

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on September
3rd, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

September 3rd, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ
DENNIS MIETZ
DR. DAVID LAWRENCE
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

Reported by: CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

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2 MR. CHOLETTE: I would like to now call to
3 order the September session of the Brighton Zoning
4 Board of Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Brighton Pittsford Post of August 28,
8 2014.

9 MR. CHOLETTE: Thank you.

10 Will you please call the roll?

11 MR. DiSTEFANO: Please let the record show
12 all members are present.

13 MR. CHOLETTE: Thank you.

14 We have the minutes from our August meeting.

15 Are there any additions or corrections?

16 Christine?

17 MS. CORRADO: I do have a few small
18 corrections.

19 On page 25, line 23, I believe cabinet should
20 be Cabot, C-a-b-o-t.

21 On page 31, line 2, planed should be planned.

22 Page 58, line 10, it's does not need the
23 apostrophe.

24 And page 148, line 5, potico should be
25 portico.

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That's all.

MR. CHOLETTE: Fine. Thank you.

Are there any other additions or corrections?
Morrey?

MR. GOLDMAN: Page 139, line 15, the word by
should be removed. It should read up prior.

MR. CHOLETTE: Anything else?

MS. BAKER LEIT: I just have a couple.

MR. CHOLETTE: Sure.

MS. BAKER LEIT: On page 32, line 24, insert
the word at, I live at 44 Delaware Avenue.

Page 44, line 16, phonetic, it's
p-h-o-n-e-t-i-c.

Page 59, line 11, just the word - instead of
an issue, a new issue.

MR. CHOLETTE: Fine. Thank you.

Anything else?

May I have a motion to approve the minutes as
amended?

(Motion made by Dr. Lawrence to approve the
amended September minutes.)

(Seconded by Ms. Baker Leit.)

(Upon roll call, motion to approve the August
amended minutes carries.)

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2 MR. CHOLETTE: We will move into the agenda
3 then.

4 Rick, will you read the first application
5 please?

6 8A-05-14 Application of Anthony J. Costello and Son
7 Development, LLC, owner of property off of South
8 Clinton Avenue, known as "The Reserve" housing
9 community, for renewal of a Temporary and Revocable Use
10 Permit (8A-09-12) pursuant to Section 219-4 to
11 allow for eight temporary site/development signs
12 (original approval allowed for four signs) for a two
13 year period where only one sign is allowed by code. All
14 as described on application and plans on file.

15 POSTPONED FROM THE AUGUST 6, 2014 MEETING

16 MS. BRUGG: Thank you very much, Mr.
17 Chairman, members of the Board. For the record, my
18 name is Betsy Brugg and I'm an attorney with the firm
19 Woods Oviatt Gilman.

20 I'm here tonight with Todd Grady from the
21 Castello Group and we're here on a continuation of an
22 application that was filed because of the expiration of
23 the previous temporary sign permit. We are requesting
24 a new and updated sign permit. So if you just bear
25 with me, I have got a fair amount of information. We

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2 adjourned so that I could gather some information to
3 bring to you. We're going to try to go through that --
4 and this podium isn't big enough so I'm going to grab a
5 chair here.

6 So right now we are putting up a plan of the
7 reserves. I'm going to pass out a reduced size because
8 I have them and I think it is helpful because I think
9 this is a very unique project, one that you don't see
10 every day. It's a sixty-three acre site, a hundred and
11 eighteen million dollar project. And honestly the code
12 doesn't contemplate signage for the this type of a
13 project - the size of the project. The town hasn't
14 seen anything quite like this before. So I think we
15 need to step back to understand the context of the
16 signage. You need to understand what our project is
17 about and what it is like and what we're dealing with.

18 So we have some signage up there. It's
19 construction related signage. It's advertising related
20 signage. It's up there so that people know this
21 project is alive and moving forward. The permit has
22 been renewed. And in all honesty, the likelihood is
23 the signage needs will change again in the
24 not-so-distant future as different units get built and
25 as different interest in the project develops, as

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2 there's more activity, as the needs for marketing the
3 project change.

4 So what was last approved was the larger sign
5 that's out front over on South Clinton(indicating), a
6 sign that you can see on the 590
7 expressway(indicating), a sign on the
8 canal(indicating). And I think what you have to step
9 back and look at is we have over twenty-two hundred
10 linear feet of frontage on 590. This is a sixty-three
11 acre site(indicating). The only actual -- I guess if
12 you want to say something is a local street, the most
13 local street frontage - and I wouldn't even call it
14 local - is South Clinton Avenue. And there is a
15 hundred and fifty feet of frontage with a thousand feet
16 of driveway(indicating), which for most people right
17 now it looks like the driveway into nowhere. Most
18 people just kind of see this tower area(indicating).
19 And unless you are one of those people that stays on
20 top of what's going on in town you may not even know
21 what's going on here. And most of the traffic over
22 here(indicating), again, it's the interstate, people do
23 see the signage. It's really targeted towards - it's
24 not local traffic it's being targeted by.

25 And then we also have two thousand one

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2 hundred and fifty feet of frontage from this point over
3 here along the canal(indicating). I haven't been on
4 the canal lately, but I don't think that there's huge
5 volumes of boat traffic. But there is some traffic
6 over here(indicating). So there is some visibility, so
7 we have to take advantage of that.

8 Back here is Meridian Centre
9 Park(indicating). And then we move in this direction
10 (indicating) and we've got the Jewish Home, the Summit
11 and the activity on Winton Road.

12 And I think that this drawing(indicating) is
13 also very helpful. This I think is taken from Google
14 Maps. It's not the current, but it does show some
15 element of construction. I'm not sure when it was
16 taken. I just went on my computer like anybody else
17 would do to find it, not too long ago. Here's a few of
18 those. I think it's significant to this -- they're
19 kind of sticking together -- is the size of the
20 project.

21 This development site is - if you eyeball
22 this and you look at the area that I marked off with
23 the black marker that lines up basically right
24 here(indicating). If you look at this photo it's going
25 to follow this line right here(indicating) and this

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2 line over here in the driveway(indicating). This site,
3 three hundred and twenty-seven homes are going to be
4 built here. They are just getting started.

5 And we have a little remote driveway that
6 unless you're from the Town of Brighton or maybe from
7 Henrietta you may not know how to find this driveway.
8 There's no major monuments. You've got the
9 overpass(indicating), you've got this little
10 tower(indicating), so you can't really see in. And
11 back here(indicating) you've got the park and then if
12 you look over at Winton(indicating) I would say that
13 the Jewish Home, the Summit and the Meridian Centre
14 Office Park together are about the same size as this
15 site.

16 So this is a huge development. This is a
17 huge investment - a hundred and eighteen million dollar
18 project for my client - but it is also hugely valuable
19 to the Town of Brighton. The Town of Brighton is the
20 stakeholder in the success of this project. I don't
21 think that anybody can deny that. It's been a
22 partnership for years leading to this point and this is
23 a five to seven year build-out. So this is going
24 forward as a continued partnership.

25 So we're hopeful that given the magnitude and

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2 the size of the project that the Board can appreciate
3 how unique it is and how important it is to be able to
4 market this project properly. We don't have -- this
5 isn't the kind of site where somebody drives by and
6 sees houses built from South Clinton Avenue, where I as
7 a local driver would expect to see something going on.
8 This isn't like your typical development site where you
9 could see what is going on. And right now you can't
10 see a whole lot from 590. There is some work going on,
11 but this is a work in progress and it's going to be
12 quite some time until people outside of the development
13 site see what's going on.

14 If you drive in you will definitely see
15 activity, there's lots of activity. But you have to
16 really make the effort to go up the driveway - a
17 thousand feet of dark driveway to find the site.

18 So it's important that we be successful. And
19 I think that everybody understands the need to have
20 marketing signage for any type of real estate, but when
21 you're talking about something of this size with this
22 stretch of vacant land on the expressway, on the canal,
23 something that you can't readily see from any local
24 street - and certainly there are no residents, if you
25 look at the aerial there's not a resident nearby who's

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2 gonna see these signs from their front yards or riding
3 the bicycle or whatever. So we're asking for I think a
4 relatively modest sign package for a project of this
5 magnitude.

6 More importantly there's been some changes
7 since the last permit was granted. Since the last
8 permit was granted we have actually started to have
9 some homeowners buy homes and move in. At the current
10 time there are only four homeowners living in the
11 development. But as you can see from these pin
12 cushions, the yellow(indicating) is showing either
13 where people are living or where homes are already
14 planned to be built, they're either sold or are under
15 contract. So we've got about twenty residents. Those
16 folks are very anxious to maintain the existing signage
17 and also to have the homes in the development to
18 continue to be sold and built.

19 Part of the benefit of signage something is
20 something that I hadn't thought about until we
21 approached on the -- I'm going to hand out some
22 letters of support from several of the homeowners, a
23 couple of whom have been longtime Brighton residents
24 who just relocated to the reserve. But these folks are
25 not easily found by GPS. They're not easily found by

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2 their visitors from other areas who don't know where
3 the development is. They aren't found by the pizza guy
4 who has to deliver. They're not found by emergency
5 services easily. So these folks - we have four letters
6 of support from four homeowners, one of whom - I was
7 over there looking today - is building over a million
8 dollar house. As you all know there's not a lot of
9 developable land to build that type of house in the
10 Town of Brighton and it looks like it's going to be
11 magnificent. But these folks do not want to be
12 forgotten and out in the cold to fend for themselves.
13 They want people to be able to find them and they also
14 want to feel safe.

15 So part of the benefit of signage -- and what
16 we've added this time around is some feathers which are
17 kind of a small, you know, kind of flag-type signs and
18 A-Frame signs. Part of the benefit of those is because
19 they are not permanent installation, the fact that
20 people put them out everyday and take them in shows a
21 sign of life, shows there's activity there, shows
22 there's something going on inviting you to come in and
23 checkout the property.

24 So there is one -- I'm giving you four.

25 Is that from the Israels(phonetic) that I

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just gave you?

MR. CHOLETTE: Yes.

MS. BRUGG: This one here is from the Greenbergs.

Did I give you two?

MR. MIETZ: I have a few more here.

MS. BRUGG: You've got a few more. I probably made too many copies in the copier.

So there's also been some issues - there's been at least one that I know about - with security. There's been some concerns with security in the development. Obviously when property looks like there's nothing going on, it looks like it's vacant or looks like an opportunity, that's when you get the kids hanging out to smoke or you get the people that want to break in to the model homes and steal all of the beautiful furnishings and, you know, get in there to party and you get people who are potentially looking at breaking into the homes of the few residents that are there because they don't have any neighbors to look out for them.

So security has been, you know, a significant concern. There has been definitely at least one call to 911 that I'm aware of. The property is regularly

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2 monitored. The Costello Group does have security
3 driving the property to make sure that residents feel
4 safe and obviously keeping an eye on the homes as more
5 and more model homes go up. So that's another reason
6 for the signage, more importantly that there be a sign
7 of life, that there be, kind of, these feathers added
8 and the A-Frame.

9 And I know that those types of signs are not
10 always looked upon favorably. I have a couple of
11 examples, but hopefully you are aware that actually
12 they are all over town and you do find them. So I
13 don't have lots of copies, but there's at least a
14 couple of these flags out there on French Road, but
15 they are all over. So I don't think that we're asking
16 for anything that's inconsistent with what you would
17 find -- there's a couple from French Road(indicating)
18 and --

19 Well, I'm just going to give you
20 this(indicating). If you're familiar with where the
21 towers are, there's also a little radio station
22 building that the Costellos have no control over. I
23 mean, they had some nasty vandalism there recently.
24 These are photos of the vandalism on the radio -- it's
25 not attractive. But they had an issue, you know,

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2 finding kids hanging out near the clubhouse that's
3 under construction, which I believe is a seven or eight
4 million dollar building that is being built currently.

5 Again, that's kind of why I said as the
6 project unfolds and develops, you know, signage needs
7 are going to change. When the clubhouse is built maybe
8 they're going to need to, you know, change the approach
9 or need something different - certainly we would be
10 coming back to the Board.

11 The main sign at the entrance of South
12 Clinton is extremely important to the residents because
13 that it the way that people find them. We want to have
14 it illuminated and I know that was an issue in the past
15 with the Board. The neighbors desperately want it lit.
16 They want people to know that there are people living
17 there. They want people to find them. They don't want
18 anyone to drive by and come sneaking up the road at
19 night. And I think it gives them a sense of security
20 and it also gives a sign of life in the project.

21 At some point there will probably be a
22 proposal for a permanent, you know, an attractive
23 beautiful permanent sign. That cannot happen yet
24 because there has been work in the right-of-way and the
25 water main work is not completed at this point. So

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2 until the conditions are such that you can go ahead and
3 install a permanent sign, that it just can't happen
4 right now. So at some point in the near future that
5 probably will, you know, be proposed. And at that
6 point we would have, you know, an attractive design,
7 something in the form of a permanent monument, maybe
8 with a water feature or something like that. At this
9 point we don't have that for you.

10 So what we're asking is to basically maintain
11 the existing signs that are there. We would like to be
12 able to have these little temporary things that show
13 that there's activity, that are inviting people to come
14 on to the property, that show that the project is not
15 stagnant. It has gotten, you know, a bit of a slow
16 start. There are only the four residents there now.
17 There are a lot of hopes to -- we'll have homes under
18 construction soon. Out of three hundred and
19 twenty-seven I think a relatively small number, but we
20 would really like a little help getting the thing
21 moving and making sure we can market this property.

22 I would say -- this morning I stopped over
23 there and I probably have been there maybe twice in
24 total myself. I stopped in there to pick up these
25 drawings that I handed out and have a conversation.

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2 And we're interrupted when a couple stopped in and
3 said, "Hey, we're from north of Syracuse. We come in
4 early for doctor appointments. And last time we were
5 here we saw the sign on 590, but we couldn't figure out
6 how to get in here. But we came in early to try and
7 figure out, you know, and found are way in here." That
8 they are a retired couple and it's convenient for them
9 because they, you know, are regular visitors to
10 Rochester for medical.

11 So I think that the signs are effective and
12 each one targets, you know, a different segment of the
13 public and they make people aware that the project is
14 just not located here, but it is thriving and alive and
15 active. Which is extremely important because this is a
16 project that is going to take an estimated five to
17 seven years to get the full build-out, you know, and
18 people want to see that a project is successful and
19 that it is moving ahead.

20 So I think there's lots and lots of reasons
21 to justify the signage. I think that it's a very
22 modest package. I know it might be a little more than
23 you might be accustomed to on other projects.

24 MR. GOLDMAN: I was not on the Board two
25 years ago when the four signs were approved from the

1 original seven that were requested.

2 Would you please point on the map where the
3 four signs --

4 MS. BRUGG: Originally?

5 MR. GOLDMAN: -- were originally approved
6 for?

7 MS. BRUGG: Okay. My recollection - and
8 Rick, you can correct me if I'm wrong because I wasn't
9 here either, but there were two on 590. One of which
10 was a trailer, which when I was here --

11 MR. DiSTEFANO: Two of which were trailers.

12 MS. BRUGG: I'm sorry, two of which were
13 trailers. Thank you.

14 One of which was a construction trailer,
15 correct?

16 MR. DiSTEFANO: Yes.

17 MS. BRUGG: It's here(indicating) kind of
18 screened in the front now from view. And one of which
19 has been replaced with one of the signs that was
20 approved to replace on of the trailers.

21 MR. GOLDMAN: Okay.

22 MS. BRUGG: There was a sign on South Clinton
23 and one on the canal.

24 MR. GOLDMAN: And since I've joined the Board
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2 your company has come and asked for a different sign at
3 the entrance on South Clinton. And that was approved.
4 But then they also came in and asked for lighting and
5 that was disapproved.

6 MS. BRUGG: Yes, the lighting I think was in
7 the in the first application.

8 MR. GOLDMAN: The second application, correct
9 me if I'm wrong.

10 MR. CHOLETTE: It is.

11 MR. GOLDMAN: I'm a little put out with your
12 operation because as I've gone there and checked on it
13 over the last month - longer since you were here last
14 month, six to eight weeks - that sign has been
15 illuminated. Clearly not what was intended by the
16 Board. The sign has been changed from what was
17 approved during my time on the Board and the red thing
18 at the top --

19 MS. BRUGG: That I don't --

20 MR. GOLDMAN: -- my recollection is
21 different. I don't have the actual what the sign
22 looked like that we approved, but I clearly don't
23 remember the red being on there. If I'm wrong I
24 apologize, but in my mind it's different.

25 The A-Frame has been out there a long time.

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2 The flags have been out there for a long time. They're
3 not approved.

4 I'm upset.

5 MS. BRUGG: I'm not going to argue with you.
6 I absolutely understand your -- I did not know that the
7 sign -- I will say - let me address first the large
8 sign because I'm not sure what's up is not what was
9 approved. I thought that I actually checked for
10 myself.

11 I think what is being proposed might be a
12 slightly inverted version.

13 MR. GOLDMAN: At the very least it wasn't
14 there. I don't remember the names being at the bottom.
15 I remember the phone numbers being there, but I'm not
16 sure about the actual persons.

17 MR. DiSTEFANO: My belief is that this is far
18 different - the one that's there now is far different
19 from the one that was originally approved. I think
20 there was a change when they came in for the
21 replacement of the trailer sign for the sign facing
22 South Clinton. That was going to be refaced, but I
23 don't think it was going to be refaced as reflected in
24 that drawing.

25 MR. GOLDMAN: Or what exists today?

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2 MR. DiSTEFANO: Well, I think that's what
3 exists today.

4 MR. GOLDMAN: I agree.

5 MR. DiSTEFANO: I think it's a little
6 different from what was approved. I wouldn't say a lot
7 is different, but I would say a little different.

8 MS. BRUGG: The one that's there is different
9 from what was approved --

10 MR. GOLDMAN: Yes.

11 MS. BRUGG: -- or the one that we're
12 proposing is different?

13 MR. GOLDMAN: No, the proposed sign is what
14 is existing right now, which is not in my recollection
15 what we approved.

16 MS. BRUGG: Okay.

17 MR. CHOLETTE: I think it was -- my
18 recollection is it was ninety percent, this was.

19 MR. DiSTEFANO: It was similar to what's
20 there.

21 MR. CHOLETTE: It was similar.

22 MR. GOLDMAN: It was similar, but different.

23 MR. CHOLETTE: Well, I --

24 MR. GOLDMAN: And if we approve a sign it's
25 my position we approve a sign, we don't approve a

1
2 similar sign.

3 MR. CHOLETTE: Your point is well taken.

4 I think more than arguing whether this sign
5 has changed is the fact that you put up some of these
6 signs that you want prematurely is a - could be an
7 irritant.

8 MS. BRUGG: I am not at all going to disagree
9 with you. And after the last meeting we did talk about
10 it and I think there was some confusion because we were
11 going to take down everything. And I think they were
12 taking it down at night and putting it back in the
13 morning.

14 And the lights -- I'll be honest with you,
15 the lights were a big issue. But the residents are so
16 adamant about the lights that I have to take full
17 responsibility for it.

18 MS. BAKER LEIT: I have another question
19 about residents. In one of the letters from Imran
20 Chaudhery and Faiza Qureshi there is line where they
21 say that they, "Have heard that the Town of Brighton
22 wants to remove the signs."

23 That doesn't seem --

24 MS. BRUGG: I think that's a typo.

25 MS. BAKER LEIT: What typo -- well, that's

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2 exactly what is written here.

3 So I'm just questioning exactly what the
4 understanding is of the residents, do they think that
5 we're going to remove all of the signs?

6 That's clearly not the case.

7 MS. BRUGG: Yeah, I think that the gist of
8 the residents is that they would like to see more
9 homeowners in there and they really --

10 MS. BAKER LEIT: No, I'm not --

11 MS. BRUGG: So I'm not sure what --

12 MS. BAKER LEIT: I would appreciate it if
13 they had correct information with regard to how we're
14 handling the signs, there are approved signs that are
15 going to remain there.

16 MS. BRUGG: Sure.

17 MS. BAKER LEIT: I think as a Board member I
18 find that problematic that the residents are being
19 possibly given incorrect information as demonstrated by
20 this letter.

21 MS. BRUGG: I am not -- well, I can't speak
22 for it because I haven't spoken to any of the residents
23 so I will not comment on that. But as I hope you can
24 understand sometimes the workings of kind of municipal
25 approvals, unless you've had to go through the process,

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2 are not plain English to most laypeople. So I'm not
3 sure what they think what needs to be approved or not
4 be approved. But unless you've been through the
5 process, you -- I don't know.

6 MR. CHOLETTE: Maybe to move this forward --

7 MS. BRUGG: So --

8 MR. CHOLETTE: -- why don't you at this time
9 just point out on the map and describe the eight signs
10 that you want?

11 MS. BRUGG: Okay.

12 MR. CHOLETTE: Some of which already exist
13 some of which are being changed, some might already be
14 erected. And just give a - let's start at that point
15 so that we can get our arms around this.

16 MS. BRUGG: So in the submission - and I'm
17 going to be honest with you and I think Rick may have
18 copies of drawings that I don't have.

19 You have the A-Frame, correct?

20 MR. DiSTEFANO: We should have everything
21 that was submitted to us.

22 MS. BRUGG: I was not given a copy of it.

23 MR. CHOLETTE: We have this A-Frame here.

24 MS. BRUGG: Yes. I believe that's labeled --

25 MR. CHOLETTE: That's labeled SB?

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2 MS. BRUGG: Yup. That's a sandwich board.

3 I was -- I'll be honest with you, I know it's
4 not an excuse, but they're up all over town.

5 I guess I would ask the Board to appreciate
6 the fact that well I understand your frustration, this
7 has been a very long complicated project with lots of
8 tensions and ups and downs and it's got a long way to
9 go and there's been lots of reasons - lots of butting
10 heads on little things. And, you know, we definitely
11 have had our bumps in the road. I'm not going to deny
12 that. But I would ask you please recognize that the
13 importance of the signage to the success of the project
14 is important not only to the applicant, it's a very
15 important project I think to the town as well. And
16 it's incredibly important that these signs - that
17 adequate signage be allowed. And I appreciate the
18 proposed --

19 MR. CHOLETTE: I think you made your point
20 and I think the Board members understand this, and
21 believe me we're not trying to be adversarial at all.
22 We would just like to know exactly what it is so that
23 we --

24 MS. BRUGG: So I'm going to scarf from Rick,
25 if you don't mind for a second because I don't have the

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2 A-Frame, but you do have it hopefully in your packet.

3 MR. DiSTEFANO: They all have it.

4 MS. BRUGG: The feathers I understand were
5 also added --

6 MR. DiSTEFANO: Yup.

7 MS. BRUGG: -- at the time of submission. I
8 also don't have those.

9 So you've got two of those?

10 MR. DiSTEFANO: Yup.

11 MS. BRUGG: Three feathers or two feathers
12 you have?

13 You've got three feathers, right?

14 MR. DiSTEFANO: Well, it's saying three on
15 the sub --

16 MS. BRUGG: Three.

17 MR. DiSTEFANO: One, two, three.

18 MS. BRUGG: Yeah, three feathers and one
19 A-Frame. And then we've got one on the highway, one on
20 the canal, one at the entrance. Which I come up with
21 seven.

22 MS. SCHWARTZ: When you say one, one what?

23 MS. BRUGG: The one existing sign on the
24 canal - the one that's currently there, the existing
25 sign at South Clinton, the existing sign on 590, the

1
2 three larger Reserve signs, the A-Frame, the two
3 feathers, a third feather on 590. And I don't have an
4 eighth.

5 MR. CHOLETTE: Well, the application says
6 eight temporary signs. That's what I was going by.

7 MS. BRUGG: I don't think I was going by --

8 MR. DiSTEFANO: Are you counting the one
9 trailer that's still out there with a sign on it?

10 MS. BRUGG: Was that counted as a --

11 MR. DiSTEFANO: That was counted as one of
12 the original signs, yes.

13 MS. BRUGG: Oh, okay. So there is a trailer.
14 It's not visible if --

15 MR. DiSTEFANO: Well, there's two trailers on
16 the site.

17 MS. BRUGG: Right.

18 MR. DiSTEFANO: One that had gotten moved --

19 MS. BRUGG: Right.

20 MR. DiSTEFANO: And then that was kind of
21 hidden on site. But then the job trailer I believe --

22 MR. MIETZ: It's counted.

23 MR. DiSTEFANO: -- is counted on here.

24 MS. BRUGG: So the job trailer would be the
25 eighth sign.

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MR. DiSTEFANO: Yes.

MS. BRUGG: That signage has minimal visibility off the site.

MR. CHOLETTE: We have this big chart.

MS. BRUGG: Yup.

MR. CHOLETTE: And on here in red are eight signs that are indicated and they are numerated with various letters. I guess what my --

MS. BRUGG: So Rick marked them all.

MR. DiSTEFANO: No, I didn't mark them.

MS. BRUGG: No? I thought --

MR. DiSTEFANO: Nope.

MR. CHOLETTE: So my desire is to be able to go through each of these - the F ones are the flags - and just say this is what's going here, tell us whether it's going to be illuminated or not.

MS. BRUGG: Okay.

MR. CHOLETTE: Just so we know --

MS. BRUGG: Okay. Can I, because I don't have one. Thank you for sharing here.

So the first sign that we're talking about is the jobs trailer which is located right here(indicating). It is screened by trees. It does have signage on it. It's not highly visible. I think

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2 it has a phone number on it to call The Reserve as you
3 enter.

4 MR. CHOLETTE: And that's going - under your
5 proposal that's going --

6 MS. BRUGG: We're going to leave it. It's
7 actually used as the site job trailer.

8 MR. CHOLETTE: Okay.

9 MS. BRUGG: It's very important. That needs
10 to stay there.

11 MR. CHOLETTE: That sign is not illuminated?

12 MS. BRUGG: It is not illuminated.

13 MR. CHOLETTE: Okay.

14 MS. BRUGG: Sign B is also not illuminated.
15 This is out here in the field(indicating). You can see
16 it from 590. It is this black - this one(indicating).
17 It is the large black sign that you can see from 590.
18 I drove by it three times today. I almost had a car
19 accident trying to slow down to look at it. I had to
20 go by three or four times. We are showing a feather in
21 this location.

22 We have an original sign also here on the
23 canal(indicating). That is The Reserve on the Erie
24 Canal. That is going to remain in place from view from
25 the canal.

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Over here -- so we've got one, two, three.

MS. SCHWARTZ: Eight.

MS. BRUGG: I'm just counting to make sure it's -- three, four. Oh, yeah, so we have seven total is what we're showing here.

MR. DiSTEFANO: Eight.

MS. BRUGG: Eight. Okay. I see where the eighth is. They haven't actually put in all of the feathers.

Okay. So right here is South Clinton(indicating), sign B, again, the large sign has been there. Around it we're showing two feathers(indicating) and a sandwich board. So the sandwich board is the black A-Frame sign.

So I apologize that I did not have this.

MR. CHOLETTE: You sort of explained why you wanted the feathers, I guess to show activity or something.

MS. BRUGG: Uhm-hum.

MR. CHOLETTE: It seems like a lot of signs there at the entrance.

Is any of that redundant?

MS. SCHWARTZ: There's four signs there?

MS. BRUGG: There are.

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2 MR. CHOLETTE: Do you want all four signs
3 there?

4 MS. BRUGG: We would like all four. The
5 feathers are really tiny. The sandwich board is also
6 relatively small. It's just, you know, the larger sign
7 has more information.

8 A hundred and fifty feet of frontage for a
9 sixty-three acre project with a thousand feet of
10 driveway --

11 MR. GOLDMAN: Excuse me. I went by there the
12 other day and there were three flags, a sandwich board
13 and your illuminated board were there.

14 Okay?

15 Last night when I went by there was one flag,
16 one sandwich board and one illuminated sign.

17 Okay?

18 MS. BRUGG: They have --

19 MR. GOLDMAN: So clearly these flags are
20 movable and they're being put wherever it is deemed
21 necessary for that particular day, in my opinion.

22 I'm not --

23 MS. BRUGG: My understanding is that they've
24 been put out in the morning and taken down. They're
25 only there during business hours so people know that

1
2 the trailer is open if you want to come in and make an
3 inquiry, if you want to come in and see a model.

4 MR. GOLDMAN: Forgive me.

5 MR. DOLLINGER: So you're suggesting that the
6 sandwich board and the flags -- what were they called?

7 MS. BRUGG: The feathers.

8 MR. DOLLINGER: The feathers, they come down
9 everyday?

10 MS. BRUGG: They do. They're there --

11 MR. DOLLINGER: How about is that true for
12 the one you see from 590 too; is that true with that
13 one too?

14 MS. BRUGG: My understanding is that one was
15 coming down. But I have to be honest with you I think
16 that there was some confusion, some people thought
17 there was no feather. That's why I drove by there
18 three times today because I didn't see the feather.
19 But I did see the feather today. My understanding is
20 that it's been coming down at night.

21 MR. CHOLETTE: Why are --

22 MS. BRUGG: I'm not going to stop at night.

23 MR. CHOLETTE: Why are you taking them down
24 and putting them back up on a daily basis?

25 MS. BRUGG: The purpose of the feathers is

1
2 show that we're open for business, that there's
3 activity. So you put them out when there's people in
4 the model homes or the trailer so you can come in. It
5 invites you to come in, that we're open. There's no
6 other way for people to know that there's, you know,
7 anything to see there other than to drive through.

8 MR. CHOLETTE: Aren't they open every single
9 day anyway?

10 MS. BRUGG: Are they there every day?

11 I'm not sure if they're there every day.

12 MR. CHOLETTE: Well, I don't know, I don't
13 want to tell you how to run your business. This just
14 seems very strange to be putting signs up and down and
15 saying, you know, we're open today and then take it
16 down and then tomorrow you put it out again.

17 MS. BRUGG: I don't think it's uncommon. I
18 think that's why they're called sandwich boards because
19 the sandwich shops put them out when they're open.

20 MR. CHOLETTE: Well, one of the reasons that
21 the sandwich shops put them out to be candid with you
22 is because they don't have approval for the signs and
23 it's a way for them to get signage that they're not
24 really entitled to.

25 MS. BRUGG: Uhm-hmm.

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2 MR. CHOLETTE: So that is a problem that we
3 have in town.

4 MS. BRUGG: Uhm-hmm.

5 MR. CHOLETTE: Your situation is quite
6 different. I think that, you know, if that's what
7 you're doing that's fine. If you're saying that you
8 need the signs, that they're going to come down every
9 evening at six o'clock or eight o'clock or something --

10 MS. BRUGG: Uhm-hmm.

11 MR. CHOLETTE: -- and back up at
12 eight o'clock in the morning, then that's what you're
13 doing. That's okay.

14 It still seems a little redundant to me to
15 have all that signage at the entrance way. I agree
16 you've got a gigantic parcel. I guess I could see your
17 desire to have, you know, if you're going to have eight
18 signs to have them scattered around in different
19 locations than to have them all clustered in one
20 location.

21 MS. BRUGG: I think more if we had more
22 locations that would be more appropriate. We don't
23 have other driveways off of other streets. There's not
24 a driveway off at Winton Road or out of Meridian
25 Centre.

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2 MR. CHOLETTE: I understand. We're just
3 trying to understand what you want.

4 Can we talk about the illumination for a
5 minute?

6 MS. BRUGG: Sure.

7 MR. CHOLETTE: You came or somebody came
8 representing your organization and had a variance
9 request for it to be illuminated. And this Board
10 decided to deny that application.

11 Now is it your intent - you want to
12 incorporate that illumination as part of this new
13 application?

14 MS. BRUGG: We would like to have
15 illumination. I hope that the Board would consider
16 that. I'm not sure what factors, I wasn't here for
17 that initial application. I'm sure at that time there
18 was hardly development activity here. I hope that you
19 could appreciate that there is a sign of life and that
20 there are residents that would like to tell people how
21 to find their place after five o'clock in the winter,
22 you know, to deliver a pizza or, you know, a visitor.
23 Not everybody knows their way around South Clinton
24 Avenue. It's not the easiest place to find right now.

25 MS. SCHWARTZ: Could you tell me of the four

1
2 residents that you have there what was it that
3 attracted them and how did they find out about the
4 project?

5 MS. BRUGG: I do not know the answer to that.

6 MS. SCHWARTZ: Okay. Do you have an answer
7 to the question of how successful your other
8 advertising is that's been going on all year long,
9 whether people are finding out about you through
10 printed media?

11 MS. BRUGG: I do know that I can tell that a
12 lot of the traffic that comes into the property does
13 come in through the signs. People do stop in and they
14 do report, you know, often how they found the property.
15 They fill out a card; right, Todd?

16 MR. GRADY: Yes.

17 MS. BRUGG: Like the folks that came in when
18 I was there today. They saw it on the expressway and
19 they came in and filled out a card.

20 I don't have actual statistical information.

21 MS. SCHWARTZ: And I have a another question.
22 You were referring to the sign and all the wording on
23 it in red or whatever you want to call it, and you
24 said, remember, that it took you several times going
25 back and forth to read what was on there.

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Do you find --

MS. BRUGG: No, not to read. I was looking for the feather.

MS. SCHWARTZ: I don't recall you saying that.

MR. CHOLETTE: Yeah, she was looking for --

MS. BRUGG: I was looking for the feather. And I thought it would be easier, but, you know, I kept getting distracted. I took a phone call, unfortunately the phone rang.

MS. SCHWARTZ: Then you weren't trying to go read what was on the sign?

MS. BRUGG: I was not trying to read what was on the sign.

MR. CHOLETTE: Your feather sign isn't actually a typical feather sign in the sense of being a feather that blows in the wind, it's a solid sign?

MS. BRUGG: No, it's a feather.

MR. CHOLETTE: Oh, it is a feather.

MS. BRUGG: Yeah. I've actually learned about feathers just for this application because I wasn't too familiar with them. But I do see them all over town now that I have --

MR. CHOLETTE: That's fine. I wasn't sure of

1
2 that.

3 I've never visited the entranceway here at
4 night time.

5 Could you tell me what it looks like as far
6 as street lighting, the lighting for your access-drive
7 into The Reserve, what it looks like along South
8 Clinton, what signage there is for your drive - is
9 there a sign for your driveway and does that have a
10 name, just to help me understand why you want an
11 illuminated sign?

12 MS. BRUGG: Well, right now we're at such an
13 early point of construction that having the lighting
14 helps - having a sign with a light let's people know
15 here's a development.

16 MR. CHOLETTE: I understand that.

17 What is the --

18 MS. BRUGG: But at full build-out there will
19 be more lighting.

20 MR. CHOLETTE: What exists there right now?

21 MS. BRUGG: Right now there is - the road
22 looks like, you know, it's not quite finished. It's
23 just --

24 MR. CHOLETTE: There's no street lights?

25 MS. BRUGG: There's no street lights yet.

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2 MR. CHOLETTE: You have you no street lights
3 on your road?

4 MS. BRUGG: Let me ask -- I may have missed.
5 This is Todd Grady, he's on site at the
6 property.

7 MR. GRADY: What is now known as Reserve View
8 Boulevard as you come in off the entrance, as you get
9 past the entrance is illuminated with street lights on
10 one side. But the very entrance off of South Clinton
11 is very dark.

12 MR. CHOLETTE: So you're saying the first
13 lights are interior?

14 MR. GRADY: Correct. Exactly correct, yes.

15 MR. MIETZ: How many feet off the road is the
16 first one?

17 MR. GRADY: It might be twenty feet.

18 MR. MIETZ: Okay.

19 MR. GRADY: It's a significant before. It's
20 very dark.

21 MR. CHOLETTE: Is there a street sign that
22 says --

23 MR. GRADY: We just actually put a street
24 sign up within the last two weeks actually.

25 MR. CHOLETTE: Are there any lights on South

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Clinton at that point?

MR. GRADY: No, not by our doing. It's just standard highway lights, that's the only thing that we have going.

MR. CHOLETTE: I know it wouldn't be by your doing, but I want to know --

MR. GRADY: They're just standard Department of Transportation - whoever does the highway lighting - that have been there forever.

MR. GOLDMAN: There's a tall pole on the highway.

MR. GRADY: Yeah.

MR. GOLDMAN: That's way up in the air that illuminates the flyover and by extension it illuminates that area as well.

MR. GRADY: Yeah, but it's still a very dark area.

MR. CHOLETTE: Okay.

MR. MIETZ: While you're up there --

MR. GRADY: Sure.

MR. MIETZ: -- so at this arguably twenty feet away --

MR. GRADY: Uhm-hmm.

MR. MIETZ: -- this first pole --

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MR. GRADY: Right.

MR. MIETZ: -- is there a plan to do something in the future --

MR. GRADY: Sure.

MR. MIETZ: -- in addition on your property or up to the right-of-way or whatnot with additional lighting? What's the issue?

MR. GRADY: I can speak to that. Because of the major, major construction that's been going on with the waterlines and all of that --

MR. MIETZ: Right.

MR. GRADY: -- I think everyone has seen that from South Clinton.

MR. MIETZ: Right.

MR. GRADY: Frankly it's been a mess for a long, long time. It's the only project in North America and it's right there at our entrance. They're doing a special technology.

It's our intent to have a very, very nice sign with a water feature and lit. But this is why this is temporary. When we can actually do that has been dependent upon what's been going on with the construction. We've been up against it. Our property as you know sits back off the road so this is our only

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2 signage literally.

3 But, yes, it will be a permanent, very
4 appropriate sign that speaks to the quality of the
5 development.

6 MS. BAKER LEIT: Are they giving you any kind
7 of a time frame that the water project will be
8 completed?

9 MR. GRADY: Sure. My understanding is that
10 it is wrapping up, but they're just finalizing, you
11 know, there's still some vehicles in there from time to
12 time. But it's a lot further along than it has been,
13 thank God. But it's going to be a little bit longer.
14 And then we're in the process of getting quotes and
15 bids and making a proposal for what this permanent
16 signage ultimately looks like. But it is in the plan
17 to have something permanent.

18 MS. SCHWARTZ: You can ask about -- you did
19 mention about there was vandalism and graffiti.

20 Have you experienced any in the last six
21 weeks or so on your property?

22 MR. GRADY: No, I can't say that we have.
23 But there's been some very concernment on the part of
24 the residents given the language that's been used on
25 this building and it was very prominent for several

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2 days and weeks until they finally painted over that.
3 Those concerns came to our attention.

4 I mean it would be very easy -- and earlier
5 we referred to a 911 call being made and that was
6 because we actually had kids in the clubhouse area that
7 were -- which is another very dark area back off the
8 road in which we have a very significant financial
9 investment obviously to keep that area protected.

10 MR. MIETZ: Are you planning to have your own
11 security as things go here or what is --

12 MR. GRADY: Yes.

13 MR. MIETZ: For the construction I understand
14 that, but for the permanent development?

15 MR. GRADY: We are taking responsibility for
16 that right now. We do have a person on staff that
17 patrols. He's not intended to engage with anybody
18 because of safety reasons.

19 MR. MIETZ: Of course.

20 MR. GRADY: But if there is an issue, which
21 has been recently, he calls 911. It also gives people
22 that are living there knowing that there's somebody
23 that is on patrol some feeling at least of part safety.

24 MR. MIETZ: What hours does that occur?

25 MR. GRADY: Overnight hours.

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2 And in some of the letters that you received
3 people have made it clear and going back two years ago
4 as you know because you approved the original signage -
5 that custom home that it sits on, that 1.6 million
6 dollar house and has been the impetus for another one
7 going up very shortly - those people call the number
8 off the sign. And I could attest to that because I was
9 on the other end of that call. So I think, Judy, you
10 had asked earlier about how people are becoming aware
11 of our project. I mean, for every two people one is
12 signage and one is newspaper advertising to be quite
13 frank with you. It's big for us.

14 Thank you.

15 MR. CHOLETTE: Fine. Thank you.

16 I think we understand what you want and why
17 you want it.

18 Do you want to make any closing statements
19 or?

20 MS. BRUGG: I guess what I need to say is I
21 knew I would need to talk about the feathers being
22 there. And I understand - I really do understand
23 Mr. Goldman's frustration and obvious dissatisfaction
24 with my client. I guess, you know, the only thing I
25 can say is we're doing our best to do a good quality

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2 project and there are definitely bumps in the road.
3 Certainly the town has a code enforcement department
4 and they haven't been out, but that is certainly, you
5 know, within the town's prerogative.

6 And we hope that you will look at this for
7 the importance for the signage and appropriateness of
8 the signage for this project and use that to make your
9 decision on whether to grant this.

10 This isn't a variance application so I'm not
11 going to go through my usual song and dance of the
12 benefit of the applicant against the detriment to the
13 health, safety and welfare of the community. But if it
14 did rise to that level I think the benefits to the
15 applicant are significant, and I have a very hard time
16 finding any detriment. There's not a neighbor nearby.
17 There's nobody being adversely impacted by the signage.
18 It's temporary in nature.

19 Like Mr. Grady alluded to, we probably will
20 be here in less than two years, but this process does
21 require that we continue to renew. And I think what
22 you're going to see evolution and change as the project
23 goes through its stages of growth. It's a huge project
24 and, you know, the signage required for this kind of
25 project is just constantly going to evolve as the

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2 project evolves.

3 We appreciate your consideration.

4 MR. GOLDMAN: I have a question.

5 MR. CHOLETTE: Yes?

6 MR. GOLDMAN: If this Board approves this, do
7 we have assurances that your company will abide by what
8 was decided by this Board, because what I'm seeing is
9 that you haven't done that?

10 MS. BRUGG: I absolutely can appreciate you
11 saying that to me and asking me that question. And I
12 could tell you that I would do my very best to make
13 sure that they understand what they are agreeing to.
14 They certainly will be before this Board and before
15 other Boards of the town again. This is a five to
16 seven year commitment going forward. So this is not a
17 quick trip to the Board and off we go. This is a, you
18 know, long-term marriage. In today's day and age five
19 to seven years is sometimes a long marriage.

20 MR. CHOLETTE: Very good.

21 MS. BRUGG: I appreciate it.

22 MR. CHOLETTE: Thank you very much for coming
23 in.

24 Is there anyone in the audience that would
25 like to speak with regard to this application?

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2 There being no one this part of public
3 hearing is closed.

4 9A-01-14 Application of Aaron Schaeffer and Aviva
5 Bodek, owners of property located at 3250 East Avenue,
6 requesting to reestablish a nonconforming use (Section
7 225-13D) to allow for the occupancy of multiple single
8 family dwelling units on a single lot where only one
9 single family dwelling unit per lot is allowed by code
10 (Section 203-2.1A(1)). All as described on application
11 and plans on file.

12 MR. SCHAEFFER: Good evening. Thank you for
13 your time. I appreciate it. My name is Aaron
14 Schaeffer and I'm the homeowner at 3250 East Avenue.
15 And Aviva Bodek who is not here tonight, but she is
16 also the homeowner with me.

17 I'm asking the Board to consider the property
18 at the lower area of our land. It's close - it's about
19 3.28 acres right on East Avenue. And we have two
20 cottages we call them, but the one we're discussing
21 right now has its own address. It's right on East
22 Avenue.

23 Our home is up from the East Avenue part
24 probably about three hundred feet. It's directly off
25 of East Avenue. This property is right on East Avenue

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2 at the beginning of our driveway. And we purchased the
3 home in January and we were under the impression from
4 the previous owner that it had been previously rented.

5 We're asking that we would like -- the
6 property itself, our home, is 1928. I think the
7 cottages are pre-1900. They need some work. They're
8 in a position where they're able to be insured. We
9 have insurance. So they're in adequate shape to be
10 insured, but we would like to actually bring them up to
11 East Avenue standards and our standards for the
12 property, and have them be something that when folks
13 drive by and say that's a very nice place.

14 So we have to sink some money into that and
15 to do that we would like to potentially rent this
16 property to a student, potentially a pharmacy student
17 over at Fisher. But she's a preceptor and has a lot of
18 pharmacy students there and we think that there is some
19 interest from there to do that. So we ask that the
20 Board consider allowing us to rent this property to a
21 student or someone we believe would be a good tenant.
22 And it would also justify us and allow us to sink some
23 considerable money into the property and bring it up to
24 standards of East Avenue, where the homes over there,
25 you know, deserve that type of overhaul if you will.

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2 MS. SCHWARTZ: Would there be a permanent
3 rental forever?

4 MR. SCHAEFFER: Yes. Currently -- well, as
5 much as we rent it, yeah. I would say the answer would
6 be yes, but we don't have anyone currently that we
7 intend to. But, yes, we would ask for a permanent so
8 that we have that opportunity if we choose to do that.
9 Certainly it could change. We may want to allow one of
10 our daughters to live there at some point, but for now
11 we would like to rent it.

12 It has its own address. It has its own meter
13 and stuff. It's nine hundred square foot with a loft,
14 one bedroom, kitchen, bathroom and --

15 MS. SCHWARTZ: Where's the parking for it, I
16 didn't see any?

17 MR. SCHAEFFER: We have in the middle between
18 the cottage and our home it's a really long driveway.
19 I just sealed it myself. So it's probably in the
20 middle of that I would say a 50x60 foot open area - one
21 of the first open areas - in front of the garage that's
22 probably close to six or seven cars wide. So we would
23 give one of our spots right to the left of our - in
24 that area to the tenant. So there's plenty of parking
25 which is still far away from our house. It's a very

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2 large driveway as well with multiple open spaces. This
3 one in particular that we would allow for the tenants
4 to park is in between the cottage and the home.

5 MS. SCHWARTZ: Rick, is there a record
6 showing that this was rented out before?

7 MR. SCHAEFFER: We do not have formal
8 records. Actually if you go online, several real
9 estate agents who are posting their homes have said
10 that it was previously rented, which obviously doesn't
11 warrant anything other than somebody advertising
12 incorrectly if that's the case. But our previous - the
13 gentleman that me bought the house from had told his
14 agent and we heard from their agent that, you know, it
15 had been previously rented. I can't tell you if that
16 was something that the Board approved or not.

17 MS. SCHWARTZ: No, I was just wondering if
18 there was a record of renting it nor not?

19 MR. DiSTEFANO: Yeah, I believe it had been
20 rented in the past. Basically what brought them is
21 nothing can prove that they had rented for within a
22 year's time, which basically --

23 MS. SCHWARTZ: They have to start over.

24 MR. DiSTEFANO: -- lost the non-conformance
25 aspect of it.

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2 The interesting thing about this is the
3 structures exist, they're there. It's not like they're
4 coming in and asking us to build a structure.

5 MR. MIETZ: Right.

6 MR. DiSTEFANO: So is this a use variance or
7 just reestablishing the nonconformance? It's really
8 kind of a gray area to be totally honest with you.

9 And if we allow them to re-establish a
10 non-conforming use aspect of this then they would still
11 have to follow the non-conforming use aspects of the
12 code. If it were to burn down they couldn't
13 re-establish it. If it sat vacant for a year again
14 they couldn't re-establish it. And I think they wanted
15 to apply for a straight-out use variance then that
16 would allow them to always rent it, always have a --
17 but because the units are already there it was really
18 kind of a which direction do you make them go because
19 could they actually prove a use variance I don't know.

20 MR. SCHAEFFER: So I appreciate that as well.
21 I learned right there.

22 So if the Board felt non-conforming would
23 allow for a year - that it would have to be rented
24 within a year to be able to continue to rent after, we
25 would be more than happy to accept that. I think that

1
2 within six, seven, eight months we could have it ready
3 to rent with renovations and then -- but if it were a
4 case we were not able to do that we would be more than
5 willing to come back to the Board and re-apply. So if
6 the non-conforming was more suitable we would
7 appreciate that.

8 MS. SCHWARTZ: And do you envision just one
9 tenant?

10 MR. SCHAEFFER: Yeah, absolutely. I have a
11 lot of visions of who it would be, no one that has
12 parties ever and, you know, that type of renter. In
13 all seriousness we're specifically targeting pharmacy
14 students at Fisher. And again Aviva, who's the co - we
15 both own the property, she's a preceptor at a hospital
16 and teaches a lot of students.

17 MS. SCHWARTZ: Your home is set back, but
18 it's not far away?

19 MR. SCHAEFFER: It's far enough where I don't
20 think you could throw a baseball and hit it. It's 3.28
21 acres, the property, so it's quite a long distance
22 away.

23 MR. CHOLETTE: How close are you to the high
24 school?

25 MR. SCHAEFFER: Right next door. We own the

1
2 gate between the elementary school - Allens Creek -
3 we're - it's right next door.

4 MR. CHOLETTE: Well, I know that, but
5 physically how close is the back of this house to the
6 Allens Creek property?

7 MR. SCHAEFFER: It is right on the fence line
8 between our property and Allens Creek Elementary
9 School, but the school starts a ways back. I would say
10 probably the front of the school is probably close to
11 maybe twenty-five feet, maybe thirty feet back. The
12 front of the elementary school is open and the rental
13 property - the potential rental property sits next to
14 the open front area, so it's --

15 MR. CHOLETTE: Right, I looked at it. It
16 looked to me like it was pretty close to the property
17 line anyway.

18 DR. LAWRENCE: Sure it is.

19 MR. DiSTEFANO: It looks like it's right on.

20 MR. CHOLETTE: Right on the property.

21 MR. SCHAEFFER: Yeah, but not right next to
22 the actual school structure itself. That's what I was
23 trying to convey, I apologize. So I don't think it
24 would be disruptive to the school having it there as
25 far as because the school is set back maybe twenty-five

1 feet from where the actual cottage resides.

2
3 MR. CHOLETTE: Let me ask one more question
4 regarding this. The usual recourse - and I think I
5 know the answer to this - would be to say why don't you
6 subdivide the parcel, but I'm assuming that this rental
7 property would not be approved as a residence or it
8 would be substandard for the parcel.

9 So you would have a different problem if you
10 tried to subdivide it; is that correct?

11 MR. SCHAEFFER: That's correct.

12 MR. CHOLETTE: Go ahead, Morrey?

13 MR. GOLDMAN: You're going to refurbish this
14 house.

15 On the outside are you going to - are you
16 planning to change the way it looks on the outside?

17 MR. SCHAEFFER: Mostly cosmetic. It would be
18 shingles - so some roof. We would like to put some
19 shutters up - maybe some cottage shutters and paint.
20 Mostly aesthetics. For the exterior nothing major, no
21 major structural changes. But I would think just some
22 paint and new roof and maybe some shutters in the front
23 would probably be adequate to make it look more and
24 more attractive.

25 MR. GOLDMAN: And just to reconfirm, your

1
2 intent is always to be a residence and not to be a
3 business office, not to be --

4 MR. SCHAEFFER: That's accurate, absolutely,
5 it would just be a rental property.

6 MR. GOLDMAN: Thank you.

7 MR. SCHAEFFER: Thank you.

8 MR. DOLLINGER: If you were not going to use
9 it as a rental property what would you use it for?

10 MR. SCHAEFFER: Well, to be honest with you
11 we have an upper cottage which is right next to the
12 house, which we are looking to have for her daughter
13 when she's back from college and for family when
14 they're in from out of town. So that one we're looking
15 to keep for personal use.

16 MR. DOLLINGER: And how big is that cottage?

17 MR. SCHAEFFER: That one is slightly smaller.
18 It doesn't have a loft. It's probably closer to six
19 hundred and fifty square feet, seven hundred square
20 feet.

21 And that's the one we were also going to
22 spend some money on to make it very, very nice. But,
23 again, with the lower cottage if we're not going to get
24 rental income from it I don't see us spending the
25 money. And in all honesty I don't see us having a

1
2 whole lot of extra money in addition to trying to go
3 update and make the estate worthy of a 1928 cottage -
4 house.

5 MR. DOLLINGER: What do you think -- I'm just
6 curious, what do you think the lower cottage was
7 originally, do you think it was a cottage or was it
8 always residents using it?

9 MR. SCHAEFFER: It's our understanding that
10 both the lower and upper were pre - right along before
11 1900 and I believe that folks who used to work and
12 manage the farms in Allens or in Knollwood area -
13 there's farms over there - folks who used to actually
14 live there and maintain the farms and such. So it's
15 actually we're very interested in restoring it and
16 making it something that can live on. It's pretty neat
17 as far as history around Allens Creek goes.

18 MR. DOLLINGER: So the upper cottage is a one
19 - obviously six hundred square feet it's just a one
20 bedroom kind of setup?

21 MR. SCHAEFFER: Yeah, one bedroom, kitchen,
22 bathroom - full, you know, so --

23 MR. DOLLINGER: And this one is slightly
24 bigger like eight hundred square feet?

25 MR. SCHAEFFER: Yeah, I would say so.

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There's a loft.

MR. DOLLINGER: The downstairs is similar; you would say?

MR. SCHAEFFER: It's definitely there. It's similar, maybe not the exact same layout. But similar square footage plus like, you know, a hundred and fifty square foot loft, which you could use for a --

MR. DOLLINGER: Does the lower cottage have one bedroom or two bedrooms?

MR. SCHAEFFER: It has one bedroom, a living room with cathedral ceilings, and then there's stairs that go up to a loft that oversees that living room, and then there's a kitchen and a bathroom.

MR. DOLLINGER: And they all have water and sewer and everything is all --

MR. SCHAEFFER: Yes.

MR. DOLLINGER: And it's not separate, is it all metered together?

MR. SCHAEFFER: The lower cottage has its own meter and its own electric. So we have -- the electric and gas that we're asking to rent has its own address and its own meter. The upper one is tied to the house.

MR. CHOLETTE: Okay, Rick, why is the upper cottage --

1
2 MR. DiSTEFANO: We have situations in town -
3 a lot of situations in town where we have old carriage
4 houses, and the way we've always kind of interpreted
5 these carriage houses is that if you are family and you
6 let your teenage son or daughter or married son and
7 daughter go live in that carriage house it's existing,
8 it's there, you know. Once you start renting it out it
9 becomes a situation where you're bringing non-relatives
10 into that area to actually rent that carriage house or
11 apartment or whatever you want to call it, there's when
12 we get into this fine line of two dwelling units.

13 MR. CHOLETTE: Aren't we really at a fine
14 line already. I mean isn't this just an example of the
15 town sort of looking the other way.

16 MR. DiSTEFANO: In this case, no this is
17 exactly --

18 MR. CHOLETTE: With the upper cottage or any
19 of these properties that have carriage houses?

20 MR. DiSTEFANO: The way we're handling the
21 upper cottage, the way we handled the carriage house is
22 basically if they're used for family members --

23 MR. CHOLETTE: But that's not in the code,
24 that's just an interpretation?

25 MR. DiSTEFANO: That's an interpretation of

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the code, yes.

MR. CHOLETTE: Okay. Fine.

Okay, Dennis?

MR. MIETZ: Have you talked at all to your neighbors to the east as far as restoring this as a rental property?

MR. SCHAEFFER: Well, the neighbor on the other side, not on the school side, is -- I think the front property line along East Avenue is close to three hundred and twenty feet. So they are very, very far way.

MR. MIETZ: I know their house is up like yours is.

MR. SCHAEFFER: Oh, did you --

MR. MIETZ: I'm talking about the east, so it would be 3280?

MR. SCHAEFFER: Not on the school side, the opposite side?

MR. CHOLETTE: That's to the west.

MR. MIETZ: Okay. I'm sorry, the other side of the school, that side of the highway?

MR. CHOLETTE: Okay.

MR. MIETZ: So on - the house, if you're looking at it from your house to the --

1
2 MR. SCHAEFFER: It is so far away, that whole
3 property line between his house and our house we have a
4 whole bunch of woods. You could basically call it the
5 woods.

6 MR. MIETZ: No, I understand.

7 MR. SCHAEFFER: Yeah.

8 MR. MIETZ: I know the people, so I was just
9 wondering if you had --

10 MR. SCHAEFFER: I actually have not. I've
11 only met them once. So I actually have not asked them.
12 I've --

13 MR. MIETZ: Okay. I know they would have
14 been informed. I'm just curious to if you had spoken
15 with them trying to put it back as a rental property?

16 MR. SCHAEFFER: I have not.

17 MR. MIETZ: Okay.

18 MR. SCHAEFFER: That's a good point. I
19 haven't thought.

20 MR. CHOLETTE: Other questions?

21 Great. Thank you very much for coming in.

22 MR. SCHAEFFER: Thank you.

23 MR. CHOLETTE: Is there anyone in the
24 audience that would like to speak with regard to this
25 application?

1
2 There being none this part of public hearing
3 is closed.

4 9A-02-14 Application of Raymond and Cheryl Mayewski,
5 owners of property located at 7 Elmwood Hill Lane, for
6 an Area Variance from Section 205-2 to allow a sunroom
7 addition to extend 4.25 ft. into the 60 ft. rear
8 setback required by code. All as described on
9 application and plans on file.

10 MR. MAYEWSKI: Good evening. I'm Ray
11 Mayewski and I'm here with my wife Cheryl. And we are
12 the owners and we live at 7 Elmwood Hill Lane.

13 And what we would like you to consider is
14 allowing us to build a screened-in porch on the current
15 footprint of a patio that's due east of our living room
16 and the variance is a very small corner of this room.
17 The room is about two hundred twenty square foot and
18 the square feet of the corner is about ten square feet.
19 And this sits, again, on the footprint of the patio
20 that currently exists there and it goes right off of
21 the living room and so it's right in line with the
22 house. So it's a very small variance in a very small
23 corner of the room.

24 And we're building this room simply for the
25 convenience of being able to sit out in the evenings.

1
2 Since it's facing dense woods and at night the bugs and
3 the bees come out so you can't even enjoy a meal there.
4 So it's basically just to do that. It's a small
5 project on the back of our house.

6 DR. LAWRENCE: How close -- I was sort of
7 straining to see your neighbor, how far away - it's
8 several hundred yards?

9 MR. MAYEWSKI: Several hundred yards, so you
10 would have to go - you have to look very far up our
11 property. It's a parcel on the corner and half an acre
12 so it's very far away from the neighbors and dense
13 trees between us and them. So I don't even think they
14 would be able to see this - the current patio which has
15 a small pergola on it versus having a small screened
16 porch.

17 MR. CHOLETTE: Fine. Thank you very much.

18 MR. MAYEWSKI: Thank you.

19 MR. CHOLETTE: Is there anyone in the
20 audience that would like to speak with regard to this
21 application?

22 There being none this part of the public
23 hearing is closed.

24 9A-03-14 Application of James Wentworth, agent, and the
25 University of Rochester, owner of property located at

1
2 300 East River Road for Sign Variances from Section
3 207-31B to allow for 4 freestanding signs, two of which
4 will be 22 sf in size, where only one freestanding sign
5 no greater than 16 sf in size is permitted by code. All
6 as described on application and plans on file.

7 MR. WENTWORTH: Good evening. I'm James
8 Wentworth. Business address 271 East River Road, just
9 across the street from this property.

10 And, Rick, I believe you want the affidavit.

11 MR. DiSTEFANO: Thank you.

12 MR. WENTWORTH: The university is seeking to
13 replace existing signage at the alumni and advancement
14 center for four reasons.

15 About five years ago we updated our logo. We
16 have a now logo for the whole university system.

17 Second reason is about three years ago we
18 produced a signage master plan and there's a whole new
19 scheme for signage at the university.

20 Third reason is about a year ago the
21 Department of Transportation removed our monument sign
22 that was part of this building which used to be the old
23 St. Agnes High School. They removed it because it was
24 part of Kendrick traffic circle and Marlon Drive got
25 realigned and the new Marlon Drive is right where the

1
2 old sign was.

3 And the fourth reason is that the building
4 recently received a donation and it is now going to be
5 named. So we want to recognize the donor in the
6 signage as part of the new signage master plan.

7 I would like to point out also that we are in
8 the process - it's been a long ongoing process - of
9 rezoning this site and all of our south campus
10 property, which is in the Town of Brighton, to
11 institutional plan development. And that new zoning
12 ordinance that will be part of that IPD will include
13 signage and make provisions for the signs that we're
14 suggesting here. The only thing is that we don't want
15 to wait until the IPD is done to put the new signs up.

16 So currently this site is zoned residential.
17 So for that reason we need to ask for a variance to
18 replace the existing signage with four new signs. And
19 the largest two of which are twenty-two square feet,
20 and in the current residential code there is allowed
21 one sign and sixteen square feet maximum.

22 So that's why we're here. And I can answer
23 any questions regarding details of application.

24 MS. SCHWARTZ: Could you tell us what is the
25 current size of the signs that are up?

1
2 They're not at code, they're bigger than code
3 probably?

4 MR. WENTWORTH: Yes. I know they're bigger.
5 I can't tell you exactly.

6 MR. DiSTEFANO: Do you remember how big the
7 freestanding sign that was removed due to the road work
8 was?

9 That was a relatively large sign, correct?

10 MR. WENTWORTH: I believe it's thirty-two
11 square feet.

12 MR. MIETZ: That would be have been the
13 fourth sign?

14 Rick, were these approved at some point - I
15 remember there was something we did back on the
16 building?

17 MR. DiSTEFANO: We approved a couple
18 building-faced signs I believe on this building.

19 MR. MIETZ: I remember that.

20 MR. DiSTEFANO: And we also saw the original
21 freestanding sign a couple of times because of the
22 size.

23 MR. MIETZ: Right.

24 MR. DiSTEFANO: Which is now gone. I believe
25 that was the one that was removed. So they did have

1
2 some previous variances for size of signs and some
3 building-faced signs. Now they're coming back with a
4 different array of signs.

5 MR. MIETZ: But these other directional ones
6 that were up previously they're being replaced, were
7 those approved by a variance?

8 MR. DiSTEFANO: I don't recall them being
9 approved by a variance.

10 MR. MIETZ: They're kind of directional sort
11 of signs, the ones that back out to the road.

12 MS. BAKER LEIT: I have a question just for
13 the record: The actual neighborhood that this is
14 situated in, you're actually not very close to any
15 other private residences?

16 MR. WENTWORTH: That's correct.

17 MS. BAKER LEIT: How close would you say the
18 closest private residence would be?

19 MR. WENTWORTH: To the west of this site is
20 the Lehigh Valley bike trail, which is your property,
21 and to the west of that the nearest road is Bastian and
22 it's probably - from the western most side it's
23 probably five hundred feet.

24 MS. BAKER LEIT: And the property is
25 basically wooded throughout the back as well?

1
2 MR. WENTWORTH: Uhm-hmm. And the other three
3 sides are all university property.

4 MR. MIETZ: You note in the application the
5 site is a hundred and eighty acres.

6 Does that include the townhouse project and
7 all of that property or is it just the --

8 MR. WENTWORTH: The townhouse?

9 MS. BAKER LEIT: Do you mean the --

10 MR. WENTWORTH: Yeah, that's everything from
11 East River - well, actually 390 South through East
12 River down to Crittenden Road. It does not include the
13 rail road tracks which is currently part of our
14 property, but that is not in that hundred and eighty
15 acres. And from the bike trail east to West Henrietta
16 Road.

17 MR. GOLDMAN: So the property -- there's a
18 lab or something between your property and East
19 Henrietta Road?

20 MR. WENTWORTH: That's correct, the
21 laboratory for laser energetics.

22 MR. GOLDMAN: That's all your property all
23 the way up to Route 15?

24 MR. WENTWORTH: Correct.

25 MR. GOLDMAN: I saw a Planning Board placard

1
2 advertisement up there. It was kind of bent and I
3 couldn't get the date off that.

4 Is there something going on up --

5 MR. WENTWORTH: We are planning to put an
6 imaging - well, it's a medical office building -
7 imaging sciences building there, but we need the IPD
8 approved before we could even dream of doing that.

9 MR. GOLDMAN: I'm just trying to understand
10 what was going on up there.

11 Thank you.

12 MR. WENTWORTH: Uhm-hmm.

13 MR. CHOLETTE: Any other questions for the
14 applicant?

15 Thank you very much.

16 Is there anyone in the audience that would
17 like to speak with regard to this application?

18 There being none this part of the public
19 hearing is closed.

20 9A-04-14 Application of Samuel Burge II, owner of
21 property located at 2048 - 2050 South Clinton Avenue,
22 for an Area Variance from Section 205-12 to allow for
23 28 parking spaces in lieu of the minimum 33 parking
24 spaces (for all building square footage to be used for
25 medical) required by code. All as described on

1
2 application and plans on file.

3 MR. BURGE: Hi. I am Sam Burge. I reside at
4 14 Eastland Avenue right here in Brighton New York.
5 I'm also the proud owner of 2048/2050 South Clinton
6 Avenue. Also the owner of two Brighton based
7 businesses Freedom Therapy and Burge Properties, which
8 combined employ over two hundred individuals. With me
9 is Ryan Uribe, he's a chiropractic doctor who I'm
10 hoping - we're hoping he can become the tenant over at
11 2048.

12 About a year and a half ago I purchased
13 2048/2050 South Clinton with the intentions of
14 occupying 2050 with my two businesses. And the intent
15 with 2048 was to utilize that property as an investment
16 property. I've spent the last year and a half trying
17 to find an ideal tenant and I think I found one finally
18 and here he is with me.

19 When we purchased 2048/2050, when I was
20 trying to do my due diligence -- by the way these are
21 my first commercial properties, so a lot of learning is
22 taking place here. But during my due diligence I
23 learned that the property is zoned as BE1 and I believe
24 that stands for office park. And during that time it
25 was very important to me that it could be used for

1
2 medical purposes because technically part of my
3 business is medical related and within that definition
4 I learned that chiropractic services falls under that
5 definition.

6 And having that understanding we thought we
7 could move forward with Dr. Ryan Uribe, the owner of
8 Upstate Sports and Spine. At that time when we met we
9 looked into it. Those are some of the things that we
10 learned. Thought all was good and everything was in
11 place for us to move forward. We had our attorneys
12 draft up some lease agreements. We got really excited
13 about this. Invested some money into the space so that
14 we could customize it to meet his specific needs. And
15 then we learned that the town was concerned not so much
16 about the - well, about the parking.

17 We currently have twenty-eight spaces between
18 two buildings. It's not a concern of ours only because
19 we understand the way we conduct our business. As a
20 matter of fact, we feel that's more than enough. We
21 are here today to explain a little bit about our
22 businesses and why we have that belief. It's our
23 understanding that the code does require thirty-three.

24 We applied for the variance and here we are
25 today to answer any questions you may have.

1
2 MS. SCHWARTZ: My question to you is: Is
3 there a possibility of somebody being in that room on
4 that table while you're in an exam room and then having
5 two people waiting in the waiting room, is that a
6 possibility?

7 MR. URIBE: I get --

8 MR. DiSTEFANO: Could you just state your
9 name?

10 MR. URIBE: Ron Uribe, tenant of 2048,
11 Upstate Sports and Spine. I'm the owner, I'm the
12 director there.

13 Yeah, I guess that's a possibility at some
14 point down the road. It's not what I'm necessarily
15 seeking out. I don't run a traditional chiropractic
16 office in the sense that I don't have eight or ten
17 people in the waiting room all day long, kind of just
18 rolling through one after the other after the other. I
19 really just kind of describe it as a boutique type
20 practice. I do some specialized services. I really
21 only see one patient at a time. I may have one or two
22 in the waiting room, but I'm only working on one at a
23 time. I wouldn't have them lined up so to speak ready
24 for me to jump from room to room.

25 I have one staff member. In fact, she

1
2 doesn't even own her own car, her husband drops her
3 off. So two of us take up one space between us. The
4 way the spaces laid out we have eight attached sort of
5 to my building and the other twenty attached to his.
6 It's rare that I don't have at least five open spaces
7 at all times for just my portion of the way that the
8 parking is kind of separated. I don't foresee there
9 ever being a parking problem from my building by itself
10 certainly.

11 MS. SCHWARTZ: And I know it depends on the
12 nature of the patients problem, but roughly how long is
13 an appointment?

14 MR. URIBE: I would say that the quickest I
15 would have a patient come in and out is ten to fifteen
16 minutes. On average it's probably twenty-five to
17 thirty. Depending on what I'm doing it could be up to
18 an hour per patient at a time.

19 MS. SCHWARTZ: And my last question is:
20 There are spaces in front --

21 MR. URIBE: There are.

22 MS. SCHWARTZ: -- and then in the back there
23 are --

24 MR. URIBE: Two spaces, yeah. So we have two
25 in the back and six up front on what I'm calling my

1
2 side of the parcel.

3 MR. BURGE: At the time we were negotiating
4 the terms of the lease agreement parking did come up.
5 I remember he only needed five and I said, "There's
6 eight total now, six in front and two in the rear. It
7 makes sense for you to take all eight because we don't
8 even need the twenty spaces that remain." So there are
9 currently eight immediately around 2048. And so in the
10 current lease agreement we said go ahead and we'll
11 designate eight.

12 MR. CHOLETTE: So your argument really is
13 that you for the chiropractic service needs fewer than
14 eight?

15 MR. URIBE: Fewer than any professional
16 office.

17 MR. CHOLETTE: And you need fewer than your
18 twenty?

19 MR. BURGE: Yeah.

20 MR. CHOLETTE: So the argument is that the
21 twenty-eight combined is probably a surplus by six to
22 ten or something?

23 MR. BURGE: We have been there a year and a
24 half. If you drive by anytime of the day there is
25 probably about twenty parking spaces vacant.

1
2 The way that we're using 2050 despite having
3 two hundred employees 99.9 percent of the work is being
4 conducted elsewhere. 2050 is primarily professional
5 office use. It's where we conduct our payroll and
6 billing. It's my office for meetings and things of
7 that nature.

8 We do have some space designated for
9 traditional physical therapy. We service seniors where
10 it's all individual therapy. It's a very small space.
11 If you look at the floor plan or if you were in the
12 space you would be able to see how small of a space it
13 is. Intentionally we're not looking for high volume.
14 All the care that we provide is individual and very
15 intentionally that way. If you look at any of our
16 marketing we market the fact we don't provide
17 traditional physical therapy in the sense of like
18 sports rehab or anything like that. The type of
19 therapy that we provide is very private in nature,
20 private treatment rooms and we put a lot of emphasis on
21 that when you come to us. We have a women's health
22 program and it's mostly oncology. You have very
23 intimate private things, people come to us liking the
24 home-like atmosphere that we offer, it's very private
25 and very individualized one-on-one. So, yes.

1
2 MR. MIETZ: A couple of things: One, did you
3 look at the possibility of adding additional parking on
4 site, for the record?

5 MR. BURGE: For the record, it's something
6 that I would entertain if there's a need. At this
7 point in time it's really hard to explore spending more
8 money if it's not necessary. And right now it's kind
9 of a time issue too. So it's not just financial, it's
10 also a time issue.

11 Because of the mistakes that we've made, Dr.
12 Ryan Uribe - this is his first time going of into his
13 own private practice. He used to work for an owner out
14 in Victor. He's very excited and eager to get going
15 and so this is kind of a setback right now. My
16 priority as a landlord is to do whatever I can to help
17 him get in there and put a sign up on the space and
18 help him get patients in the door. However, if, you
19 know -- my thought is that if I had to put additional
20 parking that could add value to the property as a
21 property owner -- I've got to be honest though, one
22 thing that is attractive to the space is the green
23 space and I would hate to fill that with asphalt if we
24 don't have to.

25 MR. MIETZ: Understood, but the question was:

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2 Did you look at it?

3 MR. BURGE: Currently, still looking at it.

4 MR. MIETZ: Physically, I mean is it --

5 MR. BURGE: As a matter of fact, today I
6 spoke with an architect to better understand what this
7 could entail in case it came down to --

8 MR. MIETZ: Okay. The other thing is, again,
9 your speaking to the Board as we discuss the specific
10 uses that the two of you have that this parking relates
11 to that.

12 It would be acceptable to you to understand
13 this parking variance if it was granted would be an
14 applicable to being specific?

15 MR. DiSTEFANO: Yeah, and a little bit on
16 that, Dennis, is that's one of the things that this
17 Board has got to look at. Today it works.

18 MR. BURGE: Okay, sure.

19 MR. DiSTEFANO: If you go into practice and
20 you're a huge success and you start bringing on staff,
21 what guarantee would the Board have to say, you know,
22 in two years your practice has now grown to the point
23 where it demands a lot more than what's available and,
24 you know, or even if you were to move out we could
25 condition it that the next person moving in is under

1
2 some type of constraint?

3 MR. URIBE: Right.

4 MR. DiSTEFANO: You can always come back to
5 this Board, you know, it's always open to you to come
6 back. And if we put a condition on there you could
7 come back and ask for relief from that condition and
8 show your point.

9 So my question is: If this Board were to
10 place a condition that, Doctor, you're limited to
11 yourself as a solo practitioner, I mean, what undue
12 hardship does that do to you?

13 MR. BURGE: I would say first of all the
14 current lease agreement that we have does limit him to
15 eight parking spaces. We don't want to create any
16 conflicts with our business or with our neighbor, who
17 is Contemporary Dentistry, in any way. So I think as a
18 landlord I take that very seriously.

19 But as Dr. -- we want to be careful with any
20 limitations because as a business owner I know
21 sometimes you have to survive and you have to choose
22 paths and you're faced with things you may not be able
23 to predict. I think that any efforts to give us as
24 much freedom while at the same time being careful, you
25 know -- I guess I would say starting off and we need to

1
2 be careful not create too many limits.

3 I know that when you look at the alternative,
4 right now I believe I have the right to put in a
5 professional office. Potentially I could have two to
6 three tenants in there. Right now I'm lucky to have
7 one single tenant who has one employee, provides
8 one-on-one care. To me it's an ideal situation and I
9 can't think of another option that would require less
10 parking. Any other option is going to require more
11 parking space. You know, if you have a real estate
12 agent in there or what have you chances are they're
13 going to require more parking than they will then with
14 their patients.

15 MR. CHOLETTE: I think we're understanding
16 what you're saying. I think that Rick wanted to point
17 out --

18 MR. BURGE: Yeah.

19 MR. CHOLETTE: -- the Board may need to limit
20 it in some way because the arguments that are being
21 made now justify going with less spaces --

22 MR. BURGE: Sure.

23 MR. CHOLETTE: -- is dependent on the two
24 businesses that you have.

25 MR. BURGE: Okay.

1
2 MR. CHOLETTE: And that, you know, some much
3 larger chiropractic service or you yourself could
4 expand and then there'll be a problem.

5 We will try and limit it in some way and I
6 think Rick was trying to point that out. And as Rick
7 pointed out, if in the future you need to come back and
8 argue your case then you could do that.

9 MR. BURGE: Okay.

10 MR. URIBE: And I would say that if either
11 one of our businesses grew to an extent where we were
12 finding parking to be an issue we would very
13 proactively want to expand it for our own, you know,
14 without consideration at all. If I start running out
15 of my eight spots all of a sudden I'm going to be on
16 Sam's door steps saying, "Hey, man, we got to find a
17 way to expand this because I'm being limited right
18 now." And I think we would proactively bring that back
19 very quickly. I don't think that would be an issue at
20 all.

21 There is no real place for it to overflow,
22 you know, the way it's setup. So, you know, if all of
23 a sudden I can't put people on the book that I could
24 normally take, that's financially damaging to me.

25 MR. DiSTEFANO: That's understandable, but

1
2 there is unfortunately the overflow of the building
3 behind you. Which people coming to visit they don't
4 know where that lot line is. All of a sudden your
5 creeping into the building behind you --

6 MR. BURGE: Uhm-hmm.

7 MR. DiSTEFANO: -- and they start complaining
8 that --

9 MR. BURGE: Right.

10 MR. DiSTEFANO: -- you're using their
11 parking.

12 MR. BURGE: And we have a wonderful
13 relationship with them. So that's important for me to
14 maintain that. But I know that I have --

15 MR. URIBE: I think that could work both ways
16 as well. They could take my parking as well.

17 MR. DiSTEFANO: Absolutely, it could work
18 both ways.

19 MR. URIBE: Lucky for them right now they're
20 more established of the two. I think if it happens
21 it's going to affect me more than --

22 MR. DiSTEFANO: You're right.

23 MR. URIBE: I would like to think that I'll
24 have that problem down the road.

25 MR. DiSTEFANO: They don't need the variance,

1
2 you do.

3 MR. URIBE: Right.

4 MR. BURGE: So I guess one question that I --
5 if we had the thirty-three, because I'm not terribly
6 opposed to exploring, it's just right now my priority
7 is getting him in business, you know, and so I don't
8 want any time delays. Any approvals that you make
9 would buy me time to maybe further explore five extra
10 parking spaces. I would definitely explore that.

11 MS. SCHWARTZ: But you are agreeing to the
12 fact that if you find that you need more you are
13 willing to bring the five required, if the need arises?

14 MR. BURGE: If you determine that there is
15 need, you know, I've got to get them.

16 MS. SCHWARTZ: You would probably realize
17 that before.

18 MR. URIBE: I think we'll find the need
19 first. I mean we would be the ones to say we need to
20 accommodate our patients and bring more parking to the
21 Board, if it comes to that.

22 MS. SCHWARTZ: And, Rick, they would need
23 Planning Board approval?

24 MR. DiSTEFANO: They would need Planning
25 Board approval. They might need variances, we don't

1
2 know. And site plan approval would have to be
3 required. So there's --

4 MR. CHOLETTE: But we can't -- I don't see us
5 trying to condition something --

6 MR. DiSTEFANO: No.

7 MR. CHOLETTE: -- that is going to say that
8 part of agreeing to get this approval they agree to
9 make five more spaces at some point in time --

10 MR. DiSTEFANO: No.

11 MR. BURGE: Right.

12 MR. CHOLETTE: That's a different issue.
13 We're not going to --

14 MR. DiSTEFANO: No, we're not going to.

15 MS. BAKER LEIT: I have a background
16 question.

17 MR. BURGE: Sure.

18 MS. BAKER LEIT: What was the property used
19 for previously and were the twenty-eight spaces
20 pre-existing non-conforming.

21 MR. DiSTEFANO: No, because of the house was
22 used for professional office.

23 MS. BAKER LEIT: Okay.

24 MR. DiSTEFANO: Not medical office. And
25 that's what pushes you into --

1
2 MR. BURGE: Except for the fact that it's our
3 understanding that there was a phycologist in there.

4 MR. DiSTEFANO: There may have been.

5 MR. BURGE: The sign was on the door when I
6 bought it.

7 MR. DiSTEFANO: But it was DeMaria Travel for
8 the longest time. Now at some point in time DeMaria's
9 Travel got smaller and there may have been a tenant
10 that went in there that, you know, to take their little
11 space and say all right your space is one to one fifty
12 and the rest of it is one to two fifty.

13 MR. BURGE: Right.

14 MR. DiSTEFANO: They were close. Closer than
15 what they are now.

16 MS. BAKER LEIT: All right.

17 MR. CHOLETTE: Are there any other questions?
18 Fine. Thank you very much.

19 MR. BURGE: Thank you.

20 MR. URIBE: Thank you.

21 MR. CHOLETTE: Is there anyone in the
22 audience that would like to speak with regard to this
23 application?

24 There being none this part of the public
25 hearing is closed.

1
2 9A-05-14 Application of Joseph O'Donnell, architect and
3 Brian Warren, owner of property located at 70
4 Greenfield Lane, for 1) an Area Variance from Section
5 203-2.1B(3) to allow for the construction of a 864 sf
6 detached garage in lieu of the maximum 600 sf allowed
7 by code; and 2) an Area Variance from Section 207-6A(1)
8 to allow said garage to be 20.5 ft. in height in lieu
9 of the maximum 16 ft. allowed by code. All as described
10 on application and plans on file.

11 MR. O'DONNELL: Good evening. Thank you. My
12 name is Joe O'Donnell. I have offices at 150
13 Versailles Road, Rochester, New York. I have with me
14 tonight Brian Warren, the homeowner.

15 We're back here this month because we've
16 listened to the concerns and comments of the Board in
17 addition to the neighbor to the north. Initially we
18 thought in order to mitigate the impact to the
19 structure on the property to the north that we would
20 change the design of the garage, which you saw in our
21 initial application that we submitted back I believe
22 about a month ago.

23 Right, Rick?

24 MR. DiSTEFANO: For the one that they have
25 here?

1
2 MR. O'DONNELL: The one they have here
3 tonight, right, which showed a three-bay garage, less
4 deep but wider, and remove the dormers and remove the
5 second floor, the stairway to the second floor, added
6 asphalt.

7 One of the reasons that we got that
8 application in is because last month at this time I was
9 actually on vacation. I drove in from vacation for the
10 meeting. I drove back that night. Brian went on
11 vacation on Friday. We spoke over the weekend and we
12 came up with the three-bay garage on Sunday night. I
13 drew it up and we submitted it on Tuesday.

14 However, after we submitted that application
15 we kind of thought that the three-bay garage was really
16 a bit imposing and required a larger amount of asphalt,
17 thus reducing the green space and increasing the lot
18 coverage, runoff, et cetera, and now began to encroach
19 on the western property line and that neighbor. So we
20 went back to the drawing board again, which is what we
21 submitted here tonight. I had these plans ready about
22 a week ago. Rick suggested that we just bring them
23 tonight rather than trying to get them out to you.

24 So I didn't want to throw you too much of a
25 curveball, but what you have in front of you tonight is

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2 what we're asking for. And this design we feel
3 addresses all the concerns that the Board had, all the
4 concerns that the neighbor had. It does not increase
5 any concerns -- the neighbor to the north -- it does
6 not increase any concerns to the neighbor to the west.
7 And it gives the homeowner the storage space that he
8 needs.

9 And I would like to just go through the
10 following items. By going back to the two-bay garage
11 it's a less imposing structure on the neighbor to the
12 west and it minimizes the asphalt. I think I mentioned
13 a little bit of that.

14 We reduced the overall foot print. The
15 original design last month was a about a thousand seven
16 plus about another seven hundred on the second story.
17 Which I think really raised your eyebrows. Judy, you
18 specifically. We eliminated all that.

19 We are now at nine hundred and ten square
20 feet. We went back to the twenty-six foot wide by
21 thirty-five feet deep. A standard garage today in any
22 home that's adjacent to a garage or in this
23 neighborhood is really twenty-four feet. So width wise
24 we don't feel the twenty-six feet is really that
25 significant. Given also that the code allows for a six

1
2 hundred square foot garage and a two hundred square
3 foot shed on the property, we don't think that the nine
4 hundred and ten that we're asking for tonight is,
5 again, really that significant.

6 MR. DiSTEFANO: Joe, can I stop you there?

7 MR. O'DONNELL: Yeah.

8 MR. DiSTEFANO: So as advertised we have
9 eight hundred and sixty-four square feet.

10 MR. O'DONNELL: That was the three-bay
11 design.

12 MR. DiSTEFANO: Right.

13 MR. O'DONNELL: Okay.

14 MR. DiSTEFANO: So this garage is -- so
15 you're asking to change the eight sixty-four --

16 MR. O'DONNELL: To nine ten.

17 MR. DiSTEFANO: To nine ten?

18 MR. O'DONNELL: Yeah.

19 MR. DiSTEFANO: On your drawing that you've
20 just submitted we have eight hundred and eighty-five
21 square feet.

22 MR. O'DONNELL: Yeah, that's a typo. It's
23 the nine hundred and ten. It's the 35x26.

24 I apologize, Rick.

25 MR. DiSTEFANO: So is the height staying at

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20.5?

MR. O'DONNELL: Yes, 20.5.

MR. DiSTEFANO: So your height is twenty-one ten.

MR. O'DONNELL: Yeah, I corrected that on the elevation, Rick, on the last sheet.

MR. DiSTEFANO: Yeah, I saw it on the --

MR. O'DONNELL: Yeah, the site data did not get updated.

MR. DiSTEFANO: So I guess for the record I need you to formally request the modification of how it was advertised.

MR. O'DONNELL: Yes. So can I go through - do you want me to go through my reasons first and then I'll ask as a formal request or do you want to do that now?

MR. DiSTEFANO: No, just right now just formally --

MR. O'DONNELL: Our formal request tonight is the two-bay garage which is the 26x35, removal of all the dormers and a maximum height of 20.5 feet. That's the bottom line.

MR. DiSTEFANO: And how much square footage?

MR. O'DONNELL: Ninth hundred and ten.

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MS. SCHWARTZ: Is that just the first level?

MR. O'DONNELL: Yes, there's no second level anymore.

MS. SCHWARTZ: So there's no space up there at all?

MR. O'DONNELL: Other than just the dead attic space from the roof line. There's no --

MR. CHOLETTE: There will be no stairway or anything?

MR. O'DONNELL: There's no stairway.

MS. SCHWARTZ: So there'll be nothing up or down?

MR. O'DONNELL: Eliminated it all.

MS. SCHWARTZ: Nothing pulling down or anything?

MR. O'DONNELL: Right.

MS. SCHWARTZ: And the access, there'll be a place up there?

MR. O'DONNELL: Maybe by a ladder if you wanted to throw some, you know, things up there. But it's there anyways - the space - due to the roofline.

MS. SCHWARTZ: So you can give us the square footage of that space up there?

MR. O'DONNELL: It's open, it's just the

1
2 rafters above. I wouldn't --

3 MS. SCHWARTZ: There's no flooring?

4 MR. O'DONNELL: No. No, flooring because we
5 knew that was a concern.

6 MR. WARREN: Can I say something?

7 MR. O'DONNELL: Yeah.

8 MR. WARREN: My name is Brian Warren. I'm
9 the homeowner.

10 Currently in my current garage there's
11 actually a loft space in there that you can actually
12 get to by ladder. So I don't have any real use for it.
13 I would have liked to have been able to walk up and use
14 it, but if I can't the first floor is the most
15 important to me. I have a lawnmower, snowblower and
16 stuff. So you're kind of opposed last meeting with
17 upstairs and the overall square footage. So I took it
18 out. And the biggest concern for me is the first floor
19 space. I need it for storage. I don't want to build a
20 shed on the property.

21 I've taken that out. We've lowered it to
22 20.5. We took the dormers off, which I think you were
23 specific about how massive the dormers were. And we
24 also shrunk it from twenty-eight to twenty-six and
25 thirty-six to thirty-five.

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2 MS. SCHWARTZ: Okay. My question is why
3 can't this what I call second floor look like what you
4 submitted that we got in the mail than what you're
5 bringing us tonight?

6 The window is not nearly as big. It's just a
7 small little, round window.

8 Why did this change?

9 MR. O'DONNELL: Well, I don't know if you've
10 been -- yeah, were I think you were out there last
11 month. I'm not sure. It's a -- that front window, the
12 three units; is that what you're talking about?

13 That is really in character of the existing
14 house, if you look at the dormers of the existing
15 house.

16 MS. BAKER LEIT: So it's kind of echoing --

17 MR. O'DONNELL: It's actually --

18 MR. WARREN: If you look at the ends of the
19 gables, that's what's on the gables.

20 MR. O'DONNELL: Yeah, it's an Arts and Crafts
21 style window. They restored that side. It actually
22 faces east. Nobody sees it because 490 is right there,
23 sound barriers.

24 MS. SCHWARTZ: I guess I would rather see the
25 smaller window in the plans that we got in the mail to

1
2 be honest. This looks big again to me.

3 MR. O'DONNELL: Well --

4 MR. CHOLETTE: Well, Judy, they're coming in
5 with this as their proposal.

6 MR. O'DONNELL: Yeah. I guess that's really
7 an architectural personal design. I mean, whether it's
8 three windows or one window It's really a design issue.
9 So that would be my answer to that.

10 Okay. So we removed that dimension. We
11 removed the dormers on three sides so you can reduce
12 any shadowing on the property to the north. But I
13 would like to remind the Board -- I don't know if you
14 still have your photographs from last month, but there
15 is a dense row of pine trees on the rear property line
16 that is really the issue of sunlight to that neighbor
17 to the north. Any structure, whether it was the one
18 that we submitted last month or the one we submitted
19 this month or the one we submitted tonight, would not
20 produce any significant shadowing because of those pine
21 trees that are there.

22 Do you have that photo?

23 MR. WARREN: Sure.

24 MR. O'DONNELL: This is(indicating) I would
25 like the Board to pass that around to refresh your

1
2 memory of last month.

3 So I'm not quite sure where any structure in
4 front of those pine trees would impose any shadowing on
5 that neighbor's property. Again, I mentioned the
6 stairs.

7 So kind of in closing we'll open up the
8 questions. We believe this design is very much in line
9 with other garages that are requested. In fact, I did
10 one on Westland which is 24x30 and actually you allowed
11 a pull-down stair up to the attic space, and it's on a
12 lot that's only sixty feet wide and it was within five
13 feet of the property line and was much closer to the
14 neighbors. So I know precedent. I'm on a Zoning
15 Board. But I would just like to point that out as
16 something you may be able to compare from scale and
17 from character is very similar to the one we're
18 proposing on a much larger lot, adjacent to a much
19 larger house.

20 Did I miss anything?

21 MR. WARREN: Do you want to talk about the
22 neighbors?

23 MR. O'DONNELL: So I would also like to
24 remind the Board that the other neighbors on Brian's
25 street directly signed a petition last month approving

1
2 the big garage. So I guess -- and I'm not sure if any
3 are here tonight.

4 I do know the gentleman to the north is here,
5 who was here in opposition last month. We did meet
6 with him while the other deliberations were going on to
7 get him up to speed on this new design. I didn't want
8 to blindside him. So I'm sure we'll hear from him when
9 he has an opportunity.

10 Any questions I could answer?

11 MR. DiSTEFANO: Can you just, again, clarify
12 why it went from eight sixty-four to nine ten?

13 MR. O'DONNELL: Well, the three-bay garage
14 was a lot less deep.

15 MR. WARREN: Can I answer that question?

16 MR. O'DONNELL: Yeah, please.

17 MR. WARREN: When you look at my house and
18 you put a three-car bay across there - now after Joe
19 drew it and a I looked at it, I walk out of my house
20 and I've got just pavement. It's a huge amount of
21 pavement. It takes up a lot of the green space and it
22 also infringes on my neighbor next door to me as well,
23 which I want to beware of their property as well.

24 And going with a two-car front garage doesn't
25 impact my neighbor behind me from a sunlight standpoint

1
2 - as he's indicating - as much as a three-car garage
3 across the back of his property would. So the depth of
4 my garage is obviously on my property, but it's linear
5 and it looks proper with the house.

6 MR. DiSTEFANO: But the short answer is
7 because you wanted more square footage?

8 MR. WARREN: No question. I wanted more
9 storage.

10 MR. DiSTEFANO: You wanted to push the eight
11 sixty-four to nine ten?

12 MR. WARREN: Yeah.

13 MR. DiSTEFANO: And the little bit of a
14 problem that I have is that we went from one thousand
15 seven to eight sixty-four, which was or whatever that
16 number is --

17 MR. WARREN: Right.

18 MR. DiSTEFANO: -- which makes it seem like a
19 fairly substantially less variance request. Now we're
20 pushing that back up to nine ten. Which now we're
21 almost getting back up to that thousand seven, which
22 was --

23 DR. LAWRENCE: Wasn't a quarter of it open
24 and --

25 MR. WARREN: Yeah. That's maybe where -- do

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you know the corner in the back?

MR. DiSTEFANO: Yeah.

So you have an open corner?

MR. WARREN: So that would actually take it down, Joe.

MR. O'DONNELL: So that would -- I think we're only talking about fifty square foot from what's there now.

MR. CHOLETTE: So that takes away twenty-five from your request.

MR. WARREN: That's correct.

MR. O'DONNELL: Yeah.

MR. DiSTEFANO: From an open stand -- we still consider --

MR. CHOLETTE: We still consider, but I understand your point, Rick. At this stage it's really up to the Board --

MR. WARREN: Right. I'm just --

MR. CHOLETTE: -- whether or not this is acceptable or not.

MR. WARREN: Okay.

MR. CHOLETTE: But your answer was that you thought something narrower and a little deeper would --

MR. WARREN: It's not as obtrusive as three

1
2 across --

3 MR. O'DONNELL: With a lot of black top.

4 MR. WARREN: It's actually in line with
5 what's on the street. I could go right across the
6 street on East Avenue - which I showed you guys the
7 last time I was here - that built a three-car garage
8 that Joe, the one that he submitted prior, it's
9 identical and it was approved.

10 So, you know, we kind of went that route
11 thinking it was already approved and looking at it on
12 the property, it just didn't fit the property.

13 MR. CHOLETTE: Fair enough.

14 Are there other questions?

15 MR. O'DONNELL: Okay. Thank you.

16 MR. CHOLETTE: Thank you for coming in.

17 MR. O'DONNELL: Great. Thank you.

18 MR. CHOLETTE: Is there anyone in the
19 audience that would like to speak with regard to this
20 application?

21 MR. FUGATE: Bill Fugate, 71 Lime Rock Lane.

22 I just have a: The building is --

23 MR. CHOLETTE: I'm sorry, just ask us please.

24 MR. FUGATE: The building is four and a half
25 feet above code.

1
2 My question is: Why? What is that extra
3 height to be used for?

4 MR. CHOLETTE: My thought - and we usually
5 don't allow back and forth - but my thought is for
6 architect purposes, it's aesthetic based on the size of
7 the house and how the house is shaped.

8 Is that correct?

9 MR. O'DONNELL: That's correct.

10 MR. FUGATE: That all.

11 MR. CHOLETTE: Okay. Thank you.

12 Is there anyone else that would like to speak
13 with regards to this application?

14 There being none this part of the public
15 hearing is closed.

16 9A-06-14 Application of Bryan Enrhart, agent, and River
17 Road Hospitality Associates, LLC, owner of property
18 located at 717 East Henrietta Road, for modification of
19 an Area Variance (9A-08-09) from Section 203-84B(19)(c
20) to allow building length to increase from 208 ft. to
21 213 ft. where a maximum 160 ft. is allowed by code. All
22 as described on application and plans on file.

23 MR. PATEL: Hello. My name Minesh Patel,
24 M-i-n-e-s-h. I'm the property owner for this.

25 This is the La Quinta on East Henrietta

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2 Road(indicating). We're rehabbing the hotel, basically
3 getting rid of the orange and, you know, changing the
4 colors out and reflagging this to a Holiday Inn
5 Express.

6 Now the one item that we need to do is apply
7 for a variance because Holiday Inn requires that all
8 exterior entrances for this particular -- excuse me,
9 for this exterior entrance has an overhang to allow
10 guests to come in with luggage without getting rain or
11 snow or whatever on it.

12 It's a five foot extension off the building.
13 I have plans. I believe they were submitted by Brian.

14 So I would -- that's the request for the
15 variance.

16 MR. CHOLETTE: Thank you for keeping that
17 request nice and short.

18 Does anybody have any questions?

19 MR. DiSTEFANO: Just for the record, this is
20 an unenclosed space, it's only roofed over?

21 MR. PATEL: Correct.

22 MR. CHOLETTE: We heard this original request
23 a long time ago.

24 MR. DiSTEFANO: Right.

25 MR. GOLDMAN: Just help me understand where

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this five foot overhang is.

MR. DiSTEFANO: It's right there. You've got your finger on it.

Yeah, so it's very minor. It's a procedural thing more than anything.

MR. GOLDMAN: Thank you.

MR. CHOLETTE: Fine. Thank you very much for coming in.

MR. PATEL: Thank you.

MR. CHOLETTE: Is there anyone in the audience who would like to speak in regard to this application?

There being none this part of the public hearing is closed.

MR. DiSTEFANO: I have a question or maybe a request of the applicant of seven, eight, nine, ten and eleven.

We have one behind you.

UNKNOWN: Please, go ahead.

MR. DiSTEFANO: Do you mind if we took her first?

UNKNOWN: Go right ahead.

MR. DiSTEFANO: Is that okay, Mr. Chairman?

MR. CHOLETTE: Yes.

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2 And I'm also assuming that when you come in
3 to talk about those applications we just coalesce them
4 all together.

5 UNKNOWN: We were going to ask for that.

6 Thank you, Mr. Chairman.

7 9A-12-14 Application of Shirley Jacobson, owner of
8 property located at 47 Palcham Drive, for an Area
9 Variance from Section 205-2 to allow a deck to extend
10 8.8 ft. into the 40 ft. rear setback required by code,
11 and to allow a proposed screen porch, located on the
12 deck, to extend 2 +/- ft. into the 40 ft. rear setback
13 required by code. All as described on application and
14 plans on file.

15 MS. JACOBSON: Thank you.

16 MR. DiSTEFANO: You're welcome.

17 MS. JACOBSON: I'm Shirley Jacobson, owner of
18 47 Palcham Drive. I am the third owner of this
19 property. I lived there for twelve years, but I've
20 been a Brighton resident for fifty and I love it.

21 If you've been to my house to see it, my
22 backyard that I've got backs up to the parking lot of
23 the Lutheran Church which is on Westfall Road. They're
24 -- I'm not exactly sure what an easement is. I had a
25 new survey made at Rick's request or the town's. And I

1
2 found out that the existing deck which was put on in
3 1985 by the first owner or the builder - we're not
4 sure, but my neighbor told me it was there when she
5 moved in in 1986. The deck - obviously I opened a
6 pandora's box, I found out it had no permit. So I want
7 to make things legal and do things correctly with the
8 town.

9 But also what started it was I back up to
10 this small creek - I think Judy mentioned Buckland
11 Creek, I'm not even sure if that's the name of it.
12 It's pretty buggy and I enjoy the outdoors a lot and so
13 does my husband. We like to sit out on the deck and I
14 thought a little sunporch or sunroom would be ideal for
15 extending the nice weather for us to enjoy all that
16 nature has to offer.

17 So I'm now requesting of you because we found
18 out that the deck extends into the forty foot easement
19 by eight feet eight inches, I would like not to have to
20 tear this off. And I would like to put a small sunroom
21 on a portion of the deck, not to extend much past the
22 existing house.

23 And if you have any requests I would be more
24 than happy to answer them. I think you've probably
25 seen the plan and I don't know -- I know two of you for

1
2 sure were at my house to see it and some of you others
3 I may not have run into.

4 MR. CHOLETTE: Good. Thank you.

5 MS. JACOBSON: The neighbors have no
6 objection. I can barely see them. They're at least a
7 hundred to a hundred and fifty feet to each side.
8 They've spoken to me about it. There's no further
9 objection that I'm aware of.

10 MR. CHOLETTE: Rick, since the original deck
11 was not approved are we then approving the deck and the
12 porch at the same time?

13 MR. DiSTEFANO: Correct.

14 MS. JACOBSON: Okay.

15 MR. CHOLETTE: Just for the record, you spoke
16 of it extending into an easement. It's actually
17 extending into the rear setback.

18 MS. JACOBSON: Oh, okay.

19 MR. CHOLETTE: The need is not actually an
20 easement.

21 MS. JACOBSON: Excuse my non-technology of
22 the terms.

23 MR. CHOLETTE: I think we understand what
24 your application is and what you're up against.

25 Are there any questions for the applicant?

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Fine. Thank you very much for coming in.

MS. JACOBSON: Well, thank you so much. I appreciate your time and for getting it in a little bit earlier.

MR. CHOLETTE: Sorry you had to stay this late.

MS. JACOBSON: Thank you, Rick.

MR. DiSTEFANO: You're welcome.

MR. CHOLETTE: Is there anyone in the audience that would like to speak with regard to this application?

There being none this part of the public hearing is closed.

Can I ask you not to read them all at once?

MR. DiSTEFANO: I was going to say the same thing.

If we just take them case by case and leave them up here?

MR. CHOLETTE: They can just present them as they want to.

MR. DiSTEFANO: Okay.

MR. CHOLETTE: Let's assume that you've read them into the record. We don't normally do that, but we'll make an exception this time.

1
2 9A-07-14 Application of Neu Lac De Ville Associates,
3 LLC, owner of property located at 1900 South Clinton
4 Avenue, for a Sign Variance from Section 207-32 to
5 allow for a freestanding sign (to replace a
6 pre-existing nonconforming freestanding sign) where
7 not allowed by code. All as described on application
8 and plans on file.

9 9A-08-10 Application of Neu Lac De Ville Associates,
10 LLC, owner of property located at 1900 South Clinton
11 Avenue, for a Sign Variance from Section 207-32 to
12 allow for a freestanding sign (located on a landscape
13 wall) where not allowed by code. All as described on
14 application and plans on file.

15 9A-09-14 Application of Neu Lac De Ville Associates,
16 LLC, owner of property located at 1900 South Clinton
17 Avenue, for a Sign Variance from Section 207-32A(2) to
18 1) allow for 4 enter/exit signs in lieu of the maximum
19 two allowed by code, 2) allow each sign to be 12.5 sf
20 in lieu of the maximum 6 sf allowed by code, 3) allow
21 each sign to be 5 ft. in height above grade in lieu of
22 the maximum 4 ft. allowed by code, 4) allow each sign
23 to have business identification signage where not
24 allowed by code, and 5) to allow 3 of the signs to be
25 closer than the minimum 10 ft. setback from a lot line

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2 as required by code. All as described on application
3 and plans on file.

4 9A-10-14 Application of Neu Lac De Ville Associates,
5 LLC, owner of property located at 1900 South Clinton
6 Avenue, for a Sign Variance from Section 207-32B(3) to
7 allow a building face sign (Lifespan) to be placed 25
8 ft. above grade in lieu of the maximum 20 ft. allowed
9 by code. All as described on application and plans on
10 file.

11 9A-11-14 Application of Neu Lac De Ville Associates,
12 LLC, owner of property located at 1900
13 South Clinton Avenue, for a Sign Variance from Section
14 207-32B(3) to allow a building face sign (Dollar
15 General) to be placed 23.5 ft. above grade in lieu of
16 the maximum 20 ft. allowed by code. All as described on
17 application and plans on file.

18 MR. GREINER: Good evening. My name is Tom
19 Greiner, attorney with Nixon Peabody, at Clinton Square
20 in Rochester. I'm here on behalf of the DiMarco Group,
21 owners of the Tops Brighton Plaza. With me tonight is
22 Paul Paolucci(phonetic), vice president of development
23 and construction at DiMarco, my lonely colleague over
24 there, Rob Brenner, who has worked on this application.

25 We are here for a number of area variances

1
2 for signs. And actually Rob and I have put this little
3 chart together(indicating) actually tonight just before
4 we got here, we felt that it might be easier to look at
5 everything. And so when you see especially with the
6 smaller signs you see a column with code requirement,
7 current signage and proposed signage because by enlarge
8 these are replacement signs. And I'll go over that
9 very quickly. What I would like to do then is have
10 Paul talk to the Board from the owner/operator of the
11 plaza point of view, just talking briefly about really
12 the business purpose behind the sign requests and then
13 I will just finish up with a couple closing points.

14 But basically you could see that in the
15 directional signs there are four existing and we're
16 keeping four. Our signs are proposed to be a little
17 bit shorter, but a little bit bigger. They're going to
18 be placed in the same locations as they are now. And
19 we would like to add some text to identify for everyone
20 as a branding type of thing, that Paul will get into
21 more, identify them as Shops at Lac De Ville. That's
22 what they're known as and this will help reinforce
23 that.

24 The free-standing sign, Roman Numeral II, the
25 large sign on Clinton that currently says Tops Brighton

1
2 Plaza is old and tired. And we're proposing to replace
3 that with a slightly smaller, but I think - we think a
4 more attractive sign.

5 Dollar General, Paul will explain this in
6 more detail. But that is for reasons of symmetry and
7 also the fact that Dollar General is a national tenant
8 and a national operation. And also for visibility we
9 would like to have the extra bit of height there.

10 The landscaping wall which when you look at
11 that application you will see it located in the parking
12 lot as a decorative treatment. And the DiMarco Group
13 Property is just to identify it for people that know
14 the DiMarco Group and know their plazas and other
15 operations will be able to identify with that.

16 And then finally, the Lifespan sign we are
17 proposing no changes to that. That's actually where it
18 is right now - as we were putting together the
19 applications the town and we discovered that it was
20 actually not at twenty feet. It's - for fourteen years
21 it's been at twenty-five feet. So that application is
22 really to maintain the status quo.

23 The housekeeping matter, the County Planning
24 has come back with a local on this. And Paul will
25 discuss this in more detail, but the Architectural

1
2 Review Board approved the applications and the designs
3 and everything as proposed.

4 Paul why don't you if you want to take over
5 here and then I'll just close up?

6 MR. PAOLUCCI: Hi. Paul Paolucci, on behalf
7 of the applicant, as Tom mentioned. In the interest of
8 time I will try to be brief.

9 I could talk all night on the development and
10 what we've undertaken there on South Clinton Avenue.
11 We're very proud of it. And as we've gotten further
12 and further in the development starting with Tops and
13 the architectural renovation throughout the plaza and
14 the redevelopment as a whole, we recognized that we
15 needed to do something with the signs that border our
16 property. If we were going to do something we wanted
17 to do something that added to the character of the
18 neighborhood and complimented what we were doing inside
19 the plaza.

20 I passed out reference materials which are
21 the architect elevations which were approved and that
22 for the most part have been completed. On top of the
23 architectural elevations and the facade renovations
24 we've added hard-scape improvements that have added a
25 true pedestrian scale and a true pedestrian experience.

1
2 And we've come back to the Planning Board and the town
3 we've worked hand and glove with them to develop them
4 in a manner that was satisfactory with the town and us
5 as the operator.

6 And that pedestrian experience being the
7 neighborhood commercial center, being surrounded by
8 businesses on all four sides and residences to the
9 rear, we wanted to introduce that pedestrian experience
10 at the right-of-way.

11 Hence, I'll start with the directional signs.
12 Those directional signs are set in a scale and a manner
13 that architectural stylistic design that we've
14 introduced in the plaza out to the right-of-way. The
15 existing ones that are there have been covered for
16 quite some time because when Tops had their grand
17 reopening one of them was actually run over by a
18 delivery vehicle prior to us opening and it was
19 destroyed. We kind of scrambled and we made some
20 slipcovers over them. And the town knew that we would
21 be coming in for this application so they've basically
22 granted me a stay to try to do something more
23 permanent. But if I pulled those slipcovers off you
24 would see those blue box signs that say "in" and "out",
25 certainly doesn't match anything that we've done inside

1
2 the plaza or what we want to introduce to the public as
3 the right-of-way.

4 So the directional signs are indicative for
5 "enter", "exit". And the font and the height of where
6 that direction is presented on the sign is at eye level
7 of the driver. And then at a smaller font, lower level
8 is the branding Shops at Lac De Ville, which is to
9 introduce that pedestrian scale. It would be
10 internally illuminated, very dimly lit. And that
11 branding is important to us because as some of you -
12 all of you as Brighton residents probably I would say
13 if I took a poll in this room some may still call the
14 plaza Loehmanns Plaza, you know, and I think that's
15 true of many in the Town of Brighton. And we've worked
16 really hard to identify this as a neighborhood center
17 within the Lac De Ville Development. It's important
18 because they're latching on to that branding. And it's
19 important for us to be able to represent that to
20 passersby that see the sign that's there twenty-four
21 hours a day that this is a place of business known as
22 Shops at Lac De Ville.

23 The pylon sign, again, when we took a look at
24 what we had as a product we recognized very strongly
25 that we needed to do something. And we tried do

1
2 something that was tasteful and that matches the
3 architecture within the plaza. And again, introducing
4 our anchor tenant Tops tastefully at the premiere
5 position on the freestanding sign. And then lower at
6 that more of a driver level the branding of Shops at
7 Lac De Ville. And then on the very bottom on the stone
8 base the address for representation of where the plaza
9 is located.

10 When we look at why we renovated this plaza
11 and why we invested so much in it, it certainly
12 benefits us as an operator but it also benefits this
13 corridor in general. And to have a strong commercial
14 corridor I think is important to the Town of Brighton.
15 There's a lot of new development that is being
16 developed in the neighboring City of Rochester that is
17 competing for the same tenants that we're competing
18 for. We need to be able to set ourselves apart and we
19 need to be able to identify to our tenants that we're a
20 strong place of business, this is a strong corridor and
21 that they can be successful and we could be successful
22 together.

23 The signs internal. The landscape wall with
24 the DiMarco Group Property, we're a Brighton based
25 community - based company. Our corporate offices are

1
2 here in Brighton. We're local developers. The real
3 estate that we own we keep and we are proud of it.
4 We're very proud owners and that means a lot to them to
5 be able to put their name up there to the community to
6 let them know it's their property. And they feel very
7 strongly that's something they're proud of, they want
8 the community to know who they are, they get involved
9 in the community. So that the landscape wall is
10 introduced at the focal point of the key intersection
11 just as a reminder that it's a property that they own,
12 that they're proud of and they're proud to be a
13 Brighton based company.

14 The two building mounted signs, as Tom
15 mentioned, Lifespan we basically did the facade
16 renovation, took their sign down and put it back. The
17 substrate of which it is mounted on changed, but it's
18 at the exact same location and it's the same sign. So
19 we're trying to go make right what was identified to us
20 as a non-conforming or an illegal sign, I guess what
21 could be potentially construed on that particular sign.

22 And lastly, Dollar General - when we worked
23 with the Architectural Review Board we went back and
24 forth on the architectural elevations. We had certain
25 pressures from the tenants. A tenant such as Dollar

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2 General comes in and they're a national tenant and
3 they're taking a proportional share of the overall
4 leasable area in the plaza - which they feel is a large
5 portion, they're ten thousand square feet - they want
6 to be represented as a tenant that has ten thousand
7 square feet. So we developed that portion of the
8 facade to complement where they would be occupying
9 three bays within that existing bay structure of that
10 portion of the plaza.

11 And the Architectural Review Board and our
12 project architect went back and forth a few times and
13 they developed a way to break up that scale of the
14 larger tenants and Lifespan included was to introduce
15 these awnings below the sign band to, again, bring that
16 pedestrian scale and break that massing up. By
17 introducing those awnings the signs generally have to
18 go higher, and hence the location of the Dollar General
19 sign winds up being a height of twenty-three and a half
20 feet where twenty feet is allowed by code.

21 It's also, you know, important to us that the
22 sign is visible from Rue De Ville and if someone is
23 traveling south on South Clinton. That -- the plaza in
24 general sits back. We need to take every attempt we
25 can so that the tenants can be identified. So the

1
2 signs are important for their success. So hence, we
3 took kind of where we have Tops a larger sign field and
4 a more prominent facade representative of the square
5 footage of what they have. Lifespan, very similar type
6 of elements. We introduced that for Dollar General.
7 And we're here requesting your consideration for
8 granting the variance so that we could place that sign
9 within that sign band that's been created.

10 MR. CHOLETTE: But that sign banner already
11 exists I assume?

12 MR. PAOLUCCI: We are building the elevation
13 as you see on that.

14 MR. CHOLETTE: You are building or it has
15 been built?

16 MR. PAOLUCCI: It's framed and it's being
17 finished this week.

18 MR. CHOLETTE: On this very nice handout that
19 you gave us to the right of the Dollar General is
20 another building that says retail sign which is also a
21 grade up higher.

22 Is that something you're going to come back
23 to us in the future and say we want something put
24 there?

25 MR. PAOLUCCI: Yes, Mr. Chairman.

1
2 MR. CHOLETTE: It looks like another raised
3 sign.

4 MR. PAOLUCCI: It would be. And, again,
5 there's going to be awnings on that stone tower that's
6 being introduced. We do have a tenant, it's an
7 existing tenant who is relocating. The tailor is
8 expanding and she's doing a bridal boutique on that
9 corner. And she's hopefully going to be occupying that
10 in November/December time frame.

11 So we would -- I didn't want to add that to
12 the application tonight because I don't have the exact
13 details of her sign and where that would be mounted
14 exactly. I didn't want to get into semantics whether
15 it would be twenty-two feet, twenty-one and a half
16 feet. So I thought we would reserve that until we had
17 their sign in detail and we would review that with the
18 Architectural Review Board and then this Board.

19 MR. CHOLETTE: This looks very, very nice and
20 you've certainly explained why these two or three of
21 your clients want their signs to be more obvious, but I
22 guess I'm not actually convinced from my point of view.
23 So I'm giving you an opportunity to try to persuade me
24 even more.

25 For me it would look much nicer for a plaza

1
2 to have those signs just around all at the same level.
3 And I know you've you already put out that Dollar
4 General has more space, but the sign is going to be
5 larger anyway from left to right and I don't see why it
6 needs to be higher and the same thing, the same
7 situation with Lifespan.

8 MR. PAOLUCCI: I could appreciate that. The
9 architecture and the way that we developed that really
10 is in part driving this and trying to go break up that
11 massing.

12 We have a dated center, if we think back to
13 what it looked like before we started this about
14 eighteen months ago. When Tops completed their
15 renovation it was sort of that 1970s kind of strip
16 center. I've heard the references made to a certain
17 architect called I.M. Pei, who was very prominent back
18 in the time, and it was this angular design - stylistic
19 design, and wanted to try to get away from that. We
20 want to try and break that linear relationship that a
21 canopy really forces upon you.

22 If you build retail today you don't build it
23 with a canopy. These centers today have individual
24 storefronts that allow a retailer to represent their
25 wares and what they are. If you think of village shops

1
2 the storefront is out and prominent and you walk right
3 along it and you get to experience what these retailers
4 have. We're forced with trying to deal with
5 retrofitting a 1970s, 1980s product into today's
6 marketplace. So we worked very strongly to try to
7 brake that horizontal relationship with what the canopy
8 does to the eye and try and make it more interesting
9 and more pleasing and more of a welcoming environment.
10 Hence, we've introduced these cloth awnings.

11 MR. CHOLETTE: I understand. That's a good
12 response.

13 Likewise, with regard to the font I see that
14 it's not uniform.

15 Is that due to trademarks with the businesses
16 or is that also to try and break it up and have some
17 variable?

18 MR. PAOLUCCI: The font that is on those
19 renderings when we were presenting to the Architectural
20 Review Board we were presenting for the facade
21 renovations and the signage was not approved by that
22 Board. So we just used a uniform font to not get into
23 any of the details of the signage with the
24 Architectural Review Board.

25 For the most part as we renovate the

1
2 storefront space in front of each tenant we remove
3 their sign and then we put it back up. If they choose
4 to participate in signage upgrade they make an
5 application. If it conforms to the town code they get
6 a sign permit. If it needs to be reviewed they go to
7 the ARB and then they go to the Planning Board.

8 MR. CHOLETTE: But that's not really before
9 us. I was just curious.

10 Morrey?

11 MR. GOLDMAN: The large sign that exists
12 today at the Clinton Avenue exit/entrance, there's a
13 small reference to the DiMarco Group on there?

14 MR. PAOLUCCI: Correct.

15 MR. GOLDMAN: You're asking that a separate
16 lower landscaping monument with the name be put there?

17 MR. PAOLUCCI: In lieu of what's at the
18 right-of-way.

19 MR. GOLDMAN: Right. I kind of like the idea
20 of maybe - bringing it back to the entrance on Clinton
21 Avenue - just putting a small thing in the air similar
22 to what's on the entrance now, thereby leaving that as
23 just now flowers or a decorative piece rather than
24 adding another monument.

25 Have you given any consideration to that?

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2 MR. PAOLUCCI: We hadn't, only because we're
3 trying to add some interest to that location where when
4 you come into the plaza you have that T intersection.
5 And we thought that was a nice focal point, somewhere
6 to add an attractive wall, something that would be
7 planted with annuals, and it gives an opportunity to
8 not be in your face with the same message if you will.
9 We had toyed with putting Shops at Lac De Ville there
10 but it seemed to redundant.

11 So we wanted to have a focal point and quite
12 frankly John DiMarco Senior, the owner of the property,
13 has asked us to try to do this at all of the
14 properties. Again, because it's that pride of
15 ownership and just wanting to represent --

16 MR. GOLDMAN: I'm not suggesting that he not
17 name his property, just put it in a different location
18 similar to where it is today.

19 MR. CHOLETTE: As you know the directional
20 signs code does not have identification other than in
21 and out.

22 Is there any particular reason why this
23 location should be deviate from that?

24 Is there something special about where the
25 directional signs are going to be located or why Shops

1
2 at Lac De Ville need to be put on those directional
3 signs?

4 MR. PAOLUCCI: Two are allowed by code.
5 We're proposing four. We have two entrances off of --

6 MR. CHOLETTE: I don't mean the number of
7 signs.

8 DR. LAWRENCE: Just that logo.

9 MR. CHOLETTE: The name Shops at Lac De
10 Ville.

11 MR. PAOLUCCI: Why we're suggesting --

12 MR. CHOLETTE: Any other business that's
13 located in the town, what is different here to give us
14 some explanation to why we would allow it here and not
15 in other places?

16 MR. PAOLUCCI: Sure. Again, I tried to paint
17 the picture of this is a neighborhood center and we're
18 surrounded by public right-of-ways and sidewalks and we
19 have quite a bit of pedestrian traffic to the plaza.
20 And we're promoting that and we're adding all of these
21 pedestrian experiences. So we expect that people are
22 walking to the plaza off the right-of-way of South
23 Clinton or neighboring businesses or McQuaid students.

24 So the Shops at Lac De Ville is really
25 pedestrian scale. It's to introduce that it's a

1
2 pedestrian environment. It's -- the enter/exit is
3 directional for motorists and then at the lower level
4 Shops at Lac De Ville was to introduce that brand and
5 to really set the stage that you're entering a
6 pedestrian environment at that right-of-way, at that
7 connection point.

8 MR. CHOLETTE: And where exactly are these
9 four signs going to be?

10 MR. PAOLUCCI: Rue De Ville Boulevard, which
11 is just to the north of us. And we have two curb cuts
12 off of Rue De Ville, one westerly closer to South
13 Clinton and one easterly that comes right in front of
14 Tops.

15 MR. CHOLETTE: So those two entrances and
16 then the main entrance?

17 MR. PAOLUCCI: Is where the pylon sign - the
18 freestanding.

19 MR. CHOLETTE: And there's a fourth?

20 MR. PAOLUCCI: There's two.

21 MR. CHOLETTE: You have two there?

22 MR. PAOLUCCI: Two at each entrance on Rue De
23 Ville, one enter and one exit.

24 MR. CHOLETTE: Oh, two of each of those on
25 Rue De Ville?

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MR. PAOLUCCI: Yeah.

MR. CHOLETTE: And none on Clinton?

MR. PAOLUCCI: Right.

MR. CHOLETTE: Clinton is just handled by your main sign?

MR. PAOLUCCI: By the freestanding sign.

MR. CHOLETTE: By the pylon sign?

MR. PAOLUCCI: That's correct.

MR. CHOLETTE: I guess my argument for why you want your name on there is the fact that you've got the name highlighted coming off of South Clinton, but coming off Rue De Ville and coming in there is not a business identification.

MR. GREINER: I was going to say that if you didn't.

MR. CHOLETTE: Okay, fair enough. Good thinking.

Are there any other questions?

Fine. Thank you very much.

MR. GREINER: Thank you.

MR. CHOLETTE: Did you want to close?

MR. GREINER: I was just going to say -- I didn't want to take up more time. I was just going to say we tried in our Exhibit B to every application we

1
2 tried to give some of the reasoning, as well as some
3 right in the cover letter.

4 And in fact to your question: Why not any
5 business in town? One of the things that I was going
6 to say in general was that this isn't Monroe Avenue
7 where you've got dozens of stores, one after the other
8 right on their own frontage on Monroe Avenue. This is
9 a setback plaza. There are visibility issues. I think
10 it's also relevant that this is undergoing a five and a
11 half million dollar investment.

12 And when I looked at your code -- and, you
13 know, I've done lots of variances. Again, in Exhibit
14 B, looking at the ordinance a couple of things struck
15 me here. And right here at the very beginning of the
16 ordinance it talks about the primary functions of signs
17 of identifying words, the use of the property, and
18 while protecting the public health, safety and welfare
19 also serving property values, creating a more
20 attractive economic climate and enhancing and protecting
21 the physical appearance of the community.

22 And then the next page under 20726, your
23 general regs, signs are important components of the
24 street scape, they do more than communicate
25 information. By the quality of their design they can

1
2 either contribute to or diminish the integrity of
3 structures as a whole.

4 And looking at that I was struck that
5 sometimes the proof of variances fits neatly into the
6 actual standards. You can -- I mean it's almost
7 mathematical. But there's sometimes with the aesthetic
8 and with a whole theme and a branding you get into
9 something a little more general. And I was struck that
10 in your general purpose and intent and preamble to the
11 general regulations I think these signs fit those
12 statements pretty well and I just wanted to emphasize
13 that.

14 Thank you.

15 MR. CHOLETTE: Thank you.

16 Is there anyone in the audience that would
17 like to speak with regard to is this application?

18 There being none this part of the public
19 hearing is closed.

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*

REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated

At Rochester, New York

Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on
September 3rd, 2014, COMMENCING AT APPROXIMATELY 7:15
P.M.

September 3rd, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ
DENNIS MIETZ
DR. DAVID LAWRENCE
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

(The Board having considered the information presented
by the Applicant in each of the following cases and
having completed the required review pursuant to SEQRA,
the following decisions were made:)

Reported by: CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

1
2 APPLICATION 8A-05-14

3 8A-05-14 Application of Anthony J. Costello and
4 Son Development, LLC, owner of property off of South
5 Clinton Avenue, known as "The Reserve" housing
6 community, for renewal of a Temporary and Revocable Use
7 Permit (8A-09-12) pursuant to Section 219-4 to allow
8 for eight temporary site/development signs (original
9 approval allowed for four signs) for a two year period
10 where only one sign is allowed by code. All as
11 described on application and plans on file. POSTPONED
12 FROM THE AUGUST 6, 2014 MEETING

13 Motion made by Mr. Cholette to approve
14 Application 8A-05-14.

15 **FINDINGS OF FACT:**

- 16 1. This use is temporary in nature during the next
17 year's period of construction.
- 18 2. The number of signs is appropriate as this is a
19 large scale development involving sixty-three acres.
- 20 3. No unacceptable change to the character of the
21 neighborhood is expected to result from the approval of
22 this permit. The development is separated from the
23 residence and other businesses and the signage will not
24 produce an eyesore to nearby streets.

25 **CONDITIONS:**

1
2 1. The temporary and revocable use is limited to six
3 signs as described in the application and testimony.
4 These signs consist of the trailer sign facing
5 Interstate 590, the second sign on the property also
6 facing Interstate 590 that currently exists there, the
7 canal facing sign that currently exists, the existing
8 sign that is at South Clinton but allowing that sign to
9 be illuminated, and a feather sign near that same
10 location, as well as an A-Frame sign at that location
11 as described in the application and testimony. The
12 feather sign and the A-Frame sign will be up only
13 during times that the office and model homes are open
14 to the public.

15 2. The signs shall be located as indicated from the
16 testimony provided in the application, as modified by
17 the first condition.

18 3. This temporary and revocable use permit for signage
19 will expire on September 3rd, 2013.

20 (Seconded by Ms. Corrado.)

21 (Ms. Schwartz, no; Dr. Lawrence, yes; Mr.
22 Mietz, yes; Ms. Baker Leit, yes; Mr. Goldman, no; Ms.
23 Corrado, yes; Mr. Cholette, yes.)

24 (Upon roll call, motion to approve with
25 conditions carries.)

1
2 APPLICATION 9A-01-14

3 9A-01-14 Application of Aaron Schaeffer and
4 Aviva Bodek, owners of property located at 3250
5 East Avenue, requesting to reestablish a nonconforming
6 use (Section 225-13D) to allow for the occupancy of
7 multiple single family dwelling units on a single lot
8 where only one single family dwelling unit per lot is
9 allowed by code (Section 203-2.1A(1)). All as
10 described on application and plans on file.

11 Motion made by Mr. Goldman to approve
12 Application 9A-01-14.

13 **FINDINGS OF FACT:**

14 1. The second family dwelling, cottage, at 3244 East
15 Avenue has been used as a rental dwelling for many
16 years.

17 2. No unacceptable change in the character of the
18 neighborhood and no substantial detriments are expected
19 to result from the approval of this variance because
20 the proposed use is the same as what has been there
21 previously.

22 3. This cottage as well as all of the other buildings
23 on this lot are almost invisible, and therefore there
24 will not be an appearance of multiple residences in a
25 single parcel.

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CONDITIONS:

1. The dwelling known as 3244 East Avenue shall only be used as a residence.
2. Of the two cottages that exist on the property this(3244 East Avenue) is the only one that can be used as a rental property.
3. All necessary approvals and permits shall be obtained.

(Secoded by Ms. Baker Leit.)

(Ms. Corrado, yes; Ms. Schwartz, yes; Dr. Lawrence, yes; Mr. Mietz, yes; Mr. Cholette, no, Ms. Baker Leit, yes; Mr. Goldman, yes.)

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

1
2 APPLICATION 9A-02-14

3 9A-02-14 Application of Raymond and Cheryl
4 Mayewski, owners of property located at 7 Elmwood Hill
5 Lane, for an Area Variance from Section 205-2 to allow
6 a sunroom addition to extend 4.25 ft. into the 60 ft.
7 rear setback required by code. All as described on
8 application and plans on file.

9 Motion made by Dr. Lawrence to approve
10 Application 9A-02-14.

11 **FINDINGS OF FACT:**

12 1. The requested variance is not substantial as the
13 requested four and a quarter feet is only on a small
14 portion of the proposed sunroom.

15 2. There will be no visual impact by approving the
16 sunroom as the nearest neighbor is several hundred
17 yards away.

18 3. The proposed sunroom will be in the same footprint
19 as the existing patio.

20 4. No unacceptable change in the character of the
21 neighborhood is expected by the approval of this
22 variance.

23 5. The health, safety and welfare of the community
24 will not be adversely affected by the approval of this
25 variance.

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CONDITIONS:

1. This variance will only apply to the structure that was described in the application and testimony.

2. All necessary building permits shall be obtained.

(Seconded by Ms. Corrado.)

(Mr. Goldman, yes; Ms. Schwartz, yes; Mr. Cholette, yes; Mr. Mietz, yes; Ms. Baker Leit, yes; Ms. Corrado, yes; Dr. Lawrence, yes.)

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

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2 APPLICATION 9A-03-14

3 9A-03-14 Application of James Wentworth, agent,
4 and the University of Rochester, owner of property
5 located at 300 East River Road for Sign Variances from
6 Section 207-31B to allow for 4 freestanding signs, two
7 of which will be 22 sf in size, where only one
8 freestanding sign no greater than 16 sf in size is
9 permitted by code. All as described on application and
10 plans on file.

11 Motion made by Mr. Mietz to approve
12 Application 9A-03-14.

13 **FINDINGS OF FACT:**

14 1. Due to the large size of the parcel and multiple
15 buildings on site directional signage is necessary.

16 2. Well the variance request is substantial, four
17 signs where one is allowed, the multiple entrance
18 directionals assist traffic to enter the site and the
19 other two signs are within the campus property.

20 3. The applicants has undergone a branding upgrade and
21 are replacing existing signs and adding one additional
22 sign due to recent roadway improvements in the adjacent
23 area.

24 4. No negative effect on the character of the
25 neighborhood will result from the approval of this

1
2 request and will add to the safety and welfare of
3 visitors.

4 **CONDITIONS:**

5 1. This variance applies only to the signs described
6 in testimony given and plans submitted.

7 2. All necessary Architectural Review Board and
8 Planning Board approvals shall be obtained.

9 (Seconded by Ms. Baker Leit.)

10 (Ms. Corrado, yes; Mr. Cholette, yes; Dr.
11 Lawrence, yes; Ms. Schwartz, yes; Mr. Goldman, yes; Ms.
12 Baker Leit, yes; Mr. Mietz, yes.)

13 (Upon roll call, motion to approve with
14 conditions carries.)

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2 APPLICATION 9A-04-14

3 9A-04-14 Application of Samuel Burge II, owner
4 of property located at 2048 - 2050 South Clinton
5 Avenue, for an Area Variance from Section 205-12 to
6 allow for 28 parking spaces in lieu of the minimum 33
7 parking spaces (for all building square footage to be
8 used for medical) required by code. All as described on
9 application and plans on file.

10 Motion made by Ms. Schwartz to approve
11 Application 9A-04-14.

12 **FINDINGS OF FACT:**

13 1. There will only be a single medical practitioner
14 and one office manager comprising the staff.

15 2. The chiropractor only sees one patient at a time.

16 3. There may be up to two clients in the waiting room
17 and then added to the two staff and one patient that
18 equals a total of five needed parking spaces. This is
19 well under the code requirement of thirty-three for
20 this use.

21 4. By granting this variance there will be no change
22 in the character of the area because no green space
23 will be eliminated.

24 5. The difference between the current twenty-eight
25 parking spaces versus the thirty-three required by code

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2 is not substantial. The current plan should not create
3 a negative impact on the businesses in the immediate
4 area.

5 6. On any given day most of the twenty-eight parking
6 spaces are not being used.

7 **CONDITIONS:**

8 1. The use at 2048 South Clinton Avenue is limited to
9 a single practitioner chiropractic office.

10 (Seconded by Dr. Lawrence.)

11 (Ms. Baker Leit, yes; Mr. Mietz, yes; Ms.
12 Corrado, yes; Mr. Cholette, yes; Mr. Goldman, yes; Dr.
13 Lawrence, yes; Ms. Schwartz, yes.)

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

1
2 APPLICATION 9A-05-14

3 9A-05-14 Application of Joseph O'Donnell,
4 architect, and Brian Warren, owner of property
5 located at 70 Greenfield Lane, for 1) an Area Variance
6 from Section 203-2.1B(3) to allow for the construction
7 of an as amended 910 sf detached garage in lieu of the
8 maximum 600 sf allowed by code; and 2) an Area Variance
9 from Section 207-6A(1) to allow said garage to be 20.5
10 ft. in height in lieu of the maximum 16 ft. allowed by
11 code. All as described on application and plans on
12 file.

13 Motion made by Ms. Baker Leit to approve
14 Application 9A-05-14.

15 **FINDINGS OF FACT:**

16 1. The proposed variance is not substantial as the
17 redesigned two-bay garage is consistent with other
18 garages located throughout the neighborhood.

19 2. Previous plans submitted have been scaled back to
20 the minimum necessary to accommodate the applicant's
21 need for storage, to maintain green space and to not
22 encroach on neighbors.

23 3. No unacceptable change to the character of the
24 neighborhood will occur as the garage is designed in
25 the same style and materials as the main house.

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2 4. This garage replaces an existing garage in poor
3 repair and therefore will have minimal impact on the
4 neighborhood.

5 **CONDITIONS:**

- 6 1. All necessary building permits shall be obtained.
7 2. This variance applies only to the garage as shown
8 on revised plans submitted to the Board at the meeting
9 of September 3rd, 2014.

10 (Seconded by Ms. Corrado.)

11 (Mr. Goldman, yes; Ms. Schwartz, no; Dr.
12 Lawrence, yes; Mr. Cholette, yes; Mr. Mietz, yes; Ms.
13 Corrado, yes; Ms. Baker Leit, yes.)

14 (Upon roll call, motion to approve with
15 conditions carries.)
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2 APPLICATION 9A-06-14

3 9A-06-14 Application of Bryan Enrhart, agent,
4 and River Road Hospitality Associates, LLC, owner of
5 property located at 717 East Henrietta Road, for
6 modification of an Area Variance (9A-08-09) from
7 Section 203-84B(19)(c) to allow building length to
8 increase from 208 ft. to 213 ft. where a maximum 160
9 ft. is allowed by code. All as described on application
10 and plans on file.

11 Motion made by Ms. Corrado to approve
12 Application 9A-06-14.

13 **FINDINGS OF FACT:**

- 14 1. The very minor increase in length relative to what
15 was previously approved is necessary due to rebranding
16 requirements of the property and is not excessive.
17 2. No unacceptable change in the character of the area
18 will be caused by this. In fact, it will improve the
19 quality of experience for arriving and departing
20 guests.

21 **CONDITIONS:**

- 22 1. This applies only to the roof overhang as described
23 in the application and testimony.
24 2. All necessary Architectural Review Board approvals
25 shall be obtained.

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(Seconded by Ms. Schwartz.)

(Dr. Lawrence, yes; Mr. Cholette, yes; Mr. Mietz, yes; Ms. Baker Leit, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Ms. Corrado, yes.)

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

1
2 APPLICATION 9A-07-14

3 9A-07-14 Application of Neu Lac De Ville
4 Associates, LLC, owner of property located at 1900
5 South Clinton Avenue, for a Sign Variance from Section
6 207-32 to allow for a freestanding sign (to replace a
7 pre-existing nonconforming freestanding sign) where
8 not allowed by code. All as described on application
9 and plans on file.

10 Motion made by Mr. Cholette to approve
11 Application 9A-07-14.

12 **FINDINGS OF FACT:**

- 13 1. The proposed sign will replace a pre-existing
14 non-conforming freestanding sign which is currently on
15 this site at the proposed location for the new sign.
- 16 2. The proposed sign will not produce an undesirable
17 change to the character of the neighborhood. In fact,
18 it will produce an aesthetic since the new sign will be
19 more modern in appearance and will be coordinated with
20 the signage within the plaza itself. Additionally, the
21 new sign will be smaller in size than the existing sign
22 that it replaces.
- 23 3. No other alternative can meet the needs of the
24 applicant. A plaza of this size clearly requires a
25 sign to indicate its main entrance to the public. The

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2 proposed sign is suitably sized and has an attractive
3 appearance. Its location is appropriate for its stated
4 purpose.

5 4. The variance is not substantial, given that the
6 sign is smaller than the sign that it replaces and
7 appears reasonable in appearance relative to the size
8 of the plaza and the surrounding properties.

9 5. There will not be an adverse impact on the physical
10 or environmental conditions in the neighborhood. Given
11 that a sign of this size is needed, the proposed sign
12 is appropriate and will improve the conditions already
13 present with the existing sign.

14 **CONDITIONS:**

15 1. This sign applies only to the sign and its location
16 as discussed in the application and testimony.

17 2. All necessary Architectural Review Board and
18 Planning Board approvals shall be obtained.

19 (Secoded by Ms. Baker Leit.)

20 (Ms. Corrado, yes; Mr. Goldman, yes; Ms.
21 Schwartz, yes; Mr. Mietz, yes; Dr. Lawrence, yes; Ms.
22 Baker Leit, yes; Mr. Cholette, yes.)

23 (Upon roll call, motion to approve with
24 conditions carries.)

25

1
2 APPLICATION 9A-08-14

3 9A-08-14 Application of Neu Lac De Ville
4 Associates, LLC, owner of property located at 1900
5 South Clinton Avenue, for a Sign Variance from Section
6 207-32 to allow for a freestanding sign (located on a
7 landscape wall) where not allowed by code. All as
8 described on application and plans on file.

9 Motion made by Ms. Baker Leit to approve
10 Application 9A-08-14.

11 **FINDINGS OF FACT:**

12 1. The freestanding sign located on the landscape wall
13 will be consistent with the overall design of the plaza
14 thus no unacceptable change will occur to the character
15 of the neighborhood.

16 2. It is appropriate to identify the developer of a
17 project of this size.

18 3. The sign is built into a very decorative wall which
19 will be very aesthetically pleasing and can only be
20 seen from on-site traffic.

21 **CONDITIONS:**

22 1. This variance only applies to the sign that was
23 described in the application and testimony.

24 2. All necessary Architectural Review Board and
25 Planning Board approvals shall be obtained.

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(Seconded by Dr. Lawrence.)

(Mr. Goldman, no; Ms. Schwartz, yes; Mr. Cholette, no; Mr. Mietz, no; Ms. Corrado, yes; Dr. Lawrence, yes; Ms. Baker Leit, yes.)

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

1
2 APPLICATION 9A-09-14

3 9A-09-14 Application of Neu Lac De Ville
4 Associates, LLC, owner of property located at 1900
5 South Clinton Avenue, for a Sign Variance from Section
6 207-32A(2) to 1) allow for 4 enter/exit signs in lieu
7 of the maximum two allowed by code, 2) allow each sign
8 to be 12.5 sf in lieu of the maximum 6 sf allowed by
9 code, 3) allow each sign to be 5 ft. in height above
10 grade in lieu of the maximum 4 ft. allowed by code, 4)
11 allow each sign to have business identification signage
12 where not allowed by code, and 5) to allow 3 of the
13 signs to be closer than the minimum 10 ft. setback from
14 a lot line as required by code. All as described on
15 application and plans on file.

16 Motion made by Dr. Lawrence to approve
17 Application 9A-09-14.

18 **FINDINGS OF FACT:**

19 1. The four proposed directional signs will replace
20 four existing directional signs which are in disrepair.
21 The proposed signs will be in the same location as the
22 existing signs.

23 2. Although a slight increase in height that is
24 allowed by code the proposed directional signs will be
25 smaller than the existing signs and will still allow

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2 for visibility from the road.

3 3. Replacing the existing signs in the same location
4 requires a minimal variance from the distance from the
5 lot line. This location will not negatively impact any
6 adjacent property and allows for usage of the existing
7 electrical supply.

8 4. The increased square footage of the directional
9 signs and logo of the plaza on these signs is necessary
10 to identify the plaza fro Rue De Ville Boulevard where
11 there is no plaza signage.

12 5. No unacceptable change in the character of the
13 neighborhood is expected to result from the approval of
14 these signs.

15 6. This property is unique because it is the only
16 large shopping plaza in the town that has multiple
17 access points from multiple roads.

18 **CONDITIONS:**

19 1. This variance will only apply to the directional
20 signs as described in the application and testimony.

21 2. All Architectural Review Board and Planning Board
22 approvals will be obtained prior to the erection of
23 these signs.

24 (Seconded by Ms. Schwartz.)

25 (Ms. Corrado, yes; Ms. Baker Leit, yes; Mr.

Mietz, yes; Mr. Cholette, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Dr. Lawrence, yes.)

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

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2 APPLICATION 9A-10-14

3 9A-10-14 Application of Neu Lac De Ville
4 Associates, LLC, owner of property located at 1900
5 South Clinton Avenue, for a Sign Variance from Section
6 207-32B(3) to allow a building face sign (Lifespan) to
7 be placed 25 ft. above grade in lieu of the maximum
8 20 ft. allowed by code. All as described on application
9 and plans on file.

10 Motion made by Mr. Mietz to approve
11 Application 9A-10-14.

12 **FINDINGS OF FACT:**

13 1. The proposed location of the Lifespan store is in a
14 larger space with an elevated store front at the
15 internal corner of the plaza.

16 2. In order to break up the linear appearance cloth
17 linings are being installed across the Lifespan
18 storefront. Based on this detail signage canopy begins
19 at the nineteen foot mark and extends off to
20 twenty-five feet.

21 3. The sign proposed is within code at seventy-eight
22 square feet.

23 4. No negative effect on the character of the
24 neighborhood will result from the approval of this
25 request since the extensive renovations and the uniform

appearance will be an asset to the neighborhood.

CONDITIONS:

1. All Architectural Review Board and Planning Board approvals shall be obtained.

2. This variance applies only to the sign per plans submitted and testimony given.

(Seconded by Mr. Goldman.)

(Ms. Schwartz, yes; Dr. Lawrence, yes; Mr. Cholette, yes; Ms. Baker Leit, yes; Ms. Corrado, yes; Mr. Goldman, yes; Mr. Mietz, yes.)

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

1
2 APPLICATION 9A-11-14

3 9A-11-14 Application of Neu Lac De Ville
4 Associates, LLC, owner of property located at 1900
5 South Clinton Avenue, for a Sign Variance from Section
6 207-32B(3) to allow a building face sign (Dollar
7 General) to be placed 23.5 ft. above grade in lieu of
8 the maximum 20 ft. allowed by code. All as described on
9 application and plans on file.

10 Motion made by Ms. Schwartz to approve
11 Application 9A-11-14.

12 **FINDINGS OF FACT:**

13 1. The Dollar General building face sign was
14 previously placed on an elevated portion of the sign
15 band and is considerably higher than most of the other
16 plaza signage.

17 2. This proposed sign will only be three and a half
18 feet over the twenty foot height allowed by code which
19 is quite minimal.

20 3. This variance will not change the character of the
21 area.

22 4. The placement of the awnings necessitates the
23 higher placement of the Dollar General sign.

24 **CONDITIONS:**

25 1. This variance for a building face sign to be three

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2 and a half feet higher than allowed by code only
3 applies to the Dollar General sign and to the Lifespan
4 sign described in application and testimony presented.

5 2. All necessary Architectural Review Board and
6 Planning Board approvals shall be obtained.

7 (Seconded by Ms. Baker Leit.)

8 (Ms. Corrado, yes; Mr. Cholette, yes; Dr.
9 Lawrence, yes; Mr. Mietz, yes; Mr. Goldman, yes; Ms.
10 Baker Leit, yes; Ms. Schwartz, yes.)

11 (Upon roll call, motion to approve with
12 conditions carries.)
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2 APPLICATION 9A-12-14

3 9A-12-14 Application of Shirley Jacobson,
4 owner of property located at 47 Palcham Drive, for an
5 Area Variance from Section 205-2 to allow a deck to
6 extend 8.8 ft. into the 40 ft. rear setback required by
7 code, and to allow a proposed screen porch, located on
8 the deck, to extend 2 +/- ft. into the 40 ft. rear
9 setback required by code. All as described on
10 application and plans on file.

11 Motion made by Ms. Baker Leit to approve
12 Application 9A-12-14.

13 **FINDINGS OF FACT:**

- 14 1. The requested variance is not substantial as this
15 deck was a pre-existing non-conforming structure built
16 in 1985 and was in place at the time of the applicant's
17 purchase.
- 18 2. The proposed screened porch is modest in size and
19 is not visible at all from the street.
- 20 3. The difficulty is not self-created as the Buckland
21 Creek is located at the back of the property and makes
22 the backyard extremely buggy.
- 23 4. No unacceptable change will occur to the character
24 of the neighborhood given that the deck is pre-existing
25 and is shielded by landscaping and backs up to a church

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2 parking lot.

3 **CONDITIONS:**

4 1. This variance only applies to the structure that
5 was described in the application and testimony.

6 2. All necessary building permits shall be obtained.

7 (Secoded by Mr. Mietz.)

8 (Mr. Goldman, yes; Ms. Schwartz, yes; Dr.
9 Lawrence, yes; Mr. Cholette, yes; Ms. Corrado, yes; Mr.
10 Mietz, yes; Ms. Baker Leit, yes.)

11 (Upon roll call, motion to approve with
12 conditions carries.)

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REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated

At Rochester, New York

Chad L. Smith

0	25 [3] 2/9 105/7 148/7 26x35 [1] 87/21	23/23 25/2 25/19 26/2 29/15 128/10 128/12
09 [2] 97/19 139/6	271 [1] 62/8	Aaron [3] 46/4 46/13 129/3
1	28 [3] 2/7 67/23 135/6	abide [1] 45/7
1.6 [1] 43/5	3	able [18] 9/3 11/13 15/12 27/14 47/8 50/24 51/4 60/25 61/14 73/12 76/22 89/13 92/16 107/15 110/19 111/18 111/19 112/5
10 [4] 2/22 104/9 104/25 145/13	3.28 [2] 46/19 51/20	about [49] 5/17 8/14 9/21 10/15 10/20 12/11 19/16 21/9 21/16 21/19 27/22 31/11 34/4 35/3 35/9 36/22 41/18 41/19 43/10 43/21 46/18 46/24 50/2 58/16 60/17 60/18 62/15 62/17 62/20 68/12 69/13 69/16 69/16 69/21 72/25 83/22 84/21 85/15 85/16 89/23 90/12 92/21 95/8 100/3 102/8 106/11 116/13 119/24 123/16
11 [1] 3/15	300 [2] 62/2 133/5	above [10] 89/2 96/25 104/21 105/8 105/15 125/6 145/9 148/7 150/7 154/6
12 [4] 4/10 67/22 127/7 135/5	31 [1] 2/21	above-entitled [2] 125/6 154/6
12.5 [2] 104/19 145/8	31B [2] 62/3 133/6	absolutely [5] 19/6 45/10 51/10 54/4 79/17
139 [1] 3/6	32 [5] 3/11 104/4 104/11 141/6 143/6	accept [1] 50/25
13D [2] 46/7 129/6	3244 [3] 129/14 130/3 130/6	acceptable [2] 75/12 95/21
14 [52] 4/6 46/4 60/4 61/24 67/20 68/4 83/2 97/16 100/7 104/2 104/15 105/4 105/11 127/2 127/3 127/14 129/2 129/3 129/12 131/2 131/3 131/10 133/2 133/3 133/12 135/2 135/3 135/11 137/2 137/3 137/14 139/2 139/3 139/12 141/2 141/3 141/11 143/2 143/3 143/10 145/2 145/3 145/17 148/2 148/3 148/11 150/2 150/3 150/11 152/2 152/3 152/12	3250 [3] 46/5 46/14 129/4	access [3] 37/6 88/18 146/17
14618 [2] 1/6 126/6	3280 [1] 58/17	access-drive [1] 37/6
148 [1] 2/24	32A [2] 104/17 145/6	accident [1] 28/19
15 [2] 3/6 66/23	32B [4] 105/6 105/14 148/6 150/6	accommodate [2] 80/20 137/20
150 [1] 83/12	33 [2] 67/23 135/6	accurate [3] 54/4 125/8 154/8
16 [5] 3/13 62/5 83/9 133/8 137/10	35x26 [1] 86/23	accustomed [1] 16/23
160 [2] 97/21 139/8	390 [1] 66/11	acre [4] 5/10 6/11 30/9 61/11
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