

TB Mtg June 3, 2021
REGULAR TOWN BOARD WORKSHOP MEETING
COLDEN TOWN HALL VIA – Go To Meeting

MEETING CALLED TO ORDER AT 7:16pm

PRESENT: Councilman David Arcara - excused
Councilman Jesse Hrycik
Councilwoman Patricia Zurbrick
Councilman Gerald Pietraszek
Supervisor James DePasquale

ALSO

PRESENT: Town Attorney Ronald Bennett
Town Engineer Joseph Wetzel
Planning Board Chairman Walt Kammer
Environmental Board Chairman Craig Bouquin
Bldg. Insp/Code Enf. Officer John Kotlarsz
Asst. Bldg. Insp/Fire Insp. Thomas Dzuilko
Town Clerk Christina Kerlin
TBG Attorney Marc Romanowski
TBG Engineer Mike Montalto
Tara Mathias from The Broadway Group-Virtual
Approximately 4 Residents

Supervisor DePasquale introduced the Town Board members, Councilman Hrycik, Councilwoman Zurbrick and Councilman Pietraszek, Town Clerk Christina Kerlin, Environmental Chairman Craig Bouquin and Planning Board Chairman Walter Kammer Town Attorney Ronald Bennett, Town Engineer Joeseh Wetzel and representatives from The Broadway Group Attorney Marc Romanowski and Engineer Mike Montalto.

Supervisor DePasquale read the following passages from the Master Plan 2002.
Page 8 - Competition with Other Communities Paragraph 3
Page 9 - Public Attitudes Toward Change Paragraph 4
Page - 15 & 16 Business-Industrial Usage 1990 & Business-Industrial Plan 2002 Paragraph 4 and paragraph 7.

The proposed location borders properties on the North Side zoned R-RB Residential and on the South Side zoned Commercial.

The following points were made by Supervisor DePasquale.

1. New York Town Law 261 empowers a Town to adopt zoning provisions. The law specifically includes the adoption of the Zoning Code in regard to the location and use of buildings, structures and land for trade, industry, residence and other purposes.

The Town Board exercised the power to adopt zoning provisions with the present Zoning Code adopted in 1997.

2. Article X of the Zoning Code as enacted provides the specific provisions regarding property within the Commercial District. The permitted uses are as a matter of right. Section 108-91(a)(25) lists “retail sales” as a permitted use.

An application for specific permitted use requires the Town Board to consider such use. Failure to accept a permitted use can result in a challenge based upon the action being arbitrary and capricious as a matter of law.

3. The Town has adopted a Comprehensive Plan. New York Law 272-a(11) states that all town land use regulations must be accordance with the Comprehensive Plan adopted pursuant to this section.

The Town has adopted a Comprehensive Plan. The Town has adopted use regulations (permitted uses) which are in accordance with the Comprehensive Plan.

In summary, the application for retail sales in conformity to the Comprehensive Plan, the Town Board must apply the Codes as enacted in the consideration of approval of a permitted use.

The following Town Codes were read and stated:

- 108-112. Site Plan required, exceptions.
- 108-113. Procedure for review and approval
- 108-114. Authority to require additional supporting data.
- 108-116 Criteria for Planning Board recommendations.
- 108-117. Review by County
- 108-60. Size of parking spots.

There was discussion from the Town Board and Planning Board Chairman Walt Kammer on mixed uses in districts and harmonious relationship between the proposed uses and existing adjacent uses.

Town Board Reviewed Part 1 of the SEQR Full Environmental Assessment Form

Page 2 C.2.a changed to yes

Page 5 c. changed to yes water supply Colden Water District #1

Page 6 f. changed to yes ii. Structural heating

Page 8 r. changed to yes.

Page 9 E.1. Land uses on and surrounding the project site added Commercial.

Page 13 h. changed to Erie Cattaraugus Rail Trail as proposed.

There was discussion on the floodway, separate parcel includes floodway but not the site development which is outside the flood zone.

Part 2 was prepared by the Environmental Board as an advisory comment.

Supervisor DePasquale read part 2 of the SEQR Full Environmental Assessment Form

Page 3 #5. Impact on Flooding a. b. c. d. e. f. changed to no, or small impact may occur.

Page 6 #9 Impact on Aesthetic Resources e. changed to no, or small impact may occur.

Page #9 Impact on Noise, Odor, and Light d. changed to no, or small impact may occur.

Part 3 will be reviewed at the June 10, 2021, Town Board meeting, the board will take time to reflect and bring any questions and concerns on the Change of Use at that time.

Town Board, Town Engineer and Representatives from The Broadway Group (Proposed-Dollar General) discussed the following:

Headlight Sweep submitted included photos that were taken, traffic hours at their peak hours and off hours.

Driveway was changed as per zoning for sight line.

Screening was offered to the adjacent neighbors but were not interested.

Store front rendering was reviewed.

Long term maintenance plan is the responsibility of the Dollar General, The Broadway Group will have a long-term lease with the Dollar General Store. The Change of Use permit condition for the building and landscaping was discussed. Colors for the building have not been chosen yet.

Better defined swallows dedicated for drainage on the north and south side of the property was discussed in length along with flooding from the roadways and the change in water flow on to the adjacent properties. Especially with the proposed area having 7feet of fill to raise the building area.

Traffic study was complete and submitted the history showed nothing out the ordinary and was noted that it was current from 2020.

Public comment session was held which was not required but with the magnitude of this Change of Use one was held. Public received letters have also been received and on file.

A proposed Change of Use was read by Supervisor DePasquale which is attached. The Town Board will take a week to review the draft to either make additions, deletions and any other concerns will be addressed at the Town Board meeting on June 10, 202. If any other conditions are needed contact the Supervisor.

Appoint Town DCO

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously approved to appoint Shannon Miller as DCO for the Town of Colden at the current salary budgeted for 2021.

ADJOURN

Meeting adjourned at 9:50pm

Respectfully submitted,

Christina M. Kerlin
Town Clerk