
BRIGHTON

PLANNING

BOARD

June 15, 2022
At approximately 7 p.m.
Brighton Town Hall Zoom Meeting
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JEFF FRISCH, TOWN PLANNER

WILLIAM PRICE, CHAIRPERSON

JOHN OSOWSKI)	BOARD MEMBERS
DAVID FADER)	
JULIE FORD)	

KENNETH GORDON, ESQ.
Town Attorney

BRENDAN RYAN

Absent: KAREN ALTMAN
JASON BABCOCK-STINER

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

1 CHAIRMAN PRICE: Good evening, everyone, and
2 welcome to the June 15th, 2022, meeting of the Town of
3 Brighton Planning Board. We had hoped to be back in
4 person this month, but per the Governor's directives
5 and executive orders, we are meeting, under Open
6 Meetings Law, virtually still. Hopefully, again, next
7 month we'll be able to meet in person at the Town
8 Hall.

9 So tonight's meeting is virtual. We will
10 have applicants and their representatives tonight.
11 And you are welcome to speak to any of the public
12 hearings that you're interested in. You may also send
13 Jeff Frisch an email if you do have comments or you
14 have any desire to look at the application in further
15 detail that you will see tonight. That's Jeff --
16 Jeff, what's your email. Is it jeff.frisch?

17 MR. FRISCH: Yup.

18 CHAIRMAN PRICE:
19 Jeff.frisch@townofbrighton.org. So let's begin
20 tonight with a call to order. Jeff, secretary, can
21 you call the roll please?

22 (Whereupon the roll was called.)

23 MR. FRISCH: Altman and Babcock-Stiner are
24 not present.

25 CHAIRMAN PRICE: And our attorney has joined

1 us. Welcome, Ken. Okay.

2 At this point what we'd like to do is take a
3 few minutes amongst the staff and our attorney and the
4 Board members that are here to review our agenda.

5 Jeff, could you just briefly go through
6 this? We have a lot of applications that have been
7 postponed until our July meeting. Let's go through
8 those as well as the ones that we expect to hear
9 tonight.

10 MR. FRISCH: Okay. First would be 5P-02-22.
11 That is a conditional use permit for Montessori
12 School. They have postponed their application. The
13 applicant has until July 2020 [sic]. So that meeting
14 will not be heard tonight.

15 6P-01-22 is for Helio Health, which is the
16 modification of previous conditional approval because
17 they want to be able use 4,000k color temperature
18 lights in lieu of the 3,000 color temperature
19 approved. The 3,000k is what's required for dark sky.
20 They can explain why their request -- the request for
21 the changes.

22 6P-02-22 is for preliminary/final site plan
23 approval for Jefferson Road. They received various
24 Zoning Board approvals for front yard parking as well
25 as for use as a liquor store. There's not any major

1 concerns there. We do have some questions that we
2 would like to ask.

3 Does anyone have any questions about that
4 one?

5 CHAIRMAN PRICE: Jeff, I just noticed on the
6 SEQRA form that a couple of the yes's were checked
7 there, one archeological I believe and wetlands. But
8 this project really isn't looking to impact anything
9 that isn't already paved; correct?

10 MR. FRISCH: Yeah.

11 CHAIRMAN PRICE: Okay. Maybe I'll ask a
12 question of the applicant about that.

13 MR. FRISCH: Okay.

14 CHAIRMAN PRICE: All I have for that one.

15 MR. FRISCH: Okay. No other questions? We
16 have 6P-03-22 the application for preliminary/final
17 site plan approval for conditional use permit for a
18 building addition that will be used as warehouse and
19 office at 150 Metro Park.

20 The main concern that we have going into
21 this is we didn't really receive a lot of information
22 of what the conditional use is, who's going to be
23 using it, what's going to be stored in the warehouse.
24 And so -- and we also need some requirements that they
25 won't be able to provide to us tonight. So we are

1 looking possibly at preliminary approval, but we would
2 need to wait for a final approval.

3 CHAIRMAN PRICE: All right.

4 MR. FRISCH: And then 10P-NB1-21, the
5 application for 1950 to 1966, Monroe Avenue
6 Quicklee's, that was one postponed until July by the
7 applicant.

8 5P-NB1-22, which is the application of the
9 Talmudical Institute for the addition -- the
10 preliminary site plan approval, EPOD approval and the
11 conditional use permit. That was also postponed by
12 the applicant until the July meeting.

13 And then 5P-NB2-22, the application of
14 Bristol Homes, LLC, for the preliminary site plan
15 approval for the gas pumps and the building to install
16 two gas pumps for Quicklee's on 3108 East Avenue is
17 also postponed by the applicant until the June
18 meeting -- or -- July meeting.

19 CHAIRMAN PRICE: Okay. All right.

20 MR. FRISCH: Yeah. So those cases will not
21 be heard tonight.

22 CHAIRMAN PRICE: Okay. So for anybody
23 joining us tonight in our audience, if you're
24 interested in the Talmudical Institute or Montessori
25 School, Monroe Avenue Quicklee's or East Avenue

1 Quicklee's applications, those have been all adjourned
2 to our July meeting and we will not be calling on
3 those applicants to present tonight at all. All
4 right.

5 Board members, any questions or comments
6 before we start into our -- rest of our agenda? All
7 right.

8 We do have meeting minutes for our May
9 meeting. Do I have --

10 MS. FORD: There are a couple of hands up.

11 CHAIRMAN PRICE: We'll -- would you type
12 them in the chat please? Thank you. And this is --
13 this is --

14 MR. GORDON: This is not the time for
15 comments by the public. So --

16 MS. FORD: I'm sorry. I'm not sure of the
17 protocol. I just saw that.

18 MR. GORDON: I appreciate that. That's
19 fine, Julie. Yeah. Right now what we're doing is
20 going through the agenda, dealing with minutes and
21 then we will be --

22 CHAIRMAN PRICE: Then we'll start.

23 MR. GORDON: Right, right. But I think --
24 I'm taking a look at the questions that are being
25 posed in the chat and the questions are will there be

1 a public hearing on those items that have been
2 adjourned to the July meeting? And the answer is not
3 this evening. Those public hearings will be held in
4 July.

5 CHAIRMAN PRICE: Yeah.

6 MR. FRISCH: If you do have public comments,
7 that's something you can send to me via email and we
8 can forward it to the Planning Board prior to the next
9 meeting.

10 MR. GORDON: Exactly. Thank you for that
11 clarification, Jeff. Sure. We're always willing to
12 accept written comments right up to the end of the
13 closing of the public hearing. But if you want to
14 provide oral testimony, that will be available at the
15 July meeting on these matters.

16 CHAIRMAN PRICE: And ken, these -- all of
17 these applications, the public hearing remains open.
18 So we have not -- we have not closed those at this
19 time.

20 MR. GORDON: That is correct.

21 CHAIRMAN PRICE: Yup. Thank you. I do hope
22 that anybody out there, that answers your initial
23 questions. All right. We were talking about the
24 May 18th meeting minutes.

25 Is there a motion to approve those minutes?

1 MR. FRISCH: We didn't send those out
2 because we received them today or yesterday. They're
3 kind of a lengthy minutes.

4 CHAIRMAN PRICE: Okay. I -- you have not
5 received them --

6 MR. FRISCH: We received them yesterday.

7 CHAIRMAN PRICE: Yesterday. Okay. So you
8 don't -- okay. Very good. All right.

9 Mr. Secretary, were the public hearings that
10 are going to be held tonight properly advertised prior
11 to this meeting.

12 MR. FRISCH: Yes. They were advertised in
13 the June 9th Daily Record.

14 CHAIRMAN PRICE: All right. Thank you. We
15 will hear those now. Reminder that first application
16 on the agenda, if you are looking at the agenda, is
17 5P-02-22. That has been postponed to our July 20th
18 meeting.

19 So our first application tonight is
20 6P-01-22.

21 **Application 6P-01-22**

22 Application of Helio Health, owner, for
23 modification of conditions of approval (11P-03-18 &
24 12P-01-19) to allow for the use of 4000k color
25 temperature parking lot lights in lieu of 3000k color

1 temperature lights as approved for property located at
2 1850 Brighton Henrietta Town Line Road. All as
3 described on application and plans on file.

4 CHAIRMAN PRICE: Is there anyone here
5 representing the applicant?

6 MR. FRISCH: Yes.

7 CHAIRMAN PRICE: Anyone from Helio Health
8 Consultants.

9 MR. FRISCH: Nancy I believe. I just
10 unmuted.

11 MS. JENDRYASZEK: Am I unmute? I'm Nancy.

12 MR. FRISCH: Yup. We can hear you.

13 MS. JENDRYASZEK: Can you hear me okay?

14 MR. FRISCH: Yes.

15 CHAIRMAN PRICE: Yup.

16 MS. JENDRYASZEK: My name's Nancy
17 Jendryaszek. I'm an architect and project manager
18 with Pathfinder Engineers overseeing the project.

19 Obviously our site plan approval was done in
20 2018. My understanding -- we received 4,000k site
21 light fixtures due to supply chain issues and delivery
22 issues. And we would like to see if we can get
23 approval to use it on our site.

24 Our site is a -- very much in a commercial
25 industrial area bordered by Brighton Henrietta Town

1 Line Road, Town Line Circle to the North, the two
2 acres that are owned by the client and, you know, a
3 side -- on the side toward the east where DiMarco --
4 we, you know, we have a tree line as well.

5 And we'd like to keep the project on
6 schedule and utilize the 4,000k light fixtures. It's
7 the identical light fixture that was initially
8 submitted. The change is in the temperature.

9 CHAIRMAN PRICE: Nancy, first off, how are
10 you?

11 MS. JENDRYASZEK: I'm okay.

12 CHAIRMAN PRICE: Good. Good. Please
13 remind -- I guess I missed the first part. You're
14 saying that due to delays in supply chain you had
15 ordered the 4,000 in lieu of the 3,000.

16 MS. JENDRYASZEK: The 3,000 was initial.
17 And the contractor approved a 4,000 delivery in order
18 to meet schedule not realizing the impact that it had
19 on the site plan approval.

20 CHAIRMAN PRICE: Do you -- I see. Do you
21 have cameras here at all? Are there security cameras
22 that -- that need the additional -- so really this is
23 a somewhat of a mix up in the -- in the ordering
24 process. This is not being asked because you have
25 security cameras that require --

1 MS. JENDRYASZEK: Well, we do have security
2 cameras and we are, you know, a 24/7 facility. So
3 obviously the lighting would be better and that would
4 be helpful.

5 But the -- you know, I'm going to be honest.
6 The initial site plan was proved with the 3,000k.
7 There was supply chain issues and they went ahead with
8 the 4,000. The increase of lighting is just a
9 little -- you know, very small. They're the same
10 patterns and things like that. It's -- will be the
11 temperature. And certainly will help our cameras and
12 things like that.

13 But the initial mistake, whatever, was to
14 get the light -- get the fixtures here so we could
15 complete the project.

16 CHAIRMAN PRICE: I see. And I've driven
17 past this during construction. There is no
18 residential either on the Henrietta side of the street
19 or any of the surrounding properties.

20 Could you -- if you do know this could you
21 remind us what the hours of operation? These lights
22 would be on dusk to dawn?

23 MS. JENDRYASZEK: The lights will be on for
24 the most part for the full time. We can, you know,
25 potentially turn them down a little bit, but, again,

1 you know the 2 foot candles is a safety thing. Our
2 facility is an addiction treatment center. And it is
3 staffed and occupied 24/7. So the lights would be on.

4 The bold contours that you're seeing are the
5 2 foot candles with the 4,000. It goes up to 2.15
6 foot candles. There is no spillage outside of our
7 property line except for right at that first one that
8 goes a little onto Brighton Henrietta Town Line.

9 The property across the area in -- in
10 Henrietta are all commercial. Down toward the
11 southeast is Delta Sonic that has very bright lights.
12 I believe they're probably 4,000.

13 We're buffered to the north with our own
14 property. And there will be no significant impact on
15 anybody, any of our neighbors. So there's that as
16 well.

17 CHAIRMAN PRICE: Nancy, is everything else
18 the same, the pole height?

19 MS. JENDRYASZEK: Pole height, the exact
20 same fixture wing -- exact same fixture. They came in
21 at 4,000.

22 CHAIRMAN PRICE: Okay. Other Board members
23 have any questions for Nancy?

24 MS. FORD: Yes I'm -- sorry. I'm not
25 familiar with this, but lighting if -- is there a

1 possibility that if 3,000 becomes available that they
2 could be swapped out? Again, I am not -- you're the
3 architect; I'm not.

4 MS. JENDRYASZEK: So there is. There would
5 be a cost obviously to reinstall them and purchase
6 them as an alternate.

7 CHAIRMAN PRICE: So Julie, we've looked at
8 the temperature of light. Light used to be measured
9 by foot-candles. We used to talk about type of light
10 before LED was -- several sources of light from
11 incandescent to high pressure sodium to metal halide.

12 And they all had different colors to them.
13 Some yellow-ish look to them and some white-ish look
14 to them. And, you know, some of them the bulb was put
15 in the housing vertically and they would drop down and
16 you would see the bulb.

17 With LED now it's all -- everything is LED,
18 but they make them in different what they call Kelvin
19 or temperature of light. The lower -- the lower the
20 Kelvin or the lower the K-value they do act a little
21 bit yellower. And as they go up in K-value they get
22 whiter and brighter.

23 It is somewhat difficult to -- you know,
24 everybody's mentally, as least as our older folks are
25 more based in foot-candles and understanding

1 foot-candles of light that hits the surface. But this
2 is a little bit different.

3 And we just try to be cognizant primarily
4 when we're in residential neighborhoods of the quality
5 of light and the color of the light being more
6 consistent with the residential character. And so we
7 pretty much settled on 3,000k maximum standard.
8 That's a brief explanation.

9 MS. FORD: Thank you.

10 CHAIRMAN PRICE: Maybe a long explanation.
11 I guess, David, any questions or comments?

12 MR. FADER: No. I think where it is, it
13 doesn't matter.

14 CHAIRMAN PRICE: Yeah. John?

15 MR. OSOWSKI: Yeah. I have a couple
16 questions. Nancy, did the contractor tell you that if
17 he were to wait for 3,000k lights, you know, it would
18 have delayed things a month, two months, six months?
19 Did he give you any indication or just, you know --

20 MS. JENDRYASZEK: I do not have the
21 indication of that, John. Obviously we're about a
22 month and a half to finish it. And we would have
23 installed them a few weeks ago, but we waited for the
24 meeting. And then we're going to finish the parking
25 lot and, you know, finish the job in July.

1 So there was no -- you know, they were here
2 and that was the -- what I was told. So I moved
3 forward to get in touch with you.

4 If we had a residential area or something
5 like that, obviously we'd have to deal with it
6 differently. I was hoping because we are in such a
7 commercial industrial area and there are other --
8 obviously outside of the town, but there are other
9 areas that have that nearby that this would be
10 acceptable. And we are sheltered on several sides on
11 the streets, on the other two. So that would not be
12 impacting anybody significantly.

13 You know, we have the same shape, the same
14 profile. And Bill's absolutely right. You know,
15 there is a little bit of a temperature difference, you
16 know, but hopefully it would make the place safe and,
17 you know, people will be able to come and go as they
18 need to.

19 MR. OSOWSKI: I have one other question.

20 MS. JENDRYASZEK: Sure.

21 MR. OSOWSKI: So what might be the expected
22 life span on the lights? The reason I'm asking is,
23 you know, let's say ten years from now it's time to
24 replace the LED bulbs. And maybe at that time they
25 can change them all out for 3,000.

1 MS. FORD: That was my question.

2 MR. OSOWSKI: Yeah.

3 MS. JENDRYASZEK: That's a good question. I
4 could tell you a whole bunch of things about certain
5 light fixtures. But this one I probably could not
6 tell you the life expectancy. But, you know, it would
7 probably be somewhere between five and ten years for
8 sure, you know.

9 MR. OSOWSKI: Maybe we --

10 MS. FORD: That doesn't answer the question.
11 Could they be swabbed in that five, whatever --

12 MS. JENDRYASZEK: Okay. So what we would
13 have to do this -- because we already looked at this.
14 We cannot -- we cannot do a field fit. We could not
15 say, okay -- sometimes in LED light fixtures you can
16 replace the LED in the fixture at a later date or when
17 they go out. But in this particular case, because we
18 looked at setting a later date, would there be a
19 possibility of doing that in the field, and that was
20 not an option.

21 So obviously when these light fixtures fail,
22 we will be replacing the whole light fixture head.
23 And that's at the top of the pole. So that would get
24 unscrewed and then a new head would go in.

25 But when they fail or go out, that option

1 would still -- you know, we could change them out. I
2 just don't know -- I could get an answer for you.
3 But, again, I'm guessing that new light is five years.

4 MR. FRISCH: Something like that might be
5 difficult for the Town to regulate as well. In five
6 years some go and like seven years other ones go.

7 MS. JENDRYASZEK: Exactly. They may not go
8 all at the same time even though they are being
9 installed at the same time. That's just how light
10 fixtures, especially on street parking, go.

11 But we did look to see what we could do to
12 mitigate the situation. But other than ordering the
13 other ones and holding off completing the project,
14 that was -- we didn't have the option right now.

15 MR. OSOWSKI: Sure. All right, thank you.

16 MS. JENDRYASZEK: Thanks, John.

17 CHAIRMAN PRICE: All right. Any other
18 questions? Ken, do you have a question or a comment?

19 MR. GORDON: Bill, if I could. This is Ken
20 Gordon.

21 CHAIRMAN PRICE: Yes. Please.

22 MR. GORDON: Thanks. So I just want to make
23 sure my understanding is correct. And first, I want
24 to start out with when the project first came in, was
25 it designed with 3,000 or 4,000k?

1 MS. JENDRYASZEK: It was approved in 2018
2 with 3,000k.

3 MR. GORDON: Right. Approved for 3,000k.
4 But when it was first proposed was it proposed with
5 3,000 or 4,000k?

6 MS. JENDRYASZEK: I believe it was 3,000.
7 It was very early on. The building wasn't even -- the
8 renovations were not designed. It was strictly a site
9 plan approval.

10 MR. GORDON: All right. And so -- and then
11 four years hence after the project is approved with
12 3,000k, contractor on site receives 4,000k bulbs and
13 to stay on schedule decided to accept them; right?

14 MS. JENDRYASZEK: Well -- yes. Basically,
15 yes.

16 MR. GORDON: And you don't know how much of
17 a delay there would have been to wait for the 3,000k
18 bulbs; right?

19 MS. JENDRYASZEK: I -- I do not. I know
20 that the light fixtures were received and we were
21 notified that they were 4,000. And that was done in
22 order to get the fixtures in.

23 MR. GORDON: Were they ordered as 4,000 or
24 were they ordered as 3,000?

25 MS. JENDRYASZEK: I believe they might have

1 been initially ordered at -- tried to be ordered at
2 3,000 and were told they weren't available.

3 MR. GORDON: Okay. And did they order 4,000
4 when they were told the 3,000 were not available.

5 MS. JENDRYASZEK: They approved the 4,000,
6 yes.

7 MR. GORDON: So it's not like they showed up
8 on-site and said what are these things doing here?
9 They knew they were getting 4,000 --

10 MS. JENDRYASZEK: The contractor did, yes.
11 And did not realize that it had implications on the
12 site plan.

13 MR. GORDON: And we don't know and you don't
14 know whether the delay to get the 3,000 would have
15 been a week or two weeks, three weeks? We just don't
16 know.

17 MS. JENDRYASZEK: I don't believe it would
18 have been two or three weeks. I believe it would have
19 been either unknown or extended beyond our project
20 completion date.

21 MR. GORDON: And what's the basis for your
22 belief it wouldn't have been two or three weeks?

23 MS. JENDRYASZEK: Because if it was two or
24 three week I don't know the contractor would have
25 changed it.

1 MR. GORDON: Did the contractor tell you
2 that or are you just guessing?

3 MS. JENDRYASZEK: I guess I'm making an
4 assumption.

5 MR. GORDON: Yeah. Okay. All right. And
6 are the 3,000 bulbs available? Can they be acquired?

7 MS. JENDRYASZEK: I have to go back to find
8 out if that has changed and how long it would take to
9 get them. Probably -- even if they would be
10 available, there's probably a several month order
11 time.

12 MR. GORDON: And so you understand -- I'm
13 sorry. Go ahead.

14 MS. JENDRYASZEK: Light fixtures are not
15 immediately available. Like you can't order them and
16 get them in two weeks so.

17 MR. GORDON: Unfortunately in this economy
18 nothing is easily available.

19 MS. JENDRYASZEK: That is true. I have
20 roofing projects that I can't start for 12 months
21 because they can't get insulation.

22 MR. GORDON: And you're aware that Town
23 policy is for dark sky compliance. And that our
24 maximum allowable is 3,000k, you're aware of that?

25 MS. JENDRYASZEK: I am aware of that.

1 MR. GORDON: All right. I understand what's
2 going on I think. Thank you.

3 CHAIRMAN PRICE: All right. Thank you. Go
4 ahead, Jeff.

5 MR. FRISCH: I just want to note that what
6 our engineer said was that they last 15 to 20 years,
7 the LED fixtures. Even though the -- where the foot
8 candles are going, it isn't necessarily going to
9 increase that much is because it does create more
10 light pollution, more like ambient light pollution in
11 that general area and not just on the property.

12 MR. GORDON: Actually I had one other
13 question if I could, Bill, please.

14 CHAIRMAN PRICE: Yeah. Go ahead.

15 MR. GORDON: So Nancy, just curious, there
16 was some discussion, I think it was Julie who brought
17 this idea up -- and I apologize if it wasn't -- about
18 switching them out in the future.

19 So would the applicant be willing or the
20 owner of this project be willing to go ahead -- if
21 this Board says go ahead and install the 4,000k and
22 immediately order the 3,000k bulbs. And when they're
23 in, switch them out so they can still open on time,
24 but they're going to incur the expense of that
25 mistake. Are they willing to do that?

1 MS. JENDRYASZEK: I suspect reluctantly,
2 yes.

3 CHAIRMAN PRICE: All right. All right. I
4 think we can understand and appreciate the situation.
5 It was competing -- competing priorities to complete a
6 project, but also to comply with the conditions of the
7 Town approval. All right.

8 Nancy, I'm going to open this up to the
9 public. We will as a Board discuss this a little
10 later in the agenda.

11 MS. JENDRYASZEK: Okay.

12 CHAIRMAN PRICE: But at this point is there
13 anyone in the audience that cares to address this
14 application?

15 Jeff or Brendan, let us know if you see
16 anybody.

17 MR. FRISCH: Not seeing anybody right now.

18 CHAIRMAN PRICE: Okay. Let's give it a
19 couple more seconds here.

20 MR. FRISCH: Please raise your hand
21 virtually in zoom or put a message in the chat if
22 you're having a hard time finding the raise hand
23 function.

24 CHAIRMAN PRICE: Let's move on. Our next
25 application will be 6P-02-22.

1 **Application 6P-02-22**

2 Application of Jagdish Kaur, owner, and Evan
3 Gefell, agent, for Preliminary/Final Site Plan
4 Approval to renovate an existing 1,634 square foot
5 building and make parking, lighting, landscaping and
6 utility improvements on property located at 30
7 Jefferson Road. All as described in application and
8 plans in file.

9 CHAIRMAN PRICE: Is there anyone here to
10 represent the applicant?

11 MR. GEFELL: Yup. This is Evan Gefell from
12 Costich. Good evening.

13 CHAIRMAN PRICE: Evan, good evening.

14 MR. GEFELL: Evan Gefell with Costich
15 representing the owners of 30 Jefferson. I also have
16 with me Steve Kruger the architect and Aman Singh.

17 Just a brief overview kind of the project.
18 The existing structure that is there now has been
19 there for years not operating. It was a fuel
20 station/repair garage. And, you know, it's time to
21 change the approach. And the applicant has gone to
22 the Zoning Board and received the necessary use and
23 area variance.

24 So the 1600 square foot building is to be
25 repurposed as a liquor store. As far as the

1 development, the gas canopy will be removed as well as
2 improvements to the existing parking, the asphalt
3 drive, the addition of landscape and new lighting.

4 We currently show on the site plan 13 spaces
5 which utilizes the existing footprint that's out there
6 now. We've also looked at the current ITE trip
7 generation manual, which supports, you know, the 13
8 spaces that are currently there.

9 We've presented to the Conservation Board
10 last week. And the overall comments were to add
11 additional native landscape trees to the west and east
12 corner of the property. And then since the rear of
13 the property really isn't being touched, kind of
14 develop a no-mow approach that will, you know, sort of
15 promote habitat.

16 Let's see. So I think, you know, the
17 building was going to get a total facelift. The
18 building footprint is not going to change. We have
19 received comments from DOT to shrink down the width of
20 the entrance onto Jefferson, which this plan reflects.
21 The dumpster enclosure will kind of be in what used to
22 be the loading area/unloading area. The materials
23 will match, you know, the new facade of the building.

24 We also -- with this project the pavement on
25 the southern portion of the property line, we've kind

1 of removed that and created within the property lines
2 an opportunity for landscape. So, you know, the
3 proposed landscaping on this stretches that whole
4 south property line up and to the west.

5 There are a couple trees that are going to
6 remain, mostly in the back of the existing structure.
7 And the DOT right-of-ways is rather large there. And
8 there's some trees in there that will remain as well.

9 So all in all, you know, the footprint is
10 staying the same, the site is getting a total
11 improvement. And, you know, we're excited to see
12 something happen here.

13 CHAIRMAN PRICE: Jeff, do you mind sharing
14 or Brendan do you mind sharing the landscape plan for
15 us? Okay. So this is landscape and lighting?

16 MR. GEFELL: Yup.

17 CHAIRMAN PRICE: Evan, you may have heard my
18 question early in the -- in our -- when we were
19 amongst ourselves, the Board members and Town staff
20 and attorney. The SEQRA form did check a couple of
21 boxes with regard to archeological and wetlands.

22 MR. GEFELL: Sure.

23 CHAIRMAN PRICE: Can you just touch on that
24 so we understand what that --

25 MR. GEFELL: Yeah. So what you had -- what

1 you had said in your pre-meeting, you know, we're not
2 really disturbing any path that hasn't been disturbed.
3 The Genesee River is directly to the west. You know,
4 usually with the EAS, adjacent properties, anything
5 along a river or water body especially the Genesee
6 River is going to trigger that RTO sensitive area.

7 CHAIRMAN PRICE: Okay.

8 MR. GEFELL: Yeah. So I think, you know,
9 it's right across the county road there.

10 CHAIRMAN PRICE: So this was you checking
11 the environmental mapper and seeing --

12 MR. GEFELL: Yeah. We use -- we use the
13 online mapper. And certain things are automatically
14 filled out. And that was one of them that was
15 pre-checked when we downloaded the form.

16 CHAIRMAN PRICE: Okay. I see. All right.
17 And please just tell us about the variances.

18 MR. GEFELL: Sure. The variance was to --
19 the use variance was to allow the operation of the
20 liquor store, which was granted.

21 And the area variance was for the parking in
22 the front yard since this property has two front
23 yards. That's what those two variances were.

24 CHAIRMAN PRICE: And did I actually hear you
25 say that the DOT asked for a reduction in the width of

1 the curb cut?

2 MR. GEFELL: Yeah. Yup. So on the
3 Jefferson -- it wasn't very much. And, you know, we
4 tried to stay out of there so we didn't have to get
5 the permitting, but, you know, we revised the one on
6 the Jefferson to meet their request.

7 CHAIRMAN PRICE: That's good news. We've
8 waited a long time for --

9 MR. GEFELL: Yeah.

10 CHAIRMAN PRICE: -- minimal curb cut
11 dimensions.

12 MR. GEFELL: It seems -- it looked like it
13 had grown over time.

14 CHAIRMAN PRICE: Wow. Very exciting. All
15 right. And you did say that you made an appearance
16 before the Conservation Board. And does this plan
17 reflect comments seen from the Conservation Board?

18 MR. GEFELL: It does not. So, you know,
19 we've agreed to add some additional trees up to the
20 northwest and east corners. You know, it's just lawn
21 behind most of the store, a lot of the property, and
22 kind of create, you know, that no-mow or theme back
23 there. There's really no sense to have somebody come
24 mow it and manage it every week. Kind of create a
25 little habitat back there.

1 So we will update and reflect that.

2 CHAIRMAN PRICE: And the temperature of your
3 lighting?

4 MR. GEFELL: Yeah. It's what code requires,
5 the 30k. And they'll --

6 CHAIRMAN PRICE: 3,000?

7 MR. GEFELL: Yup. Yup.

8 CHAIRMAN PRICE: Okay. And that's -- is
9 there any building mounted lighting or is it all post
10 house.

11 MR. GEFELL: All -- it's all -- yeah. It's
12 all through the -- sorry -- light post. Yeah.

13 CHAIRMAN PRICE: Okay. All right. All
14 right. Those are my only questions. Other members of
15 the Board have questions for Evan?

16 Julie, do you have any?

17 MS. FORD: No.

18 CHAIRMAN PRICE: Okay.

19 MR. OSOWSKI: Yeah. I have a few questions.
20 On the short environmental assessment form, line 17,
21 regarding stormwater, you checked off that the project
22 wouldn't have an impact on stormwater.

23 So why was "no" checked off in that box?
24 "Will the proposed action create stormwater discharge
25 either from point or non-point sources?"

1 MR. GEFELL: Right. That should have been
2 yes. Yup.

3 MR. OSOWSKI: All right. Okay. So you
4 might want to correct that for us so that we get the
5 correct story on that.

6 And I noticed the septic report was sent to
7 Jerry Madalena in Bonita Springs, Florida. Is he part
8 of this project?

9 MR. GEFELL: That is a previous -- it was
10 sent to us, but it had the wrong name on it.

11 MR. OSOWSKI: Ah. Okay.

12 MR. GEFELL: So we did have Chamberlin out
13 on site. They opened up everything, pumped it full of
14 water and deemed that it was, you know, working.

15 MR. OSOWSKI: Very good. And the old
16 building that you plan to demolish, that's been tested
17 for asbestos?

18 MR. GEFELL: I'd have to refer to Steve on
19 that. Steve, are you able to talk?

20 MR. KRUGER: Good evening. The building
21 pre-demolition is selective demolition and it would
22 have an asbestos survey associated with any
23 demolition. But the building's not being raised in
24 total.

25 MR. FRISCH: But the canopy is; right?

1 MR. KRUGER: Yeah. The canopy. I have not
2 been involved with that architecturally. So I can't
3 speak to that.

4 MR. GEFELL: We -- we will get that tested.

5 MR. FRISCH: Okay. Thank you.

6 MR. OSOWSKI: All right. Good.

7 CHAIRMAN PRICE: All set?

8 MR. OSOWSKI: Yeah. I think that's all I
9 had. Thank you.

10 CHAIRMAN PRICE: Thank you. David, have any
11 questions?

12 MR. FADER: No. I think it will be nice to
13 have that site not be an abandoned gas station
14 anymore.

15 CHAIRMAN PRICE: All right. Thank you.

16 MR. OSOWSKI: Yeah. One more thing. So the
17 Town calculates that you don't need 13 parking spots,
18 that something a lot less than that would be adequate.
19 Are you basically just matching the number that
20 happens to be out there on the existing asphalt
21 footprint?

22 MR. GEFELL: Correct. So we're basically
23 utilizing what's out there. We're also reducing the
24 amount of the pavement to the south, which that's
25 where we're getting our landscape, kind of berm and

1 mulch through there.

2 You know and then we double-checked against
3 the latest ITE trip generation manual that just came
4 out for the liquor stores and, you know, have to
5 determined that the 13 -- that calculation represents
6 or supports the need for the 13 spots. You know, so
7 we would like to use what's there and utilize those
8 spaces.

9 MR. OSOWSKI: All right. Thanks. And also
10 the Town feels that the site might be better served to
11 have two handicap spaces instead of just one.

12 MR. GEFELL: I did see that comment. That's
13 no issue. We can do that right on the west side of
14 that stripe right there in the center by the front
15 door.

16 MR. OSOWSKI: Great. Thank you.

17 MR. GEFELL: Yup. Thank you.

18 CHAIRMAN PRICE: All right. John, thank
19 you. Jeff, do you have any other questions?

20 MR. FRISCH: Yeah. I have a few. Is the
21 septic system -- does that require any additional
22 approvals before you can use it?

23 MR. GEFELL: I don't believe so because it's
24 not new and we're not adding any additional -- you
25 know, we're just maintaining the one toilet and sink.

1 This is going to be looked at by the health
2 department. So we can ask about that.

3 MR. FRISCH: Okay. Are you going to be
4 providing a generator for any sort of HVAC units
5 outside of the building?

6 MR. GEFELL: As of right now I haven't heard
7 anybody talk about a generator. You know, for AC the
8 condensing unit would be put in the house -- or -- not
9 the house. Within the structure, you know, to meet
10 code to be the rear.

11 MR. FRISCH: Okay. Which would be, I mean
12 that's the -- on this property it would be the east
13 side of the building.

14 MR. KRUGER: The north side.

15 MR. GEFELL: Yeah.

16 MR. FRISCH: The rear of the property is the
17 east side of the building.

18 MR. GEFELL: So we got -- well we got two
19 fronts; right?

20 MR. FRISCH: Yeah. But the rear is opposite
21 the shortest frontage.

22 MR. GEFELL: Okay. So yeah. I mean, we
23 could put it back in there I think. Yes. I think
24 there's a spot between the two.

25 MR. FRISCH: All right. What are the hours

1 of operation going to be?

2 MR. GEFELL: 11 to 9.

3 MR. FRISCH: Okay. And then just this is
4 for your information. You probably saw this, but the
5 code only allows building face signs and one -- one
6 front face and one elevation of the building.

7 MR. GEFELL: Okay.

8 MR. FRISCH: And I believe the plans show it
9 on three. So if you do require any additional
10 signage, then that would -- you would need a variance.

11 MR. GEFELL: Okay. And we are going to --
12 we just receive the sign package. So that's next to
13 be submitted.

14 MR. FRISCH: Okay. And, of course, the
15 Architectural Review Board for the building.

16 MR. GEFELL: Correct. Yup.

17 CHAIRMAN PRICE: Jeff, was your last
18 question about Architectural Review Board?

19 MR. FRISCH: Yeah. I just wanted to -- just
20 saying that it will be required.

21 CHAIRMAN PRICE: Okay. All right. Have --

22 MR. KRUGER: We can have something for the
23 July meeting.

24 CHAIRMAN PRICE: For July. Okay. All
25 right. All right. Jeff, all set? Attorney Ken

1 Gordon, have you got any questions of the applicant?

2 MR. GORDON: I'm all set. Thanks, Bill.

3 CHAIRMAN PRICE: Thank you. All right.

4 Other Board members any other questions? Okay.

5 This is a public hearing. Is there anybody
6 that's joining us tonight that cares to address this
7 application?

8 Jeff and Brendan, let us know if you see
9 anybody.

10 MR. RYAN: Yup. Not seeing anyone.

11 CHAIRMAN PRICE: All right. Let us move on.
12 Thank you, Evan.

13 MR. GEFELL: Thank you.

14 CHAIRMAN PRICE: All right. We will be
15 discussing this later in the agenda.

16 MR. GEFELL: Okay. Great. Thanks.

17 CHAIRMAN PRICE: Okay. Our next litigation
18 is 6P-03-22.

19 **Application 6P-03-22**

20 Application of Birnbaum Companies, owner,
21 for Preliminary/Final Site Plan Approval and
22 Conditional Use Permit Approval to construct a 3,050
23 +/- square foot building addition for warehouse and
24 office use on property located at 150 Metro Park. All
25 as described on application and plans on file.

1 CHAIRMAN PRICE: Is there anyone joining us
2 from Birnbaum?

3 MR. FROMBERGER: Good evening, Chairman
4 Price as well as Board Members. Tom Fromberger, MRB
5 Group, and Bernard Birnbaum.

6 CHAIRMAN PRICE: Good evening, Tom.

7 MR. FROMBERGER: Give you guys just a quick
8 rundown of our proposed project, 150 Metro Park. We'd
9 like to construct a 3,000 square foot building
10 addition as shown on the west side of the property.

11 You may recall that back in '21 we submitted
12 as part of our other application an additional
13 building in the back. I'm getting some feedback here.

14 But proposed building is basically an
15 extension of the existing use inside, a warehouse and
16 office space. And through that addition there are two
17 entrances that are going to be proposed, one on the
18 north side of the building and then the south side
19 there're just egress doors with a sidewalk around the
20 property.

21 Water and sewer will be extended from inside
22 the building. And they are for the three office
23 spaces inside. The building addition will be
24 sprinklered as required by the Brighton Fire Marshal.

25 We have not submitted yet architectural

1 plans and elevations. And that is still pending. And
2 we hope to get that into the next meeting or the
3 following meeting.

4 That is the brief overview.

5 CHAIRMAN PRICE: Apologize. I was -- I
6 thought I might be the feedback you were getting and
7 muted myself.

8 Tom, does -- or -- Brendan, does this
9 include anything, a floor plan that shows us a little
10 more detail of what is proposed. And Tom --

11 MR. RYAN: I don't believe so.

12 MR. FROMBERGER: We don't have a floor plan
13 yet.

14 CHAIRMAN PRICE: Okay.

15 MR. FROMBERGER: The floor plan, I can
16 explain a little bit, is offices would be on the south
17 side of the building. And then the remaining space
18 would be warehouse.

19 CHAIRMAN PRICE: Okay. And remind me
20 what -- you know, I remember the site. And you guys
21 came in or Mr. Birnbaum did and talked a little bit
22 about it. Was this the addition that would have been
23 brought up at the time or is this --

24 MR. FROMBERGER: It is a smaller addition
25 than what we were proposing before. Originally we had

1 a freestanding building in the back. It was about
2 9,000 square feet. And it was also a pole barn
3 structure.

4 This has been reduced to 3,000 square feet
5 and as an attached --

6 CHAIRMAN PRICE: And your parking?

7 MR. FROMBERGER: We have adequate parking
8 on-site. We did include additional spaces. 75 spaces
9 are required. We have 79 spaces.

10 We are expanding our stormwater facility out
11 from the front as what we were doing in the past as
12 well. Our total site disturbance is going to be less
13 than 0.35-acres.

14 CHAIRMAN PRICE: All right. Beyond that,
15 any other improvement to the site, site lighting,
16 landscape?

17 MR. FROMBERGER: No additional improvements.
18 The site is well screened with the existing vegetation
19 up front along Metro Park.

20 Lighting, we have adequate parking lot
21 lights. Code will require lighting at the door
22 entries. And those will be obviously dark sky
23 compliant.

24 CHAIRMAN PRICE: All right. All right.
25 Other members of the Board have questions for Tom or

1 for Mr. Birnbaum?

2 MS. FORD: No.

3 CHAIRMAN PRICE: John Osowski?

4 MR. OSOWSKI: Yes. So it appears that this
5 is the extension of an existing warehouse use by one
6 of the tenants; is that correct?

7 MR. FROMBERGER: Correct.

8 MR. OSOWSKI: And what is the use of that
9 space now that's being expanded?

10 MR. FROMBERGER: It's used for warehouse.
11 It's -- I don't know how much detail I can get into on
12 a public setting. They do like some -- it's an
13 approved use. It's already in there. It's mostly for
14 storage, medical equipment and other medical grade
15 items.

16 MR. OSOWSKI: All right. Thank you.

17 CHAIRMAN PRICE: David Fader?

18 MR. FADER: No. I don't have any questions.

19 CHAIRMAN PRICE: All right. Jeff, how about
20 you?

21 MR. FRISCH: On the -- the Conservation
22 Board provided some comments about additional
23 landscaping between the addition and the west lot
24 line, the use of some native planning being
25 encouraged. Is that something you guys would look

1 into putting on the site plan?

2 MR. BIRNBAUM: Yeah. We can look into that.

3 MR. FRISCH: And they noted -- they noted
4 that there wasn't a representative at the meeting for
5 Conservation Board. So they were unable to tell you
6 or ask you any questions themselves.

7 MR. FROMBERGER: We weren't proposing any
8 additional landscaping, but we can definitely
9 entertain adding some.

10 MR. FRISCH: Okay. Are you proposing to
11 have installed a fire protection or sprinkler systems
12 in the --

13 MR. BIRNBAUM: Yes. The existing fire
14 suppression system that's in the building will be
15 expanded into the expansion.

16 MR. FRISCH: Okay. So any type of generator
17 or anything, you're not going to put anything new?

18 MR. BIRNBAUM: Nothing new, no. It's really
19 mostly going to be used for storage. They might have
20 like a -- like a small little room.

21 That's one of the reasons why I don't have
22 additional architectural plans is the tenant keeps
23 going back and forth when they want. So it's -- it's
24 frustrating to me. I wish I could provide you with
25 something.

1 MR. FRISCH: Yeah. And then the -- it is
2 the same occupants that you already have in the
3 building. It's just an expansion of the area?

4 MR. BIRNBAUM: That is correct, yes.

5 MR. FRISCH: Okay. And the one thing
6 that -- in the parking review, they talked about 15
7 employees or 15 parking spaces required for the
8 warehouse areas and then additional 15 for this new
9 warehouse area. Is that correct or would it double?

10 MR. FROMBERGER: I --

11 MR. BIRNBAUM: I don't think it's doubled.
12 I'm not under the impression that they're adding any
13 more employees. It's really just space that they
14 need.

15 MR. FRISCH: Okay. I would just take a look
16 at that on the site plan.

17 I don't have any further questions.

18 CHAIRMAN PRICE: All right. Ken Gordon, do
19 you have any questions?

20 MR. GORDON: Yeah. Just a few. Thanks,
21 Bill.

22 So I don't see any exterior bay doors or
23 loading docks. So access to this space will be from
24 the interior for storage of whatever it is you're
25 putting in there?

1 MR. BIRNBAUM: Yeah. So they're going to
2 be -- we'll be cutting openings for the existing wall
3 there. So that's how they'll have access points.

4 There is -- one of the grade -- well, there
5 was a grade door. They closed it up for security.
6 There is a recess truck dock door kind of like where
7 you see Warehouse A on the plans. One of those is
8 attached to this space. So that's how they have
9 access.

10 MR. GORDON: Thanks. Just for your
11 information, in order for the Planning Board to make a
12 determination for the conditional use permit, we are
13 going to know what is being stored in this portion of
14 the warehouse because the Planning Board needs to make
15 a finding regarding the nature and intensity of the
16 operation taking place, whether there are hazardous
17 substances in there, whether it would pose a risk to
18 neighboring properties. So we're going to need to
19 know.

20 MR. BIRNBAUM: Yeah. So it's the
21 existing -- it's the existing use that has been
22 approved. They have been in there for two or three
23 years already. So we'd just be expanding their
24 existing.

25 I can get into that in a non-public setting.

1 Just I know there is some --

2 MR. GORDON: Sure.

3 MR. BIRNBAUM: -- security reasons they
4 don't want certain things exposed.

5 MR. GORDON: I understand. But there's
6 going to be a need -- need to be made a record for the
7 public and for the Planning Board to understand what's
8 being stored in there or else the Planning Board
9 cannot make the findings that it needs to make.

10 So you're going to need to speak with your
11 client about what they're comfortable disclosing and
12 what they can safely and comfortably let us know
13 about. Because right now the record is devoid of the
14 information that we need in granting that conditional
15 use permit.

16 MR. BIRNBAUM: Yeah. That's no problem. I
17 just don't want to speak of the turn and say something
18 that I'm not supposed to say. That's all.

19 MR. GORDON: Understood completely. And I
20 think you're being wise taking that caution. I'm just
21 recommending that you speak with your client about
22 that.

23 MR. BIRNBAUM: Yeah. And we'll have some
24 time. They're not the fastest at making decisions.
25 So I think we'll have a little bit of time until we

1 need full approval honestly.

2 MR. GORDON: Thank you.

3 CHAIRMAN PRICE: Okay. All set, Ken?

4 MR. GORDON: Yes. Thank you.

5 CHAIRMAN PRICE: Okay. All right. One more
6 time for Jeff or other Board members. All right.

7 This is a -- yup. Is there anybody --

8 MR. FRISCH: I was going to say all set.

9 CHAIRMAN PRICE: You're all set. Thank you,
10 Jeff.

11 All right. This is a public hearing. Is
12 there anyone in the audience tonight that cares to
13 address this application? Okay. All right.

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

15 CHAIRMAN PRICE: All right. Well, I got to
16 get back to my agenda here somehow. I believe that
17 all of our -- all the remaining applications have been
18 postponed to another time or to our July meeting. I
19 apologize. I don't know where those all went, but I
20 believe we had three other applications on the agenda.

21 The Board care to -- shall we go back to the
22 beginning of the applications?

23 I have lost all my -- I apologize. Shall we
24 go back to the beginning and make our decisions and
25 then we can go to signs.

1 MR. OSOWSKI: Do we need to close the public
2 hearing?

3 CHAIRMAN PRICE: Let's go to -- so could
4 someone kindly read the application for Nancy's
5 project? I'm --

6 MR. GORDON: Jeff, why don't you put the
7 first application up there.

8 MR. FRISCH: Okay. It's 6P-01-22.

9 Brendan, if you could bring that up for us.

10 CHAIRMAN PRICE: Okay. Okay. So do we have
11 a motion to close the public hearing?

12 MS. FORD: So moved.

13 CHAIRMAN PRICE: Is there a second?

14 MR. FADER: I'll second it.

15 CHAIRMAN PRICE: Moved and seconded. Ford
16 and I think it was Fader. And this is for closing the
17 hearing. Jeff, could you call the roll?

18 (Mr. Price, aye; Mr. Fader, aye;

19 Mr. Osowski, aye; Ms. Ford, aye.)

20 (Upon roll public hearing is closed.)

21 CHAIRMAN PRICE: Okay. Do we have a motion
22 on the application itself?

23 MR. FADER: I have a motion, although I
24 think we may end up adding another condition. But
25 I'll make the motion.

1 CHAIRMAN PRICE: Thank you.

2 **Application 6P-01-22**

3 Application of Helio Health, owner, for
4 modification of conditions of approval (11P-03-18 &
5 12P-01-19) to allow for the use of 4000k color
6 temperature parking lot lights in lieu of 3000k color
7 temperature lights as approved for property located at
8 1850 Brighton Henrietta Town Line Road. All as
9 described on application and plans on file.

10 MR. FADER: I move the Planning Board finds
11 the proposed modification is consistent with the
12 January 16, 2019, negative declaration adopted by the
13 Planning Board for this project and the Planning Board
14 adopts the ten conditional use findings outlined in
15 the Planning Board report and that the Planning Board
16 approves the application 6P-01-22 based on testimony
17 given, plans submitted and the seven conditions
18 outlined in the Planning Board report.

19 CHAIRMAN PRICE: I'll second. Before the
20 vote, let's have a discussion.

21 Did you -- you thought you might --

22 MR. FADER: Well, Ken said something
23 interesting. And that was that perhaps that we have a
24 condition that they just go ahead with the 4,000k
25 lights, but then they replace them with the 3,000 when

1 they become available. So the question is do we want
2 to make that a condition?

3 MR. GORDON: If I -- if I could be heard on
4 my thoughts on this application?

5 CHAIRMAN PRICE: Yes. Please.

6 MR. GORDON: Thank you. I am going to take
7 the position and advise that I recommend this
8 application be denied. And the reason for that is it
9 sets a terrible precedent.

10 This applicant and contractor and the owner
11 of the project knew well what the Town policy was.
12 They got approval for that. And yet they went ahead
13 and accepted, maybe ordered, but certainly seems like
14 accepted 4,000k lights knowing that the Town required
15 3,000k and knowing that the Town approved 3,000k.

16 If we approve this application, I don't see
17 where we would have in the future much success in
18 having 3,000k lighting in commercial buildings that
19 would be arguably not imposing light spillage into
20 residential districts. Because I think any project
21 could do what they did here, which is you get approval
22 for 3,000, you go out and order 4,000 anyway, you come
23 back into the Planning Board, you go, could we have a
24 modification now? Because, you know what, to stay on
25 schedule we ordered 4,000. So now we want to put in

1 4,000.

2 It sort of eviscerates the 3,000 dark sky
3 compliant policies that this Town has followed for a
4 while. And I really think it sets a terrible,
5 terrible precedent.

6 I guess the other way I'd look at this is I
7 also think the record isn't there to support this
8 application. Had we had testimony that the 3,000k
9 lighting was no longer being manufactured, was just an
10 impossible thing to acquire, that it would have
11 delayed the completion of the project by a substantial
12 period of time. We don't even know by what period of
13 time it would have delayed the completion of the
14 project.

15 So for those reasons, but mostly the
16 precedent that this would set, it's my recommendation
17 that you deny this application.

18 CHAIRMAN PRICE: All right.

19 MS. FORD: Is this when people chime in?
20 Because I totally agree with Ken.

21 MR. OSOWSKI: Yeah. This is John. And I
22 can -- I can see where you're coming from, Ken. And
23 I'm in basic agreement.

24 But I almost wonder if that's too harsh.
25 Maybe we give them a time limit rather than saying

1 replace the lights as soon as you can get the new ones
2 maybe say -- maybe give them six months to replace the
3 light or a year. I don't know how much is a
4 reasonable amount of time. But say we'll let you
5 open, but, you know, within six months you have to
6 replace them with the 3,000k lights. That's another
7 option.

8 CHAIRMAN PRICE: Yeah. I guess I agree with
9 the little bit gentler approach where they're -- you
10 know, if lighting is required for C of O and site
11 operation, maybe they put those up. You know, this
12 is -- this is not a Town caused problem. This is --
13 this is a supply chain problem.

14 However -- and it's a valiant effort by the
15 applicant to justify what has happened out here. And
16 I can tell you that if you were to order the lights
17 and light poles today, it's minimally a 12-week
18 endeavor. And that is -- that is probably best case.

19 But I don't -- again, I think we were fairly
20 clear in the original application and approval. And
21 Jeff, I hope it wouldn't be a large burden on Town
22 staff, but if it's going to be allowed to be used to
23 open and achieve the C of O -- Ken, I don't know what
24 your thoughts are on having this hybrid approval of
25 mounting what they have until the other luminaires

1 come in.

2 MS. FORD: That's my -- that's my question I
3 guess is -- not wanting to be, you know, hard case,
4 but what -- can we implement or is it enforceable to
5 say at X time in the future that you have to have
6 this? And what would happen in the future with other
7 cases? I mean, if we okay it now, what is officially
8 built in that they have to do something by X date? I
9 don't understand. And, again, I'm new.

10 MR. GORDON: Sure. I mean, I made my -- I
11 made my pitch for denial of this application, but I
12 did have the sense in listening to the questions that
13 were being asked by you Bill and you John that perhaps
14 there was some taste for, like you said Bill, taking a
15 little softer approach. And that's fine. I mean,
16 that's why you guys get to make the decisions. I'm
17 just here to give advice.

18 But I think the way to do it, at least from
19 perspective, the mechanism that we could use is to
20 grant a temporary C of O. A temporary C of O is good
21 for 30 days but can be extended for good cause up to a
22 maximum period of six months. And to say that they're
23 not going to get their final C of O until they put in
24 3,000k lights. That's the mechanism I'd use.

25 Jeff, any thoughts on that?

1 MR. FRISCH: Yeah. I think that would work.
2 I mean, that'll give them the leeway to install these
3 ones for now, but they don't receive their final
4 occupancy until they have the correct lights.

5 MR. GORDON: And if they don't want to go
6 that route, if they don't want to pay twice basically,
7 they can hold off and just get the 3,000k lights and,
8 you know, go for final C of O when they're on.

9 MR. FADER: Can someone more knowledgeable
10 than me put together a condition that meets that
11 requirement?

12 MS. FORD: Not me.

13 MR. GORDON: Can I have just a moment to
14 think?

15 CHAIRMAN PRICE: Take all the time you want.

16 MR. GORDON: I don't want to take all the
17 time.

18 CHAIRMAN PRICE: This isn't all that easy.

19 MR. GORDON: Subject -- here is what I add
20 as a condition. Subject to the further condition that
21 a final certificate of occupancy will not be issued
22 until 3,000k dark sky compliant lighting is installed.
23 A temporary certificate of occupancy may be issued
24 with the installation of 4,000k lighting. And it is
25 the intention of the Board to allow that temporary

1 certificate of occupancy to stay in place for a
2 maximum period of time of six months.

3 I think that works.

4 MR. FRISCH: Yeah. Do we want that to be
5 the only condition?

6 MR. GORDON: I didn't read the other
7 conditions. So I can't comment on that.

8 CHAIRMAN PRICE: The other seven may be moot
9 at this point.

10 MR. FRISCH: Yeah. I mean --

11 MR. GORDON: I'm suggesting, David, that you
12 I guess accept as a friendly amendment to the motion
13 that you have already made and that I believe Bill has
14 seconded that the condition I just articulated replace
15 the conditions that are enumerated in the Planning
16 Board report.

17 MR. FADER: Yes. I agree to that. And I
18 think -- I'm looking to see which -- I'm looking to
19 see what conditions might go away when that one's
20 added.

21 MR. FRISCH: Seven and then the end of one.
22 So it will be all -- so number one will be "All
23 conditions of approved Planning Board application
24 11P-03-18 and 12P-01-19 remain in effect and must be
25 satisfied." And then cross off the rest of that.

1 MR. GORDON: And then condition number 7
2 would be replaced with the condition I just
3 articulated.

4 MR. FRISCH: Correct.

5 CHAIRMAN PRICE: All right. So we have a
6 motion. And a second.

7 MR. GORDON: We do not yet have one because
8 I need to hear Mr. Fader and Mr. Price both accept
9 that friendly amendment.

10 MR. FADER: I accept it.

11 CHAIRMAN PRICE: Accept as amended.

12 MR. GORDON: Now, you have a motion and a
13 second.

14 CHAIRMAN PRICE: All right. Jeff?

15 **Conditions as Amended:**

16 1. All conditions of approved Planning Board
17 application 11P-03-18 and 12P-01-19 remain in effect
18 and must be satisfied.

19 2. All buildings shall comply with the most current
20 Building & Fire Codes of New York State.

21 3. Prior to any occupancy, work proposed on the
22 approved plans shall have been completed to a degree
23 satisfactory to the appropriate authorities.

24 4. Meet all requirements of the Town of Brighton's
25 Department of Public Works.

1 5. All Town codes shall be met that relate directly
2 or indirectly to the applicant's request.

3 6. All outstanding comments and concerns of the Town
4 Engineer shall be addressed.

5 7. Subject to the further condition that a final
6 certificate of occupancy will not be issued until
7 3,000k dark sky compliant lighting is installed. A
8 temporary certificate of occupancy may be issued with
9 the installation of 4,000k lighting. And it is the
10 intention of the Board to allow that temporary
11 certificate of occupancy to stay in place for a
12 maximum period of time of six months.

13 (Ms. Ford, aye; Mr. Osowski, aye; Mr. Fader,
14 aye; Mr. Price, aye.)

15 (Upon roll motion to approve with conditions
16 carries.)

17 CHAIRMAN PRICE: All right. Thank you. All
18 right. Could you put our next application up? I've
19 lost our -- I apologize.

20 MR. FRISCH: Next application is 6P-02-22.

21 **Application 6P-02-22**

22 Application of Jagdish Kaur, owner, and Evan
23 Gefell, agent, for Preliminary/Final Site Plan
24 Approval to renovate an existing 1,634 square foot
25 building and make parking, lighting, landscaping and

1 utility improvements on property located at 30
2 Jefferson Road. All as described in application and
3 plans in file.

4 MR. FRISCH: Can you bring those up,
5 Brendan?

6 CHAIRMAN PRICE: So now, I know this is for
7 preliminary and final. They did get their variance.
8 But this hasn't -- this has not been -- there's been
9 no application to the ARB for this?

10 MR. FRISCH: There has not, no.

11 CHAIRMAN PRICE: We -- we historically have
12 not progressed preliminary or final site plan without
13 the application going to the ARB.

14 Is this something that we would consider
15 making the ARB approval a condition?

16 MR. FRISCH: Yeah. The ARB and the sign
17 approval is a condition of -- I wrote up as a
18 condition of the approval.

19 CHAIRMAN PRICE: All right. All right.

20 MR. FADER: It's hard to believe the ARB
21 wouldn't approve this.

22 CHAIRMAN PRICE: Yeah. No. I understand.
23 I just -- we do typically like to see it, but there
24 have been instances where, you know, architectural
25 approval does not affect the site plan. And there's

1 been other cases where it could.

2 But I would be comfortable with, you know,
3 asking for a motion to close the public hearing on
4 this application.

5 All right. I will move to close the public
6 hearing on this application.

7 MR. FADER: And I'll second that.

8 CHAIRMAN PRICE: Moved and seconded. Any
9 discussion on closing the hearing?

10 Jeff, please call the roll.

11 (Mr. Price, aye; Mr. Fader, aye;

12 Mr. Osowski, aye; Ms. Ford, aye.)

13 (Upon roll public hearing is closed.)

14 CHAIRMAN PRICE: All right. Mr. Fader, are
15 you in the position to --

16 MR. FADER: Yes, I am. This is a good one.

17 CHAIRMAN PRICE: All right.

18 **Application 6P-02-22**

19 Application of Jagdish Kaur, owner, and Evan
20 Gefell, agent, for Preliminary/Final Site Plan
21 Approval to renovate an existing 1,634 square foot
22 building and make parking, lighting, landscaping and
23 utility improvements on property located at 30
24 Jefferson Road. All as described in application and
25 plans in file.

1 MR. FADER: Okay. I move the Planning Board
2 finds the proposed action will not have a significant
3 impact on the environment and adopts the negative
4 declaration prepared by Town staff; and that the
5 Planning Board adopts the nine demolition findings
6 outlined in the Planning Board report based on the
7 determinations, comments and recommendations of the
8 Historic Preservation Commission, Architectural Review
9 Board and Conservation Board; and the Planning Board
10 further adopts the ten conditional use findings
11 outlined in the Planning Board report; and that the
12 Planning Board approves application 6P-02-22 based on
13 testimony given, plans submitted and the 32 conditions
14 outlined in the Planning Board report.

15 CHAIRMAN PRICE: Is there a second?

16 MS. FORD: Second.

17 CHAIRMAN PRICE: Thank you, Julie. Moved
18 and seconded.

19 Is there any discussion?

20 MR. FRISCH: Just the one would be --
21 for the demolition, it wasn't reviewed by Architecture
22 Review Board or the Historic Preservation Commission.

23 MR. GORDON: Right. But there's really not
24 a structure -- I mean there's not a building being
25 demolished here, Jeff, Right?

1 MR. FRISCH: Right.

2 MR. GORDON: It's just the --

3 CHAIRMAN PRICE: Canopy.

4 MR. GORDON: Canopy. Thank you. I couldn't
5 think of the word. I was going to sign it. The
6 canopy.

7 CHAIRMAN PRICE: Hand language. All right.
8 All right. And I do believe that the -- the one thing
9 that the architect, Steve, mentioned was that there
10 would be asbestos reports submitted prior to
11 demolition, which hasn't been done yet; right?

12 MR. FRISCH: It has not.

13 CHAIRMAN PRICE: All right. All right.
14 We're moved and seconded. No further discussion.
15 Jeff, please call the roll.

16 **Demolition Findings:**

17 1. The Architectural Review Board and Conservation
18 Board have reviewed the project per the requirements
19 of this article and their determinations and
20 recommendations have been considered.

21 2. The project is consistent with the Brighton
22 Comprehensive Plan.

23 3. The project meets all Town zoning requirements, or
24 a variance has been granted by the Brighton Zoning
25 Board of Appeals.

1 4. The Brighton Department of Public Works has
2 approved the proposed grading plan for the project.

3 5. The project complies with the requirements of the
4 Town's regulations regarding trees.

5 6. A restoration/landscaping plan has been approved
6 by the Planning Board.

7 7. The project will comply with the requirements of
8 NYSDOL Code Rule 56 regarding asbestos control and
9 Chapter 91 of the Code of the Town of Brighton,
10 Lead-Based Paint Removal. In addition to any other
11 requirements of Code Rule 56, the project will comply
12 with Section 56-3.4(a)(2) regarding on-site
13 maintenance of a project record, Section 56-3.6(a)
14 regarding 10 Day Notice requirements for residential
15 and business occupants, the licensing requirements of
16 Section 56-3, and the asbestos survey and removal
17 requirements of Section 56-5.

18 8. The project will not, under the circumstances of
19 the particular case, be detrimental to the health,
20 safety or general welfare of persons residing or
21 working in the neighborhood and will not be
22 detrimental to the public welfare or injurious to
23 property or improvements in the neighborhood.

24 9. The project does not have a significant negative
25 impact on affordable housing within the Town.

1 **Conditional Use Findings:**

2 1. No threatened or endangered species of plants or
3 animals will be affected by this project.

4 2. The requirements of the State Environmental
5 Quality Review Law have been complied with.

6 3. The duration of all impacts will be short term in
7 nature.

8 4. There will be no resources of value irreversibly
9 lost.

10 5. No threatened or endangered species of plants or
11 animals will be affected by this project.

12 6. The storm water drainage system is designed and
13 will be constructed in accordance with all applicable
14 Town requirements.

15 **Conditions:**

16 1. An Operational Permit shall be obtained from the
17 Town of Brighton Fire Marshal (Chris Roth,
18 585-784-5220).

19 2. The entire building/store shall comply with the
20 most current Building & Fire Codes of New York State.

21 3. Prior to issuance of any building permits, all
22 plans for utility and storm water control systems must
23 be reviewed and have been given approval by
24 appropriate authorities. Prior to any occupancy, work
25 proposed on the approved plans shall have been

1 completed to a degree satisfactory to the appropriate
2 authorities.

3 4. All conditions of the Zoning Board of Appeals
4 shall be met.

5 5. Prior to the issuance of any permits the
6 architectural design and building materials of the
7 proposed building(s) shall be reviewed and approved by
8 the Town of Brighton Architectural Review Board.

9 6. Meet all requirements of the Town of Brighton's
10 Department of Public Works.

11 7. All Town codes shall be met that relate directly
12 or indirectly to the applicant's request.

13 8. The project and its construction entrance shall
14 meet the New York State Standards and Specifications
15 for Erosion and Sediment Control.

16 9. The contractor shall designate a member of his or
17 her firm to be responsible to monitor erosion control,
18 erosion control structures, tree protection and
19 preservation throughout construction.

20 10. All trees to be saved shall be protected with
21 orange construction fencing placed at the drip line or
22 a distance greater than the drip line. Trees shall be
23 pruned, watered, and fertilized prior to, during and
24 after construction. Materials and equipment storage
25 shall not be allowed in fenced areas.

1 11. All disturbed areas shall be protected from
2 erosion either by mulch or temporary seeding within
3 two weeks of disturbance.

4 12. Maintenance of landscape plantings shall be
5 guaranteed for three (3) years.

6 13. Any contractor or individual involved in the
7 planting, maintenance or removal of trees shall comply
8 with the requirements of the town's Excavation and
9 Clearing (Chapter 66), Trees (Chapter 175) and other
10 pertinent regulations and shall be registered and
11 shall carry insurance as required by Chapter 175 of
12 the Comprehensive Development Regulations.

13 14. All parking lot lighting shall be low in height
14 and intensity and directed toward the building.

15 15. The dumpster shall be enclosed with building
16 materials that are compatible with the existing
17 building and located in the rear yard. The enclosure
18 shall equal the height of the dumpster and shall not
19 be higher than six and one-half (6.5) feet.

20 16. The parking lot shall be striped as per the
21 requirements of the Brighton Comprehensive Development
22 Regulations.

23 17. Outside storage and display shall be prohibited.

24 18. Prior to the issuance of any building permits a
25 landscape and parking plan shall be submitted,

1 reviewed and approved by the Building and Planning
2 Department.

3 19. All proposed landscaping shall be installed prior
4 to the issuance of any certification of occupancy.

5 20. Fire hydrants shall be fully operational prior to
6 and during construction of the building.

7 21. All County Development Review Comments shall be
8 addressed.

9 22. A letter of credit shall be provided to cover
10 certain aspects of the project, including, but not
11 limited to: Demolition, restoration of the site,
12 landscaping, and sediment and erosion control. The
13 letter of credit should be submitted to the Town for
14 review and approval. An original Letter of Credit
15 must be received by the Town prior to the start of
16 construction.

17 23. The project will comply with the requirements of
18 NYSDOL Code Rule 56 regarding asbestos control and
19 Chapter 91 of the Code of the Town of Brighton,
20 Lead-Based Paint Removal. In addition to any other
21 requirements of Code Rule 56, the applicant shall
22 verify that the project will comply with Section
23 56-3.4(a)(2) regarding on-site maintenance of a
24 project record, and Section 56-3.6(a) regarding 10 Day
25 Notice requirements for residential and business

1 occupants. The property owner shall ensure that the
2 licensing requirements of Section 56-3 and asbestos
3 survey and removal requirements of Section 56-5 are
4 met.

5 24. The applicant's architect shall evaluate the
6 project relative to the Town of Brighton sprinkler
7 ordinance to determine if the building needs to be
8 sprinklered. This evaluation shall be submitted with
9 the final application.

10 25. Only business identification signage as allowed
11 per the Comprehensive Development Regulations is
12 permitted. This signage must be reviewed and receive
13 all necessary town approvals prior to installation.

14 26. Erosion control measures shall be in place prior
15 to site disturbance.

16 27. If applicable, the location of any proposed
17 generators shall be shown on the site plan. All
18 requirements of the Comprehensive Development
19 Regulations shall be met or a variance shall be
20 obtained from the Zoning Board of Appeals.

21 28. If applicable, the location of the HVAC shall be
22 shown on the site plan.

23 29. All comments and concerns of the Town Engineer as
24 contained in the attached memo dated June 10, 2022
25 from Brendan Ryan, Assistant Engineer, to Jeff Frisch,

1 shall be addressed.

2 30. The Town of Brighton's Floodplain Development
3 Permit Application shall be completed by the
4 applicant's engineer and submitted to the Town of
5 Brighton for review and approval.

6 31. All new accessible parking space signage to be
7 installed or replaced shall have the logo depicting a
8 dynamic character leaning forward with a sense of
9 movement as required by Secretary of State pursuant to
10 section one hundred one of the Executive Law. Both
11 accessible parking spaces noted in the Engineering
12 Report will be shown on the site plan.

13 32. The plans shall be revised to address the
14 following comments of the Conservation Board:

15 Consider additional landscaping in the
16 northwest and eastern portion of the lot.

17 · Use of low mow techniques and pollinator
18 beds is encouraged.

19 (Mr. Price, aye; Mr. Fader, aye;
20 Mr. Osowski, aye; Ms. Ford, aye.)

21 (Upon roll motion to pass with conditions
22 carries.)

23 CHAIRMAN PRICE: Okay. Thank you. And our
24 final application to be reviewed.

25 **Application 6P-03-22**

1 Application of Birnbaum Companies, owner,
2 for Preliminary/Final Site Plan Approval and
3 Conditional Use Permit Approval to construct a 3,050
4 +/- square foot building addition for warehouse and
5 office use on property located at 150 Metro Park. All
6 as described on application and plans on file.

7 CHAIRMAN PRICE: It doesn't -- it does
8 appear that between some of the information we need
9 with regard to materials stored in the building, some
10 additional information regarding the floor plan and
11 architectural elements of this, we may want to table
12 this for the additional information.

13 Jeff, is that what your recommendation and
14 the report shows?

15 MR. FRISCH: The recommendation in the
16 report was for preliminary approval and then final
17 approval contingent on getting us the other
18 information.

19 CHAIRMAN PRICE: Okay. Let's -- let me ask
20 the rest of the Board your feelings on that. I don't
21 know that we slow the process down by delaying for
22 more information. And I don't know that we speed up
23 the process by approving preliminary. I can go either
24 way. But I think without some of the information on
25 the conditional use and what level of detail, if we

1 get that information, might be more comfortable with a
2 table until we do get more information.

3 MS. FORD: I agree.

4 MR. OSOWSKI: Yeah. Bill, this is John. I
5 think I tend to agree with you because they -- you
6 know, the fact that they couldn't give us a more
7 definite interior layout makes me feel they could be a
8 little squirrely and it might even change when they
9 come back for a final approval, you know.

10 I mean, they went from a 10,000 square foot
11 standalone pole barn down to this 3,000 square foot
12 addition. And who knows, it might change again. So,
13 yeah. Tabling is probably prudent. I agree.

14 CHAIRMAN PRICE: I can appreciate the
15 position that the landlord is in. But I think, let's
16 us take our time. I don't think we're slowing the
17 process down by waiting for a little more information.

18 So I will -- Jeff, remind the application
19 number.

20 MR. FRISCH: It's 6P-03-22.

21 CHAIRMAN PRICE: I move to table application
22 6P-03-22 pending the receipt of additional information
23 from the applicant.

24 MS. FORD: I second.

25 CHAIRMAN PRICE: Moved and seconded. Is

1 there any further discussion? All right. Thank you.

2 Jeff, please call the roll.

3 (Mr. Price, aye; Mr. Fader, aye;

4 Mr. Osowski, aye, Ms. Ford, aye.)

5 CHAIRMAN PRICE: All right. Thank you,
6 everyone.

7 Jeff, how many signs do we got? Two?

8 MR. FRISCH: We have two, but it seems that
9 screen sharing is broken. So I can't show them to
10 you.

11 MR. RYAN: Yeah. Like each of us, we were
12 all trying it and we can share for about two seconds.
13 And then it comes back off. And it's happening --

14 MR. GORDON: You look at it in your own
15 packets; right? You can go right to the PDF and link
16 to it.

17 MS. FORD: Whoa.

18 MR. GORDON: No? No? You don't like that
19 idea?

20 MS. FORD: No, "Whoa."

21 CHAIRMAN PRICE: Let's see what we can do
22 here.

23 MR. OSOWSKI: Yeah. I got it.

24 CHAIRMAN PRICE: Is Jersey Mike's the first
25 one?

1 MR. FRISCH: The first one is --

2 MR. RYAN: It's staying. I don't if that's
3 permanent. But do it really quick.

4 CHAIRMAN PRICE: Oh, okay.

5 **Signs:**

6 1648 BU Salon and Space for a Building Face Sign
7 At 2119 South Clinton Avenue

8 1649 Jersey Mike's for a Building Face Sign at
9 2750 Monroe Avenue

10 MR. FRISCH: The first one is sign 1648 for
11 2119 South Clinton Avenue for BU Salon and Space.

12 This one was tabled by the Architecture
13 Review Board. They will be going back with an altered
14 design at the next Architectural Review Board meeting.

15 CHAIRMAN PRICE: Okay. I move we accept the
16 recommendations of the Architecture Review Board to
17 table.

18 MS. FORD: Second.

19 CHAIRMAN PRICE: We can do an all -- all in
20 favor?

21 ALL BOARD MEMBERS: Aye.

22 CHAIRMAN PRICE: Okay.

23 MR. FRISCH: Next is 1649 for Jersey Mike's.
24 They were approved at the Architectural Review Board
25 meeting.

1 CHAIRMAN PRICE: Are we getting a Brooks
2 Brothers?

3 MR. OSOWSKI: Anthropologie too.

4 CHAIRMAN PRICE: Slip the Jersey Mike's in
5 there with it. And this was approved by ARB?

6 MR. FRISCH: Yup.

7 CHAIRMAN PRICE: Okay. I'll move approval
8 as recommended by the ARB.

9 MR. OSOWSKI: I'll second.

10 CHAIRMAN PRICE: All in favor?

11 MR. GORDON: Can we get a roll capital on
12 these please?

13 CHAIRMAN PRICE: Oh, all right.

14 (Mr. Price, aye; Mr. Fader, aye;
15 Mr. Osowski, aye; Ms. Ford, aye.)

16 (Upon roll motion to approve carries.)

17 CHAIRMAN PRICE: Okay. Thank you. All
18 right. That is our agenda for this evening. Looks
19 like -- keep enjoying the summer weather and looks
20 like our July meeting will be a full agenda again.

21 MR. GORDON: And the date of the July
22 meeting is?

23 MR. FRISCH: 20th.

24 MR. GORDON: 20th. Okay. So I can't tell
25 you yet whether it's going to be virtual or not.

1 CHAIRMAN PRICE: Yeah. How much time are
2 you given before -- are you given a couple days
3 notice or --

4 MR. GORDON: No. I -- the Governor issued
5 an extension today. Nope. Yesterday. For another
6 30 days. So it expired yesterday at midnight. The
7 Governor extended it sometime yesterday evening. I
8 saw it today. So it's extended through July 14th.
9 I'll be sending an email around Town Hall.

10 MR. FRISCH: Okay.

11 CHAIRMAN PRICE: This affects all town --

12 MR. GORDON: Oh, yeah.

13 CHAIRMAN PRICE: Yeah.

14 MR. GORDON: All of our open meetings.

15 CHAIRMAN PRICE: Any public meeting. Okay.

16 MR. GORDON: Planning, zoning, HPC, town.

17 CHAIRMAN PRICE: All right. Well let's hope
18 we're back in person sometime soon.

19 (TIME: 8:33 p.m.)

20 * * *

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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 15th day of June, 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