



Town of Gates

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

Meeting Minutes

January 9, 2023

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

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; must have at least three votes to approve application; applications published in daily record and on town website;

CHARIPERSON KILEY – first order of business is to accept minutes from the, November, 2022 meeting; no changes or corrections;

MOTION – MR FERRIS – Motion to accept minutes.

Second – MR REDFERN

All in favor, minutes approved.

CHAIRPERSON KILEY – first item on the agenda is cancelled

APPLICATION NO 1

THE APPLICATION OF RONALD THOMAS REQUESTING AN AREA VARIANCE FROM ARTICLE XIX, SECTION 190-94 C FOR WANTING TO BUILD A ROOF STRUCTURE THAT ENCROACHES INTO THE SIDE SETBACK REQUIREMENTS LOCATED AT 55 LETTINGTON AVENUE.

SEAN FLEMING – owner of Fleming Remodeling, Inc.; has worked with Mr. Thomas over the last few years on quite a few projects; plans to build lean to gazebo on the left hand side, over an existing concrete patio to allow the family to have privacy from neighbors; talked to code enforcement, ran into issues with original scale size, regarding setbacks; looking to get a variance to allow to place over the existing patio

CHAIRPERSON KILEY – intent to have wall and remove fence?

MR FLEMING – fence will stay; last pole would be 1.7 inches from the fence which puts is at 2 feet, 3 inches from property line

MS MAURICE – copy does not have some of the dimensions; post is 2.3 feet?

MR FLEMING – 2.3 feet from the property line

MS MAURICE – is there a roof that goes beyond that?

MR FLEMING – one foot overhang towards the fence

MS MAURICE – roof 1.3 feet from property line?

MR FLEMING – correct;

MS MAURICE – is the fence right on the property line?

MR FLEMING – very close, hard to tell from survey map, within a foot; code enforcement said the biggest reason for the setbacks is in the event the structure caught fire, prevents from falling close to the adjacent house; from the edge of the foundation to the property to the left of the home, to Mr. Thomas' fence is 26 feet; consider the additional room between the neighbor's house and the fence line

CHAIRPERSON KILEY – how tall?

MR FLEMING – at fence line, between 7 and 8 feet tall; at house, 4, 12 pitch, spread out over 10 feet, 40 inches tall; seven and a half at fence line

MS MAURICE – gazebo, no walls?

MR FLEMING – yes; building in a manner similar to a pole barn

MS MAURICE – pergola type with solid roof?

MR FLEMING – yes; other issue with code enforcement, what to consider it

CHAIRPERSON KILEY – separate structure, separate set of rules; addition

MR FERRIS - attached to breezeway?

MR FLEMING - yes

CHAIRPERSON KILEY – part of house, not a separate structure?

MR FLEMING – yes, can build as separate structure if it helps

CHAIRPERSON KILEY – may want to, separate is five foot set back from fence

MR FLEMMING – for an attached structure?

CHAIRPERSON KILEY – for an attached structure, it is six feet

MR FLEMING – pole, outside edge, will be 2.7 from the property line

MR FERRIS – overhang is one foot past that?

MR FLEMMING – correct; can make shorter, to a six inch overhang if that helps

MR IOANNONE – will it have gutters?

MR FLEMING - yes

MS MAURICE – roof, is how far from the property line, 1.3 feet?

MR FLEMING – yes

MS MAURICE – will have gutters?

MR FLEMMING – yes

MS MAURICE – concern is rain water, cannot have flowing off roof into other property; initial thought was that it was right up to fence

MR FLEMMING – not up to fence

CHAIRPERSON KILEY – breezeway is 3.6 feet from fence?

MR FLEMING – correct

CHAIRPERSON KILEY – another structure, two feet closer to fence?

MR FLEMING - correct

MR FERRIS – total width; eve to eve?

MR FLEMING – 24 long, 10 wide, single sloped pitch toward fence

MS MAURICE – if we assume it will not be attached to the house and will be an accessory structure, requires a 5 foot set back; have a 1.3 setback in current plan, 3.7 foot variance

CHAIRPERSON KILEY – are there side walls?

MR FLEMING – no side walls; 8 posts, 2 beams and rafters, sheeting and shingles

MS MAURICE – fence is six feet tall?

MR FLEMING - yes

CHAIRPERSON KILEY – start at 7 foot and go up?

MR FLEMING – seven feet at the eaves, plus 40 inches

MR IOANNONE – 10 feet, 10 inches

CHAIRPERSON KILEY – not going to try match the roof line to anything else, breezeway?

MR FLEMING – no, originally talked about attaching to the breezeway to give covered portion over concrete patio

MS MAURICE – breezeway setback stated to be 3.6 feet?

MR FLEMING – yes

CHAIRPERSON KILEY – no walls, don't have to worry about

MR FLEMING – main concern is to have privacy fence as well to block view from neighbors; property next door is owned by state

MR IOANNONE – how tall is gutter on breezeway from ground up?

MR FLEMING – breezeway slopes toward the concrete patio; roof will slope from left to right; breezeway slopes from front to back

CHAIRPERSON KILEY – roof materials?

MR FLEMING – shingles

CHAIRPERSON KILEY - rainwater does empty into gutters?

MR FLEMING - included gutter in original plan to run to back of property

MR FERRIS - gutter is at 1.3.

MR FLEMING - yes

PUBLIC HEARING – no one in attendance

CHAIRPERSON KILEY – no environmental impact; type 2 SEQRA

MOTION — MR IOANNONE - Motion to approve based on accessory structure, roof 1.3 feet from fence, will have gutter and no walls

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

- 1 The Applicant sought variances from Town of Gates Code Article XIX Section 190-94 to allow for a side setback which will be less than allowed, all on property located at 55 Lettington Avenue, Town of Gates (the “Property”);
- 2 The Property is not located on a County or State Road, therefore the application did not require any review or approval by the County Planning Board;
- 3 The General Contractor, Sean Fleming of Fleming Remodeling Inc. appeared and provided the plans and information for the project and his support for the variance; 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 – MS MAURICE – approve 3.7 foot variance from edge of roof, separate accessory structure

ATTORNEY MAC CLAREN – build up to 1.3 feet from fence

Member Vote Tally

Mr. Ioannone - yes

Mr. Ferris - yes

Mr. Redfern - yes

Ms. Maurice – yes

Chairperson Kiley – yes

All in favor- variance approved

MOTION - to adjourn – **MS MAURICE**

Second – **CHAIRPERSON KILEY**

All in favor

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals