

# TOWN OF BOSTON

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Highway Supt.

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Town Justice

SEAN W. COSTELLO  
Town Attorney

KYLE CALABRESE  
Prosecutor

Assessor

Thomas Murphy  
Code Enforcement Officer

TO: Planning Board  
Town Clerk  
Code Enforcement Officers

Town Supervisor  
Highway Superintendent  
Town Assessor

Town Board Members  
Town Attorney  
Planning Consultant

## AGENDA

### PLANNING BOARD MEETING

July 11, 2023

Town Hall – Court Room

- 1) Call meeting to Order
- 2) Approval of Minutes
- 3) Old Business
  - a. None
- 4) New Business
  - a. Boston Valley Capital, LLC – Requesting pre-liminary plat approval of a 3-lot sub-division to be located at 7074 Boston State Rd, Hamburg.
- 5) Reports
  - a. Planning Consultant
  - b. Town Attorney
  - c. Town Board Liaison
  - d. Board Clerk
- 6) Motion to adjourn.

TOWN HALL  
(716) 941-6113  
Fax (716) 941-6116

TOWN SUPERVISOR  
(716) 941-6518  
Fax (716) 941-9264

TOWN COURT  
(716) 941-6115  
Fax (716) 941-5169

HIGHWAY GARAGE  
(716) 941-5869  
Fax (716) 941-3677

NUTRITION PROGRAM  
(716) 941-5773

The Town of Boston is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call 1-866-632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or fax 202-690-7442 or e-mail at [program.intake@usda.gov](mailto:program.intake@usda.gov).

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

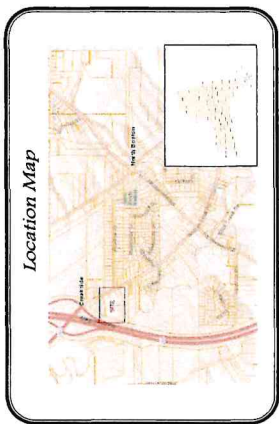
**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: 7074 Boston State Road Split			
Project Location (describe, and attach a location map): 7074 Boston State Road, Boston, New York 14025			
Brief Description of Proposed Action: To split SBL 211.00-2-3.13 (7074 Boston State Road, Boston, New York 14025).			
Name of Applicant or Sponsor: Boston Valley Capital, LLC		Telephone: Day 716 648 1674 Eve. 239-877-7959	
		E-Mail: mlauffer@lauferkeenan.com	
Address: 7074 Boston State Road			
City/PO: Boston		State: NY	Zip Code: 14025
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 5.19 acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input checked="" type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor/name: <u>Boston Valley Capital, LLC</u> Date: <u>6/7/23</u>		
Signature: <u>Faith C Webber</u> Title: <u>owner</u>		



**Legend of Symbols & Abbreviations**

IP / Redded	North	Etc.	Encroachment
Circle with arrow	South	Light-gray line	Right-of-way
Circle with cross	West	Yellow line	Right-of-way
Circle with dot	East	Green line	Right-of-way
Circle with cross-hatch	F.L. of Mh.	Blue line	Right-of-way
Circle with diagonal lines	B. of Sec.	Red line	Right-of-way
Circle with vertical lines	Mh.	Black line	Right-of-way
Circle with horizontal lines	Meas.	Red dashed line	Right-of-way
Circle with cross-hatch	W. of Sec.	Red dashed line	Right-of-way
Circle with diagonal lines	Meas.	Red dashed line	Right-of-way
Circle with horizontal lines	W. of Sec.	Red dashed line	Right-of-way
Circle with vertical lines	Meas.	Red dashed line	Right-of-way
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Circle with diagonal lines	Meas.	Red dashed line	Right-of-way
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Circle with cross-hatch	W. of Sec.	Red dashed line	Right-of-way
Circle with diagonal lines	Meas.	Red dashed line	Right-of-way

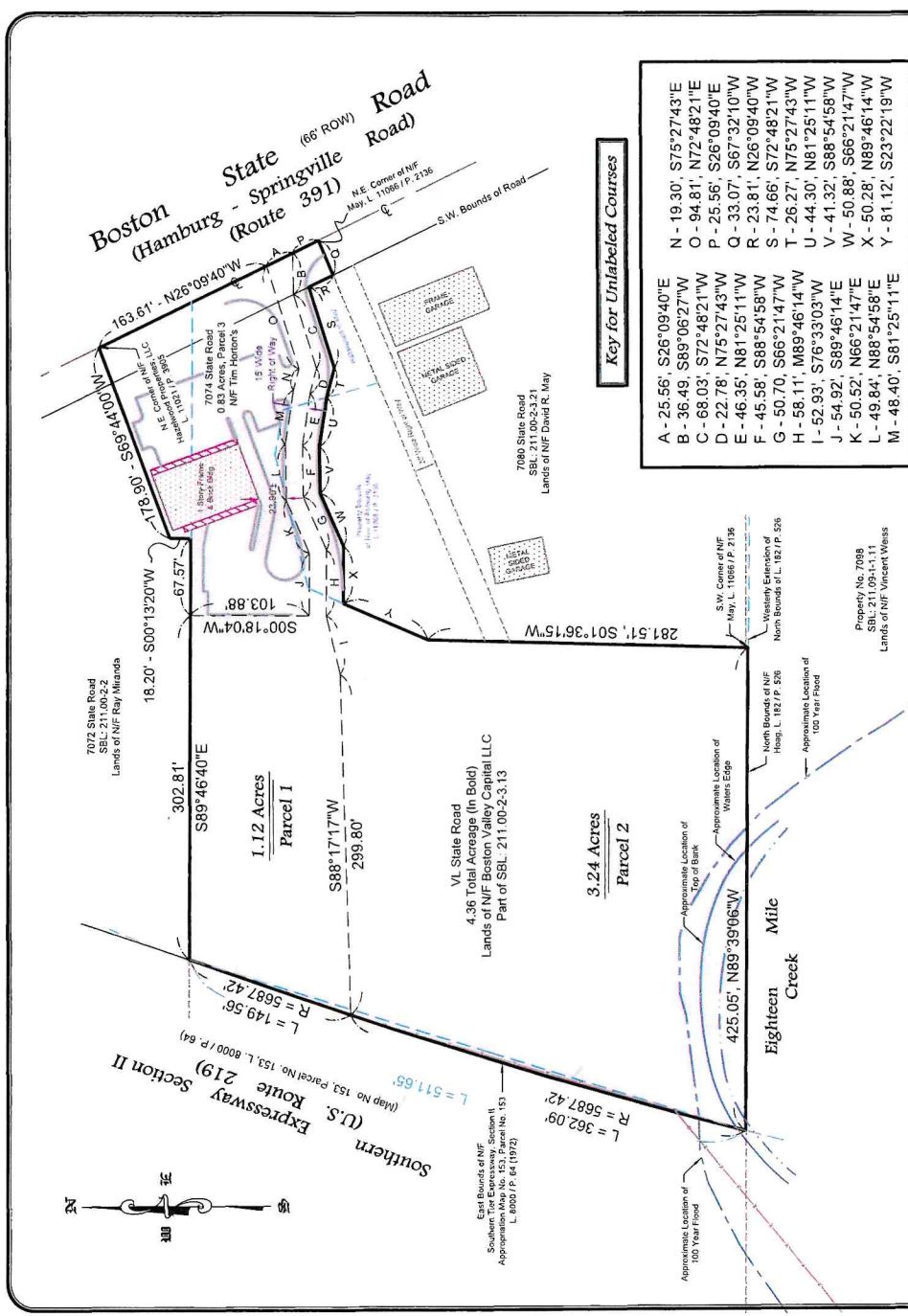
**Preliminary Plat**

Being Part of  
**Lot 30 Township 8 Range 7**  
**Holland Land Company Survey**  
**Town of Boston, Erie County, New York**  
**Lands of N/F Boston Valley Capital, LLC**

Survey Prepared By:  
**Eric C. Freeman & Scott Freeman**  
**Licensed Land Surveyors No. 0950480**  
**In the State of New York**

Date of Survey: May 12, 2022  
 Date of Overall Site Plan: December 19, 2022  
 Date of Last Revision: March 27, 2023  
 Drawing Scale: 1" = 75' ±

Freeman and Freeman  
 Surveyors  
 Preserving the Holland Land Company for the 21st Century  
 Phone (716) 592-7140  
 Fax (716) 592-4027  
 10322 Curtis Road - Greece, NY 14656



**References / Notes**

Parcel's originally being of SBL: 211.00-2-3.13  
 L 11290 / P. 8727

Town Supervisor  
 Planning Board Chairman

Planning Board 2023-06-13  
Meeting minutes - draft

Attendees: Dr. Paul Ziarnowski, Dr. Jim Liegel, Jay Jackson, David Stringfellow, Gary Stisser, Elizabeth Schutt  
Attorney Sean Costello, Town Liaison Jennifer Lucachik, Planning Consultant Sarah DesJardins,  
Absentee: David Bowen

1. CALL MEETING TO ORDER

Meeting called to order by Dr Ziarnowski at 730pm.

ROLL CALL

Dr. Ziarnowski

Dr. Liegl

Mr. Stringfellow

Ms. Schutt

Mr. Stisser

Mr. Jackson

Ms. Weiss

(Mr. Bowen absent)

2. APPROVAL OF MINUTES

Motion made to approve the May 2023 minutes made by Mr. Jackson

2<sup>nd</sup> by Mr. Stisser

APPROVED

3. OLD BUSINESS:

- a. Tracy Hirsch - Requesting Pre-liminary Plat Approval of a 3 lot sub-division to be located at 7044 Omphalius Rd

Mr. Ziarnowski mentioned there was a discrepancy on the SEQR letter. Correction is that this is a 3 Lot sub-division and not a 2 Lot sub-division.

Any letters? RESPONSE from Clerk: No

Any objections: No

Two items: Accept the SEQR and make a Negative declaration (recording: 2:08) read for the sub-division request. CORRECTION: On the declaration: This is for Omphalius Rd, not Zimmerman Rd

Motion made to accept the SEQR by Mr. Ziarnowski

2<sup>nd</sup> by Mr. Stringfellow

APPROVED

Motion made to accept the sub-division by Mr. Jackson

2<sup>nd</sup> by Mr. Liegl

APPROVED

Sub-division Passed.

4. NEW BUSINESS

- a. Delaware River Solar - Requesting Planning Board input regarding the eventual SEQR determination to be issued by the Town Board regarding a proposed Large Scale Solar system at 7832 Feddick Road.

Mr. Ziarnowski made announcement to the audience that this is a presentation only. Not a public hearing.

Mr. Robert Pidanick – attorney for Nussbaumer and Clark(N&C). Also in attendance is project lead Terry Boyle, Dan Compitello from Delaware River Solar and project attorney Chuck Malcom. Contact with Delaware River Solar is Peter Delgoes(not present). Will refer as DRS (Delaware River Solar).

Looking for site plan approval and a SEQR determination and the Planning Board recommendation to the Town Board. DRS is proposing a solar facility to be located at 7832 Feddick Rd, currently owned by Kenneth Nowak. A portion of the site will be leased to DRS. Total area for the site is 74 acres and the actual solar leased area is 17 acres. Site plan shown to the Planning Board members. The site is zoned for agricultural/residential and will need obtain some variances from the town for setbacks. N&C submitted a concept plan for this project back in September 2022 and other forms. EAF was submitted for review and in March 2023 the state DEC said it would be appropriate for the Town of Boston to act as the Lead Agency for this project. DRS has been looking at this site for some time and evaluated. No wetlands on this property. (recording 7:04) Talked about three streams. Will need a permit for any work. Proposing that they will need to replace a culvert because it would not be able to support Emergency vehicles and construction vehicles. (recording 7:36) Mr. Boyle spoke about the culvert and where it was located. (did not speak at the mic). Mr. Pidanick talked further about traffic; no traffic impact except during construction. Drainage will not be impacted with the solar arrays put into the ground and don't create any runoff. There is an access road to the property. (recording: 8:26) Mr. Boyle confirmed no impacts. (did not speak at the mic). Mr. Pidanick advised that the site will not require any utilities. Minimal lighting during the project. Some tree clearing will be needed. (recording: 9:14) Mr. Boyle showed the location on the Map to the board. (did not speak into the mic). Two acres is impacted. DRS is proposing to replace and add landscaping so it does not impact.

Mr. Compitello/Project Developer for DRS. Spoke to the board about the solar rays. DRS in business since 2016. Gave further background of the company to the board members. (recording: 10:26) Closest project is located on Big Tree Road, Orchard Park – developed and operated today for the NYSEG grid. Further discussion of this project told to the Planning Board (recording 11:03) The solar energy is safe and clean; noiseless, odorless and does not produce anything into the atmosphere, like coal or gas plant would. Develop and construct and maintain over the lifetime of the project. (recording 12:14) Talked about other projects with NY State and how to sign up.

Mr. Compitello commented about this project and that this site is tough to farm. (recording: 12:57) Proposing to replace the current culvert driveway with a bridge. This will be shared with the landowner. This will give better access to farm the back part of the parcel. (recording: 13:21) Site plan shown and talked about.

Some projects, bring sheep to the property to graze and maintain, rather than mowing. This is still in discussion. If mowed, deer fence would be put up around the arrays. Mowed a few times of the year. This project would be done in about 2 ½ to 3 months. Can complete the site by August if it was started in May. Feel that they are in compliance to town regulations/codes. Need variances (to be discussed in front of the Zoning Board) for the shape of the lot and constraints on the project. Feel this is the best use for this property. It is understood that the visual is a concern. (recording 16:25)

Mr. Ziarnowski asked to be shown where the neighbors are on the Map. Mr. Boyle showed another map. Mr. Boyle talked about 5 homes impacted by this project. (recording: 16:52) (did not speak into the mic). Attorney Costello asked for the neighbors to be read (for the meeting). (did not speak into the mic). Additional discussion was not heard since they did not speak into the mic.

Mr. Ziarnowski asked who the neighbor with the biggest impact was. RESPONSE: (did not speak into the mic). Mr. Pidanick and Mr. Boyle showed on the map the neighbors impacted. Neighbor is Mr. Robert Telaak. Can screen with trees. Not shown on site plan. Want further feedback from the board. This is done on all projects.

Mr. Jackson asked about the max height? RESPONSE: the max height will be about 12 feet – (recording: 21:10) Further discussion about the sun and panels.

Mr. Pidanick then offered a site visit to the board.

Any question?

Mr. Jackson asked how many kwh will this produce? RESPONSE: Enough to power about 800 homes, throughout the year

Mr. Jackson asked about kwh planned? RESPONSE – Name plate capacity is about 2.6 megawatts / 2.7 max.

Mr. Pidanick relayed that this is a small project. Town of Pike has 12 megawatts-larger project done in 2020.

Ms. DesJardins commented that the board will not be recommending for the special use permit. Have to get through the SEQR process first. Attorney Costello response: Correct. Variances have to be handled first.

Ms. DesJardins relayed that after the SEQR review is completed, then this will be brought back for site approval for special use. Attorney Costello advised to allow the board to ask questions.

Mr. Liegl asked – this is being leased? RESPONSE: Yes. How many years? RESPONSE: 30-year term and then 5-year renewal periods thereafter.

Mr. Liegl asked: What is the life span of a solar panel? RESPONSE: 25 YEARS of ea. panel

Mr. Liegl: You will be replacing solar panels before the end of the lease? RESPONSE: May get longer. There is wear and tear. Goal is optimizing the amount of power.

Mr. Liegl: What makes up of the solar panels? Chemicals? RESPONSE: Can provide data sheets for each of the panels purchased. Have to pass a TCLP; is an EPA test that has to be passed for the panels to be purchased. Nothing that isn't EPA approved. Nothing toxic.

Mr. Liegl: Technically changes. What is the time span in solar panels. RESPONSE: What really changes in solar panels is the efficiency. Panels are the size of the map provided. 580-watt panels are currently used. May see panels at 600 watts over the next two years.

Mr. Liegl: What is total acres for the project? RESPONSE: The parcel is 74 acres; the project is 17 acres, the panels that are fenced in. Addl RESPONSE from Mr. Boyle (did not speak into the mic).(recording: 28:17)

Mr. Liegl: The total of land being worked is 74 but the project is on 17 acres.

Mr. Stisser: Question, it was said that the farmer cannot work the land due to failing culvert? RESPONSE: not really. To replace the culvert cost is high, like buying a new tractor.

Mr. Jackson: Originally it was said that the land was difficult to farm – why? RESPONSE: from Mr. Boyle (recording 29:41-did not speak into the mic). Now at the mic - Mr. Boyle talked more about the project. Referenced the map to the board about the culvert and that there is a safety issue.

Ms. Weiss – nothing

Mr. Ziarnowski: The transmission lines to be underground? RESPONSE – yes, to an extent.

Mr. Ziarnowski: This is not like a wind farm? RESPONSE: No. It is all underground except the culvert area.

Mr. Stringfellow: You could plant trees, what kind in mind and how long is it going to grow? RESPONSE: a lot to choose from. Evergreens, white pine, blue spruce. Plant arborvitaes, deer resistant. Planted at 6ft tall, then grow 2ft a year. Can do more assessment.

Mr. Ziarnowski: Who benefits? RESPONSE: They are called community solar farms so the community benefits. (recording: 33:12). Looking to meet NYS energy goal by 2030.

Mr. Ziarnowski: 79 acres – 17 acres of solar field – why a variance issue? RESPONSE: referenced the Map. Town Code – referenced the Map to the Board - 500ft set back is the Town Code.

Mr. Ziarnowski: What does it do to property values? RESPONSE: None. Audience objected.

Mr. Ziarnowski: Is there industry standards? RESPONSE: Have not seen property decreased but seen property increases. Have not seen impact to property values.

Mr. Ziarnowski: What happens if decommissioned? RESPONSE: Provided the Town. It does meet the Town Code. It spells out how the project would be removed. To bring it back to the way it was.

Mr. Ziarnowski: Studies regarding cover up soil for years, what happens to the ground? RESPONSE: The ground cover would help the land to recharge for that period of time. (recording: 37:04)



Mr. Ziarnowski: Is this site low hanging fruit? (recording: 38:26) There are concerns.

Attorney Malcom spoke to the board. A lot of siting constraints for solar facilities. DRS does grid studies. Here today because this site works. Solar is a permitted use. The Town Board determined that this is a permitted use in this area. The landowner wants to do this.

Mr. Pidanic talked more about why this site was chosen. Viable for this site.

Mr. Ziarnowski – explain further. RESPONSE: You wouldn't be in the town, or maybe it would. Found a willing landowner.

Attorney responded – its not a low hanging fruit. Mr. Ziarnowski responded: This is an opportunity situation.

Attorney (recording: 43:09) – Town code says solar is allowed in this area. It is not a bad thing. RESPONSE:

Mr. Ziarnowski commented further about the town rules.

Attorney – understands what is needed and requests that are needed.

Mr. Ziarnowski: Getting overall view.

Attorney – appreciate the opportunity. Its not a bad thing.

Mr. Ziarnowski: – talked about other projects (recording: 44:24). Good Luck with the variances.

Mr. Liegl: Mentioned that there are no wetlands. This is potentially an archeologically site. Is there a plan?

RESPONSE: Mr. Boyle – responded – yes. Paleo West to do an investigation.

Mr. Liegl: Have you heard back? RESPONSE: SHIPPO – hired Paleo West.

Mr. Liegl: Moores Law – possible switching out panels? RESPONSE – No - min of 30 years.

Presentation Ended.

## 5. REPORTS

Planning Consultant/Ms. DesJardins – nothing

Town Attorney/Sean Costello – nothing

Town Board Liaison/Ms. Lucachik – not present

Board Clerk – nothing

6. Motion made to adjourn the meeting at by Mr. Liegl

2<sup>nd</sup> by Ms. Weiss

APPROVED

Closed at 819p.