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FEBRUARY 3rd, 2021
At approximately 7:00 p.m.
2300 Elmwood Avenue
Rochester, New York 14618

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11 PRESENT:

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

16

KENNETH GORDON, ESQ.
Town Attorney

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RICK DiSTEFANO
Secretary

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REPORTED BY: ASHLEY FALCONE, COURT REPORTER
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Batavia, NY 14020,
(585) 343-8612

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1 CHAIRPERSON MIETZ: Okay. All right. So,
2 good evening everyone, and welcome to the February
3 2021 meeting of the Brighton Zoning Board of Appeals.

4 I think, hopefully, everyone knows our
5 general way of handling things, let me just go over
6 it quickly that we have four applications tonight,
7 and we'll go through those. When the application is
8 called then you can identify yourself and we'll allow
9 you to speak, and once you finish explaining to us
10 what you think, or why you think we should approve
11 your application, we will then ask if there's anyone
12 on the call that would like to speak regarding it,
13 and if there is they will, if there isn't then we'll
14 close the public hearing and then move to the next
15 application.

16 Now, once we've finished those we will go
17 through them one by one. You're welcome to stay on
18 and hear the deliberation, there's no other
19 cross-talk or discussion between the Board Members
20 and Applicants once the public hearings are closed.

21 If you don't want to stay on then you can
22 call Mr. DiStefano in the building office tomorrow
23 and find out what the result of your application was.

24 So, Rick, is there anything you want to
25 tell us before the roll?

1 MR. DiSTEFANO: I have nothing. Does
2 anybody -- any members have any questions regarding
3 any any applications?

4 CHAIRPERSON MIETZ: Okay. Very good. Was
5 the meeting properly advertised, Rick?

6 MR. DiSTEFANO: Yes, Mr. Chairman, it was
7 advertised in the Brighton-Pittsford Post of January
8 28th, 2021.

9 CHAIRPERSON MIETZ: Okay. So, could you
10 call the roll?

11 MR. DiSTEFANO: Mr. Premo?

12 MR. PREMO: Here.

13 MR. DiSTEFANO: Ms. Schwartz?

14 MS. SCHWARTZ: Here.

15 MR. DiSTEFANO: Ms. Tompkins-Wright?

16 MS. TOMPKINS-WRIGHT: Here.

17 MR. DiSTEFANO: Ms. Dale?

18 MS. DALE: Here.

19 MR. DiSTEFANO: Mr. Mietz?

20 CHAIRPERSON MIETZ: Here.

21 MR. DiSTEFANO: Ms. Watson?

22 MS. WATSON: Here.

23 MR. DiSTEFANO: And, Ms. Schmitt?

24 MS. SCHMITT: Here,

25 MR. DiSTEFANO: Let the record show all

1 members are present.

2 CHAIRPERSON MIETZ: Okay. So, the first
3 course of business, we have some minutes here from
4 the December 2nd meeting. Is there -- are there any
5 corrections, additions, deletions, from those
6 minutes?

7 MS. SCHWARTZ: Member Schwartz.

8 CHAIRPERSON MIETZ: Yes.

9 MS. SCHWARTZ: Okay. On Page 9, Line 18,
10 the first word is various, V-A-R-I-O-U-S. On Page 21
11 the last word should be deleted, and the first word
12 on Line 22 should be deleted. On Page 23, Line 6,
13 the second word should be seats, S-E-A-T-S, and the
14 same thing in Line 7, after the number it should say
15 seats, S-E-A-T-S. On Page 29, Line 11, I believe the
16 last word should be size, S-I-Z-E.

17 On Page 30, Line 5, delete the last word.
18 Page 31, Line 20, delete the last two words. Page
19 36, Line 21, the second word should be as. Line --
20 I'm sorry, Page 37, Line 13, the middle of the word
21 should be presented, E-D. And then, Page 41, Line
22 15, after the word character, please insert of the.
23 And Page -- I'm sorry, Line 17, the number should be
24 70, 7-0. And lastly, Page 45, Line 15, the initial
25 should be S, M, as in Mary, A, and that's all I have.

1 CHAIRPERSON MIETZ: Okay. Does anyone else
2 have anything else? Okay. So --

3 MS. TOMKINS-WRIGHT: Member -- this is
4 Member Wright. I had a quick question, the Motions
5 for Denial for Application 9A-04-20, and the second
6 one, 10A-02-20, the motion references in Exhibit A
7 that isn't included as part of the minutes. I just
8 wanted to confront that they didn't need to be an
9 addendum to these minutes; because, obviously, our
10 approval is based on that attachment.

11 MR. DiSTEFANO: Ken, do you have an answer
12 for that?

13 MR. GORDON: Yeah. They should be a part of
14 the record of proceedings. What we're doing now is,
15 making sure that we have a comprehensive transcript
16 of all of the proceedings, that's really under the
17 Governor's Executive Order. So, sure, we should have
18 all exhibits and other material referenced in the
19 resolution attached to those minutes, or to the
20 transcript really, of the public hearing and the
21 debate and the decisions.

22 CHAIRPERSON MIETZ: Okay.

23 MR. DiSTEFANO: Even if they're filed
24 separately, you still want them --

25 MR. GORDON: Just -- just because what we're

1 representing that this is the full transcript, if you
2 will. Remember that Executive Order requires us, not
3 just to record, not just to keep exhibits like we
4 normally have, but also to have a full transcript.

5 So, if somebody said, give me the
6 transcript of the December 2nd, 2020 meeting, they
7 should get the transcript with whatever exhibit is
8 referred to it, in it. I'm not saying all exhibits,
9 but because that exhibit is referred to in the
10 resolution, you have an incomplete transcript without
11 that exhibit being attached.

12 CHAIRPERSON MIETZ: Okay.

13 MR. GORDON: So, that should be part of the
14 Motion to Amend.

15 CHAIRPERSON MIETZ: Right. Yes, I agree.
16 Okay. Go ahead. All right. Are we set on this then
17 as far as -- can someone make a motion for these
18 minutes, please?

19 MS. TOMPKINS-WRIGHT: I have one other
20 change.

21 CHAIRPERSON MIETZ: Sorry, I can't hear you.
22 I could hear your voice but not --

23 MS. TOMPKINS-WRIGHT: All right. Page 45,
24 Line 9, after the sixth word which is that, it should
25 be in parenthesis the word one, it's three separate

1 points. The other two are proceeded by the words two
2 and three, and that point should have the word one in
3 front of it.

4 CHAIRPERSON MIETZ: Okay.

5 MS. TOMPKINS-WRIGHT: So, I move to approve
6 the minutes of the December 2nd meeting as amended,
7 and with both attachments to the relevant approvals
8 attached.

9 MS. SCHWARTZ: Member Schwartz seconds.

10 CHAIRPERSON MIETZ: Okay. Very good.

11 MR. DiSTEFANO: The motion is to approve
12 with corrections and amendments. Mr. Premo?

13 MR. PREMO: I abstain.

14 MR. DiSTEFANO: Ms. Schwartz?

15 MS. SCHWARTZ: Yes.

16 MR. DiSTEFANO: Ms. Tompkins-Wright?

17 MS. TOMPKINS-WRIGHT: Yes.

18 MR. DiSTEFANO: Ms. Dale?

19 MS. DALE: Yes.

20 MR. DiSTEFANO: Mr. Mietz?

21 CHAIRPERSON MIETZ: Yes.

22 MR. DiSTEFANO: Ms. Watson?

23 MS. WATSON: Yes.

24 MR. DiSTEFANO: Ms. Schmitt?

25 MS. SCHMITT: Yes.

1 MR. DiSTEFANO: The motion carries.

2 CHAIRPERSON MIETZ: Okay. Thank you. All
3 right. So, Rick, whenever you're ready you can read
4 the application.

5 MR. DiSTEFANO: Okay. First, just in case
6 there's anybody online for the applications 12A-05-20
7 and 12A-06-20, those applications have been postponed
8 to the March meeting.

9 CHAIRPERSON MIETZ: Okay.

10 **APPLICATION 1A-01-21**

11 MR. DiSTEFANO: Application 1A-01-21
12 Application of Congregation Light of Israel, owner of
13 property located at 1675 Monroe Avenue, for renewal
14 of a Temporary and Revocable Use Permit pursuant to
15 Section 219-4 to erect a tent and hold up to six
16 outdoor special events for the years 2021 and 2022.
17 All as described on application and plans on file.

18 CHAIRPERSON MIETZ: Okay. And I see Mr.
19 Goldman, ESQ. there. So, please proceed when you're
20 ready, sir.

21 MR. GOLDMAN: I am ready, I'm just trying to
22 see -- my video is on, it looks like I am all set.
23 Good evening, Mr. Chairman and Members of the Board.
24 I'm in a slightly different capacity tonight, I'm not
25 acting as Attorney, as much as as a member of

1 Congregational Light of Israel. I reside at 59
2 Branchwood Lane in the Town of Brighton.

3 With us tonight on the application is Jeff
4 Springit whose name will display for those of you it
5 can display as Lyn Springut, his better half, and he
6 is the Vice President of the Synagogue.

7 We're here this evening for the renewal, if
8 you will, the Temporary and Revocable Use Permit
9 which was first granted in September of 2013 for one
10 year and continues thereafter every two years as a T
11 and R to allow a tent for special events up to six
12 times per year.

13 This has been successfully done over the
14 course of the last seven years. The Board has
15 imposed conditions which are incorporated in the
16 decision letter of November 9, 2018 which we intend
17 to comply with, and continue to comply with. It was
18 part of the application package that each of you
19 received.

20 What you see -- what you did see in front
21 of you for a moment was the site plan, and you see it
22 again, and the site plan does allow for the placement
23 of the tent. You may have seen the tent in the front
24 of the lot during the high holidays this year, and
25 that was by special accommodations by the Town due to

1 Covid. So, we are, again, willing to comply with all
2 conditions that we have previously lived with, and
3 continue to live with, and would request the Board's
4 indulgence for another two year T and R on this. I
5 don't know if Jeffery has anything to add at this
6 point.

7 MR. SPRINGUT: Not really, Jerry, I think
8 you've covered it. It's pretty much the same
9 structure and the same spacing, the same uses that we
10 have done in the past.

11 MR. DiSTEFANO: Jeff, could you just state
12 your name and address for the record, please?

13 MR. SPRINGUT: Jeff Springut, I'm the Vice
14 President of the Congregation Light of Israel.

15 MR. DiSTEFANO: Thank you.

16 MS. TOMPKINS-WRIGHT: And, Rick -- Member
17 Wright. Rick, can you just confirm there hasn't been
18 any complaints in the five, six year history of this
19 Temporary and Revocable Use Permit?

20 MR. DiSTEFANO: I can confirm that, yes.

21 MS. TOMPKINS-WRIGHT: Thank you.

22 CHAIRPERSON MIETZ: Okay. Good.

23 MS. WATSON: This is Member Watson, I have a
24 question. I'm just wondering if you anticipate any
25 changes in the frequency of use this year or next

1 year, whether due to Covid or anything else?

2 MR. SPRINGUT: Well, if any -- no, we don't,
3 and, you know, the type of use inside may change with
4 the spacing of tables. The use always corresponds to
5 certain holidays that occur during the course of the
6 year. So, we would be hopeful that we would be able
7 to comply with all the Monroe County Health
8 Department and New York State Covid recommendations
9 and regulations to do that.

10 MR. GORDON: This is Attorney Gordon. I do
11 want to just contribute this thought to both
12 Mr. Goldman and Mr. Spingut, that while this
13 application is for permission to use the tent six
14 times a year, if the need did arise for more use due
15 to Covid, we do have in place an emergency order that
16 allows Temporary and Revocable Tent Permits to be
17 granted administratively by staff.

18 So, if that need arose on an -- one -- you
19 know, an individual basis, you would be able to apply
20 administratively for that approval without coming to
21 the ZBA.

22 MR. SPRINGUT: We appreciate that
23 information and we'll keep that under our
24 consideration, and under our yarmulke, so to speak.

25 MR. GOLDMAN: We availed ourselves of that

1 in dealing with the -- with the high holidays this
2 year in September, and we do appreciate the Town's
3 indulgence in dealing with that, and appreciate
4 Counsel for the Board pointing that out for the
5 Board's benefit, but at this point we anticipate that
6 the six times a year should be -- should be
7 sufficient for our needs.

8 CHAIRPERSON MIETZ: Okay.

9 MS. WATSON: Thank you. I do have one more
10 question.

11 CHAIRPERSON MIETZ: Go ahead.

12 MS. WATSON: I see that in previous years
13 the variance was granted for a January through
14 December timeline, two years. Being that it is
15 February now, I'm wondering what dates you are
16 requesting for the two years?

17 MR. GOLDMAN: Well, given the fact that we
18 have not requested anything for the month of January,
19 if we want to do it two years from March, I think we
20 would be happy with that, that would give us a little
21 bit of leeway. The expectation is that our prime
22 periods of use would be in the summer and the fall as
23 Jewish holidays fall. But if we can -- if we can
24 start it in March, March 1, that would be great.

25 MS. WATSON: Thank you.

1 CHAIRPERSON MIETZ: Okay. Anything else
2 from the Board Members? Okay. Gentlemen, thank you
3 very much.

4 MR. GOLDMAN: Thank you.

5 MR. SPRINGUT: Thank you.

6 CHAIRPERSON MIETZ: Is there anyone on the
7 call that would like to speak regarding this
8 application? Okay. There being none, then the
9 public hearing's closed.

10 **APPLICATION 2A-01-21**

11 MR. DiSTEFANO: Application 2A-01-21
12 Application of SkyLight Signs, Inc., agent, and Flaum
13 Management, owner of property located at 1057 East
14 Henrietta Road, for a Sign Variance from Section
15 207-32 to allow for a free standing identification
16 sign where not allowed by code. All as described on
17 application and plans on file.

18 CHAIRPERSON MIETZ: Okay. And who do we
19 have speaking for this application?

20 MR. BARANES: Hello, Mr. Mietz, this is
21 Ralph Baranes here with SkyLight Signs.

22 CHAIRPERSON MIETZ: Well, well, well, how
23 are you Mr. Baranes?

24 MR. BARANES: I'm good, thank you. How are
25 you?

1 CHAIRPERSON MIETZ: Good. So, please
2 proceed when you're ready.

3 MR. BARANES: I will. Thank you very much
4 for hearing us -- or hearing me tonight.
5 Unfortunately, Mr. Flaum, the landlord, was unable to
6 be available. So, I'll do my best to answer any
7 questions you have when I'm finished.

8 CHAIRPERSON MIETZ: Okay.

9 MR. BARANES: What brought us here tonight
10 is they signed a tenant in the building, and the
11 tenant was pushing for a monument sign, and I think
12 we all know how that goes. I mean, we -- you know,
13 had to explain to them how it really no chance of
14 getting their own monument sign with just their name
15 on it out by the road, it just wasn't going to
16 happen.

17 They were concerned with, you know, some of
18 their vendors and deliveries being able to find them
19 easily, and we ended up coming up with -- you know,
20 more properly identifying the address so that you're
21 really not thinking twice about it when you're
22 driving by, if you're looking for it, and the
23 building's pretty far back. So, you really don't see
24 anybody that's in the building from the road. So, we
25 thought this is, you know -- I know how the Town of

1 Brighton reacts to monument signs, I've tried a
2 couple times in the past, and have not succeeded, but
3 this situation did appear a little different to me
4 being on East Henrietta Road, and being that there
5 are monument signs along East Henrietta Road, and I
6 won't get into which ones they are, but there's
7 probably five or six of them.

8 So, we thought we weren't asking for
9 anything that was out of character. There's no name
10 on it. I know that one of the comments from the ARB
11 was the way we design the base. If I may just speak
12 about that, the base was designed to appear like
13 brick, and maybe it wasn't the best idea.

14 The landlord doesn't really want to use
15 real brick either, and I'd just like to throw a
16 suggestion out if I may in case anybody was going to
17 ask about it. We were thinking of painting that a
18 solid color, and really just simplifying it. So, I'm
19 assuming you see two signs in front of you, not just
20 the 1057, but, do you also see the sign we're
21 proposing for a little farther into the property?

22 MR. DiSTEFANO: Ralph, no, only because that
23 isn't really, you know --

24 MR. BARANES: Oh, okay.

25 MR. DiSTEFANO: -- for business tonight.

1 The only thing that we're looking at is the roadside
2 sign because the other sign is the permitted sign.

3 MR. BARANES: Okay. I apologize. Thank you
4 for that.

5 MR. DiSTEFANO: That's okay.

6 MR. BARANES: So, you know, that's really
7 what brought us here, you know, I mean, usually when
8 I go into this I know what the decisions are going to
9 be before they are, but I thought this was a little
10 different, and we're hoping you may think the same
11 way.

12 CHAIRPERSON MIETZ: Okay.

13 MR. DiSTEFANO: I'll just comment on the --

14 CHAIRPERSON MIETZ: Sure.

15 MR. DiSTEFANO: -- Architectural Review
16 Board review. They did have some design issues with
17 that, and tabled the application. I think that -- I
18 think this Board should leave that up to the
19 Architectural Review Board, and let them make their
20 determination based on the redesign, or whatever the
21 Applicant brings back to the Architectural Review
22 Board. I think we just -- really just look at it for
23 a freestanding sign located and not get too much into
24 the define of it.

25 MS. SCHWARTZ: Rick, can I ask a question

1 though? It's Judy.

2 MR. DiSTEFANO: Sure.

3 MS. SCHWARTZ: I -- you know how I feel
4 about having the number of a building out where it's
5 visible. I hope that when it does go back to ARB
6 though, that they definitely keep this 1057. When I
7 went out to look at it, there's just a -- you know, a
8 sign now in the ground that says 1057. If that
9 hadn't been there there there's no way I would have
10 seen it.

11 MR. DiSTEFANO: Yeah, let me say --

12 MS. SCHWARTZ: Sure.

13 MR. DiSTEFANO: It's the content we can
14 certainly, you know, decide.

15 CHAIRPERSON MIETZ: Yes.

16 MS. SCHWARTZ: Okay.

17 MR. DiSTEFANO: It's just the design of that
18 content.

19 CHAIRPERSON MIETZ: Yes.

20 MR. DiSTEFANO: We're not -- basically, if
21 we approve this sign, the content is still going to
22 be 1057 East Henrietta Road.

23 MS. SCHWARTZ: Okay. That's my big concern.
24 Okay. Fine.

25 MR. DiSTEFANO: Yeah, it's the design of the

1 sign actually; and, really, it just comes down to the
2 design of the base. That's what the Architectural
3 Review Board --

4 MS. SCHWARTZ: Okay. Not the text or
5 anything. Okay, great. Thank you.

6 CHAIRPERSON MIETZ: The copy would be up to
7 us, Judy.

8 MS. DALE: This is -- this is Member Dale.
9 I had a quick question. Would you mind -- how far
10 from the road is the front of the building itself?

11 MR. BARANES: The front of the building --
12 if I had to take a guess, and I did some measuring on
13 Google, I'd say it's about 250 feet from the road.

14 MS. DALE: Thank you.

15 MR. DiSTEFANO: Actually, 276 per the site.

16 MS. DALE: Okay. Thank you. My copy --

17 MR. BARANES: Okay.

18 MS. DALE: -- is small and I was struggling
19 --

20 CHAIRPERSON MIETZ: From the right-of-way,
21 yeah.

22 MS. DALE: -- to read that number. Thank
23 you.

24 CHAIRPERSON MIETZ: Ralph, one other thing.
25 You know, you're calling it a business center, can

1 you talk about the occupancy of this building, and
2 what's -- not a list, but are there multiple tenants
3 in this building?

4 MR. BARANES: I guess there are, Dennis. I
5 have a company called Miraclon, M-I-R-A-C-L-O-N.
6 They were the tenant who was pushing for their own
7 sign.

8 CHAIRPERSON MIETZ: Okay.

9 MR. BARANES: And then there's a company
10 called Pine Environmental.

11 CHAIRPERSON MIETZ: Okay.

12 MR. BARANES: A company called Step by Step.

13 CHAIRPERSON MIETZ: Okay.

14 MR. BARANES: And Ziebart.

15 CHAIRPERSON MIETZ: Okay. So, there are
16 multiple people that have multiple entrances in this
17 building then?

18 MR. BARANES: Right. And from what I can
19 tell, until you get into, like -- until you get to
20 270 feet you hardly even see the building.

21 CHAIRPERSON MIETZ: Right.

22 MR. BARANES: It's buried back there and I
23 can see where someone might be confused as to where
24 to go.

25 CHAIRPERSON MIETZ: Okay.

1 MR. DiSTEFANO: I guess this is a good time
2 to say that second sign that Ralph previously
3 referred to is a directional sign that's permitted by
4 code that will basically spell out the tenants, and I
5 think their suite numbers. So, that will give --
6 once you're on the property, that will give visitors
7 some direction on what the tenants are, and where
8 they're located.

9 CHAIRPERSON MIETZ: Right.

10 MR. BARANES: Thank you, Rick.

11 CHAIRPERSON MIETZ: Okay. Also, I think
12 there's, you know, quite -- quite a few, as Ralph
13 mentioned, but also on Townline, you know, we have
14 these four lane and multiple lane highways where
15 there's a lot of these buildings where people are
16 looking for some kind of wayfinding. So, I think it
17 is quite common in this area. Okay. Is there any --

18 MR. DiSTEFANO: I just have one
19 clarification, Ralph.

20 MR. BARANES: Yes?

21 MR. DiSTEFANO: On your application it was
22 Number B where it asks about a self-imposed hardship.
23 The answer was -- our difficulty is self-imposed.
24 Now, that -- was that --

25 MR. BARANES: Well, I guess I understood

1 that -- I always think about it, like, when the
2 landlord bought the property he knew what he was up
3 against when it came to having a sign like this. So,
4 I thought, you know, we kind of started the mess.
5 Knowing it going in, was I not thinking that the
6 right way?

7 MR. DiSTEFANO: No, I just wanted to make
8 sure that, you know, exactly how you were
9 interpreting that question. That's all.

10 MR. BARANES: If I interpreted it wrong, I
11 apologize.

12 CHAIRPERSON MIETZ: That's okay, Ralph.
13 That's fine.

14 MR. BARANES: Okay. Okay.

15 CHAIRPERSON MIETZ: Okay. All right. So,
16 Board Members, anyone else with a question? Go
17 ahead, Ken.

18 MR. GORDON: Yep. Thanks. The plans say a
19 ten foot set back, I just want to clarify, is that a
20 ten foot set back from the state right-of-way line,
21 or from some other location, because it doesn't
22 really specify.

23 MR. BARANES: As far as I know it would be
24 the state right of way line, or the property line,
25 and I would refer to Rick for that. I mean, we

1 would, you know, pinpoint which line we should be
2 measuring from and --

3 MR. DiSTEFANO: The same line. The front
4 property line will be the state right-of-way line.

5 MR. BARANES: Right. Okay. That's what I
6 thought was the front property line, yes.

7 MR. DiSTEFANO: Okay. Next, typical setback
8 requirement for free standing signs that we do permit
9 by code, so they're meeting that regulations of the
10 code.

11 MR. GORDON: Yeah, I just -- I just was
12 hoping for just a little bit more detail in terms of
13 the specification in the plan itself to say a ten
14 foot setback from the New York State right-of-way,
15 15A.

16 CHAIRPERSON MIETZ: Okay. I think that's --
17 yes? Go ahead.

18 MS. TOMPKINS-WRIGHT: Member Wright. I know
19 that we are approving the existence or being asked to
20 approve the existence of a free standing sign, and
21 not necessarily the aesthetic details of it, but I'm
22 assuming that we're also approving the size, or the
23 maximum size of the signage.

24 CHAIRPERSON MIETZ: Right.

25 MS. TOMPKINS-WRIGHT: So, can you give some

1 color as to the size, the 21 square feet, the size of
2 the lettering, confirming or not confirming that this
3 is the smallest really necessary to serve the
4 tenant's purpose; or, you know, wayfinding purposes
5 for the other building occupants?

6 MR. BARANES: I think I got that. You're
7 referencing what, the letter sizes compared to
8 viewability?

9 MS. TOMPKINS-WRIGHT: Sure. And the overall
10 size of the sign. Is that, you know, sort of the
11 smallest sign that serves the purpose?

12 MR. BARANES: Okay. Is that something you
13 want me to get to you or no?

14 CHAIRPERSON MIETZ: I think it's -- I think,
15 Ralph, it's just really a clarification. In other
16 words, you guys designed the sign. The tenant didn't
17 come to you and say, I want a 21 square foot sign.
18 You were asked to design a sign, meaning SkyLight
19 Signs to do that, and what you did was to size it
20 accordingly to what? I guess, I think that's what
21 Andrea is saying.

22 MR. BARANES: If I may, yes. I based that
23 on the open area of that -- the front of that
24 building. There's a lot of grass areas so it's just
25 -- I guess, it's freely open, and at three foot by

1 seven foot it's the same size or smaller than the
2 monument signs you'll find along that road. You
3 know, to make it any smaller, you know, everything
4 goes down, you know, all your letter sizes, of
5 course, will go down as you were saying. You know, I
6 mean, anything's possible. I guess I can make
7 anything smaller if we tried to, but we -- I just
8 thought this fit that property best.

9 CHAIRPERSON MIETZ: Okay.

10 MS. SCHWARTZ: How does this compare to the
11 size of the sign with just 1057 that's up there now?

12 MR. BARANES: That sign, if I'm not
13 mistaken, is a two square foot sign that meets code
14 -- meets code, which is why it's there.

15 MR. DiSTEFANO: It's probably a code-allowed
16 sign.

17 CHAIRPERSON MIETZ: Right.

18 MR. BARANES: It's a code-allowed sign.

19 MR. DiSTEFANO: It's probably a code-allowed
20 sign.

21 CHAIRPERSON MIETZ: Correct.

22 MR. BARANES: But it's not really working
23 for them. People aren't catching it like I think you
24 might have mentioned.

25 MR. DiSTEFANO: I think it's safe to say

1 that the posted speed limit might be 35 on this road,
2 but I'm sure not many cars are doing 35 on this road,
3 right?

4 MR. BARANES: Right.

5 CHAIRPERSON MIETZ: Okay. All right. So,
6 Board Members, any other questions, please? Okay. I
7 guess we're set then, Ralph. Thank you very much.

8 MR. BARANES: Thank you, and I'll reach out
9 to somebody tomorrow.

10 CHAIRPERSON MIETZ: Okay. That's great.

11 MR. BARANES: Thank you, guys.

12 CHAIRPERSON MIETZ: All right. Thanks.

13 MR. BARANES: Bye-bye.

14 CHAIRPERSON MIETZ: Okay. Is there anyone
15 in the audience that would like to speak -- in the
16 audience, I'm sorry, on call regarding this
17 application? Okay. There being none, then the
18 public hearing's closed.

19 **APPLICATION 2A-02-21**

20 MR. DiSTEFANO: Application 2A-02-21
21 Application of Lot Bar-Vie, owner of property located
22 at 2601 Lac De Ville Boulevard, for an Area Variance
23 from Section 205-12 to allow for the reuse from a
24 professional office building to a medical office
25 building with 45 parking spaces in lieu of the

1 minimum 57 parking spaces required by code. All as
2 described on application and plans on file.

3 CHAIRPERSON MIETZ: Okay. So, who do we
4 have speaking on this application?

5 MR. ARDIETA: You have me, Joe Ardieta, from
6 Vanguard Engineering representing Bar-Vie at 2601 Lac
7 De Ville.

8 CHAIRPERSON MIETZ: All right. Joe, just
9 give us an address, please.

10 MR. ARDIETA: Vanguard Engineering's address
11 is 133 South Fitzhugh Street, Rochester, 14608.

12 CHAIRPERSON MIETZ: Okay. Then go ahead,
13 please.

14 MR. ARDIETA: But I'm not there, I'm home.

15 CHAIRPERSON MIETZ: Okay. That's okay.

16 MR. ARDIETA: All right. So, the Applicant
17 purchased this building and has done some
18 renovations. There's roughly 8,500 square feet of
19 useable space. The Applicant is doctors -- the use
20 is medical, and he's going to take up the entire
21 first floor in two offices. He, I believe, is an
22 ENT; and, I believe, I think it's his wife, is an
23 audiologist, so, a lot of their work is done
24 together.

25 You could see from the letter that we

1 presented, their parking demand based on their staff
2 and clients that they have, and then, in addition to
3 that, since they don't have tenants scheduled for the
4 basement, what I did was I applied the most strict
5 parking regulation which is one per 150 square feet.
6 Adding what his demand on the first floor, and then
7 the most strict demand that could apply in the
8 basement comes to 40 spaces, and the site has 45
9 currently.

10 If we were to apply the one space per 150
11 square feet over the entire building, then we would
12 have to add -- and you can see from the plan that was
13 presented, dashed lines that shows where we would
14 expand the parking. To meet code, however, in that
15 case we would then violate code in another section by
16 placing parking too close to the property line, and
17 we would do that in three locations -- in three
18 property lines, and we'd also remove trees in order
19 to meet code. Whereas, the Applicant just doesn't
20 need it.

21 So, here I'm trying to save the Applicant
22 money by not having to put in asphalt pavement, not
23 increase the impervious surface by letting the
24 pavement stay as is.

25 CHAIRPERSON MIETZ: Okay. Can you tell us

1 what type of medical operation the owner of the
2 building is going to be doing on the first floor?

3 MR. ARDIETA: Ear, nose, throat with -- in
4 the first office, and an audiologist in the second.

5 CHAIRPERSON MIETZ: Okay. Are these
6 relocated from another premises, or what -- where is
7 -- is this practice new or is it a relocation?

8 MR. ARDIETA: I don't know the answer to
9 that question.

10 CHAIRPERSON MIETZ: Okay. Alright. Other
11 questions by the Board Members?

12 MS. TOMPKINS-WRIGHT: Can you speak a little
13 bit --

14 MR. PREMO: Yeah, I get this is one maybe
15 both to the Applicant and a little bit to Rick, would
16 the land that wouldn't be used now because they
17 became this variance, is there any way we can have it
18 so if, in the future, that land is necessary for
19 parking we make sure it's still available?

20 MR. ARDIETA: So, you're talking about land
21 (inaudible) the parking. You know, that's certainly
22 a possibility that the Applicant would -- the
23 Applicant was actually prepared to try to meet code
24 on this, he didn't want to, and then we told him, you
25 know, once I spoke with him and did an analysis of

1 what he required for parking, I was the one who said
2 you shouldn't have to meet code on the parking on
3 here if you don't need that parking.

4 So, if he -- if -- so, if we were to fast
5 forward now and then say, we'll have to land bank
6 this and reserve it for parking in the future, I
7 think he'll have no problem with that since he was
8 prepared to try to have to meet code in the first
9 place, with the understanding though that this land
10 bank parking will violate Section 205-18(A).

11 CHAIRPERSON MIETZ: As it would require --

12 MR. DiSTEFANO: Right. In order to land
13 bank that parking you'd still have to go through the
14 whole process to say, okay, can it be built; and, if
15 it's being built, what are the variances that would
16 be necessary.

17 CHAIRPERSON MIETZ: Right.

18 MR. DiSTEFANO: It'd still have to go
19 through site plan approval because once it's banked
20 then they have the right to install it. So, at this
21 point in time they don't have the right to install
22 it. So, banking would make it basically go right
23 through the same process as they would if they were
24 constructing it.

25 MR. PREMO: Yeah. And what do we -- what

1 have we typically been doing on this? I mean, the
2 thing that always gets me, and I know this a little
3 bit from experiences, you don't think you need the
4 parking, and somehow there's a change, or the client
5 makes changes, or --

6 CHAIRPERSON MIETZ: Right.

7 MR. PREMO: -- you get a new tenant or
8 something like that, and then you need it.

9 CHAIRPERSON MIETZ: Right.

10 MR. DiSTEFANO: And that's exactly where we
11 are with this property. This property was built for
12 professional office, and it actually -- the original
13 owner used it in that manner, he sold the property
14 which was used for professional office, and then the
15 last sale we had medical use wanting to go in there.
16 So, yes, we are right up against that situation here.

17 CHAIRPERSON MIETZ: And just to -- just to
18 -- hold on, just to answer about the past or how
19 we've handled it, I think, you know, we're reacting
20 to a very specific thing here, and we've done that in
21 numerous locations around Brighton where, if there's
22 a variances, you know, granted for this, it's granted
23 for these specific uses.

24 So, if the owner decided he was going to
25 move his practice somewhere else or move me or

1 somebody else in, then we would have to listen to the
2 case, you know, as it relays to the parking for that.
3 So, we would always have the ability to revisit it.
4 Okay.

5 MS. TOMPKINS-WRIGHT: This is -- this is
6 Member Wright, and I think some of my questions kind
7 of speak to that issue. I think you said with what's
8 on the upper floor of this building, there's two
9 doctors and that would mean there's five support
10 staff supporting those two doctors.

11 MR. ARDIETA: Actually, he allocated seven
12 for staff.

13 MS. TOMPKINS-WRIGHT: But doesn't that
14 include the two doctors as well or no?

15 MR. ARDIETA: Yes.

16 MS. TOMPKINS-WRIGHT: Okay. So, five staff
17 working any time plus two doctors. How many doctors'
18 offices are there? I mean, is there the potential
19 for them to expand the practices, and have additional
20 both doctors and staff, or is the space limitation or
21 the use of an ENT and audiologist such that you
22 wouldn't, based on the square footage in this
23 building or the layout, wouldn't be able to add
24 additional doctors or staff to this location?

25 MR. ARDIETA: They didn't provide we with

1 any intent to expand beyond what their doing. They
2 are taking the first floor in its entirety in those
3 two offices just for them, and that's it. It -- and,
4 just so you know, you know, the calculation that we
5 did calls for mixed demand and meeting code of
6 summing to 40 spaces. There's actually 45 spaces on
7 site, there's -- so, there is some leeway.

8 CHAIRPERSON MIETZ: Okay. Did you have
9 another question, Andrea?

10 MS. TOMPKINS-WRIGHT: I guess my other
11 question was, do you have a floor plan, but I'm
12 guessing you don't have a floor plan of what their
13 upper floor looks like?

14 MR. ARDIETA: I do not. They usually --
15 they don't give site engineers floor plans, you know,
16 we're deprived.

17 MS. DALE: This is Member Dale. How about
18 hours of operation?

19 MR. ARDIETA: I believe it's normal medical
20 business hours, it will be probably, you know, 8 to
21 4, or 9 to 5.

22 MS. DALE: Monday through Friday?

23 MR. ARDIETA: Yeah.

24 MS. DALE: Thank you.

25 CHAIRPERSON MIETZ: Okay. Alright. Other

1 questions for the Applicant? Okay. I hear none.

2 Okay. Thank you, Mr. Ardieta.

3 MR. ARDIETA: Good pronunciation. Thank
4 you.

5 CHAIRPERSON MIETZ: All right. Is there
6 anyone on the call that would like to speak regarding
7 this application? Okay. There being none, then the
8 public hearing's closed.

9 MR. ARDIETA: Thank you.

10 CHAIRPERSON MIETZ: Thank you.

11 **APPLICATION 2A-03-21**

12 MR. DiSTEFANO: Application 2A-03-21
13 Application of Mark Bayer, Bayer Landscaping
14 Architecture, agent, and Rufus Judson, owner of
15 property located at 3541 Elmwood Avenue, for 1) an
16 Area Variance from Section 203-2.1B(2) to allow a
17 pool cabana to be 968 square feet in lieu of the
18 minimum 250 square feet allowed by code; and 2) an
19 Area Variance from Section 207-6A(1) to allow said
20 cabana to be 23.6 feet in height to the ridge line
21 and 30.5 feet in height to the top of the chimney in
22 lieu of the maximum 16 feet in height allowed by
23 code. All as described on application and plans on
24 file.

25 MR. BAYER: Good evening. I am Mark Bayer

1 with Bayer Landscape Architecture. I have with me
2 tonight Rufus Judson, owner of the property, Samantha
3 Paulukas who's with our office, and Ty Allen, I
4 believe, was with us from New Energy, I don't know if
5 he's still with us. Thank you for hearing our
6 application tonight.

7 CHAIRPERSON MIETZ: Mark, can you just give
8 us an address for the record, please?

9 MR. BAYER: Yes, it is 3541 Elmwood Avenue.

10 CHAIRPERSON MIETZ: Okay. Very good.
11 Please proceed.

12 MR. BAYER: Thank you. So, we're here
13 tonight to talk about a project in the backyard at
14 the residence. It's part of a larger project where
15 we're doing some enhancements to the rear terrace.
16 We're developing a small area for an outdoor spa, or
17 hot tub, and then we are focused tonight on what I
18 refer to as the pool yard, we're creating a pool
19 yard.

20 This is a landmark residence, a historic
21 residence, and one of our objectives from very early
22 on in the project was to accommodate the Judson's
23 desire for a pool by doing so in a really sensitive
24 manner so that the -- this landmark home and landmark
25 property really worked seamlessly with the pool and

1 the pool yard.

2 So, what we have done is -- actually, we
3 very intentionally sited the pool and the pool cabana
4 to parallel with the east property line and snugged
5 it toward that end of the site, and the reason for
6 that is there's been this wonderful view that this
7 property has which is the site line that goes back
8 probably 400 feet beyond this property to neighboring
9 properties, and then also has glimpses of the golf
10 course.

11 So, it's very important to position this
12 building to preserve that historic character, but
13 also to be very conscious of neighboring properties,
14 and position it so that it is -- has no impact on the
15 adjacent properties or the neighborhood whatsoever.

16 And we're here, you know, tonight to talk
17 about two variances, two Area Variances, for the pool
18 cabana, and one is related to the height of the
19 cabana, the other is related to the area of the
20 cabana.

21 I just want to step back for just a minute
22 and let you know that we did go and talk to the
23 Historic Preservation Commission last week. They
24 were, I think, very, very pleased with this
25 application on many, many counts. We do have to go

1 back, assuming the variances are granted tonight, we
2 would have to go back to them, and talk to them about
3 the specifics of finishes and materials for the
4 cabana, but I think it's fair to say that the express
5 nothing but -- they had nothing but good things to
6 say about it in terms of sensitivity and
7 appropriateness for this very significant property.

8 And when we speak about the Area Variances
9 for this, and I'll talk about both of them kind of
10 combined, we're talking about floor area. We have a
11 larger than allowed building, as you know, 962 -- 68
12 square feet in an area where 250 are allowed; and, in
13 that light, again, and in the light of the higher
14 building requirement being that we're asking for a 23
15 foot 6 ridge -- maximum ridge line, and the chimney
16 goes up higher to 30 feet 6.

17 All of this really comes back to a very,
18 very careful analysis of the residence. Again, one
19 of Brighton's, I think, finest historic structures,
20 residential historic structures. It's large, its
21 scale is unique, and so what we have tried to do very
22 very carefully working with Ty Allen who is the
23 architect from New Energy works that worked on the
24 building on our team, we tried to scale this building
25 and design it so that it fits in a very appropriate

1 way against the backdrop of this very large
2 residential structure, very large two and a half acre
3 property.

4 So, the scale of the building, being
5 larger, is very deliberate, it would -- it looks
6 right when it sits here, and it also is very
7 important to note that it's meeting this family's,
8 you know, program and needs, and going back to what I
9 said initially which was, we very intentionally
10 created a pool yard as opposed to sticking the pool
11 kind of off the patio or something like that.

12 We created a space for it and, in doing
13 that, you know, I think, again, the reason for it was
14 that we didn't want to interrupt that historic view,
15 but we also just felt that pools in the back of
16 houses like this never look right unless they're kind
17 of on their own; and, in doing that, the pool cabana
18 met within this pool yard needed to accommodate
19 changing so that, again, there isn't traffic in and
20 out of this spectacular interior of the main
21 residence.

22 We can confine, you know, wet feet, and
23 changing, and all that that goes with it to the pool
24 cabana. It's self-sufficient, the pool equipment is
25 all hidden and housed within the cabana, and the main

1 room is scaled to accommodate the Judson's growing
2 family and friends.

3 And, so, scale wise that's what we've done.
4 In terms of the height, again, this building has
5 better than I think 12/12 roof pitches on the main
6 house. So, the roof lines are very, you know, very
7 steep in this traditional, very classic home, and we
8 -- Ty Allen and his group at New Energy working with
9 us, has very carefully tried to architecturally
10 complement the main residence with similar roof
11 lines, similar proportions, and similar detailing;
12 and, for that reason, you cannot do a 16 foot high
13 building that would look right next to this house.

14 With those 12/12 pitches that's not very
15 practical or even feasible. The chimney details
16 we've picked up from the main building to make it
17 look very much like the other chimneys on the
18 residence, and they are, again, with these roof lines
19 necessarily, the chimney has to be higher.

20 Again, just kind of getting back to some of
21 the concerns that come with the project, any project
22 is making sure we're being good neighbors, and I
23 think we have talked to the Sands, Mr. and Ms. Sands
24 who live adjacent. Below we've intentionally sited
25 this cabana building to be adjacent to what is their

1 pool equipment shed. We've also talked to the
2 neighbors on the west side, the Gianni's and Rufus
3 spoke to them, Rufus Judson, and I think they were
4 fine with the project. And, again, we are way off
5 of the -- Elmwood Avenue. If you know the property
6 we are way back. We are going to be heavily buffered
7 and really no -- no negative impacts whatsoever on
8 the neighborhood or the environment in doing this
9 project.

10 So, again, to summarize, you know, and I'd
11 like to just show you, as I go through some summary
12 comments, just some of the other images to get you
13 more -- if we could look at -- this is just the floor
14 plan for the cabana I was describing. The main room,
15 which will accommodate outdoor dining, this building
16 will open up so that it will relate very nicely to
17 the pool. There is the changing room, the bathroom,
18 as I mentioned, so that nobody has to run in and out
19 of the house with wet feet, and the entertaining
20 related to the pool can be accommodated in the pool
21 yard, and pool equipment completely accommodated and
22 concealed in the building.

23 The elevation drawings, again, show you the
24 very steep roof pitches which match with the
25 residence, and, you know, this type of detailing is

1 exactly drawn from the main house; and, again, we've
2 scaled this chimney and this building to kind of fit
3 nicely within the two and a half acre site, and
4 against the backdrop of the really large home. So,
5 that's that.

6 This is some imagery, I just want to share
7 this with you because it gives you a sense of the
8 scale, and how the roof lines relate, and the way
9 that we have very carefully pushed the pool yard off
10 towards the east property line so that that
11 magnificent south lawn and main view from the
12 residence can be maintained, and that the pool yard
13 and the pool cabana become their own element. And,
14 again, from the main residence you will not see into
15 the pool yard, you have to enter the pool yard to
16 kind of experience that, and from the neighboring
17 property you can see there is already a fairly --
18 there's a fairly heavy buffer over there, but we will
19 be planting the property lines very fully, and
20 maintaining privacy for the neighbors and for the
21 Judson's in doing that.

22 We can go to the next image. This just,
23 again, just explaining to you why the building is
24 sited where it is from, you know, again, being very
25 sensitive to the historic nature of the property,

1 this particular siting accomplishes preservation of
2 this view, which is critical to this historic
3 landscape. And by, again, sliding the pool yard to
4 the left on your screen, again, that can be
5 accomplished and, you know, visually, I think,
6 maintained what this property has always had.

7 And, again, scale wise if we go onto the
8 next image just showing you relationships. So, the
9 -- you know, the pool for this property, again, very
10 thoughtfully positioned so that the neighbor to the
11 -- toward the lower side of your screen would be with
12 the pool that's sort of as the circular brick form
13 around it, the main site line from that property
14 which is the Sands' residence is -- the view line is
15 out to the golf course, and there's a heavy, heavy
16 buffer between the proposed pool and the neighbors.

17 There is the Gianni property which is the
18 top of the screen, and adjacent -- again, very, very
19 heavily buffered. You can see that we're hundreds of
20 feet off of Elmwood Avenue. So, there's no issue
21 there whatsoever. So, in planning this we have
22 thought a lot about neighborhood context, where to
23 put things to preserve the history of this property,
24 where to put things to be good neighbors and do a
25 very thorough job of it.

1 Again, I think -- as you know, I mentioned,
2 I think, given the historic nature and our need to
3 visit with the Preservation Commission, they had
4 absolutely, in my mind, no issue whatsoever with the
5 site plan, location, scale, and our approach to the
6 project. If we are successful tonight with the Area
7 Variances, again, the only thing that they were
8 hoping to see was detailed explanation on exact
9 materials.

10 So, I think with that I'd like to open it
11 up for questions and try to explain anything further
12 that I didn't hit quite thoroughly enough.

13 CHAIRPERSON MIETZ: Okay, thank you, Mark.
14 Okay. Board Members, questions for Mark --
15 Mr. Bayer?

16 MS. SCHWARTZ: Member Schwartz.

17 CHAIRPERSON MIETZ: Go ahead, Judy.

18 MS. SCHWARTZ: Yes. Is the chimney going to
19 be functional or is it more for aesthetics?

20 MR. BAYER: Can we go back to the -- I think
21 the images are probably the nicest. So, if you could
22 go back to the prospective image, the vantage from --
23 there you go. So, the chimney is a functional
24 chimney and one interesting note is that one of our
25 early phases of this project, which goes back a

1 couple of years ago that we were before the
2 Preservation Commission, we reworked the arrival
3 court and we were able to salvage a lot of medina
4 stone from that project. And so, we are repurposing
5 that medina stone to build a full stone masonry
6 chimney that will be wood burning and very
7 traditional. It's being designed as -- I think we
8 actually have some photographs of the other chimneys,
9 but it's being designed to match those.

10 Yes, so you can see on the back of the
11 house that chimney -- were following -- you know,
12 following kind of the detailing with the stepped
13 approach to the chimney. This one is a cast stone
14 material, but we're recycling the medina stone from
15 the front of the property to do this. So, it is --

16 MS. SCHWARTZ: Can I -- I have one other
17 question. How many months of the year do you feel
18 that the cabana will be used?

19 MR. BAYER: We think it will be used
20 definitely as a three season building, and I think
21 there's times when Mr. Judson may be out there even
22 at this time of year, so --

23 MS. SCHWARTZ: Okay. Thank you.

24 CHAIRPERSON MIETZ: Okay. Other questions,
25 please? Go ahead, Kathy.

1 MS. SCHMITT: Thank you. Thank you so much.
2 You mentioned that you spoke to the neighbors that
3 are on the east view, closest to, what you're calling
4 the pool yard --

5 MR. BAYER: Um-hum.

6 MS. SCHMITT: -- but I don't recall you
7 saying whether they were in support of the cabana and
8 pool or if they had any negative comments about it?

9 MR. BAYER: No -- we -- I -- they are
10 clients of mine and I have explained the project to
11 them, and they had no concerns. We are going to do
12 -- when they return to the area in the spring, we're
13 going to do a site walk so that we can enhance both
14 sides of the property line, and their pool equipment
15 is adjacent to -- it says neighbors' equipment shed
16 there?

17 MS. SCHMITT: Um-hum.

18 MR. BAYER: That is immediately adjacent to
19 the equipment room for the proposed building. So,
20 I've explained to them that -- obviously, that's very
21 intentional; and, again, you know, we will be working
22 closely with them. I talked to both Mr. and Mrs.
23 about the project, and I think they're absolutely
24 fine, and we will do joint improvements to make both
25 properties better.

1 MS. SCHMITT: And with regard to that, just
2 kind of a follow up question, I know you talked quite
3 a bit about how there's going to be dense
4 landscaping, I think someplace else it said, you
5 know, a great deal, it's going to be shielded, but I
6 wasn't really sure what you were doing because it
7 looked like you were taking down two trees --

8 MR. BAYER: Yep.

9 MS. SCHMITT: -- in that area?

10 MR. BAYER: Yep.

11 MS. SCHMITT: So do you have kind of a
12 general sense of what you're hoping to do to put up
13 there so that it's more shielded?

14 MR. BAYER: Yes. So, what we will do is, I
15 typically will do a mixed border in this kind of
16 condition. We'll do a lot of -- we'll do a lot of
17 narrow growing conifers or evergreens, and we will
18 have a layer of shrubs that will supplement that, and
19 some ornamental -- some small ornamental flowering
20 trees; and, again, it will be densely layered so that
21 both properties are nicely buffered.

22 And we are fortunate to have existing
23 evergreen hedge that is a little bit toward the
24 driveway end of the pool cabana, and that will
25 remain, and then we will be planting all of that dark

1 green area around the pool and the pool cabana with
2 significant amount of new planting; and, again, we'll
3 -- it'll be done, not only densely, but it'll be done
4 in period appropriate style so that what we do with
5 these new plantings will be in harmony with the
6 existing landscape around the property.

7 We've done a ton of work on the front of
8 this property with the changes in the driveway.
9 We've planted literally hundreds of trees on that
10 approach, and this spring the entire front of the
11 residence is being replanted in period appropriate
12 plants and this process will continue into this
13 project, and that's how we will approach it.

14 MS. SCHMITT: Thank you.

15 CHAIRPERSON MIETZ: Okay. Are you clear on
16 that, Kathleen, then?

17 MS. SCHMITT: Yes. Thank you.

18 CHAIRPERSON MIETZ: All right. Other
19 questions for Mr. Bayer?

20 MR. PREMO: Yeah, Mr. Bayer, this is Member
21 Premo. I'm just trying to -- so, to the west is the
22 Gianni's property, is that correct?

23 MR. BAYER: Yes.

24 MR. PREMO: And the Sands property is to the
25 east, and then a piece of it swings around south?

1 MR. BAYER: Yes, it does. Well, it goes
2 south to the golf course. If you look -- yeah, there
3 you go.

4 MR. PREMO: And then south of that there's
5 another -- I'm pointing at it but that doesn't help
6 you, of course. There's another residence there a
7 little bit further south?

8 MR. BAYER: Yes. Yes. Yep.

9 MR. PREMO: Do we know who's that residence?

10 MR. BAYER: Mrs. Ronan.

11 MR. PREMO: And has anyone -- the reason why
12 I'm asking is because it looks to me from the
13 topography that the property, the Judson property is
14 up a little bit higher as compared to those
15 properties to the south and to the east?

16 MR. BAYER: I would say Mrs. Ronan is
17 probably slightly higher, the Sands' residence --
18 both of those residences kind of -- Elmwood Hill Lane
19 is the access to both of those residences.

20 MR. PREMO: Right.

21 MR. BAYER: Elmwood Hill Lane climbs from
22 Elmwood Avenue to -- up to the end of that road.

23 MR. PREMO: Okay.

24 MR. BAYER: Sands is not quite -- Mrs. Ronan
25 is almost to the cul-de-sac there. I think you can

1 see the cul-de-sac in the lower left corner, or
2 thereabouts. That's about where the top of the hill
3 is, but they're both -- their residences are both up
4 pretty good, and Mrs. Ronan's view, principle view,
5 her back terraces and so on, look away towards, I
6 guess it would be the southwest, and she does have
7 some view to the west, but the main orientation of
8 her terraces are the other direction, but she's --
9 she's nicely buffered from the Judson's.

10 And the Sands view is really more due
11 west. We did a lot of tree pruning working with all
12 three neighbors, Ronan's, Gianni's, and Mr. and Mrs.
13 Sands to open nice views due west to the golf course.
14 And, so, we're super, I guess, conscious and
15 sensitive to trying to do a really nice job for all
16 these neighbors, so --

17 MR. PREMO: Has anyone -- have you talked to
18 the Ronan's or has someone talked to --

19 MR. BAYER: We haven't talked to Mrs. Ronan
20 about this project; but, again, the Sands and the
21 Gianni's being most immediately impacted, I know Mr.
22 Judson spoke with Mr. Gianni, and I -- Mr. Judson
23 spoke with Mr. Sands, but I recently spoke to both
24 Mr. and Mrs. Sands about it.

25 CHAIRPERSON MIETZ: Okay. All righty. Is

1 there anyone else on the Board that would like to ask
2 any other questions to Mr. Bayer? Okay. Very good.
3 Thank you very much, Mark.

4 MR. BAYER: Thank you.

5 CHAIRPERSON MIETZ: Okay. So, is there
6 anyone on this call that would like to speak
7 regarding this application?

8 MR. GORDON: Dennis, this is Ken Gordon, I
9 would like to share with the Zoning Board what the
10 Historic Preservation Commission found with respect
11 to this proposal, and I'd like to make that part of
12 the public hearing record.

13 CHAIRPERSON MIETZ: Okay. Go ahead.

14 MR. GORDON: So, just to put this in
15 context, the Historic Preservation Commission was
16 considering an application for a certificate of
17 appropriateness, and under our code, the issue for
18 the Historic Preservation Commission to consider is
19 whether the improvements to this already designated
20 landmark are compatible with the historic character
21 of the property.

22 And, so, in summary, the findings of the
23 Historic Preservation Commission were that what this
24 project proposes in terms of the substantial size of
25 the cabana, and the roof height of the cabana; are,

1 in fact, the minimum necessary variances that would
2 be needed for this project to be compatible with the
3 historic character of this property.

4 So, they adopted a specific resolution
5 which I'd like to read for you, and this is a
6 resolution that was adopted unanimously by the
7 Historic Preservation Commission on January 28th,
8 2021 and it reads as follows: The Historic
9 Preservation Commission wishes to express to the
10 Brighton Zoning Board of Appeals its support for the
11 design features of the project, including but not
12 limited to, the substantial size of the planned out
13 building, the height and pitch of the roof of the out
14 building, and the location of the proposed pool yard,
15 as such design features enhance the compatibility of
16 the proposed project with the historic character of
17 this designated property.

18 CHAIRPERSON MIETZ: Okay. Very good. Thank
19 you for reading that into the record.

20 MR. GORDON: Sure.

21 CHAIRPERSON MIETZ: Okay. Is there anyone
22 else that would like to speak regarding this
23 application? Okay. There being none, then the
24 public hearing's closed. Thank you very much. All
25 right. Does anyone need a few minutes or are we all

1 set to keep going? I guess we can go.

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9 FEBRUARY 3rd, 2021
10 At approximately 7:00 p.m.
2300 Elmwood Avenue
11 Rochester, New York 14618

PRESENT:

12 DENNIS MIETZ, Chairperson
13 JEANNE DALE)
14 EDWARD PREMO)
15 KATHLEEN SCHMITT)
16 JUDY SCHWARTZ) BOARD MEMBERS
17 ANDREA TOMPKINS WRIGHT)
18 JENNIFER WATSON)

19 KENNETH GORDON, ESQ.
20 Town Attorney

21 RICK DiSTEFANO
22 Secretary

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

23 REPORTED BY: ASHLEY FALCONE, COURT REPORTER
24 FORBES COURT REPORTING SERVICES, LLC
25 21 Woodcrest Drive,
Batavia, NY 14020,
(585) 343-8612

1 APPLICATION 1A-01-21

2 CHAIRPERSON MIETZ: All right. Rick?

3 MR. DiSTEFANO: Um-hum.

4 CHAIRPERSON MIETZ: Let's see. All right.

5 So, we're going to start with 1A-01-21, 1675 Monroe
6 Avenue. Does anyone have any concerns about the
7 renewal of this?

8 MS. SCHMITT: No.

9 CHAIRPERSON MIETZ: I certainly don't. Okay
10 then --

11 MR. DiSTEFANO: I'd just like to -- I know
12 we had a discussion about the dates of this
13 application. Kind of from a selfish standpoint it's
14 a lot easier to track keeping it per year, instead of
15 trying to crossover months of years.

16 MR. GORDON: I was thinking the same thing,
17 Rick. Yeah.

18 MR. DiSTEFANO: So, I would suggest that we
19 just kept it for the year 2021 and the year 2022.

20 CHAIRPERSON MIETZ: Okay. I don't think the
21 one month isn't going to make a tragic difference, so
22 -- especially with the latitude that Ken pointed out
23 as well that the Town's given, so -- okay, Jen.

24 MS. WATSON: Okie dokie. Just making sure
25 I've got my notes here.

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2 APPLICATION 1A-01-21

3 Application of Congregation Light of
4 Israel, owner of property located at 1675 Monroe
5 Avenue, for renewal of a Temporary and Revocable Use
6 Permit pursuant to Section 219-4 to erect a tent and
7 hold up to six outdoor special events for the years
8 2021 and 2022. All as described on application and
9 plans on file.

10 Motion made by Ms. Watson to approve
11 Application 1A-01-21 based on the following findings
12 of fact.

13 | FINDINGS OF FACT:

14 1. The events held by this Applicant are often
15 organized on short notice and thus would not be
16 practical to acquire the Zoning Approval for each
17 separate event.

18 2. The property has been used in similar fashions for
19 limited events over the course of the last several
20 years without any noted disturbances or complaints --
21 disturbances to or complaints from neighboring
22 properties.

23 3. Proposed events will occur primarily during the
24 day with not sound amplification or exterior
25 lighting. There is a vegetation buffer that screens

1 the property from neighbors to the southwest.

2 Therefore, the granting of this request will not
3 result in the change in the character of the
4 neighborhood, or pose a detriment to nearby
5 properties.

6 **CONDITIONS:**

- 7 1. The Temporary and Revocable Use Permit is valid
8 for six separate events per year from January 1st,
9 2021 through December 31st, 2022.
- 10 2. Each event shall last no longer than two days.
- 11 3. The tent used for the events may be erected no
12 more than two days prior to each event, and must be
13 taken down no later than two days after each event.
- 14 4. Food preparation must be done inside the building
15 or offsite.
- 16 5. All litter shall immediately be picked up from the
17 site following each event.
- 18 6. There shall be no sound amplification.
- 19 7. Any lighting shall be limited to inside the tent.
- 20 8. All events shall conclude by 11 p.m.
- 21 9. All necessary tent permits and other approvals
22 required from the Fire Marshal shall be obtained
23 prior to each event.

24 (Seconded by Ms. Tompkins-Wright.)

25 (Mr. Premo, yes; Ms. Schwartz, yes; Ms.

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

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

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1 APPLICATION 2A-01-21

2 CHAIRPERSON MIETZ: Okay. Very good. Okay.
3 So, the next application is East Henrietta Road for
4 the monument sign. Why don't we go around on this
5 one and see what people think? Ed, what do you
6 think? You've gotta unmute yourself, Ed.

7 MR. PREMO: Sorry. I mean, I guess, my view
8 is generally I agree with the idea to having clear
9 identification of the address is both helpful to the
10 landowner and the people going by. Particularly, as
11 we said, 35 miles per hour but everyone's going 45.
12 So, having some identification is useful.

13 Given the configuration of the site it
14 seems to be a, you know, more unique condition that
15 the building's set back so far. So, I guess, I
16 really don't have a problem with the monument sign
17 per se, I guess I'd like to hear other peoples
18 thoughts --

19 CHAIRPERSON MIETZ: Yes. Yes.

20 MR. PREMO: -- on whether it should just be
21 just the address identification without business
22 center --

23 CHAIRPERSON MIETZ: Okay.

24 MR. PREMO: -- or not.

25 CHAIRPERSON MIETZ: Okay. Very good. All

1 right. Kathleen?

2 MS. SCHMITT: I agree with Ed. I find that
3 road terribly confusing and I'm frequently frustrated
4 as I can tell cars around me are trying to slow down
5 or speed up looking for something. So, I'm not
6 opposed to the signage, I don't have a particular
7 opinion on how it should look, or the language, but I
8 like the idea of at least having the number and the
9 street name.

10 CHAIRPERSON MIETZ: Okay. Judy?

11 MS. SCHWARTZ: I agree with what's been
12 said. I, as you know, have always said I think that
13 the number and the street are really the most
14 important, and I'm glad -- the size, I think, is
15 appropriate, it's eight and half inches. I had a
16 ruler and that's not overly large considering you're
17 out on the road; and, to me, this will be a safety
18 factor for the area. I could go either way, if you
19 want a business center, that's fine, if you don't I'm
20 okay. I just am glad the numbered street --

21 CHAIRPERSON MIETZ: Okay. Good. Jeanne?

22 MS. DALE: Yeah, I -- I think that there's a
23 legitimate need. So, I don't have a problem with it.

24 CHAIRPERSON MIETZ: Okay. And, Jen?

25 MS. WATSON: Yeah, I feel the same. There's

1 a real need for it and I don't think we need to
2 condition whether or not it says business center.
3 The address is important.

4 CHAIRPERSON MIETZ: Right. Right. Okay.
5 All right. So yeah, and I -- I agree I think the
6 issue, that's why I asked about the occupancy of the
7 building because it is a multi tenant building. So,
8 I don't think it's a problem to call it a business
9 center, because I guess that's what it is. So, but,
10 again, I think that -- that area is a busy corridor
11 and to have some clarification that isn't touting any
12 particular business, I think is more than reasonable.

13 MS. TOMPKINS-WRIGHT: I would also just add
14 that we should include in -- the

15 CHAIRPERSON MIETZ: Oh, I'm sorry, Andrea, I
16 apologize. Go ahead.

17 MS. TOMPKINS-WRIGHT: No, that's okay. I
18 roundly agree with everyone, but just also including
19 in the approval that this property is also surrounded
20 by the properties with monument signs. And,
21 obviously, you know, there's different uses and
22 there's different reasoning, but it almost begs for a
23 monument sign I think at this location.

24 CHAIRPERSON MIETZ: Yes. Okay. Good.
25 Okay. So, being that, as it may, I guess Jeanne,

1 what do you think? Go ahead.

2 Ms. Dale: Yep.

3 MR. DiSTEFANO: Jean. Jean. Just before
4 you say that, I know I sent you guys out an e-mail,
5 and I did have the wrong application numbers in
6 there. So, we do need a SEQR statement for this
7 particular application. Did you open that up and
8 have that SEQR statement? If you could just say that
9 before you start the motion?

10 MS. DALE: Sure. No problem.

11 MR. DiSTEFANO: Thank you.

12 CHAIRPERSON MIETZ: Rick, rick, what about
13 the other two? Just so we clarify.

14 MR. DiSTEFANO: The 1A-01 is a type two
15 action --

16 CHAIRPERSON MIETZ: Right.

17 MR. DiSTEFANO: -- so the one we just did
18 has none. Anything done pretty much residential is a
19 type two action. This application and the next
20 application are unlisted actions.

21 CHAIRPERSON MIETZ: Okay.

22 MR. DiSTEFANO: So, we can read the SEQR
23 statement.

24 CHAIRPERSON MIETZ: Okay. Good. Alright.
25 Go ahead.

1 APPLICATION 2A-01-21

2 Application of SkyLight Signs, Inc., agent,
3 and Flaum Management, owner of property located at
4 1057 East Henrietta Road, for a Sign Variance from
5 Section 207-32 to allow for a free standing
6 identification sign where not allowed by code. All
7 as described on application and plans on file.

8 Motion made by Ms. Dale to approve
9 Application 2A-01-21 based on the Board having
10 considered the information presented by the
11 Applicant, and having completed the required review
12 pursuant to the SEQR, the Board determined the
13 proposed project would not likely have a significant
14 environmental impact and has made the following
15 findings of fact.

16 **FINDINGS OF FACT:**

- 17 1. The Applicant is seeking to provide easily visible
18 identification to assist in wayfinding in an area
19 that has heavy traffic at times at high speeds.
- 20 2. The building is set 276 feet back from -- on the
21 property making a freestanding sign appropriate for
22 building identification.
- 23 3. Granting of the applicant's request for a
24 freestanding sign will not result in a substantial
25 change in the character of the neighborhood, or be

1 detrimental to surrounding properties as it is
2 located in an industrial district where the
3 businesses are spaced far apart, and there are
4 similar freestanding monument signs nearby.

5 **CONDITIONS:**

6 1. The sign shall not be lighted.
7 2. The sign shall be placed at the location described
8 in the application which is ten feet back from the
9 front setback.
10 3. ARB approval shall be obtained.

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1 MR. DiSTEFANO: May I just add to that, that
2 all necessary ARB and Planning Board approvals shall
3 be obtained.

4 MS. DALE: Thank you.

5 (Seconded by Ms. Schwartz.)

6 MR. GORDON: Just a question, and this is --
7 I apologize for again, this is my newness to your
8 Board. Would you or would you not condition your
9 approval on the sign reading as proposed, 1057 East
10 Henrietta Road Business Center?

11 MR. DiSTEFANO: Yeah, I think that's
12 important because, like -- like what was stated
13 earlier by the Applicant, you know, if they came back
14 and said well, we're just going to put a name of a --
15 of an occupant out here, I don't think we want that.
16 But they could -- that's smart that we condition it
17 to the -- the text shall be as per application
18 submitted.

19 CHAIRPERSON MIETZ: As the drawing
20 submitted. Right. Yeah.

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1 4. The text shall be as per application submitted.

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1 CHAIRPERSON MIETZ: And I think you noted
2 just for everyone's clarification that -- that the
3 Planning -- or, excuse me, the ARB's concern is more
4 what the base of this thing, not the context.

5 MR. DiSTEFANO: Yes.

6 CHAIRPERSON MIETZ: Okay.

7 MR. DiSTEFANO: Jeff, Jeff, you're on if you
8 have any comments regarding the Architectural Review
9 Board in regard to this, certainly pipe in. Jeff
10 does staff the Architectural Review Board.

11 MR. FRISCH: What you're saying is correct.
12 They're okay with the sign itself, but they didn't --
13 they want an alternate for the base.

14 MR. DiSTEFANO: Okay. Thank you.

15 CHAIRPERSON MIETZ: All right. And, Judy --

16 MR. DiSTEFANO: I just wanted to know if the
17 stenographer got that last condition, Number Four?

18 (Stenographer affirms yes.)

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1 CHAIRPERSON MIETZ: Okay. Judy did second,
2 Rick.

3 MR. DiSTEFANO: Thanks.

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

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

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1 APPLICATION 2A-02-21

2 CHAIRPERSON MIETZ: Okay. The next
3 application is this building on the corner of Lac De
4 Ville and the back of the Tops Plaza. Why don't we
5 go around again on that and we'll start with Andrea.
6 What do you think, Andrea?

7 MS. TOMPKINS-WRIGHT: My vote would be to
8 table this and require that they present additional
9 information regarding the operation of these two
10 doctor's offices.

11 I don't have a problem, in general, with
12 approving lower parking counts when we don't need
13 them. More impervious coverage isn't good for our
14 town, it's not good for the environment if it's not
15 necessary, but what they've presented is one line in
16 the letter saying that the doctors don't need the
17 parking.

18 I want more explanation of why, you know,
19 and what the future plans are and a floor plan to
20 show how many doctors' offices they are, and that
21 would help us know how to condition this approval,
22 which I'm not against approving it. I would want to
23 condition it to make sure that however they're using
24 the property now doesn't change and grow into a
25 parking problem in the future.

1 CHAIRPERSON MIETZ: Okay. Valid concern.

2 All right. Jen, what do you think?

3 MS. WATSON: I would agree with that. I
4 think my intuition is that it's fine, I agree that
5 lower parking counts are in some ways better. I
6 mean, having swaths of parking that's not being used
7 is not something I'm in favor of, clearly, and is
8 surrounded by parking on all sides from other
9 businesses as well.

10 So, I think in a pinch somebody would find
11 a spot, but that being said I'm not sure the
12 Applicant really provided quite enough detail to back
13 up the claim that they don't need it. So, tabling it
14 for them to come back with that information would be
15 doing our due diligence

16 CHAIRPERSON MIETZ: Okay. Kathleen?

17 MS. SCHMITT: I agree with both Andrea and
18 Jennifer.

19 CHAIRPERSON MIETZ: Okay. And, Ms. Dale?

20 MS. DALE: Yeah, I was hoping that the
21 Presenter would have been able to answer the question
22 about the current state of business that is what --
23 you know, do they operate elsewhere, and what was the
24 parking like there, and I think a little of that
25 history would be very helpful.

1 CHAIRPERSON MIETZ: All right. Ed?

2 MR. PREMO: Yeah. Well, first, I guess I
3 just want to clarify the option of land banking.
4 Rick, if we -- if we did that, in essence, they'd
5 have to go through the whole approval process --

6 CHAIRPERSON MIETZ: Right.

7 MR. PREMO: -- for all the parking spaces,
8 and they'd have to get variances from us, and just
9 not use them for the time being?

10 CHAIRPERSON MIETZ: Right.

11 MR. DiSTEFANO: Right. And site plan
12 approval too.

13 CHAIRPERSON MIETZ: Right.

14 (Inaudible)

15 MR. PREMO: It would be a far more
16 complicated process than would actually -- for the
17 neighboring property owners, meaning we'd have to
18 give a variance to the main --

19 MR. DiSTEFANO: Yeah.

20 CHAIRPERSON MIETZ: Yes.

21 MR. PREMO: Okay. I --

22 MR. DiSTEFANO: In three different areas we
23 would have to do that.

24 CHAIRPERSON MIETZ: Right.

25 MR. PREMO: Okay. I agree we should ask for

1 more information.

2 CHAIRPERSON MIETZ: Okay.

3 MR. PREMO: I guess, as I heard they said,
4 they think they'll have tenants in the basement?

5 MR. DiSTEFANO: They're definitely going to
6 have tenants in the basement.

7 CHAIRPERSON MIETZ: Yes.

8 MR. PREMO: I guess --

9 MR. DiSTEFANO: My understanding it was a
10 therapist and a chiropractor business at the time
11 this first came in. Whether that has changed or not,
12 I'm not sure.

13 MR. PREMO: And how does that affect the --
14 how big the variance -- is it the same variance?

15 MR. DiSTEFANO: Well, I mean, they could've
16 come in and made the argument that the total mixture
17 of tenants in here would never reach the 57 required
18 parking spaces, because they might make an argument
19 that the chiropractor is a low generating medical
20 use, that the therapist might be just a one-on-one
21 type of medical use.

22 So, they could've looked at the building
23 as a whole, instead they kind of concentrated on the
24 owners who are taking the first floor and saying
25 their business doesn't require it. It doesn't matter

1 what we put on the second -- or the lower level, any
2 -- any medical use could come in there and be fine by
3 code, it's just that the first floor tenants will
4 never reach the code maximum.

5 CHAIRPERSON MIETZ: Right. Okay. Yeah, so
6 -- so, I think asking for the information is good. I
7 think that it was a little nebulous what they said.
8 This is a cumbersome thing, we've gone down this road
9 before; and, you know, the enforcement, the whole
10 thing, becomes difficult, and I think in fairness we
11 should listen because I think some of the questions,
12 the probing questions, were not answerable by this
13 Applicant.

14 So, to fashion something that relates to
15 getting more information about it. And, I guess,
16 just to clarify, Rick, I think the lower level, based
17 on what he has done here in this application, is that
18 any medical use could go down there, it wouldn't
19 matter if it was a therapist or a chiropractor --

20 MR. DiSTEFANO: Yes.

21 CHAIRMAN MIETZ: -- or a dentist or
22 anything, the way he's proposed this. I think --

23 MR. DiSTEFANO: Correct.

24 CHAIRPERSON MIETZ: -- we're really talking
25 about giving giving the latitude to the first floor.

1 MR. DiSTEFANO: Right.

2 CHAIRPERSON MIETZ: I just wanted to make
3 sure everyone understands that. Okay.

4 MR. GORDON: So, to make sure that you're
5 not disappointed by what you get, and the Applicant
6 is assisted by whatever information you request, I
7 think you should have a specific list or somewhat of
8 a specific list of what it is you're looking for.

9 I heard floor plan. I heard a better
10 description of the actual uses of all the space in
11 the building, and I heard what the current parking
12 requirements are and usages at the existing medical
13 practices if there are such existing medical
14 practices. And I think I heard a request for what
15 the specific computations were that were done to
16 arrive at the single line conclusion that we don't
17 need more space, or we'll never need -- you know,
18 we'll never need 57.

19 So, I think you need to make those specific
20 requests if you can, and I don't know, Rick, if
21 that's something you communicate to the Applicant.

22 MR. DiSTEFANO: We do it as, like, as a
23 Board as part of the decision process or the tabling
24 process, and then I send those off to the Applicant.
25 So, we'll formalize them right now --

1 CHAIRPERSON MIETZ: Right.

2 MR. DiSTEFANO: -- what we're requesting.

3 CHAIRPERSON MIETZ: Yeah, and Ken, just
4 historically for your understanding on how we
5 generally approach these is, we will never really
6 make a list per se, but we talk about the flavor and
7 some specifics about what we're interested in. We
8 don't just say additional information, but then Rick
9 really goes into more detail with the Applicant so
10 that it's clear if they have questions as to what
11 we're shooting for.

12 MR. GORDON: Yeah, I -- for accountability
13 it's nice to know the specifics you're looking for --

14 CHAIRPERSON MIETZ: Yeah.

15 MR. GORDON: -- assisting the Applicant so
16 you don't end up bouncing back and forth.

17 CHAIRPERSON MIETZ: Yeah. It's -- it's
18 always -- it's always worked fine, so --

19 MR. GORDON: Yep.

20 CHAIRPERSON MIETZ: -- I appreciate what
21 you're saying, but, you know, there's always going to
22 be a little gray areas, and I think that's where
23 staff really assists in this; and, typically, it's
24 worked along pretty well. As long as we don't, as
25 you point out, leave out some drastic thing that if

1 we wanted a floor plan and didn't ask for one, that
2 that would be a little unreasonable. Okay. All
3 right.

4 MR. DiSTEFANO: Can I ask -- can I ask a
5 question of the Board? Do you want to hear back from
6 them and ask questions so we would leave the public
7 hearing open? Are you comfortable with just
8 information that they -- which you would receive?

9 MS. TOMPKINS-WRIGHT: I want to leave it
10 open because I'd like to hear more operational
11 information. You know, why do they only need six
12 parking spaces for patience?

13 CHAIRPERSON MIETZ: Right.

14 MR. DiSTEFANO: And -- and maybe that's
15 another thing that we table it for is representation
16 of the property owner.

17 MS. TOMPKINS-WRIGHT: Yes. Yes. Exactly.

18 MR. DiSTEFANO: They're the ones that can
19 answer the questions that we had today.

20 CHAIRPERSON MIETZ: Right.

21 MR. DiSTEFANO: And unfortunately they
22 weren't on --

23 CHAIRPERSON MIETZ: Correct.

24 MR. DiSTEFANO: -- the meeting. So --

25 CHAIRPERSON MIETZ: Okay.

1 MR. DiSTEFANO: All right. So, whoever's
2 making the motion just state the fact that we're
3 going to keep the public hearing open.

4 CHAIRPERSON MIETZ: Yes, I've got it. Do
5 you need the SEQR on top of this part -- table -- or
6 --

7 MR. DiSTEFANO: Well, because we're -- have
8 it made -- well --

9 CHAIRPERSON MIETZ: Okay.

10 MR. GORDON: No.

11 MR. DiSTEFANO: No. Not until --

12 MR. GORDON: No. Not until you -- not until
13 you take action to actually approve --

14 CHAIRPERSON MIETZ: Okay. Yeah, this is --

15 MR. DiSTEFANO: If we deny it we won't need
16 it.

17 CHAIRPERSON MIETZ: The interjection of this
18 is new to everybody on this Board. So, I just wanted
19 to clarify. Okay. All right. So, let me go ahead
20 then.

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1 APPLICATION 2A-02-21

2 Application of Lot Bar-Vie, owner of
3 property located at 2601 Lac De Ville Boulevard, for
4 an Area Variance from Section 205-12 to allow for the
5 reuse from a professional office building to a
6 medical office building with 45 parking spaces in
7 lieu of the minimum 57 parking spaces required by
8 code. All as described on application and plans on
9 file.

10 Motion made by Chairperson Mietz to table
11 Application 2A-02-21 for more information as follows,
12 and keep the public hearing open.

13 The Applicant should appear at the hearing
14 to be able to address questions about the operation
15 of the proposed first floor practice, provide a floor
16 plan, discuss the specific uses, and a history of the
17 practice. Okay. Does anyone think we would want to
18 add anything else specifically? It seems like that
19 would work. Okay. Okay. So, just -- we need a
20 second to that.

21 (Seconded by Ms. Tompkins-Wright.)

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

25 (Upon roll call, motion to table, the

1 public hearing open carries.)

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1 APPLICATION 2A-03-21

2 CHAIRPERSON MIETZ: Okay. So, the final
3 application is the Judson property. So, let's kind
4 of go around on that one. Ed, what do you have to
5 say about the Judson property?

6 MR. PREMO: Yeah, you know, I had a lot of
7 questions, but I'm actually fine with it. I think
8 certainly hearing the comments from Historic
9 Preservation was helpful as part of it.

10 I think they have located it with trying
11 to show sensitivity to the -- the site and everything
12 else. I actually think at least the elevations of
13 the actual building itself look very nice. So, you
14 know, it's one of these situations where you have a
15 code, and you have size specifications in it, but
16 then you have probably a unique property like this,
17 unique residence on it that, you know, this is why
18 give variances, so --

19 CHAIRPERSON MIETZ: Okay. Very good. Okay.
20 Kathleen, what do you think?

21 MS. SCHMITT: Based on the presentation and
22 the materials, I do not have a problem.

23 CHAIRPERSON MIETZ: Okay. And how about
24 Jen?

25 MS. WATSON: Yeah, it fits into the

1 architecture, the placement is really sensitive to
2 the neighbors and the site lines, and I don't have a
3 problem with that either.

4 CHAIRPERSON MIETZ: Okay. Andrea?

5 MS. TOMPKINS-WRIGHT: Agreed.

6 CHAIRPERSON MIETZ: Okay. And, Ms. Dale?

7 MS. DALE: Yes, I -- I agree, I think it's
8 -- I think it's well done.

9 CHAIRPERSON MIETZ: Okay. I do too. Okay.
10 Very good.

11 MS. SCHWARTZ: Wait a minute you've --

12 CHAIRPERSON MIETZ: I'm sorry.

13 MS. SCHWARTZ: -- left me out twice now. I
14 didn't --

15 CHAIRPERSON MIETZ: You know why?

16 MS. SCHWARTZ: I didn't speak --

17 CHAIRPERSON MIETZ: I don't have your -- I
18 don't have your picture on there. I'm sorry, that's
19 why.

20 MS. SCHWARTZ: Okay. I didn't speak up
21 about Lac De Ville because I wasn't called on, but
22 I'm going to speak up now.

23 CHAIRPERSON MIETZ: Okay. All right.

24 MS. SCHWARTZ: I'm always concerned about
25 neighbors and so as long as they have spoken with

1 them, it seems at great lengths, and everyone is
2 happy with it and there really is substantial
3 buffering. I mean, it's very well, you know, filled
4 with older trees, I'm okay.

5 CHAIRPERSON MIETZ: Okay. Very good. All
6 right. Yeah, I am as well. I think, you know,
7 they've -- as Ken pointed out the Historic
8 Preservation Board which, you know, looks pretty
9 arduously at these types of projects. I think --
10 felt that the scaling and mass of it, because that's
11 really what we're looking at here, were correct. So,
12 I think that's certainly noteworthy and probably
13 should be addressed as well in the determination
14 here. Okay. So, Kathleen, I guess go right ahead.

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1 APPLICATION 2A-03-21

2 Application of Mark Bayer, Bayer
3 Landscaping Architecture, agent, and Rufus Judson,
4 owner of property located at 3541 Elmwood Avenue, for
5 1) an Area Variance from Section 203-2.1B(2) to allow
6 a pool cabana to be 968 square feet in lieu of the
7 minimum 250 square feet allowed by code; and 2) an
8 Area Variance from Section 207-6A(1) to allow said
9 cabana to be 23.6 feet in height to the ridge line
10 and 30.5 feet in height to the top of the chimney in
11 lieu of the maximum 16 feet in height allowed by
12 code. All as described on application and plans on
13 file.

14 Motion made by Ms. Schmitt to approve
15 Application 2A-03-21 based on the following findings
16 of fact.

17 **FINDINGS OF FACT:**

18 1. The first part of the variance request is to allow
19 a pool cabana to be 968 square feet in lieu of the
20 maximum 250 square feet allowed by code.
21 2. The second piece is to allow the cabana's ridge
22 line and chimney to exceed the maximum height
23 allowance of 16 feet established by code.
24 3. The homeowners' lot is extensive being
25 approximately two and a half acres.

1 4. The proposed height and size of the cabana is
2 consistent with the style and significant scale of
3 the current historic landmark home and garage, and
4 would not be out of balance with the rest of the
5 neighborhood, nor would it create an undesirable
6 change in the character of the neighborhood, or be a
7 detriment to nearby properties.

8 5. The 23.6 feet ridge line and the 30.6 feet chimney
9 height on the cabana are the minimum heights
10 necessary to remain consistent roof lines,
11 proportion, and chimney details with the homeowner's
12 residence and garage.

13 6. The cabana will have no adverse effect on impact
14 -- I'm sorry, or impact upon the physical or
15 environmental conditions in the neighborhood, as the
16 cabana will be completely concealed from Elmwood
17 Avenue, and will be heavily buffered from all
18 adjacent properties with dense plantings.

19 7. There's no evidence that there would be a negative
20 impact on the health, safety, and welfare of the
21 neighborhood.

22 **CONDITIONS:**

23 1. The variance applies only to the pool cabana as
24 described in the application and testimony provided,
25 and will not apply to future projects.

1 | 2. All necessary building permits shall be obtained.

2 (Seconded by Ms. Schwartz.)

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1 MR. DiSTEFANO: I'd also like to put all
2 necessary Historical Preservation Commission
3 approvals shall be obtained.

4 MS. SCHMITT: Oh, thank you.

5 MR. DiSTEFANO: Ken, they were tabled,
6 right, at the last meeting?

7 MR. GORDON: Yep.

8 MR. DiSTEFANO: Okay. So, let's put that
9 one in there.

10 CHAIRPERSON MIETZ: Okay.

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1 3. All necessary Historical Preservation Commission
2 approvals shall be obtained.
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1 CHAIRPERSON MIETZ: Anything else?

2 MR. DiSTEFANO: Do you guys want to -- I
3 don't think it's necessary, but I'm going to just ask
4 you, do you want to do anything in regards to the
5 landscaping plan? I'm sure they're going to move
6 forward with it. I don't know if we have to
7 specifically condition that this be landscaped, but
8 it's something to think about.

9 MR. PREMO: Yeah, I mean, I think the motion
10 does state based upon the plans and discussions that
11 was submitted, but if we want to make that specific
12 -- but that's how I understood the motion.

13 CHAIRPERSON MIETZ: Yes.

14 MR. DiSTEFANO: Well, I kind of understood
15 it as the structure itself. I didn't kind of take it
16 as the entire -- the entire plan and everything
17 that's going on with it. I think if we wanted to be
18 a little more specific we can say --

19 MS. SCHWARTZ: Right.

20 MR. DiSTEFANO: -- the landscaping shall be
21 installed as per the plan submitted.

22 CHAIRPERSON MIETZ: I think that's probably
23 fine.

24 MR. DiSTEFANO: A separate condition.

25 CHAIRPERSON MIETZ: Are you okay with that,

1 Kathleen?

2 MS. SCHMITT: I am.

3 CHAIRPERSON MIETZ: Okay. So, let's just
4 add that as the last condition then.

5 CHAIRPERSON MIETZ: Okay. And who was the
6 second?

7 MS. SCHWARTZ: I did. Judy.

8 CHAIRPERSON MIETZ: Okay, Judy. Thank you.
9 I knew you were out there somewhere.

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1 4. The landscaping shall be installed as per the plan
2 submitted.

3 (Seconded by Ms. Schwartz.)

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

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1 CHAIRPERSON MIETZ: Okay. Any concerns
2 about next months from anybody as far as scheduling?

3 MR. PREMO: Do we think the Baptist Temple
4 will be going next month?

5 MR. DiSTEFANO: I don't know where they are.
6 They're still working pretty diligently with the
7 neighborhood. They have scaled back the plans, we've
8 seen the concept on their scaled back plans, but I do
9 believe they're still, like I said, working
10 diligently with the neighbors to try to come to some
11 --

12 CHAIRPERSON MIETZ: Yep.

13 MR. DiSTEFANO: -- conclusion.

14 MS. SCHWARTZ: I --

15 CHAIRPERSON MIETZ: Okay.

16 MS. SCHWARTZ: I -- I have a question about
17 do you remember, guys, back with that gas station
18 between the fire house on East Avenue and the
19 Friendly Home, remember that little tutory thing?

20 MR. PREMO: Yep, um-hum.

21 MS. SCHWARTZ: And they kept postponing,
22 postponing, postponing; and, finally, I think we said
23 too many times.

24 MR. DiSTEFANO: Yeah, anytime if, you know,
25 we feel, like, we've been carrying this over and over

1 and over we can deny it without prejudice.

2 MS. SCHWARTZ: Yeah.

3 MR. DiSTEFANO: We don't have to accept
4 their postponement. It's, you know -- does -- does
5 get expensive for the town to have to readvertise it
6 every --

7 MS. SCHWARTZ: Yeah.

8 MR. DiSTEFANO: -- month.

9 MS. SCHWARTZ: And we don't get covered for
10 the add. Okay.

11 MR. DiSTEFANO: Right. And we only get one
12 fee. We don't get a fee every time, so --

13 MS. WATSON: If they're revising their plans
14 are they willing to resubmit different plans ahead of
15 time for us to review, or is it just like --

16 MR. DiSTEFANO: Yeah. No, they would they
17 would have to be resubmitted prior to --

18 MS. WATSON: Okay. Good.

19 MR. DiSTEFANO: Because the variances are
20 going to change. I --

21 MS. SCHWARTZ: Yeah.

22 MR. DiSTEFANO: If they -- if they move
23 forward with the revisions then variances are going
24 to change. So, it will be --

25 CHAIRPERSON MIETZ: Um-hum.

1 MR. PREMO: So, Rick, so the Planning Board
2 is going to be the lead agency for SEQR, right?

3 MR. DiSTEFANO: Correct.

4 MR. PREMO: So, they have to make a
5 determination of significance before we --

6 MR. DiSTEFANO: We can make a decision. We
7 can hear it, but we can't make a decision --

8 CHAIRPERSON MIETZ: Correct. Right.

11 MR. PREMO: So, what would the typical
12 timing be that we would go forward and have the
13 public hearing, and then hold it until the lead
14 agency concludes a SEQR?

20 MR. PREMO: Right.

21 CHAIRPERSON MIETZ: Okay. Very good. All
22 right. Thank you everyone. Have a good evening, and
23 be safe.

24 MR. DiSTEFANO: Thank you everybody.

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1 | **REPORTER CERTIFICATE**

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3 I, Ashley Falcone, 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 25th day of February, 2021

13 At Rochester, New York.

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Aswag Yelove

Ashley Falcone