



Town of Gates

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

Meeting Minutes

January 11, 2021

MEMBERS PRESENT: Christine Maurice, Chairperson; Don Ioannone;
Alan Redfern; Steve Zimmer; Bill Kiley

MEMBER(S) NOT PRESENT: Don Rutherford

ALSO PRESENT: Robert J. Mac Claren, Esq., Board Attorney
Cosmo Giunta, Town Supervisor and Zoning
Board liaison

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 - Explains process and role of the ZBA;

CHARIPERSON MAURICE – first order of business is to accept minutes from November, 2020 meeting

MOTION – MR ZIMMER - Motion to approve the minutes from the November, 2020 meeting

Second – **MR IOANNONE**

All in favor, minutes approved

TABLED FROM NOVEMBER MEETING

THE APPLICATION OF CAROL HULSIZER REQUESTING A USE VARIANCE FROM ARTICLE XXIV, SECTION 190-132 AND 133 TO CONTINUE THE USE OF USED CAR SALES IN A N. B. (NEIGHBORHOOD BUSINESS ZONING DISTRICT) ON PROPERTY LOCATED AT 1350 BUFFALO ROAD.

MOTION – MR IOANNONE – Motion to lift the table
MR REDFERN – Second

CHAIRPERSON MAURICE – application withdrawn by applicant

Application No. 1

THE APPLICATION OF MARK AND STEPHANIE FREIDA REQUESTING AN AREA VARIANCE FROM ARTICLE XIX, Section 190-94 TO ADD ON AN ATTACHED GARAGE THAT WILL ENCROACH INTO THE REQUIRED SIDE YARD SETBACK ON PROPERTY LOCATED AT 21 ABBY LANE.

CHAIRPERSON MAURICE – SEQRA type 2, have looked at environmental impact; state has a list of things that do not require further environmental impact study; can proceed

MARK AND STEPHANIE FREIDA – live at 21 Abby Lane, have a single car garage, want to add on to make two car garage; drew up small plans, if approved will be getting an actual architectural drawing from contractor, looking to stay in Gates for as long as they can; looking to expand.

CHAIRPERSON MAURICE – code for side yards, requires ten percent of the width of the frontage, eight feet in this case, proposing six feet, two foot variance required; are you expanding the driveway over to the front?

MR FREIDA – yes, need to determine how; widen towards garage

MR IOANNONE – follow same construction?

MR FREIDA – price will determine if will continue the siding they have or reside the whole house; will follow roof line, ect.

PUBLIC HEARING – no one in attendance

MOTION – MR IOANNONE – Motion to approve as presented.

The 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 94 to permit the construction of an addition onto and expansion of the existing one car garage into a two are garage which will encroach into the side setback on property located at 21 Abby Lane, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant’s plea;
- 3 The Board found that the requested variance met all of the criteria for permitting the requested area variance;
- 4 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – MR KILEY

CHAIRPERSON MAURICE - Motion to approve the variance as presented, two foot variance

Member Vote Tally

Mr. Ioannone – yes

Mr. Zimmer – yes

Mr. Kiley - yes

Mr. Redfern – yes

Chairperson Maurice - yes

Variance approved 6-0

Application No. 2

RE: THE APPLICATION OF BRADLEY WHITE ON BEHALF OF STEVE LEWENDOWSKI, REQUESTING A USE VARIANCE FROM ARTICLE XIX, SECTION 190-91 TO PURCHASE PROPERTY AND EXPAND ON A PREVIOUSLY GRANTED VARIANCE ON THE ADJACENT PROPERTY, TO ENLARGE THE OPERATION OF A LANDSCAPE BUSINESS IN A RESIDENTIAL ZONING DISTRICT AT 2551 BUFFALO ROAD.

CHAIRPERSON MAURICE – County road, received county response, referred back as a local matter; SEQRA, unlisted action, no environmental impact study needed for this Board; working with Planning Board and engineering firm who would do their own

BRADLEY WHITE – lives at 2113 Westside Drive; purchased property at 2551 Buffalo Road in 2004; growing as a business; neighbors at 2551 Buffalo, sandwiched between expressway; need to expand; received clarification on what is needed from Planning Board; goal is to move forward with purchase agreement, currently in contract with Lewendowski; would like to continue use of business in town

CHAIRPERSON MAURICE – the Lewendowski house, the single family residence, do you intend to turn that into apartments, how many?

MR WHITE – two or three, two is more practical, room on third floor, wasted space, three is maximum, likely two

CHAIRPERSON MAURICE – do you plan any changes to the outside of the building?

MR WHITE – minor changes, landscaping, does not need roof, deck on back, anything not in great condition will be replaced

CHAIRPERSON MAURICE – basic idea of house would stay?

MR WHITE – yes, provides pictures illustrating

CHAIRPERSON MAURICE – informal review in October with town Planning Board; working with Schultz Associates for a plan for the entire property

PUBLIC HEARING – no one in attendance

CHAIRPERSON MAURICE – recommends condition on apartments.

MOTION – MR ZIMMER – Motion to go forward with resolution as amended, limit apartment to existing building

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

1 The Applicant sought an amendment and expansion of the previously granted variance from Town of Gates Code Chapter 190, Section 91 to permit the Property to be used for a landscaping business and apartments;

2 There were no parties who spoke in opposition of the Applicant's plea;

3 The Board found that the requested variance met all of the criteria for permitting the amendment and expansion of the existing variance;

4 This application involved an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – **MR REDFERN**

CHAIRPERSON MAURICE – motion to amend the existing use variance to be enlarged to incorporate the property next door, which will allow for landscaping business and limiting the rental property to the two existing buildings that are there.

Member Vote Tally

Mr. Ioannone – yes

Mr. Zimmer – yes

Mr. Redfern – yes

Mr. Kiley - yes

Chairperson Maurice - yes

Variance approved 5-0

Application No. 3

THE APPLICATION OF TC PURSUIT SERVICES, INC., REQUESTING AREA VARIANCES AND A SPECIAL USE PERMIT FROM ARTICLE IV, SECTION 190-11, ARTICLE XXVII, SECTION 190-161, ARTICLE VI, SECTION 190-31 AND ARTICLE V, SECTIONS 190-25, 26 AND 190-24 TO ERECT A BUILDING WITH HEIGHT THAT EXCEEDS WHAT IS ALLOWED, LOADING SPACES SMALLER THAN REQUIRED, HEIGHT OF FENCE THAT EXCEEDS WHAT IS ALLOWED, MONUMENT SIGNS LARGER THAN ALLOWED, MORE WALL SIGNS THAN ALLOWED, AND LARGER WALL SIGNS THAN ALLOWED – ALL OF WHICH WILL BE LOCATED IN A GENERAL INDUSTRIAL ZONING DISTRICT ON PROPERTY LOCATED AT 2600 MANITOU ROAD.

CHAIRPERSON MAURICE – five separate variances, will hear as one, separate votes

FRANK PAVIA – attorney, with him is James Murray-Coleman and Andy with TC Pursuit, Mike Finan from Langan Engineers; Kelly Whey, lead architect

JAMES MURRAY-COLEMAN – with the company representing the ownership of the project; refers to map; project will bring excellent economic opportunity; anticipate employing at least 1000 people initially with additional employment seasonally, could be 1600 to 1800; antecedents for building of this height in the tech park already. Buildings of similar mass in the park ,fits well within the characteristics of the park as established and currently built; building sits 1000 feet from Manitou Road; signs are warranted because of size; signage is important for way finding issues, helping associates, trucks, visitors and public transportation vehicles getting in and out of the site;

MR PAVIA – seeking five area variances; site contains 185 acres located in the Rochester Technology Park; zoned as general industrial; on December 21, 2020 Planning Board issued a negative declaration under the NYS environmental quality review act for project as well as preliminary site plan approval; five area variances that provide further site plan and environmental benefits as a result of the modifications; First variance is for height variance to 100.52 feet, exceeding what is allowed; Second variance is for a reduction of the minimum loading space dimensions to twelve by fifty-five feet; would apply to only 215 of the 258 loading spaces; height variance for fencing located on the northern and eastern sides, 8 feet high; two variances related to monumental, directional signage and wall mounted signage; directional signage, after consultation with counsel for the Board, will be

treated as directional signs under section 190-24, requires both special use permits and variances; only need height, vertical variance, not in need of dimensional variances beyond vertical and number; on December 11, 2020, in addition to the application, submitted a letter that lays out why they believe the variances should be issued in light of the fact that application meets the criteria set forth in Article 31 of the Zoning Code and Section 267-b of New York Town Law. The letter went through all of the factors of the law and code provisions, as to why they meet criteria and the variances are warranted;

1) Granting of the area variances will not produce an undesirable change to the character of the Rochester Tech Park and neighborhood, nor will it cause a detriment to any of the nearby properties since they are consistent with the existing characters of the industrial, manufacturing and commercial sites located within the Rochester Technology Park, as well as the commercial, industrial and manufacturing properties located along Manitou Road in the towns of Gates and Ogden

2) The area variances are the only meaningful methods by which to achieve the operational and logistics needs of the project, as well as the site plan benefits which will effectively reduce any potential off-site impacts

3) TC Pursuit respectfully submits that the requested area variances are not substantial in comparison to surrounding uses. In short, the scope of all five area variances are insubstantial as compared to the project's total square footage, which is permitted pursuant to the parameters of the GI zoning district, and are certainly insubstantial as compared to the size, nature and diameter of the existing parking lots, buildings, signage and other accessories which are currently located in the Rochester Technology Park, and at other neighboring industrial and commercial properties.

4) The area variances will not have an adverse effect or impact on the physical or environmental conditions of the Rochester Technology Park, the GI zoning district, or neighboring properties. The GI zoning district currently contains numerous warehousing, manufacturing, and industrial uses with varying building types, surface parking spaces, building heights, and signage.

5) The site's improvements sought by TC Pursuit necessitating the requested variances are self-created. However, self-creation is not a bar to granting the requested area variances.

In light of the foregoing, we respectfully submit that granting of the requested area variances is warranted and will result in a better site plan that benefits the Rochester Technology Park, the neighboring properties and the community.

CHAIRPERSON MAURICE – SEQRA, Planning Board is the lead agency; submitted to County Planning Board

MR PAVIA – submitted to County Planning Board; DRC approved variances
CHAIRPERSON MAURICE – height variance, not in the airport overlay district;
too far to west; fence is chain link?

MR PAVIA – yes

MR MURRAY - yes

CHAIRPERSON MAURICE – plans to put barbed wire on that?

MR PAVIA - no

CHAIRPERSON MAURICE – height of existing building that is being torn
down?

MR FINAN - 50-55 feet

MR PAVIA – exceeds 55 feet, needs variance

CHAIRPERSON MAURICE - loading spaces; asked for recommendation on
reduced size from Planning Board; because it is in an industrial zone, not a
commercial space, Planning Board has no problem with the reduction in the size of
the loading spaces; directional signs, two different sizes quoted; 88 square feet;
plan shows 96 square feet; frame around sign?

MR FINAN – yes; 88 is the sign area; support for sign was not included in that
calculation

CHAIRPERSON MAURICE – will consider 96 square feet

MR PAVIA – frame included, amend to include 96 square foot variance

MR ZIMMER – good use of existing property

MR IOANNONE – fit with Tech Park

PUBLIC HEARING –

LAURIE CLOCKSIN – 69 Coldwater Road; announced but no details provided;
could not find, but known as Amazon; trucks going in and out of 531; purpose of
building; height; environmental impact regarding drainage;

CHAIRPERSON MAURICE – Planning Board concerns, not ZBA; Planning
Board did give an open hearing;

MS CLOCKSIN – supervisor did tell me, but missed it; does not know if being
here tonight serves a purpose

CHAIRPERSON MAURICE – like people to come to the public hearing;
concerns are not to this Board, traffic, Planning Board works with NYS on
environmental studies, ect.

MS CLOCKSIN – heard in presentation that increased signage would help
wayfinding

CHAIRPERSON MAURICE – yes, but concerns are not for this Board to decide

MS CLOCKSIN – is it incumbent upon the Board to reveal to public what the facility is being used for?

CHAIRPERSON MAURICE – not this Board

MS CLOCKSIN - what board and when?

CHAIRPERSON MAURICE – Mr. Pavia may be able to address

MS CLOCKSIN – does not have patience for big companies

MR IOANNONE – going to be a warehouse, storing products

MS CLOCKSIN – if warehouse does not serve the community; nothing comparable in Rochester Tech Park with traffic; cannot compare to other things that exist; lives quarter of a mile from one egress exit and there is almost no traffic at any time of day coming out; has many concerns

CHAIRPERSON MAURICE – questions before this Board tonight, signs on building, directional signs, height, fence around building and loading spaces, do not address concerns

MS CLOCKSIN – none of those would be necessary if there was not a major money project

MR PAVIA – address concern; warehouse distribution only; not intended to be used for any other use; TC Pursuits is an entity; facility is being built to attract a modern user of e-commerce warehouse distribution facility; built in that fashion to attract that type of tenant; submitted a traffic impact study and analysis to Planning Board; PB accepted findings; building will be constructed and designed to be as secure as possible; activities will take place within the building; in the interest of the prospective tenant that is be as secured as possible; also other businesses in Tech Park; once constructed will likely be one of the most secured facilities in the county; comments are issues for Planning Board and not related to requested area variances

MR IOANNONE – construction and design of building, roof, how will it look from the standpoint of being on the ground?

KELLY WHEY – materials include concrete panels for lower portion, insulated metal panels for the upper portion of the building; exterior has lower portions set around perimeter of the building, more varied use of materials to provide visual interest and identify where the penetration on the building; storefront section at front; use of color in banding at top of building and at major entry points, highlighting front entry area;

MR PAVIA – points out picture with aesthetics

CHAIRPERSON MAURICE – fence first – eight foot fence where a four foot fences would be in code, as presented

MOTION – MR ZIMMER – to approve variance

More specifically, the Approvals permit the following:

1. With respect to item (i) above, the Approval allows for the building on the Property to be 50.52 feet larger than permitted by the Code for a total permitted building height of 100.52.
2. With respect to item (ii) above, the Approval allows for the loading spaces located on the Property to be (a) 2 feet narrower and (b) 5 feet shorter than required by the code for a reduced loading space size of 12 feet by 55 feet.
3. With respect to item (iii) above, the Approval permits the fence located at the Property, as shown the approved site plan, to be 4 feet taller than permitted by the Code for a total permitted fence height of 8 feet.
4. With respect to item (iv) above, the first Approval granted a special use permit allowing directional signs with a total area of no more than 50 feet with no sign being more than 9 square feet. The second Approval granted an area variance permitting the 3 directional signs, as located on the site plan, to each be a total of 96 square feet (inclusive of the casing thereof) and 18 feet tall.
5. With respect to item (v) above, the first Approval permitted 2 wall mounted signs to be located on the same side of the building located at the Property. The second Approval permitted the 2 wall mounted signs, as show on the site plan, to be 4 feet and 2.3 feet taller than permitted by the Code for a total height of the signs to be 10 feet and 8.3 feet tall, respectively.

In addition, the Approvals are based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the application:

- 1 There was one party who spoke in opposition of the Applicant’s plea, however, the party’s concerns were not with respect to the requested variances but were instead issues with the potential traffic and a general disdain for large commercial tenants. The Board advised the party that her concerns were not appropriate for the Board and that the same should be brought before the Town of Gates Planning Board (the “Planning Board”).
- 2 The Board recognizes that the Planning Board is the lead agency with respect to the handling of any County Planning Board issues and also that any issues raised by the County Planning Board had already been responded to and resolved.
- 3 The Board recognizes and acknowledges that the Planning Board is the lead agency with respect to the State Environmental Quality Review Act (SEQRA) and that the Planning Board had issued a negative declaration prior to the meeting.

Second – **MR IOANNONE**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley - yes
Mr. Zimmer – yes
Mr. Redfern – yes
Chairperson Maurice - yes
All in favor

CHAIRPERSON MAURICE – building height, 100.52 as proposed

MOTION – MR IOANNONE

Second – **MR KILEY**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley - yes
Mr. Zimmer – yes
Mr. Redfern – yes
Chairperson Maurice - yes
All in favor

CHAIRPERSON MAURICE – loading spaces, code is 14 x 16 feet, as proposed
12 x 55 feet for 215 of the 258 loading spaces; have recommendation from
Planning Board

MOTION – MR REDFERN – motion to approve

Second – **MR ZIMMER**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley - yes
Mr. Zimmer – yes
Mr. Redfern – yes
Chairperson Maurice - yes
All in favor

CHAIRPERSON MAURICE – directional signs, special use permit; limited if
larger than code, conditional use permit; allow 60 square feet total, cumulative,

directional signs with not one being larger than 9 square feet, and not more than 5 feet off of the ground

MOTION – MR ZIMMER – to approve
Second – **MR IOANNONE**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley - yes
Mr. Zimmer – yes
Mr. Redfern – yes
Chairperson Maurice - yes
All in favor

CHAIRPERSON MAURICE – area variance from above to allow 3, 96 square foot signs, each being 8 feet tall

MOTION – MR KILEY – to approve directional signs
Second – **MR IOANNONE**

CHAIRPERSON MAURICE –3 directional signs, each being 96 square feet,18 feet tall and located as per plan presented

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley - yes
Mr. Zimmer – yes
Mr. Redfern – yes
Chairperson Maurice - yes
All in favor

CHAIRPERSON MAURICE – Wall signs – 2 on the side facing Manitou Road

MOTION – MR KILEY -motion to deny variance based on fact that every other tenant is able to comply with town code
Second – no one
Motion dies

MOTION – MR ZIMMER – approve as stated

Second – **MR IOANNONE**

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley - no

Mr. Zimmer – yes

Mr. Redfern – yes

Chairperson Maurice - yes

Approved 4-1

CHAIRPERSON MAURICE – size, variance from height of 6 feet, one sign to be 10 feet tall and one sign to be 8.3 feet tall

MOTION – MR KILEY – motion to deny variance based on fact that every other tenant is able to comply with town code

Second – no one

Motion dies

MOTION – MR IOANNONE – Motion to approve as stated

Second – **MR REDFERN**

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley - no

Mr. Zimmer – no

Mr. Redfern – yes

Chairperson Maurice - yes

3-2 No quorum

MOTION – MR ZIMMER – Motion to approve (size)

Second – **MR IOANNONE**

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley - no

Mr. Zimmer – yes

Mr. Redfern – yes

Chairperson Maurice - yes

Approved 4-1

MOTION - Motion to adjourn – **MR ZIMMER**
Second - **MR REDFERN**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals