

State of New York,
City and County of Schenectady

ss.:

**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,
May 1, 2018 beginning
at 7:30 p.m. in the Town
Hall, 5910 Sacandaga
Road, Galway, New York,
to consider the following
application:
Application of Galway
Co-Op, LLC for multi-
ple variances on
property located at 6049
Fish House Road (tax
parcel #172-1-57) in the
C-1 Commercial District
of the Town of Galway.
Donna M. Noble
Clerk
4/23 2337572

Sha'Taysia McGill 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 April 23, 2018

Shatapea McGill
Sworn to me on this 24th day of April, 2018

NOTARY PUBLIC

ALISON COOKE
COMMISSIONER OF DEEDS
MY COMMISSION EXPIRES

7/12/19

Ja



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

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

RECEIVED

MAY 10 2018

TOWN OF GALWAY

MINUTES OF ZBA MEETING

Meeting Date: Tuesday, May 1, 2018

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 and Ryan Flinton.

MEMBERS ABSENT: None.

ALSO PRESENT: Donna Noble, Clerk; Chet Ciembroniewicz, Building Inspector/Code Enforcer; and seven (8) 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 April 3, 2017. Motion by **C. McCormack** to approve the minutes. **Second by R. Flinton**. Voice vote: all ayes. Motion carried.

PUBLIC HEARING – opened at 7:32 pm.

Application #ZB17-012 – Application of Application of Galway Co-Op.Com, LLC for multiple variances on property located at 6049 Fish House Road (tax parcel #172.-1-57) in the C-1 Commercial District of the Town of Galway. Continuation of the original request for an interpretation, Application ZB17-012, from last year. The board has been asked to consider variances as indicated in the request for an interpretation. There will be discussion because the board is not sure exactly what everything is that is needed. Mr. Sutton, Esq. speaks on behalf of Galway Co-Op. Mr. Sutton has been representing the Galway Co-Op for about a year. Proceedings before the planning board were re-instituted following an agreement between the Town and Galway Co-Op for a site plan review in July, 2017. The planning board indicated that further consideration would require an application for zoning determination and that zoning determinations be made on the five issues before the board: 1. is a variance required because the Galway Co-Op lot is less than 2 acres and the Galway Co-Op is applying for a special use permit that would increase the number of activities upon the parcel; 2. a variance with regard to a setback between a stairway at the front of the building and Fish House Road; 3. a variance with regard to the pervious/impervious material that is on the lot. Building codes call for 30% limit on impervious material. The proposal involves crushed stone

and the total impervious area, using the word impervious for all the crushed stone, is 38.4% and seek a variance of approximately 8% with regard to the pervious/impervious situation. The last two involve whether a farm stand would be allowed and the fifth was regarding help and guidance with signs. When appeared before the board in October there was a lengthy discussion with regard to the first variance/interpretation. The interpretation asked was that the current 1.3 acres satisfies the zoning requirement because of the pre-conforming, non-conforming lot. The advise was to see what the Planning Board says about the appropriate they are applying for and determine what type of area is required by the law in order to have that type of use. The December planning board meeting determined that they were asking for a customary use/retail business and that particular cubby hole, they understand is a two acre cubby hole. So, now they come back to this board with regard to the first variance saying that with the addition of the acquired property from the County of Saratoga and the right of way, they now have 1.3 acres. It was the consensus of the Board that a farm stand is an appropriate use. The fifth issue was regarding the signs and it was indicated by the board that they would generally follow what the planning board decided. Mr. Sutton believes that it would be appropriate to ratify the last two items at this point while the first three items are being considered for variances. Mr. Sutton and the Galway Co-Op respectfully take the position that all of the first three items are area variances. Mr. Sutton has a letter from the neighbor to the North, Mr. David Hicks, stating that he supports the project. Mr. Sutton also hands out copies of the recorded deed of the land (the "triangle") obtained by Saratoga County. The variance asked for regarding the crushed stone: that variance is required so that the area of the driveway may be accessed by larger vehicles from time to time. One of the parts of the plan is for there to be regular shipments of display items such as stoves, plumbing equipment; to be shown in the store area. The board in October indicated that it believed that the surface is deemed to be impervious whether it is crushed stone or not and accept that the board will now consider a variance. Mr. Arico, Engineer talks about his view of the requested variance regarding the impervious surface. Mark talks about the variances needed. The impervious service, what percentage is needed, the porch and unconstructed stairs in the front. The board has received guidance from the state in the last couple of months regarding temporary buildings; they would be things that are in fact moved throughout the year. Mark suggest that other variances are needed to cover the two equipment sheds, the construction of the pad and the structure around the dumpster. Mark comments on the barrels that are labeled liquid urethane and that Mr. Casadei may want to check with ENCON regarding what the proper storage is. Mr. Casadei states that the barrels are used for waste oil. There are no other comments or questions from the board.

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

PUBLIC MEETING

Application #ZB17-012 – Application of Application of Galway Co-Op.Com, LLC for multiple variances on property located at 6049 Fish House Road (tax parcel #172.-1-57) in the C-1 Commercial District of the Town of Galway. Mark asks if the use that is approved by the Town is the same use that previously existed, as a commercial retail... Mr. Sutton answers yes, that the Planning Board adds other words but, it is the same general cubby hole/category.

1. The total property is 1.314 acres. An area variance of .7 acres to accommodate the operation of office/retail space on what is normally required to be 2 acres.

Motion by R. Flinton for an area variance of .7 acres to accommodate office/retail space. **Second by H. Kopper.** Voice Vote: All ayes. Motion carried.

2. A variance to accommodate the partially constructed porch/deck and unconstructed stairs is needed. Because it is a corner lot and there are two fronts so a variance that Mark measured out to be 67 feet for the 100 foot setback for the front. The variance would begin at the NE corner of the building and run thirty feet along the front of the building. **Motion by R. Flinton** for a variance of 67' to begin at the NE corner of the building and run thirty feet along the front of the building to accommodate the porch/deck and stairs. **Second C. McCormack.** Voice vote: All ayes. Motion carried. Mark comments that construction needs to be completed because it doesn't meet code.

3. The variances that Mark thinks that are needed: the dumpster pad and two utility sheds. Although indicated that these are temporary structures, case law is indicating that a variance would be needed for any temporary structure that is not in fact moved periodically. The dumpster pad and structure: an area variance on the setback 35' on normally a 50 foot side variance setback. Measures out at 16 feet from the edge of the property so: a 35 foot variance beginning 140 feet from the NE corner, running 10 feet to the west. **Motion by R. Flinton** for an area variance to accommodate the dumpster pad and structure of 35' on the side setback beginning 140 feet from the NE corner running 10 feet to the west. **Second by H. Kopper.** Voice Vote: All ayes. Motion carried.

4. Area variances for the two (2) lean-to sheds: to accommodate the two side by side, 20'x20' equipment sheds require a setback variance of 40' beginning 172' from the NE corner running 40' to the west. **Motion by C. McCormack** for an area variance to accommodate two side by side 20'x20' equipment sheds 40' beginning 172' from the NE corner running 40' to the west. **Second by R. Flinton.** Voice vote: All ayes. Motion carried.

5. Variance for maximum lot coverage. The amount allowed in the commercial district is 30%. Mark suggest a proposed variance to allow 40% so that it would be a 10% variance of total coverage. **Motion by C. McCormack** for a 10% variance of the total covered area not to exceed 40% of the property. **Second by R. Flinton.** Voice vote: All ayes. Motion carried.

A variance is not needed for a sign. There is one free standing sign on the Route 29 side and another free standing sign is allowed on the Fish House road side. A sign is allowed on the building. There is a code requirement for the sign allowed on the building.

PRIVILEGE OF THE FLOOR: Owners of property on Hermance Road, on the north end of Galway Lake. are looking to purchase the property across the street from them build a garage and are in front of the board to ask a few questions. Mark asks if they will join this piece of property to the parcel they currently own. That is what the planning board had advised them. Mark tells them that if they do that, join parcels to make it one parcel, then it will be allowable from the zoning stand point. If the parcels are not joined then no, they cannot build only an accessory building. They are currently not sure of the

setbacks that they would need and wanted to make sure this was something they could do before buying the piece of property. Yes, will probably need variances to build a garage but as long as it doesn't change the character of the neighborhood, doesn't present any environmental issues and those types of things.... Mark tells him they can't say yes, they can approve it, they will need to see the plan first. Yes, they will consider it as long as it is one piece of property.

Chris Boyea from Bohler Engineering is here to briefly introduce a project that will be before the board next month. They are working with their client, Primax Properties who is proposing a plan to build a 9,100 square foot Dollar General store. They have met with the Planning Board and they too support the project and before they continue with the site plan review they wanted to work through the layout with them, make sure they were comfortable with the layout and then come to the ZBA to receive any relief they will need for that layout and then go back to the Planning Board to finish site plan review. The first step has been done. An application has been submitted to the Planning Board to look at it on a conceptual basis and have agreed that the layout proposed made sense. Now they would like to come back to ZBA next month but have not submitted an application yet. He will go back with information obtained from this meeting and file the application. Briefly: they are subdividing a lot and will purchase 3 acres on the corner of Route 29 & Route 147. Rock and steep grade is what drove their project to be what it is. Because of the steep grade on Route 147, NYS DOT approved the driveway location on Route 29. The proposed driveway is not directly across from the Stewart's driveway across the street. They will be seeking variances for: parking in the front of the building, 5,000 sq. ft. maximum building footprint and the front yard setback. There is also discussion of the trademark architecture. One other item, that is not really a variance but an interpretation is the sign code. Mr. Boyea has read the code twice and cannot understand what is required and will need an interpretation. Mark explains that he believes the code would indicate that they would get a free standing and a building sign. The fact that they are on a lot with two sides you could apply for a variance stating you would like a sign on 147. There will be no entrance on the 147 sign. Stewarts needed a sign variance and really what is wanted needs to be presented and the board will look at it. Mr. Boyea asks if the board can give him a reaction to the architecture, is it something that will work. Mark recommends that when they come they can give elevations about what the building is going to look like from Route 29 and from 147 it would go a long way to get approval so that the board can visualize what the building will look like. Mr. Boyea asks if there is anything that jumps out that will need to have more homework done on or can the application be discussed as is at the next meeting. Mark says the application can be discussed at the next meeting.

OTHER BUSINESS: None.

Motion to adjourn by **R. Flinton**. **Second by H. Kopper**. Voice vote: All ayes. Motion carried. Meeting adjourned at 8:48 p.m.

Respectfully submitted,

Donna Noble

Donna Noble, Clerk