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Document Type: **ORDER (PROPOSED)**

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Plaintiff

FALANGA, JAMES

Defendant

FARMINGTON TOWN

Fees

Total Fees Paid: \$0.00

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State of New York
County of Ontario

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Ontario County Clerk

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

PRESENT: **HON. CRAIG J. DORAN**
Supreme Court Justice Presiding

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONTARIO

**JAMES FALANGA, NANCY FALANGA,
DANIEL GEER, and JAMES REDMOND,**

Petitioners,

JUDGMENT

- v -

**TOWN OF FARMINGTON, TOWN OF
FARMINGTON PLANNING BOARD, DELAWARE
RIVER SOLAR, LLC,
ROGER SMITH A/K/A RODGER SMITH,
CAROL SMITH, ROCHESTER GAS AND
ELECTRIC CORPORATION, JOHN DOES,
AND ABC CORPORATIONS,**

Index No. 126079-2019

Respondents.

—

Petitioners commenced this special proceeding under Article 78 of the Civil Practice Law and Rules against Respondents by Petition filed September 6, 2019 (NYSCEF Doc 1), challenging certain determinations of the Town of Farmington Planning Board regarding a large-scale ground-mounted solar farm project proposed by Delaware River Solar LLC to be developed on part of the Smiths' property at 466 Yellow Mills Road in the Town of Farmington under Town of Farmington Local Law No. 6 of 2017 ("the Project"). Respondents Town of Farmington, Town of Farmington Planning Board, Delaware River Solar, LLC, Roger Smith a/k/a Rodger Smith, Carol Smith, and Rochester Gas and Electric appeared and defended. The Petitioners appeared by their attorneys Zoghlin Group (Bridget O'Toole, Esq.). Respondents Town of Farmington and

its Planning Board appeared by their attorneys Brenna Boyce, PLLC (Sheldon W. Boyce, Jr., Esq.). Respondents Delaware River Solar, LLC, and Roger and Carol Smith, appeared by their attorneys Muehe Maue & Robinson LLP (Terence L. Robinson, Jr., Esq.). The proceeding came on before the Hon. Craig J. Doran, Supreme Court Justice, with counsel's arguments regarding the merits of this matter heard on September 2, 2021.

NOW, pursuant to the authority of this Court under CPLR § 7806 and upon review of the arguments and filing with NYSCEF ("Doc") of all papers of the parties in this special proceeding, notably Petitioners' Petition dated November 6, 2020 (Doc 376), Answer with Objections in Point of Law of Respondents Town of Farmington and its Planning Board dated May 7, 2021 (Doc 531), and Answer with Objections in Point of Law of Respondents Delaware River Solar LLC, and the Smiths dated May 21, 2021 (Doc 537), as well as the Town's Administrative Return in all its parts (Docs 88-352, Doc 359, Docs 413-518, Docs 520-529), with due deliberation had thereon, and pursuant to and consistent with a Decision of this Court having been made on October 18, 2021, filed in this proceeding on October 19, 2021 (Doc 542), rendered in favor of Respondents and against Petitioners as hereinafter provided; it is hereby

ADJUDGED that a Decision dated March 5, 2021 by Supreme Court Justice Charles A. Schiano (Doc 404) determined that the Falanga petitioners were within the zone of interest protected by State Environmental Quality Review Act (SEQRA) and therefore had standing to seek judicial review and that Decision remains the law of the case, providing legal standing for Petitioners to have their Article 78 challenge to the Town's Planning Board determinations considered on the merits; and so, for this Court's adjudication of the parties' claims on the merits, it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not fail to identify the Project's relevant areas of environmental concerns; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not fail to take a hard look at the Project's potentially significant environmental impacts; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board's decision to issue a Negative Declaration under SEQRA for the Project was not arbitrary and capricious and was supported by substantial evidence on the record; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not improperly issue a conditional negative declaration for a Type I action under SEQRA; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not improperly delegate its lead agency responsibilities under SEQRA; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not fail to rescind the Negative Declaration under SEQRA; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not improperly simultaneously affirm and amend its Negative Declaration; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board Decision to grant a Special Use Permit for the Project was not arbitrary and capricious; and it is further

ADJUDGED, contrary to Petitioners' claim, that the Planning Board did not otherwise act arbitrarily or capriciously in regard to the Project; and it is further

ADJUDGED, that the Town of Farmington Planning Board determinations of its Negative Declaration under SEQRA dated December 18, 2019 (see Doc 342), the Special Use Permit approval with conditions dated October 7, 2020 (see Doc 500), and the Preliminary Site Plan approval with conditions dated November 4, 2020 (see Doc 506), all relating to the Project proposed by Respondent Delaware River Solar, LLC on property owned by Respondents Smiths, are confirmed to be not violative of, and in compliance with, law; and it is further

ADJUDGED, that any relief requested in this proceeding but not granted in this Judgment, such as Petitioners' request for injunctive relief and attorneys fees, is denied; and it is further and finally

ADJUDGED that Petitioners' Petition dated November 6, 2020 (Doc 376) in this proceeding and all its claims are dismissed in their entirety on the merits, with prejudice.

ENTER JUDGMENT.

Dated: November ____, 2021
Rochester, New York

Honorable Craig J. Doran
Justice of Supreme Court