

Town of Galway – Planning Board  
DRAFT  
REGULAR MEETING  
September 17, 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 Renee Roth-O'Neill

Board Member Kylie Holland

NOT PRESENT: Board Member Melissa Rathbun

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

Due to the extensiveness of the August Minutes **Ruthann** requests a Motion to keep the June & July Minutes Tabled for updates/correction.

**Ruthann** has minor changes to August Minutes; requests change to ZBA #25- 007- Dzierga/Kelley – Ruthann received information from the applicant, *not* DEC, as stated in the Minutes. Under Ms. Wittig's application, "...nothing in the code stating such" should have a period after, would like the addition of "Minutes from past meetings entry via Special Use Permit Applications would require by NYS DOT to have one-way enter & exit signs at both driveways". Additionally, on the second to last page, she would like the phrase "the property line being created should be denoted so the County is able to determine what is being done" to include the specification of "Real Property" for filing purposes. Lastly, the final matter wasn't Tabled as stated, the Board went forward with SEQR & a Public Hearing was set.

MOTION: Accept August Minutes, as amended.  
Motion by Renee, Seconded by Kylie.

Voice Vote:  
All ayes.

MOTION CARRIED.

**Public Hearing:**

*PBA – Application #25-010 Eugene Gretkirewicz* for Minor Subdivision Application at 1107 Ridge Road Broadalbin, NY 12025 (Tax Parcel no. 184.-1-19.11) in the Town of Galway.

**Applicant is present.** Map of proposed 10-acre lot (in an area of Town only requiring a 3-acre lot size) is on display for those in attendance to view. **A neighbor, Mike** seeks clarification of where the property is located, confirms across the street from Mr. Gretkirewicz. No other questions.

MOTION: Motion to close Public Hearing  
Motion by Renee, Seconded by Kylie.  
Voice Vote:  
All ayes.

MOTION CARRIED

**Public Meeting:**

*PBA – Application #25-010 Eugene Gretkirewicz for Minor Subdivision Application at 1107 Ridge Road Broadalbin, NY 12025 (Tax Parcel no. 184.-1-19.11) in the Town of Galway.*

**Ruthann** opens the Public Meeting; states **the Board** is in receipt of the new maps with added information as requested at last month's meeting; denoted setback lines, new lot & proposed new lot lines labeled & delineated lands have been labeled. **Renee** asks if there is acreage on the map? **Ruthann** confirms yes. There was confusion as to the status of this Application after the last meeting; **the Board** was originally going to Table it, however ultimately moved forward with completion of the SEQR form. It was confirmed the SEQR was completed at the August Meeting & reiterated the August Minutes will be amended to reflect such.

MOTION: Motion to approve Application.  
Motion by Kylie, seconded by Renee.

Voice Vote:  
All ayes.

MOTION CARRIED

**Ruthann** tells the **Applicant** he will need to contact his surveyor for a mylar map – she has plenty of paper copies – Saratoga County Real Property will require both. She will have to sign both & then the Applicant can make his submission to the County for filing/recognition of the newly created legal lot.

**New Business:**

*PBA – Application #25-011 Erik and Kara Larson for Lot Line Adjustment at New York State Route 29 East Galway, NY (Tax Parcel no. 161.-1-8.1) in the Town of Galway.*

**Both Present – Mr. Larsen** states the purchased parcel has never been surveyed but is aware there is a dense transactional history associated with it as the previous owners bought & sold land to mill it. **Mr. Larsen** states their wish to have it surveyed for the purpose of having lot lines etc. denoted, to have the Deed corrected for accuracy. **Mr. Larsen** states there were inconsistencies with what the survey produced in comparison to Town maps & some of the Deed descriptions. **Mr. Larsen** approached two of the neighbors with these inconsistencies & states all parties agree as to where they would like the lot line to be. **Mr. Larsen** states the Deed dated 1945 notes an extension of the 6 -acre parcel going due East; however, the Town has always shown the line halfway down the lot. **Mr. Larsen** surmises this is due to the original Deed having a description of about 6 acres, but then said it supposedly contains 3 acres & suggested

the Town possibly just created things at that point. **Mr. Larsen** acknowledges the legal description is the one that likely holds more weight over Town tax maps & states that's why Neighbor surveys have also been submitted; so, all parties can get their Deeds adjusted & move forward properly.

**Ruthann** believes there are issues with notes from **Mr. Larsen's** surveyor on the maps submitted. **Ruthann** seeks clarification as to whether **Mr. Larsen** is conveying land, not his neighbor, **Curley**, conveying land to him. **Mr. Larsen** says, based on the Deed description, yes, **Curley** is providing him with almost an acre & a half; however, when looking at the Town line that has always been there, there is no lot adjustment & reiterates his previously mentioned inconsistencies. **Ruthann** states if this is the case, **Curley** will only be left with an acre and a half lot & per code, there is a required minimum lot size of 3 acres. **Mr. Larsen** responds, stating right now, based on current tax maps, the Town thinks he has an acre and a half. **Ruthann** seeks confirmation that **Mr. Larsen** is taking the back half of **Curley's** lot. **Mr. Larsen** states yes, making it consistent with the Town's current tax map showing **Curley** having that 1.5 acres.

**Ruthann** questions what is happening with the **Boudreau** lot. **Mr. Larsen** explains they wish to have the full size of the lot per the Deed & he has no reason to say no – in which case he drafted their map to reflect the line going all the way up to the extension of the 6-acre lot. He states ultimately it was agreed upon by all 3 landowners to have the borders as such. The idea of a variance is proposed, to which **Max** suggests a collaboration of the Planning Board Chair, Zoning Board Chair & Town Attorney to be sure everyone is all on the same page & this can be ironed out correctly. **Mr. Larsen** is on board with this, stating there is no new construction or any sort of time-sensitive project associated with his application. **Ruthann** wants to be clear on what is happening because lot lines are shown but there is no way to determine which ones are being removed or added. Again, **Mr. Larsen** states this is due to the inconsistencies of the current Town tax map lot vs. the Deed descriptions.

**Attorney Bruening** states **Mr. Larson** should have his surveyor put the Deed descriptions on the survey map; Additionally, **Ruthann** states he needs to add a site location map – this is one of the requirements of the Town's site plans. Labeling these will help clear up the picture as to the current versus the proposed. **Mr. Larsen** states due to the conflicting information his surveyor also wasn't sure; states he can request he reference the Deed, which is an extension of the 6-acre line. The **Applicant** questions about any issue with the North end – **Ruthann** states she can't comment as she is unable to tell where the Town line is based on the map; mappings of the adjacent parcels show the Town lines in different locations & the Town tax maps show it South of the old logging road, the Applicants own to the center of the road. **Mr. Larsen** states that based on the Town tax maps; part of the parcel is in Providence. **Ruthann** asks if **Mr. Larsen** is taxed on that parcel from Providence; to which he replies he does not because the Town thinks the property line is further South, but the Deeds all describe to the center of highway. **Ruthann** agrees with **Max's** earlier suggestion for the Board Chairs to collaborate. **Mr. Larsen** seeks to clarify his intention was not to shrink his neighboring parcel, but as the Town currently sees it as being 1.5 acres it is being drawn consistent with such.

**Attorney Bruening** clarifies to the **Applicant** he does not want a survey map that maps the Town tax map, as it is the legal description that determined what gets subdivided.

*Application Tabled until October Meeting.*

**Old Business:**

*Application #PB25-007* Matthew Dzierga/Christopher and Amy Kelley are requesting 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.

**Ms. Kelley** present with **Attorney Sutton**. – **Ruthann** states the information **the Board** was looking for has been received but hasn't been reviewed. **Ruthann** states the wetlands delineated on the south side of the proposed new lot are lacking the 100- foot buffer, **Ms. Kelley** states that wasn't indicated by the surveyor and it was her understanding the buffer didn't need to be marked when delineated; **Attorney Bruening** confirms it does. **Attorney Bruening** states **the Board** is required to be sure the lot is buildable & without the buffer marked that becomes difficult. **Ms. Kelley** states the surveyor indicated there were several places which could be built on; **Ruthann** suggests there is still room at the front of the lot. **Max** inquires about stamped maps from DEC, to which **Ms. Kelley** replies that due to lack of manpower, DEC does not delineate parcels over three acres and provided a list of agencies qualified to do larger delineations.

**Ruthann** asks **Attorney Bruening** if DEC needs to see what has been delineated under new regulation; **Attorney Bruening** states if there is going to be a disturbance of the buffer area in a DEC regulated wetland, a DEC permit will be necessary. In contrast, if they are going to stay out of the buffer area they wouldn't. The way DEC has laid the process out requires both a wetland jurisdictional determination and a project jurisdictional determination. At their discretion, **the Board** may make a buildable lot determination if boundaries are very clear, however it is advisable to add the buffers to lower potential risk to the **Applicant** i.e. being told the lot is buildable only to find out in the future it is not. In the interest of both acceptance and clarity, **The Board** advises the buffer to be added, as **Ruthann** states this ultimately will need to go to the **Saratoga County Planning Board** for review and without DEC approval and buffer, they may reject the application. **Ms. Kelley** states she's been in correspondence with the County and all concerns from the County contact to **Ruthann** were addressed, with electronic copies having been transmitted via her surveyor.

Given that the application can't be reviewed by the County until October, **Ruthann** states it gives **Ms. Kelley** time to have the buffer added; to which **Ms. Kelley** replies if it is required, and states it wasn't asked for last time. **Ruthann** thinks having the buffer will only help them make their determination. **Attorney Bruening** questions who made the wetland determination, **Ms. Kelley** states it was a contractor from the consultant list provided by DEC. **Attorney Bruening** states since the delineation has been done, all DEC must do is review the survey and confirm they agree with its findings. **Attorney Bruening** explains the role of DEC relative to the application – the result being issuance or denial of a permit. **Ms. Kelley** states the problem is, in this case, there is no conceptual project. **Attorney Bruening** states there is, **the Board** cannot

create a lot that is not buildable, which is in theory, the project & what the County is going to be looking for.

**Ms. Kelley** doesn't believe there is issue with the buildability of the lot, as it was indicated to her by the consultant there were several spots that would suffice. **Attorney Bruening** questions whether he said there were several spots that would comply with Town Code, or just several buildable spots, to which **Ms. Kelley** replies the consultant is looking at this from the perspective of an Ecologist, which she states as being the one DEC considers. **Attorney Bruening** states if comfortable, it is within **the Board's** jurisdiction to grant the approval, however **Ruthann** states she does want the buffer indicated in due satisfaction to both the Town and the County.

**Ruthann** points out it would be irresponsible of **the Board** & a disservice to the public to deem a lot buildable, only to have it be deemed unbuildable down the road and somebody has been paying taxes on it or stops paying taxes on it because they can't build.

**Attorney Bruening** states procedurally, the properly marked map would be sent to the DEC regional office for consent. **Ms. Kelley** states she is going to send the delineation to the person who sent her this list of contractors to have it done. **Attorney Bruening** believes it reasonable that DEC will respond within the October timeframe, however **the Board** still needs to complete SEQR, conduct Public Hearing & await County feedback.

***Application Tabled until November 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.

**Mr. Larsen** is present and approaches **the Board** with a letter from DEC dated today, validating what their consultant measured 3 months ago. **Mr. Larsen** distributes maps marked with 100-foot buffer which he believes should satisfy DEC. This is also an application that will go to the County, and **Mr. Larsen** provided additional material further detailing his request; he points out all major components of the proposed project. **Ruthann** seeks clarification from **Max** as to what exactly the special use permit is for; the accessory apartment/what is it accessory to? Something that hasn't been built yet? **Mr. Larsen** states had there been no issue with the wetland delineation, the new dwelling would have been built first, followed by the barn renovation. However, since the barn is pre-existing, they are renovating the 1-bedroom apartment there and then construction of the new dwelling, which will be the primary dwelling on the parcel, will begin. **Ruthann** asks about square footage of the accessory apartment being renovated in the barn, **Mr. Larsen** states about 950 square feet. **Ruthann** confirms the first thing being built is the 2-bedroom carriage house, to be 2560 total square feet. **Ruthann** confirms with **Max** the 950 square foot apartment is acceptable.

**The Board** is now able to proceed with a County referral. As above, due to the timing of the meetings this application wouldn't be able to come back to the **Town Planning Board** until November. Per **Attorney Bruening**, it was acceptable to complete SEQR at the meeting & put the application on for Public Hearing for October. **Renee** asks about a new construction time frame; **Max** states issue of a Building Permit warrants completion of the project within two years, but it can be extended. **Max** states **Mr. Larsen** is eager to complete the project and get his family on the parcel & therefore doesn't have concern about the project not being completed

within the time frame. **Max** asks **the Board** if they have any concern or reservations with the conceptual use of the accessory apartment, there were no issues.

Part 2 SEQR Completed.

Public Hearing is to be set for October even though a decision cannot be made on the application at that time but would allow some time before the November meeting to resolve anything that may arise during the hearing. In the meantime, the application will be submitted to the County for review at their October 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 no. 186.-1-15.211) in the Town of Galway.

**Ms. Wittig** is present – **Ruthann** asks if she has anything new, to which **Ms. Wittig** replies she has attempted to complete the application, providing a copy of the deed, completion of the SEQR form, however, has question regarding the site plan review checklist – she doesn't feel as though anything on there is applicable and asks **the Board** if there is something that should be. **Ruthann** questions what isn't applicable; **Ms. Wittig** doesn't believe any of it is. **Ms. Wittig** produces copies of her application to **the Board** and states she has a copy of the original site plan map which she feels is still applicable and has attempted to begin drafting a floor plan if necessary. **Ruthann** states yes, that was requested. Per **Ruthann's** request, **Ms. Wittig** produces copies of the current site plan, acknowledging there are changes to be made but wanted feedback from **the Board** before she did that. **Renee** questions if this is a different application because it hasn't been signed; **Ms. Wittig** states it is not, there were no updates to be made to the signature page & she therefore didn't attach one because the original signature is already in the file.

Upon review of the site plan, **Ruthann** states there is no crushed stone parking along the south side, **Ms. Wittig** states there is. **Ruthann** asks about a delineated handicap space; **Ms. Wittig** states the pole for the handicap sign is still there and the sign can be put up. **Ruthann** is unsure if the site plan can be submitted to the County because **Ms. Wittig** is asking for a Special Use Permit for a change in use, however the structure doesn't show there are 3 -4 different uses in the building. **Ms. Wittig** states it's listed on the existing Special Use Permit, however the County is interested in what's existing there now. **Ms. Wittig** offers to draft a floor plan different from that submitted if **the Board** would like, **Ruthann** states the procured site plan was for one building with one use and would therefore be different than the building's current state. **Ms. Wittig** states that is not true; it is attached to the original Special Use Permit which, per **Ruthann**, was issued in 1990 with approval for the fourth unit being granted in 1995. **Ruthann** is unsure whether that went for review at the County or just DOT.

**Attorney Bruening** asks **Ms. Wittig** if she has a list of approved Special Uses; **Ms. Wittig** seeks clarification as to what the current Special Use Permit is for. The last time **Ruthann** recalls the Permit being updated was in 2006 when a preschool went into the building. **Ms. Wittig** states she submitted a request related to this via **Freedom of Information Law**, which came up unfounded; **Ruthann** states these documents were discovered after **Ms. Wittig's** request.

**Max** produces an update to the Special Use Permit dating 2012 for a small daycare business, along with comment from the County; *“NYS DOT review for the existing ingress and egress – the Applicant should certify the existing well and septic are of enough capacity to serve the proposed use”*. **Ruthann** also finds comment from 1990, stating Planning Board approval will be required for any use not specifically approved for proposed use. **Ruthann** states historically, there have been reapplications made for changes of use at the building, to which **Ms. Wittig** responds this hasn't happened for every change of use. **Attorney Bruening** comments on the likelihood of past unauthorized changes and suggests it would be in **Ms. Wittig's** best interest to get approval for all current uses/uses she would like so, barring any significant change of use, she can move forward without repeating this process. **Ms. Wittig** states that she believes that has already been done, referencing the list of approved uses for the original Special Use Permit; on such, both pizza parlor and convenience store (past and current usage, respectively, of the space in question) are approved uses.

**Max's** interpretation of the Code suggests the change of use is warranted due to public usage of space and structural alterations. **Ruthann** states she is unsure of what the code was at the time the original Special Use Permit was issued. **Renee** asks **Ms. Wittig** what the four current uses of the building are; she states there are currently three—*Provisions* is currently occupying two units, Liquor Store and an Office Space, most recent former usage being tattoo shop. **Renee** reads the list provided with the original Special Use Permit and it comes to the attention of **the Board** that “office space” is not listed as an approved use. **Ms. Wittig** asks conceptually, if there's belief the existing list of approved uses needs to be modernized what is the process for doing so; would she need a new Special Use Permit or could modifications be made to the existing one? **Ruthann** believes modification could be made to an existing.

**Attorney Bruening** explains that because Codes read differently, the verbiage of changing uses versus altering uses or modifying uses is what **the Board** is trying to digest – this is what triggers review of the Planning Board as opposed to a matter being deemed a Zoning Board issue. **Andy Decker** seeks clarification on whether the list is for approved usages of the building, or conceptual usage; i.e “if that goes in the building, a Special Use Permit would be required”. **Ruthann** states it says “Requested Tenant List for Galway Common” – her concern is when use is changed there are different parking requirements based on use, and if unable to meet that it's something that should be reviewed to be sure it will still work.

**Attorney Bruening** zeroed in on the language of the Code, stating **Section 115.34 B2**, dealing with nonconforming uses calls out a number of scenarios, suggesting that simply altering or replacement of any building or part thereof to a building under nonconforming use should be made only after **authorization of the Planning Board** – this is an additional hoop conforming uses don't have to jump through. He states it is understandable why **Ms. Wittig** wouldn't think she needs to come back for approval because in a conforming use allocation it wouldn't be necessary & if **the Board** can approve a site plan she will only have to come back if she makes changes beyond that submission.

**Ms. Wittig** seeks clarification of the nature of the changes, specifically construction changes. After citing the above-captioned section of the Code, **Attorney Bruening** states yes, based off

the pure text of it, changes due to construction would warrant review for alteration to the Special Use Permit. **Ms. Wittig** doesn't believe applicable alterations have been made, however **Max** states he issued her an Alteration Building Permit for a header. **Ms. Wittig** disagrees that the removal of one foot of wall has significant impact. **Attorney Bruening** explains to **Ms. Wittig** her right and the process to appeal **Max's** interpretation. **Ms. Wittig** believes that unless **the Board** is going to issue a Special Use Permit for any small brick-and-mortar business she is going to be in the same position she is in now in the future. That is not within the authority of the Planning Board, and it's advised she approach the Town Board for revision of the Code.

**Ruthann** states the current Special Use Permit requires one way in and one way out delineation and handicap accessibility (per Federal law), neither of which currently exist.

**Ms. Wittig** seeks to clarify that the current Special Use Permit is no longer applicable due to the removal of a foot of wall, to which **Renee** adds that there is also an additional use that is not on the list; two were identified – office space and tattoo shop. **Renee** also suggests submitting a floor plan to act as a point of reference in the future to help identify any questionable change of use. It is recommended that **Ms. Wittig** includes the current unapproved usage in her application to rectify this newly identified noncompliance. **Max** explains what should be included in the floor plan, which raises the issue of built in/permanent structure versus temporary fixtures/equipment; **Ms. Wittig** argues everything in *Provisions* is movable, the deli cases are on wheels etc. so the floor plan could conceivably change at any time. **Ruthann** states the submission should reflect how the building is divided up, the use of each space and where the walls/anything permanent are. **Ms. Wittig** agrees this request is reasonable but maintains it's different from what she has previously been told by **Max**.

Due to the property being located on a State highway, this must go to the County for review. It's argued that the footprint depicted on the submitted application is the same, however **the Board** doesn't believe it to be accurate, and **Renee** recommends updating the map prior to submission to the County to reflect the property as realistic to the present as possible. It's agreed what is most important to both **the Board** and the County is the floor plan, and it is an unreasonable expenditure for **Ms. Wittig** to have the property re-surveyed. **Renee** suggests having a surveyor review the existing map to confirm it has not materially changed, as it's likely the County could see the age of the survey (30 years) and question its accuracy.

**Ms. Wittig** would like to know what the Special Use Permit is going to say, **Attorney Bruening** questions what she would like for it to say, to which she replies that she can rent to any small brick-and-mortar business within the Special Use Permit parameters. **Attorney Bruening** brings up a clause for non-conforming use, which in summary states that change of uses in non-conforming to more restrictive class of use is allowed, but must come back to the **Planning Board** for approval. **Ms. Wittig** continues to fervently disagree that the removal of a minor section of wall and what has been interpreted as a change of use for her space warrant's review/approval by **the Board**. **She** also seeks to clarify whether the responsibility of the Special Use Permit falls on the property owner or the tenant, **Attorney Bruening** confirms it is legally the responsibility of the property owner– ex. if **Ms. Wittig** sells the Liquor Store business but still owns the property, she has a legal obligation to use the property in accordance with the law.



**Ruthann** states for requests for specific uses for the future, **the Board** needs to know how much parking is available on the property so they can look at each use & determine what is required; every time the use changes the parking demand could as well and **the Board** needs to be sure the property will support that.

Once **Ms. Wittig** provides an updated site plan, floor plan and an updated list of specific uses her application can move forward. As previously discussed, **Attorney Bruening** doesn't advise sending such an antiquated survey to the County without at least a note from a surveyor attesting to its accuracy. **The Board** also needs her completed application and advises it would be acceptable to fill out the prompts relative to a new construction project as "not applicable" as this is an existing structure. **Max** suggests establishment of a deadline for the floor plan submission to allow for adequate review time in the interest of conceptual approval.

*Application Tabled until the October meeting.*

#### **Other Business:**

#### **Pre-Application Conference**

**Osie Johnston** present. Looking to convert existing Winery business to an accessory apartment. **Ruthann** states **the Board** will need to know the square footage of the principal dwelling, the square footage of the proposed accessory apartment to be sure it meets the requirements for such, a site plan indicating location of both structures as well as indication of capacity and separation of well and septic. It is unclear as to whether a Special Use Permit was granted for the Winery, surmises it may have just fallen under Agriculture for the Town. **Renee** asks about shared versus separate driveway; **Mr. Johnston** confirms it is shared. If it is in Ag District 2 this will have to be referred to the County. **Ruthann** asks about any existing survey of the property, **Max** confirms yes, there is a subdivision map but suggests it be updated with lot line adjustments etc.

#### **No Further Business.**

*MOTION:* Motion to adjourn meeting.

Motion made by Renee, seconded by Kylie.

All ayes.

MOTION CARRIED

Respectfully Submitted,  
Marlene R. Neahr  
Town of Galway Planning and Zoning Clerk