

DRAFT REVISION 2 - Colden Planning Board Meeting

February 17, 2026

Planning Board
Members Present: Walt Kammer (Chairman), Paul Idzik, Larry Krzeminski,
George Reinhardt, John Riley, and Cheryl Schenne,

Absent: Andrew Gow

Also Present: Jesse Hrycik (Town Councilman) and Tom Dziulko (Fire
Inspector/Code-Enf. Officer, Tom Departed at 9:00 PM)

Walt called the February 17, 2026 Planning Board Meeting to order at 7:05 PM in the courtroom at the Colden Town Hall.

Minutes

The Board Members reviewed the minutes from the November 18, 2025, meeting. Cheryl motioned to approve the minutes and George seconded, all were in favor with Paul being excused, because he's a new member to the Planning Board.

Battery Energy Storage Systems (BESS)

Walt reviewed the suggested changes that were submitted by Andy in the Revision 8 draft that was provided to all the Planning Board Members. Walt asked for feedback regarding the changes that were submitted by the Board Members.

John had a follow up question regarding the funds that the power company would receive and asked if it would be split or go directly to the supplier. Walt explained the breakdown that's on every NYSEG bill and how the company must collect all the items listed, but only actually keeps a minimum amount of the funds collected; the bulk are forwarded to NYS (or NYSERDA) and/or placed in escrow for NYS mandated system improvements. There is also a segregation between two sections: supply and delivery. NYSEG retains the delivery charges and an account fee for meter and a portion of the aerial lines. John was concerned about the size and quantity because of the grid system being outdated. Walt did verify that the existing grid system would need to be updated to meet NYS "go electric" mandates, and also the lack of support for the additional supply (power generation) needed.

Larry asked about the BESS bonding; the Rev8 draft didn't include surety bonds. Walt will work on including surety bonds in the next draft as they can be problematic in NYS so consultation with the Town Attorney might be required.

One of Andy's suggestions related to possible First Responder firefighting at a BESS facility and queried if Colden should require a pond and dry hydrant arrangement to assist firefighting with water supply. That's a good question. Walt asked Tom (Code Enforcement Officer) if he knew of any towns that require retention ponds to be installed, and Tom responded that he did not. John asked Tom if it would be necessary for the Town of Colden, and Tom responded probably yes. A suggestion was made to review NFPA and NEC. Walt stated that the NYS Electrical Code is behind on adopting the latest revisions in the nationally adopted NEC (National Electrical Code). NYS doesn't automatically require enforcement to the most recent NEC, and presently is "behind" a revision or two. In any case, Walt will include National Fire Protection Association (NFPA) guidelines in the next draft revision of our BESS chapter. Walt also, for purposes of making sure all understand, that the use of water for extinguishing a lithium ion battery fire is not effective and that Andy's concern with dry hydrant water supply deals mostly the fighting of the very likely related structure fire, equipment fires, and other site/vegetation flames which could be triggered by the initial Lithium Ion battery fire.

The Board Members discussed green space, screening, and visual buffering for battery storage. One of Andy's concerns was the rather large setback requirements in the Rev8 Draft. Aside from visual and quality of life considerations for adjacent parcels, Walt stated that the battery storage systems are equipped with 24/7 air conditioning and heat which usually create substantial acoustic noise, and that there is always power conditioning equipment, including transformers which send out acoustic noise. Larry asked if a set decibel level (dB) could be established for the site. Walt will examine that and include some sort of criteria, including where any measurements must be taken.

Violations were discussed if BESS field work wasn't according to any Colden permits. Tom confirmed that the Code Enforcements Officers can issue a stop work order for such cases.

Insurance provided by any BESS developer was discussed to protect the Town. Walt will discuss insurance requirements with the Town Attorney to determine what language is appropriate and is supported by related case law.

Larry was concerned about the gas emissions released from the batteries and equipment at the site, as it could be hazardous. That topic will be examined, although existing NYS Clean Air and Clean Water regulatory elements in place and enforced by NYS DEC would apply in such cases and DEC would have more resources for enforcement than Colden could provide. We will examine if reference to the NYS DEC regulations is absent in the draft and should be added or enhanced for stressing the importance.

Walt confirmed that almost of all the meeting discussion was related to, and limited to, what we defined as Tier 2 projects; Tier 2 are projects with a storage capacity greater than 600kWh (600

kilowatt hours). Projects less than 600kWh would be defined as Tier 1 projects and exempt from the mandates of Tier 2. Instead, Tier 1 projects would be permitted via a newly proposed Colden Tier1 BESS Permit Application and Colden Building Permit. A draft of the proposed BESS Permit was supplied to PB members prior to the meeting and will be given a more detailed review at our next meeting. Given this concept, Walt reviewed a typical Tier 1 “Tesla” Power Wall BESS permit application for smaller projects, putting in context the draft application that was sent to the Planning Board Members and will review comments at the next meeting.

New Local Law amending Chapter 108 {Zoning} to Define and Regulate Keeping of Fowl and Poultry in Restrictive Zoning Districts.

Discussion on the ongoing evolution of Colden’s new regulations for Fowl and Poultry in our restrictive zoning districts continued. Walt once again reminded members that this topic shall only apply to non-Ag zoning. This means parcels which are 100% Ag-zoning, and also parcels which have restrictive road frontage zoning (R1, R2, RRB, C) and which are “deeper” than 300’ from the road centerline where the backland reverts to Ag-zoning. The PB Members were previously supplied a “talking points” draft document with two approaches that Colden can consider for our new regulations. One would be a traditional Special Use Permit mandate with all regulations in a new code Chapter dealing with the matter of Fowl and Poultry in restrictive zoning (R1, R2, RRB, C). The other approach would be to amend the Chapter 108 Zoning code to define the regulations, in EACH restrictive zoning district’s permitted accessory use section, with the requirements for the keeping of Fowl/Poultry in those zoning districts. That use would be as a permitted accessory use but only via a Special Use Permit procedure. The latter method of regulation would allow easy and clear breakout of varied setbacks etc. differences between R1, R2, RRB, and C zoning. The “con” would be that a certain amount of prose/verbiage would be kind of duplicated in those four districts, but the “pro” is that clarity is better. The topic will be debated and further refined at our next meeting. Walt then reviewed the background information on Fowl and Poultry and where to allow.

The topic of “grandfathering” existing parcels with chicken/poultry was discussed. Walt reviewed how Grandfathering an illegal use would not be allowed; many existing chicken coops are in zoning districts where that use is not an allowed principal or accessory use. Grandfathering a use which is illegal is a non-sequitur and would be approved. Therefore, existing sites would be required to do the adopted procedure being defined here. Larry asked how anyone in violation would be notified and Walt responded, after a confirmation from Tom, that a violation notice would be received from Colden’s Code Enforcement Officers.

A procedural note is that per NYS mandates any Special Use Permit and/or site plan review requires an application to include compliance with NYS SEQRA that defines a SEQR/EAF application to be included. Walt reviewed that a Short Form SEQR/EAF Part 1 would need to be completed with all Fowl/Poultry SUP applications submitted if past Colden practices are followed.

Walt stated that next month the Planning Board will review the two approaches that were drafted for the Planning Board and Walt wants the Planning Board to confirm that a Special Use Permit

(SUP) would need to be completed by residents. The SUP methodology is the one used by almost all of the Towns in Erie County and elsewhere in NYS where regulations and landowner conditions are defined in restrictive zoning as enacted.

On the topic of annual SUP inspections, Tom (CEO) did verify that there wouldn't need to be annual inspections and CEO's only follow up with the homeowner if there's a complaint and regulations and/or any Special Use Permit Conditions are being violated or out of compliance. The Planning Board Members did agree that annual inspections wouldn't be necessary for this type of SUP. Additional discussions were tabled and will resume next meeting; no action was taken.

Grant Updates

Walt gave a brief update on the progress of grants for the Town of Colden. Walt explained that the sidewalk grant situation is challenging because of certain NYSDOT TAP mandates for full time project engineer/manager, as a Town employee, for the 4-to-5-year project duration of the grant. That isn't fiscally reasonable so we are not chasing that grant. Walt reviewed the CFA lighting grant which likewise wasn't pursued due to the fine print. The Town Clerk grant for "efficiency" including records digitization/filing of records isn't favorable because of our accounting's lack of demonstrability of the cost savings with confirmed records/timeslips.

Moving on to an update on our NYS OPRHP Kummer Park Upgrade grant, Walt stated that the playground equipment will most likely be shipped early March and stored at the Hwy Department. The highway department will be receiving two 40' side access "one trip" shipping containers for secure storage of the equipment prior to assembly and installation. Walt explained the Town's budget concerns, and encouraged all folks consider volunteering to work on the field execution of the project work. In conjunction with NYS OPRHP, we have defined the process for Colden getting financial allowances for volunteer work on the grant work. Volunteer labor will be recorded and allocated at an hourly rate dependent upon the type of work and volunteer labor greatly will help with the cash contribution calculations for the Town. Walt provided NYS OPRHP forms for the Planning Board Members to be completed on a timely basis to record their time that relates to the Kummer Park Grant work, including review of designs by PB members, and any volunteer hours spent for field work. Walt explained the two forms that were handed out. George asked how they would find out about volunteer opportunities and Walt replied that he will share the information with the Board Members.

New Business

Walt shared the sad news that Bernie Horschel passed away. He was a valued resident and long-time code enforcement/fire inspector. Bernie Horschel was later a member of the Zoning Board of Appeals (ZBA). He will be missed.

The Town Board will be seeking a new ZBA member that understands state and local code, and is able to evaluate a true hardship from an applicant consistent with the guidelines and process used by Colden. The Town Board will be advertising the opening on the ZBA in a subsequent mailing or posting.

Cheryl motioned to adjourn the meeting at 9:21 PM, and George seconded. All were in favor.

Submitted by: Crystal Barrett