



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, August 7, 2012 @ 7:30 pm**
Location: Town Hall Complex - 5910 Sacandaga Rd - Galway

- 1) Convene Meeting
- 2) Roll Call
- 3) Explanation of Procedure and Purpose of the Zoning Board of Appeals
- 4) Review/approval of minutes of previous meeting (April 11, 2011)
- 5) SEQRA review/classification
- 6) **Public Hearing**
 - Application #12-003 – Request of David and Deborah Swinton for area variance(s) to demolish an existing seasonal camp and replace it with a 4-season primary residence with enclosed porch on property located at 3045 South Shore Drive East in the Lake District of the town of Galway, tax parcel #198.11-19
- 7) Close Public Hearing
- 8) **Public Meeting**
 - Application #12-003 – Request of David and Deborah Swinton for area variance(s) ... tax parcel #198.11-19
- 9) Other Business
- 10) Adjournment



TOWN OF GALWAY

PLANNING BOARD
SARATOGA COUNTY, NY
ESTABLISHED 1792

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

MINUTES OF ZBA MEETING

Meeting Date: August 7, 2012

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, Tim Bogdan, Christine McCormack, Teresa Brett

MEMBERS ABSENT: None

ALSO PRESENT: Carol DeLorme; Clerk, and approximately 10 people in the audience including George Weed, town board liaison.

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

REVIEW AND APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

All board members previously reviewed the minutes of the April 11, 2012 meeting.

Motion by Christine McCormack to approve the minutes as submitted. **Second by Tim Bogdan.** Voice vote: All yeas. Motion carried.

SEQRA REVIEW/CLASSIFICATION

Motion by Christine McCormack that application #12-003 is an application for area variance, falls under the Type II SEQR list and, therefore, no further action under SEQR is required. **Second by Tim Bogdan.** Voice vote: All yeas. Motion carried.

PUBLIC HEARING – Opened at 7:33 pm

Clerk read the legal notice as it appeared in the *Daily Gazette* on 7/23/12

Application #12-003 – Request of David and Deborah Swinton for area variance(s) to demolish an existing seasonal camp and replace it with a 4-season primary residence with enclosed porch on property located at 3045 South Shore Drive East in the Lake District of the town of Galway, tax parcel #198.11-19

Mr. and Mrs. Swinton were both present. Mr. Swinton explained that they would like to tear down an existing camp and rebuild, replacing it with a 4-season home on a full foundation as required by zoning. It will have a staircase and deck on the side. The new structure will be 42' long (existing is 41' long) and 4' wider than the existing camp. The new house will also have a 2' overhang on all four sides. Mr. Swinton explained that they are somewhat restricted as to the placement of the new house

as there is a right-of-way to the lake across their property – cannot infringe on that. Chair asked if they were aware that the variance is measured from the drip line of the structure; not the sides. Therefore, with the 2' overhang the new house will be 5.3' from the property line on the east side and 13.7' from the west side property line. Chair noted that the drawings submitted with the application show an 8' deck and noted that decks are considered part of the structure. Mr. Swinton explained that that drawing shows the existing camp. It is not their intent to have a deck. Rather they are proposing a stairway with a landing (similar to what's on the other side of the house). Board discussed the elevation of the new structure, informing the applicant that buildings located within the Lake District cannot exceed 28' in height, measured from the mean [property] elevation (referenced §115-20; pg 115:61 of Zoning Regulations). Mr. Swinton indicated that they discussed the height with the code enforcement officer and feel they got a slightly different interpretation from him. Teresa Brett brought up for discussion the fact that the Regulations also state buildings are limited to two levels (again referencing §115-20, pg 115:61). She questioned if this structure violates that as it has appears to her to be three levels. It has egress out of the basement, the basement has a commode, and then there are two levels above that. Also the basement is not really below grade. Tim Bogdan pointed out that while the front of the basement is at grade level, the back is below grade. Following discussion some board members felt that the board has not considered levels in the past, they have only addressed the height limitation. Chair asked for questions/comments from the audience. June Causey (neighbor to the southwest) – Is concerned that the proposed structure will block their view of their dock and swimming area. Walter Causey – Also spoke in opposition to the proposal for the same reasons citing other new structures that have already been built in the area which have diminished their view of the lake. Feels extending the Swinton residence by 4', plus the stairway, will eliminate their view of the lake (currently only have about 15' on that side). Beth Kruger (neighbor to the east) stated she has no issues with the proposal. No further questions/comments from the audience.

Motion by Herb Kopper to close the public hearing. **Second by Tim Bogdan.**
Voice vote: All yeas. Motion carried. Public hearing closed at 8:08 pm

PUBLIC MEETING

Application #12-003 ... David and Deborah Swinton ... tax parcel #198.11-19

Chair asked applicants if they would be willing to change the footprint of the house in any way (narrowing it down) to address their neighbors' concerns. They responded negatively. They indicated that would consider not putting stairs on the west side, however. Added that they have also discussed their plans with the neighbors on the other side who also have concerns about their view. They reportedly indicated they were comfortable with what they are doing. Board reviewed the setback from the lake (present and proposed). Applicants indicated they would move the new house back if necessary to maintain the required 50' setback from the lake; therefore, no variance will be considered for setback from the lake. Chair recapped: Looking to

grant a variance of 20' from the east side property line and a variance of 12' on the west side property line for a structure 42' long (including porch) x 26' wide x 28' high maximum (measured from the mean elevation) with a 2' overhang on all four sides. All setback measurements are from the drip line of the structure.

Motion by Herb Kopper to grant David and Deborah Swinton (application #12-003) a 20' variance from the east side property line and a 12' variance on the west side property line for a structure 42' long (including porch) x 26' wide x 28' high maximum (measured from the mean elevation) with a 2' overhang on all four sides to be used as a 4-season primary residence on property located at 3045 South Shore Drive East in the Lake District of the town of Galway, tax parcel #198.11-19. **Second by Christine McCormack**. No further discussion. Roll call vote: Mark Kindinger, yes; Tim Bogdan, yes; Christine McCormack, yes; Herb Kopper, yes; Teresa Brett, no. Motion carried by a vote of 4 yes; 1 no. **GRANTED VARIANCES OF 20' ON EAST SIDE AND 12' ON WEST SIDE.** It was explained to the applicants that they will receive a letter from the ZBA. They should then contact the building/code enforcement officer for a building permit prior to beginning any construction.

PRIVILEGE OF THE FLOOR

Walter Causey – Stated his displeasure with the handling of the Swinton application and the resultant variances granted. Reiterated his concern that it will result in further diminishment of his view of the lake.

OTHER BUSINESS

Herb Kopper – Made comments/stated concerns regarding a corn whiskey distillery in operation on Old Mill Rd (referenced a recent article in the Daily Gazette). Herb stated he doesn't take issue with the distillery as it apparently is considered a farm operation. However, what he is concerned about is the fact that according to the newspaper article they are planning to sell their product from a tasting room at the distillery itself. As this is in the A/R District, Herb feels it is treading on a commercial business in the A/R District. Herb stated further that he talked with various neighbors about the venture. Most do not have an issue with the distillery itself but are concerned about the parking situation if people are going to be coming and going to the property. The barn in which the distillery is housed is very near the road; does not appear to have room for any off road parking. Herb feels zoning officer should check into this. Clerk reported that the PB also discussed this matter at their July meeting. Their stated concerns were similar and were noted in minutes of that meeting. Mike Tillson, who was present at that meeting, indicated the code enforcement office would check into this further in light of the fact that they apparently plan to have the tasting room and a retail sales from the premises. Also indicated he would relay the PB concerns to the town board.

Herb Kopper – Also read a letter he received, apparently from a lake resident, regarding a new home built on Hart Rd B. Again Clerk reported that this was brought up at the PB meeting in July. The letter was given to Mike Tillson, as both a

representative of the code enforcement office as well as the PB's liaison. Mike indicated at that time that he would look into it.

Finally, Herb stated his intent to inform the town board that he does not wish to receive the stipend he receives for serving on the ZBA and ask that instead the money be donated to the Youth Commission or some other group.

Motion to adjourn by Tim Bogdan. Seconded by Herb Kopper. Voice Vote: All yeas. Motion carried. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Carol L. DeLorme

Carol L. DeLorme, Clerk