

A G E N D A
BOARD OF APPEALS - TOWN OF BRIGHTON
JUNE 5, 2024

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

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

7:00 P.M.

CHAIRPERSON: Call the meeting to order.

SECRETARY: Call the roll.

CHAIRPERSON: Agenda Review with Staff and Members

CHAIRPERSON: Approve the minutes of the April 3, 2024 meeting. **To be done at the July 2, 2024 meeting**
Approve the minutes of the May 1, 2024 meeting. **To be done at the July 2, 2024 meeting**

CHAIRPERSON: Announce that the public hearings as advertised for the BOARD OF APPEALS in the Daily Record of May 30, 2024 will now be held.

[6A-01-24](#) Application of Richard Hunt, agent, and John and Beth Tarduno, owners of property located at 74 Oakdale Drive, for 1) an Area Variance from Sections 203-2.1B(3) and 203-9A(4) to construct a 572 sf detached garage 3 ft. from a side lot line in lieu of the minimum 5 ft. required by code; and 2) an Area Variance from Section 207-6A(1) to allow said garage to be 17 ft. in height in lieu of the maximum 16 ft. allowed by code. All as described in application and plans on file.

[6A-02-24](#) Application of Nathan Esh, agent, and Wesley Williamson, owner of property located at 180 Coniston Drive, for an Area Variance from Section 205-2 to allow a deck to extend 14 ft. into the 51.8 ft. rear setback where a 60 ft. rear setback is required by code. All as described on application and plans on file.

[6A-03-24](#) Application of Kirk Wright, agent and 1925 South Clinton, LLC, owner of property located at 1905 South Clinton Avenue, for 1) a Sign Variance from Section 207-26D to allow a 100% logo building face sign (Starbucks) where not permitted by code (east elevation); and 2) a Sign Variance from Section 207-32 to allow logos on way finding signs where not permitted by code. All as described on application and plans on file.

[6A-04-24](#) Application of Kirk Wright, agent and 1925 South Clinton, LLC, owner of property located at 1905 South Clinton Avenue, for a Sign Variance from Section 207-32B to allow for 2 non business identification signs (Drive Thru) on the east and west building elevations where not allowed by code. All as described on application and plans on file.

6A-05-24 Application of Kirk Wright, agent and 1925 South Clinton, LLC, owner of property located at 1905 South Clinton Avenue, for a Sign Variance from Section 207-32B to allow for three (3) menu boards where not allowed by code. All as described in application and plans on file.

6A-06-24 Application of Kirk Wright, agent and 1925 South Clinton, LLC, owner of property located at 1905 South Clinton Avenue, for a Sign Variance from Section 207-6 to allow a canopy structure to be located in a front yard in lieu of a rear yard as required by code. All as described on application and plans on file.

6A-07-24 Application of Jerry Serafine, agent, and Stephen Artim and Tricia Shalka, owners of property located at 55 Stonybrook Drive, for an Area Variance from Section 211-16(1) to allow the construction of an addition located in a floodplain to have the lowest finished floor 18 inches above the base flood elevation in lieu of the minimum 24 inches required by code. All as described on application and plans submitted.

6A-08-24 Application of Leroy and Lehana Doctor, owners of property located at 74 Irving Road, for an Area Variance from Section 207-10E(2) to allow front yard pavement coverage to be 35% of the front yard area, after a driveway expansion, in lieu of the maximum 30% allowed by code. All as described on application and plans submitted.

6A-09-24 Application of Jennifer Schmidt, Airosmith Development, applicant, and the Town of Brighton, owner of property located at 444 Browncroft Blvd., for Area Variances from Sections 203-2.1B(6) and 203-9A(4) to 1) allow a standby emergency generator to be in a yard other than the rear yard as required by code and 2) allow said generator to be powered by diesel fuel in lieu of natural gas or propane as required by code. All as described on application and plans on file.

CHAIRPERSON: Announce that public hearings are closed.

NEW BUSINESS:

NONE

OLD BUSINESS:

NONE

PRESENTATIONS:

NONE

COMMUNICATIONS:

Letter from Beth and John Tarduno, 74 Oakdale Drive, dated June 3, 2024, with additional information regarding their variance application, 6A-01-24.

Letter from John Warren, 82 Oakdale Drive, dated June 4, 2024, with comments and concerns regarding application 6A-01-24, 74 Oakdale Drive.

PETITIONS: NONE

June 3, 2024

To whom it may concern,

Re: 6A-01-24: June 5, 2024

My husband and I are requesting an Area Variance from Sections 203-2.1 (3) and 203-9A (4) to construct 572 sf detached garage 3 feet from the side lot line in lieu of the minimum 5 feet.

We are aware that our neighbor, Jack Werren at 82 Oakdale, has expressed concern over one of the large Norway Pines that is on his property. We have had many conversations about this, and I have expressed my interest and desire to save the trees as well.

We have worked hard in doing due diligence investigating how best to manage our narrow yard and a new garage with the trees in our yard, as well as our neighbors' yard. We have had the following arborists to our property prior to ensure there would be proper care and concern for the tree.

Arborists:

Bartlett Tree Experts (Trevor)- 585-385-4060

Davey Tree (Jason)- 585-785-4031

Stoney-Oak Pest Control- Rob Barrett (Board Certified Arborist)- 738-4966

Each of these arborists have presented the same general summary. The tree is presently healthy and with the two beside it, they are most likely root grafted together as one so is structurally sound. There are things that can be done to ensure less impact on the tree:

1. Water the tree well during and after construction.
2. Keep heavy equipment away from the top of the roots.
3. Use a bio stimulate/fertilizer after the construction. This contains micronutrients that can help supplement urban soils to assist a tree health and decrease possible stress on the tree.
4. Possibly the use of Paclobutrazol, or similar product, which is designed to control the shoot growth/ height of a tree and may allow more energy into the tree roots. Of the choices above, #1-3 are the most suggested.

On May 31, 2024, Mr. Werren met with our architect, Rich Hunt, and our contractor, Jason Crane. They both discussed their experience in dealing with trees close to structures in prior jobs. Mr. Crane explained the care they take when working around tree roots, such

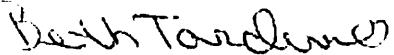
as not having any heavy equipment on top of the roots, moving as many roots as possible, rather than cutting them, and if cutting is necessary clean cuts would be done.

In addition, our lot is a pie-shape. Therefore, the distance at the front right corner is planned to be approximately 3 feet from the property line (if approved) however the back right corner will be closer to 4 feet from the property line. Presently the architectural drawing shows it to be parallel to the property line, however actually it will be facing straight forward and parallel to the house. Mr. Hunt has drafted a letter and plans to present this to the board at the meeting. He has shared the letter to Mr. Werren, who verbalized acceptance with the placement of the garage knowing it is not parallel to the property line, thus giving more space for the tree.

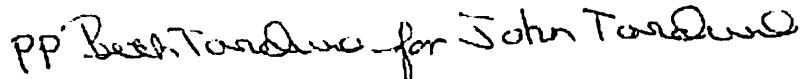
We are asking for the variance so that we can turn our vehicles in our driveway to avoid hitting a side porch that extends into the driveway. This is a narrow space, and we want to be able to exit without accidentally hitting the porch.

Thank you for your consideration.

Sincerely,



Beth Tarduno



p.p John Tarduno

RECEIVED
JUN 4 2024

Rick DiStefano, Secretary
Brighton Town Hall
2300 Elmwood Avenue
Rochester, NY 14618
4 June 2024

TOWN OF BRIGHTON
BUILDING & PLANNING

To Rick DiStefano & Brighton Town Zoning Board:

Our next-door neighbors (John and Beth Tarduno of 74 Oakdale Drive) plan to build a garage on their property, which involves excavation into the hillside. Their plan is being presented to the zoning board on Wednesday 5 June 2024 (application 6A-01-24). I am unable to attend this meeting due to a prior out-of-town commitment, but wish to submit this letter for consideration.

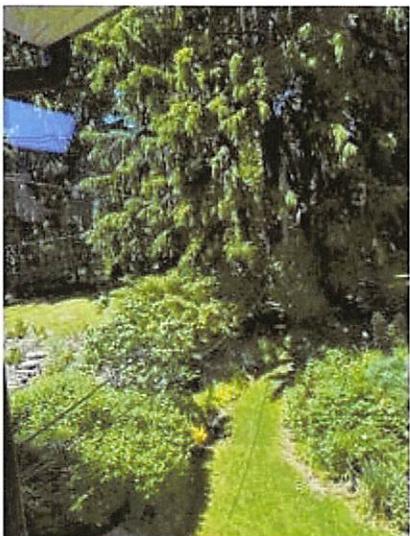
Key Points

1. I originally submitted a letter to the Tardunos in April supporting their plan as presented to me. The plan has subsequently changed due to other considerations, and now includes a request for easement to allow the building to be within 3 feet of our property line.
2. The current design map indicates that the garage will run parallel to the property line along its entire length at 3 feet. The garage also involves excavation, which will be 5 feet 4 inches deep at the back.
3. There is a very large Norway Spruce Tree (two pictures attached) on my property, but directly adjacent to the property line, located near the back half of their planned garage.
4. I am concerned that the garage excavation and construction will potentially damage this tree. The excavation will fall well within the 'drip line' for this tree. Damage or eventual loss of this tree could represent a future cost to me, as well as negative esthetic costs to my property.
5. Verbal discussions with Beth Tarduno, her architect (Richard Hunt) and contractor have been helpful, and indicate that they are aware of the issue and willing to make some adjustment.
6. In particular, they agree to adjust the current plan to have the garage angle be parallel to the house (see attached letter from R. Hunt) rather than following the property line. This means that the southeast corner of the garage will be 3 feet from my property line. But, as the property line angles to the east, this will provide approximately an additional foot or more between the tree trunk and the garage, which should reduce impacts on the root system, given the close proximity of the tree to the property line.
7. Based on discussions, this adjustment seems agreeable to all parties. I am requesting that it be stipulated in the approval.

Sincerely,

John Werren
82 Oakdale Drive
Rochester, NY 14618
4 June 2024
585-771-0494
jackwerren@gmail.com

Norway Spruce on Jack Werren property (82 Oakdale Drive) adjacent to property line with Tarduno's (74 Oakdale Drive)



Letter from architect Richard Hunt to Jack Warren

Hunt JGL Architecture PLLC
45 Coral Way Rochester NY 14618
phone: 585-424-3020
huntjglarchitecture.com

To: zoning board

Re: tree at property line between 74 Oakdale Drive and 82 Oakdale Drive

I Richard Hunt, architect agent for the homeowner, am aware of very recent discussions with next door neighbor Jack Warren (address 82 Oakdale Drive) to take steps to preserve the large tree at the property where the proposed garage will be built. The instrument survey map submitted with the application to ZB shows the new garage parallel with the property line. To help mitigate impact on the tree and as per discussions with Mr Warren, we submit that the proposed garage will instead be a parallel to the house, thus increasing the distance of the garage from the property line at the back corner of the garage. The front corner will remain at 3ft. Mr Warren is amenable to this placement of garage.

Sincerely,

Richard M Hunt R.A.

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

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

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: <ul style="list-style-type: none"> a. public / private water supplies? b. public / private wastewater treatment utilities? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form
Part 3 Determination of Significance

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

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

This site has been previously disturbed and the placement of signs on the building and installation of menu boards and canopy will result in no further disturbance to the site.

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

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

Town of Brighton Zoning Board of Appeals

June 5, 2024

Name of Lead Agency

Date

Rick DiStefano

Secretary to the Board

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer



Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

Short Environmental Assessment Form
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1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Short Environmental Assessment Form
Part 3 Determination of Significance

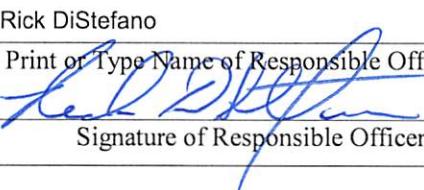
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No Part 2 questions lead to 'moderate to large impacts may occur.'

See attached

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

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

Town of Brighton Zoning Board of Appeals	June 5, 2024
Name of Lead Agency	Date
Rick DiStefano	Secretary to the Board
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	Signature of Preparer (if different from Responsible Officer)
Signature of Responsible Officer in Lead Agency	

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: 6A-07-24

Date: June 5, 2024

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

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

Name of Action: 55 Stonybrook Drive Variance

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Application of Jerry Serafine, agent, and Stephen Artim and Tricia Shalka, owners of property located at 55 Stonybrook Drive, for an Area Variance from Section 211-16(1) to allow the construction of an addition located in a floodplain to have the lowest finished floor 18 inches above the base flood elevation in lieu of the minimum 24 inches required by code.

Location: 55 Stonybrook Drive, Town of Brighton, Monroe County.

Reasons Supporting This Determination:

After considering the action contemplated and reviewing the Environmental Assessment Form prepared by the applicant and the Criteria for determining significance in the SEQR regulations (6 N.Y.C.R.R. Section 617.11), the Town Board finds that the proposed action will not have a significant impact on the environment based on the following finding:

1. The requirements of the State Environmental Quality Review Law have been complied with.
2. The proposed improvements will not occur within the floodway of Allens Creek and the impact on the floodplain will be minimal. Some areas in the floodplain will be filled affecting flood storage, however enough compensatory storage will be provided.
3. A variance has been granted by New York State allowing for the addition to be built lower than the required 2 feet above the base flood elevation.
4. The building addition will be constructed in compliance with NYS Building Code for structures located in a floodplain.

5. There will be no resources of value irreversibly lost.
6. No threatened or endangered species of plants or animals will be affected by this project.

For Further Information:

Contact Person: Rick DiStefano, Secretary – Zoning Board of Appeals

Address: **Town of Brighton
2300 Elmwood Avenue
Rochester, N.Y. 14618** Telephone: (585) 784-5228

Short Environmental Assessment Form
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Short Environmental Assessment Form
Part 3 Determination of Significance

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

1. The requirements of the State Environmental Quality Review Law have been complied with.
2. There will be no resources of value irreversibly lost.
3. There will be no adverse impact on the environment.

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

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

Town of Brighton Zoning Board of Appeals

June 5, 2024

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