

TB Mtg August 4, 2022  
REGULAR TOWN BOARD MEETING  
Colden Town Hall

MEETING CALLED TO ORDER AT 7:00PM

SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE FOR THEODORE GAVIN FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

PRESENT: Councilman Dennis Robinson  
Councilman Jesse Hrycik - excused  
Councilwoman Patricia Zurbrick  
Councilman Gerald Pietraszek  
Supervisor James DePasquale

ALSO

PRESENT: Bldg. Insp/Code Enf. Officer John Kotlarsz  
Bldg. Insp/Code Enf Officer Thomas Dzuilko  
Highway Superintendent Lee Wohlhueter  
Rec. Director Kip Palmateer  
Town Clerk Christina Kerlin  
Approximately 8 Residents

MINUTES:

MOTION made by Councilman Pietraszek and seconded by Councilman Robinson and unanimously approved the minutes for the July 7, 2022, Regular Town Board meeting held at 7:00pm.

Supervisor DePasquale stated that moving forward on the agendas that Old Business and New Business will be moved to the start of the meetings prior to the Departmental Committee reports.

OLD BUSINESS: Brody Hacker – 7715 Bleistein Road  
SUP – Auto Repair  
Code Section 108

Supervisor DePasquale stated that the Town Board reviewed the application packet for Brody Hacker at last month's meeting and asked if they were satisfied with the application.

The Town Board Stated "Yes".

Brody Hacker was asked if he understood the conditions and had any questions. He stated that he understood the conditions and had a change on the Special Use Permit front page being a West Falls mailing address not Colden mailing address. The change will be noted.

Supervisor DePasquale read the following draft of the Special Use Permit and Conditions.

**SPECIAL USE PERMIT**

Pursuant to Chapter 108 of the Zoning Code of the Town of Colden, a Special Use Permit is hereby granted by the Town Board of the Town of Colden in accordance with the following:

**APPLICANT:** Brody Hacker  
\_\_\_\_\_  
**PREMISES:** 7715 Bleistein Road, Colden, NY 14033  
**CODE:** Section 108-36 (21)  
\_\_\_\_\_  
**USE:** Custom Shop Mechanical Trades

Additional conditions and safeguards are deemed necessary by the Town Board to implement the purpose and intent of the Special Use Permit. This permit is contingent and subject to the following:

1. **CODE REQUIREMENTS:** Full compliance with all sections of the Colden Code as presently codified or as may be amended from time to time.
2. **APPLICATION AND PLANNING BOARD:** Subject to all plans and specifications submitted with the application, recommendations of the Planning Board and additional conditions and terms as adopted by the Town Board.
3. **VIOLATION:** Any violation of the provisions of the Permit or any other applicable law, code, rule or regulation of any government or department shall subject this Permit to suspension or revocation in the discretion of the Town Board.

4. AMENDMENT: This Special Use Permit is subject to amendment or modification by the Town Board in its sole discretion for compliance with subsequent laws, rules and regulations for Custom Shop Mechanical Trades.
5. ATTACHMENT: This permit is subject to any special conditions attached hereto.

ACKNOWLEDGMENT: The undersigned as applicant for this Special Use Permit does hereby acknowledge receipt of a copy of this Permit and agrees and accepts the provisions herein. The applicant further acknowledges that a violation or breach of any covenants, provisions or conditions of this Special Use Permit will result in suspension or revocation of this Special Use Permit. The undersigned agrees to all terms and provisions of this Special Use Permit as herein stated or as hereafter may be amended.

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Brody Hacker - Applicant

ACKNOWLEDGED AND APPROVED AS TO FORM AND SUBSTANCE.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JAMES DEPASQUALE, Supervisor  
Town of Colden

**Special Use Permit Conditions:**

The Town Board has identified the following conditions, restrictions, and provisions for the approval and subsequent potential renewal of the applicant's Special Use Permit under §108-36.

**The Town Board imposes the condition that:** the applicant *continue his plan for evergreen plantings and other visual barriers/screens*, especially on the parcel side lot boundaries, so that a "good-neighbor policy" of visual and noise screening can be realized (note: applicant has already taken some initial steps in this regard and submitted an informal pen and ink up-date to the original survey showing plantings to date).

1. Compliance with Colden Zoning §108-78 is expected, especially with respect to the greenspace and plantings criteria.
- 2. The Town Board imposes the condition that:** A maximum of four (4) “in-work/in-process” vehicles (automobile, truck, ATV, Motorcycle, Boat) shall be allowed on the parcel at one time, and further it is recommended that any “in-work” vehicles be placed inside of the accessory structure or in a fenced area or area screened with a visual barrier (of conifers, for example).

The applicant indicated the completed building, as defined by his buildout for a 50’x70’ Renewed Building Permit, will have four bays for in-process mechanical work each bay capable of accommodating at least one vehicle.

**3. The Town Board imposes the condition that:** No signage or advertising at, or visible, from Bleistein Road to solicit “business” except for DMV required signs as stated in condition #7, shall be permitted.

**5. The Town Board imposes the condition that:** No parts inventory for projects shall be outside, except. Parts inventory may be stored inside of the shop accessory structure in reasonable quantity, space permitting.

**6. The Town Board imposes the condition that:** All NYS DEC regulations must be met and not violated for all activities on the property for the term of the Special Use Permit. The applicant has identified fluid containment and recovery components which are fitted to the accessory structure.

**7. The Town Board imposes the condition that:** All NYS DMV regulations must be met and not violated for all activities on the property. The use of property for retail sales shall be in accordance with the requirements of New York State Department of Motor Vehicles, and a current license shall be in effect during the term of the Special Use Permit and any subsequent renewals. Per §108-42 (sign regulations), the 2’x2’ sign(s) required by DMV may be displayed on the accessory structure with visibility from Bleisten Road for the green “NYS Registered Shop” as well as the red “NYS Inspection Shop” sign.

**8. The Town Board imposes the condition that:** All NYS DEC regulations must be met and not violated for all activities on the property for the term of the Special Use Permit. The containment system should be a commercial product and not a DIY arrangement. If a non-commercial approved product isn’t employed then a design drawing, signed and sealed by a NYS PE, must be submitted to the CEO’s as part of the building permit and SUP compliance reviews.

**9. The Town Board imposes the condition that:** All Erie County and Town (if applicable), environmental, wastewater, and runoff storm water requirements shall be met.

**10. The Town Board imposes the condition that:** Overall condition of the parcel should be maintained in a manner consistent to protect the health, safety, lifestyle, in Colden and for the protection of nearby resident's enjoyment of, and welfare of, their land, and to maintain a safe and healthy environment for all animals present, and for citizen users of the adjacent town and county roads for walking, cycling, and other activities and purposes.

**11. The Town Board imposes the condition that:** This business is a sole proprietorship with no employees as indicated in your application.

**12. The Town Board imposes the condition that:** The special use permit will terminate if there is a sale of the property.

**13. The Town Board imposes the condition that:** hours of operation will primarily be afternoon and early evening. Any work after 8:00 PM must be done inside the shop with doors closed to reduce noise that will affect the neighbors in the surrounding areas.

**14. The Town Board imposes the condition that** that the normal practice for Annual SUP inspections be done each June for this SUP, and that any negative feedback received during the prior period be considered during any renewal action by the Town Board.

#### **After review**

Item #6 was eliminated from the conditions because it was repeated in condition #8.

Councilman Pietraszek questioned the work hours that were listed in the conditions, prior special use permits were primarily daytime hours that did not go into late evening hours.

Brody did state that he does have a full-time job so his hours would be more evening and weekends when he is not working.

Supervisor DePasquale did state to Brody that you really should be conscious of when you are working in the evenings and curtail some of your noise to inside with the doors closed so as not to disturb your neighbors.

The Town Board discussed the hours of operation along with the noise level of work being done with the loudest and lengthiest noise being done inside the garage with the doors closed. The Town Board reaffirmed to Brody about being neighborly and trying to curtail the noise level which was one of the complaints from neighbors with the Special Use Permit. The Town Board did not want to restrict him from working late into the evening because we all have had times where we have ourselves worked late at night on projects of our own.

Possibly plan the jobs that are demanding the use of the compression tools confined to use them inside the garage with the doors closed.

After discussion it was agreed to remove the following from Condition #13: hours of operation will primarily be afternoon and early evening. And just have Condition #13 read: Any work after 8:00 PM must be done inside the shop with doors closed to reduce noise that will affect the neighbors in the surrounding areas.

Supervisor DePasquale asked Brody Hacker if he could adhere to the conditions that were read and the one that was changed and asked and if he would sign the agreement for the Special Use Permit. It was also stated that the SUP could be amended by coming back to the Town Board. The Special Use Permit is also reviewed yearly and if the conditions are not being met or complaints come to the Code Enforcement Department the SUP would need to be corrected or could be denied if not adhered to the conditions that are agreed upon tonight. And it was stated again that this permit falls on your shoulders to adhere to the conditions and to be respectful of your neighbors.

Brody Hacker stated that he would agree to the conditions that were read at tonight's hearing.

Approve Special Use Permit - Brody Hacker, Custom Shop Mechanical Trades

MOTION made by Councilman Robinson and seconded by Councilwoman Zurbrick to approve the Custom Shop Mechanical Trades Special Use Permit for Brody Hacker at 7715 Bleistein Road, West Falls, with the conditions that were stated at tonight's meeting.

On the Vote: Councilman Dennis Robinson - yes  
Councilman Jesse Hrycik - excused  
Councilwoman Patricia Zurbrick - yes  
Councilman Gerald Pietraszek - yes  
Supervisor James DePasquale - yes

NEW BUSINESS

None

COMMITTEE REPORTS

BUILDING REPORT

Councilman Robinson reported that the HVAC project at the Senior Center has been completed, paperwork is being assembled for the grant reimbursement.

CODE ENFORCEMENT OFFICER REPORT

Report for the month of July 2022 – Bldg. Insp/Code Enf. Officer, John Kotlarsz reported that there were:

15 Building Permits Issued  
1 New Dwelling  
1 Certificate of Occupancy  
6 Certificates of Compliance  
1 First Notice of Violation  
1 Order to Remedy Violation  
1 Phone Complaints

CEO John Kotlarsz stated that he is working with a family whose father owns a house on Crump Road. The resident's house is in disrepair, the owner is in a nursing home and the family is trying to settle the estate for their father. John is going to issue a Don Not Occupy at this time and check with the assessor about reducing the assessment on the house.

Asst. CEO Tom Dzuilko is working with Tara Mathias and Johnny Yell from Broadway Group to remedy the lack of grass cutting at the Dollar General. Hopefully they come up with a schedule to have the cut on a timely basis.

Approve Special Use Permit SBA Tower

Supervisor DePasquale read the following Special Use Permits inspection report.

SBA Communications Corp.  
7414 State Road

Type of Special Use Permit – Tower  
-General Appearance – Good. Bolts were added  
-Conformity to SUP – need to secure vault-**Secured 8/4/2022**  
-Recommendations- None

Motion made by Councilwoman Zurbrick and seconded by Councilman Robinson and unanimously approved the Special Use Permit for SBA Tower at 7414 State Road for the year beginning September 30, 2022 – September 30, 2023.

### COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported that a car show will take place at the Colden Fire Hall details are being worked out for the weekend of September 11<sup>th</sup> and 12<sup>th</sup> during the Colden Art Festival. A Concert and a Memorial Service will take place up at Kummer Park as well on September 11<sup>th</sup>. More information coming.

#### Summer Concert Series

The following bands will be playing at the town gazebo August 10<sup>th</sup> Barking Spiders and on August 24<sup>th</sup> IOT. Concerts start at 6:30pm till 9pm.

#### Makers & Bakers Events

August 6<sup>th</sup>, Happy Campers with an animal presentation, s'mores, and crafts  
September 3<sup>rd</sup>, Pirates and Princess's with airbrush tattoos and balloon animals  
Starts 9am till 1pm. 15+ Vendors, \$2 Hot Dogs, Raffles, Free Games & Activities for Kids

#### Bread of Life Outreach and Gabe's on the Hill Hours:

Tuesday, 10am – 5pm

Wednesday, 1pm – 5pm

Thursday, 3pm – 6pm

Friday, 3pm – 6pm

Saturday, 9am – 12pm

#### Food Pantry Hours:

Thursday, 3pm – 6pm

Saturday, 9am – 12pm

#### Mobile Food Truck

Mobile Food Truck is every fourth Thursday of the month starting at 1:30pm at the Colden Fire Hall on Gutekunst Road.

#### West Falls Fire Company

Food Truck Fridays are on June 17, July 8, and August 12<sup>th</sup> from 5pm – 8pm Maine Bite, Buffalo Ice Cream, Buffalo Tap House and Fat Bob's Smokehouse.

#### Seniors

Seniors meet every second Thursday of the month starting at noon at the Colden Senior Center at 8811 State Road.

#### Old Country Presents-Nashville Show Trip

David Kloiber has organized a Nashville Show Trip for 6 days and 5 nights. Monday-Saturday, October 24-29 depart Colden at 8am, Cost is \$655. Check the town website for details.

#### DOG CONTROL OFFICER REPORT

Councilman Robinson reported that DCO Shannon Miller received several calls this month that were resolved on the phone or redirected to the correct person. One court case was delayed. The census has brought in 43 newly registered dogs for the month of July.

#### ENVIRONMENTAL BOARD REPORT

Councilman Pietraszek reported that the Environmental Board reviewed a SEQR for a single-family residence parcel to become a multiple single family residence development with a private shared access roadway.

#### HIGHWAY REPORT & PARKS

Highway Superintendent Wohlhueter stated that oil and stone on the roads are completed, first mowing on the sides of the road are finished, ditching is going on. Off to a good start for the first month being appointed, working on a five-year plan within the department. The truck that was to be received this year is back ordered for next year.

Highway Superintendent Wohlhueter stated that he would like to approve Brody Hacker as MEO for the highway department.

#### Approve Brody Hacker - MEO Highway Department

MOTION made by Councilman Robinson and seconded by Councilman Pietraszek and unanimously approved to appoint Brody Hacker as MEO in the Highway Department at a rate of \$24.95 for the first 6 months, with a review and an adjustment of pay rate at that time for the next 6 months.

#### INSURANCE REPORT

Councilman Robinson reported that April Hartloff met with employees again on the choices for health insurance, there should be no problem if an employee would like to switch their insurance from the current Blue Cross Blue Shield to Independent Health, the deadline to notify Tammy is coming up soon.

#### LIBRARY REPORT

No report

#### PERSONNEL & TRAINING REPORT

Councilwoman Zurbrick reported that the highway department will be setting up a time for the annual training once things have slowed down on road work.

### PLANNING BOARD REPORT

Supervisor DePasquale reported that Planning Board Chairman is not in attendance tonight due to personnel reasons. The Planning Board will be hearing the Darien Road project at their next meeting.

The Town Board will be looking into the direction town meetings will be going as far as virtually because of restrictions that are being put in place by the governor's office.

### WATER REPORT

Councilman Pietraszek reported that:

- At present time consumption billed by ECWA for prior month 1,608,000 gals. at a cost of \$4,791.84 + \$296=\$5,087.84 expenditure
- Dollar General just requested updated paperwork, to have them get billing vs Broadway Group. Paperwork from Dollar General not yet received. Talked with Tara about the paperwork, she will follow up and see if Dollar General can move it along, as for quarterly payment she has forward the bill to Dollar General accounting.
- Water Operator Greg Adams is working on yearly valve and hydrant opening/closing.
- PZ checks are started for this 2022 year
- Williamson Law is having software administration looking into why some entries in water are placed into sewer and then need an adjustment to correct issue.
- Structure fire on Creekend Road on 7/15/2022 @ 18:18 hrs. 54,470 gallons of hydrant water was used.
- Fire Chiefs have been advised to call Water Operator Greg Adams if the plan to use hydrant water for a fir, thus Greg will call "ECWA Control" to turn up pumps for more water availability.
- Pits were checked today and found to be full, strange considering how dry of weather we are having. Went to pump and pump was not working. Pump was taken to Maybach's Small Engine Repair to have fixed
- Water usage is up across the system.

### Approve Water Reimbursement from Fire on Creekend Road

MOTION made by Councilwoman Zurbrick and seconded by Councilman Robinson and unanimously approved the reimbursement of \$175.89 to WD#1 for the cost of water usage that was used for a structure fire at 8371 Creekend Road. Funds to come out of account A8760.4 Emergency Disaster Work Contractual.

Councilman Pietraszek, Water Clerk Ronald Smith, and Water Operator Greg Adams will be drafting a letter a letter to ECWA explaining the lack of maintenance on the meters located on Lower East Hill Road and recommendations that they would like to have addressed. When the letter is completed, they will forward to Town Attorney Ronald Bennett for review before sending the letter on to ECWA.

**YOUTH/ADULT RECREATION REPORT**

Recreation Director Kip Palmateer reported that today was the last day of the summer program. Recreation department had an active and fun summer. The children were great, and the staff was awesome. Tennis and swim lessons are still going on next week.

There was discussion on the pickleball courts and the near completion of the first 9 baskets for disc golf. Scott Kirby will be attending a meeting soon to update the town board about the progress of the disc golf course.

**RESOLUTION**

None

**BUDGET TRANSFERS**

None

**TOWN CLERK REPORT**

Town Clerk Kerlin reported that the NYS Hunting license for the year 2022-2023 are available to purchase.

Town Board will be receiving a packet for a Change of Use on Darien Road as well as a Special Use Permit for a Dog Kennel Permit on Hayes Hollow Road.

**SUPERVISOR'S REPORT**

Supervisor DePasquale reported the Summer Concert Series is going well the bands have been great and they have had good crowds.

Budget request forms will be going out soon to each department and Councilman Pietraszek will be setting up a time to meet with the town account to go over the budget requests as Budget Officer.

Supervisor DePasquale stated that he will be leaving for vacation tomorrow for a week and he will be available by phone if needed.

**PAY BILLS**

MOTION made by Councilwoman Zurbrick and seconded by Councilman Robinson and unanimously approved to pay the following bills.

General Fund Warrant Voucher #2022-295 to #2022-341	\$ 19,535.78
Highway Fund Abstract Voucher #2022-86 to #2022-99	\$136,286.38
Water District Voucher #2022-34 to #2022-39	\$ 99,434.01
Lighting District Voucher #2022-11 to #2022-12	\$ 1,518.79
Refuse District Voucher #2022-07 to #2022-08	\$ 25,283.65
CARES ACT #2022-05 to #2022-06	\$ 12,798.00

PRIVILEGE OF THE FLOOR  
No Comment

ADJOURN

MOTION made by Councilman Pietraszek and seconded by Councilwoman Zurbrick and unanimously adjourned the meeting at 8:15pm.

Respectfully submitted,

Christina M. Kerlin  
Town Clerk