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BRIGHTON
ZONING BOARD OF APPEALS
MEETING

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 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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REPORTER CERTIFICATE

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

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

Dated this 2nd day of August, 2023
at Rochester, New York.

Holly E Castleman

HOLLY E. CASTLEMAN, NYSACR,
Notary Public.

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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 * * *

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 2nd day of August, 2023
13 at Rochester, New York.

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21 ----- *Holly E. Castleman* -----

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