



PUBLIC WORKS COMMITTEE MEETING

April 9, 2024 - 9:00 A.M.

BRIGHTON TOWN HALL AUDITORIUM

AGENDA

MEETING CALLED TO ORDER:

APPROVE MINUTES:

APPROVE AGENDA:

OPEN FORUM:

NEW BUSINESS

- MATTER RE:** Berman Farms land swap. BME Associates will present a proposed land swap that will facilitate the redevelopment of this paper subdivision.
- MATTER RE:** County Sidewalk Fund Applications. DPW staff learned at the March Town Work Committee meeting that the County Administration is finalizing a policy and application process for the County's \$10 Million sidewalk fund. Information will be distributed to the Towns once the application process is finalized.
- MATTER RE:** Review of proposed State budget cuts to the NYSEDA CEC funding, and the opportunity to submit public hearing comments and endorse an opposition letter.
- MATTER RE:** Sidewalk easement needed at the Brighton Volunteer Ambulance Site. To complete a sidewalk link at the southwest corner of Westfall Road and Winton Road a new easement is needed from Brighton Volunteer Ambulance.
- MATTER RE:** FEMA Mandated Local Code Update, Chapter 211, Flood Damage Prevention.

OLD BUSINESS

- MATTER RE:** Request from National Grid to access Town owned property to complete survey and testing. This request will temporarily affect the public's access to the Lehigh Valley Trail.
This proposed work will have minimal impact on the trail, it is recommended that this access agreement be granted.
- MATTER RE:** Town Hall Renovation Project- Update
- MATTER RE:** MCDOT Projects-Updates
- MCDOT PM-10, Brighton-Henrietta Town Line Road and Winton Road Preventative Maintenance Project.
 - Pre-construction meeting scheduled for 10 April 2024.
- MATTER RE:** NYSDOT Projects-Updates
- Monroe Avenue Corridor Improvements
 - West Henrietta Road Corridor Improvements
 - Design effort is moving forward, we have received a request for record map information.



MATTER RE:

Town Project-Updates

- Clean Energy Communities (in progress, no update)
- Multiversity Project (no update)
- Complete Streets Policy (under review by the Supervisor and Town Attorney)
- Climate Smart Community Re-Certification (recently submitted, no response yet)
- Bike Boulevard Status

MATTER RE:

Trees

- The latest list of proposed removals has been reviewed by the Tree Council and they support all of the proposed removals. The letter from the Tree Council noting their review of, and support for, the proposed removals is attached.
- The list of tree removals that require public hearings is also attached.

MEETING ADJOURNED:

NEXT COMMITTEE MEETING:

May 14, 2023, at 9:00 A.M



April 2, 2024

Mr. James Sprague, PE
Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

**Re: Berman Farms
Public Works Committee Meeting**

2891

Dear Jim:

On behalf of our client and property owner, Grove Underhill Properties LLC, we provide to you the enclosed materials for review with the Town of Brighton Public Works Committee next Tuesday, April 9, 2024. The materials lay out a proposed plan of a land swap between Grove Underhill and the Town of Brighton, and a subsequent single-family home residential development of the lands.

Grove Underhill owns fourteen (14) tax parcels totaling ± 7.11 acres to the west of Havens Road and Schilling Lane off of South Clinton Avenue. The tax parcels are part of a "paper subdivision" known as Berman Farms. The Town of Brighton owns six (6) tax parcels in this same "paper subdivision" which totals ± 3.14 acres. The properties are zoned RM - Residential Medium.

Grove Underhill desires to develop the lands under their control as a single-family home residential subdivision per the properties' RM zoning. The development would propose an extension of the public street, Havens Road, into the property and propose lots at a minimum 55' wide, 7,000 sf lot area per the RM zoning standards. A concept plan is enclosed to illustrate a possible subdivision layout.

As has been discussed with the Town of Brighton, Grove Underhill is proposing a land swap of tax parcels between Grove Underhill and the Town of Brighton. The ownership exhibit illustrates the land swap proposal the property owner wishes to review with the Public Works Committee. The property owner proposes an exchange with the Town of three (3) tax parcels each. Grove Underhill would convey to the Town tax parcels -17, -18 & -19 in return for the Town conveying to Grove Underhill tax parcels -03, -04 & -33.

The tax parcels offered to the Town are located at the southeast corner of Grove Underhill's holdings. Two of these parcels, -18 & -19, are actually landlocked as there is no feasible means for the existing street Duffield Road to be constructed to serve these two (2) tax parcels given the development of Schilling Lane cut off any possible extension of Duffield Road. The three (3) tax parcels offered by Grove Underhill are contiguous to other tax parcels owned by the Town, and as illustrated would create a contiguous area of ± 2.75 acres of Town lands when combined with existing Town tax parcels -13, -15 & -16.

The three (3) tax parcels of the Town's sought by Grove Underhill would provide a single property owner of the tax parcels along the west property line fronting on the Powell Road right-of-way. This would facilitate an ease of completing the development of this paper subdivision without having fragmented ownership of the lots.

The total area of lands to be conveyed to the Town would be ± 1.43 acres, and the total area of land to be conveyed by the Town to Grove Underhill would be ± 1.8 acres.

The lands to be acquired by the Town would allow for potential passive recreation uses for existing and future residents of these neighborhoods. It would also ensure a buffer between the existing and proposed neighborhoods. The exhibits provided illustrate a proposed trail connection between the Town lands and the existing Highland Crossing Trail to the west of the property. This would allow for direct trail access for both the proposed neighborhood and the existing Schilling Lane neighborhood, which currently has sidewalks and pedestrian access to South Clinton Avenue.

We will appear at the Public Works Committee meeting on Tuesday, April 9th, to present this proposal and discuss with the Committee. In the interim, if you require any additional information, please contact our office.

Sincerely,
BME ASSOCIATES

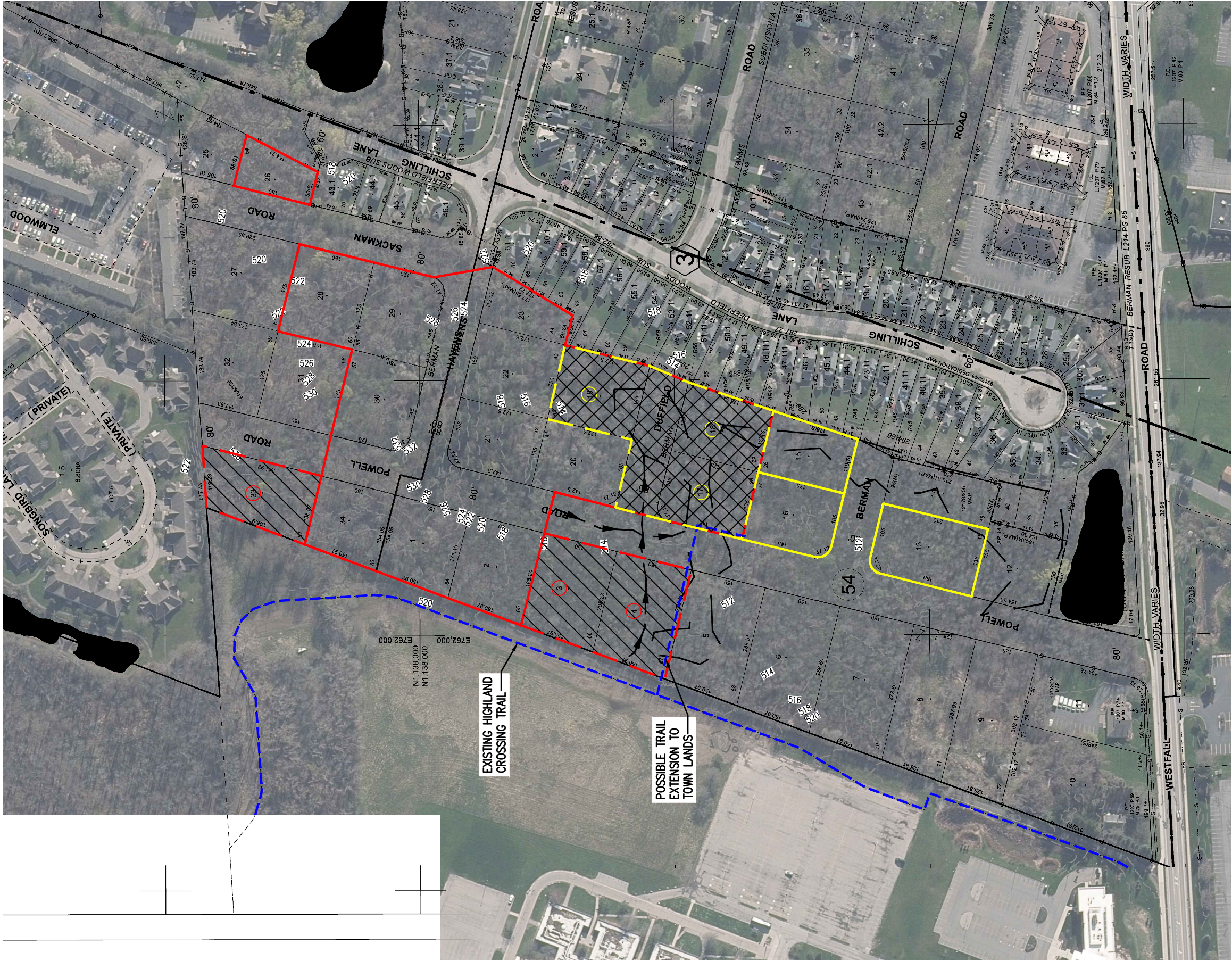


Peter G. Vars, P.E.

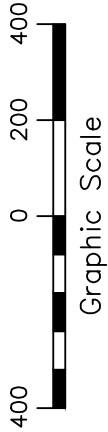
PGV:blr

Encl.

c: Mitch Brodsky; Grove Underhill Properties LLC
Jeff Bell; Grove Underhill Properties LLC



- LIMITS OF WETLAND
- SWALE
- PROPERTIES OWNED GROVE UNDERHILL
- PROPERTIES OWNED TOWN OF BRIGHTON
- GROVE UNDERHILL PROPERTIES TO TOWN AREA=1.43 AC.
- TOWN PROPERTIES TO OWNER AREA=1.80 AC.
- PROPOSED GROVE UNDERHILL PROPERTY LIMITS
- PROPOSED TOWN PROPERTY LIMITS



Graphic Scale

P:\2891\Drawings\Final\2891 Concept Base.dwg

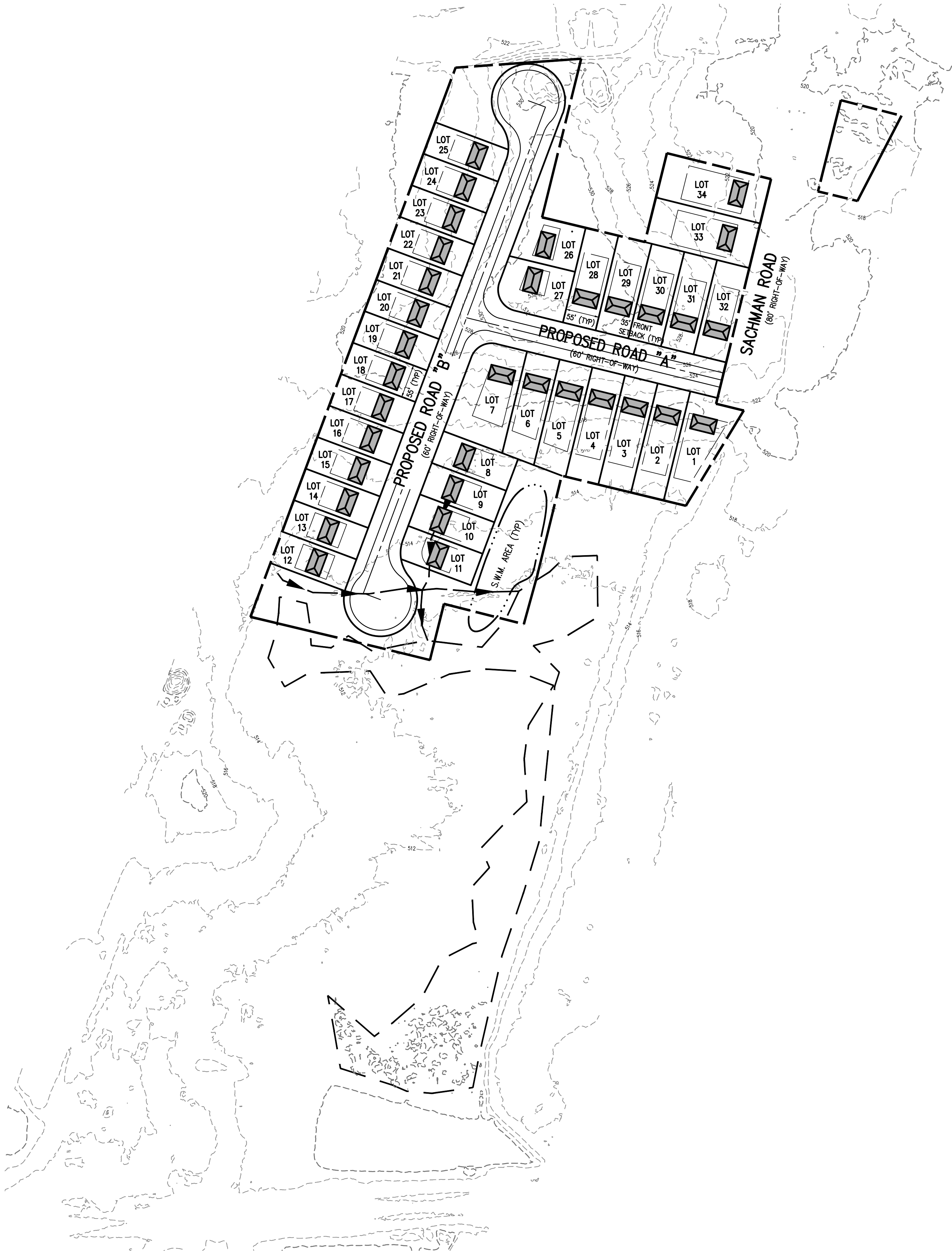
BME ASSOCIATES
ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS
10 LIFT BRIDGE LANE EAST
FAIRPORT, NEW YORK 14450
PHONE 585-377-7360
WWW.BMEPCOM

Scale:
1"=200'

BERMAN FARMS
PROPERTY LAND SWAP EXHIBIT
Town of Brighton, Monroe County, New York

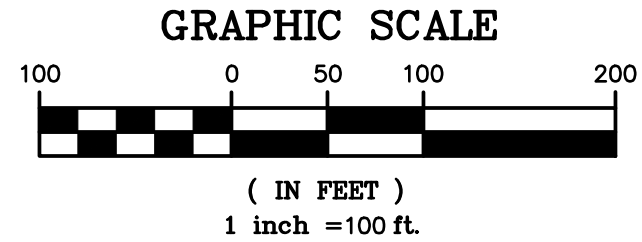
Date: 11/28/2023
Project Number: 2891





NOT APPROVED

This plan has not received final approval of all reviewing agencies. This plan is subject to revisions until all approvals are obtained and should not be used for construction purposes.



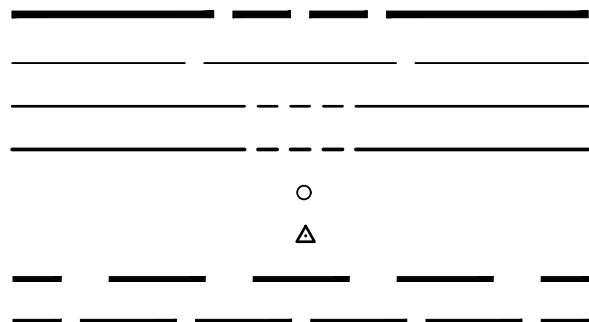
SITE NOTES:

- EXISTING ZONING: RESIDENTIAL-MEDIUM DENSITY DISTRICT (RM)
- EXISTING USE: VACANT RESIDENTIAL LAND
- PROPOSED USE: 34 LOT SINGLE FAMILY SUBDIVISION
- LOT STANDARDS

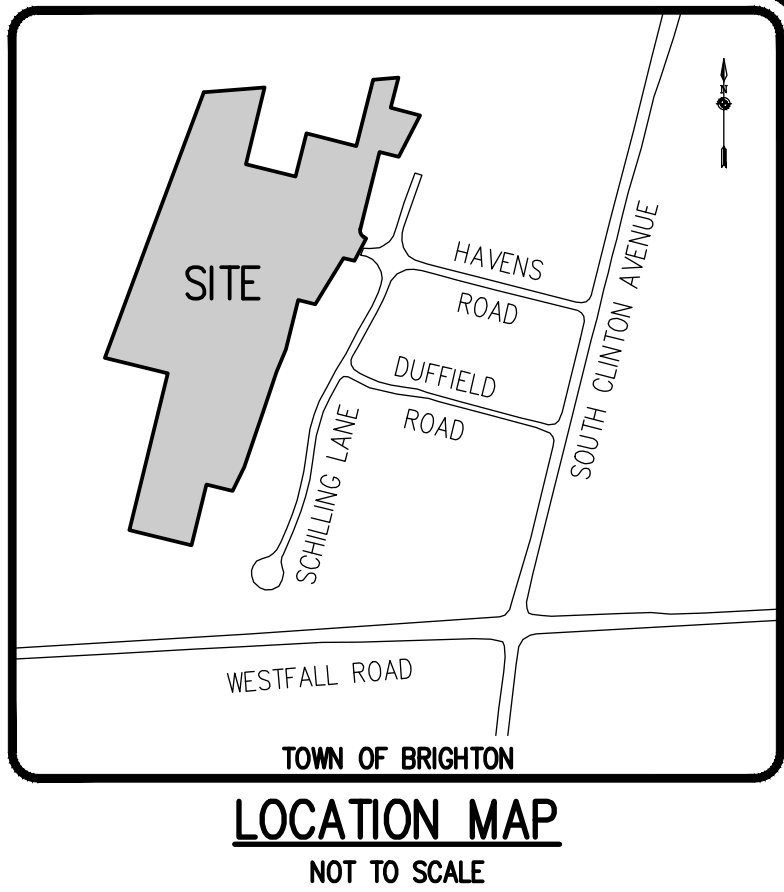
	REQUIRED	PROVIDED
MINIMUM LOT AREA	7,000 S.F.	27,000 S.F.
MINIMUM LOT WIDTH	55'	255'
FLAG LOT(NOT INCLUDING POLE)	10,500 S.F.	≥10,500 S.F.
MAX BLDG. COVERAGE	25%	≤25%
SETBACKS		
FRONT	35'	35'
REAR	40'	40'
SIDE(ONE)	10% LOT WIDTH	10% LOT WIDTH
SIDE(BOTH)	25% LOT WIDTH	25% LOT WIDTH
SIDE(FLAG LOT)	20'	20'

- IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE MOST RECENT STANDARDS AND SPECIFICATIONS OF THE TOWN OF BRIGHTON AND THE APPROPRIATE MONROE COUNTY AGENCIES, UNLESS OTHERWISE NOTED.
- PROPERTY TO BE SERVED BY PUBLIC SEWER AND PUBLIC WATER.

LEGEND



BOUNDARY LINE
SETBACK LINE
EXISTING EASEMENT LINE
PROPOSED EASEMENT LINE
PROPERTY MARKER FOUND
CONCRETE HIGHWAY MONUMENT FOUND
LIMITS OF WETLAND
SWALE



Drawing Alteration
The following is an excerpt from the New York State Education Law Article 145 Section 7209 and applies to this drawing:
"It is a violation of this law for any person, unless he is acting under the direction of a licensed professional engineer or land surveyor to alter any item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and the notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration."

REVISIONS	DATE	BY
1	10/17/23	AS
2		
3		
4		
5		
6		
7		

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FAX 585-377-7309

BERMAN FARMS SUBDIVISION
TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK STATE
PROJECT LOCATION CLIENT
DRAWING TITLE
CONVENTIONAL CONCEPT PLAN

PROJECT MANAGER
PROJECT ENGINEER
DRAWN BY
JR. SQUIER
SCALE
1" = 100'
DATE ISSUED
JULY 2023
PROJECT NO.
2891
DRAWING NO.
SK-1

PHELPS & GORHAM PURCHASE, TOWNSHIP #, RANGE ---, TOWN LOT ---, TAX MAP NUMBER ---

From: [Robin Wilt](#)
To: [Christine Corrado](#); [William Moehle](#); [Jim Sprague](#); [Brendan Ryan](#); [Chris Werner](#); [Nate Salzman](#); [Bridget Monroe](#)
Subject: FW: NYSERDA CEC Funding for 2026-2030
Date: Thursday, March 28, 2024 10:54:53 AM
Importance: High

Good Morning, All!

FYI, there are proposed budget cuts to the CEC program in the Governor's latest budget. Can we also add a discussion regarding signing on to this opposition letter and submitting public hearing comments to the Public Works Committee Agenda?

Thanks for your consideration!

Warmly,

Robin (She/Her/Hers)



Brighton Town Council

Robin R. Wilt

Town Councilmember

2300 Elmwood Avenue Rochester, New York 14618

www.townofbrighton.org

Robin.Wilt@townofbrighton.org 585-784-5255



From: Mayor Armacost <mayor@hastingsgov.org>
Sent: Wednesday, March 27, 2024 6:26 PM
To: Anne Pernick <anne@stand.earth>; Robin Reynolds Wilt <robin@wiltfamily.com>; Dominic Frongillo <dominic@protectingamerica.net>; Duncan McNelis <duncan@protectingamerica.net>
Subject: Fw: NYSERDA CEC Funding for 2026-2030

In case you are not aware ...

From: Hudson Valley Regional Council <epeck@hudsonvalleyrc.org>
Sent: Friday, March 22, 2024 11:57 AM
To: Mayor Armacost <mayor@hastingsgov.org>
Subject: NYSERDA CEC Funding for 2026-2030

[View this email in your browser](#)



Hudson Valley Regional Council

NYSERDA Funding for Local Governments

The Public Service Commission is currently reviewing the allocation of funds to various programs, including NYSERDA for 2026-2030. A shifting in the support for local governments is noted on pgs. 48-51 of the document titled, "[Non-Low- to Moderate- Income Energy Efficiency/Building Electrification Portfolio Proposal](#)".

HVRC plans to make public comments regarding this development. If you have feedback for the Public Service Commission and NYSERDA about these decisions, please submit your public comments by **April 15, 2024**. Please find below some notes about formatting. We have also provided an *updated* [draft public comment letter](#) for your submission to make this process easier. You may send your signed comments back to us or send them in yourself. Directions for how to submit public comments are below.

[Draft Public Comment Letter](#)

Directions for making a public comment:

Regardless of submission method, all comments received by the Department of Public Service (DPS) will be posted to DPS's website and will be part of the case record.

Electronically submit by going to www.dps.ny.gov, clicking on “File Search” (located under the heading “Commission Files”), entering “18-M-0084” in the “Search by Case Number” field, and then clicking on the “Post Comments” box located at the top of the page.

- Mail to the Hon. Michelle L. Phillips, Secretary, New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350.
- Submit your public comment letter to Eleanor Peck at epeck@hudsonvalleyrc.org at HVRC for inclusion in our comments packet.



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You are receiving this email because the Hudson Valley Regional Council is working for your community.

Our mailing address is:

Hudson Valley Regional Council
105 Ann Street #2
Newburgh, NY 12550

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You can [update your preferences](#) or [unsubscribe from this list](#).



Legal Description
Proposed Sidewalk Easement
Town of Brighton, County of Monroe

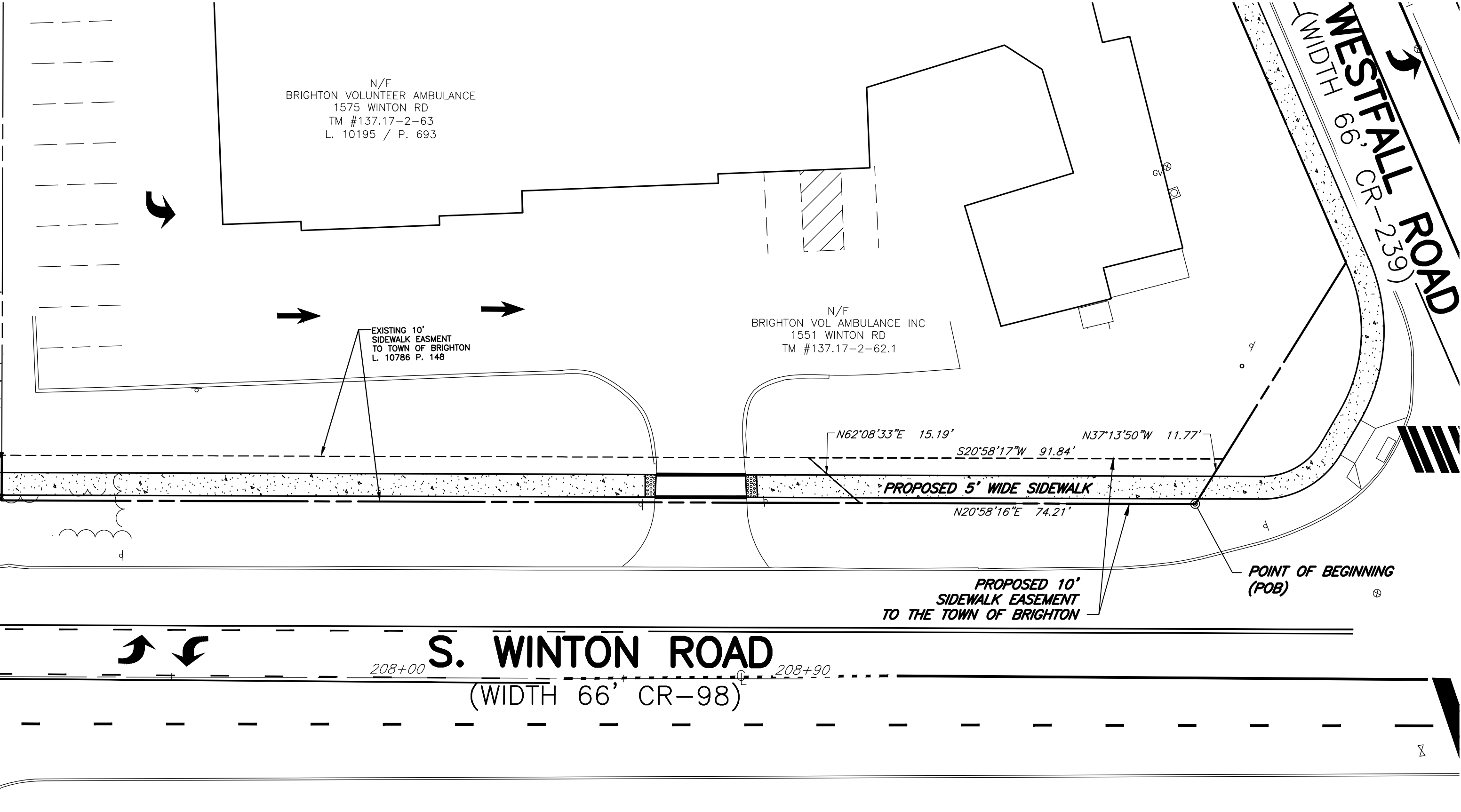
ALL THAT TRACT OR PARCEL OF LAND being part of Town Lot 31, Township 13, Range 7 of The Phelps Gorham Purchase, situate in the Town of Brighton, County of Monroe, and State of New York, as shown on the drawing entitled "Sidewalk Easement Map Offsite Sidewalk Extension for Westfall-Winton Road JSL – The Summit" prepared by Marathon Engineering dated 03/15/2024.

BEGINNING AT a point on the Northeast property corner of lands now or formerly owned by Brighton Volunteer Ambulance at 1551-1575 Winton Road, being on the westerly Right-of-Way, said point being **THE POINT OR PLACE OF BEGINNING**; thence

1. Along said Right-of-Way, N 37°13'50" W, a distance of 11.77 feet to a point on said Right-of-Way; thence
2. S 20°58'17" W, a distance of 91.84 feet to a point of the existing 10' sidewalk easement to Town of Brighton L. 10786 P. 148; thence
3. N 62°08'33" E, a distance of 15.19 feet to a point on said Right-of-Way; thence
4. Along said Right-of-Way, N 20°58'16" E, a distance of 74.21 feet to a point, **SAID POINT BEING THE POINT OR PLACE OF BEGINNING.**

Intending to describe a proposed 10 foot wide sidewalk easement to the Town of Brighton.

File: 1263-22 Offsite Sidewalk Design.dwg Plot Date: 3/15/2024, By: LARISSA PORILLO



COPYRIGHT © 2024 MARATHON ENG.



JOB NO: 1263-22
SCALE: 1" = 20'
DRAWN: LAP
DESIGNED: MPT
DATE: 03/15/24



TITLE:

**SIDEWALK EASEMENT MAP
OFFSITE SIDEWALK EXTENSION
FOR
WESTFALL-WINTON ROAD
JSL - THE SUMMIT**

TOWN OF BRIGHTON MONROE COUNTY STATE OF NEW YORK

Exhibit A: Sidewalk Amenity



Schedule C-1
Proposed Amenities

1. Sidewalk Amenity

- a. Jewish Senior Life shall design and construct sidewalks along the southern boundary of Westfall Road (850 +/- linear feet) westward from the Brighton Volunteer Ambulance property (1551 Winton Road South) and along the western boundary of Winton Road South (1100 +/- linear feet) southward from the Brighton Volunteer Ambulance property substantially in the locations shown on the attached map titled "Sidewalk Amenity."
- b. Prior to the issuance of any building permits for the Project, Jewish Senior Life shall prepare draft construction drawings for the Sidewalk Amenity. Jewish Senior Life shall submit such drawings for review and approval of the Town Engineer, such approval not to be unreasonably withheld, conditioned, or delayed, and shall then prepare final construction drawings for such construction. The final construction drawings, shall comply with current Town and County standards for sidewalks, and shall be stamped and signed by an engineer licensed to practice in the State of New York.
- c. Prior to the issuance of any building permits for the Project, Jewish Senior Life shall execute and file in the Monroe County Clerk's Office an Amenity Agreement for the Sidewalk Amenity in the form as attached hereto or in such other form as is approved by the Town Attorney.
- d. Prior to the issuance of any Certificate of Occupancy for the Project, the Sidewalk Amenity shall be completed.

2. Annual Per Unit Payment Amenity.

As part of the 1996 Incentive Zoning, the Town and the Jewish Home entered into an Amenity Agreement providing for an annual per unit amenity payment to the Town with an annual Consumer Price Index (CPI) adjustment. Jewish Senior Life will continue the per unit amenity payment for each of the new units under the same formula beginning at an amount per unit equal to the adjusted present per unit payment at the time when payments for the new Project units commence. The payments for the new units will commence one year after the issuance of a Certificate of Occupancy for the building in which they are located and start at a rate equal to that of the prior existing units (for example, if a Certificate of Occupancy for the first building is issued in June of 2023, the first amenity payments, which are billed in January, shall be billed in January 2025 at a rate equal to the existing unit rate for the 2025 billing cycle). Prior to the issuance of any building permits for the Project, Jewish Senior Life shall execute and file in the Monroe County Clerk's Office a PILOT Agreement for the per unit amenity payment set forth above in the form as attached hereto or in such other form as is approved by the Town Attorney.

- A. The following amenity shall be only on the site of the subject application: The amenity shall be the preservation of an existing single-family detached building, provided that:
- (1) The certificate of occupancy for the construction of the building, including construction following substantial demolition, was issued, or the Commissioner of Public Works or designee otherwise determines that the building was completed, more than five years prior to the application for the incentive; and
 - (2) The application for the incentive has not been reviewed pursuant to and is not subject to review pursuant to Chapter 73, Article VI, of the Town Code or site plan review by the Planning Board.
- B. All properties that receive an amenity under this article shall continue to be subject to all other requirements of the Comprehensive Development Regulations.

§ 209-10 Incentive permitted.

In lieu of the maximum livable floor area requirements of §§ 205-2 and 205-4 of the Comprehensive Development Regulations, the maximum livable floor area of a single-family detached dwelling may be increased to a total not to exceed 2,316 square feet of livable floor area plus 64 square feet of livable floor area for each 1,000 square feet of lot area of the affected lot. The maximum livable floor area provided by the incentive allowed shall be derived from the following equation:

$$\text{Maximum Livable Floor Area} = 2,316 + (.064 \times \text{Lot Size})$$

§ 209-11 Criteria and procedure for approval.

- A. An application for the incentive in exchange for the amenity shall be incorporated in a building permit application submitted to the Building and Planning Department for the proposed project and shall be in such form as required by the Building and Planning Department. In order to evaluate the adequacy of the amenity to be accepted in exchange for the requested incentive, the following information may be required by the Building and Planning Department to be submitted by the applicant in addition to all other building permit application materials:
- (1) The livable floor area of the existing structure, along with any information or certification necessary to verify the accuracy of the figure provided.
 - (2) The livable floor area of the entire proposed structure, along with any information or certification necessary to verify the accuracy of the figure provided.
 - (3) The livable floor area of a proposed addition or additions, along with any information or certification necessary to verify the accuracy of the figure provided.
 - (4) A calculation of the ground area covered by all roofed parts of the existing structure, including cantilevers but excluding roof eaves, as prepared by a qualified professional.
 - (5) A calculation of the ground area covered by all roofed parts of the existing structure, including cantilevers but excluding roof eaves, that is proposed to be demolished, as prepared by a qualified professional.
 - (6) The applicant shall also submit such additional information and plans as may be required by the Building and Planning Department which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.
- B. The Building and Planning Department will review the proposed project for conformance with the provisions of this article and all other applicable codes, regulations, and requirements and, if such provisions are met, may issue the building permit upon payment of any fee(s) required.

Chapter 211

Flood Damage Prevention

[HISTORY: Adopted by the Town Board of the Town of Brighton 6-11-2003 by L.L. No. 8-2003. Amendments noted where applicable.]

Article I

Statutory Authorization and Purpose

§ 211-1 Findings.

The Town Board of the Town of Brighton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Brighton and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 211-2 Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 211-3 Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Article II Definitions

§ 211-4 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.

APPEAL

A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT

That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING

See “structure.”

CELLAR

The same meaning as “basement.”

CRAWL SPACE

An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING

A nonbasement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zone V1-V30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X or D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zone V1-V30, VE or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD or FLOODING

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. “Flood” or “flooding” also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A of this definition above.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

See “flood elevation study.”

FLOODPLAIN or FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source (see definition of “flooding”).

FLOODPROOFING, FLOODPROOFED

Any combination of structural and nonstructural additions, changes or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

[Amended 7-23-2008 by L.L. No. 5-2008]

FLOODWAY

The same meaning as “regulatory floodway.”

FUNCTIONALLY DEPENDENT USE

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair facilities. The term does not include long-term storage, manufacturing, sales or service facilities.

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a “recreational vehicle.”

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME

The same meaning as “manufactured home.”

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NORTH AMERICAN DATUM OF 1983

A horizontal control used as a reference for establishing various geographic coordinates.

[Added 7-23-2008 by L.L. No. 5-2008]

NORTH AMERICAN VERTICAL DATUM OF 1988

A vertical control used as a reference for establishing varying elevations within the floodplain.

[Added 7-23-2008 by L.L. No. 5-2008]

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD

The same meaning as “base flood.”

PRINCIPALLY ABOVE GROUND

At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE

A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 211-13B of this chapter.

REPETITIVE LOSS

Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damaged occurred.

START OF CONSTRUCTION

Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the “actual start” means affixing of the manufactured home to its permanent site.

STRUCTURE

A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. "Substantial damage" also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

Article III General Provisions

§ 211-5 Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Brighton.

§ 211-6 Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency: **[Amended 7-23-2008 by L.L. No. 5-2008]**
 - (1) Flood Insurance Rate Map Panel Numbers 36055C0213G, 36055C0214G, 36055C0216G, 36055C0217G, 36055C0218G, 36055C0219G, 36055C0331G, 36055C0332G, 36055C0333G, 36055C0334G, 36055C0351G, 36055C0352G, 36055C0356G, 36055C0357G, whose effective date is August 28, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York, All Jurisdictions," dated August 28, 2008.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Town Offices, Town of Brighton.

§ 211-7 Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention. **[Amended 7-23-2008 by L.L. No. 5-2008]**
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 211-8 Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Brighton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 211-9 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does

not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Brighton, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Article IV Administration

§ 211-10 Designation of local administrator.

The Commissioner of Public Works or his or her designee is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 211-11 Floodplain development permit.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map as defined in § 211-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$200 or such other amount as may be determined by resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of Brighton for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit to cover these additional costs.

§ 211-12 Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor, on a Federal Emergency Management Agency Elevation certificate.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 211-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 211-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 211-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.
- H. Certification by the applicant's licensed professional engineer that all necessary permits and approvals have been received from those agencies with jurisdiction.
- I. Copies of notification, sent by certified mail, to adjacent communities and NYSDEC upon approval from the local administrator and prior to initiating any alterations or relocations of a watercourse and evidence of such notification to the Regional Director, Region 11, Federal Emergency Management Agency.

§ 211-13 Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to, the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of § 211-12, Application for permit, and for compliance with the provisions and standards of this chapter.
- (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 211-14A, Subdivision proposals.
- (3) Determine, based upon the technical analysis provided by the applicant's licensed professional engineer, whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant's licensed professional engineer to submit additional technical analyses and data and certification necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law. The local administrator may require the applicant's licensed professional engineer to certify that all such approvals have been received.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 211-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the Certificate of Elevation upon placement of the structure on the site. A Certificate of Elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 211-8 of this chapter.
- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 211-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 211-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter. The basis for the local administrator's determination shall be supporting documentation provided and certified by the applicant's licensed professional engineer/licensed surveyor.

- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 211-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance.
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 211-13D(1) and (2), and whether or not the structures contain a basement.
- (3) Floodproofing certificates required pursuant to § 211-13D(1), and whether or not the structures contain a basement.
- (4) Variances issued pursuant to Article VI, Variance Procedure.
- (5) Notices required under § 211-13C, Alteration of watercourses.

Article V Construction Standards

§ 211-14 General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 211-6.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 211-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - (b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revisions. The Town of Brighton may require the establishment of an escrow account or letter of credit in a sufficient amount to be held until such time that the application is complete and the final cost can be determined.

§ 211-15 Standards for all structures.

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - (a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated two feet or more above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 211-16 Residential structures.

A. Elevation. The following standards, in addition to the standards in § 211-14A, Subdivision proposals, and § 211-14B, Encroachments, and § 211-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated two feet or more above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 211-6 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 211-17 Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 211-14A, Subdivision proposals, and § 211-14B, Encroachments, and § 211-15, Standards for all structures.

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

- (1) Have the lowest floor, including basement or cellar, elevated two feet or more above the base flood elevation; or
- (2) Be floodproofed so that the structure is watertight below a level three feet or more above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
- (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 211-17A(2).

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and

methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 211-17A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 211-18 **Manufactured homes and recreational vehicles.**

The following standards, in addition to the standards in § 211-14, General standards, and § 211-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (a) Be on site fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements for manufactured homes in Subsections B, D and E.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined; in a new manufactured home park or subdivision as herein defined; in an expansion to an existing manufactured home park or subdivision as herein defined; or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor is elevated two feet or more above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zones A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (1) Elevated in a manner such as required in Subsection B; or
- (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 211-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

Article VI Variance Procedure

§ 211-19 **Appeals board.**

- A. The Zoning Board of Appeals as established by the Town of Brighton shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.

- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of § 211-19D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 211-20 Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provide that the items in § 211-19D(1) through (12) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (2) Such construction below the base flood level increases risks to life and to property. Such notification shall be maintained with a record of all variance actions and provided to the Federal Emergency Management Agency and to the NYSDEC upon request.

§ 211-21 Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

Chapter 213

Subdivision Regulations

[HISTORY: Adopted by the Town Board of the Town of Brighton 1-27-1993. Amendments noted where applicable.]

Article I

Application Procedure and Approval Criteria

§ 213-1 General requirements.

- A. Whenever any subdivision of land is proposed after April 22, 1965, before any contract is made for sale of any part thereof, before any permit for the erection of a permanent primary structure shall be granted, before any subdivision plan may be filed in the office of the Monroe County Clerk, the subdivider or developer or authorized agent shall apply for and secure approval of such proposed subdivision or development in accordance with the following procedures.
- B. The Monroe County Clerk's Office may not record a plat of any subdivision within the Town's jurisdiction unless the plat has been approved in accordance with the provision of this chapter and has all of the appropriate signatures.

§ 213-2 General policy for design and review.

- A. The development of property shall conform to the requirements of these regulations as well as with appropriate laws, rules, and regulations established by all governing bodies having or claiming jurisdiction over various phases of the development. Though these standards and procedures have principally been developed to apply to subdivisions, they shall apply to other developments as well to the extent that the standards are applicable.
- B. It is declared to be the policy of the Planning Board to consider land subdivision and development as part of a plan for the orderly, efficient and economical development of the Town and in a manner that is reasonable and in the best interests of the community. The Planning Board will be guided in its consideration of an application for the subdivision and development of land by the following general requirements:
 - (1) Land must be buildable and free of hazards. The physical characteristics of the land to be subdivided shall be such that it can be used for building purposes without danger to health and safety or peril from fire, flood, erosion or other menace. Proper provision shall be made for stormwater drainage, water supply, sewage disposal and transportation systems and other needed improvements.
 - (2) Natural and historic features should be preserved. Insofar as possible, all existing features of the landscape such as large trees, unusual glacial formations, steep slopes, water- and floodcourses, historic sites, wetlands and other such irreplaceable and environmentally sensitive areas and assets shall be preserved.
 - (3) Subdivisions and developments shall be in conformance with all other local legislation, except as provided for elsewhere by Town law or this chapter and shall be properly related to the Master Plan, as it is being used for guidance by the Planning Board, either with or without formal adoption. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection. Open areas of suitable location, size and character for playground or other recreational or open space purposes shall be shown on the plans in proper cases and when required by the Planning Board.

Article II

Types of Subdivisions

§ 213-3 Scope and purpose.

Land transactions and development upon the land takes many forms. The Town has recognized this by developing several different types of development review, the scope of which is determined by the amount of information necessary to make sound decisions in order to protect the interest of the Town and its citizens. This Article describes procedures for major subdivisions, minor subdivisions, one-lot subdivisions, lot-line adjustments and resubdivisions. This Article also describes design and performance standards for all subdivisions within the Town. Applicants are encouraged to meet with the Executive Secretary of the Planning Board prior to initiating a development, land purchase for the purpose of development or land division in accord with these provisions.

§ 213-4 Major subdivision approval.

The following general procedure will be followed for major subdivisions, workshop meetings, concept plan (optional), preliminary plat and final plat approval. All major subdivisions will go to the Planning Board and have a public hearing.

- A. Workshop review requirements. A subdivider is encouraged to appear before the Development Review Committee to discuss his/her proposal with it and receive information as to the direction to proceed in. The Town may want to include other boards' members in the review, as well as other Town staff. At this time it may also be possible to indicate to the subdivider what data he would need to supply for review of his proposal by the Planning Board. At the option of the subdivider, he or she may request a meeting with the Planning Board.

Chapter 211

Flood Damage Prevention

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

[HISTORY: Adopted by the Town Board of the Town of Brighton xx-xx-xxxx by L.L. No. xxxxx]

Article I

Statutory Authorization and Purpose

§211-1 Findings.

The Town Board of the Town of Brighton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Brighton and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§211-2 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- B Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- D Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- F Qualify and maintain for participation in the National Flood Insurance Program.

§211-3 Objectives.

The objectives of this chapter are:

- A Protect human life and health;
- B Minimize expenditure of public money for costly flood control projects.
- C Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D Minimize prolonged business interruptions.
- E Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G Provide that developers are notified that property is in an area of special flood hazard.
- H Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Article II Definitions

§211-4 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Accessory Structure

A structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

Appeal

A request for a review of the Local Administrator's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

Base flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement

That portion of a building having its floor subgrade (below ground level) on all sides.

Building

See "Structure"

Cellar

The same meaning as "Basement".

Crawl Space

An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building

A non-basement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

Federal Emergency Management Agency

The Federal agency that administers the National Flood Insurance Program.

Flood or Flooding

- A A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A of this definition above.

Flood Boundary and Floodway Map (FBFM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

Flood Elevation Study

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study

See "flood elevation study".

Floodplain or Flood-prone area

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodproofing

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway

The same meaning as "regulatory floodway".

Functionally dependent use

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

Highest adjacent grade

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure

Any structure that is:

- A Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Local Administrator

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

Lowest floor

The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle"

Manufactured home park or subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mobile home

The same meaning as "manufactured home".

New construction

Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

One-hundred-year flood or 100-year flood

The same meaning as "Base Flood".

Principally above ground

At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

Recreational vehicle

A vehicle which is:

- A Built on a single chassis;
- B Four hundred square feet or less when measured at the largest horizontal projections;
- C Designed to be self-propelled or permanently towable by a light duty truck; and
- D Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in §211-14B of this chapter.

Start of construction

- A The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- B Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- A Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B Any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as an historic structure.

Variance

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

Violation

The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

Article III General Provisions

§211-5 **Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Brighton.

§211-6 **Basis for establishing the areas of special flood hazard.**

- A The areas of special flood hazard for the Town of Brighton, Community Number 361163 are identified and defined on the following documents prepared by the Federal Emergency Management Agency.
 - (1) Flood Insurance Rate Map Panel(s):.....*NYSDEC to provide list of panels*whose effective date is July 31, 2024, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York (All Jurisdictions)," dated July 31, 2024.
- B The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Town Offices, Town of Brighton.

§211-7 **Interpretation and conflict with other laws.**

- A This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§211-8 **Severability**

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

§211-9 **Penalties for offenses.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation.

Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Brighton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§211-10 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Brighton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

Article IV Administration

§211-11 Designation of the local administrator.

The Commissioner of Public Works or his or her designee is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§211-12 Floodplain development permit.

- A Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in §211-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$200.00. In addition, the applicant shall be responsible for reimbursing the Town of Brighton for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit to cover these additional costs.

§211-13 Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved residential structure to be located in a special flood hazard area. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved non-residential structure to be located in Zones A1-A30, AE, or AH or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- C The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the

floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- D A certificate (Federal Emergency Management Agency Elevation Certificate) from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in §211-16C, Utilities.
- E A certificate (Federal Emergency Management Agency Elevation Certificate) from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in §211-18, Nonresidential structures.
- F A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in §211-6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- G A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- H In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

§211-14 Duties and responsibilities of the local administrator.

Duties of the Local Administrator shall include, but not be limited to the following:

- A Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (1) Review all applications for completeness, particularly with the requirements of §211-13, Application for a permit, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction standards and, in particular, §211-15A, Subdivision proposals.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.
- (4) If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.
- (5) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

B Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to §211-13G , as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.
- (3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in §211-6, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

C Alteration of watercourses

- (1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D Construction stage

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

E Inspections. The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F Stop work orders.

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.

G Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in §211-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter. The basis for the local administrator's determination shall be supporting documentation provided and certified by the applicant's licensed professional engineer/licensed surveyor.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in §**211-14E**, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H Information to be retained. The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance.
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to §**211-14D(1)** and **(2)**, and whether or not the structures contain a basement.
- (3) Floodproofing certificates required pursuant to §**211-14D(1)**, and whether or not the structures contain a basement.
- (4) Variances issued pursuant to Article **VI**, Variance procedures.
- (5) Notices required under §**211-14C**, Alteration of watercourses.

Article V

Construction Standards

§211-15 General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

B Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location, or,
 - (b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in §211-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revisions. The Town of Brighton may require the establishment of an escrow account or letter of credit in a sufficient amount to be held until such time that the application is complete and the final cost can be determined.

- (3) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Brighton shall as soon as practicable, but not later than six (6) months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

§211-16 Standards for all structures.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B Construction materials and methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.
 - (a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] a minimum of two (2) openings of each enclosed area having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

[2] the bottom of all such openings no higher than one (1) foot above the lowest adjacent finished grade and;

[3] openings not less than three (3) inches in any direction.

- (b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two (2) feet above the base flood elevation, at least three (3) feet above the highest adjacent grade in a Zone A without an available base flood elevation where permitted, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations.
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D Storage tanks.

- (1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.
- (2) Above-ground tanks shall be:
 - (a) Anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;

- (b) Installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet.

§211-17 Residential structures.

- A Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16 Standards for all structures.
 - (1) Within Special Flood Hazard Areas, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two (2) feet above the base flood elevation.
 - (2) Within Zone A, if the Base flood elevation is not specified, a base flood elevation shall be determined by either of the following:
 - (a) Obtain and reasonably use data available from a federal, state or other source plus two (2) feet of freeboard or:
 - (b) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices, plus freeboard. Determinations shall be undertaken by a registered design professional who shall be documented that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.
 - (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet of freeboard, or not less than three (3) feet if a depth number is not specified.
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§211-18 Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16, Standards for all structures.

- A Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:

- (1) Have the lowest floor, including basement or cellar, elevated to or above two (2) feet above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below two (2) feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B Within Zone AO, new construction and substantial improvements of non-residential structures shall:
- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two (2) feet (at least three (3) feet if no depth number is specified), or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in **§211-18A(2)**
- C If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of **§211-18A(2)**, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- E Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.

§211-19 Manufactured homes and recreational vehicles.

The following standards in addition to the standards in **§211-15**, General standards, and **§211-16**, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (a) Be on site fewer than 180 consecutive days,
 - (b) Be fully licensed and ready for highway use, or
 - (c) Meet the requirements for manufactured homes in **§211-19B, C, and D**.

- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH and Zone A shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two (2) feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in §211-6 plus two feet (at least three (3) feet if no depth number is specified).
- D The foundation and anchorage of manufactured homes to be located in identified floodways shall be designed and constructed in accordance with §211-16A, Anchoring.

§211-20 Accessory structures including detached garages.

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

- A The accessory structure must meet the definition of structure, for floodplain management purposes, provided in 44 CFR § 59.1, where walled and roofed shall be interpreted as having two outside rigid walls and a fully secured roof.
- B The accessory structure should be small, as defined by the community and approved by FEMA, and represent a minimal investment. Accessory structures of any size may be considered for a variance; however, FEMA considers accessory structures that meet the following criteria to be small and therefore not necessarily in need of a variance, if the community chooses to allow it:
 - (1) Located in an A Zone (A, AE, A1-A30, AR, A99) and less than or equal to the size of a one-story, two-car garage.
- C Accessory structures must meet the standards of §211-16A, Anchoring,
- D The portions of the accessory structure located below BFE plus two (2) feet of freeboard must be constructed with flood-resistant materials.
- E Mechanical and utility equipment for the accessory structure must be elevated or dry floodproofed to or above BFE plus two (2) feet of freeboard.
- F Within Zones AO and Zone A, if base flood elevation data are not available, areas below three (3) feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.

- G The accessory structure must comply with the floodway encroachment provisions of the NFIP.
- H The accessory structure must be wet floodproofed to protect the structure from hydrostatic pressure. The design must meet the NFIP design and performance standards for openings per 44 CFR § 60.3(c)(5) and must allow for the automatic entry and exit of floodwaters without manual operation or the presence of a person (or persons).

Article VI Variance Procedure

§211-21 Appeals board.

- A The Zoning Board of Appeals as established by the Town of Brighton shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.
- C Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 - (12) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- E Upon consideration of the factors of **§211-21D** and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§211-22 Conditions for variances.

- A Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in **§211-21D(1)** through **(12)** have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) The criteria of subparagraphs **§211-22A, D, E, and F** of this Section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in §211-14H of this chapter.

COMMENT ---- Our current code ends with the following that is not included in the provided model law. This new Model law added a same titled header as §211-8 Severability..... I'm not sure if we can have two different parts in the same Chapter with the same label or if it's OK, since they are in different Articles. Please mark up as appropriate.

§211-23 Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.



Building and Planning Department

Commissioner of Public Works – James P. Sprague, P.E.

Rick DiStefano
Senior Planner

March 13, 2024

James Sprague, Commissioner of Public Works
Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

RE: Tree Removals/Recommendations

Dear Commissioner Sprague:

In response to your letter dated February 24, 2024, and attached tree evaluation forms regarding the proposed removal of town trees located at

171 Ashley Dr.
80 Counsel Rock Ave.
20 Fair Oaks Ave.
94 Hampshire Dr.
111 Hampshire Dr.
36 Hollywood Ave.
241 Mayflower Dr.
53 Modelane
100 Superior Rd.
200 Sylvan Rd.
24 Tarrytown Rd.
30 Tarrytown Rd.
57 Tarrytown Rd.
83 Tarrytown Rd.
97 Tarrytown Rd.
158 Warrington Dr.
201 Warrington Dr.

22" Norway maple
24" Norway maple
18" Sycamore
48" Silver maple
26" Silver maple
39" Silver maple
50" Silver maple
50" Silver maple
17" Norway maple
18" Sugar maple
34" Silver maple
38" Silver maple
20" Norway maple
26" Norway maple
18" Norway maple
26" Norway maple
28" Norway maple

the Tree Council reviewed the forms and visited the sites. The Council is in agreement with the evaluations and supports the removal of the identified trees, and as recommended agrees replacement trees should be planted at the removal sites. The Council suggests the planting sites at 24 Tarrytown Road and 158 Warrington Drive be adjusted so that the replacement tree is not in conflict with existing streetlights.

Sincerely,

Rick DiStefano, Secretary
Brighton Tree Council



Public Works Department

James P. Sprague, P.E.
Commissioner of Public Works

5 April 2024

The Honorable Public Works Committee
Town of Brighton
2300 Elmwood Ave.
Rochester, New York

Re: Significant Trees Approved for Removal by the Conservation Board

Honorable Members:

The following trees have been approved for removal by the Conservation Board. I recommend that the removal of these trees be referred to the Town Board, and that the date of the required Public Hearing be established by that board.

Address	Description	Recommendation
94 Hampshire Drive	48" DBH Silver Maple	Removal and Replacement
36 Hollywood Ave.	39" DBH Silver Maple	Removal and Replacement
241 Mayflower Drive	50" DBH Silver Maple	Removal and Replacement
53 Modelane	50" DBH Silver Maple	Removal and Replacement.
24 Tarrytown Road	34" DBH Silver Maple	Removal and Replacement
30 Tarrytown Road	38" DBH Silver Maple	Removal and Replacement
83 Tarrytown Road	36" DBH Norway Maple	Removal and Replacement

Thank you for your attention to this matter and I look forward to your review of these trees.

Respectfully,

James P. Sprague, P.E.
Commissioner of Public Works

Attachments

Cc: William Haefner
Kyle Sears