



Town of Gates

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

Meeting Minutes

(Preliminary pending audio recovery)

March 14, 2016

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

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.

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CHAIRPERSON MAURICE - Coldwater Road application withdrawn. Explains that the applications will be heard out of the order of the agenda beginning with the Lyell Road application.

CHAIRPERSON MAURICE – states that the first order of business is to accept the minutes from the February, 2016 meeting and that there are no changes.

MOTION - Mr. Kiley – motion to accept

Second - Mr. Ioannone

All in favor

Mr. Rutherford abstains due to his absence at last meeting

CHAIRPERSON MAURICE - reviews public hearing process

APPLICATION OF ROBERT MARCELLO, PREMIER HOMES, REQUESTING AN AREA VARIANCE FROM ARTICLE XIX, SECTION 190-94(C-2) TO CONSTRUCT

CONDOMINIUMS WHICH WILL ENCROACH INTO THE REQUIRED REAR YARD SETBACK ON PROPERTY LOCATED AT 1990 & 4660 LYELL ROAD.

ROBERT MARCELLO - Premiere Homes, 150 Willow Ridge Trail, Rochester, NY 14626
ATTORNEY CASSARA - recommends denial of the application due to the material condition of Planning Board being breached as the forestation on east side was to remain. The trees were removed therefore a material condition was breached. Deny of the application without prejudice is recommended.

CHAIRPERSON MAURICE – states that the Board decides if the conditions have been met

MR MARCELLO - explains he took down the trees early

ATTORNEY CASSARA – states that it was a condition of the Planning Board, early or not, it was a material breach. Misunderstanding of what was approved. Recommends going back to the Board. The plans were to develop site plan and he may have to make a future application.

CHAIRPERSON MAURICE – public hearing, no one appears

MOTION - MR KILEY - Motion to deny without prejudice.

MR DISHAW - Seconds

CHAIRPERSON MAURICE – states that the motion is based on the fact that the plan has materially changed

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance denied 7-0

CHAIRPERSON MAURICE - suggests that interested parties look at the Planning Board agenda.

APPLICATION OF MOSSIEN ASSOCIATES, AS AGENT FOR PLATINUM MANAGEMENT, REQUESTING AN AREA VARIANCE OF CHAPTER 97, SECTION 97-4 TO CONSTRUCT A NEW BUILDING WITHOUT INSTALLING AN APPROVED FIRE SPRINKLER SYSTEM ON PROPERTY LOCATED AT 200 FRANK DIMINO WAY.

JEFFREY ASHLINE - project manager, Mossien Associates for Platinum Property Management, 339 East Avenue, Suite 205, Rochester, NY 14604. States that there are to be six garages and a fire sprinkler system.

CHAIRPERSON MAURICE - reads letter of recommendation from David Tyler, Town of Gates Fire Marshal.

ATTORNEY CASSARA – states that the letter from fire marshal is a position letter

CHAIRPERSON MAURICE - public hearing, no one appears

MOTION - MR IOANNONE - Motion to approve

This approval is 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 further is contingent upon the following:

1. That the Town of Gates Fire Marshall, David F. Tytler, has reviewed and approved the proposed variance, evidenced by his letter (position paper) directed to the ZBA Chairwoman, Christine Maurice. The paper/correspondence was included with and made part of the Applicant's submission as filed with the Town of Gates Building Department;

This approval is based upon the following findings of fact, which adequately demonstrated the standards applicable to granting an area variance, as defined by Town Law:

- 1 The Applicant sought a variance from Town of Gates Code Chapter 97, Section 97-4 to construct new wood framed parking garages at the Villa Capri, 200 Frank Dimino Way without a fire sprinkler system;
- 2 There was no other party in attendance who objected to Applicant's plea before the ZBA.
- 3 The determination was made based on the finding that the proposed alternative, heat detectors, will meet the intended objective of the intent of Code, deeming the fire sprinkler system unnecessary;
- 4 The ZBA determined that this proceeding required no further action or proceeding under the State Environmental Quality Review Act (SEQRA).

MR RUTHERFORD - Seconds

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 7-0

APPLICATION OF M CEM OSKUM - (ATA POWER INC.) REQUESTING A USE VARIANCE FROM ARTICLE XXV, SECTION 140 TO CONDUCT USED CAR SALES

IN A GENERAL BUSINESS ZONE ON PROPERTY LOCATED AT 2061 CHILI AVENUE

CHAIRPERSON MAURICE – states that there is no one in attendance and the Board has the option to table or deny

MR DISHAW - states that others have been tabled when no appearance and this should be treated the same

MR RUTHERFORD - states that used car lots are against the code

MOTION - MR IOANNONE - Motion to deny

MR KILEY - Second

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - no

Mr. Rutherford - yes

Mr. Cordero - yes

Ms Schlaefer - yes

Chairperson Maurice - yes

Variance denied - 6-1

Application denied for failure to appear.

MOTION TO ADJOURN -

Second -

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Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals