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# Town of Gates

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

## Meeting Minutes

July 11, 2016

**MEMBERS PRESENT:** Christine Maurice, Chairperson; Don Ioannone; Mary Schlaefter; Ken Cordero; Don Rutherford; Bill Kiley; Christopher Dishaw

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

**ALSO PRESENT:** Frank M. Cassara, Esq., Board Attorney  
Steve Tucciarello, Councilman

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** - Minutes from the June, 2016 meeting to be accepted  
**MOTION - MR IOANNONE** - Motion to accept the minutes from the June, 2016 meeting with correction made  
Second - **MR CORDERO**  
**MR DISHAW** - abstains due to absence at last meeting  
All in favor  
Minutes from the June, 2016 meeting accepted.

**CHAIRPERSON MAURICE** - explains process that will be followed during the meeting.

**THE APPLICATION OF RALF EMILO REQUESTING AN AREA VARIANCE FROM ARTICLE VIII, SECTION 190-36 TO ERECT A SHED WHICH WILL ENCROACH ONTO THE FRONT YARD SETBACK ON PROPERTY LOCATED AT 140 BROOKLEA DRIVE.**

**RALF EMILO** - lives at 140 Brooklea Drive, which is on the corner of Sandy Lane. They want a shed that is twelve by fourteen which is oversized, and it needs to be next to garage for health

reasons so he can walk out to it. Looking for place to put the mower so his wife can get her car into the garage in the winter. Has immediate neighbor's signature approving.

**CHAIRPERSON MAURICE** - asks to see the signatures so she can enter into the record.

**MR EMILO** - Presents to Board. Siding will match siding on house; roof will match color of roof and shutters will match. Going to have thirty-five feet from the shed to the street so there is more than enough room for it. Can be moved if necessary.

**CHAIRPERSON MAURICE** - explains that Board is particular because the variance goes with the property.

**CAROL EMILO** - explains that he is on dialysis and is limited as to what he can do. Having the shed there so he can get to the riding mower, gives him a sense of being and help her out.

**MR RUTHERFORD** - explains that the ZBA is charged with giving as few variances as necessary. Asks if the oversized shed could it be smaller and therefore less intrusive.

**MR EMILO** - also putting the snow blower in and wants to put car in the garage in the winter for when she takes him to the doctor, ect. She has not been able to do that for forty-nine years. Has a big forty-two inch riding mower with a bagger. The push mower and snow blowers are good sized machines.

**PUBLIC HEARING** - no one is in attendance to speak for or against the application.

**MOTION - MR IOANNONE** - Motion to approve the application as presented.

**MR DISHAW** - Second.

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

Variance approved 7-0.

**MS EMILO** - states that she already has a permit, was going to be in a different place

**ATTORNEY CASSARA** - need to amend permit, go to building department and explain and if they have questions they will contact Christine or him.

**CHAIRPERSON MAURICE** - explains that the approval has no impact on neighborhood and there is a petition signed by six neighbors in support.

**THE APPLICATION OF TERRON WHIPPLE REQUESTING AN AREA VARIANCE FROM CHAPTER 164, SECTION 164-4 TO INSTALL AN ABOVE GROUND SWIMMING POOL WHICH WILL BE LOCATED IN THE FRONT YARD ON A CORNER LOT ON PROPERTY LOCATED AT 86 EASTVIEW COMMONS ROAD.**

**TERRON WHIPPLE - BRANDON WHIPPLE** - 86 Eastview Commons Road

**MS WHIPPLE** - explains that she has given the Board an individual letter of intent and pictures. Has two front yards because on a corner lot. There is a large side yard and front yard and the

plane of the deck is ten feet out. Want to put a twenty-four foot round above ground pool off side of deck. Not fully on side yard so it is not completely over. On the survey map the distance from road is 24 or 35 feet.

**CHAIRPERSON MAURICE** - survey map picture is not consistent with measurements, pool will be 48 feet from the house and 24 feet around. Map shows that the house is 60.7 feet from road, but if you add 48 and 24 it is 72.

**MS WHIPPLE** - Mike helped her do the measurements and figure everything out and he said to measure from closest point to deck was ten feet away.

**CHAIRPERSON MAURICE** - if it is 48 feet from the road and the pool is 24 feet, does that not mean that part of the pool is behind the house. Whereas the picture shows it is on the side of the house.

**MR WHIPPLE** - it is offset, but it is a flood zone, so will not put pool in back, not completely on the side.

**MR RUTHERFORD** - is the pool somewhat behind the house?

**CHAIRPERSON MAURICE** - according to the dimension, only twelve feet is out to front, half in front and half in back yard behind the house. Something is not right on the map.

**MS WHIPPLE** - more like  $\frac{3}{4}$

**CHAIRPERSON MAURICE** - is 48 feet correct?

**MS WHIPPLE** - the 10 is for sure correct; the 48 feet came from, he did the math, Mike. The 10 feet is what I got from the pool to the deck. It is off to side, not fully in back and not fully in front. Stood on the deck and took pictures.

**MR KILEY** - numbers do not show what is on the drawing

**MR RUTHERFORD** -  $\frac{3}{4}$  is 18 feet

**MR WHIPPLE** - 6 feet behind the house

**MS WHIPPLE** - back yard has a shed and three mature trees which is another reason why they are not putting it in the back yard. Off to the right side it gets very wet in the fall and spring, which is why they are not going to the other side.

**CHAIRPERSON MAURICE** - still need to determine how far away from the road

**MS WHIPPLE** - take away 18 feet from 60.7, so 42 feet from the road

**CHAIRPERSON MAURICE** - 42 feet from the road, six feet is behind the house

**MS WHIPPLE** - have three children that would enjoy the pool; have been in Gates for a long time

**MR IOANNONE** - where will plumbing and filter be?

**MS WHIPPLE** - at circle near foot marker, in back yard

## PUBLIC HEARING

**LORI MOWERS** - 87 Eastview Commons Road - directly across the street; doesn't want to feel like pool is in her front yard too; does not want to look out living room window and see a pool as it is a distraction; a pool in the front yard is an eyesore; pool should be best for those around too; cannot enjoy sitting on front porch; pool should be in the back

**MR DISHAW** - across, faces their house

**MS MOWERS** - directly across;

**MR KILEY** - front or side

**MS MOWERS** - in front

**MR RUTHERFORD** - if pool was totally in the back yard, would you see it

**MS MOWERS** - no

**WILBERT MAJOR** - 6 Eastview Commons Road - House is kitty corner; real concern is that he would rather not see the pool in front yard; lived on corner lot in prior years, realized there were things he could not do that would be more suitable in the back; the back yard contains the noise level; works odd hours and wants to keep noise down as much as possible; concern is during the day; general idea is that he would like to see everything confined to the back area

**MR CORDERO** - is your house on the north side of the road?

**MR MAJOR** - Northwest of their house;

**MR CORDERO** - you have full view of side/front yard where they are going to put the pool?

**MR MAJOR** - fairly good view, yes

**MR CORDERO** - a little more west?

**MR MAJOR** - yes, a little more west, kitty corner

**JASON BAIR** - 22 Eastview Commons Road- house is north east of the property, looking directly at their deck and the back of their house;

**MR RUTHERFORD** - you can see everyone's backyard, right straight down?

**MR BAIR** - yes, would see a pool and then a house, if it was behind the house, could still see the house; it is the front yard to him. Looking at a pool when you walk out of the house. If it was in the back, you would still see the scenery, trees, ect.

PUBLIC HEARING CLOSED

**MS SCHLAEFER** - asks if the applicant is planning on putting up a fence

**MR WHIPPLE** - not sure if a fence suits the look; planning on putting in white pines around the perimeter for privacy.

**MS SCHLAEFER** - are the white pines just going around the pool?

**MR WHIPPLE** - around the outside of the easement of the property; plans on planting them so Jason would not see any more of the pool or the back; Jason would be in the same position.

**MS SCHLAEFER** - nothing in front hiding pool from neighbor across the street

**MR WHIPPLE** - a little in front but cannot go too far

**CHAIRPERSON MAURICE** - when are you planning on putting in the pines

**MR WHIPPLE** - after he gets the pool, next year

**CHAIRPERSON MAURICE** - in the spring planning season?

**MR WHIPPLE** - yes

**MS SCHAEFER** - are they coming in matured, how tall?

**MR WHIPPLE** - six to ten feet, the taller the more expensive

**MR RUTHERFORD** - right side is lower and wet; trees mature behind deck; middle yard has younger tree

**MR WHIPPLE** - hugging mature trees if closer

**MR RUTHERFORD** - mature tree is going to be closer to pool?

**MS WHIPPLE** - if it was put in the back yard; wants to prevent things from being clustered in back

**MR RUTHERFORD** - younger trees to the south side; consider removing smaller trees and putting pool in middle of back yard?

**MR WHIPPLE** - no, because it is wet

**MR RUTHERFORD** - middle of yard is drier?

**MR WHIPPLE** - middle of yard is where big tree is; offset visually outside of property line

**MR DISHAW** - asks to clarify wet

**MR WHIPPLE** - flood insurance was required eight years ago; fills up like a pond from the neighbors; will flood if it rains heavy

**MS SCHLAEFER** - is there a creek or pond?

**MR WHIPPLE** - there is a pond area on portion of neighbor's property; built with no basements back then

**MR DISHAW** - flood insurance?

**MR WHIPPLE** - not required anymore, this was years ago, he purchased in 2011

**MR IOANNONE** - asks if familiar with the easement for RG&E, Time Warner, ect?

**MR WHIPPLE** - yes, it runs right down the side of the yard

**MR IOANNONE** - May have to remove at your expense, 2/3 of pool exposed on the easement

**MR WHIPPLE** - easement is not where pool is

**CHAIRPERSON MAURICE** – they are okay with the easement

#### PUBLIC HEARING REOPENED

**LORI MOWERS** - 87 Eastview Commons Road - lived there since 2003; others have pools in back yard, one of them being two houses to the south, without problems; the house directly next to Will's house without a problem, it is out of sight; in reference to the flood insurance, has been in house since 2003 and there has never been any flooding in the area; it is possible to have pool without infringing on others.

**WILBERT MAJOR** - 6 Eastview Commons Road - every other house has crawlspace basement; low lying areas could be built up if there is a water issue. It is doable to have the pool behind the house.

**ATTORNEY CASSARA** – explains that a flood zone and flooding are two entirely different things. There are maps to indicate where the flood level could be and where the flooding has occurred or may occur. There are areas throughout the region that are in flood zones that have not seen any significant saturation point of the land in many years. It is an important distinction to make.

**MOTION - MR RUTHERFORD** – Motion to deny the application, as presented given the possibility that it could go in the backyard and the disagreement from a number of neighbors in the neighborhood

**MS SCHLAEFER** - Second

**CHAIRPERSON MAURICE** - Board is charged with giving the least amount of variance as necessary and it appears that you would be able to move the pool into the back yard with some modifications to back yard; strong influence is that the neighbors who would be directly impacted by this are all against it.

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

**CHAIRPERSON MAURICE** - Board could not approve application on the grounds that it is too negatively impacted on the neighborhood and that it seems there are other alternatives available that would not require a variance.

**MR WHIPPLE** - can they revisit at a later date?

**CHAIRPERSON MAURICE** - rule is that if the Board denies, cannot come back with the same application for a year but can reapply with different application; July 28, 2016 is the deadline for the application to get on the agenda for the August meeting.

**MOTION** to adjourn meeting – **MR IOANNONE**

Second – **MR CORDERO**

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Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals