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August 16, 2024

VIA EMAIL (ZBA@Washingtonny.org) & FEDERAL EXPRESS

Chair John Parisi and
Members of the Zoning Board of Appeals
Town of Washington
10 Reservoir Dr.
Millbrook, New York 12545

***RE: Appeal of Building Permit - Cease and Desist
Property: 749 Stanford Rd., Town of Washington
Tax Map No. 135889-6666-00-727971-0000***

Dear Chair John Parisi and Members of the Zoning Board of Appeals:

Our office has been retained by Lisa Biase and Lou Casciano (the “Appellants”), the owners of property located at 5515 Route 82 in the Town of Washington. On August 12, 2024, the Appellants realized that a large-scale solar field was being constructed immediately across from their property on lands known as 749 Stanford Road in the Town of Washington (SBL 135889-6666-00-727971-0000) (the “Project Site”) without any notice or the ability to participate in any review process. It is apparent that the owner of the Project Site, August Madeline Fields, LLC (“Developer”), has violated the Town’s zoning regulations and is constructing an unlawful solar field in the front yard of the Project Site, which is visible from Route 82, and clearly visible from the Appellants’ single-family home across the street.

We submit this letter to formally appeal the issuance of the any building permit granted by the Town’s Building Inspector & Zoning Administrator (“Building Inspector”) for the construction of said solar panels, which appear to have been permitted in violation of Local Law 1 of 2018, known as the “Solar and Wind Energy Law.” See **Exhibit A** [Solar and Wind Energy Law]. It must be noted that, on August 12, 2024, the Appellants repeatedly contacted the Building Inspector seeking more information related to the installation of solar panels on the Project Site and were advised to formally issue a Freedom of Information Law (“FOIL”) request. See **Exhibit B** [Correspondence with Building Inspector]. Since that time, the Appellants have retained our firm

to assist with obtaining additional information and seeking a determination from the Town that the Developer must **cease and desist** installation of the solar panels and obtain the necessary permits as noted below. That is the basis of this Appeal.

My office has submitted a FOIL request on August 16, 2024 requesting all records and approvals related to the Project Site. *See Exhibit C* [FOIL Request]. However, given the urgency of the matter and the significant impacts that the solar panels have on the Appellants' land, we make this Appeal while the FOIL request remains outstanding to preserve our client's rights. As noted below, on its face, the installation of the solar panels is in violation of the Solar and Wind Energy Law and must be stopped immediately. This Appeal is being made pursuant to New York Town Law §267-a(5)(b) within 60 days of the Appellants being on notice of activity pursuant to the issuance of the building permit, which was granted to the Developer.

Further, while we wait for the FOIL request (because the Building Inspector did not forward the relevant building permit upon request), New York Town Law §267-a(5)(b) requires that the Building Inspector "transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken." Once the ZBA has obtained said record, and or when the Appellants receive the FOIL request documents, we reserve the right to supplement this Appeal.

Our firm could not locate any application forms or appeal fees for the instant Appeal. Please forward any required application forms and required fees and they will be submitted upon receipt. That said, in New York, the absence of application forms or the required fee does not result in this Appeal being null and void or untimely. *See Milnarik v. Rogers*, 298 A.D.2d 637, 639 (3d Dep't 2002) (holding that "[a]lthough petitioners failed initially to use the required form, the notice of appeal substantially complied with the procedural requirements of the Code and no prejudice was inflicted upon the ZBA. Therefore, petitioners should not be deprived of their right to appeal."); *Highway Displays, Inc. v. Zoning Bd. of Appeals of Town of Wappinger*, 32 A.D.2d 668, 668 (2nd Dep't 1969) (holding that "[t]he fact that their appeal was started on an unofficial form is of no consequence or materiality since the proceeding and its object were communicated to petitioner and the local officials concerned therewith.").

Lastly, despite the date that the building permit was issued, this Appeal is timely considering that the Appellants learned of the illegal activity on August 12, 2024. *See Highway Displays, Inc.*, 32 A.D.2d at 668 (holding that "the property owners' appeal was timely taken, since it was actually commenced within 30 days after they received notice of petitioner's activities in pursuance of the privilege accorded to petitioner by the permit.").

This Appeal sets forth that the installation of the large-scale solar panels on the Project Site is in violation of the Town's regulations, and as such, the Town must order the Developer to **cease and desist** from continuing the installation or operation of the solar panels until properly reviewed and permits are obtained.

The Appeal

1) **The Project Site is Non-Residential and, Therefore, Site Plan and Special Use Permit from the Town Planning Board is Required**

By email dated August 13, 2024, the Building Inspector informed the Appellants that:

They have a permit for this installation. Per the Solar and Wind law, it falls within the 110% rule, due to it meeting set back requirements for both the solar law and the zoning district, no public hearing for a variance was required. I am aware that it falls within 300' of the public road and as such, a screening plan was filed with the application and they will be planting trees to block it from view. No Certificate of Compliance will be issued without the screening being in place at the time of inspection.

See **Exhibit B** [Correspondence with Building Inspector]. Therefore, it appears that the only permit that was required for the installation of the solar panels was a building permit. A review of Planning Board minutes indicate that the Developer was not required to obtain site plan or special use permit from the Planning Board. Further, the Appellants were never provided notice of any such applications or related public hearings.

However, pursuant to Solar and Wind Energy Law § 6(D)(5), “Ground-Mounted Solar Energy Systems for a Non-Residential Property shall require a special permit and site plan review under the Zoning Code or other land use regulations.” A “Non-Residential Property” is defined as “[r]eal property that is not considered Residential Property.” Solar and Wind Energy Law § 3. A “Residential Property” is defined as “[r]eal property that is *primarily used* for residential purposes and contains a one- or two-family residence.” *Id.* [Emphasis added].

It is our understanding that the Project Site is a “Non-Residential Property” pursuant to the above definitions and therefore the installation of the ground mounted solar systems required site plan and special use permit review, with the associated public hearings. It is evident that this did not occur, yet a building permit was issued by the Building Inspector. Putting aside the fact that we believe the owner of the Project Site, Mike Pryor, has a principal address in Westchester County, from what we can tell, the Project Site is used for the following non-residential uses:

- 1) The Project Site’s use designation on the County’s data base is as a “special farm” not a single family or two-family residence. This suggests that the principal use for the property is not as a single- or two-family home, but for commercial farm operations. See **Exhibit D** [Dutchess County Land Records].
- 2) The Appellants also have reason to believe that the Developer leases portions of the Project Site to an organization that manages therapy horses.
- 3) The Project Site is also known to host a commercial tree farm operation known as Acadia Fields.

In accordance with the above, it is known throughout the community that commercial operations exist on the Project Site, which would classify the Project Site as a Non-Residential Property pursuant to the Solar and Wind Energy Law. Given the asserted host of potential commercial uses and/or tenants on the Project Site, it cannot be said that the Project Site is “primarily used for residential purposes.” While the FOIL results will shed more light on the commercial uses being used on the Project Site, the above raises a question of fact that must be reviewed and determined by your Board during this Appeal. It is evident that site plan review and a special use permit are required for the installation of the solar panels.

2) The Building Permit Should Not Have Been Issued Without Review of the Required Landscape Plan and is Therefore Invalid.

Regardless of whether the Town classifies the Project Site has a “Residential Property” or a “Non-Residential Property,” the installation of the solar panels violates the Solar and Wind Energy Law, which requires the following:

Residential Property: For Residential Property, the Solar and Wind Energy Law requires the following:

Subject to the terms set forth herein, a Ground-Mounted Solar Energy System for a Residential Property shall not be visible from any public road or from any other parcel. If a Ground-Mounted Solar Energy System for a Residential Property would be visible from any public road or other parcel, the Ground-Mounted Solar Energy System shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the Ground-Mounted Solar Energy System from public roads and such other parcels. Notwithstanding anything herein to the contrary, a Ground Mounted Solar Energy System for a Residential Property may be visible from another parcel if:

- a. the Ground-Mounted Solar Energy System is at least 300 feet from the affected parcel, or
- b. The owner of the affected parcel consents in writing (the "Consent") to the Ground-Mounted Solar Energy System.

See Solar and Wind Energy Law § 6(C)(3).

Here, the constructed solar panels are significantly visible from the Appellants’ property. *See Exhibit E* [Pictures from Route 82 and Appellants property]. In addition, the solar panels are visible from the second story of the Appellants’ single-family residence. Admittedly, the Building Inspector stated in an email dated August 13, 2024 that “I am aware that it falls within 300’ of the public road and as such, a screening plan was filed with the application and they will be planting trees to block it from view. No Certificate of

Compliance will be issued without the screening being in place at the time of inspection.”
See Exhibit B.

Based on the lack of information provided, we appeal the building permit to the extent that the landscape plan provided cannot block the views from the Appellants’ property as required by Solar and Wind Energy Law § 6(C)(3). It would be seemingly impossible for the Developer to block such views from the Appellants’ residence. The ZBA should review the landscape plan provided during this Appeal and mandate that visual renderings are provided. The Appellants should also have the ability to review the landscape plan considering they are most adversely impacted. It should be noted that the Developer never asked for the consent of the Appellants or even attempted to contact them in any manner.

In addition, the ZBA should consider alternative locations for the proposed solar development. The Project Site is approximately 390 acres with several open and flat fields. It is hard to believe that the Developer could not have located the solar panels in a manner consistent with the Solar and Wind Energy Law. By this Appeal, the ZBA should mandate the solar panels be located in compliance with the Town regulations and protect the Appellants viewshed. It should also be noted that other surrounding residents have similar, if not worse, views of the proposed solar panels.

Non-Residential Property: For Non-Residential Property, the Solar and Wind Energy Law required the following:

Subject to the terms set forth herein, a Ground-Mounted Solar Energy System for a Non-Residential Property shall not be visible from any public road or from any other parcel (unless the owner of such other parcel executes a Consent). If a Ground-Mounted Solar Energy System for a Non-Residential Property would be visible from any public road or other parcel (and a Consent is not executed by the affected owner), the Ground-Mounted Solar Energy System shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the Ground-Mounted Solar Energy System from public roads and such other parcels.

See Solar and Wind Energy Law § 6(D)(3).

To the extent that the ZBA agrees that the Project Site is a “Non-Residential Property,” the Developer must have demonstrated to the Planning Board during site plan and special use permit review that the solar panels are not be visible from any public road or from any other parcel. It is our understanding that such a review never occurred, and the Appellants were never asked for their consent. As such, we demand that the ZBA find that the Project Site is a Non-Residential Property requiring further review by the Planning Board.

Again, we submit that the Town must consider alternative locations for the proposed solar development on this approximately 390 acre Project Site. By not requiring the Developer to place the solar panels in compliance with the applicable zoning regulations, the Town has acted arbitrary and capricious in issuing the respective building permit.

Conclusion

In short, we have appealed the building permit that was referenced in the Building Inspector's August 13, 2024 email, and the Appellants reserve their right to supplement this Appeal once the Building Inspector forwards all record documentation to the ZBA pursuant to New York Town Law. The ZBA and the Building Inspector shall mandate that the Developer *cease and desist* all operations until the ZBA can hear this matter and make a determination.

We are asking, at this time, that the ZBA determine the following:

- 1) That the Project Site is Non-Residential Property pursuant to the Solar and Wind Energy Law and therefore requires site plan and special use permit review from the Planning Board; and
- 2) The landscape plan is unable to completely screen all views from the Appellants' property and therefore the ZBA must invalidate the issued building permit.

In support of the above, we have provided six (6) copies of the instant letter and related exhibits. Please confirm when the ZBA will hear this Appeal, which should be after the Building Inspector has forwarded all related record documents to the ZBA and the Appellant pursuant to New York Town Law.

Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ *Charles J. Gottlieb*

Charles J. Gottlieb

Enclosures

cc: Jonathan Ialongo, Building Inspector & Zoning Administrator (*via email*)
Lisa Biase, Esq. (*via email*)
Lou Casciano (*via email*)

EXHIBIT A

TOWN OF WASHINGTON LOCAL LAW NO. 1 OF THE YEAR 2018

Section 1 Legislation

The Zoning Code of the Town of Washington is hereby amended to add a new Section 349 as follows:

I. The Table of Contents shall be amended to add "349: Solar Energy Systems and Wind Energy Systems" on a new line immediately following the words "348: Bed-and Breakfast". No page numbering notation shall be made for this new Section.

II. A new Section 349 shall be added immediately following the end of all words included in Section 348 as follows:

"Section 349. SOLAR ENERGY SYSTEMS AND WIND ENERGY SYSTEMS

1. Authority

This Town of Washington Solar and Wind Zoning Code is adopted pursuant to Sections 261-263 of the Town Law of the State of New York, which authorize the Town of Washington to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

2. Statement of Purpose

The purpose of this Town of Washington Solar and Wind Zoning Code is to establish standards and limitations for the installation and operation of solar and wind systems within the Town of Washington. The Town of Washington intends to encourage

the use of natural energy resources in accordance with its Comprehensive Master Plan.

3. Definitions

110% LIMITATION: shall have the meaning ascribed to it in Section 5(A) below.

ADJOINING PARCELS: shall have the meaning ascribed to it in Section 5(E) of this Solar and Wind Zoning Code.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

CONSENT: shall have the meaning ascribed to it in Section 6(C) (3) of this Solar and Wind Zoning Code.

GLARE: The effect produced by reflections of light with an intensity sufficient to cause significant annoyance, discomfort or loss in visual performance and visibility.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, and in which the anticipated annual total amount of electric energy generated from such system does not exceed 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% Limitation").

NYSERDA: The New York State Energy Research and Development Authority.

NON-RESIDENTIAL PROPERTY: Real property that is not considered Residential Property.

RESIDENTIAL PROPERTY: Real property that is primarily used for residential purposes and contains a one or two family residence.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

4. Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair.

5. General Provisions

A. Solar Energy Systems installed for the purpose of supplying power measured by the personal use of the property shall be permitted as an accessory use so long as the Solar Energy System satisfies the other provisions of this Town of Washington Solar and Wind Zoning Code. A Solar Energy System shall be limited to a power generating capacity not in excess of 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% Limitation").

B. All Solar Energy Systems shall be installed in accordance with applicable electrical and building codes (including the New York State Uniform Fire Prevention and Building Code) in effect at the time of installation, the manufacturer's installation, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town of Washington. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

C. When solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.

D. The installation of any Ground-Mounted Solar Energy System shall be outside any land area exhibiting sensitive

environmental characteristics such as fresh water wetlands, one-hundred year flood hazard areas, severe topography (slopes more than 15%), stream corridors, wetland transition areas, historic and/or culturally significant areas or other areas regulated under the Town's Wetlands Law. No Solar Energy System shall be within any conservation easement or conservation deed restricted area unless within the approved building envelope.

E. It is acknowledged that an applicant may own one or more adjoining parcels which technically consist of more than one legal parcel. In such case, there may a Solar Energy System on one parcel which produces electricity primarily for the needs of that parcel and/or the needs of one or more of such other adjoining parcels (the "Adjoining Parcels"). In such case, for purposes of the definition of Ground-Mounted Solar Energy System, the term "applicant's parcel" shall include the Adjoining Parcels.

F. All Solar Energy Systems shall require a building permit and a certificate of occupancy/compliance upon completion.

G. All Solar Energy Systems shall be maintained in good working order.

H. No Solar Energy System shall be permitted if such installation would require the installation of a new above-ground power line, power pole or an electrical substation; provided, however that (i) if a new building structure is being constructed in connection with the Solar Energy System, a new power pole shall be permitted or (ii) a new power pole shall be permitted if it is required by the local utility company to maintain the Solar Energy System's safe operation.

I. Prior to the installation of a Solar Energy System, the Town of Washington Building Inspector shall receive (i) a letter from a licensed engineer or other qualified professional or from the installer of the Solar Energy System stating in effect that the Solar Energy System will satisfy the 110% Limitation and (ii) any applicable Consent. The Town of Washington Building Inspector shall have the right to confirm the satisfaction of the 110% Limitation by reviewing prior utility statements.

J. If a Solar Energy System causes any Glare, the owner of such Solar Energy System shall use reasonable efforts to eliminate such Glare within 60 days of notice of the existence of such Glare from the Town of Washington.

6. Solar as an Accessory Use or Structure

A. Building Integrated Photovoltaic System ("BIPS").

BIPS material shall be permitted in all zoning districts.

B. Roof-Mounted Solar Energy Systems.

- 1) Roof-Mounted Solar Energy Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- 2) Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located.
- 3) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
 - a. Panels must be mounted at the same angle as the roof's surface up to a maximum distance of 18 inches between the roof and highest edge of the system.
 - b. The Solar Panels and all ancillary equipment for the Solar Energy System shall not extend beyond the edge of the roof.
 - c. Solar Energy Equipment forming a part of the Roof-Mounted Solar Energy System shall be installed inside walls and attic spaces to reduce their visual impact. If such Solar Energy Equipment is visible from a public road or adjacent property, it shall match the color scheme of the underlying structure.
- 4) Roof-Mounted Solar Energy Systems shall be exempt from site plan review under the local zoning code or other land use regulations.

C. Ground-Mounted Solar Energy Systems for a Residential Property:

- 1) Ground-Mounted Solar Energy Systems for a Residential Property are permitted as accessory structures in the Town of Washington.

- 2) In no event shall the height of the Ground-Mounted Solar Energy System for a Residential Property exceed 12 feet. This 12 foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
- 3) Subject to the terms set forth herein, a Ground-Mounted Solar Energy System for a Residential Property shall not be visible from any public road or from any other parcel. If a Ground-Mounted Solar Energy System for a Residential Property would be visible from any public road or other parcel, the Ground-Mounted Solar Energy System shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the Ground-Mounted Solar Energy System from public roads and such other parcels. Notwithstanding anything herein to the contrary, a Ground Mounted Solar Energy System for a Residential Property may be visible from another parcel if:
 - a. the Ground-Mounted Solar Energy System is at least 300 feet from the affected parcel, or
 - b. The owner of the affected parcel consents in writing (the "Consent") to the Ground-Mounted Solar Energy System.
- 4) All Ground-Mounted Solar Energy Systems for a Residential Property shall have a minimum set-back of the greater of (i) 100 feet from the property line or (ii) the set-back required by the Zoning Code.
- 5) Ground-Mounted Solar Energy Systems for a Residential Property shall be exempt from site plan review under the Zoning Code or other land use regulations.
- 6) Ground-Mounted Solar Energy Systems for a Residential Property shall not be considered as a building for purposes of determining building coverage of the lot.
- 7) Solar Panels for a Residential Property shall not be included in any calculation of impervious surface or

impervious cover, however the base or foundation of the Solar Panel shall be included in any calculation.

D. Ground-Mounted Solar Energy Systems for a Non-Residential Property:

- 1) Ground-Mounted Solar Energy Systems for a Non-Residential Property are permitted as accessory structures in the Town of Washington.
- 2) In no event shall the height of the Ground-Mounted Solar Energy System for a Non-Residential Property exceed 12 feet. This 12 foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
- 3) Subject to the terms set forth herein, a Ground-Mounted Solar Energy System for a Non-Residential Property shall not be visible from any public road or from any other parcel (unless the owner of such other parcel executes a Consent). If a Ground-Mounted Solar Energy System for a Non-Residential Property would be visible from any public road or other parcel (and a Consent is not executed by the affected owner), the Ground-Mounted Solar Energy System shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the Ground-Mounted Solar Energy System from public roads and such other parcels.
- 4) All Ground-Mounted Solar Energy Systems for a Non-Residential Property shall have a minimum set-back of the greater of (i) 100 feet from the property line or (ii) the set-back required by the Zoning Code.
- 5) Ground-Mounted Solar Energy Systems for a Non-Residential Property shall require a special permit and site plan review under the Zoning Code or other land use regulations.
- 6) Ground-Mounted Solar Energy Systems for a Non-Residential Property shall not be considered as a

building for purposes of determining building coverage of the lot.

- 7) Solar Panels for a Non-Residential Property shall not be included in any calculation of impervious surface or impervious cover, however the base or foundation of the Solar Panel shall be included in any calculation.

7. Abandonment and Decommissioning

Solar Energy Systems are considered abandoned after one year without electrical energy generation and must be removed from the property. An applicant shall have the right to request a one year extension of that time upon notice to, and approval from, the Town of Washington Planning Board. If a property owner fails to remove a Solar Energy System as required by this section, then the Town of Washington may elect, at its sole and absolute discretion, to remove such Solar Energy System from the property in which case all of the costs and expenses incurred by the Town of Washington, together with interest at the annual rate of 16%, or such lower rate required by any applicable usury law or regulation, shall be immediately paid by the property owner. In addition, any violation of this section shall result in a fine of \$50 per day for each day such violation exists. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

In the case of a Ground-Mounted Solar Energy System for a Non-Residential Property, the Town of Washington Planning Board may, at its discretion, require the adoption of an Abandonment, Restoration and Decommissioning Plan in connection with any approval of such project.

8. Enforcement

Any violation of this Town of Washington Solar and Wind Zoning Code shall be subject to the same civil and criminal penalties provided for in the Zoning Code (except that any violation of Section 7 hereof shall result in the fines and penalties set forth therein).

9. Real Estate Tax Exemption

Owners of Solar Energy Systems shall be entitled to the real

estate tax exemption set forth in RPTL § 487, as amended and supplemented through time.

10. SEQRA

Building Integrated Photovoltaic Systems, Ground-Mounted Solar Energy Systems for a Residential Property and Roof-Mounted Solar Energy Systems shall be considered Type II actions for SEQRA purposes. At the option of the Town of Washington Planning Board, Ground-Mounted Solar Energy Systems for a Non-Residential Property shall be considered for action for SEQRA purposes.

11. Wind Energy Systems:

Based on an assessment by NYSERDA, the geographical territory of the Town of Washington is not conducive to wind energy systems. Accordingly, no type of wind turbines, wind towers or similar systems shall be permitted in the Town of Washington. If in the future, circumstances change and NYSERDA notifies the Town of Washington that wind energy systems can be conducive to the economic production of wind technology, then the Town of Washington shall revisit this section.

12. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect."

Section 2. This local law shall take effect immediately upon filing with this state's Secretary of State.

EXHIBIT B

Gottlieb, Charles

Subject: FW: Request for Immediate Stop Work Order
Attachments: Town-Of-Washington-FOIL-Request.pdf

----- Forwarded message -----

From: **Jonathan Ialongo** <buildinginspector@washingtonny.org>
Date: Tue, Aug 13, 2024 at 2:33 PM
Subject: Re: Request for Immediate Stop Work Order
To: Lisa Biase <lbiase@biaselaw.com>

Good afternoon,

I have attached a copy of the FOIL request for the documents you requested. I have to have a signed request to release the documents for record keeping purposes. Once I receive this back I will compile what I have and forward them to you.

Jonathan Ialongo

On Tue, Aug 13, 2024 at 1:56 PM Lisa Biase <lbiase@biaselaw.com> wrote:

Dear Mr. Ialongo:

Thank you for your e-mail. Please forward to me, a copy of all permits issued by your office, together with all applications and supporting documentation, regarding Arcadia's Solar Field project. If you cannot provide us with copies directly, please direct us to the appropriate individual or department from which they may be obtained. Just so you know, we continue to object both procedurally and substantively to the issuance of any permit for this project, irrespective of any screening.

Regards,

Lisa A. Biase, Esq. and Louis Casciano
Wild Iris Farm
5515 Route 82
Clinton Corners, NY (Town of Washington)

On Tue, Aug 13, 2024 at 11:17 AM Jonathan Ialongo <buildinginspector@washingtonny.org> wrote:

Good Morning,

They have a permit for this installation. Per the Solar and Wind law, it falls within the 110% rule, due to it meeting set back requirements for both the solar law and the zoning district, no public hearing for a variance was required. I am aware that it falls within 300' of the public road and as such, a screening plan was filed with the application and they will be planting trees to block it from view. No Certificate of Compliance will be issued without the screening being in place at the time of inspection.

Jonathan Ialongo

On Mon, Aug 12, 2024 at 4:33 PM Lisa Biase <lbiase@biaselaw.com> wrote:

Dear Mr. Ialongo:

As we were advised, we are forwarding our earlier e-mail to you (together with the attached pictures), to the individuals listed in this email. Thank you, and again, we look forward to hearing from you.

Best regards,

Lisa A. Biase, Esq. (& Louis Casciano)
Wild Iris Farm
5515 Route 82
Clinton Corners, NY (Town of Washington)

----- Forwarded message -----

From: **Lisa Biase** <lbiase@biaselaw.com>
Date: Mon, Aug 12, 2024 at 2:38 PM
Subject: Request for Immediate Stop Work Order
To: <buildinginspector@washingtonny.org>
Cc: Lou Casciano <loucasciano@optonline.net>, Lisa Biase <lbiase@optonline.net>

Dear Mr. Ialongo:

My apologies for not making an appointment, but this issue was just discovered and, time being of the essence, is emergent. I just dropped off a written complaint to your Dept and the Zoning Dept regarding a Solar Farm being built across the street from us at Arcadia Fields on Route 82. See the attached pictures. We received no notice about this, and neither did our neighbors. There are also no permits posted anywhere around their property. We believe that this entire solar project violates local law on several bases. Please let us hear from you as soon as possible. Thank you.

Best Regards,

Lisa A. Biase, Esq. (& Louis Casciano)
Wild Iris Farm
5515 Route 82
Clinton Corners, NY (Town of Washington)

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Jonathan Ialongo
Building Inspector
Town of Washington
(845) 219-9724

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Jonathan Ialongo
Building Inspector
Town of Washington
(845) 219-9724

EXHIBIT C

WHITEMAN
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Attorneys at Law
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Charles J. Gottlieb
Partner
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cgottlieb@woh.com

August 16, 2024

VIA EMAIL & FEDERAL EXPRESS

Chrissy Briggs, Town Clerk
Town of Washington
10 Reservoir Dr.
Millbrook, New York 12545
ccbriggs@washingtontny.org
townclerk@washingtontny.org

***RE: Freedom of Information Law Request
Property: 749 Stanford Rd., Town of Washington
Tax Map No. 135889-6666-00-727971-0000***

Dear Town Clerk Briggs:

Under the provisions of the New York State Freedom of Information Law, Article 6 of the Public Officers Law (“FOIL”), we hereby request to inspect the following records on file with the Town of Washington, including all its departments, offices, boards, and committees (collectively referred to as the “Town”):

- 1) All “records” (defined below) on file with the Town, starting from March 14, 2022 to present, related to the above-referenced property located at 749 Stanford Rd. in the Town of Washington (SBL 135889-6666-00-727971-0000) (the “Property”), including but not limited to all approvals, permits, resolutions, building permits, State Environmental Quality Review Act (“SEQRA”) documents, applications, agreements, memorandums, reports, studies, site plans, landscape plans, certificates of compliance/occupancy, etc.

This shall include all records on file with the Town, including but not limited to the Town Planning Board, the Town Zoning Board of Appeals, and the Town Building Department, and any consultants retained by the Town.

- 2) Any and all correspondences, letters, emails and/or other electronic correspondences between any Town of Washington official, board member, consultant or staff member and the owner or representative of the Property related to solar development or the installation of solar panels on the Property. This shall specifically include any of the above noted correspondence to or from the Town of Washington Building Inspector & Zoning Administrator.

The phrase “records,” as used herein, is defined by New York's Public Officer's Law, but shall also include, without limitation, comment letters, responses, draft permits, submissions, applications, drafts of all records, typed or handwritten notes, memoranda, letters, email, facsimiles, internal communications, summaries of telephone and other conversations, and other correspondence or documents of any nature whatsoever.

We respectfully request copies of the above identified records and should any of the requested documents be available electronically, I respectfully request they be emailed to cgottlieb@woh.com. To the extent that we require any copies of the above-mentioned records, we agree to pay any reasonable fees for copying said records.

Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ *Charles J. Gottlieb*

Charles J. Gottlieb

Enclosure

cc: Lisa Biase, Esq. (*via email*)



Town of Washington
 P.O. Box 667
 Millbrook, NY 12545
 Phone: (845) 677-3419 Fax: (845) 677-2085
 E-mail: townclerk@washingtontny.org

Town Clerk's Office

FREEDOM OF INFORMATION (FOIL)

PLEASE BE AWARE THAT ACCORDING TO NEW YORK STATE LAW, ALL COPIES OF INFORMATION REQUESTED WILL COST 25 CENTS PER PAGE.

DATE: _____

NAME: _____

ADDRESS: _____

PHONE: _____

I HEREBY REQUEST THE FOLLOWING:

SIGNATURE: _____

DEPARTMENT APPROVAL

APPROVED COMPLETED: _____

(DATE)

DENIED: _____

(DATE)

REASON FOR DENIAL: _____

EXHIBIT D



ParcelAccess | Property Details

Parcel Number

135889-6666-00-727971-0000

Parcel Location

749 Stanford Rd

Municipality

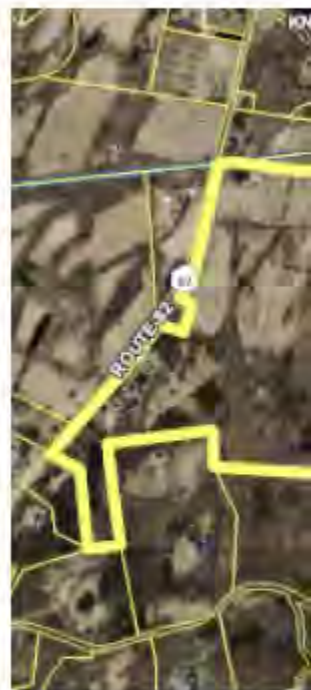
Washington

Owner Name

August Madeline Fields LLC (P)

Primary Owner Mailing Address

211 Shunpike
Clinton Corners, NY 12514



Parcel Details

Lot Size (acres):	390.41 AC (S)	Split Town:	520
Filed Map:	12553A	Agri. District:	21
File Lot #:	-	School District:	(13)
Land Use Class:	(180) Special farm		

EXHIBIT E



5515



5515





5515

