

Zoning Board of Appeals
2025-03-06 - Meeting minutes - DRAFT

Attendees: Lisa Rood, Beth Pryor, Robert Ballard, Dave May, Pamela Zylinski, Attorney Laurie Baker,
Attorney Dwight Kanyuck, Code Enforcement Officer Robert Reed
Absent: Kelly Martin/Town Liaison

1. Work Session – Planning Board – 7pm

2. Call Meeting to Order

Meeting called to order by Ms. Rood at 7:46pm

ROLL CALL

Ms. Pryor

Mr. May

Mr. Ballard

Ms. Zylinski

Ms. Rood

Ms. Rood advised that Ms. Zylinski is an alternate member who is filling the open position and given full voting rights.

3. Pledge of Allegiance

Lead by Mr. Ballard

4. ZBA Responsibility Reading

MS. ROOD explained the importance of the ZBA responsibilities for area and use variances.

Read by Ms. Pryor

5. Public hearings

MS. ROOD read the public hearing:

The ZBA will meet at the Town of Boston Town Hall on **Thursday, March 6, 2025, at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Open Petition #631 – Dean Hogg, 7387 Boston State Rd, seeking a **USE** variance to operate a car wash.

Petition #633 – Cynthia Mc Cloud, 8159 Boston State Rd, seeking an **AREA** variance to add a new 14x30 carport.

Petition #634 - NY Boston II, LLC (Buffalo Solar Project), 7832 Feddick Road, seeking an **AREA** variance of 384 feet for the Southside and 375 feet for the Northside for a new proposed solar array.

MS. ROOD: So, we do have an open public meeting currently for Mr. Hogg. We have a letter from Robert Reed (CEO) I'd like to read into the public hearing.

February 11, 2025

Dean Hogg Variance application

Respectable Chairman Rood and Conscientious Board members,
Petitioner wishes to purchase and renovate an existing car wash at 7387 Boston State Rd, Hamburg, NY. The existing building and property are part of an estate sale for the late Raymond Miller.

Property is at present a non-conforming use in an R-2 district, constructed approximately 1989 and a use variance is required due to new ownership and non-conforming use from Town of Boston Zoning Article XIV C-1 Local Retail Business District to an Article XV General Commercial District use for a car wash as permitted in Section 123-78 (18).

Mr. Hogg is aware of the work needed and plans to apply for and conform to all applicable codes and Town of Boston Laws. He has plans to add lighting and is aware of the Town requirement per section 123-120 B.

Respectfully, Robert J Reed, Town of Boston Assistant Code Enforcement Officer

We also have a recommendation from the Planning Consultant Sarah DesJardins regarding petition number 631:

Regarding Petition # 631, Dean Hogg is seeking a use variance in order to rehabilitate and operate the existing car wash facility at 7387 Boston State Road. The consideration of a use variance requires that a SEQR review be conducted and a SEQR Determination be issued by the ZBA (Negative or Positive Declaration). A Negative Declaration would indicate that no potentially significant adverse environmental impacts have been identified. A Positive Declaration would indicate that the ZBA has determined that the proposed action may result in a significant adverse impact and therefore will require preparation of an Environmental Impact Statement.

We also have a letter from the estate of Raymond Miller:

Dear Members of the Zoning Board of Appeals,

We, Deborah Phillips, and Molly Myers, are the duly appointed Executors of the Estate of Raymond W. Miller, which includes the property located at 3787 Boston State Road. We are writing to formally

¹ designate Dean Hogg, the prospective buyer of the property, as our authorized representative in all matters related to the application for a use variance for the Car Wash.

As the authorized representative, Dean Hogg is granted full authority to act on our behalf in preparing, submitting, and presenting the application for the use variance to the Zoning Board of Appeals. This includes responding to any questions or requests for additional information from the board, attending meetings, and addressing any concerns that may arise during the review process.

Please direct all communications regarding this application to Dean Hogg at the following contact information: Dean Hogg

This has been notarized, signed and assigned.

From the estate of Raymond Miller:

Dear Members of the Zoning Board of Appeals,

I am writing to formally request a use variance to reopen the car wash located at 7387 Boston State Road, a property that is part of the estate of the late Raymond Miller. This property has historically

operated as a car wash, although current zoning regulations do not permit this use under the existing classification. To settle the estate, it is essential that the property be sold; however, the sale is contingent upon the approval of this use variance.

In support of this application, I would like to address the four criteria required for the approval of a use variance:

1) Proving Inability to Realize a Reasonable Return:

The estate of Raymond Miller cannot be settled without selling this property. Given that the building was specifically constructed as a car wash, repurposing it for another type of business would involve significant and prohibitive costs. Therefore, the property cannot be sold unless it is approved for its original use as a car wash.

2) Uniqueness of the Hardship:

The hardship presented by the current zoning classification is unique to this property. The building was originally designed and built exclusively as a car wash, with the approval of the Town planning board. The current zoning does not reflect this specific use. Furthermore, redeveloping the site would be prohibitive given the unique geometry of the property.

3) Impact on the Character of the Neighborhood:

Granting this variance will not alter the essential character of the neighborhood. The site operated as a car wash in the past, and the intent is to reuse the building for the same purpose. Currently, the property is closed down creating an unused commercial property in the business corridor. The purchaser plans to fully remodel and revitalize the property, transforming it into a beautiful, state-of-the-art car wash that will be an asset to the community and enhance the town's appeal. One of the purchasers current car wash is located in Orchard park at the intersection of Rt 20 & California road as a representation of the aesthetic appeal.

4) Non-Self-Created Hardship:

This hardship was not self-created. The property was built many years ago, and subsequent zoning changes have rendered its original use non-compliant. We did not contribute to or create this issue but seek to resolve it in a way that benefits both the estate and the community.

We respectfully request that the Zoning Board of Appeals consider these points and approve our application for a use variance, allowing the property to be sold and the estate to be settled.

Mr. Hogg, can you step up? Step up to the mic, state your name and address. This goes for everybody that's speaking tonight. We have this in front of us with the figures. Could you walk us through this just so that we understand it, for the financial piece of it because we have to prove financially.

MR. HOGG: Ok, maybe we'll have Steve Phillips speak.

MR. STEVE PHILLIPS: With the estate of Raymond Miller, ex-son-in law. So, I put the cost analysis together, looking at the property, its unique shape. I did not get so much involved into the actual town requirements on parking spaces, green spaces and so forth. If you would look at the size of the property and realize that once you get into demolition and trying to build something that would meet the current town zoning regulations, it would be a very, very small piece of property with the return investment just never going to be there. It's a pie shape lot, on the corner of the

intersection.

MS. ROOD: The financial piece of this here, I guess the illustration, you're using an example, if it wasn't a car wash and it had to be demolished for another purpose, you're using an example of an office building, I take it.

MR. PHILLIPS: Yes.

MS. ROOD: All right. So, you go through what the cost is to buy the property and then demolish it and then paying for the site engineering architectural drawings, the utilities and the building site work, the general contractor, and then what the cost would be for 4,000 square foot office building at ninety dollars a square foot, which I'm assuming is the going rate.

MR. PHILLIPS: Yes. Published.

MS. ROOD: And then building out the interiors.

MR. PHILLIPS: Right. It wouldn't matter. That's just a general interior, not custom, for any type of office.

MS. ROOD: So, at that point, if you were going to do that, it would come up to a \$1, 156,200, correct?

MR. PHILLIPS: Correct.

MS. ROOD: And then you get into annual expenses which would be the taxes on the property, mortgage payment, insurance, property maintenance and that would total \$137,877 and you'd be realizing an annual rent income of \$48,000.

MR. PHILLIPS: Correct because it would end up being such a small office building.

MS. ROOD: Do you have financials for what it would cost to renovate the car wash?

MR. PHILLIPS: The problem with the car wash is, it was never built to be.... it's not insulated, it's just an open bay. There are no bathrooms in it, there's no utilities in it other than the gas line to run the heater. That's all that's there. There is just nothing there. You're not going to renovate that. Slab on gray. There's no insulation on the floors.

MS. ROOD: But if you're refurbishing it as a car wash, do you have financials for that?

MR. PHILLIPS: That would be with Mr. Hogg.

MS. ROOD: Do you have financials for that?

MR. PHILLIPS: I don't.

MR. HOGG: No, I didn't know I needed that. I don't have the paperwork for that.

MR. PHILLIPS: As far as what you're going to invest into it to bring it up to code and modernize it. It's still going to be a car wash, wash bays.

MS. PRYOR: We would have to figure if they could use it for something other than the car wash. What else would you use it for other than possibly office space. If they can't, there is no reasonable rate of return if they use it for office space. They can't farm it. What else could you do.

MS. PRYOR: I have an ask. We have to make a negative declaration if we were to grant this, etc., but one of the things we have to do is to consider the environmental impact of this particular car wash on the environment. I, as a board member, don't necessarily feel qualified to talk about the environment. I'm not an environmental scientist. Do you have information, or could you get us information on the environmental impact so that we could with confidence either declare yes or no, this isn't going to make any type of environmental impact on the character of the neighborhood and all that.

MR. PHILLIPS: Are you requesting a SEQR?

MS. PRYOR: I don't think I am, am I?

MS. ROOD: No, we don't have to. We are the lead agency on this, so we have to declare whether or not it's a positive or negative declaration. So, does anyone feel confident? Laurie? This is my first use variance.

ATTORNEY KANYUCK: Normally under a SEQR, it's looking for the environmental impact on the neighborhood and character around it. Are you changing that?

MS. ROOD: No. We're looking more at the environmental aspects of the foam, soap, are the drains all good.

MR. HOGG: I'll have to do all those steps.

MR. PHILLIPS: That all comes with code compliance.

MR. BALLARD: You have this already in your other site and everything, right? That meets all of the environmental impacts that they have at your other car washes. They're not going to just let the water run out. You have collection systems, right.

MR. PHILLIPS: No, it goes into the sewer system.

MS. PRYOR: I was just looking for more information.

MR. PHILLIPS: It all tied into the Boston sewer system.

MR. HOGG: There're oil separators, grit separators and all the chemicals that we use to wash the cars are all biodegradable, right down Erie County sewer. The four car washes are the same way.

MR. PHILLIPS: They're all set up the same way.

MR. BALLARD: They must have some sort of criteria you have to follow anyways, for most of those others.

MR. HOGG: With this car wash, if you approve it, I'm going to have to get Erie County Sewer there. They'll go over it and they'll inspect everything, make sure the size of the tanks are up to standard size right now and they may not pass. They could be too small.

MR. BALLARD: They'll tell you what you need and that's all on you.

MR. HOGG: They won't let me get a building permit and a C of O without bringing all that up to specs.

MR. BALLARD: Meaning their (Erie County) inspections.

MR. HOGG: When we had our fire in Orchard Park, believe it or not, we had to start over again. Everything had to be changed because now the building was gone and now things weren't up to specs from 20 years ago when we built the building. I'm sure things are going to happen like that here. They're not going to let us get away with something. There's no doubt in my mind; I know the building inspector will guide us in the right direction also.

MS. PRYOR: Thank you. That was the information I was looking for as far as what environmental information you had that you could share with us. So, I appreciate that.

ATTORNEY BAKER: Would they have to submit an environmental assessment report, EAF, so you can look at that and complete that?

MS. ROOD: It should have been with the original application. It's here. The only question I had off the short environmental assessment form was with the traffic but that was answered at the first public hearing. It's not like they're going to be lined up. We did ask for a diagram of how everything would be lined up and that was provided with the cars and the way you're going to stack the cars and everything in the entrance and the exit. I know that Code Enforcement Officer Reed said that he spoke to you about the lighting and that you're going to follow all of the regulations and compliance with that. We like warm lighting.

MS. ROOD: Any other questions?

MR. MAY: Is it going to be open 24/7?

MR. HOGG: Yes.

MR. ROOD: You also mentioned that you were going to talk to Tops and see if you could somehow incorporate the parking lots.

MR. HOGG: I did stop over; I had a phone call in and no one ever got back to me at this point. I talked to a few of the neighbors, and they had a couple of concerns, and we talked about them. Keeping our dryers inside. I'm not going to mount the dryers on the outside of the building. If you look around, some car washes, you see the dryers outside and they are noisy. If you keep them inside; big difference and I wouldn't do that to the neighbors.

MS. ROOD: Nice; Very good. Anyone else from the audience like to speak? Okay. You guys have any other questions? You have any questions for us?

MR. HOGG: No.

MS. ROOD: I make a motion to close the Public Hearing. 2ND by: Mr. May.

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

MS. PRYOR: I'd like to make a motion. I'd like to make a motion to approve petition 631, the Use Variance.

Requested Motion by: Ms. Pryor

Approve ☒ **Deny** ☐ **Reserve Decision** ☐

Table ☐ **Time Frame** ☐

Conditions to approval: The applicant has proven “unnecessary hardship” and **all** of the following:

- (1) That the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district (actual “dollars and cents” proof must be submitted);

Specify how: We have a statement here in our packet that results in a deficit if it's use for anything other than the car wash.

- (2) That the property is being affected by unique, or at least highly uncommon circumstances;

Specify how: Yes. Also, provided in our packet, it was a car wash already under a previous zoning situation. The only reason why there's variances needed is because of a change of ownership.

- (3) That the variance, if granted, will not alter the essential character of the character of the neighborhood;

Specify how: No. It's a vacant building now and it was a car wash before, so I only see good things in the future.

(4) That the hardship is not self-created.

Specify how: That would be correct because of the zoning change.

2nd by: Ms. Rood

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

APPROVED

MS. ROOD: Thank you.

MR. HOGG: Thank you very much.

BOARD CLERK: You will get an acceptance letter.

MS. ROOD: Moving on to petition #633, Cynthia McCloud, 8159 Boston State Rd, seeking an area variance to add a new 14x30 carport.

MS. ROOD: From our Code Enforcement Officer:

Rood and Conscientious Board members,

Petitioner wishes to construct a detached 14 x 30 carport in front of their residence between the residence and (2) accessory structures. The present accessory structures are approximately 300 plus feet from Boston State Road.

Side lot line will be 15 feet to edge of structure and farther than the primary residence. Variance sought from town of Boston Zoning 123-125 more than 1 accessory structure.

Since the acreage is 1.9 acres, the maximum square footage of accessory structures is limited by Section 123-136 A (4). The total of the existing garage and shed structures are 792 and 160 for a total of 952 SF. A variance for 123-136 A (4) would need to be granted also. If granted recommend a limit of no additional accessory structures be placed

We have a letter from Sarah DesJardins:

Regarding Petition # 633, Cynthia Mc Cloud is seeking an area variance for a proposed carport. The proposed Action is classified as a Type II Action and therefore not subject to review under SEQR.

MS. ROOD: Read letter from applicant:

Dear Board Members,

I am requesting a variance of the 840 square foot limitation on total accessory building size to allow construction of a 30'x14' carport over the south section of driveway near the existing house.

Sincerely, Claudia Jensen

MS. ROOD: Was it Cynthia McCloud or Cynthia Jensen or are they the same person?

APPLICANT: It's Cynthia McCloud and Claudie Jensen who own the home together.

MS. ROOD: Could you step up please.

MS. ROOD: I make a motion to open the Public Hearing. 2ND BY: MS. PRYOR

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

MS. ROOD: Could you state your name and address please?

CYNTHIA MCCLOUD, 8159 Boston State Rd, Hamburg, NY 14075. Claudia Jensen, 8159 Boston State Rd, Hamburg, NY 14075.

MS. ROOD: What do you propose to do.

MS. MCCLOUD: We want to construct a carport to park our RV under to protect it from the sun. We're going to build it ourselves. My brother is a contractor and he's going to direct us.

MS. ROOD: It's going to be open sided? It's just going to be roof with four poles?

MS. MCCLOUD: I think the drawing has six poles with a metal roof.

MS. ROOD: I stopped up there to take a look at the site. With it being in front of your house, you're kind of going to kill your view, aren't you?

MS. MCCLOUD: There is no view. MS. JENSEN: It's looking at our shed. MS. MCCLOUD: When the RV is there all the time, the RV is already blocking.

MR. BALLARD: Your trees are right there. Are those going to be removed or are you trying to work around them?

MS. MCCLOUD: We're going to work around and possibly take just a few branches off.

MR. BALLARD: I know it's really close to that driveway.

MS. MCCLOUD: We already had to trim all the trees because the RV is 11 feet tall. It's already clear enough for the RV and the structure is only like a foot and half taller than the RV.

MS. PRYOR: How long is your RV?

MS. MCCLOUD: 25 FEET

MS. ROOD: You don't want to take any of your other buildings down, right. You're leaving the other accessory buildings?

MS. PRYOR: It's just a lot of buildings on a fairly small parcel that makes me pause a little bit here. There's no way you could make do with taking down one of them that you have?

MS. MCCLOUD/MS. JENSEN: No, not really.

MS. MCCLOUD: There's already a concrete driveway there, as you saw, because I know you came and walked around. It's already not green space, it's concrete.

MS. ROOD: You couldn't put it on the side of your garage? Maybe it'd be less to build, less cost.

MS. JENSEN: It wouldn't really be feasible because we'd have to pour concrete and take some trees out because it's really tight. We'd have to actually take some trees out just to get the RV in there.

MS. ROOD: Is there a concrete pad there already?

MS. MCCLOUD: Where we're going to put the carport, yes, there is.

MS. ROOD: There was snow so I couldn't see the concrete.

MS. MCCLOUD: The driveway is sort of like a horseshoe when you get up to the top. So, there's two driveways, one on the side where this is going to be and one on the other side where we park our vehicles. I don't think anybody can even see it from their house. We're pretty isolated back there.

MS. ROOD: Anyone else here to speak on behalf of this application?

MS. PRYOR: Did you speak to any neighbors, maybe walk around a little bit. Did you talk to anybody?

MS. ROOD: There really isn't any. There's like a hair salon place. There's nothing there.

MS. MCCLOUD: Actually, we had a problem with one of the pipes down there and he said, can I feed mine into yours and I will fix the pipe. We have a really good relationship with all of the other neighbors. We come to their son's birthday parties.

MS. ROOD: It's good to hear. I like to hear that. I like it when neighborhoods get along. It's great. A lot of times they don't. Thought?

MS. PRYOR: I think we should close the Public Hearing. 2ND BY MS. ROOD.

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

MS. PRYOR: I would like to make a motion for petition 633. I'll make a motion to approve.

Approve x Deny _____ Reserve Decision _____

Table _____ Time Frame _____

Conditions to approval:

(1) Does it create an **undesirable change to the character of the neighborhood?**

Yes [] No [X]

(2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted?**

Yes [] No [X]

(3) Is the requested variance **substantial?** Yes [] No [X]

(4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood?** Yes [] No [X]

(5) Is the alleged difficulty **self-created?** Yes [X] No []

MS. ROOD: I'd like to add the stipulation that no additional buildings be put on the property.

2ND BY MS. ROOD

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

APPROVED

MS. PRYOR: They have six months.

MS. ROOD: Petition #634 - NY Boston II, LLC (Buffalo Solar Project), 7832 Feddick Road, seeking an **AREA** variance of 384 feet for the Southside and 375 feet for the Northside for a new proposed solar array.

MS. ROOD: LETTER FROM MOLLY MESSINGER:

Dear Mr. Murphy,

Please accept these submission materials as a request to be on the January 2, 2025 Zoning Board of Appeals agenda for two (2) area variances needed to construct a large-scale solar energy system.

1. The RA district requires a 500-foot setback from all property lines. The requested reduction is specifically for the North property line a reduction from 500 feet to 125' and the South Property line a reduction from 500 feet to 120.3 feet.
2. Special use Town of Boston code requirement 8,c, ii requires a maximum of a 50-acre lot size for the installation of a Large Scale Solar Project. The parcel according to the boundary survey prepared by Nussbaumer & Clarke, Inc is 73.8+/- acres thus the need for a 23.8 - acre Variance for this project.

And then it lists all the submission included materials that were included.

MS. ROOD - LETTER FROM CEO/BOB REED:

February 10, 2025

NY Boston II, LLC Variance application

Respectable Chairman Rood and Conscientious Board members, , Item 1

NY Boston II, LC seeks a variance from Local Law 2019 number 5, known as Town of Boston Solar Law section 123-128.3 7 (c) (iii) which sets a minimum setback at 500 feet to an adjoining Residential District

The petitioner seeks a setback from the south side along the parcel boundary with the property address of 7900 Feddick road of 116 feet, and on the north side along the parcel boundary with the properties with SBL Nos 225.00-2- 1.12, 210-3-22 and 220-3-26 of 125 feet. While the proposed use is consistent with Town of Boston Solar Law section 123-128.3 8 (a) with issuance of a special use permit, it is not consistent with 123-128.3 8 (c) (iv) 1. This requires a minimum setback from all property lines bordering a residential district, specifically the north property line border (125 feet) and the south property line border at (116 feet) of 500 feet minimum. The 500 foot setback is provided the site plan at the west side. It appears from the site plan submitted that the solar arrays might be redesigned and shifted closer to the west side south of wetlands and closer to the 500 foot setback provided at this side.

Item 2

NY Boston II, LC seeks a variance from Local Law 2019 number 5, known as Town of Boston Solar Law section 123-128.3 8 (c) (ii) which sets a maximum size of 50 acres. The planned project will require 73.8 acres, or an increase of 23.8 acre variance for the special use permit. Due to planned scope, wetlands, stream and a gas pipeline location this would be allowable.

Code: 500 feet south side

Actual: 116 feet

Variance: 384 feet south side

Code: 500 feed north side

Actual: 125 feet

Variance: 375 feet north side

Respectfully, Robert J Reed, Assistant Code Enforcement Officer

Letter from our planning consultant, Sarah DesJardins:

Regarding Petition # 634, NY Boston II, LLC is seeking area variances for the south side setback and north side setback of a proposed new solar array to be located at 7832 Feddick Road. This request is not subject to SEQR at this point because the Town Board previously issued a SEQR Negative Declaration on the solar project itself.

MS. ROOD: I would like to make a motion to open this Public Hearing. 2ND BY MR. BALLARD

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

MS. ROOD: I have some emails to read into the public hearing.

This is Eric Gawron and I live at 7919 Feddick Road, Boston. I am writing to vehemently oppose the solar project at 7832 Feddick Road. This is happening in every rural town and pretty much the residents of those towns are constantly against the solar farms. Yet, the towns usually approved them. This needs to stop!!!

We live in a farming/country community and it needs to stay that way. Personally, farmland should stay farmland. If the owner isn't a farmer, they can lease it to another farm close by. Or, here's a thought, let nature take its course and let the plants and trees grow for wildlife.

Now, I also understand we need a tax base and that requires development and residents. So, if some land gets developed into some homes, that's okay too as long as the lots are large enough to maintain a country feel (personally I think a minimum of 5 acres).

But, the absolute last thing that should be considered is solar farms. Even if they're off the road and out of sight... I don't want them in my community. It's been proven, regardless of what this scam artist sales person from the solar companies say, that solar isn't as efficient as you may think. Just light wind isn't that effective. But, these companies find people with land, throw a bunch of money at them, and we get into this situation. It's just greedy companies and even greedier residents causing this problem. The owner of this property should be ashamed at what they are trying to do. There are so many possibilities for land and they've chosen the least favorable.

To the board, please do what's right and stop this from happening. Keep Boston the beautiful town that it is and keep your residents happy. Don't let greed prevail!

Dear Boston Zoning Board of Appeals,

I, Richard Telaak, would like to express my strong opposition to the petition #634-NY Boston II, LLC (Buffalo Solar Project), seeking an area variance at 7832 Feddick Road.

My farmland neighbors the proposed solar farm property on Feddick Road.

I feel this variance will create excessive changes and negatively impact the area around it by:

1. Habitat Loss-wildlife on my property will be greatly impacted by construction clearing of the land and trees for the solar farm.
Fragmentation of ecosystems, this solar farm can lead to displacement of the wildlife populations on mine and my neighbor's properties.
2. Health safety and wellbeing concerns.
Risk of toxic chemicals used to manufacture panels leaking on my property.

Noise, glare, and fire risks from the solar panels.

3. Reducing the value of my property.

4. Does not fit with and detracts from the character of the Town of Boston.

The Town of Boston's Comprehensive Plan states that preservation of the existing agricultural land is important to maintain the rural character that attracts many people who are interested in making Boston their home. Once the topsoil and its nutrients are stripped from the solar farmland there is little chance of reverting it to its original use for the future.

Once it's gone it's gone.

I am asking the Boston Zoning Board of Appeals to Protect our quality of life, stop industrial solar from destroying our thriving community, farmland, wildlife, and property values by voting no on Petition #634 Area Variance at 7832 Feddick Road.

Sincerely, Richard Telaak

MS. ROOD: Email from Susan Sandy:

Dear Town of Boston Zoning Board of Appeals and Lisa Rood Chairman,
As homeowners in the town of North Boston, located near the proposed Feddick Road solar project, we hereby express our strong opposition to the proposed construction of solar panel farm in our neighborhood. We believe that the installation of large-scale solar farm in our community will have several adverse effects that must be carefully considered.

The primary concerns are as follows:

Environmental Impact: The proposed solar farm will require the clearing of significant tracts of land, which can lead to habitat destruction, loss of biodiversity, and disruption of local ecosystems. This development is counterproductive to our community's efforts to preserve green spaces, farmland and protect wildlife. Fragmented habitats can interfere with wildlife movement and migration routes.

Visual and Aesthetic Concerns: Solar panel farms are industrial in nature and can detract from the scenic beauty of our community. The visual impact of vast expanses of panels can diminish property values and alter the character of our neighborhood/farmland, making it less appealing to current and future residents.

Agricultural Land Use: Many of the proposed sites for these solar farms are on land currently used for agriculture. The loss of agricultural land not only affects local farmers' livelihoods but also reduces the availability of locally grown produce, which is essential for our community's food security and sustainability. Additionally, if local zoning laws or land-use prioritize agriculture, the conversion of farmland to a solar farm could violate these regulations.

Property Values: Numerous studies have shown that the proximity of large-scale solar farms can negatively impact property values. This potential depreciation poses a financial risk to homeowners and may reduce the overall economic vitality of our area.

Health and Safety Concerns: The installation and maintenance of solar farms may pose health and safety risks, including potential electromagnetic field (EMF) exposure and the risk of fire from electrical faults. Toxic chemicals leach out from the panels. Please take a serious note: There is a creek that runs nearby the proposed site feeding into 18 mile Creek, and eventually Lake Erie. There are residential ponds nearby as well. Furthermore, for health/safety reasons, authorities recommend residences maintain a distance 1.2 miles from a solar farm. These risks need thorough investigation and transparent communication to the community.

Unpredictable Technological Changes: The technology for renewable energy is constantly evolving. What may seem like an efficient use of the land today may be replaced with a better solution in the future, leaving farmland permanently altered for a technology that becomes obsolete.

Noise and Light Pollution: While solar farms are relatively quiet, the operation and maintenance of solar panels (e.g., inverter noise) could introduce unwanted noise pollution that disturbs residents and wildlife in the area. The installation of large solar panels could lead to increased glare and light reflection, which may disrupt the lives of people and animals living nearby, especially during the early morning and late afternoon hours.

Farmland Taxation: For the landowner, the shift from agricultural tax rates to commercial rates may increase the cost of holding the property, which could impact the profitability of the solar farm. We request that all voices in our community are heard and that the decision-making process is transparent and inclusive.

Thank you for considering our concerns. Please preserve our quality of life, the history of the area, the farmland, and the natural beauty we cherish, noting **that this project is not being proposed in the zoning board of appeals neighborhood.**

One more note, as I prepare this email, I have a live view of the House Committee Discussing America's Energy Reliability. Oil, hydrocarbon and nuclear are leading the discussion in America's future of dependable energy needs, especially with "AI" advancing the energy transition. How ironic.

Thank you,
Susan Sandy
Mayer Road

MS. ROOD: Email from PJ Szeider and Katelyn Ebling:

To Whom it May Concern:

I am writing this letter in opposition of granting a variance for the 17 acre solar farm to be constructed on Feddick. As a member of the Boston community, I strongly oppose any project that would harm the visual landscape and alter the character of our community.

I believe that there is a way to have a solar farm that does not devalue neighboring properties and ruin the rural scenery. Adhering to the Boston town code will ensure that the solar panels do not encroach upon neighboring properties views. Ideally a tree line would also be planted to keep the natural beauty of our rural setting.

Respectfully,
P.J. Szeider & Katelyn Ebling

MS. ROOD: Where is the company who's representing Delaware River? RESPONSE: We're right here.

MS. ROOD: Please step up and state your designation.

MOLLY MESSINGER for Delaware Solar and HENRY ZOMERFELD for council from Hodgson Russ.

ATTORNEY HENRY ZOMERFELD: I think before we talk about the project and what's before the board, I think it's important to frame where we are legally and where the board is going to go with evaluating the application. And then we'll talk about some housekeeping items with respect to the application and some things that I think need to happen before the board can actually render a determination. So, a couple of things. The Town Board already issued a negative declaration, so I know that there are probably a number of people here who are going to raise a number of concerns, many of those probably already articulated in the letters, in the emails, the board just read. Those are not relevant to the consideration tonight because the Town Board already said there was going to be no environmental impact by this project. What the board is charged with tonight is whether the request for the area variances is appropriate and typically the town would look at the criteria in the Town Law, the five factors that we hear read earlier. That's not the standard to apply to a solar project. As submitted in our letters to the board, the solar project is subject to what's known as the Public Utility Variance standard. It's a less onerous standard because this is a utility and there is a necessity for electricity in New York. There's also a push in New York by state policy under the CLCPA to increase renewable

energy throughout the state. Recently, just a couple of months ago, the third department, which is the appellate court in Albany, affirmed the idea that solar projects, renewable projects, are subject to this standard. So, what does that mean for all of you? What does that mean for the review that you will conduct? It means that all you have to determine is whether or not there is a necessity for this electricity, which we know there is, whether Delaware River Solar is a company that develops these projects and whether there is no alternative for the project in any other mechanism. In other words, is it feasible for it to go somewhere else and the answer simply is, no. This is an irregular parcel, and it can't be configured in any other way without this variance. So, under the PUV, the Public Utility Variance standard, the board is to grant the area variance. So, I wanted to just frame, legally, where we are. I understand that there are a lot of concerns. I understand that there's a fair amount of opposition, but that's not what the board is to look at tonight. Not only because of the negative declaration but because the courts have already made this ruling. The second piece that I wanted to discuss briefly before turning it over to Molly, I think there are some impediments or things from housekeeping legal standpoint that need to be resolved before the board can act. The first is, this is near both a municipal boundary and an agricultural district. But certainly both of those would trigger a GNL 239M referral to the county. And I think that's been recognized by the town but I don't think that has actually happened. So that review is the board, of course, is familiar with that has to go to County planning. There's a 30-day window for the County to respond. If the County responds, you consider it. If the County doesn't, you can move forward. Because it is only an area variance, the fact that it's near an agricultural district, is irrelevant because that's an exception under 239M, but what is not an exception is the municipal boundary and that is the town of Eden boundary. Now, of course, depending on where exactly this might be cited, it might not be within that 500-foot boundary. But, in an abundance of caution, we would ask the board to make that referral. The other aspect, and this came up in the Code Enforcement letter, so I'm not entirely clear and I did speak with Molly about this. As far as the 50-acre aspect, it seems that Code Enforcement is saying we are in compliance because the Public Hearing notice referenced only the two 500-foot setbacks. So, if the board is going to act on the variance, I think the Public Hearing, when we come back, does need to refer to that 50-acre aspect. So, I just wanted to frame that for the board. I'll turn it over to Molly unless there are questions on those legal issues to talk more about the specifics of the requests. Thank you.

MS. ROOD: Thank you.

MOLLY MESSINGER: The Delaware River Solar has been in front of the Town Board for a while now. As everyone knows, we've done quite a few studies. There's been a full chronicle heritage study on it for the SHPO for the historical preservation and that came back with a no impact letter. We also have been dealing with New York State Department of Agricultural Mitigation. They have given us, also, a no impact letter as far as any mitigation procedures that we need to do moving forward. If we do have to do some intense grading, then, obviously we'll follow all the mitigation procedures for NYSDAM. We have to actually be in touch with them, as far as our application with them, but we did receive a no impact letter from them as well. What the one letter was referring to for the 17-acres was the actual fenced in solar field itself is only 17-acres on that 73-acre parcel. So, we do have your zoning code includes the panels, not the fenced in area. So, we're actually, only with the panels covering seven acres of the property, which is well below the 30-acre density requirement that's there. We do understand that screening is obviously one of the biggest issues for everyone. This particular solar field has at least three neighbors, that we pointed out in our visual study, that are 65-feet below the solar field in elevation and are about 1200-feet away from it. Screening for those three neighbors that are going to see it is going to be a little bit harder. It's just because the elevation changes in the way that is. We are no stranger to screening. We can put a row of Evergreens across the entire front. We can talk about different screening that might be suggested from the board. But, just because of the nature of the land, it's going to be very difficult to screen from those three individual neighbors from the visual study. If

you had a chance to look at that, it actually showed color-coded what people could see from the road and what different neighbors could see from that area. Let's see, as far as everything else, we did submit a full storm water prevention and pollution plan, but we haven't gotten any responses back yet. As far as comments from the engineer, I'm not sure if the board has received anything either. We do know that we need a gas line crossing. We are in touch with them, and we are doing a site visit in order to meet with them in order to get that land crossing that we need for the additional driveway. All this information was sent to the fire department. We have not heard back from the fire department yet. What we like to do is, have full conversations with them prior to the site, after construction even being energized. We like to meet with whatever fire department would like to come, emergency services, so we can show them where the shut-off switches are, how the field works, how to gain access, what to do in the event that there was an emergency. We do all of that prior to the solar field being energized. So, it's all part in the emergency plan that was submitted to the board. There are Northern Long-haired Bats in this area, so there is a clearing limitation as far as when trees can be cleared. A lot of the solar field is in the fields, but there is some that's in the wooded area to the West. So that means that we can't clear between March 31st and October 1st. So, there's a very short clearing window because of the Northern Long-haired Bats. We did get an engineering letter regarding the actual site plan which we've sent all of the information back to the engineer. I think that's everything. We can't submit the SPDES permit yet, because the SWPPP hasn't been approved so we can't move forward with any of that permitting. I think those were the major points as far as what the Town Board has asked us for and the different questions that have come back. I don't know if the board has any further questions on any of the reports or any of the information that we sent out and the decommissioning bond will be set. I know there's a question about decommissioning. In your code, you actually have reasons for decommissioning and there are reasons for decommissioning. If it doesn't produce, I think the code is 12 or 18 months, the town can ask for the solar field to be decommissioned if it isn't producing. It can't just sit there and not do anything. The town will get a bond with a two percent escalator. The decommissioning bond will be presented from our engineer and then approved by your engineer, your attorneys and whoever you deem fit and then there is a 30-year escalator. So, every year, there is a two percent escalator on that bond. I've seen in other towns that they do a five-year look back. So, every five years, they revisit that bond just in case inflation has changed, material prices have changed, different things have happened. This system is a single axis tracker system. It has less material than a fixed tilt system. Single axis trackers are on one H post. They're not on multiple triangular ballasts so there is less material. The panels that we are proposing are 90% recyclable. They're glass, copper and metal. They don't leach any materials into the ground. There are recycling facilities being built in New York State and around the country. Anytime we can get U.S. content instead of shipping it from overseas, we do try and get U.S. content because there are more factories popping up in the country.

MS. ROOD: How often is that available from the states?

MOLLY MESSINGER: We have two projects, actually, that have U.S. content, which is kind of nice. It's a demand situation. If we can get it at the time of construction, then we'll try. Then we'll get those first solar panels instead of across overseas. But the overseas panels have to meet the same requirements coming into the United States, as we produce here. There's U.S. content being built and being installed currently, so, that's a great thing. As far as the panels, that's how they're made and manufactured.

HENRY ZOMERFELD: Just have one other point to make, just again, in framing this, we're seeking only an area variance, and I'll state the obvious for the benefit of everybody here. That's because we are an allowable use. We don't need a use variance because this is permissible. So, again, the letters before you, the comments, I'm sure you hear, I understand those concerns. We don't need to necessarily get into a ping pong match of who's right, who's wrong. A lot of those things don't matter because this is permissible. So, where it's going is totally allowable subject to the restrictions that we're seeking relief from.

MS. ROOD: I understand that, but I still think the residents have the right to speak.

HENRY ZOMERFELD: Absolutely. Don't mistake my comment. I'm not suggesting that you not entertain comments. They're here, they stayed here, they're entitled to be heard but I just want to make sure.

MS. ROOD: It's impacting them.

HENRY ZOMERFELD: I understand, but again from a legal standpoint, it's an allowable use. That obviously will guide you in your decision.

MS. ROOD: I think we all understand that.

HENRY ZOMERFELD: We'll entertain questions.

MS. ROOD: I'm actually going to let the residents ask the questions and then anything that they don't cover I'll follow up with the ones that I would like answers to, myself, that they might not have thought of because they haven't got the reams of material, like I have, to read through. With that being said, I would ask that everybody, when they come up, that they state their name and their address clearly. Please don't try to repeat each other because we will be here until midnight. Did everybody sign in before you came in. If you haven't, please sign in so that we also have that for the records to show how many people were here.

MOLLY MESSINGER: (left plan board for any further discussion by the residents)

GREG MOSCATO: I am at 5886 Shero Road. Will you explain the different sign-up sheets because there's different names on each one.

BOARD CLERK: It's just showing the petitions that are here. So, if you're here for the solar, you would just sign that one.

MS. ROOD: It's all the same sign-up sheet. It's just multiple pages.

DAVID NOWICKI: 5124 Shero Road. Does the board have legal representation, possibly outside firm, to look at the town attorneys or the firm itself?

MS. ROOD: We have our ZBA attorney, and we also have outside council.

DAVID NOWICKI: Just wanted to know. There's a lot to go over, that gentleman, their attorney, went over. I think that's what I'm looking for. Thank you.

RICHARD BANKERT: 4786 Enser Road and I have been here for quite a while. I'm also a veterinarian and one thing, I know you said it's the use permit not in question, it should be, because these solar panels are, and I'm aware of the advantages and disadvantages, clearly. But I'd like to speak out for the animals because it's been known these solar panels produce heat, considerable heat. They also kill animals that are in the area and I know that a lot of people, recognizing that, are putting up these big fences around them. So, that's something that's probably going to happen if people complain loud enough, like I would, but it's going to be unsightly and this might be something that will disturb the environment, the animals. Also, it'll be unsightly for the people. That's it, I'm ready to go, that's all I have to say. Thank you.

JEFF PIERSANTI: 7806 Feddick Rd. I believe we have three minutes, is it? We'll try to keep it short. First off, thank you guys for being here and I have to thank all of these people, all of my friends I call them now, my neighbors that are here, putting their time up here for us. So, you guys should give yourselves a round of applause for fighting this fight. Thank you guys so much for all of this. But what I want to say is something that Dr. Paul Ziarnowski, I hope I pronounced that correct, from the Planning Board said. He said, Delaware River Solar, you people are basically just going after low-hanging fruit. You've got all these hang ups here that you're trying to justify. We have the issues with crossing multiple waterways, the wetlands, the endangered species, the impact on the community. All of these things, I could keep going and going but I don't want to keep us here till midnight. The other thing that I'm sure we're all upset about is the Delaware River Solar thinks they're going to come in here and just steamroll this town. Did they talk to any of us? Did they have any consideration for any of the things that we want? No. I didn't meet any of these people. Nobody reached out to us. It's not their home. It's our home. It's our home where we live and we don't want it. They just say, well, too bad. We're going to reference

this, reference that. No, that's not how it works. Our town does not cater to you people. It doesn't work that way. It's our town. It's our home. It's not here for you so you can say this, you can say that. There are other places to go. Maybe there's state brown land, maybe areas along the interstate, as a possibility. All things to consider. Other areas, Town of Concord actually, just shut one down because this solar farm that they shut down did not align with the town's vision of their community and the use of the farmland. This is very, very useful farmland that we have here and we can't just let it go for these people to make a profit on it. They're promising us little things, five percent off our electric bill. I got my electric bill, one from the summer, I think was eighty dollars. Five percent off eighty dollars is what, four bucks every month. What's that going to get us, barely a gallon of gas? They're going to try to bribe us with that. What's that going to do with our home values? What's that going to be for the long-term health effects? There were so many issues that were raised. Even when these people came up and spoke and told us about it, they said that they can't go anywhere else. That was one of the, come on, they can't go anywhere else? There are so many other possible locations for this. They talked about all of the difficult things that they're going to have to address. The elevation changes, they're going to have to put all this screening, bridges over waterways. This site is so far from the road, they're going to be running these (photo shown of power lines and poles). This is from, I believe, Delevan New York Solar project. They're going to be running these along your home. That's 50-feet (photo of Ellicottville, not Delevan) from a property line. I don't think that has a really positive impact on people's homes. That doesn't look good. The other thing that I wanted to bring up, this one, this site involving cutting all these trees down, the endangered species. There are so many, so many issues here and you can say that we're going to screen this, we're going to screen that. There are neighbors of mine that are good friends that I have been to their house multiple times, and you could build an 80, 90, 100-foot berm and you're still going to see this. It's not a good site. Like Dr. Paul said, they're going after a low-hanging fruit. They have not once acknowledged anybody here as far as the impact that it's going to have. They think they can just come in and steamroll our town, our board members! Doesn't work that way. I appreciate all you guys hearing all the facts and I hope that I'm presenting the facts and laying them out there for you on behalf of our neighbors. I'll leave it at that but there's a lot more. Actually, you know what, I probably should bring one more thing up. Let me throw one more out there. The only reason that we're hearing this case, and I'll put this out for the board members just in case you guys aren't aware. The negative declaration by the Town Board, they looked at studies that were conducted by people of Delaware River Solar. These studies, we would love to see those studies and we actually are going to see those studies. We foiled that and we are going to see what was all done because there's some red flags there. We would have loved to see an independent agency do that. Somebody who was not biased, somebody who maybe didn't know somebody. Because where there's smoke, there's fire. There's some serious doubt that was raised there. I'll leave it at that. But anyway, thank you guys for all of your time. I appreciate it and I appreciate all my neighbors and friends here spending hours and hours of their time trying to fight this. You guys are all great and I really appreciate having all of these people here as friends and neighbors. So, thank you everyone. MS. ROOD: Thank you.

BOB TELAAK: 7900 Feddick Rd. I'm one of the residents that border up and tight to this property where they're asking for this huge variance. I'm definitely against this thing. First of all, I'd like to thank all you for doing what you do. So, anyway, there's several issues with this. I don't believe anything of the crap that this guy's telling you. I mean, some of these town's projects on the big 94 seed projects, yeah, they can come in and tell the town zoning boards what they're going to do, but this little project, like this, they're supposed to abide by all the codes and rules of the town. I don't know where this guys' getting his baloney from but it's bulls—t. Anyway, I'd like to talk first about property values. Everybody on our street, in the area there, their property values are going to go down. Some of the people a lot more than others. Myself, my wife, Jay Collard and Lynn Collard and Harder property, all the properties got visual view of these back fields that are going to see the glare from those solar panels. That glare is

very, very intrusive, especially when our houses are built up on a hill looking down at these fields. There is no way she's going to build a berm, plant a bush and think she's going to block our view. She's crazy. But anyway, that's one of the big things, the view. They're not going to stop that. Our properties are all going to be affected drastically, for our property values. But Jeff Piersanti, his house is going to be 50-feet from these poles, going all the way down this property line from the front yard all the way down his property line. What do you think of that. Would you like that in your front yard? I don't think any of us would. AUDIENCE MEMBER: Bob, how are those solar panels? How do they look? Are they covered with snow and ice?

BOB TELAAK: There're all covered with snow so I'm sure they're really doing a really good job today. (photo showing the poles to be placed along the driveway on the property passed around). This is going to be right in his front yard, less than the width of this room and they got the road 20-feet wide, right on his property line. Why don't they keep it next to the homeowner's property, that is building this big project. Why do they keep it to the neighbor's property line? That's just wrong. So, anyway, that's the property values. Then we're going to go to our quality of life. Everybody there has lived for years. We hunt there, we fish there, we camp out back, we boat in a pond. That's all going to be changed. There's going to be no more views of the lake from our house. We can see across Lake Erie, all the way to Canada. We can see the windmills and the blades going around and at night, when it's dark, you can see the red flashing lights. We got a million dollar view up there and now we're going to have this intrusive, very intrusive glare from these solar panels. This is not the right place for this project. It's not big enough, there's not room where they're bringing it out to the road that you got have all these poles right next to somebody's house. That is crazy. It's unbelievable. Can they guarantee that the cost for the Boston taxpayers aren't going to have to pay for fire trucks, foam truck, equipment and training for the firemen? There's a fireman, I hope here tonight, that can get up because he told me there was nobody that contacted the North Boston firemen about anything about what they need; trucks they need, equipment they need. Who's going to pay for this? This foam truck would probably cost five hundred thousand dollars to a million dollars. Is Delaware River going to buy this truck? I don't think so. Let's face it, if this thing wasn't government subsidized, paid for by the government and grants and stuff, this thing would never happen anywhere because these things are a loser. They lose money and the only thing that keeps them afloat is the free money that they get. Then we got the noise with the inverter. My house is over a thousand feet from the road, so I'm going to be the closest resident to hear this thing screaming in my backyard as I'm sitting on my deck, 70 to 80 decibels. Well, when wind's carry our way, believe me, you hear that noise really well. We can hear the train tracks, and the whistles blow in Lakeview, which is 15 miles away, very clear, on a calm day when the winds come in our direction. So, the noise is definitely going to be very bad for us. Like I say, we're over a thousand feet back from the road. Can they guarantee us that we're not going to hear that noise? Are they going to guarantee us that we're not going to see them panels glowing? How about the farmland? Can they guarantee that after they're done with this land, ruining it for the next 20, 30 years, that it's going to be viable farmland that can be farmed after their toxic solar panels are dripping goop all over the land? I don't think that's going to happen either. I want to thank the four people that sent the letters. I was going to do all of them topics and they did a really good job.

MS. ROOD: They did. Covered a lot of ground.

BOB TELAAK: They helped me out there. But anyway, this glare from the solar panels in our backyard, our property values diminish because I talked to two different realtors, and I asked both of them: Has anybody ever called you and wanted to buy a piece of property next to a solar farm? They both laughed at me because nobody wants to buy property next to a solar farm and if you go to sell your property, you pretty much have to give it away. That's why the neighbor to the south of me sold last year, people down on the corner sold and now we have another resident selling his place. He says, I'm going to get out of here. If this thing goes through, I don't want to be here because he knows the writings on the

wall. But anyway, that's most of the topics I have tonight. If they want to go somewhere in Boston and build it, there's a perfect spot up on Rice Road. There's 699 acres, nice land. They could put it out in the middle of there and have 400-acre solar farm and it's be a beautiful spot. Nobody's view, nobody's backyard. It'd be a perfect spot. If they'd like to know, I can tell them where it is. But that's all I have tonight. Thank you.

JASON COLLARD: I live at 7880 Feddick Road. Bobby kind of hit on the subject of the property values. I think it's eminent important for all of us around there. This is a money grab by one resident and one company and as we alluded to earlier, it wouldn't even be there, that money wouldn't even be there, if it wasn't for taxpayers. It's kind of disappointing that I'm paying for the demise of my own property. I got thinking about it, the 690 acres that the county has that Bobby alluded to. Why does the county have that, right. They have it because of collateral. They need it for when they take out loans. The county would never agree to put a solar field on it because it would diminish the property value. Why are we allowing our property to be diminished when the county won't even accept something like that? So, I just wanted to say that and even a blind man can see that this is a bad idea. Thank you for your time.

WENDY CICERO: They've covered a lot of what I did so I'll just leave you my letter and just hit a few points. My husband is here with me, Michael, and we live at 7847 Feddick and we're right across the street from this. We are a little bit lucky that we probably won't see the solar farm. Maybe the very tips of it but we will see all the infrastructure on the outside of the street, the big driveway/roadway that's going all the way down, it's 20-feet wide and I think 2500-feet long. Some of the questions that I have is: who's going to maintain all that? Who's going to be checking on the solar panels to make sure that they're working correctly and that they aren't broken? Who's going to plow that driveway so that people can get back there if there's an incident? Who's going to take care of the vegetation that's growing back there? I don't know. We haven't heard those answers yet. I have big concerns about our volunteer fire company. They're wonderful, wonderful people, but they're basically pigeonholed. I mean, you don't fight solar with water. If there is an incident back there and say it would spread to the trees or whatever, how are they going to fight that? We had a huge fire done on Feddick where we lost a barn and when they opened those hydrants, our lines blew. The barn wasn't saved. Could it have been if the water was flowing, maybe, we'll never know. We can't even depend on our water system up there. It's a lot of questions that aren't being answered and as a resident, we built our home up there almost 11 years ago. I'm originally from the other hill in Boston and finally came back, which I'm very glad to. But we moved out of Lancaster so that we didn't have to deal with this stuff. I wanted to come back to my farming community, you know, big lots, wonderful neighbors, we're not on top of each other. They're just going to come in and steamroll us and make this project, which is not even, I know it's considered large scale, but it's not compared to a lot of what you see going on in New York State. So, they're going to make it fit. But that also is infringing on everybody's rights that live around there. That's very sad. Thank you.

THOMAS HUNTINGTON: 5664 Meadow Drive. My family's been some of the found people in this community. I heard a statement tonight about the fire company. I asked our chief if we had any correspondence with anybody from the solar panel company. The answer was no. I started looking into a little bit of this list; what these solar panels can do. They produce carcinogens. There's a number of them. Some of them can kill you, maybe not immediately, but it does happen. Solar farm fires. Some of them burn from 10 to 14 days. And, as a fireman, we're not going to put this stuff out. Once one of those panels/sites starts to burn, it's going to burn until it's all done. So, you got run off. You got the carcinogens, and it sounds like the majority of people in town don't really appreciate this. That's all I have. MS. PRYOR: Thank you. MS. ROOD: Thanks Tom.

DAVE RING: Good evening. I just bought a house at 8815 Rockwood Road in November. I grew up in the city of Lackawanna. I work in Williamsville, and I decided to move my family here to Boston because I've

always loved it out here in the hills. I did not move my family out here so they could live next to a solar farm. I don't think there should be solar farms anywhere in Boston. I'd like to recommend a location for the company: Bethlehem Steel site in Lackawanna. Great spot to have a solar farm but you know I pay the Boston taxes just like you guys. I don't want them anywhere in this town. Thank you so much for your time. MS. ROOD: Thank you.

RICK BOHRER: Good evening. I live at 7763 Feddick Road, across the street from the proposed project. This has been in my research since this started two years ago and it never changes. So, I went online today and they recommend, this is by the World Health Organization, that solar fields are not to be built within 1.2 miles of a residential area. Nowhere. As far as property values, anything within half of a mile and less, are down seven percent reduction on the property. Like Mr. Telaak said that, I was at his house other day, what a beautiful place! I mean, a thousand feet back from the road, the view is spectacular, right now. When these solar panels go up, I'm sorry, I could not live like this. This is absolutely ridiculous and another thing is, I have to ask the solar people where the money is coming from for these green agendas. I've read that. I couldn't find it and I know where it came from. Not to bring politics into it. No, let me go even deeper than that. Okay. It came from the Biden Administration, and you know where they stole the money from? Medicare. Two billion dollars from Medicare for the green agenda. Well, I'm glad that President Trump is in office and number one executive order, the green agenda is gone. Okay. Not only was it two billion, I forget what the years were, but the total equal 300-330 billion dollars coming off Medicare. That's my retirement and everybody else's too. We've worked hard to get to this point in life and for this government to just keep taking and takin with no consideration of us. It's just like too bad; this is what we're going to do. But I'm sorry. I'm a retired union carpenter. I spent three years of my retirement building my home across the street from there. When I started, I was sick. I was taking trees down at 66 years old and I've gone through three surgeries within the least 15 months because of my working construction. I was hurting. Thank God I'm standing here today so that I'm able to do this, so that's basically all I have to say. This is absurd. These people don't care. MS. ROOD: Thank you.

JUNE TELAAK: Hi everybody. I live at 7900 Feddick Road. I'm Bob Telaak's wife. Bob and I built our dream home in Boston 30 years ago and we cut down all the trees and we took the lumber, and had it milled, and the boards made and we built our home. It took us three years. We collected all the fieldstone and rocks, and we made a three-story fireplace. We have a beautiful, beautiful home that was our dream home. And over the 30 years, we built an organic farm. It has nine gardens. I grow everything. I have fruit orchards. I grow my own herbs. I'm a nurse practitioner for 40 years, so, I make my own medicine. I have a still. I distill the herbs and make essential oils, and I make medication now that I'm retired. I'm sickened by this. I mean, we have 30 years of sweat equity into this property and there's no way that they're going to mitigate our view because it runs right behind my pond and you look over, you can see the beautiful Lake Erie. I have a beautiful pond but you're going to see that eyesore right in the middle of both and there's no mitigation for that. Also, I have bumble bees. Bumble bees run on the same navigational patterns bats do and solar farms, and I have read ad nauseam about solar farms and how they screw up birds, bats, bees, honeybees. Not any other kind of bee, but honeybees because they work on that navigational system and what it does is within three years, your hive, your colony will collapse. It's called CCD, colony collapse disorder, and solar is one of the factors that contributes to colony collapse disorder. So, it's going to affect my life in a huge way. I grow all my own food. My children, my grandchildren come up from Florida and California in the summer and they spend summers with us. They homeschool, the backyard is our science field, it's our recreation field. We play, we work, it's a beautiful life and this is going to change my life beyond recognition. I will not be able to stay. I also have been a nurse practitioner for 40 years and I worked in cardiology, cardiopulmonary medicine and I don't care what anybody says, electricity affects the heart. It affects the brain, it affects the central nervous system, and it takes 80 amps of electricity to stop a

heart. So, the other thing I want to ask the solar company is, what do you do with the ground current? Do you follow the rules, of the New York State rules on ground current? Because a lot of solar farms don't. I'll reiterate what the rules are, and you can tell me if you follow them. It's a compliance with the National Electrical Safety Code. Rules for ground current, it's IEEE19, rule 215B, and rule 92D. You must have either a tomb filter on the inverter or a five-wire system to stop straight current. And what straight current does is it goes to the ground. It can electrocute fish, it can hurt animals, just like that veterinarian said. We have a young man that's building a dairy farm less than a mile up the street. It diminishes the production of milk by 30-percent. It decreases egg production in chickens and we're already short on eggs because of the egg crisis. So, this solar farm, it's small, and I think what they want to do is get these variances so they can get their foot in the door, and then God know what else they'll put in there. Are they going to put in a battery storage system, which is like a bomb, a lithium bomb? Are they going to put that on our property next and you can't put these fires out. You have a thermal runaway, and they just burn and burn and burn for days and it sickens me. And I know that it has already passed and it's to you guys now and you guys are just doing the variances, but when you consider this, as far as the variances go, this is going to be a hundred feet from my Christmas trees, from my pumpkin patch and probably not a thousand feet from my beehives. And you know, we're screwed. So, you have got to consider this. This is my life and my lifestyle and if that doesn't factor in, because what this local law says is that you protect the health, safety, and welfare of residents and property owners of the Town of Boston, and hereby enact the section to regulate the construction, maintenance, placement, and solar energy system equipment in the Town of Boston. The purpose of this regulation is to balance the potential impact on neighbors when solar systems may be installed near their property and to mitigate, and they can't mitigate anything, in the environment. So, please consider that when you make your decision, and you give or don't give these variances because it's going to ruin my life. Thank you.

MS. ROOD: Thanks June.

MS. PRYOR: If we could stop the comments from the gallery, let's try to be respectful for everybody. Thanks so much.

DAVID WITKOWSKI: I live at 8320 Feddick, Hamburg, NY 14075. June covered on a lot of the stuff I was going to talk about, the stray current. That's my son that's building that barn there. He's fourth generation in 98 years on our farm. Proud of that kid for doing what's he doing, sticking his neck out to try to run a business. And these people are coming here, telling us they can do whatever they want in our town! With a good chance that the straight current could harm his livelihood, take his milk production down, I hate to see him go bankrupt because of something stupid like this. I hope you guys really take this into consideration. There's a lot of people in this town and it can harm. We're one farm. Got John Zittel and Sandy Zittle, and they have beef cows, they have horses. Got **Guigers** down in Boston they have turkeys, they have hives, they have beef cows. You got Joe Hoelscher where he's got beef cows, he has pigs. My nephews have show cattle, high dollar show cattle, and this can affect everybody's livelihood. They said within a three-mile radius of a solar farm, that this stray current can get out that far. You're talking East Eden, Mamoshier farm, Don Mamoshier up on East Eden Road there's 400 cows there, there's twelve hundred cows on Heart Rd. It's just more than us. It's a lot of places there. I was really sickened to hear that man come up here and say we can do whatever we want, basically. Put it in your backyard. You think it is so great, put it in your backyard. I'm going to give you an address here, if anybody really wants to go see what a negative impact is on an environment. I got a friend in Olean. He owns a farm at 2188 Windfall Road. There's a solar project by Next Amp. He farms approximately a thousand acres down there and he said that the property values around the solar farm have decreased significantly. Everybody that signed up for the reduced cost energy from that solar farm, they're seeing \$600 electric bills now. There are no birds that will fly over or near that solar farm. It ruins the wildlife habitat. Deer get in there. They pulled 15 dead deer out of there because they get in, they get dehydrated and die. Where is this any good for the town? I'm here to ask, what benefit

does that do for our community? Is there a benefit? Can the solar people tell us what the benefits are? No. The only thing they can tell us is, we're going to do what we want to do, basically in a nutshell, and you guys live with it. No. It's up to you guys sitting up there. It shouldn't have gotten this far, but we're asking you guys to really consider it. Really put some thought into it. Think about our little community here. Like I said, you got a young man's hope and dreams on the line here trying to make it. MS. ROOD: Stop it Dave. DAVE WITKOWSKI: It's killing me because of the possibility of what can happen. I don't want to see that. Just because of somebody's money grab. That's all it is, it is a promise that they're going to get millions of dollars. We get letters monthly. Solar companies wanting to come into our community, wanting to take our farm. The one thing is, the one sentence in there is, you can make millions of dollars over the life of these things. That's B.S. In 2005, I was approached by a bunch of landowners down around Collins Center. U.S. Energy was drilling as wells like crazy down there and they asked me, came up to me and you can expect hundreds of thousands of dollars in all the free gas and everything. And I said no. I own gas wells. I know what it's about. They're lying to you. So, these people signed up anyways. Well, come to find out, some of the contracts stated that no royalties would be paid until the cost of the well was paid back. Some of the landowners never got a dime for royalties. And now all the wells are all depleted, so they're all drying up and they're calling me. What can you do? I can't do anything. You got a dry hole, and you can't get anything, but it was all promises. They bid on the promises and they got nothing. It's the same thing here. These solar companies will promise you the moon and they're going to give you nothing. You want solar panels, put them on your front yard and live with them. Thank you for all the neighbors for coming out here and supporting this and thank you guys for listening. MS. ROOD: Thank you, Dave.

EDWARD BROWN: 5713 Homestead Road. Being in the engineering firm, there's just a couple of things that I was very curious about. We have the firm that sells them, who actually puts them in, who actually monitors, is this all-separate firms that we have to count on? I know how several firms get very lax over taking care of things. Second of all, are these heated solar panels? With the winter, is it actually going to melt off? If it doesn't, it doesn't put anything out towards our town. If it is a heated grid, what is the cost? If it puts out 4kw but takes 2kw to melt, now you've just gone down in half. That's all I really wanted to say. Thank you. MS. ROOD: Thank you.

RON YORMICK: From Deanna Drive. I'm very familiar with variances being that I'm in the middle of the construction down there on Deanna Drive. It just seems like this project is too big for this plot of land where these variances are just enormous. It affects the neighbors immensely and actually, the town doesn't want this. I mean, there isn't anybody here speaking positive about this project. I just feel these variances are just not right and I hope you see the same. MS. ROOD: Thanks Ron.

LARRY STILLER: I live on 5455 Keller Road and I didn't prepare any statement. I wasn't planning on coming to this meeting. I am the property manager for the former Rich May Farm at Keller and Feddick, which is now called **AltiusVista**. My brother-in-law owns the land; he lives in Chicago. There will be no solar farms or windmills ever on that property as long as we own it or control it. Just wanted to mention that for the neighbors here. MS. ROOD: Thank you.

LARRY STILLER: I am also diverting a little bit of my attention to Bob Teelak. I think you did a pretty good job on Keller Road this year with plowing. I think it was a tough time this winter for a change. It's been a difficult year. We can expect this occasionally and you did a good job and thank you. I'm a chemical engineer graduate of SUNY Buffalo. I also have a chemistry degree from Canisius College. I was drafted, went to Vietnam, spent a year and I was exposed to Agent Orange. I've just been diagnosed with a latent form of blood cancer because of Agent Orange. What I'm getting at is, the aftereffects of emerging technologies, such as solar, which this is, is not known at this time and all of the concerns mentioned here are yet to be realized in health effects from these operations. I then got a job at the DEC and spent 35 years in air pollution control with New York State and I was an air pollution engineer. I went around the state with our team of testers and stack tested. Garbage burning facilities. Oh, a great way to get rid of

garbage. There was one up in Niagara Falls at Occidental Chemicals. Did you ever hear of dioxin? Yeah, I think years ago you did and it's a cancer-causing agent from the combustion of the garbage with all of the chemicals to people, who throw away in garbage. You don't throw garbage a couple of pieces of tissue paper from the kitchen table or some scraps of meat, or a little bit of vegetables. No. People throw their benzene garbage, contaminants from the garage, anything. That was discovered. I'm trying to gather my thoughts a little bit here, but I got really concerned when I heard the statement 'we've got the use, we've got the use'. It almost sounded like we can do this and whatever you say is just a lot of extra frills on top. Well, we're going to do it anyway. I'm really concerned about that because I want to live up here a few more years and I want to be able to enjoy the rest of my retirement up here and enjoy my life with the rest of the people that I meet here. I walk every morning in a blizzard, if I have to, just to have peace and quiet. I saw Bob here yesterday, the snow so strong, he had to watch it when he pulled the window down on his truck to talk to me. We chatted a little bit. Just the peace and quiet of taking this walk every morning. I'm going to see the sunset at the end of Keller Road on March 31st, right at the end of the street, the sun, there it will be, and I wouldn't want to have to be in Bob's house and look out on June 21st in the middle of summer and see all these big fancy solar panels down there glaring away making noise. I'm a little bit agitated right now, so I can't gather my thoughts any better, but I just want to say I'm very thankful for the opportunity to live in this community and to be able to learn about what people are really living like in a farming community. It's a fascinating story that Mrs. Teelak just told me about her life here. I guess that's about all I want to say. I want to again thank the board for listening to my comments and I just want to ask one question. The property has a setback to it; where did that come from? Why is that there? If there's a piece of property and it doesn't have a setback, we wouldn't be here talking, is that correct? This property has a setback to do certain operations on it. Just because the fellow says "I have a use", okay, does that mean he has to do what, to get his okay. I mean, everything here is negative about it. What is their positive that he can add to it? That can give him the use that he thinks he can get despite the fact the land calls for a setback, that was put in there when, 10 years ago, 20, 30, why is that setback there? It's there for a purpose. That's all I want to say and thank you very much folks for listening to me. Thank you. MS. ROOD: Thank you.

BOB TEELAK: 7900 Feddick Road. I do have a couple more things. One thing is, I want to know, once they destroy our county roads coming up there; Mayer Road, Zimmerman Road, Feddick Road, are they going to be responsible for fixing any of these roads? And the second thing is, didn't I hear tonight that you can't create your own hardships? What was that about? I couldn't get the whole thing, but didn't they create their hardship? LISA ROOD: Self-created hardships.

BOB TEELAK: Didn't they create that by knowing they went to a piece of property that wasn't big enough, they created their own hardship.

BOARD MEMBERS: That's for a 'Use' variance

MS. PRYOR: No, it's for an 'Area' variance. I'd like to pop a question over to our attorney. It was stated at the beginning of this petition that the area variance conditions to approval still don't apply. That there are less onerous conditions. Can you give us some clarification on what we're actually able to do here if these five conditions don't apply?

ATTORNEY DWIGHT KANYUCK: I'm a special counsel to the town for the review of this project. I'm with Knauf Shaw, LP in Rochester, working with Laurie Baker on this. There is a different standard for these types of projects when it comes to a variance evaluation. There have been recent court cases, initially in Erie County as well as several others, that determined that these types of projects should be assessed under a Public Utilities standard. There was a decision in December of 2024 at the Appellate division level, which is the middle level of Appellate Court in the state, that affirmed one of those decisions. Not the one in Erie County, but it was, I think Montgomery, as I recall, Appellate Court in the Albany area. In those cases and in the one in the Appellate Court, the court indicated that a public utility standard should be applied to these types of projects and in that instance, they actually granted a 'use' variance.

I think the distinction here, obviously, it's an 'area' variance in question. You had a 'use' variance earlier tonight that's a much more difficult standard, to me. In that instance, the court granted a 'use' variance so, essentially, in that case, that an excluded 'use' in a zoning district, was an agricultural district at that point. Because it was considered a public utility, that it should be allowed under a 'use' variance, in that instance. There are not many cases, and I would say this is probably one of the first cases that an 'area' variance standard has been applied to this. I think there was one case in one county where the area variance was applied, there was a lawsuit, the court in that case also applied a utility variance standard. My interpretation of that would be that the area variance criteria that you have, I think there's five of them, it's a balancing test in its basic form. I think I would say that the way to evaluate it is, it's a balancing test, but the scale is tipped toward the public utility. The logic behind that, I'm just reiterating what the court says, not my opinion, in this case with the solar project, because the state has certain renewable energy goals, certain needs for increase electricity capacity, that there's a broader benefit to the public beyond the immediate municipality when it comes to these types of projects. Therefore, there is a lessened standard for granting the 'area' variances. So, in the first instance, there is a verification to whether this is a public utility. In those instances, it was a project similar to this called community solar project. There are state goals with respect to those. There are, again, this is the logic of the court as to why it's a public utility. There are limited locations they can go because of where things can be interconnected in an economic manner. The line of cases that were relied on in reaching this, related to cell towers. So, in those instances, they were considered public utilities. Citing them are very location specific because of coverage, among other things topography. It's a similar situation here. Again, it's largely driven by the state goals for renewable energy in the need to cite the projects in certain locations. The connection where the costs for doing so are below certain thresholds such as the projects to be economical. The topography of the land has to be certain orientation. Those are the factors that go into it. The court case did indicate that it doesn't mean that aesthetic environmental concerns are not considered at the local level, but it does impact the balancing. There was a negative declaration that has some weight in the overall assessment, but you also have things to evaluate, such as impacts on adjacent owners, which I think are distinct from SEQR. So, in evaluating these types of projects, I think you look to why 500-foot setback is present, what is it intended to mitigate by being there, and is there alternative ways of achieving the same mitigation that would otherwise be there, if there was a 500-foot setback. Any questions on that?

MS. PRYOR: I just have a question for the applicant but it looks like we are going back to June (Teelak).

JUNE TEELAK: The 500-foot is to protect the farming community and to protect us. I mean, it was made because this is a farming community. This isn't an industrial zone, it's a farming community and the reason for the setback is to protect that and you want to change it and we don't want you to change it. We should have a leg to stand on. I mean, this is to protect us and you're not protecting us. I mean, this is crazy. I don't know what else to say.

MS. ROOD: June, he's on our side, just so you know.

ATTORNEY DWIGHT KANYUCK: I'm the town's attorney.

JUNE TEELAK: Just what you were saying was upsetting.

ATTORNEY DWIGHT KANYUCK: My roll is to advise on what the standards is. I was just describing what the standards are.

LYNN COLLARD: I live next to the Telaak's at 7880 Feddick Road. So, we're definitely impacted. Our house sits higher. So, like you said, any green screen will not affect it. We'll still be able to see everything because we sit so much higher. You're all welcome to come over to my house. I'm not sure what I'm going to serve, but you're welcome to come over and take a look. When you say the 500 variances, I guess that's the whole reason why we're here. And that's, like June said, a leg to stand on. Now, that's just for the solar fenced-in field itself. It doesn't mean the service road that they're going to go down. Right now, that service road winds onto ours, goes back off, and once the survey's done, it'll

definitely be on the other side. But with that said, what they have to go through is culver pipes and stuff like that. This is a 100-year-old farm that my grandparents had that we now live on. It'll be disrupted. It's not just a stationary barn or house that they're asking for a variance. The road is right on their property, the service line and the maintenance of it and the two, three or how ever many years it takes to build this. The variance is there for a reason and it's not just once it's there, it's in it's little gated community under the fence. It affects that whole area and coming down between the houses. I just want to put that in there too. So, variances are there for a reason and hopefully we do have a leg to stand on.

MS. PRYOR: You mean the 'code' is there for a reason.

LYNN COLLARD: Yes, the code. The road, that's 50-feet, it's not 500-feet so that road should be considered too since it is so far off the road. Thank you. MS. ROOD/MS. PRYOR: Thank you.

JESSICA BLASEY HORNBERGER: I'm here for my uncle James Gervy Sr. who can't be here today. He's at 7870 Feddick Road. I just want to say two things: Better Business Bureau, they have an F. Everybody can look it up. Why is that? And why is it that every single town that they go to, they sue. Look at the town of Aurora. You're still going through the process. Eden voted no. I had talked to the Attorney General, they already started suing. They went back and the town went, okay, well, we don't want to get sued so, let's go ahead and do it on East Church Street. They are very much bullying people. Everything else I wanted to talk about has already been talked about, so, thank you. MS. ROOD: Thank you.

PHIL ESTREDA: 8062 Zimmerman Road, Boston, corner of Zimmerman and Keller. Just wanted to touch on some of the environmental impacts of solar panels. For one, they're trying to say that there's no environmental impact whatsoever. They got, basically, their 'use' approved and said there would be no impact. Well, to touch on a couple of other things, we've also been told that asbestos was perfectly safe. Years and years ago, when it first came out, and we all know what the horrible health effects of asbestos are, I'm sure. I'm sure everybody in this room knows what a Cadillac is. When Cadillac came up with a 4.6 Northstar engine, I think it was back in the 90's. Dave, I'm sure you know what I'm talking about. GM swore that the Northstar engine would never leak a drop of oil. If you've been underneath enough of those Cadillacs, you'll know that every single one of them does nothing but puke oil. Benzene. Horrible poisons. One of the main ingredients in solar panels is silicon. Silicon is also one of the main ingredients in microchips and computers. The process to create silicon is highly toxic. I have a hard time believing that the silicon that's in these solar panels will not eventually leach out into the soil. They forgot to mention in their cute little presentation when they said that copper, glass and steel made up the solar panels. That's one of the ingredients they forgot to mention.

MS. PRYOR: They said other metals.

PHIL ESTRADA: Lithium batteries, highly toxic. And also the other thing, too, is the training. If there was a fire back there, does our fire department have the training to put the fire out and also the equipment? We would need a foam truck. Plus, not to mention, if there was a fire in there that would burn for up to 14 days, I would be in the direct line of all that toxic smoke because of where I live because of our winds that blow mainly from West to East. I certainly wouldn't want that. So, those are just some of the things that I wanted to mention. I've heard all of the arguments about them being unsightly and being a nuisance to the town and that's very valid and I would agree. But I also just wanted to touch on some of the environmental and the health aspects as well. I'm sure there's something I'm missing here but like I said, there's so many things that throughout history, that we were told were 100% safe. They won't affect anybody's health whatsoever. Your children will be perfectly fine. We all know how that goes. Thank you. MS. ROOD: thank you.

BORIS MICOV: I live at 7780 (Feddick). I'm the second driveway from the site. I can see the field from my kitchen window. I don't want to look at it. I have a concern about traffic. For maintenance, there has to be some kind of maintenance going on. It's going to be trucks or vans going in and out all the

time. I don't want that. The value of the house is all the around the whole neighborhood, it's going to go down, so that's my concern. I wanted to be on record that I'm against it. Thank you.

JEFF PIERSANTI: 7806 Feddick Road. All the sweat equity that everybody put into their homes and their livelihoods, you guys can see. We hope that you're here representing the communities as a whole on our behalf. I just want to say this. You let these people come in, it's going to set a precedent that you're going to have to all answer to for future situations. Because this is opening the floodgates. And what is going to happen with the future of our community? I just want you to stay with that thought when you vote yes or no on that. And please keep that in mind. Thank you for your time. I'll leave it at that.

Appreciate it. Thank you. MS. ROOD: Thank you.

MS. ROOD: Does anybody have anything else that has not been talked about?

DAVE GRECO: 4624 North Boston Road. I've sat here all night. I've heard everything; you guys all heard it. It's all the same stuff. There's not one person in this room that wants this to happen. There no one here, look around. Jeff doesn't want this next to his house. Look what it's going to do to his property. Look what it's going to do to Bob's. Look at what is going to happen to our community. We are going to lose our community. We open this up. We're looking at this. This is all around us. We're raising kids in this family. Do what's right. You know what you got to do. Do what's right. Tell them to get out of here. Tell them to go to some other place. Thank you very much for your time. MS. ROOD: Thank you.

MS. ROOD: Okay, done, all right. Would you two like to come back up please? Were you taking notes? Can you answer questions?

HENRY ZOMERFELD: Let me run through and I'm going to try to summarize because we had, you know, about 20 people speak.

MS. ROOD: You know what, hang on one sec because there's a few things that I wanted to just touch on and you might be able to roll those in. RESPONSE: Sure.

MS. ROOD: How long does Delaware River Solar generally retain ownership of their solar farm once it is up and running?

MOLLY MESSINGER: Delaware River Solar is the contractor for the construction, for this planning. The owner of the solar field is a much larger conglomerate. Feddick Road is owned by Bullrock Renewables. They're the ones who have it for the life of the 30 years.

MS. ROOD: And they'll keep it for the 30 years?

MOLLY MESSINGER: Yes, unless they sell it to a much larger conglomerate.

MS. ROOD: As I understood it, they changed hands quite often.

MOLLY MESSINGER: Not usually. There's a couple of big ones: True Green, Generate, Bullrock Renewables. They own the majority of them around here.

HENRY ZOMERFELD: Let me just say, with the groans in the audience, it's not uncommon that things get sold, right. You sell your house, you sell your business, you sell your car and sometimes these projects are sold. Whatever agreements and whatever legal authority is in place, carries through to that owner. It's not like a new owner comes in and they have a blank check and can do whatever they want. They're still obligated to follow the laws, the conditions of the approval, and the agreements that are entered with the town. We deal with this a lot where there were questions about ownership and that's a fair question but the fact that it may be sold has no barring on this process.

MS. ROOD: I just like to know the process.

HENRY ZOMERFELD: It's a fair question.

MS. ROOD: What exactly constitutes you being, and I am speaking to you as the owner, as a certified utility? Who designates that certification?

HENRY ZOMERFELD: The question relates to whether or not they're a regulated entity. So, they have to go through and get approvals from the state, there is a NYSERTA approval, there are other agency approvals, the public service commission overseas, the electricity and ultimately, there's interconnection with whatever local utility there is. It might be NYSEG, National Grid, whatever the local

utility is. So there is all oversight layers from the government, from those agencies, and their respect of regulations that oversee this process. So the fact that it is regulated by those agencies, designated by the state, makes it a regulated utility under the case law.

MS. ROOD: But is NYSEG the same as Delaware River Solar?

HENRY ZOMERFELD: No, but we have to interconnect with the utility. We have to plug into the grid and we get approvals to do that. And once we are producing that energy, it's through that utility that has the oversight by the PSC.

MS. ROOD: So, you're just a middleman? You're not a certified utility. I am trying to get to the bottom of whether or not you have these powers.

HENRY ZOMERFELD: Well, the courts have said yes.

MS. ROOD: The courts have said yes to the public utilities but I am trying to establish if you're a public utility.

HENRY ZOMERFELD: Yes, because Delaware River Solar, you've heard about the Town of Aurora. That was a case that dealt with solar companies. We offered a number of decisions where the court applied the standard. And I want to point out, because there was a question by counsel about, well, the third department case was a 'use' variance, that's true. But there is a [Stockport \(2:05.52\)](#) case with RPNY that was an 'area' variance case. All of those cases with all of those solar companies held PUV standard applies. We're no different. There have been cases by Delaware River Solar. Those are in the record. Those are in the letters that we've offered. That's already been determined. AUDIENCE COMMENT

THEN MR. HENRY: It is. The courts have determined it and that's why we're here. We've heard a lot of things about, well, I think one gentleman said this is B.S., it's the law. The law is that this is an allowable use. We are not pulling the wool over anyone's eyes in the town. We are not coming in trying to put a square peg into a round hole. The law allows this project and the courts have held that this...(Board Member Responded)

MS. PRYOR: Well, if we could be fair, the law allows this project where you don't need a variance, right now. Right now, you are 500-feet, so that's the situation.

HENRY: There are two different concepts. There's Use, which this is an allowable use.

MS. PRYOR: I am not arguing that.

HENRY ZOMERFELD: But there is a distinction. We are an allowed use so we don't need a use variance so these comments about where's its going to be.. (Board Member responded)

MS. PRYOR: I'm not talking about that. I am talking about the 500-feet that you need that you don't have. That's what we are talking about.

HENRY ZOMERFELD: And we need the variance

MR. BALLARD: Why do you need the setback? Why do you need the 500-feet?

HENRY ZOMERFELD: We need the setback because it is an irregular parcel (AUDIENCE BEING DISRUPTIVE). The reason we need the variance is because this is an irregular parcel; it's not feasible for the project to go in in the configuration that it needs to under the site plan without the variance.

MR. BALLARD: Again, the extra variance for the 20-acres, what's that about? It's 70+ acres when it's only allowed at 50?

MS. ROOD: Our maximum is 50-acres, and they are coming in with 70+.

HENRY ZOMERFELD: I think Code Enforcement, and I again I go back to my initial question to the board, I took it that Code Enforcement said we are in compliance with that. I don't know.

MS. ROOD: No, you are not in compliance.

MS. PRYOR: It's in the letter.

MS. ROOD: I told them to address it.

HENRY ZOMERFELD: To address the question, same answer. To configure the project, the way it's been contemplated, we need the variance, both for the setbacks and for the acreage.

MR. BALLARD: Are you trying to go bigger when you get that, is that what you are trying to do?

HENRY ZOMERFELD: No, we are not trying to go bigger.

MR. BALLARD: Why do you need the extra 20-acre variance then?

MS. ROOD: They are trying to use the property so they can set them up where they want.

MOLLY MESSINGER: The parcel is 70-acres, the entire parcel is and, in your law, you can't have a parcel bigger than 50-acres. So, if the parcel was 50-acres, we wouldn't need the variance but it could still fit in this same location. It's just that the parcel is 73-acres instead of 50. It's not that we're trying to gain any more acreage or anybody's trying to put anything else on it. There's nothing else proposed on this property. It's just this location, the 23-acre difference, because your code only allows it up to 50-acres.

MS. ROOD: Have they considered the wind and the snow load that's up there on that hill?

MOLLY MESSINGER: Correct, these are tracker panels, so they move; they are on a 24hour/7day a week monitoring system. That monitoring system monitors the weather and it also has a weather meter also. So if you are going to get a storm of any kind, then they are going to gauge the wind and it's going to gauge the snow. If it's just a snowstorm, they will just tip up so that the snow doesn't fall on them. If it's a windstorm, they might go flat because there's too much wind. They are smart panels. They have weather trackers on them and they are monitored so the monitoring company can move them according to the weather.

MS. ROOD: What's the maximum height of the panels?

MOLLY MESSINGER: These ones are going to be 16 feet, I believe.

MS. ROOD: For the noise level, in what I read here, it said that it would be quote "approximately 70 decibels". So, what is the accurate amount? What is the accurate number? Because there's decibel meters that I can't believe you wouldn't be able to give us an exact decibel.

MOLLY MESSINGER: We provided the sound studies from **Sungrow** in the submission documents to the board and we can send them again. They are 70 to 80 decibels at the inverter and then we actually did that color coating, and it tells you how many decibels, what everything sounds like, so it's related to like a blender. We have seen in other communities to put sound walls around the inverters that can also happen. That's not shown on this plan but it can be shown on the plan. About 150-feet away from the inverter, depending on where you are, it snakes down to about 20 decibels which is just a normal person talking.

MS. ROOD: Did they factor into that, the sound, when it's traveling uphill? Because this is on a slope.

MOLLY MESSINGER: Right. That sound study that we sent was static; it's not based on terrain values and what not.

MS. ROOD: So, it would be louder?

MOLLY MESSINGER: It could be louder and that's why we say the sound system, sound boards, around it.

MS. ROOD: I asked for an accurate number because I've looked some things up and examples of 80 decibels were a diesel truck going 40 miles per hour, a freight train, a tractor and a food blender, which you said was 70 decibels.

RESPONSE: Correct.

MS. ROOD: So, this was all from a report provided, because I want to get my footnotes here, to the Department of Civil and Environmental Engineering by the Federal Agency Committee on noise and it also documented that 80 decibels was literally twice as loud as 70 decibels and that it would incur possible damage with an eight-hour exposure. That's why I asked for an accurate decibel level not an approximate because that is a big difference.

MOLLY MESSINGER: Right and we sent you the sound studies and we gave the location and what it is.

MS. ROOD: But it wasn't specific, I guess is what I am saying. I would rather deal with real numbers especially when there is equipment available to give you that so that everybody gets the full answer. Also, it says you're going to drill to a depth of three and half feet in the EAF that you filled out and it also stated that the water tables at three and half feet. Some people still rely on wells up there, in that area,

which are fed by the water table. That means every time you drill, you are going to be interfering with another area of the water table and then there by affecting the wells that people are still using.

MOLLY MESSINGER: If there is a vein in the area, that may be, but we do well monitoring as well.

MS. ROOD: How many homes would the solar farm power?

MOLLY MESSINGER: That is also in what we submitted, this is about three and half megawatts, so somewhere in the neighborhood of 650 homes.

MS. ROOD: It stated, repeatedly in what I read, the piles of excess excavated materials will be stock piled on the site for use for when it is decommissioned. So that would be in 30-years?

MOLLY MESSINGER: You have to do that according to NYSDAM regulations. So, according to NYSDAM.

This is not prime farmland, this is prime farmland if drained and you are not allowed to take any topsoil off of the property according to NYSDAM. It has to be reused. That is part of their mitigation procedures.

MS. ROOD: What is the suitable timeframe to reseed the disturbed beds and soils to prevent erosion?

MOLLY MESSINGER: As part of the SWPPP documents, we can only disturb 5-acres at a time and then you have to reseed and stabilize. So, they will be reseed and stabilizing the entire time that they are out there.

MS. ROOD: How many days? MOLLY MESSINGER: How many days?

MR. ROOD: Because there were different options. I read seven days, fourteen days.

MOLLY MESSINGER: They'll seed it in a day but it takes days to germinate and then they put hay down the same day so that the birds don't eat it and they can germinate into the ground.

MS. ROOD: Absolutely. I just wanted to make sure that you realize that you are bulldozing topsoil that has been cultivated for 100's of years as farms.

MOLLY MESSINGER: There might not be that much excavation; in some areas there won't be excavation either, so, it really depends on the grading plan that's there. But there will be excavation and then they will be cultivating that.

MS. ROOD: Then when it is decommissioned and you put the soil back, it's not going to be the same soil. It's been dormant for all of those years; it's not going to be the same; it's not like you are going to be putting it back the way you found it because it's not going to happen. I don't think this is being a good steward to the land and that's what we are called to do as owners, as residents.

HENRY ZOMERFELD: This goes back to the comments earlier about the 'use'. That's not what the board's called upon for the purposes of the 'area' variance.

MS. ROOD: No, but I am sharing my view.

HENRY ZOMERFELD: You're entitled to that.

MS. ROOD: I know I am.

HENRY: I feel the need to make a record as to guiding the board as far as legally what you are being asked.

MS. ROOD: And we are doing that.

MS. PRYOR: I had a question about the irregular shape of the parcel. This is the map that we have. Could you just tell me what you mean about irregular shape?

HENRY: It's not a perfect rectangle; it's not a perfect square.

MS. PRYOR: Ok, so back here where you have all the solar panels that look pretty square to me, why couldn't we just remove these two panels up here, so it doesn't really affect, you're not interfering with the irregular shape?

HENRY: Because that is not how the project has been configured.

MS. PRYOR: So, can we re-configure? That's the question.

MOLLY MESSINGER: We would still need a variance there also.

MS. PRYOR: If you need a variance, to put it back here, at the fattest part of the parcel, maybe it doesn't fit.

MOLLY MESSINGER: That is what the variance process is for.

MS. PRYOR: Right.

HENRY: You had a number of applications before. You had the car wash for a 'use' variance, you had the two women here for an 'area' variance. The variance process exists to get exceptions to the existing code. So that's why we're here.

MS. PRYOR: It's a balancing process, which we have established.

HENRY: It's not a balancing process for public utilities.

MS. PRYOR: It's not? It's tipped, a little, but it is still a balancing process, which is what I heard.

ATTORNEY DWIGHT KANYUCK: The court decision at the Appellate Division did indicate that there's aesthetic environmental considerations still needed to be evaluated. But, because it is a public utility, this is my opinion, it tips the scales toward the project.

MS. PRYOR: It tips, but it doesn't determine. Right? Okay.

HENRY: You don't go through the same factors; there's no balancing. Once the public utility necessity is met, the analysis is done.

MS. PRYOR: I don't feel that's the counsel we are getting from our attorneys. So, I guess it's a professional difference, I guess.

HENRY: We can certainly have a difference on opinion, but I have the court case here and it doesn't go through the factors of the town law.

ATTORNEY DWIGHT KANYUCK: I have it here too and it does say, it speaks in this particular case, they didn't identify particular aesthetic or environmental concerns in the record, they pointed to the negative declaration. However, it also said while these aesthetic concerns and potential environmental impacts, this is on page four, might be paramount relative to certain other electric generating utilities on this record, they simply are not present. So, that's saying in this instance, the record did not have aesthetic or potential environmental impacts that were in the record that would tip it in any other direction but it left the question open. It's on the bottom of page four.

HENRY: I have the case in front of me. I disagree with the analysis. They pointed to the neg dec because the neg dec is what governs. Once the negative declaration is rendered, the environmental review aspects are concluded. Certainly, the ZBA couldn't make a determination contrary to that neg dec. Once the neg dec is out there and it's made, it governs, it binds every other decision for the project.

ATTORNEY DWIGHT KANYUCK: To respect to the environmental considerations that are in the SEQR review. This also adds aesthetic considerations as well which are not fully within the SEQR.

HENRY: But aesthetics also go to use and if it's an allowable use.

ATTORNEY DWIGHT KANYUCK: It goes to it but it isn't a go, no go.

HENRY ZOMERFELD: You put two lawyers in a room, you'll naturally get disagreements, but I think to the board members question of the balancing, I just want to be clear, I think you're talking about the five balancing factors under town law that you've applied in the other applications. Those aren't relevant here.

MS. PRYOR: Ok. I will ask our attorney. What factors do we use then? Has that been determined by the courts?

ATTORNEY DWIGHT KANYUCK: There has not been an extensive analysis of that. All I can rely on is the, let me call it, the door that the court in this instance, left open regarding the record it referred to aesthetic environment considerations. If I look at your five usual factors, I think those go towards some of the aesthetics and the environmental considerations. I would agree those factors that were the subject of the negative declaration, that's in the record and so that would limit, I think, to which environmental issues could be a part of it.

HENRY ZOMERFELD: But to answer the question about what standard, I will direct the board to our December 16, 2024 letter, page three. There's a big paragraph there from the Hoffman case. The Hoffman case came from the state's highest court, and it dictated what a public utility is. Here are the

three factors that the court's used: 1. The essential nature of the services offered which must be taken into account when regulation seek to limit the expansion of those facilities which provide those services; 2. That the operation is subject to some public regulation, which is the dialogue that we had; 3. There are logistical problems that prevent or otherwise limit that service and there's no alternative. Those are what the courts look to in determining public utility variance. That is the standard. All the courts site to it because Hoffman is the case that set that standard forth. So, to the extent there's a question about what you look to, that's it. You take that and you look to the necessity of the electrical production that's necessary as has been applied to solar cases and that's what you apply.

MS. ROOD: What is the necessity because we already have NYSEG?

HENRY ZOMERFELD: The necessity is the state has dictated a clean energy, renewable energy goal within the next, 10, 20, 30, 40 years.

MS. PRYOR: But that's not specific to the Town of Boston, it's statewide.

HENRY ZOMERFELD: The state has not met those goals yet because the deadlines have not come. There's 20, 30, 40 50 goals to reach; this huge production of renewable energy. That state dictated policy is the necessity.

MS. ROOD: When this all started, it was a different political climate.

HENRY ZOMERFELD: Sorry, when what all started?

MS. ROOD: This application. So, now there's a new sheriff in town, do you see anything different coming down?

HENRY ZOMERFELD: Not in New York State, there's not.

MS. ROOD: How many more years does she have?

HENRY ZOMERFELD: Doesn't matter. We have an application today with the law that we have to look at today. What might happen....

MS. ROOD: I am asking you your opinion.

HENRY ZOMERFELD: My opinion is that the laws haven't changed, the courts have spoken, the state policy hasn't changed.

MS. ROOD: Those are statements, that's not your opinion.

HENRY ZOMERFELD: I don't see the distinction.

MS. PRYOR: Could I ask our attorney again about the Hoffman case, the three criteria for the Hoffman case; Do we have a different opinion on that? Different interpretation?

ATTORNEY DWIGHT KANYUCK: In my opinion the controlling decision is the recent Appellate Court decision with respect to these cases. This case, assessed the Hoffman case, among others, when they did it.

MS. ROOD: That's just one opinion.

HENRY ZOMERFELD: It's a binding opinion.

ATTORNEY DWIGHT KANYUCK: Hoffman's binding and this is binding and this interpreted of Hoffman in this context. In the record that was on the project in this case, the local municipality addressed aesthetic and environmental concerns. The record did not demonstrate issues with respect to the project. It left the door open where, on another record, aesthetic concerns and potential environmental impacts could impact the decision making. Would you say that they could ask for a 500-foot variance on this and go right to the road?

HENRY ZOMERFELD: That's not what we're asking for.

ATTORNEY DWIGHT KANYUCK: I know.

HENRY ZOMERFELD: Respectfully Dwight, I am not going to engage in hypotheticals that are not what the application is seeking.

ATTORNEY DWIGHT KANYUCK: The court left the door open. It's not wide open, it's a crack but it's not fully closed either.

HENRY ZOMERFELD: It's a gray area.

ATTORNEY DWIGHT KANYUCK: That's my point.

HENRY ZOMERFELD: I think if you read Hoffman and if you read Freeport Solar, which is the third department case, and you read the cases that we offered in our submission, and there were quite a few of them, one of them which dealt with an area variance. It's quite clear that the PUV standard.

MS. PRYOR: Here's the thing. We are not lawyers so as far as I'm concerned, I feel drawn to our traditional five criteria that we use because there has not been a new New York State's mandated five criteria to deal with these new things. So, with this new kind of change and utilities situation, I think that leaves us in a very large gray area. So I would prefer to revert to tradition until we get more information, when we get more court cases.

HENRY: I would defer to Dwight to advise you, as I am not your counsel, but I would strongly urge the board to not do that. There have been, you can laugh, I urge the board because there have been so many cases that have addressed this that we've offered, including an area variance. You can't say there is not enough. You have a number of trial level courts, and you now have an Appellate Court decision that relies on the Court of Appeals, the state's highest court.

MS. PRYOR: That leaves the door open for aesthetic situations.

MS. ROOD: And you are asking for big variances.

HENRY ZOMERFELD: The size of the variance is not relevant to the analysis.

MS. ROOD: Size is relevant. MR. BALLARD: It is here.

HENRY ZOMERFELD: It's not. There's no mention of any size, any percentage, any quantifying of any variance for the public utility.

MS. PRYOR: Here's a question, would you be willing to make it smaller?

HENRY ZOMERFELD: I don't know that it can be configured in that way because naturally, if it could, it would. Once these projects are configured, and you get certain approvals, and you start mapping things out, the project has to be a certain size based on the approvals it's received. To adjust it will be difficult.

MS. PRYOR: Oh, I get it. In order for you to get your money, you have to have it a certain size. Is that pretty much it? I'm not being sarcastic. Is it tied to funding somehow?

MS. ROOD: It wouldn't be worth it.

HENRY ZOMERFELD: The project is configured in a way that it will be the most beneficial and fulfill the necessity. Like anybody, you go in and you want to build a certain size, you are going to ask for that. The difference is, the public utility variance standard here dictates and we're focused a lot on aesthetics but really that's at the Planning Board stage. That's not a variance consideration.

MS. PRYOR: Can we go back to the parcel and the topography of the parcel and maybe the size, the configuration of the parcel, the topography of the parcel. Again, I stand by statement, it just doesn't seem to fit for this particular parcel. With the configuration of the whatever size you need to be and the topography, the different hilly situations you have going. It doesn't seem to fit.

HENRY ZOMERFELD: The way it's configured, fits.

MS. PRYOR: If you get the variance.

MOLLY MESSINGER: Has the board contemplated any kind of variance or distance that might be palatable to the board?

MS. PRYOR: Let's talk.

MS. ROOD: I want everyone else's questions answered here first. And, to be quite honest, I'm not exactly sure where that is because I have driven passed it, sat on the road and I looked, but you know what, everything is under snow, there's no stakes, there's no tape. That's the normal procedure for when we have a Zoning Board application. You have to know where it is and honestly, it's the tundra out there. There's nothing to show where that property actually is. I would like to walk that property.

MOLLY MESSINGER: We would have to ask the homeowner, but I am sure he would be open to it. Are there other questions you wanted to discuss?

MS. ROOD: Yes. It was touched on here but why aren't other sites considered, like brownfields, because we have so many of them? Or, the medians of the expressway or rooftops, or parking lot garages?

MOLLY MESSINGER: They are all considered but what happens is that you have a substation. Substation can only handle so much electricity going into it so there might be 3, 4, 8, 10 megawatts that can go into a substation. So what has to happen is, a piece of property has to line up with the three phase line that goes to an available substation. If the substation isn't available to take on the electricity, then that property cannot be used. What they do is, they take 10-acre parcels and they look at the electricity maps, NYSEG, Orange, Rockland, Central Hudson, and look at the substation where that three phase line comes out to, how much the substation can handle. If there is a substation that is open, with a lot that goes near it, that has a three-phase line near it, that's all the factors that have to come together. So, there are several properties that will not work because they are not near a substation, they're not near the three-phase line. You see a lot of vacant parcels, a lot of areas that may be considered and may be good, but there not close enough to a substation to even run a line to them.

MS. PRYOR: Why isn't the topography of this particular parcel being considered along those lines of interconnectness and connection to a substation? Why is this parcel considered OK to use, from your standpoint, with the topography the way it is?

MOLLY MESSINGER: Because the racking systems have changed. The racking systems that hold the solar panels aren't North/South anymore. They used to be North/South and they used to be on a triangular base and used to just sit there. If you had a really hilly site, you couldn't use it if it was over 15% slope. You would have to really dig out the property and it was way to cost prohibitive and what not. Now, they are on single H-post, and they move. So, the solar panels track with the sun and they go East to West. You can actually build on a 30% grade now instead of building on a 10% grade.

MS. ROOD: Your technology has evolved also, with the solar farms.

MOLLY MESSINGER: Correct.

MS. ROOD: So, what do you think the next thing is going to be?

MOLLY MESSINGER: Nuclear.

MS. PRYOR: There was a question about what the board thought would be reasonable.

MS. ROOD: I would like them to answer the questions that were brought because we are still talking about a solar panel farm there.

MOLLY MESSINGER: I just want to mention when you are talking about substations, some of the things that we see across the state, is that there are a lot of companies. There are a lot of companies looking to put solar in and where a substation is open, that is where everybody is going to be looking. They'll be continually looking. Everybody's talking about they're going to look for different properties that they can connect to. This individual property owner, we have been working with for a while, is a really nice guy. I know he is trying to do the best by his neighbors. He actual left because he was very upset about different things and this hurts him too. I know he wants to work with the board and he wants to work with his community members in order to come to a resolve. One question I had was whether or not I could get a recording just so I could go back through all the questions in case I missed something.

BOARD CLERK: Once it is available.

MOLLY MESSINGER: We just want to make sure that we answer the questions and try to work with as many people as we can and to try and screen or do what needs to be done and I know the homeowner's wishes are the same.

HENRY ZOMERFELD: What are the questions that we have not answered?

MS. ROOD: We are ready for the answers to the questions.

HENRY ZOMERFELD: We are going to run through and to Molly's point, I think the recording will be helpful. I am going as I see them.

One of the questions was: If this is approved, what else will be built? Whatever you approve is what could be built. We can't go ahead and build something else.

In that line of questioning: Might they build a battery storage project? One, that's not in the application, it is not contemplated, you would have to approve that, there is no battery storage. That is a very different project, there is no battery here.

Question about maintenance. There is, offered with the materials, an OMN plan. That plan goes through quite a bit of depth what type of maintenance will go through, at what intervals as far as taking care of the project and everything related to the project.

What benefit to the community? You've heard us explain that there's the availability for the subscriber credits that's handled by a third party. It is not handled by DRS. That has to be handled separately.

Obviously, the creation of any type of property that is a tax generated property it allows for tax revenue, whether it be in the form of tax dollars or pilots, if this is a pilot eligible community. Those would be some of the benefits as well as more grid resiliency. Obviously, if we increase the ability to have more grid power, it reduces the possibility of brownouts or blackouts.

MS. ROOD: I remember reading something about that and I don't ever recall ever having a blackout in 41 years.

HENRY ZOMERFELD: It may not have happened. We're all different but supporting the grid, I live in Erie County, lost power, it happens. It may not have happened here. I have lived through several blackouts and brownouts. By supporting the grid, it helps to avoid that, not only in the immediate community because that power is going into the grid. It creates that insulation.

There was talk about fire training. I know there was a gentleman from the fire company that was here.

MS. ROOD: He's still here.

HENRY ZOMERFELD: Is he. There was a letter sent to the fire company back in August of last year.

MS. PRYOR: Which one? We have three.

MS. ROOD: It's North Boston district.

MOLLY MESSINGER: Perhaps it was the wrong address but there was something that was sent out.

Again, we would meet with the fire department. We've done that a lot. Different training and we want their input prior. We usually get their input prior to the closing of the project.

There was also a lot of discussion about glare. The solar panels have an anti-glare coding and they also have to be FAA approved, which means that they cannot have glare outside of the airplanes, and what not. They have to be non-significant in the FAA report.

MS. ROOD: Going back to the fire company. Is a foam truck needed? Do you contribute to the equipment that is necessary, if there was a fire.

MOLLY MESSINGER: I have not seen that a foam truck is necessary nor that anyone has ever ask for them. What we normally get asked for is ATV's and other specific equipment that the fire department needs. The town can enter into a pilot or a host benefit agreement. The host benefit agreement is usually based on the amount of megawatts that are here and that's a direct payment to the town in order to give that money back as they see fit for parks, recreation and fire departments. If there is something that the fire department needs, that is something we discuss with them. We outfitted a fire department with an ATV with all the equipment, with stretchers and all that stuff. A lot of fire departments that we have dealt with don't specifically ask for equipment to handle the solar field. They ask us for the equipment for their everyday use and the other emergencies that they have more often.

ATTORNEY DWIGHT KANYUCK: If I may, often the fire departments, when they assess these projects, one of the concerns will be how do you do emergency retrieval between the rows of panels and that's where the ATVs come in, assist in emergency response. Often in the rural areas, the ATVs can be used for quite a few other things too.

HENRY ZOMERFELD: Those were the questions that didn't have to deal with aesthetics that didn't deal with some of the things that I think are more of a Planning Board concern but also not a variance concern.

When the project is built, assuming it gets the necessary approvals, it has to pull permits from the town. The town will inspect it, there will be a number of sign offs that are required. This doesn't happen without those approvals, without those permits, without compliance, all of the implacable regulations.

MS. ROOD: What about the stray of the ground?

HENRY ZOMERFELD: Because this is an electric generated facility, there are a number of failsafe's and faults. I am going to analogize it to keep it simple that a lot of people will understand. You have a bathroom outlet, you have sink outlet in a kitchen, it is a GFCI outlet; ground fault circuit interrupter. If that gets wet, it's going to shut off. To analogized to the failsafe's for this project, there are a number of failsafe's that are reported, the system will shut down if there are any errors. It is obviously grounded because it's electric generating so all of those are required by the applicable codes and signed off by the town and other agencies. We will prove compliance with all the necessary regulations that we're required to comply with to pull building permits. I don't know the specific citations you offered, ma'am. I'm not aware of other non-compliance. I'm familiar with the National Electric Code as it applies to New York State. I'm not an electrician; I'm not an engineer. When we make our application for those permitting, we trust that the engineers, the electricians, and those who are in code enforcement will sign off on that and obviously, if they don't, they identify an issue, we have to rectify it.

MS. PRYOR: Do you have anything to add to that (directed to CEO)

CODE ENFORCEMENT OFFICER BOB REED: We will do a thorough plan review, make sure all codes and local laws are met including inspections by qualified inspectors, like electrical inspection and that. The footings for the solar field. Everything will be followed and if it doesn't meet the standard, it's not going to pass, like anything else.

MS. PRYOR: You asked us, the board, if we had a number in mind that would meet in the middle, type of situation. Board? What do we think? Do we have a number in mind?

ATTORNEY DWIGHT KANYUCK: You almost have to see it.

MS. ROOD: I don't. I have to see it.

MS. PRYOR: We have to see it?

MOLLY MESSINGER: Just want to add, the solar field, the larger portion, we keep on talking about 134 and 116 feet but that end one is 250-feet from the northern property line. The variance requests we asked for are the smallest because we have to make sure that we can get for the smallest there. They vary throughout that line because it's obviously not straight. I just wanted to say that some of the field meets the 250, some of it meets 300, some of it meets 116. Just so you know.

MR. BALLARD: Doesn't it all have to be 500?

MOLLY MESSINGER: It all has to be 500, I'm just saying the distance that we need for the variance varies but we have to ask for the most stringent.

MS. PRYOR: I think our first order of business is to actually see the property with the lines, with the stakes, with it taped off and that would be up to the owner to get that done for us. And with the snow, I don't know when that will happen.

HENRY ZOMERFELD: I think we have some warmth coming in the next week, fingers crossed. That 55-degree weather was a tease. In addition to that, I just want to reiterate what I reiterated earlier about the housekeeping matters. (2:42:35)The GML 239M referral and then when we come back around next time that the public hearing notice refer to the acreage just so that we are all aligned.

MS. ROOD: I directed Bob and Board Clerk to have that correct.

ATTORNEY DWIGHT KANYUCK: It was a 239M and it was done at the time of the SEQR review.

HENRY ZOMERFELD: I didn't see that.

ATTORNEY DWIGHT KANYUCK: I will check that.

MS. PRYOR: Was there something about Eden too? What do we need to do with that?

HENRY ZOMERFELD: Municipal boundary.

MS. ROOD: That's the GML. Just like we had to do for Horseshoe Hill.

ATTORNEY DWIGHT KANYUCK: That would trigger the 239M review. I thought this had already been done.

MS. ROOD: I don't know but when we were discussing this before, it came to my attention that I didn't get a lot of the information that was available. Dwight is going to send it on to me.

ATTORNEY DWIGHT KANYUCK: It sounds like not all the reports made it to you.

MS. ROOD: No.

MR. BALLARD: That's a lot of mapping because we want to see where these arrays are going. Need to have that staked out. Not just that we are putting it in here. It's the footprint of everything.

ATTORNEY DWIGHT KANYUCK: Do you have a set of the full-size prints?

MS. ROOD: No. I found it very difficult to read.

HENRY ZOMERFELD: A full size was sent; I am almost positive.

ATTORNEY DWIGHT KANYUCK: There were originally but I don't know who has them.

MOLLY MESSINGER: I do have a full-size set here if you would like me to leave them for you.

MS. ROOD: That would be great if you could leave them for us.

BORIS MICOV: 7780 Feddick. All the properties of these people will be affected, value-wise. I want to know if they are prepared to pay the difference? The loss? If my house is \$200,000 and it goes down \$150,000, will they give me \$50,000? I am not alone. All these folks are affected.

MS. ROOD: I probably could speak on their behalf – No.

HENRY: We could put 10 appraisers in a room and get 10 different opinions. The whole property value thing is really speculative, and some people don't mind being next to them. I realize this is not the case in this room but it is far too speculative.

MS. ROOD: Saw that on Hazel. They sold it to a deaf guy. The house on the highway that was real loud.

LAWRENCE STILLER: Keller Road, Hamburg. Thought I heard mentioned that there would be the sound of a blender, buzz of a blender if you stood at the property line.

MS. ROOD: 150-feet, I believe is what they quoted and it would sound like a blender.

LAWRENCE STILLER: So, if anyone were to walk the property line or be at the boundary of this property, they could here a 24/7 blender buzz sound. Is that correct?

MS. PRYOR: Not at night.

ATTORNEY DWIGHT KANYUCK: One of the things you didn't have was the noise assessment. I believe the 70 to 80 decibels was at the inverter. I believe at 150-feet from the inverter it was 47 decibels. That may be in your packet. And then it decreases from that point.

LAWRENCE STILLER: But are there properties with people living in homes who would be able to hear.

ATTORNEY DWIGHT KANYUCK: The blender level of 70 to 80 decibels was right at the inverter. At 150-feet from the inverter, according to this study, was 47 decibels which is probably the level of our conversation, without the mic.

LAWRENCE STILLER: I don't know about the decibel levels and how loud it would be, I was wondering are there going to be property owners who are next to this project who are going to be in their home and be able to hear 24/7 the sound equivalent to the decibel level of a buzzer from a blender running 24/7. Is that what I heard? How often are we going to hear this sound?

HENRY: There's a noise study, board has it, we've addressed the best we can the question. With due deference, a public hearing is to be making statements, it's not technically a Q&A session. In robust in our responses, given the hour, you're leaving the public hearing open I take it, the board has some material to review, we can address things in writing. I feel like we could keep round and round and no matter what we say or do, we are going to just keep getting peppered with questions.

MS. ROOD: I think we are wrapping it up but I want everyone to be satisfied that they've had their time.

HENRY ZOMERFELD: Sure.

MS. ROOD: Because that is how I run a meeting. Because I am running this meeting.

HENRY: You're the chair. It's your meeting.

MS. ROOD: I know.

HENRY ZOMERFELD: Technically, as the applicant, we don't have to do the back and forth. The inverter will not be running at night. I refer the board to the noise study. It seems, in your discussions with Dwight, that he will have that available to you but we would happily address noise questions after you review that, next meeting.

LAWRENCE STILLER: Can I quickly ask one more thing. Do I understand there's five criteria that normally would have been considered if this were not a public utility?

MS. ROOD: Correct and we read that out loud in the beginning of the meeting so everybody could understand the differences.

LAWRENCE STILLER: Why are we here?

MS. ROOD: They are a public utility.

LAWRENCE STILLER: What do we have to get from the board?

MS. ROOD: They want variances and that is what they are here for seeking relief from the code, so they are looking for variances.

LAWRENCE STILLER: What if the board were to reject this application?

MS. PRYOR: We'd get sued.

BOB TELAAK: I just want one quick question. I just need one thing clarified because I had a State, an Assemblyman, and somebody else telling me that the big solar projects, the big windmill projects, they call them 94C projects. And those projects I can pretty much tell you what they are going to do. This is a very small project, and he says they have to abide by all the town codes and rules. So, I would like Dwight, Ms. Baker and whoever to look into that to see if that's true or if somebody is telling me not the truth. If that's the truth, there should be no variances for distance, they got to follow the codes. So I would like to have that in writing and clarify to show me.

ATTORNEY DWIGHT KANYUCK: I provided a memo.

MS. ROOD: Hearing no others, we are going to leave this public hearing open. We will reconvene on the first Thursday in April at 7pm. We start our work session downstairs and then we will come back up. I already know there's somebody else, Horseshoe Hill, coming up.

Motion made to leave the hearing open by Ms. Rood

2nd by: Ms. Pryor

ROLL CALL

Ms. Pryor – yes

Mr. May - yes

Mr. Ballard - yes

Ms. Zylinski - yes

Ms. Rood – yes

APPROVED

6. New business

None

7. Old business

None

8. Motion to Adjourn

Motion to adjourn made by Ms. Rood

2nd by Mr. Ballard

ROLL CALL

Ms. Pryor – yes
Mr. May - yes
Mr. Ballard - yes
Ms. Zylinski - yes
Ms. Rood – yes

APPROVED

CLOSED

DRAFT COPY