

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, November 26, 2018, 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  
Dan Delpriore, Town of Farmington Code Enforcement Officer  
Jeffrey D. Graff, Esq., Town of Farmington Attorney  
Edward Hemminger, Chairperson, Town of Farmington Planning Board  
Donna Herendeen, Town of Farmington Historian  
Jamie Kincaid, Town of Farmington Fire Marshall  
James Morse, Town of Farmington Code Enforcement Officer

**Applicants Present:**

Daniel Compitello, Solar Project Developer, Delaware River Solar, 130 North Winton Road,  
#10526, Rochester, N.Y. 14610  
Michael Mandrino, 1600 New Michigan Road, Farmington, N.Y. 14425  
David Matt, Project Engineer, Schultz Associates Engineers and Land Surveyors, P.C.,  
129 South Union Street, P.O. Box 89, Spencerport, N.Y. 14559  
Bryan, Julie and Pierce Meck, 586 Sheldon Road, Palmyra, N.Y. 14522  
Joan M. Morrissey, 1556 New Michigan Road, Farmington, N.Y. 14425  
Cliff Weitzel, WC Premier Properties, 6190 Fisher Hill Road, Canandaigua, N.Y. 14424  
Donald A. Young, Esq., Boylan Code, Culver Road Armory, 145 Culver Road, Suite 100,  
Rochester, N.Y. 14620

**Residents Present:**

Bob and Linda Bailey, 5165 Fox Road, Palmyra, N.Y. 14522  
 Adrian Bellis, 104 Gannett Road, Farmington, N.Y. 14425  
 Edie and Eric Chapman, 230 Ellsworth Road, Palmyra, N.Y. 14522  
 Kim Clement, 330 Ellsworth Road, Palmyra, N.Y. 14522  
 Ronald R. Cramer, 5132 Fox Road, Palmyra, N.Y. 14522  
 James R. Dennie, 595 Yellow Mills Road, Palmyra, N.Y. 14522  
 John and Marilyn Fair, 984 Stafford Road, Shortsville, N.Y. 14548  
 Nancy and Jim Falanga, 395 Ellsworth Road, Palmyra, N.Y. 14522  
 Tammy and Ed Johnson, 126 Yellow Mills Road, Palmyra, N.Y. 14522  
 Edward D. Lawrenz, 320 Yellow Mills Road, Palmyra, N.Y. 14522  
 Denis and Patricia Lepel, 1089 County Road 28, Shortsville, N.Y. 14548  
 Stacey and Arnold Vandenburg, 259 Ellsworth Road, Palmyra, N.Y. 14522  
 Peter Vanderwall, 125 Yellow Mills Road, Palmyra, N.Y. 14522  
 Josh Williams, Messenger Post Media, 73 Buffalo Street, Canandaigua, N.Y. 14424  
 Gary Wright, 573 Yellow Mills Road, Palmyra, N.Y. 14522

**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, explained the emergency evacuation procedures, and noted that copies of the evening's agenda were available at the door.

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 SEPTEMBER 24, 2018**

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the minutes of the September 24, 2018, 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, November 18, 2018, that it was posted upon the Town of Farmington website ([www.townofarmington-ny.com](http://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 Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 26th day of November, 2018, commencing at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, in the Town of Farmington, Ontario County, New York, to consider the following applications:

**ZB #1101-18: BRYAN MECK, 586 SHELDON ROAD, PALMYRA, N.Y. 14522:** Request an Area Variance to Article V, Chapter 165-58A of the Town of Farmington Codes. The applicant wishes to construct an Accessory Structure (24-foot x 36-foot) pole barn to be located in the front yard. Accessory Structures are to be located in the rear yard. The property is located at 586 Sheldon Road and zoned A-80 District.

**ZB #1103-18: CLIFF WEITZEL, WC PREMIER PROPERTIES LLC, 6190 FISHER HILL ROAD, CANANDAIGUA, N.Y. 14424:** Request an Area Variance to Article IV, Chapter 165-18B (1) to the Town of Farmington Codes. The applicant wishes to allow an existing barn for housing of animals 96.2 feet from the rear property line. A minimum of 100 feet is required. The property is located at 4628 NYS Route 96 and zoned A-80 District.

**ZB #1104-18: MICHAEL MANDRINO, 1600 NEW MICHIGAN ROAD, FARMINGTON, N.Y. 14425:** Request an Area Variance to Article IV, Chapter 165-18 (B) of the Town of Farmington Codes. The applicant wishes to allow an Accessory Structure to remain on a vacant parcel (a principal structure is required for Accessory Structures). The property is located at 1603 New Michigan Road and zoned RR-80 District.

**SAID BOARD OF APPEALS WILL MEET** at said time and place to hear all persons in support of such matters or any objections.

Tim DeLucia, Chairperson  
Zoning Board of Appeals  
Town of Farmington

**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 and held by the Zoning Board of Appeals on September 24, 2018.

Public Hearings on the Preliminary Four-Lot Subdivision, Preliminary Site Plan and Special Use Permit applications were opened and held by the Planning Board on November 7, 2018, and were continued to December 5, 2018.

Mr. Compitello (Delaware River Solar), Mr. Matt (Schultz Associates Engineers and Land Surveyors) and Mr. Young (Boylan Code) presented this application.

Mr. Compitello said that the reason for the four Area Variance applications is to seek reductions of the Town Code-required setbacks of the interior boundaries of the proposed lots. He said that approval of the Area Variances would condense the footprint of the project and would provide greater undisturbed farmland for the property owners for their agricultural operations.

Mr. Young said that the purpose of the subdivision of the property is to comply with Public Service Commission regulations and the Rochester Gas & Electric Corporation (RG&E) interconnection agreement which limits a solar installation to approximately 2MW on an individual tax-account parcel of land. The Planning Board is considering this subdivision application to create four individual tax account parcels from the current parent parcel of land.

Mr. Young said that denial of the four Area Variances would require the project to expand outward and closer to Yellow Mills Road, Fox Road and the adjacent properties. He said that approval of the Area Variances would keep the project more compact and allow greater setbacks from the external boundaries of the property.

In a letter sent to the Zoning Board of Appeals (ZBA) on November 21, 2018, Mr. Young provided the applicant's rationale in response to the five test questions which will be considered by the ZBA during its deliberations. He wrote that the property comprises "approximately 135.85 acres, but the area of the Projects will comprise only approximately 31.25 acres (collectively, the 'Project Area')." He wrote that the approval of the Area Variances will enable the applicant to achieve the low property coverage," i.e.:

" . . . In sum, we believe the factors clearly show that there is a total lack of potential detriment that could result from the proposed setback variances and, instead, only benefits would result from the granting of the variances. This is because the intent of the variances is to consolidate and shrink the aggregate Project Area, bringing the internal boundaries of the Projects closer together so that the external boundaries of the Projects are minimized and reduced to the greatest extent practicable. By minimizing the external Project Area boundaries, we are best able to mitigate against any potential impacts of the Projects. . . . "

—Donald A. Young, Esq., November 21, 2018  
*See complete letter in project file*

Mr. Young then reviewed the applicant's responses to the five test questions which will be considered by the ZBA.

Mr. DeLucia said that the ZBA will not deliberate upon the Area Variance applications this evening and that the applications will be continued to the next meeting. He said that

the ZBA may not act upon the applications until the Planning Board has completed the State Environmental Quality Review (SEQR) review and has determined the environmental significance of the project. Mr. DeLucia also noted that the ZBA will consider only the Area Variance applications and will not make a determination on the subdivision, Special Use Permit and site plan applications which are under review by the Planning Board.

Mr. Compitello then distributed to the ZBA members, and displayed on the screens for those present, two site plans which depicted the site as it would appear with the approval of the Area Variances and without the approval of the Area Variances. The depiction without the approval of the Area Variances showed the project with the setbacks as required by the Town Code.

He said that approval of the Area Variances would permit the project to be more compact and would disturb less of the existing farmland. He said that the landowners wish to continue their cattle-raising operations and that they are considering having sheep graze in between the rows of solar panels to control the growth of vegetation. He said that the project could move forward with or without the approval of the Area Variances but that the project would create less land disturbance with the variances. He noted that there would be less encroachment upon the existing hayfields along Yellow Mills with the approval of the Area Variances and that the landowners would benefit by having higher hay yields.

Mr. Brand said that the application process will continue at the next Planning Board meeting scheduled for Wednesday, December 5, 2018, to be held at the Farmington Highway Department, 985 Hook Road, at which meeting the Planning Board may make the SEQR determination if the board members feel that they have the necessary information to make an informed environmental decision at that time.

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

Ms. Johnson (126 Yellow Mills Road) said that she has lived in Farmington her entire life. She asked if the reason for the Area Variance applications is to provide a small baby “yes” and to provide the applicant with an opportunity for “getting all the ducks in a row” prior to consideration by the Planning Board. She said that the Area Variances would compress the solar panels and that the project is “monstrous.” Mr. DeLucia said that Area Variances are requested when a project does not comply with the provisions of the Town Code. He said that the applicant is seeking four Area Variances to consolidate the solar installation on the property into a smaller footprint. He said that the ZBA will deal only with the Area Variance applications and will not consider the subdivision, Special Use Permit and site plan applications which are under consideration by the Planning Board.

Ms. Clement (330 Ellsworth Road) asked if the Area Variances would make the project smaller or would just shift the panels on the property. Mr. DeLucia said that the Area Variances would reduce the footprint of the project upon the property. Mr. Compitello

said that there would be the same number of solar panels (21,000) but that a smaller portion of the property would be disturbed if the Area Variances are approved. He said that approval of the variances would consolidate the encroachment upon the land and would reduce the overall impact of the project.

Ms. Vandenburg (259 Ellsworth Road) asked about the distance of the separation of the solar panels from the property line. The applicant is requesting the following variances:

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

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

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

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

If the ZBA does not approve the Area Variances, Mr. DeLucia said that the applicant would be required to have more open space distance between each lot to comply with the existing provisions of the Town Code. He said that in this case, the three lots upon which the solar panels would be located would be farther apart and would disturb more land.

Mr. Falanga (395 Ellsworth Road) said that he objected to Mr. Compitello and Mr. Young remaining at the podium and having the floor the entire time during which the public comment portion has been in session to this point this evening. He said that they should sit down. Mr. Falanga said that Mr. Compitello has been disingenuous in his comments for three straight meetings in a row regarding the number of proposed solar panels and the number of acres to be disturbed. Mr. Falanga said that the total project will be 40 acres if the Area Variance applications are denied and the fact that he's (Mr. Compitello) there (at the podium) is being disingenuous. He said that he (Mr. Falanga) objects to this.

Mr. DeLucia said that he did not have the specific details at this time to respond to Mr. Falanga's comments. He asked Mr. Falanga to pause and that if he (Mr. Falanga) did not like his (Mr. DeLucia's) answers, then Mr. Falanga should go to the Planning Board where this project will be discussed further. Mr. DeLucia again said that the ZBA's specific role is to deal with the Area Variance setback applications only. Mr. Falanga said that he understood this.

Mr. Chapman (230 Ellsworth Road) asked for clarification on the two site plans which were displayed on the screen. Mr. Morse clarified which map depicted the site plan if the Area Variances were approved and which map depicted the site plan if the Area Variances were denied and the existing Town Code setbacks were followed.

Mr. Falanga asked if the number of solar panels for the entire project is 21,000. Mr. DeLucia said yes.

Mr. Falanga said that he is speaking on behalf of a group of concerned citizens. He said that the group has grown from 6 to 16 to 28 and now to 120 members. He said that all the members of this group are totally against the proposal and that the Area Variances should not be granted. He said that Delaware River Solar (DRS) has only been in business for two and a half years and that the possibility that the company will be around in 35 years when the site is to be decommissioned is pretty slim. He said that the company sold a bill of goods to the property owners (Roger and Carol Smith) when they told them it would be an eight-acre farm tucked behind the marsh. He said that this was told to him by the property owners. He said that three months later, the project has grown to a 21,000-panel, 40-acre commercial power plant. He said, as stated by Mr. Brand at a previous meeting, that the Town will not benefit one penny from this project, other than some application fees.

Mr. Falanga said that DRS has lied to the neighborhood. He said they have been disingenuous to the neighborhood and that one of the neighbors calls them opportunistic carpet baggers who prey on farmers.

Mr. Falanga said that the group's research has shown that Mr. Compitello has attended 25 town meetings across the state offering advice on how to put the solar plans together. Mr. Falanga said that Mr. Compitello then went back and sold the materials to the towns. He said that he was sad to report that Mr. Compitello attended our [Farmington's] solar committee meetings as well. Mr. Falanga said shame on us [the residents] for not being a part of that when it first came out. He said that if the Town is going to get into a 35-year relationship [with DRS] the Town should know what it is getting into.

Mr. Falanga asked if the ZBA has seen the more than 30 letters which have been sent by residents who are opposed to this project. He said that some of the letters are from young people who planned to buy land in the area and who are not going to buy land no. Mr. DeLucia displayed the stack of letters which have been received by the ZBA.

Mr. Falanga said that the Town Agriculture Advisory Committee and the Conservation Board have opposed the large-scale solar project. He read the names of the Agriculture Advisory Committee and Conservation Board members who considered the application. He said that this material was important for members of the audience to hear this evening, some of whom have not attended the previous meetings.

Mr. Falanga said that whether this is a nuclear power plant or a coal power plant project, it is a commercial power plant and that shame on us [the residents] for not having been around when the Town solar law was being written. He said that Mr. Compitello is selling a product. He said that he hates to say it but the Smiths [the property owners] were duped when the project went from eight acres to 40 acres. He said that this is a monumental decision for the Town that will forever change the make-up of Farmington. He



said he and his wife are here because they love the open spaces and their cobblestone home which is directly across from this location.

Mr. Falanga referred to a good-neighbor letter sent to the residents by Mr. Compitello in which a post office-box address on Winton Road in Rochester, N.Y., was given. He said that this is just an example of how Mr. Compitello has misled the residents. He said that he [Mr. Falanga] is here to represent the citizens of Farmington and not the developer's interests.

Mr. Falanga said that DRS website indicates that it costs \$100,000 to decommission a 10-acre solar plot. He said that he assumes that the Town will ask for a half-million-dollar commitment from the company to decommission this site.

Mr. DeLucia said that Mr. Falanga's comments have been heard and will be recorded in the minutes for consideration. But, Mr. DeLucia said, the ZBA is not in the business of assessing an applicant's organization. He said that this is not the purpose of this board and that the ZBA will deal only with the setbacks which have been requested in the Area Variance applications.

Mr. Marshall asked to clarify the answer to Ms. Johnson regarding the definition of a variance. Mr. Marshall explained that a variance is a request by an applicant for an exception to a provision of the Town Code, i.e., an exception to the rule.

Ms. Johnson asked about the next steps if the variances are granted or not. Mr. DeLucia said that the applicant would be responsible for the submission of a plan to the Planning Board if the variances are approved. He said that that the applicant would be responsible for the submission of a revised plan for consideration if the variances were not approved.

Ms. Bailey (5165 Fox Road) said that she lives and works on Fox Road. She asked if the lots have been subdivided yet and which board would handle that. Mr. DeLucia said that the Planning Board has received the subdivision application but has not yet acted upon it. Mr. Hemminger (the Planning Board Chairperson) said that the subdivision, Special Use Permit and site plan applications are still open and would not be acted upon until the SEQR process is completed and an environmental determination has been made.

Ms. Bailey said that the Planning Board should consider that the purpose of the subdivision is for the company to have a 7MW solar system instead of a 2MW solar system. She said that the Town should look at that.

Ms. Clement (330 Ellsworth Road) asked if the ZBA could approve the variances and if the Planning Board could deny the subdivision, Special Use Permit and site plan applications. Mr. DeLucia said that this could be an option.

Ms. Clement again asked to see the site plan on the screen. Mr. Compitello again reviewed the site plan with variances and the site plan without variances.

A resident asked if the reason for the Area Variances is to bring the solar panels closer together to benefit the company by reducing the cost of the installation. Mr. DeLucia said that regulatory agencies require that a solar project on an individual tax-account parcel be limited to approximately 2MW. He said that the applicant is requesting a subdivision of the land to permit three 2MW installations on three separate tax-account parcels.

Ms. Falanga (395 Ellsworth Road) requested that the Town research the rules for solar installations. She said that the Area Variances would compress the panels. She said that the Area Variances are for the company and are not for us.

Mr. Falanga asked if 60 or more acres would be needed if the project goes to the larger footprint. Mr. DeLucia said that this information would be required.

Mr. Fair (984 Stafford Road) said that he has heard three different lies from DRS. He said that the company gave a post office-box address in Rochester, that the number of solar panels has now increased to 21,000 from what the farmer was first told, and that he questions how far from the roads the panels would be. He said that there has been too much lying and that they need definite answers before decisions are made.

Mr. Falanga asked about the next meetings. Mr. Brand said that the Town Board will meet tomorrow night (November 27, 2018) at 7:00 p.m. at the Town Hall; that the Planning Board will meet Wednesday, December 5, 2018, at 7:00 p.m. at the Highway Department, 985 Hook Road; and that the Zoning Board of Appeals will meet on Monday, December 17, 2018, at 7:00 p.m. at the Town Hall.

Mr. Falanga then read into the meeting record a letter from James Redmond (JRLON, Inc., P.O. Box 244, 4344 Fox Road, Palmyra, N.Y. 14522) who could not attend the meeting this evening, i.e.:

I am writing because I will be out of town for the next meeting with regard to the Delaware River Solar application for a Special Use Permit and change in zoning and setback laws for 466 Yellow Mills Road.

I am again stating my objection to subject application. My concerns are major and sincere.

1. Devaluation of adjacent properties. I own property a few feet away. I can stand in the front yard of 4500 Fox Road and look at most of the total 135 acres of the subject property. Any future residential development on adjacent properties would be severely compromised.
2. The land is zoned agricultural. Please read the 5th paragraph of the NYSERDA Redesign of NY—Sun's Megawatt Block Program (*Preserving New York's Valuable Agricultural Land are priorities*

of Governor Cuomo). Let's help our Governor reach his 2030 goal by following his wishes and preserving our FARMLAND.

3. This subject POWER PLANT will make a very dangerous intersection much more dangerous. The intersection of Yellow Mills Road and Fox Road should not be dangerous, however we the people make it that way.
  - a. Cars and trucks run the two stop signs every day and night. Mostly local residents who live in the area.
  - b. I have seen tractor trailers run those stop signs.
  - c. When the corn is high, some cars will turn their lights off on Yellow Mills heading south to see if lights are heading toward them intersection on Fox Road, and then make a decision to stop or not.
  - d. I lost my 20-year-old niece at that intersection. Anette was a junior at Geneseo State, studying to become an elementary school teacher, like her sister, her grandmother and her aunt. She was traveling east on Fox Road heading back to her summer job after having lunch with her grandmother. She was hit by a large pickup truck hauling a loaded trailer and doing an estimated 55 mph that hit her driver's side door at the Yellow Mills intersection. The door was pushed almost halfway into the Buick station wagon. This man had no intention of stopping and had been running those stop signs for years.
  - e. A few weeks ago, one of my employees was heading home after work going west on Fox Road. He hit a car that ran the stop sign at the Yellow Mills intersection. His car was totaled; the other driver ended up in a ditch, the car on its roof. Luckily, no one was killed.
  - f. The size of this power plant will be a huge distraction. Everyone driving beside the power plant will have to gawk at it, taking their attention away from the intersection and road.
4. At one of the meetings, I believe the President of Delaware River Solar LLC made a statement that the transformers would be 8–12 feet tall. He did not elaborate. I asked Brian Venton of Paradise Energy Solutions how wide and thick they might be. His company installed our 666 roof-mounted solar panels. His answer was 4–6

feet wide and 1–2 feet thick. I assume there would be three of them. Where would they be located?

Ron, I hope the committee members understand our concerns and frustrations. How would they like to own our properties?

—Jim Redmond, November 20, 2018

Mr. Falanga said that the SEQR 30-day public comment period is a flawed system. He said that it is assumed that an Involved Agency or an Interested Agency has no objection if the agency does not respond in the 30-day period. He said that simply not hearing back from an agency is not right.

Mr. Falanga said that the supervisor of the Town of Macedon was approached [with a solar application] and gave the proposal a blanket “no thank you” because it would not benefit the citizens of Macedon.

Ms. Johnson (126 Yellow Mills Road) asked if the consolidation of the solar panels was due to the Federal wetlands on the property. Mr. DeLucia said that the consolidation is specific to the setback requirements only and has nothing to do with the wetlands.

Mr. Cramer (5132 Fox Road) asked about the setback distances from the road. Mr. Morse clarified the required setback distances and the requested distances in the four variance applications (*see* Page 7).

Mr. Cramer asked how the project has advanced to this stage as a commercial enterprise on agricultural land. Mr. Brand said that the Town’s solar regulations are not restricted to any one particular zoning district. He said that the solar regulations apply townwide across all zoning district boundaries. He said that there was no justification for the Town Board to restrict solar installations on agricultural land when the Town solar law was being written. Mr. Cramer said that other farmers generate power by solar and use the power on their own farms. Mr. Cramer said that the Town would not give him the time of day if he wanted to start a factory on his agricultural land but yet this is a multi-million-dollar commercial enterprise on agricultural land. Mr. Cramer said that the ZBA should have been consulted before this project got started.

A resident asked if this is all a waste of time if the Planning Board denies the subdivision application. Mr. DeLucia said that the ZBA will not be able to make a decision until the Planning Board completes the SEQR process. He said that the Planning Board will then decide whether the project moves forward.

A resident said that migratory birds fly over this area and will crash into the solar panels which they will mistake for a body of water. She said that the migratory birds will not know any better.

Mr. Falanga said that DRS is not doing this to be a good neighbor. He said that the company has been disingenuous with the residents.

Ms. Chapman (230 Ellsworth Road) asked about a purple-shaded area on the site plan. Mr. Morse said that the area to which she referred has been designed by the applicant to meet the road frontage and setback requirements.

Mr. Compitello discussed the locations of the proposed new lots on the site plan.

A resident asked about the sheep which have been discussed. Mr. DeLucia said that cattle or sheep would be able to graze around the parcel if the system is approved.

Mr. DeLucia said that the Public Hearing before the ZBA will be kept open and will reconvene on December 17, 2018.

He then read aloud the following resolution:

**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—is 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**, there are other required Town approvals that involve Preliminary Subdivision Plat, Special Use Permit and Preliminary Site Plan all by the Town Planning Board; and

**WHEREAS**, the Town is obligated under the stated intent of the State Environmental Quality Review Act (SEQRA) regulations to consider the potential environmental impacts identified for all of the pending decisions, by both the Planning Board and the Board, upon these proposed applications (hereinafter referred to as Action) as opposed to individual decisions; and

**WHEREAS**, the site lies within the established Ontario County Consolidated Agricultural Use District Number 1; and

**WHEREAS**, Part 617.4. (b) (8) of Article 8 of the New York State Environmental Conservation Law, identifies any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section, to be a Type I Action; and

**WHEREAS**, in this instance, the above referenced 25 percent threshold involves the physical alteration of 2.5 acres of land; and

**WHEREAS**, the proposed Site Plan identifies the physical alteration of more than 2.5 acres 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**, the Board, on Monday, September 24, 2018, opened the Public Hearings upon these Actions and received testimony from the public; and

**WHEREAS**, the Board on Monday September 24, 2018 took action to table further discussion upon the requested area variances and continue the public hearings thereon to Monday, November 26, 2018; and

**WHEREAS**, the 30-day coordinated review and public comment period commenced on Friday, September 28, 2018, and ended at noon on Friday, October 29, 2018; and

**WHEREAS**, the Planning Board, on Wednesday, October 3, 2018 declared its’ intent to be designated as the Lead Agency for these Actions at their meeting on Wednesday, November 7, 2018; and

**WHEREAS**, the Planning Board, on Thursday, October 4, 2018 provided written notice of their declared intent to be designated Lead Agency at their meeting on Wednesday, November 7, 2018 to all Involved and Interested Agencies; 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, on Wednesday, November 7, 2018 did by resolution table any further discussion upon the requested Action until Wednesday, December 5, 2018; and

**WHEREAS**, the Planning Board, on Wednesday, November 7, 2018 did direct staff to prepare a draft of Parts 2 and 3 of the Full Environmental Assessment Form (FEAF) for this Action for the Planning Board’s review and acceptance at its’ meeting on Wednesday, December 5, 2018P; and

**WHEREAS**, the Board, in accordance with the procedures established by the State Environmental Quality Review Act (SEQRA), 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 December 17, 2018, meeting.

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

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

Motion carried.

## 5. NEW PUBLIC HEARINGS

**ZB #1101-18**

**Bryan Meck  
586 Sheldon Road  
Palmyra, N.Y. 14522**

**Area Variance**

The applicant is requesting an Area Variance to the provisions of Chapter 165, Article V, Section 58A of the Town of Farmington Codes. The applicant wishes to construct an Accessory Structure (a 24-foot x 36-foot pole barn) to be located in the front yard portion of the lot. The Town Code requires Accessory Structures to be located in the rear yard portion of a lot. The property is located at 586 Sheldon Road and is zoned A-80 Agricultural District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Meck presented this application. Julie and Pierce Meck also attended.

Mr. Meck presented the following information in writing and on the screen:

- We built a home on 84 acres of land back in 2004 (586 Sheldon Road).
- Our home is 1,200 feet off Sheldon Road (nice except for snow season and road upkeep).
- We would like to build a barn for storage—truck, tractor, apple harvest equipment, etc.
- We currently have Gardy Sheldon farming 15+ acres. We have several acres of apple orchard. We have designed this layout to not lose any existing farmland.
- Building behind our home would infringe on neighboring land to the west (Holtz) as well as would require excavation (steep hill, drumlin) which could lead to erosion problems throughout our valley and the area.
- Requested site is our side “yard” but tucked into our hedgerow so it is not obvious when coming up our driveway.
- Site will not be visible from road or to any neighbors.
- No living space.

Mr. Meck presented a site plan showing the elevation of the home site and the proposed location of the barn. He also provided a drawing and specifications of the barn. These materials also were also displayed on the screen for those in attendance.



Mr. Brand said that he has submitted two draft resolutions for the board's consideration this evening, i.e., a SEQR resolution (Type II Action) and a resolution recommending approval of the Area Variance with conditions.

Mr. Morse confirmed that the proposed barn will not be visible from Sheldon Road.

Mr. DeLucia then 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.

There were no further comments from board members or Town staff.

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

**ZB #1102-18**

**Cliff Weitzel  
WC Premier Properties  
6190 Fisher Hill Road  
Canandaigua, N.Y. 14424**

**Area Variance**

The applicant is requesting an Area Variance to the provisions of Chapter 165, Article IV, Section 18B (1) of the Town of Farmington Codes. The applicant wishes to use an existing barn on the property for housing of animals 96.2 feet from the rear property line. The Town Code requires Accessory Structures that house animals to be set back a minimum of 100 feet from the nearest property line. The property is located at 4628 NYS Route 96 and is zoned A-80 Agricultural District.

This project was discussed at the Project Review Committee (PRC) meetings on September 7, 2018; and October 5, 2018.

The Planning Board has scheduled a Public Hearing on the Four-Lot Preliminary Subdivision Plat to be held on December 5, 2018.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Weitzel presented this application.

He said that he purchased the farm for recreation purposes and that he would like to subdivide a portion of the property—which includes a farmhouse, barn and other outbuildings—and market it for sale as a farmette with the opportunity for the purchaser to keep animals in the barn. He said that the barn has been used for animals in previous years and was well over 100 feet from State Route 96 until some land was taken from the property when the road was realigned by the State. He said that he is requesting a variance of less than four feet to provide the opportunity for a new owner to keep animals in the barn.

Mr. Brand said that he has submitted two draft resolutions for the board's consideration this evening, i.e., a SEQR resolution (Type II Action) and a resolution recommending approval of the Area Variance with conditions.

Mr. Morse acknowledged that the requested variance is less than four feet and that the approval of the variance will address the technicality which was created when the road was realigned by the State many years ago.

Mr. DeLucia then 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.

There were no further comments from board members or Town staff.

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

**ZB #1104-18**

**Michael Mandrino  
1600 New Michigan Road  
Farmington, N.Y. 14425**

**Area Variance**

The applicant is requesting an Area Variance to the provisions of Chapter 165, Article IV, Section 18B of the Town of Farmington Codes. The applicant wishes to allow two Accessory Structures (barns) to remain on proposed Lot #E-3 of the Anthony and Florence Mandrino Estate Subdivision where there is no principal structure. The Town Code requires a principal structure to exist in order for there to be an Accessory Structure. The property is located at 1603 New Michigan Road (on the east side of New Michigan Road, approximately 250 feet north of the intersection with Lillybrook Court) and is zoned RR-80 Rural Residential District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Mandrino presented this application.

He said that he is the executor of his parents' estate and that it was the family's wish that a family member move into the home on the property. He said that his daughter would like to move into the home which is now located on a 15-acre parcel of land. He said that his daughter does not have the means to support 15 acres and that the family would like to subdivide the property and have the house on a smaller parcel which would be more manageable for her. He said that the two adjacent parcels would then be sold.

Mr. Mandrino said that when planning the subdivision he learned that he could not have a parcel with two barns (Accessory Structures) where there is no principal structure. He has submitted this application for an Area Variance to enable the two existing barns to remain on a lot without a principal structure. He said that there would be no changes to the property.

Mr. Brand said that he has submitted two draft resolutions for the board's consideration this evening, i.e., a SEQR resolution (Type II Action) and a resolution recommending approval of the Area Variance with conditions.

Mr. Marshall asked about the uses of the barns. Mr. Mandrino said that the barns are used for the storage of equipment which includes a tractor and a bush hog which are used to maintain the property.

Mr. DeLucia then 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.

There were no further comments from board members or Town staff.

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

## 6. BOARD BUSINESS—DELIBERATIONS AND DECISION

**ZB #1101-18                      Bryan Meck                                      Area Variance**

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following SEQR resolution be approved:

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

**ZB #1101-18**

**APPLICANT:                      Bryan Meck, 586 Sheldon Road, Palmyra, N.Y. 14522**

**ACTION:                              Area Variance to Chapter 165, Article V, Section 58. A. to construct an Accessory Structure (pole barn) within the front yard portion of a lot.**

**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,

**WHEREAS**, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to a

front setback dimension for an accessory structure, a fence, located upon an approved lot having necessary utilities.

**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.

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

Motion carried.

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the following complete resolution be waived and that the Chairperson read aloud the determination of the Zoning Board of Appeals and the conditions of approval.

Motion carried by voice vote.

The reading of the complete resolution was waived. Mr. DeLucia then read aloud the determination of the Zoning Board of Appeals and the conditions of approval of the following complete resolution:

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

**APPLICANT:** Bryan Meck  
 586 Sheldon Road  
 Palmyra, N.Y. 14522

**File:** ZB #1101-18  
**Zoning District:** A-80 Agricultural  
**Published Legal Notice on:** Nov. 18, 2018  
**County Planning Action on:** N.A.  
**County Referral #:** N.A.  
**Public Hearing held on:** Nov. 26, 2018

**Property Location:** 586 Sheldon Road, Palmyra, N.Y. 14522

**Applicable Section of Town Code:** Chapter 165, Article V, Section 58. A

**Requirement for Which Variance is Requested:** The applicant wishes to construct an Accessory Structure (a 24-foot by 36-foot pole barn) to be located in the front yard portion of the lot. The Town Code requires Accessory Structures to be located in the rear yard portion of a lot.

**State Environmental Quality Review Determination:** The granting of an Area Variance to enable the construction of an Accessory Structure in the front yard portion of an approved residential lot, is classified as a Type II Action under Part 617.5 (c) (7) 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 property does not lie within the jurisdictional area set forth in Sections 239-l & -m of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

## **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 that the character of this neighborhood is predominantly open fields used in agricultural operations, with the majority of the homes fronting along the nearby highways. In this instance the Board also finds that the Principal Structure is hidden from view from along Sheldon Road by a hill side and wooded areas which render the structure not visible. The Board further finds that there are a number of barns in the neighborhood, with some located in Front Yard portions of those sites. The Board, based upon these findings, determines that there will not be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the Area Variance.

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 Principal Structure is located on the Lot in such a manner that the majority of the land located between the Principal Structure and the highway is the largest portion of the Lot and is identified as the Front Yard portion of the Lot. The Board also finds that topography behind the Principal Structure, known as the Rear Year portion of the Lot, would not permit the placement of an Accessory Structure in this portion of the Lot without extensive earth work and potential soil erosion issues becoming involved. Therefore, based upon these findings the Board finds that the benefit sought by the applicant cannot be achieved by a feasible alternative to the requested area variance.

3. Whether the requested variance is substantial.  Yes  No

**Reasons:** The Board finds that the requested area variance involves a variance request which is one hundred percent (100%) increase to the required prohibition for placement of an accessory structure within the front yard portion of a lot located within this zoning district. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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 Sections 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, based upon its' review of the files on this application, finds that the applicant was aware of the Town Code regulations at the time a Building Permit was sought for the construction of the Principal Structure on the Lot in 2004. The Board also finds that at that time, a separate area variance was granted in 2004 to enable an existing Accessory Structure (a barn) to remain in the Front Yard portion of the site.

### **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 the detriment to the neighborhood or community and, therefore, grants the area variance to permit a 24-foot by 36-foot single story pole barn, an Accessory Structure, to be placed in the Front Yard portion of the site. Be it further understood that said approval is based upon the following conditions:

1. The exterior of the proposed pole barn is to match the color of the Principal Structure, to greatest extent practical; and
2. The proposed pole barn may not be used as a dwelling unit and that any boarding of animals shall be subject to the setback criteria contained in the Town Code; and
3. All lighting of the proposed pole barn shall be in compliance with the Town's Lighting Standards contained in Chapter 165 of the Town Code; and

- 4. Any side of the proposed pole barn that is visible from an adjacent property is to be landscaped in accordance with a landscaping plan approved by the Town Code Enforcement Officer, which is intended to soften the appearance of the pole barn being in front of the Principal Structure; and
- 5. There shall be no outside storage of any equipment used by the landowner.

**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.

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

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

Motion carried.

**ZB #1102-18                      Cliff Weitzel                      Area Variance**  
**WC Premier Properties**

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the following SEQR resolution be approved:

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

**ZB #1102-18**

**APPLICANT:                      WC Premier Properties, c/o Cliff Weitzel, 6190 Fisher Hill**  
**Road, Canandaigua, N.Y. 14424**

**ACTION:** **Area Variance to Chapter 165, Article IV, Section 18. B. (1) to use an existing barn on the property at 4628 State Route 96 for housing of animals 96.2 feet from the rear property line.**

**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,

**WHEREAS**, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to a rear setback dimension for an accessory structure, an existing barn, located upon an approved lot having necessary utilities.

**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.

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

Motion carried.

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the following complete resolution be waived and that the Chairperson read aloud the determination of the Zoning Board of Appeals and the conditions of approval.

Motion carried by voice vote.

The reading of the complete resolution was waived. Mr. DeLucia then read aloud the determination of the Zoning Board of Appeals and the conditions of approval of the following complete resolution:

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



**APPLICANT:** WC Premier Properties  
c/o Cliff Weitzel  
6190 Fisher Hill Road  
Canandaigua, N.Y. 14424

**File:** ZB #1102-18  
**Zoning District:** A-80 Agricultural  
**Published Legal Notice on:** Nov. 18, 2018  
**County Planning Action on:** Nov. 14, 2018  
**County Referral #:** 191.1-2018  
**Public Hearing held on:** Nov. 26, 2018

**Property Location:** 4628 State Route 96, Farmington, New York 14425

**Applicable Section of Town Code:** Chapter 165, Article IV, Section 18. B. (1)

**Requirement for Which Variance is Requested:** The applicant wishes to use an existing barn on the property for housing of animals 96.2 feet from the rear property line. The Town Code requires Accessory Structures that house animals to be set back a minimum of 100 feet from the nearest property line.

**State Environmental Quality Review Determination:** The granting of an Area Variance to enable the construction of a taller Accessory Structure than is allowed by Town Code, in the front yard portion of an approved residential lot, is classified as a Type II Action under Part 617.5 (c) (7) 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:** No recommendation made on a Class 2 referral.

**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 character of the neighborhood is predominantly low density single-family dwellings fronting along a major State Highway, State Route 96, surrounded by an active railroad, open agricultural fields and scattered wooded areas. The Board further finds that the existing barn was constructed prior to the enactment of zoning regulations by the Town. The Board further finds that the closest residential dwelling is located several hundred feet to the west of the existing barn and that the existing barn is partially blocked from view of the adjacent dwelling by the existing farm house located on the property. Based upon these findings the Board has determined that the granting of the requested area variance will not produce an undesirable change in the character of the neighborhood or will it result in 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 there is no feasible alternative to the requested variance. The Board further finds that the only alternative would be to tear down the barn and re-construct it on another part of the property. The Board finds that doing so would not be feasible due to the age of the structure and the shape of the Lot.

3. Whether the requested variance is substantial.     Yes         No

**Reasons:** The applicant has stated that he has a buyer for the property who would like to be able to board of horse in the existing barn. The Town Code requires structures that board animals to be setback a minimum of 100 feet from the Rear Lot Line. The existing barn sets back 96.2 feet from the Rear Lot Line. The applicant is seeking a dimensional variance of 3.8 feet, or a variance of 3.8% from what is required. The Board has consistently found that a variance greater than fifty percent (50%) of what is required by 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 617.7 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 existing barn, the Accessory Structure for which relief is sought, out dates the Town Zoning Code and that the alleged difficulty was not 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.

**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.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the preceding resolution be approved.

Timothy DeLucia     Aye  
Jeremy Marshall     Aye  
Cyril Opett         Aye  
Nancy Purdy         Aye  
Thomas Yourch       Aye  
Motion carried.

**ZB #1104-18                   Michael Mandrino                   Area Variance**

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the following SEQR resolution be approved:

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

**ZB #1104-18**

**APPLICANT:                   Michael Mandrino, 1600 New Michigan Road,  
Farmington, N.Y. 14425**

**ACTION:                      Area Variance to Chapter 165, Article IV, Section 18B to allow  
two Accessory Structures (barns) to remain on proposed Lot  
#E-3 of the Anthony and Florence Mandrino Estate Subdivi-  
sion where there is no principal structure. The property is lo-  
cated at 1603 New Michigan 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 Action; and,

**WHEREAS**, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an Area Variance to enable two existing barns (Accessory Structures) to remain upon a proposed Lot that does not have a

Principal Structure. 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.

**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.

**BE IT FINALLY 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.

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

Motion carried.

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the reading of the following complete resolution be waived and that the Chairperson read aloud the determination of the Zoning Board of Appeals and the conditions of approval.

Motion carried by voice vote.

The reading of the complete resolution was waived. Mr. DeLucia then read aloud the determination of the Zoning Board of Appeals and the conditions of approval of the following complete resolution:

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

**APPLICANT:** Michael Mandrino  
1600 New Michigan Road  
Farmington, N.Y. 14425

**File:** ZB #1104-18  
**Zoning District:** RR-80 Rural Residential  
**Published Legal Notice on:** Nov. 18, 2018  
**County Planning Action on:** N.A.  
**County Referral #:** N.A.  
**Public Hearing held on:** Nov. 26, 2018

**Property Location:** 1603 New Michigan Road (east side of New Michigan Road approximately 250 feet north of the intersection with Lillybrook Court), proposed Lot E-3 Anthony and Florence Mandrino Estate Subdivision.

**Applicable Section of Town Code:** Chapter 165, Article IV, Section 18. B.

**Requirement for Which Variance is Requested:** The applicant wishes to allow two Accessory Structures (barns) to remain on Proposed Lot E-3 of the Anthony and Florence Mandrino Subdivision where there is no principal structure. The Town Code requires a principal structure to exist in order for there to be an Accessory Structure.

**State Environmental Quality Review Determination:** The granting of an Area Variance to enable two existing barns (Accessory Structures) to remain upon a proposed Lot that does not have a Principal Structure is classified as a Type II Action under Part 617.5 (c) (7) 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 property does not lie within the jurisdictional area set forth in Sections 239-l and -m of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

**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    **X** No

**Reasons:** The Board finds that the character of the neighborhood is single-family dwellings fronting along the east side of New Michigan Road. The Board further finds that proposed Lot E-3 has two existing metal barns which were originally constructed as part of the Mandrino farm operations. The Board further finds that the estate of Anthony and Florence Mandrino is being proposed as a three Lot subdivision of land, with proposed Lots E-1, E-2 and E-3 being subdivided to enable a family member to occupy an adjacent Lot for her home. The Board further finds that all three of the proposed Lots of the Anthony and Florence Mandrino Estate Subdivision are being reviewed by the Planning Board as not approved building lots; and that the two existing barns on Lot E-3 are to continue to be used by the Mandrino family to store equipment that is used to maintain all three of the proposed Lots. The Board, based upon these findings, determines that the granting of the Area Variance will not produce an undesirable change in the character of the neighborhood or will it likely 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        **X** No

**Reasons:** The Board finds that it is not feasible for one of the Mandrino family members to maintain all 15 acres of land remaining in the estate and that by creating the proposed three Lot subdivision of land it will enable a family member to maintain an existing single-family dwelling. The Board also finds that the location of the two existing Accessory

Structures are located in such a manner on the property that there is no feasible alternative to the requested variance. The Board further finds that the barns are in good shape and have been well maintained. The Board further finds that when development is proposed for Lot E-3, the location of a Principal Structure, at that time may necessitate the removal of one or both of the two barns. Finally, the Board finds that these two structures are no longer used as part of any active farm operation and are used primarily for storage of equipment used for maintenance of the approximately 15 acres which comprise the estate site.

3. Whether the requested variance is substantial.     Yes         No

**Reasons:** The Board finds that the requested area variance involves a variance request for two non-conforming structures is a two hundred percent (200%) increase to the required prohibition for placement of an accessory structure on a lot where there is no Principal Structure. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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 when the two barns were constructed they were part of an active farming operation and were allowed Accessory Structures. The Board further finds that now the land is no longer being actively farmed and that a proposed subdivision of land by the applicant is being considered. The Board further finds that as the result of the proposed land subdivision the two barns would be placed upon the proposed Lot E-3 of the estate, a proposed Lot where there are no known plans for development of a permitted Principal Structure. Based upon these findings the Board determines that the alleged difficulty is 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:

The benefit to the property owner outweighs any potential detriment to the community or to adjacent properties provided further that the following conditions of approval are complied with:

1. The two barns may continue to remain on proposed Lot E-3 provided that they are used by the property owner for continual maintenance of any Lot that remains a part of the estate. When there are no longer any remaining Lots which are part of the estate, then the two barns are to be removed from Lot E-3 and the area restored within 90 days of removal.
2. There shall be no human occupancy allowed within either of the two barns on proposed Lot E-3.
3. At the time a Principal Permitted Structure is approved for Lot E-3 the barn closest to the right-of-way of New Michigan Road is to be either relocated on the Lot behind the Principal Permitted Structure, or removed from the Lot.
4. Any Principal Permitted Structure to be approved for Lot E-3 shall be placed in front of any Accessory Structure on said Lot.
5. Both barns are to be maintained by the estate until Lot E-3 is sold to a non-member of the estate.

These conditions of approval and this application file number are to be placed upon the Preliminary and Final Plat Maps for the subdivision of the Estate of Anthony and Florence Mandrino, Lots E-1, E-2 and E-3.

**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.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the preceding resolution be approved.

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

Motion carried.

**7. PUBLIC COMMENTS**

None

**8. CODE ENFORCEMENT OFFICER UPDATE**

Mr. Morse reported that the Building Department has already surpassed the number of building permits which had been issued in 2017.

He also noted that Mr. Weitzel's application (ZB #1102-18) required only one Area Variance application. He said that Mr. Weitzel is entitled to a refund of the application fee which he had paid for a second application which was determined not to be needed. Mr. Morse requested that Mr. Weitzel send an e-mail to him to claim the refund and that the refund request will be forwarded to the Town Board for reimbursement. Mr. Weitzel said that he would send this e-mail to Mr. Morse.

**9. DIRECTOR OF DEVELOPMENT**

Mr. Brand noted that 11-year-old Pierce Meck, who attended the entire meeting with his parents, would certainly be entitled to a statement of attendance from the Zoning Board of Appeals for possible extra credit in his civics class at the Victor Central School District.

**10. NEXT MEETING DATE**

The next regular meeting of the Zoning Board of Appeals, if necessary, will be held on Monday, December 17, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

**11. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 8:45 p.m.

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



Respectfully submitted,

\_\_\_\_\_ L.S.

John M. Robortella  
Clerk of the Zoning Board of Appeals