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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF
APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK
On April 5, 2017, COMMENCING AT APPROXIMATELY 7:17
P.M.

April 5, 2017
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN
CHRISTINE CORRADO
JUDY SCHWARTZ
ANDREA TOMPKINS WRIGHT
JENNIFER WATSON
DOUGLAS CLAPP

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DISTEFANO
Secretary

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

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MR. MIETZ: So at this point I will call to order the April 2017 meeting of the Brighton Zoning Board of Appeals. Rick, was the meeting properly advertised?

MR. DI STEFANO: It was advertised in the March 30th, 2017, addition of the Brighton-Pittsford Post.

MR. MIETZ: Can you please call the roll?

MR. DI STEFANO: Please let the record show that Ms. Dale is not present.

MR. MIETZ: When you are ready, Mr. DiStefano, you can read the first application. Application 4A-01-17. Application of Rosie Foster, owner of property located at 1571 Monroe Avenue, for an Area Variance from Section 205-18A to allow driveway pavement to expand within 6ft. of a side lot line where a 10 ft. setback is required by code. All as described on application and plans on file.

MR. ARDIETA: Good evening, ladies and gentlemen, members of the Board. I am Joe Ardieta with Vanguard Engineering. I am representing the owner Rosie Foster in her application --

MR. MIETZ: Can we have an address for the record?

1 MR. ARDIETA: Vanguard Engineering
2 Associates, 241 Castlebar Road, Rochester, NY, 14610
3 --

4 CHAIRPERSON MIETZ: Thank you. Go ahead.

5 MR. ARDIETA: -- right down the road. So
6 our variance application is to bring the driveway
7 closer to the northern property line. If you have
8 been to the site, you will notice that the existing
9 driveway is gravel. It's very narrow. It was a
10 residential use. And the house is going to be
11 converted to a commercial use much like the two former
12 houses on either side of this building, but it will be
13 a much smaller parking lot with less of an intensive
14 use. However, after meeting with town staff, they
15 requested that we expand the driveway to 14 feet. And
16 if you look at the geometry of the site, you will
17 notice the building, itself, is 20 feet off the
18 property line. So if we expand the driveway, you can
19 see the dark areas are the -- where we are expanding
20 from gravel to asphalt pavement and taking up more
21 area. We come closer to our property line along this
22 bridge here. The existing driveway is actually
23 6.02 feet from the property line. We're maintaining
24 that line because it coincides with the curb cut at
25 the road. So what's there now is kind of a sinking

1 gravel driveway. We are going to straighten it out,
2 but in so doing, we require this variance.

3 MS. SCHWARTZ: The first tree has to come
4 down, I assume.

5 MR. ARDIETA: Correct.

6 MS. SCHWARTZ: Are the others going to
7 stay?

8 MR. ARDIETA: There are four trees to come
9 down. The one that is not shown here, the pine tree
10 up front, because of its proximity to the driveway.

11 MS. SCHWARTZ: Right.

12 MR. ARDIETA: And then there will be three
13 trees back here: One that's in where the proposed
14 parking lot will go; one is leaning against the
15 garage; and then there is another one that is too
16 close to the pavement.

17 MS. SCHWARTZ: I was more concerned about
18 maintaining the front vegetation.

19 MR. ARDIETA: Yes, the pine tree in front
20 is the only tree in the front.

21 MS. SCHWARTZ: And you will protect the
22 remaining when you go and make the new driveway?

23 MR. ARDIETA: Excuse me?

24 MS. SCHWARTZ: And you will protect the
25 remaining when you go and make the new driveway?

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1 MR. ARDIETA: Correct.

2 MS. TOMPKINS WRIGHT: Just so it's on the
3 record, the property to the northwest, meaning
4 adjacent, is commercial?

5 MR. ARDIETA: Correct.

6 MR. MIETZ: Other questions?

7 MR. CLAPP: Is the whole garage, or the
8 existing garage, coming down or is that going to stay
9 in place?

10 MR. ARDIETA: No, the existing garage is
11 going to remain as is. It will actually be the
12 parking space for the owner and their employee which
13 will free up the five spaces outside of the structure.

14 MR. MIETZ: Okay. Other questions? Okay.
15 Thank you very much.

16 MR. ARDIETA: Thank you.

17 MR. MIETZ: Is there anyone in the
18 audience who would like to speak regarding this
19 application? Okay. There being none, then the public
20 hearing is closed.

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1 Application 4A-02-17. Application of Helen Blaszak,
2 owner of property located at 455 Bronx Drive, for an
3 Area Variance from Section 203-1.1B(3) to allow a
4 detached garage to be located in a front yard (after
5 joining two lots into one) in lieu of the side or rear
6 yard as required by code. All as described on
7 application and plans on file.

8 MR. LATERE: Good evening, members of the
9 board. My name is Gerald Latere. I am an attorney
10 for Ms. Blaszak. I am also kind of an ad hoc family
11 member. Her sister is married to my brother-in-law.
12 So after she got this notice that she did something
13 wrong, she called me on the phone. I said, look, we
14 will try to fix it if we can. As you all know -- I'm
15 sure most of you made a personal inspection of the
16 property. It's at the very end of Bronx Drive
17 surrounded by parkland, I believe, by the county. She
18 indicated to me that at the time she was going to
19 construct the garage, she looked up on your website
20 concerning the need for a building permit. She
21 misread it and thought it was only for an attached
22 garage not a detached garage.

23 Second of all, it is more forward of the
24 house than it normally would be. I think there were
25 two things we were really looking for, a variance and

1 area variances to leave the garage there and not tear
2 it down. It's a beautiful structure. So how do we
3 remedy that situation as best as possible? She does
4 own the property. I think I submitted maps with the
5 application. She originally owned lot number 43 and
6 then she purchased lot number 29 which is next door to
7 that. So she does own half an acre of land there.
8 While that doesn't negate the fact it is built in the
9 front yard, it is rather attractive and functional the
10 way it is. So we would ask for an area variance for
11 that first problem.

12 The second problem is there was no
13 building permit which we discussed that pretty
14 heavily. So we are certainly going to make an
15 application, and pay the necessary fees for the
16 building permit, and also to get a certificate of
17 occupancy so we can be cleared up on the record with
18 the paperwork. We do intend to combine both of those
19 lots together and make one lot which it should be.
20 Otherwise, she's got a garage on a separate lot, and
21 she didn't want that. So we are going to combine
22 those two properties together to have enough area
23 there. Certainly, would entertain any questions.
24 I'll let Ms. Blaszak speak.

25 MR. MIETZ: So was this the desired

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1 location all along? Is that it?

2 MS. BLASZAK: Well, I couldn't put the
3 garage --

4 MR. MIETZ: Can you just give your name?

5 MS. BLASZAK: Helen Blaszak, 455 Bronx
6 Drive.

7 MR. MIETZ: Okay. Go ahead.

8 MS. BLASZAK: I couldn't put the garage in
9 the backyard because my septic system and bleach beds
10 are back there.

11 CHAIRPERSON MIETZ: Okay.

12 MS. BLASZAK: So this was actually the
13 only place that I could put it because on the other
14 side of the yard where it looks like mine, but it is
15 not. It is the parks. I keep it mowed and plant
16 flowers there on your property.

17 CHAIRPERSON MIETZ: So pretty much was
18 really the only viable alternative.

19 MS. BLASZAK: Right.

20 MR. LATERE: But she's got bigger
21 problems. My trees fell on her house during the
22 windstorm.

23 CHAIRPERSON MIETZ: Okay. Any other
24 questions? Go ahead.

25 MS. CORRADO: It's a beautiful garage. I

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1 see that you got a second level to it. Is that
2 intended for storage or --

3 MS. BLASZAK: Storage.

4 MS. CORRADO: And what else will you have
5 running to the garage?

6 MS. BLASZAK: Just electricity.

7 MS. SCHWARTZ: I saw there was some stairs
8 in the back. Is that how you get up to the storage?

9 MS. BLASZAK: Yes, because of being older,
10 my son suggested we put the stairway on the outside
11 instead of one of the pull down ladders on the inside.
12 So that's why we did that.

13 MS. SCHWARTZ: Okay.

14 MR. LATERE: And Ms. Blaszak did discuss
15 that with me, and she certainly does not intend to
16 make any residence up there. Now the next person that
17 owns the house will have to get a building permit to
18 do that, and I would suspect that would be denied
19 based on the structure of the property.

20 MR. MIETZ: Right. Absolutely. Any other
21 questions? Okay. Thank you very much.

22 MR. LATERE: Thank you.

23 MS. BLASZAK: Thank you.

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

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1 application? Yes, sir -- please, ma'am -- sorry --
2 you can come up.

3 MS. KUNZER: Hi, Sherry Kunzer, 422 Bronx
4 Drive.

5 MR. MIETZ: Why don't you just orient us
6 as to where you are in relation.

7 MS. KUNZER: I am across the street from
8 Helen and look at her garage, and I don't mind it.

9 MR. MIETZ: Okay. You don't mind?

10 MS. KUNZER: No, not at all. So I just
11 wanted to say that it is okay with us.

12 CHAIRPERSON MIETZ: Okay. And he is?

13 MS. KUNZER: He is a neighbor on the
14 street, too.

15 MR. HEAPHY: I live about three houses
16 down from Helen.

17 MR. MIETZ: Just name and address for us,
18 please.

19 MR. HEAPHY: Terry Heaphy, 290 Bronx
20 Drive, and I think it is a beautiful garage. It is
21 good construction, and I like the garage. She is very
22 isolated. So I don't see where it can bother any of
23 the neighbors.

24 MR. MIETZ: Okay. Great. Thank you.
25 Thank you for coming out. Is there anyone else that

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1 would like to speak regarding this application? There
2 being none, then the public hearing is closed.

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1 Application 4A-03-17. Application of Gregory and
2 Karen Moberg, owners of property located at 186
3 Ashbourne Road, for an Area Variance from Section
4 207-10A(2) to allow emergency egress window wells to
5 be 4+/- ft. from a side lot line in lieu of the
6 minimum 9.6 ft. required by code. All as described on
7 application and plans on file.

8 MR. MOBERG: Hello, I'm Greg Moberg, 186
9 Ashbourne Road. And what we would like to do is put
10 two bedrooms in the basement so when my family comes
11 to visit, they are not sleeping on the floors. There
12 are two cellar windows in the location where I want to
13 put the egress windows already. And the reason I need
14 the variance is because the egress windows have a
15 larger window well. The wells there are now
16 15 inches, and I have to go to 40 and one half inches
17 in order to meet the building code and provide a
18 really good escape window. The next house over is
19 64 feet away. And you got a letter from my neighbor
20 Paul Ramsey who said that he would not mind. I take
21 it you have come and drove past the property.

22 MR. MIETZ: Yes.

23 MR. MOBERG: So you can see you can hardly
24 see the window wells that exist at all. So that is
25 really the story.

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1 MR. MIETZ: Was there -- based on the
2 configuration of the basement, I presume these are the
3 openings available to do it. There is no other way to
4 do it; correct?

5 MR. MOBERG: Well, there are two bedrooms.
6 One is on the southeast side, and the other is on the
7 northeast side.

8 MR. MIETZ: Okay.

9 MR. MOBERG: My property is existing
10 non-conforming. So I couldn't meet the zoning
11 requirements on either the front side or the east
12 side. It is possible I could on the north side, but I
13 would still need a variance for one of the two
14 windows. If I am going to do that, there is a tree on
15 the north side I would rather not mess up.

16 MR. MIETZ: Okay. That's good. Any other
17 questions for Mr. Moberg? Pretty straightforward.
18 Okay. We are good. Thank you.

19 MR. MOBERG: Thank you.

20 CHAIRPERSON MIETZ: Is there anyone in the
21 audience that would like to speak regarding this
22 application? There being none, then the public
23 hearing is closed.

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1 Application 4A-04-17. Application of Adam Frosino,
2 McFarland Johnson Engineers, and Genesee Reserve
3 Supply, Inc., owner of property located at 200
4 Jefferson Road, for 1) an Area Variance from Section
5 207-6B(1) to allow a 10,000 +/- sf storage facility to
6 be located in a side yard in lieu of the rear yard as
7 required by code; and 2) Area Variances from Section
8 205-8 to allow said storage facility to have a front
9 setback of 5 ft. in lieu of 100 ft. as required by
10 code, and a side setback of 10 ft. in lieu of 50 ft.
11 as required by code. All as described on application
12 and plans on file.

13 MR. FORSINO: Good evening, my name is
14 Adam Frosino from McFarland Johnson Engineering which
15 is 2525 State Road, 32, Canandaigua, New York. I'm
16 here on behalf of the Genesee Reserve Supplies, and I
17 just want to note that the vice president is in the
18 audience if there are any operational related
19 questions. And also, our architect for the project is
20 also in the audience. We did go in front of the
21 Architectural Review Board. There are no comments on
22 the architecture of the building. I can flip the
23 board around and go into more detail on that.

24 First of all, if are you not familiar with
25 the site or someone from the public isn't familiar, we

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1 are on Jefferson Road right straight across the street
2 from RIT, really, across the street from Park Point,
3 the driveway. It is kind of set back a little bit.
4 It is not necessarily easy to see from Jefferson Road.
5 There is an existing main building on the site, and
6 there is a bunch of auxiliary storage buildings that
7 they store their supplies that they sell wholesale to
8 contractors. And one of these buildings is noted in
9 our application. It is a 22 by 189 foot existing
10 structure. It is in need of being replaced. It has
11 served its life, and they are looking to get a little
12 bit of a larger building and also a more functional
13 building. So you can see the dark black box is the
14 existing building, and then the box around it is the
15 proposed slightly wider building. And that existing
16 building is not complying with codes as it is. So the
17 new building, obviously, is also non-compliant with
18 the setbacks as well as the fact that it is located on
19 the side of the main building and not in the rear. So
20 those are the variances we are going -- coming to the
21 Board with. Technically, it is the front setback
22 because of the way the property jets out. So there is
23 a property line right here. So it's a front setback
24 that we are asking a variance for as well as a side
25 setback. We did place the building as far off of the

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1 front as we could. But based on the fire marshall's
2 recommendation, we do have a 20 foot separation
3 between the other storage building on the site. I
4 will flip this around, and I will just hold it up
5 because I will put it back the other way. So the
6 building would have a darker green roof, white siding
7 with some lighting strips to allow natural light in,
8 and a garage door style entrance to allow the delivery
9 trucks and the people to pick up their supplies at a
10 small door.

11 As far as utilities, the only utility
12 going into the building would be electric only to
13 service lighting in there. There is not going to be
14 any sort of, you know, manufacturing, or laboring, or
15 anything like that going on here. It is strictly
16 going to be a storage building for the supplies they
17 sell.

18 MR. DI STEFANO: Does this building in
19 your opinion need to be sprinklered?

20 MR. FORSINO: I don't think it needs to be
21 sprinklered. Can I refer to the architect on that?

22 MR. DI STEFANO: Have you talked to the
23 fire marshall on that? Let me ask you that question,
24 too.

25 MR. BATTISTA: Clint Battista, architect,

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1 2387 Westside Drive, North Chili, 14514. We did not
2 provide a sprinkler. It is based on the 2015 IBC.
3 That facility is under the requirement for square
4 footage based on increasing with the frontage. So we
5 are compliant based on the codes.

6 MR. DI STEFANO: Are you familiar with the
7 town code?

8 MR. BATTISTA: I am not.

9 MR. DI STEFANO: All right. You might
10 need to take a look at the town code and verify that
11 you meet those requirements too because we have a
12 standalone sprinkler ordinance that is more
13 restrictive than the state code.

14 MR. BATTISTA: Okay.

15 MR. DOLLINGER: So you may want to talk to
16 the fire marshall about that. I just wanted to clear
17 that up since you said the only utility.

18 MR. BATTISTA: Correct.

19 MR. DI STEFANO: So you might be talking
20 water too.

21 MR. BATTISTA: Okay. Thank you.

22 MR. FORSINO: I think that's all I had as
23 far as a presentation. If there are any questions, I
24 would be glad to answer them.

25 CHAIRPERSON MIETZ: Questions? Okay. How

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1 did you derive that 10,000 square feet was the
2 appropriate size for the building?

3 MR. BATTISTA: Basically, the building
4 that's there now is about half the size of the width.
5 So when you load the product into the storage
6 building, you really have to just go in the front. So
7 now with the door in the middle, you can go into it
8 with the forklift and you have the opportunity to
9 store on both sides. So it just makes it more
10 functional to store the products.

11 MR. MIETZ: And I presume that the
12 business has grown since that other structure was
13 constructed. So is that part of it, I would imagine,
14 as well, you need to store more things than you used
15 to?

16 MR. BATTISTA: Yes, obviously, it's better
17 to store product inside because then it lasts longer
18 so they don't lose inventory. So it is just
19 beneficial for the operations of the company. They
20 have been here for a long time. They are not looking
21 to move. They want to make their site functional, and
22 it is one of the upgrades they would like to do.

23 MR. MIETZ: Was one of their things being
24 stored outside in addition to what was stored in the
25 smaller building?

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1 MR. BATTISTA: Yes, there are some
2 products stored in the front of this building. So we
3 also are proposing a slight overhang on the one side
4 just so anything that is outside is also partially
5 covered with the overhang. Not everything will fit,
6 but --

7 MR. MIETZ: With the increase of the
8 building, would the effort be made to try not to store
9 things outside?

10 MR. BATTISTA: That one, I'm assuming as
11 much as can go inside will be. They have some racking
12 outside now that I'm not sure if it will remain
13 outside or move.

14 MR. MIETZ: Maybe whoever can discuss that
15 can come up?

16 MR. SANGICOMO: Tom Sangicomo, 4 Wilford
17 Drive, Fairport, New York, executive vice president of
18 Genesee Reserve. To answer your question, a lot of
19 our products, lumber products, plywood products, all
20 kinds of building materials, a lot of the lumber we do
21 store outside already. And as Clint had mentioned, a
22 lot of that stuff will continue to be outside. But in
23 our main warehouse and in the existing warehouse we
24 want to replace, there is a lot of products that need
25 better cover and more protection. So that is what we

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1 are looking to store in this new building.

2 MS. SCHWARTZ: So these parts that you
3 were just mentioning are currently stored outside, and
4 because are you going to a 10,000 square foot
5 building, you will be able to bring in?

6 MR. SANGICOMO: Some of them we will be
7 able to bring inside, yes. A lot of the products that
8 can be stored outdoors --

9 CHAIRPERSON MIETZ: So would it be fair to
10 say though that there wouldn't be any more stored
11 outside?

12 MR. SANGICOMO: No. Correct.

13 MR. MIETZ: Okay. Go ahead.

14 MS. WATSON: The adjacent property,
15 itself, 218 Jefferson Road, what is the use of that
16 property and does that owner have an opinion about the
17 proposal?

18 MR. SANGICOMO: I'm sorry. Does the owner
19 --

20 MS. WATSON: I wonder the uses of that
21 property and if they have expressed anything positive
22 or negative about the approval.

23 MR. SANGICOMO: The last it was used, it
24 was rented to a recycling company. The parcel that's
25 adjacent to where we are building is just actually an

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1 open field behind the building. Since I have been
2 with this company 32 years, it has never been
3 occupied.

4 MR. MIETZ: Right. Thank you. Anything
5 else? Good? Okay. Thank you.

6 MR. SANGICOMO: Thank you.

7 MR. MIETZ: Is there anyone in the
8 audience that would like to speak regarding this
9 application? Okay. There being none, then the public
10 hearing is closed.

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1 Application 4A-05-17. Application of Adam and
2 Catherine Towsley, owners of property located at 59
3 Cheswell Way, for an Area Variance from Section 205-2
4 to allow a front addition to extend 4 +/- ft. into the
5 40 ft. front setback required by code. All as
6 described on application and plans on file.

7 MR. CHAIT: Good evening, my name is Stew
8 Chait, Chait Studios, Architect, 21 Slate Drive, North
9 Chili. Along with me tonight is Adam and Cat Towsley,
10 owners of 59 Cheswell Way.

11 CHAIRPERSON MIETZ: Okay.

12 MR. CHAIT: The purpose of our request
13 tonight is to ask for a front area variance of
14 approximately 4 feet. The Towsley's existing house
15 was built in the early '50s. The front entry when you
16 open up, you automatically walk right into the dining
17 room. They have no entry foyer. Everything is very
18 compressed. The house, itself, is very land locked as
19 far as the front. Right now the front of the house is
20 at 40 and a half foot from the street lot line. The
21 side properties are right at plus or minus 8 feet, and
22 the rear is backed up to an existing in-ground
23 swimming pool. So as far as being able to add any
24 interior space, the house is land locked. To be able
25 to add on approximately 4 feet to the house would

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1 allow us to create an entry mudroom for them and to
2 add a small breakfast nook into the kitchen so we can
3 enlarge the kitchen. The kitchen itself is very small
4 and compact. It also allows us to increase the second
5 floor. The front dormer on the house is a false
6 dormer and allows us, in building this, to add a third
7 bedroom onto the house. It only has two bedrooms now.

8 MR. MIETZ: Okay.

9 MR. CHAIT: That's it. Pretty
10 straightforward.

11 CHAIRPERSON MIETZ: And then you have the
12 portico right there?

13 MR. CHAIT: We will add a small little
14 entry covering to it. Yes, as much as we are allowed
15 by code.

16 MR. DI STEFANO: Let's modify the variance
17 request to add that because that wouldn't meet code
18 since the house does not meet code. If the house met
19 the 40 foot setback requirement, then you could add up
20 to 6 feet out with like a portico or something like
21 that. Since this is going to be under a variance
22 anyways, you can't have that additional 2 feet without
23 requesting it.

24 MR. CHAIT: Okay.

25 MR. DI STEFANO: So if you could just

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1 modify the variance request for an additional two feet
2 to cover the entry.

3 MR. CHAIT: Okay.

4 MR. DI STEFANO: I need you to basically
5 say that.

6 MR. CHAIT: Then we want to modify our
7 variance request to add the additional two foot entry
8 covering so it's a total of six feet.

9 CHAIRPERSON MIETZ: Yes, that is correct.
10 It is two feet, is what you are telling me?

11 MR. CHAIT: Yes, I was under the
12 impression that we were allowed two foot overhangs
13 without a variance request. That's why it wasn't in
14 the original.

15 MR. MIETZ: I'm sorry, no. Any questions?

16 MS. TOMPKINS WRIGHT: So homes in the
17 neighborhood have done similar modifications and have
18 gotten closer to their setback non-conformities as
19 well --

20 MR. CHAIT: Yes.

21 MS. TOMPKINS WRIGHT: -- along the street?

22 MR. MIETZ: Everyone good? Yep, I think
23 that's it.

24 MR. CHAIT: Thank you.

25 MR. DI STEFANO: Just one quick thing,

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1 Stew. Have you gone to the Architectural Review Board
2 yet?

3 MR. CHAIT: We will apply for that later
4 so we can get into this next one. I didn't want to
5 apply early in case something came from this meeting.

6 MR. DI STEFANO: Great. Thank you.

7 MR. MIETZ: Is there anyone in the
8 audience that would like to speak regarding this
9 application? Okay. There being none, then the public
10 hearing is closed.

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1 Application 4A-06-17. Application of Kemal Omeragic,
2 owner of property located at 154 David Avenue, for an
3 Area Variance from Section 205-2 to allow for an
4 enclosed porch to extend 6 +/- ft. into the existing
5 29.1 ft. front setback where a 40 ft. front setback is
6 required by code. All as described on application and
7 plans on file.

8 MR. MIETZ: Good evening.

9 MS. OMERAGIC: Good evening, my name is
10 Azra Omeragic, and my husband is Kemal Omeragic. We
11 live on 154 David Avenue.

12 MR. MIETZ: Okay.

13 MS. OMERAGIC: We are here to ask you if
14 we can build -- actually, if we can enclose a porch.
15 We already have that porch, but we would like to
16 enclose it. And we know we are kind of close to our
17 street, but we have already that porch. And we are
18 trying to, if we can, to cover it. We already have
19 similar porch in our backyard. It is going to be
20 almost the same. Build the same like our house. The
21 same side and everything the same. And we are going
22 to make beautiful if we can. And I don't know. This
23 is our first time here.

24 MR. MIETZ: No worries. You are doing
25 fine. So what is the real purpose in enclosing it?

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1 MS. OMERAGIC: We have a very small
2 entrance from basement door. And only one person
3 can -- our house is kind of small. And we would like
4 to have a little bit of a bigger entrance. And when
5 you open the door, it is right there in our living
6 room. Our house is old. And we spend so much in
7 energy and gas. And we are not going to have heat in
8 that space. We are just going to have electricity.
9 And we are going to keep that space for just an
10 entrance and save on energy. And my husband has
11 arthritis. It is very hard for him to every time to
12 open the door if somebody is coming. And we were
13 trying to save money and to build that for years. If
14 we can, we would like to.

15 MS. SCHWARTZ: So it is just going to stay
16 a porch. You are not taking the wall down and making
17 it a part of the inside of the house. It is just
18 going to be a closed porch onto the front of the
19 house.

20 MS. OMERAGIC: Yes, it is going to be
21 attached to our house. And we are going to have a
22 door. And we are going to use the entrance to our
23 living room.

24 MS. SCHWARTZ: Okay.

25 MS. OMERAGIC: And we have also the same

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1 porch in our backyard of our house. We bought the
2 house 18 years ago. The same porch is in the back of
3 the yard. It is pretty much the same size it will be.
4 And we are not going to change any size. We are just
5 going to use the existing, what we have right now,
6 porch. We are just going to make it enclosed.

7 MR. MIETZ: What is it going to be
8 constructed out of?

9 MS. OMERAGIC: I don't understand the
10 question.

11 MR. MIETZ: Is it going to be closed with
12 the same materials that are on the house?

13 MS. OMERAGIC: Yes, it is going to be the
14 same on the house, same color, and --

15 MR. MIETZ: That's good enough.

16 MS. OMERAGIC: We are going to follow
17 whatever we have to follow, but we were thinking same
18 siding, same color, match everything the same.

19 MR. MIETZ: Okay. Very good.

20 MS. CORRADO: On the south side of the
21 enclosed porch, so as you are facing your home and
22 looking on the left side, will there be a window on
23 that wall or will that side be solid?

24 MS. OMERAGIC: Solid from the driveway
25 side. It will be a door, and window will be covered

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1 facing street -- two windows, actually. It will be
2 very beautiful.

3 MS. CORRADO: And then just to be certain
4 as I am looking at the sketch, it looks as though the
5 porch roof may obstruct the window on the second
6 floor.

7 MS. OMERAGIC: It is going to be under the
8 window.

9 MS. CORRADO: Okay.

10 MS. OMERAGIC: Yes, and the door -- the
11 entrance door will be facing our driveway. And
12 actually, you are going to see still from the street.
13 The door, you will be able to see from the street
14 because we are going to kind of stay in the same size
15 if we come to -- if we have door from our driveway
16 instead coming from the front.

17 MS. CORRADO: That makes sense. Thank
18 you.

19 CHAIRPERSON MIETZ: Go ahead.

20 MS. WATSON: She answered one of my
21 questions. Are you adding any additional foundation
22 around the structure of the deck or using just the
23 wood deck?

24 MS. OMERAGIC: No, it is going to be new
25 everything. Everything will be new like a house.

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1 MS. WATSON: Okay. And my only other
2 question was have you discussed this proposal with any
3 of the neighbors?

4 MS. OMERAGIC: Yes, everybody. Everybody
5 called me. And my two neighbors called me, and they
6 were okay with that. My right neighbor, she already
7 said if I -- if we have to do anything, she will be
8 here to say something. I mean, we don't have any
9 problem.

10 MS. WATSON: Thank you.

11 MR. MIETZ: Very good. Any other
12 questions?

13 MS. SCHWARTZ: Have you been to the
14 Architectural Review Board or are you going after this
15 meeting?

16 MS. OMERAGIC: We are going after this
17 meeting. This is our first time. We didn't know how
18 it was going to be actually.

19 MR. MIETZ: Okay. Well, you are doing
20 okay.

21 MS. OMERAGIC: Thank you.

22 MR. CLAPP: Are you planning to have an
23 architect to do plans before you construct?

24 MS. OMERAGIC: Yes. Yes.

25 MR. CLAPP: I'm learning too.

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1 MR. MIETZ: Okay. Any other questions?
2 Great. Thank you. Is there anyone in the audience
3 that would like to speak regarding this application?
4 Okay. There being none, then the public hearing is
5 closed.

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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 April 5, 2017, COMMENCING AT APPROXIMATELY 7:17
4 P.M.

5 April 5, 2017
6 Brighton Town Hall
7 2300 Elmwood Avenue
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRMAN
11 CHRISTINE CORRADO
12 JUDY SCHWARTZ
13 ANDREA TOMPKINS WRIGHT
14 JENNIFER WATSON
15 DOUGLAS CLAPP

16 DAVID DOLLINGER, ESQ.
17 Town Attorney

18 RICK DISTEFANO
19 Secretary

20
21
22
23 Reported By: BRIANA L. JEFFORDS
24 Edith Forbes Court Reporting
25 21 Woodcrest Drive
Batavia, New York 14020

1 Application 4A-01-17. Application of Rosie Foster,
 2 owner of property located at 1571 Monroe Avenue, for
 3 an Area Variance from Section 205-18A to allow
 4 driveway pavement to expand within 6ft. of a side lot
 5 line where a 10 ft. setback is required by code. All
 6 as described on application and plans on file.

7 Motion made by Mr. Clapp to approve
 8 Application 4A-01-17.

9 FINDINGS OF FACT:

- 10 1. The requested variance is not substantial,
 11 essentially, replacing what is mostly already an
 12 existing driveway and what is required for expanding
 13 for the proposed commercial use.
- 14 2. No other alternative can alleviate the difficulty
 15 and produce the desired result.
- 16 3. No unacceptable changes in the character of the
 17 neighborhood and no substantial detriment to nearby
 18 properties is expected to result from the approval of
 19 this variance because adjacent commercial properties
 20 have similar setbacks.
- 21 4. The alleged hardship was not self-created by the
 22 applicant.
- 23 5. The health, safety, and welfare of the community
 24 will not be adversely effected by the approval of this
 25 variance request.

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CONDITIONS:

- 1. The variance will apply only to the driveway expansion as shown on plans submitted and testimony given.
- 2. All necessary Planning Board approvals shall be obtained.

(Seconded by Ms. Schwartz.)
(Ms. Corrado, yes; Ms. Watson, yes;
Ms. Tompkins Wright, yes;
Mr. Clapp, yes; Ms. Schwartz, yes;
Mr. Mietz, yes.)
(Open roll call, motion to approve
with conditions carries.)

1 Application 4A-02-17. Application of Helen Blaszak,
2 owner of property located at 455 Bronx Drive, for an
3 Area Variance from Section 203-1.1B(3) to allow a
4 detached garage to be located in a front yard (after
5 joining two lots into one) in lieu of the side or rear
6 yard as required by code. All as described on
7 application and plans on file.

8 Motion made by Ms. Corrado to approve
9 Application 4A-02-17.

10 FINDINGS OF FACT:

- 11 1. The requested variance is not substantial as
12 citing the new garage on the proposed location on
13 combined lots does not create an unpleasant esthetic
14 or encroach on neighbors' views in any negative way.
- 15 2. No other alternative can alleviate the difficulty
16 and produce the desired result as the code compliant
17 location at the rear of the property will interfere
18 with the existing septic system.
- 19 3. No unacceptable change in the character of the
20 neighborhood and no substantial detriment to nearby
21 properties is expected to result from the approval as
22 the neighborhood is not densely developed; the area is
23 heavily wooded; and the property is surrounded by
24 county-owned park land.
- 25 4. The alleged hardship was self-created by the

1 applicant. However, in combining two adjacent lots
2 into one, the impact of the placement of the new
3 garage on the neighboring property is significantly
4 mitigated.

5 5. The health, safety, and welfare of the community
6 will not be adversely effected by the approval of the
7 variance request. In fact by permitting citing of the
8 garage in the requested location on the lot, the
9 property owners will be able to appropriately store
10 vehicles, lawn equipment, et cetera, out of the view
11 of neighbors.

12 CONDITIONS:

13 1. This variance will apply only to the structure
14 that was described in the application and testimony
15 given. In particular, it will not apply to additional
16 structures considered in the future that are not
17 included in the present application.

18 2. No utilities other than electric will be
19 installed.

20 3. All necessary town approvals and permits shall be
21 obtained.

22 (Seconded by Ms. Schwartz.)

23 (Ms. Corrado, yes; Ms. Watson, yes;

24 Ms. Tompkins Wright, yes;

25 Mr. Clapp, yes; Ms. Schwartz, yes;

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Mr. Mietz, yes.)
(Open roll call, motion to approve
with conditions carries.)

1 Application 4A-03-17. Application of Gregory and
2 Karen Moberg, owners of property located at 186
3 Ashbourne Road, for an Area Variance from Section
4 207-10A(2) to allow emergency egress window wells to
5 be 4+/- ft. from a side lot line in lieu of the
6 minimum 9.6 ft. required by code. All as described on
7 application and plans on file.

8 Motion made by Mr. Mietz to approve
9 Application 4A-03-17.

10 FINDINGS OF FACT:

11 1. In order to meet the building code for egress, the
12 owner is required to have 40 inch window wells that
13 protrude from the basement wall.

14 2. The proposed windows will be 4 feet from the side
15 lot line. The house, as built, was 8 feet from the
16 lot line and non-conforming.

17 3. No other means can alleviate the difficulty of
18 installing the window to meet the code.

19 4. No negative effect on the character of the
20 neighborhood will result since the window wells, as
21 constructed, will be marginally visible from the road
22 and the nearest property is approximately 64 feet
23 away.

24 CONDITIONS:

25 1. All building permits shall be obtained.

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2. This variance is based on the drawings as submitted and testimony given.

(Seconded by Ms. Corrado.)

(Ms. Corrado, yes; Ms. Watson, yes; Ms. Tompkins Wright, yes; Mr. Clapp, yes; Ms. Schwartz, yes; Mr. Mietz, yes.)

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

1 Application 4A-04-17. Application of Adam Frosino,
 2 McFarland Johnson Engineers, and Genesee Reserve
 3 Supply, Inc., owner of property located at 200
 4 Jefferson Road, for 1) an Area Variance from Section
 5 207-6B(1) to allow a 10,000 +/- sf storage facility to
 6 be located in a side yard in lieu of the rear yard as
 7 required by code; and 2) Area Variances from Section
 8 205-8 to allow said storage facility to have a front
 9 setback of 5 ft. in lieu of 100 ft. As required by
 10 code, and a side setback of 10 ft. In lieu of 50 ft.
 11 as required by code. All as described on application
 12 and plans on file.

13 Motion made by Ms. Schwartz to approve
 14 Application 4A-04-17.

15 FINDINGS OF FACT:

- 16 1. The proposed storage facility is replacing an
 17 existing smaller structure on the same location. The
 18 business is growing and a larger building is needed.
 19 This will allow more product to be stored inside.
- 20 2. The proposed structure is located adjacent to
 21 railroad track, faces Jefferson Road to be south, and
 22 is buffered by trees and brush to the east and west.
 23 Therefore, this proposed structure will not adversely
 24 impact the area although it is located in a side yard
 25 rather than a rear yard.

1 3. Due to the minimum 20 foot separation distance to
2 the nearest building per the fire code, this proposed
3 structure cannot extend any farther from the property
4 line.

5 4. The existing structure infringes on the minimum
6 setback requirement, but does not negatively impact
7 the area. This is the only place on the property for
8 the structure to be placed.

9 CONDITIONS:

10 1. This variance only applies to the storage facility
11 as presented in the application and testimony
12 presented.

13 2. All necessary permits and approvals must be
14 obtained.

15 (Seconded by Ms. Tompkins Wright.)

16 (Ms. Corrado, yes; Ms. Watson, yes;

17 Ms. Tompkins Wright, yes;

18 Mr. Clapp, yes; Ms. Schwartz, yes;

19 Mr. Mietz, yes.)

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

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1 Application 4A-05-17. Application of Adam and
 2 Catherine Towsley, owners of property located at 59
 3 Cheswell Way, for an Area Variance from Section 205-2
 4 to allow a front addition to extend 4 +/- ft. into the
 5 40 ft. front setback required by code. All as
 6 described on application and plans on file.

7 Motion made by Ms. Tompkins Wright to
 8 approve Application 4A-05-17, but for the
 9 area variance as modified per applicant's
 10 request to allow for a front addition to
 11 extend 6 feet into the 40 foot setback.

12 FINDINGS OF FACT:

13 1. The granting of the requested variance will not
 14 produce an undesirable change in the character of the
 15 neighborhood or be a detriment to nearby properties.
 16 Homes in this neighborhood are already inconsistent in
 17 appearance and several houses have made similar
 18 modifications such that this expansion to this home
 19 will not appear inconsistent.

20 2. The requested variance is not substantial. The
 21 encroachment into the setback is less than 6 feet or
 22 15 percent of the required setback.

23 3. The benefit sought by the applicant cannot be
 24 reasonably achieved by any other method. The
 25 applicant testified that the expansion is necessary to

1 create a functional entryway and enlarge the kitchen.
2 The only location to put such an expansion is in the
3 front yard.

4 4. There's no evidence that the proposed variance
5 will have an adverse effect or impact on the physical
6 or environmental conditions in the neighborhood or
7 district.

8 5. The difficulty in complying with the code, while
9 self-created, stems from the physical restraints of
10 the property and the age of the current home.

11 CONDITIONS:

12 1. The variance granted herein applies only to the
13 addition described in and in the location as depicted
14 on the application and in the testimony given.

15 2. All necessary approvals and permits shall be
16 obtained.

17 3. Two feet of this approved variance shall only
18 apply to the portico as depicted on the plans.

19 (Seconded by Ms. Schwartz.)
20 (Ms. Corrado, yes; Ms. Watson, yes;
21 Ms. Tompkins Wright, yes;
22 Mr. Clapp, yes; Ms. Schwartz, yes;
23 Mr. Mietz, yes.)

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

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1 Application 4A-06-17. Application of Kemal Omeragic,
2 owner of property located at 154 David Avenue, for an
3 Area Variance from Section 205-2 to allow for an
4 enclosed porch to extend 6 +/- ft. into the existing
5 29.1 ft. front setback where a 40 ft. front setback is
6 required by code. All as described on application and
7 plans on file.

8 Motion made by Ms. Schwartz to approve

9 Application 4A-06-17.

10 FINDINGS OF FACT:

11 1. The requested variance is not substantial because
12 the owners are enclosing a preexisting porch and not
13 setting the existing footprint further into the front
14 setback.

15 2. No other alternative can alleviate the difficulty
16 and produce the desired result.

17 3. No unacceptable change in the character of the
18 neighborhood and no substantial detriment to nearby
19 properties is expected to result from the approval of
20 this variance because most houses in the neighborhood
21 have smaller setbacks than that required by code.

22 4. The health, safety, and welfare of the community
23 shall be not be adversely effected by the approval of
24 this variance requested because other houses in the
25 neighborhood are also not in current compliance with

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the code.

CONDITIONS:

- 1. This variance will apply only to the enclosure of the current porch as described on the application and in testimony given. In particular, it will not apply to additional structures considered in the future that are not included in the present application.
- 2. The enclosure will be of a similar and complimentary style to the rest of the house.
- 3. All necessary town approvals and permits shall be obtained.

(Seconded by Ms. Schwartz.)
 (Ms. Corrado, yes; Ms. Watson, yes;
 Ms. Tompkins Wright, yes;
 Mr. Clapp, yes; Ms. Schwartz, yes;
 Mr. Mietz, yes.)
 (Open roll call, motion to approve
 with conditions carries.)

1 Application 1A-04-17. Application of Chef's
2 Cater-All, LLC, contract vendee, and 745 Penfield
3 Road, LLC, owner of property located at 745 Penfield
4 Road seeking appeals of portions of the Town Planner's
5 letter dated December 2, 2016, an interpretation that
6 intended uses at the property are legal nonconforming
7 uses, and an appeal from the Town Planner's Accusation
8 of Violation dated December 7, 2016, all pursuant to
9 Section 219-2A. All as described on application and
10 plans on file.

11 Motion made by Mr. Mietz to affirm a
12 portion and deny a portion of Application 1A-04-17
13 as follows:

14 There is insufficient evidence provided
15 by the Applicant to establish that certain aspects of
16 Applicant's proposed use are consistent with the
17 lawful preexisting nonconforming use and, therefore,
18 certain of those uses proposed in Applicant's proposed
19 use are not an allowed lawful preexisting
20 nonconforming use.

21 The proposed expansion of the facility
22 and the expansion of the mechanical infrastructure in
23 support of a substantially different qualitative use,
24 namely, bulk production and delivery of food products,
25 is an unlawful expansion of the lawful preexisting

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1 nonconforming use based on the following findings of
2 fact:

3 1. That the lawful preexisting nonconforming use of
4 the property at 745 Penfield Road in the town of
5 Brighton, New York, is as a small grocery facility
6 with the sale of various grocery items, food stuffs,
7 and sundries with the ancillary use of the "baking and
8 sale of bread" and sale of deli products. (The
9 "Lawful Use") the lawful use is outlined in the
10 stipulation dated April 1985 (the "Stipulation") as
11 supplemented by the letter from Gary Shirley dated
12 January 18, 1989 (the "Shirley letter").

13 2. That Section 225-18 of the Brighton Town Code
14 expressly provides that it shall be the responsibility
15 of the owner of record to prove that the activity or
16 condition proposed is a lawful preexisting
17 nonconforming use.

18 3. There is insufficient evidence presented that the
19 lawful use included off-site delivery of food
20 products. And therefore to the extent that any aspect
21 of the proposed use includes off-site delivery of food
22 products, such use is not an allowed lawful
23 preexisting nonconforming use. In fact, the Shirley
24 Letter specifies and discusses the types of goods that
25 can be sold "over the counter" and the Stipulation

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1 states that "all such goods and products as are now
2 sold are offered for sale at the premises."

3 4. There is insufficient evidence presented that the
4 lawful use included consumption of food on the
5 premises. And to the extent that Applicant's proposed
6 use includes consumption of food or food stuffs at the
7 premises, that use is not an allowed lawful
8 preexisting nonconforming use.

9 5. The Applicant's proposed use has morphed through
10 various iterations. In essence, the most recent
11 iteration proposes a "deli, bakery, carry-out, and
12 food preparation use." To the extent that the use
13 incorporates delivery as noted before, that use is not
14 a lawful preexisting use. There is evidence
15 presented, including the Stipulation and the Shirley
16 Letter, that support a finding that there is an
17 existing lawful preexisting ancillary use as a bakery.
18 The primary use was not a bakery. However, there is
19 evidence that a bakery was an ancillary use and,
20 therefore, a lawful preexisting use.

21 6. There is evidence presented, including the
22 Stipulation and Shirley Letter, that support a finding
23 that there is an existing lawful preexisting ancillary
24 use as a deli. The primary use was not a deli.
25 However, there is evidence that a deli was an

1 ancillary use and, therefore, a lawful preexisting
2 use.

3 7. The Applicant has presented insufficient evidence
4 that the lawful use included bulk food preparation for
5 catering, bulk sale, or delivery off the premises.
6 And therefore to the extent that the proposed use
7 includes bulk food preparation for catering, sale, or
8 delivery off the premises, that use is not an allowed
9 lawful preexisting nonconforming use.

10 8. The Applicant has provided insufficient factual
11 information or evidence supporting a contention that
12 the lawful use included seating for consumption of
13 food on the premises. And therefore to the extent
14 that seating for consumption of food on the premises
15 is included in the Applicant's proposed use, that use
16 is not a lawful preexisting nonconforming use.

17 9. The Applicant's proposal includes a complete
18 expanded "commercial" kitchen requiring a 24-foot
19 exhaust hood. The proposed use to the extent that it
20 requires a "commercial" kitchen is an unlawful
21 expansion of the preexisting nonconforming use. The
22 expansion to a commercial kitchen provides a
23 qualitative change in the ancillary deli use. There
24 is no evidence that the products and the volumes of
25 products produced at this location as part of the

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1 lawful use required a "commercial" kitchen. A typical
2 deli use in this community does not require a
3 "commercial" kitchen, and the installation of a
4 "commercial" kitchen is not contemplated nor apparent
5 from analyzing the lawful use as set forth in the
6 Shirley Letter and the Stipulation and is therefore
7 not a lawful preexisting nonconforming use.

8 The Board finds that the configuration size of
9 the existing equipment on the premises including:

- 10 1. Convection oven of the size and
11 configuration of the existing convection
12 oven;
- 13 2. One four burner stove the size and
14 configuration of the existing four burner
15 stove;
- 16 3. One commercial deep fryer the size and
17 configuration of the existing deep fryer;
- 18 4. One flat top griddle the size and
19 configuration of the existing flat top
20 griddle;
- 21 5. One four-door cooler the size and
22 configuration of the existing four-door
23 cooler;
- 24 6. Three two-door coolers the size and
25 configuration of the existing two-door

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coolers;

7. Two chest freezers the size and configuration of the existing two chest freezers; and

8. One six foot sandwich unit the size and configuration of the existing six foot sandwich unit;

does not constitute a commercial kitchen inconsistent with the lawful use. However, expansion or enlargement of the kitchen equipment noted above would constitute an unlawful expansion of the lawful use.

A ventilation hood sufficient to provide reasonable fire safety to cover the above referenced items, if appropriately sized, would not be an expansion of the lawful use.

10. A qualitative change in the volume and/or variety of food stuffs and food sold at the premises may result in a change in use that is not consistent with the prior lawful nonconforming use to the extent that any future use becomes substantially limited in the variety of products sold and inconsistent with the multifaceted use of the premises as a combination grocery, bakery, deli, then such use would constitute a use inconsistent with the "lawful use."

(Seconded by Ms. Tompkins Wright.)

1 (Ms. Watson, yes; Mr. Clapp, yes;
2 Ms. Dale, yes; Ms. Tompkins Wright, yes;
3 Ms. Schwartz, no; Mr. Mietz, yes.)
4 (Open roll call, motion to interpret as
5 per the findings of fact carries.)
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1 Application 2A-02-17. Application of Geoff and Karen
2 Barrow, 1 Colonial Village Road, Thomas and Nancy
3 Christopher, 44 Colonial Village Road, and Charles and
4 Barbara Cote, 40 Colonial Village Road, with an
5 appeal, pursuant to Section 219-5, in disagreement of
6 part of the Town Planner's decision, interpretation
7 and determination, dated December 2, 2016, responding
8 to the inquiry of Chef's Cater-All, LLC and Penfield
9 Rd, LLC, as to whether certain proposed uses were
10 legal and allowable as preexisting nonconforming uses
11 at 745 Penfield Road. All as described on application
12 and plans on file.

13 Motion made by Ms. Tompkins Wright to move
14 that the Town Planner's decision, interpretation, and
15 determination dated December 2nd, 2016, is affirmed in
16 part and overturned in part and modified as follows:

17 The Town Planner's determination in paragraph
18 three that the foods described in the category of food
19 preparation use are consistent with prior uses is
20 modified to state that the Town Planner's
21 determination in paragraph three that foods described
22 in the category of food preparation use are consistent
23 with the prior use so long as the sale of those
24 products are sold or offered for sale at the premises
25 or over the counter and so long as those uses are

1 consistent with the "lawful use" as defined in that
2 certain resolution of application number 1A-04-17
3 based on the findings of fact in said resolution.

4 (Seconded by Ms. Watson.)
5 (Ms. Watson, yes; Mr. Clapp, yes;
6 Ms. Dale, yes; Ms. Tompkins Wright, yes;
7 Ms. Schwartz, no; Mr. Mietz, yes.)
8 (Open roll call, motion to approve in part,
9 and overturn in part, and modify the
10 Applicant's request carries.)
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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