



VILLAGE OF BARKER ZONING BOARD OF APPEALS MEETING MINUTES

February 4, 2026

4:30pm

Zoning Board of Appeals

Dale Corwin-Chairman

Joseph Naish

Trent Kenny

The meeting was opened by Chairman Corwin of the Zoning Board at 4:40pm.

Proposed Local Law text:

Be it enacted by the Village Board of Trustees of the Village of Barker a Local Law as follows:

1. Authority

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments and section 10(1)(i) and (ii), and provisions of the Village Law.

2. Findings

- 1) The Village of Barker is a small Village having a population of approximately 600 residents. It is primarily a residential community with homes located in a small area in the Town of Somerset. The residences are all closely spaced to one another.
- 2) Battery Energy Storage Systems present special issues, including possibility of fire and explosion which present damage to nearby residences, institutions and dangers to people and which require legislation to address these issues.
- 3) Battery Energy Storage Systems are primarily an industrial oriented use and should be treated as such.

3. Statement of Purpose

The Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of Village by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- A. To provide a regulatory scheme regarding the location, construction and operation of battery energy storage systems;
- B. To protect people and land uses in the vicinity of the areas near battery energy storage systems;
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
- D. To minimize the impact on and damage to all areas of the Village of Barker.

4. Definitions

As used, in this Chapter, the following terms shall have the meanings indicated:

ANSI: American National Standards Institute.

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY: Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE: Any residence located on a non-participating property.

PARTICIPATING PROPERTY: A battery energy storage system host property or any real property that is subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

UNIFORM CODE: The New York Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

VILLAGE BOARD: The Board of Trustees of the Village of Barker.

5. Applicability

A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Village.

6. General Requirements

A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems, authorized by the Village Board.

B. Issuance of permits and approvals by the Village Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").

C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designated, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Village Code.

7. Permitting Requirements for Battery Energy Storage Systems

Battery Energy Storage Systems are permitted through the issuance of a special use permit only within the F1 (industrial use) zoning districts, and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section. Notwithstanding any allowed uses in the industrial zone, this law shall supersede the same for energy storage systems, and the inconsistent provisions of the F1 zoning district shall not apply.

A. Applications for the installation of Battery Energy Storage Systems shall be:

1) Reviewed by the Zoning Enforcement Officer and the Village Board for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited, to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety and Permit Time Frame and Abandonment, and any other matter determined to be necessary by the reviewing entities. No action shall be taken until determined to be complete by the reviewing entities.

2) Subject to at least one public hearing to hear all comments for and against the application, The Village Board shall have a notice printed in a newspaper of general circulation in the Village at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 1000 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Village Clerk at the public hearing. The Village Board may determine to have more than one public hearing.

3) Referred to the Niagara County Planning Board.

4) After closing of the public hearing(s), the Village Board shall take action on the application which can include approval, approval with conditions, or denial.

B. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment.

C. Signage

1) Signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number, and any other provision required by the Village Board.

2) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

D. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be shielded and downcast from abutting properties.

E. Vegetation and tree-cutting. Areas within 10 feet on each side of Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers may be permitted to be exempt provided that they do not form a means of readily transmitting fire, if approved by the Village Board. Removal of trees should be minimized to the extent determined by the Village Board.

F. Noise. The noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 40 dBA as measured at the outside fence of the facility community building. Applicants shall submit equipment and component manufacturers noise ratings to demonstrate compliance. The Applicant may be required to provide Operating Sound Pressure Level measurements from sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

G. Decommissioning of the Facility

1) Decommissioning Plan. The applicant shall submit a decommissioning plan, developed at a minimum in accordance with the Uniform Code and as required by the Village Board to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;

b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;

c. The anticipated life of the battery energy storage system;

d. The estimated decommissioning costs and how said estimate was determined;

e. The method of ensuring that funds will be available for decommissioning and restoration including bonding or funding deposits as required by the Village Board;

f. The method by which the decommissioning cost will be kept current;

g. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and

h. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2) Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Village in a form approved by the Village for the removal of the battery energy storage system, in an amount to be determined by the Village for the period of the life of the facility. The Village Board may require cash deposits in conjunction or in lieu of bonding as it determines to be held by

the Village Board as a separate fund. All costs of the financial security shall be borne by the applicant.

H. Site plan application. For a Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information and any other information required by the Village Board.

- 1) Property lines and physical features, including roads, for the project site.
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 3) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) An equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed in final form.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted with the application.
- 6) Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer approved by the Village Board, and paid for by the applicant after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to Zoning Enforcement Officer and the Village Board prior to final inspection and approval and maintained at an approved on-site location. The Village Board may require additions to the commissioning plan.
- 9) Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code, and that have been reviewed and approved by the Village Board.
- 10) Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code, and any requirements of the Village Board.
- 11) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Village Board.
- 12) Prior to the issuance of the building permit and final approval by the Village Board, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

- 13) Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, local fire code official, and the Village Board. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
- a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel, the Zoning Enforcement Officer and the Village Board for potentially hazardous conditions in the event of a system failure.
 - d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures shall include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - e. A safety data sheet (SDS) that will address response safety concerns and extinguishment.
 - f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - g. All other procedures as determined necessary by the Village Board to provide for the safety of occupants, neighboring properties, and emergency responders.
 - h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
 - i. Funding for training of Local First Responders and for any additional equipment deemed necessary by the Village Board after input from First Responders including but not limited to all responding fire companies, EMT services, pollution control personnel, and remediation costs.

I. Special Use Permit Standards.

- 1) Setbacks. Battery Energy Storage Systems shall be, not less than:
 - 1000 feet from Municipal Boundaries
 - 1000 feet from all Non F-1 District Boundaries
 - 1000 feet from any Building, not part of the energy system.
- 2) Height. Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
- 3) Fencing Requirements. Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
- 4) Screening and Visibility. Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable

using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

- 5) Such other standards as shall be required by the Village Board.

J. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes by written contract all of the obligations of the special use permit, site plan approval, and decommissioning plan and provides the same to the Village Board together with proof of financial capability to comply. A new owner or operator of the battery energy storage system shall notify the Zoning Enforcement Officer and the Village Board of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification and compliance to the Zoning Enforcement Officer and the Village Board in writing. The special use permit and all other local approvals for the battery energy storage system will be void if a new owner or operator fails to provide prior to change of ownership. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law. Failure to comply shall constitute automatic revocation of the special use permit.

8. Safety

A. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

- 1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
- 2) UL 1642 (Standard for Lithium Batteries),
- 3) UL 1741 or UL 62109 (Inverters and Power Converters),
- 4) Certified under the applicable electrical, building, and fire prevention codes as required.
- 5) Field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements, if required by the Village Board.
- 6) All other requirements as determined by the Village Board.

B. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Battery Energy Storage System is located in an ambulance district, the local ambulance corps.

C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

9. Permit Time Frame and Abandonment

A. If issued the Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 12 months. In the event construction is not begun within 12 months or completed in accordance with the final site plan, as may have been amended and approved, as required by the Village Board, within 24 months after approval, the approvals and special use permit shall expire.

B. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for one year. If the owner or operator fails to comply with decommissioning upon any abandonment, the Village Board may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan. Any Bond shall reflect this paragraph, and the Bonding Company shall be responsible for all costs.

10. Enforcement

Any violation of this Battery Energy Storage System Law shall be subject to the enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Village, because such provisions maybe inadequate to cause compliance, the violations shall further be subject to injunctive relief.

11. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

A Discussion of the proposed Local Law Regulating Battery Storage Energy Storage Systems ensued.

Chairman Corwin: Stated the presence of battery energy storage systems in the Village would strain the resources of the Barker Fire Department, as well as pose a safety concern for the proximity of dwellings in the Village in relation to highly combustible nature of batteries. Previous work experience at CoGen in Lockport regarding the maintenance of the battery energy storage system on premises demonstrated the highly explosive and combustible nature of these systems and the extreme safety protocols that need to be in place. Another concern was if a battery energy storage system was present and was to catch fire, what kind of pollutants and contamination could run into Golden Hill creek. Chairman Corwin was in favor of approving the law as written.

Trent Kenny: Stated as a volunteer firefighter there's not much that can be done to extinguish battery fires. Essentially, the fire needs to be suffocated by removing oxygen, and dosing water on them doesn't work. If a battery energy storage system was built in the Village, it would need to be self-contained with vents that close to suffocate the fire from the inside. There are also times when the best course of action is to dig a hole and bury the battery on fire. Trent Kenny stated he was in favor of approving the law as written.

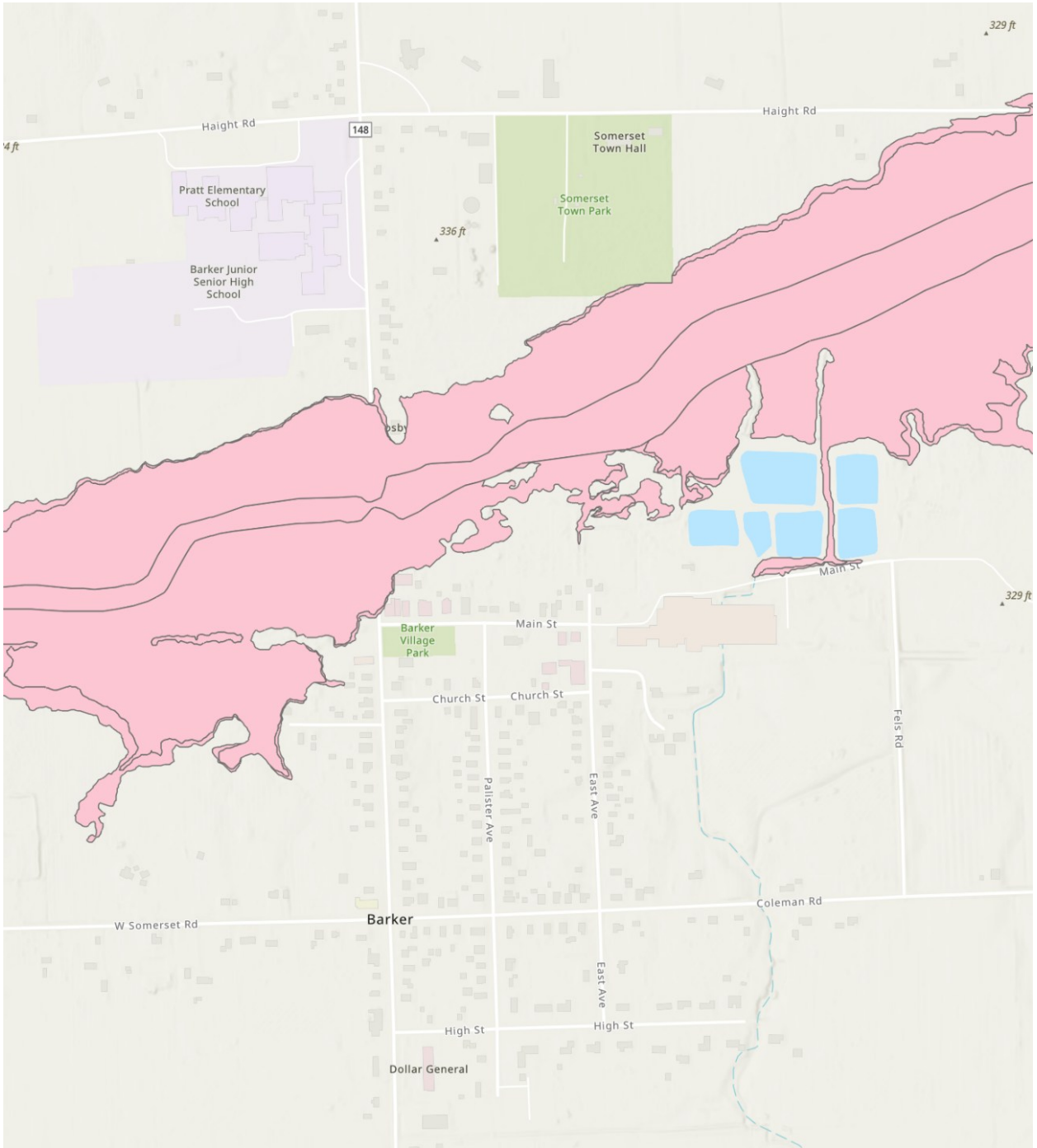
Joe Naish: Stated he had concerns about the chemicals associated with the battery energy system and their impact on the community as well as the environment. Batteries contain large amounts of lead and acid causing concern. Joe Naish was also in favor of approving the law as written.

A motion to recommend the above proposed Local Law Regulating Battery Energy Storage Systems to the Village Board of Trustees for approval was made by Joe Naish and was seconded by Chairman Corwin. The previous was ADOPTED. AYES-3-Corwin, Naish, Kenny NAYS-0/None Motion Carried.

A motion for adjournment was made at 4:44pm by Joe Naish and was seconded by Trent Kenny. Board of Trustees for approval was made by Joe Naish and was seconded by Chairman Corwin. The previous was ADOPTED. AYES-3-Corwin, Naish, Kenny NAYS-0/None Motion Carried.

Respectfully Submitted,

Amanda M. Detschner, CMC/RMC/CMFO
Clerk-Treasurer



2025 Floodplain Map for reference