

TOWN OF EDEN
ZONING BOARD OF APPEALS
2795 EAST CHURCH ST, EDEN, NY 14057

PUBLIC HEARING DATE: September 18, 2025

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Curtis Neureuter
Sara Buchanan
Todd Keppler

OTHERS: Glenn Christner, Code Enforcement Officer
Bridget O’Toole, Esq., Town Attorney for Alternative Energy
Timothy Walker, Town Board

APPLICANT: RIC Development LLC
Jim Taravella, Project Manager - Development
Peter Sorgi, Esq., Hopkins Sorgi & McCarthy LLC

RE: **Appeal No. 2024-001**
Eden II PV LLC – 2027 Eden Evans Center Rd
Appeal No. 2024-002
Eden PV LLC – 2394 West Church Street

Ms. Kent called the hearing to order at 7:00 p.m. Ms. Kent asked for comments on the Minutes for the Sarah Miller hearing held on July 17, 2025. **Minutes approved.**

Ms. Kent read the Legal Notice for this hearing as published in The Hamburg Sun:

Eden PV, LLC.: Application for an alternative energy use variance at 2394 West Church Street, tabled at the Zoning Board of Appeals hearing on June 20, 2024, to allow installation of a Utility Scale Solar Energy System in the R-2 zoning district, in violation of the location restrictions under Code section 172-4 B.

Eden II PV, LLC: Application for an alternative energy use variance at 2027 Eden Evans Center Road, tabled at the Zoning Board of Appeals hearing on June 20, 2024, to allow installation of a Utility Scale Solar Energy System in the R-2 zoning district, in violation of the location restrictions under Code section 172-4 B.

Ms. Kent advised that, with four board members present, an evenly split vote would result in denial of the use variances; the applicant may adjourn to a later date. RIC declined to do so.

Ms. Kent summarized regulatory activity for the Projects since the June 2024 hearings. At the prior ZBA hearings for these Projects in February 2024 and June 2024, the ZBA and RIC agreed that completion of SEQRA review is needed before a variance could be granted.

After the June 2024 ZBA hearing, the Town Board determined that the Projects required a full SEQRA review. Final Environmental Impact Statements (“FEIS”) for the Projects were presented to the Town on August 1, 2025.

On September 10, 2025 the Town Board as lead agency: a) adopted the findings in the FEIS for the Projects (as they had been amended in response to comments), b) stated that it had fully considered the matters covered, c) certified that the requirements of SEQRA had been met and d) determined that the Projects avoid or minimize adverse environmental impacts.

Ms. Kent noted that an involved agency such as the ZBA may use the SEQRA findings of the lead agency *to the extent they are factors relevant in its decision-making process*. [See SEQRA Handbook 4th Edition: The process allows an involved agency to consider factors relevant to its underlying jurisdiction; it may concur with findings of the lead agency and may (not shall) adopt all or part of the lead agency findings.]

This hearing is a use variance review, concerned with the placement of commercial solar energy Projects within the Town’s designated zoning districts. While the use variance decision is dependent on completion of SEQRA environmental review, it doesn’t review the site-specific physical features of the Projects’ properties that are addressed in the findings. (For example, the findings address topsoil management, drainage and wetlands protection.) Ms. Kent opined these issues aren’t part of the use variance review, and aren’t required to be considered again by the ZBA if they are resolved in the findings adopted by the Town.

For those reasons, the board considered whether the ZBA as an involved agency should acknowledge and accept the Town Board’s adoption of the SEQRA findings on September 10, 2025, and deem that Town Board action to have concluded the SEQRA process for the ZBA’s purposes. RIC indicated it had no objection to that approach.

Motion by Ms. Kent, second by Mr. Neureuter a) to acknowledge and accept the Eden Town Board’s September 10, 2025 adoption, as lead agency, of findings contained in the Final Environmental Impact Statements prepared under SEQRA for RIC’s proposed projects on West Church Street (Eden PV) and Eden Evans Center Road (Eden PV II); and b) to declare that such Town Board action has concluded the SEQRA process for the Zoning Board of Appeals’ purposes in connection with RIC’s pending use variance applications. Motion approved unanimously.

The board then addressed the factors to be reviewed under the “relaxed” use variance standard for alternative energy projects set forth in *Freepoint Solar LLC v. Town of Athens Board of Appeals*, 234 A.D.3rd 127 (2024). The board noted that in making its determination, the ZBA shall take into consideration that commercial alternative energy projects are deemed a “public utility” in NYS, intended to support the general public’s need for electricity, and thus require a less stringent use variance standard. As at the June 2024 ZBA hearing, RIC and the board agreed that questions and responses to the use variances here are for both Projects.

The applicant will demonstrate (*applicant responses are in italics*):

- 1. That the proposed project will provide electricity from a renewable source in a location offering connectivity to the electric grid with adequate capacity to receive the electricity, as shown by electric utility “hosting” maps or other third-party documents.**

Copies of the Eden Solar and Eden II Solar projects CESIR (Coordinated Electrical System Interconnection Review) reports from National Grid were provided to the Town Planning Board prior to the June 6, 2024 public meeting, and have now been made available to the ZBA. At the July 17, 2025 ZBA meeting a project

representative provided the ZBA with a printout of the National Grid hosting map and a general explanation of the map analysis process.

Ms. Kent noted that Mr. Stocksclaeder reviewed the hosting map and reported that connectivity and capacity are available, as described in the CESIR reports, subject to RIC's success under the National Grid data portal "queue" system.

- 2. That other locations, in zoning districts where alternative energy projects are allowed, are not feasible for the project by reasons such as lack of (or prohibitive cost of) grid connectivity/capacity, limiting physical features, or lack of interest in the project by property owners.**

Note: An individual parcel-by-parcel review within eligible zoning districts isn't required for Alternative Energy Use Variance reviews.

The following information was provided to the ZBA:

For the June 6, 2024 meeting, a memo outlining the outreach efforts, beginning in 2020 – prior to the parcels being rezoned, to secure solar leases in the Town.

The ZBA questioned the depth and breadth of this outreach.

On July 25, 2024, a letter was provided to the ZBA that included an analysis of the parcels zoned to allow alternative energy projects. This analysis included a parcel that was perused by another energy company that was dropped due to poor utility interconnectivity – which was consistent with the analysis provided to the ZBA.

Ms. Kent confirmed that the earlier information regarding outreach to property owners hadn't been resolved, but in any event the less stringent Alternative Energy Use Variance standard doesn't require its resolution on a property-by-property basis. The lack of feasible connectivity/capacity in other zoning districts in Eden was confirmed by Mr. Stocksclaeder's review of the National Grid hosting data.

- 3. That the project will have a minimal negative intrusion or impact on the environmental, physical or aesthetic conditions of the local community.**

Note: (a) Neighbor or community comments may be considered, but will not be deemed determinative. (b) A SEQRA determination of no significant environmental impact can be used to support this portion of the standard.

Eden PV, LLC and Eden II PV, LLC have submitted the projects to the Town for SEQRA review. At the October 2, 2024 Planning Board meeting, the Planning Board recommended to the Town Board that both projects receive a SEQRA determination of non-significance and a negative declaration. The Town Board voted to give the projects a determination of significance and positive declaration. To date Eden PV, LLC and Eden II PV, LLC have worked with the town Board through the Environmental Impact Statement process and the Town Board has accepted the Final Environmental Impact Statement submissions for each project (subject to final approvals).

The board reiterated that the Town Board has adopted the Final Environmental Impact Statements for the Projects, which concluded that minimal environmental, physical or aesthetic impacts would occur. That action removes the need for the ZBA to reconsider them.

- 4. That the applicant has purchased or has control over the property to be used, and has compelling economic or other reasons to receive a use variance for the proposed location.**

Site control certifications were provided to the Town with the May 14, 2024 submission packages to the Town Planning Board and recently provided to the ZBA.

In addition to the site control certifications Eden PV, LLC and Eden II PV, LLC (c/o RIC Development LLC) has invested over \$1,000,000 into the development of these projects. These investments include legal fees, escrow payments, CESIR payments, utility upgrade costs, rent, civil engineering, survey, and SEQRA environmental impact statement costs.

Ms. Kent noted that the ZBA doesn't require individual proofs of payment, but will some of these costs become available to the public, for example the CESIR payments to the utility?

RIC has paid roughly 10% of the \$9 million dollars that will be required for upgrades to power lines and the substation. That is over and above payments for the CESIR study, surveys, the environmental impact studies, escrow payments made to the Town of Eden, etc.

Mr. Keppler and Mr. Taravella discussed the general "per mile" cost of connectivity.

The board discussed the considerations it must review for alternative energy use variances, as these Projects are deemed "public utilities" in NYS, intended to support the general public's need for electricity from a renewable source, and thus require a less stringent use variance standard. The applicant has demonstrated that these commercial solar Projects will provide electricity, there is connectivity/capacity, that other locations are not feasible, and there will be minimal negative impacts. The applicant also provided site control documents and has invested significant financial resources to these projects.

For these reasons, Mr. Keppler made a motion to approve the alternative energy variance requests for Eden PV, LLC at 2394 West Church Street and for Eden II PV, LLC at 2027 Eden Evans Center Road to allow installation of a Utility Scale Solar Energy Systems in the R-2 zoning district, in violation of the location restrictions under Code section 172-4 B. Seconded by Mr. Neureuter. All voted in favor - Motion approved.

Respectfully submitted,

Shelly Griebel, Secretary
Eden Zoning Board of Appeals