



# Town of Gates

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

## Meeting Minutes

October 9, 2017

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

**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** - Minutes from July and August meetings to be accepted.  
No changes, additions or corrections for the July minutes.

**MOTION - MR IOANNONE** -to accept the minutes

Second – **MR DASHAW**

All in favor

**MR RUTHERFORD** – change to the August minutes on page eighteen, the second for the motion was made by Mr. Kiley.

**MOTION – MR RUTHERFORD** – Motion to accept minutes with changes

Second – **MR CORDERO**

All in favor, Mr. Ioannone abstains due to absence from last meeting

### Application No. 1

**THE APPLICATION OF JENNIFER LOVE AND ANTHONY PALMER REQUESTING AN AREA VARIANCE AND A CONDITIONAL USE PERMIT FROM ARTICLE VIII, SECTION 190-36(B) AND ARTICLE XIX, SECTION 190-94(C-3) AND ARTICLE VI, SECTION 190-32(D) TO INSTALL A FENCE WHICH WILL BE HIGHER THAN**

**ALLOWED; AND WILL ENCROACH INTO THE REQUIRED FRONT SETBACK ON PROPERTY LOCATED AT 14 DAWNHAVEN DRIVE.**

**CHAIRPERSON MAURICE** – states that this is being treated as a new application

**JENNIFER LOVE AND ANTHONY PALMER (via interpreter)** – homeowners at 14 Dawnhaven Drive

**CHAIRPERSON MAURICE** – asks the applicant to explain why the fence is needed and what will it look like

**MS LOVE** – just bought house and have two dogs, one is twenty pounds or so and the other is thirty pounds. Wanted the fence to go in the yard safely; home on corner, school buses drop off kids, safer for dogs and people in the community; requesting four feet; others have fences all the way back, don't want to do that; okay with having the fence closer to the road; want to be approved for chain link on the corner

**MR RUTHERFORD** – many of the houses that have fences closer to the road may have been grandfathered in from before there were zoning laws; most of the houses are east of Dawnhaven, less value; looking west, do not see fences close to the sidewalk; proposing making the fence even with Miramar neighbors garage; as you stand on Dawnhaven and you will see about ten feet which is just under tree line; allows Board to give minimal variance

**MR KILEY** – maintain the look of the neighborhood

**CHAIRPERSON MAURICE** - are you understanding ?

**MS LOVE** – yes

**MR RUTHERFORD** – are you okay with that?

**MS LOVE** – asks to see pictures

**CHAIRPERSON MAURICE** – Attorney MacClaren is showing pictures to the applicant

**MS LOVE** – asks if the tree is within the fence line

**ATTORNEY MAC CLAREN** – states that the tree is where the garage ends

**MR RUTHERFORD** – states that the tree is outside of the fence

**MR PALMER** – the tree is dead and thinking about cutting it down; concern about dogs, might be tight, would want it a little bit bigger; want to be able to use full property that they paid for

**CHAIRPERSON MAURICE** – Mr. Rutherford is getting at that as you look down Miramar Road, you do not see other fences that jut out towards the sidewalk; if this fence were to be kept in line with the garage, it would not be as noticeable and it would not be out of character with the other houses in the neighborhood.

**MR KILEY** – that is the problem with having a corner lot, two front yards

**MS LOVE** - yes

**MR CORDERO** – what color and style fence are you looking at?

**MS LOVE** – chain link; black; to match with already established fencing that is all around the neighborhood

**CHAIRPERSON MAURICE** – the new fence will match the chain link fence that you already have in the other part of the yard?

**MS LOVE** – no, the fences are old metal fences; going to add to save money; replace ones that are broken

**CHAIRPERSON MAURICE** – this is a SEQRA type two situation, which means that it does not impose environmental concerns that they need to do an environmental study on.

**MOTION – MR RUTHERFORD** – Motion to allow up to a four foot chain link fence to be installed on the south side of Miramar Road, however, it cannot be any closer to Miramar Road than the neighbor’s garage on the east side of 14 Dawnhaven.

**CHAIRPERSON MAURICE** – Mr. Rutherford has made a motion to accept as presented with the exception that the fence cannot be any closer to Miramar Road than the east side neighbor’s garage front.

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, Chapter 190, Section 94(C)(3), and Chapter 190, Section 32 to erect a fence which will encroach on the setback on the property located at 14 Dawnhaven Drive, 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 fence and its placement within the setback, now set at the front corner of the neighboring garage, 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.

**MR KILEY** – 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

All in favor

Variance approved 7-0

**MOTION - MR KILEY** - to adjourn

**MS SCHLAEFER** - Second

Respectfully submitted,

Clare M. Goodwin, Secretary  
Gates Zoning Board of Appeals