

TOWN OF STEPHENTOWN
ZONING BOARD OF APPEALS

IN THE MATTER OF NY STEPHENTOWN I, LLC

**RESOLUTION
GRANTING AREA
VARIANCES**

WHEREAS, NY Stephentown I, LLC (the “Applicant” or “Project Sponsor”) began the formal application process by letter dated January 6, 2026, seeking at that time variances for its intended project;

WHEREAS, as a result of project redesign, Applicant submitted amended applications to the Planning Board and Zoning Board of Appeals, as a result of project redesign.

WHEREAS, in its revised FEAF, dated April 16, 2026, Applicant describes the project “(“Project”) as follows:

The proposed action includes the development of an approximately 4.25 megawatt of alternating current (MW AC) and 5.95 MW of direct current (MW DC) ground mounted solar facility on two (2) parcels totaling 297.85+/- acres ... located on the west side of New York State Route 22 (West Road) (hereinafter the “subject property”). The owners would lease approximately 31.0+/- acres of the subject properties to the applicant ... The area of disturbance for the proposed project would be 22.11+/- acres. The solar facility would be situated on the southeastern portion of tax map 174.-1-32 on the northeastern portion of tax map 185-1-121. The proposed action would include the installation of solar modules with a maximum height of 15 feet, an eight (8)- foot- high deer fence around the proposed solar facility, one (1) concrete equipment pad to house electrical equipment (i.e. one [1] transformer, one [1] switchboard), 18 inverters, stormwater infrastructure (i.e., gravel diaphragms) and electric utility lines to connect the solar panels to the proposed point of interconnection (POI) at the shared property line of both parcels to West Road along the gravel access road. A gravel access road would also be constructed from New York State Route 22 and one (1) gravel parking space would be installed on the southeast corner of the proposed solar facility. All solar power generated by the proposed action will be sold as Community Distributed Generation. This program allows subscribed participants to share the benefits of clean energy production. According to the applicant, a mix of residential and commercial customers, specifically New York State Electric and Gas (NYSEG) customers would be able to receive a share of the solar power.

WHEREAS, the procedural history is also set forth in part 3 of the FEAF/Negative Declaration, which was adopted by the Planning Board as lead agency on June 9, 2026, and which is hereby incorporated herein by reference;

WHEREAS, as to the amended application which now stands before this Board for determination the Code Enforcement Officer, by letter dated May 1, 2026, determined that the following variances were needed:

“1. Failure to meet Section 11 Minimum Lot Requirements; Item C; minimum setback of 250 feet for both parcels 174-1-32 & 185-1-1.121

2. Failure to meet Section 11 Item A. – minimum lot size for utility scale energy system is 15 acres- Lease for only 6 acres for parcel 185.-1-1.121

Your Project Summary indicates 18.3 acres of Lot Coverage for the combined project. I could not find a separate amount for the newly added parcel, so I used the 12.6 from the first permit submission and subtracted from the 18.3 leaving around 6 acres of arrays for 185.-1-121.

3. Failure to meet Section 11, Item B- Total lot coverage shall not exceed 25% - For parcel 174.-1-32 with 12 acres of Solar Array on parcel 174.-1-32. Your lease indicates your lot is only 25 acres. That puts you at around 50% coverage which is not within the law. For parcel & [sic] 185-1-1.121 with approximately 6 acres of solar array and a lease for 6 acres, puts yu at 100% coverage which is not within the law ...”

WHEREAS, the Project is considered a Utility-Scale Solar Energy System under Local Law No. 2 of the Year 2023, the “Solar Photovoltaic Energy Systems Law of the Town of Stephentown” also referred to as the “Solar Law”;

WHEREAS, although voted on separately, this resolution addresses this Board’s determination as to all three area variance requests;

NOW THEREFORE BE IT RESOLVED THAT THIS BOARD MAKES THE FOLLOWING FINDINGS:

Procedural History & The Site

1. As noted above, the procedural history of the application and description of the Project that is the subject of this resolution are set forth in the Negative Declaration, previously adopted by the Planning Board as lead agency, which is incorporated herein by reference.

The Public Utility Standard

2. This Board is fully cognizant that by Local Law No. 2 of the Year 2023, the Town Board enacted the local law referred to as the “Solar Photovoltaic Energy Systems Law of the Town of Stephentown” which provides, among other things, that its purpose is to:

- A. Balance solar development with the protection of the Town’s rural character and the quality of its many agricultural, scenic, cultural, environmental and community resources, including but not limited to the neighborhoods, commercial corridors, historic sites to include family cemeteries, prime farmlands, wetlands, woodlands, parklands and trails, wildlife habitats, ecosystems,

significant scenic viewsheds, vistas, and corridors, and areas for recreational outdoor activities.

and

- B. Permit the construction of utility-scale solar systems adhering to performance criteria and development requirements that take into consideration the characteristics of each site and require that all such systems developed under this Local Law comply with the regulations in this Local Law and the regulations of the Amended Land Use Regulations of the Town ...

3. The public utility standard/test was set forth in 1978 by the New York State Court of Appeals, the highest court of the state, in *Matter of Consolidated Edison Co. of NY v Hoffman*, *supra*, 43 N.Y.2d 598, 611 (1978). It provides, in relevant part, the following standard:

“Instead [of the Town law 267-b test], the utility must show that modification is a public necessity in that it is required to render safe and adequate service, and that there are compelling reasons, economic or otherwise, which make it more feasible [to seek the variance] than to use alternative [sites].” *Matter of Consolidated Edison Co. of NY v Hoffman*, *supra*, 43 N.Y.2d at 611; *see Matter of Cellular Tel. Co. v Rosenberg*, *supra*, 82 N.Y.2d at 372 (holding “*Matter of Consolidated Edison (supra)*, applies to all public utilities. It also applies to entirely new sitings of facilities, as well as the modification of existing facilities”).

5. Therefore, it is the belief of this Board that it is constrained to apply the public utility standard to these applications. The factors the Board distills from the foregoing are examined below:

A. *Whether the project is a public necessity in that it is required to render safe and adequate service*

The board finds, as is set forth in Applicant’s May 18, 2026 submission to this Board that this factor is satisfied as this project will increase the supply of electricity via means of solar and the legislative goals of the Climate Act as detailed therein. In addition, the Board notes Applicant is assisted in satisfying this factor because of the findings set forth in the Negative Declaration. However, the Board does wish to note that Applicant has represented that this Project going online will max out capacity at the substation, limiting the ability of future solar farms ability to locate in the Town. This is important to this Board because there are now several such approved solar farms in the town.

B. Whether there are compelling reasons, economic or otherwise, why the Project as Designed Is More Feasible to construct with the variances than other alternatives

The Board finds such compelling reasons because of the highly unique location of the Project, including its unique topography. It is because of that location that the Project is not expected to create noise or traffic other than during a limited period of construction. Additionally, the Project is appropriately screened from both the road as well as nearby properties. Moreover, there is no odor expected from the Project. Moreover, due to its location, the properties most affected will be the Deyo and Sweeney properties and then the Carr/Solar Power Network property, the first two being the properties leased to Applicant for this Project and the third being another property that is a former gravel mine that was approved, subject to several as-yet unfulfilled contingencies, to be a solar farm. This is all more fully detailed in the Negative Declaration, the contents of which are incorporated herein.

But for this highly unique location this Board very well may have found that the variances sought are simply too significant to warrant approval. Once again, the Board notes Applicant is assisted in satisfying this factor because of the other reasons set forth in the Negative Declaration.

NOW THEREFORE BE IT FURTHER RESOLVED, that this Board has carefully reviewed the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district upon which it is located and has determined that there will be no adverse impact;

NOW THEREFORE BE IT FURTHER RESOLVED, upon the motion of _____, seconded by _____, the Board hereby finds and determines that approval for all three variances are **GRANTED** but that no permits or certificates shall be released or issued, and therefore approval is conditioned and only effective upon compliance with all terms and conditions as contained in the Planning Board's Special Use and Site Plan approving decisions/resolutions, which are incorporated herein by reference.

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
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Dated: _____, 2026

Roland Barth, Chairman

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