

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

7 December 4th, 2019  
8 Brighton Town Hall  
9 2300 Elmwood Avenue  
10 Rochester, New York 14618

12 PRESENT:

13 DENNIS MIETZ, CHAIRPERSON  
14 DOUGLAS CLAPP  
15 KATHLEEN SCHMITT  
16 JUDY SCHWARTZ  
17 ANDREA TOMPKINS WRIGHT  
18 JENNIFER WATSON

22 PETER DOLLINGER, ESQ.  
23 Acting Town Attorney

26 RICK DiSTEFANO  
27 Secretary

31 NOT PRESENT:  
32 JEANNE DALE

39 REPORTED BY: RHODA COLLINS, Court Reporter  
40 FORBES COURT REPORTING SERVICES, LLC  
41 21 Woodcrest Drive  
42 Batavia, New York 14020



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3 stories.

4 Page 65, Line 20, the third to last word  
5 should be keeping.

6 Page 66, Line 6, it should be a side, instead  
7 of aside.

8 Page 67, Line 18, the last word in the part of  
9 the sentence should be bath.

10 Page 79, Line 6, please delete the word up.

11 Page 105, Line 25, the fourth to last word is  
12 choice.

13 And lastly, Page 5 in the decisions, Janice  
14 this was yours, Line 21, you can all take a look at this. It  
15 says, no other alternative can be to decipher the  
16 opportunity.

17 CHAIRPERSON MIETZ: Cross out the word  
18 decipher in Line 21, no other alternative can create an  
19 opportunity to allow for --

20 MS. SCHWARTZ: So we're deleting be to and  
21 decipher.

22 On Page 8, in Decisions, Line 14, sort of half  
23 of the sentence, the word should be tent.

24 And Page 10, Line 14, the word is requested.

25 And the same thing on Page 11, Line 4; then

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3 still Page 11, Line 20, I think it should be property laden.

4 MS. TOMPKINS WRIGHT: It stems from the  
5 property being laden.

6 MS. SCHWARTZ: Page 18, decisions, Line 20,  
7 the middle of the sentence the word should be proportionally  
8 and Page 19, Line 3, the third word is formerly, and that's  
9 all I have.

10 CHAIRPERSON MIETZ: All right. Anyone else  
11 have anything? Okay. Do we have a motion for the October  
12 amended minutes as corrected?

13 MR. CLAPP: So moved.

14 (Second by Ms. Tompkins Wright.)

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

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

20 APPLICATION 12-A-01-19

21 12A-01-19 Application of Isaac Jones III,  
22 owner of property located at 230 Rich's Dugway Road, for an  
23 Area Variance from Section 203-2.1(B) to allow a detached  
24 garage to be located in a front yard in lieu of a side or  
25 rear yard as required by code. All as described on

3 application and plans on file.

5 ANDREW SPENCER: Good evening, my name is  
6 Andrew Spencer with BME Associates, I'm here to represent  
7 Isaac Jones. With me this evening as well is Mr. Paul  
8 Johnson. He is working with Mr. Jones in redevelopment of  
the property at 230 Rich's Dugway.

10 Just want to -- everybody familiar with the  
11 site? Everybody drive by the site? Rich's Dugway is a road  
12 that extends from North Landing Road down to Blossom Road and  
13 this property is right at that bend in the roadway. It's  
14 roughly half an acre in size, it is within the RLC low  
density zoning district.

16 And one of the things I want to make sure that  
17 you understand is some of the constraints on this particular  
18 site. I've provided, and I apologize, I provided everybody  
19 with a packet of additional information. There's some  
20 photographs, there's a small rendered site plan, and some  
architectural plans of the proposed garage for the structure.

22 I want to point and bring your attention to a  
few things on the site. The house is existing, this is the  
existing location and the building is being rebuilt in that  
exact location. The rear of the property goes to Ellison  
23 Park area to the north east here, and there is a steep slope  
24  
25

3 EPOD area in this generalized zone. There's a fence on the  
4 property and if you take a look at your renderings the fence  
5 line basically is the top of that slope. And then there's a  
6 steep slope that extends to the north.

8 But more importantly is the lighter  
9 colorations through the center of the parcel. This is  
10 actually a sanitary sewer easement that goes through the  
11 parcel and cuts the parcel off from the frontage of Rich's  
12 Dugway to the rear of the parcel. It's a 30-foot wide  
13 easement, the sewer is roughly 20 to 24 feet in depth. So  
14 they needed a 30-foot wide easement, so if anything had to  
15 occur and they had to replace anything they needed that much  
space.

17 So it restricts where we can develop a new  
18 garage on the site, so it brings us to the site plan. We've  
19 positioned the garage outside of the easement, roughly three  
20 to five feet to the south of that easement. That's so we can  
21 actually construct the foundation for the garage and build it  
22 up outside of the zone. We have also proposed a driveway to  
23 approach the garage from the northwest going to the  
24 southeast. So the garage door will actually be facing the  
house.

And provided a drive area that we feel will



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3 the front setback to that 15.7 feet to allow the accessory  
4 structure to be built on the site. We have provided a letter  
5 of November 12th, with the six different factors that this  
6 Board is responsible for taking a look at and reviewing prior  
7 to making their decision.

8 Rich's Dugway is a relatively narrow street.  
9 Most of the homes on the street are very, very close to the  
10 street. You can see by the aerial photograph some of the  
11 homes to the northwest are almost as close as the existing  
12 structure is itself, so it's in keeping with the  
13 neighborhood. We don't have any other location to put this  
14 garage to the rear of the house outside of the front yard  
15 because of the easement that courses through the site and  
16 some of the grade considerations we have.

17 The applicant contends that this will not be a  
18 detriment to the change in the neighborhood. It is in  
19 keeping with the character and actually the architect of the  
20 structure, albeit not typical of this architectural style is  
21 in keeping with the structure that is being built there  
22 today. If you flip through some of the photographs I believe  
23 on the second page of the photographs, Photo Number 3 shows  
24 what the roof lines are of the home, and kind of the window  
25 placement is such. And the garage has been designed with the

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3 roof line to be in keeping with the rest of the structure on  
4 the site.

5 MS. TOMPKINS WRIGHT: Just real quick, when  
6 you said -- so the setback is fine, it's just the fact that  
7 it's in the front yard?

8 MR. DiSTEFANO: Yes. Because a detached  
9 garage is a minimum setback of five feet from a side or rear  
10 lot line. Because this is in a front yard there's no -- and  
11 say if it was closer than five feet to the front lot line,  
12 would be requesting that variance also. But it's just the  
13 fact that it is in a front yard is the request here.

14 MS. TOMPKINS WRIGHT: What would be the front  
15 yard setback if this were a primary structure?

16 MR. DiSTEFANO: 40 feet.

17 ANDREW SPENCER: The second factor we have to  
18 review is what the difficulty is and why we're asking for  
19 this. I think I just kind of gave you the lay of the land  
20 why we're looking for this variance. And is it substantial?  
21 I guess you could consider this is substantial because no  
22 garage is allowed within the front yard. However, the lot  
23 configuration, the lot determination that it's a corner lot  
24 and the constraints that we have, we can't put a garage in  
25 any other location here within the rear yard or outside of

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3 the front yard.

4 MR. DiSTEFANO: Touch bass base on that a  
5 little bit, Andy. Along the west portion of the property the  
6 west of the house, that is considered from the front of the  
7 house going back towards the steep slope that is considered  
8 to be a side yard? Why that area wouldn't feasibly work for  
9 you.

10 ANDREW SPENCER: It is because the home is  
11 oriented to be east to southeast. The front door is located  
12 right here in the corner to the east. The existing driveway  
13 and circular driveway that they have right now, which is to  
14 be removed is all on the east side of the lot. This is the  
15 useable portion of the lot. Entering into the home there's  
16 three different -- there will be a deck structure that will  
17 be placed against the home. There are a number of sliding  
18 glass doors, the whole intent was to provide security for the  
19 garage, visibility to the garage, and access to the front,  
20 and the front here not on the side.

21 The grade also drops off substantially on the  
22 west side right here. There's got to be at least an eight-  
23 or nine-foot elevation difference. The basement elevation  
24 here to the first floor is roughly nine feet, and we have  
25 that same situation over here. Unfortunately, because of the

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3 slope we would have to do even more filling and retaining  
4 walls and things of that nature to position it in this area.

5 CHAIRPERSON MIETZ: Okay. Are there any other  
6 questions from the Board?

7 MS. TOMPKINS WRIGHT: Any utilities going into  
8 the garage other than electricity?

9 ANDREW SPENCER: Just electricity. I also  
10 just wanted to let the Board know that the series of  
11 photographs I have provided and I have provided a location of  
12 where the photos are being taken. There was a conversation  
13 with Mr. DiStefano about view sheds on Rich's Dugway. I just  
14 want to note, I've taken some photos from vantage points just  
15 west of the home and along Rich's Dugway, the positioning of  
16 that garage we feel will not reduce the visibility around  
17 that corner. Especially as it relates with coming from  
18 Blossom Road to the west and north.

19 The park has shrub, brush, things that  
20 restrict that view, that garage will not even be visible  
21 until you get a little bit closer to the parcel. By that  
22 time you are already around the corner. I just want to make  
23 sure you understand we don't feel this will create a  
24 detriment on Rich's Dugway from a view shed respective.

25 Thank you.

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3 CHAIRPERSON MIETZ: Any other questions?

4 Thank you.

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

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3                   REPORTER CERTIFICATE  
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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 14th day of December, 2019.13                   At Rochester, New York  
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16                     
17                   Rhoda Collins  
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15 ANDREA TOMPKINS WRIGHT  
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17 DAVID DOLLINGER, ESQ.  
18 Town Attorney

19 RICK DiSTEFANO  
20 Secretary

21 NOT PRESENT:  
22 JEANNE DALE

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 12A-01-19

4 12A-01-19 Application of Isaac Jones III,  
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6 Area Variance from Section 203-2.1(B) to allow a detached  
7 garage to be located in a front yard in lieu of a side or  
8 rear yard as required by code. All as described on  
9 application and plans on file.

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

13 **FINDINGS AND FACTS:**

14 1. The variance request is not substantial since the  
15 setbacks on a corner lot are greater than the existing house  
16 which mitigates the view.

17 2. Due to an easement through the property and corner lot  
18 situation no other location which meets the applicant's  
19 requirements could be found to meet the desired result.

20 3. The safety of the neighborhood and the area on Rich's  
21 Dugway will not be decreased by the placement of the garage  
22 as proposed.

23 4. No negative effect on the character of the neighborhood  
24 will result from this approval since similar front yard  
25 encroachments exist in the subject neighborhood.

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3 **CONDITIONS:**

4 1. This application is based on the testimony given and  
5 drawings submitted, specifically as to the location of the  
6 garage on the lot in keeping with the renovated home.  
7 2. All necessary building permits shall be obtained.  
8 3. All necessary environmental protection overlay district  
9 (steep slope) permit shall be obtained.

10 (Second by Ms. Schwartz.)

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

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

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3                   REPORTER CERTIFICATE  
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7 report in stenotype machine shorthand the proceedings held in  
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12                   Dated this 14th day of December, 2019.13                   At Rochester, New York  
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