

BRIGHTON
ZONING BOARD OF APPEALS
MEETING

September 6, 2023
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ
Chairperson

EDWARD PREMOS) Board Members
HEATHER McKAY-DRURY)
ANDREA TOMPKINS-WRIGHT)
JUDY SCHWARTZ)
MATTHEW D'AUGUSTINE)

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

ABSENT:

KATHLEEN SCHMITT

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

1 CHAIRPERSON MIETZ: Welcome, everyone, to
2 the September meeting of the Brighton Zoning Board of
3 Appeals. So just for those of you who are not
4 familiar -- there's a few of you that are very
5 familiar -- that the way we run our meetings is we
6 only have three items tonight. So when your item's
7 called, you'll come up to the front and please give us
8 your name and address and then let us know why you
9 feel that we should approve your application. Give us
10 whatever background you want.

11 And once you've done that, the board members
12 may have questions. They visited the properties, have
13 a pretty good idea between the applications, but, you
14 know, if there's some clarification they need, they'll
15 ask.

16 And then when we finish that, if there's
17 anyone in the audience that wants to speak regarding
18 any of that, we'll allow them to come up, speak and
19 then we'll close the public hearing and move to the
20 next application.

21 Obviously, we'll take a couple minutes and
22 then deliberate. You're -- if you're willing, you can
23 remain and listen to the deliberations. We'll make,
24 hopefully, all of the decisions tonight. If for some
25 reason you decide to leave, you can call Mr. DiStefano

1 in the building office tomorrow and he can give you
2 the results of your application.

3 Okay. So on that happy note, Rick, was the
4 meeting properly advertised?

5 MR. DiSTEFANO: Yes, Mr. Chairman. It was
6 advised in the Daily Record of August 31st, 2023.

7 CHAIRPERSON MIETZ: Okay. Can you call the
8 roll?

9 (Whereupon the roll was called.)

10 MR. DiSTEFANO: Please let the record show
11 that Ms. Schmitt is not present.

12 CHAIRPERSON MIETZ: Okay. Rick, is there
13 any noteworthy information or any information?

14 MR. DiSTEFANO: No. Unless any members have
15 any questions regarding the applications that I can
16 help with.

17 CHAIRPERSON MIETZ: Okay. Let's get going.
18 We do have minutes. And I heard a rumor
19 that something happened that doesn't usually happen.

20 MS. SCHWARTZ: Yup. No corrections. It's
21 amazing. Very good.

22 CHAIRPERSON MIETZ: Congratulations.

23 MR. D'AUGUSTINE: Motion to approve.

24 MS. TOMPKINS-WRIGHT: Second.

25 CHAIRPERSON MIETZ: Motion to approve the

1 August minutes.

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

5 (Upon roll motion to approve minutes
6 carries.)

7 CHAIRPERSON MIETZ: All right. Thank you
8 for that. Now, you got to shoot for when we have like
9 60 or 80 pages. Then you get a double thank you. All
10 right.

11 So let's go when you're ready, Rick.

12 **Application 9A-01-23**

13 Application of Blake Miller, agent, and
14 Abigall Dan, owner of property located at 336
15 Warrington Drive, for an Area Variance from Section
16 207-2A to allow a front yard fence to be 6 feet in
17 height in lieu of the maximum 3.5 feet allowed by
18 code. All as described on application and plans on
19 file.

20 CHAIRPERSON MIETZ: Okay. Go ahead.

21 MR. OMWAKE: Good evening. I'm Joshua
22 Omwake. I'm with Blake Miller Lawn and Landscape.
23 I'm representing Abby Dan at the residence of 36
24 Warrington.

25 We are looking for --

1 CHAIRPERSON MIETZ: One second. Your
2 address, please. Your business address.

3 MR. OMWAKE: 2343 Penfield Road, Penfield,
4 New York.

5 CHAIRPERSON MIETZ: Can you just pull that
6 mic up?

7 MR. DiSTEFANO: It's not working. Just
8 speak up.

9 CHAIRPERSON MIETZ: Oh, I thought --

10 MR. OMWAKE: No problem. Sorry.

11 CHAIRPERSON MIETZ: Go right ahead. You're
12 good.

13 MR. OMWAKE: So we are just looking for a
14 variance there for the front or side yard, because
15 it's a corner lot, to be able to put in a 6-foot-high
16 fence down that -- what would be the east property
17 line over to the corner of the garage.

18 I've included a picture there. There's
19 already a super tall hedge that's 10 to 12 feet tall.
20 So the fence is going to be next to not visible at
21 all. And it's not impeding any sort of, you know,
22 view from the corner because, like I said, there's
23 already a hedge that's going to be on -- what would be
24 on the street side of that.

25 So like I said, there's no impact to the

1 stop sign there at the corner or anything like that.
2 Just a little bit more privacy for the homeowner.

3 MS. MCKAY-DRURY: You're able to construct
4 it leaving that in?

5 MR. OMWAKE: Yes, absolutely. It's going to
6 be -- like I said, it's going to be like the yard
7 side -- so not the street side -- and then back to the
8 corner of the house.

9 The wooden fence that's already there, it's
10 literally just replacing that. It's just -- the issue
11 we have, you know, with not taking it straight to the
12 corner of the house is all the playground equipment
13 and everything. That's another reason that the
14 homeowner would like to, you know, have the 6-foot
15 fence as well. It's just a little bit more privacy
16 for the kids and everybody in the backyard.

17 MS. SCHWARTZ: You said it's not going to
18 the corner of the house. So it's not going to be like
19 an L-shape and go --

20 MR. OMWAKE: So if you look at the plot
21 there --

22 MS. SCHWARTZ: Yeah.

23 MR. OMWAKE: -- it's -- you know, if it was
24 not a corner lot and it was a standard backyard lot --
25 it is going to the back corner of the garage there.

1 And then the -- so like I said, the picture kind of
2 shows exactly where the fence is going to go. It's
3 just going to replace the wooden fence.

4 MR. DiSTEFANO: How tall is that existing
5 wooden fence?

6 MR. OMWAKE: 3 and a half.

7 CHAIRPERSON MIETZ: What you -- what is the
8 thought process of the 3.5 to 6?

9 MR. OMWAKE: Just, again, a little more
10 privacy from the street so you can, you know, have a
11 backyard. And especially the playground area on the
12 site.

13 MR. GORDON: I'm confused by something you
14 said.

15 MR. OMWAKE: Sure.

16 MR. GORDON: So what I thought I heard you
17 say is that when you put this 6-foot fence behind
18 these 12-foot hedges, you're not going to be able to
19 see it from the street, which conversely would mean to
20 me that from the backyard with the 12-foot hedges
21 without the fence, you can't see the street.

22 So why do you need a 6-foot fence for
23 privacy at all? And follow-up to that, I think your
24 application says when the leaves come off the hedges,
25 that's when they need the privacy. So you will be

1 able to see the 6-foot fence from the street when the
2 leaves are off the hedges. Does that sound right?

3 MR. OMWAKE: Marginally. It's a pretty --

4 MR. GORDON: Marginally right or --

5 MR. OMWAKE: I mean, it's a rose of Sharon.
6 So it's pretty thick. So, yes. During the winter
7 months you will be able to see the fence.

8 MR. GORDON: Okay.

9 MS. DAN: Can I speak?

10 MR. OMWAKE: The homeowner would like to
11 speak.

12 CHAIRPERSON MIETZ: She can come up.

13 MR. GORDON: State your name and, of course,
14 your address.

15 MS. DAN: Yes. My name is Abby Dan and I
16 live at 336 Warrington Drive. This is my home that
17 we're speaking of.

18 And right now -- when I moved there like 17
19 years ago, I built just a small wooden fence, 3 and a
20 half feet. But now I'm getting older. I'm in very
21 poor health.

22 And we live in a wonderful neighborhood
23 where everyone's always walking and walking their
24 dogs. And it's a very lovely, friendly neighborhood.
25 But there's not much privacy for me. So I would like

1 to go back and enjoy my yard and have the privacy to
2 feel comfortable back there, you know, by myself is
3 really what's going on.

4 The fence is a very nice one. It's not like
5 just anything. It's very pleasing.

6 The only part that's going to be facing the
7 fence is that part from the back of my garage to the
8 hedges. The rest of it is going to be, you know, on
9 the back and in there. So that's the only one that
10 we're really seeking to face the street that way.

11 And I just really would appreciate it if you
12 would approve it. It would mean a lot to me.

13 MS. SCHWARTZ: Is the fence shown here the
14 one that you're going to be using?

15 MR. OMWAKE: Correct.

16 MS. SCHWARTZ: The color and --

17 MS. DAN: Yeah, the color's -- yeah. The
18 second one.

19 MR. OMWAKE: The sandstone.

20 MS. DAN: It's a sandstone. Not an almond.
21 It's lighter. But not white.

22 And I personally picked that one. I thought
23 that was very pretty.

24 Right now all you see -- it's like my
25 driveway runs parallel to that part. And it's like a

1 foot from the fence. So when you drive around the
2 street like from Warrington, all you see is my car
3 parked there. You don't even see the fence. You only
4 see the top of my car.

5 So it's not like there's anything but my car
6 there. But when the fence goes up, I'll be able to
7 have a little more privacy.

8 CHAIRPERSON MIETZ: Have you spoken to any
9 of the lovely neighbors there about what you're doing?

10 MS. DAN: Yeah. My next-door neighbor,
11 Jeremy -- I forgot their last name -- he came by the
12 other day and asked me, you know, does that mean the
13 front? Because it said something about, you know,
14 around the front of the house. So he was confused.

15 And I told him that it would be just
16 replacing the wooden fence. And he said that's
17 totally fine with him.

18 CHAIRPERSON MIETZ: That's the one to the
19 left of you?

20 MS. DAN: Yeah. If you're looking out to my
21 front, it's to the right on Warrington.

22 So anyway, I just wanted to say my peace.
23 If anyone wants to ask me questions, they can.

24 MR. GORDON: I do.

25 MS. DAN: Okay.

1 MR. GORDON: Ms. Dan, what's in your
2 backyard right now that is enclosed by the
3 3-and-a-half-foot fence?

4 MS. DAN: It's -- I have eight grandchildren
5 that live half a block from me.

6 MR. GORDON: Well, hopefully they're not
7 enclosed in that back fence.

8 MS. DAN: Yes, they are. That's where they
9 stay.

10 MR. GORDON: No, it is not.

11 MS. DAN: No. So what I have -- the reason
12 why I'm saying that is I have the playset back there.
13 And I have a trampoline and things like that for my
14 grandkids to come and visit me.

15 And since they both live a half a block
16 away, my son down one way and my daughter around down
17 Varinna, I want them to always feel welcome to come
18 over. And they range in age from 12 to 1.

19 MR. GORDON: What are you planning to put
20 back there once the fence is erected?

21 MS. DAN: Same what's there right now.

22 MR. GORDON: Anything new?

23 MS. DAN: Well, we -- we -- doing some
24 planting. It's really pretty back there. I did
25 plantings when I moved there. Very pretty relaxing

1 place back there.

2 MR. GORDON: Why the 8-foot-wide gate?

3 MS. DAN: So we can get any kind of lawn
4 mowers or anything else that needs to go through back
5 there if there's any kind of work that ever needs to
6 be done for any reason. I have the bigger, wider
7 fence. I mean, you can answer that --

8 MR. OMWAKE: Yeah. Exactly what she said.
9 So much easier. I mean, will it ever be used? We
10 don't know. But like if you ever do need to do
11 anything back there -- I'm a landscaper. It makes
12 everybody's life so much easier.

13 And like I said, the big thing is right now
14 there's already -- she's got -- it's incredible if
15 you're a little kid. You know, there's a trampoline.
16 I believe there's two and a half playground structures
17 back there.

18 Otherwise, we would be able to, you know,
19 kind of bring that fence right to the back corner of
20 the garage and this wouldn't be an issue. But like I
21 said, that's existing and it's already awesome.

22 MR. GORDON: Thank you.

23 CHAIRPERSON MIETZ: Any other questions?

24 MR. DiSTEFANO: I just have one. About how
25 far off the sidewalk do you plan this fence to be?

1 MR. OMWAKE: It's going to be -- per that
2 picture, it's going to go exactly where that --

3 MR. DiSTEFANO: And do you know about how
4 far that is off the sidewalk?

5 MR. OMWAKE: So there's 6 feet. The
6 sidewalk is probably 4. Plus the bushes are at least
7 another 5. Right around 20.

8 MS. DAN: Off the sidewalk.

9 MR. OMWAKE: Where the wooden fence is right
10 now. So where the vinyl fence is going to go.

11 MR. DiSTEFANO: Yeah. But it's not 20 feet
12 off the sidewalk.

13 MR. OMWAKE: Oh. Off the sidewalk. I'm
14 sorry. It thought it was the street.

15 MR. DiSTEFANO: Yeah. I just want off the
16 sidewalk.

17 MR. OMWAKE: The hedge is probably 6 to 7
18 feet. That hedge is at least this wide.

19 MR. DiSTEFANO: Did you get that? This
20 wide?

21 MR. GORDON: He's indicating approximately
22 an arm span of 4 feet.

23 MR. OMWAKE: If I'm 4 feet tall we got --
24 yeah. Wow.

25 MS. DAN: I was going to bring a picture

1 because from the street if you look at my house,
2 you'll see I deliberately planted things when I moved
3 here 17 years ago. They're really pretty and pleasing
4 to the neighborhood. Because it's a beautiful
5 neighborhood. It's nice everybody keeps --

6 MR. OMWAKE: They have pictures there.

7 MS. DAN: Oh, okay.

8 MR. OMWAKE: Of that particular side.

9 MS. DAN: Yeah. So it's not that that's
10 really going to change anything there, but as far as
11 being able to see the fence from the sidewalk.

12 CHAIRPERSON MIETZ: Okay. Any other
13 questions over here? Questions? No? Thanks.

14 Is there anyone in the audience who would
15 like to speak regarding this application? Okay.
16 There being none, the public hearing's closed.

17 **Application 9A-02-23**

18 Application of James Fahy, architect, and
19 Billy and Rachel Dolan, owners of property located at
20 3365 Elmwood Avenue, for an Area Variance from Section
21 205-2 to allow livable floor area of the home to
22 increase from 5,981 square feet to 6,467 square where
23 a maximum 6,066 square feet is allowed by code. All
24 as described in application and plans on file.

25 MR. FAHY: Good evening, everyone. Jim Fahy

1 for Fahy Design Associates, 2024 West Henrietta Road,
2 here representing Billy and Rachel Dolan at 3365
3 Elmwood Avenue in their request for a variance for a
4 maximum livable floor area at their home. That is a
5 result of some modest additions and renovations that
6 they're planning to the house.

7 I trust everyone has my letter of intent and
8 summary of the test questions, the illustrations,
9 photos to give you a pretty good understanding of what
10 they're proposing to do.

11 Shortly or in a nutshell, they're making a
12 modest addition to their sunroom of around 250 square
13 feet. Actually, just under that.

14 They're expanding their mudroom area
15 underneath an existing covered space storage area
16 within the footprint of the house now. Around 77
17 square feet for a mudroom, laundry room expansion.

18 And they're adding a fifth bedroom on the
19 second floor over the existing study.

20 So our request for that 400 square foot of
21 increase over the 6,066 allowed livable floor area,
22 about half of that is really only -- half that is
23 accounted for in actual additions to the footprint of
24 the house.

25 We're well underneath the allowable covered

1 lot area. We're under 10 percent of all roof-covered
2 areas, not only including the livable floor area
3 additions, but also the covered porches that are part
4 of this renovation. As the Board knows, 20 percent is
5 allowed. So we're well under half of that.

6 We're in a neighborhood that is -- many of
7 the homes are equal or greater in size and massing to
8 the home that we have and what we're proposing. So I
9 don't believe there's any substantial change in the
10 character with our additions, not only to the
11 neighboring properties but to the neighborhood as a
12 whole.

13 Hopefully from the illustrations you'll see
14 that we've tastefully done all the work. Everything
15 is -- I don't have to go before the Architectural
16 Review Board because everything is to the rear of the
17 property.

18 But the additions that we're proposing, I
19 believe, are tastefully done. They're in respect of
20 the neighboring properties. They fit well with the
21 neighboring properties. So I really think there's --
22 I can't think that it could have gone in any better
23 way than what we've done trying to propose what
24 they're looking for.

25 CHAIRPERSON MIETZ: Okay. Did you look at

1 any other alternatives to get any closer to the max
2 livable?

3 MR. FAHY: Really when you get down to it,
4 it's really hard. We're only 80 square feet or so
5 below the maximum. So our additions --

6 CHAIRPERSON MIETZ: Were going to go over.

7 MR. FAHY: With the additions, there's no
8 way. So have we looked at it? We've looked at it
9 painstakingly. And as I mentioned, only -- under
10 250 square feet is really additions to the structure.

11 The fifth bedroom is within the footprint.
12 The mudroom expansion is within the footprint. And
13 those were purposely designed to keep this as minimal
14 as possible.

15 CHAIRPERSON MIETZ: Okay. That's good.
16 That's good.

17 Okay. Questions?

18 MS. MCKAY-DRURY: Two questions for you.
19 One, it seems to me like your letter of intent is
20 saying we're submitting here with two variance
21 applications.

22 MR. FAHY: Yeah. That's a typo. And I also
23 misspelled the word "livable" three times on page 2.

24 CHAIRPERSON MIETZ: Must be the heat.

25 MR. FAHY: I caught myself on that. I don't

1 usually do that. So Judy, next month you can put that
2 in the minutes.

3 MS. SCHWARTZ: Okay.

4 MS. McKAY-DRURY: My second question with
5 respect to the mature growth trees are -- can you
6 confirm are those intended to be kept there then?

7 MR. FAHY: Yes. You can see from our
8 expansion we're really not expanding the house either
9 east or west. Everything's to the rear. So there's
10 not a tree that will be removed from the property.

11 MS. McKAY-DRURY: Okay. Thank you.

12 CHAIRPERSON MIETZ: Questions over here?

13 MS. TOMPKINS-WRIGHT: The application, you
14 know, when we look at staying with the character of
15 the neighborhood, you mentioned that it's in line with
16 the scale of neighboring homes. Did you look at the
17 livable square footage compared to the acreage of some
18 of the neighboring properties? Is this comparable?

19 MR. FAHY: I didn't look at that with this,
20 but I know from the experience of designing several
21 homes, not only in that area but in the Huston-Barnard
22 neighborhood, Ambassador, Sandringham and so forth,
23 we're well within that. So I didn't. I'd be glad to
24 provide information to that effect.

25 You know, I think this is -- really when you

1 look at this, why are they over it? It's -- they've
2 taken full advantage. They have a reasonably sized
3 footprint for a 1.35-acre parcel.

4 Again, we are under 10 percent for all
5 covered structures on here. So it's not as if we have
6 a massive structure. But they've -- the entire second
7 floor is covered with living space. And that's what
8 created this issue with that.

9 So it's not like we're creating something
10 that's out of scale and massive for the neighborhood.
11 They have just built across the entire second floor.
12 That's what's really driving this.

13 CHAIRPERSON MIETZ: Anything else over here?
14 Over here? Okay. Thanks, Jim.

15 MR. FAHY: Thank you.

16 CHAIRPERSON MIETZ: Okay. Anyone in the
17 audience that would like to speak regarding this
18 application? Mr. Goldman?

19 MR. GOLDMAN: I think I'll pass on this one.

20 CHAIRPERSON MIETZ: Okay. In that case then
21 the public hearing is closed.

22 Now you may arise, sir.

23 **Application 9A-03-23**

24 Application of Congregation Light of Israel,
25 owner of property located at 1675 Monroe Avenue, for

1 renewal of a Temporary and Revocable Use Permit
2 pursuant to Section 219-4 to erect a tent and hold up
3 to six (per year) outdoor special events for the years
4 2023 and 2024. All as described in application and
5 plans on file.

6 MR. GOLDMAN: Good evening, Mr. Chairman and
7 members of the Board. For the record, my name is
8 Jerry Goldman. I'm the attorney and agent and a
9 member of Congregation Light of Israel located at 1675
10 Monroe Avenue. With me tonight is Alan Brodsky, who
11 is the immediate past, present and current CFO. And
12 my identity when I attend synagogue is that I'm Alan's
13 cousin.

14 MR. BRODSKY: He's also not charging us for
15 this.

16 CHAIRPERSON MIETZ: And he behaves himself?

17 MR. BRODSKY: Yes.

18 CHAIRPERSON MIETZ: All right.

19 MR. GOLDMAN: We're here for probably the
20 sixth or seventh time on a renewal of the temporary
21 and revocable use permit for the premises.

22 The synagogue does have a need on occasion
23 to have events outdoors, in some cases because of the
24 size and some cases just because of circumstances
25 related to religious observance and the like.

1 So we have -- we started out initially
2 having the tents in the back of the synagogue adjacent
3 to the residential uses. We never had a complaint
4 from our residential neighbors. But when COVID came
5 there was a need for a larger space.

6 So the tent was moved to the front area for
7 the Jewish High Holidays, which, frankly, made a lot
8 of sense because there's no need for parking
9 facilities since they are not allowed to drive. So
10 there's no need for the parking facilities at that
11 time.

12 So we have had success over the course of
13 the last few years with the tent in the front. We
14 have great relations with our neighbors. Certainly,
15 our neighbor to our right as you face the synagogue is
16 pretty quiet. It's the old KeyBank branch, which is
17 sitting there inactive right now. And we've had a
18 long and friendly relationship with Bob Blain and his
19 real estate business next door.

20 As a matter of fact, he welcomes parking for
21 people who need to have parking who are less observant
22 when the parking lot is closed during the High
23 Holidays.

24 So we are here tonight, again, for the
25 renewal. We're -- when we talked about this a few

1 times ago, the concept was that we stay on a calendar
2 year basis so that everyone -- so we don't have the
3 irregular pattern of making these applications.

4 So a couple years ago we started doing it.
5 And if you notice, we're applying for 2023 and 2024.
6 We're almost done with 2023 right now. But there is a
7 series of events.

8 There's actually three events, which are
9 going to occur between the 23rd of September and
10 October 9th, which is just before the start of the
11 Jewish holidays -- or the Jewish holiday of Yom Kippur
12 and at the end of the Jewish holiday of Simchat Torah.

13 Simchat Torah holiday is a celebratory
14 holiday, one for which a tent has been used annually
15 because my cousin and his family sponsor or cosponsor
16 a congregational feast, if you will, after services at
17 noontime on that day.

18 So while we have had conditions which have
19 been normally continued from year to year, in this
20 particular circumstance we are looking for the ability
21 to have the tent up from just before Yom Kippur 'til
22 after the Simchat Torah holiday.

23 Arguably we could take the tent up and down.
24 And if we take the two days and two days for set up
25 and everything else, we're actually matching up the

1 number of days.

2 It's not anticipated that we're going to
3 have any other events during 2023; is that correct?

4 MR. BRODSKY: Yes. This will be the only
5 event we're going to have for this year.

6 MR. GOLDMAN: We anticipate that we likely
7 will go back to having shorter one-off events. But
8 there are times when logically it makes some sense,
9 especially the Jewish holidays the way they fall, to
10 perhaps have them run a little bit longer.

11 So we would request that if the Board is
12 inclined to approve the application that we take a
13 look at carry-over condition number 2 that each event
14 shall last no longer than two days and in the 2023
15 timeframe put in that we'd be allowed from September
16 21st to October 10th.

17 The other issue that we have deals with
18 sound amplification. Again, something to be
19 considered when we were in the backyard. Obviously,
20 it was more of a circumstance. But some of the ritual
21 Jewish music sometimes comes with some sound
22 amplification. We would request that we'd be allowed
23 to do that.

24 We have all events concluding by 11 o'clock.
25 Certainly, we're well fine with that. If there's a

1 desire to see anything related to sound amplification
2 end earlier, we could address that as well.

3 The other conditions are ones that we have
4 adhered to and ones that we intend to adhere to going
5 forward. And with that, since we're moving so fast, I
6 will stop my presentation. And we're prepared to
7 answer any questions that the Board may have.

8 CHAIRPERSON MIETZ: Okay. Couple things.
9 As far as the tent being up for the -- I guess it
10 would be close to three weeks basically. Yeah. So
11 what goes on? How many events would there be during
12 that three-week period?

13 MR. GOLDMAN: Likely there would be three
14 events. There's one that would occur on the Sabbath
15 after the Thursday.

16 CHAIRPERSON MIETZ: And how many days would
17 each of these --

18 MR. GOLDMAN: That would be a one-day event.

19 CHAIRPERSON MIETZ: So number one is one
20 day.

21 MR. GOLDMAN: Number one would be one day.

22 Similarly, the other events probably would
23 be one-day events as well.

24 CHAIRPERSON MIETZ: So you'll have three
25 one-day events over three weeks.

1 MR. BRODSKY: One of the reasons we're
2 requesting this is because --

3 CHAIRPERSON MIETZ: Mr. Brodsky, could you
4 just give us your name and address?

5 MR. BRODSKY: I'm sorry. Alan Brodsky,
6 B-R-O-D-S-K-Y, 45 Branchwood Lane, 14618.

7 One of the reasons we're requesting is
8 because it's also economically related. It costs
9 us -- the price of the tents have gone up
10 tremendously. So if we had three events, it's costing
11 us around \$6,000. And we're not getting any kind of
12 discount. We have to pay a small premium for the
13 extended period. But a big cost of the tent is the
14 setup and tear down of it. So this would help with
15 that.

16 We'd also -- we'd easily agree that for any
17 music, we would end it by 9 o'clock. Any event we
18 will end by 9 p.m. I have no issue with that at all.

19 You know, is it possible we might do
20 something else? That would be a very small -- for
21 example, if we wanted to have a break fast outside if
22 the weather was good for Yom Kippur, it would be a
23 very small gathering of people.

24 Our biggest event is the Simchat Torah,
25 which is the end of the holidays, which is a

1 celebratory holiday. We invite other synagogues to
2 join us. We invite our members to join us, friends to
3 join us in the celebration during that period.
4 Obviously, it is a religious holiday. So there is no
5 amplification, no music or anything like that.

6 MR. GOLDMAN: If I read my online bulletin
7 correctly today, we are welcoming our synagogue across
8 the street.

9 MR. BRODSKY: Yeah. Beth Hakneses
10 Hachodosh.

11 MR. GOLDMAN: From St. Regis and Monroe.

12 CHAIRPERSON MIETZ: Oh, okay. Another
13 thing. So if it's only going to be used that limited
14 amount of time in the three weeks, how will -- not
15 only will you control the use of it, but to also
16 control anyone else's attempted use of it?

17 MR. BRODSKY: Well, we can control our
18 people. I mean, they can't use it. It's very simple.

19 We have -- on the Sabbath we have security
20 at the synagogue. We have a member of the Rochester
21 Police Department coordinate -- he coordinates in his
22 off-hours and he coordinates some other people that
23 are former and they're licensed to be able to do it
24 for that.

25 We don't anticipate any problems. We can

1 even -- if it's required, we can close the front off
2 so that it's not really accessible.

3 CHAIRPERSON MIETZ: Okay. Well, you know,
4 obviously controlling that is an issue for that
5 long -- you know, one or two nights is different than
6 three weeks.

7 MR. GOLDMAN: Yeah. That's a good question.
8 Let me just expand on that a little bit.

9 During this period of time there's synagogue
10 services, which are well attended four days out of
11 those then in addition to the event days. So there
12 will be people there.

13 In addition during the days where there are
14 not, there are classes. They have a very robust, if
15 you will, teaching and education mode. So it's not
16 like --

17 CHAIRPERSON MIETZ: In the building?

18 MR. GOLDMAN: In the building. It's not
19 unsupervised.

20 CHAIRPERSON MIETZ: Okay.

21 MR. GOLDMAN: Most of the people walk. So
22 they're walking in and around.

23 MR. BRODSKY: They live in the neighborhood.

24 CHAIRPERSON MIETZ: Okay. Other questions?

25 MS. TOMPKINS-WRIGHT: More a question for

1 Rick or you, Dennis. Have we -- is there a history
2 anywhere else in the town where we've allowed a tent
3 to be up for 20 days along a public right-of-way like
4 this? Because it's right on Monroe Avenue. I just --
5 I can't -- I can't think of one that I've seen.

6 MR. DiSTEFANO: Well, during COVID we had
7 tents up for many days during that period of time at a
8 number of locations.

9 CHAIRPERSON MIETZ: Not prior to that.

10 MR. GORDON: And we certainly have had
11 extended T and Rs for things like MRI trailers.

12 MS. TOMPKINS-WRIGHT: Usually not in front
13 of the building.

14 CHAIRPERSON MIETZ: Correct.

15 MR. GORDON: This is true.

16 MR. DiSTEFANO: So during the non-holiday,
17 the tent's going to be in the parking lot. Where
18 would you be parking vehicles that would be coming to
19 the site?

20 MR. BRODSKY: Well, during the biggest days,
21 which is the Sabbath, according to our religion you
22 cannot drive like from Friday night to Saturday night.
23 And those are by far the most --

24 MR. DiSTEFANO: Right. But like the classes
25 that would be going on during the non-holiday times --

1 MR. BRODSKY: Well, usually --

2 MR. DiSTEFANO: -- when the tent would be
3 used.

4 MR. BRODSKY: Usually we have permission
5 from Bob Blain who has the real estate office next to
6 ours to park there.

7 MR. DiSTEFANO: Which doesn't have a lot of
8 parking to begin with.

9 MR. BRODSKY: You know, also we'll park on
10 St. Regis.

11 MR. DiSTEFANO: Have you had any
12 conversations with whoever owns now that building that
13 KeyBank was in?

14 MR. BRODSKY: No.

15 MR. GORDON: That could possibly be an
16 overflow parking area.

17 MR. BRODSKY: Usually when we have the
18 people there, I'd say for people taking classes, 15 or
19 16 people. And most of the people live in the area.

20 Now obviously, if it's inclement weather,
21 they wouldn't. But most of them --

22 MR. DiSTEFANO: So a number of people walk
23 there.

24 MR. BRODSKY: Yeah. Yeah.

25 MR. DiSTEFANO: Can you just give me a

1 guesstimate on a typical class time how many cars you
2 would have on the site?

3 MR. BRODSKY: Usually six. Six to eight
4 would be max.

5 MR. DiSTEFANO: Okay.

6 MR. GOLDMAN: You see cars parked there on
7 Friday night over to Saturday night. That's merely
8 for convenience of the people. If they have the
9 ability to park there, they will. If they don't have
10 the ability to park there, they're going to walk.

11 MR. BRODSKY: They will park there Friday
12 before the Sabbath. They'll keep the car there. And
13 then when the Sabbath is over, they will drive home.

14 CHAIRPERSON MIETZ: Would it be fair to say
15 if we were to approve it this way that you could make
16 attempts to deter the parking situation during that
17 three-week period?

18 MR. BRODSKY: Definitely. Definitely. We
19 will.

20 CHAIRPERSON MIETZ: Because I think -- you
21 know, Rick's concern, I understand why it is. But,
22 you know, obviously there's nothing illegal about
23 parking on St. Regis. But, you know, to encourage
24 people crossing Monroe Avenue and all that stuff to
25 avoid parking in the parking lot, probably not a great

1 idea.

2 MR. BRODSKY: Yeah. We usually -- when the
3 people park on St. Regis it's not crossing Monroe
4 Avenue. It's on the side, you know, behind M&T in
5 that area.

6 CHAIRPERSON MIETZ: On the south side.

7 MR. DiSTEFANO: But it's still extending
8 into the residential area; correct?

9 MR. BRODSKY: Yes. Yeah. And we'll
10 certainly urge our people to do that.

11 And like I say, we certainly would respect,
12 you know -- any complaints we got we would immediately
13 address it and do whatever we had to do to alleviate
14 that issue because our -- one of our goals is to be
15 good neighbors.

16 CHAIRPERSON MIETZ: Yes.

17 MS. TOMPKINS-WRIGHT: With the exception of
18 amplified music, which obviously there's preference
19 for that to be on Monroe Avenue and not behind the
20 synagogue, is there a reason you couldn't put -- if
21 we're going to allow the extended period of time, it
22 couldn't be -- is it too large now?

23 MR. BRODSKY: I think the potential of music
24 would be one event.

25 MS. TOMPKINS-WRIGHT: Okay.

1 MR. BRODSKY: And it would just be for no
2 longer than two hours.

3 MS. TOMPKINS-WRIGHT: But would there be an
4 issue with your ability to fit behind -- if you want
5 19 or 20 straight days of this tent, could you put it
6 behind the synagogue instead of it in front along --

7 MR. BRODSKY: Put what?

8 MS. TOMPKINS-WRIGHT: The tent.

9 MR. BRODSKY: I think the issue we had with
10 that is when we had it behind during the Simchat Torah
11 celebration, it wasn't big enough. And then when we
12 had -- the space wasn't big enough.

13 CHAIRPERSON MIETZ: The size.

14 MR. BRODSKY: Then when COVID hit, we had it
15 up for maybe four weeks, the tent. And that sort of
16 illuminated us to the fact that we're now able to
17 accommodate everyone to go -- you know, for the
18 celebration.

19 CHAIRPERSON MIETZ: So there's just
20 physically not enough space.

21 MS. TOMPKINS-WRIGHT: Okay.

22 CHAIRPERSON MIETZ: Okay.

23 MR. PREMO: Just so -- I just had something
24 about --

25 CHAIRPERSON MIETZ: Go ahead.

1 MR. PREMO: -- amplification. You just want
2 that removed?

3 MR. BRODSKY: We'd like to be able to do it
4 once for no longer than two hours and starting at 7
5 and ending before 9.

6 MR. PREMO: Every day?

7 MR. BRODSKY: No once. One day. For one
8 event.

9 CHAIRPERSON MIETZ: There's three events.

10 MR. PREMO: Would we be able to put a date
11 on that?

12 MR. BRODSKY: I can't -- I don't have it
13 now. And it's not a hundred percent sure.

14 MR. DiSTEFANO: Yeah. I think we could
15 craft it that --

16 CHAIRPERSON MIETZ: We can discuss it.

17 MR. DiSTEFANO: We don't have to be so
18 specific with it.

19 CHAIRPERSON MIETZ: Okay.

20 MR. DiSTEFANO: I'd hate to tie you guys
21 down to, you know, that one day and --

22 MR. PREMO: I also --

23 MR. DiSTEFANO: I think the timing is the
24 important thing. You know, if they're willing to cut
25 it off by 9, that's not against our noise ordinance.

1 MR. PREMO: That's a good point.

2 CHAIRPERSON MIETZ: Okay. Good. Yes.

3 Someone else had a question over here?

4 MR. GORDON: I have few.

5 CHAIRPERSON MIETZ: All right.

6 MR. GORDON: I might have missed it. I
7 think I probably did. So could you specify for me the
8 days and times of your three events under the tent?

9 MR. BRODSKY: The one event is someone is
10 going to have a bar mitzvah celebration. I don't have
11 the exact dates. It's on a Thursday. It's going to
12 be on a Thursday night. I'm not sure what the date
13 is.

14 One of them is we're trying to craft a day
15 during the intermediate days of the holiday of Sukkot.
16 Once again, we haven't crafted that.

17 The other one would be for Simchat Torah.
18 Do you have the --

19 MR. GOLDMAN: I'm looking at the calendar
20 right now.

21 MR. GORDON: Simchat Torah is the 7th and
22 8th.

23 MR. BRODSKY: It's going to be Sunday the
24 8th. That will be the 8th. And once again, that's
25 just lunch we have there. So we are done there by --

1 well before 3 o'clock because, with the number of
2 people that come, we run out of food.

3 MR. GORDON: Which event is the
4 amplification for?

5 MR. BRODSKY: That would be for the bar
6 mitzvah that they may have. And it may not come to
7 pass. The person hasn't --

8 MR. GORDON: And why is the bar mitzvah is
9 not taking place inside the building?

10 MR. BRODSKY: It is. This would be just for
11 the food and that stuff after. It would -- I would be
12 willing to --

13 MR. GORDON: Many of us have been to bar
14 mitzvahs and bat mitzvahs and they can be quite noisy.

15 MR. BRODSKY: We would limit it to -- we
16 would guarantee that there'd be no more than 70
17 people.

18 MR. GORDON: That doesn't matter. I'm
19 talking about the amplification of music.

20 And I will tell you -- I may be the only one
21 at this table with this opinion -- I think it would
22 violate the noise ordinance of the Town to be playing
23 music that could be heard across Monroe Avenue. I
24 think that is -- would be considered unreasonable and
25 excessive music coming from your property.

1 CHAIRPERSON MIETZ: It's also a school
2 night. A Thursday night is a --

3 MR. GORDON: You know, I don't know. I
4 don't know that this Board has the authority to give
5 you permission to violate the Town's noise ordinance.
6 I don't think it does. Let's put it that way.

7 MR. GOLDMAN: Okay. And I guess we can
8 agree with a condition that says that we will consult
9 and make sure that we are within the noise ordinance,
10 if it's a decibel count or something like that.

11 MR. GORDON: We don't have decibel count in
12 our noise ordinance. It's a matter of --

13 MR. GOLDMAN: Distance.

14 MR. GORDON: It's a matter of noise being
15 heard off the property.

16 Now, that's our standard for residential
17 parties. But this is like a residential party. So
18 the standard for businesses is any unreasonable or
19 excessive noise.

20 If you can hear that noise across the street
21 or if you can hear it in the neighborhoods behind,
22 that's going to be a problem. And if you're talking
23 about a bar mitzvah for 70 people and music playing
24 loud enough, I just don't know that it's going to work
25 frankly and be within the noise ordinance.

1 So I want to articulate that concern for you
2 and for the public.

3 MR. GOLDMAN: And we fully understand that.

4 MR. GORDON: Judy's looking at me like I'm
5 nuts, but that's okay.

6 MS. SCHWARTZ: I can hear fireworks from
7 CCR. Okay? I mean, seriously. So to me, I don't --
8 and they go on much longer I think than this might.

9 CHAIRPERSON MIETZ: All right. Well, let's
10 do this in the deliberation. Let's not debate it now.

11 Do we have other questions for these fine
12 gentlemen?

13 MR. GORDON: I do, yes. So --

14 MR. GOLDMAN: Can I just bring some closure
15 to that to the extent of saying that we're willing to
16 agree to a condition that we will comply with the
17 noise ordinance.

18 MR. GORDON: I get that and I think that
19 might work.

20 MR. GOLDMAN: Thank you.

21 MR. GORDON: The --

22 MR. BRODSKY: And there might not be music.
23 I mean, we're making this point, but the person who's
24 thinking about having it is not decided yet what
25 they're going to do.

1 CHAIRPERSON MIETZ: I understand. That's a
2 private person that's having a party.

3 MR. GORDON: The two-day condition, frankly,
4 is put in as, yes, a matter of limitation and
5 restriction but also as a matter of convenience for
6 you to say, well, we're not going to say you got to
7 put it up the day before and take it down the day
8 after because, you know, that's -- you know, it's
9 reasonable to give you a couple days before and a
10 couple days after.

11 But here you're asking for something more of
12 the Board. You're saying, can we leave it up for this
13 entire period of time? And I think the Board would
14 prefer to have it up for as little length of time as
15 possible.

16 Would it be a reasonable condition to say
17 you can have it up -- instead of saying from the 21st
18 through the 10th, maybe the 22nd through the 9th?

19 MR. BRODSKY: What day of the week is the
20 22nd?

21 MR. GORDON: I believe -- oh, no. So
22 that's -- so you'd have to have it up before evening.

23 MR. BRODSKY: Yeah. The concern that we
24 have with doing it on Friday is if there's any issues
25 that come up --

1 MR. GORDON: I get that.

2 MR. BRODSKY: More --

3 MR. GORDON: No. I get it. You got to be
4 done by sundown. All right. So the 21st.

5 But certainly, you should be able to have it
6 down the day after.

7 MR. BRODSKY: Monday?

8 MR. GOLDMAN: The 9th.

9 MR. GORDON: The 9th is Monday.

10 MR. BRODSKY: Well, I just articulated --
11 whatever I said is what we requested.

12 MR. GORDON: You requested the 10th.

13 MR. BRODSKY: I have no issue if it's the
14 9th.

15 MR. GORDON: I'm just trying --

16 MR. PREMO: I'm just trying to understand.
17 So there's going to be three events in that period. I
18 mean, our prior resolution said the tent shall be
19 erected no more than two days prior to each event. It
20 must be taken down no more than two days after each
21 event.

22 So if you have an event, you could in theory
23 have a tent up for five days.

24 MR. GOLDMAN: Six. Because paragraph 2 says
25 the event can be two days.

1 MR. PREMO: Oh, right. Six. Three times
2 six is eighteen. And we're talking about 19.

3 MR. BRODSKY: We'll take it down on that
4 Monday. I have no issue with that.

5 CHAIRPERSON MIETZ: Let's discuss it.

6 MR. DiSTEFANO: I did just have one question
7 and you mentioned it, Alan. The tent itself, it's a
8 sided tent I take it?

9 MR. BRODSKY: Yes.

10 MR. DiSTEFANO: And the sides are down all
11 the time? Up all the time?

12 MR. BRODSKY: No. The sides are there --
13 the sides are there, but they are removable.

14 MR. DiSTEFANO: So how do you -- so during
15 this three-week period, I think --

16 MR. BRODSKY: During the three-week period
17 the sides will be up all the time.

18 MR. DiSTEFANO: So --

19 MR. GOLDMAN: When you say down, you mean
20 down from -- to the ground.

21 MR. DiSTEFANO: I say screening the tent.

22 CHAIRPERSON MIETZ: Will they be closed?

23 MR. DiSTEFANO: Yeah. Will it be closed?

24 MR. BRODSKY: Yup. We close it except
25 for --

1 CHAIRPERSON MIETZ: You have no problem with
2 that restriction?

3 MR. BRODSKY: If the weather is nice, we'd
4 like to leave it open.

5 MR. DiSTEFANO: Well, I kind of take the
6 opposite approach to that.

7 CHAIRPERSON MIETZ: Let's --
8 (Simultaneous conversation interrupted by the court
9 reporter.)

10 MR. DiSTEFANO: I think it has less of an
11 impact if the sides are up than if the sides are down
12 because you can see through that tent. You can see
13 the building.

14 MR. BRODSKY: We'll do whatever you want for
15 that.

16 MR. DiSTEFANO: I'm just asking how you guys
17 work it, that's all.

18 MR. BRODSKY: Typically we keep it down. If
19 you want it up, we'll do up. Like I said, we're --

20 CHAIRPERSON MIETZ: We can discuss it.

21 MR. DiSTEFANO: Okay. That's all I -- I
22 just wanted that information. Thank you.

23 MR. GORDON: One last question. Promise
24 it's just one. During Sukkot do you have services at
25 temple?

1 MR. BRODSKY: Yes.

2 MR. GORDON: Do people drive to those
3 services?

4 MR. BRODSKY: No. Well, I shouldn't say
5 that. During the first days through the last days
6 they cannot drive. During the intermediate days, they
7 can.

8 MR. GORDON: Do you have services during
9 those intermediate days?

10 MR. BRODSKY: Yes. The intermediate days,
11 the general attendance is 14 or 15 people.

12 MR. GORDON: In addition to the classes?

13 MR. BRODSKY: No classes. Well, there might
14 be a class, but there's not classes regularly
15 scheduled for Sukkot.

16 CHAIRPERSON MIETZ: All right, gentlemen. I
17 think we're good.

18 Is there anyone in the audience who would
19 like to speak regarding this application? Okay.
20 There being none, the public hearing's closed.

21 (Public hearings concluded at 7:48 p.m.)

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 6th day of September, 2023
13 at Rochester, New York.

14
15
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19
20
21 *Holly E. Castleman*

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

BRIGHTON
ZONING BOARD OF APPEALS
MEETING
DECISIONS

September 6, 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)	
ANDREA TOMPKINS-WRIGHT)	
JUDY SCHWARTZ)	
MATTHEW D'AUGUSTINE)	

KEN GORDON, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

ABSENT:

KATHLEEN SCHMITT

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

1 **Application 9A-01-23**

2 Application of Blake Miller, agent, and
3 Abigall Dan, owner of property located at 336
4 Warrington Drive, for an Area Variance from Section
5 207-2A to allow a front yard fence to be 6 feet in
6 height in lieu of the maximum 3.5 feet allowed by
7 code. All as described on application and plans on
8 file.

9 Motion made by Mr. D'Augustine to approve
10 application 9A-01-23 based on the following findings
11 of fact.

12 **Findings of Fact:**

- 13 1. The requested variance will not produce an
14 undesirable change in the character of the
15 neighborhood given that the placement of the fence
16 will be behind a large shrub.
- 17 2. The harm is not self-created given that the house
18 sits on a corner lot.
- 19 3. The requested variance will not have an adverse
20 effect on the neighborhood given that several homes in
21 the neighborhood have 6-foot-tall fences.
- 22 4. The requested variance is the minimum necessary
23 given that a 6-foot fence would provide the requisite
24 privacy needed from Rhinecliff Drive.

25 **Conditions:**

1 1. The applicant will maintain the current shrubbery
2 in order to minimize the visual impact of the fence.

3 2. The variance applies only to the fence as
4 described in the application submitted and the
5 testimony given.

6 3. The applicant will acquire all necessary permits.

7 (Second by Mr. Premo.)

8 CHAIRPERSON MIETZ: Okay. Discussion about
9 the -- you have a comment, Mr. DiStefano?

10 MR. DiSTEFANO: Well, the first application
11 is -- it might be impossible to maintain this.

12 MR. D'AUGUSTINE: So then would I rephrase
13 maintain that or --

14 MR. DiSTEFANO: Maintain a vegetative
15 screen.

16 MR. D'AUGUSTINE: Okay. That's fine. The
17 applicant will -- or shall maintain a vegetation
18 and --

19 MR. DiSTEFANO: And opaque.

20 MR. D'AUGUSTINE: I'm sorry. What?

21 MR. DiSTEFANO: Opaque.

22 MR. GORDON: Can we take a time out on the
23 record here?

24 (There was a discussion off the record.)

25 **Conditions as Amended:**

1 1. The applicant shall maintain a vegetative barrier
2 that adequately screens the fence from the street.

3 2. The variance applies only to the fence as
4 described in the application submitted and the
5 testimony given.

6 3. The applicant will acquire all necessary permits.

7 MR. PREMO: The second accepts the change.

8 CHAIRPERSON MIETZ: Please proceed,
9 Mr. DiStefano.

10 (Ms. Schwartz, yes; Ms. Tompkins-Wright, no;
11 Mr. Mietz, yes; Ms. McKay-Drury, yes;
12 Mr. Premo, yes; Mr. D'Augustine, yes.)
13 (Upon roll motion to approve with amended
14 conditions carries.)
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1 **Application 9A-02-23**

2 Application of James Fahy, architect, and
3 Billy and Rachel Dolan, owners of property located at
4 3365 Elmwood Avenue, for an Area Variance from Section
5 205-2 to allow livable floor area of the home to
6 increase from 5,981 square feet to 6,467 square where
7 a maximum 6,066 square feet is allowed by code. All
8 as described in application and plans on file.

9 Motion made by Ms. McKay-Drury to approve
10 application number 9A-02-23 based on the following
11 findings of fact.

12 **Findings of Fact:**

- 13 1. The requested variance will not produce an
14 undesirable change in the character of the
15 neighborhood because the proposed additions largely
16 fall within the existing footprint of the home and
17 will be visible only from the rear and side yards
18 where mature growth trees shall remain and homes in
19 the surrounding area are of equal or greater size to
20 that which is proposed in this application.
- 21 2. The benefit sought cannot be obtained by any other
22 method feasible for the applicant to pursue because
23 the code would allow them to increase the livable
24 square footage by only 85 square feet, which would not
25 be suitable for their desired guest bedroom, mudroom

1 and sunroom additions.

2 3. The requested variance is not substantial because
3 it allows for only 401 square feet over the maximum
4 allowed, only 300 square feet of which adds to the
5 existing building footprint.

6 4. The requested variance is the minimum necessary to
7 achieve the homeowner's purposes.

8 5. The proposed variance will not have an adverse
9 effect on the physical or environmental conditions in
10 the neighborhood given the 1.345-acre site on which
11 the home is located and the fact that the total
12 covered structure is still under 10 percent.

13 **Conditions:**

14 1. The variance is limited to the application and
15 plans on file and testimony provided.

16 2. All necessary building permits shall be obtained.

17 (Second by Ms. Schwartz.)

18 (Mr. Premo, yes; Ms. Tompkins-Wright, yes;

19 Mr. Mietz, yes; Mr. D'Augustine, yes;

20 Ms. Schwartz, yes; Ms. McKay-Drury, yes.)

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

1 **Application 9A-03-23**

2 Application of Congregation Light of Israel,
3 owner of property located at 1675 Monroe Avenue, for
4 renewal of a Temporary and Revocable Use Permit
5 pursuant to Section 219-4 to erect a tent and hold up
6 to six (per year) outdoor special events for the years
7 2023 and 2024. All as described in application and
8 plans on file.

9 Motion made by Mr. Mietz to approve
10 application 9A-03-23 based on the following findings
11 of fact.

12 **Findings of Fact:**

- 13 1. The events held by this applicant are often
14 organized on shorter notice and thus would not be
15 practical to acquire ZBA approval for each separate
16 event.
- 17 2. The property was used in a similar fashion for
18 similar events over the course of the last several
19 years without any noted disturbances or complaints of
20 neighboring properties.
- 21 3. Proposed events will occur primarily during the
22 day with no sound amplification or exterior lighting.
- 23 4. There is a vegetative barrier that screens the
24 property from the neighbors to the south; therefore,
25 the granting of this request does not result in a

1 change in the character of the neighborhood or pose a
2 detriment to any nearby properties.

3 **Conditions:**

4 1. This temporary and revocable use permit is valid
5 as follows: For 2023, three events shall be allowed
6 during the period of September 21st to October 9th.
7 And in 2024 no more than six events shall be allowed
8 during 2024.

9 2. The ones in 2024 the tent may be erected no more
10 than two days prior to each event and must be taken
11 down no later than two days after each event.

12 3. Any food preparation must be done inside the
13 primary building or offsite.

14 4. All litter shall immediately be picked up from the
15 site following each event.

16 5. There shall be no sound amplification.

17 6. Any lighting shall be limited to inside the tent.

18 7. All events shall conclude by 11 p.m.

19 8. All necessary tent permits and other approvals
20 required by the Fire Marshal's office be obtained
21 prior to each event.

22 (Second by Mr. D'Augustine.)

23 MS. McKAY-DRURY: I want to bring up the
24 fact that we didn't talk about exterior lighting.

25 CHAIRPERSON MIETZ: Yes, we did.

1 MS. TOMPKINS-WRIGHT: They said that they
2 didn't --

3 MS. MCKAY-DRURY: Maybe I can be reminded of
4 what we discussed.

5 MS. TOMPKINS-WRIGHT: They said they were --
6 they went through all of the conditions from last time
7 and they said that was one of the things they were
8 going to do again.

9 CHAIRPERSON MIETZ: And I just restated what
10 we had last time.

11 MS. MCKAY-DRURY: And then we ended up
12 saying October 9th. Is that what we want?

13 CHAIRPERSON MIETZ: Yes.

14 MS. MCKAY-DRURY: Not the 10th?

15 CHAIRPERSON MIETZ: They said they could
16 take it down Monday.

17 MS. TOMPKINS-WRIGHT: That's the minimum
18 variance.

19 MR. DiSTEFANO: I might not go out and look
20 until Thursday of that week.

21 CHAIRPERSON MIETZ: Rick will be sleeping.
22 Isn't that Indigenous People Day anyway?

23 MR. DiSTEFANO: Yeah. I won't be working
24 that day. I'll be off that day. So I definitely
25 won't be looking on the 9th.

1 MR. GORDON: So bright and early on the
2 10th.

3 MR. DiSTEFANO: Okay. Motion is to approve
4 with conditions.

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

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

10 (Proceedings concluded at 8:21 p.m.)

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1 REPORTER CERTIFICATE

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

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

11
12 Dated this 6th day of September, 2023
13 at Rochester, New York.

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21 ----- *Holly E. Castleman* -----
22 HOLLY E. CASTLEMAN, ACR,
23 Notary Public.
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