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**BRIGHTON**

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**ZONING BOARD OF APPEALS**

4

**MEETING**

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7

April 6, 2022  
At approximately 7 p.m.  
Brighton Town Hall Zoom  
2300 Elmwood Avenue  
Rochester, New York 14618

10

11

## PRESENT:

12

DENNIS MIETZ  
Chairperson

13

14

EDWARD PREMO ) Board Members  
HEATHER McKAY-DRURY )  
ANDREA TOMPKINS-WRIGHT )  
JUDY SCHWARTZ )  
KATHLEEN SCHMITT )  
MATTHEW D'AUGUSTINE )

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KEN GORDON, ESQ.  
Town Attorney

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RICK DiSTEFANO  
Secretary

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

1 CHAIRPERSON MIETZ: Good evening, everyone.  
2 Welcome to the April 2022 meeting of the Zoning Board  
3 of Appeals of Brighton. Thank you for joining us in  
4 the Zoom format.

5 Just quickly just let me know -- I'll let  
6 you know how we're going to operate this meeting  
7 tonight. So we have 12 cases to hear tonight. And  
8 when you hear your case called, if you could identify  
9 yourself with the hand raise or -- function there,  
10 then we will let you come into speak. And, you know,  
11 please tell us why you feel that we should approve  
12 your application, any relevant facts. We'll have  
13 your -- if there's a drawing that's appropriate, then  
14 it will be put up so everybody can see it.

1       tabled for some reason. Then you can hang around and  
2       listen or tomorrow you could call Rick DiStefano in  
3       the Building office at the Town Hall and he will let  
4       you know what the result of your application was.  
5       Okay?

6                   So at this point then we'd like to call this  
7       meeting to order. Rick, was the meeting properly  
8       advertised?

9                   MR. DiSTEFANO: Yes, Mr. Chairman. It was  
10       advertised in the March 31st, 2022, edition of the  
11       Daily Record.

12                  CHAIRPERSON MIETZ: Okay. Thank you. And  
13       could you please call the roll?

14                  (Whereupon the roll was called.)

15                  MR. DiSTEFANO: Please let the record show  
16       all members are present.

17                  CHAIRPERSON MIETZ: Okay. Just briefly  
18       here, we have our new member of the Zoning Board for  
19       his first meeting tonight. He'll be listening,  
20       observing. His name is Matt D'Augustine. And Matt,  
21       would you like to just give us a quick little intro on  
22       yourself?

23                  MR. D'AUGUSTINE: Sure. Everyone, I'm Matt  
24       D'Augustine. I've been a Brighton resident since  
25       2011. I live on Hollywood Avenue in Meadowbrook. I

1 have a wife and daughter there living with me. And  
2 I'm a high school teacher. I've been teaching in the  
3 Hilton Central School District since 2003. And I  
4 teach economics, government, and United States  
5 history.

6 CHAIRPERSON MIETZ: Very good. We  
7 appreciate you joining us.

8 MR. D'AUGUSTINE: Thank you for having me.

9 CHAIRPERSON MIETZ: Nice to have a full  
10 complement. And so thank you. And, you know,  
11 anything we can do to help you out, we will be happy  
12 to do so. Okay.

13 All right. So at this point, Rick, is there  
14 anything you would like to tell us about tonight's  
15 agenda?

16 MR. DiSTEFANO: I did send over a  
17 communication from the Fire Marshal. I hope that  
18 everybody has that and you've had a chance to read it  
19 regarding a couple of the applications.

20 Besides that I have nothing else. Do any  
21 members have any questions regarding any of the  
22 applications?

23 CHAIRPERSON MIETZ: Okay. Very good. Well,  
24 at this point let's roll. Wherever you're ready,  
25 Rick.

1                   MR. DiSTEFANO: Got to do the minutes.

2                   CHAIRPERSON MIETZ: Oh, geez. Yeah. I  
3 always try to forget those. Yes we have two minutes.  
4 We have January and February.

5                   Are there any comments about the January  
6 minutes from anybody? Well, that's great. Those are  
7 definitely the briefer of the two. That's a clearer  
8 one. Okay. So can we get a motion for those minutes,  
9 January?

10                  MS. MCKAY-DRURY: I will.

11                  CHAIRPERSON MIETZ: Thank you, Heather. And  
12 a second?

13                  MR. PREMO: Second.

14                  CHAIRPERSON MIETZ: Ed. Okay.

15                  (Mr. Premo, yes; Ms. Schwartz, abstain;  
16 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
17 abstain; Mr. Mietz, yes; Ms. McKay-Drury,  
18 yes; Ms. Schmitt, yes.)

19                  (Motion to approve the minutes carries.)

20                  CHAIRPERSON MIETZ: Okay great. Okay. All  
21 right. Judy, how about February's?

22                  MS. SCHWARTZ: Page 17, line 22, it should  
23 be "just merely."

24                  On page 19, line 24, it should read "which  
25 are yet." So the second and third words are "are

1 yet."

2                   On page 20, line 3, you might want to take a  
3 look at this with me. I think it should be "which is  
4 also expiring" or "which also expired." Planning  
5 Board to request site plan which -- but again -- which  
6 is expiring it should read. Which is expiring. Okay.

7                   On page 26, line 17, the second word should  
8 be "stick," S-T-I-C-K.

9                   Page 30, line 8, I think there's an extra  
10 word. It says the "sitting area bath bedroom." So I  
11 would say delete the word "three."

12                   Page 47, line 21, the first word should be  
13 "plans," P-L-A-N-S.

14                   Page 68, line 12, middle of the sentence, it  
15 should be "compared."

16                   Page 72, line 19, insert the word "to" after  
17 going. And in line 20 insert the word "to" after  
18 only.

19                   On page 78, line 21, the first word is  
20 "understanding."

21                   And I think my last one -- I'm getting  
22 there. Page 124, line 2, the second word -- the  
23 second word in the sentence should be "got." We got.  
24 And I think that's all I have. Yup.

25                   CHAIRPERSON MIETZ: Okay. Does anyone else

1 have anything else for the February minutes? Thank  
2 you, Judy.

3 MS. SCHWARTZ: You're welcome.

4 CHAIRPERSON MIETZ: And how about a motion?

5 MS. MCKAY-DRURY: I'll move to approve with  
6 the modifications.

7 MS. TOMPKINS-WRIGHT: Second. Member  
8 Wright.

9 CHAIRPERSON MIETZ: Second by Andrea. Okay.  
10 (Mr. Premo, yes; Ms. Schwartz, yes;  
11 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
12 abstain; Mr. Mietz, yes; Ms. McKay-Drury,  
13 yes; Ms. Schmitt, yes.)

14 (Motion to approve the minutes with  
15 corrections carries.)

16 CHAIRPERSON MIETZ: Okay. Very good. So  
17 whenever you're ready, Rick, you can read the first  
18 case.

19 **Application 4A-01-22**

20 Application of Anthony and Tosha Gutilla,  
21 owners of property located at 320 Warrington Drive,  
22 for an Area Variance from Sections 203-2.1B(3) and  
23 203-9A(4) to allow for a detached garage to be  
24 constructed 2.4 feet from a rear lot line and 2.4 feet  
25 from a side lot line in lieu of the minimum 5 foot

1                   setback from all lot lines as required by code. All  
2                   as described on application and plans on file.

3                   CHAIRPERSON MIETZ: Okay. And who do we  
4                   have speaking?

5                   MR. GUTILLA: Anthony Gutilla. My wife  
6                   Tosha is on the Zoom call as well.

7                   CHAIRPERSON MIETZ: Wonderful. Okay. So  
8                   whenever you folks are ready, go right ahead.

9                   MR. GUTILLA: Sure. So as you can see by  
10                  the plan, we're just looking to incorporate -- this  
11                  garage is 90-plus years old. It is wrecked. The  
12                  concrete floor is beyond repair. I have had a couple  
13                  people come out and look at it and they tell me it's  
14                  not salvageable.

15                  And then the cost to raise the garage and  
16                  pour a new floor is going -- is in the same ballpark  
17                  of building a new one.

18                  So the thought is to use the existing  
19                  footprint of the garage and the shed, move it up, you  
20                  know, 3 feet up the driveway. And that will give us  
21                  the allowable 600 square feet as per Brighton Code and  
22                  make it all one uniform structure.

23                  We do have a architectural drawing now,  
24                  which demonstrates -- right along the lines of my  
25                  original graphed out drawing that it looks, you know,

1 very similar on the three sides both facing the street  
2 and the neighboring property.

3 And within our fence line is where it would  
4 be different. But it would be one structure as  
5 opposed to two very different structures as it is now.

6 CHAIRPERSON MIETZ: Okay. Can you talk  
7 about the neighboring properties and the -- what's --  
8 what's there on the site?

9 MR. GUTILLA: Sure. To the east there's a 3  
10 foot fence that extends past the start of the original  
11 garage. Beyond that is a rock pile presumed from when  
12 they probably dug out this garage that has overgrown  
13 vegetation along it.

14 On the backside you have ground cover and  
15 little trees along that entire fence line and the rear  
16 of the garage.

17 I have spoken to all the neighbors  
18 surrounding, showed them the plans. They had no  
19 objections.

20 CHAIRPERSON MIETZ: Okay. Very good. And  
21 you did include a sketch. I will presume the  
22 materials will somewhat match the house and the  
23 garage?

24 MR. GUTILLA: Yeah. We're looking to match  
25 the siding. And on the shed right now, there's two

1 single wood garage doors which are severely rotted.  
2 We're going to do a single garage door, traditional 16  
3 by 7 door.

4 The Street facing side is going to be pretty  
5 much the same. I'm only looking to extend half a foot  
6 on the front. It's going to have a gable end, again,  
7 with the siding matching the house.

8 CHAIRPERSON MIETZ: And you noted that you  
9 might be adding some additional landscaping. Is that  
10 what we --

11 MR. GUTILLA: Additional landscaping? No.

12 CHAIRPERSON MIETZ: Okay. Nothing else  
13 other than the vegetation that we saw right there on  
14 the property. Okay.

15 MR. GUTILLA: Yeah. The vegetation that's  
16 there is -- that's, you know, on my neighbor's  
17 property. So that's not mine to do. There's just  
18 dirt along that rock pile and my garage.

19 CHAIRPERSON MIETZ: Okay. Okay. So  
20 questions by the Board members other than mine?  
21 Anything else?

22 MR. GUTILLA: No, sir. I do have the  
23 architectural drawings if you would like me to present  
24 them, I could hold them up.

25 CHAIRPERSON MIETZ: Would you guys like to

1 see them? I know they're included in the packet.

2 MR. GUTILLA: There was just sketch drawings  
3 of mine. But now I have an architect so -- because  
4 I'm working with ones that facilitate this.

5 CHAIRPERSON MIETZ: Okay. Yeah. Our basic  
6 concern is generally the style and, you know, your  
7 comment about making it somewhat harmonious with the  
8 building that's already on the property.

9 MR. GUTILLA: Yeah. My goal is to reuse  
10 some of the siding that I can and then buy matching  
11 siding to keep it uniform. Just want to use the  
12 allowable space so I can -- you know, we can utilize  
13 it, park in it and store stuff in it.

14 CHAIRPERSON MIETZ: Okay.

15 MR. GUTILLA: And make it good for the next  
16 90 years.

17 CHAIRPERSON MIETZ: Okay. Sounds good. All  
18 right. Any other questions by the Board members?

19 MS. TOMPKINS-WRIGHT: Just to confirm it's  
20 not any closer to any lot line then the garage that is  
21 there now, that's being removed?

22 MR. GUTILLA: No, ma'am. Right now the  
23 current minimum -- the garage is kind of tweaked a  
24 little bit. So it ranges from 2.4 to 2.7. My  
25 architect has it drawn out at 2.5 all the way around.

1       So it's actually going to be a smidge less. But I met  
2       the variance based on the smallest part of the current  
3       garage.

4                   MS. TOMPKINS-WRIGHT: Thank you.

5                   MR. GUTILLA: Thank you.

6                   CHAIRPERSON MIETZ: Okay. Very good. Any  
7       other questions? Okay. At this point then is there  
8       anyone on the Zoom call that would like to speak  
9       regarding 320 Warrington. Okay. There being none,  
10      then the public is closed. Thank you, Mr. Gutilla.

11                  MR. GUTILLA: Thank you all.

12                  MS. TOMPKINS-WRIGHT: Thank you.

13                  CHAIRPERSON MIETZ: Okay.

14                  **Application 4A-02-22**

15                  Application of Evolve Additive Solutions,  
16       Inc., lessee, and Ahead Energy Corporation, owner of  
17       property located at 285 Metro Park, for a Temporary  
18       and Revocable Use Permit pursuant to Section 219-4 to  
19       allow for a storage trailer on site for a period of 9  
20       to 12 months where not allowed by code. All as  
21       described on application and plans on file.

22                  CHAIRPERSON MIETZ: Okay. And who do we  
23       have speaking for this application?

24                  MR. DiSTEFANO: Jeff, are you --

25                  CHAIRPERSON MIETZ: I see him there.

1                   MR. DiSTEFANO: Okay.

2                   CHAIRPERSON MIETZ: Jeff, are you going to  
3 be speaking.

4                   MR. RYAN: He's unmuted, but --

5                   CHAIRPERSON MIETZ: Yeah. We can hear you  
6 now.

7                   MR. RYAN: No. That's me. I was saying  
8 he's muted. But he may be having technical issues or  
9 something because I don't see actual sound coming  
10 through.

11                  CHAIRPERSON MIETZ: Oh, I see, Brendan.  
12 Okay. Maybe you can you -- Jeff, maybe you can try to  
13 unmute or mute and unmute again.

14                  MR. REUST: Can you hear me now?

15                  MR. DiSTEFANO: Yup. You're good.

16                  CHAIRPERSON MIETZ: All set? Did we lose  
17 him again?

18                  MR. REUST: Can you hear me?

19                  CHAIRPERSON MIETZ: Now we can.

20                  MR. REUST: You can hear me?

21                  CHAIRPERSON MIETZ: Yes.

22                  MR. REUST: Okay. Good. I'm not sure what  
23 happened there.

24                  CHAIRPERSON MIETZ: All right. Just please  
25 give us your name and address please for the record.

1                   MR. REUST: Sure. My name is Jeff Reust. I  
2 am actually based out of Evolve's headquarters in  
3 Minneapolis, Minnesota. The facility that we would  
4 like to add a trailer is at address 285 Metro Park.

5                   CHAIRPERSON MIETZ: Okay. So please proceed  
6 then.

7                   MR. REUST: So what we would like to do is  
8 we're outgrowing our space at 285 Metro Park and we  
9 still have a few years left on our lease. So we're  
10 going to actually find another location and actually  
11 have two locations in the area.

12                  But until we find that other location we  
13 need some temporary storage to store equipment parts  
14 that -- that would go to the new location. And that  
15 would likely be more in the 3 to 6 months range rather  
16 than the 9 to 12 month range.

17                  CHAIRPERSON MIETZ: Can you just for the  
18 Board members maybe explain what this operation does?

19                  MR. REUST: Sure. So we're headquartered  
20 out of Minneapolis, Minnesota. We build additive  
21 manufacturing equipment, more commonly known 3D  
22 printing equipment.

23                  So we build the equipment in Minneapolis,  
24 but our location out in Rochester does our materials  
25 development. They basically figure out how to

1 compound all the little plastic dust that goes into  
2 our machine happens right there at 285 Metro Park. So  
3 they're testing materials and developing materials at  
4 that location.

5 CHAIRPERSON MIETZ: Okay. So is there  
6 actually manufacturing or is it more research or  
7 testing.

8 MR. REUST: It's all research and  
9 development. There's no manufacturing that takes  
10 place at that location.

11 CHAIRPERSON MIETZ: Okay. Anything else  
12 you'd like to add?

13 MR. REUST: I don't believe so.

14 CHAIRPERSON MIETZ: Okay.

15 MR. PREMO: Dennis, this is Ed Premo. I  
16 have some questions.

17 CHAIRPERSON MIETZ: Sure. Go right ahead,  
18 Ed.

19 MR. PREMO: Yes. Mr. Reust, I understand  
20 from the application there won't be any storage of  
21 hazardous materials in the trailer?

22 MR. REUST: That's correct. It's going to  
23 be old fixtures that, you know, might be used in the  
24 future. It's all mechanical. There's no electronics.  
25 There's no -- none of the plastics that we actually do

1 development on. There won't be any of that. It's  
2 just old machine parts.

3 MR. PREMO: Right. So your company would be  
4 agreeable that a condition is no storage of hazardous  
5 materials?

6 MR. REUST: Correct.

7 MR. PREMO: Okay. When I was out there  
8 appeared to be maybe it was four large round -- they  
9 almost looked like tanks or whatever.

10 MR. REUST: Yes.

11 MR. PREMO: And what are -- are those going  
12 to be removed.

13 MR. REUST: No. Those tanks remain -- the  
14 trailer would sit just up front from those tanks.  
15 Those tanks are used by the other tenant in the  
16 building. I'm not even sure what they use those tanks  
17 for.

18 MR. PREMO: Okay. So because I think the  
19 tanks when I looked at them they seem to be where  
20 you're showing where the trailer would be.

21 MR. REUST: So I think the tanks -- the  
22 trailer's in the parking lot. The tanks I believe are  
23 north of the trailer.

24 MR. PREMO: Okay. But so there's going to  
25 be the trailer and those tanks will all be there?

1                   MR. REUST: Yes.

2                   MR. PREMO: And it appeared to me when I was  
3 out there you did have lots of parking space. Is  
4 there any concerns about losing parking there?

5                   MR. REUST: No we've -- we've got plenty of  
parking space. So does the new tenant that is also in  
that building. They have plenty of parking spaces.

MR. PREMO: Okay. Thank you, Mr. Reust.

MR. REUST: Yes.

CHAIRPERSON MIETZ: Okay. Any other  
questions by the Board members? Okay. Very good. At  
this point is there anyone on this call that would  
like to speak regarding this application? Okay.  
There being none, then the public hearing is closed.  
Thank you, Mr. Reust.

MR. REUST: Yup.

**Application 4A-03-22**

Application of the Country Club of  
Rochester, owner of property located at 2935 East  
Avenue, for a Temporary and Revocable Use Permit  
pursuant to Section 219-4 to erect a tent and hold up  
to six (6) outdoor weddings/club special events for  
the year 2022. All as described on application and  
plans on file.

CHAIRPERSON MIETZ: Okay. And who do we

have speaking for CCR?

MS. BEARDSLEY-COMERER: This is Amy Beardsley-Comerer from the Country Club of Rochester.

CHAIRPERSON MIETZ: And Amy, what is your address for the record please?

MS. BEARDSLEY-COMERER: 2935 East Avenue.

CHAIRPERSON MIETZ: Okay. Great. Please go ahead.

MS. BEARDSLEY-COMERER: So essentially an application just like we did last year for any of the weddings or outdoor events that have tents. Each event would have its own permit where we did submit the actual tent that will be erected. Then the Fire Marshal does come out to inspect them as well.

CHAIRPERSON MIETZ: Okay. Very good. All right. Questions? I guess this is something we acted on before.

MS. SCHWARTZ: Member Judy. Rick, has anything changed really since last year's application would you say?

MS. BEARDSLEY-COMERER: No -- I'm sorry.

MR. DiSTEFANO: You can go ahead because I don't know. Please answer that question.

MS. SCHWARTZ: Okay, Amy. Let me ask you has anything changed substantially from last year?

MS. BEARDSLEY-COMERER: Nothing has changed.

MS. SCHWARTZ: Okay. Rick, do I recall there was a letter from the Fire Marshal regarding the placement of the tent? Wasn't there some concern about that? That it was --

MR. DiSTEFANO: There is a letter that was sent over to you with yesterday's packet with some typical concerns that the Fire Marshal had for tents in general. So, you know, please take a look at that. I don't think he was awfully concerned with its location.

MS. SCHWARTZ: Okay. All right.

MR. GORDON: Well, actually, Rick, this is Town Attorney Ken Gordon. I'm looking at the letter. And thanks for making sure I had it. I appreciate it.

The Fire Marshal has expressed some specific concerns about this particular user erecting tents and has said that past installations of temporary structures were erected too close to the permanent building resulting in the structure creating a building egress and fire separation concern and that the Fire Marshal has suggested several times to management that -- couple basic setup plans be provided, that the Fire Marshal be allowed to approve the location, anchoring and placement, which they can

then provide for those who are setting up for the special events and would assist their staff as they'll have a better understanding of approved placement for this temporary structure.

So I do think there are some specific concerns that Fire Marshal Roth has expressed with regard to CCR's past practice. And so I just ask the representative from the CCR having heard those concerns, is CCR willing to accept the condition on the approval of the temporary and revocable to follow the Fire Marshal's recommendations and review with the Fire Marshal a couple basic setup plans and anchoring and placement plans so that we would avoid having conflict between building egress and fire separation issues in the future?

MS. BEARDSLEY-COMERER: Yeah. I would be happy to work on that and get that over and work with him. We have talked about setting up a meeting. And this came up in the fall to start thinking about concepts for this.

MS. TOMPKINS-WRIGHT: This is Member Wright. That Fire Marshal letter also indicates prohibition of gas pedestal heaters. And I just want to confirm that the applicant's fine with that being a condition of approval that only portable forced air heating units

will be permitted for heating --

MS. BEARDSLEY-COMERER: Because I haven't seen the letter that the Fire Marshal sent over and this is the first time I'm hearing of that, you know, I do know there's many other locations that do use portable gas heaters. This is the first that I've heard this would be a condition of the application.

MS. TOMPKINS-WRIGHT: Well, I think based on -- and, again, I recognize that that's not fair. I do think this letter was just sent yesterday. So it's hard to explain the letter without you being able to see it in front of you.

But it does note that those portable fire pedestals heater and other propane appliances are prohibited by the Fire Code of New York State. So I would assume that they should be prohibited under all tents in New York, not just for this application.

CHAIRPERSON MIETZ: Right. Yeah. I think these -- go ahead. Go ahead.

MS. BEARDSLEY-COMERER: So he has spoken with us in the past and he just said he doesn't recommend them, but he's never prohibited us from having them. So that concerns me that now this is a part of this application because he's actually seen them and we've talked about future plans and he's

never mentioned that they should be removed even.

CHAIRPERSON MIETZ: Okay. Well, it's kind of hard, you know, for us to negotiate for Mr. Roth, you know, on this thing or make clarifications. So why don't we -- let's continue with the questions and then we can discuss this in the deliberation on how we might want to handle it. Okay?

MS. BEARDSLEY-COMERER: Okay. I can promise for any tents they would never have these heaters under them.

CHAIRPERSON MIETZ: Okay. All right. So Board members, more questions for Amy?

MR. DiSTEFANO: Amy, what's your typical ending time for these outdoor events?

MS. BEARDSLEY-COMERER: They can never exceed our sound ordinance. So I believe that's 11 p.m.

MR. DiSTEFANO: Thank you.

MR. GORDON: And Ms. Comerer, when do you anticipate the first outdoor event of the season will take place at CCR?

MS. BEARDSLEY-COMERER: Yes. The first outdoor event is actually the last Saturday in April. And then there's not another one until the last Friday in May.

CHAIRPERSON MIETZ: Okay. All right. Other questions by the Board members? Okay. Very good. Is there anyone on this call that would like to speak regarding this application? Okay. There being none, then the public hearing is closed.

**Application 4A-04-22**

Application of Brielle Messing, agent, and Ralph DiTucci, Castle Office Group, LLC, owner of property located at 180 Sawgrass Drive, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow a food truck on site once per week from May through August 2022 where not allowed by code. All as described on application and plans on file.

CHAIRPERSON MIETZ: Okay. And who do we have speaking?

MS. MESSINA: Hi. I'm Brielle.

CHAIRPERSON MIETZ: Okay, Brielle. Just give us your full name and address please.

MS. MESSINA: Brielle Messina. It's 180 Sawgrass Drive.

CHAIRPERSON MIETZ: Go right ahead.

MS. MESSINA: We had a food truck last year and it worked out very well. So we just wanted to do it again. We did add one more week to it because we were able to get the application in earlier this year.

But, yeah. It worked out really well. We didn't have any issues with parking or garbage or any issues with the trucks at all. The -- all of our staff was able to use it. And then there were two other buildings next door that are also URMC buildings. And they were able to use it too. And I think they got a lot of business. So yeah.

CHAIRPERSON MIETZ: Okay. All right. Very good. Questions by the Board members about this?

MS. TOMPKINS-WRIGHT: Obviously no complaints from the last year either on trash issues in the parking lot or anything like that?

MS. MESSINA: Nope.

MR. DiSTEFANO: No.

MS. TOMPKINS-WRIGHT: Thanks.

CHAIRPERSON MIETZ: Okay.

MR. DiSTEFANO: Could you -- do you use the same vendor each time or do you rotate vendors?

MS. MESSINA: We rotate them. There's a handful that we reached out to. And they will pick a custom of dates and book those. So it's been a different one every day.

MR. DiSTEFANO: And do you know whether these food trucks or all properly licensed through the City of Rochester.

MS. MESSINA: Yeah. We've only been getting the ones that are properly licensed.

CHAIRPERSON MIETZ: Very good. Very good. Okay. Other questions? Okay. Thank you very much. Is there anyone on the call that would like to speak regarding this application? Okay. There being none, then the publishing hearing is closed.

MS. MESSINA: Thank you.

CHAIRPERSON MIETZ: Thank you.

**Application 4A-05-22**

Application of Duane and Brenda Smullen, owners of property located at 55 Middlebrook Lane, for an Area Variance from Section 205-2 to allow a front porch to extend 5 feet into the 40 foot front setback required by code. All as described on application and plans on file.

CHAIRPERSON MIETZ: Okay. And who do we have speaking?

MRS. SMULLEN: This is Brenda Smullen and I'm here with my husband, Duane.

CHAIRPERSON MIETZ: Okay. And your address for the record.

MRS. SMULLEN: Our address is 55 Meadowbrook Lane.

CHAIRPERSON MIETZ: Okay. Great. All

right. So please proceed.

MRS. SMULLEN: Okay. So we've been a resident of Brighton now for over 40 years. And what we'd like to do is add a porch to the front of our house. However, to get an appropriate depth to allow for seating such as rocking chairs and/or glider and still allow room for somebody to walk by those seated, we'd like it to be 8 feet in depth.

Currently the house sets back approximately 43 feet from the right-of-way. So we would need approximately an additional 5 feet to allow for the 8 foot depth of the porch.

We feel that the addition of the porch will enhance the usability of our front door, which currently is open to the elements. Anyone visiting or packages being left are currently out in the rain and the snow. We don't have any roof or anything where the front door is.

This will be an open porch with post-and-rail construction, thus having minimum obstruction to the view of our neighbors on either side. It would allow us space in the front of the house to sit and meet and greet our neighbors as they walk by with the kids and the dogs and giving us an opportunity to connect with those -- with others in

the neighborhood.

Our neighbor across the street has a porch of similar construction. It was built in 2019. And it truly does add to the curb appeal of the home. So we feel this would enhance the curb appeal of our house as well we're hoping.

The neighborhood consists of many different style homes and roof designs. We're nowhere -- we're not a cookie-cutter neighborhood. The houses and roof designs are all different.

We were part of the Architectural Review Board meeting on March 22nd. However, our application was tabled to include some recommendations for us to consider. After considering -- after consideration of those recommendations we are going to be resubmitting a revised plan at the next ARB meeting on April 26th.

The revisions we've made were to change the hip roof pitch from a 412 and 812 to a 312 and 612. That will add some more height to the look of the porch. As well as reducing the length of the porch to bring it in a bit so it's more aligned better with the front of the two-story section where it's going to be located.

We've shown the drawings to our neighbors who will be looking at this all the time and none had

any objections to the look. Actually they are all looking forward to joining us in the rocking chairs. So we thank you for your time and consideration of our request.

CHAIRPERSON MIETZ: Okay. So questions by the Board members please.

MS. TOMPKINS-WRIGHT: This is Member Wright. Just to make sure it's on the record, the home basically directly across from you also has that porch and that porch also extends into the front yard setback?

MRS. SMULLEN: Yes. Yes. They also have a variance. There's is 8 foot deep, which is what we were looking at too. We actually did quite a bit of measuring of their porch over there just to see what was acceptable.

MS. TOMPKINS-WRIGHT: And there are a couple of other similar porches in that neighborhood as well in addition to that one across the street from you; right?

MRS. SMULLEN: Yes. There was one that was just constructed just down at the end of Meadowbrook. The house actually faces Viennawood. So that one just got finished, well, about a month ago maybe.

And then there is another one over on --

let's see if I'm going to get the right street -- Sleepy Hollow. They have almost like a wraparound porch there, which is really nice.

MS. TOMPKINS-WRIGHT: Thank you. That's all I had.

CHAIRPERSON MIETZ: Okay. Go ahead, Kathleen.

MS. SCHMITT: And just to clarify, the application says it's an open porch. It won't be screened; is that correct?

MRS. SMULLEN: That's correct. Yes.

MS. SCHMITT: Thank you.

CHAIRPERSON MIETZ: Very good. Other questions? Okay. Very good. Thank you very much.

MRS. SMULLEN: Thank you.

CHAIRPERSON MIETZ: Okay. Is there anyone on the call that would like to speak relating to this application? Okay. There being none, then the public hearing is closed.

**Application 4A-06-22**

Application of Jeffrey Gardiner, owner of property located at 45 Knolltop Drive, for extension of an approved Area Variance (4A-05-21) allowing for a garage addition to extend 6 +/- feet onto the 40 foot front setback required by code. All as described on

Application and plans on file.

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

MR. GARDINER: Good evening. My name is Jeffrey Gardiner. I live at 45 Knolltop Drive.

CHAIRPERSON MIETZ: Okay. Very good, Jeff. Go right ahead.

MR. GARDINER: Yeah. And I am just representing the variance that I got a year ago. Since then, obviously COVID and everything else happened. But I've also in the last year engaged the services of an architect to assist in kind of challenging and kind of come up with a better footprint and floor plan. And he basically came up with pretty much the same concept that was originally presented to the board, which is that we would have a 4 foot extension into the front right-of-way. I think it's described as 4 -- 6 plus or minus. But really the footprint on the foundation is 4 feet.

Other than that there's been no changes except I've submitted bid drawings with this package versus the original conceptual drawing we did a year ago.

MR. DiSTEFANO: Jeff, just for clarification that 4 feet, there is a 2 foot overhang; correct?

MR. GARDINER: Yeah. Yeah. 2 foot overhang, but furnished space is only going to be four feet.

MR. DiSTEFANO: I'm glad -- this is why it wasn't advertised at 6 feet is because we take it to the closest point which included the overhang.

MR. GARDINER: Okay. Thank you.

CHAIRPERSON MIETZ: Okay. So materially then no other changes were made to the look of it or anything like that?

MR. GARDINER: No.

CHAIRPERSON MIETZ: Okay. And you're planning to proceed obviously.

MR. GARDINER: Yeah. Yup.

CHAIRPERSON MIETZ: Okay. All right. Board members, questions?

MS. McKAY-DRURY: This is Member McKay-Drury. I wanted to just make sure that I'm understanding the application form correctly.

So the way it's written up is the -- I see that there's like -- it says revision one and then you're indicating you're resubmitting to extend it for another year. And then it says revision zero. Is revision zero what was in your original application?

MR. GARDINER: Yes. That's exactly right.

I left all that for reference material.

MS. MCKAY-DRURY: Okay. Great.

CHAIRPERSON MIETZ: Okay. Other questions? Okay. Very good. Thank you very much.

MR. GARDINER: Thank you.

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

**Application 4A-07-22**

Application of Vincent and Kimberly Nolan, owners of property located at 81 Indian Spring Lane, for an Area Variance from Section 203-2.1B(6) to allow a standby emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

CHAIRPERSON MIETZ: Who do we have speaking for this?

MR. NOLAN: Good evening, Dennis. It's Vin Nolan calling. I'm the homeowner here at 81 Indian Spring Lane.

CHAIRPERSON MIETZ: Okay. Great. All right, Vin. Go right ahead.

MR. NOLAN: Thank you. And I think this is

a pretty simple one here. We had -- previous owners of the house had put some additions on it at different points over the years and somehow managed to box in the rear of the home from any access to the utilities in the basement.

So I'm working with Isaac HVAC to figure out how to put the generator in and is -- if it's possible to get it in on the side of the house. And we would locate it as far deep back from the road as possible to still be able to access the utilities. It would be about 135 feet from the road and 70 feet from any neighbor.

And we would as part of our variance here, we would certainly landscape that in with some evergreen-style boxwoods or something along those lines that the deer aren't going to eat up and keep that from being seen.

You know, it's only about 28 inches tall. And it's really going to be blending right in with whatever plantings are there and any air conditioner on the side of the house anyhow.

CHAIRPERSON MIETZ: Okay. Can you just describe for the record just how far to the nearest structure that would be?

MR. NOLAN: Yeah. It's about 70 feet to the

next structure, not our property. And, of course, we're not looking for any variance from the fire safety there. It will still be 6 feet from the house that's required.

CHAIRPERSON MIETZ: Okay. And that is sitting how far from the street?

MR. NOLAN: It's going to be about 135 feet from the road.

CHAIRPERSON MIETZ: Okay. Great. And we'll presume that the unit that you have selected through Isaac then meets the Town's requirements on the decibel rating, et cetera?

MR. NOLAN: Oh, certainly.

CHAIRPERSON MIETZ: Do you know what that is for the record?

MR. NOLAN: I could find that for you. I had it when I was doing all of this work. Mike Atkins from Isaac might be on the line here. But I believe that it was the 60s range of decibels off the top of my head which is pretty darn quiet.

MR. DiSTEFANO: Yeah. Dennis, I just looked it up. It's at 67 according to the spec sheet that they submitted.

CHAIRPERSON MIETZ: Okay. That's great. I know there was notation in the paperwork, but -- okay.

All right. Very good. So Board members, any other questions about this application.

MR. DiSTEFANO: Did you talk to your neighbor in regards to it?

MR. NOLAN: Actually they're in Florida for the winter.

CHAIRPERSON MIETZ: Okay. All right. So no other questions. That's great. Thanks, Vin. All right. Is there anyone on the call that would like to speak regarding this application? Okay. There being none, then the public hearing's closed.

MR. NOLAN: Thank you.

CHAIRPERSON MIETZ: Thanks.

**Application 4A-08-22**

Application of James and Karen Coffey, owners of property located at 36 Midland Avenue, for an Area Variance from Section 203-1.1B(8) to allow a standby emergency generator to be located six (6) inches from a rear (east) lot line and 9+/- feet from a side (north) lot line in lieu of the minimum 10 foot setback required by code. All as described on application and plans on file.

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

MR. COFFEY: Hi. I'm Jim Coffey and my

wife, Karen, is here with me. And we live at 36 Midland Avenue. We've been there since 1984, hope to live out our days there.

But we've recently converted from a septic system to our grinder system. Is everyone familiar with that?

CHAIRPERSON MIETZ: Why don't you give a quick --

MR. COFFEY: Okay. So instead of everything going into a septic tank, this goes into a tank that's buried that has an incredible grinder to it, grinds everything up and sends it underground through a little inch and a half pipe actually up to the next street, which is Willard Avenue.

And so that though -- it needs electricity. And so we're applying for a variance to put in a whole house generator in the back. And I need to actually change what you see in front of you there because I put in the application before we had the final estimates.

And what's recommended now is -- see how the -- how the -- it sticks out perpendicular to the back line? We actually need it to be horizontal to that line. And it has to be 18 inches in from the lot line.

So to the north you can see how close our house is, just 4 and a half feet. So we would want to put the generator 5 feet in, which would place it behind the house at that end of it. And then -- so we would need a variance of 5 feet there. And if we were 18 inches in, the code is 10 feet, so it would be the difference between those two.

Apparently one side of the generator is an intake and the other side is an exhaust. And so it didn't make sense to have one -- you know, have it perpendicular to the fence.

MR. PREMO: Okay --

MR. DiSTEFANO: So --

MR. PREMO: Go ahead.

MR. DiSTEFANO: I just want to clarify, Jeff. So you're modifying your application to be 5 plus or minus feet from the north property line?

MR. COFFEY: Yes.

MR. DiSTEFANO: And 1.5 feet from the east property line, not 6 inches; correct?

MR. COFFEY: That's correct. Yes. Thank you.

MR. DiSTEFANO: Board members, do you have that? 1.5 from that rear property line and 5 --

MR. PREMO: Rick, this is Ed Premo. The

rear property line east?

MR. DiSTEFANO: Yes. The --

MR. PREMO: And the other property line is north; right?

MR. DiSTEFANO: Side property line is north, correct.

CHAIRPERSON MIETZ: Where the word sidewalk is. Yeah.

MR. DiSTEFANO: Yup.

MR. PREMO: Yup.

MS. MCKAY-DRURY: And on this drawing that we're looking at here, will the rectangle then be turned 90 degrees?

MR. COFFEY: Yup. Yup. So -- because it's 4 feet long and 2 feet wide. So the 4 feet would be horizontal to the property line.

MS. MCKAY-DRURY: Okay.

CHAIRPERSON MIETZ: Okay. So questions for the applicant?

MR. PREMO: Mr. Coffey, this is Ed Premo. I saw you the other day.

MR. COFFEY: Hey, Ed.

MR. PREMO: So this area is all enclosed by the fence, right, the wood --

MR. COFFEY: The wooden fence, right.

MR. PREMO: Right. And this is a house that was built in, what was it, 1929?

MR. COFFEY: Yes, sir.

MR. PREMO: And this is kind of a pre-existing kind of placement of this lot?

MR. COFFEY: Pre-existing nonconforming. You know, a few years ago we were talking about that. We have to -- you have to be 10 percent of the width of your property line. And ours was a 40 foot. So we had to -- anyways, when we combined lots, it wound up being 200 feet. And 10 percent of that was 20 feet. So we needed to get a variance to combine our lots.

MR. PREMO: I remember that variance. So when you do this, you will now have a connection to public sewers; correct?

MR. COFFEY: Yes, sir. Up on Willard.

MR. PREMO: And then you will not have to have your septic system. You'll be able to close that; right?

MR. COFFEY: That's already closed. Yeah. That's -- we were hoping to build an addition on. And that's the only place we could do it is where the leach field is.

MR. PREMO: Okay.

MR. COFFEY: Pardon?

MR. PREMO: I was just going to say so the addition would be going south. That's where you have the additional property?

MR. COFFEY: Yes, sir.

MR. PREMO: Yeah.

CHAIRPERSON MIETZ: Okay. Very good. Other questions?

MR. DiSTEFANO: Jim, just for the record could you just explain what is behind your house?

MR. COFFEY: Well, it's another lot. There's been a guy living back there since -- I think since right after we've been there. But he's been living in his car. And he died a few months ago. And he's got a little tiny house that's condemned. I mean, the roof is falling in. And it's just very wet, you know.

MRS. COFFEY: The property's on the market.

MR. COFFEY: It's on the market now as a building lot. But it's -- it's been a wreck for a while.

MS. MCKAY-DRURY: And that's to the east?

MR. COFFEY: Yes. Yup. And there lot because -- that lot -- three out the four sides to it is Persimmon Park. And that probably will be the big attraction as a building lot because you'd be

surrounded by woods. And then the other -- the fourth side is on -- is us and our neighbor.

So I don't know. I don't know what they're going to have to go through to build back there.

CHAIRPERSON MIETZ: Okay. That's going to be challenging.

MR. COFFEY: There's no sewer, you know. So -- anyways.

CHAIRPERSON MIETZ: Okay. Thanks for the clarification. Other questions? Go ahead, Kathleen.

MS. SCHMITT: So this is probably a dumb question because I certainly don't know anything about grinders. But does the generator run 24 hours a day, seven days a week in order to work?

MR. COFFEY: No. This is a backup generator that only kicks on if the electricity to our house fails.

MS. SCHMITT: I see. So the generator isn't pumping the --

MR. COFFEY: No. No.

MS. SCHMITT: -- to the sewer? Okay.

MR. COFFEY: It will provide the electricity to pump it though.

MS. SCHMITT: Okay. Well, that makes sense. That changes things for me because somehow in my head

I was thinking this was what was powering everything all day long.

MR. COFFEY: No. No. That's in case if we lose electricity.

MR. PREMO: It's a standby generator.

MR. COFFEY: It does kick on I think once a week for five minutes or something.

MS. SCHMITT: Right. Yup. Yup. We're good.

MR. COFFEY: We've lost -- we've only lost, since 1984, electricity three times. So this is a real kind of backup for us. We even had -- you know, should we do it? Because it's expensive to do, but more peace of mind I think to know that everything will run if the electricity fails.

MS. MCKAY-DRURY: About your neighbors to the north, how close is the building on their property, their home on that property?

MR. COFFEY: Is this a building that's what? I didn't hear. Sorry.

MS. MCKAY-DRURY: I was wondering how close the -- their house is to the --

MR. COFFEY: I guess -- I guess about 25 feet because we're -- separating the property lines at least at the back of the house is a 6 foot tall wooden

fence, you know, that's enclosed. So they couldn't even see it.

But in hearing it, I guess, it's like in the previous person's was 67 decibels, which is pretty good. But they also have a shed then and then their house. So there's a shed between where this would be and their house.

MS. MCKAY-DRURY: So the fence goes along the rear and the side?

MR. COFFEY: Yes. So the back is totally enclosed by the fence.

CHAIRPERSON MIETZ: Okay. Very good. Other questions? Okay. Thank you very much. Is there anyone on this call that would like to speak regarding this application? Okay. There being none, then the public hearing is closed.

MR. COFFEY: Thank you.

CHAIRPERSON MIETZ: Thank you. Rick, just before you read the next application, I just want to let the Board members know that I need to recuse myself from the next two applications.

So Andrea, if you could run the public hearing for these two, I would appreciate it. And I will cut my video off. So whenever you're ready, Rick and Andrea.

MR. DiSTEFANO: I'll read these two applications together. So please bear with me.

**Application 4A-09-22**

Application of Twelve Corners Presbyterian Church, owner of property located at 1200 Winton Road South, for an Area Variance from Section 203-2.1C(1) (a) to allow a church building setback of 57.9 feet after a lot line (subdivision) adjustment, in lieu of the minimum 100 feet required by code. All as described on application and plans on file.

**Application 4A-10-22**

Application of Twelve Corners Presbyterian Church, owner of property located at 1200 Winton Road South, for an Area Variance from Section 207-10E(5) to allow pavement and parking, after a lot line (subdivision) adjustment, to be up to a side (North) lot line in lieu of a minimum setback of 4 feet as required by code. All as described on application and plans on file.

MS. TOMPKINS-WRIGHT: And who do we have presenting these two --

MR. FROMBERGER: Good evening. Tom Fromberger --

MS. TOMPKINS-WRIGHT: -- applications?

MR. FROMBERGER: Good evening. Tom

Fromberger, MRB group, 145 Culver Road.

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

MR. FROMBERGER: Twelve Corners Presbyterian Church is proposing a lot line adjustment with the Brighton School District Number 1. Two parcel sections are proposed to be transferred through a lot line adjustment out of their main church parcel and merged with the Brighton school's property.

Portions of the property are currently being used by the school district right now. Parcel to the east is proposed for transfer. And contains their existing or part of their existing softball fields as well as practice areas for their soccer.

As part of the process two variances will be needed as described by Rick a few minutes ago. The first variance is for the building setback. Churches require a 100 foot setback from the side lot line. We are now proposing a 57 foot.

The second variance is for pavement. And that is in regard to the proposed lot line adjustment would basically take the lot through the parking lot or portion of that. And that would go from 4 feet to zeros.

These setbacks are similar to the south property line and some of the property adjustments

that were made back in 2012.

In regard to overall use, no changes and use are really proposed. The lot line adjustments will allow the church to remain and continue in operation. And the church will also have the -- or the school will have the opportunity to correct some of their existing encroachments. That's kind of the overview.

MS. TOMPKINS-WRIGHT: Just to confirm, typically when we see these kind of setback violations or pavement too close we're often concerned about the neighboring property and the effect it will have on that neighboring property owner. The neighboring property owner that it affects is the school district, correct, which is the buyer of this property?

MR. FROMBERGER: Correct.

MS. TOMPKINS-WRIGHT: Is there any questions from board members on either of these applications? I'm hearing none.

Are there any members of the public who would like to be heard on these two applications? Reminder, this is Application 4A-09 and 4A-10. Not hearing any comments from the public. So that being -- the public hearing is closed.

MR. FROMBERGER: Thank you.

**Application 4A-11-22**

Application of Home Power Systems, contractor, and Monica Gilligan, owner of property located at 6 Kent Park, for an Area Variance from Sections 203-2.1B(6) and 203-9A(4) to allow a standby emergency generator to be located in a side yard, 5+/- Feet from the lot line in lieu of in the rear yard behind the house no closer than 10 feet from a lot line as required by code. All as described on application and plans on file.

CHAIRPERSON MIETZ: Okay. And who do have speaking for this application? Do we have someone?

MR. DiSTEFANO: There we go.

MR. CARLUCCI: This is Jeff Carlucci.

CHAIRPERSON MIETZ: Okay, Jeff. Just give us your address please and how you're involved with this application.

MR. CARLUCCI: Okay. I am the project manager for Home Power Systems that is working with Monica Gilligan who is the homeowner at 6 Kent Park in Brighton.

CHAIRPERSON MIETZ: How about your address please for the record.

MR. CARLUCCI: Oh. My address. Sorry. 201 Dorcy Road, Rochester, New York 14616.

CHAIRPERSON MIETZ: Okay. Great. Go ahead

then please.

MR. CARLUCCI: So I'm requesting an area variance for a standby generator in the side yard at 6 Kent Park because I cannot fit it at what would technically be considered the rear of the property as the homeowner plans to do an addition at the rear. So in place that we would put the generator we -- that would prohibit her from doing a future addition.

And if I were to extend it out past that point, then I would need to bury gas and electric lines from the house to the generator, which would not be possible because she would need to put some foundation in that location. So there's just no place for me to put this generator other than the south side of her house, which would be between her house and her neighbor's house.

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS-WRIGHT: This is Member Wright. Where is the HVAC equipment on this home? I didn't see it.

MR. CARLUCCI: It's on the north side right on -- right off of Cardiff Park there.

MS. TOMPKINS-WRIGHT: Okay.

MR. CARLUCCI: Which would -- and I considered that, but myself and the homeowner thought

the Town would not be okay with a generator being over there because it's an additional item that is even more visible than the location we are requesting.

MS. TOMPKINS-WRIGHT: And how close -- I do want to comment that this is a -- this lot is surrounded on three -- two sides by public roads and then also a third by an alley. And the location you've chosen is the only one that doesn't have sort of a -- essentially an adjacent road to it.

MR. CARLUCCI: Correct.

MS. TOMPKINS-WRIGHT: But it is quite close to the neighboring home. Do you know how close this equipment will actually be to that neighboring structure?

MR. CARLUCCI: I believe it will be just about 3 feet, 3 to 4 feet. It's hard for me to know what the exact property line is, but I have an idea, you know, when I'm there standing there.

The generator has to be 5 feet off of her house due to openings like windows. So that's why the generator's not going to be tucked in as close as it normally could be if there were no openings, which would be 18 inches from the structure. But that still wouldn't satisfy the 10 foot side setback for Brighton.

MS. MCKAY-DRURY: I'm not entirely sure I understand the response on that. Is that the distance to the applicant's home or is that the distance to the neighbor's home?

MR. CARLUCCI: Sorry. I should have been more specific. The 5 foot distance is from the applicant's home.

MS. MCKAY-DRURY: Okay.

MR. CARLUCCI: And then I would venture to guess that the distance between the front of the generator and the property line is about 3 feet.

MS. MCKAY-DRURY: Okay. And then can you provide an estimate of how close the neighbor's house is from the lot line?

MR. CARLUCCI: From the lot line I would say -- I mean, it's all very tight in there. It's got to be 10 feet at best.

MS. MCKAY-DRURY: Okay.

MS. TOMPKINS-WRIGHT: Can you also -- what is the timeline for the neighbor's planned expansion obviously --

MR. CARLUCCI: It's not the neighbor's planned expansion. That's --

MS. TOMPKINS-WRIGHT: I'm sorry. So what is the timeline for the applicant's planned expansion on

this property?

MR. CARLUCCI: She did not give me an exact timeline, but she mentioned something in the area of within the next year she would be applying for a variance for it.

MS. MCKAY-DRURY: And where is the location that conflicts with it on the drawing here?

MR. CARLUCCI: See where I wrote "electric meter"?

MS. MCKAY-DRURY: Yes.

MR. CARLUCCI: Just above that I put that dotted line, kind of a square dotted line off of --

MS. MCKAY-DRURY: You would put the unit inside that square dotted line?

MR. CARLUCCI: No. I put that square dotted line there to show that's where the homeowner plans to expand in the future.

MS. MCKAY-DRURY: Okay. So where would you have -- you would have otherwise tucked the generator into that alcove?

MR. CARLUCCI: Right. That would qualify as rear of the house if possible. But that's where she plans to put an addition on.

MS. MCKAY-DRURY: Can you describe any of the other portions, like that 13 foot 3 line and any

of the other --

MR. CARLUCCI: That's actually right -- that's pretty much her driveway area. That's her -- excuse me. I think that's her driveway area and garage.

So that's the other thing is I could always -- I could try to tuck it in closer to the driveway, but it's going to be right up against the driveway if we're going to try to be 10 feet from the property line. Which normally is not kosher with most people because then they need to put bollards up to prevent any vehicles from hitting the unit.

CHAIRPERSON MIETZ: You would also agree that that location would be more visible as well?

MR. CARLUCCI: It would be, yeah. It would be visible from Cardiff and from the alleyway.

CHAIRPERSON MIETZ: Okay.

MR. CARLUCCI: We're trying to put it in the most inconspicuous area as possible. And if the homeowner needs to do some type of plant to block it from Kent Park, then I'm sure she's willing to do that. We've touched on that briefly.

MR. DiSTEFANO: Well, you can probably do that if it was placed on the opposite end also; correct? If it was placed on the Cardiff Park, you

could also propose a fairly decent screening program; correct?

MR. CARLUCCI: Oh, sure. Yeah. And then it's not, you know, so close to a property line, but it's more visible from the road. We thought we would choose the lesser of two evils. And apparently Monica has spoken to her neighbor and her neighbor was fine with the location. That's why we went with that.

MS. TOMPKINS-WRIGHT: What's the decibel rating of the generator?

MR. CARLUCCI: 67.

MS. TOMPKINS-WRIGHT: Remind me -- maybe this Rick, is that 67 at 10 feet or is --

MR. DiSTEFANO: 23-feet.

MS. TOMPKINS-WRIGHT: So if you're less than 10 feet from the generator, it will be significantly more than 67?

MR. DiSTEFANO: Significantly louder. Yeah.

MS. TOMPKINS-WRIGHT: Yeah. Okay.

MR. DiSTEFANO: And that's a concern I have that I, you know -- people don't realize exactly how loud generators can be. They've gotten much better over the years, no doubt about it. But they're still fairly loud.

So sometimes people just don't realize --

oh, yeah you can put your generator there, but they don't realize that level of sound.

CHAIRPERSON MIETZ: Yeah. I think the -- also the tunnel effect here might be part of it too, you know, given the narrowness of these lots and the location of the homes.

MR. CARLUCCI: The exact location of the generator is pretty close to the corner of the house. And the exhaust would be heading towards Kent Park. So it's not going through any bit of tunnel.

CHAIRPERSON MIETZ: Well, I just meant specifically the location of the two houses, you know between --

MR. CARLUCCI: Right, right.

CHAIRPERSON MIETZ: That's what I meant, not where the fumes would be.

MR. CARLUCCI: So I only mention the exhaust because that's where the noise is coming out of. So we're not heading -- having any noise traveling eastward through that tunnel between the houses.

CHAIRPERSON MIETZ: You're sending it towards the word gas meter there.

MR. CARLUCCI: Correct.

CHAIRPERSON MIETZ: Yes. Okay.

MS. MCKAY-DRURY: Do we have in the record

something that shows where the driveway is?

MR. CARLUCCI: It's not shown on this survey map obviously. If you'd like me to send a picture of that, I possibly could do that.

MR. DiSTEFANO: I can tell you that the driveway is basically right behind the -- you can kind of see it. It's where that square box is on that survey.

MS. MCKAY-DRURY: So the thing that juts out.

MR. DiSTEFANO: Brendan, Brendan, go back right there. Stop. So where it's the 13 feet 3 inches by 10 feet --

MS. MCKAY-DRURY: Right.

MR. DiSTEFANO: -- the driveway is basically, I believe, right there, like kind of in the middle. But for some reason if you go back to that picture, Brendan, it looks like there's already kind of an addition going where that -- that area is. I'm not sure exactly -- I'm looking at an aerial that kind of shows that whole area is roofed over now. So I'm not sure exactly what that dashed box is representing. I don't know if it's an open porch or if it's an enclosed space. I'm not sure.

MR. CARLUCCI: I know -- I know that there's

no basement underneath that portion. So that's -- that's part of the difficulty in running lines that way too. Kind of a separate issue, but -- something that could be worked around. But, yeah.

That's -- that's what that dotted line represents is whatever that existing room is. And I don't know. She didn't give me square footage on what she plans to do as far as an addition there. She just knows that she didn't want it over there because she plans to add on.

MS. MCKAY-DRURY: So along -- was it considered then to put it in the other side of the -- on the other side of the garage? And I realize that's closer to Cardiff Park, but obviously it's further from the neighbor. Is there a reason why that's not feasible?

MR. CARLUCCI: The basement doesn't go there. So I can't get lines to it, gas and electric lines. But also she's got that window there and those bushes.

MR. GORDON: Jeff, this is --

MS. MCKAY-DRURY: A window meaning you have to put the unit further from the house because there's a window there; correct?

MR. CARLUCCI: Right. And we already have

to put it 5 feet in the location we're proposing anyways. But she just -- she just doesn't think it's going to be feasible to put it at that side of the house anyway. Because I tried to exhaust all options with her and she doesn't want to hear that.

CHAIRPERSON MIETZ: Ken, you had --

MS. TOMPKINS-WRIGHT: I apologize. I know that you already answered this. But remind me again, where is the HVAC on the site? I'm going to draw it on this map so I remember this time.

MR. CARLUCCI: Yeah. It's on the Cardiff Park side of the house.

MS. TOMPKINS-WRIGHT: Not in that alcove --

MR. CARLUCCI: No.

MS. MCKAY-DRURY: Can you tell us a little more specifically where?

MR. CARLUCCI: I think it may be in the location where it says 7.9 feet.

(Simultaneous conversation.)

MR. DiSTEFANO: Can you go back to the survey map please?

MR. RYAN: Sure. I was going to ask you if it would help if I pulled up the topography because I could do that also.

MS. TOMPKINS-WRIGHT: And would there be a

problem with locating the generator with the HVAC since already -- at least, you know, with some utilities already there?

MR. CARLUCCI: I would be completely willing to put it on that side. And I think she would too. It would just be -- like I said, we just both assumed that that would be a no-go with the Town because of how visible it would be.

CHAIRPERSON MIETZ: Was it you, Ken, that had something to --

MR. GORDON: Yes. Thank you Dennis. Jeff, this is Town Attorney, Ken Gordon. I was just wondering if you can talk a little bit about alternative enclosures or additional enclosures or alternative models and generators that might produce less noise.

MR. CARLUCCI: There is no alternative enclosure. You never want to put what we call in the business a doghouse over or around it unless it's like 5 feet all the way around. It just creates even more of an eyesore in our opinion. But you also don't want these things enclosed. They need to be able to intake cleanly and exhaust cleanly.

As far as other standby generators, you're not going to get one that is significantly quieter

than these -- I mean, all these generators rather it's a Koheler, a Generac or a Cummins, they're all right -- pretty eye similar decibel rating.

CHAIRPERSON MIETZ: Okay.

MS. MCKAY-DRURY: And how does this unit compare to an HVAC? I believe you said something about that in relation. Is it shorter?

MR. CARLUCCI: No. It's actually longer. Left to right it's 4 feet. The depth front to back is 25 inches. And then the height without a base under it is 29 inches.

But we would be putting a 6 inch steel powder-coated base underneath it to support it and get it kind of up out of the snow.

CHAIRPERSON MIETZ: Okay. Other questions, comments here at this point? I think we've got a good grasp of the site I think. And we can certainly discuss it further.

Any other questions for Jeff? Okay. Thanks very much. All right. Is there anyone on the call that would like to speak regarding this application? Okay. There being none, then the public hearing is closed.

**Application 4A-12-22**

Application of Meaghan Fee Spencer, owner of

property located at 111 Hampshire Drive, for an Area Variance from Section 205-2 to allow a garage addition to extend 2.5 +/- feet into the 7.5 foot side setback required by code. All as described on application and plans on file.

MR. DiSTEFANO: Just before we start if I could have Brendan go to the plan which is a couple slides up I believe.

CHAIRPERSON MIETZ: Oh, okay.

MR. DiSTEFANO: Other way. Keep going.  
Right there. Thanks.

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

MR. SPENCER: Can you hear me?

CHAIRPERSON MIETZ: Yup.

MR. SPENCER: Justin Spencer. My wife is the owner of 111 Hampshire Drive.

CHAIRPERSON MIETZ: Okay. Very good. Then why don't you go ahead and proceed.

MR. SPENCER: All right. Currently we have a flat roof mudroom that is tied into a small approximately 10 by 18 garage. The northwest corner of the mudroom is failing. Therefore, it is caving in and is pulling actually away from the home itself. And then we have leakage going into the garbage.

We have a family of five who have large vehicles. So that's what brought us to this point of doing an addition because of the safety issue. We're requesting that we have -- per code it's required 7.5 for the side setback. We're looking to extend into that a little bit. So it would actually 2.4 feet.

And we'd still have 5.1 feet to the property line just on the garage portion of this.

CHAIRPERSON MIETZ: Okay. All right. Questions by the Board members? Well it's --

MR. SPENCER: I included in the file also the neighbors directly to the south have included an approval letter. We've talked to them. They're completely for the project.

Also the house directly next door to the north had the same scenario that we're proposing has a 2 foot extension out on their garage. So it's in proportion with the neighborhood and their surrounding homes.

MS. MCKAY-DRURY: I'm just trying to get an idea of -- on the drawing here, you talk about not wanting to shift it up and have it even with that side of the house because -- in part because of the window in the mudroom. Are you reducing the size of that mudroom window?

MR. SPENCER: Yes. It is going to be reduced a little bit and you can't shift it any further up because you'd lose the window completely if we went further north.

MS. MCKAY-DRURY: Okay.

CHAIRPERSON MIETZ: Okay. Any --

MS. MCKAY-DRURY: I believe there's a photograph of the van. Is that the --

MR. SPENCER: That's one of -- I have three children under 8. So space is premium. I like to do woodworking.

So any space that I can have in the garage to have a shop area is going to be beneficial.

CHAIRPERSON MIETZ: Okay.

MS. MCKAY-DRURY: All that I have.

CHAIRPERSON MIETZ: Okay. Good. Other questions? Okay. Thank you very much.

Okay. Is there anyone on this call who would like to speak regarding this application? Okay. There being none, then the public hearing's closed.

Okay, friends. Do we need a couple minute break or would you like to proceed?

MS. MCKAY-DRURY: I'd like to take a quick break if we could please.

CHAIRPERSON MIETZ: Okay. How about five

minutes. It's 8:19.

MS. MCKAY DRURY: That will work. Thanks.

CHAIRPERSON MIETZ: Sounds good.

(End of public hearings.)

## 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 6th day of April, 2022  
at Rochester, New York.

*Holly E. Castleman*  
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HOLLY E. CASTLEMAN,  
Notary Public.

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**BRIGHTON**  
**ZONING BOARD OF APPEALS**  
**MEETING**  
**DELIBERATIONS**

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April 6, 2022  
At approximately 7 p.m.  
Brighton Town Hall Zoom  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

DENNIS MIETZ  
Chairperson

EDWARD PREMO	)	Board Members
HEATHER MCKAY-DRURY	)	
ANDREA TOMPKINS-WRIGHT	)	
JUDY SCHWARTZ	)	
KATHLEEN SCHMITT	)	
MATTHEW D'AUGUSTINE	)	

KEN GORDON, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

BRENDAN RYAN

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

CHAIRPERSON MEITZ: Let's talk. Let's talk about 320 Warrington.

MR. DiSTEFANO: Do you want to just start -- go through it from getting on? That is the beginning.

CHAIRPERSON MIETZ: Yes that is the beginning. That's what we'll do.

Okay. They are located in central Brighton at 320 Warrington. Okay. So does anyone have any concerns about this application?

MS. TOMPKINS-WRIGHT: I don't.

MR. PREMO: I don't.

CHAIRPERSON MIETZ: Okay. I have it so. Yeah. I don't either. I think it's pretty straightforward. Okay.

**Application 4A-01-22**

Application of Anthony and Tosha Gutilla, owners of property located at 320 Warrington Drive, for an Area Variance from Sections 203-2.1B(3) and 203-9A(4) to allow for a detached garage to be constructed 2.4 feet from a rear lot line and 2.4 feet from a side lot line in lieu of the minimum 5 foot setback from all lot lines as required by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve application 4A-01-22 based on the following findings of fact.

**Findings of Fact:**

1. The existing garage and shed are deteriorated and require replacement.
2. The owner is desirous of incorporating the shed structure into a rebuilt garage using the existing footprint, which is approximately 2.4 feet from the rear and side property lines.
3. No negative effect on the character of the neighborhood will be expected from the construction of this garage at 2.4 feet. Many similar garages are located within the subject's neighborhood. And vegetation that exists on the neighboring property minimizes view of it and it will materially not be

changed from the current.

**Conditions:**

1. It's based on the testimony given and plans submitted as to the specific location of the garage.
2. All necessary building permits shall be obtained.

(Second by Ms. Tompkins-Wright.)

MR. GORDON: Hey, Rick. I'm interrupting. I'm going to start interrupting and try to push my agenda for you're getting us back on Robert's rules.

So once a motion is made and seconded, can we just take a pause and see if there are any members who have any comments to discuss about the motion now that it's actually been made? Can we just get in the habit of doing that please?

CHAIRPERSON MIETZ: I would imagine we could do that. But you'll probably remind us because we'll probably forget.

MR. GORDON: I know. I know. I'm slowly making little changes here. But that's what I think is more in accordance with Robert's rules is to just have this discussion once a motion has been made. And then we also if anybody thinks of anything that they believe would lead someone to offer an amendment or to table the application, that would be the time to do that as well.

CHAIRPERSON MIETZ: Okay. That's fine.

MR. GORDON: Thank you. Thank you.

CHAIRPERSON MIETZ: No problem. We need to have happy attorneys here in the Town of Brighton. So that's what we'll try to do.

MR. GORDON: Appreciate it.

MR. PREMO: Half of them are on this Board.

CHAIRPERSON MIETZ: Yes. There's many of you. We're surrounded. All right. Okay.

So is there any discussion about said motion? Okay. All right.

MR. DiSTEFANO: The motion is to approve with conditions.

(Ms. Schmitt, yes; Ms. McKay-Drury, yes; Ms. Schwartz, yes; Mr. D'Augustine, abstain; Mr. Premo, yes; Ms. Tompkins-Wright, yes; Mr. Mietz, yes.)

(Upon roll motion to approve with conditions carries.)

CHAIRPERSON MIETZ: Okay. So the next is 250 -- or excuse me -- 285 Metro Park. It's the temporary trailer. Any concerns here?

MS. TOMPKINS-WRIGHT: There are locations in Brighton that I would not want this temporary trailer. This isn't one of them.

CHAIRPERSON MIETZ: Okay. All right.

MR. PREMO: Yeah. I mean, they're -- I was a little surprised because they do have those big tanks or something out there. I thought that's where the trailer was going to go. But I guess it's going to go next to it. But as Andrea said, it's, you know, surrounded by other similar uses, lot space around it. But I don't see a problem with it.

What I was going to suggest is just to make it easier, we'll just make it limited to 12 months.

MS. TOMPKINS-WRIGHT: Yes. Absolutely.

MR. PREMO: They asked for 9 to 12. Might as well make it 12.

CHAIRPERSON MIETZ: Okay. Yup. Okay. All right. If there's no other concerns, then please proceed with your motion.

**Application 4A-02-22**

Application of Evolve Additive Solutions, Inc., lessee, and Ahead Energy Corporation, owner of property located at 285 Metro Park, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a storage trailer on site for a period of 9 to 12 months where not allowed by code. All as described on application and plans on file.

Motion made by Mr. Premo to approve application 4A-02-22 based on the following findings of fact.

**Findings of Fact:**

1. The temporary revocable use permit to allow a temporary use of land is a Type II action pursuant to 6 NYCRR § 617.5(c)(21) and no further review is required pursuant to the State Environmental Quality Review Act.
2. The temporary storage trailer will be placed in an existing parking lot in an industrial park. The location will not have an adverse impact on the adjacent uses and will allow temporary storage while a more permanent solution is found by the owner.
3. The requested temporary revocable use permit is a reasonable use of the property.

**Conditions:**

1. One based on the plans submitted, testimony given.
2. This permit is for a maximum of 12 months from issuance
3. No hazardous materials to be stored in the trailer.

(Second by Ms. Schwartz.)

CHAIRPERSON MIETZ: Okay. Is there any discussion about this application and this motion? Okay, Rick.

MR. DiSTEFANO: Motion is to approve with conditions.

(Mr. D'Augustine, abstain; Mr. Mietz, yes; Ms. McKay-Drury, yes; Ms. Schmitt, yes; Ms. Tompkins-Wright, yes; Ms. Schwartz, yes; Mr. Premo, yes.)

(Motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Okay. Very good. Thank you. Okay. So then we're moving over to CCR with the tents. Okay. So we had the letter from -- I think everyone understands the letter from Chris Roth. Sounds like there was some open issues obviously okay. So what are people's thoughts here?

MS. SCHWARTZ: I'm fine with it. This is Judy. It's a continuation of a plan -- a variance they've obtained in the past.

My question to you is, and it can come up when we do the conditions, but can we put in something in condition regarding the placement of the tent and either more care or something because of the letter from the Fire Marshal?

CHAIRPERSON MIETZ: Well, obviously we can put whatever condition -- it sounds like it's really more of a coordination and discussion issue that didn't happen. I presume they have a professional company that puts these --

MS. SCHWARTZ: She said they do. She said they do.

CHAIRPERSON MIETZ: Right. So they generally you would think would be familiar. It would seem like what's required here is a meeting with Chris Roth just to set the rules of the road. And then they

obviously need to follow them because, you know, we can't obviously have him showing up there or getting complaints that there's flames coming or, you know, whatever other concerns there might be.

MR. PREMO: Well, do we -- do we condition and based upon Fire Marshal approval?

MR. DiSTEFANO: Yeah. So those -- in conditions, normally we issue a TNR. And that includes a tent. We always require that they get all necessary permits from the Fire Marshal.

I think what may have happened is that they applied for the permit from Chris and then they go out there and the tent is all constructed and not constructed in the right place.

MS. SCHWARTZ: Right.

MR. DiSTEFANO: So now they have this event that's taking place. They don't have the time to take down the tent and, you know, we install it. So Chris is caught between a rock and a hard place, you know, shutting them down or telling them hey, you guys are not meeting code.

CHAIRPERSON MIETZ: Right. Now, Ken -- Ken, just a quick question for you. Let's just say the first one -- they have the meeting. The first one goes up. And then the second one there's a problem

again. I mean, do we have an option to curb the remaining part of this variance if they were not to cooperate and put one up inappropriately?

MR. GORDON: Yeah. A couple things. One is I would suggest that we have language similar to what Rick suggests that is custom, but in addition, that perhaps we consider adding a condition that the meeting with the Fire Marshal take place prior to the construction or erection of the temporary tent and make that an expressed provision and condition in the TNR.

And then it's revocable. It's part of the name of the permit; right?

CHAIRPERSON MIETZ: Yeah. I just wanted you to --

MR. GORDON: So, yeah. They revoke -- if they violate a condition, by code the TNR can be revoked. So absolutely.

CHAIRPERSON MIETZ: Okay. Okay. Good. All right. So other questions by the Board members just before we look at those? Or concerns?

MR. GORDON: The only other thing I wanted --

MS. MCKAY-DRURY: It sounds like that some additional language is justified here. So I feel what

Ken is proposing with the conditions has a little bit more of a plan for what order things need to happen in so that it's not -- so he's not -- the Fire Marshal's not put in that position.

CHAIRPERSON MIETZ: Right. It's also onerous for him if there's six events that he needs to come and have a meeting in front of everyone -- every one of those events. It would seem to me that if the meeting was held at the beginning and the contractor or whoever's putting these tents up and understands it, then if subsequently there's an inspection and it's not correct, then that's where the trigger might get pulled.

MR. GORDON: Yeah. Giving the Fire Marshal the, you know, toolkit so to speak to be able to more timely address these and not be between a rock and a hard place.

The only thing I wanted to address was these heaters. And Andrea, was it you who was asking the question about the heaters?

MS. TOMPKINS-WRIGHT: Yes.

MR. GORDON: Yeah. I was confused and I thought I saw a look of confusion on your face as well as to his answers -- or her answers. Because at first I thought she said, well, we've never been told we

can't use the propane heaters. But then at the end she said, well, of course, we'd never put one of those propane heaters under one of our temporary tents.

MS. TOMPKINS-WRIGHT: I know. Which is the only thing I care about.

MR. GORDON: Right. I think that's the only thing Chris Roth cares about.

MS. SCHWARTZ: But is this a New York State law?

MS. SCHMITT: I think that's what -- that's what I heard her to say that she thought it wasn't a requirement. She thought it was a suggestion versus the mandate. That's how I heard it.

CHAIRPERSON MIETZ: Under -- understand if our Fire Marshal says that he doesn't want open flame underneath that open tent, then whether it's a state law or not, that's something we can inflict.

So whether other towns or other places allow it is not really our problem; right?

MS. SCHMITT: I don't disagree with that. I just didn't think it was just that inconsistent. I thought she was just trying to express that she had never heard it was a state law.

CHAIRPERSON MIETZ: Okay. That's fine.

MR. DiSTEFANO: Yeah. And this could be a

relatively new law.

MS. SCHWARTZ: Right.

MR. DiSTEFANO: I mean, this the 2020 fire code. The new fire code may have come out last year.

So I think it's important that, you know, we maybe just make that -- as stated in Chris's letter, we just reiterate that -- you know, that last paragraph, temporary heating, you can't use the portable --

CHAIRPERSON MIETZ: Open flame. Yup.

MR. GORDON: Or temporary heating only approved portable forced air heating units shall be provided, et cetera.

MS. MCKAY-DRURY: It's certainly not worded as a suggestion in here. And I think that we can credit the work that he uses. I mean, he's indicating that these -- that style pedestal heaters and other propane appliances under a temporary structure are strictly prohibited by the 2020 fire code of New York State.

CHAIRPERSON MIETZ: Okay. That's fine.

MR. GORDON: Chris is never sloppy with the language he uses.

MR. DiSTEFANO: Let me just kind of touch base before you begin. With conditions, you're going

to want to touch on the length of the event, six events for the year, 2022. Fire Marshal permits, the typical ones that we put on, all the required permits. And also a condition that prior to the first event, prior to the issuance of the -- prior to the erection of the first tent that they have a meeting with the Fire Marshal to discuss location of the tents -- the tent's location. And then the portable heater condition. So I got four conditions there.

MS. SCHWARTZ: Yeah.

MR. DiSTEFANO: Anybody else have anything --

MS. SCHWARTZ: Should we put ending hour or -- at 11 p.m.

MR. DiSTEFANO: Well, she did say noise ordinance. We certainly can say the event shall end by 11 o'clock, sure. I don't have a problem with that.

MS. SCHWARTZ: Just to BE on the safe side.

CHAIRPERSON MIETZ: Sure. Sure. Does anyone have any OTHER concerns before Judy goes ahead with the motion to discuss or throw on the table here?

MS. SCHWARTZ: I thank Kathleen because this was hers from last year's, using most of it and then just seeing what else comes up.

CHAIRPERSON MIETZ: Okay.

**Application 4A-03-22**

Application of the Country Club of Rochester, owner of property located at 2935 East Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to erect a tent and hold up to six (6) outdoor weddings/club special events for the year 2022. All as described on application and plans on file.

Motion made by Ms. Schwartz to approve Application 4A-03-22 based on the following findings of fact.

**Findings of Fact:**

1. The applicant is requesting a variance to allow an erection of a tent and hold up to six outdoor wedding and club special events for the remainder of the year 2022.
2. Granting of the permit will not negatively impact the health, safety or general welfare of the community. The tent will be installed by a professional tent company and will only be for special events and weddings.
3. The special events will last no more than a day and conclude by 11 p.m.
4. There is ample parking to accommodate the event-goers.

5. Granting of the request will not result in a change of the character of the neighborhood or be detrimental to surrounding properties as the location of the proposed tent is within the confines of the country club grounds behind the club not clearly visible from the road.

**Conditions:**

1. The application is granted per the application submitted and testimony given for the remainder 2022 for up to six events per year.
2. All necessary Fire Marshal permits shall be obtained.
3. A meeting with the Fire Marshal shall take place prior to the setting up of the tent for correct and safe location.
4. There will be no gas portable open flame heaters.

MS. SCHWARTZ: And I didn't catch it. What did you say? Something about forced hot air can be used; is that correct?

MR. DiSTEFANO: I think what you should do, Judy, is just really read it just like Chris wrote it here. So condition number 4, I'll just read it here, Judy.

MS. SCHWARTZ: Please do.

**Conditions Continued:**

4. If temporary heating is requested, only approved portable forced air heating units shall be provided. Portable LP gas fire pedestal style heaters or other propane appliances used under a temporary structure are strictly prohibited by the 2020 Fire Code of New York State and the manufacture product listing.

MS. SCHWARTZ: Thank you. Okay. And I don't think it's necessary to repeat 11 p.m. because she said that and we put in findings of fact. So that's all I have. Thank you.

CHAIRPERSON MIETZ: Can I have a second?

MS. MCKAY-DRURY: Before we -- if I have a slight modification.

CHAIRPERSON MIETZ: Okay. Go ahead.

MS. MCKAY-DRURY: When she indicated that meeting needs to take place, I don't think she limited to the first construction of the first tent.

MS. SCHWARTZ: She wants --

MR. DiSTEFANO: I'm sorry. What was the concern?

MS. MCKAY-DRURY: Limited --

MS. SCHWARTZ: Yes. I mean, you know, they could do it correctly the first time. I'm comfortable with them meeting each time to be sure if the Board goes along with it or do you think the first time will be sufficient?

MR. DiSTEFANO: I hope the first time is sufficient. I don't want to put the burden on Chris that he's got to meet with them six times because they can't get their you know what together.

MS. SCHWARTZ: So then if they are in

violation, then they're --

MR. DiSTEFANO: If they're in violation -- if Chris goes out there and finds them in violation, then Chris can come back and say they did it wrong again after the first time. And then we can act on it and say, okay, you guys --

MS. SCHWARTZ: Okay.

MR. DiSTEFANO: We're allowed to say we're going to revoke your permit.

MS. SCHWARTZ: Okay. I'm fine then.

MR. GORDON: So jumping in as parliamentarian again, could we first get a second to the proposed motion?

MS. SCHMITT: I second it.

MR. GORDON: All right. And then Judy, would you accept as a friendly amendment suggested by Heather the insertion of the word "first" when you talk about setting up the first tent? Would you accept that as a friendly amendment?

MS. SCHWARTZ: I certainly do.

MR. GORDON: And Kathleen would you also.

MS. SCHMITT: Yes.

MR. GORDON: All right. There you go.  
Okay.

**Amended Condition:**

3. A meeting with the Fire Marshal shall take place prior to the setting up of the first tent for correct and safe location.

CHAIRPERSON MIETZ: Okay. Very good. So we have a second. Is there any discussion about this motion? Okay.

(Mr. Mietz, yes; Mr. D'Augustine, abstain; Ms. Tompkins-Wright, yes; Mr. Premo, yes; Ms. McKay-Drury, yes; Ms. Schmitt, yes, Ms. Schwartz, yes.)

(Upon roll motion to approve the application with conditions carries.)

CHAIRPERSON MEITZ: Okay very good. All right. The next application is the Sawgrass food truck. Is there anyone having any concerns about this?

MS. TOMPKINS-WRIGHT: I have no concerns.

CHAIRPERSON MIETZ: All set. Okay. Very good. It's Kathleen.

MS. SCHMITT: All right. Well, and here Ed gives a shout out because it was so excellent last year, I am stealing almost verbatim for what he did.

**Application 4A-04-22.**

Application of Brielle Messing, agent, and Ralph DiTucci, Castle Office Group, LLC, owner of property located at 180 Sawgrass Drive, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow a food truck on site once per week from May through August 2022 where not allowed by code. All as described on application and plans on file.

Motion made by Ms. Schmitt to approve application 4A-04-22 based on the following findings of fact.

**Findings of Fact:**

1. The requested temporary and revocable use permit is a Type II action pursuant to 6 NYCRR § 6717.5(v)(21) and no review is required pursuant to the State Environmental Quality Review Act.
2. The temporary use permit is consistent with the medical offices and the ambulatory surgical center uses in the area and provides a temporary amenity for the URMC medical staff.
3. The requested time duration is consistent with the reasonable use of the parcel and is the minimum relief necessary.
4. A single self-contained food truck will not adversely affect or impact public facilities.

5. The food truck once a week for three to four hours during the months of May, June, July and August will not produce a change in the character of the neighborhood or a detriment to the public.
6. The location of the food truck is a large parking field. Provisions of trash and recycling containers and the fact that only one properly licensed food truck will be allowed to ensure adequate protection of the health, safety and community character.
7. The food truck will provide a welcomed amenity to the URMC health care staff.

**Conditions:**

1. This temporary and revocable permit is based on the drawings, documents and testimony provided.
2. The applicant will provide adequate trash and recycling containers for use by customers of the food truck and be responsible for trash removal.
3. The food truck will only operate one time per week for three to four hours at a time.
4. The food truck on the site must be currently licensed and successfully completed the 2022 Fire Safety Inspection by the City of Rochester Fire Department, which establishes full compliance with the 2021 Fire Code of the State of New York, Section 319.

(Second by Ms. McKay-Drury.)

CHAIRPERSON MIETZ: Is there any discussion about the motion?

MR. PREMO: I do have, what I guess Ken called, a friendly amendment.

MR. GORDON: I know what you're going to do Ed, of course.

MR. PREMO: So the code sections were wrong. So it should be 6 NYCRR § 617.5(c) (21).

MS. SCHMITT: Oh, C as in cat. Okay. It was listed as V.

MR. PREMO: No. C.

CHAIRPERSON MIETZ: Guess we missed it.

MR. PREMO: Ken, you made a face.

MR. GORDON: Only because I thought it was (b) (21). But okay.

MR. PREMO: I'll double check while we're sitting here.

CHAIRPERSON MIETZ: So are folks making a --

MR. GORDON: (C) (21). He's right. Cat.

MS. SCHMITT: I accept the friendly change.

CHAIRPERSON MIETZ: Okay. And whoever made the second? I'm sorry. I didn't hear.

MS. MCKAY-DRURY: It was me. And yes.

CHAIRPERSON MIETZ: Okay let's proceed.

**Amended Finding of Fact:**

1. 1. The requested temporary and revocable use permit is a Type II action pursuant to 6 NYCRR § 6717.5(c)(21) and no review is required pursuant to the State Environmental Quality Review Act.

(Ms. Schwartz, yes; Ms. Tompkins-Wright, yes; Mr. Mr. D'Augustine, abstain; Mr. Mietz, yes; Mr. Premo, yes; Ms. McKay-Drury, yes; Ms. Schmitt, yes.)

(Upon roll motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Next one is the Meadowbrook and that relates to the porch. So any thoughts here?

MS. SCHWARTZ: Judy. I think it's fine. They really put a lot of thought into it and were careful with measurements and so on. And it's -- it's really a nice addition.

And there's another porch on the street and the little one up at the corner that we approved. So I'm all in favor.

CHAIRPERSON MIETZ: Okay. Does anyone else have any concerns related to this? Yeah. I think it's good too.

And then, Rick, is there any difficulty with the little modification that ARB is making them to make from the original application? Should we --

MR. DiSTEFANO: No. As long as it doesn't affect the footprint, which it doesn't, then, no.

CHAIRPERSON MIETZ: It'll actually make it a little smaller actually. Okay. Okay.

MR. GORDON: Did you -- would you want to have as a condition ARB approval?

MR. DiSTEFANO: Yeah. That's a standard.

CHAIRPERSON MIETZ: Yeah, we always do.

MS. TOMPKINS-WRIGHT: I have that in the

application already.

CHAIRPERSON MIETZ: Okay, Andrea.

**Application 4A-05-22**

Application of Duane and Brenda Smullen, owners of property located at 55 Middlebrook Lane, for an Area Variance from Section 205-2 to allow a front porch to extend 5 feet into the 40 foot front setback required by code. All as described on application and plans on file.

Motion made by Ms. Tompkins-Wright to approve Application 4A-05-22 based on the following findings of fact.

**Findings of Fact:**

1. The granting of the requested front yard variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The proposed project is consistent with several other front porches constructed in the neighborhood that intrudes into the front yard setback and it will appear consistent with surrounding properties.
2. The requested variance is not substantial as it represents less than a 15 percent increase in the setback as required by code and also in light of the fact that other porches in the neighborhood and on the street have similar setbacks. The open nature of the porch also mitigates the intrusion into the setback.

3. The benefit sought by the applicant cannot reasonably be achieved by any other method or without a variance. The property's current setback of 43 feet would not fit construction of a usable porch without a variance permitting construction of said porch in the front setback.

4. There's no evidence that the proposed variance will have an adverse or impact on the physical or environmental conditions of the neighborhood or distinct.

**Conditions:**

1. The variance granted herein only applies to the porch described in and in the location that's depicted on the application and in the testimony given.
2. All necessary permits and Architectural Review Board approvals must be obtained.

(Second by Ms. Schwartz.)

CHAIRPERSON MIETZ: Any discussion about this motion?

MR. DiSTEFANO: Can we just add building permits?

MS. TOMPKINS-WRIGHT: Well, I said necessary permits.

MR. DiSTEFANO: Okay. That's fine. I don't have --

MS. TOMPKINS-WRIGHT: I mean, I can amend to all necessary building permits and Architectural Review Board approvals.

MR. DiSTEFANO: Yes. That's what I would like.

MS. TOMPKINS-WRIGHT: So I'll accept -- I'm amending my motion that all necessary building permits and Architectural Review Board approvals must be obtained.

**Amended Condition:**

2. All necessary building permits and Architectural Review Board approvals must be obtained.

CHAIRPERSON MIETZ: Okay and second?

MS. SCHWARTZ: Agreed.

(Ms. Schmitt, yes, Ms. McKay-Drury, yes;  
Mr. Mietz, yes; Mr. D'Augustine, abstain;  
Mr. Premo, yes; Ms. Schwartz, yes;  
Ms. Tompkins-Wright, yes.)

(Upon roll motion to approve application  
with conditions carries.)

CHAIRPERSON MIETZ: Okay. So the next one is just the extension of the previous variance of the garage. Any concerns there?

MS. SCHWARTZ: No.

CHAIRPERSON MIETZ: Okay. Heather.

MS. MCKAY-DRURY: Yeah. I just had a quick question. If we don't specify a time period for these sorts of variances, how long are they in effect?

MR. DiSTEFANO: One year. They need to pull a permit and they need to diligently start construction within a year of the granting of the variance.

MS. MCKAY-DRURY: Okay.

MR. DiSTEFANO: So that's why they came back because there's no way he was going to be able to start construction within a year, even if he walked in today with his building permit application. So he needed the extension of the year.

MS. MCKAY-DRURY: Okay. Well, thank you for the clarification.

**Application 4A-06-22**

Application of Jeffrey Gardiner, owner of property located at 45 Knolltop Drive, for extension of an approved Area Variance (4A-05-21) allowing for a garage addition to extend 6 +/- feet onto the 40 foot front setback required by code. All as described on Application and plans on file.

Motion made by Ms. McKay-Drury to approve application 4A-06-22 based on the following findings of fact.

**Findings of Fact:**

1. That the proposed variance would not create a substantial change to the neighborhood. Many nearby residents have had additions with similar construction and footprint. And in walking the adjoining street Knolltop, it's apparent the average front yard setback in this neighborhood is far less than 40 feet.
2. The difficulty necessitating can't be solved in another manner not involving a variance. Given the current home layout and the location of entryways as well as the drainage swale in the rear yard, the requested variance is necessary to satisfy the needs of the applicant and permit construction of a garage appropriately sized for modern vehicles.
3. The requested variance is not substantial given

that the increase represents only 10 percent of the code specified minimum and the front steps of the home already extend the same distance into the yard.

4. The variance is the minimum necessary to grant relief from the difficulty.

5. There is no evidence that the variance will have an adverse effect on the physical or environmental conditions in the neighborhood.

**Conditions:**

1. The variance granted herein applies only to the renovation described in the application and the testimony given.

2. All necessary building permits must be obtained.

MS. MCKAY-DRURY: I'm not sure if  
Architectural Review Board needs to be a condition?

MR. DiSTEFANO: Yes.

MS. MCKAY-DRURY: Okay.

MR. DiSTEFANO: This is the addition; right?  
So the garbage addition, yes. It does -- attached  
garage addition. We can add that too. I don't know  
if it just got missed the last time or what.

MS. MCKAY-DRURY: So that second condition  
then will read all necessary building permits and  
Architectural Review Board approvals must be obtained.

**Amended Condition:**

2. All necessary building permits and Architectural Review Board approvals must be obtained.

(Second by Ms. Schwartz.)

CHAIRPERSON MIETZ: Any other comments or discussion on this motion?

(Mr. Premo, yes; Ms. Tompkins-Wright, yes; Mr. Mr. D'Augustine, abstain; Mr. Mietz, yes; Ms. Ms. Schmitt, yes, Ms. Schwartz, yes, Ms. McKay-Drury, yes.)

(Motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Okay. Very good. Okay. The next application relates to Indian Spring Lane on the generator on the side yard. Any concerns here?

MS. TOMPKINS-WRIGHT: I had no concerns, but just in light of maybe other applications, I would probably point out in our facts that the distance from the road, the distance from the neighbor.

CHAIRPERSON MIETZ: Agreed. Yeah. The shape of this lot, you know, there's -- as we go through all these generators, every setting is different. So when we talk broadly about a side or rear yard just comparing like to Cardiff there, you know, it's quite a different situation.

So we just have to always make sure we're clear about that. That's important. Okay. So I have it.

**Application 4A-07-22**

Application of Vincent and Kimberly Nolan, owners of property located at 81 Indian Spring Lane, for an Area Variance from Section 203-2.1B(6) to allow a standby emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve application 4A-07-22 based on the following findings of fact.

**Findings of Fact:**

1. The proposed location of the generator in the side yard is preferable since access to necessary utilities is difficult to have it placed in the rear of the structure.
2. The proposed location is 70 feet from the nearest neighbor's structure and 135 feet from the street and barely visible.
3. No other location on the property and rear yard would meet the needs of the applicant
4. No negative effects on the character of the neighbor will result. From the placement in this location and existing and proposed landscaping will mitigate the view in the side yard.

**Conditions:**

1. It's based on the drawings submitted and testimony given in relation to the specific size and location of the unit.
2. All necessary permits shall be obtained.
3. The Town's decibel ratings for this unit shall be met.

MR. DiSTEFANO: I don't know if it's proper for me to make the comment before --

CHAIRPERSON MIETZ: Well, let's do the second first and we'll follow up with the parliamentarian.

MS. MCKAY-DRURY: I'll second it.

CHAIRPERSON MIETZ: Okay. So what are your comments, sir?

MR. DiSTEFANO: My comments are one, I don't know if we need a decibel condition because it was in application and they know they got to meet code, but that's one thing. Do you want to make a condition regarding screening since you mentioned --

CHAIRPERSON MIETZ: Yeah. I mean, he wasn't a hundred percent specific. So we could add -- we could trade number 3 then and suggest that landscaping as proposed by the applicant shall be installed.

He did talk about a couple possibilities. So again, we don't want to design the landscape.

MR. DiSTEFANO: Yeah. I don't want to be specific on what type of landscape or anything like that. I think --

CHAIRPERSON MIETZ: I think what I said --

MR. DiSTEFANO: -- help screen the unit.

CHAIRPERSON MIETZ: As proposed. Because he

did propose it okay.

MS. MCKAY-DRURY: And I'm in agreement.

CHAIRPERSON MIETZ: Thank you.

MR. DiSTEFANO: So we removed the number 3 regarding the decibel level and replaced it with landscaping as proposed; correct?

CHAIRPERSON MIETZ: Yup. And we're both good with that.

**Amended Condition:**

3. Landscaping as proposed by the applicant shall be installed.

(Ms. Schwartz; yes; Ms. Tompkins-Wright, yes; Mr. Premo, yes; Ms. Schmitt, yes; Mr. D'Augustine, abstain; Ms. McKay-Drury, yes; Mr. Mietz, yes.)

(Upon roll motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: So the next application is Midland Avenue. It's an interesting area up there. It's a lot of interesting situations up there.

MR. PREMO: Yeah. No. It's -- we've had -- last year we had another variance where they combined their lots. This is -- they're -- you know, now that I've been out there a couple times, you can see they want to age in place. They're looking at expanding a little bit further. They're upgrading.

I think getting this grinder pump and being able to connect to the sewers is a positive thing.

Now, Rick, they said they're connecting at Willard Road. Is that a town sewer?

MR. DiSTEFANO: That sewer was extended as part of the subdivision that just went in. That is a dedicated town line now.

MR. PREMO: And so they couldn't reach it because of the gravity situation so they need a pump, is that idea?

MR. DiSTEFANO: That's why they need the pump. Right. Because his property's lower than the -- than the --

CHAIRPERSON MIETZ: The connection to the sewer.

MR. DiSTEFANO: The connection point.

Right.

MR. PREMO: And so he puts in a individual pump versus a pump station someplace?

MR. DiSTEFANO: He's got -- on this site it basically goes -- the grinder is a pump.

MR. PREMO: Okay.

MR. DiSTEFANO: So sewage leaves his house, goes into this grinder and is pumped to the sewer line that's out at the road.

MR. PREMO: Okay.

MR. DiSTEFANO: It's got to pump it uphill a little bit. It can't be gravity fed.

MR. PREMO: Yup. And that's an improvement. It always strikes me that's an improvement over having septic fields.

CHAIRPERSON MIETZ: Yup.

MR. DiSTEFANO: Yes.

CHAIRPERSON MIETZ: Yeah --

MR. DiSTEFANO: Yeah. We like to see people connecting to sewers.

CHAIRPERSON MIETZ: Okay. Sounds good. So is there any other concerns about this before I proceed? Seems pretty straightforward. A little complicated, but straightforward.

**Application 4A-08-22**

Application of James and Karen Coffey, owners of property located at 36 Midland Avenue, for an Area Variance from Section 203-1.1B(8) to allow a standby emergency generator to be located six (6) inches from a rear (east) lot line and 9+/- feet from a side (north) lot line in lieu of the minimum 10 foot setback required by code. All as described on application and plans on file.

Motion made by Mr. Premo to approve application 4A-08-22 based on the following findings of fact.

**Findings of Fact:**

1. The requested area variance for a single-family home is a Type 2 action pursuant to 6 NYCRR § 617.5(c) (16) and (17) and no review is required pursuant to the State Environmental Quality Review Act.
2. The requested variance is to allow the location of a standby generator to, among other things, power a sewer grinder pump to allow access to Town sewers for the existing house. The house was built in 1929 and sits on a pre-existing legal nonconforming lot with little rear yard setbacks. The location is required because of the placement of utilities and the house.

3. No other alternatives can alleviate the difficulty and produce the desired result. As noted the lot a pre-existing legal nonconforming lot and there is little space to the rear lot line. The variance is minor in circumstances and does not alter existing conditions. The connection to the sewer will allow an existing septic system to be discontinued.

4. There will be no unacceptable change in character of the neighborhood and no substantial detriment to nearby properties is expected. The standby generator will be placed within an existing stockyard fence enclosure and will not be visible from other properties.

5. The hardship was not self-created by the applicant.

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

**Conditions:**

1. The variance is based on the application submitted and only authorizes the project as described therein
2. Subject to obtaining necessary permits and inspections.

(Second by Ms. Schwartz.)

CHAIRPERSON MIETZ: Okay. Any discussion

about this application -- or the motion? Okay. Very good.

MS. MCKAY-DRURY: The only thing that I would note is just that in comparing with others that there was testimony with respect to the neighbor to the north is blocked by the fencing and a shed before there's any neighboring structures residential-wise.

MR. PREMO: Okay. So if I could amend where I talk about the generator will be placed within an existing stockyard fence. Now add a last sentence to point 4. The neighbor to the north also has a shed that will help screen the standby generator from their house.

Does that work?

CHAIRPERSON MIETZ: Sound reasonable. Okay.

MR. DiSTEFANO: Judy, you okay with that? Judy, are you okay with that amendment?

MS. SCHWARTZ: Yes.

**Amended Finding of Fact:**

4. There will be no unacceptable change in character of the neighborhood and no substantial detriment to nearby properties is expected. The standby generator will be placed within an existing stockyard fence enclosure and will not be visible from other properties. The neighbor to the north also has a shed that will help screen the standby generator from their house.

(Ms. Schmitt, yes; Ms. McKay-Drury, yes; Ms. Tompkins-Wright, yes; Mr. D'Augustine, abstain; Mr. Mietz, yes; Ms. Schwartz, yes; Mr. Premo, yes.)

(Upon roll motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Andrea, can you handle these two? I'm going off again.

MR. MCKAY-DRURY: Andrea, you're muted.

MR. DiSTEFANO: You're taking over for Dennis on these two.

MS. TOMPKINS-WRIGHT: Sorry about that. In my defense I've had incredible -- I've lost internet four times since our meeting began. So I feel like every once in a while everybody pauses. And I'm like, oh, do I have to log off and log back in?

Okay. Sorry about that. All right.  
Application -- do we take these as separate applications?

MR. DiSTEFANO: Yeah.

MS. TOMPKINS-WRIGHT: Yeah.

MR. DiSTEFANO: Individually.

MS. TOMPKINS-WRIGHT: All right.

Application 4A-09-22. Any discussion? This is the application for the setback line. Yeah. The setback for the actual building itself.

MR. DiSTEFANO: As mentioned in their discussion, I don't think it was clear, this Board granted a variance probably we're talking about maybe ten years ago when they broke out a separate building lot for a group home.

MS. SCHWARTZ: The Heritage.

MR. DiSTEFANO: And we granted a variance of -- I believe it was -- it was close to like 17 feet to the lot line of that -- it was a flag lot. So it was a 17 foot setback to the pole of that group home. So we have in the past granted relief on this property in regards to building setbacks.

MS. TOMPKINS-WRIGHT: The only thing I'll mention is that this type of a variance would apply even if the church use changed. This building could be repurposed for something else and that once we grant this variance, whatever building that is would still be permitted to be that close to the lot line.

MR. DiSTEFANO: Correct. And the thing is though the use would have to be a permitted use or they will need to get a variance or a use variance. I think this is common with a lot of churches.

MR. GORDON: And this use here -- the zoning here is --

MR. DiSTEFANO: Residential.

MR. GORDON: RLB.

MR. DiSTEFANO: This is just happening with churches in general. They're losing membership and they have to sell off assets. It's too bad.

But I think this is a good result to

maintain Twelve Corners there. That's my --

MS. TOMPKINS-WRIGHT: So any other comments about the application? If not, Judy, do you have a motion on this first one?

**Application 4A-09-22**

Application of Twelve Corners Presbyterian Church, owner of property located at 1200 Winton Road South, for an Area Variance from Section 203-2.1C(1) (a) to allow a church building setback of 57.9 feet after a lot line (subdivision) adjustment, in lieu of the minimum 100 feet required by code. All as described on application and plans on file.

The Board having considered the information presented by the applicant and having conducted the required review pursuant to SEQRA adopts the negative declaration prepared by Town staff and determines that the proposed action will not likely have a significant environmental impact.

Motion made by Ms. Schwartz to approve application 4A-09-22 based on the following findings of fact.

**Findings of Fact:**

1. The reason for the requested variance of a church building setback of 57.9 feet in lieu of the minimum 100 feet required by code is due to a lot line adjustment.
2. The lot line adjustment is a result of a parcel of church land being transferred to the Brighton School District.

3. This layout is the minimum variance as it allows the school district and the church to have maintenance access to the parcel.
4. No change in use for this parcel is proposed at this time. Therefore, the variance will not produce any visible change to the area.

**Conditions:**

1. This variance only applies to the building setback as described in the written application and testimony presented.

MS. SCHWARTZ: And Ken, you'll have to tell me if this is correct. Two, all necessary legal transactions must be obtained?

MS. TOMPKINS-WRIGHT: I don't think --

MR. GORDON: I don't think --

MS. SCHWARTZ: Nothing? Just that number 1?

MR. DiSTEFANO: Well, the only thing I can say is that we can condition your first one in case in the future time they want to go subdivide again and they're going to that 57 feet again. They can say, well, you gave us the right the first time so we can do it again without review.

So if you condition it just for this particular --

MS. SCHWARTZ: Application and testimony.

MR. DiSTEFANO: And if they come back at a later date, they're going to have to come back to us again.

MS. SCHWARTZ: Okay. So then just number 1.

MR. DiSTEFANO: So repeat your number 1 again.

**Conditions:**

1. This variance only applies to the building setback as described in the written application and testimony presented.

(Second by Ms. McKay-Drury.)

MS. TOMPKINS-WRIGHT: Judy, did you mention that the requested variance isn't substantial? Because that is one of the required findings we have to make for --

MS. SCHWARTZ: Yeah. I did not say that. That's a good point. Let me see. I could put it in with number 1. Okay. Listen to this Andrea and think.

The reason for the requested variance for the church building setback of substantial 57.9 in lieu of the minimum 100. Do you want it there? Because that's the only place where --

MR. GORDON: No, no. We want to make sure that the finding that is not a substantial --

MS. TOMPKINS-WRIGHT: Right.

MR. DiSTEFANO: But that's the problem. Because it is --

MS. SCHWARTZ: It is.

(Simultaneous conversation.)

MR. DiSTEFANO: Although it is a

substantial, why it doesn't have a impact.

MS. TOMPKINS-WRIGHT: Yeah. I would suggest adding a number that says something like it's not substantial in light of the fact that the location of the buildings and the -- you know, the neighbors aren't changing. I would sort of couch it like that like it's not substantial because the ownership is staying the same and the location of any structures is saying the same.

MS. SCHWARTZ: Well, it's not the -- the ownership is not staying the same. That's the reason for the variance.

MR. DiSTEFANO: Yeah.

MS. TOMPKINS-WRIGHT: I mean, the ownership -- like the two neighboring properties will still be the same even though the lot line changes.

MS. SCHWARTZ: Okay. So --

MS. TOMPKINS-WRIGHT: The adjoining properties will not change. And we can talk about language, but we do need to say it's not substantial in the motion.

MR. GORDON: Yeah. That has to be a finding.

MS. MCKAY-DRURY: Well, I think Rick just also told us that we've approved before something that

goes down to 17 feet. So while 50 percent might not be a tiny amount, it's certainly not the most substantial that we've approved even within this area.

MS. SCHWARTZ: Okay. So Andrea, if we said the variance is not substantial in that -- what was that? What did you add?

MS. TOMPKINS-WRIGHT: I would say in light of the fact that the adjoining property owners will remain the same and no structure will move, you know, or change locations as a result of this lot line change.

MS. SCHWARTZ: Okay. Because I did one of my findings was that there would be no -- no changes in use for this parcel are proposed at this time. Therefore the variance will not produce any visible change in the area. Is that --

MS. TOMPKINS-WRIGHT: I think that still stands. I just think you need something else.

MS. SCHWARTZ: So then I will say number 5, this variance is not substantial in light of the fact that the adjacent property owner will remain the same. Right? Because they.

MS. TOMPKINS-WRIGHT: And maybe -- I don't know. Go ahead, Rick.

MS. SCHWARTZ: You don't like it?

MR. DiSTEFANO: No.

MR. GORDON: I would like something more generic like --

MS. SCHWARTZ: I hope the stenographer gets this. Go ahead.

MR. GORDON: The requested area variance is not substantial given the overall size, dimension and location of the property and the uses adjacent to the parcel.

MS. SCHWARTZ: Okay. Thank you.

MR. GORDON: Rick?

MR. DiSTEFANO: Yeah. I think that's pretty generic.

MS. SCHWARTZ: Okay. So that would be number --

MS. TOMPKINS-WRIGHT: Did we --

MR. DiSTEFANO: Holly, did you get that as a fifth finding?

(There was a discussion off the record.)

MS. TOMPKINS-WRIGHT: And then Heather, are you okay with that amendment?

MS. MCKAY-DRURY: Yes.

**Amended Finding of Fact:**

5. The requested area variance is not substantial given the overall size, dimension and location of the property and the uses adjacent to the parcel.

MS. TOMPKINS-WRIGHT: Any further discussion on this motion? If not, I think, Rick, we're ready for a vote.

(Ms. Schmitt, yes, Mr. D'Augustine, abstain;

Mr. Premo, yes; Ms. Tompkins-Wright, yes;

Ms. McKay-Drury, yes; Ms. Schwartz, yes)

(Upon roll motion to approve application with conditions carries.)

MS. TOMPKINS-WRIGHT: Now, moving to 4A-10-22. This is the side lot -- side setback lot for the parking. Yup. Any comments? Any issues with approval on this application?

MS. MCKAY-DRURY: No.

MR. DiSTEFANO: Before you go -- Andrea, just before you go I think kind of getting around your substantial request here, you certainly can -- or whoever is making the motion can certainly say that it is actually -- there's a cross access easement that's going to be placed over it for access for both properties, for use by both properties.

So that really is, you know, the reason to grant them the variance right there.

MS. TOMPKINS-WRIGHT: Kathleen, did you get that for that number?

MS. SCHMITT: I have to say I'm feeling like I have COVID brain right now. I did not understand what Rick was saying about the variance. So I apologize.

MR. DiSTEFANO: The 4 foot setback, where they put that new property line, so it basically goes right through the existing pavement, both the school and the church will have cross access easement over it so they both can basically use it as far as pulling in

and out.

So therefore if you're going to share your parking lot, you're going to have a zero setback for pavement.

MS. SCHMITT: Okay.

MS. MCKAY-DRURY: Point being that that goes to the finding of fact regarding substantial.

MR. DiSTEFANO: Right.

MS. SCHMITT: Thank you. I thought that was why we should grant it and I was like, oh. Okay. I'm going to have to fix that.

**Application 4A-10-22**

Application of Twelve Corners Presbyterian Church, owner of property located at 1200 Winton Road South, for an Area Variance from Section 207-10E(5) to allow pavement and parking, after a lot line (subdivision) adjustment, to be up to a side (North) lot line in lieu of a minimum setback of 4 feet as required by code. All as described on application and plans on file.

The Board having considered the information presented by the applicant and having conducted the review required pursuant to SEQRA adopts the negative declaration prepared by Town staff and determines that the proposed action will not likely have a significant environmental impact.

Motion made by Ms. Schmitt to approve application 4A-10-22 based on the following findings of fact.

**Findings of Fact:**

1. The applicant Twelve Corners Presbyterian Church is seeking to have two parcel sections transferred through a lot line adjustment of the main church parcel and merged with the Brighton School District Property. As part of a proposed transfer the church is requesting this variance to allow a pavement and

parking, after a lot line (subdivision) adjustment, to be up to a side (north) lot line in lieu of the minimum setback of 4 feet as required by code.

2. There will be no change in use at this time.
3. The transfer of the parcel is causing the need for this variance and will not have an impact on the character of the neighborhood.
4. There's no evidence that there will be a negative impact on the health, safety and welfare of the neighborhood
5. The requested variance is not substantial and that the applicant and the School District of Brighton will now share egress and parking.

**Conditions:**

1. The variance applies only to the lot line variance described in the application and testimony provided and will not apply to future projects.

(Second by Ms. McKay-Drury.)

MS. TOMPKINS-WRIGHT: Kathleen, did you -- I'm sorry to do this again. Did you mention in your -- in your motion that the benefit cannot reasonably be achieved by another method or something along those lines?

MS. SCHMITT: I didn't because I wasn't sure how -- I originally had it in and I reworked it like

three times this afternoon because it was very complicated at one point. And then I made it really short. But I expanded it out. And I took that out because I -- I know it's a required finding, but I wasn't sure when if coming up with a transfer how one worked that back in. So I'm open to any suggestion that somebody has to add a number 6.

MS. TOMPKINS-WRIGHT: Judy, what was your finding? Because you did have one about it not being -- it being the -- not being reasonably achieved by other method or being the least variance necessary. I think you had something --

MS. SCHWARTZ: I just talked about the fact why it was being requested with the -- oh. And it couldn't meet minimum 100. The next was that the lot adjustment is just a result of the parcel of the church being transferred. And then the layout is the minimum variance as it allows the school district have maintenance of the parcel. And no changes in the area. And then no changes --

MS. TOMPKINS-WRIGHT: Yes. Yeah.

MS. SCHWARTZ: Oh, that one? No changes -- do you want me to -- okay. No changes in use of this parcel are proposed at this time. Therefore, the variance will not produce any visible change to the

area.

MS. TOMPKINS-WRIGHT: No. The sentence was before it when you said it's -- you said something about being the minimum necessary.

MS. SCHWARTZ: The layout is the minimum variance as it allows the school district and the church to have maintenance access to the parcel. Is that the one?

MS. TOMPKINS-WRIGHT: I think -- I don't know, Ken, if you have something, but I think we need to say something like this variance is the minimum necessary in order to allow the transfer of the property and provide cross access and parking. Something like that. Ken, if you have any other suggestions on it.

MR. DiSTEFANO: You might want to say cross access and parking can only be achieved by this variance, by granting this variance.

MR. GORDON: So I would suggest language along the lines of the cross access easement and benefit sought by the applicant cannot be achieved in any other method other than the variance requested and no other variance would be feasible for the applicant to pursue other than the area variance requested.

MS. TOMPKINS-WRIGHT: Is that good?

MS. SCHMITT: I accept that change.

MS. TOMPKINS-WRIGHT: And then Holly, did you get that as the last number of the findings?

(There was a discussion off the record.)

MS. TOMPKINS-WRIGHT: Heather, you're good with that change?

MS. MCKAY-DRURY: I am.

**Amended Findings of Fact:**

5. The cross access easement and benefit sought by the applicant cannot be achieved in any other method other than the variance requested and no other variance would be feasible for the applicant to pursue other than the area variance requested.

MS. TOMPKINS-WRIGHT: Any comments on the motion as amended?

(Mr. Premo, yes; Ms. Schwartz, yes; Mr. D'Augustine, abstain; Ms. McKay-Drury, yes; Ms. Schmitt.)

(Upon roll motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS-WRIGHT: Dennis is never going to let me -- Dennis is never going to let me run it. Sorry.

CHAIRPERSON MIETZ: I think you did a fine job. Thanks.

MS. MCKAY-DRURY: If you identify findings that aren't on the record that we need to make, I think you did a pretty stellar job actually.

CHAIRPERSON MIETZ: All right. All right. Don't get her head too swelled up here. All right.

MR. DiSTEFANO: Gunning for your job, Dennis. Watch out.

CHAIRPERSON MIETZ: Man, I'm feeling the noose tightening. Between the parliamentarian and this one.

MR. GORDON: Andrea's looking for that big chair.

CHAIRPERSON MIETZ: Yeah. Okay. I want to know where the parliamentarian hat is. Maybe you can wear one.

MR. GORDON: It looks a lot like a dunce hat.

CHAIRPERSON MIETZ: No comment. All right. We won't start the lawyer jokes. There's too many of

them.

Okay. How about 6 Kent Park. What do you think?

MR. DiSTEFANO: I'll just start off by saying this is exactly the situation we wanted to avoid when we created the regulation in the code. That's all I'm going to say. That's exactly what we didn't want to happen.

MS. SCHWARTZ: It's an unusual neighborhood where everything is really tight. I mean, it's the only neighborhood that has back alleys that, you know, constrict what can happen.

MR. DiSTEFANO: Back alleys are not a street. I mean, they're not a dedicated street. I don't know --

MR. GORDON: Hey, Rick. That's not a subject really particularly before the Board as to whether those are dedicated streets or not.

CHAIRPERSON MIETZ: Right. Right.

MR. DiSTEFANO: I'm just saying, I don't know if they would be -- if that would be considered a front yard. Let's put it that way.

MS. MCKAY-DRURY: It's relevant because it's whether it's in the rear; right? If it's in the alleyway it would be in the rear.

MR. GORDON: But we shouldn't base our -- we shouldn't base our determination on the --

CHAIRPERSON MIETZ: No.

MR. PREMO: Isn't it right they said that they were willing to locate it to a place where they wouldn't need a variance?

MS. TOMPKINS-WRIGHT: No. They were willing --

(Simultaneous conversation.)

CHAIRPERSON MIETZ: I think what was said was the gentleman said she suggested a location, but she was not in favor of that, meaning the homeowner. And so that's why if there's any talk, well, if you put it there, you have to put bollards and other kinds of things in. And their mutual determination was it was more visible. So that's why they feel like they liked the other location because they felt the Town wouldn't approve.

MS. MCKAY-DRURY: The only -- one of the only places where they could put it would be -- they could put it without needing a variance, I believe, correct me if I'm wrong, in the rear which is technically on either side of the garage section that juts out.

MR. GORDON: And I just want to note, so

that we're all aware of it, that Jeff Carlucci, the representative or the contractor who is still listening in, I don't think understands quite our process, but the public hearing is closed. He has raised his hand as if he thinks --

CHAIRPERSON MIETZ: Right. Yeah. We can't --

MR. GORDON: Not sure why the recording paused.

MR. RYAN: Me neither. Give me a second. I didn't touch it.

MR. GORDON: And I just want to make sure that he understands that his time to speak is over and this is the time only for the Board to discuss.

CHAIRPERSON MIETZ: Yeah. And really the only time that we vary is if we have some confusion that we want corrected. But other than that we don't accept any other comments. Right. Okay. So let's proceed. Go ahead, Heather.

MS. MCKAY-DRURY: I still have a question. So is that, yes, it's correct that on either side of that jutting out garage would be where no variance is required? Obviously the testimony is that the applicant to the left side in that image that we saw looking head on the garage, to the left side she wants

to build an addition, which is why she doesn't want it on that side. On the right side we saw a window and a bush, but technically that would be permitted without a variance; is that right?

MS. TOMPKINS-WRIGHT: I don't think so. That right side is technically facing Cardiff, which is a public right-of-way, which would be a front yard. So you wouldn't be able to do that without a variance.

MS. MCKAY-DRURY: I don't mean over on the side. I mean back behind where the garage and driveway are.

MS. SCHWARTZ: I don't think you can put a generator where there's glass like a window or a door; right?

MS. MCKAY-DRURY: Well he said it has to be 5 feet off --

MR. PREMO: Five feet away.

MR. GORDON: Rick, I'm going to ask for your backup on this. But I believe the only place on that property that a generator could be placed without a variance will be in the carved out alcove area where she plans to build her addition.

MS. MCKAY-DRURY: And then the other -

MR. DiSTEFANO: And I was kind of not sure where exactly she plans to build this addition, but,

yes, it would be -- that one picture we saw of the driveway -- to the right of the driveway where there's an alcove behind the front corner of the house I think is Cardiff. So it'd have to be behind that front corner of the house baking up closer to where the garage/driveway is.

CHAIRPERSON MIETZ: So you're saying then in front of the window and near where those bushes are?

MR. DiSTEFANO: Yes. Yes. That would be not -- a variance would not be required.

CHAIRPERSON MIETZ: As long as it didn't go past the edge of the house on the Cardiff side.

MR. GORDON: And the testimony was that although she hasn't decided exactly what she wants to do with her addition, the general area of the addition is the area that Mr. Carlucci indicated by dotting out the corner of that property that contains that alcove area is the general area that that addition is going to be placed.

MR. DiSTEFANO: Ken, this is where I'm confused. Because if you look at an aerial, there is a roof that goes from the edge of the driveway all the way to that property line with 14 in the confines of the house. Where that dashed area is, there's already a roof there. So I'm not sure -- I'm not sure

where -- that's why I was confused on where the addition was going to be proposed.

MR. GORDON: I couldn't tell you because I didn't see that.

CHAIRPERSON MIETZ: Yeah. I think that roof does go -- but I'm not sure it goes all the way to the end, Rick.

MR. DiSTEFANO: I'm looking at an aerial and according to that it does. It goes right to the edge of the house.

CHAIRPERSON MIETZ: Okay. Well, kind of where we're trapped here is something that we generally try not to do. I mean, if we don't like this location, we can certainly request another location. But for us to design it or figure it out is not our responsibility.

MR. GORDON: Right.

MR. DiSTEFANO: Right.

MS. TOMPKINS-WRIGHT: So real quick, this application was mine for drafting. And I could not draft the statement that this variance will not be a detriment to nearby properties given that it is less than 10 feet from the neighboring house and given that the sound decibels of a generator.

I do believe that placing it -- I understand

it's an incredibly unique lot with the -- it being a corner lot and the closeness of the houses. But I absolutely believe that if this application came on that Cardiff side closer -- and was well-shielded with vegetation and screening, that we could find that it won't be a detriment and that it's the least variance that's necessary in order to accomplish their goals of having a generator.

So my opinion is to either deny it, which I think based on what's submitted, or table it and request them -- request the applicant to consider alternative locations that are less detrimental to neighbors, but are still shielded from public rights-of-way. That would be my thought.

MS. MCKAY-DRURY: I'm inclined to agree. The only thing that I want to say to play devil's advocate is -- there is testimony that that neighbor said they're fine with it. But I just don't know if they understand the noise level.

CHAIRPERSON MIETZ: Yeah. I think the important thing there, and Rick raised it, is that I'm not sure the neighbor really has a grasp of -- even though the unit meets the Town's requirements, just how loud it's going to be that close and the sort of tunnel effect that I brought up also, whether the

exhaust goes out the back or not. It is still very tight in there.

MR. PREMO: Hey, Rick. Rick, if we deny this versus tabling it and they want to come in for another variance, they would have to pay another fee and everything else right.

MR. DiSTEFANO: Yes. Yup. My problem --

MR. PREMO: If we table it they could come in and amend and not have to pay another fee.

MR. DiSTEFANO: Right. But my problem with tabling it, it's -- if you table it and ask for a different location, you're under a whole separate set of variances. You're no longer asking for it to be in the side yard. You're asking for it to be in a front yard. Now you have neighbors who are across the street that might have issues with it. They have to be notified. It should be, you know -- usually once something's tabled, we don't re-notify neighbors.

MR. PREMO: Okay.

MR. DiSTEFANO: It's not like -- it's not like we're going to ask for a side setback. We're still asking for a side setback, but maybe not as great as what we're debating. This is going to be a totally different location for the generator, a totally different variance request.

MR. GORDON: There's one other -- there's one other fact of denying it versus tabling in and that is when it would be heard again by the Board. Tabling it, it could be taken back up at the next meeting in May. Denying it and asking them to reapply, they're not going to make the May meeting.

MR. DiSTEFANO: Yes. They could, Ken.

MR. GORDON: How?

MR. DiSTEFANO: Next Tuesday is the cutoff for the May Meeting.

MR. GORDON: They could get all of -- their application together and get the information from the neighbors and get letters in from the neighbors by then?

MR. DiSTEFANO: Well, let's just say this --

MR. GORDON: Let's just say it would be a challenge.

MR. DiSTEFANO: Listen. I have people who do applications in a day and get them in.

MR. GORDON: Okay.

MR. DiSTEFANO: I don't -- I don't necessarily have to have letters in from the applicants -- or from the neighbors the day that they submit the application. I think putting together an application would be fairly straightforward that could

be accomplished by next Tuesday.

MR. GORDON: All right.

MS. MCKAY-DRURY: Well it sounds like the question is are the rules -- will the rules allow us to table something that's that big of change. And I don't --

MR. GORDON: I tend to agree with Rick that the cleaner way to do this is deny what has been presented and leave it up to the homeowner as to what, if anything, they want to represent to the Board.

MS. SCHWARTZ: But that would mean another fee; right?

MR. DiSTEFANO: Yes. But --

MR. GORDON: Yes.

MR. DiSTEFANO: I think there was -- you know, this whole thing about the possibility of an addition. We don't really know exactly where that was going to go and whether or not that could help their case here. You know, it wasn't --

MR. PREMO: And then that -- the possibility of an addition starts creating a whole issue of --

CHAIRPERSON MIETZ: Well --

MR. PREMO: -- whether they need this variance, whether they're creating their own hardship.

MS. MCKAY-DRURY: Yeah. But that's not a

strict requirement for --

MR. PREMO: No. But the fact that they can --

MS. MCKAY-DRURY: I think if we want clarification on this proposed addition, then that's a perfect reason to table it. As opposed to a new application.

MR. DiSTEFANO: But --

(Simultaneous conversation.)

CHAIRPERSON MIETZ: Hold on. One person at a time.

MS. TOMPKINS-WRIGHT: I don't -- they can submit anything they want about this potential addition. They can submit a building permit for that addition tomorrow or a variance for it. I am not in favor of putting this generator 10 feet from a residential property.

CHAIRPERSON MIETZ: Okay. Well, then --

MR. GORDON: I'm just going to suggest then that Andrea, since I think this is your matter, why don't you put forth a motion that you are comfortable with, whether it's to approve or deny. And then see if you get second. Then we can finish having the discussion and take a vote. Or somebody can bring on a motion to table after you make your motion.

CHAIRPERSON MIETZ: That sounds good.

MS. MCKAY-DRURY: Very quickly though I just want to say that you're saying 10 feet. The testimony is that the generator is 5 feet from the applicant's house, 3 to 4 feet from the lot line and plus 10 feet at best to the neighboring house.

MS. TOMPKINS-WRIGHT: Right. And I tried to measure it on Google Earth and I do think it's probably -- would be about 10 feet from the neighboring house.

CHAIRPERSON MIETZ: I think that's about right. The guy guessed. He didn't measure it.

MR. GORDON: Hey, Dennis, you have both Kathleen and Holly with raised hands.

(There was a discussion off the record.)

CHAIRPERSON MIETZ: Well, let's proceed. We're going left and right and all over the place. So how about a motion, Andrea, and then we can react to it. Okay?

MS. TOMPKINS-WRIGHT: I'd like to see what Kathleen has to say before I make the motion.

MS. SCHMITT: Andrea, I just wanted to say that I support you in what you stated that you could not approve this as is no matter how they come back and no matter what they show with the addition that

it's just close to the other home. That's what had given me pause about this. I just -- I have -- even though the neighbor said that she consented, I just thought it's not -- it's not a good situation for them.

So to me that was key. And so I don't know -- I'm okay with denying the application and with the idea that they would be able to submit very quickly and spend Friday and the weekend and Monday in getting that in. Or whether it's the kind of the more convoluted tabling where they're going to be submitting something totally different.

**Application 4A-11-22**

Application of Home Power Systems, contractor, and Monica Gilligan, owner of property located at 6 Kent Park, for an Area Variance from Sections 203-2.1B(6) and 203-9A(4) to allow a standby emergency generator to be located in a side yard, 5+/- Feet from the lot line in lieu of in the rear yard behind the house no closer than 10 feet from a lot line as required by code. All as described on application and plans on file.

Motion made by Ms. Tompkins-Wright to deny application 4A-11-22 based on the following findings of fact.

**Findings of Fact:**

1. The granting of the requested variance will produce a detriment to nearby properties due to the fact that the generator is proposed to be placed approximately 3 to 4 feet from the side setback line and what appears to be approximately 10 feet from the nearest residential home.
2. The benefit sought by the applicant can reasonably be achieved by placing the generator in another location that while it may require a variance will be a variance that is less of a detriment to nearby properties.

(Second by Mr. Premo.)

CHAIRPERSON MIETZ: Okay. So are we comfortable with this? You know, and clearly we certainly consider the financial part of it and all that. But it really doesn't seem to be any other way around this to, you know -- the tabling just I think would be just too confusing. So this seems to be a legitimate motion.

MS. TOMPKINS-WRIGHT: And before we vote, if the applicant is listening, I think we're all open to a potential other location.

CHAIRPERSON MIETZ: They have a right to do that. Yeah. Because, you know, the application just needs to be substantially different so if they pick a different location it clearly would be substantially different than the application that we just did.

MS. SCHWARTZ: Right. So my question is, you're saying no to this location and you've offered that there could be another one. How is the Board going to feel with the other location that's, you know, been suggested? Are we being fair in, you know, from that angle?

MR. DiSTEFANO: I think, Judy, what we have to do is we have to look at what's submitted to us, what type of mitigation is proposed and take that

application on its face value. There's no guarantees ever that an application is going to be approved.

MS. SCHWARTZ: Well, I can understand that for a first one, but this would be like a second one in a way for the same, you know, purpose. So that's why to me it's a little different.

MR. DiSTEFANO: Right. And I don't think we can ever guarantee anything other than a fair review by this Board.

CHAIRPERSON MIETZ: Sure. Sure. And I think also, you know, if they were to contact Rick we could provide any, you know, clarifications or not necessarily suggestions, but, you know -- you know to try to come up with something that could potentially work. I'm sure he would -- I don't want to speak for you, Rick, but I know you always do.

MS. McKAY-DRURY: Judy, to your point the decision could be made to put in that alcove, to abandon the idea of an addition. And that would not even require a variance.

MS. SCHWARTZ: Yeah.

CHAIRPERSON MIETZ: Okay. All right. Any other questions?

MR. DiSTEFANO: Shall I call the roll?

(Ms. McKay-Drury, yes; Mr. Mietz, yes;

Ms. Schmitt, yes; Mr. D'Augustine, abstain;

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

Ms. Tompkins-Wright, yes.)

(Upon roll the motion to deny the application carries.)

CHAIRPERSON MIETZ: Okay. Very good. All right. So our last application is Hampshire Drive. Thoughts there? Anyone have any concerns about that, the garage? Deteriorating corner of the garage I guess.

MS. SCHWARTZ: It's fine.

MS. TOMPKINS-WRIGHT: That's in the neighborhood where the -- homeowners have found lots of ways to find more space in there.

CHAIRPERSON MIETZ: All right.

MS. MCKAY-DRURY: My only thought on this one was just that, you know, we had other applications where we're saying 20 feet is sufficient. But I feel like there's adequate testimony for why 22 feet is the amount that would satisfy this applicant's needs.

MS. SCHWARTZ: And when you stand in his driveway, the house to his right is identical to what he wants to do. I mean it's -- you know.

CHAIRPERSON MIETZ: Yep. Probably where he got the idea.

MS. SCHWARTZ: Maybe so.

CHAIRPERSON MIETZ: All right.

**Application 4A-12-22**

Application of Meaghan Fee Spencer, owner of property located at 111 Hampshire Drive, for an Area Variance from Section 205-2 to allow a garage addition to extend 2.5 +/- feet into the 7.5 foot side setback required by code. All as described on application and plans on file.

Motion made by Ms. McKay-Drury to approve application 4A-12-22 based on the following findings of fact.

**Findings of Fact:**

1. The proposed variance will not create a substantial change to the neighborhood. Per the photo provided by the applicant the property to the north 105 Hampshire Drive has the same setup where the garage protrudes southward along the side lot line further than the house. And garages big enough to fit modern vehicles including vans like the owner has are routinely added in this neighborhood.
2. The difficulty necessitating the variance can't be solved in another manner not involving this variance. If the garage is shifted 2 feet to the north, the homeowners will lose the entire window in their mudroom and turning into the first bay in the garage will be extremely difficult. The only other option

would be a 20 foot garage rather than a 22 foot garage, which would not fit their vehicles inside and their other request for adequate storage space.

3. The requested variance is not substantial. It is only approximately 2.6 feet. It will still leave 5.1 feet of side setback.

4. The variance is the minimum necessary to grant the relief from the difficulty. The record establishes that the 22 foot garage is the minimum size to enable cars to park and storage for this family of five.

5. The variance will not have an adverse effect on the physical or environmental conditions in the neighborhood. And though not strictly required, the difficulty is not self-created. There's safety concerns with the existing structure and the homeowners require more space in light of the greater size of vehicles these days.

**Conditions:**

1. The variance granted herein applies only to the renovations described in the application and the testimony given

2. All necessary building permits and Architectural Review Board approvals must be obtained.

(Second by Ms. Schwartz.)

CHAIRPERSON MIETZ: Okay. Rick, is this ARB

necessary?

MR. DiSTEFANO: I don't know. It's a couple feet that would be seen. I don't know if we'll make them go to the ARB or not. But it doesn't hurt to have it in there. If they don't need it, then they don't have to get it.

CHAIRPERSON MIETZ: Okay very good. All right. Any other comments? Okay, Rick.

(Mr. D'Augustine, abstain; Mr. Mietz, yes; Ms. Schmitt, yes; Mr. Mr. Premo, yes; Ms. Tompkins-Wright, yes; Ms. Schwartz, yes; Ms. McKay-Drury, yes.)

(Upon roll motion to approve application with conditions carries.)

CHAIRPERSON MIETZ: Okay. Very good. Thank you very much. Thank you, Matt, for joining and listening. And next month, you know, you won't probably get cases to actually do, but you can participate obviously in the voting and hopefully you'll be comfortable to do so. Okay.

(Proceeding concluded at 9:53 p.m.)

\* \* \*

## 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 6th day of April, 2022  
at Rochester, New York.



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Holly E. Castleman,  
Notary Public.