
BRIGHTON
ZONING BOARD OF APPEALS
MEETING

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

PRESENT:

DENNIS MIETZ
Chairperson

| | | |
|---------------------|---|---------------|
| EDWARD PREMO |) | |
| JUDY SCHWARTZ |) | Board Members |
| HEATHER MCKAY-DRURY |) | |
| MS. TOMPKINS-WRIGHT |) | |
| KATHLEEN SCHMITT |) | |

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

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

1 CHAIRMAN MIETZ: Okay. All right. Good
2 evening, everyone. Welcome to the December meeting of
3 the Brighton Town Board of Appeals. So tonight at
4 this time I would like to call the meeting to order.
5 And we can begin by Mr. DiStefano calling the roll.

6 (Whereupon the roll was called.)

7 MR. DiSTEFANO: Let the record reflect all
8 members are present.

9 CHAIRMAN MIETZ: Just briefly I'd like to
10 let everyone who's on the call know how we handle
11 these meetings if you've not participated in one
12 before. We have six applications. There were two,
13 correct, Rick, that have been withdrawn?

14 MR. DiSTEFANO: Postponed. Postponed, not
15 withdrawn.

16 CHAIRMAN MIETZ: Postponed. Sorry. Okay.
17 So we have six. So what we'll do is when you hear the
18 case called, then you can identify yourself and we
19 will allow you to give us a presentation of why you
20 feel we should approve your request. The Board
21 members will ask any questions they would like to ask.
22 And when we finish that, we will open the public
23 hearing to anyone else on the Zoom call that might
24 have an interest to speak regarding your application.
25 If they do, then we will allow them to do so. When

1 that finishes, we will then close the public hearing,
2 move on to the next application.

3 When we finish all six, then we would begin
4 the deliberations. You're welcome to stay and listen
5 to the deliberations if you wish. And if you do not,
6 then you will be able to call Mr. DiStefano in the
7 Building Department office tomorrow and find out what
8 the results of your application was. Okay.

9 So Rick, was the meeting properly
10 advertised?

11 MR. DiSTEFANO: Yes, Mr. Chairman. It was
12 advertised in the Daily Record of November 24th, 2021.

13 CHAIRMAN MIETZ: Okay. Very good. Okay.
14 So we also do have minutes from the October meeting.
15 And let me open it up to comments about those minutes.
16 Judy.

17 MS. SCHWARTZ: Yes. On page 40, line 16,
18 the second to last word should be even. On page --
19 oh, gosh. Here. Hold on here. Page 50, line 5
20 delete the word the. On line 8 the word should be
21 M-I-C. On line 18, the first word should be seen,
22 S-E-E-N. On page 62, the first word in line 8 should
23 be off. On page 64, line 8 delete the second as. On
24 line 15, it should be 3,100. On page 65 the word in
25 line 21, I believe, should be summarized. I don't

1 think it should be memorialized. Is that a fair
2 assumption? To briefly just memorialize our points.
3 Don't you think to summarize is the word they want?

4 MR. DiSTEFANO: Sounds right.

5 CHAIRMAN MIETZ: Yeah.

6 MS. SCHWARTZ: Okay. So it is summarize.
7 On line 2, on page 67, it should be as the associate
8 planner and delete building inspector. And the same
9 applies -- I think it was somewhere else. Okay. On
10 page --

11 MR. DiSTEFANO: Judy, what case are you
12 referring to?

13 MS. SCHWARTZ: That one, I think it's the
14 Whole Foods.

15 MR. DiSTEFANO: Yeah. Building inspector is
16 the correct language.

17 MS. SCHWARTZ: Even though Ramsey is
18 speaking?

19 MR. DiSTEFANO: Ramsey is the building
20 inspector also.

21 MS. SCHWARTZ: Oh, sorry. Oh, okay.

22 MR. DiSTEFANO: Okay.

23 MS. SCHWARTZ: He doesn't introduce himself
24 as associate planner.

25 MR. DiSTEFANO: But for the record and for

1 those appeals, he's the building inspector.

2 MS. SCHWARTZ: Okay thank you. Strike that
3 then. Page 69, line 18, it should be Premo, P-R-E-M-O
4 and not problem. On page 88 --

5 MR. PREMO: Thank you for that, Judy, by the
6 way.

7 MS. SCHWARTZ: Yes. You're not a problem,
8 not yet. 88, line 21, the first word should be that
9 does. Okay. Not back up. And one more. Page 99,
10 line 3 the numbers should be 3,330. And that is all
11 that I have.

12 CHAIRMAN MIETZ: Okay. Does anyone have
13 anything else? Okay. So can we have a motion for the
14 minutes please?

15 MR. PREMO: I move we approve the minutes as
16 corrected.

17 CHAIRMAN MIETZ: Okay. Second?

18 MS. TOMPKINS WRIGHT: Second.

19 CHAIRMAN MIETZ: Second by Andrea.

20 MR. DiSTEFANO: Motion is to approve the
21 October minutes with corrections.

22 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;

23 Mr. Mietz, yes; Ms. Schwartz, yes;

24 Ms. Tompkins-Wright, Mr. Premo, aye.)

25 (Upon roll motion to approve carries.)

1 CHAIRMAN MIETZ: Okay. So when you're
2 ready, Rick, then we can read the first application.

3 **Application 11A-02-21**

4 Application of Katherine Solano, owner of
5 property located at 4 Cardiff Park, for Area Variances
6 from Sections 203-2.1B, 203-9A(4) and 207-6A(2) to
7 allow for a shed to be located in a side yard and less
8 than 5 feet from a lot line in lieu of the rear yard
9 no closer than 5 feet to a lot line as required by
10 code. All as described on application and plans on
11 file.

12 CHAIRMAN MIETZ: Okay. Who do we have
13 speaking for this application?

14 MS. SOLANO: I'll be speaking. My name is
15 Katherine Solano.

16 CHAIRMAN MIETZ: Okay, Katherine. Then
17 please proceed.

18 MS. SOLANO: First I'd like to thank
19 everyone this evening for taking this time to review
20 my application for variance and I thank you in advance
21 for taking into consideration my request.

22 I am requesting a variance to locate a
23 garden shed that is very small, it is 3 by 6 feet, on
24 the side of my garage. I understand that the Town
25 Code asks for garages to be placed in the -- excuse

1 me -- sheds to be placed in the rear yards only. And
2 I understand that they have to be 5 feet from the
3 property lines both rear and side.

4 We are requesting that we put the shed on
5 the side of the garage for a variety of reasons.
6 Number one would be ease of use for us so that we may
7 be able to access the tools that we need directly from
8 the Front of the garage and also from the driveway.
9 We also are very respectful of the fact that there is
10 a hedge line separating 12 Cardiff Park from our
11 property. That hedge is usually between 4 and 6 feet.
12 Therefore, it's a very natural protective barrier so
13 that neighbors from 12 Cardiff cannot see the full
14 structure.

15 We also have landscaping that has been
16 arranged all around the sides of the house. On the --
17 on the backside we have some landscaping. Also on the
18 other side of the property we have landscaping, which
19 would really inhibit the opportunity to put a shed in
20 the lean-to format up against the property itself.

21 And then also the other reason that we have
22 is that -- for wanting to place it on the side, is
23 that currently as you can see on the property map we
24 do have a brick patio. However, we intend to expand
25 that and wrap that around the entire rear of the

1 property. And we don't want to have to rearrange that
2 just to accommodate the shed.

3 When we walked around our neighborhood, our
4 neighborhood is very small. We're a pocket
5 neighborhood if people aren't familiar with it. Our
6 houses are typically very small. Some people have
7 garages; some people do not. And there are five other
8 properties in our pocket neighborhood that have a very
9 similarly sized shed in the exact same location to the
10 side in their side yards. Some of those people do
11 have garages. Some people do not. But that's
12 something that we really are asking the Board to
13 consider when reviewing our case.

14 CHAIRMAN MIETZ: Okay. Very good. So
15 questions by the Board members for Ms. Solano?

16 MS. TOMPKINS-WRIGHT: This is Member Wright.
17 Just to confirm, I think you put in the application
18 the plan is to paint the structure the same color as
19 the home and use a similar shingle as your roof. So I
20 just want to confirm that and that the intent is that
21 this will almost look like it's part of the home
22 structure as opposed to a separate structure.

23 MS. SOLANO: Exactly. Yup. And a lot of
24 the neighbors that we have in this neighborhood have
25 structures that look completely different. Most

1 people are familiar seeing like a plastic-type unit
2 for people to hang rakes and shovels in. Our unit
3 blends completely in with the house and architectural
4 style of the house and the rest of the neighborhood.

5 CHAIRMAN MIETZ: Okay.

6 MS. SCHWARTZ: Schwartz. It is up already;
7 correct? The shed is --

8 MS. SOLANO: Yes.

9 MS. SCHWARTZ: It's up. It's very visible
10 from the street. I mean, you don't miss it. Is there
11 any concern about the visibility from the street?

12 MS. SOLANO: See we are located at the
13 dead-end of Cardiff Park. And being that most of the
14 people that live on Kent Park they use the alleyway,
15 which they mostly access from the other side.

16 So truly the only people that come down
17 in front of my house is really just me and maybe one
18 or two other neighbors.

19 CHAIRMAN MIETZ: Have you received any
20 comments from your neighbors since the shed was put
21 up?

22 MS. SOLANO: Yes, I did. And that member is
23 part of the Zoom meeting tonight, which I'm sure he
24 would like to speak.

25 CHAIRMAN MIETZ: Okay. Very good.

1 MR. DiSTEFANO: And I'll just add, also
2 members, we did receive communications last month for
3 this application. I hope you remember those or have
4 them with you so that you can refer to them.

5 CHAIRMAN MIETZ: Okay.

6 MS. SOLANO: And we also did meet in person
7 with the building inspector and also with Mr. Boehner
8 to fully discuss the location of the shed, you know,
9 the aesthetics of it, the architectural aspect of it,
10 the environmental impact of it. And we discussed a
11 variety of options. And he recommended that we pursue
12 this route.

13 MR. DiSTEFANO: I just want to touch base
14 with that. I think that this was an option to pursue.
15 I don't think we recommended this option. Basically
16 the recommendation would have been to build it per
17 code. If you want to keep it here, then certainly you
18 have the right to apply for a variance.

19 MS. SOLANO: Yes. Yes, that is accurate.

20 CHAIRMAN MIETZ: Okay. Yup. That's good.
21 Okay. Is there any other questions for Ms. --

22 MS. SCHMITT: Yup. This is Member Schmitt.

23 CHAIRMAN MIETZ: Yes.

24 MS. SCHMITT: Yes. Thank you so much for
25 coming in. I was -- can you explain to me again why

1 the -- why the shed could not be built on the other
2 side of the house facing what it looks like woods?

3 MS. SOLANO: Yeah. So as of right now, that
4 area is fully landscaped and it was that way when I
5 purchased the home. And because the structure is a
6 lean-to design it really should be leaning up against,
7 you know, a vertical structure.

8 So landscaping would have to be removed or
9 ripped out in order for it to be there.

10 MS. SCHMITT: And the back of the house, the
11 reason why it can't go there? I know you said you
12 were going to put a patio, but couldn't the lean-to be
13 against the house and the patio built around it?

14 MS. SOLANO: Well, the plan right now if you
15 look at the map, you see there's a brick patio that's
16 kind of like in a D-shape. And our intent is to
17 extend that to make it an L-shape all the way around
18 the back of the property.

19 MS. SCHMITT: And the -- but the lean-to
20 can't go -- the patio couldn't go around the lean-to?

21 MS. SOLANO: Well, the patio would be
22 attached to the house with a roof -- a pergola-style
23 roof that would go into the house itself.

24 MS. MCKAY-DRURY: Isn't the existing shed
25 where it is -- I'm not sure where the path you're

1 proposing putting would be, but wouldn't that -- would
2 that be in the way? Where it currently is, would that
3 be in the way? Is it that side of the house that you
4 plan to put the path around?

5 MS. SOLANO: I guess I'm not quite
6 understanding the question. Could you repeat?

7 MS. McKAY-DRURY: Yeah. Maybe -- I mean,
8 we're looking at the map. So maybe if you can
9 describe where you want to put the path.

10 MS. SOLANO: The patio?

11 MS. McKAY-DRURY: Yes. You said that you
12 wanted to continue the path around the house. So I'm
13 just trying to understand what --

14 CHAIRMAN MIETZ: The patio around the house,
15 not a path.

16 MS. McKAY-DRURY: Okay. Sure. If you can
17 explain where that is.

18 MS. SOLANO: So if you look at the map right
19 now where the brick patio is, it's D-shaped, and then
20 if you were to form basically an L over towards the
21 side of my lot to wrap around the side of the house.
22 Other direction from the cursor. Correct, right
23 there.

24 MS. McKAY-DRURY: Okay.

25 CHAIRMAN MIETZ: So in essence would be --

1 it would wrap that back area, but also be sort of
2 behind the shed; correct?

3 MS. SOLANO: I'm -- I guess I don't really
4 quite understand. The intent is to have an elevated
5 stone patio in L-shape with attached roof.

6 CHAIRMAN MIETZ: Okay. But it would stop at
7 the corner of the house? Sort of --

8 MS. SOLANO: Yes.

9 CHAIRMAN MIETZ: -- the corner right behind
10 the shed --

11 MS. SOLANO: Yes. Yes. And then the next
12 side of the house has bowed-out picture windows and
13 landscaping. And then the same with the front corner.

14 CHAIRMAN MIETZ: Okay.

15 MS. MCKAY-DRURY: So yeah. Just to put it
16 into context looking at the map, what I'm trying to
17 understand is why it couldn't -- why the shed couldn't
18 go basically where it says -- I think it's O-H letters
19 right next to brick patio.

20 If you're going to do the patio expansion
21 over on the other side of the D, then would there be a
22 problem with putting it where it says O-H?

23 MS. SOLANO: Yes. That would be potentially
24 a place to put it. However, we would have to rip all
25 of the landscaping that -- that is there now

1 currently. It could most definitely go -- if you look
2 at the map, there is a fence that kind of looks like a
3 gate that goes on the side. You know, there is space
4 right there. You know, to be honest, I don't quite
5 know if that is even considered side yard or back
6 yard. I don't know how that's necessarily determined.
7 But basically where the X is now, if it were just
8 shifted down to the other side of that fence, that
9 gate, I mean, there's definitely space to do that. I
10 just don't know if the council considers that back
11 yard or side yard.

12 MR. DiSTEFANO: Once you're behind that back
13 corner of the house, that starts the rear yard. So
14 you'd have to be behind the back corner if you move
15 down that wall.

16 MS. McKAY-DRURY: I also want to clarify too
17 because I saw the existing structure. Are you
18 proposing a new renovated version of that or are you
19 just seeking approval for what's already there?
20 You're not updating it?

21 MS. SOLANO: No. There's no additional
22 updates to the structure that's there.

23 MR. DiSTEFANO: Let me just make a comment
24 here in regards to what might need to be upgraded.
25 One of the reasons we require a 5-foot setback is

1 because at 5 feet or greater, you do not have to
2 provide fire separation for a structure.

3 Once you're closer than 5 feet per New York
4 State Building Code, you have to rate that structure.
5 So there might be some form of fire protection that
6 would be required in order for that shed to be there
7 per New York State Building Code. So the building
8 permit would also need to be obtained here, which
9 hasn't been at this point.

10 MS. SOLANO: But we are 5 feet from the side
11 property line.

12 MS. TOMPKINS-WRIGHT: And --

13 MR. DiSTEFANO: I think you're less than 5
14 feet from the side property line.

15 MS. TOMPKINS-WRIGHT: The survey looks like
16 you're 7 and a half feet with the current structure.
17 And then adding a 3 -- making it 3 feet less would be
18 4.8 feet from the property line.

19 MR. DiSTEFANO: Right.

20 MS. SOLANO: Okay. I would have to go out
21 and obviously measure again, I guess. You know,
22 that's been again a point of discussion around
23 property lines with that specific line.

24 MR. DiSTEFANO: Well, the survey -- the
25 survey is showing us that your -- the house corner is

1 7.8 feet of the side property line. So you subtract
2 the 3-foot shed, obviously you're going to be closer
3 than 5 feet to that lot line.

4 I mean, we go by what the survey says and
5 that's showing as 7.8 feet.

6 Jeff, could you just put your cursor up by
7 the 7.8 going up? Yeah. Right there.

8 It's 7.8. That's the distance from the
9 corner of the house to the property line.

10 MS. SOLANO: And again, I can say if people
11 have experienced, you know, my neighborhood and seen
12 it everything is very, very tight together. And this
13 structure that we have here is not out of the norm of
14 what else is happening in the neighborhood.

15 So again, that had something to do with when
16 we decided to build it. You know, to be full
17 disclosure, we thought that we could put it where we
18 put it. We have no interest in willingly breaking
19 Town Code. We just weren't aware. However, when you
20 look at the rest of the neighborhood, you can see that
21 this is, you know, a pretty serious trend that a lot
22 of people's yards are designed the same way and have
23 structures in the same place.

24 CHAIRMAN MIETZ: Okay.

25 MS. SCHWARTZ: I have a question. You were

1 saying that where the O-H is on the back of the house
2 is landscaped; correct?

3 MS. SOLANO: Correct.

4 CHAIRMAN MIETZ: Yes.

5 MS. SCHWARTZ: Okay. And I want to just go
6 back again to the expansion of your patio. You said
7 there will be sort of like a pergola -- it will be
8 sort of a pergola effect. There will be some roofing
9 coming from the house?

10 MS. SOLANO: Absolutely.

11 MS. SCHWARTZ: So my question is won't
12 your -- the extension of your patio go over that
13 landscaping that's there now? Or are you going around
14 it or what?

15 MS. SOLANO: No. It would not impact that
16 area at all. So where the O-H is now there is
17 landscaping.

18 MS. SCHWARTZ: Right.

19 MS. SOLANO: And then right where that
20 number 25 is, is the door to the garage. And so
21 basically if you go to the farthest point out of the
22 rounded brick patio and just draw a straight line
23 going north and then heading west to the other side of
24 the corner of the property, that's our intent.

25 MS. SCHWARTZ: Okay. You'll go that way.

1 Okay.

2 MS. SOLANO: And nothing is landscaped on
3 the backside right now.

4 CHAIRMAN MIETZ: Okay. So are there any
5 other questions here please?

6 MS. McKAY-DRURY: Can we also talk about the
7 corner. I'd like to understand on the opposite side
8 of where it is currently, there's a corner. It looks
9 like -- you can see like the interior corner there.
10 It's maybe labeled 11.0 and then 8.1. Are you seeing
11 what I'm talking about?

12 MS. SOLANO: Yes.

13 MS. McKAY-DRURY: Okay. Can you tell us if
14 that's a location where it could be placed and if you
15 considered that?

16 MS. SOLANO: Well, I would think --

17 MR. DiSTEFANO: Let me just ask --

18 MS. SOLANO: -- that the Town Code, it would
19 sit in the front yard.

20 MR. DiSTEFANO: Right. I was going to
21 answer that for you. That would be considered front
22 yard.

23 CHAIRMAN MIETZ: Yeah. And clearly too
24 close to the lot line too.

25 MS. McKAY-DRURY: Okay. My mistake.

1 MS. SOLANO: Yeah. Again, I don't -- I'm
2 not the expert in Town Code. I don't know with the
3 right-of-way on the side, you know -- I understand
4 this lot is very unique with the right-of-way lines.
5 I don't if I can put a structure in a right-of-way or
6 if that's considered blocking. I'm not sure.

7 CHAIRMAN MIETZ: Okay. All right. So --
8 yeah. So either way on the right side of the
9 structure isn't going to work because of the front
10 yard. Okay. But anyway -- and is there any other
11 questions?

12 I think, you know, Rick just wanted you,
13 Ms. Solano, to understand that, you know, yes it
14 appears that it's going to be less than 5 feet. So
15 then you do open up the issues related to the
16 structure itself when you file a building permit. So
17 that's really informational for you.

18 MS. SOLANO: Okay.

19 CHAIRMAN MIETZ: Okay? Because it appears
20 from our review of the structure here and the setback
21 line and the survey that it will be a little bit
22 short.

23 MS. SOLANO: Okay.

24 CHAIRMAN MIETZ: All right.

25 MS. TOMPKINS-WRIGHT: Can I -- just a

1 follow-up question?

2 CHAIRMAN MIETZ: Yes.

3 MS. TOMPKINS-WRIGHT: If -- I wasn't able to
4 kind of see where her property lines are, but does it
5 appear that these other structures and side lots in
6 this neighborhood are closer than 5 feet from property
7 lines or is --

8 MS. SOLANO: They absolutely are. There's
9 no possible way for them to put a structure on the
10 side of their property without encroaching on the
11 5-foot code.

12 CHAIRMAN MIETZ: All right.

13 MS. MCKAY-DRURY: So we don't have any
14 pictures of those others; correct?

15 MS. SOLANO: I do have pictures of them and
16 when I met with Mr. Boehner and, I forget his name,
17 but the building inspector as well, they did not want
18 to see the pictures. I didn't know if I should be
19 submitting them to this as well. I'm happy to send a
20 follow-up email with pictures of those.

21 CHAIRMAN MIETZ: Okay. Are any other
22 questions? Okay. Is there anyone on the Zoom call
23 that would like to speak regarding this application?

24 MR. DISTEFANO: Yes. Jeff, could you let in
25 Jeff Guerdat please.

1 MS. GUERDAT: Yes. This is Nancy Guerdat.
2 My husband and I are here together. Thank you for
3 taking this time. My husband Jeff and I asked that
4 the Board not grant this variance for the following
5 reasons.

6 CHAIRMAN MIETZ: Excuse me, Ms. Guerdat.
7 Excuse me. Can you tell us what your address is
8 please?

9 MS. GUERDAT: Our address is 12 Cardiff
10 Park. We are right next door to 4 Cardiff Park.

11 CHAIRMAN MIETZ: Okay go ahead and proceed
12 please.

13 MS. GUERDAT: Thank you. I will try to
14 address each point Ms. Solano made in her application.
15 First, Ms. Solano's concern regarding the shed being
16 placed on the west side of her property, it would
17 disrupt the natural aesthetic view of her woods.
18 Please note that this shed is directly opposite our
19 living room bay window. It intrudes on what little
20 view we have. Yes, the hedges are tall, but they lose
21 their leaves over the winter. And Ms. Solano's
22 actually asked that we keep them tall. And please
23 note that the hedges were here when we moved in
24 31 years ago.

25 The height of the hedges does make it more

1 difficult for us to trim. We have -- we have
2 demonstrated that we can trim them from our side. And
3 the Solano's asked and offered to trim from their side
4 and we agreed, which they have failed to do.

5 Ms. Solano stated that it would be difficult
6 to place the shed on the west side of her property due
7 to the Town's right-of-way. I'm not sure if this Town
8 right-of-way is truly an issue. I believe the
9 right-of-way was once granted access to a back alley
10 on Cardiff Park that hasn't existed for over, I think,
11 50 years.

12 She states also that it would be impossible
13 to locate it anywhere else due to her future plans for
14 a patio and her existing garden. This Solano's have
15 over an acre of land. In comparison we have 0.14
16 acres.

17 Ms. Solano stated yards are small in our
18 neighborhood, most have sheds and no working garages.
19 Sheds are mostly placed in backyards or side yards,
20 not on the front of any house, not on the side front
21 of any house as she wishes to do with this one. If
22 you walk through our neighborhood, you would find four
23 to five sheds. And only one is in a side yard that is
24 between the front edge of the house and the back edge
25 of the house. The rest of them are beyond the back

1 edge of the house. She also has a working garage.

2 Ms. Solano states that any placement of the
3 shed on the east side of her back yard, which is our
4 side, would cause us difficulty trimming our hedges
5 and impede the view from our back deck. She has
6 applied for a permit to put a six and a half foot
7 fence on the east side of her backyard. So any
8 concern for our ability to trim our hedges or impede
9 the view from our deck is a moot point. Even without
10 the fence, our landscaping effectively blocks any view
11 of her yard.

12 I thank you for taking the time to listen to
13 our concerns tonight and for your consideration.

14 CHAIRMAN MIETZ: Okay. Thank you very much.
15 Is there anyone else on the Zoom call that would like
16 to speak regarding this application?

17 MS. SOLANO: I would like to reply if
18 that's --

19 CHAIRMAN MIETZ: We do not allow reply back
20 and forth between the applicant and people speaking,
21 Ms. Solano.

22 MS. SOLANO: Can I ask the Board permission
23 to follow up with the pictures via email?

24 CHAIRMAN MIETZ: You could certainly submit
25 them. Certainly.

1 MS. SOLANO: And to whom do I direct those?

2 CHAIRMAN MIETZ: I would say to

3 Mr. DiStefano.

4 MS. SOLANO: Okay. Thank you. I appreciate
5 everyone's time tonight.

6 CHAIRMAN MIETZ: Okay. Thank you. Okay.
7 So if there are -- no one else --

8 MR. ZIMMER: Can you hear me?

9 MR. DiSTEFANO: Yeah. Go ahead, Steve.

10 MR. ZIMMER: There is an active sanitary
11 sewer line on that side of the house.

12 MR. DiSTEFANO: Steve -- Steve just can you
13 introduce yourself to the Board please.

14 MR. ZIMMER: Yeah. Steve Zimmer. I'm
15 Deputy Commissioner of Public Works for the Town of
16 Brighton.

17 CHAIRMAN MIETZ: Okay. Go ahead, Steve.

18 MR. ZIMMER: There is an active sanitary
19 sewer line that runs through that right-of-way on the
20 side of her house there.

21 CHAIRMAN MIETZ: All right. So you maintain
22 the right-of-way. Okay.

23 MR. ZIMMER: Yes. The right-of-way is used.

24 CHAIRMAN MIETZ: Okay. Thank you for that
25 information. We appreciate it. Okay. Is there

1 anyone else that would like to speak?

2 MR. GORDON: Dennis, it's Ken Gordon.

3 CHAIRMAN MIETZ: Yes, Ken.

4 MR. GORDON: Yeah. Thanks. So ONE problem
5 I see in allowing a submission after today is that if
6 the Board decides to close the public hearing and make
7 a decision tonight on this matter, then those pictures
8 that Ms. Solano is going to be submitting will be
9 submitted after the Board makes its decision. So
10 later on when we get to that -- I just wanted to make
11 this clarification before we lost Ms. Solano and in
12 case she doesn't stay on.

13 CHAIRMAN MIETZ: Okay.

14 MR. GORDON: If the Board decides to close
15 the public and make a decision tonight, those pictures
16 will not be part of the public record. It's only if
17 the Board decides to leave the public hearing open
18 would that be allowed.

19 CHAIRMAN MIETZ: Okay. Appreciate that.

20 MR. PREMO: Dennis, this is Ed Premo. Ken,
21 is that a decision we need to make now?

22 MR. GORDON: No. No. We typically decide
23 whether the public hearing's going to be closed or not
24 later when we take up each item.

25 CHAIRMAN MIETZ: Right.

1 MR. PREMO: Okay.

2 CHAIRMAN MIETZ: All right. So is there
3 anyone else to speak regarding this application?
4 Okay. Very good. And we'll deal with the public
5 hearing at this point. Okay.

6 MR. DiSTEFANO: Ready for the next one?

7 CHAIRMAN MIETZ: Yes, yes, yes.

8 **Application 12A-01-21**

9 Application of Nancy Zimmer, owner of
10 property located at 71 Golfside Parkway, for Area
11 Variances from Section 203-2.1B(6) to 1) allow a
12 standby emergency generator to be located in a side
13 yard in lieu of the rear yard behind the house as
14 required by code, and 2) allow said generator to be 8
15 +/- feet from a lot line in lieu of the minimum 10
16 feet required by code. All as described on
17 application and plans on file.

18 CHAIRMAN MIETZ: Okay. And who do we have
19 speaking for 12-A-01?

20 MR. ZIMMER: This is Steve Zimmer. I'm the
21 owner's representative. It's my mother's house. And
22 I am, just for full disclosure, a Town of Brighton
23 employee and the Deputy Commissioner of Public Works.

24 CHAIRMAN MIETZ: And your address, Steve.

25 MR. ZIMMER: I'm at 100 Van Voorhis Road in

1 Pittsford.

2 MR. DiSTEFANO: Can we just hang on for one
3 second.

4 CHAIRMAN MIETZ: Sure.

5 MR. DiSTEFANO: Jeff, can you get the site
6 plan up for 71 Golfside please. Thank you.

7 MR. ZIMMER: Yeah. That's not it.

8 MR. DiSTEFANO: They flip-flopped. 71
9 Golfside.

10 MR. FRISCH: One second.

11 MR. DiSTEFANO: Thank you.

12 CHAIRMAN MIETZ: Okay. Go ahead, Steve.

13 MR. ZIMMER: I believe -- okay. I see where
14 you're at now. So we're requesting the Variance
15 because of -- there's really no rear yard to put the
16 generator in. We got a coy pond in the back and some
17 very old antique azalea bushes and rhododendron in the
18 back where that electric panel area arrow is, right in
19 that area. There's also very mature original
20 plantings. There's big bushes that are absolutely
21 gorgeous in the springtime.

22 And then so we moved it up to the side to
23 keep it away from the neighbor's patio as well. So
24 this is opposite. Like the neighbor's got a huge ugly
25 brick chimney. And so we put it opposite there just

1 to shield it from everybody's view.

2 There is quite a bit of landscaping across
3 the front that's shielding that area now. And that's
4 going stay. So you should not be able to see that
5 from the road when we're all done.

6 And I believe the contractors on the Zoom
7 meeting as well.

8 CHAIRMAN MIETZ: Okay. All right. So Board
9 members are there any questions for Mr. Zimmer?

10 MS. MCKAY-DRURY: I'd like to just clarify
11 the bushes that you're talking about that you want to
12 make sure you can keep. Is that -- I see where you've
13 labeled electric panel. What about that entire
14 west-facing wall that goes from there and it's labeled
15 12 feet?

16 MR. ZIMMER: That's a glassed-in-like
17 sunroom patio area. And that's where the bushes --
18 like from the tip of the arrow all the way to the
19 property line is like 12 foot high azalea bushes in
20 that whole area.

21 CHAIRMAN MIETZ: Okay.

22 MR. DiSTEFANO: Maybe we should hear from
23 the contractor just to get some more detail in terms
24 of technical aspects of why the generator needs to be
25 located there.

1 CHAIRMAN MIETZ: If he would like to do so,
2 that would be wonderful.

3 MR. FRISCH: What's his name, Steve?

4 MR. ZIMMER: Isaac or --

5 CHAIRMAN MIETZ: Go ahead.

6 MR. WIEBOLT: All right. Thank you very
7 much. I appreciate it. I'm Ken. I'm the contractor
8 representative today. And to Steve's point, if we
9 meet --

10 CHAIRMAN MIETZ: Just give us your address
11 please, sir.

12 MR. WIEBOLT: Oh, I'm sorry. 22 Saddle
13 Brook in Pittsford New York.

14 CHAIRMAN MIETZ: Okay. Go ahead.

15 MR. WIEBOLT: Thanks, Dennis. To Steve's
16 point, to meet the current fire code of 5 feet from
17 any windows and openings, that would put us to a point
18 right into where the azalea bushes are. And
19 conversely in the very rear it would put us basically
20 in the middle of the coy pond. Obviously we don't
21 want to place a generator there.

22 Also on the side, which is pretty nice, is
23 it's covered from the -- obviously there's a very deep
24 setback from the home as it is and the front of the
25 house is covered by existing vegetation, which does

1 keep green in the winter as well. So there's
2 basically little to no view from the front of the
3 street. And on the side lot it's covered as well with
4 some dense vegetation. So it'd be hard-pressed for
5 the neighbors to even see it.

6 In addition to that, we would be, you know,
7 5 feet off the structure from windows or openings on
8 that side of the home. The unit itself is 2 foot by 4
9 foot long and it only runs once a week for five
10 minutes on the test unless obviously there's a power
11 outage. And at that time it puts out about 63
12 decibels, which is a little less than a lawnmower. So
13 just for reference.

14 CHAIRMAN MIETZ: Okay. Any questions for
15 Ken? Or back to Mr. Zimmer, any questions by the Town
16 Board?

17 MR. ZIMMER: Yeah. Just if I could make a
18 note. From our front porch we can see generators in
19 the side yard of number 88 and 96 across the street
20 and as well as 53 Golfside has one in their side yard.
21 And 85 right next door, right across from our
22 sidewalk, is their generator, about where it says 8.9
23 feet to the property line. There's is right behind
24 the house in that corner.

25 MS. SCHWARTZ: Did you discuss the time of

1 testing with your mom?

2 MR. ZIMMER: I did not, no.

3 MS. SCHWARTZ: Okay. But you would be
4 amenable to something in mid-morning or early
5 afternoon? That would be okay?

6 MR. ZIMMER: Oh, absolutely. Yeah.

7 MS. SCHWARTZ: Okay. Good.

8 CHAIRMAN MIETZ: Okay. Good. Any other
9 questions? All right. Is there anyone on the call
10 that would like to speak regarding this application?
11 Okay. There being none, then the public hearing's
12 closed.

13 **Application 12A-02-21**

14 Application of Cornell Construction Design,
15 agent, and Bruce and Mary Vickers, owners of property
16 located at 65 Brooklawn Drive, for an Area Variance
17 from Section 205-2 to allow a covered porch to extend
18 5 feet into the 40 foot front setback required by
19 code. All as described on application and plans on
20 file.

21 CHAIRMAN MIETZ: Okay. So who do we have
22 speaking for this application?

23 MR. CORNELL: Robert Cornell. Cornell
24 Construction Design.

25 CHAIRMAN MIETZ: Okay. Bob, can you just

1 give is your address please? And then proceed.

2 MR. CORNELL: 39 Shalimar Drive, Rochester,
3 14618. We've done projects for the Vickers. In fact,
4 the last -- two years ago we put an addition on the
5 back of their house. They have a beautiful backyard.
6 It backs up to Brighton High School. It's very nice.
7 But one of the things that we're finding as a
8 contractor and, in fact, we've -- now this will be the
9 fourth front porch that we've been in front of
10 Brighton Board to put in Brighton.

11 We're finding that people in the
12 neighborhood like to be in front of their house. They
13 like to be close to their neighbors. People walk
14 their dogs. They talk. They sit out. They have
15 coffee in the morning. It builds friendships in a
16 neighborhood. It also is very desirable from a safety
17 standpoint because the more people that are in the
18 front of their house, the safer a neighborhood
19 becomes.

20 In this particular house the front of the
21 house is going to be enhanced greatly by putting a
22 porch on. It's a very plain front. So from a curb
23 appeal standpoint this will also enhance the curb
24 appeal of the house.

25 We did not get in front of Architecture

1 Review last week. We were out of town. We are going
2 to be on Architecture Review Board for the end of
3 month. So I can't comment on that. But we have
4 submitted drawings along with this application.

5 CHAIRMAN MIETZ: Okay. Very good. All
6 right. Questions by the Board?

7 MS. SCHMITT: This is Member Schmitt. I
8 just wanted to verify a few things. I just want to
9 first the plan is not to enclose the porch. It's
10 open; is that correct?

11 MR. CORNELL: Correct.

12 MS. SCHMITT: And right now it looks as if
13 there's no type of covering from the elements at all;
14 is that correct? It's just a flat door?

15 MR. CORNELL: No. There's a roof. Oh, you
16 mean the existing house?

17 MS. SCHMITT: For the existing house.
18 There's no protection at all.

19 MR. CORNELL: No. None whatsoever.

20 MS. SCHMITT: Okay.

21 MR. CORNELL: You come -- there's a stoop
22 there now, which is just about the same distance out
23 as this porch will be. And you're absolutely right.
24 If you go to the front door in that house and it's
25 raining or snowing out, you're standing in the

1 weather.

2 MS. SCHMITT: Thank you.

3 CHAIRMAN MIETZ: Okay. Other questions
4 please? Anything else?

5 MS. McKAY-DRURY: I have a question.

6 CHAIRMAN MIETZ: Go ahead.

7 MS. McKAY-DRURY: Was it considered whether
8 the porch should -- would go all the way to the side
9 of the house? And is it something done frequently
10 just to do the partial like that?

11 MR. CORNELL: Well, it was done from a
12 design standpoint in consultation with the owners. In
13 fact, we had a -- I wanted to make the steps come off
14 the left-hand end of it. And they don't want that.
15 They want this to be more of a traditional front
16 entrance porch like you'd see in the City of
17 Rochester.

18 In fact, interestingly we built porches in
19 the City of Rochester. They don't require any
20 variance application whatsoever for a front open porch
21 in the City of Rochester because their data shows that
22 it actually increases safety in the neighborhoods.
23 And as the same reasons I've said before, it enhances
24 friendships in the neighborhood. People sit on their
25 porch. Passersby stop and talk to them. So it's very

1 interesting that I learn that when I did a porch in
2 the Corn Hill area that you don't need a variance for
3 a front porch as long as it's open.

4 CHAIRMAN MIETZ: Okay. All right. Any
5 other questions for the applicant? Okay. Very good.
6 Thank you very much. Is there anyone on the call that
7 would like to speak regarding this application? Okay.
8 Go ahead. Sorry.

9 MR. FRISCH: No. I was just going to say I
10 don't see anybody.

11 CHAIRMAN MIETZ: All right. Good. Okay.
12 Then at this point the public hearing's closed. Thank
13 you.

14 MR. CORNELL: Thank you.

15 CHAIRMAN MIETZ: Okay.

16 MR. DiSTEFANO: Just for anybody in the
17 audience who's here for 12A-03-21 or 12A-04-21, they
18 have both been postponed to the January meeting. So
19 we'll go on 12A-05-21.

20 **Application 12A-05-21**

21 Application of James Brasley, architect, and
22 Susan and David Rothenberg, owners, of property
23 located at 76 Fernboro Road, for an Area Variance from
24 Section 205-2 to allow a three-season room and deck
25 addition to extend 5 feet into the 40 foot rear

1 setback required by code. All as described on
2 application and plans on file.

3 CHAIRMAN MIETZ: Okay. I see Jim there.
4 Jim, give us your address and then you can proceed.

5 MR. BRASLEY: Hi. I'm Jim Brasley,
6 architect. Can everyone hear me?

7 CHAIRMAN MIETZ: Yes.

8 MR. DiSTEFANO: Yes, we can.

9 MR. BRASLEY: I think I'm also joined by the
10 homeowner, Susan Rothenberg. Is that he turned on?

11 MS. ROTHENBERG: Yes, I am.

12 CHAIRMAN MIETZ: Okay.

13 MR. BRASLEY: Welcome everyone. I'm Jim
14 Brasley, architect. My office is at 10 Cambridge
15 Court in Fairport. I'm joined by the homeowner for 67
16 Fernboro Road, Susan Rothenberg. Susan and her
17 husband, David, have lived in a different neighborhood
18 for many years and they recently bought this house on
19 Fernboro Road.

20 This is an age-in-place home where they're
21 going to stay. They liked it because it was one
22 story. It met all of their needs. It's close to
23 their son's house, which is only a few blocks away.

24 They're doing some major interior
25 renovations to get ready to move in. They're going to

1 put a small laundry room and mudroom addition behind
2 the garage. All of that fits within the current
3 zoning code. So that's not what I'm here to talk
4 about tonight.

5 One thing the house doesn't have is any
6 access to the backyard. So what they'd like to do is
7 put on a three-season room on the rear of the porch
8 and a deck so they can enjoy the warm weather and
9 enjoy their backyard. There's currently a 40-foot
10 setback in this neighborhood. Their house is
11 currently about 49 feet setback from the rear lot
12 line. So with the addition being about 15 feet by 17
13 feet for the porch and about 15 feet by 22 feet for
14 the deck, they are going to need to extend about 5
15 feet into the 40-foot setback, resulting in about a
16 35-foot setback.

17 I believe this meets all of the requirements
18 for a zoning variance. This won't result in a change
19 in the neighborhood. It will be completely invisible
20 from the street. It's in the center of the rear of
21 the house. There's many other houses on this street
22 and the street behind them, Maybrooke, that have
23 similar additions. I'm sure you know this street has
24 houses that are 50 or 60 years old and lots of people
25 have put additions on over the years.

1 There's no other place to put the addition.
2 The purpose of the room is a three-season room and a
3 deck. Those go in the back of the house. There's not
4 enough room on the side. And this is the logical
5 place to put it right behind their living room so they
6 open that up to the rest of the house when the
7 addition is built.

8 This variance is also relatively small.
9 It's only 5 feet of the 40 foot full setback. If they
10 were to meet the code, they would only have about 8 or
11 9 feet deep for the three-season room. And that's not
12 really deep enough to put any furniture or have any
13 use to it. So they do need the variance to go into
14 that.

15 And if this variance is granted, they still
16 meet all the other zoning requirements for the
17 property in terms of setbacks. They still are within
18 the lot coverage. They're at only 24 percent with the
19 additions. You're allowed to have 25 percent.
20 They're well under the maximum livable area for the
21 house. So it will still fit in the neighborhood.

22 It's a small addition, small deck. There
23 won't be any environmental impact. I suppose that the
24 request is self-created, but I also know that doesn't
25 necessarily have to be considered as a factor in your

1 decision.

2 Do you have any questions for me?

3 MR. PREMO: Yeah. This is Member Premo. As
4 I remember looking at the property though, a lot of
5 the side setbacks or pre-existing, legal
6 nonconforming; right?

7 MR. BRASLEY: That's correct. There's about
8 8 or 9 feet on each side. And I believe they would
9 have to have about 12 feet. So they don't meet side
10 setback requirements already. So they are
11 pre-existing, nonconforming.

12 MR. PREMO: And the lot size is a
13 pre-existing, nonconforming also?

14 MR. BRASLEY: That is also correct.

15 MR. PREMO: So there'd be no other location
16 to put this. I mean, you don't have enough space on
17 the side yard. And if you went in the front yard,
18 you're still going to need a variance from there, I
19 believe.

20 MR. BRASLEY: Yes, we would. And I would
21 guess that most people don't want a three-season room
22 or a big deck hanging in their front yard.

23 MR. PREMO: Right. Looking at the property
24 along the back property line, it looks like there's a
25 solid row of evergreen -- an evergreen hedgerow.

1 MR. BRASLEY: There's actually two rows of
2 evergreen hedge rows. There's one on this property
3 and there's one on the property behind them on
4 Maybrooke. So their hedgerow is a little bit within
5 their property line. But you are correct, yes.

6 MR. PREMO: And those hedge rows will
7 remain?

8 MR. BRASLEY: Oh, yes. Yes. That's one of
9 the reasons why Ms. Rothenberg liked that house, for
10 the privacy.

11 MR. PREMO: It looked like you were doing
12 some work when I was there moving some bricks and
13 stuff. It looks like you're kind of doing some nice
14 work along there. That's all the -- I would note as
15 you said that when you stand kind of in that back area
16 and look on either side, you see going down other
17 people's backyards similar areas that look like three
18 season porches, or whatever, extending back. So this
19 would be kind of consistent with what you can see in
20 the area. Would you agree with that, Jim?

21 MR. BRASLEY: It's definitely consistent
22 with other houses in the neighborhood. The house two
23 doors to the east at number 96 has an addition that
24 encroaches into the setback. The houses two and three
25 houses to the west at number 46 and 56 also have

1 additions. And there's several on Maybrooke behind
2 them that also have similar additions, all within
3 maybe 2-300 feet of this house.

4 MR. PREMO: Okay. That's all I have. Thank
5 you.

6 CHAIRMAN MIETZ: Okay. Other questions for
7 Mr. Brasley? Okay. Thank you very much.

8 MR. BRASLEY: Thank you.

9 MS. ROTHENBERG: Thank you.

10 CHAIRMAN MIETZ: Is there anyone on the call
11 that would like to speak regarding this application?
12 Okay. Then at this point the public hearing's closed.

13 MR. BRASLEY: Thank you.

14 CHAIRMAN MIETZ: Thank you.

15 **Application 12a-06-21**

16 Application of Carini Engineering Design,
17 agent and John and Karen Gallagher, owners of property
18 located at 25 Northumberland Road, for an Area
19 Variance from Section 205-2 to allow a covered porch
20 to extend 10 +/- feet into the existing 35-foot front
21 setback where a 40-foot front setback is required by
22 code. All as described on application and plans on
23 file.

24 CHAIRMAN MIETZ: Okay. And who do we have
25 speaking for 12A-06?

1 MR. GALLAGHER: Whoa. I'm guessing -- is
2 there anybody there? Am I muted still?

3 MR. DiSTEFANO: Nope. We can hear you.

4 MR. GALLAGHER: Okay. I assumed our
5 architect was going to be here. This is John
6 Gallagher. I apologize. Are we getting feedback?

7 MS. GALLAGHER: Your computer is muted, mine
8 is not. They think that you and I are on the same --
9 on my computer.

10 MR. GALLAGHER: Okay.

11 CHAIRMAN MIETZ: Okay. So what -- who do we
12 have that's going to speak for 12A-06?

13 MR. GORDON: Judge Gallagher and Karen, I do
14 not think that your architect -- it's Carini; right?
15 I don't see them on the call. So I think you're going
16 to have to present this on your own. Can you unmute
17 yourselves please? There you go. You're good now.
18 We can hear you now.

19 MR. GALLAGHER: Okay. So our intention here
20 today is to put a front porch on the house at 25
21 Northumberland. I'm sorry. I'm just putting my
22 earphones away so I don't feedback. Here we go. To
23 allow us to put a front porch extending left to right
24 on the house proper. Now, there's a little side porch
25 as you can see from the drawing that's not going that

1 far. It's not going completely across the front of
2 the property line -- the front of the house.

3 What we're intending to do is just make a
4 front porch that sits within the front stoop, if you
5 will, that's already existing. What we'll do is just
6 cross -- go across the front of the house, just the
7 portion of the front of the house that doesn't
8 included the existing -- where are we -- okay. That
9 8-by-9 structure right there, again, our idea, again,
10 is just to put a front porch. We think it falls
11 within the existing footprint of the steps that are
12 already there. As a matter of fact I measured it the
13 other night, the end of the steps. And I have no
14 objection to including the steps in the porch
15 structure, if you will, so that they don't extend out
16 any farther into the setback.

17 And as far as that goes the -- one of the
18 things that struck me as I was listening to, I believe
19 it was Mr. O'Connell or Mr. Cornell, I forget who it
20 was, trying to put a front porch on -- up on
21 Brooklawn. And one of the things I was talking to my
22 wife about the -- many times actually, is most of --
23 most people right now, at least in this neighborhood
24 that don't have front porches, they hang out in their
25 backyards. And to me that's sort of an issue. My

1 family's originally from Philadelphia. My mother has
2 a front porch. My grandparents had a front porch.
3 And exactly what that gentleman was indicating to
4 me -- or indicating to you beforehand was that the
5 neighborhood becomes more of a neighborhood when you
6 can actually talk to the people that are in the
7 neighborhood.

8 And that's what the front porch does. When
9 people walk their dogs, I say hello to people when
10 they walk by all the time. We have a little stoop, if
11 you will, but unfortunately if there's inclement
12 weather, there's no way for me to sit on that porch
13 while it's raining outside or snowing or sleeting or
14 hailing or whatever the heck it may be doing. And I
15 would like to sit outside during the months that we
16 have here. We live in Upstate New York. So have very
17 little -- limited period of time where we can enjoy
18 the outside. And I would love to have a front porch
19 in this house.

20 And I apologize that I'm not an architect.
21 And I don't know how to speak to an architectural
22 board, but I am open to any question you may have for
23 me and we can go from there.

24 MR. DiSTEFANO: Yeah. Can I just get in
25 here for a second? Mr. Gallagher, I guess the problem

1 that I'm seeing is that your application was
2 reflecting a porch across the entire front of the
3 house coming out 10 feet from the front edge of the
4 house towards the road. I don't think you -- did you
5 explain that when you -- I thought you were explaining
6 just to go around the step and you started your
7 presentation.

8 MR. GALLAGHER: Okay. When you -- if you
9 look -- I believe the 10 feet that was on that drawing
10 that I guess Corini submitted is -- it's deeper than
11 the actual front of the steps.

12 MR. DiSTEFANO: Right.

13 MR. GALLAGHER: So the steps -- the steps
14 themselves -- now I can't tell if the front stoop that
15 I'm looking right here on the drawing includes the
16 steps. If it doesn't include the steps, then our
17 steps actually go -- extend out to -- in that
18 little -- right where that arrow is going. The steps
19 go to that line as it is.

20 MR. DiSTEFANO: Yeah. According to --
21 according to the floor plan that was submitted with
22 your application, that line is the edge of the step.

23 MR. GALLAGHER: Correct.

24 MR. DiSTEFANO: So steps are included in
25 that entire box. But we're talking -- you are still

1 presenting here the entire red area to be the porch;
2 correct?

3 MR. GALLAGHER: Correct. But --

4 MR. DiSTEFANO: Okay. Thank you.

5 MR. GALLAGHER: I believe that might be a
6 mismeasure because I just did it the other day because
7 I was -- I know that Ms. Schwartz had walked by I
8 believe it was on Sunday. And my wife was talking to
9 her. And I -- just for my own informational purposes
10 I went out and measured from the front of the house to
11 the end of the steps. And that is almost exactly 10
12 feet.

13 MR. DiSTEFANO: Right. That's the variance
14 that you're requesting is 10 feet into the existing
15 setback. We don't include that entryway as part of
16 your existing setback requirement. You are allowed
17 some encroachment with what exists into the front
18 setback. So the drawing is correct in what I can tell
19 from what your architect submitted to us.

20 MR. GORDON: Right. Rick, if I could just
21 clarify. This is Ken Gordon. Judge, I think all that
22 Mr. DiStefano was trying to clarify is that the
23 application is, in fact, for a 10-foot porch that's
24 going to extend 10 feet out and go across the entire
25 face of your property; right? That's what you're

1 doing?

2 MR. GALLAGHER: Correct. Correct. And what
3 we're also -- as for reflecting with the rest of the
4 neighborhood, there are many homes on Northumberland
5 themselves, I believe it's 9?

6 MS. GALLAGHER: Yes. Our next-door
7 neighbors at 8, across the street, the three neighbors
8 across the street all have front covered porches. One
9 of them is enclosed and the --

10 MR. GALLAGHER: I don't know if you can hear
11 my wife or not. But there are neighbors across -- on
12 the street that have covered porches. One of them --
13 at least one of them is enclosed.

14 MR. GORDON: And just so our record is
15 clear, Karen, can you just tell us your name?

16 MS. GALLAGHER: Yes. Absolutely. So we
17 went through --

18 MR. GORDON: Your name first please.

19 MS. GALLAGHER: Karen Haberer Gallagher.
20 The past couple weeks I've went up the street and
21 talked to neighbors that all have front porches. And
22 we got one, two, three, four, five, six, seven
23 neighbors closest to us all have front porches. I had
24 measured them. They're all anywhere between 8 to 9
25 feet from the front of the house. Mrs. Wright, who is

1 next door to us, her front porch actually is --
2 extends out equal to where we would want ours. So it
3 would be in line. So if you're looking at the side of
4 our home, you would be able to see her front porch and
5 our front stoop, which we actually do sit on, but it's
6 barely covered -- when it rains, we go in -- is equal
7 distance from our front of the house out. I guess
8 that's the best way to put it.

9 What we're wanting to do is make our front
10 porch the same width from others in our neighborhood.
11 Depth that is.

12 MR. DiSTEFANO: I think it might help us a
13 little bit too if -- Jeff, if you could put up the
14 floor plan. Just slide over where the new deck is
15 going to be. No the other direction. Other
16 direction. There you go.

17 MS. GALLAGHER: And we did get the 10
18 foot just honestly by looking at where the end of our
19 steps was. I don't think it necessarily has to be,
20 you know, the 10 feet. The 8 to 10 would be good
21 because we were thinking about being able to put, you
22 know, a table out. Ms. Wright and Ms. Fitzpatrick all
23 eat dinner out on the front porch. And would be
24 awesome to be able to do that as well.

25 We were just kind of trying to figure out,

1 you know, instead of just having our front porch just
2 in the center, we would like it on either side. And
3 we would be covering it and residing the whole house
4 as well at that time.

5 MS. TOMPKINS-WRIGHT: This is Member Wright.
6 In the application packet there are a number of
7 surveys that were submitted for properties other than
8 your property all along Northumberland Road.

9 MS. GALLAGHER: Yup.

10 MS. TOMPKINS-WRIGHT: And I just wanted to
11 confirm, those are your neighbors that have similarly
12 sized front porches with similar setback variances or
13 similar encroachments into the setback, front setback.

14 MR. GALLAGHER: I believe so.

15 MS. GALLAGHER: Yeah, I believe so. I'm
16 no -- I don't see them. We did go over just the other
17 homes on the street and how similar they were.

18 MS. SCHWARTZ: This is Judy. Just a point
19 of question. Have you been before the Architectural
20 Review Board or were you waiting for your approvals
21 tonight?

22 MR. Gallagher: We have not been before the
23 Architectural Review Board.

24 MS. SCHWARTZ: Okay. Thank you.

25 MR. GALLAGHER: This is all new to us. As

1 Mr. Gordon indicated, I may be familiar with some
2 of -- type proceedings like this, but it was my
3 understanding that the money that I paid for, our
4 architect would have been here to help walk through
5 this and actually use the magic words that I know that
6 all boards have people that I'm -- we need to make
7 things -- I don't know the magic words. I apologize.

8 MR. GORDON: You're doing just fine, Judge.
9 But you'll have to take that issue up with your
10 architect.

11 MR. GALLAGHER: I will.

12 MS. GALLAGHER: I'm glad Judy came over to
13 look at too the other day.

14 MR. GORDON: And if I could -- if I could
15 ask a question. This intended to be an open porch,
16 not an enclosed porch?

17 MR. GALLAGHER: Correct. My idea is for --
18 to have a half wall and then opening. No need for --
19 I mean, I want to be able to talk to my neighbors. I
20 want to be able to see them. But I would like to be
21 able to talk to neighbors as they walk by or talk to
22 Ms. Wright as she's on her front porch or
23 Ms. Kirkpatrick as she's walking their dog and things
24 of that nature. Yes. No need to enclose it. I just
25 to put a roof on it, put a half wall on it so if I'm

1 in my pajama pants, they don't necessarily see my
2 pajama pants. They see my Oxford shirt instead.

3 MS. MCKAY-DRURY: And Judge, this won't
4 impact your holiday decorations; right? You'll still
5 do those?

6 MR. GALLAGHER: The intention is not to
7 affect the decorations. None at all. We may
8 incorporate decorations on the porch.

9 MR. GORDON: And just one more thing to fill
10 out the record a little bit more. Can you talk a
11 little bit about the neighbor to your immediate left
12 as you're in your house facing Northumberland, and the
13 neighbors immediately across the street from you.
14 What are those properties?

15 MR. GALLAGHER: They're both residential
16 properties. Ms. Wright is to our immediate left
17 facing Northumberland. I forget what her address is.
18 But she has a covered front porch that she sits out
19 on.

20 And then the first house on the other side
21 of Northumberland also has a covered porch that people
22 sit out on and enjoy their time out there. And I
23 would like to have something similar in front of our
24 house.

25 MR. GORDON: And you're at the extreme end

1 of Northumberland right near Monroe Avenue with
2 commercial properties very close by; is that correct
3 as well?

4 MR. GALLAGHER: Correct. Yup. Again,
5 facing Northumberland from my front door to my
6 immediate right is now the Monroe Med Spa. Used to be
7 an Allstate building. Used to be a couple other
8 things. But now that's -- we're one house off of
9 Monroe Avenue. And I believe the curb appeal might be
10 helpful to the neighborhood itself.

11 MS. SCHMITT: This is Member Schmitt.
12 Again, thank you for talking to us especially without
13 having the help of your architect. One of the
14 concerns that I did have though was the size of the
15 front porch, not the length of the front of the house,
16 but going out 10 feet. You know, I'm not an
17 experienced architect myself by training, but I do see
18 the applications and they'll say that 5 feet is the
19 minimum that you need for comfortable seating. But
20 you're asking for double that. Did you look or
21 explore things less than 10 feet?

22 MR. GALLAGHER: We -- quite frankly,
23 Ms. Schmitt -- I apologize -- what -- I've been on
24 porches. I love front porches. People who have front
25 porches, I like to sit out on front porches. And the

1 depth of the front porch, my wife and I -- I'm 6',
2 she's 5'11. You put us in a chair of any size on a
3 front porch, we're occupying probably 4 feet in depth.
4 So if anybody wants to walk around us, they have a
5 difficult time doing that. The other objective as we
6 indicated earlier was that we'd like to put a table
7 out there so that we could eat at it. And our whole
8 family depending on how many people we have there,
9 that can range from anywhere from 6 to 16. And if we
10 were to have a table out there that we can on eat on,
11 if you were to take your average table, your average
12 table width is probably about 36 inches. And then if
13 you want to actually sit at that table and actually
14 enjoy your meal, you're going to need space behind you
15 and actually have the ability to take a chair and move
16 it out and then move it back in. And if -- God
17 forbid, someone has to get up and move around you, I
18 mean, I would like to have the space behind each chair
19 so that someone could walk behind you.

20 I understand what you're talking about as
21 far as the minimal depth to enjoy is 5 feet, but
22 that's minimal to walk and maybe stand. But that's
23 the reason why we're looking for a deeper porch so
24 that when we're on the porch, when someone has to
25 move, the whole porch doesn't have to move.

1 And other -- other -- from looking around at
2 the other porches in the neighborhood they do have --
3 they do seem to have a similar depth, maybe a little
4 deeper than that. But they do seem to have a similar
5 depth. I know Ms. Wright's, who's to my -- again
6 facing Northumberland, our immediate left neighbor,
7 her porch is approximately 10 feet. I have not
8 measured it like I measured ours.

9 MR. DiSTEFANO: Just for the record, I'll
10 state that we have received letters of support from
11 the neighbors at 33 Northumberland Road, Ms. Wright,
12 and from the neighbors at 52 Northumberland Ron and
13 Joanne Trovato.

14 MR. GALLAGHER: I apologize. Kirkpatrick
15 was her maiden name. I knew her when she was a
16 probation officer. Any other questions?

17 MR. FRISCH: Rick, Dennis seems to have
18 dropped off the Zoom call.

19 MR. DiSTEFANO: Okay. Ms. Wright, would you
20 like to take over until we can get Dennis back?

21 MS. TOMPKINS WRIGHT: Sure. Anyone in the
22 Zoom meeting would like to also give any testimony or
23 present any comments on this application? If not the
24 public hearing is closed.

25 MR. DiSTEFANO: We'll go on to 12A-07-21.

1 **Application 12A-07-21**

2 Application of Tyler Wolk, owner of
3 property located at 3161 East Avenue, for an Area
4 Variance from Section 205-2 to allow a building
5 addition to extend 17 feet into the existing 34.5 foot
6 rear setback where a 60-foot rear setback is required
7 by code. All as described on application and plans on
8 file.

9 MS. TOMPKINS-WRIGHT: And who do we have
10 presenting this application?

11 MR. HANLON: Yeah. David Hanlon. I'm
12 making a presentation, architect on the project on
13 behalf of Tyler Wolk.

14 MS. TOMPKINS-WRIGHT: David, do you mind
15 giving your address for the record.

16 MR. HANLON: Yeah. 1300 University Ave,
17 Rochester.

18 MS. TOMPKINS-WRIGHT: Thank you. Go ahead.

19 MR. HANLON: Okay. Good evening. Thanks
20 for listening -- for hearing our presentation. So the
21 Wolks would like to construct a small addition to the
22 rear of the house. On the site plan you can see those
23 two shaded areas. The shaded area in front is
24 actually not a built structure. It's a -- well, it's
25 a patio. So they're just looking for a patio area in

1 the front because the house is elevated above the
2 ground plane.

3 So what we're talking about for tonight is
4 the area on the rear of the property. But that's an
5 addition for their master bedroom area. On this first
6 floor there's a living, dining, kitchen space and a
7 master bedroom as well as an enclosed garage. And it
8 just so happens the master bedroom is on the rear of
9 the property, you know, facing the east.

10 And so it's kind of landlocked in that area.
11 That -- the addition, you know, their desire to
12 increase space within the master bedroom area has to
13 go in that area where the setback is currently I think
14 34 feet. And this is about a 15-foot extension of
15 that footprint in that area.

16 So as you can see it's a uniquely configured
17 lot. We have Allens Creek to the south. And then to
18 the north is still a tight setback. And on the east
19 side way we have an even tighter setback. But since
20 the master bedroom faces that side, that gives us our
21 condition.

22 The Wolks own actually all the properties
23 surrounding this area. So even though, you know, we
24 have a setback to this lot line, there's no impact to
25 other neighbors given that the Wolks own those

1 properties as well.

2 As you can it's quite a unique configuration
3 of the lot because not only is it -- you know, the
4 angle as you can see of that lot line angles over to
5 the house. And then as the creek bends around, that's
6 a part of the adjoining parcel that is also not -- you
7 know, it feels like it's more a part of the Wolks'
8 backyard when you're there.

9 The house to the east or to the right on
10 this page is a little bit off the page. So it's --
11 there's good distances between this house and other
12 houses surrounding it such that this is really no
13 impact on any character issues for the neighborhood.
14 And this is a minimal type of application. There --
15 it's not a lot of square footage. It just so happens
16 to be an increase in what's already a nonconforming
17 situation along that edge.

18 Just see if my notes -- I think, you know,
19 it's a pretty simple straightforward application.
20 It's just that, you know, because of the position of
21 the house, because of Allens Creek, we don't want to
22 add towards Allens Creek. And we can't -- we don't
23 want to add to the north either because that would be
24 a variance situation as well. And the front door is
25 on the left of the building as you can see. So it's

1 not like we can shift things around and add somewhere
2 else. So this really presentation the best case given
3 that they own all the adjoining parcels and that with
4 we, you know, such a unique configuration in this part
5 of the lot.

6 So that's the presentation. I'm happy to
7 take any questions you have.

8 MS. TOMPKINS WRIGHT: I think -- go ahead.

9 MS. SCHMITT: Yeah. This is Member Schmitt.
10 I just have a few questions. I was a little bit at a
11 disadvantage because you really can't get back and see
12 this. So I went on Google Earth and Google Maps, for
13 whatever that's worth. And it did look like 3211's
14 backyard faces directly at the property. Would
15 that -- is that incorrect, that I was looking at that
16 incorrectly?

17 MR. HANLON: So I'm not sure -- 3211, is
18 that the house directly to the east of us here? Rick,
19 would you know that?

20 MR. DiSTEFANO: Give me one second.

21 MS. SCHMITT: Looks like kind of a
22 mid-century modern --

23 MR. HANLON: Yeah. So you're right. That
24 is the house to the east of us. And the Wolks own
25 that house as well. And they actually have no plans

1 in selling that house so that it would be sold to
2 somebody that this -- this would impact down the road.
3 They plan on keeping that house as well. No plans for
4 it right now, but, you know, they have a large family.
5 They could have guests and all that. So it does face
6 their side. But again, it's owned by the same person
7 on both sides.

8 MS. SCHMITT: Okay. Because I know that you
9 said that they owned the property, but since that was
10 a separate house, I couldn't figure out how they --
11 that they owned that too.

12 MR. HANLON: Yeah, they do.

13 MS. SCHMITT: And did they explore
14 alternatives for a smaller addition? I couldn't -- I
15 didn't understand the explanation because I know they
16 said it was small, but it looked like it was somewhat
17 substantial. I just wasn't sure when they couldn't go
18 out on the map where it says 15.5 and the 2.0. Did
19 they explore going out towards the patio and making it
20 less into the setback?

21 MR. HANLON: When you say more into the
22 patio, I'm not sure I follow.

23 MS. SCHMITT: So where it says 2.0 going
24 towards the patio, this goes behind the house and --

25 MR. HANLON: Oh, I see. Well, you know,

1 it's a nice view out that way towards the creek. And
2 if you push out that way then you kind of enclose the
3 window from the master bedroom. And it just tightens
4 down to the lot line even more.

5 This was, you know -- you know how it is
6 when you lay out a space. You want it to be a usable,
7 functional proportioned space. And this fit in that
8 inside order kind of nicely. As you can see
9 there's -- how the garage kind of bumps out on that
10 northeast corner. It kind of tucks into that area.

11 And so if we moved out and "skinnied" that
12 up, it just creates some awkward spaces inside.

13 MS. SCHMITT: Okay. Those are my questions.
14 Thank you.

15 MS. TOMPKINS-WRIGHT: Any other Board
16 members have questions for this applicant? Is there
17 anyone on the Zoom call who would like to speak on
18 this application, application 12A-07-21? Jeff, can
19 you just confirm? I'm not seeing any hands up.

20 MR. FRISCH: I don't see anybody.

21 CHAIRMAN MIETZ: I'm back. Little computer
22 difficulty. My apologies.

23 MS. TOMPKINS-WRIGHT: No problem. We're
24 just closing the public record on -- or --

25 CHAIRMAN MIETZ: Yeah. I had hooked on the

1 phone. So I've been listening, but I just couldn't --

2 MS. TOMPKINS-WRIGHT: Okay. Go ahead then.

3 CHAIRMAN MIETZ: No. Wonderful. Okay.

4 Very good. So we just finished up 12-A-07; correct?

5 MR. DiSTEFANO: Correct.

6 COUNCILMEMBER TOMPKINS-WRIGHT: You just
7 have to close the public hearing.

8 CHAIRMAN MIETZ: Go ahead and finish would
9 you? Go ahead.

10 MS. TOMPKINS-WRIGHT: And if -- and as
11 there's no one -- no other questions on this
12 applicant, the public hearing is now closed.

13 CHAIRMAN MIETZ: Okay. Thank you very much.
14 Does anyone need a minute or two here since I've had a
15 few moments?

16 MR. PREMO: I'm fine.

17 CHAIRMAN MIETZ: Everyone fine?

18 MS. SCHMITT: Yes.

19 (Public hearing portion concluded.)

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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.

11
12 Dated this 1st day of December, 2021
13 at Rochester, New York.

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17 -----

18 Holly E. Castleman,

19 Notary Public
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BRIGHTON
ZONING BOARD OF APPEALS
MEETING
DELIBERATIONS

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

PRESENT:

DENNIS MIETZ
Chairperson

| | | |
|---------------------|---|---------------|
| EDWARD PREMO |) | |
| JUDY SCHWARTZ |) | Board Members |
| HEATHER McKAY-DRURY |) | |
| MS. TOMPKINS-WRIGHT |) | |
| KATHLEEN SCHMITT |) | |

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

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

1 CHAIRMAN MIETZ: Okay. All right. Let's go
2 to 11A-02-21, which is for Cardiff Park. So we had
3 some extensive discussions about this. So I think
4 just one thing I would just make sure that all of
5 the -- I think this a good example of it though,
6 but -- and I'm not sure who went and who didn't go
7 as -- you know, it's our responsibility to try to
8 review these applications. But again, to see these
9 things in person is extremely important especially in
10 a situation not just like this, but many others where,
11 you know, by looking at the submission and being there
12 are sometimes two different things.

13 Lets's go around. Thoughts on this.
14 Andrea, what are your thoughts?

15 MS. TOMPKINS WRIGHT: Yeah. I wrote this up
16 as denial. As we've looked at these, you know, each
17 of these -- in order to approve this, you have to
18 state basically five things. And any one of those, if
19 you can't state it -- so I based the denial on the
20 fact that I thought that there was a benefit to the
21 applicant could achieve through other methods,
22 focusing on the fact that I do think there are other
23 places you can put this same shed on the property that
24 would be less intrusive to other properties and
25 require less of a variance. But I think even more

1 importantly the benefit their seeking is storage. And
2 that doesn't require a lean-to type of she that is
3 required to be attached to the building.

4 And with this size lot that they're -- there
5 are alternative methods to construct some type of
6 storage facility. I -- I feel confident that's an
7 appropriate denial for something like this given the
8 size of the lot.

9 I did play with the idea if we felt -- the
10 applicant offered to submit photos of neighboring
11 properties. I'll be honest with it getting dark at
12 4:45, it was difficult for me to get over to actually
13 see what the other properties had and how much this
14 one really blended into the current building. We
15 could table it for evidence that would speak to the
16 extent of which this changes the character of the
17 neighborhood, I think. But I don't think we
18 necessarily need to say it does or doesn't.

19 I'm confident in upholding that it's just
20 not necessary. It's not the least restrictive, you
21 know, variance that we're -- or the least substantial
22 variance that could happen on this property.

23 CHAIRMAN MIETZ: Okay.

24 MR. GORDON: Dennis, if I could just jump in
25 real quick. This is Ken. The point that Andrea just

1 made is exactly the same that I wanted to make for the
2 Board as a whole is that the applicant did ask for an
3 opportunity to submit photos. It would only really go
4 to the neighborhood characteristic criteria. And if
5 that is not going to be determinative of what the
6 Board's going decide to do here, then there's really
7 no purpose that would be served in allowing that
8 additional evidence to come in because it wouldn't
9 ultimately change the decision of the Board.

10 So Member Wright expressed her thoughts on
11 why she thinks there's other reasons to deny the
12 application.

13 CHAIRMAN MIETZ: Right.

14 MR. GORDON: Other members obviously need a
15 chance to express --

16 CHAIRMAN MIETZ: Yes.

17 MR. GORDON: But I wanted them to keep that
18 in mind.

19 CHAIRMAN MIETZ: Okay. We can circle back
20 at the end of listening to everyone's thoughts here
21 too. Okay. So how about Judy?

22 MS. SCHWARTZ: Yes. I was out there and I
23 was short of being appalled. It really looks pretty
24 bad. It doesn't have to be as tall. It's right in
25 the front. I don't see why it couldn't have been

1 pushed back. So it's really right out there in front.
2 And it even makes a smaller front look even smaller
3 like it's squeezed in.

4 I did go down the street and yes, I saw a
5 few other sheds. But they're way in the whack.
6 They're not, you know, up in front. They are visible,
7 but they're, you know, within the property line on the
8 side, but they're not right up at the front of house.
9 So -- and there are plenty of alternatives I feel. So
10 I would deny it as well.

11 CHAIRMAN MIETZ: Okay. Kathleen?

12 MS. SCHMITT: Yeah. I'm -- it's
13 unfortunate. I am also a no. I agree with both
14 Andrea and Judy. I think that there are alternative
15 placements. And this storage could be reasonably
16 achieved through a different type of shed.

17 And honestly, I found that the testimony
18 today was that it was a detriment to at least one
19 neighbor being so close and in their direct line of
20 vision. So I'm a no.

21 CHAIRMAN MIETZ: Okay. Heather?

22 MS. MCKAY-DRURY: I would largely second
23 what has been said by the other members. I went over
24 there as well. I also found it rather unsightly. I
25 also asked with respect to that, you know, are you

1 talking about improving this? Because it's -- it's
2 not pleasant to look at as evidenced by the neighbors
3 who weighed in.

4 And I think just to clarify with respect to
5 what Member Wright said, are we also talking about
6 like some type -- like with so much land that they
7 could build a shed is what you're envisioning.
8 Because that's what I had in mind.

9 MS. TOMPKINS-WRIGHT: Yeah. Or even that,
10 you know, if their thought is that they want to keep
11 the vegetable garden and keep all of this landscaping
12 and things like that, they could have additional
13 landscaping on the additional acre that they have and
14 put the shed -- even if they wanted to keep a lean-to
15 type structure, there were other locations and they
16 could move other things rather than being limited to,
17 you know, just this very small lot that they're trying
18 to stay on -- within.

19 CHAIRMAN MIETZ: Okay. All right. How
20 about Ed?

21 MR. PREMO: Yeah. I would support closing
22 the public hearing and voting to deny based upon what
23 everyone else has said.

24 CHAIRMAN MIETZ: Okay. Yeah, I agree. If
25 I'm going out there -- I think the issue for me was

1 how abrupt it is. It's just really kind of in your
2 face and it really doesn't -- it does nothing to
3 enhance the property, that's for sure. And I can
4 sympathize with the neighbors a little bit.

5 Okay. So sounds like Andrea that the votes
6 are there to deny this application. And then we would
7 then not accept any other materials and close the
8 public hearing. Is everyone generally in concurrence
9 with that?

10 MR. PREMO: Yes.

11 MR. DiSTEFANO: Yes. I just think Andrea
12 will have to state the closing of the public hearing
13 in her decision because we did not close it at the end
14 of the --

15 CHAIRMAN MIETZ: Yes.

16 MR. DiSTEFANO: -- testimony.

17 CHAIRMAN MIETZ: That'd be fine.

18 MS. McKAY-DRURY: I also think that the
19 character of the neighborhood should be one of the
20 other reasons in addition to the possibility to
21 achieve the benefit through other means as well.

22 CHAIRMAN MIETZ: Okay. So let's hear
23 Andrea's and then we can comment on that. Go ahead
24 please.

25 MS. TOMPKINS-WRIGHT: Give me one second.

1 CHAIRMAN MIETZ: Yeah.

2 MS. TOMPKINS-WRIGHT: Because I wasn't
3 planning on adding anything about the character of the
4 neighborhood. So let me just --

5 MR. GORDON: I think, Andrea, you are
6 probably best served by just having the -- reading
7 what you've prepared.

8 CHAIRMAN MIETZ: Yes.

9 MS. TOMPKINS-WRIGHT: Okay.

10 CHAIRMAN MIETZ: Agreed.

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1 **Application 11A-02-21**

2 Application of Katherine Solano, owner of
3 property located at 4 Cardiff Park, for Area Variances
4 from Sections 203-2.1B, 203-9A(4) and 207-6A(2) to
5 allow for a shed to be located in a side yard and less
6 than 5 feet from a lot line in lieu of the rear yard
7 no closer than 5 feet to a lot line as required by
8 code. All as described on application and plans on
9 file.

10 Motion made by Ms. Tompkins-Wright to close
11 the public hearing and deny Application 11A-02-21
12 based on the following findings of fact.

13 **FINDINGS OF FACT:**

14 1. The granting of the requested variances will be
15 detrimental to nearby properties due to the location
16 and appearance which was testified to by the public.
17 2. The Board finds that the benefits sought by the
18 applicant can be reasonably achieved by other methods.
19 Based on other evidence presented there appears to be
20 other locations on the property that would permit
21 construction of the storage shed. Applicant testified
22 that a lean-to structure could not be reasonably be
23 placed in other locations, but the Board finds that A,
24 a future planned extension of the brick patio and the
25 existence of landscaping by itself does not preclude a

1 storage shed. And B, that there are other styles of
2 storage sheds other than a lean-to-style structure
3 that could be utilized in other areas of their
4 property.

5 (Second by Mr. Premo.)

6 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;
7 Mr. Mietz, yes; Ms. Schwartz, yes;
8 Mr. Premo, yes; Ms. Tompkins-Wright, aye.)

9 (Upon roll motion to deny carries.)
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1 CHAIRMAN MIETZ: Next application is 71
2 Golfside. That's the generator. Does anyone have any
3 concerns about this one?

4 MS. SCHWARTZ: No. When I was standing in
5 Nancy's driveway, which was -- is set way back. I
6 mean the entrance to the side is way back, the
7 driveway. You can clearly see the generator right
8 across the street. I mean, it's right there. I mean,
9 this won't be seen at all.

10 CHAIRMAN MIETZ: Okay. Judy, then go ahead
11 and proceed.

12 MS. SCHWARTZ: Sure.

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1 **Application 12A-01-21**

2 Application of Nancy Zimmer, owner of
3 property located at 71 Golfside Parkway, for Area
4 Variances from Section 203-2.1B(6) to 1) allow a
5 standby emergency generator to be located in a side
6 yard in lieu of the rear yard behind the house as
7 required by code, and 2) allow said generator to be 8
8 +/- feet from a lot line in lieu of the minimum 10
9 feet required by code. All as described on
10 application and plans on file.

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

14 **FINDINGS OF FACT:**

- 15 1. The generator placement on the side of the house
16 instead of the rear yard is about equal distance from
17 the nearest residence.
- 18 2. There are several generators in the area that are
19 visible from the street.
- 20 3. The side yard placement of the generator will be
21 completely shielded from view by well-established
22 landscaping and there will be no visible change to the
23 character of the neighborhood.
- 24 4. Placing the generator in the rear yard would
25 necessitate the removal of a mature azalea flowering

1 bush that will have a negative impact on both the
2 applicant and the neighboring property on the West.

3 5. The windows in the rear yard would not permit the
4 placement of a generator because there would not be a
5 5-foot clearance. And if it were placed further, more
6 extended in the back yard, it would be in the middle
7 of the coy pond.

8 **CONDITIONS:**

9 1. This variance only applies to the conditions of
10 the generator as presented in the written application
11 and testimony presented.

12 3. All necessary building permits shall be obtained.

13 (Second by Ms. Tompkins-Wright.)

14 (Ms. McKay-Drury, yes; Mr. Premo, yes;

15 Ms. Schmitt, yes; Mr. Mietz, yes;

16 Ms. Tompkins-Wright, yes; Ms. Schwartz,
17 aye.)

18 (Upon roll motion to approve with amended
19 condition requiring testing carries.)
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1 MR. DiSTEFANO: Motion is to approve with
2 conditions.

3 MS. MCKAY-DRURY: If I may. My only
4 hesitation is with respect to specifically creating a
5 condition as to the time for testing. I just -- where
6 is that coming from? I just want to clarify about
7 that because we haven't really discussed that.

8 MS. SCHWARTZ: Well, I asked them if they
9 would be amenable to something, you know, during
10 either the late to mid-morning or into the afternoon
11 and he said, "yes." So usually we ask that it be
12 during day -- you know, daytime hours. And this would
13 give them a wide range of time to choose from. That's
14 why I put it in.

15 But if you don't want it -- I mean, that's
16 up to Rick too whether we want to put any timing in
17 there.

18 CHAIRMAN MIETZ: Yeah. In the past I think
19 we've seen both. I think generally people do not test
20 these things in the evening hours, but many times we
21 don't restrict it either.

22 MS. SCHWARTZ: I mean, I don't think Nancy
23 would at all. But, you know, we don't know the next
24 owner.

25 CHAIRMAN MIETZ: Do you object, Heather, to

1 having it in there or are you concerned about it?

2 MS. McKAY-DRURY: I mean, I agree that as a
3 practical matter that's probably when they're going to
4 do it. I just don't know if we really want to make it
5 like a condition that they have to strictly abide too.
6 And if they want to do it at 9:00 a.m. I don't think
7 it's going --

8 MS. SCHWARTZ: Oh, okay.

9 MS. McKAY-DRURY: To me it just seems like
10 an unnecessary condition, but if --

11 MR. PREMO: Yeah. The only thing I know is
12 having had one of these, you typically set it for the
13 particular time. And it just does it automatically.

14 MS. SCHWARTZ: Right.

15 MR. PREMO: The only thing you ever run into
16 is -- at least mine doesn't realize when daylight
17 savings time is.

18 CHAIRMAN MIETZ: Yeah. You got an automatic
19 clock.

20 MR. PREMO: Yeah.

21 MS. SCHWARTZ: That's why you do it at
22 6:00 a.m.; right?

23 CHAIRMAN MIETZ: Okay. Well, why don't
24 we -- Judy, if you don't object. I don't know that
25 it's necessary. We certainly have not done this in

1 every generator application for sure. So, you know,
2 if you're willing to remove it, then I would just
3 remove it.

4 MS. SCHWARTZ: I'm fine.

5 CHAIRMAN MIETZ: Okay. Very good. Then --

6 MS. SCHWARTZ: Rick, do you feel comfortable
7 with that too?

8 MR. DiSTEFANO: Yes, I feel comfortable with
9 that?

10 MR. GORDON: Who seconded that motion
11 please?

12 CHAIRMAN MIETZ: Andrea.

13 MS. TOMPKINS-WRIGHT: I did.

14 MR. GORDON: So you would need to consent to
15 that amendment as well.

16 MS. TOMPKINS-WRIGHT: Yes, I consent. I'll
17 just note that it's not abnormal to put a testing
18 requirement. It's just usually when it's closer to
19 another home.

20 MS. SCHWARTZ: It's close to another home.
21 There's no question it's close --

22 CHAIRMAN MIETZ: All right. We're getting a
23 little off track here now.

24 MR. GORDON: We need to start the roll call
25 again please.

1 CHAIRMAN MIETZ: Go ahead.

2 MR. DiSTEFANO: The motion is amended to
3 remove the condition of testing. Do I have a second
4 on that motion?

5 MS. TOMPKINS-WRIGHT: Can I second that as
6 well?

7 MR. GORDON: Yeah. It's already seconded by
8 Member Wright and she consented to the amendment as
9 well.

10 CHAIRMAN MIETZ: Right. Agreeing to the
11 amendment. Right.

12 MR. DiSTEFANO: So motion is to approve with
13 two conditions.

14 (Ms. McKay-Drury, yes; Mr. Premo, yes;
15 Ms. Schmitt, yes; Mr. Mietz, yes;
16 Ms. Tompkins-Wright, yes; Ms. Schwartz,
17 aye.)

18 (Upon roll motion to approve with amended
19 condition of testing carries.)
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1 CHAIRMAN MIETZ: All right. So then we're
2 moving to 65 Brooklawn. That is the covered porch,
3 the smaller of the two that we're looking at tonight.
4 Any concerns about this?

5 MS. TOMPKINS-WRIGHT: No.

6 CHAIRMAN MIETZ: I think it generally looks
7 good. They got to still go -- we'll have to have a
8 condition about the ARB obviously because they haven't
9 gone yet.

10 MS. SCHWARTZ: Right, right, right.

11 CHAIRMAN MIETZ: Okay. All right.
12 Kathleen.

13 MS. SCHMITT: All right.

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1 **Application 12A-02-21**

2 Application of Cornell Construction Design,
3 agent, and Bruce and Mary Vickers, owners of property
4 located at 65 Brooklawn Drive, for an Area Variance
5 from Section 205-2 to allow a covered porch to extend
6 5 feet into the 40-foot front setback required by
7 code. All as described on application and plans on
8 file.

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

12 **FINDINGS OF FACT:**

13 1. The variance request is to allow a front porch to
14 extend 5 feet into the front setback where a 40-feet
15 setback is required by code

16 2. Currently the applicant's home has no covered
17 entranceway. With the addition of a porch the
18 homeowners will have a safe and spacious entranceway
19 for their family to avoid the elements and also have a
20 place to sit.

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 properties
24 and is consistent with the look and style of nearby
25 homes.

1 4. The requested variance is not substantial in light
2 of the fact that the porch is open in nature and only
3 has a roof over it and thus will not materially
4 infiltrate the front yard setback.

5 5. The benefit sought by the applicant can't
6 reasonably be achieved by any other method or without
7 variance as the minimum size for a porch to allow
8 seating is 5 feet.

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

12 **CONDITIONS:**

13 1. The variance granted herein applies only to the
14 front porch addition described in and in the location
15 depicted on the application

16 2. The proposed porch shall be open in nature in
17 order to minimize the visual effect

18 3. All necessary building permits and Architectural
19 Review Board approvals shall be obtained.

20 (Second by Ms. Schwartz.)

21 (Ms. Tompkins-Wright, yes; Mr. Mietz, yes;
22 Mr. Premo, yes; Ms. McKay-Drury, yes;
23 Ms. Schmitt, aye.)

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

1 CHAIRMAN MIETZ: The next application is
2 Fernboro Road. That is the sunroom addition.

3 MR. PREMO: This is mine. And I've written
4 this up as an approval. It's consistent with the
5 other uses in the area. You know, the lot is
6 pre-existing legal nonconforming lot in terms of size.
7 And there's no place else to put it. They have a
8 hedgerow of evergreens in back. Those shield the view
9 of this from the neighbors in the back. I don't see
10 any issues with that.

11 CHAIRMAN MIETZ: Right. Is there anyone
12 else that has concerns about this application?

13 MS. SCHWARTZ: No. No.

14 CHAIRMAN MIETZ: Okay. Go ahead, Ed.
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1 **Application 12A-05-21**

2 Application of James Brasley, architect, and
3 Susan and David Rothenberg, owners, of property
4 located at 76 Fernboro Road, for an Area Variance from
5 Section 205-2 to allow a three-season room and deck
6 addition to extend 5 feet into the 40 foot rear
7 setback required by code. All as described on
8 application and plans on file.

9 Motion made by Mr. Premo to approve
10 application 12A-05-21 based on the following findings
11 of fact.

12 **FINDINGS OF FACT:**

13 1. The requested setback and area variance for a
14 single-family home is a Type II Action pursuant to 6
15 NYCRR § 617.5(c)(16)(17) and no review is required
16 pursuant to the State Environmental Quality Review
17 Act.

18 2. The requested variance is the minimum variance
19 necessary to address the benefits sought by the
20 applicant. The pre-existing residence is on a
21 pre-existing legal nonconforming lot with respect to
22 lot area, lot width and side setbacks. There is no
23 other location for the three season porch and deck
24 that would not require an even greater variance or
25 would not be practical. The requested variance allows

1 the three season porch and deck, which is a use
2 consistent with on the porches in the neighborhood.

3 3. No other alternative can alleviate the difficulty
4 and produce the desired result. As noted before the
5 lot is a pre-existing legal nonconforming lot. The
6 5-foot variance is minor in the circumstances and
7 consistent with other three season porches and decks
8 in the area.

9 4. There'll be no unacceptable change in the
10 character of the neighborhood and no substantial
11 detriment to nearby properties is expected from
12 approval of the variance. The proposed three season
13 porch and deck are consistent with similar uses in the
14 area. The property has substantial plantings and an
15 evergreen hedgerow on the rear of the lot that will
16 screen the three season porch and deck from view.

17 5. The hardship was not self-created and is based
18 upon the existing lot.

19 6. The health, safety and welfare of the community
20 will not be adversely affected by approval of the
21 variance.

22 **CONDITIONS:**

23 1. The variance is based on the application submitted
24 including various drawings and plans and only
25 authorizes the project described therein.

1 2. Subject to obtaining necessary building permits
2 and inspections.

3 (Second by Ms. Schwartz.)

4 (Ms. Tompkins-Wright, yes; Mr. Mietz, yes;
5 Ms. Schmitt, yes; Ms. McKay-Drury, yes; Ms. Schwarz,
6 yes; Mr. Premo, aye.)

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

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1 MR. DiSTEFANO: Ed, can I just stop you real
2 quick here. You're talking about the porch addition.
3 Can you also include the deck addition too?

4 MR. PREMO: Yes.

5 MR. DiSTEFANO: The deck is part of the
6 variance also.

7 MR. PREMO: Yes. I did mention that at the
8 beginning, but --

9 MR. DiSTEFANO: You left it out on number 2.

10 MR. PREMO: So there is no other location
11 for the three season porch and deck that would not
12 require an even greater variance or would not be
13 practical.

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1 CHAIRMAN MIETZ: All right. Now, we're
2 going to 25 Northumberland Road, which is the longer
3 of the covered porches in tonight's meeting. So are
4 there thoughts on this? Anyone have concerns about 25
5 Northumberland?

6 MS. SCHMITT: I have to be honest. I'm
7 bothered by the 10 feet. I -- you know, I don't -- I
8 think that is completely self-created. I do think --
9 I don't want to second guess the decision. I just
10 think there are alternatives and the neighbors appear
11 to have front porches that are 1, 2 and 3 feet
12 smaller. And I just don't think they met the burden
13 with regard to that piece of it.

14 MS. SCHWARTZ: I have a question. Did you
15 feel the same then about the neighbor to their right
16 as you're facing the house? Because when I was there,
17 Karen did say that it was going to be the size pretty
18 much of what the neighbor has, which to me is a pretty
19 good -- massive looking porch. Did you -- are you
20 okay with that one? Or did you think that it was a
21 little large as well?

22 MS. SCHMITT: Sorry. I was talking with the
23 mute on. I don't -- I wasn't asked to approve the
24 variance. And I don't know what they needed with
25 regard to it. I just -- it bothers me that a 40-foot

1 setback is required. And now we're down to a 24- to
2 26-foot setback when I think they could get the same
3 results with a smaller depth.

4 MS. SCHWARTZ: So how small would you go
5 then?

6 MS. SCHMITT: Well, I don't want to create
7 the number. I'm just saying I don't think it needs to
8 be 10 feet. I think that is an incredibly massive
9 front porch. And I'm not saying that's it not going
10 to look beautiful. I'm just saying that there are --
11 the Zoning Board is required to look at standards.
12 And I don't think -- I think that there are
13 alternatives that could be smaller and still achieve
14 the same result. That's just me.

15 MS. SCHWARTZ: And I will say that if we
16 had -- I think we're about 7 feet, maybe, deep. Okay?
17 But if I had my brothers I would have made it a little
18 bit wider only though we didn't want to go through a
19 variance. So we stayed within the line -- the
20 setback.

21 MR. PREMO: Yeah. I mean, this -- sorry
22 Judy.

23 MS. SCHWARTZ: I'm not bothered by the size.
24 Go ahead, Ed. I'm sorry.

25 MR. PREMO: I mean, it does become this

1 issue of the benefit they're seeking. I mean, I think
2 from the discussion they want to have a bigger porch.
3 I believe the applicant talked about maybe being able
4 to have a table out there. I know particularly in the
5 city you see some big porches where people can put
6 tables and couches and stuff like that out there.
7 Well, not couches, but, you know --

8 MS. SCHWARTZ: A glider.

9 MR. PREMO: Yes. Thank you. And so then --
10 so my way when I try to balance that, I say okay it
11 would be great for the applicant to have what they
12 want, but is there any real detriment to the
13 neighborhood. And, I guess, that's kind of the
14 question. And I don't know if I think that having it
15 10 feet is really going to be detrimental to the
16 neighborhood.

17 CHAIRMAN MIETZ: Okay.

18 MR. PREMO: So I guess I would balance it
19 that I would agree with the applicant's request.

20 MS. SCHMITT: Yeah. And I don't -- I mean,
21 I just think it's a differencing of opinion. I don't
22 think it's a balancing act. I think that there are
23 provisions that we need to follow that says do they
24 need these. And I don't think that they met that
25 particular standard of there are alternatives that

1 could make it that would be less intrusive.

2 CHAIRMAN MIETZ: One other thing to point
3 out too, you know, that is interesting, when we
4 compare just a little bit intuitively the other
5 application tonight that we heard when the question
6 was asked about how wide would the porch be. Because
7 the 10 feet is an issue, but also this thing is 35
8 feet long too. And it's going to appear to be very
9 large on the front of this house because it really
10 encompasses the whole front of the house basically.

11 So I think the appearance of it is the
12 couple of feet, whether it's 7 feet, 8 feet, 9 feet or
13 10 feet is part of it, but also the scale of it
14 against the house. So I would point that out for the
15 members' consideration too. So how about, Heather,
16 what do you think about it?

17 MS. MCKAY-DRURY: I also noted when I
18 reviewed this that it's deeper. It's -- that's quite
19 a deep porch. A 10 foot deep porch is very deep. And
20 the surveys that were provided for the neighboring
21 homes, I understand that there was testimony about
22 other porches, but it sounds like we don't have the
23 depth of that neighbor's that's directly next to them.
24 It sounds like they'd be happy with matching the depth
25 of hers.

1 And the only things that we do have that are
2 certain are the other survey maps. And those other
3 survey maps, if you go through them, they're all 7 to
4 8 feet in -- deep. So, you know, I -- I ultimately do
5 agree that it's kind of balancing with the purpose
6 that they want to use it for. I wonder if at --
7 something that would be much more standard for depth
8 for a porch at 8-foot would, they still be able to
9 have a table and chairs and happily enjoy their porch.
10 I do have some hesitation about that, but I also feel
11 that they have compelling reasons for what they want
12 to do out there.

13 CHAIRMAN MIETZ: Okay.

14 MS. TOMPKINS-WRIGHT: Can I just ask
15 something? I noticed the same thing that Heather's
16 noticing about everything they submitted shows a 7 to
17 8 foot depth. So it's much less about the setback of
18 24 to 26 feet, which seems like you could say that
19 that's somewhat consistent in the neighborhood or at
20 least not changing the character of the neighborhood.

21 And I know I'm sure -- I think I probably
22 suggest tabling more than anyone on this Board, but I
23 wouldn't be opposed tabling it. We've done it before
24 where we've asked applicants to consider and present
25 additional evidence as how this is the least -- or the

1 least variance necessary to accomplish their goal.
2 And it might be that they submit a furniture plan that
3 shows that they do 10 feet. And I think that makes it
4 much easier to do the approval. Or they might come
5 back and say, you know what, we can do this at 8 and a
6 half feet or something and we -- you know, we're going
7 to amend the application. You can easily feel all
8 comfortable about approving it. But that's where my
9 head would go because it seems like we're all a little
10 conflicted on it given --

11 MR. GORDON: Dennis -- Dennis.

12 CHAIRMAN MIETZ: Go ahead. Hold on one
13 second.

14 MR. GORDON: This is Ken. I just wanted
15 to -- I was going to say very much again the same
16 thing that Andrea said. But I also wanted to point
17 out and remind the Board that it was quite obvious
18 that the applicant was disappointed that their
19 architect did not appear to testify. And that might
20 give the architect an opportunity to appear and
21 testify and speak to some of these issues as to --
22 Dennis, you mentioned scale. You know, is this
23 designed this large because of the scale of the house
24 and how it fits? And we've heard testimony from our
25 architects before. And in terms of it being the least

1 intrusive, I think the architect could speak to that
2 in terms of what the actual uses are going to be as
3 well.

4 So I think it would be really helpful
5 actually if the Board would consider tabling it to
6 give the architect a chance to come in and provide
7 testimony to supplement what the Gallaghers already
8 testified to themselves.

9 MR. PREMO: Yeah. And we'd need also to
10 keep the public hearing open.

11 MS. SCHMITT: It was already -- it was
12 already closed.

13 MR. DiSTEFANO: We can open it back up.

14 MS. TOMPKINS-WRIGHT: We can reopen.

15 CHAIRMAN MIETZ: We can reopen.

16 MR. GORDON: True.

17 MR. DiSTEFANO: We'll just do it in the
18 decision. But also in regards to the massing aspect
19 of it, they did submit an elevation drawing.
20 Submitting an elevation drawing might help you
21 visualize exactly what's being requested here.

22 MR. GORDON: I noticed that as well, Rick,
23 that, you know, without a street elevation to see how
24 this thing would look from -- if you're standing in
25 front of it, it's hard to picture.

1 CHAIRMAN MIETZ: Especially when it wraps
2 the whole house like that. I -- obviously being more
3 of a construction person I can kind of visualize it
4 better, but I think for all the Board members to see
5 that would be important. So, Judy, this is your
6 application. So what are you thinking here about what
7 you're --

8 MS. SCHWARTZ: I certainly will go along
9 with the Board. I think you raised some valid points.
10 So if the majority feels that way, then I'm certainly
11 with that.

12 CHAIRMAN MIETZ: Okay. Well, then let's
13 proceed in that direction because I think it's fair to
14 the applicants and also fair to the Board members to,
15 you know, get some more clarification here and some
16 more justification of why this is necessary at the
17 dimensions that we see.

18 MR. DiSTEFANO: Yeah. Before we start with
19 the decision, the tabling decision, can we just get a
20 consensus on what we're asking the applicant to
21 provide us? One, I have an elevation drawing. And I
22 don't know, Andrea, I don't know if you want to word
23 the necessity of the 10 feet, how do you want to word
24 that request from them?

25 MS. TOMPKINS-WRIGHT: Like requesting that

1 the applicant submit either additional information as
2 to the necessity of a 10-foot deep porch being -- in
3 order to meet their needs. Or considering alternative
4 porch depths that would be the -- what's the language?
5 Least --

6 CHAIRMAN MIETZ: Minimized?

7 MS. TOMPKINS-WRIGHT: Yeah. That would
8 minimize the variance required.

9 CHAIRMAN MIETZ: Yes. Because usually what
10 we're trying to look for is, is this the minimum that
11 is necessary to meet the needs of the applicant. So
12 they could certainly try to convince us that 10 feet
13 is the minimum. And if they can do that by, whether
14 it's a furniture drawing or more testimony, then so be
15 it.

16 MR. GORDON: So just to --

17 MS. SCHWARTZ: -- meeting the size. Okay?
18 Because of -- he's 6 feet, his wife's 5'11 and a
19 5-foot table and chairs and so on. But, you know,
20 there still might be some other way --

21 CHAIRMAN MIETZ: Yes.

22 MS. SCHWARTZ: -- of convincing --

23 MR. GORDON: If I could, I do this for some
24 of the other Boards, not typically for ZBA. But if I
25 could suggest a resolution and see if that might be

1 acceptable?

2 CHAIRMAN MIETZ: Yeah. That's fine, Ken.

3 In deference of time, that's fine.

4 MR. GORDON: So what I would suggest is a
5 resolution reads that the Zoning Board of Appeals
6 moves to reopen the public hearing on this application
7 and then to table the application and request that the
8 applicant provide additional documentary and
9 testimony -- documentary evidence and testimony on the
10 fouling issues that the benefit sought by the
11 applicant cannot be achieved by some method other than
12 the variance requested, that the requested variance is
13 not substantial, and that the variance is the minimum
14 necessary to grant the relief sought by the applicant.

15 MS. SCHWARTZ: I hope you got all that down,
16 whomever.

17 MS. SCHMITT: Did you also want to add in
18 about -- language, the view of the front, the
19 elevation.

20 MR. DiSTEFANO: Yeah. The elevation.

21 MS. SCHWARTZ: You did say that, I think,
22 Ken. That was the first thing you said I thought.

23 MR. GORDON: I said the documentary and
24 testimony. So I needed them -- I mean, but you can
25 specifically make that request as well.

1 CHAIRMAN MIETZ: I think it's good.

2 MR. GORDON: And to provide a front
3 elevation depicting the proposed porch.

4 CHAIRMAN MIETZ: That's good. Yeah. I
5 think it's fair only to ask people to table something
6 that we're specific about something.

7 MS. SCHWARTZ: Sure.

8 CHAIRMAN MIETZ: Okay. Okay.

9 MR. DiSTEFANO: Ken, we --

10 MR. PREMO: This is going to ARB; right?

11 MR. DiSTEFANO: Yeah. It has to go to ARB.
12 I don't know if they were waiting to get their get
13 variance before they went to ARB or what. But it's
14 going to eventually have to go to ARB.

15 CHAIRMAN MIETZ: Yes.

16 MS. SCHWARTZ: I mean, if they're on, they
17 could withdraw, I mean, for their meeting because it's
18 down the road. It's --

19 MR. DiSTEFANO: Well, they could to
20 Architectural Review Board with what they have and
21 come back to us and say, you know, this is what want
22 you guys to take a look at and here's our elevation
23 drawing that was approved by the Architectural Review
24 Board. I mean, elevation won't change regardless of
25 the depth. It's going to look the same. It's just

1 going to be a few feet less wide.

2 CHAIRMAN MIETZ: Okay. All right. So Judy,
3 you're good with what Ken's proposed motion is?

4 MS. SCHWARTZ: Yes, I'm fine with that.

5 CHAIRMAN MIETZ: Okay. How about a second?

6 MR. DiSTEFANO: One second. Ken, can you
7 get me over that working of the decision?

8 MR. GORDON: I sure will, Rick.

9 MR. DiSTEFANO: Thank you very much.

10 CHAIRMAN MIETZ: You. Who seconded?

11 MS. TOMPKINS-WRIGHT: I did.

12 CHAIRMAN MIETZ: All right. Go ahead. I'm
13 sorry. It's hard to hear. Go ahead.

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1 **Application 12A-06-21**

2 Application of Carini Engineering Design,
3 agent and John and Karen Gallagher, owners of property
4 located at 25 Northumberland Road, for an Area
5 Variance from Section 205-2 to allow a covered porch
6 to extend 10 +/- feet into the existing 35-foot front
7 setback where a 40-foot front setback is required by
8 code. All as described on application and plans on
9 file.

10 MR. DiSTEFANO: The motion is to reopen the
11 public hearing and table it for information --
12 additional information.

13 (Second by Ms. Tompkins-Wright.)

14 (Mr. Mietz, yes; Ms. McKay-Drury-yes;
15 Ms. Schmitt, yes; Mr. Premo, yes;
16 Ms. Schwartz, yes; Ms. Tompkins-Wright,
17 aye.)

18 (Upon roll motion carries.)
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1 CHAIRMAN MIETZ: Okay. So we have one
2 application left. Let me just remind you that
3 Mr. Gordon wants to address the Board members when we
4 finish this. So don't disappear for a cold one until
5 we finish with Mr. Gordon. Okay. So the last
6 application is 3161 Ease Avenue. And that's the river
7 setback issue and the building addition into the 17
8 feet.

9 So thoughts on that? Does anyone have
10 concerns about 12A-07?

11 MS. SCHMITT: I feel like I'm the complainer
12 with lots of questions tonight. But I --

13 CHAIRMAN MIETZ: Congratulations.

14 MS. SCHMITT: So here's my concern. And
15 this is probably a question for Rick. Normally I
16 would have said when I looked at, again, the 3211 East
17 Avenue home and the way that it looked directly onto
18 the property that it was too close with just 17.5 feet
19 between their lot line and -- but they own it. These
20 homeowners own it. So in light of that, is that all
21 right, it's not considered substantial, because the
22 next person who would buy it would be seeing that's
23 what their view was going to be?

24 MR. DiSTEFANO: I -- you can still use
25 substantial because it is a substantial variance

1 regardless of who owns it, but you can say that
2 there's no impact on the neighbor because the neighbor
3 is the owner.

4 MS. SCHMITT: Yes.

5 MR. PREMO: Yeah. I have to admit I guess
6 share Kathleen's concern about that. I mean, the fact
7 they own the next lot is kind of a side thing because
8 it will be impacting the next lot. The next lot could
9 be sold. There'll be someone else owning it. It will
10 change the setbacks arguably in the area. I mean,
11 guess you can say well, they own the next lot. If
12 they can't sell it for as much, that's their problem,
13 but --

14 MR. DiSTEFANO: Well, not only that, Ed, but
15 the person buying the lot is going to know that that
16 structure's there.

17 MR. PREMO: I understand that, but it's
18 still also then -- I mean, my concern becomes then the
19 next person wants to do something similar and they're
20 very close to their neighbors who they -- it's not
21 them. It's someone else. And then --

22 MS. McKAY-DRURY: I mean, honestly --

23 CHAIRMAN MIETZ: Yeah. Well --

24 MS. McKAY-DRURY: This Member McKay. I
25 understand that. And I think that, you know, just

1 because you own two lots doesn't mean you should be
2 doing something that makes one of them unsellable, for
3 example. I'm not sure that I necessarily think that
4 the variance request here 17 feet, 17 and a half, I'm
5 not sure that it reaches that point. But I agree on
6 the principle that, you know, you don't want -- just
7 because -- I don't think that it really makes a big
8 difference one way or the other that they own -- that
9 they own the neighboring lot, that'd they'd be making
10 any of the lots unsellable.

11 MR. PREMO: Yeah. I agree with that.

12 CHAIRMAN MIETZ: Okay. So -- so yeah. And
13 I think those points are all valid. I think the other
14 thing we really need to look at is, you know, what is
15 the condition there if that really was another lot.
16 How would you feel about that dimension? Would you
17 feel that's reasonably looked at one side of way less
18 than that in other areas? And the scale of this house
19 certainly has something to do with it as well as what
20 would happen with the next one.

21 It becomes, I think, difficult at least in
22 the years I've been on the Board to try to suggest
23 what something else might be. I mean, the precedent
24 argument I think is there in most everything that we
25 do. So, you know, it becomes difficult.

1 But I think you got to ask yourself is this
2 reasonable as far as that type of setback given the
3 size of the home and, you know, other alternatives
4 that we heard about and, you know, is it reasonable or
5 not.

6 MR. DiSTEFANO: I also think it's important
7 to consider the placement of the neighboring property.
8 Will this structure, will this addition have an impact
9 on their -- their dining room window or something like
10 that. Obviously not because the house is quite
11 further to the east end on that lot.

12 MS. McKAY-DRURY: Can we find that house? I
13 think he said that it was on part of it, but it -- I
14 just want to see where the house is on this drawing.

15 MR. DiSTEFANO: Jeff, do you have the GIS up
16 by any chance?

17 MR. FRISCH: No, but I can get it up.

18 MS. SCHMITT: You can see it on Google maps
19 really clearly. And it is diagonal that it will look
20 directly at that if there wasn't all that mature
21 landscaping.

22 MS. TOMPKINS-WRIGHT: I think what you can't
23 see is where the lot lines are on Google Maps. So --

24 MR. DiSTEFANO: Yeah. We're going to bring
25 up our GIS.

1 MS. TOMPKINS-WRIGHT: Oh, good.

2 MR. DiSTEFANO: Just hang on for a second.

3 MS. TOMPKINS-WRIGHT: That was the hard part
4 for me that this area of East Avenue, you know, the
5 way lot lines were drawn and situated, it's hard to
6 tell where everything is placed within a lot.

7 MR. FRISCH: I have to pull it up on eagle
8 view.

9 MS. TOMPKINS-WRIGHT: It looks like a
10 gerrymandering map.

11 CHAIRMAN MIETZ: Lucky you're an IT guy,
12 Jeff, because the rest of us would probably be lost.

13 MR. FRISCH: That's why they pay me the big
14 bucks.

15 CHAIRMAN MIETZ: There we go. Is that
16 helpful Heather or Andrea?

17 MR. DiSTEFANO: I think you can make the
18 argument that --

19 MS. McKAY DRURY: It's closer than I
20 expected.

21 MS. SCHMITT: It's really close. Had they
22 not owned it, I was voting no.

23 MR. DiSTEFANO: Well, I think you can make
24 an argument, and I'm just throwing this out, that the
25 existing house is closer than what the addition will

1 be. That garage area is closer to the neighboring
2 house than what this addition would be.

3 MS. SCHWARTZ: Oh, my.

4 MR. DiSTEFANO: Because of the angle of the
5 neighboring property's house and also the way the
6 addition --

7 CHAIRMAN MIETZ: And that's the way those
8 two were designed and --

9 MS. TOMPKINS-WRIGHT: And I would say that
10 that neighboring house looks like it certainly doesn't
11 meet the side -- may not meet side setback
12 requirements either or it would be just as close to
13 the setback.

14 CHAIRMAN MIETZ: Yeah. That front left
15 corner is pretty close.

16 MR. DiSTEFANO: Right.

17 MS. TOMPKINS-WRIGHT: That's what I'm saying
18 about this area, it's just -- it's -- you know, when
19 you talk about changing the character of the
20 neighborhood about the house being too close, it's
21 really hard to tell where property lines are here.

22 CHAIRMAN MIETZ: Yeah.

23 MR. PREMO: That is a good point, Andrea.

24 MS. McKAY-DRURY: I suppose that does kind
25 of push me in the direction of accepting it given that

1 they also have that restricted variance on a different
2 portion of the side lot there.

3 CHAIRMAN MIETZ: Yeah. The dimension
4 pinching it there, which we find that a lot in houses
5 that built diagonally like that on the lot.

6 All right. So thoughts on -- are we okay
7 with this? Or does anyone still have concerns about
8 it?

9 MS. TOMPKINS WRIGHT: I'm fine to approve
10 it. I think -- I would mention the odd shape of the
11 lot and the -- you know, parts of it being largely
12 undevelopable because of Allens Creek, you know, as
13 part of the approval. I'd approve it.

14 CHAIRMAN MIETZ: Kathleen, what is your
15 thoughts? Have you been moved in this discussion or
16 no?

17 MS. SCHMITT: Yeah. No. Once they told me
18 they owned 3211, I was okay. You know, and the next
19 person who buys that will know there's a -- that's
20 what they're getting.

21 CHAIRMAN MIETZ: Yes, they will. Okay.
22 Well, if you're comfortable, then it sounds like the
23 rest of the Board members are.

24 MR. DiSTEFANO: Kathleen, before you start
25 one of your conditions is that they are going to

1 require an Environmental Protection Overlay District/
2 watercourse permit.

3 MS. SCHMITT: Can you go through that one
4 again? I've never heard of that one.

5 CHAIRMAN MIETZ: EPOD.

6 MR. DiSTEFANO: An Environmental Protection
7 Overlay District, in parentheses, watercourse.

8 MS. SCHMITT: Okay. Environmental
9 Protection Overlay --

10 MR. DiSTEFANO: District.

11 MS. SCHMITT: District.

12 MR. DiSTEFANO: In parentheses, watercourse
13 permit.

14 MR. PREMO: Rick, is that going to require
15 some sort of SEQRA review?

16 MR. DiSTEFANO: It will when we do the EPOD
17 permit. Because --

18 MR. PREMO: Well -- so that raises the
19 question though because we're not --

20 MS. SCHWARTZ: Can we do an approval?

21 MR. PREMO: Yeah, can we do an approval
22 until --

23 MR. DiSTEFANO: Well, I think we are -- it's
24 a Type I -- or Type II action because it's a
25 residential setback. When we issue the EPOD permit,

1 issuing them an EPOD permit will require SEQRA review.

2 MR. PREMO: Okay I'm thinking it through. I
3 agree with you.

4 MR. GORDON: You just have to focus on what
5 the actual action being taken by the ZBA itself is and
6 all that is an area variance.

7 CHAIRMAN MIETZ: Right. And then --

8 MR. GORDON: We're not issuing an EPOD
9 permit.

10 CHAIRMAN MIETZ: Yeah. You're just posing
11 that as condition of the variance that they must
12 obtain.

13 MR. DiSTEFANO: Right. Correct.

14 MR. PREMO: Okay. I agree with you guys.

15 CHAIRMAN MIETZ: Okay. All right. You
16 comfortable with that, Kathleen? We can help you with
17 that.

18 MS. SCHMITT: Yup. You have to just --
19 again I was -- I've rewritten as we've talked.

20 CHAIRMAN MIETZ: Okay. Well, take your
21 time.

22 MS. SCHMITT: Bear with me and if have
23 corrections, shout them out.

24 CHAIRMAN MIETZ: Okay.

25

1 **Application 12A-07-21**

2 Application of Tyler Wolk, owner of property
3 located at 3161 East Avenue, for an Area Variance from
4 Section 205-2 to allow a building addition to extend
5 17 feet into the existing 34.5 foot rear setback where
6 a 60 foot rear setback is required by code. All as
7 described on application and plans on file.

8 Motion made by Ms. Schmitt to approve
9 application 12A-07-21 based on the following findings
10 of fact.

11 **FINDINGS OF FACT:**

12 1. The area variance request is to allow an addition
13 to extend an additional 17.15 feet into the
14 pre-existing legal nonconforming setback.

15 2. Due to the location of the master bedroom and bath
16 and the unusual lot configuration as well as property
17 adjoining Allens Creek, there is no alternative
18 location for the addition but to extend further into
19 the setback.

20 3. The granting of the requested variance will not
21 produce an undesirable change in the character of the
22 neighborhood or be a detriment to nearby properties as
23 the applicants own all adjoining lots and homes.

24 4. While the variance is substantial, the fact that
25 the property as currently constructed already expands

1 considerably into the backyard setback and the
2 homeowners intend to keep much of the mature
3 landscaping that will shield the addition from
4 neighboring homes, the variance is permitted.

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

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

11 **CONDITIONS:**

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

17 2. All necessary building permits including
18 Environmental Protection Overlay District
19 (watercourse) permits shall be obtained.

20 (Second by Ms. Schwartz.)

21 (Mr. Premo, yes; Ms. Tompkins-Wright, yes;
22 Mr. Mietz, yes; Ms. McKay-Drury, yes;
23 Ms. Schwartz, yes; Ms. Schmitt, yes.)

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

1 MR. DiSTEFANO: Before we get into Ken's
2 discussion, I just want to ask Heather, are you
3 comfortable with taking control of applications now
4 after you've seen it -- the Board work it for a couple
5 months.

6 MS. McKAY-DRURY: Yeah. Yeah.

7 MR. DiSTEFANO: Okay. So I'll start
8 assigning you applications.

9 CHAIRMAN MIETZ: Yippie.

10 MR. DiSTEFANO: Lucky you.

11 MS. McKAY-DRURY: And if I have any
12 questions, I'll reach out to you, Rick.

13 MR. DiSTEFANO: Not a problem at all.

14 MS. McKAY-DRURY: Great.

15 MR. DiSTEFANO: Again, any member that has
16 questions while you're reviewing your applications,
17 feel free to call me.

18 CHAIRMAN MIETZ: Okay. Very good. All
19 right. Mr. Gordon, you're up.

20 MR. GORDON: Are we going to discuss the
21 schedule for 2022 first?

22 MR. DiSTEFANO: Oh, yes. Thank you, Ken. I
23 gave you guys all the schedule for -- meeting schedule
24 for 2022. Our only conflict is our October meeting.
25 The October meeting is right during, I believe Rosh

1 Hashanah. Trying to find it here.

2 MS. SCHWARTZ: I think you had the 6th.

3 MR. DiSTEFANO: I had the Thursday the 6th.

4 And our meeting day in lieu of Wednesday the 5th.

5 Just wondering if that one change is going to be an
6 issue for any of the members. And I want to make sure
7 we do have quorum for a Thursday meeting in October.

8 MS. TOMPKINS-WRIGHT: Nine months from now?

9 MR. DiSTEFANO: Yeah.

10 MS. SCHWARTZ: Plan ahead.

11 MR. DiSTEFANO: We have to set this and get
12 it online and everything.

13 MR. PREMO: I already know that I will not
14 be able to make the meeting in March if it's on the
15 second.

16 MR. DiSTEFANO: Okay.

17 MR. GORDON: Okay. But let's talk about
18 this October date, Rick. So I don't have my calendar
19 in front of me, but are you saying that October 5th,
20 Wednesday, October 5th is the first night of Rosh
21 Hashanah?

22 MS. SCHWARTZ: No, no, no.

23 MR. DiSTEFANO: No. I believe Tuesday is
24 the first night. Wednesday is the second night.

25 MS. SCHWARTZ: It's Rosh Hashanah. Yeah.

1 And by the time we meet, it's sort of second -- you
2 know --

3 MR. DiSTEFANO: It's over by the time we
4 would meet, but --

5 MR. GORDON: No, no. I think doing Thursday
6 night makes sense.

7 MS. SCHWARTZ: As long as it after; right,
8 Ken?

9 MR. DiSTEFANO: We will set that for a
10 Thursday meeting in October of 2022. Thank you.

11 MR. GORDON: I did have two other comments,
12 Rick, on the schedule because I just took a look at it
13 this evening. One is that the introductory paragraph
14 still refers to emergency orders. That should be
15 removed. In lieu of that we should be using what
16 we're using now in the public notice that refers to
17 Chapter 417 and the laws of 2021. So if we could make
18 that change.

19 The second thing there's sort of an
20 asterisk, red note that says Zoom meetings under
21 Planning, Zoning. So chapter 417 in the laws of 2021
22 sunsets on January 15, 2022, right now. So as the law
23 stands right now without any further extension, we go
24 back live in February.

25 MR. DiSTEFANO: Right.

1 MR. GORDON: I expect that it's going to be
2 extended, but I don't know that.

3 MS. SCHWARTZ: I agree with you.

4 MR. DiSTEFANO: Well, that's why it's
5 tentative and it will go on the website as a tentative
6 agenda. I mean, we have had to modify them through
7 the year because of -- you know, this is a perfect
8 example of going back to Zoom meetings. We had to
9 modify that tentative agenda -- or -- meeting
10 schedule. Excuse me.

11 So I think at this point, we'll change that
12 language, but I'm going to keep the Zoom meetings in
13 place.

14 MR. GORDON: Yeah. That's fine. The second
15 point was more for Board --

16 MR. DiSTEFANO: Yeah. I figured that. I
17 figured -- yeah. Thank you.

18 CHAIRMAN MIETZ: Okay.

19 MS. TOMPKINS-WRIGHT: Can I ask something?
20 Am I wrong on this, didn't -- weren't the meetings
21 previously at 7:15?

22 MR. DiSTEFANO: It's 7:15 when we're in
23 person because it gives people a little more time to
24 get here.

25 MS. SCHWARTZ: Travel time.

1 MR. DiSTEFANO: I don't think you have to
2 drive very far to get to your bedrooms or wherever.
3 It was a joke, come on.

4 MS. TOMPKINS-WRIGHT: I'm driving from work.
5 So it's still a drive.

6 CHAIRMAN MIETZ: Yeah. All right.
7 Mr. Gordon, how 'bout it?

8 MR. GORDON: Well, before we take that on.
9 So we've -- two things, do you need to adopt that
10 meeting schedule Rick or --

11 MR. DiSTEFANO: No, no. It's just really
12 for --

13 MR. GORDON: So if we're going to adjourn
14 own, the ZBA meeting, that's fine. And then we're
15 going need to -- this is going to be an
16 attorney-client discussion. So I need everyone else
17 who is not a board member, including the court
18 reporter, to leave the meeting. Jeff, of course, you
19 can say on. Rick, of course, you can stay on.
20 Heather, this involves a matter that you are not
21 participating in. So I would say you do not need to
22 be on. And actually, in reviewing my notes with Mr.
23 Mancuso, Mr. Premo, you are not actually a subject of
24 this discussion either. So you can stay because
25 you're not precluded from staying, but it's -- this

1 discussion is not going to include you. So you're
2 welcome to leave if you want. But I need --

3 MR. PREMO: Now, you got me curious.

4 MR. GORDON: But I need -- Jeff, I need you
5 to boot everybody else out.

6 CHAIRMAN MIETZ: All right. Let's do that.

7 (Proceedings concluded at 9:15 p.m.)

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REPORTER CERTIFICATE

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

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

Dated this 1st day of December, 2021
at Rochester, New York.

Holly E. Castleman

Holly E. Castleman,
Notary Public