

A G E N D A
BOARD OF APPEALS - TOWN OF BRIGHTON
AUGUST 5, 2020

Due to the public gathering restrictions and executive orders in place because of COVID-19, this Zoning Board of Appeals meeting will be conducted remotely. Members of the public will be able to view the meeting via Zoom or online at The Town of Brighton's YouTube channel at <https://www.youtube.com/user/TownofBrighton>.

Written comments will be received by Rick DiStefano, Secretary, Brighton Town Hall, 2300 Elmwood Avenue, Rochester, NY 14618 via standard mail and/or via e-mail to rick.distefano@townofbrighton.org, until August 5, 2020 at 12:00 PM.

Applications subject to public hearings are available for review on the town's website.

The public may also join the Zoom meeting and share comments with the Board. For Zoom meeting information, please reference the town's website at <https://www.townofbrighton.org> prior to the meeting.

7:00 P.M.

CHAIRPERSON: Call the meeting to order.
Announce location of exits and that the building is equipped with an alarm.

SECRETARY: Call the roll.

CHAIRPERSON: Approve the minutes of the July 1, 2020 meeting.

CHAIRPERSON: Announce that the public hearings as advertised for the **BOARD OF APPEALS** in the Brighton Pittsford Post of July 30, 2020 will now be held.

4A-05-20 Application of Mamasan's Monroe LLC, owner of property located at 2735 Monroe Avenue for an Area Variance from Section 207-2A to allow a front yard fence to be 49 inches in height with 86 inch posts where the maximum height of any portion of the fence can not exceed 3.5 ft. as allowed by code. All as described on application and plans on file. **WITHDRAWN BY APPLICANT**

4A-08-20 Application of Pete and Jenna Morgante - Tree Town Café, lessee, and 745 Penfield Road , LLC, owner of property located at 745 Penfield Road, for modification of conditions of approval (2A-06-19) to allow for an increase if indoor seating from 12 to 25 and an increase in hours of operation from 7:00 am to 9:00 pm Monday thru Saturday to 6 am to 9:00 pm Monday thru Sunday (adding Sunday hours). All as described on application and plans on file. **WITHDRAWN BY APPLICANT**

7A-04-20 Application of Richard Aerni and Carolyn Dilcher-Stutz, owners of property located at 60 Helen Road, for an Area Variance from Sections 203-2.1B(3) and 203-9A(4) to allow for the construction of a 960 sf detached garage in lieu of the maximum 600 sf detached garage allowed by code. All as described on application and plans on file. **TABLED AT THE JULY 1, 2020 MEETING - PUBLIC HEARING REMAINS OPEN - POSTPONED TO THE SEPTEMBER 2,**

2020 MEETING AT APPLICANTS REQUEST

8A-01-20 Application of Joseph O'Donnell, architect, and Sarah D. Realty, owner of property located at 885 Winton Road South, for an Area Variance from Section 205-6 to allow for an increase in building density from 5,158 sf (as approved per application 12A-08-09) to 5,469 sf (after construction of a 310 sf addition) where a maximum density of 4,504 sf is allowed by code. All as described on application and plans on file.

8A-02-20 Application of Joseph O'Donnell, architect, and Sarah D. Realty, owner of property located at 885 Winton Road South, for an Area Variance from Section 205-12 to allow for 30 on site parking spaces in lieu of the minimum 37 parking spaces required by code (relief from 35 spaces approved per application 12A-06-09). All as described on application and plans on file.

8A-03-20 Application of Laurence Heininger and Susan Nitray, owners of property located at 376 Meadow Drive, for extension of an approved variance (5A-08-19) to allow a detached garage addition to be 3 ft. from a side lot line in lieu of the minimum 5 ft. required by code. All as described on application and plans on file.

8A-04-20 Application of Amy Pink, owner of property located 15 Victoria Drive, for an Area Variance from Section 207-2A to allow a front yard fence (Winton Road South frontage) to be 5.5 ft. in height in lieu of the maximum 3.5 ft. allowed by code. All as described on application and plans on file.

8A-05-20 Application of Ian and Jamie Smith, owners of property located at 204 Wilshire Road, for 1) an Area Variance from Section 209-10 to allow livable floor area to increase from 3,392 sf to 3459 sf (after construction of two additions) where a maximum 2,796 sf is allowed by code; and 2) an Area Variance from Section 205-2 to allow building lot coverage to increase from 31.7% to 31.9% where a maximum 25% is allowed by code. All as described on application and plans on file.

8A-06-20 Application of Kathleen Anderson and Christopher Liston, owners of property located at 72 Westland Avenue, for an Area Variance from Sections 203-2.1B(7) and 203-9A(4) to allow an air conditioning unit to be located in a front yard in lieu of the side or rear yard as required by code. All as described on application and plans on file.

8A-07-20 Application of Pardi Partnership Architects, agent, and George's Family Restaurants, owner of property located at 2171 West Henrietta Road, for a variance from Section 73-29 (Structures Required to Have an Automatic Fire Sprinkler System) in accordance with Section 73-34 to allow for the remodeling of a restaurant building without the installation of an automatic sprinkler system as required by code. All as described on application and plans on file.

8A-08-20 Application of Pierrepont Visual Graphics, Inc., agent, and 2561 Lac De Ville Management LLC, owner of property located at 2561 Lac De Ville Blvd., for a Sign Variance from Section 207-32 to allow for a freestanding identification sign where not allowed by code. All as described on application and plans on file.

CHAIRPERSON: Announce that public hearings are closed.

NEW BUSINESS:

NONE

OLD BUSINESS:

NONE

PRESENTATIONS:

NONE

COMMUNICATIONS:

Letter from Janet and Douglas Dalke, 53 Helen Road, dated July 3, 2020, in support of applications 7A-04-20 and 7A-05-20.

Letter from Bob and Kathy Webster, 34 Helen Road, dated July 6, 2020, regarding the denial of application 7A-05-20.

Letter from Nicole Mix, 120 Helen Road, dated July 9, 2020, regarding placement of a proposed detached garage at 60 Helen Road.

Letter from Audrey Shaughnessy, Flower City Arts Center, dated March 18, 2020, in support of application 7A-04-20.

Letter from Grant Holcomb - Director Emeritus, Memorial Art Gallery/University of Rochester, dated June 3, 2020, in support of application 7A-04-20.

Letter from Blake held, architect, dated July 27, 2020, requesting postponement of application 7A-04-20 to the September 2, 2020 meeting.

Letter from Greg McMahon, McMahon LaRue Associates, dated July 28, 2020, withdrawing application 4A-05-20.

Letter from Peter Morgante, dated July 27, 2020, withdrawing application 4A-08-20.

Letter from Christopher Roth, Town of Brighton Fire Marshal, dated August 5, 2020, regarding application 8A-07-20.

PETITIONS:

NONE

July 3, 2020

RECEIVED
JUL 08 2020

To Zoning Board of Appeals
Town of Brighton, NY
RE: Variance 7A-04-20 and 7A-05-20

TOWN OF BRIGHTON
BUILDING & PLANNING

My name is Janet Dalke, and my husband, Doug, and I live at 53 Helen Rd. in W. Brighton. We attended the Zoom meeting of the Zoning Board on 7/1/2020, interested in what would be said regarding the above variances applied for by Richard Aerni and Carolyn Dilcher-Stutz, our neighbors directly across the road. We felt Richard and his architect clearly stated their intentions and addressed any issues of drainage that Julie Linden expressed concern of, so we were surprised to hear the variance was tabled. Richard and Carolyn have lived here just over a year and have made nothing but improvements to their property. They have studied the water patterns in the area intended for their garage/workshop and held off applying for their variances until they were sure of a safe location. Doug and I 100% approve of their proposal, both the building and the gravel driveway. How can they have a garage without a driveway? Why are many properties throughout Brighton allowed double and horseshoe driveways? Just two doors away at 34 Helen Rd. there is a large horseshoe driveway. There is another further down Helen Rd. and some on neighboring streets. With the large side yard and placement of the building, a driveway will look like it belongs there. I can't say enough about the value of a workshop when you are retired and have hobbies. My husband's workshop is his salvation, and I feel Richard and Carolyn deserve the same opportunity on their beautiful piece of property.

Ms. Lindens concerns were voiced in a neighborhood email, and she has no basis for her complaints other than she doesn't like it. Let me just say, she has a history of finding fault with everyone and everything. She has complained that we have the flagpole on our home installed wrong. When her neighbor on the south side did personal woodworking in his garage, she complained of the noise and made their life miserable every time they went outside. She was verbally abusive, even in front of their small children. It got so bad, that they finally moved away. The Zoning Board or Code Compliance should really take a good look at her property, as it is physically falling apart and her roof may collapse at any time.

Our Westfall Heights neighborhood is a close group and people look out for each other. 98% would go out of their way to help a neighbor in need. We need people like Richard and Carolyn in this world, who keep to themselves, help where needed, and beautify what they own. Please give their variances approval to move forward.

Sincerely,

Janet Dalke
Douglas Dalke

July 6, 2020

RECEIVED
JUL 09 2020

TOWN OF BRIGHTON
BUILDING & PLANNING

Town of Brighton
Zoning Board of Appeals
2300 Elmwood Ave.
Rochester, NY 14618

To whom it may concern,

On behalf of Richard Aerni and Carolyn Dilcher-Stutz, who live at 60 Helen Rd., Rochester, NY 14623, my husband and myself are expressing our concern for the denial to allow them a 2nd short gravel driveway access to a new structure which has recently been approved to build on their property. Since they moved into the neighborhood last year, they have made major improvements to their property which makes our neighborhood more appealing. We have lived at 34 Helen Rd. for the past 43 years and have a large circular driveway which everyone comments on as being aesthetically pleasing.

With this being said, we would like to express our support in favor of a short gravel driveway to give them access to their detached garage. We believe this would further compliment their existing property.

Sincerely,
Bob & Kathy Webster
34 Helen Rd.
Rochester, NY 14623

RECEIVED **nicole.m.mix**
120 Helen Road • Rochester, NY 14623
586.469.5832 • mixnicolem@gmail.com



Town of Brighton
300 Elmwood Ave

Rochester, New York 14618 **TOWN OF BRIGHTON
BUILDING & PLANNING**

July 9, 2020

I am a Registered Landscape Architect and a neighbor to Richard Aerni and Carolyn Dilcher-Stutz. I am writing this letter in support of their plans to construct a 900 sf building on their property. It is my understanding that this structure is to be used as their personal pottery studio as well as garage space.

Richard and I met to review their plans and walk the property. In discussion, he mentioned that they have spent a year determining the best location for the structure. After showing me the plans he mentioned the structure would ideally be in line with the house, nearly 30' from its corner. Currently, the site plan shows the structure at 55' from the house, which does seem a bit far.

We also discussed the issue of drainage that was brought up by his adjacent neighbor. As a Landscape Architect, looking at the property and the contours of the land, Richard and Carolyn's side yard creates a bowl shape. The elevation rises toward both the north and south. It would take a significant flood to cause additional drainage issues in the neighbor's yard. If flooding were to occur we will all be having issues on the street, I don't believe it will be because of a new structure, but because of the nature of where we live.

Our yard to the south, is a similar size to Richard's. We have been here seven years, our yard has flooded to at least a eight inches, if not a foot deep, in areas and within 24 hours the water has dissipated. It is alarming at first, but as a Landscape Architect I realized how great this is, to have a yard that acts as a detention pond. Intended or not, my yard and the side yard at Richard and Carolyn's may aid against flooding issues rather than create them.

Constructing a building at the edge, up slope from this bowl area, will have little impact on the water collected in this yard during storms. Also, in getting knowing the nature of both Richard and Carolyn since they moved in, for one they are quiet and kind, but two they have been tending to their yard, making use of existing materials (stone and pavers) to design walkways, and plant beds that create an inviting, peaceful landscape. Recently, they finished renovating their home, architecturally altering their garage into more living space. Now, with the foundation plantings it would be hard to guess they modified the house at all. I am confident that these neighbors will not leave the land adjacent to this new structure barren, they will plant around it, beautify and ecologically enhance our neighborhood.

To me it seems they picked a decent location: The north side of the house has a beautiful oak tree, that saving would be impossible, abiding by setbacks. The backyard would require an excessive driveway creating a greater overall impervious surface. I agree that closer to the house would be nice, it seems that any closer to the house may impede on their leach field.

I hope that Richard and Carolyn can better provide their story, sharing how this structure will benefit their livelihoods, increase value to the neighborhood with minimal impact.

Respectfully,

Nicole M. Mix

Nicole M. Mix, RLA



FLOWER CITY ARTS CENTER

March 18, 2020

Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

Dear Town of Brighton,

I am writing in support of the proposed studio building on Carolyn Dilcher-Stutz and Richard Aerni's property in Brighton. I have known Carolyn and Richard as distinguished, professional artists for 15 years and have worked closely with Richard over the past six years in his capacity as founder and curator of one of the Flower City Arts Center's central events, the Flower City Pottery Invitational. This event itself is a testament to this couple's community-mindedness, providing arts enrichment to the Greater Rochester area, as well as supporting the careers and livelihoods of over 60 regional and national artists.

I know Carolyn and Richard to be extremely generous, compassionate and considerate individuals, and I have no doubt they will extend these qualities in the creation of their home studio and in their interactions with neighbors and the Brighton community. I imagine the establishment of a ceramics studio on their property will be a source of interest and pride for Brighton, while infusing the neighborhood with art and creative vibrancy.

On behalf of the Flower City Arts Center, I hope the town will approve the building of Carolyn and Richard's studio, allowing them to continue their productive and highly successful art careers, as well as enhancing the Brighton community.

Sincerely,

Audrey Shaughnessy
Grants Manager
grants@rochesterarts.org
585-271-5183

June 3, 2020

Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

To Whom It May Concern:

I'm writing on behalf of two personal friends as well as two artists of distinction and in support of their request for a town property variance allowing them to increase the square footage on their outbuilding in order to enable them to create the needed space for their ceramic business.

I have known Richard Aerni and Carolyn Dilcher-Stutz for over a decade. I have worked with both individuals while serving as Director of the Memorial Art Gallery where Richard helped plan and organize our annual Clothesline show and offered key recommendations each year. Both individuals are talented artists who continue to exhibit at the Clothesline show each fall and, in addition, have works on view at the Gallery Store throughout the year.

In addition to being respected artists of our community, both Richard and Carolyn are respected and trustworthy individuals who, as artists and citizens, will be assets to our community.



Grant Holcomb
Director Emeritus
Memorial Art Gallery/University of Rochester
117 Torrington Drive
Rochester, NY 14618



Town of
Brighton

Rick DiStefano <rick.distefano@townofbrighton.org>

Aerni Application: 60 Helen Rd.

1 message

BLAKE HELD <beheld@mac.com>
To: rick.distefano@townofbrighton.org

Mon, Jul 27, 2020 at 3:05 PM

Hi Rick,

Apparently I hit send too quickly and had sent the previous message off to a different "Rick" in my list. He must be confused.

Please hold our application for 60 Helen Road over for the September meeting. I understand from our conversation today that we need to submit our materials for that meeting by August 19.

Thanks,

Blake

Blake H. Held, A.I.A.
beheld@mac.com

13 Maplewood Avenue
Honeoye Falls, NY 14472

585-766-5248



Engineers & Surveyors

July 28, 2020

Town of Brighton
2300 Elmwood Ave.
Rochester, N.Y. 14618

Attn: Town Zoning Board of Appeals

Re: Mamasan's Monroe LLC
2735 Monroe Ave.
Zoning Board Application 4A-05-20

Dear Mr. Chairman and Members of the Board;

On behalf of our Client we would request that the captioned application be withdrawn.

Should you have any questions or require any additional information, please call.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gregory W. McMahon, P.E.' The signature is fluid and cursive, with 'Gregory' and 'McMahon' being more distinct and 'W.' and 'P.E.' being smaller.

Gregory W. McMahon, P.E.

xc: R. Peacock
A. Knauf

Peter Morgante <petemorgante@gmail.com>
To: Rick DiStefano <rick.distefano@townofbrighton.org>

Mon, Jul 27, 2020 at 4:08 PM

Hi Rick,

We would like to remove our current application for the August Town Zoning Board meeting and resubmit at a later date.

Regards,

Pete Morgante



August 5, 2020

Town of Brighton Planning Board
2300 Elmwood Avenue
Rochester, New York 14618

Sunny Diner – 2171 West Henrietta Road – Fire Sprinkler Variance Package

Dear Chairperson:

I have reviewed the variance application and associated material with respect to the proposed cost for installation of an automatic fire sprinkler system and have the following comment based on that review.

Prior to being issued a building construction permit or conducting a project plan review, significant demolition of the existing building was done by removing walls, exposing structural building members and the reconfiguring of spaces which now require many more minimum fire safety regulations as prescribed within the 2020 New York State Codes and Codes for the Town of Brighton.

The applicant has also expressed an interest in creating a party room on the second floor with an exterior deck assembly space, and if approved would require an automatic fire sprinkler system to be added to the entire building or structure to comply with the 2020 Fire Code of New York State – Section 903 or they would have to apply for a variance from the State of New York.

Group A occupancies are characterized by people who are not familiar with their surroundings. The requirement for a suppression system reflects the additional time needed for egress. The extent of protection for occupants of the assembly group is from unobserved fires in other building areas (kitchen or storage areas) located between the story containing the assembly occupancy and levels of exit discharge serving such occupancies.

I direct you to the submittal package titled Requested Fire Flow Data from Marc Beilicki dated 6/9/2020 - 08:40 AM where the fire sprinkler designer wrote in an email that he could get the fire sprinkler system to calculate with upsized piping but would have a small "safety factor" due to low pressures. Although this does meet the conventional look of an automatic fire sprinkler system this does not meet the objective to provide minimum fire protection.

As a point of reference there is no code requirement to have a safety factor within the hydraulic calculations of an automatic fire sprinkler system but a common industry practice is to maintain a safety factor of around 5 pounds of pressure. The low safety factor could possibly be addressed and or increased by considering the following questions:

- 1) Did they evaluate heating/insulating the attic to change from a dry fire sprinkler to a wet fire sprinkler system? If the fire sprinkler system was a wet fire sprinkler system, would a fire pump still be required?
- 2) Why is an RPZ and not an RPDA or double check valve being considered? The installation of a RPZ results in a significant pressure reduction and also increases the cost of the system. The installation of an RPDA will result in a less pressure loss which would significantly impact the hydraulic calculations of the proposed fire sprinkler system. Additionally, the RPDA or double check valve would reduce the cost of the project.



- 3) Why is a generator provided? A fire pump does not require one, if connected to a "reliable power" source. Rochester Gas and Electric has been considered a "reliable power" source and the generator is not necessary. The addition of a generator not only increases the capital cost of the project but it also results in additional annual maintenance and inspection costs that would not be required for this type of fire sprinkler installation.
- 4) Even though a non-required generator is estimated there was no estimate cost for installation of an electrical transfer switch for the quoted fire pump. Although this would add cost and maintenance for the project it provides a picture of how some costs are over estimated while essential equipment appears to be omitted.
- 5) Please provide backup information as to the desired to use Flexible Fire Sprinkler drops? This method provides flexibility in an office or flex space environment where many tenant changes are possible with an increase or decrease in tenant square footage. These are a costly installations and impact higher hydraulic calculations, while a "center of tile" note for ascetics this proves to be even more costly.
- 6) Why is the sprinkler system design to Ordinary Hazard Group 1? The attic would be light hazard and the seating area would also be light hazard. The only OH1 areas would be the kitchen and storage areas. This proposed hazard group results in a sprinkler density classification which requires more pressure and effects the hydraulic calculations.
- 7) Was an alternate pipe main size reviewed? The cost of increasing the pipe size would only affect the material costs while the cost of labor would be the similar regardless of the pipe size. Additionally, the reduction in friction loss might negate the need to install a fire pump.

If any or all the suggestions provide only 1 pound of pressure to the hydraulic calculations each, then an adequate safety factor could be achieved without the installation of a fire pump and backup generator.

I hereby, support the Town of Brighton Fire Sprinkler Law as written and fully adopted by the Town Board to have an automatic fire sprinkler system installed in building or structures which undergo an alteration of more than 50 percent of the replacement value of the building as on file with the Town of Brighton Assessor office.

The suggested use of any alternate fire suppression systems as a substitute for an automatic fire sprinkler system as proposed would be difficult to support at this time due to so many unanswered variables with respect to new proposed uses of the building. If the new proposed uses are approved and completed the proposed alternate fire suppression system may become a minimum requirement due to the new proposed occupancy variables.

If you have any further questions or wish to discuss this matter in greater detail, please feel free to contact me directly.

Christopher A. Roth
Chief Fire Marshal