

3 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
4 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON JUNE 5TH, 2019 AT  
4 APPROXIMATELY 7:15 **P.M.**

6 June 5th, 2019  
7 Brighton Town Hall  
7 2300 Elmwood Avenue  
7 Rochester, New York 14618

PRESENT:

10 DENNIS MIETZ, CHAIRPERSON  
10 JEANNE DALE  
11 DOUGLAS CLAPP  
11 JUDY SCHWARTZ  
12 ANDREA TOMPKINS WRIGHT  
12 JENNIFER WATSON

14 DAVID DOLLINGER, ESQ.  
14 Town Attorney

16 RICK DiSTEFANO  
16 Secretary

19 NOT PRESENT:  
19 KATHLEEN SCHMITT

REPORTED BY: RHODA COLLINS, Court Reporter  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, New York 14020

2

3                   CHAIRPERSON MIETZ: Good evening. I'd like to  
4 call to order the June session of the Zoning Board of  
5 Appeals.

6                   Rick, was the meeting properly advertised?

7                   MR. DiSTEFANO: Yes, Mr. Chairman, it was  
8 advertised in the Brighton-Pittsford Post of May 30, 2019.

9                   CHAIRPERSON MIETZ: Will you please call the  
10 roll?

11                  MR. DiSTEFANO: Please let the record show  
12 Ms. Schmitt is not present.

13                  CHAIRPERSON MIETZ: Okay. So we have the  
14 April and May minutes. Let's start with April. Judy?

15                  MS. SCHWARTZ: On Page 9, Line 23, it's  
16 highland, the second word.

17                  On Page 38, Line 25, I say to delete of this.

18                  Page 46, Line 17, it's vented convection.  
19 That's it.

20                  CHAIRPERSON MIETZ: Anybody else have anything  
21 about April's minutes? Great, let's have a motion.

22                  MS. TOMPKINS WRIGHT: So moved.

23                  (Second by Ms. Schwartz.)

24                  (Mr. Clapp, yes; Ms. Schwartz, yes;  
25 Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes;

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 Ms. Watson, yes.)

4 (Upon roll call, motion to approve with  
5 corrections carries.)

6 CHAIRPERSON MIETZ: Okay. Let's move on to  
7 May.

8 MS. SCHWARTZ: I only have one. Page 47,  
9 Line 11, in conditions, after the word approvals must add  
10 please must be obtained. That's it.

11 CHAIRPERSON MIETZ: Okay. Anything else on  
12 May?

13 MS. SCHWARTZ: So moved.

14 (Second by Ms. Tompkins Wright.)

15 (Mr. Clapp, yes; Ms. Schwartz, yes  
16 Ms. Tompkins Wright, yes; Ms. Dale, yes Mr. Mietz, yes;  
17 Ms. Watson, yes.)

18 (Upon roll call, motion to approve with  
19 corrections carries.)

20 CHAIRPERSON MIETZ: Rick, when you're ready  
21 then read the first application.

22 APPLICATION 5A-01-19

23 5A-01-19 Application of Zamiara Properties  
24 2171, LLC, owner of property located at 2171 West Henrietta  
25 Road, for a Use Variance from Section 203-9 to allow a

1 Brighton Zoning Board of Appeals 6/5/19

2

3 restaurant with outdoor dining in an RLB Residential District  
4 where not allowed by code. All as described on application  
5 and plans on file.

6 MS. BRUGG: Good evening, my name is Betsy  
7 Brugg, I'm with the firm Woods, Oviatt, Gilman. I'm here  
8 tonight on this application, Bill Zamiara who is the son of  
9 the property owners is here, and John Geer who is the  
10 individual proposing to own and operate the restaurant in the  
11 building at issue, is also here to answer your questions.

12 I think we've given you kind of a complete  
13 application. I'm going to go through it. The property at  
14 1271 West Henrietta Road has been a restaurant since it was  
15 built over 70 years ago. Most recently it had a Chicago  
16 Pizza, I think was the name of the business. Before that it  
17 was Portafino's, it's been Portabello's, it's been a lot of  
18 different things over the years.

19 It has operated as a legally pre-existing  
20 non-conforming use in the district. The last tenant closed  
21 down about two years ago, I think May of 2017. There was a  
22 dispute, the Zamiaras didn't want him to close down, he just  
23 shut the doors, he took off with a bunch of kitchen  
24 equipment, and the property has been tied up in litigation  
25 for the last couple years and just concluded a few months

3 ago. The Zamiaras prevailed. They now have control of the  
4 property, they've had it for lease, they've had, I think,  
5 over 30 individuals look at it over the past couple years,  
6 but they really haven't been able to do anything until the  
7 litigation was resolved.

8                   John Geer has a history in the restaurant  
9 business. His family operates other restaurants. He's  
10 proposing a family-style neighborhood-friendly restaurant. I  
11 think some of the previous restaurants have been more of a  
12 dinner type of establishment. This is more of a daytime  
13 family friendly type of a use that's being proposed.  
14 Breakfast, lunch, dinner, he's hoping to do ice cream in the  
15 evenings, those kinds of things.

16                   We did go and hold a neighborhood meeting. We  
17 invited every resident on Furlong and Doncaster and a number  
18 on West Henrietta Road. We had a good crowd, here is the  
19 sign-in sheet. I think some people just signed in one person  
20 but we seemed to have filled the place. I would say that  
21 there were a few e-mails in support that were sent to me and,  
22 Rick, I think you already have them.

23                   MR. DiSTEFANO: I have them.

24                   MS. BRUGG: There are copies attached here.  
25 And this is the sign posting you require. We had a really

3 fabulous neighborhood meeting. The neighborhood was  
4 overwhelmingly enthusiastic, supportive, excited. I think  
5 they were thrilled that the last operator is no longer there.  
6 He did not own the property, but he did try to propose some  
7 housing development of the property I guess a while back.

8 For the most part, there really weren't that  
9 many issues. A lot of questions from the neighborhood but  
10 they were overwhelmingly excited to have a place they could  
11 walk to to grab a cup of coffee, to meet up. People were  
12 very, very positive. I think we have some residents here  
13 tonight, I'm not sure we have as many as certainly we had at  
14 the neighborhood meeting.

15 So as a result of the fact that this was a  
16 pre-existing non-conforming use and it has been closed for  
17 more than a year, outside of the control of the property  
18 owner but still closed over a year. The Town has deemed  
19 under Town Code that the legally pre-existing non-conforming  
20 use has been abandoned, and therefore the only way to  
21 reestablish the use is to apply for and obtain a use variance  
22 from this Board.

23 So we have submitted written documentation. I  
24 do believe that we meet the standards and requirements. We  
25 have to demonstrate most significantly that the property

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 cannot generate a reasonable return for any of the uses  
4 permitted by the Town Code. This is a single-family zoning  
5 district. This property was built as a restaurant, it is  
6 part of the application to submit an income and expense  
7 statement. The property is currently generating no income.  
8 It does still carry significant expenses. I would say that  
9 it is currently generating a negative return and has for the  
10 past couple years.

11 I would point out that we did not have all of  
12 the expense information at the time that I filled out the  
13 application form. The expenses are actually quite a bit  
14 higher than what we are showing. They have been maintaining  
15 the property, they spend several thousand dollars on lawn  
16 maintenance and painting and snow removal and all of those  
17 things that's left out of the analysis. More importantly,  
18 you don't even have to look at whether it's viable to utilize  
19 this property for the uses permitted by code.

20 We have submitted in the application a site  
21 plan. We went to DDS engineers and said what could you build  
22 on here if you wanted to build a single-family that's  
23 comparable to what's in the neighborhood? They provided a  
24 site plan that's in your packet showing five single-family  
25 lots and how they would be configured. If you look at it

3 it's a little odd. Because we're on West Henrietta Road it  
4 would be unlikely to be able to secure approval for  
5 additional driveways on West Henrietta Road, the DOT is  
6 seeking to reduce driveways and not increase the number of  
7 driveways. And the way that this is configured, the last  
8 would either front on West Henrietta Road or back onto West  
9 Henrietta Road.

10 The cost to develop those five single-family  
11 homes would exceed the fair market value of the homes. So  
12 it's really not economically viable for anybody to invest in  
13 this property, purchase this property, go through the process  
14 of demolition, do the site prep work as required, and then  
15 build five houses comparable to what are in the neighborhood.  
16 I think we've given you an estimate for construction of five  
17 1600-square-foot homes. Some of the homes in the  
18 neighborhood are a little larger, most of them are actually a  
19 little smaller.

20 We've given you an analysis and opinion from  
21 Doug Burkhart who is a real estate broker who has worked with  
22 the property and has a long history with the Zamiaras.  
23 Basically speaking to the market for single-family in this  
24 neighborhood, he provided some comps which were submitted in  
25 the application of sales that have occurred over the last two

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 years. Houses are selling between \$95,000 and I think  
4 \$172,000 I think was the highest-priced house sold in the  
5 last three years in that neighborhood. That \$172,000 I'll  
6 point out was actually a larger house, I think about 1900 or  
7 2000 square feet.

8 So the houses are really falling in the  
9 \$120,000 and \$130,000 range in the neighborhood. Certainly  
10 marketability he's commented would be impacted by the  
11 proximity to West Henrietta Road as opposed to being internal  
12 in a residential neighborhood and whether there would be  
13 buyers for the new house in this type of location.

14 We provided you with cost estimates from DDS  
15 for site preparation. Just the site preparation alone and  
16 the demolition came to about \$92,000 a lot. Even if you  
17 consider -- I looked at the lot value for the neighborhood.  
18 Most of them are a third of an acre in size and assessed  
19 somewhere in the \$35,000 range. So if you add that on and  
20 you add the cost of construction, we used \$150 a foot  
21 construction cost as a number. I know that I've seen higher  
22 estimates.

23 So using that we'd be looking at spending an  
24 excess of \$330,000 to build a house that couldn't sell for  
25 that. So I think we've demonstrated that it's just not

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 financially viable to develop the property for single-family  
4 housing and generate any kind of reasonable return -- any  
5 return at all.

6                   Whether the hardship is unique, I think that  
7 we can demonstrate that indeed the hardship is unique to this  
8 parcel. You're not going to find another property of this  
9 size and this location. It was built, this has not been a  
10 house, this was built as a restaurant, always been a  
11 restaurant. There's some challenges with the location and  
12 the size of the property. I think that in respect to the  
13 uniqueness, I don't think you'll find another comparable  
14 property in the neighborhood, in the residential district,  
15 and certainly sitting between these two residential streets.

16                   This will not change the character of the  
17 neighborhood in any way. As I said, it's always been a  
18 restaurant. The neighborhood has been really supportive of  
19 reestablishing the neighborhood restaurant that's always been  
20 there. And I do believe this hardship, I think we've  
21 demonstrated is not self-created, but resulted from  
22 unfortunately from the action of the tenant who locked the  
23 doors. And honestly the time it took to litigate this is the  
24 issues of the property control.

25                   I think we've demonstrated the burden of

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 proof. We'd be happy to answer any questions you have or  
4 provide you with any additional information.

5 MS. SCHWARTZ: I know that, correct me if I'm  
6 wrong, but when they were going to have outdoor eating there  
7 were conditions put on that. Are you willing to abide by the  
8 conditions that have been placed the first time?

9 MS. BRUGG: Do you have those, Rick? I assume  
10 so.

11 MS. TOMPKINS WRIGHT: Is there outdoor dining  
12 proposed? I didn't see anything.

13 MS. BRUGG: Yes. We are planning to use the  
14 same outdoor patio that was used before, the same area.  
15 There's no physical alteration proposed to the exterior of  
16 the property for this application.

17 MR. DiSTEFANO: I think it might be helpful if  
18 maybe we heard from -- and I don't want to jump ahead of your  
19 presentation --

20 MS. BRUGG: I'm going to share this with John  
21 because he's going to be operating the restaurant.

22 MR. DiSTEFANO: Yes, to hear how this is going  
23 to operate, a little bit more on that.

24 MS. BRUGG: Sure. I think that these  
25 conditions are all going to be fine. Let me just share

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 these.

4 MS. TOMPKINS WRIGHT: While he's looking can I  
5 ask what other uses are allowed in that residential zone and  
6 did you explore whether or not that might be a viable option?  
7 I know there's a senior living facility a couple sites down.

8 MS. BRUGG: Actually, the only use that's  
9 permitted in the district are single-family, detached  
10 dwellings, not to exceed one dwelling per lot, family daycare  
11 homes, and buildings structures and uses owned and operated  
12 by the Town of Brighton for municipal uses.

13 MS. TOMPKINS WRIGHT: Rick, does the Town of  
14 Brighton want to operate as a daycare?

15 MR. DiSTEFANO: I don't believe so. There are  
16 other uses that are conditionally permitted, which they don't  
17 need to prove that a conditionally permitted use would work  
18 there on that site, but --

19 MS. BRUGG: But it would have to meet the  
20 criteria.

21 MR. DiSTEFANO: Right.

22 MS. BRUGG: I think that the bulk of those  
23 uses are things that I can tell you they're not really uses  
24 of that great demand. Places of worship, schools, private  
25 golf courses -- I think you could fit one of those in here --

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 fire stations and ambulances, daycare centers which is a more  
4 commercial use, home occupations are permitted.

5 MS. TOMPKINS WRIGHT: And did you -- maybe  
6 this is something of the prior property owner -- but could  
7 you give us an idea of what type of restaurant? You talk  
8 about some names, but were there bars in the prior  
9 restaurants? Was alcohol served in the prior restaurant?

10 MS. BRUGG: Yes. So there have been prior  
11 restaurants that did have a bar. Mr. Geer is not proposing  
12 to have a bar, he's actually going to serve wine and beer  
13 only to the table. With table service there's no bar  
14 proposed, which I will say some of the neighbors were not  
15 happy to hear that, but that's not his plan.

16 MS. TOMPKINS WRIGHT: To confirm, I know the  
17 property is wrapped up in litigation, but the property owner  
18 was prevented from leasing it or operating its own restaurant  
19 while litigation was going on until a couple of months ago?

20 MS. BRUGG: Correct, yes.

21 CHAIRPERSON MIETZ: I think it's important,  
22 Betsy, if we could hear a little bit about the restaurant and  
23 the plan.

24 MS. BRUGG: Sure.

25 JOHN GEER: Hi, I'm John Geer, my family's

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 been in the restaurant business for a while. We plan on  
4 making this a family-friendly restaurant, very relaxed. As I  
5 said, all family and do breakfast, lunch, and dinner. I can  
6 take any questions.

7 MS. TOMPKINS WRIGHT: The hours you had listed  
8 in the application were 5:00 a.m. to midnight. They're  
9 pretty expansive. Do you anticipate that actually will be  
10 your hours or is that just the open that you're looking for  
11 so that you can kind of figure out what works for the  
12 restaurant?

13 JOHN GEER: Correct.

14 MS. TOMPKINS WRIGHT: What are your thoughts  
15 on how many hours will actually be once you get up and  
16 running?

17 JOHN GEER: 5:00 to 11:00 would be nice, to  
18 midnight would be nice. We will be there after we close to  
19 clean and et cetera, anyways.

20 MS. DALE: How many employees do you estimate?  
21 I know it's family, but --

22 JOHN GEER: About 20.

23 CHAIRPERSON MIETZ: And because you have  
24 experience in the business, when you look at the three pieces  
25 of the day, meaning breakfast, lunch, and dinner, could you

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 share with us what you're projection would be on what  
4 percentage each one of those would contain of 100 percent?

5 JOHN GEER: Can you repeat that again?

6 CHAIRPERSON MIETZ: Yes. So in other words,  
7 is breakfast 20 percent, lunch 30 percent, dinner 50 percent?

8 JOHN GEER: You mean of our income?

9 CHAIRPERSON MIETZ: No, of the actual volume  
10 of the restaurant? So in other words, of the people coming  
11 in and sitting there and actually eating, what portion -- not  
12 the financial volume -- activity?

13 JOHN GEER: Well, that's to be told. I mean,  
14 as when we are open, who's coming in and we're going to have  
15 home-style comfort foods. So we would like to --

16 MS. BRUGG: I was just going to add, he has a  
17 restaurant called T's.

18 JOHN GEER: It's not mine.

19 MS. BRUGG: Well, the family.

20 JOHN GEER: Yes.

21 MS. BRUGG: But you gave that as an example.

22 JOHN GEER: Yes.

23 MS. BRUGG: It's in Webster right next to the  
24 BJ's, where Hegedorn's is back there. So it's kind of like a  
25 family kind of diner type of a thing, is how he's described

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 it to me. A place where people can sit down and have a  
4 sandwich.

5 JOHN GEER: Coffee, soda, ice cream.

6 MR. CLAPP: Could you describe how you plan to  
7 use the outdoor area? And in particular, would there be  
8 music out there? And by music, on speakers or anything?

9 JOHN GEER: No, not really. We were not  
10 planning on any of that. We know the outdoor seating would  
11 be very nice for the neighbors, simply because there's not  
12 too many outdoor seating to enjoy the sunshine. Obviously  
13 we're not going to use it year round, so the time that we do  
14 have some warm weather we would like to serve some food out  
15 there and enjoy it.

16 MS. BRUGG: I would say at the neighborhood  
17 meeting there were neighbors that actually asked if they  
18 could have their neighbor gatherings, they could come there  
19 to get together and if he would be open to having them,  
20 hosting them.

21 JOHN GEER: Yes.

22 CHAIRPERSON MIETZ: More questions?

23 MS. SCHWARTZ: So you don't propose any music?

24 JOHN GEER: No.

25 MS. SCHWARTZ: Just eating outside?

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 JOHN GEER: Yes. I mean, would you oppose  
4 music?

5 MS. SCHWARTZ: Would I? No.

6 CHAIRPERSON MIETZ: But it brings other  
7 complications, let's just say.

8 MS. SCHWARTZ: Especially with outside eating.

9 CHAIRPERSON MIETZ: In a neighborhood  
10 atmosphere.

11 MS. SCHWARTZ: So you are having to midnight,  
12 you said? Will you be having outdoor eating until then as  
13 well?

14 JOHN GEER: No, we could follow the conditions  
15 that are existing.

16 MS. SCHWARTZ: Because in summer voices tend  
17 to --

18 JOHN GEER: Yeah, I understand.

19 CHAIRPERSON MIETZ: We have conditions on  
20 that. Any other questions? Thank you.

21 Is there anyone in the audience who would like  
22 to speak? Please come up.

23 THOMAS BROWN: Thomas Brown, I'm a resident of  
24 205 Doncaster Road. We attended the neighborhood meeting and  
25 I would concur, I thought it was very well run. And I think

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 overall the strong sense of the neighbors was, we don't want  
4 to continue having a rundown-looking building out there on  
5 West Henrietta Road, and that the proposed usage that seemed  
6 reasonable, especially in comparison to some of the prior  
7 establishments.

8 CHAIRPERSON MIETZ: Thank you. Would anyone  
9 else like to speak regarding this application?

10 MR. DiSTEFANO: Before you close it, Betsy,  
11 can I ask you a question? Are there any exterior changes  
12 proposed for the site? Any increase in parking areas, any  
13 building modifications, any modifications to the outdoor  
14 dining area?

15 MS. BRUGG: No, there are no modifications  
16 proposed at this time. I think the neighbors had somebody  
17 comment about the need for a Dumpster and enclosure, so we'd  
18 be happy to work with the Town to take care of that.

19 MR. DiSTEFANO: I think that would be a good  
20 idea.

21 MS. BRUGG: I think we did look at some  
22 modifications, but that the idea is to open and see how  
23 business goes and if there's something needed in the future  
24 we would certainly have to come back to the Town.

25 MR. DiSTEFANO: And for the record, the number

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 of seats that you're proposing?

4 MS. BRUGG: So the floor plan shows  
5 64 interior seats. I believe the parking allows 72, I think  
6 is what we had discussed. We understand there's not enough  
7 parking to support a hundred seats, for example. So I think  
8 we're going to look at how things go and if we need to add  
9 parking there definitely is enough space to add it. We would  
10 just have to carefully look at that and come back to the Town  
11 for the appropriate approvals, and certainly engage the  
12 neighborhood again as to where they would want to see that.

13 The parking does have to be striped as part of  
14 this project if you've looked at the site plan or if you've  
15 been out there it's just worn out. It needs to be restriped.  
16 I believe the engineers have count 36 spaces. They may be  
17 able to fit a couple more than that.

18 MR. DiSTEFANO: I noticed there were some  
19 stacked parking spaces. Would they be for employees only?

20 MS. BRUGG: If they are kept stacked that will  
21 certainly be the case, but I believe that the 36 that I was  
22 told would be code-compliant parking spaces.

23 CHAIRPERSON MIETZ: All right.

24 MS. BRUGG: The effort is really to operate  
25 something that fits with the character of the neighborhood,

1 Brighton Zoning Board of Appeals 6/5/19

2

3 something that will hopefully be successful and be a good fit  
4 with the neighborhood and see how it goes. And if there is a  
5 need for additional parking, it just didn't seem appropriate  
6 to apply for it at this point without knowing how things are  
7 going to go. And if he can get in there and up and running,  
8 that would be helpful. And if there's a need for additional  
9 parking, it's a large enough site that we can accommodate  
10 that and would just have to take a careful look at that and  
11 come back for the appropriate approval.

12

13 CHAIRPERSON MIETZ: Okay. Is there anyone  
14 else in the audience that would like to speak regarding this  
15 application? There being none, then the Public Hearing is  
closed.

16

APPLICATION 5A-03-19

17

18 5A-03-19 Application of Daniel Hormaza and  
19 Leire Bascaran, owners of property located at 45 Crandon Way,  
20 for an Area Variance from Sections 205-2 and 207-10A(4) to  
21 allow a deck to extend 14 +/- ft. into the 60 ft. rear  
22 setback required by code. All as described on application  
and plans on file.

23

MR. DiSTEFANO: Just introduce yourselves.

24

25 LEIRE BASCARAN: Yes, I'm Leire Bascaran, this  
is my husband.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 DANIEL HORMAZA: Daniel Hormaza.

4 LEIRE BASCARAN: From 45 Crandon Way. And  
5 we're just looking to build a deck in our backyard. It's  
6 going to be a 14 by 20 composite and just looking to upkeep  
7 it. Right now we have a stone patio that's very worn out and  
8 it doesn't match with the sliding doors, so our doors go out  
9 into some temporary stairs to the grass. Hence why we think  
10 this would be the most appropriate way to add an addition to  
11 our house and really upkeep it and increase the value of the  
12 neighborhood. I believe you have all of the documents.

13 CHAIRPERSON MIETZ: Can you tell us how you  
14 determined the size of the deck and what the reasons were for  
15 it?

16 LEIRE BASCARAN: Yes. So we actually looked  
17 at a deck that was big enough to just hold a six-chair table  
18 to have a patio table out there and just enough space to be  
19 able to walk in a reasonable way. And then that's really it,  
20 that's as big as it gets.

21 DANIEL HORMAZA: Things we looked at, we have  
22 some electricity wire coming in so we cannot start from there  
23 and it goes all the way to the edge of the house, it is kind  
24 of square, fits well. And one thing I was going to add is it  
25 is a little slanted downhill, so the deck you're looking to

1 Brighton Zoning Board of Appeals 6/5/19

2

3 put in and be able to move around, that kind of thing.

4

CHAIRPERSON MIETZ: Okay, very good.

5

Questions?

6

7 MS. WATSON: The primary purpose for the deck

is outside dining?

8

LEIRE BASCARAN: Yes.

9

10 MS. WATSON: Have you happened to chat with  
any neighbors about the project?

11

12 LEIRE BASCARAN: We did. They're very  
comfortable. They actually kept asking when it was happening

13 so we can deliver an update at some point.

14

15 CHAIRPERSON MIETZ: Okay. No questions from  
other Board members? Thank you.

16

17 Is there anyone in the audience that would  
like to speak regarding this application? There being none,  
18 then the Public Hearing is closed.

19

APPLICATION 6A-01-19

20

21 6A-01-19 Application of Peter L. Morse and  
Associates, architect, and the Townhouses of Eastbrooke  
22 Commons, owner of property located at 477 Eastbrooke Lane,  
23 for relief from Section 73-27 - Fire Sprinkler Systems and  
24 the requirements of Section 73-29 to allow a new detached  
garage and a renovated/enlarged maintenance building to be

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 constructed without sprinkler systems where required by code.  
4 All as described on application and plans on file.

5 PETER MORSE: Good evening, I'm Peter Morse,  
6 Architect, I'm representing Eastbrooke Commons and Kenrick  
7 Management. We are trying to get two buildings constructed.  
8 One is, we're going to renovate an existing maintenance  
9 garage building that's got a little break room in it. We  
10 want to add two more bays. And across Allens Creek where  
11 there's a clubhouse there next to Monroe, we want to build a  
12 two-car just for storage of trucks.

13 Currently the Town has got a sprinkler  
14 requirement for all structures and I'm here trying to seek  
15 relief for this requirement. Number one is the cost which is  
16 approaching 25 to 30 percent just to get the line to the --  
17 we've looked everywhere and to try to get that line to the  
18 garage. We also tried to look at portable barrels inside of  
19 the building, we couldn't get enough rating for it for a  
20 30-minute deluge to start at the 30-minute coverage for the  
21 pressure. So we have been waiting for Monroe County Water  
22 Authority for several months.

23 We would like to push ahead with this. We are  
24 offering some concessions, additional exiting. We don't feel  
25 that it's burdensome to the nature of the use. They are

1 Brighton Zoning Board of Appeals 6/5/19

2

3 basically -- one is a storage for trucks and the other one is  
4 going to be front loaded with small engine repair. There's a  
5 little break room and then there's two other truck storage in  
6 it.

7

So anyway --

8

9 MS. DALE: I have some questions. Your  
10 application said that for the building, not the garage but  
11 what would be a renovated and expanded maintenance building,  
12 that the sprinkler engineering is nearly complete it says?

13

14 PETER MORSE: We did it, but we have been  
15 waiting for the Monroe County Water Authority now and we've  
16 had no response.

17

18 MS. DALE: So is your intention that you would  
19 not withdrawal that application with the Water Authority?

20

21 PETER MORSE: We would withdraw that if we are  
22 granted this.

23

MS. DALE: You would withdraw it, okay.

24

25 PETER MORSE: Yes. It's been too long and  
it's getting to be costly.

26

27 MS. DALE: So when you say this sprinkler  
28 engineering is nearly complete, I read that you've already  
29 paid a lot of the cost in getting that work done.

30

PETER MORSE: We have.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 MS. DALE: So if the Monroe County Water  
4 Authority approves your application, did you consider just  
5 proceeding with this one building --

6 PETER MORSE: We haven't heard anything from  
7 them that gives us any indication that they are anywhere near  
8 approving this.

9 MS. DALE: Okay, but if they do approve it at  
10 some point in the future, because you've already made the  
11 investment in saying the engineering is nearly complete, if  
12 you do get approval would you then finish whatever has to be  
13 done and then that particular building would have a sprinkler  
14 system?

15 MS. TOMPKINS WRIGHT: Just to clarify, you've  
16 done the engineering work, but the construction has not been  
17 completed?

18 PETER MORSE: No.

19 MS. TOMPKINS WRIGHT: So what's the future  
20 construction cost that would be needed to be completed it's  
21 still -- I think your application said 35,000 to do that  
22 building?

23 PETER MORSE: Correct, that's just a --

24 MS. DALE: So you would withdraw that?

25 PETER MORSE: We would. We've waited months

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 now from them and no response. The cost is high, we've  
4 looked at alternatives. It's a Town requirement we are  
5 asking for consideration to remove this so we can push ahead  
6 with this without the sprinkler requirement.

7 MS. SCHWARTZ: And insurance is okay with it?

8 PETER MORSE: Yes.

9 MS. TOMPKINS WRIGHT: This is just a quick  
10 question, across the creek is the clubhouse.

11 PETER MORSE: Yes.

12 MS. TOMPKINS WRIGHT: Is the clubhouse  
13 sprinklered?

14 PETER MORSE: No. None of the buildings are  
15 sprinklered. They were all grandfathered.

16 MR. DiSTEFANO: Well before the codes.

17 CHAIRPERSON MIETZ: Okay. Just for the record  
18 though, can you just expand on what you are doing as a  
19 mitigation and you can read it in for us, what mitigation  
20 that you're offering.

21 PETER MORSE: We are going to add a couple  
22 more exit doors. You've got plenty -- you can be out of  
23 there in two seconds, but we would like to offer that as  
24 something conciliatory for what we are asking for.

25 CHAIRPERSON MIETZ: But you also talked about

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 a few other things, a fire alarm system --

4 PETER MORSE: We have a fire alarm system and  
5 we will have fire extinguishers.

6 CHAIRPERSON MIETZ: Yes, you said you would  
7 monitor the system.

8 PETER MORSE: Yes.

9 MS. TOMPKINS WRIGHT: And I know Chris Roth  
10 did not submit any kind of objection to the plan.

11 MR. DISTEFANO: Correct.

12 MS. TOMPKINS WRIGHT: The Fire Marshall.

13 CHAIRPERSON MIETZ: Okay. Any other  
14 questions?

15 MS. WATSON: One of the garages is apparently  
16 used for truck storage. You mentioned another one of them is  
17 used for small engine repair. Can you -- I don't know what  
18 is involved in small engine repair.

19 PETER MORSE: They have snowblowers they're  
20 keeping there. I don't know how much actual bench work they  
21 do, but they keep just general yard lawnmowers and  
22 snowblowers in that and they may do a little bit of minor  
23 work. And then we have a center section . . .

24 CHAIRPERSON MIETZ: All set? Thank you.

25 Is there anyone in the audience that would

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 like to speak regarding this application? There being none,  
4 then the Public Hearing is closed.

5 APPLICATION 6A-02-19

6 6A-02-19 Application of Stacy Platzel and  
7 Edward Ciolkowski, owners of property located at 26 Kirk  
8 Drive, for 1) an Area Variance from Section 205-2 to allow a  
9 front entryway to extend 3.75 ft. into the existing 26.2 ft.  
10 front setback where a 40 ft. front setback is required by  
11 code; and 2) an Area Variance from Section 207-10E to allow  
12 front yard pavement coverage to be + 46% in lieu of the  
13 maximum 30% allowed by code. All as described on application  
14 and plans on file.

15 EDWARD CIOLKOWSKI: My name is Edward  
16 Ciolkowski, I'm a property owner at 26 Kirk Drive. We  
17 recently purchased the house and are looking to clean it up  
18 as most homeowners do. The first piece of this is to put a  
19 portico over the existing front stoop. The stoop is already  
20 at the front of the house, it's about six-and-a-half by  
21 three-and-a-half feet. The variance requested is because  
22 there's supposed to be a 40-foot setback from the structure  
23 of the house to the road. The current house is already only  
24 26 feet from the road, and we're asking to extend that an  
25 additional three-and-a-half feet just to cover the existing

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 front porch. That's pretty simple and any questions on that?

4 CHAIRPERSON MIETZ: So we saw the illustration  
5 here, so it's going to remain completely open?

6 EDWARD CIOLKOWSKI: Yes, it will. It will be  
7 essentially a roof and two posts to hold it up on the corners  
8 of the porch.

9 CHAIRPERSON MIETZ: Are renovations needed on  
10 the steps at all?

11 EDWARD CIOLKOWSKI: The steps are in pretty  
12 bad condition, we're probably going to take it out and put a  
13 new one in.

14 CHAIRPERSON MIETZ: That was the answer I was  
15 hoping for.

16 MR. CLAPP: The extension of the porch is one  
17 part, could you talk more about the driveway plans?

18 EDWARD CIOLKOWSKI: I can. I figured we'd  
19 touch on the portico piece first and then I figured there'd  
20 be more discussion around the driveway.

21 MR. CLAPP: Let's do it.

22 EDWARD CIOLKOWSKI: Okay, perfect.

23 MS. TOMPKINS WRIGHT: I just have one quick  
24 question. Is the new portico extending out further than the  
25 current stoop?

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 EDWARD CIOLKOWSKI: No. It's just the minimum  
4 necessary just to cover that.

5 MR. DiSTEFANO: And one other question.

6 Comparatively speaking to the house, it would be to the south  
7 of you. Where does your new porch roof extension compare to  
8 the front edge of their house?

9 EDWARD CIOLKOWSKI: I don't think I can answer  
10 that for you.

11 MR. DiSTEFANO: Okay. Would you say that the  
12 front portion of the house next door is closer to the street  
13 than your existing house?

14 EDWARD CIOLKOWSKI: Certainly comparable, yes.

15 MR. DiSTEFANO: Thank you.

16 CHAIRPERSON MIETZ: Okay. So can you move on  
17 to the front yard?

18 EDWARD CIOLKOWSKI: So and it's probably  
19 helpful to look at the illustration of what the existing  
20 driveway is where the house sits on the lot. That driveway  
21 is a little bit narrower than 10 feet wide, there's just  
22 barely room on that for two cars. We would really like to be  
23 able to accommodate at least three cars. My preference would  
24 have initially to take it into the back of the house, but  
25 there's not enough clearance between the side of the house

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 and the property lines. There's a fence there that would  
4 have to be moved, but the neighbor's fence is actually on the  
5 side of our lot where the driveway is now. While the drawing  
6 makes it look like it could extend back further, what's not  
7 shown on that is where the driveway stops there's actually a  
8 chimney that butts out another 20 inches. So there's only  
9 about 8 feet of clearance between the chimney and the fence  
10 right now.

11 So in the context then we would want to be  
12 able to accommodate more than two cars. What we've tried to  
13 do is look at what the recommendations are for a two-car  
14 width driveway. The general recommendation is 10 feet per  
15 car width, 20 feet. That's what we're asking for. I've  
16 checked other houses in the neighborhood those that have  
17 two-car width driveways, that's coincidentally exactly what  
18 they are. There's also some existing sidewalk in the front  
19 yard going from the front stoop to the road, it ultimately  
20 goes to the mailbox. We propose taking that out since it  
21 would be a wider driveway to try to minimize how much is  
22 hardscaped.

23 And then the existing walkway that goes around  
24 the other side of the house which is where the side entry of  
25 the house is and where the garbage cans are behind the fence,

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 bring it a little bit closer to the house to try to again  
4 give the visual appearance of a larger main space, what green  
5 space is there. Conceptually that's what we're asking for.  
6 What questions do you have?

7 MS. SCHWARTZ: When I was over there I did go  
8 up and down the street to see and there really is no other  
9 property there that has an expanded driveway into the front  
10 lawn. I did peek in back, okay, and the backyard is  
11 enormous. You talked about the chimney and I don't see why  
12 you can't extend the driveway back to the back, beyond the  
13 back of the house, and go over and make a path here and come  
14 out. Because to me the change will be dramatic and I think  
15 really change the character of the neighborhood, even if you  
16 take out that sidewalk. In my opinion it's also one of the  
17 smallest front lawns and now to make it blacktop, I think  
18 will be quite different. So I think to me there's an  
19 alternative to go back and behind the house, because your  
20 backyard is really, really a good size.

21 EDWARD CIOLKOWSKI: I would've liked that, but  
22 really having 8 feet and a little less than 8 feet width  
23 between the chimney and a fence, I don't see how we could do  
24 that in a practical sense without causing damage to the  
25 vehicles.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 MS. TOMPKINS WRIGHT: And just to confirm,  
4 that fence is actually on the neighbor's property line.  
5 There might only be 7 feet between the chimney and the  
6 property line.

7

MS. SCHWARTZ: To drive through?

8

MS. TOMPKINS WRIGHT: Yeah, 7 feet?

9

CHAIRPERSON MIETZ: It's not wide enough.

10

11 MR. DiSTEFANO: Seven feet is the bare minimum  
12 for a driveway, the very bare minimum for a driveway, and  
you're talking not for a halfway decent sized car.

13

14 MS. DALE: Did you consider perhaps removing  
15 the walkway that goes across the yard and past the front step  
16 and to the side of the house where there's a fence and  
garbage cans? I didn't know if you could see how important  
17 it is to have that paved area.

18

19 EDWARD CIOLKOWSKI: If that made the  
20 difference in getting this variance approved, I would be glad  
to do it.

21

22 MS. TOMPKINS WRIGHT: It looks like you are  
23 planning to remove other -- from the map, I wasn't able to  
24 get to the site -- but it looks like from the map surveys  
that were provided, there is a current walkway leading from  
25 the front door to the street. That's going to be removed?

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 EDWARD CIOLKOWSKI: Yes.

4 MS. TOMPKINS WRIGHT: And then there's a  
5 significantly wider impervious coverage near the pavers  
6 that's going to be narrow?

7 EDWARD CIOLKOWSKI: Yes.

8 MS. TOMPKINS WRIGHT: So it does look like  
9 you've attempted to minimize the impervious coverage on that  
10 side of the house.

11 EDWARD CIOLKOWSKI: I have. Recognizing that,  
12 you know, to your point it is considerably larger than what  
13 it is currently. We would be willing to give where we can.

14 MS. TOMPKINS WRIGHT: Do you have an idea of  
15 what the impervious coverage is right now? Does it meet the  
16 30 percent requirement right now?

17 EDWARD CIOLKOWSKI: It's just under, yes, 29.7  
18 is what I calculated.

19 CHAIRPERSON MIETZ: One other possibility too  
20 is, what is your objective? How many cars are you really  
21 trying to park in front of your house?

22 EDWARD CIOLKOWSKI: Three is what I would like  
23 to be able to do. And then recognize when we have people  
24 over, realizing that street is also fairly narrow. And so  
25 even if we have one or two other cars over visiting as

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 guests, to be able to put them in the driveway as opposed to  
4 on the road I think is a safety issue or a safety benefit to  
5 the neighborhood.

6 CHAIRPERSON MIETZ: There's another possible  
7 way to mitigate just maybe to taper the driveway over to the  
8 single exit so that it doesn't go all the way to the street  
9 on both sides? So you could park the car, two cars, three  
10 cars, and then if the car leaves, the only thing you would  
11 have a conflict in the driveway with are the cars. But you  
12 would eliminate basically half of one side of this.

13 EDWARD CIOLKOWSKI: We did look at that also.  
14 I played around with a couple different options there. The  
15 concern that I had there is if you're trying to swing around  
16 there, again the driveway is already right up against where  
17 the fence is, where the neighbor's fence is.

18 CHAIRPERSON MIETZ: I saw that.

19 EDWARD CIOLKOWSKI: My concern there is,  
20 trying to do that would lead to damage. We would rather not  
21 do it to our car or the neighbor's fence.

22 CHAIRPERSON MIETZ: Well, I think you could  
23 come over a little bit more away from the fence side and make  
24 it a little bit wider. And it's something we could discuss,  
25 the effect of that much pavement in a front yard with such a

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 small lot is pretty significant. We understand the need in  
4 modern days for parking cars and you don't want them on the  
5 street and all that stuff, but you have to try to come up  
6 with a way -- we will talk about it. Just wondered if you  
7 considered it.

8 EDWARD CIOLKOWSKI: Yes, I did consider it. I  
9 did look around the neighborhood too and I notice we are one  
10 of the few houses in the neighborhood without a garage. If  
11 there had been a garage out back, we probably wouldn't be  
12 here. But even the houses that do have longer driveways  
13 there is frequently more cars parked in the front of the  
14 house as opposed to in the back. So if you look at this lot  
15 it feels large, but driving around the neighborhood it's  
16 common to see cars in the front of the --

17 MS. SCHWARTZ: But according to your testimony  
18 you said if there were a garage in back you couldn't get back  
19 to it anyway.

20 EDWARD CIOLKOWSKI: Well, as I said  
21 unfortunately there's not because of the way they decided to  
22 build the house. If they designed it to have a garage back  
23 there and have clearance then this would be a nonissue.

24 MS. TOMPKINS WRIGHT: But his point is if they  
25 could have put a garage back there they would have designed

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 it with more space.

4 CHAIRPERSON MIETZ: It's kind of immaterial  
5 now.

6 MS. SCHWARTZ: So what is the maximum number  
7 of cars that will be permanently parked there without  
8 company?

9 EDWARD CIOLKOWSKI: Should be three.

10 MS. SCHWARTZ: No more than three?

11 EDWARD CIOLKOWSKI: That's right.

12 MS. WATSON: Just to clarify, you would be  
13 willing to remove the horizontal sidewalk in front of the  
14 house as well?

15 EDWARD CIOLKOWSKI: I would.

16 MS. WATSON: It would lower the percentage of  
17 the coverage would be then.

18 MR. DiSTEFANO: Did you do that calculation?

19 EDWARD CIOLKOWSKI: I didn't do that.

20 CHAIRPERSON MIETZ: We can work through it.

21 MR. DiSTEFANO: Probably going to end up to be  
22 about --

23 MS. TOMPKINS WRIGHT: It would be less.

24 MR. DiSTEFANO: Yeah, I was going to say maybe  
25 three or four percent less --

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 EDWARD CIOLKOWSKI: Maybe five at the most.  
4

5 MS. WATSON: But a bigger spot of green.  
6

7 MS. SCHWARTZ: I have another question. How  
8 long is the driveway from the street to when you get to the  
9 chimney or whatever that you can't go beyond?  
10

11 EDWARD CIOLKOWSKI: It is essentially what the  
12 existing driveway is, so I don't have that measurement here,  
13 but if you look at the drawing, that has the existing  
14 blacktop that stops at the chimney.  
15

16 MS. SCHWARTZ: Right, but I can't tell how  
17 many feet.  
18

19 MR. DiSTEFANO: From the front property line  
20 to the edge of that is about 35 feet. I can't tell you from  
21 the street, that pavement of the street, but from the front  
22 property line it's about 35 feet.  
23

24 MS. SCHWARTZ: Okay. And a car is roughly  
25 what, 10 feet?  
26

27 MR. DiSTEFANO: No, a typical parking space is  
28 18 feet. So if you have two cars nose to tail, you're right  
29 at that 35, you know, you're at that number. You want a  
30 little bit of room between --  
31

32 MS. SCHWARTZ: What is the size of the  
33 vehicles that you are talking about? Are they all SUVs or --  
34

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 EDWARD CIOLKOWSKI: One is a mid-size SUV, one  
4 is a relatively small Chevy Bolt, the other is a mid-size  
5 Volkswagen.

6 MS. SCHWARTZ: Have you tried parking all of  
7 them in that driveway?

8 EDWARD CIOLKOWSKI: Oh yes, there's no way  
9 they would fit.

10 MS. SCHWARTZ: I just wanted to cover all of  
11 my bases.

12 EDWARD CIOLKOWSKI: No, that's okay.

13 CHAIRPERSON MIETZ: Okay. Any other  
14 questions? Is there anyone in the audience that would like  
15 to speak? Yes, sir, please come up.

16 HERBERT BOYD: Good evening, everyone. My  
17 name is Herbert Boyd and I live at 18 Kirk Drive next door to  
18 the property of 26. And the problem with this, what he is  
19 asking for right now, you got a driveway that is for one car,  
20 two cars can park one behind each other, but what he wants to  
21 do is make the parking lot into I'd say a hotel complex, even  
22 to apartments to a place where you got people coming in and  
23 can park.

24 We don't want -- myself, my wife and probably  
25 80 percent of the people who live on Kirk Drive who already

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 signed a petition -- they said, we don't want no parking lot  
4 that right now we have a driveway. And we put that in there,  
5 you tell them about a double parking lot and the neighborhood  
6 is not equipped for that kind of purpose. It's neighborhood  
7 friendly and we don't need a parking lot for a driveway.

8 And what you are asking for, he can pull the  
9 car up a little more. As I said, I live next door, there's a  
10 fireplace there, you can go up another 5 feet right to the  
11 fireplace and park a car behind each other. So you got two  
12 cars there comfortably. The other people lived there for  
13 20 years and did the same thing.

14 So what he is asking for is a place to have  
15 people that are coming in, rent it out to, and have like an  
16 open house, and that's not an open house neighborhood. And  
17 as I said, we oppose it because we don't want a driveway for  
18 a parking lot, not in that neighborhood. It would take the  
19 value of the whole place down. Thank you.

20 CHAIRPERSON MIETZ: Thank you.

21 DAN O'BRIEN: Good evening. My name is Dan  
22 O'Brien and I live at 15 Kirk Drive, I've lived there for  
23 22 years. I'm directly across from 26. I watched three SUVs  
24 parked in that driveway over the last 20 years I've lived  
25 there without a problem. They have smaller cars besides a

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 big SUV that the daughter has. What they want to do is make  
4 this into a Nazareth rental, okay? Both sets of parents,  
5 this is what I heard from the realtor, two sets of parents  
6 were buying the house so that their daughters could go to  
7 school.

8 Well, that didn't exactly turn out to be true.  
9 It turns out Ed and his wife are buying the house so his  
10 daughter can continue going to Nazareth, not pay any rent,  
11 and rent out the other two bedrooms. This is a family  
12 neighborhood, this isn't a business neighborhood. And this  
13 is why you guys exist, to keep us a family neighborhood and  
14 to keep the businesses out.

15 I've watched three cars jockey, as I said, for  
16 20 years, and so has the rest of the neighborhood. And if  
17 it's a good idea it would be done in Webster where you're  
18 from, and it would be done in West Irondequoit where I'm  
19 from. You go to any other town, there's no basketball court  
20 in people's front yards. This a slippery slope you're going  
21 on if you allow this.

22 We are not a trailer park, we don't want to  
23 look like a business on Ridge Road. Keep us a family  
24 neighborhood and protect us since the majority of us have  
25 signed a petition that wants this. We don't care about the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 portico. Thank you.

4 CHAIRPERSON MIETZ: Thank you. Rick, did we  
5 receive anything?

6 MR. DiSTEFANO: No, I did not receive a  
7 petition. I don't know if somebody has it.

8 LAURA VINCENT-BOYD: I brought you a copy, and  
9 I also do have a survey of our property and theirs. My name  
10 is Laura Vincent-Boyd and my husband Herbert -- who just  
11 spoke -- and I live at 18 Kirk Drive, a corner lot right next  
12 door to the recently purchased house at 26 Kirk Drive. The  
13 new owners have yet to introduce themselves.

14 First and foremost, we have lived here for  
15 12 years and we are truly grateful for making the Kirk Astor  
16 neighborhood our home. From the day we moved in we were and  
17 still are greeted with very sincere and friendly, helpful,  
18 and cooperative neighbors. The kind that watch each other's  
19 houses when they are away, share ladders for cleaning our  
20 very tall gutters -- we have a real tall Victorian. Help  
21 carry away extra heavy boulders and wake up on a cold, snowy  
22 winter morning to find your driveway all snow blown when you  
23 didn't even ask. That's our neighborhood.

24 Most people consider their home purchase to be  
25 the most expense investment they will make throughout their

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 lives. We want to preserve this neighborhood for all of the  
4 other families' investment along with ourselves. We take  
5 tremendous personal pride in the 12 years of very hard work  
6 we have invested in our castle that we call home.

7 Respectfully submitted, Laura Vincent-Boyd.

8 And I am prepared and I have both surveys and  
9 you are welcome to copy them if you like. This is the  
10 property that these people just bought that had never  
11 introduced themselves to us. And this ours at 18 Kirk Drive.  
12 I have a lot of extra copies so you are welcome to both of  
13 those. Thank you, and we love living in Brighton.

14 CHAIRPERSON MIETZ: Thank you. Is there  
15 anyone else who would like to speak regarding this  
16 application?

17 JAMES WELLER: Good evening. My name is James  
18 Weller, I live at 85 Kirk Drive, which I'm proud to say has  
19 been my home for 50 years as of this past May. I have two  
20 remarks to make tonight. The first one is from my wife who  
21 is somewhat adverse to public speaking, so if you don't mind  
22 I will read her notes. When we moved to the neighborhood we  
23 were the young couple without children, but we chose it  
24 because it was a family oriented neighborhood. We raised our  
25 daughter and our son, and they visit with their families from

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 out of state from time to time. We have been to neighbor's  
4 weddings, funerals, christenings, and bar mitzvahs, we know  
5 each other well.

6 I know that Conner, just down the street, just  
7 turned two, and Mike's dog Jack, has some arthritis. That  
8 Lisa, a single mom, takes great pride in her home, and that  
9 Bob's lawn is country club worthy. That there's a small  
10 handprint in the concrete step at Tate and Cristine's, and  
11 that Pat and Dick bought their home next to ours thanks to  
12 World War II GI Bill and Pat still lives there after 68  
13 years. And that Tee enjoyed my bread pudding when he wasn't  
14 feeling well a few weeks ago. New neighbors usually happily  
15 adapt to our neighborhood because they bought their home for  
16 the environment they saw. They did not expect our  
17 neighborhood to adapt to their property changes. That  
18 concludes the remarks of my wife.

19 Mine unfortunately are a little bit more  
20 formal. Good evening. To begin, I wish to thank each of you  
21 for your dedication and service and for your efforts to keep  
22 Brighton beautiful. At the conclusion of my remarks I will  
23 provide the Stenographer and the Chair with a copy of my  
24 remarks. Various legal citations that have been omitted from  
25 my oral remarks are contained in my submission to the record.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3                   My name is James Weller and I reside at  
4                   85 Kirk Drive with my wife, Penelope. I am proud to say that  
5                   this May marks our 50th year on Kirk Drive. The clerk has  
6                   just been handed 19 signed letters of residents of Kirk Drive  
7                   in opposition of Part B or Part 2 of this application.  
8                   Please note that this letter represents opposition to Part B  
9                   of this application from approximately 80 percent of the  
10                  26 homes in our neighborhood. I will now read this letter to  
11                  you.

12                  To the Board of Appeals of the Town of  
13                  Brighton regarding Application 6A-02-19. Dear Board members,  
14                  I am a resident of Kirk Drive in the Town of Brighton. I  
15                  object to that part of Application 6A-02-19 which requests a  
16                  variance to permit the paving of approximately 43 percent or  
17                  more of the front of the dwelling at 26 Kirk Drive. This  
18                  amount of paving is inconsistent with the driveways in our  
19                  neighborhood which predominantly are single-lane driveways of  
20                  about 10 feet in width at the curb cut. The proposed  
21                  driveway addition would extend over 30 percent of the front  
22                  ground level living area of this house. With the exception  
23                  of four homes with single-lane driveways which connect to a  
24                  garage inside of the home, there are no properties on Kirk  
25                  Drive with pavement in front of the living area of the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 dwelling. The parking lot effect of this pavement in front  
4 of the house would change the character of the neighborhood.

5 Furthermore, pavement exceeding more than  
6 43 percent of the 50-foot frontage of this lot would be a  
7 substantial change to the amount of paving now existing in  
8 front of our homes and would be a detriment to nearby homes  
9 and the neighborhood. As mentioned earlier was signed by  
10 19 of the 26 homeowners on Kirk Drive. That's about  
11 80 percent, that's a lot of people saying, no thank you.

12 MR. DiSTEFANO: Mr. Weller, can I just  
13 interrupt you for a second?

14 JAMES WELLER: Yes.

15 MR. DiSTEFANO: Do you have copies of those  
16 signed letters, because I do not.

17 JAMES WELLER: We just handed them to you.

18 MR. DiSTEFANO: Where, this? I've got from  
19 Mrs. Boyd just this, so I have not received --

20 JAMES WELLER: I'm sorry, I beg your pardon, I  
21 thought Laura handed them up.

22 MR. DiSTEFANO: No.

23 LAURA VINCENT-BOYD: Here's 19 signatures.

24 MR. DiSTEFANO: Thank you, that's what I'm  
25 looking for, thank you.

1 Brighton Zoning Board of Appeals 6/5/19

2

3                   JAMES WELLER: Thank you, sir. To repeat, the  
4 clerk has just been handed . . .

5                   In addition to being a long-term resident of  
6 this neighborhood, I'm also one of the cofounders and the  
7 long-term spokesperson for the Kirk Astor Neighborhood  
8 Association. The Association represents the 26 homes on Kirk  
9 Drive and a similar number on Astor Drive. If it please the  
10 Board, and to aid in your understanding of the character of  
11 the neighborhood, let me share with you a brief history of  
12 the Kirk Astor Neighborhood Association and the many  
13 challenges we have faced over the years.

14                   I saw from the late Roy Lockwood who organized  
15 the Kirk Astor Neighborhood Association in the early 1970s,  
16 for the next 20 years, the Kirk Astor Neighborhood  
17 Association addressed a series of major challenges which  
18 threatened our neighborhood. The first was a proposal to  
19 rezone the Residential B land along Route 441 and the rear  
20 lot of Astor Drive into a multibuilding high rise, low income  
21 housing project. After our efforts caused that proposal to  
22 be withdrawn the same land was subject to a rezone as a high  
23 technology manufacturing and industrial park. That too  
24 failed.

25                   Shortly thereafter the land you now know as

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 the Linden Oaks Office Park was introduced for rezone as a  
4 high technology and office park. After nearly 10 years of  
5 controversy and litigation, Linden Oaks in its present format  
6 and without factories and without an exit and entrance  
7 through our neighborhood, which they wanted, was approved.

8 Of particular interest to this Board and noble  
9 achievement in our multiyear struggle with the developers of  
10 Linden Oaks and the Towns of Brighton and Pittsford, was a  
11 New York State Court of Appeals decision in the matter of the  
12 Kirk Astor Neighborhood Association versus the Town of  
13 Pittsford, et al. -- I'm going to omit the citations that go  
14 on and on and on -- where the Court upheld the demands of our  
15 neighborhood to require the Town of Pittsford and a citizen  
16 board to take a hard look at the project and give a  
17 reasonable elaboration before rezoning or related actions  
18 could occur. This decision was and continues to be the gold  
19 standard for municipalities in New York State.

20 In the early 1990s, the Kirk Astor  
21 Neighborhood Association became deeply involved with New York  
22 State DOT and the multilane expansion of Route 441 and  
23 Route 490. Our opposition prevented the construction of a  
24 35-foot high flyover bridge over the north edge of our  
25 neighborhood from Route 490 to Linden Oaks. Can you imagine

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 the noise, turmoil, and chaos that would have caused over  
4 your neighborhood? We prevented that in our neighborhood.

5 This effort also secured the preservation of  
6 the pedestrian bridge over Route 490 which has linked our  
7 neighborhood to the Allens Creek School and East Avenue since  
8 1958.

9 Almost done with the history. On the brighter  
10 side and a continuing benefit to our neighborhood was the  
11 establishment by the Kirk Astor Neighborhood Association of  
12 the Kirk Astor Refuse District and the Kirk Astor Park  
13 District and the preservation and maintenance of the Korean  
14 War Veterans Memorial at the entrance to our street.

15 I am sure you're asking, well, what does this  
16 history lesson have to do with the application before you?  
17 We submit this recitation demonstrates the residents of Kirk  
18 and Astor have worked long and hard to both improve our  
19 neighborhood and to preserve its residential character from  
20 all manner of degradation both large and small.

21 Now I will address the specifics of this  
22 two-part application. The applicants are Stacy Platzel and  
23 Edward Ciolkowski, I hope I pronounced that correctly, of  
24 270 Eastern Court, Webster, which is a home they purchased  
25 May 2013 for \$458,000 and in which they both continue to

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 reside. Stacy Platzel and Edward Ciolkowski are both mature  
4 business executives and may well be described as  
5 sophisticated business people. The applicants acquired the  
6 property at 26 Kirk Drive on April 29, that's just 36 days  
7 ago, for \$137,000. The house on this lot was constructed in  
8 1947, by a postwar housing developer. The house contains  
9 1,408 square feet, one-and-a-half baths, and four bedrooms.

10                   In 1955, this house was acquired by the late  
11 Howard Duffy and his wife Mary. Howard and Mary raised five  
12 children in this house until it was sold in 2008. From 2008  
13 to 2015, it was occupied by a single woman and her young son.  
14 In 2015, it was acquired by the Wendt family, the owners  
15 prior to its sale to the present applicants just five weeks  
16 ago.

17                   The point of this summary is to note that the  
18 Duffy family of seven resided here for 60 years and there  
19 were often two or more cars in the existing driveway. The  
20 Wendt family was here for three years and there were always  
21 two cars in the driveway. These two families somehow managed  
22 to live here for a combined 63 years with an 8- to  
23 10-foot-wide driveway. Why then you may ask, is it necessary  
24 to more than double the size of the existing driveway with a  
25 curb cut to a width of approximately 20 feet? The answer as

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 we understand it, why is it the intention of the new owners  
4 to be absentee landlords? We further understand the intent  
5 to situate the daughter of Ms. Platzel, an undergraduate  
6 student at a nearby college, in the house and to rent at  
7 least two of the three other bedrooms to other college  
8 students, thereby requiring the additional off-street  
9 parking.

10 Let it be know that the Kirk Astor  
11 Neighborhood Association does not object to Part A or Part 1,  
12 the portico addition of this application as it is in  
13 character and architecturally similar to many of the homes on  
14 Kirk Drive. However, the Kirk Astor Neighborhood Association  
15 opposes Part B of this application for the following reasons:  
16 The requested variance is nearly 50 percent greater than  
17 allowed by code and is therefore substantial. There are 26  
18 homes on Kirk Drive only two of which have a double-wide curb  
19 cut with a double-wide entrance point driveway, two out of  
20 26. It is noted the driveways for the two homes with a  
21 double-wide curb cut driveway do not extend across the front  
22 of the living areas of those homes.

23 In contrast, this application for an oversized  
24 curb cut driveway extends approximately 45 percent of the  
25 front yard and overlaps the front living room of the house by

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 about 10 feet for approximately 30 to 35 percent of the front  
4 of the structure. This is a significant departure from the  
5 predominate design characteristics of the homes in our  
6 neighborhood, and would produce an undesirable change in the  
7 character of the neighborhood.

8 The applicant has also failed to address the  
9 drainage problems inherent in creating an impervious surface  
10 covering approximately 47 percent of the front yard.  
11 Specifically in question 17-B of the SEQRA application they  
12 deny the storm water discharges from this significant amount  
13 of impervious surface will be directed to an established  
14 conveyance system and run off into the storm drains. And  
15 although not addressed in the SEQRA requirements, the  
16 proposed action will require the removal of half of the front  
17 lawn and the only tree in the front yard.

18 Furthermore, the applicant has failed to  
19 demonstrate they have considered two other alternatives which  
20 would allow the use of this property within code.  
21 Specifically and despite their disclaimer to the contrary in  
22 8-B and 8-C of the SEQRA questionnaire, this property is  
23 about 300 yards from East Avenue and the East Avenue bus line  
24 which offers service to and from downtown Rochester and pass  
25 both Saint John Fisher and Nazareth Colleges. Easy access to

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 this bus line has been available for over 70 years via the  
4 pedestrian bicycle foot bridge over Route 490 which connects  
5 Kirk Drive to East Avenue.

6                   Also, and we note at the considerable urging  
7 of the supervisor of the Town of Brighton, New York State has  
8 reduced the traffic lanes on East Avenue from four lanes to  
9 two lanes with part of the former curb lanes now being  
10 established for bicycle use. These lane modifications were  
11 established to service bicycle traffic which pass by both  
12 Saint John Fisher and Nazareth and would offer another  
13 practical transportation alternative for nine to ten months  
14 of the year.

15                   Furthermore, it is apparent the need for this  
16 variance is self-created. The owners are sophisticated  
17 business persons who having been entitled for only 14 days  
18 filed this variance application. They clearly were aware of  
19 the character of the neighborhood, the size of the lot, and  
20 the parking limitations of the existing driveway before they  
21 consummated this purchase. The owners also state in their  
22 addendum labeled 9-F, quote, it is now common for families to  
23 have multiple vehicles whereas this was not the case when the  
24 house was originally built, close quote.

25                   This statement is at best self-serving since

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 this house apparently will not be occupied by a family, but  
4 rather by a group of college student tenants, thereby  
5 rendering this purported family justification invalid. Once  
6 again, this need for additional parking is clearly a  
7 self-imposed hardship that does not merit a variance.

8 In closing, please note the homes on Kirk  
9 Drive are each single-family residences. The character of  
10 the neighborhood will change if nearly 45 percent of a front  
11 lawn is converted into an oversized parking lot. Thereby  
12 turning a four-bedroom family home into a for-profit off  
13 campus student housing project.

14 Lastly, the Kirk Astor Neighborhood  
15 Association concludes that Part B of the requested variance  
16 will produce an undesirable change in the character of the  
17 neighborhood and will be a detriment to the nearby  
18 properties. Thank you for your consideration and I invite  
19 any questions you may have.

20 CHAIRPERSON MIETZ: I think we are good, thank  
21 you very much.

22 Is there anyone in the audience that would  
23 like to speak regarding this application? There being none,  
24 then the Public Hearing is closed.

25 APPLICATION 6A-03-19

1 Brighton Zoning Board of Appeals 6/5/19

2

3

4

5

6

7

8

6A-03-19 Application of Amy Pink, owner of property located at 15 Victoria Drive, for an Area Variance from Section 205-2A to allow a 6 ft. high fence to extend into a front yard area where a maximum 3.5 ft. high fence is allowed by code. All as described on application and plans on file.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

AMY PINK: Hi, my name is Amy Pink, I live at 15 Victoria Drive. So we currently have a pool that is in our side yard, we're on a corner lot so it's kind of an awkward situation. The pool was put in many years ago by the lifetime owner of the house. It had a chain link fence, still does, but it is in a state of disrepair, as well as all of the trees and foliage around it are also in disrepair. We would like to replace the chain link fence with a more safe and private privacy fence, cedar. Do you have any questions?

Also, the other day I did have some signatures that I provided for you guys just with my neighbors who can see it. I just wanted them to voice that they were fine. I did have an additional neighbor walk over on his own after he got information about the variance and he offered another in favor letter and said we are doing a great job.

CHAIRPERSON MIETZ: Okay. Can you help us a little as to understanding geographics? How did you

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 determine that the height of the fence should be where you're  
4 proposing?

5 AMY PINK: So our pool, I'd say about  
6 80-85 percent of it is technically in a rear backyard, so  
7 we're going to do a six-foot privacy around that. Just  
8 because, you know, it's the ultimate good privacy for around  
9 your pool so people don't see in and stuff like that. So we  
10 just figured it would be aesthetically pleasing to continue  
11 that for the other part and not drop down. Especially  
12 because that is in our front yard, it faces Winton Road, it  
13 faces all of our neighbors so everyone will be able to see us  
14 around our pool.

15 Currently right now when someone comes to do  
16 pool maintenance, they put their arm on our chain link and  
17 they just jump right over with their legs. I don't want a  
18 teenaged boy doing that, I don't want a kid to be getting over it,  
19 put a cinder block next to it or something and be able to  
20 just jump right over, so we figured going with a higher  
21 fence.

22 So it's about 60 feet back from the road, so  
23 the setback is pretty far, so it's not in the way. And my  
24 other neighbor is on another corner lot so her house line  
25 kind of goes like this, so it's not like she's here and

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 she'll be seeing this 6-foot fence in her line of view.

4 She's actually also diagonal and she is one of my signatures  
5 as well. But we just figured, you know, the 6-foot fence is  
6 coming in more decorative styles, you kind of find them  
7 easier and build them easier as well.

8 CHAIRPERSON MIETZ: You said it would be a  
9 cedar fence. So is this fence going to be left in a natural  
10 wood condition or is it going to be painted?

11 AMY PINK: We were thinking of staining.

12 CHAIRPERSON MIETZ: A clear stain or a color?

13 AMY PINK: That's a good question. I guess  
14 I'm open to whatever suggestion everyone thinks, but we were  
15 thinking a light color, like a little bit of just a light  
16 stain. Just because the clear, when it fades away you can't  
17 really tell it's fading. We want to be able to maintain it  
18 and have it look top notch so the stain you can kind of see  
19 it fade and you can restain. But if we do poly, it would be  
20 a little bit easier to not realize the poly is worn off and  
21 then you start getting the graying and such.

22 CHAIRPERSON MIETZ: Okay. And then you spoke  
23 in your application about landscape. Can you try to mitigate  
24 this a little bit? Can you discuss that a little bit?

25 AMY PINK: Yes. So there's currently about

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 20-foot arborvitaes that are falling over and they're being  
4 tied to a nearby Maple with rope. We want to get rid of  
5 those, they don't look good. The upkeep on them, they're in  
6 disrepair. We were thinking maybe some wild bushes just to  
7 kind of soften the front line of the fence and bring  
8 something nice to the landscape.

9 CHAIRPERSON MIETZ: So you don't plan to put  
10 any kind of shrubs at all on there?

11 AMY PINK: Well, the lilac bushes will be  
12 there, so the lilac bushes will basically be, you know, if  
13 this is the fence there will be two large lilac bushes just  
14 to kind of soften it.

15 CHAIRPERSON MIETZ: Okay. Any questions?  
16 Thank you.

17 Is there anyone in the audience that would  
18 like to speak regarding this application? There being none,  
19 then the Public Hearing is closed.

20 APPLICATION 6A-04-19

21 6A-04-19 Application of T.Y. Lin  
22 International, agent, and Rhinecliff Monroe Corporation,  
23 owner of property located at 1780 Monroe Avenue, for an Area  
24 Variance from Sections 203-74B(3) and 207-14.2A(1) to allow  
25 for the expansion of a restaurant to within 29 ft. of a

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 residential lot line in lieu of the minimum 50 ft. required  
4 by code. All as described on application and plans on file.

5 JAY GELB: Good evening, my name is Jay Gelb,  
6 I'm with Rhinecliff Monroe Corporation and I brought with me  
7 Andrew Gartley and he's with T.Y. Lin. I thought what I  
8 would do is give a brief overview of what we're doing and  
9 what we're asking for on the property owned by Rhinecliff  
10 Monroe located at 1780 Monroe Avenue.

11 We are here today to request an area variance  
12 for a bar/restaurant to be located within 50 feet of a  
13 property line adjoining a residential district. The current  
14 existing bar/restaurant is located within 20 feet and we are  
15 looking to expand within the building. I want to make sure  
16 everybody is crystal clear with that, within the building.  
17 We're not asking for one inch of space beyond that frame,  
18 we're going to be going inside within the perimeter of the  
19 building internally.

20 So the expanded space will be 29 feet for the  
21 property line to meet property egress and existing adjacent  
22 space, and to accommodate ADA compliant bathrooms. We're not  
23 requesting any relief to allow us to get any closer to the  
24 residential district. And there is no expansion of the  
25 building requested. In essence, the building will not be any

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 bigger than it is currently. Also, there's no change of use,  
4 it is still and will be a bar/restaurant use.

5 In conjunction with the expanded area we plan  
6 to make facade enhancements and other improvements and very  
7 positive changes to the plaza. We presented our improvements  
8 to the Architectural Review Board and obtained approval. I  
9 am not sure if this was included in your packet, but I'd like  
10 to read it for the record. I'm looking at a letter dated  
11 April 25th, from the Architectural Review Board signed by  
12 Paul R. White who is the secretary.

13 It states: Your application 3AR-1-19 was  
14 presented for review before the Board of Architectural Review  
15 at the meeting held on April 23, 2019, and the following  
16 decision was reached. And it reads: The revised plan is  
17 approved as presented.

18 Again, the perimeter of the building is not  
19 changing, not even an inch. The outer wall will remain at  
20 20 feet from the residential district. Expansion is inward  
21 only, the footprint of the building stays exactly the same  
22 with no changes of any kind whatsoever. The only change is  
23 internal dimensions reconfiguration of current space.

24 Our overall plan is to upgrade the property.  
25 Spent a lot of money to improve the appearance which is

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 always good for the neighborhood and the avenue. I'm going  
4 to have Andrew talk a little bit about the specifics and then  
5 I'll answer any questions.

6 ANDREW GARTLEY: So my name is Andrew Gartley,  
7 I'm with T.Y. Lin. I'm just going to walk you through the  
8 plans. So essentially this is the space, again we're not  
9 expanding at all on. And so the initial plan C-1 you'll see  
10 there's a line on the site plan indicating 29 feet. So the  
11 29 feet is representing the inside of that bathroom wall that  
12 we're presenting.

13 And then the existing dimension is 20 feet  
14 from the property line, on the opposite side is residential  
15 lots. So if you flip over, you can kind of see this floor  
16 plan of that. So, again, we're adding ADA compliant  
17 bathrooms to this level. You see there's currently no ADA  
18 bathrooms on the first level, so we're making it better in  
19 that aspect.

20 So to add the toilet rooms, if you're  
21 considering the distance between for sound, because of the  
22 expansion into the vacant tenent space, I wanted you to know  
23 that that will have sound attenuation in those walls which  
24 will help with any kind of sound barrier. Plus you'll have  
25 the additional wall of the toilet room for a sound barrier.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 When asked why we're expanding in, we're going to give it  
4 more of a family atmosphere so there's some separation from  
5 the bar area.

6 The seating count won't change. Might ask if  
7 there's a parking change, and that is again, no, the parking  
8 will not change and meets requirements. You can see on C-1,  
9 we identified the parking counts with each -- with Otter  
10 Lodge, the vacant retail, the existing 12 Corners Auto Parts,  
11 and the vacant retail area that's currently there, and a  
12 salon and the hardware store. So we are not changing  
13 occupant count within the space and/or the existing parking  
14 that's there.

15 CHAIRPERSON MIETZ: Okay.

16 ANDREW GARTLEY: Any questions?

17 MS. SCHWARTZ: Yes, is 2:00 the normal closing  
18 time for a restaurant or bar?

19 MR. DiSTEFANO: It is under a conditional use.  
20 In that zoning district hours are I believe 6:00 in the  
21 morning to 12:00 midnight. With a conditional use you can  
22 request extended hours until 2:00 a.m. That bar/restaurant  
23 has basically had a pre-existing non-conforming, it's been  
24 there for forever and a day. It was there prior to us having  
25 hours of operation, so it kind of continued under

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 non-conforming use in that regard.

4 With this expansion, a new conditional use  
5 permit will need to be obtained and as part of that  
6 conditional use, the request is to extend hours to 2:00 a.m.  
7 So that would be reviewed by the Planning Board in two weeks  
8 as part of the conditional use permit that is being applied  
9 for.

10 MS. SCHWARTZ: So the reason I asked is, I  
11 don't know if they're aware of some of the concerns from the  
12 neighbors with the loud, loud noise and people having had a  
13 little bit too much to drink and going outside and being  
14 really raucous. And that's why I question the 2:00 because  
15 Monday, Tuesday nights you still have to get up to go to  
16 work. It's a very child-oriented neighborhood that backs up  
17 there. So this is going to be a similar situation, primarily  
18 a bar with a restaurant?

19 ANDREW GARTLEY: Yes. So the idea of the  
20 expansion is for more of a family atmosphere. So if you go  
21 to a bar, you're not sitting in the bar area. If you bring  
22 your kids into the bar it's considered almost like a  
23 restaurant too, it's not directly a bar so you can sit with  
24 your --

25 MS. SCHWARTZ: So this is all going to be one

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 room then with no partition and the bar is going to be --

4 ANDREW GARTLEY: There is a separating wall,  
5 it's a fire --

6 MS. SCHWARTZ: -- down the middle of the  
7 restaurant?

8 ANDREW GARTLEY: Yes, currently right here --

9 MS. SCHWARTZ: No, no, no, you've got your bar  
10 over here, and you've got your seating over there, correct?

11 ANDREW GARTLEY: Yes.

12 MS. SCHWARTZ: So it's one big room inside?

13 ANDREW GARTLEY: No, there's a separating  
14 wall. So between the area -- if you have the plan I can show  
15 you.

16 MS. SCHWARTZ: So this is a separate room and  
17 that's the bar?

18 ANDREW GARTLEY: Yeah, the two dotted lines  
19 are actually openings within the wall.

20 MS. SCHWARTZ: Okay. How many seats will  
21 there be in the dining room part?

22 ANDREW GARTLEY: The seats are in the count.  
23 So in the existing tavern space there will be 40 seats and in  
24 the new dining area there will be 26 booth seats.

25 MS. SCHWARTZ: Okay.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 CHAIRPERSON MIETZ: Can you talk a little bit  
4 about what the reasoning and the need is to expand and for  
5 the adjacent storefront and what you're hoping to achieve out  
6 of it?

7

JAY GELB: Sure. I can comment on that.  
8 Basically, as I understand it, an area variance is required  
9 for this particular expansion, even though the existing  
10 location has been there for a long period of time. That  
11 particular space as everybody knows has been vacant for a  
12 very long period of time. We think that it would go very  
13 nicely with an expansion of that particular restaurant. We  
14 have a lot of tenants that had interest in the space. The  
15 current tenant is on a month-to-month lease, so we have some  
16 options to discuss to see what we can do to expand that  
17 particular location and fill that space with a good tenant.

18

CHAIRPERSON MIETZ: Are there other concerns  
19 like the lower level space, those kinds of issues? What do  
20 you feel is going to make this a more desirable floor plan?

21

JAY GELB: First of all, we do plan to do some  
22 improvements on the outside to make it look more attractive.  
23 I think that hasn't been updated in a very long period of  
24 time, so I think that's a big thing and really beautify it.  
25 And that's part of this entire project and what we're going

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 to consider doing. But I think that the expansion into the  
4 area with a family-style type as described in this particular  
5 plan will not only service people that want to come in and  
6 have a drink, but also families that want to come in and  
7 maybe have a drink, but also have a sit-down dinner.

8 MS. SCHWARTZ: Is this a new establishment or  
9 are you located someplace else and moving over here?

10 JAY GELB: The existing tenant is there and I  
11 want to try to stay focused on what we have. We're not here  
12 for a special use permit for a particular purpose, but we do  
13 have options because there are other tenants that have  
14 interest in this particular space.

15 CHAIRPERSON MIETZ: Okay. Questions?

16 MR. CLAPP: A question about the area set  
17 aside or earmarked for outdoor smoking. Are people allowed  
18 to, in practice, allowed to bring alcoholic beverages outside  
19 while smoking?

20 JAY GELB: I'm going to leave that up to the  
21 State liquor authority or whatever is required that we can  
22 do. My understanding is the smoking area was something that  
23 was asked for when we talked about this because to try to  
24 keep people confined rather than have them stand outside in  
25 the front or in the back and smoke. This is kind of in the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 area and would be fenced in and that's something we will  
4 review with the Planning Board to make sure that they're  
5 satisfied with that as well. This application we have here  
6 today is simply for the area variance for the distance being  
7 less than 50 feet.

8 MS. TOMPKINS WRIGHT: To confirm, with what's  
9 before the Board is only the less than 50 feet of the new  
10 expansion space of 10 additional feet wider than the current  
11 property because the initial space is already pre-existing  
12 non-conforming use?

13 JAY GELB: Exactly correct.

14 MR. DiSTEFANO: And just to reiterate, that  
15 expansion space really is necessary to bring the entire  
16 activity upstairs to limit the use of the basement, which  
17 probably isn't a real safe situation. And the fact to add  
18 handicapped accessible bathrooms which you do not have now,  
19 correct?

20 ANDREW GARTLEY: On the first floor.

21 MR. DiSTEFANO: There's not handicapped  
22 accessible on the lower level?

23 ANDREW GARTLEY: There's no handicapped  
24 anywhere.

25 MR. DiSTEFANO: So this is to upgrade the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 space and basically take the basement out of play?

4 ANDREW GARTLEY: Yes, the basement will be  
5 storage only.

6 JAY GELB: And ADA compliant, which is very  
7 important today and I want to make sure we have those  
8 facilities available.

9 MS. SCHWARTZ: And Rick, so Planning Board  
10 handles the smoking, because I'm thinking --

11 MR. DISTEFANO: Yes. As part of the  
12 conditional use permit which they're going to have to apply  
13 for because that is an expansion of the use. Then we are  
14 requiring them to go to the Planning Board, the Planning  
15 Board will handle the basic operation of the facility. So  
16 hours of operation, the number of employees, smoking area.

17 MS. SCHWARTZ: Because I'm concerned about  
18 smoking/vaping.

19 MR. DISTEFANO: Well, that unfortunately we  
20 can't tell somebody they can't smoke or vape. We can't do  
21 anything about that. So bottom line is I think if they can  
22 control it better than it is controlled now, I think that  
23 would be beneficial.

24 MS. SCHWARTZ: And this would probably be more  
25 in the evening hours, rather than when kids are walking home

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 from school. I was there the other day midafternoon and the  
4 bar doors were wide open and this was the afternoon. So I  
5 don't know what it would be like at other times with this  
6 predominately set aside smoking area.

7 MR. DiSTEFANO: I think the smoking area I  
8 believe is going to be totally enclosed.

9 MS. SCHWARTZ: I thought the front was open?

10 ANDREW GARTLEY: No, it's all enclosed by  
11 limited access by a door inside.

12 JAY GELB: You have to go inside the bar.

13 ANDREW GARTLEY: It's kind of like putting  
14 them in the corner rather than up front where everybody comes  
15 in.

16 MS. SCHWARTZ: Okay, thank you.

17 CHAIRPERSON MIETZ: Are there other questions?  
18 Thank you.

19 JAY GELB: Thank you for your time and I  
20 respectfully request approval of our area variance so that we  
21 may proceed ahead with the project.

22 CHAIRPERSON MIETZ: Okay, thank you. Is there  
23 anyone in the audience that would like to speak regarding  
24 this application?

25 ALLEN HARTLEY: I have a question or two.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 MR. DiSTEFANO: You have to come up.

4 ALLEN HARTLEY: Allen Hartley, 30 Brooklawn.

5 So this approval tonight is nothing but the 50 setback to the  
6 29 feet. It has nothing to do with the smoking place -- and  
7 oh, by the way, people can still go out front and smoke,  
8 there's nothing wrong with that -- it has nothing to do with  
9 the parking, that will be addressed later. This is not  
10 saying that this parking calculation is okay, am I correct?

11 MR. DiSTEFANO: Well, basically the expansion  
12 of the restaurant on the upper level is specific to the  
13 number of parking spots on the site. But the number of  
14 overall seats that currently exist and what will be there  
15 with this expansion are going to remain the same, so there is  
16 no net change to the parking requirements of the plaza.

17 ALLEN HARTLEY: Okay. So there's 40 existing  
18 seats in the restaurant?

19 MR. DiSTEFANO: I believe there's more than  
20 that.

21 ALLEN HARTLEY: Right now on the first floor  
22 of the Otter Lodge, how many seats are there?

23 MR. DiSTEFANO: I could not tell you that.

24 MS. TOMPKINS WRIGHT: I think the plan says  
25 there's 40 seats and there's 26 seats in the basement that

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 are being moved up to the first floor.

4 MR. DiSTEFANO: Is that what the plan says?

5 CHAIRPERSON MIETZ: 66 seats.

6 ALLEN HARTLEY: The plan says 66, 26 new seats  
7 in the new dining area and 40 existing seats on the first  
8 floor.

9 MR. DiSTEFANO: And the current 26 seats in  
10 the basement which are being brought upstairs to --

11 ALLEN HARTLEY: But that doesn't have anything  
12 to do with -- I'm talking about the existing first floor at  
13 the Otter Lodge has how many seats? The architect on record  
14 is saying there's 40.

15 MR. DiSTEFANO: There's a total of 66 seats  
16 within the Otter Lodge.

17 ALLEN HARTLEY: Okay, let's go there. There's  
18 two stories in the Otter Lodge --

19 MR. DiSTEFANO: In the new space --

20 ALLEN HARTLEY: Has anyone here gone and  
21 counted the seats in the Otter Lodge?

22 MR. DiSTEFANO: All we can do is determine  
23 what the applicant has made as an application. There's  
24 66 seats, they're matching that number and taking the lower  
25 level out of play.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 ALLEN HARTLEY: The plans don't say anything  
4 about matching those numbers. The plans say 6 booths, 4-top  
5 booths and a 2-top booth and add it up to 26, and put 40  
6 spread out seats on the first floor in the existing space.  
7 I'm saying that's not what's there.

8 MR. DiSTEFANO: Well, whether what's there at  
9 the Otter Lodge or not, I don't know what the Otter Lodge  
10 has, but this new use can have -- when we have approved the  
11 Otter Lodge in the past the numbers worked out to be -- and I  
12 believe it's 66 seats -- the Otter Lodge is more than 66  
13 seats, or less than 66 seats, that's on the Otter Lodge, but  
14 from their approvals, that's what they were allowed. This  
15 plan is purposing the exact same number of seats in this  
16 revised space.

17 ALLEN HARTLEY: Okay, but the plan doesn't  
18 indicate that that's what they are doing. There's no --

19 MR. DiSTEFANO: I thought they just testified  
20 to that.

21 ALLEN HARTLEY: I don't know, I could not hear  
22 them because he was looking at the drawing.

23 MR. DiSTEFANO: Well, they did just testify to  
24 that, so that is part of the record.

25 CHAIRPERSON MIETZ: What is your concern? You

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 are asking these questions, what is your concern?

4 ALLEN HARTLEY: I'm just doing a little fact  
5 checking on the drawings that were submitted to the Town.

6 CHAIRPERSON MIETZ: That's fine, that's why  
7 I'm asking you the question what your concern is.

8 ALLEN HARTLEY: I'm just -- I live in Brighton  
9 I want to make sure things get done right. I have a couple  
10 questions about this --

11 CHAIRPERSON MIETZ: Sure, go ahead.

12 ALLEN HARTLEY: -- and I'm sure you can  
13 satisfy me.

14 CHAIRPERSON MIETZ: That's fine, go right  
15 ahead.

16 MS. TOMPKINS WRIGHT: Real quick, I just want  
17 to point out I don't think you can fact check this plan  
18 because they haven't put it into practice yet. They haven't  
19 actually reconfigured the space with these exact -- and they  
20 did not provide a floor plan for what it looks like now. So  
21 we can fact check this after they do the renovations and  
22 confirm that they only have 66 seats.

23 ALLEN HARTLEY: Aren't you supposed to fact  
24 check it before they do the renovation to make sure --

25 MR. DOLLINGER: I think what Rick was saying

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 is the important thing. If they decide not to put out all  
4 66 spaces, they put 40 in the bar area and they decide to  
5 reduce it to 30 for practical considerations, they have an  
6 approval, which is what I understand, from a long time ago.

7 MR. DiSTEFANO: Right.

8 MR. DOLLINGER: I think it was from the first  
9 meeting I was ever here, as a matter of fact, 25-26 years  
10 ago. That allows them to have those 40 upstairs and 26  
11 downstairs. So they're allowed to have those spaces. They  
12 were not necessarily using them that way all of the time,  
13 because I have been in that bar once. I recall that it  
14 probably didn't have 40 spaces in that main area.

15 So if that's what you are saying, that's  
16 probably true. But they're approved to do that and as long  
17 as they can show us on a plot that it can be done that way  
18 reasonably, you know, that's where we are at.

19 ALLEN HARTLEY: So when they go to the  
20 Planning Board the number of 66 could go up?

21 MR. DiSTEFANO: No, they would have to come  
22 back for a parking variance.

23 ALLEN HARTLEY: Well, let's talk about the  
24 parking. I went through T.Y. Lin's numbers of square  
25 footages for each of the existing businesses and their

1 Brighton Zoning Board of Appeals 6/5/19

2

3 calculations and they're pretty close. I think they're a  
4 little light. I think the seating's a little light in the  
5 bar too. I guess he already figured that one out, on my  
6 part. But the nail salon, Rick, it says two stations, two  
7 employees per station and two --

8 MR. DiSTEFANO: A nail salon it doesn't matter  
9 how many stations there are, it's done by a square footage  
10 calculation, one space for every 300 gross square feet.

11 ALLEN HARTLEY: That's not what the  
12 application says, it says there's two stations, there's two  
13 people per station.

14 MR. DiSTEFANO: That's a hair salon  
15 calculation.

16 ALLEN HARTLEY: So is nail salon not hair  
17 salon?

18 MR. DiSTEFANO: Right, nail salon is not hair  
19 salon.

20 ALLEN HARTLEY: So the application makes it  
21 look like it's a hair salon but it's not, it's just a  
22 business at 300 square foot?

23 MR. DiSTEFANO: Yes. Probably the way they  
24 calculate it, there's probably more parking than what they  
25 really need.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 ALLEN HARTLEY: I don't know, there's a lot of  
4 stations in that nail salon.

5 MR. DiSTEFANO: Well, again, we do not do it  
6 per station, we do it per square footage.

7 ALLEN HARTLEY: All right, well, a nail  
8 salon's close to the hair salon, so that's my mistake. I was  
9 looking at the wrong part of the code.

10 MR. DiSTEFANO: Right. A nail salon is  
11 considered consumer service.

12 ALLEN HARTLEY: Okay, so there's 68 existing  
13 spaces. Everyone knows that five or six of the spaces are  
14 behind Dunkin' Donuts in the fire lane. Let's talk about  
15 handicap spaces, there's two for the whole plaza. Is that  
16 legal for --

17 MR. DiSTEFANO: If two is required by code, if  
18 they have to put a third one in if required, but I believe  
19 two is the maximum number needed under New York State  
20 Building Code.

21 ALLEN HARTLEY: So it's not a Town code thing?

22 MR. DiSTEFANO: No, it's New York State  
23 Building Code.

24 ALLEN HARTLEY: Can you look into that?

25 CHAIRPERSON MIETZ: That would really be a

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 Planning Board issue, also it's part of the conditional use  
4 permit.

5 ALLEN HARTLEY: Okay. The smoking area, which  
6 is a fence, it calls it a 6-foot fence, 6 feet by  
7 approximately 20 feet. That doesn't need a variance, the  
8 fence can go right on the property line.

9 MR. DiSTEFANO: Right up to a property line,  
10 can be up to six-and-a-half feet in height.

11 ALLEN HARTLEY: What about snow storage?

12 MR. DiSTEFANO: I don't believe they plow back  
13 there. They plow on the other side.

14 ALLEN HARTLEY: It's right next to the fire  
15 lane at Dunkin' Donuts, it's going to be fenced Dunkin'  
16 Donuts.

17 MR. DiSTEFANO: Right next to it, but they're  
18 on their property.

19 MR. DOLLINGER: That's a Planning Board issue  
20 too.

21 MR. DiSTEFANO: Again, all we're looking at is  
22 that expansion. This Board is just looking at the expansion  
23 into the neighboring space.

24 MS. TOMPKINS WRIGHT: And how close it is to  
25 the residential.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 ALLEN HARTLEY: So there's no approval on  
4 parking right now?

5 MR. DiSTEFANO: No.

6 ALLEN HARTLEY: That's Planning Board, it's  
7 not a variance from the Zoning Board on parking?

8 CHAIRPERSON MIETZ: Not unless it required a  
9 variance. In other words if the calculation was to be  
10 determined in the Planning Board review that it doesn't match  
11 the square footage requirements then they would be told to --

12 MR. DiSTEFANO: Reduce their seats or come  
13 back for a variance.

14 CHAIRPERSON MIETZ: Correct.

15 ALLEN HARTLEY: So it's up to the restaurant  
16 to reduce their seats to get it under because the application  
17 --

18 MR. DiSTEFANO: It's up to the applicant who  
19 is making the application. So if Rhinecliff Monroe wants to  
20 reduce the number of seats so they don't need a parking  
21 variance, if the Planning Board says we think you need a  
22 parking variance, that would be totally up to them.

23 ALLEN HARTLEY: Because right now the way the  
24 numbers are cooked, parking is perfect for this restaurant,  
25 this proposal, and what's existing. It doesn't take into

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 account for the one vacant property, the way I read it, the  
4 other half of the martial arts building doesn't have any  
5 parking involved in it. So if that place gets rented out,  
6 looks like you're going to need five more spots.

7 MR. DiSTEFANO: I believe they use a basic  
8 number for that space.

9 CHAIRPERSON MIETZ: By square footage.

10 ALLEN HARTLEY: Can you look? I don't have --

11 MR. DiSTEFANO: Because what we do, if there's  
12 vacant space you have to account for that vacant space. If  
13 they say well, we're going to account for it as retail, one  
14 to three hundred then that's fine, then they have to rent to  
15 retail.

16 ALLEN HARTLEY: So vacant retail, number one  
17 property at 1284, says zero after it, parking summary.

18 MR. DiSTEFANO: It says vacant retail number  
19 two, 1250 square feet, five required.

20 ALLEN HARTLEY: Yes. Now look at vacant  
21 retail number one, the second one after the Otter Lodge.

22 MR. DiSTEFANO: Well, they need to look at  
23 that for the Planning Board. I don't know why they put a  
24 zero in there, but that does require a one to three hundred,  
25 so divide it by four --

1 Brighton Zoning Board of Appeals 6/5/19

2

3

4

ALLEN HARTLEY: It's not going to matter, is  
that what you said?

5

6

7

CHAIRPERSON MIETZ: No, it's not going to  
work, because the parking count has got to work for all those  
spaces.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ALLEN HARTLEY: Well, if you really want to do  
the math, a couple of those other parking spots -- or retail  
outlets should get bumped up. And that doesn't include the  
basements to these places, they all have basements and a lot  
of those retail businesses use their basements.

13

14

15

16

You know Weider's does all of their work down  
there? All of their screen repair, gas repair, locksmithing,  
they run all of their business out of there. And the auto  
parts store warehouses all of their stuff down there.

17

18

19

20

21

22

23

24

25

MR. DiSTEFANO: I think we probably would be  
talking numbers and parking spaces all night if we really  
wanted to. The bottom line in this situation is that the  
numbers aren't changing from what currently exists to what --  
and I will say this: From what currently was approved, now  
whether or not 66 exist at the Otter or not, I don't know,  
but what currently was approved for the Otter was 66 seats.  
So provided that this maintains that number and the rest of  
these spaces in here maintain what they are currently at and

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 it meets right at the number, then there's no parking issue.

4 ALLEN HARTLEY: Looks like we got a five space  
5 parking issue.

6 MR. DiSTEFANO: Well, that we will have to  
7 take a look at. Again, we're looking at this particular  
8 user, this particular space and the variance, and that they  
9 are allowed 66 spaces as per all the previous approvals from  
10 going back to when the original Otter Lodge came in back in  
11 '95 or '96.

12 ALLEN HARTLEY: 25 years ago.

13 MR. DiSTEFANO: Yes.

14 ALLEN HARTLEY: I remember. So a couple other  
15 things that I noticed on the application that I had questions  
16 about which I don't know if you can answer because you're the  
17 one at the counter that does all of the work as far as when  
18 applications come in. Is there a -- it said something about  
19 a new water service and a new sewer service on the  
20 application. Do you know anything about that? Am I asking  
21 the wrong people?

22 CHAIRPERSON MIETZ: Yes, that would be the  
23 Planning Board. The site portion of any changes if they were  
24 suggested to be made then would be part of the Planning  
25 Board, if it is actually a site plan modification.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 MR. DiSTEFANO: It probably wouldn't even be a  
4 site plan modification, probably be, hey, we need to redo our  
5 waterline, and you go and you redo your waterline. It's like  
6 if you do it for your house, if your waterline --

7 ALLEN HARTLEY: So lastly, from me I don't  
8 have too much more. I'm not opposed to any project like this  
9 going in there, I just want to make sure you're all on your  
10 toes. Can you look into the five spaces?

11 MR. DiSTEFANO: Yes.

12 ALLEN HARTLEY: And also, just because I am  
13 the way I am, Weider's uses up four spaces with mulch and  
14 soil and products that they sell in their store, just putting  
15 that out there. And I'm not sure still again about the  
16 handicap spots. I think more than two is going to be  
17 necessary after a big restaurant.

18 MR. DiSTEFANO: We will have to look into that  
19 but --

20 MR. DOLLINGER: At the Planning Board you can  
21 talk about the location of them too.

22 CHAIRPERSON MIETZ: Yeah, that's fine.

23 ALLEN HARTLEY: That's it. Good to see you,  
24 Dennis, thank you.

25 CHAIRPERSON MIETZ: Good to see you too.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3               Okay. Is there anyone in the audience that  
4 would like to speak regarding this application? Yes, sir.

5               REMY FENSTER: My name is Remy Fenster and I  
6 live at 59 Rowland Parkway. My concern is the attorney said  
7 that the problem was that the place wasn't rentable, so they  
8 need more space. All they're taking is 10 feet more, so  
9 there's still empty space. Either take it all or take none  
10 of it, but to take a small section and say that's, you know,  
11 because the space is empty, we need that extra. The whole  
12 rest of that building is still going to be empty, so what  
13 good is 10 feet going to do? Either use the whole space or  
14 don't use the whole space.

15               CHAIRPERSON MIETZ: What is your concern? I'm  
16 not sure I'm understanding what your concern is.

17               REMY FENSTER: Well, the complaint was -- or  
18 the reasoning behind taking the extra was because the space  
19 hasn't been rented so you're taking 10 extra feet. That  
20 unrentable space is significantly bigger than 10 feet.

21               CHAIRPERSON MIETZ: It's about 2500, the whole  
22 empty space.

23               REMY FENSTER: So there's still going to be a  
24 vacancy there.

25               MS. DALE: So are you opposed to the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 restaurant being larger?

4 REMY FENSTER: I don't see a need for it. If  
5 their justification for taking that ten extra spaces that the  
6 space is not rentable, or hasn't been rentable, it's still  
7 not going to be rentable.

8 MR. DiSTEFANO: Well, it's interesting that  
9 sometimes a smaller space is more rentable than a larger  
10 space because you can get a store in there that's more  
11 affordable.

12 REMY FENSTER: Ten feet?

13 MR. DiSTEFANO: Yes, well, the remaining space  
14 is more than 10 feet.

15 CHAIRPERSON MIETZ: It's about 1200 feet.

16 MR. DiSTEFANO: Yes, and a 1200 foot store is  
17 a lot of times more rentable than your larger spaces.

18 REMY FENSTER: I guess I just don't see  
19 10 feet being that big of a difference. I'm also concerned  
20 that they say it's a family restaurant, but there's a  
21 significant bar. Let's not kid ourselves, at 1:00 in the  
22 morning, at midnight, it is not a restaurant it is going to  
23 be a bar. And there's a lot that goes on with a bar. It is  
24 already going on there, but now you're making it bigger. So  
25 now you're increasing the patronage. That's all I have.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 CHAIRPERSON MIETZ: Okay, thank you for your  
4 comments.

5 Is there anyone in the audience that would  
6 like to speak regarding this application? There being none,  
7 then the Public Hearing is closed.

8 APPLICATION 6A-05-19

9 6A-05-19 Application of Marlee Finestone,  
10 SWBR, agent, and Excelsior Communities, owner of property  
11 located at 1625 Crittenden Road, for a Sign Variance from  
12 Section 207- 31C(2) to allow for a second free standing  
13 identification sign where only one is allowed by code. All  
14 as described on application and plans on file.

15 BILL PRICE: Good evening, Mr. Chairman,  
16 members of the Board, my name is Bill Price. I reside at 305  
17 Silton Road, and I'm with SWBR. With me tonight is Marlee  
18 Finestone and I am expecting someone who works with Excelsior  
19 Communities to be here as well.

20 We do have two applications tonight. The  
21 first is the one for an additional sign, a monument sign,  
22 identifying the property where only one is permitted by code.  
23 There are two signs that have been here for as long as I  
24 guess anybody can remember. I'm not sure whether these signs  
25 were permitted in the first place when the project was built

1 Brighton Zoning Board of Appeals 6/5/19

2

3 I believe in the 60s or 70s.

4

5 The first sign is at the entranceway at  
6 Crittenden Way and Crittenden Road. That sign is mounted to  
7 a brick wall. That sign is being replaced currently. And  
8 this request is for a second sign at the entranceway which is  
actually closer to West Henrietta Road.

9

10 The project, I just kind of wanted to show you  
11 where these are. West Henrietta Road is over here, there's a  
12 small commercial project here on the corner. Most of this  
13 across the street is single-family residential units, I am  
14 not sure if they are rented or owned by individuals. There  
15 are two residences right here, the project kind of surrounds  
16 them. MCC's technical school is over here just to the south  
which does front on West Henrietta Road.

17

18 So the two entrances into the property are  
19 right here and over here. On Crittenden Road as you travel  
20 westbound there's a rise in the topography, so the road is  
21 going up. You cannot see either of these intersections or  
22 these entranceways from one another. So you can't if you are  
23 here, you cannot see this sign. If you're traveling  
24 eastbound, you can see this sign, you can't see the other  
one. So the request is to permit, formally permit a sign  
25 that has been there for I believe as long as the project has

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 been up.

4 The new sign that we're asking for is going to  
5 be the same square footage that the current sign is. I do  
6 have a picture of that sign, it has been replaced with the  
7 current name of the project which is Brighton Village Luxury  
8 Apartments, and it was formerly known as Crittenden  
9 Apartments. So this sign is going to be exactly the same  
10 size in square footage and it's going to be mounted to a  
11 masonry base which will match the other sign that's going up  
12 at the Crittenden Way.

13 These two are over 650 feet apart and like I  
14 said, you can't see one from the other. So for thinking  
15 about visual clutter or too much signage, you really can't  
16 see them and it's not really going to impact, in my opinion,  
17 the character of the neighborhood or any of the residents.

18 The sign will not be internally lit, per code.  
19 It will be externally illuminated from ground-mounted lights  
20 that will be LED fixtures. I will entertain any questions  
21 that you have.

22 MS. WATSON: You said that the size is the  
23 same and as far as the second sign goes, it will be in the  
24 same location, not any closer to the road?

25 BILL PRICE: Correct. Going to be positioned

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 right where it is. We're actually probably going to drop it,  
4 not that you would necessarily notice this, but drop it down  
5 probably 6 or 8 inches to the top of the sign. Simply  
6 because there are two Norway maple trees out at the curb cut,  
7 right at the entranceway that kind of block the view of the  
8 sign today. So we're going to drop it down so it's more  
9 visual to motorists coming in.

10 MS. WATSON: Can you just state for the record  
11 the basic need for the second sign? Why is the one sign not  
12 sufficient?

13 BILL PRICE: Because you can't see the primary  
14 entrance to the project that is Crittenden Way. This is what  
15 is considered the primary access point to the property, but  
16 you can't see that from West Henrietta Road. You don't know  
17 where that is. You do see the buildings, there's four of the  
18 buildings right up close to the road but you have no other  
19 way to identify that that is the complex. And there has been  
20 a sign there for a long, long time so we are just trying to  
21 formally approve this and make improvements to the sign.

22 MS. TOMPKINS WRIGHT: Can you speak a little  
23 bit about what I will call the eastern sign -- or the western  
24 sign, the inability to put that sign on one of the apartment  
25 buildings that are along that road, and the need for the

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 monument versus a building sign?

4 BILL PRICE: I don't know that, but because of  
5 the vegetation would probably be one of the reasons. We  
6 intend to simply put some simple building mounted numbering  
7 on them just for residents and for mail and fire purposes.  
8 There are numbers now, but those are going to be improved  
9 slightly. I just don't think from a visibility standpoint  
10 you would recognize it. You wouldn't know where to look to  
11 know that that was a sign identifying the project.

12 CHAIRPERSON MIETZ: Okay. Is there anyone in  
13 the audience that would like to speak regarding part one of  
14 this application? There being none, then the Public Hearing  
15 is closed.

16 APPLICATION 6A-06-19

17 6A-06-19 Application of Marlee Finestone,  
18 SWBR, agent, and Excelsior Communities, owner of property  
19 located at 1625 Crittenden Road, for an Area Variance from  
20 Section 205- 12 to allow for on-site parking to be reduced  
21 from 752 spaces to 717 spaces where 864 spaces are required  
22 by code. All as described on application and plans on file.

23 BILL PRICE: Do all of you have a copy of the  
24 proposed site plan? I just want know what I need to put up  
25 and --

1 Brighton Zoning Board of Appeals 6/5/19

2

3 MR. DiSTEFANO: They have a small copy of it,  
4 so if you have a big one for anyone in the audience.

5 BILL PRICE: Okay. For the Board and the  
6 audience, I just want to point out where it is we're talking  
7 about making some improvements. A little bit about this  
8 applicant, they bought the property earlier this year and has  
9 been on a program of making improvements to the site and  
10 signage, to the individual buildings as well as to some of  
11 the individual units themselves. And so this property will  
12 likely be seeing improvements for the foreseeable future.

25 And then the pool and clubhouse are here,

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 we're going to expand that common area by taking up a drive  
4 and some of the parking that is over here today so we can  
5 create a playground, outdoor seating area, grilling areas,  
6 fire pit, trellis and going to relocate some flagpoles to  
7 this area as well. We will improve the accessibility to the  
8 pool. There's currently steps up that sidewalk to the pool  
9 and we will make ADA compliant so you don't have to negotiate  
10 the steps.

11 The first part of this is securing the  
12 variance for the parking. This project we were a little bit  
13 surprised to find out is pretty much under the requirements  
14 for parking by code. The code requires two parking spaces  
15 per unit, we have a total of 432 units times two, would be a  
16 total of 864 parking spaces. The project provides 752  
17 parking spaces, so we are already in a deficiency of over 100  
18 plus spaces.

19 So what we did was we went out and did a  
20 parking study. I have to point out that this property is  
21 five separate tax parcels, so in the packet what we did and  
22 the chart that we did we showed by lot number. So you would  
23 think this is overall, we're not just looking at one number,  
24 864 spaces versus 752 spaces, we're looking at it by lot.

25 So some of the lots may average around

1 Brighton Zoning Board of Appeals 6/5/19

3 providing parking of 75 percent of code where one of the  
4 lots, Number 5 I believe, provides 130 percent of what is  
5 required by code. We believe this was done by the previous  
6 owners over time for financing purposes. That's why there  
7 are so many different tax accounts, but we don't actually  
8 know that for a fact.

9 So in the end what we're looking to do to make  
10 these improvements we want to reduce the total number of  
11 parking spaces by 35, so we want to take it from 752 spaces  
12 down to 717 spaces. Those parking spaces are predominantly  
13 coming out of this area right up in here where we're going to  
14 be making the new improvements. Two of the spaces are coming  
15 over here, Lot 4, just on this corner of the intersection.  
16 Because of the way the cars are parked there currently you  
17 actually back out into the intersection to get out of the  
18 parking space and we wanted to widen that sidewalk area so we  
19 can get a handicap ramp in there.

20 The improvements over here we're looking at  
21 doing drop curbs and crosswalk striping on all four corners  
22 of that intersection. So the residents going to the new  
23 improvements and to the pool area have a way to get there, be  
24 able to push carriages, whatever, to get there without having  
25 to drop off of curbs.



1 Brighton Zoning Board of Appeals 6/5/19  
2

3 code actually requires.

4 I will tell you that just a windshield survey  
5 of Rustic Village, which is probably the closest complex  
6 comparable to this, it's almost the same. There are a lot of  
7 parking areas there that are 50 percent occupied, 30 percent  
8 occupied. I did not take the same amount of time to document  
9 that by any means, that's literally just me driving by and  
10 taking a look.

11 But all of the parking counts were done after  
12 8:00 at night and before 7:00 in the morning. So we caught  
13 the time we assumed everybody would be home, before the kids  
14 go to school, before most people go to work. Just this week  
15 we did the counts three times again, but really just for the  
16 area nearest the buildings that are going to be affected the  
17 most and we found that ten parking spaces were the most that  
18 were occupied at any one time.

19 We do assume that the parking spaces that  
20 we're providing after the improvements here and here would be  
21 sufficient for the residents of those two particular  
22 buildings. They would not have to walk exorbitant distances.  
23 We're not talking about asking them to park over in Lot  
24 Number 4 or Lot Number 5, walk to the unit. They will be  
25 able to use those in the evening because the people using the new

1 Brighton Zoning Board of Appeals 6/5/19

2

3 facilities would be walking to it, or if they had guests that  
4 would be a time when residents wouldn't necessarily be able  
5 to use those parking spaces.

6 I think that's been enough and I will let you  
7 ask any questions if you have them.

8 MS. TOMPKINS WRIGHT: I had a question. You  
9 mention the parking counts after 8:00 and before 7:00, in the  
10 parking study that you provided, the chart, it didn't specify  
11 that it's just one per day. Is that an average of the two  
12 times that were being counted or on each date would you only  
13 count after 8:00 and before 7:00?

14 BILL PRICE: Each, so there was times that we  
15 did the counts and it was one or the other, I apologize that  
16 maybe I should have stated which it was. There were some  
17 dramatic differences. I think the lowest counts were 282,  
18 but we did try to make it weekdays and weekends, wanted to  
19 make sure they were both counted.

20 MS. TOMPKINS WRIGHT: Okay. Do you know if  
21 the residents have been informed about a reduction in parking  
22 just because of, again, it did not look like there was going  
23 to be parking issues on it, but just to see if they had been  
24 informed and had any concerns?

25 BILL PRICE: I can't say whether they'd been

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 specifically informed. I would say no, they had not. I  
4 think they are starting to see improvements and plans are  
5 hanging on walls, but I don't think there's been a conscious  
6 decision to tell the ones in the buildings affected the most  
7 that the parking would be reduced.

8 MS. TOMPKINS WRIGHT: And just for the record  
9 I'm looking at the site plan and I am not seeing a lot of  
10 green space, to stripe additional parking spaces or put these  
11 elsewhere, but just for the record, is that your professional  
12 opinion as you look at this site as well?

13 BILL PRICE: As far as green space overall?

14 MS. TOMPKINS WRIGHT: Well, I mean additional  
15 space that you can pave and restripe parking.

16 CHAIRPERSON MIETZ: But to not remove the  
17 parking, but replace the parking?

18 MS. TOMPKINS WRIGHT: Either or.

19 BILL PRICE: Oh, places we could put  
20 additional parking, yes. I think if we are looking at just  
21 the immediate area there isn't a lot. But this little bulb I  
22 think we did down here where we have got parking in here, we  
23 calculated we could fit three additional spaces right here.  
24 If we kind of kick this whole thing back over and did not  
25 make this as big we could probably get an additional four.

1 Brighton Zoning Board of Appeals 6/5/19

2

3 MS. TOMPKINS WRIGHT: No meaningful increases?

4

5 BILL PRICE: No, it's, you know, if this was  
6 being designed today you never would have put as much green  
7 space in the front of the buildings on either side the way  
8 they've done it. It would have been clustered much better.  
9 It would have been storm water management, would have been,  
10 you know, the parking configuration, buildings would have not  
been like this at all.

11

12 So could you make more spaces? You would have  
13 to push the pavements closer to the buildings and take up the  
14 green space that's in front of the buildings to do that. I'm  
15 not sure -- it's just based on being there many, many times  
now, it's just not needed.

16

MS. TOMPKINS WRIGHT: Yeah.

17

CHAIRPERSON MIETZ: Okay, other questions?

18

Thank you.

19

20 Is there anyone in the audience that would  
21 like to speak regarding this application? There being none,  
then the Public Hearing is closed.

22

We're going to take a five minute break.

23

\*

\*

\*

24

25

1 Brighton Zoning Board of Appeals 6/5/19  
2  
3

4 REPORTER CERTIFICATE  
5

6 I, Rhoda Collins, do hereby certify that I did  
7 report in stenotype machine shorthand the proceedings held in  
8 the above-entitled matter;

9 Further, that the foregoing transcript is a true and  
10 accurate transcription of my said stenographic notes taken at  
11 the time and place hereinbefore set forth.

12  
13 Dated this 29th day of June, 2019.

14 At Rochester, New York  
15  
16

17   
18 Rhoda Collins  
19  
20  
21  
22  
23  
24  
25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
4 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON JUNE 5TH, 2019 AT  
4 APPROXIMATELY 0:00 **P.M.**

5 June 5th, 2019  
6 Brighton Town Hall  
7 2300 Elmwood Avenue  
Rochester, New York 14618

8 PRESENT:

9 DENNIS MIETZ, CHAIRPERSON  
10 DOUGLAS CLAPP  
11 JEANNE DALE  
12 JUDY SCHWARTZ  
13 ANDREA TOMPKINS WRIGHT  
14 JENNIFER WATSON

15 DAVID DOLLINGER, ESQ.  
16 Town Attorney

17 RICK DiSTEFANO  
18 Secretary

19 NOT PRESENT:  
20 KATHLEEN SCHMITT

21 (The Board having considered the information presented by the  
22 Applicant in each of the following cases and having completed  
the required review pursuant to SEQRA, the following  
decisions were made:)

23  
24 REPORTED BY: RHODA COLLINS, Court Reporter  
25 FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, New York 14020

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 5A-01-19

4 5A-01-19 Application of Zamiara Properties  
5 2171, LLC, owner of property located at 2171 West Henrietta  
6 Road, for a Use Variance from Section 203-9 to allow a  
7 restaurant with outdoor dining in a RLB Residential District  
8 where not allowed by code. All as described on application  
9 and plans on file.

10 Motion made by Ms. Tompkins Wright to approve  
11 Application 5A-01-19 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The property is incapable of earning a reasonable return  
15 if used for any of the allowed uses in the district. The  
16 area is zoned exclusively for residential single-family homes  
17 and the building on this property was built as a restaurant.  
18 Applicant submitted information from a local realtor and a  
19 developer as to the process and cost of converting the  
20 property to residential property which would not be able to  
21 realize a reasonable return at all given the high cost of  
22 home construction.

23 2. The property affected is unique and has highly uncommon  
24 circumstances. Unlike most residentially zoned properties  
25 nearby or elsewhere in Brighton which have historically been

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 developed as residential properties, this property was  
4 initially developed as a restaurant prior to the zoning of  
5 this area as residential and has operated continuously as a  
6 restaurant for nearing 70 years.

7 3. The variance granted will not alter the essential  
8 character of the neighborhood, but instead will reestablish a  
9 part of this neighborhood's essential character. The  
10 restaurant operated for 70 years and the new restaurant is  
11 consistent with previous restaurants located on this  
12 property.

13 4. This hardship is not self-created. This hardship was  
14 created by a recent tenant at the property that while under,  
15 he discontinued the restaurant resulting in the property  
16 owner being legally unable to retake control and market the  
17 property for a new restaurant operator to continue the legal  
18 non-conforming use status.

19 5. The variance is the minimum necessary to grant relief of  
20 a hardship as it is the minimum necessary to allow the  
21 restaurant in the same vein as the former restaurant to  
22 continue to operate on the site as it has for 70 years.

23 **CONDITIONS:**

24 1. This use variance is limited expressly to restaurant use  
25 located within the existing building and current outdoor

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 seating area.

4 2. The hours open to the public shall be limited to 5:00  
5 a.m. through 11:00 p.m.

6 3. No bar for the service of alcohol shall be installed.

7 4. The following conditions apply to the outdoor dining area  
8 only:

9 A. There shall be no additional outdoor lighting.

10 B. There shall not be any outdoor entertainment or  
11 music.

12 C. No preparation of food in the outdoor areas will  
13 be permitted.

14 D. The outdoor seating area shall be limited to  
15 24 seats.

16 E. There shall be no seating beyond 9:00 p.m. in the  
17 outdoor seating area.

18 5. All necessary fire marshall approvals and building  
19 permits shall be obtained.

20 (Second by Ms. Schwartz.)

21 (Mr. Clapp, yes; Ms. Dale, yes; Mr. Mietz,  
22 yes; Ms. Watson, yes; Ms. Schwartz, yes; Ms. Tompkins Wright,  
23 yes.)

24 (Upon roll call, motion to approve with  
25 conditions carries.)

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-02-19

4 6A-02-19 Application of Stacy Platzel and  
5 Edward Ciolkowski, owners of property located at 26 Kirk  
6 Drive, for 1) an Area Variance from Section 205-2 to allow a  
7 front entryway to extend 3.75 ft. into the existing 26.2 ft.  
8 front setback where a 40 ft. front setback is required by  
9 code; and 2) an Area Variance from Section 207-10E to allow  
10 front yard pavement coverage to be + 46% in lieu of the  
11 maximum 30% allowed by code. All as described on application  
12 and plans on file.

13 Motion made by Mr. Clapp to approve  
14 Application 6A-02-19, Part 1, based on the following findings  
15 and facts.

16 **FINDINGS AND FACTS:**

17 1. The requested variance will not produce an undesirable  
18 change in the character of the neighborhood or be a detriment  
19 to nearby properties as other houses on the street have  
20 similar entryways.

21 2. The benefit sought by the applicant cannot be achieved by  
22 a method other than an area variance as the front of the  
23 house and the existing uncovered front stoop are already  
24 within the required setback.

25 3. The requested variance is not substantial as the new

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 portico covers the same footprint as the existing stoop.

4 4. The size of the proposed portico is the minimum needed to  
5 cover the existing stoop.

6 5. The proposed variance will not have an adverse effect or  
7 impact on the physical or environmental conditions of the  
8 neighborhood as other houses on the street are also within  
9 the required setback and have similar entryways.

10 6. The difficulty leading to this variance request is not  
11 self-created as the size of the allowed setback predates  
12 current zoning.

13 **CONDITIONS:**

14 1. The variance will apply only to the plans submitted and  
15 testimony given.

16 2. All necessary permits and approvals shall be obtained.

17 (Second by Ms. Schwartz.)

18 (Mr. Mietz, yes; Ms. Dale, yes; Ms. Tompkins  
19 Wright, yes; Ms. Schwartz, yes; Ms. Watson, yes; Mr. Clapp,  
20 yes.)

21 (Upon roll call, motion to approve Part 1 with  
22 conditions carries.)

23 Motion made by Mr. Clapp to deny  
24 Application 6A-02-19, Part 2, based on the following findings  
25 and facts.

3 **FINDINGS AND FACTS:**

4 1. The requested variance is substantial in that the current  
5 impervious coverage is 29.7 percent and an increase to 45.9  
6 percent represents an approximately 50 percent increase over  
7 what is permitted by code.

8 2. The requested variance will significantly alter the  
9 nature of the neighborhood.

10 3. There was insufficient evidence presented that doublewide  
11 driveways were prevalent in the neighborhood and that no  
12 evidence was presented that any doublewide driveway was  
13 located in front of the residential home.

14 (Second by Ms. Tompkins Wright.)

15 (Ms. Watson, yes; Mr. Mietz, yes; Ms. Dale,  
16 yes; Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Mr. Clapp,  
17 yes.)

18 (Upon roll call, motion to deny carries.)

19  
20  
21  
22  
23  
24  
25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-04-19

4 6A-04-19 Application of T.Y. Lin  
5 International, agent, and Rhinecliff Monroe Corporation,  
6 owner of property located at 1780 Monroe Avenue, for an Area  
7 Variance from Sections 203-74B(3) and 207-14.2A(1) to allow  
8 for the expansion of a restaurant to within 29 ft. of a  
9 residential lot line in lieu of the minimum 50 ft. required  
10 by code. All as described on application and plans on file.

11 Motion made by Ms. Schwartz to approve  
12 Application 6A-04-19 based on the following findings and  
13 facts.

14 **FINDINGS AND FACTS:**

15 1. The existing footprint of the building will remain the  
16 same but the restaurant footprint is changing with expansion  
17 into the neighboring vacant space.

18 2. The expansion is to eliminate the use of the basement and  
19 use only the first floor of the bar/restaurant.

20 3. A benefit of the expansion is to provide ADA compliant  
21 restrooms on the first floor.

22 4. The expansion space and the additional need for a  
23 variance will not have a detrimental effect on the  
24 neighborhood nor is it substantial because it is all located  
25 within the existing footprint of the building and also will

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 be no closer to the residential district than it already is.

4 **CONDITIONS:**

5 1. This variance only applies to the expansion as per plans  
6 submitted and testimony given.  
7 2. All Planning Board and building permits be obtained.

8 (Second by Ms. Watson.)

9 (Mr. Clapp, yes; Ms. Tompkins Wright, yes;  
10 Ms. Dale, yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Schwartz,  
11 yes.)

12 (Upon roll call, motion to approve with  
13 conditions carries.)

14

15

16

17

18

19

20

21

22

23

24

25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-05-19

4 6A-05-19 Application of Marlee Finestone,  
5 SWBR, agent, and Excelsior Communities, owner of property  
6 located at 1625 Crittenden Road, for a Sign Variance from  
7 Section 207- 31C(2) to allow for a second free standing  
8 identification sign where only one is allowed by code. All  
9 as described on application and plans on file.

10 Motion made by Ms. Watson to approve  
11 Application 6A-05-19 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The requested variance is the minimum variance possible  
15 to identify both access drives to the apartment complex and  
16 is not substantial in that the signs are located 650 feet  
17 apart and are not visible from one another.

18 2. No unacceptable change in the character of the  
19 neighborhood and no detriment to nearby properties is  
20 expected as a result in the approval of this variance as the  
21 proposed signs will be replacing signs that have existed  
22 since the development was built. The new signs will match  
23 the same size and location of the existing signs.

24 3. The health, safety, and welfare of the community will not  
25 be adversely affected by the approval of this variance

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 request. The new signs will be a positive improvement in  
4 terms of both aesthetics and way finding for the property.

5 **CONDITIONS:**

6 1. This variance will only apply to the sign that was  
7 described in the application and testimony given. In  
8 particular it will not apply to projects considered in the  
9 future that are not in the present application.

10 2. All necessary approvals and building permits shall be  
11 obtained.

12 (Second by Ms. Dale.)

13 (Mr. Mietz, yes; Ms. Schwartz, yes; Mr. Clapp,  
14 yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Ms. Watson,  
15 yes.)

16 (Upon roll call, motion to approve with  
17 conditions carries.)

18

19

20

21

22

23

24

25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-06-19

4 6A-06-19 Application of Marlee Finestone,  
5 SWBR, agent, and Excelsior Communities, owner of property  
6 located at 1625 Crittenden Road, for an Area Variance from  
7 Section 205- 12 to allow for on-site parking to be reduced  
8 from 752 spaces to 717 spaces where 864 spaces are required  
9 by code. All as described on application and plans on file.

10 Motion made by Ms. Tompkins Wright to approve  
11 Application 6A-06-19 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The granted requested variance will not produce an  
15 undesirable change in the character of the neighborhood or be  
16 a detriment to nearby properties. Parking counts taken at  
17 the property indicate that a full number of parking spaces  
18 required for use are significantly less than the number of  
19 parking spaces required by code. Further, given the location  
20 and the fact the vast majority of apartment buildings are set  
21 back at least a thousand feet behind Crittenden Road and is  
22 unlikely that a lack of parking will create parking issues on  
23 the public rights of way or on any neighboring properties.

24 2. The requested variance is not substantial. The property  
25 currently only maintains 87 percent of the required parking

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 per code. Following improvements the reduction in parking  
4 will result in only a four percent reduction meaning the  
5 property will maintain 83 percent of the required parking per  
6 code.

7 3. The benefit sought by the applicant cannot be reasonably  
8 achieved by any other method. The property is relatively  
9 densely developed and there is no other area to create  
10 outdoor space for tenants including outdoor seating, play  
11 equipment, and fire pit without reducing the number of  
12 parking spaces.

13 4. There is no evidence that the proposed variance will have  
14 an adverse effect or impact on the physical or environmental  
15 conditions in the neighborhood or district.

16 **CONDITIONS:**

17 1. The variance granted herein applies only to the reduction  
18 in parking to 717 spaces as described in and in the location  
19 as depicted in the application and the testimony given.  
20 2. All necessary Planning Board approvals shall be obtained.

21 (Second by Ms. Watson.)

22 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,  
23 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Tompkins Wright,  
24 yes.)

25 (Upon roll call, motion to approve with

1 Brighton Zoning Board of Appeals 6/5/19  
2  
3 conditions carries.)  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 5A-03-19

4 5A-03-19 Application of Daniel Hormaza and  
5 Leire Bascaran, owners of property located at 45 Crandon Way,  
6 for an Area Variance from Sections 205-2 and 207-10A(4) to  
7 allow a deck to extend 14 +/- ft. into the 60 ft. Rear  
8 setback required by code. All as described on application  
9 and plans on file.

10 Motion made by Ms. Watson to approve  
11 Application 5A-03-19 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The house is situated 60 feet from the rear line which is  
15 the minimum setback required by code, therefore, a deck of  
16 any size would necessitate a variance. The request to build  
17 the deck extended 14 feet into the rear setback is the  
18 minimum variance possible to construct a functional deck  
19 behind the house and will need 46 feet to the rear lot line.  
20 2. No unacceptable change in the character of the  
21 neighborhood and no substantial detriment to nearby  
22 properties is expected to result in the approval of this  
23 variance. The proposed deck will complement the house and is  
24 similar to other decks existing in the neighborhood in terms  
25 of both size and style.

Brighton Zoning Board of Appeals 6/5/19

3. The health, safety, and welfare of the community will not be adversely affected by the approval of this variance request. The location and use of the deck will be the same as an existing patio but with improved level access from the house as compared to the existing stairway of the patio.

## **CONDITIONS :**

9 1. This variance will only apply to the deck as described in  
10 application and testimony given. In particular it will not  
11 apply to projects considered in the future that are not in  
12 the present application.

13 2. All necessary permits shall be obtained.

(Second by Ms. Schwartz.)

15 (Ms. Dale, yes; Mr. Mietz, yes; Mr. Clapp,  
16 yes; Ms. Schwartz, yes; Ms. Watson, yes; Ms. Tompkins Wright,  
17 yes.)

18 (Upon roll call, motion to approve with  
19 conditions carries.)

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-01-19

4 6A-01-19 Application of Peter L. Morse and  
5 Associates, architect, and the Townhouses of Eastbrooke  
6 Commons, owner of property located at 477 Eastbrooke Lane,  
7 for relief from Section 73-27 - Fire Sprinkler Systems and  
8 the requirements of Section 73-29 to allow a new detached  
9 garage and a renovated/enlarged maintenance building to be  
10 constructed without sprinkler systems where required by code.  
11 All as described on application and plans on file.

12 Motion made by Ms. Dale to approve Application  
13 6A-01-19 based on the following findings and facts.

14 **FINDINGS AND FACTS:**

15 1. The applicant has a new detached garage and a renovated  
16 and enlarged maintenance building to better support the  
17 service and maintenance of the condominiums.  
18 2. The existing maintenance garage was built prior to the  
19 fire sprinkler requirements and is not currently sprinklered.  
20 3. Regarding the new detached garage the applicant states  
21 that the cost of sprinklering of the building is out of scale  
22 with their budget and would cost over \$35,000.  
23 4. The applicant states that sprinklering the new clubhouse  
24 garage is not possible as no waterlines are in the vicinity  
25 of the clubhouse building.

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 5. The applicant's insurance company is not requiring a  
4 sprinkler system and the Town of Brighton Fire Marshall did  
5 not submit any concerns.

6 6. The applicant is committing to establish additional life  
7 and safety measures to offset the sprinkler requirements that  
8 they are seeking relief from. These measures include adding  
9 doors for prompt escape, an automatic fire alarm system,  
10 additional fire extinguishers, and a security monitoring  
11 system.

12 **CONDITIONS:**

13 1. The applicant shall add the doors and fire extinguishers  
14 as per application submitted and testimony given. The  
15 applicant shall also install and maintain an automatic fire  
16 alarm system and security monitoring systems.

17 (Second by Ms. Schwartz.)

18 (Mr. Clapp, yes; Mr. Mietz, yes; Ms. Watson,  
19 yes; Ms. Schwartz, yes; Ms. Dale, yes; Ms. Tompkins Wright,  
20 yes.)

21 (Upon roll call, motion to approve with  
22 conditions carries.)

23  
24  
25

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 APPLICATION 6A-03-19

4 6A-03-19 Application of Amy Pink, owner of  
5 property located at 15 Victoria Drive, for an Area Variance  
6 from Section 205-2A to allow a 6 ft. high fence to extend  
7 into a front yard area where a maximum 3.5 ft. high fence is  
8 allowed by code. All as described on application and plans  
9 on file.

10 Motion made by Mr. Mietz to approve  
11 Application 6A-03-19 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The property is a corner lot and the backyard is actually  
15 by appearance a front yard.

16 2. The building code requires a fence around a pool at a  
17 minimum of 4 feet.

18 3. The request for the 6-foot fence is the minimum variance  
19 to achieve the desired result and privatize and provide  
20 security for the pool area.

21 4. While the fence will be visible from the street it will  
22 be mitigated by the installation of shrubs to soften the  
23 effect of the fence.

24 5. No negative effect on the character of the neighborhood  
25 will likely result from this variance since the fence will

1 Brighton Zoning Board of Appeals 6/5/19  
2

3 provide adequate screening from the pool area from the road.

4 **CONDITIONS:**

5 1. This variance is based on the drawings submitted and the  
6 testimony given specifically to the location of the fence.  
7 2. All necessary building permits shall be obtained.  
8 3. As discussed and testimony given shrubs shall be  
9 installed to mitigate the effect of the fence.

10 (Second by Ms. Schwartz.)

11 (Mr. Clapp, yes; Ms. Dale, yes; Ms. Watson,  
12 yes; Ms. Schwartz, yes; Mr. Mietz, yes; Ms. Tompkins Wright,  
13 yes.)

14 (Upon roll call, motion to approve with  
15 conditions carries.)

16 \* \* \*

17  
18  
19  
20  
21  
22  
23  
24  
25

1 Brighton Zoning Board of Appeals 6/5/19  
2  
3

4 REPORTER CERTIFICATE  
5

6 I, Rhoda Collins, do hereby certify that I did  
7 report in stenotype machine shorthand the proceedings held in  
8 the above-entitled matter;

9 Further, that the foregoing transcript is a true and  
10 accurate transcription of my said stenographic notes taken at  
11 the time and place hereinbefore set forth.

12  
13 Dated this 29th day of June, 2019.

14 At Rochester, New York  
15  
16

17   
18 Rhoda Collins  
19  
20  
21  
22  
23  
24  
25