

---

---

1 **Town of Lansing**

---

2 **Zoning Board of Appeals Meeting**

3 **Wednesday, December 11, 2024 6:30 PM**

4 **Lansing Town Hall, 29 Auburn Rd**

---

---

5 **Present**

6 Susan Tabrizi  
7 Mary Stoe  
8 Rick Hayes  
9 Roger VandePoel  
10 Bruce Barber

**Excused**

Jack Young, Chair

11

12 **Other Staff Present**

13 Kelly Geiger, Planning Clerk  
14 Mason Molesso, Town Planner  
15 Guy Krogh, Legal Counsel  
16 Judy Drake, Liaison

17

18 **Public Present**

19 Usman Chaudhry  
20 Charles Malcomb  
21 Melissa Melko  
22 Mollie Messenger  
23 Jamie Jones

24

25 Susan Tabrizi opened the meeting at 6:38pm

26

27 **Action Items:**

28

29

30 **Project: Requesting a Use Variance to construct a Solar Energy Facility off N.**

31 **Triphammer Road**

32 **Applicant:** Mollie Messenger, representing Delawar River Solar

33 **Location:** 0 North Triphammer Road, TPN 44.-1-1.2 and 44.-1-3.3

34 **Project Description:** The applicant has applied for a Use Variance to construct 2 Solar Energy  
35 Facilities off N. Triphammer Road. This project is located in R2 zoning which does not permit  
36 the construction of a Solar Energy Facility

37 **SEQR:** This project is a Type I action (617.4 (B)(2) and 617.4 (6)(i)) and will require further  
38 review

39

40 **Summary of Discussion:**

- 41
- 42 • Jack Young Recused himself as Chair and Susan Tabrizi stepped in as Chair
  - 43 • Mollie Messenger, Melissa Melko, Usman Chaudhry and Charles Malcomb were present to discuss this project.

- The Board discussed Findings Statement, Use Variance, “forever” vs. “term”, Nature of project-temporary vs. permanent, concerns about spraying of chemicals, maintenance-use of animals, no, maintained by normal mowing, landscaping, berm and buffering.
- The board approved the project with contingencies

**TOWN OF LANSING ZONING BOARD OF APPEALS RESOLUTION  
DECLARATION OF LEAD AGENCY & SEQRA NEGATIVE DECLARATION  
DELAWARE RIVER SOLAR – NY LANSING I**

**BACKGROUND INFORMATION**

Variance No: 24-7  
Zoning District: R2  
Public Hearing Published on: 6/28/24  
600’ Notices Mailed: 6/28/24

Applicant:  
Mollie Messenger, agent on behalf of NY Lansing I LLC.  
0 N. Triphammer Road Lansing, NY 14850

Property Location: 0 N. Triphammer Road  
Tax Parcel #: 44.-1-1.2

Requirement for which a Use Variance is being requested: Town of Lansing Zoning Law § 270-11 Schedule I, Schedule of Land Uses or Activities

**RESOLUTION AND FINDINGS**

**WHEREAS;** an application was made by Mollie Messenger, on behalf of NY Lansing I, LLC (Delaware River Solar), for a Use Variance to locate and operate a 5 MW photovoltaic array and associated supporting facility on land located at TPN 44.-1-1.2. NY Lansing I will consist of approximately 10,000 photovoltaic panels, an access road, utility connections, inverters and all other facilities shown in the drawing set “NY Lansing I, LLC” dated 7/29/2024. The property parcel consists of approximately 24.9 ± acres in the R2 – Residential Moderate Density zoning district which does not permit Solar Energy Facilities. This project proposal also includes a Lot Line Adjustment between NY Lansing I & NY Lansing II, as well as Site Plan Approval for both projects from the Town of Lansing Planning Board; and

**WHEREAS;** 6 NYCRR § 617 of the State Environmental Quality Review Act (“SEQRA”) requires that a Lead Agency be established for conducting environmental review of projects in accordance with state environmental law and the Lead Agency shall be that local agency which has primary responsibility for approving and funding or carrying out the action; and

**WHEREAS;** legal notice was published on 28 June 2024 and adjacent property owners within 600 linear feet were notified by mail on the same date, pursuant to Town Code § 270-27(F); and

**WHEREAS;** the Town of Lansing Zoning Board of Appeals (“ZBA”), being the local agency

93 which has primary responsibility for approving the action, did on 10 July, 2024 classify the project  
94 as a Type I Action and declared itself the Lead Agency for the coordinated environmental review  
95 with the Town of Lansing Planning Board; and

96  
97 **WHEREAS;** a public hearing was duly held before the ZBA on 10 July 2024, and the public was  
98 duly allowed to speak upon and address the proposed project, including the SEQR environmental  
99 review portion thereof,

100  
101 **WHEREAS;** the Town of Lansing Planning Board, the Village of Lansing, NY, the Tompkins  
102 County Department of Planning and Sustainability, the Tompkins County Highway Department,  
103 NYS DOT, NYS Department of Environmental Conservation and NYSERDA were given the  
104 opportunity to comment on the proposed action; and

105  
106 **WHEREAS;** Project plans, and related information, were duly delivered to the Tompkins County  
107 Planning and Sustainability Department per General Municipal Law § 239; *et seq.*, and such  
108 Department responded in a letter dated 18 September 2024, from Katherine Borgella, Tompkins  
109 County Commissioner of Planning, pursuant to §239 -l, -m, and -n of the New York State General  
110 Municipal Law, which made the following recommendations:

- 111  
112 • We recommend that the Town require the applicant to document that any roads, fencing,  
113 or solar panels that are proposed within a delineated wetland be constructed so as to  
114 maintain the hydrologic function of the wetland. These modifications are recommended to  
115 help preserve and protect water quality.
- 116  
117 • We recommend that the Town requires the applicant to include mature plantings and native  
118 pollinator mix in the Operations and Maintenance Section of their proposal. This  
119 modification is recommended to maintain a healthy vegetative screen between the project  
120 and the surrounding parcels, all of which are residentially zoned.

121  
122 In addition to the recommended modifications, we have the following comments on the  
123 proposed action:

- 124  
125 • We suggest that the Town closely considers the vision for this area as outlined in its  
126 Comprehensive Plan as it makes its decision on this project. As you are aware, the  
127 Town’s Comprehensive Plan recommends this area be developed as Residential  
128 Moderate Density, which is described in the Plan (in part) as “mixed-use but primarily  
129 residential ... developed at a density that takes full advantage of existing  
130 infrastructure....” The parcel is in the R2 Zoning District, described as “areas where the  
131 expected and desired use of land is a mixture of varied types of residential development.”  
132 In addition, the site also has access to a public water supply.
- 133  
134 • We suggest that the Town request that the developer work with the electric utility  
135 company to outline the interconnection plan for this project so that the Town has the  
136 opportunity to review and comment on that interconnection prior to it becoming final.

137  
138 **WHEREAS;** an Ecological Memo, dated 24 June 2024, was provided by the applicants  
139 engineering firm (PWGC) and outlines best management practices that shall be followed by the  
140 applicant throughout the preconstruction and build out phase. These BMP’s will minimize impacts

141 on protected species and habitats, and are considered sufficient mitigation techniques by the  
142 NYSDEC; and  
143  
144 **WHEREAS;** a Wetland Delineation Report, dated July 2024, was submitted by the applicants  
145 engineering firm (PWGC) which mapped and inventoried all wetlands present on parcel number  
146 44.-1-1.2 as well as parcel number 44.-1-3.3 (NY Lansing II partner project), and  
147  
148 **WHEREAS;** the 18 September 2024 letter from the FAA established that there is no hazard to air  
149 traffic transportation or navigation; and  
150  
151 **WHEREAS;** a Wetland Mitigation Plan, dated November 2024, was submitted by the applicants  
152 engineering firm (PWGC) outlining a summary of both permanent and temporary impacts to  
153 wetlands on site, as well as BMP’s and mitigation requirements the applicant shall adhere to during  
154 both the preconstruction, build out and post construction/ operating phase’s in order to mitigate  
155 impacts to wetlands; and  
156  
157 **WHEREAS;** any permanent, unavoidable loss of wetlands will result in the applicant paying into  
158 a mitigation bank or in – lieu fee program credits as compensatory mitigation as determined by the  
159 USACE; and  
160  
161 **WHEREAS;** each of the identified impacts were analyzed and duly considered by the Planning  
162 Board, as Lead Agency, in relation to the question of whether such impacts were so probable of  
163 occurring or so significant as to require a positive declaration of environmental impacts, and after  
164 weighing the potential impacts arising from or in connection with this Use Variance approval, and  
165 after also considering: (i) the probability of each potential impact occurring, including weighing  
166 the highly speculative nature of some potential future contingencies and the potential non-highly  
167 speculative nature of others; (ii) the duration of each potential impact; (iii) the irreversibility of  
168 each potential impact, including a consideration of permanently lost resources of value; (iv)  
169 whether each potential impact can or will be controlled or mitigated by permitting, reviews, or  
170 other regulatory processes; (v) the regional consequence of the potential impacts; (vi) the potential  
171 for each impact to be or become inconsistent with the Town’s Master Plan or Comprehensive Plan  
172 and local needs and goals; and (vii) whether any known objections to the Project relate to any of  
173 the identified potential impacts; the Planning Board found that these factors did not cause any  
174 potential negative environmental or related social or resource impact to be or be likely to become  
175 a moderate or significant negative impact; and  
176  
177 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**  
178  
179 The Town of Lansing ZBA, based upon (i) its thorough review of the FEAF pt. 1, Ecological  
180 Memo by applicants engineers (PWGC), Wetland Mitigation Plan by applicants engineers, and all  
181 other documents prepared and submitted with respect to this proposed action and its environmental  
182 review, (ii) its thorough review of the potential relevant areas of environmental concern of the  
183 proposed project to determine if the proposed action may have a significant adverse impact on the  
184 environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its  
185 completion of the FEAF, Part 2 and its determination at Part 3, including any findings noted therein  
186 (which findings are incorporated herein as if set forth at length), hereby makes a negative  
187 determination of environmental significance (“NEGATIVE DECLARATION”) in accordance  
188 with SEQRA for the above referenced proposed action, and determines that an Environmental  
189 Impact Statement will not be required; and it is

190  
191 **FURTHER RESOLVED**; that a responsible Officer of the Town of Lansing is hereby authorized  
192 and directed to complete and sign, as required, the determination of significance, confirming the  
193 foregoing Negative Declaration, which the fully completed and signed FEAF and determination  
194 of significance shall be incorporated by reference in these resolutions  
195

196 Dated: 11 December 2024

197  
198 Motioned by: Mary Stoe  
199 Seconded by: Roger VandePoel  
200

201 **VOTE AS FOLLOWS:**

202 Bruce Barber (alt.) – Aye  
203 Richard Hayes – Nay  
204 Mary Stoe – Aye  
205 Susan Tabrizi – Aye  
206 Roger VandePoel – Aye  
207

208 **TOWN OF LANSING ZONING BOARD OF APPEALS RESOLUTION**  
209 **DECLARATION OF LEAD AGENCY & SEQRA NEGATIVE DECLARATION**  
210 **DELAWARE RIVER SOLAR – NY LANSING II**  
211

212  
213 **BACKGROUND INFORMATION**  
214

215 Variance No: 24-6  
216 Zoning District: R2  
217 Public Hearing Published on: 6/28/24  
218 600’ Notices Mailed: 6/28/24  
219

220 Applicant:  
221 Mollie Messenger, agent on behalf of NY Lansing II LLC.  
222 0 N. Triphammer Road Lansing, NY 14850  
223

224 Property Location: 0 N. Triphammer Road  
225 Tax Parcel #: 44.-1-3.3  
226

227 Requirement for which a Use Variance is being requested: Town of Lansing Zoning Law § 270-  
228 11 Schedule I, Schedule of Land Uses or Activities  
229

230 **RESOLUTION AND FINDINGS**  
231

232 **WHEREAS**; an application was made by Mollie Messenger, on behalf of NY Lansing II, LLC  
233 (Delaware River Solar), for a Use Variance to locate and operate a 3 MW photovoltaic array and  
234 associated supporting facility on land located at TPN 44.-1-3.3. NY Lansing II will consist of  
235 approximately 6,000 photovoltaic panels, an access road, utility connections, inverters and all  
236 other facilities shown in the drawing set “NY Lansing II, LLC” dated 7/29/2024. The property  
237 parcel consists of approximately 42.78 ± acres in the R2 – Residential Moderate Density zoning  
238 district which does not permit Solar Energy Facilities. This project proposal also includes a Lot

239 Line Adjustment between NY Lansing I & NY Lansing II, as well as Site Plan Approval for both  
240 projects from the Town of Lansing Planning Board; and

241  
242 **WHEREAS;** 6 NYCRR § 617 of the State Environmental Quality Review Act (“SEQRA”)  
243 requires that a Lead Agency be established for conducting environmental review of projects in  
244 accordance with state environmental law and the Lead Agency shall be that local agency which  
245 has primary responsibility for approving and funding or carrying out the action; and

246  
247 **WHEREAS;** legal notice was published on 28 June 2024 and adjacent property owners within  
248 600 linear feet were notified by mail on the same date, pursuant to Town Code § 270-27(F); and

249  
250 **WHEREAS;** the Town of Lansing Zoning Board of Appeals (“ZBA”), being the local agency  
251 which has primary responsibility for approving the action, did on 10 July, 2024 classify the project  
252 as a Type I Action and declared itself the Lead Agency for the coordinated environmental review  
253 with the Town of Lansing Planning Board; and

254  
255 **WHEREAS;** a public hearing was duly held before the ZBA on 10 July 2024, and the public was  
256 duly allowed to speak upon and address the proposed project, including the SEQR environmental  
257 review portion thereof,

258  
259 **WHEREAS;** the Town of Lansing Planning Board, the Village of Lansing, NY, the Tompkins  
260 County Department of Planning and Sustainability, the Tompkins County Highway Department,  
261 NYS DOT, NYS Department of Environmental Conservation and NYSERDA were given the  
262 opportunity to comment on the proposed action; and

263  
264 **WHEREAS;** Project plans, and related information, were duly delivered to the Tompkins County  
265 Planning and Sustainability Department per General Municipal Law § 239; *et seq.*, and such  
266 Department responded in a letter dated 18 September 2024, from Katherine Borgella, Tompkins  
267 County Commissioner of Planning, pursuant to §239 -l, -m, and -n of the New York State General  
268 Municipal Law, which made the following recommendations:

- 269
- 270 • We recommend that the Town require the applicant to document that any roads, fencing,  
271 or solar panels that are proposed within a delineated wetland be constructed so as to  
272 maintain the hydrologic function of the wetland. These modifications are recommended to  
273 help preserve and protect water quality.
  - 274
  - 275 • We recommend that the Town requires the applicant to include mature plantings and native  
276 pollinator mix in the Operations and Maintenance Section of their proposal. This  
277 modification is recommended to maintain a healthy vegetative screen between the project  
278 and the surrounding parcels, all of which are residentially zoned.

279  
280 In addition to the recommended modifications, we have the following comments on the  
281 proposed action:

- 282
- 283 • We suggest that the Town closely considers the vision for this area as outlined in its  
284 Comprehensive Plan as it makes its decision on this project. As you are aware, the  
285 Town’s Comprehensive Plan recommends this area be developed as Residential  
286 Moderate Density, which is described in the Plan (in part) as “mixed-use but primarily

287 residential ... developed at a density that takes full advantage of existing  
288 infrastructure....” The parcel is in the R2 Zoning District, described as “areas where the  
289 expected and desired use of land is a mixture of varied types of residential development.”  
290 In addition, the site also has access to a public water supply.

- 291
- 292 • We suggest that the Town request that the developer work with the electric utility  
293 company to outline the interconnection plan for this project so that the Town has the  
294 opportunity to review and comment on that interconnection prior to it becoming final.

295

296 **WHEREAS;** an Ecological Memo, dated 24 June 2024, was provided by the applicants  
297 engineering firm (PWGC) and outlines best management practices that shall be followed by the  
298 applicant throughout the preconstruction and build out phase. These BMP’s will minimize impacts  
299 on protected species and habitats, and are considered sufficient mitigation techniques by the  
300 NYSDEC; and

301

302 **WHEREAS;** a Wetland Delineation Report, dated July 2024, was submitted by the applicants  
303 engineering firm (PWGC) which mapped and inventoried all wetlands present on parcel number  
304 44.-1-1.2 as well as parcel number 44.-1-3.3 (NY Lansing II partner project), and

305

306 **WHEREAS;** the 18 September 2024 letter from the FAA established that there is no hazard to air  
307 traffic transportation or navigation; and

308

309 **WHEREAS;** a Wetland Mitigation Plan, dated November 2024, was submitted by the applicants  
310 engineering firm (PWGC) outlining a summary of both permanent and temporary impacts to  
311 wetlands on site, as well as BMP’s and mitigation requirements the applicant shall adhere to during  
312 both the preconstruction, build out and post construction/ operating phase’s in order to mitigate  
313 impacts to wetlands; and

314

315 **WHEREAS;** any permanent, unavoidable loss of wetlands will result in the applicant paying into  
316 a mitigation bank or in – lieu fee program credits as compensatory mitigation as determined by the  
317 USACE; and

318

319 **WHEREAS;** each of the identified impacts were analyzed and duly considered by the Planning  
320 Board, as Lead Agency, in relation to the question of whether such impacts were so probable of  
321 occurring or so significant as to require a positive declaration of environmental impacts, and after  
322 weighing the potential impacts arising from or in connection with this Use Variance approval, and  
323 after also considering: (i) the probability of each potential impact occurring, including weighing  
324 the highly speculative nature of some potential future contingencies and the potential non-highly  
325 speculative nature of others; (ii) the duration of each potential impact; (iii) the irreversibility of  
326 each potential impact, including a consideration of permanently lost resources of value; (iv)  
327 whether each potential impact can or will be controlled or mitigated by permitting, reviews, or  
328 other regulatory processes; (v) the regional consequence of the potential impacts; (vi) the potential  
329 for each impact to be or become inconsistent with the Town’s Master Plan or Comprehensive Plan  
330 and local needs and goals; and (vii) whether any known objections to the Project relate to any of  
331 the identified potential impacts; the Planning Board found that these factors did not cause any  
332 potential negative environmental or related social or resource impact to be or be likely to become  
333 a moderate or significant negative impact; and

334

335 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

336 The Town of Lansing ZBA, based upon (i) its thorough review of the FEAF pt. 1, Ecological  
337 Memo by applicants engineers (PWGC), Wetland Mitigation Plan by applicants engineers, and all  
338 other documents prepared and submitted with respect to this proposed action and its environmental  
339 review, (ii) its thorough review of the potential relevant areas of environmental concern of the  
340 proposed project to determine if the proposed action may have a significant adverse impact on the  
341 environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its  
342 completion of the FEAF, Part 2 and its determination at Part 3, including any findings noted therein  
343 (which findings are incorporated herein as if set forth at length), hereby makes a negative  
344 determination of environmental significance (“NEGATIVE DECLARATION”) in accordance  
345 with SEQRA for the above referenced proposed action, and determines that an Environmental  
346 Impact Statement will not be required; and it is

347  
348 **FURTHER RESOLVED;** a responsible Officer of the Town of Lansing is hereby authorized and  
349 directed to complete and sign, as required, the determination of significance, confirming the  
350 foregoing Negative Declaration, which the fully completed and signed FEAF and determination  
351 of significance shall be incorporated by reference in these resolutions

352  
353 Dated: 11 December 2024

354  
355 Motioned by: Mary Stoe  
356 Seconded by: Bruce Barber

357  
358 **VOTE AS FOLLOWS:**  
359 Bruce Barber (alt.) – Aye  
360 Richard Hayes – Nay  
361 Mary Stoe – Aye  
362 Susan Tabrizi – Aye  
363 Roger VandePoel – Aye

364  
365  
366 **RESOLUTION 24-16**

367  
368 **TOWN OF LANSING ZONING BOARD OF APPEALS RESOLUTION**  
369 **USE VARIANCE APPROVAL – DELAWARE RIVER SOLAR**  
370 **LANSING I – TPN 44.-1-1.2**  
371

372 **WHEREAS;** an application was made by Mollie Messinger, on behalf of NY Lansing I, LLC  
373 (Delaware River Solar), for a Use Variance to locate and operate a 5 MW photovoltaic array  
374 and associated supporting facility on land located at TPN 44.-1-1.2. “NY Lansing I” will consist  
375 of approximately 10,000 photovoltaic panels, an access road, utility connections, inverters and  
376 all other facilities shown in the drawing set “NY Lansing I, LLC” dated 7/29/2024. The property  
377 parcel consists of approximately 24.9 ± acres in the R2 – Residential Moderate Density zoning  
378 district which does not permit Solar Energy Facilities. This project proposal also includes a lot  
379 line adjustment between NY Lansing I & NY Lansing II, as well as Site Plan Approval for both  
380 projects from the Town of Lansing Planning Board; and

381



382 **WHEREAS;** the a proposed action is not a permitted use in the R2 Residential Moderate Density  
383 Zone, and requires a use variance to proceed; and

384  
385 **WHEREAS;** The applicant requested the application for a use variance be considered using the  
386 Public Utility variance and review rules established in Consol. Edison of NY, Inc. v. Hoffman,  
387 43 N.Y.2d 598 (1978); and

388  
389 **WHEREAS;** legal notice was published on 28 June 2024 and adjacent property owners within  
390 600 linear feet were notified by mail on 28 June 2024, and pursuant to Town Code § 270-27(F)  
391 and a public hearing was duly held before the Zoning Board of Appeals upon July 10, 2024. The  
392 public was duly allowed to speak upon and address the proposed Use Variance, including the  
393 SEQR environmental review thereof,

394  
395 **WHEREAS;** the Town of Lansing Planning Board, the Village of Lansing, NY, the Tompkins  
396 County Department of Planning and Sustainability, the Tompkins County Highway Department,  
397 NYS DOT and the NYS Department of Environmental Conservation were given the opportunity  
398 to comment on the proposed action; and

399  
400 **WHEREAS;** Project plans, and related information, were duly delivered to the Tompkins County  
401 Planning and Sustainability Department per General Municipal Law § 239; *et seq.*, and such  
402 Department responded in a letter dated September 18th 2024, from Katherine Borgella, Tompkins  
403 County Commissioner of Planning, pursuant to §239 -l, -m, and -n of the New York State General  
404 Municipal Law made the following recommendations:

- 405  
406 • We recommend that the Town require the applicant to document that any roads, fencing,  
407 or solar panels that are proposed within a delineated wetland be constructed so as to  
408 maintain the hydrologic function of the wetland. These modifications are recommended  
409 to help preserve and protect water quality.
- 410  
411 • We recommend that the Town require the applicant to include mature plantings and  
412 native pollinator mix in the Operations and Maintenance Section of their proposal. This  
413 modification is recommended to maintain a healthy vegetative screen between the  
414 project and the surrounding parcels, all of which are residentially zoned.

415  
416  
417 In addition to the recommended modifications, we have the following comments on the  
418 proposed action:

- 419  
420 • We suggest that the Town closely considers the vision for this area as outlined in its  
421 Comprehensive Plan as it makes its decision on this project. As you are aware, the  
422 Town’s Comprehensive Plan recommends this area be developed as Residential  
423 Moderate Density, which is described in the Plan (in part) as “mixed-use but primarily  
424 residential ... developed at a density that takes full advantage of existing  
425 infrastructure....” The parcel is in the R2 Zoning District, described as “areas where the  
426 expected and desired use of land is a mixture of varied types of residential development.”  
427 In addition, the site also has access to a public water supply.
- 428  
429 • We suggest that the Town request that the developer work with the electric utility

430 company to outline the interconnection plan for this project so that the Town has the  
431 opportunity to review and comment on that interconnection prior to it becoming final.  
432  
433

434 **WHEREAS;** The Zoning Board of Appeals, on December 11, 2024 issued a Negative Declaration  
435 of Significance, pursuant to SEQR; and  
436

437 **WHEREAS;** The Town of Lansing Zoning Board of Appeals, having analyzed the Town of  
438 Lansing Zoning Code, and finding it absent of a definition of a Public Utility, relied upon  
439 alternative sources of information to analyze the applicant’s request, including the Merriam-  
440 Webster definition of Public Utility, “a business organization (such as an electric company)  
441 performing a public service and subject to special governmental regulation”, and the NY Public  
442 Service Law Section 2 (13) which defines “electric corporation” as “ every corporation,  
443 company, association, joint-stock association, partnership and person, their lessees, trustees or  
444 receivers appointed by any court whatsoever (other than a railroad or street railroad corporation  
445 generating electricity solely for railroad or street railroad purposes or for the use of its tenants  
446 and not for sale to others) owning, operating or managing any electric plant or thermal energy  
447 network except where electricity or thermal energy is generated or distributed by the producer  
448 solely on or through private property for railroad or street railroad purposes or for its own use or  
449 the use of its tenants and not for sale to others; or except where electricity is generated by the  
450 producer solely from one or more co-generation, small hydro or alternate energy production  
451 facilities or distributed solely from one or more of such facilities to users located at or near a  
452 project site.”  
453

454 **WHEREAS;** The NY Public Service Commission has the authority to regulate and oversee  
455 Distributed Energy Resource providers, as found in Case 15-M-0180, Regulation and Oversight  
456 of Distributed Energy Resource Providers and Products, Order Establishing Oversight  
457 Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued  
458 October 19, 2017) (DER Oversight Order).  
459

460 **WHEREAS;** Recognizing the unique nature and circumstance of the applicant as a distributed  
461 energy resource provider, as well as the above stated facts, the Zoning Board of Appeals has  
462 decided to evaluate the use variance application under the Public Utility rules established in  
463 *Consol. Edison of NY, Inc. v. Hoffman*, 43 N.Y.2d 598 (1978); and  
464

465 **WHEREAS;** The Zoning Board of Appeals recognizes that the production of electricity is a  
466 necessary and essential service, and is in the public interest; and  
467

468 **WHEREAS;** The applicant has provided compelling evidence, including the evaluation of  
469 alternative locations, demonstrating that the proposed location of the distributed energy resource  
470 (a.k.a. community solar) is more feasible than the alternatives; and  
471

472 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**  
473

474 That the Zoning Board of Appeals of the Town of Lansing does hereby grant a Use Variance  
475 approval for, for a Use Variance to locate and operate a 5 MW photovoltaic array and associated  
476 supporting facility on land located at TPN 44.-1-1.2 (Delaware River Solar Lansing I), in  
477 accordance with the plans and information depicted in the plan set titled NY Lansing I, LLC, North  
478 Triphammer Road Solar Project 5.0 MW AC, prepared by P.W. Grosser Consulting, dated

479 07/29/2024, as well as all applications, forms and materials, subject to the following conditions:

- 480  
481  
482 1. The project will obtain site plan approval from the Town of Lansing Planning Board  
483 2. The project will comply with all of the terms and conditions of any permits required by the  
484 US Army Corps of Engineers.  
485 3. The project will submit a revised Wetland Mitigation Report to include the following  
486 mitigation items :
- 487 a. Efforts shall be made to minimize disturbance to any state or federally regulated  
488 wetlands. No unlawful filling, discharges, or material alteration to the functions or  
489 values of freshwater wetlands will be performed during construction. Unnecessary  
490 removal of vegetation or unnecessary alterations along stream banks or stream  
491 bottoms are prohibited. Where necessary, removal / cutting of vegetation in  
492 freshwater wetland areas will be done in accordance with guidance from the  
493 USFWS / USACOE. Woodchippers will not be used during construction. Side  
494 casting will not be performed during construction.
  - 495 b. Where required temporary access in freshwater wetlands will be performed  
496 without use of permanent roads. When necessary, crossing of ephemeral relatively  
497 non-permanent waterways in wetland areas will be made using temporary timber  
498 mats to minimize disturbance or access will be made during a period of deep  
499 freeze conditions to minimize disturbance to underlying wetland soils.
  - 500 c. Crossing of perennially flowing relatively permanent waterways in wetland areas  
501 will be made using a properly engineered equilibrium culvert meeting or  
502 exceeding 1.25 times the stream width in pipe diameter.
  - 503 d. Staging of any construction materials or equipment is prohibited in wetland areas.
  - 504 e. Any wetland disturbance is to be restored with appropriate wetland seed mix in  
505 accordance with NYS DOT item 203.01920007 or most current NYSDEC  
506 requirements related to wetland restoration. Components of the seed mix may be  
507 substituted with the engineer's approval.
  - 508 f. All land clearing shall occur without the use of heavy machinery.
  - 509 g. The racking system will be installed using a small solar farm pile driver machine
- 510 4. No grading is proposed for this site plan  
511 5. The applicant shall provide a construction traffic and material staging plan for the  
512 approval of the Planning Board. Such plan will not permit the staging of equipment or  
513 materials along Triphammer Road and shall be protective of visual and audial impacts to  
514 the bordering residences.  
515  
516  
517  
518

519 Dated: December 11, 2024

520  
521 Motioned by: Mary Stoe

522 Seconded by: Roger VandePoel  
523  
524

525 Susan Tabrizi – Aye  
526 Richard Hayes – Nay  
527 Mary Stoe – Aye  
528 Roger VandePoel – Aye  
529 Bruce Barcer - Aye

530  
531

532 **RESOLUTION 24-17**

533  
534  
535  
536  
537

**TOWN OF LANSING ZONING BOARD OF APPEALS RESOLUTION  
USE VARIANCE APPROVAL – DELAWARE RIVER SOLAR  
LANSING II – TPN 44.-1-3.3**

538 **WHEREAS;** an application was made by Mollie Messenger, on behalf of NY Lansing II, LLC  
539 (Delaware River Solar), for a Use Variance to locate and operate a 3 MW photovoltaic array  
540 and associated supporting facility on land located at TPN 44.-1-3.3. “NY Lansing II” will consist  
541 of approximately 6,000 photovoltaic panels, an access road, utility connections, inverters and  
542 all other facilities shown in the drawing set “NY Lansing II, LLC” dated 7/29/2024. The  
543 property parcel consists of approximately 42.78 ± acres in the R2 – Residential Moderate  
544 Density zoning district which does not permit Solar Energy Facilities. This project proposal also  
545 includes a Lot Line Adjustment between NY Lansing I & NY Lansing II, as well as Site Plan  
546 Approval for both projects from the Town of Lansing Planning Board; and

547

548 **WHEREAS;** the a proposed action is not a permitted use in the R2 Residential Moderate Density  
549 Zone, and requires a use variance to proceed; and

550

551 **WHEREAS;** The applicant requested the application for a use variance be considered using the  
552 Public Utility variance and review rules established in Consol. Edison of NY, Inc. v. Hoffman,  
553 43 N.Y.2d 598 (1978); and

554

555 **WHEREAS;** legal notice was published on 28 June 2024 and adjacent property owners within  
556 600 linear feet were notified by mail on 28 June 2024, and pursuant to Town Code § 270-27(F)  
557 and a public hearing was duly held before the Zoning Board of Appeals upon July 10, 2024. The  
558 public was duly allowed to speak upon and address the proposed Use Variance, including the  
559 SEQR environmental review thereof,

560

561 **WHEREAS;** the Town of Lansing Planning Board, the Village of Lansing, NY, the Tompkins  
562 County Department of Planning and Sustainability, the Tompkins County Highway Department,  
563 NYS DOT and the NYS Department of Environmental Conservation were given the opportunity  
564 to comment on the proposed action; and

565

566 **WHEREAS;** Project plans, and related information, were duly delivered to the Tompkins County  
567 Planning and Sustainability Department per General Municipal Law § 239; *et seq.*, and such  
568 Department responded in a letter dated September 18th 2024, from Katherine Borgella, Tompkins  
569 County Commissioner of Planning, pursuant to §239 -l, -m, and -n of the New York State General  
570 Municipal Law made the following recommendations:

571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617

- We recommend that the Town require the applicant to document that any roads, fencing, or solar panels that are proposed within a delineated wetland be constructed so as to maintain the hydrologic function of the wetland. These modifications are recommended to help preserve and protect water quality.
- We recommend that the Town require the applicant to include mature plantings and native pollinator mix in the Operations and Maintenance Section of their proposal. This modification is recommended to maintain a healthy vegetative screen between the project and the surrounding parcels, all of which are residentially zoned.

In addition to the recommended modifications, we have the following comments on the proposed action:

- We suggest that the Town closely considers the vision for this area as outlined in its Comprehensive Plan as it makes its decision on this project. As you are aware, the Town’s Comprehensive Plan recommends this area be developed as Residential Moderate Density, which is described in the Plan (in part) as “mixed-use but primarily residential ... developed at a density that takes full advantage of existing infrastructure...” The parcel is in the R2 Zoning District, described as “areas where the expected and desired use of land is a mixture of varied types of residential development.” In addition, the site also has access to a public water supply.
- We suggest that the Town request that the developer work with the electric utility company to outline the interconnection plan for this project so that the Town has the opportunity to review and comment on that interconnection prior to it becoming final.

**WHEREAS;** The Zoning Board of Appeals, on December 11, 2024 issued a Negative Declaration of Significance, pursuant to SEQR; and

**WHEREAS;** The Town of Lansing Zoning Board of Appeals, having analyzed the Town of Lansing Zoning Code, and finding it absent of a definition of a Public Utility, relied upon alternative sources of information to analyze the applicant’s request, including the Merriam-Webster definition of Public Utility, “a business organization (such as an electric company) performing a public service and subject to special governmental regulation”, and the NY Public Service Law Section 2 (13) which defines “electric corporation” as “ every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad corporation generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others) owning, operating or managing any electric plant or thermal energy network except where electricity or thermal energy is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others; or except where electricity is generated by the producer solely from one or more co-generation, small hydro or alternate energy production

618 facilities or distributed solely from one or more of such facilities to users located at or near a  
619 project site.”

620

621 **WHEREAS;** The NY Public Service Commission has the authority to regulate and oversee  
622 Distributed Energy Resource providers, as found in Case 15-M-0180, Regulation and Oversight  
623 of Distributed Energy Resource Providers and Products, Order Establishing Oversight  
624 Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued  
625 October 19, 2017) (DER Oversight Order).

626

627 **WHEREAS;** Recognizing the unique nature and circumstance of the applicant as a distributed  
628 energy resource provider, as well as the above stated facts, the Zoning Board of Appeals has  
629 decided to evaluate the use variance application under the Public Utility rules established in  
630 *Consol. Edison of NY, Inc. v. Hoffman*, 43 N.Y.2d 598 (1978); and

631

632 **WHEREAS;** The Zoning Board of Appeals recognizes that the production of electricity is a  
633 necessary and essential service, and is in the public interest; and

634

635 **WHEREAS;** The applicant has provided compelling evidence, including the evaluation of  
636 alternative locations, demonstrating that the proposed location of the distributed energy resource  
637 (a.k.a. community solar) is more feasible than the alternatives; and

638

639 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

640

641 That the Zoning Board of Appeals of the Town of Lansing does hereby grant a Use Variance  
642 approval for, for a Use Variance to locate and operate a 5 MW photovoltaic array and associated  
643 supporting facility on land located at TPN 44.-1-1.2 (Delaware River Solar Lansing I), in  
644 accordance with the plans and information depicted in the plan set titled NY Lansing I, LLC, North  
645 Triphammer Road Solar Project 5.0 MW AC, prepared by P.W. Grosser Consulting, dated  
646 07/29/2024, as well as all applications, forms and materials, subject to the following conditions:

647

648

- 649 6. The project will obtain site plan approval from the Town of Lansing Planning Board
- 650 7. The project will comply with all of the terms and conditions of any permits required by the  
651 US Army Corps of Engineers.
- 652 8. The project will submit a revised Wetland Mitigation Report to include the following  
653 mitigation items :
  - 654 a. Efforts shall be made to minimize disturbance to any state or federally regulated  
655 wetlands. No unlawful filling, discharges, or material alteration to the functions or  
656 values of freshwater wetlands will be performed during construction. Unnecessary  
657 removal of vegetation or unnecessary alterations along stream banks or stream  
658 bottoms are prohibited. Where necessary, removal / cutting of vegetation in  
659 freshwater wetland areas will be done in accordance with guidance from the  
660 USFWS / USACOE. Woodchippers will not be used during construction. Side  
661 casting will not be performed during construction.
  - 662 b. Where required temporary access in freshwater wetlands will be performed  
663 without use of permanent roads. When necessary, crossing of ephemeral relatively  
664 non-permanent waterways in wetland areas will be made using temporary timber

- 665 mats to minimize disturbance or access will be made during a period of deep  
666 freeze conditions to minimize disturbance to underlying wetland soils.
- 667 c. Crossing of perennially flowing relatively permanent waterways in wetland areas  
668 will be made using a properly engineered equilibrium culvert meeting or  
669 exceeding 1.25 times the stream width in pipe diameter.
  - 670 d. Staging of any construction materials or equipment is prohibited in wetland areas.
  - 671 e. Any wetland disturbance is to be restored with appropriate wetland seed mix in  
672 accordance with NYS DOT item 203.01920007 or most current NYS DEC  
673 requirements related to wetland restoration. Components of the seed mix may be  
674 substituted with the engineer's approval.
  - 675 f. All land clearing shall occur without the use of heavy machinery.
  - 676 g. The racking system will be installed using a small solar farm pile driver machine
- 677 9. No grading is proposed for this site plan
- 678 10. The applicant shall provide a construction traffic and material staging plan for the  
679 approval of the Planning Board. Such plan will not permit the staging of equipment or  
680 materials along Triphammer Road and shall be protective of visual and audial impacts to  
681 the bordering residences.

682  
683

684 Dated: December 11, 2024

685

686 Motioned by: Mary Stoe

687 Seconded by: Roger VandePoel

688

689 Susan Tabrizi – Aye

690

Richard Hayes – Nay

691

Mary Stoe – Aye

692

Roger VandePoel – Aye

693

Bruce Barber - Aye

694

695

696 Susan Tabrizi adjourned the meeting at 7:03 PM

697

698

Minutes taken and executed by Kelly Geiger