

Town of Washington
ZONING BOARD OF APPEALS
10 Reservoir Drive
Millbrook, NY 12545
845-677-3419 ext. 116

**RESOLUTION OVERTURNING BUILDING INSPECTOR DETERMINATION AND
REVOKING BUILDING PERMIT**

Arcadia Fields
746 Stanford Road
Millbrook, New York 12545

Date: February 18, 2025

Motion: Redl
Second: Briggo

WHEREAS, appellants Lisa Biase and Lou Casciano, who own a 9.6-acre parcel at 5515 Route 82, Washington, NY, 12514, appeal the Town of Washington Building Inspector's ("Building Inspector") issuance of a building permit for a ground-mounted solar project (the "Project") to be constructed on property located at 749 Stanford Road, Washington, NY, 12514, Parcel No.135889-6666-00-434999-0000 ("the Property"); and

WHEREAS, appellants make various claims challenging the Project and the issuance of the building permit, including that the Project violates the 110% Rule set forth in Code Section 165-60(E)(1), that the Project violates the screening requirements of Section 165-60(F)(3)(c), that the Project would have a detrimental affect on appellants' property value, and that the Building Inspector made an incorrect determination as to the nonresidential character of the Property; and

WHEREAS, the Town of Washington Zoning Board of Appeals ("Zoning Board of Appeals") passed a motion on January 21, 2025 determining that the appeal is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, the Washington Town Code requires that the Zoning Board of Appeals publish notice of a public hearing at least five (5) days prior to the hearing in accordance with New York Town Law Section 267-a; and

WHEREAS, such a duly noticed public hearing was opened on December 17, 2025 at 6:30 p.m. at the Town Hall of the Town of Washington, 10 Reservoir Dr., Millbrook, NY, and continued and finally closed at the January 21, 2025 regular meeting; and

WHEREAS, at the public hearing, the Zoning Board of Appeals heard from the applicant, the appellants, and members of the public, and reviewed and considered all submissions filed with the Board while the public hearing remained open; and

WHEREAS, the Town of Washington Code Section 265-60, added by Local Law No. 1-2018, provides that approval of a ground-mounted solar energy system to be constructed on residential property does not require site plan review (Code Section 165-60(F)(3)(e)) but a solar energy system on nonresidential property requires special permit and site plan review by the Town of Washington Planning Board, ("Planning Board") (Code Section 165-60(F)(4)(e)); and

WHEREAS, under the Code, residential property is defined as "real property that is primarily used for residential purposes and contains a one- or two-family residence" and nonresidential property is defined as "real property that is not considered residential property" per Code Section 165-60(C); and

WHEREAS, the Building Inspector determined that the Property is residential property and therefore issued the building permit for the Project without referral to the Planning Board for special permit and site plan review; and

WHEREAS, the Property is located in the RL-5 (low-density residential) zone, is classified as a special farm (180) use, and receives significant Agricultural and Forest Land tax exemptions; and

WHEREAS, the record demonstrates that the Property owner lives in one residence, rents out two other residences situated on the Property to tenants, and also engages a horse-boarding operation and tree farm operation on the Property; and

WHEREAS, applicant concedes that the electricity generated by the solar panels will support the commercial operations just as it will serve the residences on the Property.

NOW, THEREFORE, the Zoning Board of Appeals makes the following determinations:

BE IT RESOLVED, that the Property is nonresidential property under the Code because it is not "primarily" used for residential purposes and, therefore, the Project requires Planning Board review for issuance of a special permit and site plan approval; and

BE IT FURTHER RESOLVED, that the Building Inspector's determination is overturned insofar as the Property should be characterized as nonresidential and the building permit is vacated; and

BE IT FURTHER RESOLVED, that the Building Inspector shall refer the matter to the Planning Board for appropriate review and approvals; and

BE IT FURTHER RESOLVED, that, because the nonresidential characterization of the Property is dispositive in this matter, the Zoning Board of Appeals declines to address appellants' other claims, which may be addressed by the Planning Board.

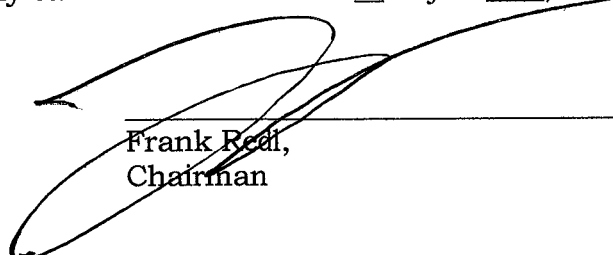
The foregoing Resolution was duly put to a vote which resulted as follows:

	YEA	NAY
Chairman Redl	<u> / </u>	<u> </u>
Member Briggs	<u> / </u>	<u> </u>
Member Kollmar	<u> / </u>	<u> </u>
Member Kunkle	<u> / </u>	<u> </u>
Member Rolland	<u> / </u>	<u> </u>
Alternate Frederick	<u> </u>	<u> </u>

Dated: Millbrook, New York
February 18, 2025

CERTIFICATE

I, Frank Redl, Chair of the Zoning Board of Appeals of the Town of LaGrange, do hereby certify that the foregoing is a true copy of a decision of the Zoning Board of Appeals made at a meeting thereof duly called and held on the day of , 2024.



Frank Redl,
Chairman

FILED THIS DATE _____ IN THE OFFICE OF THE TOWN CLERK