



Town of Gates

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

Meeting Minutes

August 14, 2017

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

MEMBER(S) NOT PRESENT: Don Ioannone

ALSO PRESENT: Robert J. Mac Claren, Esq., Board Attorney

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 – explains order in which applications to be heard – Dawnhaven Drive, Crystal Court, Spencerport Road, then follow regular agenda.

CHAIRPERSON MAURICE - Minutes from last meeting will not be approved tonight, vote to table.

MR KILEY - MOTION to move approval of minutes to next month in September meeting

MR RUTHERFORD - Second

All in favor

Ms Schlaefel abstains due to absence at last month's meeting

CHAIRPERSON MAURICE - all actions are SEQRA type 2 actions which means that they do not have an environmental impact that the Board has to be concerned with.

Application No. 1

The application of Jennifer Love and Anthony Palmer requesting an Area Variance and a Conditional Use Permit from Article VIII, Section 190-36(B) and Article XIX, Section 190-94(C-3) and Article VI, Section 190-32(D) to install a fence which will be higher than allowed; and will encroach into the required front setback on property located at 14 Dawnhaven Drive.

CHAIRPERSON MAURICE – states that there will be an interpreter for the applicant.

VALERIE PRUNER, FLC Agency – interpreter for applicants

MS PRUNER – (interpreting) I am Jennifer Love and this is Anthony Palmer, we are new residents at 14 Dawnhaven Drive. We are excited, this is our first home, we are here to request approval for a fence, we want to be able to fence the full property; live on a corner

MS SCHLAEFER - is there an existing fence there now?

MS PRUNER - yes, but it is not fully fenced in, the back yard is open; have two dogs and a school bus stops right there and the kids get off; want fenced area for safety

MS SCHLAEFER - Looking at putting a five to six foot vinyl fence?

MS PRUNER - If possible, yes

MR RUTHERFORD - what size are the dogs, are they large?

MS PRUNER - yes

MS SCHLAEFER - How many pounds?

MS PRUNER - 75

CHAIRPERSON MAURICE - map shows that there is currently a chain link fence, are you replacing that part of the fence also with the white vinyl?

MS PRUNER - No, are going to leave the current chain link, just going to add the vinyl from the old fence line

MS SCHLAEFER - how high is the chain link fence?

MS PRUNER - short, standard, four feet, roughly

MR RUTHERFORD - concerned that a fence on the Miramar side is going to stick out too far toward the road; it does not really fit the character of the neighborhood and would be rather unattractive.

MS PRUNER - I know that the guidelines right now says that

MR RUTHERFORD - how far from the sidewalk?

MS PRUNER - not sure exactly what you will require, now far back you want it, wanted to ask you that.

MS SCHLAEFER - if the back fence is already four foot, what is the reasoning of having to go five or six feet, why can't it be four feet?

MS PRUNER - I like the privacy, thought it would increase the value of the property as well

CHAIRPERSON MAURICE - did not notice any, but are there other houses in your neighborhood that have a similar fence?

MS PRUNER - yes, I have driven through the neighborhood and walked my dog in the neighborhood and on the corners they have a chain link fence, but none of them have wood or vinyl. Some of the houses that are between, do have wood or vinyl or a metal chain link.

CHAIRPERSON MAURICE - no vinyl in the front, is that right?

MS PRUNER - correct, none on the corner houses have vinyl; have seen some with a vinyl gate, but not the whole fence

MS SCHLAEFER - is the vinyl colored?

MS PRUNER - cream of white, matches same color of house; actual paint color is sand

PUBLIC HEARING - No one in attendance to speak for or against

MOTION - MS SCHLAEFER - Motion to deny the application based on the height and nearness to the sidewalk and the character of the fence is not in keeping with the character of the neighborhood

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

1. The Applicant sought a variance from Town of Gates Code Chapter 190, Section 36 and Chapter 190, Section 94(C)(3) to erect a fence which will encroach on the setback on the property located at 14 Dawnhaven Drive, Town of Gates;
2. There was no other party in attendance who objected to Applicant's plea before the Board;
3. The Board found that the location of the fence and its placement within the setback would have a negative impact upon the neighborhood;
4. The Board found that the proposed fence did not fall within the character of the neighborhood.
5. The Board believed that the applicant had options which would not require a variance but could achieve a similar result.
6. This application involves a 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. Kiley - yes

Mr. Dishaw - no

Mr. Rutherford - yes

Mr. Cordero - yes

Ms Schlaefer - yes

Chairperson Maurice - yes

Application denied 5-1

CHAIRPERSON MAURICE - Board feels that the tallness of the fence, out by the sidewalk, the solidness, the white vinyl is not in keeping with the character of the neighborhood, there are no other fences like that in the front yard. The Board has denied this plan. Recommend that you talk with the building department so they can work with you in coming up with some other options that you might not need a variance for or other options that would be more in keeping with the character that the Board might be able to approve.

MS PRUNER - Does it make a difference if instead of vinyl, it was chain link?

ATTORNEY MAC CLAREN - application is for a fence which encroaches, the fact that she gave an aesthetic definition is not part of the application.

CHAIRPERSON MAURICE - Board has denied and is not coming up with a consensus here as to what they would find acceptable and so the first statement stands, go to building department and let them help you come up with a plan that might not even need a variance.

Tabled from July10, 2017 meeting

The application of Denise May requesting an Area Variance and a Conditional Use Permit from Article VIII, Section 190-36 and Article XIX, Section 190-94(C)(3) to erect a fence which will encroach into the required front yard setback on property located at 4 Crystal Court, on the Willhurst Drive side of property.

DENISE MAY - owner of property at Crystal Court; application is for a six foot chain link fence; reason asking for it is have two large dogs

MS SCHLAEFER - what is the fence going to be made out of ?

MS MAY - wood

MS SCHLAEFER - is it going to be stained or painted?

MS MAY - painted

MR RUTHERFORD - from the corner of the house, on your application it says board fence with three circles from the line, if you drew that line straight across to the fence, how far would the fence be from the front of the shed? According to this, it looks like it would be within a couple of feet. Is that correct?

MS MAY - yes

MR RUTHERFORD - The doors are on the concrete slab side?

MS MAY - yes

MR RUTHERFORD - Very similar to the last application where it is going to cut into the character of the neighborhood with the fence layout by the sidewalk

MR KILEY - you would be using the shed as part of your fence?

MS MAY - yes

CHAIRPERSON MAURICE - to clarify, when you say extending out from the house where that current board fence is, you replace that now with the new fence and when you get close to the shed, you would jut it out around the back of the shed or would you use the shed to be part of the fence

MS MAY - Part of the fence, could still open door into the yard

MR DISHAW - the front of the shed is not in direct line with the edge of the house, any idea how many feet?

MS MAY - I would guess two or three

MR DISHAW - hypothetically, you would like to come out two or three feet and then go directly straight down to the front of the shed?

MS MAY - yes

MR RUTHERFORD - couldn't you also right from the corner of the house go straight across to the shed and end right at the end of the shed and put a side piece, that would eliminate the front set back variance needed

PUBLIC HEARING - no one in attendance to speak for or against

MOTION - MR DISHAW - Motion to allow a twenty-five foot set back on the Willhurst Drive side of the property, for the six foot stockade fencing.

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

1. The Applicant sought a variance from Town of Gates Code Chapter 190, Section 36 and Chapter 190, Section 94(C)(3) to erect a fence which will encroach on the setback on the property located at 4 Crystal Court, Town of Gates;
- 2 There was no other party in attendance who objected to Applicant's plea before the Board;
- 3 The Board found that the location of the fence and its placement within the setback, now set at 25 feet, would have no negative impact upon the neighborhood;
- 4 This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

MS SCHLAEFER - Second

CHAIRPERSON MAURICE - Motion to allow a twenty-five foot set back from the street to the house, to allow for the fence to go in a nice straight line down to the shed. Twenty-five feet would be whatever twenty-five feet plus or minus to make it a nice straight line. Variance would include the six feet.

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefel - yes

Chairperson Maurice - yes

Variance approved 6-0

CHAIRPERSON MAURICE - Approved the six foot height, also not for it to go out per your drawing to the sidewalk, but twenty-five feet in from the sidewalk which should allow it to run from the corner of your house, in a straight line out to the shed. Building department is here so you should be able to get your permit for that.

Tabled from July10, 2017 meeting

The application of Joe Mellia requesting an Area Variance from Article VIII, Section 190-36(B) and Article IV, Section 190-17 to allow for parking within the required front setback for future development of now vacant land, for uses allowable in a Neighborhood Business Zoning District at the property located at 810 Spencerport Road.

WALT BAKER - DSB Engineering and with me is Mr. Mellia the owner of property, here to allow parking in the front set back on his commercial property that is zoned for neighborhood business. Map submitted to Board and also brought elevation map. It is a neighborhood business. Has a hair salon and wants to relocate it across the street to this property, and have the

upstairs available for professional offices. The situation is that the code states there is no parking in the fifty foot front set back. The property is an odd shape, corner lot, triangular in shape so they designed the building to comply with the setbacks, so they are not looking for any variances for the building. Ended up with 2000 square foot footprint for the building. Spoke with town engineer and have eleven parking spaces which includes the handicapped spaces. Back of the property has a twenty-five buffer zone that expands into the residential property, recognizing that, keeping buffer zone. Planning Board agrees with their designs.

CHAIRPERSON MAURICE - is the property still for sale? Talked about moving but there is also a for sale sign.

MR BAKER - He had it for sale but could not sell it so wants to build on it himself, fits with the hardship, now wants to build his own and utilize the property.

CHAIRPERSON MAURICE - that is the plan you are going forward with.

MR BAKER - yes

CHAIRPERSON MAURICE - if variance granted, do have to obtain building permit within six months or the variance is nulled. It is a specific plan, so if it were to be changed, the variance would be nulled.

MR BAKER - have to go back to the Planning Board

CHAIRPERSON MAURICE - this Board is only giving the permission, assuming that the Planning Board does not find a reason you cannot do it, such as drainage. Giving them the go ahead to look at that.

PUBLIC HEARING

STEVE AUGHENBAUGH - 331 Wolcott Avenue, have a request that if approved, would like a continuation of the stockade fence. Currently has a chain link fence separating, has a dog, two young girls, a swimming pool. With the increase in traffic, that parking lot there would be invading the privacy. Currently, have a type of layout for water runoff, property sits considerably lower than that block. Currently, with a heavy rain, gets a lot of water in yard and basement coming off of the road to the field. Parking lot is going to increase the distance that the water is going to travel.

CHAIRPERSON MAURICE - assures that even though this Board is not the Board that handles drainage issues, this would go back to the Planning Board, where they have the expertise, to do all of that and ensure that it does not create problems for the neighboring properties.

MR KILEY - address to the Planning Board, that is not our jurisdiction.

CHAIRPERSON MAURICE - if Board approves the variance to allow parking, it is contingent on the Planning Board saying that this would work out okay.

MR KILEY - are you going to put the fence up

MR AUGHENBAUGH - would like them to put up the fence

MS SCHLAEFER - who owns the fence now

MR AUGHENBAUGH - I own the fence, would like them to put a fence between the two properties, lived there for ten years and have always had privacy

CHAIRPERSON MAURICE - that is an issue for the Planning Board also

ATTORNEY MACCLAREN - may or may not require a variance; not up to us to decide who would put it up

CHAIRPERSON MAURICE - not something for us to address tonight

MOTION - MR KILEY - Motion to approve the variance as presented

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

- 1 The Applicant sought a variance from Town of Gates Code Chapter 190, Section 17 and Chapter 190-36(B) to allow for parking within the front setback on the property located at 810 Spencerport Road, Town of Gates;
- 2 There was one other party in attendance who provided commentary regarding the Applicant's plea before the Board, however, said comments were issues to be reviewed and resolved by the Planning Board and did not concern the front setback parking application;
- 3 The Board found that permitting parking within the setback would have no negative impact upon the neighborhood;

This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA

Second - MS SCHLAEFER

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

Application No. 2

The application of Jessica Jackson requesting an Area Variance from Article VIII, Section 190-36(B) to erect a deck / porch which will encroach into the required front setback on the Cadillac Avenue side of property located at 149 Cadillac Avenue.

JESSICA JACKSON - owns property at 149 Cadillac Avenue

ANTHONY JACKSON - want to build a porch, currently have steps that are crumbling, not railings.

MS JACKSON - weather has disintegrated steps and rather than replace, request permission to build a small porch, ten by nine, on the side of the house. On a corner lot and people pull up to the corner and all you see is the ugly disintegrated step. Improve look of home and neighborhood. Very similar to the deck in back yard.

CHAIRPERSON MAURICE - could you describe it?

MS JACKSON - deck in back is bigger, it is going to be a ten by nine, with steps coming off of the side. Property being on the corner, the sidewalk goes from driveway around to front of the house, so there would be steps coming up to the deck and going up to the other side and continuing with the path that is pavement on the side of the house.

CHAIRPERSON MAURICE - will there be a roof on it?

MS JACKSON - No, it is not a roof, just a small deck

CHAIRPERSON MAURICE - with railings?

MS JACKSON - with railings on all sides

CHAIRPERSON MAURICE - made out of what kind of material?

MR JACKSON - pressure treated wood

CHAIRPERSON MAURICE - on the drawing it says the deck would be thirty feet from the street

MR JACKSON - yes

CHAIRPERSON MAURICE - setbacks are thirty-five feet so you are requesting a five foot variance

MS JACKSON - yes, do not have much more space to do anything with

MS SCHLAEFER - is that going to be stained the same as the other deck

MS JACKSON - yes, with permission and approval will be stained the same next year

CHAIRPERSON MAURICE - how high off the ground is it going to be?

MS JACKSON - over three feet, that is why they are doing the railing

CHAIRPERSON MAURICE - step off door right in and then step off sidewalk?

MS JACKSON - yes

MR RUTHERFORD - is one of the purposes of the deck to hang out on, being that large?

MS JACKSON - no, mostly, we have the back deck, have coffee in the morning and get sun, also safer, have two small nephews. During the winter, this is the main entrance to the home.

MR RUTHERFORD - looking at the neighborhood, have not seen any decks with steps that came out quite as far, close to the steps are yours; Board is charged with giving as few variances as possible; it looked as if steps are about four feet from the house; with other two about five feet out; is that nine feet

MS JACKSON - sidewalk is about eight feet from the furthest point; will have railing there

PUBLIC HEARING – no one in attendance to speak for or against

MOTION - MR CORDERO - Motion to accept application as presented

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

- 1 The Applicant sought a variance from Town of Gates Code Chapter 190, Section 36 to erect porch which will encroach on the front setback on the property located at 149 Cadillac Avenue, Town of Gates;
- 2 There was no other party in attendance who objected to Applicant's plea before the Board;
- 3 The Board found that the location of the porch and its placement within the setback would have no negative impact upon the neighborhood;

- 4 This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA

MR RUTHERFORD - Second

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

Application No. 3

The application of Amy DeCesare requesting an Area Variance from Article VIII, Section 190-36 to build a three-season room which will encroach into the required front yard setback on property located at 1637 Brooks Avenue.

AMY DECEASERE and MICHAEL MULDERHAN - 1637 Brooks Avenue

CHAIRPERSON MAURICE - what will it look like and why do you need the variance?

MS DECEASERE - has deck on the front of the house now and wants to extend it to go almost to the end of the house on both side; recently diagnosed with some back problems and cannot walk up and down the stairs anymore; has been in the house for forty-one years and would like to stay there; right now does not have a place for winter coats that are down cellar and wants to be able to move them to the first floor

CHAIRPERSON MAURICE - what will it look like

MR MULDERHAN - Want to enclose the porch but the set back is; do not need a variance for the enclosed porch but wanted to make it a little wider, twenty-four to twenty-five feet; not asking to go out any farther, just to make it wider

CHAIRPERSON MAURICE - not going to be insulated, not an addition?

MR MULDERHAN - no, not going to be an addition

MR DISHAW - why not the back of the house

MR MULDERHAN - the way the house is constructed, there is no place to put snow; have to push it into the back and sideways; any kind of snow is

MR CORDERO - have turn around that is pretty small; Brooks Avenue is pretty busy

MR DISHAW - is it going to be handicapped accessible

MR MULDERHAN - no, she can handle one or two steps;

MOTION - MS SCHLAEFER - Motion to accept as presented

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

1. The Applicant sought a variance from Town of Gates Code Chapter 190, Section 36 to erect a three season room/enclosed porch which will encroach on the front setback on the property located at 1637 Brooks Avenue, Town of Gates;
2. There was no other party in attendance who objected to Applicant's plea before the Board;
3. The Board found that the location of the porch and its placement within the setback would have no negative impact upon the neighborhood;
4. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

MR KILEY - Second

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefel - yes

Chairperson Maurice - yes

Variance approved 6-0

Application No. 4

The application of Randy Bebout / T. Y. Lin, as agent for 142 Buell Road, LLC requesting an Area Variance from Article VIII, Section 190-36 to construct storage units which will encroach into the required front setback on property located at 142 Buell Road.

RANDY BEBOUT - CYN International, here on behalf of 142 Buell Road, LLC, owner of property, looking at building private self-storage buildings going north to south; this property is long and skinny, front is on interstate 390; one-hundred foot front set back; apply along with the forty-foot front rear set back, narrowest point is thirty-eight feet and its widest point is about ninety-nine feet being down in the trench at the point of the south end. Following the setback requirements, it would be challenging to build on this property unless you wanted a building that is thirty-eight feet long and Site sits significantly lower than 390 particularly on the north end as you go south, the elevations start to come closer together; Hawkeye Pipeline owns the frontage off Buell Road, there is a tank there that is about thirty-five feet high and when you are on 390 you can barely see the top of it; when you go south that elevation comes up; here tonight requesting a front set-back variance, proposing forty-feet since the buildings would be the same width all the way down, approximately 100 feet; complying with the rear set-back and the side set back;

CHAIRPERSON MAURICE - given the short form for SEQRA, a couple of yeses where you might want to say no; this Board is not the lead agency, that is the Planning Board, so we are not going to go through that; yeses for example number twelve, archeological sensitive area

MR BEBOUT- this is an online form and some of the things are automatically filled in and you cannot change them; go to the next step will have to submit plans

CHAIRPERSON MAURICE - do have form but Planning Board will deal with any potential SEQRA issues; if we do approve setback and the Planning Board sees a reason why this is not such a good idea, then they override our variance

MR BEBOUT - have been to Planning Board but direction was to go to Zoning Board; received comments from Planning Board and will deal with

CHAIRPERSON MAURICE - light green area, office and four storage buildings, that is your first phase, correct?

MR BEBOUT- correct, that is our first phase and these would be future phases to be built on an as needed basis; working through plan, but may just do the earth work, get it all cleared and then stabilize the areas they would be working on the next steps;

PUBLIC HEARING - no one to speak for or against

MOTION - MR RUTHERFORD - approve the area variance as presented

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

1. The Applicant sought a variance from Town of Gates Code Chapter 190, Section 36 to allow for storage units to be constructed which will encroach on the front setback on the property located at 142 Buell Road, Town of Gates;
2. There was no other party in attendance who objected to Applicant's plea before the Board;
3. The Board found that the location of the proposed plan and the construction of the buildings within the setback would have no negative impact upon the neighborhood;
4. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA by this Board.

MR CORDERO - Second

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

Application Nos. 5-8

The applications of Randy Bebout / T. Y. Lin, as agent for McDonald's USA LLC requesting multiple Area Variances for property located at 35 Spencerport Road.

BRUCE BOUNO- owner of McDonald's located at 35 Spencerport Road,

MR BEBOUT – TY LIN International, discuss the four variances. Illuminated sign, golden arches, is at brand name element that they have used in all of their new designs. Located on the arcade, have one that is facing the residential is yellow color; LED.

CHAIRPERSON MAURICE - asks applicant to give an overall idea of what they are doing and why they need the variances.

MR BEBOUT - they are modernizing the building; twenty year old building; interior and exterior; part of the new design is to update the signage; removing the glass in front of building that was once the play land, lowering; changing colors, arcade, illuminating with all LED lights, to make it more energy efficient throughout the building; updating the drive through from a one lane to a two lane drive through, merging into one point at the cash window.

Illuminated sign, which is one of the requirements, on the vestibule, requires a golden arch. Second one, the five building signs, that incorporates the golden arches and to make sure they have proper signage, because this particular property faces three different road ways, adding the additional signs. The five free standing signs, including the set back and the height; a lot of the signs that are in there, actually have currently only adding two additional ones, which are pre-sell board in front of the drive through, the additional height which includes the dive through mini boards and the pre-sell boards, are part of the current design, changing from what they have now to just florescent bulbs with illuminating panels to digital mini boards.

The set back is in reference to the road sign. The particular property is a triangular shape, if followed 100 foot set back, it would put it in a position off of the property. The height of the sign, which is a twenty foot, took into account, others with similar height. The fence that they have now, want to update to a height line fence and now there is actually a wall that the fence sits behind it, want to bring it on top and extend it from six foot, all the way down to the end of the property to allow for proper privacy for the residence they border against.

CHAIRPERSON MAURICE - On the west side?

MR BEBOUT - on the west side and are going to continue onto the south side which extends to the corral. Replacing the wooden and chain link fence

MR BOUNO - Part of front set back is neighbor's front yard.

MR BEBOUT - Variance number three - commercial property, McDonald's is permitted a drive through, if that variance is denied, the boards that are part of that operation. Components are there today, are just modernizing with a different version.

CHAIRPERSON MAURICE - that also includes the free standing sign

MR BEBOUT - that is correct

MR CORDERO - how does chain link fence provide privacy?

MR BEBOUT - Replacing chain link fence with white vinyl

MR RUTHERFORD - Putting white vinyl on top of a block wall fence that is back there

MR BEBOUT - existing wall that will be repaired and fence will be put on higher side, will still be six foot, but will give more privacy; other issue is that there are a bunch of trees along there that may need to be removed or stay, will be discussed with neighbors. Idea is to clean up and have a nice clean line.

MR DISHAW - including the wall and fence, what would be the total
MR BEBOUT - timber wall limited to property on south side
MR DISHAW - over six foot to almost eight foot
MR BEBOUT - Fence height will be six foot from the McDonalds's property; can't maintain if you put back where it is today.
CHAIRPERSON MAURICE - what are the hours that the signs will be illuminated?
MR BEBOUT - currently illuminated twenty-four hours per day and that will remain
MR BOUNO - illuminated during night time, dusk to dawn
MR CORDERO - LEDs are bright, but do not illuminate as far out as other lights do
MR BEBOUT - correct and the new arches are smaller than what are on the building today
MR CORDERO - is there a reason why you need the front sign as tall, the twenty-foot?
MR BEBOUT - corporate standard size, cost factor
MR CORDERO - How will it be erected, is it two pieces of gerter?
MR BEBOUT - two channels, twenty-five foot red sign
MR DISHAW - is there currently a sign in that location?
MR BEBOUT - there is not
CHAIRPERSON MAURICE - the illuminated signs, facing the residential areas in the first application, which signs are they?
MR BEBOUT- that is just the arch
CHAIRPERSON MAURICE - What about the one on the rear of the building, there is a lighted M on that, is that facing residential also?
MR BEBOUT - no, that is facing the businesses
CHAIRPERSON MAURICE - that part of Lyell is not residential?
MR BEBOUT - no
CHAIRPERSON MAURICE - the first application for the illuminated signs, the only one sign is the arch on the side of the building
MR BEBOUT - correct
MR BEBOUT - the menu boards, at the angle they are at, may slightly face the north west portion, because the drive through mini boards are included
CHAIRPERSON MAURICE - If we were to approve the six foot fence, is that taller than the signs?
MR BEBOUT- Those signs are 90 inches to the top of the sign, the rest is seventy-two inches so it is not quite that height, but it is a little higher than the neighbors
MR KILEY - does that include the frame around the sign
MR BEBOUT - correct
MR CORDERO - In your opinion, the light coming from those signs, how far do you think they would travel or be distracted to the neighbors
MR BEBOUT - not at all, the illumination does not go as far
MR RUTHERFORD - when you had the play place there, you had two full stories with lights shining out, so if you consider that, it sounds like there will be a lot less light shining towards the property.
MR BEBOUT - all in enclosed area will be removed
MR RUTHERFORD - all that with the fence should be advantageous to the neighbors
MR BEBOUT - will try to retain some trees and landscape
MR RUTHERFORD - McDonalds does have the best in the area, flowers
MS SCHLAEFER - the free standing sign out by the road, why is that necessary

MR BEBOUT - west to east, can pass easily because of the trees and residential homes right there can easily pass the entrance to the building; twenty to twenty-seven percent of business is impulse, can see the sign for about a mile past where it will be

MR RUTHERFORD - that could help safety wise because if people see it ahead of time they may slow down

MR BEBOUT - People now actually turn into exit because they pass it

PUBLIC HEARING

CARL STRIBEOLI - owns property at 2480 Lyell Road, on drive through side, came to see what it is all about, on board with McDonalds, had people looking over fence, can see need for larger fence and vinyl fence would help with noise; double drive through is not an issue; the volume can be down on the speaker; trees on fence line are okay to remove; as long as the illumination of the signs is not too bright, the extra couple of feet inside and the low grade of house, fence should cover both his bedroom window and son's bedroom window, not an issue; from deck currently, can see in window; nothing to protest

MR KILEY - Don't think the free standing sign corner of parking lot?

MR STRIBEOLI - no problem with that

CHAIRPERSON MAURICE - Application No. 5, illuminated signs facing residential property; golden arch facing property

MOTION - MR KILEY - Motion to allow variance as presented

Second - **MR CORDERO**

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

CHAIRPERSON MAURICE - Application No. 6 - had three, adding 2

MOTION - MR CORDERO- Motion to approve variance as presented

Second - **MS SCHLAEFER**

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes
Variance approved 6-0

CHAIRPERSON MAURICE - Application No. 7 - height of free standing signs, menu signs and sign at edge of property
ATTORNEY MACCLAREN - can make motion to approve and deny in part

MOTION - MR KILEY - Motion to accept as presented
Second - **MR RUTHERFORD**

Member Vote Tally

Mr. Kiley - yes
Mr. Dishaw - no
Mr. Rutherford - yes
Mr. Cordero - yes
Ms. Schlaefer - yes
Chairperson Maurice - no
Variance approved 4-2

CHAIRPERSON MAURICE - Application No. 8 - allow fence to be six feet tall
MOTION - MS SCHLAEFER - Motion to accept as presented
Second - **MR DISHAW**

Member Vote Tally

Mr. Kiley - yes
Mr. Dishaw - yes
Mr. Rutherford - yes
Mr. Cordero - yes
Ms. Schlaefer - yes
Chairperson Maurice - yes
Variance approved 6-0

The approvals are strictly restricted and confined to the terms, conditions and specifications submitted with the your application, as well as the documents and exhibits attached and made part of the application.

The approvals are based upon the findings of fact which adequately demonstrated the standards applicable to granting the application.

1. There was no other party in attendance who objected to Applicant's plea before the Board, instead the only other party was in favor of the proposal submitted by the applicant;
2. The Board found that the proposals and application would have no negative impact upon the neighborhood;
3. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA by this Board.

CHAIRPERSON MAURICE – five minute break, meeting to resume at 9:21pm

Applications No. 9-13

The application of Betsy Brugg, Esq., Woods Oviatt Gilman LLP, as agent for Speedway Gas Station and Convenient Stores requesting Area Variances from Article V, Section 190-24 and 190-25 to install additional LED wall signs on canopies at Gas Stations for 5 Locations in the Town. (1952 Lyell Ave, 465 Spencerport Rd., 1511 Buffalo Rd., 2328 Chili Ave, 719 Elmgrove Rd.)

BETSY BRUGG, ESQ, Woods, Oviatt, with her is Dave Thomas, program manager and have a whole team from Speedway to answer questions about the particular stores; Speedway acquired all of the existing Hess retail operations about three years ago including the five Hess stores that were located in the town of Gates. All have been converted to Speedways, but they did not build the stores, all different sizes, some have been here for many years, no uniformity among them, none have any particular visible price signage and all vary in terms of the size of the store and in terms of what program they can accommodate in terms of the retail part. What once used to be a gas station service station type of business, years ago is long gone. The evolution of the gas stations included convenience stores which have gotten larger over the years. Expanding the retail because of the expanding gas margins. Some being older sites do not accommodate the features and the stores in the town of Gates are underperforming stores, lower expected traffic and sales. For example, in the town of Greece, there was a similar situation with a gas station on North Greece Road that did not have any price signage. Last year they got approval to add price signage and the sale have improved about twenty-percent. People are starting to recognize Speedway, but because most of the business comes from pass by traffic, need price signage. Institute of Traffic Engineers data documents that. Customers decide on the road as they approach a gas station if they are going to stop. The largest determining factor is the price of the gas. Speedway tries to be competitive in the market and price signage is essential to improving and sustaining their current operations here in the town. None have drive throughs, trying to survive in the market. Talked with previous town attorney before he retired, discussed possibility of some of the sights could have free standing signs, because some have gas, retail and food service components. However, the town frowns upon excessive signage, not all sites accommodate a free standing sign, felt that putting a price signage on the canopy would get that price to the public which is a huge benefit both to the applicant and the public by conveying some really important information and being the least intrusive and best way to provide the information without having any significant visual impact on the surrounding uses or intersections where stores are located.

Have addressed legal standards in a letter but will go site by site and walk through, all are different and have different signage.

Speedway at 1954 Lyell Avenue - site plan, proposed signage and what it looks like on the canopy. There are a lot of free standing signs in the area of this site. Two free standing signs for hotel and Diplomat has their own free standing sign. Further business has a free standing sign up

on the road. Speedway does not have a lot of signage, proposing two additional wall signs on the canopy and currently have two Speedway signs. Replace Speedway signs located on southeast to southwest side of the canopy closest to the road. (Demonstrates on map) locate to the far end of the canopy and putting the price signs up on the front.

CHAIRPERSON MAURICE - are these static signs, has diesel price and regular price, does it flip to show premium

MR THOMAS - No, just the two prices

MS BRUGG - no advertising of merchandise

MR THOMAS - When we change the price, the price of the sign will change

MS BRUGG - price signs will be visible to traffic traveling both directions on Lyell

CHAIRPERSON MAURICE - On the building itself, there is only that S logo

MS BRUGG - believes so

CHAIRPERSON MAURICE - Zoning Board does not make any determination on what the signs say, only can vote on what they look like, where they are how big, what color, ect. What you put on the signs, as long as it is not inflammatory or obscene is up to you. The fact that they are price signs is almost immaterial, this Board is looking at the impact of a sign there.

MS BRUGG - have two on building signs, a square S, over the front entrance and a beer cave on the side of the building, that is part of the Speedway, sub-business components

MR THOMAS - that is actually a trademark

MS BRUGG - many towns consider it to be another business, Penfield for example

CHAIRPERSON MAURICE - each of the pumps has a Speedway sign on it also?

MR THOMAS - typically there is a sign that says Speedway, yes

MS BRUGG - would like to increase the number of signs by two on the canopy to add the price signs and relocate the existing Speedway signs, price signs being more important component, given conditions currently

CHAIRPERSON MAURICE - because each sign is unique, may be better to vote on each individually

MS BRUGG - agrees, looking for variance to increase the number of signs by two, if replacing two existing signs with price signs, would that eliminate the requirement for variance?

ATTORNEY MACCLAREN - currently have the number allowed, if you replace them, would still need a variance because replacing, but this one fronts three roads, correct?

MS BRUGG - yes, has the drive, a private road?

ATTORNEY MACCLAREN - Allowed one per road, have three now, variance is because you are requesting to go up to five

MS BRUGG - have two on the canopy currently, one on the canopy here, does not match up

MR CORDERO - going to have three per canopy?

MS BRUGG - consults with Mr. Thomas, currently have two Speedway signs on the canopy and two wall signs on the building, so have four currently, asking to add two price signs, in which case we are leaving Speedway sign on the front and adding a price sign on at the opposite side of the canopy and on the left end, replacing the speedway with the price sign. Correct, adding one.

CHAIRPERSON MAURICE - for Lyell Avenue, adding one sign?

MS BRUGG - correct, drawings were conflicting - consults with Mr. Thomas

ATTORNEY MACCLAREN - really adding one sign to the front

MS BRUGG - right, going from having just Speedway on the sign to having the price and Speedway and having the price closer to the street.

PUBLIC HEARING - no one in attendance to speak for or against

MR KILEY - did you consider putting Speedway and the price right next to it on one sign?

MS BRUGG - would the Board prefer them next to each other

MR KILEY - no, looks better, just curious

MR THOMAS - does not know that they did that

MR RUTHERFORD - Does not understand the front elevation, shown easily coming from the east, left one is easily visible from the west, but does not understand the purpose of putting one on the right side because it does not boarder any of the streets. Given the angle of the building, it should be sufficient to have, the left side of the building, why the right side?

MS BRUGG - that certainly is the least visible of the signs. Are you going to vote site by site or sign by sign?

CHAIRPERSON MAURICE - site by site

MS BRUGG - would this sign make a difference?

MR RUTHERFORD - Board is charged with granting as few variances as possible

MS BRUGG - understands; if you feel strongly

MR RUTHERFORD - Does not understand why they have it as it does not show from the road at all. Two good visible signs.

MR THOMAS - If they could eliminate then would not need a variance, correct?

CHAIRPERSON MAURICE - would still need a variance to put the two on the one side.

MR THOMAS - really not very much visibility coming from that side

MOTION - MR RUTHERFORD - Motion to allow one sign on the left elevation and two signs on the front elevation but not the sign on the right elevation

Second - **MR RUTHERFORD**

CHAIRPERSON MAURICE - Motion to allow variance with one change - two signs on the front, one sign on the left or west and no signs on the right

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved (with change) 6-0

Speedway at 1511 Buffalo Road

MS BRUGG - site has two building signs, there is an S over the front entrance, a Speedway on the canopy facing Howard. Two signs on the intersection both Buffalo and Howard. Proposing to add one additional wall sign on the site by adding one LED gas price sign on the east side of the canopy facing Howard Road. The price sign will replace the existing Speedway sign on Howard. That will be relocated to the west side facing Buffalo Road. Smaller gas canopy, so makes sense to add one sign. The same benefits to the public, no adverse effect,

MR RUTHERFORD - neither of these signs face a residential zone.

CHAIRPERSON MAURICE - two signs on this canopy, one on the front and one on the east side?

MS BRUGG - correct, proposed, there are two, currently one

CHAIRPERSON MAURICE - nothing on the west side?

MS BRUGG - nothing

MS SCHLAEFER - why do you not have prices on the west side

MS BRUGG - on the west side of the canopy?

MS SCHLAEFER - yes, if they are coming that way, they are not going to see your price, unless they come the other way

MS BRUGG - on Buffalo Road?

MR KILEY - will have most of your traffic coming that way

MS BRUGG - ideally, we would have price signs on both, happens to be a smaller gas station with a smaller canopy

MR THOMAS - no time to make that decision, not much benefit to a sign there

CHAIRPERSON MAURICE - all you have on building is an S logo

MS BRUGG - yes

CHAIRPERSON MAURICE - one sign on the front and one sign on the east canopy?

MS BRUGG - yes

PUBLIC HEARING - no one in attendance to speak for or against

MOTION - MR RUTHERFORD - Motion to approve the area variance as presented.

Second - **MS SCHLAEFER**

CHAIRPERSON MAURICE - Motion to approve the application as presented for the Speedway on Buffalo Road.

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

Speedway at 2328 Chili Avenue

MS BRUGG - site is on Chili Avenue, it currently has three wall signs, it has an S logo on the building, a beer cave sign on the building and a Speedway sign on the front of the canopy.

Currently three signs on the site, proposing to add two LED gas signs on the canopy, relocated to be visible to travelers on Chili Avenue. One is placed to be visible to traffic from the east and the other for traffic coming from the west.

CHAIRPERSON MAURICE - nothing on the east side

MS BRUGG - nothing on the east side, traffic lends itself to the west; tried to be very practical in how placed signage to be visible to the traffic

MR RUTHERFORD - this is a larger pump set than the other stores, correct?

MS BRUGG - it is

MR RUTHERFORD - do you know the length of the canopy?

MS BRUGG - six islands

MR THOMAS - six times twenty-four

ATTORNEY MAC CLAREN - 144

PUBLIC HEARING - no one to speak for or against

MOTION - MR KILEY - Motion to approve as presented.

Second - **MS CORDERO**

CHAIRPERSON MAURICE - Motion to approve the application as presented for the Chili Avenue Speedway

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 6-0

Speedway at 719 Elmgrove Road (corner of Elmgrove and Lyell)

MS BRUGG - at this location, proposing two additional LED gas signs above and beyond what is currently there; have one facing Lyell and one facing Elmgrove; one is on the canopy and one is on the building; also show two speedway signs on the canopy; proposed to remain in place; drawing had an error, there is a Speedway sign facing Lyell, but it is shown in the wrong spot on the drawing; shown on the front left but is actually up, closer to intersection.

MR RUTHERFORD - Having two signs on the narrow side, looks too busy, does not mind the two signs on the long side; but shorter side is too busy and congested

CHAIRPERSON MAURICE - this building, Elmgrove and Spencerport, both have Speedway in big letters on the building itself on both sides, correct?

MS BRUGG - yes

CHAIRPERSON MAURICE - there is no photo of it, but it is paint on Spencerport; the left elevation canopy where they have the Speedway sign and the price sign, right underneath that on the building is big red letters that spell out Speedway; agreeing with Mr. Rutherford that is makes it pretty busy

MS BRUGG - the sign on the building, building is under the canopy; has entrances on side; people look to entrance for signage, unusual orientation of the site

MS SCHLAEFER - right on the corner, if Speedway sign is on the long canopy and the price half way down the middle, on the other side where you have the two, would just put the price; already have Speedway on the corner, will see if anyway

MR THOMAS - in order to make it into the side from the left to right, need to make decision to get into the site; Speedway sign is for reward program too; need to decide before the intersection and do not have good visibility in traveling from left to right which is the only reason for the

Speedway sign; the signs on the building do not do much; have to look through the dispensers on the building to see the speedway sign; dispensers are blocking sign; if anything would give up two building signs

CHAIRPERSON MAURICE - does not want to get into conditioning by taking away something allowed to have; signs on the building

MS BRUGG - willing to amend application to voluntarily remove the two signs off the building, with two distinct canopy signs; propose to Board to made it a condition of approval

ATTORNEY MAC CLAREN - Board can consider that when they are in session; separate building signs vs. canopy signs; something they would have to discuss even if they wanted to make it a condition; may not be necessary

CHAIRPERSON MAURICE - how is Board leaning towards this as it stands

MR RUTHERFORD - thinks it is way too busy; we have limits so that things do not look too crowded; with the Speedway sign on east wall being close to the corner, someone coming north on Elmgrove, could easily see the sign from the corner; northbound people would see signs on front; too much on the south size

CHAIRPERSON MAURICE - who else agrees?

MS SCHLAEFER - agrees

ATTORNEY MAC CLAREN - issue is still that there are two signs facing one way; removal of the building signs would not fix

CHAIRPERSON MAURICE - too busy regardless of whether or not they take away the wall sign?

MR RUTHERFORD - on the south wall, narrow part of canopy; two signs are too busy; wall sign should be an ambiguous point because they are allowed; even if approved with a condition, a year from now they could put the sign back up and it would be allowed; should not go down that wall; one sign on the south wall, otherwise opening it up to allow other people to put a lot of signs up

PUBLIC HEARING - no one to speak for or against

MOTION - MR RUTHERFORD - Motion to allow two signs on the east canopy, but only one sign on the south canopy

Second - **MS SCHLAEFER**

CHAIRPERSON MAURICE - Motion, on Elmgrove Road Speedway, to allow two signs to be on the canopy on the Elmgrove Road sign, get to choose the sign whether it is price or name, one sign to be on the Lyell Avenue side

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - no

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 5-1 = two signs on Elmgrove Road side and one sign on the Lyell Avenue side

ATTORNEY MAC CLAREN - building signs are unaffected and can remain

Speedway at 465 Spencerport Road

MS BRUGG - this site has frontage on Long Pond and Spencerport, proposing three LED signs, increases one sign at the existing location; proposing to move two of the existing signs, one from the east and one from the west side of the canopy and replace them. Installing three price signs and taking out, with one additional sign in the front. Signs are being placed for optimum visibility from all directions

CHAIRPERSON MAURICE - on the left and the right sides, would still have the same number of signs?

MS BRUGG - correct, would just be replacing

CHAIRPERSON MAURICE - in the front you are adding one sign in the middle, the price sign. Board, because they do not tell you what you can put on your signs, the fact that the left and the right stay the same number of signs, is not a concern; if it is that you are adding one sign to the front

MR RUTHERFORD - not clear on this yet

MR DISHAW - where is the current placement on the Spencerport Road side what you have?

MS BRUGG - currently two Speedway signs, price sign is just going to be added to the middle of the canopy

CHAIRPERSON MAURICE - don't have the issue with the two signs on the short side, only one sign

MR RUTHERFORD - could say you have four signs, if you look at the sign on the lower sign on the wall; maybe could do without one

CHAIRPERSON MAURICE - the Board is concerned with the number of signs on the front because with that wall sign on the building, is also says Speedway, have three Speedway signs on the front of the building; seems too many signs; counsel is suggesting on this one, do you want to reconsider application about removing the wall sign, if you really want to keep the top signs?

MR THOMAS - remove wall sign?

CHAIRPERSON MAURICE - remove the sign on the building itself

MR BRUGG - on the front of the building?

CHAIRPERSON MAURICE - on the front of the building

MR THOMAS - can get rid of that

CHAIRPERSON MAURICE - does that help?

MR RUTHERFORD - no, three on canopy is too much

MS SCHLAEFER - even if they took one off, could still have three because they already have three

CHAIRPERSON MAURICE - saying four is too much

MR RUTHERFORD - three on the canopy is too much

MR CORDERO - more aesthetically pleasing

PUBLIC HEARING - no one in attendance for or against

MOTION - MS SCHLAEFER - Motion to approve the signage they have applied for but taking down the Speedway sign on the north side of the building

CHAIRPERSON MAURICE - Motion, to allow the three signs on the canopy as presented, but taking away the building sign right below that proposed price sign

ATTORNEY MAC CLAREN - as presented with the removal of the building sign

Second - **MR DISHAW**

MR RUTHERFORD - same issue with opening up to too many signs?

ATTORNEY MAC CLAREN - if they have no issue and can voluntarily remove it, can make it a condition

MS BRUGG - as offered and agreed by the applicant

CHAIRPERSON MAURICE - Spencerport Road application approved as presented but with the agreement with the applicant that the Speedway building sign on the north side would be removed

Member Vote Tally

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - no

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 5-1 - with agreement

The 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 the application.

The approvals are based upon the findings of fact which adequately demonstrated the standards applicable to granting the application.

1. There was no other party in attendance who objected to Applicant's plea before the Board;
2. The Board found that the proposals and application would have no negative impact upon the neighborhood;
3. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA by this Board.

MOTION - to adjourn **MR KILEY**

Second - **MR CORDERO**

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals