

Brighton Zoning Board of Appeals 11/06/19

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON NOVEMBER 6TH,  
2019 AT APPROXIMATELY 7:15 **P.M.**

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

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:  
KATHLEEN SCHMITT

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

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CHAIRPERSON MIETZ: Good evening. I'd like to call to order the November session of the Zoning Board of Appeals.

Rick, was the meeting properly advertised?

MR. DiSTEFANO: Yes, Mr. Chairman, it was advertised in the Brighton-Pittsford Post of October 31, 2019.

CHAIRPERSON MIETZ: Will you please call the roll?

MR. DiSTEFANO: Please let the record show Kathleen Schmitt is not present.

CHAIRPERSON MIETZ: So when you are ready, Rick, please read the first application.

APPLICATION 10A-03-19

10A-03-19 Application of Charles and Joanne Cavallaro, owners of property located at 41 Monroe Parkway, for an Area Variance from Section 203-2.1B(3) and 203-9A(4) to allow a detached garage to be 4 ft. from a lot line in lieu of the minimum 5 ft. required by code. All as described on application and plans on file.

CHARLES CAVALLARO: Good evening, what can I do for you?

CHAIRPERSON MIETZ: One thing, tell us your

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name and address.

CHARLES CAVALLARO: I am Charles Cavallaro, the address in question is 41 Monroe Parkway and my wife's name is Joanne, but she is not here.

CHAIRPERSON MIETZ: Okay. So why don't you tell us what you are trying to do and why you believe it's something we should approve.

CHARLES CAVALLARO: Outstanding. Hopefully a further visual benefit, I made two copies of the photographs. They're pretty much the same, you can pass them around to the group to see what we're dealing with. The property in question had a garage in the backyard. It wasn't much of a backyard, simply because of the way the property lines were cut. I have got a diagonal fence going against an industrial property on Monroe Avenue.

MR. DiSTEFANO: Commercial property.

CHARLES CAVALLARO: Commercial property, forgive me. The garage was demolished with the prospect of putting a new garage up. The building was demolished because it was falling over, unsafe, as many garages are in Brighton as I have noticed.

Once the demolish took place I started looking at rebuilding and what I would like to do is put a 20 by 20

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building on the property where once an 18 by 18 building stood with the prospect of being able to get a couple of cars in there. What I am requesting is that I am able to keep the original footprint of the original garage so that I can put a 20 by 20 building in without crowding into the house. So I'm looking for a one-foot variance, so four feet off the property line rather than five will give me at least enough room to work.

MS. TOMPKINS WRIGHT: So the original garage that was demolished was four feet from the property line?

CHARLES CAVALLARO: The original garage was about four feet from the property line, yes.

CHAIRPERSON MIETZ: And the difference of the square footage that you're looking for is to accommodate vehicles, the size of a vehicle. What is the reason you're changing the dimension?

CHARLES CAVALLARO: I don't have a horse and carriage anymore, so it's to put a reasonable sized vehicle -- two reasonable sized vehicles in a two-car garage. And that is the largest building I can put on that property.

MS. SCHWARTZ: Will this accommodate all of the vehicles?

CHARLES CAVALLARO: I'm only looking for two

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vehicles and that would be more than enough.

CHAIRPERSON MIETZ: How about storage? Would you have enough room for ancillary --

CHARLES CAVALLARO: I'm not sure with a 16-foot peak roof there's not going to be room for storage there. That's not an option for this property.

CHAIRPERSON MIETZ: Okay.

MR. DiSTEFANO: I think one of the items that came up last month was the use of the property. Can you explain what the use of the property is going to be?

CHARLES CAVALLARO: Residence.

MR. DiSTEFANO: No office use or anything like that planned for the property?

CHARLES CAVALLARO: No.

MR. DiSTEFANO: Okay.

CHAIRPERSON MIETZ: Okay, Questions?

MS. DALE: So you're moving to this house from -- when are you moving in?

CHARLES CAVALLARO: That's a good question. Originally the idea -- let me backtrack on that and not try to get too far off track. My wife loves home building shows. She found this property and thought it needed a lot of love, and felt that I was the one that could give it this love.

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And because I love my wife we ended up buying the property and now I'm in the process of loving this house.

My son, I have two sons, the idea was they would be able to move into the property and pay us rent. That's kind of up in the air right now. If you talk to my wife she'll tell you she will move into the house as soon as it's ready. We have not fully discussed that, but the idea is we will be keeping that property likely for ourselves and at some point downsize significantly.

MS. DALE: Do you need to make any adjustments to the driveway in order -- because the garage is going to be larger than it used to be, does the driveway have to be wider?

CHARLES CAVALLARO: No. Actually if you see the property itself and you see the property map, the majority of the property is driveway and garage. There's very little greenery back there and it's simply because of the commercial property that cuts it off at an angle that doesn't allow me to put a garage square off to the back.

MS. DALE: Do you have any plans to improve aesthetics by other landscaping?

CHARLES CAVALLARO: We already are.

MS. WATSON: Was their any issue with maximum

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lot coverage?

CHARLES CAVALLARO: No.

MR. DiSTEFANO: The calculation was right on the number.

CHAIRPERSON MIETZ: I imagine all those lots look like that.

MS. WATSON: I wasn't here last month so I didn't know.

MR. DiSTEFANO: Tabling was because the use of the property was in question. Unfortunately the owner wasn't here last month and it was represented that they were not sure exactly how the property was going to be used. So we had questions for the current owner on that use.

MR. CLAPP: Just to clarify on that for the record, because the record does show your son last time mentioning the possibility of a medical office use for the property. Was that something that might have been discussed in the past and once you realized it was not practical, you're not doing it? But again, you said it will not be used for an office; is that correct?

CHARLES CAVALLARO: Fleetwood Mac 1977, the album was Rumours. Sitting at the kitchen table we were all there and my wife said, boy, wouldn't that make a cute little

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doctor's office? I'm an emergency medicine physician, I work at Rochester General, I've been there 23 years. I have a small private practice and I already have a very fine office on Monroe Avenue at 3300. I have no intentions on leaving that office.

MR. CLAPP: It wouldn't make a good emergency room.

CHARLES CAVALLARO: It would not.

MR. CLAPP: Thank you for clarifying.

CHAIRPERSON MIETZ: Any other questions?  
Thank you very much.

CHARLES CAVALLARO: Thank you.

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

## APPLICATION 10A-09-19

10A-09-19 Application of Edward and Patricia Hall, owners of property located at 90 Heatherstone Lane, for an Area Variance from Section 205-2 to allow an addition to extend 8.5 ft. +/- ft. into the 18.75 ft. side setback required by code. All as described on application and plans on file.

EDWARD HALL: Good evening, I'm Edward Hall



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and this is my wife Patricia and we live at 90 Heatherstone Lane. I also own three businesses in Brighton and two other properties in Brighton.

First I want to thank the Board for the opportunity to resubmit our application for an addition at 90 Heatherstone Lane. I think you'll recall from the last meeting we were asked submit a revised plan as our plan was tabled. We've taken great care to resubmit a proposal that we think reflects the concerns expressed by the Board at the last meeting. We also want to take this opportunity to address several concerns that were expressed by neighbors at that meeting.

So we're happy to say that we've given careful consideration in redesigning of the proposal in conjunction with our architect. And we've submitted a plan which eliminates a second floor which seemed to be a real bone of contention at the last meeting. The main concern as our understanding was at that time was that the proposed addition was really too large and of too much mass in terms of height and possibly asymmetry as related to the remainder of the home. Several Board members commented that a single-story addition would seem more palatable and less obtrusive in the lot area requested for the variance.

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I hope you all have the new plans that were submitted. While the variance has not changed, the plan as I've alluded to has changed quite significantly. We are pleased with the redesign and happy to report that the new proposal was unanimously approved by the Architectural Review Board on October 22nd. The Architectural Review Board commented that the new addition is much more harmonious with the original home and it appeared to be part of the original structure. They thought that eliminating the second story and removal of the shed roof in particular improved the plan.

The new proposal calls for a single-story addition, again, with a more harmonious appearance, windows that will match the remainder of the home and less obtrusive roof line. We have conceded the fourth bedroom we were hoping for in this new plan, but we are still very happy with the new plan. And we hope you will agree with the Architectural Review Board that the plan seems much more suitable at this point.

So again, it was our impression at the last meeting that there was much less concern about the actual variance and more about the actual structure that would occupy the space. We hope to allay any concerns regarding that.

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The request in variance involves an encroachment as you know into the side setback. Our understanding from the last meeting is that the main reason for the side setback is that it prevents homes from being too close to other important property elements, and particularly to other homes. Again, there will be over 20 feet of grass space between the proposed addition and the private drive that runs adjacent to our lot.

Additionally, there would be over 68 feet of space between the side wall of our home and the side wall of the next home. We believe this is significant space and it shouldn't affect the aesthetics or overall appearance of the neighborhood. In fact, the vast majority of homes in this neighborhood are located much closer to their neighboring homes than our addition would be. We may actually have photo documentation of that.

If I can present this, the 90 Heatherstone is located right here and you can see particularly on the eastern side of Heatherstone Lane the homes are situated much closer to one another than this addition would allow our home to be situated to the adjacent home.

Another concern mentioned by several neighborhoods at the last meeting involved sight lines as

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related to the home and the private drive, as well as the private drive itself. We believe the proposed addition will actually indirectly improve sight lines for the private drive and the neighbors located on the private drive.

The most significant obstruction of the sight line at this time is a large pine tree at the northwest corner of the current garage. We have a photo of that as well. There is a cone placed where the side wall of the new garage would be. You can see that that's a very large pine tree with a very significant canopy. And how much that, you can imagine, coming from the right side of the picture you'd be traveling down Heatherstone Lane and you can see that that pine tree in our opinion would very much more affect sight lines than the new structure would. And that pine tree would have to be removed as part of the addition.

That brings us to the next concern -- I'm sorry I'm being lengthy here but I want to try to address as many of these as I can -- and that's the general concern about removing the pine tree. We consider ourselves green and we really would like to save that tree and we don't really want to remove the tree, but unfortunately it would need to be removed. We believe removal of the tree would improve sight lines to the private drive as well as to the

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neighboring homes.

We also have our own concerns regarding the proximity of this tree to our current garage, and the possible safety implications for our own home and safety. We would also like to reassure the Board and our neighbors that we do intend to plant new vegetation -- and we actually have a plan for that, we can present that as well -- that will be more sight line friendly and along the affected side of the property.

We believe this will also potentially offset any superficial moisture issues that may arise. Although, I will say that just this week we had an arborist who is certified by the Town of Brighton come to our home and evaluate this tree, as well as a Willow tree at the back of the property. And this arborist stated and said that he would be willing to provide documentation that the private drive is adequately pitched so there really shouldn't be an issue with moisture.

There's also a sewer easement that's pitched into our backyard which should help address moisture. The Willow tree actually, its roots pitch water toward our home and this arborist actually noted that the side walkway around the current garage is actually suffering structural damage

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from the root system of the Willow tree. These root systems as you may know are very superficial. So there's water damage and structural damage from the root system of the Willow tree. The other point he mentioned to us is that the Willow and the pine are actually very dormant in terms of water absorption, for almost six months of the year and particularly in October through March.

Another concern expressed by several neighbors was the size of the home in relation to the lot. In fact one neighbor stated we have the smallest lot in the neighborhood, another neighbor suggested we have one of the smallest lots in the neighborhood. We respectfully dispute this claim. A quick review of the Monroe County property portal clearly shows 12 homes situated on smaller lots in the neighborhood. 20 of the 34 homes in the neighborhood are either smaller or within one-tenth of an acre of our lot.

You can probably tell I'm a little bit upset about that. I think unfortunately, we are new to this neighborhood, we haven't met many of the neighbors and, you know, words like disingenuous have flown, words like trying to build a McMansion have flown, that has been very hurtful to me and my family. Even with the proposed addition our home would rank 17th out of 34 homes in the neighborhood in

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terms of square footage per acre.

Finally, with the proposed addition we would still be well within the parameters of lot coverage at 16.3 percent. Finally, we also dispute the claim that GPS services directed one to 90 Heatherstone Lane when the 106 Heatherstone Lane address is entered. Again, using the widely popular Google maps app we've provided documentation of this. Apple maps, Map Quest, Waze, every one of them clearly directs you to 106 Heatherstone.

We have verified with the fire marshal, we have verified with the police department, we have verified with the emergency medical services for Brighton, but there's no concern about a public safety hazard related to this addition. We believe that the new addition would actually improve sight lines and visibility and safety as it relates to the private drive.

We are also aware of a petition that was brought about through our neighborhood and we respectfully ask for a chance to rebut any information provided tonight give that there were clearly inaccuracies stated at the last meeting by these very neighbors. We are not sure what neighbors may have been told and why they signed a petition. We are concerned they may have been told inaccuracies, as we

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have clearly shown tonight.

PATRICIA HALL: The petition was also based on our first plan not the second plan.

EDWARD HALL: So in summary, we are submitting a new proposal for the addition at 90 Heatherstone Lane. While the variance request has not changed, the proposed plan has changed significantly as per your suggestions. We are quite pleased with the redesign and actually even more pleased that the Architectural Review Board unanimously approved the new proposal.

The requested variance to side setback would still leave over 20 feet of green space from our addition to the private drive and 68 feet of space to the neighboring home. While we appreciate and respect concerns expressed by our neighbors, we feel that we have made a good faith effort to address these concerns. We believe the new proposal will indirectly improve sight lines to the private drive and its occupants because of the removal of the pine tree, and will improve safety for not only those homes but our own home as well.

We believe there are no issues relative to the square footage of the home relative to lot size and we hope that the Board will appreciate our revisions and vote to



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approve our application for a side setback variance. Thank you for your time.

PATRICIA HALL: I have another concern. So we have two beautiful trees in our front yard as well. As Ed alluded to I think people are upset that we're cutting down some trees, but those are a sycamore and an evergreen, they're very large. And the other thing that I think that our -- the gentleman that we're working with to redo some planting, you see that in order to get into that third garage we're going to have to put a little bit more asphalt down for our driveway.

I think I shared these pictures before, but we have multiple homes in the neighborhood who do have three-car garages. This one I know specifically, the third-car garage was added so they added asphalt as well. This one has asphalt on either side, so it kind of goes like this. It goes in and it kind of goes like this. So there's other homes that have that same thing. Our driveway right now is just straight.

CHAIRPERSON MIETZ: Okay. Are you set?

EDWARD HALL: Yes, thank you.

CHAIRPERSON MIETZ: Okay. Hang on for any questions.

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MR. CLAPP: Just a point of clarification, you're not asking for a change in the setback from the road or driveway right of way, but the new addition is going a little bit further toward the rear of the property line?

EDWARD HALL: Yes.

PATRICIA HALL: But it's within setback allowances.

EDWARD HALL: Again, that was a suggestion at the last meeting that we somehow access and utilize that space, so that's why we decided to work in that direction.

MR. CLAPP: I just wanted to clarify that point.

CHAIRPERSON MIETZ: Any other questions? Okay, thank you very much.

EDWARD HALL: Thank you.

CHAIRPERSON MIETZ: Can I see a show of hands of who might like to speak regarding this application? We can start over here.

DENISE-MARIE SANTIAGO: Hi again, we submitted a letter --

CHAIRPERSON MIETZ: Name and address, please?

DENISE-MARIE SANTIAGO: My name is Denise-Marie Santiago, my husband is T. Christopher Dorsey

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and we live at 118 Heatherstone Lane. We submitted a letter to you, this is in response to the letter that was given by the applicants. My husband is out of town in Chicago so he wanted me to come and read the letter for him.

Dear Zoning Board, we are writing on behalf of the neighbors of Heatherstone Lane, many of which are long time community members who have greatly appreciated the aesthetic character and green spaces that the Town of Brighton thoughtfully created and planned for years ago. Thank you for your time and attention to this matter.

We previously submitted several points in opposition to the variance request by 90 Heatherstone Lane. And we now write in response to several statements that the applicants made in their letter dated October 24, 2019. It is significant to remind the Board initially that the applicant's requested variance is not a necessary change nor is it driven by some other hardship or problem with the property. It is a personal preference only, and one that the applicants have refused to concede even, quote, after careful consideration and redesign, unquote, and after submitting revises plans for their proposed addition.

In fact, the applicant's failed to address in their response letter the fact that they purchased the

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property knowing the restrictions and the setback that the Town of Brighton designed many years ago to maintain open green spaces and to preserve the neighborhood's character. The green spaces and the character of the neighborhood cannot be overstated. They should not be an afterthought as the applicants treat them and they also cannot be compromised simply because a single new homeowner who knew about the neighborhood restrictions refuses to design a home addition in a way that doesn't require a variance.

We further disagree with the applicant's statement, quote, that the Board appeared less concerned that the area requested for variance, rather than the actual structure that would occupy that area. That simply cannot be true. We know this Board takes a setback requirement and green spaces seriously and, of course, would take into account the area requested for a completely unnecessary variance.

The variance is not a mere, quote, encroachment, unquote, as the applicants attempt to characterize it. The variance takes away significant portions of green space along a private drive. That green space is for privacy of course, but perhaps more importantly to all neighbors it also assists with surface runoff

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resulting from excess storm water, melt water, or other naturally occurring water flows. The applicant's letter does not address this at all.

The applicant's letter also does not address the snow removal requirements for the private drive which we, the neighbors, paid for. During heavy and consistent snows the current setback allows snowplows enough room to maneuver and to push the snow into an area where it can melt and absorb into the landscape. Removing almost half of the setback as the applicants have proposed reduces the amount of property available for snow to melt which will cause the water and ice to build up on the private drive and may increase the risk of flooding to the applicant's home addition.

The applicants claim that they have, quote, verified with the fire marshal, unquote, and other first responders that the proposed variance and tree removal will not effect GPS services in the area. At the same time the applicants do not disclose when those supposed conversations took place, with whom the applicant spoke, and what the substance of those alleged conversations was. The applicant supposed, quote, verification process is a complete mystery.

Other than referring generally to the internet

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in support the applicants have not alleviated our neighbors' legitimate concerns that GPS services may not recognize the private drive after totally changing the landscape.

Furthermore, the removal of the Willow tree planted quite thoughtfully during this neighborhood's development over 30 years ago is simply unacceptable. Of course the tree assists with moisture and runoff, the applicants do not disagree with this position, instead they resort to flippantly describing moisture issues as superficial which as the Board knows they most certainly are not.

While the applicants say, quote, we consider ourselves green, unquote, they nevertheless have designed a plan that requires removing a historical tree and lessening the green space. There's nothing green about the applicant's variance request, which again is completely unnecessary and driven entirely by personal preference. What's clear is that the applicants have not taken into account the runoff and other water issues that may occur if the variance is granted.

At the end of the day the variance should not be granted and we would urge the Board to maintain the integrity of our neighborhood and to give proper deference to our wonderful Town zoning regulations and restrictions. They

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are there for a reason and they should be adhered to. Thank you.

MS. TOMPKINS WRIGHT: Can I ask a quick question? I just want to clarify something on the snow plowing. Are you suggesting that the current snow plowing method is to push snow onto that property?

DENISE-MARIE SANTIAGO: Part of that property is our property. So what happens is, it's a big driveway, the snowplows, that we pay for by the way, we do have to push it to the side, there's nowhere else to push it.

MS. TOMPKINS WRIGHT: So you push it more than 20 feet off of the road line?

DENISE-MARIE SANTIAGO: I could not tell you, but I can tell you that that's where it melts in that area.

MS. TOMPKINS WRIGHT: Okay.

CHAIRPERSON MIETZ: Okay, thank you. Next speaker please.

JOSEPH GASPARINO: Joseph Gasparino, I live at 106 Heatherstone Lane with my wife and three young children. I've prepared a written statement that I would like to hand to the Board and the Town official present today. We are here today to oppose the variance request at 90 Heatherstone Lane. This request seems to build a 1,000 square foot

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permanent addition with an 18-foot high roof that intrudes eight and a half feet across and 56 and a half feet in depth into the side setback specified by the Brighton Zoning Code.

We believe that such a substantial intrusion will be a detriment to the safety of our neighborhood and the safety of the homeowners and children who share the driveway adjacent to 90 Heatherstone Lane. Additionally we believe that the proposed addition will detract from the character of the established neighborhood.

I have two posters in front of me. The poster to my right is my property. My house is here and this is my driveway, the common driveway that extends to Heatherstone Lane. Here is 90 Heatherstone Lane, here is a blow up of 90 Heatherstone Lane, I would like to bring your attention to the placement of the proposed addition and the variance here. Most of it is in the side setback and it is 1,000 square feet. I would also like to bring to the attention the large amount of property in the front and the rear yards. I will be addressing those shortly.

90 Heatherstone Lane is centrally located on the main road and borders a shared driveway belonging to and cooperatively maintained by four families. House Number 102, 106, 112, and 118 Heatherstone Lane. The common driveway is



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our only connection to the main road, Heatherstone Lane property. It is used by our sanitation services, the US Postal Service, delivery trucks, maintenance vehicles, and our snow plowing service providers who push snow onto the easement that is on either side of our driveway.

The intersection of our shared driveway and 90 Heatherstone Lane is a Brighton School District's designated school bus stop. It's an authorized pick up and drop off location. The bus stop is identified as 90 Heatherstone Lane in the district's documentation and is sent to our home as a listed address.

Our children board and disembark from the school bus at the end of our driveway every school day. It is imperative that children and parents can clearly see oncoming traffic on Heatherstone Lane and that vehicle traffic and pedestrians can clearly see children waiting on the shared driveway. There are no sidewalks on Heatherstone Lane. I also have pictures of our bus stop and our driveway. I would like to share those with the Board.

We stand here in opposition to the proposed variance for the following reasons: Objection Number 1, the proposed project will produce an undesirable change in the character of the neighborhood and be a detriment to nearby

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properties by changing the line of sight of our adjacent shared driveway. An imposing structure on the corner lot will impede line of vision creating a potentially dangerous intersection. It is already challenging to locate and navigate this intersection due to its position adjacent to and behind 90 Heatherstone Lane.

During the winter, high snow banks make it difficult to see oncoming traffic whether they be on the street or on a private drive when exiting or entering the shared driveway. We are concerned that the current variance request will make all four houses on the shared driveway more difficult to locate and access even by emergency services.

Over the course of the past month over 30 homeowners on Heatherstone Lane including all four homes on the shared driveway have signed and submitted the petition stating that they oppose the variance due to the concerns about the safety of our residents and the overall character of our neighborhood.

Our community's physical layout was designed over 30 years ago and our current homeowners have taken care to preserve the intent and design of the architect. The Board has heard and will continue to hear tonight from these very same residents and homeowners who value their community

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and who will speak with passion about the importance of being part of a neighborhood where all residents, all residents respect the regulations and boundaries put forth by the Town.

Objection Number 2, the benefit put forth in the proposal can be achieved by different placements and methods other than an area variance. 90 Heatherstone Lane sits on .57 acres with ample space before reaching the front and rear setbacks. These areas have not been fully explored. With plentiful land and space in the front and rear of the property, 90 Heatherstone Lane does not present undue hardship or difficulty in creating an addition. We would not be here tonight in opposition of the proposed variance if the current plans honored the side setbacks set forth and mandated by the Town.

Objection Number 3, the requested area variance is substantial. The current request for a variance is now the second such request. The first request for a two-story structure was not approved by the Brighton Architectural Review Board. The second request continues to ask for an eight and a half foot impingement to the designated 18-and-three-quarter-foot side setback. An encroachment of 50 percent into the designated setback. The proposed addition is 56 and a half feet in depth running

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through the side setback. This creates a 1,000 square foot permanent structure with a roof, 18 feet high, which would sit on the requested variance.

Objection Number 4, the proposed variance request will have an adverse effect and impact on the physical and environmental conditions in our neighborhood. The side setback provides necessary space to allow for visibility of the driveway, protects the easement that carries our utilities, allows for rain runoff, and offers open space that enhances our neighborhood. The proposed variance will narrow the open space mandated by the Town, decrease visibility from and to our shared driveway, and potentially threaten the safety of our residents.

Objection Number 5, the alleged difficulty is self-created. 90 Heatherstone Lane was sold on August 26, 2019, a little over two months ago. At the time of the purchase the property was listed as a three-bedroom house with a two-car garage. The current zoning restrictions were known at the time of purchase. The proposed variance request contains plans for a third car garage bay and a master suite with a master bathroom, walk-in shower, and walk-in wardrobe, which were known at the time of purchase to exceed the footprint of the property. There's no hardship.

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In conclusion, we stand in opposition to a variance request that encroaches on the side setbacks adjacent to 90 Heatherstone Lane creating a potentially hazardous intersection at the heart of our community. We are in opposition to the variance as it produces an undesirable change to our neighborhood. It can be achieved without the need for a variance, is substantial in size and scope, adversely affects the physical and environmental conditions in our neighborhood and is self-created.

We urge the citizens' Zoning Board of Appeals to vote against this variance in order to protect the ideals and character of the Brighton community. Thank you for your time and attention.

CHAIRPERSON MIETZ: Thank you. Who else would like to speak?

PATRICIA CHESS: We were out of town for the last meeting.

CHAIRPERSON MIETZ: Name and address, please?

PATRICIA CHESS: I'm Patricia Chess, 120 Heatherstone Lane, across the private drive. This is my husband Mitchell and we raised our four children in that house.

CHAIRPERSON MIETZ: Okay.

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PATRICIA CHESS: To the Brighton Town Zoning Board, and this is three minutes, I timed it. I am also going to share pictures that I will explain what the pictures are as we are discussing. As 31-year residents of Brighton thank you for the community. We appreciate the unique community Brighton affords for us to raise our growing family and as a neonatal intensive care doctor, I needed to be close to the University of Rochester Medical Center to respond quickly to unexpected medical emergencies in the NICU. And my husband, also a physician, benefited from the location as well.

We chose to design and build our homestead for our growing family at 120 Heatherstone Lane in 1993. A family neighborhood with significant green space and friendly neighbors. In 1998, our neighbors at 128 moved out and we noticed our new neighbors who just moved into 128 were doing major construction in their backyard. We asked what they were doing, they explained their plans to raise the backyard multiple feet to install an in-ground pool.

We shared with them our concern about the effect of this on the drainage swale, because Brighton as you know is built on a swamp, but they continued to build. We contacted the Town of Brighton on multiple occasions and were

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told not to worry, they didn't apply for a permit and one would not be granted if the construction did not meet code, which they assured us it would not if they were too close to the property line or it affected the drainage. Then we came home from work to find that they had not only finished building the pool but built a stone retaining wall encroaching and actually crossing our property line.

We called the Town again, explained this and they said the project was finished, there was nothing they could do. We had our property resurveyed, confirmed our suspicions that it crossed our property line, shared with the neighbor and the Brighton Zoning Board the significant effect on drainage to our property. The neighbor's construction had water pouring into our basement, standing water was inches in depth, pooling by the stone wall.

Still, the Brighton Zoning Board did nothing. We spent thousands of dollars for the survey, copy attached them, sending around, having the property regraded, installing multiple sump pumps inside and outside our house. Having a lawyer draw up paperwork stating the 120 neighbors didn't claim ownership of our property on which they built the brick wall, the neighbors agree to pay a few hundred dollars of this with regrading and signing papers saying they

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were not claiming the rights of the property on which they built the brick retaining wall, copy attached. I'm not sure if it will affect our ability to sell the house in the future.

To this day that part of our property is no longer usable for days after it rains, limiting the use of the swing set first our children, now our grandchildren. No grass grows along the wall since it is so damp, and we look at a brick wall infringing on our property line rather than the previous green space. The 120 owner sold after two years and the pool rarely gets used. We doubt the repercussions of the Zoning Board not doing their job everyday since then.

The neighbors on our other side, 90 Heatherstone Lane, have changed a number of times over our last 26 years on Heatherstone. Typically they have been individuals looking to downsize since it is a smaller house on a smaller piece of property relative to the other houses on the street. We have been informed that the new owners wish to be granted a variance to expand the house extending out toward the private drive. They knew the size of the property and capacity, the number of bathrooms, bedrooms, and garage space when they bought the house. They know there's room to build out back without needing a variance.



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To our understanding the reason for requesting a variance does not meet the Brighton Town Code. Our living room and dining room which currently overlook a number of trees and green space -- I've shown pictures -- overlook the area on which they wish to build. I'm sure the picture of the brick wall taken yesterday, damp in spite of no rain for days, current view from our living room, dining room and how this expansion would affect the visibility for those on the private drive and aesthetes for the whole street.

We love the Town of Brighton. But the Town Zoning Board failed to do due diligence in 1998, with daily lasting consequences for us. Please recognize the current requested variance does not meet Town conditions, and explain to the new property owners they can build half if they choose without needing a variance. Do not fail us and our neighborhood again and please don't hesitate to reach out if you have further questions.

MITCHELL CHESS: They might have questions for you. Part of our concern, again, is it changes the nature of our property. Right now, whereas the house with the addition may not be closer to our house than others in the neighborhood, that's because there is a private drive between our house and that other house. When we built our house

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there it was with the understanding that there was the setback and this was basically what we had. It was, in essence, a forever green space we were promised because of all of the construction and -- putting in the property.

We have no problem if they're increasing the size of their house just as long as it doesn't encroach on the space that should not be encroached upon and that was known at the time they purchased the house. Taking the building into that space, I understand that they're claiming it would not affect visibility but I don't see how anybody could claim that putting a structure in that spot would cause less obstruction than a tree.

I have looked at trees and I've looked at garages and I could certainly see around trees much better than garages. So in essence, I understand what they are claiming and why they are saying it, but there are ways they can get what they want without infringing and going into this and needing a variance. Thank you.

CHAIRPERSON MIETZ: Thank you. Is there anyone else who would like to speak?

FRANCES FINE: I have no visual aids, I have no prepared statement, I will wing it. It's a lot different standing up here than it is sitting at home making notes.

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You want my name, Frances Fine 170 Heatherstone Lane.

CHAIRPERSON MIETZ: Thank you.

FRANCES FINE: Yeah, sitting at home just reviewing notes and stuff. I'd like to ask the Board members if any of them have been on or come to Heatherstone Lane to see the layout, the character, the feeling of, and conditions of the neighborhood?

CHAIRPERSON MIETZ: Yes.

FRANCES FINE: Thank you. I will do my best to describe what is to be seen and evaluated. I haven't seen these, so I can't use them. I think this is a terrific house plan. I think a family could live there very, very happily, but I don't think this is the lot for it. When you consider the visual, the spacial, and the functional changes that would come from this substantial variance, you get a negative change to the essential character of the neighborhood, in terms of proportion and in appearance, and also sharp contrast to the foot of Heatherstone which gives an adverse effect and impact on the physical and environmental conditions in the neighborhood.

There are 34 houses on Heatherstone, and one vacant lot which is a redemption pond; 13 of the houses are between Number 90 and French Road; 21 of the houses are

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beyond Number 90 up to the ending called Satin Krieger Road at the other end. So any impact definitely has an effect on more than 50 percent of the residents.

I think one of the first impacts is to the green space. And we're going to talk about these trees until we're blue in the face. There's a plaque over here in the lobby that says Brighton is a Tree City USA and has been for 17 years. Granting of the variance requires the taking down of this big Evergreen and the Weeping Willow and other landscaping, which destroys the current pleasing vision of Number 90, whether you're driving, walking, or biking.

It also alters the quality of the exterior appearance and green space that's been planted and persevering for 30 years. This Willow tree has an interesting, right now an interesting stance to it. I have been told that this Willow tree on that corner I believe it is, it actually straddles two properties because of the setback that's required through there.

I call it private road, other call it the driveway only because the sign says private road. My question, I don't understand how one owner of that tree that straddles two properties can take it down without the consent of the other owner, and I'm pretty sure the other owner

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wouldn't give consent. I guess what we would have to rely on is the wisdom of King Solomon on this one.

We also have to look at the physical condition which would have a negative impact that the people already described as the footprint of the street. The altered plan is simply too big for the lot and the neighborhood.

Heatherstone lots are larger than most other areas of Brighton. The smallest lot on the street is .51 acres, the biggest is .22 acres. I'm going to have to say don't believe a word. I say, the biggest is actually 6.38 acres, which when you drive onto Heatherstone is the first house on the left, But for figures and calculations because it is so dramatically different than the other lots I have left that out. That would skew things quite a bit. Number 90 is close to the smallest lot on the street being at .57 acres, three quarters of the other lots on the street are larger.

This house when it was built -- I need to back up. When Heatherstone was put in there was a requirement of minimum square footage for the houses. This being the smaller of the lots on the street was allowed to be built under the minimum because the builder wanted a ranch.

The average lot size of the eight lots that

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are immediately neighbors to Number 90 is .71 acres. The average lot size of the 24 remaining homes on Heatherstone Lane is .67 acres. Again, I'm not including Number 35 at over six acres. Of the immediate neighbors only two are smaller but they're smaller by a whisker. One being .55 acres, the other being .56 acres, but the proportion is much different because those two smaller by a whisker lots are two-story houses which gave them the minimum square footage for when the houses were built.

We also have to look at drainage. Drainage not only affecting the private road but potentially washing onto Heatherstone. This is a substantial variance that's being asked for. It's nearly a half of the required setback. You're taking out, if you look at outside walls, approximately a thousand square feet of soil, lawn and tree drainage from rain and snow melt. There are no storm drains on Heatherstone itself. There are storm drains somewhere on the lots, which probably settled quite a bit by now.

We would potentially be looking at increased runoff not only in the private road where when snow is plowed it is hard to see coming out of there, but also on to Heatherstone itself, which presents an environmental safety impact for the 21 houses or 62 percent of the houses on

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Heatherstone that are above Number 90 that drive past there to and from French Road multiple, can be multiple times a day.

I've asked this question but not gotten an answer. Would the downspouts from the gutters on the addition, would they be putting into a drainage system underneath somehow or would they just be left to drain out onto the lawn? We can see drainage is an issue right there.

It is entirely possible that benefit can be achieved by other means and denial of this variance does not equal a hardship. The majority of houses on Heatherstone are two-story Colonial contemporary provincial, traditional. 29 of them, which is 85 percent of the houses are already two-story. Five houses, which is 15 percent, are ranches. No variance will be needed to make this a two-story house over the original house or to make egress changes and use the basement, which would achieve the same means as the requested variance and the addition. I thank you for your time and your consideration.

CHAIRPERSON MIETZ: Thank you. Is there anyone else that would like to speak?

BOB BARBATO: Yes, sir. I'm Bob Barbato, I live at 197 Heatherstone Lane. I'm here to speak in

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opposition to this variance. I don't have any concerns about GPS, I don't have any concerns about Willow trees, my concern is about the encroachment, it's too much. It does change the character of our neighborhood. We moved to Brighton because we knew Brighton was very strict and had regulations to protect property owners. We invested a lot of money in our property and we are asking the Board to uphold those restrictions that protect our neighborhood and the character of the neighborhood and the value of our property. Thank you.

CHAIRPERSON MIETZ: Okay.

SUSAN GASPARINO: Thank you very much. My name is Susan Gasparino and I live at 106 Heatherstone Lane. I'm here tonight on behalf of over 30 residents of Heatherstone Lane who object to the granting of this variance in the center of our neighborhood and who have signed their opposition. The petition referenced before I'm responsible for that petition. I have three children, I'm at the bus stop the majority of the day. I have met a lot of neighbors, I see a lot of neighbors. I'm also a physician, I would never mislead anyone, I would never lie, I would go under oath and swear I did not provide false information.

I found out that the architectural plans did



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change and so I re-went around to all of the neighbors and shared with them the new plans. I have for you a new petition tonight that does reflect the change from a two-story to a one-story and I will submit that as well.

The 30-plus residents I have spoken with and who wish to share their opposition are not people who take their signatures lightly and who sign things without careful consideration. These are hardworking members of the Brighton community who, like Mr. Barbato, value the peace, safety and serenity of their homes on Heatherstone Lane and who take comfort in the regulations enforced by the Town of Brighton to preserve this.

These are reasonable and rational people who oppose the granting of this variance in the center of our neighborhood. Many of those people are here tonight. The residents who are opposed to the granting of this variance are: Mrs. Christina Thraul of 20 Heatherstone Lane, Dr. John Broder of 30 Heatherstone Lane, Miss Lisa Pelta, Esq. of 50 Heatherstone Lane, Mr. Donald Conners of 60 Heatherstone Lane, Mrs. Doreen Conners of 60 Heatherstone Lane, Mrs. Felicia Cerini of 77 Heatherstone Lane, Dr. Mary Rita Murphy of 89 Heatherstone Lane, Dr. Philip Murphy of 89 Heatherstone Lane, Mrs. Suzanna Fitzgerald of

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102 Heatherstone Lane, Mr. John Fitzgerald, Esq. of  
102 Heatherstone Lane, myself, Dr. Susan Gasparino of  
106 Heatherstone Lane, Dr. Joseph Gasparino of  
106 Heatherstone Lane, Mrs. Marcia Kaplan of 112 Heatherstone  
Lane, Mrs. Denise Santiago of 118 Heatherstone Lane, Mr. T.  
Christopher Dorsey of 118 Heatherstone Lane, Dr. Mitchell  
Chess of 120 Heatherstone Lane, Dr. Patricia Chess of  
120 Heatherstone Lane, Dr. Nancy Krieger of 123 Heatherstone  
Lane, Dr. David Bushinsky of 123 Heatherstone Lane,  
Mrs. Patricia Salacci of 127 Heatherstone, Mr. Michael  
Salacci of 127 Heatherstone Lane, Mrs. Louise Epstein of  
137 Heatherstone Lane, Mrs. Elizabeth Liano of  
160 Heatherstone Lane, Dr. Douglas Liano of 160 Heatherstone  
Lane, Mrs. Joyce Heilbronner of 163 Heatherstone Lane,  
Mrs. Frances Fine of 170 Heatherstone Lane, Mrs. Farrah  
Sumore of 180 Heatherstone Lane, Dr. Hanie Awaad of  
180 Heatherstone Lane, Mrs. Danielle Kozel-Ruthburg of  
195 Heatherstone Lane, Mrs. Linda Barbato of 197 Heatherstone  
Lane, and Dr. Robert Barbato of 197 Heatherstone Lane.

I also have with me tonight a statement from  
Mr. and Mrs. Jack Fitzgerald who live at 102 Heatherstone  
Lane, close property directly borders 90 Heatherstone Lane on  
the private drive. And the Fitzgeralds could not be here

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tonight and asked me to share with you their statement for the record.

This is attention Chairman Dennis Mietz, we are writing in opposition to the variance request for the proposed addition to the property at 90 Heatherstone Lane. We are residents on the private drive that abuts that property. You may be aware that the four houses on that drive own a ten-foot strip of land down Heatherstone Lane.

When the neighborhood was built this was required by the Town of Brighton in order that we could receive town services. Town services do not come up the drive, it is a driveway. Our four households maintain it and retain private plowing services. Our concern is that if the addition encroaches upon the setback as proposed it will be too close to the drive. It appears to decrease the setback by over 40 percent. The setback beyond our ten-foot-wide strip of property beside Number 90 allows for a graceful approaching to our houses as well as a sight line when turning that corner.

It appears that the proposed addition creates a long almost solid wall with very little room for landscaping that might soften the visual effect. In addition, there is a Willow tree on our shared lot line that

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we feel will have to be removed to accommodate the addition, again, detracting from the drive to our house.

Also, we are wondering how heavy machinery will access the yard of Number 90 in order to create the proposed addition. The remaining setback doesn't appear to provide enough space for such equipment and we're concerned about possible damage to the ten-foot strip and the driveway.

Finally, we are concerned about the possible negative effect of the proposed addition on our own property value. For all of the above reasons we are opposed to the variance request for 90 Heatherstone Lane. Thank you for your consideration of our concerns. Sincerely yours, Suzie and Jack Fitzgerald of 102 Heatherstone Lane.

I also have a statement from Mrs. Felecia Cerini of 77 Heatherstone Lane, who could not be here and ask that I share her feelings as well. This is attention Town of Brighton Zoning Board of Appeals and members: I live at 77 Heatherstone Lane and I am against giving either variance requested by the family at 90 Heatherstone Lane. I understand that they wish for an eight-and-a-half-foot variance that will extend outward toward the private drive.

Here are some of the reasons that I am against it: One, there does not appear to be a hardship involved.

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Two, the family can come up with a plan that doesn't need a variance that juts out sideways. They can put a second floor on or build behind their house. Three, the addition will block the view of the people on the private drive. Their parents won't be able to see their kids at the bus stop which is located on the corner of that private drive. Four, a Willow tree will have to come down. That Willow absorbs water in an area that is already very wet. Five, the proposed addition will negatively impact the character and beauty of our street. The boundary rules are there to preserve aesthetics, among other things. And six, the proposed addition will cut off the private drive from the rest of the street. Thank you for your attention to this matter. Sincerely, Felicia Cerini, 77 Heatherstone Lane.

Ladies and gentlemen of the Board, we are here again tonight discussing the same area variance request as was put forth last month. The roofing material may have changed and the height of the structure may have come down a bit, but what has not changed is the size of the variance requested, the proposed location for the structure, and for what purpose it is being erected.

Ladies and gentlemen, in summary tonight let's talk about what this variance request really is about and

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what it is not about. This request is not about needing a variance for reasons of hardship. The desire for an oversized master suite with a step ceiling, a sprawling master bath, with a nine-foot vanity and double sinks, a custom walk-in shower, a 105-square foot wardrobe, and a third 18-foot high peaked garage bay are not reasons to violate the existing codes in the Town of Brighton.

This case is not about a minor change to an existing neighborhood. It is not about adding a backup generator, installing a wheelchair ramp or raising an existing fence line by a couple of inches. This variance request encroaches by almost 50 percent into an existing setback and erects a permanent structure the size of a new home directly onto that setback.

This setback borders private property, a driveway which is shared by four homes who use that driveway as their only ingress and egress to their houses. This driveway is where the children safely board the school bus everyday, and the setback in question is at the very heart of our community on Heatherstone Lane. It's right in the middle. It provides safety from the street, the setback provides a sight line to oncoming traffic and it provides significant green space in the center of our neighborhood.

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Leaving a small strip of green grass after this proposed structure is erected should not be a consolation to us. This green space should not be destroyed in the first place.

This case is also not about having a lack of alternatives for the desired construction. There is a very spacious backyard and additional room even in the front of the property that do not require an area variance for an addition.

No. What this case is really about is about a newly purchased piece of property with known square footage, known setback requirements and knowledge of existing zoning laws. This case is about those laws being violated to add unnecessary permanent construction that encroaches onto the private property of four homes. Placing almost the entirety of this construction onto the side setback in violation against your Town code and against the wishes of our entire neighborhood community is wrong.

Should this particular variance be approved it would undermine our Town Code and make our voices meaningless. It would weaken this entire process which is designed to grant variances only for specific and limited purposes after asking for and receiving input from the neighboring homeowners who will be affected. We have all

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live in this area for decades and we have all respected the laws of the Town of Brighton. The residents of this neighborhood have spoken. They have a right to be heard and the residents should be heard. The granting of this variance in this case is unfair and it's wrong, and we humbly ask the Town Board hear our voices and turn this request down. Thank you.

CHAIRPERSON MIETZ: Thank you. Is there anyone else who would like to speak?

ELIZABETH LIANO: My name is Elizabeth Liano, I live at 160 Heatherstone. I spoke to the prior owners of the property because I was asking -- the current owners were saying that it was the smallest house on the street and they were trying to bring it up to the standard. In fact, the footprint of that house is larger than the footprint of my house at 160. So I don't think they are bringing it up to any standard outside of expanding it beyond the capacity that was originally designed for that property.

The other thing is the -- there was a few disingenuous statements that were made. The garage is actually a two-and-a-half-car garage currently. It is not a two-car garage. There's a very generous space in there where the prior owner had a wheelchair ramp. And also back behind



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the garage is a significant amount of space where there was a workshop and refrigerator space. There's room within the house to expand into that garage area if they wanted to add a separate bedroom for their son and not have it be downstairs.

There also is a library that could be used as an additional bedroom within the home, even though it's classified as a two-bedroom home, so I don't think there's a hard situation. I think it's a case of wants versus needs. And I do think it will impact negatively the aesthetics in the neighborhood. And even though the last time we had a meeting here one of the members sitting at this circle of tables said that the yard was sufficient to accommodate for a larger -- he was referring to the standard Brighton home occupied a larger space of the property and that it was not a small property.

But the reason these people have purchased a home on Heatherstone Lane is they like the aesthetics of a large piece of property and it is unfair for them to come into our neighborhood liking that elbow space and then constricting it for rest of us. Thank you.

CHAIRPERSON MIETZ: Thank you. Is there anyone else? Okay. At this point the Public Hearing is closed.

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PATRICIA HALL: Can I just clarify the easements?

CHAIRPERSON MIETZ: Ma'am, if we have questions during deliberations we will ask you. Thank you.

11A-01-19 Application of Helio Health, Inc. Contract vendee, and Genesee Valley Group Health Association, owner of property located at 1850 Brighton Henrietta Town Line Road, for an extension of an approved Use Variance (12A-04-18) pursuant to Section 219-6F, allowing for an inpatient withdrawal and stabilization facility in an IG Industrial District. All as described on application and plans on file.

BETSY BRUGG: Thank you. Good evening, my name is Betsy Brugg, I'm with the firm of Woods Oviatt Gilman. As you may recall I was here 11 months ago to secure a use variance approval for 1850 Brighton Henrietta Town Line Road for Helio Health, which has plans to open a medically supervised drug treatment facility. The Board granted the approval, we are here tonight solely because the way the funding approval for these type of projects is it just requires time. So we just need some additional time, they needed another approximately six to nine months to get through the process with Oasis, which is the State agency

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that needs to approve and fund us.

They're moving ahead, the application is pending. We just simply need additional time, we don't want to allow the approval to expire. So we requested a one-year extension which hopefully will be enough time to get the approval taken care of and move forward with the project.

Nothing has changed about the project, there's no changes to the project, to the property, to the circumstances, everything remains the same otherwise.

CHAIRPERSON MIETZ: So would you suggest then that the time that it has taken is simply administration logistics with the State of New York, whatever, but not any contention over the use or --

BETSY BRUGG: Correct, it's just taking time.

CHAIRPERSON MIETZ: Very good.

MS. TOMPKINS WRIGHT: Right now you're of the belief, the thought is that it will be completed a year from now?

BETSY BRUGG: Yes.

MS. TOMPKINS WRIGHT: Okay.

CHAIRPERSON MIETZ: As long as you're representing to us there's no changes to the spirit of the variance or the use?

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BETSY BRUGG: There's no changes, everything is the same. It's just the pace of state government.

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

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

11A-02-19 Application of Cathy Reitz, owner of property located at 55 Emmons Drive, for an Area Variance from Section 205-2 to allow a rear addition to extend 12 ft. into the existing 36 ft. rear setback where a 40 ft. rear setback is required by code. All as described on application and plans on file.

MIKE O'KEEFE: My name is Mike O'Keefe, I live at 55 Emmons Drive.

CATHY O'KEEFE: And I'm Cathy O'Keefe, Reitz is my maiden name, at 55 Emmons Drive.

MIKE O'KEEFE: Basically, we're looking to add an 12-by-24-foot addition to the back of the property. The house currently sits at 36 feet off the property line, this will put us at about 24, for the 40-foot variance.

Basically, we're looking to have a little bit of additional living space for our growing family. Cathy

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purchased the home prior to us being together. We have since been married and have a child and just trying to open up a little bit more living space. The new layout would be very comparable with pretty much all of the homes in the area.

And other than that, we had a meeting with the Architectural Review Board and basically when they reviewed the plans they made one suggestion to us in regards to the sliding glass door on the addition. Essentially, centering it as opposed to it being offset, which we are more than happy to oblige to that. And then we do have a letter signed by basically our neighbors on the east and west stating they approve.

MR. DiSTEFANO: For the record I have a letter here from Susan Gertner, 234 Clovercrest and a letter from Rita Proctor at 45 Emmons Drive, both saying they don't have any objection to the variance as requested.

MIKE O'KEEFE: And if there's any confusion, Clovercrest and Emmons kind of are at a corner. That's why Clovercrest is our actual neighbor.

MS. TOMPKINS WRIGHT: Just to clarify the record, your rear neighbor is the Harley School and they submitted a letter saying they have no issues with the encroachment into the rear setback. And most every other

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home on Emmons Drive has either a garage or an expansion, an addition that cuts into that setback as well. Many of them are further in and this is planned.

MIKE O'KEEFE: Correct.

MS. TOMPKINS WRIGHT: Can you just give us a little bit of background on why this area of the house instead of another area of the house, the layout, why this makes sense?

MIKE O'KEEFE: Yes. The home basically if you are to look at it you have a kitchen, living room, and what our proposed new family room would be is basically you've got a 12 by 24, 12 by 24, 12 by 24. On the other it basically, I guess that would be the east side of the home, is a split level. There wasn't really any true option in that respect, where this really kind of seemed to fit the best as far as what we're looking for.

MS. SCHWARTZ: Is this going to be like the one next door to you as you're facing your house to the right, size-wise?

MIKE O'KEEFE: Yes. I would say it's probably a little bit larger than the home on Clovercrest. Probably a little, I think it would be a little bit overall smaller than the home on the Emmons side. Being that it's a two-story

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without knowing their exact layout.

CHAIRPERSON MIETZ: Okay. Other questions?

Thank you.

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

APPLICATION 11A-03-19

11A-03-19 Application of Cornell Construction and Design, contractor, and Bennett and Patti Bennett, owners of property located at 229 Howland Avenue, for an Area Variance from Section 205-2 to allow a front porch addition to extend 1 ft. into the 40 ft. front setback required by code. All as described on application and plans on file.

ROBERT CORNELL: My name is Robert Cornell, I'm the contractor involved in this project, and Mr. Bennett is here to speak.

BENNETT BENNETT: So the gist of it is, going from a -- there's a 40-foot setback from the front and that would become a 39-foot setback because of the roof of the porch.

CHAIRPERSON MIETZ: And your desire to put the porch in is what reason?

BENNETT BENNETT: My mother recently moved in

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with us and so right now there's no covering over the steps going to the front door so this puts a little bit of covering for rain, snow, and occasional sunshine.

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS WRIGHT: This pretty much is the smallest area for a front porch that would provide a safe exit/entry into the home, correct?

ROBERT CORNELL: Correct, yes. In fact, the Architectural Review Board when we met on the 22nd, had a concern about the amount of steps and that's been changed and I resubmitted drawings. We're going back to them on the 26th of November. The thing we've actually just finished a porch in Brighton. We're doing a porch in Fairport. This seems to be a trend where people want to sit out front and see their neighbors, it's good for safety.

In this instance there is a beautiful deck on the addition we put on the rear of the house, but for her to sit out there she's totally isolated from any of the neighbors. So this gives her an opportunity to sit out in front of the house a little bit nicer. And it also, if you looked at the drawings, I am not patting myself on the back, but I think the house looks a little bit nicer.

MS. TOMPKINS WRIGHT: Yes.



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MS. WATSON: As part of building the porch will you be taking out the tree in the north part of the corner of the house?

ROBERT CORNELL: No, just some shrubbery. And we will put shrubs back, short shrubs.

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

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

APPLICATION 11A-04-19

11A-04-19 Application of Chris and Amanda Costanza, architects, and Katherine Rizzone and Kathryn Kubiak-Rizzone, owners of property located at 52 Warrington Drive, for an Area Variance from Section 205-2 to allow building coverage, after construction of an addition, to be 26.6% of the lot area in lieu of the maximum 25% allowed by code. All as described on application and plans on file.

CHRIS COSTANZA: Good evening, I'm Chris Costanza, I'm an architect in town. We were working on a project for Kathryn, the owner, to do an addition for her house to make it a little bit more functional, add a mudroom and a half bath on the first floor, something that the house

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doesn't currently have. Because the lot is small the house is almost maxed out on its 25 percent coverage currently, and with the garage. So what we wanted to do is an addition and request a variance for the 300 square feet that we need in order to complete this project.

Some of the information that is new that I have tonight that you have not seen, I have a letter from a neighbor just stating they are aware of the project and they have no issue with it. The other is a Google image map and it shows where the outline of the proposed addition would be. As you can see on this map, you can clearly see the neighbors to the north and the south both have similar sized additions in the same location as far as how far they set back on the property.

MS. TOMPKINS WRIGHT: Otherwise the addition is fully within all of the setbacks for the property it's just the matter of the 1.5 percent overage?

CHRIS COSTANZA: Correct.

MS. DALE: So directly behind the house and can't be seen from the street?

CHRIS COSTANZA: Yes.

MS. DALE: And did you say that the bathroom is on the first floor where you didn't used to have one?

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KATHRYN KUBIAK-RIZZONE: There's a bathroom on the first floor --

CHAIRPERSON MIETZ: Just give us your name?

KATHRYN KUBIAK-RIZZONE: Yes. Kathryn Kubiak-Rizzone, 52 Warrington Drive. There is a half bath on the first floor but this is part of the addition, it's in the kitchen.

CHRIS COSTANZA: I should say a more functional half bath.

CHAIRPERSON MIETZ: Okay. Can you comment as to just the basic size of this addition? It was obviously predicated on what you tried to achieve. So was there any other way? Was this the minimum that makes the addition worth doing? Can you talk about that a little bit?

CHRIS COSTANZA: We are working with some constraints for the driveway access into the garage. It's really tight to get cars in and out of there so we didn't want to encroach too far into that area. We also wanted to keep the addition tight, small so that construction costs wasn't going to be blowing the budget. The space that we have, the mudroom is something -- you have how many kids?

KATHRYN KUBIAK-RIZZONE: Three.

CHRIS COSTANZA: Three kids, so there's lots

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of shoes and coats and everything. The size of the mudroom is pretty tight even for the amount of storage space they will need as a family in that area.

The family room is a room that is really going to be used for part of the way the family is living where the kids and the adults kind of separate and have different parts of the house on the same floor. As the kids get older they kind of encroach on the adult space, so this is something for the expanding family.

CHAIRPERSON MIETZ: Okay, great. Questions?  
Thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed. We will take a five-minute break and come back.

\* \* \*

## REPORTER CERTIFICATE

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

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

Dated this 8th day of December, 2019.

At Rochester, New York

  
Rhoda Collins

## Brighton Zoning Board of Appeals 11/06/19

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON NOVEMBER 6TH,  
2019 AT APPROXIMATELY 8:50 **P.M.**

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

## PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:  
KATHLEEN SCHMITT

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

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

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APPLICATION 11A-01-19

11A-01-19 Application of Helio Health, Inc.  
Contract vendee, and Genesee Valley Group Health Association,  
owner of property located at 1850 Brighton Henrietta Town  
Line Road, for an extension of an approved Use Variance  
(12A-04-18) pursuant to Section 219-6F, allowing for an  
inpatient withdrawal and stabilization facility in an I guess  
Industrial District. All as described on application and  
plans on file.

Motion made by Ms. Schwartz to approve  
Application 11A-01-19 for the extension of the use variance  
for Helio Health. This extension will provide additional  
time needed to secure governmental approval and funding both  
of which require additional time. The requested extension is  
for one year and nothing has changed from the original  
application.

**CONDITIONS:**

1. All conditions of the previous approval shall apply.

(Second by Ms. Tompkins Wright.)

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

(Upon roll call, motion to approve with

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conditions carries.)



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APPLICATION 11A-02-19

11A-02-19 Application of Cathy Reitz, owner of property located at 55 Emmons Drive, for an Area Variance from Section 205-2 to allow a rear addition to extend 12 ft. into the existing 36 ft. rear setback where a 40 ft. rear setback is required by code. All as described on application and plans on file.

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

**FINDINGS AND FACTS:**

1. The granting of the requested variance will not produce an desirable change in the character of the neighborhood or be a detriment to nearby properties. The addition is in the rear of the property and thus will not effect residential neighbors along Emmons Drive and is similar in nature and size to additions put on by other neighbors along Emmons Drive. Further, the rear of the property borders sports fields where it is unlikely to have any negative effect.

2. The requested variance is not substantial given that it represents only a nine-foot decrease in the current setback and is consistent with the setbacks of other homes along Emmons Drive.

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3. The benefits sought by the applicant cannot be reasonably achieved by any other method due to the layout of the home.

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

**CONDITIONS:**

1. The variance granted herein applies only to the addition described in and in the location as depicted on the application and in the testimony given.

2. All necessary permits must be obtained.

(Second by Ms. Watson.)

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

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

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APPLICATION 11A-04-19

11A-04-19 Application of Chris and Amanda Costanza, architects, and Katherine Rizzone and Kathryn Kubiak-Rizzone, owners of property located at 52 Warrington Drive, for an Area Variance from Section 205-2 to allow building coverage, after construction of an addition, to be 26.6% of the lot area in lieu of the maximum 25% allowed by code. All as described on application and plans on file.

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

**FINDINGS AND FACTS:**

1. The applicant is seeking the proposed 303-square-foot variance in order to improve the functionality of her home by adding a mudroom, family room and bathroom. The scale of the new rooms is consistent with the existing rooms in the home.

2. Approval of the proposed variance request will not result in a substantial change in character to the neighborhood or detrimentally affect surrounding properties as the addition will not be visible from the street.

3. The proposed one-story addition is consistent with surrounding properties and it will not affect views or length of neighboring properties. There will be no adverse effect on the physical or environmental conditions of the

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neighborhood.

**CONDITIONS:**

1. All necessary building permits shall be obtained.

2. Approval is granted only to plans submitted and testimony given.

(Second by Ms. Schwartz.)

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

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

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APPLICATION 10A-09-19

10A-09-19 Application of Edward and Patricia Hall, owners of property located at 90 Heatherstone Lane, for an Area Variance from Section 205-2 to allow an addition to extend 8.5 ft. +/- ft. into the 18.75 ft. side setback required by code. All as described on application and plans on file.

Motion made by Mr. Clapp to approve Application 10A-09-19 based on the following findings and facts.

**FINDINGS AND FACTS:**

1. The granting of the requested variance will not produce an undesirable change in the character of the neighborhood. The major purpose of side setbacks is to ensure adequate distances between structures and the residential neighborhood. This property is unique in that it borders a private drive and is over 60 feet from the nearest home along Heatherstone. Further, due to the easement area the addition will be no closer to the private drive than homes are permitted to be to a property line, so it will appear in line with similar homes in the area. There was ample evidence presented that other homes in the neighborhood have three-car garages and also evidence presented that even with the

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addition, the home will be sized comparable to other homes in the neighborhood.

2. The granting of the requested variance will not be a detriment to nearby properties. There was no actual evidence presented that the construction of the addition will negatively effect drainage to neighboring properties. There was also not sufficient evidence provided regarding safety concerns for sight lines and bus stop issues considering the fact that the addition is over 60 feet from Heatherstone. The Fire Marshal specifically stated no impact from a safety perspective and applicant testified that the police department also confirmed that they have no safety issues with the addition and its impact on the residents of the private drive.

3. The benefit sought by the applicant cannot reasonably be achieved by any other method due to the current configuration and construction of the house which would make placing the third garage bay and associated improvements anywhere else on the lot impractical.

4. The requested variance is not substantial given the distance from the neighboring structure and the private drive.

5. The proposed variance will not have an adverse effect or

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impact on the physical or environmental conditions in the neighborhood.

6. The Architectural Review Board has approved the design plans submitted.

**CONDITIONS:**

1. The variance shall apply only to a single story addition as for revised plans submitted and testimony given.

2. All necessary permits and approvals shall be obtained.

3. The driveway extension to the third bay shall not extend to the street.

4. The applicant shall install new landscaping along the side of the addition facing the private drive.

(Second by Ms. Tompkins Wright.)

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

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

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APPLICATION 10A-03-19

10A-03-19 Application of Charles and Joanne Cavallaro, owners of property located at 41 Monroe Parkway, for an Area Variance from Section 203-2.1B(3) and 203-9A(4) to allow a detached garage to be 4 ft. from a lot line in lieu of the minimum 5 ft. required by code. All as described on application and plans on file.

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

**FINDINGS AND FACTS:**

1. The requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties as the proposed garage will back up to commercial property lots and maintain a 5-foot setback from the adjacent residential property.

2. The benefit sought by the applicant could not be achieved by a method other than an area variance as the size and configuration of the lot placed the new garage too close to the house if all setbacks required by code were met.

3. The requested variance is not substantial requesting a 4-foot setback where code requires a 5-foot setback.

4. The size of the proposed replacement a 20-by-20-foot



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garage is the minimum needed to accommodate modern cars.

5. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood as the adjacent residential property has a similar garage and the new garage will back up to a fenced commercial parking lot.

6. The difficulty leading to this is variance request is not self-created as the deteriorated condition of the old garage made demolition necessary.

**CONDITIONS:**

1. The variance shall apply only to a maximum 20 foot by 20 foot detached garage located as per plans submitted.

2. All necessary building permits shall be obtained.

(Second by Ms. Schwartz.)

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

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

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APPLICATION 11A-03-19

11A-03-19 Application of Cornell Construction and Design, contractor, and Bennett and Patti Bennett, owners of property located at 229 Howland Avenue, for an Area Variance from Section 205-2 to allow a front porch addition to extend 1 ft. into the 40 ft. front setback required by code. All as described on application and plans on file.

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

**FINDINGS AND FACTS:**

1. The requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties as other houses on the street have similar porches.
2. The benefit sought by the applicant cannot be achieved by a method other than an area variance as the front of the house is already close to the required setback. Any practical construction of the porch would require a variance.
3. The requested variance is not substantial as it would encroach only one foot into the front setback.
4. The size of the proposed porch is the minimum necessary to provide shelter when entering and exiting the house.

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5. The health, safety, and welfare of the community will not be adversely affected by the approval of this variance request. The porch is intended to provide shelter from the elements and improve the curb appeal of the house.

**CONDITIONS:**

1. This variance will apply only to the project as described in the application and testimony. In particular it will not apply to projects considered in the future that are not in the present application.

2. All necessary Architectural Review Board and building permits shall be obtained.

(Second by Ms. Tompkins Wright.)

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

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

## REPORTER CERTIFICATE

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

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

Dated this 8th day of December, 2019.

At Rochester, New York

  
Rhoda Collins