
BRIGHTON
ZONING BOARD OF APPEALS
MEETING

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.

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.

Once that's finished, then we close the public hearing and move to the next application. Once we finish them all, we may take a few minute break then we will deliberate. So you can stay and listen to the conclusions. There is no more discussion 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 ALDIS 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.)

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REPORTER CERTIFICATE

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

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

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

Holly E. Costello

Holly E. Castleman ACR,
Official Court Reporter

BRIGHTON
ZONING BOARD OF APPEALS
DELIBERATIONS AND DECISIONS

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

10 | PRESENT:

DENNIS MIETZ
Chairperson

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

LAUREN BARON, ESQ.
Attorney for the Town

18 RICK DiSTEFANO
Secretary

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

1 **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.)

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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.)

1 Upon roll motion to approve with conditions
2 carries.)
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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 form 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;

1 Ms. Tompkins-Wright, yes.)

2 (Upon roll motion to approve with conditions
3 carries.)

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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

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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.

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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.

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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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