



# Town of Gates

1605 Buffalo Road  
Rochester, New York 14624  
585-247-6100

## Meeting Minutes

November 13, 2023

**MEMBERS PRESENT:** Bill Kiley, Chairperson; Don Ioannone; Alan Redfern; Steve Zimmer; Dick Lippa

**MEMBER(S) NOT PRESENT:** Dave Ferris;

**ALSO PRESENT:** Robert Mac Claren, Esq., Town/Board Attorney  
Lee Cordero, Councilman & Zoning Board liaison

A public hearing of the Gates Zoning Board of Appeals was called to order by **CHAIRPERSON KILEY** at 7:30 p.m. at the Gates Town Hall. **CHAIRPERSON KILEY** explained the purpose and procedure of the Zoning Board.

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**CHAIRPERSON KILEY** - Explains process and role of the ZBA; applications published in daily record and on town website;

**CHARIPERSON KILEY** – first order of business is to accept minutes from the September, 2023 meeting;

**MOTION – MR IOANNONE** – Motion to accept minutes from September 2023 meeting as corrected.

**Second – MR LIPPA**

*All in favor, minutes approved.*

APPLICATION NO. 1

**THE APPLICATION OF JOHN HOTTO (AND LANDTECH SURVEYING & PLANNING P.L.L.C.) SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 40 HYTEC CIRCLE FROM ARTICLE IV SECTION 190-14(A) TO MAINTAIN 170 PARKING SPACES WHERE 279 ARE REQUIRED.**

**JOHN HOTTO** – represents Landtech Surveying and Engineering in Rochester; representing Chris Leva; owner of E.G. Sackett Co., working on a project at 40 Hytec Circle, currently occupied by E.I.S. Fabrication Solutions; Jim Cucinelli owns the entire 11.2 acre site; requesting a parking variance for 40 Hytec Circle; building and corresponding parking required is high, about 279; one for each 200 square feet of manufacturing floor space; currently operating safely and efficiently with 170 parking spaces; still providing 170 for EIS; need to remove 12 existing spaces, closer to EIS building; asking for a variety of 109 spaces; Mr. Senate stated 170 is fine; less employees, 2 shifts; asking for less than required, ultimately want to subdivide;

**CHAIRPERSON KILEY** – how many employees are there parking?

**MR HOTTO** – 120

**ATTORNEY MAC CLAREN** – never 120 at the same time; 60 per shift?

**MR HOTTO** – yes

**CHAIRPERSON KILEY** – no environmental issues, if anything it is better

**PUBLIC HEARING** – no one in attendance

**MOTION – MR IOANNONE** – Motion to grant request

The approval is based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the application:

- 1 The Applicant sought a variance from Town of Gates Code Article IV, Section 190-14(A) to allow for fewer parking spaces than are required, all on property located at 40 Hytec Circle, Town of Gates (the “Property”);
- 2 The Property is not located on a County or State road, therefore no County response is required, but a letter from the County was received and referred the matter back to the Board;
- 3 There were no parties who appeared or wrote in objection to the requested variance; and

- 4 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

If your application includes construction of buildings, etc., and you have received approvals from other Town Boards, you are now authorized to obtain the necessary permits from the Building Department within the six-month period prescribed by Town Law, and commence construction within one (1) year of issuance. Failure to obtain a permit and commence construction will terminate this variance, making it thereafter null and void.

## **Second – MR REDFERN**

### Member Vote Tally

Mr. Redfern - yes

Mr. Lippa - yes

Mr. Zimmer – yes

Mr. Ioannone - yes

Chairperson Kiley - yes

*Variance approved 5-0*

### APPLICATION NO. 2

**THE APPLICATION OF JOHN HOTTO (AND LANDTECH SURVEYING & PLANNING P.L.L.C.) SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 40 HYTEC CIRCLE FROM ARTICLE IV SEC. 190-34 (A) AND ARTICLE XXVI SECTION 190-52(A)(2) THAT WILL ALLOW FOR A 101 FOOT SETBACK WHERE 130 ARE REQUIRED.**

**JOHN HOTTO** – part II is Mr. Leva’s project; building using 11,700 square feet; is 30 feet tall max; shed roof, shorter in back; requesting rear yard variance of 29 feet; current code requires, when near a buffered easement, 100 feet wide, that the building setback buffer with 100 plus height, 101 feet from property line along midway drive; when requirement is 130 max; proportional; provide safe access to site to provide storage for Wegmans, ect.; have emergency tile, maintenance equipment available; needs place for repair type products; not disturbing 100 foot buffer, will be one foot outside; provided adequate parking for site; leasing space on Lee Road to Diamond Shield, needs space, building for them on this site as well, 12,106 square foot building; not asking for any variances on that building, just letting us know

**CHAIRPERSON KILEY** – how many work for Diamond Shield at that location there, that will be here?

**MR HOTTO** – approximately 20; have adequate parking; storage building does not require a lot of parking; will be a shed building, no windows or access to rear ; allowed to grow wild on side

**CHAIRPERSON KILEY** – similar to other on road?

**MR HOTTO** – yes, also providing a row of evergreen trees to help block the view from the Midway Drive

**MR LIPPA** – is Diamond Shield still going to be using Lee Road building for production?

**MR HOTTO** – no, moving everything here

**MR LIPPA** – what will that be called?

**MR HOTTO** – Mr. Leva will be using for his own business needs

**CHAIRPERSON KILEY** – do you intend on clear cutting all the way on Midway?

**MR HOTTO** - no, it is a buffer, so cannot mess with it

**CHAIRPERSON KILEY** – seems as if evergreens will be in the middle of the buffer

**MR HOTTO** – right, we are, could move closer to building, room for row of trees

**CHAIRPERSON KILEY** – good, can barely see other buildings with the way everything has grown up;

**MR HOTTO** – not going to disturb that

**CHAIRPERSON KILEY** - no environmental impact

**PUBLIC HEARING** –

**KYLE SAVARESE** – 6 Jordan Avenue; 30 foot barrier; supposed to be 100; opposed to it being placed there; at Planning Board; does not want to see/hear it; used to landscape, going to plant evergreens with one foot?

**ATTORNEY MAC CLAREN** – evergreens are going to go to the Midway Drive side of the swale, in the existing buffer to increase screenage that is already there;

**CHAIRPERSON KILEY** – increase buffer

**ATTORNEY MAC CLAREN** - not going in the one foot area, building up buffer that already exists

**MR SAVARESE** – can already hear plows in winter; awaiting traffic study from Planning Board meeting; not posted on Midway, technically not going into the buffer, however, are still affecting it; received letter in mail; not all neighbors did

**CHAIRPERSON KILEY** – only needed Hytec because that is the address we are talking about; town just started sending letters proactively within the last year or so to anyone within a certain area

**MR HOTTO** – need a show of good faith

**SHERI STUHLER** – 11 Jordan Avenue; looks at this every day; traffic concern; narrow entrance, with tractor trailers coming in has almost been hit more than once; older neighborhood, do not have sidewalks, lights, all you have is woods there; kids go to play, canal access to path; putting a building there that will encroach even closer, safety concerns for neighborhood kids, older people get on canal path for safety reasons; concern with chemical storages; already have drainage and rat problem;

**KELSEY FLANNAGAN** – 7 Auburn Avenue; directly across the street; shared concerns about being so close to Midway and chemical storage; seems to be a hidden agenda; reached out to company on 27<sup>th</sup> and asked to see drawings that they would be presenting to the public and got no responses; coming from a denial of something else tried to do in neighborhood before

**CHAIRPERSON KILEY** – what is stored there?

**CHRIS LEVA** – owner and developer; do not store chemicals; tile only; do not use liquids

**CHAIRPERSON KILEY** – building has sprinklers?

**MR LEVA** – yes; sensitive to kids, does not see why walking through private property to go to a canal

**CHAIRPERSON KILEY** – approved path?

**MR LEVA** – not an approved path, private property; not taking any trees down or removing anything, actually adding something; not encroaching on 100 foot area, “forever wild”; study on environmental, drainage and wetlands.

**MR HOTTO** – in letter of intent, included study by BME, no wetlands on property; required to provide a drainage control system, stormwater management on projects; design will minimize flooding or habitat for non-wildlife nuisance animals

**MR ZIMMER** – are there going to be staff in either one of the buildings?

**MR LEVA** – less than 20 staff in Diamond Shield building; tiles for Diamond Shield; no variance required for that building;

**ATTORNEY MAC CLAREN** – can go up

**CHAIRPERSON KILEY** – no variance for building by canal; how many people in building?

**MR LEVA** – one or two

**MR ZIMMER** – building does not require a variance; adding more traffic, compared to building that does require a variance

**MR LEVA** – never received a phone call from anyone; grew up in Gates, on Waldorf Avenue, familiar with neighborhood; willing to talk with neighbors

**CHAIRPERSON KILEY** – not towards woods?

**MR LEVA** – correct

**MR SAVARESE** – were plans changed based on Planning Board meeting; talk about swale

**MR HOTTO** – provided area for

**ATTORNEY MAC CLAREN** – swale is not building; does not negate buffer; not encroaching in buffer area

**MR SAVARESE** – swale will not encroach on 100 foot buffer?

**CHAIRPERSON KILEY** – no; part of it, already exists

**MR SAVARESE** – storm water management

**ATTORNEY MAC CLAREN** – Planning Board issue; only issue here is if it can be 29 feet closer to the Midway side of the road; all others are Planning Board concerns; process is not complete yet; here is just a step to get back to Planning Board

**MS FLANNAGAN** – why do you have to go so far back, 30 feet?

**MR LEVA** – explains building position

**ATTORNEY MAC CLAREN** – parcel is almost triangular; safe access for emergency crews requires certain width for emergency vehicles;

**MR HOTTO and MR LEVA** explain to neighbors on map

**CHAIRPERSON KILEY** – trees are past swale; further screened by trees

**ATTORNEY MAC CLAREN** – Planning Board concerns; plan to be reviewed and revised

**MS STUHLER** – if zoning approved and purpose changes; cut through because Trolley is so dangerous

**CHAIRPERSON KILEY** – where?

**MS STUHLER** – past Mercer on curve; further plans?

**CHAIRPERSON KILEY** – looking at this one building

**MOTION – MR IOANNONE** – Motion to approve as submitted

The approval is based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the application:

- 5 The Applicant sought a variance from Town of Gates Code Article IV, Section 190-34(A) to allow a reduction in the required buffer zone, all on property located at 40 Hytec Circle, Town of Gates (the “Property”);

- 6 The Property is not located on a County or State road, therefore no County response is required, but a letter from the County was received and referred the matter back to the Board;
- 7 There were three parties who appeared in objection to the requested variance and one party who appeared in support of the requested variance; and
- 8 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

If your application includes construction of buildings, etc., and you have received approvals from other Town Boards, you are now authorized to obtain the necessary permits from the Building Department within the six-month period prescribed by Town Law and commence construction within one (1) year of issuance. Failure to obtain a permit and commence construction will terminate this variance, making it thereafter null and void.

## **Second – MR ZIMMER**

### Member Vote Tally

Mr. Redfern - no

Mr. Lippa - yes

Mr. Zimmer – yes

Mr. Ioannone - yes

Chairperson Kiley - yes

*Variance approved 4-1*

### APPLICATION NO. 3

## **THE APPLICATION OF PATHSTONE DEVELOPMENT CORPORATION REQUESTING AN EXTENSION OF THE AREA VARIANCE FROM ARTICLE XX SECTION. 190-102 TO ALLOW FOR MORE UNITS PER BUILDING THAN ARE ALLOWED FOR A PROPOSED 2-STORY APARTMENT BUILDING TO BE LOCATED AT 1049 WEGMAN ROAD.**

**PETER GORMAN** – Churchview Commons, zoned MR; comprised of 2 story building, 45 apartments; located on 3.3 acre parcel; requesting an extension of a variance originally approved and since has been reapproved or extended several times; lessen environmental impact; increase green space; less paving, less utility space to service each individual building; less impactful method for the site; requesting extension of approval of variance; awaiting HCR funding; recently resubmitted, expecting funding this round; added EV parking; everything else is the same



**CHAIRPERSON KILEY** – from zoning standpoint, same?

**MR GORMAN** – this method reduces number of variances needed

**MR IOANNONE** – parking changed?

**MR GORMAN** – added electric parking; same number of spaces, but 8 are charging stations

**MOTION – MR LIPPA** – Motion to approve extension

This approval was strictly conditioned on, among other things, pursuant to Section 190-194, entitled Notification of Decision, Town of Gates Code, your client obtaining “...necessary permits from the Building Department within the six-month period prescribed by Town Law, and commence construction within one (1) year of issuance. Failure to obtain a permit and commence construction will terminate this variance, making it thereafter null and void.” Additionally, Section 190-194 specifically provides that “A building permit must be obtained within six months of the decision date; substantial construction must start within one year.” The six (6) month period for your variance will expire on February 9, 2024.

As a request for an extension of the six (6) month period was received prior to expiration thereof, the Board has approved an extension of your variance for a period of six (6) months from the current expiration date to February 9, 2024.

**Second – MR REDFERN**

Member Vote Tally

Mr. Redfern - yes

Mr. Lippa - yes

Mr. Zimmer – yes

Mr. Ioannone - yes

Chairperson Kiley - yes

*Extension of variance approved 5-0*

**MOTION** - to adjourn – **MR ZIMMER**

Second – **MR LIPPA**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals