

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, August 26, 2019, 7:00 p.m.

MINUTES—APPROVED

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 Zoning Board of Appeals. 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 Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.

Board Members Present: Timothy DeLucia, *Chairperson*
Jill Attardi
Jeremy Marshall
Nancy Purdy

Board Member Excused: Thomas Yourch

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
Dan Delpriore, Town of Farmington Code Enforcement Officer
John Weidenborner, Town of Farmington Zoning Officer

Applicants Present:
Daniel Compitello, Solar Project Developer, Delaware River Solar, 130 North Winton Road, #415, Rochester, N.Y. 14610
Dan Crowley, Farmington United Methodist Church, 5925 County Road 41, Farmington, N.Y. 14425
Pastor Jeff Long, Farmington United Methodist Church, 5925 County Road 41, Farmington, N.Y. 14425
John and Erin Lord-Astles, 4949 Fox Road, Palmyra, N.Y. 14522
David Matt, Project Engineer, Schultz Associates Engineers and Land Surveyors PC, 129 S. Union Street, Spencerport, N.Y. 14559
Terence Robinson, Esq., Boylan Code LLP, 28 South Main Street, Canandaigua, N.Y. 14424
Roger and Carol Smith, 4790 Fox Road, Palmyra, N.Y. 14522

In Attendance:
Edie Chapman, 230 Ellsworth Road, Palmyra, N.Y. 14522

James and Nancy Falanga, 395 Ellsworth Road, Palmyra, N.Y. 14522
 James Foley, 373 Ellsworth Road, Palmyra, N.Y. 14522
 Edward Hemminger, 5900 King Hill Drive, Farmington, N.Y. 14425
 Frances Kabat, Esq., The Zoghlin Group PLLC, 300 State Street, Suite 502,
 Rochester, N.Y. 14614
 James Redmond, for 4500 Fox Road, 175 Burnham Heights, Palmyra, N.Y. 14522
 Stacey Vandenburg, 259 Ellsworth Road, Palmyra, N.Y. 14522
 Several others who did not sign in

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and explained the emergency evacuation procedures.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 25, 2019.

2. APPROVAL OF MINUTES OF JULY 22, 2019

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the minutes of the July 22, 2019, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper (the Town's official newspaper) on Sunday, August 18, 2019, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), and that it was posted upon the Town Clerk's bulletin board in the foyer of the Town Hall:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 26th day of August 2019, commencing at 7:00 p.m., at the Farmington Town Hall, 1000 County Road 8, in the Town of Farmington, Ontario County, New York 14425 to consider the following applications:

ZB #0801-19: FARMINGTON UNITED METHODIST CHURCH, 5925 COUNTY ROAD 41, FARMINGTON, N.Y. 14425:

Request an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect a thirty-two (32) square foot free-standing commercial speech sign with moving/motion signage to be located along the southeast corner of the intersection of New York State Route 332 and County Road 41. The property is located at 5925 County Road 41 and zoned RB Restricted Business.

ZB #0802-19: FINGER LAKES WILDLIFE CENTER INC., 4949 FOX ROAD, PALMYRA, N.Y. 14522: Request a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Farmington Town Code. The applicant wishes to operate an Ecological Visitor’s Center with environmental education programs and exhibition of native New York State flora and fauna. Days and hours of operation would be Monday, Wednesday, Saturday and Sunday from 11:00 a.m. to 4:00 p.m. The property is located at 4949 Fox Road and zoned A-80 Agricultural.

ZB #0803-19: FINGER LAKES WILDLIFE CENTER INC., 4949 FOX ROAD, PALMYRA, N.Y. 14522: Request an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect a 1,280-square-foot accessory structure in the front yard portion of their lot located at the southwest corner of County Road 28 and Fox Road. The property is located at 4949 Fox Road and is zoned A-80 Agricultural.

SAID BOARD OF APPEALS WILL MEET at said time and place to hear all persons in support of, or having objections to, such matter.

Tim DeLucia, Chairperson, Zoning Board of Appeals

4. CONTINUED PUBLIC HEARINGS

ZB #0902-18 Delaware River Solar LLC Area Variance
33 Irving Place
New York, N.Y. 10003

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on proposed Lot 2 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

ZB #0903-18 Delaware River Solar LLC Area Variance
33 Irving Place
New York, N.Y. 10003

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on proposed Lot 3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

ZB #0904-18 Delaware River Solar LLC Area Variance
33 Irving Place
New York, N.Y. 10003

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on proposed Lot 3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum front setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

ZB #0905-18 Delaware River Solar LLC Area Variance
33 Irving Place
New York, N.Y. 10003

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on proposed Lot 4 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum front setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

This project was discussed at the Project Review Committee (PRC) meetings on August 3, 2018, and September 7, 2018.

Mr. DeLucia reconvened the Public Hearings on ZB #0902-18, ZB #0903-18, ZB #0904-18 and ZB #0905-18 which were opened by the Zoning Board of Appeals on September 24, 2018; and which were continued on November 26, 2018; December 17, 2018; January 28, 2019; April 22, 2019; May 20, 2019; June 24, 2019; and July 22, 2019.

(The Public Hearings on the Preliminary Four-Lot Subdivision, Preliminary Site Plan and Special Use Permit applications were opened by the Planning Board on November 7, 2018, and were continued on December 5, 2018; January 16, 2019; April 17, 2019; May 15, 2019; June 5, 2019; July 17, 2019; and August 7, 2019.)

The following actions were approved by the Planning Board on August 7, 2019:

- Acceptance of a Complete Part 2, Full Environmental Assessment Form
- Acceptance of a Complete Part 3, Full Environmental Assessment Form
- State Environmental Quality Review (SEQR) Determination of Significance—
Negative Declaration
- Continuation of the Planning Board Public Hearings on the Preliminary Four-Lot Subdivision, the Preliminary Site Plan and the Special Use Permit applications to September 4, 2019

Mr. Compitello and Mr. Robinson presented the Zoning Board of Appeals applications this evening.

Mr. Compitello said that the proposed 7 MW total combined community solar system would be tied directly into the electrical grid to provide power to the community and to the surrounding communities. He said that this evening's presentation is the 29th meeting in the Town at which this project has been discussed since July 2018 when it was first proposed.

Mr. Compitello introduced Mr. Robinson, the legal counsel for Delaware River Solar (DRS), who delivered the following statement into the record of the meeting regarding the reasons for the four Area Variance applications:

Good evening, members of the board. . . . I would like to address a couple of procedural items. As Dan said, this project was initially presented to the Town back in June 2018 and DRS filed its application for the Area Variances in August of 2018.

The variance request is specifically directed to Section 165-65.3 of the Town of Farmington Code, and within that section it's Subsection F and then Subsections (1) (b) [1] which address setbacks. Essentially, what that section says, is that for large-scale solar projects, the setback is whatever the standard setback is for that parcel plus 120 feet, unless—and there's an exception to that—and the exception is if you can demonstrate first that the property contains prime or unique soils and, secondly, that the land is actively farmed.

So when DRS submitted its application, the prior Code Enforcement Officer (Mr. Morris) requested that Delaware River establish that exception by providing a soil analysis to determine whether the parcel had those prime and unique soils, classified as Groups 1–4. DRS submitted that, in conjunction with its Planning Board applications, and has also submitted that to the Zoning Board that was submitted in December 2018, and in fact it did establish that the parcels contained soil Groups 1–4—these unique or prime soils—and that the parcel is actively farmed.

As a result, there has been a determination made by the Code Enforcement Officer that the exception does apply and that the required setback for the variance application is 40 feet.

However, because the initial application was made before the soil analysis study was done, and before it was determined that the exception applied, the notice of Public Hearing has gone out with the standard setback requirements—the minimum for that property plus 120 feet.

So tonight, in order to clarify and clear some of that up, what we would request is that the ZBA simply allow Delaware River to amend its application—now that we have a determination by the Code Enforcement Officer that the required minimum setback is 40 feet—and we will submit some additional material directly to that point, and adjourn this to the board's September 23rd meeting date. And in conjunction with that, issue a revised and corrected Notice of Public Hearing stating that the application is a request for a variance of 20 feet from the minimum setback of 40 feet.

If the board has any questions on that procedural issue, I'm happy to address that. If the board would like to hear a substantive presentation about the requested variances, Mr. Compitello is prepared to present that information.

—Terence Robinson, Esq.
Boylan Code LLP, Canandaigua, N.Y. 14424

Mr. Compitello said that he and Mr. Robinson are available to provide further details regarding a “refresher” about the project now that the Planning Board has issued a State Environmental Quality Review (SEQR) negative declaration. Mr. DeLucia said that this would not be necessary this evening.

Mr. DeLucia then introduced Mr. Hemminger, chairperson of the Farmington Planning Board. Mr. Hemminger reported that the Planning Board completed the SEQR process on August 7, 2019, and issued the negative environmental declaration. He said that the Planning Board addressed each of the issues which were raised during the SEQR public review process, compared these issues to the criteria contained in the SEQR regulations, and found that mitigation options have been identified for the moderate to large environmental impacts that were identified by the Planning Board. He said that the Planning Board requested that the applicant provide a geotechnical study to address ground water and bedrock concerns. Mr. Hemminger said that—in the end—the Planning Board made an informed decision that each of the potential moderate to large adverse issues could be mitigated, that there would be no significant environmental issues, and that this action satisfied the SEQR regulations, thereby allowing the Zoning Board of Appeals to move forward with its deliberation of the four Area Variance applications.

After speaking with Mr. Brand prior to the meeting, Mr. DeLucia said that it is his understanding that rather than continuing the deliberation to the September [Zoning Board of

Appeals (ZBA)] meeting, the ZBA could act upon the variances this evening. He referred to the draft resolutions that were submitted by the Town staff prior to the meeting. The draft resolutions recommend denial of the Area Variance applications. Mr. DeLucia said that Delaware River Solar could resubmit an application to the Building Department for 40-foot setbacks—rather than 20-foot setbacks—and that a resubmitted application for 40-foot setbacks would not require Area Variances, based upon the Code Enforcement Officer's updated interpretation.

Mr. Brand said that the applications that have been before the ZBA all these many months are for granting Area Variances to allow 20-foot front and rear setbacks when, according to the Town Code, 40 feet is required. He said that this is, of course, the interpretation of the current Code Enforcement Officer.

Mr. Brand said that another concern identified tonight is that an amendment to the current Area Variance applications would require that the Town publish a new Legal Notice specifying what Delaware River Solar is applying for. He said that the decision that the ZBA may make this evening is to basically conclude that the interpretation of the previous Code Enforcement Officer was in error, that the minimum setback is 40 feet from any property line, and that the four Area Variance requests to allow 20-foot setbacks be denied.

Mr. Brand said that a new application would have to be referred to the Ontario County Planning Board [for review] because it would be substantially different from the original application. He said that there is a great deal of case law in which courts have ruled that if an application was not resubmitted to a County board, the courts have returned the application to the local board with an order that the revised application be referred to the county board.

Mr. DeLucia asked if an amendment to the application is appropriate. Mr. Brand said that an amendment to the application is not appropriate. He said that the ZBA has applications before it and that the applications are ready to be acted upon tonight. He said that to ask that they be amended and not acted upon tonight would be regarded as new applications. Mr. Brand said that his comments this evening are based upon his experience.

Mr. Delpriore said that there was an exception, as discussed earlier this evening by the applicant, that there had to be active farming activity [on the parcel] and that there had to be prime soils. He said that the applicant meets both of these criteria and that he is in agreement with setbacks of 40 feet as is provided for in the Town Code.

Mr. Delpriore said that the interpretation by the previous Code Enforcement Officer was made based upon his interpretation of what he felt the Town Code required. Now, however, with information that has since been provided as part of the coordinated review process [reference to detailed site soil classifications mapping], it is clear to him what the Town Code provides for. He said that he has been able to make a more informed interpretation at this time based upon the additional information that has been received since the application was first submitted.

Mr. Delpriore requested that his interpretation of 40-foot setbacks be included in the record of the meeting this evening. He confirmed that the application meets the two exception conditions (i.e., that the land is actively farmed and that prime soils are on the property).

Mr. Robinson said that the initial application on August 14, 2018, was framed within the 40-foot exception. He read a portion of the application, as follows:

“DRS is requesting that the 40-foot setback on each side of the subdivided property be reduced to 20 feet on each side of the property line for the following reasons. . . .”

Mr. Robinson said that the company’s initial calculation was that the exception would apply. He said that it was preliminary and some additional information [was submitted], to determine applicability. He said that DRS has done that now, and that this evening’s request is not necessarily an amendment of the DRS application.

Mr. Robinson said that the DRS application has been clear from the beginning. He said that they are now requesting a correction to the Notice of the Public Hearing which was based upon the preliminary interpretation of the Code Enforcement Officer prior to the submission of the soil analysis demonstrating that DRS qualifies for the exception and that the property has prime and unique soils.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application, or ask questions.

Ms. Kabat (the attorney for a group of residents and landowners) delivered the following statement into the record of the meeting:

Hello, my name is Frances Kabat. I think that most of you know me by now. I’m an attorney with the Zoghlin Group, and my firm represents a group of citizens concerned about the impacts of solar development in the Town of Farmington. My clients have been to Planning Board and ZBA meetings regarding this project.

My office submitted a letter in May in opposition to the applicant’s variance applications. I would like to highlight a few points from that letter.

The applicant’s requested variances should be denied for the following reasons:

1. The applicant’s area variances, if granted, will result in an undesirable change in the community. Severely reducing the interior setbacks between the three proposed solar facilities will transform the Project Site into a massive industrial use sited in a pastoral agricultural neighborhood. The fact that solar developments are allowed as specially permitted uses does

not obviate the need for the Town to review the details of the solar development to determine if it conforms to the character of the surrounding neighborhood and community.

Additionally, the severely reduced setbacks will only serve to emphasize the Project's scale and density, potentially distracting drivers and creating safety issues for drivers and pedestrians at the Yellow Mills Road/Fox Road intersection.

2. Moreover, the applicant has not demonstrated that the relief it seeks cannot be achieved by some feasible method other than the requested setback. It appears that the applicant's desire to break the project up into separate tax parcels is motivated by its desire obtain PSC funding, which limits the cap size of individual projects. However, the economic viability of the project is not a consideration in the ZBA's decision to grant a variance.

3. Additionally, the applicant's requested variances are substantial: the developer seeks variances reducing interior setbacks to 20 feet, which essentially eliminates interior setbacks between the three proposed solar facilities and the parcels on which they are sited.

4. Further, the proposed variances will have an adverse effect on the physical and environmental conditions in the neighborhood. The proposed action converts prime agricultural farmland into a 7MW industrial scale solar facility. The Project will result in the physical disturbance of at least 1.1 acres and the project will require creation of an access road, burying of electric cables, installation of a steel post support structure for 21,000 solar arrays, construction of a concrete pad for each solar system and installation of inverter and transformer equipment.

Placement of an industrial solar facility of that scale on agricultural land is inconsistent with the goals and recommendations of the Town's Comprehensive Plan and the County's Agricultural Enhancement Plan. Moreover, there is no proof before this Board to refute documented concerns about impacts to wetlands, site drainage and farmland preservation.

5. Finally, the applicant's difficulty was wholly self-created as its requests for area variances are based on the configuration of its site plan and the applicant's desire to obtain PSC funding for its solar project.

Per Town Law, if the ZBA elects to grant a variance, it must grant the minimum variance necessary to relieve the hardship. However, the Applicant has failed to demonstrate that another site plan configuration or fewer solar panels would satisfy the required minimum setbacks achieving the same goals.

Thank you.

—Frances M. Kabat, Esq.
The Zoghlin Group, PLLC, Rochester, N.Y. 14614

Mr. Foley (373 Ellsworth Road) delivered the following statement into the record of the meeting:

Basically three points I'd like to raise, two of them directly addressing what Dan (Compitello) has repeated said over and over again at every meeting.

First, he tells us that this is a community-based project. We've been attending all of the meetings. It is not this community's-based project. The opposition has been overwhelming since the very first time this has been brought before any of the boards. It sounds nice but it's a sales pitch.

Number two. That the electricity that is generated will be a benefit for this community and local communities. The electricity that's generated is going to the grid. The grid is not going to be able to figure out—oh, this is some electricity that came from that nice site in Farmington, and we're going to send it. No. No. No. It's not going to benefit us. It never could. It never will.

The last one, and the most important. Mr. Brand pointed [this] out. We're here as a result of that fact that this is a Public Hearing that has been required to do Legal Notices. You can't, under those circumstances. Because the new thing today are the proposed resolutions that the board has before it. That's the only new thing. And now, because that new thing is here, we suddenly come up with this idea that, well, we can just slide through an amendment. No big problem. No.

What you have before you is what you have before you. And that's what your proposed resolutions are going to address. If they [DRS] wish to change, if they wish to move on to some new opportunity or new project, then they have to present a new application, because then the public, once again, is entitled to know about that; and the public, once again, is entitled to come and let this board, and all other boards, know how we—the public—this community—actually feels about this program.

I would urge to follow Mr. Brand's advice, because I think that legally it is absolutely 100 percent on the money—you can't change what goes on a Public Hearing because the applicant suddenly decides—at five minutes to seven—we need to change our game. We have what we have, and that's what we vote on.

Thank you.

Ms. Attardi asked for a clarification about the electricity that would be coming into the grid [from the solar system] and how this electricity will benefit the community.

Mr. Compitello said that electricity is generated from a number of sources including coal, gas, nuclear, hydro, wind and solar, which pours into the grid every day and every hour. He said that the electricity to be generated from this project would go to anyone in the Rochester Gas & Electric (RG&E) service area.

Mr. Compitello said that the way that the electricity will benefit the community is that not everyone can afford—or have the ability—to install a solar system on their property or on a rooftop. He said that not everyone would like to maintain an individual solar system over the life cycle of the system. He said that what a community solar farm does is to allow people to directly access the electricity generated by a solar farm.

He said that RG&E owns the meters on everyone's home and business. He said that RG&E reads the meters to determine how much power has been used and how much power the solar farm will produce every month. He said that the electricity produced by the solar farm will be metered.

Mr. Compitello said the electricity produced by a 7 MW solar farm would provide a certain amount of power throughout the year. He said that this amount is divided by about 10,000 KW hours of electricity used by an average home in one year. This calculation would determine how many spaces that the solar farm could provide in the course of the year. He said that a solar farm will not provide the same rate of electricity in the winter as in the summer, but that over the course of a year it will be able to offset the total energy usage by the calculated number of homes. He said this is how the company is able to say that people are connected to 100 percent of renewable solar energy by subscribing to a local solar farm.

Mr. Compitello said that another benefit in terms of value is that the power is sold at a 10 percent discount below the prevailing utility rates. He said that DRS is able to sell the power 10 percent cheaper than RG&E is able to sell power to its energy providers. He said that this is a fixed rate during the course of the solar farm.

He said that another benefit is that a landowner can reinvest the lease rate back into his or her farm. Mr. Compitello said that this is what Roger and Carol Smith wish to do. He said that he has worked with them very closely to design a solar farm that works well for their land. He said that one of the reasons for the Area Variances with this application is to shrink the amount of interior space to be taken up on the land and to allow the movement of the farm animals between the solar sections.

Mr. Compitello said that another benefit to the Town and to the County are the additional taxes to be paid over the current property taxes now being collected on the land.

He said that a solar farm is another step in helping New York State reach its energy goal of generating 70 percent of its electricity from renewable energy sources by 2030 and the generation of 100 percent of carbon-neutral energy by 2050. He said that solar energy is 100 percent carbon neutral and sends energy into the grid through a passive system.

Mr. Compitello said that an electric grid (lines and equipment) is updated whenever a solar farm is connected to it. He said that his company pays a substantial amount of money for the modernization of the system which provides better protection against brownouts and blackouts. He said that solar farms help to strengthen the energy grid.

Mr. Falanga (395 Ellsworth Road) said that he would like to provide background information for Ms. Attardi. He requested that she read the 30+ SEQR letters from residents, which are more than heartfelt, in opposition to this application. He said that these letters indicate that the application stands in contrast to the Town's Comprehensive Plan that calls for the that quadrant of the Town to be open, rural, non-industrial and non-commercial. He requested that she listen carefully to the comments of the Tompkins County assessor who said that one has to watch everything that they (Delaware River Solar) say. Mr. Falanga said that it has been said at past meetings that the Town will not benefit one penny from this, except for the application fees.

Mr. Redmond (for 4500 Fox Road) asked if the board members have read the environmental engineering evaluation on the Yellow Mills Road solar project submitted by Rod Prosser, P.E., President, Lakeside Engineering P.C. (#122 on the Delaware River Solar correspondence abstract, August 1, 2019). Mr. DeLucia said that the board has received this report. Mr. Redmond presented a hard copy of this report to Ms. Attardi.

Mr. DeLucia then asked if anyone else wished to comment or ask questions on these applications. There were no further comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearings on the Delaware River Solar Area Variance applications (ZB #0902-18, ZB #0903-18, ZB #0904-18 and ZB #0905-18).

5. NEW PUBLIC HEARING

ZB #0801-19	United Methodist Church	Area Variance
	5925 County Road 41	
	Farmington, N.Y. 14425	

The applicant is requesting an Area Variance to Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect a thirty-two (32) square foot free-standing commercial speech sign with moving/motion signage to be located along the southeast corner of the intersection of New York State 332 and County Road 41. The property is located at 5925 County Road 41 and is zoned RB Restricted Business

Mr. DeLucia opened the Public Hearing on this application.

Pastor Long and Mr. Crowley presented this application.

Mr. Crowley said that the proposed lighted sign will have no motion or moving lights. He said that a fixed message will remain in place and would only be changed from time to time.

Mr. Crowley asked for a clarification about the hours that the sign can be lit. Mr. DeLucia referred to Condition #3 in the draft resolution that had been prepared by the Town staff for the board's consideration this evening in which the sign is to operate on a timer and is to remain off during dark night-time periods when the Church is closed.

Mr. Brand asked about evening services such as on Christmas Eve, for example. Pastor Long said that there are evening services once or twice a year, and that several Church activities—such as the distribution of Thanksgiving dinners—often extend into the evening such as to 10:30 p.m. or 11:00 p.m. He noted that the Thanksgiving dinner distribution has increased to approximately 700 dinners to 800 dinners per year.

Ms. Attardi asked about the messages on the sign. Pastor Long said that that major Church events and hours of worship would be posted on the sign.

Mr. Crowley said that the purpose of the sign is to provide better identification of the location of the Church. He said that motorists often pass by the Church and pull into the adjacent vacant lot.

Pastor Long said that another purpose of the sign is to have digital control from inside the office to avoid Church members having to change the sign outdoors in winter or inclement weather.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application, or ask questions.

There were no comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

6. NEW PUBLIC HEARING

ZB #0802-19

**Finger Lakes Wildlife
Center Inc.
4949 Fox Road
Palmyra, N.Y. 14522**

Temporary Use Permit

The applicant is requesting a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Town of Farmington Codes. The applicant wishes to operate an Ecological Visitor's Center with environmental education programs and exhibition of

native New York State flora and fauna. Days and hours of operation would be Monday, Wednesday, Saturday and Sunday from 11:00 a.m. to 4:00 p.m. The property is located at 4949 Fox Road and is zoned A-80 Agricultural.

Mr. DeLucia opened the Public Hearing on this application.

John and Erin Lord-Astles presented this application.

They displayed graphic information, their business plan, and provided the following details about the Finger Lakes Wildlife Center (FLWC) that is located on 20.1 acres of land at 4949 Fox Road:

The mission statement of the FLWC is to provide the public with educational opportunities about local wildlife and natural history through the exhibition of flora and fauna in naturalistic habitats; to promote wildlife conservation and stewardship of nature through unique experiences that connect people with the natural world; to provide better understanding of animal behavior and ecological value through observation and research; to support and contribute to the local economy through tourism by providing attractive facilities and unique experiences; and to operate for any purpose for which corporations may be organized under the not-for-profit corporation law as a charitable corporation.

FLWC is a 501 (c) (3) non-profit organization working toward building a wildlife center in Farmington, N.Y. The center is not currently open to the public but is working to update facilities, build large naturalistic enclosures for future animal ambassadors, develop wetland walking trails, expand the Little Farm and transition to sustainable green energy use.

Mr. Lord-Astles and Ms. Lord-Astles reviewed their educational backgrounds and previous work experiences. The members of the center's board of directors are Ms. Lord-Astles, president; Mr. Lord-Astles, vice president and treasurer; and board members Grant Hummel, Robert Williams and Samantha Hauke.

The center's current goal is to construct a 32-foot x 40-foot x 8-foot pavilion-like enclosure for fox in the area of the property that was previously used as a horse pasture. Mr. and Ms. Lord-Astles described the proposed enclosure. They said that all animal enclosures will be constructed per United States Department of Agriculture (USDA) and New York State Department of Environmental Conservation (DEC) regulations.

They said that the goal is to complete the project well before spring of 2020 when animals are anticipated to arrive. By 2020, they hope to have completed two barnyard exhibits, one native species exhibit and a large portion of the wetland trails. The center is expected to be open on Saturdays, Sundays, Mondays and Wednesdays from 11:00 a.m. to 4:00 p.m.

Mr. and Ms. Lord-Astles presented their major areas of focus for the first one to three years, as follows:

Facilities and property improvements:

- Wetland management and trail building
- Pond clean up
- Invasive flora management
- Grounds and landscaping

Visitor amenities:

- Entrance gate, signage, informational kiosks
- Admissions/classroom
- Parking area and portable restrooms
- Picnic area
- Garbage and recycling

Expansion of animal ambassador and education programs:

- 1–3 domestic species exhibits (Little Farm): Goats, alpaca, potbelly pig, chickens
- 1–2 native species exhibits: Red/gray fox, porcupine, opossum
- Natural history interpretation tours
- Workshops and lectures: Tracking, camera trapping, conservation, citizen science, wildlife identification

Community engagement:

- Volunteer events and fundraising events
- Expansion of board of directors
- Community outreach and projects
- Marketing

The center's long-term master plan and preliminary site plan sketches were also presented.

Ms. Lord-Astles said that they will not encroach upon six acres of wetlands on the property. She said that they plan to construct a walking trail around the wetlands. She said that the property was originally a horse ranch, that they plan to convert a horse exercise space into a classroom and that the existing parking area will be reviewed for expansion.

Mr. Lord-Astles and Ms. Lord-Astles explained the USDA and DEC regulations that must be followed to prevent the potential escape of animals and to protect visitors from entering an enclosure.

Mr. Lord-Astles said that the center currently a presence on the web and on several social media outlets (www.fingerlakeswildlifecenter.org).

Ms. Lord-Astles said that the property was formerly a horse ranch, that they have been working to improve the pole barn and landscaping, and that work has begun on a footpath along the outskirts of the wetlands. She also said that they have been working on improvements to the Little Farm of small animals.

Ms. Lord-Astles displayed a photograph of a pavilion at the Wolf Mountain Nature Center (562 Hopkins Crandall Road, Smyrna, N.Y. 13464) that is similar in design to their proposed construction.

Among other details presented this evening:

- A compost area would be located behind the barn. If needed, compost would be hauled off the site by a vendor and spread across agricultural fields.
- The number of visitors would be limited to 100 but approximately 20 to 30 visitors at one time are expected.
- Large events, such as fund-raisers, would be held off site.
- General benefits to the community from this project are to provide people of all ages with the opportunity to visit a beautiful facility with local conservation of plant and animals at its core.
- The goal is to be open to the public by 2020

Mr. Marshall asked about the 1,280-square-foot proposed pavilion. Ms. Lord-Astles said that this would be the enclosure for fox.

Mr. Delpriore said that this property was previously approved by the Town for use as a horse farm and agricultural barn. He said that a former ZBA approved the location of the barn in the front-yard portion of the property because there were no other appropriate locations on the property due to topography and the location of the wetland.

Mr. Delpriore said that the existing residence is located as far back on the property as it can be. He said that the driveway winds around from Fox Road to the residence and that the only remaining flat area on the property for construction of the fox pavilion is an area around the existing barn in what is considered the front yard of the property.

He said that he and Mr. Brand conducted a site visit during which the wetland was verified and that the topography of the land was noted. He said that nothing on the applicants' property is visible from Fox Road this time of year, that other options were considered, and that the applicants' selection of the front-yard portion of the property for the new construction is the most reasonable location for them.

Mr. Delpriore said that the draft Temporary Use Permit resolution provides the applicants with two full years of operation. It proposes an expiration date of November 1, 2021. The

resolution also proposes that a Site Plan must be approved by the Planning Board.

Mr. Brand said that the Temporary Use Permit provides the applicants with two years to initially establish themselves and to prove that they can provide the service as discussed this evening. He said that the Temporary Use Permit may be renewed for an additional five-year period at the conclusion of the initial two-year time. Mr. Brand said that the purpose of the Temporary Use Permit is to permit uses that are not otherwise allowed by the Town Code. This avoids the approval of a Use Variance that would run with the property. He said that in this case, following the seven years of operation, the Town at that point in time, should have enough information to create standards for Special Use Permits that could be incorporated into the Town Code, thereby enabling this type of use on other properties.

Mr. Brand said that the Town staff has determined that the application complements the neighborhood. He said that other Area Variances have been granted in the past on properties along Fox Road for accessory structures in the front-yard portions of the lots.

Mr. Brand said that draft resolutions have been provided for the board’s consideration this evening for approval with conditions of the Temporary Use Permit and Area Variance applications.

Mr. DeLucia asked if anyone in attendance wished to speak for or against this application, or ask questions.

Ms. Chapman (230 Ellsworth Road) expressed her support for these applications.

Ms. Vandenburg (259 Ellsworth Road) said that she follows the FLWC on Facebook and that she supports the applications.

Mr. DeLucia then asked if anyone else wished to comment or ask questions on these applications. There were no further comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

7. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

ZB #0902-18	Delaware River Solar	Area Variance
ZB #0903-18	Delaware River Solar	Area Variance
ZB #0904-18	Delaware River Solar	Area Variance
ZB #0905-18	Delaware River Solar	Area Variance

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the readings of the following four complete resolutions (except for the Determination of the Zoning Board of Appeals) be waived and that the resolutions be approved as submitted by the Town staff.

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from ZB #0902-18. He confirmed that the Determinations of the Zoning Board of Appeals for ZB #0903-18, ZB #0904-18 and ZB #0905-18 were identical to ZB #0902-18:

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS AND DECISION**

<p>APPLICANT: Delaware River Solar c/o Peter Dolgos 33 Irving Place New York, N.Y. 10003 On behalf of Roger and Carol Smith 466 Yellow Mills Road Palmyra, N.Y. 14522</p>	<p>File: ZB #0902-18 Zoning District: A-80 Agricultural Published Legal Notice on: Sept. 16, 2018 County Planning Action: Sept. 12, 2018 County Referral #: 159.1-2018 Public Hearing held on: Sept. 24, 2018; November 26, 2018; December 17, 2018; January 28, 2019; April 22, 2019; May 20, 2019; June 24, 2019; July 22, 2019; and August 26, 2019.</p>
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Property Location: 466 Yellow Mills Road, Palmyra, N.Y. 14522

Applicable Section of Town Code: Chapter 165, Section V, Section 65.3 (F)

Requirement for Which Variance is Requested: The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on Proposed Lot #2 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

State Environmental Quality Review Determination: The granting of an Area Variance to erect solar panels has been considered as part of the coordinated review conducted by the Town of Farmington Planning Board, the designated Lead agency, who has made a Determination of Non-Significance upon the four (4) area variance requests, Files #0902-18, #0903-18, #0904-18 and #0904-18, on Wednesday, August 7, 2019.

County Planning Referral Recommendation: The Ontario County Planning Board Referral #159.1-2018, dated September 12, 2018 classified this as a Type 2 and returned with a recommendation of approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that in this instance the site is located in the A-80 Agricultural Zoning District. The Board fur-

ther finds that the applicant has proven that the criteria set forth in Chapter 165, Article V, Section 65.3. F. (1) (b) [3] has been documented as part of the environmental record required by the Town Planning Board that the site contains an extensive amount of Class 1 through 4 Soils and that it is shown on the Town of Farmington Active farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan. The Board, based upon these findings, concludes that the provisions contained in Chapter 165, Article V, Section 65.3. F. (1) (b) [1] allow large-sale ground-mounted solar PV systems located in a residential district, such as the A-80 Agricultural District, which in this instance contains soils classified as “prime” or “unique” soils (Soils Groups 1 through 4) and the land is being actively farmed to have a minimum setback of 40 feet from a property line instead of the 160 feet previously determined by a former Code Enforcement Officer. The Board based upon this finding concludes that the intent of the solar regulations is to allow large-scale ground-mounted solar PV systems to be located on such land and not necessitating a larger set back from a property line that would use more “prime” or “unique” soils than the minimum necessary so as to protect these more highly productive soils for continued agricultural use.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the applicant is proposing a twenty (20) foot setback from the property line instead of the forty (40) foot setback required in this instance. The Board further finds that the applicant has failed to prove that the proposed large scale ground-mounted solar PV system being proposed on this site could not be designed as part of a site plan with a forty (40) foot setback. The Board, therefore, finds that the lack of proof for not designing the site with the forty (40) foot setback required by Town Code does not mean that there is not a feasible alternative to the requested variance of twenty (20) feet.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board has consistently found that a variance request greater than fifty percent (50%) of what is otherwise required by the Town Code to be a substantial requested variance. In this instance the Board finds that the requested variance is not greater than fifty percent (50%) of what is required by Town Code. The Town Code requires a forty-foot (40 ft.) set back from property lines. The applicant is requesting a setback of twenty feet (20 ft.) from property lines.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reasons: The Town of Farmington Planning Board has issued a Negative Declaration upon the proposed actions for the large scale ground-mounted solar PV systems to be located on this land, at their meeting on Wednesday, August 7, 2019.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. **X** Yes ___ No

Reasons: The Board finds that the applicant is proposing the subdivision of land and the construction of a large scale ground-mounted solar PV system to be located on such land in a manner that has resulted in the requested Area Variance without proving that such a solar PV system could not be constructed upon this land in a manner consistent with the requirements of the Town Code.

**DETERMINATION OF THE ZONING BOARD OF APPEALS
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The benefit to the applicant does not outweigh the detriment to neighborhood or the community and, therefore, the requested Area Variance is denied without prejudice. In making this finding, the Board finds that a large scale ground-mounted solar PV system of the size being proposed (7 MW) can be located upon land developed in accordance with the provisions of the A-80 Agricultural District; and a site plan can be prepared in accordance with the provisions contained in Chapter 165, Article V, Section 65.3 of the Town Code without the need for any requested variances.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS AND DECISION**

APPLICANT: Delaware River Solar
c/o Peter Dolgos
33 Irving Place
New York, N.Y. 10003
On behalf of
Roger and Carol Smith

File: ZB #0903-18
Zoning District: A-80 Agricultural
Published Legal Notice on: Sept. 16, 2018
County Planning Action: Sept. 12, 2018
County Referral #: 159.1-2018
Public Hearing held on: Sept. 24, 2018;

466 Yellow Mills Road
Palmyra, N.Y. 14522

November 26, 2018; December 17, 2018;
January 28, 2019; April 22, 2019; May 20,
2019; June 24, 2019; July 22, 2019; and
August 26, 2019.

Property Location: 466 Yellow Mills Road, Palmyra, N.Y. 14522

Applicable Section of Town Code: Chapter 165, Section V, Section 65.3 (F)

Requirement for Which Variance is Requested: The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on Proposed Lot #3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

State Environmental Quality Review Determination: The granting of an Area Variance to erect solar panels has been considered as part of the coordinated review conducted by the Town of Farmington Planning Board, the designated lead agency, who has made a Determination of Non-Significance upon the four (4) area variance requests, Files #0902-18, #0903-18, #0904-18 and #0904-18, on Wednesday, August 7, 2019.

County Planning Referral Recommendation: The Ontario County Planning Board Referral #159.1-2018, dated September 12, 2018 classified this as a Type 2 and returned with a recommendation of approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that in this instance the site is located in the A-0 Agricultural Zoning District. The Board further finds that the applicant has proven that the criteria set forth in Chapter 165, Article V, Section 65.3. F. (1) (b) [3] has been documented as part of the environmental record required by the Town Planning Board that the site contains an extensive amount of Class 1 through 4 Soils and that it is shown on the Town of Farmington Active farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan. The Board, based upon these findings, concludes that the provisions contained in Chapter 165, Article V, Section 65.3. F. (1) (b) [1] allow large-sale ground-mounted solar PV systems located in a residential district, such as the A-80 Agricultural District, which in this instance contains soils classified as “prime” or “unique” soils (Soils Groups 1 through 4) and the land is being actively farmed to have a minimum setback of 40 feet from a property line instead of the 160 feet previously determined by a former Code Enforcement Officer. The Board based upon this finding concludes that the intent of the solar regulations is to allow large-scale ground-mounted solar PV systems to be located on such land and

not necessitating a larger set back from a property line that would use more “prime” or “unique” soils than the minimum necessary so as to protect these more highly productive soils for continued agricultural use.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the applicant is proposing a twenty (20) foot setback from the property line instead of the forty (40) foot setback required in this instance. The Board further finds that the applicant has failed to prove that the proposed large scale ground-mounted solar PV system being proposed on this site could not be designed as part of a site plan with a forty (40) foot setback. The Board, therefore, finds that the lack of proof for not designing the site with the forty (40) foot setback required by Town Code does not mean that there is not a feasible alternative to the requested variance of twenty (20) feet.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board has consistently found that a variance request greater than fifty percent (50%) of what is otherwise required by the Town Code to be a substantial requested variance. In this instance the Board finds that the requested variance is not greater than fifty percent (50%) of what is required by Town Code. The Town Code requires a forty foot (40 ft.) set back from property lines. The applicant is requesting a setback of twenty feet (20 ft.) from property lines.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reasons: The Town of Farmington Planning Board has issued a Negative Declaration upon the proposed actions for the large scale ground-mounted solar PV systems to be located on this land, at their meeting on Wednesday, August 7, 2019.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. Yes No

Reasons: The Board finds that the applicant is proposing the subdivision of land and the construction of a large scale ground-mounted solar PV system to be located on such land in a manner that has resulted in the requested area variance without proving that such a solar PV system could not be constructed upon this land in a manner consistent with the requirements of the Town Code.

DETERMINATION OF THE ZONING BOARD OF APPEALS BASED UPON THE ABOVE FACTORS

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The benefit to the applicant does not outweigh the detriment to neighborhood or the community and, therefore, the requested Area Variance is denied without prejudice. In making this finding, the Board finds that a large scale ground-mounted solar PV system of the size being proposed (7 MW) can be located upon land developed in accordance with the provisions of the A-80 Agricultural District; and a site plan can be prepared in accordance with the provisions contained in Chapter 165, Article V, Section 65.3 of the Town Code without the need for any requested variances.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

TOWN OF FARMINGTON ZONING BOARD OF APPEALS AREA VARIANCE FINDINGS AND DECISION

APPLICANT: Delaware River Solar
c/o Peter Dolgos
33 Irving Place
New York, N.Y. 10003
On behalf of
Roger and Carol Smith
466 Yellow Mills Road
Palmyra, N.Y. 14522

File: ZB #0904-18
Zoning District: A-80 Agricultural
Published Legal Notice on: Sept. 16, 2018
County Planning Action: Sept. 12, 2018
County Referral #: 159.1-2018
Public Hearing held on: Sept. 24, 2018;
November 26, 2018; December 17, 2018;
January 28, 2019; April 22, 2019; May 20,
2019; June 24, 2019; July 22, 2019; and
August 26, 2019.

Property Location: 466 Yellow Mills Road, Palmyra, N.Y. 14522

Applicable Section of Town Code: Chapter 165, Section V, Section 65.3 (F)

Requirement for Which Variance is Requested: The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on Proposed Lot #3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

State Environmental Quality Review Determination: The granting of an Area Variance to erect solar panels has been considered as part of the coordinated review conducted by the Town of Farmington Planning Board, the designated lead agency, who has made a Determination of Non-Significance upon the four (4) area variance requests, Files #0902-18, #0903-18, #0904-18 and #0904-18, on Wednesday, August 7, 2019.

County Planning Referral Recommendation: The Ontario County Planning Board Referral #159.1-2018, dated September 12, 2018 classified this as a Type 2 and returned with a recommendation of approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that in this instance the site is located in the A-80 Agricultural Zoning District. The Board further finds that the applicant has proven that the criteria set forth in Chapter 165, Article V, Section 65.3. F. (1) (b) [3] has been documented as part of the environmental record required by the Town Planning Board that the site contains an extensive amount of Class 1 through 4 Soils and that it is shown on the Town of Farmington Active farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan. The Board, based upon these findings, concludes that the provisions contained in Chapter 165, Article V, Section 65.3. F. (1) (b) [1] allow large-sale ground-mounted solar PV systems located in a residential district, such as the A-80 Agricultural District, which in this instance contains soils classified as “prime” or “unique” soils (Soils Groups 1 through 4) and the land is being actively farmed to have a minimum setback of 40 feet from a property line instead of the 180 feet previously determined by a former Code Enforcement Officer. The Board based upon this finding concludes that the intent of the solar regulations is to allow large-scale ground-mounted solar PV systems to be located on such land and not necessitating a larger set back from a property line that would use more “prime” or “unique” soils than the minimum necessary so as to protect these more highly productive soils for continued agricultural use.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the applicant is proposing a twenty (20) foot setback from the property line instead of the forty (40) foot setback required in this instance. The Board further finds that the applicant has failed to prove that the proposed large scale ground-mounted solar PV system being proposed on this site could not be designed as part of a site plan with a forty (40) foot setback. The Board, therefore, finds that the lack of proof for not designing the site with the forty (40) foot setback required by Town Code

does not mean that there is not a feasible alternative to the requested variance of twenty (20) feet.

3. Whether the requested variance is substantial. Yes **X** No

Reasons: The Board has consistently found that a variance request greater than fifty percent (50%) of what is otherwise required by the Town Code to be a substantial requested variance. In this instance the Board finds that the requested variance is not greater than fifty percent (50%) of what is required by Town Code. The Town Code requires a forty foot (40 ft.) set back from property lines. The applicant is requesting a setback of twenty feet (20 ft.) from property lines.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. ___ Yes **X** No

Reasons: The Town of Farmington Planning Board has issued a Negative Declaration upon the proposed actions for the large scale ground-mounted solar PV systems to be located on this land, at their meeting on Wednesday, August 7, 2019.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. **X** Yes ___ No

Reasons: The Board finds that the applicant is proposing the subdivision of land and the construction of a large scale ground-mounted solar PV system to be located on such land in a manner that has resulted in the requested area variance without proving that such a solar PV system could not be constructed upon this land in a manner consistent with the requirements of the Town Code.

**DETERMINATION OF THE ZONING BOARD OF APPEALS
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The benefit to the applicant does not outweigh the detriment to neighborhood or the community and, therefore, the requested Area Variance is denied without prejudice. In making this finding, the Board finds that a large scale ground-mounted solar PV system of the size being proposed (7 MW) can be located upon land developed in accordance with the provisions of the A-80 Agricultural District; and a site plan can be prepared in accordance with the provisions contained in Chapter 165, Article V, Section 65.3 of the Town Code without the need for any requested variances.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS AND DECISION**

APPLICANT: Delaware River Solar
c/o Peter Dolgos
33 Irving Place
New York, N.Y. 10003
On behalf of
Roger and Carol Smith
466 Yellow Mills Road
Palmyra, N.Y. 14522

File: ZB #0905-18
Zoning District: A-80 Agricultural
Published Legal Notice on: Sept. 16, 2018
County Planning Action: Sept. 12, 2018
County Referral #: 159.1-2018
Public Hearing held on: Sept. 24, 2018;
November 26, 2018; December 17, 2018;
January 28, 2019; April 22, 2019; May 20,
2019; June 24, 2019; July 22, 2019; and
August 26, 2019.

Property Location: 466 Yellow Mills Road, Palmyra, N.Y. 14522

Applicable Section of Town Code: Chapter 165, Section V, Section 65.3 (F)

Requirement for Which Variance is Requested: The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on Proposed Lot #3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

State Environmental Quality Review Determination: The granting of an Area Variance to erect solar panels has been considered as part of the coordinated review conducted by the Town of Farmington Planning Board, the designated lead agency, who has made a Determination of Non-Significance upon the four (4) area variance requests, Files #0902-18, #0903-18, #0904-18 and #0904-18, on Wednesday, August 7, 2019.

County Planning Referral Recommendation: The Ontario County Planning Board Referral #159.1-2018, dated September 12, 2018 classified this as a Type 2 and returned with a recommendation of approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that in this instance the site is located in the A80 Agricultural Zoning District. The Board further finds that the applicant has proven that the criteria set forth in Chapter 165, Article V, Section 65.3. F. (1) (b) [3] has been documented as part of the environmental record required by the Town Planning Board that the site contains an extensive amount of Class 1 through 4 Soils and that it is shown on the Town of Farmington Active farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan. The Board, based upon these findings, concludes that the provisions contained in Chapter 165, Article V, Section 65.3. F. (1) (b) [1] allow large-sale ground-mounted solar PV systems located in a residential district, such as the A-80 Agricultural District, which in this instance contains soils classified as “prime” or “unique” soils (Soils Groups 1 through 4) and the land is being actively farmed to have a minimum setback of 40 feet from a property line instead of the 180 feet previously determined by a former Code Enforcement Officer. The Board based upon this finding concludes that the intent of the solar regulations is to allow large-scale ground-mounted solar PV systems to be located on such land and not necessitating a larger set back from a property line that would use more “prime” or “unique” soils than the minimum necessary so as to protect these more highly productive soils for continued agricultural use.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the applicant is proposing a twenty (20) foot setback from the property line instead of the forty (40) foot setback required in this instance. The Board further finds that the applicant has failed to prove that the proposed large scale ground-mounted solar PV system being proposed on this site could not be designed as part of a site plan with a forty (40) foot setback. The Board, therefore, finds that the lack of proof for not designing the site with the forty (40) foot setback required by Town Code does not mean that there is not a feasible alternative to the requested variance of twenty (20) feet.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board has consistently found that a variance request greater than fifty percent (50%) of what is otherwise required by the Town Code to be a substantial requested variance. In this instance the Board finds that the requested variance is not greater than fifty percent (50%) of what is required by Town Code. The Town Code requires a forty foot (40 ft.) set back from property lines. The applicant is requesting a setback of twenty feet (20 ft.) from property lines.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reasons: The Town of Farmington Planning Board has issued a Negative Declaration upon the proposed actions for the large scale ground-mounted solar PV systems to be located on this land, at their meeting on Wednesday, August 7, 2019.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. Yes No

Reasons: The Board finds that the applicant is proposing the subdivision of land and the construction of a large scale ground-mounted solar PV system to be located on such land in a manner that has resulted in the requested area variance without proving that such a solar PV system could not be constructed upon this land in a manner consistent with the requirements of the Town Code.

**DETERMINATION OF THE ZONING BOARD OF APPEALS
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The benefit to the applicant does not outweigh the detriment to neighborhood or the community and, therefore, the requested Area Variance is denied without prejudice. In making this finding, the Board finds that a large scale ground-mounted solar PV system of the size being proposed (7 MW) can be located upon land developed in accordance with the provisions of the A-80 Agricultural District; and a site plan can be prepared in accordance with the provisions contained in Chapter 165, Article V, Section 65.3 of the Town Code without the need for any requested variances.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

- Jill Attardi Aye
- Timothy DeLucia Aye
- Jeremy Marshall Aye
- Nancy Purdy Aye
- Thomas Yourch Excused

Motion to approve the above four resolutions carried.

ZB #0801-19 Farmington United Methodist Church Area Variance

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived and that the resolution be approved as submitted by the Town staff:

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION**

ZB #0801-19

APPLICANT: Farmington United Methodist Church, 5925 County Road 41, Farmington, N.Y. 14425

ACTION: Area Variance to erect a thirty-two (32) square foot freestanding commercial speech sign with moving/motion signage to be located along the east side of State Route 332, south of County Road 41.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

- Jill Attardi Aye
- Timothy DeLucia Aye
- Jeremy Marshall Aye
- Nancy Purdy Aye
- Thomas Yourch Excused

Motion carried.

Mr. DeLucia then asked the applicants if they had reviewed the following resolution in draft form prior to this evening’s meeting. Mr. Crowley said that they had not reviewed the resolution. Mr. DeLucia then read aloud the complete resolution.

Following the reading of the complete resolution, Mr. DeLucia offered the following amendment to Condition #3:

3. *The proposed electronic Copy-Change Sign is to operate on a timer and is to remain off during dark night time periods when the Church is closed, with the exception of evening special church related events and religious holiday events; and*

There were no objections from the board members, the Town staff or the applicant to Mr. DeLucia's amendment to Condition #3.

The resolution published below includes this amendment.

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS AND DECISION**

APPLICANT: Farmington United
Methodist Church
5925 County Road 41
Farmington, N.Y. 14425

File: ZB #0801-19
Zoning District: RB Restricted Business
Published Legal Notice: August 18, 2019
County Planning Action: August 14, 2019
County Referral #: 164-2019
Public Hearing held on: August 26, 2019

Property Location: 5925 County Road 41, Farmington, N.Y. 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 45.

Requirement for Which Variances are Requested: The applicant wishes to erect a thirty-two (32) square foot freestanding commercial speech sign with moving/motion sign message, to be located along the east side of the State Route 332, south of the County Road 41 intersection. Moving signs which move or simulate motion are prohibited by the Town Code.

State Environmental Quality Review Determination: The granting of an Area Variance to is classified as a Type II Action under Part 617.5 (c) (16) and (18) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #164-2019, at their August 14, 2019, meeting. The County Board's final recommendation is denial.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the character of this area is predominantly commercial sites fronting along both sides of New York State Route 332. The Board further finds that there are a number of sites located along the Route 332 Corridor that have recently converted their changeable copy type message signs from manual to electronic copy commercial speech signs. The Board further finds that these other sites provide fast food, gasoline/convenient type facilities, an antique mall and self-storage warehouse services. The Board further finds that the existing freestanding commercial speech sign has a manual form of messaging which the applicant is requesting be replaced with an electronic form of messaging. The Board further finds that the existing sign is defined as a Copy-Change Sign as defined in Chapter 165, Article II, Section 10 of the Town Code. The Board further finds that the proposed sign is defined as a Copy-Change Sign. The Board further finds that the proposed sign is also defined as an Illuminated Sign. The Board also finds that the proposed sign is not a Representational Sign as defined in the above referenced section of the Town Code. The Board further finds that the proposed sign will not have flashing lights, animated or moving parts such as messages being scrolled across the sign face.

The Board, based upon these findings, determines that the proposed area variance to allow a manual Copy-Change Sign to be replaced with an electronic Copy-Change Sign will not produce an undesirable change in the character of the neighborhood or will not become a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the applicant's intent is to replace an outdated freestanding commercial speech sign that has an existing manual Copy-Sign Change, which is becoming in a state of deterioration, in order for said sign to continue to function as a site identification sign having improved visibility to motorists, both local residents and tourists, along the heavily traveled New York State Route 332. The Board further finds that the proposed sign will be more aesthetically pleasing than the existing sign thereby conveying to passing motorists an active church operation. The Board further finds that the proposed sign will also be easier to maintain than would a new manual sign and will not be as susceptible to deterioration caused by the elements of nature. The Board further finds that replacing the existing manual Copy-Change Sign with similar materials will eventually start deteriorating over time in a manner that could be avoided by installing a more permanent sign having material such as that associated with the proposed electronic Copy-Change Sign.

The Board, based upon these findings, determines that the proposed area variance to allow a manual Copy-Change Sign to be replaced with an electronic Copy-Change Sign cannot be achieved by a feasible alternative to the requested sign.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the proposed replacement sign will be 36 square feet in total sign area. The Board further finds that the maximum size sign allowed by Town Code is 64 square feet in total sign area. The Board, therefore, finds that the requested sign size does not involve a variance to the size allowed in the Town Code.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reasons: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the Area Variance. Yes No

Reasons: The Board finds that the applicant could replace the existing sign with a sign that would conform to the requirements of the Town Code and that there is no known alleged difficulty associated with the sign replacement which would not be self-created.

**DETERMINATION OF THE ZONING BOARD OF APPEALS
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

That the benefit to the applicant outweighs any known detriment(s) to the neighborhood, or community and, therefore, the requested area variance is approved with the following conditions:

1. The applicant is to obtain Final Sign Site Plan approval from the Town Planning Board which is to be based in part by the conditions set forth herein; and
2. The proposed electronic Copy-Change Sign lighting intensity is to comply with the Town Lighting Standards contained in Chapter 165 of the Town Code; and

- 3. The proposed electronic Copy-Change Sign is to operate on a timer and is to remain off during dark night time periods when the Church is closed, with the exception of evening special church related events and religious holiday events; and
- 4. The proposed electronic Copy-Change Sign is not to have any animated, flashing or moving parts such as messages being scrolled across the sign face; and
- 5. The applicant is to also install the Public Safety Signage for this site, adjacent to the site’s driveway entrance off from County Road 41 in accordance with the provisions contained in: Chapter 165, Article V, Section 41. A. (11) of the Town Code; and Appendix G-9.0, Public Safety Sign Detail, a part of the adopted Town of Farmington Site Design and Development Criteria; and
- 6. The applicant is to prepare a landscaping plan around the base of the proposed sign to be accepted by the Town Planning Board; and

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FURTHER RESOLVED that the Board directs a copy of this Resolution be sent to the Ontario County Planning Board in accordance with the provisions set forth in Sections 239 –l and –m of the New York State General Municipal Law.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

Following the reading of the Conditions of Approval, Mr. Brand said that the Ontario County Planning Board recommended the denial of this Area Variance (Referral #164-2019). He said that a super majority vote of the ZBA (majority + 1) is required to approve the resolution.

Mr. DeLucia then asked the applicants if they understood the resolution and agreed with the conditions. The applicants said that they understood the resolution and agreed with the conditions.

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the preceding resolution be approved as amended.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Jill Attardi	Aye
Nancy Purdy	Aye
Thomas Yourch	Excused

Motion carried.

**ZB #0802-19 Finger Lakes Wildlife Temporary Use Permit
Center Inc.**

**ZB #0803-19 Finger Lakes Wildlife Area Variance
Center Inc.**

■ A motion was made by MR. MARSHALL, seconded by MS. PURDY, that the readings of the following State Environmental Quality Review (SEQR) resolution, the Temporary Use Permit resolution and the Area Variance resolution be waived (except for the ZBA Determinations), that the resolutions be blocked for concurrent action, and that the resolutions be approved as submitted by the Town staff.

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION**

**ACTIONS: ZB #0802-19 Temporary Use Permit
ZB #0803-19 Area Variance**

**APPLICANT: Finger Lakes Wildlife Center Inc., 4949 Fox Road,
Palmyra, N.Y. 14522**

**ACTION: Temporary Use Permit to operate an Ecological Visitor’s Cen-
ter with environmental education programs and exhibition of
New York State flora and fauna; and Area Variance to erect a
1,280-square-foot accessory structure in the front yard portion
of the lot located on the southwest corner of County Road 28
and Fox Road at 4949 Fox Road**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Actions; and,

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Actions are classified Type II Actions under Section 617.5 (c) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
TEMPORARY USE PERMIT FINDINGS AND DECISION**

<p>APPLICANTS: John & Erin Lord-Astles Finger Lakes Wildlife Center 4949 Fox Road Palmyra, N.Y. 14522</p>	<p>File: ZB #0802-19 Zoning District: A-80 Agricultural Published Legal Notice: August 18, 2019 County Planning Action August 14, 2019 County Referral #: 165-2019 Public Hearing held on: August 26, 2019</p>
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Property Location: 4949 Fox Road, Palmyra, New York 14522

Applicable Section of Town Code: Chapter 165, Article VII, Section 91

Requirement for Which Variance is Requested: The applicant wishes to obtain a Temporary Use Permit, to operate an outdoor ecological visitor center of the Finger Lakes Region, on 20 acres of land located on the south side of Fox Road, west of County Road 28. Phase 1 of this use involves the construction of a 1,280-square-foot pavilion and enclosure for a fox exhibit with additional holding areas, security fencing, two barnyard exhibits and a wetland trail.

State Environmental Quality Review Determination: A Temporary Use Permit is requested to allow for a location(s) on the site, for conducting environmental education programs and exhibition of native New York State flora and fauna, is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: The Ontario County Planning Board has reviewed the application for a Temporary Use Permit (Referral #165-2019) identifying it as a Class 1 and provided comments for the Board's consideration.

In accordance with the criteria contained in Chapter 165, Section 91 of the Farmington Town Code, this application is for conducting a wildlife education center on 20 acres of land during the two (2) year maximum life of a Temporary Use Permit, is based upon the following Findings by Zoning Board of Appeals:

Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Temporary Use Permit:

- (1) The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 38 of the Farmington Town Code, taking into account the

location and size of the proposed use, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

Proof: The Board finds that the property is located in a rural and agricultural area of the Town and the applicants are proposing establishing environmental education programs and exhibits of native flora and fauna on a 20 acre parcel of land. The Board further finds that the land is well buffered by topography and natural features from adjacent properties and from along Fox Road. The Board finds that the proposed use of the property will not: create an undesirable change in the character of the neighborhood; nor will it be a detriment to nearby properties provided that there be additional conditions of approval established, as part of site plan approval, that are intended to minimize any adverse impact upon the neighborhood.

- (2) The proposed temporary use will not tend to depreciate the value of adjacent properties.

Proof: The Board finds that the full buildout of the property will accommodate 15 native and domestic species exhibits; a dock by the pond; classroom/gift shop/visitor center; amphitheater; and transition to solar/wind energy sources. This low intensity of land use is felt consistent with the rural character of adjacent properties and, therefore, will not tend to depreciate the value of adjacent properties. The Board further finds that the wildlife center will not be operating on a full time basis, which will help the town to monitor the maximum number of persons to be allowed on the site at any one time, the ability of the site to accommodate the separate events in separate on-site facilities, including rest room facilities; and upon the ability of the site to accommodate adequate on-site parking of vehicles.

- (3) The proposed temporary use will not create a hazard to health, safety or general welfare.

Proof: The Board finds that the operation of the proposed wildlife center is subject to Federal and State Permits which are to be maintained during the life of the use. The Board finds that this oversight by other levels of government will help to sustain the safety of the wildlife center's operation thereby minimizing any adverse impact upon the health, safety or general welfare of the neighborhood, or community. The Board further finds that there is a potential that persons may be walking on-the-site between the event facilities location and the on-site parking location that may become subject to safety issues associated with a non-durable surface being provided. The Board further finds that there is a need for site lighting to accommodate those events that are proposed to occur during the dusk hours (or an hour beyond dusk) and to allow the safe movement of patrons between the event locations and the on-site parking area(s) on the site. The Board further finds that having the amount of land that may have to be disturbed by providing for these amenities may be subject to compliance with the Town's MS4 Stormwater Regulations set forth in §138 of the Town Code, which will need to be addressed as part of

site plan approval. The Board further finds that public restroom facilities will need to be determined.

Based upon the above findings, the Zoning Board of Appeals hereby makes the following decision:

- ___ The request for the Temporary Use Permit is hereby granted.
 - X** The request for the Temporary Use Permit is hereby granted with the following conditions set forth below.
 - ___ The request for the Temporary Use Permit is hereby denied.
1. There shall be a maximum of 100 persons on the site at any one time engaged in any of the Temporary Use Permit activities.
 2. No event shall be scheduled to end later than thirty (30) minutes past the established sunset for any given day.
 3. No event shall begin on the property before 8:00 a.m. weekdays, or 9:00 a.m. on Saturday or Sunday.
 4. No event shall be scheduled on a Federally designated holiday.
 5. There shall be separate on-site facilities provided for each event scheduled on the property, except for on-site parking which may be shared.
 6. All of the above referenced sections of the Town Code are to be complied with prior to the issuance of a Temporary Use Permit.
 7. No Temporary Use Permit shall be issued until Final Site Plan Approval has been granted by the Planning Board.
 8. There shall be site lighting, associated with the proposed Temporary Use Permits that adequately illuminates the travel pattern between the site's event facilities and the on-site parking lot. Said lighting plan to provide fixtures and illumination patterns that identify that no site lighting is to extend beyond the property boundary line onto adjacent properties, extends into any delineated wetland area, or creates a glare onto the adjacent public highway.
 9. There shall be a dust free surface for all on-site travel lanes, parking areas and event facilities.
 10. There shall be adequate landscaping around the on-site parking area to adequately buffer this area of the site from adjacent properties.

- 11. The Temporary Use Permit shall be in effect for a period of two years ending on November 1, 2021. At the end of such period, or before, the applicant may apply for continuation of said Wildlife Center use for an addition five-year period.
- 12. The Temporary Use Permit is not transferrable to another property owner.
- 13. Any commercial speech signage shall be subject to sign site plan approval by the Planning Board.
- 14. There shall be no off-site parking of vehicles along County Road 28, or Fox Road used in conjunction with the requested Temporary Use Permit.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements in the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant and to the Ontario County Planning Board.

Upon the expiration of the requested Temporary Use Permit, the temporary use shall immediately cease and all equipment, supplies and materials relating to this permit shall be removed from the site and the site shall be returned to a condition acceptable to the Town Code Enforcement Official.

Copies of this Finding and Decision are to be filed with the Farmington Town Clerk, the Farmington Planning Board, the Town Development Office and the Applicant within five (5) business days of the date of action.

Mr. DeLucia then read aloud the determination of the Zoning Board of Appeals from the following complete resolution:

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS AND DECISION**

APPLICANTS: John & Erin Lord-Astles
Finger Lakes Wildlife
Center
4949 Fox Road
Palmyra, N.Y. 14522

File: ZB #0802-19
Zoning District: A-80 Agricultural
Published Legal Notice: August 18, 2019
County Planning Action: August 14, 2019
County Referral #: 165.1-2019
Public Hearing held on: August 26, 2019

Property Location: 4949 Fox Road, Palmyra, N.Y. 14522

Applicable Section of Town Code: Chapter 165, Article V, Section 45

Requirement for Which Variances are Requested: The applicant wishes to erect a 1,280-square-foot accessory structure in the front yard portion of their lot located at the southwest corner of County Road 28 and Fox Road. The Town Code requires accessory structures to be located in the rear yard portion of a lot. The property is located at 4949 Fox Road.

State Environmental Quality Review Determination: The granting of Area Variances to allow an accessory structure in the front yard portion of a lot is classified as a Type II Action under Part 617.5 (c) (16) and (18) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #165.1-2019 at their August 14, 2019, meeting. The referral is identified as a Class 1 and the County Board provided comments for the Board's consideration.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Board finds the property was granted an area variance on February 5, 2001 (File #ZBA 1105-00) to have an accessory structure, a storage barn, placed in the front yard portion of the site. The Board further finds that since 2001 there has been no complaints filed with the Town citing that the grant of that variance has created a detriment to nearby properties, or that the character of the neighborhood has been adversely affected. The Board further finds that there have been other area variances granted along Fox Road in this neighborhood allowing accessory structures to be placed in the front yard portion of those lots. The Board further finds that there have been no complaints filed with the Town citing that the grant of that variance has created a detriment to nearby properties, or that the character of the neighborhood has been adversely affected. The Board further finds that the natural setting of this parcel of land is well buffered from adjacent properties and from along both County Road 28 and Fox Road. Therefore, based upon these findings the Board determines that the granting of the requested area variance to allow a second pole barn having a total area of 2600 square feet will not create an undesirable change in the character of the neighborhood or become a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reasons: The Board finds that the lot has several natural constraints (e.g. wetlands) to allowing an accessory structure to be placed in the rear yard portion. Based upon this finding the Board determines that the benefit sought by the applicant cannot be achieved by a feasible alternative to the requested variance.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that granting the requested variance would be granting a variance of 100% of what is otherwise prohibited by Town Code. The Board has consistently determined that granting a variance which is in excess of 50% of what is required by Town Code to be a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reasons: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.5 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the Area Variance. Yes No

Reasons: The Board finds that the alleged difficulty was not self-created in that the wetland constraints on the site make placing an accessory structure in the rear yard an unnecessary hardship on the property owner.

**DETERMINATION OF THE ZONING BOARD OF APPEALS
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

That the benefit to the applicant does outweigh the detriment to the neighborhood or the community and, therefore, the requested area variance to permit a second accessory structure to be placed in the front yard portion of the property is granted.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Decision has satisfied the procedural requirements contained in both the New York State Town Law and the Town of Farmington Town Code.

BE IT FURTHER RESOLVED that the Board, in making this Decision, finds that it is granting the minimum relief necessary, as is required by New York State Town Law and the Town of Farmington Town Code, to enable the proposed development of the branch bank under consideration by the Town Planning Board.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

Mr. DeLucia asked the applicants if they understood the resolution and agreed with the conditions. The applicants said that they understood the resolution and agreed with the conditions.

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Thomas Yourch	Excused

Motion to approve the above three resolutions carried.

8. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

There were no additional public comments or questions this evening.

9. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand said that a referral to the Ontario County Planning Board will be required if Delaware River Solar submits a new application for Area Variances for the Yellow Mills Road solar project.

10. CODE ENFORCEMENT OFFICER/ZONING OFFICER UPDATE

Mr. Delpriore said that Code Enforcement John Weidenborner will serve as the Building Department’s representative at meetings of the Zoning Board of Appeals. Mr. Delpriore said that he would fill in for Mr. Weidenborner when he (Mr. Weidenborner) may be on vacation) and that he also would attend with Mr. Weidenborner if there are future applications for the Yellow Mills Road solar project.

11. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held on Monday, September 23, 2019, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

12. ADJOURNMENT

■ A motion was made by MS. PURDY, seconded by MS. ATTARDI, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:35 p.m.

Following the meeting, the clerk locked the front entrance doors to the Town Hall.

Respectfully submitted,

John M. Robortella L.S.
Clerk of the Zoning Board of Appeals