



# Town of Gates

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

## Meeting Minutes

April 12, 2021

**MEMBERS PRESENT:** Christine Maurice, Chairperson; Don Ioannone;  
Bill Kiley; Don Rutherford; Dave Ferris

**MEMBER(S) NOT PRESENT:**

**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; 2255 Buffalo Road taken off agenda; Majority is at least three votes, Board consists of 5 members

**CHARIPERSON MAURICE** – first order of business is to accept minutes from February, 2021 meeting; no changes, additions or corrections

*All in favor, minutes approved 3-0*

Mr. Rutherford and Mr. Ferris abstain due to absence from last meeting

Application No. 1

**THE APPLICATION OF SAMUEL P. REGAR REQUESTING AREA VARIANCES FROM ARTICLE VI , SECTION 190-33 AND ARTICLE VIII, SECTION 190-36 TO INSTALL A FENCE WHICH WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK AND IS HIGHER THAN ALLOWED, ON VARIAN LANE SIDE OF PROPERTY, IN A BUSINESS NON-RETAIL ZONING DISTRICT, ON PROPERTY LOCATED AT 964 BUFFALO ROAD.**

**CHAIRPERSON MAURICE** – different from other application because in a business, non-retail district, not a residential zone; different codes for fences apply; six foot privacy fence, twelve feet from the road, allowed four foot fence; height variance and set back

**SAM REGER** – moved to Gates in January; four kids, looked for big yard, place to play; issue if that Buffalo Road is busy, looking for safety; Varian also busy; seeking variance to build fence twelve feet from Varian; run along Varian lane and enclose the backyard; was not aware of height restriction, assumed six foot minimum

**CHAIRPERSON MAURICE** – except in front yard equals four feet, on a corner;

**MR REGER** – still like to have a six foot fence, open to discussion if that is the hang up; willing to go through five factors that influence decision; highlight is safe place for family; no impact on character; neighbors support the goal

**CHAIRPERSON MAURICE** – neighbor on Varian Lane?

**MR REGER** – yes, Jerry; already fence between yards; okay with taking out chain link; agreed not to disturb garden

**CHAIRPERSON MAURICE** – shrubbery along fence, is that how far out new fence will go?

**MR REGER** – proposal is to move it closer, fence is actually twenty- three feet to road; move closer to Varian Lane, twelve foot setback

**CHAIRPERSON MAURICE** – letter says utility pole would be outside; what about row of trees, inside or outside?

**MR REGER** – outside of utility line, but trees would be on inside; red line is the proposed location

**CHAIRPERSON MAURICE** – letter says from house to Varian is twenty-four; survey shows thirty-four feet

**MR REGER** – twenty-four and twelve is thirty-six; could have measured wrong; twelve feet from Varian; distance between fence and house is twelve feet;

**CHAIRPERSON MAURICE** – SEQRA type two for the application; no environmental impact; county response; address is Buffalo Road, but fence is on a town road, county response is not required;

**MR REGER** – county looked at, no issues

**MR IOANNONE** – material?

**MR REGER** – pine or cedar wood; pickets

**MR IOANNONE** – natural or stain?

**MR REGER** – stain, time to cure

**MR FERRIS** – pressure treated wood?

**MR REGER** – if pine would have to be, not cedar

**MR FERRIS** – chain link fence between lot 36 and 34, neighbor’s yard, taking out?

**MR REGER** – yes, and chain link fence between his and property to the west; will seek necessary permits

**MR FERRIS** – encompass entire back yard?

**MR REGER** – yes

**MR RUTHERFORD** –uncomfortable with six foot fence; consider four feet?

**MR REGER** – would consider five feet, four is too low; not for privacy, to keep kids safe; not enough; prefer six, need at least five

**MR RUTHERFORD** – also not comfortable being that close to the road; given zoning, everyone wants; difference is corner side lot; like to see back more, sixteen, twenty feet; takes away from character of neighborhood

**MR REGER** – consider, but preference is at least a five foot fence, twelve feet away

**CHAIRPERSON MAURICE** – initially had concerns that the twelve foot set back is next to neighbor’s driveway; town said okay, not a problem; neighbor is okay with it; neighbor did not bring up that concern to you?

**MR REGER** – no

**MR KILEY** – is there a reason you do not want chain link?

**MR REGER** – aesthetics; makes it look like an industrial type setting

**CHAIRPERSON MAURICE** – you are installing the fence?

**MR REGER** - yes

PUBLIC HEARING – no one in attendance

**CHAIRPERSON MAURICE** – describe more what fence is going to look like

**MR REGER** – wood, not vinyl, no plans to paint white

**MR KILEY** – picket against picket, solid?

**MR REGER** - yes

**MR FERRIS** – have you ever installed before?

**MR REGER** – no, an attorney; father is a real estate appraiser; spent high school years helping; working on barn in back; professional, will install foundation and will make into a two story shop; will be well done

**MOTION – CHAIRPERSON MAURICE** – Motion to approve as presented, six foot wooden fence, twelve foot set back from road

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

- 1 The Applicant sought variances from Town of Gates Code Chapter 190, Sections 33 & 36 to allow for the erecting of a fence which will (i) encroach into the required setback, and (ii) is higher than allowed on property located at 964 Buffalo Road, Town of Gates;
- 2 There were no parties who spoke for or in opposition of the Applicant’s plea;
- 3 The Board found that the requested variances met all of the criteria for permitting the requested area variances;
- 4 The requested variances only impacted the portion of the property located on a Varian Lane, a Town road and therefore does not require a response from Monroe County, however, a response was received with no objection.
- 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**

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley – yes

Mr. Rutherford – no

Mr. Ferris – yes

Chairperson Maurice - yes

*Variance approved 4-1*

Application No. 2

**THE APPLICATION OF CHARLENE PETERS REQUESTING AN AREA VARIANCE FROM ARTICLE VI, SECTION 190-32 TO ERECT A 4-FOOT CHAIN LINK FENCE WHICH WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK ON PROPERTY LOCATED AT 7 SILVER BIRCH DRIVE.**

**CHAIRPERSON MAURICE** – residential, slightly different fence codes apply from what you heard about Buffalo Road

**CHARLENE PETERS** - in Gates since 2009; just learned about having two front yards; looking to fence back yard for numerous reasons; area cut in half; major drainage area; neighbors put in pool, dug out dirt, messed up drainage; substantial area stays wet; kids do not play in that area; play in area outside of variance; cars from high school park on street and smoke; baby sit children six and under, six days a week; apartments across the street, teenagers going to/from school cut through property; neighbors behind have aggressive dog that got a hold of her a couple of years ago, almost jumps fence; this fence would be another barrier; two houses on corner have similar type fence, almost to the sidewalk; this would be eight feet from sidewalk; under pine trees, will not change the neighborhood cosmetically; fence under current guidelines is almost unusable for grandkids;

**CHAIRPERSON MAURICE** – in a residential zone, allowed a four foot chain link fence without a variance; setback is only thing looking at;

**MS PETERS** – have sidewalks, road, grass, sidewalk, from that over, almost eight feet;

**CHAIRPERSON MAURICE** – is row of pine trees inside or outside fence?

**MS PETERS** – just outside, depends on pine tree roots if can go straight shot; had fence business; know about tree areas; can move a foot or two with chain link

**CHAIRPERSON MAURICE** – SEQRA, type two; no further environmental impact study needed; not on a county road, no county response needed

**MS PETERS**- spoke with neighbors, supportive

**MR RUTHERFORD** – is fence going to the front of the house?

**MS PETERS** – no, according to code, going to back side of the house

**MR RUTHERFORD** – just on side and then cut over to the house?

**MS PETERS** – to back corner and then straight across

**CHAIRPERSON MAURICE** – shows on map

**MS PETERS** – pine trees, enormous, hide

**MR FERRIS** – how far back from sidewalk?

**MS PETERS** – eight feet

**CHAIRPERSON MAURICE** – looks like it narrows, still looks like about six feet?

**MS PETEERS** – at least, couple more smaller pine trees

**CHAIRPERSON MAURICE** – asks Mr. Peters if he has anything to add

**MR PETEERS** – want to keep chain link black, less conspicuous

PUBLIC HEARING – no one in attendance

**CHAIRPERSON MAURICE** –

**MOTION – MR IOANNONE** – Motion to approve application as presented, approximately eight feet from the sidewalk

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, Sections 32 to allow for the erecting of a fence which will encroach into the required setback on property located at 7 Silver Birch Drive, Town of Gates;
- 2 There were no parties who spoke for or 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 variances;
- 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 application as presented, a four foot chain link fence, with a setback of approximately eight feet from the sidewalk

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley - yes

Mr. Rutherford – yes

Mr. Ferris - yes

Chairperson Maurice - yes  
*Variance approved 5-0*

**MOTION** - to adjourn – **MR KILEY**  
Second – **MR FERRIS**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals