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**BRIGHTON**

3

**ZONING BOARD OF APPEALS**

4

**MEETING**

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7

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

10 PRESENT:

11 DENNIS MIETZ  
12 Chairperson13 EDWARD PREMO ) Board Members  
14 HEATHER MCKAY-DRURY )  
15 KATHLEEN SCHMITT )  
16 ANDREA TOMPKINS-WRIGHT )  
17 MATTHEW D'AUGUSTINE )18 KEN GORDON, ESQ.  
19 Town Attorney20 RICK DISTEFANO  
21 Secretary

22 ABSENT: JUDY SCHWARTZ

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1 CHAIRPERSON MIETZ: Okay. Welcome. You're  
2 at the Zoning Board of Appeals meeting for October.  
3 So let me just tell you just a couple quick things and  
4 then we'll call the meeting to order.

5 So the way we run this meeting is that there  
6 are a number of applications that we'll read through  
7 that when we call your application, you come up to the  
8 podium. Give us your name, your address and then let  
9 us know why you feel your application should be  
10 approved.

24 And then generally, I'd say 90-plus percent  
25 of the time, we're going to decide tonight. And then

1 you would hear the results. If you don't want to  
2 stay, then tomorrow you can call Mr. DiStefano in the  
3 Building Office and he will let you know the results  
4 of your application. Okay?

5 So I guess at this point can we call the  
6 meeting to order, Rick, and could you call the roll?

7 MR. DiSTEFANO: Sure.

8 CHAIRPERSON MIETZ: Was the meeting properly  
9 advertised?

10 MR. DiSTEFANO: Yes, Mr. Chairman, it was  
11 advertised in the Brighton-Pittsford Post -- sorry --  
12 Daily Record of September 29th, 2022.

13 CHAIRPERSON MIETZ: Okay. While you're  
14 trying to find the other thing, we do have only one  
15 minutes. We have minutes for August.

16 MR. DiSTEFANO: Mm-hm. Just August. Yup.

17 CHAIRPERSON MIETZ: Okay. And our favorite  
18 meeting minutes person isn't here tonight.

19 MR. PREMO: Yeah. Judy's not here.

20 MS. MCKAY-DRURY: I have two actually.

21 CHAIRPERSON MIETZ: Let's -- Rick, call the  
22 roll.

23 MR. DiSTEFANO: I'll call the roll.

24 (Whereupon the roll was called.)

25 MR. DiSTEFANO: Please let the record show

1 Ms. Schwartz is not present.

2 CHAIRPERSON MIETZ: Okay. Very good. While  
3 Rick is doing that stuff, does anyone have the August  
4 minutes? Any corrections?

5 MS. MCKAY-DRURY: I do, yes. Page 7,  
6 line 17, it says "railroad." It should be "road."

7 Page 64, line 19, it says "when we weren't  
8 bedding any contact..." it should be "getting" with a  
9 G. That was it.

10 CHAIRPERSON MIETZ: Okay. Does anyone have  
11 anything else? Going once, twice. How about a  
12 motion?

13 MR. PREMO: I move we approve the minutes as  
14 amended.

15 MS. TOMPKINS-WRIGHT: Second.

16 MR. DiSTEFANO: Motion is to approve the  
17 August minutes.

18 (Ms. McKay-Drury, yes; Mr. Premo, yes,  
19 Ms. Tompkins-Wright, yes; Mr. Mietz, yes;  
20 Ms. Schmitt, yes; Mr. D'Augustine, yes.)

21 (Upon roll motion to approve with  
22 corrections carries.)

23 CHAIRPERSON MIETZ: Before we start do you  
24 have anything that you would like to address?

25 MR. DiSTEFANO: Just that application 8A-04,

1       8A-5 and 8A-06 have postponed to the November meeting.  
2       So if anybody's in the audience in regards to those,  
3       they will be heard next month.

4           I have nothing else. There are some  
5       communications obviously in your folders. And if  
6       anybody else has any questions, I'll try to answer  
7       them for you.

8           CHAIRPERSON MIETZ: Okay. Ready to roll  
9       10A-01.

10       **Application 10A-01-22**

11           Application of Sign and Lighting Services,  
12       contractor, and Daniele SPC, LLC, owner of property  
13       located at 2750 Monroe Avenue, Building 5, for Sign  
14       Variances from Section 207-32B to 1) allow for  
15       business identification signs on three (3) building  
16       Sides in lieu of only one as allowed by code, and 2)  
17       allow for the signs to range in height from 21.5 feet  
18       to 23.5 feet above grade where a maximum of 20 feet is  
19       allowed by code. All as described on application and  
20       plans on file.

21           CHAIRPERSON MIETZ: Okay.

22           MR. WRIGHT: Good evening. Kirk Wright,  
23       Sign and Lighting Services, 530 route 104, Ontario,  
24       New York. I'm here with Mark Sullivan from the Aspen  
25       Group.

1                   And we are seeking variances for two  
2 additional building signs. The way the building is  
3 laid out and with all that's going on around it, we  
4 feel it will be good for business to be identified on  
5 more than just the Monroe Avenue side of the building.  
6 We're targeting the driveway side and the side that  
7 faces the plaza in the rear.

8                   CHAIRPERSON MIETZ: Can you just -- could  
9 you just kind of point out, just to make sure we  
10 understand you correctly, where the -- where your  
11 entrance is going to be and whether that's side A, B,  
12 C, what not. We all have the drawing here, but --

13                   MR. WRIGHT: Okay.

14                   CHAIRPERSON MIETZ: It's just a little hard  
15 to see some of it.

16                   MR. WRIGHT: Sign A would face Monroe  
17 Avenue.

18                   CHAIRPERSON MIETZ: Okay.

19                   MR. WRIGHT: That section of the building  
20 runs parallel with Monroe Avenue.

21                   CHAIRPERSON MIETZ: Okay.

22                   MR. WRIGHT: Sign B will be the opposite  
23 side of the building. And that would face the plaza  
24 itself.

25                   Sign C is actually over the entrance to the

1 building. And that faces the main parking lot and  
2 the -- I believe that's a Starbucks. No. That may be  
3 the WellNow there to the west. I believe that's west.

4 CHAIRPERSON MIETZ: Yeah. So which one is  
5 the sign on?

6 MR. WRIGHT: C.

7 CHAIRPERSON MIETZ: C.

8 MR. WRIGHT: Yes.

9 CHAIRPERSON MIETZ: Yeah. Yes, that would  
10 be west. Okay. So could you also explain to us what  
11 is this business? What does it do? What is the  
12 business?

13 MR. WRIGHT: Chapter is --

14 CHAIRPERSON MIETZ: Just speak here and give  
15 us your name and address.

16 MR. SULLIVAN: Mark Sullivan with Aspen  
17 Group, 281 Sanders Parkway in East Syracuse, New York.

18 CHAIRPERSON MIETZ: Okay. Great.

19 MR. SULLIVAN: Chapter is a medical  
20 aesthetic studio that does treatments and sells  
21 supporting retail skin care products. And more the  
22 hair laser treatments, BOTOX, cool sculpting types of  
23 procedures.

24 CHAIRPERSON MIETZ: So is this business an  
25 appointment business? Are people driving by and

1 purchasing retail products? What --

2 MR. SULLIVAN: Yup. There's --

3 CHAIRPERSON MIETZ: It's both?

4 MR. SULLIVAN: Both. You make appointments  
5 for the treatments and you can always stop in and  
6 purchase the skin products as a retail.

7 CHAIRPERSON MIETZ: Okay.

8 MS. TOMPKINS-WRIGHT: On that same line, is  
9 there any trained medical staff on site? Are there  
10 doctors? Nurse practitioners?

11 MR. SULLIVAN: Nurse practitioners and RNs.

12 CHAIRPERSON MIETZ: And what would be the  
13 hours of this business?

14 MR. SULLIVAN: I believe they're 9 to 7.

15 CHAIRPERSON MIETZ: P.m?

16 MR. SULLIVAN: P.m, yes.

17 CHAIRPERSON MIETZ: Five days a week? Six  
18 days a week?

19 MR. SULLIVAN: Five days.

20 CHAIRPERSON MIETZ: So it wouldn't be open  
21 on the weekends?

22 MR. SULLIVAN: Correct.

23 CHAIRPERSON MIETZ: Board members?

24 MS. MCKAY-DRURY: I want to start off by  
25 indicating that I am conflicted out of this. So I'll

1 be recused.

2 CHAIRPERSON MIETZ: Okay. Thank you.

3 You have any questions?

4 MR. PREMO: No questions.

5 CHAIRPERSON MIETZ: Anything, Andrea?

6 MS. TOMPKINS-WRIGHT: Can you kind of go  
7 into a little more detail, understanding that many  
8 businesses want signs for way-finding coming from  
9 different directions, but three signs on this small of  
10 a building in the middle of a shopping center, can you  
11 speak to why three sides need to have signs,  
12 particularly the sign B that's kind of facing back of  
13 the shopping center?

14 MR. SULLIVAN: Yeah. I believe it speaks  
15 for the traffic that comes to that side of the plaza,  
16 just so they know what the building would be coming  
17 around the corner. That and to fill up the space on  
18 that side of the elevation is another reason that we'd  
19 like a sign up there.

20 CHAIRPERSON MIETZ: Is this a new location  
21 for this company or does this company exist in another  
22 location?

23 MR. SULLIVAN: It's a new location to this  
24 area, yes.

25 CHAIRPERSON MIETZ: For this company?

1                   MR. SULLIVAN: Yes.

2                   CHAIRPERSON MIETZ: They exist elsewhere?

3                   MR. SULLIVAN: Yes, they do.

4                   CHAIRPERSON MIETZ: Okay. But not to the  
5 Rochester area?

6                   MR. SULLIVAN: No, they do not.

7                   CHAIRPERSON MIETZ: Kathleen, anything?

8                   MS. SCHMITT: No.

9                   CHAIRPERSON MIETZ: Matt?

10                  MR. D'AUGUSTINE: No.

11                  CHAIRPERSON MIETZ: Yes, sir? Looks like  
12 you got one.

13                  MR. GORDON: Hi. I'm Ken Gordon. I'm the  
14 Town Attorney. So when the plaza project was approved  
15 as an incentive zoning project by the Brighton Town  
16 Board, the owner of the project, the Daniele Company,  
17 asked for permission to have additional signs on some  
18 of the buildings. This was not one of them.

19                  Can you tell me why it is that there's been  
20 a change since then? What's changed?

21                  MR. WRIGHT: It was my understanding that  
22 was --

23                  CHAIRPERSON MIETZ: Go to the podium.

24                  MR. WRIGHT: Sorry.

25                  It was my understanding that this building

1 doesn't fall into that category that the Planning  
2 Board discussed. It was the building next door. And  
3 this one did allow variances. That's just my  
4 understanding.

5 MR. GORDON: Well, there are variances that  
6 are allowed under the incentive zoning resolution.  
7 The building that specifically was allowed to have  
8 multiple signs was the Whole Foods Market building  
9 itself. But the entire project was approved by the  
10 Town Board with whatever incentives that it -- did I  
11 say incentives? Variances. Whatever  
12 incentives/variances the developers, the Daniele  
13 Company thought were needed.

14 They didn't ask for this one. So I'm a  
15 little troubled by the idea that now you're coming in.  
16 If something's changed from what the original project  
17 plan was, maybe that's something you could educate the  
18 board on.

19 MR. SULLIVAN: I believe at the time of the  
20 building's development, they didn't have a tenant for  
21 this building. Then we came in when plans were  
22 already executed and did some interior -- we adapted  
23 our interior to fit into this location.

24 MR. GORDON: That's fine. That is true.  
25 There were no tenants other than Whole Foods and I

1 think Starbucks.

2 CHAIRPERSON MIETZ: Yup.

3 MR. GORDON: So one other question. You're  
4 asking for three signs. What if the Zoning Board of  
5 Appeals was only to give two signs? One that faces  
6 Monroe and one that faces the plaza center. Would  
7 that be something that the company would be interested  
8 in? Or if it can't get all three, just give us the  
9 one?

10 MR. SULLIVAN: No. Two signs would be  
11 adequate.

12 MR. GORDON: That's all I have. Thanks.

13 CHAIRPERSON MIETZ: Okay. Thanks.

14 MS. TOMPKINS-WRIGHT: I just have one other  
15 question. Can you speak to the size of these signs?  
16 We typically when we allow multiple signs on a  
17 property or on a building, in aggregate they are less  
18 than are equal to the amount of the larger sign that  
19 would be allowed on the building.

20 So can you speak whether or not that's true  
21 here or is the aggregate of the square footage of the  
22 sign is more than what would be allowed on one sign on  
23 one face?

24 CHAIRPERSON MIETZ: In other words, do you  
25 know -- that was pretty clear, but do you understand

1 what you were entitled for one sign, how many square  
2 feet, and how does that compare to these three signs  
3 together I think is the question.

4 MR. WRIGHT: I thought that the variance was  
5 for additional signs and not additional square  
6 footage.

7 CHAIRPERSON MIETZ: That is correct, but  
8 what we're saying is, one of the ways we analyze  
9 multiple signs is to say if you have a building and  
10 you're entitled to let's say 80 square feet and you  
11 decide you want multiple signs instead, you don't take  
12 80 plus two more signs. We look at that --

13 MR. WRIGHT: You don't triple 80.  
14 Understood.

15 CHAIRPERSON MIETZ: I just picked that  
16 number.

17 MR. WRIGHT: Understood. Understood. These  
18 signs were just drawn basically as they're done  
19 elsewhere. These signs are pretty much the same as  
20 the ones we did in West Seneca and in Orchard Park.  
21 Aesthetically they fit well in the tower areas.  
22 Anything smaller looks kind of like a postage stamp.

23 CHAIRPERSON MIETZ: Yeah. Okay. Well, no,  
24 I realize you scale them based on what you think is  
25 appropriate. But one of the things we look at as

1       Andrea said is you know, how much more signage really  
2       is there? If we're talking about the number of three  
3       signs versus one, it sounds like a lot more. But if  
4       the square footage is a little different, then we look  
5       at that as a factor to consider. That's why we're  
6       asking. Okay. All right.

7                   Rick, we can talk about it later.

8                   MR. DiSTEFANO: Yeah. We can talk later.

9                   Could you just address the height, the need  
10          for the additional height of the signs above the 20  
11          foot allowance?

12                  MR. WRIGHT: Again, when this building went  
13          to the Planning Board, the sign band was higher than  
14          20 feet.

15                  MR. DiSTEFANO: So basically the  
16          architecture --

17                  MR. WRIGHT: We're dealing with --

18                  MR. DiSTEFANO: The architecture of the  
19          building is forcing you to move that sign up --

20                  MR. WRIGHT: Absolutely.

21                  MR. DiSTEFANO: -- a little higher than what  
22          code allows.

23                  MR. WRIGHT: Absolutely. We're looking for  
24          one and a half feet relief there on the height.

25                  MR. DiSTEFANO: And 3 and a half feet on one

1 of them. One of them was at 23 I believe. And one  
2 was at 22 or 21. One was a little higher for some  
3 reason.

4 MR. WRIGHT: I think that's just the way the  
5 building is constructed also. Yeah. 22 feet on the  
6 front elevation, which would be sign C. And they have  
7 the other one drawn at 19.9 for the top of that.  
8 That's sign B. I'm sorry. They got -- sign A is the  
9 one that would be 22 feet. And sign B is at 19 --  
10 19.8 to the top.

11 MR. DiSTEFANO: So again, basically it's the  
12 architecture of those elevations forcing you to go  
13 that much higher.

14 MR. WRIGHT: Correct. Yeah. There --

15 MR. DiSTEFANO: There's no ability to kind  
16 of move it down to keep it on the --

17 MR. WRIGHT: Not with the --

18 MR. DiSTEFANO: -- location that you're  
19 proposing?

20 MR. WRIGHT: No. Not with the edifice  
21 breaks and bump outs and such. It just -- you can't  
22 just lower it that 2 feet. You'd be into the windows.

23 MR. SULLIVAN: Window storefronts are  
24 underneath the sign because there's extra windows in  
25 front of the entrance.

1                   CHAIRPERSON MIETZ: Okay. Any more  
2 questions for these gentlemen at this point? Okay.  
3 Thank you very much.

4                   Is there anyone in the audience that would  
5 like to speak regarding this application? Okay.  
6 There being none, the public hearing's closed.

7 **Application 10A-02-22**

8                   Application of Daniel Hackett, landscape  
9 architect, and Tyler Wolk, owner of properties located  
10 at 3161 and 3165 East Avenue (to be combined) for 1)  
11 an Area Variance from Section 207-11A to allow an  
12 in-ground swimming pool to be located in a side yard  
13 in lieu of the rear yard as required by code; and 2)  
14 an Area Variance from Section 203-2.1B(2) to allow a  
15 pool cabana to be located in a side yard in lieu of  
16 the rear yard as required by code. All as described  
17 on application and plans on file.

18                   MR. PREMO: Mr. Chairman, I just --  
19 something came up concerning the prior application.  
20 Just wanted to ask Mr. Gordon. We did receive some  
21 correspondence in that application. Did we have to  
22 include that as part of the record?

23                   MR. GORDON: It is automatically included as  
24 part of the record.

25                   MR. PREMO: Okay. Thank you.

1                   CHAIRPERSON MIETZ: No problem. Okay, sir.  
2 You're up.

3                   MR. HACKETT: Dan Hackett, Landscape  
4 architect, representing Mr. Wolk.

5                   CHAIRPERSON MIETZ: Just an address.

6                   MR. HACKETT: It's 31 -- it's a dual address  
7 so --

8                   CHAIRPERSON MIETZ: No. Your address.

9                   MR. HACKETT: Oh, my address?

10                  CHAIRPERSON MIETZ: Your business address.

11                  MR. HACKETT: 5565 Lakewood Trail,  
12 Canandaigua, New York.

13                  CHAIRPERSON MIETZ: Thank you. Go ahead.

14                  MR. HACKETT: The property currently -- and  
15 there were two plans submitted. There was a separate  
16 lot and there's this lot. The plan is to physically  
17 join the two lots into one parcel. That was shown on  
18 sheet 2 and was highlighted so the Board could clearly  
19 see that.

20                  The existing site is a bit complicated.  
21 Allens Creek obviously runs through the site. And  
22 the -- this home was purchased fairly recently. It  
23 turned over. The new owners wanted to put a pool in.

24                  With the pool, seems really easy because you  
25 go, it's easy. Put it over here. It's kind of my

1       backyard. Well, this backyard is in the floodplain.  
2       Well, not -- his backyard is so close -- when we got  
3       the determination on where the property is -- and I  
4       want to step back.

5           This is really the backyard area. And  
6       there's no room to put a pool in. We would have to  
7       ask for a variance to get a setback to put a pool in.  
8       So we'd be asking for that setback to put something in  
9       the backyard. It'd be jammed up to the house. It'd  
10      be very close to the roof line. Typically you want to  
11      keep the pool 10 feet from any roofs so kids can't get  
12      on roofs and jump into them. Virtually there's no  
13      backyard.

14           The other three sides of the property are in  
15      the floodplain or in the right-of-way where the street  
16      comes through. On the site the lot next door, which  
17      he does own and they want to join, has a level area.  
18      And what we did is design the pool to fit in that  
19      level. A typical pool size is usually a 20 by 40.  
20      This is scaled down, 16 feet wide. And what we're  
21      trying to do is accommodate the flat raised area of  
22      the site to put the pool in.

23           As far as with the cabana, the cabana also,  
24      both things would be considered in the side yard.  
25      That would meet all the codes as far as height

1 requirements and square footage requirements.

2 So we're not asking for anything in excess  
3 of what is reacquired by zone. The variances are  
4 really for those two elements to be in the side yard.

5 The setbacks are significant from the  
6 property lines. So the 46 feet in, we're 184 feet  
7 from the front yard setback or 106 from the rear yard  
8 setback. And again, it's really to utilize that  
9 envelope of space that is -- right now, there's no  
10 plants in there. It's lawn. There's naturally  
11 landscaped steps that go up to where this pickleball  
12 court is.

13 And I don't know if the Board had a chance  
14 to go out and look at the site. When you walk around,  
15 it's really purposeful planning of looking at what  
16 does the site offer and how could we fit a pool in.  
17 Unfortunately we have to ask for relief to that.

18 Rather than driving it home too far, I think  
19 that explains everything. I'd be more than happy to  
20 go through the test questions if you want me to go  
21 through those or what I wrote for the test questions.  
22 If you read those and are comfortable, just open it up  
23 to answer your questions if that's fine with the  
24 Board.

25 CHAIRPERSON MIETZ: I think so. Just a

1 couple things. Would you address what landscaping  
2 improvements would be done if the pool is placed in  
3 this location? We have a plan, but could you just  
4 walk through it please?

5 MR. HACKETT: Yes.

6 CHAIRPERSON MIETZ: Not plant by plant,  
7 but --

8 MR. HACKETT: Yes. The landscape  
9 improvements, I believe that was sheet 3. They've  
10 hired a landscaper that they've worked with, are  
11 Waterford Tilling I believe it is. He did a  
12 conceptual plan.

13 But what they're going to do is -- this  
14 is -- all of this is existing trees. This is all  
15 existing vegetation. They're going to pull the beds  
16 in. They're narrowing the patios. The patios  
17 themselves, the way they're showing it, I think he was  
18 calling for 30-inch-by-30-inch limestone. And that's  
19 grass in between it. So it's designed to be a  
20 significantly low impact area, looking more like an  
21 English garden I think than a pool. And then with the  
22 length of the pool, it's meant to look like a  
23 reflection pond within the garden.

24 The plant materials he'll be using are going  
25 to be the rhododendrons, the boxwood, and other native

1 flora. And it's to fill out those beds. And again,  
2 if you were at the site, you could see it's pretty  
3 well encapsulated with plant materials already. It's  
4 really enhancing what's there.

5 CHAIRPERSON MIETZ: Okay. Board members,  
6 questions? Any questions?

7 MS. TOMPKINS-WRIGHT: Any feedback from any  
8 neighbors?

9 MR. HACKETT: I did not have any feedback  
10 from anyone. I guess someone sent something in of a  
11 concern, which I'm not sure what that is. No one has  
12 mentioned anything to me. Or maybe it wasn't a  
13 concern. Maybe somebody said they thought it was  
14 great. I'm not sure.

15 CHAIRPERSON MIETZ: Rick, is there anything  
16 that needs to be addressed or no?

17 MR. DiSTEFANO: No. Basically that they  
18 will have to combine the two lots prior to building  
19 permits would be issued.

20 CHAIRPERSON MIETZ: Yes.

21 MS. TOMPKINS-WRIGHT: He just had mentioned  
22 that he thought a neighbor had given some feedback.

23 MR. HACKETT: No. I misunderstood. The  
24 attorney had said that he had something that somebody  
25 had something about -- he said, Oh, yeah. I have

1 that -- when you asked -- I'm just being honest.

2 MS. TOMPKINS-WRIGHT: Okay.

3 MR. HACKETT: Nobody said anything bad.

4 CHAIRPERSON MIETZ: Not that we're aware of.

5 Okay. Matt, any questions? Kathleen?

6 MS. SCHMITT: No.

7 CHAIRPERSON MIETZ: Good? Okay. Thank you  
8 very much.

9 MR. HACKETT: Appreciate your time. Have a  
10 nice evening.

11 CHAIRPERSON MIETZ: Anyone in the audience  
12 that would like to speak regarding this application?  
13 There being none, then the public hearing is closed.

14 **Application 10A-03-22**

15 Application of Unified Maintenance and  
16 Construction, Inc., contractor, and 2861 BHTL Rd, LLC,  
17 owner of property located at 2861 West Henrietta Road,  
18 for an Area Variance from Section 207-2A to allow a  
19 front yard fence to be 6 feet in height in lieu of the  
20 maximum 3.5 feet allowed by code. All as described on  
21 application and plans on file.

22 MR. BOWLEY: Okay. My name is James Bowley.  
23 I'm the owner of Unified Maintenance Construction,  
24 which is at 9193 Route 5 and 20 out in West  
25 Bloomfield, New York. The real nitty-gritty of this

1 is it's a Starbucks. Used to be Jiffy Lube.  
2 Starbucks created it, I guess it was three to four  
3 years -- but we allowed Starbucks facilities to be  
4 constructed in Rochester, Buffalo and Syracuse.

5 But -- so they requested -- so I don't have  
6 the pictures, but to Starbucks, this building is on  
7 Townline Road. And the backside of it is on West  
8 Henrietta Road; right?

9 So there's the drive-through that -- people  
10 were in the drive-through getting out and going in  
11 this back door, back-of-house door. So Starbucks  
12 decided to put a fence back there to create some sort  
13 of barrier for people -- people were just walking in  
14 the back. People were going in the back-house door.  
15 So had to put a fence there.

16 Didn't -- they want it 6 feet high, not  
17 realizing the three and a half feet code. So the New  
18 York State fence company didn't do due diligence and  
19 installed it. And now that's where we're at.

20 But to Starbucks, that's the back-of-house.  
21 And it's kind of a real issue that people could get  
22 back there. But to West Henrietta Road, it's the  
23 front of the building. You know what I mean? So I  
24 guess that's where they found themselves at.

25 CHAIRPERSON MIETZ: Ed?

1                   MR. PREMO: Yeah. So I walked the site and  
2 saw the condition you're talking about. I mean, you  
3 know, obviously it's not something we're happy that  
4 the fence is already up.

5                   MR. BOWLEY: Sure. They hired someone who  
6 they thought they would know what they were doing, New  
7 York State Fence Company.

8                   MR. PREMO: Yeah. So I guess one question  
9 that I look at, the fence -- well, let me first say  
10 the Starbucks building itself is the building -- the  
11 frontage of it, the stone, the wood and everything is  
12 very nice.

13                  And then you have this exposed side towards  
14 West Henrietta Road and a vinyl fence that's, frankly,  
15 not nearly as attractive.

16                  And I was wondering is there any  
17 consideration that's been given to using materials  
18 that would better machine the facade of the building?  
19 Such as either the wood or -- I guess I'd call it  
20 sandstone.

21                  MR. BOWLEY: Sure, sure. There could be  
22 painted into that. This is what they requested.  
23 Honestly it was -- the khaki was their spec. So  
24 their -- it was totally Starbucks' choice. So I don't  
25 see why we couldn't go wood and paint it the same.

1                   MR. PREMO: I mean, the issue, like you  
2 said, it's Townline Road, but they're also on --

3                   MR. BOWLEY: Totally.

4                   MR. PREMO: -- Henrietta Road. That  
5 commercial road is important for -- to the Town. It's  
6 important things along our commercial way look proper.  
7 It struck me that if you were to agree to putting a  
8 matching wood to the wood that's in the facade, that  
9 would be something that would be perhaps better for  
10 the Board to approve.

11                  MR. BOWLEY: Sure. Could be arranged. I  
12 don't -- I'm trying to think what material is actually  
13 on the building.

14                  CHAIRPERSON MIETZ: There's some wood on the  
15 front.

16                  MR. BOWLEY: Yeah. Right, right. That's  
17 been like three or four years ago.

18                  CHAIRPERSON MIETZ: Why did you or New York  
19 Fence or Starbucks determine they needed a 6 foot high  
20 fence?

21                  MR. BOWLEY: I think it was Starbucks'  
22 request to be honest.

23                  CHAIRPERSON MIETZ: Was there a reason?

24                  MR. BOWLEY: I don't think so. Yeah. I  
25 mean, I don't know where they -- I think people are

1 that tall. So we're trying to hide people back there;  
2 right? So I think that's probably where they came up  
3 with that. Yeah. But it wasn't anything I --

4 MR. DiSTEFANO: Is there anything stored  
5 behind that fence?

6 MR. BOWLEY: No. They had totes. But now  
7 they have a dumpster corral and all that. So it's  
8 really more people going out there and hanging out.

9 MR. DiSTEFANO: So before -- so were the  
10 totes moved after the fence went up or were the totes  
11 there and the fence went up?

12 MR. BOWLEY: The totes were there. The  
13 fence went up. Now they're not using totes anymore.  
14 They have a dumpster corral. Someone just hit it the  
15 other day, but -

16 MR. DiSTEFANO: So the only thing that fence  
17 really is doing is discouraging people from trying to  
18 use --

19 MR. BOWLEY: Use the back door pretty much.

20 MR. DiSTEFANO: A door that doesn't have any  
21 windows, doesn't --

22 MR. BOWLEY: Yeah. It's a true  
23 back-of-house door that --

24 CHAIRPERSON MIETZ: It's an exit door.

25 MR. BOWLEY: I'm sure people employees are

1 out there too, you know, smoking, who knows.

2 MS. SCHMITT: When I looked at the fence,  
3 and I don't want to make assumptions, but I wonder if  
4 a 6 foot fence wasn't thought to be required to better  
5 shield the fact that there's a door there.

6 MR. BOWLEY: Right.

7 MS. SCHMITT: Am I totally off --

8 MR. BOWLEY: Totally could have been an  
9 issue that it looks weird on this beautiful  
10 back-of-house that there's this ugly man door back  
11 there's. Maybe. Maybe.

12 MS. SCHMITT: Is the thought -- what I  
13 picked up, although it wasn't terribly clear, and tell  
14 me if I'm incorrect, that part of this really was the  
15 safety of the Starbucks employees who are there --

16 MR. BOWLEY: Totally. Because they have  
17 to --

18 MS. SCHMITT: -- to not have a stranger come  
19 in when they're not expecting.

20 MR. BOWLEY: Literally happened, when this  
21 request came last spring, that someone was in the  
22 back-of-house. And it was a big emergency deal to  
23 them that safety -- and that's bad.

24 But also when they go across to the  
25 dumpster, it's a drive -- it's a loop, the

1       drive-through. So to even cut through there, it was  
2       bad that -- I mean, people could cut across, not  
3       employees, but people could park in the back and cut  
4       through the drive-through.

5               The fence really makes that seem like you  
6       should walk around front, walk around the side.

7               MS. SCHMITT: So it is a safety issue?

8               MR. BOWLEY: Yeah. There's a gate on each  
9       side now. So now you can't cut through. That would  
10      have been the fastest way to the front door if you  
11      park on that backside of the building.

12              CHAIRPERSON MIETZ: Okay. Rick, the three  
13      and a half foot fence in this exact location would be  
14      allowed under the Code?

15              MR. DiSTEFANO: Yes.

16              CHAIRPERSON MIETZ: Okay. Questions by the  
17      Board members? I think we got it. Thank you.

18              MR. BOWLEY: Sounds good. Thank you.

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

23              MR. PREMO: You see how nice it is?

24              CHAIRPERSON MIETZ: We'll discuss it later.

25              Application 10A-04-22

1 Application of Melissa Fogle, owner of  
2 property located at 87 St. Regis Drive, for an Area  
3 Variance from Section 207-2A to allow a front yard  
4 fence to be 5 feet in height in lieu of the maximum  
5 3.5 feet allowed by code. All as described on  
6 application and plans on file.

7 CHAIRPERSON MIETZ: Hello.

8 MS. FOGLE: Hi I'm Melissa Fogle. I live at  
9 87 St. Regis North. This is my husband, Rick.

10 MR. Fogle: Rick Fogle, 87 St. Regis Drive  
11 North.

12 CHAIRPERSON MIETZ: Okay. Please proceed.

13 MR. FOGLE: So we're seeking a variance  
14 for --

15 CHAIRPERSON MIETZ: Could you go to the --

16 MR. FOGLE: Sure.

17 CHAIRPERSON MIETZ: It's hard for the  
18 reporter to hear.

19 MR. FOGLE: That's okay. We're seeking a  
20 variance for a 5 foot fence in our side yard. It's  
21 technically considered a front yard on the down side  
22 of our property.

23 The reason for doing this, we don't have a  
24 backyard. We have no like privacy area. We have a  
25 very irregularly shaped lot as you can see on the

1 exhibit. It's a triangle. We're located on the  
2 corner piece. So we don't have a backyard at all.

3 We've been there six years. We're trying to  
4 figure out a way to create an outdoor space that we  
5 can enjoy and not be on display for the neighborhood  
6 if you will. And we came up with enclosing that side  
7 yard that's on Tarrytown with a 5 foot fence and  
8 creating a space over there.

9 CHAIRPERSON MIETZ: Okay.

10 MS. TOMPKINS-WRIGHT: This was in your  
11 application, but there are multiple properties in your  
12 neighborhood that are also sort of corner lots, areas  
13 that have privacy fences either 5 feet or above.

14 MS. FOGLE: We talked to one of the property  
15 owners. She said she's grandfathered into it and  
16 that's why -- because they just got a new fence.

17 MS. TOMPKINS-WRIGHT: Okay.

18 CHAIRPERSON MIETZ: For the record, can you  
19 describe the fence?

20 MR. FOGLE: There's pictures --

21 CHAIRPERSON MIETZ: We saw it. But just for  
22 the record.

23 MR. FOGLE: Absolutely. So the wood  
24 fencing, wood to wood. So it's a complete privacy  
25 fence with trim on the top. Top trim piece is on the

1 6 by 6 lumber that's there.

2 We plan on staining. Not sure what color.

3 But, you know, we would keep it...

4 CHAIRPERSON MIETZ: Any landscaping  
5 improvements?

6 MS. FOGLE: I don't know if you guys walked  
7 by it currently, but currently the landscape in  
8 between the two property lines is really rough. So,  
9 yes, absolutely. It's going to be a huge improvement,  
10 especially along the back half of the yard between the  
11 two houses.

12 CHAIRPERSON MIETZ: I guess my question is  
13 though are you going to add to any landscaping or  
14 change any landscaping?

15 MS. FOGLE: We can. Absolutely.

16 MR. FOGLE: It's 4 foot allowance between  
17 the sidewalk and fence itself. Of course, we'll put  
18 something out there decorative to look nice, whether  
19 it be, you know, small shrubbery or some kind of  
20 annual flowers.

21 But we haven't gotten that far because we  
22 don't know where we're going to land on it.

23 CHAIRPERSON MIETZ: Obviously, you know, the  
24 fence is a change to the neighborhood. And, you know,  
25 it appears -- whether it's 3 feet or 5 feet, it's

1 still substantial. So anyway that it could be  
2 mitigated is a good idea.

3 MR. FOGLE: Yeah, of course.

4 CHAIRPERSON MIETZ: We're not landscape  
5 designers. We don't want to design your landscape.  
6 But it's certainly something to consider. Okay.

7 What -- anybody? Questions by the Board?  
8 Any more questions you have?

9 MS. SCHMITT: Somebody asked my question.

10 CHAIRPERSON MIETZ: I did?

11 MS. SCHMITT: Yes.

12 MR. FOGLE: Also we have a letter of support  
13 from the owner next door at 24 Tarrytown.

14 CHAIRPERSON MIETZ: Okay.

15 MS. FOGLE: He's the only house that shares  
16 that property line.

17 MR. DiSTEFANO: Just for the record, we  
18 received a letter from Jason Aymerich, owner of  
19 property at 24 Tarrytown Road in support of the  
20 application -- for the variance they requested.

21 CHAIRPERSON MIETZ: Okay. Other questions  
22 for these applicants? No? Anybody? Okay. Thanks.

23 MR. FOGLE: Thank you.

24 CHAIRPERSON MIETZ: Is there anyone in the  
25 audience that would like to speak regarding this

1 application? Okay. There being none, then the public  
2 hearing is closed.

3 **Application 10A-05-22**

4 Application of Anne Esposito and Robert  
5 Ganey, Jr., owners of property located at 9 Laconia  
6 Parkway, for an Area Variance from Sections  
7 203-2.1B(2) and 203-9A(4) to allow a shed to be  
8 located in a front yard (Elmore Road frontage) in lieu  
9 of the rear yard as required by code. All as  
10 described on application and plans on file.

11 CHAIRPERSON MIETZ: Hi.

12 MS. ESPOSITO: Hi there. My name is Anne  
13 Esposito. I live at 9 Laconia Parkway. And I'm  
14 applying for a variance to install a 10 by 12 shed in  
15 what we have until very recently considered our  
16 backyard. And we have discovered that, in fact, that  
17 area is to be -- or is considered to be a secondary  
18 front yard.

19 We live on a corner lot. The front door's  
20 on Laconia Parkway. And then the rest of the property  
21 goes along Elmore Road.

22 So we have a very small backyard that is  
23 occupied totally by a maple tree, a mature maple tree,  
24 and also a fully done patio.

25 So the shed is a 10 by -- 10 by 12 cedar

1       shed. The sides are 6 feet high. The roof would be  
2       cedar shingles. And the shed would be partially  
3       masked by a mature dogwood tree that is on that side  
4       facing Elmore Road, but also hemlocks and yew bushes.

5           I did go around all my surrounding neighbors  
6       and got signatures from the 12 neighbors. I think you  
7       should have that in your packet.

8           You should have also a very nicely crafted  
9       drawing of the shed done by Robert Ganey, Jr. that  
10       shows you where the shed -- we expect to install the  
11       shed.

12           CHAIRPERSON MIETZ: Okay. Can you tell us  
13       the purpose of the shed?

14           MS. ESPOSITO: Sure. It's not a she-shed.  
15       It will be intended to put our canoes and kayaks. We  
16       have several bikes. Perhaps a snow blower, things  
17       like that. So it's really a storage shed.

18           CHAIRPERSON MIETZ: And did you look at any  
19       other alternatives other than the shed in that  
20       location? Is there anything else that could be done  
21       on your lot that would work?

22           MS. ESPOSITO: Well, I suppose an  
23       alternative could be a second garage. I don't  
24       think -- I mean, a shed will provide -- it's going to  
25       protect those items which are currently stored in our

1 garage. A two-car garage is quite small. The bikes  
2 hang from the ceiling. The canoes hang from the  
3 ceiling.

4 There really is no other alternative. I  
5 don't want to have things outside. The bikes could be  
6 stolen. I mean, there really is no other alternative  
7 unfortunately.

8 It's a beautiful piece of property, but it  
9 is very limiting with respect to what -- what we can  
10 store, what we can put there. It's much -- most of  
11 the property is actually the front yard that's around  
12 Laconia Parkway and Elmore Road.

13 CHAIRPERSON MIETZ: Okay. Anything,  
14 Heather?

15 MS. MCKAY-DRURY: I see the plantings that  
16 are there. Will those remain?

17 MS. ESPOSITO: The -- if you look at the  
18 driveway on the right side up near the garage, those  
19 are two hemlock trees. They're very tall.  
20 Unfortunately they have wooly adelgid, which is a  
21 disease that we've treated for multiple years ago.  
22 We're going to have to remove those with the intent to  
23 replace those with some other greens.

24 Where the shed is located, that is in --  
25 that would be in the footprint of currently existing

1 yew bushes that are 8 feet tall plus. The intent  
2 would be to remove some of those bushes, put the shed  
3 there and then add additional plantings if we deem  
4 necessary.

5 The other thing I want to mention is that  
6 the shed, of course, is not a permanent structure. If  
7 we were to sell the home to another -- another owner,  
8 those people would have the opportunity to remove that  
9 shed if they didn't like it. So it's not a permanent  
10 structure.

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

12 CHAIRPERSON MIETZ: Questions, anybody else?  
13 No? Okay. Thanks a lot.

14 MS. ESPOSITO: Thank you.

15 CHAIRPERSON MIETZ: All right. Is there  
16 anyone in the audience that would like to speak  
17 regarding this application? Okay. There being none,  
18 the public hearing is closed.

19 **Application 10A-06-22**

20 Application of Mark and Mary Oldham, owners  
21 of property located at 25 Clover Hills Drive, for an  
22 Area Variance from Section 203-2.1B(2) to allow a  
23 standby emergency generator to be located in a side  
24 yard in lieu of the rear yard behind the house as  
25 required by code. All as described on application and

1 plans on file.

2 MS. OLDHAM: Hi. Good evening. I'm Mary  
3 Oldham. This is my husband, Mark Oldham. We live on  
4 25 Clover Hills Drive.

5 CHAIRPERSON MIETZ: Right. Thank you.

6 MR. OLDHAM: We're requesting to put in a  
7 standby backup generator from some electrical issues  
8 that we've had in the past. And especially with  
9 winter, we just wanted to have that -- you know, it's  
10 Rochester.

11 And so based on how the house is designed  
12 with the yard and there's a back patio, just putting a  
13 generator in what is our backyard would require an  
14 additional 80-plus feet of gas line to actually supply  
15 the -- based on where the gas meter is on the side of  
16 the house.

17 It would also require us to demolish part of  
18 the ceiling in our basement because there is --  
19 there's a finished area that we have to actually  
20 remove that down. And so we were hoping to put it on  
21 the side yard, which to us is kind of more of a  
22 backyard anyway.

23 We have also spoken to our neighbors. I  
24 don't have anything from them, but they did not  
25 express any issues with us when we brought it to their

1       attention. Because we know that the -- even though  
2       it's within the guidelines for how far it needs to be  
3       away from the -- the property line, it's still -- we  
4       recognize that it's still kind of close to their land.  
5       So we talked to them about that. They had no issues  
6       with us placing the generator in that location between  
7       our two homes.

8                    MR. OLDHAM: And the other part that  
9       we'll -- just to highlight here, it was our  
10      understanding, and perhaps we have this incorrect, but  
11      it's our understanding that, you know, you would want  
12      to place a standby generator in the backyard to keep  
13      it kind of out of view.

14                  Because of our house located on the corner  
15      of Clover Hills Drive and Clover, essentially by  
16      putting it in our backyard, it's in full view, kind of  
17      right out in front of everybody, foot traffic, all car  
18      traffic. We have a picture here. It's not the  
19      prettiest of pictures. I apologize. But it's in  
20      color.

21                  So essentially it's in the line of sight for  
22      everybody coming into our neighborhood and exiting our  
23      neighborhood, perfectly out in the open. Whereas, if  
24      we have it on the side of the house, it's actually  
25      about 130 feet away from Clover. And it's actually

1 kind of disguised by current foliage.

2                   And we've also contacted the Arbor Day  
3 Foundation and we'll be getting additional foliage to  
4 provide additional kind of -- I don't know. Obscuring  
5 foliage.

6                   MS. OLDHAM: Yeah. We had to take some  
7 trees down that were there that we're replacing those.

8                   CHAIRPERSON MIETZ: Okay. Okay. Board  
9 members, questions?

10                  MS. TOMPKINS-WRIGHT: Just to confirm, this  
11 is kind of a question for Rick, but we require  
12 generators be placed at the rear yard. But this has  
13 two -- this has two fronts. There's no rear yard on  
14 this property.

15                  MR. DiSTEFANO: There is a rear yard. Yes.  
16 The rear yard would be -- basically, you see it in red  
17 where they're showing on it where that little red  
18 box -- that is actually in the rear yard. So it's  
19 basically -- the rear yard is a box drawn like this.  
20 So anywhere in that area is the rear yard.

21                  MR. OLDHAM: So to the point, yes, by  
22 definition, the back of our -- it's behind the house  
23 as it was originally built. But there's an addition  
24 on the back, which actually juts out from the back.

25                  However the side of our yard

1 "definitionally" is against the only entrance in and  
2 out of Clover Hills neighborhood. So it is the rear,  
3 but it is practically a frontage yard to everybody  
4 coming in and out of our neighborhood.

5 CHAIRPERSON MIETZ: Okay.

6 MS. TOMPKINS-WRIGHT: And do you have a  
7 distance from where your proposed location is to --  
8 not to the property line, but to the neighboring home?

9 MS. OLDHAM: The neighboring home?

10 CHAIRPERSON MIETZ: Approximately.

11 MS. OLDHAM: I don't have that information.

12 MR. OLDHAM: I would say about -- this is a  
13 ballpark -- I would say about 30 feet.

14 MS. TOMPKINS-WRIGHT: Okay.

15 MR. DiSTEFANO: More than that. Probably  
16 more than that.

17 MS. TOMPKINS-WRIGHT: I think it's probably  
18 closer to 25 feet just from the property line.

19 MR. OLDHAM: That's fair.

20 MR. DiSTEFANO: Yeah. The house is 30 feet  
21 from the property line. Then you got the distance --

22 MR. OLDHAM: Okay. More --

23 MR. DiSTEFANO: Yeah. You probably got  
24 about 60 to 70 feet.

25 MS. OLDHAM: I think there's 24 feet to the

1 property line and then another 6 feet to their  
2 driveway.

3 MS. TOMPKINS-WRIGHT: Considerable distance.

4 CHAIRPERSON MIETZ: Yeah. Okay. Any other  
5 questions by the Board members please?

6 MS. TOMPKINS-WRIGHT: Are you planning any  
7 additional landscaping or keeping the landscaping  
8 currently as it is?

9 MS. OLDHAM: I have something to order from  
10 the Arbor Day Foundation, which are native species  
11 of -- from New York that are coming in November that I  
12 plan to plant in there to -- one, to make it look  
13 nicer. As well as to add additional screening for our  
14 neighbors and from Clover Street.

15 MS. TOMPKINS-WRIGHT: Okay. Perfect. I'm  
16 good.

17 CHAIRPERSON MIETZ: Okay. Very good. Other  
18 questions by the Board? Okay. Thank you.

19 MS. OLDHAM: Thank you.

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

24 **Application 10A-08-22**

25 Application of Larry and Stacy Turowski,

1       owners of property located at 141 St. Regis Drive  
2       South, for 1) an Area Variance from Sections  
3       203-2.1B(3) and 203-9A(4) to allow for construction of  
4       a detached garage 3.03 feet from the rear lot line and  
5       4.7 feet from the side lot line where a minimum 5 feet  
6       setback from all lot lines is required by code; and 2)  
7       an Area Variance from Section 207-6A(1) to allow said  
8       garage to be 19.5 feet in height in lieu of the  
9       maximum 16 feet allowed by code. All as described on  
10      Application and plans on file.

11                   CHAIRPERSON MIETZ: Okay.

12                   MS. TUROWSKI: Hi. My name is Stacy  
13        Turowski. I live at 141 St. Regis Drive.

14                   MR. DiSTEFANO: Can you just bring the mic  
15        closer?

16                   MS. TUROWSKI: 141 St. Regis Drive South.

17                   CHAIRPERSON MIETZ: Okay. That's good.

18                   MS. TUROWSKI: So we would like to replace  
19        our existing garage, which does not meet the setback  
20        rules. And we would like to -- if we're going to go  
21        ahead and put the time and expense of going in the  
22        direction that we're headed, we want to add additional  
23        square footage.

24                   So that's the basic idea. I guess it's all  
25        spelled out in the application, but if there's

1 anything I could address or elaborate on...

2 CHAIRPERSON MIETZ: Is the -- could you talk  
3 about what the reason to do this is please?

4 MS. TUROWSKI: So the existing garage is  
5 small, slightly tilted and pretty dilapidated looking.  
6 I mean, technically it's functional. But it's very,  
7 very difficult for us to get all of our stuff in.

8 So we would like to have a place to store  
9 our cars as well as bikes and so on. And the existing  
10 garage doesn't allow that. So, you know, making a  
11 structure that's more sound would be a worthwhile  
12 goal. And a larger one for our stuff would be a  
13 nice -- a nice additional benefit.

14 CHAIRPERSON MIETZ: Okay.

15 MS. TOMPKINS-WRIGHT: And the replacement  
16 garage is intended to be exactly the same size and  
17 location as the current --

18 MS. TUROWSKI: So two of the walls, the ones  
19 that do not meet the existing setback, would be  
20 required to go back into the same spot. But we want  
21 additional space if we were going to expand towards  
22 our own house as well.

23 But we're limited on how far we can because  
24 three years ago, we added a kitchen. And so we have  
25 to still have some space between our detached garage.

1                   So that's why we also want to actually add a  
2 second floor. So -- but, yeah. We wanted to place  
3 two of the walls that are on the property line of our  
4 back neighbor and side neighbor and go closer to our  
5 house as well as up.

6                   MS. TOMPKINS-WRIGHT: And is the reason --  
7 since you can't go close -- too close to the house  
8 because of the kitchen, is that the reason you can't  
9 just move the entire garage to be 5 feet rather than 3  
10 feet and 4 feet?

11                  MS. TUROWSKI: The entire garage, if we  
12 moved it towards our house, we would then be back down  
13 to a very small garage and there's no point in doing  
14 it.

15                  And also we have a driveway that goes into  
16 our existing location. And if we moved it, then, you  
17 know, we'd have to get a completely different driveway  
18 as well. I mean, we probably will redo the driveway,  
19 but the plan would be to put it in the same location.

20                  MR. DiSTEFANO: So the garage doors would  
21 basically line up with the existing driveway as they  
22 do now, but the addition is actually where the man  
23 door going towards the house. So no driveway  
24 expansion would be required with this addition?

25                  MS. TUROWSKI: Right. We wouldn't do it --

1 right. We wouldn't do it wider. Well, we can't.

2 So the existing garage -- right. Yes. The  
3 existing garage doors would line up as they are now.  
4 And then the extra square footage would be basically  
5 like a door going into an area -- you know, a side  
6 area for the garage.

7 MR. DiSTEFANO: Right. Okay.

8 CHAIRPERSON MIETZ: Okay. And you, on the  
9 elevations here, what's it going to look like? What  
10 materials are going to be on it? What were you  
11 planning to do?

12 MS. TUROWSKI: So we haven't gotten final  
13 drawings from an architect because it depended on  
14 this. But we intend to make it look -- match our  
15 house. So we would put white siding on it and then  
16 the same shingles, asphalt shingles, roof tiles too.  
17 Basically just look like that.

18 CHAIRPERSON MIETZ: Okay. So it'd be fair  
19 to say you're trying to match the existing home to  
20 yours?

21 MS. TUROWSKI: Yes.

22 CHAIRPERSON MIETZ: It wouldn't be A  
23 different color or --

24 MS. TUROWSKI: Oh, no. Same. Yeah.

25 CHAIRPERSON MIETZ: Okay. Very good.

1                   MS. MCKAY-DRURY: And the three and a half  
2 feet height increase, can you explain why you need  
3 that?

4                   MS. TUROWSKI: So we met with some people,  
5 like went around and looked at other two-story  
6 garages. And our understanding is that if we don't go  
7 up to about 19 and a half feet, the space wouldn't --  
8 it would just be sort of a crawl space. And we were  
9 thinking -- just for comfort purposes, we wanted to go  
10 ahead and have a full second floor as opposed to just  
11 a crawl space.

12                  MS. MCKAY-DRURY: And what is the purpose of  
13 the second floor space?

14                  MS. TUROWSKI: The storage space. It  
15 wouldn't be heated.

16                  MS. SCHMITT: No heating and no water?

17                  MS. TUROWSKI: No water. Would we have to  
18 have electricity, yeah.

19                  CHAIRPERSON MIETZ: That's fine.

20                  MS. SCHMITT: Thank you.

21                  CHAIRPERSON MIETZ: Very good. Other  
22 questions, Board?

23                  MR. D'AUGUSTINE: Can you speak, again, to  
24 the design of this garage as opposed to the current  
25 garage?

1                   MS. TUROWSKI: So the current garage I think  
2 it's called a flat roof. So it's really ugly. I  
3 think I put a picture in there. I mean, it has just  
4 this flat roof.

5                   And the intention is to have a  
6 traditional -- I think it's a A-frame roof, which is  
7 what we have on our colonial.

8                   MR. D'AUGUSTINE: I noticed a large tree  
9 right by the garage and -- were branches removed or --

10                  MS. TUROWSKI: There's a chance that we  
11 would need to remove some branches from that. Yeah.  
12 I'm -- I'm not a hundred percent sure, but there's a  
13 chance we would.

14                  And that's actually on our neighbor's  
15 property. So we would work with them.

16                  MR. D'AUGUSTINE: Okay. Have you discussed  
17 that with the neighbor already or --

18                  MS. TUROWSKI: No, actually. I mean, I  
19 discussed this project with them, but not the tree  
20 itself.

21                  MR. D'AUGUSTINE: Okay.

22                  MS. TUROWSKI: I don't think that the tree  
23 would have to come down.

24                  MR. D'AUGUSTINE: No, no.

25                  MS. TUROWSKI: I think maybe just a branch,

1 which, of course, would be our expense.

2 CHAIRPERSON MIETZ: Okay. Other questions?

3 Okay. Good. Thanks very much.

4 MS. TUROWSKI: Thank you.

5 CHAIRPERSON MIETZ: Anybody in the audience  
6 that would like to speak regarding this application?

7 Okay. There being none, the public hearing is closed.

8 **Application 10A-09-22**

9 Application of American Tower Corporation,  
10 owner of property located at 1 Pinnacle Hill Road, for  
11 1) a Variance from section 203-2.1B(6) to allow for  
12 the installation of a diesel powered standby emergency  
13 generator where only an LP gas or natural gas powered  
14 generator is allowed by code; and 2) Area Variances  
15 from Section 207-2 to allow a 7.5 foot high fence  
16 which includes one foot of barbed wire, where a  
17 maximum 6.5 foot high fence and no barbed wire is  
18 allowed by code. All as described on application and  
19 plans on file.

20 CHAIRPERSON MIETZ: Good evening.

21 MR. AUERBACH: Good evening, Mr. Chairman,  
22 members of the Board. Corey Auerbach from Barclay  
23 Damon, 200 Delaware Avenue, Buffalo.

24 As indicated by Mr. DiStefano, we're  
25 requesting two variances. Pursuant to Section 6409 of

1 the -- excuse me -- Middle Class Tax Relief Act, this  
2 is an eligible facility request that will not  
3 substantially change the physical dimensions of the  
4 bay station. That's the technical side of the  
5 application.

6 The practical side is we're seeking to  
7 extend a fence 10 foot in one direction and 22 feet in  
8 the other direction to place a diesel generator on a  
9 concrete pad inside the existing compound for  
10 emergency backup for T-mobile, one of the co-located  
11 tenants on the American Tower.

12 I provided some documentation reflecting  
13 eligibility under section 6409 analyzing various  
14 criteria. And alternatives, we provided an analysis  
15 under what's commonly known as the Rosenberg standard  
16 for a variant for a public utility.

17 In the event that the Board felt that it was  
18 necessary to analyze this pursuant to Section 267(b)  
19 in the Town Law, we certainly think the benefits to  
20 the applicant here outweigh any negatives to health,  
21 safety and general welfare.

22 This is a tower farm up on Pinnacle Hill.  
23 It's all cell towers, basically excluded from anything  
24 else. And we believe that the proposal will not be a  
25 detriment to the health, safety and general welfare.

1                   Happy to answer any questions that you have.

2                   MS. MCKAY-DRURY: Can you clarify with  
3 respect to the existing fence, it's already 7.5 feet.  
4 And is there barbed wire currently?

5                   MR. AUERBACH: Yes, there is. We're just  
6 seeking to match exactly what's there.

7                   MS. MCKAY-DRURY: Okay.

8                   MR. DiSTEFANO: And just so you know, they  
9 did receive a variance back in -- I think --

10                  MR. AUERBACH: 2001.

11                  MR. DiSTEFANO: 2001. So, yeah, late '90s,  
12 early 2000s.

13                  MS. MCKAY-DRURY: And can you speak to the  
14 desire for a diesel generator rather than a propane or  
15 natural gas.

16                  MR. AUERBACH: Yeah. This is a T-Mobile  
17 standard generator. They just believe diesel is --  
18 lasts longer, easier to maintain, more reliable. It's  
19 what they use across the country.

20                  And while we appreciate that natural gas and  
21 propane is what's permitted under the Code, we believe  
22 that this, for resiliency, is the best product for  
23 T-Mobile.

24                  MS. MCKAY: And is there a generator  
25 currently?

1                   MR. AUERBACH: So I'd like to think of cell  
2 showers like a landlord. There are several tenants on  
3 the tower, each of them being a telecommunication  
4 carrier. Each carrier has their own backup generator.  
5 T-Mobile does not have a backup generator.

6                   So they're seeking, again, for resiliency,  
7 to add in a generator specific to T-Mobile  
8 infrastructure.

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

10                  MR. AUERBACH: That was a long way to say,  
11 yes, there are other generators.

12                  MR. PREMO: With respect to the diesel can  
13 you describe any requirements concerning containing or  
14 needing fire proofing?

15                  MR. AUERBACH: Yeah. So it's just a  
16 standard emergency backup generator, the same as you  
17 would see in a -- like a residential context. The  
18 generator will be fueled by diesel.

19                  To the extent it needs to be refilled, there  
20 are -- about once a month a technician will visit the  
21 site just to check on the mechanicals.

22                  MR. PREMO: Was there anything about like if  
23 there was any leak in the diesel tank, containment of  
24 the fuel or --

25                  MR. AUERBACH: Nothing specific. You know,

1 again, they are monitored, both physically and  
2 electronically. So they are -- as part of this  
3 application in addition to installing a generator,  
4 they will be installing some monitoring equipment so  
5 that even those times where there's not somebody at  
6 the site, they can -- they can use monitoring  
7 communication equipment to ensure the safety of all  
8 their facilities.

9 So there's nothing special or specific as  
10 far as containment is concerned, other than sort of  
11 standard diesel generator.

12 MR. PREMO: Do we know how large the tank  
13 is?

14 MR. AUERBACH: I do not have that  
15 information in the specifications. I certainly can  
16 get that information.

17 I should have noted at the outset that the  
18 variance that we're requesting does not authorize the  
19 applicant to make these improvements. We do still  
20 have to go before the Planning Board for a site plan  
21 modification.

22 And if that's a concern, it's certainly  
23 something we can provide to the Planning Board.

24 MR. PREMO: Will there be review of that --  
25 you know, I'm just concerned now about the diesel

1 tank. Will there be review by the Fire Marshal or  
2 building department?

3 MR. DiSTEFANO: Well, most of these diesel  
4 tanks -- you know, we have a few that we've approved  
5 before. There are a number around town.

6 My understanding is, and correct me if I'm  
7 wrong, diesel is considered a non-interruptive fuel  
8 source. A lot of times these facilities, hospitals,  
9 like that, require a non-interrupted fuel source, even  
10 though it has to be filled up. But -- and most of  
11 these self-contained units do have protection.

12 MS. TOMPKINS-WRIGHT: Secondary containment.

13 MR. DiSTEFANO: Yeah. Some type of  
14 secondary --

15 MS. TOMPKINS-WRIGHT: Yeah. It's required  
16 under --

17 (Simultaneous conversation interrupted by  
18 the court reporter.)

19 MR. DiSTEFANO: Yeah. A double-walled tank  
20 or something like that.

21 MS. TOMPKINS-WRIGHT: They're all above  
22 ground. So leakage there's -- it's easily identified.

23 MR. PREMO: Okay.

24 MR. DiSTEFANO: Correct. And this will go  
25 to the Planning Board. As Corey mentioned, it does

1 require site plan modification because it's the  
2 expansion of the approved equipment compound.

3 They also need an EPOD permit because it's  
4 pretty close to that -- to the steep slope up on  
5 Pinnacle Hill. So they'll need to address those  
6 requirements with the Planning Board when they see  
7 them in a couple weeks.

8 CHAIRPERSON MIETZ: Okay. Good. Okay.  
9 Questions? More questions? Anybody?

10 MR. GORDON: I'm just curious, because I'm  
11 not familiar with the diesel generators, what's the  
12 noise level compared to a standby natural gas  
13 generator?

14 MR. AUERBACH: I don't think it's  
15 significantly different. And as part of the building  
16 permit process, I think the Town's Code actually  
17 requires -- provides some documentation regarding  
18 noise. So we'll make sure that we're within whatever  
19 those requirements are if we advance to the building  
20 permit.

21 MR. GORDON: How about the fumes?

22 MR. AUERBACH: Yeah. Between diesel versus  
23 liquid propane or natural gas, I don't think there's  
24 an appreciable difference. Again, being a backup  
25 generator, other than intermittent testing, in the

1       unlikely event that it has to run in an emergency  
2       situation, I don't think the delta is significant  
3       between the fuel source.

4                    MR. GORDON: Do you know who the other  
5       tenants are?

6                    MR. AUERBACH: I do not. I don't have that  
7       information.

8                    MR. GORDON: They other cell tower -- cell  
9       service companies?

10                  MR. AUERBACH: There are.

11                  MR. GORDON: And they have generators?

12                  MR. AUERBACH: They do.

13                  MR. GORDON: Any of them diesel?

14                  MR. AUERBACH: I don't know anything about  
15       the other carriers. I bet the Town does.

16                  MR. DiSTEFANO: I don't know off the top of  
17       my head.

18                  CHAIRPERSON MIETZ: It would have had to  
19       have been an approved variance if they were diesel.

20                  MR. DiSTEFANO: Maybe not. Because it may  
21       have been approved when the original tower came in and  
22       the original equipment compound was put in, again,  
23       late '90s, early 2000, when they -- I mean, this tower  
24       was torn down and rebuilt. So at that point in time  
25       they -- it was quite a bit of reworking of the site,

1 which did go through all the approvals at that time.

2 CHAIRPERSON MIETZ: Okay.

3 MR. DiSTEFANO: So you're not familiar with  
4 like if it's going to be a level 2 enclosure or  
5 level 1 enclosure? I mean, I'm sure the generator  
6 itself will be enclosed with some form of sound  
7 enclosure. You're just not sure what --

8 MR. AUERBACH: Yeah. This hasn't received  
9 construction drawings yet other than the site plan.  
10 Certainly we'll have to have that level of detail when  
11 we apply for the building permit. And I can get that  
12 information for the Planning Board.

13 MR. DiSTEFANO: Yeah. I think that's  
14 probably a good idea to have it for the Planning  
15 Board, even though this a -- in a residential  
16 district. So it really is -- you know, they're  
17 allowed in a residential district.

18 MR. GORDON: If I understand your  
19 presentation correctly, the request for a diesel  
20 generator as opposed to an LP or natural gas generator  
21 is because that is what the preference is, not that a  
22 LP or natural gas generator wouldn't suit the purpose  
23 of providing backup emergency?

24 MR. AUERBACH: Yeah. T-Mobile thinks it's a  
25 superior product from a reliability perspective.

1                   So they're -- their compound includes these  
2 generators, whether it's efficiency of the fuel  
3 source, replacement, the need to replace them less  
4 frequently than other types of generators or just the  
5 general efficiency. To add the ability to link in  
6 their network, they believe that the diesel generator  
7 is the superior product.

8                   MR. DiSTEFANO: Do you know if there's  
9 natural gas available up there?

10                  MR. AUERBACH: I don't believe there is.

11                  MR. DiSTEFANO: I don't think so either.

12                  CHAIRPERSON MIETZ: Okay. Any other  
13 questions for this gentleman? Board? Okay. Thank  
14 you.

15                  MR. AUERBACH: Thank you.

16                  CHAIRPERSON MIETZ: Okay. Is there anyone  
17 in the audience that would like to speak regarding  
18 this application? Okay. There being none, we'll move  
19 on.

20 **Application 10A-10-22**

21                  Application of David Wadarek, architect, and  
22 Thomas and Marianne Walsh, owners of property located  
23 at 1 Westland Avenue, for an Area Variance from  
24 Sections 203-2.1B(3) and 203-9A(4) to allow a garage  
25 addition to be 3.07 feet from a rear lot line in lieu

1 of the minimum 5 feet required by code. All as  
2 described on application and plans on file.

3 MR. WADAREK: Hello. My name is David  
4 Wadarek. I'm the architect for the project.

5 CHAIRPERSON MIETZ: David, just an address  
6 please.

7 MR. WADAREK: I'm sorry?

8 CHAIRPERSON MIETZ: An address.

9 MR. WADAREK: My address 1049 Gravel Road in  
10 Webster.

11 CHAIRPERSON MIETZ: Thanks.

12 MR. WADAREK: The project is a single bay  
13 garage edition to a single bay garage. And the  
14 existing building is a quaint carriage-house type  
15 structure. And our intent is to keep the detailing  
16 and quaintness of the -- and character of the existing  
17 garage.

18 The rear setback is a 5 foot required  
19 setback. And the existing garage is 4.4 feet from the  
20 rear. And our request is that we are granted a  
21 variance so we can maintain the rear wall plane and  
22 the rear east plane of the -- of the existing.

23 CHAIRPERSON MIETZ: Okay. Can you, David,  
24 talk about the neighborhood and the structures like  
25 this? Are there any like this in the neighborhood?

1                   MR. WADAREK: Well, I think there's a lot of  
2 this -- like the detached garage in the area. And the  
3 owners -- the house proper is using the same  
4 materials. There's unique detailing to the garage  
5 that matches the house and there are rain catchers of  
6 the garage that we're going to maintain. There's some  
7 trellises on the garage that add to the quaintness of  
8 it and the vines and so forth that are there.

9                   So the owners are very in tune to the  
10 neighborhood and how they would like their -- this  
11 addition to be done.

12                  CHAIRPERSON MIETZ: Okay. Board members,  
13 any other questions? Nothing? Okay. Great. Thanks.

14                  MR. WADAREK: Thanks.

15                  CHAIRPERSON MIETZ: Is there anyone in the  
16 audience that would like to speak regarding this  
17 application? Hearing none, then the public hearing is  
18 closed.

19 **Application 10A-11-22**

20                  Application of Andrew Gallina, applicant,  
21 and the Country Club of Rochester, owner, of property  
22 located at 2935 East Avenue, for a Temporary and  
23 Revocable Use Permit pursuant to Section 219-4 to  
24 allow for a fireworks display on the evening of  
25 October 22, 2022 in a RLA Residential District. All

1 as described on application and plans on file.

2 MR. GALLINA: Good evening, Board. My name  
3 is Andrew Gallina at 5 East Boulevard, Rochester, New  
4 York 14610.

5 As Rick mentioned -- oh. Also with me this  
6 evening is Tyler Pickens, general manager of the  
7 Country Club of Rochester in support of the fireworks  
8 show.

9 As the application states, this is a  
10 fireworks display in celebration of my son's wedding  
11 at the Country Club of Rochester. The display will be  
12 about 20 minutes. And we're planning about 8:45 in  
13 the evening -- that evening.

14 CHAIRPERSON MIETZ: Can you let us know  
15 approximately how many people would be in attendance  
16 adjacent to this fireworks display?

17 MR. GALLINA: The tent will be attached  
18 right to the north side, the rear of the club. It's  
19 about 300 people.

20 MS. TOMPKINS-WRIGHT: 25 minutes is the  
21 length of the fireworks show. Does that seem long?  
22 Is that typical for firework shows that they've  
23 done --

24 MR. GALLINA: I was conservative. It's  
25 closer to 20 minutes. 20 minutes when I talked to --

1        Tyler knows the details with Jim Young from Young  
2        Fireworks. So that's what --

3                MS. TOMPKINS-WRIGHT: And is that typical  
4        for firework shows that are done at the country club?

5                MR. PICKENS: Yes. It's a little less than  
6        what are typical.

7                CHAIRPERSON MIETZ: You got to come up.

8                MR. PICKENS: Good evening. Tyler Pickens,  
9        general manager, 2935 East Avenue.

10               CHAIRPERSON MIETZ: Thank you.

11               MR. PICKENS: Yes. That's actually typical.  
12        That's actually a little shorter than what we  
13        typically do for our standard fireworks that we do.

14               MS. TOMPKINS-WRIGHT: And then -- well, what  
15        notice is normally done to nearby neighbors? And what  
16        notice will be done for this event as well?

17               MR. PICKENS: Sure. We will be consistent,  
18        do our standard notice. As my understanding is that  
19        we don't -- we're not actually required to do that  
20        notice. But we do do that notice for our fireworks.  
21        And in this particular case we'll be consistent and we  
22        will require a notice to go out.

23               MR. PREMO: Would you agree to that being a  
24        condition?

25               MR. PICKENS: Will I be -- oh, absolutely.

1 I'll be agreeable.

2 MR. PREMO: I take it the only attendees  
3 would be the people at the wedding?

4 MR. PICKENS: Yes, that is correct.

5 MS. TOMPKINS-WRIGHT: Do you mind -- what is  
6 the notice policy? Like a certain number of yards  
7 from the country club? For which neighbors do you  
8 notify?

9 MR. PICKENS: It's just our immediate  
10 adjacent neighbors around the Country Club of  
11 Rochester.

12 MS. TOMPKINS-WRIGHT: Okay.

13 CHAIRPERSON MIETZ: Can you speak to the  
14 country club's experience with the fireworks display?

15 MR. PICKENS: Can I speak to that?

16 CHAIRPERSON MIETZ: Yes.

17 MR. PICKENS: Yes. We have a long --  
18 obviously long history I think coming before this  
19 Board with getting approvals for two shows, one around  
20 the -- around the Fourth of July as well as New Year's  
21 Eve.

22 And this certainly is separate from that.  
23 And as the owner representative, we gave approval to  
24 Mr. Gallina to come forward to this Board as the  
25 applicant in this process.

1                   CHAIRPERSON MIETZ: But it's fair to say  
2 that the country club itself has experience over a  
3 number of years managing shows like this? We'll call  
4 it a show.

5                   MR. PICKENS: Yes, indeed. Yes. And  
6 managing the show. In fact, one of the requirements,  
7 which we had already been aware of, is to use our  
8 company that's been used for a number of years that's  
9 very familiar with our property.

10                  CHAIRPERSON MIETZ: Okay. Great.  
11 Questions?

12                  MS. MCKAY-DRURY: Has this happened,  
13 initiated by private individuals before?

14                  MR. PICKENS: It's rare, but it has happened  
15 in the past, yes. It's a very rare occasion. But,  
16 yes. In fact, I think, and forgive me I just started  
17 as GM five months ago, but I think it happened maybe  
18 pre-COVID a few years ago. We came forward -- I  
19 believe we came forward. -- or I believe the applicant  
20 came in front of this Board for a permit.

21                  MR. DiSTEFANO: Yeah. Actually this Board  
22 has granted a couple of these additional fireworks  
23 displays.

24                  The Fire Marshal usually permits them to  
25 have their two events a year, which does not need this

1 Board's approval. Anything in addition to those two  
2 events, they need to get the approval from us. And we  
3 have granted them in the past.

4 MR. PREMO: Okay.

5 CHAIRPERSON MIETZ: Okay. Good. Questions?  
6 You good? Good. Everybody? Okay. Thanks,  
7 gentlemen.

8 MR. GALLINA: Thank you very much for your  
9 consideration. Good evening.

10 CHAIRPERSON MIETZ: Thank you. Okay. Is  
11 there anyone in the audience that would like to speak  
12 regarding this application? Okay. There being none,  
13 the public hearing is closed.

14 MR. DiSTEFANO: Let's take a minute or two.

15 CHAIRPERSON MIETZ: Do you want to talk  
16 about this?

17 MR. DiSTEFANO: Oh, you want to talk about  
18 this?

19 CHAIRPERSON MIETZ: There's no new business.  
20 So we do have old business. We have 5A-01 and 5A-02.  
21 Is there anyone in the audience to speak regarding  
22 these applications?

23 MR. GORDON: These are regarding 2720 West  
24 Henrietta Road.

25 CHAIRPERSON MIETZ: Yes. Okay. Then since

1 it looks like not, we will deal with that when we go  
2 through everything else. So we need a five minute --

3 MR. DiSTEFANO: Yeah. I just need to go get  
4 the sheet that I --

5 (End of the public hearings.)

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## REPORTER CERTIFICATE

2  
3  
4 I DO HEREBY CERTIFY as a Notary Public in and  
5 for the State of New York, that I did attend and  
6 report the foregoing proceeding, which was taken down  
7 by me in a verbatim manner by means of machine  
8 shorthand.

9                   Further, that the proceeding was then  
10                  reduced to writing in my presence and under my  
11                  direction. That the proceeding was taken to be used  
12                  in the foregoing entitled action. That the said  
13                  deponent, before examination, was duly sworn by me to  
14                  testify to the truth, the whole truth, and nothing but  
15                  the truth, relative to said action.

Holly E Castleman

HOLLY E. CASTLEMAN,  
Notary Public.

**BRIGHTON  
ZONING BOARD OF APPEALS  
MEETING  
DELIBERATIONS**

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

11 | PRESENT:

12 DENNIS MIETZ  
Chairperson

17 KEN GORDON, ESQ.  
Town Attorney

18 RICK DISTEFANO  
Secretary

ABSENT: JUDY SCHWARTZ

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

1                   Application 10A-01-22

2                   Application of Sign and Lighting Services,  
3                   contractor, and Daniele SPC, LLC, owner of property  
4                   located at 2750 Monroe Avenue, Building 5, for Sign  
5                   Variances from Section 207-32B to 1) allow for  
6                   business identification signs on three (3) building.  
7                   Sides in lieu of only one as allowed by code, and 2)  
8                   allow for the signs to range in height from 21.5 feet  
9                   to 23.5 feet above grade where a maximum of 20 feet is  
10                  allowed by code. All as described on application and  
11                  plans on file.

12                  Motion made by Ms. Tompkins-Wright to reopen  
13                  the public hearing and table application 10A-01-22 so  
14                  that the applicant can consider reducing the sign  
15                  package to something more reasonable given the size of  
16                  the building and its location and evaluate the size  
17                  and height of the purposed signs based on the size and  
18                  height of the permitted signage at the property.

19                  (Second by Mr. Premo.)

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

23                  (Upon roll motion to table carries.)

24

25

1                   **Application 10A-02-22**

2                   Application of Daniel Hackett, landscape  
3                   architect, and Tyler Wolk, owner of properties located  
4                   at 3161 and 3165 East Avenue (to be combined) for 1)  
5                   an Area Variance from Section 207-11A to allow an  
6                   in-ground swimming pool to be located in a side yard  
7                   in lieu of the rear yard as required by code; and 2)  
8                   an Area Variance from Section 203-2.1B(2) to allow a  
9                   pool cabana to be located in a side yard in lieu of  
10                  the rear yard as required by code. All as described  
11                  on application and plans on file.

12                  Motion made by Mr. Mietz to approve  
13                  application 10A-02-22 based on the following findings  
14                  of fact.

15                  **Findings of Fact:**

- 16                  1. The proposed variances are in the only location  
17                  where the pool and canopy can be located on the  
18                  proposed combined lot.
- 19                  2. The irregular shape of the lot and the existing  
20                  home as well as Allens Creek do not allow for any  
21                  alternative location.
- 22                  3. An extensive landscaping plan will mitigate the  
23                  impact the pool will have on the existing landscape in  
24                  the side yard.

25                  **Conditions:**

- 1       1. Based on testimony given and plans submitted as to
- 2       the specific location of the pool.
- 3       2. All necessary building permits.
- 4       3. The successful combining of the two lots.

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1 MR. DiSTEFANO: Can I suggest wording for  
2 that?

3 MR. GORDON: Yeah. I have wording written  
4 down.

5 MR. DiSTEFANO: Prior to the issuance of any  
6 building permits, the two lots shall be combined and  
7 filed with Monroe County.

8 CHAIRPERSON MIETZ: Okay. Let's go right  
9 ahead with that then. You okay with that? So that  
10 would be number 2 then? You're doing that with the  
11 permits?

12 MR. DiSTEFANO: No. All necessary building  
13 permits shall be obtained. That's number 2. Number 3  
14 is prior to the issuance of the building permits,  
15 combined and filed with Monroe County.

16 CHAIRPERSON MIETZ: Okay. So that's  
17 number 3.

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1 | Conditions As Amended:

1. Based on testimony given and plans submitted as to
- 2 the specific location of the pool.
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4. All necessary building permits shall be obtained.
5. Prior to the issuance of any building permits, the
- 6 two lots shall be combined and filed with Monroe
- 7 County.

8 (Second by Ms McKay-Drury.)

9 CHAIRPERSON MIETZ: Any discussion with  
10 this?

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

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

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1                   **Application 10A-03-22**

2                   Application of Unified Maintenance and  
3 Construction, Inc., contractor, and 2861 BHTL Rd, LLC,  
4 owner of property located at 2861 West Henrietta Road,  
5 for an Area Variance from Section 207-2A to allow a  
6 front yard fence to be 6 feet in height in lieu of the  
7 maximum 3.5 feet allowed by code. All as described on  
8 application and plans on file.

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

12                   **Findings of Fact:**

- 13                   1. The application for an area variance is associated  
14 with the commercial use, a Starbucks, and pursuant to  
15 SEQRA is an unlisted action.
- 16                   2. The applicant has submitted a short environmental  
17 assessment form, which the ZBA has reviewed.
- 18                   3. The form and application do not review any impacts  
19 which would be large or significant to the  
20 environment.
- 21                   4. The project as proposed is unlikely to have any  
22 large or significant adverse environmental impacts.
- 23                   5. The ZBA therefore approves the negative  
24 declaration of environmental significance as prepared  
25 by the Town staff and authorizes the same to be filed.

1       6. The requirements of SEQRA, part 617, have been  
2       met.

3       7. The requested area variance is for a commercial  
4       use on the corner lot. The building has been  
5       previously used as a Jiffy Lube. It is now being used  
6       as a Starbucks. The drive-through line creates a need  
7       for a barrier to separate the drive-through lane and  
8       pedestrian traffic from the back door and employee  
9       areas of the store.

10      8. Given the site's configuration and use, there's no  
11       other practical alternative to address the  
12       difficulties. A fence shorter than 6 foot would not  
13       safely address the need.

14      9. The fence will not create any unacceptable change  
15       in the area and no detrimental change to nearby  
16       properties.

17      10. The hardship was not self-created by the  
18       applicant.

19      11. The requested variance is not substantial in the  
20       circumstances.

21      12. The health, safety and welfare of the community  
22       will not be adversely affected by the approval of the  
23       variance.

24      **Conditions:**

25      1. The variance is based on the application

1 submitted, testimony given and only authorizes the  
2 project described therein.

3 2. All necessary building permits shall be obtained.

4 (Second by Ms. Tompkins-Wright.)

5 CHAIRPERSON MIETZ: Any further discussion  
6 on this application?

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

8 Ms. McKay-Drury, yes; Mr. Mietz, yes;

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

10 (Upon roll motion to approve with conditions  
11 carries.)

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1                   **Application 10A-04-22**

2                   Application of Melissa Fogle, owner of  
3                   property located at 87 St. Regis Drive, for an Area  
4                   Variance from Section 207-2A to allow a front yard  
5                   fence to be 5 feet in height in lieu of the maximum  
6                   3.5 feet allowed by code. All as described on  
7                   application and plans on file.

8                   Motion made by Ms. Schmitt to approve  
9                   application 10A-04-22 based on the following findings  
10                   of fact.

11                   **Findings of Fact:**

12                   1. The property in question is a corner lot with the  
13                   front of the home facing St. Regis Drive and the side  
14                   of the home facing Tarrytown Road. With it being a  
15                   corner lot, there is limited usable backyard space.  
16                   The homeowners view the yard facing Tarrytown Road as  
17                   their side/backyard. To create additional privacy and  
18                   security the homeowners wish to install a 5 foot tall  
19                   wooden privacy fence on the Tarrytown side of the  
20                   property in lieu of the maximum 3 and a half feet  
21                   allowed by code.

22                   2. Other corner lot properties in this neighborhood  
23                   have similarly sized and style fences.

24                   3. A fence that would be in line with the code's  
25                   maximum height of 3.5-feet in height would not address

1 the applicant's concerns for increased privacy and  
2 security.

3 4. The granting of this variance would not result in  
4 any substantial detriment to nearby properties or  
5 otherwise adversely affect the character of the  
6 neighborhood. As noted in paragraph 2, other  
7 neighbors on corner lots have similarly sized fences.  
8 And the adjoining neighbor sent in a letter of support  
9 for the project.

10 5. Due to additional landscaping this fence will  
11 improve the aesthetic view for surrounding homes.

12 6. There's no evidence that there will be negative  
13 impacts to the health, safety and welfare of the  
14 neighborhood.

15 **Conditions:**

16 1. The variance applies only to the fence as  
17 described in the application and testimony provided  
18 and will not apply to the overall fence and height for  
19 future projects.

20 2. All necessary building permits shall be obtained.

21 (Second by Mr. D'Augustine.)

22 CHAIRPERSON MIETZ: Any discussion?

23 MR. DiSTEFANO: Yeah. Kathleen, you  
24 mentioned in your last finding of fact regarding  
25 landscaping, do you want a condition that they put

1       landscaping in? Because there's really no landscaping  
2       now. So you either got to tell them they need to put  
3       it or you really can't put that finding in there.  
4       Because if you -- they don't put it, it can't be a  
5       finding.

6               MS. SCHMITT: Yeah. I guess I'm just trying  
7       to think. I don't want to tell them what to do,  
8       but --

9               CHAIRPERSON MIETZ: We can't.

10              MS. SCHMITT: Yeah. I can put the  
11       applicant --

12              MR. DiSTEFANO: Maybe we should maybe work  
13       on the finding a little bit differently. And then --  
14       sometimes -- I don't want to get in a situation where,  
15       you know, we tell them that they have to put  
16       landscaping in there and then if they -- right between  
17       the sidewalk and it's -- or it's going -- you know,  
18       it's just not going to work. Until you get that fence  
19       in, you don't know if that landscaping that close to  
20       the sidewalk stuff is going to work.

21              MS. SCHMITT: I could have misunderstood  
22       them because I thought they were saying they were  
23       cleaning up and placing additional landscaping.

24              MR. DiSTEFANO: Yeah. I think they were  
25       talking about that lot line that was like scrub

1                   between the neighbors, between the two neighbors.

2                   I don't know how much they were bringing out  
3                   towards the road. And I think if you're going to --  
4                   you want to soften the look of the fence, you want to  
5                   put landscaping in front of that fence between the  
6                   road and the fence itself.

7                   MS. SCHMITT: Yeah. I think they were  
8                   saying it's going to improve the aesthetic, meaning  
9                   it's not going to look terrible. That's how I took  
10                   it, that it looks bad now and the fence and some  
11                   additional landscaping are going to improve the  
12                   aesthetic view, not that they were shielding the  
13                   fence.

14                   But I could have misunderstood. And I'm  
15                   happy to take advice from anybody here.

16                   CHAIRPERSON MIETZ: Well, generally, again,  
17                   we don't -- if we say something about landscaping  
18                   because there's no plan set at the time to mitigate  
19                   the view of the fence along Tarrytown, you know,  
20                   things like that or general. We can't really go any  
21                   further than that.

22                   And, you know, as Rick points out, you know,  
23                   it's pretty close to the sidewalk there. So I'm not  
24                   sure how much they can do.

25                   MS. TOMPKINS-WRIGHT: They -- the applicant

1 said that the fence would be 4 feet of grass. And  
2 that they indicated that they would be willing to do  
3 some planting. So I mean, if the group -- or the  
4 Board doesn't care about plantings, then maybe we  
5 shouldn't.

6 But they indicated a willingness to plant  
7 things in that 4 feet between --

8 CHAIRPERSON MIETZ: Let's be general about  
9 it.

10 MS. SCHMITT: Is there language that's been  
11 successful in the past that kind of incorporates what  
12 you're thinking and what they said?

13 MR. DiSTEFANO: I would probably take out  
14 the finding.

15 MS. SCHMITT: Okay. I'm happy -- I can  
16 take -- then I move to remove my -- I'm removing  
17 paragraph 5 and keeping paragraph six. So now  
18 paragraph 6 is number 5. Does that make sense?

19 CHAIRPERSON MIETZ: And you don't want a  
20 condition about landscaping.

21 MS. SCHMITT: I don't need to.

22 MR. GORDON: My concern is on that Tarrytown  
23 side, that fence is going awfully close. And even if  
24 they're not planting in the right-of-way, they're  
25 probably working within the right-of-way. And that

1 requires a highway permit.

2 MS. SCHMITT: Oh, yeah.

3 CHAIRPERSON MIETZ: Matt, are you okay with  
4 the modification?

5 MR. D'AUGUSTINE: Yes.

6 MR. GORDON: And I might have missed it, but  
7 I did not hear a finding that the variance was not  
8 substantial. I just didn't hear that.

9 CHAIRPERSON MIETZ: Did you address that?

10 MS. SCHMITT: I don't know if I did. I  
11 don't think I used that exact --

12 CHAIRPERSON MIETZ: Do you think it's  
13 important?

14 MR. GORDON: Add a finding that the variance  
15 request is not substantial.

16 MS. SCHMITT: Yes. So number 6, the  
17 variance request is not substantial. And that would  
18 now be paragraph six.

19 CHAIRPERSON MIETZ: You okay with that Matt?

20 MR. D'AUGUSTINE: Yes.

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1        **Findings of Fact as Amended:**

2        1. The property in question is a corner lot with the  
3        front of the home facing St. Regis Drive and the side  
4        of the home facing Tarrytown Road. With it being a  
5        corner lot, there is limited usable backyard space.  
6        The homeowners view the yard facing Tarrytown Road as  
7        their side/backyard. To create additional privacy and  
8        security the homeowners wish to install a 5 foot tall  
9        wooden privacy fence on the Tarrytown side of the  
10      property in lieu of the maximum 3 and a half feet  
11      allowed by code.

12      2. Other corner lot properties in this neighborhood  
13      have similarly sized and style fences.

14      3. A fence that would be in line with the code's  
15      maximum height of 3.5-feet in height would not address  
16      the applicant's concerns for increased privacy and  
17      security.

18      4. The granting of this variance would not result in  
19      any substantial detriment to nearby properties or  
20      otherwise adversely affect the character of the  
21      neighborhood. As noted in paragraph 2, other  
22      neighbors on corner lots have similarly sized fences.  
23      And the adjoining neighbor sent in a letter of support  
24      for the project.

25      5. There's no evidence that there will be a negative

1 impact to the health, safety and welfare of the  
2 neighborhood.

3 6. The variance request is not substantial.

4 **Conditions:**

5 1. The variance applies only to the fence as  
6 described in the application and testimony provided  
7 and will not apply to the overall fence and height for  
8 future projects.

9 2. All necessary building permits shall be obtained.

10 (Second by Mr. D'Augustine.)

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

12 Mr. Mietz, yes; Ms. McKay-Drury, yes;

13 Mr. D'Augustine, yes; Ms. Schmitt, yes.)

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

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1                   **Application 10A-05-22**

2                   Application of Anne Esposito and Robert  
3                   Ganey, Jr., owners of property located at 9 Laconia  
4                   Parkway, for an Area Variance from Sections  
5                   203-2.1B(2) and 203-9A(4) to allow a shed to be  
6                   located in a front yard (Elmore Road frontage) in lieu  
7                   of the rear yard as required by code. All as  
8                   described on application and plans on file.

9                   Motion made by Ms. McKay-Drury to approve  
10                  application 10A-05-22 based on the following findings  
11                  of fact.

12                  **Findings of Fact:**

13                  1. The difficulties necessitating the variance cannot  
14                  be solved in another manner. The homeowners require  
15                  storage and they have no other location on their  
16                  property to place a shed as this house is located on a  
17                  corner with much of the property being the front yard.

18                  2. The proposed variance will not result in a  
19                  substantial change in the character of the  
20                  neighborhood. The shed will not be plainly visible  
21                  from the road or detract from the neighbor's property  
22                  as there is large vegetation located there that will  
23                  shield the shed from view.

24                  3. This requested variance is the minimum necessary  
25                  for relief from the difficulty caused by the shape of

1 the parcel, the lack of rear yard area and the needs  
2 of the homeowner.

3 4. This variance will not have an adverse effect on  
4 the health, safety of the neighborhood.

5 **Conditions:**

6 1. This variance only applies to the placement of the  
7 shed as presented in the written application and  
8 testimony presented.

9 2. All necessary building permits must be obtained.

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1 CHAIRPERSON MIETZ: Heather, in number 1  
2 could you also say about the depiction that we  
3 received? Because that's important, what it looks  
4 like.

5 MS. MCKAY-DRURY: Okay. But wouldn't that  
6 be related to finding two though?

7 CHAIRPERSON MIETZ: Okay. Wherever you see  
8 fit.

9 MS. MCKAY-DRURY: With respect to finding  
10 two I would also just note that the drawing materials  
11 that are submitted in the application demonstrate the  
12 shed be aesthetically pleasing.

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1        **Findings of Fact as Amended:**

2        1. The difficulties necessitating the variance cannot  
3        be solved in another manner. The homeowners require  
4        storage and they have no other location on their  
5        property to place a shed as this house is located on a  
6        corner with much of the property being the front yard.  
7        2. The proposed variance will not result in a  
8        substantial change in the character of the  
9        neighborhood. The shed will not be plainly visible  
10       from the road or detract from the neighbor's property  
11       as there is large vegetation located there that will  
12       shield the shed from view. The drawing materials that  
13       are submitted in the application demonstrate the shed  
14       be aesthetically pleasing.  
15       3. This requested variance is the minimum necessary  
16       for relief from the difficulty caused by the shape of  
17       the parcel, the lack of rear yard area and the needs  
18       of the homeowner.  
19       4. This variance will not have an adverse effect on  
20       the health, safety of the neighborhood.

21        **Conditions:**

22        1. This variance only applies to the placement of the  
23        shed as presented in the written application and  
24        testimony presented.  
25        2. All necessary building permits must be obtained.

1 (Second by Ms. Tompkins-Wright.)

2 CHAIRPERSON MIETZ: Any further discussion?

3 MR. DiSTEFANO: Can I get back to condition  
4 number 1, Ken? Do you have a problem if we say  
5 something like the shed shall be of size, style and  
6 location as shown on plans submitted and testimony  
7 given?

8 CHAIRPERSON MIETZ: That's a condition,  
9 Rick?

10 MR. DiSTEFANO: That's a condition. It's in  
11 the style that you're talking about, the style that  
12 you referred to. And I want to get the size in there  
13 too because we don't want a 250 square foot shed.

14 CHAIRPERSON MIETZ: Are you okay to revise  
15 that?

16 MS. MCKAY-DRURY: Yeah. That revision to  
17 condition one.

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Findings of Fact as Amended:

2       1. The difficulties necessitating the variance cannot  
3       be solved in another manner. The homeowners require  
4       storage and they have no other location on their  
5       property to place a shed as this house is located on a  
6       corner with much of the property being the front yard.

7       2. The proposed variance will not result in a  
8       substantial change in the character of the  
9       neighborhood. The shed will not be plainly visible  
10      from the road or detract from the neighbor's property  
11      as there is large vegetation located there that will  
12      shield the shed from view. The drawing materials that  
13      are submitted in the application demonstrate the shed  
14      be aesthetically pleasing.

15       3. This requested variance is the minimum necessary  
16      for relief from the difficulty caused by the shape of  
17      the parcel, the lack of rear yard area and the needs  
18      of the homeowner.

19       4. This variance will not have an adverse effect on  
20       the health, safety of the neighborhood.

**Conditions As Amended:**

22 1. The shed shall be of size, style and location as  
23 shown on plans submitted and testimony given  
24 2. All necessary building permits must be obtained.

(Second by Ms. Tompkins-Wright.)

1 CHAIRPERSON MIETZ: Any discussion? Okay.

2 | Here we go.

3 (Ms. Schmitt, yes; Mr. Mietz, yes;

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

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

6 | yes.)

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1                   **Application 10A-06-22**

2                   Application of Mark and Mary Oldham, owners  
3                   of property located at 25 Clover Hills Drive, for an  
4                   Area Variance from Section 203-2.1B(2) to allow a  
5                   standby emergency generator to be located in a side  
6                   yard in lieu of the rear yard behind the house as  
7                   required by code. All as described on application and  
8                   plans on file.

9                   Motion made by Ms. Tompkins-Wright to  
10                  approve application 10A-06-22 based on the following  
11                  findings of fact.

12                  **Findings of Fact:**

13                  1. The granting of the requested variance will not  
14                  produce a detriment to nearby properties due to the  
15                  fact that the generator is proposed to placed  
16                  approximately 130 feet from the public right-of-way, a  
17                  significant distance from the neighboring house, and  
18                  will be hidden from the view of passerby by the  
19                  existing air compressor and other landscaping. Any  
20                  other location of the generator would be more  
21                  detrimental to neighboring property owners due to  
22                  visibility from the right-of-way.

23                  2. The variance is not substantial given the  
24                  aforementioned shielding from the right-of-way.

25                  3. The benefits sought by the applicant cannot

1 reasonably be achieved by any other method that is  
2 more appropriate given the unique configuration of the  
3 site, the two rights-of-way and the home situation  
4 facing Clover Hills Drive.

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

8 **Conditions:**

9 1. The variance granted herein replies only to the  
10 generator described in the location as described on  
11 the application and in the testimony given.

12 2. All necessary building permits shall be obtained.

13 (Second made by Ms. Schmitt.)

14 CHAIRPERSON MIETZ: Any discussion on this?

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

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

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1                   **Application 10A-08-22**

2                   Application of Larry and Stacy Turowski,  
3                   owners of property located at 141 St. Regis Drive  
4                   South, for 1) an Area Variance from Sections  
5                   203-2.1B(3) and 203-9A(4) to allow for construction of  
6                   a detached garage 3.03 feet from the rear lot line and  
7                   4.7 feet from the side lot line where a minimum 5 feet  
8                   setback from all lot lines is required by code; and 2)  
9                   an Area Variance from Section 207-6A(1) to allow said  
10                  garage to be 19.5 feet in height in lieu of the  
11                  maximum 16 feet allowed by code. All as described on.  
12                  Application and plans on file.

13                  Motion made by Mr. D'Augustine to approve  
14                  application 10A-08-22 based on the following findings  
15                  of fact.

16                  **Findings of Fact:**

- 17                  1. The current garage is in a state of disrepair and  
18                  the style does not match the character of the  
19                  neighborhood.
- 20                  2. The garage would be in keeping with the  
21                  neighborhood given that there are other garages of  
22                  similar height and style nearby.
- 23                  3. The variance is not substantial due to the fact  
24                  that the garage as originally constructed is already  
25                  closer than allowed given the setback rules.

1       4. The hardship is not created by the applicant.

## 2 Conditions:

3       1. The garage to be constructed will be constructed  
4       in manner consistent with the testimony given and the  
5       documents submitted to the Zoning Board of Appeals  
6       shall be constructed of materials and of color similar  
7       to the existing house.

8 2. All necessary building permits shall be obtained.

9       3. There shall be no utilities other than electrical  
10      running to the newly constructed garage and the garage  
11      shall not be used for living space.

12 | (Second by Ms. McKay-Drury.)

13 CHAIRPERSON MIETZ: Any other discussion on  
14 this?

15 (Ms. Schmitt, yes; Mr. Premo, yes;  
16 Ms. Tompkins-Wright, yes; Mr. Mietz, yes;  
17 Ms. McKay-Drury, yes; Mr. D'Augustine, yes.)  
18 (Upon roll motion to approve with conditions  
19 carries.)

1                   **Application 10A-09-22**

2                   Application of American Tower Corporation,  
3                   owner of property located at 1 Pinnacle Hill Road, for  
4                   1) a Variance from section 203-2.1B(6) to allow for  
5                   the installation of a diesel powered standby emergency  
6                   generator where only an LP gas or natural gas powered  
7                   generator is allowed by code; and 2) Area Variances  
8                   from Section 207-2 to allow a 7.5 foot high fence  
9                   which includes one foot of barbed wire, where a  
10                  maximum 6.5 foot high fence and no barbed wire is  
11                  allowed by code. All as described on application and  
12                  plans on file.

13                  Motion made by Ms. McKay-Drury that the  
14                  Board having considered the information presented by  
15                  the applicant and having conducted the required review  
16                  pursuant to second degree everybody adopt the neglect  
17                  discussion pipe my town staff and determine the  
18                  proceeded agency will not likely have a significant  
19                  vinyl impact.

20                  I also move that we approve application  
21                  number 10A-09-22 based on the following findings of  
22                  fact.

23                  **Findings of Fact:**

24                  1. The variance will not result in a substantial  
25                  change in character of the neighborhood because of the

1 existing fence on the property. The proposed work is  
2 minor and the work will not involve the antenna on the  
3 tower itself. In addition, generators are permitted  
4 on the space. This is just a diesel one.

5 2. The difficulty necessitating the variance cannot  
6 be solved in another manner.

7 3. The proposed variances are the minimum necessary  
8 to achieve sufficient fencing to maintain public  
9 safety. And inclusion of the diesel generator is  
10 necessary to continue the provision of wireless  
11 telecommunications services

12 4. The proposed variance will not have an adverse  
13 effect on the physical or environmental conditions in  
14 the neighborhood. The height of the fence and barbed  
15 wire are indented to protect the public safety and the  
16 fuel tank will be electronically monitored.

17 **Conditions:**

18 1. It's limited to the application and testimony  
19 provided and will not include any additional work at  
20 the site.

21 2. All other necessary approvals including site plan  
22 modification and EPOD development permit will be  
23 obtained.

24 3. All necessary building permits shall be obtained.

25 (Second by Ms. Tompkins-Wright.)

1                   CHAIRPERSON MIETZ: Any other discussion  
2 about this?

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

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

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1                   **Application 10A-10-22**

2                   Application of David Wadarek, architect, and  
3                   Thomas and Marianne Walsh, owners of property located  
4                   at 1 Westland Avenue, for an Area Variance from  
5                   Sections 203-2.1B(3) and 203-9A(4) to allow a garage  
6                   addition to be 3.07 feet from a rear lot line in lieu  
7                   of the minimum 5 feet required by code. All as  
8                   described on application and plans on file.

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

12                   **Findings of Fact:**

- 13                   1. The variance requested is not substantial since it  
14                   is following the existing garage location on the lot  
15                   and it is at the rear of the lot.
- 16                   2. No other alternative can meet the needs of the  
17                   applicant since the addition must meet the existing  
18                   structure.
- 19                   3. No negative effect on the character of the  
20                   neighborhood will likely result from this variance  
21                   approval since numerous detached structures such as  
22                   this exist within the subject neighborhood.

23                   **Conditions:**

- 24                   1. Based on the drawings submitted and testimony  
25                   given as to the specific location and specific style

1 of the garage addition.

2 2. All necessary building permits shall be obtained.

3 (Second by Ms. Tompkins-Wright.)

4 CHAIRPERSON MIETZ: Any other discussion  
5 about this?

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

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

8 Ms. Tompkins-Wright, yes; Mr. Mietz, yes.)

9 (Upon roll motion to approve with conditions  
10 carries.)

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1                   **Application 10A-11-22**

2                   Application of Andrew Gallina, applicant,  
3                   and the Country Club of Rochester, owner, of property  
4                   located at 2935 East Avenue, for a Temporary and  
5                   Revocable Use Permit pursuant to Section 219-4 to  
6                   allow for a fireworks display on the evening of  
7                   October 22, 2022 in a RLA Residential District. All  
8                   as described on application and plans on file.

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

12                   **Findings of Fact:**

13                   1. The temporary revocable use permit to allow a  
14                   temporary use of land is a Type II action pursuant to  
15                   6 NYCRR § 617.5(c) (21) and no further review is  
16                   required pursuant to the State Environmental Quality  
17                   Review Act.

18                   2. The fireworks display will be one evening as part  
19                   of a wedding celebration on the property of the  
20                   Country Club of Rochester on October 22, 2022. It  
21                   will start at 8 p.m. and last approximately  
22                   25 minutes.

23                   3. No negative impacts to the character of the  
24                   neighborhood is anticipated since the display is a  
25                   short duration and will be limited to the wedding

1 guests at the event at CCR.

2 4. The event will not involve the erection or  
3 enlargement of any permanent structure.

4 **Conditions:**

5 1. All Fire Marshal approvals and/or permits shall be  
6 obtained.

7 2. This display is limited to just the wedding and  
8 not the general public.

9 3. Limited to the event as described in the testimony  
10 and application materials

11 4. CCR and the applicant will make efforts to notify  
12 property owners within a reasonable distance prior to  
13 the event.

14 (Second by Ms. McKay-Drury.)

15 (Ms. Tompkins-Wright, yes; Mr. Mietz, yes;

16 Mr. D'Augustine, yes; Ms. Schmitt, yes;

17 Ms. McKay-Drury, yes; Mr. Premo, yes.)

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

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1                   Application 5A-01-22

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

9                   Application 5A-02-22

10                  Application of Reza Hourmanesh, architect,  
11 and Guiyan Li, owner of property located at 2720 West  
12 Henrietta Road, for an Area Variance from Section  
13 205-7 to allow for impervious surface area to  
14 increase, after site modifications, from 83.2% to  
15 84.9% in lieu of the maximum 65% allowed by code. All  
16 as described on application and plans on file.

17                  Motion made by Mr. Mietz to deny  
18 applications 5A-01-22 and 5A-02-22 without prejudice.

19                  (Second by Mr. D'Augustine.)

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

23                  (Upon roll motion to deny without prejudice  
24 carries.)

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1 REPORTER CERTIFICATE  
2  
34 I DO HEREBY CERTIFY as a Notary Public in and  
5 for the State of New York, that I did attend and  
6 report the foregoing proceeding, which was taken down  
7 by me in a verbatim manner by means of machine  
8 shorthand.9 Further, that the proceeding was then  
10 reduced to writing in my presence and under my  
11 direction. That the proceeding was taken to be used  
12 in the foregoing entitled action. That the said  
13 deponent, before examination, was duly sworn by me to  
14 testify to the truth, the whole truth, and nothing but  
15 the truth, relative to said action.16  
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HOLLY E. CASTLEMAN,  
Notary Public.

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