



# Town of Gates

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

## Meeting Minutes

January 10, 2021

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

**MEMBER(S) NOT PRESENT:** NA

**ALSO PRESENT:** Robert J. Mac Claren, Esq., 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, 2021 meeting; no changes or corrections;

**MOTION – MS MAURICE** – Motion to approve minutes  
**Second - MR IOANNONE**  
*All in favor, minutes approved*

TABLED FROM DECEMBER 13, 2021 MEETING

**THE APPLICATION OF DEBORAH CARDARELLI, R.C. REAL ESTATE, REQUESTING A USE VARIANCE FROM ARTICLE XXVII, SECTION 190-158 TO ALLOW A TENANT TO CONTINUE SELLING USED CARS ON PROPERTY LOCATED AT 955 BUFFALO ROAD.**

**CHAIRPERSON KILEY** – asked for significant additional information at the last meeting; no additional information received

**MS MAURICE** – Motion to lift the table

**MR REDFERN** – Second

All in favor

**BILLY JO CROMBACH** – 146 Gray Street, Rochester, 14609; friend of owner; spoke last time; spoke with Nic Silvestro, Gates Code Enforcer, today, found out about tonight's meeting; Deb and Kayle are gone; was able to get criteria needed to have a new vehicle; still trying to get information; can request an adjournment?

**CHAIRPERSON KILEY** – can only vote tonight; can reapply, will have better idea of what is needed

**MOTION – MR IOANNONE** – Motion to deny without prejudice

The requested Use Variance from Article XXVII, Section 190-158 of the Code, to permit the continuation of a used car sales business, which is not allowed pursuant to Section 190-158.

With respect to said requested Use Variance, the Board found that you did not provide sufficient evidence to permit the granting of the requested use variance.

More specifically, the Board found that you were unable to demonstrate the four (4) requirements necessary for granting the requested Use Variance which are (i) was the hardship self-created, (ii) is there a financial hardship and what is the extent of the same, (iii) will the requested use alter the essential character of the neighborhood, and (iv) is the hardship unique to the property.

This denial was also based on your failure to appear at the meeting and resulting failure to respond to the Board's questions regarding the application. Given the failure to appear and the outstanding questions and concerns, the Board felt it was appropriate to deny the application.

Second – **MS MAURICE**

Member Vote Tally

Mr. Ioannone – yes  
Mr. Ferris - abstains  
Mr. Redfern - yes  
Ms. Maurice – yes  
Chairperson Kiley – yes

*Variance denied without prejudice 4-0; 1 abstention*

**MS MAURICE** – responded to Ms. Crombach’s statement of no notice of the meeting that night that it was discussed with the applicant at the previous meeting, along with documentation to be submitted by the applicant to prove the Use Variance criteria, which was confirmed by a letter from our attorney. Furthermore, we cannot act on Ms. Crombach’s request to adjourn this meeting, as she is not the applicant.

TABLED FROM DECEMBER 13, 2021 MEETING

**THE APPLICATION OF TOWN GATE LLC REQUESTING AREA  
VARIANCES FROM ARTICLE XX, SECTION 190-102 TO DEVELOP  
A TOWNHOME PROJECT WHICH WILL ENCROACH INTO THE  
REQUIRED FRONT AND SIDE SETBACKS ON PROPERTY  
LOCATED AT 1010, 1020, 1032, AND 1036 SPENCERPORT ROAD.**

**MR REDFERN** Motion to lift the table

**MS MAURICE** – Second

All in favor

**TOM FROMBERGER** – MRB Group, here to continue discussion and answer questions; county comments?

**CHAIRPERSON KILEY** – correct, referred as a local matter

**MS MAURICE** – further comments from the Planning Board; no problem with proposed layout

**MOTION - MS MAURICE** – Motion to approve two, one for west side, Lightwood, front variance requirement; east side, variance and buffer required between single and multiple residences, as submitted

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 permit the development of a Townhome project which will encroach into the front and side setbacks on properties located at 1010 and 1036 Spencerport Road, Town of Gates (the “Property”);
- 2 The required public hearing was opened, held, and closed at the meeting;
- 3 The Board did receive the response from the County Planning Board prior to meeting which referred the matter back as a local matter; and
- 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 REDFERN**

Member Vote Tally

Mr. Ioannone – abstains

Mr. Ferris - abstains

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

*Variance approved, 3-0, 2 abstentions*

APPLICATION NO. 1

**THE APPLICATION OF LANDTECH SURVEYORS, AS AGENT FOR  
RYAN GOODWIN, REQUESTING AN AREA VARIANCE FROM  
ARTICLE IV, SECTION 190-14 TO ALLOW FOR FEWER PARKING  
SPACES THAN REQUIRED ON PROPERTY LOCATED AT 20  
INDUCTRIAL PARK CIRCLE.**

**JOHN SCHIARABBA** – with LandTech, 1105 Ridgeway Avenue, Rochester, 14615; Ryan Goodwin under contract for the purchase of the property; building had been partially constructed for some time; working with town staff, foundation since 1994; received Planning Board preliminary approval last month; a lot of work to do; 14,400 square foot foundation; need 32 parking spaces, unrealistic; no

historic variances; asking Board to consider relief from code for parking; able to squeeze in 22 spots for the sight plan; parallel spots, handicapped spots; not negative impact, an industrial park; application for variance is self-created because he wants to buy the lot; no environmental issues

**CHAIRPERSON KILEY** – SEQRA, unlisted, no further action required

PUBLIC HEARING – no one in attendance

**MOTION – MR IOANNONE** – Motion to table to accept 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 14 to permit fewer than allowed parking spaces on the property located at 20 Industrial Park Circle, Town of Gates (the “Property”);
- 2 The required public hearing was opened, held, and closed at the meeting; and
- 3 This application involved an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

**Second – MR FERRIS**

Member Vote Tally

Mr. Ioannone – yes

Mr. Ferris - yes

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

*Variance approved, 5-0*

APPLICATION NO. 2

**THE APPLICATION OF ROBERT WOLFE REQUESTING AN AREA VARIANCE FROM ARTICLE XXVI, SECTION 190-152 TO PURCHASE AN EXISTING BUILDING WHICH IS ATTACHED TO ADJOINING BUILDING THAT DOES NOT MEET 30-FOOT SETBACK REQUIREMENT ON PROPERTY LOCATED AT 23 MOONLANDING ROAD.**

**ROBERT WOLFE** – Wolfe Architecture, 3 North Main Street, Honeoye Falls; here with Bob Vento, Passero Associates and Todd Kayhart;

**BOB VENTO** - property in three separate tax account numbers; proposing to create three different configurations of the parcels; not creating more lots than what already exists; proposing an access easement off Trabold Road, down Moonlanding Road, through one of the proposed lots, lot 1, to give lot 2 access onto Trabold Road;

**TODD KAYHART** – Polymer Resources; currently Polymer Resources on Moonlanding Road is a privately held organization; the owner is aging out and is looking to sell off part of the property; has another company, Polymer Resources in Connecticut; would like to split the business currently running at Moonlanding Road into two; sell one, absorb one into the Connecticut business; in order to do that, need to separate the property into two separate units

**ATTORNEY MACCLAREN** – for this Board’s purpose, the issue is that the buildings are essentially connected; how are they connected and what is the plan?

**MR KAYHART** – that is what they are concerned about, set back has to be zero to be touching;

**ATTORNEY MACCLAREN** – yes, need to know how that is going to work

**MR KAYHART** - front is where all of the manufacturing takes place; back half is an over 160,000 square foot warehouse; going to take the compounding that is currently performed in the front and relocate that into the warehouse; connected by a ten foot wide ramp that goes from one building to the other; construct fire wall at the top of the ramp to separate the two businesses

**ATTORNEY MACCLAREN** Essentially have a shared wall, there would not be access

**BOB VENTO** – met with Board representatives; by NYS law, required to have two separate three hour fire walls; no penetrations; a permanent division between the two buildings; made out of masonry, fire resistant; letter submitted stating can have the zero foot setback per the NYS building code; rest of the variances because of the angle of the two buildings and the relationship off that subdivision line,

cannot always achieve the thirty foot setback as required; since it is a pre-existing, non-conforming situation, not making it worse; changing to zero foot set back with fire walls, protecting each property sufficiently; means cannot achieve setback; protect each

**CHAIRPERSON KILEY** – is it easier than taking that connection down?

**MR VENTO** – leave the connection up, but firewalls are going to be a permanent

**MR FERRIS** – is there any way of splitting and breaking down?

**MR VENTO** – will be doing that with firewalls; will not be a space between them; independent separation between the firewalls

**MR FERRIS** – no way of making them independent buildings?

**MR VENTO** – there is a way, one of the things looking at from a budgetary standpoint; now plan is to put two three hour firewalls that straddle the property line

**CHAIRPERSON KILEY** – cheaper

**MR VENTO** – right and there is a little ancillary space

**MR FERRIS** – no way to get at independent space?

**MR VENTO** – no, less than one foot; each wall will straddle the line very closely

**PUBLIC HEARING** – no one in attendance

**CHAIRPERSON KILEY** – SEQRA type two; no environmental issues

**MOTION – MR FERRIS** – Motion to accept as presented

- 1 The approval is based upon the following findings of fact, which adequately demonstrated the standards applicable to granting the application:
- 2 The Applicant sought a variance from Town of Gates Code Chapter 190, Section 102 to permit the development of a Townhome project which will not permit for any setback between the two existing buildings on property located at 23 Moonlanding Road, Town of Gates (the “Property”);
- 3 The required public hearing was opened, held, and closed at the meeting; and
- 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 IOANNONE**

Member Vote Tally

Mr. Ioannone – yes

Mr. Ferris - yes

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

*Variance approved, 5-0*

**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.**

**CHAIRPERSON KILEY** - Requesting an extension of the variance approved a few months ago

All in favor

**CHAIRPERSON KILEY** - Ivy Bridge application tabled to December has been withdrawn

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

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals