

**BRIGHTON  
ZONING BOARD OF APPEALS  
MEETING**

August 2, 2023  
At approximately 7 p.m.  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

## 10 | PRESENT:

DENNIS MIETZ  
Chairperson

EDWARD PREMO ) Board Members  
13 HEATHER McKAY-DRURY )  
KATHLEEN SCHMITT )  
14 ANDREA TOMPKINS-WRIGHT )  
JUDY SCHWARTZ )  
15 MATTHEW D'AUGUSTINE )

16 KEN GORDON, ESQ.  
Town Attorney

18 RICK DiSTEFANO  
Secretary

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

1 CHAIRPERSON MIETZ: Good evening, everyone.  
2 I'd like to call to order the August meeting of the  
3 Brighton Zoning Board of Appeals.

4 Mr. Secretary, could you call the roll?

5 (Whereupon the roll was called.)

6 MR. DiSTEFANO: Let the record reflect all  
7 members are present.

8 CHAIRPERSON MIETZ: Okay. Is there anything  
9 you want to let us know other than what you've already  
10 let us know?

11 MR. DiSTEFANO: I have nothing. Do any of  
12 the members have any questions regarding the  
13 applications in front of us?

14 CHAIRPERSON MIETZ: No questions? Okay. I  
15 know Judy is chomping at the bit about the minutes.  
16 Without further adieu.

17 MR. DiSTEFANO: For the record, the meeting  
18 was advertised in the Daily Record of July 27th, 2023.

19 CHAIRPERSON MIETZ: And then minutes. Do  
20 you have anything, Judy?

21 MS. SCHWARTZ: Yes, June. Page 11, the last  
22 line, the word should be "foot." And same thing on  
23 page 12, line 14, should be foot.

24 On page -- hold on here. 44, line 19 --  
25 wait a minute. I can't remember. I did it so long

1 ago. Line 19, fifth word should be "as."

2 Page 45, line 17, fourth word in should be  
3 R-A-R-E.

4 Page 52, first line, 21st word should be  
5 "wall," W-A-L-L. Page 53, line 16, third to last word  
6 should be "temporary."

7 Page 60, line 24, delete the word "mounted."

8 Page 95, line 23, last word should be  
9 R-A-R-E. And that's all I have.

10 MR. D'AUGUSTINE: Motion to approve.

11 MR. DiSTEFANO: Any other corrections?

12 MS. SCHWARTZ: Second.

13 MR. DiSTEFANO: Motion is to approve with  
14 corrections.

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

19 (Upon roll motion to approve with  
20 corrections carries.)

21 CHAIRPERSON MIETZ: Okay. We got the notice  
22 all set. So I guess whenever you're ready.

23 MR. DiSTEFANO: We've got July minutes.

24 CHAIRPERSON MIETZ: Oh, sorry. Go ahead.

25 MS. SCHWARTZ: Page 61, line 25, the second

1 word should be "applicant."

2                   Page 64, line 13, the last word should be  
3 "with."

4                   Page 71, line 14, the second word should be  
5 "permit."

6                   That's all I have.

7                   MR. PREMO: I move to approve with  
8 corrections.

9                   MR. D'AUGUSTINE: Second.

10                  MR. DiSTEFANO: The motion is to approve  
11 with corrections, the July minutes.

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

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

18 **Application 8A-01-23**

19                  Application of James Fahy, architect, and  
20 Tenley Odenbach, owner of property located at 5  
21 Whitney Lane for Area Variances from Section 205-2 to  
22 1) allow a garage addition to extend 4 feet into the  
23 existing 20.7 feet front setback where a 60-foot front  
24 setback is required by code and 9.1 feet into the  
25 33-foot side setback required by code, and 2) allow

1 the enlarged garage to be 1,006 square feet in lieu of  
2 the maximum 900 square feet allowed by code. All as  
3 described on application and plans on file.

4 **Application 8A-02-23**

5 Application of James Fahy, architect, and  
6 Tenley Odenbach, owner of property located at 5  
7 Whitney Lane for Area Variances from Section 205-2 to  
8 allow a new roof (covering an existing front stoop) to  
9 extend 5 feet into the existing 59.6-foot front  
10 setback where a 60-foot front setback is required by  
11 code. All as described in application and plans on  
12 file.

13 CHAIRPERSON MIETZ: When you're ready.

14 MR. FAHY: Good evening. I'm Jim Fahy from  
15 Fahy Design Associates. I'm here this evening with --

16 CHAIRPERSON MIETZ: Can you just give your  
17 address for the record, please.

18 MR. FAHY: Pardon me?

19 CHAIRPERSON MIETZ: An address.

20 MR. FAHY: 2024 West Henrietta Road,  
21 Rochester, New York.

22 Also with me this evening are the homeowners  
23 and my clients at 5 Whitney Lane, Shawn and Tenley  
24 Dwyer. I think before I get going real quickly, I've  
25 been before this Board for I don't know how many

1 years. I've been in Rochester for 37 years. And I  
2 don't think I've ever been the lone one. So I  
3 apologize to draw you guys out on this beautiful  
4 August evening. So I'll try to be as --

5 CHAIRPERSON MIETZ: We're going to blame  
6 them, not you.

7 MR. FAHY: That's not good to throw mud at  
8 your clients.

9 So we're here this evening asking for relief  
10 from three of the Town's bulk regulation requirements  
11 to the home site that Shawn and Tenley live on at 5  
12 Whitney Lane to allow them to construct various  
13 additions to their home that they feel is needed.

14 The proposed additions are a modest mudroom  
15 addition to the front of the existing family room,  
16 which is also in the front yard of their property.

17 They're extending their existing two-car  
18 garage 5 feet forward to provide access from the  
19 garage to the new mudroom. They're also proposing to  
20 add a modest third-car single-car bay to the west of  
21 the existing two-car garage. That's 12 foot wide by  
22 22 foot deep.

23 And they're also asking or proposing to put  
24 a cover on their front entry stoop of the house that's  
25 currently encroaching about 5 and a half feet forward

1 of that 60-foot front yard setback. So in essence,  
2 putting a cover on that stoop constitutes the request  
3 for a variance.

4 Now, the Dwyers are a young growing family  
5 living in a very nice but aging home that needs  
6 improvements to meet their needs. The addition of a  
7 mudroom and adequate garage storage are two key  
8 elements currently missing from their home.

9 Additionally, they would like to provide  
10 cover for guests while at the front entry that will  
11 also provide aesthetic improvement to the street-side  
12 elevation of the home.

13 After discussing the program with Rick  
14 DiStefano, it was recommended that we break our  
15 requests up into two applications as submitted and as  
16 summarized by Rick at the beginning of our meeting  
17 here.

18 Our first application is asking for a front  
19 yard -- relief of the front yard setback for the  
20 extension of our existing two-car garage forward.  
21 Again, that extension is principally needed so that we  
22 can get access to this new mudroom.

23 The new mudroom is located forward of the  
24 existing family room. And if you have a copy of the  
25 floor plan there, there really is no other reasonable

1 way of adding a mudroom to this house. So they are  
2 kind of part and parcel. It's -- you know, I don't  
3 know what comes first, the chicken or the egg. But  
4 the addition of the mudroom is there. Therefore, the  
5 garage is pulled forward for proper access.

6 And it was also pulled forward for aesthetic  
7 reasons. And I think as you can see in the rendering  
8 that I put together, I think that gabled roof is  
9 similar in scale and mass to that existing hip roof  
10 that was on the existing garage that provides some  
11 break to the linearity to the front of the house.

12 The additional variance that we're asking  
13 for relief from is the side yard setback that was  
14 triggered by the addition of the third car bay.

15 And thirdly, in that first application we  
16 are asking for relief from that 900 square foot of  
17 attached garage for the expansion of the two-car, plus  
18 the third-car bay. So 1,006 square foot with the  
19 extension and the third bay, which is not much more  
20 than 10 to 15 percent over that of what's required by  
21 code.

22 Our application number 2 is, as I mentioned  
23 before, just strictly because the existing stoop is  
24 forward of the 60-foot setback. Covering that stoop  
25 will require relief from code.

1           My letter of intent and the answers to the  
2 five factors provides a thorough summary of our  
3 request and the reason for those requests. All  
4 proposed additions were planned with thoughtful  
5 considerations of not only the needs of the Dwyers and  
6 their project goals but also in consideration of the  
7 neighborhood setting as a whole as discussed and  
8 summarized in my answers to the various points.

9           Our plans have been reviewed by the  
10 neighbors bordering the property. Each has indicated  
11 their approval and encouragement for the improvements  
12 proposed as documented by letters submitted to the  
13 Board this evening. So these are emails from  
14 neighbors at 4 Whitney Lane, 6 Whitney Lane and 7  
15 Whitney Lane, bordering the property.

16           MR. DiSTEFANO: Thank you.

17           MR. FAHY: Again, those letters are all in  
18 support and, actually, enthusiastic encouragement for  
19 the work that's being done.

20           So I'd be glad to get into more details on  
21 these, but I think my application was pretty thorough.  
22 And I would just open this up to any questions that  
23 the Board may have.

24           CHAIRPERSON MIETZ: Questions? Anybody?

25           The only one I guess I got is what is the

1 storage situation on the whole property? So will this  
2 addition of the single-car garage and extension of the  
3 garage handle the storage for the property? In other  
4 words, as it relates to any other structures or other  
5 needs to store equipment or whatever besides vehicles.

6 MR. FAHY: I'll tell you that's a question  
7 that I should probably ask the Dwyers to answer. I  
8 think it'd be more appropriate.

9 CHAIRPERSON MIETZ: Okay.

10 Why don't you come up if you're going to  
11 answer because the court reporter has to --

12 Just name and address.

13 MS. DWYER: Tenley and Shawn Dwyer, 5  
14 Whitney Lane.

15 CHAIRPERSON MIETZ: So my question is you're  
16 adding on some additional storage areas, meaning the  
17 garage addition and the single car addition. Will  
18 that accommodate your storage needs for the property  
19 as far as the rest of the property is concerned?

20 MS. DWYER: Yes. As far as the lawn mower  
21 and --

22 CHAIRPERSON MIETZ: Bicycles.

23 MS. DWYER: -- kids toys.

24 CHAIRPERSON MIETZ: So you feel that -- you  
25 decided that it can adequately handle all that.

1 MS. DWYER: Yes.

2 CHAIRPERSON MIETZ: We're not asking you  
3 about the future, but we're just saying now it can  
4 accommodate everything.

5 MS. DWYER: Yeah. Right now, we can hardly  
6 fit two cars in the garage. So getting that extra  
7 storage is very important for us.

8 CHAIRPERSON MIETZ: Very good. Okay.  
9 Anything over here? Pretty straightforward.

10 Okay. Rick, anything?

11 MR. GORDON: I'll just note for the record,  
12 we're passing down the letters that he just handed up.  
13 And they do indicate approval from three neighbors and  
14 talk about an expansion of the garage and enhancement  
15 to the overall look of the house.

16 They don't specifically reference how far  
17 they're encroaching into the setbacks. I don't know  
18 if you shared plans or drawings with those neighbors  
19 when you requested these letters.

20 MR. FAHY: They were provided pretty much  
21 the same packet I gave to the Board. There was the  
22 existing site plan, the proposed site plan, which  
23 showed not only the additions clearly, but also their  
24 setbacks to the property lines, along with the floor  
25 plans and renderings.

1                   MR. GORDON: Thank you.

2                   CHAIRPERSON MIETZ: Okay. Any other  
3 questions?

4                   MR. PREMO: Has this gone to ARB?

5                   MR. FAHY: Yes.

6                   MR. PREMO: And what were the ARB comments?

7                   MR. FAHY: I have not been before the ARB.

8                   MR. PREMO: Oh. You have not been.

9                   MR. FAHY: Submitted, but yet to appear. It  
10 will be this month.

11                  CHAIRPERSON MIETZ: Okay. Very good.

12 Nothing else? Okay. Thanks very much.

13                  Obviously, there's no one else here to speak  
14 for this application. So the public hearing is  
15 closed.

16 (Public hearings concluded.)

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1                   REPORTER CERTIFICATE  
23                   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 2nd day of August, 2023  
13                   at Rochester, New York.

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HOLLY E. CASTLEMAN, NYSACR,  
Notary Public.

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

August 2, 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 )  
KATHLEEN SCHMITT )  
ANDREA TOMPKINS-WRIGHT )  
JUDY SCHWARTZ )  
MATTHEW D'AUGUSTINE )

KEN GORDON, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

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

1                   **Application 8A-01-23**

2                   Application of James Fahy, architect, and  
3                   Tenley Odenbach, owner of property located at 5  
4                   Whitney Lane for Area Variances from Section 205-2 to  
5                   1) allow a garage addition to extend 4 feet into the  
6                   existing 20.7 feet front setback where a 60-foot front  
7                   setback is required by code and 9.1 feet into the  
8                   33-foot side setback required by code, and 2) allow  
9                   the enlarged garage to be 1,006 square feet in lieu of  
10                   the maximum 900 square foot allowed by code. All as  
11                   described on application and plans on file.

12                   Motion made by Ms. Schmitt to approve  
13                   application 8A-01-23 based on the following findings  
14                   of fact.

15                   **Findings of Fact:**

16                   1. The applicants wish to build a new bay onto the  
17                   existing attached two-car garage and a mudroom. This  
18                   will allow two vehicles to be parked inside as well as  
19                   provide practical storage for a modern family and  
20                   access to the mudroom.

21                   2. To accomplish this they are seeking multiple  
22                   variances. The first variance request is to allow an  
23                   attached garage addition to extend 4 feet into the  
24                   existing nonconforming front setback of 20.7 feet  
25                   where 60 feet is required by code and extend 9.1 feet

1 into the 33-foot side setback required by code. The  
2 second variance request is to allow the enlarged  
3 attached garage 1,006 square feet in size in lieu of  
4 the maximum 900 square feet allowed by code.

5 3. The property in question is on an angled-shaped  
6 lot in a cul-de-sac neighborhood. Because the  
7 property is on a cul-de-sac and it's positioned at an  
8 angle towards the street, the curve of the cul-de-sac  
9 approaches toward the garage.

10 4. Aware of the need to minimize the setbacks and the  
11 visual impact from the street, the applicants limited  
12 the size of the new bay and positioned it back from  
13 the front of the two-car bay.

14 5. Two other homes in this eight-home cul-de-sac have  
15 a three-car charge. So a granting of this variance  
16 would not produce an undesirable change in the  
17 character of the neighborhood or be a detriment to the  
18 nearby properties.

19 6. While at first glance the front setback appears  
20 substantial, this is because the setback is already  
21 nonconforming and because the property is on an  
22 unusually shaped lot and the curve of the cul-de-sac  
23 encroaches on the property.

24 7. The applicants have shown that the requested  
25 variances are the least required to fit the modern

1 storage and automobile needs of a family.

2 8. There's no evidence that there would be a negative  
3 impact on the health, safety and welfare of the  
4 neighborhood. Indeed, the neighbors surrounding the  
5 property provided letters in support of the project.

6 **Conditions:**

7 1. The variances apply only to the garage additions  
8 described in the application and testimony provided  
9 and will not apply to future projects.

10 2. All necessary Architectural Review Board and  
11 building permits shall be obtained.

12 (Second by Ms. Tompkins-Wright.)

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

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

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1                   **Application 8A-02-23**

2                   Application of James Fahy, architect, and  
3                   Tenley Odenbach, owner of property located at 5  
4                   Whitney Lane for Area Variances from Section 205-2 to  
5                   allow a new roof (covering an existing front stoop) to  
6                   extend 5 feet into the existing 59.6-foot front  
7                   setback where a 60-foot front setback is required by  
8                   code. All as described in application and plans on  
9                   file.

10                  Motion made by Ms. Tompkins-Wright to  
11                  approve application 8A-02-23 on the following findings  
12                  of fact.

13                  **Findings of Fact:**

14                  1. The variance requested will not produce an  
15                  undesirable change in the character of the  
16                  neighborhood or detrimentally affect the surrounding  
17                  properties and is not substantial. The extension into  
18                  the front yard setback will mirror the already  
19                  existing foundation for the front stoop. As such, the  
20                  variance will not appear to be any larger than what is  
21                  currently existing and will essentially be  
22                  imperceivable to neighbors.

23                  2. The applicant has shown that there is no  
24                  alternative through which to achieve their goal of  
25                  creating a covered entrance and is the minimum

1 necessary as the entrance to the home is already  
2 located in its current location and already extends  
3 physically into the front setback.

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

8 **Conditions:**

9 1. The variance granted herein applies only to the  
10 roof extension as presented in the plans submitted and  
11 in the testimony given.

12 2. All necessary building permits and approvals,  
13 including Architectural Review Board, must be  
14 obtained.

15 (Second by Ms. Schwartz.)

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

20 (Upon roll motion to approve with conditions  
21 carries.)

22 (Proceedings concluded at 7:21 p.m.)

23 \* \* \*

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1 | **REPORTER CERTIFICATE**

2

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

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

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12 Dated this 2nd day of August, 2023

13 at Rochester, New York.

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Holly E Castleman  
HOLLY E. CASTLEMAN, NYSACR,  
Notary Public.