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BRIGHTON
PLANNING
BOARD

May 17, 2023
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JASON HAREMZA, EXECUTIVE SECRETARY
WILLIAM PRICE, CHAIRPERSON
JOHN OSOWSKI) BOARD MEMBERS
KAREN ALTMAN)
JULIE FORD)
PETER GRISEWOOD)

KENNETH GORDON, ESQ.
Town Attorney

ABSENT:

DAVID FADER
JASON BABCOCK-STINER

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

1 CHAIRPERSON PRICE: Okay. Good evening,
2 everybody. I'd like to welcome everyone to the May
3 17th meeting of the Town of Brighton Planning Board.

4 Just for everyone's information, the
5 applications that we're going to hear tonight have
6 been posted on the Town's website. And if you do have
7 any written comments that you'd like to submit other
8 than what you may want to present tonight, you're
9 welcome to submit those comments to our executive
10 secretary, Jason Haremza at Town Hall or
11 jason.haremza@townofbrighton.org. So we will welcome
12 comments even after tonight.

13 In the unlikely event of something happening
14 tonight, there are exits behind you and there's an
15 exit to my right or your left. We just ask that you
16 exit in an orderly fashion.

17 Mr. Secretary, would you kindly call the
18 roll for tonight.

19 (Whereupon the roll was called.)

20 MR. HAREMZA: Babcock-Stiner is absent.
21 Fader is absent.

22 CHAIRPERSON PRICE: Thank you. We will take
23 a few minutes to review tonight's agenda with our
24 staff before we hear the public hearings.

25 All right. First application, 4P-03-23.

1 This is the application of Stephen Artim and Tricia
2 Shalka along with Jerry Serafine. This is being
3 postponed. We're not going to hear this.

4 MR. HAREMZA: Correct. They're in the
5 process of preparing some additional information,
6 which we'll see what it looks like when it comes in,
7 but it may actually negate the need to come to the
8 Planning Board.

9 CHAIRPERSON PRICE: Just the building
10 permit?

11 MR. HAREMZA: They'll still need a flood
12 damage -- what's the permit called, Ken? They still
13 need a flood something.

14 MR. GORDON: I'm sorry. I'm not with you.

15 MR. HAREMZA: The first one. 55 Stonybrook.

16 MR. GORDON: Oh, right. Yeah. They would
17 still need a permit for -- this is not an EPOD here,
18 but the project may impact a floodplain. So they
19 would need a floodplain permit basically from the Town
20 indicating that they are not significantly disturbing
21 the floodplain or that they're actually offsetting the
22 disturbance.

23 But we're waiting for more documentation
24 because their analysis was not complete and some of
25 their documents had numbers in it that didn't sink up

1 and didn't match the mapping for the floodplain that
2 we had on file. So they had some more homework to do.

3 MR. HAREMZA: What I gathered from the
4 applicant is they plan to file for an E-LOMA, a letter
5 of map amendment, that they feel will show that
6 they're not in the floodplain.

7 MR. GORDON: If that happens, then it's sort
8 of obvious that they need to come here.

9 CHAIRPERSON PRICE: Okay. Who has
10 jurisdiction on the LOMA?

11 MR. HAREMZA: FEMA I believe.

12 MR. GORDON: But the Town acts as
13 administrator.

14 CHAIRPERSON PRICE: It does. Okay.

15 MR. GORDON: We can't change their maps, but
16 we need to enforce the maps.

17 CHAIRPERSON PRICE: All right. Anything
18 else? Any questions? All right.

19 Jason, next is 5P-01-23, Cortese Cycle
20 Sales.

21 MR. HAREMZA: Yes. So you may recall this
22 came for a conditional use permit last year about this
23 time. They are here to renew that and expand it.
24 They're expanding into the portion of the building
25 that had previously been a hair and nail salon I

1 believe.

2 We have received no complaints over the past
3 year on this operation. And I just handed out --
4 there was a communication from a Bob Harding on Center
5 Drive who requests that a privacy fence be installed.

6 MR. GORDON: I will just add, although we
7 had not heard any complaints, Mr. Harding's email
8 would suggest that he is being annoyed by noise being
9 made by the business revving engines. So we may want
10 to ask.

11 You may recall when this was approved
12 originally for both service and sales, that all
13 operations, service and sales, would be conducted
14 inside a building with the doors closed so noise would
15 not disturb the neighbors. If that's not happening,
16 we should probably check on that. We might want to
17 ask some questions about that.

18 MR. OSOWSKI: Do we know if that's because
19 the doors are being left open?

20 MR. GORDON: Don't know. Good question to
21 ask though, John.

22 CHAIRPERSON PRICE: All right. Application
23 5P-02-23. This is the PEMM, LLC and Bristol Valley
24 Homes. This is the Quicklee's East Avenue.

25 MR. HAREMZA: A few things on this. First

1 of all, this is combining preliminary and final site
2 plan approval. So you'll see this item repeated later
3 on in the agenda. The -- not really many outstanding
4 issues, which is why the -- recommending approval.
5 Environmental determination is prepared for the Board
6 to consider part of this.

7 And I think that the -- some minor issues
8 about the three foot wide crosswalk on the southern
9 edge of the parking and maneuvering area. Staff felt
10 that that creates sort of an awkward conflict point
11 between pedestrians using the painted crosswalk and
12 the driveway. Perhaps there's an alternative location
13 on the site to do that.

14 I guess the major issue is correcting or
15 making sure that what was approved by the Historic
16 Preservation Commission in terms of materials -- the
17 dumpster enclosure, for example, was approved as a
18 masonry dumpster enclosure and the site plan drawings
19 that were submitted show a wood dumpster enclosure. I
20 think there's a few discrepancies on the dimensions of
21 the canopy as well.

22 So before they get building permits, they'd
23 need to submit final drawings that reflect exactly
24 what exactly the Historic Preservation Commission had
25 approved.

1 MR. GORDON: Generally though, we think it's
2 ready for this Board's action on the preliminary and
3 final, subject to some technical clarifications.

4 MR. OSOWSKI: I had trouble figuring out
5 what they were talking about, the three foot crosswalk
6 being in conflict with the driveway. I couldn't see
7 it.

8 CHAIRPERSON PRICE: It's not on this set of
9 plans. It was on previous sets. It's just been
10 removed.

11 MR. GORDON: So the idea was to provide
12 pedestrians access across the parking lot.
13 Originally, it was coming behind some parking spaces.
14 Then it was moved, I believe, to the other side. But
15 still creates potentially a hazard to pedestrians.

16 While well-intentioned to provide a
17 designated walking area, but also -- at least staff's
18 view of it now is that it may cause both confusion and
19 increase risks to pedestrians instead of what was
20 intended to be, here's where you walk and here's where
21 you walk safely. We should have asked some questions
22 about that.

23 MR. OSOWSKI: Okay.

24 CHAIRPERSON PRICE: Okay. So I can announce
25 we're just going to combine those two into one. Okay.

1 Application 5P-03-23. This is James Smith
2 and Tasty Hut LLC. This is the preliminary and final
3 site plan approval, conditional use permit for Pizza
4 Hut at 1760 Monroe Avenue.

5 We got everything. We got a new
6 application. This is a new application; right?

7 MR. HAREMZA: Yes. Previously it was denied
8 without prejudice in November or December if I recall.

9 CHAIRPERSON PRICE: Okay.

10 MR. HAREMZA: Yeah. So it's a new
11 application. There are, you know, some substantial
12 concerns about the drive-through operations. And I
13 should note that this is not a traditional
14 drive-through in the sense of having a menu board,
15 drive-up window. Where you have previously ordered
16 your pizza on the phone, on your device, et cetera,
17 you just pull up and collect your pizza.

18 However, the Town Code does not distinguish
19 between that type of drive-up window and a
20 drive-through. We have a pretty broad definition of
21 what constitutes as a drive-through operation. Thus,
22 we have to apply all the requirements of a
23 drive-through.

24 And, you know, it's a tight site. One of
25 the ways it does not meet is some of the stacking

1 lanes are 10 feet wide. 12 feet is required. It's
2 fairly minor. Possibly it could be tweaked. But it's
3 a tight site. And maybe change it to residential.

4 MR. GORDON: Staff had a number of concerns
5 about the information that was provided. We felt that
6 it was incomplete. We felt that we needed a traffic
7 analysis. We felt that the parking analysis was
8 inaccurate. There were comments, and you'll see in
9 your package by Jason, by the Town engineering staff
10 and the sewer department -- I mean, there's a lot
11 going on here that has not been addressed.

12 I will say that staff sort of was balancing
13 our recommendations and didn't come to a final
14 conclusion, but it's one of two things. One is to
15 table it and give them an opportunity to provide more
16 information. The other would be to deny it as it's
17 submitted to the Board now because they're just --
18 staff felt, and you can see it in the findings, the
19 proposed findings that Jason wrote up, staff just
20 didn't feel that it met the criteria for a conditional
21 use with that drive -- with that pick-up lane. I
22 guess we're going to call it a pick-up lane. It needs
23 to meet the same standards as a regular drive-through.
24 So we just didn't feel that that met those criteria.

25 That will be for the Board's discussion

1 later on as to which action you feel is best for this
2 particular application.

3 MR. HAREMZA: And you'll see in the
4 conditional use permit standards in the staff report,
5 remember that -- you know, that reflects what is
6 submitted. And it's hard to tease apart the
7 drive-through part of the conditional use permit and
8 restaurant part of the conditional use permit.

9 So had this been a restaurant-only
10 application for conditional use permit, I don't think
11 anybody would have any concerns. It's the
12 drive-up/drive-through component of that that is
13 causing those concerns.

14 And just one additional thing on the
15 parking, I think what Ken was referring to and my
16 sense of it was there was a bit of confusion with the
17 way our code reads. There are two different ways to
18 calculate parking requirements for restaurants and the
19 applicant can choose either one. And I think in some
20 of their documentation they ended up choosing the more
21 stringent of the two and thus show they don't meet the
22 requirement. In our review, staff review, we felt
23 that they do meet the 20-space parking requirement.

24 MR. GORDON: And I just want to add one
25 thing because he triggered a thought, a question that

1 the Board may want to ask on this is if the applicant
2 was not able to get this pickup lane, are they still
3 interested in going with the restaurant as a
4 standalone project? Because that's important for us
5 to know I think. And it might inform you as to what
6 action you might take.

7 MR. HAREMZA: I think many of us are also
8 curious as to the actual operations of this pizza
9 pickup window. Are you getting a large pizza shoved
10 back through your driver's side window? It seems a
11 little unwieldy to collect that. I'm curious to how
12 these things may actually function.

13 MR. GORDON: Sheet pizzas can only be picked
14 up by pickup trucks.

15 MR. OSOWSKI: Does the Town differentiate
16 between a bank drive-through and a pharmacy
17 drive-through compared to a food establishment?

18 MR. HAREMZA: It distinguishes between
19 restaurant drive-throughs and non-restaurant
20 drive-throughs.

21 MR. OSOWSKI: Okay. Thank you.

22 CHAIRPERSON PRICE: Questions?

23 MS. FORD: How is this different from -- I'm
24 sorry. How is this different, this new application?
25 Because I was not there at the initial. How is this

1 different?

2 CHAIRPERSON PRICE: We denied it because the
3 applicant did not supplement the information they had
4 originally submitted with their first application --

5 MS. FORD: Okay. Thank you.

6 CHAIRPERSON PRICE: -- and didn't show up to
7 the meetings. Therefore, we -- I think they were in
8 the process of trying to retain local engineering
9 help.

10 All right. Okay. So we're going to combine
11 5P-NB2-2 2, Bristol Valley Homes, with the preliminary
12 application.

13 So the next two we have are postponed. This
14 is Westmarsh Properties LLC.

15 MR. HAREMZA: Yes. That's 57 Eldridge,
16 demolition and construction of a new single-family
17 house. The variances were all granted for this last
18 week or two weeks ago, but there are still some
19 outstanding issues with this.

20 MR. GORDON: The applicant is asking for a
21 postponement.

22 MR. HAREMZA: The applicant is asking for a
23 postponement. They have not gone to ARB yet.

24 MR. GORDON: The so-called cottonwoods, have
25 you had a chance to look?

1 MR. GRISEWOOD: I did visit the site and
2 they are cottonwoods.

3 MR. GORDON: There's some drainage issues on
4 the property. They're just working on a number of
5 issues.

6 CHAIRPERSON PRICE: Also postponed is
7 application 4P-NB2-23, application of 1950-1966 Monroe
8 Avenue LLC. I believe this is the Quicklee's
9 application for Elmwood.

10 Then there's -- the last is application
11 5P-NB1-23, Nunzio Salafia, for preliminary subdivision
12 approval and preliminary site plan approval,
13 preliminary EPOD, permit and demolition review. This
14 is for a subdivision on Old Mill. Is that -- did you
15 say that's going to be tabled or postponed?

16 MR. GORDON: So staff viewed this and felt
17 that the materials submitted were incomplete. In
18 addition, based on the potential demolition of this
19 property, this matter did go to the Historic
20 Preservation Commission for its determination as to
21 whether it was interested in considering the property
22 as it now exists for landmark status. The Historic
23 Preservation Commission has not made that decision
24 because it's not sure and needed more information.

25 So for all those reasons, staff was

1 recommending that the matter be tabled. That was
2 communicated to the applicant. The applicant then
3 said they would like the matter postponed.

4 However, we do have folks in the audience
5 tonight who are interested, who came here tonight to
6 speak at this public hearing. So I would encourage
7 you to allow that public hearing to go forward just so
8 these folks can get their statements on the record.

9 CHAIRPERSON PRICE: And am I right in
10 looking at this, I'm seeing no signage applications?

11 MR. HAREMZA: No signage applications.

12 CHAIRPERSON PRICE: That's a first. Any
13 questions or comments? Okay.

14 We did receive our meeting minutes from our
15 April 19th meeting. Do I have a motion to approve
16 those meeting minutes?

17 MR. OSOWSKI: I'd like to move we approve
18 them with several minor corrections that I transmitted
19 to Jason.

20 CHAIRPERSON PRICE: Okay. Is there a
21 second?

22 MS. FORD: I'll second.

23 CHAIRPERSON PRICE: Moved as amended and
24 seconded. Is there any other questions or comments?

25 Jason, would you call the roll?

1 (Ms. Altman, abstain; Ms. Ford, aye;
2 Mr. Grisewood, aye; Mr. Osowski, aye;
3 Mr. Price, aye.)

4 CHAIRPERSON PRICE: Okay. Thank you.
5 Mr. Secretary, were tonight's public hearings properly
6 advertised prior to tonight's meeting?

7 MR. HAREMZA: Yes. They were advertised in
8 the Daily Record of May 11th, 2023.

9 CHAIRPERSON PRICE: Okay. We will hold the
10 public hearings. If there is anyone in the audience
11 interested in 4P-03-23, that's the application of
12 Stephen Artim and Tricia Shalka along with Jerry
13 Serafine, that applicant has requested a postponement
14 presumably to our June meeting.

15 First application we will hear tonight is
16 5P-01-23.

17 **Application 5P-01-23**

18 Application of Cortese Cycle Sales, owner,
19 for renewal and expansion of a Conditional Use Permit
20 (2P-01-22) allowing for motorcycle sales and service
21 on property located at 2771-2775 West Henrietta Road.
22 All as described on application and plans on file.

23 CHAIRPERSON PRICE: Good evening.

24 MR. CORTESE: Good evening. How you doing?
25 Nice to see you all in person. We did this via Zoom

1 last year.

2 CHAIRPERSON PRICE: That's right.

3 MR. CORTESE: Okay. So all I'm really
4 looking to do is get the permit --

5 CHAIRPERSON PRICE: Can you just tell us --

6 MR. CORTESE: Sorry. John Cortese. Sorry
7 about that for the record. I've been here so many
8 times, I thought you'd remember me.

9 Yeah. I am looking to just get the permit
10 renewed. And then I had a tenant there for a long
11 time. It was a hair salon. Takes up about 1,000
12 square feet. She left in February. And I'm
13 contemplating whether to knock out the wall and just
14 have more storage for my bikes.

15 We haven't done that yet. But I had to come
16 here to get this reviewed, so I figured you'd do it
17 all in one fell swoop. If it does get approved, I'm
18 still deciding whether we're going to do that or not.
19 If we do, it'll probably be something we take on in
20 the fall, knock the wall down, which would allow me to
21 have more storage for the motorcycles.

22 What we do is -- I collect -- we sell bikes.
23 As we're selling the bikes for the season, as I'm
24 buying them, we're selling them. When the season ends
25 in pretty much September, we tend to start buying

1 bikes for -- basically for the spring. So the more
2 bikes that I can buy I need a place to store them
3 inside. I needed a better plan in the wintertime. So
4 then we start selling them through February, March.
5 So that's all it's for. We're doing this -- nothing's
6 going to change other than putting 20, 30 bikes for
7 storage.

8 CHAIRPERSON PRICE: Okay. So John, would
9 you just back up and tell us how the operation is
10 going?

11 MR. CORTESE: It's going great.

12 CHAIRPERSON PRICE: We heard --

13 MR. CORTESE: Right now, I have one person
14 working in the building. There's sometimes two
15 technicians in the back. And then the rest is just
16 storage of bikes. That's it. Nothing -- there's
17 no -- no -- when you drive by there, you don't know
18 we're in it. We don't advertise for it. It's just
19 overflow.

20 So if I have a customer and -- we can only
21 fit about 65 bikes in the other showroom. So if I
22 have 20 in the other building, we'll show them the
23 bike. They'll either buy it or they won't. And then
24 in the back of the building, like I said, last year I
25 just have another technician work on the bikes that we

1 service for our customers that we sold to.

2 And as far as the question one gentleman
3 asked, we've done everything you asked us to do and
4 what we said we were going to do. My shop's fully
5 air-conditioned. There's no reason they would want to
6 work on a bike when it's hot out. So we make sure
7 that they're shutting the doors, which they are.

8 We're not driving up and down that street
9 anymore, which we used to do to test drive the bike.
10 But I can't stop people from driving a motorcycle on
11 my property. And when people do buy a bike, they have
12 to load it somewhere. They have to load it on the
13 trailer. So I don't know.

14 The gentleman at the end of the street is
15 the only person that's ever complained about our
16 bikes. The other one or two complaints we had are
17 family members of them that live on the street. For
18 whatever reason since we moved there, they had a
19 problem with us for whatever reason. And I don't know
20 what it is. But I'm a motorcycle business. I have to
21 be able to start up a motorcycle and drive it around
22 my building and let somebody test drive one.

23 So other than that, I don't think you're
24 getting any complaints. And there's none that I'm
25 aware of.

1 MR. OSOWSKI: What brand of motorcycle do
2 you sell?

3 MR. CORTESE: They're all pre-owned. So I'd
4 say half the inventory is Harley Davidson. We do a
5 lot of street bikes and we do Indians. You know, and
6 then all the other brands that we take in on trade.

7 CHAIRPERSON PRICE: What's a street bike
8 considered?

9 MR. CORTESE: You know, like the crotch
10 rocket bikes, the real fast ones. The kids drive
11 those ones.

12 CHAIRPERSON PRICE: Okay. The ones that I
13 can hear?

14 MR. CORTESE: Yeah. The ones you hear.

15 MR. OSOWSKI: They don't drive up --

16 MR. CORTESE: Just to give you a little bit
17 of background in the bike business, part of the bike
18 safety is the exhaust. Because if you can't hear the
19 bike, sometimes it's too late to see them. So
20 these -- what people do is they put -- they come with
21 a fairly loud exhaust on them. And some put a little
22 bit louder exhaust on them. So that's just the
23 industry.

24 But I've instructed all my people, do not go
25 up and down the road. They do Henrietta. But once in

1 a while a customer will ride up and down. There's a
2 guy that lives on that street that has a motorcycle.
3 I can't stop him. I can't be responsible for every
4 little bit of noise.

5 I can say we haven't had a business
6 complaint. The hair salon that was a tenant of ours
7 for years had a masseuse in her business. Never got
8 one complaint. So I don't know. Any of these
9 complaints were new to me.

10 CHAIRPERSON PRICE: Okay. And the new
11 showroom, this is the -- I'm going to call it the
12 south side of the building, that your tenant was in --

13 MR. CORTESE: Yup.

14 CHAIRPERSON PRICE: -- that you would
15 consider expansion into.

16 MR. CORTESE: Correct. I may not even do it
17 but I just would rather know I could. And if I decide
18 I want to, I'll probably knock the wall down and then
19 just -- that's it.

20 CHAIRPERSON PRICE: So all the conditions of
21 the original approval would be acceptable?

22 MR. CORTESE: Oh, yeah. Yup. We've been
23 doing 99 -- the entire operation is out of the other
24 building. The only thing is this is just overflow.

25 CHAIRPERSON PRICE: You wouldn't be making

1 any exterior improvements.

2 MR. CORTESE: Not at this point. You know,
3 down the road -- my sister and I own that building.
4 You know, the one nice thing -- we made the one
5 building look really good. It just makes the other
6 one look not so good. So yeah, in the back of our
7 minds, we want to do that. But right now, it's
8 probably not the right time. Business is a little
9 off. But down the road, yes, we'll eventually
10 renovate that building.

11 CHAIRPERSON PRICE: All right. Any
12 questions?

13 MS. ALTMAN: No questions.

14 CHAIRPERSON PRICE: John?

15 MR. OSOWSKI: I'm good.

16 MR. GRISEWOOD: I'm good.

17 MR. GORDON: I have a couple questions.

18 CHAIRPERSON PRICE: Please.

19 MR. GORDON: So Mr. Cortese, I think what I
20 heard you say is that despite the conditions imposed
21 under the conditional use permit you're operating
22 under right now, that at times your customers drive
23 bikes to test them up and down Center Drive.

24 MR. CORTESE: Not with our permission, no.

25 MR. GORDON: Well, they do --

1 MR. CORTESE: I can't help it if a guy pulls
2 into the dealership, drives down the street and then
3 pulls on my property coming to trade it in. I can't
4 stop that.

5 MR. GORDON: No, no. But you can tell your
6 customers you're not allowed to drive that bike up and
7 down Center Drive --

8 MR. CORTESE: We don't allow them to. We
9 don't.

10 MR. GORDON: It's going to be difficult for
11 the stenographer to take down accurately what we're
12 saying if you continue to interrupt. So please stop
13 that.

14 So what I understand you to say is that
15 customers come in to test drive bikes you are selling
16 to them and they drive them up and down Center Drive
17 at times. Is that your testimony here?

18 MR. CORTESE: I must have said that
19 incorrectly. I apologize.

20 MR. GORDON: Okay. So they don't do that?

21 MR. CORTESE: We don't put somebody on the
22 bike, tell them to test drive it down the road. But
23 if somebody pulls in and drives down the street, which
24 does happen once in a while, I can't help that. I
25 can't be responsible for every person that drives a

1 bike. There's a guy that lives on the street that
2 owns a bike.

3 So I understand what you're saying. We do
4 not instruct anyone to go up and down that road. None
5 of my employees. I think that was the initial problem
6 in the beginning was when I first bought the place, we
7 were concerned about the safety of our employees
8 constantly pulling out on Henrietta Road and pulling
9 in and out of traffic. So we were using that to test
10 drive the bikes. And there was a couple people that
11 didn't like it, which when you brought that to our
12 attention last year, we nipped that right in the bud.
13 So there's no argument there. We're not looking to go
14 up and down that road.

15 What I was trying to say was I can't --
16 where the customer pulls onto my lot, they --
17 sometimes they drive around the building to come out
18 the other side. You know, it's a motorcycle shop. I
19 don't know -- I can only do so much. But there's
20 nothing we're doing to promote more noise.

21 MR. GORDON: So do you or do your employees
22 instruct customers who are taking bikes out to test
23 drive, "Don't go down Center Drive. You're not
24 allowed to" --

25 MR. CORTESE: Correct. We tell them that,

1 yes.

2 MR. GORDON: And I think I also heard you
3 say that sometimes customers when they're testing out
4 a bike, you drive it around your parking lot. Is that
5 what they do?

6 MR. CORTESE: They might, yes when they --
7 absolutely. Especially if somebody isn't comfortable
8 driving it, we'll let them take it around the
9 property. We have to drive the bike around the
10 property. That's how we get it in the shop.

11 MR. GORDON: So here's the problem is that I
12 understand you operate a motorcycle shop. I
13 understand motorcycles are loud. I used to ride a
14 Harley Fat Boy myself. So I know how loud they are.

15 But you're adjacent to a residential
16 neighborhood. And in order to have this conditional
17 use renewed and approved by this Board again, this
18 Board needs to make a number of findings, one of which
19 is that your continued operation of the motorcycle
20 sales and service will not be detrimental to persons
21 or to property in the neighborhood or the general
22 welfare of the Town. And that's where this Board
23 needs to exercise its discretion in determining
24 whether it thinks your operations -- where you say,
25 hey, I own a motorcycle shop, but I can't control what

1 people do with their motorcycles when they come to me
2 show and they may go up and down Center Drive and they
3 may cause a lot of noise, they may put Screamin'
4 Eagles on their tailpipes, making a lot of noise
5 coming up and down, but I own a motorcycle shop. And
6 this Board's going to need to decide whether that use
7 is appropriate for this location still or whether
8 based on your testimony that you're telling us where
9 you can't control any of that, it's not any longer
10 appropriate. So that's the issue.

11 MR. CORTESE: Okay. How is it any different
12 than the building I'm in now? The building that I am
13 in now does the majority of my business. The one that
14 I'm getting the permit for, all I'm doing is storing
15 bikes over there. I'm not making any more noise. In
16 fact, we're making less noise. I'm making sure they
17 shut the doors.

18 I think this gentleman said we had no
19 complaints. The only complaint we got is from Harding
20 Trucking. He's the only one that's ever complained.
21 Okay? And I don't know -- if I started to complain
22 about his tractor trailers that go up and down the
23 same street, you're telling me I can't drive my bikes
24 and every single time his guys pull in from Henrietta
25 Road and they drive onto my property because his

1 trucks are too big to make the turn. What I --

2 MR. GORDON: Right now --

3 MR. CORTESE: My point is I don't even bring
4 it up. So I think we had a sidebar another time about
5 that. But my point is I'm not bothering the guy. I
6 don't know what he's got with me, but I've done
7 nothing to the man. And I -- my bikes are less --
8 making less noise than his trucks. I don't know --
9 it's only four or five months out of the year. The
10 other seven months we're all indoors.

11 MR. GORDON: I understand. And I know I'm
12 putting you on the spot.

13 MR. CORTESE: It's okay. I can handle it.

14 MR. GORDON: And the reason for it is
15 because you're here with your application --

16 MR. CORTESE: Yes, I am.

17 MR. GORDON: -- to renew the conditional use
18 that this Board approved previously. And this Board
19 needs to decide whether it is still appropriate.

20 So if there's anything more you want to
21 say --

22 MR. CORTESE: I just -- sorry.

23 MR. GORDON: -- I urge you to do so.

24 MR. CORTESE: I just would hope that we're
25 not going to take one person's opinion of how my

1 business is running and determine whether it's viable
2 or not for the neighborhood. I've done everything the
3 Board's asked and then some.

4 We've been at business in Brighton since
5 1975, not selling motorcycles since 1975. But we've
6 been doing business in Brighton since 1975. I got a
7 pretty good track record. We do everything you want
8 us to do and then some.

9 So I don't know what else I can do. But I
10 don't think we're having a problem in that location at
11 all. I think there's one person that doesn't want us
12 there for whatever reason. But these motorcycles
13 aren't -- you haven't had one business complaint.
14 Wouldn't somebody -- wouldn't a business complain if
15 it was that bad? That's what I think.

16 CHAIRPERSON PRICE: Where is the Harding
17 operations?

18 MR. CORTESE: He's at the end of the road.
19 He can't even hear the bikes from there.

20 CHAIRPERSON PRICE: And --

21 MR. CORTESE: He's at the very end of the
22 road. They made comments to us that they own the
23 street and we shouldn't be there.

24 CHAIRPERSON PRICE: Where do his trucks
25 exit?

1 MR. CORTESE: They pull out --

2 CHAIRPERSON PRICE: Do they come down Center
3 or do they go to the west --

4 MR. CORTESE: They come in and out right
5 where I am. And when they come in, they drive onto my
6 property. I've actually gone down there to try to
7 talk to him and say, hey, I don't mind you driving on
8 my property, but I've already paved the lot once. If
9 I have to pave it again, would you help me? Because
10 those trucks are heavy. He won't return my calls. I
11 know that's not for this meeting, but I think that's
12 all factoring in.

13 CHAIRPERSON PRICE: Okay. Any questions?
14 Ken, you're all set?

15 Thank you.

16 MR. CORTESE: Thank you.

17 CHAIRPERSON PRICE: This is a public
18 hearing. Is there anyone in the audience who cares to
19 address this application? Okay. Thank you. We will
20 move on.

21 Next application, we're going to combine
22 application 5P-02-23 with 5P-NB2-22. This is PEMM,
23 LLC, Bristol Valley Homes. This is for the gas
24 station facility Quicklee's.

25 **Application 5P-02-23**

1 Application of PEMM, LLC, contract vendee,
2 and Bristol Valley Homes, owner, for Final Site Plan
3 Approval to construct a 968+/- square foot gas pump
4 canopy, renovate an existing 1,278 square foot
5 building, install two gas pump islands, and make
6 additional site improvements for the purpose of
7 operating a Quicklee's gas station and convenience
8 store on property located at 3108 East Avenue. All as
9 described on application and plans on file.

10 **Application 5P-NB2-22**

11 Application of Bristol Valley Homes, LLC,
12 owner, and PEMM, LLC, contract vendee for Preliminary
13 Site Plan Approval to construct a 968+/- square foot
14 gas pump canopy, renovate an existing 1,278 square
15 foot building, install two gas pump islands, and make
16 additional site improvements for the purpose of
17 operating a Quicklee's gas station and convenience
18 store on property located at 3108 East Avenue. All as
19 described on application and plans on file. **TABLED AT**
20 **THE MAY 18, 2022 MEETING - PUBLIC HEARING REMAINS OPEN**

21 MR. SCIARABBA: Good evening, Mr. Chairman.
22 I'm John Sciarabba of LandTech, representing PEMM, LLC
23 this evening. Also in attendance is Lou Terragnoli,
24 who's the director of real estate for Quicklee's, to
25 answer any questions that I cannot.

1 I know we've been working on this project
2 for almost three years now and it's a simple remodel
3 of the East Avenue facility, a very small in-fill
4 site. I know the Board's very familiar with it.

5 I think Jason did a very good job describing
6 it. There's only a few issues that are really
7 outstanding. And I can speak to those.

8 The one discrepancy that Jason mentioned is
9 the dumpster enclosure. And just to bring clarity to
10 that, that's going to be a block dumpster enclosure
11 with stucco veneer face on that to match the existing
12 building. And it will have wood doors. Those are
13 wood, painted brown. And the brown color is going to
14 match the trim of the existing building. So it's all
15 going to look in harmony. And if there's any
16 discrepancies between the site plan and the drawing
17 provided by the architect, we'll make sure that's
18 cleared up.

19 Sticking with the wood-fenced theme, there's
20 another question that came up was what's going on with
21 the three and a half foot wood fence along our south
22 property line. That fence is three and a half foot
23 tall. And it's the same materials, wood painted brown
24 fence to match the trim of the building. It's really
25 to segment up the residential house to our south.

1 And then the third point I think that the
2 Planning Board spoke to as well is the crosswalk.
3 We've looked at this many times. So right now, the
4 crosswalk area is along our south line and then
5 entering the building to the south end of the
6 sidewalk.

7 Originally, as the attorney mentioned, you
8 did have it up here in the corner. More conflict
9 there. So we moved it to the south. The southern
10 area is more residential. There's more walking there.
11 And we thought it was a great way to kind of help the
12 situation if there is one.

13 We felt that's the best location. If staff
14 feels otherwise or we don't want it at all, we're very
15 flexible with that.

16 Also along that south line we do have the
17 bike rack and the bike fixing station there. So we
18 have -- so there's a little more elements there that
19 are more pedestrian friendly. So that's the other
20 thing.

21 Other than that, we received comments from
22 the Town engineer in the past and the comments we
23 received today. They're very minor in nature and
24 we've already taken steps to make those edits.

25 So I can answer any questions that you have.

1 MR. TERRAGNOLI: Good evening, everyone. I
2 just want to -- my name is Lou Terragnoli, director of
3 real estate for Quicklee's. One other point that John
4 may get to, but there was a question regarding the
5 size of the canopy, which will be 720 square feet.
6 That was the size that was approved by the Historic
7 Preservation Commission. And I saw a couple typos
8 where it was slightly larger in some of the materials.
9 720 square feet is what has been approved. And we're
10 staying with -- consistently there.

11 Also the shape of the canopy as approved by
12 HPC is what you see in the renderings that have been
13 presented.

14 Any other questions I'm happy to answer.
15 Thank you.

16 CHAIRPERSON PRICE: I believe last time
17 our -- we were really down to some small stormwater
18 management issues and calculations.

19 MR. SCIARABBA: I can speak to that briefly.
20 So the stormwater manager is a biofilter swale that is
21 east and adjacent to the rear of the building. Right
22 now, there's no treatment.

23 So we developed that area. And I think the
24 Town engineer and staff, you know, always look to
25 create this quasi-pond and it just drains it to the

1 neighbors. And you really want -- we're afraid of
2 creating a point flow source, basically having a pipe
3 that's directing water to a neighboring property.

4 So what we have is an eight foot concrete
5 weir. So when the pond does overflow, it's going to
6 encounter 12 inch pipes. It's an eight foot area that
7 will overflow. And in the -- I think the engineer's
8 worried that it be installed correctly. So, you know
9 we'll do an as-built, make sure it's prior to the C of
10 O that that's installed at the proper elevation.

11 And another thing that just came to mind is
12 there was an issue of the overhead wires that sit
13 parallel to East Avenue. I went out there myself with
14 all of the traffic that's on East Avenue. Those
15 telephone wires are 22 feet in height.

16 And so the canopy is only 14 feet high to
17 the bottom. 17 feet to the top. An 18-wheeler is 13
18 and a half feet tall. So there's no issues with
19 overhead wiring related to the canopy and/or vehicles
20 on the property.

21 CHAIRPERSON PRICE: Okay. Only minor thing
22 I noticed actually first, John, what set the dimension
23 of the concrete pad adjacent to the pumps?

24 MR. SCIARABBA: So that is our general --
25 so, you know, Quicklee's has about 30 of these sites.

1 We've done about 90 percent of them. That's a typical
2 size of the tank pad is -- and I know there's some
3 questions about that, showing the covers and things
4 like that. That's really done under a separate
5 coverage of the building department.

6 The pump company that puts the pumps in and
7 the islands has to pull their own permit through the
8 DEC and the EPA through the building department. All
9 that information is on that. So we just show a
10 general area. We really can't show you the valves or
11 anything like that. Don't really have any idea.

12 CHAIRPERSON PRICE: But they're on that pad?

13 MR. SCIARABBA: They're on that pad and the
14 tanks are underneath that pad.

15 CHAIRPERSON PRICE: Okay. All right.

16 MS. FORD: No questions.

17 CHAIRPERSON PRICE: Karen, got any?

18 MS. ALTMAN: Good.

19 MR. OSOWSKI: There's a stone path in the
20 northeast corner of your lot.

21 MR. SCIARABBA: Yup.

22 MR. OSOWSKI: What is that?

23 MR. SCIARABBA: That's just a stone path
24 that the firemen use to go to the residential house.
25 It's just been there for a while. They don't have

1 intent of using it. That's really all it is. It's
2 nothing ever proposed. It's existing.

3 MR. OSOWSKI: So it goes from the fire
4 station to the residential house?

5 MR. SCIARABBA: Yeah I think the fire
6 station rents it. There's some relationship there.

7 MR. OSOWSKI: Oh, okay.

8 CHAIRPERSON PRICE: Peter?

9 MR. GRISEWOOD: I am fine. Thank you.

10 MR. GORDON: I think this is more a Lou
11 question. And I apologize, Lou. Sometimes I get the
12 two projects confused.

13 MR. TERRAGNOLI: So do I.

14 MR. GORDON: So I'm seeing that one of the
15 notes in our staff report for this location says hours
16 of operation will be from 6 a.m. to 10 p.m.

17 MR. TERRAGNOLI: That's correct.

18 MR. GORDON: Is that correct?

19 MR. TERRAGNOLI: That's correct.

20 MR. GORDON: What about fuel deliveries?

21 MR. TERRAGNOLI: Fuel deliveries, to remind
22 the Board, that's done through a third-party vendor.
23 We don't control that.

24 So they may be coming to deliver fuel to our
25 site. They may be coming to another one of our sites.

1 They may go to a competitor of ours as they fuel up.

2 So there's signals from our site, monitors,
3 that tell our fuel company that we're running low and
4 we need a drop of fuel. So that could be whether
5 we're open for business or it can be when we're
6 closed.

7 I can assure this Board, and I've talked
8 about this were neighbors when we had our meeting,
9 when that truck pulls on the site, the truck then
10 turns itself off. It is not running. And I
11 assured -- I'll ensure everyone here, as I did the
12 neighbors, when that fuel is coming off the truck into
13 the ground, we can have the same conversation. You're
14 not going to hear that at all.

15 Once the hoses are in and the fuel is in,
16 that truck will be there between 15 and 18 minutes.
17 Again, the truck is off. Unload the fuel and then
18 they're back on their way.

19 MR. GORDON: When you got your variances for
20 this project from the ZBA, were hours of operation
21 and/or delivery of fuel, was that part of that
22 variance application? I just don't recall.

23 MR. TERRAGNOLI: I recall it being discussed
24 and I made the same presentation I just did right now.

25 MR. GORDON: I recall it being discussed as

1 well. I don't know what we did with it.

2 MR. SCIARABBA: I don't recall any limits
3 because that would have presented an issue for us
4 because of the third-party company. So I don't
5 believe there's any limit to that.

6 And I just want to be transparent, it could
7 happen. Most of our deliveries happen during regular
8 business hours. But I just want to be forthcoming and
9 say it could.

10 CHAIRPERSON PRICE: Okay. Everybody good?

11 MR. HAREMZA: Just a question on the --
12 Conservation Board referenced the location of the
13 car-charging station. Are any proposed for this
14 location?

15 MR. TERRAGNOLI: What we did is we reserved
16 a couple locations for the future. So they're not
17 proposed today.

18 The reason is we do put charging stations in
19 our facilities, but they're more in facilities that
20 are maybe off a major thoroughfare or throughway.
21 That's where that industry is right now.

22 As the industry grows and we come more into
23 areas farther from the throughway, like this site, we
24 would -- we'll run the wiring today when we do
25 everything to be able to add in the future. But the

1 demand for that in this type of facility is just not
2 really there right now. But we will be ready when it
3 is.

4 In fact, if you've seen some recent articles
5 about Quicklee's being at the forefront when it comes
6 to EV charging stations for the industry.

7 MR. OSOWSKI: So the only question I had is
8 you pre-installed your best guess at conduits.

9 MR. SCIARABBA: Yes. We will pre-install
10 that.

11 So the whole row of parking on the side that
12 has eight spots at some point, someday, they can all
13 be electrical charging stations when the demand is
14 there for those types of units.

15 CHAIRPERSON PRICE: Jason, you all set?

16 MR. HAREMZA: Yes.

17 CHAIRPERSON PRICE: Okay. Thank you, John.
18 Thank you, Lou.

19 MR. SCIARABBA: Thank you.

20 CHAIRPERSON PRICE: That is a public
21 hearing. Is there anyone that cares to address this
22 application?

23 Please come on up. Good evening. Give us
24 your name and address. Appreciate you coming.

25 MS. BENTLEY: Karen Bentley. My husband

1 Robert and I live at 3939 Elmwood Avenue, directly
2 across the street from 3108 East Avenue.

3 So one of the concerns I have is the
4 lighting of the property and how on the proposed plan
5 it has evolved at the time -- to the present day. So
6 could you show me where the lighting is going to be
7 somehow?

8 CHAIRPERSON PRICE: Ask me.

9 MS. BENTLEY: I'd like a full explanation,
10 show me on the diagram where, for instance, a
11 streetlight might be added or the lighting of the
12 building itself.

13 CHAIRPERSON PRICE: Okay.

14 MS. BENTLEY: Because it affects us directly
15 across the street.

16 CHAIRPERSON PRICE: Understood. Okay. Is
17 that your primary concern?

18 MS. BENTLEY: That's the major concern.

19 And then as to Mr. Gordon's point, we did
20 discuss the fuel truck deliveries. And those tankers
21 are huge. And I have the concern about how a tanker
22 would enter and exit such a small property. Does that
23 mean that the tanker would have to be parked on the
24 street? I don't know how that would happen as I've
25 seen tankers at 19 -- I think it's 1950 Monroe Avenue

1 property. And I can't really perceive how a tanker of
2 that size would enter and exit the property with such
3 a tight turn. If it came from the north or south it
4 wouldn't matter.

5 CHAIRPERSON PRICE: John, could I just ask
6 you to point out on the plan where -- and I don't know
7 if you have -- have you seen the type of light fixture
8 that is being --

9 MS. BENTLEY: Yes. And it was proposed to
10 be I think 17 feet tall. But I didn't know how many
11 and where they were specifically located.

12 CHAIRPERSON PRICE: Right.

13 MR. SCIARABBA: It might be easier to show
14 you on this one. There's three light poles. There's
15 one here at the north property line. Then there's one
16 here south over by the north entrance. And there's
17 one along the south line. All lights are pointing
18 towards the interior of the site.

19 MS. BENTLEY: So there's a light pole
20 that --

21 MR. SCIARABBA: There's light poles -- there
22 are lights poles on the poles on these --

23 MS. BENTLEY: So that's what --

24 MR. SCIARABBA: Yeah. We can't control
25 those are --

1 MS. BENTLEY: Well, those are New York
2 State.

3 MR. SCIARABBA: Right.

4 MS. BENTLEY: So that's fine. So where's
5 your light poles?

6 MR. SCIARABBA: Our light pole is here.

7 MS. BENTLEY: Okay.

8 MR. SCIARABBA: So that's inside our wall
9 that's proposed with a light pole here and a light
10 pole here. And then this is the lighting plan we
11 provided. These present the lighting contours and the
12 candle watts that affect the property. Per Town Code,
13 they cannot spill off the site.

14 MS. BENTLEY: So may I ask him a direct
15 question?

16 CHAIRPERSON PRICE: No. Just me. Sorry.

17 MS. BENTLEY: Okay. So could you ask --

18 CHAIRPERSON PRICE: Just the rules.

19 MS. BENTLEY: That's fine. So could you ask
20 will those three light poles be turned off at the end
21 of the day?

22 CHAIRPERSON PRICE: Lou, would you please
23 answer what the hours are?

24 MR. TERRAGNOLI: So to answer Ms. Bentley's
25 other questions as far as the lighting, because the

1 building sign will not be illuminated as
2 professionally approved by the HPC. There'll be some
3 lighting that we presented at the last meeting that
4 shine back on the building. So all this lighting will
5 be off at 10 p.m. at the close of business.

6 MS. BENTLEY: Including the three light
7 poles?

8 MR. TERRAGNOLI: Including the three light
9 poles.

10 MR. GORDON: And just to supplement this,
11 that's actually in our conditions as well that staff
12 has drafted that lights will be off from 10 p.m. to 5
13 a.m.

14 MS. BENTLEY: Okay. I have one more
15 question. So if you look at page 62 on the PDF that
16 was in the minutes, it talks about LED building accent
17 floodlights, which were just put up in front of us. I
18 would like to ask a question about why those are
19 necessary. Because from our perspective being
20 directly across the street, if you light up that whole
21 roof line going up to the peak of the roof, which is
22 what it looks like on the picture that I just saw,
23 that would mean that it's going to be glowing directly
24 into our property and will be easily seen from any
25 window facing that East Avenue property.

1 CHAIRPERSON PRICE: I guess I don't disagree
2 that you'll see it.

3 MS. BENTLEY: I don't remember that being on
4 the original plans. And that since has been added,
5 which I was not aware of those three lights, I don't
6 think, on the original.

7 CHAIRPERSON PRICE: I've been aware -- we've
8 been aware of the lighting proposed from the
9 beginning. And our Historic Preservation Commission
10 prefers this type of lighting to illuminate the sign
11 on the building over internally lit lights.

12 MS. BENTLEY: Does it need to be three of
13 them?

14 CHAIRPERSON PRICE: Can you tell me about
15 the three lights -- are you talking about the three
16 post --

17 MS. BENTLEY: These three lights on the
18 other side.

19 CHAIRPERSON PRICE: On that side that shine
20 on the --

21 MS. BENTLEY: Why does the whole roof
22 line have to be lit?

23 MR. TERRAGNOLI: Part of it is for the sign
24 because it's not internally illuminated. Part of it
25 is you want to have the site illuminated a little bit

1 for safety in the evenings.

2 Again, these lights are, per Town Code,
3 3,000 thousand Kelvins or less. They shine back into
4 the building per the Town Municipal Code. None of
5 this light spillage -- it can't spill off the site.
6 And we've provided evidence to that. So that was the
7 main reason for the design that way.

8 CHAIRPERSON PRICE: Okay. You -- does
9 that --

10 MS. BENTLEY: No. Because we're directly
11 across the street. And you're literally lighting up
12 the whole roof with three lights.

13 And if you want to just have a sign
14 illuminated, that will pinpoint it. I understand that
15 this is something that the historical board discussed.
16 I wasn't present at that meeting. But it isn't
17 necessarily a historic lighting feature when you have
18 three lights shining and lighting up the whole roof.

19 And because we're residential, there is no
20 other convenience store gas station. I looked on the
21 Town of Brighton mapping where all the gas station
22 convenience stores are located. They're either on
23 Monroe Avenue or Elmwood Avenue. And because we're an
24 exception to the rule and you're right across the
25 street directly -- facing two residential properties

1 that are a hundred percent residential, that's my
2 concern that that amount of lighting be mitigated on
3 the roof.

4 MR. OSOWSKI: What color is the roof?

5 MR. SCIARABBA: It's slate. Same color that
6 is there now.

7 MR. OSOWSKI: Mostly gray.

8 MR. SCIARABBA: Yeah.

9 MR. OSOWSKI: Thank you.

10 CHAIRPERSON PRICE: Okay. We had a couple
11 other questions.

12 MR. SCIARABBA: One question that was
13 brought up was traffic circulation. We show -- the
14 Board has this. We show a full 53 foot long tractor
15 trailer. That will traverse -- will come in by the
16 southern entrance. It'll stage over the tank farm and
17 then progress out. And clearly it will stay on the
18 property within its own limit and not in the
19 right-of-way.

20 CHAIRPERSON PRICE: I don't think we would
21 ever let you sit in the right-of-way.

22 MR. GORDON: No. I don't think the State
23 would allow it. We don't have control over that
24 right-of-way, first of all, because it's a state
25 right-of-way. And no to -- I think it would just be

1 helpful to make sure maybe have insurances that truck
2 deliveries can be accomplished on-site.

3 MR. SCIARABBA: We demonstrated that. And
4 the State has reviewed the plan.

5 CHAIRPERSON PRICE: And did you -- another
6 point?

7 MS. BENTLEY: One other point I was going to
8 raise was when I looked at the map of all the
9 different convenience stores, gas stations, that are
10 in writing, I noticed the hours of operation. And
11 most of them are either 10, 11 or midnight. But none
12 of them face a residential housing -- they don't face
13 residential housing. They're all in a commercial
14 zone.

15 And so I was thinking that perhaps the
16 Quicklee's would be more accommodating to close maybe
17 30 minutes earlier so that lights and the person is
18 out of the building. Because I know -- I used to work
19 in retail. You have to tally up what's paid into the
20 register. You have to lock up everything. You do
21 have to do certain things before you leave the
22 building.

23 So that would give that cushion of time of
24 30 minutes where that would be allowable everything
25 would be done by 10 o'clock, versus if they shut down

1 at 10 o'clock, then there's all this either cleaning,
2 sweeping, register, bank deposits, things like that
3 that have to be done administratively, which would
4 take another half an hour minimum, maybe 45 minutes of
5 time, which means that the building inside would be
6 lit up.

7 And if you think about the plan, the two
8 garage bays are a hundred percent glass. And so those
9 lights would be on during that time even though the
10 lights on the external part of the building are shut
11 off.

12 CHAIRPERSON PRICE: Ken, were these issues
13 addressed at the Zoning Board of Appeals?

14 MR. GORDON: So some, not others. So
15 certainly the Zoning Board granted the use variance
16 without limitations on hours of operation. So there
17 is no limitation for hours of operation outside of
18 what the Code provides. And these hours as proposed
19 were put before each and every board and no board has
20 opposed those conditions.

21 I do not believe that as part of a site plan
22 review --

23 CHAIRPERSON PRICE: That's what I was
24 wondering.

25 MR. GORDON: -- that that would be an

1 appropriate condition for site plan.

2 I will say the lighting issue is something
3 that was not determined by the Zoning Board. In fact,
4 there was commentary -- I was just reading minutes
5 from the Zoning Board decision where the lighting
6 aspects of this project were raised during the Zoning
7 Board hearings. And those who raised them, the
8 residents who raise them, we told them well, that's
9 going to be an issue for either the Historic
10 Preservation Commission or the Planning Board to take
11 up.

12 So some of those issues were not dealt with
13 at ZBA. But hours of operation would be not site plan
14 appropriate.

15 CHAIRPERSON PRICE: All right. Understood.
16 All right.

17 We will be deliberating on this. Have we
18 answered your questions? Sans the decision of course.

19 MS. BENTLEY: Okay. So is this an ongoing
20 process that is still going to take several more
21 months?

22 CHAIRPERSON PRICE: No.

23 MS. BENTLEY: Will you make a decision this
24 evening?

25 CHAIRPERSON PRICE: Yes, we will.

1 MS. BENTLEY: Okay all right. Thank you
2 very much.

3 CHAIRPERSON PRICE: Thank you for coming
4 out. Appreciate it. Thank you.

5 Is there anyone else that cares to address
6 this application? We'll move on.

7 Next application is 5P-03-23.

8 **Application 5P-03-23**

9 Application James Smith, agent, and Tasty
10 Hut LLC, owner, for Preliminary/Final Site Plan
11 Approval and Conditional Use Permit Approval to
12 construct a 252 +/- sf building addition and operate a
13 Pizza Hut Restaurant with drive-through service on
14 property located at 1760 Monroe Avenue. All as
15 described on application and plans on file.

16 CHAIRPERSON PRICE: Good evening.

17 MR. BOYEA: Okay. Good evening. For the
18 record, my name is Chris Boyea. I'm with Bohler
19 Engineering. And here with me tonight is Jim Smith
20 with James Smith Architects. And then we've also got
21 Amanda with Pizza Hut out of St. Louis. So she flew
22 in and got to experience the PGA madness, which is
23 exciting for finding hotel rooms here tonight. And we
24 also have Donna who is a local district manager for
25 the Pizza Hut group that's here tonight.

1 So we've got -- it's a good team. And we're
2 here to talk about our proposed reinvestment and
3 occupying an existing retail location. I think the
4 Board is familiar with the location. It was formerly
5 a Dunkin Donuts that was there.

6 So the reinvestment -- Dunkin Donuts
7 probably closed around '20, 2020-ish. And then the
8 building has been vacant. Pizza Hut would like to
9 occupy the Dunkin Donuts space. And they are
10 proposing to square off the back corner of the
11 building, about a 200 square foot size squaring off of
12 the back of the building. And then they would put in
13 a pickup window.

14 We're familiar that Dunkin Donuts tried to
15 have a drive-through window here at this location. It
16 was denied. They needed several variances in order to
17 accomplish that.

18 We feel that -- we're going to review a
19 little bit with the Board tonight about how we feel
20 there's a stark difference between the two applicants.
21 And we are here to answer any questions and comments
22 that the Board may have.

23 So Pizza Hut used to operate many large
24 buildings around the Rochester and Buffalo area. Big
25 red roofs and salad bars. And you've seen many, if

1 not all, of those close and go away.

2 The business model has changed as life
3 changes. And people are more into quick and easy and
4 maybe not as big of the sit-down salad-bar-type use.
5 Still a great product. And they've figured out a way
6 to bring it back in a much smaller footprint that
7 works with the communities that they serve.

8 So no longer is it going to be 5,000-6,000
9 square foot facility. It's now going to exist in a
10 2,000 square foot facility. And many times they're in
11 endcaps of like a retail center, strip kind of center
12 that's out there.

13 This location is a freestanding 2,000 square
14 foot location. It's a former restaurant, Dunkin
15 Donuts. It's a very high-traffic, coffee, morning and
16 very popular as well. So it's not really a full lunch
17 or dinner facility. This will offer the typical Pizza
18 Hut menu.

19 So we're looking for a pickup window that is
20 truly a pickup window. And it is not a drive-through.
21 Unfortunately, the Code doesn't really distinguish
22 that. And so we've worked with Jason and we feel that
23 we all understand it. But I just kind of want to walk
24 through those differences.

25 Pizza Hut, like many facilities now, will

1 take online orders or an app from their phone where
2 you must coordinate your order ahead of time. And
3 then you would be given a pickup time and then you can
4 show up to this facility at that time to pick up your
5 product.

6 There is no need for long stacking at these
7 because there is no ordering at this location. If
8 somebody was to pull up to this window and try to
9 order a pizza with pepperoni or something of this
10 nature, they'd be asked to come inside the facility.

11 There is no speaker to talk with and there's
12 no menu board at this location.

13 So what Pizza Hut is really interested in is
14 one car at a time. It's possible during dinner or
15 something like that we might get two cars. I think
16 three would be a large rush because, again, there's
17 time slots. When you order on the app, there's time
18 slots when you can pick up your meal.

19 So it's a big difference between that quick
20 coffee out the window. So much so that it's not a
21 window. What they're proposing here is a door that's
22 there. So it's not going to be a window that somebody
23 pulls up to and somebody leans out the window and
24 hands them this product. This is actually a door
25 where people walk out this door and hand the pizza to

1 that customer that's ordered it.

2 There's a few reasons for that. One, pizza
3 boxes don't go real well through a window. So if you
4 turn it sideways, it might slide depending on how hot
5 it is. It's going to have a much better customer
6 experience for somebody to physically come out and
7 present that product to them.

8 The fact that this is at a signalized
9 intersection and operated as a Dunkin Donuts, which
10 was very much -- much higher paced, much higher
11 traffic count than Pizza Hut would be, tells us this
12 was a good location from a traffic circulation
13 standpoint. We know that we only have 40 feet in this
14 location. And that's pretty typical for this new
15 model that Pizza Hut has is 40 seats. That's a far
16 cry from the 150 seats that maybe once were in the
17 restaurant of days past.

18 And this is going to have a local operator
19 here too. So they're building back out the Pizza Hut
20 branch from Buffalo, Rochester, Syracuse market. You
21 have seen some news articles that they pulled out and
22 they're coming back. And this is the model and the
23 smaller fingerprint that's there.

24 A couple other things about the site is
25 there is a trash enclosure in the back. And it looks

1 like half of it is fallen down. And of course, that
2 will be picked up and cleaned up as part of this
3 application.

4 There is a desire to make the current
5 facility ADA accessible with current parking and
6 access to the municipal sidewalk that's out there.

7 And the existing utilities are adequate for
8 the swap of use. So water, sewer, gas, those types of
9 things. So really not a lot of site work other than
10 adding that pickup window and maybe sprucing up the
11 landscaping.

12 So we're here tonight to answer any
13 questions or comments that the Board may have and
14 discuss any concerns they may have with the
15 drive-through. I even hate calling it a
16 drive-through, but there really is a better term for
17 it. It is a pickup window.

18 But we'd be happy to entertain the thoughts
19 the Board had without -- making sure this is truly a
20 pickup window and not a drive-through.

21 CHAIRPERSON PRICE: Okay. If you could give
22 me a little background first. The property lines here
23 do some funky things where they overlap parking
24 spaces. And your proposed drive aisle -- the drive
25 aisle on this property seems to support parking spaces

1 that are not on this property.

2 Since Dunkin closed there's a new operator
3 in the plaza to your east on the endcap of that bar
4 and restaurant. And I live in the neighborhood across
5 the street and every time I drive out here in the
6 evening, this parking lot is packed. And I just -- I
7 don't know who is filling these parking spaces and
8 just want to get an idea who's in the neighborhood
9 here and who owns what and what legal agreements are
10 there that are in place for shared parking. I'm all
11 for shared parking, but just want to get an idea of
12 how are you going to come in and reoccupy and reinvest
13 in this and we don't get, you know, the people that
14 are rightly or wrongly using your packing spaces going
15 someplace else, like into the neighborhood streets is
16 probably our biggest concern.

17 MR. BOYEA: Yeah. So there is an agreement
18 for the few parking spaces that are behind the
19 facility right back here. There is six parking spaces
20 there, two of which I think we're allowed use, two of
21 which another landowner and two of which are another
22 landowner is there. Right? So those are the only
23 shared parking agreements on the property.

24 I believe what is happening is neglect of
25 where if you have an abandoned building, people start

1 living in it. I think that this has gone abandoned
2 and people are squatting. So we do not see any issues
3 because it is their parking. It goes with this
4 facility on that lot without any shared agreements
5 with anybody else that we're aware of that once we
6 occupy it, it will right back to kind of policing
7 itself.

8 CHAIRPERSON PRICE: Okay. Let's say for the
9 sake of argument I buy that. So you own -- you know,
10 the property goes up to the building to the west. And
11 it looks like your property line bisects the parking
12 spaces. Those aren't labeled as your parking spaces.
13 Are those somebody else's? And then access -- there's
14 a shared access agreement of some kind?

15 MR. BOYEA: That's correct. That's correct.
16 Those go to the plaza next to us. And then we all
17 have rights to use the light that's in front of our
18 property. So there's a shared access that's there.

19 CHAIRPERSON PRICE: Okay. So the people
20 that are occupying these now, is it predominantly from
21 the property to the west or predominantly from the
22 property to the east? You may not --

23 MR. BOYEA: I really don't know. I think it
24 might depend on the day that you're there.

25 CHAIRPERSON PRICE: Day or event. Okay.

1 MR. BOYEA: Yeah.

2 CHAIRPERSON PRICE: Okay. So tell us a
3 little bit about how you went about the parking study
4 that you did.

5 MR. BOYEA: Related to the window?

6 CHAIRPERSON PRICE: Well, it's that the way
7 it's relayed is parking wouldn't be related to the
8 window.

9 MR. BOYEA: I see what you're saying.

10 So it can be calculated in two ways for the
11 Code. One I believe is one parking space per two
12 seats. So we have 40 seats proposed. We would need
13 20 parking spaces. So that's per the Code for a
14 restaurant.

15 And then there's another way to calculate
16 it, which is one parking space per 100 square feet.
17 So we're about 2,000. So that would be 20. Plus one
18 per employee. So we're up to 24 that would be there.

19 So I wasn't aware that we could pick our
20 own, but in reading Jason's comments, I guess it's
21 choose your prize door because you pick which way you
22 want to calculate it. But either way it's right there
23 in the same threshold.

24 CHAIRPERSON PRICE: Okay. All right.
25 Questions? I guess I'll come back with some other

1 questions to come back to you guys on the fact you're
2 saying that the -- does the idea of a drive-up with
3 no -- there is no code addressing this new phenomenon
4 that we're seeing. We had another applicant that --
5 at least two other applicants that are claiming that
6 the orders are made on an app and then they're giving
7 a pickup time and they come different than, you know,
8 the traditional Starbucks model or McDonald model of
9 ordering at the site and then continuing on your way.
10 What's the difference if a customer here just pulls up
11 to the front door, walks in and picks up their pizza
12 versus being handed the pizza at the back door? Does
13 this necessarily actually need to be considered a
14 drive-through?

15 MR. GORDON: It does, yes, because the way
16 our code defines a drive-through operation, this is a
17 drive-through operation.

18 So we do have a code provision that
19 regulates this pickup scenario, whether there's
20 ordering in line or not ordering in line. That's the
21 principal difference between your pickup window, or
22 pickup door in this case, and your traditional
23 drive-through lane.

24 So we do have a code provision. It is our
25 drive-through standards that are in the Code that have

1 to apply. There is no restriction on somebody
2 stopping and going into a parking spot and going to
3 pick their pizza up and coming out. That's not a
4 drive-through lane. There's no stacking of cars
5 involved.

6 And if you look at our code section that
7 deals with these drive-through operations, the concern
8 was both from the traffic point of view because they
9 are a little bit higher volume than somebody going in;
10 and secondly, they can generate -- they're close in
11 proximity to the residential communities, as this one,
12 there's noise issues as well.

13 So for those reasons the Code has the
14 specific restrictions on drive-through operation.
15 This is a drive-through operation under code. Staff's
16 looked at it.

17 MR. HAREMZA: Yeah. I mean, technically our
18 definition of drive-through is so broad that even
19 curbside parking spaces would be considered a
20 drive-through because the definition talks about any
21 kind of services you receive in an automobile. So if
22 you sit there in your car and get something brought
23 out to you, that's, you know -- that's pushing the
24 limit of the definition.

25 MR. GORDON: And we have not interpreted it

1 so. That was we did not apply the Code that way as it
2 would apply curbside.

3 MR. HAREMZA: I would say it's only not
4 adjacent to residential through a quirk in those funky
5 property lines in the rear. So functionally if you
6 were back there you would, you know, think that you
7 were adjacent to somebody's backyard. And I think
8 that's, you know, because of those jogs in the
9 property line that you do technically have a sliver of
10 a commercial parcel in between.

11 And I think that was a concern too that even
12 though the drive-up window does not have the speakers
13 or does not have as much activity as a traditional
14 drive-through, the concern is you're putting this in
15 the rear, you know, close to residential properties.

16 MS. FORD: I'd like to start -- do you have
17 other sites that have this model?

18 MR. BOYEA: Yes. Yes.

19 MS. FORD: And where are they?

20 MR. BOYEA: I know that was going to be your
21 next question. Unfortunately, Pizza Hut pulled out of
22 Upstate New York here. So we don't have any close by
23 that you can -- it would be out of state.

24 MS. FORD: Like where?

25 MR. BOYEA: St. Louis. Yeah.

1 MS. FORD: Okay. What are the hours of
2 operation proposed?

3 MR. BOYEYEA: So I believe they are 11 a.m.
4 till 10 p.m.

5 MS. FORD: But also this idea of this going
6 through this drive -- whatever you want to call it,
7 but maybe it being one or two cars or three max seems
8 a little impossible perhaps. You're saying everyone's
9 given a time. I'm kind of anal. I show up early for
10 everything and I can see this going -- people picking
11 up pizza -- I don't know what the time intervals are
12 or how this is not going to -- what if I'm here, this
13 is my time and somebody's up ahead of me and they're
14 blocking me from getting out? And people get out of
15 their cars, come out to this door to give a pizza to a
16 person. But does the person have to get out of their
17 car because the pizza is not -- I can get my bag of
18 McDonald's and throw it in the seat next to me. Like
19 you said, you got to take this hot pizza and you have
20 to get out and put it in the back seat in this tight
21 space.

22 MR. BOYEYEA: Yeah. So it's good questions.
23 And they're not new. So like I said, Pizza Hut has
24 some experience with this big national company and
25 they've perfected their model. And now we're bringing

1 it back to Upstate New York.

2 So if somebody shows up really early and the
3 pizza's not there --

4 MS. FORD: What is the interval between the
5 pickup times?

6 MR. BOYEA: I think that that could depend
7 on how busy they are.

8 MS. FORD: I mean at maximum.

9 MR. BOYEA: I would say at least probably a
10 minute apart. So they're close. They're close to
11 each other. However, if somebody is really early, it
12 happens.

13 MS. FORD: It doesn't even have to be really
14 early. It could be two minutes is not really early.

15 MR. BOYEA: Yeah. We're only talking about
16 the early people; right? If you're early, your
17 pizza's going to -- we're going to hold it for you;
18 right? So we're really just talking about 50 percent
19 of the early people.

20 MS. FORD: I'm talking about people not
21 coming in the staggered --

22 MR. BOYEA: I understand.

23 MS. FORD: -- early or late.

24 MR. BOYEA: I understand. So if the pizza
25 isn't ready, then we tell them to please pull around

1 and come in; all right? So there isn't -- it's like
2 the chairman mentioned earlier, it isn't really a big
3 difference between coming in or coming out. There's a
4 benefit of staying in your car. But if you're early,
5 you can either come in or else come back at that
6 correct time.

7 MS. FORD: Where would I go?

8 MR. BOYEA: Maybe go to Chase Bank and get
9 money.

10 MS. FORD: I'm not going to do that.

11 MR. BOYEA: I'm not sure. Then you could
12 park out front at the same point too. But this is how
13 it works in the other locations that if you're early,
14 you're asked to pull around. You can come in or go
15 back out to the window. But you're not held at the
16 window that's there.

17 And then as far as the three people at a
18 time, we're pretty confident based on the operations
19 that -- you know, with the spacing and the timing and
20 the procedures that are in place that it's enough for
21 us.

22 Now, we've shown on the plan that we meet
23 the drive-through standards, which I think is 120 feet
24 of stacking, which is way more than we really want.
25 We're doing that to meet the Town Code. However, we

1 can live with less. And that's going to kind of help
2 police us to be a -- not a Dunkin Donuts
3 drive-through; right?

4 We're asking for a special permit here.
5 And, you know, we're willing to look at things that
6 the Board has to say. Well, how is this different?
7 Why is this different than a typical drive-through?
8 And if we're limited to a three-person queue, right,
9 and the Board is saying, okay, we're going to hold you
10 that. If that's the case, you're limited to three
11 people. And if you change that in the future, guess
12 what? You guys got to come back to us. We'd be okay
13 with that.

14 You know, the only reason why we're showing
15 the full stack is because as the attorney and the Town
16 has mentioned is, you know, we're trying to just
17 follow the Code as best we can. But we also
18 understand that we are asking for a special permit.
19 And so we're fine with discussing those types of
20 things to make sure there's some teeth into this, that
21 we're not just a bunch of talk. But it isn't our
22 intention to have an eight-person stacked
23 drive-through.

24 MR. OSOWSKI: So the question is, I believe
25 there were two curbside pickup spots, at least when

1 Dunkin Donuts was there in the past. I vaguely recall
2 a sign that said curbside pickup, one, two. At least
3 two of them.

4 Could this potentially work for curbside
5 pickup? Because I see four spots along the west side
6 of the building, which are kind of near where you have
7 that plan for, you know, the door for personal
8 delivery of pizza. Could that potentially work,
9 something like curbside pickup?

10 Your operation sounds more like curbside
11 pickup than drive-through, especially with an unwieldy
12 pizza.

13 MR. BOYEA: Yeah. And so that question's
14 not new. Obviously, the other -- you know, across the
15 country it's a national brand that's there. Pizza Hut
16 did not make it in Upstate New York. It could have
17 been the operator; right? I don't think it was the
18 product. It's great product.

19 But we have to change with the times if
20 we're going to be relevant. And so having this
21 window, this door, is an important part of making sure
22 the third leg on the stool is there and that they've
23 got a good business model that's there.

24 So while I can almost agree with the
25 chairman and you to say what's the difference of a

1 pickup window and/or come in and get it; right? A
2 pickup space.

3 MR. OSOWSKI: No. I said curbside.

4 MR. BOYEA: Curbside. I think that these
5 national companies know that there's a psychological
6 difference and it impacts the sales of being able to
7 pull up and the ease of that.

8 So I have already asked that question, if
9 you do a pickup space, is there anything that should
10 be -- no. We'd have to go find a different site.

11 However, again, they came back and said if
12 we need to do something to make the Town comfortable
13 with the fact that it is only three spaces, we're fine
14 with that. You know, we can live with any type of,
15 you know, restrictions and/or -- even doing the site
16 design, we could modify it so that if something
17 happened in the future, and to your point, this Board,
18 it gets wildly popular and it just grows, which that
19 would be great. We'd like that. But we would then
20 have to come back to this Board because that's not
21 what we agreed to. And that's not what we want. We
22 think the three spaces is fine. So that's what I
23 would offer in response to that question as far as the
24 difference of a curbside pickup and being able to pull
25 up.

1 MS. FORD: So let me just clarify. Your
2 answer is that -- so for instance, is that the
3 corporation would not go for the curbside?

4 MR. BOYEA: That's correct. That's correct.
5 Yeah. And just to make sure that we're talking about
6 the same thing as curbside. That's where somebody
7 parks in front of the sidewalk and then somebody has
8 to go out over the sidewalk into the car.

9 MS. FORD: Somebody from inside the --

10 MR. BOYEA: Yeah. So we're talking the same
11 thing.

12 MS. FORD: Correct.

13 MR. BOYEA: That level of service, we need
14 to have this -- you know, be able to be face-to-face
15 and close to the building.

16 MS. FORD: That would be face-to-face.

17 MR. BOYEA: Well, close to the building.
18 And there's -- there's not a bunch of difference, but
19 having that car right there from a psychology and --
20 and from what the industry is doing, is valuable.

21 MR. GORDON: Can I just ask the question
22 about the three spaces? I think what I hear you
23 saying is that for your pickup operations that Pizza
24 Hut would agree that it would not allow more than
25 three cars in the stacking lane at any given time. Is

1 that what you're saying?

2 MR. BOYEA: That's correct. We would be
3 okay with that. And we would even go further and not
4 just put it in -- saying it; right? Because then you
5 got to police it; right?

6 MR. GORDON: That was going to be my next
7 question. How do you enforce that?

8 MR. BOYEA: Right. Right. So we've thought
9 about --

10 MR. GORDON: We're not going to go out and
11 police it for you.

12 MR. BOYEA: No. We would have to -- as part
13 of the site plan review we would have to design it so
14 that it only holds three cars, right. It's got -- we
15 have curbing. And so if it isn't held to three cars,
16 then we have to come back to here to remove the
17 curbing; right? And you would at that point say, uh,
18 uh, uh. You sat right here and said three cars. I
19 got this. This guy said this. He said it was here.
20 Here's all the names. No.

21 So it would have to be actually designed
22 that way. So we would have to amend the site plan
23 and, you know, resubmit.

24 MR. GORDON: So two findings that I think
25 the Board may struggle with that I'd like you to

1 address directly. In issuing the conditional use
2 permit, this Board needs to find that your proposed
3 use conditionally allowed is in harmony with the
4 intent of our conditional use conditions taking into
5 account the nature and intensity of the operations,
6 the size of the site and the streets giving access to
7 the site.

8 So can you talk about why you think that
9 this operation with the pickup door is in harmony and
10 how this Board would find that in a positive way.

11 MR. BOYEA: Yeah, sure. So the first thing
12 I would point to -- and I don't know this -- is the
13 prior use that was here. When you said the intensity,
14 the prior use is undeniably more intense from the
15 traffic flow standpoint, from the customer count
16 standpoint. Their cost per check is less. It's a
17 different business.

18 So I think what we can look into, if we need
19 to further, is that the customer transaction count
20 from that business to this business is less. And if
21 we need to look into that further, I will. But I look
22 at that as almost obvious between that business and
23 us.

24 From an hours of operation standpoint, we
25 don't have that morning rush for the morning people

1 that are -- that might be for -- again, we're not
2 super residential, but I agree with Jason with his
3 assessment that it's close. And maybe a technicality
4 that's there.

5 However, this facility is going to generate
6 no traffic in the early morning hours when kids are
7 going to school. They're getting ready. They're
8 getting up. Early morning hours. At night, nighttime
9 because wintertime, headlights, traffic, noise, all of
10 those things are gone because they don't open until
11 11 a.m.

12 So when I look at does it fit into the
13 community, I would say it fits better than what was
14 there. Now, you may say you don't like what was
15 there. That's possible. But we're certainly making
16 improvements from what was there prior in the means of
17 traffic, in the means of hours of operation and the
18 volume that's there.

19 MR. GORDON: The other finding is that this
20 Board would need to make that might be challenging is
21 that in order to grant the conditional use, the
22 planning board shall determine that the operation of
23 the use applied for under the circumstances of this
24 particular case and this particular site will not be
25 detrimental to the welfare of persons residing or

1 working in the neighborhood. The proposed use will
2 not be detrimental to property and improvements in the
3 neighborhood.

4 And knowing what we know from the intensity
5 of the uses adjacent, I'm curious, again, as to how
6 you think this Board could get to that conclusion.

7 MR. BOYEA: I'm just taking notes. So has
8 hazardous or impact negative to the community. Those
9 two are kind of tied together, but first what we just
10 talked about of intensity. Again, based on past use,
11 which we have to kind of take a look at to say is this
12 more hazardous than the prior use that's there? With
13 less volume and less traffic, we can certainly say
14 that the potential mathematically for a car/pedestrian
15 incident or things of this nature would be less
16 because our traffic count is less, that's there.

17 From a customer experience, we're here to
18 make it better and talk to the Board about that;
19 right? So we're talking about the ADA accessibility
20 and pedestrian path that would be designated to the
21 street, which isn't there today to make things safer
22 and better and more defined that's out there.

23 From a maintenance standpoint, we're talking
24 about bringing this back into business; right? So no
25 more dilapidated trash enclosure. No more graffiti on

1 the back wall of the building. I'm not sure if you've
2 seen it, but it's kind of broken windmill syndrome.
3 You want to bring some life back into this. It's very
4 hard to graffiti a building when it's being operated.

5 So I do feel that there's plenty of
6 statistics there that would help this. And I do feel
7 that the Board, again, addressed it with the
8 drive-through. That's really the only Achilles heel,
9 I would say, of the project. And in order to get the
10 Board comfortable, we're willing to talk about that
11 and make modifications and justifications so that
12 somebody else couldn't say, well, you let them do it.
13 Yeah, we did. But they made them curb it. So are you
14 willing to curb yours? Are you willing to go to
15 three? Are you willing to have no speaker? Are you
16 willing to -- you know, it's part of the -- we've got
17 some teeth into it with this application.

18 MR. GORDON: Some of your answers talked a
19 bit about traffic analysis. One thing staff noted is
20 that we did not have a traffic impact study or traffic
21 study of any sort submitted to the Town. Is there
22 something you're intending to do? Is that something
23 you're willing to do?

24 MR. BOYEA: Yeah. We'd be willing to do it.
25 I think the reason we didn't is because we looked at

1 just the sheer business differences between the former
2 use and this use. It would be easy to document if the
3 Board wants.

4 MR. HAREMZA: My sense is the traffic study
5 might actually help your case.

6 MR. BOYEA: I think it would. I mean,
7 that's -- I think we can put on paper -- there's no
8 sense in putting a random paper together if the Board
9 has other concerns.

10 MR. GORDON: One of the other concerns you
11 can address in the traffic study, there was also the
12 impact on emergency vehicle access and your turning
13 radiuses, especially if you're talking about adding
14 all the curbing within the lot to restrict the number
15 of cars stacking in your pickup lane. I'm wondering
16 what the impact on emergency access to the rear of the
17 building might be. That's something you're going to
18 want to talk about.

19 MR. BOYEA: It's true. Yeah. We can do
20 that.

21 CHAIRPERSON PRICE: All right. Karen?

22 MS. ALTMAN: There's been a question that
23 one of my colleagues posed earlier, but not directly
24 to you. So I'm going to do it. The question is would
25 you consider having a sit-down restaurant solely

1 without the pickup window? If that was a choice that
2 was available and that would work for the Town, is
3 that something that would work for the company?

4 MR. BOYEA: Yeah. I tried to answer it. I
5 will be as direct as possible. No.

6 We need it to be very well-rounded. As we
7 mentioned in the past history, it takes a lot to run a
8 successful business. That we know is calculated into
9 the success of this business.

10 MS. FORD: Completely different tangent
11 here, that in referencing the Town's master plan.
12 Would that get a more of a village-like atmosphere?
13 Currently the site, as it was operational under Dunkin
14 Donuts, is basically concrete and pavers. What other
15 plans for making it more consistent with that vision
16 of Brighton? Because now it isn't --

17 MR. BOYEA: Yeah. So part of the reason why
18 we're here tonight is to talk through these things and
19 we're open to suggestions. Only thing that we're
20 doing right now is that pedestrian improvement.

21 We can do more. I'm not sure what that's
22 going to be yet. However, if the Board likes the idea
23 of limiting the pickup, that would give me room to
24 create some more green space and potentially
25 incorporate something that would align with what

1 you're talking about, which might include anything
2 from seating areas to bike racks that are adequately
3 equipped with space for them. Because it's tight
4 right now as you mentioned.

5 So by doing that, I would be able to
6 possibly create a little bit more green space. And if
7 you have any other ideas about what to do with that
8 green space too, we're open to it.

9 CHAIRPERSON PRICE: John?

10 MR. OSOWSKI: I'm good.

11 MR. GORDON: Jason, anything?

12 MR. HAREMZA: No, I do not.

13 CHAIRPERSON PRICE: Okay.

14 MR. BOYEA: So as part of the process, it
15 sounds like we may need to make a couple of revisions
16 and things of that nature. I just don't know how the
17 rest of that goes, if this gets closed or left open.

18 CHAIRPERSON PRICE: I will tell you we
19 probably do not have enough information to make a
20 decision for you. So I'm going to -- don't hold me to
21 this, but you'll probably see it -- it would be tabled
22 tonight.

23 I think there's new information or
24 clarifications of information that you've offered.
25 And I think we do need to talk through some of the

1 things, some of the things that you've shown, some of
2 the information that we need and some of the
3 opportunities that we see.

4 MR. BOYEA: Yeah.

5 CHAIRPERSON PRICE: So you're welcome to
6 stick around and listen to that conversation that
7 we're going to have.

8 MR. BOYEA: And that's just between the
9 Board later?

10 CHAIRPERSON PRICE: It is. If we feel we
11 would like some clarification on something, we will
12 ask a question. If you feel you need clarification, I
13 am afraid I'll probably ask you to wait until tomorrow
14 morning and talk to Jason.

15 MR. BOYEA: I understand.

16 CHAIRPERSON PRICE: But we'll see where we
17 go with this.

18 MR. HAREMZA: I did just want to follow up
19 with something, Bill, that you brought up towards the
20 beginning of the discussion tonight. As a little bit
21 of history of these three properties actually, and
22 probably others in this room may know more about this
23 history, it was a special assessment district that was
24 established maybe 25 or 30 years ago. And that
25 includes shared access easements through the site.

1 And that addresses some of your concerns about those
2 parking spaces that are cut in half along the property
3 line.

4 CHAIRPERSON PRICE: Yeah. I get concerned
5 if they come back with, you know, a traffic and
6 parking assessment, somebody out there doesn't have
7 enough parking. And it's not them because they're not
8 there yet. And I'm just --

9 MR. BOYEA: That's a good point. And in
10 discussions, the found space, if we were to go in that
11 manner to eliminate -- it would be to keep it and
12 increase our parking count. Or we could add green and
13 maybe put in some pedestrian amenities. So we could
14 do either.

15 CHAIRPERSON PRICE: We're battling two
16 different philosophies; one where planners and
17 planning boards would like to see a reduction in
18 parking demand. Yet we have a society that wants to
19 drive up and pick up their pizza or their Chipotle or
20 their Starbucks coffee.

21 So the type of environment we want isn't
22 what we're necessarily getting. But that's a much
23 higher conversation.

24 We're going to ask you to sit down and I'm
25 going to ask if there's anybody in the audience that

1 cares to address this application.

2 Our next application that is on the agenda,
3 if you're looking at the agenda, is 4P-NB1-23 and this
4 Westmarsh Properties LLC. That application is being
5 postponed, again, presumably to our June meeting.

6 The next application of 1950-1966, which is
7 Quicklee's on Monroe Avenue, is also postponed to our
8 next month's meeting.

9 That brings us to application 5P-NB1-23,
10 Nunzio Salafia owner, for preliminary subdivision
11 approval, preliminary site plan approval, preliminary
12 EPOD, steep slope permit approval. And that has been
13 postponed by the applicant.

14 MR. GORDON: Yes.

15 CHAIRPERSON PRICE: I'm going to --

16 MR. GORDON: Right. I don't -- well, let's
17 find out. Is there anyone on behalf of the applicant
18 here?

19 We were told they would not be attending
20 tonight because they were made aware that the staff
21 report recommended tabling this application. And they
22 subsequently requested postponement.

23 And just to put it on the record, some of
24 the reasons that staff recommended postponing or
25 tabling this application was because of the Historic

1 Preservation Commission's yet-to-be-determined
2 decision on whether to consider this property as it
3 now exists for designation as a historic property
4 under the Town's Historic Preservation law and also
5 because of a lack of information provided by the
6 applicant relative to a number of matters detailed in
7 the engineer's record and the building/planning
8 department's report, which are in the staff report --
9 summarized in the staff report.

10 In addition, some deficiencies in the actual
11 demolition plan relative to restoration and utility
12 mapping and drawing on some of the plans that were
13 provided.

14 So those are some of the reasons why staff
15 recommended we table. But I know we have some folks
16 who have stuck around now for a couple hours. We can
17 talk about this.

18 CHAIRPERSON PRICE: So just for your
19 knowledge, we have not had the benefit of the
20 applicant coming up and explaining exactly what it is.
21 We have reviewed the plans, but please know we have
22 not had the benefit of a full presentation to this
23 Board or any conversation about this application
24 amongst ourselves.

25 But please come up. Just introduce yourself

1 and let us know what your comments are about the
2 application.

3 MR. KOEGEL: Thank you and good evening. My
4 name is Robert Koegel, K-O-E-G-E-L. I live at 1960
5 Clover Street. Our property is on the corner of Old
6 Mill Road. My wife and I have 300 feet of frontage on
7 Old Mill Road. There are about 12 houses on Old Mill
8 Road, including the house that belongs to Suzy
9 Spencer, who couldn't make it here tonight -- she'll
10 be able to make it in the future -- which is 125 Old
11 Mill Road.

12 The subject property for which there has
13 been application made to demolish her house, which was
14 built in 1930, designed by an important architect of
15 his time according to the Town Historian, William C --
16 Herbert C. Williamson and who's landscaping and fence
17 was designed by the preeminent landscape architect of
18 this region, Fletcher Steele, information which is
19 completely not in the application package of 103 pages
20 put on your website, which mostly has SWPPP,
21 stormwater pollution prevention plan, which at this
22 point is a little premature as it fails to have many
23 pertinent things that should be in there.

24 So the gist of my comments tonight were
25 going to be to go over all the reasons why I think

1 there's not a complete application and no public
2 hearing should be started.

3 I've had the benefit of talking to the Town
4 attorney, which I appreciated, who apparently had some
5 of the same views of the application and its lack of
6 information that would allow the public and this Board
7 to properly delve into this matter and decide how to
8 handle it. So I'm delighted that that's the case.
9 And so I won't go into all of that stuff.

10 But what I do want to talk about, since Ken
11 has pointed out that there has been some things
12 that they, the Town, has thought about not being in
13 there, we'd like to find out what those are, see if
14 you agree with that and suggest some others that you
15 might agree on.

16 First of all, it's essential that the
17 Historic Preservation Commission decide whether or not
18 this house should be listed as a landmark. How could
19 you go forward with the public hearing before that's
20 decided? That's crucial to the whole thing.

21 The application is to demolish the house,
22 subdivided, get an EPOD permit for steep slopes.
23 There's no point in any of that if the house is not
24 going to be demolished and that ends the matter right
25 there. So that needs to get done.

1 I would be very interested in getting the --
2 and seeing and having it online as part of the
3 application so that the public can all see it and get
4 it easily and not have to try to go down to Town Hall
5 or call Town Hall, the engineer's report, which lists
6 the lack of information that is there so we can also
7 see that and follow along. I think that would be very
8 helpful.

9 Now, dealing with the things that I've
10 noticed that I think are lacking. The Town Code
11 section 73-56, which are the demolition review
12 regulations, say that complete photos of the existing
13 structure's exterior must be provided. They're not
14 there. So right off the bat, it's woefully inadequate
15 right there.

16 I also suggest that you -- that given the
17 fact that this would not just be tearing down the
18 house, but the replacement of the house is right over
19 the area from what I can tell of the historic
20 landscaping and fences are or would be. And so we
21 should also have photographs of that area and the
22 landscaping and the architect -- the fences and the
23 landscaping.

24 In addition, the application has no building
25 facade elevations for the existing or the proposed

1 house. That I believe are also necessary and should
2 be provided and made a part of the record so that you
3 and the public can get that clear on what's going on.

4 I suspect, although I don't know what you do
5 here, with your inventory, your historic houses here,
6 but it's common for Bero Architecture to do
7 inventories of houses or properties that could be
8 considered landmarks and rank them and have them on
9 the list of possible inventory houses. I see a head
10 nod. That's a good thing.

11 I've -- I can't find that anywhere. I'd be
12 very interested in that and ask that that be -- as
13 well, go into the record so that the public and this
14 Board and -- we know that this Board is seeing what
15 Bero Architecture has written up about this house.

16 The former owner of the house I mentioned,
17 Suzy Spencer, has told me that she left these
18 architect plans in her house. The Town Historian says
19 that she understands that to be the case from Suzy
20 Spencer as well.

21 We would ask the Town to ask the current
22 owner of the house to produce the historic plans of
23 this house to make it easier for all of us. I
24 recognize they might not have them or they may say
25 they don't have them. And you may not force them, but

1 certainly the Planning Board is able to acquire any
2 information to assist it with the spirit and intent of
3 carrying out chapter 73. So I think it's appropriate
4 that you ask for it.

5 The -- we could talk about the -- so the
6 three referrals -- so as part of the demolition review
7 statute, there are three referrals, three advisory
8 boards. So the Historic Preservation Commission has
9 been covered and mentioned by Ken, which is great.
10 I'm glad that's going on. We'd be very interested to
11 see where that's going. I guess I will try to attend
12 the next meeting of the Architectural Review Board if
13 they do do that in public so the review of the
14 criteria by which they would list that so that we
15 could see and encourage them in one way or another.

16 MR. GORDON: Let me just jump in here. It
17 would not be the ARB. It would be the Historic
18 Preservation.

19 MR. KOEGEL: I'm sorry. That's what I
20 meant, the Historic Preservation. Thank you.

21 MR. GORDON: Yes. That's all done public.

22 MR. KOEGEL: So we would look forward to
23 that and, of course, would expect that nothing could
24 go forward with this application in a meaningful way
25 until the Historic Preservation Commission makes its

1 determination of whether or not the house should be a
2 designated landmark and brings that back to your
3 board.

4 But then there are another two I heard of as
5 well. Your Architectural Review Board has to prepare
6 and forward to this Board a recommendation regarding
7 the design of the new proposed structure. And I
8 gather that hasn't happened yet; is that correct?
9 Okay.

10 CHAIRPERSON PRICE: That has not happened.

11 MR. KOEGEL: So for that reason in my view
12 we have an incomplete -- a woefully incomplete
13 application to move forward.

14 CHAIRPERSON PRICE: It's not unusual,
15 however, for us to hear a site plan and subdivision
16 application --

17 MR. KOEGEL: To start it.

18 CHAIRPERSON PRICE: -- ahead of a
19 Architectural Review Board approval. And we do
20 typically get a determination by Historic Preservation
21 whether they want to hold a public hearing on the
22 significance of the structure.

23 I guess my question would be -- we
24 understand your comments on the procedural aspects of
25 the completeness of the application. Are you choosing

1 to take this on because you oppose the application?

2 MR. KOEGEL: Yes.

3 CHAIRPERSON PRICE: Okay.

4 MR. KOEGEL: I should have made that
5 clearer. I thought about doing it at the outset and I
6 let -- I apologize. Yes. I state for the record I'm
7 here tonight to oppose the location for this Board for
8 all three of the things that are requested,
9 subdivision, site plan approval, a demolition permit,
10 the EPOD steep slope approval. I think that covers
11 all of that.

12 And finally, the Conservation Board must
13 review this project and make recommendations. And, of
14 course, this site -- again, from looking at the
15 application, I have no idea what you've seen or know
16 about the site and we know as its neighbors looking at
17 it. But if -- that site is a beautiful piece of
18 property from an environment standpoint, but not much
19 for the building. It's 3.9 acres and roughly
20 two-thirds of it is either floodplain from Allens
21 Creek or steep slopes.

22 And the current house where it's built is
23 right in the only spot that it can be placed that
24 respects the land that it's on and does no harm to it.
25 And this proposal to knock it down and put a line down

1 to create one lot that would be about an acre and the
2 other would be three acres and shoving a new one in --
3 closer to the house to the east, and then leave this
4 ready for a house to go in the west, is a terrible
5 idea to congest that neighborhood with more houses,
6 something it has not had since it was developed long
7 ago. So with the recommendation of the Conservation
8 Board, I also believe they need to come in to be a
9 complete review.

10 Also I'm not sure how much aware this Board
11 is of what is going on on the property without any
12 approvals whatsoever, which is a massive logging
13 operation in the rear of the property on a steep slope
14 section as it comes down to Allens Creek. Not just a
15 few trees, but a clear-cutting thing, which can be
16 seen by the neighbor's property, which he can comment
17 on himself.

18 I believe. I don't know. Because I can't
19 tell what the limits of the EPOD woodlot are from the
20 map. But I would think this Board would be doing this
21 job for the Town to make sure that the applicant isn't
22 cutting down all the trees in this protected EPOD area
23 before any application is even complete, let alone
24 approved. So that's something we'd also appreciate
25 having the Town follow through on.

1 CHAIRPERSON PRICE: Is that the applicant or
2 the current owner?

3 MR. KOEGEL: The applicant and the current
4 owner are the same.

5 MR. GORDON: This applicant has closed on
6 the property.

7 CHAIRPERSON PRICE: It has closed.

8 MR. GORDON: It has been for a few months.

9 MR. KOEGEL: A year.

10 CHAIRPERSON PRICE: Okay. You know this
11 Board has approved other applications similar to this
12 on this street?

13 MR. KOEGEL: Oh, I'm aware that there have
14 been some demolitions and -- whoa, whoa, whoa.

15 CHAIRPERSON PRICE: Sorry. It had to come
16 up.

17 MR. KOEGEL: Let's get it out. I much
18 rather have -- this Board is going to make a decision,
19 not us.

20 CHAIRPERSON PRICE: We didn't hear from you
21 last time.

22 MR. KOEGEL: You're right because this house
23 isn't the same as the other houses.

24 CHAIRPERSON PRICE: Your argument is on the
25 historic preservation aspect to this property.

1 MR. KOEGEL: The architectural preservation.
2 Yeah.

3 CHAIRPERSON PRICE: I think you can shorten
4 this conversation and just tell us, you know,
5 fundamentally why is it that you're opposed to this
6 application when you weren't opposed to other
7 applications.

8 MR. KOEGEL: I'd be glad to do that. From
9 an architectural standpoint, both historical
10 personages and architectural beauty of that house,
11 it's the gem of the street. The first three that went
12 down were not. I would not try to denigrate them, but
13 they were not at the level in any means to this one.

14 This house is a beauty, a star. And if this
15 Town doesn't recognize that, I would find that it
16 would be very sad that in 2006 it passed this
17 demolition review statute and no longer allowed it to
18 be a ministerial act to take down a house, but it
19 gives this power to you. And I won't read it to you,
20 because you'd be annoyed with that. But you're aware
21 this house is very different.

22 Also, the property is very different.
23 Whereas, it's true one of those houses goes back and
24 has a big lot in the back, the house that was built
25 there, the one right next to it, is right on the

1 footprint of where that house was. And again, it was
2 house -- a brick modern house, which did not fit into
3 the neighborhood.

4 The lot -- they're trying to split this lot
5 and build this house. It also runs havoc to that lot
6 environmentally. And it'd also create another lot,
7 which doubles another house in there with more
8 congestion in the street, more traffic, more just
9 overall changing the character of that neighborhood.

10 So that -- I'm opposed to it for that
11 reason. Yes. I think I'm finishing up for now. We
12 will have more opportunities. And we do have another
13 two neighbors that would like to say something. Thank
14 you.

15 MS. SCHENKER: Hello. My name is Arlene
16 Schenker, S-C-H-E-N-K-E-R, and I live at 35 Old Mill
17 Road. I'm here to speak in opposition to the
18 application to the raising of 125 Old Mill Road,
19 subdivision of that property and building a new house
20 or houses on that property.

21 I just want to say first, I want to mention
22 that I did not get a letter about this public hearing
23 and I think most of the people on Old Mill Road did
24 not. So I just want to make sure that the next time
25 this comes up that we all get letters. There was only

1 a sign in front of the property. And I didn't -- I
2 hadn't seen it. I hadn't gone up the street in a
3 while. I'm at the other end. So I just wanted to get
4 that on the record so that next time we get it.

5 MR. HAREMZA: To clarify, letters only go to
6 immediately abutting properties.

7 MS. SCHENKER: I'm sorry?

8 MR. HAREMZA: Letters only go to the
9 immediately abutting properties.

10 MS. SCHENKER: Robert Koegel got one. And
11 that's how I know about this meeting tonight. Okay.
12 Well, I object to that. I think everyone on the
13 street should get a letter. I don't know if that's
14 something in your code or what, but I think that -- my
15 personal opinion is that everyone on the street should
16 get a letter.

17 I'm going to speak about my personal
18 feelings having been an almost 43-year resident on Old
19 Mill Road. My husband and I -- I'm speaking for my
20 husband. He had to leave. We moved into our house in
21 1980, July 1st. And so this July 1st will be 43 years
22 on Old Mill Road.

23 We were immediately enchanted by the street.
24 We loved it. We fell in love with it the first time
25 we viewed the house. And we love the fact that all

1 the houses were uniquely different from each other and
2 had lots of character. And that was important to us.

3 We are very concerned and dismayed on the
4 possibility of this very special house, as Robert
5 described it, architecturally significant, landscape
6 is significant, that it could be razed. It's always
7 been our favorite. Our husband and I take walks down
8 the street and we've always stopped to look at that
9 house. It's just -- it's very special.

10 I think, as Robert read, part of the chapter
11 73, a lot of that really resonated with me, especially
12 where it says the preservation, enhancement and
13 continued use of structures with historic,
14 architectural, cultural and/or aesthetic importance is
15 essential in maintaining this community and
16 neighborhood character. And that's my major concern.

17 Then it says the process of demolition
18 alters the characteristics of the site and, whether or
19 not redevelopment is proposed, can significantly
20 impact the natural features of the site and the
21 character of the neighborhood. Now, since Old Mill
22 Road is a dead-end, there's no outlet, it sort of -- I
23 mean, for all intents and purposes, it's an old
24 neighborhood. And that's how I look at Old Hill Road
25 as a neighborhood. So I think that that would most

1 certainly alter the character of the neighborhood.

2 In the 20 years-plus that I've been there,
3 my husband and I have been there, we raised our kids.
4 They've gone to Brighton schools on their own. And
5 the last two years, yes, we have seen two houses
6 demolished and two new houses built. And before that,
7 the last house that was razed was the one at the very
8 end and that was -- I don't remember -- maybe five
9 years ago or so.

10 So for two summers now, at least into the
11 fall, we've had huge trucks, cement trucks, dumpsters,
12 et cetera, going up and down Old Mill Road all day,
13 multiple, multiple trips, picking up -- you know
14 unloading whatever and picking up whatever they
15 needed. And it's been very disruptive. And the
16 street itself, the pavement, has been -- was totally
17 wrecked.

18 Luckily after a few phone calls last summer
19 I was able to get the highway department to repave the
20 street. It was really bad.

21 So I don't know if that has any bearing on
22 your decision, but it's been difficult living with all
23 that construction. And we just don't -- the bottom
24 line is we don't want the character of Old Hill Road
25 to be changed so drastically. Thank you.

1 CHAIRPERSON PRICE: Thanks for coming out.

2 MR. FLAUM: How are you? Loren Flaum,
3 LOREN, FLAUM, direct neighbor at 141 Old Mill Road.
4 Just wanted to come in and I guess bring up some
5 concern about the proposed project. As Mr. Koegel
6 said, we were all supposed to be given letters or the
7 abutting property. I'm the adjacent -- directly next
8 to the property. I never received information about
9 this hearing. So maybe for the future that would be
10 great to have.

11 My wife and I have some concerns about the
12 development of this property. Obviously, the
13 aesthetic beauty of it, the historical significance of
14 it. I look at more from a use perspective and impacts
15 to the neighborhood. Just want to make sure that
16 whatever happens there is adequate infrastructure with
17 the road. If it's subdivided, it is a very quiet
18 street to add two new residences into the neighborhood
19 and how that will impact the environmental of the
20 wastewater and the infrastructure of the sewer and gas
21 and electric. Just want to make sure that all those
22 things were brought out to knowledge for us neighbors
23 to understand and that it wouldn't be impacted if
24 there's development to be done there.

25 Obviously, I went through that process a few

1 years ago with my own home and I think that it was
2 done very respectfully. And I just want to make sure
3 that the same care and attention to detail is done
4 with this application when it gets there.

5 So just wanted to come and voice some
6 concern over that and want to make sure this is done
7 the right way and the historic nature of the property
8 is taken into concern because, you know, it is the gem
9 of the neighborhood and it is right next to me. And
10 want to make sure that's taken into account. So thank
11 you.

12 CHAIRPERSON PRICE: Thanks for coming out.

13 MR. HAREMZA: Your letter was sent to 3365
14 Elmwood Avenue, the address on file for your property.

15 MR. FLAUM: That's a previous address. So I
16 guess --

17 MR. HAREMZA: Talk to the county.

18 MR. FLAUM: Thank you very much.

19 CHAIRPERSON PRICE: Anyone else care to
20 address this application? Thank you that is the --

21 MR. GORDON: Bill, I just want to add a
22 couple clarifying comments just for the record. First
23 of all, thank you, Mr. Koegel, Ms. Schenker, Mr. Flaum
24 for coming in and sharing your comments.

25 Some information that I want to give you

1 that is available out there and that apparently you
2 have not yet seen. Online there is the Planning Board
3 staff report. If you go to our website and look at
4 the most recent agenda for the Planning Board, you'll
5 find on this project a two-and-a-half-page staff
6 report and a seven-page engineering report on this
7 project. So that is available. That is out there.
8 You don't need to FOIL it. It's already out there for
9 you to look at.

10 What is not available because we don't have
11 it and it hasn't been done is any kind of Bero or
12 other cultural survey for this property. Our process
13 is that if the Historic Preservation Commission is
14 interested in considering the property for
15 designation, it would then initiate this process,
16 which would include ordering a survey of the property.
17 And we do contract with Bero for those purposes. That
18 has not occurred. We have not made that request.
19 There is no such study. So we can't give you what we
20 don't have.

21 And lastly, I just wanted to note for your
22 information some of your comments from all three of
23 you related to your feelings about the historic
24 character of this property. That is somewhat beyond
25 the authority of this particular Planning Board. This

1 Planning Board deals with site plan approval.

2 But it is very much within the authority of
3 the Historic Preservation Commission. Their next
4 meeting, which I expect this project will be
5 discussed, is on May 25th at 7 p.m. -- well, 7:15
6 actually is when we start our open forum. And 7:30 is
7 when the applications are considered. That's going to
8 be right here in this room.

9 So I would encourage you or your neighbors
10 if you want to have input on whether this property you
11 believe has historic significance which the Board --
12 that is the Historic Preservation Commission -- should
13 consider deciding whether to initiate the designation
14 process, that would be time to bring that information
15 to that board.

16 MR. OSOWSKI: I'd like to go on the record
17 just regarding the short environmental assessment form
18 that was submitted. There were a lot of blanks that
19 weren't answered, questions that weren't answered.
20 I'll just list them that I picked off the form:
21 Number 2, number 5, number 6, 8b, 9, 10, 17, 17a, were
22 not answered. They were left blank.

23 CHAIRPERSON PRICE: All right. Everybody
24 said their peace on this? We'll have a discussion on
25 the resolution of this. So let's move forward. Okay.

1 We're going to take a five-minute break. We'll come
2 back somewhere between 25 of and half past the hour.

3 (Public hearings concluded.)

4 * * *

5 (Beginning of decisions.)

6 **Application 5P-01-23**

7 Application of Cortese Cycle Sales, owner,
8 for renewal and expansion of a Conditional Use Permit
9 (2P-01-22) allowing for motorcycle sales and service
10 on property located at 2771-2775 West Henrietta Road.
11 All as described on application and plans on file.

12 CHAIRPERSON PRICE: First, do we have a
13 motion to close the public hearing on this?

14 MR. OSOWSKI: I move we close the public
15 hearing.

16 MS. FORD: Second.

17 CHAIRPERSON PRICE: Moved and second to
18 close the public hearing. Is there any discussion?
19 Any questions? Comments? Okay. Jason, please call
20 the roll.

21 (Ms. Altman, aye; Ms. Ford, aye;
22 Mr. Grisewood, aye; Mr. Osowski, aye;
23 Mr. Price, aye.)

24 CHAIRPERSON PRICE: Okay. So let's see.
25 We're missing both of our guys that make resolutions.

1 I don't want to put it on Karen. She's --

2 MR. OSOWSKI: I'll do it, but I noticed on
3 some of the conditions there was one about the
4 dumpster being enclosed with materials compatible with
5 the building. Does that condition apply to this
6 permit? Or is that kind of one that's just kind of
7 got thrown in there? I assume they already have a
8 dumpster somewhere on the site.

9 MR. HAREMZA: The answer is yes. I think
10 that's standard requirement for all dumpsters
11 technically.

12 MR. GORDON: Yeah. I think what John's
13 asking is do we need to add that as a condition here.

14 MR. HAREMZA: Probably not.

15 MR. GORDON: Probably not. So I think you
16 can probably omit three, but I will say take a look,
17 if you're doing that John, at number 4.

18 MR. OSOWSKI: Yeah. That was my next
19 question because it said the entire building should
20 comply with the building codes and the proposed
21 building shall be sprinklered.

22 Now, there's no proposed building. There's
23 some interior alterations going on. So I didn't even
24 ask if the building is or is not sprinklered now. I
25 assume it probably is not. So would we delete number

1 4 also?

2 MR. HAREMZA: Just the word proposed. The
3 building shall be sprinklered in accordance with the
4 Town of Brighton sprinkler requirements.

5 MR. OSOWSKI: So just delete the second part
6 of it.

7 MR. HAREMZA: Just the one word, proposed.

8 MR. OSOWSKI: Just the word proposed. Okay.

9 MR. HAREMZA: Renovations do trigger
10 sometimes adding sprinklers.

11 MR. OSOWSKI: All right. Is there a -- I'm
12 trying to see if there is SEQRA review.

13 MR. GORDON: It's a Type II --

14 CHAIRPERSON PRICE: Second page.

15 MR. GORDON: It's a Type II. You can
16 mention it if it's a Type II and SEQRA review is not
17 required.

18 MR. OSOWSKI: Okay.

19 MR. GORDON: Or you can leave it out.
20 Doesn't matter.

21 You do need to make your conditional use
22 permit findings, which Jason's provided for you under
23 paragraph 4.

24 MR. OSOWSKI: I'll move that the Planning
25 Board adopts the -- well, taking out number 3, 15

1 findings outlined in the report.

2 MR. GORDON: Well, if I could. Can I spoil
3 you and do what I do for the Historic Preservation?

4 MR. OSOWSKI: Please.

5 MR. GORDON: I would suggest that somebody
6 make the following motion: That the Planning Board
7 adopts the eight conditional use permit findings
8 listed in the Planning Board report; that the Planning
9 Board determines that this is a Type II action under
10 SEQRA and no further SEQRA review is required; and
11 that the Planning Board approve application 5P-01-23
12 based on the testimony given and documents submitted
13 and the conditions set forth in the planning board
14 report omitting condition number 3 and omitting the
15 word proposed in the second sentence of condition
16 number 4.

17 CHAIRPERSON PRICE: So moved.

18 MR. OSOWSKI: You said eight conditions?

19 MR. GORDON: Findings. I said findings.

20 CHAIRPERSON PRICE: A through H.

21 MR. OSOWSKI: I'm sorry. Thank you.

22 CHAIRPERSON PRICE: We have a motion.

23 MS. FORD: Second.

24 **Conditional Use Findings:**

25 A. The Planning Board finds that the continued and

1 expanded use, motorcycle sales and service, complies
2 with the standards of the General Commercial (BF-2)
3 district.

4 B. The Planning Board finds that the continued and
5 expanded use is in harmony with the purpose and intent
6 of Code Sections 217-3 through 217-7.2 (Conditional
7 Uses). The location and size of the motorcycle sales
8 and service, the intensity (hours of operation), size
9 of the site and access have all been considered in the
10 Board's review.

11 C. The Planning Board finds that the continued
12 operation and expansion of motorcycle sales and
13 service in this location, will not be detrimental to
14 persons, detrimental or injurious to the property and
15 improvements in the neighborhood, or to the general
16 welfare of the Town.

17 D. The motorcycle sales and service will be expanded
18 within an existing structure on a developed site and
19 not result in the destruction, loss or damage of any
20 natural, scenic or significant historical resource.

21 E. The Planning Board finds that the continued and
22 expanded use of motorcycle sales and service will not
23 create excessive additional requirements for public
24 facilities and services and will not be detrimental to
25 the economic welfare of the community.

1 F. The Planning Board finds that the continued and
2 expanded use of motorcycle sales and service will be
3 adequately served by essential public facilities.

4 G. The Planning Board finds that the continued and
5 expanded use of motorcycle sales and service will not
6 result in the loss or damage to trees.

7 H. The proposed finds that the continued and expanded
8 use of motorcycle sales and service conforms to the
9 Town Master Plan: Envision Brighton 2028.

10 **Conditions:**

11 1. Meet all requirements of the Town of Brighton's
12 Department of Public Works.

13 A. Applicant shall respond in writing to
14 all comments of the Planning Board, Town Engineer,
15 Sewer Department, Building and Planning Department,
16 and Fire Marshal.

17 2. All Monroe County comments, if any, shall be
18 addressed.

19 3. The entire building shall comply with the most
20 current New York State Fire Prevention and Building
21 Code. The building shall be sprinklered in accordance
22 with Town of Brighton sprinkler requirements.

23 4. Any storage of bulk petroleum products or any
24 other flammable or hazardous products/materials shall
25 be reviewed by the Town Fire Marshal.

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

3 6. No outdoor storage or display of goods, materials,
4 or equipment shall be permitted without town approval.

5 7. Any permits required from Monroe County Pure
6 Waters shall be obtained.

7 8. All requirements of Chapter 149, Sewer Use Law of
8 the Town of Brighton, shall be met.

9 9. An operational permit shall be obtained from the
10 Town Fire Marshal (Chris Roth, 784-5220).

11 10. Any signs shall require separate review and
12 approval.

13 11. An oil separator shall be installed in the
14 service area if there are floor drains.

15 12. All uses, including but not limited to, the sale
16 and service of motorcycles shall take place within an
17 enclosed building with the door shut. Noise and fumes
18 shall be controlled so that they don't create a
19 nuisance for the surrounding neighborhood.

20 13. All activities will comply with the Town's noise
21 ordinance in chapter 102 of the Town Code.

22 14. Maintenance and repair services shall take place
23 only as accessory services to sales operations located
24 on the same premises.

25 15. There shall be no test driving of motorcycles on

1 Town Highways.

2 CHAIRPERSON PRICE: Moved and seconded. Is
3 there any conversation, questions, comments?

4 Jason, call the roll.

5 (Ms. Altman, aye; Ms. Ford, aye;
6 Mr. Grisewood, aye; Mr. Osowski, aye;
7 Mr. Price, aye.)

8 CHAIRPERSON PRICE: Okay. Brings us to
9 combination of application 5P-02-23 and 5P-NB2-22.

10 **Application 5P-02-23**

11 Application of PEMM, LLC, contract vendee,
12 and Bristol Valley Homes, owner, for Final Site Plan
13 Approval to construct a 968+/- square foot gas pump
14 canopy, renovate an existing 1,278 square foot
15 building, install two gas pump islands, and make
16 additional site improvements for the purpose of
17 operating a Quicklee's gas station and convenience
18 store on property located at 3108 East Avenue. All as
19 described on application and plans on file.

20 **Application 5P-NB2-22**

21 Application of Bristol Valley Homes, LLC,
22 owner, and PEMM, LLC, contract vendee for Preliminary
23 Site Plan Approval to construct a 968+/- square foot
24 gas pump canopy, renovate an existing 1,278 square
25 foot building, install two gas pump islands, and make

1 additional site improvements for the purpose of
2 operating a Quicklee's gas station and convenience
3 store on property located at 3108 East Avenue. All as
4 described on application and plans on file.

5 CHAIRPERSON PRICE: All right. Is there a
6 motion to close the public hearing?

7 MS. FORD: So moved.

8 MS. ALTMAN: I will second.

9 CHAIRPERSON PRICE: Moved and second to
10 close the hearing. Any discussion? Jason, please
11 call the roll.

12 (Ms. Altman, aye; Ms. Ford, aye;
13 Mr. Grisewood, aye; Mr. Osowski, aye;
14 Mr. Price, aye.)

15 CHAIRPERSON PRICE: Okay. So folks, we've
16 seen this for a long time. Is there a motion for
17 approval?

18 MR. OSOWSKI: I'll move that the Planning
19 Board finds that the proposed action will not have a
20 significant impact on the environment and adopts the
21 negative declaration prepared by town staff and that
22 the Planning Board grants approval to application
23 5P-02-23/5P-NB2-22 based upon testimony given, plans
24 submitted and with the 16 conditions outlined in the
25 Planning Board report.

1 CHAIRPERSON PRICE: Is there a second? I'll
2 second. All right.

3 Just make sure that the conditions that we
4 had in -- the adjacent neighbor asked about the lights
5 shining on the roof and the sign. It appears that the
6 condition in here is that all light fixtures will have
7 a maximum temperature of 3,000 Kelvin as required by
8 the Historic Preservation Commission. Parking lot
9 lights will be turned off from 10 p.m. to 5 a.m. That
10 was not -- it does not specifically address the lights
11 pointed at the -- I have no problem with the light
12 pointing at the sign. Personally I have no problem
13 with the lights if the Historic Preservation
14 Commission approved it.

15 MR. GORDON: And they did. Part of the
16 application package to the Historic Preservation
17 Commission had details of those three lights mounted
18 on the canopies. So in the language used in the
19 application, in order to avoid surface mount building
20 lights that are not historically correct, the
21 applicant is proposing to use knuckle mounted light
22 accommodations on the gas canopy, which will provide
23 accent lighting to the building night and primary
24 pedestrian walkway will light from the soffit lights
25 under the canopy.

1 So HPC definitely reviewed and approved it
2 with those lights on the canopy pointed at the
3 building so that there would not be other lights
4 mounted on the historic structure itself.

5 CHAIRPERSON PRICE: Anybody else have any
6 other comments? Questions? Conditions as proposed.
7 Jason, call the roll please.

8 **Conditions:**

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

11 A. Applicant shall respond in writing to
12 all comments of the Planning Board, Town Engineer,
13 Sewer Department, Building and Planning Department,
14 and Fire Marshal.

15 B. Requirements of the Department of
16 Public Works include but are not limited to:

17 i. Updated drawings to reflect the
18 project details that was approved by the Historic
19 Preservation Commission (HPC) (e.g. masonry dumpster
20 enclosure, canopy dimensions, etc.)

21 ii. Construction detail of decorative
22 masonry wall including foundation/footer

23 iii. Detail of 3 ½ foot tall fence
24 along south property line

25 iv. Relocate or eliminate the proposed

- 1 3 foot wide crosswalk across the parking lot.
- 2 2. Hours of operation will be from 6AM to 10PM.
- 3 3. All light fixtures will have a maximum temperature
- 4 of 3000 k as required by the Historic Preservation
- 5 Commission. Parking lot lights will be turned off
- 6 from 10PM to 5AM.
- 7 4. All Monroe County comments, if any, shall be
- 8 addressed.
- 9 5. The entire building shall comply with the most
- 10 current New York State Uniform Fire Prevention and
- 11 Building Code. The proposed building shall be
- 12 sprinklered in accordance with Town of Brighton
- 13 sprinkler requirements.
- 14 6. All Town codes shall be met that relate directly
- 15 or indirectly to the applicant's request.
- 16 7. The project and its construction entrance shall
- 17 meet the New York State Standards and Specifications
- 18 for Erosion and Sediment Control.
- 19 8. Erosion control measures shall be in place prior
- 20 to site disturbance.
- 21 9. Location of spoil piles and plans for their
- 22 removal or distribution shall be provided.
- 23 10. All trees to be saved shall be protected with
- 24 orange construction fencing placed at the drip line or
- 25 a distance greater than the drip line. Trees shall be

1 pruned, watered, and fertilized prior to, during and
2 after construction. Materials and equipment storage
3 shall not be allowed in fenced areas.

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

11 12. All other reviewing agencies must issue their
12 approval prior to the Department of Public Works
13 issuing its final approval.

14 13. The Town of Brighton Department of Public Works
15 (DPW) requires that the existing laterals be televised
16 and the conditions assessed. Replacement laterals
17 will need to be installed if the DPW determines they
18 are required.

19 14. Show the storm sewers on the site and their
20 connections.

21 15. A letter of credit shall be provided to cover
22 certain aspects of the project, including, but not
23 limited to: Demolition, restoration, sanitary sewer,
24 water main, stormwater water management facilities,
25 landscaping, and sediment and erosion control. The

1 letter of credit should be submitted to the Town for
2 review and approval. An original Letter of Credit
3 must be received by the Town prior to the start of
4 construction.

5 16. The contractor shall obtain all necessary Highway
6 Access, Sewer Construction, Demolition, or other
7 permits from the Town or other agencies prior to
8 starting work.

9 (Ms. Altman, aye; Ms. Ford, aye;
10 Mr. Grisewood, aye; Mr. Osowski, aye;
11 Mr. Price, aye.)

12 **Application 5P-03-23**

13 Application James Smith, agent, and Tasty
14 Hut LLC, owner, for Preliminary/Final Site Plan
15 Approval and Conditional Use Permit Approval to
16 construct a 252 +/- square foot building addition and
17 operate a Pizza Hut Restaurant with drive-through
18 service on property located at 1760 Monroe Avenue.
19 All as described on application and plans on file.

20 CHAIRPERSON PRICE: Okay that brings us to
21 application 5P-03-23.

22 Why don't we just get a motion out to table
23 before we have any --

24 MR. GORDON: If I may procedurally, just
25 chat about that. So I know we don't have a motion

1 pending. I will say, Bill, you know my adherence to
2 Robert's rules, once a motion is made to table, there
3 is no discussion on that motion. You simply vote on
4 the motion to table.

5 I know that it is within the Chair's
6 prerogative to solicit opinions from this Board before
7 moving forward with a motion of any sort. And I
8 encourage you to do that now rather than try to wait
9 to do that after the motion to table is made.

10 CHAIRPERSON PRICE: Okay. So just quickly,
11 I think I personally heard a few things in this
12 conversation that might alter the direction that I
13 would go on this and just wondering if anybody else
14 had similar thoughts on this.

15 Just to be clear, this stacking distance and
16 always the underlying concern that, you know, Pizza
17 Hut gets approval. Pizza Hut doesn't make it or
18 doesn't like the market or for whatever business
19 decision they leave and we have a facility with a
20 "drive-through" and we end up a McDonald's or, you
21 know, back to some kind of coffee operations where we
22 get traffic backing up like we see on East Avenue. So
23 that was my initial concern.

24 I think with creative engineering and
25 design, if we can limit the amount of stacking. This

1 whole idea of pickup versus drive-through is something
2 new to me personally. And I don't know that it's --
3 that I've seen it in operation, but what we will end
4 up seeing it. We're going to end up seeing it in the
5 Town where we have adjacent drive-throughs already.
6 So I think this is -- would be a different -- slightly
7 different situation.

8 I'm also getting a little concerned with the
9 amount of time that this building sits unoccupied.
10 And I'm concerned about the building becoming a nail
11 salon or, you know, a healthcare-service-type business
12 rather than a, you know, people operation attracting
13 people to the storefront. So those are all the kinds
14 of things that I'm thinking about and how can we --
15 how could we make it work.

16 MR. HAREMZA: Just a procedural question for
17 both you and Ken, if -- can the Planning Board limit
18 stacking? And would that force the applicant to then
19 apply for a variance for deficient stacking?

20 MR. GORDON: I think what the Planning Board
21 can do procedurally is say, we're not going to approve
22 this design, this site plan.

23 And then the applicant can come back and
24 say, okay, well, we've got this other site plan that,
25 you know, limits the number of cars that could fit in

1 our stacking lane. And then they would add a variance
2 to the list of variances that they would need to be
3 getting for their stacking lane. And it would be, of
4 course, subject to ZBA approval.

5 You know, the other directions we could
6 go -- we haven't used the initials IZ yet on this
7 proposal, we can go that direction too. Take this
8 through incentive zoning. I think it's too small a
9 project for incentive zoning, frankly. But we said
10 that about Quicklee's Monroe too.

11 And I'll just throw this out because -- I
12 said it sort of in a joking way to Jason, but it sort
13 of meets to some extent what you're looking for, I
14 think, which is to get green space out front, what
15 if this became primarily a pickup spot? You order a
16 pizza. You come and go through the drive-through lane
17 and you pick up your pizza and instead of having 40
18 seats inside they have like 10 and limit your number
19 of parking spots. You put a whole lot more green space
20 out front and you basically have a pickup operation as
21 opposed to a dine-in operation.

22 That is something that might meet, to some
23 extent, some aspects of the master plan and still
24 allow for a use that this property could be put to.
25 And that also could be an incentive zoning proposal.

1 Or it could be, you know, a conditional use or site
2 plan approval along with the ZBA variances.

3 MR. OSOWSKI: I'm thinking more of a hybrid
4 approach and it just came to me as I'm sitting here.
5 Because I like the idea of we do a drive-through
6 that's very limited to the three cars in the stack,
7 but I'm afraid it might overflow.

8 If that's the case, maybe they can designate
9 some spots around the corner that I suggested. You
10 know, put up a little sign that says if the stacking
11 lane is full, overflow parking spots for pickup only
12 around the corner or you number them or something like
13 that. So give them an out in case it does get full so
14 you don't say, I'm sorry. The demand is higher.
15 That's the way it goes.

16 MS. FORD: I have to say the Quicklee's
17 model did keep coming back in my head as an
18 opportunity to turn basically an eyesore potentially
19 into something less than a concrete slab.

20 CHAIRPERSON PRICE: So I think we've heard
21 couple different ideas and --

22 MS. FORD: And obviously Pizza Hut got their
23 own business models.

24 CHAIRPERSON PRICE: What strikes me is that
25 you have Pontillo's right next door. That's my spot

1 or Ken's.

2 MR. GORDON: That's a comment on your pizza
3 choice.

4 CHAIRPERSON PRICE: And there's never --
5 it's probably a busy place; right? I mean, they have
6 delivery. But as far as the pickup, I mean, people
7 whip in there, jump out, grab it and go. It's not
8 brought out to them. But the number of times -- you
9 can pull in there and have a parking space. Now, you
10 don't eat in there. So we don't have this -- a
11 similar example to go by.

12 But it sounds like there could be some -- a
13 little bit of, you know, let's go back to the drawing
14 board and say limit the drive-through as one option.
15 What can you get us in the way of additional green
16 space? I think that additional green space kind of
17 ends up on the east side of the building. Is that --
18 because then you don't -- you're not taking up a lane
19 for stacking.

20 So now, we can get fire access around. It
21 does strike me that you've got the drive lane in the
22 back of the building, but you also -- you're in a lane
23 to pick up, but then you've got the drive lane itself
24 that you can always escape if -- you know, as Julie
25 says, is okay, my time to pick up is 7:52 and the guy

1 from 7:54 is ahead of me waiting for his. You can
2 kind of do it a little -- have an escape way out.

3 I like two ideas of, you know, limiting the
4 seating inside or modify that or reduce the parking
5 requirements and by yourself more screen.

6 MR. GORDON: It strikes me -- again, I will
7 go back to what I said earlier tonight. You have two
8 choices; table and see if they want to change the
9 proposal or deny it outright and see if they want to
10 resubmit something altogether.

11 Tabling keeps them, you know, moving.
12 Denying makes them go back to square one and slows
13 them down even more. So I sort of leave that to you
14 guys as to what you're thinking.

15 What I don't hear is anybody saying, why are
16 we not moving it just like it is? I don't hear anyone
17 saying that. And so hopefully -- I know the architect
18 stayed around thank you to listen to comments. I
19 think that's important for them to hear and take back
20 and -- for him to take back to his client that, you
21 know, as written now I don't know that it's a
22 nonstarter, but it's going to be a surprise if this
23 board approves it as it is.

24 CHAIRPERSON PRICE: Yeah. There's not a lot
25 here to like or dislike. I do like the pedestrian

1 improvements. I'd actually like to see something a
2 little more than paint on the pavement. But there's
3 that.

4 There's the addition in the back corner and
5 then there's a stacking lane issue and an issue of the
6 compliance with the Code on that. And my heartburn of
7 not saying, yeah, approve it as it is, was the issue
8 with we got a left into the building and we didn't
9 have adequate stacking distance to, you know, handle a
10 coffee shop or some other use that we just don't --

11 MR. GORDON: And we don't really know what
12 the curb restricted stacking lane would look like or
13 how that would operate or how emergency vehicles would
14 access back there. They need to come forward with
15 that design.

16 So again, I mean it sounds like a table,
17 but, you know.

18 MS. ALTMAN: I agree.

19 CHAIRPERSON PRICE: You're comfortable?

20 MR. GRISEWOOD: My question is so it's
21 pretty clear the drive-through are certainly not
22 allowed on this property and --

23 MR. HAREMZA: They're allowed by conditional
24 use permit.

25 MR. GORDON: Correct. You can allow them

1 through conditional use. But you have to make your
2 findings. And that's the rub here is, you know,
3 conditional use finding in harmony with it? You know,
4 is it not detrimental to the neighborhood? Kind of
5 tough. Unless it's modified in some way to meet
6 those. And that's -- even then, you know, you're
7 going to have, as Bill likes, to get a little
8 heartburn to make those findings.

9 MR. GRISEWOOD: So the conditional use
10 permit, that's a choice versus like a variance to the
11 ordinance?

12 MR. GORDON: They could seek a variance
13 that -- they can seek a number of variances. They can
14 seek anything they want relative to the provisions
15 regarding stacking lanes.

16 MR. GRISEWOOD: Specific to the
17 drive-through provision.

18 MR. GORDON: Right. I suppose, you know, an
19 applicant could go in front of the ZBA for -- I guess
20 it -- well, I mean, I guess an area variance saying
21 that we don't need to comply with the requirements
22 relative to drive-through because we're not really a
23 drive-through. We're a pickup. And see if the Zoning
24 Board of Appeals goes along with that. I haven't seen
25 them go along with that.

1 MR. HAREMZA: Yeah. I mean, going back to
2 your original question, Peter. It's not an either/or.
3 You don't get to choose a conditional use permit or a
4 variance. You know, if you meet all of the
5 dimensional requirements and everything else laid out
6 for drive-throughs as part of the conditional use
7 permit, then it's just a conditional use permit.

8 But as Ken said, if you don't meet some of
9 those, including not having stacking, although in this
10 case because -- and maybe that's their argument to the
11 Zoning Board is this a different kind of
12 not-drive-through and that's -- you know, that's our
13 rationale for asking for a waiver of the Code.

14 MR. GRISEWOOD: I feel like they're asking
15 for us to justify a waiver of the Code.

16 MR. GORDON: What do you mean by that?

17 MR. GRISEWOOD: Well, it's clear that
18 drive-throughs are not allowed.

19 MR. GORDON: They are allowed as a
20 conditional use.

21 MR. GRISEWOOD: As a conditional use, which
22 is what they're looking for. So they're choosing to
23 do this a conditional use rather than seek a variance
24 through the Zoning Board of Appeals.

25 MS. FORD: Why was Dunkin Donuts denied?

1 Was that the same situation?

2 MR. GORDON: There were more variances that
3 were needed. And I mean, I will say I'll presume that
4 it was a higher volume drive-through lane.

5 MS. FORD: Thank you.

6 MR. HAREMZA: And the peak volume was very
7 concentrated for a couple hours in the morning.

8 MR. GORDON: So it's not an either/or, like
9 Jason is saying. They're asking for this Board to
10 give them a conditional use to allow for a
11 drive-through. And that's the normal process.

12 They're doing what they're supposed to be
13 doing procedurally. But they're also saying, but
14 there's some aspects of your drive-through
15 restrictions that we can't quite meet. So as a use --
16 I guess -- I mean the other possibility, although it's
17 completely nuts, is for them to seek a use variance.
18 No. I mean, they're never going to get that. They're
19 just never going to get that. Or, as I mentioned
20 before, go through an inventive zoning process where
21 they go to the Town Board and say hey, we like this
22 project. It doesn't fit anywhere within your code.
23 Here's the incentives we need, which are sort of a
24 combination of variances and modification of the code
25 and here's what we're going to offer to make this

1 worthwhile and to make this a benefit to the
2 community.

3 Again, it's a pretty small project to go
4 through that whole process with the Town Board, I
5 would think.

6 So, no. I think you're doing the right
7 thing procedurally, where they need a conditional use
8 permit application. Just some of those findings are
9 going to be hard for you to make.

10 CHAIRPERSON PRICE: You're going to ask a
11 question? If we're throwing you into a situation --

12 MR. BOYEA: I just have a suggestion to
13 throw out on the table for discussion.

14 CHAIRPERSON PRICE: You waited this long.
15 Go ahead.

16 MR. BOYEA: To address the attorney's
17 points, many times we're asked, why do we need so many
18 parking spaces in a plan? And we say, well, the Code
19 requires it. And the Town says, well, if you can live
20 with less, that's okay. And we do something called
21 land bank the parking. I'm not sure if the Town's
22 ever done that.

23 MR. GORDON: We do land bank.

24 MR. BOYEA: So I would like to throw out the
25 option that we are a zoning-compliant application. We

1 can make this zoning compliant. Jason did say there
2 was a variance potentially for a lane width that was
3 there. But we can amend our site plan and come back
4 to you with this modified site plan and we can show
5 that we are zoning compliant with the stacking. But
6 with basically land banking it, they've proven that
7 they can show the stacking that meets the requirement
8 of the Code, but during the special permit process,
9 we're asking them to modify this.

10 So we don't really need a variance because
11 we've proven that we can meet it with our revised
12 application. It's on paper that we can meet the
13 stacking. We can meet this. But as part of the
14 special permit, we're choking this down to the three.
15 That was just what I kind of wanted to throw out for
16 discussion.

17 MR. GORDON: I mean, we'd have to see.
18 Right? We'd have to see what that application -- what
19 their modified application looks like.

20 CHAIRPERSON PRICE: Yeah. Does the
21 conditional use run with the property or the property
22 owner?

23 MR. GORDON: Runs with the use.

24 CHAIRPERSON PRICE: That's different than my
25 question.

1 MR. GORDON: So you're saying that if this
2 Board was granting a conditional use permit for a
3 drive-through lane for Pizza Hut and Pizza Hut left
4 the property three years later, would the -- well,
5 conditional use permits expire; right?

6 MR. HAREMZA: Well, as long as the use is
7 there, they don't.

8 MR. GORDON: Yeah. But as soon as the use
9 is gone.

10 MR. HAREMZA: Yeah.

11 MR. GORDON: Hold on a second. Give me a
12 second to wake my computer back up so I can more
13 accurately answer your question.

14 MS. ALTMAN: It stays with the property;
15 right?

16 CHAIRPERSON PRICE: Yes. So that will be
17 more --

18 MR. GRISEWOOD: So we're checking on the
19 conditional use permit. Then if Pizza Hut were to,
20 for some reason, end that business and sell it to
21 somebody else, that new owner will not have that same
22 conditional use.

23 MS. FORD: I think that's what Ken is
24 looking up.

25 MR. GORDON: Yeah. So the conditional use

1 permit shall become void one year after approval
2 unless by conditions of the use permit greater or
3 lesser time is satisfied as the conditional approval
4 or unless prior to expiration of the one-year use is
5 established as approved. The conditional use permit
6 shall be void and the use shall cease for more than
7 one year for any reason. Planning board may extend
8 the permit subject to the requirements of this
9 article.

10 And you can also condition the conditional
11 use based on pretty much any reasonable conditions you
12 want to impose. And you may also require that the
13 conditional use permit be periodically renewed based
14 on your findings as well. So you have a lot of
15 flexibility here.

16 CHAIRPERSON PRICE: All right.

17 MR. GORDON: And if that's what happens,
18 just say come back.

19 MR. GRISEWOOD: So it was granted then?

20 MR. GORDON: So you say, we grant you this
21 conditional use. Go ahead and design and develop your
22 drive-through and let's see how you do. And, you
23 know, a year from now or two years from now, come on
24 back and you can apply for a renewal. And you say,
25 conditioned upon its use solely as a pickup lane for

1 a, you know, quick-service operation, you know, with
2 no ordering allowed. No speakers. All of that. So
3 you could put those conditions in.

4 CHAIRPERSON PRICE: Staff still needs, you
5 know, an adequate traffic --

6 MR. GORDON: Oh, yeah.

7 CHAIRPERSON PRICE: There's still things.

8 MR. GORDON: Oh yeah.

9 CHAIRPERSON PRICE: Okay. I move to table
10 application 5P-03-23, application of James Smith and
11 Tasty Hut LLC. That's all I'm going to say.

12 MR. GRISEWOOD: Second.

13 CHAIRPERSON PRICE: Moved and seconded. Any
14 further -- no. We don't get to discuss.

15 Jason, please call the roll.

16 (Ms. Altman, aye; Ms. Ford, aye;

17 Mr. Grisewood, aye; Mr. Osowski, aye;

18 Mr. Price, aye.)

19 **Application 5P-NB1-23**

20 Application of Nunzio Salafia, owner, for
21 Preliminary Subdivision Approval, Preliminary Site
22 Plan Approval, Preliminary EPOD (steep slope) Permit
23 Approval and Demolition Review and Approval to raze a
24 single family dwelling, subdivide one lot into two,
25 and construct a 4,054 +/- square foot single-family

1 home with a 877+/- square foot attached garage on
2 property located at 125 Old Mill Road. All as
3 described on application and plans on file.

4 CHAIRPERSON PRICE: Okay. The other folks
5 are postponed. And let's go with a table. I move to
6 table application 5P-NB1-23 for preliminary
7 subdivision, preliminary EPOD and demolition review
8 and approval for property located at 125 Old Mill
9 Road.

10 MS. FORD: Second.

11 CHAIRPERSON PRICE: Moved and seconded.
12 Jason, please call the roll.

13 (Ms. Altman, aye; Ms. Ford, aye;
14 Mr. Grisewood, aye; Mr. Osowski, aye;
15 Mr. Price, aye.)

16 (Proceedings concluded at 10:09 p.m.)

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1 REPORTER CERTIFICATE

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

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

11
12 Dated this 17th day of May, 2023
13 at Rochester, New York.

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19
20 *Holly E. Castleman*

21 -----
22 HOLLY E. CASTLEMAN, ACR,
23 Notary Public.
24
25