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B R I G H T O N
Z O N I N G B O A R D
O F
A P P E A L S

APRIL 10th, 2023
at approximately 7:00 **p.m.**
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, Chairperson

MATTHEW D'AUGUSTINE)
EDWARD F. PREMO, II)
KATHLEEN SCHMITT) BOARD MEMBERS
JUDY SCHWARTZ)
ANDREA TOMPKINS WRIGHT)

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Senior Planner

NOT PRESENT
HEATHER McKAY-DRURY

REPORTED BY: Rhoda Collins, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, New York 14020

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

CHAIRPERSON MIETZ: Good evening. I'd like to call to order the April session of the Zoning Board of Appeals.

Rick, call the roll.

MR. DiSTEFANO: Mr. Premo?

MR. PREMO: Here.

MR. DiSTEFANO: Ms. Schwartz?

MS. SCHWARTZ: Here.

MR. DiSTEFANO: Ms. Tompkins Wright?

MS. TOMPKINS WRIGHT: Here.

MR. DiSTEFANO: Mr. D'Augustine?

MR. D'AUGUSTINE: Here.

MR. DiSTEFANO: Mr. Mietz?

CHAIRPERSON MIETZ: Here.

MR. DiSTEFANO: Ms. Schmitt?

MS. SCHMITT: Here.

MR. DiSTEFANO: Ms. McKay-Drury? Please let the record show Ms. McKay-Drury is not present.

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

MR. DiSTEFANO: Yes, Mr. Chairman, it was advertised in the Daily Record of March 30, 2023.

CHAIRPERSON MIETZ: Thank you.

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And before we do the minutes, is there anything you want to address the Board members on?

MR. DiSTEFANO: I did add to your packet, and you did not receive it last night, a communication in regards to 4A-03-23, it is a follow-up of an earlier communication that you received for that application, so please take a look at it.

CHAIRPERSON MIETZ: Okay, that's it?

MR. DiSTEFANO: That's all I have, unless any members have any questions regarding any applications?

CHAIRPERSON MIETZ: Okay. Well then, let's move on to the February minutes.

MS. SCHWARTZ: I will tell you, there was one thing that I didn't mark, lease should be leased, otherwise it's perfect.

CHAIRPERSON MIETZ: No other changes for the minutes?

Okay, a motion please.

MR. PREMO: Motion to approve the minutes.

(Second by Mr. D'Augustine.)

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

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(Upon roll call, motion to approve the February minutes carries.)

CHAIRPERSON MIETZ: All right. Rick, when you are ready.

APPLICATION 3A-06-23

3A-06-23 Application of Larry and Stacy Turowski, owners of property located at 141 St. Regis Drive South, requesting modification of an approved setback variance for a detached garage (10A-08-22) to be reduced from the approved 4.7 ft to 2.7 ft where a 5 ft minimum setback is required by code. All as described on application and plans on file.

LARRY TUROWSKI: I'm Larry Turowski.

STACY TUROWSKI: Stacy Turowski, 141 St. Regis Drive South. So we have stated --

CHAIRPERSON MIETZ: Could you go right to the microphone?

STACY TUROWSKI: Yes. So we are requesting the setback to be reduced to the 2.7 as stated so that we can extend our current garage from -- at the previous meeting I stated 20 feet deep. It's actually 19 feet 7 inches deep, and we're hoping to gain a little bit of depth because it's very tight and we are hoping to expand that.

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3 CHAIRPERSON MIETZ: Okay.

4 LARRY TUROWSKI: I'd like to add, that given
5 the odd angles of our lot, the position of the house, the
6 position of the driveway, the sidewalk cutout, the light
7 post, a lot of things. We could not come up with a better
8 solution that was worth building.

9 Our neighbor who is here, evidently -- I
10 wasn't able to make the last time we came -- who was here at
11 the last meeting, called us. I don't know if she
12 communicated with the Board, but she is not opposed to our
13 current design.

14 STACY TUROWSKI: She did say that she saw the
15 new proposal and she said she's okay with it, for what that's
16 worth. We don't have it in writing.

17 CHAIRPERSON MIETZ: For the record did you
18 make other changes since the last version, to the plan?

19 LARRY TUROWSKI: Yes. So the last version had
20 a taller -- we reduced the request for a taller roof height.
21 So we are only requesting the setback between us and the
22 neighbor that is behind us or besides us, depending on how
23 you consider it, on Antlers.

24 STACY TUROWSKI: Yes, so the new proposal
25 basically is the same in terms of the setback as the previous

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proposal but we essentially are rescinding, I think the word is, our request for the height variance that we received in October as a way to sort of balance --

CHAIRPERSON MIETZ: So it's a single-story garage?

STACY TUROWSKI: Correct.

MR. DiSTEFANO: So for clarification, the maximum height to the peak of that garage will be no greater than 16 feet?

STACY TUROWSKI: Yes.

MR. DiSTEFANO: Thank you.

CHAIRPERSON MIETZ: Okay. Board members, questions?

MS. SCHWARTZ: Yes. I just want to ask a question for clarification. In your March application in fine writing it said that this may not be the final plan, or is it now final because you are working with an architect, you feel?

STACY TUROWSKI: Yes. The architectural design drawings are not what -- we have to just have him convert to construction drawings. That's why I think he said that. That was my understanding.

CHAIRPERSON MIETZ: These are concept

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drawings.

MS. SCHWARTZ: Okay.

CHAIRPERSON MIETZ: Any other questions for these folks?

Okay, great. Thank you very much.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-01-23

4A-01-23 Application of Robert Piazza Palotto, owner of property located at 2500 Elmwood Avenue, for modification of an approved variance (9A-06-22) to allow construction of a second story above an attached garage addition which was granted a side setback variance of 8.2 ft in lieu of the minimum 10.8 ft required by code. All as described on application and plans on file.

ROBERT PIAZZA PALOTTO: Good evening. Robert Piazza Palotto, 2500 Elmwood Avenue, Rochester, New York, 14618.

Good evening. Thank you for the approved variance from last time. Since then, a little bit of the things have changed as far as the family situation, where now I have my girlfriend and her two kids moved in with me. And

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we propose an option of what to do and gain more space out of the house. And speaking with the architect, it only made sense to consider utilizing the space above the garage just because it is cheaper square footage to build, typically.

Initially I came to you with the garage and the variance because the structure was compromised and it is a complete walkout into the back and the foundation was pulling in.

When I bought the home I wasn't aware of it. However, it is something that has to be done either way. So given the hardship and then given the situation with adding more square footage, it only made sense to build above.

I did talk to my neighbor and, you know, one of the things we talked about was initially in the garage just making sure we had some landscaping on the side, she felt comfortable with that. And then I also spoke with her about the addition on the second floor and one of the things I proposed is that, to set back the second story about four feet, so it doesn't impose or infringe on her side of the view where her porch is right there. So it's really not much, I mean, other than the second story structure right there, you know, I believe I have her blessing on that. And because I definitely believe in the neighborhood, the

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neighbors and having good neighbors, and making sure everybody is happy too with that.

So with the second story right there I had the architect draw up the plans and what that would look like utilizing the first existing footprint that we talked about by just adding a second story for that room.

One of the things -- and I didn't put it in there -- but I noticed that is not uncommon especially in Brighton to have space above a garage. As a matter of fact, a house two doors from me, 2520 Elmwood Avenue, has a second story above the garage too as well, along with 2891 Elmwood. And then, there's one right around the corner on Greenwich, which is literally within a half a mile to, like, less than six houses from me. And there's one on the corner of Hollywood and the corner of Elmwood Avenue at 140 where there's space above the garage for living space.

So given the circumstances, it only made sense to build up and utilize some square footage that way.

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS WRIGHT: I just had a couple questions. So the footprint of the original garage is not changing?

ROBERT PIAZZA PALOTTO: Correct. Well, let me

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rephrase that: The footprint of the approved --

MS. TOMPKINS WRIGHT: Yeah, the variance for the garage. And when you say you're going to set back the second floor four feet, what exactly do you mean? Do you mean actually building it up? I think on the plans it's 15 and a half feet, so it would be 11 and a half feet wide?

ROBERT PIAZZA PALOTTO: No. From the front, the front elevation. So when you look at the drawing, the proposed elevation, you will see there's a shed roof in front of the garage right there. That's where it sets back so it doesn't impose so much. So the second story is set back four feet away from the front of the garage.

MS. TOMPKINS WRIGHT: Okay. Did you explore -- I mean, obviously I hear your comments regarding cost -- did you explore doing an expansion on the back of the home? Would any variances be required there?

ROBERT PIAZZA PALOTTO: On the back of the home, I don't think there's any -- right now there's an existing deck right there, and it is not conducive to the layout and how it would be proposed that way. Just because of, there off the back right now, there's an existing deck which is a second-story deck because the outside is a walkout.

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You know, as far as putting another addition, you're looking at a garage that needs to be rebuilt either way, and when you look at the construction cost when you are already building an existing garage, it is a lot easier to put the second story on rather than doing another additional addition off the back right there.

MS. TOMPKINS WRIGHT: And to your earlier comments about having more people living at the home now than previously when it was approved, so what you are really trying to do is add sleeping space essentially?

ROBERT PIAZZA PALOTTO: Yes. It's a proposed bedroom and bath.

CHAIRPERSON MIETZ: Okay. Other questions by the Board?

MR. DiSTEFANO: Let me just inform the Board. I'm going to address this, he was in today for a little bit of discussion. The Architectural Review Board denied these plans from the elevation drawings. So, it doesn't prevent us from approving it, but it's something you might want to think about as part of the approval process here.

Do you want to address anything with regards to the Architectural Review Board?

CHAIRPERSON MIETZ: What was the nature of the

objection?

ROBERT PIAZZA PALOTTO: Really, I think it was just more for look and, you know, I wasn't sure. I was trying to get some directions of what they didn't like and what they did like. I can -- I thought the structure was appealing. I mean, the house itself is plain right now and I was adding vinyl cedar shakes, a front reverse porch, and maybe they thought -- they weren't maybe so keen on a garden window where they wanted more stone on the bottom, which I'm happy to do.

So any of this stuff, as far as cosmetics, I think it goes in line with -- and that's why I took these pictures right here of these houses and I only did four of them, but I'm happy to pass them around if you want to take a look at them.

MR. GORDON: While those are being passed around, I think I'll read into the record the ARB decision. It's dated March 30, 2023. Your Application 2AR-04-23 to construct a second-floor addition on a single-family dwelling was presented for review before the Architectural Review Board at the meeting held on March 28, 2023.

The following decision was reached: Decision denied. One, while the submittal of additional information,

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floor plans, and window placement was appreciated, the applicant did not adequately mitigate the massing of the addition and composition of the east elevation.

Two, due to the proximity to the property line, the massing of the proposed second-floor addition needs to be sensitive and appropriate to the neighboring dwelling.

Three, the unapproved greenhouse window can be mitigated by facade treatments, including but not limited to extending the stone water table to the same height as presented on the proposed garage addition --

MR. DiSTEFANO: Let me just state that that greenhouse window is actually not part of this project, but I think it shows up. It wasn't a part of the originally approached project that was granted approval.

So when it went back to the Architectural Review Board in regards to the second story, they noticed that this greenhouse window was in place, but wasn't part of the original approval. So that's that third one that really has nothing to do with what we're looking at tonight.

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS WRIGHT: So I don't know exactly who this question should be directed to. I'm not sure if it's the applicant or to Rick or Ken. But given the

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Architectural Review Board's focus on the mass of the second floor, its height and its proximity to the property line, do you anticipate there may be revisions to this plan that can incorporate a smaller second floor?

ROBERT PIAZZA PALOTTO: I think by doing so, making it smaller, I mean, I guess we have to look at the nature of the variance initially as far as the garage. And just adding a second story, I mean, should not really affect the mass as far as --

MS. TOMPKINS WRIGHT: I think it's probably the visual mass of one story versus a two story.

ROBERT PIAZZA PALOTTO: It is smaller, especially in the front. It's not the same size of the garage, it's actually set back for that reason. I took that into account. And I shared this with my neighbor and, you know, she had mentioned no oppositions whatsoever with regards to the mass or anything like that.

You know, she has a very private backyard. There's a fence already there, an existing fence. She just initially asked for some bushes up towards the front, and which I am happy to do and, you know, and appease her with that. But I'm literally doing this by adding more square footage onto this. And I did keep that already in mind as

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far as setting it back a little bit, so it didn't seem so massive up front.

It's the same footprint as the back and there is rear elevations of the back too, that's not changing that much other than the second story right there. Already from the rear of the house it is a walkout so you have two stories to begin with. There's no one in the backyard, it's just the neighbor to the right of me. And, you know, we are only moving I want to say maybe two feet to the right, so. And she's got big trees along the whole entire side there, so it has no interference with her backyard or her side views whatsoever.

CHAIRPERSON MIETZ: Okay.

MR. DiSTEFANO: I don't want to get too deep into the design aspect of this --

CHAIRPERSON MIETZ: We can't.

MR. DiSTEFANO: -- because he has the right to appeal that decision back to us. I just have a quick question for you, and I don't know if you talked to your architect or not. You do show us a picture of 11 Greenwich, which does have a lower area from the main house, which might bring down the actual massing of this addition.

I don't know if you investigated that or not.

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I don't know what your ceiling height might be in that addition, but I think one of the massing things, it's not just that it will push back a little bit, but if you could lower that portion of the roof and have a little bit different height variation in there, that might start getting into some of the Architectural Review Board's concerns.

ROBERT PIAZZA PALOTTO: Sure.

MR. DiSTEFANO: I don't know though, again, I don't know how that's all laid out for you and what the ceiling height would be and if it would be doable.

ROBERT PIAZZA PALOTTO: I'm not opposed to that, I could evaluate that and look at that. I appreciate the suggestion because I want it to look just as good out there as anybody else and I am not opposed to that. And, again, I want it to be nice too as well.

MR. PREMO: I think I had a question to make sure I'm understanding what you're doing. So this has come back to us because the original variance didn't include a second story.

MR. DiSTEFANO: Correct.

MR. PREMO: So in essence, that variance is the same variance, it's just for --

MR. DiSTEFANO: Yes. Because we may have

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3 looked at this in a totally different light if it originally
4 came in as a two-story addition that's going to be pushing
5 close to that side lot line. So the one story, the impact is
6 far less than what a two story is. So, that's one of the
7 reasons we always approve it per the plans submitted to this
8 Board. Those aren't the plans, so that's why he's back to
9 see us.

10 MR. PREMO: So if we were to approve this
11 variance, the applicant would still have to go back to the
12 Architectural Review Board to get their approval?

13 CHAIRPERSON MIETZ: Yes.

14 MR. DiSTEFANO: Right. We would make that
15 conditional, as a standard condition.

16 MS. TOMPKINS WRIGHT: And importantly, if the
17 plan ended up changing, they may -- our approval may not
18 hold. We would have the potential --

19 MR. DiSTEFANO: That's something we need to
20 talk about during the discussion because that could change.

21 MS. TOMPKINS WRIGHT: One quick question,
22 hopefully a quick question. Do you know the height
23 differential between the -- I don't have the approval in
24 front of us, or I don't think I do -- on what approved for
25 the height of the one-story garage versus what's being

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constructed?

ROBERT PIAZZA PALOTTO: You know, I guess I don't have -- the only thing I can say, in the plans right there they show the heights in the elevations it's not going any higher. I think --

MS. TOMPKINS WRIGHT: So I can see this here, I am just kind of wondering, I don't know what the height is from this. I don't think it gives what the elevation would have been.

MR. DiSTEFANO: Probably about eight to ten feet, I would guess.

ROBERT PIAZZA PALOTTO: I would say each floor is about eight feet and then you got the roof line.

MR. DiSTEFANO: Well, you had a pretty tall roof on the one that we looked at, so I'm guessing that is pretty much the difference between the eave of the roof, the point of the existing roof. So that's the difference.

MS. TOMPKINS WRIGHT: I was trying to estimate it. I didn't know exactly what that was.

CHAIRPERSON MIETZ: Okay. Any other questions from Board members?

Thank you.

MR. GORDON: One minute, I have the September

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7, '22, packet in front of me and I'm trying to get to the right page.

CHAIRPERSON MIETZ: Rick, if there was no variance requested on the single story, then the max height is code, correct?

MR. DiSTEFANO: I'm sorry?

CHAIRPERSON MIETZ: I said, if there was nothing requested in there for a height variance?

MR. DiSTEFANO: Right. But the height -- oh, for the existing house with this particular proposal?

CHAIRPERSON MIETZ: The garage, she is asking.

MR. DiSTEFANO: No. It's not going to meet our -- I'm not finding it spelled out in here.

MS. TOMPKINS WRIGHT: I'm just trying to understand how substantial it is.

MR. DiSTEFANO: Just by eyeballing it out, I'm going to say it's eight to ten feet higher than what was -- but again, it's further out too. That point of that garage roof that was approved is much further back than, you know, this additional height. It's going to be closer to the road, not that much closer, but.

MR. GORDON: And the discussion actually that Mr. D'Augustine led with respect to this variance back in

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September of '22, related to the close proximity to the neighbor's porch, remember? And the impact of moving closer to the property line on that porch. So now going on to the second floor.

CHAIRPERSON MIETZ: Okay. I think we got it. Thank you very much.

ROBERT PIAZZA PALOTTO: Thank you so much. If I could say one last thing, too in regards to the variance. Between the porch and the property line there's an existing 12 feet from the neighbor right there, plus the five foot side setback. That is requested, it was approved right there.

So there's still quite a bit of distance from the porch and then the actual lot line, and then also again, there's a fence right there too as well. And there is massive trees right along that side right there too. So I think that's where she was more concerned, just making us put a couple bushes right there to the side. That's from the initial approval.

But I appreciate your time. Thank you guys so much. Have a great evening.

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

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There being none, then the Public Hearing is closed.

APPLICATION 4A-02-23

4A-02-23 Application of Jagdish Kaur, owner of property located at 30 Jefferson Road, requesting renewal of a Use Variance (12A-03-22) and an Area Variance (12A-04-22), pursuant to Section 219-5F, where approvals allow for a liquor store in an IG-Light Industrial District and for front yard parking where both are not allowed by code. All as described on application and plans on file.

BETSY BRUGG: Good evening. My name is Betsy Brugg, I'm an attorney with Woods Oviatt Gilman. With me I have Makhan Singh and Aman Singh, his son; as well as Evan DeGalfum, Kasta Dincherie.

As the Board will remember, we were here last year and secured a use variance to allow a liquor store at this property. We also secured an area variance for the front yard parking. The project got site plan approval during the summer, they've been delayed dealing with some architecture issues. They are prepared to move forward, however they require a renewal of the variances. None of the facts of the application have changed. I'm happy to kind of go through them.

You might recall you actually cannot build

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3 anything on this parcel at all, code compliant. It is less
4 -- excuse me, it is about half the size required by code in
5 terms of the lot size. It's non-conforming as to size, it's
6 non-conforming as to the depth. It is a very irregular
7 parcel.

8 We did satisfy all of the requirements for the
9 granting of the use variance and the area variance. I'm
10 happy to go through those again if you would like me to if
11 you need a refresher. None of the facts have changed. As
12 you know, it would be arbitrary and capricious to arrive at a
13 different decision unless there's some material change in the
14 facts.

15 I am aware and I believe you have two letters
16 from the Supervisor for the Town of Henrietta. I did speak
17 with him today, he -- did you get the second letter? He
18 called me after he took a closer look at the application. He
19 raised a question about whether Byrne Dairy had looked at the
20 site. They never contacted them because the site doesn't
21 meet their requirements.

22 In fact, I believe they have chosen another
23 site, but they did not look at this site, it did not meet any
24 of the requirements. The property on a septic that is too
25 small. There is a lot of issues with the property.

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I will submit an additional letter of support that was just provided to me today. This is from Mike Stafford who was a Town Board member in Henrietta up until this year, I think.

MR. DiSTEFANO: You can just summarize that.

BETSY BRUGG: Sure. He is not a Brighton resident, but he supports the proposed liquor store on the northeast corner of Jefferson Road. He is aware that there might be some -- he heard there might be some opposition, but he knows the family. I should say, they own five restaurants. They own Thali of India, Naan-Tastic, somebody is hungry tonight. They own a number of restaurants, so they have liquor licenses and they're experienced business operators. Makhan Singh is retired, he plans to work at the liquor store himself. They take this part of the expansion of their business, they tried to do something else on the property for a number of years. They've owned it for a while, it has sat vacant. This is really the only opportunity they had. So he's putting himself back to work and will be there.

They are working with an attorney. They have an attorney they work with who has experience and works specifically on issues related to liquor licensing and they

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3 are very aware. I will say, I know this Board is not
4 normally allowed response, but I did check with the folks in
5 the back row, there's some folks here from RIT who probably
6 are going to speak and express their concerns.

7 I will say, this is a family business. They
8 take the -- they've never had any problems with any of their
9 restaurants in terms of service of liquor. They take their
10 business very seriously. They can speak to that further if
11 you are interested, but they are very aware of the
12 neighborhood they are in and take this operation seriously.
13 They don't want to have any problems at all. They have not
14 had any with their restaurants.

15 And I think that's all that I can say as far
16 as their experience and their commitment to running a top
17 rate operation.

18 As far as the letter of support, I think it's
19 just a very positive letter. Again, it acknowledges the
20 neighborhood, but speaks about their experience with their
21 business operations in Henrietta, that they're a solid
22 business operator.

23 MR. DiSTEFANO: Thank you.

24 MS. TOMPKINS WRIGHT: What's the anticipated
25 time for construction and opening?

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BETSY BRUGG: I believe the next few months.

CHAIRPERSON MIETZ: Betsy, what was the delay?
Could you give more specifics?

BETSY BRUGG: I think they had an issue with
the sprinklering. They were trying to work through that
issue. I think they're exploring whether they could get a
variance, they were not able to do that.

CHAIRPERSON MIETZ: So that's all settled, so
there would be nothing holding this up?

BETSY BRUGG: Right. They are prepared to
move forward.

MR. GORDON: Have you obtained your state
liquor authority license for operation?

AMAN SINGH: Aman Sing. We've applied for the
liquor license through our attorney, but we haven't received
it yet.

MR. GORDON: So to your point, the state
liquor authority, whoever made the point of nothing else
holding them up, the state liquor authority is running very,
very, very, very slow. And so we've seen applications take
the better part of a year or more to be granted. So I don't
know that's going to happen to you, but that is -- they can't
open until they get a state liquor license.

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Now, they can start the construction for purposes of the variance, but in terms of the operation end of it, that might be held up -- they will be held up until they get the license.

AMAN SINGH: We just want to be able to start construction, get things ready.

MR. GORDON: And I would point out, I am not sure, Betsy, if you made this clear or not. As you know, the variance granted is good for a year. That year is not yet up, but they expect that it's going to be up before they can commence construction, so that's why they're here.

MR. DiSTEFANO: They have to physically start construction.

MR. GORDON: Yes, but that's why they're here. I didn't want the Board to have the impression that this was after the fact everything's expired and now we're trying to resurrect this use variance. That's not the case. This is simple, we call it a renewal, but it's really sort of an extension of it.

CHAIRPERSON MIETZ: Yeah, I get it. Rick, has there been drawing, concept drawing discussion with the building department?

MR. DiSTEFANO: Not that I'm aware of.

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CHAIRPERSON MIETZ: Okay. Go ahead. Anything else you would like to add?

BETSY BRUGG: If the Board has any questions or if there's any additional information you need, we are happy to provide it.

CHAIRPERSON MIETZ: Any questions from the Board members? It's pretty much the same application.

BETSY BRUGG: Yeah. I submitted most of the materials to you. I didn't see this in the packet, but I know it's in the original application. It literally shows that you cannot build anything on this property at all. And I would point out that even Byrne Dairy would have needed a use variance.

MR. DiSTEFANO: Just to note, they did receive site plan approval, which probably also is coming close to running out of time on that. So they're going to need to get moving or they'll be back in front of the Planning Board for renewal of that site plan approval.

CHAIRPERSON MIETZ: Okay. Are you guys all set or do you have more?

BETSY BRUGG: Well, Even's here. I think he's here if there's questions about the parking. There is existing --

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CHAIRPERSON MIETZ: But nothing has changed.

BETSY BRUGG: Yeah. But if you have any other questions, we're here. Thank you.

CHAIRPERSON MIETZ: Okay. Is there anyone in the audience that would like to speak regarding this application?

VANESSA HERMAN: Yes.

CHAIRPERSON MIETZ: Come up.

VANESSA HERMAN: Good evening. My name is Vanessa Herman, I'm the vice president for government and community relations at the Rochester Institute of Technology. I'm joined today by our director of community relations, Chris Harris and also our executive director of public safety Gary Moxipy.

So I wanted to share a few facts. But I will start out by saying we're not here to object to this project, we're here to open up a dialog with the applicants. But I do want to share that we have more than 16,500 students that live on or around our main campus. And 55 percent of those students are under the age of 21. We are a dry campus in our residence halls and in our dorms. Obviously, if there's any kind of delivery or anything like that to campus, we would have concerns about that in particular.

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And also, we have what we call mixed use. Whereas, in the areas surrounding campus, we, of course, have students over 21 living with students who are under 21. So again, we are just here to put those facts on the record and state that we'd like to work with you, talk about what our IDs look like, there are no dates of birth on our IDs, and any other things. As this moves forward we just, again, are here to have a conversation and dialog. That's all.

CHAIRPERSON MIETZ: Thank you.

Is there anyone else who would like to speak regarding 30 Jefferson?

MR. PREMO: I guess I was wondering if we could get the applicant up again just to ask her a question, because I'm not sure if the concern that was raised was whether they would deliver liquor. I don't think there's any delivery of liquor.

CHAIRPERSON MIETZ: Let's do it quickly. Let's limit it to that.

AMAN SINGH: So we have no plan to deliver liquor. It's going to be where you go in --

MR. PREMO: So someone would have to come in and be identified and show ID, then take it out?

AMAN SINGH: Yes.

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CHAIRPERSON MIETZ: Great, all right.

Is there anyone else who would like to speak?

If not, the Public Hearing is closed. Thank you.

APPLICATION 4A-03-23

4A-03-23 Application of Colleen Cornel, agent, and Ralph DiTucci, Castle Office Group LLC, owner, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a food truck on site once per week from May through August 2023 where prohibited by code. All as described on application and plans on file.

COLLEEN CORNEL: Hi. My name's Colleen Cornel and I work at Sawgrass Recruit Center at 180 Sawgrass Drive and I'm here to apply for a permit to have a food truck once a week from May to August for the staff of the building.

CHAIRPERSON MIETZ: Okay.

MS. TOMPKINS WRIGHT: And same application as was previously approved, no differences in timing or frequency, trash collection, et cetera?

COLLEEN CORNEL: Everything is the same. This will be our third year.

MS. TOMPKINS WRIGHT: And no complaints in the past, Rick, were received by the town as to noncompliance and conditions.

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MR. DiSTEFANO: No complaints.

MS. SCHMITT: Are you doing it with the same truck each week or is it a variety?

COLLEEN CORNEL: It is a variety.

MS. SCHWARTZ: And they are all fine with the restrictions?

COLLEEN CORNEL: Yes.

MR. DiSTEFANO: Can I ask, are these food trucks properly licensed with the City of Rochester?

COLLEEN CORNEL: Yes, they are.

CHAIRPERSON MIETZ: Any other questions? Wonderful.

Thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-03-23

4A-04-23 Application of Jennifer and Jesse Readlynn, owners of property located at 114 Sylvan Road for an area variance of Section 205-2 to allow for a covered porch to extend 5.5 ft into the 40 ft front setback required by code. All as described on application and plans on file.

JESSE READLYNN: Good evening. My name is

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Jesse Readlynn, 114 Sylvan Road. This is a reapplication for a permit that was approved a couple years ago, it's expired. Same plans, same everything, except to have a contractor lined up to build it this time.

So we are looking to demo our existing front porch which is quite small. You can't even open the storm door with more than one person on the porch, to build it a little deeper and across half the front of our house. Covered, so it's a little bit more protection from the elements. A nice place to sit and drink a cup of coffee in the morning.

That's about it, so a lot of houses in the neighborhood have front porches this size. We think it will fit in nicely. Again, this was approved three years ago, two years ago, I forget exactly, but for a variety of reasons we were not able to complete the project, so here we are again.

CHAIRPERSON MIETZ: So it's full steam ahead?

JESSE READLYNN: Yes. The contractor is ready to go, I have a building permit, dropped it off this morning.

MS. TOMPKINS WRIGHT: Dennis, do you have previous conditions?

CHAIRPERSON MIETZ: Yes.

JESSE READLYNN: There were a few conditions,

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nothing that would be a problem. So, porch should not be enclosed, the foundation plantings, and ARB approval, which are still current, I believe.

CHAIRPERSON MIETZ: Yes. Okay, excellent.
Thank you.

Questions anybody? No? Okay, thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-05-23

4A-05-23 Application of Christopher Brandt, agent, and Andre Langston and Wendy Boyde, owners of property located at 1715 Clover Street, for an Area Variance from Section 203-2.1B(6) to allow a stand-by emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described in application and plans on file.

CHRISTOPHER BRANDT: Good evening, everyone.
Chris Brandt, Bero Architecture, here on behalf of property owners Andre Langston and Wendy Boyde.

So as described in our application, the main driving force for the request of this variance is due to the inability to successfully locate the back-up generator in a

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3 not objectionable location. That meets the current Brighton
4 Zoning Code because of the high level of development and
5 finish of the rear yard directly behind the primary
6 structure.

7 We are seeking to be able to place the back-up
8 generator in the sort of large side yard to the north of the
9 primary structure where it will be heavily shielded by an
10 existing fence and mature arborvitae hedge, and be
11 significantly set back from the property line far in excess
12 of the requirements of the zoning code.

13 MS. TOMPKINS WRIGHT: In addition to that,
14 it's also at least 40 feet from the nearest neighbor, as
15 well; is that correct?

16 CHRISTOPHER BRANDT: Correct, right. It is
17 40 feet from the property line south, and then the adjacent
18 house is another ten to that.

19 MS. TOMPKINS WRIGHT: Thank you.

20 MR. PREMO: Was an area, when I looked up
21 there was an area where the arborvitae hedges are, looked
22 like there was wood piles about the area?

23 CHRISTOPHER BRANDT: Correct. That's
24 providing sort of even more additional almost totally opaque
25 shielding. So, yeah, there is an existing in the side yard

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behind the fence, behind the hedge, that's running along the same area. So that placement is sort of shielded by that so it would not be visible through that.

The smaller pedestrian gates you might see from the road, so we're clear sort of south of that so you wouldn't be able to see it through that gate. It's really the only visual break there on the side yard.

MR. PREMO: So I take it this all ties in to the utilities coming into the house?

CHRISTOPHER BRANDT: Correct. So, just a quick sort of run through. So two, that southern portion of the house there's a full height basement that provides ease of access for any underground utilities. To the interior systems of the house whereas theoretically if we were to put it to the west of the sort of northern rear wing of the house, we don't have that capability because that is a garage which is a slab on grade for at least 20 or 30 feet before we actually get to the basement.

CHAIRPERSON MIETZ: Okay.

MR. PREMO: I take it that the applicant would be willing to agree that the arborvitae would be maintained as it is.

CHRISTOPHER BRANDT: Yes, they would be.

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MR. GORDON: Just curious. Where are the filter and pump for the pool, the in-ground pool located?

CHRISTOPHER BRANDT: Would be probably to the west of that rear, on the side of the garage. They sit on that, that's a concrete pad there to the west of the garage.

MR. DiSTEFANO: I have a quick question. Just curious, we don't usually see the generator, especially when they're in a side yard, that far away from the structure. Is there a reason that it's that way and the long side facing the road instead of closer to the house with the short side facing the road?

CHRISTOPHER BRANDT: As far as turning it 90 degrees?

MR. DiSTEFANO: Yeah.

CHRISTOPHER BRANDT: I don't think there's any particular reason for that 90-degree turn, but as far as the placement, set back from the house, that's mainly to obscure it from being seen from the road.

MR. DiSTEFANO: So to catch up with the arborvitae instead of planting additional plantings towards the house, you moved the generator so it would be --

CHRISTOPHER BRANDT: Yes. If it's near the house, that's where you access to a rear yard from the side

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yard, there's a pedestrian gate there that's closer to the house. So the main reason for setting that 16 feet off of the house is to keep a visual clear and completely obscure the street.

MR. DiSTEFANO: And the only reason I kind of bring that up is because arborvitae certainly can die, and then you might have a situation where you have this kind of out in the middle, just kind of much more visible than if it is tucked close to the house and turned. Just my observations.

CHAIRPERSON MIETZ: Okay. We can talk about conditions on that.

Okay. Any other questions for them?

Thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-06-23

4A-06-23 Application of Caroline and Daniel Grabowski, owners of property located at 1301 Highland Avenue, for an Area Variance from Section 207-2A to allow a front yard fence to be 6.5 ft in height in lieu of the maximum 3.5 ft allowed by code. All as described on

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application and plans on file.

CAROLINE GRABOWSKI: Good evening. Thank you for having me, under these circumstances. I'm Caroline Grabowski and I live at 1301 Highland Avenue.

So we're requesting a variance because we live on a corner lot, so our house is actually, like, located on Edgemere. We would consider -- I know the town considers Highland our front yard, our second front yard. We consider it our side yard.

We have lived there for four years, coming in July. And, sorry, I'm extremely nervous. I hate talking in public, but thank you.

CHAIRPERSON MIETZ: Think about us as your friend.

CAROLINE GRABOWSKI: I hope so. But due to an accident, we did have our -- somebody drove into our fence. So an existing fence when we bought our property. That was along the side of Highland Avenue. We went along and we replaced the fence with 6.5 foot dog ear fence. We replaced the six foot stockade existing fence.

And so, we replaced that, we replaced that existing fence and so, we did not realize it wasn't originally permitted. And so, I guess we are in this

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3 situation because it wasn't previously -- we didn't have a
4 permit for that. So we ended up replacing it with a 6.5 dog
5 ear fence. That we thought would improve everything.

6 But since we have been there four years as of
7 this July, it hasn't been an obstruction to the neighborhood
8 as well. And it's even with the homemakers stonewall fence.
9 It stops and starts with that.

10 MR. PREMO: The prior fence you had was that
11 solid and was it six-foot?

12 CAROLINE GRABOWSKI: Yeah, it was a six
13 foot -- to the best of my knowledge. I know I'm five-three,
14 and it was above me when I stood next to it with the
15 contractor. And so, yeah, it was existing.

16 It was deteriorated over the years. We hadn't
17 maintained it really, so that's why we were under the
18 assumption of replacing it with new, that it would only add
19 to the property and the community.

20 MR. PREMO: Was there any consideration to
21 other materials for the fence, like a wrought iron or
22 something like that or?

23 CAROLINE GRABOWSKI: We did not replace it
24 because it was kind of an insurance issue. We had this
25 gentleman drove his truck through our fence, and so we went

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3 through insurance and we were replacing wood with wood. And
4 then on the side yard we did replace some wire fence with
5 wood. We thought we were upgrading that.

6 MS. TOMPKINS WRIGHT: And the maximum, Rick,
7 the maximum fence for a rear yard in Brighton is six feet,
8 not six and a half?

9 MR. DiSTEFANO: Six and a half.

10 MS. TOMPKINS WRIGHT: Okay.

11 MR. DiSTEFANO: For side and rear yard.

12 CAROLINE GRABOWSKI: So it's not anything
13 like, it's not a fancy fence. It's just standard.

14 CHAIRPERSON MIETZ: We get it.

15 MR. DiSTEFANO: Just to clarify that --

16 CAROLINE GRABOWSKI: Thank you.

17 MR. DiSTEFANO: I don't know if you're going
18 to like my clarification. You did replace fencing between
19 you and your neighborhood on Highland, correct?

20 CAROLINE GRABOWSKI: Yes.

21 MR. DiSTEFANO: Basically anything up to the
22 front edge of the house is all front yard too. So that
23 fencing we are talking about it's just not the part that's
24 across the sidewalk, but also probably -- what's that setback
25 from the house?

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MS. TOMPKINS WRIGHT: 85 feet.

MR. DiSTEFANO: Yes. 85 feet along that easterly property line.

CAROLINE GRABOWSKI: I was advised that it was only that piece of that portion of the fence.

MR. DiSTEFANO: I think what happened, I just don't think it was clear, what was new and what was existing. I went out today and I could tell what was new. And when I looked at what was new, oh, it was all the way down that property line and also.

So just to clarify, it is still a front yard fence, regardless if it's just this portion or the side portion, but that's what we're looking at really here.

MR. PREMO: So it's that right angle.

MR. DiSTEFANO: Yes, basically down the front edge of the house.

MS. TOMPKINS WRIGHT: Do you mind clarifying? So along that, you may consider it your rear yard but it's sort of that side yard that's perpendicular to Highland Avenue. Was that replacing a six foot stockade fence or was it no fence in that location?

CAROLINE GRABOWSKI: Like, on the side that faces my neighbor --

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MS. TOMPKINS WRIGHT: Yes.

CAROLINE GRABOWSKI: So that was a wire fence.

MS. TOMPKINS WRIGHT: Okay.

MR. DiSTEFANO: If you look at the survey, this survey was done prior to the work on their fence. So if you look at the survey you see the little hatch marks, the little Xs, then you see a square, so the Xs are basically wire fence until you get to the square which is usually a wood fence.

MS. TOMPKINS WRIGHT: Okay.

MR. DiSTEFANO: So you just matched wood fence to the existing wood fence. So all that wire fence is gone, then started wood fence to wood fence going back along that, correct?

CAROLINE GRABOWSKI: Yes.

MS. SCHWARTZ: I drove by it, I couldn't really tell, and I don't know if there is a regulation or not, but is there any room between the fence and the sidewalk for some vegetation to soften the fence and then the town could, you are saying. And then is there a restriction that you couldn't do it if there were?

MR. DiSTEFANO: I'm sorry, restriction for what?

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MS. SCHWARTZ: For planting because it would be close to the sidewalk.

MR. DiSTEFANO: Well, you'd have to get approval -- well, Highland, it's a town street there. You would have to get approvals to do it in the right of way there. But you got the sidewalk right there. It would be very hard because of the sidewalk.

MR. PREMO: There is a space now, I believe. There's no grass growing between the fence and the sidewalk. It looked like it was about two feet maybe.

CAROLINE GRABOWSKI: I don't think it's that. Between the sidewalk and the fence, I don't think it's that much.

MR. DiSTEFANO: If you look at the survey, I guess that the fencing was replaced exactly where the survey shows it. There is literally, I don't think a half a foot between the sidewalk and the fence.

CHAIRPERSON MIETZ: So, Rick, just to kind of sum this up. So the point you just raised there, you are suggesting then that what is being requested, the area is not enough?

MR. DiSTEFANO: What I'm saying is that the request, which was front yard fencing, what was highlighted

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on here actually is more than what -- there's more to the request that was shown as the highlighted portion on the survey, okay? So --

MR. GORDON: Maybe we can --

CAROLINE GRABOWSKI: I need some clarification on that.

MR. GORDON: So, Ms. Grabowski, is it correct that you are asking for an amendment to modification to your application to cover the entire six and a half foot board fence in the front yard on Highland Avenue of your property? Yes?

MR. DiSTEFANO: So basically, here is the front edge of the house. So everything in front of this is front yard, so this entire length of fence here could only be three and a half feet also. So now you're --

CAROLINE GRABOWSKI: Well, with my original application, I did request I believe --

MR. DiSTEFANO: You're right. It was advertised right in your request. We just want to make sure you are aware that the request is literally this entire leg.

CAROLINE GRABOWSKI: Okay. I do understand that now. Thank you.

MR. GORDON: So that is your application for

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the entire board fence that is located in the front yard on the Highland Avenue?

CAROLINE GRABOWSKI: Yes.

MR. PREMO: Rick, was there -- I take it there was some effort to see if there was ever permitting to the old fence?

MR. DiSTEFANO: Yes, there was. It came under a violation more or less. So we researched it and could not find any permits issued for the fence. I mean, if there was a permit issue, there would have been a variance for it also.

MS. TOMPKINS WRIGHT: Do we have any idea of that original fence, both the chain link and the wood one was installed? Like, prior to ten years ago?

CAROLINE GRABOWSKI: Yes -- well, I believe so. I am in contact with -- I could get in contact with the previous residents, but they did all the garden work and everything in the 90s. I have the documents as well. They were nice enough to share those.

CHAIRPERSON MIETZ: Other questions, Board?

Thank you very much.

Is there anyone in the audience that would like to speak regarding this application?

HENK GOEMANS: Good evening. I'm Henk

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Goemans, I live at One Edgemere Drive, that's right across, the house of the Grabowski's. I have lived there since 2004. I know the previous owner as well, they have an epic story to say and you have missed about how they got this house in Brighton so their kids could go there. But I won't bore you with all the details.

I can tell you the fence has been there at least 18 years, not much longer. I can tell you also that there have been multiple cases of car crashes there. Not just one, or two, or three, more. So the fence kind of makes sense right at that spot. I have run out of the house a couple times in the middle of the night to deal with car crashes there and assist people if necessary.

One of the things of course, that strikes me in this meeting is that over and over and over that part of the house is referred to as the front yard. It may be technically correct, but it isn't. Not for any stretch of the imagination it has not been for at least 20 or 30 years.

So I also want to say, I think it makes a lot of sense, but that's neither here nor there. That's your job to decide, I just wanted to give some of the facts.

CHAIRPERSON MIETZ: Thank you very much.

Is there anyone else in the audience that

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would like to speak regarding this application? Okay, then the Public Hearing is closed.

APPLICATION 4A-07-24

4A-07-23 Application of David and Elizabeth Thurnherr, owners of property located at 196 Bastian Road, for Area Variances from Sections 203-2.1B(3), 203-9A(4) and 207-6A(1) or 1) allow for the construction of a detached garage 3 ft from a side lot line in lieu of the minimum 5 ft required by code, 2) allow the garage to be 704 sf in size in lieu of the maximum 600 sf allowed by code, and 3) allow said garage to be 20 ft in height (top of copula) in lieu of the maximum 16 ft allowed by code. All as described on application and plans on file.

DAVID THURNHERR: Good evening. My name is Dave Thurnherr and this is my wife Betsy Thurnherr. We have been residents for 35 years at 196 Bastian Road, Rochester, 14623.

We are looking at our existing one-and-a-half-car detached garage is in very poor condition, it needs a lot of work, it needs to be replaced. We'd like to replace it with something a little bit bigger that can handle both of our cars plus the storage we already have in the existing garage.

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Also, the garage is set up -- the existing garage is set up close to the lot line and we can't shift the garage in more or else it would interfere with the back door of our house and the view out of the back of the house.

So we're asking for -- to match the existing clearance to the lot line. We're also asking for 700 square foot of the 600 square foot.

And in addition to that, we would like to add a cupola on top of the garage to match the existing garage, the look of the existing garage. So that puts it somewhere higher above the 16-foot height requirement.

CHAIRPERSON MIETZ: Okay. So a couple things, you mentioned about the back door. So, was there any other options you looked at as far as where to place this garage on the property?

DAVID THURNHERR: As I show in the sketch, on the other side of the driveway, there's our whole septic system. If we put it at the end of our driveway it would change the whole character of our property. We're looking at woods and a creek behind the house. So we set on the back porch and look at a structure instead of looking at, you know, the nature we have behind our house right now. So it's kind of stuck where it is.

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3 CHAIRPERSON MIETZ: Most of us have seen it.

4 MS. TOMPKINS WRIGHT: The 700 feet, is that
5 sized out exactly, that's with the minimum necessary to park
6 two cars and the existing storage you have in your garage?

7 DAVID THURNHERR: That's the way we looked at
8 it, yes. Right now we can't get a second car in the garage,
9 it's between the structure that's been added to keep it
10 standing up, and that. So I'd like to be able to get a
11 second car in the garage and still -- you know, I'd rather
12 have a little bigger garage than put another shed on the
13 property and have to look at something like that.

14 MS. SCHWARTZ: Will you have the same details
15 on the garage doors that you have now?

16 BETSY THURNHERR: Yes. Specifically to have
17 the barn-like look.

18 DAVID THURNHERR: Similar. I don't know if
19 I'd say exactly the same. But as much as you can do with
20 the -- my wife is more optimist. But we'd like a automatic
21 garage door instead of the very heavy duty sliding garage
22 doors that --

23 CHAIRPERSON MIETZ: Be made with the barn
24 style.

25 DAVID THURNHERR: Yeah.

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MS. TOMPKINS WRIGHT: Have you spoken to the neighbors to the south of you, any concerns they have about it?

DAVID THURNHERR: Yeah. Betty Roth is a friend and a neighbor for 35 years. I don't want to speak for her. She had some concerns and some I think we can address in the details. Her main concern were the trees along the lot line, not damaging the trees. I think if we go to something like a pole construction that's not going to dig a full trench along there. We can do that with minimized impact to the trees. She was concerned about looking out at the back of the garage, so we agreed we wouldn't put windows on the back, maybe put them up higher so we're not looking into a back deck from the garage.

I don't want to put words in her mouth, but we've met with her three times on it. We wouldn't do anything she didn't approve of.

CHAIRPERSON MIETZ: Okay.

Questions, Board?

MR. DiSTEFANO: Just for the record, so the height is only necessary because of the cupola.

DAVID THURNHERR: Correct.

MR. DiSTEFANO: Are there any other structures

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3 in the general area, in that neighborhood that kind of are
4 the size, or bigger?

5 DAVID THURNHERR: Yeah. I believe there's
6 several two-car garages as you go down the street.

7 MR. DiSTEFANO: Not so much two-car garages
8 but garages that er over 600 square feet. 600 feet is a big
9 two-car garage.

10 DAVID THURNHERR: The next street over there's
11 a three-car garage on the end at their house, but --

12 MR. DiSTEFANO: Is it a detached or an
13 attached garage, if you can remember?

14 BETSY THURNHERR: That house in particular, on
15 Helen is attached.

16 MR. DiSTEFANO: Can you think of any detached
17 structures that are similar?

18 DAVID THURNHERR: Honestly, I'd really have to
19 think about it. The good or the positive side of that is you
20 can't see the garage really from the road. As you know,
21 there's no houses behind. Actually, Betty, our neighbor,
22 owns the lots on the other side of the creek behind us. So,
23 there's no visibility there. If anything, it gives Betty a
24 little more privacy on that side too.

25 But I didn't want to building something

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monstrous back there. We're still only talking a single story garage.

MR. DiSTEFANO: Big to your lot size.

DAVID THURNHERR: Three-quarter acre. The one lot on the other side of it is open as well. There's nothing built in there right now. Who knows what happens.

CHAIRPERSON MIETZ: Okay.

MR. GORDON: Any plans to install heat or plumbing in the new garage?

DAVID THURNHERR: Uninsulated, just cars.

MS. SCHWARTZ: You will have electricity if you go with your door.

DAVID THURNHERR: Yes. There were will be electricity. There's electricity in the existing garage.

CHAIRPERSON MIETZ: Okay.

Any other questions?

Thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-08-23

4A-08-23 Application of Whole Foods Market, lessee, and Daniele SPC, LLC, owner of property located at

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2740 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a grand opening, outdoor event on April 12, 2023 (and possibly through April 15, 2023) with off-site employee parking. All as described on application and plans on file.

MANUEL MEDINA: Hello, everyone. My name is Manuel Medina, I am principal project manager for Whole Foods Market and with me I have Anthony Daniele the landlord and Allan Culp, the regional vice president for the northeast region.

Today we're going to be presenting our grand opening event plan for traffic and you all have reviewed. Our grand opening is on Wednesday, April 23rd, so coming up soon. Hopefully we will see you all -- oh, April 12th, I'm sorry.

MR. DiSTEFANO: Are you going to be there?

MANUEL MEDINA: I will be there, just making sure you all read everything.

So if you see on the first page, we have our opening day kind of snapshot. We expect the customers to start lining up at 6:00 a.m. and our doors will open at 7:00 a.m. As part of the activities, we will have breakfast treats that we will pass out to customers complimentary with

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a cup of coffee and muffins. That location will be on the sidewalk adjacent to the main entrance. We will have some pop-up tents and a six-foot table there.

We expect customers to kind of line up on the front of the store and the little sidewalk to the sides. At 7:00 a.m. the doors will open, around 11:00 a.m. to 2:00 p.m. we expect to have some ambient music playing. We'll have a host play some prerecorded music during the lunch rush, it will be on the sidewalk as well. We will be using regular audio equipment.

We will also have some tented sampling, with two vendors during the lunch rush, also being on the sidewalk. We will just have two five-by-five tents and two four-foot tables.

And in the early afternoon from 4:00 p.m. to 6:00 p.m. we will have some more tented sampling during the evening rush, also along the front of the store to left of the main entrance.

And then we have some special notes. We will not be having the opening, we will be donating a food truck to the Open Door Mission, but that will not happen during the week of grand opening. We will do that at a later point to try to keep the traffic congestion minimal.

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3 And then the day of grand opening we have made
4 a concerted effort to not have deliveries happen after
5 7:00 a.m. So, in other words, we expect if any deliveries do
6 show up, we expect everything to be out and gone by 7:00 a.m.
7 Again, to try to minimize any traffic congestion on the day
8 of opening.

9 On the second page you will see the Daniele's
10 kind of planned for traffic. We shared that with you all.
11 You will also see a marked up blueprint, kind of highlighted
12 where we have both officers, Daniele representatives, lead
13 security officers, who Whole Foods has contracted.

14 And we directly coordinated with police
15 officials on traffic mitigation throughout the entire space.

16 I'll pause a moment to so if you have any
17 questions?

18 ANTHONY DANIELE: And just to be clear, what
19 we're asking for relief on is -- Anthony Daniele, owner of
20 Daniele SPC, which is the property which Whole Foods sits on,
21 I'm the landlord, AKA landlord.

22 So just to be clear, what we're asking relief
23 for is the fact that part of the grand opening event calls
24 for there to be tents out on the sidewalk, which technically
25 require special permission, as well as having music outside,

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3 which originally was going to be live music. It's been kind
4 of toned down to be ambient piped in music and not a band.
5 So that won't be happening first thing in the morning.

6 From a traffic and mitigation standpoint, just
7 to be clear, we've done this in partnership, obviously the
8 landlord, the tenant, the town, not only the building and
9 Zoning department, but also the Brighton Police Department
10 has been involved which is why we've worked through this
11 entire plan. We worked with New York State Department of
12 Transportation. I was going to have an active role in the
13 first, we call it the opening period, which is the first week
14 of operation. Again, the variance we're looking for, for at
15 least the first application is just for opening day. But we
16 do understand that, everybody is aware of the fact that we
17 will have to do the best we can and do everything we can to
18 mitigate a negative effect on the road.

19 MR. DiSTEFANO: Just for clarification, it's a
20 temporary revocable use permit, not a variance. I just want
21 to make sure the record shows that. And also, one other
22 aspect we talked about that I think the Board needs a little
23 clarification is the offsite parking, for employees, possibly
24 overflow shoppers, and it is in a residential district. So
25 could you touch on that?

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3 ANTHONY DANIELE: Sure. In an abundance of
4 caution, we do have over 450 parking spaces in the plaza
5 itself, which will be available to the customers and
6 employees, normally. And we also have some areas of the
7 plaza that are yet to be occupied by tenants, so there's
8 actually quote, unquote, extra parking. Because certain
9 tenants have not moved in yet.

10 But all that being said, we do recognize that
11 the first week could be busier than even that. And so we've
12 worked out something with the First Baptist Church on the
13 corner of Clover and Allens Creek. We've made some
14 improvements to their parking lot for them, and there's also
15 been some other donations made to them. In return, they're
16 allowing us to use the parking area for the opening period.

17 And the employees not only of Whole Foods, but
18 also we've asked the other tenants in the plaza to have their
19 employees park off site at the church so we have even more
20 spots and we don't have an issue with not having a place to
21 park. So at this point we feel there's more than enough
22 parking available for both employees and the customers.

23 MR. GORDON: How many spots at the Baptist
24 church?

25 ANTHONY DANIELE: About 100. I think 96 to be

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exact, but about 100.

MR. GORDON: And is that lined?

ANTHONY DANIELE: It is striped, that is correct.

MR. DiSTEFANO: Do you expect Whole Foods employees to be parking there throughout the grand opening weekend?

ANTHONY DANIELE: Yeah. During the opening period, which I believe we defined up through the weekend, yes.

MR. DiSTEFANO: Okay.

MS. TOMPKINS WRIGHT: Just, this is more of a question for Ken and Rick. Is the fact that they have offsite parking a part of this?

MR. DiSTEFANO: Yes. That's why I wanted to make clear of that. It is not super clear in the code. The code does allow for some offsite parking in general for all day parkers. It's not clear whether or not that includes residential, going to a commercial use. It also does not -- and it is specific it's all day parking, so that would be employees. But if there's any overflow of shoppers, that would not be permitted.

So there's two kind of gray areas. The fact

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3 that shoppers could be there, and, two, that it is in a
4 residential district coming into a commercial distribution.

5 So just to cover ourselves and cover the
6 applicant, we added that as part of the temporary revokable
7 use permit.

8 MS. SCHWARTZ: I happen to be in the
9 congregation. On Sunday at church, where will they park,
10 using it?

11 ANTHONY DANIELE: We have talked to them and
12 we've looked at their parking area on Sunday and there is
13 enough. They do not use the parking area closest to Whole
14 Foods.

15 MR. GORDON: So the 100 spots you talk about
16 at the back of the church, are not all of the spots at the
17 back?

18 ANTHONY DANIELE: No, not at all. Like I say
19 it's about 25 percent, if that, of their parking area.

20 MR. GORDON: It is a gigantic parking lot.

21 ANTHONY DANIELE: Yes. And in fact, the
22 striping makes it much -- the reason we striped it is because
23 the parking field becomes much more efficient for people
24 parking in parking spots versus the way it is right now where
25 people park haphazardly. Doesn't seem they have as much as

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they really do.

MS. SCHWARTZ: As far as the opening of other stores, do they always go that many days for an opening?

ANTHONY DANIELE: The main event are going to be on Wednesday the 12th, but we made preparations going into the weekend anticipating that Wednesday would be our big day and the weekend you get the traffic.

MR. GORDON: And to clarify, the application before you for the temporary and revokable permit for the tents and the music and the food service is only for Wednesday, April 12th.

ANTHONY DANIELE: Correct.

MR. DiSTEFANO: But the offsite parking will go through the weekend.

MS. SCHWARTZ: So that's all going through the weekend?

MR. DiSTEFANO: That's all being requested at this time.

MS. SCHWARTZ: All right.

MR. DiSTEFANO: It's not a permanent type of situation, only during their grand opening weekend.

MS. SCHWARTZ: So that's about 3:15?

MR. DiSTEFANO: Yeah, that's Wednesday through

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Sunday.

MS. SCHWARTZ: Okay.

MS. SCHMITT: Just to -- did you order the great weather for the --

ANTHONY DANIELE: That was part of the lease deal we made nine years ago. We had to have good weather.

MS. SCHMITT: You need to open more then.

MS. TOMPKINS WRIGHT: Quick question, to verify the amendments to the application, just to make sure it's on the record. So the application has a three-piece band, it's going to be piped in ambient music, correct?

ANTHONY DANIELE: Just amplified music using a speaker.

MS. TOMPKINS WRIGHT: And then the application states a two-hour window of 11:00 a.m. to 1:00 p.m., but in your schedule it's 11:00 a.m. to 2:00 p.m.?

ANTHONY DANIELE: Yeah, it's 11:00 a.m. to 2:00 p.m.

MR. GORDON: Actually, if I could clarify that, when you say 11:00 a.m. to 2:00 p.m., so there's actually three food service periods throughout the day. There's a morning period from 6:00 a.m. to 7:00 a.m. for outdoor coffee. There is the lunchtime rush as defined as

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11:00 a.m. to 2:00 p.m., and a dinnertime rush from 4:00 to 6:00 p.m.

ANTHONY DANIELE: Correct.

MS. TOMPKINS WRIGHT: So the music is only proposed during the lunchtime?

ANTHONY DANIELE: Correct.

MS. SCHWARTZ: And it's not amplified, it's just coming out of a speaker?

ANTHONY DANIELE: Right. It's amplified, but just a small amplifier. So, yes, a speaker.

MS. SCHWARTZ: People who live behind aren't going to hear it?

ANTHONY DANIELE: No they are not.

CHAIRPERSON MIETZ: How are you going to manage the food service? Can you be more specific about it? The trash, you know, who is responsible? How is it going to be handled?

ANTHONY DANIELE: Yeah. We will have two vendors with samples during that time. And going to have the Whole Foods staff there and we'll have trash cans over there so people can dispose of their litter. It's going to be pretty straight forward, and then once you ran out of samples, that's as far as we can get.

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MR. GORDON: And Whole Foods staff will be patrolling the parking lot and physically picking up litter if it needs it?

ANTHONY DANIELE: The Whole Foods security will be over there, and Whole Foods will also have some maintenance people as well.

CHAIRPERSON MIETZ: Other questions from the Board?

MS. SCHWARTZ: Do you anticipate any need for directing traffic from the road into there and if so, how will you do that?

ANTHONY DANIELE: Yeah. So the Daniele portion of the plan is the portion that's not on the actual Whole Foods parking lot property. So we actually have staff scheduled for that opening period, so starting at 7:00 a.m. and probably before, more like 6:00 a.m. on Wednesday and going through Sunday night. It is our job to make sure that not only us, we also -- when I say we, in coordination with Whole Foods, the Brighton Police Department is also going to have patrol officers out there during most of that time to make sure that there is no congestion on Monroe Avenue. I think your question is kind of dealing with that, Monroe Avenue, how about the rest of the parking lot? That's our

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portion to have staff.

MS. SCHWARTZ: Yeah, I'm concerned more with Monroe. You will have problems within, but I am concerned with Monroe.

ANTHONY DANIELE: Right. So our jurisdiction is limited on what we can do on Monroe Avenue, which is why Whole Foods has hired or at least requested and reimbursing the Brighton Police Department for their time to be out there.

CHAIRPERSON MIETZ: Okay.

MR. GORDON: Can you talk a little bit about how the tents are going to be placed vis-a-vis, where the cue to get into the store is going to be lined up, vis-a-vis where the shopping carts are now staged directly outside and along the front of the store, unless they have moved?

ANTHONY DANIELE: Yes. The shopping carts are actually now inside of the vestibule and we have cart corrals as well. So we will have more than enough shopping carts for all the customers and a place to line up.

MR. GORDON: So it's not along the front of the store?

ANTHONY DANIELE: Yeah, not along the front of the store and side.

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MR. GORDON: Where is -- the tents are going to be facing the store, the tents are going to be to the right of the entrance; is that correct?

ANTHONY DANIELE: Adjacent to the left of the main entrance.

CHAIRPERSON MIETZ: Yeah, they're depicted in the plan here.

MR. GORDON: I was looking at the last page of your application.

ANTHONY DANIELE: Right. You see the main entrance on the far right, it's going to be to the left of that main entrance.

MR. GORDON: Okay. So and where is the cue? Where are people going to line up?

ANTHONY DANIELE: From the main entrance if you are looking from the front of the building, they're going to snake to the left-hand side as well, and then there is kind of like a sidewalk, like, a little return where we can snake the line to make it as efficient as possible for the customers.

And we strongly believe that pushing up the opening to 7:00 a.m. will mitigate the amount of line cueing that's going to happen.

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MR. GORDON: Is any of that cueing going to be in the parking lot or on driving lanes?

ANTHONY DANIELE: It should not -- it will not.

MR. GORDON: So tractor trailers, it's my understanding that tractor trailers deliveries generally to the site will be about two or three per day in the hours of approximately 6:00 a.m. to 9:00 a.m. What's being planned specifically for the morning of opening day?

ALLAN CULP: We have confirmation from our two main delivery providers that we will have a delivery at 4:00 a.m. and exit before 5:00 a.m. and no deliveries after 5:00 and leave before 6:00 the day of opening.

MS. TOMPKINS WRIGHT: And any materials you provided, it specifically says that only small box deliveries like Fed Ex will occur after 7:00 a.m.?

ALLAN CULP: That's correct. We can't control if a truck breaks down or something that's not a factor to the delivery, prior to delivery, they have said they will be there at the beginning of those windows.

CHAIRPERSON MIETZ: That will be just that first day, the 12th? We're talking specifically to some unknown mistake. All the deliveries are scheduled?

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ALLAN CULP: That is correct. And I think what the answer is, that the deliveries will be between 6:00 a.m. and 7:00 a.m., the trucks will be gone by 7:00 a.m.

MR. GORDON: But if what I'm hearing Allan say is correct, is that trucks that you're requesting permission under this temporary and revokable permit to allow for that one day, trucks to arrive at the property between 4:00 a.m. and 6:00 a.m., which is different than what the code allows. That could be part of your application, is that what you're asking?

ALLAN CULP: Your answer, Mr. Gordon, is yes, that's correct. We would like to amend that application.

CHAIRPERSON MIETZ: Just for the 12th?

ALLAN CULP: Just for the 12th.

ANTHONY DANIELE: And just to be clear, I think the code prohibits deliveries before 6:00 a.m., so that's why. That's the why.

MR. GORDON: But, I think -- and I can't speak for the Board, but I can tell you, I can speak for the town supervisor on this. The town supervisor would think it would be a wise idea not to have deliveries during the grand opening event. So if you can make those deliveries happen before, that one day, great.

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ALLAN CULP: That was our intended goal.

MS. TOMPKINS WRIGHT: One more comment to make sure this application is amended appropriately. The application states that the permit may go to April 15th, which is Saturday, for offsite parking? But what I'm hearing is that you may park offsite through Sunday, April 16th? Is that the last day for the potential offsite parking permit?

ANTHONY DANIELE: That is our request, yes.

CHAIRPERSON MIETZ: Anybody else?

Gentleman, thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

APPLICATION 4A-09-23

4A-09-23 Application of Whole Foods Market, lessee, and Daniele SPC, LLC, owner of property located at 2740 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for the placement of "Coming Soon" and "Now Open" banners on the building face for up to 60 days where not allowed by code. All as described on application and plans on file.

MANUEL MEDINA: So this application is pretty straight forward. We would like to put a banner --

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MR. DiSTEFANO: Please reintroduce yourself.

MANUEL MEDINA: Manuel Medina, principal project manager for Whole Foods Market. Today we are seeking a variance to be able to put an exterior sign banner to convey that we are coming soon and that we are now open. Given that the opening is coming so soon, we will most likely just put up the now open sign. It is 40 feet wide by eight foot, so not too large. Ideally, we just want to convey the message to the residents after nine long years, we are now open.

CHAIRPERSON MIETZ: Okay.

MS. SCHWARTZ: Why do you require that length of time?

MANUEL MEDINA: We are amenable to the length of time that the banner is up, but we are getting one to -- it is pretty standard for us to try to convey to residents that we are open. But if --

MS. SCHWARTZ: They're going to know. Simply having it a month, I would even go less than that. Truly, two months is just an awful lot to have something like that up. I would think a month and less.

MR. GORDON: Can you tell us, for when you open, for example, and your store and some of the other

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

stores in the northeast, about how long do those now open signs stay up?

ALLAN CULP: Anywhere from 60 to 90 days, minimum, but depending on seasonality as well. Sometimes we're looking for summer, if it is summertime, we will wait until the fall to pull them down because folks will come back into town. So it's 60 to 90 days minimum.

CHAIRPERSON MIETZ: Okay. Any other questions?

MS. SCHWARTZ: Have you done any studies to show that it really takes that long for people to know that it is there before they start coming in? What indication do you have that it takes a minimum of three months or more? What do you base that on?

ALLAN CULP: I don't have any studies. My marketing team perhaps have done those studies in the past. I can't speak to it, but that's been our SOB for as long I have been doing this.

CHAIRPERSON MIETZ: We can review it. That's their request.

Is there any other questions about the banners?

Very good.

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Thank you, gentlemen.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

We will take a short break.

* * *

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

BRIGHTON

ZONING BOARD OF APPEALS MEETING

DELIBERATIONS

APRIL 10th, 2023
at approximately 8:40 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, Chairperson

MATTHEW D'AUGUSTINE)	
EDWARD F. PREMO, II)	
KATHLEEN SCHMITT)	BOARD MEMBERS
JUDY SCHWARTZ)	
ANDREA TOMPKINS WRIGHT)	

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Senior Planner

NOT PRESENT
HEATHER McKAY-DRURY

(The Board having considered the information presented by the Applicant in each of the following cases and having completed the required review pursuant to SEQRA, the following decisions were made:)

REPORTED BY: Rhoda Collins, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

Batavia, New York 14020

APPLICATION 4A-02-23

4A-02-23 Application of Jagdish Kaur, owner of property located at 30 Jefferson Road, requesting renewal of a Use Variance (12A-03-22) and an Area Variance (12A-04-22), pursuant to Section 219-5F, where approvals allow for a liquor store in an I guess-Light Industrial District and for front yard parking where both are not allowed by code. All as described on application and plans on file.

Motion made by Mr. D'Augustine to approve the renewal, Application 4A-02-23 based on the prior findings and facts and conditions set forth in Applications 12A-03-22 and 12A-04-22.

(Second by Ms. Tompkins Wright)

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

(Upon roll call, motion to approve carries.)

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APPLICATION 4A-08-23

4A-08-23 Application of Whole Foods Market, lessee, and Daniele SPC, LLC, owner of property located at 2740 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a grand opening, outdoor event on April 12, 2023 (and possibly through April 15, 2023) with off-site employee parking. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 4A-08-23 as amended, based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested temporary revokable use permit is a type two action pursuant to six MICRR Section 6717.521, and no review is required pursuant to the State Environmental Quality Review Act.

2. Applicant's request for a grant of a temporary revokable use permit for an opening day and outdoor event with three outdoor tenants, limited outdoor music, an outdoor food distribution, and offsite parking is temporary in nature and does not involve the erection or enlargement of any permanent structure.

3. The proposed tents are small in size for commercial

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purposes and proposed to be up for less than 24 hours. They will not negatively affect the health, safety and welfare of the community.

4. The prerecorded outdoor music is proposed for a very limited time period from 11:00 a.m. to 2:00 p.m. And given the heavily trafficked location at the property along Monroe Avenue, it will not negatively affect the health, safety and welfare of the community.

5. The offsite employee and overflow parking located at First Baptist is proposed out of an abundance of caution and will be limited to the grand opening event through the weekend.

6. While semi-truck deliveries are typically made after 6:00 a.m., a one-day permit to accept deliveries as early as 4:00 a.m. is requested due to control of traffic for the opening day event.

CONDITIONS:

1. A temporary revokable use permit applies only to the activities described in the application as amended and in the testimony given for the period of April 12, 2023, through April 16, 2023, specifically outdoor food distributions, tents, and outdoor music shall be limited to Wednesday, April 12th. Offsite parking shall be limited to April 12th

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through April 16th. The permit for truck deliveries made prior to 6:00 a.m. shall be limited to Wednesday, April 12th.

2. All tents shall be placed under the canopy at the property and shall not impede in any vehicular traffic circulation or parking. Tents shall be erected no earlier than 4:00 a.m. on Wednesday, April 12th, and shall be removed no later than 11:59 p.m. on Wednesday, April 12th.

3. Throughout the event applicant shall ensure that all pedestrian traffic and gathering is directed away from any parking areas or drive aisles in the shopping center.

4. All large semi-truck deliveries shall be made to the property between 4:00 a.m. and 6:00 a.m. on Wednesday, April 12th.

5. Applicant shall police the area and shall ensure that all refuse is removed from the property.

6. The temporary revokable use permit granted herein is expressly conditioned on applicant complying with the grand opening event and traffic plan submitted to this Board prior to April 10th.

(Second by Mr. D'Augustine.)

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

Ms. Schwartz, yes; Mr. Premo, yes; Mr. D'Augustine, yes;

Ms. Tompkins Wright, yes.)

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(Upon roll call, motion to approve with
conditions carries.)

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APPLICATION 4A-09-23

4A-09-23 Application of Whole Foods Market, lessee, and Daniele SPC, LLC, owner of property located at 2740 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for the placement of "Coming Soon" and "Now Open" banners on the building face for up to 60 days where not allowed by code. All as described on application and plans on file.

Motion made by Mr. D'Augustine to approve Application 4A-09-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. Use will not produce a substantial change to the character of the neighborhood.
2. The requested time duration is reasonable based on Whole Foods standard operating procedure for store openings.
3. The requested use will not negatively affect the health, safety, and general welfare of the community.

CONDITIONS:

1. The temporary signage will conform to the size, style and placement as described in the application based on the testimony given.
2. The granting of this use permit shall not be construed to

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include any additional signage.

3. Signs shall be removed immediately upon the expiration of the sixty-day time frame.

(Second by Ms. Tompkins Wright.)

(Mr. Mietz, yes; Ms. Schwartz, no; Mr. Premo, yes; Ms. Schmitt, yes; Ms. Tompkins Wright, yes; Mr. D'Augustine, yes.)

(Upon roll call, motion to approve with conditions carries.)

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

APPLICATION 3A-06-23

3A-06-23 Application of Larry and Stacy Turowski, owners of property located at 141 St. Regis Drive South, requesting modification of an approved setback variance for a detached garage (10A-08-22) to be reduced from the approved 4.7 ft to 2.7 ft where a 5 ft minimum setback is required by code. All as described on application and plans on file.

Motion made by Ms. Schwartz to approve Application 3A-06-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. This application was approved on 10/08/22.
2. This is a new slight, modification to the original application and approval requesting 2.7 foot rear setback in place of the original 4.7 foot setback, where a five-foot minimum setback is required by code, thus requiring reapplying to this Board.
3. The reason for this request, it is because the applicant now has architectural drawings and a calculation of the proposed garage which indicate that the front left corner of it would be 1.8 feet from the front property line if the variance were not granted. Therefore 2.7 foot rear setback

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does not impact the character of the neighborhood and achieves the desired result for the applicant.

4. The garage will be in keeping with the garages in the neighborhood in height and style.

5. There is no alternative placement for the new garage to fit the shape of the lot, nearby street, et cetera.

CONDITIONS:

1. This variance only applies to testimony presented and additional written information to the application.

2. The height of the structure shall be no greater than 16 feet.

3. All necessary building permits must be obtained.

(Second by Mr. D'Augustine.)

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

(Upon roll call, motion to approve with conditions carries.)

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

APPLICATION 4A-01-23

4A-01-23 Application of Robert Piazza Palotto, owner of property located at 2500 Elmwood Avenue, for modification of an approved variance (9A-06-22) to allow construction of a second story above an attached garage addition which was granted a side setback variance of 8.2 ft in lieu of the minimum 10.8 ft required by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to table Application 4A-01-23 and reopen the Public Hearing so that the applicant may work with the Architectural Review Board for an acceptable design.

(Second by Mr. D'Augustine.)

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

(Upon roll call, motion to table and keep the Public Hearing open carries.)

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

APPLICATION 4A-03-23

4A-03-23 Application of Colleen Cornel, agent, and Ralph DiTucci, Castle Office Group LLC, owner, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a food truck on site once per week from May through August 2023 where prohibited by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 4A-03-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. Applicant's request for a revokable use permit to permit a food truck once per week for the summer months is temporary in nature and does not involve the erection or enlargement of any permanent structure.
2. The requested temporary use and time permitted for use is consistent with the uses in the area to provide a temporary amenity to the property staff.
3. Applicant has complied with all conditions previously imposed upon the applicant prior years for the same or similar revokable use permit.
4. There is no evidence that the granting of this permit will negatively affect the health, safety or welfare of the

community.

CONDITIONS:

1. This temporary revokable permit is based on the document submitted and testimony provided.

2. The applicant will provide adequate trash and recycling containers for use by customers of the food truck and will be responsible for trash removal.

3. The food truck will only operate one time per week for three or four hours at a time.

4. The food truck on the site must be currently licensed and successfully completed the most up to date fire safety inspection by the City of Rochester fire department.

(Second by Mr. Premo.)

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

(Upon roll call, motion to approve with conditions carries.)

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APPLICATION 4A-04-23

4A-04-23 Application of Jennifer and Jesse Readlynn, owners of property located at 114 Sylvan Road, to allow for a covered porch to extend 5.5 ft into the 40 ft front setback required by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve Application 4A-04-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. The request is to allow a front porch to extend 5.2 feet into the 40 setback required by code.
2. The home's current front door portico does not allow for adequate seating nor does it provide an adequate entranceway, in that only no one person may be under it at a time.
3. While the variance is self-created, the granting of the variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties as other properties in the neighborhood have front porches that are within the setback. Moreover, there's no evidence that there would be a negative effect on the health, safety and welfare of the neighborhood.

CONDITIONS:

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1. The variance will apply only to that which is described in the application and plan presented at the hearing and testimony provided and will not apply to future projects.

2. The front porch must remain open.

3. The homeowner shall mitigate with landscaping.

4. All necessary building permits shall be obtained.

(Second by Ms. Tompkins Wright.)

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

(Upon roll call, motion to approve with conditions carries.)

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

APPLICATION 4A-05-23

4A-05-23 Application of Christopher Brandt, agent, and Andre Langston and Wendy Boyde, owners of property located at 1715 Clover Street, for an Area Variance from Section 203-2.1B(6) to allow a stand-by emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described in application and plans on file.

Motion made by Mr. Premo to approve Application 4A-05-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested area variance is for a single-family home that is a type two action, pursuant to 6NYCRR 617.5 C17, a no review is required pursuant to the State Environmental Quality Review Act.

2. The requested variance is to allow the location of the standby generator for power emergencies in the side yard instead of the rear yard. The rear yard is previously improved by an in ground swimming pool, timber frame landscaping and deck. The proposed location is near utility connections with the house and near an existing central air conditioning unit. The proposed location is screened from

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Clover Street by an existing arborvitae hedge. Given the large sizable lot, the location is approximately 40 feet from the side property line.

3. In context, the requested area variance is not substantial.

4. There are no other alternatives to produce the desired result given the existing improvements in the rear yards and the location of the utilities for the house.

5. There will be no unacceptable change in the character of the neighborhood and no substantial detriment to the nearby properties is expected.

6. The hardship is based on the existing condition of the property.

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

CONDITIONS:

1. The variance is based on the application submitted and only authorizes the project described therein.

2. Shielding the generator from Clover Street will be maintained.

3. Subject to obtaining necessary permits and inspections.

(Second by Mr. D'Augustine.)

(Ms. Schmitt, yes; Ms. Schwartz, yes;

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Ms. Tompkins Wright, yes; Mr. Mietz, yes; Mr. D'Augustine,
yes; Mr. Premo, yes.)

(Upon roll call, motion to approve with
conditions carries.)

BRIGHTON ZONING BOARD OF APPEALS 04/10/2023

APPLICATION 4A-06-23

4A-06-23 Application of Caroline and Daniel Grabowski, owners of property located at 1301 Highland Avenue, for an Area Variance from Section 207-2A to allow a front yard fence to be 6.5 ft in height in lieu of the maximum 3.5 ft allowed by code. All as described on application and plans on file.

Motion made by Ms. Schmitt to approve Application 4A-06-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. By this application the homeowners are seeking to replace an existing nonconforming fence installed by the previous owner that was damaged by a car with a similarly sized six and a half foot dog eared fence.

2. The property in question is on a corner lot with the home facing Edgemere Drive. Because it is a corner lot which the homeowners use as their side yard, is deemed to be a front yard facing Highland Avenue, a heavily trafficked road, and across the road is the Hillside Residential Treatment Building.

3. As the proposed fence will be replacing a damaged and deteriorating fence of similar height, the granting of the

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variance would not appear to result in any substantial detriment to nearby properties or otherwise adversely affect the character of the neighborhood.

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

5. The proposed replacement fence is the minimum necessary to achieve the homeowner's desired goals of privacy and safety for themselves and their children.

CONDITIONS:

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

2. All necessary building permits shall be obtained.

(Second by Mr. D'Augustine.)

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

(Upon roll call, motion to approve with conditions carries.)

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APPLICATION 4A-07-23

4A-07-23 Application of David and Elizabeth Thurnherr, owners of property located at 196 Bastian Road, for Area Variances from Sections 203-2.1B(3), 203-9A(4) and 207-6A(1) or 1) allow for the construction of a detached garage 3 ft from a side lot line in lieu of the minimum 5 ft required by code, 2) allow the garage to be 704 sf in size in lieu of the maximum 600 sf allowed by code, and 3) allow said garage to be 20 ft in height (top of copula) in lieu of the maximum 16 ft allowed by code. All as described on application and plans on file.

Motion made by Ms. Schwartz to approve Application 4A-07-23 based on the following findings and facts.

FINDINGS AND FACTS:

1. The current garage is in poor condition and needs to be replaced and offer the applicant the opportunity to construct a larger 704 square foot garage to accommodate both cars and provide needed storage space.

2. Many locations for the new garage were considered but were not possible due to the septic system, a negative change in the character of the property blocking the view from the deck of the creek, the yard, and wooded property on the other

side of the creek, and interfering with the stairs at the primary exit at the rear of the house.

3. The proposed garage will be partially visible only from the south because there are trees and sheds along the property line blocking the views of the garage.

4. The proposed garage will not change the character of the area because this is a large lot which can accommodate the new larger garage and side variances only two feet into the setback.

5. The height variance for the garage is due to the placement of a cupola which also on the current garage and is slightly less in height. Therefore, this is a very minimal variance and as it is only for a small decorative element and not the entire garage, is in keeping with the character of the property.

CONDITIONS:

1. The variances only apply to the testimony presented and written application.

2. The only utility will be electricity, which is in there now.

3. All necessary building permits must be obtained.

(Second by Mr. Premo.)

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

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Mr. D'Augustine, yes; Ms. Tompkins Wright, yes; Mr. Premo, yes; Ms. Schwartz, yes.)

(Upon roll call, motion to approve with conditions carries.)

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REPORTER CERTIFICATE

I, Rhoda Collins, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated this 4th day of June, 2023.

At Rochester, New York

Rhoda Collins
Rhoda Collins

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