



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

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

ZBA MEETING AGENDA

Meeting Date/Time: **Tuesday, May 5, 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 April, 2015 meeting
- 5) **Public Hearing**
 - Application #ZBA15-003 – Application of Michael C. Eidens, for area variance (s) to build a 13'x27'6" deck on property located at 3001 S. Shore Drive W. in the Lake District of the town of Galway, tax parcel ##198.11-1-1
 - Application #ZBA15-004 – Application of Michael Casadei, tax parcel #185.13-1-18 for an interpretation of the Zoning Law as it pertains to lighting.
- 6) **Public Meeting**
 - Application #ZBA15-003 – Application of Michael C. Eidens, for area variance (s) to build a 13'x27'6" deck on property located at 3001 S. Shore Drive W. in the Lake District of the town of Galway, tax parcel ##198.11-1-1
 - Application #ZBA15-004 – Application of Michael Casadei, tax parcel #185.13-1-18 for an interpretation of the Zoning Law as it pertains to lighting.
- 7) Other Business
- 8) Adjournment

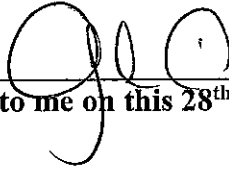
State of New York,
City and County of Schenectady

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 5 beginning at 7:30 p.m.* in the Town Hall, 5910 Sacandaga Road, Galway, New York, to consider the following application:
• Application #ZBA15-003 Application of Michael C. Eldens for area variance(s) to build a 13'x27'6" deck on property located at 3001 S. Shore Drive W. in the Lake District of the town of Galway, tax parcel #198.11-1-1
• Application #ZBA15-004 Application of Michael Casadei, tax parcel #185.13-1-18 for an interpretation of the zoning law as it pertains to lighting.
Donna Noble
Clerk
4-28 8398

Gloria Cabrera 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 28, 2015


Sworn to me on this 28th day of April, 2015

NOTARY PUBLIC



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



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

5910 Sacandaga Rd
Galway, New York 12074
(518) 882-6070

MINUTES OF ZBA MEETING

Meeting Date: May 5, 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, Applicants and approximately 12 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 2015 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

Chair reads agenda (legal notice not received yet).

Application #ZBA15-003 – Application of Michael C. Eidens for area variance(s) to build a 13'x27'6" deck on property located at 3001 S. Shore Drive W. in the Lake District of the Town of Galway, tax parcel no.: 198.11-1-1. Mr. Eidens explains what his request is. He is looking to build a deck. He points out that on the map the front porch appears to be very close to the left hand front corner of the property line but the way the property is set up, the property front edge that borders the water is actually short of the shoreline and that the size of the deck is not out of proportion with the distance from the lake or the size of the property. Also, after giving the matter some thought, Mr. Eidens would like to, rather than square off the deck, he would like to shrink the footprint on the Eastern portion and put it diagonal from the existing landing so that the deck itself is squared off with the house and not the existing landing which will make the deck smaller. Mr. Eidens also points out that his neighbors on the left and the right of his property have given their consent to build the deck. Mark reviews the plan: if the deck is not angled it will be about eleven (11) feet from the property line which makes about a fourteen (14) foot variance on that side and on the other side about a thirteen (13) foot variance. There is discussion of the property line to the lake. Herb comments

that when the survey was taken, the lake wasn't up and still wasn't up when he looked at it last week. The drop off is still part of the property and he estimated that the lake is due to go up about another foot. If it stands the way it is now, it will need about a twenty (20) - twenty five (25) foot variance. Discussion on where they will write the variance from. The variance will be written from the water (figuring the taking line). No other questions or comments.

Application #ZBA15-004 – Application of Michael Casadei for an interpretation of the Zoning Law as it pertains to lighting on property located at 5692 Crooked Street in the Lake District of the Town of Galway, tax parcel no.: 185-13-1-18. Mark states the next application is from Mr. Casadei who is asking for an interpretation of the Zoning Law and asks Mr. Casadei to explain what his request is. Mr. Basile, Esq. explains that Mr. Casadei is here to appeal the decision. Mark asks, to be correct, that Mr. Casadei is appealing to the Board, a code enforcement violation. Mr. Basile says yes. Mark explains in the code enforcement violation that the administrative review of that is a hearing. Have you had a hearing? "of sorts", Mr. Casadei spoke to the zoning officer. Mr. Casadei explains that it wasn't a hearing. He met with code enforcement officer and had a brief conversation regarding the issues. He did not know that it was going to a hearing and if he was to present it at that time he certainly was not prepared to do that. Mark explains that basically Mr. Casadei is saying that the law is too vague and that because the lighting pre-existed the passing of the law. Mark then explains that the Zoning Board has the opportunity to enforce that law if there is a complaint and that there is showing of harm and in making that complaint, we have indication that there is harm. Mr. Basile states that it is enforceable in the first instance because it is too vague. If it is too vague and un-enforceable, harm or no harm it has to be stricken and they are saying there is no standard applied to determine whether the law has been violated, the harm would flow from a violation. Mark explains that the appeal on the vagueness of the law, whether it is properly written should be followed through in Court. Mr. Basile says that they had to take this (Zoning Board of Appeals) step first. Mark asks if the board has any questions. T. Brett has the law in front of her and asks Mr. Basile if he really thinks it is too vague. He says yes. Herb explains that legal procedures on the property have not been followed and that the building shouldn't even be there and that there would be no place to put up lights had the legal procedures on the property been followed. Mark says that there is a judgment on the violation of the zoning currently and that there is a court finding that it is not in compliance and that he believes that Chet is waiting for a plan to make it come into compliance before further action is taken. Mr. Aronstien (a Galway Lake resident) speaks to the board about the zoning law as it pertains to lighting. Next Kyle Ruch speaks to the board (she is the immediate neighbor to the North). Ms. Ruch presents documentation and photos. She is not happy with the lighting and believes that they are there for the purpose of harassment. She is looking for Chet's January 23, 2015 decision to stand as it is her feeling that she can then file criminal charges against Mr. Casadei. Mark asks questions for clarity: The owner of the property is? Benjamin Neri, Mr. Casadei is the resident (renter). To Mr. Basile - as attorney, you're representing Mr. Neri? He is here with Mr. Casadei to represent his authority to speak for Mr. Neri and has not spoken to Mr. Neri. When did Mr. Neri become the owner of the property? 2011. The lights were installed when? Prior to the new ordinance. Mark asks for an exact date. Mr. Casadei does not know the exact date. He explains that some were pre-existing. Mark explains that the simple resolution of this matter would be to install new lights that point down. Mr. Casadei says that these lights do point down. Everybody disagrees with him and Mark states that they did not point down when he was there. Mr. Casadei addresses the board. He does not want to turn

this into a chaotic situation. The lights on the property have been looked at and there is no question in the Code Enforcer's mind that these are pre-existing lights and that is why he is here. He wants to understand what this board's feelings are with respect to the pre-existing lights. Is it okay or is there some reason why pre-existing lights can't be okay. The lights are all LED lights bought at home depot. Installed and are all face down with the exception of one. One is shining directly on Ms. Ruch's property for security reasons. Other members in attendance also speak about the nuisance of Mr. Casadei's lighting. There is question as to whether or not Mr. Casadei is using this property as a place of business. Mark asks Mr. Casadei if he is operating a commercial business out of this property. Mr. Casadei responds "absolutely not".

Motion by C. McCormack to close the public hearing on applications ZBA15-003 and ZBA 15-004. **Second by H. Kopper.** Voice vote: All ayes. Motion carried.

PUBLIC MEETING

Application #ZBA15-003 – Application of Michael C. Eidens for area variance(s) to build a 13'x27'6" deck on property located at 3001 S. Shore Drive W. in the Lake District of the Town of Galway, tax parcel no.: 198.11-1-1. Mr. Eidens is looking for a 14 foot variance on the East side, a 13 foot variance on the West Side. Mark asks for clarification from the board. Do we use the property line or the lake shore? The board discusses which line they will use. The property line will be used. On the North side it will be a 44 foot variance. **Motion by H. Kopper** to grant a 14 foot variance on the East side, a 13 foot variance on the West side and a 44 foot variance on the North side. **Second by C. McCormack.** Voice vote: All ayes. Motion carried.

Application #ZBA15-004 – Application of Michael Casadei for an interpretation of the Zoning Law as it pertains to lighting on property located at 5692 Crooked Street in the Lake District of the Town of Galway, tax parcel no.: 185-13-1-18 Mark's feeling on this matter is that he hasn't heard anything that would cause him to over turn the action/decision of the Code Enforcement Office. He does not believe that, taken as a whole, the town ordinance is vague in regard to this issue and that the citation is within reason. Mark asks the other board members if they agree. All agree. **Motion by T. Brett** to uphold the Code Enforcement's interpretation and citation. **Second by H. Kopper.** Voice vote: All ayes. Motion carried.

PRIVILEGE OF THE FLOOR – Neighbors asks what will happen next, can they get the lights turned off. Mark lets them know that the next action is according to what the enforcement action is and that Chet will be working with the town attorney on that.

OTHER BUSINESS – None.

Motion to adjourn by H. Kopper. Second by C. McCormack. Voice vote: All ayes. Motion carried. Meeting adjourned at 8:27 pm.

Respectfully submitted,


Donna M. Noble, Clerk