



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

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

\*\*\*NO LEGAL NOTICE PLACED IN THE DAILY GAZETTE FOR THIS MEETING DUE TO CLERICAL ERROR\*\*\*

**ZBA MEETING AGENDA**

Meeting Date/Time: **Tuesday, October 6, 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 September, 2015 meeting
- 5) **Public Hearing**
  - Application #ZB15-007 – Application of Galway Co-Op, tax parcel #185.13-15 for an interpretation of the Zoning law as it pertains to abandoned property.
- 6) **Public Meeting**
  - Application #ZB15-007 – Application of Galway Co-Op, tax parcel #185.13-15 for an interpretation of the Zoning law as it pertains to abandoned property.
- 7) Other Business
- 8) Adjournment

September 21, 2015

**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, October 6, 2015 beginning at 7:30 p.m.** in the Town Hall, 5910 Sacandaga Road, Galway, New York, to consider the following applications:

- Application #ZB15-007 – Application of Galway Co-Op, tax parcel #185.13-15 for an interpretation of the Zoning law as it pertains to abandoned property.

Donna Noble  
Clerk



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**MINUTES OF ZBA MEETING**

Meeting Date: October 6, 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 and Ryan Flinton

**MEMBERS ABSENT:** None

**ALSO PRESENT:** Donna Noble, Clerk; and 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 September 2015 meeting. Motion by **H. Kopper** to approve the minutes as presented. **Second by C. McCormack**. Voice vote: all ayes. Motion carried.

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

**Application #ZBA15-007 – Application of The Galway Co-Op for an interpretation of the Zoning law as it pertains to abandoned property. Tax Map No.: 185.-13-15.**

Mark asks Mr. Casadei if he is here representing The Galway Co-Op. Mr. Casadei says that he is here representing the Co-Op as the Manager. Mark asks what the nature of the LLC is. Mr. Casadei says that it is a holding company. Mark asks if The Galway Co-Op was denied a building permit. Mr. Casadei says that is correct. Mark asks what is the issue that he is trying to appeal. Mr. Casadei says he is looking for an interpretation of the code. Mark asks what aspect of the code? Mr. Casadei feels that it is not clear. Mark asks what part of the code is not clear? A building permit was denied and the code enforcement officer says that the property is abandoned. Mr. Casadei says that the code enforcement officer believes the property is abandoned. Mark asks if Mr. Casadei is saying that the property is not abandoned. Mr. Casadei says that it is certainly not abandoned. Mark asks who is living there. Mr. Casadei says nobody is living there and it has been a year since somebody has lived there. Mark says when a property is bought a septic survey is required and asks Mr. Casadei if he had a septic survey done. No septic survey was done. Mark asks how long ago Mr. Casadei bought the property.

Mr. Casadei says he thinks about four years ago. Mark says that somebody was living there, at the time, without an operating septic system. Mr. Casadei: Yes, that's correct. Mark says: in violation of the building code? Mr. Casadei asks is it? Mark tells Mr. Casadei yes, it is. Mr. Casadei says that he didn't realize you need an approved septic system in order to use the property. Mark reads a letter that Mr. Casadei wrote to Mr. Tillson, Town of Galway in 2011, (there was an Order of Remedy dated August 1, 2011) stating that the property has been secured and will not be occupied until a plan is submitted to your office and construction is completed. The property does not have a functioning system. Considering that the property is not habitable at this time, believe this issue is mute until such time a plan is submitted. Sarah Green, Esq. (representing Mr. Casadei and the Galway Co-Op) asks Mark what is he reading from. A letter from The Galway Co-Op to Michael Tillson, Town of Galway. Mr. Casadei says that despite the letter, the property ended up being occupied and used. It was never vacant. There was always power on the property, people always used it. Personal property was being stored there, people have slept there, cooked there, showered there, swam there, Lake Association Dues were paid on a yearly basis. It was definitely occupied and it still is. Mark says on September 20, 2013 the Zoning Board sent a letter stating that it looks like there is activity going on at the property and per your letter in 2011 a permit is needed if you are going to make improvements to the property. Mark asks Mr. Casadei if he recalls Chet sending him a letter to that effect. Mr. Casadei says he could have, he doesn't recall. He knows Chet was there and that Chet knew somebody was living in the property at the time. Apparently, there was an issue raised by a neighbor about use of the property, people being at the property and right now it looks like it is pretty well trashed. Mr. Casadei disagrees saying that there is no garbage and trash on the property. Ms. Green asks to get back to the denial and the current application. Mark explains that the issue is whether it is inhabited or not. Use of the property does not include swimming there or fishing there it is whether it is in any way inhabitable. The property does not look habitable at all. The windows are boarded up but Mr. Casadei maintains that somebody is living there. Mr. Casadei points out that there are a lot of properties in Galway that people are residing in with very simple means and maintains that this property has been and is being used. Ms. Green asks the board what act are you claiming to indicate the intention of abandon the non conforming use. Mark says that Mr. Casadei represented to the Town that the property was not habited in an effort to avoid the required septic survey. Ms. Green asks if they are talking about a full time residence as she does not believe the Code requires a full time residence. Mark says it didn't say full time residence. That Mr. Casadei's letter states that it is not habited and it has been secured. That it does not have a working septic therefore it is a mute point, do not need a septic survey because it is not habited. Mr. Casadei says he would like an interpretation of the Code as the Code says unoccupied, unused or abandoned is that correct? There is discussion again of the septic system and whether or not it is a functioning or not functioning system and whether the property is inhabitable. Mark then says that this is an appeals board and Mr. Casadei has been denied a building application because the property is abandoned and asks Mr. Casadei what is his point of concern? Mr. Casadei says he needs an interpretation of the Code and that is the only reason why he is here. Mark asks, what you're asking for is whether declaration of abandonment is something that can be done by the Code Enforcement Officer? What Mr. Casadei wants answered is: if the property is being used under the conditions that he just got done indicating, do you still consider the property abandoned, unoccupied or unused? Back and forth discussion as to whether improvements were made to make

the property habitable and discussion of what improvements were made. More discussion about the septic system. Ms. Green and the board discuss the non conforming use and she feels there is no basis to the non conforming use. Mark explains that the non conforming use is the setbacks and the under sized property. So, that non conforming use was grandfathered when the code came in and was considered a non conforming use. Ms. Green wants an explanation of the act that indicates a forebear of the continued use of the set back. The property has been there all along and the setback has been there all along. There has been no indication that anyone is surrendering the right to the setback. More discussion of the non conforming use. Mark reads the code: When a non confirming use has been vacated, not used or occupied or discontinued for a period of one year, it shall be presumed to have been abandoned. That is the interpretation, that is what the code says. Discussion of occupied, what is the interpretation of occupied and when was the property is occupied. Mr. Casadei says that Code Enforcement was aware that somebody was living at the property. Mark asks Chet to verify. Chet refers to a letter dated September 24, 2013. In that things may be going on there that may require a building permit and it also appears that the property is currently being inhabited. Upon meeting on site, several days later, the claim was "a person that works for me stays there once in a while, has a fire. He's not living there all he's doing is having a fire and basically using the lake". Chet then says If that was then and somebody lived there for a year, basically in violation, you'd still have that year where nobody's occupied it. Chet said that he did a bunch of drive-by's afterwards and it didn't appear anybody was there and there were no more complaints that anybody was there again. Discussion again of the type of use the property was being used for and if it was abandoned, and non conforming use. Mark says that the board is willing to listen to what the plans are for the property when the proper documentation is submitted and that abandonment decisions have been reversed in the past where the construction was within the requirements. The biggest thing is approval of the septic system. Ms. Green asks if the board will be holding off on any final determination as to the abandonment issue. Mark says, at this time, you are only asking for an interpretation. The board will make a decision in the public meeting about the interpretation. Ms. Green then asks to get the denial in writing. Chet agrees to provide the denial in writing. A couple neighbors make comments. Ms. Green asks if the board is willing to entertain a written submission and grant an opportunity to discuss with Marty the prior decision the board made. Mark ask if she is looking for the board to table the decision until additional evidence can be submitted.

**Motion by C. McCormack** to close the public hearing on application ZBA15-007.

**Second by H. Kopper.** Voice vote: All ayes. Motion carried.

### **PUBLIC MEETING**

**Application #ZBA15-007 – Application of The Galway Co-Op for an interpretation of the Zoning law as it pertains to abandoned property. Tax Map No.: 185.-13-15.** Request is to table the decision for this application for thirty (30) days until the next meeting in November, pending receipt of additional information.

**Motion by T. Brett** to table decision until the November meeting. **Second by H. Kopper.** Voice vote: All ayes. Motion carried.

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

**PRIVILEGE OF THE FLOOR** – None.

**OTHER BUSINESS** – None.

**Motion to adjourn by T. Brett. Second by H. Kopper.** Voice vote: All ayes. Motion carried. Meeting adjourned at 8:33 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Donna Noble". The signature is written in a cursive, flowing style.

Donna Noble, Clerk