

Town of Galway – Planning Board  
REGULAR MEETING  
August 27, 2025  
GALWAY TOWN HALL

Board Chair Ruthann Daino called the meeting to order at 7:00 PM. The following Board Members were present:

PRESENT: Chair Ruthann Daino  
Board Member Melissa Rathbun

Board Member Kylie Holland  
Board Member Renee Roth-O'Neill

Others Present: M. Neahr, Clerk; M. Luetters, Building Inspector/Code Enforcement; Board Liaison, J. Ross, G. Bruening, Esq. Town Attorney & many Town residents.

**Ruthann** requests a Motion tabling the June and July Minutes for updating and correction. Motion by **Kylie**, seconded by **Melissa** to table June and July Minutes.  
*All ayes.* MOTION CARRIED

***Application PB25-007***

**Matthew Dzierga / Christopher & Amy Kelley** are requesting a 6 Lot Major Subdivision for the creation of 3 new lots on Crooked Street (Tax Parcel no. 198.-1-87.111) in the Town of Galway.

**Ruthann** received correspondence from DEC; they are having Wetlands delineated & put on a survey map to determine whether it will be feasible to move forward with their proposal. **Kylie** asks if there is anything needed from the Town or anything it can do & **Ruthann** confirms there is not.

*Tabled.*

***Public Meeting: Application #PB25-008***

**Einar Larsen** for a Special Use Permit for an accessory apartment located at 3026 Galway Road (Tax Parcel no. 200-1-32.2) in the Town of Galway.

There was previous discussion about how to calculate the area of habitable space and **Max** has been doing research to figure out how to address this. He reports looking to verify and quantify livable space. The principle structure will be a 32X42 floor consisting of two bedrooms, a bathroom, kitchen, family room & garage, Per NYS code there is no living space, only habitable space – the garage occupies the ground floor of the dwelling & will be conditioned, heat, light & vented & the walls and floors will be finished which, per NYS Code, classifies it as 'habitable space.' Per code, the structure will also have its own well & septic separate from the accessory structure. The proposed accessory apartment & existing accessory structure will be less than 1,000 square feet with one bedroom & separate from that will be a garage/workshop space – the previous owner had altered part of a barn into habitable space without any permits, inspections Certificate of Occupancy etc. Permission has been granted to demolish those modifications in

anticipation of approval to build an accessory apartment. Since the project cannot move forward without approval from DEC the applicants are present purely to address **the Board** regarding this conceptual project pending that approval; with the information provided does **the Board** foresee any issues, points of contention or concern with the proposal? **Ruthann** clarifies this would ultimately have to go to the *Saratoga County Planning Board* due to the location of the property being on a county road. However, the application cannot be sent to the County until a site plan has been submitted with Wetlands delineated and an indication of where the new structure would be on the parcel to see whether the proposed location is appropriate. **Ruthann** doesn't foresee an issue but without the approval of DEC the required SEQR form cannot be accurately completed & the application cannot be sent to the County without that. The Applicant states he has a survey from a contractor licensed by DEC with the Wetlands delineated but now must wait on DEC to come in & formally approve the delineation. He offers to present what he has to **the Board** but ultimately nothing can be done until official DEC approval. **Town Attorney, Glen Bruening, Esq.** clarifies the first DEC review is to see whether there is a jurisdictional Wetland issue and the 2<sup>nd</sup> is to see if the project impacts those Wetlands - as long as the Contractor has performed the delineation within the confines/parameters of what DEC is requesting, they will approve it, however, they will not do "advance approvals". **Ruthann** suggests getting a consensus from **the Board**; **Melissa** asks about conditional approval but **Ruthann** states that will create an issue with the County. The **Town Attorney** confirms per statute under *Section 239* **the Board** is not supported or afforded authority to grant conditional approval pending County Planning Board review. **The Board** sees no issue & will wait for DEC approval.

***Public Meeting: Application #PB25-009***

**Kiley Wittig** for an Alteration to a Special Use Permit of a Pre-Existing Non-Conforming Use at 5831 Sacandaga Road (Tax Parcel # 185.1-15.211) in the Town of Galway.

**Ms. Wittig** is present & points out her name & tax parcel number are incorrect on the agenda; these will be corrected. **Ruthann** explains to **Ms. Wittig** that her application is incomplete, to which she states her application is incomplete due to coercion by the **Code Enforcer**, alleging **Max** stated she would be denied a building permit to make necessary repairs to her damaged rental property if she did not apply - **Ms. Wittig** firmly believes she does not need a permit to move forward with her project. **Ruthann** explains that according to the Code she does, due to altering and replacing in a non-conforming use. **Ms. Wittig** questions, what was altered or replaced. **Ruthann** states she must refer to **Code Enforcer** to answer that, however states there were alterations made & references *Planning Board Minutes* from 1990 when the application originally came to **the Board**. The applicant submitted a list of proposed usages and agreed with **the Board** at that time that any change or diversion from that proposal would require **Board** approval. **Ms. Wittig** states that isn't documented/signed & therefore illegitimate, however **Ruthann** states again it is in the Minutes from 1990. **Ms. Wittig** states that "convenience store" is on the list of usages & argues that is the type of business currently operating out of the space. **Ruthann** explains in 1995 there was an expansion of the non-conforming Special Use Permit to which the property owners at the time came back to **the Board** for approval. **Ms. Wittig** states that it is because they added a fourth unit & they only had approval for the previous three units —

it has been a four-unit property for the last 35 years. **Ruthann** states the use has changed, **Ms. Wittig** questions what has changed – states the special use permit is for *Galway Plaza* to lease four units, not for every business that comes & goes from the Plaza. She states that historically that has never happened with that building or in a comparable building in Town; **Ruthann** argues there are no comparable buildings in Town – **Ms. Wittig** gave an example of the Inglenook Realty building on Route 29, however it was determined that was an incomparable property because it is not non-conforming use as they're in a commercial zone. **Ms. Wittig** believes the Code should be brought before the Town Board for revision.

**Melissa** questioned **Ms. Wittig** on the previous layout of the space, specifically what was between the liquor store and Vicki's Pizzeria – she says the space was used for storage, was a small dining area at one point. **Attorney Bruening** explains as a practical matter how State and Local Law work; when an application for a building permit is submitted the Building Inspector must be sure it is in line with the Code & if it is deemed not to be, the Applicant must come into compliance. Should the Applicant disagree with the **Code Enforcement Officer's** determination an appeal may be taken, however, until that filing the **CEO's** determination is binding on both the **Planning & Zoning Boards**. Should an eligible Applicant refuse to apply for necessary permits he/she proceeds at their own risk of penalization for non-conformance of the Town Code.

**Ruthann** references Town Code *Section 115.34, #6B-* non-conforming use may be changed to another non-confirming use of a higher, more restrictive class of use. The change of use subject to the issuance of a special permit by **the Planning Board** based on a demonstration that the change of use meets the special permit review standards of *Article 7 115-75* & she believes that's what **Max** was referring to but seeks clarification. **Max** states that he believes a lateral change in businesses – example, one pizza place to another pizza place - is different than one business being changed to another – example, a pizza place to a market, which is what he has deemed to have happened in the most recent transition of tenants, is a change in use & therefore requires alteration to **Ms. Wittig's** Special Use Permit.

**Ruthann** references statues under the above-captioned Article & **Ms. Wittig** seeks clarification/explanation. **Ruthann** states effectively all uses are non-conforming because the property is not in a commercial zone. **Ms. Wittig** lists businesses all completely different in nature that have come and gone from the property over the last 35 years, stating that this has never been an issue, and **Attorney Bruening** suggests there were unfortunately likely usage changes not permitted, however, it is the due diligence of the Town to take action on present-day usage changes as it sees fit.

Per **Ruthann**, the biggest concern with the property is handicap accessibility. **Ms. Wittig** believes **the Board** is overstepping as it is private property, however **Ruthann** and **Melissa** state it is the business of **the Board/Town** due to it being for public use & therefore must be ADA compliant. **Ms. Wittig** doesn't believe she needs to have handicapped parking as there is nothing in the Code stating such, however per Minutes from past meetings, previous Special Use Permit

applicants were required by NYS DOT to have signs at both driveways. **Ms. Wittig** states this was a recommendation; **Ruthann** states this was a requirement.

**Attorney Bruening** clarifies the jobs of **Max & the Board** are to deal with the current, not the past & it is the responsibility of **the Board** to interpret the Code based on use & in this case, ADA compliant parking/accessibility – to which **Ms. Wittig** states she is willing to discuss. Additionally, **Melissa** raises concern regarding the current floor plan. It's confirmed the location of the register has changed from that of Vicki's Pizzeria, where the register was right by the unit's entrance & how the current location isn't as accessible to the handicap/wheelchair bound – **Ms. Wittig** states handicap accessible ramps are on their list of changes to make. **Max asks Ms. Wittig** if she would be willing to render a sketched floor plan detailing that of the existing & the proposed – she maintains structurally, nothing has changed – the sink, cooler etc.. are all in the same locations. **Attorney Bruening** explains how due to the location of the property, the **Planning Board** must make a submission to the County regarding this application. Without a completed application **the Board** cannot do that, it will be rejected at the County level. **Ms. Wittig** states she understands what **the Board** is requesting, however it is unreasonable for **the Board** to expect her to go through this approval process with every tenant turnover. She maintains this is a *Town Code issue* & therefore should be brought before **the Town Board**.

**Attorney Bruening** states the problem with **Ms. Wittig's** request is that **the Town** has zoned her property not in the way it's being used; she is the beneficiary of a long-standing non-conforming use. He states for her to request the **Town** rezone the property could potentially set her up to be out of compliance. He reiterates that per the current interpretation of the Code, every time there is determined to be a change in use she should submit to the steps for **Board** approval – to which **Ms. Wittig** disagrees & again, questions how **Max** came up with the change in use determination. **Max** offers to interpret "use" – as **Ms. Wittig** stated one unit that was previously a tattoo shop is now being used as an office space & to expect her to approach the board with every change of use is ridiculous. It was his interpretation of the Code that she altered the structure in a manner warranting a change of use, though she disagrees. **Max** would like to see a drafted floor plan showcasing existing versus proposed use as approval is based on knowledge of what the space is – **the Board** cannot make an approval without seeing this. **Attorney Bruening** points out **the Board** has only past Minutes that they're working from & if current use is not consistent with what was proposed in the most recently issued Special Use Permit it would be helpful for everyone to have an updated rendering of use of space so a baseline can be established. This conceptual baseline could help **Ms. Wittig** avoid having to come before the **Planning Board** for this reason in the future as **Max/ the Board** would have a structural mapping to reference in determining whether what they interpret to be a change of use has taken place. **Attorney Bruening** states there are ultimately only two avenues to be pursued here - it would be advantageous for **Ms. Wittig** to obtain the Special Use Permit as it would set out what she is currently doing for future changes or in the alternative, to show there have been no changes made, or she may appeal **Max's** decision to **the Zoning Board**.

**Ms. Wittig** states she doesn't see a difference in how the space has previously been used as a pizza shop/restaurant versus how the current tenant, *Provisions*, is using it & would classify that business as a deli. **Ms. Wittig** implicates **Max**, stating this was a project they worked in tandem with **Max** on – according to **Ms. Wittig** any changes that were made such as electrical/getting an

electrical inspection were done with **Max's** involvement; these were not just changes she decided to make. **Ms. Wittig** states **Max** never requested what is being asked from her now i.e floor plan & that he was concerned with the safety of the building & proceeds to list his criteria. **Ms. Wittig** states she understands the potential public impact if she were to lease to a national franchise such as Domino's or renovated the plaza back to its original state of one open space, for ex. a car dealership but does not think the current footprint of Provisions has the same level of public impact.

Per **Attorney Bruening**, **Max** can guide/point an applicant to the appropriate criteria & interpret the Code but cannot decide for **the Planning or Zoning boards**. **Ms. Wittig** questions what she needs to do to ensure neither she nor any future owner of the property must come back to the **Planning Board** with this issue & **Melissa** suggests completing this process & then approaching the **Town Board** with proposed Code revisions. **Max** states he would simply like the submission of a sketch of the existing building, square footage & type of business. **Ms. Wittig** has concern that having to start from scratch will prompt **the Board** to request she produce more specific/detailed documentation such as a site plan with a delegated ingress/egress etc. **Ruthann** suggests figuring out what the **Planning Board** needs to move forward with the Special Use Permit if that is what's decided. It would need a completed application, SEQR form completed, current site plan, driveway for the house located on the same property & proposal for enter/exit signs – once they are in receipt of the accurate information it can be sent to the County. **Ms. Wittig** states she believes what the **Planning Board** has is an accurate representation of what the property currently looks like. However, **Ruthann** states the site plan she has reflects the property before it was a plaza, showing a restaurant with parking in the rear of the property. **Ruthann** states she recalls an application prior to **Ms. Wittig** purchasing the property requiring a Special Use Permit for one way in and out signage. **Max** seeks **the Board's** clarification on what the submitted site plan should detail – **Melissa** suggests basic square footage/how it is divided up and a handicap parking spot. **Ms. Wittig** asks if it would be acceptable to label the units 1-4 as the usage is always going to change, to which **the Board** agreed that it would be acceptable & no specific delegation of space would be required. **Ruthann** states the biggest concern is the ingress/egress & handicap accessibility. **Ms. Wittig** questions why this is such a big concern of **the Board's** when other properties in Town don't have these. **Melissa** replies that other properties on Route 147 do & uses Ballston Spa National Bank as an example. **Ms. Wittig** disagrees that this is a comparable property due to it being a larger, commercial operation & the *Galway Plaza* is comprised of small businesses - **The Board** maintains that regardless of size, the use of the units in the plaza are still a commercial operation.

**Ms. Wittig** offers to generate a sketch but states she will not hire an engineer or an architect to produce the requested floor or site plan - **Ruthann** has paperwork from a survey done by *Carpenter Associates* & states there should be a survey in existence - **Melissa** suggests enlarging that to scale & making the required notations, however **Attorney Bruening** confirms that would be rejected at a County level because the site plan must identify all major components identified in the Code, at minimum.

**The Board** is tabling this matter to give **Ms. Wittig** time to submit both a survey & a floorplan.

**Public Meeting: #PB25-010**

**Eugene Gretkirewicz** for a 2 lot Minor Subdivision of 10.77 acres located at 1107 Ridge Road (Tax Parcel # 184.-1-19.11) in the Town of Galway.

**Mr. Gretkirewicz** is present with **Attorney Sutton** – **Attorney Sutton** is representing the estate of property co-owner, the deceased brother of **Mr. Gretkirewicz**, & there is a third-party present representing the Applicant. The proposal is for a two-lot subdivision on the South side of Ridge Road - **Ruthann** seeks clarification to where the new lot is, it is not denoted on the submitted survey. Representation for **Mr. Gretkirewicz** explains which parcel would be the new lot - the Board will need the Surveyor to indicate the proposed new lot right on the lot, its dimensions, indicate 50 foot setback lines all the way around (front, side, rear) where nothing can be built and the property line being created should be denoted so the County is able to determine what is being done – **Ruthann** confirms these indications are a requirement per Code. **Ruthann** asks about wetlands; property owner is unaware of any. **Ruthann** asks about the need for a Jurisdictional Determination; **Attorney Bruening** states it isn't necessary but if there were questions it would be advantageous for the landowner to have one done before they sell/someone builds on the lot. **Mr. Gretkirewicz's** attorney questions wouldn't that be on the burden of the new owner, to which **Attorney Bruening** responds not if the seller sold the parcel as a "buildable lot" only for the new owner of that parcel to find out it's not. If it's at some point determined the lot is not buildable due to wetlands/the location of such it would be reasonable to expect the owner would be required to come back to **the Board** to have the parcel re-subdivided to create a buildable lot.

**Melissa** makes motion to move SEQR form, seconded by **Kylie**.

**Ruthann** states the proposal now is really for two lots; the mother parcel & the newly created accessory parcel so the application needs to be corrected to reflect such. While completing SEQR form, **Ruthann** states she checked with DEC a few months ago in regard to critical areas & there aren't any in Galway. **The Board** will table this & await the amended survey mentioned above & completion of parts 2 and 3 of SEQR form.

**MOTION:** Based on the information & analysis above, the proposed action will not result in any significant adverse environmental impacts.

**Kylie** makes a motion, seconded by **Melissa**.

Voice Vote:

*All ayes.*

MOTION CARRIED

**MOTION:** Classified as two lot minor, set for Public Hearing for September meeting.

**Melissa** makes a motion, seconded by **Kylie**.

Voice Vote:

*All ayes.*

MOTION CARRIED

**Ruthann** reminds those in attendance **the Board** has revoked *Privilege of the Floor*; any questions may be directed to **Max** or the **Town Board** during their privilege of the floor. **There is nobody present for a pre-application conference.**

MOTION: Meeting adjourned.

**Melissa** makes a motion, seconded by **Renee**.

*All Ayes*

Respectfully Submitted,

Marlene R. Neahr