



Town of Gates

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

Meeting Minutes

February 8, 2016

MEMBERS PRESENT: Christine Maurice, Chairperson; Don Ioannone; Mary Schlaefer; Christopher Dishaw; Ken Cordero

MEMBER(S) NOT PRESENT: NA

ALSO PRESENT: Frank M. Cassara, Esq., Board Attorney
Steve Tucciarello, Councilman

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

* * * * *

CHAIRPERSON MAURICE – states that the first order of business is to accept the minutes from the December, 2015 meeting and that one correction has been made.

MOTION - MR IOANNONE - Motion to accept minutes with corrections

Second - MR. CORDERO

All in favor, Mr. Dishaw and Mr. Cordero abstain due to their absence at the December meeting.
December 2015 minutes accepted

CHAIRPERSON MAURICE - minutes from January, 2016 meeting

MOTION - MR DISHAW

Second - MS. SCHLAEFER

All in favor, Mr. Kiley abstains due to his absence at the January, 2016 meeting.
January 2016 minutes accepted.

APPLICATION OF RUTHIE HALL REQUESTING AN AREA VARIANCE AND A CONDITIONAL USE PERMIT FROM ARTICLE VI, SECTION 190-32 AND SECTION 190-36 TO ALLOW A FENCE TO REMAIN WHICH ENCROACHES INTO THE REQUIRED FRONT YARD SETBACK, AND IS HIGHER THAN ALLOWED, ON PROPERTY LOCATED AT 19 WINTER HAZEL COURT.

CHAIRPERSON MAURICE - explains the process and states that the portion of the fence that needs variance is only the 8.5 feet that extends into the front yard, not what is behind the line of the garage.

RUTHIE HALL - applicant, 19 Winter Hazel Court, asks if Board received her letter

CHAIRPERSON MAURICE - confirms and asks the applicant to focus on why the fence is needed and the benefits

MS HALL - states that she is seeking the variance due to space between houses and their garages are the only two that come together. Police have been involved several times throughout the year. Lawns also come together. Approaches Board with map and explains that they are the only two driveways in the neighborhood that come together. House is further back from the road than other houses and everyone likes to use their garage in the summer. The fence is for peace of mind given the history with the neighbors.

ATTORNEY CASSARA - passes around the map as this is a public hearing

MS HALL - No other house in cul-de-sac that has the same zoning issue. Fence is there and seeking the variance because they are the only house where the garages come together and there is hardly any space between the homes.

CHAIRPERSON MAURICE - why extend the fence?

MS HALL - there is no privacy without it. Cannot put it at the corner because there is no use for it. They have someone nick nacking at them all the time and calling them the “n word”. With the fence there, her children can take their dog out without being harassed. It has made a slight difference, the police have been called three times since it has been up, probably out of anger for it being up. Spoke to chief and said give it a shot. They removed roosters from the house and they put up an inappropriate fence. Needs to put up the fence to have peace of mind.

MS HALL - states that she has gone to mediation with neighbors

CHAIRPERSON MAURICE - states that the Board is aware of the dispute and asks the applicant to talk about the fence only.

MS HALL - cannot talk about without talking about the issues; only house with that zoning issues

MR DISHAW - drive by and looked at it

MS HALL - get a better view from the aerial.

CHAIRPERSON MAURICE - talked with building department and in September went in for permit

MS HALL - bought permit for \$40 and put fence up

CHAIRPERSON MAURICE – states that she talked about extending fence

MS HALL – that is not true

CHAIRPERSON MAURICE – the extension is on drawing

MS HALL - then he put it there

CHAIRPERSON MAURICE - it is the Board’s understanding that you want to extend the fence.

MS HALL - you are stating what is hearsay that someone told you

CHAIRPERSON MAURICE - Is it your intent to extend the fence?

MS HALL - if need be in the future, yes. We had a cook out, but you do not want to hear about that. I will pay another forty dollars if necessary. She does not sit in the backyard in the summer, mostly in the garage. It is very peaceful, but cannot enjoy it.

PUBLIC HEARING

CHAIRPERSON MAURICE - asks to focus on eight and a half feet of wood

WILLIAM LOUIS - 917 Harvard Street, Rochester, NY - worked with Ruthie Hall and she explained difficulties with neighbor and she asked him to come by there. He came by and she talked about putting the fence up. They were sitting in the garage talking and were often disturbed and heard nigger from neighbor. It is continuous. He was asked to come over and take pictures and they were having a picnic in the backyard and a lawnmower was going along the fence for hours. An individual was standing at fence just gazing at them. The front fence was put there to prevent threats and harassment.

MR DISHAW - is the fence up there partly as a sound barrier

MR LOUIS -no, if cannot see into the garage, no harassment. It is a preventative measure for peace and happiness.

ANGEL HALL - 19 Winter Hazel Court - states that the neighbor is making comments now and thinks it is funny. She has to live there and put up with this. A sixteen year old has to be scared to go outside because of what they are going to say or do. Even with the fence up they will stand down at the driveway. They do not care about anyone else but themselves and think it is funny.

CHAIRPERSON MAURICE – asks Ms. Hall how old she is

MS HALL - sixteen

LYDIA THOMPSON - 32 Springfield Avenue, Rochester, NY – states that she has been to Ms. Hall’s house several times and that the fence creates privacy. Once they were there and planted strawberries and when they left, they were in the garage and joined hands to pray. The neighbor came right up and laughed and smoked cigarette’s while they prayed. Since the fence has been there you cannot see right into the garage. Another incident when police were called and the neighbor’s friend when leaving put up here middle finger and yelled “dikes”. Believes that fence would provide some privacy, not all because if a person is going to do something they are going to do it anyway, but will give some privacy when sitting in the garage and when they first come out.

GLORIA HARRIS - 24 West Avenue - has been to Ruthie Hall’s house several times and the fence has dirty words from other side. Does not make sense for someone to constantly call nasty words.

CHAIRPERSON MAURICE - not venue, appreciate problem, need for privacy

MS HARRIS - if the fence goes there will be more problems

CHAIRPERSON MAURICE - understands that fence is there for privacy and appreciates problems, but does not want to go into a history.

RODERICK JOHNSON - 174 Milford Street, Greece - minister at Ruthie’s church, believes eight feet of fence will bring peace to both sides.

JULIE AND EMILIO ZOLI - 15 Winter Hazel Court - zones are for a reason and they do not like it and do not think it looks good. If she was going to put it all the way back, but just two pieces. Fence is not legal, has nothing to do with racism. Thinks Zoning Board rules say fifty percent of neighbors must approve.

CHAIRPERSON MAURICE – states that the Board overrides

MR DISHAW – asks for clarification, you mentioned that you did not like the pieces that are up currently, but you would not have an issue if it was extended?

MS ZOLI - if it was a complete fence, and a guarantee that it was going to be done by a certain date, would not have a problem with it and it would probably solve a lot of problems because she does not want to look at them either. When she went to see Mike for her permit. He asked and showed her application. The way it was described to her when she filled out her permit, she had to sign showing where it was going to be. Understanding is that is the same thing the Halls did. Drawing she was shown was from the corner of the house back and there was no intention of going back.

MR DISHAW - so you would not have a problem if they extended it?

MR ZOLI - no, it is fine if they want to extend it, but it looks pretty stupid the way it is with just two pieces up, it is an eyesore.

MS HALL - states that she will gladly extend it. Did not want to do that but she will gladly do it. When she paid the \$40 she was asked for an assessment and said she paid less than \$100 because her godfather put it up for her. He told her to put the value at \$500, so whatever else is on that map, he put it there. They did not discuss it. He showed her how far she could take it because part belongs to the town, but if that is on the map, she did not put it there.

MR DISHAW - you would not have a problem with extending?

MS HALL - if she can keep the pieces that are there and get some peace in her life and her children do not have to be upset, then yes, money is not an issue.

PUBLIC HEARING CLOSED

MS ZOLI - asks if there would be a date of completion

CHAIRPERSON MAURICE - yes

MOTION - MR DISHAW - application approved with condition that the fence be extended back along the lot line to the easement which is twenty-five feet from the rear lot line and be completed by Memorial Day.

This approval is based upon the following findings of fact, which adequately demonstrated the standards applicable to granting an area variance and conditional use permit, as defined by Town Law §267-B (3)(b):

1. The Applicant desired to allow the exiting portion of a wooden fence to remain which encroaches upon the front set back and which height exceeds the limitations prescribed by the Gates Town Code on the property commonly known as 19 Winter Hazel Court, Town of Gates, New York;
2. There was six individuals who appeared and spoke in support of the Applicant's plea before the ZBA and two who appeared and spoke in opposition of same;
3. The above referenced application was approved by the ZBA conditionally upon the Applicant extending the existing fence to the back yard of the property, up to, but not encroaching into the drainage easement as depicted on the survey map included with the application. Further, the ZBA directed that the extension of the fence, as noted, be completed by May 30, 2016 (Memorial Day).

4. The requested area variance was not viewed as being substantial given the minimal encroachment into the front setback and that there appeared to be no other means for the Applicant to accomplish the desired result. Further, the existing fence would not detract from the character of the neighborhood once anchored by the completed portion easement as noted above in paragraph three.
5. This application involves Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

Second - Mr. Cordero

Member vote tally

Mr. Ioannone - no

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 5-1

CHAIRPERSON MAURICE - explains that the variance has been approved as presented, the fence is allowed to stay in the front yard, as long as by Memorial Day, the fence is extended to the back. It is agreed that the small section of fence does not keep within the character of the neighborhood, as part of a larger piece of fence, it is more in character with the neighborhood and is not just hanging out there, which is why the condition to extend was added. It must be completed by Memorial Day, 2016.

MOTION TO ADJOURN - Mr. Cordero

Second - Ms. Schlaefer

* * * * *

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals