

State of New York,  
City and County of Schenectady

ss.:

**Lisa M. McGrath of the Town of Rotterdam, 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 insertion:            July 24, 2020**

 (signature)

Lisa M. McGrath (printed name)

Sworn to me on this 28<sup>th</sup> day of July 2020

  
NOTARY PUBLIC

PAULA A. OPEL  
COMMISSIONER OF DEEDS  
MY COMMISSION EXPIRES 07/22/2021

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**LEGAL NOTICE**

**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, August 4, 2020** beginning at 7:30 p.m. in the Town Hall, 5910 Sacandaga Road, Galway, New York, to consider the following application:

**ZBA#20-009** - Application of David and Wendy Stokna for an area variance on property located at 1442 Perth Road (tax parcel #198-1-86) in the A/R District of the Town of Galway.

Donna M. Noble  
Clerk

7/24                    2413744

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

5910 Sacandaga Rd.  
Galway, NY 12074  
(518) 882-6070

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JUL 21 2020

TOWN OF GALWAY

**ZBA MEETING AGENDA**

Meeting Date/Time: **Tuesday, August 4, 2020 @ 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 the July 7, 2020 meeting
- 5) **Public Hearing:**  
**ZBA#20-009** - Application of David and Wendy Stokna for an area variance on property located at 1442 Perth Road (tax parcel #198.-1-86) in the A/R District of the Town of Galway.
- 6) **Public Meeting:**  
**ZBA#20-009** - Application of David and Wendy Stokna for an area variance on property located at 1442 Perth Road (tax parcel #198.-1-86) in the A/R District of the Town of Galway.
- 7) Other Business
- 8) Adjournment

**\*\*Applicants - please wear a mask when attending this meeting. Also, please wait in the parking lot until your matter is called before the Zoning Board.**

**THANK YOU in advance for your cooperation.**



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TOWN OF GALWAY

**MINUTES OF ZBA MEETING**

Meeting Date: Tuesday, August 4, 2020

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

Meeting called to order at 7:32 pm by Chair, Andy Decker. Clerk called the roll:

**MEMBERS PRESENT:** Christine McCormack and Kiley Gregory.

**MEMBERS ABSENT:** Herman Niedhammer and Mark Concilla.

**ALSO PRESENT:** Donna Noble, Clerk; James P. Trainor, Esq., Treavor Gilday, Building Inspector/Code Enforcement Officer.

**PROCEDURE AND PURPOSE OF THE ZBA** – Acting 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 July 7, 2020 meeting. Motion by Christine to approve the minutes. Second by Andy. Voice vote: two ayes, one abstain (Kiley). Motion carried.

**PUBLIC HEARING** – opened at 7:38 pm

**ZBA#20-009** - Application of David and Wendy Stokna for an area variance on property located at 1442 Perth Road (tax parcel #198.-1-86) in the A/R District of the Town of Galway. Mr. and Mrs. Stokna are present and explain what they would like to do. They submitted a packet with the application that gives the history of the restaurant property. They would like a variance to put the duplex on 1 acre so that they can subdivide the remaining 6 acres to each of their two sons (3 acre lots each). If the lot had been subdivided during construction, when a 1 acre lot was allowed, this request would not be an issue. They had thought that when it was constructed that it was on 1 acre. For tax purposes only, the duplex is on a 1 acre parcel. There is discussion of the neighbor's (Earl and Sharon Groat) concerns about their well and the quality of their water.

Mr. Stokna understands their concerns and explains when his parents sold the property there were no houses built. Now there are about 8 houses and not one person has had any situation or issues with well and septic. There is discussion of the map and which lots were together or subdivided. Mr. Stokna explains that years ago all of the property was one parcel. All the way to the end of W. Galway Road. It was farm property that, over the years, was subdivided and sold. The duplex property was never formally subdivided. They are not looking to sell to make money. They want to give a lot to each of their children. The duplex has been the same since it was constructed in 1987. Nothing has been changed or expanded. The use has not changed. The board is concerned that people with 7 acre lots will want to turn them into 3 lots.

**Motion by Christine** to close the public hearing. **Second by Kiley.** Voice vote: All ayes. Motion carried.

### **PUBLIC MEETING**

Mr. Trainor gives clarification of the code as it pertains to a 2-family dwelling... building designed and occupied by two families... he believes that they are asking for a variance from the six acre requirement to one acre. The motion requested is for a variance to allow the existing duplex to be on a 1 acre lot v. the 6 acre lot that is a zoning requirement. Again, the board is concerned with 7 acres becoming 3 lots.

**Motion by Christine** to grant a variance for the duplex to be on a 1 acre lot v. the 6 acre lot requirement. **Second by Kiley.** Voice vote: All nays. Motion denied.

**PRIVILEGE OF THE FLOOR:** Mr. Orton is in attendance along with Mr. Sutton who is representing the applicants. This application was tabled with the idea that the applicants would go before the Planning Board. They did not go to the Planning Board. They explain again the application and what they are looking to do. There is discussion of the Code that was cited at last month's meeting, §115-34 B1, which Mr. Sutton believes is not applicable and that §155-34 A1 is the applicable code. There is discussion of the Code and "non-conforming use". Andy asks Mr. Orton why he didn't go to the Planning Board with this application. Mr. Sutton believes that the Planning Board does not have jurisdiction in this matter. Mr. Trainor explains the current code and that the question the use of the term "use" and what is a "non-conforming use" as it is an overly broad term. In this instance we have a non-conforming lot because it doesn't meet dimensional requirements; and a non-conforming building because the building does not meet set back requirements on the lot. Mr. Trainor then explains why this application falls under the B1 section of the code. If there is more than a 50% expansion (this application is 60%) then it will need to go to the Planning Board for a special use permit. The applicants will submit their application to the Planning Board for their August meeting. This application has not been un-tabled and will remain tabled until the September meeting after the applicants go to the planning board.

**OTHER BUSINESS:** None.

Motion to adjourn by Kiley. Second by Christin. Voice vote: All ayes. Motion carried. Meeting adjourned at 8:40 p.m.

Respectfully submitted,

*Donna Noble*

Donna Noble, Clerk