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Brighton Zoning Board of Appeals 7/5/17

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON JULY 5TH, 2017 AT
APPROXIMATELY 7:15 P.M.

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

PRESENT:

DENNIS MIETZ, Chairperson
JUDY SCHWARTZ
DOUGLAS CLAPP
JEANNE DALE
CHRISTINE CORRADO
JENNIFER WATSON
ANDREA TOMPKINS WRIGHT

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

REPORTED BY: RHODA COLLINS, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

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3 MR. MIETZ: Good evening. I'd like to call to
4 order the July session of the Zoning Board of Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman, it was
7 advertised in the Brighton-Pittsford Post of June 29, 2017.

8 CHAIRPERSON MIETZ: Okay. Will you please
9 call the roll.

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

12 MR. MIETZ: Okay. So we have the minutes from
13 the May meeting to go over, Judy?

14 MS. SCHWARTZ: On Page 32, Line 15, put the
15 word thing, t-h-i-n-g, after the word similar.

16 Page 37, Line 24, the third word is through.

17 Page 45, Line 20, delete the word the.

18 Page 56, Line 23, delete the first two words
19 and it, and then after the word this, insert the word as.

20 Page 58, Line 18, insert the word be after
21 not, third word.

22 Page 59, Line 15, second word should be by not
23 of.

24 Page 60, Line 12, delete added to the
25 building.

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3 MR. MIETZ: Anybody else? Okay, need a
4 motion.

5 MR. DiSTEFANO: Motion to approve with
6 corrections.

7 MS. CORRADO: I'll motion.

8 (Second by Mr. Clapp.)

9 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
10 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes; Ms.
11 Tomkins Wright, yes.)

12 (Upon roll call, motion to approve with
13 corrections carries.)

14 MR. MIETZ: Okay. Let's read the first
15 application

16 APPLICATION 7A-01-17.

17 7A-01-17 Application of William H. Harvey,
18 applicant, and William J. Harvey, owner of property located
19 at 1820 South Clinton Avenue, for a Temporary and revocable
20 Use Permit pursuant to Section 219-4 to allow for the
21 operation of a food cart selling to the general public for a
22 period of two months (7/5/17-9/5/17) where not allowed by
23 code. All as described on application and plans on file.

24 MR. MIETZ: Gentlemen.

25 WILLIAM H. HARVEY: Good evening, my name is

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3 William Harvey, I'm 17 years old and I'm a senior at McQuaid
4 Jesuit High School. Before I begin I'd like to pass out a
5 location, birds-eye view of where the hot dog cart would be
6 located if we were granted the temporary revocable use
7 permit. Permission to approach.

8 MR. MIETZ: Yes, please.

9 WILLIAM HARVEY: The reason we are here is to
10 request a temporary and revocable use permit for use at
11 1820 South Clinton Avenue. Our project is to operate my
12 brother's and my small business, Harvey's Hots, a hot dog
13 pushcart at the designated location from July 5th to
14 September 5th, Monday through Friday, 11:00 a.m. to 3:00 p.m.

15 In ordered to operate the cart we have
16 acquired our food handler safety permits from the County of
17 Monroe. We have registered the cart with Monroe County. And
18 if we are granted the permit we will get the cart reinspected
19 at the County of Monroe for the summer 2017 season.

20 Harvey's Hots was established in the summer of
21 2017, and we have provided catering and hot dog sales to
22 numerous graduation parties, sports camps, charity dinners --
23 including McQuaid Jesuit's Building a Scholastic Heritage --
24 and festivals. We meet Monroe County standard for food
25 pushcarts and food vending sales.

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3 Are there any questions that you would like me
4 to address?

5 MS. CORRADO: Yes, I have a couple of them for
6 you. Can you tell us where the food cart will be stored when
7 it's not in use?

8 WILLIAM H. HARVEY: Yes. It is actually a
9 trailer. So we actually bring the cart home and clean it up
10 every single night after the operation is done.

11 MS. CORRADO: Great. And when you have it on
12 site and at this proposed site, how do you intend to draw
13 customers to you, other than the great smell of hot dogs?

14 WILLIAM H. HARVEY: Actually the cart has two
15 umbrellas, which are required from the City of Rochester
16 because of rain and other things. But that does do a pretty
17 good job in advertising. It's kind of pretty loud colors and
18 they say Zweigles Hot Dogs on them.

19 MS. CORRADO: Will there be anything like
20 sound, music piped out to capture attention, anything like
21 that?

22 WILLIAM H. HARVEY: No, I don't believe so,
23 because -- I mean, if the propane tank makes a sound then
24 that's probably not a good thing, but other than that it's
25 pretty silent.

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3 MS. CORRADO: What kind of traffic do you
4 expect to draw?

5 WILLIAM H. HARVEY: Well, actually we operated
6 it for ParkWest Woman's Health customer appreciation day and
7 we had people who were pulling into the McQuaid parking lot.
8 And we also have permission from the administration at
9 McQuaid to use the parking lot in case of overflow.

10 But because we were only selling to the
11 customers, the people we had to turn away. They were pulling
12 into the McQuaid parking lot with no problem.

13 MS. CORRADO: How about your menu, you have
14 hot dogs, beverages, anything else?

15 WILLIAM H. HARVEY: So we sell primarily
16 Zweigles. We sell Zweigles Texas red hot skinless and white
17 pop-open. We also sell Coca-Cola products like Coke, Diet
18 Coke, Sprite and water, and we also sell Gatorade. We also
19 sell assorted Lay's Chips, Pringles, Fritos, Doritos Cool
20 Ranch, Doritos, Lay's.

21 MS. CORRADO: I'm very hungry. And what about
22 your plans for controlling for paper waste, clean up around
23 the sites, things like that.

24 WILLIAM H. HARVEY: We actually include two
25 garbage cans when we are on site, a recycling garbage can and

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3 a trash garbage can. And we dispose of them at a commissary,
4 which is the Harro East in the City of Rochester.

5 MS. CORRADO: Thank you.

6 MR. MIETZ: For the record, can you discuss
7 why you picked this specific location and what the
8 relationship there is?

9 WILLIAM H. HARVEY: Of course. Well, I
10 believe there is a need for a fast and affordable lunch in
11 the Town of Brighton. Especially with McQuaid's addition of
12 the STEM Research Center there are 30-plus workers on site at
13 all times and they only have a half hour lunch break. So
14 instead of driving five minutes to a neighboring place they
15 can walk 100 yards and receive a fast and affordable lunch.

16 Also, there are 40-plus camps and event held
17 at McQuaid each summer. Most of them are sports camps, and
18 for the kids who do not have a ride or their parents have
19 jobs and pick them up a little bit later, they are extremely
20 hungry after their sports camp. So I believe there is a need
21 for this kind of lunch in the Town of Brighton.

22 MR. MIETZ: How about specifically the
23 location, physically.

24 WILLIAM H. HARVEY: The location, 1820 South
25 Clinton Avenue is actually owned by ParkWest Women's Health.

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3 I believe it has a reasonable view to the public and South
4 Clinton Avenue is a fairly busy street. So I believe that
5 will get more public outreach as selling hot dogs.

6 MS. THOMPCKINS-WRIGHT: The majority of your
7 customers, are you anticipating that they're going to be
8 customers that are driving by or are they going to be walking
9 from nearby businesses?

10 WILLIAM H. HARVEY: Hopefully both. When we
11 were operating for the customer appreciation day, we did have
12 a number of customers drive in and park in the McQuaid Jesuit
13 parking lot. But most of the customers will probably be
14 coming from neighboring office buildings, potentially
15 walking, and from the McQuaid sports camps or academic camps.

16 MS. THOMPCKINS-WRIGHT: And what are the times
17 that you're anticipating operating?

18 WILLIAM H. HARVEY: 11:00 a.m. to 3:00 p.m.,
19 Monday through Friday, with weather permitting.

20 MS. THOMPCKINS-WRIGHT: Do you think you'll
21 have -- you're not going to have any music or large signs or
22 anything, but do you think you'll end up advertising on
23 things like social media, Twitter, Instagram?

24 WILLIAM H. HARVEY: We do have an Instagram
25 account, but that's the extent of our advertising. We

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3 haven't really reached out to newspapers or -- we do have a
4 flag that says hot dogs, but due to the Town of Brighton's
5 advertising rules we would not put it up. It's mostly just
6 graduation parties or charity events we use it.

7 MR. MIETZ: I presume you've negotiated a
8 lease with or some type of an arraignment with the building
9 owner, which we understand who that is. We can presume that
10 that's been resolved?

11 WILLIAM H. HARVEY: Yes, he pays my rent.

12 MR. MIETZ: He pays your tuition too.

13 WILLIAM H. HARVEY: Exactly.

14 MR. MIETZ: So do we have any other questions?

15 MR. CLAPP: I noticed a letter from McQuaid,
16 are there any letter of application from the corporation
17 itself, Women's Health, other than knowing -- I'm assuming
18 the relationship is a father/son relationship; is that
19 correct?

20 WILLIAM H. HARVEY: I could the have the owner
21 of ParkWest Women's Health come up and say it verbally if you
22 wish.

23 MR. CLAPP: For the record I'm --

24 MR. MIETZ: We can discuss it, but for the
25 record it would be nice, if we understand who is behind it

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3 here, who is agreeing to allow you to put this device on
4 their property.

5 WILLIAM H. HARVEY: So would you like me to
6 call him to the stand?

7 MR. MIETZ: Yes, that would be good.

8 WILLIAM J. HARVEY: Good evening, I'm William
9 J. Harvey, one of the physicians that own the property at
10 1820 South Clinton. In fact, one of my partners is also here
11 tonight on a different application, and we discussed this at
12 our board meeting and have the unanimous support. Not just
13 from the physicians but also the staff were very excited
14 about the prospect of having the opportunity to have hot
15 dogs. And I do get a free hot dog.

16 MR. MIETZ: Sounds like a good lease deal to
17 me.

18 WILLIAM J. HARVEY: Thank you.

19 MR. MIETZ: Is there any other questions?

20 MR. CLAPP: William J. is actually on the
21 application.

22 MS. SCHWARTZ: William H. is the applicant,
23 William J. is the owner.

24 MR. CLAPP: Okay.

25 MR. MIETZ: Okay, sir, thank you.

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WILLIAM J. HARVEY: Thank you very much.

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

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MAXIN HARVEY: Hello. My name is Maxin (phonetic) Harvey and I'm 17 years old and I'm going into my junior year at Chesterton Academy. Also, I'm an immigrant from the Ukraine. Two and a half years ago I came to the United States and joined the Harvey family as a new family member.

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I also grown up in the Harvey house with my brother, Will. This hot dog cart gave me an opportunity to work in the United States and hopefully in the Town of Brighton. Thank you.

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MR. MIETZ: Thank you.
Is there anyone else that would like to speak regarding this application? Okay, other than that the Public Hearing is closed.

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APPLICATION 7A-02-17.

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7A-02-17 Application of Jeffrey and Jessica Mattice, owners of property located at 137 Park Circle East, for an Area Variance from Section 207-16A(4) to allow for a second driveway access point where only one is allowed by

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3 code. All as described on application and plans on file.

4 JEFFREY MATTICE: Good evening, we're here
5 because of --

6 MR. MIETZ: Can you say just for the record
7 your name and address.

8 JEFFREY MATTICE: Sorry. I am Jeffrey
9 Mattice, 137 Park Circle.

10 JESSICA MATTICE: I'm Jessica Mattice.

11 JEFFREY MATTICE: We are here to get a
12 variance to the code that only allows one driveway cut per
13 property in the Town of Brighton. I had originally wanted to
14 put in a second driveway cut and I did call the Town of
15 Brighton and asked them about doing so. I was told to call
16 the highway department, apparently you cannot pave more than
17 30 percent of your front yard. I spoke to the highway
18 department and they gave me that information. And I then
19 called my driveway contractor who came out, looked at the
20 location, I asked if he had a blanket permit, he said he did
21 for the Town of Brighton. I asked him if there was anything
22 else I had to do and he advised me no.

23 I believed I had done my due diligence by
24 calling the Town of Brighton and the highway department.
25 After it was paved, I was sent a letter telling me that I was

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3 in violation of the code. I called Brighton immediately
4 realizing that apparently I had not done my total due
5 diligence and applied for the variance and now we are here.

6 MR. MIETZ: Okay. Can you discuss what you
7 did related to the neighbors and what not?

8 JEFFREY MATTICE: We -- there's a couple --
9 our street is a very small street, it's a dead end street,
10 it's not a full --

11 MR. MIETZ: We are familiar with it.

12 JEFFREY MATTICE: So we contacted all of our
13 neighbors, we'd gotten permission from them before I called
14 the driveway contractor because if any of my immediate
15 neighbors had any objection to the second driveway,
16 especially the neighbor that is closest to the driveway, we
17 would not have done so whether there was a variance required
18 or not. But we are very cognizant of the feelings of our
19 close neighbors being that it's such a small and isolated
20 street.

21 So we had spoken to all of them prior to doing
22 it, and then when we found that we were in violation of the
23 code, we got a letter from each of the adjoining properties
24 asking them if they had any objection to the driveway. At
25 this point we'd just got it signed and in writing instead of

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3 verbally like we had done beforehand. And they all signed on
4 and did not object to the driveway as it was placed.

5 MS. DALE: Can you talk a little bit about why
6 you wanted to have the extra space? It looked like you have
7 a beautiful garage and a really nice long, newly paved
8 driveway.

9 JEFFREY MATTICE: There's several issues with
10 the property, so if I can address them one at a time.
11 Originally where our existing driveway is the landscaping of
12 the property comes down at an angle into it, and there is the
13 main water main right there. So we would have just extended
14 the single cut for a second car parking there, but on the
15 advice of the contractor, he said it would have had to of
16 been cut down so far and then a retaining wall put in to make
17 a parking space and the main water service would have had to
18 have been cut and lowered and then paved over.

19 So then our house is older, it's 1920s. If
20 there were ever any problems with the water service, which I
21 have had problems with another property that we have, we
22 would have had to have ripped out the entire driveway to do
23 the water service. So on my own thinking and at the advice
24 of the driveway contractor, we didn't put it in there.

25 MS. DALE: So was it that you have too many

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3 vehicles? Or do you have more vehicles than you can --

4 JEFFREY MATTICE: Well, the second problem is
5 the property that we share with the neighbor on the
6 right-hand side, they have a line of pine trees. However,
7 the property line for their property extends past the pine
8 trees. And when we originally had it, the growth of their
9 pine trees inhibits them from accessing their backyard.

10 So we have an agreement with them that they
11 can use the driveway at any time to access into their
12 backyard, because on the other side of their house it is a
13 retaining wall and they have no access. So if we don't park
14 our cars all the way back and allow a car length at the end
15 of the driveway, then the neighbors had no access for their
16 landscaping company, their cars, to get into their backyard.

17 So when we would line them up in a line it was
18 a constant once or twice a week the neighbors requesting that
19 we move the cars so that they have access. So we tried to
20 make a system where that they didn't feel that they needed
21 to -- it was unfortunate for them to have to ask what was in
22 agreement.

23 And our 18-year old now has her own car, she
24 also has friends, so the parking arraignment became
25 difficult. And then the third issue is on the front of our

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3 street, since it's a one-lane street, when her girlfriends or
4 her friends will park along the road in the grass like many
5 others do, there are four -- three now elderly gentlemen that
6 live across the street. So before we got the driveway done
7 one of the main reasons why we got it installed was the
8 gentleman, when he goes to work in the morning he backs out
9 of his driveway and the cars were there. So he complained to
10 us that he was unable to back out of his driveway and then
11 pull forward because of the cars that we parked along the
12 street behind him.

13 So with all those other issues that I have,
14 the only thing that I can come up with, with first gaining
15 permission of the gentleman whose driveway is right next to
16 the second cut, was to put it over there and away so that
17 each and every one of the issues that I had with the property
18 access and neighbor complainants was addressed.

19 MS. DALE: So it's not a huge area where
20 the -- that you're talking about. It's not that big. Looks
21 like there's a camper or something, not a big one but --

22 JEFFREY MATTICE: No. We had to put that
23 there because we just got the driveway sealed. That's only
24 there because the driveway's sealed. That goes all the way
25 back down, that goes along the garage, that's where that's

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3 constantly stored. But we had to put everything out front
4 because over the holiday weekend we were gone and they sealed
5 the driveway.

6 MS. DALE: Okay. Just one more question. So
7 across the street, is a sedan that -- is that your neighbor's
8 across the street in the tall grass?

9 JEFFREY MATTICE: That was -- we fully
10 understand we didn't go to code, but we have several
11 neighbors and there's several people up on Crittenden and we
12 didn't want to be the house in the neighborhood that was
13 parking cars in a mud pit on the grass.

14 MS. DALE: Yeah.

15 JEFFREY MATTICE: Because their car, I think
16 it no longer works and it's in their yard.

17 MS. DALE: I just didn't know maybe that was
18 yours and now that this is done, you could move it back.

19 JEFFREY MATTICE: Oh, no.

20 JESSICA MATTICE: It's not ours.

21 MS. DALE: Okay. I was hoping that that would
22 be moved.

23 JEFFREY MATTICE: Those gentlemen are all
24 retired and they do everything they can to maintain the
25 property. We don't have any problem with anything they do

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3 because it's --

4 JESSICA MATTICE: They're dealing with their
5 own stuff now.

6 MR. MIETZ: Any other questions?

7 MS. SCHWARTZ: Yes. When I drove by, I
8 stopped. There was a car in the driveway, there was a car in
9 the grass next to it. Is this one, well, or maybe one and a
10 half lengths going to be enough for you really?

11 JEFFREY MATTICE: On the short driveway?

12 MS. SCHWARTZ: Uh-huh.

13 JEFFREY MATTICE: With the way the driveway
14 is, my -- if we pull up, one car goes diagonal in front of
15 the garage, one car goes as far close to the camper, and then
16 my neighbors have access into their backyard. My daughter
17 parks on the side, and then we made so that if she puts the
18 nose of her car a little bit over then her friends can park
19 behind her. So we have all cars on pavement and they are
20 completely removed from the neighbor's backing up into the
21 cars. That's why I was very, very carefully in getting the
22 neighbors who the second cut is next to, his permission
23 before I moved forward with anything because that effected
24 him the most.

25 MR. MIETZ: Would it be fair to say though

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3 that when you designed this you were trying to respect the
4 30 percent rule, but also that you made it at a minimum of
5 what you needed to be able to accomplish this, to be able to
6 have a reasonable ability to park your cars.

7 JEFFREY MATTICE: The absolute minimum that we
8 could do to -- yes.

9 MR. MIETZ: Okay. That's good. Any other
10 questions?

11 MR. CLAPP: With the new short driveway, the
12 space between it and the adjoining property line is that
13 within the five feet, is that within code?

14 MR. DiSTEFANO: Yes, a minimum of four feet is
15 required.

16 MR. CLAPP: Okay, thanks.

17 MR. DiSTEFANO: So just for the record, can we
18 be assured that that driveway cannot be extended or connected
19 to the existing driveway or anything like that?

20 JEFFREY MATTICE: Oh, absolutely not.

21 MR. DiSTEFANO: Okay. Thank you.

22 MR. MIETZ: Any other questions? Okay. Thank
23 you very much.

24 Is there anyone in the audience that would
25 like to speak regarding this application? There being none,

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3 this public hearing is closed.

4 APPLICATION 7A-03-17.

5 7A-03-17 Application of James Cerone, owner of
6 property located at 2960 East Avenue, for an Area Variance
7 from Section 207-10E(2) to allow front yard pavement to total
8 32.6 percent of the front yard area in lieu of the maximum 30
9 percent allowed by code. All as described on application and
10 plans on file.

11 JAMES CERONE: Good evening, everyone. My
12 name is James Cerone and this is my wife, Sharon Bidwell
13 Cerone. I want to thank you for your time and listening to
14 us. We are making a request again, around the 30 percent
15 rule. Currently under the 30 percent rule we are granted a
16 4,069-square-foot surface area in front of the house and we
17 are requesting that that goes to 32.6 percent, which is the
18 minimum we feel will give us adequacy and safety of people
19 entering the property, including not only visitors, but also
20 the post office, deliveries and people who choose to use our
21 yard as a turnaround.

22 The additional square feet would be 353 square
23 feet. So that would take us from 4,069 square feet to
24 4,422 square feet. The basic reason is we didn't understand
25 the reason, with safety, when the original 30 percent rule

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3 that we agreed to. In doing some landscape design we were
4 recommended by our architect we're working with for
5 landscaping recommended that we consider coming to the Board
6 here in order to get enough space, where if one car was
7 parked in the driveway, another car could pass, make a turn
8 on the loop and enter and exit East Avenue frontal, so they
9 would not have to back up onto East Avenue.

10 East Avenue is posted at 40 miles per hour.
11 We are at the bottom of a hill and oftentimes people go by at
12 50 miles an hour. It's really a safety hazard to try to back
13 up on East Avenue. Listening to the news a few months ago,
14 someone did try to back up onto East Avenue causing a serious
15 accident. I'm not familiar with the person, I've heard it on
16 the news. And we really didn't realize that when we
17 submitted the plan as far as how this would work out when we
18 lay it out.

19 So, again, the request is for 353 square feet.
20 We will adhere to all of the other provisions that we got
21 approval for last year. I'd like to point out also that the
22 state owns and maintains East Avenue. They have jurisdiction
23 over the number of curb cuts. If we could have gotten them
24 to approve to curb cuts, we would not be here today because
25 that would have solved our problems.

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3 But it's interesting to note, one of the rules
4 they had is that you can only have a 14-foot-wide driveway.
5 That is flat surface on the curb from East Avenue onto the
6 property, which has turned out to be inadequate. You can't
7 turn a 17-foot car staying on the outside lane and making a
8 turn without either hitting the front curb or the back curb.
9 The tendency is to go into the inside lane in order to make
10 the curb turn into the driveway.

11 I presented this to the state and told them
12 the reasons why. I worked with our engineer, that 14 feet
13 isn't going to do it. You can't make the turn. The tendency
14 is to cause, be in a hazardous position by wanting to go into
15 the inside lane. They approved the request to go to 18 feet
16 on the surface. Now, the reason for the request, it made
17 sense to safety. People did not challenge the road, that the
18 rules on East Avenue since this new rule went into effect,
19 because there haven't been many new driveways, certainly in
20 the section of East Avenue that we are in.

21 I did a survey of the block that we are on.
22 The average curb cut was 19 and a half feet. This was
23 presented to them and we felt 18 feet would be adequate to
24 safely make that turn, they approved it. With that
25 information we were prepared, my wife and I, to submit an

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3 application to extend the 18-foot wide driveway around the
4 surface of the property. That would give what we felt was
5 adequate at the time, but felt that it may be a little bit
6 too much for an easy decision, hopefully, for you to approve
7 the additional 353 feet.

8 So we were ready to submit the application in
9 May for the June meeting. And in talking with Mr. DiStefano,
10 he suggested that we revisit that to make sure we requested
11 the minimum amount needed in order to safely make that turn
12 in the driveway. After consideration, we went -- our
13 original thought was 18, we took it down to 16 feet. That
14 16 feet, average width of cars, about 7 feet. Two cars in
15 the driveway is 14, a couple of feet between two cars and a
16 little bit on the side, especially since mirrors today seem
17 to extend a foot beyond the side of the car, we felt that was
18 adequate.

19 So we never submitted the application for
20 18-foot wide driveway, which would have brought it up to
21 35.6 percent. We submitted it last month, June, for
22 tonight's meeting and I think it is the minimum reasonable.
23 I did survey the average width of driveways on East Avenue
24 and I found that it ranged anywhere from 14 feet to 30 feet
25 in some instances, once you got to the property. That's how

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3 wide it is. And all of the other driveways were put in on
4 that block prior to the new rule going into effect. That's
5 the 30 percent rule.

6 It is interesting on the block that we are in,
7 from Elmwood Avenue to Golfside, there are 17 units, whether
8 they're single homes or condos, of those 17 families, 14 of
9 them have double curb cuts. In other words, they can drive
10 in one way and drive out the other way heading first, 14 of
11 the 17. The other three people, including the house that we
12 are in, have substantially wider driveways to make the turn.

13 So it's well within what is the neighborhood,
14 as far as the averages, the size, the width of the
15 neighborhood, so our request is in keeping with the
16 neighborhood and the average driveways within our block.

17 That's all that I have to add, and if you have
18 any questions I'd be glad to answer them.

19 Sharon, do you have anything you would like to
20 add?

21 And, again, I thank you for your time.

22 MR. MIETZ: Okay. Questions?

23 MS. DALE: Yes. So your concern is that you
24 want to be able to have multiple guests parked in this loop
25 in your front yard and your concern is that there will be

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3 enough space to allow some of the cars to pass each other in
4 their exit?

5 JAMES CERONE: Yes. The block that we are on,
6 the state does not allow any parking. So very often, like
7 yesterday, someone pulls into the driveway and parks on one
8 side, and inevitably another car will come and they are able
9 to freely pass, make the circle and exit our house going nose
10 first or driving out of the property. So we would like to
11 have the ability to have one car parked and another car be
12 able to tightly, but make a safe circle around the loop and
13 so they can drive out onto East Avenue, so they don't even
14 think about the need to back up onto East Avenue.

15 MS. DALE: Yeah. I mean, the trouble I have
16 as I look at the diagram and it looks like your entire front
17 yard is driveway.

18 JAMES CERONE: That's within the 30 percent
19 rule, we are just asking for 353 feet.

20 MS. DALE: Yeah. It seems like the whole --
21 maybe in this case I wouldn't be inclined to give more
22 because it looks like your whole yard is driveway.

23 SHARON CERONE: I appreciate that concern. We
24 have hired A landscape architect to make the front yard as
25 attractive as possible to ameliorate any possible negatives

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3 that would be associated with -- while 30 percent is
4 significant of itself, I suppose you might say, but
5 ameliorate the appearance of the asphalt. And including the
6 rain garden that the Town of Brighton would like us to have
7 in the front yard, so there will be a considerable sized one
8 there as well.

9 MS. DALE: So how many car garage is this
10 going to be?

11 SHARON CERONE: The house has three.

12 MS. DALE: Okay. And it looks like the
13 driveway ends with that.

14 SHARON CERONE: Yes.

15 MS. DALE: So there's not a possibility of
16 pulling back in there and turning around?

17 SHARON CERONE: Not if there's company, no.
18 Our cars will be in the garage, if we have company they will
19 not be able to pull into the garage and backup.

20 JAMES CERONE: There's not enough room to do a
21 K-turn or turn around a car in that side area on the paved
22 part.

23 MR. MIETZ: Right on top of the property
24 lines, that maintains four-foot.

25 SHARON CERONE: Yes.

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3 MR. MIETZ: Can you talk about the, along with
4 Jeanne's concern there, what is going to be in the center,
5 for the record, what is going to be in the center of the
6 circular driveway?

7 SHARON CERONE: The current plans is for a
8 rain garden as requested.

9 MR. MIETZ: But that's the location? I just
10 wanted it on the record.

11 SHARON CERONE: Yes.

12 MR. DiSTEFANO: And the plant material would
13 be kind of large high, so you might even block out parts of
14 the pavement possibly?

15 SHARON CERONE: Well, we certainly hired a
16 professional who's capable of selecting the right kind of
17 materials to make it as cosmetically pleasing as possible.

18 MR. MIETZ: Would you agree, for the record,
19 that not just the comments that Jeanne made, but you're also
20 interested in trying to minimize what the effect of that
21 asphalt is, 30 or 32.6, on your front yard?

22 SHARON CERONE: Absolutely. That's also a
23 concern of mine, I certainly want my front yard to be
24 attractive. That's definitely our interest as well.

25 MS. SCHWARTZ: Just to dovetail on what Jeanne

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3 said and maintain four feet, is it possible to get the other
4 variance and go sideways and widen it there, with back
5 towards the garage, still with that extra footage and you
6 went right up or would that not give you enough space?

7 JAMES CERONE: Well, it's the 30 percent rule
8 of the land area in front of the house --

9 MR. MIETZ: That's right, not the sides.

10 MS. SCHWARTZ: But you still though could
11 maintain the 30 if you could --

12 MR. DiSTEFANO: No, because they're basically
13 right at 30 now. So any expansion of driveway, they're going
14 to require it, then you'd be asking them to get two variances
15 if they expanded any closer to the lot line.

16 MR. MIETZ: Are there any other questions by
17 the Board? Okay thank you very much.

18 Is there anyone from the audience that would
19 like to speak regarding this application? There being none,
20 the Public Hearing is closed.

21 APPLICATION 7A-04-17.

22 7A-04-17 Application of Christopher and
23 Melissa Gunter, owners of property located at 88 Cheswell
24 Way, for an Area Variance from Section 205-2 to allow a new
25 house to be constructed with 2,452 square feet of livable

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3 floor area in lieu of the maximum 2,304 square feet allowed
4 by code. All as described on application and plans on file.

5 MELISSA GUNTER: Hi, I'm Melissa Gunter, one
6 of the owners of 88 Cheswell Way. I'm not sure, hopefully
7 you are all familiar with my family's situation that our
8 house was destroyed in the windstorm back in the first week
9 of March. And so, we were presented with the opportunity to
10 fix or rebuild the home. We decided since we really fell in
11 love with the neighborhood, my husband and I have been living
12 there for over ten years.

13 We have two children, I'm a physician in
14 Brighton, and my husband's with the volunteer fire
15 department, so we really wanted to stay in that area, that
16 since we had this unexpected opportunity to build, that we
17 would build a house with a little bit more room to
18 accommodate our now bigger family than where it was when we
19 moved in.

20 Our understanding, so the requested square
21 footage of the house that we'd like to build is 2,452 square
22 feet, and based on our lot size for a new build, the maximum
23 allowed square footage is 2,304 square feet. We're actually
24 going to be keeping the existing foundation. We'll be making
25 the footprint of our house actually a little bit smaller. We

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3 would just like to add a full second story onto the house so
4 that we have room for each of our children to have their own
5 bedroom and also, a bathroom that they could share and us to
6 have our own.

7 If we had not had a tree destroy our house and
8 had just requested an addition to make a full second story,
9 based on the LFALL for additions, we could have actually
10 built potentially an addition on making the total square
11 footage 2,760, but because this is being considered a new
12 build rather than an addition, that's where the difference
13 comes in.

14 MR. MIETZ: So a couple things, what about the
15 rest of the neighborhood? Do you have any information on
16 what goes on with the rest of them?

17 MELISSA GUNTER: Yes. So it won't be one of
18 the bigger homes in our neighborhood. There are other homes
19 that have full second stories. There are other homes that
20 are on bigger lots, and there are also homes that are on
21 smaller lots and homes that are also single-story ranches.
22 We have a pretty mixed collection of homes in our
23 neighborhood.

24 We've spoken to many of our neighborhoods and
25 they've all looked at the plans and they all think they are

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3 wonderful and they have all been asking us when it will start
4 so that we can get back in.

5 We haven't heard any issues with our neighbors
6 with our house being slightly larger. To the contrary, I
7 think they're all hoping that a new slightly larger home in
8 the neighborhood will increase everybody's propriety value a
9 little bit.

10 MR. MIETZ: So can you describe a little bit,
11 because there's isn't -- as it relates to how it's going to
12 look compared to the way it used to look.

13 MELISSA GUNTER: Yeah. So I -- my husband
14 submitted the application and I apologize, I don't know
15 exactly what's in there because he didn't save a copy for me.
16 I do have pictures of the house before and after that I can
17 pass around. And I also have the elevations, I didn't bring
18 the color ones with me, it's going to be a light gray house
19 with white trim. But I have the elevations that I can show.

20 MR. DiSTEFANO: They have all that.

21 MR. MIETZ: I just wanted you for the record
22 to talk about what it's going to look like, compared to what
23 it was.

24 MELISSA GUNTER: Okay. So the house as it had
25 been previously when it was first built in 1950 was more of a

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3 ranch-style home. And then the prior owners popped up the
4 roof to put a second story with two bedrooms and one bath,
5 and then also built a family room addition off the back. So
6 the house was kind of built on in stages, but now that we
7 have an opportunity to redo we'd like to make it more of a
8 rectangular square foot. So we're actually going to pull
9 back in on the family room from back, but then just make a
10 full, more traditional second story on top.

11 MS. THOMPCKINS-WRIGHT: You're actually
12 reducing the footprint than previous coverage to the property
13 because you will no longer have the first floor family room.

14 MELISSA GUNTER: Right.

15 MR. DiSTEFANO: And you are planning to build
16 on the existing foundation, correct?

17 MELISSA GUNTER: Yes. The plan is to keep the
18 existing foundation. We recreated the engineering survey
19 though for the drainage, even though we are not planning on
20 changing the foundation or any of the access points, we still
21 had it resurveyed.

22 MR. DiSTEFANO: So all of your setbacks
23 basically are the same, except the rear is actually larger
24 than what currently exists.

25 MELISSA GUNTER: Correct.

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3 MR. MIETZ: Okay. So are there any other
4 questions by any of the Board members? There being none,
5 thank you very much.

6 MELISSA GUNTER: Sure. Just hopefully I am
7 not walking into a bees nest here bringing this up, but one
8 point that had been brought up to us in the workshop session,
9 was that traditionally sometimes a building plan would go
10 through the planning board first for preliminary, and then
11 come to zoning, and then go to the final. If in review it's
12 noted that we are a little out of order, it's mostly because
13 we're trying to expedite the process since we've already been
14 out of our home for five months. So we're hopeful you will
15 grant us certain conditional approval subject to the approval
16 of the planning board at the end of the month.

17 MR. DiSTEFANO: Yeah, as you are all well
18 aware, usually it goes through a preliminary and comes to us
19 and then goes back to the planning board. In this case,
20 because of the situation and we're trying to help them out by
21 moving the project along, we decide that it would be just as
22 good to push them to the Zoning Board first because that's
23 how the calendar fell. We could take a look if we wanted to
24 and have them go to preliminary, but that's up to you of
25 course. They're actually going to a preliminary final joint

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3 application of the planning board two weeks from now.

4 MR. MIETZ: I think we understand.

5 MR. DiSTEFANO: I think our usual condition be
6 the planning board approval and if something changes they
7 have to come back to us. They understand that.

8 MR. MIETZ: Thank you. Is there anyone in the
9 audience that would like to speak regarding this? There
10 being none the Public Hearing is closed.

11 APPLICATION 7A-05-17.

12 7A-05-17 Application of Bell Atlantic Mobile
13 Systems of Allentown, Inc., (Verizon Wireless), lessee, and
14 the University of Rochester, owner of property located at
15 5901 Lac De Ville Boulevard, for an Area Variance from
16 Section 207-42C(1)(b) to allow cell antenna support equipment
17 to be placed outside on the ground in lieu of inside the
18 building as required by code. All as described on
19 application and plans on file.

20 THOMAS GREINER: Good evening, my name is Tom
21 Greiner, an attorney at Nixon Peabody, located at Clinton
22 Square downtown Rochester. I'm here on behalf of Bell
23 Atlantic, Verizon Wireless and with me tonight are Pete
24 George and Jackie Bartolotta of Tectonic Engineering.
25 Tectonic was the site acquisition consultant on this project.

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3 Before I start, I don't usually do this but in
4 reference to Mr. Harvey's application, one of my other jobs
5 is I teach and director of social justice at McQuaid Jesuit.
6 I would say that I've work extensively with Will Harvey and
7 he is a man of his word, he is very diligent, he is very
8 reliable. So if he says he's going to do something he will
9 do it. And I'm not getting a free hot dog.

10 So tonight we are here as Mr. DiStefano read
11 for the area variance for ground located equipment for this
12 Verizon Wireless cell site. I realize that the actual
13 purpose in terms of the cell site isn't really in front of
14 the Board but I thought I would just spend a minute talking
15 about that. Verizon Wireless has two issues that it's trying
16 to solve, one is a coverage issue. And unlike the typical
17 issue where an area of land is uncovered, this is really
18 inside a building is one of the main objectives here.

19 On Exhibit G, there are some propagations at
20 pages 8 of 9, and 9 of 9, and you'll see similar propagations
21 on Exhibit H, but G comes before it. And so if you notice
22 Attachment 1 is a propagation of the existing wireless
23 coverage in this area. And you'll see little white spots,
24 areas all around our proposed -- what we call the Clinton
25 Crossing site. Those are, as you can imagine, those are

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3 buildings. So right now the desired and required -- not
4 required but desired signal strength that Verizon builds to
5 and operates at is not being achieved inside of these medical
6 buildings, for the most part medical buildings. So one of
7 the purposes of the Clinton Crossing site is to solve that
8 problem.

9 Another issue is a capacity issue, and you'll
10 see narrative to the effect that the so-called Jewish Home
11 site, which is the site to the east. As you know Verizon,
12 other carriers are on the roof there and they're the gamma
13 sector which would be the west-facing sector. Especially
14 basically, it's reached its capacity and so Verizon trying to
15 stay ahead and make sure that people continue to have good
16 coverage in that area as well.

17 The Clinton Crossing site will have dual
18 purpose, will also solve the capacity issue. And you'll see
19 in the materials that much of the calling to and from is
20 really from the Jewish Home. So I haven't talked to the
21 company, but I'm inferring from that that there's a lot of
22 communication between the Jewish Home and the Clinton
23 Crossing medical campus.

24 And attention to is explained by Peter Fronz,
25 the RF engineer, to try to pictorialize the capacity issue.

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3 But basically it's showing that in 2017 it's reached
4 capacity.

5 So those are the needs. Again, not
6 specifically in front of the Board, part of the project is
7 and I thought it would be helpful, you know, why are we here.
8 So, any questions on that?

9 MR. MIETZ: No.

10 THOMAS GREINER: Okay. Then right to it. So
11 the project will consist, a typical south side project, will
12 consist of three sectors of antennas. In this case they are
13 on the roof and you can see that from looking at the site
14 plan also the utility routing, the site plan that shows, this
15 one up here, that shows utility routing, is particularly
16 helpful to look at, it's in your packets. Because it also
17 shows the connectivity of the whole site.

18 So the antennas, cabling up on the roof, some
19 utilities on the roof, and then the connection to the radio
20 equipment that's ground mounted, on the southwest side of the
21 building. And that radio equipment consists at this point of
22 two cabinets with the space for three, or one more.

23 Also is where the standby generator would be
24 located. And then the connections with the electric
25 telephone and the -- in this case the hydro-cable that would

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3 connect the radio equipment to the antennas. And we can get
4 into the routing and the location of that to the extent you
5 want.

6 One of the real issues here and the reason
7 we're here in front of the Zoning Board is why wouldn't the
8 equipment be on the rooftop. And there is really a
9 structural issue that the University couldn't get around.
10 Number one, there's no room inside of the building, that was
11 clear. Jackie and Pete can talk about that if you want
12 direct testimony about that.

13 So that was kind of out off the picture, then
14 they looked at the roof. As you know, Verizon, all the
15 companies are certainly willing and able to put equipment on
16 the roof. In this particular case the University kind of
17 vetoed that because of two reasons. One, it would require
18 cutting into the roof deck, in a sense violating the
19 impermeability. And number two, it would require interior
20 welding.

21 So in other words, in order to really have put
22 the equipment on the roof, there would have been a need to go
23 into the building itself, go up to the top to the ceiling, go
24 through the ceiling and actually weld. Internal welding as
25 I've discovered over the years as they've told me, is kind of

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3 a big deal. The fire department's on watch, in this case
4 there are also, as you can imagine here in the Highlands
5 there, oxygen in different places throughout the facility.

6 And so the University said no, we are not
7 going to let that happen with this roof. And so, the next
8 alternative then was to look at the ground, and then where on
9 the ground.

10 So in your packet you also have a southwest
11 elevation. So the ground mounted equipment is in this
12 location here. It's tight up against the sidewalk, it's
13 surrounded by a six-and-a-half-foot wood board-on-board
14 fence. The equipment is shorter than that, so in a sense the
15 fence will hide the equipment.

16 But what was important in this particular
17 location, and you will see this readily from the elevation,
18 is that there are no windows that would be obscuring. In
19 other words, in this location there are no windows that would
20 be blocking it. So in a sense that became the ideal location
21 for -- if the equipment were going to be located on the
22 ground.

23 Again, you can see from the utility routing
24 you see the path that the electric and telephone takes as it
25 starts out where the tie-in would be on the north side of the

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3 building, coming up over that roof, going along that roof.
4 Actually, it comes up and over and goes over into this
5 location, goes up to the second story and comes down here,
6 the electric and telephone paralleling the cable and also the
7 gas, and it goes down and hits the equipment here. The gas
8 routing is pretty much the same. It comes up, goes like
9 this, the darker line, goes down and connects to the standby
10 generator, that providing -- and that's the power. It's
11 natural gas here.

12 The vertical cable tray and vertical conduit
13 will be painted to match the exterior in the location that it
14 is in. And pretty much the cable tray runs around the
15 building coming from here to the alpha sector, the beta
16 sector, and the gamma sector, you'll see the cable tray runs
17 along there, here. And so the -- in a sense the cable, the
18 hybrid cable that actually connects the antennas to the
19 radios is that cable that I'm talking about. And in certain
20 respects it will parallel and be running along with the
21 electric telephone and gas as well.

22 So with that, certainly if you have any
23 questions about the antennas, any part of it, I'd be happy to
24 answer. Trying to concentrate a little bit more on the
25 ground equipment, why it's there, and what it consists of.

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3 And the fact that again, I think from a site point of view, I
4 think the Tectonic, Constance Engineering and Verizon
5 Wireless together with University, I think sited it in a
6 place that would minimize any visual impact.

7 MS. WATSON: Did Verizon look at any other
8 buildings in that same ring suitable for putting the
9 equipment on the rooftop?

10 THOMAS GREINER: They did. If you look at
11 Exhibit H, that's the site selection and houses. Just about
12 every other building -- that's a very confined ring, by the
13 way. It's pretty much confined to the Clinton Crossing, I'll
14 just call it the campus, that area. And in fact, the search
15 ring is in your applications as well.

16 All of the other buildings except one were
17 Costello buildings and they were all looked at. Tectonic did
18 the negotiations and they never could reach terms with
19 Costello. And so for that reason, eventually they were
20 focused on the U of R building that was willing, and for good
21 reason. U of R is the principal user, along with its staff
22 and patients and so forth of that campus, recognizing they
23 had a problem, they wanted to solve it.

24 For Costello, kind of was a little bit more
25 removed. They weren't as interested -- I'm not going to say

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3 weren't interested, but they were not as eager as the
4 University to be a landlord and they could not reach terms of
5 them.

6 The other building is on the extreme western
7 end of the search ring. And according to Pete Franz's
8 analysis, again, the RF engineer at Verizon, the building at
9 5901 Lac De Ville is much more centered in the search ring
10 and provides better, both hand-off capacity, off-load of the
11 Jewish Home, and also provides better coverage for that
12 campus trying to penetrate all of the buildings.

13 MR. CLAPP: I'm wondering if I'm reading the
14 plans correctly. It looks like the antenna's being installed
15 by Verizon. Would actually be any other equipment Verizon --
16 it's actually no higher or actually less than the existing
17 area equipment and such --

18 THOMAS GREINER: Right, that's the reason.
19 Normally we would do simulations in this case, but you could
20 not see the balloon. So, yeah, that's why that wasn't done,
21 but you're right.

22 MR. DiSTEFANO: But there also is per code
23 maximum height allowance in the district. I don't know it
24 off the top of my head, I think it's 20 feet above the roof
25 line, but there is a code requirement. They can't go any

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3 higher than 20 feet regardless.

4 THOMAS GREINER: Correct. So Rick's right, no
5 more than 20 feet above the roof line. So in this case some
6 buildings rooftops where they might put a subtower to get a
7 better signal broadcast. But here, they would never be able
8 to do that. So the antennas being what they are, they're
9 comfortable that they do the job but they're also below that
10 20-foot maximum.

11 MR. DiSTEFANO: Tom, I have to ask, who are
12 you representing, Verizon or the University?

13 THOMAS GREINER: I am representing Verizon
14 Wireless.

15 MR. DiSTEFANO: Okay. So the question I have
16 which you probably can't answer, what are the chances we're
17 going to have other carries coming in and deciding that,
18 yeah, this was -- we need that gap fill also here. And, oh,
19 they already put their equipment on the ground, we're going
20 to come in and put our equipment on the ground. Has any
21 thought been given to expanding that site to allow additional
22 carries or are you guy saying, no, we're just representing
23 Verizon and we are not making any extra room for an
24 additional provider.

25 THOMAS GREINER: And that's a good question.

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3 I can answer a little bit about that, Rick. By the way, my
4 firm is actually representing the University as well on a
5 lease. So this is one, right, University's a longstanding
6 client, Verizon Wireless is a longstanding client, so we're
7 representing Verizon in the zoning, and Verizon has separate
8 real estate counsel for the lease, and my colleague, Ashley
9 Champion, is representing the University on the lease.

10 So we've stayed clear of everything. We have
11 waivers and everything, but I did -- I certainly know that --
12 and I think Tectonic could back this up. One would need a
13 lot of staying power to try to get the real estate control at
14 this site. The University is extremely careful with its real
15 estate and extremely protective of -- so I guess what I'm
16 saying is, you are right. I cannot forecast because I don't
17 know their networks whether AT&T, Sprint, T-Mobile would look
18 at this building and say, that's an attractive building for
19 our network, because I don't know their network.

20 So I cannot answer that. I can say that if
21 they're going to do this, good luck. And they're going to
22 have to have a lot of staying power to do this.

23 The other thing I would say is although
24 Verizon Wireless tries to be somewhat collegial with it's,
25 I'll call competitors. I don't think Verizon goes out of its

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3 way, nor do any of them, to make things, like, easy for other
4 carries, and for obvious reasons.

5 So I guess what I'm saying is, it's not,
6 certainly not impossible route question that you might get
7 another application. I have not heard of anybody that's
8 interested, but I think there are constraints and there are
9 issues there.

10 Again, this is one of the only areas where
11 there are no windows. Everybody else would have the same
12 rooftop issues. But Verizon being first and being persistent
13 and being in a good relationship with the University, was
14 able to get the location. We are not blocking any windows
15 and that's obviously important.

16 MR. DiSTEFANO: Thank you.

17 MR. MIETZ: As a follow-up thing, and again if
18 it's crossing into the other Nixon Peabody bucket here but,
19 you know, is there a correlation between the fact that U of R
20 uses Verizon services and its lease?

21 THOMAS GREINER: I don't -- I think they do
22 use Verizon, I don't know if they're the exclusive carrier.

23 MR. MIETZ: Well, you mentioned earlier that
24 there's a need in the U of R leased building within Clinton
25 Crossing to have better Verizon service.

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3 THOMAS GREINER: Absolutely. They think
4 that -- the University, that's much more important than the
5 rent, than the rent for the University this is really not
6 something to lose sleep over if the deal went away. But
7 getting better service for whatever personnel use Verizon and
8 whatever customers use Verizon. And I would like to think,
9 Mr. Chairman, that it's the vast number of people are using
10 Verizon there. But I don't have the facts that back that up.

11 MR. MIETZ: Fair answer.

12 MR. CLAPP: Again, addressing the expansion
13 issue. On the plans it shows a place for future cabinet, so
14 from the conversation I am guessing that's not for another
15 carrier?

16 THOMAS GREINER: That's for Verizon, a number
17 of radios, yeah.

18 MR. MIETZ: Any other questions?

19 MR. DiSTEFANO: Just for your knowledge also
20 the generator that Tom spoke about earlier is going in front
21 of the planning board for the location of that also.

22 THOMAS GREINER: Thank you. Yeah, that will
23 be on July 19th and we've given the generator specs to both
24 boards and the sound is pretty good, it meets code.

25 MR. MIETZ: Okay. Any other questions? Okay.

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Thank you.

Is there anyone in the audience who would like to speak regarding this? There being none, the Public Hearing is closed.

APPLICATION 7A-06-17.

7A-06-17 Application of Timothy Parker, applicant, and Anne Martin, owner of property located at 462 French Road, for an Area Variance from Sections 203-2.1B(2) and 207-6A(1) to 1) allow a shed to be 768 square foot in size in lieu of the maximum 250 square foot allowed by code, and 2) allow said shed to be 21 feet in height in lieu of the maximum 16 feet in height allowed by code. All as described on application and plans on file.

TIMOTHY PARKER: Hi, my name is Tim Parker, 462 French Road, this is my wife, Anne Martin. We are seeking permission to build an oversized shed for storage which we have desperate need of.

We are seeking relief on square footage and the overall height. We have a ranch standard hip roof. As you know in Brighton, so access to our attic is somewhat limited if you're trying to haul things up there. You walk right into the hip roof and if you are not careful you can give yourself a concussion. I will also say this, we do have

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3 a full basement, it is a little damp. We do run our
4 dehumidifiers all of the time, but the stairs built at the
5 time of the house really aren't to code. So they are very
6 steep and it's kind of hard to get things up and down.

7 So we're trying to overall just consolidate
8 everything we have into one location. My parents did
9 downsize their house and I had come into their furniture,
10 which I would like to hold onto because it does have a lot of
11 sentimental value and I would like to be able to store it not
12 in the attic and not in the damp basement. And that's kind
13 of where we are.

14 MR. MIETZ: How did you determine 768 square
15 feet?

16 TIMOTHY PARKER: Well, originally I was going
17 to design and build this myself and 24 feet by 32 feet are
18 nice numbers and it tends to be the standard size for a large
19 shed. So that's where that number came from. It was
20 strictly stock number sizes that would have been readily
21 available if I was going to build it myself.

22 MR. MIETZ: What kind of utilities would be
23 run to this storage shed?

24 TIMOTHY PARKER: Right now no utilities. I
25 have no plan to put water or power to it. Someday if that

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3 were to need be, I would have to apply for the permit to do
4 that.

5 MR. MIETZ: Can you describe the interior?

6 TIMOTHY PARKER: It's a standard pole barn,
7 construction six-by-six columns, cement floor, ten-foot
8 walls, gambrel-styled roof with attic trusses. So the inside
9 will be pretty, but the outside is going to be steel-clad
10 painted.

11 MR. MIETZ: Will it be lofted?

12 TIMOTHY PARKER: It will be lofted. So
13 there's going to be a set of industrial strength stairs
14 capable of certain payloads I would be bringing up there to
15 get into the attic truss area, which is essentially 16-feet
16 wide, the depth of the building, and eight-feet tall.

17 MR. MIETZ: No electric at all?

18 TIMOTHY PARKER: None.

19 MR. MIETZ: So it would not be lit in any way?

20 TIMOTHY PARKER: No.

21 MR. MIETZ: You have lanterns?

22 TIMOTHY PARKER: Actually I do possess a
23 number of those and flashlights throughout the house.

24 MR. MIETZ: You probably will need one if you
25 go out.

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3 TIMOTHY PARKER: Yes. And at some point if I
4 really needed to, I do have a generator because we do lose
5 power. And if I needed to do anything at night, which I'm
6 trying not to do anymore, work that late so that it's so dark
7 you can't see anything.

8 So this is really glorified storage. We just
9 outlived, maxed out our capabilities and there's things I
10 don't want to get rid of just yet.

11 MS. THOMPCKINS-WRIGHT: You have two storage
12 sheds on the property right now.

13 TIMOTHY PARKER: Yes, I would like them gone
14 at some point, but that's the problem. Which shed are they
15 in? They're okay for a single layer of storage. We own
16 apartment-style racks, so they are the metal racks you see
17 like in Home Depot. So my goal is to line each wall of the
18 new shed with those racks, all that stuff can go in there and
19 I should be able to find it. Which is a big challenge for me
20 now.

21 MS. WATSON: So you established that it's all
22 equipment and storage, no living things, no people, no
23 animals are going to be in the barn?

24 TIMOTHY PARKER: No. You're looking at the
25 only animal that will be in the barn.

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3 MS. WATSON: Can you talk a little bit about
4 the location of the proposed shed.

5 TIMOTHY PARKER: Sure.

6 MS. WATSON: Both in terms of the distance to
7 any other spaces, the neighborhood spaces or yours, as well
8 as the location relative to the current sheds.

9 MR. DiSTEFANO: Also, if you just -- the lot
10 itself.

11 TIMOTHY PARKER: Sure. So the lot is 176 feet
12 and change wide, 819 and change deep, back at a 60-degree
13 angle which makes it challenging. So what we've done, the
14 natural layout of the lot, there's actually a treeline as you
15 go back and that is 275 feet from the road. So what I would
16 like to do is come forward to 200 feet, to build the 32-foot
17 deep structure. Along parallel to the lot line, which is
18 right near -- either side is really overgrown hedgerow. So
19 it's fairly impenetrable depending on how quickly you're
20 running through it.

21 And so I picked 17 feet off the lot line to
22 the edge or the lawn side of the shed, 17 feet. Because
23 there's 2 feet overhang for the pad that it sits on, and then
24 15 feet to the lot line in case I have to get back there. If
25 something were to happen and something needed to be worked on

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3 on the roof and I needed to get something in there to -- I
4 didn't want to be on anybody else's property if I had to get
5 a lift in there to go up and fix something. It just gives me
6 a little grace to maneuver around it. Not that I want to cut
7 the grass behind it, but it's just going to be part of the
8 deal.

9 MS. WATSON: So that's further back on the
10 property?

11 TIMOTHY PARKER: Yes.

12 MS. WATSON: And it is pretty far away from
13 your neighbor's house or anyone else's house?

14 TIMOTHY PARKER: Yeah. The sheds were put
15 there, they probably would have been put farther back, but
16 that area of the yard is very, very wet. We're on the
17 downward slop from Heatherstone. And while ours isn't the
18 wettest lot, our next door neighbor's still has standing
19 water in his backyard. So we are in the -- we would have put
20 them farther back if we could have, but that wasn't tenable.

21 ANNE MARTIN: I guess that was my fault. I
22 didn't have the money at the time we just bought the house to
23 do that.

24 MR. MIETZ: Ma'am, just say your name for the
25 record.

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3 ANNE MARTIN: My name is Anne Martin, Tim's
4 wife. So when I originally bought the house I didn't have
5 money to help with the drainage in the back. So that's why
6 those sheds are as close as they are to the house. In fact,
7 I always wanted them moved back further. But and now we're
8 finally at a place that we can do that.

9 TIMOTHY PARKER: And that's part of our
10 arraignment I'm having with the guy doing the site prep is
11 he's got a bucket loader, skid steer. And he said he would
12 move the sheds wherever I wanted them so we could get them
13 out of the way for sure and then fix them up, paint them up,
14 whatever it takes to get rid of them short of obviously
15 burning them.

16 MR. MIETZ: Okay.

17 MS. WATSON: You mentioned that it's a heavily
18 wooded area, there's a lot of trees for screening the shed.
19 Will any trees need to be removed as part of the project?

20 TIMOTHY PARKER: No.

21 MS. WATSON: And have you spoken to any of
22 your neighbors about the project?

23 TIMOTHY PARKER: Not specifically about this,
24 but I'm out there all of the time working. So our one
25 neighbor John knows. In fact, I think he uses me as his bell

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3 weather to when it's time to cut the grass. So if I'm
4 cutting it, he's cutting it. We get along very well, so I
5 don't think it would be a problem.

6 MS. THOMPCKINS-WRIGHT: Several of the
7 properties in the are have these types of large storage
8 sheds.

9 TIMOTHY PARKER: Yes, there's three within
10 several hundred feet of us that have much, much bigger sheds.
11 It would be nice to have those.

12 MR. MIETZ: Any other questions from the
13 Board? Thank you.

14 Is there anyone in the audience who would like
15 to speak regarding this application? There being none then
16 the Public Hearing is closed.

17 We will take five minutes.

18 (There is a short pause in the proceedings.)
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APPLICATION 7A-01-17.

7A-01-17 Application of William H. Harvey, applicant, and William J. Harvey, owner of property located at 1820 South Clinton Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for the operation of a food cart selling to the general public for a period of two months (7/5/17-9/5/17) where not allowed by code. All as described on application and plans on file.

Motion made by Ms. Corrado to approve Application 7A-01-17 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance is not substantial and its hours of operation 11:00 a.m. to 3:00 p.m. will be well within the general business hours of the surrounding properties.

Further, the cart is compact, it will not be housed on site outside of business hours.

2. The requested use variance will not alter the essential character of the neighbor as the location is primarily commercial in nature.

3. The health, safety and welfare of the community will not be adversely effected by the approval of the temporary use requested as the applicant has demonstrated competence by

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3 securing the appropriate Monroe County Health Department
4 certifications.

5 **CONDITIONS:**

6 1. The use approved in this variance is only for hot dog
7 cart operation as described in the application submitted and
8 testified to during this meeting.

9 2. The hours of operation shall limited to 11:00 a.m. to
10 3:00 p.m.

11 3. The cart shall be stored off site when not in operation
12 and all trash shall be collected and removed daily.

13 4. No additional signage shall be permitted other than that
14 describe in the application and in testimony, on the
15 umbrellas.

16 5. All appropriate certifications shall be obtained.

17 6. This temporary permit expires on September 5, 2017.

18 (Second by Ms. Watson.)

19 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
20 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes;
21 Ms. Tomkins Wright, yes.)

22 (Upon roll call, motion to approve with
23 conditions carries.)
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Brighton Zoning Board of Appeals 7/5/17

APPLICATION 7A-02-17.

7A-02-17 Application of Jeffrey and Jessica Mattice, owners of property located at 137 Park Circle East, for an Area Variance from Section 207-16A(4) to allow for a second driveway access point where only one is allowed by code. All as described on application and plans on file.

Motion made by Ms. Dale to approve Application 7A-02-17 based on the following findings and facts.

FINDINGS AND FACTS:

1. The difficulty leading to this variance request is not self-created as the applicant's street is not full sized, it is narrower than most Brighton streets which prevents the applicant or other homeowners from being able to park on the street as they will block two-way traffic and other homeowners from backing out of their driveways.

2. There are six properties within less than a mile of the applicant's property which have second cut driveways.

Therefore the proposed variance is consistent with surrounding properties and the variance will not have an adverse effect or a negative impact on the physical or environmental conditions of the neighbor.

3. The difficulty necessitating the variance request cannot be solved in a manner not required in a variance for three

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3 reasons: 1) On-street parking limits access to neighboring
4 driveways. 2) Parking cars in the yard is unsightly leaving
5 ruts and mud and is detrimental to the character of the
6 neighbor. 3) Widening of the existing access point is not
7 possible due to the applicant's water service and
8 requirements of the increased elevation. 4) Granting of the
9 request will not produce an undesirable change in the
10 character of the neighborhood, or a detriment to nearby
11 properties and approval by surrounding neighbors has been
12 granted.

CONDITIONS:

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14 1. The parking pad will remain 10 feet by 30 feet as per the
15 application and testimony given and shall not be increased in
16 size.

17 2. All necessary highway permits shall be obtained.

18 (Second by Ms. Thompkins-Wright.)

19 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
20 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes;
21 Ms. Tomkins Wright, yes.)

22 (Upon roll call, motion to approve with
23 conditions carries.)
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3 APPLICATION 7A-03-17.

4 7A-03-17 Application of James Cerone, owner of
5 property located at 2960 East Avenue, for an Area Variance
6 from Section 207-10E(2) to allow front yard pavement to total
7 32.6 percent of the front yard area in lieu of the maximum 30
8 percent allowed by code. All as described on application and
9 plans on file.

10 Motion made by Mr. Mietz to approve
11 Application 7A-03-17 based on the following findings and
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The 2.6 percent increase in the front yard surface is not
15 substantial.

16 2. The effect of the increase in paved surface will be
17 mitigated by the circular driveway design and proposed rain
18 garden which will capture conditional run off from the
19 expanded driveway surfaces.

20 3. No negative effect on the character of the neighbor will
21 result from the approval of this variance since other
22 properties on East Avenue have circular driveways and the
23 width has been designed at a minimum of 16 feet. The actual
24 minimum driveway width for two cars to pass.

25 4. The proposed layout will allow for approach to exit on to

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3 East Avenue without backing out of the property and onto this
4 busy road.

5 **CONDITIONS:**

- 6 1. All highway permits shall be obtained.
7 2. This variance applies only to the layout and
8 configuration of the driveway surface as described and the
9 testimony and plans submitted.

10 (Second by Ms. Corrado.)

11 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
12 no; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes;
13 Ms. Tomkins Wright, yes.)

14 (Upon roll call, motion to approve with
15 conditions carries.)
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APPLICATION 7A-04-17.

7A-04-17 Application of Christopher and Melissa Gunter, owners of property located at 88 Cheswell Way, for an Area Variance from Section 205-2 to allow a new house to be constructed with 2,452 square feet of livable floor area in lieu of the maximum 2,304 square feet allowed by code. All as described on application and plans on file.

Motion made by Ms. Schwartz to approve Application 7A-04-17 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance is very minimal at only 148 square feet more than allowed by code for the livable area.
2. The footprint is not increasing as the new home is going to be constructed on the existing foundation and is actually decreasing in the rear yard.
3. In as much as the current home has been destroyed and no longer inhabitable, the applicant wants to build a full second floor not only for more space but also to make the new home more aesthetically pleasing. This will enhance the character of the neighborhood and improve the property.
4. There's no other alternative that will offer the applicant the desired results.

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CONDITIONS:

1. This variance for 2,452 square feet in lieu of the 2,304 square feet as allowed by code only applies to the construction of a new home as presented in testimony and written application.

2. All necessary planning board and ARB approvals must be obtained.

(Second by Ms. Watson.)

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

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

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APPLICATION 7A-05-17.

7A-05-17 Application of Bell Atlantic Mobile Systems of Allentown, Inc., (Verizon Wireless), lessee, and the University of Rochester, owner of property located at 5901 Lac De Ville Boulevard, for an Area Variance from Section 207-42C(1)(b) to allow cell antenna support equipment to be placed outside on the ground in lieu of inside the building as required by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 7A-05-17 based on the following findings and facts.

FINDINGS AND FACTS:

1. The granting of the requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties and is not substantial. The proposed location of the equipment along the east side of the building away from the public rights of way and commonly used entrances of the surrounding buildings and all within a 6-foot, 6-inch wood stockade fence measuring 10.5 feet by 17 feet, creates minimal to no visual introduction to the neighbor.
2. The benefit sought by the applicant cannot reasonably be

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3 achieved by any other method. The building was chosen due to
4 the potential for building mounted antennas on an existing
5 structure as preferred by Brighton's code. There are no
6 locations within the building including in the basement to
7 house the equipment. Further, placing the equipment on the
8 roof will require cutting into the roof back and membrane and
9 interior welding, which is unacceptable to the property
10 owner.

11 3. There's no evidence that the proposed variance will have
12 an adverse effect or impact on the physical or environmental
13 conditions of the neighborhood or district.

14 4. The difficulty in complying with the code is not
15 self-created but a function of the need to install the
16 equipment in a location in close proximity to the proposed
17 wireless facility but agreeable to the property owner.

18 **CONDITIONS:**

19 1. The variance herein granted applies only to the placement
20 of the specific equipment described in and in the location as
21 depicted on the application and in testimony given.

22 2. All necessary permits must be obtained.

23 (Second by Ms. Schwartz.)

24 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
25 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes;

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Ms. Tomkins Wright, yes.)

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

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APPLICATION 7A-06-17.

7A-06-17 Application of Timothy Parker, applicant, and Anne Martin, owner of property located at 462 French Road, for an Area Variance from Sections 203-2.1B(2) and 207-6A(1) to 1) allow a shed to be 768 square foot in size in lieu of the maximum 250 square foot allowed by code, and 2) allow said shed to be 21 feet in height in lieu of the maximum 16 feet in height allowed by code. All as described on application and plans on file.

Motion made by Ms. Watson to approve Application 7A-06-17 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance is a minimum variance possible to store the needed items in both an attractive and functional way.
2. No other alternative can alleviate the difficulty and produce the desired result.
3. No unacceptable change in the character of the neighborhood and no substantial detriment to nearby property is expected to result from the approval of this variance because similarly large structures already exist in the neighborhood and because the proposed structure will be

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3 partially obscured from view by trees and the house, and
4 because the applicant will remove multiple older sheds.

5 4. The health, safety and welfare of the community will not
6 be adversely effected by the approval of this variance
7 request because nothing dangerous will be stored in the new
8 shed and because the structure will be built a significant
9 distance away from any neighboring structures.

10 **CONDITIONS:**

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

15 2. The structure will be used only for storing equipment and
16 household items and not be a dwelling for people freedom or
17 animals.

18 3. All existing sheds shall be removed.

19 4. All necessary building permits shall be obtained.

20 (Second by Ms. Schwartz.)

21 (Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Dale,
22 yes; Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado, yes;
23 Ms. Tomkins Wright, yes.)

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

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REPORTER CERTIFICATE

I, Rhoda Collins, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated this 2nd day of August, 2017.

At Rochester, New York


Rhoda Collins