



Town of Gates

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

Meeting Minutes

October 13, 2020

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

MEMBER(S) NOT PRESENT: Mary Schlaefer

ALSO PRESENT: Robert J. Mac Claren, Esq., Board Attorney
Cosmo Guinta, 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; must be approved by a majority, which is four; social distancing, everyone is six feet apart; one application, Chili Avenue, is on a county road, has been referred back as a local matter

MOTION – MR RUTHERFORD - Motion to approve the minutes from the September 2020 meeting
Second – **MR ZIMMER**
All in favor, minutes approved

Application No. 1

RE: 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 PROPOSED 2-STORY APARTMENT BUILDING TO BE LOCATED AT 1049 WEGMAN ROAD.

PETER GORMAN – with Marathon Engineering, 39 Cascade Drive, Rochester; project is Chuchview Commons, located at 749 Wegman Road; Garden Factory is to the east; Cornerstone Office Park is to the south; White Oak Apartments, residential buildings, is to the north; project parcel is 7.8 acres and is owned by the Gates Presbyterian Church; zoned multi-residential; project is comprised of a two story building with 45 apartment units, community room and reading room for residents to receive onsite services; reconfiguring existing parking lot; with new utility services to building; required parking will be located on a 3.3 lease parcel; received approval from town board and planning board; here to request reapproval of variance, previously approved from January 13, 2020 meeting; relief from town code section limiting number of apartment units; where only eight allowed, requesting forty-five in same structure; number is allowed based on density calculations; development rights for entire property, not just leased parcel; working through planning board and outside agency and six month permit expired
CHAIRPERSON MAURICE – January minutes have been reviewed; one member was not at the meeting; drawings from January, no updated drawings were submitted, confirm that there was no change

MR GORMAN – not significantly, took some comments from Planning Board, center isle allows access from church to new building as a walkway; not a significant change; looks like a much older version; no secondary access to Wegman Road; submitted updated drawings

CHAIRPERSON MAURICE – is the basic shape of the building still the same

MR GORMAN – yes, units same, community room, no significant change

CHAIRPERSON MAURICE – forty-five units?

MR GORMAN - yes

CHAIRPERSON MAURICE – per code, allowed, forty-eight units in six separate buildings

MR GORMAN – allows more green space; in order to have six different buildings, entire parcel would be paved; little would be left for landscaping or storm water management

CHAIRPERSON MAURICE – SEQRA, unlisted action, no further environmental impact that needs to be studied; Wegman Road is a county road, county response had gone to Planning Board before this Board

PUBLIC HEARING – no one in attendances

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 102 to allow more units per building than permitted on property located at 1049 Wegman Road, Town of Gates;
- 2 There were no other parties who spoke in favor or against the Applicant’s plea before the Board and 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 an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – MR ZIMMER

CHAIRPERSON MAURICE - Motion to approve the application as presented, for a variance to allow more units than forty-five allowed by code

Member Vote Tally

Mr. Ioannone – yes
Mr. Rutherford - yes
Mr. Zimmer – yes
Mr. Kiley - yes
Mr. Redfern – yes
Chairperson Maurice - yes
Variance approved 6-0

CHAIRPERSON MAURICE – reminds applicant of six month expiration and if renewal is requested, it is an administrative action

Application No. 2

THE APPLICATION OF JESUS CORREA REQUESTING AREA VARIANCES TO ERECT A GARAGE WHICH WILL ENCROACH INTO THE REQUIRED FRONT AND REAR SETBACKS; AND TO ERRECT A DECK WHICH WILL ENCROACH INTO THE REQUIRED FRONT SETBACK ON PROPERTY LOCATED AT 1453 CHILI AVENUE.

CHAIRPERSON MAURICE – setbacks are a SEQRA type two action, no environmental impact study needed; Chili Avenue is a county road and the county has referred back as a local matter; two separate variance applications, separate votes, one for front porch and one for garage, but can go through as one

JOSEPH CORREA – 1453 Chili Avenue; will start with porch, more like a deck, no roof;

CHAIRPERSON MAURICE – application does say with a roof, making correction for record

MR CORREA – was called and asked specifically about that and told that no roof

CHAIRPERSON MAURICE – for the record, no roof

MR CORREA – reason why they want is that there is no back yard; part of backyard is with garage and driveway; no access of any entertainment unless in back yard; dimensions between garage and fence is eight feet; front deck to acquire entertainment for friends and family and enjoyment; looked at area, a couple houses have similar style open porches where they gather with families

CHAIRPERSON MAURICE – what will it look like, materials?

MR CORREA – pressure treated wood and PVC on boarders, trim, fencing – 9.2 feet from sidewalk

MR CORREA - no, from property line, sidewalk is a foot and a half away from the property line

CHAIRPERSON MAURICE – where will the steps be?

MR CORREA – in line with front door

CHAIRPERSON MAURICE – extend toward the sidewalk from the porch?

MR CORREA – yes

CHAIRPERSON MAURICE – need to know what that is because it is part of the structure; will need to be included in the variance if steps extend; do you know how far they extend out?

MR CORREA – does not know; three tiered steps; assume about thirty inches away from base from the front

MR RUTHERFORD – how far off ground?

MR CORREA – two feet, twenty-four inches

MR RUTHERFORD – three eight inch steps, twenty-four, would be thirty inches

CHAIRPERSON MAURICE – two and a half feet

MR CORREA – can accommodate and bring further back so that steps are more in line with the face of the porch;

MR RUTHERFORD – would help

MR CORREA – would still be 9.2 inches away from property line

MR RUTHERFORD – is there a sidewalk now going from the current steps to the sidewalk

MR CORREA – yes

MR RUTHERFORD – concrete?

MR CORREA – actually brick

MR RUTHERFORD – easy to move those and go off of the side and to the sidewalk?

MR CORREA - yes

CHAIRPERSON MAURICE – did you just determine that steps will go off side and not towards the sidewalk?

MR CORREA – no, steps built to sit back into

MR RUTHERFORD – recessed?

MR CORREA - yes

CHAIRPERSON MAURICE – will they extended at all beyond the eight feet?

MR CORREA - no

CHAIRPERSON MAURICE – 9.2 feet from property line, not from the sidewalk so it is another foot and a half; 10.8 from the sidewalk;

The setback from Walbert, being a town street, is 35 feet is code, looking for a twenty-five foot variance for that; house, which is grandfathered in, is already in there; looking for a further eight foot variance; on a corner, so two front yards; Chili Avenue, county road, setback, is fifty feet per code; did not give measurements for closest point of deck to Chili Avenue right of way; figured it out to be, refer to drawing, side of house that is 34.4 feet, where deck is going to be; with ruler, one and three quarter inches, exactly from proposed deck to right of way; assume deck is setback from Chili Avenue right of way, thirty-five feet; looking for a fifteen foot variance from Chili Avenue; two set back variances required; in both cases, house is already inside variance; new structure needs its own variance; Chili Avenue looking for a fifteen foot variance; did you follow?

MR CORREA- yes, on the corner, right of way

CHAIRPERSON MAURICE – on the map, there is a former right of way, if that was still the right of way, would have fifty feet and would not need a variance, but there is thirty-five feet; need fifteen foot variance to Chili Avenue and need a

twenty-five foot variance from Walbert; even though it is only an additional eight to where the house is, because it is supposed to be thirty-five, need a twenty five foot variance to Walbert; will consider this for deck

MR CORREA – if has to can change direction of step toward the garage, can do that was well

CHAIRPERSON MAURICE – does not affect as long as not closer to street

MR CORREA – however it can be done, will do it

ATTORNEY MAC CLAREN – up to you, if fully recessed or go south toward garage; you can pick, do not have to tell us today, has to be one of those two

CHAIRPERSON MAURICE – garage

MR CORREA - works for State Farm, has to bring vehicle home; cannot park currently in garage with other vehicles; vehicle has expensive equipment in it; sticks out like sore thumb on corner of street; broken into numerous times; needs truck to help disabled vehicle or police agencies on road; vehicle cannot fit with others

CHAIRPERSON MAURICE – what would it look like?

MR CORREA – twenty-four by twenty-four; same roofline as what is there now; eliminate hip roof; one or two doors facing Walbert

CHAIRPERSON MAURICE – again, being on a corner lot, front setback per code is 35 feet from Walbert and 19.2 foot setback; 15.8 foot variance; plus 1.6, 14.2 foot variance from Walbert and in the rear, code for setback is thirty feet and will be 24.2; requires an 8.8 variance to the rear

MR ZIMMER – the current garage, you pull in from behind the house

MR CORREA – correct, from south end of the house

MR ZIMMER – want to change so the garage is facing Walbert so you can pull in from Walbert

MR CORREA - correct

MR IOANNONE are you going to have a man door?

MR CORREA – overhead, for safety purposes, does not want other door openings that are not needed

MR RUTHERFORD – service vehicle is not any wider than a normal car, why do you have from 18 feet to 24 wide?

MR CORREA – vehicle lengthwise is 22 feet

MR RUTHERFORD – talking about width, extra large

MR CORREA – wife has vehicle, he has vehicle and service vehicle, cannot fit all, want to do 24 by 24 so that can fit

MR RUTHERFORD – pulling in from Walbert, so will move driveway around?

MR CORREA - correct

MR RUTHERFORD – isn't there a curb there, or is it a gutter?

MR CORREA – gutter

MR RUTHERFORD – are you turning the old driveway to grass?

MR CORREA – yes

MR RUTHERFORD – the old garage will not be there anymore?

MR CORREA – it will still be a garage, yes

MR ZIMMER – but you cannot pull the car in?

MR CORREA – yes, will be able to put a car in there, turn right

MR ZIMMER – exterior will be what the exterior of the house is?

MR CORREA – yes, vinyl siding, same color

MR ZIMMER – same roof?

MR CORREA – yes, built as one car garage, extended; part of roof is caving in, has to redo the entire roofline on existing garage so that it is framed correctly

MR RUTHERFORD – issue is that it is a huge amount of structure on smaller property, two garages, consider tearing down the old one and making one that is a little bit bigger, that would flow with the size of the house better

MR CORREA – no, four vehicles; would like to park all four vehicles in garage, especially work vehicle

MR RUTHERFORD – oversized garage door?

MR CORREA – yes, eight and a half feet high

MR RUTHERFORD – how much taller is new garage going to be than the old garage?

MR CORREA – property slopes from south to the north; high on south side; one-foot and a half higher than the garage line of the existing to be able to accommodate length as well

PUBLIC HEARING – no one in attendance

ATTORNEY MAC CLAREN – roof was whited out on original application, not a change in the application

CHAIRPERSON MAURICE – deck first, two variances required, one from the front on Walbert, which would be an additional eight foot variance from the house, that is already in the thirty-five foot set back, variance of twenty-five feet; Chili Avenue right of way, which should be fifty feet, only thirty-five, needs a fifteen foot variance as it is a new structure

MOTION – MR KILEY – Motion to accept variance as drawn; change with steps; eight foot

The approvals are 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 to, respectively, permit the construction of a garage and a deck which will each, as applicable, encroach into the front and rear setbacks on property located at 1453 Chili Avenue, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant's plea;
- 3 The Board did receive the response from the County Planning Board prior to meeting referring the matter back as a local matter;
- 4 The Board found that the requested variance met all of the criteria for permitting the requested area variance;
- 5 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 IOANNONE**

CHAIRPERSON MAURICE - Motion to accept two front setbacks for the deck as presented

Member Vote Tally

Mr. Ioannone – yes
Mr. Rutherford - yes
Mr. Zimmer – yes
Mr. Kiley - yes
Mr. Redfern – yes
Chairperson Maurice - yes
Variance approved 6-0

CHAIRPERSON MAURICE – garage, two variances required, Walbert side would be 14.2 feet and from the rear of the property, the variance required is 8.8 feet

MR ZIMMER – when you build the garage, redo roof line for the old garage and the new garage, so it will not be two different roof lines?

MR CORREA – would like to build as one unit, as one roof line

MOTION – MR IOANNONE – motion to approve as presented

The approvals are 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 to, respectively, permit the construction of a garage and a deck which will each, as applicable, encroach into the front and rear setbacks on property located at 1453 Chili Avenue, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant's plea;
- 3 The Board did receive the response from the County Planning Board prior to meeting referring the matter back as a local matter;
- 4 The Board found that the requested variance met all of the criteria for permitting the requested area variance;
- 5 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 ZIMMER

CHAIRPERSON MAURICE – motion to approve garage variances, both Walbert and from the rear of the property

Member Vote Tally

Mr. Ioannone – yes
Mr. Rutherford - no
Mr. Zimmer – yes
Mr. Kiley - yes
Mr. Redfern – yes
Chairperson Maurice - yes
Variance approved 5-1

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

Second - **MR REFERN**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals