



Town of Gates

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

Meeting Minutes

December 13, 2021

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

MEMBER(S) NOT PRESENT: NA

ALSO PRESENT: Robert J. Mac Claren, Esq., Board Attorney
Cosmo Giunta, Councilman & 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; applications published in daily record and on town website; all applications are on state roads; three votes needed for a majority to approve; if Monroe County Planning Board approval needed and not received, will hear, but reserve decision until response is received; all three are on state roads; county has thirty days, because of meeting times, less than thirty days; only Taco Bell is back; will hear others, but no decision until January meeting

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

MOTION – MR IOANNONE – Motion to approve minutes

Second - MR KILEY

All in favor, minutes approved

Mr. Rutherford abstains due to absence

CHARIPERSON MAURICE – first application on agenda, not hearing tonight because applicant requested adjournment until January

APPLICATION NO. 1

THE APPLICATION OF SIGN AND LIGHTING SERVICES, AS AGENT FOR TACO BELL, REQUESTING AREA VARIANCES FROM ARTICLE V, SECTION 190-24 TO ERECT 2 WALL SIGNS ON SOUTH, WEST AND NORTH SIDES OF BUILDING ON PROPERTY LOCATED AT 2317 LYELL AVENUE.

ROBIN SHUTZ – 4249 Fireside Drive, Liverpool, NY; project manager Hospitality Restaurant Group, franchisee of Taco Bell; not applicant; Sign and Lighting Services, Kirk Wright, applicant, was not able to be here; completing renovation of Taco Bell; signage package typically calls for a Bell Logo as well as the words Taco Bell; end of canopy usually over entrance to building as well as over the drive thru window; understand zoning as if a sign is mounted on the same plane, considered to be one sign; looking at two signs on two different sides of the building; only west and north, not south side; asking for a variance to allow additional signs; not asking for more than what previously provided; less square footage than prior to renovation; logo is smaller now;

CHAIRPERSON MAURICE – town has considered the words Taco Bell to be one sign; the Bell to be a second sign; each side that faces the road is allowed to have one sign; Bell makes it two signs on the north and west sides; number of signs here tonight; size of signs added together still fit within the code; two separate variances votes, one for each side;

CHAIRPERSON MAURICE – front elevation faces Howard Road?

MR SHUTZ - correct

CHAIRPERSON MAURICE – drive thru side faces Spencerport Road, correct?

MR SHULTZ – correct, faces north

CHAIRPERSON MAURICE – not putting up?

MR SHUTZ – still putting up, but considered to be one sign, just the bell without the words

MR RUTHERFORD – no sign on the east side?

MR SHUTZ - correct

PUBLIC HEARING – no one in attendance

CHAIRPERSON MAURICE – county returned as a local matter; SEQRA, unlisted action, no further environmental impact needed

MOTION – MR IOANNONE – West side, motion to approve

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 24 to permit additional signs on the property located at 2317 Lyell Avenue, Town of Gates;
- 2 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 The Board received the response from the Monroe County Planning Board referring this matter back as a local matter;
- 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**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley – yes
Mr. Rutherford – yes
Mr. Redfern - yes
Chairperson Maurice - yes
Variance tabled 5-0

MOTION – MR REDFERN – North side, motion to approve

Second – **MR KILEY**

Member Vote Tally

Mr. Ioannone – yes
Mr. Kiley – yes

Mr. Rutherford – yes
Mr. Redfern - yes
Chairperson Maurice - yes
Variance tabled 5-0

APPLICATION NO. 2

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.

KALIE KETTING – secretary for Deborah Cardarelli, 1106 Berrington Drive; requesting variance for tenant who rents front office in building to continue; owned building for quite some time and have always been able to keep a lot of tenants; active commercial office space; not been successful in recent years; joined building in December, 2020; in parking lot which is underused, has three spaces in front; keeps used cars; not typical lot, by appointment only; most spaces are not completely full; beneficial because will be vacant; hard to secure a new tenants

CHAIRPERSON MAURICE – cannot decide tonight, no county response received; SEQRA, unlisted; Ms. Cardarelli came in after code enforcer noticed and said had to obtain a use variance to continue business and comply with code; town only allows used car sales if in conjunction with new car sales; explains four criteria for use variance; application does not include that

MS KETTING – is it the assessment of need?

CHAIRPERSON MAURICE – no, have to prove a financial hardship, need proof

MS KETTING – have profit and loss for last three years showing has gone down and how valuable he is to them

CHAIRPERSON MAURICE – second, show not self created; third unique hardship; fourth, will not have a negative impact on the character of the neighborhood; only received, not adequate; have time to get together for January meeting as have to table anyway for county response; request five days prior to January meeting; statement in letter from Ms. Cardarelli; agreed to one new car to comply with code; not for ZBA to decide; define “new car” sales, discuss with town; if compliance determined, no need for variance

MS KETTING – who can they present this information to?

CHAIRPERSON MAURICE – code enforcer, Mic Silivestro

MR KILEY – come with rest of A,B,C,D; if new car, do not need

MR RUTHERFORD – limit to number of cars?

MS KETTING – three

JINNALD COLE – 281 Congress Avenue, 14611; define new car?

MR KILEY – town; vehicle has never been registered

MR COLE – three cars in front, no signs

MR RUTHERFORD – three in front; in back?

MR COLE – cars not running, just parked

CHAIRPERSON MAURICE – use variances are complicated; criteria is stringent; NYS law 267, use variance

PUBLIC HEARING

BILLY JO CROMBACH – 146 Gray Street, 14609; longtime friend to applicant; building across street is dilapidated; their business will not negatively impact area; bought vehicle from him; give opportunity

CHAIRPERSON MAURICE – Must table because of county response

MOTION - MR IOANNONE – Motion to table to January

In addition to the above discussion of the necessary criteria for the issuance of the Use Variance, the tabling was based upon the following findings of fact:

- 1 The Applicant sought a variance from Town of Gates Code Chapter 190, Section 158 to permit the continuation of use car sales which is not allowed by the Code on property located at 955 Buffalo Road, Town of Gates (the “Property”);
- 2 The required public hearing was opened, held, and closed at the meeting;
- 3 The Board did not receive the response from the County Planning Board prior to meeting which prohibited the Board from rendering a decision on the application; and
- 4 This application involves an Unlisted action, under the State Environmental Quality Review Act (SEQRA) and no further proceedings under SEQRA is required.

Second – **MR KILEY**

CHAIRPERSON MAURICE – due to lack of county response and to allow applicant to gather more information required by NYS criteria

Member Vote Tally

Mr. Ioannone – yes

Mr. Kiley – yes

Mr. Rutherford – yes

Mr. Redfern - yes

Chairperson Maurice - yes

Variance tabled 5-0

APPLICATION NO. 3

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.

TOM FROMBERGER – with Steve Luciardello, Town Gate LLC; here to request two area variances; plan shows proposed parcel; project consists of four lots, proposing to combine; one existing residential home others are currently vacant; in November Planning Board approved rezone of application; concept plan, showed two buildings, seven and five unit; did not realize needed twenty-five foot set back on side in addition; came up with two layouts, per code layout provides twenty-five foot setback as well as forty foot building set back; layout is not the best for property; other is better for green space; could compromise and give units, but would

CHAIRPERSON MAURICE – here to talk about the setback on the west side facing Lightwood and side setback; per code, a forty foot setback; also between the apartment and the single family, twenty-five foot buffer; sixty-five feet total

MR FROMBERGER – shows proposal; focused greenspace around property; kept sixty-five feet on north side; reduced to fifty-five on other side, an encroachment of ten feet; allows for adequate greenery along the sides; keep traffic and parking inside, not having entry points or garage doors towards the east; everything is clustered towards the center core of the property; on west side, existing residential home is 17.6 feet; not proposing to encroach towards Lightfoot Lane any further; allows for twelve units and to maintain size; still provides thirty-five foot green space from road edge to building; residential feel to buildings, keep with neighborhood; application referenced apartments across the street appear to be closer than sixty-five feet shown

CHAIRPERSON MAURICE – some two story and some ranch?

MR FROMBERGER – correct, center core are two story; end units are single; four single story

CHAIRPERSON MAURICE – unit closest to Lightwood is a ranch?

MR FROMBERGER - yes

CHAIRPERSON MAURICE – owner occupied or rented?

STEVE LICARDELLO - Rental for now, available for sale later

ATTORNEY MACLAREN – legally, special code for town homes, not requested here; need rezoned again if selling individual units

CHAIRPERSON MAURICE – SEQRA- nothing further needed; county response not received, cannot make a decision tonight

MR FROMBERGER – conditional determination due to COVID?

ATTORNEY MACLAREN – no, cannot make a determination tonight, but do not need to appear next month if you do not need anything additional

MR FROMBERGER – have one of the neighbors here; have met with neighbors and are working with them on some pre-existing drainage conditions

MR RUTHERFORD – looking for a variance for twelve units as opposed to eleven, correct?

MR FROMBERGER – code allows twelve units; only requesting a variance for a front set back off Lightwood Lane and a side setback off the east property line; two area variances

MR RUTHERFORD – eleven units, with parking lot in the back of the units on the east side?

MR FROMBERGER – correct

MR RUTHERFORD – that is what you could do without variance?

MR FROMBERGER - correct

MR RUTHERFORD – why cannot leave building where it is but put the parking lot on the west side of that building

MR FROMBERGER – looked at that, parcel is unique, tapered; as setback, squeezed to pinching point at west side of property; move everything further towards Lightwood Lane, want to accommodate green space

MR RUTHERFORD – only eight foot difference between the two buildings

MR FROMBERGER – correct, eight feet hinders backing up and turning movements for garages; hinders both if were to pinch tighter

CHAIRPERSON MAURICE – confirms on drawing

PUBLIC HEARING – no one in attendance

CHAIRPERSON MAURICE – must table

MOTION – MR RUTHERFORD – Motion to table to January

In addition to the above discussion of the necessary criteria for the issuance of the variance, the tabling was based upon the following findings of fact:

- 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 not receive the response from the County Planning Board prior to meeting which prohibited the Board from rendering a decision on the application; 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 – yes

Mr. Kiley – yes

Mr. Rutherford – yes

Mr. Redfern - yes

Chairperson Maurice - yes

Variance tabled 5-0

MOTION - to adjourn – MR KILEY

Second – MR IOANNONE

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals