



Town of Gates

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

Meeting Minutes

August 8, 2016

MEMBERS PRESENT: Christine Maurice, Chairperson; Don Ioannone; Mary Schlaefel; Ken Cordero; Bill Kiley; Christopher Dishaw

MEMBER(S) NOT PRESENT: Don Rutherford

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 - Minutes from the July, 2016 meeting to be accepted
MOTION – MR IOANNONE - Motion to accept the minutes from the July, 2016 meeting with correction made

Second - **MR CORDERO**

All in favor

Minutes from the July, 2016 meeting accepted.

CHAIRPERSON MAURICE - explains process that will be followed during the meeting.

THE APPLICATION OF R.J. GONYO, REQUESTING AN AREA VARIANCE OF CHAPTER 97-4, TO CONSTRUCT A NEW BUILDING WITHOUT INSTALLING AN APPROVED FIRE SPRINKLER SYSTEM ON PROPERTY LOCATED AT 227 CHERRY ROAD.

ROBERT J GONYO - 33 Mercury Drive, 227 Cherry Lane, asks if the Board has received the letter from the fire marshal

CHAIRPERSON MAURICE - yes

MR GONYO - he explains why we are asking relief from the sprinkler variance?

CHAIRPERSON MAURICE - yes

MR GONYO - states that it is clear (from the letter) and asks if there are any questions
CHAIRPERSON MAURICE - you are currently going before Planning, correct, for the construction of your building?

MR GONYO - it has already been accepted with the exception of the building permit
CHAIRPERSON MAURICE - so they are waiting for the variance for this then, right?

MR GONYO - yes

CHAIRPERSON MAURICE - states there is a letter addressed to the ZBA from the Gates Fire Marshal, it is in the application so it is part of the record. Mr. Tytler has informed us that while the way the code is written, it would appear that a sprinkler system is required, but his interpretation is that it is not really for the application.

ATTORNEY CASSARA - his interpretation that it is a type two, constructed of non-combustible materials, concrete and steel, not anything that is going to burst into flame.
PUBLIC HEARING

No one in attendance to speak for or against

MOTION - MR KILEY - Motion to approve as presented
Second - **MR IOANNONE**

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - YES

Mr. Dishaw - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance granted 6-0

THE APPLICATION OF MICAH THAXTON (BURGER STOP RESTAURANT) REQUESTING AN AREA VARIANCE FROM ARTICLE V, SECTION 190-22(u-2) TO ALLOW FOR TWO A-FRAME SIGNS ON PROPERTY LOCATED AT 3872 LYELL ROAD.

MICAH THAXTON - 3072 Lyell Road, Suite 2, sits on corner and wants all traffic to see his a-frame signs; ZBA gave him two signs; was talking with Mark Assini who was in agreement with that he should be allowed two; he is in a plaza with four businesses, he runs two of them and the other two wrote letters in support; had professional signs made; a-frame signs that he paints every year.

CHAIRPERSON MAURICE - asks the applicant how long he has been at the restaurant
MR THAXTON - four years

CHAIRPERSON MAURICE - how long have you had the two signs out?

MR THAXTON - four years, he did not know it was a problem until a couple of weeks ago

CHAIRPERSON MAURICE - how did you end up here tonight?

MR THAXTON - talked to Mark and he said to keep them out, but he is running for Congress, so he wanted to make sure it was okay and did not want to get a ticket. Some called about his truck for the laundromat because he has a truck for supplies and they wanted to make sure it was

insured and they mentioned the a-frame signs. Which is how he ended up here tonight applying for this.

CHAIRPERSON MAURICE - the applicant handed the Board two letters, one from A-Plus child care

MR THAXTON - the other is from Salon Ferrari, it is hand written and hard to read

MR DISHAW - asks the applicant what the size, actual dimension of the sign are

MR THAXTON - three by two

MR DISHAW - so there are six square feet, the town allows one a-frame with a total of nine square feet

MS SCHLAEFER - if you did another sign, is it the same size sign as what is out there now?

MR THAXTON - yes, both are actually out there right now

PUBLIC HEARING

No one is in attendance to speak for or against

MR THAXTON - asks why he was given two signs for posting for the meeting tonight, but is not allowed for his business

MR KILEY - those are there for one week and never put up again; you want signs for as long as the property exists; that is the issue, it is clear that the rule is one per business;

MR THAXTON - Mark said it was meant for one per street and he has two streets

MOTION - MR IOANNONE - Motion to deny variance

Second - **MR CORDERO**

Member Vote Tally

Mr. Ioannone - yes

Mr., Kiley - yes

Mr. Dishaw - no

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance denied 5-1

CHAIRPERSON MAURICE - explains that the code clearly allows for one sign; this Board does not have the authority to change the code; have to go by the code unless you have some problem that a variance would fix. There is no business in town that is allowed to have two a-frame signs. Do not have a problem that is unique to you, so this Board cannot approve that. You can address your concerns that the code is erroneously written by talking to Mark or one of your town Board councilmen about actually changing the code.

MR THAXTON - asks why he was directed here and wasted \$100 if the code cannot be changed.

CHAIRPERSON MAURICE - explains that the applicant can address that with the town and everyone has the right to appeal something that is denied by the town. They cannot tell you can't appeal it.

MR THAXTON - he asked how to fix it and they told him to come here

CHAIRPERSON MAURICE - you have alternatives to having two a-frame signs, which are not allowed, as Mr. Kiley was reading from the code, you are allowed to have a sign on your building.

MR THAXTON - he has the laundromat on one side with vents so could not use that side. When he talked to Mark he said it was one sign per street

ATTORNEY CASSARA - Board is interpreting the code as it was written; you were referred to the ZBA by the appeal process because the initial application to have two a-frames was denied; by right, of any business owner; wanted to retain two signs, so you were brought to this Board to entertain the possibility of having that second sign; Board has voted to deny that application as presented; because their interpretation of the code is written, not only that there should be one a-frame sign, but also in the character of neighborhood, the multiple signs, the concern and precedence were referenced for the denial of your application; you did not waste your \$100, you were brought to the ZBA properly to entertain your application. This is the right means and mechanism to seek a variance, it was just that as many applications are heard, before this Board and many are accepted and many are denied for various reasons, but that initial denial can come from the building department, but the application itself, the appeal, must go before this Board and this Board has denied the application, that is the process.

MR THAXTON - asks if anyone owns a small business. Advertisement can cost anywhere from \$500 to \$1000 per week. For a small business in Gates, that can be \$52,000 per year. An a-frame sign costs \$300 at one time. A small business pays taxes through landlord and he is being denied the right to have an a-frame sign.

CHAIRPERSON MAURICE - every business in town is denied; code has to be changed

MR KILEY - make motion at Town Board Meeting to have the code changed

CHAIRPERSON MAURICE - Town Board would have a public hearing and vote on changing code

MR KILEY - there are a lot of businesses on corners and this is not unique or specific so the variance cannot be entertained.

THE APPLICATION OF ANTHONY CAPONE REQUESTING AN AREA VARIANCE FROM ARTICLE VI, SECTION 190-32(b) TO ERECT A FENCE WHICH WILL BE HIGHER THAN THE ALLOWABLE 6 FEET ON PROPERTIES LOCATED AT 1970 AND 2012 LONG POND ROAD.

ANTHONY CAPONE - 1970 Long Pond Road and 2012 Long Pond Road

CHAIRPERSON MAURICE - this is a county road and the county has referred back as local matter

MR CAPONE - states that the reason he is requesting a variance is that he recently purchased both properties and is living at 2012 Long pond Road; has equipment, snowmobile trailers, boat and a lot of personal belongings that he would like to keep on his property; there is a lot of foot traffic and cars that pass by; with the taller fence it keeps is out of sight, out of mind; concern for break-ins and theft and with the taller fence, things would be out of sight, the six foot tall fence would not be high enough to block some of the trailers that he has, snowmobile trailer is over seven feet tall; boat can be seen from the road over a six foot fence.

CHAIRPERSON MAURICE - spoke with Chief Vanbrederode and he did not feel that crime is an issue in that area.

MR CAPONE - purchased two properties with six acres and along Trolley Blvd is where property backs up to; a lot of kids in area; has seen a lot of activity in back of property; just purchased, so has been cleaning up; but has seen bonfires, trash, from kids playing back there. The previous owner did not have any expensive toys or personal belongings, it was just a rental property to him; would like to keep his personal property there and will be buying tractor; thinks with taller fence will help. He realizes that the crime rate may not be high, but if you bring in expensive things, things may come up missing, damaged, if it is fenced with higher fence, it would eliminate some of the issues of people driving by

MS SCHLAEFER - asks if there is a fence around the property now

MR CAPONE - most of it is wooded along Trolley Blvd; behind it backs up to the pond at the park; one side is a chain link fence. Part of the permit is to run the one side on 2012 is to run about sixty feet along the one property line to try to eliminate some of the viewing.

MS SCHLAEFER - with this eight foot fence, sixty feet?

MR CAPONE - yes, there is some chain link there now that he would like to run wooden fence against, maybe a foot away; most of the foot traffic is across the front of the property; the proposed fence is at the shortest point, 130 feet back from the road; should not be an issue.

CHAIRPERSON MAURICE - for 2012 it says eighty

MR CAPONE - for a short span across that property line and then to the pine trees right at the property line

CHAIRPERSON MAURICE - the two maps, the fence will meet on the two properties

MR CAPONE - was told that there had to be a space, but once he applied for the variance, because it is for both properties, it could just run right across the properties.

CHAIRPERSON MAURICE - continuous fence across both properties?

MR CAPONE - it is going to come off the back corner of 2012, straight over and once it reaches the property line

MR KILEY - all the way across?

MR CAPONE - come across then sixty feet back; forty-two feet on the 1970 map is at the property line; come away from Long Pond Road, back the forty-two feet and then over seventy-five feet, north to where the drive way is; the back barn is being turned into a garage, storage for personal use

CHAIRPERSON MAURICE - ask what the building between the two houses was

MR CAPONE - it was originally a dog kennel, really run down and will be putting a new roof on it before winter; will be keeping a lot of stuff in there, tools, etc.

CHAIRPERSON MAURICE - barn is forty-six by twenty-eight feet?

MR CAPONE - yes, roughly; seventy five feet over and then a set of gates and then sixty feet and then that is it because after the sixty feet, it is wooded and on the right side there are tall pine trees; most of the area where he will be parking is just beyond the set of gates

CHAIRPERSON MAURICE - gate is eighteen or twelve feet?

MR CAPONE - space is eighteen feet and was going to do twelve foot gates

CHAIRPERSON MAURICE - what happens to the extra six feet?

MR CAPONE - the gates are going to be in a little bit on the edge of the driveway

MS SCHLAEFER - are they eighteen or twelve?

MR KILEY - how tall are they going to be?

MR CAPONE - eight feet

MR KILEY - what is the twelve foot?

MR CAPONE - the width of the driveway

MR KILEY - what is the eighteen feet? The width of the diagonal portion of the fence twelve is the gate and six would be fence

MR CAPONE - yes

MR KILEY - eight foot high fence along one-half and the rest you are going to leave open?

MR CAPONE - on the left/north side of the two story house, it is all wooded; trying to achieve preventing cars looking straight into the property; the side view is obscured and blocked

MR KILEY - not trying to fence it to keep kids out

MR CAPONE - no, going to get foot traffic understands because has seen on side of house;

MS SCHLAEFER - said wanted to prevent foot traffic

MR CAPONE - not going to stop that; wants to block the main part of the road from foot traffic that walks by and can look in;

MS SCHLAEFER - so it is only for privacy

MR CAPONE - yes, from Long Pond Road; not visible from sides

MR DISHAW - how tall is the boat when it is on the trailer?

MR CAPONE - seven foot; tractor over seven feet

CHAIRPERSON MAURICE - four foot chain link on map written in?

MR CAPONE - potentially what he would like to do on the side because once the sixty foot comes over, it is going to block everything he is concerned about; chain link would keep open feel

CHAIRPERSON MAURICE - that is not part of request for variance

MR CAPONE - no, that is only four feet tall

CHAIRPERSON MAURICE - in the back there is a rectangle drawn in, are we supposed to pay attention to that?

MR CAPONE - no, that is nothing

CHAIRPERSON MAURICE - on 2012 on the south sixty feet is written in?

MR CAPONE - same eight foot tall fence from back corner of the garage and come sixty feet and for more privacy for the house he is living in; potentially going to put a pool in next year

MR DISHAW - bought properties, if you had questions about privacy, why buy on a busy road

MR CAPONE - it is a nice piece of property that he liked; was not overly concerned about getting the fence permit assumed okay to get it; would like to get the eight feet; central location because he runs a business on Trabold Road, it is close and thought he could keep some of this stuff there; mostly personal stuff since living at 2012

MR IOANNONE - if application is approved, what will the fence be made of?

MR CAPONE - dog eared, stockade; wood, custom built; natural, then stained

PUBLIC HEARING

No one in attendance to speak for or against

MOTION - MR DISHAW – Motion to deny based on the code being six feet and eight feet is not reasonable

Second - **MR CORDERO**

CHAIRPERSON MAURICE - not a unique situation to this property to have “toys” stored in the yard or in the front; will adversely affect the character of the neighborhood; the privacy factor is solved with a six foot fence

Member Vote Tally

Mr. Ioannone - yes

Mr., Kiley - yes

Mr. Dishaw - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance denied 5-1

MR IOANNONE - Mr. Sarkis is taking Mike Folts position in the town office (building department).

MOTION to adjourn meeting – **MS SCHLAEFER**
Second – **MR IOANNONE**

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Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals