
BRIGHTON
ZONING BOARD OF APPEALS
MEETING

June 1, 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)	
KATHLEEN SCHMITT)	
MATTHEW D'AUGUSTINE)	

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

BRENDAN RYAN

ABSENT: JUDY SCHWARTZ

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

1 CHAIRPERSON MIETZ: Okay. Good evening,
2 everyone. Welcome to the June session of the Brighton
3 Zoning Board of Appeals. I'll just give you just a
4 couple of little notes here before we start. We have
5 a fairly short agenda tonight.

6 So the way we operate this meeting is that
7 we go through the cases. When you're called, please
8 announce yourself that you'll be speaking for one of
9 the cases. We'll let you make the presentation. Let
10 us know why you think we should approve your
11 application. Then the Board members will ask some
12 questions. Then we will check to see if there's
13 anyone on the call that wants to speak regarding your
14 application.

15 Once we finish that, we'll close the public
16 hearing and move to the next one. We'll get through
17 the three cases we have and then deliberate. So
18 you're welcome to stay on, hear the deliberations. If
19 you decide not to, you can call Rick DiStefano in the
20 Building office tomorrow and hear the results of your
21 application.

22 Okay. Rick, could you call roll please?

23 (Whereupon the roll was called.)

24 MR. DiSTEFANO: Please let the record show
25 that Ms. Schwartz is not present.

1 CHAIRPERSON MIETZ: Okay. Rick, was the
2 meeting properly advertised?

3 MR. DiSTEFANO: Yes, Mr. Chairman. It was
4 advertised in the Daily Record of May 26th, 2022.

5 CHAIRPERSON MIETZ: Okay. You stated
6 earlier for the record that minutes are not available
7 tonight for the April or May meeting. So we will do
8 those in July.

9 MR. DiSTEFANO: Just for the record, I did
10 receive a letter this morning from applicant regarding
11 5A-01-22, 5A-02-22, which appear as old business,
12 requesting adjournment to our next meeting. So we
13 will not be hearing those -- we will not be dealing
14 with those applications tonight.

15 CHAIRPERSON MIETZ: Okay. So it's a
16 continuous effort, aye? Okay. Very good. Is there
17 anything else you want to tell us about the three
18 applications tonight?

19 MR. DiSTEFANO: I'll just make a statement
20 that I'm not sure if people -- if there's anybody in
21 the audience that is here to hear anything regarding
22 3108 East Avenue. That property is not on our agenda
23 and we do not have open forum. So we will not be
24 taking any comments or discussing that property at
25 tonight's meeting.

1 CHAIRPERSON MIETZ: Okay. Very good. We
2 will anxiously await it if it comes; right?

3 MR. DiSTEFANO: If it comes.

4 CHAIRPERSON MIETZ: Correct. Okay. So if
5 there's nothing else, the Board members have nothing,
6 we'll get started. Then you can read the first
7 application please.

8 **Application 6A-01-22**

9 Application of Martina Brugnoni, owner of
10 property located at 11 Esplanade Drive for an Area
11 Variance from Section 207-2A to allow a 6 foot high
12 front yard fence (Grosvenor Road frontage) in lieu of a
13 maximum 3.5 foot high fence as allowed by code. All
14 as described on application and plans on file.

15 CHAIRPERSON MIETZ: Okay. And who would be
16 speaking for this application please?

17 MS. BRUGNONI: Hi.

18 CHAIRPERSON MIETZ: Hello.

19 MR. BARLEY: Yeah. So we're on a corner lot
20 here --

21 CHAIRPERSON MIETZ: Folks, can you just do
22 me a favor? Just name and address for the record
23 please.

24 MS. BRUGNONI: Yes. Martina Brugnoni, 11
25 Esplanade Drive.

1 CHAIRPERSON MIETZ: Okay. And is there
2 someone else speaking too?

3 MS. BRUGNONI: Yes.

4 MR. BARLEY: Adam Barley. I live here as
5 well.

6 CHAIRPERSON MIETZ: Okay. Wonderful. Go
7 ahead please.

8 MR. BARLEY: So, yeah. We're looking to
9 fence in the backyard. We're on a -- we're on a
10 corner lot. There's the Council Rock Primary School
11 behind us.

12 From being on a corner lot, it's saying, you
13 know -- pretty much the code is saying that there's
14 only 3.5 high fence allowed on one side of the lot
15 that's on the Grosvenor Road side. We're looking to
16 have a 6 foot fence on that side facing -- if you're
17 looking at that map there, the allowed fence comes off
18 the corner of the house on the left -- by the left
19 side by the back patio. And you can go all the way up
20 to the front of the house.

21 We're just looking at -- we're just looking
22 to block off the back portion mainly because we have
23 two toddlers, two- and a three-year-old, two dogs.
24 And as far as supervision, it's a lot easier if we're
25 not going around a corner there.

1 We also have the school there by us and just
2 for privacy and people walking through -- you know, by
3 the yard, having that privacy there is nice as well.

4 There's already bushes on that side of the
5 road as well. So it won't really be a new barrier
6 there. You know, the neighbors across the street are
7 already looking at bushes there. And we did get
8 approval from them to have a fence there as well.

9 CHAIRPERSON MIETZ: Okay. All right. Board
10 members, questions for these folks?

11 MS. MCKAY-DRURY: Can you just give us an
12 idea on the map you've provided where the line of
13 bushes are that you mentioned? Is it right along
14 Grosvenor there?

15 MR. BARLEY: Yeah. It's right along gross
16 Grosvenor. It's really in line with that side of the
17 fence that we -- that black line on there, that's
18 where all the bushes are there.

19 And I don't know if you guys allow to share
20 a video, but I have a video of that side of the house
21 as well if you guys want to take a look at it.

22 MR. DiSTEFANO: I think -- Brendan, there's
23 the couple pictures. Maybe we can look at the
24 pictures.

25 CHAIRPERSON MIETZ: Yes. That'd be easier.

1 MR. DiSTEFANO: We can't allow you to share
2 the screen.

3 MR. BARLEY: No problem.

4 CHAIRPERSON MIETZ: Many of the Board
5 members have visited the site too. But let's see what
6 Brendan's got he could put up.

7 MR. DiSTEFANO: All the way down maybe,
8 Brendan.

9 MR. RYAN: Nope. I don't have any pictures,
10 no.

11 MR. DiSTEFANO: You don't have any pictures.
12 Okay. Maybe they were just --

13 MR. BARLEY: Sorry about that. I thought we
14 had pictures.

15 CHAIRPERSON MIETZ: I think you could
16 describe what that cover is like. I saw it, but I
17 don't want to --

18 MR. BARLEY: So if you're looking at the
19 front of the house, the driveway front is what I'm
20 referring it to as --

21 CHAIRPERSON MIETZ: Outside. Yup.

22 MR. BARLEY: Yeah. The right side of the
23 home, if you go back and if, you know -- which
24 somebody would think it's the backyard, there's bushes
25 all along that side of the right-hand side of the

1 road. And then there's already a fence with the
2 school right behind us. So we're just looking to
3 fully fence that portion off.

4 CHAIRPERSON MIETZ: Okay. Go ahead,
5 Heather. Did you have something else?

6 MS. MCKAY-DRURY: My only other question is
7 will the fence -- relating to the fence of the school,
8 are you guys using that fence and like will it end
9 exactly where that fence ends?

10 MR. BARLEY: Yeah. Exactly.

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

12 MR. DISTEFANO: And just for the record,
13 that fence will be behind that row of bushes; correct?

14 MR. BARLEY: Correct.

15 CHAIRPERSON MIETZ: Okay. Good. Good. Any
16 other questions by the Board members? Okay. Swell.
17 Thank you very much.

18 MR. BARLEY: Thank you.

19 MS. BRUGNONI: Thanks.

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

24 **Application 6A-02-22**

25 Application of Shawn Derycke, Home Power

1 Systems, contractor, and Margaret Jones, owner of
2 property located at 148 Monteroy Road, for an Area
3 Variance from Sections 203-2.1B(6) and 203-9A(4) to
4 allow a standby emergency generator to be located in
5 A side yard in lieu of the rear yard behind the house
6 as required by code. All as described on application
7 and plans on file.

8 CHAIRPERSON MIETZ: Okay. And who do we
9 have speaking for this application? Is there anyone
10 speaking for this application?

11 MR. RYAN: So I don't know if -- who this
12 was, but it just came -- it just came up to me and I
13 guess someone came to the door asking for the Zoom
14 meeting link. And so I just invited him. I don't
15 know. That might be this person. I don't know --

16 CHAIRPERSON MIETZ: All right.

17 MR. RYAN: -- what's going on there, but...

18 CHAIRPERSON MIETZ: Well, what we could do,
19 Rick, is go to application 6A-03 and then come back.

20 MR. DiSTEFANO: Sure.

21 CHAIRPERSON MIETZ: Okay. Why don't we do
22 that? Give them a few minutes to come on.

23 MR. DiSTEFANO: Okay. We will go to
24 application 6A-03-22.

25 **Application 6A-03-22**

1 Application of Magic Seal, LLC, contractor,
2 and Meghan Zimmer and Joseph Clarke, owners of
3 property located at 498 Clover Street, of an Area
4 Variance from Section 207-10E(5) to allow a driveway
5 expansion to be 2 feet from a side lot line in lieu of
6 The minimum 4 feet required by code. All as described
7 on application and plans on file.

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

10 MS. ZIMMER: Meghan Zimmer at 498 Clover
11 Street.

12 CHAIRPERSON MIETZ: Okay. Thanks, Meghan.
13 Go right ahead.

14 MS. ZIMMER: So, yeah. So we have a
15 single-car driveway. And then before we moved in
16 there's kind of like a side space where you can fit
17 one car that -- they put in wood panels and a bunch of
18 rocks. So we're looking to pave that over and then
19 expand it up so it -- it won't be a full double
20 driveway, but enough. Right now, it's hard just
21 having kids and the dog getting in and out on both
22 sides. We'd just like it to be a little bit wider.

23 CHAIRPERSON MIETZ: Okay. Questions by the
24 Board members? Pretty straightforward I guess.

25 MR. PREMO: Yeah. Ms. Zimmer, I was out --

1 this is Ed Premo. I was out there today and talked to
2 you.

3 MS. ZIMMER: Yup.

4 MR. PREMO: So I think there's another
5 drawing. If we could pull it up.

6 MS. ZIMMER: Yeah. There's a better one
7 that shows it better.

8 MR. PREMO: So the gray area is the area
9 you're going to pave in; correct?

10 MS. ZIMMER: Correct.

11 MR. PREMO: And then put asphalt on it. And
12 there's a large tree. I think it's an oak tree.

13 MS. ZIMMER: Yes.

14 MR. PREMO: That's going to remain and
15 you're not doing anything to the oak tree?

16 MS. ZIMMER: Not doing anything to the oak
17 tree, going around it to avoid roots.

18 MR. PREMO: Okay. That's all the questions
19 I have.

20 CHAIRPERSON MIETZ: Okay. Any other
21 questions by any of the other Board members?

22 MS. TOMPKINS-WRIGHT: This is Member Wright.
23 There are a few other homes in this neighborhood that
24 also have this double-wide at the front and not the
25 back of the driveway.

1 MS. ZIMMER: Yes. Yes. Both of -- so if
2 you look in this picture, you can see our neighbor has
3 the same kind of thing we have where it's just the one
4 on the side. Our neighbors to both sides on the
5 opposite have the double at the end of the driveway.

6 We had a lamppost there with electrical. So
7 that's kind of -- we were opting not to do that so we
8 didn't have to take the lamppost and electrical out.

9 MS. TOMPKINS-WRIGHT: Thank you.

10 CHAIRPERSON MIETZ: All right. Very good.
11 Any other questions by any of the other Board members?
12 Okay. Very good. Thank you very much.

13 Is there anyone on the Zoom call that would
14 like to speak regarding this application? Okay.
15 There being none, then the public hearing is closed.

16 MR. DiSTEFANO: Okay. We'll go back to
17 application 6A-02-22. I'll read it again.

18 **Application 6A-02-22**

19 Application of Shawn Derycke, Home Power
20 Systems, contractor, and Margaret Jones, owner of
21 property located at 148 Monteroy Road, for an Area
22 Variance from Sections 203-2.1B(6) and 203-9A(4) to
23 allow a standby emergency generator to be located in
24 A side yard in lieu of the rear yard behind the house
25 as required by code. All as described on application

1 and plans on file.

2 CHAIRPERSON MIETZ: Okay. Do we have anyone
3 available to speak regarding 6A-02?

4 MR. DERYCKE: Yes. This is Sean from Home
5 Power Systems. Can you hear me now?

6 CHAIRPERSON MIETZ: Yes, sir. Just give us
7 your address for the record and then please proceed.

8 MR. DERYCKE: Sure. It's 148 Monteroy Road,
9 Rochester, New York 14618. The customer is Margaret
10 Jones.

11 CHAIRPERSON MIETZ: Okay.

12 MR. DiSTEFANO: That's your customer's
13 address, correct, not yours?

14 MR. DERYCKE: Yeah. The Home Power Systems
15 address is 1127 Corporate Drive East in Farmington,
16 New York 14425.

17 CHAIRPERSON MIETZ: That's what we need.
18 Thank you. Please go ahead.

19 MR. DERYCKE: I apologize. The Zoom link
20 doesn't seem to be working on my computer. So
21 apologize for that.

22 So the customer's proposing putting a
23 generator on the left side of the house as facing.
24 The reason for that is they have a pool in-ground in
25 the back of the house and also a complete brick patio

1 surrounding the entire backside of the property and a
2 wrought-iron black fence, which makes it difficult to
3 access the needed utilities to run to the generator
4 and so on and so forth.

5 The location we're proposing would be hidden
6 by some shrubbery for the most parts and also there is
7 a precedent for the location. A generator directly
8 across the street where the -- the homeowner of the
9 property has a generator almost in the exact location
10 relatively -- comparatively speaking to where we're
11 trying to propose this generator location.

12 CHAIRPERSON MIETZ: Okay. Can you tell us
13 when -- if that unit was placed there, what is the
14 distance to the nearest house or property for the
15 record?

16 MR. DERYCKE: I'm sorry. I'm having a hard
17 time understanding what you're saying. Let me see if
18 I can get closer to --

19 CHAIRPERSON MIETZ: Okay. I can try it
20 again.

21 MR. DERYCKE: I apologize.

22 CHAIRPERSON MIETZ: Okay. Yeah. Just
23 trying to understand, because I've seen it, but just
24 for the record, what's the distance from where that
25 generator would be placed to the nearest structure?

1 MR. DERYCKE: Sure. So code is 5 feet from
2 any penetration to the house. That location would be
3 beyond 5 feet. And as far as any penetration to the
4 house, it's definitely within code spec.

5 We try to keep it as close as we can, but as
6 far as codes, right at that 5 feet just for working
7 clearance and also for utilities to keep the cost down
8 for the homeowner, the customer, as far as running
9 utility wires and also natural gas lines.

10 So if it's permissible we'd like to keep it
11 within that 5 feet of code clearance just to achieve
12 that purpose.

13 CHAIRPERSON MIETZ: And -- but I guess what
14 I'm really asking is how far is it to the nearest
15 house? How far away it is in feet approximately?

16 MR. DERYCKE: Yeah. So I didn't measure
17 from the proposed location to the next nearest home,
18 but according to the pictures that I'm looking at on
19 Google, it's at least 50 feet if not more than that
20 from the nearest property.

21 CHAIRPERSON MIETZ: Okay. Yeah. Well, you
22 have a large lot there. So, yes. Okay.

23 MR. DERYCKE: Yup.

24 CHAIRPERSON MIETZ: Okay. Great. Very
25 good. Okay.

1 Questions by any of the other Board members
2 please?

3 MR. DiSTEFANO: Sean, what is the decibel
4 reading for this unit?

5 MR. DERYCKE: So the decibel reading for
6 that particular unit is -- it's 90 decibels. That's
7 at the highest rating as far as usage. So at full --
8 full usage, full RPM usage.

9 So generally the RPM for the generator will
10 fluctuate according to how much load is put on that.
11 So at the highest load that unit could be running at
12 about 90 decibels, 89 to 90 decibels.

13 It's a smaller, comparatively speaking, unit
14 than -- it's a 14KW. So a decibel rating on that --
15 they're generally the same across the line. But with
16 these smaller units with -- depending on the load
17 that's put on them, they tend to be a little quieter
18 than the bigger units generally run.

19 MR. DiSTEFANO: 90 decibels sounds awful
20 high. That's --

21 CHAIRPERSON MIETZ: Yes, it does.

22 MR. DERYCKE: Yup. And that's what we -- we
23 think the same thing too. But it's funny because
24 Generac, their rating, decibel rating, across the
25 board is generally the same for each unit. So it's

1 very close to a zero-turn lawn mower. If you look at
2 them comparatively -- the comparable decibel ratings
3 for, let's say, even a vacuum cleaner and a zero-turn
4 lawn mower, they're right along the same lines as far
5 as the --

6 MR. DiSTEFANO: Let me ask it a different
7 way. Are you taking that rating right at the unit or
8 are you taking that rating at 23 feet away?

9 MR. DERYCKE: Correct. So that's the
10 assumption. Generac takes the rating right at the
11 unit.

12 MR. DiSTEFANO: Okay.

13 MR. DERYCKE: That's a good question. They
14 do take that rating -- they have a facility that they
15 put the unit in. It's a pretty amazing facility.
16 I've been in it. It's out in Minneapolis. And you
17 walk in there, you can hear -- it's funny. You can
18 hear a pin drop across the other side of a 30-foot
19 building. So they take all their ratings from inside
20 that building.

21 So it's kind of hard to gauge. You know
22 what I mean? It seems as though it's a little bit
23 stacked if you ask me. Because if you have -- if
24 you're outside and you're in an environment where
25 there's lots of other noises going on, achieving 90

1 decibels in an environment like that might be a little
2 more difficult than in a building where it's a
3 controlled environment.

4 MR. DiSTEFANO: I just want to make the
5 comment that per the section that you submitted and
6 from where we look at the decibel rating from a Code
7 standpoint, we take it at that 23 feet. And according
8 to the spec sheet, the decibel rating is 65 at 23
9 feet.

10 CHAIRPERSON MIETZ: That sounds more
11 reasonable.

12 MR. DERYCKE: Yeah. The 90 decibels is at
13 the unit.

14 MR. DiSTEFANO: Okay. Great.

15 CHAIRPERSON MIETZ: Okay.

16 MR. DiSTEFANO: Cleared that up.

17 CHAIRPERSON MIETZ: We can address that too.
18 All right. Any other questions by the Board members
19 please? Okay. Thank you very much.

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

23 (Public hearings concluded.)

24 * * *

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3 REPORTER CERTIFICATE

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

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

12 Dated this 1st day of June, 2022
13 at Rochester, New York.

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21 *Holly E. Castleman*
22 -----
23 HOLLY E. CASTLEMAN,
24 Notary Public.
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DELIBERATIONS

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2300 Elmwood Avenue
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DENNIS MIETZ
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HEATHER McKAY-DRURY)	
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MATTHEW D'AUGUSTINE)	

KEN GORDON, ESQ.
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ABSENT: JUDY SCHWARTZ

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

1 CHAIRPERSON MIETZ: Okay. So let's go back.
2 Let's look at 6A-01, which is Esplanade with the
3 fence. Heather, this is your application.

4 Does anyone have any objection to this
5 application?

6 MR. PREMO: No.

7 CHAIRPERSON MIETZ: Seems pretty
8 straightforward. It's a tough little spot there.
9 Okay. Very good. Okay, Heather.

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1 **Application 6A-01-22**

2 Application of Martina Brugnoni, owner of
3 property located at 11 Esplanade Drive for an Area
4 Variance from Section 207-2A to allow a 6 foot high
5 front yard fence (Grosvenor Road frontage) in lieu of a
6 maximum 3.5 foot high fence as allowed by code. All
7 as described on application and plans on file.

8 Motion made by Ms. McKay-Drury to approve
9 application 6A-01 based on the following findings of
10 fact.

11 **Findings of Fact:**

12 1. The variance will not result in a substantial
13 change in the character of the neighborhood. The
14 school located behind the house already has a fence
15 running along the distance of the rear lot line.
16 Nearby properties in the area also do have fences.
17 And installing the fence closer to the street will
18 make it so that it is hidden by high bushes that are
19 planted along that property line along Grosvenor road.

20 2. The difficulty cannot be resolved without the
21 variance. To fence in a similar sized yard without
22 the variance, the homeowners would either have to wrap
23 the yard around the home, creating blind spots and
24 causing difficulty in supervising the homeowner's two
25 toddlers and dog, or they would need to use a 3.5 foot

1 high fence along Grosvenor Road, which will not keep
2 their dogs and kids in their yard.

3 3. The variance is not substantial. It's an
4 additional 2.5 feet of height along that single side
5 of the fence.

6 4. The variance is the minimum necessary to grant
7 relief because of the unworkability of the wraparound
8 or lower fence alternatives. Otherwise the homeowners
9 are limited to a yard of a much smaller size.

10 5. The variance won't have an adverse impact on the
11 physical or environmental conditions in the
12 neighborhood. Of particular note, two neighbors that
13 are most affected will be most able to see the closer
14 fence have written in and indicate their approval of
15 the plan.

16 **Conditions:**

17 1. It is limited to the application materials and the
18 testimony provided in connection with the application.

19 2. All necessary building permits shall be obtained.

20 (Second by Ms. Tompkins-Wright.)

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

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

23 Ms. Tompkins-Wright, yes; Ms. McKay-Drury,

24 yes.)

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

1 CHAIRPERSON MIETZ: Okay. Great. So the
2 next application relates to Monteroy Road with the
3 generator. Does anyone have any concerns about this?

4 MR. PREMO: Nope.

5 MS. SCHMITT: Nope.

6 CHAIRPERSON MIETZ: Yeah. It's a very large
7 lot. If you went by and -- 50 feet is a long way.
8 Okay. And I would agree that it's about that, looks
9 just about that.

10 MR. DiSTEFANO: I think actually it's a
11 little larger than that. It's a quick --

12 MS. TOMPKINS-WRIGHT: I thought it was
13 closer to 70.

14 MR. DiSTEFANO: Yeah. I got about 80.

15 CHAIRPERSON MIETZ: Yeah.

16 MR. DiSTEFANO: It is a ways away from that
17 house.

18 CHAIRPERSON MIETZ: How about when I do it,
19 I'll go with approximately 70, how's that?

20 MR. DiSTEFANO: That's fine.

21 CHAIRPERSON MIETZ: Okay. All right. Here
22 we go.

23

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1 **Application 6A-02-22**

2 Application of Shawn Derycke, Home Power
3 Systems, contractor, and Margaret Jones, owner of
4 property located at 148 Monteroy Road, for an Area
5 Variance from Sections 203-2.1B(6) and 203-9A(4) to
6 allow a standby emergency generator to be located in a
7 side yard in lieu of the rear yard behind the house as
8 required by code. All as described on application and
9 plans on file.

10 Motion made by Mr. Mietz to approve
11 Application 6A-02-22 based on the following findings
12 of fact.

13 **Findings of Fact:**

- 14 1. Due to an in-ground pool and adjacent patio at the
15 rear of the house, no suitable location can be found
16 to meet the Code in the rear yard.
- 17 2. The proposed location to place the unit on the
18 side yard of the house is the most suitable location
19 available on the property.
- 20 3. Existing shrubbery will serve to mitigate the unit
21 and it will be approximately 70 feet away from the
22 nearest residential structure.

23 **Conditions:**

- 24 1. All necessary building permits.
- 25 2. This variance is based on the testimony given as

1 to the specific location and generator presented in
2 testimony.

3 (Second by Mr. Premo.)

4 (Mr. D'Augustine, yes; Ms. Schmitt, yes;
5 Ms. McKay-Drury, yes; Ms. Tompkins-Wright,
6 yes; Mr. Premo, yes; Mr. Mietz, yes.)

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

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1 CHAIRPERSON MIETZ: Okay. And then our last
2 application is Clover Street for the driveway
3 extension. And what are we thinking here? Any
4 issues?

5 MR. PREMO: I wrote it up as an approval.

6 CHAIRPERSON MIETZ: Any other Board members?

7 MS. SCHMITT: No.

8 CHAIRPERSON MIETZ: Seems like a functional
9 thing and there's a bunch of them over there with a
10 narrower driveway. Okay. Go ahead, Ed.

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1 **Application 6A-03-22**

2 Application of Magic Seal, LLC, contractor,
3 and Meghan Zimmer and Joseph Clarke, owners of
4 property located at 498 Clover Street, of an Area
5 Variance from Section 207-10E(5) to allow a driveway
6 expansion to be 2 feet from a side lot line in lieu of
7 The minimum 4 feet required by code. All as described
8 on application and plans on file.

9 Motion made by Mr. Premo to approve
10 application 6A-03-22 based on the following findings
11 of fact.

12 **Findings of Fact:**

13 1. The requested setback and area variance for a
14 single-family home is a Type 2 action pursuant to 6
15 NYCRR § 617.5(c)(16) and (17) and no review is
16 required pursuant to the State Environmental Quality
17 Review Act.

18 2. The requested variance is the minimum variance
19 necessary to address the benefits sought by the
20 applicant. The existing driveway is narrow and does
21 not allow two vehicles to be parked side by side.
22 There is an existing stone parking area, but that is
23 inadequate to address the applicant's family needs.
24 Adding the paving to the other side would destroy the
25 existing landscape and interfere with electrical lines

1 to a lamp light.

2 3. No other alternatives can alleviate the difficulty
3 and produce the desired result. The variance is not
4 substantial in the circumstances and the paving is
5 consistent with the neighboring driveway bump-out,
6 which is adjacent.

7 4. There'll be no unacceptable change in the
8 neighborhood and no substantial change to nearby
9 properties is expected. The bump-out is consistent
10 with the neighbor's driveway and other driveways in
11 the area. The existing large oak tree will remain.

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

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

17 **Conditions:**

18 1. The variance is based on the application materials
19 submitted and only authorizes the paving as shown on
20 the diagram entitled Proposal 498 Clover Street
21 Driveway Replacement.

22 2. The existing large oak tree will be preserved.

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1 MR. PREMO: And Rick, I don't think there's
2 any building permits are there?

3 MR. DiSTEFANO: Well, let me just go back
4 with the oak tree. The oak tree is a town tree. So
5 they can't remove it without The town's approval,
6 which we probably wouldn't give them approval for
7 removal of that tree.

8 MR. PREMO: Okay. So take that off as a
9 condition.

10 MR. DiSTEFANO: Yeah. Take that off the
11 condition. But I would add a highway permit because I
12 do think the expansion will extend into the
13 right-of-way. There's a fairly large right-of-way
14 there. So I believe that that pavement will extend
15 into the right-of-way, which they would need a highway
16 permit.

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1 **Conditions as amended:**

2 1. The variance is based on the application materials
3 submitted and only authorizes the paving as shown on
4 the diagram entitled Proposal 498 Clover Street
5 Driveway Replacement.

6 2. The applicant will obtain all necessary highway
7 permits.

8 (Second by Mr. D'Augustine.)

9 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;
10 Mr. Mietz, yes; Ms. Tompkins-Wright, yes;
11 Mr. D'Augustine, yes; Mr. Premo, yes.)

12 (Upon roll motion to approve with conditions
13 carries.)

1 CHAIRPERSON MIETZ: Okay. Very good.

2 MR. DiSTEFANO: That's it.

3 CHAIRPERSON MIETZ: I think we've done it.

4 All right. As Rick warned us, next month could be
5 busy again. Do we have anybody that has any issue
6 with the meeting next month, July whatever it is?

7 MS. TOMPKINS-WRIGHT: I am tentative. I
8 am -- I might be on a plane during the meeting, just a
9 heads up. I'm working around it. But I might have to
10 be on a plane. I'll let you know as soon as I know,
11 Rick.

12 MR. DiSTEFANO: Please do.

13 CHAIRPERSON MIETZ: Will there be snakes on
14 the plane?

15 MS. TOMPKINS-WRIGHT: I'm sorry?

16 CHAIRPERSON MIETZ: Will there be any snakes
17 on the plane?

18 MS. TOMPKINS-WRIGHT: No. But there's also
19 no video conferencing on any plane I've been on. I've
20 tried.

21 CHAIRPERSON MIETZ: Yeah. That's difficult.
22 That's really not -- well, why don't you let us know,
23 you know, at the 11th hour or whatever.

24 MS. TOMPKINS-WRIGHT: I will.

25 CHAIRPERSON MIETZ: Before you have to put

1 it on airplane mode. Okay. Anyone else have an
2 issue? Okay.

3 MR. PREMO: Not that I know of, no.

4 CHAIRPERSON MIETZ: Okay. Very good.

5 Thank, you everyone. Have a good night.

6 (Proceedings concluded at 7:32 p.m.)

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REPORTER CERTIFICATE

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

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

Dated this 1st day of June, 2022
at Rochester, New York.

Holly E. Castleman

HOLLY E. CASTLEMAN,
Notary Public.