



Town of Gates

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

Meeting Minutes

May 11, 2020

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

MEMBER(S) NOT PRESENT: NA

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 properties on the agenda that are on state highways or county roads, the county referred back as a local matter, so will be able to make a decision on those tonight; in reference to Zoom meeting, this is a public meeting, according to the executive order which modifies the New York State public meeting law during time of COVID19 shutdown; the agenda with the Zoom link was published on the town website and also directions to the link were published in the Gates Post; the meeting is being recorded; the minutes will be published as they normally are; Board members in attendance are Don Ioannone, Bill Kiley, Don Rutherford, Steve Zimmer, Alan Redfern, Mary Schlaefer is not on screen, but is in the room and

Board Attorney, Rob Mac Claren; Town Board liaison, Cosmo Guinta and secretary Clare Goodwin; others on screen are either applicants or the public; The first item of business is to accept the minutes from the last meeting, which was in March, 2020, no changes, additions or corrections

MOTION – MR IOANNONE - Motion to approve the minutes from the March, 2020 meeting

Second – **MR ZIMMER**

All in favor, minutes approved

MR RUTHERFORD, abstains

CHAIRPERSON MAURICE – first application on agenda has been withdrawn

Application No. 2

**THE APPLICATION OF GIZZI REAL ESTATE HOLDINGS, LLC,
REQUESTING AN AREA VARIANCE FROM ARTICLE XXIV, SECTION
190-35 TO CONSTRUCT A BUILDING WHICH WILL ENCROACH INTO
THE REQUIRED SIDE SETBACK ON PROPERTY LOCATED AT 30356
BUFFALO ROAD.**

CHRIS SCHULTZ – two area variances, first is a side set-back related to proposed building at 3035 Buffalo; proposed separation of building at 2995 Buffalo Road to mirror existing building; showed layout of building; location where Schmegs building existed; with unusual jog creating situation needing request for relief; for majority of building maintain fifteen-foot -separation from side, that matches up to the 15 foot right side separation for the existing building at 2997 Buffalo Road; have storm sewers running down; variance is just for northeast corner; site is a redevelopment of commercial site which tends to be expensive, have to remove existing building; this one was not worth trying to salvage; more expensive than trying to start from scratch; in this situation because the property was purchased immediately after 2997 Buffalo Road was done; with intention to duplicate, tend to be able to do it cheaper the second time; good luck with rental on first building and anticipate same for second; need to determine if the requested variance would create an undesirable effect on neighborhood; this building almost 90% does conform to the 15 foot set back which is indicative of the jog in the property line; maintaining the 30 feet of separation between the buildings; from road see two buildings separated by the same distance; original building was closer to existing line, .9 feet on northeast corner; redevelopment of community site;

purchased after other done; obtained shortcuts; anticipate undesirable change in neighborhood; ninety percent confirmed; closer to existing line; building at 3055 Buffalo Road, has side setback of 5.6 feet; not uncharacteristic of what you see in the area; under 15 feet, is indicator; will look like buildings are parallel; also owns property to west, tried to straighten out property line and avoid variance, but would need to leave everything as constructed in place and only move the property line; would need to ask for subdivision; cross access easements; would be cumbersome and a financial burden to straighten out; look at magnitude of relief, 6.4, 15 is required, 8.6 is substantial, but original building would have required a variance of 14.1 relief for almost entire length; building has less road frontage exposure; no environmental impact; self-created but substantially less than if tried to retain and modify old building

CHAIRPERSON MAURICE –part that does not need fifteen feet, northeast corner only; that part needs variance

MR RUTHERFORD – what is the amount of the variance?

MR SCHULTZ – 6.4 feet proposed side set back; 15 required down to 6.4

MR ZIMMER – referred to fire marshal?

MR SCHULTZ- planning reviewed by fire marshal; will need to be able to get around buildings, don't care where the property line is; providing a thirty foot separation between the buildings themselves; expect marshal to say requirements are met; can get at building from all sides

CHAIRPERSON MAURICE – SEQRA, setbacks are a type two action and are not subject to further review

MR RUTHERFORD – property owner on east side has no problem with variance

MR SCHULTZ – yes, developer and owner

PUBLIC HEARING

JESSICA LEGETTE – 20 Pyramid Lane – directly behind building; how will this affect property; open because of commercial building; already has people coming through yard from Buffalo Road; neighbors are wondering

MR SCHULTZ – met in field during construction phase; further west; not near property; no houses are approximate to 3035; can provide screening and landscaping; first hearing about issues; is property fenced?

MS LEGETTE – no, fence is not behind building

MR SCHULTZ – that is 2997; want to find out more about it and discourage walking through; is this new?

MS LEGETTE – concerns because open; walking through yard; people she does not know

MR SCHULTZ – more tied into premium project at 2997; will address during planning phase;

SUPERVISOR GUINTA – has to do with the existing building; can speak with other property owner and address

MS LEGETTE – concerned because is going to be opened both ways

SUPERVISOR GUINTA – will address and revisit plans

CHAIRPERSON MAURICE – Planning Board would look at those issues, not necessarily Zoning Board for vegetation, buffers

MOTION - MR ZIMMER – 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 135 to permit the construction of a building which will encroach into the side setback on property located at 3035 Buffalo Road, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant's plea;
- 3 The Board received the required response from Monroe County, which referred 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 RUTHERFORD**

CHAIRPERSON MAURICE - Motion to approved variance as presented, less than 15 foot set back

Member Vote Tally

Mr. Ioannone – yes

Mr., Kiley – yes

Mr. Rutherford - yes

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 7-0

APPLICATION NO. 3

THE APPLICATION OF GIZZI REAL ESTATE HOLDINGS, LLC, REQUESTING AN AREA VARIANCE FROM ARTICLE XXIV, SECTION 190-35 TO CONSTRUCT A BUILDING WHICH WILL EXCEED THE ALLOWABLE LOT COVERAGE PERCENTAGE ON PROPERTY LOCATED AT 3035 BUFFALO ROAD.

CHRIS SCHULTZ – when 2997 was done, town of Gates did not have any maximum coverage at all; building is an asset; obtained relief from Board for parking spaces; when property already has utilities to be relocated, starting at a deficit; in course of doing approval, less than two years ago intended to narrow building; a year ago town passed regulation that it could only be 15%; took a similar plan to Planning Board, make sure from planning standpoint nothing else needed for variance; have existing cross access easement with next property; plan after change, make affirmation; Greece changed building coverage to 15%; back up to 50%; looked at surrounding towns, Chili = 30% max building coverage; Parma = 50%; Ogden 35%; Riga 40%; Brighton = 30% on hotel sites only; City of Rochester eliminated code, almost everything is reduction; 30% to work with balancing; Schmegs had 18.5% coverage; if tried to fix Schmegs, would still be in violation; 2997 to east, 22%; 3055 has 23%; majority will not meet requirements; Gates Town Hall = 12% because of south of parking lot is wet land; has advantage of adjacent property; cost to redevelop is more than new; never a secret that they would redevelop; want to put up next building, although not completely rented yet; Gizzi has made big investment in Buffalo Road area; consideration for planning, two new high end retail buildings shows area deserves development; interest by other developers to pick up other parcels; maximizing building size preserves open space in other parts of town; tax revenue increases; not opening up additional lands; request is substantial, but almost average to what is there; below surrounding communities; not asking for anything unusual

CHAIRPERSON MAURICE – SEQRA; unlisted action; no further review needed; ZBA does not change code; reviews variance requests; go to Town Board for change; states criteria for area variance per code;

MS SCHLAEFER – is usage of the building the same as at 1997?

MR SCHULTZ – yes

MS SCHLAEFER – entrance to building same as it is now

MR SCHULTZ – not changing access of Buffalo Road; using the same access; will be able to move; will have better traffic circulation

CHAIRPERSON MAURICE – calculate percentage of coverage if using the parking lot behind 341, 20% coverage, if not, 27%; after discussing with attorney, consider the 27% in decision simply because it is a separate property

MR SCHULTZ – Planning Board will provide a reciprocal, parking will be unavailable

PUBLIC HEARING – no one in attendance

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 135 to exceed the allowable lot coverage on property located at 3035 Buffalo Road, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant's plea;
- 3 The Board received the required response from Monroe County, which referred 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 an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – **MR RUTHERFORD**

CHAIRPERSON MAURICE – Motion to accept application as presented

Member Vote Tally

Mr. Ioannone – yes

Mr., Kiley – yes

Mr. Rutherford - yes

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 7-0

APPLICATION NO. 4

THE APPLICATION OF DANIELE FAMILY COMPANIES REQUESTING AREA VARANCES FROM ARTICLE VIII, SECTION 190-36 AND ARTICLE XXV, Section 190-144 TO CONSTRUCT A BUILDING (ROYAL CAR WASH) WHICH WILL ENCROACH INTO THE REQUIRED SIDE AND FRONT SETBACKS

AND – PART 2

REQUESTING AREA VARIANCES FROM ARTIVLE V, SECTIONS 190- 22 AND 190-24 TO ERECT A FREE STANDING SIGN WHICH WILL BE LARGER THAN ALLOWED, OF GREATER HEIGHT THAN ALLOWED AND CLOSER TO THE LOT LINE THAN ALLOWED; ALSO TO ERECT MORE BUILDING MOUNTED SIGNS THAN ARE ALLOWED WITH 2 OF THE SIGNS BEING LARGER THAN ALLOWED, ON PROPERTY LOCATED AT 1190 CHILI AVENUE

DAVID COX – from Passeror Associates - Royal Car Wash is expanding; successful; have buildings in Greece. Irondequoit, Webster, Henrietta, City of Rochester; want to be in Gates; Planning Board approved preliminary, in favor of putting property back to use; old Wishing Well property; subdividing 1.1 acres of 2 acre parcel; zoned general business; received special permit for car wash use from Town Board; hours of operation are 7am to 9pm Monday through Friday; 8am to 9pm on Saturday and 8am to 7pm on Sunday; 31.3% green space, actually increasing green space; carwash uses latest technology, uses 30% less water; compliant lighting; nice landscaping; asking for a building side set back and a building front set back; supposed to be equal to the height of the tallest structure; building is 35 feet tall; require a 35 foot set back; about 16 feet off the property line, further away than Wishing Well; abutment from 390 causes to be further back; neighbors on opposite side of 390 will not be able to see at all; little impact on set back; front set back normally would only be 50 feet, but on NYS DOT road, so up to 100 feet; 54 feet is similar distance to building adjacent;

CHAIRPERSON MAURICE – SEQRA – set back variance is a type 2; not subject; other is unlisted but does not require any further environmental impact review; county referred back as a local matter

MR KILEY – number of parking spots for other business once this is done?

MR COX – did a parking analysis looking at existing medical buildings and facilities; have adequate parking on lot 1, satisfies town code

MR RUTHERFORD – asks Chairperson Maurice if she agrees that parking is adequate

CHAIRPERSON MAURICE – not personally, but did sit in on Planning Board meeting; Planning Board did not have any questions

MR REDFERN – entry to the lot is the same as it currently exists?

MR COX – yes, no change to the access

PUBLIC HEARING – no one in attendance

MOTION – MR KILEY – Motion to accept as presented

Second – **MR IOANNONE**

CHAIRPERSON MAURICE – Motion to approve variance as presented

ATTORNEY MAC CLAREN – Motion to approve both set back variances

Member Vote Tally

Mr. Ioannone – yes

Mr., Kiley – yes

Mr. Rutherford - yes

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 7-0

CHAIRPERSON MAURICE - Sign application

MR COX – Pole sign is in the bottom right corner where it says proposed lot 2; next page, used Quality Inn sign as basis for height and size; 390 is up high and looks over top of buildings; need pole mounted sign to see from 390; code is 15 feet from the lot line; proposing 10 feet; worked out better for cars coming out of the wash; need to be larger so can be seen and recognized from 390; speed and distance off of the road;

CHAIRPERSON MAURICE – Quality Inn sign dates back to 1980; not there anymore; sign was there for the drive and fly people so they could find it, before GPS

MR COX – car wash business is not a destination business; lives off of people on the road; impulse buy; similar to a gas station; will pull into the first one they see; needs to be something to draw attention

CHAIRPERSON MAURICE – in 2016 this Board denied applications for billboard signs about in that same spot, on other side; different time than in 1980,

in what Board has been approving in terms of large scale signs; concern to open door for this type of sign anywhere in town; in that spot; carwash would not be unique in wanting customers to see them; do not want to open door for other businesses to say they want a sign along expressway also; practice of Board in recent years to not allow signs like this

DANNY DANIELE – brother is also on from Royal Carwash; only site they are looking at doing this type of signage; chose site because the lot is very difficult to see, but with proximity to 390, if have signage, may give a way of sustaining; impulse purchase, site is difficult; for sale for almost 30 years; Wishing Well approached them to purchase as restaurant when they had Mario's; spoke to DOT about billboard, do not allow in area unless it is for one business that has a standard sign; agrees that town does not want billboards; this is for an expressway and the only ones who will see are those on the expressway traveling from Greece to east; already sign from pervious owner for medical use; did not think town would want a second sign like that; imperative that there is some traffic from 390

MR RUTHERFORD – can google to find a carwash; does not think that a billboard sign is giving people much of a chance to get off and use it; town is generally opposed to billboard signs; if allow signs along expressway, would get out of hand; Quality Inn sign is grandfathered in; will get enough business in town anyway

MR ZIMMER – does not see as any more intrusive than the billboards that are on 390 now that Wegmans has;

MS SCHLAEFER – this is not a billboard, it is a lit up sign?

MR DANIELE – have not decided yet, will leave up to the Board; the idea was to have it not a back lit, but fancier with a light shining up on it; billboards up and down 390, want to make theirs look a little classier; want theirs to stand out; impulse purchase, would not google Mc Donald's; not essential, this sign stands out and makes it look special

MS SCHLAEFER – going down the highway, have to do this with others

MR DANIELE – decision is on what makes this site unique; shared entrance with another business; purchasing land that has been vacant for extraordinary time; most importantly, the proximity to 390 and interchange; makes a distinguishing situation; tax assessments go down the longer property is for sale; three and one half million dollar investment, tremendous amount of weight into value of the sign

CHAIRPERSON MAURICE – hours of car wash and sign being lit?

MR DANIELE – hours 7am to 9pm, lights on sign would turn off 30 minutes after closing

PUBLIC HEARING – no one to speak for or against

MOTION – MR ZIMMER – Motion to approve as presented, property has been vacant for a long time; brings tax money into town; sign will not be that intrusive because it is mostly blocked by 390

Second – MR KILEY – no neighbors to be adversely affected

CHAIRPERSON MAURICE – Motion to approve as presented for all three variances set back, 10 feet as opposed to 15 feet, the height, and size

Member Vote Tally

Mr. Ioannone – no

Mr., Kiley – yes

Mr. Rutherford - no

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer – no

Chairperson Maurice - no

Motion not passed 4-3

MR COX – not able to give the picture of the back lit sign, the way it was supposed to look, graphic designed was not able to get it in; is there a way to table so can actually see what sign looks like?

CHAIRPERSON MAURICE – was not approved, but did not take a vote to deny; can resubmit application with additional information

ATTORNEY MAC CLAREN – advises, if additional materials to show, can make a motion to table because did not actually deny; can resubmit materials

MOTION – CHAIRPERSON MAURICE – Motion to table, to show what sign would look like

Second - **MR ZIMMER**

Member Vote Tally

Mr. Ioannone – yes

Mr., Kiley – yes

Mr. Rutherford - yes

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer - yes
Chairperson Maurice - yes
Motion to table approved 7-0

CHAIRPERSON MAURICE – two wall signs that need variances; two 77 square foot side signs, require a size variance because allowed 50 square feet and requesting 77; sign facing medical office building requires, in addition to size, a number of signs on the building variance as it does not face the road, so none allowed by code

MR COX – sign in the middle of the long side of the building are 77.3; size fits in nice with peak group, goose neck lighting, shrinking it makes it look odd in the triangle shaped piece; want it to look proportionate; mirror building on both sides; one faces off ramp for 390, other faces parking lot and entrance; not like a typical building, this has two fronts; signs on end are smaller, well under variance

CHAIRPERSON MAURICE – correct that don't need variance but allowed 32 square feet, capped at 50 feet

MR COX – 32 is the standard size

MR DANIELE - main sign at entrance just says welcome

MR ZIMMER – larger signs, are they the same size as the rest of car washes?

MR COX – yes, that is the standard size

MR RUTHERFORD – sign on parking lot side that is technically called the north side of the building, correct?

MR COX – north east

MR RUTHERFORD – parking lot side?

MR COX – yes

MR RUTHERFORD – how many square feet is that proposed sign

MR COX – 77.3

MR RUTHERFORD – code is a lot less than that, correct?

MR COX – 50

MR RUTHERFORD – what size is sign on Chili Avenue side?

MR COX – 32

MR RUTHERFORD – Chris, Chili Avenue sign is within code, correct?

CHAIRPERSON MAURICE – yes, talking about on long side; 77, 50 feet

MR RUTHERFORD – on expressway side

MR COX – larger sign facing expressway will most likely be covered up because about 20 or 30 feet below 390; may not put up but would like okay; if get billboard sign, will not put it there

CHAIRPERSON MAURICE – allowed to have a fifty-foot sign on that side without variance

PUBLIC HEARING – no one in attendance

CHAIRPERSON MAURICE – to summarize, the sign on the expressway side is a size variance only, 77 vs 50 square feet; on side that faces medical building, that is also size and number of signs as it does not face a customer entrance

MOTION – MS SCHLAEFER – Motion to deny variance
Second – **MR RUTHERFORD**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley – no
Mr. Rutherford - yes
Mr. Zimmer - no
Mr. Redfern – no
Ms. Schlaefer - yes
Chairperson Maurice - no
motion not passed 4-3

MOTION – MR ZIMMER – Motion to approve as presented

The approvals discussed above are based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the respective requests:

- 1 The Applicant sought variances from Town of Gates Code Article XXV, Section 190-144, Article VIII, Section 190-36, and Article V, Section 190-24 to permit the construction of a building which will encroach into the front and side setbacks, for the erecting of an additional wall mounted sign and the erecting of two signs which will exceed the size limitations on property located at 1190 Chili Avenue, Town of Gates;
- 2 There were no parties who spoke in opposition of the Applicant’s plea;
- 3 The Board received the required response from Monroe County, which referred the matters 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 With respect to the setbacks, the application involved a Type II action and with respect to the number and size of the signs, the application involved an

Unlisted action, which, in both instances, under the State Environmental Quality Review Act (SEQRA), no further proceedings under SEQRA is required.

Second – **MR REDFERN**

Member Vote Tally

Mr. Ioannone – no

Mr., Kiley – yes

Mr. Rutherford - no

Mr. Zimmer - yes

Mr. Redfern – yes

Ms. Schlaefer - no

Chairperson Maurice - yes

Variance approved 4-3

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

Second - **MR REDFERN**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals