



Town of Gates

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

Meeting Minutes

February 10, 2025

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

MEMBER(S) NOT PRESENT: Tina Albanese-Stauffer; Dave Ferris

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

A public hearing of the Gates Zoning Board of Appeals was called to order by **STEVE ZIMMER** (acting chairperson) at 7:30 p.m. at the Gates Town Hall. **MR ZIMMER** explained the purpose and procedure of the Zoning Board.

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MR ZIMMER – first order of business is to accept minutes from the January 2025 meeting;

MOTION – MR IOANNONE – Motion to accept minutes from January 2025 meeting.

Second – MR KILEY

All in favor, minutes approved.

TABLED APPLICATION

THE APPLICATION OF WESTMAR ACQUISITIONS LLC SEEKING A USE VARIANCE FOR THE PROPERTY LOCATED AT 1965 BUFFALO ROAD FROM ARTICLE XXV, § 190-141 TO OPERATE A CAR RENTAL AGENCY IN THE GENERAL BUSINESS DISTRICT.

MOTION - to lift the table – **MR IOANNONE**
MR KILEY - Second

MR ZIMMER – SEQRA, unlisted action, no requirements

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

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

- 1 The Applicant sought a use variance to permit the operation of a car rental agency at the property located at 1965 Buffalo Road, Town of Gates (the “Property”);
- 2 The Property is located on a State or County road and the County response is required and was received prior to the February meeting.
- 3 The required public hearing was opened, held, and closed at the meeting and no parties appeared to support or object to the Application;
- 4 This application involved an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and the Board found that no further proceedings under SEQRA is required;
- 5 The Applicant agreed and confirmed the following facts in connection with the rental business at the Property:
 - a. There will be no sales or auctions of vehicles on the Property;
 - b. There will be no repairs or mechanical work done on vehicles at the Property (cleaning and detailing are permitted);
 - c. The Applicant anticipates no more than three employees will be working at any given time;
 - d. The Applicant stated that there should not be more than approximately 10 vehicles stored at the Property at any given time and will not use the Property as a storage lot for other rental operations at other rental locations;
 - e. The Applicant agreed that it will abide by all Code requirements, including but not limited to those requirements relating to signage, hours of operation, lighting, security, and safety, applicable to a Property located in a General Business district.
- 6 The Board found that the Applicant was able to demonstrate, to the Board’s satisfaction, that all four criteria required by New York State Law for the issuance of a use variance to permit the operation as exclusively as a car rental agency, notwithstanding that the Property is currently and remains Zoned as a General Business district, were met and fully satisfied.

Second – **MR ZIMMER**

Member Vote Tally

Mr. Ioannone – yes

Chairperson Kiley - yes

Mr. Zimmer – yes

Variance approved 3-0

Mr. Lippa and Mr. Redfern abstain

APPLICATION NO. 1

THE APPLICATION OF ANDY NGO SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 63 COUNTRY GABLES CIRCLE FROM ARTICLE VIII, § 190-36(B) THAT WILL ALLOW HIM TO MAINTAIN THE LOCATION OF HIS FENCE WHICH ENCROACHES INTO THE 35 FOOT SETBACK ON SOUTH HILL CIRCLE BY APPROXIMATELY ONE FOOT.

ANDY NGO – 63 Country Gables Circle; came to get building permit, Brianna helped estimate where footage of fence would go west into neighbor's; ended up with 15 feet, would have been into the side of South Hill Circle; told is wanted to maximize, could go out to 17 feet; difference between 51 and 35, was one foot off; told vinyl outlet to do 17 feet; tried calling around Christmas time but no confirmation received; voicemail in morning on Thursday, called back later, but had already finished installing fence, was one day; goes out to about 17 feet

MR ZIMMER – how far is the variance that you need, one foot?

MR NGO – yes, allowable with 35 feet from street would have been a 16 foot fence

MR KILEY – off by one foot?

MR NGO – yes

MR ZIMMER – no type 2 SEQRA action required

PUBLIC HEARING – no one in attendance

MOTION - to approve– **MR IOANNONE**

The Board approved your request to reduce the required setback to thirty-four (34) feet from the required thirty-five (35) feet for a reduction of one (1) foot to permit an existing fence to remain.

Please note that the following facts are not in dispute:

- 7 The Applicant sought a variance from the setback requirement that any structure be setback thirty-five (35) feet at the property located at 63 Country Gables Circle, Town of Gates (the “Property”);
- 8 The Property is not located within 500 feet of a State or County road and therefore the County response was not required.
- 9 The required public hearing was opened, held, and closed at the meeting and no parties appeared in objection to the Application; and
- 10 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and the Board found that no further proceedings under SEQRA are required.

Second – **MR LIPPA**

Member Vote Tally

Mr. Ioannone – yes

Chairperson Kiley - yes

Mr. Redfern - yes

Mr. Lippa – yes

Mr. Zimmer – yes

All in favor, variance approved

APPLICATION NO. 2

THE APPLICATION OF MICHAEL GIARDINO SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 97 ARDELLA STREET FROM ARTICLE XIX, § 190-94(C) AND ARTICLE XIV, § 190-54 THAT WILL ALLOW HIM TO CONSTRUCT A SHED THAT WILL ENCROACH INTO THE EIGHT FOOT SIDE SETBACK AND FIVE FOOT REAR SETBACK.

MICHAEL GIARDINO – 97 Ardella Street; trying to get a variance to remove and replace storage shed; zoning limits to build a storage shed is 8 feet away from property; house is 4 feet away from property line, very narrow and long property; make longer; could move into field but kids play there; house would have to be moved as well; pre-existing ; non- compliant; preconditions were 4 feet by 4 feet from property line and now it is double that, needs guidance

ATTORNEY MAC CLAREN – to confirm, looking for back property line to go from 8 to 4 feet, so you can be 4 feet from back property line?

MR GIARDINO – wondering if could keep it in the same location, extend the shed by 2-4 feet forward to have a little porch on it

MR KILEY – length is fine

ATTORNEY MAC CLAREN – from back of it to line, want it to stay 4 feet?

MR GIARDINO - yes

ATTORNEY MAC CLAREN – do not want to have to move the whole thing 4 feet?

MR GIARDINO - no

ATTORNEY MAC CLAREN – need to give a number of what it cuts down to

MR IOANNONE – just replacing it

MR GIARDINO – does not have a garage and storage is needed

PUBLIC HEARING – no one in attendance

DAN AMMON – 90 Elvira Street; what does this mean?

ATTORNEY MAC CLAREN – asking to put a new shed where old shed is, will just be a little longer towards the front of house

MR AMMON – not going to extend toward back?

ATTORNEY MAC CLAREN – no, extend closer to front of house

MR ZIMMER – no environmental SEQRA requirements for this application

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

The Board approved your request to (i) reduce the required side setback to four (4) feet from the required eight (8) feet for a reduction of four (4) feet and (ii) reduce the required rear setback to two (2) feet from the required five (5) feet for a reduction of three (3) feet to permit the replacement of an existing dilapidated shed with a new larger shed.

Please note that the following facts are not in dispute:

- 11 The Applicant sought a variance from the required side and rear setback requirements that any structure be setback eight (8) feet and five (5) feet, respectively, at the property located at 97 Ardella Street, Town of Gates (the “Property”);
- 12 The Property is not located within 500 feet of a State or County road and therefore the County response was not required.
- 13 The required public hearing was opened, held, and closed at the meeting and one party appeared with a question but did not object to the Application; and
- 14 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and the Board found that no further proceedings under SEQRA is required.

Second – **MR REDFERN**

Member Vote Tally

Mr. Ioannone – yes

Chairperson Kiley - yes

Mr. Redfern – yes

Mr. Lipa - yes

Mr. Zimmer – yes

All in favor

MOTION - to adjourn – **MR KILEY**

Second – **MR IOANNONE**

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals