

Town of Farmington

1000 County Road 8
Farmington, New York 14425

PLANNING BOARD
Wednesday, January 16, 2019, 7:00 p.m.

MINUTES—DRAFT #1

The following minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Planning Board. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Planning Board adopted Rules of Procedure. The audio recording is retained for 12 months.

Clerk’s Note: This meeting was held at the Farmington Highway Garage, 985 Hook Road, to accommodate the large number of attendees.

Board Members Present: Edward Hemminger, *Chairperson*
Adrian Bellis
Shauncy Maloy
Mary Neale
Douglas Viets

Staff Present:
Lance S. Brabant, CPESC, Town of Farmington Engineer, MRB Group, D.P.C.
Ronald L. Brand, Town of Farmington Director of Development and Planning
David Degear, Town of Farmington Water and Sewer Superintendent
Dan Delpriore, Town of Farmington Code Enforcement Officer
Don Giroux, Town of Farmington Highway and Parks Superintendent
James Morse, Town of Farmington Code Enforcement Officer
John Weidenborner, Assistant Chief, Farmington Volunteer Fire Association

Applicants Present:
Daniel Compitello, Solar Project Developer, Delaware River Solar, 130 North Winton Road,
#10526, Rochester, N.Y. 14610
David Matt, Project Engineer, Schultz Associates Engineers and Land Surveyors PC,
129 S. Union Street, Spencerport, N.Y. 14559
Terence Robinson, Esq., Boylan Code
Roger and Carol Smith, 4790 Fox Road, Palmyra, N.Y. 14522

Residents Present:
Henry Adams, 4650 Kyte Road, Shortsville, N.Y. 14548

Linda and Bob Bailey, 5163 Fox Road, Palmyra, N.Y. 14522
Stefanie and Matt Barnes, 4936 Fox Road, Palmyra, N.Y. 14522
Al and Jennifer Baxter, 266 Yellow Mills Road, Palmyra, N.Y. 14522
Dan Bieck, 4392 Fox Road, Palmyra, N.Y. 14522
Terry Bieck, 358 Stafford Road, Palmyra, N.Y. 14522
Gerald A. Bloss, 81 Gannett Road, Farmington, N.Y. 14425
John and Elvira Boonstra, 5059 Maxwell Road, Farmington, N.Y. 14425
David and Darlin Bowe, 189 Hook Road, Farmington, N.Y. 14425
Erin and John Brandt, 117 Hook Road, Farmington, N.Y. 14425
Angela, Danny, Jacob and Joey Capps, 768 Hook Road, Farmington, N.Y. 14425
Barbara Case, 169 Ellsworth Road, Palmyra, N.Y. 14522
Petrina Case, 5191 Fox Road, Palmyra, N.Y. 14522
Eric and Edith Chapman, 230 Ellsworth Road, Palmyra, N.Y. 14522
Tim DeLucia, 1452 Mertensia Road, Farmington, N.Y. 14425
James R. Dennie, 595 Yellow Mills Road, Palmyra, N.Y. 14522
John Depoint, 271 County Road 28, Palmyra, N.Y. 14522
Jon and Marilyn Fair, 984 Stafford Road, Shortsville, N.Y. 14548
Nancy and Jim Falanga, 395 Ellsworth Road, Palmyra, N.Y. 14522
Jim and Ann Foley, 373 Ellsworth Road, Palmyra, N.Y. 14522
Caroline Heberle, for 531 Yellow Mills Road, c/o 53 Mildorf Street, Rochester, N.Y. 14609
Linda Heberle, for 531 Yellow Mills Road, c/o 53 Mildorf Street, Rochester, N.Y. 14609
Ryan Heberle, 744 Yellow Mills Road, Palmyra, N.Y. 14522
Ronald Herendeen, 877 County Road 8, Farmington, N.Y. 14425
Nancy and Bill Hood, 5023 Maxwell Road, Farmington, N.Y. 14425
Peter Ingalsbe, 151 Galvin Court, Farmington, N.Y. 14425
Edward and Tammy Johnson, 126 Yellow Mills Road, Palmyra, N.Y. 14522
Ginnie and Dale Kratzenberg, 630 Sheldon Road, Palmyra, N.Y. 14522
Edward D. Lawrenz, 320 Yellow Mills Road, Palmyra, N.Y. 14522
Patricia and Wayne McClure, 5106 Rushmore Road, Palmyra, N.Y. 14522
William P. Murphy, 4995 Rushmore Road, Palmyra, N.Y. 14522
Peter Nicoletta, 83 Orland Road, Rochester, N.Y. 14622
John Orbaker, 2460 Fox Road (4960 Fox Road on the Assessment Roll), Palmyra, N.Y. 14522
Walt Pieschke, 6349 Cedar Creek Way, Farmington, N.Y. 14425
Nancy Purdy, 1007 County Road 8, Farmington, N.Y. 14425
Jim Redmond for Fox Road, 175 Burnham Heights, Palmyra, N.Y. 14522
Todd and Rachael Richenberg, 5007 Maxwell Road, Farmington, N.Y. 14425
Andrew A. Strub, 4638 Rushmore Road, Palmyra, N.Y. 14522
Andrew, Paul and Douglas Tavolette, 411 Cline Road, Victor, N.Y. 14564
Robert and Linda VanCaesele, 520 Stafford Road, Palmyra, N.Y. 14522
Stacey and Arnold Vandenburg, 259 Ellsworth Road, Palmyra, N.Y. 14522
Brent and Calvin Woodhouse, 263 Bowerman Road, Farmington, N.Y. 14425
Gary Wright, 573 Yellow Mills Road, Palmyra, N.Y. 14522
Jeff Yahn, 5215 Fox Road, Palmyra, N.Y. 14522
James and Linda Zurich, 315 Sheldon Road, Farmington, N.Y. 14425
Kenneth M. [?], Macedon, N.Y.

Observer Present:

Fred Salsburg, Town of Victor Zoning Board of Appeals, 85 East Main Street,
Victor, N.Y. 14564

Media Present:

Josh Williams, Messenger Post Media (Canandaigua *Daily Messenger*), Canandaigua, N.Y.
Several others from television stations in Rochester, N.Y.

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. Hemminger explained the emergency evaluation procedures. He asked everyone to please sign in and requested cell phones and other devices be set on silent mode.

Mr. Hemminger said the meeting would be conducted according to the Rules of Procedure approved by the Planning Board on March 7, 2018.

2. APPROVAL OF MINUTES OF JANUARY 2, 2019 and APPROVAL OF MINUTES OF JANUARY 12, 2019

■ A motion was made by MS. NEALE, seconded by MR. BELLIS, that the minutes of the January 2, 2019, regular Planning Board meeting, and the minutes of the January 12, 2019, Organizational Meeting be approved.

Motion carried by voice vote.

3a. PUBLIC HEARING: CONTINUED PRELIMINARY FOUR-LOT SUBDIVISION

PB #1003-18 Continued Preliminary Four-Lot Subdivision Application

Name: Delaware River Solar LLC, 33 Irving Place, New York, N.Y.
10003

Location: 466 Yellow Mills Road

Zoning District: A-80 Agricultural District

Request: Preliminary Subdivision Plat approval for a four-lot subdivision of land, Tax Account #010.00-01-37.110, which contains approximately 136.4 acres of land

3b. CONTINUED PRELIMINARY SITE PLAN

PB #1004-18 Continued Preliminary Site Plan Application

Name: Delaware River Solar LLC, 33 Irving Place, New York, N.Y. 10003

Location: 466 Yellow Mills Road

Zoning District: A-80 Agricultural District

Request: Preliminary Site Plan approval for erect a 7-megawatt Photovoltaic (PV) Solar System comprised of 7,000 solar panels utilizing approximately 35 acres of land to be located upon three subdivided lots from Tax Map #010.00-01-37.100.

3c. PUBLIC HEARING: CONTINUED SPECIAL USE PERMIT

PB #1006-18 Continued Special Use Permit

Name: Delaware River Solar LLC, 33 Irving Place, New York, N.Y. 10003

Location: 466 Yellow Mills Road

Zoning District: A-80 Agricultural District

Request: Special Use Permit to operate a 7-megawatt Photovoltaic (PV) System on approximately 35 acres of land proposed to be located upon three subdivided lots from Tax Map #010.00-01-37.110.

These applications were reviewed by the Project Review Committee on August 3, 2018; and September 7, 2018.

The Zoning Board of Appeals (ZBA) opened Public Hearings on four Area Variance applications associated with this project on September 24, 2018. The ZBA Public Hearings were reconvened on November 26, 2018; and on December 17, 2018. The ZBA Public Hearings have been continued to Monday, January 28, 2019.

The Area Variance applications before the ZBA for relief from the Town Code-required interior lot setbacks are as follows:

- ZB #0902-18** Setback of 20 feet along the south property line of proposed Lot #2 (the Town Code requires a minimum rear setback of 160 feet)

ZB #0903-18 Setback of 20 feet along the north property line of proposed Lot #3 (the Town Code requires a minimum rear setback of 160 feet)

ZB #0904-18 Setback of 20 feet along the north property line of proposed Lot #3 (the Town Code requires a minimum front setback of 180 feet)

ZB #0905-18 Setback of 20 feet along the north property line of proposed Lot #4 (the Town Code requires a minimum front setback of 180 feet)

The ZBA classified this project as a Type I Action under the State Environmental Quality Review (SEQR) Regulations and established the 30-day SEQR public review and comment period from September 28, 2018, to October 29, 2018.

On October 3, 2018, the Planning Board declared its intent to be designated Lead Agency under SEQR for making the determination of significance upon these applications.

The SEQR Involved and Interested Agencies which were identified by the Planning Board and which participated in the 30-day public review and comment period are:

Involved Agency: New York State Energy Research and Development Authority

Involved Agency: New York State Department of Environmental Conservation

Involved Agency: U.S. Army Corps of Engineers

Involved Agency: New York State Office of Parks, Recreation and Historic Preservation

Involved Agency: Town of Farmington Planning Board

Involved Agency: Town of Farmington Zoning Board of Appeals

Involved Agency: Town of Farmington Highway and Parks Department

Interested Agency: Ontario County Agricultural Enhancement Board

Interested Agency: New York State Department of Agriculture and Markets

Interested Agency: Town of Farmington Agricultural Advisory Committee

Interested Agency: Town of Farmington Conservation Advisory Board

Interested Agency: Town of Farmington Town Clerk

Interested Agency: Town of Farmington Historian

On November 7, 2018, Mr. Hemminger opened the Planning Board Public Hearings on PB #1003-18 (Preliminary Four-Lot Subdivision) and PB #1006-18 (Special Use Permit) and concurrently began the discussion on PB #1004-18 (Preliminary Site Plan). The Public Hearings and the discussion were reconvened on December 5, 2018, and were continued to tonight's public meeting.

Mr. Hemminger reconvened the Public Hearings and the discussion on the above referenced applications.

These applications were presented by Daniel Compitello (Solar Project Developer, Delaware River Solar). David Matt (Project Engineer, Schultz Associates Engineers and Land Surveyors PC); and Terence Robinson, Esq. (Boylan Code) also attended.

Mr. Hemminger said that the following information and materials have been received by Director of Planning and Development Ronald Brand and have been forwarded to the Planning Board:

- E-mail received this morning (January 16, 2019) from the New York State Department of Agriculture and Markets informing the Town that the New York State Energy Research and Development Authority (NYSERDA) has not yet submitted a Notice of Intent (NOI) to the Department of Agriculture and Markets for this project.
- E-mail from Daniel Compitello of Delaware River Solar informing the Town that NYSERDA is asserting that the NOI is a separate process from the State Environmental Quality Review (SEQR) and that the Planning Board does not need to wait for the NOI response from the Department of Agriculture and Markets to proceed with SEQR.
- Responses from Delaware River Solar to the Planning Board's requests for additional information to the comments received at the Public Hearing session which was held on December 5, 2018.
- E-mail from Daniel Compitello of Delaware River Solar submitting a draft NOI to the Department of Agriculture and Markets and NYSERDA's guidance on the new NOI form.
- Responses from Delaware River Solar to the Planning Board's requests for additional information of November 28, 2018.
- E-mail from Daniel Compitello of Delaware River Solar of the following items:
 1. A cover sheet with table of all materials submitted and updated by Delaware River Solar to the Town, to date.
 2. Letter from the landowners in support of the Preliminary Landscape Plan, now showing the pasture area realignment and table calculations of the solar array and grazing lands.
 3. Updated Landscape Plan.
 4. Updated photo simulations from Saratoga Associates showing two new vantage points at higher resolution, with a closer view of the project from the Heberle property.
 5. Legal opinion letter from Boylan Code LLP on the "feasible alternative" provisions of the Town's 2017 Solar Law.

- Legal opinion letter from the Farmington Town Attorney on the “feasible alternative” provisions of the Town’s 2017 Solar Law.
- Several additional letters in support of, and in opposition to, the solar project.

Mr. Hemminger said that correspondence which has been received on the solar project will be posted upon the Town website within the next several weeks. He said that this will include the legal opinions from the applicant’s attorney and from the Farmington Town Attorney on the “feasible alternative” provisions of the Town’s 2017 Solar Law.

Prior to receiving comments from the applicant, Mr. Hemminger asked for comments from Mr. Brand. Mr. Brand confirmed the receipt of an e-mail received today (January 16, 2019) from Kate Tylutki of the Division of Land and Water of the New York State Department of Agriculture and Markets who wrote that a NOI application on this project has not yet been received from NYSERDA. In this e-mail, Ms. Tylutki indicates that the NOI process takes approximately 75 days and that it could be “. . . at least another 2½ months, depending on when NYSERDA submits this NOI to us, before this project could be deemed complete.”

Mr. Brand said that he has prepared a draft resolution for the board’s consideration this evening that will, if approved, continued the Public Hearing upon these applications to April 17, 2019, to allow time for the NOI process to be completed by the Department of Agriculture and Markets. He said that the NOI is important documentation for the Planning Board in that it examines and addresses impacts to land, farm enterprises and agricultural resources within the County’s Agricultural District and this area of the Town.

Mr. Brand said that until the Department of Agriculture and Markets report is received, the Town is in a holding pattern on this application as it awaits the information which has been previously deemed necessary by the Planning Board to make the SEQR declaration.

Mr. Hemminger said that the procedure during this evening’s meeting will be to receive comments from the applicant, then from the staff and from the public. He asked that the audience please refrain from repeating information that has already been entered into the record and to focus on new information for the Board’s consideration.

Mr. Compitello said that written responses to questions from the Planning Board dated November 28, 2018, and from the comments received at the previous session of the Public Hearing on December 5, 2018, have been provided. He said that two new visual renderings of the site have been submitted—one looking southeast from the Yellow Mills Road/Fox Road intersection and the other looking directly from Fox Road into the site which provides a closer view of the project location with the proposed landscaping.

Mr. Compitello said that Donald Young, Esq., from the law firm of Boylan Code, has provided the board with his written opinion of the “feasible alternative” provisions of the Town Solar Code.

Mr. Compitello discussed the relatively new (August 2018) Notice of Intent (NOI) process regarding solar projects. He said that Delaware River Solar began the process for the Farmington project in late November 2018 and, since then, representatives of NYSERDA and the New York State Department of Agriculture and Markets have come together to create the procedures to be followed with this application. He said that he is hopeful that these steps move forward by the end of this week and that clear guidance is provided by the two agencies in preparation for the Planning Board meetings next month.

Mr. Robinson distributed a summary of the NY-Sun Update and Long Island Program Manual during his discussion of the NOI process. Mr. Robinson said that the NOI is a Notice of Intent to Farm. It is issued by NYSERDA (the State agency that distributes funds for solar energy projects) and is reviewed by two agencies, i.e., the New York State Department of Agriculture and Markets and the Ontario County Agricultural Enhancement Board.

He said that the issue of delaying the Public Hearing until the NOI is received is that the NOI can only be issued after an application for funding has been submitted by the developer (Delaware River Solar). He said that Delaware River Solar currently is ineligible to apply for State funding until the local land use approval has been received from the Planning Board.

Mr. Robinson then read aloud from the appropriate section of the Program Manual regarding this issue:

Required for Nonresidential and Commercial/Industrial Projects
Proof of planning and zoning approvals—C/I only

The contractor must provide proof that all necessary governmental permits and approvals required have been obtained. This does not include ministerial permits, such as a building permit. Required approvals include a Special Use Permit, Site Plan Regulations, or similar approval process and a Negative SEQRA Determination. If these are not required, the contractor must demonstrate from the Authority Having Jurisdiction, via meeting minutes or local laws, that the contractor is approved to move forward with the project.

Mr. Hemminger then referred to the Planning Board's Rules of Procedure. He explained that new material is not accepted for consideration and action on the evening of a meeting. He requested that Mr. Robinson provide an overview of the material tonight and that the Planning Board would take the new material under advisement and enter it into the Public Hearing record.

Mr. Robinson said that, in essence, Delaware River is not eligible to submit its application for NYSERDA funding until the Planning Board concludes its process of reviewing the Special Use Permit application. He said that saying [the board] is going to delay until

a Notice of Intent is received means that the board will never move because a NOI will never be issued before this board concludes its process.

Mr. Robinson said that the applicant's request tonight—following questions and comments from the public—is that the board conclude the Public Hearing and commence the SEQR review process. He said that waiting for the NOI will not advance anything.

Mr. Brand said that it is interesting to hear this change in the procedures that the State agencies are contemplating. He said that he awaits the report from Ag and Markets. He said that this process was intended for the Commissioner of the Department of Agriculture and Markets to identify alternatives and mitigation measures for the impacts of public funds being used to advance the project. He said that the Planning Board has been told all along that the applicant is intending to seek public funds, and the Planning Board informed the applicant in October of the requirement—noted by the State Department of Agriculture and Markets in the Town's SEQR Response Form—to have the compliance with the Notice of Intent. Mr. Brand said that tonight we have received information which requires further study.

Mr. Hemminger said that this information tonight is counter what the board has heard from the Department of Agriculture and Markets up to this point.

Mr. Brabant then reviewed the Wetland Delineation Report issued on January 10, 2019, by DIEHLUX LLC of East Bloomfield, N.Y. This report was requested by the Planning Board to verify the accuracy of the identified wetlands and watercourses, as well as to indicate additional areas that may have been omitted during the original delineation by the applicant's engineering agency (North Country Ecological Services) in July 2018.

Mr. Brabant said that DIEHLUX conducted a site inspection on December 19, 2018. The report indicates that the site is mainly flat open pasture with a large wooded upland ridge located along the southwestern corner of the site. Much of the land is currently used for grazing by cattle and farmed for hay/field crops. DIEHLUX reviewed and verified the edge of Wetland No. 2 and the associated watercourse flowing north off the site under Fox Road. The eastern extent of Wetland No. 1 and Wetland No. 3 were not able to be visually confirmed due to the limited access to the property because of bulls grazing in the pastures. Mr. Brabant said that the Jurisdictional Wetlands Boundary Verification process will be completed by the U.S. Army Corps of Engineers—Buffalo Office. He said that DIEHLUX validated what they could observe and that the U.S. Army Corps of Engineers report will validate the delineations of Wetland No. 1 and Wetland No. 3.

Mr. Hemminger then reviewed the procedure for the public comment portion of the meeting. He invited members of the public to provide information related to this project to the board. He said that if residents spoke at previous meetings, their comments have been recorded in the minutes of the previous meetings and that they do not need to speak again. He specifically requested residents to provide additional information this evening.

Mr. Hemminger reviewed the steps in the process which the Planning Board is following in the review of this application. He said that the Planning Board will begin the State Environmental Quality Review (SEQR) when all the requested information has been received. Following the SEQR determination, the Zoning Board of Appeals will then act upon the four Area Variance applications, following which the Planning Board will consider the Subdivision Plat, Special Use Permit and Site Plan applications.

Marilyn Fair (984 Stafford Road) said that she had additional information to share with the board regarding the chemical components of solar panels. She said that this is new information which she acquired since the delivery of her comments at a previous meeting. She also said that she sent a letter to the Planning Board. Mr. Hemminger confirmed the receipt of her letter.

Ms. Fair read from a *NationalReview.com* online article entitled “A Clean Energy’s Dirty Little Secret” by Julie Kelly (Politics & Policy, June 28, 2017) regarding a study by Environmental Progress (a nonprofit organization based in Berkeley, Calif., that advocates for the use of nuclear energy by building a humanistic environmental movement demanding energy justice for all) in which the author writes that Environmental Progress found that solar panels create 300 times more toxic waste per unit of energy than nuclear power plants.

Ms. Fair quoted from the article that “. . . discarded solar panels, which contain dangerous elements such as lead, chromium and cadmium, are piling up around the world, and there’s been little done to mitigate their potential danger to the environment. ‘We talk a lot about the dangers of nuclear waste, but that waste is carefully monitored, regulated and disposed of,’ says Michael Shellenberger, founder of Environmental Progress. ‘But we had no idea there would be so many panels—an enormous amount—that could cause this much ecological damage.’ ”

Ms. Fair said that the [Roger and Carol] Smith farmland could become a future e-waste dump. She asked where Farmington is going to put thousands and thousands of pounds of e-waste. She referred to her letter to the Planning Board in which she listed the chemicals that are used to make solar panels and read aloud the names of the chemicals and the illnesses which could be caused. She asked what are we going to do about this. She said that she is also concerned about the cleaning of the solar panels and the runoff which would flow into the aquifer and contaminate wells. She asked how is any of this going to be resolved. Ms. Fair discussed damage to the solar panels which could be caused by a severe storm. She said that a microburst which occurred about 20 years ago was strong enough to move homes off their foundations and could have torn apart a solar panel.

Linda Heberle (531 Yellow Mills Road) read the following statement into the record of the meeting:

After the first Planning Board meeting that I attended in November, Mr. Hemminger you asked DRS to provide photographs of other projects

which are similar in size to this proposal. What we got were photos of much smaller power plants, like Baer River, which is two megawatts.

You thought that I was inaccurate when I said that this proposed power plant was the largest in upstate New York. Have you found any bigger?

Mr. Viets said that the board must determine that there is no feasible alternative to this site. He said that he wanted to know what alternatives were studied by the applicant and why they were not feasible for this project. Well, DRS reported a lot of reasons why they liked and chose the Yellow Mills site, but never reported any alternatives that they considered.

Ms. Neale also wanted to know what other parcels of land in Farmington were considered. She said that she would be asking for an in-depth review of all landscaping and the applicant's means of providing screening around the property. We all know that this is a corner property and extremely visible. The latest proposal from DRS does practically nothing to mitigate the adverse visual impact of the proposed power plant. This site requires large pine trees surrounding the whole site, not a few in the corner that will grow to four feet in five years, and some bushes, as DRS has proposed.

Planning Board members and Mr. Hemminger, I am asking you to not let these three power plants move forward on your watch. Please don't sacrifice our agricultural land to industrial use—industrial use that will mostly benefit one landowner, one New York City corporation and one New York State governor's political desire to promote solar at the current time.

The Town of Farmington, up to now, has tried to preserve farmland and the rural landscape. Don't be the ones to change that goal and let industry take over our precious farmland, and adversely alter the landscape over the next 40 years. Say "no" to the Special Use use, "no" to the concocted subdivision requests and "no" to this site.

Ginnie Kratzenberg (630 Sheldon Road) said that she did not receive a letter from the Town about this [project] and had to get private letters to know about this in the first place. She said that she was born and raised here and that this is not the old Farmington. She said that she is not against change but that you folks are not doing your work. She said that it should not have been up to that lady [Ms. Fair] to dig up the dirty part of this project. She asked who is looking out for us. She said that she and her husband have lived here all their lives and that she did not believe any of you know us. Ms. Kratzenberg said that what she [Ms. Fair] just said should be a no brainer.

Dale Kratzenberg (630 Sheldon Road) said that Sheldon Farms is one of the very few farms left in the Town of Farmington. He said that he did not think that even five farms are left in the Town—Sheldon, Sadler, Cramer, Bowerman is about it. He said that the

farm is being taken out of Farmington and it is becoming suburbanite. Mr. Kratzenberg said that every year is worse and worse. He said that the big issue for him is that all of a sudden he picked up a flyer and that overnight and all of a sudden we have changed the law that lets solar panels in an agricultural district. He asked who knew about this. He asked how this came about. Mr. Hemminger said that the law was not changed overnight and that this was an action by the Town Board.

Petrina Case (5191 Fox Road) asked the Planning Board to look out for the people of the Town, and the children and grandchildren. She said that she did want to have a New York City company coming into the Town.

Tammy Johnson (126 Yellow Mills Road) said that she has lived here all of her life and bought a home in 1992. She said that her well became contaminated from animal bacteria and is no longer safe. She asked the board to hear her impact. She said that their water does matter and is a natural resource. She said that if cows and animals are affecting the water in our community, and we are drinking it and thinking it is safe, she did not know what the solar panels are going to do.

Walt Pieschke (6349 Cedar Creek Way) said that he has been an upstate New York resident for about 23 years and has been working in the alternative energy business for 30 years. He said that he has worked on solar projects in Canandaigua, Walworth and the Avon Central School District and has not seen any of the challenges that have been brought up here tonight, even with the cleaning [of the solar panels]. He said that that his heart has been in alternative energy for many years and that alternative energy is a great replacement for fossil fuels. He said that this is how he makes his living.

Mr. Pieschke said that a system that he put up on a dairy farm in Skaneateles (N.Y.) has been running for five years. He said you could ask the residents there how it has been for them. He said that he never uses chemicals to clean the solar panels and that it his experience that rain does the cleaning on the solar systems which he has installed. He said that many of the farmers he works with are striving just to make ends meet and are having a real problem doing that. He said that if they have some land that is not fine for agriculture, it could be used for these projects to help them with their electric bills.

Mr. Pieschke said that there is real damage being done to the environment by the burning of fossil fuels. He asked the board to take a look at the advantages of alternate energy sources when you look at the pluses and minuses [of this application]. He said that solar panels get rained on all the time and that he has never seen any pollution from them. Mr. Pieschke also noted that money is put up in a solar agreement from the beginning to take care of the disposal of the panels.

Jim Falanga (395 Ellsworth Road) said that he appreciated Mr. Pieschke's comments but that he (Mr. Pieschke) does not understand that the citizens' group is not opposed to solar energy but is opposed to solar on agricultural lands.

Mr. Falanga asked about the SEQR process for the benefit of the Boy Scouts who are in the audience this evening. He also asked who should be contacted regarding the Notice of Intent which has been requested from the New York State Department of Agriculture and Markets. Mr. Hemminger explained that the Planning Board has determined that it does not yet have all the information required for deliberations on the SEQR, and that the board is awaiting the NOI from the Department of Agriculture and Markets. He said that the 20-day time limit (provided for in the SEQR Regulations) will begin when the board determines that all requested information has been received. Mr. Hemminger also explained that the applicant is working directly with NYSERDA regarding the NOI and that public input should also be provided directly to NYSERDA and the Department of Agriculture and Markets.

Mr. Falanga asked about the wetland delineation verification study which was discussed earlier in the meeting by Mr. Brabant. Mr. Hemminger said that the study is available to the public in the Town Clerk's Office and will be posted upon the Town website. Mr. Brabant again noted that an area on the Smith property could not be verified by a visual inspection and will be further documented and approved by the U.S. Army Corps of Engineers.

Mr. Falanga asked if the wetland delineation verification study shows the drainage. Mr. Brabant said that the drainage off the Smith property is not shown on the wetland delineation. Mr. Falanga said that water from the Smith property drains onto contiguous properties.

Jim Foley (373 Ellsworth Road) made the following statement:

I start and I think in many ways we're on different tracks. I understand it's the Town Board that amended the law, and at least in our discussions with the Town Board we get the impression that no one on the board envisioned that this is what we would be dealing with. This focuses my comments tonight. We're here, and what we hear from you is that this is a process and you may be the last stop for protecting our future and the future of those to come after us. We obviously can't go back to the Town Board now and ask them to undo what they did. We have to rely on you.

As we do our research on this, we find some things that you may be aware of. The State of New York, through a bank owned by the State of New York, is the financing for these programs. And the reason that they are the financing—and I might add it is our money, our tax money—being loaned out to developers for these projects. And the reason that the State has to do it is because no private financial institutions (such as banks like Citi, Chase or Bank of America) are willing to put up the money. They are not willing to put up the money because there is no track record. So effectively—both financially because of our tax money, and practically—we are the experiment. That's not a good position for anyone in this Town to be in.

And while I heard the chairman say we should be asking questions, part of the problem we have to some degree is the lack of information. I have the feeling that if any of us knew that this is what the Town Board was considering back then, we would have had our voices heard then.

So, I guess what I need to know, or ask the board to find out, is the money. What is it that Delaware River Solar gets after the approval? They must have made financial projections as to what their operations will be, what their costs will be, and ultimately how much money will they make. Because as far as we can see, other than Delaware River Solar and the Smiths, nobody else in this Town is getting anything out of this at all. The only thing we get out of it is helping the financing, because we pay the City of New York, and we get the baggage when it's over.

The second thing, and it's on a much more local level, but it's still about the money, is MRB Group—and I respect these people immensely; they were the Town engineers when I was the supervisor, and I know that they have done wonderful work—and now I hear that they hired a consulting firm [to perform the wetland delineation verification]. So maybe if you could—and if it is in the possibilities of what this board can do—could we get some information on how much money we're spending to help Delaware River Solar get approval for something that we don't want.

And I guess that's all I have to say tonight, and I understand that maybe it will be April before we get to the end of the road, but we'll be here. Thank you.

Mr. Brabant said that MRB Group hired DIEHLUX LLC to perform the wetland delineation verification because MRB Group does not have a professional wetland surveyor on its staff. Mr. Morse said that when the Town retains the services of a consultant for work on a project, the applicant is charged for the cost of the consultant. He said that Delaware River Solar would be charged and will pay for the cost of the wetland verification.

Barbara Case (169 Ellsworth Road) said that we have elected in good faith the people of the Town of Farmington. We trust that you will represent us in a democracy for the majority of the people who will be for or against this project. And it appears that most of us are against it—the neighbors—and we have to trust you to protect us and represent us.

Ginnie Kratzenberg (630 Sheldon Road) asked that if Delaware River Solar has trouble getting money for the project, how much money are they going to put down in a savings to clean up the site. Mr. Hemminger discussed the decommissioning plan and explained that the engineers will determine the amount of money to be provided by the applicant. He said that the decommissioning costs would be reviewed on a regular basis throughout the term of the lease agreement.

Linda Zurich (315 Sheldon Road) said that she heard that there is lead in solar panels. She asked if babies and infants would get lead poisoning and would become brain damaged if they drink contaminated water. Mr. Hemminger said that lead is inside the solar panels and that the solar panels are sealed. Ms. Zurich also noted that animals could be affected if lead enters the water system.

A resident of Fox Road asked what is the recourse if the solar project is approved. Mr. Hemminger said that New York State law provides a process for legal challenges if someone wishes to contest a decision by the Planning Board. He advised the resident to speak with her attorney. Mr. Hemminger said that the Planning Board follows the established process to the letter of the law when taking any action, and after that it becomes a court action if there is an aggrieved party.

Paul Tavolette (411 Cline Road) said that he has heard that there are no benefits [to the application] but that he believes that there are benefits and that he feels strongly that way. He said that there is a lot of information that is being shared tonight but that he is not sure how factual it is. He said that solar panels are made up of various materials and—regarding the runoff that we're talking about—he has not heard facts of this happening with any regularity at solar farms. He asked if this information is really factual, and he said that he is not sure.

Marilyn Fair (984 Stafford Road) read from printed material regarding the lifespan of solar panels (20 to 30 years depending upon the environment), temperature, weight of snow and storms which affect the solar panel surfaces. She said that she has material which indicates that microburst storms can bust solar panels apart. She said that 21 years ago she watched as a microburst tore trees out of the ground right on her property. She said that these storms will tear apart solar panels just as well, if it happens, and that it can happen. She said that it can happen, that they [solar panels] are not impenetrable, and that there is no guarantee. She asked what is the guarantee for 20 or 30 years. She also asked about the decommissioning. Will they put these [old panels] in a landfill. Ms. Fair said that in report after report which she had read, nothing is guaranteed and that things can happen.

Jim Falanga (395 Ellsworth Road) asked about the cost of decommissioning. He said that the Delaware River Solar website recommends a decommissioning cost of \$100,000 for a 10-acre site. He said that at least a half-million dollars should be set aside for the decommissioning of this project. Mr. Hemminger said that the decommissioning cost will be established by the engineers.

Mr. Falanga said that for the information of the Boy Scouts in attendance this evening, this is one of the largest solar projects in upstate New York with 21,000 solar panels covering more than 40 acres—the size of 30 football fields.

Also for the Boy Scouts, Mr. Falanga said he has been in touch with Bob Lonsberry (radio host on WHAM 1180 Radio in Rochester, N.Y.). He said that Mr. Lonsberry tried to make it here tonight, but could not make it. Mr. Falanga said—with Mr. Lonsberry's

permission—he would like to read the following article which refers to wind and solar projects. Mr. Falanga said that he felt that it is important to read this. He noted that a gentleman from Canandaigua spoke at last month's meeting and was never interrupted. He asked for the same in-kind ability to read the following article.

Mr. Falanga then read the following article in the record of the meeting:

The Monsters on the Ridge

By Bob Lonsberry © 2018

In this day and age, are we going to look the other way as community after community across upstate New York is stuck with alternate-energy monstrosities that destroy ancient vistas and oppress local interests?

Do we not see the injustice of far-away companies using government subsidies to force whole communities into the shadow of desecrations that salve the conscience of big-city progressives and enrich distant corporations but scar the birthright and psyche of rural New York?

One generation of elites forced open-pit mining onto southern Appalachia, and another is forcing grotesque wind turbines onto northern Appalachia. The connection is powerlessness, and the belief of one group of people that they have the right to destroy the homeland of another group of people.

We are a dumping ground, and no one will hear our voice.

We are upstate New York, and the city sends us its trash and its convicts.

Its prisons dot our countryside, and its garbage dumps befoul our highways, air and water.

And now its windmills stand watch on our ridges, like alien invaders, colonizers sent upstate by politicians, activists and profiteers to keep us in line.

To forever scar the wooded horizons which have been our home for two centuries, and home to our Iroquois predecessors for millennia untold before that. The way it has always been is no longer to be. The landscape carved by God and glaciers is scarred now by motionless turbine towers, slapped across our home like the mark of a dog that has pissed against a tree.

The Big Dipper and Orion, each in their season, have climbed above the hills of dozens of home valleys, to be seen by thousands of years of humankind, but no more. Not without the obscuring hulk of steel and the reminder that new gods reign.

The gods of profit and politics, lording it over a people in poverty.

Monuments of subjugation.

Yes, making payments to the occasional landowner, and buying off the quislings in town government too lazy or stupid to balance a budget otherwise. It is a mess of pottage given to few to despoil and destroy the birth-right of many. It is the vagary of greed and political opportunism set afire in the lives and homes of people whose homelands will never look or truly be the same.

We love these forested hills and the skies above them.

They are sacred to us.

We see God in them, we feel our ancestors in them, our children will grow beneath them.

And they are taken from us so a politician gets a campaign boost and a profiteer gets a government subsidy.

For scarcely any good.

The turbines seldom turn, and the winter skies are the second-cloudiest in the country. And if everything worked all the time the area electrified would be smaller than the area despoiled.

But because the government subsidizes these projects, and because the governor wants to look green, and because the state has so ravaged our economy, and because we have no true voice whatsoever in state government, the towers go up, and the fields are papered over with solar arrays.

And the state legislators, counting campaign contributions from corporations far away, tout our despoiling as a profitable exchange, and a great boon, and proclaim themselves our benefactors.

They are right. Money is exchanged. Just as there is money exchanged in prostitution. But the recipient of that money is not truly benefited, and neither are we.

We are conquered. We are disrespected.

We lose the one thing we thought was ours forever—the sight of the far hills, the soil and the trees and the sacred line between forest and sky. Fields where rain falls and sun shines and where, if the farmer leaves it

fallow, the meadow and then the scrub and the wood follow. Fields where now the soil will be darkened, deprived of sun, so that con men scamming a government program can buy themselves luxury far away.

They are the mark of the beast upon our land.

The tokens of subjugation.

We hate them, we don't want them, they wound us to the core and disrespect our land and our history, and the land the history of the people who went before us.

And yet they will come.

Because we are powerless.

Or so the people in the city and the Capitol think.

Mr. Falanga said that the Farmington Agriculture Advisory Committee, chaired by Hal Adams, came out against large-scale solar projects in the Town. Mr. Falanga said that Mr. Adams—at one of the previous Public Hearings—advised to follow the money, and that the money for this project is coming from us—the taxpayers. Mr. Falanga said that if this goes through, people will see the money coming out of their pockets—money that could be going to your families—for the next 35 years to pay for this.

Mr. Hemminger—after asking for any additional new information and hearing none—then opened discussion to the members of the Planning Board.

Mr. Viets thanked everyone tonight for the comments and questions. He noted that upon reviewing this material he may likely have additional questions for the applicants to enter into the record.

Ms. Neale thanked everyone for their input, which she also appreciated.

Mr. Maloy thanked everyone for their comments. He encouraged residents to come out and become involved in other applications, as well.

Mr. Hemminger said that he also appreciated all the comments from the residents which have been entered into the record. He said that he does not take offense to their not understanding that the Planning Board members actually care. He said that the members are appointed to the Planning Board—not elected—and that residents can count on the board to follow the rules and regulations and to do what makes sense in the big picture of things. He said that the board has a job to do and that he believes that the board members continue to receive training that is required by the Town Board in order to do a good job.

Mr. Hemminger said that he shares Mr. Maloy’s comments and that he hopes that residents will take an interest in their Town government and become familiar with other projects which also could affect them.

Mr. Hemminger said that the board will now consider the draft resolution prepared by the Town staff to continue the Public Hearings to Wednesday, April 17, 2019, at 7:00 p.m. He said that a new public notice would be given if additional information is received which could cause the hearing date to be moved up to an earlier date, but that he did not think that this would occur, based upon the information that has been received to date.

There were no further comments or questions on this application this evening.

Mr. Hemminger then asked the clerk to read aloud the following resolution:

**TOWN OF FARMINGTON PLANNING BOARD RESOLUTION
DELAWARE RIVER SOLAR LLC
CONTINUATION OF PUBLIC HEARINGS**

- ZB #0902-18 Area Variance Application (SEQR Determination)**
- ZB #0903-18 Area Variance Application (SEQR Determination)**
- ZB #0904-18 Area Variance Application (SEQR Determination)**
- ZB #0905-18 Area Variance Application (SEQR Determination)**
- PB #1003-18 Preliminary Subdivision Plat Application**
- PB #1004-18 Preliminary Site Plan Application**
- PB #1006-18 Special Use Permit Application**

APPLICANT: Delaware River Solar LLC, 33 Irving Place, New York, N.Y. 10003, on behalf of Roger and Carol Smith, owners of property at 466 Yellow Mills Road

ACTIONS: Preliminary Subdivision Plat, Preliminary Site Plan, Special Use Permit and Area Variance applications for the development of a 7-megawatt solar farm on approximately 35 acres of land at 466 Yellow Mills Road

WHEREAS, the Planning Board has opened the Public Hearings at tonight’s meeting upon the proposed Special Use Permit, Preliminary Subdivision Plat and Preliminary Site Plan applications referenced above (hereinafter referred to as Actions); and

WHEREAS, the Planning Board has received testimony at tonight’s Public Hearings upon said Actions; and

WHEREAS, the Planning Board as the designated Lead Agency under the State Environmental Quality Review (SEQR) Regulations has received additional information from the general public, the applicant and the New York State Department of Agriculture and Markets (NYSDAM) which is now under review; and

WHEREAS, NYSDAM, an Interested Agency participating in the coordinated review of this Action, considers non-residential solar arrays to be commercial facilities as defined in 1 NYCRR Part 371.2 (4) (h) 9i), (ii) and (iii), which if located within an Agricultural District, such as this Action is, and the sponsor receives funding from NYSERDA under the Clean Energy Standard or the NY-Sun Commercial and Industrial program, then a Notice of Intent (NOI) must be prepared through NYSERDA and filed with the Department of Agriculture and Markets; and

WHEREAS, the Planning Board has received today from the New York State Department of Agriculture and Markets (NYSDAM) an e-mail that states “. . . as of this date no documentation in regards to an NOI for the Delaware River Solar project has been received;” and

WHEREAS, NYSDAM, in their e-mail reports that it could be at least two-and one-half months depending upon when NYSERDA submits this NOI to the Commissioner of Agriculture and Markets, before this project could be deemed complete.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby determine that it is not, at this time, in receipt of all information that it may reasonably need to make the required determination of significance; and that the 20-day time limit specified in Section 617.5 (3) (ii) of the SEQR Regulations shall not commence until such time as the Board determines that it is in receipt of all necessary information to enable it to consider how this information relates to the Board’s completing Parts 2 and 3 of the Full Environmental Assessment Form.

BE IT FURTHER RESOLVED, that the Planning Board continues to determine that a copy of the Notice of Intent filed with the NYSDAM be provided to the Board, as it is considered important documentation that examines and addresses impacts to land, farm enterprises and agricultural resources with the Agricultural District and that the applicant must demonstrate how such impacts will be avoided or minimized.

BE IT FURTHER RESOLVED that the Planning Board does hereby move to table any further discussion upon the above referenced Actions; and moves to continue the Public Hearings thereon, to 7:00 p.m. on April 17, 2019, to provide time for the requested NOI process to be deemed complete by NYSDAM.

BE IT FURTHER RESOLVED that the Planning Board does hereby instruct the Clerk of the Board to provide by U.S. Mailing, a certified copy of this resolution to the applicant, the Involved and Interested Agencies and to the Town Clerk.

BE IT FINALLY RESOLVED that the Clerk of the Board is to provide copies of this resolution to: the Town Highway and Parks Superintendent; the Town Water and Sewer Superintendent; the Town Code Enforcement Officer; the Attorney to the Town; the Town Director of Planning & Development; and the Town Engineering Firm, MRB Group, D.P.C., Attn: Lance S. Brabant, CPESC, Director of Planning Services.

■ A motion was made MS. NEALE, seconded by MR. BELLIS, that the preceding resolution be approved.

Adrian Bellis	Aye
Edward Hemminger	Aye
Shauncy Maloy	Aye
Mary Neale	Aye
Douglas Viets	Aye

Motion carried.

Mr. Hemminger then recessed the meeting at 8:05 p.m. to permit those wanting to leave with the opportunity to do so.

The public meeting was reconvened at 8:15 p.m.

4. PLANNING BOARD ACTION ITEMS

Letter of Credit Release:

*Cerone Incentive Zoning Project (MIII Enterprises), Section 1:
Partial Letter of Credit Release #3*

Letter of Credit Establishment:

*Meyer's RV Superstore of Farmington:
Letter of Credit Establishment for Site Improvements*

■ A motion was made by MR. MALOY, seconded by MR. BELLIS, that the following two resolutions be blocked for concurrent action, that the readings of the resolutions be waived, and that the resolutions be approved as submitted by Town staff:

TOWN OF FARMINGTON PLANNING BOARD RESOLUTION

PARTIAL LETTER OF CREDIT RELEASE #3

CERONE INCENTIVE ZONING PROJECT (MIII ENTERPRISES LLC), SECTION 1

WHEREAS, the Town of Farmington Planning Board (hereinafter referred to as Planning Board) has received from the Town Director of Planning and Development (hereinafter referred to as Director) a request to consider a partial release of funds from the established Letter of Credit for site improvements located within Phase 1 of the Route 332, MIII Project; and

WHEREAS, the request is based upon a letter to the Director from Lance S. Brabant, CPESC, MRB Group, D.P.C., the Town Engineer, dated January 11, 2019, which requests a partial release of funds being held in the Letter of Credit for the above referenced project in the total amount of \$121,923.40; and

WHEREAS, the request has been reviewed by the Town Construction Inspector and the Town Engineers with both finding the quantities and prices identified in the document to be consistent with the final site improvements to date; and

WHEREAS, the Town Department Heads have completed their reviews and signed-off on both Letter of Credit Release Form, Appendix G-2.0; and Letter of Credit Form, Appendix G-1.0; and

WHEREAS, under the provisions of Chapter 144, Section 32. of the Farmington Town Code, the Planning Board is to render recommendations to the Town Board whether or not to honor partial releases of funds from a Letter of Credit.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board, after having reviewed the file on this project and the recommendations from the Town Construction Inspector, the Town Engineer and the Town Department Heads, does hereby confirm this request and recommends that the Town Board take formal action to accept the requested partial release (Release #3) from the Letter of Credit, in the total dollar amount of \$121,923.40.

BE IT FINALLY RESOLVED that the Clerk of the Board is hereby directed to provide copies of this resolution to: Michael Cerone, MIII Enterprises LLC, P.O. Box 509, Webster, N.Y. 14580; Paul Colucci, Executive Vice President, DiMarco Group, 1950 Brighton–Henrietta Town Line Road, Rochester, N.Y. 14623; the Town Highway and Parks Superintendent; the Town Water and Sewer Superintendent; the Town Code Enforcement Officer; the Town Construction Inspector; the Town Engineer; and the Director of Planning and Development.

TOWN OF FARMINGTON PLANNING BOARD RESOLUTION

LETTER OF CREDIT ESTABLISHMENT

MEYER’S RV SUPERSTORE OF FARMINGTON, 6186 AND 6200 STATE ROUTE 96

WHEREAS, the Town of Farmington Planning Board (hereinafter referred to as Planning Board) has received a request dated January 14, 2019, from Lance S. Brabant, CPESC, MRB Group, P.C., the Town Engineer, to approve a Letter of Credit for site improvements to be located within the above referenced project; and

WHEREAS, the Planning Board has also received and reviewed the Letter of Credit along with the Engineer’s Estimates of Value attachment thereto; and

WHEREAS, under the provisions of Chapter 144, Section 32. F. of the Farmington Town Code, the Planning Board is to render recommendations to the Town Board whether or not to honor the requested establishment of the Letter of Credit.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board, after having reviewed the file on this project and the recommendations from the Town Construction

Inspector and the Town Engineers, does hereby recommend that the Town Board take formal action to approve the request to establish of Letter of Credit for Section 1 site improvements in the total amount of \$357,134.72.

Adrian Bellis	Aye
Edward Hemminger	Aye
Shauncy Maloy	Aye
Mary Neale	Aye
Douglas Viets	Aye

Motion carried.

5. **OPEN DISCUSSION**

Director of Development and Planning:

Mr. Brand commented on the following topics:

An Incentive Zoning application is expected to be presented to the Town Board by Farmington Center LLC on January 22, 2019, for a development project at the Farmington Market Center (Tops Supermarket/former Wade's Supermarket site) at 6139–6179 State Route 96. Due to the current market demand for commercial space, the original overall concept of expanding the existing supermarket by 48,000 square feet has been eliminated. The applicant now proposes a Tops Fuel Station, a freestanding Canandaigua National Bank, and a freestanding Mavis Tire Center in Phase 1; and three commercial outbuildings in Phase 2. Mr. Brand said that the Town Board will request a Report and Recommendation from the Planning Board on this project. Mr. Brand will provide a draft Report and Recommendation for the Planning Board's consideration at the meeting on February 20, 2019.

Code Enforcement Officer:

Mr. Morse reported that applications for Section 1 of Hathaway's Corners and for the Final Site Plan for Meyer's RV Superstore of Farmington have been received and are now being reviewed in the Building Department.

Mr. Morse said that a template has been created by MRB Group for improved tracking of the various stages of projects in progress.

Mr. Morse announced that he has accepted a new position as Code Enforcement Officer in the Town of Gorham, effective February 4, 2019. He expressed his appreciation to the Planning Board for their support during his years in Farmington and noted that he will be as helpful as possible during the transition.

Town Engineer:

Mr. Brabant reported that the project template to which Mr. Morse referred includes information on the filings and status of Letters of Credit, dedication materials, stormwater maintenance agreements, and inspection reports, among other project details.

Planning Board Chairperson:

Mr. Hemminger thanked Mr. Giroux and the staff of the Farmington Highway Department; and Mr. Giroux, Assistant Chief Weidenborner and the members of the Farmington Volunteer Fire Association for their assistance in arranging this meeting to be held in the Highway Department and for the use of the public address system and computer projector.

Mr. Hemminger also noted that he is working on the revisions to the 2019 Rules of Procedure which were discussed at the Organizational Meeting on January 12, 2019. He said that he will have the updated draft shortly for board and staff review.

5. ADJOURNMENT

■ A motion was made MR. MALOY, seconded by MR. VIETS, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:30 p.m.

The next regular meeting of the Planning Board will be held at the Farmington Town Hall, 1000 County Road 8, Farmington, N.Y. 14425, on Wednesday, February 6, 2019, at 7:00 p.m.

Respectfully submitted,

John M. Robortella, L.S.
Clerk of the Farmington Planning Board