



Town of Gates

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

Meeting Minutes

February 14, 2022

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

MEMBER(S) NOT PRESENT: Dave Ferris; Don Ioannone

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 January, 2022 meeting; no changes or corrections;

MOTION – MS MAURICE – Motion to accept minutes as revised

Second - MR REDFERN

All in favor, minutes approved

Mr. Rutherford abstained

APPLICATION NO. 1

THE APPLICATION OF TINA ALBANESE-STAUFER REQUESTING AN AREA VARIANCE FROM ARTICLE XIX, SECTION 190-94 TO CONSTRUCT AN ADDITION WHICH WILL ENCROACH INTO THE REQUIRED SIDE YARD SETBACK ON PROPERTY LOCATED AT 15 TANGERINE WAY.

TINA ALBANESE-STAUFER – 15 Tangerine Way; looking for a thirteen inch variance for garage portion of the build; sold mother's house and moving her in; she had a stroke; in a split level with stairs; building a flat in-law apartment; garage is now a single car garage, making it a two to two and a half car garage; will be occupying one half, other will be room for car; was going to sell house and move into mother's but she sold house, college bought property

MS MAURICE – thirteen foot variance?

MS ALBANESE-STAUFER -thirteen inches

MS MAURICE – less than that according to application?

ATTORNEY MACCLAREN – 1.1 feet is thirteen inches

CHAIRPERSON KILEY – okay

MR RUTHERFORD – siding will match house currently and be aesthetically pleasing?

MS ALBANESE-STAUFER – yes; brought neighbor where it is going to be close to, has been involved in the process

MR RUTHERFORD – will it be done professionally?

MS ALBANESE-STAUFER – yes, King Construction is the builder, brought his credentials

PUBLIC HEARING

TRACY WASHINGTON – 11 Tangerine Way; went over plans with him; approves of plans

CHAIRPERSON KILEY – on side where setback would be

MS ALBANESE-STAUFER – garage side, yes

CHAIRPERSON KILEY – SEQRA review is type 2, no issues

MOTION – MR RUTHERFORD – Motion to approve variance 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 94 to permit the construction of a garage addition which will encroach into the required side setback on property located at 15 Tangerine Way, Town of Gates (the “Property”);
- 2 The required public hearing was opened, held, and closed at the meeting; and
- 3 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. Rutherford – yes

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

Variance approved 4-0

ATTORNEY MACCLAREN – will need to start within six months

APPLICATION NO. 2

THE APPLICATION OF INDUS HOSPITALITY GROUP (JETT MEHTA) REQUESTING AREA VARIANCES FROM ARTICLE VIII, SECTION 190-36 TO ALLOW A PROPOSED BUILDING TO ENCROACH INTO BOTH FRONT SETBACKS; AND TO ALLOW FOR PARKING TO BE CLOSER TO ROAD THAN ALLOWED ON PROPERTY LOCATED AT 1578 SPENCERPORT ROAD.

PETER BARES – with BME Associates on behalf of Indus Hospitality; requesting area variances for the proposed redevelopment of property located at 1578 Spencerport Road; applicant is proposing to redevelop with an approximately 1750 square foot, 20 seat Dunkin Restaurant with drive thru; relief being sought for front setbacks to county and New York State highways, required to be 100 feet; also relief from parking within a 50 foot setback; former gas station; existing

building and gas pumps have been removed; proposed is a 1750 square foot restaurant with drive thru; access to both roads; prepared site plan to allow for the necessary parking at 23 spaces, which includes ADA required spaces and mobile order pick up spaces; allows room for drive thru and car stacking plus a bypass lane around the drive thru; provides, which did not exist on the previous property, the 75 foot buffer to the property to the north; zoned BNR, requirement of fifty feet of buffer plus the twenty-five foot set back; requested variances asking for based on site plan, is a fifty-seven foot set back to Spencerport Road and a seventy-nine foot setback to Elmgrove Road for building; for parking, requesting a thirty-four foot set back to Spencerport Road and a ten foot set-back to Elmgrove Road; parking set back at ten feet is consistent with article 4 section 190-17 for parking in front yards, which states that it should be no closer than ten feet; acknowledge additional requirement of being on state and county highways; Exhibits provided in application package - 1. Applying setbacks, 75 foot buffer to north, 100 foot setback plus 50 foot parking setbacks; shows resulting building envelope that would comply with all setbacks, including a 25 foot setback to the west property; resulting in an area of 1170 square feet, 45 by 25 feet, not really a practical area to allow development 2. Illustrates proposed building in relationship to the former building; shows that while variances are needed as requested, the existing building was not in compliance with setback requirements; was 23 feet off the side to the west, 49 feet off to the north, 79 feet off Spencerport Road, 70 feet off Elmgrove; pulled building forward and shifted it to the east, to honor existing setbacks to adjoining properties; other three corners shown with buildings that are within the 100 foot setbacks, parking is within the 50 foot setback, not asking for any special privileges, consistent with what is occurring in the neighborhood; reviewed with Planning Board, conditional site plan approved; based on the outcome of this permit and have to obtain a conditional use permit from the Town Board, scheduled on March 7; provided responses to five factors of variance criteria in package; provided responses to four questions on application; responses show that the relief being sought is not creating a detriment to the neighborhood or environment; shows the uniqueness of this property and the hardship that is created by being a corner lot on a state and county highway; provided environmental assessment form for SEQRA action; understands that Monroe County is not able to complete their 239m review; can answer questions before coming back

ATTORNEY MACCLAREN – asks applicant to go through numbers of what is being requested

MR BARES – building setback from Spencerport Road is requested to be at fifty-seven feet; building setback to Elmgrove Road is requested to be seventy-nine feet;

parking setback to Spencerport Road is requested to be thirty-four feet; parking setback to Elmgrove Road is requested to be ten feet;

MS MAURICE – on parking setback of thirty-four feet, where are you measuring from on the road, is it the edge of the road, from the white stripe or is it from the property line?

MR BARES – dimensions are from the property line, highway, right of way line; shows on diagram, right away line is along the edge of the green line, along Spencerport Road

MS MAURICE – white line on the road, traffic area?

MR BARES - correct

PUBLIC HEARING

HOLLY SACCHETTI – 561 Elmgrove Road, above picture of property being shown; concerns regarding fencing divide of properties; familiar with Tim Hortons, fenced in so you do not see the traffic; concerned about garbage; owned property since 1972; dumpsters on her side of the yard; lighting, spotlights shining on house, based on issues neighbors had with Tim Hortons

CHAIRPERSON KILEY – better place would have been the Planning Board to discuss building details; understands concerns

MR BARES – Jett Mehta is here, owner of Indus Hospitality Group; issues were brought up at Planning Board meeting in January; condition of approval is that along the north property line, vegetation will be retained, will clean out dead and fallen materials; landscape plan approved to supplement existing vegetation with new plantings; will erect fence along property line; all site lighting is dark sky compliant lighting; downcast, no building mounted spotlight

MR RUTHERFORD – how tall is the fence?

MR BARES – maximum six feet

MR RUTHERFORD – drainage is not a problem, does not see a retention pond in plan?

MR BARES – property results in a reduction in impervious cover; adding more green space along area; generating less runoff; ties to county storm system on Elmgrove; continue to maintain existing drainage manner

CHAIRPERSON KILEY – Kwik fill had almost no green at all, will be adding more around edge

MR BARNES – correct

MR KILEY – SEQRA type 2, no issue; cannot vote because no county response, will need to table

MOTION - MS MAURICE – Motion to table to next month, awaiting county planning department response

Second – **MR RUTHERFORD**

Member Vote Tally

Mr. Rutherford - yes

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

All in favor

Variance tabled

MOTION - to adjourn – MR REDFERN

Second – **MS MAURICE**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals