



Town of Gates

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

Meeting Minutes

March 11, 2024

MEMBERS PRESENT: Bill Kiley, Chairperson; Alan Redfern; Dave Ferris; Don Ioannone; Steve Zimmer

MEMBER(S) NOT PRESENT:

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 December, 2023 meeting;

MOTION – MR FERRIS– Motion to accept minutes from December, 2023 meeting as corrected.

Second – MR REDFERN

All in favor, minutes approved.

Mr. Ferris and Mr. Ioannone abstain

APPLICATION NO. 1

THE APPLICATION OF DILLON WHEATLEY SEEKING AN AREA VARIANCE FOR THE PROPERTY LOCATED AT 58 SILKWOOD CIRCLE FROM ARTICLE VIII § 190-36(B) TO ALLOW FOR THE INSTALLATION OF A FOUR (4) FOOT ALUMINUM FENCE THAT WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK.

DILLON WHEATLEY – 58 Silkwood Circle, Spencerport, 14559; corner lot, two front yards, 4 foot aluminum fence towards Manitoba Woods Lane; 7 feet into utility easement; 2 kids, living on a corner lot, Manitoba Woods Lane can be busy street; safety and maximize space, functional; storm easement for drainage, get in there as well

CHAIRPERSON KILEY – storm easement not in jurisdiction, can only address distance from front; planning chain link fence?

MR WHEATLEY – black aluminum; straight railing, decorative, not chain link

CHAIRPERSON KILEY - not six feet?

MR WHEATLEY – no, 4 feet, can see through it

CHAIRPERSON KILEY – environmental type is excluded

MR ZIMMER – picture of fence?

MR WHEATLEY – no, same as yard behind

MR FERRIS – shows pic

MR WHEATLEY – like top one

MR FERRIS – gates?

MR WHEATLEY – one on side, 10 feet wide toward Manitoba; single gate on right, near garage

MR IOANNONE– single gate, next to garage, 36 inches?

MR WHEATLEY – yes, standard small size

CHAIRPERSON KILEY install self?

MR WHEATLEY - no

MR FERRIS – fence along back yard next door, white fence; planning on going along side that?

MR WHEATLEY – whatever is comfortable between both, get there to mow; whatever makes most sense for both

ATTORNEY MAC CLAREN – utility easement, depending on language, may have right to dig up; variance does not override easement area

MR WHEATLEY – go to utility company for approval?

ATTORNEY MAC CLAREN – can give you variance, if Board approves, does not overrule what utility company can do in ten foot area; if easement allows, they potentially could come in and dig and you may have to remove the fence

MR ZIMMER – can ask; underground, call 800 dig

MR WHEATLEY - yes

MR FERRIS – if they have to dig up, fence comes down; if alert them, still have right

ATTORNEY MAC CLAREN – depends on easement, we are not in charge of; approval does not affect easement or their right to act on it

PUBLIC HEARING

NORMAN BACH – 52 Silkwood Circle, next door; no issues, 4 foot black aluminum; no blocking/obstruction; no in

CHAIRPERSON KILEY – SEQRA type 2, no environmental impact

MR ZIMMER – white fence

MR BACH – yes, 5 foot

KEVIN MUDD – 6 Silkwood Circle; no objection; back neighbor; best looking one, does not have issue

MOTION – MR IOANNONE – Motion to accept and pass as presented

The variance was approved as follows:

1. The Board approved the requested area variance from Article VIII, Section 190-36(B) for the Property to allow for a decrease in the front yard setback to seven (7) feet where thirty-five (35) feet is required. This variance was approved by a unanimous vote of the Board based on the presentation and application provided to the Board, which included a design of the fence.

Please note that the following facts are not in dispute:

- 1 The Applicant sought variances from with respect to the location of a black aluminum fence within the front yard setback at property located at 58 Silkwood Circle, Town of Gates (the “Property”);
- 2 The Property is not located on a State or County road and therefore the County response was not required;
- 3 The required public hearing was opened, held, and closed at the meeting and two parties, both adjoining neighbors of the applicant, appeared in support of the Application; and
- 4 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and the Board found that no further proceedings under SEQRA is required.

Second – MR FERRIS

Member Vote Tally

Mr. Redfern – yes

Mr. Ferris - yes

Mr. Zimmer – yes

Mr. Ioannone - yes

Chairperson Kiley - yes

Variance approved 5-0

APPLICATION NO. 2

THE APPLICATION OF PATHSTONE DEVELOPMENT CORP. REQUESTING AN AREA VARIANCE FROM ARTICLE XX, SECTION 190-102 TO ALLOW FOR MORE UNITS PER BUILDING THAN ARE ALLOWED FOR A PROPOSTED 2-STORY APARTMENT BUILDING TO BE LOCATED AT 1049 WEGMAN ROAD.

PETER GORMAN – with Marathon Engineering, 39 Cascade Drive, Rochester, on behalf of Pathstone, Churchview Commons; parcel is 7 acres owned by Gates Presbyterian Church; 2 story building with 45 apartments; reconfiguring parking lot, providing utility services; extension, parking lot, 3.8 acre lease parcel; variance to have 45 in a single building where only 8 are allowed; single building approach increases green space; delay is due to funding, decision in two weeks; for same application as approved in January, 2020

MR ZIMMER – if not approved, what is the plan?

MR GORMAN – church and Pathstone like project, will pursue.

CHAIRPERSON KILEY – once approved, break ground within one year?

MR GORMAN – yes, other approvals, ie water authority pending

MR ZIMMER – six month extension

CHAIRPERSON KILEY – yes, year makes sense

MR FERRIS – opinion, six months?

MR GORMAN – will at least pull permits so an active permit application

PUBLIC HEARING – no one in attendance

MOTION – MR FERRIS – Motion to approve

Your application with regard to the above request came to be heard before the regular monthly meeting of the Gates Zoning Board of Appeals (“Board”) originally on August 9, 2021 and was approved as discussed and presented, permitting the proposed 45 units to be housed in a single, two-story building, by a unanimous vote, of the members of the Board who were present at the meeting.

This approval was strictly conditioned on, among other things, pursuant to Section 190-194, entitled Notification of Decision, Town of Gates Code, your client obtaining “...necessary permits from the Building Department within the six-month period prescribed by Town Law, and commence construction within one (1) year of issuance. Failure to obtain a permit and commence construction will terminate this variance, making it thereafter null and void.” Additionally, Section 190-194 specifically provides that “A building permit must be obtained within six months of the decision date; substantial construction must start within one year.” The six (6) month period for your variance will expire on August 9, 2024.

As a request for an extension of the six (6) month period was received prior to expiration thereof, the Board has approved an extension of your variance for a period of six (6) months from the current expiration date to August 9, 2024.

Second – MR IOANNONE

Member Vote Tally

Mr. Redfern – yes

Mr. Ferris - yes

Mr. Zimmer – yes

Mr. Ioannone - yes

Chairperson Kiley - yes

Variance approved 5-0

MOTION - to adjourn – MR FERRIS

Second – **MR ZIMMER**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals