

CLIFFORD L. DAVIS
ATTORNEY AT LAW

200 MAMARONECK AVENUE
SUITE 602
WHITE PLAINS, NEW YORK 10601-5304

—
(914) 548-7422
cdavis@clifforddavis.com
www.clifforddavis.com

September 27, 2024

Honorable Supervisor Edward Lachterman
Honorable Council Members of the
Yorktown Town Board
363 Underhill Avenue
Yorktown, NY 10583

Re: Comments on Proposed Solar Legislation

Dear Honorable Supervisor Edward Lachterman and Honorable Council
Members of the Yorktown Town Board:

I am counsel for the direct adjacent residential property to
the proposed Dell Avenue Solar Farm, located at 200 Dell Avenue in
Yorktown, New York, by the developer SOL Systems, also in the R-160
residential zone.

This letter addresses the submission by Zarin & Steinmetz,
dated September 19, 2024, which was just posted. The letter is
fact specific to the Jacob Road Solar project. In addressing the
project counsel for the industrial use developer Freestone
Renewables is not addressing what is best for the Town of Yorktown
throughout all of its residential districts.

The letter does not address the Purpose Clause in the statute
which states that "The Town values its open space, naturalized
areas, and rural character. Maintaining high environmental quality
and values are a mainstay of the Town's efforts in its guidance and
regulation of development in the Town."

Nor does it address the Comprehensive Plan which over and over
again refers to a) protecting natural resource conservation and
scenic and historic preservation, b) promoting development that is

aesthetically compatible with surrounding neighborhoods, and c) maintaining Yorktown as a community of primarily lower-density single-family homes, interspersed with open space preserves. Of course, any new legislation must be consistent with the Comprehensive Plan and the Purpose Clause here for it to be constitutional.

The matter before this Board is how to protect residents in a residential zone from the incursion of an industrial use, a large-scale solar farm, in those very residential districts. The issue before this Board is not whether the Jacob Road property can screen itself from residential neighbors and whether it can maximize its profits.

It is submitted that a 200 feet buffer¹, proposed by the Town Board, is a fair solution. If the industrial use developer is unhappy with the 200 feet or greater setback in a particular instance it can make application before the Zoning Board of Appeals, no different that of a homeowner who needs a six inch variance to build a deck. That is a matter that should not be of concern to this Board.

Notably Zarin & Steinmetz also represents SOL Systems with regard to the Dell Avenue industrial use large-scale solar farm project. Yet the letter makes no mention of that to this Board. And for good reason, because the developer there conceded to the Planning Board that it could not screen the project whatsoever from the neighboring residents.

This Board establishes setbacks for all types of uses. In doing so it does not analyze one particular project versus another. Rather, the Town Board as a legislature enacts setbacks with the wisdom for the entire Town. Here, the 200 feet setback protects all residents in that moving the industrial solar panels back an additional 100 feet makes the industrial use panels appear smaller from the residential property. It is a very effective and easily applicable way of protecting aesthetic impacts so that residential properties in residential zones are less impacted by industrial uses in those very residential districts.

We urge this Board as a legislature to take its time and analyze the impact of the proposed law on all residences throughout the Town, and not just focus on one particular industrial use. Whether the 200 feet setback affects the Jacob Road project is not

¹

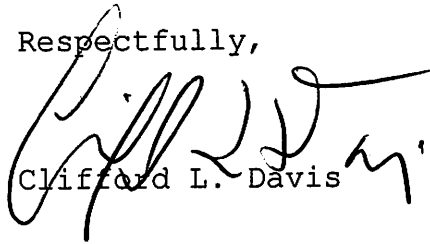
We submit that the Town Board should consider an even greater setback.

this Board's concern. This Board's concern is to prevent industrial uses from blighting the viewshed from residential property, all in residential districts.

The Town Board must concern itself as to how the Town is developing and what it will look like in the next year, next five years, and the next twenty years. The Town Board must act proactively and consider the potential impacts on all residential property within the town. The Jacob Road developer has an agenda and is concerned about maximizing profits. That is not the concern of this Board. The Town Board must act consistent with the Purpose Clause here and consistent with the Comprehensive Plan.

We submit the 200 feet setback and an even greater setback is an effective urban planning tool for the Town to implement to protect all residential properties.

Respectfully,



Clifford L. Davis