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3 **BRIGHTON**

4 **ZONING BOARD OF APPEALS**

5 **MEETING**

6

7

8 **July 2, 2024**

9 At approximately 7:00 p.m.
10 Brighton Town Hall
11 2300 Elmwood Avenue
12 Rochester, New York 14618

13 PRESENT:

14 DENNIS MIETZ,
15 Chairperson

16 HEATHER MCKAY-DRURY)
17 KATHLEEN SCHMITT)
18 JUDY SCHWARTZ) Board Members
19 MATTHEW D'AUGUSTINE)

20 LAUREN BARON, ESQ.,
21 Attorney for the Town

22 RICK DiSTEFANO,
23 Secretary

24 REPORTED BY: SUSAN M. RYCKMAN, CP, Court Reporter,
25 FORBES COURT REPORTING SERVICES, LLC
26 21 Woodcrest Drive,
27 Batavia, NY 14020,
28 (585) 343-8612

1 CHAIRMAN MIETZ: Okay. Good evening, Folks.
2 This is the July meeting of the Brighton Zoning Board
3 of Appeals. Let me just tell you quickly how we do
4 this, maybe if you are not familiar. So it's a very
5 limited amount of applications. I think we have three
6 tonight that we're going to hear.

7 So what happens is when Rick calls your
8 application, then just come up to the podium. Please
9 tell us your name and an address, like where you live
10 or where your business address is.

11 And then please let us know why you feel we
12 should approve your application. Give us -- you know,
13 you don't have to regurgitate it, but you know, hit
14 the high points and whatever. And then the Board
15 Members will ask any questions they like. And then
16 after that, we'll ask if there's anybody in the
17 audience that might like to speak. And then we move
18 to the next application.

19 When we finish going through all three, we
20 will go right to deliberation, and we'll hopefully,
21 unless something is tabled for some reason, then there
22 will be a decision made tonight. You're welcome to
23 sit there and listen to deliberation. There is no
24 more cross talk with the applicants, but you can
25 certainly listen. Then we vote on each one tonight.

1 So if you want to stay, you will hear exactly what
2 happened, and how it's -- okay.

3 So is there anything you want to tell the
4 Board, other than what they already know or don't
5 know?

6 MR. DiSTEFANO: No. Obviously, you all are
7 aware that packets for some reason got lost in the
8 mail. Hopefully everyone took a look online at all
9 the applications.

10 CHAIRMAN MIETZ: Yes.

11 MR. DiSTEFANO: We had the minutes in there.
12 So I don't know if we want to postpone the minutes?

13 CHAIRMAN MIETZ: Judy didn't read the
14 minutes.

15 MEMBER SCHWARTZ: I was going to read them.

16 CHAIRMAN MIETZ: Rick, we're looking at
17 April, May, June minutes, possibly July. So this one
18 won't be much, so okay. All right. Is there anything
19 else?

20 MR. DiSTEFANO: Any questions?

21 MEMBER D'AUGUSTINE: I just expect hand
22 delivery for next month.

23 MR. DiSTEFANO: I expect everybody to stop
24 in, and I will hand it over-the-counter to you.

25 CHAIRMAN MIETZ: One of those Town of

1 Brighton EV bicycles, you can ride around to all our
2 offices and deliver them. Like we did the Democrat &
3 Chronicle, you know.

4 MR. DiSTEFANO: All right. First time this
5 happened in, like, 30 some odd years, that they
6 haven't been delivered.

7 CHAIRMAN MIETZ: There is a first for
8 everything.

9 MR. DiSTEFANO: Yeah. I have to retire.

10 CHAIRMAN MIETZ: All right. So very good.
11 So was the meeting properly advertised?

12 MR. DiSTEFANO: Yes, Mr. Chairman. It was
13 advertised in the Daily Record of June 26th, 2024.

14 CHAIRMAN MIETZ: Can you call the roll,
15 please?

16 (Whereupon, the roll was called.)

17 MR. DiSTEFANO: Please let the record show
18 that Mr. Premo and Ms. Tompkins-Wright are not
19 present.

20 CHAIRMAN MIETZ: Okay. Very good. Whenever
21 you're ready, sir.

22 MR. DiSTEFANO: Okay. Just for the
23 audience, I don't think there is anybody here, but if
24 anybody is interested in 7A-02-24, that application
25 has been postponed to the August 7th meeting.

1 **Application 7A-01-24**

2 Application of Robert Piazza Palotto, owner
3 of property located at 2500 Elmwood Avenue, for an
4 Area Variance from Section 207-10E(5) to allow a
5 12-foot-long sidewalk to be 1 foot from the side lot
6 line in lieu of the minimum 4 feet required by code.
7 All as described in applications and plans on file.

8 CHAIRMAN MIETZ: Come ahead, don't be
9 bashful. Come on.

10 MR. PIAZZA PALOTTO: Good evening, guys. My
11 name is Robert Piazza Palotto. I am owner of the 2500
12 Elmwood Avenue.

13 CHAIRMAN MIETZ: So that's your residence
14 address?

15 MR. PIAZZA PALOTTO: My residence, correct.

16 CHAIRMAN MIETZ: That's fine. Okay.

17 MR. PIAZZA PALOTTO: And you know, recently
18 we built an addition. We actually took the existing
19 garage and extended it about -- went from 12 feet to
20 15 feet, which brought my side property line closer to
21 about five feet. We actually got a variance for that.

22 However, because of the elevations of the
23 garage itself, and trying to make everything
24 consistent, the backyard or the side yard starts to
25 drop significantly. So it was, you know, we decided,

1 actually, to put a sidewalk or a paver sidewalk or
2 extend the pavers to the side of the garage.

3 And I'll actually pass out these pictures
4 right here, just so you guys can see them.

5 CHAIRMAN MIETZ: How many do you have?

6 MR. PIAZZA PALOTTO: I have 12.

7 CHAIRMAN MIETZ: Okay.

8 MR. PIAZZA PALOTTO: I just took the -- it's
9 probably easier just to kind of explain it as you go
10 through it.

11 As you look at the top left -- top left
12 picture, that's kind of what it would look like if the
13 driveway or if the sidewalk was paved or put together
14 right there.

15 And as you look to the right of it in the
16 first picture, there is no fence there. But I did
17 actually remove the pavers previous to, you know,
18 coming here, and I spoke with my neighbor. And you
19 know, I said, you know, I can understand how you may
20 feel, it might be a little bit intrusive, is there
21 anything I could do to, you know, make this better,
22 make it look more appealing? And we talked about
23 doing some bushes right there, but she felt that --
24 and she seemed to be satisfied with having a fence
25 that goes out about eight feet from the side right

1 there. And this allows her to, you know, finish her
2 gardens right there, too, on the other side, but gives
3 her the privacy.

4 But just to the right of that, that cornered
5 garage there is an entryway going in and out. And one
6 of the things you can't really tell from this picture
7 is that there is a 14-inch drop right there from the
8 -- from the bottom of the door to the -- to the pavers
9 right there. So there still needs to be a step
10 installed. So coming down from the side of the garage
11 out through the entry door, there's still going to be
12 a step right there.

13 As you can see, like, in the bottom, middle
14 picture, I got three steps going down the elevation
15 because it does drop significantly there. So I had to
16 actually build it up, and include the steps going down
17 over there so that you could, you know, walk safely
18 and not hurt yourself right there.

19 So, you know, I think, you know, from a
20 standpoint of everything that I could do, you know
21 because of the elevations and because of, you know,
22 the corner of the garage to the side setback is five
23 feet right now, there's not much room to do much less
24 than other than just to put some type of a place where
25 you can actually step safely and onto safely so that

1 you don't hurt yourself. And because of the elevation
2 dropping so significantly towards the back, we were
3 able to actually build it up and put a retention -- a
4 small retention wall, and then, obviously, the steps
5 going right there.

6 But I think, you know, if we accomplish what
7 we are looking to do is, you know, ask for a small
8 variance so that we can get out through the side of
9 the garage, and then go to the backyard.

10 MEMBER SCHWARTZ: In your middle picture in
11 the bottom row, that building is an extension of the
12 garage, I mean?

13 MR. PIAZZA PALOTTO: Yes.

14 MEMBER SCHWARTZ: Okay. And then there
15 seems to be an older fence?

16 MR. PIAZZA PALOTTO: Yes. That's the
17 property line.

18 MEMBER SCHWARTZ: Is that yours or hers?

19 MR. PIAZZA PALOTTO: That's hers.

20 MEMBER SCHWARTZ: So yours is just going to
21 extend it?

22 MR. PIAZZA PALOTTO: Yeah, I'm just
23 extending out eight more feet from her corner.

24 CHAIRMAN MIETZ: Now in this picture, where
25 is the setback line coming from the fence over to --

1 so if you take the top, right picture, top section,
2 right picture, so if I had my foot on the fence, and
3 then was looking towards the building, where -- where
4 is the four foot?

5 MR. PIAZZA PALOTTO: Well, that's -- I mean,
6 from the corner of the garage to the fence is five
7 feet right there.

8 CHAIRMAN MIETZ: Oh, it is. Okay.

9 MR. PIAZZA PALOTTO: Yep.

10 CHAIRMAN MIETZ: It's hard in the picture
11 because it distorts it.

12 MR. PIAZZA PALOTTO: Yeah, no, I agree. So
13 you know, obviously, it can only be a foot or four
14 feet from the property line, and pretty much -- I'm a
15 little bit in from the new fence that I put in, but
16 not by much. But you're still, at least, five feet
17 right there.

18 So I'm asking for, you know, to extend the
19 sidewalk four feet out. So it would be about a foot
20 away from the fence.

21 CHAIRMAN MIETZ: So the way it's depicted in
22 this top, right picture, this lower masonry, whatever
23 we call it. We can't really see it. At the end of
24 that, that is about a foot away from the fence?

25 MR. PIAZZA PALOTTO: Yes.

1 CHAIRMAN MIETZ: So that's really what
2 you're asking for something, and is this the something
3 that's going to be put there?

4 MR. PIAZZA PALOTTO: Yes. You can see what
5 it would look like in the far, left corner, far top
6 corner.

7 CHAIRMAN MIETZ: When it's finished?

8 MR. PIAZZA PALOTTO: When it's finished.
9 And there is a fence now there, too.

10 CHAIRMAN MIETZ: And then, basically, to the
11 edge of it then you would, what, grade it somehow,
12 between it and the fence?

13 MR. PIAZZA PALOTTO: Yeah.

14 CHAIRMAN MIETZ: Okay. And you don't feel
15 there would be a problem with any runoff onto her
16 property or anything like that?

17 MR. PIAZZA PALOTTO: No, not at all.

18 CHAIRMAN MIETZ: It's dry through there?

19 MR. PIAZZA PALOTTO: Yeah. The garage, I've
20 actually installed four-inch sewer and drain lines to
21 discharge towards the backyard.

22 CHAIRMAN MIETZ: Okay. Other questions for
23 this fine gentlemen?

24 MR. DiSTEFANO: I just have a question. So
25 what's happening on the back side of the stairs from

1 the bottom step going towards the backyard?

2 MR. PIAZZA PALOTTO: Probably that's just
3 going to be grass.

4 MR. DiSTEFANO: That's grass. So no -- so
5 the sidewalk stops at the top of the first step?

6 MR. PIAZZA PALOTTO: Yes.

7 MR. DiSTEFANO: Okay.

8 CHAIRMAN MIETZ: Okay. Thank you, sir.

9 MR. PIAZZA PALOTTO: Thank you, guys.

10 CHAIRMAN MIETZ: Okay. Is there anyone in
11 the audience that would like to speak regarding this
12 application?

13 (No response from the audience.)

14 CHAIRMAN MIETZ: Then there being none, then
15 the public hearing is closed.

16 MR. PIAZZA PALOTTO: Thank you.

17 (Public hearing closed.)

18 **Application 7A-03-24**

19 Application of Paul Morabito, agent, and
20 Robert Tortorella, owner of property located at
21 171 Thackery Road, for an Area Variance from
22 Section 205-2 to allow a deck to extend 14 feet into
23 the 60-foot rear setback required by code. All as
24 described on application and plans on file.

25 MR. MORABITO: Thanks, Rick. Everyone, I am

1 representing Rick Tortorella, who is, like I say, a
2 gentleman permanently in a wheelchair. He's currently
3 redoing the house inside to make it more accessible
4 for him.

5 CHAIRMAN MIETZ: Sir, can you just give us
6 your name and address?

7 MR. MORABITO: Paul Morabito, architect with
8 the project, and I am representing --

9 CHAIRMAN MIETZ: What is an address, your
10 business address, some address, please? Not the
11 property address, your address?

12 MR. MORABITO: 121 Sully's Trail, Suite 4,
13 Pittsford, New York.

14 CHAIRMAN MIETZ: Thank you. Go right ahead.

15 MR. MORABITO: So to continue. Revamping
16 the whole inside. You know, putting a fair amount of
17 money into making the house accessible for his
18 disability, and he's looking to build a deck on the
19 back of his house that is over the maximum height it
20 can be without -- it counts into the setback because
21 it is too tall. I think it is 11 inches or some
22 height that we're over at. And so it's been designed
23 in such a way that he's going to be able to have a
24 grilling area, a lounge area, and it's able -- he wants
25 to just be able to wheel directly out of his house,

1 and be on the deck and spend time with his family and
2 whatnot, as what you do with a deck. So yeah.

3 And you didn't get packets, but everyone
4 might have seen online, he is going to be using a
5 cable rail system because he realizes he is
6 encroaching the setback. And the elevation is about
7 two feet off the ground. So the cable rail is kind of
8 like the least visual impact from neighboring houses
9 and whatnot.

10 So the house current setback, I think it's
11 63.5. And so we are looking for a 20-feet deep deck,
12 which puts us at 46 feet to the back of that deck from
13 -- well, the house jogs in the back, but the one area
14 is 46, and so.

15 CHAIRMAN MIETZ: Okay.

16 MR. MORABITO: Pretty simple.

17 CHAIRMAN MIETZ: Questions?

18 MEMBER SCHWARTZ: When I stopped this
19 afternoon, I went through the garage, and there's this
20 -- this barren area out in the back. Is that whole
21 area going to be the deck?

22 MR. MORABITO: Did you -- were you able to
23 view the site plan?

24 MEMBER SCHWARTZ: No, I didn't. I just went
25 out to look at it. I didn't have it.

1 CHAIRMAN MIETZ: It's 20 feet off the
2 building, isn't that what you said?

3 MR. MORABITO: You would come walking
4 through here, through the garage. And so the deck is
5 going to be Selco which means, right now, I'm in
6 receipt of that. But you have living space for him,
7 and then going along the back of the house and then
8 going through doors, the great room, which is here.
9 So it will be a little table area, grilling area, and
10 some place for some furniture.

11 MEMBER SCHWARTZ: Oh, okay. Off to the
12 side, not straight out the back. Okay. This is the
13 garage, and I just came straight out.

14 MR. DiSTEFANO: Judy and Paul, I need you
15 guys, if you want to --

16 MEMBER SCHWARTZ: Oh, I'm sorry.

17 MR. DiSTEFANO: I need the stenographer to
18 be able to hear you guys, that's all. That's all.

19 MEMBER SCHWARTZ: Okay. So I came out the
20 back of the garage right here, and this was all a
21 barren area. So I was assuming it was going back this
22 way. Okay.

23 MR. MORABITO: You walk through the garage,
24 and then behind the house here, and then this is all
25 plantings here.

1 MEMBER SCHWARTZ: Okay. This is -- the
2 neighbor in the back seems to have more of a view of
3 it than the neighbors on this side.

4 MR. MORABITO: Yeah. One of the photos that
5 I have is from here, and it looks like this neighbor
6 would have a view of it, too.

7 MEMBER SCHWARTZ: Okay. All right. Thank
8 you.

9 CHAIRMAN MIETZ: Okay. Other questions for
10 us?

11 Can you just tell us, briefly, how did you
12 determine that 20 feet was the size that was needed
13 for this deck?

14 MR. MORABITO: He had hired a decorator and
15 designer who did a lot of the work, friend of his
16 wife's, or something. And so this was laid out and
17 handed to me. They needed architecturals, they need
18 the stamp, they need the structure. But the artwork
19 of the layout is determined by this.

20 CHAIRMAN MIETZ: And the dimension of this
21 is what?

22 MR. MORABITO: It's 20 by 20, the main
23 section.

24 CHAIRMAN MIETZ: Four hundred square feet.

25 MR. MORABITO: It's 790 square feet all

1 together.

2 CHAIRMAN MIETZ: Oh, altogether?

3 MR. MORABITO: Twenty by 20, then there is a
4 12-foot section that is about 22 feet.

5 CHAIRMAN MIETZ: Pretty big. Okay.

6 MEMBER D'AUGUSTINE: Would you say that size
7 is necessary for him to be able to negotiate around
8 the deck with his wheelchair?

9 MR. MORABITO: It does make sense to me,
10 being he can't get off the deck. So when he is out
11 there, that's the only place he can be. And so to
12 enjoy any kind of time outside in his backyard to
13 limit it to, like, oh, you can go here. And the
14 wheelchair does take room. So it does make sense to
15 me that it's the size it is. I mean, it is not 28
16 feet where you could say, wow. You know, 16 by 16 is
17 kind of a small-ish deck, especially if someone is in
18 a wheelchair trying to get around deck furniture and
19 whatnot. So.

20 CHAIRMAN MIETZ: Makes sense. Okay. Any
21 other questions? Okay. Thank you.

22 Is there anyone else in the audience wants
23 to speak regarding this?

24 (No response from the audience.)

25 CHAIRMAN MIETZ: Okay. Public hearing's

1 | closed.

2 MR. MORABITO: Thanks a lot.

3 (Public hearing is closed.)

4 | Application 7A-04-24

Application of Thomas Pschierer, agent, and
Thomas Terry, owner of the property, located at
1475 Crittenden Road, for an Area Variance from
Sections 203-2.1B(6) and 203-9A(4) to allow a standby
emergency generator to be located in a side yard in
lieu of the rear yard behind the house as required by
code. All as described on application and plans on
file.

13 MR. PSCHIERER: Hello. Tom Pschierer. The
14 company's located at 999 Rush-Henrietta Townline Road.
15 The property is 1475 Crittenden Road.

16 | CHAIRMAN MIETZ: Okay.

1 To get to that flat part of the back of the
2 house, which would be on the right-hand side, I would
3 have to go through his house, in the upper level of
4 his house, and the lower level of his house is all
5 drywall and all finished.

6 If I tried to go around the other way, I
7 would have to go through his driveway, which is at
8 least 30 to 35 feet of that, and then go another 150
9 feet around the house to try and trench to get that
10 spot.

11 So we want to put it on the side in front of
12 a fence, basically, that's about 300 feet from the
13 center line of the road. So you can't really even see
14 it from the road, you know, if you're standing there.
15 And I guess that's why we want to put it there.

16 CHAIRMAN MIETZ: How far is it from the
17 nearest structure, if you put it where you're
18 proposing? If you put it where your proposal is?

19 MR. PSCHIERER: Well structure, you mean his
20 house?

21 CHAIRMAN MIETZ: Yeah, or is there a
22 neighborhood -- I'm sorry, I didn't get a chance to
23 get there, so I don't know the lay of the land there,
24 but.

25 MR. PSCHIERER: Okay. So he owns actually

1 not only the house where the generator would be going,
2 but he owns the house next door also.

3 CHAIRMAN MIETZ: Okay.

4 MR. PSCHIERER: And on the other side of him
5 is a park.

6 CHAIRMAN MIETZ: Yeah, right. Right.

7 MR. PSCHIERER: And behind him is an
8 apartment complex, which he has big six-foot fences
9 through there.

10 CHAIRMAN MIETZ: So even to the house that
11 he owns, which I would say to the right of it, then
12 how far away would you say this generator would be to
13 the corner of that house, approximately?

14 MR. PSCHIERER: I'm gonna say 200 feet,
15 probably.

16 CHAIRMAN MIETZ: Oh, okay.

17 MR. PSCHIERER: Yeah.

18 MEMBER MCKAY-DRURY: How about from the
19 apartment buildings? Because it actually looks closer
20 to the apartment buildings so.

21 CHAIRMAN MIETZ: I know the location, but I
22 didn't get a chance to look at it.

23 MR. PSCHIERER: Yeah, no. I mean, I didn't
24 take that measurement, but it's got to be 150 feet, I
25 would say. Because there's fences, then there is

1 another big fence behind the fence that I'm talking
2 about.

3 MEMBER MCKAY-DRURY: Right.

4 CHAIRMAN MIETZ: Those are brick buildings,
5 if I remember, right there. So yeah. Okay. Very
6 good.

7 Okay. So other questions for this
8 gentleman?

9 (No response from the Members.)

10 CHAIRMAN MIETZ: Okay. Thanks very much.
11 Is there anyone in the audience that would like to
12 speak on this?

13 MEMBER MCKAY-DRURY: Did we do -- are we
14 good with the decibels?

15 CHAIRMAN MIETZ: Well, I said, are you all
16 set. If you have a question, go ahead and ask, before
17 I close the public hearing.

18 MEMBER MCKAY-DRURY: You normally ask about
19 that.

20 CHAIRMAN MIETZ: No, no.

21 MEMBER MCKAY-DRURY: I think the question
22 goes, Rick, is this within our permissible decibel
23 level for the town?

24 CHAIRMAN MIETZ: I don't have the packets.

25 MR. DiSTEFANO: Good question for the

1 Applicant. What is the decibel rating at full load
2 and at test?

3 MR. PSCHIERER: Okay. So I don't have it in
4 front of me, but I believe the spec on that generator
5 says it's 67 decibels at 20 feet, whatever it is.

6 MR. DiSTEFANO: Is that at the full load?

7 MR. PSCHIERER: Yes. Yeah, I believe it's
8 in the spec that way.

9 MR. DiSTEFANO: I don't think they make
10 generators at 72 decibels anymore.

11 CHAIRMAN MIETZ: No, I don't think so, but.

12 MR PSCHIERER: To me --

13 MR. DiSTEFANO: Unless it's a huge
14 commercial generator.

15 CHAIRMAN MIETZ: They're usually mid
16 sixties, 62, 65.

17 MR. PSCHIERER: I work on them all the time.
18 When I hear them running, to me, it is like a riding
19 lawn mower. It's really no louder.

20 CHAIRMAN MIETZ: No, they've come a long
21 way.

22 MEMBER McKAY-DRURY: And then the -- in
23 terms of visibility from the road, I am just trying to
24 understand. The application says that it won't be
25 visible from the road. I am just trying to

1 understand. Is there preexisting plantings that are
2 going to be blocking it? Because obviously, it's 300
3 feet, so that's a significant distance, but in terms
4 of actually blocking the view?

5 MR. PSCHIERER: So the homeowner is willing
6 to do whatever. So if he has to plant flowers or
7 trees or whatever there, he doesn't care.

8 But when I say -- you know, I said it wasn't
9 visible from the road. I mean, technically, I was
10 just thinking of the 300 feet. And I did stand down
11 there in the middle of the road looking, and because
12 of the lay of the land, I suppose technically you
13 might see some of it, but it's not like it would be
14 sticking out like a sore thumb.

15 MR. DiSTEFANO: Yeah. That's a long way.
16 Okay.

17 MR. PSCHIERER: And he would plant if you
18 wanted him to plant stuff.

19 MEMBER MCKAY-DRURY: Right. Okay.

20 CHAIRMAN MIETZ: Well we can discuss it
21 further, but is there any other questions anybody has?

22 (No response from the Members.)

23 CHAIRMAN MIETZ: Okay. Thanks a lot.

24 MR. PSCHIERER: I can just wait?

25 CHAIRMAN MIETZ: Yeah, you can, yep.

1 Is there anyone, again, in the audience.

2 (No response from the audience.)

3 CHAIRMAN MIETZ: I see no one else. So the
4 public hearing is closed. Okay. All right.

5 (The public hearings concluded at 7:24 p.m.)

6 (Beginning of deliberations.)

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1 REPORTER CERTIFICATE

2

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

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

11

12 Dated this 2nd day of July, 2024
13 at Rochester, New York.

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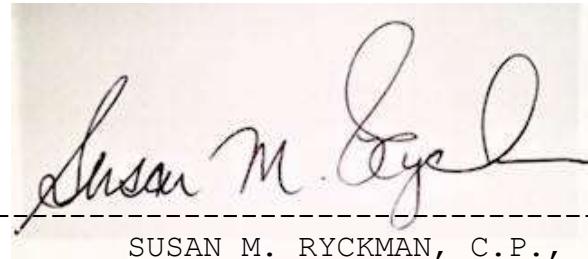
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SUSAN M. RYCKMAN, C.P.,
Notary Public.

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BRIGHTON3
ZONING BOARD OF APPEALS4
DELIBERATIONS AND DECISIONS5

July 2, 20246
7
8 At approximately 7:00 p.m.
9 Brighton Town Hall
10 2300 Elmwood Avenue
Rochester, New York 1461811
PRESENT:12 DENNIS MIETZ,
13 Chairperson14 HEATHER MCKAY-DRURY)
15 KATHLEEN SCHMITT)
16 JUDY SCHWARTZ) Board Members
17 MATTHEW D'AUGUSTINE)18 LAUREN BARON, ESQ.,
19 Attorney for the Town20
21 RICK DiSTEFANO,
22 Secretary23 REPORTED BY: SUSAN M. RYCKMAN, CP, Court Reporter,
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1 **Application 7A-03-24**

2 Application of Paul Morabito, agent, and
3 Robert Tortorella, owner of property located at
4 171 Thackery Road, for an Area Variance from
5 Section 205-2 to allow a deck to extend 14 feet into
6 the 60-foot rear setback required by code. All as
7 described on application and plans on file.

8 MEMBER D'AUGUSTINE: I move to approve
9 Application 7A-03-24 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 to the character of the
14 neighborhood. Rear decks are common in the area, and
15 the proposed deck is of modest height and unobtrusive
16 in design.
- 17 2. The difficulty cannot be solved without a
18 variance, given that the rear of the house is already
19 near the 60-foot setback limit. So any deck
20 construction would require a variance.
- 21 3. The requested variance is not substantial, given
22 the deck will only extend 14 feet beyond the setback,
23 and there is a large area of yard remaining.
- 24 4. The requested variance is the minimum necessary,
25 given the Applicant's desire to have an outdoor

1 seating and dining space that is navigable by a
2 wheelchair, and that provides him access to the rear
3 of his house.

4 5. The requested variance will not have an adverse
5 effect on the physical or environmental conditions of
6 the neighborhood, given that the design blends in with
7 the house and yard in a way that will not be visually
8 intrusive.

9 6. The difficulty is not self-created, given that the
10 owner is currently wheelchair bound.

11 **Conditions:**

12 1. The deck design and construction will adhere to
13 the specifications in the plans submitted and the
14 testimony given this evening.

15 2. Applicant will acquire all necessary building
16 permits.

17 MEMBER SCHWARTZ: I second it.

18 MR. DiSTEFANO: Judy, you got second on
19 this?

20 MEMBER SCHWARTZ: Yes.

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

23 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;
24 Mr. Mietz, yes; Ms. Schwartz, yes;
25 Ms. D'Augustine, yes.)

1 (Upon roll, motion to approve with
2 conditions carries.)
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1 **Application 7A-04-24**

2 Application of Thomas Pschierer, agent, and
3 Thomas Terry, owner of the property, located at
4 1475 Crittenden Road, for an Area Variance from
5 Sections 203-2.1B(6) and 203-9A(4) to allow a standby
6 emergency generator to be located in a side yard in
7 lieu of the rear yard behind the house as required by
8 code. All as described on application and plans on
9 file.

10 MEMBER MCKAY-DRURY: I move we approve
11 Application Number 7A-04-24 based on the following
12 findings of fact:

13 **Findings of Fact:**

14 1. The requested variance will not result in a
15 substantial change to the neighborhood, given the
16 overall size of the lot and the distance from the
17 road, as well as from surrounding nearby properties.

18 2. The difficulty necessitating the variance cannot
19 be solved in another manner without rerouting power
20 hookups through the house or going under the driveway,
21 which would be cost prohibitive.

22 3. The variance is not substantial because although
23 not in the back of the home, it still won't be visible
24 from the street.

25 4. The variance is the minimum necessary to grant

1 relief from the difficulty, in that this is the only
2 location where it can be placed near the existing
3 power hookup without incurring significant costs.

4 5. The proposed variance is consistent with
5 surrounding properties, and not expected to have an
6 adverse impact on the environmental conditions.

7 CHAIRMAN MIETZ: Can I stop you one second?
8 The last one you did, would you be willing to add,
9 because we asked about how far it was from the two
10 properties, really, on either side, especially the
11 side where it appears, that you could maybe add that
12 and say the adjacent property is approximately 150 or
13 200 feet, whatever.

14 MR. DiSTEFANO: From structures.

15 CHAIRMAN MIETZ: Yeah, just so you get a
16 sense of the size. It may be meaningless, but...

17 MEMBER McKAY-DRURY: So I will change
18 Finding Number 5 to: The proposed variance is
19 consistent with the surrounding properties, and not
20 expected to have an adverse impact on the
21 environmental conditions, in that the generator's
22 proposed location will be, approximately, 150 feet
23 from the apartments to the rear, and approximately 200
24 feet from the neighboring property, which is also
25 owned by the same homeowner.

1 **Findings of Fact as Amended:**

2 5. The proposed variance is consistent with the
3 surrounding properties, and not expected to have an
4 adverse impact on the environmental conditions, in
5 that the generator's proposed location will be,
6 approximately, 150 feet from the apartments to the
7 rear, and approximately 200 feet from the neighboring
8 property, which is also owned by the same homeowner.

9 **Conditions:**

10 1. Limited to the generator in the plans on file, and
11 described in the testimony given.
12 2. The generator shall be screened from the road and
13 surrounding properties.

14 MEMBER D'AUGUSTINE: Second.

15 MR. DiSTEFANO: Can I add a condition that
16 all necessary building permits shall be obtained? Is
17 that okay with you, Matt?

18 MEMBER D'AUGUSTINE: Yes.

19 **Additional Conditions as Amended:**

20 3. All necessary building permits shall be obtained.

21 MR. DiSTEFANO: The motion is to approve
22 with conditions.

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

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

25 Ms. D'Augustine, yes.)

1 (Upon roll, motion to approve with
2 conditions carries.)
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1 **Application 7A-01-24**

2 Application of Robert Piazza Palotto, owner
3 of property located at 2500 Elmwood Avenue, for an
4 Area Variance from Section 207-10E(5) to allow a
5 12-foot-long sidewalk to be 1 foot from the side lot
6 line in lieu of the minimum 4 feet required by code.
7 All as described in applications and plans on file.

8 MEMBER SCHWARTZ: I move that we approve
9 Application 7A-01-24 based on the following findings
10 of fact.

11 **Findings of Fact:**

- 12 1. The reason for this variance of a 12-foot sidewalk
13 is to provide a safe walkway to the backyard along the
14 side of the garage.
- 15 2. The backyard drops or slopes down substantially,
16 exactly 14 inches, from the top of the proposed three
17 steps to the sidewalk path.
- 18 3. In addition, the Applicant is installing an 8-foot
19 fence to line up with the neighbors' to offer privacy,
20 and is what she preferred.
- 21 4. There will be no adverse effect on the character
22 of the neighborhood because the walkway will be
23 constructed with decorative pavers. The variance of a
24 1 foot side lot in lieu of the minimum 4 foot may be
25 substantial, but due to a previous variance to extend

1 the garage, this variance offers the only option to
2 the Applicant.

3 **Conditions:**

4 1. This variance only applies to the written
5 application and testimony presented.
6 2. Runoff cannot be on the neighbor's property.

7 MEMBER MCKAY-DRURY: May I add or just throw
8 out, that he needs to maintain or keep up the fence?
9 I say that because it seems after ten years, that
10 fence may have problems.

11 **Additional Conditions as Amended:**

12 1. This variance only applies to the written
13 application and testimony presented.
14 2. Runoff cannot be on the neighbor's property.
15 3. The eight foot fence along the property line shall
16 be properly maintained.

17 MEMBER MCKAY-DRURY: Do you have a second?

18 MR. DiSTEFANO: Judy already seconded.

19 CHAIRMAN MIETZ: Judy wrote it.

20 MEMBER MCKAY-DRURY: I will second.

21 MR. DiSTEFANO: Judy, your finding of that
22 it's a decorative walk, so it won't have an impact
23 because the decorative walk will not have an impact on
24 the neighbors. I don't think it matters, the
25 decorative, or not.

1 MEMBER SCHWARTZ: Leave it out?

2 MR. DiSTEFANO: Yeah. So go back to
3 wherever you say that.

4 MEMBER SCHWARTZ: I said there would be no
5 adverse effect on the character of the neighborhood
6 because the walkway will be constructed of decorative
7 pavers. We can take that out.

8 **Finding of Fact as Amended:**

9 5. There would be no adverse effect on the character
10 of the neighborhood.

11 MR. DiSTEFANO: Heather, you second that?

12 MEMBER McKAY-DRURY: Yes, I did.

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

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

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

20 CHAIRMAN MIETZ: Okay.

21 (The proceeding concluded at 7:45 p.m.)

22 * * *

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1 REPORTER CERTIFICATE

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

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

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12 Dated this 24th day of July, 2024
13 at Rochester, New York.

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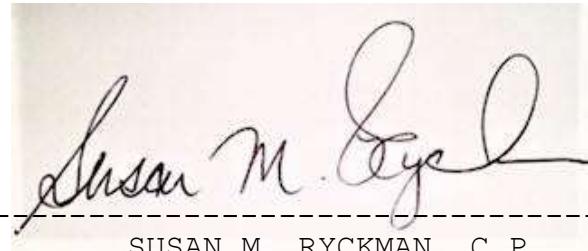
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SUSAN M. RYCKMAN, C.P.,
Notary Public.