

NOVEMBER 4th, 2020
At approximately 7:00 p.m.
2300 Elmwood Avenue
Rochester, New York 14618

12 PRESENT:

13 DENNIS MIETZ, Chairperson
14 JEANNE DALE)
14 KATHLEEN SCHMITT)
15 JUDY SCHWARTZ) BOARD MEMBERS
15 ANDREA TOMPKINS WRIGHT)
15 JENNIFER WATSON)

16 DAVID DOLLINGER, ESQ.
17 Town Attorney

18 RICK DISTEFANO
Secretary

22 REPORTED BY: SUSAN M. RYCKMAN, CP,
23 Court Reporter,
24 FORBES COURT REPORTING SERVICES, LLC
25 21 Woodcrest Drive,
Batavia, NY 14020,
(585) 343-8612

1 CHAIRPERSON MIETZ: Good evening, everyone.
2 I would just like to welcome everybody to the November
3 meeting of the Town of Brighton Zoning Board of
4 Appeals.

5 Just a couple little things before we start
6 the meeting. That we have the Zoom conference, as you
7 know, tonight. We've used it a few times. It seems
8 to work out well. So just, please, pay attention to
9 the muting, and you know, if you can indicate, when
10 it's your turn to speak, who's speaking, so we keep
11 the meeting moving along, that would be appreciated.

12 Okay. So Rick, could you call -- I will
13 call the meeting to order. Can you call the roll?

14 MR. DISTEFANO: All members are present.

15 CHAIRPERSON MIETZ: Okay. Very good. We
16 have two sets of minutes. We have the September
17 meeting and the October meeting.

18 MR. DiSTEFANO: Dennis, just the --

19 CHAIRPERSON MIETZ: Oh, yes. Was the
20 meeting properly advertised, Mr. DiStefano?

21 MR. DiSTEFANO: Yes, Mr. Chairman. They
22 were advertised in the October 29th, 2020,
23 Brighton-Pittsford Post.

24 CHAIRPERSON MIETZ: Okay. And prior --
25 also, do you have any other correspondence or anything

1 that you want to let the Board know?

2 MR. DiSTEFANO: I did send you guys over
3 some communications, along with the final agenda. I
4 don't know if anybody has any questions regarding the
5 ABCs of the applications?

6 MS. DALE: Rick, could you speak up a little
7 bit more, maybe, please?

8 MR. DiSTEFANO: Sure.

9 MS. DALE: Thank you.

10 MR. DiSTEFANO: Is that better?

11 MS. DALE: Yes.

12 CHAIRPERSON MIETZ: Okay. Very good. Okay.
13 So let's move onto the minutes. We have the September
14 minutes. Does anyone have any corrections or
15 additions? September? Nothing?

16 Okay. Would someone be willing to make a
17 motion for those minutes.

18 MS. TOMPKINS WRIGHT: So moved member.
19 Member Wright.

20 CHAIRPERSON MIETZ: And a second, please?

21 MS. SCHMITT: I second, Schmitt.

22 CHAIRPERSON MIETZ: Thank you.

23 MR. DiSTEFANO: Motion to approve the
24 September minutes?

25 (Ms. Schwartz, abstain; Ms. Tompkins Wright,

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

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

4 CHAIRPERSON MIETZ: Let's move to the
5 October minutes. Do we have any additions or
6 corrections there?

7 MR. DiSTEFANO: You guys don't have the
8 October minutes yet.

9 CHAIRPERSON MIETZ: Oh, I thought we got
10 both.

11 MR. DiSTEFANO: Well, you got a second set
12 of September minutes because the first set was sent to
13 you --

14 CHAIRPERSON MIETZ: Oh, okay.

15 MR. DiSTEFANO: It was a --

16 CHAIRPERSON MIETZ: Okay.

17 MR. DiSTEFANO: -- copying error on the
18 secretary's part.

19 CHAIRPERSON MIETZ: Copying, statistical
20 error. All right.

21 So let's -- let's move along then to the
22 agenda. And we are starting with the agenda for the
23 month of November.

24 **APPLICATION 11A-01-20**

25 11A-01-20 Application for John Steiner,

1 contractor, and Jennifer Gorankoff Katz, owner of
2 property located at 141 Chelmsford Road, for Area
3 Variances from Section 205-2 to allow an existing
4 detached garage to be attached to the principle
5 structure with an enclosed addition resulting in a
6 rear setback of 5.7 feet, in lieu of the minimum
7 40 feet required by code, and a side setback of
8 6.7 feet in lieu of the minimum 12 feet required by
9 code. All as described on application and plans on
10 file.

11 CHAIRPERSON MIETZ: Okay. And who do we
12 have speaking on 11A-01?

13 JOHN STEINER: John --

14 CHAIRPERSON MIETZ: I'm sorry, could you
15 repeat, sir?

16 JOHN STEINER: John Steiner, contractor.

17 CHAIRPERSON MIETZ: Okay. Very good. Okay,
18 John. Can you just give us your name and your
19 address, please?

20 JOHN STEINER: John M. Steiner, 158 Gibson
21 Street, Canandaigua, New York, 14424.

22 CHAIRPERSON MIETZ: Okay, sir. Great. All
23 right. So please proceed.

24 JOHN STEINER: Well, basically, what -- what
25 my customers would like to do is just put a small

1 mudroom addition off the back of their house, with a
2 small breezeway that would connect that structure to
3 the garage. That way they could park their car in the
4 garage, and walk into the home, into that mudroom,
5 without traveling outside.

6 It's a small scale project. I mean, the
7 plan's kind of lay out. It's pretty simple, but
8 obviously, we're asking for the variance because of
9 the garage structure then violates with the setback,
10 because it's attached to the home at that point.

11 We're not actually building any structures
12 that are any closer to the property lines. You know,
13 the customers are just trying to make another
14 improvement on their home. They've done a lot of
15 great work already, and hopefully, the neighborhood
16 will be better for it. So we're just looking for your
17 guys' guidance and permission.

18 CHAIRPERSON MIETZ: Okay. Very good. Board
19 Members, questions?

20 MS. TOMPKINS WRIGHT: The existing garage
21 structure is staying as is? A new garage structure
22 isn't being built on the same foundation, right?

23 JOHN STEINER: Exactly. Nothing about the
24 garage is being modified at all. And the structure
25 that's gonna connect the garage to the house is going

1 to be done in a style that's congruent with what's
2 already there.

3 MS. TOMPKINS WRIGHT: Okay. Thank you.

4 CHAIRPERSON MIETZ: Okay. Other questions?
5 Judy, anything?

6 MS. SCHWARTZ: No. I -- I went over to
7 look, and it's just -- I mean, the only reason is
8 because they're filling in the space there.
9 Otherwise, there's no change, really.

10 CHAIRPERSON MIETZ: Okay. Very good. All
11 right. Great. If there's no other questions, then
12 thank you very much, Mr. Steiner.

13 JOHN STEINER: Thank you.

14 CHAIRPERSON MIETZ: Okay. And at this point
15 I'd just like to ask if there's anybody on the call
16 that would like to speak regarding this application?

17 Okay. Then there being none, then the
18 public hearing's closed.

19 **APPLICATION 11A-02-20**

20 11A-02-20. Application of the
21 Country Club of Rochester, owner of property located
22 at 2935 East Avenue, for a variance from
23 Section 73-29. (Structures required to have an
24 automatic fire sprinkler system) in accordance with
25 Section 73-34 to allow for the construction of a

1 maintenance building without the installation of an
2 automatic sprinkler system, as required by code. All
3 as described on application and plans on file.

4 CHAIRPERSON MIETZ: All rightee. So who do
5 we have speaking for the Country Club of Rochester?

6 ANDREW SPENCER: This is Andrew Spencer.
7 Can you hear me?

8 CHAIRPERSON MIETZ: Yes, Mr. Spencer, we
9 can. We recognize that voice.

10 ANDREW SPENCER: Excellent. I'm hoping that
11 Bruce Dumbauld and Rick Holfoth are also on the core
12 -- on the call? Jeff, are they available as well,
13 please?

14 JEFF: Yeah, one second.

15 ANDREW SPENCER: Thank you.

16 CHAIRPERSON MIETZ: While we're waiting,
17 Andrew, if you're the primary speaker, again, just
18 name and address for the record, please.

19 ANDREW SPENCER: Yes. Andrew Spencer,
20 124 Woodgate Terrace, Rochester. I'm with
21 BME Associates, acting as agent for Country Club of
22 Rochester.

23 CHAIRPERSON MIETZ: Okay. Very good.

24 ANDREW SPENCER: And with me this evening
25 are Bruce Dumbauld from HBT Architects, as well as

1 Rick Holfoth, who is the golf course superintendent at
2 the Country Club of Rochester.

3 CHAIRPERSON MIETZ: Okay. So if -- if and
4 when they would like to speak, then they can do the
5 same as you just did, and we'd appreciate that. Okay.

6 ANDREW SPENCER: Excellent. Thank you.

7 CHAIRPERSON MIETZ: Okay. So when you're
8 ready, please proceed.

9 ANDREW SPENCER: Yeah, so thank you very
10 much. Good evening. I hope everybody is well.

11 We are here this evening, as Mr. DiStefano
12 had described, we are looking for a variance from the
13 fire sprinkler code ordinances within the Town of
14 Brighton Code.

15 You know, per our understanding, the
16 provision of that fire sprinkler system's code section
17 is primarily for protection of the property, in
18 addition to the protection of the health, safety, and
19 welfare of residents here in the Town of Brighton.

20 We have been before you before for other
21 variances for the location of this maintenance
22 structure, which is an 8500-square-foot building that
23 will be going into the approximate same location as
24 the existing maintenance facility.

25 We have also had discussions with the fire

1 marshal of the Town, Mr. Chris Roth, regarding our
2 application, and how to proceed.

3 We did provide you a letter of intent, dated
4 October 13th, that outlines some of the criteria that
5 we believe is viable for the Zoning Board of Appeals
6 to make a decision upon.

7 I just want to go over a few items as it
8 relates to the cites that have been done, and then I
9 would like to ask Mr. Bruce Dumbauld from
10 HBT Architects to follow-up with some of the
11 improvements that are being made in the building
12 itself.

13 From a site perspective -- and Jeff, do you
14 have a site plan that you might be able to show,
15 please? Thank you. Thank you very much.

16 So this is the positioning of the building
17 on the site, running north to south. One of the
18 things that we did during the site planning process is
19 to look at vehicular circulation around the building.
20 And we've actually increased the width of the drive
21 lane on the north side of the building, from what was
22 10 feet to a 16-foot width.

23 We've also positioned the building far
24 enough away from the westerly property line,
25 approximately 42 feet, to allow for emergency vehicles

1 to have a 360-degree access to the structure. There
2 was not 360-degree access previously.

3 Secondly, there are two fuel tanks on the
4 property; a gasoline fuel tank as well as a diesel
5 tank. And they were located in two different
6 locations on the property. And what we've done is
7 provided them on the north side of the building,
8 within a containment zone, and they will have a fire
9 suppression system around them. A fire suppression
10 system is not required, but that will be incorporated
11 within this design.

12 Thirdly, there is a storage building on the
13 north end, which would house all the chemicals and
14 fertilizers that they use on the golf course, separate
15 from the actual facility itself.

16 The facility is going to house a shop area,
17 as well as a storage area for vehicles and golf carts
18 that may be under repair, as well as an area for
19 employees, maintenance employees of the facility. We
20 did provide an architectural plan that kind of shows
21 the break up of the building into three different
22 sections. Storage area on this plan is on the
23 right-hand side. The shop area is the larger area --
24 thank you for highlighting that. And then the
25 employee area with employee break room and -- and

1 laundry service, and bathroom services on the bottom
2 of the page.

3 We're looking for the variance because we
4 believe we have incorporated a number of things on the
5 site that are, basically, per the intent of the fire
6 sprinkler code. We've also done quite a bit of
7 research in the cost of the fire sprinkler system for
8 the structure.

9 One of the reasons we're looking for the
10 variance is due to the cost as well as the disruption
11 that might be caused on the site. The water service
12 goes into the main clubhouse facility, and is not in
13 close location to the maintenance facility, which
14 would require a whole new service line to be installed
15 along the drive.

16 There is a hydrant within 120 feet of this
17 structure to provide fire service and fire protection
18 to the building.

19 We've also included -- well, actually, I'm
20 sorry. I apologize for that pause. I think from a
21 site-plan perspective, we are providing ample service
22 area to the building for fire emergency vehicles. As
23 I stated, the water service is a main contributor.
24 Having to put in a whole new line, potentially
25 upgrading RPZ of the facility would be in the order of

1 8 to 10 percent of the overall cost of the structure,
2 that would be added to the cost.

3 With that, I would ask Bruce Dumbauld from
4 HBT Architects to speak to some of the improvements
5 and some of the things we're doing within the building
6 that are above and beyond the fire code of New York
7 State and Uniform Fire Code.

8 Bruce, might you just walk us through some
9 of that, please?

10 BRUCE DUMBAULD: Sure. My name's
11 Bruce Dumbauld; I'm with HBT Architects, 2 Elton
12 Street, Rochester.

13 With this building, just a little bit of
14 code background, New York State Building Code
15 background. They have regulations that -- that
16 describe the type of construction you are allowed to
17 use for a building, and it's based on the type of
18 occupancy that is going to take place within the
19 building, as well as the square footage.

20 For this project, most -- a majority of the
21 square footage, which would include the storage area,
22 the shop, the parts office, the grinding area, fall
23 into the category of S1, and that's a moderate hazard
24 occupancy, that addresses storage and vehicle repairs.

25 The office area/break room would be

1 classified as a Type B occupancy, which is,
2 essentially, a business or office occupancy.

3 With those occupancies, the code would allow
4 us to actually build a 9,000 square foot building,
5 which is greater than what we have here. It would
6 allow us to build this out of wood stock construction,
7 with vinyl siding or wood siding, and that type of
8 construction is Typed Flag B.

9 For durability purposes and for, hopefully,
10 a longer term life cycle through the building, and for
11 fire safety, we are going to actually build this as a
12 Type 2-B structure. And that requires that the
13 structural members and exterior materials and interior
14 framing and materials all be of noncombustible
15 construction. The code would actually allow us to
16 build a 17,000 square foot building using that type of
17 construction, but you know, we certainly don't need
18 that here.

19 So really, we've upgraded the fire
20 resistance characteristics of this building beyond
21 what the Building Code of New York State would
22 require.

23 The occupancies within the building don't
24 actually require a sprinkler system, according to the
25 New York State Building Code. However, if we -- you

1 can see, running up and down on the page, what we've
2 labeled as a three-hour fire separation. What that
3 does, is it separates the two S1 areas into a square
4 footage, each being less than 5,000 square feet. A
5 Group S1 occupancy is not required to have a sprinkler
6 system, as long as the fire area for that S1 occupancy
7 is 5,000 square feet or less. So that three-hour
8 rated wall is creating two separate fire areas; one on
9 either side, both of which are less than 5,000 square
10 feet, thereby, not requiring a sprinkler within that
11 space. Once again, according to the New York State
12 Building Code.

13 Fire sprinklers, according to the New York
14 State Building Code are not required in a Group B
15 Occupancy, unless there is more than 500 occupants in
16 the building, or if there are more than 100 building
17 -- 100 occupants on a floor either above or below the
18 grade level of the building. And we only have a
19 one-story building, so that's not an issue. And we
20 certainly don't have anywhere near a hundred occupants
21 in this structure.

22 We also are adding a one-hour separation.
23 It's somewhat by default because of the noncombustible
24 construction we're using. That's labeled as a
25 one-hour rated partition between the business

1 occupancy and the shop area. That one-hour rating is
2 achieved just because we're using metal studs with
3 five-eighths inch type X fire rated drywall on both
4 sides. And that -- that does give you a one-hour fire
5 separation.

6 We've also incorporated more exit doors out
7 of the building than the code requires. I think those
8 are spelled out in our application here. You have
9 three exit doors -- or three means of exit through the
10 storage -- from the storage area; two going directly
11 to the exterior, and one you could pass through the
12 business area to get out on the left side.

13 We have two ways out of the shop. One would
14 go through the storage area, and one -- and the other
15 would go directly to the north. Also there's, on the
16 south or bottom area of the shop area, there's another
17 door that would take you out through the main entrance
18 door.

19 The windows that we provided in the office
20 areas are of a size that would permit, by New York
21 State Building Code, an emergency means of egress that
22 requires that there be 5.7 -- or excuse me, 5.0 square
23 feet of free area, and there is a minimum width of 20
24 inches, a minimum clear height of 24 inches, and these
25 windows do meet that.

1 One thing we are going to add that you don't
2 see here, is we're going to add a door directly to the
3 exterior from the break room. And what that will do
4 is provide two means of egress, even though there is
5 only one required by New York State Building Code.
6 That will give us two means of egress from the
7 office/break room area, one to the left, and one to
8 the bottom. So that door would probably go right
9 where you see column Grid Line Number 4, just to the
10 left of that.

11 We are providing a fire alarm system.
12 Neither of these occupancies require that, but we do
13 intend to provide one. That will be a manual fire
14 alarm system, which would notify anyone in the
15 building, you know, if there's a need to make an
16 emergency means of egress.

17 We will provide more than the NFPA-10, which
18 is a National Fire Protection Association requirements
19 for the number -- the quantity of fire -- portable
20 fire extinguishers. We will locate those, initially
21 on our plans when we submit for a permit, but we
22 always have it note on there that all those locations
23 and the quantity need to be approved by the fire
24 marshal before a permit is issued.

25 So with those measures, you know, I think

1 we've gone beyond what the Building Code of New York
2 State requires, in terms of fire resistance and life
3 safety requirements, and looking at those, to
4 substitute for some of the requirement of the
5 town-required sprinkler system.

6 CHAIRPERSON MIETZ: Okay.

7 ANDREW SPENCER: Okay. Thank you, Bruce.
8 Appreciate that.

9 Rick, did you have anything to add to our
10 discussion, prior to allowing the Zoning Board to ask
11 some questions of us?

12 RICK HOLFOOTH: Yes. I have just a couple
13 quick comments. I wanted to point out, again, thank
14 you for hearing our application. This is
15 Rick Holfoth; I am Golf Course Superintendent at the
16 Country Club of Rochester, 2935 East Avenue,
17 Rochester, 14610. And again, thank you for hearing
18 our application.

19 And Andrew and Bruce, I appreciate your
20 technical input on this one, and I'm just really going
21 to have some less technical input.

22 That, you know, in my survey of Monroe
23 County, this would be the only golf course maintenance
24 facility that would -- a sprinkler system would be
25 installed or be required to be installed within a

1 three-mile radius of the Country Club of Rochester.
2 Three new golf course maintenance facilities have been
3 built in the last three years, none of which have
4 required -- either required or get installed a
5 sprinkler system and/or a -- even an alarm system.

6 And again, we would be the only maintenance
7 facility in Monroe County in which we provide a fire
8 suppression system for our unlighted fuel storage.
9 And again, we also -- and this is not the case in the
10 other facilities -- provide for separate fertilizer
11 and pesticide storage, which would not be in this
12 building.

13 So I think that was just, for me, that was a
14 little eye opening, you know, that we're -- I think,
15 putting forth a very reasonable request in front of
16 this -- in front of this Board.

17 And I think that's it. Any questions, I am
18 happy to chime in.

19 CHAIRPERSON MIETZ: Okay. Thank you. Do
20 any of the Board Members, Jennifer? Okay. You got a
21 couple things there, Jenn? She's trying to write them
22 to us due to her voice.

23 MS. TOMPKINS WRIGHT: If it's helpful, I can
24 go ahead and read them out loud. Does that make
25 sense?

1 CHAIRPERSON MIETZ: Sure.

2 A SPEAKER: Yeah, that -- that'd be great.

3 MS. TOMPKINS WRIGHT: One of them is, what
4 activities are gonna take place inside of the
5 structure? Is there any kind of welding, for example,
6 or machine work?

7 RICK HOLFOTH: You want me to answer that
8 one, Andrew?

9 ANDREW SPENCER: Yes, please, if you don't
10 mind. Thank you.

11 RICK HOLFOTH: So in the area of the plan,
12 that's, I believe -- I can't see it, it's small on my
13 screen. Labeled the maintenance shop. There is
14 equipment repair, there is a toolbox, you know,
15 mechanic that works in there with a toolbox, and he
16 does have a welder in that -- in that area. That's
17 separated completely by -- from the staff. So that --
18 in that shop area there is welding that takes place.

19 MS. TOMPKINS WRIGHT: And then, how many
20 people are likely to be in this building at one time?
21 I think there's only three offices, but obviously, a
22 much larger break room and --

23 RICK HOLFOTH: Correct. So like, we
24 designed the building to hold a maximum of 24 staff
25 that come in for lunch or break or for a morning

1 meeting. Obviously, it's a maintenance for 170-acre
2 property, so most often people are out of the
3 building. But we did want to provide a building that
4 allowed them an area for -- for lunch and break, and,
5 obviously, a gathering in the morning.

6 So typically there's only a few people in
7 the building, but there are times when there would be,
8 current staff levels at the most 20, but we designed
9 it to handle more.

10 MS. TOMPKINS WRIGHT: And what are the --
11 there's chemicals being stored on the property. Do
12 you know, you know, what type of actual materials are
13 being stored?

14 RICK HOLFOOTH: Sure. There's a building for
15 -- there's a separate building that was, I believe,
16 added in 1995, that will be adjacent to this building,
17 that we run our inventory on a just-in-time delivery
18 process. So when we use fertilizers or weed control
19 products or insect control products, plant
20 protectants, they are stored in the pesticide storage
21 building separately locked. And that building meets
22 -- met the current codes at the time, and is not --
23 none of that stuff is stored inside this building.

24 CHAIRPERSON MIETZ: Okay.

25 MS. TOMPKINS WRIGHT: So what is going to be

1 stored inside this building then?

2 RICK HOLFOOTH: You know, in that -- in that
3 part storage area, there would be auto -- you know,
4 not auto. Motor parts, bearings, blades, things like
5 that. That would really be, I think, the extent of
6 it. I mean, some hoses, you know, for watering, you
7 know, in general equipment repair parts. You know, we
8 stock employee safety things, you know, gloves
9 uniforms, all sorts of things like that, but nothing
10 really of a hazardous nature, anyway.

11 MS. TOMPKINS WRIGHT: Okay.

12 RICK HOLFOOTH: And in the storage area, I'm
13 sorry. In the storage area, that's all the golf carts
14 and the utility vehicles that we drive around the golf
15 course. So if that's what you meant by the storage
16 area.

17 MS. TOMPKINS WRIGHT: Okay.

18 RICK HOLFOOTH: Yeah, so that's like a small
19 grounds maintenance equipment, golf carts, things of
20 that nature.

21 MS. TOMPKINS WRIGHT: Okay.

22 MR. DiSTEFANO: Any of the large mowers, or
23 anything like that?

24 RICK HOLFOOTH: All the large -- most of the
25 large mowers are stored in a facility that we built

1 years ago, out on the eighth hole. A cold storage
2 building. That's where the large equipment is. All
3 the smaller equipment. But there are some mowers.
4 The mowers that mow the greens and the tees. What I
5 -- what I consider the smaller mowers, maybe the size
6 of a commercial, like, when you see somebody mow their
7 lawn, a commercial-type lawn mower. Most would be
8 that size or smaller.

9 CHAIRPERSON MIETZ: Okay. Good. All right.
10 I have a question for you. I don't know, maybe Andrew
11 could answer this one or -- you said you're going to
12 put an alarm system in as -- as part of the mitigation
13 for the sprinkler. Is there a reason why, if you're
14 gonna put that system in, that you wouldn't monitor
15 it?

16 ANDREW SPENCER: I mean, as an answer, there
17 is a possibility we could do that. Or are you
18 suggesting, maybe, connecting it up with the Town
19 system?

20 CHAIRPERSON MIETZ: Not necessarily the Town
21 system, Andrew, but you know, this is a remote
22 location that you've got a lot of expensive equipment
23 in, and if, God forbid, something was to happen at
24 night or whatever, given where it's located, it would
25 seem to me that it would be reasonable that -- to

1 have, you know, the facility be monitored so that
2 immediately if something happened in there, that, you
3 know, it would be noted.

4 I think for the kind of investment that the
5 country club is putting in here, 'cause as you know,
6 they can be done remotely now. It's not like years
7 ago, we had to run a phone line, and you know, off of
8 this. So many new technologies to be able to do this
9 type of monitoring now, that makes it a lot simpler.

10 ANDREW SPENCER: Yeah, I think -- I think
11 that's something that we can have a discussion about
12 to see what that monitoring software and/or provisions
13 to do that could be, and see whether or not we could
14 include that.

15 I don't know, Rick, if you had anything to
16 add to that?

17 RICK HOLFOOTH: Yeah, I think it's reasonable
18 you would want someone, you know, some sort of central
19 notification so someone, you know, yeah. I think
20 that's a reasonable --

21 CHAIRPERSON MIETZ: And I don't think it's
22 really an onerous expense, and probably the panel that
23 you would provide to do the other things that you're
24 going to have in there, would easily be able to handle
25 that dialer. Because that's really all you're really

1 adding to it, so.

2 RICK HOLFOTH: I would think, we -- we
3 haven't gotten into the level of detail, but there
4 would be some sort of, I would think, an alarm system
5 on the building, and probably could be tied right into
6 that somehow.

7 CHAIRPERSON MIETZ: Okay. All right. I
8 just wondered if there was some particular reason why
9 you didn't do it. So that was, really, the extent of
10 my question. We can -- the Board can discuss that
11 later, but I just wanted to have your input on it.

12 Okay. Do we have any other questions by the
13 Board?

14 MS. SCHWARTZ: Yeah. Judy. On an average
15 day, about how many people would you say work in the
16 shop?

17 RICK HOLFOTH: In that -- in that shop area?
18 Two.

19 MS. SCHWARTZ: Two?

20 RICK HOLFOTH: One to two. We have a head
21 mechanic and an assistant mechanic.

22 MS. DALE: And how about the hours; are they
23 mostly -- like are there -- isn't there anybody there
24 working, like, a second shift overnights?

25 RICK HOLFOTH: No. They're generally 5 in

1 the morning until 3 in the afternoon. Golf starts
2 early.

3 CHAIRPERSON MIETZ: Okay.

4 RICK HOLFOOTH: And snow removal. I mean, in
5 the winter, we have to be in early for snow removal.

6 CHAIRPERSON MIETZ: Okay. How about any
7 other questions by the Board Members?

8 MS. TOMPKINS WRIGHT: Yeah. Did you guys
9 consider doing, like, a dry sprinkler system or, you
10 know, if there was a fire at the property or emergency
11 response?

12 RICK HOLFOOTH: I mean, in our initial
13 walk-through with -- I don't have it with me, the
14 ES Sprinkler that gave us the quote, you know, that
15 one of the things that was complicated about this is
16 they really cautioned us against the dry system. And
17 again, it's not my area of expertise, but they
18 cautioned us against the dry system due to its expense
19 and its ongoing maintenance cost.

20 And one of the issues we talked about was
21 that storage area was really planned to be not a
22 heated area, so the -- we would have to consider --
23 they thought it would even be better to heat it, and
24 avoid a dry system, because of the maintenance and
25 ongoing issues that -- that they present. But again,

1 I'm not an expert in that.

2 You know, I know we have the -- it is a dry
3 system that is -- that is handled by our fuel tank,
4 and that is -- requires a fair amount of maintenance
5 and inspections.

6 MS. SCHWARTZ: And again, your main reason
7 for not doing this is because of cost? Is there any
8 other reason?

9 ANDREW SPENCER: Well, it's -- it's twofold.
10 Yes, the cost of the system, as I said -- as I said
11 early here, increases the cost of the overall
12 structure in the magnitude of 8 to 10 percent, just
13 for the sprinkler system within the structure itself.

14 The secondary cost that has not been
15 completely analyzed, but we know that the water
16 service system coming into the main clubhouse would
17 have to be redone to some extent. A new line being
18 brought out to this building. The water main actually
19 goes underneath a small portion of the pool area that
20 was just put in a number of years ago. And to upgrade
21 that means to take away that pool area, and then redo
22 that. And it turns into compounding issues upon
23 compounding issues.

24 We hope that the -- the other improvements
25 that we're making to the building internally, as well

1 as externally, do meet, you know, the intent of the --
2 the fire code to provide as much safety for the
3 structure and the property as possible.

4 As I -- as I did note, there is a hydrant
5 within 120 feet of this structure to provide
6 connectivity.

7 CHAIRPERSON MIETZ: Okay. All right. Board
8 Members, any other questions?

9 MS. TOMPKINS WRIGHT: And did -- can you --
10 do you mind pulling back up the site plan for this
11 property?

12 What are the closest other buildings,
13 whether they're storage, whether they're any
14 residential properties within, you know, close
15 distances? I -- I think it has the distance to the
16 property boundary line.

17 ANDREW SPENCER: Yeah. So to the -- to the
18 west of this structure, the properties are
19 approximately a hundred feet away, and those are
20 residential buildings. To the north, it's over a
21 hundred feet to the nearest residential structure.
22 And the clubhouse itself is almost 200 feet away from
23 the structure.

24 MS. TOMPKINS WRIGHT: Okay. And no issues
25 with your insurance carrier? They're perfectly

1 satisfied with the plan that you have for fire
2 protection?

3 ANDREW SPENCER: Yes. That is correct.

4 MS. SCHWARTZ: And have you spoken with
5 neighbors? Do they know about the fact that this is
6 going up, and won't have sprinklers in it?

7 ANDREW SPENCER: I don't believe -- we have
8 not made direct contact with them in those regards,
9 no.

10 RICK HOLFOTH: And they're, obviously,
11 certainly aware of the building because we went
12 through the proper planning --

13 MS. SCHWARTZ: Planning, right.

14 RICK HOLFOTH: I don't believe we got into a
15 sprinkler discussion.

16 MS. TOMPKINS WRIGHT: Rick, I just have a
17 quick question for you. I did not see any kind of
18 letter from Mr. Roth. Is that accurate? I just want
19 to make sure I didn't miss it.

20 MR. DiSTEFANO: You missed it. It came over
21 with the final agenda. It wasn't in the packet. It
22 came over today with the final agenda.

23 MS. SCHWARTZ: It came this afternoon.

24 MS. TOMPKINS WRIGHT: Okay. Got it. I'll
25 look at that then.

1 CHAIRPERSON MIETZ: Okay. Other questions?

2 All right. We'll wrap this up then. Thank
3 you very much.

4 RICK HOLFOOTH: All right. Thank you.

5 CHAIRPERSON MIETZ: Okay. So at this point,
6 let me ask if there's anyone on the Zoom conference
7 call that would like to speak regarding this
8 application?

9 Okay. If there is none, then we will close
10 the public hearing.

11 **APPLICATION 11A-03-20**

12 11A-03-20 Application of Bridget Carney,
13 Edge Architecture, and Catherine Humphrey and
14 Richard Truesdale, owners of property located at 38
15 Whitestone Lane, for an Area Variance from Section
16 205-2, to allow an addition and covered porch to
17 extend 20 feet into the 60 feet rear setback required
18 by code. All as described on application and plans on
19 file.

20 CHAIRPERSON MIETZ: All right. And who do
21 we have speaking for Whitestone Lane?

22 BRIDGET CARNEY: This is Bridget Carney with
23 Edge Architecture.

24 CHAIRPERSON MIETZ: Welcome. So when you're
25 ready, please proceed.

1 BRIDGET CARNEY: Thanks. We are proposing a
2 new addition to the rear of the existing home, and are
3 requesting relief from the rear setback. The required
4 is 60 feet, and we are requesting 40 feet to
5 accommodate the addition.

6 It's a first floor mudroom, with a covered
7 patio, and a second floor bedroom and bathroom up
8 above. All the spaces are in keeping with a
9 single-family home in the neighborhood.

10 The addition is located at the rear of the
11 home. It's minimally visible, and the appearance will
12 be similar to the existing home. So it should not be
13 a detriment to the neighborhood, or change the
14 character of the neighborhood.

15 If we look at the plans. Could you go to
16 the surveys that we sent? Thank you.

17 You will see that the property lines create
18 sort of a trapezoidal, oddly-shaped lot, and that the
19 rear property line, which is at the bottom of the
20 page, is not parallel with the rear walls of the
21 house.

22 And if you could then go to the other plan
23 for me? Thank you.

24 You will see that the property -- that rear
25 setback line then is diagonal to the back of the

1 house. It just touches, kind of, the corners of the
2 existing building as it goes, which doesn't really
3 leave any practical functional space for this
4 addition.

5 And you will see that the south side of the
6 addition at the top extends past that setback,
7 approximately, for maximum of eight feet on the actual
8 building portion. And then the patio extends an
9 additional 12 feet, which takes us to the 20-foot
10 request.

11 The two-story portion of the addition will
12 not extend past the existing family room, which is the
13 protrusion from the back of the house that you see off
14 to the left. Only the patio roof will. And the
15 entire addition, including that patio roof, does not
16 extend past the immediate neighbor's home, to the
17 right on the sheet.

18 So that's all I have. Thank you for
19 considering the request.

20 CHAIRPERSON MIETZ: Okay. So questions by
21 the Board Members?

22 I just have one, just to start here, I
23 guess. Bridget, did you look at any other
24 alternatives that, maybe, would have mitigated some of
25 the need for this variance? Were there any other

1 alternative designs or anything that were considered?

2 BRIDGET CARNEY: Yes. We did a couple of
3 different floor plans. Most of them required a
4 setback, others did not meet the needs of the owner in
5 terms of the functionality of the space.

6 CHAIRPERSON MIETZ: Okay. Can you just talk
7 to that functionality just a bit, as to why that's the
8 best location?

9 BRIDGET CARNEY: Sure. So the owner has
10 dogs, and they enjoy using their backyard. But the
11 existing home does not really have a good back door
12 out to their yard. So they wanted to achieve that
13 with this addition, in addition to having access from
14 their driveway and the garage into the kitchen.

15 So this mudroom gives them all three things
16 by being in this corner of the house. It's the entry
17 point, they can let the dogs in and out, they can get
18 from the kitchen to the outdoors, and gives them space
19 for the -- the laundry and the storage and the utility
20 sink that they need in there.

21 CHAIRPERSON MIETZ: Okay. Very good. Okay.
22 Other questions by the Board?

23 MS. TOMPKINS WRIGHT: Can you clarify what
24 you meant? I think, the covered patio will not extend
25 any further back than the next-door home?

1 BRIDGET CARNEY: Correct.

2 MS. TOMPKINS WRIGHT: So --

3 BRIDGET CARNEY: So the neighbor's property
4 -- go ahead, sorry.

5 MS. TOMPKINS WRIGHT: Is the neighbor's home
6 equally, you know, have a -- a violation of the
7 setback as well, preexisting or otherwise?

8 BRIDGET CARNEY: I'm not aware if it's a
9 violation or anything like that. I just, when you
10 look at it from an aerial view, this addition would
11 not go past -- if you drew, like, a line from the
12 property, from the edge of their home.

13 MS. DALE: So are you saying that it doesn't
14 go any farther -- the distance between the back of the
15 covered patio and the rear setback is not any more so
16 than the neighbor next door?

17 BRIDGET CARNEY: I'm not aware of their
18 setbacks, but in terms of their property being next
19 door, the end of their home is past where our covered
20 patio would end.

21 MS. DALE: Okay. Thank you.

22 MS. TOMPKINS WRIGHT: And immediately behind
23 the house or the home is a very heavy tree line; is
24 that accurate?

25 BRIDGET CARNEY: Yes, there is a heavy tree

1 line there.

2 MS. TOMPKINS WRIGHT: Okay. Thank you.

3 CHAIRPERSON MIETZ: Okay. Good. All right.

4 Any other questions?

5 Okay, Bridget, thank you very much.

6 BRIDGET CARNEY: Thank you.

7 CHAIRPERSON MIETZ: Is there anyone in the
8 audience that would -- in the audience. I'll be all
9 right. Anyone on the conference call that would like
10 to speak regarding this?

11 Okay. There being none, public hearing is
12 closed.

13 **APPLICATION 11A-04-20**

14 11A-04-20 Application of John Inzinna and
15 Jacqueline Whitney, owners of property located at
16 325 Antlers Drive, for an Area Variance from
17 Section 207-2A, to allow a front yard fence to be
18 6.5 feet in height, in lieu of the maximum 3.5 feet
19 allowed by code. All as described on application and
20 plans on file.

21 CHAIRPERSON MIETZ: Okay. Who do we have
22 speaking on this application.

23 JOHN INZINNA: Hi, this is John Inzinna, one
24 of the applicants.

25 CHAIRPERSON: Okay. Very good, John. So

1 just give us for the record your name and address, and
2 then you can proceed.

3 JOHN INZINNA: Yes. I'm John Inzinna. My
4 address is 325 Antlers Drive, property in question.

5 CHAIRPERSON MIETZ: If you could just try to
6 bring your volume up just a bit, or get closer,
7 because we're having a little hard time here.

8 JOHN INZINNA: Is that better?

9 CHAIRPERSON MIETZ: Yes. Thank you.

10 JOHN INZINNA: All right.

11 CHAIRPERSON MIETZ: Okay. Go right ahead.

12 JOHN INZINNA: We are looking to put a fence
13 from Elmwood Avenue property -- our property's on the
14 corner of Elmwood and Antlers, and we're requesting a
15 variance to the height restriction, which would be
16 normally three and a half feet for the front of the
17 property. We're requesting that to be six feet.

18 And there are, essentially, two mitigating
19 factors for this request. The first is that it would
20 align with the adjacent property's six-foot fence
21 property on the corner of, I believe, that's
22 Bonnie Brae and Elmwood Avenue. And we -- we weren't
23 going to go any further. We're gonna line up exactly
24 with that fence.

25 And the other is the -- the setback distance

1 on that is 57 feet. So it's quite a distance away
2 from the road.

3 CHAIRPERSON MIETZ: And you're speaking
4 about Elmwood Avenue, right?

5 JOHN INZINNA: Correct.

6 CHAIRPERSON MIETZ: Okay. Go ahead.

7 JOHN INZINNA: As far as Antlers Drive, we
8 would be coming up to the back edge of the house, no
9 -- no further than the back edge of the house. So I
10 think the -- try to get my orientation on the drawing
11 there.

12 Yeah, I think the drawing has it set up so
13 that on the left-hand side you would see where we're
14 requesting the new fence be along Elmwood Avenue. And
15 that extends 25 feet past the edge of the house. That
16 is along Elmwood Avenue. But as I say, 57 feet back
17 from the road or back from the property line.

18 CHAIRPERSON MIETZ: All right. Can you
19 just, for the record, just explain what the need for
20 this fence is?

21 JOHN INZINNA: It's for both privacy and for
22 volume and road noise. We had a situation where we
23 bought the house five years ago, and there were a
24 pretty large number of trees on Elmwood Avenue. And
25 about a year ago, either RG&E or the town or the

1 county, came in and took out a large number of trees.
2 And as a result, we've had -- we've lost some of the
3 noise suppression that those trees offered, and some
4 of the privacy. So we would like to -- to get that
5 back.

6 CHAIRPERSON MIETZ: Okay. All right. Is
7 there anything else you would like to add, sir?

8 JOHN INZINNA: I believe that's it. Any
9 questions anyone has?

10 MR. DiSTEFANO: I think, just for the
11 record, John, could you try and describe the style of
12 the fence that you're proposing?

13 JOHN INZINNA: The style of the fence would
14 be a wood fence, vertical slats. I believe there was
15 an image in the application of what -- there you go.
16 So there -- there's the fence style.

17 MR. DiSTEFANO: Just for clarification, when
18 I advertised this, I did advertise it as
19 six-and-a-half feet, and I just want to verify with
20 John. That six foot that is shown on there, that's
21 for the panel height, correct?

22 JOHN INZINNA: I believe that's the panel
23 height, yes.

24 MR. DiSTEFANO: And the post height would be
25 six-and-a-half feet, correct? You can't exceed that

1 six-and-a-half feet.

2 JOHN INZINNA: Oh, I see what you're saying.
3 It would not exceed six-and-a-half feet, certainly.

4 MR. DiSTEFANO: Great.

5 CHAIRPERSON MIETZ: John, also, would you
6 comment how this fence will look along with the fence
7 that it would be adjacent to?

8 JOHN INZINNA: We're trying to match both
9 being a wood fence and similar finish. Trying to
10 provide somewhat of a consistent.

11 CHAIRPERSON MIETZ: Okay. That's -- that's
12 very good. Will you be doing any kind of landscaping
13 improvements along with that, or have you considered
14 that?

15 JOHN INZINNA: Yes. We will be doing some
16 landscaping improvements, both on the part of the yard
17 that is on the other side of the fence from the
18 property, the part that is visible from
19 Elmwood Avenue, and then also be doing some
20 landscaping inside the fenced-in yard.

21 CHAIRPERSON MIETZ: Could you just broadly
22 describe what you're thinking of doing?

23 JOHN INZINNA: Well, one of the things we
24 have noticed over the life of the property, is that
25 the -- the edge next to the sidewalk has been worn

1 away. It's been eroded. So we are going to build
2 that up as a berm, so that it can support the grass
3 and the trees a little bit better, and not get worn
4 away. And also so that water doesn't collect on the
5 sidewalk. You know, in some of the areas, as the side
6 grasses get worn away, the water sits on the sidewalk,
7 and then it freezes in the winter time. It creates
8 hazardous conditions. So we're trying to build that
9 up to avoid those kind of situations.

10 CHAIRPERSON MIETZ: Would there be anything
11 added as any mitigation for the fence, like on -- near
12 the fence on the Elmwood side?

13 JOHN INZINNA: Oh, yes. Yes. We haven't
14 picked out landscaping in terms of exact plants. But
15 there would be plants on the other side of the fence,
16 yes.

17 CHAIRPERSON MIETZ: Okay. So on the -- on
18 the Elmwood facing side?

19 JOHN INZINNA: Visible from Elmwood, yes.

20 CHAIRPERSON MIETZ: Okay. That's fine.
21 Okay. Other questions for Mr. Inzinna?

22 MS. TOMPKINS WRIGHT: I think you mentioned
23 this, but just to confirm. The intention is to be
24 consistent both in height and in appearance with the
25 neighboring property fence, which already runs along

1 that same portion of -- is it Elmwood Avenue?

2 CHAIRPERSON MIETZ: Yes.

3 JOHN INZINNA: Yes, that is correct.

4 CHAIRPERSON MIETZ: Okay. Other questions?

5 Okay. Thank you very much. Appreciate it.

6 All right. Is there anyone on the
7 conference call that would like to speak regarding
8 this application?

9 Okay. There being none, then the public
10 hearing is closed.

11 MR. DiSTEFANO: You did close the public
12 hearing?

13 CHAIRPERSON MIETZ: I'm sorry, I did, I
14 closed it.

15 MR. DiSTEFANO: Yeah, that's it for the
16 public hearings.

17 CHAIRPERSON MIETZ: Okay. Very good.

18 MR. DiSTEFANO: We want to move into
19 decisions?

20 CHAIRPERSON MIETZ: I can't hear you, Rick.
21 You gotta speak up.

22 MR. DiSTEFANO: You want to move into
23 decisions now?

24 CHAIRPERSON MIETZ: Handle this, and finish
25 this, and then we'll move to the old business.

Brighton Zoning Board of Appeals 11/04/2020

REPORTER CERTIFICATE

3 I, Susan Ryckman, do hereby certify that I
4 did report the foregoing proceeding, which was taken
5 down by me in a verbatim manner by means of machine
6 shorthand.

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

11

12 Dated this 14th day of November, 2020
13 at Rochester, New York.

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SUSAN M. RYCKMAN, C.P.,
Notary Public.

SUSAN M. RYCKMAN, C.P.,
Notary Public.

Brighton Zoning Board of Appeals 11/04/2020

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

NOVEMBER 4th, 2020
At approximately 8:00 p.m.
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, Chairperson
JEANNE DALE)
KATHLEEN SCHMITT)
JUDY SCHWARTZ) BOARD MEMBERS
ANDREA TOMPKINS WRIGHT)
JENNIFER WATSON)

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DISTEFANO
Secretary

(The Board having considered the information presented by the Applicant in each of the following cases, and having completed the required review pursuant to SEQRA, the following decisions were made:)

REPORTED BY: SUSAN M. RYCKMAN, CP,
Court Reporter,
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive,
Batavia, NY 14020,
(585) 343-8612

1 CHAIRPERSON MIETZ: All right. Board
2 Members, then what we'll do is we'll start with
3 Application 11A-01, which is the detached garage. Any
4 concerns there?

5 MS. SCHWARTZ: You're not even going to
6 know. I mean, it's not going to show up from the
7 street or anything. It's basic -- it's not really
8 changing footprint or anything. It's, you know.

9 CHAIRPERSON MIETZ: All right. And I saw it
10 also, yeah.

11 MS. SCHWARTZ: Yeah.

12 CHAIRPERSON MIETZ: Any concerns then?

13 All right, Judy. Go ahead, Judy.

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1 APPLICATION 11A-01-20

2 11A-01-20 Application of John Steiner,
3 contractor, and Jennifer Gorankoff Katz, owner of
4 property located at 141 Chelmsford Road, for Area
5 Variances from Section 205-2, to allow an existing
6 detached garage to be attached to the principle
7 structure, with an enclosed addition resulting in a
8 rear setback of 5.7 feet, in lieu of the minimum
9 40 feet required by code, and a side setback of
10 6.7 feet, in lieu of the minimum 12 feet required by
11 code. All as described on application and plans on
12 file.

13 Motion made by Ms. Schwartz to approve
14 Application 11A-01-20, based on the following findings
15 of fact.

16 **FINDINGS AND FACTS:**

17 1. The existing detached garage is 5.7 feet from the
18 rear setback, in lieu of the required minimum of 40
19 feet. The side setback is 6.7 feet, in lieu of the
20 minimum 12 feet as required by code.

21 2. The reason for this variance is because the
22 applicant wishes to attach the existing garage to the
23 principle structure to create a mudroom and laundry
24 area. There is no other area that offers the
25 applicant this needed space, and it does not change

1 the footprint of the principle structure.

2 3. There will be no appreciable change to the home as
3 a result of this variance, and it will not be visible
4 from the street. It is merely an attachment of the
5 existing garage to the principle structure, the house.

6 **CONDITIONS:**

7 1: This variance only applies to the attachment of
8 the existing detached garage to the principle
9 structure, the house, as presented in testimony and
10 the written application.

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1 MS. SCHWARTZ: Two, all Planning Board and
2 Building Department approvals must be obtained.

3 MR. DiSTEFANO: Can we just say, all
4 necessary building permits shall be obtained?

5 MS. SCHWARTZ: Say that again?

6 MR. DiSTEFANO: All necessary building
7 permits shall be obtained.

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1 2. All planning board, building code, and all
2 necessary building permit approvals must be obtained.

3 (Second by Ms. Tompkins Wright.)

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

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1 CHAIRPERSON MIETZ: Okay. Very good.

2 All right. So the next one is the Country
3 Club of Rochester's situation with the maintenance
4 building and the sprinkler system. So, thoughts
5 there?

6 MR. DiSTEFANO: Did you guys get a chance to
7 read Chris' --

8 MS. SCHWARTZ: Yeah.

9 MR. DiSTEFANO: -- Fire Marshal's letter?

10 MS. SCHWARTZ: He feels it should be that,
11 required.

12 MR. DiSTEFANO: He does?

13 MS. SCHWARTZ: Yeah.

14 MR. DiSTEFANO: He does, yes, I was agreeing
15 with that.

16 MS. SCHWARTZ: Yes. Right. My feeling is
17 it's new construction. Yes, there's a cost, but
18 there's a reason for it. So I -- I have a problem
19 with the -- with the variance.

20 CHAIRPERSON MIETZ: Okay. Andrea, your
21 thoughts?

22 MS. TOMPKINS WRIGHT: Yeah. I mean, I -- I
23 think we need to weigh that against what that means.
24 Particularly, if the current water lines can't support
25 a sprinkler system in that building line -- -

1 building, and that, you know, what they're suggesting
2 is that they'd have to, you know, essentially, disrupt
3 and dig up a portion of the pool, you know, change the
4 water as it comes out of the clubhouse.

5 That's a really large-scale project that
6 doesn't affect just this one building. And I didn't
7 hear alternatives to that kind of cost, particularly
8 it's destruction of other buildings, so.

9 I -- I appreciate and respect, you know,
10 Chris Roth as our Fire Marshal, and the Brighton
11 Sprinkler Law, I just think that this type of a
12 storage facility, with this many exits, and the
13 additional fire suppression equipment they're putting
14 in, as well as the construction, may warrant a
15 variance from that.

16 MS. DALE: Yeah. The extra, you know, the
17 extra door to the outside from the break room, I
18 thought, was good. Yeah. I'm -- I'm torn just
19 because there's -- it's -- it seems like they're
20 really putting forth a considerable effort to find
21 alternate means, you know, to -- to cover for this
22 safety concerns.

23 MS. WATSON: I'm not sure I totally
24 understood what alternatives there might be to the
25 water line. I don't know that I'm an expert in dry

1 sprinkler systems, but I'm not sure I got a full
2 answer on whether that was really fully explored.

3 CHAIRPERSON MIETZ: They are, Jennifer, a
4 little bit more difficult to handle. They're a little
5 more onerous, especially when you don't have a heated
6 structure.

7 But again, as you can imagine, the -- if you
8 were to install a wet system as well in this building,
9 then, you know, it can't be unheated either. So
10 there's, obviously, that -- that's not gonna work.

11 So again, they did not really provide
12 backup, I guess, in a sense for what these real costs
13 are. They certainly described, as Andrew points out,
14 the issue with bringing a larger water service. I'm
15 sure the water service that's into that other building
16 just is not big enough to support a sprinkler system.
17 So that's probably why another additional service,
18 whether it's a one inch or two inch or whatever it
19 needs, has to be added.

20 But I think the difficulty, I know for me,
21 and then we can go through with anyone else. Is just
22 that, you know, if we're trying to compare, well,
23 what's onerous? I think Andrew suggested that it was
24 8 to 10 percent of the value of the building, but you
25 know, quantifying that as it relates to the whole

1 project budget, I guess we -- we can understand in
2 generalities what 8 percent means. But you know,
3 having a little more data might have been helpful with
4 this.

5 MR. DiSTEFANO: Can I just also say
6 something? And I don't know if this would come into
7 play or not.

8 But when we granted a variance to this
9 building back in March, where normally it would have
10 to be 150 feet away from a property line, we granted
11 it a variance at 50 feet and 40 feet or something like
12 that --

13 CHAIRPERSON MIETZ: Right.

14 MR. DiSTEFANO: -- on the one back and the
15 side.

16 If this had come to you knowing that they
17 weren't going to sprinkler it, or didn't want to
18 sprinkler it, would you have thought differently
19 regarding that setback requirement?

20 MS. SCHWARTZ: Probably so, yeah. For
21 safety reasons, definitely.

22 CHAIRPERSON MIETZ: Okay. All right. So
23 Kathleen, do you have some thoughts here?

24 MS. SCHMITT: I think, well -- my thoughts
25 are, really, very split. Because I -- I truly

1 appreciate the extra work that they did to try to
2 comply with the New York State regulations. I like
3 the fact that they've tried to separate, kind of, the
4 employee section from the other section, to create
5 these two, what's I think they called them 5,000
6 square feet buildings.

7 But not being an expert on sprinklers, I
8 tend to default to the fire marshal. And if he is
9 uncomfortable with it, and not recommending it, I'm
10 going to go with his recommendation that, you know, a
11 sprinkler is needed.

12 And if I had some more information that it
13 wasn't just cost, perhaps I could be persuaded. But
14 right now, what I'm really hearing is cost.

15 And in the past, this Board has turned down
16 applications where at least one restaurant wanted to
17 do it, and said it cost too much money. And we said,
18 when it's the safety of people involved, you still
19 need to do it.

20 So right now, I hate to say it, but I'm
21 leaning towards no.

22 CHAIRPERSON MIETZ: Okay. All right. And
23 Ms. Dale?

24 MS. DALE: Yeah, I could -- I could go
25 either way. I -- I feel the same way about going

1 against what the fire marshal recommends.

2 I just -- I just feel like they did a pretty
3 good job explaining all of the various changes that
4 they were prepared to make in their compliance.

5 And I don't know, I -- especially, you know,
6 Dennis, when you were bringing up sort of the
7 monitoring, and they were willing to, you know,
8 potentially do that, I was thinking, well, we could
9 add that -- you know, we could have that added as a
10 condition.

11 CHAIRPERSON MIETZ: Sure. Oh, absolutely it
12 could be. Sure.

13 MS. DALE: I -- I don't know. I -- I guess
14 I'm -- I'm a little surprised that with all the
15 changes that they were making, and the small number of
16 people who are going to be there, and the hours that
17 they're there, and I'm a little surprised that the
18 fire marshal had a problem with it.

19 CHAIRPERSON MIETZ: My -- my guess is, and I
20 don't want to speak for Chris because I did not
21 personally discuss this with him.

22 MS. DALE: Yep.

23 CHAIRPERSON MIETZ: But I think the issue
24 here is what kind of uses are going on in this
25 building, and the fact that for a lot of hours of the

1 day or evening or whatever, it's an unattended
2 building. And you know, if somebody, as you know,
3 just forgets to do something, or forgets, just like at
4 home, if we forget to turn off the coffee pot or
5 something, you know, things can happen. So I'm
6 guessing that's what his concern is.

7 Or, if the guy was welding during the day,
8 or somebody was repairing one of these machines, you
9 know, or grinding, or whatever, and some sparks, you
10 know, started, you know, could -- could this thing be
11 quickly put out? Especially if there's vehicles
12 stored in here that have gasoline in them and things
13 like that.

14 So that would be my guess of what his
15 concerns would be.

16 MS. WATSON: That -- that's sort of my take
17 on it, too. You know, a few years ago we passed one
18 that was just a passive storage facility.

19 CHAIRPERSON MIETZ: Yeah, for snowplows and
20 things.

21 MS. WATSON: Yeah. This is not that.
22 There's welding happening, there are people coming and
23 going, there's pesticides, and fuels being stored
24 right nearby. I think it -- the risk is up a little
25 bit more than the previous one that we had approved.

1 I'm split as well, but I would have to defer
2 to the fire marshal.

3 CHAIRPERSON MIETZ: Okay. So I -- I guess
4 let's kind of poll ourselves here.

5 Then, Judy, what is your feeling then
6 after hearing all this discussion?

7 MS. SCHWARTZ: I -- I would deny.

8 CHAIRPERSON MIETZ: Okay. Okay. And Kathy?

9 MS. SCHMITT: Unfortunately, mine is a
10 denial at this point.

11 CHAIRPERSON MIETZ: Okay. And Andrea?

12 Andrea?

13 MS. TOMPKINS WRIGHT: I -- I just had one
14 quick question, which just for the Board itself.
15 Because one of the comments was that they really
16 didn't provide a lot of detail about the hardship.

17 If they did -- is there a number, or you
18 know, a more detailed explanation of the hardship that
19 would change? Or is the safety concern great enough
20 that it -- that there isn't a hardship great enough
21 that would change that?

22 Because that would be my only thought, is
23 that I'd also be willing to table it if we want them
24 to give an opportunity to -- to explain the hardship
25 in more detail, including a cost analysis of -- of

1 what, you know, what a -- a fully sprinklered, you
2 know, and water lines would do to the project.

3 But if it doesn't change -- if -- if we
4 still believe that the safety concern is great enough,
5 then I don't want to waste anyone's time.

6 CHAIRPERSON MIETZ: Right. Well, yeah, I
7 don't want to put them on a parade either. Right. So
8 I guess, let's -- let's -- so where do you stand on
9 this thing, or what's your preference then, Andrea?

10 MS. TOMPKINS WRIGHT: I could see approving
11 it if I had more detail as to the -- the magnitude of
12 the hardship.

13 CHAIRPERSON MIETZ: Okay, so the cost --

14 MS. TOMPKINS WRIGHT: Yeah.

15 CHAIRPERSON MIETZ: -- might swing your
16 thought? Okay.

17 All right. How about you, Judy --

18 MS. TOMPKINS WRIGHT: It might.

19 CHAIRPERSON MIETZ: -- would the cost
20 information make any difference to you? Judy?

21 MS. SCHWARTZ: Me?

22 CHAIRPERSON MIETZ: Yes.

23 MS. SCHWARTZ: No, it would not make any
24 difference.

25 CHAIRPERSON MIETZ: Okay. And Kath?

1 MS. SCHMITT: Perhaps tabling for a
2 different reason may be helpful. It sounds like the
3 Country Club has been working with the fire marshal to
4 try to comply with what they could, and maybe some
5 additional discussions may lead to a solution that we
6 weren't able to come up with tonight.

7 MR. DiSTEFANO: That --

8 CHAIRPERSON MIETZ: That's remotely
9 possible, but there are only so many solutions for
10 this. I mean, because I think, you know, Andrea's
11 point is correct, it's -- if this is a risk issue, and
12 it's a question of, well, how do you mitigate risk?
13 And you know, that's what these systems are for. And
14 so -- but there aren't a lot of other technological
15 things that one could do.

16 I mean, they certainly have made some
17 effort, no question, you know, to come closer, at
18 least, to the New York State Building Code.

19 MR. DiSTEFANO: You --

20 MS. SCHWARTZ: They --

21 MR. DiSTEFANO: Dennis --

22 MS. SCHMITT: What I was -- and I probably
23 just didn't articulate it clearly.

24 What I'm saying is, if the Board wants to
25 table it for a month to give them that opportunity to

1 either supplement or to talk to the fire marshal to
2 try to get it resolved, I don't have a problem with
3 that.

4 CHAIRPERSON MIETZ: Okay.

5 MS. SCHMITT: Otherwise, I say no.

6 CHAIRPERSON MIETZ: Okay. All right.

7 MS. SCHWARTZ: The other thing, the point,
8 though, that Rick brought up, was the variance in the
9 beginning, and the residences are close by.

10 And when I asked if they had spoken with
11 them about this, they -- Andy said, no, just when, you
12 know, they got their building permit to put it up.

13 But to me, that's a -- that's a big concern,
14 too. I mean, they're not that far away, when you
15 think about it.

16 CHAIRPERSON MIETZ: Okay.

17 MR. DiSTEFANO: One thing I'd like -- I'd
18 like to add?

19 CHAIRPERSON MIETZ: Yeah, go ahead, Rick.
20 Go ahead.

21 MR. DiSTEFANO: One thing I'd like to add,
22 that possibly with some of the stuff that was
23 discussed tonight, the -- the doorway out of the break
24 room, an automatic alarm system. I don't know if
25 those things were discussed with the fire marshal. I

1 don't know if those things just came out of tonight's
2 meeting.

3 Some additional fire safety construction
4 efforts might help the fire marshal to get more on
5 board with this, too. I don't know.

6 CHAIRPERSON MIETZ: Okay. Well, that's
7 certainly a possibility, because we're -- we can't
8 speak for --

9 MS. DALE: Yeah, I -- I think you're -- I
10 think you're right, Rick. That like, the door out of
11 the break room was not in the plan. You know, the
12 door to -- to that's exterior right outside. I don't
13 believe that was in the plans submitted.

14 MR. DiSTEFANO: No, it wasn't.

15 MS. DALE: So if -- if that wasn't in the
16 materials that we got, that very well may be a -- a
17 new item that the fire marshal hadn't -- isn't aware
18 of.

19 CHAIRPERSON MIETZ: Right. Well, I think --
20 let's -- let's try to wrap this and -- and suggest. I
21 mean, again, certainly to table it for them to give
22 more financial information on the cost, and also to
23 encourage some updated discussion, because, again, I
24 -- I don't think they considered the monitoring based
25 on the way they answered my question. So, I think

1 that's probably a new thing also. And, you know, that
2 certainly might, you know, give Chris some different
3 level of comfort.

4 Again, we can't speak for him, but you know,
5 as long as we're giving them some tangible direction
6 here, which is what we try to do when we're tabling
7 something. Then if the rest of you would support
8 that, then it would seem like it could make sense to
9 give them one more opportunity, I guess.

10 MS. SCHWARTZ: The only other thing and
11 concern of mine is that none of this is really adding
12 to the safety of the neighbors. I mean, it's for the
13 structure and the people who are working there, but we
14 really haven't given any consideration as to how this,
15 and it can't in my opinion, you know, safeguard the
16 neighbors.

17 CHAIRPERSON MIETZ: Well, I'm not sure about
18 that, Judy, because again, if you look at the -- at
19 whatever mitigations that they might be able to come
20 up with -- not the cost, but the mitigations that
21 Chris Roth could review, and maybe have some opinion
22 about, would really do that.

23 And whether they do it enough to make us
24 feel comfortable or not, is another story. But I
25 don't think it's fair to say that they wouldn't

1 improve it, because they probably would, because they
2 would be more than what they're posing now. Okay.

3 MS. TOMPKINS WRIGHT: I would suggest too,
4 that having a fire alarm automatically connected and
5 calling the fire department will, you know, when there
6 is a fire on the property, is protection for the
7 neighbors as well because it gets --

8 CHAIRPERSON MIETZ: Right.

9 MS. TOMPKINS WRIGHT: Yeah.

10 CHAIRPERSON MIETZ: Yeah. Because I think
11 the big issue here is this is, you know, probably if
12 you look at the total amount of hours of, you know,
13 seven days a week, a great amount of this time is
14 going to be an unattended building. So I think, you
15 know, that's part of the reason when you have
16 something unattended, that there is some way to
17 monitor it. 'Cause, obviously, people aren't going in
18 and out of it all the time.

19 Okay. All right. So do -- do we have
20 support to table this? Is there anyone who thinks
21 that's not a good idea?

22 MS. SCHWARTZ: I'm not thrilled. I -- I
23 mean, I would deny it.

24 CHAIRPERSON MIETZ: Okay. How about anyone
25 else? Anyone else object to tabling?

1 MS. WATSON: I do think it would be helpful
2 to have a quantification of the hardship.

3 CHAIRPERSON MIETZ: Okay. And I -- I do
4 agree also, Jen.

5 Jen, would you -- are you okay to do a table
6 motion for this?

7 MS. WATSON: I think so.

8 CHAIRPERSON MIETZ: Can help you if you
9 needed it. It can be a pretty simple.

10 MS. WATSON: Yeah.

11 CHAIRPERSON MIETZ: Because I think we know
12 what the two issues are that we'd like to hear. So.

13 MS. TOMPKINS WRIGHT: Jen, if you want, I
14 can do it, too.

15 MS. WATSON: Thank you, Andrea. Yeah.

16 CHAIRPERSON MIETZ: Okay. Go ahead, Andrea.
17 That would be great.

18 MS. TOMPKINS WRIGHT: I move to table
19 Application Number 11A-02-20 to provide the applicant
20 with an opportunity to consider additional mitigation
21 efforts and discuss with the town fire marshal, and to
22 present a more detailed explanation and quantification
23 of the hardship in installing a sprinkler system at
24 the property.

25 MS. WATSON: Second.

1 MR. DiSTEFANO: Just before we make a motion
2 or -- or call the roll. Do we want to reopen that
3 public hearing, Dennis?

4 CHAIRPERSON MIETZ: I don't think there is a
5 problem with reopening it, no.

6 MR. DiSTEFANO: Okay. So the -- the motion
7 is to table, and keep the public hearing open.

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1 APPLICATION 11A-02-20

2 11A-02-20 Application of the Country Club of
3 Rochester, owner of property located at 2935 East
4 Avenue, for a variance from Section 73-29 (Structures
5 required to have an automatic fire sprinkler system)
6 in accordance with Section 73-34, to allow for the
7 construction of a maintenance building without the
8 installation of an automatic sprinkler system as
9 required by code. All as described on application and
10 plans on file.

11 Motion made by Ms. Tompkins Wright to table
12 Application 11A-02-20, and keep the public hearing
13 open to provide the Applicant with an opportunity to
14 consider additional mitigation efforts, and discuss
15 with the Town Fire Marshal, and to provide a more
16 detailed explanation and quantification of the
17 hardship in installing a sprinkler system at the
18 property.

19 (Second by Ms. Watson.)

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

23 (Upon roll call, motion to table keeping the
24 public hearing open carries.)

25

1 CHAIRPERSON MIETZ: Okay. Sounds good. So
2 hang onto your packet on that, and then we'll see what
3 else the gentlemen can add.

4 All right. When you're ready, Rick?

5 MR. DiSTEFANO: Number 11A-03. Go ahead.

6 CHAIRPERSON MIETZ: Very good. All right.
7 So this is Whitestone Lane with the mudroom addition.

8 And thoughts here? Anyone have any concerns
9 about this?

10 MS. DALE: I think it's fine.

11 CHAIRPERSON MIETZ: Yeah. And I looked at
12 it as well. I think it's fine. Andrea, you look like
13 you're going to say something?

14 MS. TOMPKINS WRIGHT: I'm okay with it, but
15 I don't like the kind of reliance on this being "such
16 an oddly shaped parcel." It's kind of shaped the way
17 every parcel on a, you know, roundabout or -- or
18 whatever these are called.

19 CHAIRPERSON MIETZ: Cul-de-sac.

20 MS. TOMPKINS WRIGHT: Yeah. Cul-de-sac, is
21 shaped. It felt like a stretch of an argument.

22 But I -- I do like the fact that it, and I
23 -- I confirmed it on Google Earth, it does look like
24 it won't extend any farther than the neighboring
25 property. You won't see it.

1 CHAIRPERSON MIETZ: I think that's true.

2 MS. TOMPKINS WRIGHT: I just didn't love
3 that argument.

4 CHAIRPERSON MIETZ: Okay. Well, you've got
5 to give her a chance. She wasn't an attorney, so you
6 know what I mean. Okay.

7 MS. TOMPKINS WRIGHT: Well, part of that,
8 too, is I'd rather you not put irregularly shaped
9 parcel in the approval, because that doesn't seem
10 accurate to me.

11 CHAIRPERSON MIETZ: Well, you can negotiate
12 that with Ms. Dale.

13 MS. TOMPKINS WRIGHT: Maybe mildly, maybe
14 mildly irregular shaped, or something.

15 MS. DALE: Okay.

16 CHAIRPERSON MIETZ: How about irregularly
17 irregular? That's a medical term. Okay.

18 All right. So does anyone else have any
19 mild objections to this?

20 All right. Go right ahead, Ms. Dale.

21 MS. DALE: All right. Well, I had used the
22 word abnormal, so I'll have to think about -- about
23 how to change that a little bit.

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1 APPLICATION 11A-03-20

2 11A-03-20 Application of Bridget Carney,
3 Edge Architecture, and Catherine Humphrey and
4 Richard Truesdale, owners of property located at
5 38 Whitestone Lane, for an Area Variance from
6 Section 205-2 to allow an addition and covered porch
7 to extend 20 feet into the 60 foot rear setback
8 required by code. All as described on application and
9 plans on file.

10 Motion made by Ms. Dale to approve
11 Application 11A-03-20 based on the following findings
12 of fact:

13 **FINDINGS AND FACTS:**

14 1. The property owner desires to add a first floor
15 mudroom with covered patio and second floor bedroom
16 and bath, that would extend past the rear setback at
17 8 feet at minimum and 12 feet at max.

18 2. The lot has a rear setback, which runs along the
19 rear of the house at an angle, and there is no
20 practical functional location for an addition without
21 a variance. The requested rear setback variance is
22 the minimum necessary to allow the property owner to
23 improve the functionality and enjoyment of their home.

24 3. After the addition, the livable floor area of the
25 house will still be below the maximum allowed, and the

1 variance request will not result in a substantial
2 change to the character of the neighborhood or be a
3 detriment to nearby properties. The addition will be
4 partially hidden by the house, and so will be
5 minimally visible from the street.

6 4. The proposed variance is consistent with
7 surrounding properties, and would not have an adverse
8 impact on the physical or environmental conditions of
9 the neighborhood.

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1 MR. DiSTEFANO: Can I just suggest something
2 in regards to that?

3 MS. DALE: Of course.

4 MR. DiSTEFANO: A large portion of the
5 requested variance is a covered, unenclosed porch that
6 will have minimal impacts.

7 MS. DALE: Okay.

8 MR. DiSTEFANO: Some -- something words to
9 that effect.

10 MS. SCHWARTZ: Yeah, that's good.

11 MS. DALE: Okay. No, I like it. So that
12 would be Number 5. So it would be, you said, a large
13 portion of the requested variance is for a covered
14 porch -- or is for a single-story covered porch.

15 MR. DiSTEFANO: I would say -- I would say
16 unenclosed covered porch. And then we might want to
17 condition it that that covered porch remains
18 unenclosed.

19 MS. DALE: Okay.

20 MS. TOMPKINS WRIGHT: Patio. To that --

21 MR. DiSTEFANO: I'm sorry, yeah, covered
22 patio, not covered porch. I'm sorry.

23 MS. DALE: Oh, thank you.

24 MR. DiSTEFANO: Patio.

25 MS. DALE: Okay. So a large portion of the

1 requested variance is for an unenclosed, covered
2 patio.

3 MR. DiSTEFANO: Which would have a -- which
4 would have less of an impact on neighboring
5 properties.

6 MS. DALE: Okay. Thank you.

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1 5. A large portion of the requested variance is for
2 an unenclosed covered patio for a single-story covered
3 porch, which would have less of an impact on
4 neighboring properties.

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1 CHAIRPERSON MIETZ: All right. How about
2 your conditions then?

3 MS. DALE: All right. Well, so I guess one
4 condition, quickly then, would be the -- the proposed
5 unenclosed covered patio shall remain --

6 CHAIRPERSON MIETZ: Unenclosed.

7 MS. DALE: -- Unenclosed.

8 MR. DiSTEFANO: Well, let -- let's just do
9 it with the -- the typical that the -- the variance
10 applies only to the plans.

11 CHAIRPERSON MIETZ: Just in order, you're
12 talking?

13 MR. DiSTEFANO: Yeah, but then --

14 MS. DALE: Oh, like, with no changes?

15 MR. DiSTEFANO: Just hear me out on this
16 one.

17 MS. DALE: Sure.

18 MR. DiSTEFANO: The -- the variance applies
19 only to the addition as per plans submitted and
20 testimony given, and as shown on plans, that's a --
21 shown on plans submitted and per testimony given, in
22 particularly -- in particular, the covered porch shall
23 be unenclosed.

24 MS. SCHWARTZ: Patio.

25 CHAIRPERSON MIETZ: Patio.

1 MR. DiSTEFANO: I'm sorry, patio.

2 CHAIRPERSON MIETZ: Patio.

3 MR. DiSTEFANO: Thank you, Judy.

4 MS. SCHWARTZ: Yeah, because that's even
5 less of an impact than a porch, really.

6 CHAIRPERSON MIETZ: Right.

7 MR. DiSTEFANO: Right.

8 MS. DALE: Sure. Sure. No, Rick, thank you
9 for your help.

10 CHAIRPERSON MIETZ: What else do you have on
11 conditions?

12 MS. DALE: I -- I didn't -- I was relying on
13 Rick's help for conditions.

14 CHAIRPERSON MIETZ: Okay. Well --

15 MR. DiSTEFANO: So then let's just add
16 number two, all necessary building permits shall be
17 obtained.

18 CHAIRPERSON MIETZ: Okay. Very good.

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1 | CONDITIONS :

2 1. The variance applies only to the addition as shown
3 on plans submitted and testimony given, in particular,
4 the covered patio shall be unenclosed.

5 2. All necessary building permits shall be obtained.

6 (Second by Ms. Schwartz.)

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

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1 CHAIRPERSON MIETZ: So we're moving over to
2 Antlers and Elmwood, with the fence.

3 Any concerns here?

4 MS. TOMPKINS WRIGHT: No, but I do think we
5 should really make sure there's a fact regarding it
6 being the same height and the same architectural side
7 -- style as the neighboring property, which also has a
8 fence line along Elmwood Avenue.

9 CHAIRPERSON MIETZ: I think I've got that
10 covered.

11 MS. TOMPKINS WRIGHT: Okay.

12 MR. DiSTEFANO: Do you want to condition
13 that to the same height? I mean, if they decided that
14 they were going to go a little lower or --

15 MS. SCHWARTZ: I don't think they're putting
16 the opening on theirs. I think it's stopping below
17 that, isn't it?

18 And they just have the posts that will be a
19 little bit high. But I -- I didn't think the top all
20 the way across was going to be quite as high as the
21 neighbor. I could be wrong, but when I stopped,
22 that's what she said, I thought.

23 CHAIRPERSON MIETZ: Well, I think the
24 profile of it would probably look the same, but --

25 Actually, Rick, I think maintain --

1 personally, I think maintaining the height makes more
2 sense. I think having it lower would make it look
3 worse, personally.

4 MR. DiSTEFANO: I -- I understand that, but
5 I -- we have to go by the variance that was requested,
6 and I didn't --

7 CHAIRPERSON MIETZ: That's correct.

8 MR. DiSTEFANO: -- I didn't -- if it ends up
9 being a little higher next to it, that was not what
10 was requested or advertised as.

11 CHAIRPERSON MIETZ: Okay. But I think you
12 said you advertised six and a half, and they said six.

13 MR. DiSTEFANO: Right. I don't know how big
14 that -- that fence is. Well, I went by the posts. I
15 was going by the posts.

16 CHAIRPERSON MIETZ: Yeah, with the top --
17 the top of those posts. Yeah.

18 MR. DiSTEFANO: Right. I don't know how
19 tall that fence is next door.

20 CHAIRPERSON MIETZ: Okay. Well, obviously,
21 we can't negotiate it. So I think, you know, we can
22 either suggest we have to do it one way or the other,
23 because there's only two choices. This is the maximum
24 height, and live with it if it's a little lower. I
25 mean, I think that's, really, the only way you can do

1 it. I think.

2 MR. DiSTEFANO: Right. Right.

3 MS. SCHWARTZ: And wouldn't it just be,
4 really, inches? I mean, we're not talking a foot
5 or --

6 MR. DiSTEFANO: Yeah.

7 CHAIRPERSON MIETZ: No.

8 MR. DiSTEFANO: I don't think you'd even
9 notice.

10 MS. SCHWARTZ: It's going to be minimal.

11 CHAIRPERSON MIETZ: No.

12 MS. SCHWARTZ: So it may not even be, you
13 know, that noticeable.

14 CHAIRPERSON MIETZ: Okay. Are we all set?

15 MS. SCHWARTZ: Yeah.

16 CHAIRPERSON MIETZ: Okay. Let me give it a
17 whirl.

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1 APPLICATION 11A-04-20

2 11A-04-20 Application of John Inzinna and
3 Jaclyn Whitney, owners of property located at
4 325 Antlers Drive, for an Area Variance from
5 Section 207-2A, to allow a front yard fence to be
6 6.5 feet in height, in lieu of the maximum 3.5 feet
7 allowed by code. All as described on application and
8 plans on file.

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

12 **FINDINGS AND FACTS:**

13 1. The proposed fence will be approximately 57 feet
14 from Elmwood Avenue, which will mitigate the
15 additional height.

16 2. The proposed fence will be a wood material, which
17 will match the neighbor's fence in style and height.

18 3. No unacceptable changes to the character of the
19 neighborhood would likely result in the approval of
20 this variance, since similar fencing is used on the
21 adjacent property.

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1 CHAIRPERSON MIETZ: Okay. Conditions. That
2 this fence -- this variance is based on the testimony
3 given and plans submitted, specifically for the style
4 and location of this fence, and the maximum height of
5 six feet.

6 MS. SCHWARTZ: I just have a comment,
7 though? Are we locking them into the style? I think
8 it's going to match, certainly, in material, but I
9 don't know --

10 MR. DiSTEFANO: No, not the style of the
11 neighbor's fence. The style that they just showed us
12 in their application.

13 MS. SCHWARTZ: That's what you're referring
14 to, Dennis?

15 CHAIRPERSON MIETZ: Yeah, I'm referring to
16 what the testimony, and what the --

17 MS. SCHWARTZ: Okay. I just want to be
18 clear on that. Okay.

19 CHAIRPERSON MIETZ: Yeah.

20 MR. DiSTEFANO: And, Dennis, could you just
21 say 6.5, not 6?

22 CHAIRPERSON MIETZ: Yes. Yeah, maximum
23 height of 6.5 feet.

24 MR. DiSTEFANO: Okay. Thank you.

25 CHAIRPERSON MIETZ: All right. Two. All --

1 what do you need, building permits? That's it?

2 MR. DiSTEFANO: Yeah, all -- all necessary
3 building permits shall be obtained.

4 CHAIRPERSON MIETZ: Okay. And then I -- I
5 don't know if we want to add something that says --
6 attempts to mitigate the fence with landscaping? I
7 mean, we can't -- they didn't really come up with
8 anything specific, so I'm not sure what it really
9 means.

10 Clearly, you heard in the testimony, he said
11 that he was going to do something. But I don't really
12 feel that concerned about it, but I don't know about
13 the rest of you?

14 MS. SCHWARTZ: Yeah. I have a feeling they
15 would do it regardless of whether we --

16 CHAIRPERSON MIETZ: Yeah. We just can't
17 really condition it on anything. One -- one bush
18 would not be mitigation, you know. Okay. All right.
19 So I guess I'm done then.

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1 CONDITIONS:

2 1. The variance is based on the testimony given and
3 plans submitted, specifically for the style and
4 location of this fence, and the maximum height of
5 6.5 feet.

6 2. All necessary building permits shall be obtained.

7 (Second by Ms. Schwartz.)

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

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

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1 CHAIRPERSON MIETZ: Okay. All right. So
2 we're -- we're down to getting to the old business.
3 Does anyone need, like, a five-minute break here --

4 MS. SCHWARTZ: Could we?

5 CHAIRPERSON MIETZ: -- before we start?

6 MS. SCHWARTZ: Could we?

7 CHAIRPERSON MIETZ: Yes, we could.

8 MS. SCHWARTZ: Okay. Thank you.

9 CHAIRPERSON MIETZ: Let's try to keep it to
10 around five minutes so we can move along, okay?

11 MS. SCHWARTZ: Yes, sir.

12 CHAIRPERSON MIETZ: It's 8:28.

13 (A short recess was then taken.)

14 CHAIRPERSON MIETZ: Okay. So -- so we have
15 two pieces of old business. We have Application
16 9A-04-20, requesting, you know, an appeal. And then
17 we -- so I guess we'll -- we can certainly start with
18 that one, and then we can move to the second one then.

19 Rick, I -- I don't know if you have any
20 feelings about it? They're certainly very similar
21 applications. How do you feel about discussing them?
22 Should they be discussed independently, I don't know,
23 or --

24 MR. DiSTEFANO: No, I -- I don't think so.
25 There's enough commonality between those two

1 applications, that I think we can discuss them as one.
2 If and when we make motions, I think that's when we
3 would split them out. So there might be a little bit
4 of nuance between the two of them, but I think for
5 discussion purposes, we'll just handle it as, you
6 know, one application at this point.

7 David, do you agree with that?

8 MR. DOLLINGER: Yeah, that -- yes, I -- I
9 totally agree. I think there's a significant, you
10 know, five or six of the issues are almost the same in
11 each of the applications.

12 MR. DiSTEFANO: Do you want to kind of start
13 this off with the Board?

14 MR. DOLLINGER: Who? Are you saying to me,
15 or --

16 MR. DiSTEFANO: Yes, I'm saying that to you.

17 CHAIRPERSON MIETZ: Yeah, David, why don't
18 you go ahead.

19 MR. DOLLINGER: Yeah. I -- I think that the
20 -- the proposed resolutions and findings of facts
21 supporting those resolutions were forwarded out to you
22 guys, you know, this -- you know, today. Today at
23 some time.

24 And it sets out -- it's a lot, but you know,
25 in the context of where the Board is with respect to

1 this particular application, there are a lot of
2 allegations of fact. And as a consequence, there's a
3 requirement to -- which is unusual in our
4 applications. We usually have three or four basic
5 facts, you know.

6 This one has a lot of factual allegations
7 that need to be responded to by the Town. And -- and
8 that's -- - that's, essentially, what's in this
9 document. Is an analysis of the -- the arguments and
10 the factual assertions by the proponents of the -- of
11 the -- of the application. And this is the Town's
12 response factually. And also not only factually, but
13 also with respect to our conclusions, proposed
14 conclusions, regarding the application.

15 I'm -- I'm willing to hear anyone's comments
16 on it. I'm willing to hear anyone's comments that
17 portions of it are not correctly decided. I'm willing
18 to hear what anybody has to say.

19 But at this point, this is a proposal for an
20 affirmative, you know, denying the application.

21 So, do you have anything to add to that,
22 Dennis?

23 CHAIRPERSON MIETZ: Just quickly. I mean,
24 again, you know, we -- that's a fine way to look at
25 it, you know. However, if people would like to

1 discuss each one of the individual ones and say, yes,
2 we're all in agreement or whatever, that's fine, too.
3 But.

4 MR. DOLLINGER: Well, I'm a hundred percent.

5 CHAIRPERSON MIETZ: Yeah.

6 MR. DOLLINGER: Dennis, I'm not trying to --

7 CHAIRPERSON MIETZ: No, no, I understand
8 that.

9 MR. DOLLINGER: I'm trying to give a little
10 overview as to what the --

11 CHAIRPERSON MIETZ: Yeah.

12 MR. DOLLINGER: -- documents are.

13 CHAIRPERSON MIETZ: Yeah, well, we could
14 talk about Number 3 or Number 7 or Number 5 or --

15 MR. DOLLINGER: No question about it.

16 CHAIRPERSON MIETZ: Andrea, what's your
17 thought? Go ahead.

18 MS. TOMPKINS WRIGHT: I would say that I
19 think a lot of these things are -- have either been
20 withdrawn or -- not really -- because the facts
21 probably don't support any kind of argument.

22 And the two main arguments I think we should
23 discuss as a Board are the cross-access-easement issue
24 and the phased-construction issue.

25 For me, those are the two ones that I think

1 -- that deserve a more in-depth discussion. Than,
2 say, for instance, the letter of credit issue, which,
3 you know, both sides have sort of shown that they've
4 -- or the towns, that they've gotten the letters of
5 credit, and it looks like, you know --

6 CHAIRPERSON MIETZ: Yeah.

7 MS. TOMPKINS WRIGHT: -- that's
8 been accepted.

9 CHAIRPERSON MIETZ: Factual thing, right.

10 MS. TOMPKINS WRIGHT: Yeah. Approvals for,
11 you know.

12 I should say the other issue that I think,
13 with, maybe, a little nuance and should be discussed,
14 is the certification of the site plan.

15 That -- that -- but a lot of these other
16 ones, I don't think we need to spend a ton of time on
17 because they've either been withdrawn or there really
18 isn't a factual basis based on --

19 MR. DOLLINGER: I --

20 MS. TOMPKINS WRIGHT: -- the towns provided.

21 MR. DOLLINGER: Actually, I would just throw
22 this out there, and you can -- I -- I think the
23 building certification, the cross-access easements,
24 State and local County approvals, the construction
25 sequencing, and the pedestrian easements appear, to

1 me, to be the five truly common arguments that are in
2 -- in the -- in the Applicant's papers.

3 And then I think BGR has a little bit more
4 on the trail amenity, and some of the zoning argument
5 regarding the setbacks. But -- but those are
6 particular to them.

7 But it seems to me those are the five
8 common, you know, proposals that the -- go on, Dennis,
9 what's that?

10 CHAIRPERSON MIETZ: I guess, though that,
11 you know, Andrea's just proposed something here which,
12 you know, I don't disagree, that those are probably
13 the two most, you know, interesting -- I don't know
14 interesting is the right word. Ones to discuss.

15 But, you know, do the rest of the Board
16 Members feel that they want to discuss other ones, or
17 are they comfortable after reading these assertions
18 that, you know, that the -- a lot of these other
19 things are really matters of fact, and really don't
20 require a discussion?

21 Because I don't disagree with David that
22 there's other things to be discussed, but you know,
23 there's a lot of, you know, factual things that have
24 been discussed in here. So.

25 MS. SCHWARTZ: Right. I agree with what

1 David prepared about the certification and the
2 State/County permits. And then as we've said, the
3 cross easements. To me, those are the major ones, and
4 pretty much concur with Andrea.

5 MR. DiSTEFANO: Why don't we just then, at
6 this point, just kind of start going through one of
7 the resolutions, and just hit those main topics? And
8 if we feel that that's good, we'll just move on to the
9 next one?

10 CHAIRPERSON MIETZ: Okay. That's fine.
11 'Cause let's -- in deference of time, let's get it
12 moving here.

13 So, I -- I think we're pretty much all
14 agreed that the irrevocable letters of credit, that's
15 an issue that's been resolved. So.

16 Why don't we talk about the cross easements?
17 Andrea, do you want to open that discussion a little?

18 MS. TOMPKINS WRIGHT: Sure. I mean, I would
19 say that I was probably pretty vocal at the hearing
20 about this.

21 CHAIRPERSON MIETZ: Yes.

22 MS. TOMPKINS WRIGHT: On this one. And here
23 -- here is how I would explain it.

24 The Town's job is to make sure that the
25 cross-access easements submitted, on their face, do

1 what they're supposed to.

2 So the Town should look at, are they placed
3 in the right location? Do they actually -- are they
4 -- are they, you know, purported to be signed by the
5 owner of the property giving those rights away?

6 And you know, even in -- in one of the
7 exhibits that one of the Applicants did, were emails
8 going back and forth with the Town's Attorney and the
9 Attorney for the Applicant, where they said, you know,
10 hey, I'm a little concerned about the maintenance
11 obligations in these easements.

12 I would say that that Town's role, I really
13 believe that any kind of review past that document on
14 its face is wholly outside the scope of what the Town
15 is supposed to do to confirm those easements. To
16 suggest that they read every word of every mortgage,
17 or any recorded document, to see if there is some
18 restrictions, private restrictions, on a party to be
19 able to contract for, I think that's outside the scope
20 of what any Town should be ever required to do.

21 I also would suggest that this restriction,
22 they didn't sell the right to put a mortgage -- or to
23 put an easement on the property. They agreed not to,
24 which means that they probably did default on their
25 mortgage by giving this easement. But it doesn't mean

1 that the easement is meaningless. Vis-à-vis the
2 property owner of that easement is still valid,
3 recorded. Anyone who tries to buy this property in
4 the future will have a copy of that easement provided
5 to them, as if it affects the property. Every survey
6 -- until it's foreclosed upon, and that easement is
7 terminated, every survey will show that easement and
8 its location on it.

9 I -- I don't know what the word valid means
10 when it comes to an easement, but I would suggest
11 that's what it means, and it is, in fact, valid.

12 So that would be my thinking on that matter.

13 CHAIRPERSON MIETZ: Okay. Yeah. And again,
14 the other part of it is, when you start reaching into
15 what -- what other issues related to the underlying
16 mortgages and things are, and what somebody could
17 assert related to these easements, I don't think
18 that's the Town's responsibility either.

19 Okay. So, David, do you have anything to
20 add to this one?

21 MR. DOLLINGER: Oh, I -- I would really
22 second that emotion. And, yeah. I mean, you're going
23 to be able to drive over this easement. It -- whether
24 there's a mortgage there or not, it's -- it's an
25 easement. So that's -- that's all I would say.

1 CHAIRPERSON MIETZ: Okay. All right. Does
2 any of the other Board Members have concerns about
3 this one?

4 MR. DiSTEFANO: So let me ask you -- and I
5 -- I know, Andrea, you probably went through this
6 pretty good. Are you happy with the way it's written
7 in this resolution? This portion of the easements?

8 MS. TOMPKINS WRIGHT: Yeah. I mean, I
9 suggested -- I have some language changes, and part of
10 it is because if I'm making a motion, I'm not going to
11 quote myself. I would love to quote myself. I feel
12 like that -- it would really play into my ego, but
13 that's probably not an appropriate thing.

14 So that was -- I kind of went through and
15 fussed a little bit with the language, but the
16 sentiment is dead on.

17 But I also want to talk about kind of a more
18 global issue, which is, you know, their citing of
19 legal cases in here and references to specific
20 exhibits in the record. That is beyond the scope of
21 what we have done before. So I kind of want to talk
22 about how we want to accomplish that. Just as this
23 would be a significantly more complicated, more
24 voluminous, look more like a legal document than what
25 our approvals traditionally look like.

1 CHAIRPERSON MIETZ: David, you want to --

2 MR. DOLLINGER: Yeah, I don't disagree with
3 that. But again, I go back to the fact that it's a
4 unique case. I mean, we have not seen an application
5 where, you know, it's probably, what, almost a foot
6 tall of allegations, with six separate filings.

7 And I -- I think that the response is -- is
8 appropriate to the -- I think the detailed response is
9 appropriate to what we're dealing with in the context
10 of -- of what's been presented to us.

11 And I do, I agree with you, I get -- I get
12 that it's different, but I think this situation is
13 different. It's a different -- I mean, clearly, it's
14 different than any other application we've almost ever
15 seen. Where pages and pages of -- of unfortunately,
16 really, a lot of factual allegations, too, that need
17 to be at least, you know, talked upon.

18 MS. TOMPKINS WRIGHT: Yeah. Well, like,
19 here's an example. This is something that I struck
20 out for, if I'm going to be, you know, presenting an
21 approval. The burden of proof issue. That -- that
22 the Applicant has to hold the burden of proof.

23 I would say -- and that we found that they
24 haven't met it's burden of proof based on, you know, a
25 Second Department case. I -- I would say that -- that

1 I wouldn't put that in this approval. I think that
2 that would go in the, if -- if we do approve this, as
3 we talk about each issue to see -- because maybe Board
4 Members feel differently on -- on other issues, too,
5 which would, obviously, change our opinion.

6 But that's something that I would choose to
7 leave out, and instead have the burden of proof,
8 jurisdiction, those kinds of issues, be done by the
9 attorneys defending approval.

10 MR. DOLLINGER: Well, I really don't agree
11 with that at all though, Andrea, actually. That --
12 that part of it I really would -- I think that's an
13 essential finding because, really, ultimately, that's
14 what the result here is, that you have a burden of
15 proof, and you haven't met it.

16 Remember, we're like a Court. I mean, in
17 this instance, we're sitting, you know, we're the
18 judge. And -- and you wouldn't be surprised if a
19 judge looked over to you and said, hey, I don't think
20 -- you know, you have the burden of proof, and you
21 haven't met it. I mean, that's, like, fundamental to
22 the decision.

23 So, yeah, I don't think we usually go into
24 that, but I think, unfortunately, in this context,
25 it's very important language to -- to accomplish for

1 what I think we need to do. You know what I'm saying?

2 MS. TOMPKINS WRIGHT: Is it an issue --

3 MR. DOLLINGER: I get it.

4 MS. TOMPKINS WRIGHT: Yeah. Is it an issue
5 to cite cases in our arguments that were not actually
6 presented in the documents submitted to us? Like, for
7 instance, you know the --

8 MR. DOLLINGER: Like where -- where would
9 you find that? Where would you see that? Just give
10 me an example.

11 MS. TOMPKINS WRIGHT: Yeah, 36.

12 CHAIRPERSON MIETZ: Yeah, 35 or 36, right.
13 Thirty-five especially.

14 MS. TOMPKINS WRIGHT: Oh, you know what, I
15 may have added a number. I added some numbers.

16 CHAIRPERSON MIETZ: It's 35.

17 MS. TOMPKINS WRIGHT: Sorry. Mine doesn't
18 look like everyone else's, maybe, now.

19 CHAIRPERSON MIETZ: No, it's 35.

20 MS. TOMPKINS WRIGHT: That was part of my
21 thought, too, was we're citing case law, and, you
22 know, tort -- I've been out of practice too long. But
23 I just -- if it hasn't been submitted to us, can we
24 cite it?

25 Obviously, we can sub -- cite all of the

1 documents that have been presented. Which on numerous
2 cases have been, we're pointing out, you know, emails,
3 we're pointing out documentation that's been submitted
4 by either party. But those are things that were
5 actually submitted by Applicants or the Town in their
6 support either way. And I don't know the answer to
7 that, that's why I'm sort of asking.

8 MR. DOLLINGER: Well, I -- I guess I have
9 two -- two questions on that. And again, it's
10 something we all can discuss.

11 But my first would be, I don't know what the
12 harm really is.

13 And secondly, it's -- it's almost like
14 traditional notice, where it is -- it just is out
15 there, and it is what it is. It doesn't need to be in
16 front of us, necessarily, to comment on it, because
17 it's out there. It's -- it's back there, it's a case.

18 They have so many cases that they've cited
19 in their -- yeah, it's the same thing. It's whether
20 or not it's a proportionate response, would be my
21 response. You know what I mean?

22 CHAIRPERSON MIETZ: Well, you would -- you
23 would regard it as just good counsel, that, you know,
24 there's -- there's an issue here that supports this
25 position, and --

1 MR. DOLLINGER: Correct.

2 CHAIRPERSON MIETZ: -- it's out there and
3 available and you know, that's --

4 MR. DOLLINGER: Correct.

5 CHAIRPERSON MIETZ: That's kind of the way I
6 read it, you know, not --

7 MR. DOLLINGER: Right. Particularly in
8 response to their -- you know, their claims and their
9 citations --

10 CHAIRPERSON MIETZ: Right.

11 MR. DOLLINGER: -- of the law. We don't
12 agree with that. This is what we're -- we're using
13 this as some of the basis of our facts.

14 CHAIRPERSON MIETZ: Okay. Andrea, though,
15 you -- you do have some concerns about, probably, 36?
16 And there's another reference in there.

17 Now, do you have some proposed thought about
18 how you would like to do that differently? Related
19 comments, you know, maybe related to your comments?

20 MR. DiSTEFANO: Take your name out.

21 MR. DOLLINGER: Yeah, I guess -- boy, I
22 don't have a problem having you make a motion where
23 you cite yourself. I have no problem with that at
24 all.

25 And in fact, I think it's kind of important.

1 It's cogently stated, and it's really the -- you said
2 it again tonight, it's the nub of the argument. I
3 mean, a lot of it, you know. So I don't have a
4 problem with you describing what you've said at the
5 last meeting. I have no problem with that at all.
6 And I think you gotta kind of take it in context to
7 what we're trying to accomplish, you know.

8 MS. TOMPKINS WRIGHT: Yeah.

9 CHAIRPERSON MIETZ: I think it would be as
10 simply, really, as instead of Board Member Wright, as
11 "I" stated, because you did state those things.

12 Do you agree that is what you stated, there
13 is no issue with what's represented here about what
14 your comments were?

15 MS. TOMPKINS WRIGHT: I -- without the
16 transcript, I couldn't say word for word, but that --
17 that was definitely the gist of everything that I
18 said.

19 Well that, I guess that was my other thought
20 is that we don't have the transcript yet, and it would
21 be nice to be able to quote directly from the
22 transcript, and confirm that. But you know, 'cause I
23 just haven't seen it yet.

24 CHAIRPERSON MIETZ: I don't know what your
25 thought there is, David, 'cause it's just -- it's not

1 available, right?

2 MR. DOLLINGER: Yeah, I -- I don't have a
3 real responsive thought to that. I mean, if you think
4 you need that, that's something that we should
5 probably know.

6 MR. DiSTEFANO: I mean, they don't have you
7 quoted in here.

8 MR. DOLLINGER: That is correct. I don't
9 believe you are actually quotation mark quoted.

10 MR. DiSTEFANO: No.

11 CHAIRPERSON MIETZ: No, there's a few there.

12 MR. DOLLINGER: Oh, there is, yep.

13 CHAIRPERSON MIETZ: Yes, there is.

14 MR. DiSTEFANO: Oh, yeah.

15 MS. TOMPKINS WRIGHT: There's a couple.

16 MR. DiSTEFANO: I missed that one.

17 MS. TOMPKINS WRIGHT: There's at least two.

18 I know -- I know of at least two places where there is
19 quote marks. Which sounds like things that I said,
20 but I talk so much, who knows. I can't keep track of
21 it all.

22 CHAIRPERSON MIETZ: Well, I guess the bottom
23 line here is, we're not necessarily inferring here
24 this is exactly -- exactly what you said. But I know,
25 I guess it says, as Board Member Wright stated. Is

1 you know, again, if -- if the flavor of what's here,
2 Andrea, is not a misrepresentation of what your
3 thought is -- because I'm sure your thought hasn't
4 changed on this from last month?

5 MS. TOMPKINS WRIGHT: No.

6 CHAIRPERSON MIETZ: No. So if that's the
7 case, then if one word is a little different, as long
8 as it's not materially --

9 MR. DOLLINGER: Yep. Or you can take -- you
10 can take --

11 CHAIRPERSON MIETZ: This is what we're going
12 to rely on, not the testimony. I mean --

13 MR. DOLLINGER: Yeah. You could take the
14 quotes out, too. I don't know why --

15 CHAIRPERSON MIETZ: Yeah, that probably.
16 And she would have to say I, anyway, and you know.

17 So I -- I guess you should read it and
18 suggest whether --

19 MR. DOLLINGER: Now, Andrea, what -- what
20 are you thinking about adding?

21 MS. TOMPKINS WRIGHT: Well, on some of it
22 wasn't really -- let's see.

23 I added -- like, well, it's my Number 30,
24 but I don't know what it is. So it might be -- it's
25 close to 30. It starts out, ZBA finds that the

1 developer was not required to obtain approval.

2 MR. DOLLINGER: Yep.

3 MS. TOMPKINS WRIGHT: I would change that to
4 the ZBA finds that the cross-access easements are not,
5 on their face, invalid for failure to obtain approval
6 from the first mortgage.

7 Because I -- I don't want to make any
8 finding about what they were required to do under the
9 mortgage. They may or may not have been required. I
10 think they were probably required but that doesn't --

11 MR. DOLLINGER: I got -- I got you. I think
12 that's a good change.

13 MS. TOMPKINS WRIGHT: Yeah. I also added,
14 like, one of the reasons my numbers are -- are off is
15 because, for instance, numeral --

16 CHAIRPERSON MIETZ: Excuse me, Andrea, can
17 you try to speak up a little bit here, please?

18 MS. TOMPKINS WRIGHT: Oh, sorry.

19 CHAIRPERSON MIETZ: Thank you.

20 MS. TOMPKINS WRIGHT: Oh, yeah. Numeral 1
21 or big I, I added, like, the SMA feels the issuance of
22 the building permit on grounds that the Town did not
23 receive required revocable letters of credit for the
24 access management plan.

25 And then I say, the Town has provided proof

1 that it received the three necessary revocable letters
2 of credit, and then this portion of the appeal is
3 denied.

4 So I did a little bit of, like, adding kind
5 of summary statements of, we're talking about letters
6 of credit because they've appealed the issuance for
7 that reason. And then why -- what was provided that
8 we're basing our decision on. And then --

9 MR. DOLLINGER: Fine. Yeah, fine with that.
10 Yeah.

11 MS. TOMPKINS WRIGHT: Yeah.

12 MR. DOLLINGER: That's totally fine.

13 MS. TOMPKINS WRIGHT: So that's -- that's a
14 lot of what I've real --

15 MR. DOLLINGER: How -- but how are we going
16 to incorporate those changes into this document, and
17 allow, at least me or the Board, to look at them and
18 kind of discuss them on your proposed change?

19 I mean, do you want to -- can you go through
20 just the -- the cross-access easement and suggest your
21 changes or --

22 CHAIRPERSON MIETZ: Okay. Well, I mean, I
23 don't see this much differently than when we all do
24 any other negotiation of, you know, how we complete
25 resolutions.

1 So you know, again, if -- if people are
2 comfortable that these are not substantive as it
3 relates to changing the opinion, and David, you're
4 commenting as well. But I guess I don't see it as any
5 different than what we do all the time. We don't --
6 we don't reread it, you know what I mean?

7 MR. DOLLINGER: No, but how are we going to
8 know? Yeah, go on, Andrea.

9 MS. TOMPKINS WRIGHT: I see this as a little
10 bit different, if they're 18, 19 --

11 MS. SCHWARTZ: We can't hear you, Andrea.

12 CHAIRPERSON MIETZ: Yeah, for some reason
13 your volume has gone way down.

14 MS. SCHWARTZ: Right. Yeah.

15 MS. TOMPKINS WRIGHT: Better now?

16 MS. SCHWARTZ: Little bit.

17 MS. TOMPKINS WRIGHT: I -- I see this as
18 different just in volume. There is a -- there is a
19 very large part of me that would like to discuss each
20 of these issues, and get group consent on the gist of
21 it. And then table it again for circulation final,
22 you know, and -- and read it next to me I would say --
23 or next month.

24 That would be -- but I wanted to make sure
25 we had -- I would say we need consensus this -- about

1 the gist of every single argument, which we didn't
2 have last month, because we were still waiting on
3 documentation.

4 CHAIRPERSON MIETZ: Of course. Of course.
5 Right.

6 MS. TOMPKINS WRIGHT: So I would think that
7 -- that would be how I would lean on this one. Only
8 because I do have, you know, I am -- I have some
9 changes, but some of it I haven't even gone through
10 and really, kind of, drilled down to see if there's
11 anything else I want to add.

12 And I just feel like if we are all sure
13 we're on the same page, the gist of the same thing, we
14 can circulate this and -- and have it ready for a
15 quick -- a quicker sans discussion next month. That's
16 my thinking.

17 CHAIRPERSON MIETZ: Well, again, if you are
18 suggesting that there's many numerous, you know,
19 substantive changes, then I guess we agree.

20 I mean, we've only talked about two of the
21 items here. So if that theme would go through the
22 rest of the document, then I guess I would agree with
23 you then.

24 MR. DOLLINGER: Yeah. I -- I think that if
25 -- if we're going to make -- if we're going to make,

1 you know, a series of changes to this document, I
2 think we need to possibly go through it tonight, and
3 then try to get comfortable that we're all on
4 precisely the same page.

5 CHAIRPERSON MIETZ: Yeah. Okay.

6 MR. DOLLINGER: Yeah.

7 CHAIRPERSON MIETZ: Yeah. The only thing,
8 Andrea, I would say, though, is that, you know, if
9 we're discussing each of these individual items, and
10 you have some semantics or things that, you know, are
11 really supportive of the agreement, whether we feel
12 this particular item should be denied or not, then I
13 don't know that we need to go through all of those
14 changes tonight. I think it would be better -- and
15 you're also stating that you haven't even done them
16 all, so.

17 You know, maybe we could go through it.
18 Unless it's something materially changing something,
19 then I don't -- I don't know what the point would be
20 of discussing it tonight, you know what I mean?

21 MS. TOMPKINS WRIGHT: I -- I was just
22 thinking that given how -- how much time we've spent
23 reviewing all these documents, we'd probably want to
24 at least touch on each of the arguments.

25 CHAIRPERSON MIETZ: No, no, that's fine.

1 I'm not disagreeing with that. I'm not.

2 All I'm saying though, is that, let's just
3 say we're talking about Item 6. And you're generally
4 supportive of it, and the rest of the Board is, but
5 there is some language that you would propose to -- to
6 make it clearer or whatnot. That, you know, to have
7 you do that tonight, I mean, if we're going to do
8 that, we might as well finish it then. You know what
9 I mean? That's all I'm saying. And I -- I don't
10 think you were quite ready to do that, you know, so,
11 in that kind of detail?

12 MS. TOMPKINS WRIGHT: Yeah. Because I think
13 we're going to be touching on some of these, touching
14 on points that are multiple pages of -- of commentary.
15 And I don't -- I don't think I will have the time, or
16 it's productive for the group to sit while I type --

17 CHAIRPERSON MIETZ: Of course.

18 MS. TOMPKINS WRIGHT: -- and formulate
19 sentences, and things like that.

20 CHAIRPERSON MIETZ: Yeah, I'm agreeing with
21 you. I am.

22 All right. Well, why don't we do this,
23 then? I mean, have you -- on Number 2, so we can keep
24 it moving here. I mean, is there anything else
25 materially you want to say about Number 2?

1 MS. TOMPKINS WRIGHT: Number 2 is the
2 cross-access easement. I mean, is anyone on the Board
3 not in agreement with -- with that argument?

4 MR. DOLLINGER: You mean the concept of
5 going through this tonight, and then trying to have
6 you draft your reso -- you know, finalize a resolution
7 for next month?

8 CHAIRPERSON MIETZ: Well, I think, David,
9 what we're kind of saying here is that we could go
10 through these each individual sections and see if
11 there's any concerns.

12 Now, if Andrea has one, and she'll offer it.
13 If somebody else does, they'll offer it. And then
14 we'll move on to the next one. Okay.

15 MR. DOLLINGER: Okay.

16 CHAIRPERSON MIETZ: I think that's what
17 we're saying. Yeah. But not try to craft the changes
18 to Number 4 or Number 2 or Number 7.

19 MS. TOMPKINS WRIGHT: Yeah. And I just
20 meant, I wanted to make sure that, you know, I don't
21 want to be the loudest voice in the room --

22 CHAIRPERSON MIETZ: That's fine.

23 MS. TOMPKINS WRIGHT: -- on the easement
24 issue --

25 CHAIRPERSON MIETZ: Right. Right.

1 MS. TOMPKINS WRIGHT: -- if other Board
2 Members disagree with that analysis. You know, but I
3 -- I have -- will be revising it and will -- or will
4 revise it to be, you know, that argument. Well, it's
5 already that argument, I just might adjust the
6 language a little bit.

7 CHAIRPERSON MIETZ: Okay. I think we can
8 proceed here. But let's just try to wrap Number 2 up.

9 Is there -- does anyone have any other
10 concerns other than what we have discussed -- we
11 collectively have discussed so far about Item 2 or II?

12 Okay. All right. So then let's move to the
13 State and County approvals.

14 David, do you have any comments, or Andrea,
15 on that?

16 MR. DOLLINGER: No. I -- I don't. I think
17 it's -- I don't think it's one of their better issues,
18 and I think it's well stated here. So.

19 CHAIRPERSON MIETZ: Okay.

20 MS. TOMPKINS WRIGHT: Yeah, I don't have --
21 I don't have any substantive comments on that either.

22 CHAIRPERSON MIETZ: Okay. And does anyone
23 else have any concerns about that, Number 3? I don't.
24 I think it's laid out pretty well here.

25 Okay. So let's move on to the construction

1 sequencing. This is an interesting one because it
2 relates to the consent of zoning approval and whatnot,
3 and you know, what interpretations construction
4 sequencing is, so.

5 Andrea, do you have any concerns about this
6 one?

7 MS. TOMPKINS WRIGHT: Well, I mean, did
8 everyone get a chance to read it? And does anyone
9 have any different opinions about whether or not this
10 is considered sequencing versus State, you know,
11 separate construction stages?

12 MS. DALE: So I probably need -- I was up
13 real late watching the election, and this came pretty
14 late. I was busy with -- so I read through it, and
15 pretty fast. So you know, I think I need to give it
16 another read. But I -- I thought it seemed pretty
17 well done to me, and captured the argument. And I --
18 I think it's -- I think it's well done.

19 MS. TOMPKINS WRIGHT: Yeah, I agree.
20 Completely agree. The only thing I would want to add,
21 maybe, is this concept of, it's illogical, I think, to
22 deny -- or to -- yeah, deny a building permit, the
23 first building permit in a construction project.

24 MR. DOLLINGER: I -- I agree. I agree with
25 you a thousand percent. You can come -- you can come

1 at us on the second one, right. But how do you imply
2 sequencing from a single event? It just -- the
3 logical part of it is. Yep, I agree a hundred
4 percent.

5 MS. TOMPKINS WRIGHT: So I kind of added a
6 little bit of that, just to say that if -- if we were
7 issuing a second building permit two and a half years
8 after the first building permit, there's an argument
9 there that this was being done in stage. But this
10 first building permit, with testimony that the rest of
11 construction would be completed within a reasonable
12 amount of time, cannot evidence construction in
13 stages. That -- that kind of concept.

14 CHAIRPERSON MIETZ: All right. They're
15 also, if you'll recall in the testimony from last
16 month, if you recall it, there was a lot of discussion
17 also about how the real practical part of this whole
18 devolvement was going on. And that, like, for
19 example, that utilities were being placed, and other
20 types of access was being placed to other places on
21 the site. It's just, like, just one little tiny spot
22 was being worked on, you know, either.

23 So I -- I thought it was pretty
24 representative of what the discussion has been. And
25 you know, whether there's commonality in other

1 construction projects and all that is a little, you
2 know, specific to a project itself.

3 But other than that, I didn't -- I didn't
4 really have any concern about this.

5 Okay. Does anyone else have any other
6 concerns about Number 4?

7 Okay. So Andrea, you might have a few
8 little things. And I'm sure there's a way that those
9 could be highlighted in some fashion, you know,
10 obviously. Okay.

11 MS. TOMPKINS WRIGHT: I would say part of
12 this, too, is just to provide additional time for
13 everyone to really --

14 CHAIRPERSON MIETZ: Yes.

15 MS. TOMPKINS WRIGHT: -- make sure they're
16 voting yes on it, just because it's easier with a
17 one-page approval to hear every single word and say,
18 yes, I agree.

19 CHAIRPERSON MIETZ: Right. Yeah, I think we
20 agree -- I think we're all agreeing to that, yeah. I
21 mean, we're gonna have an opportunity, if we wait, to
22 be able to review this umpteen times. Okay.

23 All right. How about Number 5, which is,
24 let's see here.

25 MS. TOMPKINS WRIGHT: The first one's that

1 building -- building inspector certification on the
2 site plan.

3 CHAIRPERSON MIETZ: Yes.

4 MS. TOMPKINS WRIGHT: Which feels very much
5 like a chicken and egg argument, like a very similar
6 discussion in some ways. I don't mean this writing, I
7 mean the concept of it, in general.

8 CHAIRPERSON MIETZ: Okay.

9 MR. DOLLINGER: It -- it seems like it's an
10 attempt to -- to attack the site plans via, you know,
11 an argument that really almost isn't relevant to us.
12 The site plan's done. It's signed. It's filed.

13 CHAIRPERSON MIETZ: Yeah, right. I -- I
14 agree. And you know, I don't think that, you know, if
15 -- if the building inspector had some concern about
16 that, he certainly had the opportunity to do something
17 about it when the approvals were done.

18 So I -- I don't know, again, it -- it is
19 like a chicken and an egg. To go back to it, it just
20 seems like a circular thing.

21 MS. TOMPKINS WRIGHT: There was also a
22 comment made in the Town's response, that this
23 specific issue is putting form over substance, and I
24 liked that quote.

25 That these have been substantially reviewed,

1 they've been certified based on the Town's practice,
2 and that to -- to sustain an appeal based on complete
3 moot form over the substance of that approval seems to
4 kind of undo good work of the Town.

5 CHAIRPERSON MIETZ: Right. Yeah, you don't
6 reach the signing block without having satisfied all
7 the relevant parties in the Town that need to relate
8 to, you know, dealing from the Planning Board's
9 perspective, with a site plan.

10 MS. TOMPKINS WRIGHT: Dave, do you have a
11 problem with me kind of cannibalizing a little bit of
12 -- I'm forgetting the attorney's name. Mancuso,
13 right? His response, that form over substance
14 language? Because that --

15 MR. DOLLINGER: Yes. No, I have no problem
16 with that at all. The fact is, that it seems to me
17 that this argument is almost like requesting that we
18 second-guess the, you know, the building -- we
19 second-guess the approval of the site plan. And it
20 just seems --

21 CHAIRPERSON MIETZ: Right.

22 MR. DOLLINGER: Like you were saying before,
23 Andrea, like looking at the mortgages. I mean, this
24 is not -- that's not our job. That's not the Town,
25 you know.

1 CHAIRPERSON MIETZ: Yeah, I don't think
2 that's the Building Inspector's job. Just to --

3 MR. DOLLINGER: Yeah.

4 CHAIRPERSON MIETZ: -- the right to
5 challenge, right.

6 MR. DOLLINGER: Yeah, I don't like that site
7 plan. Okay, well --

8 CHAIRPERSON MIETZ: Yeah, right. Okay. All
9 right. So Andrea, you might have a few little things
10 here.

11 Okay. And then B relates to the pedestrian
12 easements. So, I don't know, thoughts here?

13 David, do you have any thoughts on this?

14 MR. DOLLINGER: Obviously, this one is a
15 little bit more legalistic, because of the
16 determinations that have been made by the courts and
17 the -- you know, but again, it's an in-depth analysis
18 of what's, you know, is there a state requirement to
19 do this in some way? It -- it seems so irrelevant to
20 what we're -- what we're doing here today. It's hard
21 to describe, but.

22 MS. TOMPKINS WRIGHT: Yeah. I -- I didn't
23 have any specific changes, but I -- I will be honest,
24 I got a little, you know, by Page 15, I was losing it
25 a little bit mentally. I did -- I did want to kind of

1 review that, but, yeah, I think that's going to be --
2 well, and I think there was a point -- I can't
3 remember if it was in my documents. It may have been
4 in this -- in the approval drafted. The point that
5 they didn't really make the argument or present any
6 evidence that -- that legislative approval. It was
7 just more like they asked the question, like could it
8 be.

9 MR. DOLLINGER: Right. It's all
10 speculative. It's -- right. I guess that's a better
11 way of describing what I -- irrelevant. It's all
12 speculative. It's all just a could be. Could be.

13 And again, that's not the building
14 inspector's, you know, purview to say, oh, wow, it
15 could be, I should worry about that.

16 CHAIRPERSON MIETZ: Yeah. I think in 101
17 there, on Page, what, 17. I think that's a good, sort
18 of, little summation here, to suggest that, you know,
19 there hasn't really been any evidence that the Town
20 has done something to circumvent these easements, you
21 know.

22 MR. DOLLINGER: And actually, there's a lot
23 of testimony in here the opposite actually, I think.
24 I think when you read this, Andrea, I think you'll see
25 if you take, you know, get into it a little bit,

1 there's a lot of evidence here that it's not a park.
2 I mean, there's a lot of statements that I think are
3 factually supported that said, it's -- it's not
4 appropriate.

5 CHAIRPERSON MIETZ: Right.

6 MS. TOMPKINS WRIGHT: Well, it would be the
7 worst park in Brighton, if that's what it is.

8 CHAIRPERSON MIETZ: Okay. All right. Does
9 anyone else have any concerns with this?

10 Okay. How about them apples? All right.

11 MS. TOMPKINS WRIGHT: As --

12 MR. DOLLINGER: I just -- go on, I'm sorry,
13 Andrea.

14 MS. TOMPKINS WRIGHT: As -- as the gist of
15 it's written, taking a poll, I just want to make sure
16 that the Board is in favor of denying the appeal, as
17 we discussed these specific issues going into this
18 denial? I'm obviously, in favor of denying this
19 appeal.

20 CHAIRPERSON MIETZ: Okay. Subject to some
21 modification of these documents.

22 MR. DiSTEFANO: Well, I think in general she
23 is, whether or not --

24 CHAIRPERSON MIETZ: Yeah, just from the
25 spirit of it.

1 MR. DOLLINGER: Right. I think -- right, I
2 think if there's -- if there's another opinion with
3 respect to that, or support of that, I think that'd be
4 important to know.

5 CHAIRPERSON MIETZ: Sure.

6 MS. TOMPKINS WRIGHT: Yeah.

7 CHAIRPERSON MIETZ: So why don't we go --
8 why don't we go down each person then, and just, let's
9 just for the record, understand that.

10 So Judy, do you have any concerns of the --

11 MS. SCHWARTZ: Well, I want to just say to
12 David, that I appreciate you writing both ways.
13 Because I -- I did read with great interest the
14 affirming appeal, and as to the other part, which is
15 more in-depth. But and I've talked to Rick about it,
16 too, because I've been torn.

17 But at first I thought part of it was a
18 matter of semantics, but I have learned that, really,
19 there is a difference. So I tend to go along with --

20 CHAIRPERSON MIETZ: Okay.

21 MS. SCHWARTZ: -- Andrea.

22 CHAIRPERSON MIETZ: Okay. Good. All right.
23 Jeanne?

24 MS. DALE: I'm com -- I'm comfortable with
25 it, yeah.

1 CHAIRPERSON MIETZ: Okay. Subject to what
2 suggestions there might need to make it clear or
3 whatnot. Okay.

4 MS. DALE: Yeah.

5 CHAIRPERSON MIETZ: Okay. How about Kathy?

6 MS. SCHMITT: I agree as well.

7 CHAIRPERSON MIETZ: Okay. All right. And
8 Ms. Watson?

9 MS. WATSON: I agree with denying.

10 CHAIRPERSON MIETZ: Okay. And I do as well.
11 Okay.

12 MR. DiSTEFANO: Just so that we're all on
13 the same page. We just, basically, went through one
14 of the resolutions. We have two applications, so
15 obviously, we're going to have two resolutions.

16 The resolutions are a little different
17 because BGR did -- did touch on a couple different
18 items. A lot of it's the same. So a lot of the
19 changes that we just made to the Save Monroe we're
20 going to carry over to the BGR.

21 But David, do you want to touch on just a
22 couple of these --

23 MR. DOLLINGER: I think if you pull -- if
24 you pull up the BGR one. It seems -- and I've gone
25 through this quite a few times. I mean, anybody that

1 wants to correct me, can.

2 But I think the only really -- the issues
3 that are additional, or let's say the ones that appear
4 to have some, you know, merit, are the -- that would
5 be -- that you'd want to discuss is the trail amenity
6 at Number 8 on Page 16 of the BGR. I don't think that
7 is raised in the other -- in the other application.

8 I don't know if anybody got a chance to read
9 that specific section?

10 CHAIRPERSON MIETZ: Well, it was certainly
11 discussed last month, okay, in the presentation.

12 MS. TOMPKINS WRIGHT: Yeah, sorry.

13 MR. DiSTEFANO: Page 17 on the one that I
14 sent over to you.

15 MR. DOLLINGER: Oh, it is, okay.

16 MR. DiSTEFANO: Number 8, Page 17, trail
17 amenity.

18 MS. TOMPKINS WRIGHT: Yeah. No, that --
19 that seemed pretty straight forward to me. Given the
20 construction delay --

21 MR. DOLLINGER: I only point it out. I
22 mean, it seems to me on that one, it seems pretty
23 clear to me that the -- that the -- there was a
24 limited requirement prior to the issuance of the
25 building permit that was just really submitting the

1 plans. I -- I don't know that -- it seems to me
2 that's not -- their argument is not that persuasive.

3 Then the other thing was, the BGR has the
4 incentive that -- that zoning --

5 MS. TOMPKINS WRIGHT: Yeah.

6 MR. DOLLINGER: -- at 6. Which I think is a
7 distinct -- is not raised in -- in Save Monroe's.

8 MR. DiSTEFANO: Compliance with zoning on
9 Page 11.

10 MR. DOLLINGER: Yeah.

11 MR. DiSTEFANO: And in essence, we're not
12 here to determine whether or not it complies with
13 zoning. We're here to determine whether or not a
14 building permit was issued properly.

15 MR. DOLLINGER: Yes. And it's not the --
16 not the building inspector's job to second-guess the
17 application of the incentive zoning.

18 CHAIRPERSON MIETZ: All right. And that's a
19 Town Board issue, right?

20 MR. DOLLINGER: Yeah.

21 CHAIRPERSON MIETZ: Agreed. Is there
22 anything else, David, that you would see as -- as --

23 MR. DOLLINGER: No. I think those are the
24 two. I mean, I think there are a couple small ones,
25 but I don't think -- I mean, I'd have to go back and

1 look to make sure. But I don't think there -- at the
2 very end, there is, of the BGR, they've got the
3 Department of Health. They've got, under the State
4 and County approvals, I think they've got a couple
5 additional things. But that's about it.

6 I think other than that, for discussion
7 purposes, you know, they're the same.

8 CHAIRPERSON MIETZ: Okay.

9 MR. DOLLINGER: Andrea, would you agree? I
10 mean, I don't know if you looked at it, but would you
11 agree with that?

12 MS. TOMPKINS WRIGHT: Yeah, I mean, I think
13 the issues that weren't overlapping were less
14 factually based, I would say, and easier, I think, to
15 make an argument that it's just not an appropriate
16 reason to deny the building permit.

17 CHAIRPERSON MIETZ: Yeah. I think,
18 probably, if we did each of these separate, and then
19 maybe noted that whatever was relevant from 9A-04 and
20 in addition a few of these other points, David, I
21 think, probably would be helpful.

22 MR. DOLLINGER: Okay. You're -- you're
23 saying in how we structure this going forward, you're
24 saying?

25 CHAIRPERSON MIETZ: Yeah.

1 MR. DOLLINGER: Okay. Yeah, I got that.

2 CHAIRPERSON MIETZ: Correct. Okay. Okay.

3 So does anyone have anything else they think should be
4 added or should be questioned or should be discussed?

5 Subject to some revisions that we would look
6 at, if we agree to table this again?

7 MS. TOMPKINS WRIGHT: And I'm assuming,
8 then, that since we all went around a round table, and
9 said we're in agreement in denying the appeal for SMA,
10 that we're similarly, given the major arguments are
11 all the same about, in agreement regarding denying
12 Grassroots?

13 CHAIRPERSON MIETZ: Yes.

14 MS. TOMPKINS WRIGHT: Okay.

15 CHAIRPERSON MIETZ: I think so. Does anyone
16 disagree with that statement?

17 MS. DALE: No.

18 CHAIRPERSON MIETZ: Okay. Very good. Okay.
19 So Andrea, I guess you're up.

20 MR. DiSTEFANO: We're not gonna --

21 CHAIRPERSON MIETZ: This relates to our plan
22 to -- how to move this forward.

23 MS. TOMPKINS WRIGHT: Yeah. Did we want to
24 talk about, because we're not on for anymore
25 submissions, this is really just time for us to

1 collect -- to collective -- to collect our thoughts
2 and collectively agree on --

3 CHAIRPERSON MIETZ: Right.

4 MS. TOMPKINS WRIGHT: -- the factual basis
5 of the denial? So the -- yeah, the denial. So how
6 would you suggest we --

7 MR. DOLLINGER: Yeah, and for the time being
8 review the proposed resolution.

9 MS. TOMPKINS WRIGHT: Okay.

10 MR. DOLLINGER: It's kind of true, the
11 election was last night. It is kind of true.

12 CHAIRPERSON MIETZ: Well, yeah. There's a
13 lot to read here.

14 MR. DOLLINGER: Yeah.

15 MS. TOMPKINS WRIGHT: I'm working on -- and
16 a half hours of sleep right now. So.

17 MR. DiSTEFANO: So Andrea, can I, just --
18 just before you make your motion to table, just so we
19 can have clarification, are you going to work with
20 David to get your --

21 MS. TOMPKINS WRIGHT: Yes.

22 MR. DiSTEFANO: -- changes to him, and how
23 do you want to work that? And then get it to me, and
24 I'll get it out to everybody?

25 MS. TOMPKINS WRIGHT: Yeah, and get --

1 MR. DOLLINGER: If that's the Board's --
2 yeah, if that's the Board's understanding of how they
3 want to go forward. I would be glad to work with
4 Andrea to accomplish that. I don't know if -- that's
5 probably a pretty efficient way to do it. And if
6 somebody has some small tweak next time, you know,
7 after reviewing it, you could call me or we could work
8 that through. But, understandably, since Andrea's
9 going to be making the motion, I -- I would work with
10 her.

11 CHAIRPERSON MIETZ: Okay.

12 MR. DiSTEFANO: And I -- and I guess what I
13 want to say, too, is any of the other members, if you
14 do have something as you go through this --

15 CHAIRPERSON MIETZ: Sure.

16 MR. DiSTEFANO: -- that you certainly give
17 David a call, give myself a call, give Dennis a call,
18 you know, and -- and we'll get that as part of the
19 revisions to talk about next time.

20 CHAIRPERSON MIETZ: Yeah.

21 MR. DiSTEFANO: So don't feel like you can't
22 add to this discussion.

23 CHAIRPERSON MIETZ: Could we also agree, and
24 I don't know that it has to be in the table motion,
25 but that we get this assignment completed at least so

1 that we can get this at least one week before the
2 meeting date?

3 MR. DOLLINGER: Yes.

4 MS. TOMPKINS WRIGHT: Yeah.

5 MR. DOLLINGER: Absolutely.

6 CHAIRPERSON MIETZ: Okay. It doesn't need
7 to be in the motion for specific performance by these
8 two attorneys but, you know. All right.

9 MS. TOMPKINS WRIGHT: Real -- real quick.
10 Should I put in the tabling that we're -- for
11 additional time to review the language of a proposed
12 motion to deny, or just proposed motion?

13 MR. DiSTEFANO: Proposed motion.

14 MR. DOLLINGER: I would say just proposed
15 motion, yeah.

16 MS. TOMPKINS WRIGHT: Okay. And I will say
17 this, even if I had not a single change to the motion,
18 I would still want some additional time to review it
19 more in detail before I could commit to it.

20 MR. DOLLINGER: I completely understand.

21 MR. DiSTEFANO: Yeah, I appreciate that.

22 CHAIRPERSON MIETZ: A couple of the members
23 said the same thing. So I think we're good on that.
24 Yeah.

25

1 APPLICATION 9A-04-20

2 9A-04-20 Application of Save Monroe Avenue,
3 Inc. (2900 Monroe Avenue, LLC, Cliffords of Pittsford,
4 L.P. Elexco Land Services, Inc., Julia D. Kopp,
5 Mark Boylan, Ann Boylan, and Steven M. Deperrior),
6 appealing the issuance of a building permit (Starbucks
7 Coffee) by the Town of Brighton Building Inspector
8 (pursuant to Section 219-3) to the Daniele Family
9 Companies, developer of the Whole Foods Plaza project
10 located at 2740/2750 Monroe Avenue. All as described
11 on application and plans on file. **TABLED AT THE**
12 **OCTOBER 7, 2020, MEETING.**

13 Motion made by Ms. Tompkins Wright to table
14 Application 9A-04-20 in order to provide additional
15 time for the Board to review and finalize the language
16 of a proposed motion.

17 (Second by Ms. Schmitt.)

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

21 (Upon roll call, motion to table is
22 carried.)

23

24

25

1 APPLICATION 10A-02-20.

2 10A-02-20 Application of Brighton
3 Grassroots, LLC, appealing the issuance of a building
4 permit (Starbucks Coffee) by the Town of Brighton
5 Building Inspector (pursuant to Section 219-3) to the
6 Daniele Family Companies, developer of the Whole Foods
7 Plaza project located at 2740/2750 Monroe Avenue. All
8 as described on application and plans on file. **TABLED**
9 **AT THE OCTOBER 7, 2020, MEETING.**

10 Motion made by Ms. Tompkins Wright to table
11 Application 10A-02-20 in order to allow for additional
12 time to review and finalize the language of a proposed
13 motion.

14 (Second by Ms. Schwartz.)

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

18 (Upon roll call, motion to table carries.)

19

20

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23

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25

1 CHAIRPERSON MIETZ: Okay. Very good. Thank
2 you very much. Ms. Watson, I hope you feel better.

3 MS. SCHWARTZ: Yeah.

4 MS. DALE: Good luck.

5 MS. TOMPKINS WRIGHT: Real quick. We got a
6 letter from Nixson --

7 MR. DiSTEFANO: Yes.

8 MS. TOMPKINS WRIGHT: -- regarding the --

9 MR. DiSTEFANO: Yes, that --

10 MS. TOMPKINS WRIGHT: We didn't make --

11 MR. DiSTEFANO: No. That -- I assume that
12 application is coming to us with our December meeting.

13 CHAIRPERSON MIETZ: Okay. So --

14 MS. TOMPKINS WRIGHT: Okay.

15 MR. DiSTEFANO: Which I thought originally
16 was going to be on this meeting, but they held off for
17 a month.

18 CHAIRPERSON MIETZ: All right.

19 MR. DiSTEFANO: So hang onto that, because
20 I'm sure --

21 MS. TOMPKINS WRIGHT: Okay, got it.

22 MR. DiSTEFANO: -- there's going to be other
23 letters that will be coming forth along with their use
24 variance application.

25 And I will say that I know last month I told

1 you guys that -- be prepared for a heavy November.
2 Well, a lot of that stuff that was going to be in our
3 heavy November got pushed to December.

4 CHAIRPERSON MIETZ: Oh, boy.

5 MR. DiSTEFANO: So please prepare yourself
6 for a rather heavy December meeting.

7 MS. SCHWARTZ: So that's the 2nd,
8 December 2nd?

9 MR. DiSTEFANO: December 2nd, yes.
10 Everybody going to be here?

11 MS. SCHWARTZ: Yeah.

12 MS. TOMPKINS WRIGHT: Where can we go, Rick?
13 Where can we go?

14 MR. DiSTEFANO: Good point. That's a very
15 good point.

16 CHAIRPERSON MIETZ: You could drive around
17 in a circle, I guess, but that's probably about it.

18 MS. SCHWARTZ: To your winter home.

19 CHAIRPERSON MIETZ: All right. Thank you
20 everybody. Have a good night and good Thanksgiving
21 holiday.

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1 REPORTER CERTIFICATE
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3 I, Susan Ryckman, do hereby certify that I
4 did report the foregoing proceeding, which was taken
5 down by me in a verbatim manner by means of machine
6 shorthand.

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

11

12 Dated this 18th day of January, 2021
13 at Rochester, New York.

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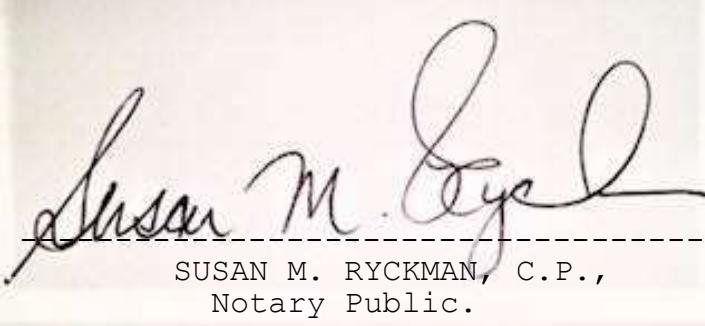
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SUSAN M. RYCKMAN, C.P.,
Notary Public.