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# Town of Gates

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

## Meeting Minutes

February 13, 2017

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

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

**ALSO PRESENT:** Robert J. Mac Claren, Esq., Board Attorney

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** – States that the first order of business is to accept the minutes from January, 2017 meeting. No changes, additions or corrections to be made.

**MOTION** to accept January minutes - **MR RUTHERFORD**

Second – **MS SCHLAEFER**

All in favor.

### **TABLED FROM OCTOBER, 2016 MEETING**

**THE APPLICATION OF DAVID YOUNGMAN REQUESTING AN AREA VARIANCE AND CONDITIONAL USE PERMIT UNDER ARTICLE VI SECTION 190-32 AND ARTICLE VIII, SECTION 190-36 TO ERECT A FENCE TO REMAIN WITHIN THE FRONT SETBACK AND HIGHER THAN ALLOWED WITHIN THE PROPERTY LOCATED AT 615 COLDWATER ROAD, TOWN OF GATES, NEW YORK.**

**DAVID YOUNGMAN** - 615 Coldwater Road, states that the main reason for the fence was separation because it is all industrial, the industrial parkway is on the side of his house; children play there and to keep noise down from the constant traffic though there twenty-four hours per

day; there was an existing fence there that he replaced, but found out a couple of years back that you cannot replace an existing fence without a permit, but he was unaware of rule until the town came and complained about it.

**CHAIRPERSON MAURICE** - asks how long the fence has been up

**MR YOUNGMAN** - almost two years

**MOTION - MR IOANNONE** - Motion to lift table

**MR CORDERO** - Seconds

All in favor

**MS SCHLAEFER** - What was the fence that was there before?

**MR YOUNGMAN** - an old farm fence and the other section in front of the house is the same as the other down the street about half way, but it was encased in weeds.

**MS SCHLAEFER** - Four or five foot fence?

**MR YOUNGMAN** - Yes, that was all there when he bought the property about five years ago

**MS SCHLAEFER** - you replaced it because it was falling down?

**MR YOUNGMAN** - it was rotting and overtaken by the weeds and was an eyesore. Cleaned it up and put the new fence up to make it look better and actually serve a function.

**MR DISHAW** - asks how many kids and how old

**MR YOUNGMAN** - three daughters, fourteen, fifteen and seventeen. That is the main reason for the fence.

**CHAIRPERSON MAURICE** - one of the concerns voiced about the fence being so close to the road was is there enough room for snow removal; have you ever had an issue?

**MR YOUNGMAN** - no, this is the second winter and there has never been an issue.

**CHAIRPERSON MAURICE** - on the drawing it is marked as being ten feet from the side of the road. Is that correct?

**MR YOUNGMAN** - no, it is not ten feet, it is actually about five feet from the road. That is the other problem which is why he is here, the height and the distance from the street. He is the only resident on the corner, the rest is all commercial and industrial.

**CHAIRPERSON MAURICE** - asks if he knows what is on the map that is marked as ten feet.

**MR YOUNGMAN** - states that he has no idea

**CHAIRPERSON MAURICE** - it looks like it is the fence that is ten feet, but it is five feet?

**MR YOUNGMAN** - yes

**MR RUTHERFORD** - how are the poles put in, are they sunk in the dirt or are they concreted in?

**MR YOUNGMAN** - they are concreted in; he pulled all of the old posts out and reconcreted and everything.

**MR KILEY** - it is on the line where the other fence used to be?

**MR YOUNGMAN** - yes

**CHAIRPERSON MAURICE** - states that there are two issues, because it is a front yard, being on the corner, fences are not allowed in the front yard, so we have to vote on a conditional use, just to allow the fence to be there ; and then, how high is the fence?

**MR YOUNGMAN** - six foot and is supposed to be four because it is considered a front yard which he was unaware of

**CHAIRPERSON MAURICE** - states that there are going to be two votes; we can combine them, but it will be for a conditional use permit and then for the height

**CHAIRPERSON MAURICE** - asks Mr. Dishaw is he wants to question the trees

**MR DISHAW** - are the trees on your property or are they on the town property?

**MR YOUNGMAN** - what trees?

**MR DISHAW** - the trees, not on Coldwater Road, but on the Industrial Park side. The fence is on the outside of the trees?

**MR YOUNGMAN** - yes

**MR DISHAW** - Do you know where the property line is?

**MR YOUNGMAN** - no, just followed the original line where the old fence was under the assumption that he was able to replace an existing fence.

**MR RUTHERFORD** - therefore you do not know if the trees are on your property or the town's property

**MR YOUNGMAN** – states that he does not know

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

**MOTION - MR IOANNONE** - Motion to accept with condition that the ten plus slots missing on the back of the fence be repaired or replaced by May 1, 2017

This approval is strictly restricted and confined to the terms, conditions and specifications submitted with your application, as well as the documents and exhibits attached and made part of your application. The Board approved the application with the following conditions:

1. If it is determined that the trees fenced within the yard are the property and responsibility of the Town of Gates, the Town will be permitted access to the property for all necessary maintenance to said trees upon providing proper notice.
2. The fence is repaired and all missing boards are replaced no later than May 30, 2017.

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

1. The Applicant desires to keep a fence which would encroach upon the exceed the required height limit relative to the property located at 615 Coldwater Road, Town of Gates, New York, pursuant Town of Gates Codes Article VI, § 190-32 and Article VIII, § 190-36;
2. The requested variance was not viewed as being substantial given the height, location and materials of the already existing fence requested were consistent with the character of the neighborhood and immediate surrounding properties. Further, the Board held that the Applicant sufficiently demonstrated that his desire to maintain the fence was warranted given issues surrounding her neighboring property.
3. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

**MR KILEY** - Second

**MR DISHAW** - How many fence posts do you have in on Industrial Park Circle?

**MR YOUNGMAN** - ten, maybe twenty, replaced by an actual fence installer

**CHAIRPERSON MAURICE** - states that counsel advised the Board may want to add a condition that the town can have access to the trees if they are town trees, so that if they had to come in to care for the trees, the town would be granted access, with proper notice.

**MR IOANNONE** - states that condition is acceptable to add to his motion

**MR KILEY** - seconds with that condition added

**CHAIRPERSON MAURICE** - Motion that the conditional use permit and the area variance be granted with two conditions, one that the fence missing slats are repaired by May 1, 2017 and that the town is given access to the trees if in fact the town does own the trees, with proper notice to the applicant.

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Dishaw - yes

Mr. Rutherford - no

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

*Variance granted 6-1*

**CHAIRPERSON MAURICE** - states that the county referred back as a local matter.

**REGULAR AGENDA**

**APPLICATION NO. 1**

**THE APPLICATION OF DAVID DAILEY, AS AGENT FOR BIRCHCREST TREE AND LANDSCAPING, REQUESTING AN AREA VARIANCE AND A CONDITIONAL USE PERMIT FROM ARTICLE VI, SECTION 190-33 (B&C) TO ALLOW A FENCE (WITH BARB WIRE) TO REMAIN WHICH IS HIGHER THAN ALLOWED ON PROPERTY LOCATED AT 150 LEE ROAD.**

**DAVID DAILEY** - Birchcrest Tree and Landscape's President, at 150 Lee Road, bought property with existing fence. When they first moved in, there were several panels that fell down and within the first month they were broken into three times, suspect that this was due to the fence being in such disrepair. Company runs a tree service that works for RG&E and the City of Rochester doing emergency tree work, every time a tree branch falls on an electrical wire, they are responsible for getting them off before electricity can be put back on. Every time there is a blackout, they are the first responders. To be ready to do that twenty-four hours a day, the trucks are equipped with very valuable emergency equipment which are easy pickings for those who know what they do. Must be locked up and secured or they will be stolen on a regular basis. They have been robbed many times in the past. Bought the property because it was enclosed with a fence that was eight feet high and difficult to get by. Since that time they have put up an eight foot fence, replacing an eight foot fence and put barbed wire across the top and have not had any problems since. Requesting to keep that fence.

**CHAIRPERSON MAURICE** - what else have you done to try to solve the problems of the break ins besides the fence?

**MR DAILEY**- put in a security system on the building; cameras overseeing the yards now; police asked them who did it and they had no idea, so now they have camera and will be able to see who did it, but unless they know them, it will not do them any good; have alarms once they break into the building, but the biggest threats is to trucks that are equipped to move at a moment's notice.

**CHAIRPERSON MAURICE** - at the Town Board meeting there was a public hearing and it is up to the Town Board, not this board, to approve the barbed wire part and that was approved, contingent on the ZBA approving the eight foot plus the six inches, height variance. A conditional use permit to have the fence in front and also the area variance to be eight plus six inches.

When we see that because it is new wood, it is a lot of fence to look at. Do you have plans to paint or stain it?

**MR DAILEY** - they have plans to stain it and are also a landscape company so they planned on showing their skills by landscaping in front of it.

**CHAIRPERSON MAURICE** - with what?

**MR DAILEY** - shrubs probably

**CHAIRPERSON MAURICE** - how high?

**MR DAILEY** - planting plants that are three to four feet tall and will grow taller

**CHAIRPERSON MAURICE** - across the street is zoned residential, have you heard from neighbors?

**MR DAILEY** - neighbors delivered a letter

**CHAIRPERSON MAURICE** - puts letter in record; reads letter to town from owner of Chiaccia's which is across the street.

**MR DAILEY** - several other people stopped in the office and commented on how nice the fence was; did not get their names

**MR DISHAW** - why stockade in front on Lee Road side

**MR DAILEY** - board on board there before, similar to stockade, but is like a ladder, so you can use the cross members to climb on, but with the stockade it is a solid barrier that you cannot climb; realized that was an issue when they were robbed so many times

**MR DISHAW** - the gate is chain link fence, why not chain link for the whole Lee Road side.

**MR DAILEY** - thought it would look better; it has been wood; started out when panel fell down and replaced so decided to replace the whole front fence. The old fence is still on the south side of the property and that is still board on board. Tried to make it more secure across the front.

**MR DISHAW** - police cannot see through

**MR DAILEY** - neither can criminals; once they know what is in there; eighty trucks with tens of thousands of dollars in equipment

**MR DISHAW** - what about lighting for the yard

**MR DAILEY** - have installed new lighting in the truck areas, so if someone gets in there, can see them on the cameras, but if they do not know who they are, it does not make a difference.

**MR CORDERO** - do you have video equipment

**MR DAILEY** - yes

**MR CORDERO** - something that tapes twenty-four/seven?

**MR DAILEY** - yes

**MR DISHAW** - what kind of alarm system

**MR DAILEY** - Alarm system that goes to a security company who calls the police; police have been there numerous times

**MS SCHLAEFER** - motion?

**MR DAILEY** - yes

**MS SCHLAEFER** - what about the old fence on south side; Is that an issue? They can climb that.

**MR DAILEY** - on the south side there is a large berm; impossible to carry anything of weight out; it is a sharp edge so you can't climb out

**MS SCHLAEFER** - is that fence decaying?

**MR DAILEY** - yes

**MS SCHLAEFER** - are you going to repair that

**MR DAILEY** - only if they get a permit to do so

**MS SCHLAEFER** - that is your goal though

**MR DAILEY** - yes, eventually; the one on the south side is newer and is not falling down at this point. No broken posts at all, in the front, the posts were broken.

**MS SCHLAEFER** - the front on Lee Road, did you put that fence up where the other one was, or did you move it closer to the road?

**MR DAILEY** - moved it further away from the road

**MS SCHLAEFER** - further away?

**MR DAILEY** - by twelve inches, trying to leave the old fence up while they put the new fence up so they would never have an open night; one night could lose a couple of hundred thousand dollars' worth of equipment; put it up as close to it as they could but behind it

**MR RUTHERFORD** - from a distance it looks good, but the extra six or eight inches is not sightly; see a lot of cases where people think it is better off to ask forgiveness than permission and it would seem that a landscaping company should have known the code and they should have come from a variance before this.

**MR DAILEY** - under impression that replacing existing fence and would not need permission to do that; only thing different was that they added barb wire to the top but had it along the sides already; barb wire fence on the property to the north of them

**MR RUTHERFORD** - landscape will help deter

**MR DAILEY** - yes

**MR DISHAW** - are you aware that on the southern corner on Lee Road there is a gate entrance

**MR DAILEY** - yes

**MR DISHAW** - seems to be quite a gap underneath that fence

**MR DAILEY** - again, the landscaping will solve; since they moved in it has been winter and the goal is to cover up; graded off and made it as level as possible, the gate is level with the rest of the fence; trying to prevent getting in behind it; plan on planting to soften and cover it up

**MR CORDERO** - is there berm on east side in the back?

**MR DAILEY** - no, there is another property back there with a full size fence; eight foot chain link fence

**MR IOANNONE** - states that fence is electrically charged; not enough voltage to kill you but enough to knock you

**MR DAILEY** - yes, east side is protected by Al's Maintenance fence; if they have more trouble may ask for that; since they have done what they have done, have not had any problems; before that, three break-ins in four weeks

**MR DISHAW** - did they break into the vehicles or building?

**MR DAILEY** - both, first time they broke into the building and took tool boxes

**PUBLIC HEARING** - no one in attendance to speak for or against the application, but has letters

**CHAIRPERSON MAURICE** - reiterates that we have the letter from neighbors

**CHAIRPERSON MAURICE** - suggests splitting into the conditional use permit for the front and the area variance for the sides and the rear as there are different issues. Area variance first to allow that to be the eight feet plus six inches over what is allowed by code.

**MOTION - MR IOANNONE** -

This approval is strictly restricted and confined to the terms, conditions and specifications submitted with your application, as well as the documents and exhibits attached and made part of your application. The Board approved the application with the following condition:

1. The completion of all landscaping in front of the fence shall be completed no later than June 30, 2017.

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

1. The Applicant desires to erect a fence which would encroach upon the exceed the required height limit relative to the property located at 150 Lee Road, Town of Gates, New York, pursuant Town of Gates Codes Article VI, § 190-33(B) and (C);
2. The requested variance was not viewed as being substantial given the height, location and materials of the existing fence requested were consistent with the character of the neighborhood and immediate surrounding properties. Further, the Board held that the Applicant sufficiently demonstrated that the desire to maintain the fence was warranted given issues surrounding the neighboring property and necessity to prevent theft.
3. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

Second - **MR DISHAW**

**CHAIRPERSON MAURICE** - Motion to allow area variance for the side and the rear fence to have wire on top of eight foot fence, just for the height as the wire was approved by the Town Board

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 granted 7-0*

**CHAIRPERSON MAURICE** - Area variance allowing wire on top for the sides and the rear; conditional use permit to be in the front and also the height area variance

**MOTION - MR KILEY** - Motion to approve

Second - **MR IOANNONE**

**CHAIRPERSON MAURICE** - requests that the motion also include a condition that landscaping go in the front this spring

**MR IOANNONE and MR KILEY** - agree to add that condition to the motion

**MR DISHAW** – asks that a date be set as opposed to spring

**MR KILEY** - condition of June 30, 2017

**CHAIRPERSON MAURICE** - Motion to approve the conditional use permit and the area variance, for the front, with a condition that the landscaping go in the front by June 30, 2017

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 granted 7-0*

**CHAIRPERSON MAURICE** - approved because there was no detrimental impact noted to the neighborhood and in fact there is a letter to the Board from one of the neighbors in support of this. Also, the county did respond and referred as a local matter.

**APPLICATION NO. 2**

**THE APPLICATION OF KEVIN CONLON, AS AGENT FOR CONLON REALTY LLC, REQUESTING AN AREA VARIANCE FROM ARTICLE V, SECTION 190-26 TO REPLACE AN EXISTING FREE-STANDING SIGN WHICH WILL BE LARGER THAN ALLOWED ON PROPERTY LOCATED AT 1635 BROOKS AVENUE.**

**CHAIRPERSON MAURICE** - have not yet received county response, whenever there is a variance requested on a county road, the town has to send it into the county to see if they are interested in having their say about it. They have thirty days to respond, which is usually not enough time for them to respond before the ZBA meeting. In matters like this for a sign, are ninety-nine percent certain they will refer to Board as a local matter. We to forward, but if we approve, it will be contingent upon the county coming back and referring as a local matter. If the county comes back and has concerns, will have to re-look at it.

In your letter, the request that we approve the use variance, making clear that it is not a use variance, for the size of the sign, Expressing because a use variance has different and more

difficult criteria. This is an area variance, not use variance, reviewing the criteria for an area variance.

**KEVIN CONLON**, Conlon Realty, 1635 Brooks Avenue - originally rented the building in 1999, had a sign there at that time, in 2010 bought building and was the only tenant left at that time; Sam Caruso sold him the building; since then has put two other tenants in and has room for maybe another tenant or two; difficult for clients to see location because there is a sign on the building, but it is up high and is covered by the roof; really cannot see location as you are coming up, there are a lot of buildings on Brooks Avenue from the airport on the south side; have a lot of new clients that come every year, have not been there in a while or come periodically; a more visible sign would make it easier to locate; clients are not all Gate's residents, coming from other suburbs; visible sign is really important also them and other two tenants

**CHAIRPERSON MAURICE** - on the permit application attached to the area variance application, it says that you are going to remove sign from the front of the building?

**MR CONLON** - no, was not removing

**CHAIRPERSON MAURICE** - sign on building is going to stay and have second sign

**MR CONLON** - yes

**MR DISHAW** - asks applicant to explain why he needs additional 4.75 feet; the code is twenty and the sign comes out to be 24.75 feet.

**MR CONLON** - to make sure that there is room for tenants to have name on sign underneath theirs; going below them on the green strip

**MR DISHAW** - reason why they need it so tall

**MR CONLON** - in that area coming down Brooks Avenue, there is a telephone pole right in front; coming from 390, so cannot see sign until past it

**MS SCHLAEFER** - states she had no problem seeing it when she drove by; 1635 stuck right out; sign proposal had company is taking up majority and little space below for two or three tenants; why aren't they being acknowledged as much to be found

**MR CONLON** - one is a window cleaning service and their customers do not come there; the other business is a computer monitoring company, monitors three-thousand dumpsters across the United States; when they get to a certain weight, they go and pick up the dumpster; he monitors it from his network; they have some flow, but very little, where his is all personal service and clients are coming a couple times per year; some are elderly, seventy-five percent of clients are 65 or older; it is an older practice; know the name Conlon, but may forget number

**MS SCHLAEFER** - agrees and does not understand why the sign has to be so large

**MR RUTHERFORD** - they know the name Conlon, and with that could get it a lot shorter and in allowable code; secondly, concerned with the residential neighbors being able to get out of their driveway and see both ways with sign being rather large and right there

**MR CONLON** - across the street is Wegmans tractor/trailers; and on the other side is a Wegmans building; the tenant next door is in a residential house; their driveway is fifty feet from the sign; does not think she would have a visual problem but could ask; her name is Amy Herb; if there would be a problem.

**MR RUTHERFORD** - states that he was unsure of the tenant situation and if they knew they could come to the meeting and speak

**CHAIRPERSON MAURICE** - points out the tenants have come to the hearing before; the people that came in for the used car lot on Howard Road were tenants

**MR CONLON** - Amy has been there since before he was there and has been renting the house for thirty years

**MR DISHAW** - concern about allowable square footage is that if we give the variance, setting a precedence on that street for other businesses to exceed the allowable; obligated to keep within the code or as close as possible.

**CHAIRPERSON MAURICE** - points out that per code 190.26 situation is a little unique and the way the code is written, either surrounded by commerce and industry and are allowed one thing, or surrounded by institutions, residences or rural areas, you are allowed a smaller sign; there is nothing about this so must use discretion; town has to look at the most restrictive choice; twenty feet; if sign was down road one house and surrounded by completely industrial, would be allowed thirty-two square feet; asking for five square feet larger than if you were surrounded by residential, but still below if had industrial on that side. Seems like that five square feet could be that cross bar on the bottom for tenants. Make clear that what we are considering is a variance of 4.75 square feet. Must look at proportion of variance and keep in mind that the concern that it sets a precedence going down the road, it all industrial zone so anyone next to him is automatically allowed to have a thirty-two square foot sign. Does not believe there is a precedent being set here that would impact anyone. There is no one for it to impact.

**MS SCHLAEFER** - four inch gap between?

**MR CONLON** - yes, open space

**MS SCHLAEFER** - so if someone is pulling out, that sign is not obstructing all of the view, there is at least four more inches.

**MR RUTHERFORD** - limit on square footage of sign you can have cumulative to free standing sign and sign on building; hence is it okay to leave the sign on the building

**CHAIRPERSON MAURICE** - does not believe there is a code that you are suggesting; a building can only have one sign on it but no code saying you cannot have both or they cannot add up

**MR DISHAW** - thought there was an issue on Spencerport Road that they could not have both

**CHAIRPERSON MAURICE** - daycare did not have both

**MR DISHAW** - would you be willing to make the sign a little shorter than five foot, ten inches tall

**MR CONLON** - if needed, would

**CHAIRPERSON MAURICE** - allowed to have twelve feet; square footage is only calculated on the area that has sign. Per the code, again, if surrounded on four sides, could have thirty-two square feet, because of the residential side, he is twenty. The difference is twelve square feet. Seventy-five percent of his surroundings would lean towards the thirty-two, so give him seventy-five percent of the twelve foot difference, nine feet, twenty-nine square feet to deal with this situation, that code does not address. This is the fairest way and does not penalize him for being almost industrial.

Next door is being used for an office?

**MR CONLON** - No, she lives there, she works for Herb income tax, it is a residential

**MR DISHAW** - sign company aware of the code?

**MR CONLON** - yes

**MR DISHAW** - they did not present you with something that would be within code?

**JENNIFER PEARSON** - 1635 Brooks Avenue, Homero Gonzalaz of Excaliber Signs has been working with them; he reviewed the code and was operating under their being considered all industrial; thought he was within the requirements. Zoned industrial.

**MR RUTHERFORD** - how far is the sign from the road and how far is the west side of the sign from your driveway?

**MR CONLON** - there is a drainage ditch in front of the sign, so there is the road, drainage ditch, sign,

**MS PEARSON** - it is about nine feet from the road.

**MR RUTHERFORD** - the driveway curves around the inside of that

**MS PEARSON** - right

**MR RUTHERFORD** - how far from the sign?

**MS PEARSON** - About nine feet, centered on the median between the road and the driveway

**MR RUTHERFORD** - would feel better if it were a little closer to the building, giving the tenant a better chance of seeing and trying to get out of the driveway. Is that something you would consider?

**MR KILEY** - the setback is supposed to be fifteen feet from the edge of the road

**MR CONLON** - that is a little too far because the snowplows will come in and take

**MS PEARSON** - Putting it there because that is where the sign was

**CHAIRPERSON MAURICE** - what code is that, because it is not on the application

**MR KILEY** - 190.22h says 15 feet from lot line; which gets to Don's point, distance from the road;

**MR RUTHERFORD** - Thought it was both nine feet from the edge of the road and nine feet from the driveway, which is eighteen feet

**CHAIRPERSON MAURICE** - 190.22h, all permitted free-standing signs shall be set back a minimum of fifteen feet from the lot line as shown on the assessment map.

**MR IOANNONE** - will the sign be illuminated?

**MR CONLON** - no

**PUBLIC HEARING** - No one in attendance to speak for or against the application

**MOTION - MR RUTHERFORD** - Motion to accept the area variance as presented with the condition that the sign is at least twelve feet from the road for safety and visibility sake for the neighborhood.

This approval is strictly restricted and confined to the terms, conditions and specifications submitted with your application, as well as the documents and exhibits attached and made part of your application and further is contingent upon the following:

1. That the sign is placed a minimum of 12 feet from the road.

This 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 Article V, Section 190-26 to erect a free standing sign which will be larger than that allowed on the property located at 1635 Brooks Avenue, Town of Gates;
- 2 There was no other party in attendance who objected to Applicant's plea before the Board;

- 3 The Board found that the size of the sign and its placement within the setback would have no negative impact upon the neighborhood;
- 4 This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.
- 5 Monroe County did not raise any objection and referred this as a local matter.

**MR CORDERO** - Second

**MR KILEY** - area variance is for both the size and the location

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 granted 7-0

**CHAIRPERSON MAURICE** – awaiting the county decision

**ATTORNEY MACLAREN** - states that the response should be received soon

**CHAIRPERSON MAURICE** - it went into the county on the twenty-sixth of January so they have thirty days to respond and if they do not, we can go forward. Just have to wait until February 26, 2017.

**MOTION – MR KILEY** - Motion to adjourn meeting

Second – **MR IOANNONE**

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals

## Town of Gates

1605 Buffalo Rd, Rochester, NY 14624

2/1/2017

Owner of Building and Ciaccia's Delicatessen  
Antonio Ciaccia  
183 Lee Road

### To whom it may concern,

As the owner/landlord of the building at 183 Lee Road, across the street from Birchcrest Landscaping, and also the business owners inhabiting the space at 183 Lee Road, Annemarie Ciaccia, Stephanie Ciaccia, we are all in favor of the already installed fence with barbedwire.

Birchcrest Landscaping took down the dangerous and decrepit fence(that was left from previous business) and put a more stable, strong fence that looks professional and also makes the area more promising for other businesses to move in..

We are so delighted that they moved into the vacant lot that had been desolate for a long while. Having them in the neighborhood has brought a more favorable view for us and the other businesses and residents in the area.

They have helped make the neighborhood more valuable, clean, and organized looking.

We are happy to have them as neighbors and appreciate the improvements they have made.

Sincerely,

*Antonio Ciaccia*  
*Stephanie Ciaccia*  
*Annemarie Ciaccia*

Antonio Ciaccia, owner of building  
Stephanie Ciaccia, owner of Ciaccia's Delicatessen  
Annemarie Ciaccia, owner of Ciaccia's Delicatessen