 panels on the high roof and the eight  
25 panels on the south-facing roof of the garage.

1           We had two trees removed. There were two  
2           white birch trees in front of the house. We had  
3           them removed to expose that roof to the sun  
4           completely. So that's our story.

5           THE CHAIRPERSON: Just so everyone can  
6           get their bearings, what streets are these two  
7           here?

8           MR. KATES: Rhode Island. That's  
9           Catherine Street, and that's Rhode Island.

10          THE CHAIRPERSON: So you are right on  
11          that corner, a prominent corner, I would say.

12          MR. KATES: Yes. The house was built in  
13          1976, so it's not exactly a historic building in  
14          any way, shape, or form.

15          THE CHAIRPERSON: I am reading the staff  
16          report, and just to corroborate, it is listed as a  
17          noncontributing building. So that's helpful to  
18          know. All right.

19          MR. DITROIA: If possible, I would like  
20          to add to that.

21          THE CHAIRPERSON: Yes, please. Go ahead.

22          MR. DITROIA: It should be noted, I think  
23          Mr. Kates didn't note it, but Mr. Kates spent the  
24          money and ordered the Solaria all-black panels,  
25          which it kind of, like, blends right into the



1        roofline. It's probably one of the most expense  
2        panels on the market. In addition, it should be  
3        noted that our company, you know, takes pride in  
4        hiding all conduit lines. We use what is called a  
5        deck box, which is nothing more than a flash and an  
6        extended junction box, but it's black. It allows  
7        us to punch a hole into the attic of the house.  
8        Once you're in the attic of the house, all  
9        unsightly conduit runs and equipment is hidden in  
10       the attic, and we find our way with the electrical  
11       chases down to the basement and into the mechanical  
12       room, where all of our equipment is. So you are  
13       not going to see any conduit runs, or anything of  
14       that nature. It will be a nice, clean install. To  
15       be quite honest with you, that's what separates us  
16       from a lot of other companies, is the way we  
17       install these.

18                THE CHAIRPERSON: With that -- thank you  
19       for that -- I am going to open it up to Commission  
20       members for questions. I will leave the screen  
21       sharing feature on in case we want to look at the  
22       pictures. Mr. Elliott.

23                MR. ELLIOTT: I watched the video on  
24       solar panels that you and Helen put together. If  
25       you can see it from the street, basically, you're



1 not supposed to put them in. So it seems to me  
2 that if it's going to be on the south side, you are  
3 facing the corner, if you can see it, it shouldn't  
4 go in, or it should be put somewhere else. I know  
5 you want to put it on the south side, because  
6 that's where the sun is. I know the house. If you  
7 can see it, you are not supposed to do it. That's  
8 the regulation, and I would go with that, I guess.

9 THE CHAIRPERSON: Okay. Mr. Ross.

10 MR. ROSS: I have been by there several  
11 times since this Application was submitted, and I  
12 went by there today again. You really could see  
13 these from Catherine Street, maybe a little bit  
14 from Rhode Island Avenue, but definitely from  
15 Catherine Street. So if you can see it, again, as  
16 Skip Elliott said, that creates a bit of a problem.

17 THE CHAIRPERSON: Okay. Thank you,  
18 Mr. Ross. Anybody else?

19 I guess I will say the same. I think what we  
20 were all referencing is, you know, the guidance  
21 that the Secretary of the Interior has given to the  
22 historic communities of the country on the  
23 application of solar panels in historic districts,  
24 visibility from the street or from somewhere else  
25 is where the line seems to be drawn. Obviously,

1 it's left up to us to interpret those guidance.  
2 Solar panels are not referenced directly in our  
3 Ordinance, so the Secretary of the Interior has the  
4 reference, in my opinion.

5 Mr. Ditroia, your comments are good ones. I  
6 think the technology of solar panels continues to  
7 improve, the profiles continue to improve.  
8 Obviously, there is advantages that we all want in  
9 terms of the world and sustainability, but we are  
10 also trying to balance that with historic fabric of  
11 the neighborhoods.

12 So I am going to take this to a vote. So I  
13 am going to then make the motion.

14 MR. KATES: Can I make a comment?

15 THE CHAIRPERSON: Sure.

16 MR. KATES: I learned of two other homes  
17 in this Historic District that had solar panels,  
18 and I sought them out, and I was able to see the  
19 panels. I have lived here for all of these years,  
20 and I didn't know they had them. People don't look  
21 at roofs like that.

22 The second argument I would make, it is a  
23 1976 home. It does not conflict with ancient power  
24 sources. We have modern cars in our driveway, and  
25 you know, there is all kind of things going on. So

1 I think it would be a shame to deny the world, if  
2 we each do our little bit of using nonfossil fuels,  
3 that all adds up to helping abate climate change.  
4 So I would appeal to all of you to think of those  
5 things. Thank you.

6 THE CHAIRPERSON: That was well said. I  
7 do carry that sentiment myself. So with that, just  
8 to clarify, I am going to bring this Application to  
9 a motion. We do need four positive votes to pass  
10 something. So I just call that out as following  
11 our Ordinance.

12 So with that, I am going to make a motion to  
13 approve the Application for 52 Catherine Street,  
14 Plat 22, Lot 117, as presented.

15 MR. ELLIOTT: So moved.

16 MR. ADAMS: Second.

17 THE CHAIRPERSON: All those in favor by  
18 roll call: Mr. Elliott.

19 MR. ELLIOTT: No.

20 THE CHAIRPERSON: Mr. Adams.

21 MR. ADAMS: No.

22 THE CHAIRPERSON: Mr. Ryan.

23 MR. RYAN: No.

24 THE CHAIRPERSON: Mr. Ross.

25 MR. ROSS: No.



1 THE CHAIRPERSON: And I also vote no.

2 So, Mr. Kates, it's disappointing that we did  
3 not approve that. Again, we do respect everything  
4 that you're bringing forward, totally understand  
5 and agree with the broader concept of solar panels  
6 and energy. We are kind of tasked with applying  
7 historic standards to each application, and in this  
8 case, it got denied. Mr. Elliott, you have a  
9 comment.

10 MR. ELLIOTT: Yes, some of the other  
11 people we have talked to have put it on the lawn  
12 and have disguised it with bushes, and that worked  
13 well for two or three other people. So just maybe  
14 that works.

15 THE CHAIRPERSON: Thanks for that  
16 comment. That's correct; we have seen different  
17 applications of solar panels.

18 Thank you, Mr. Kates. Tonight, I'm sorry it  
19 did not get approved. All right.

20 (PORTION OF HEARING CONCLUDED)  
21  
22  
23  
24  
25

## C E R T I F I C A T E

I hereby certify that the foregoing is a true,  
accurate, and complete transcription of my notes as  
taken at the above-entitled hearing.

*Nancy S. Caron*

NANCY S. CARON, R.P.R., NOTARY PUBLIC

MY COMMISSION EXPIRES 07/30/2025



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