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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK
On February 3, 2016, COMMENCING AT APPROXIMATELY 7:15 P.M.

February 3rd, 2016
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN
CHRISTINE CORRADO
JEANNE DALE
JUDY SCHWARTZ
ANDREA TOMPKINS WRIGHT
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DISTEFANO
Secretary

Reported By:

LAUREN E. SHERWOOD
Edith Forbes Court Reporting
21 Woodcrest Drive
Batavia, New York 14020

EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

1 BRIGHTON ZONING BOARD OF APPEALS - 2/3/2016

2 MR. MIETZ: So I'd like to call to order
3 the February session of the Brighton Zoning Board of
4 Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DISTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Brighton Pittsford Post
8 January 28th, 2016.

9 MR. MIETZ: Okay. Please call the roll.

10 MR. DISTEFANO: Ms. Schwartz?

11 MS. SCHWARTZ: Here.

12 MR. DISTEFANO: Ms. Tompkins Wright?

13 MS. TOMPKINS WRIGHT: Here.

14 MR. DISTEFANO: Ms. Dale?

15 MS. DALE: Here.

16 MR. DISTEFANO: Mr. Mietz?

17 MR. MIETZ: Yes.

18 MR. DISTEFANO: Ms. Baker Leit?

19 MS. BAKER LEIT: Here.

20 MR. DISTEFANO: Ms. Corrado?

21 MS. CORRADO: Here.

22 MR. DISTEFANO: Please let the record show
23 all members are present.

24 MR. MIETZ: Okay. So let's take a look at
25 the minutes. Judy?

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2 MS. SCHWARTZ: Page 9, line 2, the word is
3 "considering." Page -- you said -- page 37, line 2,
4 the last word is "any." Page 71, under findings of
5 fact, line 19, the one -- two -- three -- fifth word
6 should be than "than," T-H-A-N. And that's all.

7 MR. MIETZ: Do you have anything,
8 Christine?

9 MS. CORRADO: Just a couple.
10 Page 9, line 5, the first word should be
11 "of."

12 Page 22, line 17, I must have been
13 mumbling because the first two or three words should
14 be considering this is new construction with the
15 opportunity to consider. The last line -- I'm sorry
16 the last word in line 18 should be "being." First
17 word in line 19, "placed."

18 MR. MIETZ: Okay -- sorry.

19 MS. CORRADO: Page 40, line 13, strike the
20 letter S from "trues."

21 Page 60 -- never mind -- 66, line 5 the
22 last line should be impinging. And that is all.

23 MR. MIETZ: Anybody have anything else?

24 MS. BAKER LEIT: On page 15, line 17,
25 there's an unidentified speaker. I don't know if any

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2 of us recall who that might have been.

3 MR. MIETZ: What page?

4 MS. BAKER LEIT: Page 15, line 17.

5 MS. CORRADO: I think it might have been
6 Mr. Ivanisevich.

7 MS. BAKER LEIT: And then on page 21, line
8 7, just delete on like; it should be "around." And
9 then, on line 10 of page 21, better quick fix. And I
10 think that's all I have.

11 MR. MIETZ: Okay. Anything else?

12 Okay. Motion for amended minutes?

13 MS. SCHWARTZ: I move.

14 MR. DISTEFANO: Judy to move motion;
15 Christine to second?

16 The motions to approve the minutes with
17 corrections.

18 (Ms. Schwartz, yes; Ms. Tompkins Wright, yes;
19 Ms. Dale, yes; Mr. Mietz, yes; Ms. Baker Leit,
20 yes; Ms. Corrado, yes.)

21 MR. DISTEFANO: The motion to approve
22 corrections carries.

23 MR. MIETZ: Okay. Great. When you're
24 ready then please read the first application.
25 Application 2A-01-16. Application of Wegman

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2 Companies, Inc., contract vendee, and Genesee Regional
3 Bank, owner of property located on Sawgrass Drive
4 known as Tax ID #s 149.06-1-5/BR and 149.06-1-5/RH,
5 for an Area Variance from Section 205-6 to allow for
6 the construction of an office building at a height of
7 44.5 ft. in lieu of the maximum 40 ft. allowed by
8 code. All as described on application and plans on
9 file.

10 MR. SPENCER: Hi. Good evening. How is
11 everyone this evening? My name is Andrew Spencer with
12 BNE Associates. With me this evening is Mr. Scott
13 Hemenway from HBT Architects, here representing our
14 clients Wegman Companies, Inc. for this variance
15 application.

16 I do want to give you a little bit of a
17 background about the project, give you a little bit of
18 timeline and timeframes of things that have occurred
19 since the original project was proposed.

20 The property is located in the Brighton
21 Meadows Business Park, south -- north of New York
22 State I-390, south of Sawgrass Drive, south of
23 Westfall Road, which is up in this area here.

24 The entire 12.2-acre parcel starts from
25 the 5 -- 390 border and traverses all the way up and

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2 touches Westfall Road. It is a part of the overall
3 Brighton business park -- office park development.

4 The property is zoned BE1. Office and
5 office park district is currently vacant. It includes
6 both the western portion of the existing Sawgrass
7 Drive as well as a portion of the site where the
8 office building is proposed. Again, it is this area
9 all the way up to Westfall Road.

10 A right-in, a right-out un-signalized
11 intersection is at the western point of the access to
12 Westfall Road, and a full-service signalized
13 intersection is at the eastern-most access location to
14 Sawgrass Drive. That's how we get into this parcel.

15 Access to Sawgrass Drive from the proposed
16 office building will share the existing driveway to
17 Brighton Medical Center directly to the north here; we
18 have access coming down through existing access here;
19 and there is an access easement that will provide
20 access into the site here. Minor improvements were
21 required in that area for access.

22 And then the project will include a
23 three-story 55,000-square-foot medical office
24 building. Its footprint is a little under 20,000
25 square feet.

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2 There will be landscaping, lighting,
3 storm-water management improvements on the site,
4 etcetera, etcetera.

5 I do want to bring your attention to, as I
6 said, kind of the timelines and the timeframes, things
7 that have occurred.

8 Back in 1991 and 1992, this parcel was
9 part of the overall Brighton business park
10 development. As part of some of the approval for that
11 project, there were areas that were mandated by the
12 Town to be preserved as conservation easement. And
13 the conversation easement on this property -- here is
14 our property line here. All of this area right here
15 in the pinkish shadow is 125-foot conservation
16 easement.

17 Another constraint on the site happens to
18 be wetlands. Per the most recent wetland delineation,
19 we are still in the process with the US Army Corps of
20 Engineers finalizing that. We did walk the site with
21 the corps. What they have determined is that what we
22 have flagged is appropriate.

23 So the wetlands on the site include a
24 wetland area to the south, a small pocket wetland
25 here, and then a larger wetland area which stretches

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2 right across is the northern portion of the property.

3 Back in 1992, when this was originally
4 proposed, there was an overall 535,000 square foot of
5 office space that was approved to be put into the
6 Brighton business park development. And at that time
7 the wetlands on the site were literally just a half an
8 acre, and the half an acre was right up in this area
9 right here.

10 Over the course of time from 1991 'til the
11 next proposal, which was in 2011, due to some of the
12 drainage areas around the site coming from the west,
13 coming from the north, and actually coming from the
14 south -- I-390 is elevated above this site. There's
15 drainage coming in from all three of these directions.
16 And these wetland areas appeared just between the
17 drainage coming in, the water settling there, and they
18 become wetlands.

19 In 2011 there was a proposal for a
20 three-story -- it's actually two buildings with a
21 total of 100,000 square feet that was being proposed.
22 And as part of that proposal, there was 450 parking
23 spaces, and it actually netted a disturbance of the
24 wetland area of about 3.2 acres.

25 This becomes important as we go along

1 BRIGHTON ZONING BOARD OF APPEALS - 2/3/2016

2 here, so just bear with me for a moment.

3 That was in March of 2011.

4 In July of 2011 a secondary proposal came
5 in which proposed a three-story, 70,000-square-foot
6 building. And that design would have required about
7 1.9 acres of wetland disturbance.

8 Now we'll jump all the way to present day.
9 This is a new application. It's a new applicant for
10 this project. And we're looking, as I said, for a
11 three-story, 55,000-square-foot medical office
12 building.

13 We have 396 parking spaces. We have 66
14 parking spaces that will be land banked. And with
15 this new wetland delineation, and with the site design
16 as you see it here, the development area, we only
17 require a disturbance of .73 acres.

18 So we've come down from 3.2 acres, to 1.9
19 acres; now we're at .73 acres of disturbance. So
20 we're actually maintaining an awful lot more of the
21 wetlands than were originally proposed.

22 You bearing with me so far? This has
23 nothing to do with height variance; right?

24 MR. MIETZ: Good story so far though.

25 MR. SPENCER: There is a punch line coming

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2 somewhere, I swear.

3 I guess what the end of all of this is,
4 this proposal here is consistent with what has been
5 proposed in the past. And what we've been able to do
6 is contain the development area enough to diminish the
7 amount of disturbance to the wetlands, get it down
8 well below an acre. And hopefully you'll agree that
9 this will work.

10 And actually this is why we're now
11 requiring a height variance. Because our building
12 footprint has been condensed to, as I say, less than
13 20,000 square feet, the tenent is requiring of the
14 developer 55,000 square feet of office space.

15 MS. TOMPKINS WRIGHT: So all the previous
16 applications were always two stories?

17 MR. SPENCER: No. They're actually three
18 stories.

19 MS. TOMPKINS WRIGHT: Okay. They just
20 were for different uses? Or --

21 MR. SPENCER: The original proposal was
22 for just office space.

23 MS. TOMPKINS WRIGHT: Okay. Got it.

24 MR. SPENCER: And then in 2011 the
25 proposal was for medical office space.

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2 MR. DISTEFANO: The interesting thing
3 about those proposals, they never really got so far
4 along that all the architectural were done and
5 everything ready. So they may have come in for height
6 variances on those buildings too, but they never got
7 to that point in the proposals.

8 MR. SPENCER: Which, and as I say, the
9 number of constraints that are coming against the
10 applicant to develop this parcel for the tenent for
11 the 55,000 square feet for the medical office space
12 use, we get to the request that we have this evening.

13 We are proposing a building with a maximum
14 height of 44 feet 6 inches to a parapet wall in two
15 locations, and they're over the entranceways of the
16 building.

17 Here is a three-dimensional rendering of
18 what the building will look like. This is the parapet
19 wall that I speak of here. This is just on the one
20 side. This actually happens to be for this
21 entranceway here. This is the covered access port,
22 and this is the covered access --

23 MR. MIETZ: So it's only on the one
24 elevation?

25 MR. SPENCER: It's on two elevations. And

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2 I'll get to the other elevation.

3 MR. MIETZ: That's what I thought you
4 said.

5 MR. SPENCER: So we have the parapet wall
6 here, which is the 44-foot-6. We have our top-of-roof
7 wall here, which is at 42 foot 6 inches high: 2 foot 6
8 inches over the allowable 40 feet.

9 And the two parapet walls fall at the two
10 entrance points to the building: the front entranceway
11 here, and the side entrance right in this location.

12 The reason for the need for the additional
13 space is because it's a medical-office use, and the
14 space between the floor heights typically in an office
15 building can be 10 feet in height. Here, we are
16 looking for additional space; it's called
17 "interstitial space."

18 This is where Mr. Hemenway can kind of
19 follow -- follow up to make sure I am correct. If I
20 get spit wads in my back, I know I'm doing something
21 wrong.

22 There's more interstitial space in that
23 area for increased HVAC, electrical, plumbing, medical
24 equipment, and actually structure for medical
25 equipment.

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2 I actually provided you some photographs
3 of what interstitial space is in another medical
4 office space. So these could be surgery rooms, they
5 could be exam rooms, X-ray rooms, etcetera.

6 We did provide the board with explanations
7 for the five criteria that you must consider when
8 considering approval of this variance. I'd like to
9 just go through a few of those with you if I may.

10 Whether or not this variance would create
11 an undesirable change in the character of the
12 neighborhood: The applicant feels that this will not.

13 This is an office building within an
14 office complex. It's actually removed from the
15 roadways. It's roughly 89 feet from the closest
16 property line to the west here. It's about 309 feet
17 from the New York State Route I-390 right of way, and
18 640 feet from Sawgrass Drive. Not really -- the
19 dimension is great enough so we're not going to be
20 actually able to discern additional height in that
21 building.

22 There is also existing vegetation between
23 the building in those areas. There are existing trees
24 and shrub. There's shrub massing in this conservation
25 area here, existing trees in here and in here. So the

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2 only place we're going to see this building is
3 actually from I-390.

4 I-390 is actually, as I stated previously,
5 is actually elevated above this site. It's very, very
6 similar to the Urology Associates building that you
7 pass on 390 further to the east. And I did provide
8 some photographs of that building.

9 The feel of the architecture is very
10 complementary to other office buildings in the area,
11 so we do not feel that it would be an undesirable
12 change from the character.

13 Whether or not the benefit can be achieved
14 by some other method: If we didn't have some of the
15 other site constraints, it might be possible to do a
16 two-story building. But then the floor area of that
17 would increase to a minimum of 27,500 square feet. To
18 do that we would be increasing either the height of
19 the building or the width of the building, and then
20 pushing the parking further into the wetland areas,
21 further creating disturbances. That's what we're
22 trying to minimize at this point.

23 And also within the building itself we
24 need that extra space for all of those items I was
25 talking about: The HVAC, electrical conduit work, all

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2 the additional medical pieces.

3 Whether the request is actual -- is
4 substantial: The additional height of 4 foot 6 inches
5 equates to about 11.25 percent greater than what is
6 allowed by code. The additional 2 foot 6 inches over
7 the 40 feet is roughly 6.25 percent in increase.

8 Again, I would state just because of the
9 distances away from some of the road networks, we're
10 not going to see that change in elevation; nor will we
11 get a very good -- we won't see these two buildings at
12 the same time, I don't believe, because of the
13 vegetation that is in place.

14 We are requesting the minimum variance for
15 this project to get to that 44-foot-6-inch height for
16 the parapet walls and the 42 foot 6 inch for the
17 remainder of that roof height.

18 And whether the proposed variance will
19 have an adverse effect or impact on the physical or
20 environmental conditions on the site: As I have kind
21 of talked to, this minimizes the impact of the
22 developmental area on the site. Changing the building
23 size will have much more impact on the environmental
24 constrictions on the site.

25 So we feel that that is -- will not have

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2 an adverse impact. It actually is a positive in this
3 particular case.

4 With that I will be more than happy to
5 answer any questions you might have of this and of me
6 and of that.

7 MS. SCHWARTZ: You brought up in your
8 testimony, and it's not quite our issue, but you're so
9 close to not encroaching on the wetlands. Is there
10 any possibility that you can get around encroaching on
11 even .7 acres?

12 MR. SPENCER: Well, we are encroaching.

13 MS. SCHWARTZ: You are you said.

14 MR. SPENCER: Yes, .73 acres.

15 MS. SCHWARTZ: Yes. But I'm saying
16 because it isn't that much is there any way that you
17 could eliminate it?

18 MR. SPENCER: No, because -- I'll go back
19 to where we already have -- conservation easements
20 have already been established, where those existing
21 wetlands are.

22 The conversation easement is right here.
23 This is edge of it. We cannot pull pavement; we
24 cannot pull buildings; we cannot pull anything into
25 that conversation district area. So we're right up

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2 against that conservation easement here.

3 MS. SCHWARTZ: So it's the one that -- I
4 can't see it, but it's the one that's -- well, I'll
5 say south of the building as opposed to the larger
6 ones. That's the one you're -- you're encroaching on
7 the smaller one?

8 MR. SPENCER: We are -- we actually have
9 two areas of encroachment. One happens to be within
10 the parking lot proper here. It's an isolated area.
11 And then we're encroaching up in this zone right here
12 with the wetland to the north.

13 MS. DALE: Did you say -- are you still
14 pending some review or something from the Army Corps
15 engineering unit?

16 MR. SPENCER: We are literally just
17 awaiting a letter back from the US Army Corps of
18 Engineers, their JD, their jurisdiction of
19 termination. They have walked the site and they agree
20 with the flagging of the wetlands.

21 Not to get really, really deep into the
22 whole wetland issue, but we are doing -- we are doing
23 wetland mitigation offsite per the Army Corps of
24 Engineers direction, if you will. We've gone before
25 the conversation board, and we have had these

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2 discussions with the conversation board. They
3 understand what is being done through an organization
4 called Ducks Unlimited. They have a wetland bank
5 which will be utilized for this project.

6 MS. TOMPKINS WRIGHT: These are all
7 newly-created wetlands, within the last 10 years, 20
8 years. These aren't long-established wetlands.

9 MR. MIETZ: Well, the expansion of it.
10 It's not as if --

11 MS. TOMPKINS WRIGHT: Right. Yeah. I'm
12 just making sure. It's not as if this is 200-year-old
13 wetlands that establish animal population.

14 MR. SPENCER: No. And actually, one of
15 the reasons why the corps doesn't want mitigation on
16 site is because the wetlands are a relatively poor
17 quality. They are filled with invasive materials:
18 Purple loosestrife being one of the major components
19 of the vegetative cover. And any type of mitigation
20 on the site where we have purple loosestrife on the
21 site and you try to mitigate it on the site, it's just
22 coming back.

23 So they feel that to create a better
24 wetland, better habitat, do it away from this area.

25 MR. MIETZ: Just quickly, maybe you could

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2 have Scott come up and just talk a little bit about
3 the equipment issue, and what other alternatives were
4 studied, and why there aren't other alternatives to
5 doing it in a way you could do that in accordance
6 with --

7 MR. SPENCER: Scott, you can pull the
8 podium.

9 MR. DISTEFANO: State your name for the
10 record.

11 MR. HEMENWAY: Scott Hemenway, HBT
12 Architects.

13 Typically commercial office-building
14 space, 8-, 9-foot ceiling, a couple feet of space
15 above that is sufficient for ductwork, conduits, light
16 fixtures, sprinkler piping, etcetera.

17 In medical office space that doesn't hold
18 true. Once we get into doing treatment rooms, maybe
19 minor operatories, X-ray equipment, linear
20 accelerator, CT scanner, anything like that, the
21 floor-to-floor height needs to grow by quite a bit.
22 Because not only do we need additional height just for
23 the equipment in the room, but then above that ceiling
24 there's additional space needed because the ducts are
25 larger, there's additional piping, additional conduit

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2 and so forth.

3 And I provided a couple images that I
4 think you folks have. That was taken at the surgery
5 center over at Linden Oaks, which is another project
6 we designed there.

7 So I've worked on numerous projects where
8 we run into this space issue. I haven't found an
9 engineer yet that can cram it all into the nice thin
10 space. They always want more space up there.

11 So that's really the reason that drives us
12 to that 13-foot floor-to-floor height instead of more
13 like a traditional 12- or 12-foot-8-inch
14 floor-to-floor height.

15 And so really what we're asking for is --
16 predominantly the majority of the building is that
17 42-foot-6-inch elevation. It's just that decorative
18 parapet that jumps up another 2 to 2-and-a-half feet.

19 MR. DISTEFANO: So that was kind of
20 leaning me into my question: Why is the majority of
21 the building that 42-plus but you're asking for
22 44-and-a-half? That extra 2-and-a-half feet is really
23 just for decorative purposes and --

24 MR. HEMENWAY: That's correct.

25 MR. DISTEFANO: -- relief, and just giving

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2 the building some kind of relief and --

3 MR. HEMENWAY: It gives it -- gives the --

4 MR. DISTEFANO: So in essence, the minimum
5 really request would be 42-and-a-half; correct?

6 MR. HEMENWAY: True.

7 MR. DISTEFANO: And you can make an
8 argument that the minimum necessary variance is 42.

9 MR. SPENCER: You could. But whatever.

10 MS. CORRADO: With the equipment --
11 rooftop equipment, is that partially shielded then by
12 that parapet roof?

13 MR. HEMENWAY: Yes. And then the
14 remainder of that equipment will be shielded with
15 screening.

16 MR. SPENCER: Have a screen around it.

17 MR. HEMENWAY: Per the Town Code. And it
18 does incorporate less than 20 percent of the surface
19 area of the roof, so that does not need a variance.

20 MS. CORRADO: So in essence this solves
21 some of the visual impact of the mechanicals and keeps
22 it in architectural place.

23 MR. HEMENWAY: Yeah. Yeah.

24 MR. MIETZ: And what is it -- it's -- the
25 variance about half spandrel and half --

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2 MR. HEMENWAY: Yeah. Yeah. We're about
3 half spandrel, half vision glass, as you go along
4 here. There's spandrel mixed in here between the
5 floors and such, and then vision glass above and below
6 that.

7 MR. SPENCER: I would like to add, if I
8 may. The architectural review board did review this
9 at last month's meeting and did approve the
10 architecture and the architectural style.

11 MR. MIETZ: Okay. Any other questions by
12 the board?

13 Okay. Gentlemen, thank you.

14 MR. SPENCER: Thank you very much.

15 MR. MIETZ: Is there anyone in the
16 audience that would like to speak regarding this
17 application?

18 There being none, then the public hearing
19 is closed.

20 Application 2A-02-16, Application of Bell Atlantic
21 Mobile of Rochester, L.P., lessee, and Canal View
22 Properties III, owner of property located at 300 Canal
23 View Blvd., for an Area Variance from Section
24 207-42C(1)(b) to allow for telecommunication support
25 equipment to be located on the roof of the building

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2 where not allowed by code.

3 MR. MIETZ: Okay. Good evening.

4 MR. LUSK: Good evening, ladies and
5 gentlemen of the board. Jared Lusk of Nixon Peabody
6 representing Verizon Wireless.

7 First I need to apologize for the cold
8 that I have. I've been coughing and sitting in the
9 hall waiting. So I'll do my best to keep my voice up,
10 but sometimes it's going in and out.

11 I trust everybody has had the chance to
12 review the application. The request is relatively
13 simple. Verizon Wireless is proposing to construct a
14 microcell wireless telecommunications antenna on the
15 roof of the 300 Canal View Boulevard building.

16 The antenna itself is permitted by code.
17 And what is not permitted by code is the approximately
18 2-by-4-and-a-half-foot metal cabinet to store the
19 radio equipment next to the antenna up on the roof.
20 Pursuant to your town code, that is an equipment
21 shelter that is not permitted to be placed on the
22 roof.

23 So again, when that code was drafted it
24 didn't -- I don't believe that the latest technology
25 was deliberated at that point. And certainly, in

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2 speaking to Rick, as the town proceeds with its
3 code -- annual code amendments, at some time maybe the
4 Town could consider this since these are relatively
5 routine and will be part of almost every microcell
6 application that comes forward. And maybe the
7 equipment shelter could be limited to a certain size
8 as permitted on the roof, maybe 5-by-3 or something,
9 so that they could hold those equipment.

10 But I threw that idea at the board. But
11 that's the issue before the board. The board is
12 whether or not Verizon Wireless meets the public
13 utility standard necessary for the project.

14 The need for it is well documented, that
15 our Jewish Home site as well as our Brighton Henrietta
16 Town Line site are both at capacity, or near close to
17 capacity, and so we're trying to grab a little of the
18 RF traffic from the office park with this antenna. So
19 it's designed to relieve those two sectors in that
20 area.

21 Does anybody have any questions regarding
22 that request?

23 MR. MIETZ: The only thing, if you could
24 just comment about, you know, was there any -- is
25 there or was there any study as to where this

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2 equipment could be housed? Could it be housed within
3 the stair tower or any other place in the building?

4 Just for the record if you could talk
5 about that.

6 MR. LUSK: Yes. The equipment can't go in
7 the stairwell because that blocks the stairwell, and
8 the landlord wouldn't permit our equipment to be
9 inside the building.

10 So it's -- their technicians -- again,
11 it's so simple that the cabinet can just come right
12 off the wall. It's really a plug-and-play sort of a
13 device.

14 MR. MIETZ: So technologically speaking,
15 even if there was a location, then it can't be that
16 from the actual device? In other words if the
17 landlord allowed it to be within the building, is
18 there a distance --

19 MR. LUSK: You couldn't carry -- run the
20 equipment from the basement all the way up to the
21 frame. But that's where the landlord agreed to place
22 it.

23 MR. MIETZ: Okay. Understood.

24 MS. SCHWARTZ: On page 6 of your form EAF,
25 under letter F, number 3, it talks about standby

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2 generator. Is that part of this package? Is that
3 already there?

4 MR. LUSK: No, there's not an extended
5 standby generator. There's usually a plug that will
6 be -- they'll use it if need be I believe. And I'm
7 not sure if there's a standby generator serving the
8 facility.

9 MS. SCHWARTZ: It says stationary
10 resources during operation, it to use standby
11 generators. So is it up now or is part of this --

12 MR. LUSK: It may be a typo in the EAF
13 from the engineer. There is not and there will not be
14 a standby generator to use this. There'll be an
15 opportunity to be able to plug in a generator if the
16 power were to go out at some point, given the two
17 macrocells. At that point we would put a generator
18 there.

19 MR. MIETZ: Okay. Any other questions
20 about this?

21 MR. DISTEFANO: What is the range for this
22 microcell?

23 MR. LUSK: If you could -- it's in exhibit
24 F to the application, on page 3 of it. It is just
25 basically the office park. It's designed to be about

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2 500 feet in the each direction, again depending on the
3 topography and depending on what you're trying to
4 cover. But it's designed to be like a -- we put them
5 on one of the Wegmans stores to cover the plaza, the
6 area in the Wegmans, and again, office parks,
7 corners -- corner plazas. That's about the distance
8 you can get.

9 MR. DISTEFANO: So is this technology
10 common to the other carriers, or just Verizon at this
11 point in time? Could we see other boxes on the same
12 building and these microcells being used?

13 MR. LUSK: I believe it's relatively
14 common. I did hear that -- I think it's T-Mobile --
15 don't quote me -- is planning to put 70,000 of these
16 in the United States in the next couple years.

17 Verizon has been very active in this. But
18 again, this is so that you can relieve the capacity on
19 one or two sectors and not have to build a new tower.
20 And so they'll put them in the hotspot locations where
21 there's a lot of traffic, people on their internet.
22 They'll grab that traffic. Rather than trying to
23 build a tower to serve in three different directions
24 from the tower, they'll just put it in the one
25 location.

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2 Does that answer your question?

3 MR. DOLLINGER: I had a similar question
4 just again for educational purposes since this has
5 come through.

6 So the -- when they build these things,
7 they build them specifically in hotspot locations. Is
8 it a new technology that makes it so that you can
9 build these things small enough, or is it just -- I
10 mean, is it a new technology I guess is my question.

11 MR. LUSK: It's the same radio
12 transmission. It's the same frequency that's being
13 utilized on the towers, but it's a new antenna design
14 that they're using, and it's a new way --

15 MR. DOLLINGER: So it's a new -- it's a
16 new concept?

17 MR. LUSK: Yes. So they're -- it's set
18 forth in the application. They've got the big macro
19 that's handled by the tower. Now they're putting a
20 smaller hotspot network underneath that to serve the
21 hotter areas.

22 So it's just a new network design. Same
23 frequency, same -- and they're using these smaller
24 antennas to deliver it in those higher traffic areas.

25 MR. MIETZ: Okay. Any other questions?

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2 Okay. Thank you very much.

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

5 There being none, the public hearing is
6 closed.

7 Application 2A-03-16, Application of Jack Siegrist,
8 architect, and James Cerone and Sharon Bidwell-Cerone,
9 owners of property located on East Avenue (between
10 2940 and 2980 East Avenue) known as Tax ID
11 #138.05-1-70, for an Area Variance from Section 205-2
12 to allow a single family house to be constructed with
13 a 9 ft. Side setback (north side) in lieu of the
14 minimum 16.5 ft. required by code. All as described
15 on application and plans on file.

16 JAMES PHILIPPONE: My name is James
17 Philippone; and I'm here today with my son Martin
18 Philippone, who is also a lawyer, and Jack Sigrist,
19 who is the architect for this home.

20 This home has been in the planning for
21 4 years. If there was any way that we could have made
22 this house 7 feet shorter, we would have done it.
23 There just isn't any other way. The architects have
24 gone over it.

25 This is a very unusual home, and hopefully

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2 Martin will have a picture of that. It's a country
3 french design, a beautiful home, and it's an expensive
4 home, and I believe that it's the type of home this
5 area needs.

6 Involved in this proceeding has been Jack
7 Sigrist, the architect; Greg Bell, the engineer; Jake
8 Oukes, interior designer; Grasso Builders for specs;
9 Lauren Frye, kitchen designer; and us.

10 We have done everything that we can to
11 avoid being here. We know that Jerry Ludwig is here,
12 and we know that he has his attorney here. And this
13 house is next door to his. And he doesn't want this
14 built. He wants this lot to remain vacant and not be
15 occupied in any way.

16 This lot was bought 38-and-a-half years
17 ago, and it was bought at the same time that we bought
18 this house with the knowledge that some day we would
19 build another house on that would fit our later years.

20 The difficulty is that the zoning law
21 changed in 2007. We wouldn't be here if this
22 was 2006. We'd be in conformity. The difficulty that
23 we have now is we have spent thousands on thousands of
24 dollars.

25 Jack Sigrist told me that he has -- in the

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2 4 years he has designed, redesigned, turned,
3 maneuvered, in every way possible to make this the
4 house that my clients want.

5 This is the second time this has been
6 before this board. The first time you made it quite
7 clear that the way that this variance was headed was
8 not the way that the board would approve it. And you
9 indicated that it's -- there's not enough space
10 between 2980, which is our present home, and 2960,
11 which is the new home.

12 So what we did was we moved it. We moved
13 the house to the other side. Now, you might say:
14 What good does that do; all you've done is create a
15 problem for Mr. Ludwig, because we moved it to his
16 side.

17 Now, the reason we did that is because you
18 told us that the amount of space between 2980 and 2960
19 was too short.

20 The distance between our house and
21 Mr. Ludwig's house is almost 100 feet. It's 90 feet
22 from his lot line -- from our lot line to his house.
23 And it's 9 feet if you approve our request today for
24 our side setback.

25 The question now is who -- we're talking

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2 about 7-and-a-half feet out of 100 feet to the next
3 dwelling.

4 I saw a letter 10 minutes ago from Wayne
5 Goodman. And I read the letter carefully. And that
6 letter is exactly the same argument that Mr. Ludwig
7 gave you when you said the last time we were here it's
8 too close.

9 If you read carefully the letter of Wayne
10 Goodman, you grant none. You do not grant any
11 sideline variances; you do not grant any frontline
12 variances; you do not grant anything.

13 Now, that of course is not Mr. Ludwig's
14 position. Because he was here in 2012. And guess
15 what. He asked you to give him permission to build
16 another 4-car garage. Now, he has one 4-car garage
17 already, and he then built another one. Now he has an
18 8-car -- two 4-car garages for a total of 8.

19 But that's not enough. He also has two
20 sheds on that property.

21 He complains about our house being too
22 dense or being -- or too dense for this particular
23 lot.

24 I'm asking you for 7-and-a-half feet. How
25 far wrong could I be? I'm wrong 7-and-a-half feet.

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2 Is 7-and-a-half feet going to change the look of this?

3 I don't know if anybody can see this. Can
4 you see that house? That's a beautiful, beautiful
5 house, and it goes with the neighborhood. And
6 Mr. Ludwig, if it was anywhere else, on any other lot,
7 would have said: Great; it's a good addition to the
8 neighborhood.

9 Except he doesn't want anybody next to
10 him.

11 When this first came about, Mr. Ludwig
12 said to my clients: Don't build on that lot; build an
13 addition on your other house; do something else; but
14 don't build on the lot; you're great neighbors next
15 door because you keep the lot so nice, and I really
16 enjoy looking at it, and it's great.

17 My client told him at that time: Gee, I'm
18 sorry, Jerry, but we need this house; we love this
19 house; we've been 4 years build -- designing it with
20 every conceivable type of amenity.

21 And then he says: Well, you're not
22 probably going to get a variance, so why don't you
23 give me a right of first refusal when you sell it.

24 Now, I wouldn't mind selling him the lot
25 if it were for sale.

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2 For 38 years my clients paid taxes on that
3 lot as a separate lot. They could have reduced their
4 tax burden substantially if they had consolidated the
5 lot and re-subdivided it. But they didn't because
6 they knew the type of house they wanted and they
7 dreamed this was their dream house.

8 The code requires 16-and-a-half feet, and
9 we have 9.

10 This is a developed lot. It doesn't
11 require a variance for anybody else to build anything
12 on it. We're building you a beautiful home in a
13 beautiful area, and we're asking you to give us
14 permission to do it on a 9-foot setback where I have a
15 90-foot buffer on the other side.

16 Now, I want you to recall the arguments
17 that were given to you before about how this was
18 too -- the distance between these two would affect the
19 viability of both houses. We resolved that, and we
20 listened to you, and we went back. And Sigrist, when
21 he got his bill for the redesign, we said: God, is it
22 really that much?

23 But he did it.

24 The question that we ask you -- oh. By
25 the way, there is something I have not seen. I have

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2 not seen the two letters that came in from the doctor
3 and the other lady who said they did not approve it.
4 Is there -- are these letters available to anyone?

5 MR. DISTEFANO: Yeah. We can give you a
6 copy.

7 JAMES PHILIPPONE: Because I suspect that
8 they are going to be very close to what Mr. Goodman
9 said.

10 And I want you to remember -- and I'm not
11 really picking on Mr. Ludwig. You know, I'm really
12 not. It's not an attack. Because I understand him
13 not wanting to have anybody next to him. You know,
14 it's nice if you had all of this area around you, and
15 it was park-like, and somebody else was paying the
16 taxes and doing all of the nice things that make it
17 look good.

18 But I want you to recollect his
19 association with the Landmark Society. Please keep
20 that in mind when you read this letter -- when you
21 read the letter from Wayne Goodman.

22 And Wayne says in essence -- he never says
23 that this is a bad property. He never says anything.
24 He really says you should never grant anything in a
25 sideline or frontline setback because that's not the

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2 law.

3 Of course it wasn't the law when we
4 conceived this, and designed it, and worked on it for
5 years and years.

6 Let me see what this -- let me see what
7 this letter says. A new -- oh. This appears to be
8 Mr. -- this appears to be a response from a doctor who
9 was not present at the last hearing, comments on what
10 happened, respectfully, because the application -- the
11 Parson farmhouse talks about a beautiful house and all
12 the beautiful houses that are in the neighborhood.

13 This is not a house that I wouldn't be
14 proud to own, that maybe many of you wouldn't be proud
15 to own. It is not a shack.

16 If this property is sold to someone, they
17 can build anything they want. We're asking you to let
18 us build a gorgeous home by giving us 7 feet.

19 Now, I will tell you that you will hear a
20 very silver-tongued lawyer following me. This lawyer
21 I have known for a very long time. His name is Alan
22 Knauf. And when I saw Alan in the hall, he said to
23 me: Jim, I want you to know that I'm here in
24 opposition.

25 Now, I didn't think he would be, because I

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2 didn't think Jerry would go out and hire a lawyer
3 because it's too expensive, and he did pretty well the
4 last time on his own.

5 But I will tell you that Alan will have
6 some argument. If you would permit me, I would like
7 very much to respond to Mr. Knauf's remarks.

8 If anyone here has any reason that they
9 can think of at this time why they would not grant
10 this, please ask me. I have two people with me. I
11 have my son Martin, who knows this property inside and
12 out because he's been working on it for a month, and I
13 have Mr. Sigrist, who has worked on it for 4 years.
14 If anyone can think of any reason why they wouldn't
15 want this house in their backyard, please ask me.

16 If there's no -- nothing else, then I will
17 sit down and let my erstwhile opponent silver talk to
18 you.

19 MR. MIETZ: Yeah. There's --

20 MR. DISTEFANO: Let us --

21 MR. DOLLINGER: -- yes. We have
22 questions.

23 MR. MIETZ: -- some questions.

24 Jack, do you want to come up and answer
25 some questions, or you want us --

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2 MR. DISTEFANO: Let us run the meeting,
3 please, and we'll tell when people can --

4 JAMES PHILIPPONE: Please, go ahead.

5 MR. MIETZ: All right. Okay. So
6 questions. Yes?

7 MS. DALE: Well, I have a question. We're
8 talking about brand new construction, so I struggle
9 with your statements about that there's no possible
10 way that a beautiful home couldn't be built that
11 wouldn't require a variance.

12 JAMES PHILIPPONE: Well, let me explain
13 what I meant by that. This is the house that was
14 designed, and this is the house that they really
15 believe is correct.

16 They went in and tried to cut 7 feet off
17 of this house, and I'll Jack discuss that with you
18 that you can't do it.

19 MS. BAKER LEIT: How many people are
20 living at this house?

21 MS. BIDWELL-CERONE: Two.

22 MS. BAKER LEIT: Thank you.

23 JAMES PHILIPPONE: Big house for -- of
24 course we could build a much smaller house. We could
25 build a 2200-square-foot house like the person who

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2 wrote the letter has. They have a 2200-square-foot
3 house, one of the letter people --

4 MS. BAKER LEIT: You have to convince us
5 that that is not a self-created issue.

6 JAMES PHILIPPONE: Well, let's talk
7 about --

8 MS. DALE: And so I don't agree with your
9 statements about there's no other possible way when
10 you're talking variance construction.

11 JAMES PHILIPPONE: To build this house?

12 MS. BAKER LEIT: To build a house
13 within --

14 MS. DALE: To build a beautiful house.

15 JAMES PHILIPPONE: All right. Okay. Let
16 me say this: You're absolutely correct. If we were
17 just going to build any old house, we wouldn't build,
18 and we wouldn't build it there.

19 We own this lot, and this is their dream
20 house.

21 MS. DALE: I think I could drive around
22 the town of Brighton and find beautiful homes that are
23 7 feet smaller than the one you're proposing.

24 JAMES PHILIPPONE: Oh, and I'm sure that
25 you could find them a lot bigger.

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2 There's a guy who wrote the other letter,
3 the doctor. You know how big his house is? 8,114
4 square feet.

5 MS. DALE: I just don't see the relevance.

6 JAMES PHILIPPONE: No. Just to tell you
7 there are bigger and there are smaller.

8 This is their dream house. Do you want
9 them to give up their dream from 4 years that they
10 have struggled with --

11 MS. DALE: It's not this board's fault
12 that it's taken this amount of time and money in this
13 case.

14 MR. MIETZ: Okay. Let's do this -- yeah.
15 Let's -- I don't want to really have a debate about
16 this.

17 But let's do this: Jack, you've made some
18 adjustments. You did whatever you did. Can you talk
19 to what you've done? And can you maybe try to address
20 Jeanne's question about why, other than beauty, that
21 the 7 feet can't be achieved on this -- in this design
22 and on this lot?

23 MR. SIGRIST: We have -- we have actually
24 taken the house and mirror-imaged it. It's the same
25 house we came in with the last time. The difference

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2 is that it's obviously away from our existing house;
3 and the other side, the 9 -- or for me it's
4 9-and-a-half-feet setback.

5 We've looked at reducing the inside of the
6 floor plan of the house. It's pretty impossible, with
7 the living room and kitchen, to have a garage, which
8 is really what we're talking about, because that's as
9 much room as we have.

10 We have the 4-foot setback. We have a
11 22-foot garage -- or 25-foot garage, which is pretty
12 minimal; we have a 22-foot garage, which is just about
13 that, and that's pretty minimal; and then we have an
14 18-foot garage and -- or 18-foot living room and
15 18-foot kitchen. And those numbers add up to what we
16 have.

17 With -- I'm not convincing you. I can
18 tell. But we've gone through many, many different
19 variations. We've had them front loading, we've had
20 garages in the front; we've had different side load
21 conditions that we -- but we just can't seem to make
22 it work.

23 MR. MIETZ: Okay. All right.

24 MR. DOLLINGER: Can I ask one?

25 MR. SIGRIST: Yes.

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2 MR. DOLLINGER: It seems to me that the
3 lot line -- this is from my -- I don't know if this is
4 correct. It seems to me that the lot line in this
5 area -- correct me if I'm wrong -- is almost
6 indistinguishable.

7 I mean, it's the relationship of the
8 houses, the impact -- I'm just trying to ascertain the
9 impact of this 7 feet; all right?

10 And it seems to me that -- and I was
11 wondering if you had any evidence or anything you can
12 present to the board that would show the houses.

13 I mean, let's just use this as an example:
14 If the houses were in this -- you had six houses in a
15 row, and they were all 100 feet apart -- right -- does
16 it matter where the lot lines are at that point?
17 What's the impact on the neighborhood if you put a
18 house and it's 1 foot away.

19 So do you have -- I'm just questioning.
20 Do you have any evidence or anything you can present
21 to the board that would show us how these houses in
22 this strip kind of relate to each other, not
23 necessarily from a lot line perspective but from a
24 situational -- a situational perspective. Like, you
25 know -- you know what I'm talking about?

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2 MR. SIGRIST: Yeah. I --

3 MR. DOLLINGER: Because it would seem to
4 me that that would be really relevant to the impact.
5 Because if it was 1-foot but you were exactly 100
6 feet, and they were all 100 feet apart, it would seem
7 that wouldn't -- that would necessarily not have that
8 great of an impact.

9 But if this house is relative -- you know,
10 if it's -- you know, if you had three houses that were
11 100 feet apart, and then all of a sudden this one's
12 going to be 9 feet from the lot line and 12 feet from
13 the other house, you'd be like that's ridiculous.
14 That's a huge impact on the neighbor.

15 So it seems to me that in some ways, the
16 lot line is a construct given the impact in some ways,
17 especially with these large lots. I think it's less
18 true, you know, in your average neighborhood, you
19 know, Meadowbrook thing, those lots are all the same.

20 And this isn't necessarily true, but I
21 just wonder if you have any evidence that would give
22 us an indication of how these properties are situated
23 with respect to each other.

24 MR. SIGRIST: Okay. Well, let me describe
25 what we have width-wise on the lot. So perhaps --

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2 MR. DOLLINGER: I'm sorry --

3 MR. SIGRIST: -- best I can do.

4 MR. DOLLINGER: I missed that one.

5 MR. SIGRIST: Width-wise.

6 MR. DOLLINGER: Oh. Width-wise. Okay.

7 MR. SIGRIST: Here is our existing house,
8 and it's about 10 feet off of our property line.

9 Over here are the condominiums, which are
10 a long strip of buildings. I believe there's a
11 25-foot turnaround. So there's maybe 35 feet between
12 this building and this building.

13 This is our property edge of our existing
14 house. Right now we are almost 35 feet from our house
15 to the new house. The house is 70-some feet across.

16 And then we're 90 feet -- actually almost
17 100 feet from our property to Mr. Ludwig's house. And
18 then Mr. Ludwig's house is just a big lot, you know.
19 There's -- this doesn't even show his entire house.

20 MR. DOLLINGER: There's a lot of distance
21 between his house and his neighbor to the left.

22 MR. SIGRIST: Right. His house is again a
23 much higher house.

24 We are at our 30-foot limit zoning-wise.
25 This is about a 30-foot building, and this is about a

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2 30-foot building.

3 MS. TOMPKINS WRIGHT: Just for the record,
4 your past applications have asked for additional
5 variances for square footage. This asks for no
6 other -- no other variances other than the size
7 setback?

8 MR. SIGRIST: We are -- we did get a size
9 variance of a couple hundred feet the last time we
10 were here. So that goes with the lot. Now we're just
11 asking for the side setback.

12 MS. TOMPKINS: Okay. Thank you.

13 MR. MIETZ: So there's nothing in addition
14 to what they already asked for.

15 MS. TOMPKINS: Got it.

16 MR. MIETZ: Okay. Other questions by the
17 board? Questions, rick? You guys have a question?

18 MR. DISTEFANO: No. We're just
19 discussing --

20 MR. MIETZ: That's fine. Do you have
21 anything else? I just want to keep this --

22 MS. SCHWARTZ: So between our last meeting
23 and this one, you really didn't look at trying to
24 change the design to fit really; you just flipped it?

25 MR. SIGRIST: We looked at it when we came

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2 in the last time. And we felt that we had worked at
3 getting this house down when we did.

4 MR. DISTEFANO: Yeah. If you -- Jack, if
5 you remember, we tabled it the first time. And then
6 they came back and looked at how maybe they could
7 narrow that, lessen that impact. And I think that's
8 when they actually looked and said this is the house.

9 And so they did do that exercise, but they
10 did that exercise awhile ago.

11 MS. TOMPKINS WRIGHT: The width of the
12 home along the streetscape, is that -- as it's
13 currently planned is that consistent with the width of
14 homes along East Avenue, or is it just --

15 MR. SIGRIST: Yes.

16 MS. TOMPKINS WRIGHT: If it was 7 feet
17 less would it be still as consistent or less
18 consistent?

19 MR. SIGRIST: It might -- it will probably
20 fall into the width-wise smaller category. The only
21 house that's around there is Mr. Ludwig's house and
22 this house, and this is like a long strip of --

23 MS. TOMPKINS WRIGHT: Right. Yeah. But I
24 mean further down.

25 MR. SIGRIST: These are all condos.

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2 MR. DOLLINGER: In the other direction
3 what are the size of the lots; is that what you're
4 asking?

5 MS. TOMPKINS WRIGHT: And the width of
6 the lots --

7 MR. DOLLINGER: What are the widths of the
8 lots as you go towards -- what? Oak Lane?

9 MS. TOMPKINS WRIGHT: And not so much the
10 width of the homes --

11 MR. DISTEFANO: Golfside.

12 MR. DOLLINGER: Golfside, yeah.

13 MS. TOMPKINS WRIGHT: Those widths to see,
14 you know, kind of how consistent this is with the
15 neighborhood.

16 MR. DOLLINGER: I guess your question is:
17 Those three other lots that are up by Golfside, how --
18 what are the setbacks of those lots; do you know?

19 MR. SIGRIST: No. I mean, here is --

20 MR. DOLLINGER: What are the distances
21 between the houses? I guess that would be a better
22 question.

23 MR. SIGRIST: Mr. Ludwig's westerly
24 property line?

25 MR. DOLLINGER: That along with the next

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2 lot and the next lot and the next lot. Those three
3 lots --

4 MR. DISTEFANO: If you were to look --

5 MR. DOLLINGER: -- again, I'm trying to
6 get a sense of what -- you know, on the record.

7 Because I want to get on the record where -- what this
8 whole thing looks like in this strip of houses.

9 MR. SIGRIST: I don't know. I'd have to
10 go measure. Because it's --

11 JAMES PHILIPPONE: Can you give a best
12 estimate, Jack? What they want to know is how does
13 this house look when it's up against all the other
14 houses in the neighborhood.

15 MR. SIGRIST: It looks small.

16 JAMES PHILIPPONE: This house looks small?

17 MR. SIGRIST: Yeah.

18 JAMES PHILIPPONE: By comparison to the
19 other homes in the neighborhood.

20 MR. DOLLINGER: Are those -- do you know
21 the size of the homes on those? Could you estimate
22 the size of the homes on those lots that are up by
23 Golfside?

24 JAMES PHILIPPONE: Jack, see if you've got
25 anything there that helps you.

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2 MR. SIGRIST: We have 2924 -- we have 2924
3 East Avenue, which is 34,000 square feet and it has a
4 livable area of 43,440 square feet.

5 2910 --

6 MS. TOMPKINS WRIGHT: What's 2910? I'm
7 sorry. Go ahead.

8 MR. SIGRIST: You'll have to -- I'm sorry.
9 You'll have to look at that.

10 It's 2910 is 34,000; 4,193 square feet.

11 MS. TOMPKINS WRIGHT: You don't have the
12 setbacks though of those? No? Okay.

13 MR. DOLLINGER: We do want to know for the
14 record the size of the house if you've got it. Yeah.

15 MR. SIGRIST: 2900 is 34,000 square foot,
16 441 square feet; 4,058 is the livable area.

17 2928: 55,260; 2400 square feet.

18 29 -- 2829 East Avenue: 14,000 with 300
19 square feet.

20 MR. DOLLINGER: How big is 2829?

21 MR. SIGRIST: 14,778 --

22 MR. DOLLINGER: Is that the lot size or
23 the house size?

24 MR. SIGRIST: That's the lot size.

25 MR. DISTEFANO: That's the lot size, yeah.

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2 MR. SIGRIST: The house size -- the
3 livable area of the house is 2314.

4 MR. DOLLINGER: That's what I wanted to
5 know. I think that's what I wanted to put on the
6 record is the size of the house.

7 MR. SIGRIST: 2801: 33,666 is the lot
8 size; 3,534 is the house size.

9 And you want me to keep going?

10 MR. DISTEFANO: No. I don't think -- I
11 think we've got it.

12 MR. MIETZ: Okay. All right. We have
13 2730 East Avenue: 117,000 with 5700 square feet.

14 MR. SIGRIST: Yeah, I pulled these out of
15 your records.

16 MR. MIETZ: All right. Other questions of
17 Jack or of the applicant at this time?

18 Questions, ladies?

19 MS. CORRADO: No.

20 MR. MIETZ: No?

21 Okay. Thank you.

22 MR. SIGRIST: Thank you.

23 MR. MIETZ: All right. So is there anyone
24 in the audience who would like to speak regarding this
25 application?

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2 Okay.

3 MR. LUDWIG: Honorable Chair, members of
4 the commission: Jerry Ludwig, 2940 East Avenue, here
5 again.

6 First of all, a couple corrections.

7 I don't think ever it was stated that I
8 did not, or we did not want, a house built on the lot
9 next to us. Never. Our only objection was of the
10 size.

11 Second correction: I wish we had two
12 4-car garages. We only have two 3-car garages --

13 MR. DISTEFANO: Jerry -- Jerry, address
14 just the chair, please.

15 MR. MIETZ: Gentlemen, let me just say
16 this right now so that we can -- for the deference of
17 everyone in the audience and us: There won't be a
18 debate here; okay? This is --

19 MR. LUDWIG: I'm just correcting what was
20 already said.

21 MR. MIETZ: Right. Okay. But I'm saying
22 from both sides of it, there won't be a debate here.

23 MR. KNAUF: He's just saying it -- address
24 the board.

25 MR. LUDWIG: Okay. Will do.

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2 MR. MIETZ: Yes. Just tell us whatever
3 you want to tell us, Jerry. And Mr. Philippone, he's
4 just going to listen like we're going to listen. And
5 that's what we've got to do.

6 MR. LUDWIG: Right. Well, I won't be
7 long. You have the comments that I made before about
8 a house that's too big being wedged into a lot.

9 The only thing I would like to add is I
10 took a picture at 5 o'clock today of our property
11 line. And this is the area where the 9-foot variance
12 is requested. And if you look very closely, you'll
13 see some stakes with red ribbon on them, and that is
14 our property line.

15 And as you can see, a 9-foot setback will
16 basically be in the pachysandra bed. So it's not so
17 much the proximity of this house to our house but to
18 the existing tree line which has been there probably
19 far longer than either of the houses that we're
20 concerned about.

21 So the other comments that I made when I
22 was here last time still stand. I thank you for your
23 time and appreciate your concerns.

24 MS. BAKER LEIT: One quick question.

25 MR. LUDWIG: Yes.

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2 MS. BAKER LEIT: Do you feel that with the
3 construction it would disrupt that tree line --

4 MR. LUDWIG: Oh, I think without a
5 doubt --

6 MS. BAKER LEIT: -- damage in its place --

7 MR. LUDWIG: You can't dig a basement
8 9 feet from a tree that has a canopy that's probably
9 40 feet in diameter without potentially harming the
10 tree, or you'd have to cut the tree down.

11 MS. BAKER LEIT: Thank you.

12 MR. MIETZ: Okay. So --

13 MR. LUDWIG: Thank you.

14 MR. MIETZ: All right. Who -- okay.

15 MR. CORBY: Hi. My name Bob Corby.

16 MR. DISTEFANO: Bob, what was your last
17 name? I'm sorry.

18 MR. CORBY: Corby, C-O-R-B-Y.

19 MR. DISTEFANO: Thank you.

20 MR. CORBY: I've been asked by Jerry
21 Ludwig and Sarah to comment on this application.

22 My background is I have extensive
23 experience in architecture, planning, zoning, and
24 historic preservation.

25 I'm going to ad lib a little from my

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2 comments, just sort of target what I'm saying for the
3 sake of remedy tonight.

4 I think one of the issues here is defining
5 what are the characteristics about the neighborhood
6 that are significant from both the planning and
7 preservation perspective. Because that's what we're
8 trying to protect under the variance criteria, is the
9 character of the neighborhood. So I'm going to want
10 to talk just a little bit about that.

11 We all know we like East Avenue, but we
12 often, you know, are at a loss for the terms to
13 capture what it is that's special about East Avenue.
14 So that's what I want to address.

15 Spanning from downtown Rochester to the
16 village of Pittsford, the East Avenue corridor is a
17 multi-jurisdictional resource of regional importance.
18 This linear residential historic cultural landscape --
19 and "historic cultural landscape" is a National Park
20 Service term to define special areas of geography that
21 represent cultural historic or sociological trends in
22 our regional history.

23 Another example of a historic cultural
24 landscape is the village of Pittsford. The East
25 Avenue Preservation District would be another one.

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2 East Avenue possesses the largest
3 concentration of significant works of residential and
4 institutional architecture and landscape design in the
5 greater-Rochester metropolitan area. East Avenue's
6 historic buildings and landscapes represent the
7 pattern of Rochester's residential growth and
8 prosperity from the mid-19th century to the mid-20th
9 century.

10 Throughout its history, the avenue has
11 attracted successful Rochester residents and important
12 institutions as a preferred address.

13 Although many American -- eastern and
14 midwestern American cities developed along a similar
15 pattern, very few cities have an East Avenue left
16 intact. You go to Buffalo, Syracuse, they pretty much
17 have lost their integrity, and they don't hold
18 together the way East Avenue does.

19 The construction of the Country Club of
20 Rochester along this leg of East Avenue is one of the
21 factors that fostered the suburban growth that
22 occurred in the first quarter of the 20th century.

23 And I mention that because, in a review of
24 looking at the actual deed restrictions that were part
25 of that subdivision -- and I would also mention that,

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2 in the first two decades of the 20th century, deed
3 restrictions in suburban Rochester neighborhoods were
4 very common. The reason for that was neighborhoods
5 within the city that were built in say the 1880s or
6 1890s quickly transitioned from a high-end residential
7 neighborhood to industrial or commercial, and people
8 ended up losing their equity. And that's one of the
9 reasons deed restrictions were so common.

10 In the 1920s Euclidean zoning was
11 introduced in Cleveland, and then that set us kind of
12 on the path that we've been for almost the last
13 century.

14 But the point I wanted to make here is
15 that the deed restrictions included both a front
16 setback of a minimum of 158 feet from the center line
17 of East Avenue, and a 15-foot side setback.

18 The reason I mention that is because that
19 is a -- regardless of the properties at discussion
20 tonight, the neighboring property, or the property
21 proposed for the variance, that's characteristic that
22 defines the historic appearance of the neighborhood.

23 And it's the maintenance and preservation
24 of the landscape, the setbacks, the size, the scale of
25 the lot, the architecture, that gives East Avenue the

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2 character that we appreciate today.

3 Much of the town of Brighton's early
4 suburban growth was centered on the East Avenue
5 Corridor. Even today the avenue remains the most
6 important physical feature in the eastern section of
7 the town.

8 The block of the avenue between Penfield
9 Road and Elmwood Avenue is characterized by generous
10 suburban residential lots laid out during the first
11 quarter of the 20th century. Most of the homes from
12 this period were custom designed by Rochester's
13 leading architects and exhibit fine materials as well
14 as design sophistication.

15 Many properties were further enhanced by
16 elaborate landscaping lending the entire corridor a
17 uniquely park-like character. Although the area
18 contains some mid-20th century construction,
19 consistency in density and landscaping has preserved
20 the block's earliest 20th-century aesthetic character.

21 Although today many early inner-ring
22 suburban areas have now entered a phase of decline,
23 those that possess a higher level of design and
24 aesthetic appeal continue to hold their value.

25 Clearly the distinct existing physical

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2 character of East Avenue contributes greatly to the
3 existing residents' quality of life, as well as the
4 long-term stability of the area's property values.

5 Then I just want to briefly go through the
6 four standards for an area variance. And I'm not
7 going to -- I've written in the letter, and I'll also
8 hand a paper copy of this in for the record. But just
9 in the sake of brevity, I'm not going to say what each
10 standard is.

11 The reduction of side setback to 9 feet
12 instead of the 16.5 feet required by code will produce
13 a new home without the setback common to the
14 neighborhood. Visually the property will look tight
15 and out of character with the adjacent homes to the
16 northwest.

17 I want to talk just a little bit about
18 compatibility. In terms of preservation,
19 "compatibility" was a term developed by the National
20 Park Service in our current usage as a way to evaluate
21 how to construct new construction within a historic
22 context.

23 In specific, from a preservation
24 perspective, and across the country in the
25 preservation field, we all follow standards that were

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2 developed by the Department of the Interior, and they
3 are administered in New York State by SHPO of course.

4 But in specific, if you look at National
5 Park Service literature, "compatibility" is defined as
6 distinctive character including the design principles
7 of building setback, orientation, scale, proportion,
8 rhythm, massing, height, materials, color, roof shape,
9 details and ornamentation.

10 General procedural guidelines to determine
11 compatibility have been developed by the National Park
12 Service.

13 Okay. One other thing I wanted to mention
14 here in terms of impact to the neighborhood is there
15 is a mature deciduous and coniferous hedgerow
16 bordering the property at 2940 East Avenue. Granting
17 the required area variance will allow excavation and
18 construction to encroach into the drip line of the
19 existing trees, threatening their health and their
20 value as a privacy buffer and a historic landscape
21 feature of that property.

22 And that property is a designated Brighton
23 landmark.

24 The 16-and-one-half-foot Town-required
25 setback is both close to the historic deemed

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2 restricted setback as well as being in harmony with
3 the original design intent of the Golfside Acres
4 neighborhood, which while the proposed setback is
5 nearly half the distance compared to what is typical
6 of the historic zoning of the neighborhood.

7 Substituting a rear -- oh. Excuse me.
8 The law proposed for the Bidwell-Cerone residence is
9 narrow and deep, yet the house that is proposed has a
10 large square footprint with a side-loaded garage.

11 Substituting a rear-loaded garage,
12 employing a free-standing garage, or redesigning the
13 house with a shape that fits the site would eliminate
14 the need for a setback variance.

15 No architect that I know would argue that
16 there is only one plan configuration for a given floor
17 plan.

18 The requested setback 9 feet is
19 substantially smaller than the setback required by
20 Brighton Town Code 16-and-a-half feet. Generally a
21 variance greater than 10 percent is considered
22 substantial when evaluating area variances.

23 The aesthetic character of the East Avenue
24 corridor's architecture and landscape is an important
25 environmental asset of the neighborhood town and

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2 region. By allowing a setback uncharacteristic of the
3 neighborhood and out of harmony with the general
4 design characters of the area, granting the requested
5 variance will have an adverse effect on the
6 environment and historic visual character of the
7 neighborhood.

8 And lastly the alleged difficulty is
9 clearly self-created as it is the result of a choosing
10 a floor plan that doesn't fit the site.

11 As an architect one of my first primary
12 tasks on a typical project is to configure a building
13 that fits within the dimensional constraints of the
14 site. There are many options available to design a
15 viable floor plan that fits within the setback and
16 fits the long, narrow shape of the site.

17 Thank you very much.

18 MR. DOLLINGER: I have a question again.
19 I've got to go back to this again. I still am not
20 sure I'm getting it. I'm not sure we're focused on
21 the right thing.

22 If I have five houses, and each one of
23 them are 100 feet apart, and the setback between all
24 of them is 100 feet, and I take one and I put it
25 exactly equal distance between the other five, right

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2 in the middle of it, and say there it is, no impact on
3 the neighbor at all, and it happens to be 1 foot from
4 the lot line, what is the impact on the neighborhood
5 of that 1-foot setback?

6 MR. CORBY: I think it's different with
7 every neighborhood. You know, if you were in Cornhill
8 it would vary than -- different than this
9 neighborhood.

10 I think what's important about this
11 neighborhood is you have to define the physical
12 characteristics that have either environmental, or in
13 this case historic, characteristics. And that's what
14 I tried to lay out in the statement I just wrote.

15 MS. TOMPKINS WRIGHT: So you're saying
16 that a setback between this home and a neighboring
17 home of a 106 feet would be more historically
18 appropriate than 99 feet, which is the distance
19 between two homes?

20 MR. CORBY: Well, I think you have to
21 break it apart. Because, you know, the lot next door
22 to this is a historic site; okay? And so it was a
23 thing with a certain setback.

24 And in that case, it is larger than what
25 is typical of a neighborhood. So you can't say well,

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2 we'll just split the difference and we'll -- you know,
3 we'll get some credit for that setback and add it to
4 this site. Because that property is a piece. The
5 hedgerow is part of a designed-landscape feature. It
6 goes together.

7 What you would be doing on this site is
8 you would be building a new house that doesn't have
9 the typical buffer around it that other properties in
10 the neighborhood do and which is historically
11 designed -- defined, the physical character of this
12 block of East Avenue.

13 Does that help?

14 MR. MIETZ: Yes.

15 MR. COLBY: Okay. Thank you.

16 MS. SCHWARTZ: Is there something that you
17 normally, when you have a historical structure, that
18 you have to have a certain amount of buffer?

19 MR. DISTEFANO: No. It does not affect
20 the neighboring properties.

21 MS. SCHWARTZ: It doesn't.

22 MR. DISTEFANO: No. It affects that
23 property. Sometimes they'll put a buffer around the
24 house that might include outbuildings and other
25 features of that property, but it does not encroach on

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2 the other people's property. Because in essence that
3 would be a taking of their property.

4 MS. SCHWARTZ: Okay.

5 MS. CORRADO: One other question, too,
6 about the history of the nonconforming lot that they
7 want to build on and the lot next door.

8 Were those ever a single lot with a larger
9 structure or --

10 MR. DISTEFANO: No. Not to my knowledge
11 they weren't. I think they were legally subdivided
12 probably prior to 1965, when our code basically
13 started recognizing subdivisions and the legality of
14 subdivisions back in '65. Prior to that people were
15 doing subdivisions; people were splitting land by
16 deed. There was a lot of stuff going on.

17 MS. CORRADO: So there has never been a
18 single --

19 MR. DISTEFANO: Not to my knowledge. I
20 mean, no --

21 MR. DOLLINGER: -- other than Ludwig prior
22 to this one, or --

23 MS. CORRADO: No, no. The Cerone's two
24 properties. Were they ever a single property --

25 MR. DISTEFANO: These two properties were

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2 probably never one, but these two properties were
3 probably a part of one at some point in time.

4 MR. DOLLINGER: But they're similar width
5 to all the other ones, other than the Ludwig home.
6 But similar width to all the other ones. So they
7 probably did all at one.

8 MR. MIETZ: Let's try to stick to the --
9 for now, if we could. We can discuss it further as
10 far as those sorts of issues. Why don't we hear the
11 rest of anyone who would like to speak regarding this
12 application.

13 MR. KNAUF: Good evening. I am Alan
14 Knauf. Excuse me. He said I have a silver tongue,
15 and I can't talk.

16 I am here on behalf of Jerry Ludwig and
17 Sarah Rockwell who own the historic house at 2940 East
18 Avenue.

19 And I think the issue here was not
20 Mr. Ludwig's garage, what Mr. Ludwig said. The issue
21 is the factors, which I know you've been through 100
22 times.

23 Before I get into that I did want to hand
24 up, just on the issue that just was discussed -- we do
25 have the plat of the original Golfside Acres. And

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2 I'll note I did pull the deed.

3 The lots are actually part of lot 14, and
4 then the house that the applicant owns, and actually
5 part of lot 14 and part of lot 15. So the original
6 lot 14 appears to be a 190 feet.

7 So there was a re-subdivision from the
8 original historic layout that made these lots much
9 smaller. When they happened I don't know. But it was
10 not the original layout.

11 So I will hand this up for the record.

12 So the -- obviously the first issue,
13 undesirable change: Here this is an intrusion on the
14 historic structure next door and the great benefit we
15 get from the East Avenue area. We all know it's the
16 finest stretch of homes historically in Rochester.
17 We're trying to put a square peg in a round hole here
18 is what we think.

19 And, you know, we -- Mr. Ludwig and
20 Ms. Rockwell do not oppose a house on this lot. They
21 agree it's a lot they can go ahead and build on. It's
22 just it should be designed to better fit both the
23 zoning code and the area.

24 And yeah, it looks like it's a nice house.
25 Mr. Sigrist is fine architect. We're just saying that

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2 this is not the only design that you could put on this
3 lot. You could make it work.

4 Now, so can the benefit be achieved by any
5 other method: Yes. Mr. Corby said yeah, you could
6 put the garage in the back; you could have a different
7 load on the garage. Certainly there's other things
8 you can do.

9 To say the zoning board made us do it, I
10 didn't quite get this. Apparently the previous
11 application was rejected because if it was too close
12 to the lot on one side doesn't mean all right then
13 we're going to move it over to the other side.

14 And the fact that Mr. Ludwig has a bigger
15 setback than the minimum required by code is great.
16 It really adds to the value of the neighborhood. So I
17 think it's a really bad precedent to say: Well,
18 because the neighbor has a larger setback than they
19 need, I can take advantage of that and maybe I can
20 build right up to the line, because who's going to
21 notice. That certainly would be a bad precedent for
22 this board to adopt.

23 Is it substantial: Certainly is. 16.5
24 feet to 9, that's a 47-percent change. So that's
25 certainly substantial in anybody's book.

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2 And I started thinking about this, and I
3 did talk to Mr. Steffen about this: You know, the lot
4 is only I guess 110-feet wide, and you require
5 125 feet. So my questions is: Why don't they need a
6 variance for the lot width?

7 Note Town Law 265-A gives a you certain
8 amount of grandfathering for a few years. That's long
9 since passed. So I question whether they need another
10 variance on top of that.

11 But even if that's not the case, normally
12 you would have another 25. So the 15 percent would be
13 18.75, so getting 15 percent of a deficient width.
14 And it's still a 47-percent change.

15 So any way you skin the cat, this is a
16 substantial variance.

17 Any adverse impact on physical or
18 environmental conditions: Well, we're going to
19 intrude on the existing buffer and the tree and all,
20 and again, certainly intrude on my client's property.

21 The Landmark Society letter, they said
22 it's going to have a significant impact. It's out of
23 character. And I think Mr. Corby was saying the same
24 sort of thing.

25 Again, we're not saying it has to stay an

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2 empty lot. I sympathize with the applicant. He's
3 been paying taxes for many years on an empty lot. By
4 coincidence, I've been paying taxes on an empty lot
5 for many years in Pittsford. Since the Pittsford
6 assessor is not here, I'll tell you that I actually
7 probably made a lot of money because the value has
8 shot way up. And I suspect the same is true here on
9 East Avenue.

10 As you know people buy -- I think since
11 your code changed maybe they're not doing this
12 anymore, but they used to buy houses in Brighton to
13 tear them down to build a new one because -- so they
14 would pay several hundred thousand dollars for a house
15 so they could have the lot.

16 This lot is worth a lot of money, and
17 probably more than it's assessed for.

18 So here as you know you balance the
19 benefit to the harm. I just don't think the benefit
20 is that great that there's no other way that you could
21 build a house. If this was a situation where the
22 terrain was different and there's no way you could fit
23 a house here without doing this, that might be a
24 different story. But it's just not that case.

25 So I think we're going to this would

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2 degrade the historic value of both Mr. Ludwig's
3 historically-designated house, and it's a bad
4 precedent. Maybe people have been building houses on
5 East Avenue, but I don't think that this should be the
6 first one that you allow a variance for.

7 And even if you were going to grant a
8 variance, it should be the minimum necessary, and it
9 certainly is not.

10 So basically this is not the only
11 alternative here. You should deny the variance.
12 Again, let them go ahead and build a house that
13 complies with the code.

14 Thank you.

15 MS. TOMPKINS WRIGHT: Can I ask a quick
16 question?

17 MR. KNAUF: Yeah.

18 MS. TOMPKINS WRIGHT: And just to confirm
19 the argument that if they were to build a home with a
20 smaller footprint with a much smaller home, maybe that
21 was smaller than the homes in the neighborhood, that
22 would be more consistent with the character of the
23 neighborhood because they were complying with the
24 setbacks?

25 MR. KNAUF: I didn't say that.

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2 MS. TOMPKINS WRIGHT: But that's what I'm
3 asking.

4 MR. KNAUF: I guess I was suggesting, and
5 I think Mr. Corby was suggesting, that if you shift
6 this over a little, and maybe you put your garage back
7 here, you're going to have as big a house, maybe a
8 bigger house. We just didn't see any alternatives.
9 So I'm not suggesting that.

10 MS. BAKER LEIT: So in other words the
11 main concern is the 70-foot frontage, you know, that
12 you can have exactly the same square footage if the
13 house were reconfigured.

14 MR. KNAUF: Right. It may not look as
15 impress -- you know, it may not look as big of a house
16 as you're driving by, but, you know, you can still
17 make it work.

18 That's a plenty big enough lot. It's not
19 like it's a small lot. You know, just granted it's a
20 little bit narrow, but, you know, you've got to deal
21 with it.

22 MR. MIETZ: Okay.

23 MR. KNAUF: Thank you.

24 MR. MIETZ: Is there anyone else in the
25 audience that would like to speak regarding this

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2 application?

3 MS. BIDWELL-CERONE: Is it possible for me
4 to speak?

5 MR. MIETZ: She was already part of the --
6 part of the original application.

7 MR. DISTEFANO: I mean, as long as it
8 doesn't address any of the comments that were made --

9 MR. MIETZ: I mean, if there's something
10 since you didn't speak at this juncture before, but it
11 can't be in rebuttal or debate of things that were
12 just said by other people in the audience.

13 So if there's something that you can add
14 that you feel that we didn't hear before that is
15 relevant, then okay. But I may -- I'll have to stop
16 you if it becomes a, you know, a counterpunch; okay?

17 MS. BIDWELL-CERONE: I'm Sharon
18 Bidwell-Cerone. I'm here fighting for my dream house,
19 and can assure you that our best -- where our best
20 interests are for the community for which we've lived
21 in for 38 years.

22 I don't know whether or not you'll
23 interpret my comments as rebuttal or not, but I would
24 specifically like to address the concept of East
25 Avenue as a uniform homogenous, monolithic type of

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2 street that is the same from one -- can be described
3 the same from one end to the other. It's in fact not
4 that. And I would ask you to look at the section or
5 the part of East Avenue and judge it in terms of
6 precedence, or precedence breaking, in that regard.

7 For example, we know there are historic
8 properties on the street for sure, beautiful gracious
9 lots for sure. But there are also retail stores, gas
10 stations, panhandlers. And right in our section
11 alone -- and I'll talk about that section alone -- we
12 have right on the corner a school, a gas station, a
13 firehouse, the athletic facilities for the Country
14 Club of Rochester right across the street, and we live
15 right next to two high-density townhouse/condominiums
16 clusters.

17 So our section of East Avenue I would ask
18 you to just evaluate in and as an entity onto itself.

19 Furthermore, I'd like to bring to your
20 attention, regarding the side setback issue and
21 precedence, our current house, 2980 East Avenue, is
22 8 feet to the property line on the condominium side.
23 So in our particular section of East Avenue, we are
24 living in a house that itself has a narrow -- narrow
25 setback; that is we are living in a precedence, if you

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2 will.

3 Last time we were here the board expressed
4 a concern about the aesthetics of balancing our house
5 and not putting it too close to the new house -- too
6 close to our current house.

7 We flipped the house. What did that
8 achieve? I just want to mention that the main thing
9 that we achieved is an aesthetic balancing of the new
10 house, looking at it from the street side. Because
11 the driveway is now abutting our current house as
12 opposed to Mr. Ludwig's house, the house has shifted.
13 And visually from the street the new house is more
14 centered between the two houses rather than looking
15 like it's too close to our current house, which was
16 the original proposal.

17 The concern for the Landmark Society for
18 the aesthetics: Believe me, no one's more concerned
19 about aesthetics than we are; otherwise, we would have
20 settled for something more, well, easier, to be frank.

21 We're here fighting for a quality home in
22 a European style of a caliber that is consistent with,
23 let's just say for one example, Mr. Ludwig's home
24 right next door.

25 It would be -- but we have rejected many

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2 design options because most of them turned out looking
3 like a house attached to a garage instead of a garage
4 attached to a house, and I don't think that would
5 really be in keeping with the neighborhood.

6 All of these things that we are trying to
7 achieve are more expensive and more costly, and -- but
8 we are also trying to -- we really have the same
9 interests as the Landmark Society has in terms of
10 aesthetics.

11 So we are trying to be in keeping with
12 neighborhood. It is in our interest to do so. We are
13 not intending to sell this house upon its completion
14 for a profit and move out of town to a, shall we say,
15 lower-tax-costly community than Brighton. We have
16 chosen to stay in Brighton in our later years, and
17 we're hoping that the investment we make in this house
18 will in fact spur other people in the neighborhood to
19 do likewise.

20 As a matter of fact we were spurred to
21 move on this project by the significant investment our
22 neighbor in the townhouse made. We in fact hired the
23 builder that they used, a quality builder who is going
24 to put up a quality home.

25 So I think that I would just ask you to

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2 also look at the positive -- possible positive net
3 gain from this, not to mention to the addition to the
4 tax rolls, not that I think that's your main concern.

5 But we are -- we are asking for some
6 consideration. For the 38 years we've lived on East
7 Avenue, we have been good stewards of this property
8 and plan to be good stewards in the future despite the
9 significant costs that are associated with doing so.

10 Thank you.

11 MS. SCHWARTZ: May I ask just one quick
12 question?

13 MS. BIDWELL-CERONE: Yes.

14 MS. SCHWARTZ: When the condos were built
15 did they get a variance to come closer?

16 MS. BIDWELL-CERONE: We did not own the
17 property we are in at the time, so I cannot comment
18 about that.

19 MR. DOLLINGER: It's not that variance --

20 MR. DISTEFANO: Yeah. It's not --

21 MR. DOLLINGER: It's their house that's
22 too close. The condos are probably far enough away.
23 Because there was testimony that the condos are, what,
24 35 feet? So -- because they said the condos are
25 35 feet from your house?

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2 MS. BIDWELL-CERONE: Well, I think our
3 house was built first; the condos were built second.
4 I'm assuming the condos have some type of -- I don't
5 know.

6 MR. MIETZ: Yeah. That's -- that's not
7 really relevant.

8 MR. DOLLINGER: I didn't get that. Okay.
9 I'm trying to figure out the maps. Okay.

10 MR. MIETZ: Thank you very much.

11 So is there anyone else in the audience
12 who would like to speak regarding this application?

13 Okay. There being none, this public
14 hearing is closed.

15 Application 2A-03-16, Application of Our Lady of Mercy
16 School for Young Women, lessee, and Sisters of Mercy
17 NYPPAW, Inc., owner of property located at 1437
18 Blossom Road, for Sign Variances from Section
19 207-31B(1) to allow for 4 identification signs
20 totaling 161 sf. In lieu of one sign no greater than
21 16 sf as allowed by code. All as described on
22 application and plans on file.

23 MR. MIETZ: Hi.

24 MR. PHELPS: Hi. My name is Dave Phelps,
25 SWBR Architects. With me I have Mark Maddalina from

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2 SWBR; and Terry Quinn, who is the principal of Our
3 Lady of Mercy, just in case there were any questions
4 directed to the owner.

5 So good evening. We're here to ask for a
6 variance for some signage.

7 And a little bit of history on the
8 project: About 8 years ago this project was brought
9 to concept, and that took quite some time to develop
10 and fundraise for the school; and about 2 years ago,
11 as you may be aware, the school was given a gracious
12 donation of about \$5 million from a former -- or
13 alumni of the school, Mrs. Walgreen, and we started
14 the process with the town of Brighton to go through
15 the approval process. And as part of that -- the
16 building is a historical building, and we did go to
17 the historical board.

18 MR. MIETZ: Can you just back up for one
19 second?

20 MR. PHELPS: Yes, sir.

21 MR. MIETZ: When you're talking about "the
22 process," the process --

23 MR. PHELPS: Just approvals.

24 MR. MIETZ: To do -- to accomplish what
25 though?

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2 MR. PHELPS: The building, the addition
3 that we put on.

4 MR. MIETZ: Okay. That's -- I'm not sure
5 everyone's aware of the history, so.

6 MR. PHELPS: Sorry. This is a rendering
7 of the addition that was put on top of the existing
8 gymnasium that was built in 1960.

9 And as part of that approval process, and
10 as part of the request from Mrs. Walgreen, was that
11 she wanted to name the building and provide building
12 signage after -- at the time it was two sisters.

13 And since then, after a long, lengthy
14 process, after going back and forth with
15 Mrs. Walgreen, she wanted to name the building after
16 Sister Dismas and because of honor that she had
17 with -- or the honor that Mrs. Walgreen felt for
18 Sister Dismas.

19 At the time of going to the historical
20 board about a year and a half ago, we did not have the
21 naming completed at that time, so we got approval for
22 the project except for the signage piece. And then
23 last week actually got the final approval for the
24 actual piece of signage that you see in front of you
25 right now, and that was submitted to you.

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2 MR. MIETZ: Approval from...

3 MR. PHELPS: The historical board. Sorry.

4 MR. MIETZ: Okay.

5 MR. PHELPS: And in that process and
6 meeting with Ramsey and Rick, we found out that the
7 school did not have -- was exceeding the signage
8 variance, or signage allowed by the Town already, even
9 before our piece of signage came onto the table.

10 So we -- we are making the request for the
11 variance for three existing pieces of signage that
12 were already on campus that I was -- we were not
13 involved with. One was already approved in 1988, sign
14 number 1, which is the main sign on Blossom Road.

15 Sign number 2 was built as part of a 2002
16 addition. And I don't know what happened during that
17 approval process. That was shown to the historical
18 board, historical preservation, and they did approve
19 the project as a complete whole, but I'm not sure why
20 the signage piece got missed or bypassed or whatever.
21 I did look at the original construction drawings for
22 that, and it is on the original construction drawings.

23 MR. MIETZ: It's actually etched in
24 precast --

25 MR. PHELPS: And yes, it is molded into

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2 the precast.

3 And then sign number 3, to be quite honest
4 with you, I don't know when it was installed. It was
5 obviously installed after 2002 because that is part of
6 the 2002 addition. So it was within the last 15 years
7 or so.

8 And then we get to our proposed sign of
9 this, the Dismas Center for the Performing Arts that
10 Mrs. Walreen would like to, in honor of Sister Dismas,
11 place on the building as part of her donation.

12 I believe you have photos of all those
13 signs and the sizes of the signs.

14 And as Rick mentioned, we are totaling 161
15 square feet with four signs total: Three of which are
16 existing, and then this piece of signage for the
17 naming of the performing arts center.

18 I think that's pretty much it.

19 MR. MIETZ: So I presume that you went
20 back and looked at all the existing signs that was
21 already there and there was nothing that could be done
22 to provide any -- any relief from your application as
23 it relates to the signs --

24 MR. PHELPS: As it relates to --

25 MR. MIETZ: -- I'm asking you a question I

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2 guess.

3 MR. PHELPS: As it relates to the other
4 pieces of signage --

5 MR. MIETZ: Yes, the other three signs.

6 MR. PHELPS: There was nothing -- well,
7 one of them is casted into the stone, as you can
8 imagine, and the other one has been there for
9 34 years, 35 years, and I'd hate to change that now.

10 I suppose the Bonsignore Athletic Complex
11 sign could be removed, but I'm not sure if that
12 would -- what that would do to the fading of the brick
13 that's behind it, you would see that. I'm not sure if
14 that would happen or not happen. You'd still end up
15 seeing the sign as being fading into the brick.

16 MR. MIETZ: But the sign is relevant
17 still --

18 MR. PHELPS: Absolutely.

19 MR. MIETZ: -- and something that --

20 SPEAKER: To the school it is. To the
21 school it's very relevant, yes.

22 MS. TOMPKINS WRIGHT: Was any thought made
23 to making the letter on the Dismas sign, performing
24 arts, similar in size to the athletic center
25 lettering? It appears bigger.

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2 MR. PHELPS: It is bigger. It's 16-inches
3 high. And the intent there is so that, as you're
4 pulling into the campus from Clover Street, that you
5 can see that you're going into -- you're seeing the
6 sign in honor of Sister Dismas.

7 MS. TOMPKINS WRIGHT: So what is the
8 performing arts center going to be used for? Is it
9 only school-sponsored production?

10 MR. PHELPS: Yes.

11 MS. TOMPKINS WRIGHT: So it won't be
12 leased out to any other --

13 MR. PHELPS: No. That was actually one of
14 the questions during the -- I think one of the
15 historical board presentations -- or historical
16 preservation board meeting.

17 MR. MIETZ: So it's all use by the owner.

18 MR. PHELPS: Use by the owner.

19 It would be used in the evening. The
20 signage is not lit, no lights on the building signage
21 at all on any of the piece -- I'm sorry. There is a
22 light on the Blossom Road freestanding sign, but not
23 on the building signage, any of the building signage.

24 MR. MIETZ: Okay.

25 MS. BAKER LEIT: Is it a consistent font

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2 with the other ones? It looks like it is.

3 MR. PHELPS: The intent -- the design
4 intent is that it's the same font, the same color as
5 the Bonsignore that's on the athletic center. And I
6 believe that the cast letters are a Times New Roman,
7 which would match the consistency, the font of the
8 letters.

9 MS. SCHWARTZ: What's the size of the
10 Bonsignore?

11 MR. PHELPS: Those are -- one second.

12 MS. SCHWARTZ: Is it 16? Or what is that?

13 MR. PHELPS: The total height of the
14 signage, the two lines of signage, is 20 inches. So I
15 would guess about 8 inches with a little bit of space
16 in between -- 8 or 9 inches.

17 MR. MIETZ: And do you have any reference
18 to what the height of that sign is related to the
19 height of this one? It's not mentioned on any of
20 these --

21 MR. PHELPS: So the -- to the -- I don't
22 know. I'm going to take a guess. I believe that the
23 height of the gymnasium is about 25 feet off the
24 ground -- to the roof is 25 feet above ground. So I
25 would guess that's probably in the 15-to-18-feet

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2 range. And our sign is about 42 feet off the ground.

3 So again with the elevation and the
4 distance that we wanted to be able to see from the
5 parking lot, which is one of the reasons that the
6 lettering is so large.

7 MS. TOMPKINS WRIGHT: Would they be
8 willing to make it smaller?

9 Have you had architectural review board
10 approval?

11 MR. DISTEFANO: They don't need
12 architectural --

13 MR. PHELPS: The historical board approved
14 it the way that the lettering and height is now. We
15 haven't gone to the planning board yet. The planning
16 board will be --

17 MR. DISTEFANO: Yeah, the planning board
18 is actually the approval board for the sign. It's
19 given to the historical preservation commission: One
20 because this is a historic building, and the
21 historical preservation commission replaces the
22 architectural review board in the review process for
23 this sign.

24 MS. TOMPKINS WRIGHT: And they did give
25 approval?

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2 MR. PHELPS: The historical board? I
3 haven't gotten the official letter because it was just
4 last Wednesday, but at the meeting they did give us
5 the approval verbally.

6 MR. MIETZ: Okay. Other questions for the
7 applicant, ladies and gentlemen?

8 Okay. Thank you very much.

9 MR. PHELPS: Thank you.

10 Terry you want to say anything? You good?

11 MR. MIETZ: Okay. Is there anyone in the
12 audience who would like to speak regarding this
13 application?

14 Okay. There being none, the public
15 hearing is closed.

16 Application 2A-05-16: Application of Anthony J.
17 Costello and Son (Joseph) Development, LLC, owner of
18 property located on Watermark Landing (The Reserve)
19 known as Tax ID #s 149.11-4-6, 149.11-4-7, 149.11-4-8
20 and 149.11-4-9, for Area Variances from Section 207-2B
21 to allow 2 support/retaining walls to be 12 ft. In
22 height in lieu of the maximum 6.5 ft. Allowed by code.
23 All as described on application and plans on file.

24 Application 2A-06-16: Application of Anthony J.
25 Costello and Son (Joseph) Development, LLC, owner of

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2 Property located on Watermark Landing (The Reserve)
3 known as Tax ID #s 149.11-2-2, 149.11-4-7, 149.11-4-8
4 and 149.11-4-9, for Area Variances from Section
5 205-16A to 1) allow for a portion of underground
6 parking (four buildings) to be 8 ft. 8 in. Wide in
7 lieu of the minimum 9 ft. Wide as required by code,
8 and 2) allow drive aisles within the underground
9 parking facilities to range in width from 20 ft. 4.5
10 in. To 22 ft. 4 in. Where a minimum 24 ft. Wide drive
11 aisle is required by code. All as described on
12 application and plans on file.

13 MR. MIETZ: Okay.

14 MR. GOLDMAN: Good evening, Mr. Chairman
15 and members of the board. My name is Jerry Goldman.
16 I'm the attorney and agent for Anthony J. Costello and
17 Son (Joseph) Development, LLC, the developer of the
18 proposed project.

19 We've flown past the hour and a half that
20 the chairman indicated.

21 MR. MIETZ: Yes. Bad estimate.

22 MR. GOLDMAN: So we'll try to be as
23 concise and as brief as possible tonight.

24 On the application are Bill Daly, who is
25 the vice president of development of Anthony J.

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1 BRIGHTON ZONING BOARD OF APPEALS - 2/3/2016
2 Costello and Son; Matt Tomlinson is the project
3 engineer from Marathon Engineering; Adam Rosario is
4 here from James Fahy associates, project architect;
5 and Mark Bayer, landscape architect is here as well on
6 the two applications that are before the board.

7 Let me just start by way of introduction
8 to say that this is our last board stop relative to
9 the loft buildings which are located on the southern
10 end of the reserved site.

11 For those who are familiar, the reserved
12 access is off the South Clinton Avenue. It is south
13 of Interstate 590; it is north of the canal. The loft
14 buildings are located along the canal itself.

15 And as we stated last month when we had
16 talked about application from Boathouse on the far
17 western end, there was a redesign of the overall loft
18 frontage essentially to reduce the massing and to
19 reduce the size of the buildings, and that result
20 being to reduce the size of the buildings. And as a
21 result we now have a need for some relief relative to
22 some of the elements that are involved.

23 One, the first application deals with
24 these areas which are at the end of the ramps going
25 into underground parking, the underground garages.

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2 There are two that we are dealing with here and here.
3 They're deemed under our code to be walls, and they're
4 deemed to be walls in a rear yard, and therefore are
5 limited to 6-and-a-half feet in height.

6 The wall on the side as you're entering
7 into the garage area is approximately 12 feet in
8 height, and that pretty much is the height of the wall
9 going into the first story.

10 From the far side, which is really the
11 more visible side, which is the canal and the canal
12 view, the canal view, the wall is only visible for
13 1 foot. And it's not even going to be visible for
14 that amount because what we have is a detailed
15 landscaping treatment which is right in these areas
16 and part of the application package which you
17 received.

18 So basically that wall it invisible from
19 this side. Maybe -- maybe -- it could poke through
20 during the winter months.

21 The wall on this side from which the
22 variance relief is necessary is really only visible if
23 you are looking at a straight shot across.

24 Our plans indicate a cross-section. This
25 one is a little bit embellished. It has an actual

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2 person, even though most people aren't diamond-shaped
3 below their head. But the eyeline goes right across
4 and right up to the top over here. It does recess
5 down here in order to be able to access the garage
6 area.

7 So that's basically what we have.

8 In terms of the legal standards, we've
9 talked about them often, and we did review them in the
10 application and letter of intent. I'm not going to go
11 through that unless anyone has any questions with
12 regard to that particular aspect of the application.

13 The second application that we have deals
14 with --

15 MR. MIETZ: Jerry, I'm going to have to
16 stop you for a minute before the second application.

17 MR. GOLDMAN: Yeah. Go ahead.

18 MR. MIETZ: So for the record, could we
19 talk about why that wall really needs to be at
20 12 feet?

21 MR. GOLDMAN: The wall really does support
22 the overall structure of the ramp coming down. We
23 could arguably grade and have that be dirt, but that's
24 not a solid construction technique.

25 The best way from a construction point of

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2 view is to actually have that be a wall that
3 replicates what's going on around the remainder of the
4 area.

5 MR. MIETZ: So again, you just discussed
6 the purposes of it, but the height of it having to be
7 at 12 feet, could you speak to that a little bit,
8 please?

9 MR. GOLDMAN: Matt?

10 MR. TOMLINSON: Matt Tomlinson from
11 Marathon.

12 One of the ways that the loft buildings
13 are in pairs with the floors at the same elevation --
14 if we drop the height of those walls, you'd kind of
15 get a scalloped view in between the loft buildings
16 instead of the continuous floor elevations and
17 sequencing of the lofts.

18 In addition the canal trail at the top of
19 the bank sits up quite a bit from that and as part of
20 the work that we're doing out there currently and have
21 gotten approval from the planning board is to grade it
22 more gently off of that bank to the elevation of the
23 loft buildings. So to drop that wall elevation would
24 change what we've gotten approval from planning board
25 for the grading of it as well as --

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2 MR. MIETZ: The symmetry.

3 MR. TOMLINSON: -- provide larger gaps in
4 between those buildings than is currently there.

5 MR. MIETZ: Okay. Thank you.

6 Go ahead, Jerry.

7 MR. GOLDMAN: Okay. Our second
8 application deals with the underground parking garage,
9 and I think Adam is going to put that plan up right
10 now.

11 It's interesting, our code does provide
12 for general parking standards for public parking
13 fields. They provide for space sizes; they provide
14 for aisle widths and the like. Our code does not
15 address private garages and particular private
16 underground garages. So the code is implied and
17 carried over relative to that, but it's a different
18 dynamic than we're talking about.

19 We normally have aisle widths of 24 feet
20 with the parking-stall lengths of 18 feet, which
21 provide basically a 60-foot separation through this
22 area in a general -- in a general parking lot open to
23 the public.

24 What we do have here is a little bit
25 different configuration, and what that is that we do

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2 have -- except for these six spaces over here, we do
3 have the 9 feet in width; we do have the 18 feet in
4 length up to the support pillars. We have 1 foot 8
5 inches, which is located in the area which is the
6 depth of the actual pillars which are here, and we do
7 have 20 -- 20.4 I believe feet in the aisle width
8 separation over here.

9 So we do exceed what is normal standard of
10 60 feet throughout this if we do that measurement.

11 The reason why we need the relief with
12 regard to these six parking spaces is because of the
13 mechanicals up above and the necessity of being able
14 to put the mechanicals in the trash room, as located
15 over here, and the elevator, in conjunction with the
16 rest of the building.

17 What it does is that is has an impact
18 relative to this, and the impact is to reduce the
19 parking space width by 4 inches on those particular
20 six parking spaces.

21 Now again, as a private garage it normally
22 is not as much of a consideration as it would be for
23 public parking. This is something that is going to be
24 dealt with by people who are buying units within the
25 loft.

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2 So to that effect dimensional requirements
3 have been modified for garages by this board. It was
4 awhile ago. It dealt with the Legacy. That dealt
5 primarily with the aisle -- the aisle width over here.

6 But we are in full compliance with
7 building codes. We're in full compliance with all
8 state regulations with regard to it. Our parking
9 space for handicap is fully compliant with the
10 handicap parking space. We're only dealing with a
11 town code requirement, which we believe only has real
12 applicability in a normal open-parking field
13 situation, not in a private parking situation where
14 people are going to be acquiring and getting their
15 spaces.

16 MR. MIETZ: Couple questions.

17 MR. GOLDMAN: Yeah. That's fine.

18 MS. BAKER LEIT: So these parking spaces
19 will actually be assigned. So if you have a resident
20 who's got one of those mondo Hummers, they will have a
21 parking space that will accommodate that Hummer or
22 whatever?

23 MR. GOLDMAN: Bill, you want to come up
24 and speak to that?

25 Bill is the vice president.

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2 MR. MIETZ: Yeah. Maybe we can just
3 expand that because I know there will be another
4 question.

5 In other words, how is the management of
6 this going to be dealt with? So in other words,
7 people are buying their individual units; there's X
8 number of parking spaces.

9 So just take it from there, how it's going
10 to really happen.

11 MR. DALY: Sure. Each unit will be
12 assigned a parking spot, somebody will own their spot.
13 The same spot will be their spot. So they will park
14 there every day.

15 MR. MIETZ: Okay. So in other words then
16 there is no real ability to mitigate this by the size
17 of the vehicles, because the spot, if it's number one
18 and it happens to be one of these six, then that can't
19 be switched with another because I have a bigger
20 vehicle.

21 And I think that was one of the questions
22 that -- I think that's the question that Candice was
23 asking.

24 So you're saying no to that; that won't
25 happen or can't happen?

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2 MR. DALY: Well, I think it's a function
3 of when the units are sold and who's buying the units
4 and the size of the car they have. So that's
5 something that we're going to have to deal with as we
6 sell the unit.

7 MR. MIETZ: Not to put words in your
8 mouth, but as if there are whatever there are down
9 there and these are the last six, then the last six,
10 those people have to understand that this is the size
11 that's available for a vehicle if they're going to
12 purchase the last six units?

13 MR. GOLDMAN: And that's a market decision
14 that they're going to have to make. They will know
15 what's available.

16 MR. MIETZ: I just want to make sure
17 exactly how this is practically --

18 MR. GOLDMAN: Correct.

19 MS. CORRADO: And these spaces are solely
20 for the residents; they're not intended for guests or
21 service vehicle?

22 MR. DALY: Correct.

23 MR. MIETZ: Hold on a second. Jeanne, did
24 you have a question, or was it --

25 MS. DALE: I just had the same question.

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2 MR. MIETZ: It was answered? Okay.

3 MS. TOMPKINS WRIGHT: The number of
4 parking spaces in the lot is dictated by the number of
5 units?

6 MR. GOLDMAN: Number of units and our
7 marketing information has indicated that there's
8 generally a 10-percent demand for the second parking
9 space. So that's why these building have 32 units and
10 we have 35 spaces.

11 MS. SCHWARTZ: On 2A-06 you talk about the
12 driveway, but I don't remember talking about wanting
13 to do 20 feet instead of 24. You talked about the
14 width of the parking space, but not the drive aisle.

15 MR. GOLDMAN: I did mention the drive
16 aisle and indicated that the drive aisle in this area
17 was 20 feet 4 inches. And that's this area right
18 here. And that is part of our application.

19 MS. SCHWARTZ: 20 feet. Okay.

20 MR. DISTEFANO: Jerry, just for
21 clarification, isn't it between the pillars at 22, and
22 it's that 20 at like the stairwell area or something
23 like that?

24 MR. GOLDMAN: That's correct. I'm sorry.
25 The 20 feet is right at the stairwell area right here.

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2 We're at 22'4" over here.

3 Why don't I do this because it may be
4 easier to see. It was part of the package.

5 MR. MIETZ: The other thing is we could --
6 it might be helpful to say, out of all the drive
7 aisles that in there, what percentage of them are
8 being lowered below the 24 feet.

9 MR. GOLDMAN: Well, all of them are below
10 the 24. All of them are below the 23. But if I may,
11 the primary area --

12 MR. MIETZ: Jerry, just speak up so she
13 can catch it.

14 MR. GOLDMAN: Yes. I rarely have anyone
15 tell me I'm not speaking loud enough. But that's
16 okay.

17 The area which is down this center
18 corridor is 22 feet 4 inches. It is a little bit
19 less -- it's 20 feet 4-and-a-half inches -- right at
20 this point where we have a stairway entrance and
21 apartment stairwell. But it is just in -- just in
22 that area is the 20 feet 4 inches.

23 Again, a lot of designs with regard to
24 parking garages or parking spaces generally talk about
25 the width between here and here and try to figure all

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2 that out, and usually 60 is the number we work with.
3 But when you take into account the 18 feet, the 1 foot
4 8 inches over here, the drive aisle, the 1-foot-8, the
5 20 feet over here, we are in excess of that 60.

6 So we're in -- we're consistent with
7 normal construction standards with regard to those
8 types of -- yes.

9 MS. SCHWARTZ: The reason I ask is, to me
10 4 feet is considerable, less than 4 feet, for backing
11 out.

12 MR. GOLDMAN: Which is right there and
13 really impacts -- really impacts to one spot right
14 here. Everyone else really has the full -- the full
15 22 -- 22'4".

16 MS. CORRADO: Can you describe the entry
17 to the parking? Will it be open at all times, or does
18 it have a closure?

19 MR. DALY: There's an automatic garage
20 door --

21 MR. MIETZ: A little bit louder.

22 MR. DALY: -- down the ramp into the
23 building, the garage door will open.

24 MS. CORRADO: So presumably in that narrow
25 space there, if someone is trying to back out of the

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2 narrow space and someone else is coming in, there
3 would be enough signaling from other purposes that --

4 MR. DALY: By the time the door goes up
5 and whatnot, there could be a chance that -- you know,
6 there could be a lot of ways at some point, but...

7 MS. CORRADO: But relatively controlled.

8 MR. MIETZ: It would be less than if it
9 wasn't closed. All right.

10 MR. DISTEFANO: And Jerry, isn't it true
11 that really what leads into this is the structural
12 design that cannot really be modified?

13 MR. GOLDMAN: That's correct. And let me
14 speak to that for a second.

15 What this is is a footprint directly under
16 the building. Because we reduced the massing of the
17 building, it did reduce the size and the space that we
18 had to work with. And that is primarily -- that is
19 the reason why we're here on some of these relief
20 elements. It's just a product of the massing of the
21 building itself.

22 MR. MIETZ: The diminishing of it.

23 MR. GOLDMAN: Correct. Correct.

24 MR. MIETZ: Okay. Other questions?

25 Okay. I take it we're set. Thank you

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very much.

MR. GOLDMAN: Thank you.

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

There being none the public hearing is closed.

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C E R T I F I C A T I O N
STATE OF NEW YORK:
COUNTY OF GENSEE:

I, LAUREN E. SHERWOOD, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were typed by computer-assisted transcription under my personal supervision and constitute a true record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the city of Batavia, county of Genesee, state of New York.



LAUREN E. SHERWOOD
Freelance Court Reporter and
Notary Public No. 01SH6252644
in and for Genesee County, New York

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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK
On February 3, 2016, COMMENCING AT APPROXIMATELY 7:15 P.M.

February 3rd, 2016
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN
CHRISTINE CORRADO
JEANNE DALE
JUDY SCHWARTZ
ANDREA TOMPKINS WRIGHT
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: LAUREN E. SHERWOOD
Edith Forbes Court Reporting
21 Woodcrest Drive
Batavia, New York 14020

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APPLICATION 2A-04-16

Application of Our Lady of Mercy School for Young Women, lessee, and Sisters of Mercy NYPPAW, Inc., owner of property located at 1437 Blossom Road, for Sign Variances from Section 207-31B(1) to allow for 4 identification signs totaling 161 sf. In lieu of one sign no greater than 16 sf as allowed by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 2A-04-16.

FINDINGS OF FACT:

1. The granting of requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The requested variance, while substantial, is reasonable in light of the size of the property and the size and the use of building and the campus.
2. The benefit sought by the applicant cannot reasonably be achieved by an other method. A school campus of this size requires signage for weight bearing and for identification.
3. There is no evidence that the prosed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or

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district.

4. The difficulty in complying with the code, while self-created, stems from the use and the size of the property.

CONDITIONS:

1. The variance granted applies only to the signs described within and in the location as depicted on the application and in the testimony given.

2. No building signs will be lit in any way.

3. All necessary approvals and permits must be obtained.

(Seconded by Ms. Schwartz.)

(Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, yes.)

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

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APPLICATION 2A-03-16

Application of Jack Siegrist, architect, and James Cerone and Sharon Bidwell-Cerone, owners of property located on East Avenue (between 2940 and 2980 East Avenue) known as Tax ID #138.05-1-70, for an Area Variance from Section 205-2 to allow a single family house to be constructed with a 9 ft. Side setback (north side) in lieu of the minimum 16.5 ft. Required by code. All as described on application and plans on file.

(Request for application to be tabled made by Mr. Philippone.)

Motion made by Ms. Schwartz to Table Application 2A-04-16.

(Seconded by Ms. Baker Leit.)

(Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, yes.)

(Upon roll call, motion to table carries.)

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APPLICATION 2A-01-16.

Application of Wegman Companies, Inc., contract vendee, and Genesee Regional Bank, owner of property located on Sawgrass Drive known as Tax ID #s 149.06-1-5/BR and 149.06-1-5/RH, for an Area Variance from Section 205-6 to allow for the construction of an office building at a height of 44.5 ft. In lieu of the maximum 40 ft. Allowed by code. All as described on application and plans on file.

Motion made by Ms. Dale to approve Application 2A-01-16.

FINDINGS OF FACT:

1. The building architecture was approved by the Brighton Architectural Review Board in the December 22nd, 2015, meeting.
2. Due to other site constraints, such as the existing wetland areas and conservation easements, the benefit sought by the applicant cannot be achieved by alternate method other than area of variance.
3. The proposed building is 89 feet to the closest property line to the west, 640 feet to the north, and 309 feet to the south; therefore, the increase in building height will be difficult to discern from the distance to the adjacent properties.

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2 4. The additional height is the minimal amount
3 necessary for the building construction to allow for
4 HVAC, plumbing and electrical mechanicals necessary
5 and the ceiling-mounted medical equipment.

6 5. The variance to allow the height increase does
7 not produce an undesirable change in the character of
8 the neighborhood, as the architectural character of
9 the building is consistent with that of similar
10 medical office building structures in the Sawgrass
11 Office Park.

12 **CONDITIONS:**

13 1. Receipt of a letter of approval from the US Army
14 Corps of Engineers

15 2. The variance will apply only to the design as
16 included in the application and the testimony given.

17 3. All necessary Architectural Review Board and
18 Planning Board approval shall be obtained.

19 (Seconded by Ms. Schwartz.)

20 (Ms. Schwartz, yes; Ms. Tompkins Wright, yes;
21 Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado,
22 yes; Ms. Baker Leit, yes.)

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

25

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APPLICATION 2A-02-16

Application of Bell Atlantic Mobile of Rochester, L.P., lessee, and Canal View Properties III, owner of property located at 300 Canal View Blvd., for an Area Variance from Section 207-42C(1)(b) to allow for telecommunication support equipment to be located on the roof of the building where not allowed by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve Application 2A-02-16.

FINDINGS OF FACT:

- 1. The insulation of a 4-foot-by-2-foot equipment shelter on the roof of the building is placed as shown to service a wireless communication facility that is being installed on the roof of this building.
- 2. No other location is available in the building that can allow the applicant to achieve the desired result.
- 3. The equipment shelter will be attached to the stair tower and, in actuality, will not exceed the height of the existing stair tower.
- 4. No negative effect on the character of the neighborhood, which is a commercial area, will occur

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due to this equipment structure's placement since it will be minimally visible from any adjacent structure.

CONDITIONS:

1. This variance applies only to the equipment shelter as shown in the drawings submitted and testimony given.

2. All necessary permits shall be obtained.

3. The structure shall be painted to match the existing stair tower.

(Seconded by Ms. Schwartz.)

(Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, yes.)

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

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APPLICATION 2A-05-16

Application of Anthony J. Costello and Son (Joseph) Development, LLC, owner of property located on Watermark Landing (The Reserve) known as Tax ID #s 149.11-4-6, 149.11-4-7, 149.11-4-8 and 149.11-4-9, for Area Variances from Section 207-2B to allow 2 support/retaining walls to be 12 ft. In height in lieu of the maximum 6.5 ft. Allowed by code. All as described on application and plans on file.

Motion made by Ms. Baker Leit to approve Application 2A-02-16.

FINDINGS OF FACT:

1. The requested variance is the minimum variance possible because the retaining walls are necessary to support ramps to underground parking lots necessary for this housing development.
2. No other alternative can alleviate the difficulty of building these ramps to underground parking lots and maintaining stability.
3. No unacceptable change in the neighborhood or substantial detriment to nearby properties is expected to result from the approval of this variance because the retaining walls only protrude 1 foot above grade on the Erie Canal side, and they will be barely

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visible due to landscaping.

4. The alleged hardship is not self-created given that these underground parking lots are necessary to supply adequate parking per town code.

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

CONDITIONS:

1. This variance will only apply to the parking lots as described in the application and testimony.

2. All necessary approvals and permits from the town shall be obtained.

(Seconded by Ms. Tompkins Wright.)

(Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, yes.)

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

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APPLICATION 2A-06-16

Application of Anthony J. Costello and Son (Joseph) Development, LLC, owner of property located on Watermark Landing (The Reserve) known as Tax ID #s 149.11-2-2, 149.11-4-7, 149.11-4-8 and 149.11-4-9, for Area Variances from Section 205-16A to 1) allow for a portion of underground parking (four buildings) to be 8 ft. 8 in. Wide in lieu of the minimum 9 ft. Wide as required by code, and 2) allow drive aisles within The underground parking facilities to range in width from 20 ft. 4.5 in. To 22 ft. 4 in. where a minimum 24 ft. Wide drive aisle is required by code. All as described on application and plans on file.

Motion made by Ms. Corrado to approve Application 2A-02-16.

FINDINGS OF FACT:

1. Requested variance is the minimum variance possible for an underground parking area. It is constrained by the footprint of the loft buildings above. The majority of the 35 spaces will meet code requirements. The 5 smaller spaces are deficient in width only and is due to the fixed location of the elevator shaft; additionally, the fact that the drive aisle is narrower than required by code is minimal.

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2 2. No other alternative can alleviate the
3 difficulty and produce the desired result that is to
4 provide sufficient below-grade parking to accommodate
5 residents' needs and minimize the need for exterior
6 parking.

7 3. No unacceptable change in the character of the
8 neighborhood and no substantial detriment to nearby
9 properties is expected to result in the approval of
10 this variance, as the underground parking will
11 contribute to a positive aesthetic in the neighborhood
12 by reducing visible and impervious surface parking.

13 4. The alleged hardship was not self-created by the
14 applicant. The revised design of the building
15 necessitated the smaller spaces and drive aisles to
16 accommodate support structures.

17 **CONDITIONS:**

18 1. This variance will apply only to the structures
19 that were described in the application and testimony;
20 in particular, it will not apply to additional
21 structures considered in the future that were not
22 included in the present application.

23 2. All necessary town approvals and building
24 permits shall be obtained.

25 (Seconded by Ms. Schwartz.)

EDITH FORBES COURT REPORTING SERVICES

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(Ms. Schwartz, yes; Ms. Tompkins Wright, yes;
Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado,
yes; Ms. Baker Leit, yes.)

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

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C E R T I F I C A T I O N
STATE OF NEW YORK:
COUNTY OF GENESEE:

I, LAUREN E. SHERWOOD, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were typed by computer-assisted transcription under my personal supervision and constitute a true record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the city of Batavia, county of Genesee, state of New York.



LAUREN E. SHERWOOD
Freelance Court Reporter and
Notary Public No. 01SH6252644
in and for Genesee County, New York