



Town of Gates

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

Meeting Minutes

August 10, 2020

MEMBERS PRESENT: Christine Maurice, Chairperson; Don Ioannone;
Alan Redfern; Don Rutherford; Mary Schlaefer

MEMBER(S) NOT PRESENT: Steve Zimmer; Bill Kiley;

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; two members absent; four votes required; social distancing, everyone is six feet apart; one application is on a county road and are able to go forward because response have been received.

MOTION – MR REDFERN - Motion to approve the minutes from the July, 2020 meeting

Second – **MR IOANNONE**

All in favor, Mary Schlaefer abstains due to absence; minutes approved

Application No. 1

THE APPLICATION OF VIP MAINTENANCE (DBA COLLEGE BOUND SEALERS) REQUESTING AN AREA VARIANCE FROM ARTICLE XXVII, SECTION 190-161 AND ARTICLE VIII, SECTION 190-36 TO PLACE A SALT BARN ON PROPERTY LOCATED AT 985 BUFFALO ROAD WHICH WILL ENCROACH ON THE REQUIRED FRONT AND SIDE SETBACKS.

CHAIRPERSON MAURICE – application as written, for article 27, section 190-161, that is for side and rear setbacks, looking at front set-back also, Board is also looking at 190-36, which addresses a front set-back; SEQRA type 2, setback; Board is required to consider whether there is an environmental impact, no further review needed; on county road, received county response

RON RICHMOND – 2117 Buffalo Road; service manager for VIP Maintenance at 955 Buffalo Road, mailing address of 2117 Buffalo Road, physical address for yard at 985 Buffalo Road; put salt barn in four years ago to help support snow removal business; did not know that it was a structure that required a permit; after a couple of months, change in fire marshal and code enforcement and tickets written for being out of compliance; goal is to be in compliance

CHAIRPERSON MAURICE – shares pictures on screen of submission; red rectangle is proposed location

MR RICHMOND – took two small black rectangles, represent sealer tanks, red rectangle represents the salt barn; worked with DDS in looking at odd shaped yard; concerned with safety; foot traffic, vehicle traffic, eighteen wheelers, trucks moving in and out of yard; share yard with Magic Seal, confined space; took version to DDS and asked how to stay off of state line on western edge; not impede on traffic flow in yard and still try to get in functional, usable space; has modified proposal; gave dimensions from DDS; 17 feet off from north edge next to shed, as discussed; flip flopped, red and 2 black rectangles; said 10.3 feet off property line; reflectors 10.3; gave wrong drawings; 17 feet from the fence line behind the Gate's motel; 10.3 off of the state line, which is the side variance that is needed; DDS's rendering, enlarged circle give dimensions; same dimensions, just sent wrong map, picture

CHAIRPERSON MAURICE – salt barn is now moved to where the black rectangles were; closer?

MR RICHMOND – no, still 10.3 feet off state line; 17.2 feet off property line behind Gate's Motel; allowed 22 feet from existing shed; safety wise, that was the concern; using space as best to get off the property line

CHAIRPERSON MAURICE – truck loading; where is the entrance to existing shed, are they trying to fit between the Gates Motel line or are they coming around.

MR RICHMOND – looking at the enlarged picture, where it says 17.2 feet, that is the back side of structure and will not do any work there; everything will be forward of the structures; further away from building allows for less closeness

CHAIRPERSON MAURICE – understood

MR RUTHERFORD – proposed shed is south of Gates Motel

MR RICHMOND - correct

MR RUTHERFORD - big building in back, looks like two tractor trailers south of that

MR RICHMOND – bulk sealer tanks; hold product

MR RUTHERFORD – proposed structure is supposed to be 100 feet away from Gates Motel and you are putting that 17 feet away

MR RICHMOND – correct

MR RUTHERFORD – concern that a rogue loader, no pillars would stop

MR RICHMOND – look at proposed structure, see that the walls and vertical bracing of jersey barriers.

MR RUTHERFORD – in the ground?

MR RICHMOND – no, in the back side of the walls

MR RUTHERFORD – power, set speed, potential to brake through and end up in the motel

MR RICHMOND – not a feasible scenario, also has 75 to 250 ton of salt in the barn

MR RUTHERFORD – consider moving structure to the south of the one story metal building?

MR RICHMOND – Magic Seal, portion of yard, not area that have the ability to operationally work out of

MR RUTHERFORD – same for east side of one story metal building?

MR RICHMOND – not enough width there, a drive lane and single row of parking

CHAIRPERSON MAURICE – in ariel view, where you are proposing to put the shed, white shadow which is where it is?

MR RICHMOND – salt barn is in the NW portion of lot; SW corner of salt barn is what is encroaching on the state property; get off and relocate to get back in compliance

CHAIRPERSON MAURICE – 10 feet east?

MR RICHMOND – more than 10 feet, but will go east toward the existing shed

MR RUTHERFORD – dimensions?

MR RICHMOND – 40 by 60

PUBLIC HEARING – no one in attendance

MOTION – MR IOANNONE – Motion to approve both front and side 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 36 and Chapter 190, Section 161 to permit the construction Salt Barn which will both encroach into the front and side setbacks on property located at 985 Buffalo Road, 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 REDFERN**

CHAIRPERSON MAURICE - Motion to approve the application as presented, the front set back along with the side setback

Member Vote Tally

Mr. Ioannone – yes

Mr. Redfern – yes

Mr. Rutherford - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 5-0

Application No. 2

THE APPLICATION OF MANUSWIN CHANSAKULPORN REQUESTING AN AREA VARIANCE FROM CHAPTER 164, SECTION 164-4 TO PLACE AN IN GROUND SWIMMING POOL IN THE FRONT YARD WHICH WILL ENCROACH INTO THE REQUIRED FRONT AND SIDE SETBACKS ON PROPERTY LOCATED AT 41 RAHWAY LANE.

CHAIRPERSON MAURICE – SEQRA type 2, not on county road

MANUSWIN CHANSAKULPORN – lives at 41 Rahway Lane, which is a corner lot; hardship is that not able to place the pool in the rear and side yards, too small; requesting variance for other side yard which is considered a front yard, per town code on the Winter Hazel Court side which is the west side of house; pool will be inground and the fence will be open, safety with gates; existing current fence on west side will be extended out; open on other side

MS SCHLAEFER – have a six foot wooden fence?

MR CHANSAKULPORN - six foot vinyl

MS SCHLAEFER – is that coming out?

MR CHANSAKULPORN – come out and go into the green part of the yard; pool would go away from the house and the fence would move out closer to the sidewalk

MS SCHLAEFER – the more privacy one?

MR CHANSAKULPORN – no, that six foot one would get torn down, the west side one, would be open fence, not closed off

MS SCHLAEFER – will not have that fence anymore?

MR CHANSAKULPORN – will not have that fence anymore

MS SCHLAEFER – chain link?

MR CHANSAKULPORN - aluminum railing, normal pool safety fence

CHAIRPERSON MAURICE – what does that look like, is it a vertical railing?

MR CHANSAKULPORN – vertical railing

CHAIRPERSON MAURICE - four feet tall?

MR CHANSAKULPORN - yes

SUPERVISOR GUINTA – do not intend to put the 6 foot vinyl fencing along the sidewalk?

MR CHANSAKULPORN – no, not along sidewalk, fence will be as close to the pool as can go, landscape to match front yard

CHAIRPERSON MAURICE – Board members have driven by property, familiar with property

MS SCHLAEFER – did not understand from paperwork that it was an inground pool, erect means put one up

MR RUTHERFORD – electrical box on corner of two properties that above ground pool would cause concern

MR CHANSAKULPORN – inground and will probably have to move power box to put in pool in that location

MR RUTHERFORD – electrical line is straight to house and you know that it can be done safely?

MR CHANSAKULPORN – mentioned to pool guy and landscaper, said has been done before, does not know process exactly, still in process of getting variance approved

CHAIRPERSON MAURICE – if Board approves variance to allow pool, that is all that it permits you to do; opportunity to put pool there as long as you get all of the other permits, understood?

MR CHANSAKULPORN - yes

CHAIRPERSON MAURICE - how far is the pool from the sidewalk?

MR CHANSAKULPORN - 29x17 feet; pool 18-19 feet away from sidewalk; ledge on pool, concrete walkway and fence about 17-18 feet from sidewalk;

MR RUTHERFORD – fence beyond house is denied ninety-nine percent of the time because it takes away from the look of the neighborhood

MR CHANSAKULPORN – understands, likes to have nice landscaping; neighbor can attest to that; trying to put fence as far away from the sidewalk as possible; does not want to request a second variance to put in a privacy fence; open fence and landscape out as much as possible so that it blends and people can walk on sidewalk and enjoy it

CHAIRPERSON MAURICE – landscape plan around the fence?

MR CHANSAKULPORN – yes, potential

CHAIRPERSON MAURICE – confirm measurement; 18 from sidewalk?

MR CHANSAKULPORN – pool would be 18 feet from sidewalk

CHAIRPERSON MAURICE – do you know what it is from the neighbor to the side of you?

MR CHANSAKULPORN - does not have exact location yet, about 8 to 10 feet

CHAIRPERSON MAURICE – sees number written in but cannot read

MR CHANSAKULPORN – should be about 8 to 10 feet, depending on how far can slide down toward garage

CHAIRPERSON MAURICE - see on plan allowed 15 feet from foundation all the way around

MR CHANSAKULPORN - yes

PURBLIC HEARING

JAMES WANDTKE – 56 Winter Hazel Court, supports idea for swimming pool; will not impede on their property at all; his property is outstanding, a picture perfect lawn and landscaping; will improve landscape of neighborhood, all for it; they have inground pool

CHAIRPERSON MAURICE – you are on the side and your driveway would go along the pool

MR WANDTKE – yes, have inground pool next to him

CHAIRPERSON MAURICE – it will be 8 to 10 feet away from your property line?

MR WANDTKE – correct; how far away is the fence from the power box, outside the fence?

MR CHANSAKULPORN – yes, power box is about 4 feet away, pool would be about 10 to 12

MR WANDTKE – share power box but still on property; here to support

CHAIRPERSON MAURICE – insured for town that being on a corner lot, requires two public notice hearing signs; insured that it was well advertised that there was a public hearing here tonight; asked building department about inquires, one or two that called to ask what it was about, did not give indication who they were or how they felt about it; cannot take anonymous comments

MOTION – MR REDFERN – Motion to approve variance as written

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

- 6 The Applicant sought a variance from Town of Gates Code Chapter 164, Section 164-4 to permit the construction of a swimming pool in the front yard on property located at 41 Rahway Lane, Town of Gates;
- 7 The Applicant confirmed that the pool will be approximately 18 feet from the sidewalk and no closer than 9 feet to the side lot line of the property located at 56 Winter Hazel Court;
- 8 There were no parties who spoke in opposition of the Applicant's plea and one party (current owner of 56 Winter Hazel Court) which spoke in favor of the Applicant's plea;
- 9 The Property is not located on a County Road therefore no response from the County is required;

10 The Board found that the requested variance met all of the criteria for permitting the requested area variance;

11 This application involved a Type II action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – **MS SCHLAEFER**

Member Vote Tally

Mr. Ioannone – yes

Mr. Redfern – yes

Mr. Rutherford - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 5-0

MOTION - Motion to adjourn – **MS SCHLAEFER**

Second - **MR RUTHERFORD**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals