

**The Town of Marcellus**  
**ZONING BOARD OF APPEALS**  
**22 East Main Street**  
**Marcellus, New York 13108**

**Date:** February 2, 2026

**Board Members Present:** Scott Stearns, Chairperson  
Kathy Carroll  
Chris Christensen  
Ron Schneider  
Jerry Wickett

**Board Members Absent:**

**Town Counsel:** James Gascon of Costello, Cooney, and Fearon  
**Town Engineer:** TDK Engineering (Absent)  
**Codes Officer:** John Houser

The Zoning Board of Appeals of the Town of Marcellus met in regular session on February 2, 2026, at 6:30 PM at Town Hall, 22 East Main Street, Marcellus, New York.

**DISCUSSION**

**Wind Energy**

Jeffrey Eaton, Special Counsel with Costello, Cooney & Fearon, delivered a presentation on Wind Energy Facilities and Local Role in Planning & Permitting. Mr. Eaton summarized the background and terminology and outlined the following:

- Wind energy facilities with a nameplate capacity under 25 megawatts are reviewed and permitted at the local level. A Special Use Permit as well as Site Plan should be required with the following considerations:
  - Host Community Agreement, Decommissioning Agreement and Road Use Agreement.
  - Visual impacts, noise limitations, access roads, setbacks, decommissioning, proposed location of windmill as well as other structures and utility lines.
- Major renewable electric generating facilities equal to or larger than 25 megawatts are required to seek permit approvals through a comprehensive State level review (upon request, the State may review projects between 20 and 25 megawatts). Following is the procedure:
  - Applicants seek a “major renewable energy facility siting permit” pursuant to NY Public Service Law Article VIII.
  - All project review is overseen by the Office of Renewable Energy Siting and Electric Transmission (ORES).
  - Applicants are required to consult with local agencies 60 days before the date the applicant plans to file an application.
  - ORES reviews the application and makes determination on granting Siting Permit to the applicant.

- Local zoning laws and ordinances that could impede the project are often waived by ORES.
- Mr. Eaton does not see many systems under 25 megawatts, most are larger scale systems. The land used is typically leased land (mostly farms) that is sited by ORES. The process of finding a site and building is around seven (7) to eight (8) years. ORES will notify the Town once the project is ready to move forward with permit applications. If the permit is approved, a Town or County may grieve the permit with ORES but it's difficult to overturn the approval.

Chairman Stearns inquired as to the longevity of windmills as it seems we are steering towards nuclear energy. Mr. Eaton noted that Federal incentives are ending as of 2027 and tariffs and supply chain issues are making it difficult to build the windmills. At this time, New York State and the Federal Government are not fully aligned on green energy initiatives; however, these priorities tend to shift with changes in administration. Town Counsel James Gascon noted that the Town is unlikely to be a primary location for windmill development, as the local landscape is better suited for solar farms. He added that the 25-megawatt threshold for State siting and permitting through ORES applies to both wind and solar energy projects.

Mr. Eaton and Mr. Gascon reported that recent case law supports the classification of wind and solar energy projects as public utilities, making them subject to public-utility standards. Mr. Eaton strongly recommended updating the local laws to ensure the Town is prepared to address both small and large-scale projects and will provide samples for review. Any new or revised local laws should be consistent with the recently adopted Comprehensive Plan.

### **Solar Energy Storage Battery**

Code Officer John Houser raised the topic of the solar energy storage battery, noting that the Town has received its first permit application. The request is for a 20 kW battery system. Mr. Eaton explained that under NYSERDA regulations, any system under 600 kW is permissible for residential use. There are many risks with these storage batteries and Mr. Houser has concerns with issuing permits without some guidelines.

The Marcellus Fire Department Fire Chief, Patrick Rothery, provided a memo detailing the primary safety concerns which include intense fires that are extremely difficult to extinguish, toxic off-gassing, stored energy that could re-ignite a fire, and water supply demands to extinguish. Mr. Rothery recommended the following requirements for any residential battery energy storage system:

- **Strict Location Mandates:** prohibit installations in "living areas" or primary egress routes. Preference should be given to detached outdoor structures or fire-rated exterior enclosures.
- **Enhanced Detection:** require interconnected heat and smoke detection specifically for the storage area that will notify the homeowner and a central monitoring station.
- **Clear Labeling:** standardized placards must be placed on the exterior of the home and at the electrical panel, to alert first responders to the presence and type of any energy storage system.
- **Clearance Requirements:** ensure a minimum 3-foot clearance from windows, doors, and combustible materials to prevent rapid fire spread to the main structure.

Mr. Gascon will review the memo and prepare a draft local law for the Board's consideration as part of the Marcellus Town Code.

**MINUTES**

Chairman Stearns made a motion to approve the January minutes as written, Kathy Carroll seconded. The motion carried with the following vote:

S. Stearns, K. Carroll, C. Christensen, R. Schneider, J. Wickett – AYE

Chairman Stearns made a motion to adjourn the meeting and Kathy Carroll seconded. The motion carried with the following vote:

S. Stearns, K. Carroll, C. Christensen, R. Schneider, J. Wickett – AYE

The meeting adjourned at 7:50 PM.

Respectfully submitted,  
Joanna Clarke  
Secretary