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

5

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

8

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PRESENT:

10

DENNIS MIETZ, CHAIRPERSON
JEANNE DALE
DOUGLAS CLAPP
JUDY SCHWARTZ
JENNIFER WATSON

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14

DAVID DOLLINGER, ESQ.
Town Attorney

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RICK DiSTEFANO
Secretary

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19

NOT PRESENT:
KATHLEEN SCHMITT
ANDREA TOMPKINS WRIGHT

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

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3 CHAIRPERSON MIETZ: Good evening. I'd like to
4 call to order the August 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
9 August 1, 2019.

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

12 MR. DiSTEFANO: Please let the record show
13 Ms. Schmitt and Ms. Tompkins Wright are not present.

14 CHAIRPERSON MIETZ: We have minutes to look
15 at.

16 MR. DiSTEFANO: We have the June minutes, we
17 will hear July minutes in September.

18 MS. SCHWARTZ: On Page 17, Line 11, the word
19 haven't should be opening.

20 On Page 23, Line 11, change Monroe I believe
21 to Winton.

22 On Page 56, Line 18, please insert the word
23 want after don't, I don't want.

24 On Page 70, Line 5, after the word 50 please
25 insert the word foot.

2

3

On Page 84, Line 5, change the word extra to
feet.

5

6

On Page 89, Line 24, please insert the word to
after the word want, I want to.

7

8

And Page 94, Line 24, please insert the word
be after will, they will be able. And that's all I have.

9

CHAIRPERSON MIETZ: Anything else?

10

11

MS. WATSON: I have one on Page 113, Line 19,
change the word lead to leave, will leave 46 feet.

12

13

CHAIRPERSON MIETZ: Is that it? Okay. Motion
to amend the minutes?

14

MS. SCHWARTZ: So moved.

15

(Second by Mr. Clapp.)

16

17

(Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
yes; Mr. Mietz, yes; Ms. Watson, yes.)

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

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APPLICATION 8A-01-19

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8A-01-19 Application of Yuri and Anna
Joselson, owners of property located at 10 Chalet Circle, for
an Area Variance from Section 205-2 to allow a building
addition to extend 7 ft. into the 18.75 ft. side setback
required by code. All as described on application and plans

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3 on file.

4 DAVID METZGER: Good evening, my name is David
5 Metzger I live at 45 Chalet Circle and I'm here representing
6 the Joselsons this evening because they are away and could
7 not be here. Am I allowed to do that?

8 CHAIRPERSON MIETZ: Yes.

9 DAVID METZGER: So this was approved in March
10 of last year and they're asking for it to be reapproved
11 because the year has run out. The reason they did not move
12 forward with the process is they could not allocate the funds
13 sufficient to match the quotes they received. At this time
14 they are prepared to do that so they're asking for the
15 variance application to be approved again so they can start
16 the process.

17 CHAIRPERSON MIETZ: Do you know, David, if
18 they're intent and have proposals and are really ready to
19 pull a building permit?

20 DAVID METZGER: My understanding is, yes.
21 They have the builder and they are ready to go for the
22 permits.

23 MR. DiSTEFANO: Just for the record, basically
24 what triggered them to coming back in is they stopped in and
25 were making application for the building permit.

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3 CHAIRPERSON MIETZ: Okay. So you alerted them
4 that the time was up?

5 MR. DISTEFANO: Because the year was over.

6 MS. WATSON: Any changes whatsoever to the
7 original variance request?

8 DAVID METZGER: The only change which is on
9 the update is they added the window that was recommended by
10 the Board.

11 CHAIRPERSON MIETZ: The ARB. Anyone else have
12 any questions? Thank you, David.

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

16 APPLICATION 8A-02-19

17 8A-02-19 Application of Susan and Craig
18 Pearlberg, owners of property located at 15 Birmingham Drive,
19 for an Area Variance from Section 205-2 to allow an enclosed
20 front entryway to extend 3.7 ft. into the 40 ft. front
21 setback required by code. All as described on application
22 and plans on file.

23 SUSAN PEARLBERG: Hello, I'm Susan Pearlberg.

24 CRAIG PEARLBERG: Craig Pearlberg.

25 CHAIRPERSON MIETZ: And your address?

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3 SUSAN PEARLBERG: We live at 15 Birmingham
4 Drive.

5 CHAIRPERSON MIETZ: Thank you.

6 CRAIG PEARLBERG: We would like to get this
7 variance for our front entryway to extend a few feet out past
8 the 40 foot. There's a couple of other entryways on the
9 street that are just a tiny bit as well. I think we'll do
10 their variance, I think it looks quite nice. We plan on
11 making it look quite as original as possible and it would be
12 quite helpful for us in the winter months, we have two very
13 large dogs that we need to bring in from walks and so on as
14 well.

15 MS. SCHWARTZ: I have a question, what about
16 your trees in the front, are they going to be lost or --

17 SUSAN PEARLBERG: They will be saved. One of
18 then will have to be cut back a little bit, but it's one of
19 my favorite trees and it will be saved.

20 CRAIG PEARLBERG: We almost scrapped the
21 project because of the tree.

22 CHAIRPERSON MIETZ: They are professionally
23 trimmed?

24 SUSAN PEARLBERG: Yes.

25 CHAIRPERSON MIETZ: You should be fine.

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3 MS. WATSON: Do you know what the setback of
4 the house is currently? Are you already at the 3-foot
5 setback?

6 CRAIG PEARLBERG: No, we have about three
7 feet.

8 MS. WATSON: Okay. Safe to say 3 feet is
9 sufficient for a vestibule of adequate size.

10 CRAIG PEARLBERG: We're looking for an extra
11 3 feet is more accurate.

12 MS. WATSON: What are the building materials
13 and how will it relate to the house?

14 CRAIG PEARLBERG: They are going to be as
15 matching as possible.

16 SUSAN PEARLBERG: Yes. It will be the same
17 siding and the same exact siding, it's going to match the
18 house perfectly. From one peak, the original peak and then
19 we're going to make the vestibule look exactly like that.

20 CHAIRPERSON MIETZ: Okay.

21 MS. SCHWARTZ: Just curious, how long have you
22 been in the house?

23 SUSAN PEARLBERG: A year.

24 CHAIRPERSON MIETZ: Any other questions?

25 Thank you.

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

6 APPLICATION 8A-03-19

7 8A-03-19 Application of Roger Langer, Jr.,
8 architect, and Our Group 5, LLC, owner of property located at
9 1485 Monroe Avenue for modification of an approved area
10 variance (11A04-18) from Section 205-6 to allow an accessible
11 ramp to extend an additional 11.7 ft (for a total of 20 ft,)
12 into the 30 ft. front setback (Sylvan Road) required by code.
13 All as described on application and plans on file.

14 ROGER LANGER: Roger Langer, Greater Living
15 Architecture, 3033 Brighton Henrietta Town Line Road, here
16 representing the owners of 1485 Monroe Avenue. As you will
17 recall I was here last year asking for a variance for front
18 yard setbacks for a handicap accessible ramp into the
19 building on the front elevations. The grading required was
20 higher than anticipated and the contractor went ahead and
21 extended the ramp on his own freewill without contacting me
22 or telling the owner what happened, not realizing he was
23 encroaching further into the variance than was approved.

24 Although it was just inches of height
25 differential, it resulted in about 11.75 feet of ramp because

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3 two, 5-foot landings had to be added to the ramp.

4 Fortunately, he did build the ramp according to the New York
5 State building code requirements which limit the slope of the
6 ramp.

7 Again, he didn't contact us, didn't tell the
8 owner what he was doing, nor do I think they would have
9 known. So he wound up adding the 11.75 feet or whatever it
10 was, to the ramp in order to make it meet code and get to the
11 handicap accessible parking spot, but of course, that wasn't
12 approved.

13 So I'm here to amend the variance and I have a
14 couple photographs of before and after. The new owners of
15 this property have done a magnificent job improving the
16 appearance of the building. And they have all intentions of
17 doing everything the right way.

18 I think you can tell by what they've
19 accomplished with the property it was just, you know, it was
20 unforeseen and now I'm here before you unfortunately asking
21 forgiveness.

22 CHAIRPERSON MIETZ: Going to ask you as a
23 practical matter, if you were called would this have to be
24 extended this far?

25 ROGER LANGER: Yes.

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3 CHAIRPERSON MIETZ: So there was no way to do
4 anything different with the landing because of the --

5 ROGER LANGER: Correct. You're only allowed a
6 30-foot ramp before you need a 5-foot landing, so they needed
7 a few more inches of ramp. They were at 30 feet already, so
8 they added the 5-foot landing in the middle and a 5-foot
9 landing at the end, and just a few more feet of ramp is
10 really all that was necessary. But by building code, you
11 can't go more than 30 feet without a 5-foot landing, so they
12 had to break up that entire run of the ramp.

13 CHAIRPERSON MIETZ: Are they planning to do
14 anything related to maybe trying to make it not look the way
15 it looks as far as any other landscaping and mitigation for
16 the extension?

17 ROGER LANGER: Yes. There wasn't a plan for
18 that, they've had it professionally landscaped. Part of this
19 is these are all brand new plants and so they are hoping to
20 get some growth out of them and see where it's at. I know
21 these people extremely well.

22 CHAIRPERSON MIETZ: It could be mitigated a
23 little bit, I think.

24 ROGER LANGER: Yes. So they do have
25 landscaping with the full length of it if you recall. The

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3 old landscaping, this is a side view as well, I think they're
4 planning on adding some landscaping on the back side of the
5 ramp between the ramp and the building.

6 CHAIRPERSON MIETZ: That would be good.

7 ROGER LANGER: I believe that's in their plan.

8 CHAIRPERSON MIETZ: That would be helpful.

9 Are there other questions?

10 MR. CLAPP: Just explain again how the error
11 occurred or how the original plan was overlooked if this was
12 going to be necessary?

13 ROGER LANGER: Originally we thought a 30-foot
14 ramp at a 1-in-12 slope would be adequate to get us from the
15 first floor elevation of the office building down to the
16 parking lot grade. Unfortunately about 7 inches, I think --
17 no, it wasn't that much, it was only three more feet of ramp
18 had to be added, but we were already at that 30-foot limit.
19 So you can't increase the pitch, that's not permitted by the
20 building code, so if you have to add 3 inches of rise, that's
21 3 feet of ramp, because of 1-in-12, but it also required to
22 put in an intermediate landing. So there goes an additional
23 5 feet for that, plus a landing of 5 feet was added at the
24 end.

25 MR. CLAPP: So the error was in the initial

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3 estimate or measuring of the grade of slope of the landing?

4 ROGER LANGER: Correct. The civil engineer
5 did go out and do topography or shoot elevation points from
6 what the house finished floor elevation to the parking lot,
7 so we were going by field measurements and trying as best we
8 could to get that accurate dimension and unfortunately we
9 were off a few inches.

10 MR. CLAPP: Do you know if the parking lot
11 could have been raised to make the 30-foot ramp work?

12 ROGER LANGER: I guess it could have, but then
13 that would have created an issue at their main entry point
14 because water would now be pitching towards the door that
15 they definitely do not want that as it has a zero threshold
16 as well.

17 MR. CLAPP: Thank you.

18 CHAIRPERSON MIETZ: Any other questions?
19 Thank you.

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

23 APPLICATION 8A-04-19

24 8A-04-19 Application of Niagara Mohawk Power
25 Corporation, owner of property located at 1430 Brighton

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3 Henrietta Town Line Road, and Rochester Gas and Electric,
4 owner of property located at 1436 Brighton Henrietta Town
5 Line, for Area Variances from Section 207-2 to allow an 8 ft.
6 high fence topped with 1 ft. of barbed wire (surrounding
7 electrical equipment) where a maximum 6.5 ft. high fence is
8 allowed by code and where the use of barbed where is not
9 allowed by code. All as described on application and plans
10 on file.

11 BEN WEISEL: Good evening, my name is Ben
12 Weisel from National Grid with the address of 175 East Old
13 Country Rode, Hicksville, New York, 11803. I just want to
14 make a brief 6- or 7-minute presentation.

15 CHAIRPERSON MIETZ: Please go ahead.

16 BEN WEISEL: Thank you very much. So since
17 the 1920s National Grid or its predecessors have operated an
18 electric transmission substation on our fee-owned property
19 located at 1430 Brighton Henrietta Town Line Road in
20 Brighton. I will discuss tonight our proposal to perform the
21 necessary maintenance work on the station, which will include
22 work on the parcel owned by National Grid and a very small
23 amount of work on the parcel located directly to the north
24 which is owned by Rochester Gas and Electric.

25 As the Board may be aware, on June 18th,

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3 National Grid was here before the Brighton Planning Board to
4 request site plan approvals associated with our proposal.
5 Part of this work means bumping out our existing security
6 fence an additional 80 feet by 163 feet in order to maintain
7 a safe driving lane and fire access around a new transformer
8 we're installing at the station. We are here tonight to
9 respectfully request the Board's permission to extend our
10 existing security fence around the perimeter of this bump
11 out.

12 Before I discuss the details of this proposed
13 security fence, I'd like to provide a very brief summary of
14 the substation's benefits to the public. As the Board may be
15 aware National Grid's considered a public utility under the
16 laws of New York State. As a public utility we are required
17 by law to provide safe and reliable electricity to our
18 customers.

19 The station's currently a primary supplier of
20 electricity to over 20,000 homes, businesses, schools, and
21 hospitals. This station must maintain a constant supply of
22 electricity to these customers in order to meet the
23 customer's minute by minute energy demands. Therefore the
24 station's continued operation is essential to the provision
25 of safe and reliable electricity to these customers.

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3 Due to the essential nature of the service we
4 are providing, proposing to protect the continued operation
5 of the substation in the least intrusive way possible by
6 modifying the existing security fence around the perimeter.
7 Specifically what we are proposing to do is build a, as you
8 continue, the 9-foot tall security fence to be installed
9 around the expanded station perimeter, consisting of 8 feet
10 of chain link, topped off with 1 foot of three strands of
11 barbwire.

12 We're asking the Board to approved the fence
13 for the following three reasons: The first reason is the
14 fence is necessary to secure the safety of this station. The
15 fence will prevent the public from coming into contact with
16 the high voltage electrical assets located on the property.
17 Any time a member of the public gains unauthorized access to
18 a substation, it is a substantial threat to the substation
19 operations and that person's safety. The station has 115,000
20 volts of electricity running through the equipment. If a
21 member of the public accesses the station their lives would
22 be in immediate danger.

23 Second, it will prevent petty theft,
24 loitering, and vandalism on the site and also the potential
25 for terrorism if someone with bad intentions is able to get

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3 over the fence, or tries to get over the fence.

4 The substation is unmanned, and the proposed
5 fence is the most tactful way for National Grid to secure the
6 property on a 24/7 basis. In addition, the fence conforms
7 with the National Electric Safety Code and the North American
8 Electrical Liability Corporation's critical infrastructure
9 protection standards for substation security.

10 In addition, our fence will have minimal to no
11 visual impact. The closest home to National Grid's existing
12 fence is approximately .21 miles or 1,126 feet to the west of
13 Lawn Park Circle. The new fence will be located just as far
14 from these same homes. In between the substation and these
15 homes, there stands existing Evergreen trees. Dan and I
16 actually visited the site last winter and we could not see
17 the substation from Park Circle even in a leaf-off situation.
18 All factors minimize the visual impact of the fence.

19 The third reason is, a barbwire fence will
20 cause no undesirable changes to the community as we were able
21 to locate four other existing barbwire fences within two
22 miles of the station. Those fences include, this is the
23 fence surrounding the Monroe County Water Authority's water
24 tank on Mortimer Avenue, which is .11 miles to the site.
25 This is the existing RG&E station located on Kendrick Road

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3 which is 1.35 miles from the site. This is a commercial
4 warehouse located on Western Drive which is .56 miles from
5 the site. And this is the fence surrounding the RG&E
6 substation directly adjacent to our substation.

7 So as you are aware, pursuant to New York
8 State Town Law Section 267, the Zoning Board must take into
9 consideration the benefit to the applicant versus any
10 detriment to the neighborhood. Typically the Board would
11 consider the five factors outlined in Town Code
12 Section 219-2. Although we believe National Grid's proposed
13 fence variance should be approved based on the balancing of
14 these five factors, it is well established under New York
15 State Law that proposed variances related to modifications to
16 existing public utility uses are entitled to a relaxed zoning
17 review.

18 In a New York Court of Appeals case entitled
19 Consolidated Edison of New York versus Hoffman, the Court
20 upheld when a variance associated with a modification of
21 existing public utility use is requested, the utility must
22 show that the modification is a public necessity and that it
23 is required to run a safe and adequate service, and there are
24 compelling reasons economic or otherwise which make it more
25 feasible to modify our site than to provide power from

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3 alternative sources.

4 The Court further stated that where the
5 intrusion or burden on the community is minimal, the shown
6 required by the utility should be correspondently reduced.
7 In this case for the reasons I just discussed, the intrusion
8 or burden on the community is minimal to nonexistent. The
9 proposed fence is a public necessity and it is required to
10 render safe and adequate service to our 20,000 customers.
11 And National Grid is determined that the fence is the most
12 feasible way to ensure the continued safety of the station.
13 Here is a copy of that case.

14 Any questions? I apologize if that was more
15 information than you needed, just that there's a lot of
16 information.

17 CHAIRPERSON MIETZ: That's fine. So just one
18 quick question. What's the track record of the station?
19 Have there been intrusions or violations of the fence? Has
20 there been vandalizing? Has there been anything prior to the
21 beginning of the project?

22 BEN WEISEL: Not that we know of, and the
23 reason why that might be a case is because there's an
24 existing barbwire fence around it.

25 CHAIRPERSON MIETZ: Yes, I'm aware of that,

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3 but I'm just asking for the record, have there been any
4 incidents that you were informed of by the Brighton Police or
5 anyone else that something happened?

6 BEN WEISEL: No. However, this is a very
7 isolated station.

8 CHAIRPERSON MIETZ: I'm aware of that.

9 BEN WEISEL: The concern is at other stations
10 people have broken into the stations and have been killed
11 because they touched the electric wires.

12 CHAIRPERSON MIETZ: Sure. That's not the
13 point of the question. The question is just simply a matter
14 of record, is it or isn't it? So your answer is, no. No,
15 there haven't been any incidents that you have been made
16 aware of, that National Grid's been made aware of.

17 BEN WEISEL: True. And there's also been no
18 complaints from any Brighton residents.

19 CHAIRPERSON MIETZ: Right. Okay, other
20 questions? Thank you.

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

24 APPLICATION 8A-05-19

25 8A-05-19 Application of John and Heidi

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3 Vorrasi, owners of property located at 305 Hollywood Avenue,
4 for renewal of a Temporary and Revocable Use Permit pursuant
5 to Section 219-4 to allow for the manufacturing of kombucha
6 tea in a single family residence where not allowed by code.
7 All as described on application and plans on file.

8 HEIDI VORRASI: My name is Heidi Vorrasi and I
9 live at 305 Hollywood Avenue. These are just pictures of my
10 current kitchen and I will pass them around. This one is
11 vertical and it is a little confusing.

12 So I came before you two years ago and asked
13 for the use variance, at that time I was unable to find
14 commercial kitchen space that would work. Renting it on a
15 very small scale is difficult, that remains the same. That
16 hasn't changed. I was able to have Judy come by and see my
17 shop. I really, I believe no negative impact to the
18 community or my neighbors. You would never know even being
19 inside of my house that I am producing kombucha there.

20 I think some of you may have had kombucha at
21 the Brighton Farmers' Market, that is my top customer. I
22 also wholesale around Rochester, so I don't believe there are
23 any negatives or positives. One of the things I've done as a
24 business is I host a fundraiser for a non-profit every year.
25 Last year I raised several hundred dollars for Owen's House,

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3 which is a part of the Center for Youth. This year I'll be
4 working with the Brighton Food Cupboard. I do donate to
5 several local charities like Boy Scouts, I do a lot of silent
6 auctions, and, of course, there are all of the wonderful
7 health benefits of drinking kombucha. Thank you for
8 supporting my business.

9 CHAIRPERSON MIETZ: So in essence, these are
10 your words not mine, but has anything changed from what you
11 have projected to other than you had hoped you might find a
12 location to move this into?

13 HEIDI VORRASI: Yes. So two years ago was
14 kind of the break even and I was able to break even sooner
15 than that because the kombucha market really exploded. Now,
16 for me it's not as much the cost factor as it is I'm waiting
17 for water to boil, like, 90 percent of the time. So it's
18 like a convenience factor as I am home with my small children
19 and commercial kitchen space that is not. I have done some
20 searching and I've asked, could I share space with someone
21 and it's not gotten any easier.

22 CHAIRPERSON MIETZ: So you stated in the
23 application that your desire to do that once your children
24 get older is still the same?

25 HEIDI VORRASI: Yes. I will explore it again

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3 in two years as my youngest will be in half-day kindergarten.

4

5 CHAIRPERSON MIETZ: Is it fair to say that if

6 the right opportunity comes up you would consider that?

7

8 HEIDI VORRASI: Yes.

9

10 MS. WATSON: Is it fair to say it's a quiet

11 business, it does not necessitate deliveries at various hours

12 of the day and night?

13

14 HEIDI VORRASI: I don't do any -- I don't sell

15 from the house at all. I'm at the Brighton Farmers' Market

16 or I wholesale. I also work closely with R's Market in

17 Brighton for people who want to pickup or buy a larger

18 quantity, I use R's Market to do that. I sell it to R's and

19 they sell it from there in larger quantities. So there's no

20 in-house, I don't want it there.

21

22 CHAIRPERSON MIETZ: Great.

23

24 MR. DiSTEFANO: Due to a couple concerns that

25 came from the sewer department and what you might be

discharging into the sewer system, do you know what type of

waste that you are producing? I know if you go online it

says that acids and glycerol are being produced. That's not

good to be going directly into the sewer system. Can you

talk a little bit about your product?

26

27 HEIDI VORRASI: Yes. There is almost no waste

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3 when you produce kombucha. So the way that you produce

4 kombucha, you make tea, you sweeten it, you let it ferment,

5 but you don't dump off a certain amount that is reserve that

6 goes into the next batch. So there really --

7 MR. DiSTEFANO: So you're not dumping any of

8 the tea byproduct down into the sewer or anything like that?

9 HEIDI VORRASI: No.

10 MS. DALE: So it's not like making beer, where

11 you have a mash left and you filter off the liquid and you

12 are left with a mash?

13 HEIDI VORRASI: No. So there's scoby that

14 forms on the top that doesn't go down the drain, I compost

15 it.

16 MR. DiSTEFANO: That's that film on top and

17 you take it off and you say you compost that portion of it?

18 HEIDI VORRASI: Right. There's water and

19 detergent and sanitizer that is used in restaurants. That's

20 everything that's going into the --

21 MR. DiSTEFANO: So that basically is when you

22 are cleaning out your vats or something? That's just a

23 typical cleaning solution that would be used in a normal

24 kitchen.

25 HEIDI VORRASI: Right, exactly. I did have

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3 the sewer department, they actually came and checked. We
4 have a lot of tree roots that grow in our sewers and so I had
5 the plumber come and snake them out. He had the sewer
6 department come and check the sewers that they are cast-iron.
7 They're not the clay pipes all the way out to the street.

8 MR. DiSTEFANO: Basically, the simple answer
9 to the question is, there's very little of any discharge into
10 the sanitary sewer system.

11 HEIDI VORRASI: Right, yes.

12 CHAIRPERSON MIETZ: That was the only
13 question?

14 MR. DiSTEFANO: That was my concerns.

15 HEIDI VORRASI: Good questions.

16 CHAIRPERSON MIETZ: Any other questions?

17 Thank you.

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

21 APPLICATION 8A-06-19

22 8A-06-19 Application of Mile Pinkowski, owner
23 of property located at 45 Elm Lane, for 1) an Area Variance
24 from Section 203-2.1B(3) to allow a detached garage to be
25 1040 +/- sf in size in lieu of the maximum 600 sf allowed by

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3 code, and 2) an Area variance from Section 207-6A(1) to allow
4 said garage to be 21.75 ft. in height in lieu of the maximum
5 16 ft. in height allowed by code. All as described on
6 application and plans on file.

7 MICHAEL PINKOWSKI: Good evening, last name is
8 Pinkowski, P-i-n-k-o-w-s-k-i, Michael, 45 Elm Lane. I'm
9 seeking a variance as you know for a larger garage than is
10 allowed by code. I sought this variance in 2016, which was
11 approved, a little bit smaller by about 40 feet I believe,
12 and 2'7" shorter than the current variance request.

13 The changes to this variance request was
14 basically due to the side wall of my pool collapsing which
15 has since been removed with a permit pulled by the Town of
16 Brighton, which is turned into a green space. And the fact
17 that the original architect did the design put the garage so
18 that basically a 20-foot car would have to rotate on its own
19 access to get out of the garage, so unworkable to get out on
20 the location it was at.

21 We've since on the new application moved it to
22 the original location of a shed that was approximately
23 600 square feet, detached shed, and we'll enter and exit
24 directly out of the driveway without making a turn. So the
25 neighbors aren't affected because of the density of the

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3 trees, and the garage itself is below the road level as the
4 property is sloping, for anyone who didn't make it to my
5 house.

6 CHAIRPERSON MIETZ: So the difference in the
7 square footage is simply just the new architect's --

8 MICHAEL PINKOWSKI: The new architect, yes,
9 actually spent time on the site and realized after I staked
10 it out where the old architect had it and then we looked and
11 said that car's not going to that make turn ever. The new
12 architect worked the size and the squareness in order to be
13 able to accommodate three vehicles and a staircase up to the
14 second floor.

15 MS. SCHWARTZ: With the second floor, I
16 noticed --

17 MICHAEL PINKOWSKI: Storage area.

18 MS. SCHWARTZ: Just storage?

19 MICHAEL PINKOWSKI: There's no -- we have
20 plenty of living space.

21 MS. SCHWARTZ: No utilities up there at all?

22 MICHAEL PINKOWSKI: A half bathroom for
23 workers.

24 MS. SCHWARTZ: Upstairs in the garage?

25 MICHAEL PINKOWSKI: The bathroom is upstairs,

1 Brighton Zoning Board of Appeals 8/7/19
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3 there's not room on the first floor garage level with the
4 three cars and the little staircase design.

5 MS. SCHWARTZ: What is the square footage of
6 the second floor?

7 MICHAEL PINKOWSKI: It's 700 square feet and
8 with the sloping roof, there's a peak in the roof large
9 enough for my head not to hit, which is why we got to the
10 21'6." The original design that was basically bashing my
11 head on almost every spot of it because it was about 5'6."
12 There is the half bath, has two closets, and a sink and a
13 toilet only. And it's approximately six by six on the bath.

14 CHAIRPERSON MIETZ: I think she was asking how
15 much square footage is on the second floor.

16 MICHAEL PINKOWSKI: The second floor itself
17 covers about 700 square feet, all in, including the dormers
18 and dormer space with about a 6'6" ceiling height.

19 MS. SCHWARTZ: You have no intentions of using
20 it for living facing?

21 MICHAEL PINKOWSKI: Absolutely not.

22 MR. DISTEFANO: And just repeat again the
23 square footage proposed for the half bath?

24 MICHAEL PINKOWSKI: It's about 36 square feet.
25 The reason for the half bath is we have a lot of workers at

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3 our house and our neighbor's house and my wife doesn't like
4 the workers in the house and the neighbors don't accommodate
5 them either. We share lawn services and they have been using
6 some bushes in our neighborhood. So rather than have
7 everybody watch them, we thought accommodating everybody who
8 works at our house and the rest of the neighborhood. We kind
9 of share the same lawn service people, that it would be
10 better if they're spending the day there they had somewhere
11 to go, as well as my own workers who come to the house to
12 work inside of the house.

13 MR. DiSTEFANO: So is this garage going to be
14 insulated and heated, or what are you going to do in the
15 wintertime? Is there going to be a kind of a pool house
16 where you pump it out so the pipes don't freeze?

17 MICHAEL PINKOWSKI: We have people year-round,
18 so the intention is to keep a minimal amount of heating in it
19 and not drain pipes and stuff. It's not like a pool house
20 like some of our neighbors have where we shut that down.

21 MR. DiSTEFANO: So will the entire garage be
22 heated or will it be the bathroom area?

23 MICHAEL PINKOWSKI: Probably the entire
24 garage, just because of the cars, et cetera, that are kept in
25 there. You know, 50, 55 type of heating which is what we do

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3 for a --

4 CHAIRPERSON MIETZ: Will it have a furnace in
5 there or are you doing electric?

6 MICHAEL PINKOWSKI: Electric heat.

7 CHAIRPERSON MIETZ: Okay.

8 MICHAEL PINKOWSKI: We have 5,700 square feet
9 and seven bedrooms with two kids. We are not --

10 CHAIRPERSON MIETZ: Well, you understand the
11 concerns.

12 MICHAEL PINKOWSKI: I know.

13 CHAIRPERSON MIETZ: This is a life/safety
14 issue. That's why we need to ask these questions because
15 people do things, whatever they do.

16 MICHAEL PINKOWSKI: All right. The intention
17 on this is, one, we have storage for all of the junk that is
18 currently accumulating elsewhere, and three sets of lawn
19 furniture, all of the outdoor stuff, to be able to store that
20 during the wintertime.

21 CHAIRPERSON MIETZ: Can you talk about the
22 architecture, since it's been about three years, about how
23 this is going to be constructed, and generally how is that
24 going to interact with the home?

25 MICHAEL PINKOWSKI: Sure. The design of the

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3 house is tied directly to the design of the garage. So same
4 type of stone and HardiePlank siding, Pella windows, slate
5 roof, copper gutters, matching the existing architecture. So
6 it's not a garage per se, but it's a blend of the existing
7 property.

8 CHAIRPERSON MIETZ: The color is the same?

9 MICHAEL PINKOWSKI: Yes, it's going to be
10 white with a gray fieldstone fascia, and the same green slate
11 roof that's on the main house will also be. The slate is
12 sitting in the outside warehouse right now.

13 MR. DiSTEFANO: And for the record, you and I
14 had this discussion, we took the height of this garage to the
15 peak of the roof, but your little diagram is showing the
16 cupola.

17 MICHAEL PINKOWSKI: The cupola on top is
18 getting whacked because they are about \$7,000 and I can't
19 justify one.

20 MR. DiSTEFANO: There will be no other --

21 MICHAEL PINKOWSKI: No.

22 MR. DiSTEFANO: -- so the highest point of the
23 garage will be the roof line.

24 MICHAEL PINKOWSKI: Correct. We have a side
25 garage light porte cochere that there's four birds over the

1 Brighton Zoning Board of Appeals 8/7/19
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3 top of our car all of the time.

4 CHAIRPERSON MIETZ: Any other questions?

5 MR. CLAPP: Is it safe to assume the neighbors
6 are aware of the plans and there's no objections?

7 MICHAEL PINKOWSKI: Yes. Both the primary
8 neighbor at the end of Elm Lane and our neighbor behind are
9 both in favor of having the garage put up.

10 CHAIRPERSON MIETZ: Okay. Any other
11 questions? Thank you.

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

15 APPLICATION 8A-07-19

16 8A-07-19 Application of F & H Development,
17 owner of property located at 1338 Brighton Henrietta Town
18 Line Road, for renewal of a Temporary and Revocable Use
19 Permit pursuant to Section 219-4 to allow for the temporary
20 outdoor storage of construction equipment where not allowed
21 by code. All as described on application and plans on file.

22 DAVID HOWARD: Good evening to all. My name
23 is David Howard partner at F & H Development, 1338 Brighton
24 Henrietta Town Line Road.

25 I'm here tonight to ask the Board to allow us

1 Brighton Zoning Board of Appeals 8/7/19
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3 to continue our conditional use. We are in the process of
4 retaining Marathon Engineering, I'm sure everybody has -- I
5 don't have the copies in front of me. We are working
6 directly with Matt Tomlinson and we have been in -- our
7 architect has drawn up prints, everything has been moving
8 forward, but we've had a delay with the New York State DEC
9 due to the delineations of the official wording report from
10 the DEC. They are running behind.

11 I personally have been involved to get
12 Mr. Willow Szazar of the Avon office to get us that final
13 official wording report to our engineer, Matt Tomlinson so
14 Marathon can come in to present to the Board all of the final
15 paperwork to Rick and the office so we can continue to move
16 forward with this project.

17 MS. WATSON: For the record, will you just
18 give us a little bit of history of the project and what's
19 happening on the site and when did it all begin?

20 DAVID HOWARD: This has gone on three, four
21 years. Originally we started the project, ran into a few
22 little bit of a financial issue due to the company. We
23 resolved that, we started moving forward again in a positive
24 aspect. We retained marathon, they came highly advised for
25 us to use. We retained their services and, you know, we are

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3 ready to go with the project. On our aspect of it everything
4 is in line, it's just right now trying to get the DEC to move
5 forward right now has been a little bit of a --

6 CHAIRPERSON MIETZ: What exactly does the DEC
7 need to be involved in the project for? I know generally,
8 but what is the specifics?

9 DAVID HOWARD: In the back section of the
10 property it's registered a Federal wetland and there's a
11 boundary line, 100-foot boundary line from the edge of the
12 water forward. So Matt is requesting official wording before
13 we come back to the Town. He submits all the paperwork
14 because he says you guys are going to want to see that. We
15 did this once before, but he wants it updated and he wants
16 the official wording from the gentleman at the DEC so when he
17 comes back in to submit all the paperwork everything is in
18 order.

19 MR. DiSTEFANO: For the record, it's a State
20 wetland that requires the 100-foot buffer around that.

21 DAVID HOWARD: Yes.

22 MR. DiSTEFANO: Why don't also for the Board
23 explain a little bit what you are proposing there.

24 DAVID HOWARD: We're proposing to put an
25 addition onto the existing garage and is basically cold

1 Brighton Zoning Board of Appeals 8/7/19
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3 storage so we can store the equipment and small peripheral
4 equipment that's on the site inside. There's snowplows, and
5 walk-behind salters, and stuff like that. We can have the
6 stuff stored inside because we have had stuff disappear.
7 Snowplows have been removed from the property at a great
8 expense, \$6,000 a piece.

9 MR. DiSTEFANO: That facility would require a
10 conditional use permit and site plan approval from the
11 Planning Board. So for them to do it, they can do it per
12 code so they don't need any T and R's. But the fact that
13 everything is outdoor storage with no storage facility per
14 se, that's why they're front for the T and R, which has been
15 into its third go around here.

16 CHAIRPERSON MIETZ: Okay.

17 DAVID HOWARD: And we've had the project, I
18 came in personally and sat down with Patricia and had her
19 review the blueprints for the project, and with the Fire
20 Marshal Chris Roth to make sure we were all compliant with
21 everything so far.

22 CHAIRPERSON MIETZ: So to the best of your
23 ability, the summary is, once you get the DEC there's nothing
24 else to hold up, other than the formal review by the Town?

25 DAVID HOWARD: No.

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3 MR. DiSTEFANO: Do you have any -- I know I
4 personally talked to Matt a few weeks, a month ago. How
5 close are you to making the application to the Planning
6 Board?

7 DAVID HOWARD: As I spoke to Matt Monday,
8 we're just waiting on the DEC and he can compile the
9 paperwork and get it submitted to you.

10 MR. DiSTEFANO: Then after you get to the
11 Planning Board, how long do you think it will be for the
12 construction process?

13 DAVID HOWARD: As soon as we get approval the
14 plan is to start. My partner Jeff and I plan to get started
15 as soon as we have approval.

16 CHAIRPERSON MIETZ: How long do you think it
17 will take from the day you break ground?

18 DAVID HOWARD: Between 30 and 40 days we can
19 have the addition done, the site cleaned, everything
20 situated. It's not that big, it's something simple and small
21 that we're going to handle ourselves.

22 CHAIRPERSON MIETZ: So there's an expectation
23 it could happen in the building season after getting to the
24 Planning Board and move swiftly, based on the date. There's
25 an expectation you could get this done before the end of the

1 Brighton Zoning Board of Appeals 8/7/19
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3 year.

4 DAVID HOWARD: Yes.

5 CHAIRPERSON MIETZ: Okay. Any other
6 questions?

7 MS. WATSON: One question, sort of a
8 curiosity. One of the conditions that was set forth in the
9 last use permit, was that a vehicle be removed from the
10 southeast side of the property. I drove by there today and
11 there was a vehicle on the southeast side of the property so
12 I wasn't sure if it was the same vehicle.

13 DAVID HOWARD: No. That was as a matter of
14 fact my mother's -- my deceased father's car. My mother is
15 now taking it over. That's the blue convertible you saw on
16 the property, it's licensed and insured and registered.

17 MR. DiSTEFANO: That was an old Cadillac.
18 That was removed quickly after they were here.

19 MS. WATSON: I was just checking.

20 MR. DiSTEFANO: We have limited the number of
21 pieces of equipment to six, is that the number?

22 DAVID HOWARD: Yes.

23 MR. DiSTEFANO: At times it looks like there's
24 a lot more than six out there.

25 DAVID HOWARD: Equipment comes and goes,

1 Brighton Zoning Board of Appeals 8/7/19
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3 there's a trailer, a twin-axle trailer that's being
4 rehabilitated that will be removed from site and it goes from
5 jobsite to jobsite and travels around the state.

6 MR. DiSTEFANO: At times will be more than six
7 there?

8 DAVID HOWARD: No.

9 CHAIRPERSON MIETZ: You also have the
10 opportunity to put a bunch of stuff inside.

11 DAVID HOWARD: Yes, sir.

12 CHAIRPERSON MIETZ: Seasonally, the salt
13 spreaders are stored inside?

14 DAVID HOWARD: Yes.

15 MR. CLAPP: Is the house on that property
16 occupied?

17 DAVID HOWARD: Yes.

18 CHAIRPERSON MIETZ: Any other questions?

19 Thank you.

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

23 * * *

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3 REPORTER CERTIFICATE
4
56 I, Rhoda Collins, do hereby certify that I did
7 report in stenotype machine shorthand the proceedings held in
the above-entitled matter;8 Further, that the foregoing transcript is a true and
9 accurate transcription of my said stenographic notes taken at
10 the time and place hereinbefore set forth.11
12 Dated this 16th day of September, 2019.13 At Rochester, New York
14
15
16 
Rhoda Collins
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3 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
4 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON AUGUST 7TH, 2019
5 AT APPROXIMATELY 8:40 P.M.

6 August 7th, 2019
7 Brighton Town Hall
8 2300 Elmwood Avenue
9 Rochester, New York 14618

10 PRESENT:

11 DENNIS MIETZ, CHAIRPERSON
12 DOUGLAS CLAPP
13 JEANNE DALE
14 JUDY SCHWARTZ
15 JENNIFER WATSON

16 DAVID DOLLINGER, ESQ.
17 Town Attorney

18 RICK DiSTEFANO
19 Secretary

20 NOT PRESENT:
21 KATHLEEN SCHMITT
22 ANDREA TOMPKINS WRIGHT

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

26 REPORTED BY: RHODA COLLINS, Court Reporter
27 FORBES COURT REPORTING SERVICES, LLC
28 21 Woodcrest Drive
29 Batavia, New York 14020

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3 APPLICATION 8A-04-19

4 8A-04-19 Application of Niagara Mohawk Power
5 Corporation, owner of property located at 1430 Brighton
6 Henrietta Town Line Road, and Rochester Gas and Electric,
7 owner of property located at 1436 Brighton Henrietta Town
8 Line, for Area Variances from Section 207-2 to allow an 8 ft.
9 high fence topped with 1 ft. of barbed wire (surrounding
10 electrical equipment) where a maximum 6.5 ft. high fence is
11 allowed by code and where the use of barbed where is not
12 allowed by code. All as described on application and plans
13 on file.

14 Motion made by Ms. Dale to approve Application
15 8A-04-19 based on the following findings and facts.

16 **FINDINGS AND FACTS:**

17 1. The applicant is proposing to expand its existing
18 security fence in order to maintain a safety barrier around
19 the new electric transformer. The substation is unmanned and
20 the fence will provide security 24 by 7.

21 2. The variance request will not result in a substantial
22 change in the character to the neighborhood or detrimentally
23 affect surrounding properties as there is a pre-existing
24 fence surrounding the existing substation which is 8-feet
25 high, and topped with barbwire. Also, the closest homes to

1 Brighton Zoning Board of Appeals 8/7/19
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3 the property are approximately 1,100 feet away and have
4 existing tall evergreen trees which provide adequate
5 screening.

6 3. The applicant has presented that their experts have
7 determined that the fence meeting code would not provide
8 proper security required for the substation equipment to keep
9 people from trespassing and causing themselves and the
10 equipment substantial harm.

11 4. As a public utility, the applicant is required to comply
12 with New York State code which requires security fences to be
13 installed around electric substations. The applicant is also
14 required by law to keep the public safe from energized
15 electric units.

16 **CONDITIONS:**

17 1. This variance is granted specific to the applicant's
18 testimony and the specifications of the fence in the location
19 as shown.

20 2. All necessary building permits shall be obtained.

21 (Second by Ms. Schwartz.)

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

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

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3 APPLICATION 8A-05-19

4 8A-05-19 Application of John and Heidi
5 Vorrasi, owners of property located at 305 Hollywood Avenue,
6 for renewal of a Temporary and Revocable Use Permit pursuant
7 to Section 219-4 to allow for the manufacturing of kombucha
8 tea in a single family residence where not allowed by code.
9 All as described on application and plans on file.

10 Motion made by Mr. Mietz to approve
11 Application 8A-05-19 based on the following findings and
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The extension of the temporary revocable use permit will
15 not have any negative effect on the neighborhood since no
16 odors or sounds are emanating from the property.
17 2. No substantial validities are made to the property with
18 respect to this business activity.
19 3. The use will only be limited to one room of the home.

20 **CONDITIONS:**

21 1. The business shall only occupy the one room as described
22 in the testimony given.
23 2. The temporary and revocable permit is for two years
24 commencing on August 8, 2019.
25 3. All required Department of Agricultural and Markets

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3 regulations shall be followed.

4 4. No retail operations shall be permitted from the site.

5 (Second by Ms. Watson.)

6 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
7 yes; Ms. Watson, yes; Mr. Mietz, yes.)

8 (Upon roll call, motion to approve with
9 conditions carries.)

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3 | APPLICATION 8A-06-19

4 8A-06-19 Application of Mile Pinkowski, owner
5 of property located at 45 Elm Lane, for 1) an Area Variance
6 from Section 203-2.1B(3) to allow a detached garage to be
7 1040 +/- sf in size in lieu of the maximum 600 sf allowed by
8 code, and 2) an Area variance from Section 207-6A(1) to allow
9 said garage to be 21.75 ft. in height in lieu of the maximum
10 16 ft. in height allowed by code. All as described on
11 application and plans on file.

12 Motion made by Ms. Schwartz to approve
13 Application 8A-06-19 based on the following findings and
14 facts.

15 FINDINGS AND FACTS:

16 1. The requested variance to allow for a detached garage to
17 be 1,040 square feet in size in lieu of the maximum
18 600 square feet allowed by code and the height of the garage
19 to be 21 feet .75 inches in lieu of the maximum 16 feet
20 allowed by code is substantial. However, the new three-car
21 will be proportionate to the large lot located on the
22 cul-de-sac with two homes.

23 2. The lot slopes down considerably as you go towards the
24 backyard. Therefore, the peak of the new garage will be
25 below 16 feet if measured from the road.

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3 3. The garage will not be visible from the road and there is
4 substantial vegetation around the designated area.

5 4. There are other homes in the greater area that have
6 three-car garages to accommodate larger cars today as well as
7 storage space.

8 5. The increase of 8-square feet from the 2016 application
9 is for the half bath in the garage.

10

CONDITIONS:

11 1. This variance only applies to the garage that was
12 described in the written application and testimony presented.

13 2. The only utilities to the garage which will be heated
14 will be electricity, water and sanitary sewer because of the
15 half bath.

16 3. There shall be no inhabitable space in the entire garage.

17 4. All necessary permits and approvals shall be obtained.

18 (Second by Ms. Dale.)

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

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

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3 APPLICATION 8A-07-19

4 8A-07-19 Application of F & H Development,
5 owner of property located at 1338 Brighton Henrietta Town
6 Line Road, for renewal of a Temporary and Revocable Use
7 Permit pursuant to Section 219-4 to allow for the temporary
8 outdoor storage of construction equipment where not allowed
9 by code. All as described on application and plans on file.

10 Motion made by Ms. Watson to approve
11 Application 8A-07-19 based on the following findings and
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The applicant is planning to redevelop this property as
15 there has been extended process of planning and redesign as
16 well as financing. The applicant is ready to proceed with
17 Planning Board approvals and construction as soon as they
18 receive necessary information from the DEC.

19 2. No unacceptable change in the character of the
20 neighborhood and no substantial detriment to nearby
21 properties is expected to result in the approval of this
22 request. As the construction equipment is stored on the site
23 it will be largely shielded by existing fencing at the rear
24 of the property as it relates to the street.

25 3. The health, safety, and welfare of the community will not

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3 be adversely affected by the approval of this temporary use
4 requested as the use of the property in this matter remains
5 commercial in nature.

6 **CONDITIONS:**

7 1. The temporary revokable use permit shall apply to a
8 maximum of six pieces of equipment stored on the property as
9 specified in plans submitted and testimony given.

10 2. The storage for vehicles and equipment as described shall
11 not infringe on the wet pond on the north portion of the
12 property.

13 3. The temporary permit shall be valid for 12 months from
14 August 8, 2019, to August 7, 2020, or whenever construction
15 on the site concludes, whichever occurs first.

16 (Second by Ms. Schwartz.)

17 (Mr. Clapp, yes; Mr. Mietz, yes; Ms. Dale,
18 yes; Ms. Schwartz, yes; Ms. Watson, yes.)

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

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3 APPLICATION 8A-01-19

4 8A-01-19 Application of Yuri and Anna

5 Joselson, owners of property located at 10 Chalet Circle, for
6 an Area Variance from Section 205-2 to allow a building
7 addition to extend 7 ft. into the 18.75 ft. side setback
8 required by code. All as described on application and plans
9 on file.

10 Motion made by Ms. Schwartz to approve
11 Application 8A-01-19 based on the following findings and
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The side setback variance to extend seven feet into the
15 18.75-foot side setback is sizeable but allows for a more
16 square addition rather than a long narrow room extending into
17 the backyard. In order to accommodate the movement of
18 equipment and door widths within the addition a more
19 square-shaped space is needed.

20 2. The granting of the variance will allow a family member
21 to be cared for more easily especially as she gets older.

22 3. No other alternative can achieve the desired result of
23 the applicant such as use the existing deck as it is in the
24 middle of the back of the house and also going behind the
25 garage would result in extending the addition further into

1 Brighton Zoning Board of Appeals 8/7/19
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3 the backyard.

4 **CONDITIONS:**

5 1. This variance is only for the construction of the
6 addition to extend seven feet into the 18.75-foot side
7 setback.

8 2. All necessary building permits shall be obtained.

9 3. All materials will match the existing house.

10 (Second by Ms. Dale.)

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

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

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1 Brighton Zoning Board of Appeals 8/7/19

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3 APPLICATION 8A-02-19

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5 8A-02-19 Application of Susan and Craig
6 Pearlberg, owners of property located at 15 Birmingham Drive,
7 for an Area Variance from Section 205-2 to allow an enclosed
8 front entryway to extend 3.7 ft. into the 40 ft. front
9 setback required by code. All as described on application
and plans on file.

10

11 Motion made by Ms. Watson to approve
12 Application 8A-02-19 based on the following findings and
facts.

13

FINDINGS OF FACT:

14

15 1. The requested variance will not produce an undesirable
change in the character of the neighborhood nor be a
16 detriment to nearby properties as other houses on the street
17 have similar entryways.

18

19 2. The benefit sought by the applicant cannot be achieved by
any method other an area variance as the front of the house
20 and the existing uncovered front stoop are already close to
21 the required setback. Any entrance constructed to meet code
22 would be too narrow to be practical.

23

24 3. The requested variance is not substantial as the new
vestibule replaces an existing stoop and will extend less
25 than four fee into the required setback.

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3 4. The size of the proposed vestibule is the minimum
4 necessary to provide shelter and minimum storage when
5 entering and exiting the house.

6 5. The health, safety, and welfare of the community will not
7 be adversely affected by the approval of this variance
8 request the vestibule is merely intended to provide shelter
9 from the elements.

10 **CONDITIONS:**

11 1. This variance applies only to the project as described in
12 the application and the testimony, in particular it will not
13 apply to projects considered in the future that are not in
14 the present application.

15 2. All necessary permits shall be obtained.

16 (Second by Ms. Schwartz.)

17 (Mr. Clapp, yes; Ms. Dale, yes; Mr. Mietz,
18 yes; Ms. Schwartz, yes; Ms. Watson, yes.)

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

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3 APPLICATION 8A-03-19

4 8A-03-19 Application of Roger Langer, Jr.,
5 architect, and Our Group 5, LLC, owner of property located at
6 1485 Monroe Avenue for modification of an approved area
7 variance (11A04-18) from Section 205-6 to allow an accessible
8 ramp to extend an additional 11.7 ft (for a total of 20 ft,)
9 into the 30 ft. front setback (Sylvan Road) required by code.

10 All as described on application and plans on file.

11 Motion made by Mr. Clapp to approve
12 Application 8A-03-19 based on the following findings and
13 facts.

14 **FINDINGS AND FACTS:**

15 1. The amendment to the previously granted variance is
16 necessary because the original design was based on inaccurate
17 elevations and grades and a longer rail including
18 intermediate landings was constructed by the contractor to
19 meet required code. The ramp as constructed extends to
20 10 feet from the property line instead of the 21.7 feet
21 allowed by the previous variance.

22 2. No other alternative can eliminate the difficulty and
23 produce the desired result in providing handicap
24 accessibility in order to comply with the front yard setback
25 from Sylvan Road and meet the New York State required

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3 building code requirements.

4 3. The requested variance is the minimum variance possible
5 because the slope length and depth of the ramp is determined
6 by the building code requirements. The size of the ramp
7 cannot be reduced and still meet these necessary
8 requirements.

9 4. Granting of the request will not produce an undesirable
10 change in the character of the neighborhood or be a detriment
11 to nearby properties nor will it have an adverse effect or
12 impact on the physical or environmental conditions of the
13 neighborhood. Providing handicap accessibility to the
14 property will increase the overall safety and the ramp is
15 designed to look like a sidewalk with handrails and
16 landscaping in keeping with the surrounding neighborhood.

17 5. The alleged hardship was not self-created by the
18 applicant as the 2015 international existing building code
19 requires handicap accessibility for the first floor of a
20 business. Additionally the difficulty of comply with the
21 corner lot's two front setbacks is not self-created by the
22 applicant.

23 **CONDITIONS:**

24 1. This variance will apply only to the accessibility ramp
25 as described in the application and testimony. In

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3 particular, it will not apply to additional structures
4 considered in the future that are not presently in the
5 application.

6 (Second by Ms. Schwartz.)

7 (Ms. Watson, yes; Mr. Mietz, yes; Ms. Dale,
8 yes; Ms. Schwartz, yes; Mr. Clapp, yes.)

9 (Upon roll call, motion to approve with
10 conditions carries.)

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3 REPORTER CERTIFICATE
45 I, Rhoda Collins, do hereby certify that I did
6 report in stenotype machine shorthand the proceedings held in
7 the above-entitled matter;8 Further, that the foregoing transcript is a true and
9 accurate transcription of my said stenographic notes taken at
10 the time and place hereinbefore set forth.11
12 Dated this 16th day of September, 2019.13 At Rochester, New York
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16 
Rhoda Collins
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