

B R I G H T O N
Z O N I N G B O A R D
O F
A P P E A L S

FEBRUARY 5th, 2020

at approximately 7:15 p.m.

2300 Elmwood Avenue

Rochester, New York 14618

PRESENT:

DENNIS MIETZ, Chairperson

JEANNE DALE)
DOUGLAS CLAPP)
KATHLEEN SCHMITT) BOARD MEMBERS
JUDY SCHWARTZ)
ANDREA TOMPKINS WRIGHT)

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DISTEFANO
Secretary

NOT PRESENT:

JENNIFER WATSON

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

3 Rainbow. I work for Baldwin Real Estate and we manage the
4 Clover Commons Shopping Center. I appeared before you a
5 month ago seeking a variance on our parking ratio to
6 accommodate a new tenant, Vitalize who we would like to move
7 into the vacant end of the shopping center where the Park
8 Avenue Bike Shop used to be. The space has been vacant a few
9 years now.

One of the requests when the last meeting was
11 tabled, their decision was tabled, was that I submit a
12 drawing or rendering of the space layout which I believe you
13 all have. And just to show that there is a certain amount of
14 space dedicated for personal training, for the fitness,
15 there's a general waiting area, and a lot of the space in the
16 rear of the configuration is dedicated to the employees that
17 work for the facility. So just to put it at ease I know
18 there was a general concern that the population, the number
19 of users and the employees that would occupy the leased space
20 would increase the parking demand within the shopping center.

I also submitted my last appearance an
22 inventory of parking at various times throughout the business
23 day. And I've recalculated, or tabulated a similar set of
24 data for the month of January, and the numbers didn't change
25 anything significantly from December. In fact, we had two

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 more available parking spaces in January than we did during
4 December.

5 So I also have an individual with me tonight
6 from Vitalize, their business manager, Mr. Al Campagna, who
7 can speak to the specifics of operation if need be.

8 MS. SCHWARTZ: I have a concern. I mean,
9 thank you for this layout, the configuration of space. But I
10 have a question, I have kind of counted up how many possible
11 people could be there at one time and I can't remember
12 whether it was with employees or not, but it came up to,
13 like, 22 people? I mean, you have a lot of space here. Are
14 you going to have people in all of these exam rooms and four
15 people need a fusion at the same time and separately waiting
16 and you're going to use up a lot of parking.

17 As I look at this, people will be coming and
18 going, but you could have a lot of people there at one time
19 and I don't know where all this parking is going to be,
20 that's my concern. Or do you plan on having the space out
21 and then growing? My other question is are you located
22 somewhere else now and you're moving because you need more
23 space?

24 ALAN RAINBOW: Well, I am the landlord so
25 probably not the best person to speak to the use. But I can

3 share with you that Al and I had a conversation just prior to
4 the start of tonight's meeting and Vitalize has eight
5 employees but only two of the employees are full-time
6 employees. And also the staff is part timers that work in
7 different shifts, so they are not in the business of -- and
8 maybe Al can speak to that.

9 CHAIRPERSON MIETZ: Can I just make a
10 suggestion? I think you're going to hear a lot of questions
11 that are really relevant as it relates to how this is used.
12 So maybe he could take five minutes and explain it instead of
13 us asking one question and one question and one question. If
14 you don't mind, that would be helpful.

15 ALAN RAINBOW: That would make sense.

16 AL CAMPAGNA: Good evening, my name is Al
17 Campagna, I'm the business manager for Dr. Angel Bowat who is
18 the owner of Vitalize medical.

19 CHAIRPERSON MIETZ: Can you just give us the
20 business address?

21 AL CAMPAGNA: My office is at the Parnall
22 Office Building at Rochester General Hospital. There's
23 currently a facility located at 980 Westfall Road. It's
24 approximately 2,000 to 2,200 in size. This isn't like a
25 physician's office, meaning that it's not like people come in

3 on a regular basis for treatment say of high blood or
4 diabetes and so on. It's what I call a performance and
5 appearance enhancement service. It's a cash service so it's
6 not like people are paying with insurance for it, so it's not
7 like a doctor's office.

8 Right now Dr. Bowa has owned the business for
9 approximately two years and another physician owned it before
10 that, so it's been around for about five or six years. And
11 at any one time, right now currently, we have about 100
12 active patients, 100 active users. They come in there for
13 diet programs, so they might come in once a week. They might
14 come in for hormonal replacement which might be once a month.

15 Dr. Bowa would like to expand it but we are
16 not going to be jumping to 300 or 400 patients, you know,
17 customers in a short period of time. It's probably going to
18 happen over a long period of time. The fitness center is not
19 like a gym, it's not like a YMCA or a Rochester Athletic
20 Club. These would be individuals who essentially pay to have
21 a personal trainer help them with strength and development or
22 cardiac development. So they would be one on one.

23 They might have a couple of other clients who
24 might be in there using equipment, but it isn't like a gym
25 where you buy a membership and come in and work out any time

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 you want. You know, whenever the facility is open. It's
4 pretty limited.

5 All of the patients that are coming there,
6 well, clients really, we don't call them patients. They are
7 clients. They are not coming to us, this is elective, they
8 are not coming to us because they are necessarily ill. It
9 says here retail, Dr. Bowa wanted to have juices and so on
10 available for people who are there. There's an agreement
11 with the landlord that we would not compete with the
12 established businesses there that already have exclusives,
13 like the Starbucks, things of that nature.

14 So it's not like it is a retail where people
15 come in and order a coffee or order a latte or a cappuccino
16 like they would. If they are there they want to get a drink,
17 juice or something, they can get it there at the facility
18 while they are waiting.

19 MS. DALE: Is it by appointment only or is
20 there ever walk-ins?

21 AL CAMPAGNA: It's by appointment. All of the
22 clients, it's not a walk-in facility like an urgent care. We
23 are not doing medical care. This is, you might decide for
24 example to get a Botox injection or you want hormonal
25 therapy, it is by appointment, it is cash and it is

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 expensive. So it's not like --

4 MS. TOMPKINS WRIGHT: The patient load and the
5 employee base, is that used more similar to a waxing or
6 studio or a salon-type use more so than a true medical space?

7 AL CAMPAGNA: Yes. It's not a medical
8 facility, because of the services that are provided like
9 hormonal therapy, we have a physician there part-time, we
10 have a PA who is part-time. It is classified as a medical
11 site, but this is not like going to an internist or a
12 pediatrician or a dermatologist. You might decide that you
13 want to get your wrinkles filled, so you make an appointment,
14 you might come in for three or four injections, might not
15 come back in again for a couple months.

16 MS. TOMPKINS WRIGHT: And the way they get
17 patients in and out is more similar to the salon use?

18 AL CAMPAGNA: Yes, it is advertising. It's
19 not we typically don't get referrals from physicians, it's
20 usually self-referrals by the client, and most of the
21 business comes from radio advertising.

22 CHAIRPERSON MIETZ: So the fitness center,
23 let's focus on that. It's a pretty good size space, I don't
24 know how many pieces of equipment or whatever are there, but
25 someone can't decide today that they just want to, like, I

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 might want to go to the JCC if I was a member. I can't just
4 show up and use the equipment like at the JCC?

5

6 relationship with a fitness trainer, so you would be coming
7 in to see the trainer.

8

MR. DiSTEFANO: And that trainer is on site?

9

AL CAMPAGNA: Yes.

10

11

12 AL CAMPAGNA: Yes, but it all fits together in

12

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1 Brighton Zoning Board of Appeals 02/05/2020
2

3 the nurses?

4 AL CAMPAGNA: And the practice manager, the
5 facility manager.

6 MS. SCHWARTZ: What would the max number of
7 employees be?

8 AL CAMPAGNA: Even if we doubled our load we
9 probably then would go with a full-time model than a
10 part-time model. So it would have to get to be quite a bit
11 bigger before we started having say even eight full-time
12 people.

13 MS. SCHWARTZ: Okay. So taking your business
14 now, your location now, how many patients do you see or
15 clients do you see in a given hour?

16 AL CAMPAGNA: In a given hour there might be
17 three or four, something like that.

18 MS. SCHWARTZ: Then why do you need this much
19 space?

20 AL CAMPAGNA: He wants to grow, he wants to
21 expand, he wants to add certain things. We don't have
22 anything with the retail now, we don't have the fitness for
23 now. And if you saw the facility, the facility right now is
24 pretty cramped at 2,000 square feet. There's a new procedure
25 he has added, again, that hasn't substantially added to the

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 staff. The staff is basically the same people we've had
4 there for two years.

5 MS. DALE: I'm sorry, is this a second
6 location or --

7 AL CAMPAGNA: No. The other location will be
8 closed, this will be the only facility.

9 MS. DALE: Okay.

10 CHAIRPERSON MIETZ: Okay. So as far as, and
11 just for the record because it is kind of broken up for what
12 Alan told us last month, but what are the hours of operation?

13 AL CAMPAGNA: Nine to five, nine to six,
14 Monday through Friday.

15 CHAIRPERSON MIETZ: No weekends?

16 AL CAMPAGNA: Sometimes they will have what
17 they call parties on the weekend and it would be on a
18 Saturday and be called a Botox party. And they would
19 advertise and, you know, might get say 15 or 20 people that
20 might show up for that day, for that afternoon, for those
21 three hours for the Botox party. The idea of course is to
22 sell them the Botox program.

23 CHAIRPERSON MIETZ: So a presentation?

24 AL CAMPAGNA: Yes.

25 CHAIRPERSON MIETZ: Okay.

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 MS. SCHWARTZ: You have outgrown your current
4 space, that's why you need to move?

5 AL CAMPAGNA: I would not say we've outgrown
6 it, part of it is is that he wants to get in a better
7 location. One of the things we found for example, we took a
8 look to see who our patients, who our customers were. What
9 we're looking for is repeat customers.

10 So we get a lot of young people that come in,
11 but when they find out that one course of treatment costs
12 \$300 and it is cash, they come in for one treatment and they
13 don't come back. So the type of client that continues to be
14 repeat clients are typically executives who are about in
15 their fifties to sixties, ladies that are in their fifties to
16 sixties and they tend to live out in Pittsford, Mendon and so
17 on.

18 That's why we wanted to move the location
19 because it's located off the road, you can't see it from the
20 road. And it's not the clientele we discovered, the
21 clientele we want to appeal to are not in that area. And as
22 I said, because it is self-pay and it is not inexpensive, we
23 are trying to target --

24 CHAIRPERSON MIETZ: I understand, you are
25 trying to service your customers.

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 MR. DOLLINGER: What is an infusion? What is
4 that?

5 AL CAMPAGNA: What that is, is the only way I
6 can describe is to, for example, for hydration, basically.

7 MR. DOLLINGER: So if I stayed out late last
8 night?

9 AL CAMPAGNA: Yes.

10 MS. DALE: So like an IV?

11 MR. DOLLINGER: It's a new thing in Florida.

12 CHAIRPERSON MIETZ: Okay. Are there anymore
13 questions from the Board?

14 MS. TOMPKINS WRIGHT: Real quick, last month
15 we had the traffic or parking study and didn't have an idea
16 of how the space was being used. The lowest parking count
17 for available parking was 21. Based on this current use and
18 your layout and the eight employees and your right now four
19 patients per hour, do you anticipate times you're going to
20 need more than 21 parking spaces?

21 AL CAMPAGNA: No, 21 parking spaces if you
22 look at it as an hourly rate or hourly turnover, that would
23 mean we would have to see about 160 patients a day. A
24 typical physician's office doesn't see that many visits in a
25 day. A single doctor, you know, doing pediatrics wouldn't

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 see that many patients in a day, so I don't think we even
4 have that kind of capacity.

5 MS. SCHWARTZ: Do you have people who are
6 waiting in the waiting room?

7 AL CAMPAGNA: Usually currently we typically
8 don't have more than one or two people who are waiting. A
9 lot of people, a lot of clients, once they get their program
10 started then essentially it's maintenance. They come in,
11 they pick up their medication or whatever, they pick up their
12 hormones and they leave.

13 CHAIRPERSON MIETZ: And it's scheduled?

14 AL CAMPAGNA: Yes. Well, the initial
15 treatment is scheduled, but once they're put on a program
16 once a month they drop in and pick up their -- it's like
17 going to the pharmacy.

18 CHAIRPERSON MIETZ: All right. So is there
19 any other questions? And we can have Alan come back up.
20 Thank you, sir.

21 AL CAMPAGNA: Thank you.

22 CHAIRPERSON MIETZ: Okay. So we discussed the
23 parking field the last time a little bit I think we are all
24 aware of the plaza and how the parking is and where it's
25 located. Does Baldwin have any plans about the employees for

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 this location? For example, where they would park or
4 indicating they should park in a particular place?

5 ALAN RAINBOW: We will encourage any employee
6 of any of the stores and shops there to park in the rear of
7 the shopping center, in the back parking field, as we
8 discussed previously. And we are challenged a little bit
9 because of the green space versus the asphalt that we have,
10 there's really nothing that we can do with configuration to
11 modify. It's kind of what we have right now is, you know,
12 what we think we are going to have in the future without any
13 major changes. And we might be able to do things with
14 configuration of the Dumpster enclosure and tightening that
15 up and opening up a couple more parking spaces, but that's
16 about the maximum we could do.

17 CHAIRPERSON MIETZ: I guess more of what I was
18 driving at measures the control where the parking is.
19 Because as you know, obviously you know, Park Avenue left
20 quite a while ago. You told us the number of years and so
21 people have now gotten used to parking in the vast expanse of
22 that. So, you know, they need to be retrained in some sense
23 so you would be making attempts to suggest that your clients,
24 your tenants?

25 ALAN RAINBOW: Yes. And that ultimately falls

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 on the management company to reeducate and steer the people
4 in the right location. So, you know, we are fairly confident
5 because of the parking surveys that I have been taking over
6 the last couple of months and that this space is the only
7 vacant space that we have in the combination of the two
8 shopping centers side by side. So I wouldn't anticipate a
9 huge spike.

10 CHAIRPERSON MIETZ: Understood. Is there any
11 other questions for Mr. Rainbow? Thank you very much.

12 Is there anyone in the audience that would
13 like to speak regarding this application?

14 DANNY DANIELE: Good evening, my name is Danny
15 Daniele, we own property on Monroe Avenue, put us down for
16 2851 Monroe Avenue, caddy corner to the property. Thank you
17 for letting us speak tonight, appreciate all of the
18 information they shared. I think it's a great property and a
19 great use.

20 Obviously we have a few concerns. The
21 Vitalize group, I think runs a great operation as witnessed
22 by their growth, we are all for local business and local
23 growth. It's great to see they are outgrowing their current
24 facility and they need to find a better facility. I would
25 only imagine in a location like that they will continue to

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 grow. Our concern is kind of three fold, I'm also slightly,
4 I guess, I don't know if I'm learning new information
5 tonight. Mr. Baldwin said it was the landlord, I thought --

6 CHAIRPERSON MIETZ: Mr. Rainbow is with
7 Baldwin Real Estate.

8 DANNY DANIELE: It was at 2900 Monroe Avenue
9 LLC, which is the landlord?

10 MR. DiSTEFANO: They are the owner.

11 CHAIRPERSON MIETZ: There's an owner and a
12 management company, Baldwin is the management company
13 that's --

14 DANNY DANIELE: Oh, so Baldwin is the
15 management company --

16 CHAIRPERSON MIETZ: Correct.

17 DANNY DANIELE: -- 2900 LLC is the landlord.

18 CHAIRPERSON MIETZ: The owner.

19 DANNY DANIELE: I didn't know if they had sold
20 it to Baldwin, so no sale. I guess the irony is that I don't
21 know who is aware, you might not be aware, the 2900 Monroe
22 Avenue LLC, the owner of this property, the landlord of this
23 property is currently suing the Town of Brighton in
24 litigation regarding traffic and safety, parking issues with
25 other projects down the road. And, you know, our concern is

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 the zoning is put in place and I'm the first one to say
4 sometimes the zoning is a little too tight in Brighton we are
5 always asking for leniency here and there, as you know.

6 And we have had to make changes to properties
7 in the past, in different properties we have had. And
8 currently with this type of use they're asking for parking
9 variance of over ten percent which is significant. And our
10 concern is the traffic on Monroe Avenue, we have had to spend
11 a tremendous amount of assets, time, and money to improve
12 Monroe Avenue in the future following some of the Town's
13 master plans. And that's come at a tremendous expense and we
14 continue to do that.

15 One of the concerns with the traffic is the
16 left turn into this property has always been a disaster,
17 frankly. Someone tries to make a left-hand turn on Monroe
18 Avenue into the property, a lot of times they don't go into
19 the turning lane because the turning lane, the suicide lane,
20 whatever you want to call it, it's a left-hand turn only for
21 people to get at the traffic signal so they can make a left
22 onto Clover Street.

23 Many people as they are on the second lane
24 going forward they put their left turn signal in and they
25 stop and they stop traffic behind them while the light is

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 green. It adds to the congestion on Monroe Avenue all the
4 way down to 590. It's all too many times someone trying to
5 turn into whether it's Starbucks or whoever is in there, they
6 mentioned the facility is full right now. This is the only
7 vacancy.

8 I've actually printed out, some of you know we
9 have done a lot of drone videos over the years. This is a --
10 I can pass these out -- so this picture, for those who can't
11 see it, shows there is a car, a white car, making a left-hand
12 turn into the property and you can see it's waiting to make a
13 turn, it's kind of in a traffic gridlock situation. Just the
14 way, it's not meant to work that way. You have cars backed
15 up on Monroe Avenue waiting for that one individual to make
16 that turn into it.

17 And everyone says Monroe Avenue is backed up
18 and a lot of times it has to do with a silly situation like
19 this that is causing that traffic backup. And the traffic
20 counts on Monroe Avenue don't jump up but it often seems like
21 it. If you are at the back of the line you're wondering why
22 it's not moving, well it's not moving because of traffic,
23 it's not moving because someone was trying to make a
24 left-hand turn in straight lane and caused a backup.

25 Again, I think there's a solution to that and

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 I don't know how much power this Board has to whether it has
4 to go to the Planning Board or the Zoning Board can do it.
5 There are three means of egress into the property I don't see
6 why perhaps closing off that curb cut would be that
7 difficult. It would probably be a safety enhancement. That
8 curb cut is an old curb cut from years ago. It's probably 50
9 or 60 feet away from the traffic signal and it causes that
10 gridlock situation very often.

11

12 Our properties are like caddy corner all the
13 way down the street. I can't tell you how many times I see
14 that. Feel free to go online and look at the drone videos
15 you'd see it happening often. So that's probably the biggest
concern we have.

16

17 The second is if you turn the page, again,
18 under the, I don't want you to have to read all the
19 litigation there's thousands of papers that 2900 Monroe
20 Avenue LLC has added to the submissions of the litigations
21 towards the Town of Brighton. On the second page you'll see
22 the trail behind the plaza, and then I think it was, again,
23 it wasn't by default of Baldwin or the tenant here but the
24 landlords are suing the town, they plowed over that trail
back there. They tore down all of the trees and added all
25 that stone. I think their intent was to pave it and to add

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 more parking back there illegally and at some point the Town
4 saw that and gave them some town, whatever, ordinances. I'm
5 not quite sure where that stands, where they got that
6 information but I know they had to bring it back to the way
7 it was.

8 Again, the irony is that the landlord who is
9 suing the Town for allowing other properties to possibly do
10 this when they haven't, is doing the very thing they think
11 shouldn't be done. The variance is over ten percent for the
12 parking seems a bit more than necessary especially given the
13 fact that it's a dangerous intersection to get into.

14 Again, I'm not against the zoning variances
15 but I would say has the Town looked at the possibility of
16 eliminating that curb cut, that unnecessary curb cut, to
17 eliminate those left-hand turns into the property. I was
18 curious what the traffic counts and the parking, I know we've
19 had to do a lot of independent studies to find out what is
20 the parking, what is the traffic.

21 I don't know if the Board has asked for any
22 kind of independent information. We have used SRF
23 individual, they have people out there, independent
24 individuals counting cars to make sure everything is okay, to
25 make sure that the numbers are in line. And Ms. Judy

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 Schwartz just mentioned that they're going to use I think
4 it's a 22 parking spaces or whatever it might be. Will that
5 fluctuate? Who knows, and maybe it would and maybe it
6 wouldn't. I just want to make sure the left-hand turns
7 inside are going to be safe and the zoning laws you all have
8 put in place are for that very reason.

9 You know, the Park Ave Bike Shop, when they
10 were thinking of leaving they actually contacted us to see if
11 we had any space available. We learned a lot about the
12 reasons why they were leaving, because they didn't want to
13 leave over there but I believe that from my information from
14 Park Ave Bike was that the rent was going up and it was a lot
15 higher than they expected. And they didn't think it was
16 fair, they ended up moving.

17 I don't want the greed of the landlord who is
18 not here tonight to make us all suffer with the traffic
19 congestions, the issues of the trail behind it, and parking
20 aspects, just so he can profit more at everyone else's
21 expense.

22 So those are the majority of my comments. Al,
23 you run a fantastic business, I wish you nothing but the
24 best. I'm sure I will need Botox soon.

25 CHAIRPERSON MIETZ: One question for you. You

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 guys obviously have the office building across there, the
4 principal office. So were you there when Park Avenue bike
5 was actually operating on this?

6

DANNY DANIELE. Yes.

7

8 CHAIRPERSON MIETZ: So what was your
experience then and is your concern based on the use?
9 Because obviously this has been vacant a lot of years, but if
10 you had some experience when it was there and the parking
11 field was being used is your sense that this is worse?

12

13 DANNY DANIELE: The honest answer is it hasn't
14 changed much because the majority of their traffic comes from
15 Starbucks. The Starbucks possibly moving down the street to
16 a traffic signal controlled access and that's what we're
17 talking about adding safety to that corridor. That's
18 probably one of the largest generators and by moving that out
19 of that corner is probably the best thing that could happen
20 for that corner, because that's the largest traffic
generator.

21

22 So the answer to your question, have I seen a
23 change in it? Not much. There's still a lot of people that
24 make the left-hand turn because Starbucks is still a main
generator.

25

CHAIRPERSON MIETZ: So in your mind then it

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 doesn't matter whether it was Park Avenue bike or these
4 folks. The problem remains in your mind the same.

5 DANNY DANIELE: Right. I think it's the
6 landlord that's not willing to put a dollar into it to
7 enhance the safety like others have. So it's almost like,
8 you follow the rules, the Board is going to give a zoning
9 various. It should be for a, what's the word, a nonowner
10 created verbiage, I guess . . .

11 CHAIRPERSON MIETZ: I think we understand.

12 DANNY DANIELE: I think they created that
13 burden by kicking Park Avenue bikes out. They wanted more
14 money and now they've been vacant and now they're trying to
15 circumvent the rules to do that. So my beef, frankly, is
16 with the landlord more than anything else. Here we are
17 trying to put the money into the corridor to enhance it, I
18 would hate to see it go backwards.

19 CHAIRPERSON MIETZ: Okay, thank you.

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

23 APPLICATION 2A-01-20

24 2A-01-20 Application of Reid Richards / Five
25 Guys Restaurant, lessee, and Twelve Corners Associates LLC,

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 owner of property located at 1881 Monroe Avenue, for
4 modification of an approved sign variance (5A-10-16, Part I)
5 to allow for a change of business name and sign location.
6 All as described on application and plans on file.

7 STEVE COSTANZA: Good evening, my name is
8 Steve Costanza, I'm the district manager of the Five Guys
9 Restaurant. My address is 171 Oakridge Way, Greece, New
10 York, 14612. I apologize for my attire I came straight from
11 the grill. I working on the grill.

12 So when we took over the space, obviously
13 QDOBA was there before and they had a sign on, I believe it's
14 Elmwood side, facing the fire department. We currently have
15 one building sign, we want to add an additional one on that
16 side. We are also going to shorten the two awnings that are
17 on those two windows and I believe there was a picture, I
18 don't know if you have the picture. And then the sign will
19 go above the larger awning window.

20 The sign is roughly 12 foot by 2 foot and just
21 says Five Guys on it. So that's really it. Just trying to
22 assist in the visibility of business and also that side
23 entrance where eventually we will have a couple patio tables
24 once we get this work done.

25 MS. DALE: So when I was reading the

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 application it said you were looking to replace the existing
4 sign on the side of the building, but I believe that it's one
5 sign today that's above the main entrance and faces Winton
6 Road?

7

STEVE COSTANZA: Yes.

8

9 MS. DALE: So you are asking for a second sign
on the side of the fire house?

10

11 STEVE COSTANZA: Yes. I believe the landlord
removed the existing sign that was there.

12

13 MR. DOLLINGER: So you are saying there was a
sign facing that way.

14

15 MR. DiSTEFANO: Yes. The original variance
16 allowed for that sign for QDOBA to be on the Elmwood Avenue
side.

17

18 MS. TOMPKINS WRIGHT: Maybe Rick, you can tell
19 how these sizes compare to the size of the sign approved for
QDOBA? Are these smaller, same size?

20

21 MR. DiSTEFANO: They are definitely different
shaped QDOBA was more of a rectangular going down and
22 obviously Five Guys is rectangular going across. Square
23 footage, I don't know but I would say they were fairly close.
24 I think the Five Guys is probably a little bigger than QDOBA.

25

CHAIRPERSON MIETZ: I think the letter size is

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 bigger.

4

5 MR. DiSTEFANO: Yes, and I think the overall
sign size is larger.

6

7 MS. DALE: And for QDOBA are we counting they
have that the mask of the --

8

9 MR. DiSTEFANO: Well, the mask is a different
variance on the Monroe Avenue side.

10

11 MS. DALE: But it's still an additional

12 identifier?

13

14 MR. DiSTEFANO: It was an additional
15 identifier, yes.

16

17 MR. DOLLINGER: But you don't think that was
on the Elmwood Avenue?

18

19 CHAIRPERSON MIETZ: No, it was definitely not
on the Elmwood Avenue.

20

21 MR. DiSTEFANO: It was on the Monroe Avenue
side.

22

23 MS. DALE: No, I was just saying more
accommodating because QDOBA had an additional title.

24

25 CHAIRPERSON MIETZ: What about with our -- we
can talk about the analysis of square footage later.

26

27 Does everyone understand where these signs
are, and what they're proposing? And just for the record you

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 have two listed here, the 21 by 135 and the 23 by 138. Are
4 you clear as to one which one is which? Which one is on the
5 front of the building, is it the one on the top or the one --

6

7 STEVE COSTANZA: The one on the top is the one
that's there now.

8

9 CHAIRPERSON MIETZ: The 21 high by 135 wide is
10 the one on the front over the door? And the proposed one is
the 23 by 138.

11

STEVE COSTANZA: Correct.

12

13 MS. DALE: And for the record, the reason you
are asking for the second sign is --

14

15 STEVE COSTANZA: Just overall visibility and
then that side entrance we're currently seeing not a lot of
16 people use it. There's a ton of parking spaces over there.
17 So I think that would enhance also. A, you can come in this
18 entrance as well.

19

20 CHAIRPERSON MIETZ: So what is your experience
21 with the traffic patterns been so far? You've been open
about how long, about a month or so?

22

23 STEVE COSTANZA: Yes. Roughly six weeks and
we haven't seen any issues. Definitely a lot of plenty of
24 parking space, the only issues sometimes is workers in the
25 plaza, not just our restaurant but the others. So we ensure

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 that everybody parks closer to the road and away from all the
4 entranceways to kind of open them up for customers.

5 CHAIRPERSON MIETZ: Okay, very good. Any
6 other questions of this gentleman? Okay, thank you.

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

10 APPLICATION 2A-02-20

11 2A-02-20 Application of Shailesh Patel, owner
12 of property located at 2323 Monroe Avenue, for an Area
13 Variance from Section 205-7 to allow a roof overhang to
14 extend 10 inches into the existing 6 ft. rear setback where a
15 50 ft. rear setback is required by code. All as described on
16 application and plans on file.

17 SHAILESH PATEL: Good evening, my name is
18 Shailesh Patel you can put me down for 2323 Monroe Avenue.
19 We built a connected shed roof that would allow our guests to
20 have sort of covered access from the two stairwells. In the
21 history of the hotel, 57 years and they were never covered.
22 And it just ended up being a snow shovel project every year.

23 So in our transformation of the Towpath into
24 the Hotel on Monroe we thought we would cover it and make it
25 a proper sort of walkway that is accessible all the way

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 around the hotel. In building that shed roof we extended
4 beyond the variance that was allowed where we had an existing
5 staircase and we extended it by about ten inches. The
6 extension was done primarily for drainage of the snow that
7 would build on the shed. And since we added new 6-inch
8 gutters to properly maintain and transfer put that water to
9 the right side I need it to come out a little bit more.
10 Hence, that's why we went beyond the existing line. We
11 probably should have come and asked before and apologized to
12 Ramsey.

13 We're looking to kind of get the variance so
14 we can continue on and finish the rest of the project. As
15 you would have seen it's not complete yet. We hope to
16 complete it once we have our variance and permits from the
17 Town. That's kind of it.

18 CHAIRPERSON MIETZ: Okay. So how is it
19 actually working, since it's obviously there?

20 SHAILESH PATEL: We've had three snowfalls,
21 I've had to move it very minimal, just on the outside where
22 we didn't cover it so kind of just push it and they're done.
23 I'm not breaking my back anymore. I would say as the sole
24 sort of benefactor, it works, yes.

25 CHAIRPERSON MIETZ: What about as far as what

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 goes on with the drainage that's coming off that upper area,
4 how's that working?

5 SHAILESH PATEL: Also working. Because at the
6 same time our neighbor is actually reconfiguring his fencing
7 as well. So we've actually together sort of spent some money
8 together to properly line the bed with drainage rocks and
9 pipe that basically takes the water that goes and it takes it
10 to the proper drain. So it's working quite well, actually.

11 CHAIRPERSON MIETZ: How would you characterize
12 your conversations with your neighbor to the south?

13 SHAILESH PATEL: Very good. I think he sent
14 an e-mail to Rick. We have been supportive. The history of
15 the hotel has been a tough one, so us transforming it and
16 making it into a nice luxury hotel has changed the clientele.
17 I sure he's appreciated that over the last 90 days where
18 we've kind of been starting up again. I think they really
19 have sort of liked the fact that what we've done was updated
20 it and cleaned it up quite a bit.

21 That back area once it's completed will have
22 two types of fence. The fence that he's built, the
23 fabricated fence, and then it will have a natural fence that
24 we're going to put up with a trellis with using the existing
25 railings that we had. We're going to be stacking them and

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 having the trellis around them. So it will be a natural
4 fence on our side, a trellis, and on his side he'll have his
5 fence.

6 So we think the finished product will create a
7 nice environment there in the back. It's also lit now, which
8 it was never lit in the back. It's lit up now. We've also
9 put our, we took it off temporarily, but we have the logo on
10 the back as the renderings we had shown. You might have seen
11 the renderings by now if you have not.

12 CHAIRPERSON MIETZ: Okay, questions? I think
13 we have it, thank you.

14 Would anyone in the audience like to speak
15 regarding this application?

16 DANNY DANIELE: Real quick, for Silas over
17 here. We purchased the hotel on Monroe Avenue near offices,
18 spent some time and money to upgrade those. Silas has spent
19 a tremendous amount of time and money on two hotels on Monroe
20 Avenue which have been in disrepair. He represents a
21 landlord who may have screwed up a little on the color palette
22 on one of the units, but he's working through that, and he
23 realizes that. But he's the type of landlord that is willing
24 to put the time, the effort, the money to make the property
25 better that enhances the community. I love to see that type

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 of landlord even make a deal with the Department of
4 Transportation by one his properties so he has enough parking
5 and he can work that out. There's other landlords like the
6 2900 Monroe Avenue where frankly half their property is still
7 owned by the DOT. I don't even know how you guys frankly can
8 include those in the parking, but I am sure your diligent
9 staff has already taken that into consideration.

10 My point is for Mr. Silas, he's an exemplary
11 example of commitment to properties in the Town of Brighton.
12 I believe you should let him continue his efforts to improve
13 these properties, it's not an easy task.

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

18 APPLICATION 2A-03-20

19 2A-03-20 Application of Jennifer Weaver,
20 agent, and David Kuder, owner of property located at 16
21 Southern Parkway, for an Area Variance from Section 207-2A to
22 allow a front yard fence to be 4 ft. in height in lieu of the
23 maximum 3.5 ft. allowed by code. All as described on
24 application and plans on file.

25 JENNIFER WEAVER: Good evening, my name is

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 Jennifer Weaver and I live at 16 Southern Parkway and we are
4 here to ask for a variance for a fence that we have existing
5 around our property. This summer we are having an in-ground
6 pool installed and the fence right now is a three-foot fence
7 and pool code is a four-foot fence and I think the rule is
8 3'6." And we would like to have this variance to allow us to
9 put the four-foot fence around the entire backyard.

10 We are on a corner lot between Southern
11 Parkway and Eastland Avenue and because it's a corner lot our
12 backyard is, I guess, officially our front yard or part of a
13 front yard. And if we followed the rule to put the four-foot
14 fence in our backyard it actually cuts our entire backyard in
15 half. So I tried to draw that on that picture right there to
16 show where we're looking for the variance in that yellow
17 area.

18 MS. TOMPKINS WRIGHT: Rick, just to confirm if
19 they were to comply with code that fence would basically go
20 straight back from the corner of the building back towards
21 the --

22 MR. DISTEFANO: Basically where that first
23 arrow from Southern Parkway where the yellow turns into red
24 basically, that, from that front corner of the house over to
25 there would be where the fence would meet code and straight

1 Brighton Zoning Board of Appeals 02/05/2020

3 across on that line.

4 JENNIFER WEAVER: I tried to include
5 photographs. The entire area along Southern Parkway is a
6 double line of arborvitae trees that are green throughout the
7 winter and are at least 12 to 15 feet high right now. We are
8 planning on extended that fence back about ten feet and there
9 is no tree coverage on that last ten feet area. But we're
10 having landscaping done because we do want it covered so the
11 existing fence right now is not seen from the road and a
12 four-foot fence would also not be seen from the road minus
13 that little area in the back which will eventually also have
14 arborvitae trees planted in front of it roadside.

15 CHAIRPERSON MIETZ: What type of fence will
16 you be using?

17 JENNIFER WEAVER: A chain link fence.

18 CHAIRPERSON MIETZ: Do you know what color?

19 JENNIFER WEAVER: We were arguing over dark
20 green or black.

21 CHAIRPERSON MIETZ: So it will be dark, it
22 won't be stainless?

23 JENNIFER WEAVER: No. We want it to blend in.
24 We don't want to notice the fence from our home and we
25 certainly you don't want it noticed roadside.

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 MR. CLAPP: Will the gate portion also be
4 chain link style?

5 JENNIFER WEAVER: No. There's a photograph of
6 the gate style. We would have to have one raised but the
7 piece that is the gate we wanted to look very pretty. So I'm
8 sure that 20-foot piece right there of the gate will end up
9 being similar to what's on that. You wouldn't see chain link
10 there. We will not put chain link there.

11 CHAIRPERSON MIETZ: Okay.

12 MS. TOMPKINS WRIGHT: You included in your
13 packet a photo of 25 Eastland Avenue, this is another over
14 four-foot fence in the neighborhood?

15 JENNIFER WEAVER: On a corner lot, yeah, they
16 are in the same situation as we are.

17 CHAIRPERSON MIETZ: Any other questions for
18 Ms. Weaver?

19 MR. DiSTEFANO: Just to be clear, your
20 existing fence is on the north side of the existing
21 arborvitae which line the road and the new fence basically
22 going to be on that same side, behind the arborvitae that
23 line the road?

24 JENNIFER WEAVER: Exact same footprint of
25 fence minus moving it back 10 feet to the back part of our

1 Brighton Zoning Board of Appeals 02/05/2020

4 CHAIRPERSON MIETZ: Any other questions?

5 | Okay, thank you.

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

9 MR. DiSTEFANO: Application 2A-04-20, no one
10 is here right now.

11 APPLICATION 2A-05-20

12 2A-05-20 Application of Dr. Brian Mattiacio,
13 DDS, lessee, and Brighton Commons Partnership, owner of
14 property located at 1835 / 1855 Monroe Avenue, for an Area
15 Variance from Section 205-12 to allow for 139 on-site parking
16 spaces (existing) in lieu of the minimum 170 spaces required
17 by code when allowing for the establishment of a 3,650 +/- sf
18 dental (orthodontics) practice on said property. All as
19 described on application and plans on file.

20 MS. BRUGG: Good evening, my name is Betsy
21 Brugg of Woods, Oviatt, Gilman representing this application
22 with Dr. Mattiacio and the whole team is here of folks
23 associated with his practice to answer questions.

24 So the application before you is for a parking
25 variance we have put up the Brighton commons kind of area, I

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 think the visual is helpful here. We're here for a parking
4 variance to allow the orthodontics office to locate in the
5 vacant space in I believe the southwest area of the plaza
6 right over here.

7 So as you know, this plaza this is the heart
8 of Brighton there are a number of vacancies including this
9 space. The majority of uses in the plaza many of them have
10 been there quite a while. They are no high volume traffic
11 generators in the plaza. We have a bridal boutique, I am a
12 regular in the plaza so I can say I have been in there and
13 spent an hour talking to the owner and not seen another
14 person come in. I think the uses there are successful but
15 they are kind of low traffic type of uses. The tailor shop
16 is not a big traffic generator, Soba's is very popular, they
17 do a lot of take-out business, I have lunch there often. I
18 have never been there when it's been crowded with people
19 other than on the occasional Jewish holiday when they may
20 have an event going on.

21 So it's a plaza that has a lot of local
22 businesses that serve our local community, but they are not
23 large parking consumers. This is a great use to add to the
24 plaza because they have very different peak hours then the
25 other uses in the plaza. Probably the busiest business there

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 is CoreLife which opened in what used to be the Bagel Bin
4 formerly the post office space in the back. Obviously people
5 like to park close to the door so most people going to
6 CoreLife try to park in the area closest to CoreLife. Their
7 peak times, you have a traffic study which I'm hoping you had
8 a chance to look at there's a lot of photos. Costich
9 Engineering sat and counted cars throughout the day. The
10 peak times at CoreLife are lunchtime 12 to 1:30. The
11 orthodontist practice has very different peak times, their
12 busiest is 8:00 to 10:00 in the morning or 3:00 to 5:00 in
13 the afternoon.

14 The nature of the practice is to -- they do
15 braces and probably 85 percent of their business is school
16 age kids. So the attractiveness of this location is in part
17 that we are walking distance to school. As parent who has had
18 braces on my child and had to leave work to take my child for
19 a 15-minute appointment, this is a great location for
20 orthodontics use. It is great for the community, great for
21 the practice, kids can walk over there, kids don't drive a
22 car, this is a walking community. So it really is a nice
23 addition, service to our local community.

24 The hours of the operation that we've provided
25 in the application, we've given it to you at 7:00 or 8:00

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 a.m. to 5:00 or 6:00 p.m., Monday through Friday. He does
4 not open on the weekends, there are no weekend hours. There
5 could be an occasional emergency, but all of the business
6 hours are weekday. The reason we have put 7:00 or 8:00 to
7 5:00 or 6:00 is because he would split time between his
8 Farmington office and Brighton and there's certain days he's
9 trying to have morning hours to accommodate families where
10 parents have to go to work or need to come in early. And
11 there's always a day of the week when people need to come in
12 a little later. So it's trying to accommodate schedules.

13 When the patients are seen in the Farmington
14 office, the Brighton office will take calls but will not see
15 patients. So even though we are looking at a use that is
16 operating everyday during weekdays, there's not always
17 patients being seen. So two days a week he's in Farmington
18 on those two days there might be someone taking calls in
19 Brighton, but there will not be patients seen those days.

20 So I think it's a great complementary use for
21 the plaza and I think that you will see from the data that
22 from a parking standpoint it's a good complementary use to
23 share parking. Now, as the Board knows this is the nature of
24 multi-tenant uses. Tenants come in, tenants go. I think it
25 fits well with the mix of tenants there and it will also be a

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 nice kind of fit for virtually any kind of tenant that can
4 come in and out of there over time. Because of the different
5 hours and just the nature of how an orthodontist office
6 works.

7 So the variance that's requested, just to give
8 you a little history here, which I believe you know this but
9 I will just kind of summarize it. The Bagel Bin, when they
10 came in they needed a use variance, I believe. There was a
11 use variance granted for the Bagel Bin. There was also a
12 variance for the parking. Code required a total of 157
13 spaces at that time and a variance was granted to allow 17
14 spaces less than what code required based on the parking
15 available.

16 So there are 133 spaces actually on the, I
17 should say actually 140 spaces, because what we had was 133.
18 I think what we did, Rick helped me find these I'd lost the
19 seven spaces. But there were seven spaces here so that gave
20 us 140 parking spaces. And thus there was a variance for 140
21 where 157 was required. That variance, required a visit to
22 the Board and reapproval from the Board when Bagel Bin was
23 replaced by what was essentially a food court type of use. I
24 believe there's a limit, restrictions on the number of seats
25 they may have. And then when CoreLife came in I don't

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 believe any further approvals were required for them to
4 occupy that space. So the existing variance is for 140,
5 where 157 spaces is required. We are not building a new
6 plaza, we don't have the option to add spaces or build new
7 spaces so we're working with what is existing.

8 The Number of spaces attributed to the space
9 to be occupied by the orthodontist office has been treated as
10 retail space with a retail parking ratio of one space for
11 every 300 square feet. This falls within the medical use
12 category and thereof it has a higher parking requirement of
13 one space per 150 square feet. And as a result we need a
14 variance for 12 less parking spaces than are provided.

15 Again, we are not making any physical
16 alterations to the parking lot, no physical alterations to
17 the property, but the variance to allow less parking spaces
18 for the mixed uses on site is required, and therefore we are
19 requesting the variance that is before you today. I think we
20 said we need 170 per code, we're proposing to maintain the
21 same, I would say 140 except to be totally honest, I counted
22 spaces and I saw that one of the spaces became a handicap
23 space. So somewhere over the years one space was lost so
24 there's actually 139 spaces currently on the property.

25 So we've addressed the variance criteria in

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 the application and I think I'm going to kind of go through
4 them briefly. I do think this is a benefit not only to the
5 property owner, he's been looking for a location for his
6 practice in the Town of Brighton. I think you may know that,
7 I think he's been before this Board for other locations.

8 He's been looking for a number of years and this is really an
9 ideal spot for what he's proposing.

10 So obviously it's very beneficial to him and
11 at the same time I think this is also a great use. As the
12 Board knows it is problematic getting appropriate,
13 neighborhood friendly, retail and small business uses in the
14 shopping center. The economy we live in, the changes in the
15 retail world, with everybody shopping online, it's very hard
16 for small businesses to survive. This type of use is very
17 complimentary, it serves families and kids from our
18 community. Kids who are walking over from school, it's
19 really a nice complementary use. It serves the neighborhood,
20 and it really will not interfere with the activities or
21 business of anybody else in the plaza, again, because of the
22 different peak times.

23 As far as the criteria for the granting of the
24 variance, this will not produce any undesirable change in the
25 character of the neighborhood nor will it be a detriment to

1 Brighton Zoning Board of Appeals 02/05/2020
2

3 nearby properties. Again, the use is permitted, it's
4 entirely enclosed use, no noise, no smells, there's nothing
5 that would impact any of the nearby residential neighbors.
6 It's complimentary in terms of the other business neighbors,
7 so we don't see any detriment there.

8 It's consistent with the character of the
9 neighborhood. And I think that having a viable, good
10 commercial use in a shopping center that really is the heart
11 of the town is good for the plaza. What's good for the plaza
12 I think is also good for the community. I think it's not
13 good to have large vacancies right in the center of town.

14 So I think this is kind of a really good fit
15 for this particular use. Whether the benefits can be sought
16 by any other method, unfortunately not. This is an existing
17 shopping center. There's not another parking space to be
18 squeezed out of anywhere. He certainly has looked at other
19 locations, so we do not have any other options. This is
20 really the only option.

21 Where the variance is substantial, and I would
22 say the variance is not substantial, we are looking at a
23 shopping center. The town code does not have a parking
24 ration requirement specific to shopping centers --

25 MR. DiSTEFANO: This size.

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 MS. BRUGG: Of this size, right. So I think
4 everybody understands in a shopping center, you do not want
5 to build more parking than you need. One of the beautiful
6 things about a good shopping center is that you will have
7 uses that are busier. Certain uses are busier at lunchtime,
8 other uses are busier in the evening, that's what makes for a
9 kind of vibrant community, and not too much pavement.

10

11 because of the, I think the parking study supports that there
12 is sufficient parking there for the businesses. I spoke with
13 the property owner, there has never been a problem with
14 parking in the plaza, there's never been a shortage of
15 parking. I don't think we have any concerns with that. And
16 we look at substantiality, I don't think the nature of this
17 variance is substantial given specific facts of this plaza,
18 this particular application, the nature of the use that's
19 being proposed.

20

21 the patients are youth that will walk over and they may come
22 before school, may come after school, a parent might come and
23 pick them up after an appointment. There's certainly will be
24 parents that do drive here and there will be a small amount,
25 a small percentage of the practice is adults. But for the

1 Brighton Zoning Board of Appeals 02/05/2020

most part it is not a large parking user.

14 And whether the alleged difficulty was
15 self-created, the self-creation would preclude the granting
16 of the variance, but I don't think this was self-created.
17 We're dealing with an existing plaza we're not changing
18 anything, we're just simply putting in a good use that
19 happens to need a variance based on mixed uses that are in
20 the plaza.

21 So I think we meet the requirements. I would
22 be happy to answer any questions. I could tell you a little
23 bit more about the practice. You have quite a bit of
24 information included in the application. So, with that.

25 MS. TOMPKINS WRIGHT: Well, I had a question

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 about the parking study. It felt like the parking study that
4 was done at the Farmington office was pretty comprehensive,
5 15 days at various times. The parking study that was done at
6 that plaza was only done on one day. Is there a reason you
7 didn't take a survey multiple days to make sure that that was
8 an average parking load?

9 MS. BRUGG: I'm not sure why there was such a
10 comprehensive study done for the Farmington office. It is a
11 independent freestanding development that was looked at
12 independently. This is more of a tenant going into an
13 existing shopping center that has existing conditions. I can
14 tell you the Farmington office happens to be larger. All of
15 the administrative offices and billing functions will remain
16 at the Farmington office. But in terms of why the study was
17 more comprehensive, I'm going to guess is because it was a
18 separate freestanding development.

19 MS. TOMPKINS WRIGHT: The other part of the
20 question was did you guys consider doing more than one day --
21 three days or four days -- to make sure we were getting an
22 accurate picture of how many parking spaces and where those
23 parking spaces openings were located at various times?

24 MS. BRUGG: So I'm not sure. I can tell you
25 I'm a regular in that shopping center. So I'm actually

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 surprised. I looked at it, it looked pretty typical just
4 from my personal experience. I think probably everybody here
5 has also probably been in there.

6

CHAIRPERSON MIETZ: I would say.

7

8 MS. BRUGG: I think probably everybody here
has equal expertise on the parking there.

9

10 MS. TOMPKINS WRIGHT: Do you anticipate
11 Abbotts is closed during this time period, do you anticipate
12 Abbotts use putting any extra strain on the parking during
the summer months?

13

14 MS. BRUGG: Abbotts, I don't think is a huge
15 consumer of parking there since so many walk there. Although
16 they do use parking spaces. The parking requirement for the
17 plaza and the variance is based on, I think that we've
18 applied the general retail to all of the spaces in the plaza.
19 The parking study was done while the jewelry store was still
open, that has since closed, but they were still operating.
20 This was done I think in October.

21

MS. TOMPKINS WRIGHT: October or December?

22

23 MS. BRUGG: Sorry, December, but they were
24 still open. I understand they closed about three weeks ago,
time flies.

25

CHAIRPERSON MIETZ: Okay. A couple things,

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 could maybe the doctor or you, whomever, we have a little
4 history going back to some of the discussions of before. So
5 let's talk about how this thing is going to move going
6 forward. Obviously, what we are interested in is what his
7 thoughts are about what the parking requirements for his own
8 use is going to be. And obviously, it's only going to be
9 open a couple days a week now, but I presume you're trying to
10 ramp that business up, probably would be moving to this
11 location.

12

12 I don't know what your goal is, if eventually
13 it would be open five days a week, possibly? I realize you
14 can't prognosticate, but what is your business plan, could
15 you speak to that?

16

16 DR. MATTIACIO: Yes. Dr. Brian Mattiacio,
17 Farmington, New York 1393 Hathaway Drive. So getting to your
18 question, no, I don't anticipate ever being open five days a
19 week in Brighton. I anticipate being the sole practitioner
20 in Brighton and in Farmington, so this being an extension of
21 my existing business. The days when I'm practicing in
22 Farmington actually seeing patients, like Betsy said, the
23 Brighton office will be administration only, kind of like my
24 call center. So I will have some administrators there
25 answering phones, filling operations I will have an assistant

1 Brighton Zoning Board of Appeals 02/05/2020

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3 on hand if there's a kid who has to walk across the street
4 and have a wire clipped or if something is bothering him. If
5 I have to run out to Brighton later on that night to take
6 care of that emergency I will.

7 And vice versa when Farmington is closed and I
8 am seeing patients in Brighton, my administrators in
9 Farmington will handle the administration calls, loads, stuff
10 like that. So the intention right now is to start probably
11 rather slowly, as of right now I do have patients in the
12 Brighton area, it's part of the reason why I want to come out
13 here. They drive a long way to come see me, but I am
14 starting from scratch realistically.

15 So my operation will probably start off really
16 small and ramp up with time, I am sure, but never with the
17 intention of being a five-day-a-week business.

18 CHAIRPERSON MIETZ: So let's say I understand
19 every new business ramps up, so it's not going to be the same
20 day one as day 365 or whatever. What was your expectation of
21 staffing and a reasonable count for customers be?

22 DR. MATTIACIO: Using my existing business as
23 maybe an example, my existing business operationally will
24 always be larger. It's a larger facility, it has more chairs
25 than what I can put in. So just size alone in Brighton is

1 Brighton Zoning Board of Appeals 02/05/2020

3 going to restrict me to a certain degree to not be able to
4 achieve what I can in Farmington. So -- what was your
5 question? I'm sorry.

6 CHAIRPERSON MIETZ: Just let's just say that
7 once the thing gets ramped up, whatever that period of time
8 is, what would be the employee component?

9 DR. MATTIACIO: Currently my employee count I
10 believe sits at 11, but I have fluctuated around 9, 10 or 11.
11 I anticipate starting off with two full-time employees in
12 Brighton. They will be that call center as I mentioned and
13 probably the days I'm seeing patients I will bring myself and
14 maybe three or four other employees. So that will be more
15 than enough for probably quite some time.

16 And considering the capacity I do right now in
17 Farmington I don't anticipate ever being over. If you are
18 talking about max capacity, like, wow this really takes off
19 after a few years, you know, less than what I have now which
20 is 11, so probably in the 8 to 10 range.

21 MS. TOMPKINS WRIGHT: Just a quick question
22 about your Farmington location, we were talking about what
23 your parking study there shows, is that location walkable to
24 schools or public transition?

25 DR. MATTIACIO: No. Farmington is a pass

1 Brighton Zoning Board of Appeals 02/05/2020
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3 through community, there is not a Farmington school district.
4 Most of the patients are coming from the Victor Central
5 School District, the Canandaigua Central School District and
6 surrounding communities. Everybody drives to my office, no
7 one walks. There's no school district whatsoever. It's a
8 completely different thing than what's happening in Brighton
9 being right across from the school.

10 MS. SCHMITT: I apologize if you already
11 answered, but how many patients do you generally see per
12 hour? Not you individually but the office?

13 DR. MATTIACIO: So we do appointments per
14 hour. It's hard to say how many exact patients. In
15 Farmington I have eight chairs, so I can't see more than
16 eight people at a time. And I'm one person, so I can't see
17 more than two people at a time. How that's possible, that
18 just works out somewhere. So our appointments are actually
19 quite staggered. I think the parking study kind of speaks to
20 it a little bit better than any description I can give. I
21 think at a max volume I had, including employees, maybe 20
22 some odd spaces taken up. And at my more average times of
23 day you're talking twelve, something along those lines,
24 including employees.

25 So it's rare except for those peak times that

1 Brighton Zoning Board of Appeals 02/05/2020
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3 every chair in the office is filled, and even in the peak
4 times it's often that it's not filled. Sometime parents or
5 kids get dropped off by grandma or grandpa and mom stops
6 after to pick them up. There's a lot of intermingling of the
7 parking spaces. But appointments per hour, boy, I would say
8 maybe six to eight.

9 MS. SCHMITT: So your practice is where you
10 are actually doing the orthodontic work as opposed to having
11 a staff person who does the tightening and then you come in
12 to check?

13 DR. MATTIACIO: That's a great question. No,
14 I am like that, but I see each patient individually so no
15 patient walks out without having time with me. It's a very
16 important part of my practice philosophy. So they might get
17 the patient going and then I come over, and absolutely every
18 time I talk to the parent or grandparent or guardian and I
19 will release them to my staff again and they put them back
20 together.

21 So appointment range anywhere between
22 10 minutes and 30 minutes for shorter procedures and of
23 course getting braces on and consultations and things like
24 that they might be there a little bit longer.

25 MS. SCHMITT: Okay.

1 Brighton Zoning Board of Appeals 02/05/2020

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3 CHAIRPERSON MIETZ: Anybody more questions?

4

5 MR. CLAPP: I have a question about the
6 parking, the shared parking arrangement. Well, the parcel
7 where this practice will be located is two separate parcels,
8 but obviously a shared agreement between them. I am
9 wondering is there a chance that that agreement will fall
apart at some point leaving a parking issue?

10

11 MS. BRUGG: That is a longtime parking
12 agreement between the properties that they operate together
with the shared parking.

13

14 MR. DiSTEFANO: Basically, they were all under
15 the same ownership. So the 2600 CoreLife and the plaza were
16 under the same ownership. Don't include the ESL facility,
17 that is not part of this, so when we're looking at the 140
18 parking spaces we're looking at CoreLife and the plaza. The
19 2600 parcel was sold off a few years ago so now they are
20 owned separately. But as part of the sale of the property
21 there was a cross access easement, parking and egress/ingress
22 cross those two parcels of land. So I don't know how
23 difficult that would ever be to break but I think it would be
fairly difficult.

24

MS. BRUGG: It is. It is a property right.

25

MR. DOLLINGER: The value of these properties

1 Brighton Zoning Board of Appeals 02/05/2020

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3 is all interrelated.

4

MR. CLAPP: Thank you.

5

CHAIRPERSON MIETZ: Any other questions?

6

7 MR. DOLLINGER: So would you have your
8 employees -- because it seems to me that at this plaza
9 there's a lot of empty spaces all the time. Would you have
your employees park, you know, in the periphery?

10

11 DR. MATTIACIO: Yes. The intention here is to
12 make it a convenience for the customer and I think any good
13 business owner would kind of have their team park in the
14 periphery. I have an idea of where I would like them to park
15 because I feel I have lived in that plaza over the past six
16 months as this project was picking up. So I kind of know the
17 whole space but, you know, there's areas that are almost
18 always vacant which is perfect for us to park in. That's
19 just adjacent to CoreLife, that's kind of tucked away, I
think their Dumpster is back there, not much going on.

20

CHAIRPERSON MIETZ: Right, to the west.

21

22 DR. MATTIACIO: It's not a very appealing
23 part, but for us how nice is that? That's basically
24 caddy-corner, leaves all of the spaces open to our patients
not really impacting what goes on there on a daily basis. It
25 seems ideal, but I would open for anything.

1 Brighton Zoning Board of Appeals 02/05/2020

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3 MR. DiSTEFANO: On that same thought process,
4 those 67 parking spaces that are right at the end of your
5 space, you'll probably virtually never use by anybody. You
6 have been there for quite a while now, like you just said.
7 Just looking at it, did you notice anybody parking there?

8

9 MR. DiSTEFANO: So that would be for your
10 customer area.

11 DR. MATTIACIO: That would be prime customer
12 parking as my entry is going to be there, right where the
13 dance studio was.

14 CHAIRPERSON MIETZ: Okay, good. Any other
15 questions? Thank you.

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

19 APPLICATION 2A-04-20

20 2A-04-20 Application of Kanack School of Music
21 and Artistry, and Creative Ability Development, Inc., owner
22 of property located at 2077 South Clinton Avenue, for a
23 Temporary and Revocable Use Permit pursuant to Section 219-4
24 to erect a tent and hold a one day fund-raising event (May
25 30, 2020) on said property located in a BE-1 Office District.

1 Brighton Zoning Board of Appeals 02/05/2020

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3 All as described on application and plans on file.

4

5 ALICE KANACK: I'm Alice Kanack, the property
6 is 2077 South Clinton. I'm just here to ask for permission
7 to hold this event on that one day. Because we are holding
8 it at the school and we're putting a tent on our parking lot
9 we're asking our neighbors and various people to allow us to
have parking on that day and we have a lot of agreements
10 towards that end.

11

12 CHAIRPERSON MIETZ: Could you be more

13 specific?

14

15 ALICE KANACK: Sure. Tina Marie Salon has 20
16 spots, Upstate Sports and Spine has 30 to 50 spots,
17 Contemporary Dentistry has 30 to 50 spots, Tops Plaza has 50
to 75 spots, Roc Paris and Implants has 30, and Doctor Susan
Spoto has 50.

18

19 CHAIRPERSON MIETZ: So what do you anticipate

the maximum parking requirements for this day to be?

20

21 ALICE KANACK: We are hoping to get 500 people
22 there, which we are anticipating families, so we are thinking
we are going to need at most if we had two people per car,
23 250 spots and we currently have 275.

24

25 CHAIRPERSON MIETZ: And it will be throughout
a number of hours?

1 Brighton Zoning Board of Appeals 02/05/2020

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3 ALICE KANACK: Right, from 5:00 to 9:00 p.m.

4 MR. DISTEFANO: You don't expect everybody,
5 that 500 people to be there from 9:00 to 5:00, it's going to
6 be an in and out type of thing?

7 ALICE KANACK: Yes, 5:00 to 9:00, yes. It's
8 dinner and dancing and fundraising.

9 CHAIRPERSON MIETZ: Okay. So it is a, if you
10 are there you're going to get there --

11 ALICE KANACK: You're probably going to stay.
12 There will be people that will pop in and out, but it is an
13 event.

14 CHAIRPERSON MIETZ: How will people get to
15 these other parking places because some of them are located
16 on the other side --

17 ALICE KANACK: Right. So we're thinking we're
18 going to have a shuttle to get people from Tops. Most of the
19 other places are along our side or directly across.

20 CHAIRPERSON MIETZ: Will that information get
21 to the people before they show up and find out there's no
22 parking spaces in your parking lot?

23 ALICE KANACK: Yes, yes.

24 CHAIRPERSON MIETZ: Okay.

25 MS. TOMPKINS WRIGHT: Normally when we approve

1 Brighton Zoning Board of Appeals 02/05/2020

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3 tents we require them to be removed within 24 hours of the
4 end of the event. You are asking for 48 hours, is there a
5 reason you can't get the tent down the next day?

6

7 would like it down, because it's large we couldn't do it
8 ourselves.

9

9 MS. TOMPKINS WRIGHT: So a third party comes
10 and puts up the ten and removing it?

11

12 CHAIRPERSON MIETZ: What about the policing of
13 the area as far as trash and other stuff?

14

14 ALICE KANACK: It's our property so we plan to
15 take really good care of it

16

16 CHAIRPERSON MIETZ: You guys do a great job,
17 so you will have your personnel responsible for that?

19

18 ALICE KANACK: Yes. This is the third time
19 we're holding this event, but the first time we're holding
20 on our property because we now have space.

21

21 MR. DiSTEFANO: Where was it held in the past?

22

22 ALICE KANACK: We did it at the Rotary
23 Sunshine Campus last year, the year before we used the
24 Artisan Church down the road from us.

25

25 CHAIRPERSON MIETZ: Okay, other questions?

1 Brighton Zoning Board of Appeals 02/05/2020

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3 Any discussion in the neighborhood about it?

4 ALICE KANACK: Not yet, except asking our
5 neighbors for shared parking.

6 CHAIRPERSON MIETZ: I don't mean commercial,
7 I'm talking about residential ones, the ones to the --

8 MR. DiSTEFANO: Down Havens?

9 ALICE KANACK: I have not spoken to them. I
10 would not have a, I mean, no.

11 CHAIRPERSON MIETZ: Okay. Would it be safe to
12 say you will not encourage any parking over there?

13 ALICE KANACK: No. We are planning to close
14 off the South Clinton end and have a drive drop-off on Havens
15 that people could turn around and go out to wherever they are
16 parking.

17 CHAIRPERSON MIETZ: But you would --

18 MR. DiSTEFANO: You would police that?

19 ALICE KANACK: Yes.

20 CHAIRPERSON MIETZ: So we're not getting
21 cars -- as you know it is not a wide street and --

22 ALICE KANACK: No, we definitely would not
23 allow anybody to park on Havens.

24 MS. TOMPKINS WRIGHT: You mentioned music and
25 dancing, I know you anticipate that going until 9:00 p.m., do

1 Brighton Zoning Board of Appeals 02/05/2020

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3 | you anticipate a lot of noise off the property?

4

5 music. Generally when we have fiddle music people kind of
6 come over and want to listen.

7

8 ALICE KANACK: No.

9

0 Thank you

10 | Thank you.

11

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

14

15 2A-06

16

17 for an Area Variance from Section 207-11A and 207-7A to allow
18 a hot tub to be located in an area of a side yard where not
19 allowed by code. All as described on application and plans
20 on file.

21

22 Hilderbrant residing at 65 Towpath Lane.

23

JILL HILDERBRANT: Jill Hilderbrant.

24

35

CHRIS HILDERBRANT: We are trying to put in a hot tub, building a deck and putting in a hot tub. Asking

1 Brighton Zoning Board of Appeals 02/05/2020
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3 for a variance because we did get the project started, so
4 apologize for starting when we didn't know quite what we were
5 doing. We ran into similar issues as Miss Weaver, that we're
6 on a corner lot, and rules are different for us. Apparently
7 if we had a clearly defined rear yard we are allowed to put a
8 hot tub in the rear yard. But because we are on a corner,
9 then it's a little unclear what's exactly our rear yard.

10 As we have gone further with this and trying
11 to understand what we are to do, it appears there's no place
12 on our property that we can put a hot tub without asking for
13 a variance because of the yard issue. But also because the
14 adjoining property are on the circle, the plain of
15 Mr. Mayer's house where it's supposed to be behind the plain
16 of the adjoining house.

17 To be behind the plain of the adjoining house
18 we would then be in our side yard approaching the property at
19 55 Towpath, so it looks like we would need a variance. And
20 that instance where Jill and the builder have gone through
21 and try to put it where it makes the most sense because the
22 deck would be built off our existing porch raising everything
23 to a level I can go onto it. Right now there's sort of an
24 older stone patio and we would be building the deck mostly
25 above that, adding a ramp so we have a second floor egress

1 Brighton Zoning Board of Appeals 02/05/2020

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3 it's flush with the ground, or flush with the deck?

4

CHRIS HILDERBRANT: It's somewhat offset.

5

JILL HILDERBRANT: 18 inches above, from the top of the -- it's going to be as high as this chair. And so from the cul-de-sac you will see the sides of it. It's not within the deck, so it will be on the ground but it's a built-up pad so we can get it high enough to be the right

6

level for him.

7

MS. TOMPKINS WRIGHT: Okay.

8

MR. DiSTEFANO: Just for the record, we have received a letter of support from residents at 55 Towpath Lane, 70 Towpath Lane, 31 Towpath Circle, 22 Towpath Circle, 21 Towpath Circle, and 32 Towpath Circle.

9

JILL HILDERBRANT: One of the signatures is our next door neighbor which is the house, Mayer, 22 Towpath Circle. The hot tub is not supposed to be in front of the face. And his house, if we were looking at the garage it would be okay, but it's got such an angle that if you followed it over it takes us to the other corner of our house. So he did sign the letter that he was okay with the project.

10

CHAIRPERSON MIETZ: Okay.

11

MR. DOLLINGER: A question for Rick, is there

1 Brighton Zoning Board of Appeals 02/05/2020

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3 any requirement for fencing around the hot tub?

4

5 MR. DiSTEFANO: No, as long as it has a safety
6 cover and the safety cover is in place. When it's not in use
7 we don't require the hot tub to be enclosed with a fence.

8

9 JILL HILDERBRANT: And it is regulation now.
10 Every lid is a locking top, I did check on that with the
11 company.

12

13 CHAIRPERSON MIETZ: Okay, any other questions?

14

15 Thank you.

16

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

20

21 We will take five minutes and then we will
22 begin.

23

24 *

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B R I G H T O N
Z O N I N G B O A R D
O F
A P P E A L S

FEBRUARY 5th, 2020
at approximately 8:50 p.m.
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, Chairperson

JEANNE DALE)
DOUGLAS CLAPP)
KATHLEEN SCHMITT)
JUDY SCHWARTZ)
ANDREA TOMPKINS WRIGHT)

BOARD MEMBERS

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DISTEFANO
Secretary

NOT PRESENT:

JENNIFER WATSON

(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

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 APPLICATION 1A-02-20

4 1A-02-20 Application of Vitalize Medical,
5 PLLC, lessee, and 2900 Monroe Ave., LLC, owner of property
6 located at 2900 Monroe Avenue, for an Area Variance from
7 Section 205-12 allowing for 102 on-site parking spaces in
8 lieu of the code required 114 parking spaces necessary for
9 the establishment of a medical use on said property. All as
10 described on application and plans on file.

11 Motion made by Ms. Tompkins Wright to approve
12 Application 1A-02-20 based on the following findings and
13 facts.

14 **FINDINGS AND FACTS:**

15 1. The requested variance is not substantial given the fact
16 that there currently exists 23 parking spaces available for
17 this use and the evidence presented suggests that at no time
18 more than 23 parking spaces will be used. Additional, the
19 property in the question is not clearly medical in nature,
20 but is likely a hybrid of a consumer service/spa-type
21 business and the medical use which likely has a less
22 intensive parking demand than the purely medical use.

23 2. No other alternative can alleviate the difficulty and
24 produce the desired result given that there are no other
25 parking spaces available in the property or could be created.

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 3. There's no unacceptable change in the character of
4 neighborhood and no substantial detriment to nearby
5 properties is expected to result from the approval of this
6 variance because there appears to be adequate parking on site
7 to meet the needs of this proposed business. Evidence was
8 submitted that the parking study was conducted which showed
9 that their existing parking on site sufficient and the
10 applicant testified that the parking demand of this type of
11 use would not create any demand higher than that.

12 4. The health, safety, and welfare of the community will not
13 be adversely affected by the approval of this variance
14 request.

15 5. Based on the floor plans submitted by the applicant
16 clinical space is less than 2,000 square feet and thus the
17 Board believes that the parking is adequate.

18 **CONDITIONS:**

19 1. This variance will apply only to the parking variance
20 requested as described in the application and testimony.

21 2. This variance is applies only to the applicant and no
22 further users of this property.

23 3. The clinical area of the property shall be limited to no
24 more than 2,000 square feet.

25 (Second by Ms. Dale.)

1 Brighton Zoning Board of Appeals 02/05/2020

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(Mr. Clapp, yes; Ms. Schwartz, no; Mr. Mietz,
yes; Ms. Schmitt, no; Ms. Dale, yes; Ms. Tompkins Wright,
yes.)

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

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 APPLICATION 2A-01-20

4 2A-01-20 Application of Reid Richards / Five
5 Guys Restaurant, lessee, and Twelve Corners Associates LLC,
6 owner of property located at 1881 Monroe Avenue, for
7 modification of an approved sign variance (5A-10-16, Part I)
8 to allow for a change of business name and sign location.

9 All as described on application and plans on file.

10 Motion made by Ms. Dale to approve Application
11 2A-01-20 based on the following findings and facts.

12 **FINDINGS AND FACTS:**

13 1. The restaurant location is in the corner of the building
14 with one side and main entrance facing Monroe Avenue and the
15 second side the entrance is facing Elmwood Avenue.

16 2. Applicant is requesting a second sign over the second
17 entrance that faces Elmwood Avenue in order to assist
18 customers with finding the restaurant and the entrance.

19 3. The previous restaurants at the site had two signs with
20 one at the location that the applicant is hereby requesting.

21 4. Approval of this variance request will have no adverse
22 impact on the environment or be a detriment to nearby
23 properties.

24 **CONDITIONS:**

25 1. This application is approved only specific to the plan as

1 Brighton Zoning Board of Appeals 02/05/2020

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3 submitted and testimony given.

4 2. All necessary Architectural Review Board and Planning
5 Board approvals shall be obtained.

6 (Second by Ms. Schwartz.)

7 (Ms. Tompkins Wright, yes; Mr. Mietz, yes;
8 Ms. Schmitt, yes; Mr. Clapp, yes; Ms. Schwartz, yes;
9 Ms. Dale, yes.)

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

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1 Brighton Zoning Board of Appeals 02/05/2020

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3 APPLICATION 2A-02-20

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5 2A-02-20 Application of Shailesh Patel, owner
6 of property located at 2323 Monroe Avenue, for an Area
7 Variance from Section 205-7 to allow a roof overhang to
8 extend 10 inches into the existing 6 ft. rear setback where a
9 50 ft. rear setback is required by code. All as described on
application and plans on file.

10

11 Motion made by Mr. Mietz to approve
12 Application 2A-02-20 based on the following findings and
facts.

13

FINDINGS AND FACTS:

14

15 1. The construction of the existing building is a
pre-existing nonconforming at the rear setback.

16

17 2. While the request to encroach 10 inches into the
non-conforming rear setback is significant it is however,
18 less visually impactful and will be mitigated due to the
19 capsulation of the stairway area by the shed roof.

20

21 3. No other alternative can meet the desired result due to
the coverage needed for this rear stairwell.

22

23 4. No negative effect on the character of the neighborhood
will result from this variance request since the commercial
24 nature of the lot has existed for many years and the property
25 has been recently renovated.

1 Brighton Zoning Board of Appeals 02/05/2020

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3 5. Drainage to the south property line has been mitigated by
4 gutters and cooperation with the adjoining neighbor to manage
5 the situation.

6

CONDITIONS:

7 1. Based on the drawings as submitted and the testimony
8 given.

9 2. All necessary Architectural Review Board approvals and
10 building permits shall be obtain.

11 (Second by Ms. Tompkins Wright.)

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

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

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1 Brighton Zoning Board of Appeals 02/05/2020

2

3 APPLICATION 2A-03-20

4 2A-03-20 Application of Jennifer Weaver,
5 agent, and David Kuder, owner of property located at
6 16 Southern Parkway, for an Area Variance from Section 207-2A
7 to allow a front yard fence to be 4 ft. in height in lieu of
8 the maximum 3.5 ft. allowed by code. All as described on
9 application and plans on file.

10 Motion made by Ms. Schmitt to approve
11 Application 2A-03-20 based on the following findings and
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The property in question is a large corner lot. The area
15 the homeowners consider to be the backyard not directly
16 behind the home. The homeowners will be installing an
17 in-ground pool which requires a four-foot fence. If the
18 homeowner was to fence in just the pool area the yard would
19 be cut in half.

20 2. The variance request is to replace the existing
21 three-foot fence on the property with a four-foot fence which
22 is in excess of the 3'5" permitted by code.

23 3. The proposed placement of the fence will be partially
24 hidden behind two rows of mature trees. This landscaping
25 will help conceal much of the fencing.

1 Brighton Zoning Board of Appeals 02/05/2020

3 4. The granting of this variance will not appear to result
4 in any substantial detriment to nearby properties or
5 otherwise adversely affect the character of the neighborhood
6 as nearby homes with pools also have similarly sized fences.
7 Moreover, there's no evidence there would be a negative
8 impact on the health, safety, and welfare of the
9 neighborhood.

CONDITIONS :

11 1. The variance applies only to the fence as described in
12 the application and testimony provided and will not apply to
13 future projects.

14 2. All necessary building permits shall be obtained.

15 (Second by Ms. Schwartz.)

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

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

1 Brighton Zoning Board of Appeals 02/05/2020

2

3 APPLICATION 2A-04-20

4 2A-04-20 Application of Kanack School of Music
5 and Artistry, and Creative Ability Development, Inc., owner
6 of property located at 2077 South Clinton Avenue, for a
7 Temporary and Revocable Use Permit pursuant to Section 219-4
8 to erect a tent and hold a one day fund-raising event (May
9 30, 2020) on said property located in a BE-1 Office District.
10 All as described on application and plans on file.

11 Motion made by Ms. Schwartz to approve
12 Application 2A-04-20 based on the following findings and
13 facts.

14 **FINDINGS AND FACTS:**

15 1. The actual use of the tent will only be for one day for
16 the hours of 5:00 to 10:00 p.m.

17 2. There will be no adverse impact from the installation of
18 the tent because the tent opening will be almost totally
19 screened from the homes by the Kanack School.

20 3. The fundraising event consists of a catering truck on
21 premises, and fiddle music played by the students of the
22 Creative Ability Development Inc.

23 4. The applicant has made arrangements for off site parking
24 amounting to 275 and probably only 250 will be needed and is
25 arranging a shuttle for those who park off site to the event.

1 Brighton Zoning Board of Appeals 02/05/2020

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CONDITIONS:

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5 1. This variance applies only for the tent at the Kanack

6 School as presented in testimony and the written application.

7

8 2. The tent will be on the premises from May 28th through

9 June 1st and used only on May 30th for the event from 5:00 to

10 10:00 p.m.

9

10 3. All necessary permits must be obtained including fire

11 marshall.

12

13 4. No parking shall be allowed on Havens Drive or South

14 Clinton Avenue.

15

16 5. The music will not be amplified in any way.

17

18 6. The hours of the event shall be from 5:00 to 10:00 p.m.

19

20 7. The site shall be cleaned up within 24 hours of the

21 event.

22

23 (Second by Ms. Tompkins Wright.)

24

25 (Mr. Mietz, yes; Ms. Dale, yes; Ms. Schmitt,

yes; Mr. Clapp, yes; Ms. Tompkins Wright, yes; Ms. Schwartz,
yes.)

26

27 (Upon roll call, motion to approve with

28 conditions carries.)

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1 Brighton Zoning Board of Appeals 02/05/2020

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3 APPLICATION 2A-05-20

4 2A-05-20 Application of Dr. Brian Mattiacio,
5 DDS, lessee, and Brighton Commons Partnership, owner of
6 property located at 1835 / 1855 Monroe Avenue, for an Area
7 Variance from Section 205-12 to allow for 139 on-site parking
8 spaces (existing) in lieu of the minimum 170 spaces required
9 by code when allowing for the establishment of a 3,650 +/- sf
10 dental (orthodontics) practice on said property. All as
11 described on application and plans on file.

12 Motion made by Ms. Tompkins Wright to approve
13 Application 2A-05-20 based on the following findings and
14 facts.

15 **FINDINGS AND FACTS:**

16 1. The granting of the requested variance will not produce
17 an undesirable change in the character of the neighborhood or
18 be a detriment to nearby properties. The parking variance is
19 for a plaza with shared mixed uses for different peak hours,
20 meaning the demand for parking can often be met through a
21 reduced number of parking spaces in the plaza as a whole. As
22 demonstrated by parking studies the number of available
23 parking spaces in the plaza at all times, and in particular
24 at peak times for the applicant's use, is more than enough to
25 accommodate the applicant's parking needs so as not to put a

1 Brighton Zoning Board of Appeals 02/05/2020

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3 strain on any neighboring properties or public rights of way.

4 2. The requested variance is not substantial given the
5 evidence presented that the current available parking is ore
6 than sufficient and also considering the location of the
7 property is within walking distance to both the Brighton
8 Middle School and the Brighton High School which will result
9 in lower parking demands.

10 3. The benefit sought by the applicant cannot reasonably be
11 achieved by any other method as there are no other parking
12 areas that could lessen the variance request that are not
13 already being utilized as parking.

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

17 5. The difficulty leading to this variance request is not
18 self-created as it stems from the mix of uses at the plaza
19 and their shared parking arraignment.

20

CONDITIONS:

21 1. This variance applies only to an orthodontic office with
22 no more than six treatment chairs and no more than three exam
23 rooms.

24 2. All necessary town approvals shall be obtained.

25

(Second by Ms. Schwartz.)

1 Brighton Zoning Board of Appeals 02/05/2020

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3 (Ms. Schmitt, yes; Mr. Mietz, yes; Ms. Dale,
4 yes; Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Tompkins Wright,
5 yes.)

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

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1 Brighton Zoning Board of Appeals 02/05/2020

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3 | APPLICATION 2A-06-20

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5 Hilderbrant, owners of property located at 65 Towpath Lane,
6 for an Area Variance from Section 207-11A and 207-7A to allow
7 a hot tub to be located in an area of a side yard where not
8 allowed by code. All as described on application and plans
9 on file.

10

11 Application 2A-06-20 based on the following findings and
12 facts.

13

FINDINGS AND FACTS:

14

15 change in the character of the neighborhood or detriment to
16 nearby properties. The proposed hot tub will be located near
17 the rear of the house on the corner lot and is not visible
18 from Towpath Lane and also screened by evergreens from the
19 rear neighbor.

20

21 by a method other than an area variance as the unique nature
22 of a corner lot on a cul-de-sac makes the location of the hot
23 tub anywhere on the property impractical without a variance.

24

25 to locate a hot tub on the property given the nature of the

1 Brighton Zoning Board of Appeals 02/05/2020

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3 corner lot.

4

5 4. The difficulty leading to this variance was not
6 self-created as a need for a variance was created by the
7 location of the house on a corner lot on a cul-de-sac.

8

CONDITIONS:

9

10 1. The variance shall apply only to plans submitted and
11 testimony given.

12

13 2. All necessary building permits shall be obtained.

14

15 (Second by Ms. Schwartz.)

16

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

20

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

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3 REPORTER CERTIFICATE
45 I, Rhoda Collins, do hereby certify that I did
6 report in stenotype machine shorthand the proceedings held in
7 the above-entitled matter;8 Further, that the foregoing transcript is a true and
9 accurate transcription of my said stenographic notes taken at
10 the time and place hereinbefore set forth.11
12 Dated this 15th day of March, 2020.13 At Rochester, New York
14
1516 Rhoda Collins
17 Rhoda Collins
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