
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

September 2, 2020

Brighton Town Hall

2300 Elmwood Avenue

Brighton, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
JENNIFER WATSON

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

Brighton Zoning Board of Appeals 9/2/2020

1 CHAIRPERSON MIETZ: Okay. Good evening,
2 everyone. I just want to take this moment to welcome
3 you to the September meeting of the Zoning Board of
4 Appeals. I just want to take maybe a couple minutes
5 to explain for those of you who are part of the
6 virtual audience or people who are going to be making
7 presentations to the Board tonight that there's a
8 couple rules that we follow.

9 Basically, we will ask each of you to
10 present your application. Once you do that, then The
11 Board Members may have some questions. And following
12 that, then we would invite anyone from the public who
13 wants to speak regarding this application to do so.
14 Once everyone does that, then we will close the Public
15 Hearing and move to the next item. Once we've
16 completed all of those, then we will begin the
17 deliberations. You're welcome to listen to the
18 deliberations, if you wish. If not, then you would
19 contact Rick Distefano tomorrow at the building office
20 and he could let you know what the status of the
21 applications were.

22 Rick, let's then, I guess, begin this
23 meeting by saying was the meeting properly advertised?

24 MR. DiSTEFANO: Yes, Mr. Chairman. It was
25 in the Brighton-Pittsford Post of August 27th, 2020.

Brighton Zoning Board of Appeals 9/2/2020

1 **FINDINGS OF FACT:**

2 CHAIRPERSON MIETZ: Okay. Could you call
3 the roll?

4 MR. DiSTEFANO: Ms. Schwartz?

5 MS. SCHWARTZ: Here.

6 MR. DiSTEFANO: Ms. Tompkins-Wright?

7 MS. TOMPKINS-WRIGHT: Here.

8 MR. DiSTEFANO: Ms. Dale?

9 MS. DALE: Here.

10 MR. DiSTEFANO: Mr. Mietz?

11 CHAIRPERSON MIETZ: Here.

12 MR. DiSTEFANO: Ms. Schmitt?

13 MS. SCHWARTZ: She's losing connectivity she
14 said.

15 MR. DiSTEFANO: I see you're here. So...

16 CHAIRPERSON MIETZ: Okay.

17 MR. DiSTEFANO: And Ms. Watson?

18 MS. SCHMITT: I'm here. Thank you, Judy.

19 MR. DiSTEFANO: Please let the record show
20 that Ms. Watson is not present.

21 CHAIRPERSON MIETZ: Okay. Very good. Okay.
22 So, Rick, we don't have the minutes from the previous
23 meeting to go over this meeting.

24 MR. DiSTEFANO: Correct.

25 CHAIRPERSON MIETZ: So, at this point, I

Brighton Zoning Board of Appeals 9/2/2020

1 guess, we can begin with the first application.

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

3 APPLICATION 7A-04-20

4 Application of Richard Aemi and Carolyn
5 Dilcher-Stutz, owners of property located at 60 Helen
6 Road, for an area variance from Sections 203-2.1B(3)
7 and 203-9A(4) to allow for the construction of a 960
8 square foot detached garage in lieu of the maximum 600
9 square foot detached garage allowed by Code. All as
10 described on application and plans on file. This
11 application was tabled at the July 1st, 2020 meeting.

12 CHAIRPERSON MIETZ: Okay. Do we have
13 someone who is speaking regarding this application?

14 MR. HELD: Yes. I am Blake Held.

15 CHAIRPERSON MIETZ: Yes. Good evening,
16 Blake.

17 MR. HELD: Hi.

18 CHAIRPERSON MIETZ: Okay. So, please
19 proceed.

20 MT. HELD: Okay. Well, basically in the
21 package we sent out this time, what we wanted to do is
22 show you the -- the thought process we had as far as
23 trying to locate a garage for this house. And then --
24 so, in that package, SK 2.1, shows five different
25 optional locations that -- that we felt would, you

Brighton Zoning Board of Appeals 9/2/2020

1 know, answer, you know, or just basically those are
2 the -- the places that we thought would work for --
3 for locating this garage.

4 One would be the most obvious, you know,
5 location. But we felt that as I -- as I state there,
6 that it would -- well, it would allow for a short
7 driveway and one that would work off of the original
8 driveway, it -- it caused problems with access to the
9 backyard because of the existing trees elsewhere in
10 the yard. For any large equipment -- and there are
11 large trees back there -- that they foresee needing to
12 get equipment back to be able to trim and/or take down
13 trees as they age and get damaged by weather. Also,
14 we felt that it kind of squeezed in between this house
15 and the neighboring house, which is contrary to the
16 character of that neighborhood which is very open, you
17 know, with the placement of -- of small buildings in
18 large lots.

19 Then, two, gets -- gets the garage -- while
20 it would allow for a driveway to reach back to the
21 original driveway, it caused trouble with the -- the
22 trees themselves, those large existing trees.

23 Three, was in the wetlands there that would
24 cause significant grading issues and that would have
25 more significantly impacted the neighbor than any

Brighton Zoning Board of Appeals 9/2/2020

1 other location.

2 And then, four, made little sense at all as
3 far as access from the driveway or, you know,
4 locations as far as views from this house or any other
5 house. So, we went back to more or less the first
6 location that we had looked at and wanted to -- to
7 demonstrate that we had considered all these options.

8 So, number five, we have pulled the -- the
9 building as closely as we felt we could to the house.
10 The reason we didn't pull it any closer is that it
11 gets it either raised up high above grade and causes
12 other issues of having to dig it in where -- where
13 would the garage door go, et cetera.

14 So, basically, we were left with this being
15 the primary spot of the -- for the garage, which is
16 why we had chosen that spot, to begin with, you know,
17 not -- it wasn't in any attempt to -- to go against
18 what The Board was suggesting at all. But we don't
19 see a -- a better option at this point. And that
20 would be our case, basically. We feel like we've
21 tried to -- to work on the garage to make it look
22 appropriate in -- in its character with the house.
23 And are looking to develop some sort of a
24 garden/courtyard in relation to the connection between
25 this and the house in the way of the pathway to -- to

Brighton Zoning Board of Appeals 9/2/2020

1 the garage, et cetera, to -- to develop a stronger
2 connection between the two but without creating some
3 sort of crowding in -- of the structures.

4 So, I guess with that, I'd like to hear
5 questions, if possible.

6 CHAIRPERSON MIETZ: Okay. Do you want to
7 talk a little bit about what you did with the size of
8 the garage also and some of those other factors?

9 MR. HELD: Yes. Based on the input that I
10 had from Richard, we were able to shrink the garage,
11 which I think, you know, helped considerably.

12 The garage is smaller. His primary use
13 would be for still the kilns and the like, but we
14 wanted to make sure that the garage would still be
15 able to be functional for a -- actual garage use in
16 the future.

17 CHAIRPERSON MIETZ: Okay. How about the
18 design of it or the height and that sort of thing?

19 MR. HELD: Well, you can see from those
20 images that we're looking for a design that matches
21 the character of -- of the house itself. Trying to
22 keep it fairly simple with the -- the low slope roof
23 in the front, a more standard gable roof in the back.
24 The purpose of that is the gable roof is less
25 expensive and -- and more appropriate to -- in

Brighton Zoning Board of Appeals 9/2/2020

1 building whereas the -- the low slope roof in the
2 front is, I think, appropriate with the existing house
3 in the character there. And we kept the height down
4 low, we keep the -- we're keeping the garage itself in
5 that low -- low land of the property to make sure that
6 it stays low. And those perspective images are to try
7 to get a sense of what the character would be.

8 CHAIRPERSON MIETZ: Okay. Okay. Other
9 questions by The Board Members?

10 Yes. Go ahead, Andrea.

11 MS. TOMPKINS-WRIGHT: Was there -- one of
12 the concerns was drainage from the garage. Was there
13 any evidence that there's going to be a drainage
14 problem with this size of this garage being built
15 where it is?

16 MR. HELD: We don't believe so. I mean,
17 because the garage is going to be down at -- at that
18 grade level, we don't feel the need at that location
19 to try to raise the garage and have -- have the water
20 slope away from the garage and impact that low land.
21 So, that's why we -- again, why it's where it is as
22 opposed to, if it were moved into that deeper area
23 there, the -- the low section in the back corner, then
24 the garage would have to be raised up. At which
25 point, the water is going to drain into the lowlands

Brighton Zoning Board of Appeals 9/2/2020

1 of the neighboring yard.

2 CHAIRPERSON MIETZ: Okay. All right. Other
3 questions by The Board Members? Okay. It sounds
4 good.

5 MS. TOMPKINS-WRIGHT: I'm sorry. This is
6 Member --

7 CHAIRPERSON MIETZ: Go ahead.

8 MS. TOMPKINS-WRIGHT: -- Wright, again. So,
9 for the drive aisle, the plan is still to have a --
10 one driveway abutting the actual home. And then, a
11 completely separate driveway onto the garage?

12 MR. HELD: Well, at this point we don't have
13 a better option to provide --

14 MS. TOMPKINS-WRIGHT: Okay.

15 MR. DiSTEFANO: Let me just add that we
16 denied that variance at our July meeting for a second
17 curb cut. So, at this point in time in order to have
18 access to the garage, which is required under The
19 Code, is that you have to be able to have automobile
20 access to this structure to be considered a detached
21 garage. They can only use one curb cut at this point
22 in time.

23 CHAIRPERSON MIETZ: Okay. Very good.

24 MR. HELD: So, I guess then my question
25 would be: If that's the case, can we have The Board

Brighton Zoning Board of Appeals 9/2/2020

1 review that denial if -- if they agree with the
2 concept of the garage itself?

3 MR. DiSTEFANO: The Board can review a
4 denied application upon a rehearing. That has to be
5 requested by the applicant. And then, it would have
6 to be a unanimous vote by The Board to rehear that
7 application.

8 MR. HELD: Is this the appropriate time to
9 request that?

10 MR. DiSTEFANO: Not really. You should do
11 that in a letter format to the Zoning Board. And,
12 also, you want to back that up with any additional
13 information so that The Board would -- would -- could
14 re-hear that. And then, decide on whether or not they
15 want to review the case at their next meeting or just
16 continue with the denial of that second curb cut.

17 MR. HELD: Okay. So, the review tonight
18 would be for the garage, if -- if The Board were to be
19 favorable towards the -- the concept of the garage,
20 you're saying they still could not approve the garage
21 at this point until a-- a secondary driveway is
22 approved?

23 MR. DiSTEFANO: No. What I'm saying is that
24 you have one curb cut allowed by Code, so you have to
25 make that detached garage accessible by the curb cut.

Brighton Zoning Board of Appeals 9/2/2020

1 Whether or not you want to move the existing curb cut,
2 or add on to the pavement from that curb cut to access
3 the detached garage, there are options for you to do
4 with one curb cut.

5 The second curb cut, which was denied at our
6 July meeting, basically would have -- that application
7 would have to be reheard by this Board.

8 MR. HELD: Okay. All right.

9 MR. AERNI: Excuse me for jumping in. This
10 is -- this is Richard. I've been listening to your
11 meeting. I wonder -- in the accompanying letters of
12 support, one of our neighbors two doors up, who has
13 two curb cuts on their even smaller lot, I -- I
14 believe said they sent a letter in -- in -- in support
15 of this. And there is another house down the block
16 that has two curb cuts as well. So, there -- there is
17 evidence that this does exist on this street. Thank
18 you.

19 CHAIRPERSON MIETZ: Okay. All right. Is
20 there any other questions? Okay. At this --

21 MR. HELD: Well, if I can -- I just want to
22 clarify then that we are seeking approval for a garage
23 and, I guess, then what I'm understanding is that how
24 we get to that garage becomes an issue that we know
25 would then have to approach The Board for a -- a

Brighton Zoning Board of Appeals 9/2/2020

1 second time; correct?

2 CHAIRPERSON MIETZ: That's correct.

3 MR. DiSTEFANO: Only if you -- only if
4 you're requesting a second curb cut.

5 CHAIRPERSON MIETZ: Right.

6 MR. HELD: Right. Right.

7 CHAIRPERSON MIETZ: Fair way to work the
8 original --

9 MR. DiSTEFANO: You have -- you have -- and
10 the thing is, you have a -- a detached garage, and
11 then you have a driveway that goes into a probably
12 once was a garage and now is in converted space, is
13 that driveway actually necessary, you could take that
14 driveway out, put it to the detached garage and you
15 wouldn't need any approval from this Board. But the
16 fact that you're going to add a second one is what
17 requires approval.

18 CHAIRPERSON MIETZ: Right.

19 MR. HELD: Okay. Understood.

20 CHAIRPERSON MIETZ: Okay. Okay. If there's
21 no other questions at this point, then I'm going to
22 close the Public Hearing and ask if anyone in the
23 audience or on the Zoom call would like to speak
24 regarding this application? '

25 Okay. Then -- then -- very -- excuse me.

Brighton Zoning Board of Appeals 9/2/2020

1 Then if there are none, then we will close with the
2 Public Hearing at this time. And, Rick, we can move
3 to the next application.

4 MR. DiSTEFANO: Yes. Mr. Chairman, I just
5 want to kind of remind the audience that if they
6 certainly want to use the raise your hand option in
7 Zoom so that we can certainly --

8 CHAIRPERSON MIETZ: Sure.

9 MR. DiSTEFANO: -- make sure that we're
10 seeing who's out there and who might want to speak on
11 a particular application.

12 CHAIRPERSON MIETZ: You know, that's
13 certainly reasonable. Okay.

14 MR. DiSTEFANO: Okay. Application 8A-07-20.
15 APPLICATION 8A-07-20.

16 Application of Pardi Partnership Architects,
17 agent, and George's Family Restaurants, owner of
18 property located at 2171 West Henrietta Road, for a
19 variance from Section 73-29 in accordance with Section
20 73-34 to allow for the remodeling of a restaurant
21 building without the installation of an automatic
22 sprinkler system as required by Code. All as
23 described on application and plans on file.

24 CHAIRPERSON MIETZ: Okay. Who -- who do we
25 have speaking on this application? Rick, do you know

Brighton Zoning Board of Appeals 9/2/2020

1 what it -- was it most likely Mr. Fiske?

2 MR. DiSTEFANO: Yes. It most likely is
3 Mr. Fiske.

4 MR. FISKE: Yes. I'm sorry. Can you hear
5 me now?

6 CHAIRPERSON MIETZ: There we go.

7 MR. FISKE: All right.

8 MR. DiSTEFANO: I can hear you, Scott.

9 MR. FISKE: Okay. My apologizes. I'm still
10 learning all of this.

11 CHAIRPERSON MIETZ: Okie doke.

12 MR. FISKE: I'm here tonight on behalf of
13 John Gear, the owner of 2171 West Henrietta Road,
14 seeking a variance from Brighton's Local Sprinkler
15 Law. And the basis of the variance hearing is of --
16 of -- the request is for the cost of the sprinkler
17 system. Mr. Geer has made -- when he acquired the
18 building, his plan was to make improvements to the
19 building which, I think -- as you have seen and we
20 have worked with the Town on, have been significant to
21 date.

22 In the process of doing renovations, he
23 discovered that there was more work necessary than
24 initially thought. Got into the project. And got to
25 the point where it needed more interior work than was

Brighton Zoning Board of Appeals 9/2/2020

1 originally planned for.

2 In the process of working with him on that,
3 it brought into play Brighton's Local Sprinkler Law,
4 which we exceeded the threshold of. The issues for us
5 are, it is a small restaurant. It had not been
6 sprinklered, as many restaurants in Brighton are not.
7 But because of the monetary calculations of the
8 Sprinkler Law, it was pushed into this requirement.

9 I laid out, and I realized it's a very large
10 amount of paperwork. But in -- in essence, we have
11 laid out how, were it not for the Local Law, this
12 building can be in compliance with all state codes for
13 its use, both the first and second floors, by the --
14 by not having an occupant load higher than a hundred
15 people. It was never the client's intent to have an
16 occupant load higher than that.

17 There was reference in the fire marshal's
18 response letter to us about an outdoor deck. That was
19 eliminated from the -- from any thought early on in
20 the process, just to make the point.

21 I tried to lay out in the initial
22 application, the possible costs of a sprinkler system
23 based on the designs that were given to me by the
24 owner's representatives for -- and vendors.

25 I, then, after receiving the fire marshal's

Brighton Zoning Board of Appeals 9/2/2020

1 responses, I've reviewed those and came back with a
2 second review, which still had a sprinkler system even
3 at its most simplest cost is roughly \$70,000.

4 The primary issue here is very low water
5 pressures on West Henrietta Road and the two side
6 streets bordering it. And it is the combination of
7 low water pressure, the expense of bringing in a
8 sufficient size water service to operate the sprinkler
9 system, and the need for additional equipment which
10 best practices would state require a fire pump to
11 boost the water pressure to make the sprinkler system
12 work the way it should.

13 The fire marshal has made valid points. We
14 reviewed those points with both the designer and I
15 also sought a second opinion through another
16 mechanical and sprinkler company that does a lot of
17 this work in the city. I provided that letter as part
18 of the letter that you should have received this
19 morning or yesterday.

20 In -- in -- in simple terms, it is -- the
21 sprinkler system is just such an ex -- a cost that it
22 is -- far exceeds what we believe would be the value
23 it would bring in lieu of other things that we plan to
24 do to the building.

25 The construction classification of the

Brighton Zoning Board of Appeals 9/2/2020

1 building is upgraded to make it more fire-resistant.
2 And fire and smoke alarm system would be installed in
3 the building, which is -- would help in terms of
4 notification of occupants should something go wrong,
5 the kitchen itself has a -- a hood system which
6 already has a fire suppression system in it. And we
7 have actually additionally looked at -- at adding a
8 small limited sprinkler head system in just the
9 kitchen only if that were to help.

10 At the end of the day, what we're facing is
11 a cost of anywhere from 70,000 to perhaps \$140,000
12 depending upon the final criteria, the initial designs
13 all pointed toward the need for the fire pump, the
14 fire pump may or may not, depending upon the final
15 decision, require a generator. But I listed the costs
16 for you. The documentation in the original submission
17 provided the basis for how we came to the numbers we
18 came to.

19 In a nutshell, that's really why we are here
20 tonight. I would be happy to answer any questions you
21 might have about it.

22 CHAIRPERSON MIETZ: Scott, can you tell us
23 roughly what Mr. Geer has invested in the property,
24 not in the purchase of it, but in the construction so
25 far?

Brighton Zoning Board of Appeals 9/2/2020

1 MR. FISKE: He has invested roughly 200 --
2 \$225,000. He still has a ways to go. He's basically
3 exhausted most of what he's had that he planned to use
4 on this. So, he -- he has financing to complete it.
5 But this was not -- a sprinkler system of this
6 magnitude order was not -- not contemplated as part of
7 this.

8 CHAIRPERSON MIETZ: Okay. All right. So,
9 questions by any of The Board Members, please?

10 MR. DiSTEFANO: Can I just state something
11 Mr. --

12 CHAIRPERSON MIETZ: Yes.

13 MR. DiSTEFANO: -- Chairman before we go
14 into questions, I just want everybody to realize that
15 this application -- use variance was approved back in
16 May of 2019. And one of the issues was the amount of
17 seating that was required. So, at that point in time,
18 I believe it was 64 or 66 seats with the maximum
19 number of seats with no upstairs dining. So, in order
20 for those types of activities to take place here,
21 they're still going to have to come back to this Board
22 for modification to that use variance.

23 MR. FISKE: We're planning -- just so you're
24 aware, Rick -- at first it was going to be DDS but
25 apparently it's going to be us coming back to next

Brighton Zoning Board of Appeals 9/2/2020

1 month's board to expand that non-conforming use.

2 MR. DiSTEFANO: Use variance. That it's --
3 non-conforming use that's been lost?

4 MR. FISKE: Correct.

5 CHAIRPERSON MIETZ: Okay. All right.

6 MS. DALE: Hello. I had a question: Is --
7 so, is -- is the applicant willing to enforce an
8 occupation load of -- I think in the application it
9 said 96 people or less?

10 MR. FISKE: Yes. Absolutely. Absolutely.
11 There -- there is no reason to have more than that.
12 So, the occupant load for the building would be no
13 more than that number. Should be -- would be under a
14 hundred in any case by state code.

15 CHAIRPERSON MIETZ: Okay. Other questions,
16 please?

17 MS. SCHWARTZ: Yes. Did I hear something
18 about no second floor or is that coming up next
19 meeting?

20 MR. FISKE: That comes up at the next
21 meeting.

22 MS. SCHWARTZ: Okay.

23 CHAIRPERSON MIETZ: Very good. Okay. Other
24 questions? I think we had pretty good materials last
25 month. And then the clarifications this month. So...

Brighton Zoning Board of Appeals 9/2/2020

1 MR. FISKE: I just wanted to stress that he
2 is very committed to wanting the restaurant here. The
3 other members of his family operate restaurants
4 elsewhere, I believe it's in Webster. And he had
5 other expanded plans for what he'd like to do. I know
6 that he has neighborhood support and this is not the
7 appropriate time to bring -- bring that up but other
8 boards have heard that. It's just -- this has been --
9 and believe me, I fully appreciate -- because what I
10 do for a living -- like safety sprinklers in general.

11 I did an informal survey of Brighton here
12 yesterday and went to roughly 30 restaurants and took
13 a look at what's -- what restaurants had what. And
14 it's -- it's all over the place. There's small
15 restaurants that have sprinklers, there are large ones
16 like Charbroil that have none. So, it's less a
17 functional day to day issue and more of a -- a code,
18 and a compliance issue.

19 So, in this particular case, I really think
20 that we made the case that without the sprinklers, he
21 still provides a facility that's equally as good as
22 any other in Brighton. And probably better because of
23 what we're doing.

24 CHAIRPERSON MIETZ: Okay, Scott. Thank you
25 very much. Okay. If there are no other questions

Brighton Zoning Board of Appeals 9/2/2020

1 from The Board Members, then are there any folks in
2 the audience that would like to speak regarding this
3 application? If you want to raise your hand if you're
4 out there to do that, then you have the opportunity.

5 Okay. At this point, it looks like there
6 aren't. So, at this point, we'll close the Public
7 Hearing and move to the next application. Thank you,
8 Scott.

9 MR. FISKE: Thank you, Dennis. Thank you,
10 Board Members.

11 MR. DiSTEFANO: I'll read the next two
12 applications for the -- for the same property.
13 Application of Passero -- excuse me. Application
14 9A-01-20.

15 APPLICATION 9A-01-20

16 Application of Passero Associates, agent,
17 and New Monroe Real Estate, owner of property located
18 at 2816 Monroe Avenue, for area variances from Section
19 20516A to 1. Allow for parallel parking stalls to be
20 8 feet wide in lieu of the minimum 9 feet as required
21 by Code. And 2. Allow a one-way drive aisle to be 12
22 feet wide in lieu of the minimum 15 feet wide as
23 required by Code. All as described on application and
24 plans on file.

25 And Application 9A-02-20.

Brighton Zoning Board of Appeals 9/2/2020

1 APPLICATION 9A-02-20

2 Application of Passero Associates, agent, in
3 New Monroe State -- excuse me, New Monroe Real Estate,
4 owner of property located at 2816 Monroe Avenue, for
5 1. An area variance from Section 205-18B to allow
6 paving and parking up to a lot line in lieu of having
7 a 10-foot setback as required by Code. And 2. An
8 area variance from Section 205-7 to allow impervious
9 lot coverage to increase from 73 percent to 77 percent
10 where a maximum 65 percent is allowed by Code. All as
11 described on application and plans on file.

12 CHAIRPERSON MIETZ: Okay. So, who do we
13 have from Passero this evening?

14 MR. COX: David Cox from Passero Associates
15 is here.

16 CHAIRPERSON MIETZ: Okay, David. Just give
17 us your address, please.

18 MR. COX: Passero Associates is 242 West
19 Main Street, Rochester, New York.

20 CHAIRPERSON MIETZ: Okay. Please proceed.

21 MR. COX: So, Pittsford Animal Hospital has
22 been experiencing growth and also a change in how they
23 do animal care. That animal care has really advanced
24 recently in the -- in the recent years to have a more
25 higher demand for advanced medical services. So, a

Brighton Zoning Board of Appeals 9/2/2020

1 lot more surgical procedures, x-rays, diagnostic
2 imaging, pharmacy, dental care, nutritional
3 counseling, all things that, you know -- you know, 10
4 or 15 years ago, you know, veterinary hospitals were
5 not really providing those services. But with
6 increasing technology, they are now providing these.
7 They -- I mean, they are literally hospitals for
8 animals. They're, you know, all the same equipment
9 that's in a regular hospital, they have. So, what
10 that does create though is the need for more
11 specialized staff. Just like at a regular hospital,
12 you know, not everyone can do diagnostic imaging. Not
13 everyone can do x-ray, you know, pharmacy, dental.
14 So, they need to bring in more specialty staff. So,
15 that's really what's driving the need for additional
16 parking is for this specialized staff.

17 So, what the plan is, right now there's
18 parking in the front of the building off of Monroe Ave
19 that's staying exactly how it is today. And then,
20 there's a one-way drive aisle that goes along the east
21 side of the building. And then it kind of loops into
22 the parking lot area. And then in that back area,
23 parking lot area, you would exit out onto Clover to
24 get out.

25 So, what we're doing is just revising

Brighton Zoning Board of Appeals 9/2/2020

1 that -- that one-way drive aisle that gets to the back
2 parking lot. We're revising that to have parallel
3 parking on the right-hand or the east-hand side of the
4 property. So, we're able to provide 11 handicapped --
5 or, sorry, parallel parking spaces in there.

6 And part of the reason for two of the
7 variances are the Town of Brighton Code doesn't really
8 address parallel parking spaces. So, it just -- The
9 Code just references the typical, you know, 9 by 18,
10 where parallel parking spaces are actually of a
11 different size. The industry standard for parallel
12 parking is actually 8 feet wide and 22 feet long. So,
13 that's what we are proposing here is an
14 industry-standard, but just -- that doesn't meet
15 the -- you know, the typical -- you know, 9 by 18 that
16 would be for, you know, perpendicular parking.

17 And then the other part of that is, the Town
18 Code doesn't also -- it doesn't address, you know, how
19 big the drive aisle should be for parallel parking.
20 There is a reference in The Code about requiring 15
21 feet for one-way traffic. But then again, it doesn't
22 really address the parallel parking.

23 Other parts of The Code, it does say for a
24 fifth -- for a 45-degree parking, you're allowed to
25 have a 12-foot drive aisle. So, there's, you know, a

Brighton Zoning Board of Appeals 9/2/2020

1 12-foot drive aisle you could have for 45-degree
2 parking but it just -- it doesn't address parallel
3 parking. So -- so, since it's not addressed, we do
4 need the variance to have that -- that 12-foot drive
5 aisle for the parallel parking.

6 And then on the other ones is -- you know,
7 since we are putting that parallel parking in, it does
8 -- we do need a little more pavement there. So, we
9 are having parking that is pretty right on the
10 property line. So, we're requesting that zero foot
11 parking setback off that eastern property line.

12 And then that -- that last variance for the
13 lot coverage, I actually made a mistake in my -- my
14 application -- my submittal -- or I said 77 and I --
15 and I confirmed it just before this meeting that it
16 actually is 82 percent coverage. So, that is a --
17 that is a mistake on my part. But I'd like to just
18 point that out.

19 And one of the other things we did, if we
20 looked at, you know, as far as coverage and impervious
21 coverage, you know, what are the existing properties
22 around, you know, us. So, we did a coverage map of
23 the -- kind of the area. And what we found out is
24 the -- the majority of properties around us actually
25 have a higher coverage than we are proposing of 82. A

Brighton Zoning Board of Appeals 9/2/2020

1 lot of them had a -- in the 90s. 94, 92 percent
2 coverage.

3 So, let me just pull that up so I don't give
4 you wrong numbers. Give me one second. So, Metro
5 Tire on the corner, there has 96 percent lot coverage.
6 The bank, which is just -- just to the east of us, has
7 93 percent lot coverage. And then directly across the
8 street where the hotel is is 97 percent. Just to the
9 west of that is 94 percent. Just to the west of that
10 is 91 percent. So, we're not out of character with
11 the neighborhood. And, you know, it is a very dense
12 commercial corridor that typically had higher lot
13 coverages.

14 What we are doing is, you know, we're trying
15 to add as much landscaping as we can to the property.
16 So, we're adding additional trees and shrubs at the
17 entrance along Clover -- or along Monroe Ave. And
18 then we're also adding some shrubs and landscaping in
19 between that drive aisle and the existing parking lot.
20 So -- and then we're putting some additional trees
21 along Clover Street. So, we're really -- we're trying
22 to add in more landscaping. More -- more shrubs to
23 help more beautify the area and -- and provide as much
24 landscaping as we can.

25 CHAIRPERSON MIETZ: Okay.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. COX: I -- I think that's all -- all I
2 have.

3 CHAIRPERSON MIETZ: Okay. Can you just
4 briefly -- did you look at any other possible ways to
5 create, you know, the relief as relates to the parking
6 on the site. Was this --

7 MR. COX: Yeah.

8 CHAIRPERSON MIETZ: -- the only option?
9 Could you talk about what else you might have
10 considered, please?

11 MR. COX: Sure. So, the owner of the
12 property did reach out to the owners of Whole Foods to
13 the west and they were not able to secure any -- any
14 parking agreements with that development. And they
15 also reached out to the bank to the east, if they
16 could -- you know -- you know, rent any parking from
17 them. And they -- the bank denied that request and
18 was not willing to -- to rent any parking spaces to
19 the animal hospital.

20 CHAIRPERSON MIETZ: Okay. Okay. Appreciate
21 that you guys investigated that as an option.

22 Okay. Is there any other questions by The
23 Board Members, please, or --

24 MS. SCHWARTZ: Yes.

25 CHAIRPERSON MIETZ: -- questions --

Brighton Zoning Board of Appeals 9/2/2020

1 MS. SCHWARTZ: Yes. I wanted to ask you:
2 In application number one, you said that this new
3 parking will be for the staff. Do they arrive before
4 patients come? And then will those spaces then
5 automatically be filled before patients come? And/or
6 will you mark those spaces for employees only or how
7 are you going to keep that safe and filled, you know,
8 where there won't be traffic getting out during the
9 day?

10 MR. COX: Right. So, the staff arrive
11 before the -- the -- the patients or the customers do.
12 So, they -- though all those spaces will be filled
13 prior to customers coming.

14 MS. SCHWARTZ: And they won't be marked,
15 they'll just be filled?

16 MR. COX: Yeah. They'll just be filled.

17 MS. SCHWARTZ: Okay.

18 CHAIRPERSON MIETZ: Okay. Other questions
19 by The Board Members?

20 MS. TOMPKINS-WRIGHT: This is Member Wright.
21 Is there any concern with having that sort of narrow
22 drive aisle back to back with the building for
23 emergency vehicles?

24 MR. COX: It is -- it is wide enough for --
25 for emergency vehicles to get through. It's -- it's

Brighton Zoning Board of Appeals 9/2/2020

1 the same, you know, similar drive -- or similar width
2 that it is nowadays, except, you know, under existing
3 conditions, there's kind of a sharp left-hand turn.
4 Now, we kind of have a straight shot for emergency
5 vehicles. So, I don't see that as an issue at all.

6 CHAIRPERSON MIETZ: All right. Other
7 questions? Okay. At this point, then, I would like
8 to ask if there's anyone in the Zoom audience that
9 would like to speak regarding this application, either
10 9A-01 or 9A-02? Okay. There being none -- go ahead.

11 MS. SCHWARTZ: No. There is one.

12 CHAIRPERSON MIETZ: Oh, there is one. Okay.
13 I'm sorry. Go right ahead. It takes a little bit
14 here.

15 MR. ZOGHLIN: I see. I was muted. I'm
16 sorry. Good evening. My name is Jacob Zoglin. I
17 represent Brighton Grassroots, which is an LLC, whose
18 members include Brighton residents who live near the
19 applicant's property as well as the proposed Whole
20 Foods Plaza.

21 Brighton Grassroots has appears before the
22 Town of Brighton Town Board and Planning Board to
23 comment on proposed projects that may have detrimental
24 impacts on traffic that may violate the Town Code and
25 other applicable laws and that may harm its members.

Brighton Zoning Board of Appeals 9/2/2020

1 Today, I offer comments on New Monroe Real
2 Estate's application that relate to our traffic
3 concerns.

4 First, because this parcel is adjacent to
5 the site of the proposed Whole Foods plaza, it raises
6 questions about whether they will be connected in any
7 way. This is an important question because in
8 considering the applications related to the Whole Food
9 plaza, traffic internal circulation, and other access
10 management issues were of the utmost concern.

11 Accordingly, I asked the ZBA to inquire from
12 the applicant as to whether the applicant intends to
13 connect its parcel to the Whole Foods plaza
14 development or in any way allow access from the
15 applicant's parcel directly onto the site of the
16 adjacent Whole Foods plaza.

17 Similarly, in reviewing the applications, I
18 see that Passero Associates' existing conditions and
19 demolition plan for the project, which is located on
20 page 16 of the application, references a gate to
21 remain locked on the north side of the property. And
22 if you're looking at the -- the map, that's the top
23 left side of the map. Given that this stretch of
24 Monroe Avenue has some of the worst traffic around,
25 traffic issues and internal circulations are extremely

Brighton Zoning Board of Appeals 9/2/2020

1 concerning to Brighton Grassroots' members.

2 Accordingly, I respectfully ask that the ZBA
3 seek clarification from the applicant regarding this
4 gate. And, more specifically, the conditions under
5 which the gate would ever be unlocked and open to
6 allow any kind of vehicular access from this parcel to
7 the Whole Foods plaza part property.

8 And finally, the same page of the
9 application on the bottom left side of the plans along
10 Monroe Avenue, which is the western portion of the
11 parcel shows a row of bushes separating this parcel
12 from the proposed Whole Foods plaza. Part of the
13 landscaping that Mr. Cox referenced earlier. There
14 appears to be a break in the row of bushes close to
15 where the edge of the parcel meets Monroe Avenue. And
16 our concern is that this opening between the bushes
17 and Monroe Avenue may allow vehicles to cross from
18 this parcel to the proposed Whole Foods plaza at this
19 location as well, which could impact traffic internal
20 circulation and other internal access management
21 issues.

22 And so, finally, I respectfully ask the ZBA
23 to seek clarification from the applicant regarding
24 whether vehicular access is anticipated between to
25 applicant's parcel and the Whole Foods plaza to the

Brighton Zoning Board of Appeals 9/2/2020

1 west, specifically along the area between the
2 applicants' building and Monroe Avenue where there is
3 that break in the bushes.

4 Thank you for your time and the opportunity
5 to address The Board.

6 CHAIRPERSON MIETZ: Okay, Mr. Zoghlin.
7 Thank you. Okay.

8 MR. ZOGHLIN: Thank you.

9 MR. COX: I can start -- address that.

10 CHAIRPERSON MIETZ: Excuse me?

11 MR. COX: I can address that if you'd like.

12 CHAIRPERSON MIETZ: Yeah. If you have
13 knowledge of -- of any arrangements or lack of
14 arrangements, then I think, you know, normally we
15 don't have a little interrogatory-type discussion like
16 this. But if you can add -- or clarification then
17 that would be helpful.

18 MR. COX: Absolutely. So, there is
19 absolutely no plan to have any interconnected
20 vehicular traffic between the Whole Foods plaza and
21 this property.

22 In fact, after we had The Planning Board
23 Meeting, we told The Planning Board that we're
24 actually going to put a new fence along the property
25 line that borders the Whole Foods property that will

Brighton Zoning Board of Appeals 9/2/2020

1 continue along the whole western property line and
2 there will be no gates. So, there will be no way
3 for -- for vehicles to enter the property at all. So,
4 that will be completely blocked off.

5 And then, on the Monroe Ave., we are
6 planning -- as he mentioned, there is a little break
7 in the -- the shrubs. So, we are planting a tree in
8 that opening. And that should prevent any -- any
9 vehicles from wanting to make it through there. So,
10 there is absolutely no -- no plan for vehicular
11 traffic. And we're doing everything to block off any
12 possibility of traffic coming onto this property.

13 CHAIRPERSON MIETZ: Okay. Thank you,
14 Mr. Cox. Was there anyone else that wanted to speak
15 regarding this application?

16 MR. DiSTEFANO: Yes. We do have Howie
17 Jacobson who would like to speak.

18 CHAIRPERSON MIETZ: Okay.

19 MR. JACOBSON: Hi. Can you hear me?

20 MS. SCHWARTZ: Yes.

21 MR. DiSTEFANO: Go ahead.

22 MR. JACOBSON: Oh, okay. Thank you. I was
23 glad to hear there would be no gate.

24 MR. DiSTEFANO: If you can just state
25 your -- could you just state your name --

Brighton Zoning Board of Appeals 9/2/2020

1 MR. JACOBSON: Yeah.

2 MR. DiSTEFANO: -- and address for the
3 record, please?

4 MR. JACOBSON: Howie Jacobson. 10
5 Sandringham, Rochester, New York in Brighton.

6 CHAIRPERSON MIETZ: Okay. Go right ahead.

7 MR. JACOBSON: I'm very glad to hear that
8 there would be no gate because based on pending issues
9 with the lawsuits on the proposed oversized Whole
10 Foods plaza, we would hate to see any access to Clover
11 Street. So, I'm very glad to hear that Passero has
12 addressed that issue. Thank you very much.

13 CHAIRPERSON MIETZ: Okay. Thank you for
14 your comments.

15 Okay. Is there anyone else that would like
16 to make a comment regarding this application? Okay.
17 There being none, then this Public Hearing is closed.

18 And, Rick, we can move to the next
19 application.

20 MR. DiSTEFANO: Application 9A-03-20.

21 APPLICATION 9A-03-20

22 Application of RFM Morgan Properties, owner
23 of property located at 2125 Monroe Avenue for an area
24 variance from Section 205-12 allowing for the
25 demolition of two carports leaving the property with

Brighton Zoning Board of Appeals 9/2/2020

1 no covered parking spaces where 40 covered parking
2 spaces are required by Code. All as described on
3 application and plans on file.

4 CHAIRPERSON MIETZ: Okay. Who do we have
5 speaking on this?

6 MR. COX: David Cox with Passero Associates.

7 CHAIRPERSON MIETZ: Okay, David. We got
8 your address so go right ahead.

9 MR. COX: Is there any way for me to share
10 my screen?

11 CHAIRPERSON MIETZ: I think we have it.

12 MR. DiSTEFANO: Well, we got it up but we
13 can't share the screen, Dave.

14 MR. COX: Okay. All right. I still -- they
15 just -- I had some pictures of the -- of the existing
16 garages. But that's okay. So, I can just describe --
17 so, the -- the garages are in -- in rough shape.
18 Structurally they've in -- in pretty rough shape and
19 as well as they've become kind of like a -- a dumping
20 grounds for just unwanted things, you know, that
21 there's, you know, a pile of -- like an old stereo
22 set. There's just kind of, like, old tires, like, and
23 there's all this garbage piled up in these -- in these
24 garages because it's just open. It's an open -- open
25 garage that the -- the user or the -- the owner is not

Brighton Zoning Board of Appeals 9/2/2020

1 too happy about. And he thinks that, you know, just
2 getting rid of the garages would really -- and just
3 have service parking, would really clean up the site
4 and make it look more appealing.

5 And that all the -- all the units do have
6 storage inside the building. He would like them to
7 store their things inside the building and not in --
8 in the garage. So, if there's -- a safety hazard and
9 also an aesthetic issue as well. So, we're proposing
10 to clean that up and as part of this, we can actually
11 get a few more parking spaces on site, which gets it
12 closer to what Code would require. So, we -- we're
13 seeing this as a -- as a win for the -- for the
14 project and for the people who live here.

15 And I can take any questions.

16 MS. SCHWARTZ: Yeah.

17 CHAIRPERSON MIETZ: Yeah. David, just --
18 have you offered or can you offer any other mitigation
19 just for the installation of this from the visual
20 perspective?

21 MR. COX: Yeah. So, the -- in the -- to the
22 south along Newcrest Drive there is an existing wood
23 fence, a barrier, and there's -- there's quite a bit
24 of -- of landscaping and trees there. If some
25 additional landscaping were to be required, then the

Brighton Zoning Board of Appeals 9/2/2020

1 owner is willing to do that.

2 CHAIRPERSON MIETZ: Is -- is there -- you
3 know, again, I drove back there and it's a little
4 harder to look all the way along that fence because
5 there's a couple types of fence there. But is the
6 fence in adequate condition or as if it was any
7 disrepair the owner would be willing to correct it?

8 MR. COX: Yup. So, we did get one comment
9 that a -- a limb did fall on a part of the fence. So,
10 then that is scheduled to be repaired. So, that's the
11 only part of the fence that's in -- you know, that
12 needs repair and that is on the books for the -- the
13 owner to take care of that. The rest of the fence is
14 in -- is in good order.

15 CHAIRPERSON MIETZ: Okay. All right.
16 Questions by the rest of The Board, please?

17 MS. SCHWARTZ: Yes. I did drive through
18 twice and I found many cars parked in their little
19 spots. I did notice that there was one in particular
20 who had a grill and it looked like some sort of a raft
21 that would be for summer sports. I can appreciate why
22 someone would want to keep a grill there because it's
23 just easy to pull out rather than going to a storage
24 area and bringing it out. But to be honest, I found
25 those that were empty, without a car there, to be very

Brighton Zoning Board of Appeals 9/2/2020

1 neat. There wasn't anything in them. I have other
2 comments that, you know, would come up during our
3 discussion but I didn't find them to be quite as they
4 were described in the application. So, whether they
5 were cleaned up, I don't know. But they were really
6 in nice order.

7 CHAIRPERSON MIETZ: Okay. All right. Are
8 there other questions that The Board Members have
9 related to -- go ahead, Rick.

10 MR. DiSTEFANO: Yes, Mr. Chairman. I just
11 want to make a comment about the possible need for
12 screening back there, Dave. A lot of that vegetation
13 is deciduous. So, I think during the winter months,
14 which unfortunately we have a lot of them around here,
15 we could really be lacking in the proper screening
16 especially from all the additional headlights that
17 could be pointing towards Newcrest. So, I think
18 that's going to be a -- an important aspect.

19 I think The Planning Board also discussed
20 with you the need for a better screen back there. We
21 do appreciate the fact the fence is there. And that
22 fence is going to be maintained. However, I think you
23 do need additional screening/landscaping, there to
24 help with the headlights.

25 MR. COX: And the owner is -- is willing to

Brighton Zoning Board of Appeals 9/2/2020

1 do that. I did speak to the -- him on that. So, that
2 is -- he can do that.

3 CHAIRPERSON MIETZ: Do you have any
4 specifics related to that? Because, again, it's a
5 pretty broad topic, as you know.

6 MR. COX: Right.

7 MR. DiSTEFANO: Dennis, I think what -- what
8 this Board -- if we decide that we're going to move
9 forward with this variance request, I think one thing
10 that we could do is suggest that the applicant --
11 they're still in front of The Planning Board for site
12 plan modification. So, we certainly could suggest
13 that we allow The Planning Board to determine the
14 required --

15 CHAIRPERSON MIETZ: Mitigation? Okay.

16 MR. DiSTEFANO: Right.

17 CHAIRPERSON MIETZ: Yup. That's fine.
18 Okay. We can discuss that further. I -- I just
19 didn't know if -- if David had anything specific in
20 mind, that was the point of the question.

21 Okay. All right. That's fine. Okay.
22 Other questions by The Board Members? Okay. Very
23 good.

24 Is there anyone in the audience that would
25 like to speak regarding this application? Okay.

Brighton Zoning Board of Appeals 9/2/2020

1 There appears to be none. So at this point, then the
2 Public Hearing is closed. Thanks, David.

3 MR. COX: Thank you very much.

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

5 APPLICATION 9A-04-20

6 Application of Save Monroe Avenue,
7 Incorporated, appealing the issuance of a building
8 permit by the Town of Brighton Building Inspector to
9 the Daniele Family Companies, developer of the Whole
10 Foods project located at 2740/2750 Monroe Avenue. All
11 as described on application and plans on file.

12 CHAIRPERSON MIETZ: Alrighty.

13 MR. DiSTEFANO: Jeff, could you let Charles
14 Malcomb in?

15 MR. FRISCH: Yeah. I'm working on it.

16 MR. DiSTEFANO: Okay.

17 MR. SAYKIN: All right. Thank you,
18 Mr. Chairman, Members of The Board. My name is Aaron
19 Saykin. I'm an attorney at the law firm of Hodgson
20 Russ. We are the lawyers for Save Monroe Avenue and
21 the other appellants in this appeal. I want to thank
22 you for your time tonight.

23 And I just wanted to begin by pointing out
24 the role of the ZBA. Obviously, in a situation where
25 somebody is challenging a determination of the

Brighton Zoning Board of Appeals 9/2/2020

1 associate planner or the building inspector. And in
2 this case, it's to review the determination that's
3 been made to issue a building permit anew, you know,
4 that is for the first time. So, essentially, the
5 Members of The Board are standing in the shoes of the
6 building inspector just as he did when he was
7 reviewing the application. And you independently go
8 through everything to make sure that all the steps
9 were followed. And, obviously, in this case they
10 weren't.

11 Before I get into some of the specific
12 reasons that are laid out in both our appeal and the
13 supplemental materials that we submitted to The Board,
14 I kind of want to zoom out a little to 10,000 feet
15 here so the Members of The Board understand the
16 context first in which this building permit was
17 issued.

18 It was done entirely in secret. And here's
19 what I mean by that: We had asked the Town and its
20 attorney on multiple occasions whether a building
21 permit had been issued. They ignored all of our
22 outreach and all of our attempts to obtain that
23 information. We had to literally get on the phone
24 with the Court, and with Judge Arc on the phone, ask
25 if the permit had been issued. And then Judge Arc

Brighton Zoning Board of Appeals 9/2/2020

1 pointedly asked the attorney for the Town, has a
2 building permit been issued. And then reluctantly,
3 the Town Attorney said, yes. A building permit for
4 this project has been issued. That wasn't all of the
5 secrecy. It continued.

6 We had made requests and had submitted a
7 freedom of information request for some of the
8 documentation -- not some, all the documentation
9 supporting the issuance of the building permit. The
10 Town repeatedly delayed in issuing or in responding
11 and in providing us the documents that we requested,
12 which are public documents we had to go to court again
13 to ask the Judge to provide us the documents so we
14 could evaluate whether the developer complied with the
15 law and the Town complied with the law in issuing the
16 building permit. So, we went to court and the Court
17 had to order the Town to provide us with the
18 documents. So, that's the context in which we even
19 got to this point. That everything was done quietly
20 and secretly hoping that some of the project opponents
21 wouldn't find out. And now, we have -- having done
22 through the documents -- we have a better idea about
23 why this is done so quietly.

24 So, I want to talk about some of the bases
25 here. There were multiple why this Board -- again,

Brighton Zoning Board of Appeals 9/2/2020

1 reviewing this anew for the first time -- should annul
2 the determination to issue the permit.

3 The first one is a very simple one, which is
4 the developer failed to provide all of the required
5 cross access easements for the access management plan.
6 And that was required under the incentive zoning
7 approval. There's at least three cross easements that
8 are not valid. There's two for the Mamasan's
9 properties and one for the S&A Hospitality property.
10 These easements lack the signatures and approval of
11 the first mortgage holder. The terms of the mortgage
12 require that these people approve the easements. So,
13 in other words, those easements that the developer
14 provided to the Town aren't worth the paper they're
15 printed on. They're invalid as a matter of law. And
16 under the Town Code, the associate planner and
17 building inspector who makes the determination to
18 issue the building permit has to confirm that the
19 applicant complied with the law. And I think you
20 should ask the building inspector, did he check and
21 make sure all of those easements were valid? Did he
22 check and make sure there weren't other people with
23 property interests, recorded interests as these
24 mortgages are, who would have to grant permission for
25 those easements. I can tell you that never happened

Brighton Zoning Board of Appeals 9/2/2020

1 because they wouldn't have issued the permit if that
2 was the case.

3 As I mentioned, these were required under
4 the incentive zoning approval. They were part of the
5 amenity agreement. The Town Code requires the
6 associated planner to confirm that the developer is
7 complying with the Town Zoning Code. But the
8 associate planner never did that here. The -- the
9 developer is not in compliance. He's not in
10 compliance with the Town Code. He's not in compliance
11 with the incentive zoning provisions of the Town Code
12 because they haven't met the conditions for a
13 particular amenity.

14 Second example, we have been provided with
15 no proof that the developer has provided the \$867,000
16 letter -- letter of credit for the access management
17 plan. The reason we say that is this: Remember I
18 mentioned at the beginning of the presentation that
19 the Court ordered the Town to turn over to us all of
20 the documents that the Town and the building inspector
21 replied on when they were issuing the permit. There
22 was no letter of credit for the access management plan
23 included in there. That's critical because that also
24 is a condition of approval to issue the building
25 permit under the incentive zoning approval. It can't

Brighton Zoning Board of Appeals 9/2/2020

1 issue the building permit without providing that
2 letter of credit. So, one of two things either
3 happened here. Either they did not provide that, and
4 I hope The Board does its due diligence to confirm and
5 check on that. That's one.

6 Or number two, they did provide it and the
7 Town never turned it over to us in violation of the
8 court order, which is a separate issue that we can
9 deal with. But I wanted to make The Board aware of
10 that.

11 The third example is also a very simple and
12 straightforward one. This is a building permit only
13 for the Starbucks building, which means that the
14 associate planner in approving this building permit
15 and approving the construction of one building is
16 allowing phased construction here. Phased
17 construction is prohibited. This is violating SEQOR
18 and it's violating the plain requirements of the
19 incentive zoning approval. It has to be constructed
20 in a single phase.

21 If you go back to the first form that the
22 developer submitted to the Town, the EAF form one, the
23 developer checked the box for single phase
24 construction. And then because the developer did
25 that, they didn't have to go and answer all those

Brighton Zoning Board of Appeals 9/2/2020

1 other questions that have to be explored under SEQOR
2 when you do a multiple phase construction. Not only
3 that, the draft environmental impact statement, and
4 the SEQOR findings from The Town Board reviewed only a
5 single phase construction project. And required a
6 single phase when they were addressing mitigation for
7 the construction impacts.

8 The incentive zoning approval expressly
9 requires single phase construction. By issuing a
10 building permit for one of these buildings, one at a
11 time, what they've done is they've now allowed
12 multi-phase construction. The associate planner was
13 required to -- was required to confirm that the
14 applicant for the building permit was complying with
15 all the requirements for the -- for the permit.

16 Submitting an application and receiving a
17 permit for a single building on site allows
18 multi-phase construction, which is prohibited. In
19 this case, the associate planner failed to comply with
20 The Town Code and confirm that the developer complied
21 with all the requirements.

22 So, it's our position, and I think it's very
23 clearly spelled out here, that the issuance of the
24 building permit for the Starbucks building at the
25 Whole Foods site needs to be annulled. There's no way

Brighton Zoning Board of Appeals 9/2/2020

1 this issuance of the permit can stand on the record.
2 And we certainly hope the ZBA is methodical in going
3 through these and recognizes the fact that this
4 application was deficient for the reasons we've set
5 forward before.

6 And with that, I am willing to answer any
7 questions on behalf of the applicant.

8 MR. DiSTEFANO: Mr. Chairman, if I could
9 just make a statement for the record.

10 CHAIRPERSON MIETZ: Sure. Go ahead, Rick.

11 MR. DiSTEFANO: Yeah. I just wanted to know
12 the applicant amended their application submitted
13 additional material well past the application cutoff
14 date for this meeting. I suggest we receive and file
15 that material tonight and I will distribute it to the
16 Members prior to our next meeting.

17 CHAIRPERSON MIETZ: Okay.

18 MR. SAYKIN: If -- if -- if -- may I just
19 add, I -- I -- I appreciate you considering that and
20 distributing it and I -- I know you're sincere in
21 that. But I -- I think I need to point out the reason
22 why we had to submit some of that stuff later.

23 The reason was, we couldn't even get the
24 documents -- and I'm sorry. I sound a little
25 frustrated here but it's frustrating. We couldn't get

Brighton Zoning Board of Appeals 9/2/2020

1 the documents or the records from the Town to review
2 to determine if the law had been complied with. And,
3 so, when we submitted our application, we reserved our
4 right to supplement it later on. And as soon as we
5 were able to go through those documents, and there
6 were thousands of pages, we -- we sent a submission to
7 The Board a couple of weeks ago as quickly as we
8 could. So, I just wanted to give that context. And I
9 wanted to thank the Members of The Board, and
10 Mr. DiStefano for accepting those materials and
11 considering that as part of our submission.

12 CHAIRPERSON MIETZ: Okay. Yes. And I --
13 and I think, you know, it echoes also, you know, the
14 comments that you made in your presentation that, you
15 know, it is our -- this Boards responsibility to
16 review those materials, all the materials, and the
17 comments that you've made so that we can make a proper
18 determination here. So, I think you can rest assured
19 that we'll be doing that.

20 Are there other questions that The Board
21 Members have for Mr. Saykin at this point? Okay.

22 Well, then at this point, then I will ask if
23 there's anyone in the audience that would like to
24 speak regarding this application? I believe we have
25 a -- Mr. Zoghlin.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. ZOGHLIN: Good evening, again.

2 CHAIRPERSON MIETZ: Good evening.

3 MR. ZOGHLIN: As I mentioned earlier in this
4 evening, my name is Jacob Zoghlin and I represent
5 Brighton Grassroots. Brighton Grassroots has also
6 filed an appeal with respect to the Building
7 Inspectors' issuance of this building permit. And we
8 expect that appeal to be heard by the ZBA at its next
9 meeting.

10 As more fully set forth in our appeal, we
11 believe that this building permit was issued in
12 violation of law and violation of the Town Code.

13 We look forward to the opportunity to
14 address these issues in more detail when the ZBA
15 considers our appeal. Again, thank you very much for
16 your time and the opportunity to address The Board
17 this evening.

18 CHAIRPERSON MIETZ: Okay. Jacob, thank you.
19 Appreciate it. Is there anyone else that would like
20 to speak regarding this application? Okay. There
21 being -- oh, yup. Go ahead, Mr. Jacobson. Go right
22 ahead.

23 MR. JACOBSON: Thank you. It's Howie at 10
24 Sandringham. I just want to make -- can you hear me?

25 CHAIRPERSON MIETZ: Yes. Go ahead.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. JACOBSON: Okay. I just want to make a
2 note that right now --

3 MS. SCHWARTZ: No. We can't hear him.

4 MR. DiSTEFANO: We've lost you, Howie.
5 We've lost you.

6 MS. SCHWARTZ: We lost him.

7 CHAIRPERSON MIETZ: Yeah. Well, no -- no
8 audio; right?

9 MS. SCHWARTZ: Oh, he's muted.

10 MR. DiSTEFANO: Well --

11 MS. SCHWARTZ: He's muted.

12 CHAIRPERSON MIETZ: Yeah. I see it.

13 MR. DiSTEFANO: It just got muted. Jeff,
14 can you try unmuting him?

15 MR. JACOBSON: You can hear me now?

16 MR. DiSTEFANO: Yes.

17 MR. MALCOMB: There you go, Howie.

18 MR. JACOBSON: Thank you. Thank you very
19 much. I want -- can you -- you can hear me; right?

20 MR. DiSTEFANO: Yes.

21 CHAIRPERSON MIETZ: Now we can.

22 MR. JACOBSON: I just want to --

23 CHAIRPERSON MIETZ: Alright.

24 MR. JACOBSON: I just want to make a note as
25 a resident of Brighton that right now at 8 o'clock

Brighton Zoning Board of Appeals 9/2/2020

1 until tomorrow morning, any of us can drive behind
2 Mamasan's. We could drive, walk or bike right onto
3 the construction site where there's demolition and
4 construction. There is no fencing, no blockage, to
5 get on this site.

6 The -- the -- building permit must have some
7 restrictions to allow people to protect this site from
8 people simply walking on this site. There's no
9 fencing, no restricted way that they have done to
10 block this site from the safety of our residents. So,
11 the demolition of Mamasan's has no fencing around it.
12 And this -- that -- this site that you've given a
13 building permit to, you could go right over there
14 right now and walk around and, God forbid, someone in
15 our town takes a walk or drives a car over there, we
16 could have a major lawsuit. Why you are allowing that
17 to happen is mind-boggling. So, that's my -- my
18 story.

19 CHAIRPERSON MIETZ: All right. I appreciate
20 the comment and we can certainly --

21 MR. JACOBSON: Thank you.

22 CHAIRPERSON MIETZ: -- take it under the
23 correct offices.

24 MR. JACOBSON: Great. Thank you.

25 CHAIRPERSON MIETZ: You're welcome. Is

Brighton Zoning Board of Appeals 9/2/2020

1 there any other folks that are interested in speaking
2 regarding this application? Okay. It looks like
3 there are none, so at this point then we'll close the
4 Public Hearing and move on to the next application.
5 Thank you.

6 MR. DiSTEFANO: Application 9A-05-20.

7 APPLICATION 9A-05-20

8 Application of George E. Baist, owner of
9 property located at 82 Fairhaven Road, for an area
10 variance from Section 207-11A to allow a portion of an
11 in-ground swimming pool to be constructed in a side
12 yard where not allowed by Code. All as described on
13 application and plans on file.

14 CHAIRPERSON MIETZ: Okay. And who do we
15 have to speak regarding this application?

16 MR. BAIST: This is George Baist at 82
17 Fairhaven Road.

18 CHAIRPERSON MIETZ: Okay. George, please
19 proceed.

20 MR. BAIST: Thank you, Mr. Chairman, and
21 Members for considering our application. And I
22 apologize for the rendering compared to the
23 professional ones before. I'm -- I'm -- I'm a humble
24 homeowner putting in for this variance prior to the
25 actual building application.

Brighton Zoning Board of Appeals 9/2/2020

1 In short, we'd like to build an in-ground
2 pool in our side yard. The dimensions will be either
3 18 by 36 or 20 by 40. The reason for the variance is
4 we have a very large tree and a barbecue in the back
5 of the lot. Without the variance, both the tree and
6 the barbecue will need to be removed as well as the
7 edge of the eastern end of the pool. We'll be very
8 close to the fence, the safety fence, what it -- once
9 it is set off 10 feet from the property line allowing
10 very little patio.

11 I noted in my application that regarding the
12 overall neighborhood and -- and the aesthetics, the
13 fence, the front fence, we're not planning on changing
14 regardless of where the pool ends up. That would be
15 because if the pool gets pushed to the back edge of
16 the lot, we won't have any patio back there. So, the
17 majority of the patio will be up front. The front
18 fence will be a -- a few feet behind the front edge of
19 the house and it will be eventually finished with --
20 with a wooden privacy fence that extends 10 to 15 feet
21 back on the sides. And, so, we are asking for a
22 variance that allows the edge -- the front edge or the
23 western edge of the pool to be moved up 20 feet from
24 the back of the house. And --

25 CHAIRPERSON MIETZ: So, maybe you can help

Brighton Zoning Board of Appeals 9/2/2020

1 us a little here too and suggest, you know, what --
2 what, if any, other alternatives you looked at here to
3 try to come closer to the Code?

4 MR. BAIST: So, I -- I looked at switching
5 the orientation of the pool and because of the -- the
6 requirement for 10 feet from the property lines, I
7 can't put it the other direction. It -- it won't fit,
8 going 10 feet from my property line the other
9 direction. I -- you know, I -- I -- we could shrink
10 the pool but we've been looking forward to, you know,
11 something in this size range and it's -- it's -- it's
12 a good size pool. I -- I mentioned to Rick that I --
13 I don't think we'll use all 20 feet. But to be pushed
14 back -- so, basically in that rendering, the back part
15 of the house goes directly -- basically dissects the
16 pool. So, if you can imagine pushing the pool back
17 the whole direction, and I showed the Members of The
18 Board that stopped out and took a look, it pushes it
19 back almost at the edge of the lot so there's no --
20 that -- there's going to be 3 to 5 feet in the back
21 from the safety fence, which is, you -- you know, not
22 much room. I -- I don't know that my -- I showed
23 people that the lot behind my house really is kind of
24 small and triangular so it doesn't -- it -- it
25 wouldn't accommodate. But once you start putting a

Brighton Zoning Board of Appeals 9/2/2020

1 10-foot fence -- you know, what -- moving 10-feet off
2 the property line kind of limits where things will
3 fit.

4 CHAIRPERSON MIETZ: Okay. Very good. All
5 right. So, Board Members, questions for Mr. Baist?

6 MS. TOMPKINS-WRIGHT: This is Member Wright.
7 Will there be a -- a variance request for the fence as
8 well or is that considered the rear yard, in which
9 case it can be higher than three and a half feet.

10 MR. BAIST: I -- I'm -- is -- from what I
11 understood and this was from a conversation with Rick,
12 as long as it was behind the front edge of the house
13 it -- it would be fine. And it -- you know, it needs
14 to be at least 4 feet. It will probably -- if it's
15 okay and the plans will be submitted by the gentleman
16 doing the construction, it will probably be about six
17 feet.

18 MR. DiSTEFANO: Yeah. Because that fence
19 will be located entirely within the side and rear
20 yards, it can be up to six and a half feet in height.

21 MS. TOMPKINS-WRIGHT: And --

22 MR. BAIST: And I have also the -- the --
23 the main neighbor that would be affected would be
24 the -- the neighbor to the south of us and I -- I
25 mentioned in the application I spoke with both of them

Brighton Zoning Board of Appeals 9/2/2020

1 and they -- they have no issue with, you know, issuing
2 the variance.

3 MS. TOMKINS-WRIGHT: And then just another
4 question: I -- I drove in the neighborhood. I didn't
5 see any other pools in the side yard but are there
6 other pools in this area or are there other homes in
7 this area that have pools in their side yard that are
8 not fully, or at least mostly, in the backyard of the
9 home?

10 MR. BAIST: There -- there is no other
11 in-ground pool on my street. That -- there is an
12 above ground pool across the street several doors
13 down. And that is actually -- it's -- it's like a
14 side backyard but it is technically in their backyard.

15 CHAIRPERSON MIETZ: Okay. All right. Other
16 questions for Mr. Baist? Okay. At this point --

17 MR. BAIST: Thank you.

18 CHAIRPERSON MIETZ: Go ahead. I'm sorry.

19 MR. BAIST: I said "thank you".

20 CHAIRPERSON MIETZ: Okay. Is there anyone
21 in the audience that would like to speak regarding
22 Application 9A-05? Okay.

23 MS. DALE: So, Kathy just sent a note asking
24 to be unmuted.

25 CHAIRPERSON MIETZ: I saw it. Okay. I

Brighton Zoning Board of Appeals 9/2/2020

1 don't know if Jeff's there or who we -- Rick can
2 you --

3 UNIDENTIFIED MALE: (Inaudible) to unmute.

4 CHAIRPERSON MIETZ: Okay.

5 MS. SCHMITT: Okay. Can I ask a question --

6 CHAIRPERSON MIETZ: Yes, please.

7 MS. SCHMITT: Question, please?

8 CHAIRPERSON MIETZ: Yes. Go right ahead.

9 MS. SCHMITT: Do you plan on adding
10 any (inaudible) are you planning adding any --

11 CHAIRPERSON MIETZ: Your -- the audio is
12 just not --

13 MS. SCHMITT: (Inaudible).

14 MS. SCHWARTZ: Can she type the question?

15 MR. DiSTEFANO: Kathy, can you please type
16 the question --

17 MS. SCHMITT: (Inaudible).

18 MR. DiSTEFANO: -- the audio is going in and
19 out.

20 MS. SCHMITT: (Inaudible).

21 CHAIRPERSON MIETZ: Is there anything you
22 can do with this Rick or Jeff or no?

23 MR. DiSTEFANO: Not if she's going out like
24 that. If she can hear us, if she could type the
25 question then we can ask it.

Brighton Zoning Board of Appeals 9/2/2020

1 CHAIRPERSON MIETZ: Yeah. Because we've got
2 to keep ourselves moving here.

3 MR. DiSTEFANO: Jeff, can you unmute Kathy
4 again? See if she's --

5 MS. SCHMITT: It says unmuted. Can you hear
6 me?

7 MS. SCHWARTZ: Yes.

8 CHAIRPERSON MIETZ: Yes. Please go ahead,
9 Kathy. There's obviously some kind of failure, Rick,
10 on her device probably.

11 MR. DiSTEFANO: Okay.

12 MS. SCHMITT: I was -- I just wanted to ask
13 the homeowner if they were planning on adding --

14 MR. DiSTEFANO: Oh, no.

15 MS. SCHMITT: -- any landscaping?

16 MS. SCHWARTZ: Landscaping.

17 MR. DiSTEFANO: Yeah. Do you plan on adding
18 any landscaping around the front portion --

19 MR. BAIST: Yes.

20 MR. DiSTEFANO: -- of the fence?

21 MR. BAIST: Yes. Yes. So -- so, the first
22 phase we'll be switching -- so, we'll be switching the
23 front portion of the fence. And I think we mentioned
24 that we'll continue 10 to 15 feet back into a wooden
25 privacy fence. But then there -- there will be

Brighton Zoning Board of Appeals 9/2/2020

1 various trees and bushes and -- and both -- on both
2 sides of the fence, to be honest with you, but on the
3 -- yeah. On the street side for sure there will be
4 both trees and bushes.

5 CHAIRPERSON MIETZ: Okay. So, you have not
6 developed a specific plan at this point but you're
7 offering some mitigation for the fence?

8 MR. BAIST: Yes. And -- and -- and there
9 are -- there are houses on the street that have fences
10 that go where this fence will be located. There are
11 just no -- that -- there are just no houses. I -- I
12 have an unusual lot in that I have a full-size double
13 lot.

14 CHAIRPERSON MIETZ: Okay.

15 MR. BAIST: So, it's -- it -- yeah.

16 CHAIRPERSON MIETZ: Okay. All right.
17 That's good. All right. Thank you.

18 MR. BAIST: Thank you.

19 CHAIRPERSON MIETZ: Go ahead. Is there
20 anyone else on The Board that has any other comments?
21 Okay. If not, then is there anyone in the audience
22 that would like to speak regarding this application?

23 Okay. It looks like there being none, then
24 the Public Hearing is closed. Thank you, Mr. Baist.
25 Okay, Rick.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. DiSTEFANO: Application 9A-06-20.

2 APPLICATION 9A-06-20

3 Application of Julie Ann Bromberg, owner of
4 property located at 226 Norman Road, for an area
5 variance from Section 205-2 to allow an addition to
6 extend 2 feet into the 9 foot side setback required by
7 Code. All as described on application and plans on
8 file.

9 CHAIRPERSON MIETZ: Okay. And who do we
10 have to speak regarding Norman Road?

11 UNIDENTIFIED MALE: You're still muted.

12 MR. BROMBERG: There we go. Now everybody
13 can hear. I'm Julie's husband, Jared Bromberg. I
14 also live in the property so I'll be -- I'll be
15 speaking. She's obviously over my shoulder. Good
16 evening. So, what we're looking to do, we just had a
17 baby girl who's eight weeks old tomorrow. So, what
18 we're looking to do is kick out the house from that
19 wall where the -- and out 12 feet. We'll be going
20 into our setback by I think two to two and a half
21 feet. And then we're going to go back to build a
22 two-car garage so the cars can kind of like nose the
23 back. And then upstairs, there'll be two bedrooms and
24 a bath for the kids to share.

25 CHAIRPERSON MIETZ: All right. So, could

Brighton Zoning Board of Appeals 9/2/2020

1 you just tell us if you've looked at any other
2 alternatives to handling this or is this the only
3 remotely possible way to handle it?

4 MR. BROMBERG: Yeah. We are -- I don't know
5 if there's any other pictures there. I took some
6 pictures when we were before The Architectural Review
7 Board but we are -- there's shrubs and trees along the
8 property line on the other side of the house and along
9 the back of the house. Our septic tank is there so we
10 can't go back anywhere. So, the only option is to go
11 off to the side that's noted on the -- on the -- on
12 the survey map.

13 CHAIRPERSON MIETZ: Okay. Would you suggest
14 that this is kind of the minimum size that would
15 accomplish what you're trying to achieve here?

16 MR. BROMBERG: Yes.

17 MRS. BROMBERG: Yes.

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

20 MR. DiSTEFANO: Jared, have you reviewed
21 Architecture Review Board approval at this time?

22 MR. BROMBERG: No, not yet. The
23 Architectural Review Board wants us -- they want us to
24 be certain even though we've -- we've -- the
25 contractor was on the call with The Architectural

Brighton Zoning Board of Appeals 9/2/2020

1 Review Board and we assured them that the siding, the
2 new siding, and the existing siding will match. They
3 wanted assurances that the new garage door, because
4 part of this is building a -- a second -- a garage
5 next to the existing one. They want to make sure that
6 the garage doors also match. And they wanted us --
7 they wanted the addition -- there we go. And they
8 wanted the addition of some windows along that side of
9 the house that faced the neighbors. So, we're working
10 with the architect and with the contractor to tinker
11 with the drawings and we go before the Architectural
12 Review Board on the 22nd of September.

13 CHAIRPERSON MIETZ: Okay.

14 MR. DiSTEFANO: So, if I -- so, if I
15 understand this properly, you're going to have -- the
16 existing garage is going to remain a garage?

17 MR. BROMBERG: Yes.

18 MRS. BROMBERG: Yes.

19 MR. DiSTEFANO: So, you're not going to
20 remodel that space?

21 MR. BROMBERG: No. That's going to stay
22 exactly as it is.

23 MR. DiSTEFANO: Then you're -- then you're
24 adding another basically --

25 MR. BROMBERG: Yes.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. DiSTEFANO: -- two -- two-car garage to
2 that --

3 MR. BROMBERG: Yeah.

4 MR. DiSTEFANO: -- correct?

5 MR. BROMBERG: Yeah. The existing garage we
6 use for -- I'm sorry. I didn't mean to cut you off.
7 The existing garage we use now for -- it's basically
8 storage. So, building a -- building a garage next to
9 that one so we could fit my car and my wife's car and
10 then above bedrooms and for the -- for the -- for our
11 two kids.

12 MR. DiSTEFANO: I just want to verify that
13 the total garage space will not be larger than 900
14 square feet?

15 MR. BROMBERG: I'd have to look at the
16 drawings. I could talk to the architect about that.
17 I don't know if I can answer that question or --

18 MR. DiSTEFANO: All right. I -- I don't
19 think it will be, but I just want you to realize that
20 if it is greater than 900 square feet for the
21 combined -- I'll call it a three-car garage now --
22 that would require an addition variance from this
23 Board.

24 MR. BROMBERG: Okay.

25 MR. DiSTEFANO: So, maybe I -- I don't know

Brighton Zoning Board of Appeals 9/2/2020

1 what you might want to do but just please keep that in
2 mind, please.

3 MR. BROMBERG: Okay. Of course.

4 CHAIRPERSON MIETZ: All right. Very good,
5 Rick. Okay. Does anyone else on The Board have
6 questions for Mr. Bromberg?

7 MS. TOMPKINS-WRIGHT: Yeah. Member Wright.
8 Looks from the survey that -- that the neighboring
9 house is 8 feet from the house. So, that would
10 make -- basically at finished construction would be
11 about 15 feet in between the homes?

12 MR. BROMBERG: Uh-huh.

13 MS. TOMPKINS-WRIGHT: Okay.

14 MR. BROMBERG: The neighboring home on -- on
15 the side where we're building the -- the side where
16 we're building the -- doing the proposed addition is
17 our neighbors on that side of the house, they're
18 exactly at the -- at the -- at the footage they need
19 before their setback. So, I don't know if you could
20 pull up the -- so, with the survey map -- and I don't
21 know if it's a hundred percent accurate right now, but
22 there might be -- I don't know if there's actual
23 pictures included there. There was with the other
24 Board. But where our -- where our shed -- the shed
25 where it juts out 10.8 in the back, that shed is now

Brighton Zoning Board of Appeals 9/2/2020

1 off to the side of the house and it's not attached
2 anymore. There's -- there was a picture that we had
3 for the Architectural Review Board but basically that
4 house is going to stop at that point is where it's
5 going to come up to to give a good visual where the
6 house is going to end and where the neighbor's house
7 begins.

8 CHAIRPERSON MIETZ: Okay. Very good. All
9 right. Any other questions for Mr. Bromberg?

10 MR. BROMBERG: Excuse me.

11 CHAIRPERSON MIETZ: Okay. Then at this
12 point, then our -- is there anyone in the audience --

13 MS. TOMKINS-WRIGHT: I -- I -- I apologize,
14 and you may have said this and I'm sorry if I missed
15 it. But did you have a conversation with that
16 neighbor?

17 MR. BROMBERG: Oh, yes.

18 MRS. BROMBERG: Yes.

19 MR. BROMBERG: We had a conversation -- we
20 had a conversation with that neighbor. We did not
21 submit anything in writing. In retrospect, we
22 probably should have. But that -- we've spoken with
23 that neighbor and she has absolutely no issues with
24 the proposed addition.

25 MS. TOMPKINS-WRIGHT: Okay. Sorry about

Brighton Zoning Board of Appeals 9/2/2020

1 that.

2 MR. BROMBERG: That's okay. That's not your
3 fault. Thank you.

4 CHAIRPERSON MIETZ: All right. Thank you.
5 So, is there anyone in the audience that would like to
6 speak regarding this application? Okay. There
7 appears to be none. Then at this point, the Public
8 Hearing is closed.

9 MR. BROMBERG: Okay. Thank you. Have a
10 good night.

11 CHAIRPERSON MIETZ: Thank you very much.

12 MR. DiSTEFANO: Application 9A-07-20.

13 APPLICATION 9A-07-20

14 Application of Jason and Cara Acker, owners
15 of property located at 118 Commodore Parkway, for an
16 area variance from Section 209-10E(2) to allow front
17 yard pavement coverage to be 32.6 percent, after
18 expansion of the driveway, in lieu of the maximum 30
19 percent allowed by Code. All as described on
20 application and plans on file.

21 CHAIRPERSON MIETZ: Okay. Commodore
22 Parkway. Who do we have speaking for this?

23 MR. ACKER: Good evening. This is Jason
24 Acker, the property owner.

25 CHAIRPERSON MIETZ: Okay, Jason. Just your

Brighton Zoning Board of Appeals 9/2/2020

1 address for the record, please?

2 MR. ACKER: 118 Commodore Parkway.

3 CHAIRPERSON MIETZ: Okay. Please proceed.

4 MR. ACKER: Good evening, Mr. Chairman,
5 Members of The Board, thank you for your time this
6 evening.

7 To describe the application, my wife and I
8 bought our house back in 2013. The driveway of our
9 house, as you can see in the plans, is -- is one that
10 is basically two car widths wide up near the house.
11 And then it narrows down about halfway down as you get
12 closer to the street. And it's basically set up to
13 where, you know, we can park two cars up near the
14 house but then there's a third car parked behind it,
15 you know, only that vehicle in the back is able to get
16 out on the driveway. So, the -- the driveway had
17 pretty substantial wear and tear to it. So, we
18 inquired some local contractors about repairing it and
19 we were told that the only option was to do sort of a
20 full demolition tear out and re -- you know, complete
21 redo of the driveway. So, when we were told that,
22 that's when we thought about the idea of making it a
23 uniform width all the way down for reasons of
24 convenience. You know, we -- we have two young
25 children so we do have grandparents and family that is

Brighton Zoning Board of Appeals 9/2/2020

1 at the house from time to time to visit. So, it does
2 create inconvenience at times when, you know, when a
3 third vehicle is -- is parked there and it limits the
4 ability to access the street.

5 So, we -- we hired a contractor to do that.
6 They came out and they -- they did the first phase of
7 demolishing the old driveway, laying down the -- the
8 gravel and the stone and all of that to let it settle
9 to eventually pave it. I'm sorry. I should say
10 before that that -- before the contractor commenced
11 with the job, I inquired, you know, if we needed to
12 obtain any permits or anything like that and they
13 assured me, you know, no. Don't worry about it. We
14 take care of all that.

15 So, in the interim of when we were waiting
16 to -- you know, for the -- for the contractor to come
17 back and finish the paving, we received a letter from
18 the Town telling us that we didn't have the proper
19 permit for the driveway expansion. And when I
20 questioned the contractor as to what happened, they
21 said that they thought we were in the Town of Penfield
22 and not Brighton, which is why they didn't apply for
23 any permits. While we are close to Penfield, we are
24 definitely in Brighton. So, obviously we were -- we
25 were in violation there. So, of course, we -- we

Brighton Zoning Board of Appeals 9/2/2020

1 stopped any further work and, you know, through --
2 through the contractor we were -- we were told about
3 the law requiring no more than 30 percent front yard
4 coverage of paving, which was not something we were
5 aware of, you know, when we commenced with the
6 project.

7 I did walk around our Ellison Park Heights
8 neighborhood and I found a number of properties that
9 have a driveway that's -- that's two cars wide. I
10 counted, I think, 18 of them without even -- without
11 even going down the longest kind of offshoot of our
12 cul-de-sac and I found a number of properties that
13 have -- that would -- that have a layout similar to
14 what we're looking for with the two car width
15 driveway, the paved walkway leading up to the concrete
16 stoop. And I attached, I think, four or five Google
17 Maps photos of those properties for reference. All of
18 them appear to me to be, you know, similar -- similar
19 layout that -- that they would likely be either over
20 the 30 percent coverage limit or -- or very close to
21 it, at least it appears to me to the naked eye.

22 So, I don't think this change would in any
23 way cause our property to be, you know, out of place
24 relative to the rest of the neighborhood. I think
25 that is -- I think that's it.

Brighton Zoning Board of Appeals 9/2/2020

1 CHAIRPERSON MIETZ: Okay. Appreciate your
2 candor on this. Do The Board Members have any
3 questions? A pretty straightforward situation here.

4 MR. DiSTEFANO: Jason, for the record, you
5 are maintaining 4 feet to the lot line; correct?
6 Within the pavement?

7 MR. ACKER: I -- I believe so. I -- I --
8 I -- I think that we're -- I assumed that we would be
9 informed if there was any other possible violations
10 but --

11 CHAIRPERSON MIETZ: Okay. I think we can
12 probably deal with that, Rick. Okay. Is there any
13 other comments by The Board Members, please? Okay.
14 There being none, then is there anyone in the audience
15 that would like to speak regarding Commodore Parkway?

16 Okay. There being none, then the Public
17 Hearing is closed.

18 MR. ACKER: Thank you very much.

19 CHAIRPERSON MIETZ: Thank you, Mr. Acker.

20 MR. DiSTEFANO: Application -- actually,
21 I'll read the next two applications together.

22 APPLICATION 9A-08-20

23 Application of DiPasquale Construction,
24 contractor, and Teamsters Local #118, owner of
25 property located at 130 Metro Park, for an area

Brighton Zoning Board of Appeals 9/2/2020

1 variance from Section 20518A to allow -- to allow a
2 parking lot expansion to be 0.2 feet from a lot line
3 in lieu of the minimum 10 feet required by Code. All
4 as described on application and plans on file.

5 And Application 9A-09-20.

6 APPLICATION 9A-09-20

7 Application of DiPasquale Construction,
8 contractor, and Teamsters Local #118, owner of
9 property located at 130 Metro Park, for an area
10 variance from Section 205-8 to allow impervious lot
11 coverage, after site improvements, to be 69 percent in
12 lieu of the maximum 65 percent allowed by Code. All
13 as described on application and plans on file.

14 CHAIRPERSON MIETZ: Okay. Very good. So,
15 who do we have speaking on behalf of 130 Metro?

16 MR. JACOBS: This is Joe Jacobs with EDR.
17 The address is 274 North Goodman Street, Rochester,
18 New York.

19 CHAIRPERSON MIETZ: Okay, Joe. Please
20 proceed.

21 MR. JACOBS: My name is Joe. As a -- as we
22 previously mentioned, we're working as a agent for
23 DiPasquale Construction and the Teamsters Local 118
24 Union at 130 Metro Park. The project action is a
25 2,617 square foot building addition to the rear of the

Brighton Zoning Board of Appeals 9/2/2020

1 existing building and associated storm water sanitary
2 sewer water, a fire -- a new fire service, which is
3 something that has changed from our initial
4 preliminary site plan application, and associated
5 hardscape. That being, additional parking, dumpster
6 pad, dumpster enclosure, a relocated shed, and green
7 space and landscaping.

8 We're here tonight for two variances and
9 previously, as I mentioned, we were at the site plan
10 -- we were at the Planning Board for a site plan --
11 preliminary site plan. We got tabled because it was
12 identified early on that we needed two variances. One
13 for drive aisle or parking setback, which is 10 feet.
14 And the -- our impervious coverage. Since that
15 initial preliminary site plan, we have managed to
16 identify areas to cut down our impervious areas to
17 provide more green space, more snow storage, and also
18 to essentially lessen the amount of variance that we
19 were looking for.

20 Outside of that, I'll open it up to any
21 additional -- any questions.

22 MR. DiSTEFANO: Joe -- Joe, can you give us
23 what that new calculation of coverage is?

24 MR. JACOBS: Sure. I believe the initial --
25 the -- our preliminary site plan was 72 percent and we

Brighton Zoning Board of Appeals 9/2/2020

1 got it down to 69 percent.

2 MR. DiSTEFANO: Okay.

3 MR. JACOBS: The Code is 65.

4 MR. DiSTEFANO: Okay. So, 69 is as -- as
5 advertised --

6 CHAIRPERSON MIETZ: Correct.

7 MR. DiSTEFANO: -- in the variance
8 application. Okay.

9 CHAIRPERSON MIETZ: All right. Very good.
10 So, Board Members, questions for this gentleman?
11 Okay. Yup. Okay. Well, I guess, Joe, you got off
12 pretty easy, Joe.

13 MR. JACOBS: I don't have any air
14 conditioning in my house so I don't know how --

15 CHAIRPERSON MIETZ: Okay.

16 MR. JACOBS: How good --

17 CHAIRPERSON MIETZ: Okay. Got to your fan
18 going there.

19 MR. JACOBS: Yeah. Right.

20 CHAIRPERSON MIETZ: Okay. All right. So,
21 thank you. We appreciate it. And --

22 MR. JACOBS: Thank you very much.

23 CHAIRPERSON MIETZ: And at this time is
24 there anyone in the audience who would like to speak
25 either related to 9A-08 or 9A-09 regarding 130 Metro

Brighton Zoning Board of Appeals 9/2/2020

1 Park? Okay. And it looks like there is no one. So,
2 at this point, we'll close the Public Hearing on both
3 of those applications. Thank you, Joe.

4 MR. JACOBS: Thank you very much. Have a
5 good night, everybody.

6 CHAIRPERSON MIETZ: You too.

7 MS. SCHWARTZ: You too.

8 MR. DiSTEFANO: Application 9A-10-20.

9 APPLICATION 9A-10-20

10 Application of Philip Pecora, owner of
11 property located at 435 Ambassador Drive, for 1. An
12 area variance from Section 203-2.1 B(3) to allow for
13 the construction of an 844 square foot detached garage
14 in lieu of the maximum 600 square foot detached garage
15 allowed by Code. And 2. An area variance from
16 Section 207-6A(1) to allow said garage to be 24 feet
17 in height in lieu of the maximum 16 feet allowed by
18 Code. All as described on application and plans on
19 file.

20 CHAIRPERSON MIETZ: Okay. So, 435
21 Ambassador. Who do we have to speak regarding that?

22 MR. GUILLOD: Paul Guillod from DDS
23 Companies.

24 CHAIRPERSON MIETZ: Okay, Paul. And just
25 give us an address for the record, please.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. GUILLOD: Address out there is 45
2 Hendrix Road in West Henrietta, New York.

3 CHAIRPERSON MIETZ: Okay. Go right ahead.

4 MR. GUILLOD: All right. So, I want to
5 thank first The Board for hearing our application this
6 evening. As Rick mentioned, we're seeking two
7 variances. An area variance as well as a height
8 variance to construct a new detached garage at 435
9 Ambassador Drive. The owner purchased the property in
10 May. There is an existing attached garage, which is
11 actually below the residential structure, and that's
12 the area.

13 Given that the house was originally
14 constructed in 1928, the space allowed in that garage
15 by existing construction is not sufficient to park the
16 owners' vehicles, which include full-sized crew cab
17 pickup truck. As such, the current owners are parking
18 outside, which raises additional concerns. They had a
19 break in over the weekend, which has hastened their
20 desire to move forward with the project, but off
21 topic.

22 So, we're seeking an area variance existing
23 Code allows 600 square feet. We're seeking 844 for
24 the principle structure, plus a small attached covered
25 entry area, which brings the total square footage to

Brighton Zoning Board of Appeals 9/2/2020

1 844 square feet. Additionally, the height variance --
2 accessory structures per Code are allowed 16 foot in
3 height. Given that we're trying to match the
4 aesthetic of the existing building, we've got a -- a
5 more aggressive pitch on the roof, which brings the
6 total height of the structure above grade at that
7 point, at 24 feet. Though it's important to mention
8 that from the street, we did have the property
9 surveyed after we completed the application. The site
10 where the garage is proposed, in addition to being
11 135.5 feet away from the road, grade also drops by 5
12 feet from the street level by the time you get back to
13 where the pad is located.

14 So, in addition to parking, which is the
15 primary function of the garage for the owners, there's
16 also a storage concern. The existing home -- although
17 the footprint looks to be considerable, half of that
18 footprint lower level is not full height basement
19 storage-type area. Half of the existing footprint is
20 crawl space and the other half, which is full height
21 garage -- or full height basement, excuse me,
22 accessible through that small garage space is -- is
23 what they have for storage on the property.

24 So, I also have on the call Mr. Phil Pecora,
25 the owner as we go to opening up to questions if he

Brighton Zoning Board of Appeals 9/2/2020

1 can be of any assistance to answer those he is also
2 available on the call.

3 CHAIRPERSON MIETZ: Okay. Very good. I
4 guess the -- the primary is, how -- how did we
5 calculate the need for 844 plus 60?

6 MR. GUILLOD: So, the owners' primary
7 vehicle is a large pickup truck and the desire is to
8 have as much storage space as -- as we can get for him
9 in that application. 28 feet in depth while
10 preliminarily might seem like a large depth when we're
11 talking about a vehicle, it's just about 20 feet long.
12 We pull that thing in a foot into the garage and then
13 want to get around in front of it, we're not left with
14 a significant amount of space in front of a vehicle
15 that size. So, the -- the owner's desire is to be
16 able to utilize as much of the space in this garage as
17 possible given that he's got limited storage in the --
18 the home itself. And he's got large vehicles to store
19 in there as well.

20 CHAIRPERSON MIETZ: Okay. So, you're --
21 what you're suggesting, this is pretty much the
22 minimum that you could feel would meet his needs?

23 MR. GUILLOD: Correct.

24 CHAIRPERSON MIETZ: Okay. All right. So,
25 questions by The Board Members, please?

Brighton Zoning Board of Appeals 9/2/2020

1 MS. TOMPKINS-WRIGHT: Yes. The -- do you
2 know what the square footage of the current attached
3 garage is?

4 MR. GUILLOD: The current attached garage
5 interior square footage is less than 350 square feet.
6 Again, the original construction in 1928, we were
7 dealing with some smaller automotive requirements at
8 that point. So I'm sure it was sufficient at that
9 point.

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

11 CHAIRPERSON MIETZ: Okay. Other questions,
12 please?

13 MS. SCHWARTZ: Yes.

14 CHAIRPERSON MIETZ: Go ahead.

15 MS. SCHWARTZ: Will you be losing the tree
16 down below where you're proposing the new garage? I
17 think there's an evergreen. Will the tree go or --

18 MR. GUILLOD: We will be maintaining as many
19 trees as is as possible. There were some trees that
20 were taken out as a matter of upkeep on the property
21 after it was purchased. But I believe the intent is
22 that -- the trees that are now there, our intent is to
23 keep them.

24 MS. SCHWARTZ: Okay. Thank you.

25 CHAIRPERSON MIETZ: Okay, Judy. All right.

Brighton Zoning Board of Appeals 9/2/2020

1 Any other questions by The Board, please?

2 MR. DiSTEFANO: Yes, Mr. Chairman. Paul,
3 are you proposing any type of second floor to the
4 detached garage?

5 MS. SCHWARTZ: Yeah.

6 MR. GUILLOD: We would be proposing that the
7 second floor trusses be sheathed to be able to use
8 those as additional storage space on that -- on the
9 truss space above, yes.

10 MR. DiSTEFANO: Are you planning on a
11 pull-down staircase or a permanent staircase?

12 MR. GUILLOD: We haven't worked through the
13 particulars of that. I -- I assume that we would be
14 doing a drop down at this point but we haven't
15 detailed that yet.

16 MS. SCHWARTZ: That -- that brings up
17 another question. What utilities do you plan on --
18 for the garage?

19 MR. GUILLOD: Electric.

20 MS. SCHWARTZ: Just electric?

21 MR. GUILLOD: Yes, ma'am.

22 MS. SCHWARTZ: Okay.

23 MR. GUILLOD: It is worth noting though on
24 -- on the back side there is an existing pad that
25 houses the pool mechanicals, which will remain. So,

Brighton Zoning Board of Appeals 9/2/2020

1 the utilities that service that, you know, water
2 pumped back and forth to the pool and the electric for
3 that will remain.

4 MS. SCHWARTZ: Okay.

5 MR. DiSTEFANO: Are they going inside the
6 garage or are they going to stay on the outside of the
7 garage?

8 MR. GUILLOD: They will remain outside the
9 garage.

10 CHAIRPERSON MIETZ: Okay. Very good. Any
11 other questions, please? Okay. Very good. Thank you
12 very much.

13 And at this point, is there anyone on the
14 Zoom call that would like to speak regarding 435
15 Ambassador?

16 MR. DiSTEFANO: There might be,
17 Mr. Chairman.

18 CHAIRPERSON MIETZ: Okay.

19 MR. DiSTEFANO: No. Maybe not. I'm sorry.

20 CHAIRPERSON MIETZ: No, no. You do. Howie
21 raised his hand.

22 MR. JACOBSON: Hi, can you hear me?

23 CHAIRPERSON MIETZ: Yes. Go ahead, Howie.

24 MR. JACOBSON: Okay. Thank you. I -- Howie
25 Jacobson. I live at 10 Sandringham, right down the

Brighton Zoning Board of Appeals 9/2/2020

1 street from this proposed addition. And I'm totally
2 in favor of what they're proposing. The fact that
3 it's in the back of the property, the height will not
4 be an issue within the road. And it will be a nice
5 addition to that piece of property. So, as a
6 neighbor, I'm very much in favor of what they're
7 proposing.

8 CHAIRPERSON MIETZ: Okay. Appreciate your
9 comments. Thank you. Is there anyone else that would
10 like to speak regarding this application? Okay.
11 There being none, then the Public Hearing is closed.
12 Thank you.

13 MR. GUILLOD: Thank you.

14 MR. DOLLINGER: Dennis, it's David. Can I
15 make a point? Can we -- I wasn't sure -- did you
16 close or intend to close the Public Hearing for the
17 Whole Foods application?

18 CHAIRPERSON MIETZ: We did close it, yes.

19 MR. DOLLINGER: Yeah. I think we should
20 make a motion to keep it open.

21 MR. DiSTEFANO: I think we'll probably do
22 that, David, when we go through the --

23 CHAIRPERSON MIETZ: Yes.

24 MR. DiSTEFANO: -- decision process.

25 MR. DOLLINGER: Yeah. That's what I

Brighton Zoning Board of Appeals 9/2/2020

1 thought. Okay. I just want to make sure that --

2 CHAIRPERSON MIETZ: Let's hold that for now.

3 MR. DOLLINGER: Yeah. That's typically how
4 we do it but I wanted to make sure.

5 CHAIRPERSON MIETZ: Right.

6 MR. DOLLINGER: Okay.

7 MR. DiSTEFANO: Yup.

8 CHAIRPERSON MIETZ: Okay.

9 MR. DiSTEFANO: Application 9A-11-20

10 APPLICATION 9A-11-20

11 Application of Torchia Structural Engineers
12 and Design, agent, and Todd Ennis and Amanda McIntosh,
13 owners of property located at 133 Summit Drive, for
14 area variances from Section 205-2 to 1. Allow an
15 addition to extend 6.1 feet into the existing 44.2
16 foot front setback where a 60 foot front setback is
17 required by Code. And 2. Allow building lot coverage
18 to be 22 percent in lieu of the maximum 20 percent
19 allowed by Code. All as described on application and
20 plans on file.

21 CHAIRPERSON MIETZ: Okay. Who do we have
22 speaking regarding this property?

23 MR. MOLL. Good evening. I'm Andy Moll with
24 Moll Enterprises. I'm representing Todd and Amanda --

25 CHAIRPERSON MIETZ: Okay.

Brighton Zoning Board of Appeals 9/2/2020

1 MR. MOLL: -- for this application -- our
2 double application.

3 CHAIRPERSON MIETZ: How about an address,
4 sir?

5 MR. MOLL: 38 Mendon Center Road, Pittsford.

6 CHAIRPERSON MIETZ: Okay. Great. Go right
7 ahead.

8 MR. MOLL: So, I've worked with them.
9 They've been in this house for a couple of years.
10 They just had a new baby and they're starting to
11 understand the age of the house and some of the
12 conditions that are restricting them. They spent a
13 lot of time thinking about that. And we basically
14 explored a lot of different ideas and we're trying to
15 minimize the impact on any lot or any variance issues.

16 But existing conditions for the garage are
17 that the garage doors, the actual jambs on the doors
18 are the same as the inside walls of the garage. So,
19 when you pull a car in, you literally can't even open
20 your -- your car doors. And the other thing is, they
21 don't really have large vehicles. But when they do
22 fit them in there to get them out of the weather, they
23 have to kind of sneak out of their cars and then go
24 outside of the garage to go into the front entryway.
25 And there is -- there's no room to walk around the

Brighton Zoning Board of Appeals 9/2/2020

1 front of the vehicles to get into the entry to the
2 front foyer from the garage.

3 Understandably it's a two car -- or two bay
4 space but there's a -- it's a stone house that is
5 supported by a center column and beam and the variance
6 does not include, but the design includes taking up
7 the few feet of space on the east side of the building
8 that's already an overhang so they were not
9 encroaching on the side setbacks at all. But by
10 giving them a 6 foot extension on the garage itself,
11 it will allow them in combination with that east side
12 extension of the outer wall to be able to put a
13 larger -- or larger garage doors in, which will allow
14 them to get in and out of their cars and also be able
15 to walk in front of their vehicles to get into the
16 existing egress or to the -- to the inside of the
17 foyer.

18 The other thing that -- that -- to take into
19 consideration here is that there's going to be --
20 we're going to go before the Architectural Review
21 Board eventually or after hopefully if we get approved
22 for the extent -- or extension to the front. The
23 existing condition in the front entry -- I don't know
24 if anybody's done a drive-by but it's very high
25 pitched roofs in both -- both the east side and the

Brighton Zoning Board of Appeals 9/2/2020

1 street facing side, that roof and the dormers all
2 drain down above the front entry door. And the actual
3 overhang, I can reach into the gutter from grade.

4 So, there's a tremendous amount of water
5 that's drained right onto the front entryway, which is
6 their main entrance because there's no other mudroom
7 or anything like that. So, what we want to do is, in
8 combination with that extension on the front is design
9 a way for a new single story roof design to pick up
10 that water load and move it away from the front
11 entrance as well.

12 By doing that, we're also going to be
13 extending the front foyer at the front door and
14 pulling that out to the space -- to the space of the
15 new garage extension. Now, that is not going to be
16 all internal space. The objective there is to have a
17 covered overhang so that they can -- you know, anybody
18 that's visiting. They have family and friends that
19 are constantly coming by because of the new baby. And
20 right now they're literally standing in a waterfall or
21 in an ice dam. That's -- that's almost impossible
22 to -- to kind of deal with. So, they'll have an
23 overhang there. They'll have an extension on the
24 foyer, which will allow them to have the existing
25 front door. When you open it, you're literally at the

Brighton Zoning Board of Appeals 9/2/2020

1 foot of the main staircase. And to the left is the
2 door going into the garage.

3 So, there's really no room for storage or
4 staging when you enter the house. So, the objective
5 there is, even with the minimal space that we're going
6 to gain with the bump out of the -- of the foyer and
7 garage, we're going to try to do a little bit of a
8 kind of a mudroom built in on the -- in that space
9 with even a stackable washer and dryer so that they
10 can get their laundry out of the -- out of the
11 basement as well.

12 The other part of the variance includes
13 going to 22 percent of the lot coverage. And that is
14 literally related to the fact that there's -- in the
15 light gray area, that is intended to be a patio so
16 that they have a place to sit out in front. There's
17 really no backyard to this place. It looks like it's
18 generous but it's a very steep slope and they --
19 there's -- there's some -- you know, there's a place
20 to grill back there -- back there but there's really
21 not any egress to the back so they'd like a place to
22 just walk out and -- and maybe sit in their front yard
23 as well. And that is intended to have the roof over
24 the patio so that it's out of the sun and out of the
25 weather. And that's where the -- the 2 percent

Brighton Zoning Board of Appeals 9/2/2020

1 overage comes for -- from the actual structure of the
2 footprint.

3 That being said, we realize there's --
4 the -- the other thing is the -- the neighbors. It
5 doesn't -- this -- these are all pre-existing,
6 non-conforming houses on this -- on this side of the
7 street. And the extension will not be out any further
8 than the neighbors existing conditions. So the actual
9 setback is, even though it's non-compliant -- not
10 compliant now, it really doesn't change anyone else's
11 perspective and doesn't stand out from any other
12 conditions on the street.

13 The intention is also -- we've worked with
14 Torchia Structural to do a very appropriate design
15 concept because it's a really unique kind of older
16 stone home and the intention is to really kind of wow
17 the homeowners and the Architectural Review Board with
18 something that really fits into the neighborhood and
19 character of the house.

20 CHAIRPERSON MIETZ: Okay. Very good. Thank
21 you for your presentation. Board Members, questions,
22 please?

23 MS. DALE: Yeah. I -- I had a question. I
24 wasn't sure if -- if you had a chance to see that one
25 of the neighbors, although supportive in general of

Brighton Zoning Board of Appeals 9/2/2020

1 the project, has expressed some concern about the
2 enlargement of the front patio area and the effect of
3 water -- water runoff that may go down to their
4 property. So, is there a way you could speak to any
5 provisions that either have or will be made to assure
6 that, you know, rain and snow melt drainage won't, you
7 know -- won't be a burden on the neighbor. Thank you.

8 MR. MOLL: Yes. Absolutely. It hasn't been
9 finalized yet. But the -- the -- obviously, the
10 drainage is a focus of ours because right now it is
11 literally pouring -- pouring on their front stoop.
12 The ice dams and everything that's being brought into
13 the front area of that house is a primary concern.
14 And how we tie that into the -- either the storm water
15 or drain it to appropriate dry well or condition that
16 doesn't result in any peripheral incidents with the
17 neighbors is definitely already been tabled.

18 So, that -- one of the things is that we
19 think that may really be a nice tie in because of some
20 of the architectural features that -- that are around
21 the house, even doing a kind of a flat roof system
22 with a parapet wall so all that -- a short parapet
23 wall so that it doesn't over -- the lines of the home
24 are just beautiful and we don't really want to take
25 away from that and we don't want to go up into the

Brighton Zoning Board of Appeals 9/2/2020

1 second floor because then we'd have to work on, you
2 know, all the stone exterior, et cetera. So, if we do
3 end up with whatever the roof structure, it's going to
4 be low and deliberate in design to take care of water
5 issues and being able to deal with exactly where
6 that's -- where it goes.

7 CHAIRPERSON MIETZ: Okay. So, I -- I guess
8 we could summarize that to suggest with Jeanne's
9 question that, you know, you -- you will assure this
10 Board that there will be no runoff from the addition
11 of this patio area?

12 MR. MOLL: Yes. If we -- if we don't -- if
13 we can't tie into the drain or the storm drains then
14 we'll do the appropriate dry well system that will
15 keep the water from runoff.

16 CHAIRPERSON MIETZ: Okay. All right. Other
17 questions by The Board, please?

18 MS. SCHWARTZ: Yes. What -- which -- which
19 issue would you say is the most critical out of the
20 different things you, you know, expressed to us
21 tonight?

22 MR. MOLL: Well, I think the two most
23 important things are for just the functional use of
24 the out -- of the home. The garage space just does
25 not accommodate. So, that extension towards the front

Brighton Zoning Board of Appeals 9/2/2020

1 road is -- is an obvious gain because it alleviates
2 that it also gets the vehicles off the driveway, which
3 is better for the neighborhood and the neighbors
4 themselves.

5 So, besides that, the -- you know, in doing
6 that and tying in the roof systems, the -- the water
7 condition and the design, the -- the faulty design of
8 the -- of the way the water is being drained out
9 towards the front entrance without any protection to
10 any of the occupants or anybody entering is -- is the
11 same type of -- of thing where it -- it almost has to
12 change. So, how we do that, we're kind of taking care
13 of two things at once.

14 I think the footprint going over 2 percent
15 is not as big of a -- an issue because we could really
16 just only cover portion -- a portion of the patio onto
17 -- to the right on the west side and that would
18 probably be appropriate or -- or okay with the -- with
19 the homeowners. It's just a matter of tying in that
20 roof so it all looks nice and -- and -- and it drains
21 and -- and -- and, you know, all the lines kind of
22 work. That'll be part of the design concept.

23 This is the maximum that we're looking at as
24 far as the -- the footprint with the outline that
25 you're looking at there. The light gray is almost an

Brighton Zoning Board of Appeals 9/2/2020

1 option. But I think because of the way the rooflines
2 are, in order to -- to take all that roof water and
3 snow load and -- and everything in that area, it's
4 going to be beneficial to have and that part of the
5 roof, at least, go over to the west side of the
6 property, of the house.

7 CHAIRPERSON MIETZ: All right. Does that
8 address that? Did you have a concern, Judy? I'm --
9 I'm not sure what the essence --

10 MS. SCHWARTZ: No. I just wondered whether
11 the current roof situation could be taken care of and
12 that would solve enough of the problem --

13 MR. MOLL: Yeah.

14 MS. SCHWARTZ: You're doing all this
15 addition.

16 MR. MOLL: Yeah. The -- the extension on
17 the garage, it kind of helps -- both things help each
18 other because you have to create something that's
19 going to allow all that water to be drained someplace
20 and if you design it into the extension on the foyer,
21 then they get some kind of space when they come in.

22 Right now it's a young family with no space
23 when they walk in their house. There's no place to
24 put anything. There's no storage availability in the
25 garage at all. So, by creating a six -- an extra 6

Brighton Zoning Board of Appeals 9/2/2020

1 foot depth, you're -- you're not -- you're not
2 building out any further than anyone else on the house
3 and you're getting now egress from the garage to the
4 new foyer. And you're getting -- you're
5 accommodating, you know, the width by putting a new
6 structural member in there and being able to put two
7 cars in that you can open the doors.

8 And then the -- the front entrance way it --
9 you know, obviously, their concern is that they --
10 they just don't know what to do. It's just a terrible
11 situation. It's just a poor design and it -- with the
12 bump out, we can take care of that with a low profile
13 design that carries into the character of the
14 building.

15 CHAIRPERSON MIETZ: Okay. That's good. All
16 right. Is there any other questions that any of The
17 Board Members have?

18 MR. DiSTEFANO: Mr. Chairman, I would just
19 like to make a statement more or less.

20 Andy, I understand that the architectural
21 are not completed at this point in time. I just want
22 you to be aware that if your overhangs start extending
23 into the side yards, you would be back to us for
24 another variance.

25 MR. MOLL: Absolutely. We're fully aware

Brighton Zoning Board of Appeals 9/2/2020

1 that we stay within those perimeters.

2 MR. DiSTEFANO: Great.

3 CHAIRPERSON MIETZ: Okay. All right. Very
4 good. So, if there are no other questions by The
5 Board Members is -- is there anyone in the audience
6 that would like to speak regarding this application?
7 Okay. There being none, then the Public Hearing is
8 closed.

9 MR. MOLL: Thank you everybody.

10 CHAIRPERSON MIETZ: Thank you very much.

11 (Proceeding concluded.)

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

September 2, 2020

Brighton Town Hall

2300 Elmwood Avenue

Brighton, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
JENNIFER WATSON

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

Brighton Zoning Board of Appeals 9/2/2020

1 APPLICATION 7A-04-20

2 Application of Richard Aemi and Carolyn
3 Dilcher-Stutz, owners of property located at 60 Helen
4 Road, for an area variance from Sections 203-2.1B(3)
5 and 203-9A(4) to allow for the construction of a 840
6 square foot detached garage in lieu of the 950 square
7 foot proposed in the application. But otherwise
8 described on the application and plans on file.

9 Motion made by Ms. Tompkins-Wright to
10 approve Application 7A-04-20 based on the following
11 findings of fact.

12 **FINDINGS OF FACT:**

13 1. The granting of the requested variance will not
14 produce and undesirable change in the character of the
15 neighborhood or be a detriment to nearby properties.
16 The properties along Helen Road and the surrounding
17 streets are relatively large lots. Several of which
18 have outbuildings and at least some appear to be over
19 900 square feet in size.

20 Further, the location of this proposed
21 outbuilding is located behind two trees on the
22 property. Thus, the construction of this larger
23 detached garage of 840 square feet will not appear out
24 of place or negatively affect surrounding properties
25 visually.

Brighton Zoning Board of Appeals 9/2/2020

1 2. The requested variance is not substantial given
2 the size of the property.

3 3. The benefit sought by the applicant cannot
4 reasonably be achieved by any other method. The
5 applicant noted its desire to house large specialty
6 equipment that is necessary for their hobbies, which
7 equipment is inappropriate to be placed inside of a
8 traditional home. And thus, require an outbuilding of
9 some sort due to the need for vehicular traffic to the
10 rear of the property for tree maintenance and the
11 topography and tree placement on the property. The
12 current location, as proposed, is the most appropriate
13 for a detached garage/outbuilding.

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

18 **CONDITIONS:**

19 1. The variance granted herein applies only to the
20 detached garage described in and the location as
21 depicted on the application and in the testimony
22 given. In particular, the garage shall be no more
23 than 840 square feet as shown on the revised plans
24 presented to the Board on September 2nd, 2020.

25 2. The garage shall at no time be permitted to

Brighton Zoning Board of Appeals 9/2/2020

1 include toileting facilities or be otherwise used as
2 extended living space.

3 3. All water displaced by the structure shall be
4 specifically directed onto the property and not onto
5 adjacent properties.

6 4. The garage must have paved access in compliance
7 with Code.

8 5. All permits and approvals shall be obtained.

9 (Seconded by Ms. Schwartz.)

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

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

14

15 APPLICATION 8A-07-20

16 Application of Pardi Partnership Architects,
17 agent, and George's Family Restaurants, owner of
18 property located at 2171 West Henrietta Road, for a
19 variance from Section 73-29 (structures required to
20 have an automatic fire sprinkler system) in accordance
21 with Section 73-34 to allow for the remodeling of a
22 restaurant building without the installation of an
23 automatic sprinkler system as required by Code. All
24 as described on application and plans on file.

25 Motion made by Ms. Dale to deny Application

Brighton Zoning Board of Appeals 9/2/2020

8A-07-20 based on the following findings of fact.

FINDINGS OF FACT:

1. Although the building is in compliance with New York State laws, it is not compliant with Brighton's Local Sprinkler Law, which requires sprinklers to be provided in this type of structure and use classification, and renovations, and construction.

2. Based upon the configuration and use of the building, it appears that patrons would need additional time of egress that the Sprinkler Law is meant to provide. And as well as additional protection from fires that may start in other areas of the building.

3. The application and testimony did not adequately prove economic hardship from compliance with the Town Sprinkler Law and the mitigations offered did not cover the entire restaurant.

4. It is not determined that putting in a sprinkler system that complies with the Code would be impossible to achieve. And the alternatives suggested by the applicant are deemed to not be sufficient to properly provide for the safety of patrons.

(Seconded by Ms. Tompkins-Wright.)

(Ms. Schwartz, yes; Ms. Tompkins-Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Schmitt, yes.)

Brighton Zoning Board of Appeals 9/2/2020

1 (Upon roll call, motion to deny the request
2 carries.)

3
4 APPLICATION 9A-01-20

5 Application of Passero Associates, agent,
6 and New Monroe Real Estate, LLC, owner of property
7 located at 2816 Monroe Avenue, for area variances from
8 Section 20516A to 1. Allow for parallel parking
9 stalls to be 8 feet wide in lieu of the minimum 9 feet
10 as required by code. And 2. Allow a one-way drive
11 aisle to be 12 feet wide in lieu of the minimum 15
12 feet wide as required by Code. All as described on
13 application and plans on file.

14 Motion made by Ms. Dale to approve
15 Application 9A-01-20 based on the following findings
16 of fact.

17 **FINDINGS OF FACT:**

18 1. The need for additional parking is driven by the
19 need for specialized staff, and an increased patient
20 load as the hospital provides new services enabled by
21 technology development.

22 2. The section of Monroe Avenue where the property is
23 located is well established commercial use. And the
24 changes proposed will not result in a change to the
25 character of the neighborhood or be a detriment to

Brighton Zoning Board of Appeals 9/2/2020

1 nearby properties.

2 3. The proposed parking area will add 11 parking
3 spaces and will be located along the east property
4 line adjacent to the existing double drive-through
5 lanes of the bank. Pavement up to and adjacent to the
6 side property lines is not uncommon along Monroe
7 Avenue.

8 4. The difficulty necessitating the variance request
9 cannot be resolved in another manner not requiring a
10 variance, as the only area available to expand the
11 parking area is along the east property line.

12 5. The applicant will instruct its employees to park
13 in the new 8-foot wide parallel parking spaces in
14 order to reduce the frequency of different vehicles
15 using them throughout the day.

16 6. Brighton Town Code does not address the width of
17 parallel parking spaces, but the requested 8-foot
18 width is the industry standard for such parking.

19 7. The 12-foot one-way drive aisle will be sufficient
20 for one-way circulation.

21 8. There are no plans for any connection of vehicular
22 traffic to the new Whole Foods plaza. A new fence
23 will be placed without a gate in order to prevent such
24 access.

25 **CONDITIONS:**

Brighton Zoning Board of Appeals 9/2/2020

1 1. New plantings and trees to be installed to
2 mitigate the impact of the new parking spaces as per
3 the application provided and testimony given.

4 2. All necessary Planning Board approval shall be
5 obtained.

6 (Seconded by Ms. Schwartz.)

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

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

11

12 APPLICATION 9A-02-20

13 Application of Passero Associates, agent,
14 and New Monroe Real Estate, LLC, owner of property
15 located at 2816 Monroe Avenue, for 1. An area
16 variance from Section 205-18B to allow paving and
17 parking up to a lot line in lieu of having a 10 foot
18 setback as required by Code. And 2. An area variance
19 from Section 205-7 to allow impervious lot coverage to
20 increase from 73 percent to 82 percent where a maximum
21 65 percent is allowed by Code. All as described on
22 application and plans on file.

23 Motion made by Mr. Mietz to approve
24 Application 9A-02-20 as amended for impervious
25 coverage to be 82 percent in lieu of the 77 percent,

Brighton Zoning Board of Appeals 9/2/2020

1 which was in the original application, based on the
2 following findings of fact.

3 **FINDINGS OF FACT:**

4 1. The proposed zero lot line adjacent to the Bank of
5 America property will not cause any negative effect on
6 the character of the neighborhood due to this
7 continuous condition in neighboring properties.

8 2. The property and neighboring properties are
9 commercial in nature, and safe, adequate parking is
10 required to accommodate clients in this high traffic
11 area.

12 3. While the increase from 73 to 82 percent as
13 amended appears substantial, neighboring properties
14 have similar or greater coverage, and attempts will be
15 made to mitigate the same by landscaping.

16 4. No other plan to increase the parking requirements
17 of this business can be achieved or can achieve the
18 desired result.

19 **CONDITIONS:**

20 1. This is based on testimony given and drawings
21 submitted.

22 2. All necessary Planning Board approval shall be
23 obtained.

24 (Seconded by Ms. Schwartz.)

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

Brighton Zoning Board of Appeals 9/2/2020

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

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

4

5 APPLICATION 9A-03-20

6 Application of RFM Morgan Properties, owner
7 of property located at 2125 Monroe Avenue (Brighton
8 Garden Apartments) for an area variance from Section
9 205-12 allowing for the demolition of two carports (40
10 stalls) leaving the property with no covered parking
11 spaces where 40 covered parking spaces are required by
12 Code. All as described on application and plans on
13 file.

14 Motion made by Ms. Tompkins-Wright to table
15 Application 9A-03-20 in order for The Planning Board
16 to consider the applicant's Planning Board application
17 and to determine what additional screening may be
18 required with respect to the demolition to the two
19 carports.

20 (Seconded by Ms. Dale.)

21 (Ms. Schwartz, no; Ms. Tompkins-Wright, yes;
22 Ms. Dale, yes; Mr. Mietz, yes; Ms. Schmitt, yes.)

23 (Upon roll call, motion to table and leave
24 the Public Hearing open carries.)

25

Brighton Zoning Board of Appeals 9/2/2020

1 APPLICATION 9A-04-20

2 Application of Save Monroe Avenue,
3 Incorporated, (2900 Monroe Avenue, LLC, Cliffords of
4 Pittsford, L.P., Elexco Land Services, Inc., Julia D.
5 Kopp, Mark Boylan, Ann Boylan and Steven M.
6 Deperrior), appealing the issuance of a building
7 permit (Starbucks Coffee) by the Town of Brighton
8 Building Inspector (pursuant to Section 219-3) to the
9 Daniele Family Companies, developer of the Whole Foods
10 project located at 2740/2750 Monroe Avenue. All as
11 described on application and plans on file.

12 Motion made by Ms. Tompkins-Wright to table
13 Application 9A-04-20. And, specifically, leave the
14 Public Meeting open in order to receive and file the
15 new materials submitted by the applicant. And to
16 allow the Town to respond accordingly on or before
17 September 23rd, 2020.

18 (Seconded by Ms. Dale.)

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

21 (Upon roll call, motion to table and leave
22 the Public Hearing open carries.)

23
24 APPLICATION 9A-05-20

25 Application of George E. Baist, owner of

Brighton Zoning Board of Appeals 9/2/2020

1 property located at 82 Fairhaven Road, for an area
2 variance from Section 207-11A to allow a portion of an
3 in-ground swimming pool to be constructed in a side
4 yard where not allowed by Code. All as described on
5 application and plans on file.

6 Motion made by Ms. Schmitt to approve
7 Application 9A-05-20 based on the following findings
8 of fact.

9 **FINDINGS OF FACT:**

10 1. The variance requested to build an in-ground pool
11 on the homeowner's side yard rather than the backyard
12 as required by the Code.

13 2. There's insufficient room in the backyard to
14 accommodate an in-ground pool due to a garage and
15 driveway that are behind the house, as well as a fire
16 pit and a large tree.

17 3. The property appears to be a double lot with the
18 proposed pool being placed on what is now green space.

19 4. The granting of this variance will not produce an
20 undesirable change in the character of the
21 neighborhood or be a detriment to nearby properties as
22 the pool will not extend beyond the front of their
23 home, and it will not be visible due to privacy
24 fencing the homeowner will be installing, as well as
25 landscaping.

Brighton Zoning Board of Appeals 9/2/2020

1 5. There is no evidence that there will be a negative
2 impact on the health, safety, and welfare of the
3 neighborhood. Indeed, the neighbors who are most
4 impacted by this addition are in support of the
5 project.

6 **CONDITIONS:**

7 1. The variance applies only to the placement of the
8 in-ground pool as described in this application and
9 testimony provided and will not apply to future
10 projects.

11 2. A privacy fence, as opposed to an open style
12 fence, must be installed so the pool is not visible
13 from the street. Similarly, landscaping must be put
14 into place to further mitigate the impact on the
15 neighborhood.

16 3. All necessary building permits shall be obtained.

17 (Seconded by Ms. Schwartz.)

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

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

22
23 APPLICATION 9A-06-20

24 Application of Julie Ann Bromberg, owner of
25 property located at 226 Norman Road, for an area

Brighton Zoning Board of Appeals 9/2/2020

1 variance from Section 205-2 to allow an addition to
2 extend 2 feet into the 9 feet side setback required by
3 Code. All as described on application and plans on
4 file.

5 Motion made by Ms. Dale to approve
6 Application 9A-06-20 based on the following findings
7 of fact.

8 **FINDINGS OF FACT:**

9 1. The request variance will not produce an
10 undesirable change in the character of the
11 neighborhood or be a detriment to nearby properties.

12 2. The applicant is seeking to add two bedrooms to
13 support their growing family. And the granting of the
14 2-foot variance will allow the bedrooms to be 12 feet
15 wide, which is in line with the rest of the size and
16 flow of the home. And is the minimum size possible to
17 achieve the functionality desired by the applicants.

18 3. The location of the addition is the only feasible
19 option, due to the location of the septic system at
20 the rear of the house.

21 4. The proposed variance will not have an adverse
22 impact on the physical or environmental conditions of
23 the neighborhood.

24 **CONDITIONS:**

25 1. Architectural Review Board approval must be

Brighton Zoning Board of Appeals 9/2/2020

1 received.

2 2. The addition shall be constructed as per the
3 location and dimensions as specified in the
4 application.

5 (Seconded by Ms. Schwartz.)

6 (Ms. Schwartz, yes; Ms. Tompkins-Wright,
7 yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Schmitt, yes.)

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

10

11 APPLICATION 9A-07-20

12 Application of Jason and Cara Acker, owners
13 of property located at 118 Commodore Parkway, for an
14 area variance from Section 209-10E(2) to allow front
15 yard pavement coverage to be 32.6 percent, after
16 expansion of the driveway, in lieu of the maximum 30
17 percent allowed by Code. All as described on
18 application and plans on file.

19 Motion made by Mr. Mietz to approve
20 Application 9A-07-20 based on the following findings
21 of fact.

22 **FINDINGS OF FACT:**

23 1. Numerous properties in the subject neighborhood
24 have similar driveway configurations. And, thus, no
25 negative effect on the character of the neighborhood

Brighton Zoning Board of Appeals 9/2/2020

1 will likely result in this variance.

2 2. The front yard coverage ratio of 32.6 percent
3 versus the 30 percent required is not substantial and
4 will not be noticeable in the proposed driveway
5 configuration.

6 3. No other alternative can achieve the desired
7 result of properly stacking cars in the driveway and
8 kept off the street.

9 **CONDITIONS:**

10 1. This variance is based on testimony given and
11 drawings submitted. And specifically to the location
12 to the addition to the driveway.

13 2. All necessary highway permits shall be obtained.

14 (Seconded by Ms. Schwartz.)

15 (Ms. Schwartz, yes; Ms. Tompkins-Wright,
16 yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Schmitt, yes.)

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

19

20 APPLICATION 9A-08-20

21 Application of DiPasquale Construction,
22 contractor, and Teamsters Local #118, owner of
23 property located at 130 Metro Park, for an area
24 variance from Section 20518A to allow a parking lot
25 expansion to be 0.2 feet from a lot line in lieu of

Brighton Zoning Board of Appeals 9/2/2020

1 the minimum 10 feet required by Code. All as
2 described on application and plans on file.

3 Motion made by Ms. Schwartz to approve
4 Application 9A-08-20 based on the following findings
5 of fact.

6 **FINDINGS OF FACT:**

7 1. Though the requested variance is substantial,
8 almost a total reduction of the setback 0.2 feet from
9 the lot line in lieu of the minimum 10 feet required
10 by Code, there will be no adverse effect on the area
11 as the site is in a Light Industrial/office building
12 area and the adjoining parcel has a similar existing
13 condition.

14 2. This variance will result in meeting the minimum
15 drive aisle width for the entire length of the two-way
16 drive beginning at the entrance on the western side of
17 the parcel.

18 3. No other alternative can alleviate the difficulty
19 and produce the desired result.

20 **CONDITIONS:**

21 1. This variance only applies to the reduced setback
22 as described in the written application and testimony
23 presented.

24 2. All planning and building approvals must be
25 obtained.

Brighton Zoning Board of Appeals 9/2/2020

1 (Seconded by Ms. Tompkins-Wright.)

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

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

6

7 APPLICATION 9A-09-20

8 Application of DiPasquale Construction,
9 contractor, and Teamsters Local #118, owner of
10 property located at 130 Metro Park, for an area
11 variance from Section 205-8 to allow impervious lot
12 coverage, after site improvements, to be 69 percent in
13 lieu of the maximum 65 percent allowed by Code. All
14 as described on application and plans on file.

15 Motion made by Ms. Tompkins-Wright to
16 approve Application 9A-09-20 based on the following
17 findings of fact.

18 **FINDINGS OF FACT:**

19 1. The granting of the requested variance will not
20 produce an undesirable change in the character of the
21 neighborhood or be a detriment to nearby properties.
22 The additional impervious coverage will in fact be
23 consistent with the surrounding properties as the
24 property's location is along a light industrial
25 corridor. And many of the surrounding properties are

Brighton Zoning Board of Appeals 9/2/2020

1 largely developed with the majority of the land
2 covered in building and impervious surface.

3 2. The requested variance is not substantial, as it
4 is only 4 percent more total impervious cover than
5 permitted by Code.

6 3. The benefit sought by the applicant cannot
7 reasonably be achieved by any other method while
8 meeting applicants' requirements due to the size and
9 scope of the addition being constructed on the
10 property. And the necessary ingress/egress and
11 circulation for emergency vehicles and required
12 parking.

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

17 **CONDITIONS:**

18 1. The variance granted `herein applies only to the
19 increase in impervious lot coverage to 69 percent in
20 the location as depicted on the application and in the
21 testimony given.

22 2. All Planning Board approvals must be obtained.

23 (Seconded by Ms. Schwartz.)

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

Brighton Zoning Board of Appeals 9/2/2020

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

3

4 APPLICATION 9A-10-20

5 Application of Philip Pecora, owner of
6 property located at 435 Ambassador Drive, for 1. An
7 area variance from Section 203-2.1 B(3) to allow for
8 the construction of an 844 square foot detached garage
9 (784 square foot garage area, 60 square foot covered
10 entry) in lieu of the maximum 600 square foot detached
11 garage allowed by Code. And 2. An area variance from
12 Section 207-6A(1) to allow said garage to be 24 feet
13 in height in lieu of the maximum 16 feet allowed by
14 Code. All as described on application and plans on
15 file.

16 Motion made by Ms. Schmitt to approve
17 Application 9A-10-20 based on the following findings
18 of fact.

19 **FINDINGS OF FACT:**

20 1. The first variance request is to build a detached
21 garage of 844 square feet, where the Code allows 600
22 square feet.

23 2. The second variance seeks to have a finished
24 height on the garage of 24 feet above grade, where the
25 Code allows 16 feet above grade.

Brighton Zoning Board of Appeals 9/2/2020

1 3. The new garage will replace an existing one-car
2 attached garage that is original to this 1928 house.
3 It does not meet the parking and storage requirements
4 of the new homeowners.

5 4. The granting of this variance will not produce an
6 undesirable change in the character of the
7 neighborhood or be a detriment to nearby properties.
8 The garage is set back more than 135 feet. So, the
9 addition will likely not be noticeable to any
10 passersby. Moreover, the proposed height is
11 consistent with the aesthetics of the existing home
12 within the height of the group line.

13 5. The requested height variance is not substantial
14 given that there is a significant drop in grades,
15 which the homeowners estimate to be 5 feet from the
16 road.

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 3. The only utilities to the structure shall be

Brighton Zoning Board of Appeals 9/2/2020

1 electric.

2 4. The upper level will only be used for storage.

3 (Seconded by Ms. Schwartz.)

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

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

8

9 APPLICATION 9A-11-20

10 Application of Torchia Structural Engineers
11 and Design, agent, and Todd Ennis and Amanda McIntosh,
12 owners of property located at 133 Summit Drive, for
13 area variances from Section 205-2 to 1. Allow an
14 addition (garage, vestibule and porch) to extend 6.1
15 feet into the existing 44.2 foot front setback where a
16 60 foot front setback is required by code. And 2.
17 Allow building lot coverage to be 22 percent in lieu
18 of the maximum 20 percent allowed by Code. All as
19 described on application and plans on file.

20 Motion made by Ms. Dale to approve
21 Application 9A-11-20 based on the following findings
22 of fact.

23 **FINDINGS OF FACT:**

24 1. The home was designed and built during a time
25 period that was zoned substantially differently than

Brighton Zoning Board of Appeals 9/2/2020

1 today. The variance, as requested, is the minimum
2 necessary to allow the homeowners to enter their
3 vehicles when parked in the garage, to allow for
4 typical garage storage, and entrance to the foyer.

5 2. The backyard has a very steep slope that limits
6 its use, and so the applicant is seeking outdoor space
7 on the proposed patio.

8 3. The existing front entryway has a high pitched
9 roof and dormers that train water onto the front
10 entrance. And the proposed change in design will move
11 the water load away and provide for a covered
12 entryway.

13 The applicant testified that they will
14 address neighbors' concerns about water runoff to
15 their property with the design of the roof structure
16 by tying into the storm drains or via a dry well
17 system.

18 4. The variance will not produce an undesirable
19 change in the character of the neighborhood or be a
20 detriment to nearby properties as the additions as
21 proposed will not encroach beyond the homes on the
22 east and west sides of the house.

23 5. The request area variance is not substantial as
24 the front setback will only be reduced by 6 feet
25 beyond the current front setback. And the lot

Brighton Zoning Board of Appeals 9/2/2020

1 coverage will only be 2 percent over the
2 non-conforming grandfathered allowable lot coverage if
3 the new patio is covered.

4 **CONDITIONS:**

5 1. ARB approval.

6 2. The addition shall be as per the location and size
7 as depicted in the application and per testimony
8 given.

9 3. The applicant will address neighbors' concerns
10 about water runoff to adjacent properties from the new
11 addition.

12 (Seconded by Ms. Tompkins-Wright.)

13 (Ms. Schwartz, no; Ms. Tompkins-Wright, yes;
14 Ms. Dale, yes; Mr. Mietz, yes; Ms. Schmitt, yes.)

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

17 * * *

1 REPORTER CERTIFICATE

2
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 13th day of September, 2020

13 At Rochester, New York
14
15

16 Alexandra K. Wiater
17
18
19
20
21
22
23
24
25