

PLANNING BOARD

**Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795**

**April 8, 2026
Meeting Minutes**

Present: Adisen Harden, Member
Jason Maxian, Member
Mike Maciak, Member
Dan Wasson, Member
Gordie Woolbaugh, Chairperson

Gina Middleton, Attorney
David Paquale, Ad Hoc Member
John Mastronardi, Town Engineer
Bob McKertich, Town Attorney

Absent: Chad Moran, Building & Code Inspector

Chairman Woolbaugh called the meeting to order at 7:00 PM.

KATHY HIRST (K31 GEMS, LLC):

Kathy Hirst explained she is opening a wellness center where people come in to take a relaxing nap, not anything stressful. There is enough space for eight people. She will be doing some life coaching on the side.

APPROVAL OF MINUTES:

Minutes from the March 11, 2026 meeting were approved as submitted. All voted in favor.

KATHY HIRST (K31 GEMS, LLC) AND STEPHEN KALAFUT:

Chairman Woolbaugh explained the town received the 239 review comments from Broome County today and because it is all one property, the buildings are not on separate parcels, it is causing problems. They are asking for a SWPPP, which would involve the engineers. It puts the board in a position of not moving forward. There were also questions regarding the EAF that need to be addressed.

Mr. McKertich explained the Town will provide them with a copy of the 239 comments from Broome County, most important of which is that the total acreage of disturbance is greater than one acre which triggers the SWPPP requirement and there are several other comments listed that need responses. The board would like you to prepare the SWPPP and prepare responses to the county's comments; then come back to a future Planning Board meeting to review the revised plans. Mr. Kalafut questioned if it was because it was under an acre and Mr. McKertich explained because it is over an acre. Mr. McKertich explained this is one site so they are looking at all of the disturbance on the property. A question was asked if they could reduce the surface would that nix that comment completely and Mr. McKertich explained he didn't think we could answer that tonight. You would have to look at the requirements for the SWPPP but that might be one option. Mr. McKertich explained even if a SWPPP is not required the board is going to be interested in how you are addressing the stormwater on the site with all the additionally impervious surfaces. That is still an issue that needs to be addressed.

Copies of both letters from Broome County were given to the applicant.

Chairman Woolbaugh explained to Kathy Hirst they are requesting that she submit a new Short EAF with corrections and he reviewed with her what corrections needed to be made. Corrections will be made to the following questions: #3, #5 a., #5 b., #8 b., #9, #16, and #17.

Mr. McKertich, referring to the SEQR that was submitted for the storage mall project, which is the same site, the application they submitted used what is called a Mapper. It is a function on a DEC website that you can use to fill out these forms. On that they answered yes to threatened and endangered species, #15 as well as #20. Those are filled in automatically with the DEC Mapper. If you start with the DEC Mapper it will fill in questions automatically then you go through it in the manner that the chairman suggested to fill out the rest of it.

Chairman Woolbaugh, referring to the Wellness project, commented we didn't get an updated drawing on the parking, which should be considered before you come back. The rendering shows five parking spaces in the front of the building, they have to be 9 ½ feet by 19 feet long by code. The max you could fit in the front of the building is three and a 1000 SF building requires five parking spaces. One is on the side of the building. If they are perpendicular to the building you are going to be in the driveway for the storage. You need to come up with two spaces without interfering with the storage mall.

NORBUT SOLAR:

Mr. Steve Saunder and Mr. Congdon were present. Mr. Congdon commented at the last meeting there were concerns about the clearing operations in regard to the SWPPP and the amount of land they were going to clear. What they ended up doing is expanded in the SWPPP and it was resubmitted and developed the construction sequencing plan including where they were going to clear first and how they proceed from there. They identified the steep slope areas and what measures they will use on them including extra stabilization, extra seeding, making sure they are controlling runoff, conscious of the potential to impact downstream areas, which would be expanded sequencing. They are confident there will be a small impact on that. The other question that was brought up was the traffic and their operation of construction. In the traffic study they outlined their typical operations, and how many vehicles they would expect on there. It showed there won't be a huge impact on traffic.

John Mastronardi explained he did review the revised documents that were sent on or around April 1st by the applicant. He reviewed the letter and the revised SWPPP and appreciated their efforts to supplement or to improve on the sediment control plan but he still has a concern. Solar sites are exposed during construction. They are very difficult to get stabilized before they move on to the next five acres. The practices they are using he has seen used on other solar sites. Mr. Mastronardi presented photos from three different solar sites under construction in Broome County. The photos are included in the file. The other sites used similar sediment control practices. The SWPPPs were approved, they met the State's requirement and were getting inspected by third party engineer at the required intervals and he would note any minor deficiencies on the sediment control and he would be copied on that inspection and get copies of the photos. Fast forward to heavy rain events he is copied by the Code Officer and they want to provide a list of violations for the stormwater runoff during construction when these sites are not stabilized. Even with the best erosion and sediment control practices these solar farms are on steep slopes and are susceptible to erosion. The silt running off the sites it is hard to control. These are only 5-megawatt sites and no one saw these violations coming. It was the best laid plan in the SWPPP but unfortunately it is hard to address the conditions after heavy rain events. That is his opinion on sites on steep slopes.

Chairman Woolbaugh asked if there are measures that can be taken in the anticipation of the heavy rain event and John Mastronardi stated he isn't aware of any, there are a lot of different practices that are used on these sites such as silt socks or the silt fence, sediment basins, gravel diaphragms, level spreaders, permanent seeding that was 75%-80% germinated.

Mr. Congdon explained they understand there are risks and DEC outlines the steps to take on a steep slope. He doesn't know those projects specifically so he can't comment on what they may or may not have done but he is confident that they can control it and are planning to work very hard to follow the SWPPP guidelines. Some extra measures they do take is try to leave vegetation intact around the perimeter, they leave the stumps and low growth vegetation so they aren't clearing right up to the property line. They put their mulch piles on downstream areas that act like a super silt sock, it isn't an approved practice but it does work very well. Steep slopes are on 7% of the project area so the vast majority of the site they are going to leave intact. They don't want to tear it up, it could cause problems.

John Mastronardi explained his opinion is a disturbance of up to 5 acres is generally allowed in the SWPPP. To stabilize that 5 acres and to move on to the next 5 acres it would take quite a bit of time. It takes a while for things to germinate and to stabilize. The contractor is not going to want to sit idle to watch that grass grow then move on to the next 5 acres. Sometimes you just can't do that, things are integral, you have to track across some of the site to bring in cable on the ground from the first 5 acres to the second 5-acre section. It is very difficult to stabilize 5 acres; to allow it to fully germinate so there is no concern then move on to the next 5 acres. That would stretch things out over several seasons.

Mr. Congdon stated that would be something they would be willing to work with the town if they do end up applying for the greater than 5-acre waiver they would work closely to review that and add additional measures. There are other measures that can be implemented, erosion mats, any number of things in the DEC book that they can incorporate. Chairman Woolbaugh asked him to explained what an erosion mat is and Mr. Congdon explained an erosion mat is a roll of weaved materials, sometimes it is a jute mesh, coconut fiber, bio-degradable so it lays right over the soil and helps cut down on the erosion. The erosion mats helps to prevent the erosion from rainfall and also the concentration of the water.

Dan Wasson asked if any of those measures were taken on the sites he presented the photos of and John Mastronardi explained those sites had a combination of silt fence, silt sock, and mulch. He believes they used jute mesh which was anchored. Dan Wasson asked if those slopes were 15% or greater and John Mastronardi explained he would have to go back and look at the plan to see exactly where the failure occurred and compare it to the slope in that area. Generally, they were probably over 8%.

Mr. Congdon explained that the site is approved for agricultural use. Agriculture is not subject to a SPEDES Permit. As 40 acres of the site has been farmed in the past and could be farmed in the future, that is allowed to be torn up all in one shot. Steep slopes, variable soils, no perimeter protections it would have much more of an impact with the current use than what they would be proposing.

Chairman Woolbaugh asked how much of the property is 15% or more and Mr. Congdon stated 7%. Chairman Woolbaugh reviewed the DEC statement on slopes of 15% or greater. Construction on these grades can cause land slippage, land slides on unstable soil conditions. Steep areas are highly prone to erosion and sedimentation. Mr. Congdon stated he agrees that extra care is need on steep slopes. In the DEC workbook if a SWPPP is in place it is considered a small to moderate impact and if not it would be a large impact. Chairman Woolbaugh commented that our biggest concern is the runoff and Mr. Congdon understood.

Mr. Sauders commented they acknowledge there are negative impacts from about any procedure that could be done on the project site such as excavation, moving soil, and grading soil creates erosion control problems. Since they haven't seen any of the information that the engineer talked about they need to see what kind of projects are they, how big are the sites and what were the extent of the concerns that were raised. It is possible there were just some bad practices. You can't necessarily draw a negative conclusion from the fact that other operators of the same type of facilities they are trying to build means that no one can build it in a safe manner.

They would like the opportunity to look at that and respond. The site is currently allowed to be used for agricultural purposes and that is the key point. If that site is continued to be used as farm acreage the runoff problems that the engineer is talking about are going to be worse than the types of conditions that will be created from their site. Chairman Woolbaugh stated he doesn't believe anything is being farmed there now and Mr. Saunders agreed. Chairman Woolbaugh stated it has been a long time since anything has. Mr. Saunders stated that is a permitted use on that site. If the site is used for its permitted use it is going to create more of a problem than the type they are proposing. Mr. Saunders suggested that the town's engineer should talk to their engineer so they can come to these meetings and be prepared to answer the questions.

Mr. Saunders asked what is the town's preferred practices in terms of reviewing the EAF Part 2 and Ms. Middleton explained the board would go through Part 2, one by one and if there is something the board needs a response from then the applicant is provided additional time period to respond during the meeting. Often times, with projects of this size, we would go through Part 2 and wait to do Part 3 at the following meeting.

There was a discussion regarding when Mr. Mastronardi would like to see responses from the applicant. Mr. Mastronardi needs more time than the five days he was given on the last response. He suggest 2 weeks. The applicant's engineer will reach out to Mr. Mastronardi regarding the photos that were submitted to discuss. If in the future Mr. Mastronardi doesn't feel he has enough time to review the applicant's responses the meeting can be put off until the next month.

Ms. Middleton explained some of the items that still need to be addressed is the road use agreement and Mr. Saunders stated they would be willing to do it once the board gets to that stage of the process. What needs to be done will be dictated in the agreement. Some agreements it would be documentation on paper, some have videos, some have photographs with requirements intermittently. It would be agreed upon by both parties. The agreement would be approved by the Town Board.

Mr. Saunders commented that we need to resolve SEQR before we get to site plan review and he thinks things like the road use agreement and how to calculate the bond are matters that aren't necessary to rule on the lack of a significant impact on the SEQR.

Ms. Middleton explained that soil testing is another item; at intervals to be determined and agreed upon by both parties, but more of a question of whether you are agreeable to do the soil testing, which we have done with prior applicants. Mr. Saunders explained their position is, with regard to the road use request, they think there is a reasonable basis given the condition of your road and the amount of traffic that is going to go over it, for them to assume that there may need to be some maintenance or upgrade to the road. When it comes to ground water and soil testing, if you look at the responses to all of the EAF Part 1, there is absolutely no basis to think there is any contamination in the soil or ground water. To request that they be required to test the soil either as a baseline or on an ongoing basis without some evidence that this site is already under the jurisdiction of DEC or some other agency, which has a reasonable basis to believe there is a contamination problem, doesn't seem to him a test for requiring them to do something like that. They don't have any basis to think this is a problem except for some completely unsubstantiated concerns by one resident that said he is pretty sure there are buried drums on the site. Dan Wasson explained he didn't say there were buried drums, he said hazardous materials.

Chairman Woolbaugh commented it isn't so much that we believe there is contamination there, but with all the discussions regarding flooding and possible runoff and possible failures of protecting from the runoff that you could cause damage to the people down below in some way. If we have at least a baseline to start with and some samplings of water; if something does occur and it does damage anyone below that site we want to know. Our job is not only to implement and protect the town by the code but also the residents who live there. We need some comfort for them. Mr. Saunders explained there are two issues that were brought up, the possibility

of impacts from erosion and flooding which is different than testing the quality of the soil or having any belief that the soil or the ground water could be contaminated from a solar project. That is completely different from the concern that has been raised about whether the project can be constructed in such a way that it doesn't cause adverse stormwater runoff. That is an issue we are already indicating that we will talk to your engineer about. Mr. Saunders asked what is the board asking for, soil testing, water testing, and Chairman Woolbaugh explained it has been stated in the documentation that these do not cause contamination, however as you have heard in these meetings the public doesn't believe you. In an effort to make them feel comfortable with what is going on if this goes forward and get approved, they need to have some comfort in that. They don't have town water and there is nothing in the future that they will have town water. Mr. Saunders commented even though this isn't a court of law, a board just like in a judge in a civil court case, we have to be presented with some reasonable evidence that there is a potential problem. The fact that people are afraid, they haven't brought in any expert consultants who can talk about the issues from an expert's standpoint. What they have said is we have these fears about this. That is not a basis for the board to turn around and force them to do very expensive work that doesn't seem to have any possible impact on anything other than to give the residents a level of comfort that they haven't established they are entitled to at this point. They can bring in expert witnesses to testify to these kinds of things, just as Mr. Mastronardi can testify to the engineering concerns. To require them as the applicant to respond to a fear that there is probably hazardous waste, we don't know if our aquifer is going to get contaminated when they have provided evidence from the state of New York and NYSERTA that it is not possible. They are certainly willing to address any request from any municipal board if you can show us that there is some reason for residents to be concerned. Up to this point they haven't heard any. If you want to open the public hearing back up and offer them the opportunity to bring in some experts to talk about the problems, maybe that is something the board maybe worth considering, but we can't just simply go on a resident saying I can tell you how much stormwater runoff is going to be caused by one inch of rain or the study from Poland that talks about contamination issues at solar facilities in eastern Europe. That is just not relevant to what is going on at this property. Chairman Woolbaugh commented you can't guarantee that if your stormwater prevention plan fails it isn't going to contaminate them either. Mr. Saunders stated yes they can because stormwater protection plan is not taking about degrading the quality the water, they are talking about the amount of runoff. The only thing that is going to get in the stormwater runoff is sediment unless you can show there is in fact some contaminate in the soil that is going to cause a problem to the water supply or to these neighbors directly.

Mr. Mastronardi explained the testing for both ground water and soil is a common requirement in local solar laws. He will provide examples of those local solar laws to the applicant. The basis is we want to form a baseline for soil and groundwater at the site, prior to construction, prior to stepping on the property and beginning the project. He feels the panels have come a long way with the technology, they don't even have trace elements of heavy metals anymore. If they did have small trace heavy metals they are not in the form that would be soluble so even with the rain on the panel technically wouldn't put the dilution into the soil. There are other potential contaminants such as an equipment failure, hydraulic fail on an excavator or a dump truck. He doesn't know what is in the transformers, many times there is a liquid in there. He doesn't know if it is a biodegradable liquid in the one they are proposing or if that is some other type of fluid that could contaminate the soil and/or groundwater. That is the basis of why we are requesting the soil and groundwater testing. Mr. Saunder asked if it was just baseline testing and Mr. Mastronardi explained it is baseline and he believes it is every time you renew or reup the permit. Ms. Middleton will double-check the local law to see what the process is. She believes there is some sort of renewal every five years because the decommissioning amount is also reviewed every five years.

Ms. Middleton explained items that need to be addressed are the Full EAF Part 1, the decommissioning plan which provides for a review of the decommissioning costs every five years to include inflation for the first five-year period and request a decommissioning amount of 120% of that, and the interconnection plan. Ms. Middleton had spoken to Chad Moran and he wanted to know about the interconnection plan. It shows the five-

pole cluster going to Quilty but there is no three phase electric on Quilty so he wants to know how you are going to tap into the three phase to get onto the grid. Mr. Congdon explained that is at the discretion of National Grid. Typically, what they do is operate the poles in their existing conditions then run the three phase along that. We can't tell them what to do, they run it to their connection point. Ms. Middleton asked if they would do that at the same time as site plan review, will they go through that process with you at that time and Mr. Congdon explained they are the public utilities commission so they are not subject to site plan reviews. Ms. Middleton asked is that something the Board will have information on prior to site plan review or is that something that doesn't happen until after and they won't know until the actual construction and they get their money to do it.

Mr. Mastronardi explained he did speak to Chad also and his concern is that the existing three phase is somewhere down on Foley Road and it would have to be extended up to Quilty Hill to the interconnection point, near the five-pole cluster. His thought is that is part of the project, whether NYSEG is doing it or they had to do it, someone is going to have to do the upgrades. The next question is he feels that is running through rural residential again. That is why he had a concern about that connection. Mr. Saunders commented that what you are suggesting is that as a result of the lack of a three phase now there may have to be some electrical run up in that same area and they don't know that is not the case but it is going to be told to them by the utilities they are going to direct us on that. It isn't their call; they can inquire but they don't have to give us an answer. They usually don't go out to the site and do a field investigation until after the approval by the municipality. Ms. Middleton explained she did speak to Chad about it and because it is a public utility it is a little bit different because a public utility would be open for access by anybody, it is not necessarily part of the project with regard to the location issue, residential issue. It is NYSEG's extension the applicant just pays for it. They tell them where it has to go.

Ms. Middleton explained the last one is Part 1 of the Full EAF, the Board requested a traffic study which was provided and is included in the file. Mr. Congdon reviewed the traffic study with the Board. There will be approximately 20 workers, deliveries will be staggered one every hour or so. They could have up to 10 trucks of gravel come to the site in a day. If they were getting modules delivered they would expect about five trucks per day. Dan Wasson asked if there would be 18 wheelers and Mr. Congdon state yes. Mr. Saunders explained there may be some overlapping integration of the road use agreement.

Chairman Woolbaugh asked what is the timeframe, start to finish and Mr. Congdon explained about 12 months. The first three months or so are for clearing and sediment controls, next is racking installations, then install the panels, and then the connection. Chairman Woolbaugh asked if the racking system supports are driven and Mr. Congdon explained there could be a couple of options, sometimes an A-frame with screw piles, or an I-beam that is driven into the ground. Chairman Woolbaugh asked if we will know what kind at site plan and Mr. Congdon explained right now it shows the piers. Mr. Saunders stated for site plan review they will have an answer for the Board.

Adisen Harden asked how they would be seeding it and Mr. Congdon explained they would be broadcasting it and on the steeper slopes they would double the amount of seed they would normally put down. Adisen Harden asked if they would be covering it and Mr. Congdon explained on the lower slope they would use mulch and on the higher slopes they would use the erosion mats.

Dan Wasson asked how do you refuel the heavy equipment on site and Mr. Congdon explained initially it would be a truck mounted tank. When they do the clearing they don't have a staging area yet but once that staging area is set up they will have a tank onsite and it will be a minimum of 100 feet from any water source. The tank itself has secondary containment, a double walled tank.

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April 8, 2026 Planning Board Meeting

Motion by Jason Maxian and seconded by Adisen Harden to adjourn the meeting. The meeting was adjourned at 8:20 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board

cc: Planning Board Members
Kelley Diffendorf
Poe Williams
Chad Moran
Bob McKertich
Katie Legg
Rick Pedro