



Town of Gates

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

Meeting Minutes

June 10, 2024

MEMBERS PRESENT: Bill Kiley, Chairperson; Dave Ferris; Don Ioannone; Dick Lippa; Steve Zimmer

MEMBER(S) NOT PRESENT: Alan Redfern

ALSO PRESENT: Robert Mac Claren, Esq., Town/Board Attorney
Lee Cordero, Councilman & Zoning Board liaison

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

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CHAIRPERSON KILEY - Explains process and role of the ZBA; applications published in daily record and on town website;

CHARIPERSON KILEY – first order of business is to accept minutes from the May, 2024 meeting;

MOTION – MR FERRIS – Motion to accept minutes from May, 2024 meeting.

Second – MR IOANNONE

Mr. Zimmer abstains

All in favor, minutes approved.

CHAIRPERSON KILEY- Application number four has been withdrawn

APPLICATION NO 1.

THE APPLICATION OF SADMIR HAZMIC REQUESTING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 1050 SPENCERPORT ROAD FROM ARTICLE VIII, SECTION 190-36(B) THAT WILL ALLOW HIM TO INSTALL A 6 FOOT VINYL FENCE THAT WILL ENCROACH INTO 35 FOOT SETBACK ON LIGHTWOOD LANE BY 15 FEET. THE FENCE WILL ALSO ENCROACH INTO THE 50 FOOT SETBACK ON SPENCERPORT ROAD BY 30 FEET.

SADMIR HAZMIC – corner of Spencerport Road and Lightwood Lane; has one year old son and Spencerport Road is 45 mph; afraid son will run into road; would like to put up fence to end of neighbor’s fence

CHAIRPERSON KILEY – points to existing fence on map; asking to be six feet?

MR HAZMIC - can be four feet, at least so he can’t run out

CHAIRPERSON KILEY – standard chain link fence?

MR HAZMIC – not a chain link, vinyl

MR IOANNONE – stockade, solid or post?

MR HAZMIC – probably post

MR FERRIS – solid vinyl fence?

MR HAZMIC – chain link; vinyl; changed to 4 feet

CHAIRPERSON KILEY – will need to modify wording on decision

MR HAZMIC – that was first option

ATTORNEY MAC CLAREN – visible, can see through?

MR HAZMIC - yes

MR IOANNONE – what is the correct address? The house says 5 Lightwood Lane and there is no number depicting Spencerport Road

MR HAZMIC – on the books it is 1050 Spencerport Road; mailbox at 5 Lightwood Lane, corner

MR FERRIS – wants to know what it will be; can you see through it or is it solid?

MR HAZMIC – picket fence, vinyl; 4 feet (shows picture on phone)

MR FERRIS – four feet at the highest point?

MR HAZMIC – yes

MR IOANNONE – lowest point?

MR HAZMIC – three and a half feet

PUBLIC HEARING

DEB HOUSEL – 315 Miramar Road; can you see when pulling out of Lightwood onto Spencerport Road; solid

CHAIRPERSON KILEY – can see through, except for the first two feet

CHAIRPERSON KILEY – two variances, one for a fifteen foot variance on Lightwood Lane and a thirty foot variance on Spencerport Road; request is modified to be a four foot decorative type fence, not a six foot stockade fence

PATRICIA RAGUSA – 14 Cotillion Court; it is really hard to see how fast cars are going on Spencerport Road; how far is the set back from the actual road?

CHAIRPERSON KILEY – twenty feet

MS DAGUSA – where tree is?

MR HAZMIC – yes

CHAIRPERSON KILEY – environmental impact considered

MOTION – MR FERRIS – Motion to approve as amended

The Board approved the Applicant’s request to construct the four (4) foot tall picket style fence within the required setbacks on both Lightwood Lane and Spencerport Road. With respect to the Lightwood Lane setback, the Board approved the Applicant’s request to reduce the setback by fifteen (15) feet so that the fence would be setback twenty (20) feet from Lightwood Lane. With respect to the Spencerport Road setback, the Board approved the Applicant’s request to reduce the setback by thirty (30) feet so that the fence would be setback twenty (20) feet from Spencerport Road.

Please note that the following facts are not in dispute:

- 1 The Applicant sought variances from Town of Gates Code Article VIII, Section 190-36B to allow for the construction of a four (4) foot tall picket style decorative fence within the setback on property located at 1050 Spencerport Road, Town of Gates (the “Property”);
- 2 The Board received the response from the County, referring the matter back to the Board;
- 3 The required public hearing was opened, held, and closed at the meeting and various individuals appeared in general support of the Application, provided that the decorative style picket fence is issued;
- 4 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA are required.

Second – **MR LIPPA**

Member Vote Tally

Mr. Lipa – yes

Mr. Zimmer - yes
Mr. Ferris - yes
Mr. Iannone - yes
Chairperson Kiley - yes
Variance approved 5-0

APPLICATION NO 2.

THE APPLICATION OF ADAM AND NINA THOMPSON REQUESTING AN AMENDED USE VARIANCE FOR THE PROPERTY LOCATED AT 185 NORMANDALE DRIVE FROM ARTICLE VII SECION 190-36(B) THAT WILL ALLOW THEM TO MAINTAIN THEIR EXISTING FENCE WHICH ENCROACHES INTO THE 35 FOOT SETBACK ON RELIM BOULEVARD BY APPROXIMATELY 18 FEET.

ADAM AND NINA THOMPSON - 185 Normandale Drive; asking for a variance on existing fence; did not know they needed a permit; town said need permit; asking for variance

CHAIRPERSON KILEY – is there a reason why it has to go out past front of house, to maximize grass space inside fence?

MR THOMPSON – correct, corner lot, about 45 feet from actual center to Relim; in talking to town, front of house is 185 Normandale, live in ranch, front door technically is on Relim; two year old running around; cars come down Relim quickly, asking for safety;

CHAIRPERSON KILEY – hesitancy is six foot stockade; see them in back yards, but not enthusiastic about front

MR THOMPSON – disabled veteran, seventy percent disabled for PTSD; has anxiety issues, needs high fence for outside bedroom window; does not give obstruction on Normandale or Relim; sits on hill

MR FERRIS – beige colored ranch?

MR THOMPSON - correct

MR FERRIS – tiny bit of picture that shows the ranch, is that the house?

MR THOMPSON – yes, wrong picture, about a panel and a half off from the actual house, picture does not really show

CHAIRPERSON KILEY – panel and a half

MR FERRIS – points on picture, clarifies location of fence

MR THOMPSON – explains location and dimensions from Relim; about 50 feet from center of Relim, to edge is 40, to side lot is 35; did not see anything about existing fences

MR ZIMMER – code enforcement at house?

MR THOMPSON - yes

MR FERRIS – this portion of fence has been there how long?

MR THOMPSON – less than one year

MR FERRIS – PTSD, what branch of service?

MR THOMPSON – Marine for twelve years

MR FERRIS – thanks Mr. Thompson for his service

CHAIRPERSON KILEY – code enforcement randomly contacted?

MR THOMPSON – sent letter, responded right away; will be first and last time does something without permission

MR IOANNONE – application says to maintain, keeping structure there or are you replacing?

MR THOMPSON – stay in place; existing structure

PUBLIC HEARING

DEB HOUSEL – 315 Miramar Road; fence is ugly; makes neighborhood look trashy; why do we have a ZBA that can say it is okay if already built; looks like prison yard; neighbors hate fence also; hideous and violates rule

MR THOMPSON – not front yard, Normandale is front yard

ATTORNEY MAC CLAREN – two front yards, corner lot

MR THOMPSON – that is why coming for variance

CHAIRPERSON KILEY – environmental standpoint, no issues

MOTION – MR IOANNONE – Motion to approve application as written

The Board approved the Applicant’s request to maintain an existing six (6) foot tall wooden fence within the required setback on Normandale Drive. The Board approved the Applicant’s request to reduce the setback by twelve (12) feet so that the fence would be setback twenty-three (23) feet from Normandale Drive.

Please note that the following facts are not in dispute:

- 5 The Applicant sought variances from Town of Gates Code Article VIII, Section 190-36B to allow the Applicant to maintain a six (6) foot tall wooden fence within the setback on property located at 185 Normandale Drive, Town of Gates (the “Property”);
- 6 The Property is not located on a State or County road and therefore a response from the County was not required;

- 7 The required public hearing was opened, held, and closed at the meeting and one individual appeared in opposition of the Application but the Board found that the opposition was not sufficient to overcome the Applicant's presentation and request;
- 8 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA are required.

Second – **MR FERRIS**

Member Vote Tally

Mr. Lippa – yes

Mr. Zimmer - yes

Mr. Ferris - yes

Mr. Iannone - yes

Chairperson Kiley - no

Variance approved 4-1

APPLICATION NO 3

THE APPLICATION OF CHRISTINA MEAD REQUESTING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 3 BRYN MAWR ROAD FROM ARTICLE VIII, SECTION 190-36(B) THAT WILL ALLOW HER TO INSTALL A SIX FOOT VINYL FENCE THAT WILL ENCROACH INTO 50 FOOT SETBACK ON CHILI AVENUE BY 31.9 FEET

CHRISTINA MEAD – 3 Bryn Mawr Road; daughter is a soccer player; safety issue; heavy vehicle and foot traffic; bus stops; apartments, shopping, ect; people cut through

MR FERRIS – type of fence?

MS MEAD – ideally, six foot vinyl, set behind pine trees that are already there

CHAIRPERSON KILEY – need county response, can hear discussion, cannot make a decision tonight

ATTORNEY MAC CLAREN – in letter and application, but do not see on map, plan is to have a fence 18.1 feet from setback?

MS MEAD – that might be in front, but as far as Chili Avenue goes, in the front it is 31 1/2 feet

ATTORNEY MAC CLAREN – reducing it by 18 ?

MS MEAD – yes

ATTORNEY MAC CLAREN - chain link?

MS MEAD – not full, connects with neighbor’s who is here tonight, stops at shed, does not protect yard at all

PUBLIC HEARING

RAY OTTO – 5 Bryn Mawr Road, next to house; when they redid Chili Avenue, put pine trees between sidewalk just outside of property; not maintained, trees are dying; kids come through their yard and torment his dogs; how much influence do you have with who maintains

ATTORNEY MAC CLAREN – county maintains

COUNCILMAN CORDERO – have been touch with county to try to get them to maintain

MR FERRIS – contact county legislator to help have voice

MR OTTO – fence would benefit greatly

CHAIRPERSON KILEY – trees planted by owner

MR OTTO – planted by county, there for 47 years

AMBROSE IKE-NOBLE – 7 Bryn Mawr; good to go; no problem

CHAIRPERSON KILEY – can’t make decision because do not have county response

ATTORNEY MAC CLAREN – up to you if you want to come back, administrative

MR OTTO – sound barrier approval, county or state?

ATTORNEY MAC CLAREN – state issue

MR OTTO – survey taken, not recent

APPLICATION NO 4

THE APPLICATION OF PEMM LLC REQUESTING SEVERAL AREA VARIANCES FOR THE PROPERTY LOCATED AT 2061 CHILI AVENUE FROM ARTICLE V, SECTION 190-24(B) ; ARTICLE V, SECTION 190-22(B)(3) AND ARTICLE V, SECTION 190-24(C) TO ALLOW THE FOLLOWING:

- TWO SIGNSON THE GAS CANOPY, ONE FACING CHILI AVENUE AND THE OTHER FACING BEAHAN ROAD**
- A 4.5 SQUARE FOOT DIRECTIONAL SIGN WHERE ONLY 3 SQUARE FEET ARE ALLOWED**
- A 26.53 FOOT WALL SIGN WHERE ONLY 15 FEET ARE ALLOWED**
- A 35 FOOT WALL SIGN WHERE ONLY 15 FEET ARE ALLOWED**

JOHN SCJARABBA – Landtech, project engineers for PEMM LLC; have been working on project to acquire land associated since 2018; worked with state DOT and town; 1.7 acres has three operations, Quigly’s Convenience Store; Dunkin Donuts and Quigly’s Car Wash; five years later seeking required variance for several signs; two signs on the gas canopy, one facing Chili Avenue and one facing Behan Road; other is a directional sign on Beahan Road access; oversized, Dunkin is prototype for company; large sign over pickup window; anchor sign for Quigly’s
MR ZIMMER – entrance sign off Beahan is it right in the corner

MR SCJARABBA – shows on map; signage is typical for area, stores, franchises

CHAIRPERSON KILEY – pick up window is oversized

MR SCJARABBA – sign above window facing car wash

CHAIRPERSON KILEY – struggling with canopy sign on end

MR SCJARABBA – canopy signs are 32 inches high by 7 feet long; on band of canopy

CHAIRPERSON KILEY – within real estate; with gas prices, not digital?

MR SCJARABBA – digital just on pumps

MR ZIMMER – is there any sign that displays the gas prices?

MR SCJARABBA – signs on pump

CHAIRPERSON KILEY – cannot make decision tonight

MOTION - to adjourn – **MR IOANNONE**
Second – **MR FERRIS**
All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals