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BRIGHTON
ZONING BOARD OF APPEALS
MEETING

December 4, 2024
At approximately 7 p.m.
Empire State University
680 Westfall Road
Rochester, New York 14620

PRESENT:

DENNIS MIETZ
Chairperson

EDWARD PREMO)	Board Members
KATHLEEN SCHMITT)	
JUDY SCHWARTZ)	
HEATHER MCKAY-DRURY)	
MATTHEW D'AUGUSTINE)	

LAUREN BARON, ESQ.
Attorney for the Town

RICK DiSTEFANO
Secretary

ABSENT: ANDREA TOMPKINS-WRIGHT

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

1 CHAIRPERSON MIETZ: Good evening, everyone.
2 Welcome to the December meeting of the Zoning Board of
3 Appeals. So what I would like to do is just tell
4 you welcome to our new digs and also explain how the
5 meeting goes.

6 We only have three applications tonight, and
7 so it should go along pretty quickly. When your
8 application is called, if you could come up to the
9 podium. First give us your name and your address, or
10 business address, so we have an address. And then
11 your responsibility will be to explain why you feel
12 that your requests should be approved.

13 Once you're finished with your presentation,
14 then the board members will ask questions, if they
15 wish, to clarify something you've said. Most of us
16 have visited the location, so we may have a question
17 that you didn't cover in your presentation.

18 Once that is done, then we'll ask if there's
19 anybody in the audience that wants to speak regarding
20 the application. If they do, they come up, they
21 speak, sit down. Once they're finished, we close the
22 public hearing and move to the next application.

23 So with only three, I think we'll probably
24 cruise right through and finish them, unless the court
25 reporter needs a break.

1 You are welcome to sit and stay for the
2 deliberation. We don't have any more communication
3 with applicants, but you can hear the board members'
4 thoughts and how they developed them and how we
5 ultimately decide on the application.

6 So unless something is tabled, because it
7 requires more information, then we will make a
8 decision on each of your cases tonight. If you decide
9 not to stay for the deliberations, you can call Rick
10 DiStefano in the building office tomorrow, and he can
11 let you know what the result of the application was.
12 Okay?

13 So, Rick, was the meeting advertised?

14 MR. DiSTEFANO: Yes, Mr. Chairman. It was
15 advertised in the Daily Record of November 27, 2024.

16 CHAIRPERSON MIETZ: Okay. Can you call the
17 roll?

18 (Whereupon the roll was called.)

19 MR. DiSTEFANO: Please let the record show
20 that Ms. Tompkins-Wright is not present.

21 CHAIRPERSON MIETZ: Okay. Very good.

22 So is there anything you want to talk about
23 before we look at the minutes?

24 MR. DiSTEFANO: There are three
25 communications in your folder that came today and did

1 not make it onto the final agenda. So please take a
2 look at those.

3 CHAIRPERSON MIETZ: Okay.

4 MR. DiSTEFANO: Do the board members have
5 any questions regarding any of the applications?

6 CHAIRPERSON MIETZ: Okay. Very good.

7 So minutes, do we have them here? Does
8 anyone have any --

9 MR. D'AUGUSTINE: I don't know how this
10 happens, but I seem to be missing page 2.

11 CHAIRPERSON MIETZ: Okay. I don't know what
12 copy you have, Rick. Yeah, I don't have page 2
13 either.

14 MR. DiSTEFANO: All right. I'll check that
15 and verify the one that goes to the clerk's office.

16 CHAIRPERSON MIETZ: Okay. Does anyone have
17 any revisions or anything for the minutes? Any
18 corrections?

19 MR. PREMO: No.

20 CHAIRPERSON MIETZ: Judy wasn't here, so she
21 cannot copiously review it.

22 MS. SCHWARTZ: Sorry.

23 MR. D'AUGUSTINE: Motion to approve.

24 CHAIRPERSON MIETZ: Second, please.

25 MS. McKAY-DRURY: Second.

1 MR. DiSTEFANO: Motion is to approve the
2 October minutes.

3 (Mr. Premo, yes; Ms. Schwartz, abstain;
4 Mr. D'Augustine, yes; Mr. Mietz, yes;
5 Ms. McKay-Drury, yes; Ms. Schmitt, yes)
6 (Upon roll, motion to approve carries.)

7 CHAIRPERSON MIETZ: Okay. The first thing
8 we have tonight is an application that was held over
9 from last month for more information, and that's at
10 270 South Landing.

11 **Application 11A-01-24**

12 Application of Essie Spawn-Cox, owner of
13 property located at 270 South Landing Road, for an
14 area variance from Section 203-2.1B(3) to allow a
15 detached garage to be 1,000 square feet in size, after
16 construction of a 400-square-foot addition, in lieu of
17 the minimum 600 square feet allowed by code. All as
18 described on application and plans on file.

19 MS. SPAWN-COX: Good evening. My name is
20 Essie Spawn-Cox. Like he said, I'm the owner of 270
21 South Landing Road. I'm here to get the variance for
22 approval for my -- conditional for my pole barn.

23 I submitted new pictures. I've put a fence
24 up -- or a gate up so it wouldn't be so long or it
25 fits into the neighborhood. I painted the garage

1 door, I've also started painting my house, and I'm
2 looking to get the variance for daycare purpose and my
3 home purpose, as far as my equipment and toys and lawn
4 mowers and things. And that's all for my daycare.

5 CHAIRPERSON MIETZ: Okay.

6 MS. SPAWN-COX: I've also planted some --
7 along that side, there's flowers that's going to come
8 up, or shrubs that's going to come up.

9 MS. SCHWARTZ: One of the neighbors in the
10 letters mentioned planting arborvitae, which would
11 grow and cover -- on the side of the garage.

12 Are you interested in possibly doing
13 something like that to mitigate the size and view?

14 MS. SPAWN-COX: Not at this time. I do have
15 stuff that's going to come up there, but not the --
16 because you've got to maintain those things. If you
17 don't maintain them, they're going to get wild. And
18 I'm not a young chicken to keep -- trying to
19 maintain -- if I was younger, yes, I would do that,
20 but they call for maintenance.

21 CHAIRPERSON MIETZ: Okay. Any other
22 questions by the board members who drove over and saw
23 the changes and...

24 MR. PREMO: I take it the decision to -- I
25 mean, you kind of went ahead and did this mitigation

1 yourself. I mean, you didn't come to us with a
2 proposal. You just started doing it yourself.

3 MS. SPAWN-COX: I added on to what was
4 already approved, yes. I assumed, because I already
5 had the 600, it was in the back of my house, it
6 wouldn't be a big problem to add it on. And
7 afterwards I found out that I should have pulled a
8 permit for it.

9 MR. PREMO: I mean, the decision to put up
10 the gate and the decision to paint the house the
11 darker color was -- you kind of went ahead and did
12 that on your own.

13 MS. SPAWN-COX: I was told I didn't need
14 approval for that.

15 MR. PREMO: The issue, I guess, I have with
16 that is we're asking for you to come with mitigation
17 measures, and you went ahead and did something. Now
18 we're kind of, again, asked to approve that after the
19 fact and approve the larger building after the fact.
20 That's my concern.

21 MS. SPAWN-COX: When I came to Rick, he said
22 that I had to at least start the painting, and that's
23 what I did.

24 MR. DiSTEFANO: No, I have to disagree with
25 you on that one. We talked and I suggested that maybe

1 if you were to paint the barn the color of the house
2 maybe that would be a mitigation that the board would
3 look at.

4 You told me that you were going to side the
5 house and that -- when you got money, you were going
6 to side the house to match the color of the existing
7 garage.

8 MS. SPAWN-COX: I disagree with that.

9 MR. DiSTEFANO: Well, I'm sorry, but that is
10 exactly what was talked about.

11 MS. SPAWN-COX: I wish I had a tape
12 recorder.

13 MR. DiSTEFANO: So do I. So do I. No.
14 Excuse me. You told me you were going to side the
15 house, and you did not have enough money to do it at
16 the time. And I said, "Well, I don't know how that's
17 going to go over with the board."

18 MS. SPAWN-COX: Rick, are you sure I said
19 those words?

20 MR. DiSTEFANO: I am positive. I'm 100
21 positive. So please --

22 MS. SPAWN-COX: I said I was going to paint
23 the siding.

24 MR. DiSTEFANO: No, you did not say that.
25 You were going to side the house.

1 MS. SPAWN-COX: It's your words against my
2 words, you're right.

3 He said I was going to side it. But I
4 deeply know, honestly God said -- told him that I was
5 going to paint the house. I never said side. Never.

6 CHAIRPERSON MIETZ: Please understand Ed's
7 point. What he's saying is that -- at the last
8 meeting you heard the concerns, so we don't need to go
9 through them all again.

10 MS. SPAWN-COX: Correct.

11 CHAIRPERSON MIETZ: What we expected or
12 asked was what is your plan to make changes to this
13 property to make it address the concerns that the
14 neighborhood, ourselves have.

15 So you went and did some stuff. And you're
16 right, you don't need a permit to paint a garage door.
17 Okay? But the whole thing is, well, what is the
18 result of that and what has it done to address the
19 problems.

20 MS. SPAWN-COX: It makes the house fit
21 into -- the color of the house -- the house was blue
22 and the garage was gray. And one of my neighbors came
23 by and said, "Oh, we thought you was going to paint
24 the garage blue."

25 I said, "No. My intention was for next year

1 to paint the house the color of the garage, but
2 because it was a big concern for the neighbors, I went
3 ahead and did that." And I came to him before I did
4 that, you know.

5 CHAIRPERSON MIETZ: He can't stop you from
6 painting the house, and the town can't either.

7 MS. SPAWN-COX: Correct.

8 CHAIRPERSON MIETZ: But I think -- again --

9 MS. SPAWN-COX: But if he hadn't told me to
10 start it -- he said, "The board will not approve just
11 putting shrubs and stuff up. You have to at least
12 start it," and that's what I did.

13 CHAIRPERSON MIETZ: So obviously there was
14 some misunderstanding here, because you're both trying
15 to accomplish the same thing. Okay? But -- you know,
16 we'll have to discuss this further, but is there any
17 other questions for Ms. Cox?

18 MS. BARON: I just had one clarifying
19 question. You mentioned putting up a fence. Is the
20 fence that you're referring to -- if you're looking
21 at --

22 MS. SPAWN-COX: That wooden thing there.

23 MS. BARON: The wooden thing there.

24 MS. SPAWN-COX: Yes. The handles are not
25 just on yet, but it is a fence.

1 CHAIRPERSON MIETZ: All right. Any other
2 questions over here?

3 Judy?

4 MS. SCHWARTZ: No.

5 CHAIRPERSON MIETZ: Okay. Thanks.

6 MS. SPAWN-COX: Thank you.

7 MR. DiSTEFANO: Application 12 --

8 CHAIRPERSON MIETZ: I'm sorry. I didn't
9 close the public hearing yet. Please come up.

10 MR. DiSTEFANO: Sorry about that.

11 CHAIRPERSON MIETZ: Name and address.

12 MR. WINSLOW: Floyd Winslow, 316 Landing
13 Road South, and my wife, Sue, behind me.

14 CHAIRPERSON MIETZ: Thank you.

15 MR. WINSLOW: I'm going to read this because
16 it's a little simpler for me.

17 MR. DiSTEFANO: Just do it slowly because
18 you read faster than the stenographer can take it
19 down.

20 MR. WINSLOW: "To whom it may concern: We
21 have lived here for 42 years and through three owners
22 of the nursery school. Because the property was
23 allowed to remain a nursery school, the owners have
24 always respected the fact that they were part of a
25 residential neighborhood.

1 "Many of the houses in this neighborhood
2 have built additions, and we were all required to go
3 through the town zoning process. We demolished our
4 old house and built a new one, and as a result we went
5 through many months of town meetings.

6 "We changed what we were asked to do in
7 order to adhere to the Brighton zoning laws. Our fear
8 is that if one household is allowed to do what they
9 want, then others will feel compelled to do the same.

10 "People who move to Brighton, Pittsford pay
11 more for their homes and pay higher taxes, and the
12 zoning laws exist to protect those substantial
13 investments.

14 "While we understand and appreciate the need
15 for safety, the floodlights all around the property
16 remain on all night and are intrusive. Perhaps
17 security cameras and one or two motion-activated
18 lights would be more appropriate for this neighborhood
19 setting.

20 "Adhering to the Brighton zoning laws and
21 removing or replacing floodlights could be an
22 important step in continuing the positive relationship
23 with those who live nearby. It shows consideration
24 for the peace and privacy of the neighbors, making the
25 neighborhood feel more respectful and cohesive.

1 Sincerely, Floyd Winslow."

2 CHAIRPERSON MIETZ: Thank you very much.

3 Is there anyone else in the audience who
4 would like to speak regarding this application?

5 Okay. Then the public hearing is closed.

6 MS. SCHMITT: Can I ask the homeowner one
7 more question?

8 CHAIRPERSON MIETZ: Yes. Go ahead.

9 MS. SCHMITT: Ma'am, I'm sorry to call you
10 back up.

11 MS. SPAWN-COX: That's all right.

12 MS. SCHMITT: If there was a neighbor who
13 wrote something that said that the pole barn was
14 framed the full thousand square feet from the
15 beginning of the construction --

16 MS. SPAWN-COX: That is not true.

17 MS. SCHMITT: I recall you saying that it
18 was 600 feet.

19 MS. SPAWN-COX: And then the 400 came in
20 August.

21 MR. DiSTEFANO: Yes, and I will vouch for
22 that. The original permit was 600 square feet. The
23 building inspector went out there to close out the
24 permit, and that's when he noted there was an
25 additional 400 square feet added on to that. So the

1 neighbors are not correct in their take on it.

2 CHAIRPERSON MIETZ: Are you all set?

3 MS. SCHMITT: Yes.

4 CHAIRPERSON MIETZ: The public hearing is
5 closed.

6 **Application 12A-01-24**

7 Application of Jerry Goldman, agent, and
8 TIUNY Holdings, Inc., owner of property located at
9 1666 Winton Road South for renewal of approved
10 variances (3A-03-24) pursuant to Section 219-5F
11 allowing for accessory uses to be located in front and
12 side yards where not allowed by code. All as
13 described on application and plans on file.

14 MR. GOLDMAN: Good evening, Mr. Chairman and
15 Members of the Board. My name is Jerry Goldman. I'm
16 the attorney and agent for the Talmudical Institute of
17 Upstate New York and TIUNY Holdings, the property
18 owner at 1666 South Winton Road.

19 We were before the board less than a year
20 ago to obtain variances to allow us to place the
21 basketball court and the pool in an area which made
22 sense and which was part of our overall site plan,
23 which was approved by the planning board.

24 As is set forth in our letter, which we had
25 sent in along with this application, there have been a

1 number of considerations. We have specialty materials
2 that we're ordering for the school. We have to
3 coordinate with the school calendar. We're working
4 out details with our construction and design team.
5 And perhaps most importantly, we have a bit of a
6 volatile financial environment, which has caused us to
7 rebudget and retool relative to our plans for the
8 site.

9 Given that, we will not be able to conform
10 with commencement and substantial construction within
11 a year of the time of the original variance, and we're
12 asking for an extension pursuant to the code.

13 We're concurrently asking for an extension,
14 as you can tell from the letter of November 8th, from
15 the planning board as well. That approval was granted
16 just before the zoning board application was granted.

17 So with that, it's -- there are no formal
18 standards which go along with the request, but we are
19 requesting an extension of that approval for a
20 one-year period.

21 CHAIRPERSON MIETZ: Okay.

22 MS. MCKAY-DRURY: Are there any further
23 delays expected? Has financing been secured now?

24 MR. GOLDMAN: We're still working through
25 it. We're still working through budgetary

1 considerations, trying to deal with our specialty
2 materials. We also have to coordinate with the school
3 calendar as well.

4 The intention of a school of this nature
5 would be to try to get to a point where we're working
6 in conjunction with the school calendar. We would
7 like to be able to be residentially ready in August
8 for a school year starting in September. That may or
9 may not happen, you know, but the construction period
10 will probably -- full construction period will be
11 probably roughly a year.

12 CHAIRPERSON MIETZ: That's for what, Jerry?
13 The whole entire project?

14 MR. GOLDMAN: Yes, the entire project.

15 CHAIRPERSON MIETZ: The addition, the
16 remodeling, the site work, all of it?

17 MR. GOLDMAN: Everything. Right now there's
18 about a 50,000-square-foot building, which is the
19 former Brookside School. There's supposed to be a
20 50,000 -- roughly 50,000-square-foot addition.
21 There's a retooling of space within the school itself
22 and everything else, and it's designed to be a
23 one-phase project.

24 CHAIRPERSON MIETZ: Okay. So sequentially,
25 then. I mean, I understand you don't have the plans.

1 How is this project going to be attacked? Are you
2 going to do site work and then simultaneously remodel
3 the Brookside School, and then -- obviously there's
4 the construction of the additional dormitory space or
5 whatnot.

6 MR. GOLDMAN: Right. We'll be doing that
7 concurrently. One of the priority items will be the
8 fact that -- the Brighton Parks and Recreation
9 Department occupies a fair amount of the school, and
10 the intention is to get that all squared away at the
11 earliest stage.

12 They're going to be relocated to the
13 northwest corner -- the north corner, if you will, and
14 have accessibility to a parking lot that's directly
15 for them.

16 One thing to be noted is that, even though
17 the school used to have an Idlewood address,
18 everything is oriented to South Winton, except for a
19 daycare, which is -- which still has accessibility to
20 Idlewood.

21 Everything is required to come out South
22 Winton, and we will do that. And because of the fact
23 that we have primary entrance, you know, we have to be
24 careful with construction staging.

25 CHAIRPERSON MIETZ: And construction

1 vehicles, et cetera.

2 MR. GOLDMAN: Yep.

3 CHAIRPERSON MIETZ: Are there modifications
4 to the bridge? I can't really tell on this minute
5 plan. Is the bridge being widened or is it --

6 MR. GOLDMAN: It's going to remain the same.
7 We had a structural stability study very early on to
8 determine whether in fact it works.

9 CHAIRPERSON MIETZ: But it was all in the
10 planning board --

11 MR. GOLDMAN: Yes, it was all part of the
12 planning board review process.

13 CHAIRPERSON MIETZ: So it's basically going
14 to remain as it is?

15 MR. GOLDMAN: Correct.

16 CHAIRPERSON MIETZ: Because it's obviously
17 going to be the construction entrance too.

18 MR. GOLDMAN: Yes.

19 CHAIRPERSON MIETZ: Very good.

20 MS. SCHWARTZ: I'm not so concerned about --
21 well, I am concerned about structural for the bridge,
22 but do you really feel that that size is going to be
23 able to accommodate traffic in and out, deliveries,
24 all that sort of thing, which it doesn't have that
25 kind of volume now?

1 MR. GOLDMAN: Yes. As a practical matter,
2 because it's a residential school, it's not going to
3 have as much traffic as it would otherwise have. So
4 our people feel very comfortable that that access is
5 sufficient, as does the planning board.

6 MS. SCHWARTZ: The second question I have
7 is, do you feel that the year is going to be enough?

8 MR. GOLDMAN: That's our intention. Unlike
9 the planning board, which says that at the end of the
10 second year we would have to reapply and start all
11 over again, the zoning board language says that we
12 could come back. But our intention is to try to get
13 this rolling very soon and to start construction,
14 yeah, this year.

15 CHAIRPERSON MIETZ: Last -- well, maybe the
16 last question. Where do you stand on the building
17 permit side of this?

18 MR. GOLDMAN: We have -- well, the site
19 plans have been approved. The project engineer, I
20 believe, is still in the process of getting signatures
21 on the plans at this point. I do not believe that a
22 formal -- well, obviously if we don't have those
23 signatures, we cannot make a formal application for a
24 building permit.

25 CHAIRPERSON MIETZ: Right.

1 MR. GOLDMAN: But again, because of the
2 considerations that we have for the religious elements
3 of this, there may be some interior moving around. So
4 we're in the final stages, hopefully, of getting that
5 done.

6 CHAIRPERSON MIETZ: So really no
7 construction drawing, meaning site work, anything
8 having been done, other than supporting the plan
9 itself?

10 MR. GOLDMAN: I think construction drawings,
11 certainly, as far as the site work, are fully
12 completed at this point.

13 CHAIRPERSON MIETZ: You haven't submitted
14 them yet?

15 MR. GOLDMAN: Yes.

16 CHAIRPERSON MIETZ: We're just trying to get
17 a gauge. The size of the project and the timing here,
18 it's ambitious to do this.

19 MR. GOLDMAN: Yes.

20 CHAIRPERSON MIETZ: Very good.

21 MR. PREMO: I just had a question maybe for
22 town counsel.

23 It's my understanding, if they commence the
24 construction, then the variance stays in place. They
25 don't have to finish the project.

1 MS. BARON: Exactly.

2 MR. PREMO: They just have to commence --

3 MS. BARON: The condition is unless
4 construction is commenced and diligently
5 pursued within one year.

6 MR. DiSTEFANO: They have to not only pull
7 the permit but also commence construction.

8 Now, a question becomes, if they don't pull
9 a building permit but pull possibly a grading permit
10 and start actual site work, does that mean that they
11 have diligently pursued the project?

12 You know, that's kind of a gray area, at
13 which point we would discuss it and figure out the
14 proper course of action for that.

15 MR. GOLDMAN: And it is kind of unusual that
16 the extension provisions for the planning board are
17 different than the extension provisions for the zoning
18 board. That's why I brought this with me, to take a
19 look at exactly what the words were.

20 MR. PREMO: You should probably talk to the
21 counsel who wrote the development regulations.

22 MR. GOLDMAN: Could be, yes.

23 MR. PREMO: See what he says.

24 MR. GOLDMAN: Sometimes we consult.

25 CHAIRPERSON MIETZ: Okay. Very good. I

1 think we get it. Thanks, Jerry.

2 Is there anyone in the audience that would
3 like to speak regarding this application?

4 Okay. There being none, the public hearing
5 is closed.

6 **Application 12A-02-24**

7 Application of Paul Morabito, agent, and
8 Reginald Greene, owner of property located at 150
9 Hollyvale Drive, for an area variance from Section
10 205-2 to allow a building addition to extend 8 inches
11 into the existing 10.8 foot side setback where a 13.8
12 foot side setback is required by code. All as
13 described on application and plans on file.

14 MR. MORABITO: I'm Paul Morabito. I am the
15 architect of record for this project.

16 The owner would like to construct a
17 528-square-foot addition, and get a full bedroom and
18 bath on his first floor and generate some dining
19 space.

20 Currently there is an enclosed porch that
21 sits 10.2 off of the side of the setback. That needs
22 to be demoed. And so once that is demoed, that goes
23 away. The side setback of the house, I think it's the
24 northwest rear corner, is 10.8. So that would become
25 our new side setback.

1 So what we're asking for, in order to keep
2 the modest width of 22 feet, it would be divided in
3 half into dining space and bedroom space, which
4 equates to 10-foot-4-ish paint-to-paint numbers inside
5 once it's built, is if we can maintain that 10.2 side
6 setback, which is currently what the enclosed porch --
7 where it sits currently.

8 We got a letter from the neighbor next door,
9 who's perfectly fine with it. That should be part of
10 your packet. I'm sure you've looked at everything,
11 but the property next door has probably an 80-foot
12 side setback.

13 We're not really pinching into anybody, just
14 hoping to be able to get that extra few inches there
15 to make it a little bit more livable.

16 CHAIRPERSON MIETZ: Okay. Questions?

17 Did you look at any other alternatives that
18 would have made the situation a little bit better from
19 a variance perspective? I mean, did you -- obviously
20 you didn't select them, but did you look at them?

21 MR. MORABITO: Everything, yeah. We have a
22 kitchen window, which brings in -- if we move that
23 window, then we're moving sinks and cupboard -- I
24 mean, it's a slippery slope with the budget --
25 budgetary things.

1 They did want to build it right to the
2 corner of the house, which then would have put us less
3 than what the current enclosed porch was, which I
4 thought it might not work. But maybe if we could at
5 least ask to maintain what was there and the neighbors
6 are okay, I think that could fly.

7 CHAIRPERSON MIETZ: Okay.

8 MR. MORABITO: We kept it at 22 instead of
9 the 23, which was the desired number really.

10 CHAIRPERSON MIETZ: And this will meet their
11 needs?

12 MR. MORABITO: Yes.

13 CHAIRPERSON MIETZ: Reluctantly.

14 MR. MORABITO: They would have loved 6 more
15 inches in each room. Once you get down to 10.4, that
16 6 inches you could feel. But I thought that we might
17 spin our wheels here trying -- we're already
18 preexisting --

19 CHAIRPERSON MIETZ: Encroaching, of course,
20 yeah.

21 MR. MORABITO: If we could maintain that
22 10.2, that would be appreciated it.

23 CHAIRPERSON MIETZ: Matt, do you have any
24 questions?

25 MR. D'AUGUSTINE: No.

1 CHAIRPERSON MIETZ: Okay. Thank you very
2 much.

3 MR. MORABITO: Thank you.

4 CHAIRPERSON MIETZ: Is there anyone in the
5 audience that would like to speak regarding this?

6 Okay. There being none, the public hearing
7 is closed.

8 (The public hearings concluded at 8:27 p.m.)

9 (Beginning of deliberations.)

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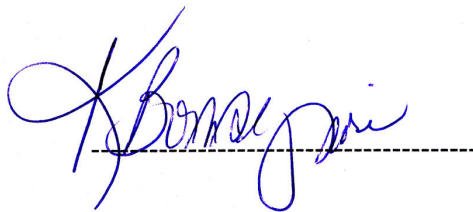
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1 REPORTER CERTIFICATE

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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
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13 Dated this 31st day of December 2024
14 at Brighton, New York
15
16
17



21 KIMBERLY A. BONSIGNORE
22 Court Reporter and
23 Notary Public No. 01B06032396
24 in and for Monroe County, New York
25

BRIGHTON
ZONING BOARD OF APPEALS
DELIBERATIONS AND DECISIONS

December 4, 2024
At approximately 7 p.m.
Empire State University
680 Westfall Road
Rochester, New York 14620

PRESENT:

DENNIS MIETZ
Chairperson

EDWARD PREMO)	Board Members
KATHLEEN SCHMITT)	
JUDY SCHWARTZ)	
HEATHER MCKAY-DRURY)	
MATTHEW D'AUGUSTINE)	

LAUREN BARON, ESQ.
Attorney for the Town

RICK DiSTEFANO
Secretary

ABSENT: ANDREA TOMPKINS-WRIGHT

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

1 CHAIRPERSON MIETZ: All right. Here we go.

2 MR. DiSTEFANO: Do you want to go into that
3 first and then discuss the calendar for next year,
4 or --

5 CHAIRPERSON MIETZ: We can discuss the
6 calendar first, if you would like.

7 MR. DiSTEFANO: You guys did get it. I did
8 send an email out earlier because originally it showed
9 a January 8th meeting date for the zoning board. But
10 because January 8th is a town board meeting night, we
11 really only had two choices, either January 2nd or the
12 Monday -- whatever the next following Monday would be.

13 I know it's a little tight around the 1st,
14 but I thought January 2nd would work the best for us.
15 I know Ed had somewhat of a problem with it, but I
16 didn't hear any issues from anybody else. So I
17 figured we would, at a minimum, have a quorum for it.
18 January 2nd. And it's a Thursday, January 2nd.

19 And then our one other change would be the
20 October meeting. October 1st would be the meeting
21 date. That falls on a Jewish holiday, so we moved it
22 to September 30th. Tuesday, September 30th. So, in
23 essence, we'll have two meetings in September, but the
24 September 30th meeting will be the October --

25 CHAIRPERSON MIETZ: That's okay for your

1 deadlines and your paperwork and --

2 MR. DiSTEFANO: Yes.

3 MS. SCHWARTZ: Can I look quickly on my
4 calendar? The rabbi is here and Jerry is here.

5 Is the holiday the 30th?

6 MR. DiSTEFANO: It's not -- it starts on
7 sundown on the 1st.

8 MS. SCHWARTZ: On the 1st.

9 MR. DiSTEFANO: Yes. We're good. We've
10 learned our lesson many times, trust me. After 33
11 years, I know how it works.

12 MS. SCHWARTZ: Thank you.

13 MR. DiSTEFANO: Everything else stays the
14 same for the board, except for those two meetings.

15 Okay. Everybody is good with that?

16 CHAIRPERSON MIETZ: Yes.

17 MR. DiSTEFANO: And you should have this
18 (indicating). If you don't have this, let me know,
19 because you didn't get the email that had this
20 attached to it.

21 CHAIRPERSON MIETZ: All right. We're all
22 set. Let's go.

23 Why don't we do this. Because it will take
24 a little longer, I think, on the application for
25 Landing, why don't we see if we can't look at

1 Mr. Goldman's application. The other one, the people
2 have left.

3 So let's just start with 12A-01.

4 MS. MCKAY-DRURY: I move to approve
5 Application 12A-01-24 of Jerry Goldman, agent, and
6 TIUNY Holdings, Inc., owners of the property located
7 at 1666 Winton Road South for renewal of approved
8 variances pursuant to Section 219-5(F) allowing
9 accessory uses to be located in front and side yards
10 where not allowed by code. All as described on
11 application and plans on file based on the following
12 findings of fact.

13 **Findings of Fact**

14 1. As noted in this board's original approval of
15 Application 3A-03-24, the planning board of the Town
16 of Brighton is the duly designated lead agency
17 pursuant to SEQR and issued a negative declaration of
18 environmental significance for the Talmudical
19 Institute project on February 21, 2024.

20 2. The facts stated in the original approval for
21 these variances remain unchanged.

22 3. The variances are not substantial and are the
23 minimum variances necessary given that the basketball
24 court and swimming pool are consistent with the use of
25 the property for a residential religious secondary

1 school, and the unique shape of the lot and existing
2 buildings prevents location of these amenities
3 elsewhere on the property.

4 4. Given the large size of the lot and the shielding
5 of the pool and basketball court area by existing and
6 expanded buildings, no unacceptable change or
7 substantial adverse impact is expected on the
8 neighborhood and neighboring properties, and there is
9 no evidence that the health, safety, or welfare of the
10 community will be adversely affected.

11 5. The delay in construction commencement is due in
12 part to difficulties in obtaining specialty materials
13 for the religious school, coordination of the school
14 calendar, and financial considerations. In light of
15 these, a one-year extension is not unreasonable.

16 MS. MCKAY-DRURY: This approval is subject
17 to the following conditions.

18 **Conditions**

19 1. The variances are based on the application
20 materials submitted and the testimony given and only
21 authorize the project described therein.

22 2. The applicant must obtain all building permits and
23 approvals from the Monroe County Department of Health.

24 MR. DiSTEFANO: Can you say that last one
25 again? I just want to make sure.

1 MS. McKAY-DRURY: Yes. Number 2 says
2 "Applicant must obtain all building permits and
3 approvals from the Monroe County Department of
4 Health."

5 MR. DiSTEFANO: It sounds like it's --

6 MR. PREMO: I think it was for the swimming
7 pool. Say comply with --

8 MS. McKAY-DRURY: Should I just say "all
9 necessary building permits and approvals shall be
10 obtained"?

11 MR. DiSTEFANO: Yes, because it almost
12 sounds like the building permit has got to come from
13 Monroe County.

14 MS. McKAY-DRURY: All necessary building
15 permits and approvals shall be obtained.

16 MS. BARON: I also just want to clarify for
17 the record that this extension is running from this
18 meeting to next --

19 MR. DiSTEFANO: No.

20 MS. BARON: Is it December or is it running
21 from March --

22 MR. DiSTEFANO: It's running from the
23 date -- so it will expire two years of the date that
24 they got the original approval.

25 MS. BARON: Okay. I wanted to clarify that.

1 CHAIRPERSON MIETZ: Do I have a second?

2 MR. D'AUGUSTINE: Second.

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

5 (Ms. Schmitt, yes; Mr. Mietz, yes;
6 Ms. Schwartz, yes; Mr. Premo, yes;
7 Mr. D'Augustine, yes; Ms. McKay-Drury, yes)
8 (Upon roll, motion to approve with
9 conditions carries.)

10 CHAIRPERSON MIETZ: Let's talk about Landing
11 Road.

12 I move we table Application 11A-01-24 and
13 keep the public hearing open for the following
14 information.

15 **Following Information**

16 1. A mitigation plan by a qualified professional
17 which will minimize the visual impact of the garage
18 structure.

19 MS. MCKAY-DRURY: Second.

20 MR. DiSTEFANO: The motion is to table and
21 leave the public hearing open.

22 (Mr. Premo, yes; Ms. Schwartz, yes;
23 Mr. Mietz, yes; Mr. D'Augustine, yes;
24 Ms. Schmitt, yes; Ms. McKay-Drury, yes)
25 (Upon roll, motion to table and keep the

1 public hearing open carries.)

2 MR. D'AUGUSTINE: I move to approve
3 Application 12A-02-24 based on the following findings
4 of fact.

5 **Findings of Fact**

6 1. The requested variance will not produce an
7 undesirable change in the character of the
8 neighborhood or a detriment to nearby properties given
9 that the new addition will be in a similar spot to the
10 preexisting three-season room.

11 2. The benefits sought by the applicant cannot be
12 achieved by another method due to the fact that other
13 locations would require a rearranging of the kitchen,
14 which would be expensive and impractical.

15 3. The requested area variance is not substantial
16 given that the new addition will be in a similar
17 location to the current three-season room.

18 4. The requested variance is the minimum necessary,
19 because the size of the proposed addition is the
20 smallest that it can be while still being useful.

21 5. The proposed variance is consistent with
22 surrounding properties due to the fact that the
23 addition will match the existing building and also the
24 surrounding homes of the neighborhood.

25 6. The difficulty that led to the variance was not

1 self-created given that the house is currently in a
2 previously non-conforming structure.

3 **Conditions**

4 1. Applicant will acquire all necessary building
5 permits.

6 2. The variance will apply only to the building
7 addition as described in testimony and presented
8 in and written in the application given.

9 MS. SCHMITT: Second.

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

12 (Ms. McKay-Drury, yes; Mr. Mietz, yes;
13 Ms. Schwartz, yes; Mr. Premo, yes;
14 Ms. Schmitt, yes; Mr. D'Augustine, yes)
15 (Upon roll, motion to approve with
16 conditions carries.)

17 (TIME: 8:06 p.m.)

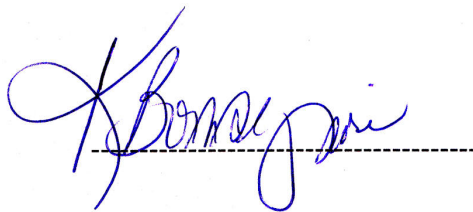
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