



0-

Town of Gates

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

Meeting Minutes

June 12, 2017

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

MEMBER(S) NOT PRESENT: Christopher Dishaw;

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.

* * * * *

CHAIRPERSON MAURICE - Minutes from February meeting to be accepted. No changes or additions.

MOTION - MR IOANNONE - Motion to accept February minutes as written
Second - **MR CORDERO**

All in favor, minutes from February meeting accepted.

CHAIRPERSON MAURICE - There was no meeting in May, April meeting minutes to be accepted. No changes or additions

MOTION - MR KILEY - Motion to accept
Second - **MS SCHLAEFER**

All in favor, minutes from April meeting accepted.

Application No. 1

THE APPLICATION OF SWBR ARCHITECTS, AS AGENT FOR DE PAUL PROPERTIES, REQUESTING A VARIANCE OF CHAPTER 97, SECTION 97-4 TO CONSTRUCT A BUILDING WITHOUT INSTALLING AN APPROVED FIRE SPRINKLER SYSTEM ON PROPERTY LOCATED AT 1931 BUFFALO ROAD.

LISA FINGAR - SWBR Architects, representing DePaul. The structure is about 3,000 square feet; slab on grade block structure with a steel roof; purpose is to store records, DePaul is required to store medical and resident records for a long period of time and they are outgrowing their building; also to store some building materials; not going to be occupied, it is mainly support for existing building structure already on their campus; set back from existing building, not adjacent to it; according to the 2015 building code it is not a required sprinkler system structure; mainly the cost of the project is about \$350,000 square feet, without sprinkler system; if were to add a sprinkler system, as there is no plumbing, it would be about \$50,000 square feet; a regular sprinkler is about \$2.50 to \$3.00 per square foot; in this case it would be about \$16.00 per square foot to add a sprinkler system; it would be a hardship and would be a big ticket item for a small project because it is a small structure for storage and building supplies.

CHAIRPERSON MAURICE - SEQRA type two, no environmental impact that Board needs to address; any variances on a county road have to go to the county for their input and they have thirty days to respond; no response yet and they have until 6/26/17

MS SCHLAEFER - is it connected to the other buildings

MS FINGAR - no, it is set back; building is toward main road, parking is in the back and this building will be at the back edge of the parking lot; buffer of parking between buildings

CHAIRPERSON MAURICE - have letter of recommendation from Dave Tytler, town of Gates fire marshal; letter supporting approval of variance commenting that Gates Fire Chief is also in approval.

Letter exhibited to meeting minutes

MR IOANNONE - condition set forth by fire marshal that if occupied, need to come back for determination, /rezoning to see if they need a fire suppression system at that time.

CHAIRPERSON MAURICE - item number four in Mr. Tytler's letter, "if in the future DePaul decides to occupy any portion of this building or perform any type of maintenance work inside the building, it would require them to upgrade to a sprinkler system."

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

MOTION - MR IOANNONE - Motion to accept with condition stated

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 is further contingent upon the following:

1. That Monroe County declares that no action is required on its' part and refer the matter as a local matter.
2. If in the future, DePaul decides to occupy any portion of the building, or to perform any type of maintenance work inside the building, it is required that a sprinkler system be installed.

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 Chapter 97, Section 97-4 to erect a structure without the required Fire Sprinkler System.
- 2 There was no other party in attendance who objected to Applicant's plea before the Board;

- 3 The Town Fire Marshall and Fire Chief both found no issue with the requested variance.
- 4 This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

Second – MR RUTHERFORD

CHAIRPERSON MAURICE - Motion to approve variance as presented with the condition, as stated in the fire marshal's letter, in item number four that if they were to occupy any portion of the building or perform maintenance inside it would require them to upgrade to a sprinkler system.

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

All in favor

Variance approved 6-0

Application No. 2

THE APPLICATION OF KATHLEEN FOSTER REQUESTING A USE VARIANCE FROM ARTICLE XIX, SECTION 190-91 TO SELL PROPERTY FOR USE AS A PROFESSIONAL OFFICE ON PROPERTY LOCATED AT 2870 BUFFALO ROAD, IN A RESIDENTIAL ZONING DISTRICT

KATHLEEN FOSTER - owns 2870 Buffalo Road, it had been granted a variance for a medical office; been out of there since 2012; vacant since 2015; buyer wants to use as a professional office building

CHAIRPERSON MAURICE - have not received county response yet; SEQRA type two so no environmental impact for Board to be concerned with

JAMES MCGRATH - 172 Hartsdale Road, Irondequoit, buyer

JOE MAHAR - Reveal Realty, represents buyer

CHAIRPERSON MAURICE - building is in a residential zone, but in 2000 received a use variance to be used as doctor's office; being asked to modify the variance; the use that was granted as doctor's office is a use that is permitted use in non-retail zoning district; professional office buildings are also permitted uses in the same business, non-retail zone; modifying to broaden the use; criteria for a use variance were met in 2000; impact on character of neighborhood is at issue

MR IOANNONE - explain nature of business, number of employees and hours of operation

MR MCGRATH- mixed business, does consulting and web development; search engine optimization; some on-line sales, not a retail store but there is some storage and shipping; expanding employees, wants to bring in some RIT coops; Monday through Friday 8-5, 8-6, may be extended hours occasionally

CHAIRPERSON MAURICE - how many employees do you hope to ramp up to?
MR MCGRATH - 12-15 rooms with in the building today; would like to fill to capacity
CHAIRPERSON MAURICE - shipping?
MR MCGRATH - online business, have some sales and will need to package and take to post-office
CHAIRPERSON MAURICE - trucks?
MR MCGRATH - no
MR KILEY - what are the products that you sell?
MR MCGRATH - anything they can turn a profit on; collectibles, antiques, baseball cards
MR KILEY - stored that at facility?
MR MCGRATH - stored, as online sales, package and shipped through post-office
MR KILEY - no tractor trailers?
MR MCGRATH - no, occasionally business delivery
CHAIRPERSON MAURICE - customers coming to building
MR MCGRATH - clients, if looking for a website development, but not to buy
CHAIRPERSON MAURICE - hours?
MR MCGRATH - 8-5 or 8-6
CHAIRPERSON MAURICE - application said no structural changes to building
MR MCGRATH - no additions to building; currently basement is unfinished, planning to finish
CHAIRPERSON MAURICE - outside, enlarge parking?
MR MCGRATH - not currently
CHAIRPERSON MAURICE - where are you located now?
MR MCGRATH - works out of house; all employees work remotely, looking to centralize

PUBLIC HEARING

ADAM NORTON - 2900 Buffalo Road - directly to west, sat vacant for last two years, it is nice but the empty lot attracts youth; glad to see someone moving in; as a neighbor who does not have much structural barriers, has concern about smokers outpost, not near property, would prefer on east side; garbage pickup times, noise concerns
MR MCGRATH - nonsmoking facility; employees would have to leave property and do it somewhere else; will not be allowed to do it even in vehicles within property; no control over dumpster; can make request
MS SCHLAEFER - large enough parking lot facility to favor back corner of business side to put receptacle
MR MCGRATH - already a space with cement slab; relatively close but do not intend to move it because of the cost; does not plan to make any structural changes
MR IOANNONE - generate a lot of cardboard or trash
MR MCGRATH - yes, enough to generate more than that but not more than enough to empty dumpster more than once per week

MOTION - CHAIRPERSON MAURICE - approve the application for modifying the use variance to include all of the permitted uses under the Gates code 190-125, listed under A through H, which are the permitted uses in a BNR, Business Non-retail, with the condition, because of the proximity to the residential buildings, that it is a non-smoking area, and that there be no smoking permitted even outside on the grounds of the building.

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 is further contingent upon the following:

1. That Monroe County declares that no action is required on its' part and refer the matter as a local matter.
2. That the Applicant's intended purchaser institute the Smoke Free Campus as described during the meeting to resolve the concerns of the residential neighbor.

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

3. The Applicant sought a modification of a previously granted variance from Town of Gates Code Chapter 190, Section 92.
4. The Board determined that the modified variance should allow for the use of the property to include any use permitted in a BN-R zone, including a professional office, as requested.
5. That the Applicant was able to resolve the issues raised by the other party in attendance who has concerns regarding the Applicant's plea before the Board, specifically regarding the issue of employees smoking on the property.
6. This application involves a Type II action under the State Environmental Quality Review Act (SEQRA) and requires no further proceedings under SEQRA.

Second - **MR KILEY**

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - no

Chairperson Maurice - yes

Modification approved 5-1

Application No. 3

THE APPLICATION OF MICHAEL SHERIDAN REQUESTING AN AREA VARIANCE FROM ARTICLE VIII, SECTION 190-36 TO ERECT A DECK WHICH WILL ENCROACH INTO THE REQUIRED FRONT SETBACK ON PROPERTY LOCATED AT 335 COLE AVENUE.

CHAIRPERSON MAURICE - SEQRA type 2, which means there is no environmental impact
MICHAEL SHERIDAN - porch and a planter that deteriorated, also three feet of sidewalk that was cracked and had been replaced and cracked again. Would like to put posts in and take three feet and make it a deck with a porch and steps down to a deck from the front door and patio block around to the garage side door.

ATTORNEY MACCLAREN - to confirm, you live at 335 Cole Avenue?

MR SHERIDAN - yes, have been there for forty years

CHAIRPERSON MAURICE - the required set back per code in the town residential district is thirty five feet; house is just that, 35 feet, step already out of code but grandfathered in, so not concerned with that; thirty five feet is from the lot line to the house

MR SHERIDAN - that is also the edge of the roof, thirty five feet drops dead under the overhang of the roof

CHAIRPERSON MAURICE - variance that is drawn on the map, to confirm, is that your deck is going to extend eight feet from your house?

MR SHERIDAN - yes

CHAIRPERSON MAURICE - does that include stairs to the front or the side of it?

MR SHERIDAN - standard porch with two steps down to a lower deck and that will all be level with one step down.

CHAIRPERSON MAURICE - does the eight feet include any steps that would extend toward the street or are the steps off to the side and do not add to the eight feet?

MR SHERIDAN - steps would be one step off of that onto the grass

MS SCHLAEFER - in the front towards the road?

MR SHERIDAN - at a forty-five another step to go down to the pavers for the other door

CHAIRPERSON MAURICE - the variance has to include step, when you say the deck is going to be eight feet, is it eight feet plus a step?

MR SHERIDAN - no, it will be the proper height so you step off onto the grass

MR KILEY - it is eight foot to the edge of the material of the deck, one step down onto the lawn?

MR SHERIDAN - yes

MR KILEY - then two steps up to another deck?

MR SHERIDAN - yes, that will go in the front door at the height it is at

MR KILEY - how big of a landing in front of the front door is it going to be?

MR SHERIDAN - was going to bring it out the whole distance and rail it around the two steps down to the lower deck

MR KILEY - how far away from the front door would you have the two steps?

MR SHERIDAN - they are going to be right up against the house coming out, not coming down to the north, it is coming west, parallel with the house

CHAIRPERSON MAURICE - looking at an eight foot variance

MR RUTHERFORD - porch roof; how far from street side of your overhang is the porch going to hang eight feet over that or is some of the deck going to be underneath the overhang?

MR SHERIDAN - sixty-one inches

CHAIRPERSON MAURICE - passes out pictures

MS SCHLAEFER - not changing the roof at all?

MR SHERIDAN - no

MR RUTHERFORD - looks like roof sticks out from the house, is that right?

MR SHERIDAN - sixty-one inches

MR RUTHERFORD - beyond that, you will only have about three feet

MR SHERIDAN - correct, will not impede anyone's view

CHAIRPERSON MAURICE - noticed other houses in neighborhood with similar new porches

PUBLIC HEARING - no one in attendance

MOTION - MR IOANNONE - Motion to grant approval as presented

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 Chapter 190, Section 36 to erect porch which will encroach on the front setback on the property located at 335 Cole 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 location of the porch 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.

Second - MS SCHLAEFER

Member Vote Tally

Mr. Ioannone - yes

Mr. Kiley - yes

Mr. Rutherford - yes

Mr. Cordero - yes

Ms. Schlaefer - yes

Chairperson Maurice - yes

All in favor

Variance approved 6-0

MOTION - MR RUTHERFORD - to adjourn

MR CORDERO - Second

Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals



Address All Correspondence To

TOWN OF GATES
Fire Marshal's Office

1605 Buffalo Road
Rochester, New York 14624
Office (585) 247-6100 x 244 Fax (585) 426-8581
E-Mail dtytler@townofgates.org

FIRE MARSHAL
DAVID F. TYTLER

To: Christine Maurice, Chairperson
From: David F. Tytler, Gates Fire Marshal
Date: May 30, 2017
Subject: 1931 Buffalo Rd. Depaul Community Services, Sprinkler Variance
CC: Terry Rech, Gates Building Inspector, James Harrington, Fire Chief

The Fire Marshal's Office has reviewed the information on the variance request for the fire sprinkler system for the storage building located at 1931 Buffalo Rd.

I would support the variance for the following reasons:

1. The storage building is a one story non-combustible building that will be used to store records and maintenance staff storage.
2. The buildings will not be occupied and there is no life safety hazard.
3. The proposal to bring water to the building and to provide an NFPA 13 sprinkler system is close to 14% of the total cost of the project.
4. If in the future, Depaul decides to occupy any portion of the building, or to perform any type of maintenance work inside the building, it would require them to upgrade to a sprinkler system.
5. I have spoken with Gates Fire Chief Jim Harrington and he is in agreement with the approval.

Based on the information listed above I would respectfully request that the Board grant the variance based on financial hardship.

Respectfully Submitted,

David F. Tytler
Fire Marshal