

Town of Byron Planning Board Minutes

Wednesday, January 7, 2026, at 7:00 PM

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

Those Present: Planning Board Members: Planning Board Chairman Christopher Hilbert, Bill Stevens, Laura Bestehorn, Jen Tuerk, Town Supervisor Jeff Thompson, Town Councilmen Steve Hahn, Town Attorney John Sansone. Rob Panasci – BlueWave. Sherman Gittens – MRB Group.
Members of the Public: Yvonne Loewke, Larry West.

Call the meeting to order at 7:17 PM

MOTION: Motion to open the meeting made by L. Bestehorn. Second by B. Stevens. 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.

Elections

MOTION: Motion to open the elections made by L. Bestehorn. Second by B. Stevens. All in favor.
None opposed.

MOTION PASSED

Planning Vice Chairman – nomination Bill Stevens, no additional nominations.

Secretary Cast One Ballot – William Stevens

All in favor. None opposed.

Planning Board Chairman – nomination Christopher Hilbert, no additional nominations.

Secretary Cast One Ballot – Christopher Hilbert

All in favor. None opposed.

MOTION: Motion to close Planning Board Elections made by L. Bestehorn. Second by B. Stevens.
All in favor. None opposed.

MOTION PASSED

Bergen Swamp opens at 7:19 pm. Laura 1st Bill 2nd

MOTION: Motion to open the Bergen Swamp update made by L. Bestehorn. Second by B. Stevens.
All in favor. None opposed.

MOTION PASSED

Sherman Gittens (MRB Group): The board, tonight, needs to identify themselves as lead agent –
*handout environmental assessment form pt 2. In doing so, this allows you to review the
environmental assessment form part two, after which, we could potentially have a motion to go on
to the determination resolution for SEQ. In tandem with that, you would be filling out part three,
which is identifying the findings from EAF part 2.

Chris: Need a motion to declare Town Planning Board as lead agent

MOTION: Motion to declare the Byron Town Planning board as the lead agent made by L. Bestehorn.
Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Chris: Introduced and read resolution drafted by MRB Group declaring Town of Byron Planning
Board as lead agency (see attached).

Resolution offered by Christopher Hilbert and was seconded by Laura Bestehorn.

Voice vote:

Christopher Hilbert: Yes

Patrick Carr: Not present

Laura Bestehorn: Yes

Jason Jack: Not present

Jennifer Tuerk: Yes

Bill Stevens: Yes

No alternates present.

Jennifer, being the designated clerk of the board, will attest to the accuracy of the above read
resolution, be enacted upon, recorded in the minutes of the Town of Byron Planning board, January
7, 2026, meeting.

Sherman Gittens: Now we will go through the draft environment assessment form part two.

MRB group has prepared this draft, based off the environmental assessment form part one and
other discussions, information that was provided by the applicant and specialists had here at the
planning board meetings. *Read through all of the categories. (See attached).

John Sansone: I want to make sure everyone has the opportunity to look at the definitions that are a
part of these, number eight, this is from the state:

Small impact could occur under one of more of these circumstances:

The project will temporarily use the soil but will restore them for agricultural use next season. The
small proportion of these soil groups will be impacted and the remainder will remain in agriculture.

There were many areas adjacent to the site, having productive soils remaining in agriculture. Highly productive soils would be scraped away, stored nearby, and then spread after construction to reuse as agricultural soils. The land use is such that highly productive soils can be used again in the future, i.e. they are not covered in structures or impervious surfaces, but will remain in critical sizes, useable for agriculture.

The next category is moderate to large impact. It says that the definition of that is there will be permanent loss of these soils with no chance of use for agricultural purposes again. A large portion of the site will have the soils disturbed that will make it harder or impossible to continue use of them for agriculture. There are no other farmlands having such highly productive soils in the area.

And the last one is construction and operation. The proposed project will limit access to adjacent, highly productive farmlands.

Sherman: Yes, thank you. I think it's very important to have that out there. And yes, this will no doubt affect agricultural resources. All of the categories under this have been selected as no or small impact.

Steve Hahn: Asking questions to Sherman: Are you worried about the ground water? As the slope comes down in that field, the lot adjacent to it there is a drywell out there so that the water can go down into some structure from the top of the hill.

Sherman Gittens: I was not aware of the drywell.

John Sansone: Can we check as to who's property it's on and get it updated on the site plans just to reflect that it's there?

Rob Panasci: We can check in on that; it's on Larry West's property.

Sherman Gittens: Only caveat to that is that we recommend as a checks and balances system, to recommend soil testing to identify contamination. Soil testing at the beginning, before the construction to see where the baseline is, and then after construction as well as on a set period of time afterwards.

Rob Panasci: This isn't a SEQR issue, it's a drywell on the property owner's property. He's never raised a concern to the client, to the applicant, that this is actually an issue to him. We are not changing the grade. This may be impacted during construction but we're going to have silt fences up during construction to make sure it doesn't really impact it. I was just going to check from a hydraulic standpoint whether it really could be impacted during construction, but I don't see it as an actual issue.

Larry West: Dry well is there to drain the water that collects there.

Sherman: Dry well (not currently identified on the map but should be) should not impact this as it's outside the area of concern but should be noted on the map. If there is an impact identified after SEQR is completed, SEQR can be amended later with additional supporting findings.

The impact on the groundwater has to be a contaminant and it would have to be shown that it is coming from that specific solar project. There are multiple steps that would have to be taken to amend SEQR, but it is still doable. They're going to be governed by their stormwater pollution plan (precludes them from excessively discharging onto neighboring properties, involves any contamination or stormwater runoff that has contaminants and sediment and other unwanted things coming off the site. So, if it can be shown that the project is affecting or impacting something of the nature, then yes, they would have to come up with the mitigation, but it must be shown to be directly resulting from the project.

Laura: Do they test the soil now, before the project begins?

Sherman: This is what would have to be discussed as part of the potential conditions for the special use permit. So you know, requesting soil testing would usually require a baseline test before construction occurs, a test after it is completed, as well as at certain points after the completion of the project. Recommended putting it in, identify the parameters for the applicant and the developer.

We're noting in part 3, number 17 – being no large impacts identified, this qualifies for a negative declaration by the board, which is the second resolution provided: SEQR Determination of Significance Resolution.

Chris Hilbert: Introduced and read SEQR Determination of Significance Resolution (provided by Sherman) – (see attached).

Resolution offered by Christopher Hilbert and was seconded by Bill Stevens.

Voice vote:

Christopher Hilbert: Yes

Patrick Carr: Not present

Laura Bestehorn: Yes

Jason Jack: Not present

Jennifer Tuerk: Yes

Bill Stevens: Yes

No alternates present.

A unanimous decision was had, so Christopher Hilbert, the planning board chairperson, does attest the accuracy of the above read resolution being active, fine and recorded in the minutes of the Town of Byron Planning Board for the January 7, 2026, meeting.

Chris to sign following the amendment to part 3 by Sherman/MRB.

Sherman: Due to other circumstances, SEQR was going to be completed tonight. Next meeting will be able to discuss conditions of approval. Any concerns or questions should be discussed either this meeting or next meeting.

Chris: What do we do on the off chance we do not have a CEO/ZEO by next meeting? How do we proceed from there?

Sherman: We should have some information on that shortly, and from there we should be able to have discussions at the next meeting.

Drywell should be listed on the site plans by next meeting and if there is any potential issue, ask the engineer to identify it in a quick little narrative.

MOTION: Motion to adjourn Bergen Swamp LLC update made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Bergen Swamp closes at 8:10 pm.

Joel Woodward, property formally known as Playmates opening

MOTION: Motion to open Joel Woodward (Playmates) special use permit application request made L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

John: There is an address on the application, where I sent the documents. This is the second month in a row that he's not here. I would suggest, sending a certified letter with a return receipt requested to the address on his application, and indicate to him that this is the second time he hasn't been at the meeting and informing him that if he doesn't show up to next meeting (February 4) his application will be considered withdrawn.

MOTION: Motion to adjourn Joel Woodward (Playmates) special use permit application request made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Misc. agenda items

- John Sansone will have half the codes read through to discuss by the following meeting due to issues that came up prior to the January meeting.
- Jason Jack resignation tendered, effective 2/28/26.
- Potential Matthew Hilbert resignation for alternate due to work schedule.
- Chris talked to Town Supervisor to get a key and a code to get in/out of the facility for the planning board.
- A true discussion on Prime farmland and statewide importance should be had and updated within the town zoning laws.
- Battery energy storage laws (approved into Byron Code by Town Board in 2025), confirming they are up to date, following all local and state fire codes.
- How do we know (the planning board) when the solar fields aren't performing? If they are 'operational but not.

- The board can require annual reports to the CEO/ZEO confirming their generation on the plot, their maintenance throughout the year, and anything else to justify they've met all the burdens of their special use permit.

No additional comments/questions.

MOTION: Motion to adjourn the meeting made by L. Bestehorn. Second by B. Stevens. All in favor.

None opposed.

MOTION PASSED

Meeting ADJOURNED at 8:57 PM

Respectfully submitted,



Jennifer Turk