
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

August 5, 2020

Brighton Town Hall

2300 Elmwood Avenue

Brighton, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRPERSON
KATHLEEN SCHMITT
ANDREA TOMPKINS WRIGHT
JENNIFER WATSON
JUDY SCHWARTZ
JEANNE DALE

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
DOUGLAS CLAPP

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

Brighton Zoning Board of Appeals 8/05/2020

1 CHAIRPERSON MIETZ: Okay. All right. So
2 then at this time, I'd like to call to order the
3 August meeting of the Zoning Board of Appeals of the
4 Town of Brighton. We don't need to talk about how you
5 get out of your house because I presume everybody
6 knows how to do that if they need to.

7 So, at this point -- was the meeting
8 properly advertised, Rick?

9 MR. DiSTEFANO: Yes, Mr. Chairman. It was
10 advertised in the Brighton-Pittsford Post of July
11 30th, 2020.

12 **FINDINGS OF FACT:**

13 CHAIRPERSON MIETZ: Okay. Very good. So,
14 then, at this time could you call the roll?

15 MR. DiSTEFANO: Schwartz?

16 MS. SCHWARTZ: Here.

17 MR. DiSTEFANO: Ms. Tompkins-Wright?

18 MS. TOMPKINS-WRIGHT: Here.

19 MR. DiSTEFANO: Ms. Dale?

20 MS. DALE: Here.

21 MR. DiSTEFANO: Mr. Mietz?

22 CHAIRPERSON MIETZ: Here.

23 MR. DiSTEFANO: Ms. Watson?

24 MS. WATSON: Here.

25 MR. DiSTEFANO: Ms. Schmitt?

Brighton Zoning Board of Appeals 8/05/2020

1 MS. SCHMITT: Here.

2 MR. DiSTEFANO: Mr. Clapp? Please let the
3 record show that Mr. Clapp is not present.

4 CHAIRPERSON MIETZ: Okay. All right. So I
5 think all the Board Members are familiar with last
6 month's meeting and how we tried to run it. Again,
7 you know, if you can keep your mic muted unless, you
8 know, you need to speak, and we try not to talk over
9 each other, I think we did fine with that last month.
10 You know, but it's not an excuse for people not being
11 able to speak, you know, when they need to. So -- we
12 do want to hear everybody's comments. Especially when
13 we have the deliberations.

14 So -- and then, the first thing we need to
15 do is take care of the minutes. And I just ask that
16 we try indifference of time to deal with major issues
17 in the minutes, not, you know, a slight spelling of a
18 word or something like that.

19 So, at this point then, let's take a look at
20 the July meeting minutes. So, do we have corrections
21 for that meetings minutes?

22 MS. SCHWARTZ: Yes.

23 CHAIRPERSON MIETZ: Okay, Judy.

24 MS. SCHWARTZ: Okay.

25 CHAIRPERSON MIETZ: Now, go through it

Brighton Zoning Board of Appeals 8/05/2020

1 slowly here, please.

2 MS. SCHWARTZ: Okay. Page 18, Line 15, the
3 first word does not make sense. So, you might want to
4 take a look at that everybody. The word is written as
5 "no sure", which I'm not sure. So --

6 MR. DiSTEFANO: Can you just delete it?

7 MS. SCHWARTZ: Okay. I'll begin. "And we'd
8 like to continue to work with the Town of Brighton and
9 make sure that we apply for the proper permits and
10 always abide by Town rules, along with the fire
11 department no sure rules".

12 MR. DiSTEFANO: OSHA. OSHA.

13 CHAIRPERSON MIETZ: Yeah. Probably, yeah.

14 MS. SCHWARTZ: Okay. I thought -- okay.

15 CHAIRPERSON MIETZ: Yeah.

16 MR. DiSTEFANO: Yeah. O-S-H-A.

17 MS. SCHWARTZ: Okay.

18 CHAIRPERSON MIETZ: Okay. All right.

19 That's good.

20 MS. SCHWARTZ: Line 20 -- Line 22, the third
21 word should be "under". Page 39, Line 7, the -- close
22 to the end, the word should be "garage space".

23 CHAIRPERSON MIETZ: Yup.

24 MS. SCHWARTZ: On Page -- hold on -- 85,
25 number 1, Line 13 under Findings of Fact, delete

Brighton Zoning Board of Appeals 8/05/2020

1 "there's" and make it "this". Line 14, the second
2 word should be "three". And Line 25 is "1.2 inches".
3 So put the inch mark. On Page 91, Line 22, in the
4 middle of the sentence the word should be "fried".
5 And that's all I have.

6 CHAIRPERSON MIETZ: Okay. Very good. Does
7 anyone else have anything else? Okay. How about a
8 motion to approve the minutes?

9 MS. TOMPKINS-WRIGHT: So moved.

10 MR. DiSTEFANO: Andrea with --

11 CHAIRPERSON MIETZ: Is that a "yes"?

12 MR. DiSTEFANO: Andrea with the motion. Do
13 I have a second?

14 (Seconded by Ms. Watson.)

15 MR. DiSTEFANO: Jennifer with the second.
16 Motion is to --

17 CHAIRPERSON MIETZ: Just can -- and -- and
18 just as we go through this, when you make -- you know,
19 if you want to do something, just put your hand up so
20 that -- sometimes, you know, the way the mic's work,
21 we can't really see something and hear it correctly.
22 Go ahead.

23 MR. DiSTEFANO: The motion is to approve
24 with correct -- corrections.

25 (Ms. Schwartz, yes; Ms. Tompkins-Wright,

Brighton Zoning Board of Appeals 8/05/2020

1 yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Watson, yes;
2 Ms. Schmitt, yes.)

3 (Upon roll call, motion to approve with
4 corrections carries.)

5 CHAIRPERSON MIETZ: Okay. Great. Okay.

6 So, I think everybody saw Rick's update to the agenda
7 that 4A-02-20 Tree Town Cafe, 7A-04, which is 60 Helen
8 Road, and -- are removed from tonight's agenda.

9 MR. DiSTEFANO: Also, 4A-05-20, which was
10 2735 Monroe Avenue.

11 CHAIRPERSON MIETZ: Right. The Mamasan's;
12 right?

13 MR. DiSTEFANO: Right.

14 CHAIRPERSON MIETZ: Okay. So -- so, where
15 we're going to begin then is 8-01, which is 885 Winton
16 Road South.

17 MR. DiSTEFANO: The two applications
18 8A-01-20 and 8A-02-20 are the same property. So, I
19 will --

20 CHAIRPERSON MIETZ: Right.

21 MR. DiSTEFANO: -- read them both.

22 APPLICATION 8A-01-20

23 Application of Joseph O'Donnell, Architect,
24 and Sarah D. Realty, owner of property located at 885
25 Winton Road South, for an area variance from Section

Brighton Zoning Board of Appeals 8/05/2020

1 205-6 to allow for an increase in building density
2 from 5,158 square feet to 5,469 square feet where a
3 maximum density of 4,504 square feet is allowed by
4 code. All as described on application and plans on
5 file.

6 And Application 8A-02-20.

7 APPLICATION 8A-02-20

8 Same applicant, same address, for an area
9 variance from Section 205-12 to allow for 30 on-site
10 parking spaces in lieu of the minimum 37 parking
11 spaces required by code. All as described on
12 application and plans on file.

13 CHAIRPERSON MIETZ: Okay. Do we have Mr.
14 O'Donnell then?

15 MR. DiSTEFANO: Jeff, I think it was --
16 might have been Joe's phone -- Joseph's phone.

17 UNIDENTIFIED MALE: He's on. He's just
18 connecting his audio.

19 CHAIRPERSON MIETZ: Okay.

20 MR. DiSTEFANO: Thanks. Very good.

21 MR. O'DONNELL: Hello, Rick?

22 MR. DiSTEFANO: Yes, Joe. We got you.

23 MR. O'DONNELL: I'm -- I'm having some
24 technical difficulties here at my home computer.

25 MR. DiSTEFANO: Do you want us to move on to

Brighton Zoning Board of Appeals 8/05/2020

1 another application?

2 MR. O'DONNELL: No. But if you can allow
3 Katherine O'Keene into the meeting, I'm on her laptop.

4 MR. DiSTEFANO: Do you have that, Jeff?

5 MR. O'DONNELL: There you go. Okay.

6 MR. DiSTEFANO: Okay. Okay. Can you hear
7 me okay?

8 CHAIRPERSON MIETZ: Yes.

9 MR. DiSTEFANO: We can.

10 MR. O'DONNELL: Okay. I'm going to turn my
11 phone off. Okay. I -- I apologize if -- I'm having a
12 little trouble here still. Okay.

13 CHAIRPERSON MIETZ: All right. I think
14 that's looking good, Joe.

15 MR. O'DONNELL: Okay. All right.

16 CHAIRPERSON MIETZ: So, why don't you begin
17 with 8A-01. And then just move into 80 -- 8A-02,
18 please.

19 MR. O'DONNELL: Okay.

20 MR. DiSTEFANO: Just introduce yourself.

21 MR. O'DONNELL: Good evening, everybody. My
22 name is Joe O'Donnell. Are you guys getting
23 background noise on me?

24 MR. DiSTEFANO: Yeah.

25 CHAIRPERSON MIETZ: Yes.

Brighton Zoning Board of Appeals 8/05/2020

1 MR. O'DONNELL: Okay. Hang on a minute.

2 MS. O'KEENE: Wait a minute. There.

3 MR. O'DONNELL: Can you guys hear me?

4 CHAIRPERSON MIETZ: Yes.

5 MR. DiSTEFANO: Yes.

6 MR. O'DONNELL: All right. Sorry about
7 that. Gosh, I should know how to do this. I do it in
8 the City of Rochester all the time.

9 In any event -- so, good evening, my name is
10 Joe O'Donnell. I'm the architect from Greater Living
11 Architecture representing the applicant tonight with
12 offices at 3033 Brighton Henrietta Town Line Road.

13 CHAIRPERSON MIETZ: Okay.

14 MR. DiSTEFANO: Okay.

15 MR. O'DONNELL: So, we are here tonight in
16 front of you to ask for our two variances. First
17 being an area variance for the addition, about 310
18 square foot small addition, off the back corner of the
19 existing building to add an office -- small office and
20 conference room for additional one-on-one
21 patient/doctor interaction.

22 To go through the standards, the benefit to
23 the applicant outweighing any detriment to the
24 adjacent properties, we don't feel that it -- it's --
25 creates any detriment to the adjacent properties,

Brighton Zoning Board of Appeals 8/05/2020

1 given that it's in filling a vacant corner of the
2 building, sort of square it off. Doesn't encroach any
3 further on any setbacks. The building has been
4 approved by the Planning Board and the ARB with some
5 conditions. All the materials and the look of the
6 building, the window sizes, will match the existing
7 building so it will be a seamless addition to the
8 existing building. We don't really think it's
9 significant so it's just another 310 square feet of
10 density. So, we just think that that's a very minor
11 addition. We don't believe there's any physical or
12 environmental impacts, given that it's not going to
13 produce any noise, odors, any additional spillage of
14 light into adjacent properties.

15 The other standard, I can't think of off the
16 top of my head, but the last being self-created. You
17 know, my 15 years of serving on a Zoning Board I very
18 rarely see any variance that's not self-created. So,
19 on the first variance that's our presentation. I'm
20 open for questions.

21 CHAIRPERSON MIETZ: Joe, can you just -- go
22 ahead. Can you talk about what the need for that
23 office? How to -- how to -- what bearing does it have
24 on this operation and why can't it be dealt with in
25 some other way?

Brighton Zoning Board of Appeals 8/05/2020

1 MR. O'DONNELL: Well, the operation requires
2 very high confident -- patient/doctor confidentiality.
3 So, the additional private office will reduce the
4 burden of shared offices and the additional conference
5 space will allow the doctor/patient to have secure
6 acoustic meetings with their patients. So it's --
7 it's a matter of alleviating the pressure of the
8 interior of the building, given all of the new HIPAA
9 Laws. And, of course now, in light of the new
10 situation we're in with COVID.

11 CHAIRPERSON MIETZ: Okay.

12 MS. TOMPKINS-WRIGHT: This is --

13 CHAIRPERSON MIETZ: Is there another
14 question? Andrea?

15 MS. TOMPKINS-WRIGHT: This is Member Wright.
16 So, just to kind of follow up on what you said, this
17 won't change then the staff load, at the property,
18 won't change the patient -- you know, per day -- the
19 number of patients that are being seen then?

20 MR. O'DONNELL: That's -- that's correct.
21 According to the owners, they have a staff of
22 approximately eight to nine people, and they see about
23 three to four patients per hour on the site. So, it's
24 just a matter of providing a higher level of service
25 for the type of work they do, which is clinical

Brighton Zoning Board of Appeals 8/05/2020

1 research.

2 CHAIRPERSON MIETZ: Okay. So, are there any
3 other questions about 8A-01 at this time? Okay.
4 Then, Joe, let's move on to 8A-02.

5 MR. O'DONNELL: Okay. So, for the record,
6 my name is Joe O'Donnell from Greater Living
7 Architecture, with offices at 3033 Brighton Henrietta
8 Town Line Road. I represent the owner of the property
9 for the variance of elimination of one parking spot
10 due to the addition of the previous application.

11 I'd like to point out to the Board that
12 there are 33 spaces available on the site now
13 specifically designated to this building. And there
14 is also a shared parking agreement of an additional 37
15 spaces with the building to the south. As I
16 mentioned, they have eight to nine employees. Three
17 to four patients per hour. So, right now on a typical
18 day, they use one-third to one-half of the 33 spaces.
19 Not even demanding any excess spaces in the shared
20 parking agreement.

21 So, on Sundays -- Saturdays there's only one
22 staff member and the doctor there, and on Sundays only
23 the doctor doing paperwork. It's also been noted that
24 the Brighton Police like to use this parking lot to
25 monitor Twelve Corners, which the owner welcomes all

1 the time.

2 So, again, running through the standards,
3 the benefit of having the additional space and side
4 and the loss of one parking spot is not detrimental to
5 the neighbors. We don't think it's significant given
6 we're only taking up one spot. We're actually --
7 physical and environmental, are not creating --
8 creating any additional impervious materials on the
9 site. And it's self-created from the previous
10 application.

11 So, I open it up to questioning.

12 MR. DiSTEFANO: Joe, just for -- just for
13 clarification, the site plan itself shows 30 parking
14 spaces on site.

15 MR. O'DONNELL: Okay. There's a couple,
16 Rick, that are back along the west lot there that
17 weren't -- didn't show up in the surveyor's map or --

18 MR. DiSTEFANO: Kind of, like, a parallel --
19 like a parallel parking or something like that up in
20 there?

21 MR. O'DONNELL: Exactly. Yeah, exactly.

22 MR. DiSTEFANO: And I -- and I know there is
23 one space exactly where the addition is going --

24 MR. O'DONNELL: Correct.

25 MR. DiSTEFANO: -- so that would go down to

Brighton Zoning Board of Appeals 8/05/2020

1 32 with the construction of the addition; correct?

2 MR. O'DONNELL: Correct. Exactly. So, if
3 you'd notice, there's also the -- the one spot there
4 next to where the -- on the lower-left corner of the
5 lower -- yeah, lower left corner, which would be the
6 southwest corner, there's also a spot there. Some of
7 the Board Members don't see that.

8 And then there's two parallel spots along
9 that west property line where -- where it veers off.

10 CHAIRPERSON MIETZ: Okay. Are there other
11 questions for Joe here on 8A-02 about the parking
12 situation there?

13 Okay. And at this time, if there are no
14 other questions related to this from the Board
15 Members, then I would ask if there's anyone on our
16 Zoom audience that would like to speak regarding this
17 application either 1 -- 8A-01 or 8-02?

18 MR. HESS: Yes.

19 MR. DiSTEFANO: Okay. If you could --

20 MR. HESS: Hess. Steven Hess.

21 CHAIRPERSON MIETZ: Okay. Mr. Hess, just
22 give us your address, sir.

23 MR. HESS: Yes. My name is Steven Hess. I
24 am the husband of the owner, Dr. Sarah Atkinson, I was
25 their -- I was their administrator for 13 years, but I

Brighton Zoning Board of Appeals 8/05/2020

1 retired at age 82 last year. However, I managed that
2 building -- the reconstruction -- so I'm well
3 familiar.

4 First, permit me to -- to point out that the
5 parking space where the addition is planned is where
6 my wife parks, but actually it creates an additional
7 parking space at the Varinna Drive side within -- if
8 you look at the parking spaces on the other side of
9 the drawing, there is -- we're simply moving her
10 parking -- her parking space to stay within parking
11 limits even though we don't need that space. She
12 parks there for privacy so that patients don't just
13 walk in if -- if they see her car.

14 We actually have 67 available parking spaces
15 with a cross easement. We never ever have more than
16 10 or 12 used at any one time. If -- if one passes
17 our parking lot. It is particularly deserted because
18 the reason -- the other reason, which frankly
19 developed later on, is that my wife has been asked to
20 do some -- we do clinical trials and my wife and --
21 and the clinic has been asked to do some COVID -- we
22 do COVID testing now. And -- and we probably will be
23 getting one or two COVID Virus additional protocols so
24 we -- we basically need a conference room. Right now
25 we have two people in every office, which is -- which

Brighton Zoning Board of Appeals 8/05/2020

1 is workable but a few of them are senior and newly
2 hired. We hired a physician so we would like to give
3 him a private office.

4 CHAIRPERSON MIETZ: Okay. All right. Very
5 good. Well, I appreciate your comments. And just for
6 the record, could you just give us your address, sir?

7 MR. HESS: Yes. Dr. Atkinson and I live at
8 10 Bay Point Circle in Rochester, New York. And, of
9 course, you have the office at --

10 CHAIRPERSON MIETZ: Yes.

11 MR. HESS: 885 South Winton.

12 CHAIRPERSON MIETZ: Yes, yes. Very good.
13 Okay. Thank you, Mr. Hess.

14 MR. HESS: And thank you for the time.

15 CHAIRPERSON MIETZ: Okay. Is there anyone
16 else that would like to speak regarding this
17 application?

18 Okay. Then -- then being -- excuse me,
19 there being none, then the Public Hearing is closed.

20 MR. HESS: But, by the way, permit me to
21 apologize for the photograph, that's me at
22 five-years-old in Holland. I don't know how it got
23 there.

24 CHAIRPERSON MIETZ: All right.

25 MR. O'DONNELL: Thanks for all your help,

Brighton Zoning Board of Appeals 8/05/2020

1 Zoning Board Members, and Rick. And have a good
2 evening.

3 CHAIRPERSON MIETZ: Thank you.

4 MR. DiSTEFANO: Thank you.

5 CHAIRPERSON MIETZ: Okay. Rick, when you're
6 ready --

7 MR. DiSTEFANO: Yeah.

8 CHAIRPERSON MIETZ: -- will you read 8A-03?

9 MR. DiSTEFANO: Yeah. Just before we go on,
10 Jeff, could you ask -- allow Alexandra to come in as
11 co-host so she can ask questions if there's a problem
12 with the transcript? Thank you.

13 CHAIRPERSON MIETZ: Okay.

14 MR. DiSTEFANO: Application 8A-03-20.

15 APPLICATION 8A-03-20

16 Application of Laurence Heininger and Susan
17 Nitray, owners of property located at 30 -- 376 Meadow
18 Drive, for an extension of an approved variance to
19 allow a detached garage addition to be 3 feet from a
20 side lot line in lieu of the minimum 5 feet required
21 by code. All as described on application and plans on
22 file.

23 CHAIRPERSON MIETZ: Okay. Who will be
24 speaking related to his?

25 MR. HEININGER: Larry Heininger. Dennis,

Brighton Zoning Board of Appeals 8/05/2020

1 how are you?

2 CHAIRPERSON MIETZ: Hi, Larry. How are you?

3 MR. HEININGER: Good.

4 CHAIRPERSON MIETZ: Okay. So, just name and
5 address, and let it go.

6 MR. HEININGER: All right. Official name is
7 Laurence E. Heininger. Address, 376 Meadow Drive,
8 14618.

9 CHAIRPERSON MIETZ: Okay.

10 MR. HEININGER: This is exactly the same
11 application you approved a year ago. The contractor
12 that's supposed to do the work never got started, left
13 the state late last year. And then we went into the
14 springtime/winter, along comes COVID, trying
15 another -- find another contractor. I actually wrote
16 Rick a letter on April 29th asking to extend this, and
17 he said you guys don't do that. I needed to reapply
18 and send another check, no problem.

19 The silver lining to this cloud, the
20 contractor that I -- was recommended to me, that left
21 the state, actually stiffed the people who
22 recommend -- recommended him for about \$6,000. So, my
23 contractor will be Sickles Construction out of
24 Caledonia. And Jim Sickles and Company do quite a bit
25 of work and have for about 35 years. So, I have lots

Brighton Zoning Board of Appeals 8/05/2020

1 of confidence this will be done professionally, on
2 time, and it'll be a joy to get it done.

3 CHAIRPERSON MIETZ: All right. Do you have
4 an ETA?

5 MR. HEININGER: Approval tonight, I'll
6 submit my building plans. And Jim Sickles said as
7 soon as you're ready to go we'll get the guys over
8 there.

9 CHAIRPERSON MIETZ: Okay. Great.

10 MR. HEININGER: So, maybe three weeks.
11 Maybe four.

12 CHAIRPERSON MIETZ: So, it should be done
13 this building season then?

14 MR. HEININGER: Oh, it will be done. A
15 friend of mine came and got a TR4 -- Triumph TR4
16 engine out yesterday. Another guy's coming tomorrow
17 to get a Big Healey 6 engine out for rebuild. I'll be
18 moving a car. Gotta get the garage cleared out for
19 those guys to work so everything is in motion.

20 CHAIRPERSON MIETZ: Okay. Great. All
21 right. Board Members, questions for Mr. Heininger?
22 Pretty straightforward, I think. Okay. Very good.
23 Okay. So, thank you, Larry. And thank you for taking
24 care of your application here.

25 Is there anyone in the audience that would

Brighton Zoning Board of Appeals 8/05/2020

1 like to speak related to 376 Meadow Drive?

2 Okay. Then there being none, then the
3 Public Hearing is closed.

4 MR. HEININGER: Okay.

5 CHAIRPERSON MIETZ: Thank you.

6 MR. HEININGER: Thank you all very much.
7 Have a good evening.

8 CHAIRPERSON MIETZ: You too, Larry.

9 MR. DiSTEFANO: Application 8A-04-20.

10 APPLICATION 8A-04-20

11 Application of Amy Pink, owner of property
12 located at 15 Victoria Drive, for an area variance
13 from Section 207-2A to allow a front yard fence to be
14 5.5 feet in height in lieu of the maximum 3.5 feet in
15 height allowed by code. All as described on
16 application and plans on file.

17 CHAIRPERSON MIETZ: Okay. Who do we have to
18 speak related to Application 8A-04?

19 MR. DiSTEFANO: Hang on. I've got to get
20 her unmuted. Okay.

21 MS. PINK: Can you see me?

22 MR. DiSTEFANO: I can.

23 MS. PINK: Hello? Okay. Sorry. I can't
24 see myself. I'm Amy Pink. I live at 15 Victoria
25 Drive.

Brighton Zoning Board of Appeals 8/05/2020

1 CHAIRPERSON MIETZ: Okay. Great. Tell us
2 what you're trying to do, Amy.

3 MS. PINK: Okay. So, I have a very, very,
4 teeny, tiny backyard because my house is kind of like
5 a bowtie and goes up against the house behind me. So,
6 what I'm trying to do is extend that little small area
7 that is fenced behind my house currently. And just
8 kind of give myself, and my family, an area that we
9 can consider a backyard that's safe and fenced in.

10 We're newly expecting a baby and just really
11 want to make sure that we have a safe fenced-in area
12 for them to -- to be. Obviously, you know this area
13 of Winton is very busy. We are right next to where it
14 merges from two lanes to one. And people are always
15 honking and, like, swerving at each other and stuff
16 right there and it just really concerns me. So, I
17 wanted to be able to put a fence there for privacy and
18 everything.

19 As you see, it's about 16 -- it's 16 feet
20 from the sidewalk. About 20 feet from the street.
21 So, plenty of line of view for everyone who is turning
22 off the road or, my neighbors behind me, they actually
23 park their cars up, like, to that area so they're more
24 than happy to, you know, just park near the fence.
25 They're totally fine.

Brighton Zoning Board of Appeals 8/05/2020

1 I have signatures from anyone who would be
2 looking at it. Everybody's super supportive and
3 approving and we just want to make it look, you know,
4 as soft and natural as possible. We've been working
5 really hard on making a great home here and really
6 excited to be a part of the town. And just wanted a
7 nice safe area to be able to use as a backyard.

8 CHAIRPERSON MIETZ: Okay. Great. Are you
9 planning to do any mitigation of what that fence would
10 look like from the street or are you --

11 MS. PINK: Yeah. So, I do have some
12 printouts that I gave you guys with different
13 pictures.

14 CHAIRPERSON MIETZ: Uh-huh. Yes, we saw
15 them.

16 MS. PINK: You can see of the side of the
17 photo -- you know, the open, like clear line of view
18 from the sides of those. I did have someone put up a
19 rendering. So, you can actually see from the side
20 here. I even drew sidewalks. You can really see
21 there's a nice good chunk of space where you can still
22 see all of Winton. Everything you need to be turning
23 off of the street.

24 Because of the shape of our house and where
25 it sits on the lot, you know, we don't block anybody

Brighton Zoning Board of Appeals 8/05/2020

1 by having this fence here. It doesn't block any lines
2 of view. It isn't in anybody else's way or -- you
3 know, there's no houses that have to look at it
4 really, you know, we're just on the main road. So...

5 CHAIRPERSON MIETZ: All right. Okay. So,
6 are there other questions or any questions from the
7 Board Members?

8 MR. DiSTEFANO: Amy, you are proposing
9 landscaping around the fence?

10 MS. PINK: Yeah, absolutely. I was actually
11 getting some advice from some of my neighbors and
12 we're thinking about some rhododendron. Something
13 that would be evergreen so that it would, you know,
14 kind of really -- what would be the word? Like, kind
15 of camouflage the fence nicely but have, like, a nice
16 floral. So, we're thinking rhododendron and what --
17 you know, no matter what, we're going to put something
18 green all around it because we like the softness too,
19 which is another reason why we're going for, you know,
20 a nice wood stain, you know, as low, like, impact as
21 possible.

22 CHAIRPERSON MIETZ: Okay. That's great.

23 MS. PINK: And you guys did approve a fence
24 around our pool and we had a -- an agreement to do
25 greenery around that and we have followed suit and

Brighton Zoning Board of Appeals 8/05/2020

1 done just what was in our picture. So...

2 CHAIRPERSON MIETZ: Very good.

3 MR. DiSTEFANO: I just had --

4 CHAIRPERSON MIETZ: Okay. Is there other
5 questions for Amy? Go ahead, Andrea.

6 MS. TOMKINS-WRIGHT: Yeah. I just had a
7 quick question. The -- there are a number of trees in
8 the yard. Will all of those be outside of the fence
9 or will most of these be fenced in?

10 MS. PINK: So, we wanted fences in at least
11 one, you know, for a kid to maybe have a swing or
12 something.

13 MS. TOMKINS-WRIGHT: Yeah.

14 MS. PINK: So, if you see right here to the
15 left, if you look at the front view, there's a big
16 maple that will be fenced in. But then if you scroll
17 down one, the second maple will be outside of it.

18 MS. TOMPKINS-WRIGHT: Okay.

19 Ms. Pink: And we don't intend on doing
20 anything but trimming those, you know, if maybe one
21 branch is in the way when we're doing the fence or
22 whatever. But we intend on -- we really enjoy the
23 shade. So...

24 CHAIRPERSON MIETZ: Very good. Other
25 questions by Board Members?

Brighton Zoning Board of Appeals 8/05/2020

1 MR. DiSTEFANO: Yeah. I just had one thing
2 for the record.

3 Amy, could you kind of just explain a little
4 bit on why five-and-a-half feet is the height that you
5 feel you need there? It is, you know, quite a bit of
6 a variance. So, just for the record, could you
7 explain why something --

8 MS. PINK: Yeah. So --

9 MR. DiSTEFANO: -- lower wouldn't work?

10 MS. PINK: So, we actually have -- we have a
11 very -- a large dog. Very large dog. And we
12 currently have the five-and-a-half in the backyard
13 right there. You can see the white one, how I wrote
14 same height as existing fence, and he has a tendency
15 to jump up pretty high on that and put his paws on it.
16 So, we were just worried if we get anything shorter,
17 that he'll run out into the road, you know? So, we
18 just wanted to make sure that we've seen that this
19 height works for him so we just want to continue that.

20 And then also, I really would prefer a fence
21 that's, like, tall enough that, you know, someone
22 walking down Winton, you know, can't reach in and, you
23 know, touch my child or touch my dog or whatever, you
24 know. So, I figure the slating gives it enough, you
25 know, view and openness that we can maybe have a

Brighton Zoning Board of Appeals 8/05/2020

1 little bit more height is -- is kind of what I was
2 hoping for.

3 CHAIRPERSON MIETZ: Okay. Any other
4 questions by the Board Members? Rick.

5 MS. SCHWARTZ: Yeah. Rick and -- and Dennis
6 too, if this were truly, truly backyard there would be
7 no need for a variance because she's under the six
8 feet; correct?

9 MR. DiSTEFANO: Under the six --

10 MS. SCHWARTZ: Because it's a side lot.
11 Because it's a corner lot.

12 MR. DiSTEFANO: It's a front yard -- it's a
13 front yard because of the --

14 CHAIRPERSON MIETZ: Because of the
15 configuration of the lot.

16 MS. SCHWARTZ: The corner? Okay.

17 MR. DiSTEFANO: I mean, if it was a -- if it
18 was a true side yard she'd be okay because you can go
19 up to six-and-a-half feet in a side yard.

20 CHAIRPERSON MIETZ: Right.

21 MR. DiSTEFANO: But I mean, you know, the --
22 because it's a corner lot, it's got the two front
23 yards --

24 CHAIRPERSON MIETZ: Right.

25 MR. DiSTEFANO: -- this is the side of her

Brighton Zoning Board of Appeals 8/05/2020

1 house. It's a front yard.

2 CHAIRPERSON MIETZ: Okay. Any other
3 questions? Okay. Then, thank you very much, Amy.

4 MS. PINK: Thank you.

5 CHAIRPERSON MIETZ: Okay.

6 MS. PINK: Thank you for your time.

7 CHAIRPERSON MIETZ: So, is there anyone else
8 in the -- or anyone in the audience that would like to
9 speak regarding 15 Victoria Drive?

10 Okay. At this point, if there's no one,
11 then the Public Hearing is closed.

12 MS. PINK: Thank you.

13 MR. DiSTEFANO: I -- I'd just like to remind
14 the people in the audience that if you do want to
15 speak and you don't think you're getting through,
16 please use the raise your hand option in Zoom.

17 Application 8A-05-20.

18 APPLICATION 8A-05-20

19 Application of Ian -- Ian and Jamie Smith,
20 owners of property located at 204 Wilshire Road, for
21 1. An area variance from Section 209-10 to allow
22 livable floor area to increase from 3,392 square feet
23 to 3,459 square feet after construction of two
24 additions where a maximum of 2,796 square feet is
25 allowed by code. And, 2. An area variance from

Brighton Zoning Board of Appeals 8/05/2020

1 Section 205-2 to allow building lot coverage to
2 increase from 31.7 percent to 31.9 percent where a
3 maximum 25 percent is allowed by code. All as
4 described on application and plans on file.

5 CHAIRPERSON MIETZ: All righty. So, who do
6 we have to speak on 80 -- 8A-05?

7 MR. SMITH: So, my name is Ian Smith. This
8 is my wife, Jamie. We own the property here at 204
9 Wilshire Road.

10 CHAIRPERSON MIETZ: Okay. So, go right
11 ahead then.

12 MR. SMITH: So, I'm a little unprepared
13 because our architect was going to be here but he got
14 caught up doing something else.

15 So, we -- we are asking for two separate
16 additions. The -- the first one is on the bottom side
17 of this drawing where I -- I guess it's technically an
18 addition but we're really just filling in part of a
19 covered porch. So, that covered porch, that you can
20 see, is that -- is that full section and we're going
21 to fill in half of it to create a mudroom.

22 And on the -- on the top side of that
23 drawing, we're looking just to kind of backfill in --
24 kind of like the first application we saw today, we're
25 just backfilling in that corner which is -- - which is

Brighton Zoning Board of Appeals 8/05/2020

1 giving us an extension on our kitchen and allowing for
2 a larger kitchen with an eat-in space.

3 We moved into this house with two children.
4 We now have three, and the way that our kitchen is --
5 is kind of laid out, it's kind of an L-shape, so
6 there's really nowhere for our kids to eat in our
7 kitchen. And we have a formal dining space so it --
8 in mornings, when we're getting ready for school and
9 at lunchtime, they're not able to be in the kitchen
10 with us, which is slightly inconvenient. So, this is
11 really the only way that we're able to fit in a -- an
12 eating space in our kitchen.

13 And both of those variances are the back
14 side of the house and don't encroach any further --
15 either north, east or west on any lot lines than the
16 rest of the house already is.

17 CHAIRPERSON MIETZ: Okay. Very good. Okay.
18 So, questions by the Board Members related to
19 Wilshire? Go ahead, Jennifer.

20 MS. WATSON: Just one question. I'm
21 wondering if you have spoken with any of your
22 neighbors about the project and gotten their feedback?
23 Specifically, the one that is right next to where the
24 kitchen addition will be. I think that's 196
25 Wilshire.

Brighton Zoning Board of Appeals 8/05/2020

1 MR. SMITH: Yeah. So, our neighbor on that
2 side, his name is Gary, he's okay with it. We've told
3 him that we're going to -- he -- he actually has a
4 fence that he closes in his driveway with that has
5 a -- it's a metal post that's in our lot. And so, if
6 through the course of work we have to move that in
7 order to put that addition on, we've told him that
8 we'll move that post and put it somewhere else so that
9 the fence can be moved and put back up there. But it
10 doesn't encroach any further on where he is. And we
11 actually have a fence -- you can see the fence in the
12 drawing there. The fence is closer to his lot line
13 and his driveway by almost double than what the actual
14 addition is going to be. So, it doesn't really change
15 his drive-in at all.

16 CHAIRPERSON MIETZ: Okay. Very good. Other
17 questions for Wilshire? Okay. Very good. Well,
18 appreciate you presenting it. Thank you very much.

19 MR. SMITH: Thanks for your time.

20 MS. WATSON: Thanks for your time.

21 CHAIRPERSON MIETZ: Okay. And then, let's
22 just see in the audience, is there anyone who would
23 like to speak related to 204 Wilshire Road?

24 Okay. There being none, then the Public
25 Hearing is closed.

Brighton Zoning Board of Appeals 8/05/2020

1 MR. DiSTEFANO: Application 8A-06-20.

2 APPLICATION 8A-06-20

3 Application of Kathleen Anderson and
4 Christopher Liston, owners of property located at 72
5 Westland Avenue, for an area variance from Sections
6 203-2.1B(7) and 203-9A(4) to allow for an air
7 conditioning unit to be located in a front yard in
8 lieu of the side or rear yard as required by code.
9 All as described on application and plans on file.

10 CHAIRPERSON MIETZ: Okay. Who do we have to
11 speak for this?

12 MS. ANDERSON: Oh, there we go. Kate
13 Anderson and Chris Liston.

14 CHAIRPERSON MIETZ: Hello there.

15 MS. ANDERSON: Yeah. So, we're applying to
16 put an air conditioner in our front yard.

17 CHAIRPERSON MIETZ: I presume you are the
18 residents of 72 Westland Avenue for the record?

19 MS. ANDERSON: Yes, we are.

20 MR. LISTON: Sorry.

21 CHAIRPERSON MIETZ: Okay. Great. Okay.
22 So, go on.

23 MS. ANDERSON: So, you can see part of the
24 site plan. We're on a 50-foot lot on Westland so we
25 have driveways on both sides. We have a patio and a

Brighton Zoning Board of Appeals 8/05/2020

1 deck in the back. So, our front yard is fully
2 landscaped. So, looking at putting an air
3 conditioning condenser in this location of the site
4 plan.

5 CHAIRPERSON MIETZ: Okay. All right.
6 And -- and would -- could you just explain a little
7 bit about what other alternatives there might have
8 been versus this location?

9 MS. ANDERSON: Yup. So, if you go through
10 the photos, we do have an existing wood deck that was
11 on the house when we purchased it, as well as a
12 concrete patio. And you can see on each side with the
13 50-foot lot there's driveway, so there isn't space in
14 either of those locations. There is potential for a
15 future kitchen addition. And that's really the only
16 spot on the back that might work, but it would impede.
17 And that -- this -- this is the way that we come into
18 our house so that -- really the front yard is kind of
19 the most concealed location, I guess. And there are a
20 number of other properties on the street that manage
21 their air conditioner in the same way in the front.

22 CHAIRPERSON MIETZ: Okay. Very good.

23 MS. TOMPKINS-WRIGHT: This is Member Wright.
24 And I think you said in your application -- I noticed
25 that there is shrubbery already in the front yard

Brighton Zoning Board of Appeals 8/05/2020

1 there, I believe it may be enough. I -- you know,
2 it's hard to tell with the size of the -- the AC unit,
3 but you are willing to plant additional shrubbery if
4 it's not fully shielded from the sidewalk?

5 MS. ANDERSON: Absolutely.

6 MR. LISTON: Yeah.

7 MS. ANDERSON: Yup. We do have large
8 rhododendron in a corner kind of tree, and hydrangea.
9 When this was taken, it wasn't quite as big, but we
10 can absolutely add additional screening.

11 MS. TOMPKINS-WRIGHT: And then, Rick, this
12 is just a question for you, the materials that they
13 submitted, I think it shows, like, four decibels
14 for -- in that unit, how does that compare to the
15 Town's requirements for maximum?

16 MR. DiSTEFANO: For an air conditioner the
17 maximum decibel rating is 72.

18 MS. TOMPKINS-WRIGHT: Okay.

19 MR. DiSTEFANO: But very few air
20 conditioners today are -- are at that level.
21 Especially residential air -- air conditioners.

22 And what is the decibel rating for this
23 particular one?

24 MS. ANDERSON: I think the materials for --

25 MR. LISTON: I think four at maximum speed.

Brighton Zoning Board of Appeals 8/05/2020

1 It's a variable speed unit so it would very,
2 infrequently run at full speed.

3 CHAIRPERSON MIETZ: Okay.

4 MR. DiSTEFANO: Four decibels? I don't --
5 that -- that is --

6 CHAIRPERSON MIETZ: That can't be right.

7 MR. DiSTEFANO: That can't be right because
8 that's, like, less than a whisper.

9 CHAIRPERSON MIETZ: Yeah.

10 MR. LISTON: Yeah. No, that's four -- yeah.

11 MS. TOMPKINS-WRIGHT: Oh, I'm sorry. I'm
12 reading this wrong. It's four decibels below
13 competitors' minimum.

14 MR. DiSTEFANO: Competitors minimum.

15 MS. TOMPKINS-WRIGHT: Yeah, I apologize.
16 So, do you --

17 MR. DiSTEFANO: Yeah. I mean, basically,
18 when it -- when that -- when the building permit is
19 made, we'll have to verify the decibel level.

20 MS. ANDERSON: Yeah.

21 MR. DiSTEFANO: And if -- I'm sure it won't
22 be at 72.

23 CHAIRPERSON MIETZ: Right. Okay. Did you
24 have anything else, Andrea?

25 MS. TOMPKINS-WRIGHT: No. That was it for

Brighton Zoning Board of Appeals 8/05/2020

1 me.

2 CHAIRPERSON MIETZ: Okay. Is there anybody
3 else with a question for the Andersons here -- or
4 Mr. Liston and Ms. Anderson? Sorry about that.

5 MS. ANDERSON: That's okay.

6 CHAIRPERSON MIETZ: Okay. All right. Very
7 good. So, at this --

8 MS. ANDERSON: Okay. Thank you.

9 CHAIRPERSON MIETZ: Thank you. And, at this
10 point, is there anyone in the audience that would like
11 to speak related to 72 Westland Avenue?

12 Okay. There being none, then the Public
13 Hearing is closed.

14 MS. ANDERSON: Thanks.

15 CHAIRPERSON MIETZ: Okay.

16 MR. DiSTEFANO: Application 8A-07-20, and I
17 just got the word from the applicant, they are
18 still -- appear to still be in the meeting. Maybe --
19 maybe they want to come on, but they probably would
20 more than likely postpone it. But I'm going to read
21 it and perhaps the applicant can come and just -- on
22 and basically state the reasons why they would like to
23 table the application -- or postpone the application.

24 APPLICATION 8A-07-20

25 Application of Pardi Partnership Architects,

Brighton Zoning Board of Appeals 8/05/2020

1 agent, and George's Family Restaurants, owner of
2 property located at 2171 West Henrietta Road, for a
3 variance from Section 73-29 in accordance with Section
4 73-34 to allow for the remodeling of a restaurant
5 building without the installation of an automatic
6 sprinkler system as required by code. All as
7 described on application and plans on file.

8 Scott?

9 MR. FISKE: Yes. I'm trying to get on to --
10 can you hear me at least?

11 MR. DiSTEFANO: Yeah. We can hear you.

12 MR. FISKE: All right. I received a letter
13 from the fire marshal --

14 MR. DiSTEFANO: Scott, could you just state
15 your name for the record before you start?

16 MR. FISKE: Of course. I apologize. I'm
17 Scott Fiske. I'm -- I'm president of Pardi
18 Partnership Architects. I'm representing the owner of
19 2171 West Henrietta Road for this.

20 We were applying for a variance from the
21 local sprinkler law. At roughly 5:30 this evening I
22 received a copy of the letter that Chris was sending
23 to the Board stating his position on it. He raised a
24 number of concerns or issues that sounded like they
25 were -- they needed to be addressed. So, I'd like to

Brighton Zoning Board of Appeals 8/05/2020

1 respectfully request this be tabled until next month
2 so we can have time to review this and see if we
3 cannot adequately address his questions.

4 CHAIRPERSON MIETZ: Okay. Do -- does anyone
5 have any specific questions? Again, it's a little
6 difficult without a presentation of the whole thing,
7 but all of us did receive the correspondence from our
8 fire marshal and he does, in fact, raise some issues
9 there. So, we can discuss this further a little
10 later. But does anyone have anything they would like
11 to ask Scott at this point or are we comfortable?

12 MS. DALE: I -- I think tabling it makes
13 sense.

14 CHAIRPERSON MIETZ: Okay. All right. Well,
15 we'll discuss that in deliberations. But does anyone
16 have anything that they want to ask Scott? I just
17 want to give people the opportunity to --

18 MS. SCHWARTZ: I just -- may I? Yes, I just
19 have one question, would you be able to get insurance
20 without having a sprinkler system, do you know?

21 MR. FISKE: Yes. They would be able to get
22 insurance for -- for the building. A little history,
23 it was in the packet, that building had been a
24 restaurant for some 70 years already. The issue is
25 that it's -- it's complicated. It's a complex

Brighton Zoning Board of Appeals 8/05/2020

1 submittal package. So, rather than start to -- to get
2 into a piecemeal --

3 CHAIRPERSON MIETZ: Yes, yes.

4 MR. FISKE: -- I'd like to have an
5 opportunity to --

6 MS. SCHWARTZ: Okay.

7 MR. FISKE: -- review Chris's comments
8 and --

9 CHAIRPERSON MIETZ: Okay.

10 MR. FISKE: -- see how we can address them
11 and come back to the Board next month --

12 CHAIRPERSON MIETZ: Right.

13 MR. FISKE: -- or prior to to see how we can
14 resolve this with the fire marshal.

15 CHAIRPERSON MIETZ: Yeah. That's much
16 better. I don't want to peck away at it if we --

17 MR. FISKE: Yeah. I don't want to either
18 because there's a lot of interrelated parts.

19 CHAIRPERSON MIETZ: Okay. That sounds good.

20 MR. FISKE: All right.

21 CHAIRPERSON MIETZ: All right. Okay. So,
22 at this point then we'll take that under advisement
23 and discuss it in the deliberation, but is there
24 anyone in the audience that does want to speak at all
25 about this application since it is on the agenda?

Brighton Zoning Board of Appeals 8/05/2020

1 Okay. There being none then, we'll -- we'll
2 hold on this Public Hearing.

3 MR. DiSTEFANO: Okay.

4 MR. FISKE: All right. Thank you very much.

5 CHAIRPERSON MIETZ: Thanks, Scott.

6 MR. DiSTEFANO: Application 8A-08-20.

7 APPLICATION 8A-08-20

8 Application of Pierrepont Visual Graphics,
9 Inc., agent, and 2561 Lac De Ville Management, LLC,
10 owner of property located at 2561 Lac De Ville
11 Boulevard, for a sign variance from Section 207-32 to
12 allow for a freestanding identification sign were not
13 allowed by code. All as described on application and
14 plans on file.

15 CHAIRPERSON MIETZ: Okay. Go ahead, sir.

16 MR. ZAPPIA: Good evening. My name is Scott
17 Zappia. I'm one of the owners of Pierrepont Visual
18 Graphics, 15 Elsner Terrace, Rochester, New York
19 14611. Representing the -- the owner. We're --
20 we're -- we designed the sign, we're going to
21 construct it and install it. He's looking for, you
22 know, something that's -- has some class to it to --
23 to show his location. It's double-sided
24 non-illuminated. I think size-wise it's pretty, you
25 know, comparable to the other ones in the area.

Brighton Zoning Board of Appeals 8/05/2020

1 Similar styles, stone, pillars, and HDU double-sided,
2 be grooved. He's going to do gold leaf. He's -- he
3 wants something very, very nice. And that's it.

4 CHAIRPERSON MIETZ: Can you discuss a little
5 bit what the need for this sign is?

6 MR. ZAPPIA: He just wants something -- you
7 know, an entranceway to his property, you know,
8 showing that the medical building is located there.
9 And he's trying to, you know, add -- add some, you
10 know, nice exterior appearance to his property and --

11 CHAIRPERSON MIETZ: Okay. Is he the current
12 operator of the property?

13 MR. ZAPPIA: I think -- no. I think he's
14 just the landlord, the owner.

15 CHAIRPERSON MIETZ: All right. But I -- but
16 he has been the owner for some --

17 MR. ZAPPIA: Yeah.

18 CHAIRPERSON MIETZ: -- period of time?

19 MR. ZAPPIA: Yes, he has.

20 CHAIRPERSON MIETZ: Like, I guess what we're
21 driving at when we say, well, what's the need for
22 this. I mean, are people having a difficult time
23 finding the building? I mean, what is -- do you have
24 any idea what his reasoning -- I -- aesthetically, we
25 can certainly understand it, but what beyond that?

Brighton Zoning Board of Appeals 8/05/2020

1 MR. ZAPPPIA: Yeah. I -- I just think, you
2 know, probably just to -- you know, just an added
3 feature for them to find it easier, you know, a little
4 more accessible when they're driving down the street.

5 CHAIRPERSON MIETZ: Are you familiar with
6 what the tenancy of this building is?

7 MR. ZAPPPIA: It's mostly medical. I'm not
8 sure exactly what they are medical -- I'm not sure
9 what the actual --

10 CHAIRPERSON MIETZ: Okay. All right. So,
11 Board Members, questions for this gentleman?
12 Anything?

13 MS. TOMKINS-WRIGHT: With the exception --
14 I'm sorry, this is Member Wright. With the exception
15 of Jubilee's sign -- to the Jubilee Center Sign --

16 MR. ZAPPPIA: Uh-huh.

17 MS. TOMPKINS-WRIGHT: -- which -- which
18 isn't actually technically on the same road, are there
19 other signs on this road or similar signs of -- of
20 this size cal -- you know, size and presence in -- in
21 the area that aren't necessarily -- that are on these
22 kinds of side streets as well or on Lac De Ville?

23 MR. ZAPPPIA: I believe there's a couple of
24 other ones. I'm not totally sure exactly where they
25 are, but there's something similar -- one of them is

Brighton Zoning Board of Appeals 8/05/2020

1 similar to this one but I'm not sure exactly where. I
2 mean --

3 MR. DiSTEFANO: I don't -- I don't believe
4 there are too many in the area.

5 MR. ZAPPIA: I think there's, like, one or
6 two other ones.

7 MR. DiSTEFANO: The Jubilee -- the Jubilee
8 is -- is an interesting case because they were a place
9 of worship and places of worship are allowed to have a
10 freestanding sign. They also had to come in and get a
11 variance for that because of when they subdivided the
12 parcel and built that office building, we still
13 granting them variance for the -- the place of
14 worship.

15 Besides that, I'm not thinking of any
16 particular one, except for maybe some of the ones that
17 are permitted because they are, like, the apartments
18 that are just a block up on Rue De Ville. But that is
19 a permitted sign for them.

20 In this case, this sign is not a permitted
21 sign in the Zoning District. So, there are some out
22 there, but they are all different scenarios for their
23 presence.

24 CHAIRPERSON MIETZ: Okay. That's helpful.
25 All right. Any other questions for this gentleman?

Brighton Zoning Board of Appeals 8/05/2020

1 Okay. At this point then, thank you very
2 much.

3 MR. ZAPPPIA: All right. Appreciate it.

4 MS. WATSON: I have -- I have a question.

5 CHAIRPERSON MIETZ: Jennifer, go ahead.

6 MS. WATSON: This is Member Watson. So, I'm
7 looking at the -- the Google street view of the
8 building right now and there's a rather significant
9 lettering on the building face itself that says Lac De
10 Ville Medical. And, so, I'm -- I'm curious to know if
11 there are any plans to take down that building signage
12 or if you could more -- more fully articulate why the
13 freestanding sign is needed given the signage on the
14 building already.

15 MR. ZAPPPIA: I --- to be honestly, I
16 don't -- I don't think he's planning to take anything
17 down right now. I mean, he might be. I don't know.
18 He hasn't discussed that part of it. I -- I just
19 think he wants something he can -- it will be more
20 accessible to people driving down the street. So...

21 CHAIRPERSON MIETZ: Okay. Any other
22 questions by the Board Members? Okay. Thank you very
23 much, sir.

24 MR. ZAPPPIA: All right. Thank you.

25 CHAIRPERSON MIETZ: Is there anyone in the

Brighton Zoning Board of Appeals 8/05/2020

1 audience that would like to speak related to this
2 application?

3 Okay. Then there being none, the Public
4 Hearing is closed.

5 MR. ZAPPIA: Thank you.

6 CHAIRPERSON MIETZ: Thank you.

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

August 5, 2020

Brighton Town Hall

2300 Elmwood Avenue

Brighton, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRPERSON

KATHLEEN SCHMITT

ANDREA TOMPKINS WRIGHT

JENNIFER WATSON

JUDY SCHWARTZ

JEANNE DALE

DAVID DOLLINGER, ESQ.

Town Attorney

RICK DiSTEFANO

Secretary

NOT PRESENT:

DOUGLAS CLAPP

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

Brighton Zoning Board of Appeals 8/05/2020

1 APPLICATION 8A-01-20

2 Application of Joseph O'Donnell, Architect,
3 and Sarah D. Realty, owner of property located at 885
4 Winton Road South, for an area variance from Section
5 205-6 to allow for an increase in building density
6 from 5,158 square feet to 5,469 square feet where a
7 maximum density of 4,504 square feet is allowed by
8 code. All as described on application and plans on
9 file.

10 Motion made by Ms. Dale to approve
11 Application 8A-01-20 based on the following findings
12 of fact.

13 **FINDINGS OF FACT:**

14 1. The increase in building density will be the
15 result of construction of a 310 square foot addition
16 to provide a new office and conference room for
17 confidential patient/doctor interactions.

18 2. There will be no substantial change in the
19 character of the neighborhood or detrimental effects
20 to surrounding properties as the proposed addition is
21 to be built from similar materials as the existing,
22 and to match the current look of the building.

23 Also, the applicant has testified that the
24 building addition has been approved by the Planning
25 Board and Architectural Review Board with minor

1 changes.

2 3. The location proposed for the new addition is on
3 an inside corner of the existing building and is the
4 only location on the site feasible to build out
5 without negatively impacting parking further than the
6 corresponding application.

7 4. The proposed variance will not have an adverse
8 effect or impact on the physical environmental
9 conditions of the neighborhood or district.

10 5. There will be no change to the number of staff or
11 the patient load at this location.

12 **CONDITIONS:**

13 1. The addition shall be built as per the application
14 filed and the testimony given and in accordance with
15 changes desired by the Planning Board and
16 Architectural Review Board.

17 (Seconded by Ms. Tompkins-Wright.)

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

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

23

24 APPLICATION 8A-02-20

25 Application of Joseph O'Donnell, Architect,

Brighton Zoning Board of Appeals 8/05/2020

1 and Sarah D. Realty, owner of property located at 885
2 Winton Road South, for an area variance from Section
3 205-12 to allow for 30 on site parking spaces in lieu
4 of the minimum 37 parking spaces required by code.
5 All as described on application and plans on file.

6 Motion made by Mr. Mietz to approve
7 Application 8A-02-20 based on the following findings
8 of fact.

9 **FINDINGS OF FACT:**

10 1. No substantial change to the character of the
11 neighborhood will likely occur through the approval of
12 this variance since the additional four spaces can be
13 managed through a cross easement agreement.

14 2. While the variance is self-created, the need for
15 additional space in the medical practice cannot be
16 mitigated any other way due to the site conditions.

17 3. The practical analysis of the parking requirements
18 of this occupant do not indicate a need for the
19 additional four spaces.

20 **CONDITIONS:**

21 1. This variance would be based on the testimony
22 given and plans submitted.

23 2. This variance applies only for the use of the
24 property by the tenant of record, Finger Lakes
25 Clinical Research.

Brighton Zoning Board of Appeals 8/05/2020

1 (Seconded by Ms. Tompkins-Wright.)

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

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

7

8 APPLICATION 8A-03-20

9 Application of Laurence Heiningner and Susan
10 Nitray, owners of property located at 376 Meadow
11 Drive, for extension of an approved variance to allow
12 a detached garage addition to be 3 feet from a side
13 lot line in lieu of the minimum 5 feet required by
14 code. All as described on application and plans on
15 file.

16 Motion made by Ms. Schmitt to approve
17 Application 8A-03-20 based on the following findings
18 of fact.

19 **FINDINGS OF FACT:**

20 1. The variance request is to add an additional 8
21 feet to the front of the homeowners' existing garage.

22 2. The existing garage is currently 3 feet from the
23 side lot line, and the 8-foot addition also would be 3
24 feet from the side lot line where the code requires a
25 minimum of 5 feet.

1 3. The granting of this variance will not produce an
2 undesirable change in the character of the
3 neighborhood or be a detriment to nearby properties.
4 The garage is set back more than 80 feet from the
5 street so the addition will likely not be noticeable
6 to any passers-by.

7 Further, the neighbors closest to the
8 property sent a letter that they did not object the
9 addition.

10 4. The requested variance is not substantial given
11 that the current garage already sits 3 feet from the
12 property line as was permitted in 1930, and the
13 addition will not increase the setback violation.

14 5. The benefit sought by the applicant cannot
15 reasonably be achieved due to the current location of
16 the garage.

17 6. There's no evidence that there will be a negative
18 impact on the health, safety, and welfare of the
19 neighborhood.

20 **CONDITIONS:**

21 1. The variance applies only to the garage addition
22 described in the application and testimony provided
23 and will not apply to future projects.

24 2. All necessary building permits shall be obtained.

25 (Seconded by Ms. Watson.)

Brighton Zoning Board of Appeals 8/05/2020

1 (Ms. Schwartz, yes; Ms. Tompkins-Wright, yes; Ms.
2 Dale, yes; Mr. Mietz, yes; Ms. Watson, yes; Ms.
3 Schmitt, yes.)

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

7 APPLICATION 8A-04-20

8 Application of Amy Pink, owner of property
9 located at 15 Victoria Drive, for an area variance
10 from Section 207-2A to allow a front yard fence to be
11 5.5 feet in height in lieu of the maximum 3.5 feet in
12 height allowed by code. All as described on
13 application and plans on file.

14 Motion made by Ms. Schwartz to approve
15 Application 8A-04-20 based on the following findings
16 of fact.

17 **FINDINGS OF FACT:**

18 1. The house is on a corner lot and the variance is
19 necessary for most changes to the property because
20 what appears to be the side yard is the front yard.

21 2. Even though the variance may seem substantial, a
22 five-and-a-half foot high fence in lieu of the
23 three-and-a-half feet allowed by code, the fence will
24 be slatted, creating a more open appearance and will
25 be far less massive than a solid style fence.

Brighton Zoning Board of Appeals 8/05/2020

1 3. The fence will be a natural wood finish that will
2 blend in well with the established trees on the
3 property.

4 4. The plantings as depicted in the picture stated in
5 the application will soften the appearance of the
6 fence.

7 5. No other alternative can produce the necessary
8 safety to the family because the actual backyard is
9 very small, and there is a good deal of traffic on
10 this section of Winton Road which is close to the
11 intersection of Westfall Road.

12 6. The fence was carefully laid out so it's not to
13 impair the line of sight.

14 **CONDITIONS:**

15 1. This variance only applies to the five-and-a-half
16 foot fence in the front yard as presenting in the
17 written application and testimony presented.

18 2. All building permits shall be obtained.

19 3. To soften the height of the fence, there should be
20 planting space around it and be of open slatted style.

21 4. No portion of the fence shall encroach into the
22 clear vision zone as defined by the Town Code.

23 (Seconded by Ms. Tompkins-Wright.)

24 (Ms. Schwartz, yes; Ms. Tompkins-Wright,
25 yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Watson, yes;

Brighton Zoning Board of Appeals 8/05/2020

1 Ms. Schmitt, yes.)

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

4
5 APPLICATION 8A-05-20

6 Application of Ian and Jamie Smith, owners
7 of property located at 204 Wilshire Road, for 1. An
8 area variance from Section 209-10 to allow livable
9 floor area to increase from 3,392 square feet to 3,459
10 square feet after construction of two additions where
11 a maximum of 2,796 square feet is allowed by code.
12 And, 2. An area variance from Section 205-2 to allow
13 building lot coverage to increase from 31.7 percent to
14 31.9 percent where a maximum 25 percent is allowed by
15 code. All as described on application and plans on
16 file.

17 Motion made by Ms. Watson to approve
18 Application 8A-05-20 based on the following findings
19 of fact.

20 **FINDINGS OF FACT:**

21 1. The requested variances are not substantial and
22 that it is an increase of just 67 square feet over the
23 current size of the house and an increase of .2
24 percent of building lot coverage. The additions do
25 not expand the footprint of the house beyond the

Brighton Zoning Board of Appeals 8/05/2020

1 outermost walls of the existing structure.

2 2. The proposed additions will not result in a
3 substantial change in the character of the
4 neighborhood or pose a detriment to nearby properties.
5 Many houses in this neighborhood are similarly sized
6 and have similar additions. Also, the proposed
7 additions will not be front-facing or easily visible
8 from the street.

9 3. The proposed variance is the minimum necessary to
10 add a small 14-foot kitchen eating area and 53-foot
11 mudroom for a growing family.

12 **CONDITIONS:**

13 1. This variance will apply only to the project as
14 described in the application and plans on file. In
15 particular, it will not apply to projects considered
16 in the future that are not in the present application.

17 2. All necessary permits and approval shall be
18 obtained.

19 (Seconded by Ms. Schwartz.)

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

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

25

1 APPLICATION 8A-06-20

2 Application of Kathleen Anderson and
3 Christopher Liston, owners of property located at 72
4 Westland Avenue, for an area variance from Sections
5 203-2.1B(7) and 203-9A(4) to allow for an air
6 conditioning unit to be located in a front yard in
7 lieu of the side or rear yard as required by code.
8 All as described on application and plans on file.

9 Motion made by Ms. Tompkins-Wright to
10 approve Application 8A-06-20 based on the following
11 findings of fact.

12 **FINDINGS OF FACT:**

13 1. The granting of the requested variance will not
14 produce an undesirable change in the character of the
15 neighborhood or be a detriment to nearby properties.
16 The location of the generator in the front yard will
17 be well shielded from view due to existing shrubbery
18 and additional shrubbery if needed.

19 Further, the location is consistent with
20 other mechanical equipment in the front yards of
21 several neighboring properties.

22 2. The requested variance is not substantial given
23 the aforementioned shielding and the fact that the air
24 conditioning unit is of a size and decibel level so as
25 to make it less noticeable and intrusive.

1 3. The benefit sought by the applicant cannot
2 reasonably be achieved by any other method. The rear
3 yard is unavailable due to improvements in the rear of
4 the home and side yards are unavailable due to the
5 width of the house and the proximity of the
6 neighboring property lines and driveways.

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

11 **CONDITIONS:**

12 1. The variance herein granted applies only to the
13 air conditioning unit described in, and in the
14 location as depicted on the application, and in the
15 testimony given.

16 2. The generator shall be shielded from view from the
17 sidewalk through additional planted shrubbery if not
18 adequately shielded by existing shrubbery.

19 3. All necessary permits must be obtained.

20 (Seconded by Ms. Schwartz.)

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

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

Brighton Zoning Board of Appeals 8/05/2020

1 APPLICATION 8A-08-20

2 Application of Pierrepont Visual Graphics,
3 Inc., agent, and 2561 Lac De Ville Management, LLC,
4 owner of property located at 2561 Lac De Ville
5 Boulevard, for a sign variance from Section 207-32 to
6 allow for a freestanding identification sign where not
7 allowed by code. All as described on application and
8 plans on file.

9 Motion made by Ms. Tompkins-Wright to deny
10 Application 8A-08-20 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

13 1. The applicant did not provide sufficient evidence
14 that the sign will not create a change in the
15 character of the neighborhood or be a detriment to
16 nearby property owners.

17 2. The applicant did not provide sufficient evidence.
18 There are no alternative means by which to accomplish
19 applicants' objectives other than by use of a
20 freestanding sign.

21 3. Existing signage of the building provides
22 sufficient notice for users as to the building's use,
23 and tenant, and location.

24 (Seconded by Ms. Watson.)

25 (Ms. Schwartz, yes; Ms. Tompkins-Wright,

Brighton Zoning Board of Appeals 8/05/2020

1 yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Watson, yes;
2 Ms. Schmitt, yes.)

3 (Upon roll call, motion is to deny.)

4 * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

REPORTER CERTIFICATE

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

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

Dated this 30th day of August, 2020

At Rochester, New York

Alexandra K. Wiater