



# Town of Gates

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

## Meeting Minutes

December 9, 2024

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

**MEMBER(S) NOT PRESENT:** Steve Zimmer; Tina Albanese-Stauffer

**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 **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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**CHARIPERSON KILEY** – first order of business is to accept minutes from the November, 2024 meeting;

**MOTION – MR LIPPA** – Motion to accept minutes from November, 2024 meeting.

**Second – MR IOANNONE**

*All in favor, minutes approved.*

*Mr. Ferris abstains*

TABLED APPLICATION

**THE APPLICATION OF DIAMOND Z ENGINEERING c/o FEDERAL EXPRESS CORP SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 2580 MANITOU ROAD FROM ARTICLE VIII, § 190-36(B) TO INSTALL AN EIGHT FOOT CHAINLINK THAT WILL ENCROACH INTO THE 35 FOOT SETBACK ON FEDEX WAY**

**MOTION** - to lift from the table – **MR IOANNONE**

Second – **MR LIPPA**

All in favor

**CHAIRPERSON KILEY** – heard request last month; received response from county

**MOTION – MR IOANNONE** - – Motion to approve

The Board received the required response from the County Planning Board prior to the meeting and the same was referred back as a local matter.

Please note that the following facts are not in dispute:

- 1 The Applicant sought variances from with respect to the setback (to reduce the same to zero (0) feet along FedEx Way and height (to increase the height to eight (8) feet) for a chainlink fence at the property located at 2580 Manitou Road, Town of Gates (the “Property”);
- 2 The Property is located on a State or County road and the County response was required and received prior to the December 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 and a Type II action, under the State Environmental Quality Review Act (SEQRA) and the Board found that no further proceedings under SEQRA is required.

**MR REDFERN– LIPPA**

Member Vote Tally

Mr. Redfern - yes

Mr. Lippa - yes

Mr. Ioannone – yes

Chairperson Kiley - yes

*All in favor*

*Mr. Ferris abstains*

APPLICATION NO. 1

**THE APPLICATION OF DIAMOND Z ENGINEERING c/o FEDERAL EXPRESS CORP SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 2580 MANITOU ROAD FROM ARTICLE IV § 190-14(A) THAT WILL ALLOW THE NUMBER OF PARKING SPACES AT FEDEX WAY TO BE REDUCED FROM 348 TO 187 SPACES.**

**JOSHUA SAXTON** – Passero Associates, 242 West Main Street; civil project manager; representing client based out of Ohio; for existing Federal Express facility; were here last month for fence, also discussed parking variance; essential part of project is fencing to separate; moving spaces from back to dedicate it to loading area; gets to less than number of parking spaces per code;

**CHAIRPERSON KILEY** – supposed to have one per every two employees; how many employees?

**MR SAXTON** – 100ish

**CHAIRPERSON KILEY** – said 90

**MR SAXTON** – yes, 90 with some fluctuation

**CHAIRPERSON KILEY** – instead of 275 spaces, will have 187?

**MR SAXTON** – yes

**PUBLIC HEARING** – no one in attendance

**CHAIRPERSON KILEY** – SEQRA, unlisted action, do not have to mitigate any issues

**MOTION** - to approve– **MR LIPPA**

The Board approved your request to reduce the required number of parking spaces at the property to 187 spaces from the required 275 spaces.

Please note that the following facts are not in dispute:

- 5 The Applicant sought a variance from the requirement that the site include 275 parking spaces at the property located at 2580 Manitou Road, Town of Gates (the “Property”);
- 6 The Property is located on a State or County road and the County response was required and received prior to the December meeting.
- 7 The required public hearing was opened, held, and closed at the meeting and no parties appeared to support or object to the Application; and

- 8 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 REDFERN**

Member Vote Tally

Mr. Redfern - yes

Mr. Ferris – yes

Mr. Lippa - yes

Mr. Ioannone – yes

Chairperson Kiley - yes

*All in favor*

APPLICATION NO. 2

**THE APPLICATION OF MARVIC AGUERO-MARTINEZ SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 246 EVELYN STREET FROM ARTICLE VIII, § 190-36(B) THAT WILL ALLOW HIM TO MAINTAIN A FENCE THAT ENCROACHES IN THE 35 FOOT SETBACK ON EVELYN STREET.**

**JAYNEL AGUERO** – 246 Evelyn Street; corner lot; need fence because they have 4 dogs and grandchildren; very close to street; issue is that it is supposed to be set back 35 feet from road which would put fence literally in the middle of the yard so seeking variance

**CHAIRPERSON KILEY** – instead of 35, it is 10 feet?

**MS AGUERO** – 15 feet from road

**ATTORNEY MAC CLAREN** – from road?

**MS AGUERO** – yes

**ATTORNEY MAC CLAREN** – concern to Board is if it is 10, grant reduction: move back to 15; consider to give accurate approval;

**MS AGUERO** - in plan, goes along the driveway

**CHAIRPERSON KILEY** – off road?

**MS AGUERO** – yes, pictures show how close it is to the road

**CHAIRPERSON KILEY** – if went with 10 would be safe; same line with neighbors

**MR REDFERN** – rebuilding the existing fence?

**MS AGUERO** – tore down old chain link fence and put wood instead

## PUBLIC HEARING

**JESSICA CHIN** – 2070 Lyell Avenue; next to property; is it going to narrow the street?

**CHAIRPERSON KILEY** – no, fence is already there; does not change street; allowed to put a 3 foot fence and they put a six foot fence

**ATTORNEY MAC CLAREN** – should be 35 from street; asking to only be 10 feet off the street

**CHAIRPERSON KILEY** – SEQRA, type 2, no further action required

### **MOTION - to approve– MR LIPPA**

The Board approved your request to reduce the required fence setback to ten (10) feet from the required thirty-five (35) feet for a reduction of twenty-five (25) feet to permit an existing fence to remain.

Please note that the following facts are not in dispute:

- 9 The Applicant sought a variance from the setback requirement that the any fence be thirty-five (35) feet from the road at the property located at 246 Evelyne Street, Town of Gates (the “Property”);
- 10 The Property is located within 500 feet of a State or County road and the County response was required and received prior to the December meeting.
- 11 The required public hearing was opened, held, and closed at the meeting and one party appeared with a question but did not or object to the Application; and
- 12 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 FERRIS**

#### Member Vote Tally

Mr. Redfern - yes

Mr. Ferris – yes

Mr. Lippa - yes

Mr. Ioannone – yes

Chairperson Kiley - yes

*All in favor*

APPLICATION NO. 3

**THE APPLICATION OF LYNN ABO TT SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 111 BROOKLEA DRIVE FROM ARTICLE XIX, § 190-34(C)(2) THAT WILL ALLOW HIM TO REBUILD A DECK THAT WILL ENCROACH INTO THE 10 FOOT SIDE SETBACK BY SIX FEET.**

**LYNN ABO TT** – 111 Brooklea Drive

**CHAIRPERSON KILEY** – house is 9 feet from property line

**MS ABO TT** – when house was built, there was no variance required;

**CHAIRPERSON KILEY** – right, grandfathered in

**MR ABO TT** - no adjacent structure on the side; wanted to rebuild this

**CHAIRPERSON KILEY** – on same footprint; replace what is there; been there since was built

**MS ABO TT** – yes, three and a half years; quite a bit of work required

**CHAIRPERSON KILEY** – SEQRA type 2, okay from environmental standpoint

**PUBLIC HEARING**

**ALICIA BANKS** – 935 Hinchey Road; where is the house located compared to her house? Why do I have letter?

**CHAIRPERSON KILEY** – within 350 feet of property, neighbors receive letter

**MS BANKS** – not portion that got cleared out?

**CHAIRPERSON KILEY** – no, cannot see deck from road

**MS BANKS** – just wondering if it was going to effect back yard

**CHAIRPERSON KILEY** – does not back up against

**MR IOANNONE** – on other side, across the street

**MS BARK** – other matter, when can we have a meeting about that?

**COUCELMAN CORDERO** – call supervisor

**CHAIRPERSON KILEY** – online form, code enforcement, is an effective means of communication.

**PUBLIC HEARING** – no one in attendance

**MOTION** - to approve– **MR LIPPA**

The Board approved your request to reduce the required setback to four (4) feet from the required ten (10) feet for a reduction of six (6) feet to permit the rebuilding of a deck which has deteriorated.

Please note that the following facts are not in dispute:

- 13 The Applicant sought a variance from the setback requirement that any structure be ten (10) feet from the side lot line at the property located at 111 Brooklea Drive, Town of Gates (the “Property”);
- 14 The Property is not located within 500 feet of a State or County road and therefore the County response was not required.
- 15 The required public hearing was opened, held, and closed at the meeting and one party appeared with a question but did not or object to the Application; and
- 16 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 IOANNONE**

### Member Vote Tally

Mr. Redfern - yes

Mr. Ferris – yes

Mr. Lippa - yes

Mr. Ioannone – yes

Chairperson Kiley - yes

*All in favor*

## APPLICATION NO. 4

**THE APPLICATION OF BRIAN FAUCHER SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 95 TWIN OAK DRIVE FROM ARTICLE VI § 190-32(B) THAT WILL ALLOW HIM TO INSTALL AN 8 FOOT FENCE WHEN ONLY 6 FEET ARE ALLOWED.**

**BRIAN FAUCHER** – 95 Twin Oak Drive; back yard backs up to business, insurance company which is also exposed to Elmgrove Road; looking to put an 8 foot vinyl fence along the back; chain link on side for dog

**CHAIRPERSON KILEY** – neighbor at 99 has 6 foot wooden stockade fence?

**MR FAUCHER** – no, not directly next to; been there since 1999; line of woods a little bit further down;

**CHAIRPERSON KILEY** – would want 8 foot all the way across ?

**MR FAUCHER** – correct; back yard is completely exposed to Elmgrove Road; wants privacy for grandchildren

**CHAIRPERSON KILEY** – sides will be standard?

**MR FAUCHER** – black chain-link

**CHAIRPERSON KILEY** – 4 foot or 6 foot?

**MR FAUCHER** – 4 foot

**CHAIRPERSON KILEY** – SEQRA, type 2, no environmental issues to consider

## PUBLIC HEARING

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

The Board approved your request to permit an eight (8) foot high vinyl fence where only a six (6) foot fence is allowed along the rear lot line of the property. As confirmed at the meeting, the variance is solely with respect to the rear lot line and does not permit an eight (8) foot high fence along the side lot lines of the property.

Please note that the following facts are not in dispute:

- 17 The Applicant sought a variance from the height requirement for a fence to be no taller than six (6) feet high at the property located at 95 Twin Oak Drive, Town of Gates (the “Property”);
- 18 The Property is located within 500 feet of a State or County road and the County response was required and received prior to the December meeting.
- 19 The required public hearing was opened, held, and closed at the meeting and no parties appeared in support or objection to the Application; and
- 20 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. Redfern - yes

Mr. Ferris – yes

Mr. Lippa - yes

Mr. Ioannone – no

Chairperson Kiley - yes

*Approved 4-1*

APPLICATION NO. 5

**THE APPLICATION OF SKYLIGHT SIGNS C/O JOSEPH GIZZI  
SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED  
AT 3035 BUFFALO ROAD FROM ARTICLE VI § 190-24(C) TO  
ERECT BUILDING MOUNTED SIGNS THAT WILL BE LARGER  
THAN ZONING CODE ALLOWS.**

**FRANK CLEERE** – co-owner of Skylight signs; located at 16 Industrial Park Circle; seeking a variance and relief from the code for the second plaza on Buffalo Road; came in two years ago when the first building was done; came up with a sign package at that time; utilizing the code to the smallest allowed, 10 for every 10 feet, maximum fifty square feet; building is facing parking lot not street; hardship is the way they put the buildings into the properties themselves; sent letter; existing signs are still well below the allowable square footage; manufactured all the signs for the landlord; control what goes up and size; building one is done; have two permits for building two; already have permits although no formal variance for building two, staying with same type of parameter; also includes a free standing sign, a monument sign of 64 square feet; at the second entrance; is in right of way, pole sign will be removed; presents picture; now in right of way; before road was widened; now right in line

**CHAIRPERSON KILEY** – pole sign will come down ?

**MR CLEERE** – most likely, submitted drawing, no name for it yet; originally going to use, but in right of way, will likely use one of parking spots, will be in line, same size, same height

**CHAIRPERSON KILEY** – aesthetically pleasing

**MR CLEERE** – did balancing test, was on Ogden Zoning Board for nine years; sign does not create undesirable change in neighborhood; if facing street vs parking lot in nonresidential area; not substantial, most signs fell below that code of max 50 square feet; sign does not have adverse effect on physical or environmental conditions of the area; variances are self-created, in this case they built the building

**CHAIRPERSON KILEY** – request is for the store entrance

**MR CLEERE** – yes and for monument signs, for both

**ATTORNEY MAC CLAREN** – application only has building mounted signs; request is not for free standing signs

**MR CLEERE** – do not see him doing the monument for spring time.

**CHAIRPERSON KILEY** – set back issue, correct?

**MR CLEERE** – want to put secondary there for multiple tenants; found putting it there is encroaching into easement 6 feet; close to power wires

**CHAIRPERSON KILEY** – similar one, mimic?

**MR CLEERE** - yes

**CHAIRPERSON KILEY** – what is variance needed?

**MR CLEERE** – free standing signs, jumps for 30 to 40 mph, from 40 square feet to 90 square feet; came up with 68 worked because signs are 8 feet by 8 feet

**CHAIRPERSON KILEY** – have to come back for that one

**MR CLEERE** – front sign entrance for liquor store, will have secondary sign at side entrance; will he need variance?

**CHAIRPERSON KILEY** – allowed to have second sign, but very small

**MR CLEERE** – there are a few others in the town

**ATTORNEY MAC CLAREN** – others came for size variances

**MR CLEERE** – thought that this variance would cover second sign

**CHAIRPERSON KILEY** – different issue, second sign variance

**MR CLEERE** – second sign falls within sign treatment; looked at Goodwill, Panara, have front and side signs

**ATTORNEY MAC CLAREN** – need permit to have sign; can get variance today for the size of the second sign because it is a permitted

**MR CLEERE** – because they built the canopy so small, square footage would have only allowed 29

**ATTORNEY MAC CLAREN** - what is the largest one?

**MR CLEERE** – 50 square feet

**ATTORNEY MAC CLAREN** – ask is to get 50

**MR CLEERE** – up to 50 which is the minimal requirement for that plaza

**ATTORNEY MAC CLAREN** – ask is up to 50 for each sign

**MR CLEERE** – have luxury of dealing with developer, easier than with sign companies

**ATTORNEY MAC CLAREN** – want to make sure that if granted, it is what is needed

**MR CLEERE** – can reapply if need more

**CHAIRPERSON KILEY** – SEQRA, unlisted action from an environmental standpoint

**PUBLIC HEARING**

**ZACHARY SMITH** - 113 Parkway Drive, North Chili; son of who is moving in there, liquor store; side sign, great because at angle; number one priority is public safety; not going to be looking at road; 3600 square feet; took up 3 suites

**CHAIRPERSON KILEY** - taken into account

**MR SMITH** – did take away the door on the side for safety; one door instead of two for initial entrance; visibility; sales taken away if people are missing signage

**MR FERRIS** – is side entrance an actual entrance?

**MR SMITH** – no, was a door there, but liquor authority says only one door; front door; other door removed and replaced with window

**MR FERRIS** – one entrance?

**MR SMITH** – yes, for public

**ATTORNEY MAC CLAREN** – allowed one sign over door and other sign faces road;

**CHAIRPERSON KILEY** – explains difference in need

**ATTORNEY MAC CLAREN** – discussion now is about the second sign; because if the bottom entrance was the only entrance, sign there; the left side is also the side facing the road, don't get a second sign on the bottom side of map; can still discuss size for signs that are permitted; cannot say can have second sign because not what is being asked

**MR SMITH** – allowed a second sign but it would be much smaller

**ATTORNEY MAC CLAREN** – only if an entrance or if facing road

**CHAIRPERSON KILEY** – additional request; sign next month for pedestal

**MOTION - MR FERRIS** -to approve variance request for sign on the side

This approvals are strictly restricted and confined to the terms, conditions and specifications submitted with your application, as well as the documents and exhibits attached and made part of your application, and the presentation made during the public hearing held on the above referenced date.

These approvals are based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the application

- 21 The Applicant sought a variance to erect building mounted signs that will be larger than allowed on property located at 3035 Buffalo Road, Town of Gates;
- 22 There was no other party in attendance who objected to Applicant's plea before the Board;
- 23 The Board found that the requested variance would have no negative impact upon the neighborhood;
- 24 The Property is located on a State or County road and the County response was required and received prior to the December meeting.
- 25 This application involves an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and, after review, the Board determined that no further proceedings under SEQRA is required.

Second – **MR LIPPA**

Member Vote Tally

Mr. Redfern - yes

Mr. Lipa – yes

Mr. Ferris - yes

Mr. Ioannone – yes

Chairperson Kiley - yes

*All in favor*

**MOTION** - to adjourn – **MR FERRIS**

Second – **MR LIPPA**

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals