



TOWN OF GALWAY
ZONING BOARD OF APPEALS
SARATOGA COUNTY, NY
ESTABLISHED 1792

P.O. Box 219
Galway, NY 12074
(518) 882-6070

ZBA MEETING AGENDA

Meeting Date/Time: **Tuesday, April 7, 2015 @ 7:30 pm**

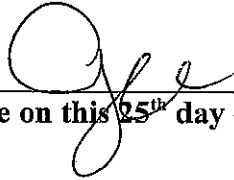
- 1) Convene Meeting
- 2) Roll Call
- 3) Explanation of Procedure and Purpose of the Zoning Board of Appeals
- 4) Review/approval of minutes of December, 2014 meeting
- 5) **Public Hearing**
 - Application #ZBA15-002 – Application of Mark and Camille Reale, tax parcel #185.14-1-27 for an interpretation of the Zoning law as it pertains to abandoned property.
- 6) **Public Meeting**
 - Application #ZBA15-002 – Mark and Camille Reale, tax parcel #185.14-1-27...
- 7) Other Business
- 8) Adjournment

State of New York, ss.:
City and County of Schenectady


**NOTICE OF
PUBLIC HEARING**
Town of Galway
ZONING BOARD
OF APPEALS
NOTICE IS HEREBY GIVEN
that a public hearing will
be held by the town of
Galway Zoning Board of
Appeals on *Tuesday,*
April 7, 2015 beginning at
7:30 p.m. in the Town
Hall, 5910 Sacandaga
Road, Galway, New York,
to consider the following
application:
- Application #ZB15-002
- Request of Mark and
Camille Reale (tax par-
cel # 185.14-1-27, locat-
ed at 5834 Lake Road)
for an interpretation of
the Zoning Law as it
pertains to abandoned
property.
Donna Noble
Clerk
3-24 5608

**Alison Cooke of the City of Schenectady,
being duly sworn, says that he/she is Principal
Clerk in the office of the Daily Gazette Co.,
published in the City of Schenectady and that
the notice/advertisement, of which the annexed
is a printed copy, has been regularly published
in the Daily Gazette and/or Sunday Gazette
as follows:**

1 insertions on March 24, 2015


Sworn to me on this 25th day of March, 2015

NOTARY PUBLIC


PAULA A. OPEL
COMMISSIONER OF DEEDS
MY COMMISSION EXPIRES 10/22/2015



TOWN OF GALWAY
ZONING ADMINISTRATOR/BUILDING INSPECTOR
SARATOGA COUNTY, NY
ESTABLISHED 1792

P.O. Box 219
Galway, NY 12074
(518) 882-6070

MINUTES OF ZBA MEETING

Meeting Date: April 7, 2015

Meeting Location: Town Hall – 5910 Sacandaga Road, Galway, NY

Meeting called to order at 7:30 pm by Chair, Mark Kindinger. Clerk called the roll:

MEMBERS PRESENT: Mark Kindinger, Herb Kopper, Christine McCormack, Teresa Brett (Currently one vacancy on Board)

MEMBERS ABSENT: None

ALSO PRESENT: Donna Noble, Clerk; Chet Ciemroniewicz, Building Inspector/Code Enforcement Officer and approximately 15 people in the audience.

PROCEDURE AND PURPOSE OF THE ZBA – Chair explained the procedure and purpose of the Zoning Board of Appeals.

REVIEW AND APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Members had previously reviewed the minutes of the December 2014 meeting. Motion by **C. McCormack** to approve the minutes as presented. **Second by T. Brett**. Voice vote: all ayes. Motion carried.

PUBLIC HEARING – opened at 7:32 pm

Clerk reads Legal Notice.

Application #ZBA15-002 – Application of request from Mark and Camille Reale (tax parcel #: 185014-1-27) for an interpretation of the Zoning Law as it pertains to abandoned property. Mr. Sutton, Esq. presents his case on behalf of Mark and Camille Reale and the Reale family. Mr. Sutton respectfully asks that the board review the findings of the building inspector with regards to whether the vested rights of the Reale's in their property on Galway lake has somehow been lost due to abandonment. It is felt that they have been playing a game for a while now and that somehow the rules have changed. The lot was purchased by the Reale's in 1973. Mr. Sutton provided to the board a copy of the Reale deed which included a survey of the property at that time and to ensure that the deed is accurate, Mr. Sutton also submits to the board a copy of a document that provides an attorney certification that the deed is accurate. The property that was conveyed to the Reale's had existed for a number of years and in that form had predated the adoption of the Zoning Law and Subdivision Law of the Town of Galway. The Reale's do not believe, under any circumstances, that their rights in their property

on Galway Lake are subject to abandonment. They owned a lot that become illegal because of the acts of the municipality. That protection stays no matter what. Mr. Sutton argues that it is factually false that the property has been abandoned. There has been no intent by the Reales to abandon the property. Mr. Sutton provides to the board copies of the Town and County tax bills that appear on the internet through Saratoga County showing the assessments on this property from the Town and County tax bills from 2008 through 2015. It shows that the Town continues to value the Reale's property at \$160,000.00. Also, for the last 5-7 years the Reale's have faithfully paid their taxes on that assessment. There is discussion about the letter from Martin Pozefsky regarding the non-conforming use of the property having been abandoned. Mr. Sutton would like to point out to the board that the use of the property is lawful. It is an area issue that we are dealing with. An area issue where the size of the lot was made illegal by the Town and therefore the Reale's have protection in the use of that sub-standard lot. The letter also makes note of the time period between 2008 and 2011 when there was little action by the Reale's efforts to improve the property. Mr. Sutton states that the Reale's, in 2008, had already started with preparation of a septic plan and indeed knew that they had to make the septic system safe. Mr. Rourke speaks about his involvement in the project starting in 2008. Mr. Reale (Matt) then speaks about what was being done during the 2009-2010 time period and that it has always been their intention maintain the property whether it was to sell it to somebody else, rehab it and utilize it for themselves or to rent it out. In conclusion, Mr. Sutton respectfully submits, there really has been no factual abandonment of the property or of the right to use the property as a legal non-conforming size lot and asks that the board conclude that there have been no lost invested rights in this property. Mark asks if anybody has questions. No questions asked. Mark then explains that abandonment of this property was not an issue. At the last meeting the sense of the board was that they didn't consider the abandonment of the property as a significant issue that they would be willing to reverse the abandonment. The issue that the board has and the reason the application was withdrawn was because of the septic system. The board is unwilling to grant a variance on the distance from the lake to the septic system. That was the real issue. Mark makes not that he does take exception that the size of the lot is not a non-conforming use because the size of the lot is specifically the definition of a non-conforming use in the code. Again, the declaration of abandonment was not the issue. Mark states that if the board was granting an area variance, they would vote to reverse the abandonment and if that is what you want the board to rule on that tonight, they can do that. Mr. Sutton says yes, he would like the word "abandonment" gone. Mark agrees that the board will rule on that. The board was willing, and the neighbors were fine with building the structure previously presented but the problem was and is the septic system. Mark states that until the board gets something submitted from Environment Design that shows something can be closer to the lake then 100 feet, that meets state requirement, the board is not willing to grant a variance.

Motion by H. Kopper to close the public hearing on application ZBA15-002. **Second by C. McCormack.** Voice vote: All ayes. Motion carried.

PUBLIC MEETING

Application #ZBA15-002 – Application of request from Mark and Camille Reale (tax parcel #: 185014-1-27) for an interpretation of the Zoning Law as it pertains to abandoned property.

Issue before the board: looking at the declaration of abandonment and the board has determined that it would like to reverse the declaration of abandonment and find it continues to be a non-conforming use property based on its area.

Motion by H. Kopper to reverse the declaration of abandonment. **Second by C. McCormack.** Voice vote: All ayes. Motion carried.

PRIVILEGE OF THE FLOOR – Stuart Thomas asks to speak to the board. Mr. Thomas owns property on East Woodside. He is a realtor and has gotten subdivisions, variances, dealt with zoning boards, town boards the State.... An issue he comes across all the time is "what is the purpose of the Board that he is being introduced to". He needs to know as sometimes issues and areas become "gray". On February 27, 2015 he submitted plans with his daughter, met with "Peggy", and were supposed to be at this meeting to get an area variance. He submitted all the necessary documents and application fees but no survey. He explained from the beginning that obtaining a survey is a financial hardship for him because his lot and what he could do was uncertain. And in talking to Mark, he also explained that that having an engineer design a plan that may or may not work was also a hardship for him. Mr. Stuart presents the board with a paragraph that he believes describes the purpose of the board "pretty well". The members read the paragraph. Mark does not agree with the description. Mr. Stuart asks for Mark's association of the paragraph and this board. Mark explains the purpose and different procedures of the Zoning Board of Appeals. Mr. Stuart and the Board do not agree on whether Mr. Stuart can come before the Zoning Board to ask for a variance without a proper survey of the property and what specifically it is that he is looking to do on the property. Mark lets Mr. Stuart know that the Zoning Board does not provide a general variance that he can then build up to. The variance is granted based on the structure you want to build. Mr. Stuart explains that he has the structure. The neighbors, the proper place for the well, the structure. There is talk of the footprint of the property. Mr. Stuart says that all his reliefs are being asked for, the area relief, the set back relief, he does not need a separation of well and septic because his property is 250 feet long. Mark asks what the building looks like. Mr. Stuart says it doesn't matter because it is a footprint. Mark explains what it is that they have to rule on in order to provide a variance and that they cannot grant a variance without seeing what the building looks like. There is more discussion and argument over granting of an area variance. Mark says that he will then need to have his building permit denied. Mr. Stuart says he does not want a building permit. Mark tells Mr. Stuart then he doesn't need a variance. Mr. Stuart says yes, he does. Mark says if you are not building anything, you do not need a variance. Mr. Stuart says that his lot is non conforming, he has a right for an interpretation and reference to exactly what he can do. Mark then explains, again, that we are an appellate division and when Mr. Stuart is denied he can come back before the board otherwise the board cannot hear his case. There is more discussion about the Zoning Law, having a survey and what Mr. Stuart needs to have before coming before the board. Chet also is involved with the conversation. Mark tells Mr. Stuart that as soon as he gets a denial, the application will be something that can be heard before the board. Mr. Stuart then asks Chet to deny his application. Chet says that he does not see any plans or an accurate survey and cannot put his application through. Mr. Stuart's application is denied. Christine tells Chet that he needs to put it in writing.

OTHER BUSINESS – None.

Motion to adjourn by C. McCormack. Second by H. Kopper. Voice vote: All ayes.
Motion carried. Meeting adjourned at 8:47 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Donna M. Noble". The signature is written in black ink and is positioned above the printed name.

Donna M. Noble, Clerk