

**BRIGHTON
ZONING BOARD OF APPEALS
MEETING**

September 1, 2021
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

11 | PRESENT:

12 | Jeanne Dale, ACTING CHAIRPERSON

16 KEN GORDON, ESQ.
Town Attorney

18 RICK DiSTEFANO
Secretary

19 ABSENT: CHAIRPERSON MIETZ

20 MS. TOMPKINS WRIGHT

22 REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,
23 FORBES COURT REPORTING SERVICES, LLC
24 21 Woodcrest Drive
Batavia, NY 14020

1 MS. DALE: Okay. So we're going to try to
2 do this without a mask and we will all -- with a mask
3 and we will all try to use the microphone and
4 hopefully everyone can hear okay. All right. So
5 welcome to the September meeting of the Brighton
6 Zoning Board of Appeals. Just to give you some
7 information, what we'll do is -- first thing we do is
8 we review the minutes from the last meeting. It will
9 only take a couple minutes to go through corrections.

10 Then what we do is one by one we'll call up
11 each of the applications that we've got on the agenda
12 tonight. And when you come to the podium, please give
13 your name and address for the record. And then we ask
14 that you describe your application, just give us some
15 background, tell us what you're seeking. We all have
16 reviewed your application, but it's helpful to hear
17 the explanation from the applicants themselves.

18 The way it usually works is we run through
19 all of the agenda items and then sometimes we take a
20 break depending on how long things are going. And
21 then if you'd like to stay, you're welcome. You can
22 hear the Board members discuss the applications and
23 hear what our result is. If you don't want to stay,
24 that's okay though. You can call Rick DiStefano in
25 the office tomorrow and hear what the results were.

1 So that's up to you guys.

2 Did want to tell you that the building is
3 equipped with fire exits. And so we'll all get up and
4 leave if the fire alarms go off. And one other thing
5 I wanted to mention, you might notice there's only
6 four board members here tonight. We've got some
7 people with extenuating circumstances that couldn't be
8 here. In order for any application to be approved we
9 would have to have four votes. So when we're
10 discussing these applications amongst ourselves, if it
11 ends up that the four of us don't agree, then what we
12 would do to be fair to the applicant is we would table
13 the application until next month and bring it back
14 then.

15 Now, my -- you know, we'll see how it goes,
16 but I don't think we have any particularly contentious
17 items on the agenda tonight. And so hopefully we will
18 all agree and that won't be an issue, but just wanted
19 to let everybody know. So with that, Rick, I think
20 I'm supposed to ask you if the meeting was properly
21 advertised?

22 MR. DiSTEFANO: Yes. The meeting was
23 advertised in the Brighton-Pittsford post of August
24 16th, 2021.

25 MS. DALE: Is there anything you wanted to

1 add, Rick?

2 MR. DiSTEFANO: I have nothing. If members
3 have any questions. I'll just say one thing for the
4 audience in case anybody is here for application --
5 applications 9A-06-21, 9A-08-21 and 9A-09-21. All
6 three of those applications have been postponed.

7 MS. DALE: So starting with the minutes,
8 Judy, help us out if you don't mind.

9 MS. SCHWARTZ: I will.

10 MS. DALE: Great.

11 MS. SCHWARTZ: On page 25, line 3 --

12 MR. DiSTEFANO: Hold on. Hold on. Just
13 before we get into that, let me call the roll.

14 MS. SCHWARTZ: Oh, yeah.

15 MR. DiSTEFANO: Let me call it anyway.

16 (Whereupon the roll was called.)

17 MR. DiSTEFANO: Mr. Mietz. Ms. Tompkins
18 Wright. Please let the record show that Mr. Mietz and
19 Ms. Tompkins Write are not present.

20 MR. GORDON: And if I could just add the
21 Town Hall policy about masking is that when you are
22 speaking at a board or at a public hearing, you are
23 permitted to lower your mask so that you can be heard,
24 but you are welcome to keep the mask up if you are
25 more comfortable doing that.

1 MS. DALE: Okay. Thank you. That's very
2 helpful. Do you want to --

3 MS. SCHWARTZ: I'd just assume leave it on,
4 if that's okay.

5 MS. DALE: Sure.

6 MS. SCHWARTZ: Okay. Page 25, line 3, the
7 almost last word should be "revocable." Page 29,
8 line 12, is 745 Winton, W-I-N-T-O-N, and I believe
9 that might be in a couple other places as well. That
10 same page line 17, the sentence should begin with
11 "guests on patio." Okay. On page -- I'm sorry --
12 -- yeah. Line 19 is again Winton. 33, line 7, the
13 very last word should be "Danielle." On page -- one
14 second -- 53, line 15, towards the end of that line
15 should be "continuation."

16 Oh, and then, Rick, I'd like you to look at
17 this one. It's in -- it's the whole thing with the
18 "whereas" and so on and so forth. And it's not a page
19 number. But it's just before section A, and it's the
20 vote. And I believe I voted no.

21 MR. DiSTEFANO: You're looking at -- you're
22 probably looking at the attachment two meetings ago.

23 MS. SCHWARTZ: Well --

24 MR. DiSTEFANO: I know. It was in the
25 packet, but what -- we attached the original

1 resolution from July, we also attached the resolution
2 from December. In the December resolution you voted
3 yes. In the July resolution you voted no.

4 MR. PREMO: It does show --

5 MS. SCHWARTZ: I'm trying to find a date.

6 Whereas --

7 MR. PREMO: 7th of July, 2020, page 2 on the
8 back it has you voting no.

9 MR. DiSTEFANO: Are you on the December
10 right there at the top right-hand corner? It has a
11 date. Very top, right where you -- very top
12 right-hand corner, it says the date.

13 MS. SCHWARTZ: Oh, yes, yes, yes. Okay. It
14 does.

15 MR. DiSTEFANO: That was the -- that was --
16 because we referenced that resolution in the July
17 resolution, we put that with the minutes also. Okay?

18 MS. SCHWARTZ: Okay. Very good. Thank you.
19 I was going to ask -- that's all I have.

20 MS. DALE: Okay. Motion to approve with
21 corrections?

22 MR. PREMO: So moved.

23 MR. DiSTEFANO: A second?

24 MS. SCHWARTZ: Second.

25 MR. DiSTEFANO: The motion is to approve

1 with corrections.

2 (Mr. Premo, yes; Ms. Schwartz, yes;
3 Ms. Schmitt, yes; Ms. Dale, yes.)

4 (Upon roll call, the motion carries.)

5 MS. DALE: Go ahead with the first one.

6 **Application 9A-01-21**

7 Application of Adrian Jules Custom Clothier,
8 lessee, and Buckingham Properties LLC, owner of
9 property located at 2933 Monroe Avenue, for a
10 Temporary and Revocable Use Permit pursuant to Section
11 219-4 to allow for a one day outdoor grand opening
12 event with a 40 feet by 80 feet tent located in the
13 parking lot. All as described on application and
14 plans on file.

15 MR. ROBERTI: Good evening. Thank you. My
16 name is Peter Roberti at 2937 Monroe Avenue. We're
17 looking to put a tent up on the outside for the grand
18 opening event. At that event we will have a shuttle
19 service so that it doesn't jam up the whole parking
20 lot. We figured it will start at 5 o'clock and ends
21 at 8:30. We are going to have parking attendants
22 there to keep an eye on things and make sure it
23 doesn't get too congested. We put it up the day
24 before and take it down the next day. It'll go up on
25 Wednesday. It'll stay up overnight. We'll have a

1 security guard there. And we'll take it down Friday.

2 MS. SCHWARTZ: Couple questions. Will there
3 be food served?

4 MR. ROBERTI: There will be food.

5 MS. SCHWARTZ: What about trash?

6 MR. ROBERTI: We have a company that we
7 asked to take care of the -- take care of that.

8 MS. SCHWARTZ: It will be removed at the end
9 of your --

10 MR. ROBERTI: Yes.

11 MS. SCHWARTZ: Will there be music?

12 MR. ROBERTI: Pardon?

13 MS. SCHWARTZ: Music?

14 MR. ROBERTI: Yes.

15 MS. SCHWARTZ: Will it be amplified?

16 MR. ROBERTI: We're going to have speakers,
17 yes.

18 MR. DiSTEFANO: What were the hours of
19 operation?

20 MR. ROBERTI: 5-8:30.

21 MR. DiSTEFANO: 5-8:30.

22 MR. ROBERTI: Yeah.

23 MS. SCHWARTZ: Getting back to the music, is
24 it going to be live or just --

25 MR. ROBERTI: Just a DJ, you know, playing

1 records.

2 MS. SCHWARTZ: So it will be live?

3 MR. ROBERTI: No, not live. What do you
4 mean by live? Like a band?

5 MS. SCHWARTZ: Yeah.

6 MR. ROBERTI: No. No bands.

7 MS. DALE: What day is this going to be?

8 MR. ROBERTI: Thursday night, September 9th.

9 MS. DALE: Thank you.

10 MR. ROBERTI: The music's just going to be
11 background music.

12 MS. DALE: And about how many people are you
13 expecting?

14 MR. ROBERTI: You know, anywhere from -- say
15 30 people an hour. You know, every half-hour, so
16 maybe 200 people. It's hard to say.

17 MS. SCHWARTZ: Are you going to limit the
18 number of people there at a given time? Like they're
19 there for a half-hour or so then the shuttle can take
20 them back? Or how are you going to work that out?

21 MR. ROBERTI: Well, the shuttle is there.
22 People -- you know, most people are going to stay I
23 would assume about a half-hour, 45 minutes. Then they
24 will leave. But, no, we're not going to tell people
25 they have to leave after a half-hour.

1 MS. SCHWARTZ: So you could have up to 150
2 people at one time possibly?

3 MR. ROBERTI: We could.

4 MS. SCHWARTZ: And how are you going to
5 prevent people from driving over there and parking in
6 the parking lot?

7 MR. ROBERTI: We have a shuttle service and
8 a parking attendant to help people know where to park
9 for the shuttle service.

10 MS. SCHWARTZ: Okay.

11 MS. SCHMITT: This has nothing to do with
12 the application, but you have a very nice suit on.

13 MR. ROBERTI: Thank you.

14 MS. SCHWARTZ: Will the other businesses be
15 closed?

16 MR. ROBERTI: They are open 'til 7, but we
17 already talked to a lot of them, told them, you know,
18 we're going to have this event. And they are going to
19 help participate in it. They want to be part of the
20 event.

21 MS. SCHWARTZ: So all the others are open.
22 Thank you.

23 MS. DALE: Is this -- this is for your grand
24 opening. So you've not done something like this
25 before?

1 MR. ROBERTI: We have. We opened 14 years
2 ago across the street.

3 MS. DALE: Okay. And you did this then and
4 it was helpful?

5 MR. ROBERTI: It helped with the -- you
6 know, it was good. We've done one when we had our
7 grand opening. We did one for our 45th anniversary
8 and we did one at the 50th anniversary.

9 MS. DALE: And no issues?

10 MR. ROBERTI: Not that I know of, no.

11 MR. DiSTEFANO: We didn't have any issues.
12 No complaints or anything were called into the office.

13 MS. DALE: Okay.

14 MR. GORDON: Where exactly in the parking
15 lot is the tent going to be put up?

16 MR. ROBERTI: Directly right in front of our
17 showroom. Between Dan's and Highlanders that's where
18 we'd be open.

19 MR. GORDON: And are you going to have any
20 kind of lighting?

21 MR. ROBERTI: Yes.

22 MR. GORDON: What kind of lighting?

23 MR. ROBERTI: We have the lighting from the
24 place where we get the tent from, whatever basic
25 lighting package. And we also have extra lighting

1 that we're bringing in for that date.

2 MR. GORDON: And is the lighting going to be
3 directed only to the interior of the tent or is it
4 going to be directed out towards the parking lot?

5 MR. ROBERTI: Inside the tent.

6 MR. GORDON: Only into the tent.

7 MR. DiSTEFANO: Is there -- there's lighting
8 around the parking lot?

9 MR. ROBERTI: Yes.

10 MR. DiSTEFANO: So there is --

11 MR. ROBERTI: The parking lot is already
12 lit, but we wanted to make it a little lighter inside
13 the tent.

14 MR. DiSTEFANO: Sure.

15 MR. ROBERTI: And, you know, they'll only be
16 on for an hour probably.

17 MR. DiSTEFANO: I guess the question really
18 is you're not bringing any large external lights that
19 come in on those generators or --

20 MR. ROBERTI: No.

21 MR. DiSTEFANO: -- anything like that?

22 MR. ROBERTI: No.

23 MR. GORDON: I'm concerned about traffic on
24 Monroe Avenue because it is in such close proximity.
25 What, if any, barricades or safety markers are you

1 going to be using in the parking lot around the tent?
2 Because the parking lot will be actively used by the
3 other realtors for about two hours of your event;
4 right?

5 MR. ROBERTI: Correct. Yes.

6 MR. GORDON: What considerations for that?

7 MR. ROBERTI: So we're going to have, like I
8 said before, parking attendants. They're going to
9 help keep it -- keep an eye on everything. We talked
10 to the other tenants. We said for the event -- of
11 the night of the event we're going to put cones up so
12 their clients could be up to the front of their
13 building and they could leave them open.

14 MR. GORDON: And your shuttle bus is where?
15 Are they going to be dropping off your visitors?

16 MR. ROBERTI: Dropping them off right at our
17 place and then picking them up at Pane Vino.

18 MS. DALE: I'm sorry. At the where?

19 MR. ROBERTI: At the Pane Vino, that parking
20 lot there.

21 MR. GORDON: But you're dropping your
22 visitors off where in the parking lot? Right next to
23 the tent?

24 MR. ROBERTI: Right in front where our tent
25 would be.

1 MR. GORDON: And they're going to be
2 entering the parking lot on Monroe or on Clover or
3 exiting how?

4 MR. ROBERTI: We're thinking it's going
5 to -- probably the bus is going to turn onto Monroe
6 and exit onto Monroe, depending on --

7 MR. GORDON: And then head back to Pane
8 Vino?

9 MR. ROBERTI: Yes.

10 MR. GORDON: Where's Pane Vino?

11 MR. ROBERTI: It's on the other side of the
12 street down a little bit right where -- right next to
13 Scottsville.

14 MR. DiSTEFANO: Okay.

15 MR. GORDON: Oh, in Pittsford. Yup. So
16 it's a right-hand turn out of the plaza parking lot.
17 To get back there it's a left-hand turn into the
18 parking lot?

19 MR. ROBERTI: Correct. They might take
20 the -- depending on how the traffic is, they might
21 take the turn to take the single light or else they'll
22 turn in depending on traffic.

23 MR. GORDON: Thank you.

24 MR. ROBERTI: Thank you.

25 MR. GORDON: Jeanne, want to ask if there's

1 anyone else in the audience who wants to make comments
2 on --

3 MS. DALE: Thank you so much. Is there
4 anyone in the audience who would like to speak
5 regarding this application? Okay. If not, the public
6 hearing is now closed. Next number.

7 **Application 9A-02-21**

8 Application of Alex Skwirz, applicant, and
9 Alexandria Skwirz, owner of property located at 63
10 Kimbark Road, for an Area Variance from Sections
11 203-2.1B(7) and 203-16A(4) to allow an air
12 conditioning unit to be located 4.2 feet from a side
13 lot line in lieu of the minimum 5 feet required by
14 code. All as described on application and plans on
15 file.

16 MR. SKWIRZ: Good evening, everyone. I'm
17 Alex Skwirz and me and my wife live at 63 Kimbark Road
18 near Mercy High School. And on July 7th we actually
19 had an installation of a unit by Isaac Heating and
20 Air. And we didn't realize until after the fact that
21 it was installed that it did not meet the 5-foot
22 requirement in the property line. And so it measures
23 in about 9 inches short of the property line. And so
24 I'm asking today for a variance so we can leave the
25 air conditioning unit where it stands right now. It

1 does meet the decibel level noise requirement for
2 the -- that the Town has set. It's at 75 decibels.
3 It's also concealed from the street. And we installed
4 it to reduce the visibility to our direct neighbors.

5 MS. DALE: Okay. So we're talking about
6 like 8 inches?

7 MR. SKWIRZ: Yes.

8 MS. DALE: And the neighbor closest to your
9 air conditioning unit has expressed no concerns?

10 MR. SKWIRZ: So they -- they have complained
11 that they thought it was an eyesore and that the noise
12 when it first turned on kind of irked them, the woman
13 who lives over there. I have talked with her husband
14 after the fact and he has expressed no concern and has
15 apologized for any complaints. There's been no formal
16 complaints, but she did mention that initially to us.
17 So we've done our best to reduce the visibility to it.
18 It does meet the noise requirements. And so -- yeah.
19 So there was that one mention that one time.

20 MS. DALE: Any questions? Okay. Thank you.

21 MR. SKWIRZ: Thank you.

22 MS. DALE: Is there anyone in the audience
23 who would like to speak about this application? Okay.
24 Then the public hearing is closed.

25 **Application 9A-03-21**

1 Application of Jeffrey Ashline, architect
2 and Joel Thompson, owner of property located at 36
3 Eastland Avenue, for 1) an Area Variance from Sections
4 203-2.1B(3) and 203-9A(4) to allow for the
5 construction of a detached garage 672 square feet in
6 size in lieu of the maximum 600 square feet allowed by
7 code; and 2) an Area Variance from Section 207-6A(1)
8 to allow said garage to be 19 feet, 5 inches in height
9 in lieu of the maximum 16 feet allowed by code. All
10 as described on application and plans on file.

20 MS. DALE: So could you talk a little bit
21 about why it is that you're looking for the garage to
22 be larger than what would not require a variance?

23 MR. ASHLINE: Yeah. So from a square
24 footage standpoint it allows the two cars to be --
25 ample room inside the garage as well as from the depth

1 standpoint, really the garage itself is 600 square
2 feet. The additional shed on the back that
3 Mr. Thompson has currently is not easily removed.
4 That allowed that extra storage outside the limits of
5 the garage. Currently there's overhead power lines
6 and we didn't want to push the existing structure back
7 far enough to hit that. So we said maybe if we could
8 give that additional storage on the low end below
9 those wires where they currently are now.

10 As for the height, really what it does is
11 back that truss up to get additional storage for, you
12 know, Christmas ornaments, that sort of thing,
13 non-vital space which allows to get that vertical
14 height that we need as opposed to a higher slope. In
15 addition, the existing house has quite a slope on it
16 as well, between 8 and 12. So this is more in keeping
17 with the kind of style and pitch of the existing home.

18 MS. SCHWARTZ: What utilities will you have
19 in the garage?

20 MR. ASHLINE: I'm sorry?

21 MS. SCHWARTZ: What utilities will you have
22 in the garage?

23 MR. ASHLINE: Just electric. Just electric
24 and outlet lighting.

25 MS. SCHWARTZ: So that upper portion can

1 never become habitable?

2 MR. ASHLINE: No. We're not conditioning
3 the space. We're not insulating it. So, no.

4 MS. SCHWARTZ: Can you stand in it?

5 MR. ASHLINE: You could stand in it. Part
6 of the reason we wanted to do the attic was to be able
7 to get that vertical height, but it's never going to
8 be finished out. It's not heated and it's not
9 insulated. So it'd be a tough space to live in,
10 summer and winter.

11 MR. THOMPSON: The main point is storage for
12 patio furniture so we have a place that we can put it
13 during the winter.

14 MR. PREMO: Hi. My name is Ed Premo. Good
15 to see you again. I was out there and saw the site.
16 So as I understand it, you're moving the garage 2 feet
17 forward and over a number of feet?

18 MR. ASHLINE: Yeah. So we wanted to push it
19 back off the setback line. We do have some room here
20 for potential future possibilities, renovations, of
21 the home or additions to the home. And we didn't want
22 to encroach any further towards the east.

23 MR. PREMO: And there's a tree there that's
24 going to have to be removed.

25 MR. ASHLINE: Correct.

1 MR. PREMO: One thing I would note is when I
2 went out there, talking about the utility lines, they
3 are basically almost touching the existing garage.
4 One thing I think I'd really like to make sure that
5 this lines with the utilities easement that we have.
6 And right now I'm a little shocked the garage can be
7 there because if there's big wind, those lines would
8 hit the garage. And just make sure because you don't
9 want to have RG&E come in one day and tell you that
10 you have to remove part of this or something like
11 that.

12 MR. ASHLINE: Good point.

13 MR. PREMO: The other thing I noticed is it
14 appears that the garage to your neighbor -- you're
15 facing the garage, your neighbor to the right. The
16 right appears to have a bigger garage too. And it
17 looks to me that both of these garages would be about
18 the same size.

19 MR. ASHLINE: Possibly, yes. Yes.

20 MR. PREMO: Their roof's a little bit
21 taller.

22 MR. ASHLINE: Yes.

23 MR. GORDON: So I just want to pick up on
24 Mr. Premo's point about the height. Once you increase
25 the height of this garage to 19.5 feet, does the peak

1 then extend above the existing utility lines?

2 MR. THOMPSON: Yes. The present structure
3 already is in the existing utility lines, just located
4 a couple inches in front of it.

5 MR. DiSTEFANO: But I think the shed portion
6 of this garage is the closest thing to the wire line.
7 The peak of the garage is not close to the --

8 MR. ASHLINE: No, it's not.

9 MR. DiSTEFANO: The shed portion of it is
10 close, but not -- it's still away from that wire line;
11 right?

12 MR. THOMPSON: In that lower --

13 MR. DiSTEFANO: And that's the lower roof
14 area that's behind that overhead line; right?

15 MR. ASHLINE: The back of the primary
16 structure is about 6'4 away from the property -- the
17 overhead line. So we pushed it forward and pushed the
18 shed down just for ease of construction for anyone
19 working on it, but also for future projects.

20 MR. PREMO: It will give you a little more
21 space for --

22 MR. ASHLINE: Correct.

23 MR. PREMO: Kind of an easier turn on that.

24 MR. ASHLINE: Right.

25 MR. PREMO: And also as I recall you have

1 fences along there, which does, I think, kind of
2 shield the neighboring properties, not from obviously
3 the peak, but it's -- it's a pretty substantial view.

4 MR. THOMPSON: Yes. The current garage
5 actually is right on the property line. So the new
6 garage is 5 feet inward. I will complete that portion
7 of the fence.

8 MR. PREMO: Oh, okay. Good.

9 MS. DALE: Okay. Any other questions? All
10 right. Thank you, gentlemen. Is there anyone in the
11 audience who wanted to speak regarding this
12 application?

13 MR. PREMO: And please be sure to say hello
14 to Dan for me.

15 MR. ASHLINE: I will.

16 MS. DALE: Okay. The public hearing is
17 closed. Onto number 4.

18 **Application 9A-04-21**

19 Application of Jeffrey Keesom and Catherine
20 Mattson, owners of property located at 292 Susquehanna
21 Road for an Area Variance from Section 205-2 to allow
22 an attached garage addition to be 5.2 feet from a side
23 lot line in lieu of the minimum 9 feet required by
24 code. All as described on application and plans on
25 file.

1 MR. KEESOM: Good evening, everyone. My
2 name is Jeff Keesom. I live at 292 Susquehanna Road.
3 My wife and I own this property. We've lived there
4 for about the last three years. We love our
5 neighborhood and we really love our house. After we
6 welcomed our son to our family last year, its current
7 location, it has become very apparent that it's too
8 small. The garage is small and leaning towards the
9 front because the -- leaning towards the front and
10 slowly dissolving into the ground. And the fact that
11 the garage is detached does not meet our needs. If
12 you've ever had to carry a 30-pound car seat out in
13 the pouring rain to your vehicle or take your child
14 out of the car. And kids can't be bundled up in the
15 car seats because of the restraints. Carrying them
16 outside in the cold whether to get them into your
17 house, those are just a few of the examples of the
18 problems that we currently have with the current
19 configuration of our garage and house.

20 So we are marking upon an extension of this
21 house that will up the square footage from 1,100
22 square feet to 2,300 square feet to better meet our
23 needs. But the garage is a piece of this project that
24 comes before you tonight.

25 So we need a garage that is a sufficient

1 size that can comfortably hold our two cars. We want
2 direct access from the house to the cars for similar
3 reasons related to our child. We want to be able to
4 take a bag of garbage from our kitchen and not have to
5 put on a pair of boots in the winter. And the
6 insufficient space for storing outdoor toys and our
7 yard equipment.

8 The designs of the position of the attached
9 garage work with the existing footprint of the house
10 and how the house is standing on the lot. It's a
11 fairly small house. About 15-foot on each side of the
12 garage, that's the space we're working with to get the
13 garage and addition to fit behind the house.

14 So that's the reason that we're asking for a
15 variance for this detached garage is purely because we
16 can't place it any further to the east then it already
17 is relative to the property line without eliminating
18 some of the other features coming from the addition.
19 We want a rear patio door. That's a natural light
20 source. The footprint is on the plans we submitted.
21 We want to be able to have clear lines of sight from
22 that door to our backyard so we can watch our child
23 play. And so therefore, the garage and mudroom can't
24 be any further than we already set them. And
25 additionally, the garage really can't be any narrower

1 then it already is otherwise it won't meet the needs I
2 already mentioned, access to vehicles, comfortable
3 space, storage for all of our stuff.

4 So we have done our best to minimize the
5 encroachment on the side setback, which is about
6 9 feet. We set the garage at an angle specifically to
7 minimize that encroachment. The -- with the garage
8 set at an angle, only about 2.2 percent of the garage
9 square footage encroaches upon the setback. From a
10 total square footage perspective it is 13 square feet.
11 Our current detached garage is already non-conforming.
12 It has 14 and a half feet worth of space approximately
13 that are currently non-conforming. That garage sits
14 20 feet beyond the 5 foot accessory building in the
15 back corner. So that's how you get to about 14 and a
16 half feet. So it's about a 10 percent improvement.
17 It goes from 14 and a half square feet of
18 non-conforming to 13 square feet.

19 I would like to point out to the Board that
20 our neighbors have this very same configuration for an
21 attached garage. Our next door neighborhood has it at
22 an angle. Their garage encroaches on the side yard
23 setback more than ours does. We are half a foot
24 farther away than they are. That is reflected in the
25 survey that we submitted to all of you in that portion

1 of the garage that our neighbor's garage is shown on
2 the survey map.

3 So we've done everything we can to minimize
4 the encroachment. And ultimately we believe that
5 proposed plan will meet our needs. It's consistent
6 with the character of the neighbor because our
7 neighbors already have a similar garage. The design
8 of this garage has been designed to compliment the
9 looks of the house. Both of our side neighbors have
10 fences and trees along the back property line. We've
11 talked with all our adjoining neighbors. They have no
12 problem. I'm happy to answer any questions you have.

13 MR. PREMO: Yeah. I mean, in looking at
14 this, if I read this correctly, the existing garage
15 now, which is 5.2 feet away from the --

16 MR. KEESEM: No. That 5.2 marker is the
17 denotation for the new garage.

18 MR. PREMO: Oh, excuse me. I'm sorry.

19 MR. KEESEM: The 4.2 marker is for the
20 existing garage.

21 MR. PREMO: So it's 4.2?

22 MR. KEESEM: So the existing garage is
23 4.2 feet from the lot line. The new garage will be
24 5.2 feet from the lot line.

25 MS. DALE: That's --

1 MR. PREMO: That's --
2 MR. KEESEM: Because the side yard setback
3 for an attached garage is different than for a
4 detached garage. That's why I'm here.

5 MR. PREMO: Okay. So for a detached garage
6 it's --

7 MR. DiSTEFANO: 5 feet.

8 MR. PREMO: 5 feet.

9 MR. DiSTEFANO: And an attached garage we
10 meet the requirement of the principal structure.

11 MR. PREMO: Okay. Even the existing
12 attached garage --

13 MR. DiSTEFANO: It's a small non-conforming
14 use. So if they were detaching this garage and
15 building it, like, in that location, they'd be fine.
16 But the fact that it's attached to the house is what
17 makes them have to get a variance for it.

18 MR. PREMO: All right.

19 MS. DALE: All right. Any questions from
20 anybody else?

21 MR. DiSTEFANO: Have you been to the
22 Architectural Review Board?

23 MR. KEESEM: I have and they were fine with
24 the proposed garage and the footprint of the addition.
25 We are currently in discussions with them on some of

1 the aesthetic changes.

2 MR. DiSTEFANO: So you're still working with
3 the Architectural Review Board?

4 MR. KEESOM: Yes.

5 MR. DiSTEFANO: Thank you.

6 MR. KEESOM: Thank you.

7 MS. DALE: Okay. Thank you. And is there
8 anyone in the audience who wanted to speak about this
9 application? All right. Then the public hearing is
10 now closed.

11 **Application 9A-05-21**

12 Application of Todd Ennis and Amanda
13 McIntosh, owners of property located at 133 Summit
14 Drive, for extension of approved variances (9A-11-20)
15 pursuant to Section 219-5F allowing for a reduced
16 front setback and greater lot coverage. All as
17 described on application and plans on file.

18 MR. ENNIS: Hello. My name is Todd Ennis.
19 I live at 133 Summit Drive in Brighton with my wife,
20 Amanda McIntosh. Last August we had approached you
21 guys for a zoning variance for -- for some garage
22 extension work. It was approved. And then we went to
23 the Architectural Review Board this December, whenever
24 it was, and they approved us as well. Comes time to
25 put the shovels in the ground. In May is the height

1 of the "crunch" for materials. And I'm told that we
2 need to actually have lumber to build a house and
3 there was no lumber to be found. So we had pushed off
4 the project. I'm coming before you today to ask for
5 an extension of the variance that you granted me last
6 year with the intent that I'll get this project done
7 in the spring. Anything else you want to know?

8 MS. DALE: So no changes to the design or
9 the location? There's nothing --

10 MR. ENNIS: No. That's correct. There is
11 no changes in design. The footprint will be the same.
12 The only issue was timing.

13 MS. DALE: And you're seeking a one year
14 extension? I think you were seeking a one
15 year extension?

16 MR. ENNIS: Yeah. Yeah. I want to get this
17 done. So a year should do this.

18 MS. DALE: Okay. All right. Any questions?
19 Anybody? All right. Thank you, sir.

20 MR. ENNIS: Thank you.

21 MS. DALE: And is there anybody in the
22 audience that wants to speak regarding this
23 application? Nope. With that the public hearing is
24 now closed.

25 MR. DiSTEFANO: Once again 9A-06-21 has

1 postponed. So we'll go to 9A-07-21.

2 **Application 9A-07-21**

3 Application of Ross Morelli, contractor, and
4 Al Harris, owner of property located at 11 Currewood
5 Circle, for an Area Variance form Section 205-2 to
6 allow a front porch to extend 3.2 feet into the
7 existing 27.4 feet front setback where a 40 feet front
8 setback is required by code. All as described on
9 application and plans on file.

10 MR. MORELLI: Hello. My name is Ross
11 Morelli. I'm the contractor for this job at 11
12 Currewood Circle. We are seeking a variance to build
13 a front porch, which will encroach roughly 3 feet from
14 the pre-existing setback at the moment. We were also
15 in front of the Architectural Review Board last week
16 and that was approved. So that's all I got.

17 MS. DALE: Can you talk about why this
18 design is the way it is and did you consider something
19 that would not require a variance?

20 MR. MORELLI: So there is currently no
21 overhead space, covered space on the front or backside
22 of the house. One of the family members of the home
23 is in a wheelchair. And they got the idea for having
24 a covered outdoor space for that family member. It's
25 just so the family can be outside and be safely

1 covered from the elements.

2 MS. SCHMITT: Have you spoken to the
3 neighbors? Do they have any comments with regards to
4 the addition?

5 MR. MORELLI: I have not personally spoken
6 to the neighbors, no.

7 MS. SCHMITT: Do you know if the homeowners
8 have spoken to the neighbors?

9 MR. MORELLI: I am not aware of that. I
10 am -- so the owner of the property lives out of state.
11 I am dealing with some representative of the owner. I
12 believe this project has been brought up within the
13 last couple of years. Before I was here, it was going
14 to be a couple additions that were put on to this.
15 All that's been scaled back. But the porches were
16 already allegedly approved at one point. So I do not
17 know how the neighbors feel.

18 MS. SCHMITT: In the neighborhood -- I did
19 go around -- there are other porches and porticos in
20 the neighborhood; is that correct?

21 MR. MORELLI: I don't want to misspeak, but
22 I believe there is.

23 MS. SCHMITT: I definitely saw --

24 MR. MORELLI: Okay. Thank you. I didn't
25 know if you were asking me or telling me. I've been

1 there a few times and I -- I just can't remember.

2 MR. DiSTEFANO: All the houses within that
3 circle are fairly close to the road, would you agree?

4 MR. MORELLI: Yes.

5 MS. DALE: Okay. I think we're good. Thank
6 you.

7 MR. MORELLI: Thank you. Have a good night.

8 MS. DALE: All right. Is there anyone in
9 the audience who wanted to speak regarding this
10 application? Okay. Then the public hearing is now
11 closed.

12 MR. DiSTEFANO: Once again, application
13 9A-08-21 and 9A-09-21 have been postponed. That's it
14 for new business.

15 MS. DALE: Okay. Guys need a break or want
16 to pile on?

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2 **BRIGHTON**

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ZONING BOARD OF APPEALS

4

MEETING

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DELIBERATIONS

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7

8 September 1, 2021
9 At approximately 7 p.m.
10 Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

11

12 PRESENT:

13 Jeanne Dale, ACTING CHAIRPERSON

14 EDWARD PREMO)
15 JEANNE DALE)
16 KATHLEEN SCHMITT) Board Members
17 JUDY SCHWARTZ)

18 KEN GORDON, ESQ.
19 Town Attorney

20 ABSENT: CHAIRPERSON MIETZ
21 MS. TOMPKINS WRIGHT

22
23 REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,
24 FORBES COURT REPORTING SERVICES, LLC
25 21 Woodcrest Drive
Batavia, NY 14020

1 **Application 9A-01-21**

2 Application of Adrian Jules Custom Clothier,
3 lessee, and Buckingham Properties LLC, owner of
4 property located at 2933 Monroe Avenue, for a
5 Temporary and Revocable Use Permit pursuant to Section
6 219-4 to allow for a one day outdoor grand opening
7 event with a 40 feet by 80 feet tent located in the
8 parking lot. All as described on application and
9 plans on file.

10 Motion made by Ms. Schwartz to approve
11 Application 9A-01-21 based on the following findings
12 of fact.

13 **FINDINGS OF FACT:**

- 14 1. This is a temporary and revocable permit for a
15 one-day event with limited hours from 5 to 8:30 p.m.
- 16 2. Attendees will be shuttled to and from the site.
- 17 3. The tent will be up only in front of the store
18 hosting the event.
- 19 4. There will be security provided by the applicant
20 during the event for the safety of the attendees with
21 regard to the shuttle system.

22 **CONDITIONS:**

- 23 1. This application only applies to the one-day event
24 as stated in the written application and testimony
25 presented.

- 1 2. The event will occur only from 5 to 8:30 p.m. and
- 2 the tent will be up no longer than 24 hours which will
- 3 be located in front of the store hosting the event.
- 4 3. Trash will be removed from the site at the end of
- 5 the event.
- 6 4. Additional lighting will only be for internal use
- 7 in the tent.
- 8 5. Shuttle service will be provided to eliminate cars
- 9 parking and reduce traffic.
- 10 6. The applicant will comply with the Town's sound
- 11 ordinance.
- 12 7. All necessary permits must be obtained from the
- 13 Fire Marshal.

14 (Second by Ms. Schmitt.)

15 (Mr. Premo, yes; Ms. Dale, yes; Ms. Schmitt,
16 yes; Ms. Schwartz, yes.)

1 **Application 9A-02-21**

2 Application of Alex Skwirz, applicant, and
3 Alexandria Skwirz, owner of property located at 63
4 Kimbark Road, for an Area Variance from Sections
5 203-2.1B(7) and 203-16A(4) to allow an air
6 conditioning unit to be located 4.2 feet from a side
7 lot line in lieu of the minimum 5 feet required by
8 code. All as described on application and plans on
9 file.

10 Motion made by Ms. Dale to approve
11 application 9A-02-21 based on the following findings
12 of fact.

13 **FINDINGS OF FACT:**

- 14 1. The placement of the air conditioning unit at
15 4.2 feet from the lot line is the minimum request due
16 to the narrow lot line zoned at 8 feet.
- 17 2. The area is skirted by landscaping and a privacy
18 fence, which will mitigate its effects.
- 19 3. No negative effect on the character of the
20 neighborhood will occur since similar units are found
21 on side lots.

22 **CONDITIONS:**

- 23 1. All necessary permits shall be obtained.
- 24 2. Approval is based on the drawings submitted and
25 testimony given.

1 (Second by Mr. Premo.)
2 (Ms. Schmitt, yes; Ms. Schwartz, yes;
3 Mr. Premo, yes; Ms. Dale, yes.)
4 (Upon Roll, motion to approve carries with
5 conditions.)
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1 **Application 9A-03-21.**

2 Application of Jeffrey Ashline, architect
3 and Joel Thompson, owner of property located at 36
4 Eastland Avenue, for 1) an Area Variance from Sections
5 203-2.1B(3) and 203-9A(4) to allow for the
6 construction of a detached garage 672 square feet in
7 size in lieu of the maximum 600 square feet allowed by
8 code; and 2) an Area Variance from Section 207-6A(1)
9 to allow said garage to be 19 feet, 5 inches in height
10 in lieu of the maximum 16 feet allowed by code. All
11 as described on application and plans on file.

12 Mr. Premo makes the motion to table
13 application 9A-03-21 for two area variances until the
14 next meeting.

15 (Second by Ms. Schwartz.)

16 (Ms. Dale, yes; Ms. Schwartz, yes; Ms.
17 Schmitt, yes; Mr. Premo, yes.)

18 (AUpon roll, motion to table application
19 carries.)

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1 **Application 9A-04-21.**

2 Application of Jeffrey Keesom and Catherine
3 Mattson, owners of property located at 292 Susquehanna
4 Road for an Area Variance from Section 205-2 to allow
5 an attached garage addition to be 5.2 feet from a side
6 lot line in lieu of the minimum 9 feet required by
7 code. All as described on application and plans on
8 file.

9 Motion made by Ms. Schmitt to approve
10 application 9A-04-21 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

- 13 1. The variance request is to allow an attached
14 garage positioned to be 5.2 feet from the side lot
15 line in lieu of the minimum 9 feet required by code.
- 16 2. The new proposed attached garage will replace an
17 existing detached garage. If the new garage was
18 detached, no variance would be needed as to conform to
19 the 5 foot setback.
- 20 3. The requested variance is not substantial given
21 that the garage is angled. Only 13 feet or
22 2.2 percent of the total square footage will be within
23 the 9-foot side yard setback.
- 24 4. The granting of this variance will not produce an
25 undesirable change in the character of the

1 neighborhood or be a detriment to nearby properties as
2 it will sit behind the home and not be visible to the
3 street. Further, neighbors closest to the property
4 sent in letters saying they do not object to the new
5 garage addition.

6 5. There is no evidence that there will be a negative
7 impact on the health, safety and welfare of the
8 neighborhood.

9 **CONDITIONS:**

10 1. The variance applies only to the garage addition
11 described in the application and testimony provided
12 and will not apply to future projects.
13 2. All necessary Architectural Review Board approvals
14 and building permits shall be obtained.

15 (Second by Ms. Schwartz.)

16 (Mr. Premo, yes; Ms. Dale, yes;
17 Ms. Schwartz, yes; Ms. Schmitt, yes.)

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

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1 **Application 9A-05-21**

2 Application of Todd Ennis and Amanda
3 McIntosh, owners of property located at 133 Summit
4 Drive, for extension of approved variances (9A-11-20)
5 pursuant to Section 219-5F allowing for a reduced
6 front setback and greater lot coverage. All as
7 described on application and plans on file.

8 Motion made by Ms. Dale to approve
9 application 9A-05-21 based on the following findings
10 of fact.

11 **FINDINGS OF FACT:**

- 12 1. There are no changes from the original application
13 9A-11-20 and all findings of fact remain.
- 14 2. The extension request is the result of abnormal
15 market conditions created by the COVID-19 pandemic.
- 16 3. The extension is granted for 12 months from today.

17 **CONDITIONS:**

- 18 1. All previous conditions shall remain.
19 (Second by Mr. Premo.)
20 (Ms. Schmitt, yes; Ms. Schwartz, yes; Mr.
21 Premo, yes; Ms. Dale, yes.)
22 (Upon roll, motion to approve carries.)

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1 **Application 9A-07-21**

2 Application of Ross Morelli, contractor, and
3 Al Harris, owner of property located at 11 Currewood
4 Circle, for an Area Variance form Section 205-2 to
5 allow a front porch to extend 3.2 feet into the
6 existing 27.4 feet front setback where a 40 feet front
7 setback is required by code. All as described on
8 application and plans on file.

9 Motion made by Ms. Schmitt to approve
10 application 9A-07-21 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

- 13 1. This area variance request is to allow a front
14 porch to extend 3.2 feet into the pre-existing
15 non-conforming setback of 27.4 feet front where a 40
16 foot front setback is required by code.
- 17 2. Currently the applicant's home has no covered
18 entranceway. With the addition of a front porch the
19 homeowners will have a safe and spacious entranceway
20 for the family.
- 21 3. The granting of the requested variance will not
22 produce an undesirable change in the character of the
23 neighborhood or be a detriment to nearby homes and is
24 consistent with the look and style of nearby
25 properties.

1 4. The requested variance is not substantial in light
2 of the fact that the property that is currently
3 constructed already extends considerably into the
4 front yard setback and the porch as proposed will only
5 extend an additional 3 and a half feet in the setback.

6 5. The benefit sought by the applicant cannot
7 reasonably be achieved by any other method or without
8 variance.

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

11 CONDITIONS:

12 1. The variance granted herein only applies to the
13 front porch addition described in and in the location
14 depicted on the application and in testimony provided
15 and will not apply to future projects.

16 2. All necessary building permits and Architectural
17 Review Board approvals shall be obtained.

18 3. This variance shall be for the construction of a
19 roofed open porch and any proposal for enclosing said
20 porch would require an application for a further variance.

21 (Second by Ms. Schwartz.)

22 (Mr. Premo, yes; Ms. Dale, yes; Ms.
23 Schwartz, yes; Ms. Schmitt, yes.)

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

1 MR. DiSTEFANO: As you can see we are
2 already 3-plus applications into October. So we may
3 have a lengthy meeting in October. Is everybody
4 planning to be here in October?

5 MS. SCHWARTZ: When's the date?

6 MR. DiSTEFANO: 6th. It's the 6th of
7 October.

8 MS. SCHMITT: So I am scheduled to be flying
9 back that Wednesday morning, but I don't know with
10 COVID if we'll be taking that trip anyway.

11 | MR. DiSTEFANO: Okay.

12 MS. SCHMITT: So if there's a delay in the
13 flight then --

14 MR. DiSTEFANO: If you can just email or
15 call me that'd be great.

16 (Meeting concluded 8:25 p.m.)

* * *

1 | **REPORTER CERTIFICATE**

2

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

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12 Dated this 3rd day of October, 2021

13 at Rochester, New York.

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Holly E. Castleman

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