

Memorandum

TO: Edward Hemminger, Planning Board Chairperson

FROM: Dan Delpriore, Town Code Enforcement Officer - *Daniel Delpriore*

DATE: April 17, 2020

RE: Interpretation of Essential Services as contained the New York State Governor Andrew M. Cuomo's latest Executive Order

Mr. Chairman, in response to the recent verbal request made by Daniel Compitello, Yellow Mills Road Solar Project Manager, Delaware River Solar, that has been entered into the public record for the Planning Board's draft minutes for the remote meeting held on Wednesday, April 15, 2020, I submit this memorandum.

First, from the draft meeting minutes, Mr. Compitello stated that... "We would like the board to just recognize that Yellow Mills Solar is an essential service and we would like to request the board to reconsider the resolutions adopted tonight to suspend indefinitely the Public Hearings on these two matters. We would like to request that the board reconsider that either tonight or at the May 6th Planning Board meeting and to continue scheduling—and to the best of the Town's ability, if you can, if it is possible—to continue the Public Hearings for these projects."

I, as the Town's Code Enforcement Officer, have reviewed the above referenced Executive Order and make the following interpretation of essential services.

My review of the Executive order 202.6 issued by the Governor of the State of New York, on April 9, 2020 states in section 2.... "Essential infrastructure including public and private utilities including but not limited to power generation, fuel supply, and transmission" ... With that said any public and private utilities which would include solar power generation would be able to remain operational if they were in existence at the time of this order. With review of "Section 9, Construction" of the Executive order 202.6 it states that "the construction is for existing (i.e. currently underway) projects of an essential business" which with this interpretation if Delaware River Solar had a permit issued and had started installing and building their solar generating systems they would be allowed to continue. Such is not the case.

After a full review of all of the Governor's latest Executive Orders to date, I find, as the Town's Code Enforcement Officer, that the Delaware River Solar proposed project does **not** meet the requirements to be listed as an essential operating service with what stage of pending approvals that the project is still undergoing. At this time code enforcement sees no need to reconsider the resolutions that were approved by the Planning Board on April 15, 2020 for suspending Public Hearings indefinitely until the executive order has been removed or changed.