Minutes for the Ticonderoga Planning and Zoning Board held on April 2, 2026, commencing at 6:00 p.m.

Present: Chairman Dr. W.D. McTyier, Mike Powers, Walt Lender, Ben Leerkes, Tonya M. Thompson, Town Clerk

Absent: Tom Jebb

Others: Tim Fiallo and Steve Patnode

Chairman McTyier opened the meeting with the reciting of the Pledge of Allegiance.

Site Plan Review

Walters – 6 Tin Pan Alley (150.59-8-12.200) Removal of 3 decks and replace w/front & back porches and a breezeway

Chairman McTyier acknowledged the request received from Mr. Walter for another adjournment of his application while he works through his permitting process with the Lake George Park Commission.

Resolution #24-2026PZB brought by Doug McTyier, seconded by Ben Leerkes to table the Walters – 6 Tin Pan Alley (150.59-8-12.200) Removal of 3 decks and replace w/front & back porches and a breezeway application to the May 7, 2026, meeting. **4 – Ayes, 0 – Nays. Carried.**

NRDC – 130 The Portage (150.51-6-12.200) – Subdivide lot into Four (4) single family residential lots for Cross-mod homes

Chairman McTyier acknowledged a letter was received from NRDC notifying the board that they have been unable to gather all of the requested information from the last meeting. They have asked for an adjournment to complete this and have also asked for clarification of what the board wants for soil testing.

Chairman McTyier explained to the board that he spoke with an actual Environmentalist to inquire what should be tested in a site such as this and they agreed with everything set forth in NRDC's letter along with adding testing for PCB's.

Resolution #25-2026PZB brought by Doug McTyier, seconded by Walt Lender to specify the soil sample testing for the NRDC – 130 The Portage (150.51-6-12.200) – Subdivide lot into Four (4) single family residential lots for Cross-mod homes project application to include:

- Heavy metals: including lead, arsenic, cadmium, mercury
- Petroleum hydrocarbons: including contaminants associated with fuels, solvents, or lubricants
- PAHs (polycyclic aromatic hydrocarbons): commonly associated with asphalt or coal tar
- Asbestos: particularly in areas with fill material or previously developed/industrial areas
- PCB's (Polychlorinated Biphenyls)

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The areas to be tested are where the foundations will be located at the excavation site and at a minimum of the depth proposed for each footprint of the concrete slabs. **4 – Ayes, 0 – Nays. Carried.**

Town Clerk Thompson wanted to clarify something for the record that Mr. Fiallo had brought up a few times previously regarding him putting a bid in on this property. He was under the impression from a sign that he saw that his property was up for auction years ago and noted that he called a number on that sign that he never received an acknowledgment on. Mrs. Thompson explained that this property was slated to auction for back taxes, but that never happened and it was instead given to the Town. The Town did put the property out to bid several years ago and nobody bid on it. This is what started the relationship with NRDC and the Town on this particular property.

Resolution #26-2026PZB brought by Walt Lender, seconded by ben Leerkes to table the NRDC – 130 The Portage (150.51-6-12.200) – Subdivide lot into Four (4) single family residential lots for Cross-mod homes project application to the May 7, 2026, meeting. **4 – Ayes, 0 – Nays. Carried.**

Other Business

Resolution #27-2026PZB brought by Walt Lender, seconded by Doug McTyier to accept the minutes of the March 5, 2026, meeting. **4 – Ayes, 0 – Nays. Carried.**

Mr. Powers would like to bring up an issue that he has starting researching in our law. He would like to bring this to the attention of this board (handout attached) This is about Battery Energy Storage Systems – the Tier II systems, which are mostly the industrial grade ones, they are a permitted use in any district with no Site Plan Review. He would like the board to review this section and asked the Town Board to do something about this in the Zoning Law. Much review and discussion was held on the issue. The Planning and Zoning Board agreed to make a recommendation to the Town Board.

Resolution #28-2026PZB brought by Mike Powers, seconded by Walt Lender recommending the Ticonderoga Town Board to review the proposed recommendations from the Planning and Zoning Board regarding Tier II Battery Storage Systems. **4 – Ayes, 0 – Nays. Carried.**

Resolution #29-2026PZB brought by Ben Leerkes, seconded by Walt Lender to adjourn the meeting at 6:10 p.m. **4 – Ayes, 0 – Nays. Carried.**

Respectfully submitted, Tonya M. Thompson, Town Clerk

Fellow members of the Board

I was reviewing the Zoning Law and believe I have found a serious problem that we need to address.

Section 5.1 Battery Energy Storage specifically deals with regulating Battery Energy Storage Systems within the Town. The problems lie within Section 5.1.5 and 5.1.6. 5.1.5 says that Tier 2 systems (which are industrial systems capable of storing anywhere from 20 - 600 kilowatts depending on battery type and design) are "permitted in all zoning districts" and "are exempt from Site Plan Review".

I feel that these systems should not be permitted in all districts and that they should be subject to Site Plan Review.

If memory serves, this section of the Law was adopted as part of the greater solar regulation package and the text was provided by NYSERDA.

I'm making the following recommendations:

1) A six month moratorium on Tier 2 Battery Energy Storage Systems be instituted to allow for the other recommendations to be considered by the Town.
2) Section 5.1.5 be deleted in its entirety.
3) Section 5.1.6 be amended to read "Permitting Requirements for Tier 2 and 3 Battery Energy Storage Systems" and "Tier 2 and 3 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the Rural Residential (but no closer than 1000 feet to any residential structure), Light Industrial, and Industrial zoning districts, and subject to the Uniform Code and site plan application requirements set forth in this Section"

I feel these recommendations will fix the "blank check" problem the original text of the Law creates regarding Tier 2 Battery Energy Storage Systems.

As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____ Date: _____

5.10 **Battery Energy Storage**. This Section 5.10 is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

a. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
b. To protect the health, welfare, safety, and quality of life for the general public;
c. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
d. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
e. To create synergy between battery energy storage system development and [other stated goals of the community pursuant to its Comprehensive Plan].

1. Definitions. Notwithstanding any conflicting definition contained elsewhere in this Local Law, for purposes of this section 5.90, the following terms shall have the definitions set forth below. Any other terms shall have the definition set forth in this Law:
   a. ANSI: American National Standards Institute

b. Battery: A single Cell or a group of Cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.
c. BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects storage batteries from operating outside their safe operating parameters and generates an alarm and trouble signal for off normal conditions.
d. BATTERY ENERGY STORAGE SYSTEM: A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power to a building. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, or similar capabilities. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System as follows:
    1. Tier 1 Battery Energy Storage Systems include either:
        a. Battery energy storage systems for one to two family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
            i. 40 kWh within utility closets and storage or utility spaces
            ii. 80 kWh in attached or detached garages and detached accessory structures
            iii. 80 kWh on exterior walls
            iv. 80 kWh outdoors on the ground
        b. Other battery energy storage systems with an aggregate energy capacity less than or equal to the threshold capacity listed in Table 1
    2. Tier 2 Battery Energy Storage Systems include battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity greater than the threshold capacity listed in Table 1, and have an aggregate energy capacity less than 600 kWh

Section 5.10 Table 1:

Battery Energy Storage System Tier 2 Threshold Quantities

Battery Technology	Capacity
Flow batteries	20 kWh
Lead acid, all types	70 kWh
Lithium, all types	20 kWh
Nickel cadmium (Ni-Cd)	70 kWh
Nickel metal hydride (Ni-MH)	70 kWh
Other battery technologies	10 kWh

3. Tier 3 Battery Energy Storage Systems include all the following:

a. Battery energy storage systems with an aggregate energy capacity greater than or equal to 600kWh
b. Battery energy storage systems with more than one storage battery technology is provided in a room or indoor area

e. Commissioning: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.
f. Dedicated-Use Building: A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:
   a. The building's only permitted primary use is for battery energy storage, energy generation, and other electrical grid-related operations.
   b. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
   c. No other occupancy types are permitted in the building.
   d. Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain battery energy storage system, provided the following:
      i. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
      ii. A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.
g. Dwelling Unit: One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation
h. Energy Code: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.
i. Fire Code: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.
j. Flow Battery: A type of rechargeable Battery that uses typically large, separated liquid reservoirs of electrolytes that flow through a reaction zone to store, charge, and discharge energy. These electrolytes are typically non-flammable.
k. Lead-Acid Battery: A rechargeable Battery that is comprised of lead electrodes immersed in sulphuric acid electrolyte. These batteries may be flooded, vented, sealed, or may come in other form factors. They may produce hazardous gases during normal operations.
l. Lithium-Ion Battery: A storage Battery with lithium ions serving as the charge carriers of the Battery. The electrolyte is typically a mixture of organic solvents with an inorganic salt and can be in a liquid or a gelled polymer form
m. Nationally Recognized Testing Laboratory (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for

certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

n. Nec: National Electric Code.
o. NFPA: National Fire Protection Association.
p. Nickel-Based Battery: A rechargeable Battery in which the positive active material is nickel oxide, the negative contains either cadmium (Nickel-cadmium, Ni-Cd), hydrogen ions stored in a metal-hydride structure (Nickel-metal hydride, Ni-MH), or zinc (Nickel-zinc, Ni-Zn) as the electrode and the electrolyte is potassium hydroxide.
q. Non-Dedicated-Use Building: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.
r. Non-Participating Property: Any property that is not a Participating property.
s. Occupied Community Building: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.
t. One-To-Two-Family Dwelling: A building that contains not more than two dwelling units with independent cooking and bathroom facilities.
u. Participating Property: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.
v. Special Flood Hazard Area: The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.
w. Uniform Code: the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

2. Applicability
   a. The requirements of this Section 5.10 shall apply to all battery energy storage systems permitted, installed, or modified in Town, excluding general maintenance and repair.
   b. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Section 5.10.
3. General Requirements
   a. A Building permit, and an electrical permit shall be required for installation of all battery energy storage systems.
   b. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").
   c. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery

energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

4. Permitting Requirements for Tier 1 Battery Energy Storage Systems . Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts and shall be subject to the "Battery Energy Storage System Permit" and exempt from site plan review.
5. Permitting Requirements for Tier 2 Battery Energy Storage Systems. Tier 2 Battery Energy Storage Systems shall be permitted in all zoning districts, shall be subject to the Uniform Code (referenced in Appendix 2) and the "Battery Energy Storage System Permit," and are exempt from site plan review.
6. Permitting Requirements for Tier 3 Battery Energy Storage Systems. Tier 3 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the Rural Residential (but no closer than 600 feet to any residential structure), Service Business, Light Industrial, Industrial zoning districts, and subject to the Uniform Code and site plan application requirements set forth in this Section.
   a. Applications for the installation of Tier 3 Battery Energy Storage System shall be:
      1. reviewed by the Code Enforcement for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, Permit Time Frame and Abandonment.
      2. subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
      3. referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
      4. upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and Applicant.
   b. Floodplain. The Applicant of battery energy storage systems shall obtain necessary local floodplain development permits if proposed within Special Flood Hazard Areas.
   c. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
   d. Signage.