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Town of Gates

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

Meeting Minutes

June 13, 2016

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

MEMBER(S) NOT PRESENT: Christopher Dishaw

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 May, 2016 meeting to be accepted
MOTION - MR IOANNONE - Motion to accept the minutes from the May, 2016 meeting with correction made

Second - **MR RUTHERFORD**

MS SCHLAEFER - abstains due to absence at last meeting

All in favor

Minutes from the May, 2016 meeting accepted.

CHAIRPERSON MAURICE - Two variances last month for Fed Ex Way were contingent on county approval which has been received. There were comments and the Planning Board has taken responsibility for incorporating them into their final approval.

Tabled from May, 2016 Meeting

THE APPLICATION OF ROBERT MARCELLO, PREMIER HOMES REQUESTING AN AREA VARIANCE FROM ARTICLE XX, SECTION 190-102 FOR THE FUTURE CONSTRUCTION OF CONDOMINIUMS WITH SUNROOMS WHICH WILL ENCROACH INTO THE REQUIRED REAR YARD SETBACKS ON LOTS #101-105, AND #136-140 IN THE PARKVIEW PLACE DEVELOPMENT LOCATED AT 3990 AND 4060 LYELL ROAD.

MOTION to lift table - **MR IOANNONE** -
Second - **MR RUTHERFORD**
All in favor

CHRIS SCHULTZ - consulting engineer on project

ROBERT MARCELLO - president of Premier Homes

ATTORNEY CASSARA - in view of the Planning Board's recommendation to the Town Board, the adoption of the seeking "no variance" was not incorporated in the Town Board's minutes or rulings, so the table was proper and there was no general prohibition to seeking an area variance.

MR SCHULTZ – states that he also went over minutes and correspondence and did not see the "no variance" provision

ATTORNEY CASSARA – states that the Board did not error by investigating

MR SCHULTZ – explains that they really have not changed anything. The town engineer recommended showing the rear set back line in addition to the twenty-five foot buffer. When originally presented said less than total of sixty-five feet required, and it is more proper to break that sixty-five into a twenty-five and forty. Detailed it more on the plans to show the Board that for example on the west side they were basically showing all of the units parallel to the west line and those would have the twenty-five feet and twenty-eight feet instead of forty. Those are all requesting a twelve foot variance on that side. On the east, those variances run generally around nine foot. Map shows ranges for variance. Have letters from neighbors to west and east that show no issues with the variances. Bob is here and has floor plan to show layout.

CHAIRPERSON MAURICE - Asks the applicant to give more information on the size of the berm, on the Santiago's property and confirm if the variance is not approved do they still get the berm?

MR SCHULTZ - no, Bob will give details as he spent time with them and has firsthand information

ROBERT MARCELLO - President of Premier Homes, reads letter of support from Santiagos on the east and Father Mike from Saint Jude's on the west. States that he took time to make both neighbors happy and the two that he is really affecting are in support. Talked to Santiagos and agreed in original plan to put pine trees up and mark trees in back yard that she wanted to save. Left extra trees that were not talked about. She asked if there could be a berm and he agreed and said would put in trees where they wanted after berm. Passed out map/layout last time. If were to buff it out twelve feet, could put sunroom on. On the three bedroom ranch, would not be able to put sunroom on which is a top seller. Being up front is important and the only place he can get three bedrooms in are on the ends. Will have more two bedrooms than three bedrooms, so it is really important to get as many three bedrooms in on the end. Wants to show model up front on the corner on church side.

MR KILEY - patio is really an extension of the great room

MR MARCELLO - yes

MR KILEY - 101, 104, 108, is that what you are thinking?

MR MARCELLO - yes, the middle are two bedroom ranches, but wants to put sunroom on to show a two bedroom with a sunroom

CHAIRPERSON MAURICE - to be clear, with either the great room or the sunroom and the deck, the deck would not extend past the variance

MR MARCELLO - nothing will extend past the twelve foot and the stairs would have to be on the side, cannot go past that twelve foot

MR RUTHERFORD - what is just north of Santiagos' house?

MR SCHULTZ - expanding section

MR MARCELLO - large row of trees behind

CHAIRPERSON MAURICE - if approved, still contingent on Planning Board approving revised plan

PUBLIC HEARING

No one in the audience to speak for or against

MOTION - MR KILEY - approve as presented

Second - **MR IOANNONE**

CHAIRPERSON MAURICE - approve area variance as presented with the understanding that it does require final approval of Planning Board for change of plans

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

CHAIRPERSON MAURICE - approval goes along with stipulation of area variance that it is not substantial and has no negative impact on the neighborhood.

REGULAR AGENDA

THE APPLICATION OF GREG BENOIT, AS AGENT FOR THE GATES PUBLIC LIBRARY, REQUESTING A CONDITIONAL USE PERMIT FROM ARTICLE V, SECTION 190-26 TO INSTALL AN ELECTRONIC MESSAGE DISPLAY SIGN ON PROPERTY LOCATED AT 902 ELMGROVE ROAD

CHAIRPERSON MAURICE - only considering if sign can be electric

GREG BENOIT - director of Gates Public Library, 902 Elmgrove Road, seeking to put sign between Elmgrove Road and the parking lot, sign will follow all of the ordinances; sign itself will have a base of two feet; electronic portion of the sign is thirty-six inches with an additional sixteen inches for an acrylic sign with the library's logo. Sign itself will be ninety-six inches wide and twelve inches deep.

CHAIRPERSON MAURICE - how many lines of script?

MR BENOIT - three lines of text maximum

CHAIRPERSON MAURICE - pictures?

MR BENOIT - just text

MR KILEY - static?

MR BENOIT- rotate every eight to ten seconds, maximum of three messages

MR RUTHERFORD - aware of code for colors, ect?

MR BENOIT - yes

MR KILEY - 40 seconds?

MR BENOIT - sixty seconds

CHAIRPERSON MAURICE - has letter form landlord saying okay with this

PUBLIC HEARING

No one in attendance to speak for or against

MOTION - MR IOANNONE - accept as presented

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

THE APPLICATION OF CHRISTOPHER SANTORO REQUESTING AN AREA VARIANCE AND A CONDITIONAL USE PERMIT FROM ARTICLE VI, SECTION 190-32 & 36 TO INSTALL A FENCE WHICH WILL ENCROACH INTO THE REQUIRED FRONT YARD SETBACK ON PROPERTY LOCATED AT 11 FLORALTON DRIVE.

CHRISTOPHER SANTORO - (states that he is hard of hearing and may not be able to hear everything) Explains that he wants to install fence for dog. Corner lot so side yard is front yard, three feet is not tall enough to contain dog, can only go back so far because of the trees on the side. Fence from side of house on Wingate and then to straight back sixty-five feet and seventeen feet.

CHAIRPERSON MAURICE - seventeen feet does not concern Board. Distance from Wingate is eight feet from the road?

MR SANTORO - yes

CHAIRPERSON MAURICE - inside trees?

MR SANTORO - yes

CHAIRPERSON MAURICE - wood, stained?

MR SANTORO - stockade

MR KILEY - paint or stain?

MR SANTORO - stain

ATTORNEY CASSARA - uniform surroundings, stain the same color as the wood?

MR SANTORO - yes

PUBLIC HEARING

BOBBY WRIGHT - 9 Floralton Drive, next door, states that until she saw the sign she had no idea that anything was being changed, so she needs clarification about what type of fence is going to be put there and whether it is going to be put on both sides of the yard because if it is only put on one side near Wingate, dog can walk into her backyard through the trees.

CHAIRPERSON MAURICE - applicant has stated that it is going to be a wooden stockade fence, six feet tall that he is going to stain in a natural brown color. It will be inside the hedge row.

MS WRIGHT- clarifies dogs can walk through trees

MR SANTORO - states that he could put wire fence inside trees

CHAIRPERSON MAURICE - asks to clarify what area they are talking about

MS WRIGHT - if facing the property from the road, the left side of house, there are trees that belong to him, but there is no area for the dogs to be contained without walking through to her property which would disallow her access to her own yard.

CHAIRPERSON MAURICE - this Board only is concerned with the fence that goes along the sidewalk. It is considered to be a corner, front yard and only have authority on that piece of the fence. If you have concerns about your side, that is a personal matter between you and Mr. Santoro or the town if you have issues with dogs coming into your front yard.

MS WRIGHT - definitely wants a fence because the dogs would walk into her yard. Other side has dogs and it is annoying to be outside and have them barking.

CHAIRPERSON MAURICE - ZBA has nothing to say about that situation, the property line, it is only the fence that is going along the sidewalk on Wingate that ZBA has authority on

MS WRIGHT - terrified of other people's dogs, so cannot have them walking into her yard

CHAIRPERSON MAURICE - states that there is a leash law in Gates, so that is not supposed to happen

MS WRIGHT - neighbor's dog

ATTORNEY CASSARA - call town and make report to code enforcement for unleashed dogs

MS WRIGHT – if she sells her property, does not want to take his property because trees are his. Asks who to go to if there is a problem, without having police come, does not want that.

ATTORNEY CASSARA - call 911 if you feel you are in danger, person or property; code enforcement officer, Ron Henion if enforcement issue; property line issue consult your own attorney.

MS WRIGHT - where does she go before problems start?

CHAIRPERSON MAURICE - start with talking with neighbor, Mr. Santoro, and then call town if you cannot agree, and ask for code enforcement

MR RUTHERFORD - can come to town and there is an information booth

PUBLIC HEARING CLOSED

CHAIRPERSON MAURICE - explains to applicant that ZBA is only deciding on piece of fence that goes along the sidewalk.

MOTION - MR IOANNONE - to accept as presented

Second - **MR KILEY**

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 and conditional use permit granted 6-0

CHAIRPERSON MAURICE - criteria is that it is not a substantial variance and it does not impose a negative impact on the surrounding neighborhood

MS WRIGHT - asks who checks

MR KILEY - building department inspects for permit

MOTION to adjourn meeting – **MR RUTHERFORD**

Second – **MR CORDERO**

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Respectfully submitted,

Clare M. Goodwin, Secretary
Gates Zoning Board of Appeals