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January 21, 2025

VIA EMAIL (ZBA@Washingtonny.org) & HAND DELIVERY

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

***RE: Appeal of Building Permit - Supplemental Submission
Project Site: 749 Stanford Rd., Town of Washington
Tax Map No. 135889-6666-00-727971-0000***

Dear Chairman Redl 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 residence 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. On December 17, 2024, the Zoning Board of Appeals (“ZBA”) held a public hearing on this Appeal, and heard from my clients, surrounding residents, the Town’s Building Inspector and the owner of the Project Site (Michael Pryor). We submit this correspondence to supplement the record, and respond to comments made at the public hearing and a letter received by the attorney for Michael Pryor, dated January 17, 2024.

In short, the solar panels were constructed in violation of the Town’s zoning regulations in several respects and, therefore, the building permit for the solar panels must be immediately revoked. As we have demonstrated throughout this matter, the solar panels are incapable of being screened from the Appellants’ property and therefore must be relocated elsewhere on the 400 acre Project Site. The rationale for the current location of the solar panels was that relocation would be costly, however that is not a viable excuse under the zoning regulations. In fact, as demonstrated below, the Appellants’ property value has decreased by at least 22% because of the solar panels

(even if screened). Why should the developer's concern of cost outweigh the detriment to the Appellants and other neighbors? The answer is clearly, that it should not.

Since May, the Building Inspector did not have the required documentation nor did he have the requisite information in his possession (e.g., landscaping plan, engineering report on energy needs) to issue the permit. This, in and of itself, violates the Town's zoning regulations and based on this alone, the building permit must be revoked. Mr. Pryor has made no attempt at compliance with the Town's regulations and has demonstrated bad faith every step of the way. The ZBA should not wait for Mr. Pryor to attempt compliance at this late hour – effectively enabling him to violate the Town's regulations -- and therefore, must immediately revoke the building permit and order that the solar panels and utility poles be removed.

I. Mr. Pryor and SunCommon Continue to Violate the Building Inspector's Stop Work Order Demonstrating Bad Faith

At the December 17th public hearing, the ZBA advised the Building Inspector to investigate Mr. Pryor's activities and enforce the stop work order related to the continuation of work related to the installation of the solar panels. At the meeting, Mr. Pryor excused these blatant violations of the stop work order by noting that it was utility company, Central Hudson, that was commencing the work in violation of the order. The ZBA should recognize that Mr. Pryor cannot be shielded from liability by passing the blame onto a third party. The stop work order applied to all construction work that would be in furtherance of the installation of the solar panels, including any utility work that would advance the connection of the solar panels to the utility grid.

Notwithstanding the ZBA's directive, Mr. Pryor has continued his violations of the stop work order. The enclosed photographs show yet *another* new utility pole that was installed on January 13, 2024, along Route 82 to facilitate the installation of the solar panels. **See Enclosed.** In addition to witnessing this construction, the Appellants also witnessed Central Hudson connecting the solar panels to the utility grid. The stop work order applies to all work in furtherance of the solar panel construction, which includes work done by SunCommon and/or Central Hudson. It is hard to believe that the new utility pole and connection to the grid was not coordinated with Mr. Pryor. In addition, SunCommon was at the December 17th ZBA meeting and was made aware of the stop work order and notwithstanding that, has decided to disregard the Town's demands. The Town should take the necessary enforcement steps to ensure that these violations do not continue.

We also highlight for the ZBA that SunCommon has a history lack of communication and reliability to its customers and municipalities, and has filed for bankruptcy. *See* <https://www.wcax.com/2024/09/18/suncommon-faces-backlash-vermont-solar-customers/>; *See also*, https://www.hvpilot.com/news/rhinebeck-and-red-hook-solar-arrays-in-disarray/article_0628ce9c-5b10-11ef-9880-b735b0db126c.html. This is cause for great concern for the Town and the Appellants. Often times, a demolition and maintenance bond are required of solar companies for all development to guard against a solar company's dissolution leaving customers and municipalities without the ability to remove or maintain solar panels. If the Town had required Planning Board review of the Project at issue here, such financial assurances would have been required.

We submit the above to demonstrate that Mr. Pryor and SunCommon are rushing to complete their presumed contractual obligations to each other, and are thereby completely disregarding the Town's stop work order in bad faith. This is no longer a mere mistake, but a blatant disregard of the Town's commands.

II. The Owner of the Project Site Admitted, and Confirmed by the Building Inspector, that the Solar Panels Service All Uses on the Project Site, Commercial and Residential.

The Solar Law requires that:

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 section. 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").

Zoning Code § 165-60(E)(1) (Emphasis added).

At the December 17th meeting, the ZBA Chair asked whether there was any engineer report within the record to demonstrate compliance with this 110% requirement. There is not. Shockingly, to date, SunCommon and Mr. Pryor have not supplemented the record to include the same. This would be a very detailed analysis demonstrating compliance with the Town's regulation through substantial evidence. This report was mandated to be reviewed by the Building Inspector prior to issuing the building permit, and because it is lacking, the building permit must be revoked immediately. Although there are several violations, the ZBA does not need to look any further than this violation to invalidate the building permit for the solar panels.

III. The Agricultural Use of the Project Site is Inapplicable

a. The Existing Commercial Horse Operations are Not Afforded an Agricultural Exemption

It was noted by the Town's Building Inspector that he provided Mr. Pryor flexibility in his determination that the solar panels could be installed without any Planning Board review or related visual assessment, which was required for compliance with the Town's solar regulations. However, it is not readily apparent that the commercial horse boarding operations on the Project Site are protected by New York State Agriculture and Markets Law ("AML") allowing for such flexibility. To be protected under the AML, the use of the Project Site must be a "farm operation" as defined under the AML. A "farm operation" is defined as:

“Farm operation” means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “**commercial horse boarding operation**” as defined in subdivision thirteen of this section, a “timber operation” as defined in subdivision fourteen of this section, “compost, mulch or other biomass crops” as defined in subdivision seventeen of this section and “commercial equine operation” as defined in subdivision eighteen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

N.Y. Agric. & Mkts. Law § 301(11) (Emphasis added).

Therefore, to receive protections afforded to an agricultural use, and considering that the energy from the solar panels is used for the commercial horse operations on the Project Site, such operations must meet the definition of a “commercial horse board operation,” which is defined as:

“Commercial horse boarding operation” means an agricultural enterprise, consisting of at least seven acres and **boarding at least ten horses**, regardless of ownership, that **receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production**. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

N.Y. Agric. & Mkts. Law § 301(13) (Emphasis added).

Here, the commercial horse barn only includes eight (8) horse stalls and therefore would be incapable of boarding the required ten (10) horses at any given time to receive protections under the AML. It was questioned at the public hearing whether the ten (10) horse requirement was that ten horses must be within the facility at all times, or whether it could be occasionally. The Court in *Lufkin v. Assessor of Town of Washington* touched on this issue and noted that a prior version of N.Y. Agric. & Mkts. Law § 301(13) stated that “consisting of at least ten acres and having *at all times* at least ten horses.” 185 Misc. 2d 779, 781 (Sup. Ct., Dutchess Co. 2000). However, the Court held that the deletion of “at all times” simply means that “[t]here is no statutory requirement that the horse boarding be a year-round activity or that it be open to the public. The requirement

that horses be boarded on the property “at all times” was deleted by the Legislature by the subdivision's latest amendment.” *Id.* at 784, 713 N.Y.S.2d 914, 918 (Sup. Ct. 2000).

Based on the above court decision, and related agency administrative decisions, it is clear that the operations need not be year-round, but the operations do need the capability to board at least ten (10) horses. Here, it is evident that the commercial horse operations on the Project Site are incapable of boarding at least ten (10) horses at any given time because only eight (8) horse stalls are available. As such, the commercial horse operations on the Project Site are not afforded any of the zoning protections within the AML. Thus, because the solar panels are providing power to the commercial horse operations on the Project Site, no flexibility should be afforded to Mr. Pryor and strict compliance with the Town’s regulations must be strictly administered. This is because the commercial horse operations on site are not a protected “farm operation” and therefore the solar panels are not protected “on-farm equipment”.

If Mr. Pryor wants to claim agricultural protections, as in *Lufkin v. Assessor of Town of Washington*, the burden is on him to fully demonstrate to the Town via substantial evidence that: (1) the commercial boarding operation includes the “boarding” of at least ten (10) horses, and (2) receives ten thousand dollars or more in gross receipts annually from fees generated through the boarding of horses. This should be in the form of documented evidence that the commercial horse farm complies with the AML. Currently, the Town’s Building Department files and the ZBA record is completely lacking this information.

In addition to, and notwithstanding the above, it was made clear at the public hearing that the solar panels service the entire Project Site. The ZBA Chair noted that the Building Department files are completely lacking any assessment of complying with the Town’s 110% requirement. It was also made clear that the residential structures on site are not related to any alleged farm operation, and therefore are not on-farm residences deserving of AML protection.

Per NYSERDA, “solar energy installations which generate no more than 110% of a *farm’s needs* are classified as “on-farm” equipment.” NYSERDA, *Solar Installations on Agricultural Lands*, at 137. Thus, admittedly, Mr. Pryor is using the energy from the solar panels on *non-farm* related structures/residences, which increases the amount of panels and the visual impact to the Appellants. Further, notwithstanding the above, to the extent the solar panels are not servicing on-farm equipment or structures, they are not protected by the AML and are not afforded any flexibility by the Town.

b. The Installation of Solar Panels on the Project Site is Not Exempt from the State Environmental Quality Review Act.

It was stated at the public hearing that the Building Inspector made his determination that the Project Site was a residential use under the Town’s solar regulations to afford Mr. Pryor flexibility because of the agricultural designation of the Project Site. That said, it was admitted at the public hearing that the New York State Department of Agriculture and Markets was not consulted prior to making his determination.

First, the Town's Building Inspector stated that the installation of solar panels on this "agricultural" Project Site did not require any compliance with the State Environmental Quality Review Act ("SEQRA") prior to a permit being granted because the action is a "Type II" action under SEQRA (exempting it from review). A review of the SEQRA regulations reveal that the installation of solar panels on agricultural lands is not a Type II action under SEQRA and must comply with the State mandated environmental review, including a review of visual impacts. This was not done here.

Related to the installation of solar panels, only the following are exempt from SEQRA as a Type II action:

(14) installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites:

(i) closed landfills;

(ii) brownfield sites that have received a Brownfield Cleanup Program certificate of completion (COC) pursuant to ECL section 27-1419 and section 375-3.9 of this Title or environmental restoration project sites that have received a COC pursuant to section 375-4.9 of this Title, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;

(iii) sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to section 375-2.9 of this Title, where the department has determined an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;

(iv) currently disturbed areas at publicly-owned wastewater treatment facilities;

(v) currently disturbed areas at sites zoned for industrial use; and

(vi) parking lots or parking garages;

(15) installation of solar energy arrays on an existing structure provided the structure is not:

(i) listed on the National or State Register of Historic Places;

(ii) located within a district listed in the National or State Register of Historic Places;

(iii) been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or

(iv) within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law;

6 NYCRR 617.5(c)(14) and (15).

Thus, nowhere in the SEQRA regulations is the installation of solar panels on agricultural lands exempt from SEQRA review. Furthermore, it cannot be argued that the installation of the solar panels pursuant to the Town's zoning regulations was an administrative action and therefore exempt. In fact, the Town's Building Department was required to make the following discretionary determinations: (1) whether the Project Site was residential or non-residential, and (2) whether the proposed landscaping was able to fully be screened at all times. If the SEQRA regulations were properly implemented, it would have required a visual assessment, including at the very least, cross sections and visual renderings, which are industry standard for such a development.

IV. The Solar Panels Cannot be Screened "At All Times"

As we have previously stated, the installed solar panels must be fully screened "at all times" from adjacent neighbors, a requirement that applies to non-residential and residential property. *See* Town of Washington Zoning Code ("Zoning Code") §§ 165-60(F)(3)(c) and 165-60(F)(4)(c). This "screened at all times" requirement is not just from the adjacent right-of-way but is broader and applicable to adjacent properties. At the December 17th meeting, the Appellants requested that SunCommon and Mr. Pryor provide legible site plans with topographical information including 1-2 foot contours. While we did receive legible site plans, they do not include the requested topographical information or any cross sections demonstrating visual impacts, which should have been required by the Town prior to issuance of a building permit.

Thus, the Appellants have spent their own monies to complete this task. Please see the enclosed Section Elevations, prepared by Studio A Landscape Architecture, Engineering + Planning, dated January 16, 2025, which demonstrate a direct line of sight from the Appellants' residence to the solar panels (the "Cross Sections"). *See Enclosed*. Given that the Cross Sections clearly demonstrate that the solar panels will be visible from the Appellants' residence (with proposed landscaping), the ZBA must find that the project violates the requirements in the above mentioned Zoning Code provisions, which are applicable for residential and non-residential properties, and the building permit must be revoked.

V. The Installation of the Solar Panels has Decreased the Appellants' Property Value by at Least 22% and Relocation of the Solar Panels is Necessary

The Appellants have opposed the installation of the solar panels to, in part, protect their investment into their recently renovated residence. To demonstrate to the ZBA the impact of the solar panels, the Appellants retained MDM Appraisals, LLC to conduct an appraisal report. We have enclosed hereto such a report by MDM Appraisals, dated as of December 27, 2024 (the "Report"). The Report concludes that:

The solar panels are an external obsolescence that the owners of the subject parcel cannot control. They are unsightly and can be seen from all the rooms on the east side of the house and especially from second-floor windows. Such a view cannot be shielded. Vegetation which concealed the access gate has already been removed, and since access would be needed to service the panels, it cannot be replaced. This access gate is directly in view of the subject parcel. It is my opinion that, as of the date of inspection, December 27, 2024, the loss in market value to the property at 5515 Route 82, Town of Washington, due to incurable external obsolescence is 22%.

See Enclosed.

Certainly, among other things, the ZBA should consider this massive reduction in value of the Appellants' property when making their determination. While appraisal reports will consider current zoning regulations in their assessment, the ZBA should recognize that this report is evidence of the Appellants' injury and the impact that a zoning *violation* will have on the Appellants' property.

For this reason and all of the aforementioned reasons, the ZBA must immediately revoke the building permit and mandate that the Project Site be restored. Such an injury would not have occurred if Mr. Pryor achieved compliance with the Town's zoning regulations by choosing another location for the solar panels on this approximately 400 acre Project Site.

To this end, we have debunked Mr. Pryor's claims that the current location is the only location for the solar panels because of the supposedly 'needed' utility hook up. We have enclosed hereto a letter from Studio A, dated January 20, 2025, demonstrating other feasible locations for the solar development that would still allow for connection to the utility grid and be screened from the Appellants' residence. *See Enclosed.* These are just a couple of viable locations. There surely may be more given the approximately 400 acre Project Site.

The ZBA should investigate statements made by Mr. Pryor that no other feasible locations for the development are achievable as that appears to be a misrepresentation of fact. As demonstrated by the Studio A letter, additional locations are available with appropriate utility connections. This chosen location was simply the easiest without any regard for the Appellants.

VI. Correspondence from Mr. Pryor's Attorney is Inaccurate and Without Evidence

Mr. Pryor's attorney has submitted a letter to the ZBA dated January 17, 2025. The letter is without any support and provides misleading documentation to the ZBA in an attempt to ensure the unlawful solar panels remain constructed. Please see the below response to each of the claims made by Mr. Pryor's counsel.

- a. **“Mr. Gottlieb’s letters contain several misstatements of fact that must be brought to light and corrected. For example, they claim, “there is no way that the solar installations can be completely buffered from the adjacent right-of-way and the neighboring homes (the Appellants property) via landscaping.” This representation is conclusory and simply inaccurate. SunCommon representatives have submitted landscaping plans to the Town that call for 18 mature Norway Spruce trees to be planted along the northern and eastern borders of the array, which will completely shield the panels from public view. An excerpt of the plan reflecting the location of the trees is attached hereto as Exhibit 1.”**

RESPONSE: The enclosed Cross Sections demonstrate by substantial evidence that the proposed landscaping is completely inadequate and that the solar panels will be visible from the Appellant's residence. Thus, these claims are not conclusory or inaccurate. In fact, Mr. Pryor has not conducted any investigation of the project viewshed impacts whatsoever to refute this claim. The project landscaping has also been noted to be completely inappropriate for this size development by letter from Studio A dated December 17, 2024. While Mr. Pryor's attorney tries to minimize these factual statements that are supported by expert evidence in the record, it is the ZBA and the Town's consultants that must review this requirement and the documented evidence prior to reaching a decision.

- b. **“Attached as Exhibit “2” are photographs taken on or around January 13, 2025, by Mr. Pryor from Route 82 directly in front of the Appellants’ driveway. Even in the absence of the new trees, it is still not possible to see the array from the ground level. Moreover, these photographs were taken at a time of year when vegetation is not in full bloom.”**

RESPONSE: The pictures provided in Exhibit 2 from Mr. Pryor's attorney further demonstrate that the solar panels are visible from Route 82 and therefore violate the Town's zoning regulations. Thus, through a submission from his own counsel, it is now undisputed that the solar panels can be seen from Route 82 under existing conditions. We also highlight for the record that Mr. Pryor's attorney pictures are clearly angled photos of the solar panels that are the most beneficial to his argument. That said, the solar are still visible. The photos are not straight photos from the Appellants' driveway where there is no question that they are visible.

Several photos from Route 82 and the Appellants residence have been provided to the ZBA and were assessed in the appraisal report noted above. Further, the

enclosed Cross Sections demonstrate that the solar panels will be visible with proposed landscaping, including future growth. The record is filled with expert testimony demonstrating that the solar panels cannot be screened, which is required under the Town's zoning regulations. For instance, the removal of vegetation by the existing gate entrance to the Project Site actually ensures that views of the solar panels from Route 82 and the Appellants' residence will last in perpetuity.

- c. **“The photos attached as Exhibit “E” to Mr. Gottlieb’s letter of August 16, 2024 were taken from a similar ground-level angle. They also demonstrate that the panels are mostly obscured by vegetation at present. Furthermore, several of the photos attached to his letter of November 12, 2024 appear to have been taken by a drone, not from the second floor of the Appellants’ house. Clearly, their representations regarding the destruction of their viewshed are exaggerated.”**

RESPONSE: See above. Please note that the enclosed Cross Sections demonstrate views of the solar panels from the Appellants' residence, which are impactful and not protected with proposed landscaping. See also, the appraisal report.

- d. **With respect to the location of the array generally, the Appellants state as follows: [T]he 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.**

This overly simplified argument does not take into account that an array must be physically located near the main power grid in order to be connected to it. According to Central Hudson, the only power lines and sub-stations bordering the Property that can be connected to the array are on Route 82. Mr. Pryor, SunCommon, and Central Hudson did indeed explore alternative locations along Route 82, but there were impediments preventing their installation elsewhere. For example, an otherwise suitable field to the south had shallow bedrock that could not support the frame of the array. Trenching for the cables would have also been a potentially insurmountable challenge in that location. The other possible location was close in proximity to the home of Joanne Irish, who lives at 5498 Route 82. Unlike the Appellants, her parcel is on the same side of the road as the Property at issue. The panels would have essentially been in her backyard. The field across from the Appellant's property was ultimately chosen by process of elimination.

RESPONSE: Please see the enclosed letter from Studio A demonstrating that, in their professional opinion, alternative locations are available that would comply with the Town's zoning regulations.

- e. **In closing, we have not yet had an opportunity to conduct a proper review of the applicable laws and regulations to determine whether the Appellant’s legal arguments have merit. Without conceding that they do, Mr. Pryor is more than willing to work with the Town to cure any procedural defects and undergo any additional review processes that may be required by law. He and I will be in attendance at the ZBA’s January 21, 2025 meeting to address any questions or concerns the members may have.**

RESPONSE: The permit was issued in May of 2024, (i) without any advance correspondence to adjacent neighbors, (ii) without any postings of the work being conducted, and (iii) without any public hearing. When my clients witnessed the commencement of installation of the solar panels in August of 2024, they immediately objected to the Building Inspector. Since then – which was five months ago -- the record was made clear, that the solar panels were permitted and installed in violation of the Town’s zoning regulations. The ZBA need not – and should not -- wait for any additional responses from Mr. Pryor or his attorney as such would simply be enabling the unlawfulness of Mr. Pryor that has occurred to date. Mr. Pryor has had months to cure any defects and relocate the solar panels. Accordingly, the ZBA must make an immediate determination on this matter.

Conclusion

It continues to be obvious that the solar panels are inconsistent with the Town’s zoning regulations and must be removed. The ZBA should not be tricked into thinking that this matter is moot because the location of the panels has been chosen. The Town must immediately revoke the building permit and mandate removal of the solar development. *See Parkview Assocs. v. City of New York*, 71 N.Y.2d 274 (1988) (holding that the City was not estopped from revoking that portion of building permit which violated long-standing zoning limits, though property owner had already engaged in substantial construction in reliance thereon.).

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

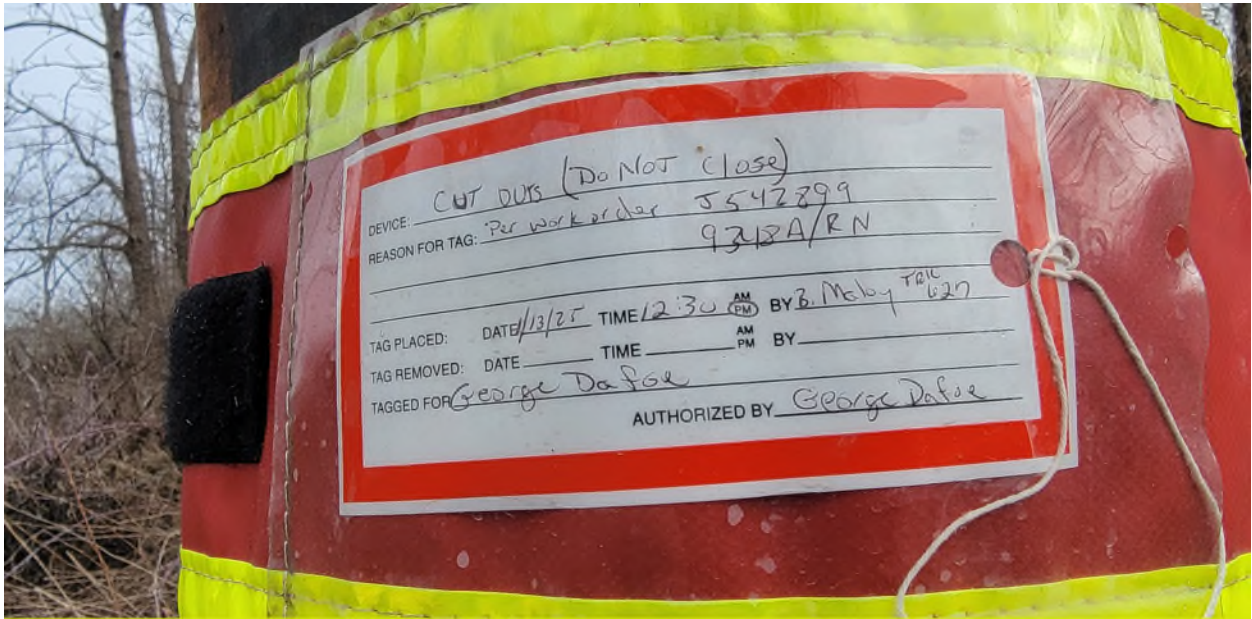
cc: Town of Washington Town Board (*via email*)
Jonathan Ialongo, Building Inspector & Zoning Administrator (*via email*)
Joseph P. Eriole, Esq., Van DeWater & Van DeWater (*via email*)

Kyle Barnett, Esq. Van DeWater & Van DeWater (*via email*)
Danial Stafford, Esq. Arciero & Burgess, PC (*via email*)
Lisa A. Biase, Esq. (*via email*)
Lou Casciano (*via email*)

Stop Work Order Violations



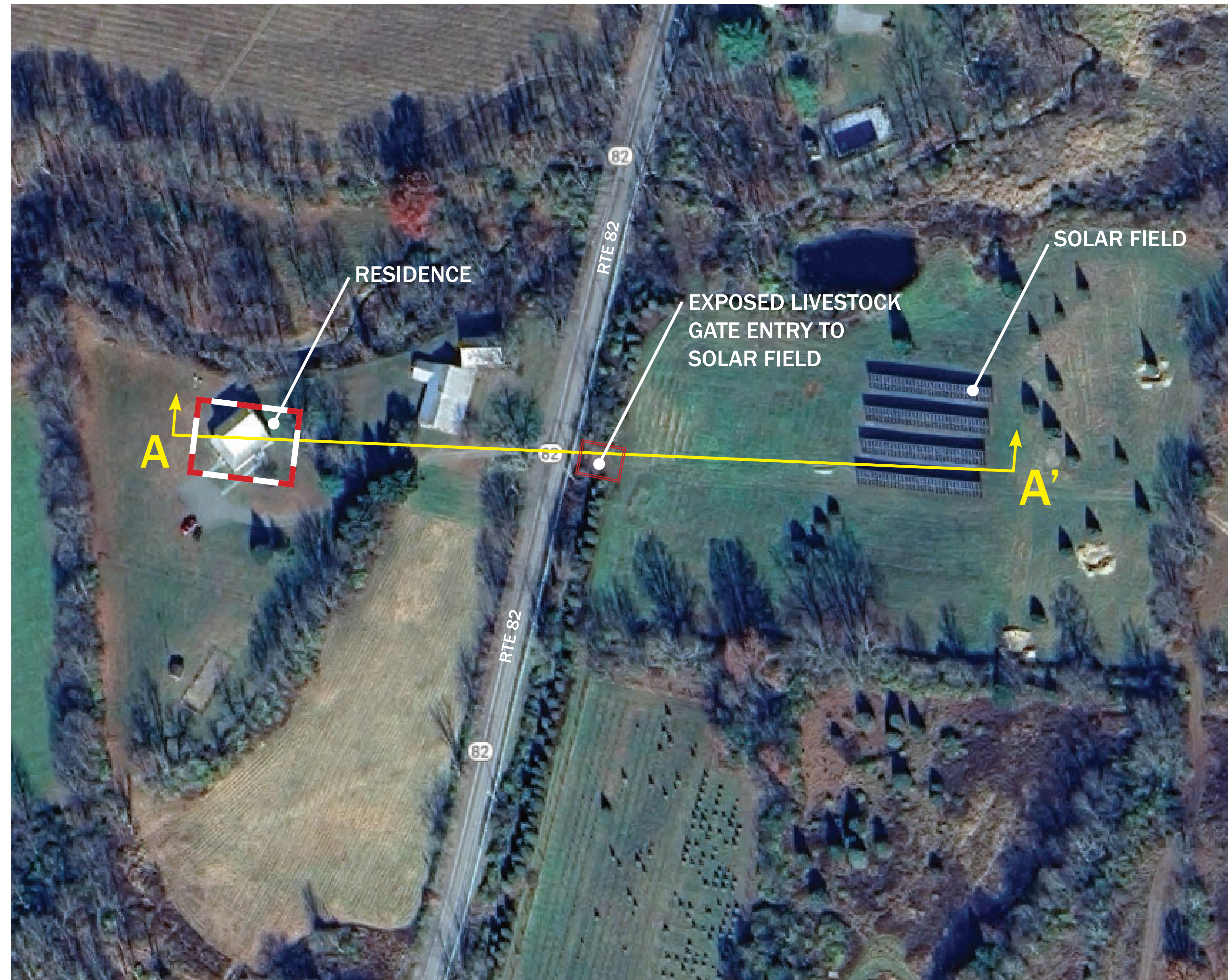




Cross Section Elevations

RESIDENCE LOCATION:

5515 Route 82
Clinton Corners, NY 12514



View of Solar Field From Residence Parcel



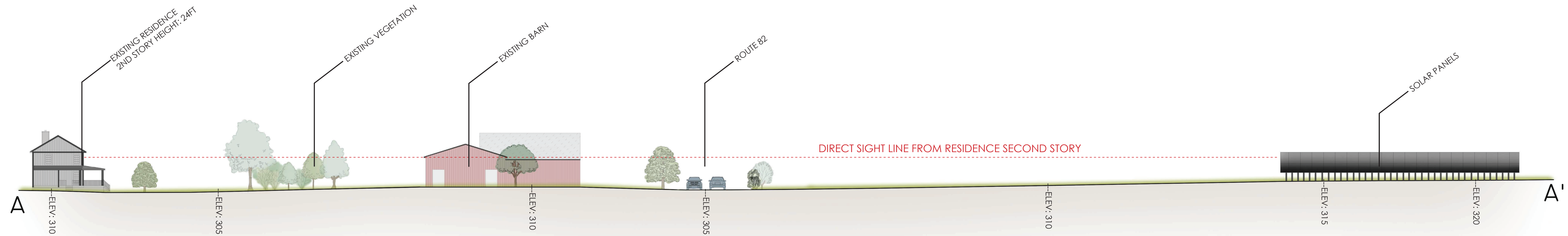
View of Solar Field From Residence Front Entry



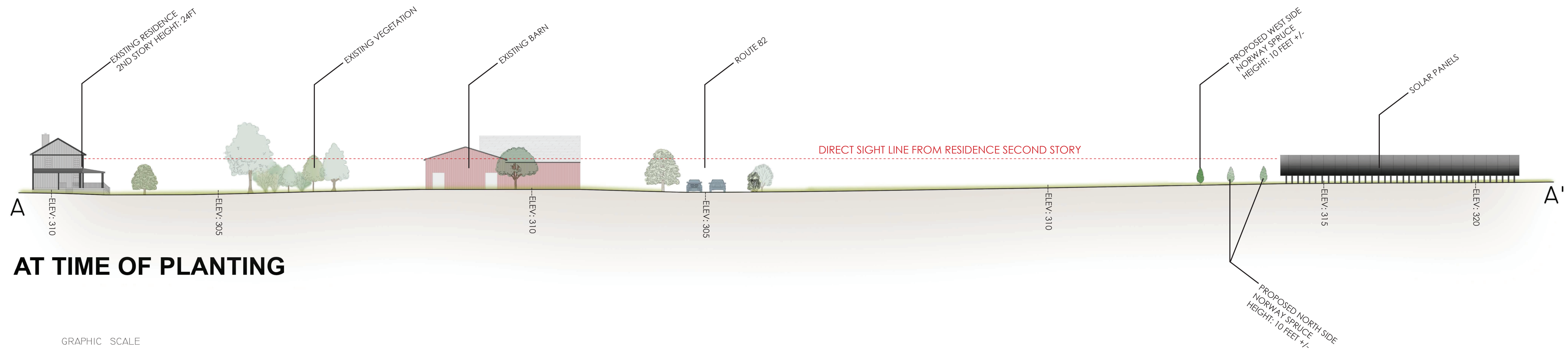
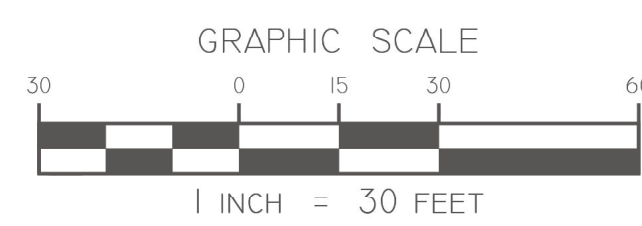
View of Solar Field From Route 82

SUMMARY:

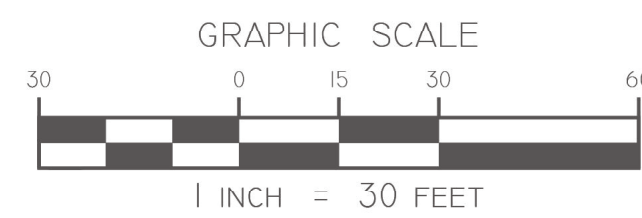
Norway Spruce plantings around solar field perimeter are insufficient even after 10 years of growth. At 30ft (10 years) of growth, residents' view from the second story will still produce views of solar field.



EXISTING CONDITIONS

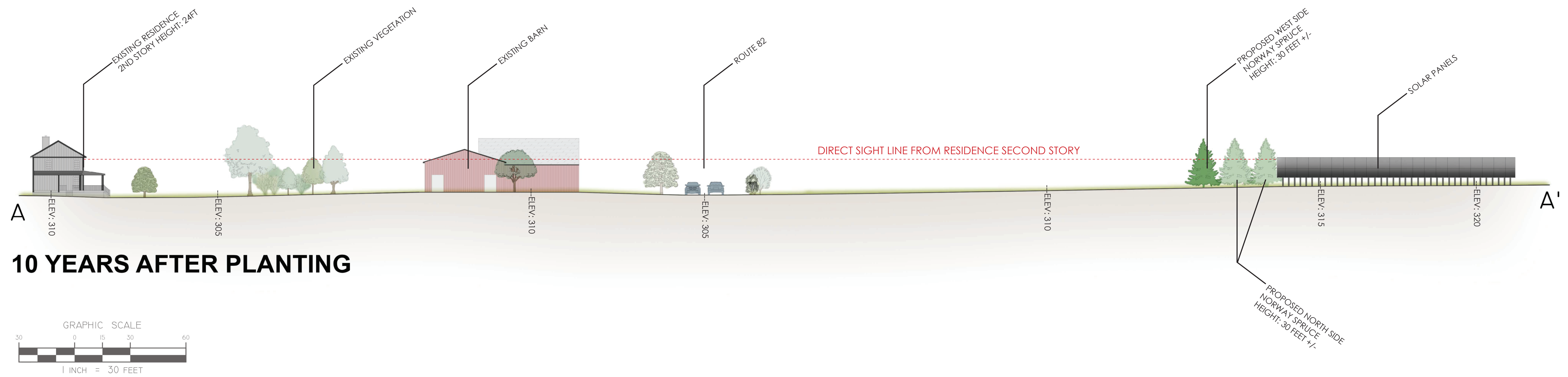
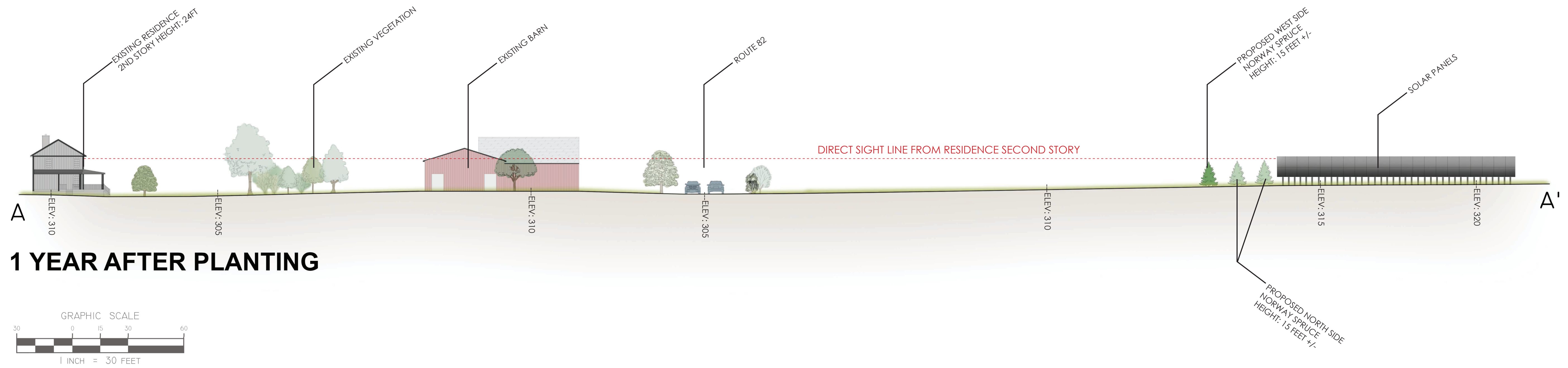


AT TIME OF PLANTING



* Faded trees shown indicate vegetation which exists **behind** the sight line.

* The extrapolation in the report presumes ideal conditions and maintenance, which is not always presented in actuality.



* Faded trees shown indicate vegetation which exists **behind** the sight line.

* The extrapolation in the report presumes ideal conditions and maintenance, which is not always presented in actuality.

Appraisal Report

CONSULTING REPORT



AS OF

December 27, 2024

PREPARED FOR

Lisa A. Biase and Louis M. Casciano
5515 Route 82
Millbrook
Town of Washington
County of Dutchess
State of New York

PREPARED BY

MDM APPRAISALS, LLC

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MDM APPRAISALS, LLC

UPSTATE: 1078 LAKEVIEW ROAD
COPAQUE, NEW YORK 12516

LONG ISLAND: 365 STEWART AVE, B9
GARDEN CITY, NEW YORK 11530

MDMAPPRAISALSNY@GMAIL.COM
516-805-1684

USPAP COMPLIANCE

January 17, 2025

Lisa A. Biase and Louis M. Casciano
5515 Route 82
Millbrook, New York 12545

Re: 5515 Route 82, Town of Washington, Dutchess County, NY

Dear Lisa and Lou:

It was good to meet as we made an inspection of your site and viewed the solar panels and new utility pole which were installed across the road from your home. After observing the site, I have prepared this Consulting Report to offer an opinion on the impact these items may have on the market value of your property. This report was prepared in accordance with Standards Rule 2.2 (a) of the *Uniform Standards of Professional Appraisal Practice 2024* for an appraisal report.

INTENDED USE AND USER OF REPORT: It is my understanding that the neighbor immediately across Route 82 (Parcel 135889-6666-00-727971-0000) installed large solar panels damaging your view. The installation was done without obtaining the consent of you and other similarly impacted property owners. It also necessitated the installation of a new utility pole across from your barn. The purpose of this report is to offer an opinion of the impact this might have on your property's market value. It is also my understanding that this report will be used by you and your legal representatives, and it is expected that it will be shared with the Town of Washington and departments within the Town of Washington, such as the Board of Zoning Appeals, and the Court. It is not intended for any other use or other user.

It is important to read this report in its entirety but in my opinion, as of December 27, 2024, the date of inspection, the solar panels and utility pole are an incurable external obsolescence that would negatively impact your property by 22%.

EFFECTIVE DATE OF REPORT: The effective date of this report is December 27, 2024, the date of inspection.

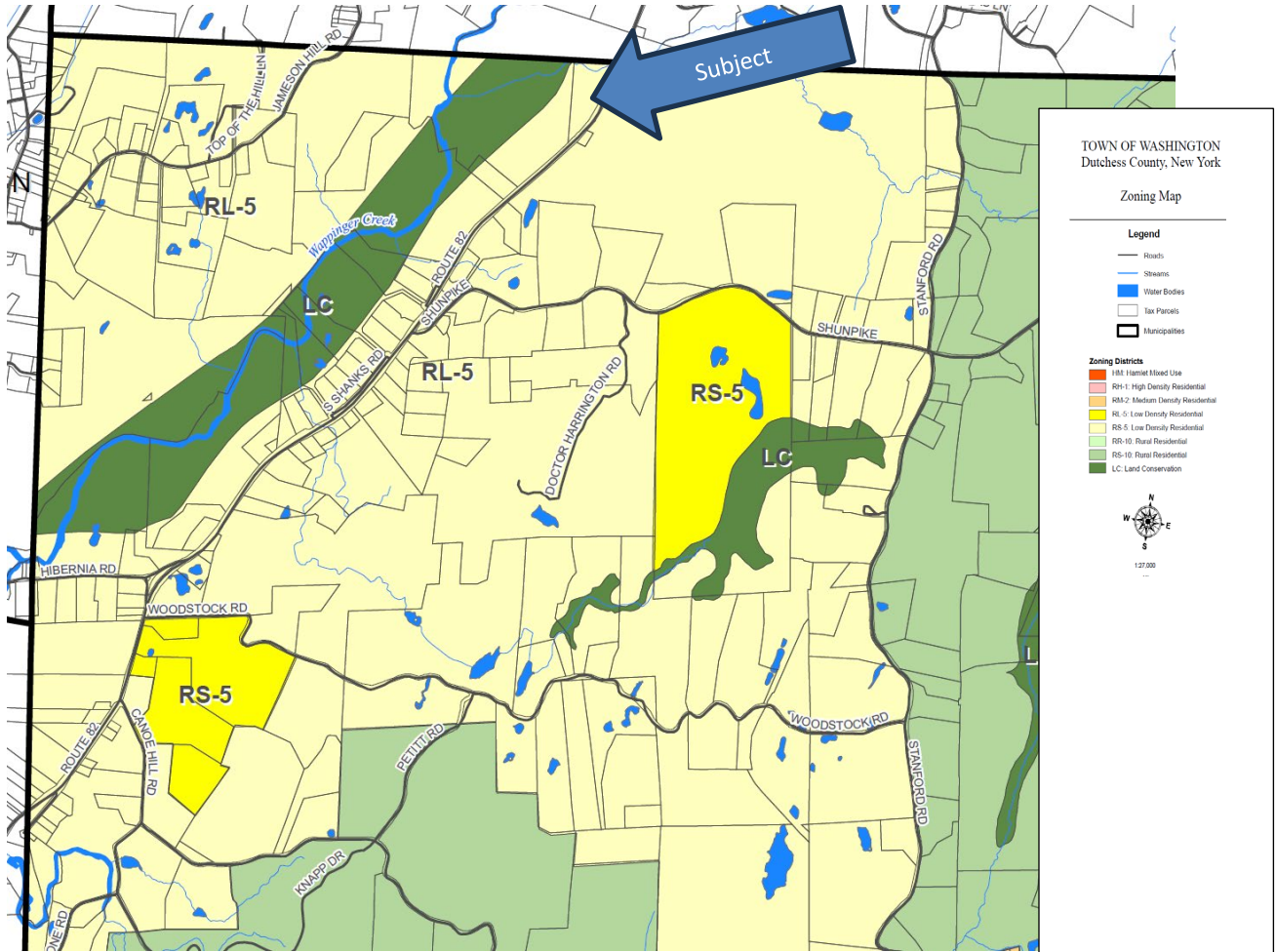
SUMMARY OF SALIENT FACTS

Location	5515 Route 82, Clinton Corners Town of Washington County of Dutchess State of New York
Owner of Record	Lisa A. Biase and Louis M. Casciano, wife and husband by deed dated December 28, 2007 from Thomas James Whalen and Carey Alice Whalen, husband and wife.
Indicated Consideration	\$580,000 on December 28, 2007
Legal Description	Liber 22008/Page 72
Parcel ID	135889-6666-00-434999-0000
Site Area	9.6 acres
Site Description	<p>An irregularly shaped, almost triangular parcel, on the westerly side of Route 82 in the Town of Washington. The plot has its own well and septic system. There is electric service to the plot. Numerous phone and internet providers offer service to the area. There is no sidewalk or curb in front of the property, and Route 82 is an asphalt-paved, state route.</p> <p>The parcel has a rolling terrain. A contributory creek to the Wappinger Creek runs through the northerly end of the parcel.</p>

Building Description	<p>The subject parcel is improved with a Colonial-style home built in 1997 and totally remodeled with a new wraparound porch in 2022. It has three bedrooms and two and one-half bathrooms. At the time of the remodeling, a wood-burning fireplace was added in the family room and central air conditioning was installed. The kitchen and all bathrooms have been completely upgraded, and custom millwork and hand-crafted doors were installed throughout the entire house, as well as new, wide plank pine floors. The interior of the home is pristine. The exterior of the house was upgraded with new windows, Hardie® board siding, and a metal roof with decorative snow guards. All materials used were of the highest quality and installed with skilled craftsmanship.</p> <p>The barn was built in stages between the 1700's and 1800's and has been totally restored. Hand-hewn beams from similarly aged barns replaced rotted beams. The entire barn received new windows and a new metal roof.</p>
Occupancy	Lisa A. Biase and Louis M. Casciano, wife and husband.
Zoning Classification	Town of Washington RL-5. This is a zoning which requires a minimum of five acres to build and has a maximum lot coverage of 10%
Taxation	<p>Assessor's Market Value: \$609,100 Land - \$152,500 Total - \$452,900 Town of Washington Equalization Rate is 74.36%</p>
Property Rights	Fee Simple

ZONING

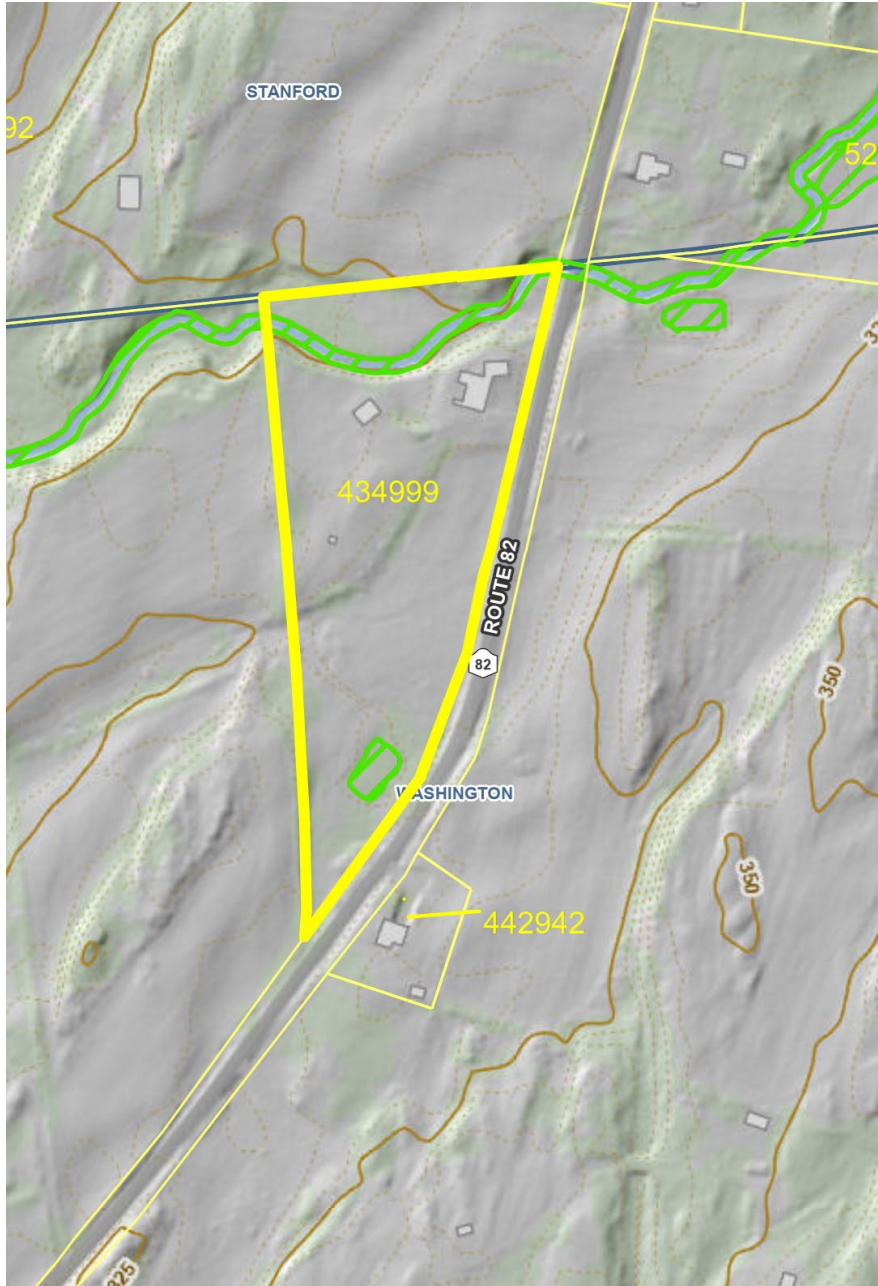
The subject parcel, consisting of 9.6 acres, is in the RL-5 zoning district of the Town of Washington as can be seen on the zoning map below.



The following table shows that development of the parcel requires a minimum of five acres and allows a maximum lot coverage of 10%.

SCHEDULE OF AREA AND BULK REGULATIONS

DISTRICT	RR-10 & RS-10	RL-5 & RS-5	RM-2	RH-1	HM NON- RESIDENTIAL USES	HM RESIDENTIAL USES	LC
Minimum Lot Size							
- Area (<i>Acres</i>)	10	5	2	1	.5	1	10
- Width (<i>Feet</i>)	400	300	200	200	100	200	400
Minimum Setback (<i>Feet</i>)							
- Front	100	100	75	50	80	50	100
- Each Side	100	75	50	30	15	30	100
- Rear	75	75	50	25	50	25	75
Maximum Building Height							
- (<i>Stories</i>)	2.5	2.5	2.5	2.5	N/A	2.5	1
- (<i>Feet</i>)	35	35	35	35	35	35	15
Maximum Coverage							
- (<i>Percent</i>)	10	10	10	10	60	10	5
Minimum Road Frontage*							
- (<i>Feet</i>)	400	300	200	200	100	100	400



This parcel lies just south of the boundary between the Town of Washington and the Town of Stanford. The terrain is rolling, and there is a stream running through the north end of the parcel which is a tributary of Wappinger Creek.

The parcel is improved with a two-story Colonial-style dwelling built in 1997 and totally renovated as the accompanying pictures will show. It also has a barn built between the 1700's and the 1800's which has been restored with hand-hewn beams salvaged from barns of a similar age. The barn also received new windows and a new metal roof. Before and after photographs follow, demonstrating the extent of the renovation and the expense that went into it.



Before renovations with stock windows and asphalt roof



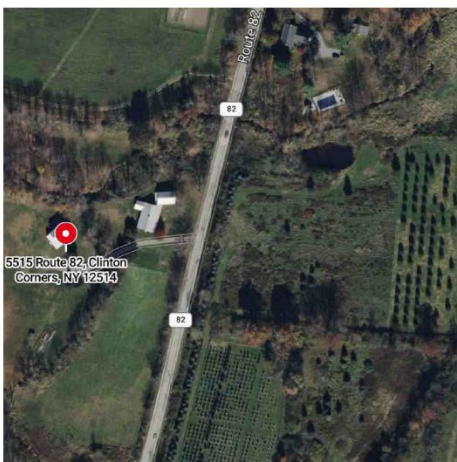
After renovations with new wraparound porch, Hardie board siding and metal roof with decorative snow guards



Barn before renovations. Barn was built in parts between the 1700's and 1800's



Barn after renovations. Aside from interior improvements, a new metal roof was installed on the barn



Before solar panels



After solar panels



Kitchen before renovation



Kitchen after renovation



Family Room before renovation



Family Room after renovation - wood-burning fireplace was added, surrounded by custom millwork



Master bath before renovation



Master bath after renovation



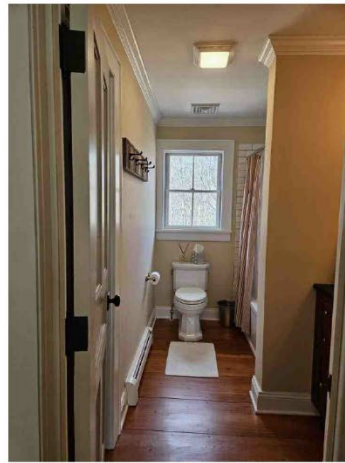
Master bath before renovation



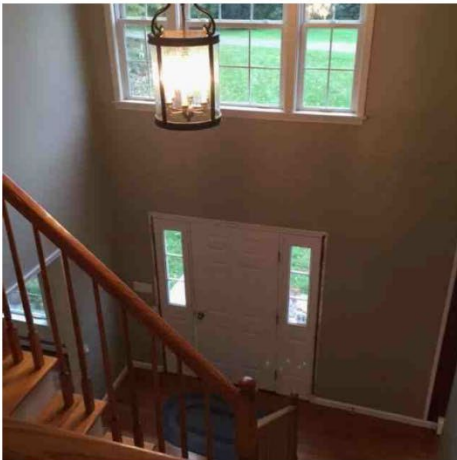
Master bath after renovation



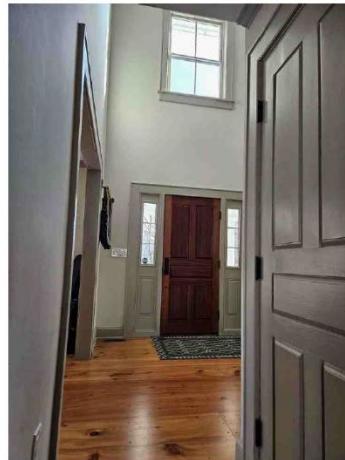
Guest bath before renovation



Guest bath after renovation. Wide pine flooring used throughout the home.



Hallway before renovations. New windows throughout the home. A new banister was also installed.



Hallway after renovations. All millwork and doors, including mahogany front door were hand crafted.



Dining room before renovation



Dining room after renovation. The wide pine flooring is used throughout the home



Living room before renovation



Living after renovation. All the moldings are custom-milled



Route 82, facing north; new utility pole at right



Route 82, facing south



Home has new windows, Hardie board siding, a metal roof with decorative snow guards



Rear of house. The barn can be seen at left



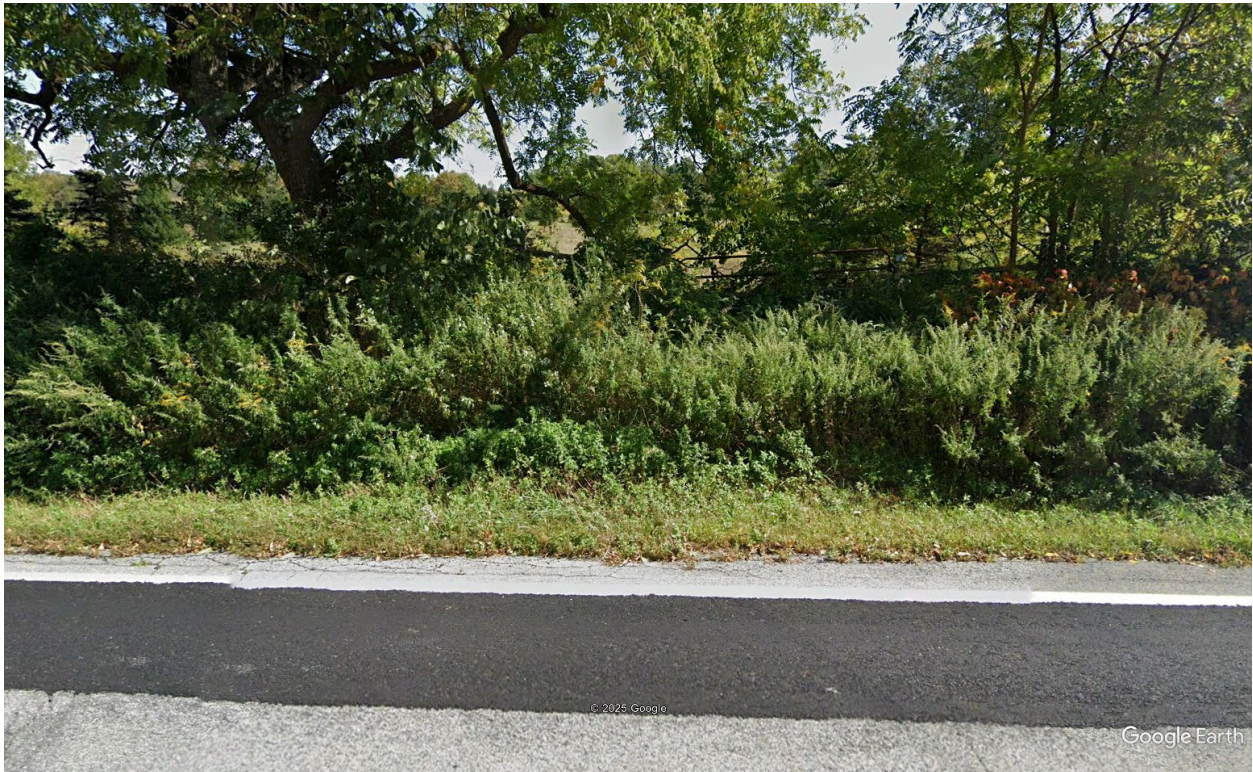
The solar panels are clearly in view



South side of house. The porch on the right, as well as the bottom of the driveway, have clear views of solar panels



This gate is across from the subject's driveway; this gate is needed for access and cannot be screened.



A Google Earth image from September 2019 shows the view from the road in front of the subject property. The same access gate shown above can barely be seen through the vegetation which has now been removed.

APPRAISAL PROBLEM



The subject parcel, identified in the map above, is a 9.6-acre parcel. The parcel immediately across the road (Parcel 135889-6666-00-727971-0000), is a 390.41-acre parcel, and the owners, without the consent of affected surrounding parcels, have installed four rows of solar panels, damaging the view of the subject parcel. The solar panels are ground-mounted, each approximately 130 feet long, and they are unsightly. They are visible from all the rooms on the easterly side of the home as well as anywhere on the easterly side of the parcel. The second floor windows have a clear view of the solar panels. Such a view cannot be shielded. In addition, contrary to zoning regulations, the installation of the solar panels required a new utility pole, which is also in the view of the subject parcel.



Aerial view





The red barn is on the subject parcel. The solar panels are clearly in view.



Solar panels, taken from driveway of subject parcel.



New utility pole erected in view of the subject parcel, across from the barn



Taken from the road. Google Earth has a measuring function which shows each panel to be about 130 feet long.

One of the factors in the owners' purchase of the subject property was its rural beauty and bucolic views, and with such a setting they felt comfortable in their decision to renovate it completely at great cost. The costly renovation included new windows, new Hardie® board siding, new metal roof with decorative snow guards, the addition of a wraparound porch to enjoy the views, new kitchen, new bathrooms, new wide plank pine flooring, custom millwork throughout, central air conditioning, and a wood-burning fireplace which the home did not have. All the materials used were of the highest quality and installed with skilled workmanship.

The sudden installation of the unsightly solar panels and the utility pole on the neighboring parcel has damaged the view of the subject property. If their home was to be listed for sale, the inferior view would sharply narrow the pool of interested buyers, and market value would be far below what has been invested in the property between its original purchase price and the hundreds of thousands of dollars spent on its renovation.

MARKET VALUE

Market Value is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) Buyer and seller are typically motivated; (2) Both parties are well informed or well advised, and acting in what they consider their own best interest; (3) A reasonable time is allowed for exposure in the open market; (4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

A probable price is based on the principle of substitution, which states, "When several similar or commensurate commodities, goods, or services are available, the one with the lowest price will attract the greatest demand and widest distribution."²

Before making an offer, well-informed buyers will consider all factors of depreciation or obsolescence which will affect value. Obsolescence falls into three categories:

¹ Rules and Regulations, Federal Register, Vol. 55, No. 165, Page 34696

² *The Appraisal of Real Estate. Twelfth Edition.* Appraisal Institute. Chicago. 2001

1. Physical deterioration – wear and tear from regular use, the impact of the elements or damage. Such deterioration can be curable or incurable.
2. Functional obsolescence – a flaw in the structure, materials, or design that diminishes the function, utility, and value of the improvements. An example of this would be a layout where the bedrooms are upstairs, but the only bathroom is downstairs. Such obsolescence can be curable or incurable.
3. External obsolescence - a temporary or permanent impairment of the utility or salability of an improvement or property due to negative influences outside the property. External obsolescence is incurable. Because of its fixed location, real estate is subject to external influences that usually cannot be controlled by the property owner, landlord, or tenant.³

The residence on the subject parcel is in pristine condition, having undergone a complete renovation. It has no functional obsolescence with a pleasing layout and the number of bathrooms and bedrooms typically sought in the subject's market area. All the improvements were done with high-quality materials installed with skilled craftsmanship, as the photographs have shown. The only drawback to value is the presence of the solar panels. They are unsightly and damage what had been a rural view. Because of the terrain and an access gate to the panel, they cannot be screened. These are considered to be an incurable external obsolescence

LOSS IN VALUE

For properties that are desirable in many ways such as location, view, property condition, style, etc., buyers are willing to pay the asking price and occasionally a premium. For properties that lack in one or more ways, there will be a smaller pool of willing buyers, and sellers may have to discount the selling price of the property to induce a sale.

To determine a loss in value, property listings were examined for differences between an Original Listing Price (what a home seller believes a property is worth) and the price that the property actually achieved.

The OneKey Multiple Listing Service was examined for sales of homes in northern Dutchess County. The homes surveyed were between \$600,000, the current assessed value of the subject property, and \$2,500,000, which represented the upper bracket of single-family homes on between 2.5 acres and 20 acres, with similar living area to the subject. The surveyed sales took place between January 1, 2022, when the COVID effect had begun to subside and the date of

³ *The Appraisal of Real Estate. 14th Edition.* Appraisal Institute. Chicago. 2013.

inspection, December 27, 2024. Three hundred eighty-one homes met that criteria with 187 selling at or above the asking price, and 194 selling below the asking price.

The following chart shows that the more desirable properties sell more quickly, with the ones that sold below asking price having a longer period of Days on the Market (DOM).

	Count	Median DOM	Average DOM
Sold at Asking Price	64	66	85
Sold Above Asking Price	124	42	74
Sold Below Asking Price	193	89	113

The properties that sold below asking price were analyzed. A review of the MLS listings associated with these was undertaken, and short sales, bank-owned properties, and properties that were sold “as-is” or other wording that indicates that the property is in disrepair or has inferior functional utility were eliminated. Also considered was that anything within 5% of the selling price might involve routine negotiations. Properties that sold at a deeper discount were examined for possible external obsolescence issues, and brokers were consulted. Properties that were determined to have some form of external obsolescence were found to have their selling prices discounted from the Original Listing Price as follows with the ranges showing the smallest amount of the discounts to the highest end of the discounts.

External Obsolescence	Lowest	Highest
Conservation Easements	17%	22%
Flaglots and Driveway Agreements	9%	22%
Non-residential views	17%	22%
Next to kennels or farms with livestock	15%	20%
Inferior lot or site	12%	21%

Conservation easements limit the development potential of a property. There are some desirable features about conservation easements because they can protect a view, a natural resource, and ensure privacy, but there is a trade-off in market value. Of the sales studied, the selling price was between 17% and 22% less than the asking price.

Flag lots and driveway agreements are fairly common in northern Dutchess County, and the discount from list price was shown to range between 9% and 22%.

Non-residential views, such as facing a municipal building, came with a discount of between 17% and 22%. Properties that are near municipal buildings generally are also busy locations.

Other inferior residential locations were next to kennels or horse farms. These were impacted by about 15% to 20%.

Inferior lots or siting accounted for discounts of between 12% and 21%. Similar to conservation easements, development is limited, but this is because a parcel lacks frontage, or the lot shape does not provide enough setbacks.

Although an effort was made to find sales of homes with a view of solar panels, none was found. However, a listing was found for 5976 Route 82, Town of Stanford, which has a view of the solar farm in the field behind the Town of Stanford Town Hall. The home has 41.70 acres of land 4,289 square feet of living area and has been available since 2023. The original listing expired but it had a list price of \$2,100,000. The current listing has been available for more than 200 days and the current listing price is \$1,600,000, which is 24% less than the original asking price.



In conversations with brokers, a sale was revealed that did not fall within the search parameters set. It was a sale at 1162 Duell Road in the Town of Stanford. This property has a power tower and power lines running through it. Its original listing price was \$549,999 and its final selling price was \$390,000, which represents a discount of 29%.

These two parcels are an indication that there is buyer resistance to these factors.

RECONCILIATION

There were no sales of parcels directly affected by solar panels. The top losses from other forms of external obsolescence ranged between 20% and 22%, with 22% being the loss found the most often. An active listing facing a solar field was found, and it already showed a loss of 24%. There is a possibility that the ultimate sale of that property might require a further discount, but there were many more solar panels in that property's view. This listing, however, suggests that a diminished market value due to solar panels would fall to the higher end of the range.

The solar panels are an external obsolescence that the owners of the subject parcel cannot control. They are unsightly and can be seen from all the rooms on the east side of the house and especially from second-floor windows. Such a view cannot be shielded. Vegetation which concealed the access gate has already been removed, and since access would be needed to service the panels, it cannot be replaced. This access gate is directly in view of the subject parcel. It is my opinion that, as of the date of inspection, December 27, 2024, the loss in market value to the property at 5515 Route 82, Town of Washington, due to incurable external obsolescence is 22%.

CERTIFICATION


I certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial and unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Maureen D. McGoldrick made an inspection of the subject site, as well as the community surrounding it, on December 27, 2024. No one provided significant real property appraisal assistance to the person signing this certification.
- The reported analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

- As of the date of this report, I, Maureen D. McGoldrick, have completed the Standards and Ethics Education Requirements for Practicing Affiliates of the Appraisal Institute. As of the date of this report, I, Maureen D. McGoldrick have completed the continuing education program for Practicing Affiliates of the Appraisal Institute.

Dated: January 17, 2025

MDM Appraisals, LLC



Maureen D. McGoldrick
Certified N.Y.S. Real Estate
General Appraiser
#46000031968

STATEMENT OF GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

The following Standard Conditions apply to reports by MDM APPRAISALS, LLC. Special conditions and significant issues are added as required.

1. Analyses are performed, and written reports are prepared in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.
2. No opinion is rendered as to property title, which is assumed to be good and marketable. Unless otherwise stated, no consideration is given to liens or encumbrances against the property. Sketches, maps, photos or other graphic aids included in reports are intended to assist the reader in ready identification and visualization of the property and are not intended for technical purposes. Because the appraiser(s) is not a surveyor or architect, he or she makes no guarantees, express or implied, regarding these documents including the survey and flood maps.
3. Information furnished by others, upon which all or portions of this report are based, are believed to be reliable, but have not been verified in all cases. It is our opinion that the information is of the kind generally accepted in the appraisal profession as reliable, thus it was utilized in forming all or part of the professional opinion(s) found herein. However, no warranty is given as to the accuracy of such information.

4. Responsible ownership and competent property management are assumed.
5. Areas and dimensions of the property were obtained from surveys and/or public records. The areas utilized for the purposes of comparison were derived from Comps Inc. Maps or sketches, if included in this report, are only to assist the reader in visualizing the property and no responsibility is assumed for their accuracy. No independent surveys were conducted.
6. Reports may contain estimates of future financial performance, estimates or opinions that represent the appraiser's view of reasonable expectations at a particular point in time, but such information, estimates or opinions are not offered as predictions or as assurances that a particular level of income or profit will be achieved, that events will occur, or that a particular price will be offered or accepted. Actual results achieved during the period covered by our prospective financial analyses will vary from those described in our report, and the variations may be material.
7. No responsibility is taken for changes in market conditions and no obligation is assumed to revise this report to reflect events or conditions that occur subsequent to the date hereof.
8. It is assumed that all required licenses, certificates of occupancy, consents or others legislative or administrative authority from any local, state or national government or private entity or organization, have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
9. It is assumed that legal, engineering or other professional advice, as may be required, has been or will be obtained from professional sources and that the report will not be used for guidance in legal or technical matters such as, but not limited to, the existence of encroachments, easements or other discrepancies affecting the legal description of the property. It is assumed that there are no concealed or dubious conditions of the subsoil or subsurface waters including water table and flood plain, unless otherwise noted. We further assume there are no regulations of any government entity to control or restrict the use of the property unless specifically referred to in the report. It is assumed that the property will not operate in violation of any applicable government regulations, codes, ordinances or statutes.
10. Unless otherwise stated, the values found within this report do not consider the existence of hazardous substances including, without limitation, asbestos, polychlorinated biphenyls, petroleum leakage or agricultural chemicals, which may or may not be present on the property.
11. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing the appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the

property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist.

12. In the absence of competent technical advice to the contrary, it is assumed that the property being appraised is not adversely affected by concealed or unapparent hazards such as, but not limited to asbestos, hazardous or contaminated substances, toxic waste or radioactivity. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
13. The allocation, if any, in this report of the total valuation between components of the property, land and improvements applies only to the program of utilization stated in this report. The separate values for any components may not be applicable for any other purpose and must not be used in conjunction with any other appraisal.
14. The report, the final estimate of value and estimates of future financial performance included therein, are intended for the information of the person or persons to whom they are addressed, solely for the purposes stated therein, and should not be relied upon for any other purpose. The addressee shall not distribute the report to third parties without prior permission of MDM APPRAISALS, LLC. Before such permission shall be provided, the third party shall agree to hold MDM APPRAISALS, LLC harmless relative to their use of the report. Neither our report, nor its contents, nor any reference to the appraisers or MDM APPRAISALS, LLC, may be included or quoted in any offering circular or registration statement, prospectus, sales brochure, other appraisal, loan or other agreement or document without our prior written permission. Permission will be granted only upon meeting certain conditions.
15. Information furnished by others is presumed to be reliable and, where so specified in the report, has been verified; but no responsibility, whether legal or otherwise, is assumed for its accuracy, and it cannot be guaranteed as being certain. No single item of information was completely relied upon to the exclusion of other information.
16. Assignments are accepted with the understanding that there is no obligation to furnish services after completion of the original assignment. If the need for subsequent service related to an assignment (e.g., testimony, updates, conferences, reprint or copy service) is contemplated, special arrangements acceptable to MDM APPRAISALS, LLC must be made in advance. No significant change is assumed in the supply and demand patterns indicated in the report. (The report assumes market conditions as observed as of the current date of our market research stated in the letter of transmittal.) These market conditions are believed to be correct; however,

the appraisers assume no liability should market conditions materially change because of unusual or unforeseen circumstances.

17. The valuation applies only to the property described and for the purpose so stated and should not be used for any other purpose. Any allocation of total price between land and the improvements as shown is invalidated if used separately or in conjunction with any other report.
18. Neither the report nor any portions thereof (especially any conclusions as to value, the identity of the appraisers or MDM APPRAISALS, LLC or any reference to the Appraisal Institute or other recognized appraisal organization or the designations they confer) shall be disseminated to the public through public relations media, news media, advertising media, sales media or any other public means of communication without the prior written consent and approval of the appraisers and MDM APPRAISALS, LLC. The date(s) of the valuation to which the value estimate conclusions apply is set forth in the letter of transmittal and within the body of the report. The value is based on the purchasing power of the United States dollar as of that date.
19. No individual signing or associated with this report shall be required by reason of this report to give testimony or appear in court or other legal proceedings, unless specified arrangements therefore have been made.
20. The Addressee agrees to indemnify MDM APPRAISALS, LLC and its respective partners, principals and employees (MDM APPRAISALS, LLC and each such person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint or several, to which such Indemnified Parties may be subject under any applicable federal or state law, related to, or arising out of, the subject analysis and/or the engagement of MDM APPRAISALS, LLC pursuant to the assignment and will reimburse any Indemnified Party for all reasonable expenses (including counsel fees and expenses) as they are incurred in connection with the investigation of, preparation for, or defense of, any pending or threatened claim or action or proceeding arising therefrom whether or not such Indemnified Party is a party. The Addressee will not be liable under the foregoing indemnification provisions to the extent that any loss, claim, damage, liability or expense is found in a final judgment by a court of competent jurisdiction to have resulted primarily from the bad faith, gross negligence or recklessness of an Indemnified Party.
21. It should be specifically noted by any prospective mortgagee that the report assumes that the property will be competently managed, leased and maintained by financially sound owners over the expected period of ownership. This engagement does not entail an evaluation of management's or owner's effectiveness, nor are we responsible for future marketing efforts and other management or ownership actions upon which actual results will depend.
22. The Americans with Disabilities Act ("ADA") became effective January 26, 1992. MDM APPRAISALS, LLC has not made a specific compliance survey and analysis of this property to

determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since MDM APPRAISALS, LLC has no direct evidence relating to this issue, MDM APPRAISALS, LLC did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.

23. MDM APPRAISALS, LLC does not, as part of its valuation, perform an audit, review or examination (as defined by the AICPA) of any of the historical or prospective financial information used and therefore does not express any opinion with regard to same.
24. The legal description and pertinent building areas for the subject property were obtained from sources that are deemed reliable. The legal description and building areas have not been verified on our part by legal counsel, surveyor or a qualified architect. We assume no responsibility for the accuracy or the legality of the legal description or building areas and the permitted uses of the property. Verification should be made prior to use.
25. Acceptance of and/or use of this appraisal report constitutes acceptance of the foregoing General Underlying Assumptions and Limiting Conditions. The appraisal duties, pursuant to the employment to make the appraisal, are complete upon delivery and acceptance of the appraisal report. However, any corrections or errors should be called to the attention of the appraiser within 60 days of the delivery of the report.

ADDENDUM - QUALIFICATIONS OF APPRAISER

**MAUREEN D. McGOLDRICK
ASSOCIATE, APPRAISAL INSTITUTE
MDM APPRAISALS, LLC**

**Upstate: 1078 Lakeview Road,
Copake, NY 12516**

**Long Island: 365 Stewart Avenue, B9
Garden City, NY 11530**

mdmappraisals@optonline.net

[516-805-1684](tel:516-805-1684)

Professional Experience

2006—
Present Certified General Real Estate Appraiser
Principal, MDM Appraisals, LLC

Appraisal of commercial, residential, and industrial properties throughout New York State, but with special emphasis on Nassau, Suffolk, the five boroughs of New York City, and the mid-Hudson Valley.

1996-Present Becker Real Estate Services, Inc.
34 Forest Avenue, Lynbrook, New York 11563

- Licensed Real Estate Salesperson
- Contract appraiser

Appraisal of commercial, residential, and industrial properties in Nassau, Suffolk, Kings and Queens Counties, with a special emphasis on appraisals for tax certiorari and estate tax matters.

1982-1996 Law Office of William M. McGoldrick
Legal Secretary with a specialization in real estate

Professional Associations

- Long Island Board of Realtors
- Appraisal Institute – Long Island Chapter
- Appraisal Institute – NY Metro Chapter

Professional Licenses

- New York State Certified General Real Estate Appraiser
- New York State Licensed Real Estate Salesperson
- New York State Notary Public

Community Service

Town of Copake Board of Assessment Review 2020-Present
Chairperson, Town of Copake Board of Assessment Review - 2024

Professional Education

5515 State Route 82, Town of Washington

Columbia Society at Hofstra University – all courses required for a residential appraisal license

Appraisal Institute at NYU – all courses required for a Certified General Appraisal License

Seminars:

Columbia Society:

What the Appraiser Really Values

Supervisory Appraiser Course

Appraisal Institute

Land Valuation Adjustment Procedures

Analyzing Operating Expenses

USPAP 2018-2019

Complex Litigation Appraisal Studies

Appraising Properties after Hurricane Sandy

Comparative Analysis

The Discounted Cash Flow Model

Understanding Rates & Ratios

Business Practice and Ethics

Practical Highest and Best Use

Aerial Inspections for Real Estate (Drone Technology)

Artificial Intelligence, AVMs, and Blockchain: Implications for Valuation

McKissock Learning

Introduction to Expert Witness Testimony for Appraisers

Understanding Luxury Home Features

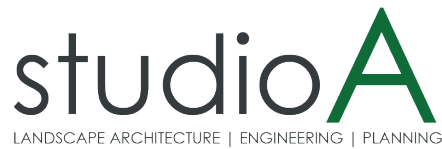
New Construction Essentials of Luxury Homes

Fundamentals of Appraising Luxury Homes

Certificate in the Appraisal of Luxury Homes

Studio A Letter

Alternative Locations



January 20, 2025

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

***Re: Solar Installation Appeal Visual Impact Assessment, 5515 Route 82, Town of Washington,
Tax Map No. 135889-6666-00-434999-0000***

Dear Chairman Redl and Members of the Zoning Board of Appeals:

Studio A Landscape Architecture & Engineering, D.P.C. (Studio A) has been retained by Lisa Biase and Lou Casciano, owners of property located at 5515 Route 82 in the Town of Washington, who are experiencing severe visual impacts from solar panels installed off of Route 82 by August Madeline Fields LLC, the owner of Arcadia Fields (“Project Site”). On December 17, 2024, the Zoning Board of Appeals (“ZBA”) held a public hearing on this Appeal. Due to the inability to effectively screen the solar panels from the above adjacent residence, we offer the following discussion of feasible alternative locations for the solar panels. Based on our analysis, these alternative locations would result in full screening as required by the Town’s zoning regulations and significantly reduce visual impacts compared to the current location. It should be noted that the discussion below only includes the evaluation of two alternative locations. With +/-400 acres of land, there is ample space for the relocation of the solar panels and additional locations may and should be evaluated for feasibility with the criteria below.

When evaluating a possible location for a solar development, the Typical VIA methodology requires assessment of potential visual impacts to receptors as follows: foreground (0 to 1 mile), middle-ground (1 to 3 miles) and background (3 to 5 miles). Pertinent factors related to the VIA which must be considered in the evaluation include the following:

1. Potential receptors which may be impacted,
2. Landscape context (site/environs character) of the proposed structure,
3. Characteristics of the proposed structure in the landscape,
4. Visibility conditions of the proposed structure including:
 - a. Distance of the viewing point to the proposed structure,
 - b. Location and height of existing intervening vegetation,
 - c. Proposed landscape plans,
 - d. Duration (time) of the view,
 - e. Angle of view (horizontal and vertical) to the structure from the viewing point,
 - f. Color,

- g. Reflectivity and noise, and
 - h. Seasonal variations in leaf-on and leaf-off conditions,
5. Proximity to utility hookup and visual impact of electrical interconnect pole(s).

Below is a discussion of two viable alternative locations which fulfill the above criteria for evaluation of possible locations of solar developments.

1) 5482 Route-82

Based on a site analysis, the location shown below at 5482 Route-82 should be considered as a potential alternative option for solar development. Vehicular access already exists from Route-82 and the solar panels would be located approximately +/- 420 feet from Route-82. This alternative location for solar development would be buffered by an existing heavily vegetated mature evergreen forest, therefore, requiring no vegetative buffer plantings. An adjacent structure on the parcel to the south, is approximately 520' and buffered by approximately +/-230 feet by a combination of evergreen and deciduous forest vegetation and provides no concern of visual impact of the potential solar panels.

Most importantly, at the vehicular access drive, there is an existing utility pole with 3 phase service. This would require minimal development upgrades to provide electrical service to the solar panels. Land directly across the street are open fields. There are no structures immediately visible from the access point from Route-82. This is vital in evaluating the visual impact of the electrical interconnect pole(s). Placement of these pole(s) at the end of the existing driveway would pose no visual impact to the current landscape context in this immediate vicinity.

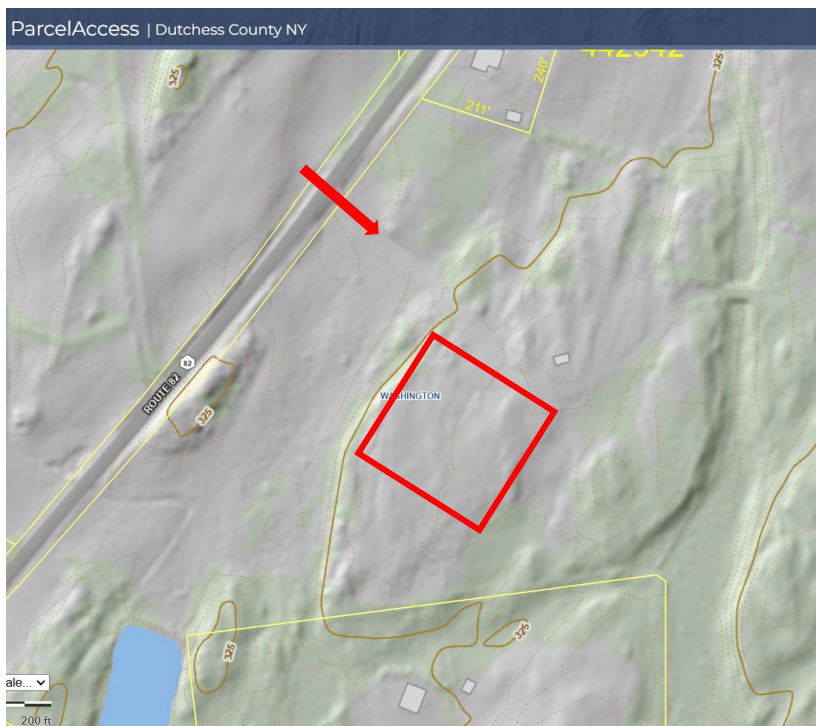
Lastly, the topography gently rises from the driveway at Route-82 to the alternative solar development location of approximately +/-10'. Based on the height of the existing heavily vegetated forest, the elevation change and the height of the solar panels of 11'-3", the existing vegetation will still effectively buffer the views from Route-82. The topography remains generally the same elevation to the adjacent structure to the south, therefore, there is no concern for visual impact.



View from Route-82 and location of existing utility pole



Aerial location from GIS mapping of alternative location at 5482 Route-82



Existing topography with alternative solar location and existing vehicular access

2) 268 County Road 57

A potential second location shown below at 268 County Road 57 should be considered as an alternative option for solar development. Vehicular access already exists from County Road 57 and the solar panels would be located approximately +/- 355 feet from County Road 57. This alternative location for solar development would be buffered by an existing heavily vegetated mature evergreen and deciduous forest along the southern and western boundaries, therefore, requiring no vegetative buffer plantings. There is an existing line of mature evergreen vegetation along the eastern boundary, providing a direct buffer from County Road 57.

Most importantly, approximately +/-90 feet from the vehicular access drive, there is an existing utility pole with 3 phase service. This would require minimal development upgrades to provide electrical service to the solar panels. Land directly and adjacent are mature wooded forests. There are no structures immediately visible from the access drive on County Road 57. This is vital in evaluating the visual impact of the electrical interconnect pole(s). Placement of these pole(s) at the end of the existing driveway would pose no impact to the current landscape context in this immediate vicinity.

Lastly, the topography gently rises from the driveway at County Road 57 to the northeast, away from the direction of where the alternative solar panels would potentially be located. From County Road 57 to the alternative location, it is approximately a +/-10' elevational difference. Based on the height of the existing heavily vegetated forests along the east, south, and western boundaries, the elevation change and the height of the solar panels of 11'-3", the existing vegetation will still effectively buffer the views from County Road 57.



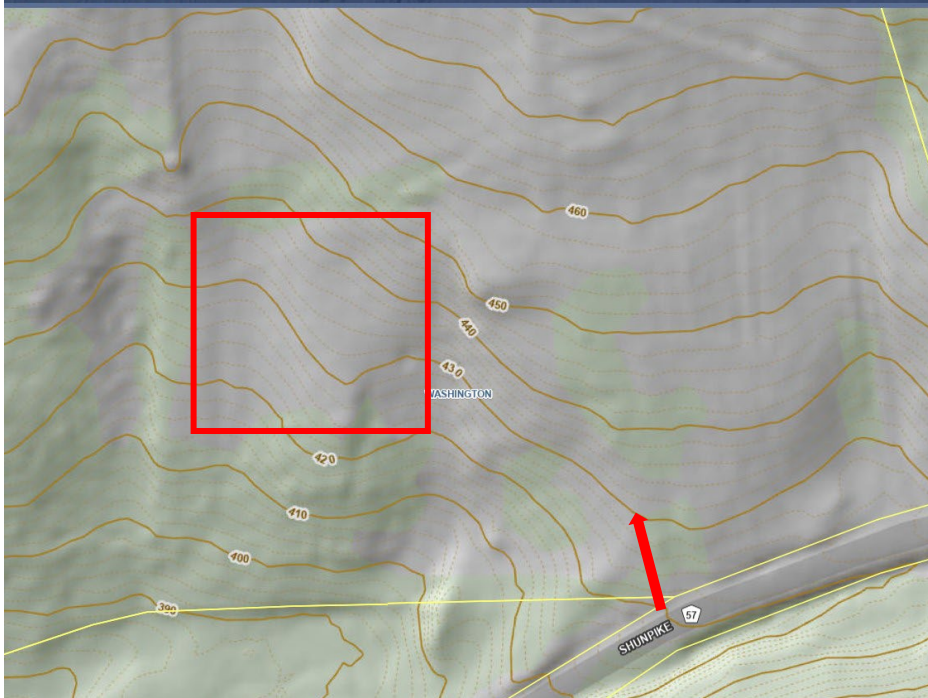
View from County Road 57



Aerial location from GIS mapping of alternative location at County Road 57



Location of existing utility pole



Existing topography with alternative solar location and existing vehicular access

In summary, the above discussion presents two viable options for alternative locations of the solar panels. Both alternative locations fulfill the criteria outlined above for assessing potential visual impacts to receptors. These two alternative locations should be considered for the relocation of the solar panels. Lastly, as mentioned above, these are just two alternative locations and with the available acreage, additional locations should be evaluated.

Yours truly,

Kirsten Catellier

Kirsten Catellier, RLA

President

for

Studio A Landscape Architecture & Engineering, D.P.C