

A G E N D A
BOARD OF APPEALS - TOWN OF BRIGHTON
MAY 1, 2024

Written comments may be submitted to Rick DiStefano, Secretary, Brighton Town Hall, 2300 Elmwood Avenue, Rochester, NY 14618 via standard mail and/or via e-mail to rick.distefano@townofbrighton.org.

Applications subject to public hearings and the documents to be considered by the Board will be available for review on the town's website no later than twenty-four hours prior to the meeting to the extent practicable.

7:00 P.M.

CHAIRPERSON: Call the meeting to order.

SECRETARY: Call the roll.

CHAIRPERSON: Agenda Review with Staff and Members

CHAIRPERSON: Approve the minutes of the March 6, 2024 meeting.
Approve the minutes of the April 3, 2024 meeting. **To be done at the June 5, 2024 meeting.**

CHAIRPERSON: Announce that the public hearings as advertised for the **BOARD OF APPEALS** in the Daily Record of April 25, 2024 will now be held.

[4A-02-24](#) Application of Huseyin Sula, lessee, and Mark Teng, owner of property located at 2341 Monroe Avenue, for an Area Variance from Section 203-64B(3)(i) to allow a cafe/restaurant to be 10 ft, from a residential lot line in lieu of the minimum 50 ft. required by code. All as described on application and plans on file.

[5A-01-24](#) Application of Kyle Woods, owner of property located at 171 Dale Road, for an Area Variance from Section 207-11A to allow a hot tub to be located in a side yard in lieu of the rear yard as required by code. All as described in application and plans on file.

[5A-02-24](#) Application of Paul Moribito, architect, and Joanne Kirkpatrick, owner of property located at 52 Northumberland Road, for an Area Variance from Section 203-2.1B(3) and 203-9A(4) to allow for the reconstruction of a detached garage 3.5 ft. from a side lot line in lieu of the minimum 5 ft. required by code. All as described on application and plans on file.

[5A-03-24](#) Application of Reza Hourmanesh, agent, and Guiyan Li, owner of property located at 2720 West Henrietta Road, requesting an extension to approved variance 5A-01-23 (parking) and approved variance 5A-02-23 (impervious coverage) pursuant to Section 219-5F. All as described on application and plans on file.

[5A-04-24](#) Application of Silas Patel, owner of property located at 2323 Monroe Avenue for an Area Variance from Section 205-12 to allow for a hotel to operate with less parking spaces, 18, then the 24 required by code, all for the purpose of providing shared parking with a neighboring property. All as described on application and plans on file.

5A-05-24 Application of Huseyin Sula, lessee, and Mark Teng, owner of property located at 2341 Monroe Avenue, for an Area Variance from Section 205-12 to allow a cafe/restaurant to operate with 4 parking spaces in lieu of the minimum 12 spaces required by code. All as described in application and plans on file.

5A-06-24 Application of Oxygen Yoga and Fitness Brighton Commons, lessee, and Brighton Commons Partnership LP, owner of property located at 1835 Monroe Avenue, for an Area Variance from Section 205-12 to allow for modification of a parking variance (2A-05-20) allowing for 133 on-site parking spaces in lieu of the 181 spaces required by code (existing variance allows for relief from 170 required parking spaces) allowing for the establishment of a yoga studio. All as described on application and plans on file.

5A-07-24 Application of Mike Volpe, agent, and Andy Curwin, owner of property located at 1 Pelham Road, for 1) an Area Variance from Section 207-16A(4) to allow a second driveway access point where only one is allowed by code; and 2) an Area Variance from Section 207-10E(2) to allow front yard pavement (Pelham Road frontage) to be 41% of the front yard area in lieu of the maximum 30% allowed by code. All as described on application and plans submitted.

5A-08-24 Application of Mike Volpe, owner of property located at 66 Woodgate Terrace, for an Area Variance from Section 205-2 to allow a garage addition to extend 1 +/- ft. into the 13.8 ft. side setback required by code. All as described on application and plans submitted.

5A-09-24 Application of Alicia Cologgi, agent, and 1925 South Clinton LLC, owners of property located at 1925 South Clinton Avenue, for 1) a Sign Variance from Section 207-32B to allow for business identification signage (Aldi) on two building faces in lieu of only one building face as allowed by code; 2) a Sign Variance from Section 207-26D to allow the signs to have a logo area of 38% of the sign face in lieu of the maximum 25% allowed by code; and 3) a Sign Variance from Section 207-32B(3) to allow the signs to project 29 ft. in height above grade in lieu of the maximum 20 ft. allowed by code. All as described on application and plans on file.

CHAIRPERSON: Announce that public hearings are closed.

NEW BUSINESS:

NONE

OLD BUSINESS:

1A-08-24 Application of Jon Tantillo, agent, and Salafia Nunzio, owner of property located at 125 Old Mill Road, appealing the Historic Preservation Commission's landmark designation of said property, pursuant to Section 224-3F of the code. All as described on application and plans on file. **The Appeal is granted in part and denied in part, and the designation of the Property as a "Landmark" is modified to designate only the landscape architecture on the Property designed by Fletcher Steele as a "Landmark" (AT THE MARCH 6, 2024 MEETING). FINDINGS TO BE REVIEWED AND APPROVED**

PRESENTATIONS:

NONE

COMMUNICATIONS:

NONE

PETITIONS:

NONE

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

See attached

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Brighton Zoning Board of Appeals

May 1, 2024

Name of Lead Agency

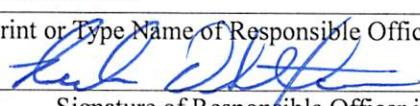
Date

Rick DiStefano

Secretary

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer



Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: 5A-04-24

Date: May 1, 2024

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Brighton Zoning Board of Appeals, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: 2323 Monroe Avenue Parking variance

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Application of Silas Patel, owner of property located at 2323 Monroe Avenue for an Area Variance from Section 205-12 to allow for a hotel to operate with less parking spaces, 18, than the 24 required by code, all for the purpose of providing shared parking with a neighboring property. All as described on application and plans on file.

Location: 2323 Monroe Avenue (Tax ID #137.14-3-21), Brighton N.Y., Monroe County

Reasons Supporting This Determination:

Based on information submitted to the lead agency and after considering the action contemplated and reviewing the Environmental Assessment Form prepared by the applicant, the Criteria for determining significance in the SEQR regulations and other supplemental information, documentation, testimony and correspondence, the Town Zoning Board Appeals finds that the proposed action will not have a significant impact on the environment based on the following findings:

1. The proposed action will have, no alteration of the earth surrounding, and there will no impact on any of water quality, watercourse flood-carrying capacities. The proposed action will not create any significant adverse impact in the existing air quality or water quality, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems.
2. The proposed action will not impact the neighborhood character of the surrounding area nor will it create any adverse noise or visual impacts. There are no additions or increase in building density proposed as part of this Project.

The proposed action will not be detrimental to the health, safety or general welfare of persons residing or working in the area of the proposed use or will not be detrimental or injurious to the property and improvements in the area or to the general welfare of the Town.

3. The proposed action will not adversely impact agricultural, archeological, historical, natural, or cultural resources. There are no known archaeological resources within project site.
4. The proposed action will not have a significant adverse impact on plant or animal life. The property does not host any threatened or endangered species, and therefore the proposed action will have no impact on any threatened or endangered species. There are no State or Federal wetlands on the property, and the project is not within any designated floodway or floodplain. Therefore, the proposed action will have no significant adverse impact on any wetlands or floodplains.
5. The Town's Comprehensive Plan does not specifically address the property. The proposed action will have no adverse impacts on the natural resources found on the site.
6. The Project will not result in any significant adverse traffic impacts.
7. The proposed action will not have a significant adverse impact on public health or safety. The proposed action is subject to all applicable Federal, State, and Local laws, regulations, and code requirements including all requirements.

For Further Information:

Contact Rick DiStefano, Environmental Review Liaison Officer
Building and Planning Department, Town of Brighton,
2300 Elmwood Avenue, Rochester, New York 14618,
(585) 784-5228

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

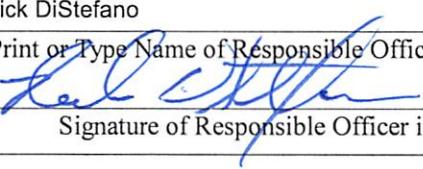
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

SEE ATTACHED

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Brighton Zoning Board of Appeals	May 1, 2024
Name of Lead Agency	Date
Rick DiStefano	Secretary
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	Signature of Preparer (if different from Responsible Officer)
Signature of Responsible Officer in Lead Agency	

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: 5A-05-24 / 4A-02-24

Date: May 1, 2024

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Brighton Zoning Board of Appeals, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: 2341 Monroe Avenue proposed Cafe/Restaurant

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Application of Huseyin Sula, lessee, and Mark Teng, owner of property located at 2341 Monroe Avenue, for an Area Variance from Section 205-12 to allow a cafe/restaurant to operate with 7 parking spaces in lieu of the minimum 17 spaces required by code. And, for an Area Variance from Section 203-64B(3)(i) to allow a cafe/restaurant to be 10 ft, from a residential lot line in lieu of the minimum 50 ft. required by code.

Location: 2341 Monroe Avenue (Tax ID #137.14-3-22), Brighton N.Y., Monroe County

Reasons Supporting This Determination:

Based on information submitted to the lead agency and after considering the action contemplated and reviewing the Environmental Assessment Form prepared by the applicant, the Criteria for determining significance in the SEQR regulations and other supplemental information, documentation, testimony and correspondence, the Town Zoning Board Appeals finds that the proposed action will not have a significant impact on the environment based on the following findings:

1. The proposed action will have, no alteration of the earth surrounding, and there will no impact on any of water quality, watercourse flood-carrying capacities. The proposed action will not create any significant adverse impact in the existing air quality or water quality, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems.
2. The proposed action will not impact the neighborhood character of the surrounding area nor will it create any adverse noise or visual impacts. There are no additions or increase in building density proposed as part of this Project.

The proposed action will not be detrimental to the health, safety or general welfare of persons residing or working in the area of the proposed use or will not be detrimental or injurious to the property and improvements in the area or to the general welfare of the Town.

3. The proposed action will not adversely impact agricultural, archeological, historical, natural, or cultural resources. There are no known archaeological resources within project site.
4. The proposed action will not have a significant adverse impact on plant or animal life. The property does not host any threatened or endangered species, and therefore the proposed action will have no impact on any threatened or endangered species. There are no State or Federal wetlands on the property, and the project is not within any designated floodway or floodplain. Therefore, the proposed action will have no significant adverse impact on any wetlands or floodplains.
5. The Town's Comprehensive Plan does not specifically address the property. The proposed action will have no adverse impacts on the natural resources found on the site.
6. The Project will not result in any significant adverse traffic impacts.
7. The proposed action will not have a significant adverse impact on public health or safety. The proposed action is subject to all applicable Federal, State, and Local laws, regulations, and code requirements including all requirements.

For Further Information:

Contact Rick DiStefano, Environmental Review Liaison Officer
Building and Planning Department, Town of Brighton,
2300 Elmwood Avenue, Rochester, New York 14618,
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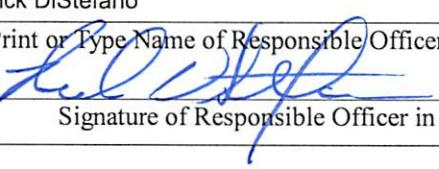
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	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Part 3 Determination of Significance

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See attached

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Brighton Zoning Board of Appeals May 1, 2024	
Name of Lead Agency Date	
Rick DiStefano Secretary	
Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer	
 Signature of Preparer (if different from Responsible Officer)	

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: 5A-06-24

Date: May 1, 2024

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Brighton Zoning Board of Appeals, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: 1835 Monroe Avenue proposed Yoga Studio

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Application of Oxygen Yoga and Fitness Brighton Commons, lessee, and Brighton Commons Partnership LP, owner of property located at 1835 Monroe Avenue, for an Area Variance form Section 205-12 to allow for modification of a parking variance (2A-05-20) allowing for 133 on-site parking spaces in lieu of the 181 spaces required by code (existing variance allows for relief from 170 required parking spaces) allowing for the establishment of a yoga studio.

Location: 1835 Monroe Avenue (Tax ID #137.10-1-53), Brighton N.Y., Monroe County

Reasons Supporting This Determination:

Based on information submitted to the lead agency and after considering the action contemplated and reviewing the Environmental Assessment Form prepared by the applicant, the Criteria for determining significance in the SEQR regulations and other supplemental information, documentation, testimony and correspondence, the Town Zoning Board Appeals finds that the proposed action will not have a significant impact on the environment based on the following findings:

1. The proposed action will have, no alteration of the earth surrounding, and there will no impact on any of water quality, watercourse flood-carrying capacities. The proposed action will not create any significant adverse impact in the existing air quality or water quality, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems.
2. The proposed action will not impact the neighborhood character of the surrounding area nor will it create any adverse noise or visual impacts. There are no additions or increase in building density proposed as part of this Project.

The proposed action will not be detrimental to the health, safety or general welfare of persons residing or working in the area of the proposed use or will not be detrimental or injurious to the property and improvements in the area or to the general welfare of the Town.

3. The proposed action will not adversely impact agricultural, archeological, historical, natural, or cultural resources. There are no known archaeological resources within project site.
4. The proposed action will not have a significant adverse impact on plant or animal life. The property does not host any threatened or endangered species, and therefore the proposed action will have no impact on any threatened or endangered species. There are no State or Federal wetlands on the property, and the project is not within any designated floodway or floodplain. Therefore, the proposed action will have no significant adverse impact on any wetlands or floodplains.
5. The Town's Comprehensive Plan does not specifically address the property. The proposed action will have no adverse impacts on the natural resources found on the site.
6. The Project will not result in any significant adverse traffic impacts.
7. The proposed action will not have a significant adverse impact on public health or safety. The proposed action is subject to all applicable Federal, State, and Local laws, regulations, and code requirements including all requirements.

For Further Information:

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Building and Planning Department, Town of Brighton,
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3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Short Environmental Assessment Form

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No Part 2 questions lead to 'moderate to large impacts may occur'.

The site has been previously disturbed and the placement of the sign(s) on two building faces will result in no further disturbance to the site.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Brighton Zoning Board of Appeals

May 1, 2024

Name of Lead Agency

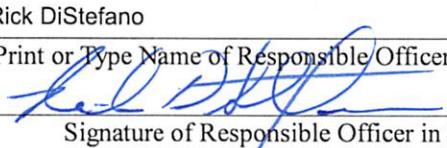
Date

Rick DiStefano

Secretary

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer



Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

DRAFT

FINDINGS
TOWN OF BRIGHTON ZONING BOARD OF APPEALS
APPLICATION 1A-08-24

Application of Jon Tantillo, agent, and Salafia Nunzio, an owner of property located at 125 Old Mill Road, appealing the Historic Preservation Commission's landmark designation of said property, pursuant to Section 224-3(F) of the Town of Brighton Code.

BACKGROUND

1. On November 16, 2023, the Town of Brighton Historic Preservation Commission (the "HPC") designated property located at 125 Old Mill Road, Rochester, New York 14618 (the "Property") as a "Landmark" (the "HPC Resolution") pursuant to the Historic Preservation Law of the Town of Brighton codified at Chapter 224 of the Town of Brighton Code (the "Brighton Town Code").

2. The Property contains a house that was constructed in 1931 and was designed by local architect Herbert C. Williamson (the "House") and features landscape architecture designed by nationally renowned landscape architect Fletcher Steele (the "Landscape Architecture").

3. The HPC Resolution provides the following findings supporting the designation of the Property as a Landmark:

- a. The residence on the Property is a noted example of work of Herbert C. Williamson, a Rochester born noted designer and architect, and that the residence retains a high degree of integrity of location, setting, workmanship, feeling and association despite several modifications to the original design;
- b. The landscaping consists of one of only three intact design landscapes in Brighton by Fletcher Steele, a Rochester born nationally significant landscape architect and designer, which features include designed landscape rooms throughout the property and forecourt gate and fence, many or all of which features are located in a 250-foot radius of the home; and
- c. The Property is associated with historic personages of a prominent local family, the Bentleys, a family who is connected to philanthropy throughout the Rochester area and the founding of the Harley School in Brighton; and

4. On or about December 12, 2023, Jon Tantillo of Knauf Shaw LLP on behalf of the owners of the Property, Nunzio and Mirella Salafia (the "Applicant"), filed an appeal of the HPC Resolution to the Town of Brighton Zoning Board of Appeals (the "ZBA") seeking reversal of the designation of the Property as a Landmark (the "Appeal"); and

DRAFT

5. On January 3, 2024 and February 7, 2024, the ZBA held regular meetings, which were duly noticed and public as required by law.

6. On January 3, 2024 and February 7, 2024, the ZBA held a properly noticed public hearing with respect to the Appeal, and during the public hearing all persons desiring to speak on the Appeal were heard, and such persons also submitted documents and other correspondence for consideration by the ZBA, and all those materials were considered by the ZBA as part of the record for the Appeal.

7. On February 7, 2024, the ZBA closed the public hearing and commenced deliberations with respect to the Appeal.

8. On March 6, 2024, the ZBA held a regular meeting, which was duly noticed and published as required by law, whereby the ZBA continued its deliberations with respect to the Appeal.

9. At the March 6, 2024 meeting, the ZBA adopted a resolution granting the Appeal in part and denying the Appeal in part. The designation of the Property as a Landmark was modified to remove the designation of the House as a Landmark and designate only the Landscape Architecture on the Property designed by Fletcher Steele as a Landmark (the "Decision"); and

10. The Decision of the ZBA was duly filed in the office of the Town Clerk on March 8, 2024.

DOCUMENTS CONSIDERED BY THE ZBA

11. The ZBA has considered the following documents in connection with the Appeal: (i) the record of the proceedings before the HPC; (ii) the HPC meeting minutes from the September 28, 2023 meeting; (iii) the HPC meeting minutes from the November 16, 2023 meeting; (iv) Town of Brighton Zoning Board of Appeals Application, dated December 12, 2023 and associated letter from Knauf Shaw; (v) Letter from Hudson Cultural Services dated November 16, 2023 (the "HCS Letter"); (vi) Town of Brighton Cultural Resource Survey dated September 2023 (the "Cultural Resource Survey"); (vii) Information Compiled by the Town of Brighton Historian, Mary Jo Lanphear dated January 2023; (viii) National Register Bulletin prepared by the National Park Service regarding "How to Apply the National Register Criteria for Evaluation," last revised 1995 (the "National Criteria"); (ix) written and oral public comments and communications received from January 2024 through March 6, 2024.

JURISDICTION AND STANDARD OF REVIEW

12. Pursuant to Brighton Town Code 224-3(F) "[a]n owner who wishes to appeal a designation as a Landmark may appeal such decision to the Board of Appeals within 60 days of the date of such designation by the Commission."

13. In accordance with Town Law 267-b(1), the ZBA's standard of review with respect to the Appeal is *de novo*, such that the ZBA "may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken."

FINDINGS OF FACT AND DETERMINATIONS

After considering all the proof and evidence before it, the ZBA makes the following determinations, findings, and interpretations:

14. Pursuant to Brighton Town Code 224-3(A), the HPC may "designate an individual property, site or a structure or a significant feature of any such property, site or structure as a landmark . . . if it: (1) possesses historic value as part of the cultural, political, economic, architectural or social history of the locality, region, state or nation; (2) Is identified with historic personages; or (3) Embodies the distinguishing characteristics of an architectural style; or (4) Is the work of a significant designer."

15. Based on the clear language of the code utilizing the word "or" after each subsection, only one of the four criteria must be met in order for a property to be designated as a Landmark.

I. The Landscape Architecture was properly designated as a Landmark by the HPC.

16. The Landscape Architecture on the Property was designed by Fletcher Steele, a significant landscape architect on a local, State, and national level. As presented in the Cultural Resource Survey, Fletcher Steele was "one of the most notable landscape architects of the twentieth century in the United States, and his designs throughout the northeastern United States are justifiably celebrated."

17. Fletcher Steele was born in Rochester, New York and became a nationally renowned landscape architect.

18. According to the Cultural Resource Survey, several of Fletcher Steele's landscape designs have been recognized and protected through landmark designation at the local, state, and national level including, but not limited to: the Charlotte Whitney Allen House (Rochester), the Ellwanger Garden (Rochester), the Turner Estate (Pittsford), the Allen Estate "Rolling Ridge" (North Andover, MA), the Choate Estate "Naumkeag" (Stockbridge, MA), Mission House Gardens (Stockbridge, MA), and the Camden Library Amphitheatre (Camden, ME).

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19. Based on Fletcher Steele's local and national prominence as a landscape architect, he is considered a significant designer. In fact, the Applicant acknowledged in the Appeal that "the significance of Fletcher Steele is recognized." The Applicant's counsel further stated during the public hearing that "[a]dmittedly, Fletcher Steele is significant" Thus, it is undisputed in the record before the ZBA that Fletcher Steele is a significant designer as that term is utilized in Brighton Town Code 224-3(A)(4).

20. According to the Cultural Resource Survey, in 2003, twenty-five surviving landscape designs by Fletcher Steele were identified in the Rochester area, of which only twelve were considered to be in good condition, including the Property, and the Property is significant as one of only three known intact Fletcher Steele-designed landscapes located in the Town of Brighton.

21. Fletcher Steele was hired to design the Landscape Architecture for the Property in 1932 and completed the design for the West Terrace in 1934.

22. Fletcher Steele designed the forecourt fence on the Property in 1946.

23. In addition to the architectural aspects of the design, Fletcher Steele was involved in the ordering and location of plants on the Property as part of his design from the 1930's through the 1960's.

24. The Landscape Architecture consists of three primary areas containing distinct "rooms" of landscaping designed by Fletcher Steele including the north yard, front yard (south and east), and backyard (south and west).

25. The north yard is located along the north property line and can be subdivided into three distinct rooms including a former vegetable garden, a drive and service court, and a former tennis court.

26. The front yard extends from the drive to the southern edge of the Property and is comprised of the forecourt fence and planting bed, entry walkway, lawn, and the south terrace.

27. The backyard extends from the western face of the side wing to the bank of Allen Creek.

28. Several design features and plantings from Steele's original design for the landscape architecture on the Property remain in these designated "room" areas, including the following:

a. North Yard:

- i. T-shaped gravel driveway and pullout
- ii. Austrian Pine allee flanking the T-shaped driveway
- iii. Flat lawn at tennis court
- iv. Beech tree row along Old Mill Road

- v. Two Sargent cherry trees along the northern edge of the lawn adjacent to Old Mill Road
- b. Front Yard:
 - i. Forecourt fence
 - ii. Red brick pedestrian pathway
 - iii. Sloped planting bed with pine, maple, and magnolia trees, and Rhododendron and Azalea shrubs
 - iv. South terrace
- c. Backyard:
 - i. West terrace, including retaining walls, stairways, patio, drain, and 1935 balustrade
 - ii. Fragrant Corner - located at the south edge of the west terrace balustrade consisting of a thin rectangular planting bed bordered by a rock wall
 - iii. Dense stream bed plantings including maples, birches, willows, and evergreens that were originally planted to obscure views of the neighboring property

29. Attached as Exhibit "A" is a map depiction of the Property from the Cultural Resource Survey and a survey of the Property, which depict the locations of the features designed by Fletcher Steele.

30. The Applicant and the Applicant's expert, Hudson Cultural Services, have indicated that Fletcher Steele is a significant landscape architect, that the property "retains a historic landscape design," and that despite deterioration of some aspects of the Landscape Architecture "the spatial organization is still present." As reflected in the letter provided by Bero Architecture, "[t]he designed historic landscape retains a high degree of integrity with the majority of its historic features intact. . . ."

31. Historic pictures in the record demonstrate the Landscape Architecture on the Property was completed after the House was constructed on the Property and there is no evidence in the record that Fletcher Steele worked in conjunction with Herbert C. Williamson regarding the design of the Landscape Architecture.

32. The ZBA finds that the Landscape Architecture is the work of a significant designer under Brighton Town Code 224-3(A)(4).

33. As set forth above, according to the Cultural Resource Survey, in 2003, twenty-five surviving landscape designs by Fletcher Steele were identified in the Rochester area, of which only twelve were considered to be in good condition, including the Property, and the Property is significant as one of only three known intact Fletcher Steele-designed landscapes located in the Town of Brighton.

34. Additionally, both Hudson Cultural Services and Bero Architecture agree that the Landscape Architecture has retained a high degree of its integrity and retained the historic landscape design.

35. As the Landscape Architecture on the Property is one of only three intact Fletcher Steele-designed landscapes located in the Town of Brighton and has retained its integrity since its construction, the ZBA finds that the Landscape Architecture possesses historic value as part of the architectural history of the Town of Brighton and New York State under Brighton Town Code 224-3(A)(1).

36. This portion of the appeal is therefore denied, as the HPC properly designated the Landscape Architecture as a Landmark. The items identified above as intact Fletcher Steele-designed aspects of the Landscape Architecture are to remain designated as a Landmark.

37. Any plans submitted to the Town by the Applicant for future demolition and/or construction on the Property will need to be assessed by the Town of Brighton Historic Preservation Commission as part of the certificate of appropriateness process pursuant to Town of Brighton Code Section 224-4 and 224-5 to ensure such construction and/or demolition is compatible with and will not negatively impact the Landscape Architecture that has been designated as a Landmark.

II. The House should not be designated as a Landmark.

A. The House is not identified with historic personages.

38. The HPC Resolution found that the Property is associated with historic personages of a prominent local family, the Bentleys, a family who is connected to philanthropy throughout the Rochester area and the founding of the Harley School in Brighton.

39. The phrase "historic personages" is not defined in the Brighton Town Code. According to the National Criteria, to demonstrate a property is associated with a historic personage warranting landmark designation, a person must be identified whose activities are demonstrably important within a local, State, or national historic context and that person must be associated with the property, typically during the time in their life that is considered historically productive or during a historically significant moment in their life.

40. Charles Raymond Bentley and Janet E. Bentley owned the Property and constructed the House and Landscape Architecture improvements on the Property.

41. Other than general statements that the Bentley's contributed to philanthropy in the Rochester area, there is no evidence in the record that Janet Bentley or her husband, Charles Raymond Bentley, were important historical figures in the Brighton or greater Rochester area or that their philanthropic contributions were historically significant.

42. Charles Raymond Bentley was an attorney, but no evidence was presented regarding his significance as an attorney in the Town of Brighton or greater Rochester Area or how such work was connected to the Property.

43. Janet Bentley is associated with a historically important family as she was the granddaughter of Hiram Everest, the owner of the Vacuum Oil Company, however, no achievements or persons directly associated with Vacuum Oil have been connected to the Property.

44. The Bentley's sister-in-law, Harriet Bentley, founded the Harley School in 1917, but there is no evidence in the record that Harriet Bentley or the Harley School are associated with the House or Property.

45. Janet and Charles Bentley had a son, Charles R. Bentley who became a famous glaciologist and geophysicist and an Antarctic explorer in his lifetime. However, Charles Bentley's achievements are not associated with the House or the Property, and no information about Charles Bentley's early life in the Town of Brighton or at the Property was provided.

46. The Cultural Resource Survey indicates the House passed from Janet Bentley to her daughter Ruth Bentley, not to Charles Bentley and a New York Times article cited by the Cultural Resource Survey indicates that Charles Bentley does not appear to have been a Town of Brighton resident at all after childhood.

47. Charles Bentley's significant work in his carrier was completed at Columbia University, the University of Wisconsin, and in Antarctica in his later life and adulthood.

48. Whether Charles Bentley spent his early life residing at the Property does not adequately connect his accomplishments later in life to the Property as there is no evidence in the record that he completed significant work at the Property or that his ambition to be an explorer was developed while he lived at the Property.

B. The House does not embody the distinguishing characteristics of an architectural style.

49. The House does not embody the distinguishing characteristics of the Colonial Revival architectural style due to the modifications of the architecture of the House.

50. As presented in the HCS Letter and as testified by the previous owner, Suzanne Spencer, during the February 7, 2024 ZBA meeting, the House has undergone significant renovations and modifications since its construction.

51. Photographs of the Property in the record indicate the following external modifications were made:

- a. Alteration of the northern elevation, including enclosure of a portico at the garage;
- b. Expansion of the dormers on the southern portion of the house;

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- c. Alteration of windows and window styles;
- d. New roofline for the garage;
- e. Kitchen addition in approximately 1958;
- f. Addition of skylights as part of the kitchen addition;
- g. Addition of skylights on the northern side of the porch roofline in or about 2011;
- h. Addition of a chimney on the eastern side of the garage; and
- i. The entire roof was replaced with a green corrugated metal roof.

52. The extensive modifications have altered the original distinguishing characteristics of the Colonial Revival architectural style of Mr. Williamson's original design and the visual integrity of the House.

53. Significant elements that are typical of Colonial Revival architectural style are also missing from the design of the House or have been modified, including but not limited to pedimented windows, dormer windows, decorative fanlight windows, and symmetrical double-hung windows.

54. The HCS Letter states that the Property is "one of many new residential properties constructed during [the 1930s] and is not wholly representative of the socio-economic changes that were occurring outside of Rochester in the early-mid 20th century."

55. The ZBA disagrees that the House and Landscape Architecture are linked and their historic value cannot be evaluated separately. Historic pictures in the record demonstrate the Landscape Architecture on the Property was completed after the House was constructed on the Property and there is no evidence in the record that Fletcher Steele worked in conjunction with Herbert C. Williamson regarding the design of the Landscape Architecture.

56. Pursuant to Town of Brighton Code Section 224-3(A), the ZBA has the discretion to "designate an individual property, site or a structure or a significant feature of any such property, site or structure as a landmark." The ZBA therefore has the authority to consider the designation of the Landscape Architecture on the Property separately from the designation of the House.

C. The House is not the work of a significant designer.

57. The House is not the work of a significant designer because Herbert C. Williamson is not significant on a local, State, or national level.

58. Mr. Williamson's professional history was set forth in the Cultural Resource Survey, but does not provide reasons to consider him a "significant designer" or that Mr. Williamson's work was distinct from

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other architects working in the Town of Brighton or the greater Rochester area during the same time period.

59. Evidence was presented during the February 7, 2024 meeting that Mr. Williamson was not included in a list prepared by the Landmark Society of prominent Rochester architects or a list of notable local architects on a document located at the Town of Brighton Town Hall.

60. Although other buildings constructed by Mr. Williamson may be protected as landmarks in other municipalities or are within historic districts in other municipalities, due to the modifications of the external features of the House as set forth in detail above, the House no longer embodies Mr. Williamson's original design or the Colonial Revival architectural style.

61. Even though the House may have been unique to Mr. Williamson's portfolio because he did not design many single-family homes, the House has not been identified as a unique or important example of the Colonial Revival architectural style or unique to Brighton or the greater Rochester area.

D. The House does not possess historic value as part of the cultural, political, economic, architectural or social history of the locality, region, state or nation.

62. To the extent the Historic Preservation Board's decision considered whether the House possessed historic value as part of the cultural, political, economic, architectural or social history of the locality, region, state or nation, there is no evidence in the record that the Property possesses historic value based on the cultural, political, economic, architectural, or social history of the locality, region, state or nation.

63. Nothing in the record establishes that the Property is associated with any significant cultural, political, economic, or social historical event in the Town of Brighton, the Western New York region, New York State or the nation.

64. As set forth above, the House is not a unique example of the Colonial Revival architectural style and the HCS Letter states that the Property is "one of many new residential properties constructed during [the 1930s] and is not wholly representative of the socio-economic changes that were occurring outside of Rochester in the early-mid 20th century."

65. Public comments were made during the public hearing about the beauty of the Property and its importance to the neighborhood, however, with the designation of the Landscape Architecture as a Landmark, much of the integrity and beauty of the Property will remain the same as such Landscape Architecture can only be altered in accordance with Brighton Town Code Chapter 224.

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66. This portion of the appeal is granted, the ZBA finds that the House does not meet any of the criteria set forth in Brighton Town Code Section 224-3(A) for designation as a Landmark.

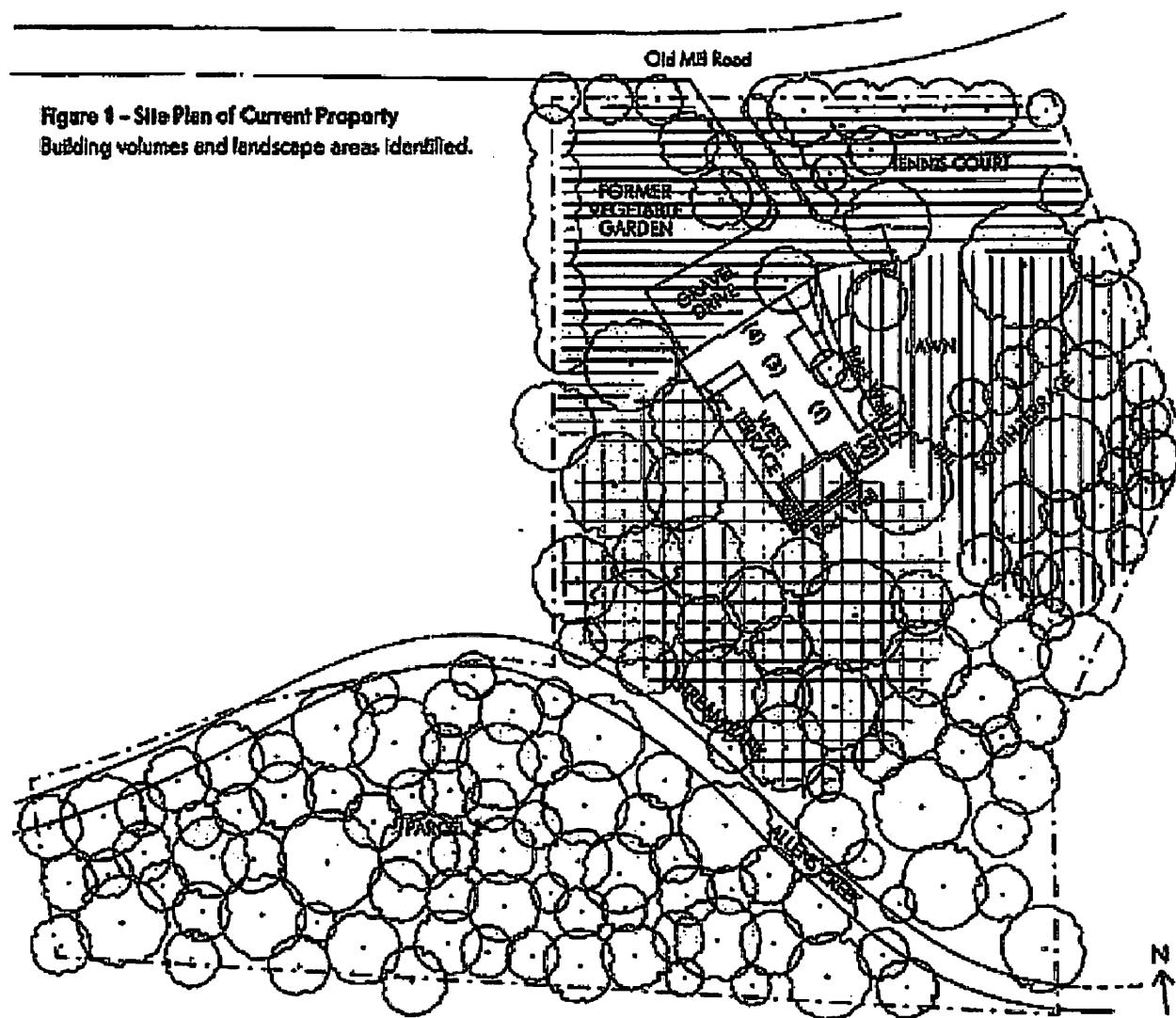
CONCLUSION

67. In accordance with the records, proceedings, and above Findings, the ZBA finds that: (i) the Landscape Architecture designed by Fletcher Steele is a Landmark pursuant to Brighton Town Code Sections 224-3(A) (1) and 224-3(A) (4); and (ii) the House does not meet any of the criteria of Brighton Town Code Section 224-3 and therefore the designation of the House as a Landmark should be reversed.

68. The HPC Resolution is modified as set forth above, and the Appeal is denied in part and granted in part.

EXHIBIT A

Figure 1 - Site Plan of Current Property
Building volumes and landscape areas identified.



OLD MILL ROAD

LEGEND

These standard symbols will be found in the drawing.



REFERENCES:

LIBER 12349 OF DEEDS, PAGE 369
LIBER 347 OF MAPS, PAGE 99
LIBER 105 OF MAPS, PAGE 11
LIBER 215 OF MAPS, PAGE 4

NOTES:

THE INTENT OF THE TIE-LINE IS FOR MATHEMATICAL CLOSURE ONLY. IT DOES NOT REPRESENT THE PARCEL BOUNDARY LINE OR EXCLUDE POSSIBLE WATER RIGHTS.

THE LOCATION OF THE UNDERGROUND UTILITIES ARE PER RECORD MAPPING AND FIELD VERIFICATION EXCEPT FOR GAS MAINS.

ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NYS CORS NETWORK BY USING GPS AND ARE ON NAVD 88 DATUM.

PARCEL TAX ID #137.20-1-3.1

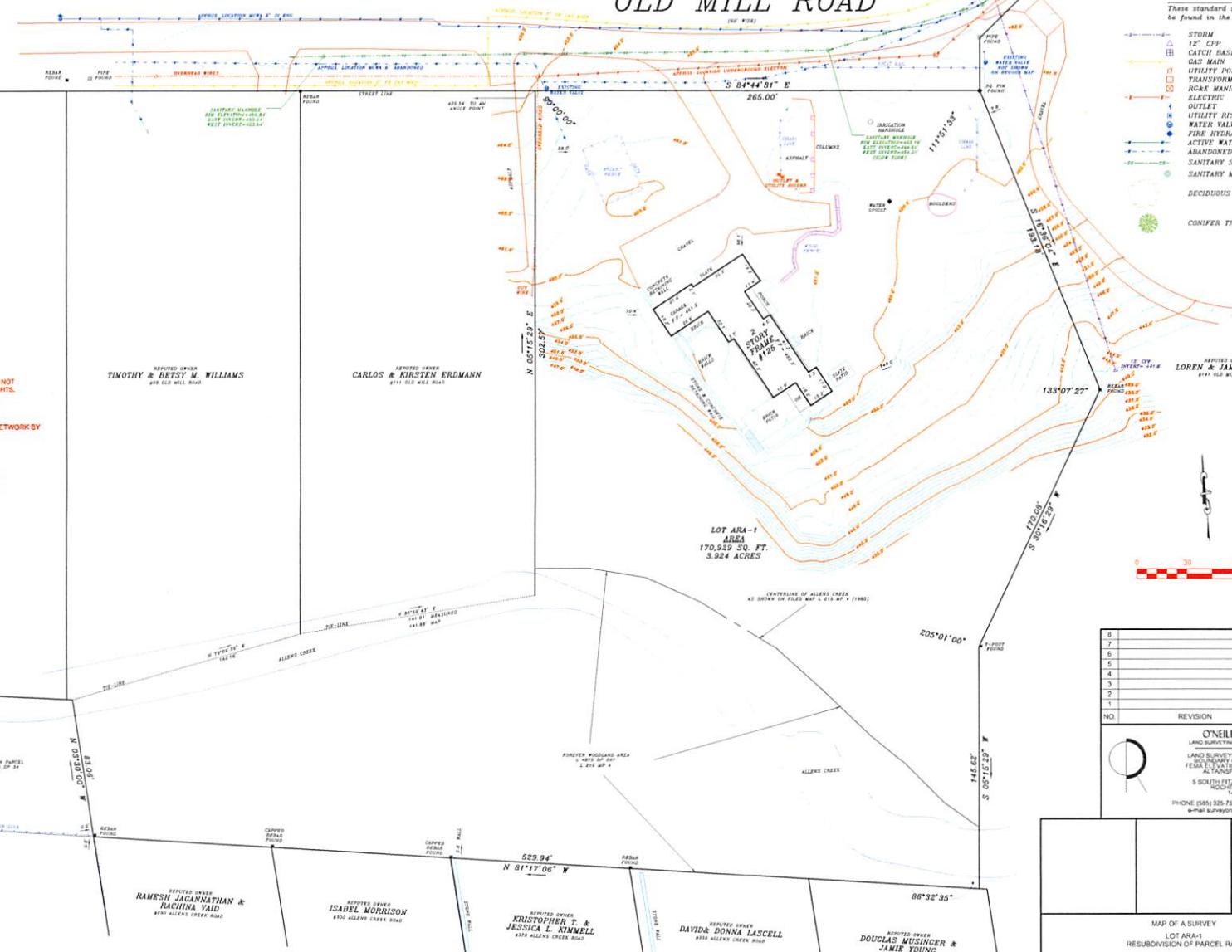
WE, O'NEILL-RODAK LAND SURVEYING ASSOCIATES, P.C. CERTIFY THAT THIS MAP WAS PREPARED FROM NOTES OF A TOPOGRAPHIC SURVEY COMPLETED OCTOBER 8, 2022.

THOMAS A. RODAK, P.L.S. #050548

REPUTED OWNER
TIMOTHY & BETSY M. WILLIAMS
412 OLD MILL ROAD

REPUTED OWNER
CARLOS & KIRSTEN ERDMANN
412 OLD MILL ROAD

REPUTED OWNER
LOREN & JAMIE PLUM
414 OLD MILL ROAD



8	REVISION	DATE	BY
7	O'NEILL-RODAK LAND SURVEYING ASSOCIATES, P.C.		
6	LAND SURVEYORS - PLANNERS FEMA ELEVATION CERTIFICATES AS-100, AS-101, AS-102		
5	5 SOUTH FIFTH HIGH STREET ROCHESTER, NY 14607		
4	PHONE (585) 325-7520 FAX (585) 325-1708 e-mail: surveysony@wellrodat.com		

SCALE	1" = 30'
DATE	10/11/2022
REDACTED	
PROJECT NO.	2021-0832_TOPO
SHEET	1 OF 1

MAP OF A SURVEY LOT AREA-1 RESUBDIVISION OF PARCEL RA-1 TOWN OF BRIGHTON MONROE COUNTY, NEW YORK	
LOCATION	125 OLD MILL ROAD
PREPARED FOR	VANGUARD ENGINEERING P.C.

TRANSMITTER OR RECIPIENT ORIGINATED THIS SURVEY FOR THE PERSON OR ENTITY WHO OWNED THE SURVEY. THE SURVEYOR IS NOT RESPONSIBLE FOR THE USE OF THIS SURVEY BY ANYONE OTHER THAN THE OWNER AND IS THE PROPERTY OF THE LENDING INSTITUTION. GUARANTEES OR WARRANTIES OF ANY KIND ARE MADE BY THE SURVEYOR.

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UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 84-A OF THE NEW YORK STATE EDUCATION LAW.