

1 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF  
2 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK  
3 On September 6, 2017, COMMENCING AT APPROXIMATELY 7:15  
4 P.M.

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

9 PRESENT:

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

15 DAVID DOLLINGER, ESQ.  
16 Town Attorney

17 RICK DISTEFANO  
18 Secretary

19  
20  
21  
22 Reported By: BRIANA L. JEFFORDS  
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1 CHAIRPERSON MIETZ: I would like to call  
2 to order the September session of the Brighton Zoning  
3 Board of Appeals. Rick, was the meeting properly  
4 advertised?

5 MR. DI STEFANO: Yes, Mr. Chairman, it was  
6 advertised in the Brighton-Pittsford Post on  
7 August 31st, 2017.

8 CHAIRPERSON MIETZ: Will you please call  
9 the roll?

10 MR. DI STEFANO: Please let the record  
11 show that Ms. Dale and Ms. Watson are not present.

12 CHAIRPERSON MIETZ: Mr. DiStefano, when  
13 you're ready, please read the first application.  
14 Application 8A-04-17. Application of Liz Munoz, owner  
15 of property located at 333 Meadow Drive, for an Area  
16 Variance from Section 207-2A to allow a front yard  
17 fence to be 5 ft. in height in lieu of the maximum 3.5  
18 ft. allowed by code. All as described on application  
19 and plans on file.

20 MS. MUNOZ: Good evening, so I provided --

21 MR. DI STEFANO: We just need you to state  
22 your name and address.

23 MS. MUNOZ: I'm sorry. My name is Liz  
24 Munoz. I live at 333 Meadow Drive. I did provide a  
25 packet.

1 CHAIRPERSON MIETZ: We received it.

2 MS. MUNOZ: The reason that I'm applying  
3 for the variance, again, is because I have a large dog  
4 that can jump my current fence, and I would like an  
5 area in my yard where she can safely be without being  
6 on a leash which is what I currently have to do now.  
7 So last meeting, you guys provided a lot of great  
8 feedback. So I appreciate that. As far as the  
9 addendums go, I did speak to some neighbors and got  
10 feedback from them. So as a result, I had chosen a  
11 more open fence style. So it's a gothic fence style,  
12 picket fence style. So there are openings in there  
13 where you can interact with people.

14 CHAIRPERSON MIETZ: It won't look like a  
15 wall there.

16 MS. MUNOZ: Yes, it won't look like a  
17 wall, or fortress, or anything like that. I provided  
18 some suggestions for landscaping, like flowering  
19 bushes, to try to help not accentuate so much of the  
20 height of the fence and some hanging window boxes  
21 which might be decorative and pretty. So I did speak  
22 to a couple contractors, none provide sketches. So I  
23 did my best to provide a rendering of what it would  
24 look like.

25 CHAIRPERSON MIETZ: Okay. You did a

1 little photoshopping.

2 MS. MUNOZ: Yes, and I did include some  
3 window boxes and bushes in there.

4 CHAIRPERSON MIETZ: Is that something you  
5 would like to do?

6 MS. MUNOZ: I would, yes, absolutely.

7 CHAIRPERSON MIETZ: And what will you be  
8 treating this fence with? Is it going to be a natural  
9 cedar?

10 MS. MUNOZ: I think a natural wood fence.  
11 That's what I like. I don't want to paint it.

12 CHAIRPERSON MIETZ: You don't want to  
13 paint it.

14 MS. MUNOZ: No, I don't.

15 MS. TOMPKINS WRIGHT: When you spoke to  
16 the neighbors, did they object to the fence in total  
17 or just give you suggestions?

18 MS. MUNOZ: No. No one outright objected.  
19 I think it was more just trying to get feedback and  
20 get a sense of what it would look like on the  
21 property.

22 CHAIRPERSON MIETZ: Okay. Great. Does  
23 anyone else have any questions about this? Thank you  
24 for listening to our comments last month and listening  
25 to us. Thank you.

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MS. MUNOZ: Thank you.

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

1 Application 9A-01-17. Application of Elizabeth Wende  
2 Breast Care, owner of property located at 170 Sawgrass  
3 Drive, for a Temporary and Revocable Use Permit  
4 pursuant to Section 219-4 to allow a mobile MRI unit  
5 to be located in the parking lot for an eight (8) week  
6 period where not allowed by code. All as described on  
7 application and plans on file.

8 MS. WEIBELD: Hello, Annett Weibeld with  
9 the Wende Breast Care, 170 Sawgrass Drive.

10 MR. DI STEFANO: Can you spell that?

11 MS. WEIBELD: Weibeld, W-E-I-B-E-L-D.

12 MR. SCHUYLER: Dave Schuyler with Wende  
13 Breast Care.

14 CHAIRPERSON MIETZ: Very good. Please  
15 proceed.

16 MR. SCHUYLER: We are replacing our magnet  
17 in our current facility. And to do that, we have to  
18 have this portable MRI unit in our parking lot to take  
19 care of our patients during this transition of  
20 replacing our current magnet.

21 CHAIRPERSON MIETZ: And you said it's  
22 going to take about eight weeks?

23 MR. SCHUYLER: That's to the extreme.  
24 This project should be done by the end of September.

25 CHAIRPERSON MIETZ: Can you describe for

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1 us where it's visibly going to go? I'm not sure.

2 MR. SCHUYLER: I supplied photographs of  
3 the parking lot.

4 CHAIRPERSON MIETZ: Just for the record,  
5 can you discuss it generally? Do you need a copy? We  
6 have the one you submitted.

7 MR. SCHUYLER: When you exit the parking  
8 lot when you go towards the front of the facility, the  
9 trailer will be parked on the left side of the parking  
10 lot taking up about seven parking spots.

11 CHAIRPERSON MIETZ: Okay. And will it be  
12 a self-contained? Will it have a generator? How is  
13 it going to operate?

14 MR. SCHUYLER: It is self-contained. It  
15 does have a generator, but we do have utilities to the  
16 trailer.

17 CHAIRPERSON MIETZ: Okay. And what hours  
18 will it be operating when the generator might be  
19 running?

20 MR. SCHUYLER: The generator is more of a  
21 backup to keep the magnet at a cool temperature, but  
22 that's the only time the generator will actually be  
23 used.

24 CHAIRPERSON MIETZ: So there are utilities  
25 out there that you can plug into?

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1 MR. SCHUYLER: Correct, and the operation  
2 is from 7:00 a.m. to about 4:00 p.m., 4:30.

3 CHAIRPERSON MIETZ: There will be no  
4 evening hours or anything like that?

5 MR. SCHUYLER: No.

6 CHAIRPERSON MIETZ: Okay.

7 MS. TOMPKINS WRIGHT: What does the  
8 trailer look like from the exterior?

9 MR. SCHUYLER: Just a white.

10 MS. TOMPKINS WRIGHT: Just a plain white?

11 MR. SCHUYLER: Plain white trailer, yes.

12 MS. TOMPKINS WRIGHT: And I know the  
13 application talks about spanning over ADA parking  
14 spaces.

15 MS. WEIBELD: Seven to eight parking  
16 spaces.

17 MS. TOMPKINS WRIGHT: ADA parking spaces  
18 like handicapped parking spaces.

19 MS. WEIBELD: Oh, yes.

20 MS. TOMPKINS WRIGHT: You will still  
21 provide enough ADA parking spaces for code; right?

22 MS. WEIBELD: Yes.

23 MS. TOMPKINS WRIGHT: I don't know how  
24 many parking spaces are in the parking lot.

25 CHAIRPERSON MIETZ: I think it showed on

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1 the concept drawing.

2 MR. SCHUYLER: There was a concrete pad  
3 put in back about 10 years ago just for this trailer  
4 to be parked, and this is our third time doing this.

5 CHAIRPERSON MIETZ: We saw that on your  
6 application.

7 MR. DI STEFANO: That was my question.  
8 You are going to place it right on the concrete pad  
9 that you guys put in a few years back?

10 MR. SCHUYLER: Yes, and the pad was put in  
11 specifically to hold the temperature of it.

12 MR. DI STEFANO: Yes, I remember a few  
13 years ago when the last one came in for this. Did you  
14 have a covered area that the patients could walk from?  
15 So I think, in fact, there was like some prescreening  
16 or something going on in the actual clinic and then  
17 they would walk to the MRI. There is no cover or  
18 anything that you would be proposing for them?

19 MS. WEIBELD: No.

20 MR. DI STEFANO: Okay.

21 CHAIRPERSON MIETZ: I think there was one  
22 of those for a different application.

23 MR. DI STEFANO: Maybe I'm confusing it  
24 with another one up there.

25 MS. CORRADO: Will you have any additional

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1 signage instructing patients to that unit, or will  
2 they still go into in the main building?

3 MS. WEIBELD: So they still check-in in  
4 the MRI suite, and then one of the employees will  
5 escort them to the mobile unit.

6 MS. CORRADO: So no additional signage?

7 MS. WEIBELD: No.

8 CHAIRPERSON MIETZ: Any additional  
9 questions? Okay. Thank you very much.

10 Is there anyone in the audience that would  
11 like to speak regarding this application? Okay.  
12 There being none, then the public hearing is closed.

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1 Application 9A-02-17. Application of Rochester  
2 Electrical Workers, Building Corp., owner of property  
3 located at 2300 East River Road, for a Temporary and  
4 Revocable Use Permit pursuant to Section 219-4 to  
5 erect a tent and hold a one day clam bake event in  
6 September of 2017 and September of 2018. All as  
7 described on application and plans on file.

8 MR. FREIDA: Good evening, everybody. I'm  
9 Ron Freda. I'm the local business manager at Local  
10 86.

11 MR. SMYTH: My name is John Smyth. I'm a  
12 member of the Rochester Electrical Worker Building  
13 Corp.

14 CHAIRPERSON MIETZ: Are both of your  
15 addresses the address of the building?

16 MR. FREIDA: Yes, 2300.

17 CHAIRPERSON MIETZ: Okay. Go ahead.

18 MR. FREIDA: Yes. We are looking for a  
19 temporary revocable variance to put up a tent for our  
20 annual clam bake that would cover this year and next  
21 year. We were here two years ago doing the same  
22 thing. To the best of my knowledge, no one called.  
23 We had no problems. We had no band, no speakers  
24 outside. It is a private party, and it is an adult  
25 party. We do have security. I'm trying to answer all

1 of the questions I know you guys are going to ask.

2 CHAIRPERSON MIETZ: Do you have the  
3 specific date for this year?

4 MR. SMYTH: It's the ninth for this year.  
5 It's a Saturday.

6 CHAIRPERSON MIETZ: Okay. And then  
7 obviously, you don't know the date for next year?

8 MR. SMYTH: It's always the first Saturday  
9 after Labor Day.

10 CHAIRPERSON MIETZ: Okay. Rick, was there  
11 any issues?

12 MR. DI STEFANO: We received no complaints  
13 either time.

14 MS. TOMPKINS WRIGHT: And you are fine  
15 with all of the conditions that were put on last time?

16 MR. FREIDA: Absolutely.

17 MR. SMYTH: And I have the piece of paper  
18 that I signed and dated when I put my sign up.

19 MR. DI STEFANO: I will take that. Thank  
20 you.

21 CHAIRPERSON MIETZ: It's pretty straight  
22 forward. Any questions? No? Okay.

23 MR. FREIDA: Thank you very much.

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

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1 application? Okay. There being none, then the public  
2 hearing is closed.

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1 Application 9A-03-17. Application of Mamasan's  
2 Monroe, LLC, owner of property located at 2735 Monroe  
3 Avenue for an Area Variance from Section 205-7 to  
4 allow impervious lot coverage to be 71.7%, after  
5 construction of a new restaurant in lieu of the  
6 maximum 65% allowed by code. All as described on  
7 application and plans on file.

8  
9 Application 9A-04-17. Application of Mamasan's  
10 Monroe, LLC, owner of property located at 2735 Monroe  
11 Avenue for 1) an Area Variance from Section 205-12 to  
12 allow for 42 parking spaces in conjunction with a new  
13 restaurant, in lieu of the minimum 43 spaces required  
14 by code; 2) Area Variances from Section 205-18B to  
15 allow pavement and parking to be 4.33 ft. from a side  
16 (north) lot line and 1 ft. from the rear (west) lot  
17 line where a minimum 10 ft. is required by code; and  
18 3) an Area Variance from Section 207-14.3D(3) to allow  
19 a drive-thru lane to be 4 ft. from a side (south) lot  
20 line in lieu of the minimum 10 ft. required by code.  
21 All as described on application and plans on file.

22  
23 Application 9A-05-17. Application of Mamasan's  
24 Monroe, LLC, owner of property located at 2735 Monroe  
25 Avenue for an Area Variance from Section 207-2A to

1 allow a front yard fence to be 49 inches in height  
2 with 86 inch posts where the maximum height of any  
3 portion of the fence cannot exceed 42 inches as  
4 allowed by code. All as described on application and  
5 plans on file.

6  
7 Application 9A-06-17. Application of Mamasan's  
8 Monroe, LLC, owner of property located at 2735 Monroe  
9 Avenue for a Sign Variance from Section 207-32B to  
10 allow a free standing menu board where not allowed by  
11 code. All as described on application and plans on  
12 file.

13 MR. KNAUF: Good evening, my name is Alan  
14 Knauf from Knauf Shaw. I'm an attorney for the  
15 applicant Mamasan's Monroe for these variances. I'm  
16 here tonight with Lee Walters. The owner is here.  
17 Randy Peacock, the architect on the project and Al  
18 LaRue from the team of engineers is here. We are  
19 asking for a variety of relatively minor area  
20 variances for this project.

21 As you know Be has had a restaurant on  
22 Monroe Avenue for a long time. As part of the  
23 proposed Whole Foods project, her property has been  
24 purchased. She is basically on post-closing  
25 possession right now. She is going to have to move

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1 out, I think, by the end of the year. So she is under  
2 -- I think, she is going to be temporarily shut down  
3 for a while. She has property across the street, the  
4 Pizza Hut property that she wants to redevelop into a  
5 new restaurant. Same sort of restaurant but she wants  
6 to have a drive-thru pick-up so that people can order  
7 ahead on their phone, or by computer, or whatever to  
8 pick up. And so in order to fit on the site, there  
9 are a few variances that she does need. The SEQOR  
10 process is currently in process.

11 So we were hoping the Planning Board would  
12 make a decision at the last meeting, they did not.  
13 There was an issue regarding the -- really the  
14 entrance and exit onto Monroe Avenue. We were  
15 undergoing review by the DOT. We asked them as part  
16 of the Whole Foods project, if it ever happens, it  
17 would be -- there would be a light out on Monroe  
18 Avenue. The thought is that there would be a common  
19 entrance and exit for people on the south side of  
20 Monroe Avenue that would line up with the entrance and  
21 exit to the Whole Foods project with a light.  
22 Obviously, it's not clear whether or not that project  
23 is going to happen. Be needs to go ahead with her  
24 restaurant now. So she would have an entrance and  
25 exit right onto Monroe. We would like, even if this

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1 light went in, to at least have a right in maybe a  
2 right out. That's what we went back to the DOT about.  
3 So that issue, currently, we are waiting for a  
4 decision from the DOT as to what they would let us do  
5 if this other entrance already went in. But right  
6 now, we are looking at going ahead this spring or as  
7 soon as possible. As soon as we are approved, we will  
8 start construction with the project. So Mr. LaRue is  
9 going to explain the various variances that we are  
10 requesting.

11 MR. LARUE: Good evening, Al LaRue,  
12 McMahon LaRue Associates. The first variance we are  
13 talking about is the lot coverage. We are going to be  
14 out 71.7 percent in lieu of the 65 until such time  
15 that the parcel in the back is joined with our parcel.  
16 At which point, this goes down to 60 percent lot  
17 coverage. So it's a pretty minor variance there.

18 CHAIRPERSON MIETZ: Excuse me, Al. Are  
19 you talking about the common roadway that's proposed  
20 for the New York State property?

21 MR. LARUE: Yes. Yes.

22 CHAIRPERSON MIETZ: I just wanted to make  
23 sure we are aware of what your plan is.

24 MR. LARUE: Yes. There is a lot of  
25 variances that are intertwined with that variance. So

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1 that would be number one which is 03. 04, what we are  
2 asking for our side setback is 4 feet and 4.63 in lieu  
3 of the 10 feet. There are several -- Dunkin' Donuts  
4 is just to the south of us. To the north on the other  
5 side, there is certainly a neighborhood precedent for  
6 that. And so that -- we know it's a major variance,  
7 but we are considering it minor for those reasons  
8 because there is a neighborhood precedent for that.

9 CHAIRPERSON MIETZ: Can you suggest, for  
10 the record though, what's causing the problem?

11 MR. LARUE: What's causing the problem is  
12 the parking lot. The standard widths, the aisle  
13 24 feet 18 foot deep, a building that's usable, and  
14 you can drive out behind it. So that combination of  
15 infrastructure is what's causing that.

16 CHAIRPERSON MIETZ: Okay.

17 MS. TOMPKINS WRIGHT: And the current  
18 pavement on the site already violates the setback in  
19 its current condition?

20 MR. LARUE: It does. And right now, the  
21 existing coverage is 70 percent. So we are well over  
22 it, but once the variance is done --

23 MR. DI STEFANO: Just for the record, Al,  
24 it doesn't violate all of it. Just a couple of spots,  
25 a couple of variances --

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1 MS. TOMPKINS WRIGHT: The rear.

2 MR. DI STEFANO: The rear and probably --  
3 I call it -- the north property line. The northwest  
4 property line, that's where it's in violation. But in  
5 other areas, it meets code now.

6 MR. LARUE: Okay.

7 MR. DI STEFANO: But with this proposal,  
8 it would push you into two variances.

9 CHAIRPERSON MIETZ: Okay.

10 MR. LARUE: That's correct. Variance  
11 number five --

12 CHAIRPERSON MIETZ: I don't think you  
13 talked about the parking situation.

14 MS. TOMPKINS WRIGHT: The number of  
15 parking spaces.

16 MR. LARUE: Oh, the parking spaces, well,  
17 we have 42 where 43 are required. Once that  
18 conveyance in the back that's all tied into that too,  
19 we will have more than enough parking after that.

20 CHAIRPERSON MIETZ: Can you state for me,  
21 if that happens, about how many additional spaces that  
22 would mean, approximately?

23 MR. LARUE: Nine.

24 CHAIRPERSON MIETZ: Okay. I see nine on  
25 the drawing.

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1 MR. LARUE: Yeah.

2 CHAIRPERSON MIETZ: Okay. I just wanted  
3 to make sure.

4 MR. DI STEFANO: I just want to tell the  
5 Board that really we base our approvals on the plan  
6 presented because there are no guarantees.

7 CHAIRPERSON MIETZ: I know. I hope  
8 everyone is aware of that.

9 MR. DI STEFANO: Just make sure that when  
10 we look at this, base it on the plan and just kind of  
11 forget about the rear. If that rear happens, great.  
12 But that's the question mark.

13 MR. LARUE: And right now, Be is saying  
14 that 42 spaces is fine for her operation for that  
15 plan. The loss of one space really isn't going to  
16 effect her business.

17 MS. TOMPKINS WRIGHT: Do you anticipate  
18 the drive-thru or pick-up window, as people call it,  
19 will lessen the number of available parking spaces she  
20 will need?

21 MR. LARUE: Right. It will take that  
22 down. That's exactly right because of the cue. And  
23 we have a good cue in there. So those people where  
24 they might just park and go get it, now they won't.  
25 They will just drive through.

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1 MS. SCHWARTZ: And how many seats are  
2 there inside?

3 MR. KNAUF: I have to look.

4 MR. DI STEFANO: I think are you looking  
5 for --

6 MR. LARUE: Seventy-two.

7 MR. DI STEFANO: Does that include outdoor  
8 as well?

9 MR. PEACOCK: Randy Peacock. Yes, there  
10 are 72 seats inside and 16 seats outside.

11 CHAIRPERSON MIETZ: Randy, just for the  
12 record.

13 MR. PEACOCK: Randy Peacock, yep.

14 MS. SCHWARTZ: You said 16 outside?

15 MR. PEACOCK: Sixteen outside which I also  
16 want to add to Al's presentation that part of the  
17 parking requirement is for the 16 seats outside as  
18 well. So that is seasonal where we have to provide  
19 parking for all of the seats. So that area is not all  
20 year long, especially this summer.

21 MR. LARUE: And tonight.

22 MR. DI STEFANO: And I also want to make a  
23 clarification that we are basing the parking on the  
24 square footage of the building and not the seat count  
25 in this instance; correct?

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1 MR. PEACOCK: Correct.

2 MR. DI STEFANO: So per the square footage  
3 of the building is one per 100 plus one for each  
4 employee.

5 CHAIRPERSON MIETZ: Right.

6 MR. DI STEFANO: That is another way that  
7 we can calculate parking for a restaurant use.

8 CHAIRPERSON MIETZ: Very good. Please  
9 continue.

10 MR. LARUE: Item number five, Be would  
11 like to take the decorative fence from across the  
12 street and repurpose it in this area because it's a  
13 very nice fence. So there is an area variance.

14 CHAIRPERSON MIETZ: So no alteration to it  
15 just as it exists.

16 MR. KNAUF: We would be recycling the  
17 existing fence in the spirit of keeping Brighton  
18 organic and all of that.

19 MR. PEACOCK: I would like to add that was  
20 also a variance in previous incarnation of the project  
21 that you recommended.

22 CHAIRPERSON MIETZ: Right.

23 MR. LARUE: I tried to remember the  
24 recycling in that.

25 CHAIRPERSON MIETZ: You have to get the

1 buzzwords down.

2 MR. PEACOCK: I can also point out to you  
3 that's the tall parts of the fence.

4 CHAIRPERSON MIETZ: The finials on the  
5 fence which is how we measure that. Okay. I think we  
6 are down to the menu board.

7 MR. LARUE: The menu board, while a lot of  
8 people are going to call in ahead of time and order  
9 and pick up, there are going to be those people that  
10 go, "I have to stop and order." Well, it's difficult  
11 to do without a menu board. This one is tucked in  
12 sort of behind the building in a nice little area. So  
13 it will serve that purpose. Size-wise, do you know  
14 the size, Randy?

15 MR. PEACOCK: I'm sorry. I don't. I  
16 think they were 32 by --

17 MR. LARUE: We provided information on  
18 that.

19 MR. CLAPP: I think it was in the packet.

20 MR. DI STEFANO: It was in the packet. So  
21 in essence, this is not really a pick-up lane. It's a  
22 drive-thru.

23 MR. LARUE: It's a drive-thru.

24 MR. DI STEFANO: Not just a pick-up  
25 drive-thru, it's a full-fledged drive-thru.

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1 MR. KNAUF: Again, her intent and  
2 marketing is going to be emphasizing order ahead and  
3 pick up.

4 MR. DI STEFANO: Right, because most  
5 likely the first time someone does it then realize,  
6 "Oh, I really don't have to order ahead. I can just  
7 drive-thru."

8 MR. LARUE: No, they are all going to save  
9 it on their phone and reorder what they did last time.

10 MR. DI STEFANO: I want to make sure we  
11 are calling it the right thing.

12 MR. PEACOCK: Let me just explain how this  
13 works. Be's menu is not something that is cooked fast  
14 enough where you can order it from a menu board. She  
15 is going to have a very limited amount of menu  
16 selections.

17 CHAIRPERSON MIETZ: Not the whole menu.

18 MR. PEACOCK: Things they can cook in the  
19 restaurant and have ready to go very quickly. Things  
20 like their soup, the spring rolls, and some noodle  
21 dishes where they can cook a tray, and it can sit, and  
22 it doesn't go bad. So it's intended to kind of fill  
23 in some gaps, but it's not the whole menu. You can't  
24 pull up and order something off the inside menu.

25 MR. DI STEFANO: Right. So in essence,

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1 it's a limited drive-thru menu.

2 MR. PEACOCK: What we came to the  
3 realization of while the major intent of this is to  
4 provide access to the folks, she probably does 50-60  
5 takeouts a day between lunch and dinner. And those  
6 people all have to pull in, park their cars, get out,  
7 and walk in the restaurant, and get it. I mean, I am  
8 in there quite often. You see folks come in with  
9 their kids. And just the convenience, she wants to  
10 offer for them to be able to come up to a window and  
11 order this. And then in the process, let's at least  
12 do it and put a board in, and you can kind of sell  
13 some of these items that people may not think of  
14 ordering.

15 MS. CORRADO: So with the addition of this  
16 takeout menu board, I'm assuming she anticipates 50 to  
17 60 takeouts a day. Does she anticipate an increase of  
18 order ahead and pickup?

19 MR. PEACOCK: We sure hope so. We hope  
20 so. When we did the traffic studies for the Planning  
21 Board, we looked at a minimum number of 30 percent  
22 increase in the number of takeouts that are done  
23 because of that. And that was just based on the --  
24 I'm not a traffic engineer, but based on the way the  
25 traffic engineering ruled or calculations worked, they

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1 did calculate it that way. Hopefully, there will be  
2 an increase if somebody has that convenience. The  
3 other good part of it is we're going to the going home  
4 side of Monroe Avenue. Right now folks coming --

5 MR. KNAUF: At least people living in  
6 Pittsford.

7 MR. PEACOCK: I mean at 6:00 -- 5:00 or  
8 6:00 in the evening, majority of the traffic is headed  
9 out of Monroe Avenue.

10 CHAIRPERSON MIETZ: Okay.

11 MS. CORRADO: How does she anticipate that  
12 impacting the sit down service in the restaurant?

13 MR. PEACOCK: I don't think it will reduce  
14 the sit down service. The sit down service right now,  
15 it's a smaller dining room.

16 CHAIRPERSON MIETZ: What is the seating  
17 across the street?

18 MR. PEACOCK: About 130.

19 CHAIRPERSON MIETZ: So it's almost half.

20 MR. PEACOCK: And it doesn't all get used  
21 on a regular basis, about half full. There are some  
22 evenings on a good Friday or Saturday night where it  
23 will be close to full. But for the most part, it is  
24 about half full. It helps her reduce the number of  
25 service people she has in the restaurant. I will talk

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1 to Be. She has explained this many times to me. It  
2 is getting a little more difficult for her to get  
3 around. She runs the restaurant hands-on. Be is  
4 there. This is her restaurant. Everybody who walks  
5 in the door gets a hello, and that's how that works  
6 there. And I think that is one of the charms of the  
7 restaurant, but it's quite a task to run a 130 seat  
8 restaurant. And she wants to reduce that scale a  
9 little bit and that's the intent there to kind of  
10 bring it down in size.

11 MS. SCHWARTZ: So when people come through  
12 and preorder, they are ordering a full meal?

13 MR. PEACOCK: Absolutely.

14 MS. SCHWARTZ: They are going to get  
15 everything off of the menu?

16 MR. PEACOCK: Just like they do right now.  
17 You can call up on your phone --

18 MS. SCHWARTZ: Right, but they are getting  
19 out and going in.

20 MR. PEACOCK: They are getting out, and  
21 going in, right, and it's in the bag.

22 MS. SCHWARTZ: That's a whole different  
23 story.

24 MR. PEACOCK: The intent here is that it's  
25 still going to be in the bag. You tell them who you

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1 are, and she can hand you the bag through the window.

2 MS. SCHWARTZ: And it's going to be all  
3 ready and move along?

4 MR. PEACOCK: Yep. I see it now. I mean,  
5 I have never yet seen somebody come in and the meal is  
6 not ready when they come in.

7 CHAIRPERSON MIETZ: Okay. Rick, this is  
8 being really classed as a drive-thru. So the stacking  
9 requirements are there as well?

10 MR. DI STEFANO: Yes, there would still be  
11 the stacking requirements which would be 120 feet for  
12 a restaurant which I believe you have done that  
13 calculation for her.

14 CHAIRPERSON MIETZ: Have you guys done  
15 that?

16 MR. DI STEFANO: For the Planning Board?

17 CHAIRPERSON MIETZ: The stacking?

18 MR. LARUE: Yes.

19 MR. KNAUF: Well, we did re-run the  
20 traffic analysis for a full drive-thru. You know, so  
21 the Town asked us to do the worst possible case like  
22 you have a McDonald's drive-thru or something like  
23 that. So that's --

24 CHAIRPERSON MIETZ: A drive-thru is a  
25 drive-thru, isn't it?

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1 MR. KNAUF: Yes. So that's what the  
2 analysis was done based upon. And we don't really  
3 think that will happen. We did think of the stacking  
4 to meet the requirements.

5 MR. DI STEFANO: You have 150 feet  
6 stacking there so 120 should fit. Can I just go back  
7 to the menu board real quick? Is there going to be a  
8 speaker associated with this?

9 MR. KNAUF: Yes. Yep.

10 MR. DI STEFANO: Okay.

11 MS. SCHWARTZ: How many square feet of the  
12 interior would you lose if you met code for impervious  
13 service coverage?

14 MR. LARUE: Seven percent, six percent of  
15 the square footage.

16 MR. DI STEFANO: Another --

17 MR. LARUE: It's a calculation.

18 MR. DI STEFANO: Right. Another way of  
19 looking at it, Judy, too is the drive-thru if they try  
20 to meet code for coverage --

21 CHAIRPERSON MIETZ: There had to be access  
22 across the back of the building or not so --

23 MR. DI STEFANO: Right. You probably  
24 wouldn't have to. You know, a building this size,  
25 it's not a big building. So you probably would need

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1 access to the backside of it, but the drive-thru does  
2 pose its issues. That's kind of like meeting coverage  
3 and setbacks. You know, there are other ways, and I  
4 know -- I don't want to beat this thing to death,  
5 truthfully, but there are other methods. You can have  
6 what Applebee's does and what other people have is  
7 curbside pick-up. You get there and somebody comes  
8 out and brings your meal to you. So that's another  
9 way to do it. Obviously, she doesn't want to do that  
10 because they proposed this.

11 MS. SCHWARTZ: I can see a problem,  
12 personally, if you are there to pick up. And you  
13 ordered. And you're behind somebody who is looking at  
14 the board. What are we going to do and whatever. And  
15 you are ready. I mean, you have two different things  
16 going on.

17 CHAIRPERSON MIETZ: That's something we  
18 can talk about. Is there another question?

19 MS. CORRADO: With the drive-thru, are the  
20 hours going to be the same as the restaurant hours?

21 MR. PEACOCK: As the restaurant, yes. We  
22 are open 11:00 to 9:00.

23 MS. CORRADO: So no extended hours  
24 anticipated for the drive-thru beyond the table hours?

25 MR. PEACOCK: No, Be is at the restaurant

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1 from 11:00 to 9:00. At 9:00, she is ready to go home.  
2 They close the restaurant, and she goes home.

3 CHAIRPERSON MIETZ: So whoever is  
4 finishing leaves but no more serving after that.  
5 Okay. Other questions by the board members about  
6 this?

7 Rick, did you have anything else that's a  
8 concern?

9 MS. TOMPKINS WRIGHT: Is the new board lit  
10 internally?

11 MR. PEACOCK: It has an internal light.  
12 It faces Sakura Home. We have a lot of space between  
13 us and the apartment center way in the back there.

14 CHAIRPERSON MIETZ: Maybe to give an idea  
15 of scale here, I don't know how many items are on the  
16 menu. I looked at it a number of times, but did not  
17 count that.

18 MR. KNAUF: Probably 5 to 10 percent.  
19 It's not -- she has really an extensive menu.

20 CHAIRPERSON MIETZ: Yes, I am aware.

21 MR. PEACOCK: There are, I think, 10 or 15  
22 different sauces that you can mix with different  
23 proteins or vegetables. That's just the main dishes.  
24 There are all kinds of other things like soups and all  
25 of that. Once again, this is intended to be something

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1 that's made that can be packaged quickly and go out  
2 the door. It's intended to be accessories to the main  
3 menu there.

4 CHAIRPERSON MIETZ: The point that Judy  
5 raised here, which I think is an interesting one, do  
6 you guys have any comment about that. If I'm the  
7 first car and I'm studying the menu board. Andrea is  
8 behind me waiting to pick her stuff up. She called  
9 and ordered 15 minutes or so ago, and she shows up  
10 like they told her to 15 minutes later to get her  
11 food.

12 MR. PEACOCK: We all have a situation in  
13 life where we have to wait for somebody. It may  
14 happen. You can't say it's not going to happen.  
15 Personally, I don't think it's a problem. I mean,  
16 just --

17 MR. KNAUF: I think they don't anticipate  
18 a problem. If it turned out to be a real problem, I  
19 think Be would have to make a choice. My guess is she  
20 is going to make a lot more on the call ahead, or  
21 e-mail ahead, whatever than the few people driving  
22 through to buy soup or whatever.

23 MR. PEACOCK: Right. That's where I was  
24 headed. This will be adjusted to make it work because  
25 you have to have the customers or it doesn't work.

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1 MR. DI STEFANO: I guess one of my  
2 concerns is that -- and this is just purely the  
3 pick-up -- that person who calls and says it's a  
4 15-minute, you know, but they get there in 10 minutes,  
5 and they are in the window waiting five minutes. Then  
6 you start to get -- will they ask people to -- see the  
7 question is -- well, then you start having people  
8 circle around the building through the parking lot.

9 MR. PEACOCK: Well, if somebody gets there  
10 and it is not done, if there is nobody behind them,  
11 they can sit.

12 MR. DI STEFANO: They can sit.

13 MR. PEACOCK: Or somebody can come and ask  
14 them, "Can you go around?"

15 MR. DI STEFANO: So you are going to get a  
16 circling of traffic there.

17 MR. PEACOCK: The same thing happens at a  
18 McDonald's there. If they can't fill your order, I  
19 have been there plenty of times where --

20 CHAIRPERSON MIETZ: It does happen where  
21 people are asked to move up.

22 MR. PEACOCK: -- people run it out to you.

23 MS. TOMPKINS WRIGHT: The CVS drive-thru  
24 pharmacy does that.

25 CHAIRPERSON MIETZ: But in other words, it

1 will have to be something that is managed by the  
2 staff.

3 MR. PEACOCK: Yeah, you have to have happy  
4 customers. If you don't have happy customers, you are  
5 not going to have a successful business. And Be has  
6 been very good about keeping customers happy.

7 MS. CORRADO: So if it turns out that it's  
8 not an optimal model, now you have a sign out there  
9 that may not be used going down the road.

10 MR. PEACOCK: Turn it off or take it out.

11 CHAIRPERSON MIETZ: Okay. That's  
12 something we can talk about. We just want to make  
13 sure we can clearly understand. We are all customers  
14 of drive-throughs. We all know how they work. There  
15 is nothing different about this one, really, other  
16 than the type of food she has is not as accommodatable  
17 as fast food.

18 MR. PEACOCK: And the intent here is that  
19 it is something in between what you think of as a  
20 McDonald's and having to park your car and walk in. I  
21 just wanted to take one second to make sure you all  
22 understood what is going on. There is a parcel of  
23 land behind this that is owned by the DOT. The  
24 Danieles approached each one of the property owners  
25 there and asked them to go along with them to petition

1 the State to sell that parcel of land. And the  
2 initial intent the State did was to come to each  
3 property owner and say, "okay. We are going to sell  
4 you this piece. We are going to sell you that piece."  
5 The attorneys for New York State decided that they  
6 couldn't do that. They had to auction the piece of  
7 property, and it had to be auctioned as a whole  
8 parcel. So that is going to come to auction. What  
9 they have agreed upon at this point is the Danieles  
10 will buy that piece of land and then divide it out the  
11 way the State had divided it so that each parcel will  
12 then get a piece of that. And they have an agreement  
13 amongst the property owners that that's the way that  
14 will occur. So that's the source of that additional  
15 property that once that occurs -- we are,  
16 unfortunately, in a hurry to get the restaurant going.  
17 We can't a wait for that to occur. That should occur  
18 very shortly here. And if the Danieles can't buy, I'm  
19 sure that Be will be at the auction as well.

20 CHAIRPERSON MIETZ: It certainly makes  
21 sense. We heard it when we did the mattress building.  
22 So we are aware of what is generally going to be  
23 proposed there.

24 MR. PEACOCK: Okay. Thanks. I hope I  
25 said the same thing; right? Let me know if not.

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1 CHAIRPERSON MIETZ: Close.

2 MR. PEACOCK: All right.

3 MR. KNAUF: In any event, you guys can't  
4 take any action tonight because this is the  
5 coordinated review, I believe. So you can't do  
6 anything tonight, but we wanted to present to see if  
7 you had any questions or whatever. So we can come  
8 back next month and answer any questions if you have  
9 them because we really want to get going so she is not  
10 out of business for too long.

11 CHAIRPERSON MIETZ: What would you say if  
12 you -- obviously, you know what the schedule is with  
13 the Planning Board and ours. What would you say is a  
14 realistic date that this restaurant can be opened  
15 knowing what you know today?

16 MR. KNAUF: Well, if it got approved in  
17 October, Randy, how long will it take?

18 MR. PEACOCK: At this point probably into  
19 May.

20 CHAIRPERSON MIETZ: So that's if it all  
21 goes correctly or not a long winter.

22 MR. PEACOCK: It's not only that, but  
23 there is also, once we get the Planning Board  
24 approvals, we need signatures on the drawings from  
25 various agencies. So that can be six to eight weeks

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1 in itself. So hopefully, we can get it in the ground  
2 in May.

3 CHAIRPERSON MIETZ: That's helpful.

4 MR. KNAUF: Yes. So anyways, just briefly  
5 because I know you love to know all of the factors.  
6 We don't think this is any kind of undesirable change.  
7 It's a good thing because Be has been there a long  
8 time and just moving across the street. And we will  
9 have a nice new restaurant consistent with what's  
10 already there. We don't think it's feasible to  
11 proceed without the variances. Really the lot is,  
12 it's a little bit tight, but it's big enough. But if  
13 we had a little more room like the DOT land, we can do  
14 things like the parking. The fence, we want to  
15 preserve the fence if we can. And again, it's already  
16 in the neighborhood. We don't think these are  
17 substantial requests, fairly minor. We haven't come  
18 up with any real alternatives. She is downsizing the  
19 restaurant as we indicated. And we do think that the  
20 drive-thru pickup will actually make things better as  
21 far as, you know, not having people park, run in, have  
22 it work more efficiently. And we don't see any  
23 significant impact. Right now, you have a vacant  
24 restaurant sitting there with pavement. Some of which  
25 is non-compliance with the current setback. So we

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1 think, overall, this is a positive for the community  
2 to keep Be in business. It is an excellent operation  
3 and good for the community. We don't see any negative  
4 impact. So we are hopeful that if the Planning Board  
5 acts next month that this Board can act according to  
6 the variances.

7 CHAIRPERSON MIETZ: Very good. Any other  
8 questions from the Board?

9 MR. KNAUF: Thank you very much.

10 CHAIRPERSON MIETZ: Is there anyone in the  
11 audience that would like to speak regarding this  
12 application? Okay. There being none, then the public  
13 hearing is -- do we want to close this?

14 MR. DI STEFANO: I don't know if there's  
15 -- is there anything else you want to hear from the  
16 applicant?

17 MS. CORRADO: I think leave it open if  
18 there's --

19 CHAIRPERSON MIETZ: Yes, something from  
20 the Planning Board. I don't have a problem with that.

21 MR. DI STEFANO: No, I don't have a  
22 problem.

23 CHAIRPERSON MIETZ: Let's leave the public  
24 hearing open in case there is something that you want  
25 to present and anyone would also have an opportunity

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1 to speak to it.

2 MR. KNAUF: Okay. Thank you.

3 MR. LARUE: Thank you.

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1 Application 9A-07-17. Application of Signlanguage,  
2 Inc., contractor, and Richard and Kathryn Greene,  
3 owners of property located at 2140 South Clinton  
4 Avenue, for a Sign Variance from Section 207-32B to  
5 allow for a free standing business identification sign  
6 where not allowed by code. All as described on  
7 application and plans on file.

8 MR. BAKER: Hi, Greg Baker from  
9 Signlanguage, Inc., 6491 Route 28 in Perry, New York,  
10 just looking to put up a free standing sign in place  
11 of another one that's preexisting.

12 CHAIRPERSON MIETZ: Okay. So we know what  
13 the history of the other sign is. Can you talk  
14 through what's changed there on the parcel and explain  
15 why this is needed for the record?

16 MR. BAKER: Yes, previously, they had one  
17 building. Now the doctor's office is up to two  
18 buildings 2140 and 2150. We would like to move the  
19 sign in between both buildings so clients will  
20 understand the doctor is operating out of both  
21 buildings. And also, with the current sign, it just  
22 says dermatology. This sign will have his name on it  
23 so clients will understand where to go. He is,  
24 obviously, representing his business with his name  
25 being on the new sign. And this sign would be bigger.



1 It's a 2 foot by 6 foot sign. The other one is 1 foot  
2 by 4 foot.

3 CHAIRPERSON MIETZ: Okay. Just so we are  
4 clear then, so Dr. Green is operating within both  
5 buildings. There is not another principal to this  
6 business then, there may be other employees, but he is  
7 the only doctor that's operating out of these two  
8 buildings?

9 MR. BAKER: That is correct to my  
10 understanding.

11 CHAIRPERSON MIETZ: Okay. All right.  
12 Rick, as far as -- there is not really a square  
13 footage issue here because of the fact that it's just  
14 clearly a variance.

15 MR. DI STEFANO: Clearly a variance. So  
16 the size is part of the variance request.

17 CHAIRPERSON MIETZ: I understand why you  
18 would place it between the two parcels. How did you  
19 place it as it relates to traffic and people turning  
20 in and out? Can you talk a little bit about how you  
21 placed it?

22 MR. BAKER: Yes, it would be setback from  
23 the sidewalk, I believe, 9 feet. And it would be  
24 perpendicular to the road so clients and passersby  
25 would see it both from whichever way they are going.

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1 And then be 5 foot -- the total sign would be 5 foot  
2 high, three-foot in the ground using 4 by 4 by 8 posts  
3 with 2.5 to 3 foot in the ground. And then the rest  
4 would be standing up, but it would be -- there is an  
5 island in between --

6 CHAIRPERSON MIETZ: We are familiar with  
7 it. We saw it.

8 MR. BAKER: Yes, so it would be placed  
9 centered in there, centered side to side, and  
10 hopefully, 9 feet from the curb.

11 CHAIRPERSON MIETZ: So for the record, you  
12 would believe that even though the sign is a little  
13 bigger than the one that is there today, that it  
14 wouldn't interfere with people trying to exit and  
15 making a left or right hand turns as far as seeing the  
16 opposing traffic and things like that?

17 MR. BAKER: Not at all because it would be  
18 set back the same distance as the current sign. It's  
19 just a little bit bigger for the traffic farther back.

20 MS. CORRADO: Would the sign be  
21 illuminated?

22 MR. BAKER: It would not be.

23 CHAIRPERSON MIETZ: Because his hours are  
24 not evening hours?

25 MR. BAKER: His hours are not, no.

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1 CHAIRPERSON MIETZ: Okay. Are there any  
2 other questions?

3 MR. DI STEFANO: Any lighting?

4 MR. BAKER: No lighting.

5 CHAIRPERSON MIETZ: He just said that.

6 MR. DI STEFANO: David was talking to me.  
7 And there is no reason to have 2150 also on the sign?  
8 You guys are just going to put 2140?

9 MR. BAKER: 2140, correct.

10 CHAIRPERSON MIETZ: Okay. Any other  
11 questions by any of the board members?

12 MR. DOLLINGER: Yes, I have a question. I  
13 am just perplexed. You would think the dentist across  
14 the street would want the same exact sign. I don't  
15 think we allowed her a sign.

16 MR. DI STEFANO: I don't think she came in  
17 for one. But the 2150, when we approved the 2150,  
18 that building sat much farther off the road than any  
19 other building. And that side of the road also has  
20 angle to it where the west side doesn't have angle to  
21 it the way the properties actually line up. So 2150  
22 has definite findings on why we wouldn't approve the  
23 free standing sign there. All they are saying is they  
24 want to move it over a little bit to 2140.

25 CHAIRPERSON MIETZ: And also change what's

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1 on the sign. Remember, we went through quite a  
2 discussion on what should be on that sign and why.  
3 That's something to talk about. Okay. So is there  
4 any other questions by the board members? Okay. Very  
5 good. Thank you.

6 MR. BAKER: Thank you.

7 CHAIRPERSON MIETZ: Is there anyone in the  
8 audience that would like to speak regarding this  
9 application?

10 MR. LATTIMER: Yes, I would.

11 CHAIRPERSON MIETZ: Okay. Come on up,  
12 sir.

13 MR. LATTIMER: I have two sets of  
14 photographs. These photographs are from my driveway.

15 MR. DI STEFANO: Before you start, why  
16 don't you give us your name just so that she can get  
17 everything down.

18 MR. LATTIMER: I understand. I  
19 understand. I will give this to you and give this to  
20 you.

21 CHAIRPERSON MIETZ: And then if you can  
22 introduce yourself, sir.

23 MR. LATTIMER: Understood. Okay. My name  
24 is Phil Lattimer. I own 2169 which is across the  
25 street. I have the adjoining parcel, actually. My

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1 property is only about 50 feet away from where the  
2 sign is.

3 CHAIRPERSON MIETZ: You said 2169?

4 MR. LATTIMER: Yes, that's the Timothy  
5 Wallace-Schilling house.

6 CHAIRPERSON MIETZ: Got it. We can see it  
7 on the tax maps.

8 MR. LATTIMER: Yeah. So my concern has to  
9 do with esthetics. If you look at the photograph that  
10 I have shown you, what's very nice is that the Greens  
11 have put up a stylish building that's a twin of the  
12 existing building. The original building had, what I  
13 would describe, as a first class landscaping. And I  
14 would describe what was put on this other property is  
15 more like sea level.

16 CHAIRPERSON MIETZ: A little sparse?

17 MR. LATTIMER: It's sparse. My concern is  
18 if you notice where the sign is now, it's in a nice  
19 spot under a beautiful locus tree. It's a pair of  
20 locus trees. That photograph is the view of the  
21 frontage. It's not edited. It's the full frontage.  
22 You see the two buildings and the trees, and you also  
23 see the island there which is extremely sparse. And  
24 just as a matter of esthetics for the neighborhood,  
25 what my wish would be is that another locus tree be

1 put in so that the sign has a similar aspect to the  
2 landscaping as to what the current situation is. So  
3 it's -- I think, it would be an enhancement to the  
4 property. And also, I think would be rather handsome  
5 so the things I have to look at of course. So I hope  
6 you consider some of those issues.

7 Now, the two pictures I passed along, one  
8 is just straight with no editing. And the other one I  
9 have freehand drawn a tree and shrubbery around it. I  
10 really don't understand why there is no plantings in  
11 this island and it is just green space. The one thing  
12 I didn't think about when this property was being  
13 developed was the facet that in the past cars would be  
14 parked in the back of the property. There was no  
15 parking in the front. And now of course with the  
16 development, cars park right up onto the sidewalk.  
17 This picture was taken before business hours this  
18 morning. So you don't see too many cars there. So  
19 I'm looking for along with the sign, a little  
20 enhancement in terms of what the frontage looks like.

21 CHAIRPERSON MIETZ: Do you have any  
22 concerns, specifically, about the sign other than the  
23 landscaping issues to go there?

24 MR. LATTIMER: No, not really to be  
25 completely honest.

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1 CHAIRPERSON MIETZ: Okay. Just want to be  
2 clear what the concerns are.

3 MR. LATTIMER: No, I do understand. I  
4 would just glance at what the sign looks like now and  
5 what the sign is going to look like in the middle of  
6 the whole grass island there.

7 CHAIRPERSON MIETZ: Okay. Very good.

8 MR. LATTIMER: Thank you.

9 CHAIRPERSON MIETZ: Thank you very much.  
10 Would you like the photos back?

11 MR. LATTIMER: No, that's for you.

12 CHAIRPERSON MIETZ: Okay. Great. Thank  
13 you. Is there anyone else in the audience that would  
14 like to speak regarding this application? Okay.  
15 There being none, then the public hearing is closed.

16 MR. BAKER: Can I speak again on my own  
17 behalf?

18 CHAIRPERSON MIETZ: Is there something you  
19 need to clarify? Again, we don't allow rebuttal  
20 between what he said and what you think about what he  
21 said.

22 MR. BAKER: A little clarification.

23 CHAIRPERSON MIETZ: All right. Because I  
24 will stop you if it's not. Okay. Go ahead.

25 MR. BAKER: Generally with a free standing

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1 sign, we encourage those who own these signs to put  
2 landscaping around it so lawn mowers, weedwackers,  
3 whatever it is, are not running into the posts,  
4 tipping the sign, or knocking the sign over. So that  
5 would go along well with his esthetics or landscaping.

6 CHAIRPERSON MIETZ: You are talking about  
7 ground plantings?

8 MR. BAKER: Yes, so a nice flower bed  
9 around it which would add to the esthetics around the  
10 sign.

11 CHAIRPERSON MIETZ: Are you aware if the  
12 owner is interested in doing that? I know you are  
13 speaking as it relates to the sign not the owner of  
14 the property.

15 MR. BAKER: Correct. What she decides is  
16 what she decides. We encourage everybody to do that  
17 because it saves them money in the long run. So every  
18 sign we put up we encourage them to do the flower bed  
19 around it.

20 CHAIRPERSON MIETZ: All right.  
21 Understood. Thank you.

22 MR. BAKER: Thank you.

23 CHAIRPERSON MIETZ: Is there anyone in the  
24 audience that would like to speak regarding this  
25 application? Okay. There being none, then the public

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1 hearing is closed.  
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1 Application 9A-08-17. Application of Jewish Home of  
2 Rochester, owner of property located at 2021 Winton  
3 Road South, for a Temporary and Revocable Use Permit  
4 pursuant to Section 219-4 to erect a tent and hold a  
5 one day grand opening event in the RHD-1 District.  
6 All as described on application and plans on file.

7 MR. TROTTA: Good evening, Gene Trotta  
8 from Jewish Senior Life, 2021 Winton Road South. The  
9 event is on September 26th. We are also having a tent  
10 placed on one of the cottages, the far north part, one  
11 of the new cottages erected there. We are having 142  
12 spots of parking for this event. The event will be  
13 from 4:00 to 6:00 p.m. Security and valet parking will  
14 also be available at this event. And the tent will be  
15 taken down the same night.

16 MS. TOMPKINS WRIGHT: Did you say it was  
17 being put up the day before?

18 MR. TROTTA: It will be put up on the  
19 25th, yes, to be inspected by the fire marshall.

20 MR. DI STEFANO: And for the record, how  
21 big is the tent?

22 MR. TROTTA: I put the drawing in there,  
23 but I don't know the exact -- it should hold 250  
24 people. So it might be on your application.

25 MR. DI STEFANO: 40 by 55 feet.

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1                   MR. TROTTA: Yes, and that's being staked  
2 out by Nolan's to make sure that it is appropriate for  
3 the amount of people in it with a drawing also in the  
4 back.

5                   CHAIRPERSON MIETZ: Okay. Questions? Any  
6 questions? Okay. Thank you very much. Is there  
7 anyone in the audience that would like to speak  
8 regarding this application? Okay. There being none,  
9 then the public hearing is closed.

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1 Application 9A-09-17. Application of Jens and Staci  
2 Pfeffer, owners of property located at 29 Southern  
3 Parkway, for an Area Variance from Sections  
4 203-2.1B(2) and 203-9A(4) to allow a shed to be  
5 located in a side yard in lieu of the rear yard as  
6 required by code. All as described on application and  
7 plans on file.

8 MR. PFEFFER: Good evening, I'm Jens  
9 Pfeffer. I am from 29 Southern Parkway asking for a  
10 variance to put a shed in our side yard. As the way  
11 our lot is laid out, we have very little backyard, a  
12 true backyard behind the house. The one side is my  
13 garage. The other is landscaping and trees. I don't  
14 want to remove that to put a shed in. And I want to  
15 put it on the north side. The neighbor has a shed  
16 that is right along the property line there. So I am  
17 not doing something different than what the neighbor  
18 has. I spoke with the neighbor and they gave their  
19 blessing to put the shed there. There were no  
20 concerns. I am looking at painting the shed to match  
21 as close to the house as I can. Shingle the same  
22 color as my house so it ties in with the property and  
23 is not an eyesore. And there are evergreens that are  
24 along the driveway there that block the view from the  
25 street somewhat. I mean at an angle, you will see it.

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1 It's going to be about 70 feet from the right-of-way.  
2 That's kind of what I'm looking for.

3 CHAIRPERSON MIETZ: Can you, just for the  
4 record, describe the use of the shed?

5 MR. PFEFFER: I'm looking to put my kids'  
6 bicycles in and get them out of the garage, snow  
7 blower, and lawn mower so they are easily accessible  
8 from the driveway.

9 CHAIRPERSON MIETZ: So you won't be  
10 conducting any other work in the space?

11 MR. PFEFFER: No.

12 CHAIRPERSON MIETZ: Just simply a storage  
13 shed?

14 MR. PFEFFER: Yes.

15 MR. DI STEFANO: And for the record, the  
16 size?

17 MR. PFEFFER: 10 by 14.

18 MR. DI STEFANO: And the height?

19 MR. PFEFFER: Oh, it's like 8 feet.

20 MR. DI STEFANO: Less than 16 feet?

21 MR. PFEFFER: Yes, less than 16 feet. It  
22 has, I think, 6 or 8 feet walls on the peak.

23 MR. DI STEFANO: Thank you.

24 MS. TOMPKINS WRIGHT: Did you look at any  
25 smaller sheds or kind of visualize your space to

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1 confirm this is the size shed you would need? Would  
2 you consider a smaller shed?

3 MR. PFEFFER: For what I want to put in  
4 there, that's the kind of size I would like to have.  
5 I don't think a different size is going to -- I still  
6 have to move landscape in the back of my yard. I want  
7 to be able to access it is easily. So I think the  
8 size is not driving me to put it where I want to put  
9 it.

10 MS. TOMPKINS WRIGHT: But even putting it  
11 in the same exact place because it seems somewhat of a  
12 larger shed, maybe larger than average, but you feel  
13 this is the size that you need?

14 MR. PFEFFER: In all honesty, I would like  
15 to put a pole barn up to store all of my kids' stuff.  
16 So I mean yes, I'm trying to keep it small and not go  
17 too big.

18 CHAIRPERSON MIETZ: I bet your wife would  
19 be happy with that.

20 MR. PFEFFER: My garage is full of stuff.  
21 I have three kids between bikes, scooters, and toys,  
22 there is a lot of stuff to store in there to get it  
23 out of the way.

24 CHAIRPERSON MIETZ: So for the record, you  
25 are saying that based on the things you want to store

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1 in there, this is an appropriate size to contain all  
2 of the items?

3 MR. PFEFFER: Yes.

4 CHAIRPERSON MIETZ: Okay. Any over  
5 questions? Okay. Great. Thank you.

6 MR. PFEFFER: Thank you.

7 CHAIRPERSON 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 9A-11-17. Application of Paul Cabral and  
2 Dallas Nelson, owners of property located at 59 Summit  
3 Drive, for an Area Variance from Section 205-2 to  
4 allow a rear addition to extend 13 ft. into the  
5 existing 38 ft. rear setback where a 60 ft. rear  
6 setback is required by code, replacing an existing  
7 deck granted a similar variance (2A-02-94). All as  
8 described on application and plans on file.

9 MR. CABRAL: Good evening, I'm Paul Cabral  
10 at 59 Summit Drive.

11 MS. NELSON: I'm Dallas Nelson, 59 Summit  
12 Drive.

13 MR. CABRAL: Currently off the back of our  
14 house, we have an enclosed porch on the top of our  
15 garage. Attached to that is an on-grade deck. We  
16 would like to replace that on-grade deck with an  
17 enclosed semi-varied poolroom with then a rooftop deck  
18 on top to match the level of the enclosed deck that  
19 currently exists there. The new poolroom fits within  
20 the existing footprint of the current deck, and this  
21 was given as a variance in February of 1994, number  
22 2A-02-94. The variance is to modify the variance and  
23 allow the new post structure where the deck currently  
24 is.

25 CHAIRPERSON MIETZ: You provided,



1 obviously, the elevations and --

2 MR. CABRAL: I'm sorry?

3 CHAIRPERSON MIETZ: You provided us the  
4 elevations. Can you talk about the materials? How  
5 it's going to appear as it relates to what's there  
6 now? Not the location, but what it's going to appear  
7 like.

8 MR. CABRAL: Yes, we are going to try and  
9 match the windows and the siding to the same style of  
10 house and apply the same color to that. We have cedar  
11 shingles which has a grey painting to them and that's  
12 what it's going to match.

13 CHAIRPERSON MIETZ: And then the enclosure  
14 of the deck, I guess, will be the deck?

15 MR. CABRAL: It will be the same sort of  
16 grey in coloring or white depending on how that looks  
17 to match the exterior of the house.

18 CHAIRPERSON MIETZ: So then the elevation,  
19 it looks really dark. So that's just depicting the  
20 location of it?

21 MR. CABRAL: Correct.

22 CHAIRPERSON MIETZ: And it appears the  
23 color and everything --

24 MR. CABRAL: Correct. It is to sit with  
25 the matching existing --

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1 CHAIRPERSON MIETZ: Because the existing  
2 is kind of a grey material, the existing fence and  
3 stuff.

4 MR. CABRAL: Correct. The house is grey  
5 with some white and black accents.

6 MS. SCHWARTZ: So do I understand the  
7 steps in the back that go down, they are coming out  
8 I'm assuming, and that's the area where this is going  
9 to be?

10 MR. CABRAL: Correct.

11 MS. SCHWARTZ: So is it going to be the  
12 same size or take up the same amount of space.

13 MR. CABRAL: Absolutely. That's our goal  
14 to actually take up a little less space than what the  
15 deck actually is.

16 CHAIRPERSON MIETZ: What would need to be  
17 done to the landscaping there? Would there be some  
18 removals necessary? Can you speak to that? We can  
19 see it in the one picture here.

20 MS. NELSON: Yes, this comes out. At the  
21 moment what should be replaced anyway is the brick  
22 sidewalk, but this is coming out a little bit forward,  
23 4 feet from underneath the garage. So it moves it  
24 forward. But under where the staircase currently is,  
25 so we would -- then there is a staircase coming back

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1 down. So it's probably going to be maybe a better  
2 graded walkway when there is a different staircase  
3 there. And the landscaping, we have done a lot of  
4 improvement of our landscaping around the rest of the  
5 house, but have held off on that area. So it will be  
6 somewhat destroyed in the process and then rebuilt.

7 CHAIRPERSON MIETZ: So just shrub, no  
8 trees are being effected by this?

9 MS. NELSON: No. No, I think there is a  
10 lilac in there.

11 CHAIRPERSON MIETZ: Just for the record,  
12 no trees that will be effected?

13 MR. CABRAL: No, whatever the front brush  
14 area that's sort of -- but no major trees. We just  
15 put in some trees in order to help with that.

16 CHAIRPERSON MIETZ: Okay. All right.

17 MR. CABRAL: I forgot to mention -- I'm  
18 sorry -- I actually have letters from three sides of  
19 our neighbors. I have made copies it. So I have the  
20 letter from the person on the south side, the lot  
21 behind, our next door neighbor to our right, and then  
22 to the left across the street, the person who actually  
23 would be seeing that also.

24 MR. DI STEFANO: Okay. For the record, I  
25 have letters from neighbors at --

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1 MR. CABRAL: There are four copies. If  
2 you flip through the first four pages, you will see  
3 the same exact ones. We saved some trees.

4 MS. NELSON: There are copies for each  
5 member of the board.

6 MR. DI STEFANO: Yes, so neighbors at 37  
7 Summit, 67 Summit, and it says back lot property.

8 MS. NELSON: There is no house there.  
9 It's an empty lot.

10 MR. DI STEFANO: But it's the owner of the  
11 property basically saying they have reviewed the  
12 attached drawings, and they have no objection to the  
13 applications presented.

14 CHAIRPERSON MIETZ: Very good. Did you  
15 have any questions or anything?

16 MR. CLAPP: No, I had a chance to look at  
17 the property earlier.

18 CHAIRPERSON MIETZ: Okay. Anything else?

19 MR. DI STEFANO: Have you been to the  
20 Architecture Review Board on this?

21 MS. NELSON: No, that's coming up.

22 MR. DI STEFANO: At the end of September?

23 MR. CABRAL: Yes.

24 CHAIRPERSON MIETZ: Okay. Thank you very  
25 much.

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1 MR. CABRAL: Thank you.

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

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

STATE OF NEW YORK:  
COUNTY OF 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 September 6, 2017, COMMENCING AT APPROXIMATELY 8:30  
4 P.M.

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SEPTEMBER 6, 2017  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

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

1 Application 8A-04-17. Application of Liz Munoz, owner  
2 of property located at 333 Meadow Drive, for an Area  
3 Variance from Section 207-2A to allow a front yard  
4 fence to be 5 ft. in height in lieu of the maximum 3.5  
5 ft. allowed by code. All as described on application  
6 and plans on file.

7 Motion made by Mr. Mietz to approve  
8 Application 8A-04-17.

9 FINDINGS OF FACT:

10 1. The variance request is the minimum height to meet  
11 the needs of the applicant.

12 2. Having the fence more open at the top will  
13 mitigate the height and the visual appearance from the  
14 street.

15 3. No negative effect on the character of the  
16 neighborhood will result from the approval of this  
17 fence.

18 4. Due to the unique shape of the lot, there are  
19 limited opportunities to be able to encapsulate an  
20 area with the fence height that meets the applicant's  
21 need.

22 CONDITIONS:

23 1. This variance is based upon the testimony given  
24 and the plans submitted to the design, height, and  
25 location. Specifically, the fence shall be an open



1 style as resubmitted to the Board at their  
2 September 6th, 2017, meeting.

3 2. All necessary building permits shall be obtained.

4 3. The applicant shall plant vegetation in front of  
5 the fence to mitigate it from the street.

6 (Seconded by Ms. Tompkins Wright.)

7 (Ms. Corrado, yes; Ms. Schwartz, yes;  
8 Ms. Tompkins Wright, yes; Mr. Clapp, yes;  
9 Mr. Mietz, yes.)

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

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1 Application 9A-01-17. Application of Elizabeth Wende  
2 Breast Care, owner of property located at 170 Sawgrass  
3 Drive, for a Temporary and Revocable Use Permit  
4 pursuant to Section 219-4 to allow a mobile MRI unit  
5 to be located in the parking lot for an eight (8) week  
6 period where not allowed by code. All as described on  
7 application and plans on file.

8 Motion made by Ms. Corrado to approve  
9 Application 9A-01-17.

10 FINDINGS OF FACT:

11 1. The requested variance is not substantial as it  
12 will enable the applicant to update the existing MRI  
13 facility at this location without interruption of  
14 needed services for clients.

15 2. The requested use variance will not alter the  
16 essential character of the neighborhood as the  
17 location is primarily commercial in nature. The  
18 location of the temporary trailer ensures that it will  
19 have little impact on parking or other operations in  
20 the facility. The duration of a lease is relatively  
21 short, and the impact will be negligible to employees,  
22 clients, and other users of this clinic and adjacent  
23 properties.

24 3. The health, safety, and welfare of the community  
25 will not be adversely effected by the approval of the

1 temporary use requested. No other alternative can  
2 alleviate the difficulty and produce the desired  
3 result, namely, sustained operations while upgrading  
4 medical equipment.

5 CONDITIONS:

6 1. This temporary and revocable use permit applies  
7 only to the MRI trailer in the proposed location as  
8 described in the application and testimony given.

9 2. No additional signage is permitted.

10 3. This temporary and revocable use permit expires on  
11 November 1st, 2017.

12 (Seconded by Ms. Schwartz.)

13 (Ms. Corrado, yes; Ms. Schwartz, yes;  
14 Ms. Tompkins Wright, yes; Mr. Clapp, yes;  
15 Mr. Mietz, yes.)

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

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1 Application 9A-02-17. Application of Rochester  
2 Electrical Workers, Building Corp., owner of property  
3 located at 2300 East River Road, for a Temporary and  
4 Revocable Use Permit pursuant to Section 219-4 to  
5 erect a tent and hold a one day clam bake event in  
6 September of 2017 and September of 2018. All as  
7 described on application and plans on file.

8 Motion made by Mr. Mietz

9 to approve Application 9A-02-17.

10 FINDINGS OF FACT:

11 1. The event will be held for one day on September 9,  
12 2017, from 12:00 p.m. to 6:00 p.m.

13 2. There is ample parking on the site for the event.

14 3. This is the 14th consecutive year that this event  
15 has taken place. No comments were received by the  
16 building department.

17 4. It will have no adverse effect on the neighborhood  
18 area as it is boarded by vacant land, CSX railroad,  
19 East River Road, and the Genesee River.

20 CONDITIONS:

21 1. There will be no band or sound system during this  
22 event.

23 2. All equipment brought to the site expressly for  
24 the clam bake will be removed within 48 hours of the  
25 event including all trash.

1 3. No parking will be allowed on East River Road.

2 4. All proper fire marshall permits related to the  
3 tent shall be obtained.

4 5. This variance grants permission for the event to  
5 be held on September 9, 2017 and one event in  
6 September 2018.

7 (Seconded by Ms. Schwartz.)

8 (Ms. Corrado, yes; Ms. Schwartz, yes;  
9 Ms. Tompkins Wright, yes; Mr. Clapp, yes;  
10 Mr. Mietz, yes.)

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

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1 Application 9A-03-17. Application of Mamasan's  
2 Monroe, LLC, owner of property located at 2735 Monroe  
3 Avenue for an Area Variance from Section 205-7 to  
4 allow impervious lot coverage to be 71.7%, after  
5 construction of a new restaurant in lieu of the  
6 maximum 65% allowed by code. All as described on  
7 application and plans on file.

8  
9 Application 9A-04-17. Application of Mamasan's  
10 Monroe, LLC, owner of property located at 2735 Monroe  
11 Avenue for 1) an Area Variance from Section 205-12 to  
12 allow for 42 parking spaces in conjunction with a new  
13 restaurant, in lieu of the minimum 43 spaces required  
14 by code; 2) Area Variances from Section 205-18B to  
15 allow pavement and parking to be 4.33 ft. from a side  
16 (north) lot line and 1 ft. from the rear (west) lot  
17 line where a minimum 10 ft. is required by code; and  
18 3) an Area Variance from Section 207-14.3D(3) to allow  
19 a drive-thru lane to be 4 ft. from a side (south) lot  
20 line in lieu of the minimum 10 ft. required by code.  
21 All as described on application and plans on file.

22  
23 Application 9A-05-17. Application of Mamasan's  
24 Monroe, LLC, owner of property located at 2735 Monroe  
25 Avenue for an Area Variance from Section 207-2A to

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1 allow a front yard fence to be 49 inches in height  
2 with 86 inch posts where the maximum height of any  
3 portion of the fence cannot exceed 42 inches as  
4 allowed by code. All as described on application and  
5 plans on file.

6  
7 Application 9A-06-17. Application of Mamasan's  
8 Monroe, LLC, owner of property located at 2735 Monroe  
9 Avenue for a Sign Variance from Section 207-32B to  
10 allow a free standing menu board where not allowed by  
11 code. All as described on application and plans on  
12 file.

13 Motion made by Ms. Tompkins Wright  
14 to table and leave the public hearing open  
15 for purposes of SEQOR determination by the  
16 Brighton Planning Board for Applications  
17 9A-03-17, 9A-04-17, 9A-05-17, and 9A-06-17.

18 (Seconded by Ms. Corrado.)

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

22 (Open roll call, motion to table and leave  
23 the public hearing open carries.)  
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1 Application 9A-07-17. Application of Signlanguage,  
2 Inc., contractor, and Richard and Kathryn Greene,  
3 owners of property located at 2140 South Clinton  
4 Avenue, for a Sign Variance from Section 207-32B to  
5 allow for a free standing business identification sign  
6 where not allowed by code. All as described on  
7 application and plans on file.

8 Motion made by Mr. Mietz to approve

9 Application 9A-07-17.

10 FINDINGS OF FACT:

11 1. The proposed sign will now cover two properties on  
12 South Winton Avenue as a replacement for a formally  
13 approved monument sign at the 2150 location.

14 2. The proposed sign will now be between the two  
15 properties and then provide business identification  
16 signage for the common owner and operator of both  
17 properties.

18 3. No negative effect on the character of the  
19 neighborhood will likely occur from this variance  
20 since it is a replacement of an existing monument sign  
21 which now will be placed between the two properties.

22 CONDITIONS:

23 1. This approval is based upon the testimony given  
24 and drawings submitted as to the specific size and  
25 location of the sign and the lettering depicted on the



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proposed sign.

2. All necessary Architecture Review Board and Planning Board approvals shall be obtained.

3. Prior to the issuance of the building permit, the applicant shall submit a landscaping plan to the secretary of the Brighton Zoning Board of Appeals which will mitigate the appearance of the sign by placing ground plantings adjacent to it.

4. The existing sign at 2150 South Winton Avenue shall be removed prior to the installation of the sign at 2140.

5. The proposed sign shall not be lit.

(Seconded by Ms. Schwartz.)

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

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

1 Application 9A-08-17. Application of Jewish Home of  
2 Rochester, owner of property located at 2021 Winton  
3 Road South, for a Temporary and Revocable Use Permit  
4 pursuant to Section 219-4 to erect a tent and hold a  
5 one day grand opening event in the RHD-1 District.  
6 All as described on application and plans on file.

7 Motion made by Ms. Schwartz to approve  
8 Application 9A-08-17.

9 FINDINGS OF FACT:

- 10 1. This temporary and revocable use permit is to  
11 erect a tent for a one-day event only.  
12 2. The duration of the event is only for two hours  
13 and is by invitation only.  
14 3. 142 parking spaces have been designated for the  
15 200 expected guests.  
16 4. Staff will make sure that all areas are safe.

17 CONDITIONS:

- 18 1. This variance is only for a tent to be erected on  
19 site for a one-day event as presented in testimony  
20 given and application submitted.  
21 2. All necessary fire marshall permits shall be  
22 obtained.

23 (Seconded by Ms. Corrado.)

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

25 Ms. Tompkins Wright, yes; Mr. Clapp, yes;

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

1 Application 9A-09-17. Application of Jens and Staci  
2 Pfeffer, owners of property located at 29 Southern  
3 Parkway, for an Area Variance from Sections  
4 203-2.1B(2) and 203-9A(4) to allow a shed to be  
5 located in a side yard in lieu of the rear yard as  
6 required by code. All as described on application and  
7 plans on file.

8 Motion made by Ms. Tompkins Wright  
9 to approve Application 9A-09-17.

10 FINDINGS OF FACT:

11 1. The granting of the requested variance will not  
12 produce an undesirable change in the character of the  
13 neighborhood or be a detriment to nearby properties.  
14 The proposed shed will be partial screened from view  
15 by evergreen trees along the driveway and is similar  
16 to a shed on an adjacent property.

17 2. The requested variance is not substantial given  
18 the fact that the shed will be about 70 feet from the  
19 front line and is well shielded from view as discussed  
20 above.

21 3. The benefit sought by the applicant cannot  
22 reasonably be achieved by any other method. The  
23 backyard is very small with no direct access to  
24 install a shed without removal of landscaping.

25 4. There is no evidence that the proposed variance

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1 will have an adverse effect or impact on the physical  
2 or environmental conditions in the neighborhood or  
3 district.

4 5. The difficulty in complying with the code is not  
5 self-created and stems primarily from the location of  
6 the building on the lot.

7 CONDITIONS:

8 1. The variance granted herein applies only to the  
9 shed described in and in the location as depicted on  
10 the application and in the testimony given.

11 2. All necessary permits must be obtained.

12 (Seconded by Ms. Schwartz.)

13 (Ms. Corrado, yes; Ms. Schwartz, yes;  
14 Ms. Tompkins Wright, yes; Mr. Clapp, yes;  
15 Mr. Mietz, yes.)

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

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1 Application 9A-10-17. Application of Jan Egger and  
2 JoAnne Leegant, owners of property located at 55  
3 Eastland Avenue, for an Appeal of an Architectural  
4 Review Board decision, pursuant to Section 221-11,  
5 denying a proposed side addition. All as described on  
6 application and plans on file. This application was  
7 withdrawn by applicant.

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1 Application 9A-11-17. Application of Paul Cabral and  
2 Dallas Nelson, owners of property located at 59 Summit  
3 Drive, for an Area Variance from Section 205-2 to  
4 allow a rear addition to extend 13 ft. into the  
5 existing 38 ft. rear setback where a 60 ft. rear  
6 setback is required by code, replacing an existing  
7 deck granted a similar variance (2A-02-94). All as  
8 described on application and plans on file.

9 Motion made by Mr. Clapp

10 to approve Application 9A-11-17.

11 FINDINGS OF FACT:

12 1. The required variance will not produce an  
13 undesirable change in the character of the  
14 neighborhood or be detrimental to the nearby  
15 properties because the proposed structure replaces the  
16 current structure and will not encroach any farther  
17 than the previously approved setback.

18 2. The unique shape of the lots of the neighborhood  
19 make alternative methods in achieving the desired  
20 benefit feasible.

21 3. The requested variance is not larger than the  
22 variance previously granted for the existing  
23 structures which will be replaced.

24 4. The variance is the minimum necessary for the  
25 desired project due to the unique limitations of the

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property lines in the neighborhood.

5. The single story addition will be primarily below grade level and therefore will not have an adverse impact on physical or environmental conditions in the neighborhood.

CONDITIONS:

1. All necessary Architecture Review Board approvals and building permits shall be obtained.

2. The variance applies only to the addition as per plans submitted and testimony given.

(Seconded by Ms. Schwartz.)

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

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



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

STATE OF NEW YORK:  
COUNTY OF 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