
BRIGHTON
ZONING BOARD OF APPEALS
MEETING

July 5, 2023
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ
Chairperson

EDWARD PREMO)	Board Members
HEATHER McKAY-DRURY)	
JUDY SCHWARTZ)	
MATTHEW D'AUGUSTINE)	

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

ABSENT:

KATHLEEN SCHMITT)
ANDREA TOMPKINS-WRIGHT)

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

1 CHAIRPERSON MIETZ: Good evening, everyone.
2 Hopefully, the fan won't distract you because we need
3 to keep the air circulating for all of our benefit.
4 So at least when you come up to the podium if you'd
5 speak right into that mic.

6 Okay. So just for those of you who've never
7 been to one of our meetings, I'll just tell you how we
8 run the meeting. We have a number of applications
9 we'll go through.

10 When your application is called, you come up
11 to the podium. Please do me a favor and give your
12 name, address. So if you're a business person, an
13 architect, just give the address of your business.
14 That's fine. And then please tell us why you think we
15 should approve your application.

16 Once you finish that, the board members will
17 ask you any questions. Most of the members have
18 visited all of the locations. So they have a pretty
19 good idea, but if they want additional information,
20 they'll ask.

21 Once we finish that, then you go ahead and
22 sit down. We'll ask if there's anyone in the audience
23 that would like to speak about your application. We
24 don't let any interrogatory. They just tell us what
25 they think. We may ask them questions. And once we

1 finish that part, then the public hearing is closed.

2 Once we finish them all, we may take a short
3 break. And then we will deliberate. And you're
4 welcome to sit and listen to the deliberations. We
5 try to make all the decisions tonight unless something
6 has to be tabled for more information. You could
7 listen or you can call Mr. DiStefano in the building
8 office tomorrow to find out what the results of your
9 application is.

10 We have eight or nine applications. Couple
11 holdovers. We read your materials. So point out why
12 you think we should approve it. Okay? All right.

13 So on that happy note, Rick, was the meeting
14 properly advertised?

15 MR. DiSTEFANO: Yes, Mr. Chairman. It was
16 advertised in the Daily Record of June 29th, 2023.

17 CHAIRPERSON MIETZ: Call the roll.

18 (Whereupon the roll was called.)

19 MR. DiSTEFANO: Let the record reflect that
20 Ms. Schmitt and Ms. Tompkins-Wright are not present.

21 CHAIRPERSON MIETZ: Okay. Very good. Is
22 there anything you would like to talk more about?

23 MR. DiSTEFANO: Yeah. There's a couple of
24 communications in your folders that were not posted on
25 the website. So they came in today. There are three

1 for applications 7A-03-23 and 7A-04-23. And then
2 there's a communication regarding 5A-01-23 and 5A-02.

3 CHAIRPERSON MIETZ: Then we look at minutes.
4 Go ahead, Judy.

5 MS. SCHWARTZ: They came just this
6 afternoon. The second one just came this afternoon.

7 MR. DiSTEFANO: Yeah. If you want to hold
8 that one, that's fine. I know I got it Friday out in
9 the mail hoping you'd get it Saturday, but that's
10 fine. We can hold June.

11 MS. SCHWARTZ: Okay. Page 3, line 16, the
12 word should be "did."

13 Page 48, line 9, insert after the word foot,
14 "in lieu."

15 Page 54, I don't think that -- don't
16 write -- but this is about a food truck and food.
17 Okay? They will be having -- not be opening, but will
18 be donating a food truck. They're not. So I think
19 what it should read is "will be donating leftover
20 food."

21 MR. DiSTEFANO: Which one was that? Which
22 application? They were donating a -- what
23 application?

24 MS. SCHWARTZ: It was the --

25 MR. DiSTEFANO: Whole Foods? They were

1 going to donate a van.

2 MS. SCHWARTZ: A food truck.

3 MR. DiSTEFANO: So that's what they were
4 going to do.

5 MS. SCHWARTZ: All right. Then leave it.

6 MR. D'AUGUSTINE: But is it a food truck?

7 MR. DiSTEFANO: No. It's a van for -- but
8 that's fine.

9 MS. SCHWARTZ: So then it should be
10 "donating a van." Take out food truck in line 22.
11 Okay. Thank you.

12 Page 59, this is about me. Line 8 and
13 line 9. I am not a member of the church that they
14 were talking about. So I would strike the first line
15 from "I" to the word "congregation." So my concern --
16 and what I said is "On Sunday where will the
17 congregation park?" So that gets inserted after "on
18 Sunday." But take out the other part. Okay?

19 Page 67, line 23, in the middle of the line
20 it should be "deliveries." I had one more.

21 Page 93, line 16, period after the word
22 garbage and start the next sentence with "it." That's
23 all I have.

24 CHAIRPERSON MIETZ: Does anyone have
25 anything else? Okay. Motion.

1 MR. D'AUGUSTINE: Motion to approve.

2 MS. SCHWARTZ: Second.

3 MR. DiSTEFANO: The motion to approve the
4 April minutes with corrections.

5 (Mr. Premo, yes; Ms. Schwartz, yes;
6 Mr. D'Augustine, yes; Mr. Mietz, yes;
7 Ms. McKay-Drury, yes.)

8 (Upon roll motion to approve with
9 corrections carries.)

10 CHAIRPERSON MIETZ: Okay. Rick, when you're
11 ready, we'll start with 5A-01-23.

12 **Application 5A-01-23**

13 Application (revised) of Reza Hourmanesh,
14 architect, and Guiyan Li, owner of property located at
15 2720 West Henrietta Road, for an Area Variance from
16 Section 205-12 to allow for 28 parking spaces (revised
17 from 37 parking spaces) in conjunction with a grocery
18 store in lieu of the minimum 55 parking spaces
19 required by code. All as described on application and
20 plans on file. **POSTPONED TO THE JULY 5, 2023, MEETING**
21 **AT APPLICANT'S REQUEST**

22 **Application 5A-02-23**

23 Application (revised) of Reza Hourmanesh,
24 architect, and Guiyan Li, owner of property located at
25 2720 West Henrietta Road, for an Area Variance from

1 Section 205-7 to allow impervious lot coverage to be
2 80.3% (revised from 83.2%), after site modifications,
3 in lieu of the maximum 65% allowed by code. All as
4 described on application and plans on file. **POSTPONED**
5 **TO THE JULY 5, 2023 MEETING AT APPLICANTS REQUEST**

6 MR. HOURMANESH: Good evening. My name is
7 Reza Hourmanesh, 333 Glen Haven Road, Rochester, New
8 York 14609.

9 We came before the Board previously. I
10 believe that finally we have reached an agreement with
11 the neighboring owner of the property at 2710 West
12 Henrietta Road.

13 The letter was issued by the owner, which
14 was -- I just got them this morning. And I
15 distributed one hard copy and forwarded Mr. Rick the
16 email that I received. It was sent -- at least typed
17 on June 27th, 2023, which they have agreed with what
18 we have proposed.

19 Now, what we have proposed basically is 28
20 parking spaces that sits to the north of the existing
21 building at 2710 -- 2720 and to the east and to the
22 west of the -- of that property.

23 Additionally, there are 17 spaces, which is
24 on the site plan that we submitted, which is to the
25 north of the 2710 property and to the east, a little

1 bit off to the south, which is altogether -- there's
2 17 parking spaces.

3 Those parking spaces can be used when the
4 adjacent property owner or business is not functioning
5 or they are closed, which is usually at 5. Fastenal
6 closes at 5 at the latest.

7 Also to the south of 2710 West Henrietta
8 Road building, there are nine parking that are shared
9 parking. So those shared parking are always available
10 between us and 2710.

11 Amount of green has increased. Greenspace
12 has increased. Right now, impervious space is 20
13 percent of the site. We are going to increase that
14 approximately 3 percent, 2.92 percent. Approximately
15 3 percent greenspace has been increased from what was
16 existing. That's pretty much it in a nutshell.

17 Any comments or questions?

18 CHAIRPERSON MIETZ: Just one clarification,
19 because we had this discussion a few times and just
20 want to make sure we're clear about this. On the site
21 plan, this would be the floor plan for the business,
22 originally there was some tables and takeout. Is that
23 all gone then?

24 MR. HOURMANESH: Yes, sir. It's only a
25 grocery store. It's not carry out. It's not takeout.

1 It's basically some storage in the front.

2 But the takeout food is gone. The bakery is
3 gone. So it's just basically -- we moved the office
4 to the front, but takeout food and bakery has been
5 removed from the --

6 CHAIRPERSON MIETZ: So it would be
7 considered a regular grocery store without a prepared
8 food section?

9 MR. HOURMANESH: Correct. I'm sure if
10 there's some prepared, it would be in a package.

11 CHAIRPERSON MIETZ: That's fine. That's
12 fine.

13 MR. HOURMANESH: They're not going to
14 prepare any food.

15 CHAIRPERSON MIETZ: They're not going to be
16 calling for takeout and things like picking it up and
17 that sort of thing?

18 MR. HOURMANESH: Exactly.

19 CHAIRPERSON MIETZ: Okay. Does anyone else
20 have any other questions?

21 MR. DiSTEFANO: Just in regards to what you
22 just asked. So it's safe to say that the floor plan
23 as originally submitted back in May is what you're
24 planning to do interior-wise?

25 MR. HOURMANESH: Correct.

1 CHAIRPERSON MIETZ: I was going back
2 farther.

3 MR. DiSTEFANO: I wanted to make sure we got
4 the right set of plans that we're referring to.

5 CHAIRPERSON MIETZ: Right. Very good. Any
6 other questions by the Board? Okay. Sounds good.
7 Thank you.

8 MR. HOURMANESH: Thank you.

9 CHAIRMAN MIETZ: Is there anyone in the
10 audience that would like to speak regarding this
11 application? Okay. Thank you very much. At this
12 point the public hearing is closed.

13 **Application 7A-01-23**

14 Application of Joseph and Karen Rulison,
15 owners of property located at 150 Pelham Road, for an
16 Area Variance from Section 203-2.1B(1) to allow a
17 standby emergency generator to be located in a side
18 yard in lieu of the rear yard behind the house as
19 required by code. All as described on application and
20 plans on file.

21 MR. RULISON: Good evening. I'm Joe
22 Rulison. My wife, Karen, and I live at 150 Pelham
23 Road. And we're asking to put a generator in on the
24 south side of the house on Pelham Road.

25 The house consists of the main property.

1 And then next door is an adjacent piece of property
2 about -- I'd say about a third to half an acre. And
3 the house was built -- the Ward Wellington house. So
4 it does have historic nature.

5 And in the back of the house, there really
6 is not a place to put the generator. We are proposing
7 to put it on the south side, which is completely
8 shrubbed. It's where the AC unit is. And that's
9 where we're proposing to put the generator.

10 It'd be completely hidden from the street.
11 It would not be viewed either on Pelham or on the
12 Highland side. And the Highland side actually has, I
13 think, close to 30 trees and bushes. So you really
14 can't see much of the house. And when you look at the
15 house, it'd be on the right side, which is the south
16 side.

17 And we'd like to have the generator for a
18 number of reasons; one, for backup in case there's any
19 kind of power outage; also for medical reasons so that
20 we have consistent power for the house. And I feel
21 this is the best place for it to keep with the nature
22 of the house.

23 We have quite a bit of work into the
24 landscape and into the house itself so that we have
25 great respect for the Ward Wellington House house and

1 have worked very hard to really keep a distinct
2 property.

3 So any questions? And I want to thank you
4 for your consideration and for all of you taking the
5 time to go take a look.

6 CHAIRPERSON MIETZ: Questions? Nothing.

7 MS. McKAY-DRURY: We normally -- when it's a
8 generator, we normally just check on the noise
9 requests, the decibel levels. So I think we have the
10 specs and it's in compliance; right?

11 MR. RULISON: Yes. Very -- will not hear
12 it.

13 CHAIRPERSON MIETZ: Okay.

14 MS. SCHWARTZ: Have you decided what time of
15 day you're going to test it?

16 MR. RULISON: Our hope is probably around 5,
17 6 o'clock in the afternoon, evening.

18 CHAIRPERSON MIETZ: Well, I'm sure you can
19 accommodate your neighbors and work it out.

20 MR. RULISON: Yes. No neighbors on either
21 side would hear or see the generator itself.

22 CHAIRPERSON MIETZ: Okay. That sounds good.
23 Any other questions? Okay. Thank you.

24 MR. RULISON: Thank you so much and thank
25 you for your consideration. Great to be back.

1 CHAIRPERSON MIETZ: Very good. Is there
2 anyone in the audience that would like to speak
3 regarding this application? Okay. There being none,
4 then the public hearing is closed.

5 **Application 7A-02-23**

6 Application of Sign and Lighting Services,
7 contractor, and 2735 Monroe LLC, owner of property
8 located at 2735 Monroe Avenue, for a Sign Variance
9 from Section 207-32B to allow a business
10 identification sign on a second building face where
11 not allowed by code. All as described in application
12 and plans on file.

13 MR. WRIGHT: Good evening. Kirk Wright,
14 Sign and Lighting Services 530, State Route 104,
15 Ontario, New York. I have with me Christine Hall with
16 Chipotle.

17 We're looking for a second building-mounted
18 sign. It'd be the same type of sign as the first,
19 interior illumination, LED illumination. Looking to
20 obviously attract customers from both directions on
21 Monroe Avenue.

22 There is no freestanding sign here. So
23 they're targeting the front and the -- it'd be the
24 south side.

25 CHAIRPERSON MIETZ: Do you have some sense

1 of which side is the higher value as far as where the
2 traffic you expect to come from? This obviously has
3 been formally a site of a different type. What has
4 Chipotle thought about where their customers are going
5 to be coming from?

6 MS. HALL: I think the --

7 CHAIRMAN MIETZ: Can you just give your --

8 MS. HALL: Yes. Sorry. My name is Kristen
9 Hall. I'm just going to give the address 2735 Monroe
10 Avenue, Rochester.

11 So the sign on the -- it's actually going to
12 be on the east side of the building coming off of 590.
13 So just for visibility purposes for the traffic coming
14 that way, we think that the sign on that side of the
15 building will be easy for customers to see, especially
16 for drivers that are coming through to use the
17 drive-through lane.

18 CHAIRPERSON MIETZ: Okay. What about the
19 traffic that's west -- coming from the east, going
20 west?

21 MS. HALL: I mean, we will have a sign on
22 the front of the building. And then we'll also have a
23 sign that will direct consumers to the drive-through
24 lane.

25 CHAIRPERSON MIETZ: And I think we've

1 discussed this once with the approval before this.

2 This is a pickup window, not a drive-through.

3 MS. HALL: Correct.

4 CHAIRPERSON MIETZ: All right. So any other
5 questions by the Board?

6 MR. DiSTEFANO: Basically two questions.
7 Kirk, maybe you can help us with this. This Board,
8 usually when they're approving additional signage,
9 they'd like to know how much extra you're over for all
10 the allowable signage that you would be allowed.

11 So in essence, you're allowed X number of
12 square feet for the front. How many total square feet
13 do you have including the second building face? Do
14 you know that off the top of your head?

15 MR. WRIGHT: I don't know off the top of my
16 head.

17 MR. DiSTEFANO: If you look at it and just
18 give the Board an understanding if this still fits the
19 allowable signage that would be permitted or would it
20 be a little additional signage.

21 My second question, I guess, with Chipotle
22 is do you really think that sign is going to be
23 beneficial? And I say that only because of the
24 placement of the hotel next door. The hotel actually
25 comes out closer to the road than the Chipotle

1 restaurant. And I'm curious if that people coming --
2 going east on Monroe, coming off, they're going to be
3 almost to the driveway before they're going to see
4 that sign because of the hotel.

5 MS. HALL: Yeah. I mean, I believe because
6 it's going to be an illuminated sign, I think that
7 will help a lot as well.

8 But just based on, you know, the -- I've
9 driven past that before. It does, you know, kind of
10 pop up pretty quick. But I think the way that the
11 building is designed, it looks like a Chipotle, but
12 then also on top of that, you know, you have that sign
13 that will kind of draw the attention to that as well.

14 I do think as far as the location, you know,
15 would it help to be on the other side of the building?
16 Sure. But we also have the drive-through on that
17 side. So we wouldn't be able to put it on that side
18 of the building.

19 CHAIRPERSON MIETZ: You're kind of limited.
20 Okay. Another question? You look like you're
21 pondering.

22 MR. GORDON: Do you know what the elevation
23 of this sign is going to be off-grade?

24 MR. WRIGHT: Off-grade? I would say
25 around 15 feet.

1 MR. GORDON: Do you know what the height of
2 the neighboring hotel is?

3 MR. WRIGHT: I have no clue.

4 MR. GORDON: Let's say it's more than 15
5 feet.

6 MR. WRIGHT: Okay.

7 CHAIRPERSON MIETZ: It looks like, Ken, on
8 the drawing to the top of the soffit is 19. So the
9 sign -- top of the sign is probably about 15.

10 MR. GORDON: How close to the front fascia
11 is the sign going to be placed? In other words, how
12 far back, if you will, from the corner of the front
13 fascia. It's the east-facing sign we're talking
14 about.

15 MR. WRIGHT: The leading edge from the front
16 of the building typically centers on that front set of
17 windows, which is around 7 feet.

18 MR. GORDON: I mean, to Rick's question, I
19 mean, has there been any line-of-sight analysis as to
20 when on Monroe Avenue you're actually going to be able
21 to see that east-facing Chipotle sign? Like where on
22 Monroe Avenue, if you're in the -- let's say the
23 north -- furthest north travel lane heading east, when
24 are you first going to see that sign? Do we know
25 that?

1 MR. WRIGHT: No, sir. We can move that sign
2 closer to the front edge.

3 MR. DiSTEFANO: Yeah. I think what we're
4 struggling with a little bit is that if we're going to
5 allow this second building face sign for the purposes
6 of helping people see your building because of
7 constraints, traffic patterns and everything else, we
8 want to make sure people are going to be able to see
9 that sign. And if you move it further down the
10 building face, it's going to get hidden by the hotel
11 greater and greater.

12 MR. WRIGHT: I'll move it towards the road.

13 MR. DiSTEFANO: Right. So we're saying, can
14 you move it closer to the road?

15 MR. WRIGHT: Absolutely. This is a standard
16 Chipotle footprint. They center the sign in that
17 fascia. So that is a great point by the Board to move
18 that forward.

19 MR. GORDON: So the reason we're concerned
20 about this is one, the findings that the Board needs
21 to be able to make to grant a variance is that this
22 variance will achieve a benefit that you are seeking.

23 And I guess Rick and I are wondering how
24 this will achieve the benefit. If the benefit is, as
25 you've described, traffic exiting 590 and traveling

1 east on Monroe Avenue will have visibility of the
2 signage, I don't think that we have facts that would
3 really support that benefit. That's my concern.

4 CHAIRPERSON MIETZ: Okay. We can discuss
5 that because, again, you know, the entrance driveway,
6 if that -- let's just say that there was no sign there
7 on that side. You know, by the time you got to the
8 other sign, you pass the driveway.

9 MR. DiSTEFANO: You'd have to go in at the
10 light, past it and kind of loop back around to the
11 access road.

12 MR. GORDON: Something that we can talk
13 about. And going in at the light is not such a bad
14 thing.

15 MR. DiSTEFANO: No. Going in the light is
16 not a bad thing.

17 CHAIRPERSON MIETZ: I think, you know, the
18 location -- these are all reasonable questions to
19 understand it because, again, we don't -- the sign has
20 a purpose, obviously. As far as where you adjust it
21 on the east side or the north side of the building is
22 kind of up to you guys. If you feel it should be on
23 the corner, then it's at the corner.

24 MR. DiSTEFANO: I know this is a tough road
25 to be able to actually take photos or something, but

1 if you're able to put a mock board up there when kind
2 of coming down Monroe Avenue, snap -- have somebody in
3 the car snap some shots, you know, where it is that
4 you can see the Chipotle. Where is it that you are
5 going to be, hey, there it is? We're good to make
6 this right turn. Or we're in the far lane and we have
7 to go down to the light to make a right into the
8 Chipotle and come back around.

9 MR. WRIGHT: How will people know that they
10 can enter at the light?

11 MR. DiSTEFANO: You're right. If it's your
12 first time through, you're not going to know. But
13 anybody in the area that would be coming more and more
14 aware of the what we call access management road in
15 the back that goes behind all those south
16 properties -- that was all part of the Whole Foods
17 development -- that there'd be a safe entrance and
18 exit from the south properties on Monroe Avenue.

19 So I think once, you know, people get used
20 to that Chipotle, they are going to know you go in at
21 the light. Because that's the only way you're going
22 to be able to get into Chipotle if you're coming from
23 Pittsford going towards Brighton. That's the only way
24 you're going to be able to get into Chipotle. You're
25 not going to be able to make a left into the Chipotle.

1 MR. WRIGHT: That's why they're targeting --

2 MR. DiSTEFANO: That's right. And that's
3 why -- to target there. Probably if you're in the
4 east -- the northbound lane, you're going to see the
5 front-facing sign. In plenty of distance, you're
6 going to see the sign. There's nothing blocking your
7 view.

8 It's that coming off and making sure, if
9 we're going to grant that variance, can you see that
10 sign? Is it a useful sign? Or is it just for people
11 to get on the site.

12 And to just go back to my original, did you
13 get a chance to take a look at the square footage?

14 MR. WRIGHT: What is allowed by the Town?

15 MR. DiSTEFANO: You take the front face of
16 the building -- so your Monroe Avenue frontage -- and
17 it's 1.5 times -- 10 percent of the width times 15.
18 That's what it is. So you take the width of the
19 building, multiply it by 15, 10 percent of that
20 number.

21 MR. WRIGHT: Okay.

22 MR. DiSTEFANO: That's your total square
23 footage.

24 MR. WRIGHT: On the entire building.

25 MR. DiSTEFANO: Well, yeah. On your one

1 side that you're allowed signage on.

2 So let's say you're allowed 100 feet. If
3 you came in and said, well, I'm doing 50 on the front
4 and 50 on the side. All right. You're not going over
5 that allowable square footage.

6 MR. WRIGHT: Understood.

7 MR. DiSTEFANO: I was just curious if you
8 knew what your total square footage is.

9 MR. WRIGHT: I do not as I stand here right
10 this second.

11 MR. DiSTEFANO: Okay.

12 CHAIRPERSON MIETZ: Okay. Any other
13 questions for these folks?

14 MS. McKAY-DRURY: When you say -- I mean, in
15 terms of exact placement, I mean, is that true in
16 terms of like -- don't we need to know exactly where
17 they're proposing placing it?

18 CHAIRMAN MIETZ: Well, that's something we
19 can discuss in deliberations, how to -- normally we do
20 not design people's signs or where to put them.

21 MS. McKAY-DRURY: But we would leave it
22 open --

23 CHAIRMAN MIETZ: Someone said he'd leave it
24 open.

25 MR. GORDON: For the record, I just did a

1 quick computation. It looks like we allow an
2 approximate 58 and a half square feet. And one sign
3 is approximately 28.

4 Are both signs the same size?

5 MR. WRIGHT: Yes.

6 MR. GORDON: So they're 57 roughly. Very
7 close.

8 CHAIRPERSON MIETZ: Okay. Good to know.
9 Any other questions for these folks? Okay. Very
10 good. Thank you very much.

11 Anybody in the audience that would like to
12 speak regarding this application? Okay. At this time
13 the public hearing is closed.

14 **Application 7A-03-23**

15 Application of Sue Steele, landscape
16 architect, agent and Our Lady of Lourdes Church
17 of Brighton, owner of property located at 150 Varinna
18 Drive, for Area Variances from Sections 203-2.1B(7)
19 and 203-9A(4) to 1) allow air conditioning equipment
20 to be located in a front yard where not allowed by
21 code, and 2) allow the noise level of said equipment
22 to be 96 decibels in lieu of the maximum 78 decibels
23 allowed by code. All as described on application and
24 plans on file.

25 **Application 7A-04-23**

1 Application of Sue Steele, landscape
2 architect, agent and Our Lady of Lourdes Church
3 of Brighton, owner of property located at 150 Varinna
4 Drive, for an Area Variance from Section 207-2A to
5 allow a front yard wall to be 6 feet in height in lieu
6 of the maximum 3.5 feet allowed by code. All as
7 described on application and plans on file.

8 MS. STEELE: Hello. Sue Steele, Sue Steele
9 Landscape Architecture, 9 Summit Street, Fairport
10 14450. I'm here today with Chuck White, who's the
11 mechanical engineer. And Father Gary Tyman is also
12 here to answer any questions if needed.

13 So this is our second time being before you
14 with this project. We were originally before the
15 Board in 2019 for the same exact project. As we
16 explained in the letter, due to funding gaps and then
17 subsequently COVID and delays, et cetera, we're back
18 before you now with funding in place to proceed with
19 the upgrade to the air conditioning for the church.

20 Just real brief, the proposal is for two
21 commercial air conditioning units and one smaller
22 residential-grade air conditioning unit to replace the
23 existing system.

24 To reduce the noise impacts, because we are
25 seeking a variance for the noise generated from the

1 equipment, we are proposing a 6-foot wall, which will
2 screen the equipment, in addition to the noise shields
3 that can be placed on the units.

4 The wall -- the retaining wall is, as noted
5 in the application, higher than what is allowable in
6 this location. We are proposing to match the veneer
7 of the existing building as shown in our renderings we
8 submitted. And we would plant in front of the -- have
9 additional planting in front of the wall to help
10 decrease the impact from the roadway.

11 I'll have Chuck just make a few comments
12 about the equipment itself.

13 MR. WHITE: Charles White, 315 Rockingham
14 Street in Rochester. In a nutshell, the reason we're
15 doing the project is to replace 60-year-old HVAC
16 equipment for the church.

17 The equipment that will be outside is just
18 the condenser unit. The air units will be replaced.
19 I think they'll be using the mechanical room inside
20 the church.

21 So that's -- essentially the reason for the
22 project is to replace the main equipment for the air
23 conditioning system, not changing the system to
24 anything. Questions on that?

25 CHAIRPERSON MIETZ: Can one of you just

1 quickly talk to why this is the right location to
2 place it?

3 MS. STEELE: So we did have an assessment in
4 the application materials we submitted. We evaluated
5 multiple locations, of which this is the most
6 feasible. I can go through all of those locations --

7 CHAIRMAN MIETZ: Just quickly how you --

8 MS. STEELE: So the church has frontage on
9 four streets. So it was challenging to find a
10 location that wasn't in a front yard.

11 And also based on various improvements,
12 patios and gathering spaces, it didn't make sense to
13 incorporate that equipment in those usable spaces for
14 programming.

15 I believe we also looked at the roof. And
16 that just didn't make sense from a financial
17 standpoint.

18 MR. WHITE: We did look at other options
19 further down towards the school. There's a, you know,
20 distance limitation on the refrigeration equipment.
21 So, you know, we checked I think all possible
22 locations. The distance was the main issue.

23 CHAIRPERSON MIETZ: Okay. Thank you.

24 MR. PREMO: Just to clarify some of this,
25 this is exactly the same project that was approved in

1 2019?

2 MS. STEELE: Yes.

3 MR. PREMO: Also as I read the attachment A
4 talking about the decibel level at the street, am I
5 correct with the measures that you're proposing,
6 including the wall and the sound block, the decibel
7 levels would be between 47 and 66 decibels at the
8 street?

9 MS. STEELE: You are correct. Yup.

10 The code requires us to state the
11 measurement at the unit per manufacturer. So the
12 additional measures that we were able to incorporate
13 to bring that down to within code.

14 MR. PREMO: And I take the measures that
15 you're incorporating to deal with sound is the best
16 measures based upon the technology you have?

17 MS. STEELE: Base upon the --

18 MR. PREMO: Based upon the technology. How
19 you mitigate sound.

20 MS. STEELE: Yeah. The wall was the best
21 way.

22 MR. WHITE: So the wall is a massive wall,
23 but also we're using the sound insulation material on
24 the compressor part of the generator. We can't mask
25 the airflow -- block the airflow from the equipment.

1 But, you know, we're doing the best we can for the
2 compressor.

3 MR. PREMO: Thank you.

4 CHAIRPERSON MIETZ: Are these units
5 beneficial to the heating system as well? Or are
6 these solely for air conditioning?

7 MR. WHITE: These are for air conditioning,
8 yes, just solely. As this building has a steam
9 system.

10 CHAIRPERSON MIETZ: So it would be fair to
11 say there's no -- non-air conditioning months, these
12 units wouldn't be running.

13 MR. WHITE: That's correct.

14 MR. DiSTEFANO: So the sound dampening,
15 that's an add-on. You can run this equipment without
16 the sound dampening? Or is it always going to be
17 some form of sound --

18 MR. WHITE: It's material added during -- I
19 believe it's during construction. I don't think it's
20 delivered that way.

21 MR. DiSTEFANO: So it's an add-on basically.

22 MR. WHITE: Yes. It's an add-on.

23 MR. DiSTEFANO: So let's -- so the 96 is the
24 unit without the dampening on it?

25 MR. WHITE: Yes.

1 MR. DiSTEFANO: So the dampening is going to
2 knock it down some level; correct?

3 MR. WHITE: Yes.

4 MR. DiSTEFANO: So when you took your
5 measurements from the road, you included that
6 dampening or did not include the dampening?

7 MS. STEELE: The variance is for the -- it's
8 for the 96 for the added -- the manufacturer listed
9 decibels because that's what it said in the
10 application.

11 MR. DiSTEFANO: Exactly.

12 MS. STEELE: But with the dampening and from
13 the distance it's 47.

14 MR. DiSTEFANO: So you included the
15 dampening at the road.

16 MS. STEELE: Yes.

17 MR. DiSTEFANO: Okay. I just wanted to
18 clear that up. It might have been lower if you
19 hadn't.

20 MR. GORDON: And just to Rick's point, it
21 appears to me that the chart and the data you provided
22 talks about the decibel level only with the 6-foot
23 barrier. It does not mention dampening of the sound
24 with the sound barriers that are optional
25 installations that I can read there. At least not in

1 the chart of data that you provided.

2 So Rick may be right that the sound level is
3 even further reduced by these dampening barriers. But
4 I don't know.

5 MS. STEELE: I am corrected. It was on the
6 smaller unit the dampening was included in that one,
7 which brought the noise down. But you're correct.
8 The two 25-ton units, that was just with the wall and
9 the distance.

10 So, correct. What's in the application in
11 that chart is without any noise dampening.

12 MR. GORDON: But you are willing to install
13 the optional dampening --

14 MR. WHITE: Yes.

15 MR. GORDON: -- units or -- I think they're
16 called shields -- on each of the three units you're
17 installing; correct?

18 MR. WHITE: Correct.

19 CHAIRPERSON MIETZ: We can deal with that.
20 Is there any other questions for these fine folks?
21 All set? Okay. Thanks very much.

22 Is there anyone in the audience that would
23 like to speak regarding the application? Please come
24 forward.

25 MS. SULLIVAN: My name is Sherry Sullivan.

1 I live at 158 Rhinecliff. I'm actually representing a
2 number of the neighbors who could not make it tonight
3 because we got very little notice on this.

4 So this is from Dov and Rebecca Chastain,
5 150 Rhinecliff. Good evening, everyone. Thank you
6 very much for giving us the opportunity to address you
7 here tonight.

8 First, I'd like to start by saying that our
9 neighbors of Our Lady of Lourdes Church and the
10 Catholic school, we enjoy a wonderful relationship
11 with both institutions and have worked together to
12 make our neighborhood a better and safer place --

13 MR. DiSTEFANO: If you could slow down. She
14 can't go that fast.

15 MS. SULLIVAN: Sorry. To make our
16 neighborhood a better and safer place.

17 We and our neighbors on Rhinecliff Drive
18 have some concerns about the proposed change the
19 church plans to make. We are most concerned about the
20 new AC units -- and I'm hearing tonight it's more than
21 one AC unit -- and the associated noise volume. We
22 would like to know which street this unit is going to
23 be located on. We're worried about how it will affect
24 local families as well as wildlife.

25 Regarding the proposed fence height, we

1 have -- okay. So this is not -- the other thing is
2 about the basketball court. So I want to clarify that
3 it's not referring to the fencing around the
4 basketball court or a playground, that it's just the
5 AC. That's not relevant.

6 Though we are happy to hear about the added
7 security and collaborated with the church, school and
8 local police to keep the basketball court safe, we'd
9 also like to mention -- I'm sorry. This part is not
10 really --

11 We only recently heard about these proposed
12 changes and need more information in order to be able
13 to process the impacts these changes will have on the
14 neighborhood. Thank you very much for your time and
15 consideration.

16 Betty and Fred Schaffer, 355 Warrington.
17 They said, we've been living here for 49 years. The
18 notification was posted just recent while we were on
19 vacation. Without ample notice, a decision cannot be
20 reached until all those who are impacted have a voice.
21 This has been done in the past by the church and then
22 the consequences fell on the neighbors.

23 We are opposed to making a decision at this
24 time. 96 decibels will affect all of us and our
25 hearing.

1 Samuel and Shawn Herman, 115 Varinna Drive,
2 right across the street from the school.

3 It's a wonderful school and we're so happy
4 to have you as neighbors. The kids are so well
5 behaved and the parents are so respectful.

6 It's very understandable that the school may
7 need an upgrade to the HVAC and, of course, we want
8 them to get the equipment that they need. We want to
9 confirm that there isn't another way to accomplish
10 their goals without having loud equipment.

11 And then just for myself, I'll say, you
12 know, I -- so I live right there, directly across the
13 street. And, you know, just -- I'm listening tonight
14 to what they're saying about sound dampening. And I
15 feel like, you know, once this goes through, then
16 there's no going back. You know, if we find that the
17 sound dampening is not dampening, we're constantly
18 living with this hum.

19 And even if, you know, it's only during the
20 air conditioning season, that still could be up to
21 half the year depending on what kind of weather we
22 get.

23 You know, I have kids with hearing loss and
24 ambient noise really, really affects them. And when
25 there's a hum in the background, it affects their

1 hearing to a great degree. And it all turns into a
2 dull roar and they can't hear at all.

3 So this is definitely something that we are
4 very concerned about. And I guess we would appreciate
5 it having some more -- I guess more of a neighborly
6 discussion rather than coming and just, you know,
7 being adversarial. We'd rather not be like this. So
8 we're happy to have any discussions, you know -- you
9 know with whoever's making decisions, you know, in a
10 less public setting as well.

11 CHAIRPERSON MIETZ: Okay. Very good. Thank
12 you. Is there anyone else in the audience that would
13 like to speak regarding this application?

14 MR. GORDON: Dennis, if you want to just
15 note for the record, as Rick mentioned in his report,
16 that we did receive correspondence from two neighbors,
17 Susanna Hacker and Charles Hacker, who reside at 295
18 Warrington Drive, opposing the application with
19 concerns about the noise. That should be part of the
20 public hearing record.

21 CHAIRPERSON MIETZ: Okay. Duly entered,
22 Rick.

23 Anybody else then on Our Lady of Lourdes?
24 Okay. At this point the public hearing is closed.
25 Thank you.

1 **Application 7A-05-23**

2 Application of Patrick Morabito, architect,
3 and Carla Giambrone, owner of property located at 370
4 Kimberly Drive, for Area Variances from Section 205-2
5 to 1) allow a building addition (garage and living
6 space) to extend 0.6 feet into the 15 foot side
7 setback required by code, and 2) allow an enclosed
8 entryway to extend 10 +/- feet into the existing 50
9 foot front setback where a 60 foot front setback is
10 required by code. All as described on application and
11 plans on file.

12 MR. MORABITO: Good evening. My name is
13 Patrick Morabito, architect of record, 121 Sully's
14 Trail, Suite 4, Pittsford, New York.

15 I'm supposed to give this to you.

16 MR. DiSTEFANO: Yes. Thank you.

17 MR. MORABITO: Okay. So I'm here regarding
18 370 Kimberly Drive. My clients purchased this house.
19 It was in rather sad condition when they bought it.
20 It has --

21 MR. D'AUGUSTINE: Can you lean a little
22 closer to the mic?

23 MR. MORABITO: Sure. It has pre-existing
24 nonconforming setbacks, front setback and side
25 setback.

1 The existing garage, which we are removing,
2 was 13.6 feet off of the property line. And the front
3 of the house was approximately 50 feet off the -- the
4 main part of the house was about 50 feet off the
5 right-of-way. And then there was a covered porch/deck
6 that was even closer than that.

7 So in our renovation, we didn't change the
8 existing front of the house. We're actually putting
9 an addition on the back of the house and removing the
10 entrance from the right side next to the garage to
11 more of the center of the house. It's part of the
12 plan. So we didn't bring the new porch out any
13 further than the existing porch was.

14 So, you know, when I look at the rest of the
15 neighborhood, I see obviously these houses were all
16 built before the zoning code was changed and the
17 setbacks were all changed. So there's not many houses
18 on that street or even in that neighborhood that
19 comply with these requirements.

20 So I think what we're asking for is relief
21 from that. When we did our addition, we did build a
22 new garage, again, staying behind the current existing
23 nonconforming setback. And we were able to improve
24 the side setback from 13.6 to 14.1 in order to get to
25 the two-car garage.

1 So I'm happy to answer any questions.

2 MR. D'AUGUSTINE: The replacement porch,
3 it's going to stay an open porch?

4 MR. MORABITO: It's a covered entry. It's
5 going to be -- it's solid. I mean --

6 MR. D'AUGUSTINE: No walls; correct?

7 MR. MORABITO: It's not going to be a deck.
8 It's going to be a hard surface, probably flagstone or
9 something like that. But it's not -- what's there
10 now, it looks like a deck. It may have been put up
11 some weekend.

12 CHAIRPERSON MIETZ: Okay. Anything else?

13 MR. PREMO: I just had a question. From
14 when I went out and looked at the site today, it looks
15 in the rear yard a number of -- two large trees. It
16 looks like they had recently been taken down. Is that
17 in the area where the construction is going to be
18 or --

19 MR. MORABITO: Yes.

20 MR. PREMO: Do you know why those trees were
21 taken down? Was there a problem with the trees or was
22 it in anticipation of this project?

23 MR. MORABITO: Well, it was -- we did check
24 with the code enforcement regarding that and we were
25 told that the trees -- anything that was not in the

1 right-of-way or on town property could come down if we
2 needed to take it down.

3 MR. PREMO: And I noticed that the utility
4 line seems to be running relatively -- it's almost
5 like bisecting the property. It looks like --

6 MR. MORABITO: I'm sorry. Which one?

7 MR. PREMO: The utility line, the power
8 line. Will the addition be -- I take it it will have
9 to be cleared from that line a certain distance.

10 MR. MORABITO: I would think so. The
11 addition is in the back of the house.

12 MR. PREMO: Right.

13 MR. MORABITO: Actually --

14 MR. GIAMBRONE: My name is Joe Giambrone.
15 I'm the husband of the owner.

16 The power line is going to have to get
17 moved. We're going to call RG&E. And we'll have to
18 reset the power line away from the house.

19 And we're going to have the power pulled
20 anyway because the service management is in the back
21 of the house. You can see where the meter is. And
22 that's the wall that's being set. The addition is
23 coming back.

24 CHAIRPERSON MIETZ: You got to move the
25 service anyway.

1 MR. GIAMBRONE: Yeah.

2 MR. PREMO: This is more of a comment than a
3 question, but I know it looks like quite a project --

4 MR. GIAMBRONE: Yes.

5 MR. PREMO: -- you guys have taken to rehab
6 this house.

7 MR. GIAMBRONE: Oh, absolutely. I've done
8 many.

9 MR. PREMO: I looked at the pictures from
10 before and it's certainly a lot of work.

11 MR. GIAMBRONE: There's a lot of work. The
12 house was in -- like Mr. Morabito said, when we
13 purchased it, it was in really rough shape.

14 And after -- during our assessment, we
15 realized that the whole thing needed to be gutted.
16 And then we're going to put the addition on it to get
17 where we want.

18 MR. PREMO: Is the plan that you're going to
19 live at the house?

20 MR. GIAMBRONE: Oh, yes.

21 MR. PREMO: It's not for sale.

22 MR. GIAMBRONE: No. This is our home.

23 CHAIRPERSON MIETZ: Okay. Any other
24 questions for these gentlemen? Okay. Very good.
25 Thank you very much.

1 Is there anyone in the audience that would
2 like to speak regarding this application? Okay. Then
3 the public hearing's closed.

4 **Application 7A-06-23**

5 Application of The University of Rochester,
6 owner of property located at 220/250 East River Road,
7 for renewal of a Temporary and Revocable Use Permit
8 (10A-11-20, 7A-04-22) pursuant to Section 219-4 to
9 allow a mobile MRI scanner (trailer) to be on site
10 for an additional two years until July 2025. All as
11 described on application and plans on file.

12 MR. SCHWARTZ: Good evening. I'm Mark
13 Schwartz, 601 Elmwood Avenue. I'm the director of
14 facility operations for the University of Rochester.
15 And I'm here to request the University to be able to
16 extend its current permit for our imaging trailer
17 located next to our existing imaging building at 250
18 East River Road.

19 The existing trailer has been there, but
20 there's an increased need in the community for
21 additional imaging services as well as the ability for
22 us to upgrade our existing imaging equipment, which
23 necessitates the need for this portable MRI device.

24 The current environment, it's -- if you've
25 been out there, it's clearly not visible from the road

1 or the neighbors. It's clearly embedded in our
2 property, tucked up next to our existing imaging
3 facility.

4 We've not had any issues, any complaints
5 that I'm aware of. And we're looking to continue with
6 this until either we can build another imaging scanner
7 or look at hopefully the need of the community
8 decreasing.

9 CHAIRPERSON MIETZ: Okay.

10 MS. MCKAY-DRURY: So I believe the last time
11 we had approved this, there was discussions about the
12 anticipated need for -- I think my notes had indicated
13 that you needed three MRI machines. I'm trying to
14 understand are there now three working MRI machines in
15 the building and you still need this or --

16 MR. SCHWARTZ: Yes. We actually have --
17 there's different types of imaging technology, but we
18 have eight machines in the building. And we still
19 have almost 300 people waiting for imaging services of
20 one type or another. And that necessitates the need
21 for this machine.

22 MR. PREMO: I guess just out of curiosity,
23 why is it that you're coming back asking for renewals
24 of this type of unit and trailer versus going forward
25 and building a permanent one?

1 MR. SCHWARTZ: We probably will come back
2 with a request to build permanent, perhaps another one
3 or two units.

4 Right now the need is temporary. We want to
5 make sure that it can be sustained. And two is to
6 build this out in a permanent structure, we're
7 probably looking at 4 or \$5 million. It's a fairly
8 pricey endeavor.

9 MR. PREMO: But you see the continuing need
10 in the community for this type of service?

11 MR. SCHWARTZ: So far, absolutely. I mean,
12 some of this is, you know, in our application. We
13 talked a little bit about COVID. But we're seeing a
14 lot of cases of what we call long COVID, that is
15 people who have had impairments, lung impairments, and
16 other things that continued on way past COVID. And
17 it's much more prevalent than you may think. We
18 generally recognize it in society. And it's really
19 driven the healthcare system, not only in Rochester,
20 but across the state and really across the country
21 into new territory. It hasn't been seen before with
22 regards to volumes of patients.

23 CHAIRPERSON MIETZ: Okay. Very good.

24 MR. GORDON: Just to follow up on
25 Mr. Premo's questions, so knowing how long it takes to

1 do a new building project, has the University
2 initiated any building projects or building plans to
3 make a permanent structure to house MRI units that are
4 needed?

5 MR. SCHWARTZ: Not at that location. We
6 just completed some upgrades at the medical center.
7 And if you're familiar with the new tower that we're
8 building on Elmwood Avenue, that's about a \$680
9 million project. So a lot of capital is going into
10 new patient rooms, new ORs, new imaging there.

11 But very possibly if it continues in this
12 direction, we may look at also expanding out on East
13 River Road because that is a center for outpatient
14 imaging. And a lot of what's done at the medical
15 center, not all of it, but a lot of it, is inpatient
16 imaging.

17 MR. GORDON: Do you anticipate coming back
18 to this Board in another two years and asking them for
19 what would then be a continuation to seven years of
20 this so-called temporary and revocable use permanent?

21 MR. SCHWARTZ: I would suspect -- not that
22 I'm a decision maker per se, but I would suspect that
23 if in two years we come back, it would be for a
24 permanent structure.

25 MR. DiSTEFANO: So there is no existing

1 space in the current building?

2 MR. SCHWARTZ: Correct. We did have vacant
3 space and we did build that out. So there is no
4 current expansion per se in the existing building for
5 this type of operation.

6 MS. MCKAY-DRURY: And this has been here
7 for -- is it 36 months now?

8 CHAIRPERSON MIETZ: Longer than that.

9 MR. GORDON: See the original application
10 came in October of 2020. An 18-month temporary permit
11 was granted at that point in time.

12 Then in July of '22, another application
13 came in for another 18-month temporary permit. That
14 permit expires in January. And so this would be
15 another 18 -- no. This is a request for two years.

16 MR. SCHWARTZ: Two years.

17 MR. D'AUGUSTINE: But if you -- I'm sorry.

18 MR. GORDON: It's almost -- we've granted
19 them 36 months. We're being asked to grant them
20 another two.

21 MR. D'AUGUSTINE: But I was just going to
22 say, if you did come back in two years looking to
23 build, you would still need to extend this temporary
24 arrangement as you're building. You would still need
25 to make that request.

1 MR. SCHWARTZ: I would anticipate that we
2 would come back before two years so that we could, if
3 you will, dovetail any completion of construction with
4 the expiration of this temporary use permit.

5 CHAIRPERSON MIETZ: Okay. Other questions?

6 Is there anyone in the audience that would
7 like to speak regarding this application? There being
8 none, then the public hearing is closed.

9 **Application 7A-07-23**

10 Application of Todd Krenzer, agent, and
11 Rochester Electrical Workers Building Corp., owner of
12 property located at 2300 East River Road for a
13 Temporary and Revocable Use Permit pursuant to Section
14 219-4 to erect a tent and hold a one day clambake
15 event in September 2023 and September 2024. All as
16 described on application and plans on file.

17 MR. RYERSE: Yes. Good evening. Todd
18 Krenzer was unable to be here. My name is Raymond
19 Ryerse, R-Y-E-R-S-E. I'm the principal officer of
20 Rochester Electrical Workers Building Corp located at
21 2300 East River Road, 14623. I'm here today on behalf
22 of that organization seeking a one-day permit and for
23 the next two years to hold our annual clambake.

24 CHAIRPERSON MIETZ: Okay. Rick, nothing
25 come in regarding this?

1 MR. DiSTEFANO: I have not received any
2 complaints, anything like that for this site or for
3 this event.

4 CHAIRPERSON MIETZ: Okay.

5 MR. DiSTEFANO: Anything different this
6 year?

7 MR. RYERSE: No. The tent will be the same.
8 It's a fireproof tent. There's fire extinguishers on
9 the site. There's also staff all day long. There's
10 security the night before while it's being set up. So
11 there's no vagrants coming on the premises.

12 Are you missing something that we did not
13 get? Did you say that you're missing the application
14 or part of the application?

15 MR. DiSTEFANO: No. You're good.

16 MR. GORDON: The question was did we hear
17 anything from the community members --

18 MR. DiSTEFANO: Any complaints.

19 MR. RYERSE: I didn't hear very well.

20 It's a very well-attended event. You may
21 have attended it or been invited to attend at some
22 point. It's usually used as a community fundraiser.
23 We have multiple politicians that show up. I mean,
24 it's a pretty well-attended event.

25 CHAIRPERSON MIETZ: Okay. Any other

1 questions? Okay. Thanks.

2 MR. RYERSE: Thank you.

3 CHAIRPERSON MIETZ: Anyone in the audience
4 that would like to speak regarding this application?

5 Okay. Then the public hearing is closed.

6 (Public hearings concluded.)

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 REPORTER CERTIFICATE

2
3 I, Holly E. Castleman, do hereby certify
4 that I did report the foregoing proceeding, which was
5 taken down by me in a verbatim manner by means of
6 machine shorthand.

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

11
12 Dated this 5th day of July, 2023
13 at Rochester, New York.

14
15
16
17
18
19
20
21 -----Holly E. Castleman-----

22 HOLLY E. CASTLEMAN, NYSACR,
23 Notary Public.
24
25

**BRIGHTON
ZONING BOARD OF APPEALS
MEETING
DELIBERATIONS AND DECISIONS**

July 5, 2023
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ
Chairperson

EDWARD PREMO)	Board Members
HEATHER McKAY-DRURY)	
JUDY SCHWARTZ)	
MATTHEW D'AUGUSTINE)	

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

ABSENT:

KATHLEEN SCHMITT)
ANDREA TOMPKINS-WRIGHT)

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

1 **Application 5A-01-23**

2 Application (revised) of Reza Hourmanesh,
3 architect, and Guiyan Li, owner of property located at
4 2720 West Henrietta Road, for an Area Variance from
5 Section 205-12 to allow for 28 parking spaces (revised
6 from 37 parking spaces) in conjunction with a grocery
7 store in lieu of the minimum 55 parking spaces
8 required by code. All as described on application and
9 plans on file.

10 The Board having considered the information
11 by the applicant and having conducted the required
12 review pursuant to SEQRA adopts the negative
13 declaration prepared by town staff and determines that
14 the proposed action will not likely have a significant
15 environmental impact.

16 Motion made by Mr. D'Augustine to approve
17 applications 5A-01-23 based on the following findings
18 of fact.

19 **Findings of Fact:**

- 20 1. The requested variance will not produce an
21 undesirable change in the character of the
22 neighborhood. This is a stretch of road that is
23 commercial in nature and a small grocery store will
24 fit in well there.
- 25 2. The requested variance is not substantial in that

1 the property was previously used as a restaurant,
2 which utilized the parking lot in a similar manner.

3 3. The applicant cannot achieve the benefit by any
4 other method.

5 4. The adjacent property owner sent a letter dated
6 June 27th, 2023, that joined the applicant's request
7 for the requested variance.

8 **Conditions:**

9 1. This variance will reflect the plans submitted May
10 3rd, 2023.

11 2. All necessary Planning Board, Architectural Review
12 Board approvals and building permits will be obtained.

13 MR. DiSTEFANO: I guess I don't know --
14 there's a question on whether these spots should be
15 assigned. But I don't know if that's between the two
16 property owners. I don't think -- you're right I
17 think that's between the two property owners, not us.

18 MS. SCHWARTZ: Also too, didn't they say --

19 MR. GORDON: Can we get a second first?

20 MS. SCHWARTZ: Second.

21 Many of the hours for the market are going
22 to be different from the other business.

23 So there will be spots freed up during the
24 busiest hours.

25 MR. DiSTEFANO: I think you're right. I

1 don't think Fastenal keeps night hours, after 4, that
2 kind of stuff.

3 CHAIRPERSON MIETZ: They said 5 o'clock.

4 MR. DiSTEFANO: Yeah. So I don't know what
5 they're like on the weekend. They're probably closed
6 on Sundays.

7 So that should work to help the situation.
8 But I don't think we need to limit, for a condition,
9 hours of operation.

10 MR. GORDON: Two comments.

11 One is because -- the reason I wanted that
12 finding in there about they're a co-applicant, which I
13 think you stated fine, is because now they're
14 co-applicants. They're asking for this relief as
15 well.

16 So I really don't think there would be an
17 opportunity at this point in time if this Board would
18 grant this application to challenge it further.

19 And secondly, relative to signage, remember
20 this is going to go to Planning Board. And some of
21 that is Planning Board considerations.

22 CHAIRPERSON MIETZ: Perfect.

23 MR. DiSTEFANO: The motion is to approve
24 with conditions.

25 (Ms. McKay-Drury, yes; Mr. Mietz, yes;

1 Mr. Premo, yes; Ms. Schwartz, yes;
2 Mr. D'Augustine, yes.)
3 (Upon roll motion to approve with conditions
4 carries.)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **Application 5A-02-23**

2 Application (revised) of Reza Hourmanesh,
3 architect, and Guiyan Li, owner of property located at
4 2720 West Henrietta Road, for an Area Variance from
5 Section 205-7 to allow impervious lot coverage to be
6 80.3% (revised from 83.2%), after site modifications,
7 in lieu of the maximum 65% allowed by code. All as
8 described on application and plans on file.

9 The Board having considered the information
10 presented by the applicant and having conducted the
11 required review pursuant to SEQRA adopts the negative
12 declaration prepared by town staff and determines that
13 the proposed action will not likely have a significant
14 environmental impact.

15 Motion made by Ms. McKay-Drury to approve
16 application 5A-02-23 based on the following factual
17 findings.

18 **Findings of Fact:**

19 1. Per the June 27th, 2023, letter from 2710 West
20 Henrietta Road LLC, which is the owner of 2710 West
21 Henrietta Road, the LLC consents to the consideration
22 of the variance and joins the applicant in seeking the
23 relief requested.

24 2. The requested variance will not result in a
25 substantial change to the neighborhood because this is

1 a commercial area with an abundance of pre-existing
2 pavement and this plan proposes greenspace in the
3 front yard which will actually increase compared to
4 the existing.

5 2. The difficulty necessitating the variance request
6 cannot be solved by any other means given the size and
7 shape of the lot and the existing building.

8 3. The proposed variance is the minimum necessary
9 required to address the difficulty created by this
10 small lot.

11 4. The variance will not have an adverse effect on
12 the physical environment because the pavement is
13 pre-existing, the lot coverage is pre-existing.

14 **Conditions:**

15 1. It is limited to the plan dated May 3rd, 2023.

16 2. All necessary planning board approvals,
17 Architectural Review Board approvals and building
18 permits shall be obtained.

19 (Second by Ms. Schwartz.)

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

21 Mr. Mietz, yes; Ms. Schwartz, yes;

22 Ms. McKay-Drury, yes.)

23 (Upon roll motion to approve with conditions
24 carries.)

25

1 **Application 7A-01-23**

2 Application of Joseph and Karen Rulison,
3 owners of property located at 150 Pelham Road, for an
4 Area Variance from Section 203-2.1B(1) to allow a
5 standby emergency generator to be located in a side
6 yard in lieu of the rear yard behind the house as
7 required by code. All as described on application and
8 plans on file.

9 Motion made by Ms. McKay-Drury to approve
10 application 7A-01-23 based on the following findings
11 of fact.

12 **Findings of Fact:**

13 1. The variance will not result in a substantial
14 change to the neighborhood because the side location
15 will be well hidden and this placement will be next to
16 the existing air conditioning unit, which is already
17 hidden by the extensive landscaping.

18 2. The difficulty necessitating the variance request
19 cannot be solved by any other means given the historic
20 nature of the house, specifically the lack of a
21 location for the generator in the back of the house,
22 and the applicant's need for power 24/7 due to medical
23 needs.

24 3. The proposed variance is the minimum necessary in
25 order to grant the relief from the difficulty.

1 4. The variance will not have an adverse impact on
2 the physical or environmental conditions due to the
3 approved decibel rating of the unit and the distance
4 to both the road and any surrounding houses.

5 **Conditions:**

- 6 1. It is limited to the application on file.
7 2. All necessary building permits shall be obtained.

8 (Second by Ms. Schwartz.)

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

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

1 **Application 7A-02-23**

2 Application of Sign and Lighting Services,
3 contractor, and 2735 Monroe LLC, owner of property
4 located at 2735 Monroe Avenue, for a Sign Variance
5 from Section 207-32B to allow a business
6 identification sign on a second building face where
7 not allowed by code. All as described in application
8 and plans on file.

9 Motion made by Mr. Mietz to approve
10 application 7A-02-03 based on the following findings
11 of fact.

12 **Findings of Fact:**

- 13 1. The building is oriented east/west on the site in
14 the highly trafficked Monroe Avenue corridor.
- 15 2. Due to the speed of traffic, way-finding to
16 provide access to this business is beneficial to the
17 overall traffic flow.
- 18 3. Placing a sign on the east and north face
19 will increase the safety and welfare of people
20 traversing Monroe Avenue.
- 21 4. Numerous examples along Monroe Avenue with similar
22 signage exist and there will be no negative effect on
23 the character of this commercial corridor.

24 **Conditions:**

- 25 1. It's based on the sign depicted and testimony

1 given and plans submitted as to size and placement.

2 2. All ARB and Planning Board approvals and building
3 permits shall be obtained.

4 (Second by Mr. Premo.)

5 MR. DiSTEFANO: Your findings, it might be
6 good to make a finding that the total sign package
7 does not exceed --

8 CHAIRPERSON MIETZ: So number 5.

9 **Findings as Amended:**

10 1. The building is oriented east/west on the site in
11 the highly trafficked Monroe Avenue corridor.

12 2. Due to the speed of traffic, way-finding to
13 provide access to this business is beneficial to the
14 overall traffic flow.

15 3. Placing a sign on the east and north face
16 will increase the safety and welfare of people
17 traversing Monroe Avenue.

18 4. Numerous examples along Monroe Avenue with similar
19 signage exist and there will be no negative effect on
20 the character of this commercial corridor.

21 5. The available signage to the applicant with the
22 two signs together is slightly less than what they
23 would be in total on the north face alone.

24 MR. PREMO: Second agrees to that amendment.

25 MR. DiSTEFANO: Motion is to approve with

1 conditions.

2 (Ms. McKay-Drury, yes; Ms. Schwartz, yes;
3 Mr. D'Augustine, yes; Mr. Premo, yes;
4 Mr. Mietz, yes.)

5 (Upon roll motion to approve with conditions
6 carries.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Application 7A-03-23**

2 Application of Sue Steele, landscape
3 architect, agent and Our Lady of Lourdes Church
4 of Brighton, owner of property located at 150 Varinna
5 Drive, for Area Variances from Sections 203-2.1B(7)
6 and 203-9A(4) to 1) allow air conditioning equipment
7 to be located in a front yard where not allowed by
8 code, and 2) allow the noise level of said equipment
9 to be 96 decibels in lieu of the maximum 78 decibels
10 allowed by code. All as described on application and
11 plans on file.

12 The Board having considered the information
13 presented by the applicant and having conducted the
14 required review pursuant to SEQRA adopts the negative
15 declaration prepared by town staff and determines that
16 the proposed action will not have a significant
17 environmental impact.

18 Motion made by Mr. Premo to approve
19 application 7A-03-23 based on the following findings
20 of fact.

21 **Findings of Fact:**

22 1. This application seeks re-issuance of two area
23 variances granted by this Board in decision 2A-01-19
24 on February 6th, 2019.

25 2. The project did not commence construction because

1 of financial and other issues arising during the COVID
2 pandemic. The variance therefore expired.

3 3. The cited conditions and the factors considered in
4 decision 2A-01-19 remain the same and there have been
5 no significant changes.

6 4. This Board therefore approves the requested
7 variance based on the findings of fact in decision
8 2A-01-19, all of which are hereby reaffirmed.

9 **Conditions:**

10 1. This variance only applies to the three AC units
11 to be located in the front yard as shown on plans
12 submitted and testimony given.

13 2. All necessary building permits and inspections
14 must be obtained.

15 3. The noise block quiet shields must be installed as
16 proposed.

17 4. Subject to the granting of the variance for a
18 6-foot front yard wall and its actual construction.

19 (Second by Ms. McKay-Drury.)

20 (Ms. Schwartz, yes; Mr. D'Augustine, yes;

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

22 Mr. Premo, yes.)

23 (Upon roll motion to approve with conditions
24 carries.)

25

1 **Application 7A-04-23**

2 Application of Sue Steele, landscape
3 architect, agent and Our Lady of Lourdes Church
4 of Brighton, owner of property located at 150 Varinna
5 Drive, for an Area Variance from Section 207-2A to
6 allow a front yard wall to be 6 feet in height in lieu
7 of the maximum 3.5 feet allowed by code. All as
8 described on application and plans on file.

9 The Board having considered the information
10 presented by the applicant and having conducted the
11 required review pursuant to SEQRA adopts the negative
12 declaration prepared by town staff and determines that
13 the proposed actions will not have significant
14 environmental impacts.

15 Motion made by Ms. Schwartz to approve
16 application 7A-04-23 based on the following findings
17 of fact.

18 **Findings of Fact:**

- 19 1. This application is identical to the application
20 of 2A-02-19.
- 21 2. The granting of the requested variance will not
22 produce an undesirable change in the character of the
23 neighborhood or be detrimental to nearby properties.
24 The proposed masonry wall will be built almost 40 feet
25 back from the property line, and due to the size of

1 the building on the property and its architecture,
2 will blend into the existing walls so as not to appear
3 intrusive. Further, the purpose of the wall is to
4 reduce the sight and sound associated with the air
5 conditioning system on the property, which will limit
6 the negative effect to nearby properties.

7 2. The requested variance is not substantial given
8 the fact that the property is surrounded on multiple
9 sides by rights-of-way in the location that this wall
10 is proposed along what functions more as a side or
11 rear yard.

12 3. The height of this wall will meet rear or side
13 yard requirements were it a traditional lot were
14 traditional rear and side yards.

15 4. The benefit sought by the applicant cannot
16 reasonably be achieved by any other method. The
17 purpose of the wall is to shield the new air
18 conditioning system from view and sound, which cannot
19 be achieved with a wall that meets code. For these
20 reasons, the difficulties leading to the requested
21 variance are not self-created.

22 5. The decibel level at the curb/street meets code.

23 6. There is no evidence that the proposed variance
24 will have an adverse impact on the physical or
25 environmental conditions in the neighborhood or

1 district.

2 **Conditions:**

3 1. The variance granted herein applies only to the
4 wall described in and in the location as depicted on
5 the application and in the testimony given.

6 2. Landscaping will be planned to mitigate the height
7 of the wall.

8 3. Sound dampening shields should be installed to
9 reduce the decibel level on the larger air
10 conditioning units.

11 4. All necessary permits must be obtained.

12 (Second by Ms. McKay-Drury.)

13 MS. MCKAY-DRURY: Second.

14 MR. DiSTEFANO: I don't think we need --

15 MR. GORDON: Strike condition number 3; is
16 that okay?

17 MS. MCKAY-DRURY: Yup. I'm fine.

18 MR. DiSTEFANO: I remember us talking about
19 landscape four years ago. We didn't really --

20 MS. SCHWARTZ: Steele said they would be
21 doing it.

22 MR. DiSTEFANO: We'll leave that condition
23 in there then.

24 MR. GORDON: Just a question for you as a
25 Board, would you be approving this wall if they were

1 not going to be installing the three air conditioning
2 units?

3 CHAIRPERSON MIETZ: I don't understand.

4 MS. SCHWARTZ: What would be the reason? Be
5 for decoration or something?

6 MR. GORDON: No idea.

7 MR. D'AUGUSTINE: No.

8 MS. McKAY-DRURY: On the record we've heard
9 no.

10 CHAIRPERSON MIETZ: This is part of the --

11 MS. McKAY-DRURY: We want to make the air
12 conditioning a condition of this one.

13 MR. GORDON: So I would suggest if you would
14 not approve this wall if they're not installing the
15 air conditioning units, then an additional condition
16 would be, that it is conditioned upon the installation
17 of the air conditioning units in application 7A-04-23.

18 MR. DiSTEFANO: So if you want to word
19 that -- eliminate --

20 MS. SCHWARTZ: Number 4, all building
21 permits.

22 MR. GORDON: So we're down to three
23 conditions. There are a total of four conditions and
24 the additional one is that approval of this variance
25 is subject to the installation of air conditioning

1 units, which were the subject of application 7A-03-23.

2 MS. MCKAY-DRURY: Yes.

3 **Conditions as Amended:**

4 1. The variance granted herein applies only to the
5 wall described in and in the location as depicted on
6 the application and in the testimony given.

7 2. Landscaping will be planned to mitigate the height
8 of the wall.

9 3. All necessary permits must be obtained.

10 4. Approval of this variance is subject to the
11 installation of air conditioning units, which were the
12 subject of application 7A-03-23.

13 (Mr. Premo, yes; Mr. D'Augustine, yes;
14 Mr. Mietz, yes; Ms. McKay-Drury, yes;
15 Ms. Schwartz, yes.)

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

18

19

20

21

22

23

24

25

1 **Application 7A-05-23**

2 Application of Patrick Morabito, architect,
3 and Carla Giambrone, owner of property located at 370
4 Kimberly Drive, for Area Variances from Section 205-2
5 to 1) allow a building addition (garage and living
6 space) to extend 0.6 feet into the 15 foot side
7 setback required by code, and 2) allow an enclosed
8 entryway to extend 10 +/- feet into the existing 50
9 foot front setback where a 60 foot front setback is
10 required by code. All as described on application and
11 plans on file.

12 Motion made by Mr. D'Augustine to approve
13 applications 7A-05-23 based on the following findings
14 of fact.

15 **Findings of Fact:**

- 16 1. The requested variance will not create an
17 undesirable change in the character of the
18 neighborhood as the neighborhood currently contains
19 single-family homes in a variety of shapes and sizes.
20 2. The applicant cannot achieve the benefit by
21 another method given that the house's pre-existing
22 setbacks are already nonconforming.
23 3. The requested variance is not substantial. The
24 front setback will be the same and the side setback
25 will improve.

1 4. The proposed variance will not have an adverse
2 effect on the physical or environmental condition of
3 the neighborhood.

4 5. The proposed variance is not self-created given
5 that the original construction of the home predated
6 the existing setback rules.

7 **Conditions:**

8 1. The variance will apply only to the plans
9 submitted and the testimony given.

10 2. The applicant will acquire all Architectural
11 Review Board approval as well as all necessary
12 building permits.

13 (Second by Ms. McKay-Drury.)

14 (Mr. Premo, yes; Ms. Schwartz, yes;
15 Mr. Mietz, yes; Ms. McKay-Drury, yes;
16 Mr. D'Augustine, yes.)

17 (Upon roll motion to approve with conditions
18 carries.)
19
20
21
22
23
24
25

1 **Application 7A-06-23**

2 Application of The University of Rochester,
3 owner of property located at 220/250 East River Road,
4 for renewal of a Temporary and Revocable Use Permit
5 (10A-11-20, 7A-04-22) pursuant to Section 219-4 to
6 allow a mobile MRI scanner (trailer) to be on site
7 for an additional two years until July 2025. All as
8 described on application and plans on file.

9 Motion made by Ms. McKay-Drury to approve
10 application 7A-06-23 based on the following findings
11 of fact.

12 **Findings of Fact:**

13 1. The temporary and revocable use permit is not
14 substantial in that it is already a commercial or
15 institutional use area bordered by East River Road and
16 Highway I-309 with existing mature vegetation blocking
17 residential homes.

18 2. The requested time duration is the minimum relief
19 necessary for the reasonable use. Per the application
20 and testimony provided, there remains a backlog of
21 MRIs needed following the COVID 19 pandemic and
22 there's been a recent surge of new requests for the
23 MRIs.

24 3. There is a minimal effect on the available
25 facilities given that the building was constructed

1 with the plans to have the number of MRI machines that
2 it currently has. It is at capacity. And the
3 necessary facilities feature parking that will
4 accommodate the continued temporary permit.

5 4. This will not cause a substantial change in the
6 character of the neighborhood since this is already a
7 medical building. The trailer has been there or will
8 be there at the time that this current permit ends as
9 of -- for three years.

10 5. Rather than endangering the health, safety and
11 welfare, this permit is aimed at providing access to
12 much needed healthcare.

13 6. The interests of justice are served by allowing
14 the perm to be extended to allow for the full
15 reduction of the backlog and to assess the need for a
16 permanent MRI facility.

17 **Conditions:**

18 1. It is limited to extension of the permit as
19 described in the application and the testimony given,
20 specifically the two-year time period expiring on
21 7/5/2025.

22 2. The trailer and covered walkway shall be removed
23 within two years.

24 3. All necessary permits shall be maintained.

25 (Second by Mr. D'Augustine.)

1 (Ms. Schwartz, yes; Mr. Premo, yes;
2 Mr. Mietz, yes; Mr. D'Augustine, yes;
3 Ms. McKay-Drury, yes.)
4 (Upon roll motion to approve with conditions
5 carries.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **Application 7A-07-23**

2 Application of Todd Krenzer, agent, and
3 Rochester Electrical Workers Building Corp., owner of
4 property located at 2300 East River Road for a
5 Temporary and Revocable Use Permit pursuant to Section
6 219-4 to erect a tent and hold a one day clambake
7 event in September 2023 and September 2024. All as
8 described on application and plans on file.

9 Motion made by Mr. Mietz to approve
10 application 7A-07-23 based on the following findings
11 of fact.

12 **Findings of Fact:**

- 13 1. The event will be held for one day each year in
14 2023 and '24 on the Saturday after Labor Day from
15 11:30 to 6 p.m.
- 16 2. There is ample parking on the site for the event.
- 17 3. This has been a consecutive event and no comments
18 were received by the building department.
- 19 4. It will have no adverse effect on the neighborhood
20 as the area surrounding is vacant land, CSX Railroad,
21 East River Road and the Genesee River.

22 **Conditions:**

- 23 1. There will be no band or sound system during this
24 event.
- 25 2. All equipment brought to the site for the clambake

1 will be removed within 48 hours of the event,
2 including all trash.

3 3. No parking will be allowed on East River Road.

4 4. All fire marshal permits shall be obtained.

5 (Second by Ms. Schwartz.)

6 (Ms. McKay-Drury, yes; Mr. Mietz, yes;
7 Mr. Premo, yes; Ms. Schwartz, yes;
8 Mr. D'Augustine, yes.)

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

11 (Proceedings concluded at 9:05)

12 * * *

13

14

15

16

17

18

19

20

21

22

23

24

25

1 REPORTER CERTIFICATE

2
3 I, Holly E. Castleman, do hereby certify
4 that I did report the foregoing proceeding, which was
5 taken down by me in a verbatim manner by means of
6 machine shorthand.

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

11
12 Dated this 5th day of July, 2023
13 at Rochester, New York.

14
15
16
17
18
19
20
21 *Holly E. Castleman*

22 HOLLY E. CASTLEMAN, NYSACR,
23 Notary Public.
24
25