



# Town of Gates

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

## Meeting Minutes

September 9, 2019

**MEMBERS PRESENT:** Christine Maurice, Chairperson; Don Rutherford;  
Bill Kiley; Mary Schlaefer; Steve Zimmer

**MEMBER(S) NOT PRESENT:** Don Ioannone; Ken Cordero

**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** - Explains process and role of the ZBA; Trolley Boulevard is a county road, have not received response from county yet but experience in matters of this type is that the county has always referred back as a local matter, proceeding. Normally have seven, but five here tonight, full Board majority is still four.

States that the first item of business is to accept the minutes from the last meeting, which was in August, 2019, with one small change that has been incorporated into the minutes

**MOTION – MS SCHLAEFER** - Motion to accept minutes  
Second – **MR ZIMMER**

*All in favor, minutes accepted.*

Application No. 1

**THE APPLICATION OF THOMAS BELL REQUESTING AN AREA VARIANCE FROM ARTICLE VIII, SECTION 190-36 TO ERECT A FRONT PORCH ON THE FRONT OF A HOUSE WHICH WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK ON PROPERTY LOCATED AT 28 BURNING BRUSH DRIVE.**

**THOMAS BELL** - ten by ten front deck backing to the entrance door in front of house

**CHAIRPERSON MAURICE** – asks what it will be made of

**MR BELL** - lumber and concrete footer

**CHAIRPERSON MAURICE** - Board has questions regarding confusion over steps

**MR ZIMMER** - asks applicant if he has a copy of the application with the pictures on it, shares same; shows ten by ten, yet picture of deck with stairs along side; confused as to where the steps are

**MR BELL** - stairs are part of the ten by ten, that is the overall size

**MR RUTHERFORD** – how wide will the steps be?

**MR BELL** – four feet

**MR RUTHERFORD** – leave six feet back behind the stairs

**MR BELL** – yes

**MR RUTHERFORD** – centered within the door

**MR BELL** – yes

**MR RUTHERFORD** – previous deck/stairs was about six or seven feet away from the house, need extra three feet?

**MR BELL** – misunderstanding with permit office, designed ten by ten and assumed it was on the back of the house, gave permit, then said it was too far out for the front; could redesign and make smaller, would like to stay within as footage is already dug

**MR RUTHERFORD** – Board is charged with giving the least amount of variances

**CHAIRPERSON MAURICE** – house is set back thirty-seven and a half feet, according to the survey map, porch will come out ten feet into the front setback which is supposed to be thirty-five feet, the calculation is that you are looking for an eight foot variance; a type two SEQRA action, no further environmental impact study needed

**PUBLIC HEARING** – no one in attendance

**MOTION – MR KILEY** – Motion to accept 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 36 to erect a porch in the front yard which will encroach eight feet (8 feet) into the required front yard setback on property located at 28 Burning Brush Drive, Town of Gates;
- 2 There were no other parties who spoke regarding the Applicant's plea before the Board;
- 3 The Board found that the requested variance would have no negative impact upon the neighborhood;
- 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 – MR RUTHERFORD**

**CHAIRPERSON MAURICE** – Motion before the Board is to approve the application for the deck as presented.

### Member Vote Tally

Mr. Kiley – yes

Mr. Rutherford – yes

Mr. Zimmer – yes

Ms. Schlaefer – yes

Chairperson Maurice – yes

*Variance approved. 5-0*

### Application No. 2

**THE APPLICATION OF GERALD DUNST REQUESTING AN AREA VARIANCE FROM ARTICLE VIII, SECTION 190-36 TO ERECT A FRONT PORCH ON THE FRONT OF A HOUSE WHICH WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK ON PROPERTY LOCATED AT 910 TROLLEY BOULEVARD.**

**GERALD DUNST** - 910 Trolley Blvd., replace deck that is existing; did not know that the builder did not get a permit; passes out to Board copies showing more detail of proposal;

**CHAIRPERSON MAURICE** - Mr. Dunst has brought copies showing more detail of the proposed project

**MR DUNST** - talked with building inspector to make sure he is in compliance, wants to make sure everything is done right and safely; steps are rotting

**CHAIRPERSON MAURICE** - in application, house is 41.7 feet from the setback line, new deck will come out 10 feet, that is 31.7, supposed to be a 35 foot setback, looking a for a 4 foot 3 inch variance;

**ATTORNEY MAC CLAREN** - on the drawing, it looks like the stairs coming off the front towards the road, is that correct?

**MR DUNST** - that is correct

**ATTORNEY MAC CLAREN** - Stairs are part to the deck so the variance is to incorporate the distance the stairs travel as well;, do you know how far the stairs are going to extend past

**MR DUNST** - about four and a half feet

**ATTORNEY MAC CLAREN** - it will actually be a nine foot variance

**CHAIRPERSON MAURICE** - nine foot variance; SEQRA type two, no further environmental impact study needed; did not get county response, going forward because always send back as a local matter in this type

**MS SCHLAEFER** - what is the deck made out of?

**MR DUNST** - pressure treated

**MS SCHLAEFER** - all of it, railing, everything?

**MR DUNST**- yes

**MS SCHLAEFER** - on old deck, stairs going off to the side, is there any way this deck can have the stairs going off to the side as opposed to the variance adding on going toward the road

**MR DUNST** - making the steps going off the front so it is easier to egress from the house, instead of having it going from the side

**MR RUTHERFORD** - also have to build more walkway

**MR DUNST** - correct, that will happen next year because there is not enough time this year to complete it; would probably wrap around to the driveway

**ATTORNEY MAC CLAREN** - it will be like 916 Trolley

**CHAIRPERSON MAURICE** - not out of character with others

**PUBLIC HEARING** - no one in attendance

**FRED DELFAVE** - 912 Trolley Boulevard, next door, have been neighbors for sixteen years; has small remodeling business, asked to give him a hand; want to do it the right way; get permits and have everything inspected; design is relatively close to what he has except for extending the stairs in front; more to have more

floor space on deck; negotiable in size; willing to bend and flex, shrink to fit; strong deck, built to last

**MOTION - MR KILEY** - Motion to accept as amended with the drawing

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 36 to erect a porch in the front yard which will encroach nine feet (9 feet) into the required front yard setback on property located at 910 Trolley Boulevard, Town of Gates;
2. There were no other parties who spoke in opposition and one party who spoke in favor of the Applicant's plea before the Board;
3. The Board found that the requested variance would have no negative impact upon the neighborhood;
4. As this property is located on a county road, this approval is conditioned upon the receipt of confirmation from the Monroe County that no further review of this matter is required and this matter is being referred back as a local matter.
5. 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 SCHLAEFER**

**CHAIRPERSON MAURICE** - Motion to approve variance of nine feet, amended with addition of steps coming forward

Member Vote Tally

Mr. Kiley - yes

Mr. Rutherford - yes

Mr. Zimmer - yes

Ms. Schlaefer - yes

Chairman Maurice - yes

*Variance approved 5-0*

**MOTION TO ADJOURN - MR KILEY**  
**Second - MR ZIMMER**

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals