



# Town of Gates

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

## Meeting Minutes

August 14, 2023

**MEMBERS PRESENT:** Bill Kiley, Chairperson; Dave Ferris; Don Ioannone; Steve Zimmer; Alan Redfern;

**MEMBER(S) NOT PRESENT:** NA

**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; must have at least three votes to approve application; applications published in daily record and on town website;

**CHAIRPERSON KILEY** - first order of business is to accept minutes from the June and July, 2023 meetings; no changes or corrections;

**MOTION – MR FERRIS** – Motion to accept minutes from July, 2023 meeting.

**Second – MR IOANNONE**

*All in favor, minutes approved.*

*Mr. Zimmer abstains*

**MOTION – MR FERRIS** – Motion to accept minutes from June, 2023 meeting.

**Second – MR KILEY**

*All in favor, minutes approved.*

APPLICATION NO. 1

**THE APPLICATION OF PETER GROSSMAN REQUESTING AN AREA VARIANCE FROM ARTICLE XIV, SECTION 190-54 FOR THE PROPERTY LOCATED AT 2846 LYELL ROAD BECAUSE THE EXISTING GARAGE ENCROACHES INTO THE REQUIRED SIDE YARD SETBACK BY 7 INCHES.**

**PETER GROSSMAN** – 140 Dunbar Road, Hilton; here for an area variance for 2046 Lyell Road which was a piece of property in Dad’s trust; permit pulled on garage 10 years ago; brother Frank and he were taking care of Dad had Alzheimer’s for a number of years; did back taxes for many years, still working on; was a state trooper; brother also died 30 days after Dad; built garage which was in line with house; not five feet away from property line; protect in case they build behind garage;

**CHAIRPERSON KILEY** – understands what he wants to do

**PUBLIC HEARING** – no one in attendance

**CHAIRPERSON KILEY** – set back, environmental requirements do not apply

**MOTION — MR FERRIS** – Motion to approve as presented

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

- 1 The Applicant sought variances from Town of Gates Code Article XIV Section 190-54 to allow for a side setback which will be less than allowed, all on property located at 2846 Lyell Road, Town of Gates (the “Property”);
- 2 The Property is not located on a County or State Road, therefore the application did not require any review or approval by the County Planning Board;
- 3 No parties appeared in opposition and the Town of Gates Building Inspector provided a letter of support for the variance, provided that the Applicant agree to install a one-hour fire wall as required by the Code, which the Applicant did agree to; and

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

## **Second – MR REDFERN**

### Member Vote Tally

Mr. Zimmer – yes

Mr. Ferris - yes

Mr. Redfern - yes

Mr. Ioannone - yes

Chairperson Kiley - yes

*Variance approved 5-0*

### APPLICATION NO. 2

**THE APPLICATION OF HOSPITALITY SYRACUSE INC. REQUESTING AN AREA VARIANCE FROM ARTICLE V, SECTION 190-22H FOR THE PROPERTY LOCATED AT 2317 LYELL AVENUE TO ADD TWO (2) 4 SQUARE FOOT DIRECTIONAL SIGNS WHERE ONLY 3 SQUARE FEET SIGNS ARE ALLOWED.**

**CHAIRPERSON KILEY** – no county response received, will not make a decision tonight

**ATTORNEY MAC CLAREN** – you have not received a decision?

**STEPHANIE ALBRIGHT** – no; AFD Engineering, 615 Fishers Run; also here is Michael McCracken, Hospitality Syracuse, to discuss application; store has been open for many years, fire a couple years back along with some planned remodels; matured trees on both Howard and Lyell; separate application with Planning Board, asked to take down some trees and replace with landscaping; tabled with Planning to exhaust all other options first, suggested more signage; draw attention to building without cutting down all the trees; add sign to eastern side of building; over 15 square feet allowed per code and puts total building signage over allowable per code; second is monument sign on Lyell Ave; 6 inches off property line, in line with trees; road and property line are not parallel, skews the requirement; McDonalds comparison, 16 feet from curb line, they would be 25 feet; remaining 2 signs are directionals to gain attention north on Howard; other is in Wegmans parking lot; did not see anything in code regarding sign on Wegmans parcel

**ATTORNEY MAC CLAREN** – issue is not that it is not allowed to be there; issue is that we can't grant a variance for a sign that is not on your property;

Wegmans would need to come in for the variance on that sign; variances go with property, since it is not on your property; cannot grant with this application

**MS ALBRIGHT** - Wegmans owns Taco Bell parcel too, have letter from them

**ATTORNEY MAC CLAREN** - different parcel, not a question of authority, question of what is being requested that cannot be granted

**MR ZIMMER** - application from Wegmans?

**ATTORNEY MAC CLAREN** - would need to see application for what Wegmans' parcel is; about specific parcel; has authorization

**CHAIRPERSON KILEY** - initial purpose; decrease in revenue, 20% ?

**MIKE MCCRAKEN** - Skaneateles, NY; twelve months after reopening, see a 22% decline in sales; don't know what it is from, but always thought that as trees were growing, were buried; other restaurants in area do not have that challenge; have sign on road and can be seen; remodel, muted colors per Taco Bell corporate; struggle compared to what it was

**CHAIRPERSON KILEY** - when reopened?

**MS ALBRIGHT** - one year ago

**CHAIRPERSON KILEY** - COVID impact

**MR MCCRAKEN** - signed long term lease with Wegmans

**CHAIRPERSON KILEY** - need to resubmit?

**ATTORNEY MAC CLAREN** - no, can grant this variance; new application for other parcel

**MR FERRIS** - island?

**MS ALBRIGHT** - move on property to make easier

**CHAIRPERSON KILEY** - asks for two directional signs

**MS ALBRIGHT** - location does not matter

**CHAIRPERSON KILEY** - that is what we would vote on

**ATTORNEY MAC CLAREN** - third request, from 50 square feet to 75, is total signage across entire property?

**MS ALBRIGHT** - third sign, add fourth; totals 75 feet; just total, other three sides, would not be changing, just the one

**MR FERRIS** - on east is additional sign, along with the directional signs and monument?

**MS ALBRIGHT** - yes, asking for four signs total

**MR FERRIS** - how many square feet is fourth?

**MS ALBRIGHT** - 20 square feet

**CHAIRPERSON KILEY** - two things on signs?

**MS ALBRIGHT** - correct, one variance because it is more than 15 feet and one because the total

**PUBLIC HEARING** – no one in attendance

**CHAIRPERSON KILEY** - SEQRA requirements do not apply

**MOTION — MR FERRIS** – Motion to table

The Board was unable to make a determination with respect to any of the requested variances as the Board did not receive the required response from the County Planning Board prior to the meeting.

The Application will now be heard on Monday, September 11th, at 7:30pm.

Please note that the following facts are not in dispute:

1. The Applicant sought variances from with respect to additional signage and increases in the overall size of signage property located at 2317 Lyell Avenue, Town of Gates (the “Property”);
2. The Property is located on a State or County road and the County response is required but was not received prior to the August 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; and
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.

**Second – MR ZIMMER**

Member Vote Tally

Mr. Zimmer - yes

Mr. Ferris - yes

Mr. Redfern - yes

Mr. Ioannone - yes

Chairperson Kiley - yes

*Variance tabled 5-0*

**MOTION** - to adjourn - **MR IOANNONE**

Second - **MR ZIMMER**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals