

**TOWN BOARD
SPECIAL MEETING**

MONDAY

October 18, 2021

Masks Required for In-person Meetings

Supervisor Zupan opened the meeting at 7:00 p.m. with all Councilors present.

Pledge of Allegiance.

Supervisor Zupan stated proper notification of the meeting took place and further that a quorum was present for the purposes of this meeting.

The public hearing was continued from the October 4, 2021 meeting relative to the request from TJA Clean Energy, LLC and TJA-NY-Barrett Rd New Woodstock, LLC for relief from Local Law 1 of 2021 which Local Law placed a 12-month moratorium on all applications for the construction and location of new commercial solar energy facilities within the Town.

Supervisor Zupan asked the representatives from the solar company to come forward. The Town Board requested more information as to why they are seeking relief from the moratorium.

***Andy Leja, Esq.** of Barclay Damon stated he was legal counsel for TJA Clean Energy, LLC and introduced Mike Frateschi of TJA. He said they have submitted some new information to supplement their prior appearance before the Town Board on October 4, 2021. He said they have provided some correspondence from NYSERDA that verifies the application was accepted and they are on the docket for the incentives deadline for the project of October 7, 2023. He said the Board had requested confirmation from NYSERDA that there was a hard-fast date. He further mentioned an e-mail exchange has been provided between Mike Frateschi and Candace Rossi of NYSERDA regarding the extension for any type of deadline with NYSERDA. He said the entire exchange back and forth has been included to show any request for an extension of the NYSERDA extension deadline for this project should be delayed until it is “confirmed that the deadline will not be met.” He said the confirmation may happen 10 or 20 weeks after it has been ordered-it is unknown when that will happen. The single panel project that is currently approved, they are basically asking them to take a risk. He said if they risk that, they will put in a purchase order for the single panel project and will wait the 40 weeks and hope the panels come in during that period. If they find out at some point during that time frame, they won’t come in-they would need to go to NYSERDA and make an application to request an extension of the date. He said that is a risk of adding extra time in the pipeline, as well as the risk on the*

backend that NYSERDA might say they need more time or information or they might plain say no. He said at the last meeting, the question was asked why NYSERDA doesn't just give a blanket extension to everyone that has this problem. He said there are a few reasons: NYSERDA is in the "business" of moving these projects forward and they want to see as many projects move forward as possible. He said they don't want to give a blanket extension because the measurement of their success is somewhat delayed as well. They are in the mindset that they want to move the projects ahead as quick as possible and there are a lot of projects in the pipeline. He stated some of the larger solar developers have been stock-piling these types of panels and this equipment for quite some time. So, the larger companies are able to proceed without overseas shipping issues. Smaller companies don't have the resources to stockpile massive amounts of the panels. Therefore, they have to abide by and operate on the basis of in-time shipment from overseas. He said this is the position that TJA finds themselves in these days. They are relying on shipment from overseas to be able to receive these panels in a timely fashion. Additionally, he made reference to an e-mail from Osea Nelson, who is the contractor from Light Edison that they are using for this project. He has been in contact with the manufacturer of the single-panel equipment which was already approved by this time. GameChange is the maker and has confirmed an estimated shipping time of 35 weeks plus or minus four weeks for a buffer. They have also added in language that it could be significantly longer. He told the Board they have a copy of the e-mail from Nelson to see for themselves. For the single panel project side, the 40-week lag time is real and impactful to them. At the last meeting, they showed how the 40 weeks impacts them versus the 20 weeks for the double panel. Lastly, he explained the submittal from Ideematec who manufactures the double panels that would come from Europe-not the Far East. Ideematec has confirmed Horizon L-Tec, the double panels, that they will present before the Planning and Zoning Boards for approval are tracking at 20 weeks for shipping time. He said they could not get a letter from GameChange, itself, but they got one from the contractor that speaks with GameChange on a regular basis and is in a position to know. With the supplemental information, he hopes they have addressed and answered some of the Board's questions from last time. He said they are open and ready to answer any questions they might have for them.

Councilor Andersen wanted to confirm, NYSERDA does not say you can't get an extension. They say you can't apply for an extension at this point and you can't apply unless you have more information about the delay.

Andy Leja responded unless you are pretty certain you are going to be negatively impacted by the delay.

Supervisor Zupan inquired how many megawatts the project is.

M. Frateschi responded it is 4.8-megawatt AC and 6.67 megawatts DC.

Supervisor Zupan wondered how much excess capacity is in the line.

M. Frateschi *reiterated 6.67 megawatts DC and multiply by approximately 1.3 to get the production estimate which is in the range of 700 residential homes.*

Supervisor Zupan said he knows the line will only carry so much electricity, so what is the excess capacity on the line.

M. Frateschi *said it is a 13.2 KV line that can hold about 10 megawatts AC and this is a 4.8-megawatt AC project. He said another one could be added but the substation, itself, is the limiting factor. He said the transformer bank is only sized to handle 7.5 megawatts AC. If this project goes in at 4.8, then there is only the remainder left of the 7.5 without an upgrade on the transformer.*

Supervisor Zupan thought another contractor could come in and use up the surplus capacity.

M. Frateschi *said yes to the residual 2.5 that is left.*

Supervisor Zupan wondered where their project is in the que?

M. Frateschi *said they are first in the que and no one can jump ahead of them unless they withdraw. He said the payments have been made to National Grid and they are starting design on construction, so they are locked in. The only way they get removed is if they were to remove themselves from the que.*

J. Langey referred to the NYSEDA portal information that was provided and looked at some of the numbers and wanted to sort them out for clarification. He explained to the audience this contractor already got approval last spring for a 5-megawatt AC, according to the resolution. As he looked at the NYSEDA portal document that was provided, the total system size is 7,206 kilowatts.

M. Frateschi *said that is DC.*

John Langey inquired what the equivalent for megawatt was.

M. Frateschi *explained to J. Langey the decimal needs to move over 3 spots to 7.2.*

J. Langey said if this gets released and comes back to the Planning and Zoning Board, what is the size of the project?

M. Frateschi *confirmed the project is still the same size in terms of power output. The DC size has been reduced because there are clipping loses when you go on a higher DC, but you maintain the same AC. It gets to a point where it does not make up the financial benefit of*

having the clipping losses. The fine-tuned project has been brought down to 6.67 or 6.7. J. Langey referenced another number on the NYSERDA document, estimated annual energy production kilowatts and it looked like 10 megawatts.

M. Frateschi confirmed it was kilowatt hours which is the production of the facility over the course of a year.

Supervisor Zupan asked about the footprint and location.

M. Frateschi said it is smaller than what was approved by the Planning Board and Zoning Board of Appeals.

Andy Leja stated it will be moved a little down from the hill so it is more centralized in the valley which gives it less visibility.

Councilor Race confirmed less visibility, more screening, smaller footprint, but same size.

M. Frateschi confirmed it would be taller. He said it is taller if you are standing next to it, you would notice.

Councilor Race said taller, but further down in the valley, so less visible. He inquired if elevations have been taken.

M. Frateschi confirmed. He said photo-simulations have been set-up and grading plans are all set up. The plan is finalized, they just didn't bring it here because it is not necessary for relief.

Supervisor Zupan opened up comments from the public since the Town Board didn't have any further comments or questions.

Gerald Mehlbaum of 2103 Ballina Road stated TJA Clean Energy is asking the Town to grant relief from the solar moratorium claiming hardships due to the inability to procure equipment and ultimately the possibility of not getting incentives from NYSERDA. To compensate, they propose major changes to the siting and design of the solar panels by substituting equipment and raising the height to 14 ½'. At this point, it is uncertain if either the approved or newly proposed equipment can be acquired in time. TJA presented a project schedule at the last meeting requiring the Town to immediately grant relief and accept these significant design changes. All of this is for the sole benefit of TJA. Without such approvals, TJA might lose sizeable dollar incentives from New York State impacting its financial bottom line. There is no doubt that the one and only issue is the potential for TJA to lose its project incentives. To ensure this does not happen, they want the Town to grant relief with no benefits to New Woodstock or the broader Cazenovia community. He said the town has no responsibility in this matter. The Planning and Zoning Board of Appeals approved this project. It is now TJA's responsibility to construct and

begin operating this plant as approved. TJA has several options including making every effort to obtain the approved equipment, even if it is more costly. They should also put pressure on NYSERDA to extend the incentives deadline based on equipment delays. This is an issue between TJA and New York State. He thought another remedy would be to re-submit the project to the Town with a new application once the moratorium has been lifted. In this case, there would be benefits to Cazenovia residents. The entire community would have the opportunity to provide input. The review boards would have appropriate time to examine and consider the revised project and perhaps a more beneficial monetary benefit could be negotiated, replacing the current one which provides \$ 1,239 per year to the Town in lieu of taxes. It is important to deny this request to avoid any perception of “bailing out” an out-of-state company while creating negative precedents, diminishing the credibility of the review boards and providing minimal financial benefits to the community. It is vitally important to avoid setting any far-reaching precedents while taking a proactive approach to protecting and supporting the spirit and principles of the Comprehensive Plan. He also provided a couple of copies of letters that he thought were submitted last week.

Connie Sunderman, Town Clerk asked who submitted the letters.

G. Mehlbaum *stated they were letters signed by residents.*

The Town Clerk confirmed nothing was submitted after the October 4th Town Board meeting in regards to comments from residents.

G. Mehlbaum *said the bottom line is this is solely for the benefit of TJA, there is no benefit to Cazenovia. The town acted in a very responsible manner going through, reviewing and finally approving the project with a number of conditions. It is now TJA’s responsibility to proceed. Lastly, he said approving this request for relief would set a legacy of precedents, increasing the height by 80% to 14 ½’ which will likely become the bottom number for future solar developers. A less credible company might look at this, if approved, and say it worked for them, we will present our information and get it approved. Then they will go back in and make some major changes. He wondered if TJA had the standing to make this request for relief and not the owner of the property.*

Supervisor Zupan wanted to answer a few of Mr. Mehlbaum’s concerns. TJA will have to put a whole new packet together for the Planning Board and Zoning Board of Appeals. He said the Town Board is only in a position to grant them relief. The Planning and Zoning meetings are very detailed and the applicant will have to go through the same process again. He reiterated the Town Board is just granting relief so they can proceed with putting in a whole new application. This is not carte blanche, the Planning Board might find environmental issues or some other thing that makes them turn this project down.

G. Mehlbaum said he fully understood the process.

Supervisor Zupan said the Boards will be very thorough in their review process.

G. Mehlbaum said the town has no responsibility in this matter. TJA should move on to do what was approved and if they can't they should apply in a different way.

Supervisor Zupan said when the moratorium law was put into effect, the Town Board provided a relief valve for companies to come in and ask for relief which is what they are doing. They are following the local law. They will need to go through the whole application process again with the Planning and Zoning Boards.

John Langey, Esq. said a statement was received from the property owner, Mr. Lucas, joining in the request which addresses the point about who bears the burden. Supervisor Zupan's points are spot on. The Town Board has very limited power about the project, overall. They can only relieve them from the burdens of the moratorium, itself, if the applicant proves their case to get out from underneath the moratorium. He said the applicant did a presentation last month and supplemented their presentation this month. The Board still has to go through the process of weighing the ability to get out from the moratorium. He said if the applicant does get out from the moratorium, they still have to get approvals from the Planning and Zoning Boards.

James Wright, adjacent property owner, thanked the folks at the Town Office for providing information regarding the proposed changes so he could review. He said it was helpful to have the information and it did raise some questions. He also thanked Michael from TJA for giving him time to go over some of the details. Overall, he felt it was a superior system to what was originally proposed on numerous grounds. He liked the smaller footprint leaving more of the available lands still open for agricultural use for the surrounding area which he felt was important. He said he is very familiar with the terrain and the smaller footprint, in spite of the additional height, it is less of a system in public view.

Daniel Dixon said he lives right across the street from the proposed project. If the Board allows them to raise the height of the project to 14', it will take all visibility of the surrounding agricultural that he has in front of his house. It will end up degrading the value of his property and the property next door and within a few hundred yards. He wondered why the Town has to carry this out, windmills were cut out?

Supervisor Zupan said windmills have not been cut out.

D. Dixon stated he tried to put up a windmill in 1975 and was turned down because the Town did not allow windmills.

Supervisor Zupan said in 1975 there wasn't a law, but they have passed a law allowing windmills since that time.

D. Dixon *said there are no windmills in the Town of Cazenovia, still. If this is allowed to go through, he and his neighbors will end up with a property devaluation in which they have no control over. He said you would not put solar power across from the Bulls Estate on the lake road. He feels the Town would not allow solar power to go into the Lucas property across from the shopping center (on Route 20) or across the street from Chard Road or the Goldbergs. As a community, we have always stood for the agricultural business this community was built on. He said there wasn't a power grid going into Skaneateles. Historically, the Board has always said they want to keep Cazenovia-the historic Cazenovia which includes the "city" [sic], town and country. Solar power would not be placed next to Evergreen Cemetery-which has open land and a valley. He firmly stated he does not "buy the valley deal" and he does not live in a valley.*

Supervisor Zupan asked Mr. Dixon where his property was located on Barrett Road because he was having difficulty placing his property.

D. Dixon *said on Ballina Road*

Supervisor Zupan said this project is for Barrett Road, it is not the Ballina Road project.

D. Dixon *stated he is referring to any project and it would devalue anybody's property across the road from any deal. He stated this is what he sees as a perspective project near his house. He said it does not matter where it is, the point is it won't last forever. There are new innovations all the time, so the Town will let someone come in with another innovation and take up farmland. He said it is bad enough Cazenovia is being allowed to degrade. He mentioned there were six gas stations when he moved here and five grocery stores, two variety stores and two hardware stores.*

J. Langey responded to Mr. Dixon and said his comments were very well taken. There has been a standing committee for months and months and the Committee is redoing the regulations to address a lot of what he expressed in his comments. This particular night is only about this one applicant and their one project that was already approved. The applicant states they cannot get the materials to build the project that the Boards approved. A lot of what was mentioned is getting addressed in a new set of regulations. He said Mr. Dixon will be pleased when he reads the regulations because it covers virtually everything that was mentioned and could prevent and allow some solar projects.

D. Dixon *asked if he would be subject to eminent domain.*

J. Langey respectfully replied "no sir."

D. Dixon said you are allowing it into the community and it will be a whole different situation. He wonders if Cazenovia will benefit from this. A person's benefit to property they have owned outweighs anything that somebody can approve because of technology.

Anthony Mercado of Damon Road in New Woodstock agreed with Mr. Dixon on some of his points including the value of homes. He lives on Damon Road and Barrett Road is two miles west of Damon Road. If you look at the elevation out his window, it is going from a \$ 500,000 view to a \$ 200,000 because you can see right across the valley. It will take some degree of value out of the property unless there is preventative screening. He learned that this process started last year, but unfortunately, due to the pandemic, most people did not have internet service to participate in the hearing. The amount of people coming to town to participate prior to this approval was minimal. He suggested the Board reconsider and completely reopen the application process with live, in-person meetings so there is wider community participation. He stated now that the project is much smaller; what is the total megawatt of the first project to the upcoming project.

John Langey stated he thinks this question was already answered. He asked Mr. Frateschi to address Mr. Mercado's question about the amount of the land that would be taken up and how it will be different.

M. Frateschi said they only have his word it is getting smaller. When they originally started the project, it was 5 megawatts AC. The utility told them they had to bring it down to 4.8, therefore, when they finished the first proposal it was 4.8. This new application is also 4.8, but with the consolidation of the panel and the additional racking that gives a little more efficiency and the ability to shrink the system a little more. The system size is the same, but the acreage is smaller. He confirmed it will be above the 1-megawatt NYSERDA minimum platform.

A. Mercado wondered who the leading team was between NYSERDA and the solar company.

J. Langey explained the Town does not interact with NYSERDA, per se. The applicant interacts with NYSERDA. The Town of Cazenovia Planning Board was the lead agency for this project. The environmental impacts of this project were reviewed under the first version and will be reviewed in a detailed way by the Board a second time through, if they are granted this relief from the Town Board.

A. Mercado wondered about the impact statements.

J. Langey said there will be two environmental reviews. The one that was already done and it will be redone. He said they will look at the changes, are they worse or are they better. The panels are higher, but will be lower. He explained this board is only here to say they are out of the moratorium or not.

A. Mercado inquired about the criteria for relief. He wondered if a supply chain issue was incorporated into that criteria.

J. Langey explained the language of the moratorium was written that you can get out of the moratorium if you can prove your case. The standards that are used are the ones that are used for a use variance which was discussed at the last meeting. The standards are 1) can Mr. Lucas, through the applicant, realize a reasonable return on the property, 2) is the alleged hardship relating to the property, is it unique to them 3) will the requested variance, if granted, alter the essential character of the neighborhood and 4) is it self-created. Those are the four criteria. He stated in their letter they wrote about those items and the attorney addressed them at the last meeting. He said the Board will talk about these tonight or at a future meeting, depending on what the Board chooses to do this evening.

A. Mercado thought two out of the four are self-serving. It is a private entity negotiating this property sale to a corporation. He also thinks it is not unique because the entire world is looking at a supply chain crunch. He thinks it is in the Town's best interest for the Board to decline this relief.

John Langey, Esq. expressed if the moratorium is lifted for this project and this project only, it has to go back to the Planning Board and Zoning Board of Appeals and both Boards are required, by law, to have their own public hearing on the application, itself. Comments about the height, location and property values, etc. could be directed to Planning & Zoning Boards. The Boards can require they be addressed or answered to evaluate as part of the review process. He said if the Town Board lifts the moratorium, this application is not done, by a long-shot. It will go through additional review, public comment and environmental review and the applicants are aware of this. He has been doing this for a long time and it is rare to see someone apply to get out from underneath a moratorium. These applicants received a full approval and nobody else has gotten that for a solar project in this town. They got approval, the moratorium went into place and then they found out they couldn't get the materials. He explained the applicants feel they are unique because they are the only ones that this could apply to.

Councilor Andersen said when the solar law gets revised for future projects, there will be public hearings for that and an opportunity for comments on siting and how they should be controlled.

A. Mercado said under NYSERDA, there is a decent path to follow. NYSERDA is very detailed in the number of megawatts to be used and type of action under SEQRA for the impact statements. They have not touched on the result of the impact statements from a higher elevation, straight down and possibly the aquifer.

Supervisor Zupan explained that is the Planning Board that will review that information. The Town Board is cognizant of the responsibility they are putting on the Planning Board if this

applicant is granted relief. He said a whole new permit will need to be filled-out and it will go to the Planning Board. The Planning Board will do the same job they did on the original application where they granted approval for the project. This Board cannot worry about NYSERDA, their timelines and viewsheds. He said the applicant is asking for the Town Board to grant relief from our local law. If granted, it will go to the Planning Board and Zoning Board of Appeals to protect everything.

A. Mercado asked what the timeline was if approved.

Supervisor Zupan said it could take a year or two years. If the Boards keep asking for information, it will take as long as it takes.

M. Frateschi responded to a question and said they were before the Planning Board for eight months.

Supervisor Zupan confirmed it is not going to be a month. He asked if there was anyone else present wishing to speak.

There was no further comment.

Supervisor Zupan wondered if they wanted to close the public hearing or if there were more questions and information that was needed and should the public hearing be continued.

Councilors Race and Andersen agreed they were satisfied.

Motion by Councilor Race, seconded by Councilor Golub to close the public hearing.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Golub	Yes
Councilor Reger	Yes
Supervisor Zupan	Yes

Supervisor Zupan asked the Town Board if they felt ready to vote on granting relief.

John Langey, Esq. suggested the Town Board review the criteria and the evidence in order to help them decide if they are in a position to vote or not. He offered to lead them through the criteria.

John Langey said the moratorium utilizes a standard very similar to a use variance. He started to work through the criteria with the Board.

Is the alleged hardship relating to this project unique?

The applicant has expressed this is unique because they are the only ones that have gotten a solar project approved of this nature and then the moratorium was established-nobody else could say they had an approval from the Town of Cazenovia to construct a solar project. Therefore, their position is they are unique.

Councilor Race said they are also unique in the supply chain issue that has never happened before to the best of his recollection.

Councilor Andersen said there is no definition of unique.

John Langey explained there are no other applicants that have gotten an approval. He said if someone hasn't even applied, they have no chance to get a variance. Their position is they are unique in the sense they are the only ones that have received an approval from the Town.

1. Is the alleged hardship self-created?

John Langey said the alleged hardship is they do not have the availability to get the equipment as it was approved by the Planning and Zoning Boards. They proposed a project with a single racking system that was fully vetted by the Boards and approved under that sense. After the approval, when the folks moved to the next step with NYSERDA, they went to make their order and now the racking system is not available. 35 weeks plus a potential additional six weeks before it might be available.

M. Frateschi confirmed those numbers were correct.

J. Langey continued and said the Town Board challenged the applicant and asked what the turn around time was for the system they want to use and what if that is just as long. The applicants provided information that is proposing 20 weeks for delivery of the racking. He said the applicant expressed it wasn't their fault, more of a supply chain issue. They provided additional information including the articles on shipping issues.

J. Langey gave an example of a self-created hardship for the Town Board. He said if someone were to buy a residentially-zoned piece of land and buy it with intentions of putting a restaurant on the parcel. If they bought the property, it would be a self-created hardship. Their position is this is not self-created. They got the approval and they are in front of the Board because they can't get the materials to complete the project.

2. Will the requested variance if granted alter the essential character of the neighborhood?

J. Langey stated their argument is no because the project has been approved for a solar project and the zoning law, where appropriate, solar projects. He said the earlier project was vetted by the Planning and Zoning Boards. This new project is different in a sense it will use bigger pieces of equipment, but they will mitigate that by lowering it down into the landscape better-so the overall impact should be less, according to what they are saying. He said if this is true, they will have to demonstrate that to the Planning and Zoning Boards. They did supply materials for the Town Board to review.

3. **Reasonable return on the property.**

J. Langey said normally that deals with an economic damage. Mr. Lucas owns the parcel has an arrangement with TJA, so there is an economic relationship. TJA with Mr. Lucas' consent is arguing they have invested 1.6 million (with refundable portions). J. Langey said they are out of pocket 1.6 and a portion could come back to them. They are also saying they could lose the NYSERDA incentives if the project does not go as planned. They do not know what the future holds and could get kicked out of their place in the que (as #1). The applicant is stating if they can't get through this, they might lose that and the project becomes infeasible and there is no project anymore.

J. Langey asked Mike and Andy if they wanted to add anything to the financial piece of this?

***M. Frateschi** said the que is just for the utility. The NYSERDA is locked in and you get it or you don't.*

***Andy Leja** said the hardship is not only suffered by TJA but also by Mr. Lucas, himself. He shares in the hardship that would affect the company if the moratorium exemption was not granted.*

J. Langey said a lot of concerns have been heard from the public and many are shared concerns of many people regarding impacts on property values and setting a precedent. He said they are all good comments and could potentially be addressed by the Planning and Zoning Boards, at that time. He explained to the audience the applicants will need to show photographic simulations of what these things will look like from various vantage points. This was done the first time and he suspects the Planning and Zoning Board will request it the second time, if they are let out of the moratorium.

J. Langey explained to the Board they have a couple of options. The Board can table it and resume this topic at a further meeting or hold a vote. If they choose to hold a vote, a councilor should articulate a resolution to grant relief and if it is yes, the applicant can move on or if it is no, they won't. He said whichever way the Board votes he will take all the comments and build it into a resolution summarizing all the evidence and then it gets filed in the Town Clerk's Office. He said this can be done tonight or the next meeting.

Motion by Supervisor Zupan, Seconded by Councilor Race to grant relief from the moratorium based on Mr. Langey's comments on the four criteria of a use variance and the presentation that the applicant has met the criteria.

Councilor Golub said a lot of the objections he heard were not to the changes, but the original project.

Based on the above motion and majority vote, John Langey drafted the following resolution:

**TJA-NY BARRETT RD NEW WOODSTOCK, LLC AND DAVID LUCAS
REQUEST FOR RELIEF FROM LOCAL LAW NO. 1 OF 2021
(A Local Law Imposing a Twelve (12) Month Moratorium on All Commercial
Free-Standing Solar Photovoltaic (PV) Systems Within the Town of Cazenovia)**

GRANTED

The following resolution was offered by Supervisor Zupan, who moved its adoption, and seconded by Councilor Race, which was carried unanimously, to wit:

WHEREAS, the Town Board of the Town of Cazenovia enacted Local Law No. 1 of 2021 (“A Local Law Imposing a Twelve (12) Month Moratorium on All Commercial Free-Standing Solar Photovoltaic (PV) Systems Within the Town of Cazenovia”), which Local Law imposed a twelve (12) month moratorium on all applications for the construction and location of new commercial solar energy facilities within the Town; and

WHEREAS, previously, the Town of Cazenovia Zoning Board of Appeals and the Town of Cazenovia Planning Board approved applications for a Special Use Permit and Site Plan approval, respectively, for the construction and operation of a commercial solar facility on premises located 2405 Barrett Road, New Woodstock (Town of Cazenovia), New York (Tax Map No. 147.00-1-28); and

WHEREAS, the applicant, TJA-NY Barrett Rd New Woodstock, LLC (hereinafter “TJA”) has advised the Town of Cazenovia of the need to amend and modify its prior approvals due to the lack of availability of certain materials necessary to construct the project as approved; and

WHEREAS, TJA has presented to the Town Board its request and application for relief pursuant to Section 6(A) of Local Law No. 1 of 2021 to consider relief from their strict application of the moratorium; and

WHEREAS, the property owner David Lucas (hereinafter “Lucas”) has joined in said application by written notice dated October 7, 2021; and

WHEREAS, the standards applicable to such relief are those of a use variance pursuant to Town Law; and

WHEREAS, the applicant has presented evidence and support of its formal legal position relative to the criteria for relief from the strict application of the moratorium; and

WHEREAS, said application includes the following:

- attorney position letter of Matthew T. Kerwin of Barclay Damon LLP, dated September 1, 2021;
- proposed revised site plan drawings prepared by C&S Companies, with detailed sheets;
- photo simulations of the revisions to the proposed project;
- correspondence from Ideematec, dated October 6, 2021, with respect to projected lead times for the proposed new racking system for the project indicating a 20 week order waiting period;

- correspondence from LightEdison indicating that the single rack provider (GameChange Solar) has projected a delivery schedule of between 35 and 41 weeks for the originally approved equipment;
- information from the NYSERDA portal relative to TJA’s approved project with estimated completion deadlines of approximately 30 months from original approval (10/23);
- information concerning the NYSERDA award amount, which award is contingent upon compliance with the terms and conditions of the NYSERDA Program Manual requiring installation and grid interconnection of a 7,206.570 kW electric system at the site located at 2405 Barrett Road;
- information from the New York Sun Upstate and Long Island Program Manual relative to NYSERDA project extension requests;
- e-mail exchanges between the applicant and representatives of NYSERDA;
- information concerning supply chain issues with solar and other shipping products; and

WHEREAS, the Town Board duly scheduled a public hearing on the request for the granting of relief from Local Law No. 1 of 2021, which public hearing was opened on October 4, 2021 and continued until October 18, 2021; and

WHEREAS, all comments were received by the Town Board from the applicant, the applicant’s representatives, members of the public and other interested parties; and

WHEREAS, concerns from the neighbors relative to the request dealt primarily with specific issues with the particular solar project relative to its visibility, impact on property values and similar site specific issues that may best be addressed by the reviewing board should the application be granted; and

WHEREAS, the Town Board has previously determined on September 13, 2021 that the proposed request is a Type II action for purposes of SEQR, thus concluding the environmental process; and

NOW, THEREFORE BE IT RESOLVED that the Town of Cazenovia Town Board has fully considered all of the facts and evidence presented before it, all as referenced above, and the Town Board makes the following findings and determinations:

1. applicant/owner has demonstrated that they cannot realize a reasonable return on this property as it relates to the amount of prior investment of over \$1 million (some of which is potentially refundable) and that the lack of return would be substantial based upon the evidence presented;
2. that the alleged hardship created is singularly unique to this applicant as the applicant is the only landowner/solar operator which has obtained approval from both the Town of Cazenovia Planning Board and Town of Cazenovia Zoning Board of Appeals for a commercial solar facility at the proposed site, which was fully approved with conditions, such that no other proposed applicant seeking relief under the moratorium would qualify for such designation as being “unique”;
3. that the requested use variance if granted will not alter the essential character of the neighborhood as the project has previously been granted utilizing different equipment and that the applicant has presented information supporting their claim

that a revised project would occupy a smaller overall footprint of land and would be lowered into the landscape despite the additional height of the proposed racking system;

- 4. that the hardship is not self-created as the demonstrated hardship is a function of the reduced supply of materials associated with the original approval granted to the applicant, as supported by written statements by the suppliers of such materials, the applicants' contractor and the applicant; and be it further

RESOLVED that the applicant has demonstrated and based upon all of the evidence provided to the Town Board that the moratorium imposed by Local Law No. 1 of 2021 operates as an unnecessary hardship to this particular applicant under the specific circumstances presented herein; and be it further

RESOLVED that this approval shall not act as a legal precedent for the granting of any other potential request for relief under this moratorium insofar as the request by TJA/Luca relates solely to a recent previously approved solar facility project; and be it further

RESOLVED that the Town Board hereby directs the applicant to make proper application to the Town of Cazenovia Planning Board and the Town of Cazenovia Zoning Board of Appeals for review of their amended project; and be it further

RESOLVED that the within approvals are conditioned upon payment of all fees associated with the review and granting of this request; and be it further

RESOLVED that this resolution will be effective as of the date of its filing with the Town Clerk of the Town of Cazenovia.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Golub	Yes
Councilor Reger	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 134 adopted.

J. Langey announced to the audience this item will be on the November 4, 2021 Planning Board meeting agenda. He said the Planning Board will do a full vetting of the new and revised application.

At 8:00 p.m., motion by Councilor Andersen, seconded by Councilor Reger to adjourn this meeting. The motion was unanimously approved.

Supervisor Zupan declared this meeting adjourned.

The Town Board started their 2022 Budget Work Session.

Signed: *Connie J. Sunderman*
Connie J. Sunderman, Town Clerk