

Town of Galway – Zoning Board  
REGULAR MEETING  
November 18, 2025  
GALWAY TOWN HALL

Board Chair **Andy Decker** called the meeting to order at 7:01 PM. The following Board Members were present:

PRESENT: Chair Andy Decker  
Board Member Jim Snyder

Board Member David Armitage  
Board Member Herman Neidhammer

Not Present: Board Member Kiley Wittig

**Andy** opens the meeting with a reiteration of the Board's mission; to help residents of the Town with projects that may not conform to the Town's code and thereby convene to come up with a potential solution, which would allow these projects to fall within the parameters of the Code, or offer a variance allowing the completion of the proposed project if no solution can be reached.

**Andy** asks if all Board Members have received the October Minutes; all Board Members have. Clerk to amend Minutes with minor corrections.

**MOTION:** Approve October Minutes with corrections. Motion by Herman, seconded by Jim.  
*All ayes.* MOTION CARRIED

Others Present: M. Neahr, Clerk; M. Luetters, Building Inspector/Code Enforcement; Dan Clemens, Board Liaison; Glen Bruening, Esq., Town Attorney & several Town residents.

Public Hearing

**ZBA #25-017; Application of Daniel & Patricia McCarty**, seeking an *Area Variance to the West (5 feet in the front -10 feet in the rear) to construct a new home, as well as an Area Variance to have a 3<sup>rd</sup> level in the house*, located at 9100 Nassel Drive, Broadalbin, NY 12025 (Tax Parcel no. 185.17-2-11)

*Applicants present, in addition to their builder, architect & neighbor* – a representative from Empire Engineering was unable to attend; Own both 9080 Nassel Drive and 9100 Nassel Drive. Applicants purchased 9100 Nassel Drive in 2018 with intent to build their permanent retirement home; **Ms. McCarty** has been an active member of the Lake community since 1950, **Mr. McCarty** having been one since 1980.

**The McCarty's** presented proposed building plans – they believe the proposed structure is of modest size & conforms to the character of the Lake District. Andy requested explanation/clarification of a series of submitted photos; **Mr. McCarty** describes each one – they portray, but not with limit, conformity to other structures in proximity, the intense slope/grade of the property, inspiration for style of the structure etc., **Andy** is also in receipt of

four emails from neighbors in support of **The McCarty's** project & a neighbor residing at 9120 Nassel is present, stating they believe **The McCarty's** proposed home would fit in nicely in the neighborhood. **The McCarty's** state they already have more than \$10,000 into this project - and have come prepared with multiple versions of their proposal, including models with different square footage & versions that would not require variances- to work with the Board/Town & reach an agreeable determination and approval at this meeting.

In summation, the following concerns were brought forth:

**Well, Septic Concerns:** The grade of the property could be cause for potential issues regarding location of the property's septic system. A new well will be drilled to accommodate a leach field and septic size, will be drilling on both sides to get needed separation for both properties.

**Square Footage:** Discrepancies surrounding the square footage of the project – **The McCarty's Engineer** attests, excluding the basement, the square footage of the project to be about 3,200 sq. ft. – 2,000 sq. ft on the first floor & 1,200 on the second floor – surmises the finished basement would add an approximate 1,000 sq. ft. of additional living space. **Andy** interpreted the proposal to be an estimated 4,500 sq. ft without a finished basement, 5,500 sq. ft. with. When questioned, it was confirmed by **Andy** square footage doesn't matter provided all other Zoning requirements are met, however for reference, he states Tax Roll numbers are about 2,100 sq. ft. max. **The McCarty's** preferred version is the 3,200 sq. ft. version that makes a Variance required.

**Height:** In the Lake District, the Lake side (waterfront structures only) of the structure is the Front of the home. **Jim** suggested the mean elevation, per Code, is determined from the perspective of the home from the Lake; ex. the walkout basement being point 0, measured to the point in the attic where it goes through the roofline. **Max** doesn't believe a height Variance is required because he doesn't think calculation of the building height should be determined from the base of the grade; a submitted map more clearly demonstrates the height meeting requirements. **Jim** disagrees with **Max's** interpretation. It was stated that if the structure will exceed 28 feet, from the front, a Variance is required – which would require submission of an additional application, set matter for Public Hearing & follow all other standard departmental procedure - however, **Andy** states that historically only one height Variance has been granted & alleges it was explicitly clear they would never grant another.

**Levels:** The application includes request for a Variance for a third floor, per Town code, homes in the Lake District are limited to two levels. **The McCarty's Architect** challenges this, seeking a clearer explanation of a Level – he states that per NYS code, the proposed home is a two-level structure.

**Code Interpretation:** Issues with interpretation of the Code/lack of public awareness of those changes/enforcement of interpretations were addressed. **Andy** explained the Town underwent staffing changes in recent years, including appointment of a new Building Inspector/Code Enforcement Officer who may interpret the Code differently than the previous Officer, & it's possible the previous Officer was unaware of new builds not meeting certain requirements. **The McCarty's** point out **the Town** is operating under a set of legal requirements that have not changed, regardless of who is appointed to enforce them and questions whether Minutes from

previous meetings are authoritative without any amendments to the Code. **The McCarty's** weigh the risks/benefits of pursuing variances versus shrinking the footprint of their proposed project, as interpretations are not blanketed and instead project specific.

**Additional Variances:** Though **The McCarty's** application was for two Variances, **Jim** questions if more are needed due to seemingly inadequate lot size, road frontage & proposed height. **Andy** refers to **Attorney Bruening** r/e pre-existing non-conforming use, **Max** hasn't made a Zoning determination yet.

**Comps:** **Andy** disagrees that the proposed structure fits the characteristic, and reviews the following comps:

*To the West, reported sq. footage is: -1,692 sq ft, 1,442 sq ft, 816 sq ft, 1,352 sq ft.*

*To the East, reported sq. footage is: 1,692 sq ft., 1,900 sq ft, 880 sq ft, 1,680 sq ft, 2,124 sq ft. A neighbor notes the ones to the West are old camps that are just now turning over.*

**MOTION** to close the Public Hearing: **Motion** made by **Jim**, seconded by **Herman**.

*All ayes.*

MOTION CARRIED

#### **Public Meeting:**

**Herman** comments regarding levels; suggests consideration should be given because this parcel is sandwiched between properties with walkout basements, thinks it would be more reasonable for the allowance of walkouts to terminate on an end property. He also reminds **the Board** that **The McCarty's** have compromised on side lots.

The **Applicants** are willing to use the smaller design not requiring the side setback Variances and instead agree to an all-encompassing Variance to include levels, acreage & frontage.

**MOTION:** A Variance for a third level, which would be a walkout basement, a Variance of .46 of an acre, and a Variance of 100 feet for frontage: **Motion** made by **Jim**, seconded by **Herman**.

*All ayes.*

MOTION CARRIED

**ZBA #25-016:** Application of **Joe Constantine** for two 10-foot Side Setback Area Variances; one to the East and one to the West, to construct a 20x30 foot storage building, located at 1368 Hermance Road, Galway, NY 12074 (Tax Parcel no. 185.10-1-37)

*Matter to remain Tabled until December Meeting.*

#### **Other Business:**

A brief discussion commenced, facilitated by **Herman**, suggesting **the Board** be more cognizant of maintaining a narrower focus when addressing what is in front of them on a given application

& not digging for potential other violations – along with a clearer delegation of duties/responsibilities of **the Board & Max. Jim** challenged **Herman**, suggesting they view their jobs differently.

Per **Attorney Bruening**, a Town Code change is recommended for clearer constitutions of a Level. He suggests looking further into the NYS Code's Level requirements. Within the building code a different interpretation of the Zoning code can be made, however it cannot be less restrictive than that of the State.

**MOTION** to adjourn: **Motion** made by **Herman**, seconded by **Jim**.

*All ayes.*

MOTION CARRIED

Meeting Adjourned, 8:36 PM.

Respectfully Submitted,  
Marlene R. Neahr