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

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May 4, 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

1 CHAIRPERSON MIETZ: Good evening, everyone.  
2 Welcome to the May 2022 of the Brighton Zoning Board  
3 of Appeals.

4 So just let me quickly just let you know how  
5 we handle this meeting. Generally what we do is that  
6 as your application is called and you can identify  
7 yourself, we will let you present your application.  
8 You should let us know why you believe we should  
9 approve your application. And members may have  
10 questions.

11 When they finish with the questions, then we  
12 will ask on the Zoom call if there's anyone that would  
13 like to speak regarding your application. And if they  
14 do, they will speak. And when they finish, we will  
15 close the public hearing and move on to the next  
16 application.

17 Once we've completed all of them, we might  
18 take a couple minute break if we need to. And if not,  
19 we will proceed into the deliberations. You're  
20 welcome to stay on the call and listen to the  
21 deliberations. However, there's really no further  
22 discussion with applicants and the board members or  
23 anyone related to that. You can just hear the  
24 deliberations. We make our decisions tonight unless  
25 an action is tabled for more information.

1           Other than that, you would hear tonight what  
2 happens. If you don't want to stay on the call, you  
3 can call the Brighton -- excuse me -- the Building  
4 Department office tomorrow and you can find out the  
5 results of your application. Okay. So that's how we  
6 do it.

7           So Rick, at this time can you let me know if  
8 the meeting was properly advertised?

9           MR. DiSTEFANO: Yes, Mr. Chairman. It was  
10 advertised in the Daily -- Daily Record of April 28th,  
11 2022.

12           CHAIRPERSON MIETZ: Okay. Wonderful. So  
13 can you call the roll please?

14           (Whereupon the roll was called.

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

17           CHAIRPERSON MIETZ: Okay. So Rick, do you  
18 have any information you'd like to give to the Board  
19 before we start.

20           MR. DiSTEFANO: Yes. Just for the record,  
21 I'd like to state that we received two letters after  
22 the post date of the final agenda. One letter was  
23 from Mindy Zoglin, Zoglin Group in opposition to  
24 Application 5A-03-22.

25           The second letter was from Ms. Betsy Brugg

1 of Woods Oviatt Gilman in opposition to Applications  
2 5A-01-22 and 5A-02022.

3 CHAIRPERSON MIETZ: Okay. Very good. We'll  
4 consider those. All right. We do have minutes. Do  
5 we have any issues on the minutes -- excuse me -- of  
6 the March meeting?

7 MS. SCHWARTZ: Judy.

8 CHAIRPERSON MIETZ: Yes.

9 MS. SCHWARTZ: Okay. On page 9, line 5,  
10 please delete my name.

11 On page 14, line 22, the last word should be  
12 neighbor.

13 I think you took care of page 15, Rick. So  
14 we don't need to do that.

15 Page 26, line 13, the second word should be  
16 line, L-I-N-E.

17 On page 35, line 21, the first word --  
18 should begin "say who or what by a 6 foot brick wall,"  
19 not them. I mean, who is it that's going to be  
20 blocked by the 6 foot wall? In the findings and  
21 facts, line 21. It doesn't say and I think it should.  
22 It just has them. And being a, you know, findings of  
23 fact it should be more specific I think.

24 So anybody want to -- I don't know -- let me  
25 see. It was made by Heather. Do you know what you

1 mean by line 21?

2 MS. MCKAY-DRURY: Can you tell me the page  
3 again?

4 MS. SCHWARTZ: Yes. Page 35, line 21,  
5 number 1 findings.

6 CHAIRPERSON MIETZ: I'm not sure about that  
7 one.

8 MS. SCHWARTZ: But do you think we need to  
9 be specific just in case something comes up down the  
10 road rather than just saying "them"? I don't know.  
11 That's why I raised it.

12 CHAIRPERSON MIETZ: What do you think, Rick.

13 MR. DiSTEFANO: Judy, read it to me please?

14 MS. SCHWARTZ: Sure. Line 21 on page 35.  
15 And it's -- it starts out with "them." And my  
16 question to myself and to you is should we say who or  
17 what rather than just them? Because it's a findings.

18 MS. MCKAY-DRURY: What I probably had put  
19 was -- I probably had said "the road."

20 MS. SCHWARTZ: Oh, okay. All right. Okay.  
21 Then we'll move on -- okay.

22 MR. DiSTEFANO: So, Judy, we're changing  
23 "them" to "the road"?

24 MS. SCHWARTZ: The road, yes. That's what  
25 Heather said she meant. Okay.

1 MR. DiSTEFANO: Thank you.

2 MS. SCHWARTZ: On page 37, line 7, number 3  
3 it says "the time of the weekly 10-minute power-ups  
4 will occur." Tests should it be or something? Not  
5 "ups" I don't think.

6 MR. DiSTEFANO: I think that's --

7 MS. McKAY-DRURY: I think power-ups.

8 MS. SCHWARTZ: Is that a word?

9 MR. DiSTEFANO: I think that's a term that  
10 they use in the industry, power up.

11 MS. SCHWARTZ: Oh, all right. Okay.

12 CHAIRPERSON MIETZ: Up, yeah. That's --

13 MS. SCHWARTZ: Okay. All right. And that  
14 is all that I have.

15 MS. McKAY-DRURY: While we're here, the only  
16 two that I noted was on page 37, line 9 it says "there  
17 will be the instillation with an "I." It should be  
18 installation.

19 MS. SCHWARTZ: Oh.

20 MS. McKAY-DRURY: And then it would be the  
21 same thing reflected in the discussion, page 39, line  
22 23, should read "installation," not "instillation."

23 MS. SCHWARTZ: Yeah. I just remembered that  
24 is a spelling error, not a technical thing.

25 MR. DiSTEFANO: Do we have a motion?

1 CHAIRPERSON MIETZ: Yes. Can we get a  
2 motion for the minutes please?

3 MS. TOMPKINS-WRIGHT: I'll move as amended.

4 MS. SCHMITT: I'll second.

5 MR. D'AUGUSTINE: I --

6 MS. TOMPKINS-WRIGHT: I'll second Matt's  
7 motion.

8 CHAIRPERSON MIETZ: Okay. Very good. All  
9 those in favor of the motion?

10 MR. DiSTEFANO: I got to -- all those in  
11 favor of the -- of the approval of the March minutes  
12 with corrections?

13 (Upon roll, motion to accept with  
14 corrections carries.)

15 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
16 So thank you. So let's move on. When you're ready,  
17 Rick, we can read the first application.

18 MR. DiSTEFANO: I'll read the first two  
19 applications.

20 **Application 5A-01-22**

21 Application of Reza Hourmanesh, architect,  
22 and Guiyan Li, owner of property located at 2720 West  
23 Henrietta Road, for an Area Variance from Section  
24 205-12 to allow for 45 parking spaces in conjunction  
25 with a new grocery store in lieu of the minimum 55

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

3 **Application 5A-02-22**

4 Application of Reza Hourmanesh, architect,  
5 and Guiyan Li, owner of property located at 2720 West  
6 Henrietta Road, for an Area Variance from Section  
7 205-7 to allow for impervious surface area to  
8 increase, after site modifications, from 83.2%  
9 To 84.9% in lieu of the maximum 65% allowed by code.  
10 All as described on application and plans on file.

11 CHAIRPERSON MIETZ: Okay. So who do we have  
12 speaking please?

13 Who do we have speaking for applications  
14 5A-01 --

15 MR. DiSTEFANO: Reza, you're muted.

16 CHAIRPERSON MIETZ: Oh, okay. I can't see  
17 him.

18 MR. HOURMANESH: Mute. Okay. Yes. Good  
19 afternoon. My name is Reza Hourmanesh. I'm the  
20 architect for this project. Basically this 2720 West  
21 Henrietta Road about -- maybe about a mile north of  
22 Brighton Henrietta Town Line Road on the east side of  
23 the road.

24 The place was used as a restaurant, Asian  
25 restaurant, which has been vacant for long time. The



1 site itself is about 22,763 square foot or 0.522 acre,  
2 almost half an acre. The building on the site is  
3 about 10,955 square foot, approximately 11,000 square  
4 foot. The building itself is a 181 feet long and  
5 approximately 60 feet -- a little bit over 60 feet  
6 wide. It's situated approximately more than 60 feet  
7 away from the West Henrietta Road.

8 The owner wants to establish a Asian  
9 supermarket or a specialty supermarket. It's not  
10 going to be a regular supermarket. It's going to be a  
11 specialty. So the flow is not the same as the regular  
12 grocery store.

13 Also within the building itself, as you see  
14 on the floor plan that's shown on the screen, almost  
15 3,000 square foot of it is storage area. The area  
16 that is basically utilized is about 8,000 square foot  
17 at the front.

18 Based on the requirement of the Zoning Code,  
19 200 square foot per -- per vehicle, per auto, I need  
20 55 cars. If you count the storage as part of the  
21 grocery store -- and I'm providing -- actually there  
22 was a mistake. I'm providing 41 parking spaces.

23 These parking spaces, there's 5 at the  
24 front, 14 at the back and about 22 on the north side  
25 of the building, which was based on the easement I was

1 given. And my understanding of the easement that they  
2 could park on that side. And also egress and ingress  
3 was also provided on the easement, which we submitted  
4 the documents, the deed and the easement.

5 The site slopes from east to west  
6 approximately 0.0 -- a little bit less than 1 percent.

7 MR. DiSTEFANO: Reza, could I just interrupt  
8 you for a quick second --

9 MR. HOURMANESH: Sure.

10 MR. DiSTEFANO: -- and ask Brendan, could  
11 you go up one screen to the site plan please?

12 MR. RYAN: Yeah.

13 MR. DiSTEFANO: Thank you. I'm sorry, Reza.  
14 Go ahead.

15 MR. HOURMANESH: No problem. Thank you. So  
16 as you see, originally I had 45, but by the time --  
17 based on the requirements of the accessible parking  
18 area, there's two spaces that are lost. And there's  
19 an overhead door on the northeast of the building that  
20 basically two spaces was lost.

21 So on my document I show 45, but that's  
22 incorrect. That has to be corrected to 41 parking  
23 spaces. So basically we are asking the Board to grant  
24 us the variance for 41 parking spaces given the fact  
25 that this is a specialty grocery store and the flow of

1 the traffic of the people in and out is much less.  
2 And the average, usually each person will spend about  
3 43 to 45 minutes shopping in there. And usually on  
4 the average the maximum is 1 to 7 people at any time  
5 during the day.

6 The intent is to open up at 7 and close at  
7 10 p.m. That's the hours of operation. So we are --  
8 the building itself is a pre-engineered building with  
9 metal siding and metal -- standing seam roof. But we  
10 are changing that completely based on the elevations  
11 and the floor plan that we submitted.

12 We went to Architectural Board. They  
13 required certain modifications. We make those  
14 modifications. And fortunately they approved the  
15 modifications. So that's behind us. And now, coming  
16 to you guys, to the Zoning Board, and asking for that  
17 variance for the parking.

18 One other issue is that originally existing  
19 green area or pervious area is about 3,754 square  
20 foot. The proposed is a little bit less. It's 3,373,  
21 which I'm short 376 square foot of green has been  
22 reduced from what it used to be. But that's -- given  
23 that fact, what I did, I increased the green at the  
24 front, which is 20 foot setback, which right now is  
25 quite a bit less. But mainly the reduction in the

1 green area is mainly to the fact that I'm parking in  
2 the back and in the back there is a little bit more  
3 green area.

4 If I reduce the two parking spots, I would  
5 meet the 370 -- the approximate 376 square foot  
6 shortage that I'm reducing the green area. Of course  
7 as you see, the front of the building basically ramps  
8 up to the building. The finished floor of the  
9 building is about 16 inch higher than the grade at the  
10 northwest corner of the building. About 16 inch  
11 higher. So I have to ramp up to it. That's why I  
12 show the ramp coming in. There's a platform, we call  
13 it a walkway, at the front that they can come up the  
14 ramp and come inside the building.

15 That's pretty much it. If you have any  
16 questions or comments, I'm available.

17 CHAIRPERSON MIETZ: Can you tell us how many  
18 employees would be in the store at any one time?

19 MR. HOURMANESH: Yes. Based on what the  
20 owner has told me, they're going to be four to six  
21 people operating. And, of course, sometimes more  
22 on -- I was told on Saturday they're going to be eight  
23 to ten people because it's much more heavier and  
24 generally based on my research, most people, they --  
25 the busiest time of the grocery store -- regular

1 grocery store. I couldn't find anything on a  
2 specialty grocery store. But on regular grocery  
3 store, it's Saturday between 12 to 3 p.m. So they  
4 need more employees during that time in order to make  
5 sure everything goes smooth.

6 In addition to the grocery store, also in  
7 the front as you see on the floor plan, is a bakery.  
8 They used to have a take-out kitchen. That was  
9 removed and they said they were just going to put  
10 specialty gifts and presents for people who want to  
11 purchase it.

12 So the take-out portion of the eating --  
13 take-out portion of the food is gone, but the bakery  
14 remained.

15 CHAIRPERSON MIETZ: Okay. All right. And  
16 do the operators of this business have experience in  
17 running a store like this?

18 MR. HOURMANESH: Yes, sir. Right now, she  
19 has a store right next to U of R on -- on West  
20 Henrietta Road. It's about maybe a mile from this  
21 plaza -- I forgot the name. But she has a store there  
22 that she's running the store there. And the store is  
23 pretty small. She wants to move to a larger space.  
24 And that's why they purchased this building and  
25 property.

1 CHAIRPERSON MIETZ: Okay. Okay. All right.  
2 Other questions by the Board members please?

3 MR. PREMO: Yeah this is --

4 CHAIRPERSON MIETZ: Hold on. Hold on. One  
5 at a time here. Okay. Go ahead.

6 MS. TOMPKINS-WRIGHT: This is Member Wright.  
7 I just had a question. This potential operator is  
8 operating a current store. Has she done any parking  
9 studies to show based on the square footage of her  
10 current store how many parking spaces are taken up in  
11 her current location?

12 MR. HOURMANESH: Yes. In the plaza,  
13 basically they allow parking in front of the store,  
14 which is about four parking spaces in front of the  
15 store. The plaza is where -- it's about -- like I  
16 said it's the first plaza if you leave U of R and you  
17 come down south, there's a plaza. I forgot the name  
18 of the plaza.

19 CHAIRPERSON MIETZ: I think it's --

20 MR. D'AUGUSTINE: Pardon me. Is that Hikari  
21 grocery? Is that the grocery store?

22 MR. HOURMANESH: Yes. Presently it's a  
23 grocery store. They have grocery goods. And so  
24 that's -- she's been there for over like four, five  
25 years now.

1           There used to be another person running that  
2           grocery store, but they sold the store to this lady  
3           and she's been operating for about five years now.

4           MR. PREMO: This is Member Premo. As I look  
5           at the site plan, the north property line, it looks  
6           like the parking you're proposing crosses that  
7           property line onto the other property; is that  
8           correct?

9           MR. HOURMANESH: Yes, sir.

10          MR. PREMO: And the other property owner for  
11          2710 did not consent to this application; right?

12          MR. HOURMANESH: Correct. I got the letter  
13          from Mr. Rick DiStefano. I got that mail through the  
14          email and I reviewed it. I discussed the issue with  
15          the owner. I said, you need to get hold of your  
16          attorney, to contact the attorney of the 2710 property  
17          to resolve this issue based on what I had submitted,  
18          the deed and the easement, which was written in 2020.

19          So based on that easement there's egress and  
20          ingress allowed and also parking on the north side of  
21          the building. The gentleman who wrote the letter,  
22          there's some -- some of the issues he stated, I don't  
23          think they're exactly correct.

24          The reason is, we're not touching their  
25          property at all in any way, shape or form. The only

1 thing that we're touching is the -- basically to put  
2 in the lines for the parking stalls. Otherwise  
3 there's no change in the physical aspect of their  
4 property to the north.

5 And based on the fact that I -- based on my  
6 understanding of the easement document that I was  
7 given, we're allowed to park there. But, of course,  
8 the owner to the South, 2720, needs to pay half of the  
9 maintenance costs for that whole strip, which passes  
10 along to the north. And, of course, to the south is  
11 Dunkin Donuts. But it's mainly the gentleman who has  
12 a disagreement with the way that the easement reads.

13 Of course, when I read the easement, the  
14 easement referred to the restaurant. Now, of  
15 course -- of course it said whoever buys after or may  
16 also -- they can have this. But the easement are not  
17 written for the use, but it's written for property  
18 based on my understanding. But this is a legal issue  
19 that the attorneys need to resolve to finalize this  
20 issue.

21 But from get-go, I brought the issue of  
22 the -- after I talked to Mr. DiStefano, he told me  
23 what requirements are. And based on the easement,  
24 what I told the owner, I need the easement to park on  
25 the north side, otherwise there's no way we can make



1 this a grocery store.

2 Then they provided me with the easement  
3 documents. And my understanding is that the easement  
4 allows for parking on the north side of the building.

5 CHAIRPERSON MIETZ: Okay.

6 MR. PREMO: Well -- so looking at this, just  
7 so I'm clear, the parking that goes onto the other  
8 property is about, what, 23 spaces? 2 --

9 MR. HOURMANESH: Yes. Basically 22 and then  
10 one and a half, let's say two more spaces. So there's  
11 about 23, 23 and a half, 24 spaces. You're correct,  
12 sir.

13 MR. PREMO: And then that property owner did  
14 not join in this application or indicate consent to  
15 it?

16 MR. HOURMANESH: No. We didn't because the  
17 easement indicates that they have the rights, the  
18 property owner has the right to egress and ingress and  
19 parking on that state based on the easement documents.

20 Like I said, I'm not an attorney, but my  
21 understanding was that that was permitted based on --

22 MR. PREMO: And there has been any specific  
23 information that I believe Member Wright asked. I  
24 just want to be clear, you haven't put in any  
25 information as to any parking needs or studies or

1 comparable stores; correct?

2 MR. HOURMANESH: No. I have done two other  
3 grocery stores. One is Canton supermarket. It's in  
4 Henrietta. The other one is basically -- was on the  
5 corner of Gregory and South Clinton. They moved. The  
6 building caught on fire. They moved the grocery from  
7 there.

8 So I've had chances. But grocery stores,  
9 basically the traffic floor in this specialty store,  
10 grocery store, is not the same as a regular grocery  
11 store. Based on some data that I obtained for grocery  
12 store -- like these are some of the data that I  
13 obtained. Average customers spending time in the  
14 grocery is about 43 minutes. Busiest time is Saturday  
15 between 12 to 3:00 p.m.

16 At any time -- at any time that it is in  
17 operation, 1 to 7 adults shop at any given time. The  
18 average time that each person will go to the  
19 special -- regular grocery store 1.5 to 1.6 times per  
20 week.

21 Also what I learned, maybe this is due to  
22 COVID, but 64 percent of the U.S. consumers in 2021  
23 shop online. They call and they get it. But I  
24 think -- my opinion is that mainly because of the  
25 COVID issue that people don't really want to go to

1 stores. And they would call and they would pick up.

2 And then one other -- the average grocery  
3 store -- the regular grocery store, not the specialty,  
4 is about 38,000 square foot. Those are some of the  
5 actual data that I found.

6 If need be, we can always obtain a traffic  
7 engineer to provide a full survey. They have much  
8 more data than I have and they're much more  
9 knowledgeable than I am regarding traffic flow,  
10 ingress, egress. So I don't -- I wouldn't have any  
11 issue. Like I can contact SRF or another -- I'm  
12 familiar with them. I worked with them. We can go  
13 from there.

14 MR. PREMO: Well, and if we could go back,  
15 and maybe Brendan could do this, to where it was  
16 showing the inside of the store.

17 Now, I noticed in there that, for example,  
18 you have various things. You have what's called prep  
19 counter and then you have sushi bar. Is that going to  
20 be where people would sit there and eat?

21 MR. HOURMANESH: There's no place to eat  
22 here. We did the same thing at Canton. Basically  
23 they're like -- sushi bar is basically a bed of ice,  
24 the box full of ice. And they place the sushi on top  
25 of it, the same with the meat.

1           We did this at Canton also. It's just a box  
2 with ice and the meat is set on top so they can see  
3 it. The same with duck and chickens and seafood. So  
4 basically the box is in front full of ice and they  
5 display their products on that.

6           The counter --

7           MR. PREMO: So there's no -- there's no  
8 eating? Customers aren't going to eat in the store?

9           MR. HOURMANESH: No, sir. The only place  
10 that they can sit and like have a bakery, have a  
11 coffee, is at the front, which is one, two, three,  
12 four, five, six, basically five -- seven tables. And  
13 I show four chairs for each one. That's the only  
14 place that they are able to sit.

15           COUNCILMEMBER PREMO: And that's in the  
16 lobby seating area?

17           MR. HOURMANESH: Yes. Basically in the  
18 front area where I had a little more light and more  
19 windows. So at least I could have little bit of light  
20 coming in.

21           We'll make sure there's sufficient  
22 electrical power and lights that everything would be  
23 lit. But still I prefer people sit by the -- most  
24 people like to sit by the windows when they go to a  
25 restaurant.

1           MR. PREMO: You said that seven tables times  
2 four; right?

3           MR. HOURMANESH: Yes, sir.

4           MR. PREMO: That would be seating for 28  
5 people.

6           MR. HOURMANESH: Yes. At the maximum, yes.

7           MR. PREMO: Okay. And maybe, Rick, you can  
8 help me a little bit with this. I took a look at that  
9 drainage swale to the south. Is that off their  
10 property? I mean that drainage swale needs to have  
11 some maintenance done to it. It's pretty jammed up.

12           MR. HOURMANESH: Yes. I looked -- it gets  
13 deeper as you get to the west portion near the West  
14 Henrietta Road. As you go back it still slopes down  
15 in that ravine or ditch. It goes all around the back.  
16 It flattens almost where the -- at the back more like  
17 it. But it still slopes down.

18           But that's not in this property, but we are  
19 willing to clean that up. But that's part of property  
20 to the south, the Dunkin Donuts. So that's in their  
21 property.

22           COUNCILMEMBER PREMO: Are you are -- are you  
23 going to be conveying stormwater to that ditch?

24           MR. HOURMANESH: No, not really. A little  
25 bit on the back because the backside on the back of

1 the -- on the east side of the property, that asphalt  
2 slopes to the -- toward the south. So most likely  
3 that will -- some of it will go into that thing.

4 But the one to north, which is actually,  
5 most of it is adjacent to the 2720 property, that  
6 slopes -- like I said 0.08 percent from west -- from  
7 east to west. And there are catch basins right at  
8 the -- there are two curb cuts there. One curb -- we  
9 think the two curb cuts is about -- maybe a broken  
10 curb that is almost maybe 1 inch higher than the  
11 asphalt. And there's a catch basin that catches most  
12 of the stormwater.

13 CHAIRPERSON MIETZ: Okay.

14 MR. PREMO: Mr. -- just one more real quick.  
15 I'm sorry, Dennis.

16 CHAIRPERSON MIETZ: Go ahead.

17 MR. PREMO: Mr. Hourmanesh, yesterday when I  
18 was out there I didn't see any sign up indicating that  
19 there was a hearing before the Zoning Board of  
20 Appeals. You know, you're provided with the sign  
21 you're supposed to post. Do you know --

22 MR. HOURMANESH: Yes. I believe they posted  
23 the sign, unless it blew down. But that's how -- the  
24 reason the other gentleman to the north, 2720, found  
25 out about the meeting. So the poster was up. Maybe

1 it blown away.

2 Mr. DiStefano give me the form, the sign  
3 right when he took my application in. And I went to  
4 the owner. I said, "Please put it up even though it's  
5 before, but put it minimum three days before."

6 I drove by a couple times. It was on the  
7 front, unless it's blown away or somebody took it off.

8 MR. PREMO: Okay.

9 MR. HOURMANESH: But the adjacent property  
10 was well aware of it. That's how they -- they saw the  
11 sign and they wrote the letter.

12 MR. PREMO: Okay. Thank you very much.

13 CHAIRPERSON MIETZ: Okay. All right. So  
14 does anyone -- other Board members have any questions  
15 for the architect?

16 MS. TOMPKINS-WRIGHT: I have one quick  
17 question because -- this goes back to the parking.  
18 Typically when two properties share parking through an  
19 easement, you consider the use and the parking needs  
20 of both buildings together to confirm you have enough  
21 parking on the entire site.

22 So my question is, and I think I know the  
23 answer, but you don't know what the parking needs per  
24 the Zoning Code are for that neighboring property and  
25 how many parking spaces they have on their property?

1 Or do you know that?

2 MR. HOURMANESH: I know to some extent  
3 because I've come and gone at least 50 times if not  
4 more. And I drove by there because I have other  
5 projects that I have in Henrietta that I pass by.

6 Now, most of the Fastenal truck -- they  
7 deliver most of their products. So they have not  
8 large trucks, but like medium-size trucks with the box  
9 on the back that they deliver their thing.

10 Very rarely, to be honest, in last seven,  
11 eight months, very rarely I've seen any cars parked at  
12 the front which they go -- where people go in.

13 But there's parking they have at the front.  
14 It's mainly -- the place is -- it's a national company  
15 and they sell basically construction building  
16 materials. And so not too many people come to that  
17 place because most of the items are delivered. You  
18 can see the delivery trucks to the south -- southeast  
19 of their building. That's where they usually park.  
20 And there's some small trucks that they park back  
21 there too. But I gather those people are the ones who  
22 work in that building.

23 MR. DiSTEFANO: Andrea, just to kind of  
24 clarify a little bit, the Fastenal location, if you  
25 were to look at the whole full thing being retail, it



1 would be one space for every 300 gross square feet.  
2 However, I think a pretty good chunk of that building  
3 is storage, warehousing type of material. So I -- you  
4 know, I don't want to assume anything here, but my  
5 hunch is that there's ample parking for Fastenal  
6 customers in regards to the striped parking spaces  
7 that are currently on-site.

8 MS. TOMPKINS-WRIGHT: Okay.

9 CHAIRPERSON MIETZ: All right. So are there  
10 any other questions by Board members at this point?  
11 We'll obviously discuss this further, but any other  
12 questions for the architect at this point?

13 MR. GORDON: Dennis, this is Ken Gordon. If  
14 I could chime in with a couple questions please?

15 CHAIRPERSON MIETZ: Yes, sir.

16 MR. GORDON: Mr. Hourmanesh, would you  
17 please talk a little bit about what your plans are  
18 with respect to other Board applications including  
19 when you plan to be going to the Planning Board for  
20 your approvals there?

21 MR. HOURMANESH: Yes, sir. We went to  
22 Architectural Board. The first time they wanted some  
23 modification. We make the modification. We met with  
24 them. And I got a letter that basically they had  
25 approved it with the condition that all the

1 modifications made be basically acted upon. So that's  
2 that.

3 I guess I'm coming to the Zoning Board.  
4 Then after the Zoning Board I will pursue to go to the  
5 Planning Board. So that's the plan as of now.

6 MR. GORDON: Is there a reason why you need  
7 Zoning Board approval before you go to the Planning  
8 Board? Couldn't you go to the Planning Board and see  
9 if they're willing to give you site plan approval and  
10 the conditional use permit that you will need before  
11 the Zoning Board takes action on your variance? Isn't  
12 that possible?

13 MR. HOURMANESH: Yes, sir. That's very  
14 possible. While I can -- when I spoke with the  
15 gentleman named -- one of the staff at the Town of  
16 Brighton, I think his name is Jeff, I can't remember  
17 his last name or cannot pronounce it properly, but  
18 that -- I was told okay, go to -- whatever they set me  
19 up with, I went to that Board. And now the next --

20 MR. GORDON: The choice is always that of  
21 you, the applicant, as to what Board you go to and in  
22 what order, of course.

23 It's just that as Mr. Premo was asking  
24 questions, it was apparent to me that some of his  
25 questions really are more of the issues that will be

1     dealt with at the Planning Board in terms of the  
2     intensity of the use relative to the conditional use  
3     permit, the orientation of the parking, things like  
4     drainage on-site, those are all site plan issues. So  
5     it's just a thought that -- I just wanted to hear your  
6     thoughts. It's certainly something we'll talk about  
7     with the Zoning Board when we get into deliberations.

8             MR. HOURMANESH: Yes. Generally with other  
9     towns, in Rochester, Greece, Penfield, several -- like  
10    Gates, generally I've gone to the Planning Board first  
11    and then I go to the Zoning Board. I was just trying  
12    to expedite as much as possible.

13            If you suggest that I go to the Planning  
14    Board schedule and the forms and everything and submit  
15    it to the Town of Brighton so I can discuss this issue  
16    with Mr. Rick DiStefano and then schedule to go to  
17    that Board and then come back and come to the Zoning  
18    Board. I don't have an issue with that, sir.

19            MR. GORDON: All right. A concern that I  
20    have is if the Planning Board were dissatisfied with  
21    the parking layout, for example, and wanted you to  
22    move or restructure the parking in some way, you might  
23    need a different variance than you're seeking now  
24    relative to those parking spaces. And that would --  
25    that would be a needless second application if we were

1 to take action.

2 Let me just -- let me just ask a couple  
3 quick technical questions about the parking itself.

4 MR. HOURMANESH: Yes.

5 MR. GORDON: So I understand that your  
6 client believes that he has the right under this  
7 easement to park on the north side of the building at  
8 2720. Do you know whether that right is to park in  
9 the orientation as you've drawn it, basically in a  
10 north/south direction? Or if it's only for certain  
11 periods of time to park in a parallel fashion to the  
12 building? Do you know if there's any such restriction  
13 in the easement?

14 MR. HOURMANESH: No, sir. There's no such  
15 restriction. It just refers to parking for this  
16 property. And I believe it gives certain dimensions  
17 almost all -- almost close to the base, on my  
18 understanding of the easement, is that, like as I  
19 mentioned, I'm not an attorney, but based on my  
20 understanding is that almost to the area -- there's  
21 certain areas that they said you cannot park, like in  
22 front of Fastenal or to south the Fastenal, certain  
23 places. But this area pretty much, my understanding  
24 was that I could park in that manner.

25 And then also the restaurant who was there,

1 I think that's how they parked because some of the  
2 yellow lines still remain. You can -- most of it's  
3 faded, but here and there you see that you can tell  
4 there was a parking line there. So over like five  
5 years, or whatever, the building has been vacant, it  
6 has eroded.

7 The building itself structurally is very  
8 sound. Inside when you go look at it, it's very  
9 sound. The outside is horrid as far as I'm concerned.  
10 Being an architect, it's just very unpleasant looking.  
11 It's a sore thumb in that area. So we tried to make  
12 it so it's at least aesthetically pleasing. It's much  
13 more -- it's much better than what we had. We changed  
14 the front facade. We're putting stucco everywhere,  
15 the water table up to 28 inches high. So we've done  
16 quite a bit of things in order to make a positive  
17 building.

18 MR. GORDON: I had one other technical  
19 question about the parking. I understand there is  
20 parking on the south side of the Fastenal building,  
21 which is directly behind a portion of the parking you  
22 are planning on the north side of 2720.

23 Can you tell us the distance between those  
24 parking spaces at their closest points?

25 MR. HOURMANESH: Easily 50 to 70 feet.

1 Easily. When they park -- I haven't measured exactly,  
2 but I have stepped it. Every step of mine is about 3  
3 foot. And it's easily over -- at the closest space is  
4 60 foot.

5 And then as the building -- the Fastenal  
6 building angles, it's built at an angle. It's not  
7 exactly parallel to the road. As last it appears that  
8 way. So as you go toward the east, that distance  
9 increases.

10 CHAIRPERSON MIETZ: Okay.

11 MR. GORDON: And when you say 50 to 70-feet,  
12 you're saying from building to building or parking  
13 spot to parking spot?

14 MR. HOURMANESH: Basically the flow of  
15 egress and ingress. So it's ample -- it's pretty  
16 wide. It's easily 50-feet clear space between the two  
17 parking spots.

18 MR. GORDON: I see. All right. And is this  
19 a measurement you took or are you just guessing at  
20 that?

21 MR. HOURMANESH: Right now -- I did a  
22 measurement, but it's not an exact measurement. But I  
23 know it's like -- usually when I don't have the laser  
24 and everything to check, I step it. And every step of  
25 mine is about 3 foot. So you're easily 60-foot

1 clearance.

2 MR. GORDON: All right. And only because  
3 this is part of the public record, Dennis, and I want  
4 to make sure the public record is complete and clear,  
5 I will say that I was -- I visited the site today as  
6 well.

7 My observations were that there were  
8 absolutely no parking lines that were remaining on the  
9 property, no faded out yellow lines. It's been  
10 black-topped over, nothing's left there. And, you  
11 know, I'm sure Mr. Hourmanesh's guesses are probably  
12 his best guess, but my best guess would be there was  
13 about 30 feet of clearance between the ends of the  
14 parking stalls.

15 CHAIRPERSON MIETZ: And to the existing.  
16 Okay.

17 MR. HOURMANESH: What I could do, I could  
18 ask the surveyor to provide me that dimensions,  
19 because I'd rather have something exact provided by  
20 the surveyor. So it's basically there's no discussion  
21 as far the --

22 CHAIRPERSON MIETZ: Okay.

23 MR. GORDON: That's all I have. Thank you,  
24 Dennis.

25 MR. DiSTEFANO: Reza, I think that's all

1 good information to take down so when you make your  
2 application to the Planning Board, you'll be able to  
3 answer those questions. Those are important questions  
4 for the Planning Board.

5 MR. HOURMANESH: Yes, sir.

6 CHAIRPERSON MIETZ: Okay. Well, we'll  
7 obviously discuss this further, you know, during the  
8 deliberations. Okay.

9 Are there any other Board questions or any  
10 other staff questions? And then we'll move on to the  
11 public.

12 Okay. So at this point is there anyone on  
13 the Zoom call that would like to speak regarding this  
14 application? Sorry? Is there anyone that would like  
15 to speak? Oh, hi Betsy. You got to unmute yourself  
16 there. You're still muted.

17 MS. BRUGG: Thanks.

18 CHAIRPERSON MIETZ: There we go.

19 MS. BRUGG: There we go.

20 CHAIRPERSON MIETZ: How are you?

21 MS. BRUGG: I'm good. I just wasn't able to  
22 unmute.

23 CHAIRPERSON MIETZ: Identify yourself and  
24 your address for the record please.

25 MS. BRUGG: Sure. Betsy Brugg. I'm with



1 Woods Oviatt, 1900 Bausch and Lomb Place.

2 We did send -- I did send a letter in. I  
3 don't know. Am I on here? Yes. Okay.

4 I did send a letter in on behalf of 2710  
5 West Henrietta Road, LLC, and Randy Schuster, who's  
6 the -- I believe, he's the trustee managing that  
7 property.

8 They only found out about this application  
9 and this project because they received the legal  
10 notice, I believe, from the Town. So we didn't have a  
11 whole lot of time to evaluate some of the issues. But  
12 there are a lot of issues and a lot of concerns that  
13 that property owner has. He absolutely opposes that  
14 and feels it's too intense a use for this property.

15 I'll kind of summarize. You have my letter,  
16 but I'll just kind of summarize the few things that  
17 I --

18 CHAIRPERSON MIETZ: Okay.

19 MS. BRUGG: -- want to make sure the Board  
20 was aware of.

21 So this property owner -- my client has  
22 reached out to this property once before regarding  
23 some obligations for snow removal. They never  
24 responded. They've heard nothing about this project.  
25 Nobody has contacted them to ask about it. So they

1 were not asked to provide their consent. They were  
2 not informed. There was no discussion of the impact  
3 on their property.

4 They do have a tenant, Fastenal. It's a  
5 national company that does operate there. Most of  
6 their traffic is trucks. They serve the contractor  
7 industry. So they have a lot of big trucks that come  
8 through there.

9 So Mr. Schuster was not contacted. He  
10 hasn't consented to the application. The legal notice  
11 that I think I pointed out there, there was some  
12 issues with the notice in terms of the correctness  
13 (video froze) the variances.

14 I think that they did point out that they  
15 did make a mistake on the number of parking spaces.  
16 There are only 41 spaces shown on the plan. However,  
17 only 17 of those spaces are actually on their  
18 property. And I believe code requires the parking to  
19 be on the same parcel as the use that it serves,  
20 unless I'm mistaken. So I think that actually should  
21 be a variance for 17 spaces where 55 are required.

22 The impervious area is a little confusing  
23 because I looked at the plans and they didn't match up  
24 with the legal notice. But I think they're proposing  
25 86.5 percent lot coverage.

1           The lot coverage -- or the impervious area  
2 of this property is already quite high. This is a  
3 nonconforming lot. The Code allows 65 percent lot  
4 coverage. This lot has 83.2 percent lot coverage. As  
5 you can see -- you don't have the site plan up here,  
6 but it virtually doesn't have side setbacks. And the  
7 lot is 67 feet in width, I believe, where I think code  
8 requires 160 feet.

9           So it's a nonconforming lot, extremely  
10 nonconforming already. That said, the buyer bought  
11 this property knowing what they were purchasing,  
12 knowing the limitations of the property, knowing the  
13 conditions of the site, knowing the conditions of the  
14 building. This is -- in fact, this looks to me like a  
15 great opportunity to make some significant  
16 improvements to a nonconforming lot.

17           And instead, they want to put in a use that  
18 is, you know -- a highly intense use. There are other  
19 less intense uses that are permitted in the zoning --  
20 in the Zoning Code, less intense uses that would  
21 require less parking. Essentially all of the impacts  
22 of this proposed grocery store, which does have fresh  
23 fruits and vegetables, they have sushi, they have  
24 bakery, they have tables to sit down, this is a very  
25 intense type of an operation. All of the impacts of

1 this use or going to fall on my client's property.  
2 All of them.

3 As far as the easement, their proposed plan  
4 shows about 22 spaces on the north side of the  
5 building that are for the most part on my client's  
6 property, as well as a couple there in the back shown  
7 on this plan. They did not request my client's  
8 consent. They have no rights under this easement to  
9 construct parking on my client's property.

10 This parking is actually -- I'm not  
11 conceding that they have a right to a right-of-way,  
12 but they don't have the right to obstruct the right of  
13 way. And that parking is going to severely impact the  
14 right-of-way that's currently there.

15 Again, my client has big trucks. What's not  
16 in my letter is today they had a contractor -- they  
17 had their contractor go out there and look at what the  
18 impacts would be on the traffic circulation on their  
19 property. And I got a call just before tonight's  
20 meeting telling me that their contractor went out  
21 there and said there's no way their large trucks are  
22 going to be able to get into their loading area, in  
23 and out of the loading area in the back there if they  
24 have these parking spaces built in the -- what is  
25 this? This northeast area of the site.

1           So I don't think they have a right to file  
2           an application with parking spaces that are not on  
3           their property. Let's see. I went through -- I don't  
4           think they meet the criteria for the granting of the  
5           area variances. I'm just going to touch on it very  
6           briefly. There are a lot of impacts. We're very  
7           focused on the parking because obviously they want to  
8           build something on property that they don't own.

9           But aside from the parking, you know,  
10          parking brings pedestrians. There's no pedestrian  
11          amenities here. There's people going to be walking  
12          through the right-of-way that's essentially to West  
13          Henrietta Road. This is a grocery store. There's  
14          going to be produce and fish and food. That means a  
15          lot of garbage, a lot of dumpsters, garbage trucks,  
16          potentially animals, a lot of those types of impacts  
17          that I don't -- I don't -- I think the refuse -- I see  
18          it back there. This isn't the easiest plan to -- it  
19          does not look like they have a whole lot of space for  
20          dumpsters and I don't know what their plan is.

21          Shopping carts. Are we going to have  
22          shopping carts all over our property? I think there's  
23          a lot of intensity with this operation. Again, the  
24          property owner knew what they were doing when they  
25          bought this property. They know the limitations.

1 I believe in the past when an applicant's  
2 come in for a impervious surface variance of -- you  
3 know, with property that has substantial coverage,  
4 over the 65 percent, they are usually making  
5 improvements that, while needing a variance, are  
6 reducing the lot coverage and reducing the amount of  
7 impervious area, making, you know, improvements to  
8 that condition. This is just such a highly  
9 nonconforming lot as it currently is. They're just  
10 packing something that's too intense into the  
11 property.

12 I know a lot of the questions that came up  
13 touched on some of the site plan things. So I won't  
14 get too much into it. You know, I have to ask,  
15 there's going to be all new cars out here. Grocery  
16 stores are busy places. Yes there's cars that come on  
17 their -- onto the property now, but what does this  
18 site have as far as water quality? Where's all the  
19 crud going to go? And I -- you know, there's just a  
20 site plan related concerns.

21 But my client's biggest concern, of course,  
22 is that they're proposing to make improvements on  
23 property that is going to, you know, directly impact  
24 their tenant. The -- you know, it was mentioned that  
25 there was a sit-down restaurant here. I think this

1 building originally was a warehouse. And then it was  
2 the Japanese steakhouse. I believe when this easement  
3 was originally written, it did contemplate this as a  
4 restaurant. A restaurant use had different peak times  
5 than a daytime business operation. It wasn't  
6 Fastenal, but essentially there was -- you know, kind  
7 of offset peak times and things like that.

8 And, you know, a grocery store is a  
9 seven-day a week operation, daytime hours plus.  
10 Fastenal is primarily a daytime operation. This just  
11 is not a compatible neighbor to their operation. And  
12 what's proposed here is going to directly impact and  
13 adversely affect Fastenal's current operation and use  
14 of the property. So I think I've kind of  
15 summarized --

16 CHAIRPERSON MIETZ: Okay.

17 MS. BRUGG: -- you know, what I got. So,  
18 yeah. If you have any questions, I'm happy to answer  
19 them.

20 CHAIRPERSON MIETZ: I think that's good,  
21 Betsy.

22 MS. BRUGG: I can't -- I can't see if you  
23 can see me. I just see a plan and your face in the  
24 corner.

25 CHAIRPERSON MIETZ: Oh, okay. Yeah. I

1 think -- I think we're good at this point.

2 Is there anyone else on the call that would  
3 like to speak regarding this application? Okay. So  
4 at this point then the public hearing is closed. And  
5 we'll move on to the next application please.

6 MS. BRUGG: Thank you.

7 CHAIRPERSON MIETZ: Thanks.

8 MR. HOURMANESH: Thank you.

9 **Application 5A-03-22**

10 Application of Fidelity Investments, LLC,  
11 lessee, and Daniele Family Companies, owner of  
12 property located at 2750 Monroe Avenue, for a Sign  
13 Variance from Section 207-32B(1) to allow for a sign  
14 on a second building face where not allowed by code.  
15 All as described on application and plans on file.

16 MS. MCKAY-DRURY: This is member  
17 McKay-Drury. I'm going to recuse myself from this  
18 one. So I will turn off my video.

19 CHAIRPERSON MIETZ: Okay. Very good. And  
20 who do we have speaking for Fidelity?

21 MR. SCHALLIOL: Good evening. My name is  
22 Charlie Schalliol with Site Enhancement Services.

23 CHAIRPERSON MIETZ: Okay. Charlie,  
24 what's -- can you give us a address for the record  
25 please?



1 MR. SCHALLIOL: Sure. It's 6001 Nimtz  
2 Parkway, South Bend, Indiana.

3 CHAIRPERSON MIETZ: Okay. Wonderful. Go  
4 right ahead.

5 MR. SCHALLIOL: First off, thank you for  
6 allowing us to come before you this evening. Just to  
7 give you a little bit of background on the project and  
8 the property and the client in general, Fidelity  
9 Investments is currently located in the Pittsford  
10 Plaza in Rochester. We're actually moving to this new  
11 location. Fidelity is excited about it. It gives  
12 them an opportunity to get a little bit more space.

13 There's going to be 13 guidance offices.  
14 There's going to be 20 to 30 employees that actually  
15 work here on a rotating in and out basis. And that's  
16 just based on the new COVID rules and the new society  
17 we live in. But a new investor center for Fidelity.  
18 The space is actually going to take up three  
19 storefronts. So it's kind of a rather large space,  
20 which is exciting.

21 What we're looking for is, right now the  
22 Code allows for the single sign because we are not a  
23 corner lot. We are a corner tenant space, but we are  
24 not a corner lot. One sign at ten percent of the  
25 elevation up to 150 square feet.

1           What we're actually proposing is the one  
2       sign on the front of the building does not require a  
3       variance obviously, but that one we're -- we have  
4       drawn up at 104 square feet. What we're asking to do  
5       is use some of the remaining square footage or the  
6       remaining code allowed square footage and actually put  
7       a sign on the side of the building that would face  
8       towards the new Whole Foods, but then also has a  
9       really nice window of visibility to the motorists as  
10      they exit the highway and then also traveling east on  
11      Monroe Ave.

12           And actually this picture right here tells a  
13      story. You can see that white elevation is actually  
14      the tenant space before it got the brick on it. It  
15      would be a second sign on that side where you see the  
16      three little columns that are actually window bays.  
17      It's a small sign. It's internally illuminated. It  
18      will have zero impact on any residentially-zoned  
19      property. Again, we're not asking for additional  
20      square footage. It's just the ability to use some of  
21      our square footage in a different manner.

22           It's not atypical to the area. If you're  
23      familiar with the Starbucks, Starbucks has a sign on  
24      every single elevation, which -- I mean, it's a very  
25      visible site. So it makes a lot of sense. There's

1 other businesses up and down Monroe Ave that, you  
2 know, have a similar situation and they've got a sign  
3 on the side of the building. So it makes sense.

4 The main audience, again, is going to be  
5 people exiting the highway, people on Monroe Ave, then  
6 obviously people in the shopping center itself and the  
7 Whole Foods area.

8 It's important to note I think that Fidelity  
9 will not be on any sort of multi-tenant freestanding  
10 sign as there's just not an allocated spot for  
11 Fidelity to be present. So the facade visibility and  
12 signage is really key to letting people know where we  
13 are.

14 Again, the architecture for this property  
15 itself and -- or the building I should say, is unique  
16 on the fact that it varies and brings a lot of visual  
17 interest. And the signage that we're asking for at  
18 this property will just help to accent that  
19 architecture.

20 I appreciate the time. If there's any  
21 questions -- it just -- you know, it's one of those  
22 things that as we move into the new site, as we move  
23 into a new location obviously signage and branding is  
24 important, but we try to be extremely respectful.  
25 That's why we didn't want to just put 150 square feet

1 on the main elevation. It just wouldn't make sense.  
2 It's not appropriate. It doesn't fit with the  
3 character of the neighborhood. And we think that the  
4 second sign, the smaller sign that we're asking for on  
5 the side of the building will really help accent the  
6 property and, I guess, fit into the commercial  
7 integrity of the corridor. So thank you very much.

8 CHAIRPERSON MIETZ: Okay. Very good. Just  
9 quickly, just one thing and then we can see what the  
10 other Board members have to say. What would you --  
11 you alluded to the change in business, which we all  
12 are certainly party to given what's gone on the last  
13 few years. But what would the expected traffic coming  
14 into this business, not the employees that are working  
15 there static, but what kind of expectation would  
16 Fidelity have or do they have at Pittsford for foot  
17 traffic?

18 MR. SCHALLIOL: Yeah. I think a lot of that  
19 depends on time of year. Obviously tax season is, you  
20 know, a big one. End of the year is a large one with,  
21 you know, holiday money transfer and what have you.  
22 But it all depends on a day-to-day basis.

23 Foot traffic, there's a lot of walk-in  
24 traffic. And when I say a lot, you know, just working  
25 with Fidelity throughout the years, I've been, you

1 know, working on their projects for 16-plus years,  
2 you're usually looking at four to five customers in  
3 there at a time, you know, a couple meetings.

4 Within the center there is going to be some  
5 designated parking for Fidelity-only customers. But  
6 it's not a major -- it's not a restaurant. It's not a  
7 high-intensity use. It's -- it's really -- how do I  
8 say this? It's really subdued customer traffic, but  
9 at the same time it's planned for. It's accommodated.  
10 And especially within this center there's ample  
11 parking for at least, you know, what we anticipate our  
12 client traffic to be.

13 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
14 Other questions by the Board please?

15 MR. DiSTEFANO: Just before we go on, can I  
16 ask Brendan, can you scroll down to the sign  
17 elevations? So we can get that sign -- keep going.  
18 One more. This would be the one for the variance  
19 request right here.

20 MR. SCHALLIOL: Yes, sir. Yeah. And that's  
21 a -- it's a 36-inch -- so if you look down at the  
22 bottom picture, it's a 36-inch crest, which alludes to  
23 a 24-inch "F" in Fidelity. And it's 46 square feet.

24 CHAIRPERSON MIETZ: Okay.

25 MS. TOMPKINS-WRIGHT: This is Member Wright.

1 I apologize if you've mentioned this, but I know  
2 you've included it in the packet. There are several  
3 buildings along Monroe Avenue in that same area that  
4 also have two signs on two sides of the building.

5 MR. SCHALLIOL: Yeah. Just looking up and  
6 down -- and of course I had that piece of paper. Just  
7 looking up and down the corridor, I know that the  
8 mattress location -- now, granted it's a corner  
9 property. And ours is a little unique because we're  
10 an inline tenant and end tenant. So we are a corner  
11 tenant, not necessarily a corner property.

12 The City Mattress has two signs. There's  
13 a -- Sakura Home has two signs. Vitamin Shoppe,  
14 Adelita's. And, again, I can't speak necessarily to  
15 the jurisdiction of the Vitamin Shoppe, the Adelita's  
16 or the Rochester Athletic Club, but a similar type  
17 situation. With tenants that have appropriate signage  
18 based on, you know, viewing corridors and secondary  
19 elevation.

20 MS. SCHWARTZ: Member Schwartz. I just want  
21 to say that Sakura and Red Sun are two separate  
22 businesses in the same building. So they do need two  
23 signs to differentiate between the two.

24 And personally I think the mattress store is  
25 quite different because as you are coming off the

1 expressway, that sign really does show. Are you  
2 referring to that same ramp for your customers to be  
3 coming off and trying to see your sign?

4 MR. SCHALLIOL: So -- right. As you  
5 actually come off the ramp and actually get to the  
6 intersection of Monroe, you've got a really nice shot  
7 of the side of the building. So yeah, that is an  
8 aspect of the traffic that we're looking to have  
9 exposure to.

10 MS. SCHWARTZ: Okay. But in all honesty,  
11 your building is positioned quite differently than the  
12 mattress store. Your front sign, the sign you're  
13 allowed, will be front and center as you come off of  
14 the expressway, especially when you turn right to go  
15 east onto Monroe Avenue.

16 And the other two things is when I was  
17 looking at it, the two signs are almost going to be --  
18 you know, almost touching one another because of where  
19 they're located. And that is not that big an area for  
20 the two signs.

21 What other reasons were there for you to  
22 come to this conclusion?

23 MR. SCHALLIOL: Well, I mean -- so, couple  
24 things. First off, I will not sit here and argue the  
25 mattress is -- definitely has different viewing

1 corridors and accents. It absolutely does. You're a  
2 hundred percent correct.

3 I think the consideration for the side wall  
4 sign also has to do with the tenant that the side of  
5 our building faces. You know, the Whole Foods is  
6 obviously a major draw. And just to have subtle  
7 exposure to the patrons going in and out of that  
8 shopping facility I think is huge.

9 Again, it's not something that is intended  
10 to, I guess, overly impact the off-site environment.  
11 It's more meant to arch -- accent the architecture and  
12 to show, you know, to the motorists traveling east on  
13 Monroe and/or into the Whole Foods. And, again,  
14 I'm -- the ramp at the 590, yes, there is a front wall  
15 side and the building -- the way that the building  
16 faces, it's not a direct-on angle and there's some  
17 vegetation along the street that I think needs some  
18 consideration. But that side wall side, you know,  
19 driving up and down that viewing corridor is going to  
20 have some exposure and it's exposure that we're  
21 looking for.

22 MS. SCHWARTZ: When you mentioned the Whole  
23 Foods, it came to mind in a way you're using that then  
24 as an advertisement for people in Whole Foods to know  
25 that that's Fidelity more than, you know, a



1 way-finding sign if you're on the road.

2 MR. SCHALLIOL: I'm not going -- I'm not  
3 going to argue that we definitely want exposure to  
4 the -- to the people within Whole Foods. And I think  
5 that, you know, the fact that this is -- it's within  
6 the square footage of the overall allotment of the  
7 facility itself. You know, we tried to be cognizant  
8 of the size and the impact that we're looking for.

9 But breaking it up onto the secondary  
10 elevation, you know, for this type of center appears  
11 to be appropriate. I mean, Starbucks being a pad site  
12 at the front of the property has four signs. They've  
13 got a sign on every single elevation, which makes  
14 sense. It's a commercial environment. It's zoned  
15 commercial. It's a commercial corridor. And, you  
16 know, the signage that we're asking for isn't -- it's  
17 not intended to be, to your point, an advertisement.  
18 It's intended to be a way-finding and a notification  
19 tool.

20 So it's -- it's subdued and it's in line  
21 with what you would expect to see and our clients  
22 would expect to see in this type of environment.

23 CHAIRPERSON MIETZ: Okay. Other questions  
24 by the Board this time? Okay. Very good. Thank you  
25 very, much sir.

1 MR. SCHALLIOL: Thanks very much for your  
2 time.

3 MR. GORDON: Dennis --

4 CHAIRPERSON MIETZ: Yes.

5 MR. GORDON: If I could ask a couple  
6 questions?

7 CHAIRPERSON MIETZ: Oh, I'm sorry. Yes.  
8 Speak up there, Ken. Go ahead.

9 MR. GORDON: Ken Gordon, attorney for the  
10 Town. Why this size sign? Why 46 square feet? Why  
11 could you not live with something smaller?

12 MR. SCHALLIOL: I'm not saying we  
13 necessarily could. I think in my communication with  
14 staff and my communication with the property  
15 ownership, we tried to be very sensitive to the size  
16 of the front wall sign. I mean, again, ten percent of  
17 the front elevation is actually -- the front elevation  
18 that Fidelity has is 3,150 square feet. And ten  
19 percent of that is -- obviously it's 315 square feet.  
20 The Code maxes out at 150.

21 We don't need a 150 square foot sign on the  
22 front of the building. It would be absolutely  
23 obnoxious. It wouldn't be appropriate. And it's  
24 not -- I don't think it would be us being a good  
25 partner with the community.

1           So what we did, we appropriately sized the  
2           sign on the front of the building and then used the  
3           remaining square footage on the side of the building.

4           I mean, if the -- if the Board wants that  
5           sign slightly smaller, I don't see why it couldn't be  
6           slightly smaller. Instead of a 36, you know, we could  
7           go to a 33. The size of the sign is less important  
8           than the impact of the sign -- the impact that the  
9           sign will have. If that makes sense.

10           MR. GORDON: The reason I ask is one of the  
11           standards is if a variance is granted, it should be  
12           granted to the minimally necessary size or variance  
13           that would allow you to still have the benefit that  
14           you're seeking.

15           So I guess that's my question. What's --  
16           what's the smallest size sign on that side of the  
17           building that would still achieve the benefit you're  
18           looking to get?

19           MR. SCHALLIOL: Well, two things to that.  
20           We try to keep with the minimum request and that's why  
21           we took -- that's why basically this is only variance  
22           instead of asking for additional square footage, if  
23           that makes sense. So that's one of the things.

24           But honestly, you know we're showing a  
25           36-inch sign here. I say we could probably get away

1 with a 27-inch crest, which is 26 square feet. So  
2 it's dramatically smaller. It's approximately 10  
3 inches smaller, but it still gives us the  
4 identification of the Whole Foods.

5 MR. DANIELE: This is Mr. Daniele --

6 MR. GORDON: Thank you, Mr. Daniele. Yeah.  
7 I saw your hand up there.

8 CHAIRPERSON MIETZ: Yeah. We'll take that  
9 in a moment.

10 MR. GORDON: Well, Mr. Daniele's one of the  
11 applicants so.

12 CHAIRPERSON MIETZ: Yes. Yes. I  
13 understand.

14 MR. DiSTEFANO: Just going a little bit on  
15 what Ken was just talking about, Charley, do you feel  
16 that this sign is in proper scale with that side of  
17 the -- that elevation?

18 MR. SCHALLIOL: I think the one that we've  
19 asked for absolutely is. I think if we go smaller,  
20 it's actually going to look too small. The elevation  
21 and the way that we sized it out, I mean, if you flip  
22 to the previous page, you'll see the size of the front  
23 wall sign and how it fits within the span of the brick  
24 area and really highlights the architecture above the  
25 entry feature.

1           This sign, we tried to be in balance. If we  
2 look at the edge of the crest versus the edge of the  
3 "Y" and the window lines, we tried -- we tried to stay  
4 center to that and be balanced on those window lines  
5 and really highlight that elevation and be balanced.

6           If we go smaller, I honestly think it's  
7 going to look too small. But at the same time, the  
8 impact of the side wall sign is definitely something  
9 that we're looking for.

10           MR. GORDON: And you said that it's going to  
11 be internally lit. That might be in your materials.  
12 I missed it if it is. Could you just talk a little  
13 bit more about what that internal lighting is going to  
14 be, night sky compliant, is it, you know, a bright  
15 glowing sign that we're going to be able to see from  
16 Twelve Corners? You know, what do you got?

17           MR. SCHALLIOL: No, no. Absolutely. And  
18 there's a -- and there's a really subtle description  
19 on the page that you see there. So the only thing  
20 that illuminates is the crest and the letters itself.  
21 They're all individually illuminated channel letters  
22 with LED.

23           To speak to your point in regards to, you  
24 know, are you going to see it from far away,  
25 Fidelity -- so I've got a lot of clients. They do a

1 lot of business. And the typical is a thin piece of  
2 quarter-inch acrylic is a front -- front face for a  
3 channel letter.

4 These are actually three-quarter inch thick  
5 acrylic with a vinyl over the face to obviously have  
6 it illuminate white. What that doesn't is it subdues  
7 the over -- the impact of the illumination, I should  
8 say. So it's a -- it's a soft, but very crisp look on  
9 the illumination. It's -- it's LED illuminated. So  
10 it's all controlled. It will be absolutely compliant  
11 with the regulations of the illumination standards of  
12 the Code. And it will match what you're going to see  
13 in the rest of the center.

14 CHAIRPERSON MIETZ: Okay.

15 MR. GORDON: Last question. I heard you say  
16 that there is no room on a plaza monument sign for  
17 Fidelity. Is that something that Fidelity asked for  
18 and was told there was not room? And maybe that's a  
19 question more for Mr. Daniele than Mr. Schalliol. I  
20 don't know.

21 MR. SCHALLIOL: So Mr. Daniele, if you want  
22 to answer. My understanding is the only freestanding  
23 sign that is going to be at the site is actually for  
24 the Whole Foods itself. So there's not an opportunity  
25 for a multi-tenant scenario for Fidelity to be a part

1 of.

2 MR. GORDON: Thank you.

3 MR. DANIELE: This is Danny Daniele, the  
4 owner of the property with the applicant. So can you  
5 hear me okay?

6 CHAIRPERSON MIETZ: Speak up a little.

7 MR. GORDON: Lean in.

8 MR. DANIELE: Is this a little better?

9 CHAIRPERSON MIETZ: Yes.

10 MR. DANIELE: So the Whole Foods monument is  
11 a single monument. And it's only allowed by Code by  
12 our approvals to have one sign on there and it's the  
13 Whole Foods sign.

14 When we were working with Fidelity to take  
15 the space, they did request space on a monument sign.  
16 It was made clear that we wouldn't have any available.  
17 We did tell them that because they're taking up four  
18 spaces within the plaza that we typically would have  
19 put four separate tenants that would have had the  
20 opportunity to put up four separate signs up to 150  
21 feet, that you may have a good change of going in  
22 front of the Zoning Board and pleading your case of  
23 rather than putting up over 500 square feet of signage  
24 that we're allowed to based on our previous approvals,  
25 rather than putting 500 feet, maybe you can put two

1 smaller signs. And I'm not sure what the total comes  
2 up to with the two signs. If you guys have that  
3 number.

4 MR. SCHALLIOL: 150.

5 MR. DANIELE: So it's 150. So he's got  
6 basically one sign on there. And it gives some color  
7 to the entire -- that building.

8 That building was designed for 14 tenants.  
9 And I know that the group funded by Wegmans wants to  
10 make sure that everyone thinks that there's going to  
11 be 14 tenants in there. But the reality is, we're  
12 only going to have eight tenants. And that means that  
13 there's going to be six signs that are not going to go  
14 up. So 6 times 150, do the math, it's almost 700  
15 feet-plus that's not going to go up.

16 So by allowing them to have these two  
17 smaller signs, continuing to go up to 150, the whole  
18 site is still going to have less than 600 square feet  
19 of what we were originally approved for. So I think  
20 that's a pretty big deal. And I think when you asked  
21 the question of how much smaller can they make the  
22 sign, obviously it's subjective. You can make it the  
23 size of a dollhouse if you really wanted to. But the  
24 purpose of the sign is so that the average individual  
25 can see it from their vehicle, driving for



1 way-finding, et cetera. And we did work with them a  
2 little bit. And, you know, when you're working with  
3 Photoshop, if you will, you can expand and contract  
4 the sign. And the signage that they came up with, not  
5 only did it stay within the 150 feet, but it looks  
6 proper with the architecture and it seems like we'll  
7 be able to get a decent visual read from the roadway  
8 on Monroe Avenue as well as coming out from Whole  
9 Foods.

10 So we felt that it was a fair ask for the  
11 applicant, for the tenant, to be able to have rather  
12 than one big ridiculous sign of 150, two smaller ones.  
13 And with the architecture of that building being on  
14 the corner, it really does fit nicely.

15 CHAIRPERSON MIETZ: One other just follow-up  
16 Mr. Daniele. When we were discussing the type of  
17 signage, is this your intention then with the rest of  
18 the plaza that would mimic the style of the signs that  
19 are proposed here by Fidelity for that building?

20 MR. DANIELE: I can't speak to that right  
21 now. It's not going to be the typical cookie-cutter  
22 plaza where every sign looks the same. The idea was  
23 to make this more of a, you know -- some people may  
24 laugh at it, but my vision was to have a smaller town  
25 feel within that. And if you look at the architecture

1 and as you can see it being built today, every  
2 storefront has a different look to it, has different  
3 textures, has different masonry, has different shades  
4 of color so that every tenant can kind of stand on  
5 their own rather than than typical -- prototypical  
6 strip center where you just got, you know, seven red  
7 signs in a row with different names on it. We believe  
8 that that kind of cheapens the area.

9 CHAIRPERSON MIETZ: Okay. So I guess I  
10 wasn't driving at necessarily only the color, but how  
11 about the style, the backlit, you know, signage? The  
12 style, is that what your intention is to have that  
13 sort of style? Not necessarily --

14 MR. DANIELE: I believe they will be similar  
15 to that. But, again, I can't talk to the ones that  
16 have not put them in yet. They're all different  
17 companies that have different styles.

18 But I can tell you that every style that is  
19 going to be applied for will be allowed by Code as far  
20 as what they're asking for. There's not going to be  
21 exposed neon and crazy signs of that nature.

22 CHAIRPERSON MIETZ: Okay. Good. Okay. Is  
23 there any other questions for the applicants at this  
24 point? Okay. Very good. Thank you very much. Okay.

25 Is there anyone on the Zoom call that would

1 like to speak regarding this application? Okay. If  
2 there is none, then the public hearing is closed. And  
3 Rick you can move on.

4 **Application 5A-04-22**

5 Application of Ari and Victoria Chodos,  
6 owners of property located at 35 Whitestone Lane, for  
7 Area Variances from Section 205-2 to 1) allow a  
8 building addition to extend 10.4 feet into the  
9 existing 53.9 foot rear setback where a 60 foot rear  
10 setback is required by code, and 2) allow livable  
11 floor area, after construction of the addition  
12 To increase from 5,281 square feet to 5,926 square  
13 feet where a maximum 4,129 square foot is allowed by  
14 code. All as described on application and plans on  
15 file.

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

18 MR. BATTISTA: That would be me, Paul  
19 Battista, the architect. Westside Drive in North  
20 Chile.

21 CHAIRPERSON MIETZ: Okay. Great. Go right  
22 ahead.

23 MR. BATTISTA: My client originally looked  
24 at doing a second-floor bedroom addition last year  
25 that was approved. But when they went to do the

1 walk-through with the contractor, they expressed  
2 concerns about relocating our rerouting equipment for  
3 the pool room.

4 So instead of doing that, we investigated  
5 doing this rear addition for a bedroom. The size was  
6 dictated by the current master bedroom that's on the  
7 second floor. They're moving the master room down to  
8 be in this space.

9 So we're trying to provide the same  
10 amenities that they had on their second floor in this  
11 back addition. So there's a bathroom, a walk-in  
12 closet, a hallway to get to the bedroom. So that  
13 dictated the size.

14 And the placement, the only place we can  
15 really put that and easily connect to the existing  
16 utilities in the basement is behind the existing  
17 family room, which is shown on the exterior  
18 elevations. We're basically just extending that back  
19 wall out so the roof line and everything matches  
20 what's there now.

21 I think the bedroom itself is about 300  
22 square feet. The remainder is the walk-in closet,  
23 hallway and bathroom. The look of the addition will  
24 match the house.

25 There's large shrubs and trees on the rear

1 and side property line. So really you can't see this  
2 if you're in a neighboring property or from the  
3 street. So I think the impact is minimal. I know  
4 there's houses in the area that are much larger than  
5 this. So I know that we're asking for more than  
6 what's allowed, but we're in a neighborhood that's  
7 kind of the typical house layout.

8 If you have questions, I'm happy to answer  
9 or defer. My client's also on the line in case  
10 there's things that I can't answer.

11 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
12 Questions by the Board please?

13 MS. SCHWARTZ: Member Schwartz. Yes. I  
14 believe it's a magnolia tree in the back. Will that  
15 be able to be re -- kept?

16 MS. CHODOS: It sure will. We're not  
17 touching that.

18 MS. SCHWARTZ: Oh, okay.

19 CHAIRPERSON MIETZ: Ma'am -- ma'am, excuse  
20 me. Can you just identify yourself for the record  
21 please?

22 MS. CHODOS: Excuse me. My name is Victoria  
23 Chodos. I'm the homeowner at 35 Whitestone Lane in  
24 Brighton.

25 CHAIRPERSON MIETZ: Okay. Thank you.

1 MS. SCHWARTZ: And my second question is it  
2 looks as if this will be coming out, but it will be  
3 even with the extension of the pool?

4 MS. CHODOS: That's correct. Yes.

5 MS. SCHWARTZ: Okay. Thank you.

6 CHAIRPERSON MIETZ: Okay. Further  
7 questions? Nothing? Okay.

8 MR. DiSTEFANO: Just for the record, could  
9 you just tell us what your building lot coverage is  
10 going to be with the addition?

11 MR. BATTISTA: Hold on a second. I might  
12 have that on my drawing.

13 MR. DiSTEFANO: I think it is on your  
14 drawing. I just wanted it stated for the record.

15 MR. BATTISTA: So there's 20 percent maximum  
16 lot coverage allowed by code. And with this addition  
17 and what's existing on the site we'll be at 19.3 --

18 MR. DiSTEFANO: Thank you.

19 MR. BATTISTA: -- of that allowable  
20 20 percent.

21 CHAIRPERSON MIETZ: Okay. Very good. Any  
22 other questions? Okay. Very good. Thank you very  
23 much.

24 MR. BATTISTA: Thank you.

25 CHAIRPERSON MIETZ: Is there anyone on the

1 call that would like to speak regarding this  
2 application? All right. There being none, then the  
3 public hearing is closed.

4 **Application 5A-05-22**

5 Application of Randall Peacock, architect,  
6 and Debra Rogers, owner of property located at 24  
7 Hemingway Drive, for 1) an Area Variance from Section  
8 205-2 to allow a garage expansion to extend 6.7 feet  
9 into the existing 11.7 foot side setback where a  
10 13.27 foot side setback is required by code.; 2) an  
11 Area Variance from Section 205-2 to allow a building  
12 addition to extend 15 +/- feet into the existing 55  
13 foot rear setback where a 60 foot rear setback is  
14 required by code; and 3) an Area Variance from Section  
15 207-10E to allow a driveway expansion up to the side  
16 lot line where a minimum 4 feet setback is required by  
17 code. All as described on application and plans on  
18 file.

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

21 MR. PEACOCK: It's Randall Peacock.

22 CHAIRPERSON MIETZ: Mr. Peacock, good  
23 evening.

24 MR. PEACOCK: Thank you for hearing us this  
25 evening. My client --

1 CHAIRPERSON MIETZ: Your address, sir, for  
2 the record please.

3 MR. PEACOCK: 545 Spring Meadow Lane,  
4 Webster, New York.

5 CHAIRPERSON MIETZ: Okay. Come on here.  
6 You're -- you've given us a lot of applications, sir.  
7 Okay. Go ahead.

8 MR. PEACOCK: My client came to me with a  
9 request to do two additions to her house. One is a  
10 garage addition. And the other is a living space  
11 addition on the rear of the house.

12 One of the first things that I noticed with  
13 this property is it's somewhat unusual in terms of the  
14 way the zoning line is drawn. This parcel is in the  
15 RLA district. Almost every other parcel on Hemingway  
16 is in the B district. Strangely enough the A district  
17 follows along Highland Avenue. And in most instances  
18 all of the side streets, it takes the -- it  
19 encompasses the first residential parcel on the side  
20 street or the corner property. But then the next  
21 parcel behind that goes into the B district.

22 For some odd reason this is the one  
23 outstanding lot where they included the second parcel  
24 into the A district. And thus we have some more  
25 stringent setback requirements than neighbors around



1 us.

2 I'll give you a little bit of history.  
3 These houses were built in the mid-50s. Hemingway  
4 Drive is almost all identical houses. They do not  
5 have basements. They're all slab on green structures.  
6 And that limits the amount of storage available in the  
7 house. My client currently has to store some of her  
8 yard equipment or lawn mower, et cetera, behind the  
9 garage under the spacious overhangs on the house. But  
10 she would like to be able to incorporate more storage  
11 in the house by expanding the garage.

12 We're proposing to go out to a 5-foot  
13 setback distance, which is approximately a 6.7 foot  
14 increase in the width of the garage. The 5 foot is  
15 the minimum where we do not have to provide fire  
16 protection or fire resistance rating to the exterior  
17 wall of the house. And we believe that that will  
18 solve her concerns and provide enough additional  
19 storage for outdoor yard equipment. She likes to  
20 garden. So there's gardening equipment. There's lawn  
21 mowers, bicycles, et cetera that would go in there.

22 On the rear of the house -- she's  
23 anticipating a possible lifestyle -- life change by  
24 marrying. And she would like to add some living space  
25 to the house. If this property were in the RLB

1 district, I wouldn't be talking to you about a rear  
2 yard setback. We were maintaining 40 feet off of the  
3 rear line, which is the right that the neighbors have.  
4 And she's unfortunately required to be 60 feet off.

5 The existing house already encroaches over  
6 the rear setback of 60 foot. And as I mentioned, we'd  
7 be maintaining that 40-foot setback that would be  
8 required if the house were actually in the RLB  
9 district where it should be.

10 There are some unique aspects to the lot.  
11 It's in a pie-shape lot. The house sits a bit askew  
12 on that pie-shape lot. So there is no regular rhythm  
13 of side yard setbacks and front yard or front  
14 alignment of the house being along this property.

15 The neighbor's house, I've shown you the  
16 outline of the neighbor's house on the site plan.  
17 We're still -- give you a distance there. Bear with  
18 me just one moment. The nearest corner of the  
19 neighbor's house is approximately 11 and a half feet  
20 off of the property line. And there would still be  
21 about 18 feet between the two houses at the corner of  
22 the expanded garage.

23 The one other thing I'd like to mention and  
24 this is always just a pet peeve of mine, I noticed in  
25 the process for these drawings that Ms. Roger had her

1 driveway repaved. Apparently she hired a contractor  
2 to come in. They told her that there was not a permit  
3 required to pave the driveway. And they widened the  
4 driveway to the current size shown on my site plan.  
5 Once again, I really wish we had licensing of  
6 contractors in New York State, which allows us to  
7 control issues such as this, or at least seek out the  
8 guilty parties.

9 Ms. Rogers was not aware that there was a  
10 setback requirement for the driveway, nor that there  
11 was a building permit requirement for widening the  
12 driveway. The driveway was widened by about 6 and a  
13 half feet. It runs perpendicular to the house. So it  
14 goes out. And at the house it's 5 feet off. At the  
15 street line it's about right on the property line.  
16 And if advised her to correct that in the process of  
17 this hearing as well to seek the variance to legalize  
18 the driveway.

19 I know that she has spoke with a neighbor.  
20 I believe there was a letter provided by the neighbor  
21 stating their agreement with the request that she's  
22 making this evening. I forwarded it to Rick earlier  
23 in the week.

24 I think that kind of covers the unique  
25 nature of the property, the unique nature of the

1 zoning issues, the minimum required or minimum  
2 variance necessary in terms of maintaining our 5-foot  
3 setback.

4 I should also mention the actual required  
5 setback is 13.27 feet. On the opposite side of the  
6 house, we already have 15.2 feet. That gives us 20.2  
7 out of the required 26.5 roughly. So there is still  
8 some space around the house so that it does not make  
9 it look crowded.

10 In terms of building area, it's a 0.31 acre  
11 site, 13,504 square feet. The current lot coverage is  
12 14.2 percent or 1,119 square feet. With the  
13 additions, it would take us to 2,425 feet of cover or  
14 18 percent of the lot. So we're still far below what  
15 the maximum lot coverage would be permitted. And  
16 we're also well within the livable floor area of the  
17 house. The allowed livable floor area would be 2,678  
18 square feet. And we are proposing 1,858 square feet  
19 for the house.

20 CHAIRPERSON MIETZ: Okay.

21 MR. PEACOCK: I think I touched on all my  
22 points. And hopefully I can answer your questions.

23 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
24 So questions by the Board please?

25 MS. TOMPKINS-WRIGHT: Just to confirm,

1 the -- in the garage is still not even a two-car  
2 garage; is that right? It's like a car and a half.  
3 And is that extra just for storage?

4 MR. PEACOCK: Yes. Yup. We are widening  
5 the overhead door slightly (video cut out).  
6 Probably -- you live in Brighton. Probably a lot of  
7 you have overhead doors. They're a squeeze with  
8 modern-sized cars. We have allowed the door -- a  
9 12-foot door, but it still didn't give you two inside  
10 parking spaces, just one space and access to get  
11 around the car.

12 MS. TOMPKINS-WRIGHT: And I had just a  
13 couple questions for Rick. Or just one. Any ideas --  
14 I was sort of struck by this, the drawing of the zones  
15 between RLA and RLB here. Any idea why this property  
16 was included?

17 MR. DiSTEFANO: No, I do not know why.

18 MS. TOMPKINS-WRIGHT: It's like a  
19 gerrymandering map.

20 MR. DiSTEFANO: Almost. Almost.

21 MR. PEACOCK: You've heard maybe of the  
22 Czar's bump in the railroad. There was an argument.  
23 They were building a railroad and it was all going all  
24 over the place. And the czar put his ruler on the map  
25 and said no, it goes like this. And it made a little

1 bump. This could be a czar's bump.

2 CHAIRPERSON MIETZ: It is very --

3 MR. DiSTEFANO: Randy, I just have one  
4 question in regards to the garage expansion. That  
5 measurement is taken from -- is there an overhang on  
6 that side that's going to extend or no?

7 MR. PEACOCK: Yes. The overhang (video cut  
8 out). So the overhang would come out into that as  
9 well, into that 5 foot.

10 MR. DiSTEFANO: So your actual request is  
11 going to be even less than the 5 feet because we do  
12 take -- when you're going for a variance into a  
13 setback, we do take the closest point, that includes  
14 overhangs.

15 MR. PEACOCK: Oh, the overhang. Well, then  
16 the overhang -- I'd like to match that overhang to 2  
17 and a half feet closer.

18 MR. DiSTEFANO: And that won't incur any  
19 building code issues?

20 MR. PEACOCK: No. The -- even if it did,  
21 it's very simple to use a fire rating gypsum panel on  
22 the other side of the overhang. But I don't believe  
23 that causes any issues. I just want to avoid having  
24 the fire (video cut out). I mean, that's done pretty  
25 regularly. It just -- I don't think we need to go to

1       that extent.

2               MR. DiSTEFANO: So if I got this right, your  
3 request actually is for the extension to go 5 feet  
4 with an overhang of 2.5-feet; correct?

5               MR. PEACOCK: Yup. Yes. As shown on the  
6 (video cut out.)

7               MR. DiSTEFANO: Brendan, could you just  
8 scroll up one just so we can get an overall look? And  
9 could you just blow that up a little bit? Right  
10 there. Can you blow that up a little bit?

11              Yeah. So that corner, that's what we're  
12 basically talking about. At that point --

13              MR. PEACOCK: Yup.

14              MR. DiSTEFANO: That's going to be 2.5-feet  
15 from the lot line. And then it's going to go -- get  
16 larger as it goes to the back; correct?

17              MR. PEACOCK: The lot lines it's -- (video  
18 cut out) 7 and a half feet at the rear corner of that.

19              MR. DiSTEFANO: Okay.

20              MS. TOMPKINS-WRIGHT: Including that  
21 overhang or not including that overhang?

22              MR. PEACOCK: It would be 7 and half feet to  
23 the building, minus two and a half for the overhang.

24              MS. TOMPKINS-WRIGHT: Okay.

25              CHAIRPERSON MIETZ: Right. Okay. Other

1 questions for the applicant? Okay. Very good. Thank  
2 you very much, Randy.

3 MR. PEACOCK: Thank you very much.

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

8 MR. PEACOCK: Thank you.

9 CHAIRPERSON MIETZ: Thanks. Okay. Rick.

10 **Application 5A-07-22**

11 Application of William Fox and Christi  
12 Alessi Fox, owners of property located at 111  
13 Brightwoods Lane, for an Area Variance from Section  
14 207-10E(5) to allow front yard pavement, after a  
15 driveway expansion, to be 35.8% of the front yard area  
16 in lieu of the maximum 30% allowed by code. All as  
17 described on application and plans on file.

18 CHAIRPERSON MIETZ: Okay. Very good. Who  
19 do we have speaking please?

20 MS. FOX: Christie Alessi Fox, the homeowner  
21 at 111 Brightwoods Lane.

22 CHAIRPERSON MIETZ: Okay, Ms. Fox. Please  
23 proceed.

24 MR. FOX: So we are requesting a variance to  
25 widen our driveway. On the east side of the driveway



1 we want to expand by about 1 foot, 12 inches to the  
2 edge of the foundation of the existing garage. And  
3 then on the west side we want to expand by 5 feet for  
4 a total of 17 feet wide so that we can fit two cars  
5 side by side in the driveway.

6 CHAIRPERSON MIETZ: Okay. Could you talk  
7 about the neighborhood you live in and what other  
8 conditions are there in the neighborhood around you?

9 MS. FOX: Sure. Right now, our driveways  
10 obviously fit single cars in a row. There are several  
11 driveways in our neighborhood, next door to us, across  
12 the street from us, that have cars that are --  
13 driveways that will fit two cars side by side.

14 There are multiple homes in the neighborhood  
15 that have single-car garages that have done this, that  
16 have widened anywhere from 17 feet to 20 feet wide.  
17 So we feel that it's compatible with the existing  
18 driveways in the neighborhood. And that -- yeah.  
19 That's about it.

20 CHAIRPERSON MIETZ: Okay. Very good.  
21 Questions by the Board members?

22 MS. McKAY-DRURY: This is Member  
23 McKay-Drury. I see the references to the existing  
24 walkway. So that is on the west side of the existing  
25 driveway; is that correct?

1           MR. FOX: Correct. It's not shown on the  
2 survey map, but yes, there's a walkway and a front  
3 stoop in front of the door.

4           MS. McKAY-DRURY: Okay. And what material  
5 is that as it exists now?

6           MR. FOX: Cement.

7           MS. McKAY-DRURY: Okay.

8           CHAIRPERSON MIETZ: Okay.

9           MS. McKAY-DRURY: And then my only other  
10 question was in regards to the final page that you  
11 have included in your application materials. I was  
12 just wondering if you could clarify the neighbors that  
13 you're talking about that have the two-car wide  
14 drives. Is it number 117 located next to you that has  
15 that?

16           MR. FOX: I believe -- I believe that is her  
17 house number, yes.

18           MS. McKAY-DRURY: And then across the street  
19 from you would be 110?

20           MR. FOX: I think so. I can go look. But,  
21 yes. I believe it is, yes.

22           MS. McKAY-DRURY: Yeah. I'm just looking at  
23 the -- if we could actually go one -- or a couple  
24 pages further through the application so.

25           CHAIRPERSON MIETZ: The tax map?

1 MS. McKAY-DRURY: Yeah that's the one I'm  
2 referring to.

3 CHAIRPERSON MIETZ: Okay. I think it's at  
4 the end.

5 MS. McKAY-DRURY: Yeah. One more.

6 MR. DiSTEFANO: It might not be on that  
7 application that's online.

8 MR. RYAN: Yeah. That's all I got. I'm  
9 sorry.

10 CHAIRPERSON MIETZ: Oh, okay. When you  
11 attach them.

12 MR. DiSTEFANO: Yeah. That's something I  
13 attached.

14 MS. McKAY-DRURY: Okay. So for purposes of  
15 the record, I'm looking at the tax map. And it's  
16 showing that the neighbor to the east is number 117  
17 and the neighbor across the street to the south is  
18 number 110.

19 CHAIRPERSON MIETZ: That's accurate.

20 MS. McKAY-DRURY: Okay. Thank you, Ms. Fox.

21 MR. FOX: Thank you.

22 CHAIRPERSON MIETZ: Is there anyone else  
23 that would like to ask questions of the applicant?  
24 Okay. Thank you very much.

25 Is there anyone on the call that would like

1 to speak regarding application 5A-07? Okay. There  
2 being none, then the public hearing is closed.

3 **Application 5A-08-22**

4 Application of Neil and Laura Frood, owners  
5 of property located at 1575 Highland Avenue (Tax ID  
6 #137.05-3-7) for an Area Variance from Section  
7 203-2.1B(2) and 203-9A(4) to allow a pool house to be  
8 527 square feet in size in lieu of the maximum 250  
9 square feet allowed by code. All as described on  
10 application and plans on file.

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

13 MR. FROOD: My name's Neal Frood,  
14 co-applicant along with my wife, Laura Frood. And we  
15 both live at 1575 Highland Avenue.

16 CHAIRPERSON MIETZ: Okay. Great. Go right  
17 ahead.

18 MR. FROOD: Okay. So we bought our current  
19 property about six years ago. And our plan always  
20 since the time we purchased it was to put a pool. We  
21 have two boys, a now six and eight year old who love  
22 swimming. So we wanted to have a pool on the  
23 property.

24 And our original intent was to have that  
25 pool located on the part of our property that's in the

1 City of Rochester. Prior to -- I guess in the  
2 planning stage we uncovered that fact that some of our  
3 soil at that part of the property was the old fill  
4 that they would bring in. And it was recommended by a  
5 geological engineer that we not have the pool there.

6 So we are very fortunate that we have an  
7 ample bark yard which is in the Town of Brighton. And  
8 so we made the decision to try to locate the pool down  
9 into the back part of our property.

10 But it increases the distance from the  
11 house. And elevation-wise, it's a pretty good hill to  
12 walk down there. So our hope was in having the pool  
13 that we could have a place where our family could hang  
14 out and enjoy the pool that would allow us to have  
15 some food down there, some shelter if a rain came in  
16 the summertime. You know, such brief summers in  
17 Rochester, we got to get every bit of enjoyment we  
18 can. Store some pool equipment down there and also to  
19 have a bathroom where if we needed to run and use the  
20 bathroom that we didn't have to trudge up to the  
21 bottom layer of Cobbs Hill to do so.

22 So the pool house that we're applying for  
23 the variance in order to get those requirements into  
24 the pool house, it ended up coming up to the  
25 527-square feet that you see in the application. And

1 that allowed us to give each of the components that we  
2 were looking to accomplish.

3 In terms of the neighborhood, the location,  
4 the plan is that the pool house would mimic the  
5 architecture of our house. We would have Board and  
6 batten siding and some stone veneer that would match  
7 existing work on our house. And the location of the  
8 pool house, where it is in our backyard, there's a  
9 natural alcove that the hill of our property creates.  
10 So it's really not visible from the neighboring  
11 properties and sits so far back it's not visible from  
12 the road as well.

13 CHAIRPERSON MIETZ: Okay. Mr. Frood, can  
14 you summarize maybe in a little better detail how you  
15 got the 527 square feet or in excess of what the  
16 Code -- what is in there that has caused that? I  
17 understand --

18 MR. FROOD: Yeah. So we asked the architect  
19 to design a building that had a bathroom facility, a  
20 laundry room facility, an area for sitting to watch  
21 some TV, an area that was covered that would allow us  
22 to have a table to sit eight people at, an area that  
23 would allow a bar-like setting, and then area that  
24 would allow some kitchen space. And when all of those  
25 requirements were put into the design, that's what led

1 to the actual square footage that we are applying for.

2 CHAIRPERSON MIETZ: Now, is there intention  
3 to have anyone staying in that facility like people  
4 coming over for the weekend or the evening or whatever  
5 this and that?

6 MR. FROOD: We have ample space in our house  
7 for overnight guests. And we have a guest suite in  
8 the house. So there's no intention to use it that  
9 way.

10 It's absolutely designed to be a seasonal  
11 property or seasonal use structure. So the intent is  
12 to just create a spot that we can enjoy our time by  
13 the pool and not have to be running back and forth to  
14 the house.

15 CHAIRPERSON MIETZ: Now, is it going to be  
16 heated in any way?

17 MR. FROOD: There's no -- nothing in the  
18 plans for heating. I think there is insulation that  
19 they have to put in, but my understanding was that was  
20 just due to basic code requirements. But there's no  
21 plans to have it heated.

22 CHAIRPERSON MIETZ: Okay.

23 MR. FROOD: I take that back. I think in  
24 the concrete slab, they've got some floor heating in  
25 there. But it's not designed to be used during the

1 wintertime. I think it was just to make the slab  
2 warmer in the cooler evenings that could be there in  
3 the late summer.

4 CHAIRPERSON MIETZ: Okay. Other questions  
5 by the Board members please? Anything? Okay. Very  
6 good. All right. I appreciate your information  
7 and --

8 MR. FROOD: Okay. Thank you.

9 CHAIRPERSON MIETZ: -- at this point is  
10 there anyone on the call that would like to speak  
11 regarding this application? Okay. There being none,  
12 then the public hearing is closed. Thank you.

13 **Application 5A-09-22**

14 Application of Jon Dangelo, agent, and  
15 Elliot Foo, owner of property located at 30 Indian  
16 Spring Lane, for an Area Variance from Section  
17 203-2.1B(6) to allow a standby emergency generator to  
18 be located in a side yard in lieu of the rear yard  
19 Behind the house as required by code. All as  
20 described on application and plans on file.

21 CHAIRPERSON MIETZ: Okay. And who do have  
22 speaking?

23 MR. DANGELO: My name is John Dangelo. I'm  
24 with Isaac Heating and Air Conditioning at 50 Holleder  
25 Park in Rochester, New York. I am the applicant for a



1       automatic standby generator for Mr. And Mrs. Foo at 30  
2       Indian Spring Lane.

3               First, I just want to say thank you guys for  
4       taking the time to review the request. Also this is  
5       my first time ever doing this. So please bear with me  
6       along the way.

7               We are requesting to put an automatic  
8       natural gas generator on the side yard of the home.  
9       The way the home was built and the way the backyard  
10      landscaping was done, there was no location for the  
11      generator that wouldn't be in front of a window.

12              On the side of the house that we're  
13      proposing, if you're looking at that site map, right  
14      at that property line there are some large arborvitaes  
15      there, I would say approximately 20-feet tall. The  
16      client also has landscaping going along that side of  
17      the home. So from the front of the road it hides the  
18      look of that generator as well.

19              The unit is going to be close to the house,  
20      which would be nice. It's not going to be out in the  
21      yard. Let's see. The decibel rating is 67 decibels.  
22      The unit would only operate during a power outage. If  
23      the client was to lose power from a storm or any type  
24      of outage, this system comes on as a backup, electric  
25      source for them to heat their home and keep their

1 stuff in their going.

2 I hope that's what you guys were looking  
3 for. If you have any questions, I'm happy to help any  
4 way I can

5 CHAIRPERSON MIETZ: All right. Very good.  
6 Questions? Any questions? Go ahead, Ed.

7 MR. PREMO: Okay. Thank you. Mr. Dangelo,  
8 the arborvitaes, are those on your client's property  
9 or those on the next property?

10 MR. DANGELO: I can't tell you that for  
11 certain. If you -- I'm going to pull up a picture of  
12 it on my end. But I can't -- I'm not a hundred  
13 percent sure what property line. My apologies for  
14 that. I should have been more prepared. I did not  
15 measure to see who's property they were actually on.  
16 It's right along that property line.

17 But there's pretty mature trees that I think  
18 act as a visual divide between the two properties as  
19 well as a sound dampener as well.

20 MR. PREMO: But the plan is that those --  
21 that the unit will be placed behind those?

22 MR. DANGELO: No. The property line -- if  
23 you're looking at that survey map where it says 180  
24 feet, right where that 18000 is are where the  
25 arborvitaes are.

1           The generator is going to be that box that  
2           the green arrow is pointing to. So if you -- if the  
3           neighbor was coming right across and looked, they  
4           would not be able to see the generator from the  
5           neighbor's lot.

6           MR. PREMO: Because it would be blocked by  
7           the arborvitaes?

8           MR. DANGELO: That's correct.

9           MR. PREMO: And where is the generator --  
10          there's a side central air conditioning unit there?

11          MR. DANGELO: Yes, there is as well. So I  
12          believe if you're looking at that same map where it  
13          says 273, right in front of that generator, there is  
14          an air conditioner. There's also some electrical and  
15          utilities coming in at that same side of the home.

16          MR. PREMO: And that's where the connection  
17          would be for the generator too would go in that same  
18          area into the house?

19          MR. DANGELO: That's correct, yes. Beyond  
20          that point where the house jogs in, I believe it was  
21          an addition or it doesn't have a full basement  
22          underneath where we can get our utilities out.

23          So that made the most sense as far as the  
24          location. You can see a deck on the back, which  
25          obviously you can't go on the deck. And then the

1 other side in the backyard it's all landscaped and he  
2 has like floor-to-ceiling windows, big large windows  
3 that the unit would be right in front of that window.  
4 And I believe it was like a type of slate or hardscape  
5 in the backyard. So there's no way for us to trench  
6 that line out there.

7 So it seemed like this was the most -- I  
8 would say, the most -- the location that made the most  
9 sense for installation as well as aesthetics.

10 MR. PREMO: Now, the standby generator's  
11 going to be located about 2 feet off the house?

12 MR. DANGELO: Yes, that is correct. Because  
13 there's no windows there, it's actually going to be  
14 24 inches off the home. The manufacturer specs says  
15 that we can come up to 18 inches. So it would  
16 actually be -- it would actually be 24 inches off the  
17 house, which allows us to keep it tighter to the  
18 house, which is nice.

19 MR. PREMO: And then so based upon the  
20 survey map you gave us, that would mean that it would  
21 be approximately 20 feet from the property line.

22 MR. DANGELO: That's correct, yes. That  
23 side of the unit would be 20 feet from the property  
24 line.

25 MR. PREMO: Okay. Great. That's all the

1 questions I have.

2 CHAIRPERSON MIETZ: Okay, Ed. Very good.

3 Any other questions by the Board?

4 MR. DiSTEFANO: Just for the record, could  
5 you please state the decibel rating of this unit is?

6 MR. DANGELO: Absolutely. It was 67  
7 decibels. Let me just confirm that, Mr. DiStefano. I  
8 pulled that up on my -- I pulled that up before the  
9 meeting was started and then I closed that out. So  
10 let me just pull that -- yes. 67. I believe it's on  
11 that sheet as well that I handed in.

12 MR. DiSTEFANO: And that's at full load.

13 MR. DANGELO: Yes, that is at full load,  
14 correct.

15 MR. DiSTEFANO: Thank you.

16 CHAIRPERSON MIETZ: Okay. Very good.

17 MS. McKAY-DRURY: One quick question.

18 CHAIRPERSON MIETZ: Go ahead.

19 MS. McKAY-DRURY: You talked about obviously  
20 it would power in if the power went out. It also has  
21 power-ups; right? Regular --

22 MR. DANGELO: Yes. That's a good question.  
23 So once a week the system will run in a test cycle.  
24 It runs for -- and it's on low speed, which is like an  
25 idle. That way it makes sure the oil is working

1 through the engine, it keeps everything working  
2 properly.

3 The client can choose what time it will  
4 cycle. Most installations we recommend, you know,  
5 during the week or the weekends right around lunchtime  
6 that way we're not disturbing anybody. But if there  
7 was a neighbor that let's say was affected, it's very  
8 simple to go up there and press a button and change it  
9 to a different day or time. But normally we do  
10 weekdays, right between 12 o'clock and 1 o'clock, that  
11 way it's less disturbing to any neighbors or anybody  
12 in the area.

13 MS. MCKAY-DRURY: Okay. Thank you.

14 CHAIRPERSON MIETZ: Okay. Very good. Any  
15 other questions? Okay. Very good. Thank you, John.  
16 For your first time you did great. Thanks.

17 MR. DANGELO: Thank you guys. And thank you  
18 guys for your time and consideration.

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

23 MR. DANGELO: Thank you.

24

25

1     **Application 5A-10-22**

2             Application of Timothy and Ellen Maher,  
3     owners of property located at 407. Brooklawn Drive,  
4     for an Area Variance from Section 205-2 to allow a  
5     covered porch to extend 10 +/- feet into the 40 foot  
6     front setback required by code. All as described on  
7     application and plans on file.

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

10            MR. MAHER: My name is Tim Maher. I'm the  
11     homeowner at 407 Brooklawn Drive.

12            CHAIRPERSON MIETZ: Okay, Tim. Go right  
13     ahead.

14            MR. MAHER: So I might make this a little  
15     shorter than everybody expected. We -- I just  
16     actually re-measured the corner of our -- of our  
17     proposed build, which is about -- it's actually about  
18     46 feet from the street. And I guess -- I don't know  
19     if my contractor didn't pick up on that or what, but I  
20     guess I wanted to make sure the variance is 40 feet  
21     from the edge of this proposed deck to the street is  
22     what we would require -- you would require a variance  
23     approval for; is that correct?

24            MR. DiSTEFANO: That is not correct. Your  
25     property -- your front property line is actually

1 closer to the house than the street line than the  
2 actual property.

3 MR. MAHER: Okay. Got you. Okay. So  
4 anyway, I was just very confused. Thank you.

5 So what we're -- I guess what we're -- this  
6 is my first time as you may know.

7 CHAIRPERSON MIETZ: Go right ahead.

8 MR. MAHER: We're proposing to build a deck  
9 that extends, you know, 10 feet off the edge of our  
10 current -- off of the front of our house just beyond  
11 where there's a current walkway. So there's a --  
12 there's an original walkway from the driveway to what  
13 is what we call our front stoop, which is a 5 foot  
14 deep, 5 and a half foot deep, mixed concrete brick  
15 stoop that did recently have a roof and pillars.

16 The house when we bought it about three  
17 years ago was falling apart in a lot of different ways  
18 more than we realized. And we actually had to take  
19 that roof down recently because it was separating from  
20 the house. And the support structures, the pillars,  
21 that were holding it up actually were failing. So it  
22 was an unsafe structure.

23 So we ended up replacing it with a fully  
24 roofed 10 by -- 10 foot deep by 20 foot porch as a new  
25 entryway to front of our home.



1           So I guess that's -- that's my -- that's my  
2           explanation for the variance. There's -- you know, I  
3           read the variance incorrectly. Apparently -- so in  
4           building from 10-foot beyond this deck, it would put  
5           us about 43 feet from the edge of the street.

6           CHAIRPERSON MIETZ: Okay.

7           MS. TOMPKINS-WRIGHT: This is Member Wright.  
8           Could you talk to me a little bit about whether or not  
9           there's any other homes in this neighborhood, this  
10          area, that have these front porches or that extend  
11          into that front porch -- or that front setback in a  
12          similar way?

13          MR. MAHER: Sure. There's -- we're a kind  
14          of unique little community here, a cul-de-sac at the  
15          end of Brooklawn Drive as it crosses over Westfall.  
16          So there's really four homes I believe that are on  
17          Brooklawn Drive in this cul-de-sac. And our neighbors  
18          to the east, they do not have a porch. Their walkway  
19          up to -- I think it was an addition 10 or 15 years  
20          old.

21          Our neighbors to the west actually have just  
22          gone through the approval process to add a number of  
23          different things onto their home but including a front  
24          porch with the same depth of 10 feet.

25          CHAIRPERSON MIETZ: Okay.

1 MS. SCHWARTZ: Member Schwartz. Have you --  
2 just curiosity, have you been to the Architectural  
3 Review Board yet?

4 MR. MAHER: We attempted to, but it was over  
5 the Zoom conference call and are -- we were on for  
6 quite awhile, but lost connectivity. Our plan is to  
7 attend that meeting again at the next meeting. So I  
8 talked to John -- I'm sorry. To Jason I believe.

9 MS. SCHWARTZ: Jason, yes.

10 MR. MAHER: And so we submitted an  
11 application for ARB as well.

12 MS. SCHWARTZ: Okay. Thank you.

13 CHAIRPERSON MIETZ: Okay. Other questions  
14 for Mr. Maher?

15 MR. DiSTEFANO: Yeah. Just one question.  
16 The intent of the porch is to be open; correct?

17 MR. MAHER: Yes, it is. So we're going to  
18 have -- the idea is that we would have one step that  
19 kind of circumvents the entirety of the -- of the  
20 porch patio so that we can have access. We have five  
21 young kids. And they use the front lawn very often.  
22 And, you know, ask my neighbors. They use the circle  
23 quite often for, you know, skateboarding and biking  
24 and -- it's our mini racetrack.

25 So they come up on the porch typically to

1 the front door. So we're just trying to have a more,  
2 I don't know, a welcoming entrance to anybody that's  
3 coming into our home.

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

6 MR. MAHER: Thank you.

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

11 **Application 5A-11-22**

12 Application of Erica and Jon Stanat, owners  
13 of property located at 2 Marvin Park, for an Area  
14 Variance from Section 207-2A to allow a 6.5 feet  
15 stockade fence to extend 80 +/- feet into a front yard  
16 where a maximum 3.5 feet high fence is allowed by  
17 code. All as described on application and plans on  
18 file.

19 MR. PREMO: I just want to say that I'm  
20 going to be recusing myself from this application.

21 CHAIRPERSON MIETZ: Okay, Ed. Thank you.  
22 All right. Go ahead, ma'am.

23 MS. STANAT: Hi. This is Erica Stanat.  
24 Thank you very much for your time tonight and for  
25 considering our application.

1           As indicated in the materials that we have  
2 put on file, we're looking to extend a fence. Our  
3 neighbors at 4 Marvin Park installed a fence two years  
4 ago that bordered the East Avenue Tower parking lot.  
5 And we're looking to continue that fence across the  
6 back of our property.

7           Our intent is to match the same fence, both  
8 for the aesthetic value to the homes both at 4 Marvin  
9 Park and at our house and also for the aesthetic value  
10 for the folks at East Avenue Tower behind. We have  
11 contacted the owner at East Avenue Tower along with  
12 the head of the residential group there, who have both  
13 agreed with the notion of the fence. They've  
14 indicated they don't have any objection and they don't  
15 have any objection to continuing the height along the  
16 fence to be 6 foot, 6 inches as opposed to changing  
17 height part of the way back. And my understanding is  
18 that's what we need the variance for, is to allow us  
19 to maintain that 6 foot, 6 inch height across the  
20 length of the property.

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

23           MS. SCHMITT: I have a question.

24           CHAIRPERSON MIETZ: Go ahead, Kath.

25           MS. SCHMITT: Thanks so much. Can you let

1 me know do you plan on putting any type of landscaping  
2 either on the -- what is considered the front yard,  
3 but it's more of a side yard for your house or along  
4 the back property line?

5 MS. STANAT: We do. I submitted with the  
6 application for the -- the original application for  
7 the fence, I submitted a landscaping plan from Clover.

8 We had some junk trees in the back and a  
9 dying maple. So we took those down. And then there's  
10 a -- there's a plan to add some river birch, a number  
11 of other trees that Megan from Clover Lawn can tell  
12 you the name of, but I'm not in a position to do so.

13 But the Town has that drawing that shows the  
14 landscaping plan along the back as well.

15 MS. SCHMITT: And one final question. Just  
16 because I saw it two different places, not saying you  
17 did it, but I just saw it in the paperwork that I  
18 received, can you clarify is the fence 6 foot,  
19 5 inches or 6 foot 6 inches? Do you know?

20 MS. STANAT: 6 foot, 6 inches is my  
21 understanding. If it's 6-5, we'll match that. We're  
22 looking to match what Kristin Vanden Brul's fence  
23 looks like so it will be consistent for the property  
24 behind us along their parking lot.

25 MS. SCHMITT: Okay. Thank you so much.

1 MS. STANAT: Thanks.

2 CHAIRPERSON MIETZ: Very good. Is there  
3 anyone else that would like to ask any other questions  
4 on this application? Okay. Very good. Erica, thank  
5 you.

6 MS. STANAT: Thanks so much for your time.

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

11 **Application 5A-12-22**

12 Application of Bell Atlantic Mobile, lessee,  
13 and Venue Fee LLC, owner of property located at 2500  
14 East Avenue, for an Area Variance from Section  
15 207-42C(1)(b) to allow for cellular support equipment  
16 to be located on the roof in lieu of housed in the  
17 Building or in an approved addition as required by  
18 code. All as described on application and plans on  
19 file.

20 CHAIRPERSON MIETZ: Okay. And who do we  
21 have speaking for Bell?

22 MR. VANDER WAL: My name is Nate Vander Wal.  
23 I'm with the law firm Nixon Peabody, 1300 Clinton  
24 Square, Rochester, 14604. Thank you to the Board for  
25 the time this evening. I'm also joined this evening

1 by Will Grover, who's the site acquisition consultant  
2 in connection with the project.

3 Just briefly, this Board's very aware of  
4 these projects. We're -- we're routinely before this  
5 Board most commonly in connection with exterior  
6 located equipment in connection with Verizon's  
7 facilities.

8 At this particular site at 2500 East Avenue,  
9 I believe this site has been online since the  
10 mid-1990s I believe. But the original construction  
11 actually allowed for the location of the equipment  
12 inside the building. They've had the antenna on the  
13 rooftop. There are other carriers in addition to  
14 Verizon on top of the -- on this building, including  
15 equipment on top of the building. But up to this  
16 point, Verizon has had their equipment located inside  
17 the building.

18 They were recently advised by the landowner  
19 that they want to utilize that space for an additional  
20 residential unit. And they need to re -- get their  
21 equipment out of that interior space.

22 They did a review of the other potential  
23 spaces within the building to comply with code. And  
24 there was not any additional viable options inside.  
25 That's detailed in a letter, that Exhibit G, in the

1 thick packet of materials that we submitted to the  
2 Town.

3 And ultimately we arrived at locating this  
4 equipment on the rooftop of the building, a rather --  
5 a far more common location, in fact, for this rooftop  
6 facility and consistent with the existing facilities  
7 on the rooftop.

8 So given that the Town Code requires these  
9 to be located inside as was noted, that we're here  
10 before this Board today for a area variance to allow  
11 for that exterior rooftop location.

12 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
13 Questions by the Board please?

14 MS. TOMPKINS-WRIGHT: This is Member Wright.  
15 Can you speak to how this equipment will -- will  
16 the -- will be painted, how it will kind of fit in  
17 with the equipment that's already on the building?

18 MR. VANDER WAL: I don't know what it looks  
19 like compared to the other equipment. There's a  
20 standard neutral color for these -- for these -- the  
21 equipment that's standard in the industry.

22 Again, I'm not familiar with the rooftop. I  
23 don't know if, Will, if you're on, if you've been on  
24 the rooftop and you can speak to how this compares to  
25 the other equipment?



1 But from my understanding it would be the  
2 standard industry neutral look cabinet color and  
3 platform look.

4 MR. DiSTEFANO: Nate, just to go on a little  
5 bit with what Member Wright was speaking of, can you  
6 tell us exactly what the equipment is going to be? Is  
7 it the same equipment that's in the building now,  
8 they're just going to move it to the outside? Is it  
9 going to be brand new equipment that's coming onto the  
10 rooftop? Just kind of give us a good understanding of  
11 what exactly is being placed on that location.

12 MR. VANDER WAL: I do not know whether it  
13 will be the same equipment as what's interior. I  
14 believe it will be two equipment cabinets. I'm  
15 looking through the site plan to see if I can find you  
16 specifics. And again, I don't know. Is -- Will  
17 should be on.

18 Will, are you on?

19 MR. GROVER: Yes. Can you guys hear me?

20 CHAIRPERSON MIETZ: Yes. Just identify  
21 yourself, Mr. Grover.

22 MR. GROVER: My name is Will Grover. Do you  
23 want to know my address or --

24 CHAIRPERSON MIETZ: Please.

25 MR. GROVER: 6615 Towpath Road, East

1 Syracuse, New York 13057.

2 CHAIRPERSON MIETZ: Okay. Go ahead.

3 MR. GROVER: There's -- they are going to  
4 upgrade the antennas. The equipment will basically be  
5 the same. It's going to be the same setup they had in  
6 the penthouse there. They're just moving that  
7 equipment and putting in a shelter up top there.

8 MR. DiSTEFANO: And could you just tell us  
9 what that equipment is? Number of cabinets, you know,  
10 is there going to be a generator located with that  
11 equipment?

12 MR. GROVER: No generator.

13 MR. DiSTEFANO: Okay. And --

14 MR. GROVER: I'm looking for specifics.  
15 It's -- I believe that's going to be two cabinets.  
16 And the shelter -- let's see here. Yeah. Like the  
17 two different cabinets they had in the penthouse, it's  
18 going to be the same, but inside that shelter.

19 MR. VANDER WAL: If you look at page Z2, I  
20 think, on the plans, you'll see it's actually a  
21 platform as opposed to a shelter. And there's the  
22 cabinets shown on there within that -- that just shows  
23 the layout. It doesn't give you color or anything  
24 like that as Member Wright requested, but it shows  
25 you what the layout is on that platform.

1 CHAIRPERSON MIETZ: Gentlemen, would it be  
2 fair to say, I think this goes back to Rick's  
3 question, is there -- there's no intention here to be  
4 expanding the equipment or the services in this  
5 location? It's simply relocating them from inside to  
6 outside?

7 MR. GROVER: That's correct.

8 CHAIRPERSON MIETZ: Okay. Okay. Other  
9 questions by the Board?

10 MS. SCHWARTZ: Member Schwartz. I was  
11 looking to see the dimensions of this equipment. And  
12 there isn't anything of the existing. There's a bit  
13 of what's going -- proposed.

14 So I'm just wondering, comparison. And  
15 Rick, I don't know if you know that or Dennis, do you  
16 know how this compares to what's already there?

17 CHAIRPERSON MIETZ: Yeah. I don't think we  
18 have any dimensions or anything, Judy, of what's  
19 inside the penthouse now.

20 MS. SCHWARTZ: No. But the stuff on top,  
21 there's -- there's equipment on the top now.

22 CHAIRPERSON MIETZ: For other carriers,  
23 right. Not for this carrier.

24 MS. SCHWARTZ: Right. Right, right. But  
25 I'm still wondering, you know, we just see a little

1 rectangle, but it doesn't give a dimension.

2 My concern is is it going to be much larger.  
3 I did happen to note that the antennas look quite  
4 tall. But there's no comparison there. So I didn't  
5 know if anybody, you know, staff, or whatever, had  
6 some information along those lines.

7 CHAIRPERSON MIETZ: I know they have  
8 dimensions of the platform here, but not the actual  
9 cabinets themselves. I'm just looking at what we have  
10 on the screen right now.

11 MS. SCHWARTZ: Okay.

12 MR. GROVER: Yeah. The cabinets you won't  
13 see inside the smelter. But the shelter is, what, 16  
14 by 22. That's the least space.

15 CHAIRPERSON MIETZ: 11 by 13 or so.

16 MR. GROVER: Yeah.

17 MR. DiSTEFANO: Is that a physical shelter  
18 or is it just a metal platform that the cabinets sit  
19 on top of?

20 MR. GROVER: No. It's covered.

21 MR. DiSTEFANO: It is covered.

22 MR. GROVER: Yeah. It's a raised platform.

23 MR. DiSTEFANO: And what is the height off  
24 the rooftop?

25 MR. GROVER: It's --

1 MR. WILSON: Hey, Nate, can you hear me?  
2 This is Robert Wilson.

3 MR. VANDER WAL: Yup. Yup.

4 MR. WILSON: Can you hear me?

5 MR. GROVER: We can hear you.

6 MR. WILSON: Robert Wilson with Pyramid  
7 Network Services, same address as Will, 6615 Towpath  
8 Road, East Syracuse.

9 CHAIRPERSON MIETZ: Okay.

10 MR. WILSON: So this is a platform without a  
11 roof on it. So just to explain a little bit, the  
12 existing equipment is interior equipment. So it's not  
13 really in cabinets. It's more in racks inside.

14 The new equipment is going to be exterior,  
15 you know, outside equipment. It's going to be inside  
16 cabinets. So it will look more like a refrigerator.  
17 It will look very similar to the cabinets that are up  
18 there right now for the other carriers.

19 MR. DiSTEFANO: Okay. Do you know the  
20 height that the top point -- the highest point of the  
21 cabinet to the rooftop?

22 MR. WILSON: Let me take a look.

23 MR. DiSTEFANO: Approximately. Just a  
24 ballpark.

25 MR. WILSON: I mean, they're anywhere from 4

1 to 6 feet probably in height I would say.

2 MR. DiSTEFANO: And then the platform itself  
3 is another 3 to -- 2 to 3 feet in height?

4 MR. WILSON: Yeah. I would say that. It  
5 sits on the roof. It's non-penetrating. It sits  
6 above the roof a little bit.

7 MR. DiSTEFANO: 8 to 10 feet above the  
8 actual rooftop.

9 MR. WILSON: Roughly. Correct. Yes.

10 MR. DiSTEFANO: Okay. Thank you.

11 MR. VANDER WAL: Robert, would you say  
12 that's consistent with the existing cabinets -- or  
13 equipment that's on the rooftop?

14 MR. WILSON: That's correct. And looking at  
15 your screen that you have up right now, that --  
16 there's a -- there's a cabinet there. Right where the  
17 drawing says "gamma 230 degree azimuth," that is  
18 another carrier's platform with the cabinets sitting  
19 on it. It'll look very similar to that.

20 MR. DiSTEFANO: And in your opinion, due to  
21 the location of this platform with cabinets kind of  
22 setback into the roof a little bit, good chance is you  
23 will not see anything from ground level; correct?

24 MR. WILSON: That's what I understand,  
25 correct. And we'll -- Wills been out there and --

1           MR. GROVER: I've been on that roof and  
2 there's no -- nobody can see anything up there. It's  
3 too high.

4           MR. DiSTEFANO: Thank you.

5           MR. WILSON: And, you know, I guess to give  
6 a little more history here, we're in the process of  
7 renewing the lease here with the building owner. And  
8 as part of renewing that lease, he wanted that space  
9 back, that apartment space back. So it's really a  
10 requirement of the property owner to get this  
11 equipment up on the roof, similar to what's already up  
12 there.

13          MR. DiSTEFANO: Let me just ask the  
14 question, what would happen if this Board denied the  
15 request?

16          MR. WILSON: We may have to look for another  
17 site possibly. It is -- you know, it's what the  
18 landowner wants in order to renew this lease with him.

19          MR. DiSTEFANO: So that would be a  
20 substantial hardship; correct?

21          MR. WILSON: Correct.

22          MR. DiSTEFANO: Thank you.

23          CHAIRPERSON MIETZ: Okay. Other questions  
24 by the Board please? Okay. Very good. Thank you,  
25 gentlemen.

1 MR. WILSON: Thank you.

2 CHAIRPERSON MIETZ: Is there anyone else on  
3 the call that would like to speak regarding this  
4 application? There being none, then the public  
5 hearing's closed.

6 Why don't we take five minutes? We'll  
7 reconvene at 9:22. Thank you.

8 (End of Public Hearings.)

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## 1 REPORTER CERTIFICATE

2  
3 I, Holly E. Castleman, do hereby certify  
4 that I did report the foregoing proceeding, which was  
5 taken down by me in a verbatim manner by means of  
6 machine shorthand.

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

11  
12 Dated this 4th day of May, 2022  
13 at Rochester, New York.

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20  
21 *Holly E. Castleman*

22 -----  
Holly E. Castleman,  
23 Notary Public.  
24  
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**BRIGHTON**  
**ZONING BOARD OF APPEALS**  
**MEETING**  
**DELIBERATIONS**

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May 4, 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

1 CHAIRPERSON MIETZ: So we will begin at the  
2 beginning 5A-01-22. So let's discuss this situation.  
3 Rick or Ken, do you want to shed any light on some of  
4 the, we'll call them, more logistical issues related  
5 to this -- these applications, 5-01 and 5-02?

6 MR. DiSTEFANO: You know, as long as I've  
7 been with the Town, there hasn't been any parking  
8 issues between these two properties. If you look back  
9 at some historical aerial photography, you can see  
10 that there were a number of parking spaces that were  
11 parked perpendicular to the building. So there are --  
12 there were -- you know, it was striped out for that.

13 Granted it was a restaurant. So the hours  
14 of operation were different. And usually from my  
15 remembrance, the uses in that building were more, I  
16 would say, warehouse-type retail. There was a  
17 flooring store in there for quite a while. So there  
18 never was a big push for a lot of parking need for  
19 the, I'll call it the Fastenal building now.

20 How these properties got this way, I have no  
21 idea. I mean, you look at that property line, it's  
22 the wall of the building is the property line.

23 CHAIRPERSON MIETZ: Right.

24 MR. DiSTEFANO: So I don't know the history  
25 of how -- you know, how it came about. I just know

1 that as long as I've been with the Town, there's  
2 always been parking perpendicular to the building on  
3 that property.

4 MR. PREMO: Well --

5 MR. D'AUGUSTINE: Was that the old -- I'm  
6 sorry. Was that the old Ariagato restaurant?

7 MR. DiSTEFANO: Yes. That one had parking  
8 along the side as I recall.

9 CHAIRPERSON MIETZ: Yeah. I think there --  
10 there's some aerials that show it too.

11 MR. PREMO: So --

12 MR. GORDON: So going to some of the more  
13 procedural aspects.

14 MR. PREMO: Yes. Please.

15 CHAIRPERSON MIETZ: Go ahead, Ken.

16 MR. GORDON: Yeah. So I guess I'm  
17 interested to know what the Planning Board's going to  
18 do with this application. I am -- I wouldn't be  
19 surprised if the Planning Board was going to move  
20 around some of those parking stalls, maybe even  
21 eliminate some of the parking stalls that he's showing  
22 right now.

23 And it certainly would take up -- many of  
24 the issues raised in opposition really go towards  
25 whether a conditional use permit should be granted,

1 not really whether a variance should be granted  
2 relative to the intensity of the use and whether it's  
3 in harmony, if you will, what else is going on nearby.

4 So Rick and I talked. I mean, it's up to  
5 the applicant as to how they proceed. They might have  
6 talked to Jeff Frisch, you know, and heard what they  
7 wanted to hear, but it's always up to the applicant to  
8 decide whether they want to come here first or go to  
9 the Planning Board first.

10 I guess Rick and I sort of -- and, Rick, you  
11 know, correct me if I'm wrong -- we sort of wanted to  
12 hear what your Board's sense was as to whether you  
13 wanted to either take action on this matter with a  
14 condition, of course, that they go get their permits  
15 as needed or table this matter and wait to see what  
16 the Planning Board does with this -- with this  
17 project.

18 MR. PREMO: Hey, Ken. This is Ed Premo.  
19 I've been thinking about this along the same lines.  
20 And what I might suggest that we do is that we table  
21 these applications, but then refer the EAF to the  
22 Planning Board and have -- with the request that we do  
23 a coordinated review and the Planning Board be the  
24 lead agency, then have Planning Board review the  
25 project, do the SEQRA on it and come up with their

1 site plan and have it come back to us for decisions  
2 based upon that.

3 It strikes me -- certainly I do not feel we  
4 have enough information to make any SEQRA  
5 determination on this project. I also am struck  
6 that -- and I'm still kind of getting my head around  
7 the issue that you have that other property owner  
8 whose property will be used for parking who hasn't  
9 consented or agreed to this application. I think that  
10 needs to be worked out too. And that's certainly  
11 something that could be done in the site plan process.

12 So that's kind of my thought about it.  
13 Let's have the Planning Board take over the SEQRA  
14 review, do it on a coordinated basis, and then when  
15 they're all done, have it come back to us.

16 CHAIRPERSON MIETZ: Yeah. That's a  
17 suggestion. The other thing, Ken, too, the  
18 conditional permit for the operation of this store is  
19 kind of a critical piece as well, wouldn't you agree?

20 MR. GORDON: Absolutely.

21 CHAIRPERSON MIETZ: Yeah.

22 MR. GORDON: It's a huge piece of it.

23 CHAIRPERSON MIETZ: Yeah.

24 MR. PREMO: It's a conditional use permit.

25 MR. GORDON: I mean, honestly, not to

1 diminish this Board's role, but the bigger issues they  
2 have are conditional use permit and site plan for  
3 this. That's the bigger issue.

4 CHAIRPERSON MIETZ: Yeah. The parking seems  
5 moot in comparison to that. Because obviously it  
6 wouldn't even be a discussion if, you know -- so it  
7 seems like we're a little backwards here.

8 And so, again, we don't know how the advice  
9 was given and how it was taken and all that. And I  
10 guess it doesn't matter at this point. But it seems  
11 like we're kind of boxed in a corner here a little  
12 bit.

13 Do the rest of the Board members agree with  
14 this sense of it?

15 MS. TOMPKINS-WRIGHT: 100 percent.

16 CHAIRPERSON MIETZ: Okay. Great. Great.  
17 Ed, you spoke eloquently. Can we connect the two  
18 applications and would you be willing to make a motion  
19 please?

20 MR. PREMO: Let me just get the numbers.

21 CHAIRPERSON MIETZ: Is that okay, Rick?

22 MR. DiSTEFANO: I just want to go back on  
23 the coordinated review aspect of it.

24 CHAIRPERSON MIETZ: Okay. Sure.

25 MR. DiSTEFANO: That does lead to additional

1 timing, additional SEQRA procedures and steps. I  
2 don't have a problem with the Planning Board and the  
3 Zoning Board keeping their own determinations of  
4 significance on that regarding SEQRA.

5 MR. PREMO: Yeah. Rick, I guess I'm going  
6 to respectfully disagree. The question is how many  
7 involved agencies are there? Because you have to do  
8 the 30-day notice to all of them.

9 But if there's really just two agencies, the  
10 Planning Board can take this up as soon as they want  
11 to if we send out the EAFs and say we consent to you  
12 being the lead agency.

13 And then that means when it comes back to  
14 us, assuming that the Planning Board issues a negative  
15 declaration, that we don't even have to do SEQRA at  
16 all. We're done. So, I mean, I'll tell you, if I  
17 were the applicant, that's the way I'd want to have it  
18 done so I don't have to keep on --

19 MR. GORDON: Jumping between the two boards.

20 CHAIRPERSON MIETZ: Yeah. And also you're  
21 going to burn up the time by the time they apply for  
22 the Planning Board and actually get on it. So you'll  
23 burn up a goodly part of that too.

24 MR. DiSTEFANO: I mean, yes and no. Because  
25 our time frame doesn't start until the Planning Board



1 gets this application.

2 CHAIRPERSON MIETZ: You're right. I'm  
3 sorry. It's not when you apply.

4 MR. DiSTEFANO: Right. Right.

5 (Simultaneous conversation.)

6 MR. PREMO: -- even if they don't have a  
7 application. You can't do that.

8 MR. GORDON: Right. But let's just think  
9 about the timing on this, Ed. So I hear you saying,  
10 you know, it may be a way to expedite their SEQRA  
11 review. But if this Board simply tables the  
12 applications, does nothing on SEQRA whatsoever, then  
13 the applicant makes their Planning Board application,  
14 gets on the next Planning Board agenda, which would  
15 be -- they'd have to do that pretty quick, wouldn't  
16 they?

17 MR. DiSTEFANO: Yeah. Well, by next Tuesday  
18 to get to the June meeting.

19 CHAIRPERSON MIETZ: Yup.

20 MR. GORDON: So they'd have to apply by next  
21 Tuesday to get on the June meeting.

22 MR. DiSTEFANO: Two Tuesdays. I'm sorry.

23 MR. GORDON: Okay. All right. Well, that's  
24 a little better. So then they get on that next  
25 Planning Board meeting, this -- the Planning Board at

1 their next meeting in June, so that's late in June.  
2 Yeah. We would already have our early June meeting,  
3 wouldn't we? So we wouldn't be making a -- we  
4 wouldn't be able to consent to their lead agency until  
5 July.

6 MR. DiSTEFANO: July. Right.

7 MR. PREMO: I think you could -- well,  
8 you --

9 MR. GORDON: Ed, might have a point. I  
10 can't see the Planning Board acting on this in one  
11 meeting, frankly.

12 MR. PREMO: Nor should they.

13 MR. DiSTEFANO: They might -- they might  
14 table it for variances. You know and --

15 CHAIRPERSON MIETZ: Okay.

16 MR. GORDON: No, no, no.

17 MR. DiSTEFANO: No. Hear me out. Hear me  
18 out. They could make a SEQRA finding but still table  
19 it for variances.

20 MR. PREMO: Yeah. Or -- well, would this  
21 go -- I mean, I suspect what you do, I think we've  
22 done this before, you go and you get your preliminary  
23 site plan and maybe the conditional use permit with  
24 final being subject to the variances you need to have.

25 CHAIRPERSON MIETZ: Yeah. We're --

1           MR. GORDON: Well, we can't -- we can't  
2 presume what the Planning Board is going to do.

3           MR. PREMO: Okay. I'll try to make this  
4 simpler.

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1     **Application 5A-01-22**

2             Application of Reza Hourmanesh, architect,  
3     and Guiyan Li, owner of property located at 2720 West  
4     Henrietta Road, for an Area Variance from Section  
5     205-12 to allow for 45 parking spaces in conjunction  
6     with a new grocery store in lieu of the minimum 55  
7     parking spaces required by code. All as described on  
8     application and plans on file.

9             MR. PREMO: I think my motion would be to  
10    table for the applicant to proceed to the Planning  
11    Board for the purposes of the conditional use permit  
12    and site plan approval.

13            CHAIRPERSON MIETZ: Okay.

14            MS. TOMPKINS-WRIGHT: Second.

15            CHAIRPERSON MIETZ: Okay. So let's do this  
16    5A-01 and then we'll repeat it, right, Rick, for  
17    5A-02?

18            MR. DiSTEFANO: Yeah.

19            CHAIRPERSON MIETZ: Okay. Make it easier.  
20    Hold on. Yes. Okay.

21            MR. DiSTEFANO: Make a formal application --  
22    formal motion.

23            MR. GORDON: We have a motion by Member  
24    Premo --

25            CHAIRPERSON MIETZ: Yes. Seconded by

1 Heather.

2 MR. GORDON: -- to table application

3 5A-02 --

4 MS. TOMPKINS-WRIGHT: No, Andrea.

5 MR. GORDON: Seconded by Member Wright.

6 CHAIRPERSON MIETZ: Okay. All right. Go  
7 ahead, Rick.

8 MR. DiSTEFANO: The motion is to table  
9 application 5A-01-22. Bear with me for a second. Got  
10 to find my page. I'm sorry.

11 (Ms. Schwartz, yes; Mr. D'Augustine, yes;  
12 Mr. Meitz, yes; Ms. Schmitt, yes;  
13 Ms. McKay-Drury, yes; Ms. Tompkins-Wright,  
14 yes; Mr. Premo, yes.)

15 MR. DiSTEFANO: Yes, we did not make this --  
16 and maybe we can add on to this, Ken, if it's wrong,  
17 are we are leaving the public hearing open or do we  
18 not care to hear anymore from the applicant?

19 MR. GORDON: Well, what's interesting is  
20 Dennis already closed the public hearing.

21 MR. DiSTEFANO: Yeah. But we'd have to  
22 reopen it.

23 MR. GORDON: No, no. I don't think there's  
24 any more testimony that anybody's looking to get here.  
25 And if the Board wanted to get more testimony, we

1       could always reopen the public hearing at a future  
2       meeting.

3               MR. DiSTEFANO:   And what I'm thinking is if  
4       maybe the applicant has discussions with the other  
5       property owner, then maybe the applicant will want to  
6       open the public hearing.

7               MR. GORDON:   Possibly.

8               MR. DiSTEFANO:   Possibly.   So the motion to  
9       table carries and the public hearing is closed.

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1     **Application 5A-02-22**

2             Application of Reza Hourmanesh, architect,  
3     and Guiyan Li, owner of property located at 2720 West  
4     Henrietta Road, for an Area Variance from Section  
5     205-7 to allow for impervious surface area to  
6     increase, after site modifications, from 83.2%  
7     To 84.9% in lieu of the maximum 65% allowed by code.  
8     All as described on application and plans on file

9             MR. PREMO: I move that we table application  
10     5A-02-22 for a referral -- for the applicant to apply  
11     for the Planning Board for site plan approval and a  
12     conditional use permit prior to us taking this up  
13     again.

14             MS. TOMPKINS-WRIGHT: Second. Member  
15     Wright.

16             CHAIRPERSON MIETZ: Okay. Good.

17             MR. DiSTEFANO: The motion is to table  
18     application 5A-02-22.

19             (Ms. Schmitt, yes; Ms. McKay-Drury, yes;  
20     Mr. Meitz, yes; Mr. D'Augustine, yes;  
21     Ms. Schwartz, yes; Ms. Tompkins-Wright, yes;  
22     Mr. Premo, yes.)

23             (Upon roll motion to table carries.)  
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1 CHAIRPERSON MIETZ: Very good. Okay. So  
2 the next application is Fidelity and the sign  
3 situation over at the Whole Foods plaza. So why don't  
4 we go around. Mr. D'Augustine, what do you think  
5 about this, sir?

6 MR. D'AUGUSTINE: Oh, geez.

7 MR. DiSTEFANO: Well, you don't have to  
8 write anything, but you have to talk.

9 MR. D'AUGUSTINE: No, no, no. I -- so, I  
10 mean, again this is -- it -- I do think from what they  
11 said about being able to have the slightly smaller  
12 sign, it seems like it would make sense. I do  
13 understand, obviously though, too small it starts to  
14 look silly having it on the side and then what's the  
15 point.

16 But in thinking about the angle, where it's  
17 going to be, it seems to me that it would be  
18 appropriate to have it on the side of the building.

19 CHAIRPERSON MIETZ: To have two signs?

20 MR. D'AUGUSTINE: To have two signs, yeah.

21 CHAIRPERSON MIETZ: Okay. Okay. That's  
22 fine.

23 MR. D'AUGUSTINE: Okay.

24 CHAIRPERSON MIETZ: All right, Judy.

25 MS. SCHWARTZ: I do not approve of it. He



1 even came out and said it's really for advertising so  
2 that the people in Whole Foods can see it.

3 And when you look at it, those two signs are  
4 going to be -- I don't know if -- they're going to be  
5 almost touching. I mean, it's -- to me it's  
6 ridiculous.

7 And I also kind of take exception with the  
8 fact that they're rewriting our code. Just because  
9 they're making the first sign a little smaller, well,  
10 therefore we can have a second sign. I wasn't happy  
11 with that. I think it's -- it's not necessary. And  
12 it's more for advertising than it is for way-finding.  
13 You're going to see that. You're really going to see  
14 that. So I am opposed to it.

15 CHAIRPERSON MIETZ: Okay. Ed?

16 MR. PREMO: Yeah. I really don't have any  
17 problem with that application as it's presented. I  
18 think the -- I kind of agree with their logic that  
19 they're keeping the overall size of the signage the  
20 same. It's very common for a building with this sort  
21 of configuration that you'd want to have signs on the  
22 two sides. I think it always kind of benefits the  
23 public in a lot of ways to be able to easily identify  
24 a business like this. And I really don't have any  
25 problems with it. And I don't even have -- I don't

1 have a problem with the size of the signs.

2 CHAIRPERSON MIETZ: Okay. Kathleen?

3 MS. SCHMITT: Yeah. I have to say I did  
4 not -- I did not have a problem with it. I find  
5 signage -- personally I find it very helpful. And I  
6 thought that the way that he -- they kept it within a  
7 certain amount, I thought it was persuasive and made  
8 sense to me.

9 CHAIRPERSON MIETZ: Okay. Andrea?

10 MS. TOMPKINS-WRIGHT: Yeah. I'm fine with  
11 it. I do want to point out that one of the comments  
12 in the objector's letter, the Grassroots movement, was  
13 that it was detrimental to nearby properties because  
14 the sign is going to be visible from the Auburn Trail  
15 and that that's an issue for nearby properties.

16 My problem with that is they could put on  
17 that set side without this variance. They just would  
18 only be able to put it on that side. You could put a  
19 sign visible to Auburn Trail anyway and make it  
20 significantly bigger if they -- if they chose that  
21 side.

22 I take -- I take Judy's comment seriously  
23 though about rewriting the Code, that now you can have  
24 two as long as they add up to less. But I don't think  
25 that that's a reason -- I don't think that's

1 necessarily a reason to approve it. But I do think  
2 that's the mitigating factor of this is that they --  
3 the signs are smaller.

4 This is such a commercial area. I'm not  
5 bothered by the two sign faces. I think that's my  
6 point. But I think it's a mitigating factor, not a  
7 reason to approve it.

8 CHAIRPERSON MIETZ: Right. Okay.

9 MR. DiSTEFANO: Andrea, can I just add  
10 though on that two sign factor, they could have two  
11 signs on the front of that building if they wanted to.  
12 They could have three signs on the front of that  
13 building if they wanted to.

14 MS. TOMPKINS-WRIGHT: Yup.

15 CHAIRPERSON MIETZ: Just because of their --

16 MR. DiSTEFANO: Just because they have 150  
17 square feet of frontage to work with. If they wanted  
18 to split that frontage into three signs, they could do  
19 that.

20 CHAIRPERSON MIETZ: Yeah.

21 MS. TOMPKINS-WRIGHT: Yeah. I think that's  
22 another mitigating factor too is that this is just a  
23 placement on a different angle.

24 CHAIRPERSON MIETZ: Just for clarification,  
25 we have not used it as a rewrite of the Code, but we

1 have used this -- we haven't, but many applicants have  
2 used this to be able to point out to us that, you  
3 know, while they felt they needed a second sign, that  
4 they mitigated it by making their primary sign  
5 smaller. So that they were entitled to 100 square  
6 feet and did 70 and 30 or whatever they did.

7 So this has come up numerous times. I'm not  
8 sure I would call it rewriting the Code, but it is a  
9 way to justify the total net signage that you have.  
10 So. Okay. Heather?

11 MR. GORDON: Heather's going to be recusing  
12 herself.

13 CHAIRPERSON MIETZ: Oh, that's right. I  
14 forgot. Okay. Yeah. I guess personally I think the  
15 location of the building and the amount of frontage  
16 they have, I think they have respected the Code, you  
17 know, as it relates to how much signage that they're  
18 entitled to and how much they need to get fairly  
19 people to see their operation. So I don't really have  
20 a problem with it.

21 MS. SCHWARTZ: Yeah. But do we really -- do  
22 we really have a second building face sign for  
23 advertising? We don't really. And he did say, yes,  
24 we do want people from Whole Foods to see it.

25 CHAIRPERSON MIETZ: Well, I think --

1 MS. SCHWARTZ: I personally think that's the  
2 primary reason for that second sign. And I think it's  
3 taking advantage of us as a town. This is the first  
4 sign -- signage going up other than Starbucks, and  
5 that's a whole other issue. We have a lot going here.  
6 So, you know, think about it. I just -- I think it's  
7 taking us up a very slippery slope. I really do. Or  
8 down a slippery slope.

9 MR. GORDON: I will say that the signage for  
10 the Whole Foods store has already been approved as  
11 well. The monument sign was approved. The storefront  
12 sign is approved. I mean, all of what you're  
13 discussing, the whole Board, you know, no matter what  
14 your opinion is, I think it all goes to ultimately the  
15 issue before you, which is does the benefit to the  
16 applicant outweigh whatever detriment you see to the  
17 health, safety or welfare of the neighborhood.

18 And, you know, what I've heard is you  
19 discussed the fact that is a commercial center, that  
20 the size of the sign seems appropriate and -- for the  
21 side of the building, that these mitigating factors,  
22 as Andrea, you've articulated, of other signage that  
23 could be allowed there or the total signage that could  
24 be allowed on the front of the building, are all  
25 factors to consider.

1           There certainly is other signs that are  
2     visible from the property including the pathway that  
3     people walk along through the parking lot on this  
4     property. The signs not only of the mattress store,  
5     City Mattress, but the hotel right across the street,  
6     the Whole Foods signs, are going to be obviously  
7     visible.

8           So I think all of those go into your  
9     determination ultimately using the factors that are  
10    articulated under the Code is to -- the benefit to the  
11    applicant versus the detriment to the overall  
12    neighborhood. And I think this is one of those  
13    discretionary calls for the Board to make. Different  
14    members can feel differently about it. That's okay.

15           MS. SCHWARTZ: I would venture to say that  
16    any store going into that plaza is going to be told  
17    oh, we're in the Whole Foods plaza, you will find us.  
18    So I throw that out. And I'm sure it's going to be  
19    done. So do you really need two signs? And this is  
20    just the beginning, just the beginning.

21           CHAIRPERSON MIETZ: Okay. So let's -- we  
22    need to move on. So what is the pleasure of those --  
23    has anything that's been said changed anyone's mind  
24    that was basically in favor of supporting this  
25    application? Has anyone changed their mind?

1 Obviously it's clear where Judy stands. So does  
2 anyone feel any differently? Okay. So Judy, you had  
3 this application.

4 MS. SCHWARTZ: And I wrote it as a denial.

5 CHAIRPERSON MIETZ: I'm not going to ask you  
6 to do that. We don't ask anyone to do that.

7 MS. SCHWARTZ: No. I have a denial if you  
8 want it read.

9 CHAIRPERSON MIETZ: Okay. Andrea, would you  
10 mind taking a shot at this?

11 MR. PREMO: You do such a good job, Andrea.

12 MS. TOMPKINS-WRIGHT: Every time. Every  
13 time.

14 CHAIRPERSON MIETZ: All right. I'll buy you  
15 a drink.

16 MS. MCKAY-DRURY: I have a question if I can  
17 ask. This is Member McKay-Drury. Are you -- do you  
18 want to read and have me indicate I'm abstaining or  
19 should I just continue to have my camera off?

20 MR. GORDON: Continue to have your off.  
21 I've already indicated on the record that you're going  
22 to be recusing yourself on this matter.

23 MS. MCKAY-DRURY: Okay.

24 CHAIRPERSON MIETZ: You're all set. So  
25 Ms. Tompkins-Wright, por favor.

1 MR. DiSTEFANO: You're muted.

2 MR. GORDON: You're saying great words, but  
3 they're muted.

4 MS. TOMPKINS-WRIGHT: You know what? I  
5 actually already finished it. So.

6 MR. GORDON: That's never going to hold.  
7 What kind of record did you just break?

8 CHAIRPERSON MIETZ: Nice try. Nice try.

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1     **Application 5A-03-22**

2             Application of Fidelity Investments, LLC,  
3     lessee, and Daniele Family Companies, owner of  
4     property located at 2750 Monroe Avenue, for a Sign  
5     Variance from Section 207-32B(1) to allow for a sign  
6     on a second building face where not allowed by code.  
7     All as described on application and plans on file.

8             Motion made by Ms. Tompkins-Wright to  
9     approve application 5A-03-22 based on the following  
10    findings of fact.

11    **Findings of Fact:**

12    1.   The granting of the requested variance will not  
13    produce an undesirable change in the character of the  
14    neighborhood or be a detriment to nearby properties.  
15    The surrounding area and in particular the plaza where  
16    this property is located is extremely commercial in  
17    nature and it's surrounded by properties with signage  
18    on multiple sides.

19    2.   The requested variance is not substantial in light  
20    of the commercial nature of the property and also in  
21    light of the fact that the -- that sorry. Also in  
22    light of the fact that, A, the size of the two  
23    proposed signs combined is not larger than the sign  
24    that would be permitted if on one building face and,  
25    B, given the size of the building face, applicant

1 would be permitted to put multiple signs on that  
2 building face.

3 3. The benefit sought by the applicant cannot  
4 reasonably be achieved by any other method as the  
5 applicant testified to a desire for additional signage  
6 for way-finding in the plaza.

7 4. There's no evidence that the proposed variance  
8 will have an adverse effect or impact on the physical  
9 or environmental conditions in the neighborhood or  
10 district.

11 **Conditions:**

12 1. The variance granted herein applies only to the  
13 signage as presented in the plants submitted and in  
14 the testimony given.

15 2. All necessary Architectural Review Board and  
16 Planning Board approvals shall be obtained.

17 CHAIRPERSON MIETZ: Okay. Do we have a  
18 second?

19 MR. GORDON: And if I could suggest just a  
20 couple additional clauses relative to the finding that  
21 there is no other method feasible for the applicant to  
22 pursue, if we could just add into the resolution the  
23 reference to the testimony that there is no monument  
24 or freestanding sign available for the applicant to  
25 put their name into the plaza.

1           And two, if you could please amend the  
2 motion to add in the SEQRA provisions relative to the  
3 adoption of the negative declaration at the beginning  
4 of the motion prior to asking for the approval of  
5 that.

6           MS. TOMPKINS-WRIGHT: Sorry. I have it on  
7 my application. I just don't have --

8           CHAIRPERSON MIETZ: This isn't yours.  
9 You're forgiven. That's okay.

10          MR. GORDON: Are those -- if you could read  
11 that in, Andrea, please?

12          MS. TOMPKINS-WRIGHT: So number -- so first  
13 as an amendment to the motion as presented, I move  
14 that the Board having considered the information  
15 presented by the applicant for application 5A-03-22 on  
16 having conducted the required review pursuant to SEQRA  
17 adopts the negative declaration prepared by Town staff  
18 and determines that the proposed action will not  
19 likely have a significant environmental impact.

20               So and then in addition on my number 3 -- so  
21 number 3, will now read as follows. The benefit  
22 sought by the applicant cannot reasonably be achieved  
23 by any other method. As the applicant testified --  
24 I'm sorry. Rather than rewording it because I don't  
25 remember what I said, adding a sentence to number 3

1 that says in addition the applicant testified that  
2 there was no monument sign to provide additional  
3 way-fairing as to uses in the plaza that was available  
4 for the applicant's use.

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1     **Application 5A-03-22 (As amended)**

2             Application of Fidelity Investments, LLC,  
3     lessee, and Daniele Family Companies, owner of  
4     property located at 2750 Monroe Avenue, for a Sign  
5     Variance from Section 207-32B(1) to allow for a sign  
6     on a second building face where not allowed by code.  
7     All as described on application and plans on file.

8             Ms. Tompkins-Wright moves that the Board  
9     having considered the information presented by the  
10    applicant for application 5A-03-22 on having conducted  
11    the required review pursuant to SEQRA adopts the  
12    negative declaration prepared by Town staff and  
13    determines that the proposed action will not likely  
14    have a significant environmental impact.

15            Motion made by Ms. Tompkins-Wright to  
16    approve application 5A-03-22 based on the following  
17    findings of fact.

18     **Findings of Fact:**

19     1. The granting of the requested variance will not  
20     produce an undesirable change in the character of the  
21     neighborhood or be a detriment to nearby properties.  
22     The surrounding area and in particular the plaza where  
23     this property is located is extremely commercial in  
24     nature and it's surrounded by properties with signage  
25     on multiple sides.

1 2. The requested variance is not substantial in light  
2 of the commercial nature of the property and also in  
3 light of the fact that the -- that sorry. Also in  
4 light of the fact that, A, the size of the two  
5 proposed signs combined is not larger than the sign  
6 that would be permitted if on one building face and,  
7 B, given the size of the building face, applicant  
8 would be permitted to put multiple signs on that  
9 building face.

10 3. The benefit sought by the applicant cannot  
11 reasonably be achieved by any other method as the  
12 applicant testified to a desire for additional signage  
13 for way-finding in the plaza. In addition the  
14 applicant testified that there was no monument sign to  
15 provide additional way-fairing as to uses in the plaza  
16 that was available for the applicant's use.

17 4. There's no evidence that the proposed variance  
18 will have an adverse effect or impact on the physical  
19 or environmental conditions in the neighborhood or  
20 district.

21 **Conditions:**

22 1. The variance granted herein applies only to the  
23 signage as presented in the plants submitted and in  
24 the testimony given.

25 2. All necessary Architectural Review Board and

1 Planning Board approvals shall be obtained.

2 MR. GORDON: And Member D'Augustine, those  
3 additions to the motion are acceptable to you as the  
4 seconder?

5 MR. D'AUGUSTINE: Yes. Second. Still  
6 second.

7 MR. GORDON: And just so we can note in the  
8 transcript, Holly, the provisions regarding the  
9 adoption of the negative declaration would actually be  
10 the first part of that resolution with the action to  
11 be taken approving to be the second part of that  
12 motion.

13 CHAIRPERSON MIETZ: All right.

14 MR. DiSTEFANO: The motion is to approve.

15 (Ms. Schwartz, no; Mr. Premo, yes;  
16 Ms. Schmitt, yes; Mr. Mietz, yes;  
17 Mr. D'Augustine, yes; Ms. Tompkins-Wright,  
18 yes.)

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

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1 CHAIRPERSON MIETZ: Next we're going over  
2 Whitestone Lane. Are there concerns about this? Do  
3 we need to go around or is everyone generally okay  
4 with this one? Any concerns?

5 MR. PREMO: I'm fine with it.

6 CHAIRPERSON MIETZ: Any concerns? Okay.  
7 Yeah. It seems pretty reasonable. There's some giant  
8 houses back there. It would have been nice if he had  
9 some of the data, but there are some giant houses back  
10 there. Okay.

11 MR. DiSTEFANO: I think one of the key  
12 factors too is the pool, the enclosed pool, takes up a  
13 lot of that livable floor area.

14 CHAIRPERSON MIETZ: Yes. Yes.

15 MR. DiSTEFANO: I don't know what the exact  
16 number is.

17 CHAIRPERSON MIETZ: It's not really living  
18 space. Yeah.

19 MR. DiSTEFANO: I don't know what that  
20 number is, but you can certainly use that as --

21 CHAIRPERSON MIETZ: It's probably --

22 MR. DiSTEFANO: -- finding.

23 CHAIRPERSON MIETZ: Okay. All right.

24 Kathleen, are you good with this?

25 MS. SCHMITT: I am. But I did not have the



1 enclosed pool from this --

2 CHAIRPERSON MIETZ: Well, we don't know what  
3 the square footage of that is.

4 MR. DiSTEFANO: She can generalize it  
5 though. I mean, you can generalize it that the  
6 enclosed pools takes up a fairly substantial portion  
7 of that livable floor area. Or not a substantial  
8 portion, but --

9 CHAIRPERSON MIETZ: No.

10 MR. DiSTEFANO: -- takes up a portion of  
11 that.

12 CHAIRPERSON MIETZ: A portion. Yeah.

13 MR. DiSTEFANO: Yeah.

14 CHAIRPERSON MIETZ: Because we really don't  
15 know what it is. Okay. All right, Kathleen. You can  
16 weave that in I think.

17 MS. SCHMITT: Okay. I'll -- and may I just  
18 ask one question of Rick? Does this need  
19 Architectural Review Board or is it so simple it does  
20 not?

21 MR. DiSTEFANO: It cannot be seen from the  
22 road so it does not need it.

23 MS. SCHMITT: All right.

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1     **Application 5A-04-22**

2             Application of Ari and Victoria Chodos,  
3     owners of property located at 35 Whitestone Lane, for  
4     Area Variances from Section 205-2 to 1) allow a  
5     building addition to extend 10.4 feet into the  
6     existing 53.9 foot rear setback where a 60 foot rear  
7     setback is required by code, and 2) allow livable  
8     floor area, after construction of the addition to  
9     increase from 5,281 square feet to 5,926 square feet  
10    where a maximum 4,129 square foot is allowed by code.  
11    All as described on application and plans on file.

12            Motion made by Ms. Schmitt to approve  
13    application 5A-04-22 based on the following findings  
14    of fact.

15    **Findings of Fact:**

16    1.   The applicant seeks two variances.   The first is  
17    to allow a building addition to extend 10.4 feet into  
18    the pre-existing nonconforming setback where a 60 foot  
19    rear setback is required by code.   The second variance  
20    is to allow livable floor space to increase from 5,281  
21    square feet to 5,926 square feet where a maximum 4,129  
22    square feet is allowed by code.

23    2.   The homeowners wish to construct a one-story owner  
24    suite addition, which will include a primary bedroom,  
25    bath and closet.   Alternate locations were explored

1 including a possible addition above the garage, but  
2 these locations ultimately were rejected by  
3 professionals and the homeowners due to various  
4 concerns including, for example, venting pool  
5 equipment through the garage roof. By building an  
6 addition in this location the existing patio will not  
7 need to be completely removed as the proposed location  
8 is closest in proximity to existing water and sanitary  
9 connections in the basement.

10 3. The granting of the requested variances will not  
11 produce an undesirable change in the character of the  
12 neighborhood or be a detriment to nearby properties as  
13 the proposed addition is consistent with the look,  
14 size and style of nearby homes.

15 4. While the overall livable square feet is  
16 substantial, the enclosed pool takes up a portion of  
17 the livable floor space. Moreover, the homes in this  
18 neighborhood are significantly larger than many  
19 traditional Brighton homes. In addition, the  
20 expansion in the pre-existing rear setback continues  
21 to allow a minimum of 43 feet from the lot line. The  
22 homeowners also intend to keep the mature landscaping  
23 that line the side and rear of the property and will  
24 block the addition from the neighbors' view and will  
25 not be visible from the street.

1 5. The benefit sought by the applicant cannot  
2 reasonably be achieved by any other method or without  
3 a variance.

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

7 **Conditions:**

8 1. The variance granted herein applies only to the  
9 owner suite addition described and in the location  
10 depicted on the application and in the testimony  
11 provided and will not apply to future projects.

12 2. All necessary building permits shall be obtained.

13 (Second by Ms. Schwartz.)

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

18 (Upon roll motion to approve with conditions  
19 carries.)  
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1 CHAIRPERSON MIETZ: Okay. Very good. All  
2 right. So let's keep rolling here. Let's go over now  
3 Hemingway. This is kind of a weird situation  
4 actually, weird from a perspective of the lot.

5 But does anyone have any concerns about this  
6 as a practical matter? The A and B zone is a kind of  
7 a convoluted thing. But does anyone have concerns  
8 about what the applicant is trying to do?

9 MS. TOMPKINS-WRIGHT: No. But real quick  
10 that the zone change -- or not change. Sorry. The  
11 zone difference only affects the rear setback  
12 violation not the side setback violation?

13 CHAIRPERSON MIETZ: Yeah.

14 MR. DiSTEFANO: Or the paving violation.

15 CHAIRPERSON MIETZ: Driveway. Yeah. Okay.

16 MS. TOMPKINS-WRIGHT: Yeah.

17 CHAIRPERSON MIETZ: So yeah. I don't know  
18 that it's a factor to be used as -- I mean, it's just  
19 a factor as it relates to why they're here I guess.

20 MS. TOMPKINS-WRIGHT: Well, I think you can  
21 argue that it's a factor in it not being a noticeable  
22 change in the character of the neighborhood.

23 CHAIRPERSON MIETZ: That's fine.

24 MS. TOMPKINS-WRIGHT: It's surrounded by  
25 properties where it would be permitted.

1 CHAIRPERSON MIETZ: Yes, you could. Okay.

2 Well, you ready to take a shot?

3 MS. TOMPKINS-WRIGHT: Yes.

4 MR. DiSTEFANO: Andrea, just can you state  
5 that as modified by the applicant because that should  
6 be a 2.5 foot setback not a 5 foot setback. So just  
7 do the modification as part of your decision.

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1     **Application 5A-05-22**

2             Application of Randall Peacock, architect,  
3     and Debra Rogers, owner of property located at 24  
4     Hemingway Drive, for 1) an Area Variance from Section  
5     205-2 to allow a garage expansion to extend 6.7 feet  
6     into the existing 11.7 foot side setback where a 13.27  
7     foot side setback is required by code.; 2) an Area  
8     Variance from Section 205-2 to allow a building  
9     addition to extend 15 +/- feet into the existing 55  
10    foot rear setback where a 60 foot rear setback is  
11    required by code; and 3) an Area Variance from Section  
12    207-10E to allow a driveway expansion up to the side  
13    lot line where a minimum 4 feet setback is required by  
14    code. All as described on application and plans on  
15    file.

16            Motion made by Ms. Tompkins-Wright to  
17    approve application 5A-05-22 for an area variance as  
18    modified by the applicant and testimony to provide  
19    for, in addition to the other variances requested, a  
20    2.5 foot side yard setback into the additional  
21    overhang in lieu of the 5 foot requested by the  
22    applicant, based on the following findings of fact.

23     **Findings of Fact:**

24     1. The requested variance will not produce an  
25     undesirable change in the character of the

1 neighborhood or be a detriment to nearby properties.  
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1           MR. DiSTEFANO: Andrea, can I just stop you  
2 for a quick second. I'm sorry to do this. But can  
3 you say the requested variances, because you're  
4 going -- you're folding all three --

5           CHAIRPERSON MIETZ: Yeah.

6           MS. TOMPKINS-WRIGHT: Yeah. Okay.

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1     **Findings of Fact:**

2     1. The requested variances will not produce an  
3     undesirable change in the character of the  
4     neighborhood or be a detriment to nearby properties.  
5     Due to the curved nature of the road along which this  
6     property sits, there is a lack of consistency in the  
7     setbacks both for driveways and garages. In fact, the  
8     driveway expansion has been present at the property  
9     for five years without any complaint by neighbors  
10    evidencing a lack of detrimental nature. Further, the  
11    rear expansion is consistent with what would be  
12    permitted in the zone immediately adjacent to this  
13    property further evidencing a lack of noticeable  
14    effect on surrounding properties.

15   2. The requested variances are not substantial in  
16   light of the following facts: A, the rear expansion  
17   would be permissible in its location if the property  
18   were zoned as the surrounding properties are zoned; B,  
19   due to the irregular shape of the lot, the driveway  
20   extends to the side lot only at the right-of-way line  
21   and has up to a 5 foot setback has up to a 5 foot  
22   setback where the driveway would meet the expanded  
23   garage; C, the garage addition provides only a 1.5 car  
24   garage, significantly smaller than the three-car  
25   garage that would otherwise be permitted baring

1 setback and other property constraints.

2 3. The benefit sought by the applicant cannot  
3 reasonably be achieved by any other method as the  
4 homeowner is in need of a usable garage for storage as  
5 well as additional living space and car storage where  
6 no other expansion would be permitted without a  
7 variance due to front, rear and side setbacks on the  
8 lot and the placement of the home.

9 4. There is no evidence that the proposed variance  
10 will have an adverse effect or impact on the physical  
11 or environmental conditions in the neighborhood or  
12 district.

13 **Conditions:**

14 1. The variances granted herein apply only to the  
15 additions and the expanded driveway as presented in  
16 the plans submitted and in testimony given.

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

19 (Second by Ms. Schwartz.)

20 (Ms. McKay-Drury, yes; Mr. Meitz, yes;

21 Mr. D'Augustine, yes; Mr. Premo, yes;

22 Ms. Schmitt, yes; Ms. Ms. Schwartz, yes;

23 Ms. Tompkins-Wright, yes.)

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

1 CHAIRPERSON MIETZ: Okay. We're on  
2 Brightwoods. This is the squaring up with the  
3 driveway to make it a two bay driveway. Any concerns?  
4 There are quite a few over in that little neighborhood  
5 there.

6 MS. TOMPKINS-WRIGHT: It's interesting. I  
7 read the map on the site plan, but my -- it deceived  
8 my eyes because it doesn't look like it's 30 percent.

9 CHAIRPERSON MIETZ: Yeah.

10 MS. TOMPKINS-WRIGHT: So I think it's going  
11 to appear less than 30 percent. At least to me.

12 CHAIRPERSON MIETZ: It's fairly common over  
13 there too.

14 CHAIRPERSON MIETZ: Okay. Other --

15 MR. DiSTEFANO: 35 percent is what you mean,  
16 right, Andrea? Because that's what the request is  
17 for, is for 35 percent.

18 MS. TOMPKINS-WRIGHT: Yes. Sorry.

19 CHAIRPERSON MIETZ: Yes. It doesn't look  
20 that far over.

21 MS. McKAY-DRURY: That plus tandem parking  
22 is the worst so.

23 CHAIRPERSON MIETZ: Go ahead, Heather.

24 MS. McKAY-DRURY: With three drivers, I can  
25 only imagine.

1     **Application 5A-07-22**

2             Application of William Fox and Christi  
3     Alessi Fox, owners of property located at 111  
4     Brightwoods Lane, for an Area Variance from Section  
5     207-10E(5) to allow front yard pavement, after a  
6     driveway expansion, to be 35.8% of the front yard area  
7     in lieu of the maximum 30% allowed by code. All as  
8     described on application and plans on file.

9             Motion made by Ms. McKay-Drury to approve  
10     application 5A-07-22 based on the following findings  
11     of.

12     **Findings of Fact:**

13     1. The variance will not result in a substantial  
14     change in the neighborhood because many homes in the  
15     area have wide enough driveways to accommodate two  
16     cars side by side, including next door, the next door  
17     neighbor, which will be the closest one to the  
18     expanded driveway, and a neighbor across the street.  
19     The 1 foot expansion to the edge of the garage  
20     foundation is within the allowable distance of the  
21     neighboring property and the 5 foot portion on the  
22     other side is already a cement walkway. So there  
23     won't be much visual change.

24     2. The difficulty necessitating the variance cannot  
25     be solved in another matter because the homeowners

1 cannot fit two cars side by side if they remove the 83  
2 feet from the planned driveway widening to comply with  
3 only the 30 percent maximum. There are three drivers  
4 in the household and currently they can only fit all  
5 of the cars in a row by putting one in the garage.

6 3. The variance requested is the minimum required.

7 The paving company had originally recommended a 20  
8 foot width, yet the homeowners have carefully reviewed  
9 and observed other properties and concluded that this  
10 reduced plan, which would have the driveway expanded  
11 only to approximately 17 feet wide, is the smallest  
12 width to allow them to park side by side.

13 4. The proposed variance will not have an adverse  
14 impact on the physical or environmental conditions on  
15 the neighborhood. The neighbors have similar sized  
16 driveways and this home already has a cement walkway  
17 nearly the same width.

18 **Conditions:**

19 1. This approval is limited to the application and  
20 testimony presented.

21 2. All necessary highway permits shall be obtained.

22 (Second by Ms. Schwartz.)

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

24 Mr. D'Augustine, yes; Mr. Meitz, yes;

25 Ms. Schmitt, yes; Ms. Schwartz, yes;

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Ms. McKay-Drury, yes.)  
(Upon roll motion to approve with conditions  
carries.)

1 CHAIRPERSON MIETZ: Next application is  
2 Highland Avenue for the pool house. So there's some  
3 interesting things to this. Why don't we kind of go  
4 around and see what everyone thinks of this.  
5 Kathleen, what do you think about it?

6 MS. SCHMITT: You know, I'm -- I'm torn,  
7 leading towards approval. I think what makes me say  
8 that I'm more leaning towards approval than not is it  
9 cannot really be seen by any of the neighbors and it  
10 seems to about so private, that where I think that if  
11 this was in a traditional suburban yard with a fence  
12 that you could see right through, it would probably be  
13 obnoxious or kind of troublesome to look at.

14 But this you can't see. So while I think  
15 they could achieve or possibly achieve some of their  
16 basic needs of, you know, they want a bathroom and a  
17 changing area, I had it down as a tentative yes  
18 depending on, you know, where the group was.

19 CHAIRPERSON MIETZ: Okay. All right.  
20 Andrea?

21 MS. TOMPKINS-WRIGHT: Yeah. I'm okay. I  
22 mean, it -- it's kind of a big structure for what we  
23 would normally approve for this, but it's also a  
24 really big yard. So I think that there's some -- you  
25 know, that's a factor in this. That's my thought. I



1 can get on with it.

2 I can say it's not substantial in light of  
3 how big the yard is and having the second -- and how  
4 far the pool is from the home because of the shape of  
5 the yard. I can get there.

6 CHAIRPERSON MIETZ: Okay. Heather?

7 MS. McKAY-DRURY: I'm inclined to agree. I  
8 think -- especially given the kind of respect to  
9 nature of the plans in terms of the building itself, I  
10 think that the visibility will be relatively low. It  
11 is definitely quite large, but they do have their  
12 reasons for why they want such a large structure  
13 because they're going to be located pretty far from  
14 the house. So I think that it makes sense and they've  
15 justified it.

16 CHAIRPERSON MIETZ: Okay. Ed?

17 MR. PREMO: Yeah. I'm fine with it. The  
18 benefits to the applicant -- I mean, obviously it's  
19 quite big, but there's no detriment or harm to anyone  
20 else. It's a unique situation, a uniquely large  
21 parcel. So I don't have a problem with it.

22 CHAIRPERSON MIETZ: Okay. Judy?

23 MS. SCHWARTZ: I'm fine with it based on  
24 what everyone else has said.

25 CHAIRPERSON MIETZ: Okay. All right. Yeah.

1 So I have it. And, you know, we'll go forward with  
2 it. I think the only real concern is do we need to  
3 put any restrictions on how that building is used  
4 because, again, to me that's really the only issue. I  
5 agree with everybody else as far as the topography of  
6 the lot, the distance from the house, you know the  
7 dimensioning is all fine.

8 But it's just what is that building really  
9 going to be used for? And I think when he -- when I  
10 asked him about utilities and all that stuff and I  
11 asked about heat and then at the end he suggested that  
12 there'll be radiant heating in the floor, which means  
13 it could be used to heat that building any time you  
14 want. Okay? So if all of you understand what radiant  
15 heating is, it's pipes that are actually in the  
16 concrete slab so that it warms the entire slab, which  
17 then warms the building.

18 MS. SCHMITT: Do you want to hear Matt? I  
19 don't think we got to him.

20 CHAIRPERSON MIETZ: Oh, I'm sorry.

21 MR. D'AUGUSTINE: It's okay. No, I'm good.  
22 I really had nothing, you know -- I have all sorts of  
23 thoughts, but nothing important to add. All the  
24 reasons that everyone else said, I think it's good.

25 CHAIRPERSON MIETZ: Okay.

1 MS. MCKAY-DRURY: Dennis, I'm confused by  
2 that. Because I'm familiar with heated floors like in  
3 the bathrooms. But I wasn't under the impression that  
4 that could ever like actually heat a structure  
5 sufficiently.

6 CHAIRPERSON MIETZ: Well, yeah. Radiant  
7 heating depending on how the density was put in, how  
8 their -- I mean it's not going to heat a 2,000 square  
9 foot house. But something that's open that's 500  
10 square feet could easily be warmed to a reasonable  
11 temperature with radiant heat.

12 MS. MCKAY-DRURY: Oh, okay.

13 CHAIRPERSON MIETZ: Okay. So anyway. Ken,  
14 can I just ask you a question? Do you have any  
15 thoughts about how we might be careful with this  
16 issue?

17 MR. GORDON: I mean, you could impose a  
18 condition. You're worried about somebody living there  
19 or somebody using it as residential space. You can  
20 make that an express condition. But the reality is is  
21 that it would be an illegal use --

22 CHAIRPERSON MIETZ: Correct.

23 MR. GORDON: -- of the property. And so you  
24 could put it in as a condition. I don't know that  
25 it's necessary to put it in as a condition.

1 CHAIRPERSON MIETZ: I guess not.

2 MR. GORDON: Rick, what are your thoughts on  
3 that?

4 MR. DiSTEFANO: I always think it doesn't  
5 hurt to have it in there.

6 MR. GORDON: Yeah.

7 MR. DiSTEFANO: Just like the garages, when  
8 we say you can't occupy the upper level of a big  
9 detached garage, you always say that. So it doesn't  
10 hurt to put it in there as a condition. One more  
11 thing to hang our hat on. That's all.

12 CHAIRPERSON MIETZ: And normally, Ken, we do  
13 this. But the other thing I was concerned about is  
14 due to the location of it, with everything down there,  
15 have it be an overnight place for kids or something  
16 like that where it starts creating noise and stuff.  
17 But it's pretty hard to restrict that so.

18 MR. DiSTEFANO: Yeah. You're right, Dennis.  
19 I don't think you want to say, hey, if the kids wanted  
20 to stay down --

21 CHAIRPERSON MIETZ: No overnight occupancy.

22 MR. DiSTEFANO: But if somebody were  
23 actually to spend a weekend there, that would be a  
24 little different.

25 CHAIRPERSON MIETZ: Yeah. Okay. So we'll

1 just say it won't be -- I got it in my conditions.

2 All right. Very good. Let me go then.

3 MS. MCKAY-DRURY: Can I -- I guess I'm just  
4 curious about that. Like, I guess I'm like not sure  
5 that I understand the harm like if a kid sleeps on the  
6 couch overnight or like if they do use it in the  
7 wintertime. Like if we're allowing them to have the  
8 building --

9 MR. DiSTEFANO: I think what it is, is --

10 MS. MCKAY-DRURY: Obviously I would  
11 understand if they like leased it out to a tenant,  
12 then obviously that's completely different. But like  
13 if I was that homeowner and my kid wanted to spend the  
14 night over there, I wouldn't probably necessarily care  
15 unless they were being obnoxious.

16 MR. GORDON: It's not that -- I hear what,  
17 you know, Dennis and Rick are saying about, you know,  
18 noise. I look more at it as a safety issue.

19 CHAIRPERSON MIETZ: Right.

20 MR. GORDON: When we have a building being  
21 used regularly for residential purposes, there's a  
22 whole set of other code provisions, not only Town Code  
23 provisions, but New York State Fire Code provisions  
24 that are essential to keep people safe.

25 So I think, you know, whether -- you know, I

1 think it's great that Dennis is going to put it in  
2 there as a condition that it shall not be used for  
3 residential purposes or whatever language you have  
4 already drafted, Dennis, I'm sure is fine. But that's  
5 why it's a concern is it's -- it's a health and safety  
6 issue really.

7 MS. McKAY-DRURY: Okay.

8 CHAIRPERSON MIETZ: Yeah. And I think,  
9 Heather, just to clarify, and then we'll move on, is  
10 that to restrict it to say somebody can't stay there  
11 one night, but if we have this restriction and then  
12 somebody can't come for the summer and stay there  
13 because now they're using it as a residential  
14 structure. And it's really not allowed by code to be  
15 used that way.

16 MS. McKAY: Right. Right. Because if like  
17 somebody, if they own their own pool and they want to  
18 go for a swim at midnight, I mean, most of us might  
19 not want to go for a swim at midnight, but like they  
20 can. And they can --

21 CHAIRPERSON MIETZ: Of course.

22 MS. McKAY-DRURY: -- use the pool house with  
23 it. Yeah.

24 MR. GORDON: Absolutely. And certainly  
25 we've seen a rise in short-term rentals like Airbnb

1 all over the place. So we certainly wouldn't want  
2 that situation.

3 CHAIRPERSON MIETZ: All right. You good,  
4 Heather?

5 MS. MCKAY-DRURY: Yeah. Thanks for that.

6 CHAIRPERSON MIETZ: Does that clear it up?  
7 Okay. We're not against, you know, doing the moral  
8 police thing down there, but I think we just have to  
9 be a little careful to prevent them from encouraging  
10 them to use it for an inappropriate use. Okay. All  
11 right.

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1     **Application 5A-08-22**

2             Application of Neil and Laura Frood, owners  
3     of property located at 1575 Highland Avenue (Tax ID  
4     #137.05-3-7) for an Area Variance from Section  
5     203-2.1B(2) and 203-9A(4) to allow a pool house to be  
6     527 square feet in size in lieu of the maximum 250  
7     square feet allowed by code. All as described on  
8     application and plans on file.

9             Motion made by Mr. Meitz to approve  
10    Application 5A-08-22 based on the following findings  
11    of fact.

12    **Findings of Fact:**

- 13    1. Though the variance is substantial, the size of  
14    the proposed structure is the minimum to meet the  
15    needs of the applicant due to the distance from the  
16    house and the grade change.
- 17    2. The site is approximately one acre and the  
18    building will not be visible from the street.
- 19    3. The structure will be built with harmonious  
20    materials to match the improvements of the principal  
21    house.

22    **Conditions:**

- 23    1. It is based on the testimony given and plans  
24    submitted as to the location and size of the  
25    structure.



1 CHAIRPERSON MIETZ: Two, I don't know. Help  
2 me out here, Rick. What do you think what the right  
3 twist is a little here as to what --

4 MR. DiSTEFANO: The pool house shall not be  
5 used for residential purposes.

6 CHAIRPERSON MIETZ: Okay.

7 MR. DiSTEFANO: Is that good enough?

8 MR. GORDON: I like that.

9 CHAIRPERSON MIETZ: That gives the flavor of  
10 it. Okay.

11 MR. PREMO: How about the pool house won't  
12 constitute a separate living unit.

13 MR. GORDON: I like -- I like Rick's  
14 language a little bit better.

15 MR. PREMO: Okay. Okay. I'm overruled.

16 CHAIRPERSON MIETZ: Okay. You're out of  
17 order.

18 MR. PREMO: Out of order.

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1     **Conditions:**

2     1. It is based on the testimony given and plans  
3     submitted as to the location and size of the  
4     structure.

5     2. The pool house shall not be used for residential  
6     purposes.

7     3. All necessary building permits shall be obtained.

8             (Second by Mr. Premo.)

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

13            (Upon roll motion to approve with conditions  
14            carries.)

1 CHAIRPERSON MIETZ: Then we got the  
2 generator, one of our billion generators.

3 MR. PREMO: Yup.

4 CHAIRPERSON MIETZ: All right. Anybody have  
5 any concerns about it over on Indian Spring Lanes.

6 MS. TOMPKINS-WRIGHT: Rick, do you know the  
7 Town Code requires generators to be not just in the  
8 rear yard but also to be behind the actual residence?

9 MR. DiSTEFANO: Yup.

10 MS. TOMPKINS-WRIGHT: Is that unique to  
11 Brighton or does most of Monroe County have the same  
12 code requirements?

13 MR. DiSTEFANO: No. I'm going to say that's  
14 unique to us. And the reason we did that because,  
15 again, with the smaller lots, we were trying to get  
16 that generator as centered in the lot as best as  
17 possible.

18 MS. TOMPKINS-WRIGHT: Okay.

19 MR. DiSTEFANO: So it's giving the most  
20 buckling to each of the side property lines.

21 MS. TOMPKINS-WRIGHT: Yup. Okay.

22 MR. PREMO: The only thing, Rick, that I  
23 guess I'd ask you this, is, you know, there's a nice  
24 arborvitaes screen there that I guess I'd like to have  
25 it retained but it might not be on the property.

1           MR. DiSTEFANO: Yeah. I probably -- since  
2 we don't know where that is I think we just need to  
3 make a general condition basically saying that  
4 landscaping around the generator shall be maintained.

5           MR. PREMO: Okay. That sounds great. Okay.

6           CHAIRPERSON MIETZ: All right, Ed.

7           MR. PREMO: Yup.

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1     **Application 5A-09-22**

2             Application of Jon Dangelo, agent, and  
3     Elliot Foo, owner of property located at 30 Indian  
4     Spring Lane, for an Area Variance from Section  
5     203-2.1B(6) to allow a standby emergency generator to  
6     be located in a side yard in lieu of the rear yard  
7     Behind the house as required by code. All as  
8     described on application and plans on file.

9             Motion made by Mr. Premo to approve  
10     application 5A-09-22 based on the following findings  
11     of fact.

12     **Findings of Fact:**

13     1. The related area variance is for a single-family  
14     home and is a Type 2 action pursuant to 6 NYCRR §  
15     617.5(c)(17) and no review is required pursuant to the  
16     State Environmental Quality Review Act.

17     2. The requested area variance is to allow the  
18     location of a standby generator for power emergencies  
19     in the side yard instead of the rear yard. The rear  
20     yard is previously improved by an extensive deck and  
21     the rear of the house was an addition. The proposed  
22     location is near utility connections for the house.  
23     It is also near existing central air conditioning unit  
24     and screened by a line of arborvitaes shrubbery.

25     3. In the context the requested area variance is not

1 substantial.

2 4. There are no other alternatives to produce the  
3 desired results given the existing deck and utilities  
4 for the house.

5 5. There will be no unacceptable change in the  
6 character of the neighborhood and no substantial  
7 detriment to nearby properties is expected. The lot  
8 size is large and there will be an approximate 20 foot  
9 setback from the side property line. There is  
10 existing shrubbery that will block the unit from the  
11 neighbor. The unit is consistent with the existing  
12 central air conditioning unit on the side of the  
13 house.

14 6. The hardship is based on the existing conditions  
15 of the property.

16 7. The health, safety and welfare of the community  
17 will not be adversely affected by approval of the  
18 variance.

19 **Conditions:**

20 1. The variance is based on the application submitted  
21 and only authorizes the project described therein.

22 2. Screening by use of shrubbery will be maintained  
23 with respect to the proposed generator.

24 3. Subject to obtaining necessary permits and  
25 inspections.

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(Second by Ms. Schwartz.)  
(Ms. Schmitt, yes; Ms. McKay-Drury, yes;  
Mr. Meitz, yes; Mr. D'Augustine, yes;  
Ms. Tompkins-Wright, yes; Ms. Schwartz,  
yes; Mr. Premo, yes.)  
(Upon roll motion to approve with conditions  
carries.)

1 CHAIRPERSON MIETZ: Okay. So the next one  
2 is Brooklawn. That's the end of Brooklawn for those  
3 of you who got there off of Westfall. And any  
4 concerns on this? It's a cute little area back there.  
5 Yeah. No concerns for me. Anybody? Okay, Judy.

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1     **Application 5A-10-22**

2             Application of Timothy and Ellen Maher,  
3     owners of property located at 407. Brooklawn Drive,  
4     for an Area Variance from Section 205-2 to allow a  
5     covered porch to extend 10 +/- feet into the 40 foot  
6     front setback required by code. All as described on  
7     Application and plans on file.

8             Motion made by Ms. Schwartz to approve  
9     application 5A-10-22 based on the following findings  
10    of fact.

11    **Findings of Fact:**

12    1. The house is on a cul-de-sac and though the  
13    variance is substantial, it will not adversely affect  
14    the character of the area because there is no house  
15    across the street from it and there is greenery on the  
16    tree line circle in this area.

17    2. The covered porch will be at the main entrance of  
18    the home and enhance it as well as provide cover as  
19    people enter the home during inclement weather. In  
20    addition, this 10 foot porch depth will allow for the  
21    door and awning windows to be opened without the  
22    possibility of coming in contact with an individual.

23    3. This porch addition will not result in making this  
24    house extend closer to the street than those on either  
25    side of it because of the unusual layout of this

1 cul-de-sac.

2 4. There is no alternative that would afford the  
3 applicant the desired result.

4 5. This porch is replacing one that was in disrepair  
5 and had to be removed.

6 **Conditions:**

7 1. This variance only applies to the testimony  
8 presented and written applications.

9 2. All necessary building and planning permits must  
10 be obtained.

11 3. This will be an open porch

12 (Second by Ms. Schmitt.)

13 (Mr. Premo, yes; Ms. Tompkins-Wright, yes;  
14 Mr. D'Augustine, yes; yes, Mr. Mites,  
15 Ms. McKay-Drury, yes; Ms. Schmitt, yes;  
16 Ms. Schwartz, yes.)

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

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1 CHAIRPERSON MIETZ: Okay. So then we move  
2 over to Marvin Park. That's the stockade fence over  
3 there next to the apartments. Any concerns about  
4 that?

5 MS. SCHWARTZ: It's a pretty fence.

6 CHAIRPERSON MIETZ: It's a pretty fence?

7 MS. SCHWARTZ: Yeah.

8 MR. GORDON: Just note for the record again,  
9 Mr. Premo is recusing himself on this matter. So he's  
10 going to turn off his camera momentarily while we  
11 discuss it.

12 MR. DiSTEFANO: I'll say it's a pretty wall.

13 MS. SCHWARTZ: Well, yeah. Okay.

14 MR. DiSTEFANO: It's going to extend 80 feet  
15 into the front yard.

16 CHAIRPERSON MIETZ: Yeah. And? That's an  
17 interesting comment, but what is your thought about  
18 it?

19 MR. DiSTEFANO: I don't really -- you know,  
20 it's up to you guys.

21 CHAIRPERSON MIETZ: Well, you can have a  
22 thought. It's okay.

23 MR. DiSTEFANO: My thought is it's a 6 foot  
24 high fence that's running quite a ways into a front  
25 yard that's going to act like a wall as you travel

1 east and west along Clover Street.

2 CHAIRPERSON MIETZ: You mean like a  
3 stockade.

4 MR. DiSTEFANO: Like a stockade.

5 CHAIRPERSON MIETZ: Yeah. I kind of thought  
6 the same. Okay. Let's go around on this. Matt, what  
7 do you think, buddy?

8 MR. D'AUGUSTINE: I mean, it -- it seems to  
9 me it serves the same purpose as the neighbor's trench  
10 and it's a continuation of that fence. And so despite  
11 the fact that it's lengthening -- I can't speak --  
12 lengthening, I don't have an issue.

13 CHAIRPERSON MIETZ: Okay. All right.  
14 Andrea?

15 MS. TOMPKINS-WRIGHT: Yeah. I mean, I think  
16 part of it is I understand that it's -- I mean, it's  
17 sort of the -- still their backyard. So that's sort  
18 of a factor here that it might be the front yard  
19 because it's the corner lot and an oddly shaped corner  
20 lot at that.

21 MR. DiSTEFANO: Well, it's kind of like  
22 their side yard. I mean, I don't know if I'd put it  
23 as the back. I mean, the interesting thing is where  
24 that fence ends it's basically -- well, where the 6  
25 foot high fence could end would be right at the corner

1 of their garage. So there's nothing that like -- it's  
2 not like it's extending into their backyard. You know  
3 what I'm saying? They could still six and a half feet  
4 in their backyard without any issue.

5 CHAIRPERSON MIETZ: Right. Okay. Kathleen?

6 MR. DiSTEFANO: Again, I don't -- it's your  
7 guys' decision.

8 MS. McKAY-DRURY: Can we look at the survey  
9 map when we talk about that just so that I can  
10 understand exactly where you're talking about?

11 MR. DiSTEFANO: Yeah. Brendan, you got  
12 that? 5A-11-22.

13 MR. RYAN: I think that was the one that  
14 you were -- we did not have it's --

15 MR. DiSTEFANO: No, we had it up. Didn't  
16 we?

17 MS. McKAY-DRURY: Yeah. It's not --

18 MS. TOMPKINS-WRIGHT: Yeah. We didn't  
19 have --

20 MR. RYAN: I'm sorry. That was --

21 MR. DiSTEFANO: Just the site plan. Just  
22 the survey map. All right. You see where that  
23 existing setback line, 65 feet existing setback, right  
24 there? Anything going towards Clover Street from that  
25 point is -- by code it's got to be 3 and a half feet.

1 Everything going to the right along the two, one and  
2 eleven, could be 6 and a half feet. So you're past  
3 the house when you actually have to go down to the 3  
4 and a half feet.

5 CHAIRPERSON MIETZ: Yeah.

6 MS. McKAY-DRURY: And are they -- they're  
7 just proposing the fence just along that back, the  
8 rear lot line.

9 MR. DiSTEFANO: Yeah. That whole entire  
10 lane right to the street.

11 MS. McKAY: Okay. But it's not also running  
12 like --

13 MR. DiSTEFANO: No, no. No. It's not  
14 running like -- enclosing along Clover Street, no.  
15 It's kind of blocking along the parking lot that's  
16 there.

17 MS. McKAY-DRURY: Because I could understand  
18 wanting it to be shorter if it was going to be along  
19 Clover, like parallel with Clover. But I do think  
20 that it might look kind of odd if it changes height  
21 all along that rear line.

22 CHAIRPERSON MIETZ: Okay. All right. Judy?

23 MS. SCHWARTZ: I'm okay.

24 CHAIRPERSON MIETZ: Okay. And Heather, you  
25 are okay?

1 MS. MCKAY-DRURY: Yeah. I think I'm fine.

2 CHAIRPERSON MIETZ: And Ed?

3 MR. GORDON: Ed's out --

4 MR. DiSTEFANO: Oh, that's right. Ed's out.

5 MR. GORDON: I think Kathleen did not get to  
6 speak.

7 CHAIRPERSON MIETZ: All right. Go ahead,  
8 Kathleen.

9 MS. SCHMITT: Yeah. I -- on the paper I  
10 didn't like it. But when I kept staring at the yard  
11 when I looked at it, I could not imagine having the  
12 two different lengths or sizes of the fence. And so I  
13 ended up going with it.

14 CHAIRPERSON MIETZ: Okay.

15 MS. SCHMITT: But, you know --

16 CHAIRPERSON MIETZ: All right.

17 MS. SCHMITT: -- you can persuade me. I can  
18 say no.

19 CHAIRPERSON MIETZ: Are you comfortable then  
20 making the motion, Kathleen?

21 MS. SCHMITT: Yes. I wrote it up as a yes,  
22 so.

23 CHAIRPERSON MIETZ: Okay. So I think  
24 generally you have the support. Okay. Go ahead.

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1     **Application 5A-11-22**

2             Application of Erica and Jon Stanat, owners  
3     of property located at 2 Marvin Park, for an Area  
4     Variance from Section 207-2A to allow a 6.5 feet  
5     stockade fence to extend 80 +/- feet into a front yard  
6     where a maximum 3.5 feet high fence is allowed by  
7     code. All as described on application and plans on  
8     file.

9             Motion made by Ms. Schmitt to approve  
10    application 5A-11-22 based on the following findings  
11    of fact.

12    **Findings of Fact:**

13    1. The property in question is on a larger corner lot  
14    with part of the front yard located on the side of the  
15    applicant's home. As such it's considered by the  
16    homeowners to be their side yard. The homeowners wish  
17    to install a 6 foot, 6 inch stockade fence, which  
18    would extend approximately 80 feet in the front yard  
19    where a minimum 3.5 foot fence is allowed by code in  
20    order to diminish and hopefully eliminate vehicle  
21    headlights shining directly into their family room,  
22    dining room and den.

23    2. The adjoining neighbor's property has a similar  
24    sized and style fence, which the applicants wish to  
25    replicate for consistency reasons.



1 3. If the homeowners were to use the 3 foot, 5 inch  
2 foot fence in what they consider to be their side yard  
3 and a 6 foot, 5 inch fence in the rest of the yard it  
4 would be aesthetically unappealing. It would not help  
5 them with the issue they are trying to correct, which  
6 is eliminating the shine of headlights from vehicle  
7 parking at East Avenue Towers that shine into their  
8 home at night in the early hours in the morning.

9 4. The granting of this variance would not result in  
10 any substantial detriments to nearby properties or  
11 otherwise adversely affect the character of the  
12 neighborhood as other neighbors have similarly sized  
13 fences. And the neighbor most affected by the fence,  
14 the owner of the East Avenue Towers, has consented and  
15 agreed with the plans seen herein.

16 5. There's no evidence that there would be a negative  
17 impact to the health, safety and welfare of the  
18 neighborhood.

19 **Conditions:**

20 1. The variance applies only to the fence as  
21 described in the application and testimony provided  
22 and will not apply to the overall fencing height or to  
23 future projects.

1 MS. SCHMITT: Do they need Planning Board  
2 approval or are they good?

3 MR. DiSTEFANO: Nope. You might want to  
4 put -- are you done?

5 MS. SCHMITT: Yes.

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

8 MS. SCHMITT: Thank you.

9 MR. DiSTEFANO: Do you want to do -- I don't  
10 know if you kind of covered it in number 1. Do you  
11 want to make it -- add to that or make another  
12 condition that it should be of style as described in  
13 the application?

14 MS. SCHMITT: Sure. I think that makes  
15 sense.

16 MR. DiSTEFANO: Do you want to rework  
17 number 1 so you can add that?

18 MS. SCHMITT: Okay. I could simply add the  
19 word the variance implies only to the stockade fence  
20 as described in the application and testimony  
21 provided.

22 CHAIRPERSON MIETZ: That's good.

23 MR. DiSTEFANO: Can I just try something  
24 else? Can I just say the variance applies only to a  
25 fence in style and location as per plans submitted and

1 testimony given.

2 MS. SCHMITT: Yeah. I like that. That's  
3 more precise.

4 MS. SCHWARTZ: Second.

5 MR. GORDON: And I just have a little  
6 technical correction. As I was listening, Kathy, I  
7 think you made reference differently to a 3 foot, 5  
8 inch fence and 6 foot, 5 inch fence a couple times  
9 during your motion. So I would ask if you accept an  
10 amendment that would change all references that start  
11 with 3 foot to read 3.5 foot. And all references that  
12 start with 6 foot to read 6.5 foot.

13 MS. SCHMITT: Ken, I would accept that,  
14 except that it needs to be 6.6 because that's what the  
15 homeowner corrected it to.

16 MR. DiSTEFANO: Oh. The problem is I think  
17 we're getting confused with 6 foot, 6 inches and 6.5  
18 feet. 6.5 feet is actually 6 foot, 6 inches.

19 MS. SCHMITT: Okay.

20 MR. DiSTEFANO: That's where I was getting  
21 confused.

22 MR. GORDON: Right. And I think what was  
23 stated in the resolution in error was references to  
24 5 inches. And I just want to clarify 3.5 feet, 6.5  
25 feet consistently throughout the resolution.

1 CHAIRPERSON MIETZ: No inches.

2 MS. SCHMITT: That's fine.

3 CHAIRPERSON MIETZ: Okay.

4 MR. GORDON: And Judy, is that okay with you  
5 as well?

6 MS. SCHWARTZ: Yes. It's fine, yes. I  
7 think it's funny. That's fine.

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1     **Application 5A-11-22 (As amended)**

2             Application of Erica and Jon Stanat, owners  
3     of property located at 2 Marvin Park, for an Area  
4     Variance from Section 207-2A to allow a 6.5 feet  
5     stockade fence to extend 80 +/- feet into a front yard  
6     where a maximum 3.5 feet high fence is allowed by  
7     code. All as described on application and plans on  
8     file.

9             Motion made by Ms. Schmitt to approve  
10    application 5A-11-22 based on the following findings  
11    of fact.

12    **Findings of Fact:**

13    1. The property in question is on a larger corner lot  
14    with part of the front yard located on the side of the  
15    applicant's home. As such it's considered by the  
16    homeowners to be their side yard. The homeowners wish  
17    to install a 6.5 feet stockade fence, which would  
18    extend approximately 80 feet in the front yard where a  
19    minimum 3.5 foot fence is allowed by code in order to  
20    diminish and hopefully eliminate vehicle headlights  
21    shining directly into their family room, dining room  
22    and den.

23    2. The adjoining neighbor's property has a similar  
24    sized and style fence, which the applicants wish to  
25    replicate for consistency reasons.

1 3. If the homeowners were to use the 3.5 foot fence  
2 in what they consider to be their side yard and a 6.5  
3 foot fence in the rest of the yard it would be  
4 aesthetically unappealing. It would not help them  
5 with the issue they are trying to correct, which is  
6 eliminating the shine of headlights from vehicle  
7 parking at East Avenue Towers that shine into their  
8 home at night in the early hours in the morning.

9 4. The granting of this variance would not result in  
10 any substantial detriments to nearby properties or  
11 otherwise adversely affect the character of the  
12 neighborhood as other neighbors have similarly sized  
13 fences. And the neighbor most affected by the fence,  
14 the owner of the East Avenue Towers, has consented and  
15 agreed with the plans seen herein.

16 5. There's no evidence that there would be a negative  
17 impact to the health, safety and welfare of the  
18 neighborhood.

19 **Conditions:**

20 1. The variance applies only to a fence in style and  
21 location as per plans submitted and testimony given.

22 2. All necessary building permits shall be obtained.

23 (Second by Ms. Schwartz.)

24 (Mr. D'Augustine, yes; Mr. Mietz, yes;

25 Ms. Tompkins-Wright, yes; Ms. McKay-Drury,

1                   yes; Ms. Schwartz, yes; Ms. Schmitt, yes.)  
2                   (Upon roll motion to approve with conditions  
3                   carries.)  
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1 CHAIRPERSON MIETZ: All right. So we're at  
2 the end of the parade here. And that's the rooftop  
3 suite for the new equipment there at the venue. Does  
4 anyone have any concerns about that?

5 MR. DiSTEFANO: A comment.

6 CHAIRPERSON MIETZ: A what?

7 MR. DiSTEFANO: I said I have a comment.

8 CHAIRPERSON MIETZ: Go right ahead.

9 MR. DiSTEFANO: It would be nice to know  
10 what they were doing.

11 CHAIRPERSON MIETZ: What who was doing?

12 MR. DiSTEFANO: The applicants.

13 MS. McKAY-DRURY: It would be nice if, you  
14 know, if they made it clear what equipment they were  
15 talking about.

16 MR. DiSTEFANO: I'm sorry. I'm sorry. But  
17 that was, you know.

18 CHAIRPERSON MIETZ: I mean, when I asked the  
19 third guy are you relocating equipment, that's there  
20 or is it new equipment, they said they're relocating  
21 it. I mean, I'm not sure what the venue's going to do  
22 with that space. It's not that large. I've been in  
23 that space before and I'm not really sure what they're  
24 going to do with it, but that's really neither here  
25 nor there either.



1 MS. MCKAY-DRURY: But we haven't. I don't  
2 know what's existing in there so.

3 CHAIRPERSON MIETZ: Well, it's -- it's a  
4 bunch of -- it's like a little computer room. It's  
5 got a bunch of switches in it. That's really what it  
6 is.

7 MS. SCHWARTZ: But they're putting --

8 MR. PREMO: The question is, do we -- do we  
9 know enough about what they're actually putting on the  
10 roof. So, you know, I think one of the descriptions  
11 was that it is going to be new equipment. It's going  
12 outdoors.

13 MR. DiSTEFANO: The third guy basically said  
14 new equipment because it's outdoor equipment, not  
15 indoor equipment, two cabinets on a platform.

16 MR. PREMO: Right.

17 CHAIRPERSON MIETZ: But --

18 MR. PREMO: Do we know what that's going to  
19 look like?

20 MS. TOMPKINS-WRIGHT: So --

21 CHAIRPERSON MIETZ: It's not going to look  
22 like anything because it's going to be in a cabinet.

23 MR. D'AUGUSTINE: Well, that's the thing. I  
24 think --

25 MS. SCHWARTZ: The antenna, they shoot up in

1 the air.

2 CHAIRPERSON MIETZ: Yeah. But those aren't  
3 being changed, Judy.

4 MR. DiSTEFANO: They're not being changed.  
5 (Simultaneous conversation.)

6 MS. TOMPKINS-WRIGHT: -- a north elevation  
7 comparing what it looks like now to what it will look  
8 like. And it -- I mean, it's both of the prior one  
9 and the current one are -- both the current one and  
10 the proposed one are both full of equipment, I'm not  
11 sure that it's going to look that visually different.  
12 That was my point.

13 But I like this north elevation. Again,  
14 it's only one elevation shot. But I do think it does  
15 give a good picture of what's there and how large this  
16 new addition is.

17 MS. MCKAY-DRURY: And you're saying it's  
18 page Z6?

19 MS. TOMPKINS-WRIGHT: Yes. And that's what  
20 I would say regarding this application. I just wasn't  
21 sure if they were painting it or, you know, what it --  
22 was it all going to be the same kind of colors as the  
23 current equipment, but it certainly gets an idea of  
24 what's going on there.

25 MS. SCHWARTZ: I am looking at the sheet

1 that says "existing north elevation." Okay? At the  
2 bottom there. There's two different layouts. At the  
3 bottom it has "proposed antenna." So that to me means  
4 that they are not up yet if they're being proposed.

5 MR. DiSTEFANO: Well, they might be -- what  
6 they might be doing, Judy, is they might be placing  
7 antennas as part of this whole project. The antennas  
8 don't need our approval. They just come in and get a  
9 building permit to replace them.

10 MS. SCHWARTZ: Regardless of height.

11 MR. DiSTEFANO: Yeah. What needs the  
12 approval is the support equipment that's being moved  
13 outside.

14 MS. SCHWARTZ: Okay.

15 MS. TOMPKINS-WRIGHT: That's right in that  
16 middle area.

17 MR. DiSTEFANO: Right. It's a metal  
18 platform with two cabinets on it. That's really all  
19 it is. But it was very difficult for us to get that  
20 information.

21 CHAIRPERSON MIETZ: All right. Right. And,  
22 you know, if there's concerns about what they're  
23 really doing with it, I think in the conditions we  
24 could say that the equipment there is to support the  
25 antenna operation of the applicant so that there's

1 nothing else they can do with these cabinets or use  
2 them for any other purpose. That's really all they  
3 are. It's just that the equipment has to be different  
4 because you can't control temperature in that outside  
5 cabinet easily. So you have to use different switches  
6 than you do when you put them inside a penthouse.

7 MS. McKAY-DRURY: So I'm not suspicious that  
8 they're going to do anything else. I just think that  
9 they need to understand that they need to make it  
10 clearer --

11 CHAIRPERSON MIETZ: Oh, I agree.

12 MS. McKAY-DRURY: -- to a layperson what  
13 this equipment is all for.

14 CHAIRPERSON MIETZ: I agree. But Ed was  
15 suspicious. But we're going to take care of that.

16 MR. PREMO: Well, I'm always. Andrea showed  
17 me the picture I needed to see. So I'm good.

18 CHAIRPERSON MIETZ: Oh, okay. You're going  
19 to relinquish your suspicion? Okay.

20 MR. PREMO: I'm not suspicious anymore.

21 CHAIRPERSON MIETZ: Andrea, what do you  
22 think?

23 MS. TOMPKINS-WRIGHT: Yeah. I'm fine with  
24 it. I have it. Just real quick though before I start  
25 reading, do we want a condition that says like the

1 equipment approved by this variance shall only support  
2 the shell equipment currently located on the roof and  
3 its adequate replacement or something like? Or do we  
4 just not want that condition at all?

5 CHAIRPERSON MIETZ: What do you think, Rick?

6 MR. DiSTEFANO: I -- I don't think it  
7 matters because there's all multiple different users  
8 up there. So I'm sure Verizon's not going -- their  
9 equipment's not going to be used for T-Mobil or AT&T.

10 CHAIRPERSON MIETZ: And I can't really think  
11 of anything else they could use those cabinets for to  
12 be honest.

13 MS. TOMPKINS-WRIGHT: Okay.

14 MR. GORDON: Before she goes with the  
15 motion, Rick, are you comfortable with their testimony  
16 relative to the height off the rooftop of these units?

17 MR. DiSTEFANO: Well, you know, I've seen  
18 these cabinets and if it's true that they're about a 6  
19 foot high cabinet on like a 3 foot high platform,  
20 then, you know, we kind of guesstimated that it would  
21 be 8 to 10 feet, yeah, I think we're -- I'm good with  
22 that.

23 MR. GORDON: Yeah. I know. I mean, I -- it  
24 seemed to me that you sort of led them in that  
25 direction. I didn't -- when you asked the question

1 and when actually several members also asked the same  
2 question, what are these boxes going to look like,  
3 there was not a clear answer that they are going to be  
4 so big or so high or platform's going to be -- what I  
5 want to make sure of is that -- and maybe you're  
6 comfortable with this -- is that they're going to be  
7 over 20 feet off of the rooftop because that would  
8 require an additional variance.

9 CHAIRPERSON MIETZ: Well, Rick, we can  
10 condition it to a maximum.

11 MR. DiSTEFANO: Yeah. Yeah. We could.

12 MR. GORDON: The Code's the Code. The Code  
13 already provides in an RHD1, they need to be no more  
14 than 20 feet --

15 CHAIRPERSON MIETZ: Right. I understand  
16 that. But they suggested 10 feet. So we don't have  
17 to go to 20, I mean.

18 MS. McKAY-DRURY: They agreed. It doesn't  
19 matter who came up with the number, but if they --

20 CHAIRPERSON MIETZ: So a maximum 10 feet or  
21 give them two more.

22 MR. DiSTEFANO: Yeah. I'd give them 12 feet  
23 and leave it at that.

24 MR. GORDON: I think that's a good  
25 condition.

1 MS. TOMPKINS-WRIGHT: That's from the roof  
2 line?

3 MR. DiSTEFANO: Yeah. From the roof deck.

4 MR. GORDON: Roof deck. Correct. Yeah.  
5 What Rick said.

6 MS. McKAY-DRURY: You guys are nice. I  
7 don't know that I'd give more. I'd just say it's  
8 based on the testimony and the application given.

9 MR. DiSTEFANO: But I think the testimony  
10 was mine. That was the whole thing.

11 MS. McKAY-DRURY: Not if they agreed.

12 CHAIRPERSON MIETZ: Heather, the point  
13 really is not to -- we just want it to approach the  
14 height of the variance. So I think 12 feet is  
15 reasonable. Gives them a little bit of wiggle room.

16 MS. McKAY-DRURY: Okay.

17 CHAIRPERSON MIETZ: Us building people  
18 aren't like you lawyers. We negotiate differently.

19 MS. McKAY: Right.

20 MR. DiSTEFANO: Andrea, just remember SEQRA  
21 with this.

22 MS. TOMPKINS-WRIGHT: I got it all ready.

23 MR. DiSTEFANO: Thank you.

24 CHAIRPERSON MIETZ: Go right ahead.  
25

1     **Application 5A-12-22**

2             Application of Bell Atlantic Mobile, lessee,  
3     and Venue Fee LLC, owner of property located at 2500  
4     East Avenue, for an Area Variance from Section  
5     207-42C(1) (b) to allow for cellular support equipment  
6     to be located on the roof in lieu of housed in the  
7     building or in an approved addition as required by  
8     code. All as described on application and plans on  
9     file.

10            Motion made by Ms. Tompkins-Wright that the  
11    Board having considered the information presented by  
12    the applicant for application 5A-12-22 and having  
13    conducted the required review pursuant to SEQRA adopts  
14    the negative declaration prepared by Town staff and  
15    determines that the proposed action will not likely  
16    have a significant environmental impact.

17            Motion made by Ms. Tompkins-Wright to  
18    approve application 5A-12-22 based on the following  
19    findings of fact.

20     **Findings of Fact:**

21     1. The granting of the requested variance will not  
22     produce an undesirable change in the character of the  
23     neighborhood or be a detriment to nearby properties.  
24     The proposed cell project is located in a  
25     predominately commercial and/or multi-tenant



1 residential area. Importantly the rooftop of the  
2 building already houses multiple wireless facilities,  
3 which is consistent visually with the equipment  
4 already located on the roof. And given the height of  
5 the building, the addition of the equipment at issue  
6 will create minimal to no visual obstruction to the  
7 neighborhood.

8 2. The requested variance is not substantial given  
9 the fact that the building already houses similar  
10 equipment.

11 3. The applicant demonstrated that there is no  
12 feasible alternative for relocating the current  
13 interior installed equipment at the site. Requiring a  
14 freestanding cell tower with equipment would create  
15 more visual impact to the area. Further, the  
16 applicant demonstrated a need for cellular service in  
17 this location in order to provide services to the  
18 community and denying the request would thus create a  
19 hardship.

20 4. There's no evidence that this proposed variance  
21 will have an adverse effect or impact on the physical  
22 or environmental conditions in the neighborhood or  
23 district.

24 **Conditions:**

25 1. The variance granted herein applies only to the

1 cellular support equipment to be located on the roof  
2 as described in and in the location given in testimony  
3 and in the application.

4 2. The height of the equipment shall be no more than  
5 12 feet from the roof deck.

6 3. All necessary building permits must be obtained.

7 (Second by Mr. Premo.)

8 (Mr. D'Augustine, yes; Ms. Schmitt, yes;  
9 Ms. McKay-Drury, yes; Mr. Meitz, yes;  
10 Mr. Premo, yes; Ms. Schwartz, yes;  
11 Ms. Tompkins-Wright, yes.)

12 (Upon roll motion to approve with condition  
13 carries.)

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1 CHAIRPERSON MIETZ: Okay.

2 MR. DiSTEFANO: Thank you, everybody.

3 CHAIRPERSON MIETZ: Matt, one real quick  
4 thing. Matt, you will be good to take your first  
5 application next month?

6 MR. D'AUGUSTINE: I suppose.

7 MR. DiSTEFANO: Matt, I'll give you another  
8 month or so. Don't worry about it.

9 (Proceedings concluded at 10:47 p.m.)

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## 1 REPORTER CERTIFICATE

2  
3 I, Holly E. Castleman, do hereby certify  
4 that I did report the foregoing proceeding, which was  
5 taken down by me in a verbatim manner by means of  
6 machine shorthand.

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

11  
12 Dated this 4th day of May, 2022  
13 at Rochester, New York.

14  
15  
16  
17  
18  
19  
20  
21 *Holly E. Castleman*

22 -----  
Holly E. Castleman,  
23 Notary Public.  
24  
25