

## Colden Planning Board Meeting

May 17, 2022

Planning Board Members Present: Walt Kammer (Chairman), Andrew Gow, Peter Newsom, Cheryl Schenne, and Bobby Walker

Excused: Jackie May and George Reinhardt

Also Present: Jesse Hrycik (Town Councilman), Patti Zurbrick (Councilman), Collin Fazio (Applicant), Brody Hacker (Applicant), and 2 Citizens

The May 17, 2022 Planning Board Special Meeting was called to order at 7:02 PM by Walt. The meeting was virtually hosted via GoToMeeting.

The Board Members reviewed the minutes from the Regular Planning Board meeting held on 4/19/22. Andy requested to make a change to his statement to read as: The issue is that there are potential wetlands in the area of the project and the Town Board should be aware of that in their deliberations. Cheryl motioned to approve the revised minutes and Andy seconded. All were in favor.

The Board Members reviewed the minutes from the Special Planning Board meeting held on 4/26/22. Peter requested to make a change to his statement to read as: Peter mentioned to drop the spelled out numbers and stay with the value Arabic format. Peter motioned to approve the revised minutes and Cheryl seconded. All were in favor.

The Board Members reviewed the minutes submitted by Wendy from the Special Planning Board meeting held on 4/26/22. Peter motioned to approve the minutes and Andy seconded, all were in favor.

### Site Plan Review: SBA/Verizon Co-Location Application

Walt reviewed the maps that he prepared with the Board Members.

The Telecommunications Co-location Application requires Site Plan Review by the Planning Board, per 108-112. The Colden's Site Plan Review triggers NYS SEQRA (specifically a Short Form SEQR & EAF submission). The SBA site has a permitted telecommunications tower governed by the terms of an existing Special Use Permit which will not be revisited for this co-

location. The tower Owner (SBA) has a lease arrangement for the use of the land within the tower compound with the landowner of the parcel.

Walt reviewed the following:

- Tax records per NYS RPTL, confirm SBA, as lease, pays taxes for the telecommunications site's real property under SBL 213.00-7-2.1/A
- Tax records also confirm that land value taxation is paid by the Lessor/Landlord under SBL213.00-7-2.1
- SBA/Verizon's standing, as the Applicant, is confirmed
- Tower/Ownership is consistent with representations and submissions
- Applicant has paid the \$1,000.00 co-location application fee
- The fee for the Building Permit application must be paid at time of submission after the PB Site Plan Review & SEQR approval by the Town Board is completed
- Applicant's Supplemental Submission of Design Drawing package is properly signed and sealed by a NYS Design Professional on behalf of the Applicant
- Applicant's Supplemental Submission of the Structural Analysis Report and the Antenna Mount Analysis Report, in accordance with Code 96-3.A(2)(a) and (b), properly signed/sealed by a NYS Design Professional.
- The activity will take on a parcel associated with Applicant's existing tower, known as SBL 213.00-7-2.1, at or near 7414 State Rd. No Subdivision of land or parcel boundary changes will be made by reason of the Application.
- Lot remains as presently defined in dead and survey. The geometry and extent of the existing SBA Tower Special Use Permit remains unchanged.
- The Application is to co-locate new equipment/antennas on the existing SBA tower. All equipment/antennas on the existing SBA tower. All equipment involved is INSIDE of existing fenced compound.
- The co-location at the tower site is established by right under the existing SPA Tower SUP. The Town of Colden code encourages co-location for new antenna whenever technically feasible. Application is consistent with our Code and our preferred land use.

- The co-location site is Ag Zoning. However there is restrictive road frontage zoning present at State Rd. Road frontage zoning to a depth of 300' from the State Road centerline is zoned Residential-Restricted Business (R-RB)
- There are no adjacent zoning district transitions. No special considerations are triggered by reason of a zoning boundary change.
- Code Article XXI, under 108-113 requires a formal Site Plan Review for the Application
- Chapter 108, Ag-zoning Article IX 108-36.A(22)(a) defines permitted use for Telecommunications Facilities as Principal Use via Special Use Permit in accordance with Chapter 96 (Telecommunications)
- Applicant's package was received by the Town Clerk on or about 5/5/22
- Parcel is SBL 213.00-7-2.1 being about +/- 32 Acres, and an irregular shape
- Parcel in Ag-zoning; Road Frontage Zoning of R-RB. The proposed co-location is well back on the parcel and fully within Ag-zoning
- Short Form Part 1 SEQR Part 1 will be reviewed by the Environmental Board at the 6/7/22 Regular Meeting
- Chapter 108 108-36 Applies to the Application; Zoning is at the work site is Agricultural Zoning
- The submission shows the overall tower height will NOT be increased as per 96-3A(2)(c). The height provisions of the existing SBA Tower SUP remain unchanged
- The Applicant's consultant Pyramid Network Services, has been submitted a letter, dated 4/5/22, explaining proposed telecommunications co-location operations planned for the site. The letter meets or requirements.
- NYS PLS Sealed project of drawing package was submitted by the Applicant; no new sealed survey was submitted since the existing SUP defines that information. However, all new submissions required here per Chapter 96, 96-3 were signed and sealed by a NYS licenses Design Professional.
- Short Form SEQR/EAF part 1 was submitted around 5/5/22 and will be processed by the EB on 6/7/22, with Part 2 filed by EB along with the EB advisory preparation of Part 3. The EB is likely to conclude the action was a Negative Declaration since it is identical to another recent similar co-location action. The Town Board, as lead agency, will process the SEQR Part 3 in accordance with their duties on 6/9/22.
- No notice requirements, for parcels within a zone of impact, under Colden Zoning are required for this Application. No Public Hearing is required for this since it is simply a Building Permit matter once the Site Plan Review and SEQR process is completed.

- During the Planning Board Chairman's review he determined per NYSDAM AGML there were no AGM-303-B District parcels within a 500' zone of impact of the project site.
- NYSDAM Overlay Parcel database confirms no nearby parcels in a AGM-303-B District
- Examination of NYSDAM Agricultural Overlay Districts indicate that project parcel is not included in any AGM-303-B overlay
- No EC DEP 239(m) Referral comments received to date if solicited
- No land disturbance. No SWPPP is due to any regulatory reason
- Proposed use is consistent with existing Colden Master Plan and Zoning, and no NEW conversion of Ag land to other purpose is proposed
- No roadside signage proposed in the application submitted; will be confirmed during meeting
- No provisions of Article XIV, Supplemental Use Regulations seem to apply to this co-location
- At Planning Board Meeting, the Applicant to give short narrative of the present plans and any future plans known at this time
- At Planning Board Meeting Applicant to explain any concerns or conditions which may impact the project now, or known for later.

Other discussions, possible Planning Board action/closure on matter if deemed that no supplemental information is required by Planning Board prior to advisory recommendation to Code Enforcement Department prior to Building Permit issuance after SEQR processing by the Town Board.

Walt reviewed a Planning Board comment, the confirmation for a Port-A-Potty during construction period, properly maintained and managed; confirm and document policy as part of the Building Permit submissions.

After the review with the Applicant, there were no other concerns for discussion.

Bobby made the motion to approve the Site Plan change for the Verizon tower and Cheryl seconded. All of the Members were in favor. Colin left the meeting at 7:32PM.

## Special Use Permit - Hacker

The Code Enforcement Officer(s) visited the site originally on April 26, 2022 for purposes of the required Town of Colden Special Use Permit (SUP) Building Inspector's Report which was issued by the CEO's on April 27, 2022.

The Planning Board knows of no disagreement with respect to code interpretations between the CEO, the Planning Board, the Town Attorney.

Walt reviewed the following:

- The importance of the procedures followed for this SUP are fully consistent with historical practices in Colden for similar relevant situations and shops.
- The Planning Board and the Code Enforcement Officers, examined the original building permit for the existing accessory structure to contain the activities requested under the SUP.
- The original permit was for a storage building per Colden 328B Storage Building and the Building Permit was renewed on 8/11/21 and remains in force under 8/11/23.
- The use under the proposed SUP will be for a custom shop/mechanical trades.
- With respect to side yard setback in Ag-zoning the original Building Permit was properly permitted/authorized for such an accessory structure; the SUP changes nothing as it remains an accessory structure.
- The parcel's principal use continues to be Mr. Hacker's single-family residence, in the principal structure located in the same Ag-zoning of the parcel.
- The Applicant, at the request of the PB Chairman, subsequently supplied a NYS professionally sealed survey to the Town Clerk in early May 2022.
- The survey is in conformance with Chapter 108 Zoning,
- The submitted site plan sketch/drawing meets the requirements for a site plan per code and customary practices allowing some informality.
- The Planning Board's Site Plan Review discussions, deliberations, and recommendation this evening takes into account all considerations required under 108-116.
- The activity will take place on a parcel associated with Applicant's existing residence, known as a SBL 214.00-2-24.2 at 7715 Bleinstein Rd. The lot is rectangular in shape approximately 300' north to south and about 1093' east to west,

- No Subdivision of land or parcel boundary changes will be made by reason of the Application.
- A buried “Iroquois Gas” natural gas line bisects the parcel, the line running east-west through the land. There’s also a lateral line running north in the eastern quarter of the parcel. The encumbrances are noted on the survey. The line is clear of all indicated structures.
- The parcel meets the conforming ~ 3 Acre minimum (125,000 sq.ft) lot size for a Ag district, single family residence, without a public water/sewer under 108-23A(1)
  - Parcel acreage per landowner is 7.5 Acres; consistent with Tax Assessor data.
  - Erie County Parcel website shows 7.3688 Acres; difference due to RPTL processing related to the ROW.
- Lot remains as presently defined in deed and survey. The geometry and extent of the existing Accessory Structure Building Permit remains unchanged as original building permit except a permitted structure completion.
- Building placement is consistent with the setbacks for such an accessory building.
- The Applicant wants to perform Mechanical Shop activities in the presently partially constructed accessory structure (as already permitted via the existing Renewed Building Permit).
- Per CEO determination, as SUP is required for new permitted activity proposed.
- All activities under the SUP are proposed to be executed more than 300’ from the road’s centerline in the Ag-zoning.
- There is NO restrictive road frontage zoning for this parcel or the immediately adjacent landowners.
- The Applicant’s original building permit site plan drawing, done by a NYS Professional Land Surveyor, confirms that placement.
- The Applicant’s supplied pen-and-ink site sketch, as well as the NYS PLS sealed survey, is consistent to the context.
- A custom shop/mechanical trades is a permitted use in Ag-zoning, in some cases via a Special Use Permit when noxious odors, offensive noise and other conditions are possible as solely determined by the Code Enforcement Officer; for such cases a Special Use Permit (SUP) in the Ag-zoning of the property may be required per 108-36A(21).

- Mechanical trade shops are not classified as a building use in 108-77 so section not applicable.
- For this proposed activity, the CEO made a determination that those conditions could occur and therefore involved the code provision for a SUP on this Applicant's submission.
- The CEO's SUP determination triggered this application by Mr. Hacker. The relevant section of the Colden Zoning, as referenced says:
  - Shops for custom work, such as but not limited to cabinetmaking, carpentry, electrical, and mechanical trades, plumbing, printing, shoe repair and tailoring, provided that no more than five persons are employed in such shop and only light machines and hand tools are used in connection therewith and no operation is so conducted as to be noxious or offensive. Shops not meeting these conditions will require A SUP.
- Per the Planning Board investigations, all adjacent properties on Bleinstein are likewise similar to the Applicant's parcel with full Ag-zoning and no restrictive road frontage zoning. This includes nearby parcels on the west side of Bleinstein Road also.
- We note that parcels nearby on Blanchard Road (which runs east-west one parcel to the south, forming a crossroads for Blanchard Rd and Bleinstein) have R1-Zoning north to a depth of 300' from the Blanchard Rd centerline.
- In the case of nearby parcels on the north side of Blanchard Rd, the R1-zoning's back line is distant from the southern east-west property line of the Hacker parcel. Specifically, using Erie County DEP GIS, the rough distance from the Blanchard Rd centerline to the southern east-west Hacker lot line is approximately +/- 900 feet.
- Thus, from the back line of Blanchard's R-1 Road Frontage Zoning, the Hacker parcel is about 690' away.
- The Survey, by Genzel Land Surveying, indicates the distance from the Applicant's SW corner south to SW corner of Lot31 as 983.8' so generally consistent with the 990' distance from the EC GIS approximate data.

This distance information is supplied as a FYI item and not the subject of a specific code reference for purposes of this SUP application but rather to allow consideration of non-Ag zoning ~690' away.

- As part of the Applicant's SUP submission, Colden was supplied with a properly executed NYS Short Form SEQR/EAF Part 1.

- The EB in discussions with the Applicant asked for supplemental comments and/or information on noise abatement, noxious odor containment, and the Applicant's contingency plans for any possible fluid leakage.
- The SEQR was processed by the Colden Environmental Board at their May 3, 2022 regular meeting, and a negative declaration (no impact) determination and formal recommendations was issued by the Environmental Board to the Colden Town Bard. The Environmental prepared an Advisory SEQR for Part 2 and Part 3.
- There wasn't a referral to the Planning Board for a SEQR independent review.
- The provisions of Colden's Automotive Use Area per 108-78 apply, which includes provisions for:
  - A durable and dustless driveway and parking area as per 108-78.A
  - Any lighting should meet 108-78.B and be Dark Skies compliant directing light away from the street and adjoin landowners.
  - Green space per 108-78.C(1) should be compliant as determined by the CEO during the implementation phase of the project.
  - Screening must be supplied per 1085-78.C(2) via evergreen plantings or other acceptable visual barrier (partially shown on sketch by Applicant) as required by the SUP.
  - The site plan appears compliant with 108-78.D but the CEO's should confirm that during the implementation of the project if SUP approved.
  - We reiterate that per 108-78.E no junked or partially dismantled vehicles are allowed. See code.
  - Confirm that suitable containment for oil/water separation exists for the present structure's floor drain.
  - Confirm proper procedure and confirm that the Applicant will properly maintain the component in accordance with the manufacturer's recommendations.
  - Determine if there was prior coordination with DEC with respect to ANY aspects of the proposed project.



Discussion with the Applicant:

Review for the supply of water to the shop building and how it will be provided.

Explanation of typical noise(s) or issues impacting nearby landowners if the SUP is approved and operations start.

It was recorded at the Environmental Board meeting that this will be a part-time activity after the Applicant's workday. Review the hours of operations.

The Planning Board recommended that the Applicant continue his plan for the 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: The Applicant has already taken some initial steps in this regard).

The Planning Board Members concurred that a maximum of two (2) vehicles (automotive, truck ATV, Motorcycle, Boat, etc.) which are ready for resale if resale is contemplated, shall be allowed on the parcel at one time. These will be placed inside the accessory structure, or in allowed parking spots, or in a future fenced or enclosed area. No "for sale" signage or advertising at, or visible, from Bleinstein Rd shall be permitted.

A maximum of four (4) "in-work/in-progress" vehicles (automotive, truck ATV, Motorcycle, Boat, etc.) shall be allowed on the parcel at one time, and further any "in-work" vehicles should be placed inside of the accessory structure, or in the future fenced area. No signage or advertising from street, or visible, from Bleinstein Rd to solicit "repair business" shall be permitted.

No parts or inventory for projects shall be outside, except in a fully screened and fenced area.

Parts inventory may be stored inside of the shop structure, in reasonable quantity, space permitting.

All NYS DEC regulations must be met and not violated for all the activities on the property for the term of the SUP. The Applicant has identified fluid containment and recovery components which are fitted to the accessory structure but other regulations may be applicable on a case by case basis.

All NYS DMV regulations must be met and not violated for all the activities on the property.

Any contemplated use of the property for retail sales shall be in accordance with the requirements of NYS DMV, and a current license shall be in effect during the term of the SUP and any subsequent renewals. Per 108-42 (sign regulations) a 2' X 2" sign required by the DMV may be displayed on the accessory structure with visibility from Bleinstein Rd.

All Erie County and Town (if applicable), environmental, wastewater, and runoff storm water requirements shall be met.

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 the welfare of, their land, and to maintain a safe and healthy environment for all the animals present, and for the citizen users of the adjacent town and country roads for walking, cycling, and other activities and purposes.

The proposed use is permitted in Ag-zoning, subject to a SUP, and granting of an annually reviewed SUP under 108-36.A(21).

Inspections by the CEO can be executed at any time during the term of the SUP. Similar SUP's have been issued in the past under that same provision of the code by the Colden Town Board.

This Special Use Permit must be annually renewed per Chapter 108 Article XXII, taking into account any formal violations, citizen feedback, and other factors during the period to the annual renewal date and action by the Town Board.

With the respect to any town Board action, per the outcome of 108-122.B(2) feedback, we contend that a ¾ vote of the Town Board would be required for approval of this SUP if the feedback results of the so-called 1,250' Mailing has 20% opposition to the SUP. The Planning Board Chairman will review the final mailing results and report the outcome in a supplemental report to the Town Board which will determine the approval voting criteria.

The Board Members reviewed the hours of operations, body shop repairs and the collection of waste material. The Applicant reviewed his planned hours and would stop work around 9PM. The Applicant confirmed that the work will mostly involve regular maintenance repairs from wear and tear, along with oil changes, and replacing brakes. The Board Members also reviewed noise ordinance concerns.

Walt will provide a summary of all concerns and the review discussed by the Planning Board Members for the Town Board along with the recommendation to approve the Special Use Permit (SUP). Andy motioned to approve the recommendation and Cheryl seconded it. All were in favor.

Walt reviewed the upcoming schedule of meetings with the Planning Board Members.

There was no discussion of New Business.

Andy motioned to adjourn the meeting at 9:00 PM, and Cheryl seconded. All were in favor.

Submitted by: Crystal Barrett