



Town of Gates

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

Meeting Minutes

August 12, 2024

MEMBERS PRESENT: Bill Kiley, Chairperson; Dave Ferris; Don Ioannone; Dick Lippa; Steve Zimmer; Tina Albanese-Stauffer

MEMBER(S) NOT PRESENT: Alan Redfern

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 July, 2024 meeting;

MOTION – MR FERRIS – Motion to accept minutes from July, 2024 meeting.
Second – MR IOANNONE -
All in favor, minutes approved.

APPLICATION NO 1.

THE APPLICATION OF JUSTIN BUGAJSKI REQUESTING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 374 CADILLAC AVENUE FROM ARTICLE VIII, § 190-36(B) THAT WILL ALLOW HIM TO INSTALL A 6 FOOT WOODEN PRIVACY FENCE THAT WILL ENCROACH INTO 35 FOOT SETBACK ON VENDOME DRIVE N.

JUSTIN BUGAJSKI – 374 Cadillac Avenue; would like to put up a 6 foot wooden fence that is not 35 feet from center of road; existing fence is about 15 feet; built before he owned property; would like to follow same fence line around property; wants fence because dog climbs chain link and gets out; forced to tie up and is dangerous if hanging over fence

CHAIRPERSON KILEY – need to have exact variance in feet; would need to have dimensions from right of way to fence; not clear from map

MR BUGAJSKI – measured corner closest to bottom; 15 feet from center to fence

MR FERRIS – measure from center of road;

MR BUGAJSKI – that is what told

MR FERRIS – my understanding is from edge of road

ATTORNEY MAC CLAREN – can make it work

MR IOANNONE – professional or self

MR BUGAJSKI – professional contractor

PUBLIC HEARING

BRUCE & CAROLYNN SHERZI – 35 Vendome Drive N; exactly across the street on Vendome Drive, looking at his back yard; verify that dog does jump over fence with leash on; fence is nice looking; want to ensure safety of dog

LAURA BUGAJSKI – 19 Bright Oaks Drive, Chili; dog sitter, would appreciate fence where the dog cannot get over it; verify dog safety; nice looking wooden fence should be considered

CHAIRPERSON KILEY – no environmental aspects – SEQRA taken care of

MOTION – MR IOANNONE – Motion to grant application as presented

The Board approved the Applicant's request to erect a six (6) foot wooden privacy fence that will encroach into the set backs on Vendome Drive North. The Board approved the Applicant's request to reduce the setback on Vendome Drive North so that the fence, at its closest point, is no closer than fifteen (15) feet to the center point of Vendome Drive North. In addition, the Applicant agreed that the wooden privacy fence shall follow the same path and location as the existing four (4) foot chain link fence.

Please note that the following facts are not in dispute:

- 1 The Applicant sought variances from Town of Gates Code Article VIII, Section 190-36B to allow the Applicant to erect a six (6) foot tall wooden fence within the setback on property located at 374 Cadillac Avenue, Town of Gates (the "Property");
- 2 The Property is not located on a State or County road and therefore a response from the County was not required;
- 3 The required public hearing was opened, held, and closed at the meeting and three individuals appeared in support of the Application;
- 4 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA are required.

MR FERRIS – Second

Member Vote Tally

Mr. Ioannone - yes

Ms. Albanese-Stauffer - yes

Mr. Ferris – yes

Mr. Zimmer - yes

Chairperson Kiley - yes

Variance approved 5-0

APPLICATION NO 2

THE APPLICATION OF JASON GERBSCH REQUESTING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 1834 LONG POND ROAD FROM ARTICLE VIII, § 190-36(B) THAT WILL ALLOW HIM TO INSTALL A 4 FOOT BLACK CHAINLINK FENCE THAT WILL ENCROACH INTO 50 FOOT SETBACK ON LONG POND ROAD BY 34.6 FEET. THE APPLICANT IS ALSO REQUESTING AN AREA VARIANCE THAT WILL ALLOW HIM TO INSTALL A 4 FOOT CHAINLINK FENCE THAT WILL ENCROACH INTO THE SETBACK ON VALENCIA DRIVE BY 35 FEET.

JASON GERBSCH – 1834 Long Pond Road; looking to get a variance for a four foot high vinyl chain link in front yard for puppy; 29 feet off Long Pond Road; few extra feet off Valencia; main reason is that no back yard; wish to let dog out safely; want dog to enjoy yard without endangering

CHAIRPERSON KILEY – chain link, black vinyl coated?

MR GERBSCH - correct

MR FERRIS – professional installation?

MR GERBSCH – he is a professional installer; family owns Arrow Fence; son’s first house

CHAIRPERSON KILEY – dimensions are 15.4 from Long Pond?

MR GERBSCH – comes off house 15 feet from Valencia; from Long Pond it is 59 feet from the house; 31 feet from Long Pond to fence line

CHAIRPERSON KILEY – 16 feet from Long Pond, clearance on the other side?

MR GERBSCH – 14.6 feet; 2 feet from the sidewalk; 5 foot sidewalk; then another 10 feet from the sidewalk to Valencia; far enough away; 21 feet

CHAIRPERSON KILEY - 14 feet on one side, 16 on the other

PUBLIC HEARING – no one in attendance

CHAIRPERSON KILEY – no environmental aspects – SEQRA taken care of

MOTION – MR FERRIS – Motion to approve

The Board approved the Applicant’s request to erect a four (4) foot black vinyl chain link fence that will encroach into the set backs on each of Long Pond Road and Valencia Drive. The Board approved the Applicant’s request to reduce the setback on (i) Long Pond Road by thirty-five (35) feet, so that the setback is reduced to fifteen (15) feet and (ii) Valencia Drive by twenty-one (21) feet, so that the setback is reduced to fourteen (14) feet.

Please note that the following facts are not in dispute:

- 5 The Applicant sought variances from Town of Gates Code Article VIII, Section 190-36B to allow the Applicant to erect four (4) foot black vinyl chain link fence within the setback on property located at 1834 Long Pond Road, Town of Gates (the “Property”);
- 6 The Property is located on a State or County road and the Board did receive the County response referring the matter back as a local matter;
- 7 The required public hearing was opened, held, and closed at the meeting and no one appeared in support or objection of the Application;
- 8 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA are required.

Second – MS ALBANESE-STAUFFER

Member Vote Tally

Mr. Ioannone - yes

Ms. Albanese-Stauffer - yes

Mr. Ferris – yes

Mr. Zimmer - yes

Chairperson Kiley - yes

Variance approved 5-0

APPLICATION NO 3

THE APPLICATION OF WEST FIRE SYSTEMS, INC. REQUESTING A SPRINKLER VARIANCE FOR THE PROPERTY LOCATED AT 53 PIXLEY INDUSTRIAL PARKWAY FROM CHAPTER 97 SECTION 97-4 DUE TO THE UNDUE ECONOMIC HARDSHIP THAT THE COST OF UPGRADING WATER LINES AND INSTALLING FIRE SPRINKLER WITHIN THE BUILDING WOULD IMPOSE ON THE PROPERTY OWNER.

FRANK MAGGIO – attorney, office is at 45 Exchange Blvd; represents landlord, Deborah West; tenant, West Fire System is also an applicant; Dave Tollis is here, is the general and Andrew Loff, the operational manager; variance for sprinkler system; pre-existing building; business is safety; Deb is founder; supporter of sprinkler system; their case is why Board has jurisdiction; cost of retrofitting, would be almost \$200,000; one inch water line which was approved in 1995, now there needs to be a six inch water line; would have to excavate; will not make safer; need input of fire marshal; building has been there since 1995 and there has never been a fire; no change in use or occupancy; new fire wall with addition; building currently has smoke detector, c/o monitored; video monitoring; no second floor or basement; no residential; metal building; massive ingress and egress; no risk to protect; if variance, can proceed with renovation; if not, economically infeasible, preclude continuation; will there be any added safety? Fire marshal will tell you it will not make the building safer; retrofitting will cause undue hardship

MR ZIMMER – monitored professionally?

MR MAGGIO – yes, 911 related

MR FERRIS – are you planning on putting in any suppression units?

MR MAGGIO – no

CHAIRPERSON KILEY – reviewed with fire marshal?

MR MAGGIO – discussed with him, he reviewed and said okay

CHAIRPERSON KILEY – no letter endorsing

MR MAGGIO – did not speak, with fire marshal, which one of you did?

ANDREW LOFF – said fine with not moving forward with sprinkler system

PUBLIC HEARING – no one in attendance

CHAIRPERSON KILEY – no environmental aspects – SEQRA taken care of

MR MAGGIO – important to get input of fire marshal; table is appropriate

MOTION – MR IOANNONE – Motion to table until hear from fire marshal

The Board was unable to reach a decision with respect to the requested variance as the Board did not receive any input or recommendation from the Fire Marshall. The Board felt that this input would be important in determining the requested variance.

The Application will now be heard on Tuesday, September 10th, at 7:30pm.

Please note that the following facts are not in dispute:

- 9 The Applicant sought variances from Town of Gates Code from Chapter 97 Section 97-4 due to the undue economic hardship that the cost of upgrading water lines and installing fire sprinkler within the building would impose on the property owner, located at 53 Industrial Parkway, Town of Gates (the “Property”);
- 10 The Property not located on a State or County road and therefore no County response is required;
- 11 The required public hearing was opened, held, and closed at the meeting and no individuals appeared in support or objection to the Application;
- 12 This application involved an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and, upon review, the Board determined that no further proceedings under SEQRA are required.

Second – **MR FERRIS**

All in favor, variance tabled.

APPLICATION NO 4

THE APPLICATION OF PATHSTONE DEVELOPMENT CORPORATION REQUESTING AN EXTENSION OF THE AREA VARIANCE FROM ARTICLE XX, § 190-102 TO ALLOW FOR MORE UNITS PER BUILDING THAN ARE ALLOWED FOR THE TWO STORY APARTMENT BUILDING THAT IS PROPOSED FOR DEVELOPMENT AT 1049 WEGMAN ROAD.

CHAIRPERSON KILEY – subject to any additional information received during public hearing, prepared to vote on extension

BETSY BRUGG – attorney, Woods Oviatt Gillman; extension of variance granted in 2020; nothing about project has changed; delays in funding; applicant met requirements in 2020; all are familiar with record of application; submitted letter with applicable law; Board needs to grant same extension; public meeting held; Pathstone is forthcoming; did not secure building permit before expiration; Jason Sachet from Pathstone, Laura from church and Marathon Engineering are here as well; familiar with site plan; made for better project

PUBLIC HEARING –

DR PAUL KIM; resident psychiatrist at Strong Memorial Hospital; 290 C West View Commons Blvd; in support of project; speaking from experience as a medical student and doctor; number of people seen in Strong ED because housing insecure; situations become worse because not treated with preventative care; need addresses to be treated; shelters have limits; more likely to be on Medicaid; statistics shared on housing first concept; expense causing system; 1.8 benefit/cost ratio; rigorous system for finding people who would fit project specific goal of project; gives thought experiment on homelessness; project is an opportunity

LAURA BAULKMAN – pastor and head of staff at Gates Pescetarian Church; lives at 7 Tobey Court in Pittsford; reiterates deed support for project; expression of faith; group of people are carefully vetted; committed to making new space for people to thrive

MOTION - to approve as presented – **MR IOANNONE**

This approval was strictly conditioned on, among other things, pursuant to Section 190-194, entitled Notification of Decision, Town 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." Based on the prior extensions thereof, the six (6) month period for your variance expired on August 9, 2024.

Notwithstanding the above expiration, as a request for an extension of the six (6) month period was received prior to the actual expiration thereof and given that the Board only meets on a monthly basis, the Board has approved an extension of your variance for a period of six (6) months from the current expiration date to February 9, 2025.

Second – **MR FERRIS**

Member Vote Tally

Mr. Ioannone - yes

Ms. Albanese-Stauffer - yes

Mr. Ferris – yes

Mr. Zimmer - yes

Chairperson Kiley - yes

Variance approved 5-0

MOTION - to adjourn – **MR FERRIS**

Second – **MR ZIMMER**

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals