

1  
2 **BRIGHTON**  
3 **ZONING BOARD OF APPEALS**  
4 **MEETING**  
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6  
7 October 1, 2024  
8 At approximately 7 p.m.  
9 Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

10 PRESENT:

11 DENNIS MIETZ  
12 Chairperson  
13 EDWARD PREMO ) Board Members  
14 HEATHER MCKAY-DRURY )  
14 ANDREA TOMPKINS-WRIGHT )  
15 MATTHEW D'AUGUSTINE )

16 LAUREN BARON, ESQ.  
17 Attorney for the Town

18 RICK DISTEFANO  
19 Secretary

20 ABSENT: KATHLEEN SCHMITT  
21 JUDY SCHWARTZ

22  
23 REPORTED BY: KIMBERLY A. BONSIGNORE, Court Reporter  
24 FORBES COURT REPORTING SERVICES, LLC  
25 21 Woodcrest Drive  
Batavia, New York 14020

1 CHAIRPERSON MIETZ: Okay. Folks, we're  
2 going to get going with our meeting.

3                   So, first of all, welcome to the October  
4 meeting of the Zoning Board of Appeals, and I just  
5 want to let you know how we handle this meeting, if  
6 you could pay attention, please.

7                   What ends up happening is we have eight  
8                   applications tonight to go through. When your  
9                   application gets called, please come up to the podium,  
10                  give us your name and also an address, business  
11                  address, or if you reside at the home where the  
12                  application is, please tell us that, and then tell us  
13                  why you feel we should approve your application.

19 And once you finish that, the board members  
20 may ask some clarification questions, and you'll  
21 address those.

22                   Once we finish that, then we'll ask if  
23                   there's anyone in the audience that wants to speak  
24                   regarding your application. And if they do, they come  
25                   up and they speak. No cross-discussion between the

1 applicant and anyone who speaks.

2                   And then once we finish that, then we close  
3 the public hearing and move on to the next  
4 application.

5                   There's eight of them tonight, and we'll go  
6 through those. We may take a little break, if the  
7 court reporter needs to do so, and then we'll  
8 deliberate.

9                   You're welcome to sit here and listen to the  
10 deliberation if you wish. If you decide not to, then  
11 you can call Rick DiStefano at the building office  
12 tomorrow and he'll let you know the results of your  
13 application.

14                  We do try to finish them all tonight, unless  
15 we have to table something for more information. So a  
16 decision will be made tonight. Okay?

17                  Do you have anything to add before we go  
18 through the stack of stuff?

19                  MR. DiSTEFANO: You did receive my  
20 communications. Do any of the members have any  
21 questions regarding the applications?

22                  CHAIRPERSON MIETZ: Good?

23                  Okay.

24                  So, sir, was the meeting properly  
25 advertised?

1                   MR. DiSTEFANO: Yes, Mr. Chairman. It was  
2 advertised in the Daily Record of September 25, 2024.

3                   CHAIRPERSON MIETZ: Okay. Call the roll,  
4 please.

5                   (Whereupon the roll was called.)

6                   MR. DiSTEFANO: Please let the record show  
7 that Member Schwartz and Member Schmitt are not  
8 present.

9                   CHAIRPERSON MIETZ: Okay. So there is one  
10 set of minutes here. Did folks get a chance to look  
11 at them?

12                  MR. PREMO: I do have some changes.

13                  CHAIRPERSON MIETZ: Okay. Go right ahead,  
14 Edward.

15                  MR. PREMO: From the June 5th minutes, on  
16 page 68, line 18, near the end of that line, remove  
17 the word "normal" and just insert the word "no." So  
18 it reads "And no review is required."

19                  And then on page 85, line 14, remove the  
20 words "not that A" -- excuse me -- "note that A."  
21 Remove those three words and insert the word "no."  
22 So, once again, it reads "No review is required."

23                  That's all the changes I have.

24                  CHAIRPERSON MIETZ: Okay. Does anyone else  
25 have anything?

1 Matt, nothing?

2 Okay. How about a motion?

3 MR. PREMO: Motion to approve.

4 CHAIRPERSON MIETZ: Second?

5 MS. MCKAY-DRURY: Second.

6 MR. DiSTEFANO: The motion is to approve the  
7 June minutes with corrections.

8 (Mr. Premo, yes; Ms. Tompkins-Wright, yes;  
9 Mr. D'Augustine, yes; Chairperson Mietz,  
10 yes; Ms. McKay-Drury, yes.)

11 (Upon roll motion to approve with  
12 corrections carries.)

13 CHAIRPERSON MIETZ: Are we ready, Rick?

14 MR. DiSTEFANO: We've got one more set of  
15 minutes. These are the ones that came in the mail --  
16 in the email.

17 CHAIRPERSON MIETZ: Did anyone get a chance  
18 to look at them?

19 MS. TOMPKINS-WRIGHT: I skimmed on the  
20 computer, but I didn't see anything glaring.

21 I move to approve minutes of August 7, 2024.

22 MR. PREMO: Second.

23 MR. DiSTEFANO: Motion is to approve the  
24 August minutes.

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

1                   Mr. D'Augustine, yes; Chairperson Mietz,  
2                   yes; Ms. McKay-Drury, yes.)

3                   (Upon roll motion to approve carries.)

4                   MR. DiSTEFANO: Ready?

5                   CHAIRPERSON MIETZ: Yes. Go.

6 **Application 10A-01-24**

7                   Application of Matthew Buchheit, owner of  
8                   property located at 113 Village Lane, for an area  
9                   variance from Section 207-10E(5) to allow a new  
10                  driveway to be constructed 2 feet from a side lot line  
11                  in lieu of the minimum 4 feet required by code. All  
12                  as described on application and plans on file.

13                  MR. BUCHHEIT: Hello. I'm Matthew Buchheit.  
14                  I'm a property owner at 113 Village Lane. I reside  
15                  there. It's a residence and not commercial.

16                  So I've gotten permits, and the construction  
17                  is almost done. I did a garage conversion,  
18                  constructed a new detached garage and a new mud room  
19                  on the back of the house. The driveway has been  
20                  flipped to the south side of the house, so it runs all  
21                  the way along the side of the house to the new  
22                  detached garage.

23                  Per the town code, a paved driveway could be  
24                  4 feet from the property line. In that case, it only  
25                  gives me about 9 feet along the side of the house to

1 get the cars back to the garage. So with 9 feet, it's  
2 very tight to get -- so if you're pulling up the  
3 driveway, the mud room is here. There's a new  
4 entrance into the house. It's just extremely tight.

5 And then in order to get the car back into  
6 the new garage that was built, it's also very tight  
7 getting back there. So ideally, you know, I would  
8 like to be able to get the vehicle all the way back  
9 into the garage, or, you know, multiple vehicles up  
10 along the side of the house so they're not far down  
11 the property line, you know, where all the neighbors  
12 might have blockages of the view down the road and so  
13 on and so forth.

14 So I'm asking -- there's currently a crushed  
15 stone driveway there for the construction vehicles.  
16 Basically the ask is that I pave the current crushed  
17 stone driveway.

18 MS. TOMPKINS-WRIGHT: Do you know how close  
19 the neighboring property is? Because I know there are  
20 multiple properties in the neighborhood with  
21 driveways, do you know how close that neighbor that  
22 side is to the property line?

23 MR. BUCHHEIT: Yeah, my neighbors are only 1  
24 foot off my property line.

25 MS. TOMPKINS-WRIGHT: And no drain issues

1 have occurred based on the driveways being so close to  
2 each other?

3 MR. BUCHHEIT: Yeah, nothing like that.

4 MS. TOMPKINS-WRIGHT: Okay. I'm good.

5 CHAIRPERSON MIETZ: Questions?

6 MS. BARON: I just have one question. Did  
7 you already remove the asphalt from the old driveway  
8 or did you --

9 MR. BUCHHEIT: I did. Yep, it's all grass.

10 CHAIRPERSON MIETZ: Okay. And you feel you  
11 can maintain it without any problem?

12 MR. BUCHHEIT: Yeah. In fact, I know it's  
13 easier to be able to plow and such if the plow can get  
14 alongside the house.

15 MS. TOMPKINS-WRIGHT: I don't think you're  
16 getting a plow with 9 feet of driveway. I wouldn't.

17 CHAIRPERSON MIETZ: It takes a little skill,  
18 but...

19 MR. BUCHHEIT: Somebody can do it.

20 CHAIRPERSON MIETZ: Okay. All right. Any  
21 other questions?

22 Thank you very much.

23 MR. BUCHHEIT: All right. Thank you.

24 CHAIRPERSON MIETZ: Is there anyone in the  
25 audience that would like to speak regarding Village

1 Lane?

2               Okay. There being none, the public hearing  
3 is closed.

4 **Application 10A-02-24**

5               Application of Caitlin Hawkins-Rusch, owner  
6 of property located at 71 Kirk Drive, for an area  
7 variance from Section 205-2 to allow a front entry  
8 deck to extend 5.4 feet into the existing 30.3 feet  
9 front setback where a 40-foot front setback is  
10 required by code. All as described on application and  
11 plans on file.

12               MS. RUSCH: Hi, everyone. I'm Caitlin  
13 Rusch. I live at 71 Kirk Drive, and I own the home.  
14 I have been working on updating the front of the  
15 house, pulling out bushes. And once I pulled out the  
16 bushes, I saw that the steps weren't in the best  
17 shape. They're stable enough for now, but they're  
18 definitely not in the best shape and not the  
19 prettiest.

20               The railings are unsturdy. The entry with  
21 the door, how it swings open, it doesn't leave enough  
22 room. When you open it, you have to stand back. So  
23 it's not the most accessible. People have trouble  
24 getting in and out. They can't rely on the railing.

25               So I want to take off those railings, build

1 a small deck over it, but create a little bit more  
2 space on the one side so you can get on the deck, or  
3 the landing, open the door and get into the house,  
4 rather than stretching and leaving stuff and trying to  
5 bring it up and down like that. So I'm requesting a  
6 section variance.

7 MS. TOMPKINS-WRIGHT: Rick, is the  
8 application required to have site plans? I only see  
9 elevations and photos.

10 MR. DiSTEFANO: No site plan.

11 MS. TOMPKINS-WRIGHT: No site plan required.

12 MR. D'AUGUSTINE: And so this only extends  
13 across where it's pushed out in the front; correct?

14 THE WITNESS: Yes, the driveway of my house.

15 MR. D'AUGUSTINE: Have you already hired a  
16 contractor?

17 MS. RUSCH: I'm building it.

18 MR. D'AUGUSTINE: Oh, you're building it  
19 yourself. I see. Okay.

20 And then can you just repeat what kind of  
21 material is going to be used.

22 MS. RUSCH: Yeah, so it will be the basic  
23 lumber, 2-by-4s, but then the actual decking will be  
24 with the Trex composite decking. And then the  
25 banisters or the railings, they will have the wood

1 pine railing part and then the aluminum banisters.

2 MR. D'AUGUSTINE: And you said it won't  
3 extend further out --

4 MS. RUSCH: Than the front steps.

5 MR. D'AUGUSTINE: Than where the front steps  
6 are currently?

7 MS. RUSCH: Yeah, they will just go to the  
8 left of the property.

9 MR. D'AUGUSTINE: All right.

10 CHAIRPERSON MIETZ: Can you comment about  
11 the neighborhood? Are there other situations, say,  
12 somewhat similar to yours?

13 MS. RUSCH: Mine has the highest elevation.  
14 There is one other house that has slightly higher  
15 elevation than the rest, but it's nowhere near as high  
16 as mine, and it's still a lot wider and easier to  
17 access than mine is.

18 I do have a letter in there from a previous  
19 owner, the oldest daughter who actually grew up there,  
20 and she said her and her mother and her family had the  
21 same issues pretty much the whole time.

22 CHAIRPERSON MIETZ: Okay. Other questions?

23 MS. MCKAY-DRURY: Are there other front  
24 steps that are wide like this? I think what we're  
25 getting at, in terms of the overall kind of look of

1 the street, will it be --

2 MS. RUSCH: Most of the other ones, it lines  
3 up with the front of their house. Mine is structured  
4 a little bit differently. So it's either, like, an  
5 extended front porch, which is pretty standard, or a  
6 little bit wider to fit the house, but then the garage  
7 is right next to it.

8 So it looks different than mine would. Mine  
9 is just a little jut out. I don't have anything else  
10 there. So it's different, but I don't think it's  
11 misaligned.

12 MS. MCKAY-DRURY: And some people have  
13 porches that span the whole length of the house, the  
14 front of the house, then?

15 MS. RUSCH: Yeah.

16 CHAIRPERSON MIETZ: Okay. Good.

17 Good over here?

18 MR. DiSTEFANO: I would just state for the  
19 record that in the application packet there were three  
20 letters in support from neighbors at 57 Kirk Drive, 65  
21 Kirk Drive, and 50 -- excuse me -- 85 Kirk Drive.

22 CHAIRPERSON MIETZ: Okay. We're good?

23 Thank you.

24 Is there anyone in the audience that would  
25 like to speak regarding Kirk Drive?

1                   There being none, the public hearing is  
2                   closed.

3                   **Application 10A-03-24**

4                   Application of Jennifer Schmidt, Airosmith  
5                   Development, agent, and the Town of Brighton, owners  
6                   of property located at 444 Browncroft Boulevard, for  
7                   area variances from Section 203-2.1B(6) and 203-9A(4)  
8                   to, one, allow a standby emergency generator to be  
9                   located in a yard other than the rear yard as required  
10                   by code, and two allow said generator to be powered by  
11                   diesel fuel in lieu of propane gas or natural gas as  
12                   required by code. All as described on application and  
13                   plans on file.

14                   MR. FUENTES: Good evening. My name is Mark  
15                   Fuentes. I work for Airosmith Development. I'm here  
16                   on behalf of Jennifer Schmidt.

17                   As you stated --

18                   CHAIRPERSON MIETZ: Sir, can you just give  
19                   us a business address?

20                   MR. FUENTES: Oh, I'm sorry. 318 West  
21                   Avenue, Saratoga Springs, 12866.

22                   CHAIRPERSON MIETZ: Okay. Can I have you  
23                   pull that mic up a little so we can hear you better?

24                   Okay. There you go. Thank you.

25                   MR. FUENTES: So American Tower is proposing

1 to put in a backup-shared generator for the current  
2 tenant and future tenants. There is an existing  
3 generator on the site, although that is just for  
4 Verizon. It's not large enough to power anyone else  
5 except for Verizon. It's a small generator.

6 So American Tower is going to put in a  
7 shared generator for the current tenant and future  
8 tenants. It's an 88kW generator. It's diesel. The  
9 tank is underneath the generator. It fits on a 6 foot  
10 by 8 foot concrete pad. It's precast with rebar in  
11 it.

12 CHAIRPERSON MIETZ: What's going to happen  
13 to the Verizon generator?

14 MR. FUENTES: It will stay in their shelter.  
15 It's inside their shelter. It's large enough just for  
16 their --

17 CHAIRPERSON MIETZ: Is it a diesel one also?

18 MR. FUENTES: I do not confirm or deny.  
19 Most likely it's diesel.

20 CHAIRPERSON MIETZ: I don't think there's  
21 any gas back there.

22 MR. FUENTES: Yeah, no natural gas in that  
23 area.

24 CHAIRPERSON MIETZ: Okay.

25 MR. FUENTES: And the compound is too small

1 for a propane tank.

2 CHAIRPERSON MIETZ: Okay. Questions?

3 MR. DiSTEFANO: Can you explain the area  
4 surrounding where this generator is?

5 MR. FUENTES: So the tower is located off  
6 Browncroft Road. It's surrounded by woods. It's 800  
7 feet from any existing residence. There's an animal  
8 shelter and a landscape landfill in the area. No one  
9 is going to see it or hear it.

10 CHAIRPERSON MIETZ: Okay. Other than the  
11 animals.

12 MR. FUENTES: Just the animals.

13 CHAIRPERSON MIETZ: All right.

14 MR. DiSTEFANO: And just for the record,  
15 also you are proposing a sound enclosure for this  
16 generator?

17 MR. FUENTES: The generator comes with a  
18 sound enclosure.

19 MR. DiSTEFANO: And what level of sound  
20 enclosure is it?

21 MR. FUENTES: It's level 2.

22 MR. DiSTEFANO: Level 2?

23 MR. FUENTES: Yes.

24 MR. DiSTEFANO: And so the decibel rating on  
25 this would be...

1                   MR. FUENTES: The average is 71.7.

2                   MR. DiSTEFANO: Okay. Thank you.

3                   CHAIRPERSON MIETZ: Okay. Any other  
4 questions?

5                   Thank you, sir.

6                   Anyone in the audience on Browncroft?

7                   Okay. Thank you.

8                   Being none, the public hearing is closed.

9                   **Application 10A-04-24**

10                  Application of AC & CC Properties LLC, owner  
11 of property located at 4 Chelmsford Road, for an area  
12 variance from Section 205-6 to allow an accessible  
13 ramp to extend 1.5 feet into the 30-foot front setback  
14 required by code. All as described on application and  
15 plans on file.

16                  CHAIRPERSON MIETZ: Okay. Do we have  
17 someone representing this application, application  
18 number 4?

19                  MR. DiSTEFANO: It doesn't appear so. There  
20 might be people in the audience, so maybe you would  
21 want to call them and hear what they might have to  
22 say.

23                  CHAIRPERSON MIETZ: Oh, yeah, I can.

24                  MR. DiSTEFANO: I don't see an applicant.

25                  CHAIRPERSON MIETZ: Or do you want to wait?

1                   MR. DiSTEFANO: We can wait.

2                   CHAIRPERSON MIETZ: We've got three more to  
3 do.

4                   MR. DiSTEFANO: Yeah, we can come back to  
5 that one.

6                   CHAIRPERSON MIETZ: Yes, why don't we do  
7 that. We're cruising along. We'll give them a  
8 chance. Let's see if they come.

9                   **Application 10A-05-24**

10                  Application of Susan Hollister-Cronberger,  
11 owner of property located at 49 Southern Parkway, for  
12 an area variance from Section 205-2 to allow an  
13 attached garage to be 1,137 square feet in size in  
14 lieu of the maximum 900 square feet allowed by code.  
15 All as described on application and plans on file.

16                  MS. HOLLISTER-CRONBERGER: Hello, everybody.  
17 I'm Sue Hollister-Cronberger. Right now I live at 28  
18 Sonora Parkway. I'm looking forward to eventually  
19 moving over to 49 Southern.

20                  So my husband and I have been here since  
21 2011. We started over 124 Eastland, grew out of that,  
22 moved to 28 Sonora, grew out of that, and now we're  
23 looking to renovate 49 Southern.

24                  So right now it's a breezeway, a one-car  
25 garage, and we're hoping to convert it into a

1       four-car, so two and two tandem, so that my husband  
2       can pull an utility trailer into the garage -- it's a  
3       23 foot by 10 foot utility trailer -- so that he can  
4       pull it in with his truck and it wouldn't be in the  
5       driveway.

6           So it would, from the front, be a two-car  
7       garage, but a party in the back. The width -- the  
8       length of it extending into the backyard, which is  
9       sizable. It's a .6 acreage lot. So there's not much  
10       else we can do because it's a narrow space and a long  
11       lot.

12           So we first planned to do a side-facing  
13       garage, but it would have put the garage, like, in the  
14       middle of the house of the backyard, otherwise we  
15       wouldn't have enough room to spin it around. So this  
16       kind of alleviated the issues that we had. It allows  
17       to hide the trailer and not have it sit out in the  
18       driveway.

19           CHAIRPERSON MIETZ: Okay. Questions?

20           MR. PREMO: Is the trailer used for business  
21       or --

22           MS. HOLLISTER-CRONBERGER: He wants to start  
23       doing, like, carpentry stuff. So he's got an enclosed  
24       trailer that he puts all his tools into so that, when  
25       he goes to sites to do handyman stuff, eventually --

1 we're both city school teachers. So that's kind of  
2 his retirement goal, I think.

3 MR. PREMO: Okay. And then you would be  
4 able to fit your other two cars?

5 MS. HOLLISTER-CRONBERGER: Yes. So his  
6 truck would fit in front of the trailer, and I have an  
7 SUV, and that would fit. And then we'd have one bay  
8 that would be for, like, the bikes and stuff for our  
9 kids.

10 MR. PREMO: Okay. And it looks like this is  
11 part of the general renovation of the house that  
12 you're doing?

13 MS. HOLLISTER-CRONBERGER: Yes.

14 MR. PREMO: If you could describe it a  
15 little bit, just what's involved in it.

16 MS. HOLLISTER-CRONBERGER: The whole thing.  
17 We're taking off the roof, tearing down the breezeway  
18 into the garage. There was an addition on the back of  
19 the house. We'll tear that down and rebuild that  
20 because it just wasn't constructed very well.

21 And then the back of the house, we will do  
22 an addition. It will be pushed out to accommodate a  
23 bedroom, so it will be three bedrooms. It will  
24 increase, I think, the square footage to about 2,300,  
25 maybe.

1                   MR. PREMO: And that would be kind of in  
2 accordance with what's in the neighborhood?

3                   MS. HOLLISTER-CRONBERGER: Oh, yeah. The  
4 house next door is, I think, 2,500 square foot total.

5                   MR. PREMO: And there are other houses in  
6 the neighborhood with attached garages that are two  
7 cars wide?

8                   MS. HOLLISTER-CRONBERGER: I don't know.  
9 The one house that I was hoping to kind of mimic is  
10 further down on Southern, and they have the  
11 side-facing. I think they've got like a two-car  
12 attached -- a two-car detached and then another one  
13 car attached, because they went all side-facing, but  
14 they have a wider lot.

15                  So that's what I was hoping to do, but we  
16 just don't have the space width-wise. So we're  
17 maintaining the width of the existing footprint, just  
18 pushing back the garage.

19                  MR. PREMO: I drove around the neighborhood.  
20 I thought I saw a number of similar types of garages  
21 attached to houses and stuff in the neighborhood.

22                  MS. TOMPKINS-WRIGHT: At least from the  
23 appearance.

24                  MS. HOLLISTER-CRONBERGER: From the front,  
25 yes.

1                   MR. PREMO: That's all the questions I have.

2                   CHAIRPERSON MIETZ: Okay. Any other  
3 questions?

4                   Question?

5                   Nope. Okay. Thanks.

6                   Is there anyone in the audience that would  
7 like to speak regarding Southern Parkway?

8                   There being none -- oh, I'm sorry. Come  
9 right up.

10                  MR. FINNEGAN: My name is Owen Finnegan. I  
11 live at 36 Southern Parkway, across the street. My  
12 wife and myself are all for the renovations and what  
13 she's trying to do. It would really enhance the  
14 neighborhood from that standpoint, and not having a  
15 trailer in the driveway would be, you know...

16                  CHAIRPERSON MIETZ: Is there anyone else in  
17 the audience that would like to speak regarding  
18 Southern Parkway?

19                  Hearing none, the public hearing is closed.

20 **Application 10A-06-24**

21                  Application of Jerry Goldman, agent, and  
22 Brighton Commons Partnership L.P., owners of property  
23 located at 1835-1855 Monroe Avenue (Brighton Commons)  
24 for modification of an approved parking variance  
25 (2A-05-20) allowing the use (dental practice)

1       associated with the variance to see patients five days  
2       per week in lieu of three days a week as per  
3       testimony. All as described on application and plans  
4       on file.

5                    MR. GOLDMAN: Good evening, Mr. Chairman and  
6       members of the board. My name is Jerry Goldman and  
7       I'm the attorney and agent for Dr. Mattiacio, who's  
8       established his orthodontic practice at Brighton  
9       Commons Plaza. My business address is 1900 Bausch &  
10      Lomb Place. My home address is 59 Branchwood Lane in  
11      the Town of Brighton.

12                  With me this evening is Dr. Mattiacio, and  
13      we're here tonight because he has a desire to expand  
14      the days of operation of the use of his dental  
15      practice, which was granted a parking variance in  
16      2020.

17                  I did provide essentially two pieces of  
18      information to you this evening. One is the approval  
19      from 2020, and the application was for an orthodontic  
20      practice. And what he wants to do is be able to  
21      expand to allow for pediatric dentistry as well but  
22      not increasing the intensity of the use itself. It  
23      would utilize the same 3,650 square feet. It would  
24      still have six dental chairs and three exam rooms. No  
25      change in terms of what those metrics are.

1                   At the board meeting, there was a fair  
2 amount of discussion relative to how many days a week  
3 he intended to utilize the property, and that was --  
4 at that time he clearly thought he wasn't going to be  
5 using it any more than three days.

6                   That was not incorporated as a condition of  
7 approval, but in reviewing the situation, we went to  
8 the town and said we do want to go to five days, and  
9 town staff determined that it would be appropriate to  
10 come back and revisit the board relative to that  
11 issue.

12                  So we're here tonight to, again, just fully  
13 utilize the space on a five-day-a-week basis instead  
14 of a three-day-a-week basis without any additional  
15 intensity of the use itself or difference in size of  
16 the area.

17                  Brighton does have something, which is  
18 interesting, somewhat of an anomaly, a shopping plaza.  
19 Usually in a shopping plaza, you have a ratio, and  
20 that ratio is applied throughout the plaza. Instead  
21 Brighton requires for plazas, which are less than I  
22 think it's 50,000 square feet, that we go use by use.

23                  And, oddly enough, medical uses are the  
24 highest parking ratio that we have, and frankly well  
25 above what the parking ratio is required either under

1 the Institute of Traffic Engineers or by a county  
2 parking study, which was previously taken into  
3 account.

4 So our efforts, basically in taking a look  
5 at this, was -- for me, it was easy. I went down the  
6 hall because we were before this board three or four  
7 months ago with an application for a yoga studio that  
8 did a parking study at that time, and that parking  
9 study is the second piece of information, which I have  
10 provided here.

11 For those of you -- and I believe everyone  
12 was on the board at that time -- you'll see that there  
13 was an excess of parking spaces at that time. And I  
14 visit the plaza -- I visit it fairly regularly. I  
15 like ice cream. I can't help it.

16 So the bottom line is I haven't seen any  
17 excess parking demand at any time that I've been  
18 there, and that is borne out by the parking study and  
19 parking analysis, which was done as a part of the yoga  
20 studio application.

21 So we are asking for the board, not  
22 necessarily for relief of condition, it's not a  
23 condition, but to change the testimony, if you will,  
24 to make this a five-day-a-week operation with the same  
25 metrics.

1                   For orthodontics and pediatric dentistry, I  
2 will point out that there is no study which really  
3 distinguishes the parking demand for orthodontics or  
4 pediatric dentistry. It's all lumped under dentistry.  
5 So to that extent, we don't believe we'll have any  
6 impact. The plaza itself is operating well. So we  
7 would request that the board grant the relief and  
8 allow us to have a five-day use.

9                   Dr. Mattiacio is here if there are any  
10 questions.

11                  Anyone on the board?

12                  CHAIRPERSON MIETZ: Okay. Questions?

13                  MS. TOMPKINS-WRIGHT: I have a quick  
14 question. Just sort of operationally --

15                  MR. GOLDMAN: Yes.

16                  MS. TOMPKINS-WRIGHT: -- I'm assuming  
17 that -- you pointed out there's no differentiation for  
18 actual parking requirements, but things like room  
19 turns and patient timed for appointments, are those  
20 similar between -- or the same for orthodontic to  
21 pediatric dentistry?

22                  MR. GOLDMAN: Roughly. Roughly the same. I  
23 mean there's a plus and minus, but the contemplation  
24 would be roughly the same.

25                  MS. TOMPKINS-WRIGHT: And current

1 operations, when they're operating, are they full, or  
2 is this looking to drive more patients, or is it just  
3 looking to be open more?

4 MR. GOLDMAN: It's not looking to drive any  
5 more patients than would be there. Obviously, if the  
6 orthodontic practice is busy, they would have a lot of  
7 people. Pediatric dentistry we don't know because  
8 that's to be established. But there was no  
9 distinction, and we would have anticipated that -- as  
10 demand requires, we would be able to address it.

11 CHAIRPERSON MIETZ: Okay. Questions?

12 MS. MCKAY-DRURY: When moving from three to  
13 five, are we talking business days, standard business  
14 times?

15 MR. GOLDMAN: That's correct.

16 MS. MCKAY-DRURY: So Monday through Friday?

17 MR. GOLDMAN: That's the contemplation,  
18 possibly. Who knows. Having read the record,  
19 everything I'm going to say is "we anticipate" as  
20 opposed to "we will." Okay? So that would be our  
21 anticipation.

22 CHAIRPERSON MIETZ: And you can live with  
23 that as a condition?

24 MR. GOLDMAN: We could, I believe. We don't  
25 necessarily desire -- well, the five days a week

1 aren't necessarily defined either. So, I mean, if  
2 it's --

3 CHAIRPERSON MIETZ: That's why we're asking.

4 MR. GOLDMAN: If that's the case, I think we  
5 could probably accommodate that if we had to.

6 Yeah, come on up.

7 DR. MATTIACIO: Good evening, everyone.

8 Dr. Brian Mattiacio, business is 1855 Monroe Ave.,  
9 Suite 1, in Brighton Commons Plaza. I reside at 6952  
10 Timber Lane in Victor, New York.

11 Yeah, I mean, the intent of this is to  
12 primarily practice the five working business days a  
13 week. Could there be -- definitely no Sundays.  
14 People don't take their kids to the dentist on Sunday,  
15 but sometimes with pediatric they're missing school  
16 and so on and so forth, early morning Saturday hours  
17 until noon or something like that.

18 We don't know. In our business plan, we  
19 discuss that, and I certainly wouldn't want to exclude  
20 that, but it would be primarily Monday through Friday,  
21 maybe with a Saturday here or there.

22 MR. GOLDMAN: So I should clarify, then.  
23 Our intention would be that we would like not to see  
24 necessarily a form of condition to that effect, but  
25 understand that there may be circumstances, there may

1 be demand for a Saturday morning.

2 I wish I could have found a dentist, either  
3 pediatric or otherwise, who was willing to work on  
4 Saturdays, but, you know, things are different these  
5 days.

6 CHAIRPERSON MIETZ: Okay. Questions?

7 MS. MCKAY-DRURY: So the three days that  
8 you've been operational out of this location, are they  
9 steady right now? I'm just trying to get an idea.  
10 Are you always there Monday, Wednesday, Friday?

11 DR. MATTIACIO: No. No. In fact, the way I  
12 market my practice is we try to -- we have some  
13 availability on different days of the week. So one  
14 week it might be a Tuesday, Thursday. One week it  
15 might be a Monday. I have another practice in Ontario  
16 County, I'm a solo practitioner, so I split time  
17 between the two. That hasn't changed.

18 Really this is to fulfill a need within the  
19 community as a practitioner. You know, there's a huge  
20 void for children's dentistry. It's out there, but  
21 it's hard to find. And the people who are available  
22 to see kids are very, very booked, and it's hard for  
23 people to get appointments with these doctors.

24 And I have an intern who started off as a  
25 junior in high school with me, and he's now a

1 pediatric dentist, so it's kind of full circle. He  
2 came out of school, he's looking for work, and I see a  
3 void in the community, and I would like to fulfill  
4 that void and I have the space and it's set up  
5 beautifully for him, so I think it's really a mutually  
6 beneficial win-win. Not just for my partner and  
7 myself, but for the --

8 MS. MCKAY-DRURY: Okay. So it's not like --  
9 just to make it simple. Let's say you have on days  
10 and off days for this location, and so I'm just trying  
11 to get an idea. Is there any other parking used in  
12 this plaza that was utilizing your off days, if you  
13 fill, for parking as far as you know?

14 DR. MATTIACIO: Negative. No.

15 MS. MCKAY-DRURY: Thank you.

16 MR. DiSTEFANO: So, Jerry, in essence, what  
17 you're saying -- and you can correct me if I'm  
18 wrong -- it's not the number of days that generates  
19 the parking need, it's the fact we conditioned six  
20 dental chairs and three exam rooms?

21 MR. GOLDMAN: Yes.

22 MR. DiSTEFANO: That's really what controls  
23 how many people you're going to see, period,  
24 regardless of what day during the week it is or how  
25 many days during the week it is?

1                   MR. GOLDMAN: That's absolutely correct. I  
2 mean, the square footage --

3                   MR. DiSTEFANO: And you can live with that  
4 condition going forward?

5                   DR. MATTIACIO: Oh, yeah. As I explained to  
6 Jerry, you know, there's a maximum number of people  
7 you can see in a day. And orthodontics certainly  
8 maximizes foot traffic. You know, my existing  
9 condition satisfies everything that I need.

10                  And pediatric dentistry will generally have  
11 longer appointments than I have. Therefore probably  
12 less car counts per day if we were to do orthodontic  
13 versus pediatric dentistry. We don't intend to  
14 increase, you know, the number of people seen per day.  
15 I think it would probably be on those days less,  
16 actually.

17                  MR. GOLDMAN: We can't really commit to  
18 that. We don't really know what the demand is going  
19 to be.

20                  CHAIRPERSON MIETZ: You have the relief of  
21 those services in Farmington also, if you performed  
22 there?

23                  DR. MATTIACIO: That's a great question. So  
24 the answer is in Farmington in progress, yeah. So I  
25 own some property just south of my existing office in

1       Ontario County, and I'm under contract with the  
2       contractor to build a pediatric extension down there.

3                   CHAIRPERSON MIETZ: So there is relief for  
4       this as well?

5                   DR. MATTIACIO: Yeah, this is an Ontario  
6       County problem as well. It's a Monroe County problem.  
7       It's a Yates County problem. And as I expand business  
8       into these communities, we'll be taking care of  
9       pediatric dentistry as we go.

10                  CHAIRPERSON MIETZ: Okay. Other questions?

11                  Okay. Thank you.

12                  DR. MATTIACIO: Thank you. Appreciate it.

13                  CHAIRPERSON MIETZ: Is there anyone who  
14       would like to speak regarding Brighton Commons Plaza?

15                  Hearing none, the public hearing is closed.

16                  MR. DiSTEFANO: Application of Congregation  
17       Light of Israel, owner of property located at 1675  
18       Monroe Avenue, for renewal of a temporary and  
19       revocable use permit pursuant to Section 219-4 to  
20       erect a tent and hold up to 6 (per year) outdoor  
21       special events during the years 2025 and 2026.

22                  MR. GOLDMAN: Okay. I'll explain this in a  
23       second as to why I'm handing out all this stuff.

24                  CHAIRPERSON MIETZ: There's a lot of trees  
25       here.

1 MR. GOLDMAN: You may have noticed, when you  
2 received your packets for each of these  
3 applications -- well, first of all, for the record my  
4 name is Jerry Goldman, attorney and agent and member  
5 of the Congregation Light of Israel. My office  
6 address is 1900 Bausch & Lomb Place, and home address  
7 is 59 Branchwood Lane in the Town of Brighton.

8                   With me this evening is Alan Brodsky, who is  
9                   the past president of the synagogue as well as their  
10                  chief financial officer and my cousin and almost my  
11                  next-door neighbor. So we're all Brighton-oriented.

18 I believe that most of the board members  
19 have been here for all or part of our continuing  
20 applications for temporary revocable use permits to  
21 allow a tent for special events at the synagogue.

22                   Occasionally, there's a need to do the  
23                   outdoor events, and what we have worked out with the  
24                   town is to make an application, a single application,  
25                   for up to six times a year to locate the tent on the

1 site.

2 And that has been done on and off  
3 essentially every two years in one form or another.  
4 Last year we were here, and it was a bit of an anomaly  
5 because there was one large event, which had something  
6 substantially longer. We do not anticipate doing that  
7 through the holidays this year.

8 So we're back to basically the application  
9 which has been before this board and has been granted  
10 on, I believe, five or six different occasions  
11 previously.

12 There were conditions that have been imposed  
13 relative to the conduct of the tent. The tent has  
14 been essentially now in the front yard of the  
15 premises, which lessens any impact to adjacent  
16 residential neighbors behind us, and we are willing to  
17 perform with the conditions which have been imposed.

18 Alan rightfully points out that the  
19 synagogue has received no complaints, and I believe  
20 the town has received no complaints from the activity  
21 for which we are applying, over the course of the  
22 years, which now, I think, we're 11 years in.

23 Right?

24 MR. BRODSKY: Yes.

25 MR. GOLDMAN: We're around 11 years into the

1 residency at its Monroe Avenue location.

2                   Temporary revocable use permits, of course,  
3 have very little in the way of standards. We have  
4 tried to address them in the letters of intent.

5                   So with that, we will terminate our  
6 presentation. If you have any questions, Alan or I  
7 would be more than glad to answer them.

8                   MR. DiSTEFANO: So just for clarification,  
9 this is not for this year. We have already received  
10 that temporary revocable use permit. For this year,  
11 we're talking truly '25 and '26?

12                  MR. GOLDMAN: Correct. We're ahead of the  
13 curb. Usually we're late in the year in doing it.  
14 This year I put it on my calendar, said we're applying  
15 early.

16                  CHAIRPERSON MIETZ: Okay.

17                  MS. BARON: Just one question just to  
18 clarify for the record. So I know you're not having  
19 the one long extended event, but six separate events  
20 is still what you anticipate for application?

21                  MR. GOLDMAN: Correct.

22                  MR. BRODSKY: We would like to have the  
23 ability to have that -- sorry.

24                  CHAIRPERSON MIETZ: Identify yourself.

25                  MR. BRODSKY: I'm Alan Brodsky. I'm

1 currently the chief financial officer, Congregation  
2 Light of Israel, 1675 Monroe Avenue. I also am a  
3 proud resident of the Town of Brighton. I live at 45  
4 Branchwood Lane.

5 We never know exactly how many. As a  
6 practical matter, a big tent, which we will be doing  
7 in a couple weeks for one of our celebrations, which  
8 is a luncheon -- it's very expensive. So we don't  
9 think that -- it's probable it's going to be much  
10 smaller tents for those different events because I  
11 think the tent is costing us around \$5,000 to put up,  
12 like, for a two-day period and then take down.

13 So we don't anticipate a tent like that  
14 would be used really more than once, perhaps twice.  
15 Otherwise, other tents that we might have would be for  
16 smaller festivities, which would -- you know, we would  
17 want the ability to do that. I don't think we've ever  
18 actually used it more than a few times a year.

19 Last year, we had a couple different events  
20 that were lumped together, very close intervals. So  
21 we asked and got permission to have it for an extended  
22 period of time.

23 We're very respectful of our neighbors, who  
24 have never opposed this, and we've gone to them before  
25 to make sure that they're okay, and we've gotten

1 acquiescence, you know, from them on that.

2                   And there's no music, no noise. Basically  
3 this particular event, which is the one we're having,  
4 is a luncheon. And it will be -- I think it's two  
5 weeks from Friday, and it's nothing that's very  
6 intrusive.

7                   According to the way our congregation works,  
8 the parking lots are closed on holidays. So it's not  
9 like it's going to impact parking at all.

10                  MS. TOMPKINS-WRIGHT: And just to confirm,  
11 all the conditions that were imposed on the first  
12 multiple-year approval here, for instance, like no  
13 food preparation outside, you're comfortable with  
14 that?

15                  MR. BRODSKY: Absolutely.

16                  MR. DiSTEFANO: And just one other thing.  
17 You just mentioned the parking lots that are close by  
18 are not being utilized during -- most of the time  
19 during your events. You do have an agreement with  
20 those property owners that your congregation can park  
21 there?

22                  MR. BRODSKY: Yes. We have had permission  
23 from Blain Realty, which is our adjacent neighbor, and  
24 there's usually not that many cars anyway. Most of  
25 the people -- for the people who are observant, they

1 will be walking to and from the congregation. But Bob  
2 Blain of Blain Realty has given us permission carte  
3 blanche, and we've sort of reciprocated with him on  
4 other times to use our lot.

5 MR. DiSTEFANO: Okay. Thank you.

6 CHAIRPERSON MIETZ: Okay. Anything else?

7 Again, for the record, no complaints of any  
8 kind?

9 MR. DiSTEFANO: For the record, no  
10 complaints.

11 CHAIRPERSON MIETZ: Okay. Great.

12 Okay. Thank you, gentlemen.

13 MR. GOLDMAN: Thank you.

14 CHAIRPERSON MIETZ: Is there anyone in the  
15 audience that would like to speak regarding this  
16 application?

17 Hearing none, the public hearing is closed.

18 **Application 10A-08-24**

19 Application of Scott Powell, architect, and  
20 Ivan Kaproth-Joslin, owner of property located at 37  
21 Buckland Avenue, for an area variance from Section  
22 205-2 to allow an attached garage addition to extend  
23 3.25 feet into the 15 foot, 3 inch side setback  
24 required by code. All as described on application and  
25 plans submitted.

1                   MR. POWELL: I'm Scott Powell Architectural,  
2 PC, architects, 17 Pitkins Street in Rochester, New  
3 York.

4                   Our client would like to extend their garage  
5 approximately 3 feet. They need the storage. Right  
6 now they cannot park both of their cars in the garage,  
7 especially in the summer months when they have  
8 bicycles, wagon, garbage totes. It's a need of theirs  
9 to have a little extension to their garage. So that's  
10 what they're going for here.

11                  They have a couple feet before they get to  
12 the setback line. They would like to infringe on the  
13 setback line of 3 foot, 3 inches, in order to get that  
14 6-foot addition that they desire on their garage.

15                  The side yard setback is 15 foot, 3 inches.  
16 That's 15 percent of the yard width with the street,  
17 and they would like to have a setback of 12 feet from  
18 the side yard line. They would just simply be  
19 extending the shape of the garage as it is, as you can  
20 see in the drawings.

21                  And that really sums up the request I have.

22                  CHAIRPERSON MIETZ: Okay. Questions?

23                  Any other alternatives that you looked at to  
24 do this?

25                  MR. POWELL: They already have in the back

1 of the garage, like, an in-law apartment, a family  
2 room. So there was nothing they could do to add on to  
3 the back of the garage. The side of the garage was  
4 the only place.

5 MS. TOMPKINS-WRIGHT: And it's a relatively  
6 modest-sized garage as well? It's well below the  
7 permitted for an attached garage?

8 MR. POWELL: Yes. With the addition, it's  
9 still below 900 square feet. It is modest. The  
10 garage doors are 8 feet wide. They have a small  
11 electric vehicle that fits fine, but they also have a  
12 family car, a minivan, with just maybe 2 inches to  
13 spare to get the car into the garage and not have the  
14 mirrors damaged.

15 So they just don't park that car in the  
16 garage, even in the winter, and they would love to.

17 CHAIRPERSON MIETZ: So you can pretty much,  
18 based on that, say that this is the minimum that you  
19 could possibly do in order to meet their objective?

20 MR. POWELL: Well, they would love to add on  
21 more, but what they talked about was doing 6 feet. So  
22 that's what we're going for.

23 CHAIRPERSON MIETZ: Okay.

24 MR. D'AUGUSTINE: Have you consulted with  
25 the neighbors to the north? How do the neighbors feel

1 about the extension of the garage?

2 MR. POWELL: No, I have no knowledge of  
3 conversations with the neighbors to the north.

4 MR. D'AUGUSTINE: Okay.

5 MR. POWELL: I know they posted that nice  
6 big sign on the garage door well ahead of time. So  
7 they've had a chance to see it, that's for sure. It  
8 was obvious.

9 MR. DiSTEFANO: They also were notified  
10 directly by mail too.

11 CHAIRPERSON MIETZ: Okay. Other questions?

12 MR. D'AUGUSTINE: I'm good.

13 CHAIRPERSON MIETZ: Okay. Thank you.

14 MR. FUENTES: You're welcome. Thank you.

15 CHAIRPERSON MIETZ: Anyone in the audience  
16 regarding this application that would like to speak?

17 Okay. There being none, the public hearing  
18 is closed.

19 MR. DiSTEFANO: Once again, is there anybody  
20 here for 10A-04-24, which is 4 Chelmsford Road?

21 **Application 10A-04-24**

22 Application of AC & CC Properties LLC, owner  
23 of property located at 4 Chelmsford  
24 Road, for an area variance from Section 205-6 to  
25 allow an accessible ramp to extend 1.5 feet into the

1       30 feet front setback required by code. All as  
2       described on application and plans on file.

3           DR. CAROCI: Hello. I'm Abra Caroci. I'm a  
4       pediatric dentist. We don't have a ramp.

5           CHAIRPERSON MIETZ: Sir, can you give your  
6       address for the record, please.

7           DR. CAROCI: I'm sorry?

8           CHAIRPERSON MIETZ: Your address.

9           DR. CAROCI: 4 Chelmsford Road.

10          CHAIRPERSON MIETZ: Okay. Go right ahead.

11          DR. CAROCI: So we have a pediatric dental  
12       office and we don't have a handicap accessible ramp,  
13       and we are applying -- I apologize for being late. We  
14       were here at the architectural board meeting last  
15       week -- the week before. So I thought that was the  
16       only meeting that was taking place.

17          So they asked us to revise our project to do  
18       the ramp. So we were sent back to the architects to  
19       do a revision. So actually a neighbor just called to  
20       say the board meeting is today, so I apologize for  
21       being unprepared, but we are applying to have a  
22       handicap ramp built.

23          CHAIRPERSON MIETZ: Okay. You've seen the  
24       renderings and all that. Any questions about it?

25          MS. MCKAY-DRURY: I'm just curious. Will it

1       cut into the parking? Because I know it can be kind  
2       of tight already in that front part to park, and so  
3       what's the plan for that?

4                   DR. CAROCI: So we have some bushes that are  
5       there that can be trimmed back, but the rendering  
6       was -- I don't have -- on the right side of the  
7       rendering, it says 35 feet, and on the left side is  
8       28, and I think that's a miscalculation. If you go  
9       there and measure it, it's the same as a square. So  
10       it's 26, I believe, and the other side on the drawings  
11       is 35. So I went there and measured myself. So I  
12       think it's a mistake from the survey on the left side  
13       of the -- on the drawings.

14                  We lose a parking spot or two, but we -- we  
15       want to be inclusive and we want to have access. We  
16       already have to get out there and, you know, lift  
17       people up in the wheelchair to bring in. So I think  
18       it's going to be safe -- safer this way.

19                  Also for mothers who come with strollers and  
20       car seats, there's four flights of stairs now. So  
21       we're going to be removing those flights of stairs to  
22       make a ramp. And then most of the ramp will be taking  
23       the space of the garden space.

24                  MS. TOMPKINS-WRIGHT: The loss of a parking  
25       space or two, will this property, after that

1 reduction, still meet parking requirements?

2 DR. CAROCI: I don't know all the laws for  
3 parking requirements for that, but we need to not be  
4 in violation of the ADA Act and have people have  
5 access to -- whether it's a parking spot and give  
6 access to everyone. That's what Brighton stands for,  
7 being inclusive and giving access to everyone.

8 MS. BARON: How many spots do you currently  
9 have?

10 DR. CAROCI: 26 and there's two spots that  
11 are not marked there.

12 MR. DiSTEFANO: How many?

13 MS. BARON: 26 and two spots that are not  
14 marked?

15 DR. CAROCI: They're not marked usually.  
16 You could park, but it's not clearly -- we don't have  
17 the paintings on the -- the stripes.

18 MS. BARON: Okay.

19 CHAIRPERSON MIETZ: Rick, do you have any  
20 comment on the parking?

21 MR. DiSTEFANO: What are the uses within the  
22 building?

23 DR. CAROCI: Pediatric office and -- the  
24 building was built --

25 MR. DiSTEFANO: It's all medical?

1 DR. CAROCI: It's all dental, yes.

2 MR. DiSTEFANO: It's all dental?

3 THE WITNESS: A general dentist -- three  
4 owners started the business: general dentist,  
5 orthodontist, and a pediatric dentist.

6 MR. DiSTEFANO: By code, they need 20  
7 parking spaces. So if they're going to lose a space,  
8 you have 26, 27, then they're still within the code  
9 requirements.

10 CHAIRPERSON MIETZ: Okay. Any other  
11 questions?

12 Okay. Thanks.

13 DR. CAROCI: Thank you. I apologize for  
14 being late.

15 CHAIRPERSON MIETZ: Is there anyone in the  
16 audience that would like to speak?

17 There being none, the public hearing is  
18 closed.

19 (The public hearings concluded at 7:57 p.m.)

20 (Beginning of deliberations.)

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## REPORTER CERTIFICATE

2

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

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

11

12                  Dated this 1st day of November 2024  
13                  at Brighton, New York

14

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KIMBERLY A. BONSIGNORE

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**BRIGHTON**  
**ZONING BOARD OF APPEALS**  
**DELIBERATIONS AND DECISIONS**

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

PRESENT:

DENNIS MIETZ  
Chairperson

EDWARD PREMO	)	Board Members
HEATHER MCKAY-DRURY	)	
ANDREA TOMPKINS-WRIGHT	)	
MATTHEW D'AUGUSTINE	)	

LAUREN BARON, ESQ.  
Attorney for the Town

RICK DISTEFANO  
Secretary

ABSENT: KATHLEEN SCHMITT  
JUDY SCHWARTZ

REPORTED BY: KIMBERLY A. BONSIGNORE, Court Reporter  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, New York 14020

1                   MS. TOMPKINS-WRIGHT: Motion to approve  
2 Application 10A-01-24 all as described in the  
3 application and plans on file based on the following  
4 findings of fact.

5                   **Findings of Fact**

6                   1. Granting the request variance will not produce an  
7 undesirable change in the character of the  
8 neighborhood or be a detriment to nearby properties.  
9 This neighborhood has narrow lots with multiple  
10 driveways that are closer to the property line than  
11 what would otherwise be permitted by code. As such,  
12 the expansion of the applicant's driveway will appear  
13 in line with similar neighboring properties. Also no  
14 issues were presented regarding drainage concerns,  
15 indicating that this expansion will not negatively  
16 affect nearby properties.

17                   2. The requested variance is not overly substantial  
18 given that it is only 2 feet closer to the side lot  
19 than permitted by code.

20                   3. The benefits sought by the applicant cannot  
21 basically be achieved by any other method or without a  
22 variance. The space between the house and the setback  
23 would only permit a 9 foot wide driveway, which is  
24 undersized for modern vehicles. Expanding the  
25 driveway into the setback by 2 feet will produce an 11

1 foot wide driveway, which is still narrower than what  
2 is often required for larger vehicles.

3 4. There is no evidence the proposed variance would  
4 have an adverse effect or impact on the physical or  
5 environmental conditions in the neighborhood or  
6 district.

7 MR. DiSTEFANO: Go through the process  
8 properly before I question one of your findings.

9 MS. TOMPKINS-WRIGHT: Is it about --

10 MR. DiSTEFANO: All I would do is number 2,  
11 the end, "and is not out of character with the  
12 neighborhood." I would just put that at the end of  
13 number 2. So read --

14 MS. BARON: Number 2, the requested variance  
15 is not overly substantial.

16 MR. DiSTEFANO: No. Continue going.

17 MS. TOMPKINS-WRIGHT: It is only 2 feet  
18 closer to the side lot than permitted by code and is  
19 not out of character with the neighborhood.

20 **Conditions**

21 1. The variance granted herein applies only to the  
22 driveway extension described and in the location as  
23 depicted on the application and testimony given.  
24 2. All necessary permits must be obtained.

25 MS. McKAY-DRURY: Second.

1 MR. DiSTEFANO: Motion is to approve with  
2 conditions.

3 (Chairperson Mietz, yes; Mr. Premo, yes;  
4 Mr. D'Augustine, yes; Ms. McKay-Drury,  
5 yes; Ms. Tompkins-Wright, yes.)

8 MR. D'AUGUSTINE: Motion to approve  
9 Application 10A-02-24 based on the following findings  
10 of fact.

## Findings of Fact

12       1. Requested variance will not produce undesirable  
13       change in the character of the neighborhood or  
14       detriment to nearby properties. The neighborhood has  
15       a variety of front entranceways, and this change will  
16       not produce any sort of substantial difference in what  
17       already exists in the neighborhood.

18       2. Benefit. Something the applicant cannot be  
19       achieved by another manner, not requiring a variance,  
20       as the front steps already enter into the front  
21       setback of the yard.

22       3. The variance is not substantial due to the fact  
23       that the applicant will not be extending a new deck  
24       any further than the current steps already exists.

25 4. The variance is the minimum necessary to grant

1 relief given that the current state of the steps  
2 are -- pardon me -- the steps are currently unsafe and  
3 need to be replaced in a manner that will be both cost  
4 effective and will provide long-term stability.

5 5. The proposed variance is consistent with  
6 surrounding properties and will not have an adverse  
7 effect of impact on the physical or environmental  
8 conditions of the neighborhood due to the fact that --  
9 sorry -- the applicant desires an entrance that is  
10 accessible, and in the neighborhood, the other homes  
11 have more accessible and aesthetic-pleasing  
12 entranceways. The applicant's proposed entryway will  
13 produce -- the entryway will be more in keeping with  
14 those already in the neighborhood.

15 MR. D'AUGUSTINE: And then 6, would I do  
16 this? Just let me know. The applicant has already  
17 received approval from --

18 CHAIRPERSON MIETZ: You don't have to do  
19 that.

20 MR. D'AUGUSTINE: Okay. All right. The  
21 following conditions apply.

22 **Conditions**

23 1. The deck will conform to the testimony given and  
24 the materials and size described in the application  
25 provided.

1       2. The applicant will procure all building permits.

2                   CHAIRPERSON MIETZ: Second?

3                   Do you have a comment?

4                   MR. DiSTEFANO: Yeah. On your condition,  
5 can you also just add on to number 1 "and would not  
6 pertain to further structure" -- "to any structures  
7 considered in the future."

8                   MR. D'AUGUSTINE: Can you say that again?  
9 I'm sorry.

10                  MR. DiSTEFANO: "And will not" --

11                  MS. TOMPKINS-WRIGHT: It's in here.

12                  MR. DiSTEFANO: Yes, it's in there. "And  
13 will not pertain to other structures considered in the  
14 future."

15                  Basically what I'm trying to say is that, if  
16 we give them this variance, it doesn't mean that now  
17 you can bring everything out to that point.

18                  MR. D'AUGUSTINE: Oh, okay. Let me redo  
19 number 1, then.

20       1. The variance will apply only to the structure that  
21 was described in the application and testimony given.  
22 It will not apply to any additional structures  
23 considered in the future that are not included in the  
24 present application.

25                  MR. DiSTEFANO: Thank you. So scratch the

1 first number 1 and put that as the number 1 condition.

2 MR. PREMO: Second.

3 MR. DiSTEFANO: The motion is to approve  
4 with conditions.

5 (Ms. McKay-Drury, yes; Ms. Tompkins-Wright,  
6 yes; Chairperson Mietz, yes;  
7 Mr. Premo, yes; Mr. D'Augustine,  
8 yes.)

9 (Upon roll motion to approve with conditions  
10 carries.)

11 CHAIRPERSON MIETZ: Okay. I move we approve  
12 Application 10A-03-24 based on the following findings  
13 of fact.

14 **Findings of Fact**

- 15 1. The proposed location is within the currently  
16 confined area of the tower complex.
- 17 2. The location proposed is greater than 800 feet  
18 away from any other uses and surrounded by fence,  
19 vegetation.
- 20 3. The diesel generator is the most efficient fuel  
21 choice due to the limited utilities available to the  
22 site.
- 23 4. No negative impact on the character of the area  
24 will result due to the current use of the site as a  
25 cell tower not being changed.

1        **Conditions**

2        1. Based on the testimony given and plans submitted.  
3        2. The decibel ratings must meet the Town of  
4        Brighton requirements.  
5        3. All necessary building permits must be obtained.

6                    MS. TOMPKINS-WRIGHT: I'll second.

7                    MR. DiSTEFANO: Motion is to approve with  
8        conditions.

9                    (Mr. Premo, yes; Mr. D'Augustine, yes;  
10                    Ms. McKay-Drury, yes; Ms. Tompkins-Wright,  
11                    yes; Chairperson Mietz, yes.)

12                    (Upon roll motion to approve with conditions  
13        carries.)

14                    MS. MCKAY-DRURY: Okay. I move we approve  
15        Application 10A-04-24 based on the following findings  
16        of fact.

17        **Findings of Fact**

18        1. The requested variance will not result in a  
19        substantial change in the character of the  
20        neighborhood in which -- which consists of mixed uses  
21        in an area, including other ADA-accessible commercial  
22        businesses.  
23        2. The difficulty necessitating the variance request  
24        can't be solved in another manner not requiring a  
25        variance because the -- it would -- because a handicap

1 ramp compliant with the ADA is needed and what is  
2 called for in the application.

3 3. The requested variance is not substantial and that  
4 it will result in only a 1.5 foot encroachment into  
5 the setback.

6 4. The requested variance is the minimum necessary to  
7 grant the relief from the difficulty given that the  
8 ramp that's needed must be of a size compliant with  
9 the ADA requirements.

10 5. The proposed variance is consistent with  
11 surrounding property so as not to have an adverse  
12 effect on the physical or environmental conditions but  
13 rather is aimed at making the building more inclusive  
14 to patients.

15 6. The difficulty leading to the variance request is  
16 not self-created in that the building predates the ADA  
17 requirements.

18 MS. MCKAY-DRURY: This approval is subject  
19 to the following conditions.

20 **Conditions**

21 1. The size and location of the ramp shall be  
22 consistent with the plans on file and testimony given.  
23 2. All necessary Architectural Review Board approvals  
24 and building permits shall be obtained.

25 MR. PREMO: Second.

1 CHAIRPERSON MIETZ: Thanks, Ed.

2 MR. DiSTEFANO: The motion is to approve  
3 with conditions.

4 (Mr. D'Augustine, yes; Ms. Tompkins-Wright,  
5 yes; Chairperson Mietz, yes; Mr. Premo,  
6 yes; Ms. McKay-Drury, yes.)

7 (Upon roll motion to approve with conditions  
8 carries.)

9 MR. PREMO: I move we approve Application  
10 10A-05-24 for an area variance from Section 205-2 to  
11 allow an attached garage to be 1,137 square feet in  
12 size in lieu of the maximum 900 square feet allowed by  
13 code based on the following findings of fact.

14 **Findings of Fact**

15 1. The requested area variance is for a single-family  
16 home and is a Type II action pursuant to 6 NYCRR,  
17 section 617.5(c)(17), and no review is required  
18 pursuant to the State Environmental Quality Review  
19 Act.

20 2. The requested area variance is the minimum  
21 variance necessary to address the benefits sought by  
22 the applicant. The proposed attached garage is part  
23 of an extensive renovation of an existing residence.  
24 The size of the garage is to accommodate the size and  
25 allow motor vehicles into -- allow indoor storage of a

1 work trailer. The overall size of the renovated home  
2 and garage is consistent with the neighborhood and  
3 similar to a number of existing homes in the immediate  
4 area.

5 3. No other alternative can alleviate the difficulty  
6 and produce the desired result.

7 4. In contrast, the requested variance is not overly  
8 substantial.

9 5. There will be no unacceptable change in the  
10 neighborhood and no substantial adverse impact to  
11 nearby property is affected.

12 6. The hardship is not self-created by the applicant.

13 7. The health, safety and welfare of the community  
14 will not be adversely affected by the granting of the  
15 variance.

16 MR. PREMO: The following conditions apply.

17 **Conditions**

18 1. The variance is based on the application,  
19 materials submitted, and the testimony provided, and  
20 only authorizes the project described therein.

21 2. Subject to Architectural Review Board approval.

22 3. Subject to obtaining all necessary building  
23 department permits and inspections.

24 MS. THOMPSON-WRIGHT: Second.

25 MR. DiSTEFANO: Motion is to approve with

1 conditions.

2 (Ms. McKay-Drury, yes; Chairperson Mietz,

3 yes; Mr. D'Augustine, yes;

4 Ms. Tomkins-Wright, yes; Mr. Premo, yes.)

5 (Upon roll motion to approve with conditions

6 carries.)

7 MS. MCKAY-DRURY: Regarding Application  
8 10A-06-24, I move that the board, having considered  
9 the information presented by the applicant and having  
10 conducted the required review pursuant to the SEQR,  
11 adopts the negative declaration prepared by Tom's  
12 staff regarding application 2A-05-20, and determines  
13 that the proposed action, which is not substantially  
14 different than the previous proposed action will not  
15 likely have a significant environmental impact.

16 I move that we approve the application  
17 pursuant to the following findings of fact.

18 **Findings of Fact**

19 1. There will be no undesirable change to the  
20 character of the neighborhood in that there is  
21 sufficient parking available for the use.

22 2. The benefit sought by the applicant cannot be  
23 achieved by some other method because the variance is  
24 required if they're going to be operating more days  
25 per week.

1       3. The requested area variance is not substantial in  
2       that they are simply adding additional days to the  
3       operation and in that they will not be seeking to  
4       provide services to more patients in total at any  
5       given time.

6       4. The proposed variance will not have an adverse  
7       effect or impact on the physical or environmental  
8       conditions in the neighborhood and --

9                MS. BARON: You don't have to do  
10       self-created. You already said minimum variance --

11                MR. DiSTEFANO: I think you're good. It's  
12       not a modification of the original one, so -- we've  
13       already made findings from the original one.

14                MS. MCKAY-DRURY: Or I can just use that  
15       one. The difficulty leading to this variance request  
16       is not self-created as it stems from the mix of uses  
17       as a plaza and their shared parking arrangement.

18                This approval is contingent on the following  
19       conditions.

20                **Conditions**

21       1. This variance applies only to a pediatric dental  
22       office with no more than six treatment chairs and no  
23       more than three examining rooms.

24                MS. TOMPKINS-WRIGHT: I think you need to  
25       say both orthodontic and --

1                   MR. DiSTEFANO: Yes.

2                   MS. MCKAY-DRURY: So substitute in there --  
3 add in orthodontic and pediatric dentistry office.

4 2. All necessary town approvals shall be obtained.

5                   MR. DiSTEFANO: Just go with number 1.

6                   MS. MCKAY-DRURY: Okay. So strike 2. Just  
7 1.

8                   MR. DiSTEFANO: Second?

9                   MS. TOMPKINS-WRIGHT: I'll second.

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

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

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

17                  MS. TOMPKINS-WRIGHT: I move to approve  
18 Application 10A-07-24 all as described in the  
19 application and plans on file based on the following  
20 findings of fact.

21 **Findings of Fact**

22 1. This multiyear temporary and revocable use permit  
23 was previously granted to applicant in 2020 based on a  
24 set of findings of fact consistent with the stated  
25 facts currently presented.

1                   A. That events held by applicant are often  
2 held on short notice.

3                   B. That the use and erection of the tent is  
4 of a temporary nature and does not involve a permanent  
5 structure.

6                   C. That the property has been used in  
7 similar fashion for limited events since at least 2015  
8 without any noted disturbances or complaints.

9                   2. The applicant had previously complied with all  
10 conditions and safeguards previously required for  
11 prior and similar approvals.

12                   **Conditions**

13                   1. A temporary and revocable use permit is valid for  
14 six separate events per year from January 1, 2025  
15 through December 31, 2026.

16                   2. Each event shall last no longer than two days.

17                   3. The tent used for the events may be erected no  
18 more than two days prior to each event and must be  
19 taken down no later than two days after each event.

20                   4. Food preparation must be done inside the building  
21 or off-site.

22                   5. All litter shall immediately be picked up from the  
23 site following each event.

24                   6. There shall be no sound amplification.

25                   7. Any lighting shall be limited to inside the tent.

1       8. All events shall be conclude by 11 p.m.  
2       9. All necessary tent permits and other approvals  
3            required from the fire marshall shall be obtained  
4            prior to each event

5                    MS. MCKAY-DRURY: Second.

6                    MR. DiSTEFANO: The motion is to approve  
7            with conditions.

8                    (Mr. Premo, yes; Mr. D'Augustine,  
9                    yes; Chairperson Mietz, yes;  
10                  Ms. McKay-Drury, yes;  
11                  Ms. Tompkins-Wright, yes.)

12                  (AUpon roll motion to approve with conditions  
13                  carries.)

14                  MR. D'AUGUSTINE: I move to approve  
15            Application 10A-08-24 based on the following findings  
16            of fact.

17                  **Findings of Fact**

18        1. The requested variance will not produce an  
19           undesirable change in character of the neighborhood or  
20           a detriment to nearby properties. The garage  
21           extension will look identical in height and style to  
22           the current garage but only will extend an additional  
23           6 feet.  
24        2. Difficulty necessitating a variance can be solved  
25           in another manner not requiring a variance due to the

1 fact that the area behind the garage has rooms that  
2 house -- so that would prevent the applicant from  
3 expanding the garage to the rear. The existing garage  
4 has doors that are only 8 feet wide and the style of  
5 vehicles currently necessitate widening of those  
6 garage doors as well as a place to store outdoor  
7 equipment.

8 3. The requested area variance is not substantial as  
9 the extension of the garage will still be 12 feet from  
10 the side property line.

11 4. The variance is the minimum necessary given that  
12 they are only adding an additional 6 feet to  
13 accommodate the vehicles and the equipment.

14 5. The variance is consistent with surrounding  
15 properties so as not to have an adverse effect on or  
16 an impact on the physical or environmental conditions  
17 in the neighborhood due to the fact that the -- even  
18 with the addition, the garage is still well under the  
19 900 square feet allowed by town code.

20 6. The difficulty leading to the variance is not  
21 self-created due to the fact that when the home was  
22 originally built vehicles were much smaller,  
23 necessitating an increase in size to conform with  
24 current vehicle styles.

25 MR. D'AUGUSTINE: The following conditions

1 will apply.

2 **Conditions**

3 1. The applicant will obtain ARB approval.

4 2. The applicant will acquire all necessary building

5 permits.

6 3. The variance will only apply to the garage as

7 described in the application and in testimony given

8 and will not apply to any future construction.

9 MS. TOMPKINS-WRIGHT: Second.

10 MR. DiSTEFANO: Motion is to approve with

11 conditions.

12 (Ms. McKay-Drury, yes; Chairperson Mietz,

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

14 yes; Mr. D'Augustine, yes.)

15 (Upon roll motion to approve with conditions

16 carries.)

17 (Proceedings concluded at 8:31 p.m.)

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1 | **REPORTER CERTIFICATE**

2

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

11

12 | Dated this 1st day of November 2024

13 at Brighton, New York

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K. Bonney

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FORBES COURT REPORTING SERVICES, LLC  
(585) 343-8612