

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

5 October 4, 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 JEANNE DALE  
15 JENNIFER WATSON  
16 DOUGLAS CLAPP

17 DAVID DOLLINGER, ESQ.  
18 Town Attorney

19 RICK DISTEFANO  
20 Secretary

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

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1 CHAIRPERSON MIETZ: At this point I would  
2 like to call to order the October session of the  
3 Brighton Zoning Board of Appeals. Rick, was the  
4 meeting properly advertised?

5 MR. DI STEFANO: Yes, Mr. Chairman, it was  
6 advertised in the Brighton-Pittsford Post on  
7 September 28, 2017.

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

10 MR. DI STEFANO: Please let the record  
11 show that all members are present.

12 CHAIRPERSON MIETZ: Okay. When you are  
13 ready, Rick, you can read the first application.  
14 Application 10A-01-17. Application of Norman Geil,  
15 owner of property located at 25 Far View Hills Road,  
16 for an Area Variance from Section 203-2.1B(6) to allow  
17 a stand-by emergency generator to be located in a side  
18 yard in lieu of the rear yard behind the house as  
19 required by code. All as described on application and  
20 plans on file.

21 MR. GEIL: Hello, my name is Norman Geil.  
22 I live at 25 Far View Hills Road. I'm asking for a  
23 variance that would allow me to install a back-up pump  
24 generator on the side of the house rather than the  
25 backyard because of the topography. There is just no

1 feasible way to put it in the backyard. There is  
2 already an AC unit on this side of the house. It is  
3 not visible from the road, the hillside down to South  
4 Clinton. I have already been to the Planning Board to  
5 get permission. So I'm just looking for a variance  
6 from Zoning.

7 MS. DALE: So you will just put the  
8 generator right next to the existing AC unit?

9 MR. GEIL: Yes.

10 MS. SCHWARTZ: I mean, it's a good spot  
11 because it is not near your neighbor.

12 MR. GEIL: There is no neighbor on that  
13 side. We hear his, but he won't hear ours.

14 CHAIRPERSON MIETZ: All right. You got  
15 the unit here.

16 MR. GEIL: I have the spec sheet that I  
17 included.

18 MS. SCHWARTZ: And you will test it during  
19 the daylight hours?

20 MR. GEIL: Yes, I will try to coordinate  
21 that with the other neighbors to run at the same time.

22 CHAIRPERSON MIETZ: Harmonious generators.

23 MR. GEIL: We are good neighbors.

24 MR. DI STEFANO: Can you just give us a  
25 distance from where that -- where your backyard starts

1 sloping away from the house?

2 MR. GEIL: Yes, if you look at the map  
3 here, the generator is indicated there, but it is not  
4 drawn to scale. So from the corner of the house, it's  
5 a little over 14 feet to the property line which is  
6 where the hillside starts. The generator will be  
7 where that little jot comes out. And that's going to  
8 be more like 15 to 18 feet from the hillside because  
9 the generator is only two feet wide.

10 MR. DI STEFANO: And as you wrap around  
11 the house, the hillside kind of gets closer to the  
12 house?

13 MR. GEIL: Yes.

14 MR. DI STEFANO: There is virtually no  
15 area behind the house where you can place it.

16 MS. DALE: The application said there is  
17 about eight feet of yard from rear of the house to the  
18 slope.

19 MR. GEIL: Yes, in the back of the house.  
20 That's why it can't go there, and it's all flagstone.

21 MR. DI STEFANO: Okay. Great.

22 CHAIRPERSON MIETZ: Any other questions?  
23 Okay. Thank you.

24 MR. GEIL: Thank you.

25 CHAIRPERSON MIETZ: Is there anyone in the

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

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1 Application 10A-02-17. Application of Lisa Tung,  
2 lessee, and Cox Building Property, LLC, owner of  
3 property located at 2829 West Henrietta Road for an  
4 Area Variance from Section 205-12 to allow for 17  
5 on-site parking spaces in lieu of the minimum 25  
6 parking spaces required by code for the property with  
7 a new restaurant occupant. All as described on  
8 application and plans on file.

9 MS. TUNG: Good evening, ladies and  
10 gentlemen. Today I'm just seeking a parking variance.

11 CHAIRPERSON MIETZ: Can you just tell us  
12 your name?

13 MS. TUNG: My name is Lisa Tung, the new  
14 owner of Kung Fu Tea. Hopefully, it's going to be  
15 located at 2829 West Henrietta Road. Today I am  
16 asking for a parking variance to be able to operate  
17 and open a bubble tea shop over in that location. I  
18 understand that it's 25 parking spaces required with  
19 only 18 available that we are -- actually, 17  
20 available that we are eight short. I just want to  
21 stress the fact that we are actually going to be a  
22 delivery bubble tea shop. It is just going to be a  
23 tea and coffee shop type of atmosphere where we are  
24 utilizing about 800 square feet of the building. The  
25 back is just storage. And we are actually -- 95

1 percent of the business is actually going to be  
2 delivery only to the local campuses and local  
3 students. And we are only just serving tea and  
4 coffee.

5 CHAIRPERSON MIETZ: I couldn't hear what  
6 you said about what percentage of it you thought was  
7 going to be delivery.

8 MS. TUNG: It's going to be at least 95  
9 percent because all of our --

10 CHAIRPERSON MIETZ: Are there going to be  
11 tables or places to sit?

12 MS. TUNG: No tables. Really, there is  
13 not a place to sit anyways because the place is really  
14 small, but there is no intention of any tables or  
15 chairs there. It's just going to be a -- the owner of  
16 the Kung Fu Tea actually has ample experience in the  
17 delivery type of industry. And that's the type of  
18 concept that we are going to go forward with doing  
19 this type of business as far as just delivering  
20 beverages to the local campuses such as the University  
21 of Rochester, RIT, and MCC. This location is ideal  
22 because it is just literally three miles from each of  
23 the campuses. And the driver is actually going to be  
24 hired from contractors such as people who are ordering  
25 online like Grubhub. They always offer the drivers

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1 themselves. So when the beverage is ready, we just  
2 click the beverage is ready. They just come and pick  
3 up the beverage, and they deliver it to the  
4 appropriate client who actually ordered the food or  
5 ordered the beverages.

6 MS. DALE: Do you find that your busy time  
7 may be around 7:30 or 8:00 a.m., or is it sort of  
8 steady throughout the day?

9 MS. TUNG: It's hard to say. It depends  
10 on -- so the maximum operating -- maximum activity  
11 time, there would be drivers to come and pick up the  
12 orders, but there would be very little walk-in traffic  
13 is all I'm trying to say. We have a restaurant down  
14 the street at 4100 West Henrietta Road area where we  
15 only offer delivery service and takeout, and there are  
16 no tables for anyone to sit down. We barely fill that  
17 parking space -- three parking spaces in front. We  
18 barely have any traffic that actually parks in the  
19 front. And our drivers actually just come and go,  
20 come and go.

21 MS. DALE: I just didn't know if you were  
22 expecting there to be a busier time of day with lots  
23 of driver activity time, or would it be steady.

24 MS. TUNG: So operating hours are going to  
25 be from 11:00 to 10:00, basically. We're hoping that

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1 we are going to have something during maybe afternoon  
2 time not dinnertime because people tend not to order  
3 beverages during heavy dinnertime, but maybe sometimes  
4 in between meals --

5 MS. DALE: Sure.

6 MS. TUNG: -- like your mid-morning to  
7 lunchtime and maybe lunch to 5:00 or so. It shouldn't  
8 be a heavy flow as this is just going to be delivery  
9 and being that our main clients are going to be  
10 focused on the younger crowd and universities. So  
11 during their class hours, I don't foresee them  
12 ordering anything to drink or anything like that. So  
13 it is going to be majority deliveries.

14 MS. DALE: Did you say 11:00 a.m. start?

15 MS. TUNG: 11:00 a.m., yes, 11:00 to  
16 10:00.

17 MS. SCHWARTZ: Are you going to have any  
18 pastries, or any other food, or only beverages?

19 MS. TUNG: Just bubble tea. So it's just  
20 bubble tea. It's called Kung Fu Tea and a little bit  
21 of coffee. I believe the franchise does offer a  
22 coffee product as well, but it is just beverages.

23 MS. SCHWARTZ: So what type of equipment  
24 do you need?

25 MS. TUNG: So all of the equipment is

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1 going to be plasticware. There is really just a  
2 machine that actually makes the tea, like a teapot  
3 that makes the tea. And then there is a shaker that  
4 shakes the tea. And then whatever ingredients that we  
5 put in the tea such as your tapiocas, and your other  
6 little bubbles, and stuff like that. And it is mainly  
7 always cold. Sometimes if the client desires, they  
8 can have something hot.

9 MS. TOMPKINS WRIGHT: Would you be  
10 amendable to having a restriction on screening the  
11 variance that there would not be permitted any tables  
12 or chairs for customers?

13 MS. TUNG: Yeah. Yeah. I mean, there  
14 would be just one table with condiments, but that's  
15 pretty much it.

16 CHAIRPERSON MIETZ: So couple of things  
17 here: So you do expect that maybe if I come up to the  
18 door, you are going to let me in, and order something,  
19 and then leave.

20 MS. TUNG: Yes, five percent of traffic  
21 going in and out. We do have that.

22 CHAIRPERSON MIETZ: Where does that  
23 calculation come from?

24 MS. TUNG: Based on what we have currently  
25 at our restaurant and based on the different survey

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1 statistics that we show from our franchise Kung Fu Tea  
2 which is the franchise we are getting it from.

3 CHAIRPERSON MIETZ: So they have other  
4 locations? Where are they?

5 MS. TUNG: There are locations in the  
6 campuses actually. There is one location in Buffalo  
7 at the University of Buffalo, and they also do --  
8 their concept is a little different. So their concept  
9 is pick up and then go. There is not a delivery  
10 service. So our delivery concept is actually fresh  
11 and new to them. So they are really excited about  
12 this opportunity because if we can push out this  
13 successfully, then this may be an opportunity for them  
14 to provide to other people. You know? It's because  
15 we have over seven to ten years of experience in  
16 delivery type of restaurants, and especially, when our  
17 restaurant is down the street, literally, 2,000  
18 numbers away from the location itself. And it is  
19 really a shocking, you know, type of experience for  
20 Kung Fu Tea, themselves, as a franchisee and us as  
21 experienced delivery restaurant owners that this is a  
22 pretty exciting concept. I think the concept came  
23 from where we are along with the statistic that we see  
24 from Kung Fu Tea.

25 CHAIRPERSON MIETZ: Okay. Couple other

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1 things --

2 MS. TUNG: Uh-huh. One more thing, we are  
3 not your typical Starbucks. We are not your typical  
4 Tim Hortons. We don't offer pastries. We are just  
5 offering beverages only. And you know, actually, the  
6 franchise, itself, just does beverages as well.

7 CHAIRPERSON MIETZ: Right. Okay. How  
8 many employees? I know you said in here about how  
9 many people would be actually preparing and then how  
10 many drivers would there be at one time.

11 MS. TUNG: So we would not have any  
12 drivers in-house. We would just have drivers from the  
13 different vendors that actually advertise and give us  
14 orders such as Grubhub and one of the biggest like  
15 Yelp. I would assume at the very beginning, one  
16 driver should be enough for the first couple years or  
17 so, maybe one or two. Down forward, I can give you an  
18 example at our busiest restaurant here and our  
19 restaurant, delivery restaurant down the street, we at  
20 one time had maximum of four drivers at one time just  
21 pick up and go, pick up and go. They never have a  
22 down time where they sit there and do nothing because  
23 they have other restaurants they deliver for as well  
24 because they work for this big vendor and have  
25 contracts with everybody else. So they may come all

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1 four at one time pick up the orders and then go and  
2 deliver.

3 CHAIRPERSON MIETZ: Now as far as the two  
4 businesses next to you, you made comments about them,  
5 the nail salon and then the cellular store.

6 MS. TUNG: Yep.

7 CHAIRPERSON MIETZ: So are you involved  
8 with those? You are not the landlord; right? You are  
9 just the potential tenant for this?

10 MS. TUNG: Yes, we are just a potential  
11 tenant for that.

12 CHAIRPERSON MIETZ: All right. So you  
13 can't speak to the traffic of those two businesses.

14 MS. TUNG: We actually talked to the  
15 landlord numerous times. And in fact, the last time  
16 when I came in for the meeting to approve this type of  
17 concept, the landlord was actually here. The cellular  
18 store, we go there a lot of times just to check and  
19 see how the parking is, that parking has never been  
20 filled. I mean, during a different time frame, you  
21 know, the cellular store is a one-man show. There is  
22 really barely any traffic there. In fact, the owner's  
23 son owns that actual store right there.

24 The salon, you know, there is like two --  
25 the most that we have passed by, because as you know,

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1 we do deliveries and a lot of things on that road.  
2 There are like two cars. Maybe one, I assume, is the  
3 owner's car because that car is always there. Then  
4 the other one can be a client's car. So the business  
5 traffic is really slow there. Again, I can't speak on  
6 behalf of the landlord, but that is -- we don't need  
7 that many parking at all. We actually don't need more  
8 than three parking, I would say, at all at one time.

9 CHAIRPERSON MIETZ: Okay. What was your  
10 question?

11 MS. DALE: My question was just going to  
12 be that in your application, you said you would have a  
13 cashier --

14 MS. TUNG: One barista and one cashier.

15 MS. DALE: Yep, and you don't anticipate  
16 more than -- you said maybe one additional --

17 MS. TUNG: So the cashier is able to --  
18 usually, you know, the barista does cashier and  
19 everything else to start. During maximum activity  
20 time, we may have one cashier that also helps and  
21 assists the barista in making the teas. But that's  
22 pretty much all we should have to go. And that's how  
23 you start with the current franchise with everywhere  
24 we went when we went examining Syracuse and the  
25 University of Buffalo as well.

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1                   CHAIRPERSON MIETZ: Any questions? Okay.  
2 Thank you very much.

3                   MS. TUNG: Thanks.

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

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1 Application 10A-03-17. Application of Feor  
2 Construction, contractor, and Jerry Nadiak, owner of  
3 property located at 105 Penhurst Road, for Area  
4 Variances from Section 205-2 to allow a garage  
5 addition to extend 3.8 ft. into the 36.6 ft. front  
6 setback where a 40 ft. front setback is required by  
7 code, and extend 7.5 ft. into the 10 ft. side setback  
8 required by code. All as described on application and  
9 plans on file.

10 MR. FEOR: Good evening, my name is Kevin  
11 Feor, and this is the homeowner Jerry. Here is the  
12 affidavit of this.

13 MR. DI STEFANO: Thank you.

14 MR. FEOR: Jerry has two cars in his  
15 one-car garage. So we would like to build an  
16 additional small one-car garage 8 by 18 feet. It  
17 needs a variance for the front setback and side  
18 setback because the lot is relatively small. That's  
19 why we are building as small of a one-car garage as  
20 humanly possible and still be able to get a car in it.  
21 And we pulled it forward somewhat so it's 2 and a half  
22 feet from the lot line and not any closer. So we feel  
23 we are trying to ask for the minimum variance  
24 necessary to achieve his wishes.

25 MS. CORRADO: So you have shown us the



1 footprint of where the garage will go. How will it  
2 integrate with the facade of the house? What will the  
3 appearance be?

4 MR. FEOR: Right now, the siding is a  
5 shiplap style. The siding will all be the same. The  
6 overhang will be in the front, and it will have a  
7 roofline that goes up and down so the gable will face  
8 the neighbor's side yard. And all of the exterior  
9 finishes will match the existing house.

10 MS. DALE: Is there any plans for the  
11 garage -- is it going to be a single story?

12 MR. FEOR: Single story, yes.

13 MS. DALE: Just electricity to it, no  
14 water or anything?

15 MR. FEOR: Just electricity. It's really  
16 to be used for a small sports car and really to get it  
17 out of the weather and off the driveway.

18 MS. WATSON: How far will the proposed  
19 garage be to the neighboring house next door?

20 MR. FEOR: The house next door?

21 MS. WATSON: Yes.

22 MS. TOMPKINS WRIGHT: While you are  
23 looking, has the owner talked to the neighboring  
24 property owner?

25 MR. NADIAK: I actually have.

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1 CHAIRPERSON MIETZ: Can you give your name  
2 and address for the record?

3 MR. NADIAK: Jerry Nadiak, 105 Penhurst.  
4 I have talked to Duncan Richards, and he gave me the  
5 thumbs up on the addition. I talked to my other  
6 neighbor. I'm sorry. My other neighbor Maggie, and  
7 he also said that's fine. He's good with it.

8 MS. SCHWARTZ: I have to say when I was up  
9 there, he was out in front of his house. And he  
10 called over to me. And he said let him do it. He  
11 does good work. So he gave his blessing, too. Also,  
12 I think when we spoke during our conversation, you  
13 explained why there is this problem with the lot line.  
14 I think that's important information for you to share  
15 with us.

16 MR. NADIAK: The lot line, actually, is --  
17 it's kind of diagonal to the house next door. So if  
18 it went straight back, I would have no problem  
19 whatsoever. But because it's diagonal, it cuts in.

20 MR. FEOR: All the lots on this block are  
21 kind of a parallelogram. I know you can't really see  
22 this too well.

23 CHAIRPERSON MIETZ: Can you guess how many  
24 feet it is?

25 MR. FEOR: Yes, the house to the west that

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1 would be -- 97 would be impacted. I have to guess  
2 that his house is, approximately, 10 or 11 feet from  
3 the lot line, not that these are all perfectly  
4 accurate. And Jerry is saying it is two and a half  
5 feet. So approximately, 12 feet. Unfortunately, the  
6 survey doesn't --

7 CHAIRPERSON MIETZ: Understood. It's just  
8 an approximation. Is there other questions over here?

9 MS. DALE: Do you have to augment the  
10 driveway at all, or is the existing asphalt  
11 sufficient?

12 MR. FEOR: We will actually remove,  
13 probably, another 12 inches of asphalt in front of the  
14 garage because the footers have to be a little wider  
15 than the block that comes up. Then when the garage is  
16 poured, we will pour a little concrete curtain, apron,  
17 or skirt in front of the overhead door to come up to  
18 the asphalt.

19 CHAIRPERSON MIETZ: I guess the question  
20 is: Will you have to come over towards the lot line a  
21 little bit with the asphalt, then, to get into the  
22 garage? Because if it's exactly as it is drawn, it  
23 looks like --

24 MR. FEOR: Oh, okay. I understand the  
25 question. I'm sorry. Jerry and I haven't really

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1 discussed that because I don't do paving. I think it  
2 would be logical to assume that he will do like a  
3 little banjo.

4 CHAIRPERSON MIETZ: That's kind of  
5 important. What you are going to do?

6 MR. NADIAK: Currently, my driveway is two  
7 and a half cars. So basically, I can actually put two  
8 cars on there, and I have half a car to the right  
9 side.

10 MR. FEOR: No, their question is: Are you  
11 going to go slightly wider?

12 MR. NADIAK: We are going to have to in  
13 order to get into the garage.

14 CHAIRPERSON MIETZ: Yes, I guess the  
15 question, then, is it only what's necessary to make  
16 the radius not going any farther towards the road than  
17 necessary?

18 MR. NADIAK: Yes.

19 CHAIRPERSON MIETZ: It's well over two-car  
20 widths.

21 MR. FEOR: I would say 10 feet in front of  
22 the garage, the proposed garage. We would then do  
23 what we call a little radius or banjo so he can --  
24 because he is building 10 feet, he's going to get an  
25 eight-foot wide garage door.

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1 CHAIRPERSON MIETZ: Right. Okay. Any  
2 other questions?

3 MS. SCHWARTZ: And the materials will be  
4 matched to the existing house?

5 MR. FEOR: Yes.

6 MS. SCHWARTZ: Okay.

7 MR. FEOR: Okay. Thank you very much for  
8 your time.

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

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1 Application 10A-04-17. Application of Howard Cohen  
2 and Daphne Holland Cohen, owners of property located  
3 at 157 Monteroy Road, for an Area Variance from  
4 Sections 203-2.1B(6) and 203-9A(4) to allow a stand-by  
5 emergency generator to be located in a side yard in  
6 lieu of the rear yard behind the house as required by  
7 code. All as described on application and plans on  
8 file.

9 MR. COHEN: Hi, I'm Howard Cohen, 157  
10 Monteroy Road. So like Rick stated, I would like to  
11 put a stand-by generator in my side yard instead of  
12 the rear yard. The rear yard is fronted with drainage  
13 problems. I would probably have to dig about 150 feet  
14 to run utilities to the area in order to comply with  
15 the 'at least 10 feet from the property line.' I  
16 would have to either remove hemlock trees or a stone  
17 path that's already there. It's also the main egress  
18 for the backyard. And I'm just concerned with lots of  
19 foot traffic combined with all of the water that tends  
20 to build up on rainy days that it's not a great  
21 location for a standby generator with utilities  
22 running there. So what we are proposing is to  
23 actually position the generator in our side yard right  
24 adjacent to the current air conditioning system. It's  
25 not only the closest place for utilities, but also the

1 farthest distance from my neighbor. At that point  
2 it's about 120 feet to my nearest neighbor.  
3 Coincidentally, the back of the house would be about  
4 60 feet. I'm also blessed with a 13-foot hedge that  
5 runs about 100 feet on that side of the property and  
6 envelops that whole area which also provides screening  
7 almost entirely from the street. In addition, I would  
8 be tucking a -- I don't know if you have been through  
9 the application in detail, but I included some  
10 pictures. There are some shots from the side lot  
11 that, if you look closely, you can see the air  
12 conditioning unit. This generator would be tucked in  
13 behind it. So I would say almost impossible to see.  
14 And of course, it's one of these new generators that  
15 runs below the 72 dBA level that's in the code.

16 CHAIRPERSON MIETZ: Good. Questions?

17 MS. CORRADO: I see you indicate that you  
18 are going to be adding shrubbery to screen it further  
19 once installed.

20 MR. COHEN: Yes, appropriate shrubbery.

21 CHAIRPERSON MIETZ: Okay. All right.

22 Other questions?

23 MR. CLAPP: From the pictures, is the  
24 generator being placed next to the screened porch?

25 MR. COHEN: Say again?

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1 MR. CLAPP: It looks like it is being  
2 placed next to a screened porch.

3 MR. COHEN: Yes, it will be next to the  
4 screened porch.

5 MR. CLAPP: I was just curious, I don't  
6 know, is there any -- I know you can't put them next  
7 to the windows. Is there any reason why that --

8 MR. COHEN: I didn't see anything in the  
9 code, but I'm not an expert.

10 MR. CLAPP: I don't know either.

11 MR. COHEN: Yes, whatever the code says,  
12 it will be that number feet a distance away.

13 CHAIRPERSON MIETZ: Other than that, it  
14 doesn't matter.

15 MS. CORRADO: As far as testing, will you  
16 be orchestrating it with your neighbors as the last  
17 application planned to?

18 MR. COHEN: I will if they get generators.  
19 No one else has a generator in my neighborhood.

20 MS. CORRADO: I see. You are the leading  
21 edge in that neighborhood.

22 MR. COHEN: Well, yes, but we will do it  
23 at a time that is not disruptive.

24 CHAIRPERSON MIETZ: Any other questions?  
25 Okay. Thank you.

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1 MR. COHEN: 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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1 Application 10A-05-17. Application of Anthony J.  
2 Costello and Son (Joseph) Development, LLC, owner of  
3 property known as "The Reserve" housing community, 1  
4 Reserve View Blvd., for renewal of a Temporary and  
5 Revocable Use Permit (10A-03-15) to allow for five (5)  
6 temporary site development/advertising signs for a two  
7 year period, where only one such sign is allowed by  
8 code. All as described on application and plans on  
9 file.

10 MR. DAILY: Good evening, my name is Bill  
11 Daily. I'm with the Costello Group. As Mr. DiStefano  
12 said, I'm here to request a renewal of a temporary use  
13 permit to allow five temporary site advertising signs.  
14 We are not requesting any change from the previous  
15 approval. We are just requesting a renewal.

16 CHAIRPERSON MIETZ: Okay.

17 MS. SCHWARTZ: About how many units do you  
18 still have to construct until you reach the original  
19 plan? Do you have any idea?

20 MR. DAILY: It's an approximate guess. I  
21 don't know exactly. We probably have 200.

22 CHAIRPERSON MIETZ: That includes the loft  
23 buildings?

24 MR. DAILY: Correct.

25 MS. WATSON: About how many have you

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1 completed?

2 MR. DAILY: 327.

3 MS. WATSON: So you are over halfway.

4 CHAIRPERSON MIETZ: Okay.

5 MS. WATSON: I'm relatively new to the  
6 Zoning Board. So I apologize if there are repetitive  
7 questions that I ask. How long has the project been  
8 going on, and how many renewals have there already  
9 been?

10 MR. DAILY: The project has been going on  
11 for approximately five years. And I am only aware  
12 that this is the only renewal that's been requested.  
13 Was there another one?

14 MR. DI STEFANO: Yes, the last one was a  
15 renewal here.

16 MR. DAILY: Okay.

17 MS. WATSON: Reading through the  
18 materials, two of the five signs were the feather and  
19 the A-frame. When I drove through the community, I  
20 didn't see either of them out because it's only out,  
21 as I understand it, during the time the models are  
22 open for a tour.

23 MR. DAILY: Correct.

24 MS. WATSON: I am just not aware of what's  
25 the difference between the feather and the A-frame?

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1 MR. DAILY: So the feather is kind of like  
2 a tall flag looking.

3 MS. WATSON: Okay.

4 MS. CORRADO: Yes, they blow in the wind.

5 MS. WATSON: Okay. Gotcha. Okay. And  
6 are they placed near each other or is there a distance  
7 between the two?

8 MR. DAILY: Yes, they are placed near each  
9 other at the end of Reserve Boulevard and Clinton  
10 Avenue.

11 MS. SCHWARTZ: Do you have any data to  
12 show the signs are beneficial?

13 MR. DAILY: Just sales. I think we are up  
14 to 20 units this year. I think they are very  
15 beneficial to promote the sales. It helps people  
16 know.

17 MS. SCHWARTZ: But you don't have any --

18 CHAIRPERSON MIETZ: Like what?

19 MS. SCHWARTZ: I mean, have people said,  
20 "Oh, I saw the sign on the expressway or whatever."

21 MR. DAILY: I think once in a while it's  
22 mentioned to the real estate brokers, yes.

23 MS. DALE: And are the two signs  
24 requested, would they be placed side by side or near  
25 each other; is that right?

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1 MR. DAILY: Right. There are actually  
2 five signs. Two of them, I guess, you call them  
3 mobile. They go in and out as there are open houses.  
4 They are placed near each other at the entrance of the  
5 project at Reserve View Boulevard and South Clinton.

6 MR. DI STEFANO: I want you to just real  
7 quick go over, for the record, what the other three  
8 will be.

9 MR. DAILY: Sure. There is a large one  
10 that is at the entrance of the project.

11 MR. DI STEFANO: And that's lit; correct?

12 MR. DAILY: That's lit. There is a  
13 similar one that faces 590 that actually got blown  
14 down in the windstorm in March, and we have to put  
15 that back up.

16 MR. DI STEFANO: That's not lit; correct?

17 MR. DAILY: That's not lit. And there is  
18 one facing the canal that's not lit.

19 MS. WATSON: The one that is lit is kind  
20 of behind one of the more permanent identification  
21 signs for the property. Are those permanent signs  
22 also lit?

23 MR. DAILY: I think they are, yes.

24 MS. WATSON: And I also noticed that there  
25 are -- so the permanent signs are kind of on -- I

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1 don't know the terminology, but they are on a brick  
2 wall as the base; right?

3 CHAIRPERSON MIETZ: Monument.

4 MS. WATSON: Those are on bases, or there  
5 are like two or three other ones next to them that  
6 don't have a sign on them.

7 MR. DAILY: Correct.

8 MS. WATSON: So what are those ones for?

9 MR. DAILY: I don't know if you are  
10 familiar with Mark Bayer?

11 MS. WATSON: I'm sorry?

12 MR. DAILY: Mark Bayer, the landscape  
13 architect. So there is a theme with the canal. So  
14 they are supposed to simulate locks.

15 MS. WATSON: So you are not going to be  
16 putting signs up on those?

17 MR. DI STEFANO: No, there will not be any  
18 signage on those.

19 CHAIRPERSON MIETZ: No, those are just an  
20 architectural feature.

21 MS. WATSON: I see. Okay. I was waiting  
22 for something else to go up there.

23 CHAIRPERSON MIETZ: No.

24 MS. WATSON: Given the fact that there are  
25 permanent signs already at the entrance of the

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1 property, what is the additional benefit to having a  
2 billboard sign?

3 MR. DAILY: To make people aware that it  
4 is still a project under development and there are  
5 still units for sale. If there was not anything out  
6 there, you wouldn't know that there are homes for  
7 sale. Once there are no homes for sale, there would  
8 be no need to advertise that.

9 CHAIRPERSON MIETZ: More questions? Any  
10 other questions?

11 MS. DALE: So at the rate the sales have  
12 been happening and the quantity that remain, do you  
13 expect that you will need an additional two-year  
14 period after this?

15 MR. DAILY: I would expect so. It would  
16 be great if we didn't, but I would expect so.

17 MS. DALE: Okay.

18 CHAIRPERSON MIETZ: Okay. That was my  
19 question too. Thank you.

20 MR. DAILY: Thank you.

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

25

1 Application 10A-06-17. Application of Home Power  
2 Systems, contractor, and Thomas Sullivan, owner of  
3 property located at 57 Dale Road, for an Area Variance  
4 from Sections 203-2.1B(6) and 203-9A(4) to allow a  
5 stand-by emergency generator to be located in a side  
6 yard 3+/- ft. from a side lot line in lieu of in the  
7 rear yard behind the house, no closer than 10 ft. from  
8 a lot line as required by code. All as described on  
9 application and plans on file.

10 MR. SWETMAN: Good evening. Tonight must  
11 be generator night because we have another one coming,  
12 too. I'm Jim Swetman, president and owner of Home  
13 Power Systems, here to represent Tom Sullivan at 57  
14 Dale Road for the installation of a Generac automatic  
15 home stand-by generator system going on the north end  
16 of the lot. It is a unique situation because Dale  
17 Road has homes that are very, very close to each  
18 other. Knowing the town code, because we have been  
19 doing generators here in the town for 14 years,  
20 knowing that back lot is the code, unfortunately,  
21 there is a back deck over there that takes the whole  
22 back up. And in order for us to do the installation  
23 in the rear lot, we would have to run exposed gas  
24 piping underneath the deck and the electrical  
25 underneath the deck, which is unsightly, or we would



1 have to trench in the backyard and put the generator  
2 back behind the deck because we can't put it  
3 underneath the deck, we have to put it behind the  
4 deck. So it's kind of unique. We walked around the  
5 south end. There is the driveway over there. Of  
6 course, the front of the house, we can't put it over  
7 there. So out of the homes that we do -- this year we  
8 will do about 430 installations -- this is a very  
9 tight area that we have to do this. So that's why we  
10 are here. The homeowner is requesting a chance to put  
11 it on the side lot knowing that it's very close.

12 Couple things, too: It is a whole house  
13 transfer solution. What does that mean? The 16 kW  
14 generator has a whisper test function on it. That  
15 means during its weekly exercise cycle, it only spins  
16 at 2,300 RPMs. So it's only about 53 decibels that it  
17 puts out during its weekly test. Of course during the  
18 standby condition if we do lose power, it is well  
19 below the town's code for the decibel rates.

20 Mr. Sullivan has had an opportunity to  
21 talk to the neighbor on the north side. He did not  
22 give me anything written, but he did have a chance to  
23 talk to him. He did get verbal approval from the  
24 neighbor to put it on the north side.

25 CHAIRPERSON MIETZ: Okay. Great.

1 Questions? It's pretty straight forward. Okay.

2 Thank you.

3 MR. SWETMAN: Thank you.

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

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1 Application 10A-07-17. Application of Home Power  
2 Systems, contractor, and Stewart Lustik, owner of  
3 property located at 450 Clover Hills Drive, for an  
4 Area Variance from Section 203-2.1B(6) to allow a  
5 stand-by emergency generator to be located in a side  
6 yard in lieu of the rear yard behind the house as  
7 required by code. All as described on application and  
8 plans on file.

9 MR. SHOREMAN: Good evening, everyone. My  
10 name is Dale Shoreman, one of the residential project  
11 managers at Home Power Systems. I'm here representing  
12 homeowner, Stewart Lustik, who resides at 450 Clover  
13 Hills Drive. He is requesting a side of house  
14 installation instead of rear for a couple of reasons.  
15 In the rear of his home, there is a severe slope.  
16 This would make the installation, again, unsightly.  
17 If we put it on the side of the home, it is going to  
18 be covered by vegetation, landscaping. It is also  
19 pretty attractive to have it near the air conditioner.  
20 This way all of the mechanical devices are on the same  
21 side of the home. We are wondering if we could have a  
22 variance for the installation.

23 CHAIRPERSON MIETZ: Okay. So how far,  
24 then, to the neighbor's is that generator going to be?

25 MR. SHOREMAN: Approximately, 32 feet.

1 MR. DI STEFANO: To the lot line or to the  
2 neighboring structure?

3 MR. SHOREMAN: I'm sorry. Approximately,  
4 64 feet to the neighboring structure. I'm sorry about  
5 that.

6 CHAIRPERSON MIETZ: Okay. I was going to  
7 say 30. I thought it was more than that.

8 MR. SHOREMAN: I apologize.

9 MS. CORRADO: Has the homeowner checked in  
10 with the neighbor?

11 MR. SHOREMAN: He has. He has checked in  
12 with four neighbors. I have copies of the approval to  
13 pass out to you folks.

14 MR. DI STEFANO: You can give me one copy  
15 of that.

16 MS. TOMPKINS WRIGHT: One of those four  
17 neighbors was the neighbor most affected on that side?

18 MR. SHOREMAN: Correct. Would you like me  
19 to pass this out for everyone to see?

20 MR. DI STEFANO: Do you have all four  
21 neighbors or is he saying he met with four neighbors?

22 MR. SHOREMAN: He met with four neighbors.

23 MR. DI STEFANO: Okay. Yes, I will read  
24 this real quick. It just says that from the  
25 homeowner, "I talked to the four neighbors near the

1 house and no one has a problem with the generator  
2 going in. Hopefully, that won't be an issue." But he  
3 doesn't have anything directly from the neighbors?

4 MR. SHOREMAN: No.

5 MR. DI STEFANO: Okay.

6 CHAIRPERSON MIETZ: We get the spirit of  
7 it, I guess.

8 MR. DI STEFANO: Yes.

9 CHAIRPERSON MIETZ: Okay. All right. Any  
10 other questions for this gentleman? No? Okay.  
11 Great. Thank you.

12 MR. SHOREMAN: Thank you all.

13 CHAIRPERSON MIETZ: Is there anyone in the  
14 audience that would like to speak regarding this  
15 application? Okay. There being none, then the public  
16 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 October 4, 2017, COMMENCING AT APPROXIMATELY 8:15  
4 P.M.

5 October 4, 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 JEANNE DALE  
15 JENNIFER WATSON  
16 DOUGLAS CLAPP

17 DAVID DOLLINGER, ESQ.  
18 Town Attorney

19 RICK DISTEFANO  
20 Secretary

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

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1 Application 10A-01-17. Application of Norman Geil,  
2 owner of property located at 25 Far View Hills Road,  
3 for an Area Variance from Section 203-2.1B(6) to allow  
4 a stand-by emergency generator to be located in a side  
5 yard in lieu of the rear yard behind the house as  
6 required by code. All as described on application and  
7 plans on file.

8 Motion made by Ms. Dale to approve

9 Application 10A-01-17.

10 FINDINGS OF FACT:

11 1. The requested variance will not produce an  
12 undesirable change in the character of the  
13 neighborhood or be a detriment to nearby properties as  
14 the wooded hillside, and existing trees and shrubs,  
15 and the significant incline from the road will  
16 sufficiently hide the generator from view.

17 2. The benefit sought by the applicant cannot be  
18 achieved by another feasible method as there is no  
19 possible location for the generator between the rear  
20 of the house and the rear hillside as there is only  
21 eight feet of yard from the rear of the house to the  
22 steep slope.

23 3. There is already an air conditioning unit located  
24 at the side of the house where the generator will be  
25 located.



1 4. The health, safety, and welfare of the neighboring  
2 community will not be negatively impacted.

3 CONDITIONS:

4 1. The generator will be located in the side yard of  
5 the property as depicted in the application.

6 2. The generator will be make and model as specified  
7 in the application.

8 3. All necessary approvals and town permits shall be  
9 obtained.

10 (Seconded by Ms. Corrado.)  
11 (Ms. Corrado, yes; Ms. Schwartz, yes;  
12 Ms. Tompkins Wright, yes;  
13 Ms. Watson, yes; Mr. Clapp, yes;  
14 Ms. Dale, yes; Mr. Mietz, yes.)  
15 (Open roll call, motion to approve  
16 with conditions carries.)  
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1 Application 10A-02-17. Application of Lisa Tung,  
 2 lessee, and Cox Building Property, LLC, owner of  
 3 property located at 2829 West Henrietta Road for an  
 4 Area Variance from Section 205-12 to allow for 17  
 5 on-site parking spaces in lieu of the minimum 25  
 6 parking spaces required by code for the property with  
 7 a new restaurant occupant. All as described on  
 8 application and plans on file.

9 Motion made by Mr. Mietz to approve  
 10 Application 10A-02-17.

11 FINDINGS OF FACT:

- 12 1. While the variance is self-created since the  
 13 applicant is leasing a vacant space and desires to  
 14 operate it as a primarily delivery style restaurant as  
 15 defined by code, the impact of the variance is  
 16 minimized.
- 17 2. While the variance is substantial, the use of the  
 18 delivery-type restaurant will not need the required  
 19 parking per code.
- 20 3. The approval of this variance would likely not  
 21 have a negative effect on the neighborhood due to the  
 22 commercial nature of the adjoining tenants and the  
 23 adjoining properties on West Henrietta Road.

24 CONDITIONS:

- 25 1. This variance applies only to the restaurant use

1 as described in application and testimony given,  
2 specifically, a delivery-style restaurant with minimal  
3 customer walk-in traffic.

4 2. In the restaurant use as specified, there shall  
5 not be any tables or chairs for in-seat consumption.

6 3. All necessary building permits shall be obtained.

7 (Seconded by Ms. Watson.)

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

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

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1 Application 10A-03-17. Application of Feor  
2 Construction, contractor, and Jerry Nadiak, owner of  
3 property located at 105 Penhurst Road, for Area  
4 Variances from Section 205-2 to allow a garage  
5 addition to extend 3.8 ft. into the 36.6 ft. front  
6 setback where a 40 ft. front setback is required by  
7 code, and extend 7.5 ft. into the 10 ft. side setback  
8 required by code. All as described on application and  
9 plans on file.

10 Motion made by Ms. Schwartz to approve  
11 Application 10A-03-17.

12 FINDINGS OF FACT:

- 13 1. There is only a one-car garage currently on the  
14 property, and the applicant has two cars, he keeps  
15 both in the garage.
- 16 2. The shape of the lot causes the variance to be  
17 substantial. However, the configuration of the  
18 existing house and its siting on the lot necessitates  
19 the need for the garage to be placed precisely there.
- 20 3. There is no other location on this lot where one  
21 could construct a second garage without the need for a  
22 variance.

23 CONDITIONS:

- 24 1. This application only applies to the garage  
25 addition as presented in the application and per

1 testimony given.

2 2. All necessary Architecture Review Board approvals  
3 shall be obtained

4 3. All necessary building permits shall be obtained.

5 (Seconded by Ms. Corrado.)

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

7 Ms. Tompkins Wright, no;

8 Ms. Watson, yes; Mr. Clapp, no;

9 Ms. Dale, yes; Mr. Mietz, no.)

10 (Open roll call, motion to approve

11 With conditions carries.)

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1 Application 10A-04-17. Application of Howard Cohen  
2 and Daphne Holland Cohen, owners of property located  
3 at 157 Monteroy Road, for an Area Variance from  
4 Sections 203-2.1B(6) and 203-9A(4) to allow a stand-by  
5 emergency generator to be located in a side yard in  
6 lieu of the rear yard behind the house as required by  
7 code. All as described on application and plans on  
8 file.

9 Motion made by Ms. Tompkins Wright to  
10 approve Application 10A-04-17.

11 FINDINGS OF FACT:

12 1. The granting of the requested variance will not  
13 produce an undesirable change in the character of the  
14 neighborhood or be a detriment to nearby properties.  
15 The proposed location of the generator is well  
16 shielded from view due to shrubs and trees on the west  
17 side and a portion of the front yard including 60 feet  
18 of 12 foot high hedgerow. Further, the proposed  
19 generator will be placed behind an existing H-VAC unit  
20 and will not be visible from the street.

21 2. The requested variance is not substantial given  
22 the screening previously noted.

23 3. The benefit sought by the applicant cannot  
24 reasonably be achieved by any other method. The rear  
25 yard is limited due to size and shape. It has poor

1 drainage which makes placement of the generator in the  
2 rear yard unacceptable.

3 4. There is no evidence that the proposed variance  
4 will have an adverse effect or impact on the physical  
5 or environmental conditions in the neighborhood or  
6 district due to its distance from neighboring  
7 properties.

8 CONDITIONS:

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

12 2. All necessary permits must be obtained.

13 (Seconded by Ms. Schwartz.)  
14 (Ms. Corrado, yes; Ms. Schwartz, yes;  
15 Ms. Tompkins Wright, yes;  
16 Ms. Watson, yes; Mr. Clapp, yes;  
17 Ms. Dale, yes; Mr. Mietz, yes.)  
18 (Open roll call, motion to approve  
19 with conditions carries.)  
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1 Application 10A-05-17. Application of Anthony J.  
2 Costello and Son (Joseph) Development, LLC, owner of  
3 property known as "The Reserve" housing community, 1  
4 Reserve View Blvd., for renewal of a Temporary and  
5 Revocable Use Permit (10A-03-15) to allow for five (5)  
6 temporary site development/advertising signs for a two  
7 year period, where only one such sign is allowed by  
8 code. All as described on application and plans on  
9 file.

10 Motion made by Ms. Watson to approve  
11 Application 10A-05-17.

12 FINDINGS OF FACT:

13 1. The temporary and revocable use permit, if  
14 granted, will not alter the character of the  
15 neighborhood and no substantial detriment to nearby  
16 properties is expected to result from the approval of  
17 this variance. The signs in question are primarily  
18 visible from roadways and nearby residences or  
19 commercial properties. Also, the signs are similar in  
20 nature to other signs on neighboring commercial  
21 properties.

22 2. The signs, which have been up for five years, have  
23 not adversely effected the health, safety, and welfare  
24 of the surrounding neighborhood.

25 CONDITIONS:

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1 1. The total number of site development signs is  
2 limited to five. These signs shall consist of a large  
3 developmental identification sign facing I-590, not  
4 lighted, a large developmental identification sign  
5 facing South Clinton Avenue, lighted, a feather open  
6 sign at the entrance on South Clinton Avenue, an  
7 A-frame open sign at the entrance on South Clinton  
8 Avenue, and a developmental identification sign facing  
9 the canal.

10 2. The feather open sign and the A-frame open sign  
11 shall only be displayed when the model home/office is  
12 open.

13 3. The signs shall be located per plans submitted and  
14 testimony given.

15 4. The temporary and revocable use permanent is valid  
16 for two years and shall expire on October 4th, 2019.

17 (Seconded by Mr. Clapp.)  
18 (Ms. Corrado, yes; Ms. Schwartz, no;  
19 Ms. Tompkins Wright, yes;  
20 Ms. Watson, yes; Mr. Clapp, yes;  
21 Ms. Dale, yes; Mr. Mietz, yes.)  
22 (Open roll call, motion to approve  
23 with conditions carries.)  
24  
25

1 Application 10A-06-17. Application of Home Power  
2 Systems, contractor and Thomas Sullivan, owner of  
3 property located at 57 Dale Road, for an Area Variance  
4 from Sections 203-2.1B(6) and 203-9A(4) to allow a  
5 stand-by emergency generator to be located in a side  
6 yard 3+/- ft. from a side lot line in lieu of in the  
7 rear yard behind the house, no closer than 10 ft. from  
8 a lot line as required by code. All as described on  
9 application and plans on file.

10 Motion made by Mr. Clapp to deny

11 Application 10A-06-17.

12 FINDINGS OF FACT:

- 13 1. The proposed variance is substantial because (1)  
14 it is not behind the house and (2) it is three feet  
15 from the lot line where a minimum of 10 feet is  
16 required by code.
- 17 2. There are other alternatives that could alleviate  
18 the alleged hardship.
- 19 3. The neighborhood, itself, has small narrow width  
20 lots with houses in close proximity to each other and  
21 generators in side yards will have a detrimental  
22 effect on the quality of the neighborhood.
- 23 4. The health, safety, and welfare will be effected  
24 because the proximity of the neighboring residences  
25 could present health and safety issues due to exhaust

1 and noise levels.

2 (Seconded by Ms. Schwartz.)

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

4 Ms. Tompkins Wright, No;

5 Ms. Watson, yes; Mr. Clapp, yes;

6 Ms. Dale, yes; Mr. Mietz, yes.)

7 (Open roll call, motion to deny carries.)

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1 Application 10A-07-17. Application of Home Power  
2 Systems, contractor, and Stewart Lustik, owner of  
3 property located at 450 Clover Hills Drive, for an  
4 Area Variance from Section 203-2.1B(6) to allow a  
5 stand-by emergency generator to be located in a side  
6 yard in lieu of the rear yard behind the house as  
7 required by code. All as described on application and  
8 plans on file.

9 Motion made by Ms. Corrado to approve  
10 Application 10A-07-17.

11 FINDINGS OF FACT:

12 1. The requested variance is not substantial as the  
13 home's other external mechanicals and gas meter are  
14 already located in the side yard.

15 2. No alternative can alleviate the difficulty and  
16 produce the desired result that of co-locating the  
17 generator, the air conditioning unit, and the gas  
18 meter while minimizing the impact on the integrity of  
19 the home's interior.

20 3. No unacceptable change in the character of the  
21 neighborhood and no substantial detriment to nearby  
22 properties is expected to result from the approval of  
23 this variance as the generator is to be used only in  
24 the case of power construction and not as a primary  
25 source of power. Further, the generator will be

1 screened by vegetation to minimize the negative  
2 esthetic impact.

3 4. The alleged hardship was self-created by the  
4 applicant only in that the stand-by generator was not  
5 part of the original construction of the home and  
6 therefore not cited per code.

7 5. The health, safety, and welfare of the community  
8 will not be adversely effected by the approval of this  
9 variance request as the generator will be sited  
10 approximately 60 plus or minus feet from the  
11 neighboring structure.

12 CONDITIONS:

13 1. This variance will apply only to the generator as  
14 described in the application and testimony given. In  
15 particular, it will not apply to any additional  
16 generators in the future that are not considered in  
17 the present application.

18 2. All necessary town approvals and permits shall be  
19 obtained.

20 (Seconded by Ms. Schwartz.)

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

22 Ms. Tompkins Wright, yes;

23 Ms. Watson, yes; Mr. Clapp, yes;

24 Ms. Dale, yes; Mr. Mietz, yes.)

25 (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