

State of New York,  
City and County of Schenectady

ss.:

**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,  
February 5, 2019 begin-  
ning at 7:30 p.m. in the  
Town Hall, 5910 Sacan-  
daga Road, Galway, New  
York, to consider the fol-  
lowing application:  
• ZB#19-001 Application  
of Galway Co-Op LLC for  
an Interpretation of Zon-  
ing Regulations regard-  
ing property located at  
"0" Lake Road (tax par-  
cel #185.15.2-1) in the  
Lake District of the Town  
of Galway.  
Donna M. Noble  
Clerk  
1/28 2365591

**Diana Scheuer 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 insertion on January 28, 2019**



**Sworn to me on this 29th day of January, 2019**

**NOTARY PUBLIC**



**ALISON COOKE**  
**COMMISSIONER OF DEEDS**  
**MY COMMISSION EXPIRES**

7/21/19



**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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TOWN OF GALWAY

**ZBA MEETING AGENDA**

Meeting Date/Time: **Tuesday, February 5, 2019 @ 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 October 2, 2018 meeting
- 5) **Public Hearing:**  
**ZB#19-001** - Application of Galway Co-Op LLC for an interpretation of Zoning Regulations regarding property located at "0" Lake Road (tax parcel #185.15-2-1) in the Lake District of the Town of Galway.
- 6) **Public Meeting:**  
**ZB#19-001** - Application of Galway Co-Op LLC for an interpretation of Zoning Regulations regarding property located at "0" Lake Road (tax parcel #185.15-2-1) in the Lake District of the Town of Galway.
- 7) Other Business
- 8) Adjournment



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**TOWN OF GALWAY**

**MINUTES OF ZBA MEETING**

Meeting Date: Tuesday, February 5, 2019

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, and Christine McCormack.

**MEMBERS ABSENT:** Mark Concilla.

**ALSO PRESENT:** Donna Noble, Clerk; Fred Arnold, Town Liaison; Chet Ciembroniewicz, Code Enforcer and one (1) person 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 October 2, 2018 meeting. **Motion by H. Kopper** to approve the minutes with one correction. **Second by C. McCormack.** Voice vote: all ayes. Motion carried.

**PUBLIC HEARING** – opened at 7:32 pm.

**ZB#19-001** - Application of Galway Co-Op LLC for an interpretation of Zoning Regulations regarding property located at "0" Lake Road (tax parcel #185.15-2-1) in the Lake District of the Town of Galway. Mr. Casadei is not in attendance. Before the application is heard, Mark speaks of ethics information and the requirement to recuse yourself if you have any relationship with the applicant/owner of the property. In this instance, Mr. Concilla, because of the job he used to have, was involved with the owner of this property and also the original application and they are reasons to recuse himself. He is not in attendance tonight. The application was brought to the board by Chet. The issue is an interpretation of the zoning law regarding a previously granted variance. It is Mark's understanding that in 2005 there was an area variance granted on this property for the construction of a camp which is pretty much the same camp as shown on the current plans presented. It is the same dimensions as the original plan. The variance was granted in 2005 but no action was taken on the property. No construction started and it appears that may have been because there was an ongoing argument between the owner and the Lake Association. It ended up going to Court and was still a pending action in 2008. Sometime after that it was settled. The property dimensions originally submitted and that appear on the maps submitted are correct. The question now is that the variance granted was not acted on until the building permit request came in on it this year. The zoning law does say under §115-72(P) that there is a time limit. "any area variance which has been granted by the Zoning Board of Appeals

**DRAFT**

pursuant to this article shall be void if construction is not started within one year of the date of approval and completed within two years of the date of such approval... under extraordinary circumstances these criteria may be waived by the Zoning Board of Appeals". The question here is - is this applicable in this case as this applicant has submitted a building permit request. The plan does meet the requirements of the original request. Can we waive the expiration seeing that they are building what they were originally going to build despite the delay? There is discussion of why/what reason was there to not build when they were granted the variance in 2005 and what would be considered extraordinary circumstances. There has been a lot of time that has passed since the variance was granted and now. There is also discussion of what the approval letters reference regarding the section of the code that the variance is being granted under but it does not reference a time limit of when you have to build and be completed building. (see other business). There is a sense from the board that they want Mr. Casadei to come back and present a new application for this variance.

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

### **PUBLIC MEETING**

**ZB#19-001** - Application of Galway Co-Op LLC for an interpretation of Zoning Regulations regarding property located at "0" Lake Road (tax parcel #185.15-2-1) in the Lake District of the Town of Galway. As was just discussed: The board believes that the time limit is appropriate as it is was passed in 2008 that while he may have had a variance at that time, he did not take any action for some extended period, undefined at the moment, therefore the board does not feel that there are extraordinary circumstances to extend the variance as is but do invite an application for the variance which can be heard next month and acted upon. A new application will need to be submitted and hear the variance because the original variance has not been extended. The variance, if acted upon, carries with the property but the law states that it expires if it is not acted on. The board upholds that and are not aware of any extraordinary circumstance that prevented action on this variance and therefore feel that the variance be re-submitted.

**Motion by C. McCormack** that the interpretation is that the time limit is applicable, that there is not an extraordinary circumstance and therefore a new application for a variance needs to be filed. **Second by H. Kopper.** Voice vote: All ayes. Motion carried.

**PRIVILEGE OF THE FLOOR:** None

**OTHER BUSINESS:** After discussion and noting that the approval letters do not state the time limit for construction it will now be added to the approval letters that per §115-72(P) construction must start within one year of the variance approval date and must be completed within two years of the variance approval date.

Motion to adjourn by **C. McCormack.** **Second by H. Kopper.** Voice vote: All ayes. Motion carried. Meeting adjourned at 8:04 p.m.

Respectfully submitted,

*Donna Noble*

Donna Noble, Clerk