

Town of Byron Planning Board Minutes

Wednesday, October 1, 2025, at 7:00 PM

Byron Town Hall, 7028 Byron Holley Road, Byron, NY 14422

Those Present: Planning Board Members: Planning Board Chairman Christopher Hilbert, Jason Jack, Bill Stevens, Laura Bestehorn, Jen Tuerk, Town CEO/ZEO – Melissa Ierlan, Town Councilman – Brandon Mason, Town Attorney John Sansone. Joe Graves – BlueWave. Evan Young – Crawford & Associates. Sherman Gittens, MRB group. Members of the Public: Barbie Starowitz, Yvonne Loewke, Sue Burgess, Joel Woodward.

Call the meeting to order at 7:01 PM

MOTION: Motion to open the meeting made by B. Stevens, Second by L. Bastehorn. All in favor. None opposed.

MOTION PASSED

Note from Chairman Hilbert:

Please note that from this date forward all planning board meetings will be conducted as a business meeting. There will be an allotted time for public comments. At the next meeting and going forward you will need not only sign in but sign that you are requesting to speak. Each speaker is given 3 minutes.

Public comments will be on agenda items only. Agenda items will be accepted 10 days prior to each meeting and will be posted on the town website. Beyond that, it will be at the discretion of the Planning Board to add to the agenda.

Review and Approval of the September 3rd Meeting Minutes

MOTION: Motion to open the review of September 3, 2025, meeting minutes made by J.Jack, Second by B. Stevens. All in favor. None opposed.

MOTION PASSED.

No comments or corrections

MOTION: Motion to approve September 3, 2025, meeting minutes made by J.Jack, Second by L. Bastehorn. All in favor. None opposed.

MOTION PASSED.

MOTION: Motion to close September 3, 2025, meeting minutes made by J.Jack, Second by L. Bastehorn. All in favor. None opposed.

MOTION PASSED.

Bergen Swamp Solar Review with Sherman Gittens, MRB

MOTION: Motion to open the review of Bergen Swamp Solar with Sherman Gittens made by B. Stevens, Second by J. Jack. All in favor. None opposed.

MOTION PASSED.

Comments from Sherman Gittens, MRB –

Introduced himself and invited applicants (Joe Graves, BlueWave & Evan Young, Crawford & Associates) to explain the changes that have been made and talk about review from MRB's standpoint at this point.

Joe Graves: Blue Wave made some minor site plan updates and will read through response comments from MRB questions.

Evan Young: Additional materials were submitted on September 16th, revised site plan drawings, revised stormwater pollution prevention plan, revised ONM plan and correspondence from DEC in relation to the freshwater well. Revisions made that are key to the response letter:

- The landscaping plan per our previous correspondence when we discussed the renderings. Changed the trees along Townline Road to Maple, Silver Maple, and Red Maple species. Left the shrub per the town code. Moved the trees along Townline Road an additional 15 feet away from the right of way and the front property line as requested by MRB Group.
- Added a significant amount of trees along the Southern fenceline per conversations with the VonBergens. Proposing Evergreens with shrubs.
- Updated line of site profiles accordingly. Drawings dated 9/16/25 are up-to-date.
- Minor tweaks made to the stormwater components including the introduction of gravel diaphragms at slopes and increments.
- Minor edits to the erosion control plan: upsize the size of the filter sock to 18 in. diameter (previously at 12 inches).

The access road is not a limited pervious access road.

Joe Graves: Read through comments and discuss questions:

- MRB comment 7/17/25: Comments from Genesee County Planning board: the required modifications:
 - o project parcels fall in AG district 4, the project will receive public funding, the applicant is to comply with the NYS Ag & Markets Law section 305
 - o Applicant to amend the decommissioning plan to include decompaction of the footprint at the road, equipment pads, where the currently farmed areas, to a

minimum of 24 inches beneath the bottom of the former stone layer and post decommissioning monitoring for a minimum of three growing seasons.

- Required modifications should pose no significant county wide or intercommunity impact.
- Responses to Genesee County Planning Board comments dated April 10, 2025 were provided in July 25, 2025 response letter.
- April 8th, 2025 email comments, please confirm that a 16 foot road width is sufficient. MRB confirmed with CEO that 16 foot road width is acceptable with the integration of pulloffs for emergency vehicles.
- ONM plan will identify a list of contractors and employees that will perform maintenance inspections and corrective actions.
- Town requires inspections of trees and shrubs twice/year. First one being health of trees and shrubs, second one being in late summer to ensure there are no invasive vines or disease. Replacement of any dead or diseased shrubs would be at the owner's expense performed by the next growing season.
- Prior to project operations, Blue Wave will conduct onsite training, comprehensive review of all project components (equipment, safety, lockout, and access procedures) with the buyer and fire department(s).
- Decommissioning value should be reevaluated every 5 years after approval. The value of the decommissioning bond should be for the end of life value with 3% inflation at the minimum compounding for 41.5 years with the 18 months being for the decommissioning period, along with the final stabilization.
- Decommissioning plan was last revised July 16, 2025 is \$355,494.48. Considering a 3% inflation escalator compounding annually, the EOL value after 41.5 years would be \$1,212,210. Not proposing providing a decommissioning bond in the amount of the end of life value. Proposing a bond consistent with the one year value inclusive of a 3% annual escalator. Bond will be in the name of the town, landowner and on the deed.
- No impact anticipated on Fish & wildlife.

No other questions or comments from the board.

Sample determination of non-significance and resolution of special use permit and site plan approval given to board & attorney.

Joe Graves: questioning the 10% prime farmland cap.

- According to 2019 Comp plan, 12,475 acres, if drained 5,083 acres for a total of 17,558 acres.
- Excelsior exhibit in September 2020 projected 1,635 acres overall disturbed with 1002 acres of prime farmland being used (within fence). 1,002 acres is only 8-9% of prime farmland in the Town of Byron. 100 acres added in February, 1,102 acres with just Excelsior project.

- With 17,558 acres, 10% cap is 1,756 acres. Removing Excelsior, this leaves 654 acres of prime farmland available to get to 10% cap. Bergen Swamp project would be utilizing 17 acres of prime farmland, within the 24 acre fence line.

Laura Bastehorn: Looking for shape files in order to try and really accurately determine what is prime and what is not prime. Soil and water needs these and its also what Genesee County Planning Board needs as well.

- 24.4 acres in total but what actually is disturbed is the whole driveway up to there as well. Question is how is the acreage disturbed being measured.

Joe Graves: 24.4 is with the road as well.

Laura Bastehorn: Sheet files were requested from Christopher Knox (Crawford & Associates).

John Sansone: What other information was Genesee County Soil & Water looking for?

Laura Bastehorn: Shape files, do not have those at this time.

Q: When you're making the determination that it's going to go back to farmland, does that include the drainage tiles that you're going to disturb and crush when you're putting in the panels? How is that in the decommissioning clause?

Joe Graves: (to public question) You're putting a use on the land and that's the function of the assessor. We are going by the conversions definition in the Ag & Market and the land is not being converted by that definition.

(to Laura Bastehorn) I can get you that shape file. Do your baseline prime farmland numbers that your seeing match up with what we have laid out?

Laura Bastehorn: I had something a little different, but they are coming from County Planning when asked about Excelsior.

John Sansone: Not advised to have the board make a decision tonight, advising Blue Wave's counsel that we will not have a determination in the 62 days since public hearing closed as there are questions for SEQR that need to be answered prior.

No other questions or comments from the board.

No questions or comments from the public.

MOTION: A motion was made to close the Bergen Swamp Solar Review made by J. Jack.
Second by B. Stevens. All in favor. None Opposed

MOTION PASSED

Excelsior Land Separation

MOTION: A motion was made to open the Excelsior Land Separation by B.Stevens. Second by J.Jack. All in favor. None Opposed.

MOTION PASSED

Project located 6959 Byron Townline Rd, Town of Byron. Tax map ID 6-1-43.1.

Melissa Ierlan: The board has the one page application. All the questions at the bottom are answered.

Chris Hilbert: The purpose of the land separation is to have an interconnection as part of the approved Excelsior solar farm, they're connecting into the highlines.

Melissa Ierlan: I don't have a survey. The shape of the project in the provided packet is the total shape, unsure how they are splitting it.

A discussion was made to hold off on a decision until this information is provided.

MOTION: A motion was made to table the Excelsior Land Separation made by B.Stevens. Second by J. Jack. All in favor. None Opposed.

MOTION PASSED

MOTION: A motion was made to close Excelsior Land Separation section made by B.Stevens. Second by J. Jack. All in favor. None Opposed.

MOTION PASSED

Codes, Fees and additional meeting discussion

MOTION: A motion was made to open the Codes, Fees and additional meeting portion made by B. Stevens. Second by J. Jack. All in favor. None Opposed.

MOTION PASSED

Chris Hilbert: Upon John (Sansone)'s availability.

John Sansone: I will provide you with some dates I am available and you let me know what works.

MOTION: A motion was made to close the Codes, Fees and additional meeting portion made by J. Jack. Second by B. Stevens. All in favor. None Opposed.

MOTION PASSED

Other Business/Public Comments

Yvonne Loweke: A suggestion for the bonds and internal controls, the annual audit performed should have a mandate that covers the bonds for the solar companies to make sure they're compliant and the information is current.

Joel Woodward: Attempted multiple times to get put onto the agenda, I was put on last month and nobody told me. Request to be put on the agenda for November.

Next Meeting – Wednesday, November 5, 2025, at 7:00 PM

Adjournment

MOTION: A motion was made to adjourn the meeting by J. Jack. Second by L. Bastehorn. All in favor. None Opposed

MOTION PASSED

Meeting ADJOURED at 8:51 PM

Respectfully submitted,

Jennifer Tuerk