



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

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

**RECEIVED**

SEP 19 2017

**TOWN OF GALWAY**

**ZBA MEETING AGENDA**

Meeting Date/Time: **Tuesday October 3, 2017 @ 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 September 5, 2017 meeting
- 5) **Public Hearing:**
  - Application #ZB17-011 – Application of Michael Anderson, for a variance(s) to construct a garage on property located at 2890 Shaw Road (tax parcel #174.-1-31.11) in the A/R District of the Town of Galway.
  - Application #ZB17-012 - Application of the Galway Co-Op.Com, LLC, for an interpretation of the Zoning Law as it pertains to property located at 6049 Fish House Road, (tax parcel #172.-7-57) in the Commercial District of the Town of Galway.
- 6) **Public Meeting:**
  - Application #ZB17-011 – Application of Michael Anderson, for a variance(s) to construct a garage on property located at 2890 Shaw Road (tax parcel #174.-1-31.11) in the A/R District of the Town of Galway.
  - Application #ZB17-012 - Application of the Galway Co-Op.Com, LLC, for an interpretation of the Zoning Law as it pertains to property located at 6049 Fish House Road, (tax parcel #172.-7-57) in the Commercial District of the Town of Galway.
- 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 Gal-  
way Zoning Board of Ap-  
peals on **Tuesday, October  
3, 2017, beginning at 7:30**  
p.m. in the Town Hall, 5910  
Sacandaga Road, Galway,  
New York, to consider the  
following application:  
Application #ZB17-011 -  
Application of Michael An-  
derson, for a variance(s)  
to construct a garage on  
property located at 2890  
Shaw Road (tax parcel  
#174-1-31.11) in the A/R  
District of the Town of Gal-  
way.  
Donna M. Noble  
Clerk  
9/28 2316467

**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 September 28, 2017**

*Sha'Taysia McGill*

Sworn to me on this 29<sup>th</sup> day of September, 2017

NOTARY PUBLIC

*Alison Cooke*

ALISON COOKE  
COMMISSIONER OF DEEDS  
MY COMMISSION EXPIRES

7/12/19



**TOWN OF GALWAY**  
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NOV - 7 2017

**TOWN OF GALWAY**

**MINUTES OF ZBA MEETING**

Meeting Date: Tuesday, October 3, 2017

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, Teresa Brett, Herb Kopper, Ryan Flinton and Christine McCormack.

**MEMBERS ABSENT:** None

**ALSO PRESENT:** Donna Noble, Clerk; Chet Ciembroniewicz, and four (4) 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: September 5, 2017. Motion by **H. Kopper** to approve the minutes with corrections. **Second by R. Flinton**. Voice vote: all ayes. Motion carried.

**PUBLIC HEARING** – opened at 7:31 pm.

**Application #ZB17-011** – Application of Michael Anderson, for a variance(s) to construct a garage on property located at 2890 Shaw Road (tax parcel #174.-1-31.11) in the A/R District of the Town of Galway. Mr. Anderson explains that he is looking to build a garage and would like it close to the house as he and his wife are getting older. The house was there when they got there and they would like the garage in the same parallel path of the house. The left side of the house has more room but that is where the septic system is. They feel that the spot they picked to build the garage is the best place to build it. They are looking to setback 43 feet to the eaves which will require a 7 foot variance. There are no questions or comments from the audience or the board.

**Application #ZB17-012** - Application of the Galway Co-Op.Com, LLC, for an interpretation of the Zoning Law as it pertains to property located at 6049 Fish House Road, (tax parcel #172.-7-57) in the Commercial District of the Town of Galway. Mr. Sutton speaks on behalf of the Galway Co-Op.Com, LLC. They are asking the board to look at five different things that are associated with the site plan review that has been ongoing with the Planning Board. They have reached a point in the review process where the Planning Board and the applicant agrees that there will need to be Zoning determinations. The applicant and Board discuss the five issues they would like an interpretation on which are: 1. Does a sub-sized lot in a commercial district with a lawful

commercial use need to have a variance before it can get a site plan review and special use permit. 2. Do variances need to be granted for use of the above lot when lot line distances are non-conforming but when no change of building location has occurred? 3. Is the crushed stone driveway proposed an "impervious" surface? 4. Is the seasonal exterior sale of fresh fruits and vegetables a use which is allowed within the C-1 district with a special use permit? 5. An interpretation as to which section of the local law this project falls under in terms of signs. The board specifically discusses the sign issue. Reading the section of the Town's law regarding signs it is not clear (and should talk to the Town Board to make it clearer) as to which applies to the business. Discussion of each section of the local law and where the Galway Co-Op falls under the local law. There is one owner with multiple business activities. Mr. Cassadei clarifies that all of these businesses are not solely owned by the Galway Co-Op. They partner with other people. They do however solely own the cooperative part pertaining to fuel and would look the business (pertaining to the sign) more as a shopping center/multi tenant type of situation rather than an independent owner with multiple businesses. There is no more issues to discuss at this point.

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

### Public Meeting

Application #ZB17-011 – Application of Michael Anderson, for a variance(s) to construct a garage on property located at 2890 Shaw Road (tax parcel #174.-1-31.11) in the A/R District of the Town of Galway. Looking for a variance of seven feet on the north side (front) of the property to construct a 24x24 foot garage, 12 feet from the house.

**H. Kopper** to grant a 7 foot variance on the north side (front) of the property to construct a 24'x24' garage. **Second by C. McCormack.** Voice vote: All ayes. Motion carried.

Application #ZB17-012 - Application of the Galway Co-Op.Com, LLC, for an interpretation of the Zoning Law as it pertains to property located at 6049 Fish House Road, (tax parcel #172.-7-57) in the Commercial District of the Town of Galway. The Board will go through the list one by one. 1. As to whether the property needs an area variance to obtain further site plan approval for other activities - essentially there is a variance that has been grandfathered as the lot is a sub-standard commercial lot. It is Mark's opinion is that the answer to the question is maybe, depending on what the other uses are. There are a variety of different acreage requirements depending on the use. The Planning Board, in the site review and use permit process can indicate whether or not the variance requested is so different than what you already have in your existing use permit, that it will have to come back to the Zoning Board for approval. The board agrees that: Yes, if the use requires a different area than what you currently have a permit for then you will require a variance. Mr. Sutton asks if the board is going to consider the uses that have been set forth and grant variances this evening. Mark says no and explains that nobody (public) has been notified as to granting such variances and that the present application is for interpretations. Furthermore, the Zoning Board is not going to grant a variance on something that the Planning Board has not approved. If the Planning Board approves the use and it requires a variance the Zoning Board will grant a variance. 2. As to whether variances need to be granted for use of the above lot line ... Mark says that the grandfathered footprint of the building - no - a variance is not required BUT anything that is added on and any other structures to be

built, yes you need to have a variance. The deck has already been added on without a variance. They will come back with distances on the deck and a variance can be approved. 3. "impervious or pervious" In Mark's opinion, the "crushed stone driveway" is considered to be impervious. Driveways, concrete pavers, gravel or other compacted areas (even unpaved driveways) are always considered to be impervious. Ryan agrees as gravel is a impervious surface because it is compacted, it is not a native soil and is not designed for a certain permeability. Mark explains that a variance can be granted allowing a greater portion of the property to be impervious, if you had the appropriate water test engineered or something to help the Board it would be grounds for a variance. Not a variance to consider it to be impervious but a variance to consider it as a greater area therein. 4. Farmstore/Farmstand: This is not clearly laid out in the Code. This is not considered to be a roadside stand because a roadside stand is part of a main farm. This is considered to be more of a farmstore and a farmstore is a permitted use in the C-1 District. 5. Sign. The sign code is confusing. The Board is in agreement that If the Planning Board says that the signs are okay, the Zoning Board is okay with the sign. The Zoning Board will support a variance on what the Planning Board approves.

Summary: 1. You do need a variance for a use that has a significantly different area requirement compared to the current use. 2. Yes, a variance needs to be granted for anything that is beyond the footprint of the original building. 3. Yes, crushed stone is impervious. 4. Yes, a farm market is permitted in the C-1 District. 5. The Zoning Board will support signage that is approved by the Planning Board.

Motion by **R. Flinton** for the Board's approval to the Summary as presented. Second by **H. Kopper**. Voice vote: All ayes. Motion carried.

**PRIVILEGE OF THE FLOOR:** None.

**OTHER BUSINESS:** None.

Motion to adjourn by **H. Kopper**. Second by **R. Flinton**. Voice vote: All ayes. Motion carried. Meeting adjourned at 8:50 p.m.

Respectfully submitted,

*Donna Noble*

Donna Noble, Clerk