
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

July 1, 2020

Brighton Town Hall

2300 Elmwood Avenue

Brighton, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRPERSON
DOUGLAS CLAPP
KATHLEEN SCHMITT
ANDREA TOMPKINS WRIGHT
JENNIFER WATSON
JUDY SCHWARTZ

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
JEANNE DALE

REPORTED BY: ALEXANDRA K. WIATER, Court Reporter
Forbes Court Reporting Services, LLC
21 Woodcrest Drive
Batavia, New York 14020

1 Brighton Zoning Board of Appeals 7/01/2020

2 CHAIRPERSON MIETZ: Okay. So good evening,
3 everyone. I guess we don't have to worry about people
4 finding the fire exits in their homes. Hopefully they
5 know where they are. You've got a lot of water there,
6 Doug, you should be good. So what we'll do tonight
7 is, just so all of our guests can understand, that
8 we're going to review the minutes. We have two sets
9 of minutes we're going to look at from February and
10 March. And then tonight we have twelve applications,
11 and who knows how long they'll take. When the
12 application is read, then the applicant will be
13 allowed to speak. And then when they finish their
14 presentation we'll, as usual, The Board Members can
15 ask questions. Once we finish that then we'll invite,
16 if there's anyone in the public that wants to speak
17 regarding the application. And after that, close the
18 Public Hearing and move on.

19 Again, those of you who are on the YouTube
20 or participating in the meeting can stay and listen to
21 the deliberations (sic) -- or excuse me,
22 deliberations if you wish. If not, then you can
23 contact Rick DiStefano tomorrow at the Town Hall and
24 find out what the result of your application is.

25 Rick, is there anything you want to let us

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2 know other than some decorum here, which we'll have
3 Jeremy and maybe speak about?

4 MR. DiSTEFANO: I have nothing to add.

5 CHAIRPERSON MIETZ: Okay. All right.
6 Jeremy, do you want to do a few little rules of the
7 road for everybody, please?

8 MR. LUTZ: Yes. So the plan tonight is to
9 have everyone in the meeting listening and when it is
10 your turn or you're requested to speak or called upon
11 or you'd like to get the attention of The Board, we're
12 asking that you please use the raise hand feature
13 within Zoom. Depending on what client you're on, that
14 kind of functions differently. It's either in your
15 participants' list if you're on the Windows client.
16 It is at the bottom of your screen if you are on
17 either a phone or the web client. If you do that
18 raised hand, we'll be able to see who that is. You'll
19 receive a message from The Town asking to either
20 unmute or to turn on your camera so we can see and
21 talk to you. If you need anymore information on how
22 to use any of those features or there's anything
23 you're confused about, if you go to townofbrighton.org
24 under the live streaming session, there's some links
25 at the bottom that show that -- how to use the

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2 features in Zoom that we use in these meetings.

3 The last thing is, we would request that you
4 use the rename feature to rename your user to your
5 actual name so that we can see who it is when they're
6 raising a hand and it doesn't show up as iPad or
7 Galaxy phone or something of that element.

8 So from my standpoint, I think that's all I
9 have unless there's any other questions.

10 CHAIRPERSON MIETZ: Okay. Sounds good.
11 Appreciate it. We'll -- we'll work through it.

12 Okay. Rick, so at this point, I'd like to
13 call to order the July session of the Brighton Zoning
14 Board of Appeals. Was the meeting properly
15 advertised, Rick?

16 MR. DiSTEFANO: Yes, Mr. Chairman, this was
17 advertised in the Brighton-Pittsford Post of June
18 25th, 2020.

19 **FINDINGS OF FACT:**

20 CHAIRPERSON MIETZ: Okay. Could you please
21 call the roll?

22 MR. DiSTEFANO: Mr. Clapp? Mr. Clapp?

23 MR. CLAPP: Here. Yes, here.

24 MR. DiSTEFANO: If everybody could just kind
25 of raise their hand when --

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2 CHAIRPERSON MIETZ: Yeah, it would be
3 quicker.

4 MR. DiSTEFANO: -- I call you just so people
5 could see it.

6 Ms. Schwartz?

7 MS. SCHWARTZ: (Raises hand).

8 MR. DiSTEFANO: Say "yes".

9 MS. SCHWARTZ: Yes.

10 MR. DiSTEFANO: Ms. Tompkins-Wright?

11 MS. TOMPKINS-WRIGHT: Here.

12 MR. DiSTEFANO: Mr. Mietz?

13 CHAIRPERSON MIETZ: Here.

14 MR. DiSTEFANO: Ms. Watson?

15 MS. WATSON: Here.

16 MR. DiSTEFANO: Ms. Schmitt?

17 MS. SCHMITT: Here.

18 MR. DiSTEFANO: Ms. Dale? Please let the
19 record show that Ms. Dale is not present.

20 CHAIRPERSON MIETZ: Okay. So the first
21 order of business tonight is the minutes. So we'll
22 start with the February minutes. Are there any
23 corrections, additions, deletions to the February
24 minutes? Judy, go -- go ahead, Judy.

25 MS. SCHWARTZ: Okay. On Page 32 and 33,

1 Brighton Zoning Board of Appeals 7/01/2020
2 just correct the name to Shailesh, S-h-a-i-l-e-s-h,
3 Patel on all those pages, those two, on Page 38, Line
4 16, the name should be Sabra, S-a-b-r-a. On Page 39,
5 Line 17, the fourth word is "walking". On Page --
6 Page 44, Line 24, the first word should be "ratio,"
7 r-a-t-i-o. On Page 58, Line 5, I believe the time
8 should just be reversed. It should say from 5 to 9.

9 CHAIRPERSON MIETZ: Yes.

10 MS. SCHWARTZ: On Page 59, Line 3, the
11 word -- it should read "to be removed". And Line 68
12 (sic) Line 21, delete the word "is". Page 73,
13 condition number one on Line 7, guys, is incomplete.
14 Maybe Rick and Dennis want to work on that after the
15 meeting but it's just nothing. And Line 10, the last
16 word should be "obtained". Page 74, Line 15, insert
17 the word "is" after backyard. And lastly, Page 79,
18 Line 5, the last word is "more". That's all I have.

19 CHAIRPERSON MIETZ: Thank you, Judy. Does
20 anyone else have anything else for February?

21 Okay. So could I have a motion to accept
22 the February minutes?

23 MS. SCHWARTZ: So moved.

24 (Seconded by Mr. Clapp.)

25 MR. DiSTEFANO: The motion is to approve

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2 with corrections.

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

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

8 CHAIRPERSON MIETZ: Okay. Thank you. All
9 right. So let's look at March. Are there any
10 corrections to the March minutes? Does anyone have
11 anything? They look okay with me.

12 MS. TOMPKINS-WRIGHT: I move to approve the
13 March minutes.

14 CHAIRPERSON MIETZ: Okay.

15 (Seconded by Ms. Watson.)

16 MR. DiSTEFANO: The motion is to approve.

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

20 MR. DiSTEFANO: Let the record show the
21 minutes were approved.

22 CHAIRPERSON MIETZ: Okie dokie. Very fine.
23 All right. So I guess we're ready for our first
24 application. It's Application 4A1 -- 4A-01. So,
25 Rick, if you could read it.

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2 MR. DiSTEFANO: I'll read the first two
3 applications they are the same property.

4 CHAIRPERSON MIETZ: Yes.

5 MR. DiSTEFANO: Application 4A-01-20.

6 APPLICATION 4A-01-20

7 Application of F & H Development, owner of
8 property located at 1338 Brighton Henrietta Town Line
9 Road for an area variance from Section 205-8 to allow
10 a building addition to extend two feet into the 50
11 foot side setback required by code. All as described
12 on application and plans on file.

13 And Application 4A-02-20.

14 APPLICATION 4A-02-20

15 Application of F & H Development, owner of
16 property located at 1338 Brighton Henrietta Town Line
17 Road, for an area variance from Section 203-93C(5) to
18 allow for outdoor storage of construction --
19 construction equipment in both side yards in lieu of
20 the rear yard only as allowed by code. All as
21 described on application and plans on file.

22 CHAIRPERSON MIETZ: Okay.

23 MR. DiSTEFANO: I believe we have Eric.

24 CHAIRPERSON MIETZ: Marathon?

25 MR. DiSTEFANO: Marathon. Hang on. Let's

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2 see. One second. I lost my --

3 MR. SCHAAF: Yup. I now -- let's see, am I
4 on yet? This is --

5 MR. DiSTEFANO: You are on.

6 MR. SCHAAF: Okay. And Dave Hauer is --

7 MR. HAUER: Yes.

8 MR. SCHAAF: -- is here somewhere.

9 MR. HAUER: Yes, I'm here.

10 MR. SCHAAF: Okay. Very good.

11 CHAIRPERSON MIETZ: So please proceed,
12 gentlemen.

13 MR. SCHAAF: All right. So thank you for
14 agreeing to do this. I know Zoom is something still
15 relatively new. I had my Planning Board meeting here
16 in Brighton last -- a couple weeks ago here by Zoom.
17 We're here tonight for F&H Development who has an
18 existing --

19 MR. DiSTEFANO: Eric, Eric --

20 MR. SCHAAF: Yeah?

21 MR. DiSTEFANO: Can you just -- can you just
22 introduce yourself for the audience, please?

23 MR. SCHAAF: Oh, I'm sorry. Yup. I thought
24 when -- we did that when we were making sure I was on.

25 Good evening, I'm Eric Schaaf with Marathon

1 Brighton Zoning Board of Appeals 7/01/2020
2 Engineering with offices at 39 Cascade Drive in the
3 City of Rochester. Our client tonight is F&H
4 Development. Also online via Zoom is Dave Hauer
5 representing F&H Development.

6 F&H Development, has an existing revocable
7 temporary use permit to operate their business as an
8 accessory -- in an accessory building rather -- at
9 1338 Brighton Henrietta Town Line Road. That's a 1.58
10 acre parcel located on the north side of that road
11 approximately a half mile west of West Henrietta Road.
12 The property is zoned IG light industrial.

13 They would like to do an improvement
14 project. The key objectives of that project would be
15 to improve the aesthetics of the site, provide some
16 delineation of the storage area, and improve the
17 efficiency and effectiveness of their overall
18 operation. Specifically, they're proposing to
19 construct additions to the existing building, as well
20 as reconfigure the existing parking facility. This
21 parking facility looks small but it's size to
22 accommodate the tenants of the existing principle
23 structure as well as the owners of F&H Development.
24 Their business does not receive visitors. A six-foot
25 solid fence will encompass the building, garage, and

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2 the outdoor storage area. Landscaping is being
3 provided along Brighton Henrietta Town Line Road, as
4 well as on the roadside of the parking area. No new
5 utility work is proposed.

6 We went before the Planning Board of the
7 Town of Brighton on June 17th, and were granted
8 conditional approval for site plan and the conditional
9 use permit necessary to operate the outdoor storage.

10 We're here tonight requesting two variances,
11 as Rick mentioned, to allow a building side setback of
12 48 feet versus 50 feet and to allow outdoor storage on
13 both side yards. In the interest of time, knowing you
14 have a full agenda, I'll stop here and answer any
15 questions and we can get into as much detail as you'd
16 like.

17 CHAIRPERSON MIETZ: Okay. Thank you very
18 much. Okay. So, any questions by The Board Members?
19 Okay. We'll seeing --

20 MR. CLAPP: Just --

21 CHAIRPERSON MIETZ: Go ahead.

22 MR. CLAPP: Just one question: Could you
23 explain how businesses change to require that
24 additional -- the addition for -- in the interior
25 space? Just for our information.

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2 MR. SCHAAF: I will let the client, Dave
3 Hauer, answer that one. Dave, I think you're on.

4 MR. HAUER: Yes, I'm -- I'm here. If he can
5 repeat that I'll be able to hear him. I couldn't hear
6 him before.

7 MR. CLAPP: Sure. What is -- how has the
8 business changed to make it -- make the need for
9 additional indoor space? Just for our information.

10 MR. HAUER: We -- we do -- we handle
11 commercial -- industrial commercial plowing in the
12 wintertime and due to the increase of -- of equipment
13 that the plows and the pushers and the certain
14 equipment that has become very expensive, a typical
15 setup runs between seven and \$10,000 now. And with
16 people liquidating -- stealing equipment these days,
17 this additional storage will allow us to have that
18 valuable equipment stored inside so we don't have to
19 have it outside. And then similar heat and tools and
20 other --

21 MR. CLAPP: That's great. Thank you very
22 much.

23 MR. HAUER: All right.

24 CHAIRPERSON MIETZ: Okay.

25 MS. TOMPKINS-WRIGHT: I --

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2 CHAIRPERSON MIETZ: Go ahead.

3 MS. TOMPKINS-WRIGHT: This is and Andrea
4 Wright, Member Wright, and just so that it's on the
5 record, one of the constraints of this site, why the
6 addition is coming into the setback, there's a wetland
7 on this property and a hundred foot buffer, meaning
8 you can't really use the entire property to put an
9 addition on; is that correct?

10 MR. HAUER: Absolutely.

11 MR. SCHAAF: Absolutely, it is. I don't
12 know if you can notice it but, yes. Everything
13 basically to the back of the property is wetland. One
14 of the other things we'll be doing, as I mentioned
15 briefly, is to delineate that area so that it's clear
16 what is wetland and not to be used and what is just
17 going to be used for storage.

18 MS. TOMPKINS-WRIGHT: Okay. Thank you.

19 CHAIRPERSON MIETZ: Very good. You want to
20 talk about -- we blended these two together; right,
21 Rick? We talked about --

22 MR. DiSTEFANO: Yes, we did.

23 CHAIRPERSON MIETZ: Okay. So, can you talk
24 about how aesthetically you're going to improve the
25 property by dealing with this outdoor storage area,

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2 please?

3 MR. SCHAAF: Well, first and foremost, we
4 are constructing that solid six-foot fence which will
5 totally encompass the entire storage yard. In
6 addition, then, what we're doing is, we're putting
7 landscaping on the Brighton Henrietta Town Line Road
8 side of that fence. So that, you know, the view from
9 that road is not just a fence, but you're really
10 looking at shrubbery. In addition, we're putting that
11 same degree of landscaping on the Brighton Henrietta
12 Town Line Road side of the parking facility so you
13 won't even see the cars, if you will, that are parked
14 there.

15 CHAIRPERSON MIETZ: Okay.

16 MR. SCHAAF: So this dramatically enhances
17 it. Just for the record, the properties on either
18 side are vacant, but we do believe that this will be a
19 tremendous improvement of what we have today.

20 CHAIRPERSON MIETZ: Okay. Great. And --
21 and can we be assured that with this amount of outdoor
22 storage, that there will be nothing outside of any of
23 these encapsulated areas?

24 MR. HAUER: Yes.

25 CHAIRPERSON MIETZ: Okay. That's great.

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2 All right. Okay. Any other questions by The Board
3 Members?

4 MR. DiSTEFANO: Yeah. This is Rick
5 DiStefano, just one thing. Dave, can you explain a
6 little about what will be stored in that out --
7 outside storage area?

8 MR. HAUER: There will be a couple pickup
9 trucks, there will be a couple backhoes, the skid
10 steer, two small dumptrucks, and a salt truck that we
11 use for the -- for our winter -- winter, you know, for
12 our business in the wintertime.

13 MR. DiSTEFANO: Oh, you're not looking at
14 any construction debris or anything like that?

15 MR. HAUER: No, no. It's just going to
16 be -- Rick, it's all going to be equipment that, you
17 know, behind the fence line, you know, behind the --
18 behind the green space in that -- in that area.

19 MR. DiSTEFANO: Thank you.

20 MR. HAUER: Yeah.

21 CHAIRPERSON MIETZ: Okay. Very good. Are
22 there any other questions?

23 MR. SCHAAF: No. But if I could just follow
24 up, I will say that one of the conditions the Planning
25 Board put on was to require that the equipment be

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2 stored, like, the backhoes, in the lowest, if you
3 will, status or condition. And that no material,
4 should there ever be material, be stored above the
5 fence line.

6 MS. SCHWARTZ: Oh, good.

7 CHAIRPERSON MIETZ: Okay. So you're talking
8 about, like, a salt pile or a mulch pile or something
9 like that? Okay.

10 MR. SCHAAF: Right. That was one of the
11 conditions that the Planning Board put on. Which we
12 obviously will be complying with.

13 CHAIRPERSON MIETZ: Okay. Sounds good. All
14 right. Again, any other questions? Okay.

15 MS. SCHWARTZ: Just one quick comment, you
16 don't expect anything to really be showing above your
17 fences? Judy.

18 MR. SCHAAF: No -- no material as in mulch
19 or salt piles --

20 MS. SCHWARTZ: The --

21 MR. SCHAAF: -- the backhoes and some of the
22 equipment is taller than six feet. So you'll be able
23 to see some of that.

24 MS. SCHWARTZ: Okay.

25 CHAIRPERSON MIETZ: Okay. All right. Are

1 Brighton Zoning Board of Appeals 7/01/2020
2 we all set? Okay. All right. So at this point then,
3 is there anyone in the public that would like to speak
4 regarding this application?

5 MR. DiSTEFANO: Give me a second. I don't
6 see any hands raised.

7 CHAIRPERSON MIETZ: All set?

8 MR. DiSTEFANO: Yeah.

9 CHAIRPERSON MIETZ: Okay.

10 MR. DiSTEFANO: But --

11 CHAIRPERSON MIETZ: Okay. At this point,
12 then, the Public Hearing is closed.

13 MR. SCHAAF: We thank you for your time.

14 CHAIRPERSON MIETZ: Thank you.

15 MR. HAUER: Thank you, everyone. Thank you.
16 Have a good night.

17 MR. DiSTEFANO: Application 4A-03-20.

18 APPLICATION 4A-03-20

19 Application of The University of
20 Rochester, owner of property located at 250 East River
21 Road, for renewal of a temporary and revocable use
22 permit (4A-01-18) pursuant to erect a tent and hold up
23 to three outdoor special events for the years 2020 and
24 2021. All as described on application and plans on
25 file.

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2 CHAIRPERSON MIETZ: Okay. Very good. Who
3 do we have speaking for U of R?

4 MR. DiSTEFANO: I believe Don Libby.

5 CHAIRPERSON MIETZ: Yeah. Looks like he's
6 got his hand raised, yup.

7 MR. LIBBY: Good evening, esteemed board
8 members. Yes, my name is Don Libby. I am new to the
9 university and new to your process. I understand that
10 this revocable permit we put in every two years for
11 our meliora and commencement event and we'd like to
12 continue to work with the Town of Brighton and make
13 sure that we apply for the proper permits and always
14 abide by Town rules along with the fire department
15 nosure rules. And we look forward to working with you
16 for a long time in the future.

17 CHAIRPERSON MIETZ: Okay. Could you -- Don,
18 could you just tell us a little bit about what -- what
19 the events are and that sort of thing for the record?

20 MR. LIBBY: Sure. We do -- we do our
21 commencement and they do a picnic in the area and put
22 some tables over the tents. And they do a homecoming
23 event where they do some picnics and put tables and
24 chairs under. And they -- you know, we'll, of course,
25 apply for the actual permits at the time of the event

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2 ahead of time to make sure that we're code compliant
3 with number of personnel and what can be and what will
4 not be under the tent.

5 CHAIRPERSON MIETZ: Okay. All right. So,
6 basically, there's really no change from what -- like,
7 what you did last year?

8 MR. LIBBY: Sir, well to be honest, no.
9 Except, if -- if we do it this year, it's going to be
10 a much smaller event as we're all aware --

11 CHAIRPERSON MIETZ: Right.

12 MR. LIBBY: -- we're all dealing with COVID.

13 CHAIRPERSON MIETZ: Right. All right.
14 Okay. Well, helpfully by next year things will be in
15 a better stead, so...

16 MR. LIBBY: You know, God willing, we'll all
17 still be here, we'll all be very healthy and in a
18 better place.

19 CHAIRPERSON MIETZ: Okay. That's great.
20 Okay. So any questions by The Board Members? Pretty
21 straight forward here.

22 MS. TOMPKINS-WRIGHT: This -- this is Member
23 Andrea Wright. You don't actually have a date for the
24 first event then? You're sort of kind of waiting to
25 feel this out?

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2 MR. LIBBY: You are absolutely right. We
3 are waiting for more guidance from Governor Cuomo and
4 the CDC. Currently, we have no events scheduled. But
5 just in case we are allowed to we'd like to, you know,
6 have the revocable permit granted by this Board and,
7 of course, we would reach out to you ahead of time and
8 put an additional permit in if -- if and when we can
9 have an event this year and hopefully we can.

10 MS. TOMPKINS-WRIGHT: Okay. Thanks.

11 CHAIRPERSON MIETZ: Okay. That's good. All
12 right. Any other questions by The Board Members?
13 Okay. Great. All right. Is there anyone in the
14 audience that would like to speak -- audience, excuse
15 me -- on -- on the Zoom who would like to speak
16 regarding this thing?

17 MR. DiSTEFANO: I don't see anyone, guys.

18 CHAIRPERSON MIETZ: Okay. Great. Okay. At
19 this point, then, the Public Hearing is closed.

20 MR. LIBBY: Thank you, ladies and gentlemen,
21 for your time tonight --

22 CHAIRPERSON MIETZ: Thank you.

23 MR. LIBBY: -- I greatly appreciate that. I
24 know that you're all very busy. So I do appreciate
25 your time and your time --

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2 CHAIRPERSON MIETZ: Thank you.

3 MR. LIBBY: -- and your considerations.

4 CHAIRPERSON MIETZ: Thank you.

5 MR. LIBBY: You all have a wonderful night.

6 CHAIRPERSON MIETZ: Thank you. Okay.

7 Thanks.

8 MR. LIBBY: Thank you.

9 CHAIRPERSON MIETZ: Okay.

10 MR. DiSTEFANO: Application 4A-04-20.

11 APPLICATION 4A-04-20

12 Application of Rochelle Tulik, owner of
13 property located at 119 Westland Avenue, for an area
14 variance from Section 205-2 to allow a building
15 addition and deck to extend 1.5 inches into the
16 existing 3.5 foot side setback where a 7.5 foot side
17 setback is required by code. All as described on
18 application and plans on file.

19 CHAIRPERSON MIETZ: Okay. Who do we have to
20 speak for this?

21 MR. TSVASMAN: I'm -- I'm Serge. I work
22 with Design Works Architecture.

23 CHAIRPERSON MIETZ: Okay. Great. So, why
24 don't you give us your name and address, please.

25 MR. TSVASMAN: Yup. Serge. I work for

1 Brighton Zoning Board of Appeals 7/01/2020
2 Design Works Architecture. My last name is Tsvasman,
3 T-s-v-a-s-m-a-n. We're located in Fairport, New York.
4 It's 6 North Main Street. Currently, located in our
5 homes and 110 Oak Lane for me in Brighton.

6 CHAIRPERSON MIETZ: Okay. Great. Okay.

7 MR. TSVASMAN: And I'm here today to ask for
8 a variance for a non-conforming setback to encroach an
9 additional one and a half inches into a side yard.
10 Currently, the -- what -- what has become evident to
11 us was that the -- the house porch was built, maybe
12 the house itself, that wasn't built parallel to the
13 side yard setback property line. And -- and that
14 became apparent as we were trying to create a small
15 addition to the northwest corner of the lot of the
16 house and thought it would be prudent to go to The
17 Board as opposed to pretending like there wasn't an
18 issue. So, hopefully you guys will be understanding
19 of this -- of this request. And I'm happy to answer
20 any questions.

21 CHAIRPERSON MIETZ: Okay. Well, first could
22 you just tell us why the addition has to be in the
23 location that it is and why it's sized the way it is
24 and that sort of thing?

25 MR. TSVASMAN: Yeah. So this addition

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2 itself will allow for -- for the existing small den
3 office to become a bedroom, and it will allow for a
4 bathroom, and a small stackable laundry on the first
5 floor of this house. This -- this addition is a much
6 scaled down version of what was proposed originally.
7 We haven't proposed it to The Board, obviously,
8 proposed to the client and that was -- so we ended up
9 here. It would be a more seamless look if we were
10 able to combine the two roofs into one and allow this
11 to look as -- as it would. And most of the homes
12 actually on this -- on this block have similar shaped
13 and sized porches that are converted into interior
14 space -- conditioned space.

15 CHAIRPERSON MIETZ: Okay. So -- so it would
16 be fair to say that you have minimized it?

17 MR. TSVASMAN: Significantly, yup. This --
18 this addition lines with -- with both corners of the
19 existing house and it sort of infills that little
20 section there where there's a small patio.

21 CHAIRPERSON MIETZ: Okay. Okay. So, Board
22 Members, questions?

23 MS. SCHWARTZ: So, basically, what you're
24 doing this really to get better use of the existing
25 space with this bit of addition?

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2 MR. TSVASMAN: Yeah. This house is, you
3 know, like many of these sort of Ad Hoc additions --
4 and the spaces are tight. It would be, you know,
5 beneficial to this client to be able to have a guest
6 bedroom in addition to, you know, the two other
7 bedrooms that they already have for their -- they're
8 barely use. So...

9 CHAIRPERSON MIETZ: Okay. Other questions?

10 MS. TOMPKINS-WRIGHT: The additional one and
11 a half inches, is that because of the roof line and
12 the overhang?

13 MR. TSVASMAN: It's actually the -- the
14 north property line and the north wall of the -- of
15 the foundation are askew. So as we go to the west,
16 that -- that difference narrows down from 3.3 to 3.2.
17 And in this case that's one and a half -- roughly -- a
18 little less than one and a half inches. But it's
19 certainly -- you know, we're here because it's, you
20 know, it's a non-conforming setback to begin with.

21 MS. TOMPKINS-WRIGHT: Thank you.

22 CHAIRPERSON MIETZ: Okay. Good.

23 MR. TSVASMAN: We have a letter from the
24 neighbor, by the way, I failed to mention, in support
25 of this project.

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2 MR. DiSTEFANO: Yeah. Just for the record,
3 we did receive a letter from the residents at 117 --
4 excuse me, 117 Westland Avenue in support of the
5 application.

6 CHAIRPERSON MIETZ: Okay. Great.

7 MR. TSVASMAN: There's a -- there's a fence
8 in between the two properties there. I don't know if
9 you can see it, but certainly we'll screen and will be
10 unaffected by this project.

11 CHAIRPERSON MIETZ: Okay. That's great.
12 Okay. Any other questions by The Board Members?
13 Okay. Great. Is there anyone in the audience that
14 would like to speak regarding this application?

15 MR. DiSTEFANO: I see no hands raised.

16 CHAIRPERSON MIETZ: Okay. Great. Then the
17 Public Hearing is closed.

18 MR. TSVASMAN: Okay. Thank you very much.

19 CHAIRPERSON MIETZ: Thank you.

20 MR. TSVASMAN: Have a good day.

21 MR. DiSTEFANO: For the record, Application
22 4A-05-20 has been post-poned by the applicant.

23 Application 4A-06-20.

24 APPLICATION 4A-06-20

25 Application of Joe Alloco, owner of property

1 Brighton Zoning Board of Appeals 7/01/2020
2 located at 2700 Elmwood Avenue, for an area variance
3 from Section 207-10E(5) to allow a parking lot
4 expansion to be within two feet of a side lot line in
5 lieu of the minimum four feet required by code, and up
6 to the street line where a 15 foot setback is required
7 by code. All as described on application and plans on
8 file.

9 CHAIRPERSON MIETZ: Okay. Greg's ready
10 there.

11 MR. McMAHON: Good evening. My name's Greg
12 McMahon. I'm with McMahon LaRue Associates at 822
13 Holt Road, Webster, New York. And also on Zoom
14 tonight is Joe Alloco, who is the owner of the
15 building at 2700 Elmwood Avenue.

16 CHAIRPERSON MIETZ: Okay. Very good. Just
17 how about -- yeah, you got -- you're all set, Greg.
18 Go ahead.

19 MR. McMAHON: The request before you tonight
20 is to add three parking places in a area -- in an
21 area -- on the plan -- you see on your screen, right
22 out -- adjacent to the right of away of Elmwood
23 Avenue. That is currently a grass area. However,
24 underneath all of that are RG&E gas utilities. And
25 there's actually asphalt under that grass, which is

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2 one reason they've never been able to grow any
3 significant grass there and you cannot plant. And
4 it's not open for tree planting or anything. I'll --
5 I'll let Joe speak to the -- to the need of these
6 parking places. But the proposal is, again, to place
7 three parking spaces. They would -- they would mirror
8 parking that already exists on the Twelve Corners
9 Plaza that abuts that same property line. So, if Joe
10 is there, he can talk a little bit about his need at
11 that location.

12 MR. ALLOCO: Yes -- yes, I'm here. Can you
13 hear me?

14 CHAIRPERSON MIETZ: Yes.

15 MR. ALLOCO: So, our situation at the plaza
16 had -- you know, we rent -- we rent three tenants
17 there. There's -- I'm a tenant there, we have a
18 dentist office that's there, and we have an insurance
19 office. The insurance office has been growing and
20 they need more parking spaces. So, we're in a
21 situation where, if I can't provide those spaces we're
22 going to lose them as a tenant. And right now, you
23 know, with the current economy we're in, I -- I really
24 can't afford to lose a tenant. We've -- we've had
25 some issues. The dentist has been having a really

1 Brighton Zoning Board of Appeals 7/01/2020
2 hard time because he's been closed. He actually just
3 reopened. So, the only -- the only tenant that's
4 paying rent is myself and the insurance agency. And,
5 if I can't provide more parking spaces for the
6 insurance agency, then I'm going to lose them as a
7 tenant in that lot, which would be a real hardship for
8 me and the building.

9 CHAIRPERSON MIETZ: Okay. So, which -- it
10 was hard because your phone was clicking a little bit
11 there. So, which tenant has caused the requirement
12 for the parking because it's not your property
13 management firm, it's one of the other two?

14 MR. ALLOCO: Yes, sir. It's Quinton
15 Insurance.

16 CHAIRPERSON MIETZ: Okay. So, what -- have
17 they added staff? Or could you be a little more --

18 MR. ALLOCO: Yes, sir. They've -- they've
19 added staff over the last -- you know, they've been
20 there seven years. So, they've added staff. And
21 that's the use. There's really no -- the public
22 really doesn't come in that office at all. It's
23 strictly for, you know, local people that work there.

24 CHAIRPERSON MIETZ: Okay. Okay. How would
25 you manage these three spaces? Now, there's -- would

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2 these be considered, like, since -- if they were
3 built, that they're -- obviously, not there today,
4 would they be, like, the overflow or the last parking
5 or how -- how would you manage this?

6 MR. ALLOCO: They -- they would be the last
7 spots taken. They would definitely be overflow.
8 That -- that's -- that's our plan. And God willing,
9 if we -- we re-open and things get back to normal, and
10 that dentist can re-open, then those spots will be
11 very, very vital.

12 MS. SCHWARTZ: I know that when cars -- I'm
13 sorry, Dennis, are you done?

14 CHAIRPERSON MIETZ: Yes, go right ahead.

15 MS. SCHWARTZ: Okay. I know that when cars
16 are parked there, there won't be any problem telling
17 the difference between the driveway parking area from
18 the building at Twelve Corners versus your building at
19 2700. But I'm concerned when there are no cars there
20 with people just cutting through and cutting over, to
21 me it's a little bit dangerous. Have you given any
22 thought to perhaps putting site -- you said you can't
23 grow anything; and, of course, if you blacktop it, but
24 is there any chance of putting maybe a decorative
25 L-shaped fence or something, just to -- to delineate

1 Brighton Zoning Board of Appeals 7/01/2020
2 those two properties? And also really for safety
3 feature?

4 MR. ALLOCO: If -- if you see what's there
5 now, there's arborvitae. There's a row of arborvitae
6 there. It stops --

7 MS. SCHWARTZ: Up to the street?

8 MR. ALLOCO: They don't go all the way to
9 the street. They stop --

10 MS. SCHWARTZ: Right. I'm concerned about
11 going out towards the sidewalk there --

12 MR. ALLOCO: Right.

13 MS. SCHWARTZ: -- it's very pedestrian.

14 MR. ALLOCO: So I was thinking we could
15 extend the arborvitae to the sidewalk.

16 MS. SCHWARTZ: Okay.

17 MR. ALLOCO: And -- and the reason we never
18 did it is, the Twelve Corners Plaza doesn't really
19 have a lot of place to put snow.

20 MS. SCHWARTZ: No.

21 MR. ALLOCO: -- and I was always
22 accommodating to them, letting them, if they need to
23 push snow there, we would let them do it. So -- and
24 then last year, they didn't -- they didn't put any
25 snow there at all. So I think they ended up getting a

1 Brighton Zoning Board of Appeals 7/01/2020
2 loader there and they put it to the other side now.
3 So, I'd -- I'd be happy to bring a row of arborvitae
4 all the way to the sidewalk to match what's there.
5 That's not a problem.

6 MS. SCHWARTZ: Right. I think it would be
7 aesthetically pleasing, but also I really am concerned
8 about the safety feature when no cars happen to be
9 parked there so thank you.

10 CHAIRPERSON MIETZ: Okay.

11 MR. ALLOCO: I understand. Makes sense.

12 CHAIRPERSON MIETZ: All right.

13 MS. SCHWARTZ: Thank you.

14 CHAIRPERSON MIETZ: Okay. Andrea, did you
15 have any questions?

16 MS. TOMPKINS-WRIGHT: Well, I just -- making
17 sure that these additional -- you believe that these
18 additional three parking spaces will meet your
19 needs -- or your tenants needs for right now?

20 MR. ALLOCO: Yeah, they would. They -- you
21 know, in the insurance business, you know, they --
22 they hire, you know, two to three people every few
23 years. So they just -- they're about to do their next
24 round of hiring and their lease comes due. So they're
25 not willing to sign a new lease unless I can provide

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2 them those spaces. And those spaces, you know, I'm --
3 I'm confident it's going to last them, you know, at
4 least, you know, the next five to seven years, if not
5 more.

6 CHAIRPERSON MIETZ: Okay. All right. Board
7 members, any other questions for either of these
8 gentlemen?

9 MR. DiSTEFANO: I have a couple questions.
10 One technical and one not so technical.

11 CHAIRPERSON MIETZ: Okay.

12 MR. DiSTEFANO: I'll ask Greg: Do you find
13 these -- these parking spaces that could possibly
14 cause a problem with the ingress and egress there
15 being so close to cars pulling off of Elmwood Avenue
16 while somebody might be backing out of a parking
17 space?

18 MR. McMAHON: Yeah, Rick. I mean, it's --
19 it's always -- there's always an issue. I mean,
20 it's -- it -- it could be, but it's probably not a lot
21 different than parking at Wegmans. I mean, when you
22 back out, you know, you're always -- you're always
23 looking for that person coming down the aisle that's
24 not paying attention. So, I think sure, there's --
25 there's always a chance but I think it's just -- you

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2 know, if you're pulling out of those spots, you've got
3 to be vigilant looking for somebody to turn in.

4 MR. DiSTEFANO: Right. Well, one of my
5 other concerns is that somebody on Elmwood Avenue is
6 trying to pull in while other cars are maneuvering in
7 and out of those spaces, what that does for the back
8 up in that area.

9 MR. McMAHON: Yeah. I mean, it -- it
10 could -- if a car -- let's say a car is backing and
11 you've got a car trying to make a right-hand or a
12 left-hand turn in to that entrance, you know, it's --
13 it's going to be, you know, a few seconds while they
14 wait for that car to straighten out and -- and pull
15 out and they'd be able to pull in. So, yeah,
16 conceivably, occasionally it could result in a short
17 delay for a -- a vehicle turning into that driveway.
18 But I wouldn't see it -- I wouldn't see it as being
19 excessive. And, again, if that's the overflow parking
20 area and, you know, it makes sense that that would be
21 because there's really no front entrance in to this
22 building. If someone parks in those spots, they have
23 to walk all the way around the rear of the building to
24 enter. So those are going to be the last spots
25 filled. So, you know, I -- I'm guessing that they're

1 Brighton Zoning Board of Appeals 7/01/2020
2 maybe half -- at least half of the time there won't be
3 any cars parked out there.

4 MR. DiSTEFANO: And, Joe, I have a question
5 for you -- or it's more of a statement. Back in 2012
6 when you bought the building, the Zoning Board granted
7 you a modification to the use variance to allow for a
8 medical use -- dentist office?

9 MR. ALLOCO: Yes, sir.

10 MR. DiSTEFANO: It was -- it was told to The
11 Board back then that there wouldn't be a parking issue
12 with the medical use because the two -- two offices
13 upstairs were basically one or two man offices. So
14 that pretty much assured The Board that, hey, we won't
15 be coming back for a parking need because we can
16 control what's going on upstairs and the dentist, you
17 know, will have plenty of parking for their clients.
18 Now, we're coming back to The Board because you don't
19 have a control over the tenants upstairs. And I -- I
20 find that, you know, a little disingenuous to The
21 Board because that's one reason that they granted that
22 use variance for the medical on the lower level. I
23 mean, can you address that for me?

24 MR. ALLOCO: Yeah, I mean, with all due
25 respect, I think saying it's disingenuous, how many

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2 years ago was that, Rick?

3 MR. DiSTEFANO: It was eight years ago.

4 MR. ALLOCO: Yeah. So eight years ago, the
5 insurance company has grown. The dentist office, as I
6 told The Board then was not going to grow. And, as a
7 matter of fact, the dentist office is smaller now than
8 it was then. He's down one hygienist from when he was
9 moved in. So, I -- the -- the insurance company has
10 grown. And I -- and I think, you know, over eight
11 years, that's -- we've been fine. And now their lease
12 is up for renewal and they've hired people. And, you
13 know, I -- that's where I'm at. So, eight years ago,
14 you know, we were fine. And we did -- we did really
15 well up until, you know, I would say last year. And
16 then -- then COVID hit. And, you know, obviously,
17 everybody went home. So -- but now their -- the
18 insurance office's lease is due and they just want
19 some reassurance that, God willing, if things reopen,
20 that -- that I have some overflow parking that -- that
21 we don't have currently.

22 And then I also -- I also -- I also want to
23 say that you mentioned those spots at Twelve Corners
24 the, you know -- in Twelve Corners Plaza, those spots
25 at the Twelve Corners Plaza entrance have the same

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2 identical issues that my spots would have as far as
3 egress, pulling out and having to be careful. And
4 so -- and I can tell you that, you know, my window is
5 right there and I watch those -- those spots, the
6 people back in and out of there on a daily basis
7 and -- and I've never seen a problem, thank goodness.
8 So...

9 MR. DiSTEFANO: Yeah. I think -- and I
10 don't want to get into a, you know, argument over
11 this, Joe, or anything. I -- I just think the access
12 point to Twelve Corners is a little further away from
13 those -- those parallel parking spaces that would be
14 across from yours. And we --

15 MR. ALLOCO: We'd have to -- we'd have to --
16 we'd have to ask Greg that. I mean, he would know --

17 MR. DiSTEFANO: Yeah. I don't know for
18 sure. I think that -- I think that entrance is down a
19 little bit. But, again, that's -- that's not what I'm
20 concerned with at this point.

21 CHAIRPERSON MIETZ: Okay. All right. Are
22 there any other questions by The Board Members,
23 please? Okay. Very good. Is there anyone in the
24 audience -- I'm sorry. Go ahead, Kathy.

25 MS. SCHMITT: I just had one question: Is

1 Brighton Zoning Board of Appeals 7/01/2020
2 the tenant requesting that they need three parking
3 spaces? Or they said that they needed additional
4 space or two?

5 MR. ALLOCO: They requested three parking
6 spaces.

7 CHAIRPERSON MIETZ: Okay. Are there any
8 other questions? Okay. Is there anyone in the
9 audience that would like to speak?

10 MR. DiSTEFANO: I see no raised hands.

11 CHAIRPERSON MIETZ: Okay. And then at this
12 point, the Public Hearing is closed.

13 MR. ALLOCO: Thank you. Thank you for your
14 time everyone. Appreciate it.

15 MR. McMAHON: Yup. Thank you.

16 MR. DiSTEFANO: Application 4A-07-20.

17 APPLICATION 4A-07-20

18 Application of Jose Casada and Carla Casulo,
19 owners of the property located at 49 Brookside Drive,
20 for an area variance from Section 205-2 to allow
21 building lot coverage to increase from 16 percent to
22 24 percent after construction of a 484 square foot
23 detached garage, in lieu of the maximum 20 percent
24 allowed by code. All as described on application and
25 plans on file.

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2 CHAIRPERSON MIETZ: Okay. Here we go. Good
3 evening.

4 MR. CASADA: Hi.

5 MS. CASULO: Hey.

6 CHAIRPERSON MIETZ: Just introduce
7 yourselves, name and address, that'd be great.

8 MR. CASADA: So we're Jose Casada and Carla
9 Casulo at 49 Brookside Drive.

10 CHAIRPERSON MIETZ: Okay. Great. So,
11 please proceed and let us know what you're trying to
12 do.

13 MR. FINLEY: Okay. I'm Kip Finley with
14 Victory Hill Land Company. I'm the engineer for the
15 project.

16 CHAIRPERSON MIETZ: Okay. Great.

17 MR. FINLEY: So -- I will --

18 CHAIRPERSON MIETZ: Excuse me, Mr. Finley,
19 could you give us your address, please?

20 MR. FINLEY: It's 868 Winslow Road,
21 Churchville.

22 CHAIRPERSON MIETZ: Okay. Great. So one of
23 you please proceed.

24 MR. FINLEY: This application is for relief
25 from Code Section 205-2, which is a building lot

1 Brighton Zoning Board of Appeals 7/01/2020
2 coverage for the property. On that diagram we had
3 looked into five different options to find a way to
4 have a -- an additional bedroom and bathroom on the
5 first floor of the house. And the best solution was
6 to finish off the garage space, which necessitated
7 having some type of other grange space on the
8 property.

9 We did five different options as far as a
10 detached garage, attached next to the garage, attached
11 at the back of the house, and I submitted a table with
12 the application that showed -- the option on your
13 screen now is the only one that only required one
14 variance. There is all those different options. The
15 home owners are very flexible for trying anything we
16 could do but the yard is kind of small. And that's
17 the table that shows that we've analyzed all the
18 different bulk standards to see which one was the
19 least intrusive and required the least request for
20 relief from The Code.

21 So, the concept A is the one that we're in
22 for -- correct. And then that one you showed the map
23 at the beginning for A -- yes, correct. So in that
24 case, we don't have to have any change to setbacks.
25 We would have five feet to the eaves of the garage.

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2 The existing garage will -- has the doors in the back
3 of the garage. So there would be no change to the
4 appearance of the house from the street. It has some
5 windows in the garage. It will look the same when
6 it's done.

7 So, the relief we're requesting is to allow
8 a little bit greater percentage of rear lot
9 coverage -- actually, building coverage. In your
10 code, there is the rear lot, the rear portion of the
11 lot, and then there's the entire lot. We're actually
12 fine with the rear lot coverage of the backyard. But
13 the overall for the property needs to increase a
14 little.

15 CHAIRPERSON MIETZ: Okay.

16 MR. FINLEY: I'm -- we're both here -- or
17 all three of us are here to answer any questions The
18 Board might have. I don't know if there's much more
19 to explain for you.

20 CHAIRPERSON MIETZ: Okay. Just one quick
21 thing, so would it be fair to say that since you're
22 replacing a garage with a garage there'd be no reason
23 that any other storage or storage facilities or
24 anything like that would be necessary?

25 MS. CASULO: No, no.

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2 MR. FINLEY: As far as another shed or
3 something on the property?

4 CHAIRPERSON MIETZ: Yes. Another kind of
5 accessory structure or something, yeah.

6 MS. CASULO: No. We don't need that. No.

7 CHAIRPERSON MIETZ: Okay. Very good.

8 Questions by The Board Members? Anything?

9 MR. DiSTEFANO: I have one, Dennis. Again,
10 is that five foot from an overhang or is that to
11 the -- is that to the garage?

12 MR. FINLEY: Yeah. For Brighton it is from
13 the overhang.

14 MR. DiSTEFANO: Okay. So you'll add it from
15 the overhang. You'll be five feet from the overhang?

16 MR. FINLEY: Yes.

17 MR. DiSTEFANO: Thank you.

18 CHAIRPERSON MIETZ: Okay. Good.

19 MR. CLAPP: Question -- Doug Clapp for The
20 Board Members. And am I coming on, guys?

21 CHAIRPERSON MIETZ: Yeah. Go ahead. You're
22 all set.

23 MR. CLAPP: Okay. I -- I saw the -- the
24 details of the options. I'm wondering if you could
25 very briefly, in your own words, that -- that either

1 Brighton Zoning Board of Appeals 7/01/2020
2 of you or of the three describe the problems with some
3 of the other options and why this one is the best. I
4 do understand it requires the -- the least variances.
5 But perhaps, aesthetically or practically, what are
6 your other options? Just very briefly, please.

7 MR. FINLEY: Sure. Yeah. Whoever's
8 driving, if you want to just flip through -- okay.
9 For B, there was talk with the neighbor to the left
10 about having -- they have a similar situation and
11 there was talk about doing an attached garage with a
12 fire wall but that really did not deal with everything
13 and it brings in lots more things for easements. And
14 a zero lot line, which is a -- very unusual.

15 So for C, 2 the next version, we looked into
16 attaching to the back of the house but once it's
17 attached to the house it starts to have -- fall under
18 the other setback requirements. And so that makes
19 that tough for C and I think D -- yes. That one still
20 would have -- be too close and the house is very
21 difficult to add on in that spot, it would require a
22 flat roof and so that wasn't very desirable and it's
23 hard to maneuver to get in.

24 And then what is E? Very similar situation.
25 It was just coming in from a different angle. So

1 Brighton Zoning Board of Appeals 7/01/2020
2 everything else really didn't work very well. The
3 plain old two car detached garage seemed to be the
4 best option.

5 MR. CLAPP: That's great. Thank you very
6 much.

7 CHAIRPERSON MIETZ: Could you --

8 MR. FINLEY: Okay.

9 CHAIRPERSON MIETZ: Could one of you also
10 speak to -- are there -- just about the neighborhood,
11 and other structures such as this in the neighborhood
12 area?

13 MR. FINLEY: Yes. Well, I drove up and down
14 the street because it's very hard to look on Google
15 Earth with all the trees, and this is something that's
16 been done in quite a bit of the neighborhood. This
17 house was built in 1935. They had different needs for
18 cars and they also -- it was very popular to have
19 these back loaded garages that are very difficult to
20 maneuver. So, a lot of people have built garages that
21 are more modern in the back corners.

22 CHAIRPERSON MIETZ: And -- and freestanding;
23 right.

24 MR. FINLEY: Yes.

25 MS. CASULO: Most of our neighborhood has

1 Brighton Zoning Board of Appeals 7/01/2020

2 detached garages.

3 MR. CASADA: A lot of people do. Our next
4 door neighbors do. It's pretty common especially on
5 this street.

6 CHAIRPERSON MIETZ: Okay. That's great.

7 MS. WATSON: I have just a couple quick
8 questions or points. One is, I see that you share a
9 driveway with your next door neighbor. Have you
10 spoken with them at all about building --

11 MS. CASULO: Yes.

12 MS. WATSON: -- this garage and are they in
13 support?

14 MS. CASULO: Yes. Definitely.

15 MS. WATSON: And my second question or maybe
16 point make is that it looks like you back up to the
17 golf course?

18 MS. CASULO: Yes.

19 MS. WATSON: So, although this variance is
20 for building coverage on a lot, it's fair to say that
21 there's a good amount of open space behind you;
22 correct?

23 MS. CASULO: Yes, yes.

24 MR. CASADA: Yes.

25 MS. CASULO: Completely open.

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2 MS. WATSON: Thanks.

3 CHAIRPERSON MIETZ: Okay. Other questions
4 by The Board? Okay. Great. All right. Is there
5 anyone on the call that would like to speak regarding
6 this application?

7 MR. DiSTEFANO: I see no hands.

8 CHAIRPERSON MIETZ: Okay. Very good. Then
9 the Public Hearing is closed. Thank you.

10 MS. CALUSO: Thank you.

11 MR. FINLEY: Okay. Thank you.

12 MS. SCHWARTZ: Thank you.

13 CHAIRPERSON MIETZ: Thank you.

14 MR. DiSTEFANO: For the record, Application
15 4A-08-20 has postponed.

16 Application 7A-01-20.

17 APPLICATION 7A-01-20

18 Application of Pierrepont Visual Graphics,
19 Inc., agent, and Keating Boulevard Associates, LLC,
20 owner of property located at 1065 Senator Keating
21 Boulevard, for a sign variance from Section 207-32B(4)
22 to allow a building face business identification sign
23 to project 37 feet above the grade in lieu of max 20
24 feet allowed by code. All as described on application
25 and plans on file.

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2 CHAIRPERSON MIETZ: Okay. Who do we have
3 speaking for RGH?

4 MR. ZAPPPIA: Terry Zappia with Pierrepont
5 Visual Graphics. Can you hear me?

6 CHAIRPERSON MIETZ: Yes.

7 MR. ZAPPPIA: Okay.

8 CHAIRPERSON MIETZ: Just give us your
9 address, sir, please.

10 MR. ZAPPPIA: We're located at 15 Elsnor
11 Terrace in Rochester, New York.

12 CHAIRPERSON MIETZ: Okay. Very good. Go
13 right ahead.

14 MR. ZAPPPIA: So, basically the -- the
15 Rochester Regional Health is taking over Westfall
16 Surgery Center. And currently they have a sign. And
17 the location is at 1065 Senator Keating Boulevard.
18 There's a sign that's up there that's been there
19 for -- I don't know how many years -- but RH took over
20 that surgery center. And, basically, we want to
21 replace the copy that says Westfall Surgery Center,
22 LLP, 1065, with Rochester Regional Health, 1065. It's
23 higher than 20 feet. The sign that's up there now is
24 about 40 feet to the top of the sign. Ours would be
25 probably 37 feet. Maybe just a little lower. But we,

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2 you know -- we want to keep it in the area just to
3 cover any damage that's up there from, you know,
4 drilling the holes or -- but, basically, in the same
5 location of where the current one is now.

6 MR. DiSTEFANO: Okay. Just for a little
7 clarification, I think one of the reasons we had to
8 bring them in was, when this building was built -- I
9 believe it was built in the mid to late 90s. We did
10 not have a height restriction for signs. And since
11 that time, we have put that height restriction for
12 signs. So, therefore, the preexisting, nonconforming
13 sign came down, this one's going up. This one needs a
14 variance.

15 CHAIRPERSON MIETZ: Okay. All right. So --
16 but you're pretty confident it's about even three feet
17 shorter from the top of the mansard there?

18 MR. ZAPPIA: Yeah. Looking at the
19 rendering -- so what's there now because we're only
20 using three lines a copy. The current one has four
21 lines a copy.

22 CHAIRPERSON MIETZ: Right.

23 MR. ZAPPIA: Basically, centered kind of in
24 the area that's there now.

25 CHAIRPERSON MIETZ: Yeah. This -- this

1 Brighton Zoning Board of Appeals 7/01/2020
2 looks a little more routable too because it doesn't
3 have all the chop ups in it that the other sign does.

4 MR. ZAPPIA: You're right.

5 CHAIRPERSON MIETZ: Okay. All right. Any
6 other questions by The Board Members?

7 MS. WATSON: Is it going to be lit at all?

8 MR. ZAPPIA: No. Nope. It's going to be
9 non-illuminated. They're going to be flat cut letters
10 similar to what's there now.

11 MS. WATSON: Great.

12 MS. TOMKINS-WRIGHT: How does --

13 CHAIRPERSON MIETZ: Any --

14 MS. TOMKINS-WRIGHT: How does the height of
15 the letters compare to what's there now?

16 MR. ZAPPIA: The word "Rochester" is a
17 little taller, but Regional Health and the 1065 are
18 the same size as what's there now. They're 16 inch
19 high letters, the 1065, and, you know, the Surgery
20 Center LLP. And -- yeah. There's -- but basically,
21 it's the same size.

22 CHAIRPERSON MIETZ: Okay. Any other
23 questions? Okay. Thank you very much. Is there
24 anyone in the audience that would like to speak
25 regarding this application?

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2 MR. DiSTEFANO: I see no hands.

3 CHAIRPERSON MIETZ: Okay. Then the Public
4 Hearing is closed. Thank you.

5 MR. ZAPPIA: Okay. Thank you very much.
6 Have a good night.

7 CHAIRPERSON MIETZ: You too.

8 MS. WATSON: You too.

9 MR. DiSTEFANO: Application 7A-02-20
10 APPLICATION 7A-02-20

11 Application of Andrew Sunberg, owner of
12 property located at 494 North Landing Road, for
13 renewal of a temporary and revocable use permit,
14 pursuant to Section 219-4 to allow for the sale of
15 pizza, deli items and fried foods in conjunction with
16 a preexisting nonconforming grocery business in an RLB
17 Residential District. All as described on application
18 and plans on file.

19 CHAIRPERSON MIETZ: Okay. Mr. Sunberg is
20 present.

21 MR. SUNBERG: Yes. Can you see me?

22 MS. SCHWARTZ: Yeah.

23 MR. SUNBERG: Working right. Good. So,
24 we -- we're just back to get our temporary and
25 revocable use permit.

1 Brighton Zoning Board of Appeals 7/01/2020

2 CHAIRPERSON MIETZ: Can you -- can you do
3 your name and address for the record?

4 MR. SUNBERG: Yeah. Andrew Sunberg. 494
5 North Landing Road.

6 CHAIRPERSON MIETZ: Okay. Go ahead.

7 MR. SUNBERG: And we're just looking to get
8 our temporary and revocable use permit reinstated
9 or -- or activated here for the next two years. We've
10 had this property since 2007. We've done our best to
11 upkeep it and hold it to the standards of the
12 neighborhood. Not a whole lot's changing other than
13 we did buy another building off of Mount Read
14 Boulevard. So we used to have some, like, trucks and
15 stuff that we moved in and out of there that are no
16 longer going to be on site. So, all of that is --
17 we're now operating somewhere else, so we're just
18 strictly a neighborhood store again.

19 MS. SCHWARTZ: So, you've -- sorry.

20 MR. DiSTEFANO: All right, Judy.

21 CHAIRPERSON MIETZ: Go ahead, Judy.

22 MS. SCHWARTZ: So, you're really improved
23 the site in a way by -- by taking the trucks away?

24 MR. SUNBERG: Yeah. I mean, I definitely
25 think it will help, some of them. You know, we had

1 Brighton Zoning Board of Appeals 7/01/2020
2 larger trucks. We didn't always have them there but
3 they were there occasionally -- or for the most part
4 they were there. So now they won't be on site at all
5 whatsoever.

6 MS. SCHWARTZ: Okay. And you have not
7 changed the business at all?

8 MR. SUNBERG: No. So, we did -- we changed
9 the name upon reopening. We were closed for a little
10 while. So the new name now, we've rebranded it, it's
11 Lina's on Landing.

12 MS. SCHWARTZ: Okay. Because --

13 MR. SUNBERG: Very similar menu, similar
14 layout. But --

15 MS. SCHWARTZ: Well, yeah. I wasn't so
16 concerned about the change of your name, which is
17 fine, more about the actual business. You know, with
18 food items and process and so on. So, there's no --

19 MR. SUNBERG: Yeah, no. That's exactly the
20 same, yup.

21 MS. SCHWARTZ: Okay.

22 MR. SUNBERG: That has not changed.

23 MS. SCHWARTZ: Okay.

24 CHAIRPERSON MIETZ: Good.

25 MS. SCHWARTZ: And, Rick, no complaints from

1 Brighton Zoning Board of Appeals 7/01/2020
2 the neighborhood?

3 MR. DiSTEFANO: I have not received any
4 complaints.

5 MS. SCHWARTZ: Say that again.

6 MR. DiSTEFANO: I have not received any
7 complaints.

8 MS. SCHWARTZ: Okay. Thank you.

9 CHAIRPERSON MIETZ: And is there any other
10 improvements that you're planning for the site? Or
11 any other maintenance or anything noteworthy?

12 MR. SUNBERG: Not right now. We just had
13 the parking lot sealed and restripped so that looks
14 fresh. And other than that, no. Just regular upkeep.

15 CHAIRPERSON MIETZ: Okay. All right. Very
16 good. Any other questions by The Board Members,
17 please?

18 MS. SCHWARTZ: Right. And you want this to
19 go to January 2022; correct?

20 MR. SUNBERG: Yes, please.

21 MS. SCHWARTZ: Okay.

22 CHAIRPERSON MIETZ: Questions? Okay. Very
23 good. Is there anyone in the audience who would like
24 to speak regarding this application?

25 MR. DiSTEFANO: I see no hands.

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2 CHAIRPERSON MIETZ: Okay. Then at this
3 point, the Public Hearing is closed.

4 MR. SUNBERG: Okay. Thank you very much,
5 guys.

6 CHAIRPERSON MIETZ: Okay. Thanks.

7 MS. SCHWARTZ: You're welcome.

8 MR. SUNBERG: Okay. Take care. Bye.

9 MS. SCHWARTZ: Bye.

10 MR. DiSTEFANO: Application 7A-03-20.

11 APPLICATION 7A-03-20

12 Application of Ignacio Franco, owner of
13 property located at 37 Summit Drive, for an area
14 variance from Section 207-2A to allow a front yard
15 fence to be four feet in height and incorporate a five
16 foot high driveway gate, where a maximum 3.5 foot high
17 fence is allowed by code. All as described on
18 application and plans on file.

19 CHAIRPERSON MIETZ: Okay. Who do we have
20 speaking for this?

21 MR. FRANCO: I'm on mute. Okay. Thank you.
22 Thank you for unmuting me, Rick. So, good evening,
23 everyone. And my name is Ignacio Franco and I'm the
24 owner of the property at 37 Summit Drive.

25 And as you just heard, we would like to put

1 Brighton Zoning Board of Appeals 7/01/2020
2 a fence to our backyard. This backyard is considered
3 a front yard because our house is at the corner of
4 Summit Drive and Howland Drive.

5 The reason why we would like to put a -- a
6 fence is because our -- we have two little kids, two
7 years old and eight years old, and our house faces
8 Howland Avenue. And Howland Avenue for our
9 neighbor -- our neighborhood relatively -- is a street
10 of relatively high traffic because it's inclined, it
11 leads to Howland Drive. Cars accelerate as they
12 would -- as they go up. And so we are always a --
13 concerned or sometimes even in panic when we see our
14 little kids missing their toys to Howland Avenue and
15 these toys roll all the way down to Howland -- to
16 Howland Avenue. And we are always very concerned that
17 they would just go after them and hit traffic on
18 Howland Avenue.

19 So as a consequence, we haven't been able to
20 enjoy our backyard in the way that most families that
21 have backyards can. So it -- this -- so, we also
22 are -- we are aware of the park-like setting of our
23 neighborhood. And we considered this very carefully.
24 And we opted for a style of fence that would be
25 minimally impactful to the park-like setting. So we

1 Brighton Zoning Board of Appeals 7/01/2020
2 went for aluminum black see-through fence. It's four
3 feet in height such that it's about the same height as
4 swimming pool fences that would prevent our kids from
5 going over the fence. And it will have a gate that is
6 slightly higher just to complete an elegant look in --
7 in the neighborhood.

8 We consulted with all the neighbors before
9 applying. You can see the letters from the neighbors
10 in our application. You can also see a -- the picture
11 of the fence and how it will -- how it's expected to
12 look like.

13 CHAIRPERSON MIETZ: Okay. Very good.
14 Questions? Any questions by any of The Board Members?
15 It looks pretty straight forward. So we appreciate
16 the detail that you gave us and that was very helpful.

17 MR. FRANCO: Thank you so much.

18 MR. DiSTEFANO: Just one question.

19 MR. FRANCO: Absolutely.

20 MR. DiSTEFANO: Ignacio, is the fence going
21 to be four feet all the way around or are you going to
22 go up in height once you get to your yard area?

23 MR. FRANCO: No. It will be all four feet.
24 The only --

25 MR. DiSTEFANO: The entire -- you'd enclose

1 Brighton Zoning Board of Appeals 7/01/2020
2 the entire area with the same four foot high fence?

3 MR. FRANCO: Exactly. Exactly. The only
4 part that is slightly higher is the gate. And it's
5 just to make it look nice.

6 CHAIRPERSON MIETZ: Okay. Very good.

7 MR. FRANCO: Okay. Thank you so much.

8 CHAIRPERSON MIETZ: Okay. Any other
9 questions by The Board?

10 MR. CLAPP: Yes. Doug Clapp, Board Member.
11 I'm curious about the driveway gate. Do you have to
12 stop in the street to open that gate, then pull in and
13 stop again and close it?

14 MR. FRANCO: So, the -- it's -- it's -- so,
15 first of all, the -- this -- the gate when it's --
16 even if it opens towards the street, it will never go
17 toward the street level. This is because the gate
18 will be located at the property line, which is beyond
19 a sidewalk that is existing. So, even if opened on
20 the outside completely, you will never hit the street.

21 Now, what we plan to do is to have this
22 double -- this gate double hinged such that we have
23 the opportunity to open it toward the inside and also
24 the outside depending on the current needs. But
25 there's no sidewalk exactly where this is and even

1 Brighton Zoning Board of Appeals 7/01/2020

2 fully open it will not hit the street.

3 MR. CLAPP: So, you would need to stop
4 briefly in the street to open that gate and then pull
5 in?

6 MR. FRANCO: You will need to stop briefly.
7 You mean to enter the house?

8 MR. CLAPP: Correct.

9 MR. FRANCO: So, the way that we're doing it
10 is that -- yes. I would probably -- I can park slight
11 in my car in my -- in my -- in my driveway. I think
12 the space that I have between the street and the fence
13 is enough to park my car so I will not be blocking
14 traffic. And then I will have to step down, open --
15 open the gate and come in. And we also have designed
16 it in such a way that if -- if it's important, and
17 there are funds available, we can put an electric
18 operator to this gate in the future. This is
19 already -- this is already designed this way.

20 CHAIRPERSON MIETZ: All right. Plus you can
21 also -- you can also swing the gate in if you wanted
22 to also.

23 MS. SCHWARTZ: Right.

24 MR. FRANCO: Yes. Exactly.

25 CHAIRPERSON MIETZ: Okay.

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2 MR. FRANCO: We can also swing the gate in.

3 CHAIRPERSON MIETZ: All right. Very good.

4 All right. Other questions? Okay. Very good. Is
5 there anyone in the audience who would like to speak
6 regarding this application?

7 MR. DiSTEFANO: I see no hands.

8 CHAIRPERSON MIETZ: Okay. Then the Public
9 Hearing is closed.

10 MR. DiSTEFANO: Application 7A-04-20

11 APPLICATION 7A-04-20

12 Application of Richard Aerni and Carolyn
13 Dilcher-Stutz, owners of property located at 60 Helen
14 Road, for an area variance from Sections 203-2.1B(3)
15 and 203-9A(4) to allow for the construction of a 960
16 square foot detached garage in lieu of the maximum 600
17 square foot detached garage allowed by code. All as
18 described on application and plans on file.

19 And also, let me read the next one,
20 Application 7A-05-20.

21 APPLICATION 7A-05-20

22 Same applicant. Same address. For an area
23 variance from Section 207-16A(4) to allow for a second
24 driveway access to the property where only one is
25 allowed by code. All as described on application and

1 Brighton Zoning Board of Appeals 7/01/2020
2 plans on file.

3 CHAIRPERSON MIETZ: Okay. Who do we have
4 speaking on behalf of this application?

5 MR. DiSTEFANO: I think it is --

6 MR. HELD: Hi. This is Blake Held. I know
7 Richard Aerni is available to speak as well. I don't
8 see him though. So I can start. Basically, the
9 garage is --

10 CHAIRPERSON MIETZ: Sir, sir, can you just
11 give us your name -- full name and address, please?

12 MR. HELD: Yes. I apologize. This is Blake
13 Held. I'm the architect for the project. I -- I live
14 at 13 Maplewood Avenue, Honeoye Falls, 14472.

15 CHAIRPERSON MIETZ: Okay. Great. Go right
16 ahead.

17 MR. HELD: The purpose of the garage is to
18 allow parking and also some hobby space for Richard
19 and -- and Carolyn. And the idea was the -- the --
20 the garage would match in character with the house
21 itself. But not be overwhelming in size or anything
22 else. So it's -- it's actually slid down the hill a
23 little bit from the house. And the idea also was to
24 have access be between the two trees that are large
25 and existing there. So it's to kind of hide it behind

1 Brighton Zoning Board of Appeals 7/01/2020
2 the trees but also not to strip them, which is a
3 gravel drive and hence that curb cut request.

4 We've held it off at 22 feet. And if you
5 count the overhang, then it's about 20 feet off the
6 property line on the side. And 50 foot, 48 foot
7 setback from the street line. And then roughly 55
8 feet from the house, as you see there.

9 CHAIRPERSON MIETZ: Okay. Can you describe
10 a little bit what the use of this building shall be?

11 MR. AERNI: Can you hear me?

12 MR. HELD: There he is. Richard?

13 MR. AERNI: I was apparently just unmuted.
14 I gave a nice little speech. I'm sorry. I'm sorry
15 nobody heard it. Yeah. Good evening. The usage will
16 be for --

17 CHAIRPERSON MIETZ: Sir, sir, can you just
18 please give us your name and address, please, for the
19 record when you're speaking?

20 MR. AERNI: Yes, I will. For the second
21 time. Richard Aerni. 60 Helen Road. And the
22 co-owner of the house is Carolyn Dilcher-Stutz.

23 CHAIRPERSON MIETZ: Okay. Great. Go ahead.

24 MR. AERNI: So, we're proposing to build
25 this outbuilding for a combination use of garage and

1 Brighton Zoning Board of Appeals 7/01/2020
2 hobby studio for our ceramics. So, we are
3 currently -- I've been for the past 17 years located
4 in the Hungerford Building and I have a large studio
5 down there. And I'm reaching an age when I wish to
6 slow down and downsize. And so, we're looking for
7 little space on our property, as well as a garage,
8 this would be a building that could be convertible to
9 garage exclusively in the future. So, multi-purpose,
10 if you will.

11 CHAIRPERSON MIETZ: To what level of ceramic
12 activity would occur in this building?

13 MR. AERNI: Well, there wouldn't be a
14 showroom, there wouldn't be a gallery, we wouldn't be
15 holding sales. It would strictly be for our own
16 production of our own work. We're both fulltime
17 artists at this point, looking to become very
18 parttime.

19 CHAIRPERSON MIETZ: Okay. All right. Board
20 Members, questions please?

21 MS. WATSON: Would there be a kiln as part
22 of your ceramics work? Could you describe the process
23 a little bit as far as noise, fumes, anything that
24 neighbors might notice?

25 MR. AERNI: Right. Well, there -- there

1 Brighton Zoning Board of Appeals 7/01/2020
2 will be electrical kilns for sure. Possibly a gas
3 kiln. There would not be noise. Making ceramics is a
4 quite business. We don't have any loud or obnoxious
5 machinery. The kilns would be fully vented outside.
6 There's -- there's -- I mean, I've -- I've had NIOSH
7 and EPA study the buoyant plume of my kilns in the
8 past and they've been ruled perfectly fine being in a
9 residential neighborhood.

10 CHAIRPERSON MIETZ: Okay.

11 MR. AERNI: And -- yes.

12 MS. SCHWARTZ: Can I ask you --

13 MR. AERNI: I -- I --

14 MS. SCHWARTZ: Sorry.

15 CHAIRPERSON MIETZ: Hold on. Hold on. Who
16 would like to ask a question? You've gotta raise your
17 hands, guys. We can't have everybody talking. Okay,
18 Judy, go ahead.

19 MS. SCHWARTZ: Yes. How did you decide on
20 this location versus the other side of your home?

21 MR. AERNI: Well, topography has a lot to do
22 with it. This is a pretty level area. We didn't
23 really want to disrupt the backyard with a long
24 driveway. There's some -- there's some very big trees
25 in the back. If you happen to drive by, you'll

1 Brighton Zoning Board of Appeals 7/01/2020
2 probably notice it's very park-like in the back there.
3 We really don't want to disturb that vista, if you
4 will. There are some areas in the upper -- upper
5 right-hand -- upper left-hand corner, as you're
6 looking at -- at our map there, that can get wet
7 during the winter thaw and we wanted -- we wanted to
8 locate this in a drier area and just make it look like
9 it belonged to be a part of -- you know, a part and
10 parcel of the property with the house.

11 CHAIRPERSON MIETZ: Okay. Other questions?

12 MR. CLAPP: Yes. It's Doug Clapp, Board
13 Member. And this might be a question for Rick as much
14 as for the applicant. I'm wondering if the degree of
15 business brings us the level of considering a use
16 variance? Or is this a -- a work at home? And I'm
17 totally supportive of artists working at home. I'm
18 just raising the question so we don't miss anything or
19 get in any trouble.

20 MR. DiSTEFANO: Well, Doug, it gets a little
21 interesting. You can have a studio for an artist in
22 your home, it's a permitted home occupation. So if
23 they were performing their craft inside their home,
24 they could produce a product, they can sell it.

25 When you move to an accessory structure, it

1 Brighton Zoning Board of Appeals 7/01/2020
2 gets a little more interesting. It really should be
3 for hobby purposes only. I know there's a number of
4 people who do woodworking in their garage. They do
5 other types of activities in their garage. Basically
6 what we got to make sure is that this structure is a
7 garage, it can store a vehicle. If they were to come
8 in and not show an overhead garage door, then that
9 definitely would not be considered a garage. So
10 that's one of the key factors.

11 Again, it's a little bit of a gray area when
12 you start doing hobbies in your -- in your garage.

13 CHAIRPERSON MIETZ: Well, how -- how did you
14 analyze this when you received the application, Rick?

15 MR. DiSTEFANO: Basically as a hobby.

16 CHAIRPERSON MIETZ: Okay.

17 MR. DiSTEFANO: It's going to be a detached
18 garage where they can store their vehicles. And then
19 as an area where they can have a hobby --

20 CHAIRPERSON MIETZ: Okay.

21 MR. DiSTEFANO: -- in a portion of that
22 structure.

23 CHAIRPERSON MIETZ: Okay.

24 MR. DiSTEFANO: Now, granted it is in a
25 large garage. It's well over the 600 square feet that

1 Brighton Zoning Board of Appeals 7/01/2020

2 we permit for a garage.

3 CHAIRPERSON MIETZ: Correct.

4 MR. CLAPP: Okay. That addresses my
5 concern. Thank you very much.

6 CHAIRPERSON MIETZ: Okay.

7 MS. TOMPKINS-WRIGHT: Andrea Wright. You
8 mentioned in your application and in, you know, some
9 of your remarks the equipment that you use, kilns and
10 et cetera, is it safe to say that those types of
11 equipment based on their size and their use would be
12 inappropriate to put inside of a traditional home?

13 MR. AERNI: I wouldn't want to put one
14 inside a home. You know, I know there are people that
15 put them in basements and garages but I've always
16 erred on the side of caution in the past. So -- plus,
17 we have a small home. It's just a thousand square
18 feet. We don't have a lot of room for doing that kind
19 of a thing in -- in the house. The -- the electric
20 kilns are small. They're maybe 30 inches in diameter
21 by three feet tall and, you know, they -- as long as
22 they're properly installed, they're UL -- UL rated,
23 they operate just fine.

24 MS. TOMPKINS-WRIGHT: What kind of utilities
25 will be in this garage/building? I -- I noticed

1 Brighton Zoning Board of Appeals 7/01/2020
2 there's the utility sinks, there's obviously plumbing,
3 it's -- is it heated?

4 MR. AERNI: Yeah. My intention is per
5 getting the bids in, if this is approved, is to put
6 radiant floor heating in. It's always been my dream.
7 I've never been able to do it in any of my other
8 studios. There will be a utility sink but that will
9 be the extent of the plumbing. That will be the --
10 really the only utility other than lighting.

11 CHAIRPERSON MIETZ: Okay. All right. Other
12 questions by The Board?

13 MS. TOMPKINS-WRIGHT: I just --

14 MS. SCHWARTZ: Go ahead. Go ahead.

15 MS. TOMPKINS-WRIGHT: Again, this is Member
16 Wright. Just one other question, you know, would you
17 say it's -- it's fair to say that there are several
18 other properties or at least some other properties in
19 that neighborhood where there are larger detached
20 garages as well?

21 MR. AERNI: Definitely. I -- I have not
22 measured the square footage. We have a -- an
23 outbuilding, and the property behind us that we use --
24 that was used as a plumbing supply business at one
25 point. The property across the street from theirs, I

1 Brighton Zoning Board of Appeals 7/01/2020
2 know that the resident got a variance to build a
3 larger garage some years ago. So, there are lots of
4 outbuildings. There's a wicker studio across the
5 street from us in an outbuilding. I -- I would say
6 that this would not alter the character of the
7 neighborhood. And with one exception, we have some
8 strong support from all of our neighbors and I don't
9 know if the one exception has contacted you. I've
10 tried to talk with her, but she has not answered any
11 of my calls.

12 MR. DiSTEFANO: We have received a letter
13 from the neighbor at 80 Helen Drive. Is that the
14 neighbor --

15 CHAIRPERSON MIETZ: Rick, you've got to
16 speak up a little, Rick.

17 MR. DiSTEFANO: We have received a letter
18 from your neighbor at 80 Helen Drive.

19 MR. AERNI: That would be Julie.

20 MR. DiSTEFANO: Yes. Is that who you tried
21 to contact?

22 MR. AERNI: Yes. She has concerns about
23 that -- the building will permanently alter the flow
24 of drainage and will flood her property. All I can
25 say to that is that -- that area of the property is

1 Brighton Zoning Board of Appeals 7/01/2020
2 essentially a bowl. It -- there are low areas that
3 rise as they come towards the street. And this
4 building will not add or subtract any moisture that
5 would have run into the low areas in the past and has
6 not ever flooded her property.

7 CHAIRPERSON MIETZ: Okay. And also, you're
8 doing a gravel driveway; correct?

9 MR. AERNI: Right. I'd -- I'd rather keep
10 it low impact and do it -- do it gravel, if I could.

11 CHAIRPERSON MIETZ: Okay. That's helpful,
12 granted --

13 MR. DiSTEFANO: And, Richard, that area
14 that's outside your property but in the property line
15 and the street line in the Town's right of way is
16 pretty good. The increase in grade right through
17 there. Kind of like a ridge --

18 MR. AERNI: Yeah.

19 MR. DiSTEFANO: -- right in front of the
20 property. Have you talked to anybody? A driveway
21 company or anybody on how they're going to be able to
22 fashion your driveway through there?

23 MR. AERNI: What -- what I would hope to
24 do -- no, I haven't talked with the driveway company,
25 but I would hope to perhaps scrape that berm down a

1 Brighton Zoning Board of Appeals 7/01/2020
2 little bit without disturbing -- disturbing any of the
3 tree roots. And, you know, the vehicles can handle
4 that berm, but I'd rather it be a little less
5 aggressive. So, and it might necessitate taking off a
6 couple of limbs, of the lower hanging limbs of the
7 trees there.

8 MR. DiSTEFANO: I do have some concern
9 because most of that isn't -- I would believe that
10 most of that area is in the Town right of way.

11 MR. AERNI: Is that the right of way?

12 MR. DiSTEFANO: Yeah. I would suggest that,
13 if this variance is approved, that you definitely talk
14 to Tim Anderson with the Highway Department --

15 MR. AERNI: Okay.

16 MR. DiSTEFANO: -- before you go too much
17 further.

18 MR. AERNI: Sure.

19 MR. DiSTEFANO: Also, just a question:
20 There is no existing garage for the house; correct?

21 MR. AERNI: Not at this point, no. There --
22 there was one. It's -- it's been turned in to an
23 inlaw suite for my partner's son.

24 MR. DiSTEFANO: Was there any thought about
25 removing the existing driveway? Then you wouldn't

1 Brighton Zoning Board of Appeals 7/01/2020

2 need the variance.

3 MR. AERNI: No. Just -- just because, at
4 this point, there are three cars and there will always
5 be, you know, one -- at least one car out on that
6 driveway.

7 CHAIRPERSON MIETZ: Okay. All right. Other
8 questions, please? Okay. Is there anyone in the Zoom
9 who would like to speak regarding this application?

10 MR. DiSTEFANO: I see no hands.

11 CHAIRPERSON MIETZ: Okay. Then this Public
12 Hearing is closed.

13 MR. AERNI: Thank you very much for your
14 time.

15 MR. DiSTEFANO: Application 7A-06-20.

16 APPLICATION 7A-06-20

17 Application of Shirah Cahill, SWBR, agent,
18 and the Summit of Brighton, owner of property located
19 at 2000 Summit Circle Drive, for an area variance from
20 Sections 203-2.1B(2) and 203-30A(1) to allow a pergola
21 structure to be 400 square feet in size in lieu of the
22 maximum 250 square feet allowed by code. All as
23 described on application and plans on file.

24 CHAIRPERSON MIETZ: Okay. Who do we have
25 speaking for The Summit?

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2 MR. DiSTEFANO: We have to let Shirah in.

3 Where did she go?

4 CHAIRPERSON MIETZ: All set?

5 MS. CAHILL: I think so.

6 CHAIRPERSON MIETZ: Okay.

7 MS. CAHILL: Can you hear me?

8 CHAIRPERSON MIETZ: How about your name and
9 address, please.

10 MS. CAHILL: Okay. My name is Shirah Cahill
11 from SWBR, 387 East Main Street. Currently I'm
12 working from home, 1260 Park Ave. I'm representing
13 Jewish Senior Life. Requesting an area variance for a
14 400 square foot pergola structure proposed in the
15 dinning and lifestyle expansion project at The Summit.
16 And my cat is in heat so I am sorry. It's -- it's
17 real. It's online meetings and I was hoping it
18 wouldn't be that bad right now, but it is.

19 Okay. So, the project is on the Jewish
20 Senior Life Campus, which is off South Winton Road.
21 The internal address is 200 Summit Circle Drive. It's
22 northwest of the main Jewish Home Tower, it's south of
23 Wolk Manor, which is the Memory Care Community, and
24 it's east of Meridian Center Park.

25 The purpose of the project is to provide

1 Brighton Zoning Board of Appeals 7/01/2020
2 outdoor amenity space and to encourage elders to spend
3 time outdoors. Currently, there's not a lot of
4 outdoor program space on the campus. They're just
5 noticing, you know, national and international trends
6 and research showing that, you know, even small
7 amounts of outdoor time can provide a lot of health
8 benefits for seniors including decreased falls, faster
9 healing time after medical procedures, better sleeping
10 patterns.

11 And now, you know, in addition, and the post
12 COVID, world industry leaders are really talking about
13 moving program outside in senior communities. So I
14 think that we're going to see a lot of push towards
15 increased program space outdoors because of the safety
16 for residents, visitors and staff.

17 We're proposing, quickly, a concrete patio,
18 a wood deck, a regraded lawn area for fitness
19 activities, outdoor furniture, a fire pit, and outdoor
20 kitchen. Three new doors to replace current window
21 locations, modest outdoor lighting, and two pergola
22 structures. One is 215 square feet. And then there's
23 one octagonal shape pergola with a fabric awning that
24 measures 400 square feet. 150 square feet larger than
25 the allowable 250 so a 60 percent variance.

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2 The project is an inwardly focused
3 courtyard. It is not visible from the street or from
4 the adjacent park. There are no residential units
5 adjacent to the courtyard. The pergola structure will
6 use the same aesthetic language as the existing
7 buildings. They have -- it has protruding building
8 joists that have a certain profile that we're going to
9 mimic in the pergola structures. There are also
10 several pergolas already on the Jewish Senior Life
11 Campus. There's two in each of the courtyards for the
12 three greenhouse style apartments. And there's also
13 one gazebo to the southeast of the Jewish Home Tower.

14 The reason why we're requesting the variance
15 is, we had focus groups with the residents when we
16 were planning for this project and one of the main
17 concerns that they brought up many times, and
18 frequently, was comfort and their ability to be
19 outside and be comfortable. They wanted shade, they
20 wanted shade, they basically wanted another room
21 outside.

22 Originally we had proposed a very large
23 shade structure. But we started to have concerns that
24 it wouldn't let enough light in during the winter
25 months and that it also wasn't appropriate for the

1 Brighton Zoning Board of Appeals 7/01/2020
2 scale of the project. And so we've paired it down to
3 using shade umbrellas, a cooking pergola, and then
4 this fabric shade awning over one of the dining areas
5 that's outside of the kosher dining room in order to
6 encourage elders to spend time outside and -- and
7 foster the use of the space.

8 And so to conclude, a pergola of 250 square
9 feet in this application doesn't meet our program
10 requirements or the needs for the senior community.
11 And so to ensure the physical comfort of the residents
12 and foster the use of the outdoor space for the mental
13 and physical health benefits they'll provide, we're
14 requesting the area variance for a 400 foot -- square
15 foot pergola. Thank you.

16 CHAIRPERSON MIETZ: Okay. So, I just have
17 one quick question: You talk about modest lighting.
18 Could you be a little more forthright than that,
19 please?

20 MS. CAHILL: Sure. We are replacing
21 building sconces that are there in kind. There are --
22 I think -- I don't have this written down in this --
23 notes for this meeting.

24 CHAIRPERSON MIETZ: I see some notes
25 there but -- right.

1 Brighton Zoning Board of Appeals 7/01/2020

2 MS. CAHILL: Yeah. There's four that we're
3 replacing in kind and then there's five that we are
4 adding. Well punctuated on -- on the building where
5 existing ones are. And the only other lighting that
6 we're adding is overhead bistro lighting. It's dark
7 sky compliant. The sconces are 3,000K. The overhead
8 bistro lighting is 2,700. And they will only -- all
9 the lighting will only be used while the space is in
10 use which will, unless there is a special, special
11 event, be around 8 p.m. when people stop using the
12 space.

13 CHAIRPERSON MIETZ: Okay. All right. Okay.
14 Very good. Okay. Questions by Board Members? Any
15 questions? Pretty straight forward.

16 MR. CLAPP: In -- this is Doug Clapp, Board
17 Member. And it does seem fairly straight forward. I'm
18 wondering, to answer the question of, if there were
19 other -- any other options that could have been
20 considered to provide a similar benefit to the
21 residents?

22 MS. CAHILL: We did. I mean, we went back
23 and forth a number of times. As I mentioned, we were
24 originally looking at -- well, after our focus groups,
25 we ended up with this huge awning that was going to be

1 Brighton Zoning Board of Appeals 7/01/2020
2 coming off of the building, covering almost the entire
3 seating area because people just kept on mentioning,
4 how are we going to be comfortable outside? It's too
5 hot outside. We don't like to be outside. You know,
6 and thinking, it would be good for you to spend some
7 time outside. So -- but anyhow, so we -- in order
8 to -- to appease people and to make them feel that
9 they would be physically comfortable, we proposed, you
10 know, a solid shade structure that would give real
11 shade and wouldn't have the holes that, you know,
12 umbrellas would provide. Also, a solid shade
13 structure will shade the ground more profoundly which
14 will also lower the -- the heat island effect of the
15 space. And so we thought, you know, as much as -- as
16 we can get out there. So the minimum we wanted to do
17 was at least the main dining area, which is the space
18 that we are covering in the octagonal space. The
19 other areas are semi-dining, semi-lounge. The other
20 dining you can see is up against the building. And,
21 since it is a north facing building, those tables are
22 going to get, you know, more shade from the bulk of
23 the building the majority of the time. The ones that
24 are a little bit farther off, we wanted to give them,
25 you know, a shade structure that was separate from

1 Brighton Zoning Board of Appeals 7/01/2020

2 just the building shade.

3 CHAIRPERSON MIETZ: Okay.

4 MR. CLAPP: Thank you very much.

5 CHAIRPERSON MIETZ: Very good. Okay. Other
6 questions? Okay. Is there anyone in the --

7 MS. CAHILL: Thank you.

8 CHAIRPERSON MIETZ: -- Zoom conference that
9 would like to speak regarding this application? Okay.

10 MR. DiSTEFANO: I see no hands.

11 CHAIRPERSON MIETZ: Nothing? Okay. All
12 right. So the Public Hearing is closed. Thank you
13 very much.

14 MS. CAHILL: Thank you very much.

15 CHAIRPERSON MIETZ: Okay. Would The Board
16 Members like five minutes here?

17 MS. SCHWARTZ: Please.

18 CHAIRPERSON MIETZ: Okay. We'll -- it's
19 8:28. So five minutes, please.

20 * * *

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July 1, 2020

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Brighton Town Hall

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2300 Elmwood Avenue

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Brighton, New York 14618

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PRESENT:

13

DENNIS MIETZ, CHAIRPERSON

14

DOUGLAS CLAPP

15

KATHLEEN SCHMITT

16

ANDREA TOMPKINS WRIGHT

17

JENNIFER WATSON

18

JUDY SCHWARTZ

19

DAVID DOLLINGER, ESQ.

20

Town Attorney

21

RICK DiSTEFANO

22

Secretary

23

NOT PRESENT:

24

JEANNE DALE

25

REPORTED BY: ALEXANDRA K. WIATER, Court Reporter
Forbes Court Reporting Services, LLC
21 Woodcrest Drive
Batavia, New York 14020

1 Brighton Zoning Board of Appeals 7/01/2020

2 APPLICATION 4A-01-20

3 Application of F & H Development, owner of
4 property located at 1338 Brighton Henrietta Town Line
5 Road for an area variance from Section 205-8 to allow
6 a building addition to extend two feet into the 50
7 foot side setback required by code. All as described
8 on application and plans on file.

9 Motion made by Mr. Clapp to approve
10 Application 4A-01-20 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

- 13 1. The property is located in a light industrial zone
14 and the variance will have no adverse impact on the
15 character of the neighborhood or surrounding
16 properties or on physical or environmental conditions.
- 17 2. The location of the existing buildings on the
18 property make it impossible for the owner to construct
19 a building addition that adequately meets business
20 needs without the requested variance.
- 21 3. The requested variance of the 48 foot setback
22 where the 50 feet is required is the minimum necessary
23 to meet the owners needs.
- 24 4. Additional interior space is needed to accommodate
25 business needs and preexisting structures on the

1 Brighton Zoning Board of Appeals 7/01/2020
2 property and fit with existing structures on the
3 property.

4 **CONDITIONS:**

5 1. A fence shall be constructed and landscaping
6 installed to screen the new construction from the
7 street.

8 2. All necessary permits shall be obtained.

9 3. The variance applies only to be a condition as per
10 plans submitted and testimony given.

11 (seconded by Ms. Schwartz.)

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

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

17

18 APPLICATION 4A-02-20

19 Application of F & H Development, owner of
20 property located at 1338 Brighton Henrietta Town Line
21 Road, for an area variance from Section 203-93C(5) to
22 allow for outdoor storage of construction equipment in
23 both side yards in lieu of the rear yard only as
24 allowed by code. All as described on application and
25 plans on file.

1 Brighton Zoning Board of Appeals 7/01/2020
2 Motion made by Mr. Mietz to approve
3 Application 4A-02-20 based on the following findings
4 of fact.

5 **FINDINGS OF FACT:**

- 6 1. No change in the character of the neighborhood
7 will result from the approval of this request since it
8 is a light commercial area and fencing will improve
9 the visual impact.
- 10 2. Storage cannot be placed in the rear yard since
11 there is a 100 foot buffer, which is a New York State
12 wetland requirement at the rear lot.
- 13 3. No other alternative can meet the needs of the
14 applicant due to the restrictions on the property.
- 15 4. The visual impact of the storage areas will be
16 mitigated by the fence installation and landscaping to
17 shelter the equipment stored.

18 **CONDITIONS:**

- 19 1. This variance is conditioned on the testimony
20 given and plans submitted specifically as to the
21 location and size of the fence installation.
- 22 2. No storage shall be allowed outside the fenced
23 area.
- 24 3. All necessary permits shall be obtained.

25 (seconded by Ms. Tompkins-Wright.)

1 Brighton Zoning Board of Appeals 7/01/2020

2 (Mr. Clapp, yes; Ms. Schwartz, yes;

3 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;

4 Ms. Watson, yes; Mr. Mietz, yes.)

5 (Upon roll call, motion to approve with

6 conditions carries.)

7

8 APPLICATION 4A-03-20

9 Application of The University of Rochester,

10 owner of property located at 250 East River Road, for

11 renewal of a temporary and revocable use permit

12 (4A-01-18) pursuant to erect a tent and hold up to

13 three outdoor special events for the years 2020 and

14 2021. All as described on application and plans on

15 file.

16 Motion made by Ms. Schmitt to approve

17 Application 4A-03-20 based on the following findings

18 of fact.

19 **FINDINGS OF FACT:**

20 1. Granting of the permit will not negatively impact

21 the health, safety, or general welfare of the

22 community. And it may have a positive impact as the

23 applicant is seeking to provide protection from

24 inclement weather.

25 2. If the permit is granted, there will be no effect

1 Brighton Zoning Board of Appeals 7/01/2020
2 on available facilities from the increased population
3 in attendance at the events, as the events are usually
4 less than one day, and the events for which the tent
5 will be used will not include music or lighting. And
6 the applicant has stated that there is ample parking.
7 3. Granting of the request will not result in the
8 change of character of the neighborhood or be
9 detrimental to surrounding properties as the location
10 of the proposed tent and/or tents is within the
11 university's campus.

12 **CONDITIONS:**

13 1. The application is granted as per the application
14 submitted and testimony given for the remainder of
15 2020 and year 2021 for up to three events per year.

16 2. All necessary Fire Marshal permits shall be
17 obtained.

18 (seconded by Ms. Tompkins-Wright.)

19 (Mr. Clapp, yes; Ms. Schwartz, yes;
20 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;
21 Ms. Watson, yes; Mr. Mietz, yes.)

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

24

25 APPLICATION 4A-04-20

1 Brighton Zoning Board of Appeals 7/01/2020
2 Application of Rochelle Tulik, owner of
3 property located at 119 Westland Avenue, for an area
4 variance from Section 205-2 to allow a building
5 addition and deck to extend 1.5 inches into the
6 existing 3.5 foot side setback where a 7.5 foot side
7 setback is required by code. All as described on
8 application and plans on file.

9 Motion made by Ms. Schwartz to approve
10 Application 4A-04-20 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

- 13 1. There's a variance of only 1.2 inches into an
14 existing there and a half foot side setback is
15 miniscule even though a seven and a half foot side
16 setback is required.
- 17 2. The requested variance is due to the fact that the
18 home was built with a nonconforming side setback and
19 slightly askew from the property line, thus aligning
20 the addition to the existing home was difficult.
- 21 3. There will be no change to the character of the
22 neighborhood, as this variance will not be noticeable
23 in any way to a passerby.

24 **CONDITIONS:**

- 25 1. This variance only applies to the 1.2 reduction on

1 Brighton Zoning Board of Appeals 7/01/2020
2 the side setback of a pre-existing three and a half
3 foot side setback.

4 2. All necessary planning and building approvals must
5 be granted.

6 (seconded by Ms. Watson.)

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

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

12

13 APPLICATION 4A-06-20

14 Application of Joe Alloco, owner of property
15 located at 2700 Elmwood Avenue, for an area variance
16 from Section 207-10E(5) to allow a parking lot
17 expansion to be within two feet of a side lot line in
18 lieu of the minimum four feet required by code, and up
19 to the street line where a 15 foot setback is required
20 by code. All as described on application and plans on
21 file.

22 Motion made by Ms. Tompkins-Wright to
23 approve Application 4A-06-20 based on the following
24 findings of fact.

25 **FINDINGS OF FACT:**

1 Brighton Zoning Board of Appeals 7/01/2020

2 1. The granting of the requested variance will not
3 produce an undesirable change in the character of the
4 neighborhood or be a detriment to nearby properties.
5 The property is immediately adjacent to a similarly
6 situated property with parking located up to the
7 street line. And the remainder of the parking on this
8 property is located within two feet of the side lot
9 line. Thus, this change will not appear out of the
10 ordinary to passersby.

11 2. The requested variance is not substantial given
12 the aforementioned neighboring property and the
13 current property layout. Further, the location of the
14 proposed additional parking is unsuitable to
15 landscaping due to RG&E restrictions over gas lines
16 and valves.

17 3. The benefits sought by the applicant cannot
18 reasonably be achieved by any other method. There are
19 no other meaningful locations on site to increase
20 parking that would not require a variance.

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

24 **CONDITIONS:**

25 1. The variance granted herein applies only to the

1 Brighton Zoning Board of Appeals 7/01/2020
2 location of additional parking spaces described in and
3 then the location as depicted on the application and
4 in the testimony given.

5 2. Snow shall not be stored on these three additional
6 parking spaces.

7 3. All necessary permits must be obtained.

8 (seconded by Mr. Clapp.)

9 (Mr. Clapp, yes; Ms. Schwartz, no;
10 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;
11 Ms. Watson, yes; Mr. Mietz, yes.)

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

15 APPLICATION 4A-07-20

16 Application of Jose Casada and Carla Casulo,
17 owners of the property located at 49 Brookside Drive,
18 for an area variance from Section 205-2 to allow
19 building lot coverage to increase from 16 percent to
20 24 percent after construction of a 484 square foot
21 detached garage, in lieu of the maximum 20 percent
22 allowed by code. All as described on application and
23 plans on file.

24 Motion made by Mr. Clapp to approve
25 Application 4A-07-20 based on the following findings

1 Brighton Zoning Board of Appeals 7/01/2020

2 of fact.

3 **FINDINGS OF FACT:**

4 1. The variance will not result in the change of the
5 character of the neighborhood as numerous other
6 properties in the neighborhood have detached garages.
7 Numerous other options were explored. And the option
8 proposed best meets the needs and requirements, and
9 the variance is the minimum to meet the owners
10 requirements.

11 2. The variance is not a substantial request being 24
12 percent coverage, where 20 percent is allowed.

13 3. The desire for a garage is self-created. But the
14 layout of the property created in 1935 made a
15 substandard sized lot, making the addition of a garage
16 as proposed the preferred option and the need for a
17 coverage variance.

18 **CONDITIONS:**

19 1. This variance applies only to the application
20 submitted and the testimony given.

21 2. All necessary permits shall be obtained.

22 (seconded by Ms. Schwartz.)

23 (Mr. Clapp, yes; Ms. Schwartz, yes;

24 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;

25 Ms. Watson, yes; Mr. Mietz, yes.)

1 Brighton Zoning Board of Appeals 7/01/2020

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

4

5 APPLICATION 7A-01-20

6 Application of Pierrepont Visual Graphics,
7 Inc., agent, and Keating Boulevard Associates, LLC,
8 owner of property located at 1065 Senator Keating
9 Boulevard, for a sign variance from Section 207-32B(4)
10 to allow a building face business identification sign
11 to project 37 feet above the grade in lieu of max 20
12 feet allowed by code. All as described on application
13 and plans on file.

14 Motion made by Mr. Mietz to approve
15 Application 4A-08-20 based on the following findings
16 of fact.

17 **FINDINGS OF FACT:**

18 1. The proposed sign will be replacing an existing
19 sign and nearly the same location on the building,
20 which is currently three feet taller than the
21 proposed.

22 2. The request to continue at 37 feet is necessary
23 for patients to identify the building from nearby
24 roadways.

25 3. No other alternative could produce the desired

1 Brighton Zoning Board of Appeals 7/01/2020

2 result.

3 **CONDITIONS:**

4 1. This variance is based on the plans submitted and
5 testimony given as to the size and location of the
6 sign.

7 2. The sign shall be non-illuminated.

8 3. All ARB and Planning Board approval shall be
9 obtained.

10 (Seconded by Ms. Schwartz.)

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

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

16

17 APPLICATION 7A-02-20

18 Application of Andrew Sunberg, owner of
19 property located at 494 North Landing Road, for
20 renewal of a temporary and revocable use permit,
21 pursuant to Section 219-4 to allow for the sale of
22 pizza, deli items and friend foods in conjunction with
23 a preexisting nonconforming grocery business in an RLB
24 Residential District. All as described on application
25 and plans on file.

1 Brighton Zoning Board of Appeals 7/01/2020
2 Motion made by Ms. Schwartz to approve
3 Application 7A-02-20 based on the following findings
4 of fact.

5 **FINDINGS OF FACT:**

- 6 1. The present owner is requesting a temporary and
7 revocable use permit, which he has had since 2007.
8 This ongoing business is a viable part of this
9 community. In fact, were there no neighborhoods to
10 support the business, the applicants business would
11 not be sustainable.
- 12 2. There have been no complaints to the town in
13 regard to any aspect of the business since the renewal
14 of this variance in prior years.
- 15 3. The variance will not alter the essential
16 character of the neighborhood.
- 17 4. The alleged hardship is unique in this otherwise
18 residential area for the alleged hardship has not been
19 self-created.

20 **CONDITIONS:**

- 21 1. The use approved in this variance is only for the
22 business as described in the application and
23 testimony.
- 24 2. All waste from the business will be properly
25 disposed of as per Section 207-14.2.

1 Brighton Zoning Board of Appeals 7/01/2020

2 3. The hours of operation shall not exceed 7 a.m. to
3 9:30 p.m.

4 4. External lighting, noise, and odor shall be
5 controlled so it's not to annoy any nearby residents.

6 5. This temporary and revocable use permit shall
7 expire on January 5, 2022.

8 (seconded by Ms. Watson.)

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

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

14

15 APPLICATION 7A-03-20

16 Application of Ignacio Franco, owner of
17 property located at 37 Summit Drive, for an area
18 variance from Section 207-2A to allow a front yard
19 fence to be four feet in height and incorporate a five
20 foot high driveway gate, where a maximum 3.5 foot high
21 fence is allowed by code. All as described on
22 application and plans on file.

23 Motion made by Ms. Schmitt to approve
24 Application 7A-03-20 based on the following findings
25 of fact.

1 Brighton Zoning Board of Appeals 7/01/2020

2 **FINDINGS OF FACT:**

3 1. The variance request will allow the applicants to
4 construct in their backyard a four foot fence and five
5 foot gate, which is in excess of the three and a half
6 feet permitted by the code.

7 2. The property in question is a corner lot next to
8 an inclined road.

9 3. The granting of the variance does not appear to
10 result in any substantial detriment to nearby
11 properties or otherwise adversely affect the character
12 of the neighborhood.

13 4. There is no evidence that there would be a
14 negative impact on the health, safety, and welfare of
15 the neighborhood.

16 **CONDITIONS:**

17 1. The variance applies only to the fence and gate as
18 described in the application and testimony provided
19 and will not apply to future projects.

20 2. All necessary building permits shall be obtained.

21 (seconded by Ms. Schwartz.)

22 (Mr. Clapp, yes; Ms. Schwartz, yes;

23 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;

24 Ms. Watson, yes; Mr. Mietz, yes.)

25 (Upon roll call, motion to approve with

1 Brighton Zoning Board of Appeals 7/01/2020

2 conditions carries.)

3

4 APPLICATION 7A-04-20

5 Application of Richard Aerni and Carolyn

6 Dilcher-Stutz, owners of property located at 60 Helen

7 Road, for an area variance from Sections 203-2.1B(3)

8 and 203-9A(4) to allow for the construction of a 960

9 square foot detached garage in lieu of the maximum 600

10 square foot detached garage allowed by code. All as

11 described on application and plans on file.

12 Motion made by Ms. Tompkins-Wright to table

13 Application 7A-04-20 and keep the Public Hearing open

14 to permit the applicant to submit the following

15 additional information.

16 **ADDITIONAL INFORMATION:**

17 1. Evidence as to alternative locations for the
18 garage that would be shielded more from the roadway
19 and appear more associated with the primary residence.

20 2. Evidence of the ability to manage drainage
21 displaced by a 900 plus square foot garage.

22 (seconded by Ms. Schwartz.)

23 (Mr. Clapp, yes; Ms. Schwartz, yes;

24 Ms. Tompkins-Wright, yes; Ms. Schmitt, yes;

25 Ms. Watson, yes; Mr. Mietz, yes.)

1 Brighton Zoning Board of Appeals 7/01/2020
2 (upon roll call, motion to table and keep
3 the Public Hearing open carries.)
4

5 APPLICATION 7A-05-20

6 Application of Richard Aerni and Carolyn
7 Dilcher-Stutz, owners of property located at 60 Helen
8 Road, for an area variance from Section 207-16A(4) to
9 allow for a second driveway access to the property
10 where only one is allowed by code. All as described
11 on application and plans on file.

12 Motion made by Ms. Watson to deny
13 Application 7A-05-20 based on the following findings
14 of fact.

15 **FINDINGS OF FACT:**

- 16 1. Other alternatives such as eliminating the
17 original driveway or combining the two driveways into
18 one curb cut would eliminate the need for a variance.
19 2. Insufficient evidence was provided to demonstrate
20 a need for a second curb cut on the property.

21 (seconded by Ms. Schwartz.)

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

25 (upon roll call, the motion is to deny.)

1 Brighton Zoning Board of Appeals 7/01/2020

2 APPLICATION 7A-06-20

3 Application of Shirah Cahill, SWBR, agent,
4 and the Summit of Brighton, owner of property located
5 at 2000 Summit Circle Drive, for an area variance from
6 Sections 203-2.1B(2) and 203-30A(1) to allow a pergola
7 structure to be 400 square feet in size in lieu of the
8 maximum 250 square feet allowed by code. All as
9 described on application and plans on file.

10 Motion made by Mr. Clapp to approve
11 Application 7A-06-20 based on the following findings
12 of fact.

13 **FINDINGS OF FACT:**

14 1. The variance will not produce an undesirable
15 change in the neighborhood as it is a part of the
16 Jewish Senior Life campus and not visible from the
17 street or nearby public spaces.

18 2. The proposed project is adjacent to existing
19 dining facilities and it intended to provide
20 physically comfortable space for residents to enjoy
21 some outdoor time.

22 3. The variance at 62.5 percent is substantial, but
23 the design of the pergola structure will complement
24 the existing buildings.

25 4. The variance is the minimum needed to provide

1 Brighton Zoning Board of Appeals 7/01/2020
2 suitable, physically comfortable outdoor space for the
3 senior residents.

4 **CONDITIONS:**

5 1. The application applies only to the plans
6 submitted and the testimony given.

7 2. All necessary permits shall be obtained.

8 (seconded by Ms. Schwartz.)

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

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

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1 REPORTER CERTIFICATE

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3 I, Alexandra K. Wiater, do hereby certify
4 that I did report in stenotype machine shorthand the
5 proceedings held in the above-entitled matter;

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

10
11
12 Dated this 22nd day of July, 2020.

13 At Rochester, New York
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16 Alexandra K. Wiater
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