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

June 5, 2024
At approximately 7:00 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)	
MATTHEW D'AUGUSTINE)	

LAUREN BARON, ESQ.
Attorney for the Town

RICK DiSTEFANO
Secretary

REPORTED BY: DOREEN M. SHARICK, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, NY 14020

1 CHAIRPERSON MIETZ: Good evening, everyone.

2 So welcome to the June meeting of the Brighton
3 Zoning Board of Appeals. I'll quickly tell you how we
4 operate this meeting if you're not familiar with it.
5 Tonight, we have nine applications. And when your
6 application is called, you come up to the podium, please
7 introduce yourself and please give the court reporter an
8 address, home address or business address, whichever
9 you'd so like to do.

10 And then it's your responsibility then to tell
11 us why we should approve your application. Most of the
12 Board Members have visited the locations, have reviewed
13 the materials and understand it. And then once you
14 finish your presentation, we will then ask any questions
15 that we have to clarify.

16 Once we finish that, then we ask anyone in the
17 audience if they'd like to speak regarding the
18 application and if there's anybody who would like to
19 speak, they come up and speak. And then we'll move on to
20 the next person if there are any. If not, we close the
21 public hearing and move onto the next application.

22 So after we finish all of them, we may take a
23 few minute break or the recorder may need a break or
24 anyone and then we will deliberate on all those
25 applications tonight.

1 So you're welcome to stay and listen to that
2 deliberation. There is no discussion with the Board
3 Members. We will be talking up here amongst ourselves,
4 but you can certainly sit here and listen to it if you
5 wish. And then we will -- unless something is tabled for
6 a reason, then the decisions are made tonight.

7 If you don't want to stay, you can call Mr.
8 DiStefano at the building office tomorrow and he will
9 tell you what happened with your application.

10 So that's pretty much it. Okay.

11 Do you have any information or anything you
12 want to talk about?

13 MR. DiSTEFANO: There is a letter in your
14 packet that did not make the agenda but in the
15 communication portion of your packet there. So please
16 take a look at that.

17 CHAIRPERSON MIETZ: Okay.

18 MR. DiSTEFANO: The second letter from, I
19 think, it was 84 Oakdale, there's two letters in there --

20 CHAIRPERSON MIETZ: Okay. Very good.

21 MR. DiSTEFANO: -- About the properties. Does
22 any Member have any questions regarding any applications?

23 CHAIRPERSON MIETZ: All right. Rick was the
24 meeting properly advertised?

25 MR. DiSTEFANO: Yes, Mr. Chairman, it was

1 advertised in the Daily Record of May 30th, 2024.

2 CHAIRPERSON MIETZ: Okay. Please call the roll
3 of the soldiers that have arrived?

4 (Whereupon the roll was called.)

5 MR. DiSTEFANO: Please let the record show Ms.
6 Schwartz is not present.

7 CHAIRPERSON MIETZ: Okay. Very good. Okay.
8 So we have no minutes, right?

9 MR. DiSTEFANO: No, I got them late last week
10 and couldn't get them out to you guys in time.

11 CHAIRPERSON MIETZ: All right. Very good.
12 Okay. Whenever you're ready, Rick, I guess we are ready.
13 All set. Everybody good?

14 **Application 6A-01-24**

15 Application of Richard Hunt, agent, and John
16 and Beth Tarduno, owners of property located at 74
17 Oakdale Drive, for 1) an Area Variance from Sections
18 203-2.1B(3) and 203-9A(4) to construct a 572 square foot
19 detached garage three feet from a side lot line in lieu
20 of the minimum 5 foot required by code; and 2) an Area
21 Variance from Section 207-6A(1) to allow said garage to
22 be 17 feet in height in lieu of the maximum 16 feet
23 allowed by code. All as described on application and
24 plans on file.

25 CHAIRPERSON MIETZ: Okay. Who do we have

1 speaking on 6A-01-24?

2 MR. HUNT: Hi, good evening, everyone. I'm
3 Richard Hunt, Architect, representing the Homeowner, Beth
4 Tarduno, who is here tonight, and the builder. My
5 business address is 45 Coral Way, Rochester, New York
6 14618.

7 As you know, we are seeking permission to build
8 a free standing garage in the back yard of 74 Oakdale.
9 And I can start by showing -- if I can speak over there,
10 I think you can hear me.

11 CHAIRPERSON MIETZ: Yes, you're fine.

12 MR. HUNT: Okay. This is kind of a blown up
13 version of the site plan. You guys have the site plan.
14 I'm showing you the garage here 16 feet back from the
15 house and 3 feet from the property line. It jumps to --
16 the address jumps from 74 to 84. So 84 is right here, 3
17 feet from the property line, right here. And the garage
18 was previously shown parallel to the property line, but
19 after conversation with the next door neighbor, they want
20 to make it parallel to the house so it kind of pulls away
21 from the property line back here, giving them a little
22 more space in the back corner, which is important to the
23 next door neighbor because there's a tree that comes in
24 to play here. There's a lot of discussion about that.
25 That's adjacent and Beth will kind of talk about that.

1 As we stated, the garage is 572 square feet.
2 It does have storage on the second level. There is some
3 additional square footage up there, but the footprint is
4 572. So that's one graphic we have.

5 The elevations, you can see how this is coming
6 together. There is the view from the street. We are
7 looking into the back yard. And they are using the
8 average grade, which is following the rules. The average
9 grade is only 17 feet. It's taller. You go from, you
10 know, here all the way down to here. It's 19'8". And in
11 the back, it's only 14'4" in the back of the garage, but
12 the average is 17 foot zero. So we're asking for a one
13 foot variance on that.

14 Then, of course, we are looking to do a 3 foot
15 variance on the side setback. And the important reason
16 for that is, everything is kind of tight in here. You're
17 coming down and this is the driveway here. There's an
18 open porch in the side here. And if you could push the
19 garage more this way, it gets more difficult to get in
20 and to get out. So that's the main reason why we want to
21 position it closer to the property line. Just make it
22 more practical and safer to get in and out. That's
23 essentially what we are looking for.

24 CHAIRPERSON MIETZ: Now, on the asphalt itself,
25 what's going to happen, you see this depiction here is

1 sitting in the middle of the back yard, what are you
2 doing with the asphalt?

3 MR. HUNT: The existing asphalt is all of this.

4 CHAIRPERSON MIETZ: Right, the dashed part on
5 this drawing?

6 MR. HUNT: I've got a dash line on here. I
7 added a little bit to the graphic in the presentation.
8 There's a dash line here. We'll do asphalt infill from
9 here back to the garage.

10 CHAIRPERSON MIETZ: Not going to be any turn
11 around? So looking at the garage on the left side of the
12 asphalt, will stop right at the 90 degree corner of the
13 garage?

14 MR. HUNT: Yeah, right there, yeah.

15 CHAIRPERSON MIETZ: It's not going to go beyond
16 that? In other words, to the left of the garage?

17 MR. HUNT: The asphalt will not go beyond what
18 you see here. There is a patio here that can be used and
19 may be used to help Mr. Tarduno to do like a reverse
20 K-turn to get out. He's not a big fan of backing out the
21 whole way because he hasn't gotten comfortable with that.
22 I'm not sure he's tried yet. We are going to use this
23 patio most likely as a dual purpose, then landscaping and
24 gardening from here back.

25 So the hill, I don't know if you can really

1 sense it from the site or the pictures you looked at or
2 visiting the site, but the hill starts right about here,
3 jumps up about 5 feet and it kind of flattens out. So
4 this is all going to be set into grade. For the most
5 part, it's not a real obtrusive garage. Like I said,
6 this will be landscaping here.

7 There is a lot of conversation about a tree,
8 which I have located. You can locate it if you want or
9 point approximately where you think it is. There's a
10 couple trees up in here, one in particular, that there's
11 letters about from the neighbor.

12 CHAIRPERSON MIETZ: And the trees are on whose
13 property?

14 MR. HUNT: The neighbor's property.

15 CHAIRPERSON MIETZ: Okay. Go ahead.

16 MR. PREMO: I have a couple questions just so I
17 understand this. Would there be an adjustment to the
18 garage running parallel to the house versus the property
19 line, you still need -- still closest to the property
20 line would still be 3 feet?

21 MR. HUNT: That is correct. Yeah, we are
22 looking for 3 feet here. It will fan out sort of to
23 probably at least 4 feet back here.

24 MR. PREMO: Okay. But you're still looking --
25 going to need a 3 foot variance?

1 MR. HUNT: Yeah, that's what we would like.

2 MR. PREMO: I notice in looking at the
3 drawings, the second floor appears to have three windows
4 and dormers and I just wonder what the real reason for
5 that is, if it's just been storage space?

6 MR. HUNT: Yes, a dormer and two windows.

7 MR. PREMO: Two windows?

8 MR. HUNT: Aesthetics for functional storage
9 and has a lot of stuff. You know, the existing garage is
10 completely packed and it's kind of hard to get into this.
11 The pre-existing garage is nice, but you know, we didn't
12 want to get a pull down stair because Beth and John want
13 to get bicycles up and down from up there. And so a
14 stairway seemed most practical and the biggest
15 improvement to their lives, making that happen, storage
16 for all that stuff.

17 MR. PREMO: I would assume -- I guess, I'll ask
18 the question, would the owners be willing to agree that
19 there be a condition that the second floor not be used
20 for anything other than for storage? It won't be used
21 for living space.

22 MR. HUNT: Yeah, we had extensive conversations
23 about that. Told them that's kind of taboo. Don't even
24 go there. They are onboard with that.

25 MR. PREMO: Okay. Could you just -- maybe just

1 a little bit of an idea, of why they need the extra
2 storage space and also, the plan of what they are going
3 to do with the old garage space?

4 CHAIRPERSON MIETZ: Would you like to address
5 some of that?

6 MR. DiSTEFANO: Your name and address?

7 MRS. BETH TARDUNO: Beth Tarduno, 74 Oakdale
8 Drive. So both my husband and I are very big bicyclists.
9 We, actually, between the two of us right now and having
10 some reserve bikes for our children when they come, we
11 own eight bicycles. So right now, they are in the
12 basement. Four of them are in the basement. The other
13 ones are in the garage along with our three vehicles. I
14 have a historic vehicle as well so that takes up half the
15 garage.

16 So we are hoping to get the bicycles out of the
17 basement so that we can do a workout room as our primary
18 reason. There's head space, which our present house has
19 an attic, like an A frame, and it's not very functional.
20 We made it functional, but we are hoping, you know, a lot
21 of times when we move a bicycle, especially down a
22 staircase, you haul it over your shoulder. We are hoping
23 even though it's a tight staircase to, you know, have the
24 space to lift it up in order to move that bicycle down
25 and in the winter, obviously, they would all be stored up

1 there.

2 MR. PREMO: From the application with respect
3 to the existing garage, one, it's tough to use, it's
4 tough to make that turn in there, is that correct?

5 MRS. BETH TARDUNO: So my husband has a visual
6 kind of impairment. It's very mild, but he is very
7 uncomfortable with depth perception, backing up that
8 distance. So even now in our present driveway, it's an L
9 shape and he does like a three K turn. He drives in
10 forward and then he will back up towards the neighbor,
11 that has written the letters, you know. He does a K
12 turn, like three of them, to get out.

13 So with the garage the way that we are hoping
14 to have it, he will come out and basically, do a K turn,
15 probably hopefully, he'll only need two of them. We
16 might have to go a little on to our patio that already
17 exists, like the back end of his car might end up
18 happening to go there. Rich and I have gone twice, once
19 in our own property and once in a simulated to see how
20 many inches we need for backing up out of the garage
21 space and would need in the right bay or the left bay,
22 what's best. I don't remember what it was, like 165
23 inches. Don't quote me on that.

24 That's why we are asking for the garage to be over
25 as far as possible because we need that space to get

1 around without hitting our current garage space and that
2 side porch that sticks way out.

3 MR. PREMO: Am I right, the current garage
4 space, you're looking at now for maybe recreation and
5 something, eventually, first floor bedroom?

6 MRS. BETH TARDUNO: Yeah, we didn't know what
7 to do. I mean we're hoping to age in place. We don't
8 have a bathroom on the first floor. In the past, you
9 know, we've had to do whatever. We are hoping to make a
10 bathroom there and then an extra sitting room that could
11 potentially be used as a bedroom if we needed to for some
12 reason.

13 MR. PREMO: And also, am I correct, you
14 submitted a report or summary report from the arborists,
15 about trying to do various things during construction to
16 help maintain the Norway Pines next to the property?

17 MRS. BETH TARDUNO: Yeah, I mean, you know, I
18 love those trees as much as anybody else. They are
19 gorgeous trees. I do not want to lose those trees any
20 more than anybody else does. And so before I even
21 started this project, before I even made contact with
22 Rich and Jason and other people that might be involved in
23 it, I had an arborist come out to tell me about the tree
24 and that was the Davey Tree that I had come out.

25 And then, you know, many months later, here we

1 are now. And so then when our neighbor raised concern
2 about it, I had another arborist come out and invited him
3 to talk to the arborist and then on that particular day,
4 both Jason and Rich were there as well. And maybe Jason
5 can talk about the construction and what they do to
6 protect the tree.

7 All three of the arborists were extremely
8 consistent in saying that they did not feel there would
9 be any harm to these trees. They did say there could be
10 some things we can do to mitigate any stress on the tree
11 if the tree might be stressed, which I don't know how you
12 would know that and I have that outlined. You can water
13 it. We keep heavy equipment off the roots, which Jason
14 was fully aware of and we can use a fertilizer after the
15 construction of the building.

16 MR. PREMO: And I take it it's described in the
17 June 3rd, 2024, letter, you'll be willing to agree with
18 the condition to approve --

19 MRS. BETH TARDUNO: Like those three top
20 points, yes, for sure. The fourth one is, should you or
21 should you not. I would definitely, you know, if that's
22 what's recommended by the arborist, yeah. I mean, like I
23 said, I want to protect these trees. I don't want this
24 tree to land on our new garage.

25 And I actually measured it this morning and the

1 tree is actually on the upper -- there's three trees
2 together. They are, basically, right up here. So when I
3 measured it this morning, from as best we could figure
4 out, I'm in the process. I have contacted the surveyors.
5 We haven't had an official survey redone, but using the
6 old survey and the property line, from where the trees
7 are, it's four and a half feet right now.

8 MR. PREMO: I take your neighbor would be -- I
9 mean, it looks like when I look at these, one of the
10 three of them to get -- maybe one of them require someone
11 going on the neighbor's property?

12 MRS. BETH TARDUNO: To go on the property?

13 MR. PREMO: Yes, to use fertilizer at
14 construction.

15 MRS. BETH TARDUNO: Yes, Mr. Weir -- I don't
16 know if I'm pronouncing the last name correctly, so I'm
17 just going to call him Jack. He was in the conversation
18 with the arborist on Friday. And this past Monday, he
19 was with me, with both arborists, and like I said, it was
20 exclusive across the board all the arborists agree that
21 watering the tree -- I can start watering the tree weeks
22 before construction if we want to, just to make sure it's
23 well watered before. And then the fertilizer would be
24 after construction.

25 MR. PREMO: So agreeable in what's being worked

1 out?

2 MRS. BETH TARDUNO: Yeah, he wrote two letters
3 to agree to. I'm not privy to the last letter that he
4 apparently submitted today. I don't know what that
5 says.

6 MR. DiSTEFANO: It came in beyond the time of
7 the posting of the agenda.

8 MRS. BETH TARDUNO: So I don't know what he
9 said there. I would be happy to have someone read it to
10 me so I could make a comment about it.

11 CHAIRPERSON MIETZ: Are you all set?

12 MRS. BETH TARDUNO: Are there any other
13 questions that any of the other Board Members have?

14 MR. DiSTEFANO: Rich, regarding the expansion
15 of the driveway, there is a 4 foot setback requirement
16 for pavement. I understand though that you have already
17 a pre-existing nonconformance in terms of that existing
18 paved area.

19 Are you going to be able to maintain the 4 foot
20 setback to the new garage? You'll end up being about a
21 foot in, right?

22 MR. HUNT: It would be staying about 4 feet
23 from the property line.

24 MR. DiSTEFANO: You probably could, correct?
25 You've got about a foot right there?

1 MR. HUNT: We just kind of cut it off right
2 there and still drive in.

3 MR. DiSTEFANO: The driveway doesn't have to go
4 to the very edge. It just has to go to the edge of the
5 garage door.

6 MR. HUNT: Right.

7 MR. DiSTEFANO: You probably got a foot there
8 to keep that 4 foot setback.

9 MR. HUNT: It would be pavement and some sort
10 of patio.

11 MR. DiSTEFANO: Gravel, pavers, it's all
12 considered pavement.

13 MR. HUNT: I see. We would have 4 feet off the
14 line.

15 MR. DiSTEFANO: Okay. So you can maintain a 4
16 foot setback back there. If you can't, then that will be
17 another variance that you would have to come in for.

18 MR. HUNT: That one is pretty manageable.

19 MR. DiSTEFANO: I think you can do that.

20 MR. HUNT: Yes.

21 CHAIRPERSON MIETZ: Other questions?

22 MRS. BETH TARDUNO: Am I allowed to make a
23 comment on this letter or not?

24 MR. DiSTEFANO: Sure.

25 MRS. BETH TARDUNO: Now, I don't know. You

1 know, he says, I'm concerned about the potential damage
2 to the large Norway Spruce. I mean all three of the
3 arborists and I spoke to him about this that, you know,
4 they are the professionals. They're the ones that we
5 need to trust to make the right decision. I said, if
6 there is anything that might question at all, I wouldn't
7 go through with this project. And none of them talked
8 about damage at all. There was a possibility of maybe
9 some stress to the tree. I see that as very different
10 than damage.

11 As far as clearing it and a drip line -- the
12 arborist that came out on Monday, that was Bartlett Tree
13 Experts. He talked about how -- actually, I have a
14 quote. He says, structurally, there is not much on my
15 side as far as roots and that you can tell that that's
16 very evident by the branch growth. So he was looking at
17 the way that the branches were growing on the tree and he
18 said that most likely -- you know, obviously, that they
19 can't see under the ground, but most likely, the roots
20 are going longitudinal along our lines and there is
21 actually -- you know, I'm sure it's as old as our houses
22 are, but there's likely a rock wall kind of between ours.
23 It's covered with ivy and stuff. He said, most likely,
24 the branches have grown longitudinally on that. So he
25 didn't even feel like there was huge branches on my side

1 at least four and a half feet in.

2 As far as cost, that's true. I have declined
3 to write anything to him as far as payment for it. My
4 husband is out of the country right now. I'm not going
5 to sign anything without him. And I trust the
6 professionals. Thank you for sharing that.

7 MR. DiSTEFANO: Yes.

8 CHAIRPERSON MIETZ: Okay. Do you have anything
9 else, ma'am, to add?

10 MRS. BETH TARDUNO: Actually, one thing, yeah,
11 as far as the trees. The other thing that the arborist
12 said that because there's three of them together, he said
13 if it were standing by itself, he might be more
14 concerned, but there's three of them together. And he
15 said because of the way that the trees are bunched, that
16 they are actually called grafted, the roots of the trees
17 are grafted together. He explained to us how that works.
18 He said structurally, he's not concerned about that tree
19 at all. He says, it's stable now, and he's not worried
20 about it.

21 CHAIRPERSON MIETZ: Okay. All right. Very
22 good. Any more questions by the Board?

23 MR. CRANE: Can I make one comment?

24 CHAIRPERSON MIETZ: How about a name and
25 address, sir?

1 MR. CRANE: My name is Jason Crane, 2 Callahan
2 Park, Rochester, New York 14606. I've been building in
3 Rochester for many, many years. I've built a lot of jobs
4 very similar to hers. The last one we did was on 64
5 Montiroy Road. We had to get a variance to put a garage
6 there. The driveway was shaped almost identical to
7 Beth's. That's where she picked me as a contractor. The
8 builder did a poor job of doing it, which was a Home
9 Depot job. So I had to go back in and fix the structure,
10 bring it up to code and pass it. So I know there's
11 precedent to allow something like this to happen.

12 In regards to Jack, when I spoke to the
13 neighbor, personally, I wanted his side of the story. I
14 also wanted to keep his interest at heart as everybody
15 knows the neighbors are the most important to building.

16 Talking to Rich, we can minimize the overdig of
17 the garage and we can minimize the amount of foot traffic
18 that really has to be on that 3 foot zone between the two
19 properties. We did our very best to pick the property
20 line. We did assure Jack that we were going to do a
21 thorough survey of that line before I build that garage,
22 so we have the exact footprint of what that property line
23 looks like before we construct.

24 And I built a greenhouse at 195 Hollywood Ave.,
25 and there was a Beech tree in the corner that was

1 extremely important to the customer. And that Beech tree
2 was less than 2 feet from the corner of the finished
3 building. So we've got quite a bit of knowledge as far
4 as digging around trees. We use our own equipment. We,
5 you know, keep all the dirt off the roots and everything.
6 So I'm very confident in that that between Jack and I and
7 the arborist. I did offer to pay an arborist to come
8 here when we did the excavation, to help us save the
9 roots and everything. I did offer that to Jack when I
10 was in that meeting.

11 So I realize that the storage space above was
12 mentioned. It's a small footprint. It's a very small
13 footprint. The natural windows -- you know, the windows
14 give it natural light, what makes it feel a little bigger
15 if they are up there with their bicycles and carrying
16 everything up there for storage and also, aesthetically,
17 it looked better I thought to the neighborhood having the
18 windows in there. So when we drew up, that's why we put
19 the windows in there.

20 CHAIRPERSON MIETZ: Okay.

21 MR. CRANE: Any questions for me? Thank you
22 for your time.

23 CHAIRPERSON MIETZ: Okay. Are you guys all set
24 on the architect?

25 MR. HUNT: All set.

1 CHAIRPERSON MIETZ: Okay. Is there anyone in
2 the audience who like to speak regarding this
3 application? Okay. There being none, the public hearing
4 is closed.

5 **Application 6A-02-24**

6 Application of Nathan Esh, agent, and Wesley
7 Williamson, owner of property located at 180 Coniston
8 Drive, for an Area Variance from Section 205-2 to allow a
9 deck to extend 14 feet into the 51.8 foot rear setback
10 where 60 foot rear setback is required by code. All as
11 described on application and plans on file.

12 MR. NATHAN ESH: Hi, I'm Nathan Esh. I'm from
13 Keystone Custom Decks. The address is 2869 State Route
14 54A, and that's in Keuka Park, New York 14478.

15 I'm here on behalf of Catherine Williamson.
16 And she can answer any questions regarding the house or
17 any questions that I can't answer.

18 We are requesting an variance to the rear
19 property setback. We would like to build a 16x14 deck
20 with a set of stairs off of it.

21 The zoning is a bit interesting with a 60 foot
22 setback. I believe the zoning changes a couple houses
23 away. So that, obviously, plays a little bit of a part
24 in it. The deck that's there now is somewhat unsafe.
25 She just showed me a picture today that she took where

1 the decking is starting to break through some. So we're
2 going a little bit bigger than what's there. Nothing
3 large by what I consider a large deck.

4 So yeah, we're requesting the variance there
5 for the deck. She had letters from all the neighbors.
6 They are completely fine with the build happening.

7 Any questions?

8 MS. TOMPKINS-WRIGHT: Do you know the size of
9 the current deck? It looks like based on the survey 4 or
10 6 feet?

11 MR. NATHAN ESH: It's 6 feet off the house,
12 yes.

13 MS. TOMPKINS-WRIGHT: Not increase to 14?

14 MR. NATHAN ESH: Correct.

15 CHAIRPERSON MIETZ: How did she determine or
16 you or someone that it needed to be this dimension?

17 MR. NATHAN ESH: This is what she had wanted
18 and this is what we felt was a decent size to allow for a
19 patio, you know, set of table and chairs. Anything much
20 smaller than that, you don't really give yourself much
21 room to enjoy it.

22 CHAIRPERSON MIETZ: From your experience, you,
23 obviously, build decks. Is this an average deck then?
24 What would you say?

25 MR. NATHAN ESH: It's definitely -- it's not

1 above average, no.

2 CHAIRPERSON MIETZ: It's not small but not
3 overly large either?

4 MR. NATHAN ESH: Right.

5 CHAIRPERSON MIETZ: I'm not trying to put words
6 in your mouth.

7 MR. NATHAN ESH: I'll agree with that.

8 CHAIRPERSON MIETZ: Not being a deck builder
9 myself. Okay. Any other questions from the Board
10 Members? Okay. Thank you.

11 MR. NATHAN ESH: Thank you.

12 CHAIRPERSON MIETZ: Is there anyone from the
13 audience that would like to speak regarding this
14 application? There being none, we'll close the public
15 hearing.

16 **Application 6A-03-24**

17 Application for Kirk Wright, agent, 1925 South
18 Clinton, LLC, owner of property located at 1905 South
19 Clinton Avenue for 1), a Sign Variance from Section
20 207-26D to allow 100 percent logo building face sign
21 where not permitted by code and 2), a Sign Variance from
22 Section 207-32, to allow logos on way finding signs where
23 not permitted by code. All as described on application
24 and plans on file.

25 MR. KIRK WRIGHT: Good evening, Kirk Wright,

1 Sign and Lighting Services, 530 State Route 104, Ontario,
2 New York.

3 David Shipe from Starbucks was to be here
4 evening. Something happened. He couldn't make it. He
5 lives in Albany. He did send an email. I have a copy of
6 that and things that he would like to say about the
7 project.

8 MR. DiSTEFANO: Would you like to read this
9 into the record?

10 MR. KIRK WRIGHT: If I have to.

11 MR. DiSTEFANO: Yes, I think you have to.

12 CHAIRPERSON MIETZ: That's the only way it's
13 going to get in.

14 MR. KIRK WRIGHT: Unless you want to do it. I
15 might skip some words.

16 CHAIRPERSON MIETZ: We're not on the payroll.

17 MR. DiSTEFANO: Kirk, please just stick to each
18 subgroup here. Not get into other signs.

19 MR. KIRK WRIGHT: With this letter.

20 MR. DiSTEFANO: We have mixed comments here.
21 Make sure we're dealing with right now just the two
22 logos.

23 MR. KIRK WRIGHT: Okay. Fair enough.

24 CHAIRPERSON MIETZ: Okay.

25 MR. KIRK WRIGHT: I briefed the letter and I

1 know that there was a lot of upfront work that went in
2 for this building and with the Planning Board and so on.
3 And it is a unique building.

4 One thing that I was unaware of was that
5 Starbucks has a number of different style stores.
6 There's a cafe, where there is no drive thru. There's a
7 drive thru store. There is a pick up store. And the
8 fourth one escapes me, but this is a drive thru store.

9 So the Marketing Department has done their due
10 diligence and it is faster for a customer to see the
11 siren, the Starbucks logo and identify that, than it is
12 for them to identify the word Starbucks. Therefore,
13 that's why they want the siren, Starbucks logo, in the
14 drive thru on the roadside.

15 Also you kind of go passed the property to
16 enter into the drive thru. And that is the reasoning for
17 the Starbucks logo on the drive thru directional signs at
18 ground level. They kind of bring you around. Again, the
19 way the store was designed, parking is in the rear of the
20 store. And the drive thru is actually in the front of
21 the store. Kind of unique. That's the reasoning to the
22 siren or Starbucks logo, and the drive thru sign on the
23 front elevation and the logos on the directional signs.

24 MR. DiSTEFANO: There are only two drive thru
25 signs, drive thru way finding signs?

1 MS. TOMPKINS WRIGHT: Yes, one on the east
2 elevation, one on the west elevation?

3 MR. DiSTEFANO: No, no, no, not the building
4 face.

5 MS. TOMPKINS-WRIGHT: Oh, sorry.

6 MR. DiSTEFANO: The way finding parking lot --

7 MR. KIRK WRIGHT: Directional.

8 MR. DiSTEFANO: -- Directional drive thru
9 signs.

10 MR. KIRK WRIGHT: Correct. On the site plan,
11 they are Letter F.

12 MR. DiSTEFANO: There's only two.

13 MR. KIRK WRIGHT: Only two, that is correct.

14 MR. DiSTEFANO: Thank you.

15 MR. KIRK WRIGHT: There are other businesses --
16 adjacent businesses on this property. So with the logo,
17 it's also going to help direct customers more
18 efficiently.

19 CHAIRPERSON MIETZ: Okay. Who performed the
20 scaling of this? Is that you guys or the corporate
21 people or who did that?

22 MR. KIRK WRIGHT: The scaling, sir?

23 CHAIRPERSON MIETZ: Of the logo, et cetera.

24 MR. KIRK WRIGHT: That's through Starbucks.

25 MR. DiSTEFANO: For the record, could you state

1 the square footage of that siren on the east elevation?

2 MR. KIRK WRIGHT: Yes, the siren is 25 square
3 feet. With the drive thru logo, we are looking at 31.9
4 square feet on that elevation.

5 MR. DiSTEFANO: That includes all the signs
6 showing on that elevation, right? What's the siren on
7 that elevation?

8 MR. KIRK WRIGHT: 25 square feet on the siren.
9 I'm assuming you box them.

10 MR. DiSTEFANO: Yes.

11 MR. KIRK WRIGHT: It's a circle so it's
12 actually less than 25 square feet. I understand that
13 boxing and so on and so forth.

14 MR. DiSTEFANO: And what would you be permitted
15 by code for signage on that building face?

16 MR. KIRK WRIGHT: I would have to bring that to
17 you.

18 MR. DiSTEFANO: Okay.

19 CHAIRPERSON MIETZ: The signage though, Rick,
20 was by other agreement, too, as far as the Starbucks
21 signs, correct?

22 MR. DiSTEFANO: Let me give a quick brief
23 history on what is permitted under incentive zoning. The
24 development was approved and the buildings that face
25 South Clinton and have a main entrance way to the west,

1 which would be the Starbucks situation, have the right to
2 have a sign on the east elevation, South Clinton, and the
3 west elevation, the parking lot. Their amount of
4 signage, was whatever our typical calculation is, it's
5 1.5 times the width of the space for the primary entrance
6 sign, which would be the west side, and they can have up
7 to 50 percent of that amount of signage on the South
8 Clinton side. My calculation says that they be allowed
9 51 square feet maximum on the parking lot side. And as
10 was testified to, 25 feet is what the siren size is. So
11 therefore, they are meeting that requirement and the only
12 reason, therefore, is because it's a 100 percent logo
13 sign, not that it's a second building sign.

14 CHAIRPERSON MIETZ: Okay. And the drive thru
15 signs are additional to that?

16 MR. DiSTEFANO: Yeah, and the second part of
17 the variance is that we don't allow logos and stuff on
18 exit signs, on drive thru signs and that kind of stuff so
19 we're asking for the small siren logo on the parking lot
20 drive thru side.

21 CHAIRPERSON MIETZ: And those signs up on the
22 building here next to the word Starbucks drive thru,
23 right, that is an additional sign?

24 MR. DiSTEFANO: That's another variance that
25 needs to be talked about.

1 CHAIRPERSON MIETZ: I know we are mixing it up,
2 kind of impossible to talk about it together, the best we
3 can. Yeah, I'm just trying to make sure people
4 understand. It's all interwoven in this total.

5 MR. DiSTEFANO: Right.

6 CHAIRPERSON MIETZ: All right.

7 MR. KIRK WRIGHT: I'd like to say that that 6.9
8 square feet sign, that drive thru sign next to the siren.
9 I'd also like to add that originally they had a north
10 elevation, which included Starbucks and a drive thru,
11 which they took out of their package.

12 CHAIRPERSON MIETZ: Okay.

13 MR. DiSTEFANO: The original plans we saw for
14 this set of plans had Starbucks on the parking lot side,
15 Starbucks on the South Clinton side and a siren over the
16 actual physical drive up window, which is the north
17 elevation.

18 CHAIRPERSON MIETZ: Okay.

19 MS. McKAY-DRURY: I'm just trying to make sense
20 of the drawing that we have here. All right. Are you
21 familiar with these if I go through them in order?

22 MR. KIRK WRIGHT: Sure.

23 MS. McKAY-DRURY: Kind of?

24 MR. KIRK WRIGHT: Sure.

25 MS. McKAY-DRURY: The first one has just the

1 cover page?

2 MR. KIRK WRIGHT: Yes.

3 MS. MCKAY-DRURY: The second one is a map that
4 shows us where each OF the different letters is going?

5 MR. KIRK WRIGHT: That's your site plan.
6 That's correct.

7 MS. MCKAY-DRURY: And so A and C on that plan
8 and what we're talking about here I believe?

9 MR. KIRK WRIGHT: Yes, that's correct. A is
10 the siren and C is the drive thru arrow sign.

11 MS. MCKAY-DRURY: Okay.

12 MR. KIRK WRIGHT: You will see C on the
13 opposite side, also.

14 MS. MCKAY-DRURY: To clarify?

15 MR. DiSTEFANO: We're not talking about C with
16 this application.

17 CHAIRPERSON MIETZ: Oh, yeah. I got that.

18 MR. DiSTEFANO: Yes.

19 MS. MCKAY-DRURY: Okay. So then the next page
20 after that, I think I'm looking at what will be visible
21 from South Clinton. Is that inaccurate?

22 MR. DiSTEFANO: That is inaccurate.

23 MS. MCKAY-DRURY: Okay. What side is this?

24 MR. DiSTEFANO: This is for where the drive
25 thru window is, which is the north elevation of the

1 building.

2 CHAIRPERSON MIETZ: That's facing the Doodle
3 Bug.

4 MR. DiSTEFANO: Facing the Doodle Bug, which
5 has no sign.

6 MS. McKAY-DRURY: Okay. That's what I was
7 confused about.

8 MR. KIRK WRIGHT: That's been deleted. I'm
9 sorry. If you still have that, that would cause you
10 confusion. That has been -- no normal elevation signage
11 whatsoever.

12 MS. McKAY-DRURY: Okay. It says no signage and
13 I was confused because I thought I was looking at what
14 we'd see from South Clinton, which I thought wanted a
15 sign.

16 CHAIRPERSON MIETZ: South Clinton is east.

17 MS. McKAY-DRURY: All right. So now, we're
18 talking about the siren symbol on the next page, is the
19 one that we are talking about, correct?

20 MR. DiSTEFANO: Right. I'll just say, you're
21 seeing doors there. Those doors are pretty much employee
22 only doors, needed for access to dumpsters and getting to
23 the menu boards, that kind of stuff. That's why you see
24 doors, but it's not the main public entrance to it.

25 MS. McKAY-DRURY: Okay. Thank you.

1 CHAIRPERSON MIETZ: Okay. We're clear now?

2 MS. McKAY-DRURY: I might have more as we
3 continue through these applications, but I'll stick to
4 this application.

5 CHAIRPERSON MIETZ: That's fine. Okay. So
6 everyone is clear about what we're talking about here as
7 far as what we have? All right.

8 Do you have anything else to present on the
9 first application?

10 MR. KIRK WRIGHT: No.

11 MS. McKAY-DRURY: On the siren sign, I'm
12 curious, do you know is that always the same size?

13 MR. KIRK WRIGHT: It varies. Obviously, if
14 they were allowed a 100 square feet of signage, it would
15 increase in size.

16 MS. McKAY-DRURY: Okay.

17 CHAIRPERSON MIETZ: Okay. All right. Any
18 other questions from the Board Members about this? Do
19 you want it approved through them?

20 MR. DiSTEFANO: Yeah, that will be the next
21 one.

22 CHAIRPERSON MIETZ: Yeah.

23 MR. DiSTEFANO: If there's no questions, you
24 might want to ask the audience if there's any questions
25 regarding this one.

1 CHAIRPERSON MIETZ: We have to do a public
2 hearing on each one.

3 MR. DiSTEFANO: I think it might be. I think
4 if you just handle them one at a time.

5 CHAIRPERSON MIETZ: Yes, I think it's kind of a
6 moot point anyway, but we'll do it.

7 MS. SCHMITT: I don't believe he ever read the
8 email into the record. I don't know if it had anything
9 that was that important in it.

10 CHAIRPERSON MIETZ: Well, if there was on this
11 section. He can't read the whole email in because it
12 mixes up all of the applications, the comments that are
13 there.

14 MS. SCHMITT: I wasn't sure.

15 CHAIRPERSON MIETZ: I would prefer that he
16 would read it if it's part of his presentation in each of
17 the applications.

18 Is there anything on this one from the email
19 that you want in the record?

20 MR. KIRK WRIGHT: From the e-mail I mentioned
21 the drive thru store.

22 CHAIRPERSON MIETZ: Yes.

23 MR. KIRK WRIGHT: Not a cafe or pick ups,
24 correct.

25 CHAIRPERSON MIETZ: It's in the record.

1 MR. KIRK WRIGHT: It's in the record, correct.

2 CHAIRPERSON MIETZ: You're not disputing it.

3 Okay. All right. Very good.

4 So is there anyone in the audience that would
5 like to speak regarding the first application? Okay.

6 There being none, this public hearing is closed.

7 **Application 6A-04-24**

8 Application of Kirk Wright, agent, and 1925
9 South Clinton, LLC, owner of property located at 1905
10 South Clinton Avenue, for a Sign Variance from Section
11 207-32B, to allow for two nonbusiness identification
12 signs on the east and west building elevations where not
13 allowed by code. All as described on application and
14 plans on file.

15 MS. BARON: Before we start this one, I just
16 wanted to note for the record and for everyone's
17 information, the Planning Board at their last meeting did
18 vote on this sign package and they conditioned their
19 approval on the removal of these two drive thru signs
20 located at Location C. They thought that it was
21 excessive. That there was enough drive thru signage on
22 the ground and elsewhere on the property to direct
23 people. And that people would be confused as there is a
24 drive thru at this location. So they thought visually it
25 should be removed.

1 MS. TOMPKINS-WRIGHT: Is the legal point then
2 if we were to approve it, it would not be able to do it
3 anyway or deny it, it wouldn't matter, but they wouldn't
4 be able to do it anyway?

5 MS. BARON: That's my position.

6 MR. DiSTEFANO: That is a --

7 CHAIRPERSON MIETZ: Debatable.

8 MR. DiSTEFANO: That is a debatable position.

9 CHAIRPERSON MIETZ: Go ahead. As long as we
10 are on it, quick.

11 MR. DiSTEFANO: Basically, in that regard,
12 you're, basically, telling -- the Planning Board is
13 telling the Zoning Board that they have no right to
14 review and approve a variance, which they don't. I mean
15 the State Supreme Court is the only board or group that
16 can oversee or overturn a zoning variance.

17 If we were to grant the variance, I think we
18 would have a debatable situation.

19 MS. MCKAY-DRURY: It's potentially an invalid
20 condition of theirs.

21 MR. DiSTEFANO: Yes.

22 MS. BARON: I do not believe so. So my
23 position is, they are allowed to consider the visual
24 aspects of the signage and they have signage approval
25 according to the Town Code.

1 MR. DiSTEFANO: And my position is that they
2 have approval -- their approval is required for permit
3 signs. This is not a permit sign. It's a variance.

4 MS. SCHMITT: Can I ask Lauren a question? Is
5 the Planning Board primarily thinking of aesthetics, is
6 that correct?

7 MS. BARON: So the code says, they consider the
8 visual aesthetics of the sign and whether it's a health,
9 safety issue for the public.

10 MS. TOMPKINS-WRIGHT: And this is as to
11 aesthetics?

12 MS. BARON: Yes, in their opinion, yes, it is
13 aesthetics.

14 MS. SCHMITT: If there was testimony given at
15 the time -- I'm not saying there were, but I'm just
16 trying to understand it. If there was testimony given
17 that it would be a safety issue not to have these
18 additional drive thru signs that wasn't taken into
19 consideration by the Planning Board, would we not have a
20 duty to think about that?

21 MS. BARON: If there is testimony tonight to
22 that effect, then yeah, this Board should consider that.
23 There was no representative of Starbucks or the signage
24 coming to the Planning Board meeting.

25 MS. SCHMITT: I just wanted to make sure. It

1 might be an issue.

2 MR. D'AUGUSTINE: A quick question on that
3 interpretation. So when we have a condition subject to
4 ARB and Planning Board approval of that though and the
5 Planning Board already said, no, do you understand what
6 I'm asking?

7 MR. DiSTEFANO: I would say 99 percent of the
8 time -- this is kind of taken out of order. 99 percent
9 of the time the variance was granted before the Planning
10 Board puts its final approval on it and there again,
11 their approval is based on recommendation by the
12 Architect Review Board, not recommendations from the
13 Zoning Board. The Zoning Board grants the variance.
14 Therefore, the Planning Board should consider that
15 variance in approving the sign.

16 MR. D'AUGUSTINE: I see.

17 MR. DiSTEFANO: Okay. This time the whole
18 package went to the ARB and Planning Board before it ever
19 got to us.

20 MR. D'AUGUSTINE: Okay.

21 CHAIRPERSON MIETZ: One other point, just so
22 that you are hearing all this, make some sense, what has
23 happened with this Board in the 20 years that I've been
24 involved in it, is that these drive thru signs, you know,
25 come up all the time on National restaurant sites.

1 Okay. And generally, our position has been
2 unless there is something specific about a particular
3 location, and we'll stay out of which ones we can talk
4 about it later, that merit, that depicting the word drive
5 thru is a marketing thing and it's not a way finding
6 thing. The directional signs on the ground that point
7 you to the drive thru lane and takes you to the drive up,
8 is there for the safety of people and to manage the
9 traffic on the site. But when it goes up to the building
10 like this, it clearly is a marketing thing from our
11 experience in the past. We can listen to the discussion
12 about it here, but you know, because, again, it's
13 offering that as a service, which is part of our -- it's
14 to find the drive thru. So this is the historical way
15 and now, you've been around a bit. You heard this
16 discussion, but Mr. Wright can suggest what he would like
17 to suggest to testify. We can debate this point, but the
18 Planning Board, again, unfortunately, it's a little out
19 of sequence.

20 We should come to our determination on this
21 Board of whether these things -- is there a merit to the
22 signs? What is the justification for them and then
23 react. Okay. Fair enough? So go for it. You're up.

24 MR. KIRK WRIGHT: Okay. Two things. One thing
25 you brought up is very true, if someone's driving down

1 the road and if they don't see that it's a drive thru,
2 lazy American, they are going to keep going. 80 percent
3 of this business is done through the drive thru.

4 That being said, if you are going down the road
5 and you look up and there's a 6.9 square foot drive thru
6 sign on the building, you know that it's there prior to
7 the drive. If it's not there, you're depending on a
8 small directional sign that's at that driveway. So now,
9 you've got people spiking their brakes. Hey, they
10 haven't had their coffee yet. They've got to get there
11 and get their coffee in the morning. You're going to
12 cause accidents at that intersection if you don't
13 identify that as a drive thru Starbucks. We are talking
14 6.9 square feet, also

15 CHAIRPERSON MIETZ: Sir, would you agree that
16 the main frontage of that store is the east elevation,
17 along South Clinton? Yes?

18 MR. KIRK WRIGHT: Yes.

19 CHAIRPERSON MIETZ: Okay. And where is that
20 drive thru, on the east elevation along South Clinton
21 Avenue, correct?

22 MR. KIRK WRIGHT: That is correct.

23 CHAIRPERSON MIETZ: So it's pretty obvious what
24 it is, right? If I'm driving on South Clinton and I
25 look, and whether or not there's a sign or not, I don't

1 think it would be a problem. Your argument would be fine
2 if it would be behind it on the west side and maybe
3 somebody wouldn't know there's a drive thru, but they can
4 clearly see the driveway. Would you agree?

5 MR. KIRK WRIGHT: Well, the way the doors are,
6 and it looks like the main entrance, it could be
7 confused.

8 CHAIRPERSON MIETZ: Those doors don't help.

9 MR. KIRK WRIGHT: There is plantings and such
10 out front, also.

11 CHAIRPERSON MIETZ: Yes.

12 MR. KIRK WRIGHT: To enhance the building.

13 CHAIRPERSON MIETZ: Yes.

14 MR. KIRK WRIGHT: There's a lot of traffic on
15 South Clinton, a lot going on.

16 CHAIRPERSON MIETZ: My house is right next to
17 it so I'm aware of it. Okay.

18 MR. PREMO: Just so I understand it, make sure
19 I understand the store, the store itself is just a drive
20 thru? I couldn't stop or park my car?

21 CHAIRPERSON MIETZ: No.

22 MR. KIRK WRIGHT: You can. You absolutely can
23 go in, sit down. It's treated as a cafe. You can go in,
24 bring your laptop in.

25 MR. PREMO: It's a cafe and --

1 MR. KIRK WRIGHT: Correct. There are cafe
2 styles that do not have drive thrus and then there are
3 pick up only stores where there is no cafe. I don't know
4 if there's one local or not.

5 CHAIRPERSON MIETZ: Okay.

6 MR. PREMO: Do you know if this store is -- for
7 example, you can use your phone and put an order online?

8 MR. KIRK WRIGHT: Your mobile app?

9 MR. PREMO: Yeah.

10 MR. KIRK WRIGHT: I can't speak to that.

11 CHAIRPERSON MIETZ: That's marketing, all
12 marketing.

13 MR. PREMO: I was just curious because we had
14 that with Chipotle.

15 CHAIRPERSON MIETZ: Okay, yeah. This window --
16 all right, this drive thru window, you're going to be
17 able to order at this drive thru. It's not a pick up
18 window, correct?

19 MR. KIRK WRIGHT: Yes. That will come up in
20 next one.

21 CHAIRPERSON MIETZ: That's what our
22 understanding was. All right. All right. Is there
23 anything else on this part of the application related to
24 those two signs?

25 MR. KIRK WRIGHT: No, sir.

1 MR. DiSTEFANO: Yes, I would just say, I guess,
2 that at least you have an 80 percent chance that you're
3 going to hit a drive thru, correct?

4 MR. KIRK WRIGHT: Of a Starbucks?

5 MR. DiSTEFANO: 80 percent of them have drive
6 thrus.

7 MR. KIRK WRIGHT: No.

8 MR. DiSTEFANO: 20 percent of them don't have
9 drive thrus, right?

10 MR. KIRK WRIGHT: What I had said was, 80
11 percent of their business is done through the drive thru
12 at this store.

13 MR. DiSTEFANO: I thought you said 80 percent
14 have drive thrus.

15 MR. KIRK WRIGHT: I don't know nationwide.

16 MR. DiSTEFANO: Okay. Put it this way, there's
17 a good chance that any newly built Starbucks is going to
18 have a drive thru, correct?

19 MR. KIRK WRIGHT: No, Park Avenue is the last
20 store I did. They didn't have a drive thru.

21 MR. DiSTEFANO: And if you did pull in here and
22 you didn't have a drive thru, would you not get out and
23 buy a cup of coffee?

24 MR. KIRK WRIGHT: I wouldn't.

25 MS. MCKAY DRURY: I usually have babies and

1 toddlers in the car.

2 MR. KIRK WRIGHT: There's a lot to it.

3 CHAIRPERSON MIETZ: Take it easy. Okay. It's
4 hard for her to understand when you're all talking.

5 So yeah, we're not going to debate the
6 marketing of the United States of the drive thrus and all
7 that.

8 MR. KIRK WRIGHT: Sure. Understood.

9 CHAIRPERSON MIETZ: The business is, obviously,
10 changing since COVID. Everybody knows that. So we lived
11 with it like everybody else, right? Okay.

12 MR. KIRK WRIGHT: Yes.

13 CHAIRPERSON MIETZ: Are we clear on what was
14 being requested on this one? Okay.

15 MR. DiSTEFANO: I guess another question. The
16 newest Starbucks in Brighton before this one, Monroe
17 Avenue, what type of store is that?

18 MR. KIRK WRIGHT: That's a drive thru store.

19 MR. DiSTEFANO: At the Whole Foods, that's a
20 drive thru?

21 MR. KIRK WRIGHT: Yes.

22 MR. DiSTEFANO: Do they have drive thru on
23 those elevations?

24 MR. KIRK WRIGHT: I can't speak to that.

25 MR. DiSTEFANO: They don't.

1 CHAIRPERSON MIETZ: They don't?

2 MR. DiSTEFANO: They don't.

3 MR. KIRK WRIGHT: Okay.

4 CHAIRPERSON MIETZ: Okay. All right. Last
5 question, you're all set on this one?

6 MR. DiSTEFANO: Yeah, I'm good.

7 CHAIRPERSON MIETZ: Okay. Is there anyone in
8 the audience that would like to speak regarding this
9 application? Okay. There being none, we will close the
10 public hearing.

11 **Application 6A-05-24**

12 Application of Kirk Wright, agent, and 1925
13 South Clinton, LLC, owner of property located at 1905
14 South Clinton Avenue, for a Sign Variance from Section
15 207-32B, to allow for three menu boards where not allowed
16 by code. All as described on application and plans on
17 file.

18 CHAIRPERSON MIETZ: Okay.

19 MS. BARON: Sorry. Really quick, with this one
20 as well, the Planning Board also conditioned their
21 approval of denial of one menu board, Menu Board G. They
22 also thought that the amount of the menu boards was
23 excessive along that side of the building and wasn't
24 aesthetically --

25 CHAIRPERSON MIETZ: Pre-menu board, right?

1 MS. BARON: Yes, pre-menu board, Menu Board
2 G.

3 CHAIRPERSON MIETZ: Okay. Go ahead.

4 MR. KIRK WRIGHT: Obviously, purpose of the
5 Pre-menu board is for new items and specials, so on and
6 so forth, but they've got to have a menu board. It's a
7 drive thru store.

8 CHAIRPERSON MIETZ: Right.

9 MR. WRIGHT: We've determined it's a drive thru
10 store. They have to have a menu board. I guess there is
11 no more I can say to that.

12 CHAIRPERSON MIETZ: Okay. So the discussion, I
13 guess, has focused probably on the pre-menu board and you
14 clearly stated that it's marketing. It's to attract
15 people to new products or specials or sales or
16 something.

17 MR. KIRK WRIGHT: That's my understanding,
18 yes.

19 CHAIRPERSON MIETZ: Okay. All right.

20 MR. KIRK WRIGHT: And it expedites the flow of
21 traffic through.

22 CHAIRPERSON MIETZ: Okay. All right. Any
23 questions about this, about the menu? Everybody knows
24 what a menu board is, why you have a menu board. So the
25 only thing that is really different about this than most

1 others is this extra one, which earlier --

2 MR. DiSTEFANO: Just a clarification for the
3 record, question, this pre-menu board is located where?

4 MR. KIRK WRIGHT: That would be G.

5 MR. DiSTEFANO: And G is where in terms of the
6 pick up window?

7 MR. KIRK WRIGHT: Prior to the window.

8 MR. DiSTEFANO: It's the first board?

9 MR. KIRK WRIGHT: It's the first board.

10 MR. DiSTEFANO: First board.

11 CHAIRPERSON MIETZ: Then you come around.

12 MR. KIRK WRIGHT: Then you have a menu board
13 and the third one is an order confirmation screen, which
14 tells you how much you spent, what you're getting, so on
15 and so forth.

16 MS. SCHMITT: Can you help me with this again?

17 MR. KIRK WRIGHT: Sure.

18 MS. SCHMITT: So G has the pre, correct?

19 MR. KIRK WRIGHT: Yes.

20 MS. SCHMITT: Where do you actually --

21 MR. KIRK WRIGHT: I'm sorry. I'm backwards. I
22 need a light. Coming in -- no, I was correct.

23 CHAIRPERSON MIETZ: You were right.

24 MR. KIRK WRIGHT: I was correct.

25 MR. DiSTEFANO: You were right.

1 MS. SCHMITT: G is?

2 MR. KIRK WRIGHT: G is the pre-menu. H is the
3 main menu and I is the order confirmation screen.

4 MS. SCHMITT: And where do you order?

5 MR. KIRK WRIGHT: At H.

6 MS. SCHMITT: At H is where you order?

7 MR. KIRK WRIGHT: That's correct.

8 MS. SCHMITT: And if you were unfamiliar with
9 Starbucks and you wanted to find out whether they sold
10 lattes?

11 MR. KIRK WRIGHT: That would be at G.

12 MS. SCHMITT: Well, no, I'm just asking, if G
13 was not there, a pre-menu board, you have to go to the
14 order window to see what the options were, is that
15 correct?

16 MR. KIRK WRIGHT: You'd be closer to the order
17 window, yes. The object of the pre-menu board is when
18 the car in front of you is ordering, you get an idea of
19 what you want.

20 MR. D'AUGUSTINE: To decrease the amount of
21 time you spend sitting ordering when you have a pre-menu
22 board.

23 MS. BARON: So just to clarify for H, that's
24 the plans that we have with the canopy, is that correct?

25 MR. KIRK WRIGHT: That's correct.

1 MS. BARON: And then for I, the actual menu
2 board is the three screens with every single item that's
3 on the menu, is that accurate?

4 MR. KIRK WRIGHT: Yes.

5 CHAIRPERSON MIETZ: That's where you order.

6 MS. SCHMITT: And this is one lane, correct?

7 MR. KIRK WRIGHT: Yes, this is a single lane.

8 MS. SCHMITT: If it takes a few minutes to make
9 something, do you have like a pull ahead or pull over
10 area?

11 MR. KIRK WRIGHT: I --

12 MS. SCHMITT: I didn't see one.

13 MR. KIRK WRIGHT: I can't speak to that. I
14 know what you're talking about. I don't see it on the
15 site plan.

16 CHAIRPERSON MIETZ: All set?

17 MS. SCHMITT: Yes.

18 CHAIRPERSON MIETZ: Okay. Any other questions
19 about the menu boards? Okay.

20 Is there anyone in the audience who would like
21 to speak about the menu boards? Okay.

22 There being none, then the public hearing is
23 closed.

24 **Application 6A-06-24**

25 Application of Kirk Wright, agent, and 1925

1 South Clinton, LLC, owner of property located at 1905
2 South Clinton Avenue, for a Sign Variance from Section
3 207-6A, to allow a canopy structure to be located in a
4 front yard in lieu of the rear yard as required by code.
5 All as described on application and plans on file.

6 MR. KIRK WRIGHT: With the layout of the store
7 and the request for parking to be in the rear, obviously,
8 the parking on the Clinton Avenue side isn't working.
9 The drive thru is at the front of the store and the
10 canopy is to keep the rain off your head while you're
11 ordering at the menu board.

12 CHAIRPERSON MIETZ: Okay. Pretty straight
13 forward. Any questions about that? Only be in one place
14 or the other? Yes? Questions? No questions. Okay,
15 Mr. Wright.

16 MR. KIRK WRIGHT: That's it.

17 MS. MCKAY-DRURY: I just feel like we haven't
18 talked -- what I missed when we talked about the other
19 drive thru directional signs that are lower and that have
20 the sign on it. What application are those related to?

21 MR. DiSTEFANO: The first one, 6A-03 -- or the
22 second part of 6A-03.

23 MS. MCKAY-DRURY: Okay. Because I have written
24 down that A from the site plan was the only thing for
25 6A-03, but it's also all of those other.

1 MS. TOMPKINS-WRIGHT: But the only issue is not
2 the existence of those way finding signs, it's the extent
3 of the logos on them instead of --

4 CHAIRPERSON MIETZ: That's all we need to focus
5 on.

6 MS. McKAY-DRURY: In terms of figuring out the
7 second of four applications, I want to know where those
8 directional signs --

9 CHAIRPERSON MIETZ: In the first application.

10 MS. McKAY-DRURY: In the first application,
11 okay. And those directionals are the little green ones
12 that I see that are not lettered throughout the site
13 plan, is that right?

14 MR. KIRK WRIGHT: Everything is lettered. The
15 logo ones are Letter F. There are two of them.

16 MS. McKAY-DRURY: Okay, okay. That's helpful.
17 Thank you.

18 CHAIRPERSON MIETZ: Okay.

19 MR. DiSTEFANO: Can I just stay on the menu
20 board just for a second because I'm getting confused on
21 what is the menu board, what's the pre-menu board --

22 CHAIRPERSON MIETZ: Okay.

23 MR. DiSTEFANO: -- And what's the confirmation
24 board?

25 CHAIRPERSON MIETZ: Very good.

1 MR. DiSTEFANO: And the canopy. So the canopy
2 is over Menu Board H, correct?

3 CHAIRPERSON MIETZ: Yes.

4 MS. McKAY-DRURY: I think that's the order
5 confirmation board.

6 MR. DiSTEFANO: And is that the order
7 confirmation? So do you order there and get confirmed
8 there or do you move up and get confirmed?

9 MR. KIRK WRIGHT: No, those are as you're
10 sitting at the menu board, the order confirmation is on
11 the concrete pad. So they could theoretically bolt them
12 together, I guess, but they are counted as two units.

13 MR. DiSTEFANO: Then so I'm thinking -- so the
14 H appears to be a one panel digital order screen, right?

15 MR. KIRK WRIGHT: I have H --

16 CHAIRPERSON MIETZ: As a canopy.

17 MR. KIRK WRIGHT: -- As a canopy.

18 MR. DiSTEFANO: With one panel and it says
19 order screen canopy ground footing. Okay. Then there's
20 a three panel screen that would be north of that.

21 MS. McKAY-DRURY: That's a full menu.

22 MR. DiSTEFANO: That's the full order board.

23 CHAIRPERSON MIETZ: We can't all talk at the
24 same time.

25 MR. DiSTEFANO: That's the full three panel

1 order board.

2 MR. KIRK WRIGHT: Yes.

3 MR. DiSTEFANO: So I'm sitting at the canopy.

4 I'm looking ahead to the three panel order board, but I'm
5 talking to the H?

6 MR. KIRK WRIGHT: No. You're sitting under the
7 canopy.

8 MR. DiSTEFANO: Right.

9 MR. KIRK WRIGHT: And you are at H.

10 MR. DiSTEFANO: Right.

11 MR. KIRK WRIGHT: And I is 2 feet in front of
12 H.

13 MR. DiSTEFANO: It looks further than that on
14 the site plan. And it also looks further than that on
15 this little mock up here. And you can see H and then way
16 up here is the three panel order board.

17 MR. KIRK WRIGHT: 3 feet, 4 feet max.

18 MR. DiSTEFANO: This is why I'm just getting --
19 I want to get --

20 MR. KIRK WRIGHT: You can see that as you're
21 sitting there.

22 MR. DiSTEFANO: Yes, if you've got good
23 eyesight, yeah.

24 MR. KIRK WRIGHT: It's clearly -- this is what
25 your total is. Have your money ready.

1 MR. DiSTEFANO: That helps me understand. The
2 actual order board is ahead of the actual place you sit
3 to talk to order and that screen right next to you is the
4 confirmation screen, I guess. That one, you get your
5 confirmation right there?

6 MR. KIRK WRIGHT: Yes.

7 MR. DiSTEFANO: Yes, right?

8 MR. KIRK WRIGHT: Yes.

9 MR. DiSTEFANO: Yes. Under the canopy?

10 MR. KIRK WRIGHT: Yes, and talk to that.

11 MR. DiSTEFANO: And talk to it even though the
12 menu board is in front of you?

13 MR. KIRK WRIGHT: Yes. This may be incorrect.
14 You may be onto something there, because I is the main --
15 you are correct. I is the main menu board. So you're
16 sitting under the canopy at the order confirmation and
17 speaker post and I is in front of you.

18 MR. DiSTEFANO: The canopy is over.

19 MR. KIRK WRIGHT: It says canopy with dos.
20 Fair catch.

21 CHAIRPERSON MIETZ: Looking at this one page
22 here, it says canopy up in the left corner of the page
23 number, but that one clearly shows the canopy is over
24 this H Board and the I one, you can see to the right has
25 nothing over it.

1 MR. DiSTEFANO: Right.

2 CHAIRPERSON MIETZ: That's what's going to
3 happen?

4 MR. KIRK WRIGHT: Yes.

5 CHAIRPERSON MIETZ: Okay. It says canopy in
6 the upper left and you can clearly see it depicted there.

7 MR. KIRK WRIGHT: I have no idea where that
8 picture is from obviously. That's just a generic.

9 MR. DiSTEFANO: All right. I just wanted to
10 make sure I understand that.

11 MR. KIRK WRIGHT: And those footers are all in.

12 CHAIRPERSON MIETZ: All right. Other questions
13 for Mr. Wright?

14 MS. MCKAY-DRURY: Did you just say everything
15 is black, the colors for the structure, the canopy?

16 MR. KIRK WRIGHT: It's dark browns. Yeah, so
17 if you looked at it from the road, it would be black.
18 It's like the front of that desk basically.

19 MR. DiSTEFANO: For the record, what's the
20 height of this canopy structure?

21 MR. KIRK WRIGHT: I think it has like a 9 foot
22 clearance.

23 MR. DiSTEFANO: That's what the clearance bar
24 basically is telling us, right? The clearance bar is for
25 the canopy?

1 MR. KIRK WRIGHT: Absolutely.

2 MR. DiSTEFANO: Okay.

3 MR. KIRK WRIGHT: It's actually for the awning
4 over the pick up window.

5 MR. DiSTEFANO: The pick up window, also.

6 MR. KIRK WRIGHT: Correct.

7 MS. TOMPKINS-WRIGHT: The plans show that it's
8 10 foot 4 inches.

9 MR. DiSTEFANO: The clearance bar --

10 MR. KIRK WRIGHT: It is at a slant, too. So
11 probably at its highest point, 10'3".

12 CHAIRPERSON MIETZ: Okay. We're pretty close
13 here. All right. Any other questions? Thank you.
14 Thank you.

15 Is there anybody in the audience that wants to
16 speak? Okay. The public hearing is closed. Thank you.

17 MR. KIRK WRIGHT: Thank you.

18 **Application 6A-07-24**

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

1 as described on application and plans on file.

2 MR. SERAFINE: Jerry Serafine, 533 South Winton
3 Road, 14618. The address of the client is 55 Stonybrook
4 Drive.

5 So my clients want to build an addition on the
6 rear of their home. Part of the footprint of the
7 addition, a small portion of it, falls within a FEMA
8 designated flood zone. The building code states that the
9 lowest floor of an addition needs to be 24 inches above
10 the base flood elevation in a flood zone.

11 Their existing floor is 18 inches above the
12 base flood elevation. There's a 6 inch difference. And
13 the only solution would be to have a 6 inch step running
14 the entire back of the house where the addition is, which
15 kind of defeats the purpose of having an accessible
16 future primary suite, bedroom/bathroom suite. So we're
17 asking for a variance from that 24 inch free board area
18 to 18 inches. Pretty basic.

19 CHAIRPERSON MIETZ: How long have they owned
20 the property, sir?

21 MR. SERAFINE: I believe they have been there
22 maybe five or six years.

23 CHAIRPERSON MIETZ: Has there been any problems
24 with the say water issues of any kind?

25 MR. SERAFINE: No, as a matter of fact, they

1 had a neighborhood meeting where one of the things they
2 wanted to get on the record was, has anybody had any
3 flooding in the area and one of the neighbors that was
4 there for 40 years said, we've never even had water in
5 our basement.

6 CHAIRPERSON MIETZ: It's a regulation.

7 MR. SERAFINE: Pardon me?

8 CHAIRPERSON MIETZ: It's a regulation, yes.

9 MR. SERAFINE: Oh, yeah.

10 MS. TOMPKINS-WRIGHT: And just for the record,
11 the New York State Department of State Building Code
12 issued a variance already for this to permit construction
13 at 18 inches.

14 MR. SERAFINE: New York State has, yes.

15 MR. DiSTEFANO: Yes. For the record, so
16 there's two agencies, basically, requiring this two foot
17 above base flood elevation -- actually, it's more than
18 two. It's a standard requirement from FEMA, New York
19 State and Town of Brighton. So we're all consistent with
20 that two foot above baseline. We could be higher. We
21 could require three foot if we wanted to.

22 MS. TOMPKINS-WRIGHT: Go crazy.

23 CHAIRPERSON MIETZ: We wouldn't do that. Good.
24 Okay. And just the only other question would be, was
25 there any other way to do this addition anywhere else

1 that would alleviate this condition?

2 MR. SERAFINE: We thought about this long and
3 hard. Really, you know, it's the back of the house. And
4 there's no other place that the setbacks would be allowed
5 on the side. That's the spot.

6 CHAIRPERSON MIETZ: Okay. You considered any
7 other alternatives and could not find one?

8 MR. SERAFINE: Yes.

9 CHAIRPERSON MIETZ: Okay.

10 MR. SERAFINE: Definitely.

11 CHAIRPERSON MIETZ: That's what I was asking.

12 MS. MCKAY-DRURY: Did you say only one corner
13 of the proposed addition?

14 MR. SERAFINE: A little slosh along probably 5
15 feet on the rear of the addition that falls within the
16 flood zone.

17 MS. MCKAY-DRURY: Is the house itself like on
18 any of it?

19 MR. SERAFINE: Pardon me?

20 MS. MCKAY-DRURY: Is the house itself on any of
21 it?

22 MR. SERAFINE: No, the house is not in the
23 flood zone.

24 MS. MCKAY-DRURY: So it's not a prior
25 nonconforming house --

1 MR. SERAFINE: No. the house is not in the
2 flood zone.

3 MS. MCKAY-DRURY: We don't have plans of where
4 the flood plain line is do we in the record?

5 MR. DiSTEFANO: No, but the mapping that we
6 have is, basically, I think, if you go out and physically
7 map it, it might be where Gary said. All the maps that
8 we show are, basically, right up to that back side of the
9 house. But if you actually go physically out there and
10 survey it, it might be a little further away from the
11 house.

12 CHAIRPERSON MIETZ: Okay. Other questions?
13 Okay. Great. Thank you very much.

14 Is there anyone in the audience that would like
15 to speak regarding this application? Okay. All right.
16 That's it. All right. The public hearing is closed.

17 **Application 6A-08-24**

18 Application of Leroy and Lehana Doctor, owners
19 of property located at 74 Irving Road, for an Area
20 Variance from Section 207-10E(2), to allow front yard
21 pavement coverage to be 35 percent of the front yard
22 area, after a driveway expansion, in lieu of the maximum
23 30 percent allowed by code. All described on application
24 and plans on file.

25 MS. LEHANA DOCTOR: Lehana Doctor, 74 Irving

1 Road, Rochester, New York 14618.

2 So my husband and I have been there 20 years
3 and we just decided it was time to replace our driveway.
4 And since we're looking to replace it, we are also
5 looking to see if we can expand it. And so you will see
6 in the stamped survey I submitted, there's one of the
7 original survey and then there's one with the proposed
8 changes. Be expanding 4 feet to the left, just to widen
9 it. We think it would do well to serve us to have more
10 space. Right now, there's a little bit more with the way
11 we have a couple cars parked. We're trying not to do
12 that. We think it would be beneficial to the
13 neighborhood that it would make it both nicer and just be
14 more efficient.

15 MS. TOMPKINS-WRIGHT: Just to confirm, the
16 current configuration of the driveway really only allows
17 one width of a car and you're asking --

18 MS. LEHANA DOCTOR: Correct.

19 MS. TOMPKINS-WRIGHT: -- To expand it so that
20 you can have more than two parked cars in the driveway?

21 MS. LEHANA DOCTOR: Correct, correct.

22 MS. TOMPKINS-WRIGHT: And did I see on your
23 application that grown children may also be coming home
24 and need to park somewhere --

25 MS. LEHANA DOCTOR: Yes.

1 MS. TOMPKINS-WRIGHT: -- Whether in the
2 driveway or in the road?

3 MS. LEHANA DOCTOR: Exactly, exactly.

4 MR. PREMO: When I looked at the area that is
5 going to be widen into, it looks like it's already kind
6 of being used for parking. There's dirt and stones,
7 stuff there, so that's the area you're talking about?

8 MS. LEHANA DOCTOR: Yes, correct, that is
9 correct. Like to expand to cover that just so we have
10 enough to fit the other vehicles and make it look nicer.
11 And it's really an old driveway. It needs to be torn out
12 and replaced.

13 CHAIRPERSON MIETZ: Can you speak at all to the
14 other conditions such as this and the immediate
15 neighborhood?

16 MS. LEHANA DOCTOR: As far as the character of
17 the neighborhood, I think it fits really well within the
18 character of the neighborhood. I feel like every house
19 on our street seems to have a different personality, you
20 know, as far as the outside look of it. So I think that
21 the driveway we're asking for would fit within that
22 aesthetic.

23 CHAIRPERSON MIETZ: Okay. That isn't what I
24 meant.

25 MS. LEHANA DOCTOR: That isn't what you're

1 asking?

2 CHAIRPERSON MIETZ: I'll ask it again. Explain
3 it better. Are there other conditions like this within
4 the neighborhood where driveways have been expanded or
5 extended over time?

6 MS. LEHANA DOCTOR: Yes.

7 CHAIRPERSON MIETZ: Okay. If you could speak
8 to that? That's what was my question. Not exact numbers
9 of the houses.

10 MS. LEHANA DOCTOR: Okay. There have been
11 other driveways that have been replaced and appear to
12 have been expanded over the years and it looks nice. I
13 don't know what else to say.

14 CHAIRPERSON MIETZ: All right.

15 MS. MCKAY-DRURY: Is it a one and a half car
16 width garage?

17 MS. LEHANA DOCTOR: Yes, that's correct.

18 CHAIRPERSON MIETZ: Okay, good. Okay. Any
19 questions?

20 MR. PREMO: I guess just a question for Rick.
21 Is there any concern about the increase from this area
22 impacting drainage or anything in this area?

23 MR. DISTEFANO: No, not that I'm aware of.
24 There's no drainage issues or no complaints or reports of
25 any drainage issues in that area. That's the minimal

1 amount of additional impervious surface added to the
2 overall.

3 MR. PREMO: And it looked like there's a fire
4 hydrant real close by. Is that on your next door
5 neighbor's property?

6 MS. LEHANA DOCTOR: It's like right on the
7 line. The stamped survey doesn't show where he is, but
8 it's literally like right on the line of the property of
9 ourselves and the neighbor.

10 MR. PREMO: I take it there isn't any concerns
11 about the fire hydrants?

12 MR. DiSTEFANO: No. I'll just ask the question
13 for the record, you will be maintaining the 4 foot
14 setback from your neighbor's property --

15 MS. LEHANA DOCTOR: Yes, correct.

16 MR. DiSTEFANO: -- Correct?

17 MS. LEHANA DOCTOR: Correct.

18 MR. DiSTEFANO: So no, it wouldn't be an issue.

19 MR. PREMO: Okay. Thank you.

20 CHAIRPERSON MIETZ: Very good. Any other
21 questions? Okay. Thank you very much.

22 MS. LEHANA DOCTOR: Thank you.

23 CHAIRPERSON MIETZ: Anyone who would like to
24 speak regarding this application? Very good. There
25 being none, the public hearing is closed.

Application 6A-09-24

Application of Jennifer Schmidt, Airosmith Development, applicant, and the Town of Brighton, owner of property located at 444 Browncroft Boulevard, 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.

MR. DiSTEFANO: Is there anybody here for Application 6A-09-24? I don't see anyone.

CHAIRPERSON MIETZ: You're not here for the generator, sir?

UNIDENTIFIED SPEAKER: No, sir.

CHAIRPERSON MIETZ: What do you want to do about it?

MR. DiSTEFANO: What's that?

CHAIRPERSON MIETZ: What do you want to do about it?

MR. DiSTEFANO: What do I want to do with 6A-09-24?

CHAIRPERSON MIETZ: Yes.

MR. DiSTEFANO: I want you to deny it without prejudice and then they can submit the correct

1 application.

2 CHAIRPERSON MIETZ: Okay.

3 MS. TOMPKINS-WRIGHT: One that is filled out?

4 MR. DiSTEFANO: Yes, one that's filled out.

5 CHAIRPERSON MIETZ: Yes, it's a little
6 incomplete, too.

7 MR. DiSTEFANO: Yes.

8 CHAIRPERSON MIETZ: If you reviewed it, it's
9 incomplete. The public hearing is closed.

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C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the Public Hearings before the Brighton Zoning Board of Appeals, 2300 Elmwood Avenue, Brighton, New York, on June 5, 2024, commencing at approximately 7:00 p.m.

That the transcript herewith is a true, accurate and complete record of my stenotype notes.

Doreen M. Sharick

Doreen M. Sharick,

Notary Public.

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BRIGHTON
ZONING BOARD OF APPEALS
DELIBERATIONS AND DECISIONS

June 5, 2024
At approximately 7:00 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)	
MATTHEW D'AUGUSTINE)	

LAUREN BARON, ESQ.
Attorney for the Town

RICK DiSTEFANO
Secretary

REPORTED BY: DOREEN M. SHARICK, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, NY 14020

Application 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 square foot detached garage 3 feet from a side lot line in lieu of the minimum 5 foot required by code, and 2) an Area Variance from Section 207-06A(1) to allow said garage to be 17 feet in height in lieu of the maximum 16 feet allowed by code. All as described on application and plans on file.

MR. PREMO: I move that we approve the application for Area Variances based on the following Findings of Fact.

Findings of Fact:

1. The requested Area Variances are for a single family home, accessory structure and are Type II actions pursuant to 6NYCRR Section 617.5C(17), and normal review is required pursuant to the State Environmental Quality Review Act.

2. The required Area Variance is the minimum necessary to address the benefit sought by the applicant. The existing attached garage is hard to access and outdated. The owners wish to convert it to living space for a first floor bedroom or recreation. The proposed detached

1 garage is to provide reasonable parking for two vehicles
2 and storage on the second level. Given the existing
3 driveway and configuration of the proposed location, it's
4 the only location that works on the lot. The proposed
5 height is necessary to allow second floor storage and
6 access.

7 3. No other alternative can alleviate difficulty and
8 produce the desired result.

9 4. The variances in context are not substantial.

10 5. There will be no unacceptable change in the
11 neighborhood and no substantial adverse impact to
12 neighboring properties. The garage is being set into an
13 existing slope to minimize its overall height and impact.
14 The applicants have discussed with their neighbors
15 various measures to avoid impacts to neighboring Norway
16 Spruce trees and help keep them healthy. An attached
17 garage is a common accessory for this area.

18 6. The hardship was not self-created by the applicant.

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

22 **Conditions:**

23 1. The variances are based upon the application
24 materials submitted and revised plan presented at the
25 Board Meeting, which repositioned the garage and only

1 authorizes the project described therein.

2 2. The second floor of the garage will be used only as
3 storage space and will not be converted to living space
4 for any reason.

5 3. Subject to obtaining all necessary building permits
6 and inspections.

7 4. Any additional pavement shall maintain a 4 foot
8 setback from the side property line.

9 MS. MCKAY-DRURY: Second.

10 MR. DiSTEFANO: The motion is to approve with
11 conditions.

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

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

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Application 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 feet into the 51.8 foot rear setback where a 60 foot rear setback is required by code. All as described on application and plans on file.

MS. SCHMITT: I move to approve the application based on the following Findings of Fact.

Findings of Fact:

1. The homeowners must replace their existing deck which is now unsafe due to its age with a larger one that will allow a small seating area and grill.
2. Due to the size of the rear yard, which is 51.76 feet from the rear property line, any deck or rear structure would require a variance of the current minimum 60 feet required by code.
3. The new deck will not produce an undesired change in the character of the neighborhood or be a detriment to nearby homes. The proposed deck is consistent with other decks in the neighborhood and will have landscaping around it.
4. While the variance could be construed as self-created, the benefits sought cannot be reasonably achieved without a variance as the deck of any size on

1 the rear of the property would require a variance due to
2 the current nonconforming setback of less than 60 feet.

3 5. Moreover, while the variance at first appears
4 substantial, much of this is related to the pre-existing
5 nonconforming setback, which measures 51.76 feet between
6 the home and the rear lot line.

7 6. The neighbors to the rear of the property, who would
8 most be impacted by a new deck, have provided letters in
9 support of the project as have other neighbors.

10 7. According to testimony presented, the variance has
11 been the minimum necessary to accommodate the needs of
12 the applicant.

13 8. There is no evidence that there would be a negative
14 impact on the health, safety and welfare of the
15 neighborhood.

16 **Conditions:**

17 1. The variance granted only applies to the deck
18 described and in the location depicted on the application
19 and in the testimony provided and will not apply to
20 future projects.

21 2. All necessary permits shall be obtained.

22 MR. PREMO: Second.

23 MR. DiSTEFANO: Motions to approve with
24 conditions.

25 (Mr. D'Augustine, yes; Ms. Tompkins-Wright,

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yes; Mr. Mietz, yes; Ms. McKay-Drury, yes;
Mr. Premo, yes; Ms. Schmitt, yes.)
(Upon roll, motion to approve with conditions
carries.)

Application 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 percent 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.

MR. D'AUGUSTINE: The Board having considered the information presented by the applicant and having conducted the required review pursuant to SEQR, adopts the negative declaration prepared by town staff and determines that the proposed action will not likely have significant environmental impact.

I move to approve the application based on the following Findings of Fact.

Findings of Fact:

1. The granting of the requested sign variance will not produce an unacceptable change in the character of the neighborhood given the commercial nature of the area.
2. The difficulty cannot be solved in another manner given Starbucks' desire to maintain their National brand of image with their siren logo. This signage is both necessary for a consistent brand image as well as

1 providing drivers with an adequate way finding on a busy
2 road.

3 3. The variance requested is the minimum necessary given
4 that Starbucks is attempting to align their signage as
5 closely with the local code while still maintaining their
6 image.

7 4. The proposed variance will not have an adverse effect
8 on the physical or environmental conditions in the
9 neighborhood given the fact there are many businesses
10 along South Clinton with a high volume of signage.

11 **Conditions:**

12 1. The variances will apply only to the signs as
13 described in the submitted application and the testimony
14 given as to size and location.

15 MS. MCKAY-DRURY: Second.

16 MR. DiSTEFANO: Motion to approve with
17 conditions.

18 (Ms. Schmitt, yes; Mr. Mietz, no;

19 Ms. Tompkins-Wright, yes; Mr. Premo, yes;

20 Ms. McKay-Drury, yes; Mr. D'Augustine, yes.)

21 (Upon roll, motion to approve with conditions
22 carries.)

Application 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 two nonbusiness 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.

MS. TOMPKINS-WRIGHT: I move to deny the application based on the following Findings of Fact.

Findings of Fact:

1. The requested variance is substantial. The signage package includes 11 signs in total. Most of which serving a critical function. The two drive thru signs, however, are marketing in nature and not way finding.

And the addition of these signs is thus substantial.

2. The benefit sought by the applicant can reasonably be achieved by another method. Several other signs on the property identify this location as a drive thru location and provide way finding to the drive thru lane. In addition, the drive thru lane is clearly visible from South Clinton Avenue. The Board believes this is sufficient to serve the applicant's purpose without additional signage requested in this variance.

MR. PREMO: Second.

1 MR. DiSTEFANO: The motion is to deny.
2 (Ms. Schmitt, yes; Ms. McKay-Drury, yes,
3 Mr. Mietz, yes; Mr. D'Augustine, yes;
4 Mr. Premo, yes; Ms. Tompkins-Wright, yes.)
5 (Upon roll, motion to deny carries.)
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Application 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 menu boards where not allowed by code. All as described on application and plans on file.

MR. D'AUGUSTINE: The Board having considered the information presented by the applicant having conducted the required review pursuant to SEQR, adopts the negative declaration prepared by town staff and determines that the proposed action will not likely have a significant environmental impact.

I move to approve the application based on the following findings of fact.

Findings of Fact:

1. The granting of the requested signage variance will not produce an unacceptable change in the character of the neighborhood given the commercial nature of the area.
2. The difficulty cannot be solved in another manner given Starbucks' desire to provide customers with clearly visible signage necessary for placing orders in an efficient manner.
3. The variance request is the minimum necessary given that Starbucks is attempting to align their signage as

1 closely as possible with the local code while still
2 maintaining their brand image, as well as promoting
3 efficient ordering.

4 4. The proposed variance will not have an adverse effect
5 on the physical or environmental conditions of the
6 neighborhood given the fact there are many businesses
7 along South Clinton with a high volume of signage.

8 **Conditions:**

9 1. The variance will apply only to the signs as described
10 in the submitted application and the testimony given as
11 to size and location.

12 MS. TOMPKINS-WRIGHT: Second.

13 MR. DiSTEFANO: The motion is to approve with
14 conditions.

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

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

MS. MCKAY-DRURY: I move that the Board having considered the information presented by the applicant and having conducted the required review pursuant to SEQR, adopt the negative declaration prepared by town staff and determines that the proposed action will not likely have a significant environmental impact.

I also move we approve the application based on the following Findings of Fact.

Findings of Fact:

1. The variance will not result in a substantial change to the character of the neighborhood given that this new development is going into a commercial area and within it will be surrounded primarily by other businesses.
2. The difficulty in necessitating the various requests cannot be solved without the variance because the many boards are part of Starbucks' national brand image and the canopy is needed where drivers order from their cars and the drive thru runs along the front of the building.

1 3. The variance request does seek to have a canopy in
2 the front of the building where none is allowed per code
3 but is mitigated by its minimalist design and unobtrusive
4 color is, therefore, not substantial.

5 4. The requested variance is the minimum necessary to
6 keep customers dry while they are ordering in the drive
7 thru.

8 5. The requested variance will not have an adverse
9 effect on the physical or environmental conditions in the
10 surrounding commercial neighborhood.

11 6. Although it is a self-created need for a canopy, the
12 location of the drive thru in the front of the building
13 mandates the acquiring of the variance.

14 **Conditions:**

15 1. It is limited to the canopy depicted in the
16 application on file and described in the testimony before
17 the Board. 2. All necessary building permits shall be
18 obtained.

19 MR. D'AUGUSTINE: Second.

20 MR. DiSTEFANO: Motion to approve with
21 conditions.

22 (Mr. Premo, yes; Ms. Tompkins-Wright, yes;

23 Mr. Mietz, no; Ms. Schmitt, yes;

24 Mr. D'Augustine, yes; Ms. McKay-Drury, yes.)

25 (Upon roll, motion to approve with conditions

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carries.)

Application 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 on file.

CHAIRPERSON MIETZ: I move to approve the application based on the following Findings of Fact.

Findings of Fact:

1. The applicant has placed proposed addition in the only suitable location on the property.
2. In order to match the existing home elevation, the floodplain requirement would be a difference of 6 inches of a step up with the addition.
3. A 6 foot step up would be a negative effect usability of the structure, safety and ADA compliance of the house.
4. No negative effect on the character of the neighborhood will result since the height differential will be non-negligible to observers.
5. The applicant received positive relief from the New York State Department of State by positioning.
6. Based on testimony, there have been no reported

1 issues with flooding or excessive water conditions on the
2 site.

3 **Conditions:**

4 1. Based on the testimony given and plans submitted.

5 2. It applies only to the specific structure and
6 location of the said structure.

7 3. All necessary Planning Board approvals and building
8 permits shall be obtained.

9 MS. TOMPKINS-WRIGHT: Second.

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

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

15 (Upon roll, motion to approve with conditions
16 carries.)
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Application 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 percent of the front yard area, after a driveway expansion, in lieu of the maximum 30 percent allowed by code. All as described on application and plans on file.

MR. PREMO: I move to approve the application based on the following Findings of Fact.

Findings of Fact:

1. The requested Area Variance for a single family home is a Type II action pursuant to 6NYCRR Section 617.5C(17), note that a review is required pursuant to the State Environmental Quality Reviewed Act.

2. Requested Area Variance is to allow a driveway expansion to allow better access to existing garage and more parking space. The current area is dirt and gravel.

3. No other alternative can alleviate the difficulty and produce the desired result. The proposed increase in the width of the driveway matches the existing driveway and garage.

4. The variance in context is not substantial.

5. There will be no unacceptable change to the neighborhood and no substantial impact to neighboring

1 properties. Proposed driveway width is consistent with
2 other driveways in the area and an increase in impervious
3 area will not adversely effect drainage in the area.

4 6. The hardship is based on existing conditions and was
5 not self-created by the applicant.

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

8 **Conditions:**

9 1. The variance is based on the application and
10 materials submitted and testimony given and only
11 authorizes the project described therein.

12 2. Subject to obtaining all necessary highway permits
13 and inspections.

14 MR. D'AUGUSTINE: Second.

15 MR. DiSTEFANO: The motion is to approve with
16 conditions.

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

20 (Upon roll, motion to approve with conditions
21 carries.)
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Application 6A-09-24

Application of Jennifer Schmidt, Airosmith Development, applicant, and the Town of Brighton, owner of property located at 444 Browncroft Boulevard, 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.

MS. SCHMITT: I move to deny without prejudice due to no representation appearing to testify in support of the application.

MR. D'AUGUSTINE: Second.

MR. DiSTEFANO: The motion is to deny without prejudice.

(Mr. Premo, yes; Ms. Tompkins-Wright, yes;
Mr. Mietz, yes; Ms. McKay-Drury, yes;
Mr. D'Augustine, yes; Ms. Schmitt, yes.)

(Upon roll, motion to deny without prejudice carries.)

(Proceedings concluded at 9:25 p.m.)

C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the Deliberations and Decisions of the Brighton Zoning Board of Appeals, 2300 Elmwood Avenue, Brighton, New York, on June 5, 2024, commencing at approximately 7:00 p.m.

That the transcript herewith is a true, accurate and complete record of my stenotype notes.

Doreen M. Sharick

Doreen M. Sharick,

Notary Public.