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**BRIGHTON**  
**ZONING BOARD OF APPEALS**  
**MEETING**

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May 1, 2024  
At approximately 7 p.m.  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

**PRESENT:**

DENNIS MIETZ  
Chairperson

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

LAUREN BARON, ESQ.  
Attorney for the Town

RICK DiSTEFANO  
Secretary

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

1 CHAIRPERSON MIETZ: Good evening, everyone.  
2 Welcome to the May meeting of the Brighton Board of  
3 Appeals.

4 For those of you who have not been to our  
5 meetings, I'll explain to you how we handled the  
6 meeting. What will happen is, is we'll go through the  
7 applications that we have in order that they're on the  
8 agenda. When your application is called, come up to  
9 the podium, give us a name and either your personal or  
10 business address for the reporter.

11 And then it's your responsibility to tell us  
12 why you think we should approve your application.  
13 Most of the Board members have visited the locations  
14 and understand the general circumstances, but please  
15 make any points you'd like to make to move the needle.

16 And then the Board members will have -- ask  
17 any questions they have and hopefully answer those.  
18 And then we will ask anyone in the audience if they  
19 want to speak regarding your application.

20 Once that's finished, then we close the  
21 public hearing and move to the next application. Once  
22 we finish them all, we may take a few minute break  
23 then we will deliberate. So you can stay and listen  
24 to the conclusions. There is no more discussion  
25 between the applicants and the Board members during

1 the deliberations, but you're welcome to sit and  
2 listen to the deliberations.

3 We're either going to approve your  
4 application, deny your application or in some cases  
5 table your application if we require more information  
6 or something isn't clear.

7 If you decide not to stay, you can call  
8 Mr. DiStefano in the building office tomorrow. We'll  
9 let you know what happened with your application.

10 At this point in time, was the meeting  
11 properly advertised, sir?

12 MR. DiSTEFANO: Yes, Mr. Chairman. It was  
13 advertised in the Daily Record of April 25th, 2024.

14 CHAIRPERSON MIETZ: Okay. Can you call the  
15 roll.

16 (Whereupon the roll was called.)

17 MR. DiSTEFANO: Please let the record show  
18 all members are present.

19 CHAIRPERSON MIETZ: Okay. Good. We do have  
20 one set of minutes. March minutes. Judy?

21 MS. SCHWARTZ: Believe it or not --

22 MR. DiSTEFANO: Pull that mic close.

23 MS. SCHWARTZ: Believe it or not, all the  
24 way on page 138, line 17, the date should be May 1st,  
25 not the 3rd. That's it.

1 CHAIRPERSON MIETZ: Yowza.

2 MR. PREMO: I have some corrections.

3 CHAIRPERSON MIETZ: Okay. Go ahead.

4 MR. PREMO: On page 96, line 16, the second  
5 word should be "are" instead of is.

6 On page 98, line 17, strike out the last  
7 three words, which are "with the state," and instead  
8 put in "which stated."

9 Same page, page 98, line 21, strike the word  
10 "expansion" and put in the word "destination."

11 And line 23, the same page, I would add the  
12 words "is fine" at the end of that line.

13 That's all I have.

14 CHAIRPERSON MIETZ: Okay. Does anyone have  
15 anything else? Okay. How about a motion?

16 MR. D'AUGUSTINE: Motion to accept.

17 MS. TOMPKINS-WRIGHT: Second.

18 MR. DiSTEFANO: Motion to approve with  
19 corrections.

20 (Mr. Premo, yes; Ms. Schwartz, yes;  
21 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
22 yes; Mr. Mietz, yes; Ms. McKay-Drury, yes;  
23 Ms. Schmitt, yes.)

24 (Upon roll motion to approve with  
25 corrections carries.)

1 CHAIRPERSON MIETZ: Anything for us Rick?

2 MR. DiSTEFANO: There is some stuff in your  
3 packet. Pretty much everything I sent to you today.  
4 Nothing in addition to what I sent over to you,  
5 yesterday when I sent over to you. So you have paper  
6 copies in front of you. Any members have any  
7 questions regarding any of the applications?

8 CHAIRPERSON MIETZ: Okay. All right. When  
9 you're ready, call the first application.

10 MR. DiSTEFANO: Mr. Chairman, I suggest that  
11 we move application 4A-02-24 to be heard with  
12 application 5A-05-24 if that would be okay with the  
13 board.

14 CHAIRPERSON MIETZ: Yeah. That's fine.  
15 Want to start with number 1?

16 MR. DiSTEFANO: So we'll start with  
17 application 5A-01-24.

18 **Application 5A-01-24**

19 Application of Kyle Woods, owner of property  
20 located at 171 Dale Road, for an Area Variance from  
21 Section 207-11A to allow a hot tub to be located in a  
22 side yard in lieu of the rear yard as required by  
23 code. All as described in application and plans on  
24 file.

25 MR. WOODS: Hello. Good evening to you all.

1 My name is Kyle Woods owner of the property at 171  
2 Dale Road. As Mr. DiStefano stated, we're requesting  
3 a variance to put a hot tub in the side yard of our  
4 home.

5 We do have a privacy fence around our entire  
6 property. It is in our backyard, but technically it  
7 is in the side.

8 So we've looked into multiple options to put  
9 the hot tub in different places. Because of the slope  
10 of our patio and the setup of our electric, the only  
11 place that we can put it is in the side yard on our  
12 patio.

13 So it is an obscured view from the street.  
14 You have to walk up our driveway to actually have a  
15 view of it.

16 I do have the signature from my next-door  
17 neighbor and my across-the-street neighbor, who are  
18 the only two that would have the view of it. They're  
19 both in support of us putting it there.

20 I think that's all the detail I have. Any  
21 other questions or comments I can answer?

22 MS. MCKAY-DRURY: I want a clarification  
23 about -- you indicated in the application that it will  
24 not be visible unless someone is walking in the street  
25 directly in front of our house. I just to clarify

1       though because it will be tucked over next to the  
2       fence; right? So --

3               MR. WOODS: Correct.

4               MS. McKAY-DRURY: Okay. I just wasn't sure  
5       how someone would be able to see.

6               MR. WOODS: The angle, if you're walking by  
7       and looking back, you can technically see it.

8               MS. McKAY-DRURY: Okay. When that gate is  
9       open you're saying?

10              MR. WOODS: Correct.

11              MS. McKAY-DRURY: Also I was just curious  
12       about on the survey map -- so I guess it's -- let me  
13       see where we're at directionally at here. So I guess  
14       it would be -- I guess northwest it looks like you do  
15       have property next to the garage kind of beyond the  
16       driveway.

17              Did you consider putting it there and was  
18       that not going to meet your needs?

19              MR. WOODS: So there's no electrical hookup  
20       there. That's directly under the power lines. And  
21       there's a steep slope at the very end.

22              MS. McKAY-DRURY: Okay. So that is where  
23       the slope is?

24              MR. WOODS: Yes.

25              MS. McKAY-DRURY: Okay. Because I saw that

1 in your application. I wasn't sure if that's here  
2 that you're talking about. Okay. Got it. Thank you.

3 CHAIRPERSON MIETZ: Questions? Okay. Thank  
4 you.

5 Is there anyone in the audience who would  
6 like to speak regarding this application? Okay.  
7 There being none, then the public hearing's closed.

8 **Application 5A-02-24**

9 Application of Paul Moribito, architect, and  
10 Joanne Kirkpatrick, owner of property located at 52  
11 Northumberland Road, for an Area Variance from Section  
12 203-2.1B(3) and 203-9A(4) to allow for the  
13 reconstruction of a detached garage 3.5 feet from a  
14 side lot line in lieu of the minimum 5 feet required  
15 by code. All as described on application and plans on  
16 file.

17 MS. KIRKPATRICK: Hi. Good evening. My  
18 name is Joanne Kirkpatrick Trovato. My husband, Ron  
19 Trovato.

20 CHAIRPERSON MIETZ: What's your address,  
21 please.

22 MS. KIRKPATRICK: Pardon me?

23 CHAIRPERSON MIETZ: Address.

24 MS. KIRKPATRICK: 52 Northumberland Road --

25 CHAIRPERSON MIETZ: Okay. Great.



1 MS. KIRKPATRICK: -- 14618.

2 And we would like to build a new garage with  
3 the same footprint as our previous garage, which is 3  
4 and a half feet from the property line, which is why  
5 we need a variance. Our old garage is deteriorated  
6 significantly and it needs to be torn down.

7 The new garage, as noted by the architect  
8 Paul Moribito, is -- in his drawings is just a little  
9 bit larger to conform with the -- to accommodate two  
10 cars and a little bit of storage. I think the plans  
11 indicate that it's 24 feet wide by 28 feet long,  
12 conforming along -- the lot is rather narrow and long.

13 So we're applying for a variance for two  
14 reasons, that if we didn't get a variance, we would  
15 have to move it. We would have to move the driveway  
16 at considerable expense. And since the lot is narrow,  
17 there would -- there would not be enough room in  
18 between the corner of the garage and the corner of the  
19 deck. It would be tight.

20 So did you want to say anything?

21 MR. TROVATO: Just that we were advised  
22 because it's near the neighbor's property line that we  
23 have to use fire-resistant wood on that side and  
24 around the corners of the proposed garage.

25 CHAIRPERSON MIETZ: As to the building code,

1       yup.

2               MR. TROVATO: Right.

3               MS. KIRKPATRICK: And we would be happy to  
4 do that. The contractor couldn't be here tonight, but  
5 he's agreed to do that as well.

6               CHAIRPERSON MIETZ: Can you speak to the  
7 necessity of the width then? Since that's part of the  
8 problem. Obviously, adjusting the driveway and all  
9 that because the driveway -- or excuse me. Is that  
10 the minimum that you and the architect felt to get two  
11 vehicles in there reasonably?

12              MS. KIRKPATRICK: Yes. For the -- it's only  
13 about 2 feet wider than the previous one, but to get  
14 his car and my car in and have some -- open the doors  
15 comfortably and to fit in at least a lawnmower, we  
16 need it at least 2 feet wide.

17              CHAIRPERSON MIETZ: It will contain all of  
18 your storage?

19              MS. KIRKPATRICK: It's a little bit deeper.

20              CHAIRPERSON MIETZ: It will have adequate --

21              MR. TROVATO: Yeah. It would actually  
22 considerably enhance the storage.

23              CHAIRPERSON MIETZ: But you won't have other  
24 structures back there or anything else?

25              MS. KIRKPATRICK: No.

1 CHAIRPERSON MIETZ: Everything can be  
2 contained in the new garage?

3 MS. KIRKPATRICK: Yup.

4 CHAIRPERSON MIETZ: That's what I'm asking.

5 MS. KIRKPATRICK: Yeah.

6 CHAIRPERSON MIETZ: And the materials you're  
7 going to use, there's comments in here about being  
8 similar to the house and style other than you're going  
9 to reverse the gable, I guess.

10 MR. TROVATO: Right. Right.

11 CHAIRPERSON MIETZ: Because of drainage.

12 MR. TROVATO: I think they wanted to reverse  
13 the gable because it would look so much better. It  
14 would conform to the house.

15 MS. KIRKPATRICK: The traditional look of  
16 the house. We're going to put the same kind of siding  
17 to match the house.

18 CHAIRPERSON MIETZ: Okay. Great. Other  
19 questions?

20 MS. TOMPKINS-WRIGHT: Given the distance  
21 from the neighboring property owner, the height of  
22 this will be the exact same height of the current  
23 garage on the property?

24 MR. TROVATO: It's my understanding it is,  
25 yeah.

1 MS. TOMPKINS-WRIGHT: Okay.

2 CHAIRPERSON MIETZ: There's no loft or  
3 anything in there. It's just a normal garage.

4 MS. KIRKPATRICK: Yeah. It's just a normal  
5 garage.

6 CHAIRPERSON MIETZ: Okay. Okay. Any other  
7 questions? Thank you.

8 Is there anyone in the audience who would  
9 like to speak regarding this application? Hearing  
10 none, then this public hearing is closed.

11 **Application 5A-03-24**

12 Application of Reza Hourmanesh, agent, and  
13 Guiyan Li, owner of property located at 2720 West  
14 Henrietta Road, requesting an extension to approved  
15 variance 5A-01-23 (parking) and approved variance  
16 5A-02-23 (impervious coverage) pursuant to Section  
17 219-5F. All as described on application and plans on  
18 file.

19 MR. HOURMANESH: Good afternoon. My name is  
20 Reza Hourmanesh. I've been here several times.

21 CHAIRPERSON MIETZ: Yes, yes.

22 MR. HOURMANESH: I live at 333 Glen Haven  
23 Road, Rochester, New York 14609.

24 The main reason that I'm here is to  
25 request -- ask for an extension of time from the time

1 that this Zoning and Planning Board approved to  
2 commence construction.

3 The reason that we are asking for that is  
4 the person -- the owner, was hospitalized for a couple  
5 months. So they couldn't -- in financial -- there was  
6 some financial issues that had to be resolved.  
7 Everybody has to be paid before they continue. But  
8 once she got out, she took care of all the financial  
9 issue.

10 Now, I'm asking maybe at least two months to  
11 finalize the construction documents and hopefully  
12 within two months to obtain a contract or general  
13 contract to commence construction. Even though what I  
14 wrote -- I wrote like six months, but I think we can  
15 pull everything in four months or less.

16 CHAIRPERSON MIETZ: Okay. Is there anything  
17 changing about the application from what we've heard  
18 previously?

19 MR. HOURMANESH: No, sir. It all remains  
20 the same.

21 CHAIRPERSON MIETZ: The building, style,  
22 everything?

23 MR. HOURMANESH: Yes. Everything remains as  
24 the Zoning Board approved, as the Architectural Board  
25 approved, as the Planning Board approved. We're not

1 requesting any changes from previous approvals that we  
2 received.

3 CHAIRPERSON MIETZ: All is going well with  
4 your neighbor to the north?

5 MR. HOURMANESH: Yes, sir. That was the  
6 main reason that it was dragging. That's all  
7 resolved. They have signed documents with each other  
8 regarding maintenance of like snow cleaning. So  
9 that's all resolved. And I talked to Ms. Li and she  
10 told me that's already taken care of. So you're in  
11 good hands with them.

12 CHAIRPERSON MIETZ: That's good. So  
13 basically, you got to finish the drawings, go for a  
14 building permit, finish -- bid the job and hopefully  
15 you'll start this between now and fall.

16 MR. HOURMANESH: Yes.

17 CHAIRPERSON MIETZ: And how long do you  
18 think it will take to do the construction?

19 MR. HOURMANESH: The construction documents  
20 don't vary too much, but the construction itself,  
21 depending how fast it goes and weather permitting, I  
22 think four to six months. I'm just hoping before  
23 Christmas they can open.

24 CHAIRPERSON MIETZ: All right. That's  
25 great. That would be good. Well, it's a nice project

1 for West Henrietta Road.

2 MR. HOURMANESH: Yes.

3 MS. TOMPKINS-WRIGHT: Just to confirm, no  
4 change in the user. Tenant remains the same?

5 MR. HOURMANESH: Exactly. The only thing,  
6 the lady that -- the owner brought -- the tenant may  
7 change the name for more like a basic name. I cannot  
8 say the name exactly. It's "Hou Ming," something like  
9 that. But she told me to bring it up. I said that's  
10 an issue -- it's basically a business name, but she  
11 said bring it up. I said I will.

12 CHAIRPERSON MIETZ: You explained to her  
13 what she has to do about signage? She knows she's got  
14 to apply for that separately?

15 MR. HOURMANESH: Right. I submitted the  
16 sign that she wanted to get. There was drawings and  
17 everything. I think that was pretty much approved,  
18 but if it needs to be seen again, if she would need to  
19 get any board --

20 CHAIRPERSON MIETZ: Architectural Review  
21 Board.

22 MR. HOURMANESH: We went to the  
23 Architectural Review Board. We presented everything.  
24 There were a couple conditions that we had to change.

25 CHAIRPERSON MIETZ: You can check with them.

1 MR. HOURMANESH: Sure.

2 CHAIRPERSON MIETZ: All right. Good. Any  
3 other questions? Okay. Thank you very much.

4 MR. HOURMANESH: Thank you, sir.

5 CHAIRPERSON MIETZ: Is there anyone in the  
6 audience that has any comment on this application?  
7 Okay. Public hearing's closed.

8 **Application 5A-04-24**

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

16 MR. SULA: Hello. I'm Huseyin Sula, 145  
17 Warren. Mr. Silas couldn't make it today and so he  
18 asked me to handle it.

19 CHAIRPERSON MIETZ: Can you pull the mic up  
20 so we can hear you a little better. Just bend it up  
21 as high -- there you go.

22 MR. SULA: He asked me to come here and  
23 address any questions you have. I'm sure you guys are  
24 aware from last month --

25 CHAIRPERSON MIETZ: So why don't you tell us



1 what's different.

2 MR. SULA: This month we submitted a  
3 application. So he's applying to reduce his parking  
4 requirements so he can lease me the parking spaces  
5 that I need to open the cafe.

6 CHAIRPERSON MIETZ: Okay. How many spaces  
7 is that?

8 MR. SULA: Eight.

9 MR. DiSTEFANO: How many?

10 MR. SULA: Eight.

11 MR. DiSTEFANO: It shows six on the plan.

12 MR. SULA: On the -- are you talking about  
13 the variance? He's reducing his parking requirement  
14 by six. He has two additional spots from his  
15 requirement.

16 MR. DiSTEFANO: So you're saying he's got  
17 two extra parking spaces.

18 MR. SULA: Yeah.

19 MR. DiSTEFANO: So six. Okay.

20 MR. SULA: He's going to be leasing me  
21 eight.

22 MR. DiSTEFANO: I guess, the confusion comes  
23 in the plans that he submitted, he only showed six  
24 spaces that he's leasing you.

25 MR. SULA: Okay.

1 MR. DiSTEFANO: So there's where the  
2 confusion is.

3 MR. SULA: Again, it's eight on the lease.  
4 We have a drafted parking lease if you want to see it.

5 MR. DiSTEFANO: No. I just want you to see  
6 there's six are marked for your use.

7 MR. SULA: Yeah. It's going to be two more  
8 in the front than what's there.

9 MS. SCHWARTZ: Now he's saying four in each  
10 spot --

11 MR. DiSTEFANO: No. A couple up front.

12 MR. SULA: Two more up front. So five up  
13 front, three at the side.

14 MS. SCHWARTZ: For a total of eight that  
15 you're getting from him.

16 MR. SULA: Yeah.

17 MS. SCHMITT: I have some questions, but I  
18 think you may be at a disadvantage for some of the  
19 questions that I have. Do you know if the hotel is at  
20 full occupancy? How many rooms?

21 MR. SULA: The rooms -- I think he said 24  
22 rooms he had. And it's usually -- it's not at full  
23 capacity from what I can tell. And any time I've seen  
24 it, there's not many cars. I've counted -- sometimes  
25 I've gone there. Like over the last week I've gone a

1 few times. The most I've seen was like eight, nine  
2 cars.

3 MS. SCHMITT: Do you know how many employees  
4 they have?

5 MR. SULA: He said -- he answered that last  
6 time. He said no one, just himself.

7 MS. SCHMITT: So one employee. Do you know  
8 how he determined the hotel would only need 18 spots?

9 MR. SULA: He provided the parking usage.  
10 So his software keeps track of the number of guests  
11 who come in with their cars.

12 So in the chart it shows the usage for this  
13 year. And basically, an average of 24 percent  
14 occupancy on any given night, which is six spots,  
15 five -- between five and six on average.

16 MS. SCHMITT: Do you know how long the time  
17 period was?

18 MR. SULA: Year-to-date.

19 MS. SCHMITT: But not over the course of the  
20 year. So we don't know what it's like in the summer.  
21 We don't know what it's like in the fall.

22 MR. SULA: Again, he's -- I think he  
23 answered --

24 MS. SCHMITT: I'm sorry. You're in an  
25 awkward position.

1           MR. SULA: It was -- something came up with  
2 his family. He couldn't come today. So I'm trying to  
3 be here. I don't think it changed that much. I think  
4 he answered it last month. I'm not sure.

5           CHAIRPERSON MIETZ: Okay.

6           MS. SCHMITT: Do you know if he completed  
7 a -- I don't know want to call it professional -- but  
8 what we normally consider a parking survey study.

9           MR. SULA: No. That's the data from his  
10 system.

11          MS. SCHMITT: But just from January through  
12 the application time period.

13          MR. SULA: Yeah, I think --

14          CHAIRPERSON MIETZ: January through April.

15          MR. SULA: So 24 percent -- Is that the  
16 average on the chart?

17          CHAIRPERSON MIETZ: Yeah. It says January  
18 through April.

19          MR. SULA: Is it 24 percent? So he told me  
20 24 percent the last year. So I think that's from a  
21 year ago.

22          MS. TOMPKINS-WRIGHT: It doesn't say. It  
23 sort of has some markings on it.

24          MS. SCHMITT: He has a statement in his  
25 application that says that the hotel business has

1 changed and in particular that 50 percent of their  
2 guests do not require a parking space. They take a  
3 Uber or Lyft or something similar.

4 Do you know is he citing a particular study  
5 to show this national trend?

6 MR. SULA: No. He's talking about his own  
7 experience as a hotel owner.

8 MS. SCHMITT: Do you know what his plan is  
9 should all 23 rooms be rented out and their -- those  
10 people all have vehicles?

11 MR. SULA: In case every single room and  
12 every single person came with a car, then good thing  
13 we're not open at night. So it should be fine.

14 MS. SCHMITT: But what would he do in the  
15 morning? Most people don't leave at 6 a.m. They  
16 leave at noon.

17 MR. SULA: We do the best we can to  
18 accommodate, but maybe some will leave, some street  
19 parking, but that's the last resort. Again, like --

20 MS. SCHMITT: The reason I'm asking is I'm  
21 thinking about Brighton streets and between -- I don't  
22 remember the day in October, but through April, you  
23 can't do street parking during the snow season. So  
24 there is no residential parking that they could use  
25 overnight.

1           MR. SULA: That's the time frame he provided  
2 in the chart, which is very low uses.

3           MS. SCHMITT: Well, November, December. I'm  
4 just --

5           MR. SULA: It wouldn't change much.

6           MS. SCHMITT: Do you have any evidence  
7 besides his kind of anecdotal survey to support that?

8           MR. SULA: I mean, it's the software keeping  
9 track. So when guests check in, they mark if they  
10 came in a car or not I guess. I don't know exactly.

11           That's data straight from the system. So he  
12 just looks in this portal. That's where he sees the  
13 data.

14           MS. BARON: As a follow-up to Member  
15 Schmitt's question, does the lease that you have with  
16 the hotel provide that if there's an -- if they need  
17 all of those spaces that are marked for cafe use, that  
18 they could use those or are the used spaces exclusive  
19 to the cafe?

20           MR. SULA: So the lease says they're mine.  
21 So -- but --

22           MS. SCHMITT: So that's my next question.  
23 How would a cafe person know to use the hotel spaces  
24 and --

25           MR. SULA: We're going to mark --

1 MS. SCHMITT: -- how would a hotel person  
2 know that they can use the cafe spaces?

3 MR. SULA: So in the lease, we also have a  
4 stipulation that it has to be marked for cafe use with  
5 spaces that he's leasing me.

6 MS. SCHMITT: Correct. So how would a hotel  
7 person know they could park there if it says cafe  
8 parking only?

9 MR. SULA: Well, if everywhere else is full,  
10 then they would probably ask me then. And if they  
11 can't find anywhere, they would say park there.

12 MS. SCHMITT: Again, I'm just trying to run  
13 worst-case scenario. What was your plan B if all of  
14 those spaces were taken up in the morning?

15 MR. SULA: Just not park. I mean, if people  
16 can't find a place to park, they would not come in.  
17 So I would take a hit as far as my customers.

18 I mean, if you want me to shut the doors in  
19 case there's no space, if you want me to just open  
20 later that day, I can accept that condition.

21 CHAIRPERSON MIETZ: Well, understand I think  
22 the questions are because this is going to hurt your  
23 business if this happens. That's why we're concerned  
24 about it. Because obviously, all retailers want  
25 customers. You want customers. You don't want to

1 alienate your customers. He doesn't want to alienate  
2 his customers. So that's what the concern is. It's  
3 not about closing businesses or locking the doors.

4 MR. SULA: That's what I'm saying. I think  
5 the risk is low enough that I would accept that  
6 condition.

7 CHAIRPERSON MIETZ: Now, refresh us because  
8 it was last month, what kind of parking use do you  
9 think you're really going to have?

10 MR. DiSTEFANO: Can we just not go into  
11 that?

12 CHAIRPERSON MIETZ: That's the other one.

13 MR. DiSTEFANO: We're just on 5A-04 at the  
14 moment. Let's keep it all pertaining to the hotel.

15 CHAIRPERSON MIETZ: Okay. Is there any  
16 other questions about this?

17 MS. SCHWARTZ: I think it's going to work  
18 personally. I don't know if it's appropriate, but I  
19 go by there every day. You're hard-pressed to find a  
20 car in the parking lot at the hotel. You really are.  
21 There's nothing across the front. Maybe there's one  
22 way in the back on whatever side street it is.

23 So either they're -- and I didn't look to  
24 see about a vacancy sign, but I've never seen a full  
25 parking lot.



1 MS. SCHMITT: Well, we can talk about that  
2 Judy because I have concerns with regard to the hotel  
3 and --

4 CHAIRPERSON MIETZ: We don't want to  
5 deliberate it now. Okay. So is there anything else?  
6 Okay. Let's move on.

7 MR. DiSTEFANO: Want to see if anybody is in  
8 the audience for 5A-04?

9 CHAIRPERSON MIETZ: I was going to have him  
10 do it all together. That's fine.

11 Anyone want to speak on 5A-04 at this point  
12 on the hotel? Okay. Public hearing's closed on that.

13 MR. DiSTEFANO: I'll read 5A-05-24 and  
14 4A-02-24.

15 **Application 5A-05-24**

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

23 **Application 4A-02-24**

24 Application of Huseyin Sula, lessee, and  
25 Mark Teng, owner of property located at 2341 Monroe

1 Avenue, for an Area Variance from Section  
2 203-64B(3)(i) to allow a cafe/restaurant to be 10 feet  
3 from a residential lot line in lieu of the minimum 50  
4 feet required by code. All as described on  
5 application and plans on file.

6 CHAIRPERSON MIETZ: Why don't we -- let's  
7 just talk about the 50 feet first. So questions about  
8 4A-02?

9 MR. DiSTEFANO: Can I just have you state  
10 your name and address for the record again.

11 MR. SULA: 154 Warren Avenue, Huseyin Sula.

12 CHAIRPERSON MIETZ: Is there any concerns  
13 about that?

14 MR. PREMO: I just had a question  
15 concerning the -- one of the things you have is an  
16 interior floor plan from the diagrams. And when I sat  
17 there and tried to count up all the seats, I came up  
18 with 24 spots.

19 MR. SULA: Yes.

20 MR. PREMO: Do you think there might be a  
21 situation where you'll have 24 customers in there?

22 MR. SULA: Possibly.

23 MR. PREMO: And then, you know, just  
24 thinking that through, how many cars?

25 MR. SULA: Well, the parking code requires

1 12 for 24 seats.

2 MR. PREMO: Okay. So that's right?

3 MR. DiSTEFANO: Yup.

4 MR. PREMO: Okay.

5 CHAIRPERSON MIETZ: You have anything about  
6 the 50 feet and the 10 feet?

7 MR. PREMO: No. I think we did a lot of  
8 that before.

9 CHAIRPERSON MIETZ: Yeah. Do you have  
10 anything though?

11 MR. PREMO: No.

12 CHAIRPERSON MIETZ: You're all set?

13 Does anyone have any other questions about  
14 that?

15 MR. DiSTEFANO: I think Lauren can kind of  
16 talk about what the Planning Board found on the  
17 conditional use permit for the cafe that they made at  
18 the last Planning Board hearing, which would talk  
19 about the impact of the restaurant being too close to  
20 the lot line.

21 MS. BARON: Yes. At the last Planning Board  
22 meeting, they granted a conditional use permit for  
23 this applicant and discussed how the cafe operation is  
24 up towards the front of the property. I guess the  
25 tenants' spaces are at the back of the location of the

1 building that is closer to the residential property  
2 that is closer -- located behind the building. So  
3 they were not very concerned about the 50-foot  
4 distance.

5 And also because there's no frying going on  
6 in that location or open cooking that would cause any  
7 type of nuisance to neighboring residential  
8 properties.

9 MR. PREMO: Do we -- I guess just a  
10 question. Do we need to reference that in any  
11 decision or does that conditional use permit stand on  
12 its own?

13 MS. BARON: Nope. The conditional use  
14 permit stands on its own.

15 This Board can make its own decision. I'm  
16 just saying that's what the Planning Board considered  
17 at this meeting. It does not have to be part of our  
18 findings.

19 MR. PREMO: And that has conditions on it  
20 with respect to the operations?

21 MS. BARON: Yeah. With respect to the  
22 operations.

23 MR. DiSTEFANO: I would just suggest that  
24 the Board would want to apply their own conditions to  
25 that moreover.

1 CHAIRPERSON MIETZ: Right. Anything else on  
2 4A-02? Okay. Do you want action on that separately?

3 MR. DiSTEFANO: No.

4 CHAIRPERSON MIETZ: We'll just move on.

5 MR. DiSTEFANO: Yeah.

6 CHAIRPERSON MIETZ: So let's talk about  
7 5A-05. I'll go back to my question, which was related  
8 to what do you believe -- not what the code says, what  
9 do you believe the parking requirements are for your  
10 use?

11 MR. SULA: I think it will be more than  
12 enough.

13 CHAIRPERSON MIETZ: And why do you believe  
14 that?

15 MR. SULA: Lots of people come in groups of  
16 more than two. Not many come alone. Employees, it's  
17 not going to be that many.

18 CHAIRPERSON MIETZ: You told us last time,  
19 but how many employees?

20 MR. SULA: Three on like Saturday. One or  
21 two on quiet days.

22 CHAIRPERSON MIETZ: Okay. Is there going to  
23 be takeout here?

24 MR. SULA: There's not going to be much to  
25 take out, but you could take -- grab-and-go for

1 drinks.

2 CHAIRPERSON MIETZ: That's probably not a  
3 big --

4 MR. SULA: Yeah. So like I think there'd be  
5 some for the drinks, coffee with a snack, but not like  
6 a meal takeout or anything like that.

7 CHAIRPERSON MIETZ: Okay. Other questions?

8 MS. SCHWARTZ: Yeah. I do want to get  
9 something straight here. You want to operate with 4  
10 parking spaces in lieu of the minimum of 12, but the  
11 shared parking you're getting eight. So to me 4 and 8  
12 are 12; thereof, do you really need the variance or is  
13 it meeting code?

14 MR. DiSTEFANO: Yes. Because the code says  
15 you have to provide X number of parking spaces on your  
16 site, which they don't have.

17 MS. SCHWARTZ: Okay. Okay.

18 MS. TOMPKINS-WRIGHT: And just to clarify,  
19 the spaces you're getting from the neighbor are  
20 exclusive to the cafe?

21 MR. SULA: Yes.

22 CHAIRPERSON MIETZ: Any other questions?

23 MS. SCHMITT: I have a question. Is  
24 it your -- are you thinking this is a neighborhood  
25 cafe where people are walking to the cafe? Or are you

1 anticipating that people from Brighton, Pittsford, the  
2 City are coming in and driving to the cafe as a  
3 destination to enjoy the cafe?

4 MR. SULA: So, I mean -- so when looking at  
5 places for rent, there's always like the plazas on  
6 Jefferson and like down on Monroe in Wegmans, that  
7 area. And like those always seem -- I don't like  
8 those because they're all surrounded by parking lots  
9 and there's no neighborhood around it and it's like  
10 just in the middle of asphalt and no one can walk to  
11 it.

12 So that's why I chose this spot in the first  
13 place because it's actually in a more walkable area.

14 CHAIRPERSON MIETZ: Okay. Go ahead.

15 MS. TOMPKINS-WRIGHT: And I'm sorry. Just  
16 to go back to the lease for the space that's  
17 exclusive, is this lease going to be recorded? Is  
18 there any kind of easement? Or is this just a private  
19 lease between yourself as well as the hotel?

20 MR. SULA: It will be a private lease. I  
21 have it with me if you want to look at the actual  
22 terms, but it matches the terms of the cafe, the space  
23 that I'm renting. So it's going to be a three-year  
24 lease.

25 CHAIRPERSON MIETZ: Okay.

1 MS. SCHWARTZ: So fair to say that you feel  
2 that most of your customers will be walking from the  
3 neighborhood?

4 MR. SULA: Yes.

5 MR. DiSTEFANO: And if something were to  
6 happen to the ownership of the hotel, it sold --

7 MR. SULA: It's included in the lease. It's  
8 transferable.

9 MR. DiSTEFANO: What's the renewal rate on  
10 it?

11 MR. SULA: Three years.

12 MR. DiSTEFANO: And after three years it  
13 goes to a new owner --

14 MR. SULA: If within that three years the  
15 hotel gets sold, they inherit the lease.

16 MR. DiSTEFANO: After three years though --

17 MR. SULA: After three years -- well, after  
18 my lease comes up in three years, they have the  
19 option, same as mine, for another three years. So  
20 it's meant to match the lease I'm getting.

21 MR. DiSTEFANO: You're getting from -- from  
22 Mr. Teng.

23 MR. SULA: Yes. So it's going to be the  
24 same terms.

25 CHAIRPERSON MIETZ: Okay. Any other



1 questions? Going once, twice. Okay. Thanks.

2 All right. Is there anyone in the audience  
3 who would like to speak regarding this application?  
4 Hearing none then the public hearings are closed.

5 **Application 5A-06-24**

6 Application of Oxygen Yoga and Fitness  
7 Brighton Commons, lessee, and Brighton Commons  
8 Partnership LP, owner of property located at 1835  
9 Monroe Avenue, for an Area Variance from Section  
10 205-12 to allow for modification of a parking variance  
11 (2A-05-20) allowing for 133 on-site parking spaces in  
12 lieu of the 181 spaces required by code (existing  
13 variance allows for relief from 170 required parking  
14 spaces) allowing for the establishment of a yoga  
15 studio. All as described on application and plans on  
16 file.

17 MR. DiSTEFANO: Just before you start, just  
18 for the record, I know you mentioned 139 parking  
19 spaces that are onsite. I advertised it at 133.  
20 There are six spaces that are shared parking spaces  
21 with a neighboring property.

22 So we can calculate those into your  
23 thinking. I have no problem if you decided that --  
24 the way the Board wants to go, but there is a six  
25 parking space discrepancy here because six are shared

1 with another property owner.

2 MR. D'AUGUSTINE: Which property?

3 MR. DiSTEFANO: The urgent care building,  
4 which is a separate property owner. Except for those  
5 six parking spaces, there's no other joint parking  
6 between Brighton Commons, CoreLife and this property.

7 MS. TOMPKINS-WRIGHT: Before they start, can  
8 you share -- does that property owner require a  
9 variance for their parking? Do they need those six  
10 spaces for --

11 MR. DiSTEFANO: Yes. They already have  
12 parking variances on that property.

13 CHAIRPERSON MIETZ: Okay, Betsy.

14 MS. BRUGG: Good evening. My name is Betsy  
15 Brugg with Woods Oviatt Gilman. It's a pleasure to be  
16 here again tonight. Elizabeth Hayes is with me. She  
17 is the proprietor.

18 She is trying to open Oxygen Yoga and  
19 Fitness in the space number 7 of the plaza. The space  
20 is vacant. It was a dance school I think most  
21 recently. It took me a little research to figure that  
22 out.

23 I've been here before on this. We're really  
24 not making any changes to the physical condition of  
25 the property, but because the Town's plaza parking

1 rate doesn't apply to these smaller plazas, as Rick  
2 explained to me, any time the parking ratio -- based  
3 on the specific use of the plaza changes, you know, it  
4 goes up and down depending on the occupant.

5 So the history of this property is that  
6 there have been parking variances in place. Back in  
7 2020, I was here for Dr. Mattiacio's orthodontist  
8 practice to move in. I think the variances go back to  
9 1998 with the Bagel Land going into that former post  
10 office space. I think that was modified once.

11 There is an easement I submitted again, but  
12 you have it from the previous applications, for the  
13 shared use of parking.

14 So essentially this is an opportunity to put  
15 in a neighborhood-friendly use in the vacant space.

16 There is not a code-specified ratio for yoga  
17 studios, but there is a Town determination, I assume  
18 from the Planning Board, of one space per 60 square  
19 feet based on the actual space of the yoga -- active  
20 yoga studio, not including the common areas,  
21 bathrooms, that kind of thing.

22 So you should have a pretty complete  
23 application. If you look at it, there is a floor  
24 plan. The size of the yoga space is going to be 1170  
25 square foot. And I think that's kind of on the high

1 end. The actual lease area is somewhere around 2904.

2 You have -- it's a pretty straightforward  
3 layout with, you know, bathrooms with showers, a  
4 corridor across, the front lobby, the back lobby.

5 There will be an instructor, you know, for  
6 classes, maybe two people, two employees in the lobby  
7 area.

8 The hours of operation are a really nice  
9 complementary fit for the uses in the plaza, which are  
10 all outlined. We did do a parking study, prepared by  
11 Passero Associates.

12 I should say the very skilled David Kruse  
13 from Passero is here in the event of any questions  
14 regarding the parking analysis that was provided.  
15 They did do parking counts.

16 The studio hours are proposed Monday through  
17 Friday 6 a.m. to 11 a.m., 4 p.m. to 8 p.m. We did  
18 want to leave in there the opportunity if there's the  
19 demand for a lunch hour type of a -- 45-minute class  
20 that they could do that.

21 We are in the heart of Brighton. Yes, they  
22 use parking, but I'm sure you would recognize that  
23 this is a very walkable area. I'm regularly there.  
24 People walk there all the time. If I were going to a  
25 fitness class, I would choose to walk to get some

1 exercise or ride my bike if the weather is nice like  
2 today. So it's actually a really good complemented  
3 use.

4 So the peak times for the yoga studio are  
5 really in the morning and the evening. Even if they  
6 did have a lunch-hour class at the very busiest time  
7 of day in the plaza, there's still more than enough  
8 parking based on the parking counts that we have.

9 Nine spaces that were applied -- I think the  
10 last go around, the last variance, for retail space --  
11 as a yoga studio it requires 20. So we're looking for  
12 a variance for 11 additional spaces, but we're not  
13 changing anything in the parking lot. We're really  
14 just filling the space with a couple of -- with a  
15 neighborhood-friendly use that sort of fits and  
16 complements the hours of the other uses in the plaza.

17 I was in the bridal shop the other day.  
18 There's rarely anybody in there unless you're there to  
19 buy a dress. And it's usually by appointment or  
20 walking in. So the mix of uses there is, you know,  
21 really, you know, a good fit for this kind of a use.

22 We did address the standards in the Code. I  
23 think it is kind of a win-win any time you fill a  
24 retail space in a neighborhood plaza with a  
25 neighborhood-friendly use these days. So I think it's

1 definitely beneficial to the community.

2 There's no detriments because there's enough  
3 parking to accommodate this use with the mix of uses  
4 that are currently in the plaza. And there's, you  
5 know, a little extra there to spare should something  
6 else come along in the future.

7 They're really excited to open in this  
8 location. It's just perfect for what they're looking  
9 to do. Oxygen Yoga is a Canadian company expanding to  
10 the United States. They are the franchise owners and  
11 they will, you know, be opening -- this is the first  
12 location. So they're really excited to get in the  
13 space.

14 They were very surprised after they signed  
15 the lease with the landlord to contact the Town and  
16 discover that, oops, they need to come in for a  
17 modification.

18 MR. DiSTEFANO: Why are you looking at me?

19 MS. BRUGG: Because you always have good  
20 news, Rick. Just kidding.

21 I wasn't too concerned because I think this  
22 is -- hopefully you'll agree that it's a really good  
23 fit for the plaza. We meet the requirements and  
24 criteria for the granting of the area variance, but  
25 we're happy to answer any questions.

1 MS. SCHWARTZ: How many people will you have  
2 per class? Roughly speaking.

3 MS. HAYES: So a --

4 CHAIRPERSON MIETZ: Just do a name and  
5 address.

6 MS. HAYES: Elizabeth Hayes, 18 Waterbury  
7 Lane, Rochester, New York.

8 A typical class -- we will be able to fit 25  
9 max in the studio. We don't anticipate that many  
10 people, but that is --

11 CHAIRPERSON MIETZ: And how many employees  
12 will be there?

13 MS. HAYES: So it will be one trainer, front  
14 desk staff and then either myself or my business  
15 partner, who could not be here. Three employees.

16 CHAIRPERSON MIETZ: Three at maximum.

17 MS. TOMPKINS-WRIGHT: I just had a couple  
18 questions about the parking studies. Any concerns  
19 about the fact that it was done in March -- I  
20 recognize it's only May now, but with Abbott's not  
21 being at full capacity, sort of the after-school  
22 hours?

23 MR. KRUSE: It is -- excuse me. David  
24 Kruse, Passero, 242 West Main Street, Rochester.

25 Abbott's was open at the time.

1 CHAIRPERSON MIETZ: In March?

2 MR. KRUSE: In March, yes.

3 CHAIRPERSON MIETZ: I thought it was closed  
4 all winter.

5 MS. TOMPKINS-WRIGHT: Any concerns about the  
6 capacity? Because March capacity might be different  
7 for Abbott's in July and August capacity.

8 MS. HAYES: I don't think so because  
9 Abbott's will be open later in the day. I think our  
10 busiest times are early in the morning. And on the  
11 weekends, we don't anticipate running past noon on  
12 Saturdays and then Sundays it would be just early  
13 morning classes, maybe 6, 7, and then a couple evening  
14 classes if clients want that, if we have a demand for  
15 it I guess.

16 MS. TOMPKINS-WRIGHT: Just the parking study  
17 was done on Wednesday and Thursday. Any thought to  
18 confirming that Fridays and Saturdays wouldn't have  
19 been a higher demand? Just for the record to make  
20 sure that we're catching the highest peak hours.

21 MS. HAYES: So I will say that I have  
22 visited Brighton Commons on multiple different  
23 occasions. I work at East River Road Imaging Center.  
24 So I have been driving there most days from work just  
25 to get a good idea. You know, as a new business we do



1 not want to open and not have adequate parking.

2 I have videos of Friday that there was no  
3 one in the parking lot. Also, I was there this  
4 morning. So I have gone there multiple times and I  
5 have no concerns.

6 MR. KRUSE: I would just add too based on  
7 the hours of operation of the tenants in there,  
8 several of them not being open on the weekend compared  
9 to the weekdays we looked at, that's just only going  
10 to affect the numbers perhaps even downward even more  
11 so.

12 And the fact of the matter is, you know, we  
13 certainly try to capture enough spectrum of the  
14 weekday, both early morning through the early evening,  
15 and we really found that the numbers drove up, which  
16 is probably typical of the lunchtime peak.

17 You know, CoreLife, you know, when we  
18 actually looked at the parking -- we did document  
19 parking around the whole plaza, even the adjoining --  
20 the adjacent property, understanding that we weren't  
21 going to include any of the supply or the demand from  
22 that in the parking letter.

23 The back parking lot that's closest to the  
24 west side of the site usually was the least parked.  
25 And the most parked at the time was the spaces between

1 CoreLife and the bistro. That was the heaviest parked  
2 area.

3 But to answer your question, between the  
4 hours of operation and some drive-bys, we feel that  
5 certainly from a weekday standpoint that there's  
6 capacity to handle something like this during the  
7 synergistic and off-peak hours of the site.

8 CHAIRPERSON MIETZ: How about what is the  
9 average time somebody's car would be parked there?

10 MS. HAYES: So classes are typically one  
11 hour.

12 CHAIRPERSON MIETZ: And are they scheduled  
13 in some fashion? Like a hundred people aren't going  
14 to show up and --

15 MS. HAYES: No. They have to be scheduled  
16 for the class prior.

17 MS. SCHMITT: I have a question about the  
18 evenings. And I think that in my experience on a warm  
19 summer night in Brighton after 6 o'clock, we do have  
20 parking problems at that plaza. When you have your  
21 evening classes, you -- I thought I heard you say that  
22 most people come to the morning. Is that what you're  
23 anticipating? How many people do you think come to  
24 the evening or are you anticipating -- I know you'd  
25 love if it was all 25 and full. What are you

1 anticipating?

2 Again, I can tell you just from anecdotal  
3 evidence, if you go there on Friday evening or  
4 Thursday evening, if there's something and it's nice  
5 out, you cannot get a parking space unless you're  
6 going all the way to the back area.

7 MS. HAYES: So in my experience, I visited  
8 multiple studios in Canada. I've taken some evening  
9 classes and I would say those are probably the less  
10 busy times. I would say on average maybe 10 to 15  
11 people in a class.

12 CHAIRPERSON MIETZ: Okay. Other questions  
13 for --

14 MR. DiSTEFANO: Yeah. Just a couple. Is  
15 there a lead time between classes?

16 MS. HAYES: Yes.

17 MR. DiSTEFANO: 10 minutes? 15 minutes?

18 MS. HAYES: Yes.

19 MR. DiSTEFANO: So there's time for clients  
20 to leave and clients to come so you don't have people  
21 waiting in the waiting room to catch a 10:01 class  
22 that, you know, just ended -- the other one ended at  
23 10.

24 MS. HAYES: There's at least 15, 20 minutes  
25 between. We have to clean too.

1           MR. DiSTEFANO: Great. And second question,  
2 looking at the tenant list that was provided by  
3 Passero, it appears a number of stores  
4 close basically -- or are closed basically when your  
5 nighttime classes would be active.

6           Can you guesstimate how many parking spaces  
7 would be available from those closed stores that would  
8 be available to your clients?

9           MR. KRUSE: Yeah. I would -- best I could  
10 give you right here --

11          MR. DiSTEFANO: Yeah. If you could just do  
12 a quick estimate. Will it be an extra 10 or extra 20?

13          MR. KRUSE: Yeah. So Table 2 I think could  
14 sort of paint a good picture of what might be at 7, 8  
15 o'clock or so. But Table 2 we stop at 6 p.m. on the  
16 parking survey. And at that point we counted on  
17 Wednesday 37 occupied space; on Thursday, 48. That  
18 equates to about 45 percent or less occupancy.

19          So in terms of that, you're looking at 139  
20 or 133, just to discount those shared spaces. There  
21 would be more than adequate spaces from that number.  
22 You know, more than 80 spaces available in those  
23 evening hours.

24          MS. SCHMITT: One final question. I didn't  
25 see anything, but many yoga studios I've been to,

1 they're trying to build kind of a community atmosphere  
2 where you spend time together. And I didn't see  
3 anything in here that would insinuate that you're  
4 trying to have people enjoy the space before or after  
5 class. There's no like juice bar. There's no chairs  
6 or lounges where you would anticipate people meeting.  
7 It's a get-in, get-out.

8 MS. HAYES: Yeah. We're not going to have a  
9 juice bar, anything like that.

10 CHAIRPERSON MIETZ: Okay. Any other  
11 questions? Anyone in the audience who would like to  
12 speak regarding this application? Okay. Then the  
13 public hearing is closed.

14 **Application 5A-07-24**

15 Application of Mike Volpe, agent, and Andy  
16 Curwin, owner of property located at 1 Pelham Road,  
17 for 1) an Area Variance from Section 207-16A(4) to  
18 allow a second driveway access point where only one is  
19 allowed by code; and 2) an Area Variance from Section  
20 207-10E(2) to allow front yard pavement (Pelham Road  
21 frontage) to be 41 percent of the front yard area in  
22 lieu of the maximum 30 percent allowed by code. All  
23 as described on application and plans submitted.

24 MR. VOLPE: Good evening. Mike Volpe, agent  
25 for the Curwins, 1 Pelham Road.

1 CHAIRPERSON MIETZ: Very good.

2 MR. VOLPE: My clients would like to  
3 basically re-frame the front yard of their home so  
4 it's a little more easily approachable. They have  
5 a -- the architecture of the home where it is and the  
6 lot -- they have a driveway on one side of the  
7 property.

8 They'd really -- if you look at the house  
9 from the road, the main front door is really almost on  
10 the other side of the house. Just architecturally  
11 it's very awkward when you approach the home. So they  
12 would really love to accentuate the -- that sort of  
13 elongated structure that they have and have a more  
14 central driveway that brings you to the center of the  
15 home and sort of approach it in a more -- more  
16 pleasing manner essentially.

17 In doing this we would avoid the existing  
18 trees that are along the streets. We would also be  
19 doing a new front sidewalk and whatnot, which is  
20 included in the calculations we did.

21 You know, we do understand that this is  
22 self-created. They do -- they love the neighborhood.  
23 They've been there for a long time. They would love  
24 to stay in Brighton. So this would allow them to  
25 essentially further enjoy the neighborhood and the

1 appearance of their home, quite frankly.

2 MR. D'AUGUSTINE: Would you say the concern  
3 is more aesthetic or is it more about when visitors  
4 come and the distance they need to walk from the  
5 driveway to the front door?

6 MR. VOLPE: I'd say aesthetics are the  
7 second point. The flow of traffic -- excuse me -- the  
8 use, coming to the house is their main concern.  
9 Aesthetics secondary.

10 MR. D'AUGUSTINE: Can you list or describe  
11 any other nearby properties that have the double  
12 entryway driveways?

13 MR. VOLPE: I apologize. I do not have the  
14 house numbers. There are two or three further down  
15 Pelham Road that I took note of that they had actually  
16 gotten the idea from.

17 CHAIRPERSON MIETZ: Okay. Other questions  
18 about this?

19 MR. PREMO: I assume that their main parking  
20 would still be in the garage?

21 MR. VOLPE: That's correct.

22 MR. PREMO: So this would be for guests or  
23 dropping something off.

24 MR. VOLPE: Exactly. Yes.

25 MS. TOMPKINS-WRIGHT: Is the width of this

1 driveway appropriate to have two-way traffic or is  
2 this one-way traffic?

3 MR. VOLPE: We were purposely going with  
4 one-way traffic so that it minimized the lot coverage  
5 the best we could.

6 MS. TOMPKINS-WRIGHT: What is the width of  
7 the driveway that's being created?

8 MR. VOLPE: It's going to start wider,  
9 around 12 feet. And then it's going to narrow as you  
10 make that raise -- after looking at the wheel raises,  
11 tracking patterns. So it's going to be wider where it  
12 needs to be to make a turn initially and then  
13 gracefully goes to narrower.

14 CHAIRPERSON MIETZ: To what?

15 MR. VOLPE: 10 feet.

16 CHAIRPERSON MIETZ: Okay. All right.

17 MR. PREMO: I guess I just have this  
18 question. Maybe it's more to Rick. Is there any  
19 concern about increasing the impervious area?

20 MR. DiSTEFANO: Well, that's always a  
21 concern, yes. I mean, that's basically why we limit  
22 that amount of impervious surface in the front yard,  
23 rear yard. So there is that concern, yes.

24 CHAIRPERSON MIETZ: That's our issue in  
25 deliberations.



1 MR. PREMO: And is there -- I was just  
2 wondering what the site distance would be from the  
3 second cut to people turning east onto Pelham.

4 MR. VOLPE: It's an approximation. I didn't  
5 measure that specifically. However, from my  
6 survey/plan that we've created, you have -- I would  
7 approximate it at at least 50 feet if not more.

8 MR. PREMO: Okay. Thank you.

9 CHAIRPERSON MIETZ: Any other questions?  
10 Okay. Thanks very much.

11 MR. VOLPE: Thank you.

12 CHAIRPERSON MIETZ: You're coming up next  
13 too. Hang right there.

14 Is there anyone in the audience who would  
15 like to speak regarding this application? Okay.  
16 There being none, then the public hearing is closed on  
17 this one.

18 **Application 5A-08-24**

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

25 MR. VOLPE: I'm now here as an owner. Mike

1 Volpe with 66 Woodgate Terrace.

2 We would like to extend a -- do a new garage  
3 edition. So going from a single-family, single-car  
4 garage to a additional car garage on the right side of  
5 the house as you look at it from the road.

6 Currently, we could have a -- we could do a  
7 garage with no variance needed; however, it would not  
8 match the other size garage that we currently have.  
9 So if we could get a 2-foot variance, which we're  
10 requesting, the -- I would be able to do two  
11 architecturally matching garages, which it did get  
12 Architectural Review Board approval.

13 So I'm essentially going for the 15-foot  
14 side setback required by code to -- and I'm requesting  
15 13.34 --

16 MR. DiSTEFANO: Just for clarification, by  
17 code 13.8 feet is required. It's 15 percent of the  
18 lot width.

19 MR. VOLPE: Sorry about that.

20 MR. DiSTEFANO: Not 15 feet, period. So 15  
21 percent. So that works out to be 13.8. That's why it  
22 was advertised as 1 plus or minus feet into the  
23 15-foot setback. So it's not as severe a variance as  
24 you think it might be.

25 MR. VOLPE: Thank you. I'll take that.

1           So we are -- you know, it's just  
2           essentially -- if you've been by the house, we're a  
3           growing family. We need a little bit more space for  
4           children and activities and other things. So it's --  
5           we really don't want to move. And love the  
6           neighborhood. So this would allow us to accommodate  
7           that need.

8           And I will say that most other homes on the  
9           street and neighborhood already have this done. And I  
10          would say architecturally the house looks better with  
11          the two-car garage just given the split-level nature.

12          CHAIRPERSON MIETZ: Okay. Questions on  
13          this?

14          MS. SCHWARTZ: I think I remembered your  
15          property. If I'm wrong say so. But do you have a  
16          flowering tree in the spot where the garage might be  
17          going? Did I remember that correctly?

18          MR. VOLPE: Yes.

19          MS. SCHWARTZ: What's going to happen to the  
20          tree?

21          MR. VOLPE: I'm going to replace it with a  
22          new one. I do have to take that tree down. It's a  
23          little too close to the house. Luckily, I do work at  
24          Josh Landscapes. So I will be getting a good one.

25          CHAIRPERSON MIETZ: Okay. Is there any

1 other questions?

2 MS. BARON: I have one additional question.  
3 Do you have to expand the asphalt towards your  
4 neighbor in order to accommodate the new garage bay?

5 MR. VOLPE: I don't actually need to change  
6 the asphalt, no.

7 CHAIRPERSON MIETZ: Very good. Okay. All  
8 set. Thank you very much.

9 Anyone in the audience on this? Okay.  
10 Okay. Public hearing's closed.

11 **Application 5A-09-24**

12 Application of Alicia Cologgi, agent, and  
13 1925 South Clinton LLC, owners of property located at  
14 1925 South Clinton Avenue, for 1) a Sign Variance from  
15 Section 207-32B to allow for business identification  
16 signage (ALDI) on two building faces in lieu of only  
17 one building face as allowed by code: 2) a Sign  
18 Variance from Section 207-26D to allow the signs to  
19 have a logo area of 38 percent of the sign face in  
20 lieu of the maximum 25 percent allowed by code; and 3)  
21 a Sign Variance from Section 207-32B(3) to allow the  
22 signs to project 29 feet in height above grade in lieu  
23 of the maximum 20 feet allowed by code. All as  
24 described on application and plans on file.

25 MR. COLUCCI: Thank you. Good evening,

1 Mr. Chairman, members of the Board. Paul Colucci with  
2 DiMarco Group, 1950 Brighton Henrietta Town Line Road.  
3 Joining me tonight is Vanessa Banks with APD  
4 Engineering and Architecture, project architect for  
5 the ALDI's grocery store.

6 This particular building is going into the  
7 Encore Lac De Ville shopping center in the very  
8 southwest corner. So currently under construction is  
9 the building that will house Starbucks and Jersey  
10 Mike's. Fronting on South Clinton Avenue to the very  
11 north end is the Doodle Bugs! that we've had operating  
12 since 2020.

13 Many of you may be familiar with the site  
14 plan. This building is located -- set back off the  
15 road. There will be buildings flanking the South  
16 Clinton right-of-way, which was subject of the design  
17 of the site. So parking is all centrally located with  
18 buildings towards the east side of the site facing the  
19 South Clinton right-of-way and the parking on the  
20 interior.

21 As Mr. DiStefano read, we're seeking three  
22 variances for signage, the first being the percentage  
23 of logo where as the sign code reads that logos can be  
24 no greater than 25 percent. The ALDI national brand  
25 and their phonetic A is 38 percent.

1 ALDI wishes to have synergy between all of  
2 their locations and their advertising and the  
3 recognition of that brand is very important. So we're  
4 respectfully requesting that variance.

5 Second would be the number of business  
6 identification signs. Whereas code allows for one,  
7 ALDI is seeking two; one on either side of the tower  
8 that is created with the facade of the building.

9 There is a corner entrance and their parking  
10 is balanced on both the north side of the property --  
11 or to the store and to the east.

12 The signs measure -- they're 9 foot 5 inches  
13 tall by 7 foot 11 inches wide, each 70.49 square feet,  
14 which total is 149.8 square feet, which is less than  
15 what the maximum would be allowed under the sign code.

16 CHAIRPERSON MIETZ: For one sign?

17 MR. COLUCCI: For a single sign, correct.

18 Then lastly, would be the height of the sign  
19 as mounted on the facade. Where code allows for a  
20 maximum of 20 feet, ALDI is seeking 26 feet. And  
21 that's related to the architectural facade and where  
22 the signage will be placed. So the store front that  
23 is at the entry vestibules that customers would come  
24 and go from --

25 MR. DiSTEFANO: I just -- and Paul, I'm

1       sorry to interrupt. You said 26 feet. I thought the  
2       drawings on the application said 29 feet. Can you  
3       just verify --

4               MS. BANKS: The highest point of the  
5       tower is 28 foot. So around 29 at the very tip-top.  
6       The top of the sign would be around 26, 27.

7               MR. DiSTEFANO: So modify to 27 feet above  
8       grade. The 29 I think was advertised.

9               MR. COLUCCI: Yeah. And when I was looking  
10      at the elevations as I was preparing for this evening,  
11      when I scaled it, it physically measures on the  
12      drawing and then a digital model at 26 feet from the  
13      top of that sign element.

14              So the store front itself tops out at 11  
15      feet. That's clear vision glass. Then there's a  
16      canopy that flanks the entrance. The top of that is  
17      13 feet. Trying to balance that sign placement so  
18      it's cohesive and architecturally pleasing and lines  
19      up with all the metal panels and the architectural  
20      detailing. The top of that sign would be at 26 feet.

21              CHAIRPERSON MIETZ: Before you go on, ma'am,  
22      I need your name and address for the court reporter.

23              MS. BANKS: Vanessa Banks APD Architecture,  
24      615 Fisher Run, Victor, New York.

25              MR. COLUCCI: So we're super excited about

1 ALDI being in the plaza. As you know, we received  
2 Planning Board approval. We received architectural  
3 review.

4 We did go back last week for signage review  
5 with the Architectural Board. It was approved as  
6 presented. And they would make a recommendation to  
7 the Planning Board. So ultimately, respectfully  
8 requesting consideration for these variances and happy  
9 to answer any questions you have.

10 CHAIRPERSON MIETZ: Okay. So talk about the  
11 rest of the site. So there's one pad site, which is  
12 adjacent to the new Starbucks building; correct? Is  
13 that still there, Paul? Is that still available as a  
14 site, a pad?

15 MR. COLUCCI: That's correct. I may need to  
16 step away from the mic. But Doodlebugs! is to the  
17 very north. The 9200 square foot building, that is  
18 currently under construction, Starbucks, Jersey  
19 Mike's. We have a medical office or physical therapy  
20 tenant. And then there's a 4500 square foot pad site  
21 just to the north, what we call the southerly  
22 entrance, that aligns with the existing signal to the  
23 Tops plaza. Then there is a pad site over here. We  
24 own this parcel. So there will be at some point a  
25 building to the very south.



1 CHAIRPERSON MIETZ: So there's potentially  
2 two more along South Clinton?

3 MR. COLUCCI: That's correct.

4 CHAIRPERSON MIETZ: Thanks. Basically in  
5 front.

6 MR. COLUCCI: Yes.

7 CHAIRPERSON MIETZ: And would you describe  
8 the grading of the building in comparison to the  
9 street?

10 MR. COLUCCI: It's about that same  
11 elevation. The lowest portion is the side where the  
12 stormwater management facility is. Then it rounds up  
13 around the middle.

14 This particular pad is about level with the  
15 access drive. So it's not elevated, pretty much on  
16 grade, but South Clinton falls from south to the  
17 north. So we're going that way.

18 CHAIRPERSON MIETZ: And there's also --  
19 isn't there also a connector road back there too?

20 MR. COLUCCI: We did install, as part of  
21 Phase II, a connection to the Gables. And then we  
22 had -- part of Phase I was a connection to the Seal  
23 property to the north.

24 CHAIRPERSON MIETZ: That's been there for a  
25 while. All right. So is there anything else other

1       than those two parcels that I just talked about?

2               MR. COLUCCI:   There's a pad site to the  
3       north, which would be a two-story medical office  
4       building, 27,300 square feet that's part of the  
5       preliminary overall.

6               CHAIRPERSON MIETZ:   The original  
7       application.   Okay.

8               MS. BARON:   I just had one quick question.  
9       And there also is monument signage right at the  
10      entrance to the site that's already been approved?

11              MR. COLUCCI:   That's correct.   That's  
12      correct.

13              MS. TOMPKINS-WRIGHT:   Just to clarify, the  
14      height of the building, the architectural features of  
15      the building, is that standard for ALDI or is that  
16      just for this location?

17              MS. BANKS:   So that is standard for ALDI.  
18      So for this location -- so in the ALDI prototype, the  
19      angled feature is typically on the other wall, but  
20      because we're -- that wall is facing South Winton, we  
21      moved it to that wall just so that our main feature  
22      was fronting the street.   But other than that aspect,  
23      it's standard for all new developments around the  
24      country.

25              MS. TOMPKINS-WRIGHT:   And how many sides of

1 this building contain this ALDI sign?

2 MS. BANKS: Two.

3 CHAIRPERSON MIETZ: And Architectural Review  
4 Board has already looked at this?

5 MR. COLUCCI: That's right. We received  
6 recommendation for approval from the Planning Board  
7 last week.

8 CHAIRPERSON MIETZ: Very good. Okay.  
9 Questions over here? Anything? Questions? Okay.  
10 Thanks.

11 Anybody in the audience like to speak  
12 regarding the ALDI? Okay. Public hearings closed.

13 Do you want to break here?

14 Gentlemen, before we start the  
15 deliberations, we should take a break. Yeah.

16 MR. DiSTEFANO: Okay.

17 (The public hearings concluded at 8:16 p.m.)

18 (Beginning of deliberations.)  
19  
20  
21  
22  
23  
24  
25

\* \* \* \*

REPORTER CERTIFICATE

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

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

Dated this 1st day of May, 2024  
at Brighton, New York.



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Holly E. Castleman ACR,  
Official Court Reporter

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

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May 1, 2024  
At approximately 7 p.m.  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

**PRESENT:**

DENNIS MIETZ  
Chairperson

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

LAUREN BARON, ESQ.  
Attorney for the Town

RICK DiSTEFANO  
Secretary

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

1     **Application 5A-01-24**

2             Application of Kyle Woods, owner of property  
3     located at 171 Dale Road, for an Area Variance from  
4     Section 207-11A to allow a hot tub to be located in a  
5     side yard in lieu of the rear yard as required by  
6     code. All as described in application and plans on  
7     file.

8             MS. McKAY-DRURY: I move we approve  
9     application 5A-01-24 based on the following findings  
10    of fact.

11    **Findings of Fact:**

12    1. The requested variance will not result in a  
13    substantial change in the character of the  
14    neighborhood because the view of the hot tub will be  
15    blocked by the homeowners' full yard privacy fence and  
16    landscaping with trees and shrubs.

17    2. The difficulty necessitating the variance cannot  
18    be solved without a variance as requested since the  
19    rear yard patio space is under power lines and does  
20    not have the necessary electrical hookup.

21    3. The variance is somewhat substantial given the hot  
22    tub will be fully in the side yard next to the home,  
23    but justified given the inability to place it in the  
24    rear yard and is mitigated by the fence and  
25    landscaping.

1 4. The variance requested is the minimum necessary to  
2 grant relief from the difficulty.

3 5. The proposed variance is not anticipated to have  
4 an adverse impact on the physical or environmental  
5 conditions because the hot tub is relatively small and  
6 will be locked and covered when not in use.

7 6. The difficulty was not self-created in that the  
8 home was purchased with electric hookups and paving  
9 already in place.

10 **Conditions:**

11 1. The granting of this request is limited to the  
12 application on file including the hot tub listed  
13 therein and the testimony provided.

14 2. The homeowner shall maintain landscaping and/or  
15 fencing on the property that effectively blocks the  
16 view of the hot tub from passersby.

17 3. All necessary building permits shall be obtained.

18 MR. D'AUGUSTINE: Second.

19 MR. DiSTEFANO: Can I just add possibly,  
20 Heather, to your finding of fact 2 where you're  
21 talking about although it's somewhat self-created or  
22 substantial that also the distance of the hot tub from  
23 the neighboring property is substantial in that I  
24 believe this is more or less a double lot compared to  
25 the other lots on the street. There's substantial

1 distance between the hot tub and the neighbor.

2 MS. MCKAY-DRURY: So that's going to be an  
3 addition to finding number 3 that the variance -- the  
4 one about whether it's substantial. So then after the  
5 word landscaping; in addition the distance from the  
6 home from the neighboring home is substantial given  
7 that this is a double lot.

8 **Findings of Fact as Amended:**

9 1. The requested variance will not result in a  
10 substantial change in the character of the  
11 neighborhood because the view of the hot tub will be  
12 blocked by the homeowners' full yard privacy fence and  
13 landscaping with trees and shrubs.

14 2. The difficulty necessitating the variance cannot  
15 be solved without a variance as requested since the  
16 rear yard patio space is under power lines and does  
17 not have the necessary electrical hookup.

18 3. The variance is somewhat substantial given the hot  
19 tub will be fully in the side yard next to the home,  
20 but justified given the inability to place it in the  
21 rear yard and is mitigated by the fence and  
22 landscaping. In addition, the distance from the home  
23 from the neighboring home is substantial given that  
24 this is a double lot.

25 4. The variance requested is the minimum necessary to



1 grant relief from the difficulty.

2 5. The proposed variance is not anticipated to have  
3 an adverse impact on the physical or environmental  
4 conditions because the hot tub is relatively small and  
5 will be locked and covered when not in use.

6 6. The difficulty was not self-created in that the  
7 home was purchased with electric hookups and paving  
8 already in place.

9 MR. DiSTEFANO: Matt, you're good with that?

10 MR. D'AUGUSTINE: Yes.

11 MR. DiSTEFANO: Motion is to approve with  
12 conditions.

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

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

19  
20  
21  
22  
23  
24  
25

1     **Application 5A-04-24**

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

9             MR. PREMO: I move to approve application  
10    5A-04-24 based on the following findings of fact.

11    **Findings of Fact:**

12    1. I move the Board having considered the information  
13    presented by the applicant and having conducted the  
14    required review pursuant to SEQRA adopts the negative  
15    declaration prepared by Town staff and determines that  
16    the proposed action will not likely have a significant  
17    environmental impact, referring to part 2 and part 3  
18    of the environmental assessment form and draft the  
19    negative declaration dated May 1, 2024.

20    2. The requested variance is the minimum variance  
21    necessary to address the benefit sought by the  
22    applicant. The proposal by the applicant is to reduce  
23    their parking requirements based upon existing  
24    business conditions and to allow the applicant to  
25    lease spaces so that the nearby business can be

1 established. The amount of spaces to be reduced is  
2 the minimum amount necessary to accomplish this goal.  
3 The applicant has submitted information showing that  
4 there is adequate parking at the requested amount of  
5 16 spaces based upon occupancy rates and the testimony  
6 given by the applicant concerning actual parking  
7 usage.

8 3. No other alternative can eliminate the difficulty  
9 and produce the desired result. These sites are  
10 developed building sites with existing parking areas.  
11 There is no alternative to reconfiguring the parking  
12 itself and the granting of variance will allow the  
13 joint use of the parking space.

14 4. While the variance is substantial, it addresses  
15 the change in business conditions and the existing  
16 conditions on the site. The fact that the variance is  
17 substantial is not reason alone not to grant.

18 5. There will be no unacceptable change to the  
19 neighborhood based upon the testimony given by the  
20 applicant and parking figures provided. The total  
21 parking field with respect to the hotel and the  
22 ability of it to lease spaces to the nearby proposed  
23 cafe will not adversely affect parking in the area in  
24 general.

25 6. The hardship to some extent is self-created based

1 upon the desire of the applicant to address existing  
2 business conditions and to cooperate with the  
3 establishment of a new business. However, the fact  
4 that the hardship is self-created in and of itself is  
5 not a reason to deny the application.

6 7. The health, safety and welfare of the community  
7 will not be adversely affected by approval of the  
8 variance.

9 **Conditions:**

10 1. The variance is based upon the application  
11 materials submitted and the testimony given and only  
12 authorizes the use of the spaces as described therein  
13 and the requested variance.

14 MS. BARON: Only other condition I would  
15 recommend is a time limitation associated -- the  
16 testimony provided indicated that there's a three-year  
17 lease for both the cafe space and the shared parking  
18 lease has a term of three years.

19 So the Board could condition the variance  
20 on -- you know, to be associated with the time  
21 limitation of those lease agreements.

22 MS. TOMPKINS-WRIGHT: Or terminating earlier  
23 as well. Like not straight three years, but term of  
24 the lease.

25 MS. BARON: Yeah. So essentially, a

1 condition stating something like the variance shall  
2 remain in place as long as the term of the shared  
3 parking lease is in.

4 CHAIRPERSON MIETZ: But limited --

5 MR. PREMO: 2, the parking variance is for  
6 the purpose of authorizing leasing of the parking to  
7 the nearby business and the terms of that variance  
8 will be concomitant with such agreement and will  
9 terminate upon the agreement terminating and that the  
10 full parking requirements will then be returned to  
11 this property.

12 MS. MCKAY-DRURY: I want to make sure if  
13 they extend the lease, then our variance does not  
14 terminate. They would have to come and establish the  
15 same thing before the Board.

16 MS. BARON: I think saying something along  
17 the lines of the variance shall remain in effect as  
18 long as the shared parking lease is in effect.

19 MR. PREMO: Okay. Do you want me to restate  
20 number 2?

21 MS. TOMPKINS-WRIGHT: Do you think you need  
22 to specify the number of parking spaces in -- because  
23 it could be amended to have less, which --

24 CHAIRPERSON MIETZ: The lease is for six  
25 spaces. So that's what it should say.

1 MS. BARON: I believe it's for the spaces,  
2 which is another question that I had. Ed, can you --  
3 because the application indicates 24 spaces and  
4 request is for --

5 (Simultaneous conversation interrupted by the court  
6 reporter.)

7 MR. DiSTEFANO: There's 24 rooms. So code  
8 requires 23 spaces. They say they have 24, 26 spaces.  
9 So plus each employee -- they say they don't have any  
10 employees.

11 You know, this goes back to not getting  
12 proper information on the record, but I won't push  
13 that.

14 So actually I would go just the other way  
15 and just say --

16 MS. SCHMITT: It's says 24.  
17 (Simultaneous conversation interrupted by the court  
18 reporter.)

19 MR. DiSTEFANO: They want it to say -- they  
20 need 24 per code. So they are seeking a variance  
21 of eight. So it could be six. Two extra. So they  
22 can give eight to the next door. That's fine. But  
23 the variance is for six.

24 CHAIRPERSON MIETZ: Why don't we --

25 MR. PREMO: The way I thought it was stated,

1       though maybe -- I said 23 were required. 24 is  
2       required and we're giving the variance down to 16.

3               MS. SCHMITT: 18.

4               MR. DiSTEFANO: 18. They have -- they need  
5       24. They have 26. So they have a plus two. Eight  
6       spaces are going to the neighboring property to meet  
7       his demand of 12. So therefore it's 26 minus 8. They  
8       need 24.

9       (Simultaneous conversation interrupted by the court  
10      reporter.)

11              MS. TOMPKINS-WRIGHT: That's even worse.  
12      Less parking spaces, 18 than the 24 required by code.

13              MR. PREMO: Okay. So --

14              CHAIRPERSON MIETZ: All right. We got it  
15      straight here?

16      (Simultaneous conversation interrupted by the court  
17      reporter.)

18              MR. PREMO: The granting of this variance is  
19      to reduce the number of spaces required to 18 on the  
20      site for hotel use.

21              Such reduction is based upon the use of the  
22      remaining spaces pursuant to a lease agreement with  
23      the neighboring cafe and will terminate if that  
24      agreement is not entered into or otherwise terminates.

25              MS. McKAY-DRURY: What about it's contingent

1 on a lease agreement for eight spaces?

2 So it's conditioned upon the existence of a  
3 lease agreement for eight parking spaces to property  
4 located at 2341 Monroe County Avenue.

5 MR. PREMO: I agree with that.

6 MS. MCKAY-DRURY: So I would second.

7 **Conditions as Amended:**

8 1. The variance is based upon the application  
9 materials submitted and the testimony given and only  
10 authorizes the use of the spaces as described therein  
11 and the requested variance.

12 2. Granting of this variance is to reduce the number  
13 of spaces required to 18 on the site for hotel use.

14 Such reduction is based upon the use of the  
15 remaining spaces pursuant to a lease agreement with  
16 the neighboring cafe and will terminate if that  
17 agreement is not entered into or otherwise terminates.

18 It's conditioned upon the existence of a  
19 lease agreement for eight parking spaces to property  
20 located at 2341 Monroe County Avenue.

21 MR. DiSTEFANO: Motion is to approve.

22 (Ms. Schwartz, yes; Ms. Tompkins-Wright, no;  
23 Mr. D'Augustine, yes; Mr. Mietz, no;  
24 Ms. Schmitt, no; Ms. McKay-Drury, yes;  
25 Mr. Premo, yes.)



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Upon roll motion to approve with conditions  
carries.)

1     **Application 5A-05-24**

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

9             MS. SCHWARTZ: I move we approve application  
10    5A-05-24 based on the following findings of fact.

11    **Findings of Fact:**

12    1. The shared parking with the hotel to the east will  
13    add eight designated parking spaces to the cafe making  
14    a total of 12, which meets code.

15    2. Many of the customers will probably be people  
16    staying right next door at the hotel and therefore  
17    will not be creating any need for parking.

18    3. The cafe will be in a residential walkable area  
19    and therefore many of the patrons will walk over,  
20    again, not creating any need for parking as they will  
21    just walk over.

22    4. The site has been used as a retail business for  
23    almost 40 years or more so there will be little or no  
24    change to the character of the neighborhood with this  
25    proposed cafe.

1 5. In addition, this entire stretch of Monroe Avenue  
2 is comprised of retail and commercial businesses.

3 6. There will be no impact on the health, safety and  
4 welfare to neighbors in the surrounding residential  
5 area.

6 7. There is no other alternative other than the  
7 shared parking agreement that will provide the desired  
8 result for the applicant.

9 8. The applicant having conducted the required review  
10 pursuant to SEQRA adopts the negative declaration  
11 prepared by Town staff.

12 **Conditions:**

13 1. This variance only applies to the requested relief  
14 of four parking spaces in lieu of 12 based upon the  
15 written application and testimony presented.

16 2. All building and Planning Board approvals must be  
17 obtained.

18 3. The lease will provide the necessary eight parking  
19 spaces for the duration of the lease.

20 4. No parking on Monroe Avenue.

21 MR. DiSTEFANO: You can't park on Monroe  
22 Avenue.

23 You're finding number 2 is not necessary.  
24 So there's no other approvals than ours. There's no  
25 Planning Board approvals.

1 MS. McKAY-DRURY: Condition number 2.

2 MR. DiSTEFANO: Condition number 2 is not  
3 necessary and condition number 3, exact same way we  
4 said it in 5A-05, just change the address.

5 So the variance is contingent -- the  
6 variance is contingent upon the continuance of a lease  
7 agreement of eight spaces provided by the property at  
8 2323 Monroe Avenue.

9 MS. McKAY-DRURY: Second.

10 MR. DiSTEFANO: The last condition --

11 MS. SCHWARTZ: The one providing the  
12 necessary eight parking spaces for the duration of the  
13 lease.

14 MR. DiSTEFANO: Oh. That is the last  
15 condition. Okay.

16 MS. SCHWARTZ: Yes.

17 **Conditions as Amended:**

18 1. This variance only applies to the requested relief  
19 of four parking spaces in lieu of 12 based upon the  
20 written application and testimony presented.

21 2. The variance is contingent upon the continuance of  
22 a lease agreement of eight spaces provided by the  
23 property at 2323 Monroe Avenue.

24 3. The lease will provide the necessary eight parking  
25 spaces for the duration of the lease.

1 MR. DiSTEFANO: Motion to approve with  
2 conditions.

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

7 (Upon roll motion to approve with conditions  
8 carries.)  
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1     **Application 4A-02-24**

2             Application of Huseyin Sula, lessee, and  
3     Mark Teng, owner of property located at 2341 Monroe  
4     Avenue, for an Area Variance from Section  
5     203-64B(3) (i) to allow a cafe/restaurant to be 10 feet  
6     from a residential lot line in lieu of the minimum 50  
7     feet required by code. All as described on  
8     application and plans on file.

9             MR. PREMO: I move we approve application  
10     4A-02-24 based upon the following findings of fact.

11     **Findings of Fact:**

12     1. The Zoning Board of Appeals has already issued a  
13     negative declaration for the cafe/restaurant project  
14     and no further review is required nor allowed pursuant  
15     to the State Environmental Quality Review Act.

16     2. The requested variance is the minimum variance  
17     necessary to address the benefit sought by the  
18     applicant. The proposed project is a small  
19     cafe/restaurant serving mostly coffee beverages and  
20     light food. There is only a small kitchen without  
21     deep fryers or the need for exterior exhaust. The  
22     cafe restaurant is proposed to be a reuse of an  
23     existing commercial building. The requested area  
24     variance is requesting the existing location and size  
25     of the building and the only alternative would be to

1 demolish the building and rebuild a new building  
2 closer to Monroe Avenue, which is not feasible.

3 3. No other alternative can alleviate the difficulty  
4 and produce the desired result. Rebuilding a new  
5 building for a small cafe/restaurant is not feasible.

6 4. While the variance is substantial, it is caused by  
7 the existing conditions.

8 5. There will be no unacceptable change to the  
9 neighborhood and no substantial impact to the  
10 neighboring properties. The main business will be  
11 customers having drinks and snacks and some of those  
12 will be taken and eaten off the premises. There will  
13 be a small kitchen but no deep fryer and no need for  
14 heavy-duty ventilation. The business is consistent  
15 with the existing nature of the area and the other  
16 nearby uses.

17 6. Existing conditions created the hardship and was  
18 not self-created by the applicant.

19 7. The health, safety and welfare of the community  
20 will not be adversely affected by approval of the  
21 variance.

22 **Conditions:**

23 1. The variance is based on the application materials  
24 submitted and the testimony given and only applies to  
25 the project described therein.

- 1     2. The building will not have a grill or deep fryers.  
2     3. Subject to all building permits and inspections.  
3     4. Subject to all Monroe County Department of Health  
4     approvals and regulations.

5             MR. D'AUGUSTINE: Second.

6             MR. DiSTEFANO: Two things. One, do you  
7     want to add a finding regarding the Planning Board  
8     having granted conditional use permit and determining  
9     there -- the impacts to the neighborhood will be  
10    minimal?

11            MS. BARON: He kind of said that.

12            MR. PREMO: I don't think I mentioned  
13    Planning Board.

14            I'll put it before the conditions. I'll put  
15    a finding number 8, the Planning Board has previously  
16    issued a conditional use permit and the provisions  
17    thereof will protect the health, safety and welfare of  
18    the community.

19            MR. DiSTEFANO: Do you -- and I don't care  
20    if you do this or not. As a condition, do you want to  
21    put hours of operation? I mean, they're specific  
22    hours of operation in that zoning district. So I  
23    don't know if it's necessary. I mean, they're  
24    specific to the application, but there are hours of  
25    operation to be longer than that and earlier than



1 that. So I just -- you know, you might want to say  
2 hours of operation shall be limited to that of the  
3 code, which is like 6 in the morning. Because if he  
4 wants to open earlier, which he might --

5 MR. PREMO: Condition number 5, I believe,  
6 the hours of operation will be in accordance with the  
7 requirements of the Brighton Town Code.

8 MR. D'AUGUSTINE: Those are great changes.

9 **Additional Findings of Fact as Amended:**

10 8. The Planning Board has previously issued a  
11 conditional use permit and the provisions thereof will  
12 protect the health, safety and welfare of the  
13 community.

14 **Additional Conditions as Amended:**

15 5. The hours of operation will be in accordance with  
16 the requirements of the Brighton Town Code.

17 MR. DiSTEFANO: Motion is to approve with  
18 conditions.

19 Ms. Schwartz, yes; Ms. Tompkins-Wright, yes;  
20 Mr. Mietz, yes; Ms. McKay-Drury, yes;  
21 Ms. Schmitt, yes; Mr. D'Augustine, yes;  
22 Mr. Premo, yes.)

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

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1     **Application 5A-06-24**

2                     Application of Oxygen Yoga and Fitness  
3     Brighton Commons, lessee, and Brighton Commons  
4     Partnership LP, owner of property located at 1835  
5     Monroe Avenue, for an Area Variance from Section  
6     205-12 to allow for modification of a parking variance  
7     (2A-05-20) allowing for 133 on-site parking spaces in  
8     lieu of the 181 spaces required by code (existing  
9     variance allows for relief from 170 required parking  
10    spaces) allowing for the establishment of a yoga  
11    studio. All as described on application and plans on  
12    file.

13                    MS. TOMPKINS-WRIGHT: I move that the Board  
14    having considered the information presented by the  
15    applicant and having conducted the required review  
16    pursuant to SEQRA adopts the negative declaration  
17    prepared by Town staff and determines the proposed  
18    action will not likely have a significant  
19    environmental impact.

20                    I also move to approve application 5A-06-24  
21    based on the following findings of fact.

22     **Findings of Fact:**

23     1. The granting of the requested variance will not  
24     produce an undesirable change in the character of the  
25     neighborhood or be a detriment to nearby properties.

1 The parking variance is for a plaza with shared mixed  
2 uses with different peak hours meaning the demand for  
3 parking will always be met with a reduced number of  
4 parking spaces in the plaza as a whole. As  
5 demonstrated by parking studies performed on behalf of  
6 the applicant, the number of available parking spaces  
7 in the plaza at all times, in particular at peak times  
8 for the applicant's use, is more than enough to  
9 accommodate the applicant's parking needs so as not to  
10 put a strain on the neighboring properties or public  
11 rights-of-way.

12 Further, given the location and nature of  
13 the use, it is expected that some patrons of this new  
14 business will walk or bike rather than drive and park,  
15 equating a lower parking need than required.

16 2. The requested variance is not substantial given  
17 the evidence presented and in that the current  
18 available parking is more than sufficient for this  
19 additional use.

20 3. The benefit sought by the applicant cannot  
21 reasonably be achieved by any other method as there  
22 are no other parking areas that could lessen the  
23 variance request that are not already being utilized.

24 4. There is no evidence that the proposed variance  
25 will have an adverse effect or impact on the physical

1 or environmental conditions in the neighborhood or  
2 district.

3 5. The difficulty needing this variance request is  
4 not self-created as it stems from the mix of uses at  
5 the plaza and their shared parking arrangements.

6 **Conditions:**

7 1. The variance granted herein applies only to the  
8 parking depicted on the application and in the  
9 testimony given.

10 2. This variance granted herein only applies so long  
11 as the specific use continues to be a yoga studio and  
12 not more generally any other fitness use other than a  
13 yoga studio.

14 3. Hours shall be no more than 6 a.m. to 1 p.m. and  
15 4 p.m. to 8 p.m. Monday through Friday and 8 a.m. to  
16 noon and 6 p.m. to 8 p.m. on weekends.

17 4. A certificate of compliance shall be obtained from  
18 the Building Planning Department prior to the issuance  
19 of any building permits and/or occupancy.

20 MR. D'AUGUSTINE: Second.

21 MR. DiSTEFANO: Motion is to approve with  
22 conditions.

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

24 Mr. Premo, yes; Ms. Schwartz, yes;

25 Ms. Schmitt, yes; Mr. D'Augustine, yes;

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Ms. Tompkins-Wright, yes.)  
(Upon roll motion to approve with conditions  
carries.)

1     **Application 5A-07-24**

2             Application of Mike Volpe, agent, and Andy  
3     Curwin, owner of property located at 1 Pelham Road,  
4     for 1) an Area Variance from Section 207-16A(4) to  
5     allow a second driveway access point where only one is  
6     allowed by code; and 2) an Area Variance from Section  
7     207-10E(2) to allow front yard pavement (Pelham Road  
8     frontage) to be 41 percent of the front yard area in  
9     lieu of the maximum 30 percent allowed by code. All  
10    as described on application and plans submitted.

11            MR. D'AUGUSTINE: I move we approve  
12    application 5A-07-24 based on the following findings  
13    of fact.

14    **Findings of Fact:**

- 15    1. The requested variances will not result in a  
16    substantial change in the character of the  
17    neighborhood given that the design takes into account  
18    the nature of the properties in the surrounding area.  
19    2. The difficulty cannot be solved without these  
20    variances given the current driveway placement  
21    relative to the front door of the home. The owners  
22    would like guests and delivery drivers to have easy  
23    access to the front door of the residence.  
24    3. The requested variances are not substantial in  
25    that there is only an 11 percent increase in the

1 impervious coverage and the effect will be minimized  
2 by the proposed landscaping.

3 4. The requested variances are the minimum required  
4 in order to solve the problem of access to the front  
5 door while creating an aesthetically pleasing design.

6 5. The requested variances are consistent with the  
7 surrounding properties given that there are several  
8 double access driveways in the vicinity on Pelham,  
9 Council Rock and most notably directly behind the  
10 applicant at 30 Grosvenor.

11 **Conditions:**

12 1. The variance applies to the plans presented in the  
13 application and the testimony given.

14 2. Applicant must acquire all necessary permits,  
15 specifically the highway permit for the location of  
16 the curb cut.

17 MS. SCHWARTZ: Second.

18 MR. DiSTEFANO: Motion is to approve with  
19 conditions.

20 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;

21 Mr. Mietz, yes; Ms. Tompkins-Wright, yes;

22 Mr. Premo, yes; Ms. Schwartz, yes;

23 Mr. D'Augustine, yes.)

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

1     **Application 5A-08-24**

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

8             MS. McKAY-DRURY: I move we approve  
9     application number 5A-08-24 based on the following  
10    findings of fact.

11    **Findings of Fact:**

12    1. The requested variance will not result in a  
13    substantial change in the character of the  
14    neighborhood because the side yard is quite large and  
15    many homes on this street have two-car garages.

16    2. The difficulty necessitating the variance cannot  
17    be solved without the variance since the existing  
18    garage is already in place on the right side of the  
19    home and a detached garage is uncommon for the area  
20    and would not be ideal for the homeowners' needs.

21    3. The variance is not substantial in that it will  
22    encroach only plus or minus 1 foot into the 13.8-foot  
23    required side setback.

24    4. The variance requested is the minimum necessary to  
25    grant the relief from the difficulty since a



1 functional garage requires a 10-foot wide bay.

2 5. The proposed variance is not anticipated to have  
3 an adverse impact on the physical or environmental  
4 conditions in the neighborhood.

5 6. The difficulty is not self-created in that the  
6 home layout and placement on the lot is pre-existing.

7 **Conditions:**

8 1. This variance is limited to the application on  
9 file and testimony provided

10 2. All necessary building permits and ARB approvals  
11 shall be obtained.

12 MS. SCHWARTZ: Second.

13 MR. DiSTEFANO: Motion to approve with  
14 conditions.

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

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

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1     **Application 5A-09-24**

2             Application of Alicia Cologgi, agent, and  
3     1925 South Clinton LLC, owners of property located at  
4     1925 South Clinton Avenue, for 1) a Sign Variance from  
5     Section 207-32B to allow for business identification  
6     signage (ALDI) on two building faces in lieu of only  
7     one building face as allowed by code: 2) a Sign  
8     Variance from Section 207-26D to allow the signs to  
9     have a logo area of 38 percent of the sign face in  
10    lieu of the maximum 25 percent allowed by code; and 3)  
11    a Sign Variance from Section 207-32B(3) to allow the  
12    signs to project 29 feet in height above grade in lieu  
13    of the maximum 20 feet allowed by code. All as  
14    described on application and plans on file.

15            CHAIRPERSON MIETZ: I move that The Board  
16    having considered the information presented by the  
17    applicant and having conducted the required review  
18    pursuant to SEQRA adopts the negative declaration  
19    prepared by Town staff and that the proposed action  
20    will not likely have a significant environmental  
21    impact.

22            I move that we approve based on the  
23    following findings of fact.

24     **Findings of Fact:**

25     1. Due to the orientation of the building on the

1 site, the second sign face will assist in wayfinding  
2 for plaza customers.

3 2. The logo requested at 38 percent to conform with  
4 national standards is not substantial due to the  
5 height of the logo and distance from the street.

6 3. The typical architectural design of the  
7 applicant's building is a tower feature at 29 feet and  
8 their requesting sign is to be a height of 27 feet.

9 4. No negative effect on the character of the  
10 neighborhood will likely result since the building is  
11 located in a commercial development with commercial  
12 nearby properties.

13 5. No other alternative will meet the applicant's  
14 requirements due to the design, placement and  
15 architectural features of the proposed location.

16 **Conditions:**

17 1. It's based on the testimony given and plans  
18 submitted and only to the signs specified in the  
19 application as to size and location.

20 2. All necessary Architectural Review Board and  
21 Planning Board approvals shall be obtained.

22 MR. DiSTEFANO: Somebody second?

23 MR. D'AUGUSTINE: Second.

24 MR. DiSTEFANO: Do we want -- the one 27  
25 feet, I know we kept going back and forth. I think

1 Paul said 26 feet was the max height of the sign.

2 CHAIRPERSON MIETZ: I thought he said 26 and  
3 change, but --

4 MR. DiSTEFANO: Okay. If you want to put  
5 27 --

6 CHAIRPERSON MIETZ: Let's leave it at 27.  
7 If we put the 26, that's fine.

8 MR. DiSTEFANO: Yeah. Okay. I just want to  
9 get -- I got to change the legal description. 27.

10 MR. D'AUGUSTINE: Second.

11 MR. DiSTEFANO: Motion is to approve with  
12 the conditions.

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

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

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1     **Application 1A-08-24**

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

14            MR. PREMO: I am going to add a new  
15    paragraph, 48. Paragraph 48 reads as follows: At the  
16    ZBA meeting of February 7, 2024, Suzanne Spencer, the  
17    previous owner of the property from approximately 1983  
18    to 2023, testified that while she owned the property  
19    no person or group said they were interested in  
20    looking at the house because the Bentley family had  
21    lived there.

22            And I also propose that after new paragraph  
23    48, that old paragraphs 48 to 68 be renumbered in  
24    order to be paragraphs 49 to 69.

25            MS. BARON: Can I make one suggestion? When

1 you say looking at the house, I would suggest you say  
2 looking at the house for landmark destination because  
3 the Bentley family had lived there.

4 MR. PREMO: Well, I kind of went through  
5 exactly what the quote was.

6 MS. BARON: Oh, okay.

7 MR. PREMO: I reused the language.

8 CHAIRPERSON MIETZ: Are there any other  
9 concerns? Yes.

10 MS. SCHWARTZ: Yes. On page 7, paragraph  
11 47, the second to last word should be "career," not  
12 carrier. Career, I believe.

13 MS. TOMPKINS-WRIGHT: I just want to make a  
14 comment for those voting yes on this. Everyone agree  
15 with Ed's proposed change? Because --

16 MS. SCHWARTZ: I don't, to be honest with  
17 you.

18 MS. TOMPKINS-WRIGHT: Are you voting yes?

19 MS. SCHWARTZ: Oh, no.

20 I still don't think it's fair.

21 CHAIRPERSON MIETZ: What --

22 MS. SCHWARTZ: And I don't think it's a  
23 lesser prominence because no one came up to Suzanne  
24 and asked her, you know, is this historic or whatever.  
25 It's -- that to me is not critical.

1 MR. DiSTEFANO: Well, you're voting no  
2 against the findings anyway so --

3 MS. TOMPKINS-WRIGHT: You agree with most of  
4 these statements; right?

5 MS. SCHWARTZ: That one is just not  
6 necessary.

7 CHAIRPERSON MIETZ: All right. Well --

8 MR. D'AUGUSTINE: I just -- I didn't know if  
9 those who were voting yes would entertain a condition  
10 that the owner not subdivide the lot in the future.

11 CHAIRPERSON MIETZ: Well, I am not sure it's  
12 possible with the way that --

13 MR. DiSTEFANO: Well, first, we've already  
14 made the decision. Okay? The decision has been made.  
15 We're basically just doing the findings per that  
16 decision. That condition was not contemplated with  
17 the actual decision.

18 And I don't think there's any way to  
19 subdivide it and not get a -- because the gardens are  
20 historically designated now. So they can't go in  
21 there and touch those without getting a certificate of  
22 appropriateness through the Historical Preservation  
23 Commission.

24 MS. SCHWARTZ: Could you elaborate how  
25 that's going to be enforced?

1 MS. BARON: So, yeah. I'll just answer. In  
2 terms of adding that in the condition, I don't believe  
3 it would be appropriate to add it to the findings of  
4 this approval since it's not an issue right now. In  
5 front of you right now, there's no subdivision  
6 application. There's no application related to that.

7 And the second thing is I actually do have  
8 an amendment of my own to paragraph 37, if you want to  
9 direct your attention to that paragraph. That  
10 discusses any future Historic Preservation review. So  
11 to make this provision more in line with what the  
12 requirements are in the code for demolition and site  
13 plan review, I had an amendment to that as follows --  
14 I can read it out -- so paragraph 37; I propose the  
15 change that any plan submitted to the Town by the  
16 applicant for future demolition and/or construction on  
17 the property will need to be assessed by Town staff  
18 and the Town of Brighton Planning Board to determine  
19 whether a review by the Town Historic Preservation  
20 Commission is required as part of the certificate of  
21 appropriateness process pursuant to the Town of  
22 Brighton Code Section 224-4 and 224-5 to ensure such  
23 construction and/or demolition is compatible and will  
24 not negatively impact the landscape architecture that  
25 has been designated as a landmark.



1           So this change is more in line with how the  
2 process actually works. So when someone makes a  
3 demolition application, it goes to the Planning Board.  
4 They review it. They determine whether it needs to  
5 go -- well, all applications do end up going to the  
6 HPC anyway.

7           MR. DiSTEFANO: All demolition. But this  
8 won't have to go to demolition -- no. Not all  
9 demolition -- well, yes. All demolition go, but they  
10 only go for determination on whether it should be  
11 landmarked. And we have determined it's not a  
12 landmark. So the house will not have to go back to  
13 the Planning Board. Unless -- excuse me. The house  
14 will not have to go back to the Historic Preservation  
15 Commission unless the Planning Board wants it to.

16           MS. BARON: Yeah. So basically it would be  
17 a situation where the demolition plans would impact  
18 the landscape architecture and --

19           CHAIRPERSON MIETZ: The construction.

20           MR. DiSTEFANO: And construction.  
21 Definitely the construction.  
22 (Simultaneous conversation interrupted by the court  
23 reporter.)

24           MR. DiSTEFANO: Exactly. And if the  
25 Planning Board doesn't feel comfortable with what's

1       been submitted, they can always send it back to the  
2       HPC to say -- verifying that we're not disturbing the  
3       gardens as a designation. Or they could go to HPC, we  
4       would like a certificate of appropriateness to move,  
5       disturb some portion of the garden.

6               CHAIRPERSON MIETZ: Right.

7               MR. PREMO: So I'm sorry. What's the  
8       change?

9               MS. BARON: So the change is essentially any  
10       plans will need to be assessed by Town staff and the  
11       Town of Brighton Planning Board to determine whether  
12       review by the Town of Brighton Historic Preservation  
13       Commission is required.

14              MS. TOMPKINS-WRIGHT: Rather than going  
15       straight to --

16              MS. BARON: Exactly.

17              MR. DiSTEFANO: If they come and said we  
18       want to demo the house, we're not touching any of the  
19       gardens, then no other board review other than the  
20       Planning Board review is necessary because the house  
21       has already been not designated as a historic  
22       landmark.

23              CHAIRPERSON MIETZ: Saying it and showing it  
24       are two different things. So if they submit something  
25       that the Planning Board feels is adequate mitigation

1 to do what they're doing, I would presume they would  
2 react --

3 MR. DiSTEFANO: Yup.

4 CHAIRPERSON MIETZ: So there's pretty good  
5 protection in there.

6 MS. TOMPKINS-WRIGHT: For purposes of the  
7 motion, if I make a motion, do I need to read all --

8 MS. BARON: You don't need to read the  
9 entire thing.

10 MS. MCKAY-DRURY: Can I ask a question? I  
11 just want to make sure when -- let me see. For  
12 documents considered, I want to make sure that this  
13 abomination is included.

14 MS. BARON: Specifically? It included all  
15 public documents and documents submitted from the  
16 initial date of the application.

17 MS. MCKAY-DRURY: This was something that  
18 was handed to us by the applicant when they were here.  
19 It's the one that ends with this.

20 MS. BARON: Yeah.

21 MR. DiSTEFANO: Yup. So that was definitely  
22 considered and added to --

23 MS. BARON: The written and oral -- the last  
24 documents considered in written and oral public  
25 comments and communications received from January 2024

1 through March 6th, 2024.

2 MS. MCKAY-DRURY: So even though it says  
3 public? It's from the applicant.

4 MR. DiSTEFANO: It's public. When it comes  
5 in to the Board, it's public.

6 MS. MCKAY-DRURY: All right. So the same  
7 thing would apply with respect to the supplemental  
8 information we receive from Hudson?

9 MS. BARON: It was through March 6th. The  
10 supplemental was received I think March 5th or 4th.

11 MS. MCKAY-DRURY: Okay. Great.

12 CHAIRPERSON MIETZ: We set?

13 MS. SCHWARTZ: I just want to say some of  
14 the numbers are missing from what you printed out than  
15 what we have, the email from you. Number 55 isn't  
16 here.

17 MR. D'AUGUSTINE: It copies like every other  
18 page.

19 MS. SCHWARTZ: Yeah. So we're missing some.

20 MR. DiSTEFANO: It should have been  
21 double-sided.

22 MS. SCHWARTZ: Don't worry. Because I took  
23 notes.

24 CHAIRPERSON MIETZ: We'll they can --

25 MS. SCHWARTZ: 55 alluded to the fact that

1 Steele and Williamson, didn't work together and so  
2 forth. And Steele did not follow the layout or the  
3 style of the house so to marry the landscaping with  
4 the architecture.

5 And to me, that was his genius. And  
6 therefore, it's a package of one as stated by Ms.  
7 Comeau. I just wanted to add to that.

8 MR. DiSTEFANO: Okay.

9 MS. BARON: That's not being added as a  
10 finding --

11 (Simultaneous conversation interrupted by the court  
12 reporter.)

13 MS. BARON: There's only two things I wanted  
14 to address for the Board's consideration and so it's  
15 understood for the record that no buffer --the Board  
16 does not want a buffer to be included in these  
17 findings for the landscape architecture. Is that -

18 CHAIRPERSON MIETZ: Isn't that what the  
19 requirement is?

20 MS. BARON: There is no requirement.

21 MR. DiSTEFANO: There is no requirement for  
22 the buffer.

23 MS. SCHWARTZ: Because there's no structure  
24 there.

25 CHAIRPERSON MIETZ: It's hard to remember

1 now because it's been a couple months.

2 MS. BARON: So the Code states that the  
3 Historic Preservation Commission can impose a buffer  
4 no greater than 250 feet.

5 CHAIRPERSON MIETZ: Okay.

6 MS. BARON: And then the second thing is  
7 everybody was good with the exhibit -- Exhibit A from  
8 the cultural resources survey and the site plan  
9 submitted by the applicant.

10 CHAIRPERSON MIETZ: Okay.

11 MS. TOMPKINS-WRIGHT: Can you explain what  
12 exact motion I'm making? Is it accepting the findings  
13 of fact as circulated by Town staff and --

14 MR. DiSTEFANO: I don't know if you need to  
15 make a motion. I should call the vote.

16 MS. BARON: No. I think a motion to adopt  
17 the findings of fact as drafted by Town staff and  
18 attorney to the Town and as amended.

19 MS. TOMPKINS-WRIGHT: I move to adopt the  
20 findings of fact as drafted by Town staff and the  
21 attorney to the Town as amended at the meeting of May  
22 1st, 2024.

23 MR. PREMO: Second.

24 MR. DiSTEFANO: Motion is to adopt findings  
25 for 1A-08-24.

1 (Ms. Schmitt, yes; Ms. McKay-Drury, no;  
2 Mr. Mietz, yes; Mr. D'Augustine, no;  
3 Ms. Schwartz, no; Mr. Premo, yes;  
4 Ms. Tompkins-Wright, yes.)

5 (Upon roll motion to adopt findings as  
6 amended carries.)  
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1     **Application 5A-02-24**

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

10            MR. D'AUGUSTINE: I move to approve  
11     application 5A-02-24 based on the following findings  
12     of fact.

13     1. The setback of the new garage is the same as the  
14     setback of the existing garage.

15     2. The difficulty cannot be solved in another manner  
16     besides requiring a variance because if the current  
17     setback is not maintained, the homeowner will need to  
18     reconfigure the driveway.

19     3. The variance is the minimum necessary to grant  
20     relief because there is no way to align the garage  
21     with the existing driveway other than being granted  
22     the setback variance.

23     4. The variance is consistent with the surrounding  
24     properties in the neighborhood and it will not have an  
25     adverse effect on the physical or environmental



1 condition in the neighborhood given that the detached  
2 garage is similar to the detached garages surrounding  
3 in that neighborhood.

4 **Conditions:**

- 5 1. The footprint and the setback will conform to the  
6 plans submitted and the testimony given.  
7 2. The height shall not exceed Town Code of 16 feet.  
8 3. All necessary permits shall be obtained.

9 MS. McKAY-DRURY: Second.

10 MR. DiSTEFANO: Motion to approve with  
11 conditions.

12 (Ms. Schmitt, no; Mr. Mietz, no;  
13 Ms. Tompkins-Wright, no; Ms. Schwartz, yes;  
14 Mr. Premo, yes; Ms. McKay-Drury, yes;  
15 Mr. D'Augustine, yes.)

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

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1     **Application 5A-03-24**

2             Application of Reza Hourmanesh, agent, and  
3     Guiyan Li, owner of property located at 2720 West  
4     Henrietta Road, requesting an extension to approved  
5     variance 5A-01-23 (parking) and approved variance  
6     5A-02-23 (impervious coverage) pursuant to Section  
7     219-5F. All as described on application and plans on  
8     file.

9             MR. PREMO: I move we approve application  
10    5A-03-24 based on the following findings of fact.

11    **Findings of Fact:**

12    1. This application is to extend two area variances  
13    with respect to 2720 West Henrietta Road; first, for a  
14    parking variance approved by decision 5A-01-23, and  
15    another for impervious coverage approved by decision  
16    5A-02-23.

17    2. Construction on this project was delayed because  
18    of delays in financing.

19    3. All conditions, findings and decisions in 5A-01-23  
20    and 5A-02-23 remain the same and there are no  
21    significant changes in the proposed project

22    4. Therefore, the variance granted in 5A-01-23 and  
23    5A-02-23 are extended

24    5. Following conditions apply: All the conditions  
25    stated in 5A-01-23 and 5A-02-23 are hereby adopted and

1 remain in full force and effect.

2 MR. DiSTEFANO: Motion to approve.

3 MR. D'AUGUSTINE: Second.

4 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;

5 Mr. Mietz, yes; Ms. Tompkins-Wright, yes;

6 Ms. Schwartz, yes; Mr. D'Augustine, yes;

7 Mr. Premo, yes.)

8 (Upon roll motion to approve with conditions

9 carries.)

10 (Proceedings concluded at 10:26 p.m.)

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REPORTER CERTIFICATE

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

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

Dated this 1st day of May, 2024  
at Brighton, New York.



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Holly E. Castleman ACR,  
Official Court Reporter