

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, January 28, 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*  
Jeremy Marshall  
Cyril Opett  
Nancy Purdy  
Thomas Yourch

**Staff Present:**  
Ronald L. Brand, Town of Farmington Director of Development and Planning

**Applicant Present:**  
Daniel Compitello, Solar Project Developer, Delaware River Solar, 130 North Winton Road,  
#415, Rochester, N.Y. 14610

**Residents Present:**  
Edward Hemminger, Chairperson, Town of Farmington Planning Board

**Town Board Appointments to the Zoning Board of Appeals:**  
At the Organizational Meeting on January 2, 2019, the Farmington Town Board reappointed Timothy DeLucia to serve as Zoning Board of Appeals Chairperson for a one-year term to expire on December 31, 2019.

The Town Board also reappointed Thomas Yourch to serve on the Zoning Board of Appeals for a five-year term to expire on December 31, 2023.

Mr. DeLucia and Mr. Yourch subscribed to their oaths of office and took their respective places upon the Zoning Board of Appeals.

*Zoning Board of Appeals Members and Terms of Office:*

Jeremy Marshall	Appointed 5/23/2017	Term expires December 31, 2019
Timothy DeLucia	Appointed 2014	Term expires December 31, 2020
Cyril Opett	Appointed 2017	Term expires December 31, 2021
Nancy Purdy	Appointed 2018	Term expires December 31, 2022
Thomas Yourch	Appointed 2019	Term expires December 31, 2023

**1. MEETING OPENING**

The meeting was called to order at 7:00 p.m. and the Pledge of Allegiance was recited, With everyone in attendance familiar with the members of the Zoning Board of Appeals and staff, and with the emergency procedures and exits, Mr. DeLucia omitted introductions and the review of procedures this evening.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on March 19, 2018.

**2. APPROVAL OF MINUTES OF DECEMBER 17, 2018**

■ A motion was made by MR. YOURCH, seconded by MR. MARSHALL, that the minutes of the December 17, 2018, meeting be approved.

Motion carried by voice vote.

**3. LEGAL NOTICES**

None.

**4. CONTINUED PUBLIC HEARINGS**

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

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; and on December 17, 2018.

(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; and on January 16, 2019. The Public Hearings before the Planning Board will reconvene on April 17, 2019.)

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

Mr. Brand said that the applicant's Notice of Intent (NOI) for the Delaware River Solar project has been received at the New York State Department of Agriculture and Markets in Albany, N.Y. The receipt of the applicant's NOI was confirmed in an e-mail to Mr. Brand from Kate Tylutki of the Department of Agriculture and Markets, Division of Land Water, dated January 28, 2019. Mr. Brand said that the next step in the NOI process is for the Commissioner of the Department of Agriculture and Markets to determine the NOI to be complete and then followed by a 45- to 60-day review period involving the Ontario County Agriculture Enhancement Board's review.

Mr. Compitello also noted that the NOI request was received by the Department of Agriculture and that it is now under review.

Mr. Brand said that he has prepared a draft resolution for the board's consideration this evening to continue the Public Hearing to April 22, 2019, to provide time for completion of the NOI by the Department of Agriculture. He said that this time period coincides with the Planning Board's continuation of their ongoing SEQR procedures. The Planning Board's Public Hearing will reconvene on Wednesday, April 17, 2019.

Mr. Brand discussed a recent article which appeared in the Rochester *Democrat and Chronicle* newspaper (posted online January 24, 2019; in print January 28, 2019) regarding six large solar installations—including three that would cover 1,000 acres or more—that are planned for the Rochester–Finger Lakes region.

Mr. Compitello said that these large-scale projects provide perspective to his company's proposal for the Yellow Mills Road project which is considerably smaller. He said that there are approximately 110 large-scale projects which are now pending throughout New York State and that nine have been proposed in the Finger Lakes–Central New York area. Mr. Compitello said that his company represents one of the solar projects (in Onondaga County) and that most of the state projects are in the 2-megawatt to 8-megawatt range.

Mr. Hemminger (Chairperson of the Farmington Planning Board) said that the Planning Board has requested feedback from the Department of Agriculture and Markets regarding the NOI. He said that although the Department indicated that the Planning Board could move forward with the State Environmental Quality Review (SEQR) without the NOI, the Planning Board has determined that it would be premature to proceed with SEQR without the NOI which may include recommended changes to the project.

He said that the continuation of the Planning Board Public Hearing to April 17, 2019, would allow time for the Department to proceed with its review of the NOI, which Ms. Tylutki has indicated may take approximately 2½ months.

Mr. Hemminger said that the board clerk and the Town staff have compiled an abstract of the Planning Board and the Zoning Board of Appeals actions upon the project, and a listing of all correspondence and materials received from the applicant and the residents. The master file of correspondence is kept in the Building Department.

Mr. Hemminger described the steps in the application process which will resume following receipt of the information from the Department of Agriculture and Markets. This process will include the SEQR declaration by the Planning Board, followed by the Zoning Board of Appeals determination of the four Area Variance applications, followed by the Planning Board's consideration of the Subdivision, Preliminary Site Plan and Special Use Permit applications.

There were no further comments or questions on these applications this evening.

■ A motion was made by MR. OPETT, seconded by MR. MARSHALL, that the reading of the following resolution be waived.

Motion carried by voice vote. The reading of the following resolution was waived.

■ A motion was made by MR. MARSHALL, seconded by MS. PURDY, that the following resolution be approved.

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION  
CONTINUATION OF PUBLIC HEARINGS**

**Files:**                    **ZB #0902-18 Area Variance**  
                                 **ZB #0903-18 Area Variance**  
                                 **ZB #0904-18 Area Variance**  
                                 **ZB #0905-18 Area Variance**

**APPLICANT:**            **Delaware River Solar LLC, c/o Peter Dolgos, 33 Irving Place,  
New York, NY 10003, on behalf of Roger and Carol Smith,  
4790 Fox Road, Palmyra, N.Y. 14522, owners of property at  
466 Yellow Mills Road**

**ACTION:**                    **Area Variances—Continuation of Public Hearings**

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has received applications for four area variances (Files ZB #0902-18, ZB #0903-18, ZB #0904-18 and ZB #0905-18) to enable the proposed subdivision of land that is required for the operation of a proposed solar farm, with a proposed total of three solar panel arrays, one array to be located upon each of the three proposed lots, comprising a total of approximately 37.5 acres of land, a part of Tax Map # 010.000-01-037.131, which contains a total of 135.4 acres of land; and

**WHEREAS**, the subdivision of land is a prerequisite for the applicant to comply with the New York State Energy Research and Development Authority (NYSERDA) restrictions for the maximum level of energy being generated by an operating solar energy farm on a parcel of land; and

**WHEREAS**, the actions to grant a total of four area variances—two front setback and two rear setback variances—are part of the procedural requirements for the construction and operation of the proposed solar power farm on the above referenced three proposed parcels of land; and

**WHEREAS**, on September 24, 2018, the Board classified these actions as being Type I Actions under the requirements of Article 8 of the New York State Environmental Conservation Law; and

**WHEREAS**, the Board, after having classified these actions as Type I Actions, directed that a coordinated review be conducted with Involved and Interested Agencies; and

**WHEREAS**, the Board on Monday, September 24, 2018, declared its intent not to be designated the Lead Agency for these Actions; and

**WHEREAS**, Board, on Monday, September 24, 2018, opened the Public Hearings upon these Actions and received testimony from the public; and

**WHEREAS**, the Planning Board, on Wednesday, November 7, 2018 did by resolution, designate itself the Lead Agency for making the determination of significance upon the Action; and

**WHEREAS**, the Planning Board in their resolutions dated November 7, 2018; December 5, 2018; and January 16, 2019; moved to table any further discussion upon the requested Action and has continued the public hearings upon the requested Special Use Permit, Preliminary Subdivision Plat and Preliminary Site Plan approvals, citing the lack of requested information to enable it to make a determination of significance and has on January 16, 2019 directed the Applicant to provide the requested additional documentation to that Board, on or before April 17, 2019; and

**WHEREAS**, in accordance with the procedures established by the State Environmental Quality Review Act (SEQRA), the Board may not make a decision upon any part of the proposed Action until the Lead Agency has made a determination of significance.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board does hereby continue the Public Hearing upon these requested area variances to their April 22, 2019, meeting.

**BE IT FINALLY RESOLVED THAT** the Board does hereby direct a copy of this resolution be provided to the Town Planning Board, the Applicant and placed in the Town Project File on this Application.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Cyril Opett	Aye
Thomas Yourch	Aye

Motion carried.

**5. NEW PUBLIC HEARINGS**

None.

**6. BOARD BUSINESS—DELIBERATIONS AND DECISIONS**

None.

**7. PUBLIC COMMENTS**

None

**8. CHAIRPERSON’S COMMENTS**

Mr. DeLucia acknowledged receipt of amendments and updates to the Zoning Board of Appeals Rules of Procedure which were distributed to board members this evening by Mr. Brand. Mr. DeLucia requested that board members review the amendments and updates, provide any additional comments to him, and be prepared to adopt the 2019 Rules of Procedure at the next meeting. Mr. DeLucia requested that the electronic file of the 2019 Rules of Procedure be sent to each board member for their editing and for returning comments to the chairperson.

**9. NEXT MEETING DATE**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, February 25, 2019, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

This location may change depending upon a Planning Board determination of significance upon the Delaware River Solar applications pending before the Planning Board. If it is determined that the February meeting of the Zoning Board of Appeals will require a larger room, then the meeting will be moved to the Town Highway Department Facility, 985 Hook Road, Farmington, N.Y. 14425.

**10. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 7:18 p.m.

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

Respectfully submitted,

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