

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF  
APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK  
On MAY 4, 2016, COMMENCING AT APPROXIMATELY  
7:27 P.M.

May 4, 2016  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN  
CHRISTINE CORRADO  
JEANNE DALE  
JUDY SCHWARTZ

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

Reported By: BRIANA L. JEFFORDS  
Edith Forbes Court Reporting  
21 Woodcrest Drive  
Batavia, New York 14020

1                   CHAIRPERSON MIETZ: I would like to call to order  
2 of the May session of the Brighton Zoning Board of Appeals.

3                   Rick, was the meeting properly advertised?

4                   MR. DI STEFANO: Yes, Mr. Chairman, it was  
5 advertised in the Brighton-Pittsford Post on April 28, 2016.

6                   Please let the record show that Ms.  
7 Thompkins-Wright and Ms. Baker-Leit are not present.

8                   CHAIRPERSON MIETZ: Okay. So we don't have  
9 minutes. Okay. All set. So let's hear about the first  
10 application.

11 Application 5A-01-16. Application of David Burrows, architect,  
12 and Selvakumar and Miraba Chockalingam, owners, of the property  
13 located at 50 Indian Spring Lane for an extension of approved  
14 area variances (3A-04-14 and 2A-02-15 - front setback and  
15 maximum livable floor area) pursuant to Section 219-5F. All as  
16 described on application and plans on file.

17                   MR. BURROWS: Hello, I am David Burrows Architects.  
18 I work with Miraba and Selvakumar Chockalingam. This same  
19 application was presented in 2014. Before that expired,  
20 like, 11 months later, we reapplied. So it was in effect  
21 renewed. So two years have passed this time. It expired,  
22 and we are reapplying. Nothing has changed in terms of the  
23 plans. The front yard setback area to overall area  
24 variance, those are to remain the same. They are now ready  
25 with the builder and funds to start the project. The

1 drawings have been submitted to the building department and  
2 are being reviewed. So basically, we are now waiting for  
3 the variance.

4 So I am not sure if everybody is familiar with the  
5 project, but it's a front yard setback and a liveable floor  
6 area variance. And if you need me to elaborate, I would be  
7 happy to.

8 MS. SCHWARTZ: But you say everything is the same?

9 MR. BURROWS: Everything is the same.

10 CHAIRPERSON MIETZ: Okay. Any questions?

11 MS. SCHWARTZ: And they feel that this time they  
12 will be ready?

13 MR. BURROWS: They have a contractor lined up and  
14 ready. His parents moved to this country and moved in with  
15 them. So I think that was part of the reason they delayed  
16 it, but they are ready now. Okay.

17 CHAIRPERSON MIETZ: Any questions? Okay. Thank  
18 you.

19 Anybody in the audience that would like to speak  
20 regarding this application? There being none, the public  
21 hearing is closed.

22

23

24

25

1 Application 5A-02-16. Application of Chris Costanza,  
2 architect, and Josh Meltzer and Melissa Warp, owners of  
3 property located at 50 Commonwealth Road, for an Area  
4 Variance from Section 207-10E(5) to allow a driveway to  
5 expand on the side lot line where a minimum 4ft. setback is  
6 required by code. All as described on application and plans  
7 on file.

8 MR. MELTZER: Hi, I'm Josh Meltzer. I'm the owner.

9 CHAIRPERSON MIETZ: Just state your address for the  
10 record.

11 MR. MELTZER: 50 Commonwealth Road.

12 CHAIRPERSON MIETZ: Okay. Go ahead.

13 MR. MELTZER: This is a variance for a small  
14 triangle of the driveway to be paved. It's within the 4ft  
15 to the setback. I have a letter from my immediate neighbors  
16 who we share a driveway with that indicates they have no  
17 objection to that variance.

18 MS. DALE: So it looks like work has already begun.  
19 Looks like you're building -- are you building a garage as  
20 well?

21 MR. MELTZER: Yes.

22 MS. DALE: I just always wonder, like, what's your  
23 plan if you get denied?

24 MR. MELTZER: Yeah, the original permit has grass  
25 pavers. It's just a very small triangle. So that section

1 is listed on the permit as having grass pavers. So if it's  
2 denied, then it's grass pavers.

3 MS. DALE: Oh, I just always worry.

4 MR. MELTZER: Yeah, the permit was already given  
5 for that. So this is the variance for that small section.

6 MS. DALE: And I know the request is for the area  
7 variance for the driveway, but I'm curious about the garage  
8 itself. Is it going to be -- it's detached. Is it going to  
9 be stucco like the house?

10 MR. MELTZER: No, it's going to be -- I forget the  
11 name of the concrete. It's not concrete, but it's like  
12 cement walls something like that. It's on the drawings  
13 which I have here if you need to see them.

14 MS. DALE: Okay. No, I am just curious. I live  
15 right around the corner.

16 CHAIRPERSON MIETZ: Oh okay.

17 MS. CORRADO: And just curious too, what's the  
18 reason to pave rather than to leave the grass pavers as you  
19 originally had thought?

20 MR. MELTZER: Well, we are going to pave the area  
21 that's within our area. This is, again, for a small  
22 triangle just at the side. It facilitates the cars to turn  
23 around. So your question again was?

24 MS. CORRADO: Just curious to understand why you  
25 decided at this point that you wanted to pave that out, that

1 area over, rather than leave it as it was in your original  
2 plan.

3 MR. MELTZER: Just to match the driveway and to  
4 allow that, you know, the hard surface for the cars to drive  
5 on versus the grass pavers.

6 MS. CORRADO: So you won't dig up the lawn?

7 MR. MELTZER: Yes, correct. And Joel and Amy are  
8 actually going to be taking advantage of that space -- our  
9 neighbors -- as a turnaround from their garage. And the  
10 letter states that they have no objection to that variance  
11 too.

12 MS. CORRADO: Great. Thank you.

13 CHAIRPERSON MIETZ: Okay. Any questions?

14 MR. DI STEFANO: Just for the record, to the  
15 variance forward, we are the immediate neighbors. We share  
16 a driveway with Josh Meltzer and Melissa Warp who have  
17 requested a variance to pave a small section of their -- a  
18 new portion of their driveway to accommodate a new detached  
19 garage. We have a paved shared driveway. We have reviewed  
20 the plans, drawings, and sketches with them and do not  
21 object to the variance requested to pave that small section  
22 which comes within five feet of our property line. And  
23 that's signed by Joel Kastner and Amy Mednick of 115  
24 Chelmsford Road.

25 CHAIRPERSON MIETZ: Okay. All right. Anything

1 else? No. Okay. Thank you very much.

2 MR. MELTZER: Thank you.

3 CHAIRPERSON MIETZ: Is there anyone in the audience  
4 that would like to speak regarding this application? There  
5 being none, this public hearing is closed.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Application5A-03-16. Application of Geotherm, Inc, contractor,  
2 and Charles and Maggie Symington, owners of property located at  
3 6 Whitney Lane, for an Area Variance from Sections 207-46 and  
4 207-49 to allow for two ground mounted solar panel arrays where  
5 only roof mounted solar panels are allowed by code. All as  
6 described on application and plans on file.

7 MR. COOK: Hi, there. I'm Jesse Cook, president of  
8 Geotherm. As he said we're proposing to put a top of pole  
9 solar system at the residence of 6 Whitney Lane in the area  
10 behind the property so you cannot see it from the street.  
11 We went with this choice because, as you said, a roof mount  
12 array is not an option due to the mature trees in the area.  
13 They are blocking the roof and the architecture design of  
14 the house does not facilitate any significant solar panels.  
15 So we chose a top-of-pole solar system which might be  
16 slightly different than what you may have seen. Usually, a  
17 ground-mount solar system, which is what these giant ones  
18 you see in fields are, they are lower to the ground. We  
19 chose a top-of-pole which is an elevated solar system that  
20 allows it to act as, kind of like a shade gazebo. So it's  
21 still a useful space underneath. In this case, it's the  
22 area -- a garden area, and it will be integrated with that  
23 esthetically into the yard.

24 MS. SCHWARTZ: I just have a question. What will  
25 be the total -- I think I forgot to ask from the ground to

1 the very top thing there?

2 MR. COOK: I believe it's in the plans, 18 feet.  
3 Now, that's at worst case design. So I provided the  
4 drawings for our worst case design situation which is the  
5 panel tilted at 45 degrees. In reality, because of the  
6 solar radiance, it is really bias towards the summer, they  
7 are going to be flattened out, have a lower pitch. But I  
8 wanted to give you the worst case scenario.

9 MS. DALE: Are they adjustable?

10 MR. COOK: The tilt is. They don't track and  
11 follow day-to-day, but seasonally, you can tilt them.

12 MS. DALE: Yeah.

13 MR. DI STEFANO: And what is the square footage of  
14 the array?

15 MR. COOK: It's under 550. It's closer to 540.

16 MR. DI STEFANO: That's for the two panels; right?

17 MR. COOK: That's the total thing. So it's not two  
18 panels. It's only that there's two support poles. But it's  
19 really one array together. But there's two support poles  
20 that are holding it up.

21 CHAIRPERSON MIETZ: 200 by 200 on those?

22 MR. COOK: So it's about 17 by 32, depends on which  
23 way.

24 MR. DI STEFANO: Two poles, one array. So the --  
25 array covers over the two poles.

1 MR. COOK: Yeah.

2 MR. DI STEFANO: And what was the square footage on  
3 that did you say? I'm sorry.

4 MR. COOK: 540.

5 MR. DI STEFANO: 540?

6 CHAIRPERSON MIETZ: Now, there is a picture of --  
7 showing us this stone gazebo and the whole nine yards.

8 MR. COOK: That's just some things you can do  
9 afterwards. That's not what we're proposing. It will be a  
10 painted galvanized steel pole and galvanized in aluminum  
11 racking.

12 CHAIRPERSON MIETZ: How is it mounted at the  
13 surface then?

14 MR. COOK: So underneath, what you don't see is  
15 underneath this is a 3-foot round, 10-foot deep concrete  
16 pier that's buried underground. And that's to offset wind  
17 loading.

18 MS. CORRADO: There won't be any paved surface?  
19 Any sort of patio underneath?

20 MR. COOK: That's an option afterwards, but it's  
21 not proposed as part of this project. That's what a lot of  
22 people do. Actually, we just finished one in Fairport. And  
23 that's exactly what they did. It's now their patio area  
24 outside of their house.

25 MS. DALE: In this case, it's kind of far back.

1 CHAIRPERSON MIETZ: Yes, it is.

2 MS. CORRADO: That's an interesting spot.

3 MR. COOK: Well, that spot was chosen for a couple  
4 of reasons. One, it's an area in the yard that gets the  
5 most sun. It's also a place that's kind of secluded where  
6 it's blocked from view if anybody objects. I think they are  
7 beautiful. That's my opinion. And it's also right next to  
8 an existing garden area. So it will be integrated with that  
9 in terms of use.

10 MS. DALE: And the surface panels will be on the  
11 house, and then you are going underground all the way out?

12 MR. COOK: So the panels will be located out in the  
13 yard in the back. And then underground is electric wires  
14 and conduit.

15 MS. DALE: Oh, I'm sorry. I meant like the  
16 electric with the surface panels.

17 MR. COOK: Oh, the inverter, yeah. It's going to  
18 go inside in the utility room.

19 CHAIRPERSON MIETZ: So the distance from that back  
20 to the power source in the house, there is no issue --

21 MR. COOK: No, we size the wire to make sure there  
22 is no voltage drop, and we don't waste any power along the  
23 way.

24 CHAIRPERSON MIETZ: Okay.

25 MR. DI STEFANO: Do you know the approximate

1 distance these are from any neighboring structures or  
2 neighboring homes?

3 MR. COOK: I did not actually measure the distance  
4 to the structure themselves. I was mostly looking at  
5 property line.

6 MR. DI STEFANO: All right. How far would you say  
7 from the closest property line?

8 MR. COOK: I put it in the plan what the distance  
9 was. I don't know off the top of my head to be honest with  
10 you.

11 MS. DALE: Seventy-one feet.

12 MR. COOK: The back edge is the closer side.

13 MS. DALE: This is 40.

14 MR. DI STEFANO: I just want it for the record.

15 MS. DALE: Do you envision that -- well -- so the  
16 panels, as you're proposing, is enough input for the house  
17 and --

18 MR. COOK: It's not able to do 100 percent of the  
19 house in this case. It was kind of chosen for esthetic  
20 value in terms of scale. We didn't want to just fill the  
21 yard with panels --

22 MS. DALE: Right. Right.

23 MR. COOK: -- that didn't really match the  
24 property. So that's why this was chosen for esthetics. So  
25 it's not doing 100 percent of the power in this case.

1                   And some of the common questions I hear is oh,  
2                   well, the panels reflect light and beam into somebody's  
3                   window. No, they are an antireflective surfaces. There is  
4                   no chance of a mirror effect on a neighbor or any of those  
5                   kinds of things.

6                   CHAIRPERSON MIETZ: You can't really tell on here  
7                   how far it is.

8                   MR. DI STEFANO: Not from a house. About 40 feet  
9                   from the property line?

10                  CHAIRPERSON MIETZ: Property line from the array  
11                  itself.

12                  MR. COOK: Yes, that's why I did kind of the Google  
13                  Earth as well.

14                  MR. DI STEFANO: So if you figure 40 to 60 foot  
15                  rear setback for a neighboring house, you are talking 80 to  
16                  100 feet from the closest structure. It's a guesstimate.

17                  CHAIRPERSON MIETZ: Yeah, that one from behind, I  
18                  don't remember exactly, but it's not right on the property  
19                  line either. So it's back 50 or 40 feet.

20                  MS. CORRADO: And these are essentially the same  
21                  panels that you find on the rooftop otherwise?

22                  MR. COOK: Absolutely. Yep.

23                  CHAIRPERSON MIETZ: Questions? Anything else?  
24                  Okay. Thank you.

25                  MR. COOK: Thank you.

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

3                   MR. SYMINGTON:  Hi, I'm Charlie Symington.  I'm the  
4 owner of the house with my wife.  Just to clarify a couple  
5 of things.  First, we will make it look nice in terms of  
6 properly matching the brick with the house, the poles, so it  
7 actually looks proper for the nice backyard.  Also, with  
8 respect to the only people that can really see a portion of  
9 it are the Glaziers who live in the house right behind.  And  
10 as you mentioned, their house is not right on the property  
11 line.  It's built towards Ambassador.  Also, because of the  
12 grade, our property is much lower than where the Glaziers  
13 are actually.  So it's probably 15 feet.  So it would be  
14 hard for them to see anything other than the very top.  And  
15 if it's actually kind of flat the way it'll be most of the  
16 time, they won't be able to see anything.  We chatted with  
17 them, and they are also fine with what we're doing.

18                   CHAIRPERSON MIETZ:  Okay.  Very good.  Thank you.  
19 Is there anyone else who would like to speak regarding this  
20 application?

21                   MS. BIRBECK:  Hi, I'm Gretchen Birbeck.  I live at  
22 8 Whitney Lane in the same little cul-de-sac as Mr.  
23 Symington.  And as you can probably tell from the drawings  
24 that backyard area is extremely secluded.  So driving  
25 through the neighborhood et cetera, it wouldn't be an issue.

1 I believe, as he said, the Glaziers wouldn't even notice it.

2 CHAIRPERSON MIETZ: Okay. So I assume you are in  
3 support of it?

4 MS. BIRBECK: Completely fine, yeah.

5 CHAIRPERSON MIETZ: Okay. Thank you. Is there  
6 anyone else that would like to speak? Okay. There being  
7 none, the public hearing is closed.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Application 5A-04-16. Application of Millennium Machinery,  
2 contract vendee, and Canandaigua National Bank and Trust  
3 Company, owner of property located at 120 Northern Drive,  
4 for a Use Variance from Section 203-84 to allow for an  
5 office, warehouse, and light manufacturing facility in a  
6 BF-2 General Commercial district where not allowed by code.  
7 All as described on application and plans on file.

8 MR. GOLDMAN: Good evening, Mr. Chairman and  
9 members of the Board. I am Jerry Goldman, the attorney and  
10 agent for Millennium Machinery who is here this evening on  
11 this use variance application. With me here tonight are the  
12 principles of Millennium Machinery, who is Frank Maehr and  
13 Ken Kellerson, both gentlemen are businessmen currently at  
14 Millennium Machinery in the town of Brighton and have been  
15 very successful on Brighton-Henrietta Townline Road across  
16 from Clay Road. And they're so successful, they need a  
17 larger premises. So they are here tonight having looked to  
18 try to stay in the town of Brighton for a property which  
19 suits their needs. And they did locate a property which is  
20 off of Northern Drive behind West Henrietta Road. I believe  
21 most of you, if not all of you, have reviewed the  
22 application materials that were submitted, but I would like  
23 to reference at least one map to give you some perspective  
24 among all of them. It's the map that says aerial  
25 photography of the property. And it shows the outline of

1 this property in yellow. And it gives you some perspective  
2 of where this property is relative to the adjoining streets.  
3 The access in the frontage --

4 MS. CORRADO: We don't have that.

5 MR. GOLDMAN: I will pass it around.

6 CHAIRPERSON MIETZ: I'm not sure we can allow that  
7 into evidence, Counsel.

8 MR. GOLDMAN: Yes, you get to keep that and keep it  
9 in record. The property is located off of Northern Drive,  
10 and that's where the access is. The nearest other  
11 intersection is on West Henrietta Road, but it is  
12 essentially blocked from West Henrietta Road by a frontage  
13 property which is being used for a business use currently.  
14 This property is interesting -- is an interesting property.  
15 And we'll see if we have this map. If we don't, I will be  
16 able to pass that one around as well. And this is a zoning  
17 map which shows the property relative to the zoning law.  
18 I'm seeing the no's.

19 MR. DI STEFANO: I don't think we have that.

20 CHAIRPERSON MIETZ: We have it.

21 MR. GOLDMAN: But if you notice -- and I'm backing  
22 up here so everybody can see it. This property is a split  
23 zone. It is BF-2 zoning in the front portion. And in the  
24 back portion that's off of Northern Drive, it is in the  
25 industrial district. It's a very oddly shaped piece of

1 property. It kind of goes like that.

2 This property has been utilized for, essentially, a  
3 use similar to that which is proposed by Millennium  
4 Machinery for a long period of time. Rochester Acoustical  
5 Corporation used to be in this premises. Unfortunately,  
6 Canandaigua National Bank took back the property toward the  
7 end of 2014 and beginning of 2015, and they have been  
8 attempting to market the property ever since. Since the  
9 building itself is located in the BF-2 portion of the site,  
10 it does require a use variance. The building itself is one  
11 which is a combination of office, warehouse, and  
12 manufacturing. And we will try another map and see whether  
13 we have that one or not. This is the survey of the  
14 property. And this depicts the property that we're talking  
15 about. Do we have this?

16 CHAIRPERSON MIETZ: Yes.

17 MR. GOLDMAN: Very good.

18 MS. DALE: Okay. Good, but I'm sorry.

19 MR. GOLDMAN: Yes, West Henrietta Road is out here.  
20 The frontage property would be over here. This is the  
21 building. This is the driveway. And this is Northern  
22 Drive.

23 MS. DALE: So we're missing some of this.

24 MR. GOLDMAN: This is the end of our property.

25 This is the next property over.

1 MS. DALE: Okay. Thank you.

2 MR. GOLDMAN: So as you can see, the building has  
3 been in that place and that location for a period of time,  
4 the building itself. And I see you do have this one. It  
5 shows how the building and the property is currently  
6 configured. The front portion of it is utilized for office  
7 space. And the rear portion of it is warehouse and light  
8 manufacturing space. Another plan that you have shows the  
9 floor plan of the office. I don't think that's quite as  
10 interesting, but it's something that was requested by the  
11 Town to provide a floor plan of the property itself.

12 As you know in a use variance situation, we  
13 essentially have three things to prove. Our first element  
14 to prove is lack of reasonable return for any permitted use  
15 in the zoning district. And in order to support our  
16 proposition relative to that, we did obtain a letter from  
17 LLD Enterprise, David Dworkin, which is in your packet. And  
18 that letter does indicate the marketing efforts of that  
19 property. Mr. Dworkin had worked for the Canandaigua  
20 National Bank in trying to market the property which was  
21 vacant for a period in excess of a year, probably close to a  
22 year and a half, and established that the property was  
23 listed for the appraised value of \$395,000. And it's been  
24 marketed continuously since January of 2015. There really  
25 have only been three offers for the property. All of which

1 are the same mixed use that we're talking about. Two of  
2 which failed because they were contingent on use variance  
3 approval. And people were looking at the property and said,  
4 "We need to have it right away. We can't even wait for the  
5 one-month period." And I was involved in talking with one  
6 of them and trying to convince them to stay with the program  
7 and hang in for a couple of extra weeks, but they said, "No,  
8 we have to move on." So in essence, there have been no  
9 effective offers for the property.

10 In addition, in accordance with the Brighton Forms  
11 and Codes, we have provided an income and expense statement  
12 which indicates what the expenses are related to the  
13 property. The expenses of the property are carrying costs  
14 and they are set forth. But of course, there has been no  
15 income relative to the property as a result of the fact that  
16 it's been unable to have been marketed for a permitted use,  
17 or frankly, for any use at this point.

18 The second standard that we have to prove is one  
19 that says that this property is unique from others similarly  
20 situated within the zoning district. Now, this is a very  
21 unique property. It's unique to the extent that it's split  
22 zoning between a BF-2 and an industrial. Its configuration.  
23 Its access which is especially on an industrial road. I  
24 think, clearly, there is no other property within the zoning  
25 district that's configured quite like this one.

1           The third standard is that our variance should not  
2 change the character of the neighborhood. And in essence,  
3 this is a mixed-use neighborhood. There are some  
4 preexisting, nonconforming, and can't continue beyond its  
5 current use of residential, and a fair amount of industrial  
6 surrounding us. So to that degree, we won't be changing the  
7 character of the neighborhood.

8           And the last standard that we have to deal with is  
9 that the hardship is not self-created. And clearly, as far  
10 as Millennium is concerned as well as for Canandaigua  
11 National Bank, this was not a self-created situation. This  
12 was a situation that was resulting from the fact that  
13 Rochester Acoustical did not continue with their business,  
14 and the bank had to take it back.

15           In essence, if it had been a period of less than a  
16 year from the point that Rochester Acoustical had vacated  
17 the property, I believe, we would have been able to continue  
18 the use without the need for a use variance. But because of  
19 the fact that we had that year gap and because there was no  
20 real documentation to support a continuous use situation, we  
21 have to come before this Board for a use variance. As use  
22 variances go, this is about as straight forward as we get.  
23 So with that, we would be available to answer any questions  
24 the Board would have.

25           MS. CORRADO: With the operations proposed in that

1 building, are there any sound issues or other emission  
2 issues with the manufacturing?

3 MR. GOLDMAN: Everything is contained indoors.  
4 There are no sound issues or emission issues relative to the  
5 manufacturing process.

6 MS. CORRADO: And how quickly are you looking to  
7 move in?

8 MR. MAEHR: As soon as it's ready.

9 MR. GOLDMAN: For the record, Mr. Maehr said as  
10 soon as it's ready.

11 MR. KELLERSON: We're looking at about four months.  
12 We have to put a new roof on it.

13 MR. MAEHR: It's a dungeon.

14 MR. GOLDMAN: Yeah, if you want to come to the  
15 microphone when you address questions to the Board's  
16 questions.

17 CHAIRPERSON MIETZ: Just state your name.

18 MR. MAEHR: My name is Frank Maehr. I am the  
19 president of Millennium Machinery.

20 MR. KELLERSON: My name is Ken Kellerson.

21 MR. GOLDMAN: And this is not meant to be an  
22 enforcement tool in case things go badly. Okay. This is a  
23 product.

24 CHAIRPERSON MIETZ: So why don't you describe the  
25 application?

1           MR. MAEHR: We are an industrial distributor that  
2           sells machine tools throughout the Northeast corridor. We  
3           have the Mitsubishi franchise in 11 states. Most of our  
4           customers are aerospace and medical companies that want to  
5           use our technology. Either we are growing parts or we're  
6           creating parts using -- cutting super alloys with wire, such  
7           as artificial hips, knees. And so they want to use this  
8           process, but they don't have the technical whereabouts. So  
9           we sell the machines, but in order to set ourselves aside  
10          from our competitors, we also offer additional services. If  
11          we sell you the machine, we also make the fixtures to hold  
12          your part, and then ship the whole process to you in a box.  
13          So we need a little small area to model shop, to make those  
14          fixtures. That's the manufacturing component. The other  
15          part of the business is we have a showroom where we will  
16          have two or three of these machines, and we'll do some  
17          training for operators. And then in the back -- there is a  
18          machine strategy. And then in the back, we sell the  
19          supplies that go along with those machines. We have over a  
20          thousand machines in the northeast corridor that we supply  
21          product for.

22                 MS. CORRADO: How much traffic do you have,  
23                 customers or deliveries?

24                 MR. MAEHR: Trucks, we do. We have probably two or  
25                 three trucks a day. We're currently on Brighton-Henrietta

1 Townline Road, we back up that traffic a little bit. It  
2 didn't start out like that. I wanted to thank you guys  
3 because seven years ago we came here for a variance, and we  
4 bought the Monroe Muffler building. And it worked out  
5 really good, but now it's getting pretty crowded over there.  
6 So trucks backing up is becoming a problem. We need more  
7 space. So the new facility will give us more space. And  
8 there will be no problem with the trucks because they can  
9 back in the back alley. There will be no traffic  
10 congestion.

11 MS. DALE: How many employees do you have?

12 MR. MAEHR: Eleven.

13 CHAIRPERSON MIETZ: Any questions about that? And  
14 just for the record, what improvements would you be making  
15 to the property? I couldn't hear all of what you said.

16 MR. KELLERSON: Well, we want to do the roof first.  
17 The roof is in rough shape. Also, the concrete needs to be  
18 ground. So we're going to go through and we're going to  
19 grind the concrete like we did on the Monroe Muffler  
20 building. Probably paint the outside. We'll send any  
21 approvals for the drawings for that.

22 MR. MAEHR: And then make some classrooms or change  
23 the offices around because it's pretty old and antiquated.  
24 And the grinding of the floor is just similar to, like, when  
25 you go to the Home Depot, that kind of floor.

1 MR. GOLDMAN: But there's no external  
2 modifications. You aren't talking about expanding the  
3 building?

4 MR. KELLERSON: No. No.

5 MR. MELTZER: No, we don't get a lot of foot  
6 traffic coming in. Occasionally, we have a customer come in  
7 to see the process and that's it. We'll have maybe one open  
8 house a year where we invite a couple of our customers.  
9 We'll get 30 or 40 guys for one event and that's about it.  
10 But the space is good. You know, we looked around for a  
11 long time to try to find something that is bigger than we  
12 have, but smaller than all of the other big buildings. This  
13 will be good. It will be a labor of love getting it ready  
14 because it's a little rough around the edges. But I think  
15 we can make a go. We did a great job on the other facility  
16 on Brighton-Henrietta Townline Road. And we hope to do the  
17 same here.

18 MS. CORRADO: I pass that every day. I'm very  
19 impressed with the appearance and the upkeep of the  
20 building, and I've always been curious to know what goes on  
21 there. So now I know.

22 MR. MAEHR: If you've ever wanted to stop in, we're  
23 usually there seven days a week. So you can stop in, and  
24 we'll give you a tour. We do some very interesting things.

25 MS. CORRADO: I think if the new property looks as

1 good as the current one, it will be an upgrade for Brighton.

2 MR. DOLLINGER: Thank you.

3 CHAIRPERSON MIETZ: You're all set, thanks. Thank  
4 you.

5 MR. GOLDMAN: I have no closing statement unless  
6 you desire one.

7 CHAIRPERSON MIETZ: You just made one.

8 MR. GOLDMAN: Thank you.

9 CHAIRPERSON MIETZ: Thank you.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Application 5A-05-16. Application of Mamasan's Monroe, LLC,  
2 owner of property located at 2735 Monroe Avenue, for 1) an Area  
3 Variance from Section 205-7 to allow impervious coverage to be  
4 71.7%, after construction of a new restaurant, in lieu of the  
5 maximum 65% impervious coverage allowed by code; 2) an Area  
6 Variance from Section 207-2A to allow front yard fence posts to  
7 be 6 ft. in height in lieu of maximum 3.5 ft allowed by code;  
8 and 3) an Area Variance from Section 205-18B to allow pavement  
9 and parking to be 4.3 ft. from the north side property line, 4  
10 ft. from the south side property line and 1 ft. from the rear  
11 (west) property line in lieu of the minimum 10 ft. Required by  
12 code. All as described on application and plans on file.

13 MR. DI STEFANO: Application 5A-05-16 has been  
14 postponed for the July meeting.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 Application 5A-06-16. Application of R. Jon Schick,  
2 architect, and Denver and Christine Miller, owners of  
3 property located at 70 Milford Road, for an Area Variance  
4 from Section 205-2 to allow an addition to extend 4.5 ft.  
5 into the 34.5 ft. side (west) setback required by code. All  
6 as described on application and plans on file.

7 MR. MARTIN: I brought my own easel so it would be  
8 easier to see. Good evening, everybody. My name is Ken  
9 Martin. I am an intern architect with Tom Schick. He's  
10 currently out of town for personal. So I am going to be  
11 taking over for him. The proposed project is an addition to  
12 a one and a half story house currently on Milford Road. The  
13 addition is going to be off of the west side of the house  
14 for a master suit as well as an addition in the rear that  
15 will be a new living room -- or a new family room and  
16 kitchen. Currently off the rear of the house is an  
17 uninsulated slab-on-grade sunroom. The new addition will be  
18 well insulated. This is the homeowner.

19 MR. MILLER: Soccer game. I'm sorry.

20 MR. MARTIN: So the proposed variance that we are  
21 looking for is to decrease the side yard setback by four and  
22 a half feet to a 30-foot setback. This is generally a  
23 reduction of right around 13 percent of what's currently  
24 there. This will reduce the size or spacing between the two  
25 homes down to 45 feet. The setback on the other property

1 currently is 15 feet for -- is it their accessory building  
2 that's right there?

3 MR. MILLER: Yes.

4 MR. MARTIN: Okay. The reason we're asking for  
5 this variance is because we've looked at numerous ideas  
6 about adding the master suite onto the home. We looked at  
7 adding it into the backyard. This is a fairly large and  
8 deep site. However, there is a ravine and wooded area right  
9 behind it that somewhat limits where we can put things.  
10 Another limiting factor was actually the style of the home  
11 because of its one and a half story height and ridge line  
12 adding too far back on the house creates a somewhat  
13 complicated roof line.

14 So what we decided to do was to compliment the  
15 currently existing garage and house was to twin the garage  
16 as the master suit adding balance to the home instead of  
17 adding another ridge running in the opposite direction or  
18 becoming too tall.

19 On the back of the house, there is also, like I  
20 said, the kitchen and family room addition. Those -- the  
21 family room addition is going to be a one-story addition.  
22 The kitchen addition is going to be two story. However, it  
23 is not any taller than the current ridge line and is out of  
24 sight of the road.

25 The addition on the -- excuse me -- the addition

1 that we need for the -- the condition that we need for the  
2 variance, we have setback from the front of the house by  
3 14 feet. So it is not as much as a presence to Milford Road  
4 itself. And after adding landscaping in front of it and the  
5 deciduous trees that are immediately to the west of that, it  
6 will be hidden as well from traffic travelling down the  
7 road. Are there any questions?

8 CHAIRPERSON MIETZ: Yes, you noted in the  
9 application about the property owner to the west, just for  
10 the record, then how far away is the nearest part of their  
11 structure to where the 30-foot spot will be at the corner of  
12 your addition.

13 MR. MARTIN: So the nearest structure to the corner  
14 spot of that addition would be 45 feet. So their setback  
15 currently is 15 feet from their property line.

16 CHAIRPERSON MIETZ: And that's a garage; right?

17 MR. MARTIN: Yeah, it is a garage, I believe.

18 Correct.

19 MR. MILLER: That's correct, yes.

20 CHAIRPERSON MIETZ: Okay. That's what I remember.  
21 Okay. And so when you talked about alternatives, did you --  
22 were there any that were even feasible as far as comparison?  
23 I understand the stacking of the space. Even if you could  
24 interiorly put it behind the other part of the addition, it  
25 would make the house too deep. And I understand the problem

1 with the roof. But was anything considered doing anything  
2 else behind the garage or anything like that?

3 MR. MARTIN: Yes, actually, we did consider  
4 extending that portion that was above the kitchen.  
5 Actually, I can show it to you real quick. So as you can  
6 see on that second floor, there is a bedroom above where the  
7 kitchen is going to be. And that space was limited based  
8 on, like you said, how deep the house was going to get and  
9 how big that ridge could be as well based on the width of  
10 the space. So that space we deemed was slightly small for  
11 the master suit, and the furniture and everything that the  
12 client wanted to be able to put in the space itself. So  
13 without adding too much bulk to the house, it was somewhat  
14 unfeasible roofline-wise.

15 CHAIRPERSON MIETZ: And then the other one was  
16 turning at 90 degrees the west end addition. Was that  
17 considered?

18 MR. MARTIN: We turned it 90 degrees. And the only  
19 thing that really kept us from doing that number one, was  
20 the ridge line. It didn't look right once we put it on the  
21 house and we started elevating it. It didn't compliment the  
22 house at all. And it also didn't allow us to maintain the  
23 same roof line as what's on the back of the house now. If  
24 you look at the elevations, I think, that I provided, the  
25 roof line is actually the same roof from the garage all the

1 way across the addition. The only thing really interrupting  
2 it was the bedroom addition as well as the currently  
3 existing dormer.

4 CHAIRPERSON MIETZ: Okay. Good. Okay. Questions?

5 MS. CORRADO: You indicated that we do need to  
6 remove two oaks in order to -- or is it two or three?

7 MR. MILLER: That's three actually.

8 MS. DALE: Well, it's five all together; right?

9 MR. MARTIN: The two -- the two that are to the  
10 east are actually, I believe, unhealthy.

11 MR. MILLER: Well, there is one of them --

12 MR. DI STEFANO: Just if you can just state your  
13 name for the record.

14 MR. MILLER: My name is Denver Miller. Yes, that's  
15 correct. The one has already lost a large portion of the  
16 tree. So it fell years ago, split. So the remaining trunk  
17 just to the east of our house or not trunk but the main part  
18 of the tree is now leaning and creating a hazard both to the  
19 house, and potentially, driveway, sidewalk. And then there  
20 is an additional oak just to the northeast which is also  
21 creating a hazard over the house right now dropping limbs.  
22 And then there is a hickory tree on the far east side of the  
23 property which is a hazard to the sidewalk and street in  
24 fact.

25 MS. CORRADO: So it sounds like there would be

1 attention to those trees whether you were requesting this  
2 variance or not?

3 MR. MILLER: Yes. Yes.

4 MR. DI STEFANO: Just for an aside in regards to  
5 tree removal and due to the size of the lot, you're probably  
6 going to need a tree removal permit, possibly. So just  
7 remember that while we move forward in the process, if the  
8 variance is granted.

9 MR. MARTIN: Sure.

10 MR. DI STEFANO: And I have one other question for  
11 code purposes. You mentioned a ravine in the back. You are  
12 over 50 feet away from the top of that ravine from where all  
13 of these additions are being placed?

14 MR. MARTIN: Yes, we are well within the 50-foot  
15 mark.

16 MR. DI STEFANO: Well, outside.

17 MR. MARTIN: Yes, outside of it. Excuse me. Yes.

18 MR. DI STEFANO: Thank you.

19 MR. MARTIN: I just wanted to note too the addition  
20 and what we currently have was approved by the Architectural  
21 Review Board pending a change in the casement windows in the  
22 front of the addition which we kind of assumed anyway  
23 because we didn't really like those either.

24 CHAIRPERSON MIETZ: Okay. Okay. Any other  
25 questions for him?

1                   Okay. I guess we're set. Thanks.

2                   MR. MARTIN: Thank you very much.

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

5                   There being none, the public hearing is closed.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MR. DI STEFANO: I will read the next four applications.  
2 They are the same applicant for each one.

3 Application 5A-07-16. Application of Brighton Twelve  
4 Corners Associates, LLC, owner of property located at 1881  
5 Monroe Avenue, for an Area Variance from Section 203-74B(4)(h)  
6 to allow an outdoor dining area in a front yard that abuts a  
7 residential district where not allowed by code. All as  
8 described on application and plans on file.

9 Application 5A-08-16. Application of Brighton Twelve  
10 Corners Associates, LLC, owner of property located at 1881  
11 Monroe Avenue, for an Area Variance from Section 205-7 to allow  
12 an increase in impervious surface from 80.4% (9A-05-11) to 81.5%  
13 where a maximum 65% impervious coverage is allowed by code. All  
14 as described on application and plans on file.

15 Application 5A-09-16. Application of Brighton Twelve  
16 Corners Associates, LLC, owner of property located at 1881  
17 Monroe Avenue, for an Area Variance from Section 205-12 to allow  
18 for 88 on-site parking spaces to accommodate existing uses and  
19 the establishment of a 3,000 +/-sf restaurant where 118 spaces  
20 is required by code. All as described on application and plans  
21 on file.

22 Application 5A-10-16. Application of Brighton Twelve  
23 Corners Associates, LLC, owner of property located at 1881  
24 Monroe Avenue, for 1) a Sign Variance from Section 207-32B(1) to  
25 allow a business identification sign on a second building face

1 (Elmwood Avenue facade) where not allowed by code; 2) a Sign  
2 Variance from Section 207-26D to allow a pictorial design to be  
3 separated from a business identification sign (Winton Road South  
4 facade) and be larger than 25% of the total permitted sign face  
5 area where not allowed by code; and 3) a Sign Variance from  
6 Section 207-32B(1) to allow total sign area (business  
7 identification sign and graphic design) to be 69 sf in lieu of  
8 the maximum 63 sf allowed by code. All as described on  
9 application and plans on file.

10 MR. MOROZ: Do you need a second to take a breath?

11 Good evening, I'm Andy Moroz, and I'm with BME Associates.  
12 With me tonight is Fred Rainaldi, Jr. who is the owner of  
13 the building at Twelve Corners. And as Rich went through  
14 them all, there are several variances that we're requesting  
15 tonight. And if it's okay with you, we would like to go  
16 through the area variances first. And then if you have any  
17 questions on each one of those, we can pause answer any  
18 questions of those. And then we'll move on to the sign.

19 CHAIRPERSON MIETZ: If you could do one thing first  
20 it might be helpful for the Board members here because this  
21 is a new operation to Rochester. I know we are in the  
22 process of doing a couple of other things. If you could  
23 talk about it, how it's operated, and what it does, and  
24 anything else.

25 MR. MOROZ: Absolutely.

1           MR. RAINALDI: Good evening, my name is Fred  
2 Rainaldi, Jr. I am the managing partner of Brighton Twelve  
3 Corners Associates, LLC. I just wanted to -- I'm glad you  
4 asked that. I was hoping to kind of impose a little  
5 history. And then I can tell you why we're excited to be  
6 introducing this new tenant to the project here at Twelve  
7 Corners.

8           The former occupant of the proposed space, the  
9 space you're referencing right now which was Rite Aid, was  
10 approved many years ago. In that approval, there were  
11 conditions that required my father, at the time, to design a  
12 building that would allow for it to be tenanted by a number  
13 of tenants. That was expressed through -- if you look at  
14 the building right now, up close you'll see there is a  
15 soldier coursing across the elevations where the Rite Aid  
16 formally occupied which identifies a number of things. One,  
17 there are steel lintels, they call them, where we can  
18 actually hang glazing or windows from there in the event  
19 that sometime in the future there had to be multiple  
20 tenants. So in effect through the review process with the  
21 town, it was set up to be able to, essentially, be future  
22 approved which is a smart way to go about the approval back  
23 then.

24           The space formally was just over 11,000 square  
25 feet. Since Rite Aid left several years ago, ESL has taken

1 about 4,500 square feet leaving us with the balance to  
2 demise. It is my intention to add two tenants, I think  
3 would be the appropriate use and makes most sense to us in  
4 regards to the site utilization.

5 The corner parcel or the corner portion of that  
6 building carries a lot of responsibility. One, because of  
7 its proximity, and the location, and the function within the  
8 demise space. But also, our goal is to introduce a tenant  
9 that we hope stays with us for a very long time. A tenant  
10 that adds some energy to the town. This intersection has  
11 three critical attributes. One of them, it has incredible  
12 neighborhood traffic, a lot of pedestrian traffic. It has a  
13 lot of daytime service business traffic. It also carries a  
14 lot of transfer traffic. So those Twelve Corners have a lot  
15 going on.

16 The hope was to add a tenant, a business, that one  
17 did not exist in this trade area or the town. Also, one  
18 that added a function that had a very broad demographic  
19 appeal. And Qdoba Mexican Eats, or Mexican restaurant, is  
20 one of the most successful formal fast casual brands that  
21 exists in the country. The reason that I like Qdoba as  
22 compared to some of its competitors is because Qdoba is  
23 owned by Jack in the Box which is an entity that carries a  
24 lot of strength which means they are going to be around for  
25 a very long time. And when I have a facility, like this

1 one, where we have tenants leave premature, I have to be  
2 able to recapitalize to rebuild out and improve the space  
3 and improve the grounds over and over again. And I am doing  
4 so premature to what the natural term was which would have  
5 been Rite Aid's natural expiration of their lease.

6 Qdoba, unlike competitor's like Chipotle or Moe's  
7 Mexican Grill, they spend a little more time and effort and  
8 design efforts on interior programming. So it has a little  
9 more comfortable, little more thought out and useable  
10 interior program, so the finishes from the chairs, to the  
11 lighting, to the way that you que up and order your food.  
12 It also has a menu that has a little more of a tighter  
13 relationship to its origin. Where Chipotle is a little more  
14 of a southwestern type of program. This is a true Mexican  
15 origin, and that will come up a little later in my  
16 presentation notes, specific, to the signage you'll see and  
17 the artwork.

18 Qdoba has a unique feature also with its menu  
19 programming that allows it to function stronger in a family  
20 environment. This one in particular will be offering, not  
21 at its grand opening but just after, beer and wine. And the  
22 hope is that with an environment like this one -- and I have  
23 had many years of experience with a Aja Noodle and seeing  
24 how neighborhood residents patron and utilize similar  
25 restaurants. Often times, you see the family coming in and

1 often times the parents may stay a little later than the  
2 kids if they live in close proximity, or they use it in an  
3 environment similar to -- we saw it with a prior occupant  
4 the reality of people's lives where they have other  
5 obligations, sporting obligations, or things. This is kind  
6 of -- it offers a more formal, but also an informal  
7 environment to enjoy the evening. And we hope that  
8 translates to an enriched experience that people enjoy. So  
9 the take away is a little greater.

10 The Qdoba programming, because of its tight ties to  
11 its Mexican origin, kind of applies almost immediately to  
12 all of the fixturings, and finishes, and also the color  
13 palette. And I have brought examples to show you how well  
14 coordinated all of those elements are. The goal at the end  
15 of the day is, even upon your approach, to realize that  
16 there is something a little more unique here. That there is  
17 an experience that is probably a touch different than what  
18 would be a close alternative or something that's -- that  
19 there may not be a close alternative, and it's just  
20 something special that's in your township.

21 It is correct that Qdoba is opening other locations  
22 in the market. We pride ourselves with our relationships  
23 with our tenants that often times, through our interactive  
24 back and forth, we like to impose greater restrictions and  
25 require a higher level of deliverables from our tenants.

1 And for that, we often contribute as well.

2 So the presentation and the elements of the space  
3 that are in front of you have gone through a landlord review  
4 and have gone through my office to impose a higher  
5 expectation on the brand. And what I mean by that is we  
6 have already improved and reduced things like the sign  
7 requirements. We have improved the space layout. We have  
8 required a hire quality for design elements. You'll see  
9 they have agreed to utilize a local reclaimed wood pioneer  
10 out of Farmington. We will be utilizing that subject to  
11 your approval, of course. They will be installing the  
12 reclaimed wood features that you see on the eaves above the  
13 demised space or the set premises. And there's other small  
14 pieces like that in -- it's a total collaboration. You'll  
15 see that they actually have an impact.

16 Although, this brand is entering the market in  
17 other townships, we're excited that ours will be a little  
18 different. And as you well know, Brighton and Brighton  
19 Twelve Corners is very much an anomaly and we fully intend  
20 to celebrate that through some add-on and additional  
21 features in the store.

22 CHAIRPERSON MIETZ: Okay. Very good. Thank you.

23 MR. MOROZ: That's a tough act to follow. I guess  
24 to start with the area variances. The first one I'd like to  
25 touch upon is the outdoor dining facility or patio area that

1 will be in the front yard which abuts a residential district  
2 per code. It's not permitted when a parcel abuts the  
3 residential district. And then there are two conditions in  
4 which it is allowed if it is not abutting a residential  
5 district.

6 So just to speak to those two points first, the  
7 outdoor dining facility is situated at grade, and it is  
8 farther than 20 feet from front property line. And it shall  
9 not be permitted if it's within the front required setback.  
10 So it does meet the setback requirement. It is 90 feet from  
11 the property line. And if you would turn to figure number  
12 one, the residential district is on the opposite side of  
13 Elmwood Avenue down here which includes the school and the  
14 firehouse. So although the area across from Elmwood Avenue  
15 is a residential district, there are not necessarily  
16 residential uses there. Like I said, you have the school.  
17 You have the firehouse. So you're not needing to screen  
18 from residential properties.

19 As far as placement for the patio area, really  
20 we're limited on space on the site. As can you see back  
21 here, this is really the only available space to place the  
22 patio. We looked in the rear, but we have the drive through  
23 for ESL. We have dumpster enclosures not useable space for  
24 outdoor seating. There will be no connectivity with the  
25 proposed Qdoba space.

1 I guess with that, is there any questions on that  
2 particular variance?

3 MS. SCHWARTZ: Yeah, sort of. How many tables? It  
4 looks like you have three out there. I mean, this is just a  
5 photo. What is your full intent as far as the number of  
6 tables?

7 MR. RAINALDI: So sorry. There are going to be --  
8 you're going to have three to four 2-foot diameter tables.  
9 There's really not a lot of seating.

10 MS. SCHWARTZ: How many can sit at a table?

11 MR. RAINALDI: At a two top, a family could  
12 probably seat four. But most likely there's going to be --  
13 in reality, probably two people are going to be more  
14 comfortable at a table like that.

15 MS. SCHWARTZ: And they are umbrella tables?

16 MR. RAINALDI: They are umbrella tables, but the  
17 umbrellas are unsigned. They would be umbrellas specific to  
18 their function. They have -- the umbrellas would be -- they  
19 would carry the green. A proposed green Pantone that you  
20 see with the canopies, and they will be purely for function.  
21 There is no signage that we're asking for.

22 MS. SCHWARTZ: Okay. And this little landscaping  
23 right here in front, is that what is now the green lawn at  
24 the plaza?

25 MR. RAINALDI: So right now there are two

1 decorative trees that exist in the --

2 MR. MOROZ: In this area here right here.

3 MS. SCHWARTZ: There are trees there?

4 MR. MOROZ: Yes.

5 MR. RAINALDI: So they are what we did even back  
6 with the ESL application, as part of the ESL application,  
7 with us as a landlord, we appropriated funds to match the  
8 landscaping. And we would like to follow suit with this.  
9 So I am committing. And I will leave it to the Conservation  
10 Planning Board. I will replant two trees on the site. And  
11 I will also introduce landscaping. And I would hope that it  
12 would be something that would be resilient to the fact that  
13 this is an island. It sits very close, almost jets out to  
14 the parking facility, so with regards to salting and things  
15 like that, I think a species -- but we could have a lot of  
16 fun with the landscaping where the trees are now. My hope  
17 would just be that they would be a lower line because there  
18 is nothing wrong with activity. It's a positive attribute  
19 when there is activity in the store fronts and it has a  
20 positive impact on not only on us, but the neighboring --

21 MS. SCHWARTZ: But I would like to go to the  
22 original. When this was proposed many, many, many, and I  
23 was one, people came out to speak that there was absolutely  
24 no landscaping on the Winton Road side. And it's major.  
25 And it's cold. There is a little space with some weeds

1 growing. And I noticed that between the door and going back  
2 towards the corner, it looks like there is some dirt there  
3 next to the -- between the sidewalk and the building. This  
4 is fine. This little island thing, but it would really be  
5 nice if you really did some landscaping. You might have to  
6 take a few inches out of the sidewalk, but just to soften  
7 all of that brick. It's very cold. It's very, very cold.  
8 And while you're doing it, make a real path from the parking  
9 lot to the bus stop. So I mean, there is a lot that can be  
10 done to soften it. And that's a really big issue for me,  
11 really. But you see there is space there if you look at the  
12 photo. You could put something there. It could be small  
13 bushes like you have on this island.

14 MR. RAINALDI: I agree. What I was hoping was, if  
15 the board allows, we have been playing with a -- it's a --  
16 Cornell uses it at their horticulture schools. I can put  
17 small pins in the brick so I don't damage the brick, and I  
18 can hang a beautiful ivy to soften up the blocks of the  
19 brick. I would be happy to commit to that.

20 It has a number of things. One, they are  
21 incredibly resilient. They grow back so quickly even if  
22 it's a cold winter, which we might have next year by chance.  
23 But it offers the opportunity to have a landscape program  
24 where it's easy for me to maintain because if, like I said,  
25 if it does fail during the winter, it rebounds quickly with

1 little maintenance. The height is kind of cool, the way it  
2 grows, and we can guide the height through these pins. The  
3 pins you don't see. They won't damage. I won't loose or  
4 compromise any of my warranties on the building structure.  
5 But I will commit to fortifying the landscape program not  
6 only on that elevation but also on the Monroe elevation as  
7 well.

8 MS. SCHWARTZ: Monroe has a little more vegetation.  
9 For some reason, they took care of that. But that's a much  
10 smaller expansion, smaller elevation, than, you know, Winton  
11 Road and that's the art of our town. So I don't know if you  
12 want to get into doing the whole building, but there's a lot  
13 of places between your door and going to the ESL door, but I  
14 will talk to you about it later.

15 MR. DI STEFANO: I think just the fact that you are  
16 going to be cutting new windows and awnings will help soften  
17 the building.

18 MS. SCHWARTZ: It will -- it will help. But  
19 landscaping goes so far. And for so little, it goes so far.

20 MR. RAINALDI: I agree with you. The one thing  
21 that I would look to do is, and be as coordinated as I  
22 possibly can, is have the funds go as far as possible. So  
23 as we tend to cross elevation, and I will commit to it. I  
24 will commit to it in the approvals. I would like to improve  
25 those coordinate the improvements. So as we tenant this

1 elevation, we will improve this elevation. I think there is  
2 an opportunity not only to carry over from the Monroe, but I  
3 would like it to read as one comprehensive program. So I  
4 think there is a lot of opportunity.

5 I would also -- was hoping that, if by chance the  
6 Town would let me, there is kind of these dilapidated  
7 wrought iron features on the front at the corner, and those  
8 concrete pillars that are kind of leaning over. We don't  
9 have the right to remove them without the Town's approval.  
10 I would like to improve -- and I can bring in a picture, but  
11 it's kind of where the bus stop or where the kids hang out.

12 MR. DOLLINGER: You're right. That's ugly.

13 MR. RAINALDI: It's ugly. Actually, it looks  
14 dangerous. So if the town would allow me, I would commit to  
15 include upgrading those at the same time.

16 MS. SCHWARTZ: There is a cap for a pipe. It's  
17 been there for years. Is that on your property?

18 MR. RAINALDI: It's not. It's on the easement, and  
19 I don't have the right to touch it.

20 MS. SCHWARTZ: So who's responsible?

21 MR. RAINALDI: Well, if the Town supports it, then  
22 can I get the utilities to allow me. So there is  
23 opportunities. We just have to -- what I would do is, I am  
24 going to -- I will outline kind of a hit list, and I will  
25 deem out the ones that require the town's support. And I

1 think I can work with Rick and team to --

2 MS. SCHWARTZ: You know what I'm talking about  
3 Rick?

4 MR. DOLLINGER: Yeah, I think that's a good idea.

5 MS. SCHWARTZ: Well, if somebody gets hurt, who  
6 gets sued?

7 MR. RAINALDI: That's me.

8 MR. DI STEFANO: Well, those features were a part  
9 of an original approval. It's the State Environmental  
10 Quality Review Act approval not just the site plan approval.  
11 So they might need --

12 MS. SCHWARTZ: The hole in the sidewalk?

13 MR. DI STEFANO: What's that?

14 MS. SCHWARTZ: I'm talking about the hole in the  
15 sidewalk.

16 MR. DI STEFANO: I don't know about that, but I'm  
17 talking about the wrought iron features, and the pillars,  
18 and everything.

19 MR. DOLLINGER: It is kind of a pain to fix it, but  
20 it should be addressed.

21 MR. DI STEFANO: We would need to address it  
22 through the planning board avenue not through this board.

23 MR. RAINALDI: So the nice thing about the timing  
24 with regards to how we're presenting to the Board, is that  
25 we have a planning board following this. So can I take the

1 comments from tonight and any follow-up comments that might  
2 come about after tonight's meeting and carry them to the  
3 planning board.

4 My goal with the new tenants that are coming to the  
5 project, this is not -- the nice thing is it's not going to  
6 be a drugstore anymore. And I have the ability to almost  
7 treat it as an interactive kind of a town center program.  
8 And I want it to be incredibly walkable. I want it to be  
9 beautiful.

10 We spoke to -- we had a great meeting with the ARB  
11 where we came up with some ideas to the extent that I can  
12 coordinate them and do everything at one time. I'm happy to  
13 contribute. And I'm giving you my word that that is fully  
14 my intention. We are very lucky to have a tenant like Qdoba  
15 who respects a lot of those elements and that allows us to  
16 accomplish a lot. And the other neat thing is that the  
17 balance of the space, which is roughly 3,500 square feet,  
18 that is going to be low intensity speciality retail. So  
19 it's completely consistent with everything that we're trying  
20 to do.

21 MR. DOLLINGER: That was my next question.

22 MR. RAINALDI: Nonfood speciality retail would be  
23 the type. I have --

24 MR. DOLLINGER: The question I have on this one for  
25 -- because we are on the outdoor seating one. So I didn't

1 see anything in the plans, and I can't quite tell from  
2 looking at this. What is the plan and the height for the  
3 fence? And can you access the outside without going through  
4 the building?

5 MS. DALE: Yes, there is like a little gate.

6 MR. RAINALDI: There is an emergency clip. So the  
7 fence is really triggered by the State Liquor Authority. So  
8 if you sell beer and wine and you serve it outside, you have  
9 to have -- there has to be a fence there.

10 MR. DOLLINGER: Right. We want a fence there.

11 MR. RAINALDI: Yes, the fence is 36 inches tall.

12 MR. MOROZ: Three and a half feet.

13 MR. RAINALDI: So it's three and a half feet tall.

14 MR. DOLLINGER: What's it made of? Do you know?

15 MR. RAINALDI: The inside is going to be steel  
16 infrastructure and the outside is going to be the same wood,  
17 the wood cladding that we're utilizing for the --

18 MR. DOLLINGER: It's going to be the reclaimed  
19 wood?

20 MR. RAINALDI: Yeah, it would be silly to have a  
21 wood treatment, a wood here, and then you use a random wood.

22 MR. DOLLINGER: Right.

23 MR. RAINALDI: So this is -- we have imposed  
24 significant landlord review on this. So we have incredible  
25 ability to influence that. So we have the same wood

1 treatment.

2 MS. SCHWARTZ: So you enter this patio area from  
3 the inside? There is a door?

4 MR. RAINALDI: Yes, so you would enter from inside,  
5 but there has to be an emergency latch in order to get out.  
6 What you don't want happening is you don't want to encourage  
7 people to try to come in from outside. You're try to  
8 regulate the consumption of alcohol in that fence.

9 MS. SCHWARTZ: Is the fencing attached to the  
10 building so that you can't get to it --

11 MR. RAINALDI: Yes. Yes, that's correct.

12 MS. SCHWARTZ: So the only way you can get in is  
13 when you're inside the restaurant, and then you walk to the  
14 patio area through the door and outside?

15 MR. RAINALDI: That's correct.

16 MS. SCHWARTZ: So what is your concern then if the  
17 door is only within the restaurant?

18 MR. RAINALDI: I have no concern. What you just  
19 described --

20 MR. DOLLINGER: No, I was asking that question.

21 MR. RAINALDI: Yes.

22 MS. SCHWARTZ: Oh, didn't you say something about  
23 an emergency?

24 MR. DOLLINGER: There has to be.

25 MS. SCHWARTZ: So that's the door that we're all

1 speaking about.

2 MS. CORRADO: That's the gate.

3 MS. SCHWARTZ: It has to --

4 MR. DOLLINGER: It has to have a gate and a fence.

5 MS. SCHWARTZ: Okay. Okay.

6 MR. RAINALDI: Exactly. It's one way. So I mean,  
7 a clever individual could lean over and -- but it will be an  
8 nondescript seam, but it's true function is for only  
9 emergency exit only.

10 CHAIRPERSON MIETZ: And I presume that the staff  
11 will not be allowing people to exit that way.

12 MR. RAINALDI: That's correct. It will be signed  
13 accordingly. And the nice thing is I don't have to be the  
14 bad thing all the time the liquor authority mandates the  
15 same. So it would be imposed by them as well.

16 CHAIRPERSON MIETZ: So this way it kind of scares  
17 people from doing it.

18 MR. DI STEFANO: Just as a general question  
19 regarding the outdoor. The limited number of seats you can  
20 fit in there, are you talking four tables, two-top, eight.  
21 Is that really something that makes or breaks the Qdoba  
22 being in this location if the outdoor dining wasn't a part  
23 of this proposal?

24 MR. RAINALDI: I have been working with them for  
25 two years. This is very important to them. It's very

1 important to them. If I could give you some insight on how  
2 they approached how they're going to create a quality of  
3 life for the end user. They have a chart and they almost  
4 weigh each interactive element in the store from the height  
5 of the bars where you're picking up condiments to the  
6 quality of the seats. There is an overall scorecard of  
7 sorts where they tally how each piece that you interact with  
8 adds to the experience. This patio is so important to them.  
9 It's so small. The cost of this patio, because it's going  
10 to be a pervious surface, the cost for me is going to be  
11 quite significant. So we are going to be using a pervious  
12 concrete surface. And then in addition, when I am creating  
13 the fences that are that short of a run, I'm using really  
14 nice materials like reclaimed wood and things like that. I  
15 don't have a lot of room or economies to spread those  
16 expenses over. So it is an expensive installation that is  
17 incredibly important to them.

18 MS. CORRADO: With the dining experience out there,  
19 is there wait staff service at those tables or do the  
20 customers carry out?

21 MR. RAINALDI: The staff will only clean, but what  
22 I will tell you, and I read into things a little bit when I  
23 see plans because I am a planning junky, is I can tell they  
24 have made provisions to potentially go to table service in  
25 the future in regards to the way that they're programming

1 the kitchen and things like that.

2 MS. CORRADO: Great. Okay. The service itself is  
3 it disposable or china?

4 MR. RAINALDI: No, it's not china it's a nice -- I  
5 can see if I can bring it. It's a nicer -- it's disposable;  
6 correct. Well, no the -- actually the tray -- the tray is  
7 not disposable. It depends on the food item. So some of  
8 the food items, some of the condiments, things like that are  
9 in disposable containers. There is some food items that are  
10 served on trays that would be left in the station where they  
11 would be cleaned. So it's kind of a hybrid.

12 MS. CORRADO: And the plan on the exterior is to  
13 have trash receptacles that are attended to frequently?

14 MR. RAINALDI: Absolutely.

15 MS. CORRADO: How about atmosphere? Is there  
16 anything like music playing outdoors?

17 MR. RAINALDI: We didn't broach that because we  
18 were quite nervous about -- even though -- if you were to  
19 look at all of them, there were quite a few variances that  
20 we are asking for. And we just wanted to -- there's enough  
21 special about the store, that's not important right now.

22 MS. CORRADO: So right now there will not be a  
23 mariachi band playing outdoors?

24 MR. RAINALDI: Correct. Although, that would  
25 probably would come in handy tomorrow.

1 MS. CORRADO: That's true.

2 MR. RAINALDI: But the execution is pretty  
3 fantastic and for the size of that space it's not, I think,  
4 the environment -- I think some of the things that he was  
5 mentioning in regards to landscaping, it's going to be  
6 beautiful. And sometimes it's okay to be in peace and  
7 quiet.

8 MS. CORRADO: So it will be beautiful and people  
9 will want to linger, what are the hours for outdoor dining?

10 MR. RAINALDI: 10:30 to 10:00.

11 MS. DALE: That would be on weekends too?

12 MR. RAINALDI: They may have reduced hours on  
13 Sunday. I would have to ask corporate.

14 MR. DOLLINGER: But the worst case is 10:00?

15 MR. RAINALDI: I'm sorry. It is seven days a week,  
16 10:30 to 10:00.

17 MS. SCHWARTZ: So the last person would be served  
18 at 10:00. Then they could be sitting out --

19 MR. RAINALDI: They could potentially be sitting.

20 MS. SCHWARTZ: And what time does the overall  
21 operation close for the day?

22 MR. RAINALDI: I would have to ask. They can  
23 probably provide me with an average clean-up, doors closed,  
24 lights off, and things like that.

25 MR. DI STEFANO: They are allowed until midnight by

1 code. If they want to go beyond that, for whatever reason,  
2 they have to get special permitting from the planning board.

3 MR. RAINALDI: And they haven't asked for the same.  
4 So I would assume that they understand that they have to be  
5 closed by then.

6 MS. SCHWARTZ: And do any of these operations  
7 elsewhere use flatware and china?

8 MR. RAINALDI: Not that I have seen. Not even with  
9 the new branding program.

10 MS. SCHWARTZ: So you are going to have trash  
11 receptacles outside?

12 MR. RAINALDI: They're going to be -- They're quite  
13 cool. I can show you. All it does is provide provisions to  
14 recycle, but they are simple to use. And for the generation  
15 with such a small space, I mean, it's pretty, you know, it's  
16 a pretty easy space to manage not only from the entity  
17 itself, but also, from the landlord. We have an incredible  
18 property management team that's chomping at the bit to have  
19 active entities there to show how good we are and what we  
20 do.

21 MS. SCHWARTZ: In other words, we're not going to  
22 have trash along the sidewalk?

23 MR. RAINALDI: No, I mean, I wouldn't even have to  
24 talk to my team. They would be embarrassed if that call  
25 even came in.

1 MS. SCHWARTZ: Or people drop food and that's going  
2 to be sitting out there?

3 MR. RAINALDI: If you look at our records, most of  
4 the debris that's generated -- most of the debris that we  
5 clean up on our site is not created on our site right now.

6 CHAIRPERSON MIETZ: Okay. Any other questions  
7 about the outdoor seating? Okay.

8 MR. DI STEFANO: So again, I guess just before we  
9 move on to the parking. I just want to make sure, I mean, I  
10 know we touched on it real briefly about the use of the  
11 pervious concrete. Andy, do you want to make an comment  
12 about how you're mitigating that loss of green space?

13 MR. MOROZ: Sure. The pervious concrete is really  
14 a mitigation factor for the variance for the green space.  
15 With the addition of the patio, we're going to be reducing  
16 green space on the site 1.1 percent. So it is a small  
17 amount, 340 square feet, but we are proposing this pervious  
18 concrete. Basically, water runs through it. We are  
19 maintaining drainage on the site. It's structural enough to  
20 handle light duty activities such as the patio foot traffic  
21 and it still allows the ground water or rain water to  
22 infiltrate as it did before this area was lawn. It wasn't,  
23 as you noted, Judy, it's probably some areas of exposed soil  
24 there and just general landscaping. So that was really the  
25 mitigation factor for the reduction of green space.

1 CHAIRPERSON MIETZ: Okay.

2 MR. MOROZ: The last area variance we're requesting  
3 tonight is the reduction in parking. By code with the  
4 development as a whole with all of the uses, we need 118  
5 spaces. There is currently 88 spaces that are situated on  
6 the parcel. So those are in this area here along ESL, the  
7 proposed Qdoba, Aja Noodle, and the UPS store.

8 So we had Frank Dolan and his team from Bergmann  
9 prepare a very intensive traffic analysis. They went out  
10 and counted available parking every 15 minutes on a Friday,  
11 which tends to be the heaviest use for this development,  
12 just to get the existing counts. And then we added in what  
13 we would need for the proposed space based on high turnover  
14 restaurant and that comes out of the IT generation standards  
15 that -- or are accepted nationally for projecting traffic  
16 counts. So at the peak hour between 1:00 and 1:15 p.m.,  
17 there are 52 available spaces on the parcel. Okay. We only  
18 need 51 with 40 for the restaurant, and then an additional  
19 11 for the remaining vacant space that is -- that will be  
20 currently next to Qdoba. Okay. And that's the speciality  
21 retail. And that's a real low intensity use as far as  
22 parking. So we've analyzed, Bergmann's analyzed the  
23 parking. They feel there is sufficient parking during peak  
24 hours on heavier days. And to add to that, that's not the  
25 only parking that's available. Fred does have access to six

1 more spaces which are here along Aja Noodle. They are not  
2 on the parcel, but he does have the right to use them. So  
3 those were just not counted as part of the 88 usable, but  
4 they are available for additional parking.

5 MR. RAINALDI: So I would like to add three small  
6 pieces. In addition to what Andy had just described, the  
7 spaces that were improved in our as-of-right of my parcel.  
8 The 88 spots are exclusive to my parcel. I have a  
9 nonexclusive right to all the parking at Brighton Commons.  
10 So the 88 spaces that are a part of the Brighton Twelve  
11 Corners Associates, those are exclusive to our project. And  
12 then the whole parking field of Brighton Commons, we have a  
13 nonexclusive right to utilize. The six spaces in front of  
14 Aja Noodle that Andy had referenced, we pay -- we improved  
15 those. So those are part of our construction. They are not  
16 -- they don't exist totally on our site. By definition,  
17 they are not exclusive to our site. But in practice, they  
18 get treated as exclusive to Aja Noodle. But for the sake --  
19 for the purposes of letting the study be 100 percent  
20 accurate, we did not include those in the 88 spaces.

21 The other thing is we did separate and analyze  
22 according to the town administrative team or planning team's  
23 request that we look at the variance and utilization for ESL  
24 exclusively. I think with the variance, they had 26 plus  
25 spaces. We showed that they use at their peak about a third

1 of those between 11:00 and 12:00. And then that was -- that  
2 was an important feature because it proves that we can --

3 MR. DOLLINGER: When is their peak, did you find?

4 MR. RAINALDI: The banking? I would have to dig  
5 into Frank Dolan. He sent a separate memo. I have to make  
6 sure that was separated from the document, but at their peak  
7 we showed almost a third of the space utilization, but I can  
8 supply that information specifically.

9 MS. CORRADO: With the town center becoming more  
10 and more pedestrian friendly and bicycle friendly, are you  
11 planning on making any accommodations for bike parking?

12 MR. RAINALDI: Two things that I would like to  
13 speak to you, and I hope they don't work against me. We  
14 will be providing features to promote bicycle traffic. And  
15 we will also be presenting to the Town very shortly an  
16 introduction to some new green technology that will make our  
17 project a little more modern, a little bit more relevant,  
18 and that would be in the form of electric car charging port.  
19 There is a certain -- you have to balance the cache versus  
20 the effectiveness, and we have gone through all kinds of  
21 studies. I just got back from a two week tour with Le  
22 Breton and Tesla to find the most effective and  
23 user-friendly electric car charging port. I purchased a  
24 number of them which will now be installed at all of our  
25 properties, except for a few, by the end of this year.

1           The first one I installed at North Face in Victor,  
2           and six of the seven Teslas that exist in Rochester have  
3           charged at our port because we have committed not to  
4           up-charge the electric. It's a one for one ratio. And we  
5           have found that not only are they user friendly, but they  
6           also have the easiest interface to plug into electric car  
7           charging associations, tracking monitors, and other features  
8           for apps and other technological transfer of information.  
9           So we were excited that it was worth while to invest in the  
10          time to find which one we thought was best. And we will be  
11          in a measured format introducing them to all of our  
12          properties because we do believe that they will have a real  
13          function in our lives.

14                 MS. CORRADO: The greenest vehicles, the bicycles,  
15                 is there any plan for bike racks?

16                 MR. RAINALDI: Yeah, I'm sorry. Absolutely. That  
17                 was the first thing. Bike racks first out of the gate.

18                 MS. CORRADO: Where would those be?

19                 MR. RAINALDI: That's the neat thing is we are  
20                 using the -- I'm going to try to get them the next to almost  
21                 every storefront. And we just installed -- or not just  
22                 installed, but we used -- we are testing a new kind of a  
23                 half-oval ring because it allows the most bikes to be  
24                 attached to them. We put them up all over the Armory, and  
25                 we are having great success with them. So I am ordering a

1 lot of those so I can install them with this application. I  
2 can commit to doing so. And the goal would be, except for  
3 where it compromises utilization of the sidewalk, to have  
4 them at nearly every entry point. And again, expect for  
5 UPS, I think, I have the ability to have those onsite.

6 MS. CORRADO: So are you able to indicate --

7 MR. RAINALDI: Yep. So on the site plan, do you  
8 see where there is exaggerated plaza ways at each bend of  
9 the building? It allows me a little more space to introduce  
10 those. I can put those next to the column at the ESL  
11 portion. I have -- there's just enough room to manipulate  
12 to get two in by Qdoba. And then I don't have a ton of room  
13 because of the ramp -- or because of UPS, but I do have the  
14 ability to do, at the end of the sidewalk here, a couple  
15 here. So I mean, for a project this size, six is a lot.  
16 And so that's a good way to start. They have minimal impact  
17 to the concrete. They do get installed to the concrete.  
18 They are a heavy, heavy, heavy duty anodized aluminum. They  
19 are not steel. I have had mine up at the Armory, and we  
20 abuse them because of their locations, and you can't tell.  
21 They look brand new.

22 MS. CORRADO: Great.

23 MS. SCHWARTZ: And where do you propose the  
24 charging stations going?

25 MR. RAINALDI: We are going to -- Frank Dolan is

1 going to map the lot, and we're going to put it -- what we  
2 don't want to do is interfere with certain foot traffic  
3 patterns like people getting service to the banks. It's  
4 going to be strategically place. So it's visible, but  
5 doesn't interfere with things like handicap parking, or high  
6 foot traffic where there's cars that are using things on a  
7 regular basis. So I have commissioned Frank Dolan to  
8 complete the study.

9 I didn't want to complicate this application  
10 because there are so many things going on. Rick had  
11 cautioned me the same, but I have committed to do that on  
12 this facility. It will be visible because we need it to be  
13 visible. And the neat thing about the project and the  
14 electrical infrastructure, I can have it anywhere. There is  
15 not a run that I can't connect to an electrical source.

16 MR. MOROZ: Are there any other questions on the  
17 parking situation?

18 CHAIRPERSON MIETZ: Yeah, couple of things. First  
19 of all, with the remaining space, do you want to expound a  
20 little bit, I know you don't have a tenant in there, but you  
21 talked about specialty retail. It's about 3,000 square  
22 feet?

23 MR. RAINALDI: It's 3,300 square feet. And I'm  
24 committing that it will be non-food. I can give you types  
25 of genres of retail. It could be a higher-end, low density

1 spa. It could be an action sport, hard goods retailer. It  
2 could be a gender specific fashion retailer. It could be a  
3 retailer of specialty goods that would be trade specific,  
4 i.e., a golf store, i.e., a flower shop or something to that  
5 effect. So it would be speciality retail by definition in  
6 our world is something that isn't readily duplicated right  
7 there. It relies heavily on the amenities of the site or  
8 the site's architecture to survive. So it's going to be  
9 something different. And Qdoba has mandated that I put  
10 something different next to them because they are investing  
11 a lot into this location.

12 MS. SCHWARTZ: Well, it's good for us too.

13 CHAIRPERSON MIETZ: Yeah, the toughest thing is the  
14 intensity use of the Qdoba. I mean, it does put pressure on  
15 you as the landlord for scrutiny, as it relates, to what  
16 happens with that next space or not. Are you guys back in  
17 total control of this property?

18 MR. RAINALDI: With this maneuver, we will be back  
19 in control. So Qdoba has the key in which all magical  
20 things happen with this project.

21 CHAIRPERSON MIETZ: So you will be carrying this?

22 MR. RAINALDI: Absolutely, and I am chomping at the  
23 bit.

24 CHAIRPERSON MIETZ: Well, it means a lot for us  
25 too. I mean, the leveraging of what goes on with different

1 interests --

2 MR. DOLLINGER: Is there any constriction in the  
3 lease with Qdoba about the use of that space? I'm curious.

4 MR. RAINALDI: No.

5 MR. DOLLINGER: That would make us feel  
6 comfortable.

7 MR. RAINALDI: No. No, Qdoba can't control. So  
8 Qdoba has --

9 MR. DOLLINGER: Because some tenants try to limit  
10 the -- or circumscribe the tenant that can be next door to  
11 them based on traffic or types of use and traffic.

12 MR. RAINALDI: I'm sorry. Yes, there is -- well,  
13 there is use. There is prohibited use.

14 There are uses that are prohibited that are not  
15 suitable co-tenants. Absolutely. There is a provision that  
16 limits the certain types of use.

17 MR. DOLLINGER: So there is not going to be another  
18 fast food restaurant next door?

19 MR. RAINALDI: There can't be. Rick said don't  
20 walk into my office with anything that's going to create or  
21 require more than 11 parking spaces.

22 MR. DOLLINGER: Well, I think their lease is also  
23 going to protect them to a certain extent too.

24 MR. DI STEFANO: Well, we are trying to limit the  
25 variance not come back in two months and say, "Hey, now we

1 got another restaurant going in there."

2 MR. DOLLINGER: Well, I think Qdoba, themselves,  
3 that lease must limit to some extent what's going to be next  
4 door.

5 MR. RAINALDI: They have a series of prohibited  
6 uses. And then it doesn't speak to -- it speaks to the use.  
7 It doesn't speak to the traffic generation. So the traffic  
8 generation will then be protected via the Town's Code.

9 MR. DI STEFANO: And the variance, basically.

10 MR. RAINALDI: Right. Correct.

11 MR. DI STEFANO: We're basically going to say, if  
12 this is passed, you are not going to get anything other than  
13 a 1 to 300, 1 space for a 300 gross square feet user next to  
14 Qdoba.

15 MR. DOLLINGER: Right. I guess, that's where I was  
16 going too. You understand that; right? That we are  
17 probably going to limit that middle spot's ability to have  
18 traffic generation based on this.

19 MR. RAINALDI: That's why I was using specific  
20 terms because if that got carried over to the meeting  
21 minutes, I'm committing to that very thing. The other thing  
22 is that you would hope is for how sophisticated these brands  
23 are, we would hope they want -- God forbid, I'm not here,  
24 you guys aren't here, Rick's not here -- that they would put  
25 themselves in an environment where their patrons are going

1 to be to challenged to find a parking spot.

2 MR. DOLLINGER: Yeah, we get that too.

3 CHAIRPERSON MIETZ: Okay. Any other questions on  
4 the parking situation? And then probably the one that would  
5 be most affected would be, like, the UPS store and all of  
6 that. I mean, on your property management side, have you  
7 thought about how you would police, but let's just say, I  
8 don't think there is a problem with the ESL. How you are  
9 going to keep things in a fair note so we don't have issues?

10 MR. RAINALDI: Well, police is a good term. We --  
11 I am -- we are survived by the tenants. I have incredible  
12 working relationships with my tenants. The responsibility  
13 to protect the happy enjoyment of their spaces, lives  
14 predominately in our lease as defined in any other term  
15 quite honestly. So my responsibility contractually exists  
16 to make sure that I'm not creating an environment where one  
17 tenant is compromising the enjoyment of another tenant's  
18 space both in access, utilization, and exit. And also to  
19 that effect, the UPS has been with us for a long time. Aja  
20 Noodles has been with us for a long time. I am an  
21 incredibly loyal landlord. I have had a very rough  
22 education with my father. He loves his tenants, and I do  
23 the same. We wouldn't put ourselves in a position where I'm  
24 sitting in front of them asking for forgiveness because I  
25 have abused their trust, and also the direction with the

1 space I have available and their actionable use of their  
2 space. So there's -- each of those tenants creates value  
3 for the utilization of that project. I need everybody  
4 functioning at their highest level at all times. So that's  
5 a condition that won't exist under my management which I  
6 hope lasts for a very long time.

7 CHAIRPERSON MIETZ: So there is no restriction in  
8 the management of those parking spaces?

9 MR. RAINALDI: The language is each tenant has a  
10 nonexclusive right except for the handicap parking spaces  
11 which have a specific user. The language is that each space  
12 -- each tenant has a nonexclusive right of the entire  
13 parking field. So those 88 spaces, any patron from any user  
14 can use that spot. That is in the lease. They have  
15 reviewed it. It's not a surprise. They have full knowledge  
16 of that when they signed that lease. They understand it.

17 CHAIRPERSON MIETZ: I understand that. What we are  
18 talking is a practical matter. So as a practical matter,  
19 how would you address it if it becomes a problem for the UPS  
20 store?

21 MR. RAINALDI: We have an incredible ability to  
22 impact the utilization and fair utilization to the sites.  
23 Unfortunately, with the Twelve Corners and Rite Aid and that  
24 space having been vacant for so long, some of our neighbors  
25 have created some bad habits. And I have been very

1 sensitive to not be the bad guy all the time and move cars.  
2 But for our tenants' utilization, every one of my tenants  
3 has my cell phone number. I promise you they are not afraid  
4 to use it. My management team is full-time interactive. We  
5 are one of the few firms that has a certified CPM on staff.  
6 It's a very hard certification to obtain these days, and  
7 Rick Rainaldi, who is our partner, my father's brother, my  
8 uncle, is a CPM.

9 CHAIRPERSON MIETZ: Me too.

10 MR. RAINALDI: There is very few of you out there.  
11 And so I can promise you we have very high standards, and  
12 especially, UPS, that space, if you have been in there, it's  
13 very funky. If UPS left there, I would have a heck of a  
14 time finding a tenant that would fit there perfectly. We  
15 would never get to the point. We would never get to the  
16 point where I'm defending the abuse of those resources.

17 CHAIRPERSON MIETZ: Okay. Any other questions on  
18 the parking? Marketing. Okay. Go ahead, Andy.

19 MR. MOROZ: All right. With that, we'll move on to  
20 the sign variances. Just to recap, I will try to move  
21 through some of the main points here. We're asking for the  
22 first one, asking for a second, or signage to be on the  
23 second building face. This is the primary side with the  
24 main door here. As you can see here, the Qdoba Mexican Eats  
25 sign over the door. And then this would be the signage on

1 the second building face which would be on the Homewood  
2 Avenue side. It's just the Qdoba brand sign. This is  
3 important to Qdoba just from an exposure situation. Traffic  
4 here on South Winton, you would see this sign here. The  
5 trick is people travelling east on Elmwood Avenue would not  
6 necessarily see the sign over the primary door. So the  
7 second sign is really important to exposure and identifying  
8 the Qdoba space. I don't know if you have anything to add  
9 there, Fred.

10 MR. RAINALDI: So earlier in my presentation I had  
11 spoken a little bit about how the brand has identified  
12 elements that are tied into the origin of its food and its  
13 Mexican origins both in its color ways. And also I had  
14 described early on in the presentation, that this tenant is  
15 aiming to service a very wide demographic. When these  
16 brands -- and I have had an interesting education in this in  
17 my travels, and also trying to be a modern landlord, and  
18 fight on these channels, shopping and other things like  
19 that, and I'm also a landlord that invests a lot of money  
20 into the space. And I can't afford to have revolving  
21 tenants. I can't afford to be retro fitting spaces on a  
22 regular basis. So we actually seek out brands that have a  
23 lot of time in their branding, and in their trade dressing,  
24 and can explain to us why their branding interacts --  
25 interfaces with their patrons in a certain way, and why

1 there is a benefit to that. And especially, in Rochester  
2 when you have a unique way of how we accept new brands. We  
3 have an even heightened responsibility to allow them to  
4 enforce the presence in a market. We have an interesting  
5 case study of a demographic. We have a highly fragmented  
6 overall infiltrator in our greater Rochester area. So when  
7 brands come to markets like Brighton, like Penfield, like  
8 Webster, or anywhere in Monroe county, they are -- they  
9 approach us, and they study us in a different way. And for  
10 Qdoba, they have a unique product that I believe is a little  
11 more unique than their competitors.

12 They sit in a classification that's fast casual,  
13 but I truly believe that they are at the higher end of that.  
14 They also have a product that's a little more tied to the  
15 origin of what makes their product unique. And their brand  
16 that is owned by a company who has built some of the most  
17 identifiable brands in the world. And for the sake of  
18 market education, for the sake of sustainability, and for  
19 the sake of introducing and maintaining consistency through  
20 their product offerings in their locations, they have  
21 introduced what is signed and packaged and presented to you  
22 now.

23 I will tell you it is heavily reduced from what  
24 first came into us. And if I told you -- I would ask that  
25 you believe me when I put something on these boards and I

1 present them to you, it is something that I truly believe  
2 belongs with the application. And I have spent a lot of  
3 time trying to understand all of the elements from cutaways  
4 to the art installations, and I do have a lot of information  
5 if you have specific questions. The first sign at the main  
6 portal which is their traditional sign installation is  
7 consistent with the channel letter LED high-efficiency  
8 programming that not only is identified in the town code,  
9 but it is also consistent with virtually everything that is  
10 around us from a character standpoint of origin.

11 The other installation on the Monroe Avenue side is  
12 also part of their ground art programming. And this  
13 specific one depicts what is their Mexican wrestler. This  
14 is a sport, an art form, that was generated in 1915. And to  
15 them it is almost like what baseball is to us. In fact, the  
16 wrestling league in Mexico has mandated that almost all  
17 professional wrestlers wear masks now. It has become an  
18 incredibly popular sport. It is also one of the top 12  
19 costumes that US costume stores sell during Halloween.

20 This program, believe it or not, is probably one  
21 of -- one of the most organic installations on a building  
22 like this because if you were to approach a Mexican eatery  
23 in Mexico or in an environment where it was not positioned  
24 in a neighborhood or suburban environment, you would  
25 probably see street art. And you would probably see things

1 that emulated the culture that they lived in. And I have  
2 seen similar installations that would not program on  
3 buildings that I built over a decade ago for a drug store.  
4 But in this case, for the purpose of trying to apply a piece  
5 of their DNA that they have deemed incredibly important to  
6 the success of their store, from a standpoint of educating  
7 the market and creating an experience, I support wholly this  
8 installation.

9 This installation is the only one that survived our  
10 review. It is one that has the most recognizable elements  
11 in regards to the brand's origin. I have challenged them  
12 for a substantive response to a question, why is this  
13 important and why am I going to fight for you for this?  
14 This programming is the most enforced and important element  
15 of their new branding motto and the new branding motto is  
16 what comes with all of the magical things that happen inside  
17 the store. And they feel that it is very important to them.

18 The sign that's on the second elevation to the  
19 south. The sign on the south elevation is the second --  
20 this is their standard sign. This is the new Qdoba assigned  
21 panel. I have included what I handed out was the two  
22 Pantones. These are channel letters. So it's the same  
23 construction, same efficiency. What we done -- it  
24 originally had an additional art installation there, but I  
25 thought specifically for the purposes of recognizing that

1 this entity exists here when you are on this approach, which  
2 I know that there is a lot of stop lights there, but people  
3 travel very fast. There is a reason there are crossing  
4 guards, a lot of them, in very bright yellow jackets, that  
5 exist in these Twelve Corners because people travel very,  
6 very fast there. It is very distracting. There is a lot  
7 going on at this intersection. And I need to allow them to  
8 apply a minimum of what they deem necessary to identify that  
9 they exist there. This is what has survived our landlord  
10 review. And it is the minimum that they feel is necessary  
11 to be successful in this location.

12 MS. CORRADO: The colors on the illustration, the  
13 Qdoba on the main intersection and the one on the south  
14 side, they look a little different. Are they intended to be  
15 different, or will they be the same color?

16 MR. RAINALDI: So the yellow will be the same  
17 color. And the architect review board -- did they approve  
18 the silver or the green for the panel here?

19 MR. MOROZ: For this one here, they wanted the  
20 silver.

21 MR. RAINALDI: So the architecture review board  
22 still has my swatches of the canvas. Otherwise, I would  
23 have them here. They have exact green Pantone that is on  
24 the sample there. So this green matches this green there.  
25 This orange would be this orange. And this will be -- this

1 will be the -- this is going to be the most -- I am going to  
2 take over and have Premier Signs fabricate it. They can  
3 create a more natural steel program that I can afford to  
4 install there.

5 MS. CORRADO: And then the street art mask, how is  
6 that illuminated, or is that illuminated?

7 MR. RAINALDI: So they have these tiny LED  
8 goosenecks. So it is illuminated, but it is controlled.

9 MS. CORRADO: So not back lit.

10 MR. RAINALDI: No, there would be two goosenecks  
11 hanging out.

12 MS. SCHWARTZ: And it's a different color though?  
13 It's not the same as the signage. It's bringing in another  
14 color?

15 MR. RAINALDI: The light?

16 MS. SCHWARTZ: The art.

17 MR. RAINALDI: Well, the art is verbatim to what is  
18 exhibited here.

19 MS. SCHWARTZ: So you have one, two, three, four,  
20 two, three, four different colors; right? You got the  
21 green, the orange, and the art has two colors in it. That's  
22 four colors.

23 MR. RAINALDI: Well, the green -- so the back of  
24 the art installation --

25 MS. SCHWARTZ: Well, in itself it has two. It is

1 red and yellow and I suppose black; right? So that has  
2 three colors to it.

3 MR. RAINALDI: Well, we can argue if black is a  
4 color.

5 MS. SCHWARTZ: Well, all right.

6 MR. RAINALDI: Well, I can ask that this yellow be  
7 identical to --

8 MS. SCHWARTZ: It's too much. I mean, why can't  
9 that be inside the store?

10 MR. RAINALDI: When I had described the way that  
11 these -- that this brand is. So this brand wants you to  
12 start picking up on what's happening here and the experience  
13 upon the approach. And this art, I can show you examples  
14 upon examples of environments where there is almost kind of  
15 a natural hospitality, visual hospitality pop-up where this  
16 street art is almost a natural given on buildings like this.

17 MS. SCHWARTZ: I drove by Qdoba in the city. I  
18 just happened to be there. I saw no faces. I saw no masks.  
19 I saw the orange and that's all I saw there.

20 MR. RAINALDI: That Qdoba is not our Qdoba.

21 MS. SCHWARTZ: I know that.

22 MR. RAINALDI: This is the upgraded program. There  
23 are things here that CityGate will not have and that is one  
24 of the things I was hoping that -- Oh, Jerry's here. One  
25 thing that I hope that Jerry Boone doesn't go back and tell

1 everybody is that this store -- because those are his  
2 clients -- this store is going to be unique on a number of  
3 levels. We have -- I'm pleading with you that you have  
4 faith in me that this treatment -- this treatment will be  
5 received well by the community. That this treatment has  
6 value. I am also above the opinion that I am speaking on  
7 Qdoba's behalf, but I will set a threshold with Rick that if  
8 he receives complaint, after complaint, after complaint  
9 because of this artwork, I will force the artwork to be  
10 taken down. So I will make sure the installation is such  
11 that it does not hurt my brick and it's a panel that is --

12 MS. SCHWARTZ: What is the square footage of it?

13 MR. MOROZ: Thirty-six square feet.

14 MS. SCHWARTZ: That is big. I don't know. It just  
15 kind of has a honky tone to it. That's all I have to tell  
16 you. It really does -- if it were smaller, I mean, we got  
17 the sign over the doorway, the sign on the side.

18 MR. RAINALDI: Remember, even though the town code  
19 treats it as an signage, this is not a signage. I have  
20 trained myself to opine very gently when I'm introduced to  
21 things that are not by my creation. These guys have gone to  
22 great lengths to prove to me this is so important.

23 MS. SCHWARTZ: I know but that's what the corporate  
24 world does. I mean, it's okay. That's what they do, you  
25 know. I'm sure that there are other times that they have

1 requested it not to be up, and it's not up. And I don't see  
2 why we can't do it. It's just -- I don't know. I'd rather  
3 see landscaping than a face with a mask.

4 MR. RAINALDI: Well, the landscaping is -- we're --  
5 that's a given. You and I will be enjoying that at the same  
6 time.

7 MS. SCHWARTZ: How many feet are apart from the  
8 sign over door to the mask? Not very many if you look  
9 close.

10 MR. RAINALDI: This would be out, so I would say  
11 about three feet.

12 MS. SCHWARTZ: Three feet not much.

13 MS. CORRADO: Just describe -- so you said you  
14 worked fairly hard with the Qdoba to minimize and to shape  
15 the signage in a way that you think is appropriate for the  
16 property. Can you describe some of the alternate versions  
17 that they proposed that you determined were not acceptable?

18 MR. RAINALDI: Yes. Well, they were scanned here.  
19 They were crossed out.

20 MS. DALE: I think that --

21 MR. DI STEFANO: Guys, just make sure you put  
22 everything on the record. I just want to make sure Briana  
23 can get everything on the record.

24 MS. CORRADO: So you can have that one instead.

25 MR. RAINALDI: But the -- if you liken the mask to

1 any picture of an American athlete. I mean, there is -- to  
2 the extent that this is not harming somebody. If you have  
3 some faith, and even if we condition it. If he, we can --  
4 if there are people honking at it and they are calling Rick,  
5 Rick has my cell phone too, and he doesn't want them calling  
6 anymore, we'll set a threshold.

7 MS. DALE: It's kind of cool.

8 MS. SCHWARTZ: I'm an old lady, very old.

9 MS. DALE: It's cool. It's kind of cool, though.

10 MS. CORRADO: What you have rejected would have  
11 been that --

12 MS. DALE: I mean, have some sangria.

13 MR. RAINALDI: It's one 24-inch panel bigger than  
14 you have there.

15 MS. CORRADO: Okay. So you managed to have a  
16 significant reduction in their intent. You managed to keep  
17 it tasteful, not overwhelming, and still have the iconic art  
18 proposed now.

19 MR. RAINALDI: Any abstractions have been removed.  
20 We only kept that. And the other thing is we are a very,  
21 very wide demographic that utilizes this intersection. We  
22 had to be -- I want to be everything to everybody. And it's  
23 very seldom to find a retailer to accomplish that.

24 MS. CORRADO: Is there any possibility of scaling  
25 that one piece of iconic art slightly smaller?

1 MR. RAINALDI: I will ask anything.

2 MS. SCHWARTZ: That would really help.

3 MR. MOROZ: Currently, the variance that we're  
4 asking for size -- I'm sorry. I'm losing my voice. We're  
5 asking for 69 square feet of signage on the primary building  
6 face. Okay. What's allowed is 63. So we're talking six  
7 square feet that we're currently over the code requirement  
8 for signage size.

9 MS. SCHWARTZ: Right. Don't forget --

10 MR. DI STEFANO: It's little more complicated than  
11 that because the way we took this as getting them to this  
12 point in front of us. How staff looked at this, okay. The  
13 code does allow for pictorial designs. Pictorial designs  
14 have to be incorporated into the sign. This pictorial  
15 design is not incorporated in the sign. So therefore you  
16 have every right to reject it or minimize that size. So the  
17 allowable square footage, you certainly can shrink down the  
18 size of that pictorial design because that can be only 25  
19 percent of the total square footage that's permitted too as  
20 a logo or something like that. So they are well over that  
21 requirement. So there is a lot of things that the code will  
22 allow you to do with that. I don't know, again, something  
23 that is 36 square feet, what they need and want. And if it  
24 is, then that's what we have to do.

25 MS. SCHWARTZ: What is it, 3 by 12 or 4 by 9?

1 MR. MOROZ: Six by six.

2 MS. SCHWARTZ: That square? Oh, my gosh. It is --

3 MR. DI STEFANO: So I -- I guess my question is I  
4 have been by the CityGate Qdoba, and it looks like their  
5 signage is up. I have been by the Penfield Qdoba. It looks  
6 like their signage is up. I don't see this pictorial design  
7 at any one of those two locations, but I do see the  
8 rectangular sign at the Penfield store. I don't see the  
9 rectangular sign the CityGate the "Q" on top. I call it the  
10 eye chart sign.

11 MS. SCHWARTZ: I saw that on the CityGate, the eye  
12 chart.

13 MR. DI STEFANO: The eye chart on CityGate?

14 MS. SCHWARTZ: Yeah, on Westfall.

15 MR. DI STEFANO: I went by it tonight, and I  
16 couldn't see it.

17 MS. SCHWARTZ: All right.

18 MR. DI STEFANO: Well, maybe it was there. Maybe I  
19 missed it. But I know they had three sided signage on the  
20 CityGate site which were all the main entry signs. So this  
21 would be the only store. And you said that this is going to  
22 be a different store. This is going to be the only store  
23 that would incorporate that artwork?

24 MR. RAINALDI: Correct. Well, they will likely  
25 have couple more locations. They are looking in Victor

1 right now. That will be a new store program. The one thing  
2 I want to be careful of, it's only to the extent that our  
3 product is better. I have not -- I wouldn't want to compare  
4 this location to those locations. This is the Twelve  
5 Corners of Brighton. I've said it before, it's a total  
6 anomaly. This is the strongest subgrade area in Monroe  
7 County. And that comes with a lot of opportunity. It comes  
8 with a lot of responsibility. It also has -- you are  
9 servicing a unique demographic to the extent that there is  
10 -- I would love to create an opportunity to test it to see  
11 how it's absorbed. This is -- I'm not an artist. And I  
12 have only studied this to make sure it wouldn't compromise  
13 the integrity of my building, my architecture, the enjoyment  
14 of the tenants on each side of this, and the community. We  
15 have a ton, a ton of kids. We have college campuses sitting  
16 right there. These kids know what this is. And they will  
17 respect it. And even though they may not understand what  
18 quality of life is because they are in high school and  
19 junior high, but this has quality of life and it creates  
20 experiences. And it's special to them. And if you tried to  
21 keep the attention of a teenager these days with any formal  
22 outlet of branding, you are in constant perpetual chase, and  
23 if there is one element like this that allows me to enforce  
24 the uniqueness of this product. This is a smaller task than  
25 many things I've asked for in the past. And I am not

1 embarrassed to be presenting it to you right now because I  
2 actually kind of like it. And I am a landlord to a lot of  
3 national corporate brands. I am a landlord to a lot of  
4 local brands. And every one of them is focused on branding  
5 all the same. They just have different budgets. And my  
6 hope is that we provide an opportunity to let this brand  
7 introduce something like this.

8 And I'm saying to the Board tonight, that I'm happy  
9 to condition it. And I will pay for the installation be  
10 such that if it needs to be taken off, so doesn't destroy my  
11 brick over there, it can be taken off in the future. But I  
12 think it's a unique and simple opportunity to test something  
13 that we may not have done before in this capacity.

14 MS. CORRADO: With the other space that is still to  
15 be built, I know you haven't locked in on a new tenant  
16 there, but what kind of signage do you anticipate there?

17 MR. RAINALDI: I have a very good idea who it's  
18 going to be, and it will be very exclusive. With this one  
19 and this one, I'm servicing a wider demographic. This will  
20 be a little tighter demographic.

21 MS. CORRADO: So it doesn't need an additional  
22 splash? It won't be a competing strong graphic that needs  
23 to accompany your next tenant in there?

24 MR. RAINALDI: Correct. And also one of the  
25 triggers that made me comfortable in presenting this to you

1 was the fact that this site really has two elevations. It  
2 sits on a knuckle. And it's speaking to a whole other  
3 series of energy, car trips, and the passenger traffic. If  
4 you watch the way that the kids pattern off through that  
5 area, you know there is -- I think it's necessary.

6 MS. SCHWARTZ: Okay. So you say it's necessary,  
7 can you make it be smaller?

8 MR. RAINALDI: Okay. Can we potentially condition  
9 an approval that I will ask -- I will more than ask. It  
10 will be a very strong ask that it be reduced and my target  
11 will be by 25 percent.

12 CHAIRPERSON MIETZ: That's something that we would  
13 have to discuss.

14 MR. DI STEFANO: All right. Okay. So that design  
15 will that have rotating -- I understand they have different  
16 types of panels, signage things. They don't just use the  
17 mask. They use other things. Will that always be the mask  
18 in this location?

19 MR. RAINALDI: Yes, it's actually expensive the way  
20 they go about it and the way they build these. So I don't  
21 see them switching it out on a regular basis. And if they  
22 do, it will be by an approval.

23 MS. SCHWARTZ: Yeah, because it's a sign.

24 MR. RAINALDI: Absolutely, so the same restrictions  
25 apply.

1                   CHAIRPERSON MIETZ: Okay. Any other questions on  
2 the signs there? I guess the only other thing is the height  
3 placement on the larger sign on the --

4                   MS. SCHWARTZ: Doorway.

5                   CHAIRPERSON MIETZ: No, not on the doorway. On the  
6 other side, what is the reason to place it lower to the  
7 ground like that?

8                   MR. RAINALDI: The top of the sign is the same  
9 height as the soldier coursing on the window. So it just  
10 looks nicer. I had the architects look at that. This  
11 actually, this is the architect. They send me a package.  
12 They say okay, our architects are going to meet with you.  
13 And I say, let's hold off a little bit first so our -- both  
14 our architects reviewed this prior to reviewing with them.

15                   CHAIRPERSON MIETZ: Able to view with vehicles  
16 parked in front?

17                   MR. RAINALDI: Yep.

18                   CHAIRPERSON MIETZ: Okay. Any other questions?  
19 Questions? Okay. Go ahead, Andy.

20                   MR. MOROZ: I do have one other item regarding the  
21 signage. I just want to get on record as far as the second  
22 building face having a sign, there are other instances  
23 within the development here that have signage on two faces  
24 such as ESL and Aja Noodle. And those have been added into  
25 your packet for you to look at.

1                   CHAIRPERSON MIETZ: Okay. Nothing else?

2                   Questions? Okay. Thank you, gentlemen.

3                   MR. RAINALDI: Thank you very much for your time.

4                   I appreciate it.

5                   CHAIRPERSON MIETZ: Okay.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

STATE OF NEW YORK:  
COUNTY OF MONROE:

I, BRIANA L. JEFFORDS, 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 town of Brighton, county of Monroe, state of New York.

Briana L. Jeffords  
BRIANA L. JEFFORDS  
Freelance Court Reporter and  
Notary Public No. 01JE6325111  
in and for Genesee County, New York

1 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF  
2 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK  
3 On May 4, 2016, COMMENCING AT APPROXIMATELY  
4 7:27 P.M.

5 May 4, 2016  
6 Brighton Town Hall  
7 2300 Elmwood Avenue  
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRMAN  
11 CHRISTINE CORRADO  
12 JEANNE DALE  
13 JUDY SCHWARTZ

14 DAVID DOLLINGER, ESQ.  
15 Town Attorney

16 RICK DISTEFANO  
17 Secretary

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

22

23

24

25 Reported By: BRIANA L. JEFFORDS  
Edith Forbes Court Reporting  
21 Woodcrest Drive  
Batavia, New York 14020

26

27

28

29

1 Application 5A-01-16.

2 Application of David Burrows, architect, and Selvakumar and  
3 Miraba Chockalingam, owners, of the property located at 50  
4 Indian Spring Lane for an extension of approved area variances  
5 (3A-04-14 and 2A-02-15 - front setback and maximum livable floor  
6 area) pursuant to Section 219-5F. All as described on  
7 application and plans on file.

8 Motion made by Ms. Schwartz to approve  
9 Application 5A-01-16.

10 FINDINGS OF FACT:

11 Based on the fact that all previous findings were approved  
12 and there have been no changes to the application.

13 CONDITIONS:

14 All previous conditions hold.

15 (Seconded by Ms. Dale)

16 (Mr. Mietz, yes; Ms. Dale, yes;

17 Ms. Corrado, yes; Ms. Schwartz, yes.)

18 (Open roll call, motion to approve with  
19 conditions carries.)

20

21

22

23

24

25

1 Application 5A-02-16.

2 Application of Chris Costanza, architect, and Josh Meltzer  
3 and Melissa Warp, owners of property located at 50 Commonwealth  
4 Road, for an Area Variance from Section 207-10E(5) to allow a  
5 driveway to expand o the side lot line where a minimum 4ft.  
6 Setback is required by code. All as described on application  
7 and plans on file.

8 Motion made by Ms. Corrado to approve

9 Application 5A-02-16.

10 FINDINGS OF FACT:

11 1. The granting of the requested variance will not produce an  
12 undesirable change in character of the neighborhood, or be a  
13 detriment to nearby properties, and is not substantial. The  
14 existing driveway is shared between the applicant and the  
15 adjacent property owner, thus already violates the formal  
16 setback requirement on both properties and the full length of  
17 the existing driveway. The additional proposed asphalt in the  
18 setback area comprises only one percent of the applicant's  
19 building lot and is continuous to that shared driveway.  
20 Further, the additional asphalt will be not be visible from the  
21 street.

22 2. The benefit sought by the applicant cannot reasonably and  
23 readily be achieved by any other method. The garage is proposed  
24 in a location in order to comply with the Zoning Board  
25 requirements. The additional asphalt is required to accommodate

1 the average vehicle turning radius from the proposed garage. If  
2 this area is not paved, cars entering and exiting the garage  
3 would be required to drive over grass creating mud and tire  
4 ruts.

5 3. There is no evidence that the proposed variance will have an  
6 adverse effect or impact on the visible or environmental  
7 conditions in the neighborhood or district.

8 4. While the desire or need for a garage may be self-created,  
9 the property's limited areas for location of the conforming  
10 garage and the existence of a shared driveway already violating  
11 the setback requirement is not self-created.

12 CONDITIONS:

13 1. The variance granted herein applies only to the additional  
14 asphalt described in and in the location depicted on the  
15 application and in testimony given.

16 2. All necessary approvals and permits must be obtained.

17 (Seconded by Ms. Schwartz)

18 (Mr. Mietz, yes; Ms. Dale, yes;

19 Ms. Corrado, yes; Ms. Schwartz, yes.)

20 (Open roll call, motion to approve with  
21 conditions carries.)

22

23

24

25

1 Application 5A-03-16.

2 Application of Geotherm, Inc, contractor, and Charles and  
3 Maggie Symington, owners of property located at 6 Whitney Lane,  
4 for an area Variance from Sections 207-46 and 207-49 to allow  
5 for two ground mounted solar panel arrays where only roof  
6 mounted solar panels are allowed by code. All as described on  
7 application and plans on file.

8 Motion made by Ms. Schwartz to approve

9 Application 5A-03-16.

10 FINDINGS OF FACT:

11 1. The size of the lot and proposed location of the panels on  
12 the lot will mitigate the impact on the neighborhood.

13 2. In order for the solar panels to be effective on this  
14 property, no other location on the roof areas is available to  
15 meet the desired use.

16 CONDITIONS:

17 1. This variance applies only to the array as per plans  
18 submitted and testimony given in regards to the size and  
19 location.

20 2. All necessary building permits shall be obtained.

21 (Seconded by Ms. Corrado)

22 (Mr. Mietz, yes; Ms. Dale, yes;

23 Ms. Corrado, yes; Ms. Schwartz, yes.)

24 (Open roll call, motion to approve with

25 conditions carries.)

1 Application 5A-04-16.

2 Application of Millennium Machinery, contract vendee, and  
3 Canandaigua National Bank and Trust Company, owner of property  
4 located at 120 Northern Drive, for a Use Variance from Section  
5 203-84 to allow for an office, warehouse, and light  
6 manufacturing facility in a BF-2 General Commercial district  
7 where not allowed by code. All as described on application and  
8 plans on file.

9 Motion made by Ms. Corrado to approve

10 Application 5A-04-16.

11 FINDINGS OF FACT:

12 1. Under applicable zoning regulations, the applicant is  
13 deprived from not only the use or benefit from the property in  
14 question, in fact, Millennium Machinery is the only viable  
15 purchaser to have come forward in over a year, and the sale is  
16 contingent on zoning approvals that would have been in effect  
17 had potential purchasing come to fruition sooner based on the  
18 prior occupant.

19 2. The alleged hardship is unique. It does not apply to a  
20 substantial portion of the district or neighborhood due to the  
21 dual zoning situation of the property.

22 3. The requested use variance, if granted, will not alter the  
23 essential character of the neighborhood. The surrounding  
24 properties are primarily similarly functioning as commercial and  
25 light industrial concerns. The proposed use is not loud, or

1 visually disruptive, nor are there obnoxious odors produced as  
2 by-product of the applicant's manufacturing process. Further,  
3 the previous owner occupant engaged in light assembly in the  
4 existing building. The property is designed for manufacturing,  
5 incorporating overhead cranes, and three-phase power equipment.  
6 4. The alleged hardship has not been self-created. The  
7 applicant wishes to remain in the town of Brighton, but the  
8 applicant's current property does not allow for expansion. The  
9 property in question will allow for the growth of the business  
10 and accommodating the need for tractor trailer deliveries while  
11 taking the distressed property out of foreclosure and putting  
12 that into good use.

13 CONDITIONS:

- 14 1. The use approved in this variance is only for that which was  
15 described in the application submitted and testified to during  
16 the meeting. This use includes only the following: Light  
17 manufacture of electrical discharge machining equipment,  
18 equipment storage, showroom and sales, and business office  
19 functions.
- 20 2. All necessary town approvals and building permits shall be  
21 obtained.

22 (Seconded by Ms. Schwartz)

23 (Mr. Mietz, yes; Ms. Dale, yes;

24 Ms. Corrado, yes; Ms. Schwartz, yes.)

25 (Open roll call, motion to approve with

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

conditions carries.)

1 Application 5A-06-16.

2 Application of R. Jon Schick, architect, and Denver and  
3 Christine Miller, owners of property located at 70 Milford Road,  
4 for an Area Variance from Section 205-2 to allow an addition to  
5 extend 4.5 ft. into the 34.5 ft. side (west) setback required by  
6 code. All as described on application and plans on file.

7 Motion made by Mr. Mietz to approve

8 Application 5A-06-16.

9 FINDINGS OF FACT:

10 1. The variance request of 4.5 feet from the side setback is  
11 the only alternative that will meet the needs of the applicant's  
12 desired result.

13 2. The location of the house on the lot, and the need to  
14 integrate the roofline, and provide a symmetrical streetscape  
15 necessitates the single-story addition to be placed on the west  
16 property elevation.

17 3. With the 30-foot proposed side setback, the addition will  
18 still be 45 feet from the neighboring garage which is only  
19 15 feet from their side setback.

20 4. The addition of the setback, approximately, 20 feet from the  
21 front of the house, and it will be less visible with the  
22 landscape improvements located to block it from the street.

23 CONDITIONS:

24 1. All necessary permits shall be obtained.

25 2. This variance is based on the testimony given at tonight's

1 meeting.

2 (Seconded by Ms. Corrado)

3 (Mr. Mietz, yes; Ms. Dale, yes;

4 Ms. Corrado, yes; Ms. Schwartz, yes.)

5 (Open roll call, motion to approve with  
6 conditions carries.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 application 5A-07-16.

2 Application of Brighton Twelve Corners Associates, LLC,  
3 owner of property located at 1881 Monroe Avenue, for an Area  
4 Variance from Section 203-74B(4)(h) to allow an outdoor dining  
5 area in a front yard that abuts a residential district where not  
6 allowed by code. All as described on application and plans on  
7 file.

8 Motion made by Ms. Schwartz to approve

9 Application 5A-07-16.

10 FINDINGS OF FACT:

11 1. The requested outdoor patio dining area which abuts a  
12 residential district is really across the street and a school  
13 and firehouse are located on it. Therefore, there will not be a  
14 change in the character of the neighborhood, and the area  
15 currently is quite commercial.

16 2. The location of this proposed restaurant is in a preexisting  
17 building and does not include access to the rear or side of the  
18 building, and therefore, the variance requested for the front  
19 yard outside dining usage is the only available area.

20 3. This proposed outdoor dining area is farther than 60 feet  
21 from the property setback.

22 CONDITIONS:

23 1. This variance only applies to the outdoor dining area as per  
24 plans submitted and testimony given, and in particular shall be  
25 in the location and size as shown.

1 3. All necessary planning board approvals shall be obtained.

2 (Seconded by Ms. Corrado)

3 (Mr. Mietz, yes; Ms. Dale, yes;

4 Ms. Corrado, yes; Ms. Schwartz, yes.)

5 (Open roll call, motion to approve with

6 conditions carries.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Application 5A-08-16.

2 Application of Brighton Twelve Corners Associates, LLC, owner of  
3 property located at 1881 Monroe Avenue, for an Area Variance  
4 from Section 205-7 to allow an increase in impervious surface  
5 from 80.4% (9A-05-11) to 81.5% where a maximum 65% impervious  
6 coverage is allowed by code. All as described on application  
7 and plans on file.

8 Motion made by Mr. Mietz to approve

9 Application 5A-08-16.

10 FINDINGS OF FACT:

11 1. The granting of the variance will not produce an undesirable  
12 change to the character of the neighborhood, or detriment to the  
13 nearby properties, and is not substantial to the properties  
14 currently nonconforming. Any additional impervious coverage  
15 represents only one percent. Neighboring properties have high  
16 coverage ratios with similarly minimal green space areas on the  
17 proposed site. Further, the additional proposed dining areas  
18 proposed to be constructed with impervious materials would allow  
19 infiltration of storm runoff which will mitigate coverage.

20 2. Benefits sought by the applicant cannot reasonably and  
21 readily be achieved by any other method. The increase in the  
22 proposed impervious coverage is necessitated by the proposed  
23 outdoor dining area. There is no way to add an outdoor dining  
24 area without additional impervious coverage.

25 3. There is no evidence that the proposed variance will have

1 any adverse effect or impact on the environmental conditions in  
2 the neighborhood or district.

3 CONDITIONS:

4 1. The variance applies only to the increase in the impervious  
5 coverage described and in the location as depicted on the  
6 application and the testimony given.

7 2. The materials used in the construction of the outdoor dining  
8 area must be impervious for the infiltration of the storm water  
9 in the area.

10 3. All necessary approvals and permits shall be obtained.

11 (Seconded by Ms. Schwartz)

12 (Mr. Mietz, yes; Ms. Dale, yes;

13 Ms. Corrado, yes; Ms. Schwartz, yes.)

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

16

17

18

19

20

21

22

23

24

25

1 Application 5A-09-16.

2 Application of Brighton Twelve Corners Associates, LLC,  
3 owner of property located at 1881 Monroe Avenue, for an Area  
4 Variance from Section 205-12 to allow for 88 on-site parking  
5 spaces to accommodate existing uses and the establishment of a  
6 3,000 +/-sf restaurant where 118 spaces is required by code.  
7 All as described on application and plans on file.

8 Motion made by Mr. Mietz to approve

9 Application 5A-09-16.

10 FINDINGS OF FACT:

- 11 1. The parking study provided with the application indicated  
12 that current uses in the plaza are actually using less spaces  
13 than were part of the original approvals for their use.
- 14 2. The proposed restaurant use and the peak time requirements  
15 for parking are not in conflict with the existing retail uses on  
16 either side of the proposed restaurant.
- 17 3. The approval of this variance shall not produce any negative  
18 impact on the immediate uses and neighborhood, and will not  
19 effect the health, safety, and welfare of the immediate  
20 neighborhood.

21 CONDITIONS:

- 22 1. The applicant shall provide bicycle parking throughout the  
23 site as testified.
- 24 2. The maximum number of seats per the restaurant use shall not  
25 exceed 80.

1 3. All necessary planning board approvals shall be obtained.

2 (Seconded by Ms. Schwartz)

3 (Mr. Mietz, yes; Ms. Dale, yes;

4 Ms. Corrado, yes; Ms. Schwartz, yes.)

5 (Open roll call, motion to approve with  
6 conditions carries.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Application 5A-10-16.

2 Application of Brighton Twelve Corners Associates, LLC,  
3 owner of property located at 1881 Monroe Avenue, for 1) a Sign  
4 Variance from Section 207-32B(1) to allow a business  
5 identification sign on a second building face (Elmwood Avenue  
6 facade) where not allowed by code; 2) a Sign Variance from  
7 Section 207-26D to allow a pictorial design to be separated from  
8 a business identification sign (Winton Road South facade) and be  
9 larger than 25% of the total permitted sign face area where not  
10 allowed by code; and 3) a Sign Variance from Section 207-32B(1)  
11 to allow total sign area (business identification sign and  
12 graphic design) to be 69 sf in lieu of the maximum 63 sf allowed  
13 by code. All as described on application and plans on file.

14 Motion made by Ms. Corrado to approve

15 Application 5A-10-16 Part One.

16 FINDINGS OF FACT:

17 1. The requested variance is not substantial due to the  
18 orientation of the building on a corner lot at a very busy  
19 intersection necessitating two adequate business  
20 identifications, and no other alternative can alleviate the  
21 difficulty and produce the desired result. No unacceptable  
22 change in the character of the neighborhood and no substantial  
23 detriment of the properties is expected to the result from the  
24 approval because of the unique characteristic of this property  
25 fronting on three busy intersections necessitating signage on

1 two faces for other existing buildings on the property.

2 3. The alleged hardship is not self-created and the health,  
3 safety, and welfare is not effected. And in fact it creates a  
4 safer environment making it easier to identify the business  
5 while in transit.

6 CONDITIONS:

7 1. The variance will apply only to the Elmwood Avenue sign in  
8 size and location.

9 2. All necessary review board and planning board approvals need  
10 to be met.

11 (Seconded by Ms. Schwartz)

12 (Mr. Mietz, yes; Ms. Dale, yes;

13 Ms. Corrado, yes; Ms. Schwartz, yes.)

14 (Open roll call, motion to approve part one  
15 with conditions carries.)

16 Motion made by Ms. Corrado to table

17 part two and three and keep the

18 public hearing open of

19 Application 5A-10-16.

20 INFORMATION REQUESTS:

21 We request that the applicant present alternate scale  
22 pictorial design signage for further consideration of variance  
23 for a pictorial design to be separated from the business  
24 identification sign and to allow the total sign area to exceed  
25 the 63 square feet allowed by code. We further request

1 additional information about the Qdoba art program.

2 (Seconded by Ms. Schwartz)

3 (Mr. Mietz, yes; Ms. Dale, yes;

4 Ms. Corrado, yes; Ms. Schwartz, yes.)

5 (Open roll call, motion to table and

6 keep the public hearing open part two

7 and part three carries.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

STATE OF NEW YORK:  
COUNTY OF MONROE:

I, BRIANA L. JEFFORDS, 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 town of Brighton, county of Monroe, state of New York.

Briana L. Jeffords  
BRIANA L. JEFFORDS  
Freelance Court Reporter and  
Notary Public No. 01JE6325111  
in and for Genesee County, New York