

Brighton Zoning Board of Appeals 5/2/18

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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON MAY 2ND, 2018 AT  
APPROXIMATELY 7:15 P.M.

May 2nd, 2018  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

REPORTED BY: RHODA COLLINS, Court Reporter  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, New York 14020

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CHAIRPERSON MIETZ: Good evening. I'd like to call to order the May session of the Zoning Board of Appeals.

Rick, was the meeting properly advertised?

MR. DiSTEFANO: Yes, Mr. Chairman, it was advertised in the Brighton-Pittsford Post of April 26, 2018.

CHAIRPERSON MIETZ: Okay. Would you please call the roll.

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

CHAIRPERSON MIETZ: We have minutes.

MS. SCHWARTZ: Starting with March, on Page 6, Line 4, the last word is bringing.

Page 11, Line 8, delete the first word and it should be no. Line 15, same page, strike to the and put in and, and then at the very end of the line add the word be.

Page 15, Line 15, the third word is required.

Page 23, Line 13, the first word should be a, and then the word sign.

On Page 29, Line 12, the last word should be vac, and the same thing is true on Line 20, the same page.

On Page 41, Line 14, please insert the word have, it should be you should have.

Page 61, Line 21, the first word is ambulance.

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Page 62, Line 10, after the word board, delete seems.

Page 65 Line 3, the first word is though.

Page 66, Line 25, the middle of the sentence, required.

Page 67, Line 5, the first word is requirements.

Page 70, Line 20, the first word is format.

Page 76, Line 10, the last part of the sentence is compilation.

Page 83, Line 17, delete the last word be.

Page 85, Line 18, midway should be original.

Page 94, Line 14, the second word is come.

Page 105, Line 17, insert the word to after the word out, out to.

Page 109, Line 21, toward the end of the line it's needed.

Page 110, Line 11, the second word should be deleted.

Page 122, Line 15, the last word is district.

Page 130, Line 14, insert the word is, after variance. That's all.

MS. CORRADO: Page 41, Line 14, Flaum is

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2  
3 spelled with an M on the end.

4 Page 97, Line 13, apparently I drew a blank.  
5 I don't know what I said on that line, you can strike that  
6 whole line.

7 Page 114, Line 18, strike the comma after two.  
8 Line 20, after result add a comma and strike the comma after  
9 that.

10 Page 115, Line 9, the word citing should start  
11 with an S.

12 Page 124, Line 15, the last word should be  
13 home, not one.

14 Line 17, after the word feet replace the comma  
15 with a period and begin a new sentence with the word and.  
16 Line 18, add a comma after significant.

17 Page 132, Line 18, add a period after result,  
18 begin a new sentence with by. Line 19, change the period  
19 after structure with a comma and begin a new clause with  
20 both.

21 And Page 21, change the word that to them.  
22 That's all.

23 CHAIRPERSON MIETZ: Anything else for March?  
24 Motion?

25 MS. SCHWARTZ: Move.

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(Second by Ms. Corrado.)

4

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

5

Ms. Tomkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes;

6

Ms. Watson, yes; Ms. Corrado, yes.)

7

(Upon roll call, motion to approve with

8

corrections carries.)

9

CHAIRPERSON MIETZ: Okay, next is April.

10

MS. SCHWARTZ: Page 10, Line 19, the word

11

towards the end of the sentence is quiet.

12

Page 15, Line 19, change the word set to site.

13

Page 24, Line 24, the third word is had.

14

That's all.

15

MS. CORRADO: Page 9, Line 6, insert the word

16

which after boundary.

17

Page 30, Line 6, spell the name Serge,

18

S-e-r-g-e.

19

Line 10, the word setback should be split into

20

set back, two words.

21

Page 33, Line 21, strike the second L in

22

aluminum.

23

MS. WATSON: Page 44, Line 20, the word coded

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should be change to code.

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CHAIRPERSON MIETZ: Anything else? Okay, can

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we have a motion?

MS. SCHWARTZ: Motion.

(Second by Mr. Clapp.)

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

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

CHAIRPERSON MIETZ: Rick, when you are ready please read the first application.

APPLICATION 5A-01-18

5A-01-18 Application of Monroe Realty Associates, contract vendee, and Toliver, LLC, owner of property located at 2087 Monroe Avenue, for Area Variances from Section 205-7 to construct a new medical office building with 1) a 10 ft. front setback (Monroe Avenue) where a 30 ft. Front setback is required by code, 2) a 10 ft. rear setback (west property line) where a 50 ft. rear setback is required by code, and 3) to allow impervious lot coverage to be 75.7 % in lieu of the maximum 65% allowed by code. All as described on application and plans on file.

APPLICATION 5A-02-18

5A-02-18 Application of Monroe Realty

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3 Associates, contract vendee, and Toliver, LLC, owner of  
4 property located at 2087 Monroe Avenue, for Area Variances  
5 from Section 205- 18A to 1) allow for front yard parking  
6 (Brooklawn Drive frontage) where not allowed by code, 2)  
7 allow parking/pavement within 5 ft. of the south property  
8 line where a 10 ft. setback is required by code, and 3) to  
9 allow parking/pavement within 1.5 ft. from the west lot line  
10 where a 10 ft. setback is required by code. All as described  
11 on application and plans on file.

12 MIKE MONTALTO: Good evening, I'm Mike  
13 Montalto with Costich Engineering, offices at 217 Lake  
14 Avenue. I'm here this evening on behalf of Dr. Brian  
15 Mattiaccio for an orthodontia practice at 2087 Monroe Avenue.

16 Since the time of application Dr. Mattiaccio  
17 has closed on the property. He is now the owner of it, no  
18 longer under contract for purchase of the property. We are  
19 here this evening for the area variances listed as a result  
20 or out of, associated with redevelopment of a roughly  
21 quarter-acre lot located at 2087 Monroe Avenue for a  
22 2,200 square foot orthodontia practice on a facility that was  
23 formerly operated by Newcomb as a gas station property that  
24 has been vacant for a while. This Board I believe saw it a  
25 while back for redevelopment as a pizzeria and there were

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3 some area variances associated with that. That project did  
4 not move forward.

5 Dr. Mattiaccio has been before the Planning  
6 Board in January for a concept review and then was back  
7 before the Planning Board in March associated with a  
8 preliminary site plan review for development of this  
9 property. And as previously mentioned, has subsequently  
10 closed on the purchase of the property for redevelopment as  
11 an orthodontia practice.

12 There are two groups of area variances being  
13 sought this evening. The first area variance is the first  
14 application and is primarily associated with the building  
15 placement on the lot and the lot coverage associated with  
16 this. This is a corner lot and as such is burdened by two  
17 front yards and two rear yards. It leaves approximately a  
18 5- to 600-square foot odd-shaped trapezoid. Where my finger  
19 is outlining, it would be the actual building development  
20 area.

21 Through discussions with the Planning Board  
22 and concept layout and preliminary and the Envision Monroe  
23 objectives, the site layout was to bring the building closer  
24 to Monroe Avenue to enhance the pedestrian connectivity to  
25 increase the landscape and green scape opportunities on



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3 Monroe Avenue frontage. That's where the 10-foot, where  
4 30-foot is required. We are meeting the 30-foot requirement  
5 to Brooklawn.

6 And then, if this was mid-lot, if this was not  
7 a corner lot we would be allowed to be 10 feet from the  
8 Canandaigua National Bank site. That's how the building got  
9 set. But because it is a corner lot this is being treated as  
10 a second rear and that adds the 50-foot setback requirement,  
11 so that's the second variance.

12 We've got 10 feet here where 30 feet would be  
13 required, pulling the building back to here. We've got  
14 10 feet here where 50 feet would be required. And then the  
15 third is the overall lot coverage and it's associated with  
16 the fact that the property is only a quarter of an acre, and  
17 that, you know, we're over that, but I believe not  
18 marginally.

19 I did go through the burden of proof  
20 standards, can walk you through them individually if you  
21 would like, or I can summarize.

22 CHAIRPERSON MIETZ: Summarize.

23 MIKE MONTALTO: We believe that A) it's not  
24 going to create a change in the neighborhood, an undesirable  
25 neighborhood character change. And that by placing the

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3 building closer to the road that this is not substantially  
4 different than having parking right up at the road along the  
5 sidewalk as is typical of the Monroe Avenue corridor. This  
6 actually allows for a larger separation and a better  
7 aesthetic than the cars being parked directly on Monroe  
8 Avenue and crossing over the sidewalk.

9           This layout actually kind of eliminates, it  
10 encourages that pedestrian safety issue associated with  
11 getting the parking off the public sidewalk and allowing  
12 connectivity to the school across. There was an enhancement  
13 made to the plan as a result of meeting with the Planning  
14 Board to actually align with the crosswalk, you know, and  
15 bring -- so that if there are any students that came to the  
16 orthodontist office that would be enhanced.

17           So that's the first group of area variances,  
18 you know, and primarily they're created by this being a  
19 corner lot rather than a mid-block lot, with the exception of  
20 the lot coverage, and it's marginally over what's allowed and  
21 it's just due to only being a quarter of an acre.

22           The property owner to the south was approached  
23 for purchase to see if we could get more land and actually  
24 have a larger orthodontist office than what is being proposed  
25 and we were not able to come to those terms. So the project

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3 is scaled to what would fit from a practice standpoint, what  
4 worked for him. This would be his second facility. So  
5 that's the first group of area variances.

6 The second group of area variances are  
7 associated with the setbacks for the parking field. One of  
8 them ties very closely to the decision of how the building is  
9 placed in the corner lot. Again, that's to allow parking to  
10 be in the front yard, since we have two front yards it's  
11 relatively unavoidable. The parking code requirements is  
12 15 for this lot, we have 16, so we are one over. We were  
13 asked even by the Planning Board standpoint could we reduce  
14 that one space. Dr. Mattiaccio believes with the way his  
15 practice operates and the turnover rates of the patients and  
16 whatever, you know, the 16 parking spots that are being  
17 provided is where he needs to be.

18 We don't have excess pavements associated with  
19 Dumpster enclosures, all the rest of it. This layout keeps  
20 all of those inside the building. So even from a lot  
21 coverage standpoint, the efficiencies of how it was laid out  
22 was tried to be kept down. We are looking for whenever we've  
23 got the back out in the parking stalls to be 1.5 feet away  
24 from the parking lot versus the 10 that's required. We're  
25 looking for the front area here to be, you know, to be

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3 allowed to be parked in front of the building. And then,  
4 again, we've got a 1.1 foot setback where we're -- and again,  
5 same arguments I think as discussed for the other area  
6 variances -- it is not dissimilar to the entire corridor  
7 where there are typically zero foot setbacks to lot lines  
8 where parking goes over lot lines up the sidewalks,  
9 et cetera.

10 So we don't believe there's a negative effect  
11 on the neighborhood associated with this. Neighborhood  
12 welfare, health safety, et cetera, et cetera. That's the  
13 Reader's Digest version, understanding the busy agenda this  
14 evening so I won't go through the burden of proof standards  
15 item-by-item, but I'd like to conclude the formal  
16 presentation and turn it over for questions.

17 MS. TOMPKINS WRIGHT: Can you just speak a  
18 little bit because, you know, you've been touching on the  
19 fact that this has gone through other channels in Brighton.  
20 Can you touch a little bit on what other designs, you know,  
21 were maybe approached and looked at and how, you know, what  
22 the Boards or committees that you've met with, what their  
23 thoughts are on how this one is better from a town's  
24 perspective and as an industry?

25 MIKE MONTALTO: From -- and, yes --

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3 MR. DOLLINGER: I can speak to that. The  
4 Planning Board -- this is a tough site and we really, they  
5 really looked at it. They tried to put the building here and  
6 we spent a lot of time at the Planning Board just trying to  
7 figure out a better way, another place to put it, some other  
8 way to do this, particularly so it wasn't so close to Monroe.  
9 And we did, we spent a lot of time on that. It's, you know,  
10 this is the conclusion we came to.

11 MS. TOMPKINS WRIGHT: And this is the Planning  
12 Board's preferred --

13 MR. DOLLINGER: Yes.

14 MIKE MONTALTO: Well, no. We have no  
15 approvals. We have comments.

16 MR. DOLLINGER: We have fed them with it and  
17 came to this conclusion.

18 MIKE MONTALTO: No, we are not --

19 CHAIRPERSON MIETZ: Hold on.

20 MR. DiSTEFANO: It has gone to the Planning  
21 Board and has been tabled and that's where they are right  
22 now. The Planning Board has not made any approvals on this.  
23 One of the key things has been getting variances. If they  
24 don't get their variances, certainly the Planning Board  
25 cannot approve the plan as is.

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3 MIKE MONTALTO: General comments, and I'm  
4 reading from minutes, they like the setback, the scale felt  
5 good, they did encourage us and we did make some changes as a  
6 result of the March 21st Planning Board meeting. They wanted  
7 us to review how the doorway and entrance worked here. So  
8 that because the main entrance of the building is on the  
9 south side that as people came in that they understood where  
10 that was. We added this guard here, pedestrian areas, you  
11 know, as associated with that.

12 We had -- we didn't have the pedestrian link  
13 here. We were having the pedestrian link come in, it was one  
14 of those, you know, when you do step back and look at the  
15 aerial photography, you look at where the crosswalk is, where  
16 the kids, you know -- this was a good input received from the  
17 Planning Board to try to align so that you will have some  
18 kids who probably walk to their orthodontist appointment.

19 There were some operational questions, but in  
20 general most of the comments that we've received from the  
21 Planning Board was that given the constraints of the site  
22 that this was a good layout. There's no approval from them  
23 as such.

24 MS. DALE: I just wanted to ask, so the  
25 16 parking spaces, this is an office for a single

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3 orthodontist?

4 MIKE MONTALTO: Yes.

5 MS. DALE: How many staff, approximately?

6 MIKE MONTALTO: I'll let Dr. Mattiaccio speak  
7 to that.

8 DR. MATTIACIO: Currently 11 staff, myself  
9 will be 12. Obviously some logistical issues there, so which  
10 is why we are really trying to push for the 16 spots as  
11 opposed to 15.

12 MS. DALE: Yeah, and the reason I ask is  
13 because I have three kids who all had braces and we went to  
14 the orthodontist and they have much smaller -- the place my  
15 kids go to there's six spots, but it works. I'm just  
16 surprised about the need for 16.

17 DR. MATTIACIO: Yeah, I mean --

18 MS. DALE: I didn't know how much you thought  
19 about that --

20 DR. MATTIACIO: Well, if you think about it --  
21 well, currently my office in Farmington I'm in the high 20s  
22 in terms of spots and we are full. With 12 cars parking  
23 every day no matter what, with staff and myself, that would  
24 leave four spots for our patients.

25 MS. DALE: Yeah, I guess I didn't know that

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3 the staff was so many.

4 DR. MATTIACIO: Yeah. Now, we're working  
5 around this currently, which we're trying to be neighborly  
6 with Canandaigua National Bank who is our next door neighbor,  
7 and they have some available parking potentially for us. We  
8 kind of share it in terms of --

9 MS. DALE: How many staff members work at a  
10 given time because --

11 DR. MATTIACIO: All of us.

12 MS. DALE: How many --

13 DR. MATTIACIO: So all of my staff will be  
14 present, so there will be 13 of us.

15 MS. DALE: All day?

16 DR. MATTIACIO: All day.

17 MS. CORRADO: To the point of enough parking,  
18 that location is actually on a major bus route and you're  
19 also very near to the high school where a lot of the patients  
20 presumably will be going to class and then coming over to  
21 their appointments. Can you include say, bicycle parking  
22 accommodations there?

23 DR. MATTIACIO: Of course.

24 MS. CORRADO: And is there incentive  
25 opportunity for your employees to bus to their work place?



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3 DR. MATTIACIO: Yeah, I don't know about the  
4 bus, but for certain we've had this discussion before because  
5 most of us are coming from Ontario County. There are three  
6 of us who live in Monroe County, and actually in Brighton.  
7 For car pooling and things of that nature, it's going to  
8 be -- there's going to have to be -- I can't take up 12  
9 parking spots with my staff and leave four for patrons. We  
10 are going to have to, you know, between the whole Canandaigua  
11 National Bank deal that I have worked out with them right now  
12 where they're going to, quote/unquote loan me on the days I'm  
13 there -- because I'm not going to be there every day.

14 I will have it staffed every day, but I won't  
15 have patients there every day. Does that make sense?  
16 Because I will be in Farmington and I'm the only ortho  
17 between the two offices so I'll be in one office and the next  
18 office. So I'll only have to borrow their spots on, say,  
19 four days a month initially. Especially since I'm starting  
20 from scratch, I don't expect all of Brighton, you know, to  
21 come to my office in one day.

22 So we are working out the logistics, in the  
23 end it will work. This will probably be my bare minimum  
24 requirement for what it will ultimately be. Anything  
25 smaller, I just don't know if the project will work.

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CHAIRPERSON MIETZ: Okay.

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MS. CORRADO: Can you speak also to, either one of you, the question about the fencing and landscaping.

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MIKE MONTALTO: Yes. So we are replacing along the south property line the fence that sits there today. We're 6 feet until we hit the front of the building then it's dropping to a 3-foot fence.

10

MS. CORRADO: What material will it be?

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MIKE MONTALTO: It's a wooden privacy fence. And then, you know, the whole roadway corridor is being landscaped. We are putting some lower stuff, you know, between because it has to be snow and salt tolerant, from a snow storage standpoint.

16

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We did include, by the way, in this sidewalk connectivity area bicycle racks and bicycle connectivity, so we've got multi-model, and that was another comment that came out of the Planning Board portion of this.

20

MS. CORRADO: Thank you.

21

22

MS. WATSON: How tall is the building going to be?

23

MIKE MONTALTO: It's a single-story building.

24

MR. DiSTEFANO: How high will it be?

25

MIKE MONTALTO: I don't want to misspeak,

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3 19'6" to the tallest element. The average element, you know,  
4 at the corner of the building there's a step up, there's an  
5 architectural element where it's a little bit higher, then it  
6 drops down to 16 feet.

7 MS. SCHWARTZ: Just out of curiosity, in what  
8 way will it blend in with the neighbor next to it,  
9 architecturally speaking?

10 MIKE MONTALTO: Not similar at all. You know,  
11 the Canandaigua National Bank has a stucco, you know, I'm not  
12 exactly sure what style you would say from that standpoint.  
13 Dr. Mattiaccio's building has a fair amount of glazing, has  
14 wood panel treatment, is an upscale, you know --

15 MR. DiSTEFANO: Can you pass that around?

16 MIKE MONTALTO: Yes.

17 MR. CLAPP: Looking at the plans correctly,  
18 can you point out where the entrances are? Is it really just  
19 one?

20 MIKE MONTALTO: The entrance is right here.

21 MR. CLAPP: So the doors I see on the other  
22 page --

23 MIKE MONTALTO: These are service, that's how  
24 the garbage and all that kind of stuff gets out.

25 MR. CLAPP: Thank you.

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3 CHAIRPERSON MIETZ: Okay. Do the Board  
4 members have any more questions for this gentleman?

5 MR. DiSTEFANO: Just a question, since  
6 according to the Doctor that the parking lot's going to be  
7 almost filled every day, what are you going to do for snow  
8 storage?

9 MIKE MONTALTO: The snow storage is going to  
10 have to be contracted to be removed from the site. We don't  
11 have the ability to --

12 MR. DiSTEFANO: So let's say you get, you  
13 know, the typical 4-6 inches. Is there any room on the site  
14 for that, or are you going to be starting to take up spaces  
15 that would then lead to a lack of parking?

16 MIKE MONTALTO: Yeah. Rick, as you look at  
17 it, we're --

18 MR. DiSTEFANO: So, no, there's really no snow  
19 storage area in there, right? I mean, practically there's no  
20 place to put snow?

21 MIKE MONTALTO: No. It's a contract to be  
22 removed, you know, from --

23 MR. DiSTEFANO: Yeah, you know, that's kind of  
24 like what we have in the code that when you start piling up  
25 snow you have to remove it from the site. But when you get a

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3 4-inch storm, 6-inch event, chances are you're not going to  
4 hire the dump truck to come in, the back loader, and actually  
5 physically remove that snow from the site. I mean, be  
6 realistic.

7 CHAIRPERSON MIETZ: Depends on what kind of  
8 contract is signed.

9 MR. DiSTEFANO: Yeah, but --

10 CHAIRPERSON MIETZ: Again, you can see that if  
11 you push that snow either south, east, wherever you push it  
12 you're going to lose spaces.

13 MR. DiSTEFANO: Right, that's the whole  
14 setback issue. That's one of the reasons we have a setback.  
15 You can push snow into the setback area.

16 CHAIRPERSON MIETZ: Agreed.

17 MS. TOMPKINS WRIGHT: Is the 2,200 square feet  
18 really the minimum square footage you need to run this type  
19 of business? You know, I don't know how many square feet you  
20 guys have in Farmington and for parking, but that's part of  
21 the issue too. If you reduced the building size, you know,  
22 maybe there's more room. But can you speak to that, you  
23 know, whether or not you considered reducing the square  
24 footage of the building and whether or not you considered  
25 everything you need to?

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3 MIKE MONTALTO: I'll let Dr. Mattiaccio speak  
4 again to the internal operation. There has been extensive  
5 discussion from a design team standpoint, from an  
6 architectural standpoint, from Dr. Mattiaccio, from our  
7 office.

8 It's an open floor plan, he doesn't have  
9 individual rooms, it's an open plan which saves square  
10 footage. I believe there's eight, you know, stations, you  
11 have a waiting area so you've got those people separated from  
12 the patients. He has sterilization rooms, whatever.

13 There's been -- the building started out  
14 larger square footage and it's one of the rare instances  
15 where we get footprints from the architects. The building  
16 has been scaled back a couple of times to the 2,200 square  
17 feet that it's been at. I will let the doctor, again, speak  
18 more to the details of it. I know we have been involved in a  
19 number of the e-mail chains where the discussion has gone  
20 back and forth. It's been exactly what you've talked about.

21 Farmington is an 8,000 square foot facility,  
22 so his investment here is a quarter of that. So ideally in a  
23 perfect world this facility would be larger than what is  
24 coming in. But it's really the constraints of we've got a  
25 quarter of an acre and he would like to be in this location

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3 from a business plan standpoint. And --

4 MS. DALE: Did you consider a two-story  
5 building?

6 DR. MATTIACIO: We would be restricted further  
7 by parking because the medical facility, if we start treating  
8 more patients on a second floor, the parking is going to need  
9 to go up in terms of --

10 MS. DALE: Well, no, I mean the same square  
11 footage, but two-story. Like, I am looking to reduce the  
12 footprint so that you can have the same parking and it really  
13 works and limit the impervious lot coverage and get off of  
14 Monroe Avenue a little bit? So say you moved into a house,  
15 like, in some of the Monroe Avenue buildings it was once  
16 somebody's house, and they turned it into whatever, and in  
17 some cases they have exam rooms upstairs --

18 DR. MATTIACIO: I understand what you're  
19 saying now. I think that that would probably be -- you know,  
20 orthodontics, it's different than visiting your general  
21 dentist where there's bays and you can kind of go into  
22 individual rooms and have your treatment, and a door closes  
23 behind you, and all of the sounds are muffled. Whereas at an  
24 orthodontist, I'm not sure with your children, but it's a  
25 little bit more open and the chairs are all open, we're kind

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3 of out in the open and working in an environment like this.  
4 So it will be you guys are all my patients and I'm kind of  
5 going to you and to you and to you, and so on and so forth.

6 MS. DALE: Well, I thought for patient privacy  
7 it might not be a bad idea.

8 DR. MATTIACIO: It's not -- our restrictions  
9 in terms of HIPPA privacy and things like that are just a  
10 little bit different in orthodontics. We have ways of  
11 screening our -- we don't have -- the big reason why there's  
12 rooms at your dentist is because there's an aerosol created,  
13 a microaerosol that everyone can breathe in. It's coming  
14 from your mouth. That doesn't happen in orthodontics. We're  
15 not using high speeds, we're adjusting wires and things of  
16 that nature, so it's all open to allow for that flow.

17 So separating my patients on floors would  
18 really restrict what I do on a daily basis. Having everybody  
19 on the same floor, rather than having to climb stairs, so on  
20 and so forth, it would almost make this site non-useable for  
21 me.

22 CHAIRPERSON MIETZ: All right, appreciate  
23 that. Any other questions? Thank you, gentlemen.

24 Is there anyone in the audience that would  
25 like to speak?



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3           ALLAN HURTLEY: My name Allan Hurtley, I live  
4 at 30 Brooklawn Drive, I live across the street. I have a  
5 bunch of points to hit, but you guys have hit quite a few of  
6 them, which is good. I'm concerned with the size of the  
7 building, 2,200 square feet. This dictates everything else  
8 about the building. The parking, which ultimately leads to  
9 the coverage on the lot which is at 76 percent. The lot is  
10 approximately 11,045 square feet and that's from property  
11 line to property line, which it runs in the side, the  
12 sidewalks that you see, basically.

13           That end of Brooklawn is a busy part of the  
14 town. There's a light there that changes. I can't tell you  
15 how many times an hour people cut through Brooklawn coming  
16 from the other neighborhoods. And traffic to me, since I  
17 live on the end of the road, the first house behind Carriage  
18 Cleaners, I've probably yelled at several of you for driving  
19 by too quickly. People see that light turn green and they  
20 floor it because they want to make that light so they can get  
21 to CVS before the next person does.

22           So this empty lot, it would be great to see  
23 something go in there. It would be great to have an  
24 orthodontist office go in there, but this lot is not big for  
25 2,200 square feet and 15 or 16 spaces. I have done a little

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3 bit of work, I made some sketches here similar of the lot  
4 that show what Mike was talking about. Here's the profile of  
5 a building that would fit on this lot within all of the  
6 setbacks. He is right, it's approximately 560 square feet.  
7 And this space mimics and is very close to the Newcomb Oil  
8 building that was there previously.

9           The next -- so if we look at this and I put  
10 the correct amount of parking for that building, which is  
11 seven or eight spots depending on how you round up or down.  
12 The coverage on that lot would be 41 percent with proper  
13 sized parking and building. Now I'm not here to say that  
14 there's been a project in Brighton on an empty lot or tear  
15 down houses that haven't had some variances to them. But  
16 these variances are extreme and they go too deep, and they  
17 want to put the garbage in the building. Well, what about  
18 the snow? You know, there is no place for snow.

19           Carriage Cleaners next door has a very similar  
20 size parking lot and twice this year we got snow where the  
21 pile of snow in the front yard of the burnt-out house,  
22 Carriage Cleaners was 10 to 12 feet high. Well, it's bad  
23 enough that all of the businesses around there have their  
24 snowplows come at 4:00/5:00 in the morning. I don't want to  
25 listen to a front-end loader at 5:00 in the morning loading

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3 the dump truck, taking their snow out of here.

4 May I ask you a question?

5 MR. DiSTEFANO: No. Allan, no, ask the Board  
6 the question.

7 ALLAN HURTLEY: All right. Well, I want to  
8 know, it sounds like he's not going to have 12 employees  
9 there every day. Is this an every day business?

10 CHAIRPERSON MIETZ: Well, you heard what he  
11 testified to.

12 ALLAN HURTLEY: I actually couldn't hear him.  
13 He was very quiet.

14 CHAIRPERSON MIETZ: Yeah, the mic wasn't  
15 working that well. What he testified to is those employees,  
16 this whole staff, will be operating there every day when the  
17 business is open. He's not staging it, these employees will  
18 be there, which is how he is discussing --

19 ALLAN HURTLEY: Is there Saturday hours?

20 CHAIRPERSON MIETZ: I don't know.

21 MR. DiSTEFANO: You can ask that.

22 CHAIRPERSON MIETZ: Yeah. That question is  
23 good, Doctor, you can answer that.

24 DR. MATTIACIO: No.

25 ALLAN HURTLEY: Okay. I've done this diagram

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3 which shows the proposed site. I'm a little miffed that a  
4 design professional has agreed to draw up a 2,200 square foot  
5 building on a site that can barely support a 1,000 square  
6 foot building. I know David Hanlon is an award-winning  
7 architect. He's busy, he's good. I know, I worked for him  
8 for a while.

9           This is the site with the building. This  
10 color green is -- this building is not even anywhere as part  
11 of the sweet spot. All of this is within the setbacks. The  
12 pink line shows the actual setbacks for the building. The  
13 light blue line show the actual setbacks for the parking.  
14 The lighter green is parking in areas that it shouldn't be,  
15 here, here, and here. And this whole building is in an area  
16 it shouldn't be, that's the darker green. The yellow just  
17 sort of shows, indicates some parking stripes to give you  
18 some scale.

19           This is the coverage on the lot, complete  
20 coverage on the lot. They're talking about trees, they're  
21 talking about other stuff. That's all fine and dandy, but  
22 there's no snow -- there's no place to put snow. And when  
23 the snow does melt, this lot actually sits up about two feet  
24 higher than everything around it and everything's going to  
25 run down to the house behind it on the south side. I know

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3 the parking lot is pitched to the center storm drain and  
4 there's tanks in the ground to try to alleviate and meet all  
5 of that stuff. I'm not sure it does.

6 I would like to also -- let me get my list,  
7 I'm almost done. The lot right now if you look at the lot  
8 right now at the beginning of school and the end of school,  
9 probably over 100 kids a day cut through the lot to get to  
10 the crosswalk that goes across to Torrington Street across  
11 Monroe Avenue where there's a crossing guard. And, you know,  
12 this plan doesn't really talk about that. They're going to  
13 need to put a path in for that, because it's the least  
14 resistance. You know, human nature, people cut across and  
15 right now that is how it is.

16 I'm concerned about the garbage, apparently  
17 that's been addressed by keeping it inside. I'm concerned  
18 about deliveries, I'm concerned about when the building is  
19 built. This is a big building, 76 percent of this site is  
20 being affected. Where are they going to put dump trucks and  
21 concrete trucks? Where are concrete trucks going to do their  
22 clean out? Where are all the employees and construction guys  
23 going to park, at the bank? No, I don't think so.

24 And that end of Brooklawn for the last  
25 200 feet of that street there's no parking on the street.

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3 And if it becomes a thing where employees and people have to  
4 start parking on the street, even 200 feet up, that's going  
5 to be a nuisance to the neighbors there too. There's clearly  
6 not enough parking on the site for 12 employees. And I don't  
7 know how many chairs, technician chairs there are in this  
8 place, but it sounds like if there's 12 people working there,  
9 there's got to be half of them maybe are doing this sort of  
10 work. I don't know how many seats are in the waiting area.

11 You know, I really think if the project is  
12 this far along and they've already reduced the size of the  
13 building and whittled it down to 2,200 square feet, then  
14 there should be a floor plan to look at to show us basically  
15 what they're going for in their 2,200 square feet. The  
16 outline and footprint of this building, it's an odd shape.  
17 You know, I get what they're doing, it's a process. It's a  
18 jigsaw puzzle.

19 But to hear them say that this is a tough lot  
20 and that we have all these problems with this lot, well you  
21 shouldn't have bought the lot then. Clearly this building  
22 doesn't fit on this lot with all this parking. I'm totally  
23 100 percent against this project on this lot. If they want  
24 to look at two stories, that's a possibility, and making it a  
25 smaller building then that's fine. There's still going to be

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3 variances, you can't avoid it with this lot, even at a  
4 two-story building at 1,100 feet, you can't avoid it. These  
5 variances are too big, too much, on a very busy area for --  
6 I'm totally against it. That's it. And please think about  
7 the kids cutting through.

8 CHAIRPERSON MIETZ: Thank you for your  
9 comments. Is there anyone else in the audience? Yes, sir,  
10 please come up.

11 BRUCE VICKERS: My name is Bruce Vickers, I  
12 live at 65 Brooklawn Drive, I've been there's since 1971.  
13 One of the questions I guess I've got, when they're talking  
14 about the variance from a 10-foot setback from Monroe Avenue  
15 is that from the street or is that from the sidewalk?

16 MR. DiSTEFANO: It is from the right-of-way  
17 line, which I believe is just south of the sidewalk. So the  
18 sidewalk appears to be in the right of way, so it's just the  
19 black line that you see that you're finger's right by.

20 BRUCE VICKERS: Yes.

21 MR. DiSTEFANO: That's where the 10-foot  
22 setback would be. So not off the pavement, it would be  
23 further from the actual roadway than 10 feet.

24 BRUCE VICKERS: I know it's a small lot and I  
25 know there's been, you know, gone through some of the

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3 meetings relative to the pizza place. When I first moved in  
4 to Brooklawn Drive, Ed Jeffries had a gas station which was  
5 way back on the corner, and then Newcomb put one out there.  
6 For coming down the street for sight, for looking,  
7 visibility, I know that the town has -- they're trying to do  
8 some things relative to let's make Monroe Avenue look nice  
9 when you're driving up and down Monroe Avenue. You come out  
10 from going towards Pittsford on Monroe Avenue, there's no  
11 building, at least from the Twelve Corners down through  
12 whatever, that sits right out there, parked right by the  
13 street. And I just think that that will look not certainly  
14 the best. I don't know what, I agree with Allan's comments,  
15 it's too small a lot, for too big a building. I absolutely  
16 oppose it.

17 CHAIRPERSON MIETZ: Thank you. Is there  
18 anyone else that would like to speak regarding this  
19 application? There being none, then the Public Hearing is  
20 closed.

21 APPLICATION 5A-03-18

22 5A-03-18 Application of Victoria Goldstein,  
23 owner of property located at 490 Claybourne Road, for an Area  
24 Variance from Section 203-2.1B(6) to allow a standby  
25 emergency generator to be located in a side yard in lieu of



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3 the rear yard behind the house as required by code. All as  
4 described on application and plans on file.

5 VICTORIA GOLDSTEIN: Good evening, I'm  
6 Victoria Goldstein, 490 Claybourne Road. I'm applying  
7 tonight to place our emergency standby generator on the side  
8 of the house. Currently we have a structure, a shed, and we  
9 also have a hot tub on the rear of our property which  
10 prevents us from putting a generator within the 10 feet from  
11 the property line. By placing it on the side we still  
12 maintain that distance from the property line. It also puts  
13 it right where our gas line comes into our house instead of  
14 having to run our gas line through the house and garage.

15 We also have a low brick wall -- I don't know  
16 if you want to pass these around -- which provides some  
17 screening from the street, and we also can do screening with  
18 shrubbery, there's plenty of room for that. I have also  
19 spoken to my neighbor who is on the other side of the  
20 driveway and he doesn't have any concerns about the  
21 generator. He is okay with us putting it there.

22 MS. DALE: The air conditioner is not in this  
23 picture, but is the air conditioner --

24 VICTORIA GOLDSTEIN: Yes, here is another  
25 picture. And even by putting it, it'd still meet all the

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3 codes for like New York State fire codes I believe it is  
4 where there'd be enough room for 3 feet away from the wall,  
5 the air conditioning, and allow for the 5 feet from the  
6 windows as well as.

7 CHAIRPERSON MIETZ: So you mentioned about the  
8 wall, but you mentioned you were going to add some other  
9 landscape treatment around this too? I wasn't quite sure  
10 whether you said yes, I will, or we are planning, or what are  
11 you really planning to do?

12 VICTORIA GOLDSTEIN: Yes, I am. There's  
13 currently two shrubs that can be transplanted there that I'm  
14 planning on using for screening and then. Those actually  
15 are --

16 CHAIRPERSON MIETZ: Do you know what they are?

17 VICTORIA GOLDSTEIN: They're hydrangeas,  
18 they're just basic hydrangeas. And they will be -- they are  
19 fairly big and you can see them in the pictures. They should  
20 provided adequate screening from the road.

21 CHAIRPERSON MIETZ: Okay. From the road it  
22 looks like the wall's pretty much do the work.

23 VICTORIA GOLDSTEIN: Yes, it does.

24 CHAIRPERSON MIETZ: Okay.

25 MR. DiSTEFANO: Just for the record, do you

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3 know what your sound rating is for this generator is going to  
4 be?

5 VICTORIA GOLDSTEIN: I have, and we might be  
6 using a different version of the same wattage generator, all  
7 of the specs are the same. You know, I don't know offhand  
8 what the decibel level is.

9 MR. DiSTEFANO: The one that you submitted is  
10 that right there where my finger is.

11 VICTORIA GOLDSTEIN: Sixty-four.

12 MR. DiSTEFANO: But you might not be using  
13 this generator?

14 VICTORIA GOLDSTEIN: Right, we might be using  
15 a different brand.

16 MR. DiSTEFANO: Do you know what the rating on  
17 that one is?

18 VICTORIA GOLDSTEIN: I can look for it and see  
19 where that would be. You might be able to find it quicker.

20 MR. DiSTEFANO: I've got it. Do you know what  
21 size you'd be looking at?

22 VICTORIA GOLDSTEIN: The 20 watt.

23 MR. DiSTEFANO: It's 66, so it's a little  
24 louder than the one you had in the folder. Okay.

25 CHAIRPERSON MIETZ: Okay. Any other

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3 questions? Thank you.

4 Is there anyone in the audience that would  
5 like to speak regarding this application? There being none,  
6 then the Public Hearing is closed.

7 APPLICATION 5A-04-18

8 5A-04-18 Application of Paul Viele, owner of  
9 property located at 55 Southern Drive for a Variance from  
10 Section 73-27 Fire Sprinkler Systems, and in accordance with  
11 Section 73-29, to allow a new storage building/addition to be  
12 constructed without a sprinkler system where one is required  
13 by code. All as described on application and plans on file.

14 PAUL VIELE: Good evening. Rick, here is my  
15 signed approval. I'm Paul Viele, I own the warehouse on  
16 Southern Drive, which is around the corner from my business  
17 on Western Drive, which is Townline Equipment Sales. So we  
18 have a warehouse on Southern Drive that we inventory snowplow  
19 parts for the business around the corner. No employees on  
20 site, no customers go to the warehouse, it's just cold  
21 storage warehouse. We are about to start an addition which  
22 is all approved, ready to go. We're just applying for relief  
23 from the requirement for the sprinkler system for the  
24 addition. The existing building is not sprinkled.

25 CHAIRPERSON MIETZ: When you say just a cold

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3 storage warehouse, so the only utility will be electric?

4 PAUL VIELE: No, there's gas in the building.

5 CHAIRPERSON MIETZ: What would the gas in the  
6 building be used for?

7 PAUL VIELE: Well, there's heat in the  
8 existing building.

9 CHAIRPERSON MIETZ: Okay. But this warehouse,  
10 this very specific warehouse building will have no heat?

11 PAUL VIELE: We'll probably put heat in it  
12 because I'm going to put a bathroom in it so we'll have to  
13 have water in there.

14 CHAIRPERSON MIETZ: Okay. So you're going to  
15 have water, sewer, hot water, have a bathroom, and you're  
16 going to heat this place. You've described it as cold  
17 storage.

18 PAUL VIELE: Well, we put a bathroom in the  
19 building plans because obviously I'm over there, you know,  
20 putting away the inventory and whatnot, I want to have a  
21 bathroom in the space, so, yes.

22 CHAIRPERSON MIETZ: So really, the storage  
23 area is going to be heated as well, not just the bathroom?

24 PAUL VIELE: Only at times when we are over  
25 there to put away a significant quantity of inventory. It's

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3 never -- there's no work being done. It's never occupied.

4 CHAIRPERSON MIETZ: Can you more specifically  
5 describe what shape -- we all know what snowplows are -- are  
6 these, are there boxes or parts on shelves? If one walked  
7 into the space, what would they see?

8 PAUL VIELE: Well, the existing building now  
9 is pallet racking around the perimeter. When the snowplows  
10 come in and our shipment comes in in July, and they're all  
11 disassembled. So there are boxes of loose parts, which we  
12 put up on the racks until we need them and then we bring them  
13 back over to the business around the corner.

14 MS. SCHWARTZ: Why do you feel you don't need  
15 the sprinkler system?

16 PAUL VIELE: Well, the existing building isn't  
17 sprinklered and the snowplow parts are basically steel parts  
18 on metal racks. And we're just putting a 2,800-foot addition  
19 onto the existing building which is going to cost a little  
20 over \$100,000 and the sprinkler system alone would add  
21 between \$30- and \$40,000 to that.

22 MS. SCHWARTZ: How long have you been using  
23 the existing building?

24 PAUL VIELE: The existing building I've owned  
25 for three years, the late Pat Cortese had it forever. My

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3 business on Western Drive, I've been there for 30 years.

4 MR. DiSTEFANO: Can you tell us what the  
5 building material would be?

6 PAUL VIELE: All concrete block.

7 MR. DiSTEFANO: Have you taken any other  
8 precautions for this space above and beyond what would be  
9 required if you had a sprinkler system installed?

10 PAUL VIELE: I believe I got everybody a  
11 building floor plan and a site plan. So I put three fire  
12 exits in and the building dimensions are 50 by 55, so fire  
13 exits are required to be within 75 feet from the furthest  
14 point. I've got a door in every corner, so that you're never  
15 more than 55 feet from an exit anywhere. We're going to put  
16 extra fire extinguishers in the space too. And like I said,  
17 the space is never occupied by employees.

18 MR. DiSTEFANO: Will it be alarmed?

19 PAUL VIELE: Yes. There's an alarm system in  
20 the existing building, and we have heat detectors which are  
21 tied into the alarm system, which is monitored and called in  
22 and we will put heat detectors in the addition and tie into  
23 the existing system also.

24 CHAIRPERSON MIETZ: You'll have smoke and  
25 fire --

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PAUL VIELE: Yes.

MS. DALE: So what's the average amount of time it would take if you have a delivery for somebody to be putting things away or moving. I'm struggling with the nobody will ever be in there.

PAUL VIELE: Right. My shop around the corner is where the employees and I are all day, in the office and the customers and everything else. So basically in July when my truck load of shipment comes in I'll probably spend a solid half a day unloading trucks with the door open and just in and out with the forklift. And then after that it's a case of running over for a half hour for a truck load of stuff that we need at the business around the corner.

MS. DALE: And does assembly of all these parts happen here?

PAUL VIELE: No. No employees are ever in the warehouse except to help me load. All the work is done around the corner.

CHAIRPERSON MIETZ: Okay. Any other questions?

MS. TOMPKINS WRIGHT: Usually when applicants came for this type of application before, usually there's an opinion. Am I wrong on that?



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3 MR. DiSTEFANO: Well, let me say this Chris  
4 will never advocate for somebody not putting a sprinkler  
5 system in. If you don't receive a memo or letter that is  
6 directly against us issuing the variance.

7 MS. TOMPKINS WRIGHT: That usually says  
8 something?

9 MR. DiSTEFANO: Yes.

10 CHAIRPERSON MIETZ: And he has reviewed the  
11 plan.

12 MR. DiSTEFANO: Yes. Have you had discussions  
13 with the fire marshall?

14 PAUL VIELE: Oh, yes.

15 CHAIRPERSON MIETZ: All right. So any other  
16 questions? Thank you, sir.

17 Is there anyone in the audience who would like  
18 to speak regarding this?

19 JOE O'DONNELL: Yes. My name is Joe O'Donnell  
20 and I'm the architect on record for the project. Just one  
21 other quick comment. The reason for the sprinkler system is  
22 the Brighton Town Code requires it if the cost of work  
23 exceeds 50 percent of the original building. New York State  
24 Building Code would not require a sprinkler system in this  
25 case.

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

7 APPLICATION 5A-05-18

8 5A-05-18 Application of Iryna Shkavritko,  
9 owner of property located at 55 Oak Lane, for Area Variances  
10 from Section 205-2 to 1) allow for the construction of a  
11 953 sf attached garage where a maximum 900 sf attached garage  
12 is allowed by code, and 2) allow said attached garage to have  
13 a 19.6 ft. rear setback where a 60 ft. rear setback is  
14 required by code. All as described on application and plans  
15 on file.

16 TODD MAROTTA: Good evening. I'm Todd Marotta  
17 from Carini Engineering. Basically what we are asking for is  
18 a setback variance because this property currently does not  
19 have an attached garage, we want to create a more, a nicer  
20 living space for the homeowner by having an attached garage.  
21 And an attached garage by any size at the location that we  
22 need would require this variance due to the irregular shape  
23 of the property lines on this property and the way the house  
24 is currently sited there really isn't an alternative place we  
25 can add this garage due to the existing architectural

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3 elements of the house. It would become problematic.

4 So we're locating the garage in an area that  
5 makes sense both to the driveway and the conditions of the  
6 property, but by doing so we are in violation of the required  
7 60-foot setback. The area of the garage is beyond -- we're  
8 asking for 53 square feet, a small amount beyond the 900  
9 square feet that is allowed. That is, my client has a need  
10 for more than two cars, so we need a garage of the size that  
11 would allow for more than two cars. In addition to that, the  
12 size is also predicated by some living space we're creating  
13 above. The homeowner has a need for some additional bedroom  
14 space. The footprint sort of predicates the use of the space  
15 above that.

16 CHAIRPERSON MIETZ: So what you are saying is  
17 that you have the minimum requirements that he has, and so  
18 did you look at any other alternate way of achieving it to  
19 stay within the setback or is it purely a square footage --

20 TODD MAROTTA: Just by virtue of the shape of  
21 the lot, it's a very irregularly shaped lot. The way the  
22 house is sited on that lot makes attaching a garage very  
23 difficult. There's only really one place you can do that.  
24 And by any size, the existing house is not within the 60-foot  
25 setback currently, so any addition is a violation of that

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3 setback. And so in keeping with, consistently, most of the  
4 houses in that neighborhood have attached garages. This is a  
5 1.3 acre lot, it's a very large lot. It's a nice home, it  
6 doesn't have an attached lot. We're just trying to keep  
7 things a little bit more consistent with the rest of the  
8 neighborhood.

9 CHAIRPERSON MIETZ: Can you speak on the  
10 architecture? Obviously you've provided a nice set of plans  
11 for us to look at, but can you speak for the record as to  
12 what you're trying to do to sort of integrate this and maybe  
13 minimize the effect of the size?

14 TODD MAROTTA: Well, that's exactly what we  
15 tried to do. Due to the nature of the additional square  
16 footage that we need we internalized the second floor space,  
17 mostly within the roof cavity of the garage. There's a  
18 couple of dormer elements that add architecturally to it, but  
19 we tried to minimize the presence by putting the second floor  
20 space within the roof boundaries of the garage below.

21 The finishes, the architecture is all in  
22 keeping with the house, it's all existing finishes to match.  
23 We're making every attempt we can to make it look seamless  
24 and give the homeowner the space he needs.

25 MS. SCHWARTZ: If you were to shrink the two

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3 bedrooms above the garage just a bit you could meet the  
4 900 square feet.

5 TODD MAROTTA: It's possible, but our design  
6 scope is such that those are the minimum sizes that my client  
7 had asked for.

8 MS. SCHWARTZ: But it is doable?

9 TODD MAROTTA: It may be possible, yes.

10 MS. DALE: Forgive me if this is covered, but  
11 the old garage, you're knocking that down?

12 TODD MAROTTA: The owner is going to use that  
13 for some other purpose. By virtue of putting the new garage  
14 there the access to that is now not possible because the  
15 driveway, we're going to be occupying that space with the new  
16 garage space, so they will use it for storage or some other  
17 use.

18 MS. SCHWARTZ: I have another question. In  
19 that general area that we're talking about, do you know which  
20 house was built first?

21 TODD MAROTTA: I don't. All I can tell you is  
22 that the house we're talking about was built around 1900, so  
23 it's an older home for sure.

24 MS. SCHWARTZ: Right. But you don't know, and  
25 I don't know if we have an issue whether that was the first

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1  
2  
3 house that was built --

4 TODD MAROTTA: I can't speak to that.

5 MS. SCHWARTZ: -- or whether they squeezed it  
6 in and the others were built?

7 MR. DiSTEFANO: I believe that house had most  
8 of that land and then that land was broken off.

9 MS. SCHWARTZ: So they were the first house.

10 MR. DiSTEFANO: Yes. One of the oldest --  
11 well, probably the oldest for that grouping right in there.  
12 Because, again, you can tell by the odd shape of this lot  
13 that pieces were cut out of it and that resulted in this lot.

14 CHAIRPERSON MIETZ: Okay.

15 MS. TOMPKINS WRIGHT: Did you consider putting  
16 the garage on the other side of the building?

17 TODD MAROTTA: Yes, we did. There's an  
18 existing open lanai-styled porch there that is definitely an  
19 architectural form to that house. We did not want to disturb  
20 a lot of the lot to bring the driveway around there. The way  
21 the garage would enter the house on that side is kind of  
22 counter productive, you go from your mud room through your  
23 dining room to get to the kitchen. It's just not a  
24 functional place to put it. We did consider that.

25 MR. DiSTEFANO: I have to say this, that if

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3 you do cut off access to that existing garage building, it no  
4 longer becomes a garage, now it's a building that's too big  
5 for the lot. So the use of that structure changes if you  
6 don't have access to it.

7 TODD MAROTTA: There would be access to that.

8 MR. DiSTEFANO: Well, physical car access,  
9 physical driveway access. You could do it because you have  
10 plenty of room to put a driveway along side the new garage.

11 MS. TOMPKINS WRIGHT: But then doesn't that  
12 variance change because now there's two garages?

13 MR. DiSTEFANO: No. You're allowed an  
14 attached garage and a detached garage.

15 TODD MAROTTA: That would probably be my  
16 client's intention, if that would --

17 MR. DiSTEFANO: Yeah, if you cut off that then  
18 you're back to us for variances because that becomes a  
19 storage building that's too big for code.

20 TODD MAROTTA: That would be our intention  
21 then is to create an access way to get to that then.

22 MS. SCHWARTZ: So you're considering an access  
23 to that existing garage?

24 TODD MAROTTA: Well, we don't want to make it  
25 a nonconforming space, so --

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3 MS. SCHWARTZ: You would consider taking it  
4 down then?

5 TODD MAROTTA: It would be up to the  
6 homeowner.

7 MS. SCHWARTZ: Could you describe then how you  
8 propose for the access.

9 CHAIRPERSON MIETZ: We have to --

10 MR. DiSTEFANO: They can run a driveway, just  
11 move this existing driveway just next to the new driveway.

12 MS. SCHWARTZ: And go further to the neighbor?

13 MR. DiSTEFANO: Yeah, they can be within  
14 4 feet of the lot line.

15 TODD MAROTTA: We would be within that margin,  
16 to have a driveway be 12 feet and you'd still have adequate  
17 clearance.

18 CHAIRPERSON MIETZ: Okay. We can discuss that  
19 later. So is there any other questions about what the  
20 proposal is related to the garage?

21 TODD MAROTTA: It just really boils down to  
22 whether or not we can have an attached garage.

23 CHAIRPERSON MIETZ: Understood, thank you. Is  
24 anyone in the audience that would like to speak?

25 EDNA CLAUNCH: Yes.



1 Brighton Zoning Board of Appeals 5/2/18

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CHAIRPERSON MIETZ: Please come up.

4

5

EDNA CLAUNCH: I'm going to try to see if I  
can -- can you hear me all right?

6

CHAIRPERSON MIETZ: Yes.

7

8

EDNA CLAUNCH: I'm sorry I don't have any big  
things to put up, but I think you already have their  
9 originals.

10

11

MR. DiSTEFANO: Just state your name for the  
record.

12

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EDNA CLAUNCH: I am Edna Claunch, 71 Oak Lane,  
and I've lived at that address since 1989. And, yes, that is  
the original property, the house and the two-car garage,  
where the man who owned the entire small wood tract. And so  
my house was built in 1940.

17

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22

First of all, I'm go to attempt to keep this  
as simple as possible by trying to follow the letter I have  
submitted to you, because indeed this is a very complex  
decision for this Board to make. Because it was the original  
property there's almost two acres to this plot with seven  
different property owners abutting the lot.

23

24

25

Unfortunately, at this phase I am the only  
property that is affected by this variance, or I should say  
variances. I will be addressing two topics, the complexity

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2  
3 of the existing property lines with 55 Oak Lane and the  
4 Zoning Codes applicable to both properties. I will then look  
5 at the scale and massing of the proposed variances as they  
6 pose a detriment to the property sharing a boundary with 71  
7 Oak Lane.

8           When I purchased 71 Oak Lane as Residential A,  
9 with the existing two-car garage at 55 Oak Lane, the standard  
10 rear setback of 60 feet existed for Oak Lane, but the  
11 existing 55 Oak Lane two-car garage was only 11.9 feet from  
12 the property line of 71 Oak Lane. According to Brighton  
13 zoning requirements in 1989, the rear setback for the  
14 existing garage was substandard by 48.1 feet. However, I  
15 realize the existing garage was grandfathered because it is  
16 part of the original owner's property from 1900.

17           The 60 feet from my garage to the 11.9 rear  
18 setback for a garage substandard by 48.1 was garage to  
19 garage. I understood the existing structure was  
20 grandfathered from Brighton's zoning requirements of 1989,  
21 and I included actually one of your own documents which shows  
22 the history of rear setbacks. And notice, it only goes back  
23 to 1925, so in fairness to the current owner there are no  
24 existing standards at that point. However, they did become  
25 in effect in 1971. And so I do understand that was a

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3 required grandfathered zone.

4 My garage is 60 feet from the property line.  
5 And I've included a diagram of my own property, which was the  
6 survey for when I purchased the lot. My lot faces Oak Lane  
7 to the west and I do have a two-car garage and it's 60 feet  
8 from the back of my garage to the existing boundary line of  
9 55 Oak Lane.

10 Is everybody with me at this point looking at  
11 the diagram, because it gets much more complex. The owner of  
12 55 Oak Lane obviously, with the original structure, cut up  
13 the property so that he could take advantage of what he  
14 already had. You'll notice along the back property line  
15 there's a cut into the west of 25 feet. And that then  
16 becomes the new property line between 71 Oak Lane and 55 Oak  
17 Lane, and that runs 75 feet. Unfortunately that is a  
18 substandard zoning according to regulations because both of  
19 us do not meet code for that lot.

20 And this becomes the really complex issue at  
21 this point. I've lost my script here, just a moment. The  
22 complexity of the remaining boundary line for 75 Oak Lane and  
23 55 Oak Lane Residential A property, test interruption of the  
24 Brighton zoning requirements. Both properties are  
25 substandard since 1971, for rear setbacks. Note the 25-foot

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2  
3 cut in the property line for 55 Oak Lane and to 71 Oak Lane,  
4 that leaves a 43.4-foot rear setback rather than the 60 feet,  
5 substandard by 19.6 feet.

6 The 71 Oak Lane rear setback fails to meet the  
7 60-foot zoning requirement by 33.92, with 26.08 feet from the  
8 property line. Both 55 Oak Lane and 71 Oak Lane have  
9 existing substandard Brighton Residential A zoning standards.  
10 This substandard exists for 75 feet between the two  
11 properties. The proposed addition is not grandfathered. It  
12 violates the regulation that the Town of Brighton has  
13 established for Residential A property.

14 Approving the application Number 5A-05-18  
15 further adds to the substandard footage between the two  
16 properties by ignoring Brighton zoning requirements for rear  
17 setback footage for Residential A properties. See attached  
18 map of the survey of 71 Oak Lane.

19 And I might mention just for history because  
20 this kind of came up, when I moved into the home in 1989,  
21 there was an in-ground pool beyond the two-car existing  
22 garage and there was a gravel road up, like, for the  
23 deliveries and all that sort of thing related to the pool.  
24 That is not obvious now because the other owner who lived  
25 there for the last few years before this property sold took

Brighton Zoning Board of Appeals 5/2/18

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3 out the in-ground pool and filled that all in with grass.  
4 So, and there are, like, 25 big dump trucks of dirt coming in  
5 to fill that in and it is beautiful, by the way, that side  
6 thing.

7 I'd also like to address scale and massing of  
8 the proposed variances that concentrate all of the building  
9 on the property line for 24 feet of the boundaries that are  
10 already are substandard by regulations that the Town of  
11 Brighton has established zoning requirements for Residential  
12 A rear setbacks. The variances to add a massive structure  
13 with 953 square feet, with a 26-foot elevation on an existing  
14 substandard rear setback must be denied. The massing of the  
15 structure on a small portion of the very large property is  
16 not consistent with the standard architectural engineering.

17 The impact of 71 Oak Lane is taking a  
18 substandard condition and making it further substandard.  
19 Seven properties are adjacent to 55 Oak Lane, but it appears  
20 that the only properties that have substandard setbacks are  
21 55 Oak Lane and 71 Oak Lane. Massing this huge addition  
22 adjacent to 71 Oak Lane with .30 acres, look at that map of  
23 survey again, the owner actually sold to my neighbor on the  
24 other side a section of my lot, I didn't own it then  
25 obviously. But the Jackson's, they sold that to give them

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2  
3 setback for a larger house from Oak Lane, so now the lot is  
4 already smaller.

5 Now we have the suggestion that the single  
6 drive coming into the property might actually be extended  
7 further onto the property line, but that doesn't say so in  
8 this variance. But it became a question asked by all of you,  
9 what are you going to do with that storage shed? That really  
10 complicates this situation even further. For instance,  
11 yesterday there were four/five trucks, there were deliveries,  
12 and people were parking on my front lawn, because the mailbox  
13 is there and they pulled in and parked on my lawn.

14 This will only become increasingly more  
15 difficult if a larger structure is put on and I would like to  
16 suggest that -- and I couldn't figure out, I want to thank  
17 everybody that's answered all of my questions, because I've  
18 contacted town hall almost non-stop since I learned about  
19 this and came by on Friday afternoon.

20 There is 211.29 feet of footage on the  
21 northeast of the property that brings in balance to both  
22 properties. In other words, this house is as near as  
23 possible, not even meeting code, to the 71 Oak Lane. And  
24 there's the storage shed, which is substandard for zoning,  
25 and there's all this frontage on Oak Lane, 211 feet. There's

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3 been the swimming pool, there's the drive-up, why can't the  
4 addition be made on the other side or figured out? Because  
5 we now have something that puts this entire neighborhood out  
6 of scale.

7           And if you are an architect, especially an  
8 architectural engineer, you realize the balance suddenly  
9 becomes a critical element in appearance of the whole thing.  
10 In other words, you have the big property shoved up against  
11 the fence, and then there's all this property around it. And  
12 believe me, I did not realize that was the rear of the house  
13 I've always thought it was the side, but it is the rear and  
14 that rear property goes out in a wedge. As I was explained,  
15 indeed there's a rear property that goes off into a big  
16 triangle. I couldn't figure out how many feet that was and  
17 it was lucky it was a Saturday, Rick, or you would have  
18 gotten that call about how many feet is that, because it's  
19 huge.

20           So I would like for you to consider the scale  
21 and massing of the proposed variances in close proximity to  
22 my living space. It will have a detrimental effect on my  
23 enjoyment and my home and garden. The quality of my life  
24 will change to my detriment.

25           And I'd like for you to look at photos 1, 2,

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1  
2  
3 and 3, which I have attached there. The first one is how I  
4 dealt with the barn -- oh, excuse me, everybody who lived  
5 there called it the barn, but it is a two-car garage. And  
6 how did I deal with it being so close to my property? If  
7 you'll notice I made a garden there. And from my garage and  
8 kitchen window, it's even further from my kitchen window, but  
9 from my garage it's 60 feet down there. So it gives an  
10 ambiance of space in a small lawn an architect, a landscape  
11 architect attempts to look at how to create space.

12 Photo Number 2 gives you a picture of how  
13 close I am, 71 Oak Lane is to the boundary line. That fence  
14 along there is the boundary line. Now, the elevation on this  
15 garage, and I didn't know. I heard it talked about several  
16 cars, how many cars is this garage go to accommodate? It was  
17 not clear on the map.

18 CHAIRPERSON MIETZ: Four.

19 EDNA CLAUNCH: Four cars.

20 MS. SCHWARTZ: It's tandem, two cars in the  
21 front and two in the back.

22 EDNA CLAUNCH: Are they going to expand the  
23 pavement in front? Because even two cars in there have to  
24 get out and move so another car can get in, even if they're  
25 parked. I'm telling you, I observed this.



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2  
3 If you will also note, I have tried to take  
4 advantage with the help of a landscape architect to create  
5 the sense of space. So look at Number 2, notice the  
6 elevation on this porch? It's the exact roof that came with  
7 the house originally. Everything that was done to that back  
8 porch, the glassed in and everything, was to give the feel of  
9 the place. The proposed elevation is higher than the roof of  
10 that porch. So if I'm on my porch I'll be looking at a roof,  
11 a dormer, and below that two windows and a door where  
12 traffic's going on in and out. This totally changes the  
13 character and impacts me greatly on my property.

14 And the last photograph is to demonstrate how  
15 one creates a sense of space in a very small lot. And I do  
16 hope in fact I urge you to deny proposed variances  
17 Number 5A-05-18. And thanks to all of you who answered my  
18 questions, I'd like to say that again, and supplied required  
19 materials such as the zoning setbacks and so on. And I would  
20 like to thank all of you who gave one beautiful spring night  
21 to listen to us and your work.

22 So are there any questions? Oh, I did want to  
23 know, I know you had this but this is what I will be looking  
24 at right next to my living space. There's no way I can  
25 create anything to change that if this goes through, so

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2  
3 please consider that. There's a lot of rear space on this  
4 lot bordering Oak Lane.

5 MS. TOMPKINS WRIGHT: I wasn't able to make it  
6 out to this site while it was still light out, but it looks  
7 from the photos that your property and the neighboring  
8 property at 55 Oak Lane are pretty well screened by the  
9 privacy fence. How thick is the vegetation in this area?

10 EDNA CLAUNCH: I'm sorry, you're turning away  
11 from the mic and I can't hear you.

12 MS. TOMPKINS WRIGHT: How thick is the  
13 vegetation between these two homes?

14 EDNA CLAUNCH: Okay. Since this photo was  
15 made on that one, three trees on that property fell down  
16 across my fence and they were, you can see, big grown trees.  
17 And you can broken parts in my fence because this was a  
18 handmade fence. You can see the broken parts where they came  
19 down.

20 Initially there were five trees there, there  
21 are now two. And if a drive is put on the side if this were  
22 approved it would go right through those trees, because  
23 that's where the only space is, so further privacy.

24 CHAIRPERSON MIETZ: Okay, very good. Well, we  
25 appreciate your time you put into it, thank you.

1 Brighton Zoning Board of Appeals 5/2/18

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EDNA CLAUNCH: Thank you.

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

8

APPLICATION 5A-06-18

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5A-06-18 Application of Design Works

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Architecture, agent, and Iyla and Isanna Voloshin, owners of property located at 2700 East Avenue, for an Area Variance from Section 205-2 to allow for the construction of a house with a 42.25 ft. rear setback in lieu of the maximum 60 ft. rear setback required by code. All as described on application and plans on file.

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SERGE TSVASMAN: Serge Tsvasman, I work with Design Works Architecture. And this is our third visit to this Board, the first one was -- can you guys hear me?

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SERGE TSVASMAN: The first one was back I believe in November where we were asking for a side yard variance to build an addition to, a renovation on an existing porch foundation that would put us roughly four more feet into a rear yard setback, this is also a corner lot situation. And so the house project evolved as you know into

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3 what was considered by the Town as a demolition, and so what  
4 started as a renovation needing a minor rear yard setback now  
5 takes into consideration the existing foundation that we want  
6 to use, and first floor deck, to build this new home will  
7 require similar variances for that rear yard.

8 I have got a couple supporting documents, one  
9 is from the next door neighbor who would be most affected or  
10 impacted by this addition and she is in complete support of  
11 this project. She came to the Planning Board meeting for the  
12 carriage house demolition that occurred a couple weeks back.

13 MR. DiSTEFANO: Just for the record, we  
14 received a letter from Sheryl Ann Diodato at 2730 East Avenue  
15 in support of the application.

16 SERGE TSVASMAN: The second document I've had  
17 for some time and we're trying to gather some history about  
18 this project when we first began talking to you, the town  
19 historian and looking through plans, old plans we may have  
20 had and the Town had. There was a landscaping plan of this  
21 property dated May 3, 1957, which actually interestingly  
22 enough shows what was the original footprint of the original  
23 house on this property, sharing an overlapping foundation on  
24 this what is considered a rear yard. Back then it wasn't  
25 probably considered anything at the time.

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3 But what you can see is that this is the  
4 footprint of the new ranch home, right here, and this is it  
5 right here, and the existing building on it was overlapping.  
6 So what we found out through this process is part of the  
7 original foundation of the original home on this property is  
8 still the current foundation of this home.

9 So potentially this will be the third home on  
10 this property using the original foundation. So I'm happy to  
11 leave this with you, if anybody is interested in seeing this.

12 MR. DiSTEFANO: I think we're good.

13 SERGE TSVASMAN: So what I'm trying to say is  
14 that that boundary has been pretty well established, you  
15 know, for probably over 100 years.

16 MS. TOMPKINS WRIGHT: I think you said this  
17 already, but just so it's clear to me. Nothing has changed  
18 substantively of where the edge of the building are going on  
19 as per what was approved in November, it's just the fact that  
20 it needs new variances because it's considered a new build.

21 SERGE TSVASMAN: Exactly.

22 MR. DiSTEFANO: Yeah. For the record in  
23 November it was a smaller addition that was being constructed  
24 into that rear setback. Now it's that whole portion of the  
25 house that was originally preexisting nonconforming, plus

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3 that little small addition that is what this variance  
4 actually is taking into account. But the actual -- and  
5 correct me if I'm wrong -- the actual distance from the  
6 addition that we approved in November to the new house that's  
7 proposed under this plan is the same.

8 SERGE TSVASMAN: Exactly. That's correct.  
9 The footprint never really changed, some of the design has  
10 evolved, but the impact to that rear yard has not changed.

11 CHAIRPERSON MIETZ: Any other question? Thank  
12 you.

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

16 APPLICATION 5A-07-18

17 5A-07-18 Application of Timothy and Carol  
18 Fitzgerald, owners of property located at 11 Old Mill Road  
19 for 1) an Area Variance from Sections 203-2.1B(3) and 207-11  
20 to allow an in-ground pool to be located in a front yard in  
21 lieu of the rear yard as required by code; and 2) an Area  
22 Variance from Section 207-2A to allow a front yard fence to  
23 be 4 ft. in height in lieu of the maximum 3.5 ft. allowed by  
24 code. All as described on application and plans on file.

25 APPLICATION 5A-08-18

1 Brighton Zoning Board of Appeals 5/2/18

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3 5A-08-18 Application of Timothy and Carol  
4 Fitzgerald, owners of property located at 11 Old Mill Road  
5 for an Area Variance from Section 203-2.1B(2) to allow a shed  
6 to be located in a front yard in lieu of the rear yard as  
7 required by code. All as described on application and plans  
8 on file.

9 TIM FITZGERALD: Good evening. Tim  
10 Fitzgerald, with my wife Carol I reside at 11 Old Mill Road.  
11 Our residence sits on a dreaded corner lot. The house fronts  
12 on Old Mill Road and side faces Clover Street across from the  
13 Harley School.

14 We are here tonight seeking three variances as  
15 our application indicates, a variance to put an 18 by 36  
16 in-ground pool in our front yard, as our code defines it,  
17 being a corner lot. A second variance to permit a 4-foot  
18 decorative fence around the pool in our front yard, again as  
19 opposed to a 3.5 foot permitted fence in a front yard. And a  
20 third variance for a 12 by 20 wood-framed shingled roof shed,  
21 again, in the front yard as our code defines it.

22 I think our applications, I think each of our  
23 applications each sufficiently satisfies the criteria for an  
24 area variance. I think particularly important with respect  
25 to each of these is that the granting of these variances in

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3 our instance, I truly believable minimizes the impact on our  
4 neighbors, our neighborhood, and the kind of natural  
5 historical habitat of the Old Mill properties.

6 The alternative for us to comply with the code  
7 without a variance is to place the pool in our immediate  
8 backyard, which would be significantly downgraded from our  
9 house given the topography of our lot. It would also place  
10 the pool much closer to Allens Creek, which is currently  
11 haven to a Heron, a hawk, a snapping turtle, countless deer,  
12 ducks, and other wildlife. So the impact of putting the pool  
13 where the code would permit it right now, in my mind and I  
14 think the neighbors of Old Mill, makes no real sense.

15 Our proposed location is to the side rear of  
16 our house. Yes, in the code defined front yard, but it's  
17 much better screened all ready with screening we've put in  
18 along Clover Street over the last 12 years. In addition to  
19 the screening we would add to pool area the following  
20 construction.

21 So I'm happy to answer any questions, but we  
22 really think this is the best way, and I encourage any  
23 suggestion that the pool in the backyard behind the house  
24 would be a better location, I really think it would affect  
25 the views of all of the neighbors driving down Clover Street.



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3 We have people stop on the bridge and, you know, watch the  
4 creek and everything that goes on in the creek. And to put  
5 the pool in the middle of our yard would be, I think, a real  
6 disservice to our neighbors and the neighborhoods in general.

7 MS. WATSON: I have a question. I noticed  
8 that the corner of Clover and Old Mill the vegetation is  
9 rather tall, then there's a bit of a break and some more  
10 vegetation. Can you kind of speak to where the pool is in  
11 that line of screening and what would be screened from  
12 Clover?

13 TIM FITZGERALD: Yes. The screen closer to  
14 Old Mill is more historical than the Fitzgeralds, it was  
15 there when we purchased. Those blue spruce trees were  
16 planted by the prior owner over 30 years ago. From the south  
17 end of the tallest blue spruce trees on Clover Street, if you  
18 ever remember Old Mill, was really just junk vegetation. It  
19 was a nice private screen, but it was deceased arborvitae and  
20 scrub trees that had deteriorated over the years by salt and  
21 other . . .

22 So over the course of 12 years we've tried to  
23 rebuild the berm with blue spruce and kind of colored trees.  
24 There's a gab between the historical trees and the trees  
25 we've planted, starting from the creek bed up. So,

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3 intentionally we've left that a little bit less screened at  
4 the moment just because we've recently within the last two or  
5 three years completed a renovation of the back of our house  
6 which accommodated the construction trucks in and out. And  
7 we, until recently, we've always thought about but until  
8 recently decided to do the pool. Also thinking about how we  
9 would complete construction without as much disruption to Old  
10 Mill, trucks coming in and out, that we could come in through  
11 that somewhat open spot along Clover Street.

12 MS. WATSON: You mentioned you're looking at  
13 additional landscaping to screen that or would you do a fence  
14 from Clover?

15 TIM FITZGERALD: Yes. We do a fence around  
16 the pool, but the additional screening between the pool and  
17 Clover Street would be continued probably bigger blue spruce  
18 than that are in there now.

19 MS. DALE: And what materials are you  
20 considering for the fence?

21 TIM FITZGERALD: A black metal decorative  
22 fence.

23 MS. WATSON: Have you talked to your neighbors  
24 about the project?

25 TIM FITZGERALD: I've talked to them. I think

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1  
2  
3 certainly a number of them are appreciative of the fact that  
4 we are trying to tuck it into the side and hide it,  
5 particularly from the backyards as you look from Clover  
6 Street down the Old Mill backyards.

7 MR. CLAPP: More curiosity than anything, but  
8 I was wondering if you could even put the pool in your  
9 backyard given the proximity of the creek. Because I know  
10 Harley had trouble trying to get a playground approved that  
11 was probably closer to the creek than your pool. Could you  
12 even build one there? I'm just curious.

13 TIM FITZGERALD: I think we could. There's  
14 certainly setbacks from the creek, but it's an acre and a  
15 third.

16 MR. CLAPP: That might be close.

17 TIM FITZGERALD: There's quite a bit of space  
18 from the back of our house to the creek. I'm fairly  
19 confident that looking at the maps and looking at the  
20 floodplain and looking at the center line of the creek we  
21 could put one in the back.

22 MR. DiSTEFANO: Yeah, the water course EPOD is  
23 the distance from the bank of the creek to 100 feet from that  
24 bank, or the floodplain, whichever is greater. I believe the  
25 100 feet from the top of the bank is greater than the

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1  
2  
3 floodplain here.

4 TIM FITZGERALD: I think we looked at it.

5 MR. DiSTEFANO: And I think they missed that,  
6 they're further away than 100 feet from the creek.

7 MR. CLAPP: Okay.

8 MR. DiSTEFANO: Could you, for the record,  
9 just state what's across the street from you, across Clover,  
10 that may be impacted by the shed?

11 TIM FITZGERALD: So across the street from us  
12 is the lower bus loop of the Harley School, which is bordered  
13 on the south probably an area of 50 or 60 feet of grass and  
14 trees until the Harley property hits Allens Creek.

15 MS. TOMPKINS WRIGHT: The intention would be,  
16 that as you drive down Clover, because of the screening and  
17 the planting that you guys are doing along Clover that it  
18 actually wouldn't be viewable from Clover?

19 TIM FITZGERALD: Ultimately, yes, that's as  
20 much our desire as I would think it's the community's desire.

21 MS. CORRADO: The shed that you intend to put  
22 in, how will that be finished? Will that reflect the  
23 appearance of the house?

24 TIM FITZGERALD: It will. It will be wood  
25 sided, painted the same color of the house, trim same as the

## Brighton Zoning Board of Appeals 5/2/18

1  
2  
3 house, shingled roof.

4 MS. CORRADO: Will there be any utilities run  
5 to it?

6 TIM FITZGERALD: Probably water and electric.  
7 We'll put the pool filter in there and lawn tools. I think  
8 there will be windows in it and probably double doors on one  
9 side of the shed. But, yes, our intent is to match the  
10 architecture of the house as close as possible.

11 MS. CORRADO: And it's only for pool equipment  
12 storage?

13 TIM FITZGERALD: Yes, that's it, no bathroom,  
14 no shower, just filter and lawn tools.

15 MR. DiSTEFANO: Was there any thought to  
16 flipping the shed to the other side of the pool to increase  
17 that setback at all? Did you look at that or consider that?

18 TIM FITZGERALD: Did not look at that. It's  
19 difficult there because of the topography as you look at the  
20 back of the house, there's a patio there and then it's a  
21 pretty sharp hill that goes slowly down to the creek. So it  
22 would be tough to imbed that shed into the side of the hill.

23 MR. DiSTEFANO: I have one more question. I  
24 just want to make it clear, so as part of this project you do  
25 intend to fill the gap.

1 Brighton Zoning Board of Appeals 5/2/18

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3

TIM FITZGERALD: Absolutely.

4

5

MR. DiSTEFANO: Okay. Fill the gap with additional landscaping. They'll probably use that same area to get the construction vehicles in for the pool digging and everything.

6

7

8

TIM FITZGERALD: I've left one probably 15-foot --

9

10

MR. DiSTEFANO: And then when the pool's done, you will --

11

12

TIM FITZGERALD: Absolutely, yes.

13

14

CHAIRPERSON MIETZ: Any other questions? Thank you very much.

15

16

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

17

18

APPLICATION 5A-09-18

19

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5A-09-18 Application of David Waldarek, architect, and Nathan Schroeder, owner of property located at 190 Idlewood Road, for an Area Variance from Section 205-2 to allow a garage addition to extend 6 ft. into the 12 ft. side setback required by code. All as described on application and plans on file.

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25

DAVID WALDAREK: Good evening, my name is

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2  
3 David Waldarek, I'm an architect representing Nathan  
4 Schroeder and his wife in their application for a variance to  
5 build a new garage. The existing garage is about 10-feet  
6 wide and we're looking to raise that garage and add a new  
7 two-bay garage. So to do this, we're looking for 5 feet of  
8 relief, there would be a 7-foot setback where there's  
9 currently a 12-foot setback.

10 The garage right now is basically used for  
11 bicycles and toys. It's very difficult to even get one car  
12 in the garage. The family has three children, and that's  
13 basically just used as a toy box right now. So we plan on  
14 taking out the bikes and toys and knock the garage down and  
15 build a new one.

16 MS. SCHWARTZ: Why the window above the garage  
17 door? What is the purpose of that?

18 DAVID WALDAREK: There's consideration for  
19 putting an added truss in the garage so that they might have  
20 incidental storage. And an added truss is basically designed  
21 to allow for the middle portion of it to be used for, you  
22 know, just what it is, attic storage.

23 MS. SCHWARTZ: What utilities will you have in  
24 the garage?

25 DAVID WALDAREK: There are no utilities in the

## Brighton Zoning Board of Appeals 5/2/18

1  
2  
3 garage.

4 MS. SCHWARTZ: No electricity?

5 DAVID WALDAREK: Well, yeah, probably a couple  
6 outlets.

7 MS. CORRADO: And access to the upper storage,  
8 how will it be accessed?

9 DAVID WALDAREK: Probably a drop-down stair.  
10 And that storage may or may not go the full depth of the  
11 garage. It may be just a portion of it or a third, we  
12 haven't quite decided yet. So that is cost driven because  
13 attic trusses are twice as much as common trusses.

14 MS. CORRADO: How does that expansion compare  
15 to other homes in the neighborhood?

16 DAVID WALDAREK: As a matter of fact, the  
17 owner has done a survey in the neighborhood. I am not quite  
18 sure of the number of similar expansions. Perhaps Nathan  
19 would like to come up and mention how many he's done.

20 NATHAN SCHROEDER: Hi, I'm the homeowner,  
21 Nathan Schroeder. Most of the homes in the neighborhood have  
22 two-car garages. And actually this design is fairly similar  
23 to a number of the homes where the actual -- it has a peaked  
24 roof rather than a flat facing side. But also, just within  
25 on Idlewood Road I did kind of a little survey using the



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1  
2  
3 Monroe County GIS mapping service kind of analyzing where  
4 other people's property lines were, how close it was. And it  
5 looks like just within maybe five houses to the north and  
6 maybe seven houses to the south we have about eight houses  
7 within the even numbers where it looks like it's about seven  
8 or seven and a half feet setback right now. And on the other  
9 side, on the odd numbers it's about nine houses. So this is  
10 just really a small section of within Idlewood Road, pretty  
11 close to my property.

12 MS. TOMPKINS WRIGHT: Have you spoken to the  
13 neighbor at 182, and any issues --

14 NATHAN SCHROEDER: No, he's supportive of it.  
15 You know, we actually -- we initially thought about adding a  
16 bonus room above the garage, since we're adding space so why  
17 not just maximize it. But because of the cost consideration  
18 as well as how large the house already is currently, we  
19 decide we didn't need that. So from his perspective, you  
20 know, it's more of a diminished view as well.

21 CHAIRPERSON MIETZ: Anything else, Dave?

22 DAVID WALDAREK: That's it.

23 CHAIRPERSON MIETZ: Okay. Any questions from  
24 the Board? Thank you.

25 Is there anyone in the audience that would

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1  
2  
3 like to speak regarding this application? There being none,  
4 then the Public Hearing is closed.

5 APPLICATION 5A-10-18

6 5A-10-18 Application of Kim Weeks and Greg  
7 Hurwitz, owners of property located at 104 Council Rock  
8 Avenue, for an Area Variance from Section 205-2A to allow a  
9 front yard fence to be 5 ft. in height in lieu of the maximum  
10 3.5 ft. allowed by code. All as described on application and  
11 plans on file.

12 GREG HURWITZ: I'm Greg Hurwitz, my wife Kim  
13 is in the audience and we are here to get a variance to put  
14 up a fence in our yard, and we too have a dreaded corner lot.  
15 Basically, I think 90 percent of our property is considered  
16 to be a front yard, so any kind of changes are always  
17 difficult.

18 But the only reason why we really want to do  
19 this is because of Bella. We adopted her a few years ago and  
20 she's been a great dog. We love her dearly. When we did get  
21 her they thought it was a good fit for us because we don't  
22 have any kids, and we don't have any other pets. They  
23 recommended that she doesn't go to somebody that has kids or  
24 pets, or things of that nature. So she's done great with us.

25 However, they never mentioned about the

## Brighton Zoning Board of Appeals 5/2/18

1  
2  
3 rabbits and the squirrels and the chipmunks and everything  
4 else that she goes crazy for. We had a couple of the  
5 invisible fence companies come out and give us estimates and  
6 what their thoughts would be and they said that basically  
7 they can't guarantee that it's going to keep the dog in.  
8 She's 70 pounds, high strung, and very strong. And when she  
9 sees things she just takes off after them.

10 So, you know, we love her very much and we  
11 would not want to take a chance of her breaking through the  
12 invisible fence and going out into Highland Avenue and  
13 getting hit by a car. So the only option we have basically  
14 is to put in a very nice looking decorative fence. It needs  
15 to be 5 foot rather than something shorter because we have  
16 seen her jump over a 4-foot door, so 5 feet is the magic  
17 number for us.

18 What I have done here is in order just to give  
19 you a quick idea, we did speak to the two neighbors that  
20 would stand the most to see it. One is across Highland, and  
21 Dan and his wife Jody DiLaretto said it's fine. They think  
22 it would look great. They have no problems with it. Our  
23 neighbor on the other side of our house they said that it's  
24 fine. They had no problem with it either.

25 And the style of fence on the next page is a

## Brighton Zoning Board of Appeals 5/2/18

1  
2  
3 decorative black aluminum fence with finials, it matches the  
4 neighborhood perfectly. We have a Tudor home, so it matches  
5 the look really well.

6 And the next is a map of the property. The  
7 red line shows where the fence would go, and it's in what we  
8 consider to be our backyard. We don't want it going any  
9 further than where the patio is, basically, in the backyard,  
10 and wraps around the back and comes around to the other side  
11 of the garage. And it is well within the right of way, so  
12 it's not going over out into the town's right of way at all.

13 And the next one shows the classic decorative  
14 aluminum fence, it gives you a better close up of what it  
15 looks like. The next page shows you the double-panel  
16 driveway gate that we propose to use and that will be  
17 electric. So with the push button it will just open and  
18 close.

19 MS. DALE: The one side is aluminum, but it  
20 would be a lot of --

21 GREG HURWITZ: No, I'm sorry, we've settled I  
22 think on going aluminum. From everything we've researched,  
23 aluminum is a better choice. It lasts longer and we do not  
24 have to repaint it every couple of years. And the way they  
25 make them nowadays with the powder coating, they do such a

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1  
2  
3 great job that they do last a long time. And it's easier to  
4 work with, it's lighter. So I think we're going to be going  
5 with the aluminum, but it will look like that. They're  
6 almost indistinguishable, they make them so nicely.

7 And the next pages, I can assure we did not go  
8 ahead and put a fence in before we come here, but I'm fairly  
9 good at Photoshop, so what I did is I took and inserted the  
10 fence into these picture, so you could take a look and see  
11 what it would look like if you did grant us permission to put  
12 the fence in.

13 As you can see, it blends in well, even in a  
14 time of year when you don't have a lot of foliage, it looks  
15 pretty nice. It doesn't obstruct any views, you can see  
16 through it very easily, and again it's very attractive. And  
17 the next picture is showing closer up where our driveway is.  
18 You can see the fence, the fence extends just about, I don't  
19 know, maybe 5 feet or so, maybe 10 feet to the left of the  
20 left edge of the wall, and from there it juts back towards  
21 the house.

22 The next page shows you what it would look  
23 like from Council Rock, from our true front yard. And you  
24 can see the fence on the right side there, it's set well  
25 back. And again, it matches the whole decor of our home.

## Brighton Zoning Board of Appeals 5/2/18

1  
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3           And then, the next picture is just a close up  
4 to show you exactly where that fence is. Where it starts in  
5 the backyard there will be a gate there so that you can pass  
6 through. And then last picture is showing where it goes  
7 between our home and our neighbor. And it's kind of ends up  
8 there on the left where the garage is, just back in there.

9           And one of the other reasons why we need a  
10 fence too is because not only do we worry about Bella getting  
11 out, but we get so many people because of the way our  
12 driveway is off of Highland, they just wander up our  
13 driveway. It's crazy, you get people with the flyers from  
14 College Pro Painters and you name it, they all put little  
15 flyers on our back door by our patio.

16           So when we have her on what we call a zip  
17 line, we have a tether that goes between a big pine tree and  
18 our garage door right now just so she can be out for a few  
19 minutes. If she sees somebody coming up our driveway she is  
20 so protective of us and our home now, she takes off and  
21 almost hangs herself because she goes to the end of the leash  
22 and then kind of flies back. It's terrible to see, but we  
23 want to keep people from coming up our driveway as well to  
24 protect them as well as to protect our dog.

25           In the next pages I have seen some other homes

## Brighton Zoning Board of Appeals 5/2/18

1  
2  
3 that basically have the same style fence. Theirs are, I  
4 think, 4-feet high and they are corner lots as well. These  
5 homes are off of Clover Street on Rowland, and you can see  
6 what they've done. So they have put a fence in and then  
7 across the street from them on the next page is another house  
8 and they have a fence as well, the same style fence.

9 And then the last page is Dr. Reed's house  
10 over on East Avenue and he's got a large fence. He's on a  
11 corner lot basically, but he has that big fence going along  
12 his front yard as well. So that's all we are looking for,  
13 any questions?

14 CHAIRPERSON MIETZ: Anyone have questions?  
15 Thank you.

16 Is there anyone in the audience that would  
17 like to speak regarding this application? There being none,  
18 then the Public Hearing is closed.

19 APPLICATION 5A-11-18

20 5A-11-18 Application of Rufus and Amy Judson,  
21 owners of property located at 3525 Elmwood Avenue, for Area  
22 Variances from Section 205-2 to 1) allow for the construction  
23 of a new house with 6,686 +/- square foot of livable floor  
24 area where a maximum 5,490 square foot of livable floor area  
25 is allowed by code, and 2) allow for said house to have a

## Brighton Zoning Board of Appeals 5/2/18

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3 1,556 +/- square foot attached garage where a maximum 900  
4 square foot attached garage is allowed by code. All as  
5 described on application and plans on file.

## APPLICATION 5A-12-18

6  
7 5A-12-18 Application of Rufus and Amy Judson,  
8 owners of property located at 3525 Elmwood Avenue, for Area  
9 Variances to allow for the conversion of a detached garage  
10 into a pool house. These variances include 1) an Area  
11 Variance from Section 203-2.1B to allow said pool house to be  
12 located in side yard in lieu of the rear yard as required by  
13 code; 2) an Area Variance from Section 203-2.1B(2) to allow  
14 the pool house to be 920 square foot in lieu of the maximum  
15 250 square foot allowed by code; 3) an Area Variance from  
16 Section 207-6A(1) to allow the pool house to be 19.8 ft. in  
17 height in lieu of the maximum 16 ft. allowed by code; and 4)  
18 an Area Variance from Section 207-6A(2) to allow the pool  
19 house to be 3.4 ft. from a side lot line in lieu of the  
20 minimum 5 ft. required by code. All as described on  
21 application and plans on file.

## APPLICATION 5A-13-18

22  
23 5A-13-18 Application of Rufus and Amy Judson,  
24 owners of property located at 3525 Elmwood Avenue, for 1) an  
25 Area Variance from Section 203-2.1B(6) to allow a standby



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3 emergency generator to be located in a side yard in lieu of  
4 the rear yard behind the house as required by code; and 2) an  
5 Area Variance from Sections 203-2.1B and 207- 11A to allow an  
6 in-ground swimming pool and spa to be located in a side yard  
7 in lieu of the rear yard as required by code. All as  
8 described on application and plans on file.

9 ED MARTIN: Anybody else impressed? I'm Ed  
10 Martin, a licensed engineer with LandTech. We are here  
11 tonight representing Rufus and Amy Judson in their  
12 applications before you. In the event that you have any  
13 questions that they're best answered by them I will invite  
14 them up to answer tonight.

15 What we have here really are three different  
16 categories of area variances that we're asking. The first  
17 pertains to the size of the home and the size of the garage.  
18 If you are familiar with the area, this isn't your typical  
19 neighborhood, this is an upscale neighborhood with executives  
20 living there. Rufus is the vice president with Pike Company,  
21 so you can appreciate the expectations of living that are in  
22 that neighborhood. It is very similar to an application we  
23 brought before you a couple of years ago for Dr. Draybac over  
24 on Old Mill Road.

25 The second grouping of variances pertains to

## Brighton Zoning Board of Appeals 5/2/18

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2  
3 the proposed pool house, which is an existing structure. In  
4 some towns this would be considered preexisting  
5 nonconforming, I understand that's not the case here. But  
6 nonetheless, we are dealing with something that's existing  
7 today and will not change.

8           And then lastly, the pool and spa which are  
9 proposed in the side yard, and that's largely the result of  
10 the existing pool house which was a detached garage before.  
11 And the proposed home is oriented in the same way as the home  
12 that's there today. So it really does live, side yard lives  
13 as a rear yard. To locate the pool and the spa in the actual  
14 backyard as recognized by code would require significant  
15 disturbance of the property, additional tree removal, things  
16 of that nature.

17           So in summary, the proposals represent the  
18 least impact and I think that's reflected in the letters that  
19 we've provided to the Town. Amy Judson did a great job in  
20 speaking with all the neighbors and received letters of  
21 support from each and every one surrounding them. I  
22 understand that Mrs. Reel provided a letter directly to the  
23 town. I have not seen that but I understand that a letter  
24 has been provided. We have received copies of all of the  
25 remaining letters which are in support of the proposal before

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3 you. So it's our contention that the requested variances do  
4 not result in any negative impact to the environments to the  
5 Town of Brighton or to the neighbors around the Judsons.

6 So with that, we'd be happy to answer any  
7 questions that you may have.

8 CHAIRPERSON MIETZ: So the placement of the  
9 home and all the rest, are there any other alternatives that  
10 were discussed? I presume the design of the home relates to  
11 the square footage requirement of the family, and, you know,  
12 as far as how it was placed and where it was placed and any  
13 other thoughts about how to do this?

14 ED MARTIN: We discussed orienting it  
15 differently, but as I mentioned in relation to the pool and  
16 the spa, it too would result in greater site disturbance.  
17 And we would still be back here for many, if not all of the  
18 same variances, the size of the house wouldn't change.

19 CHAIRPERSON MIETZ: So I guess the point then  
20 is that given that even with other potential alternatives,  
21 they either would equate to this or greater variances?

22 ED MARTIN: Exactly.

23 CHAIRPERSON MIETZ: Okay. Any questions?

24 MS. CORRADO: With this home being a  
25 mid-century home, is this gone to Historic Preservation? Is

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3 there any concern about losing a historic property?

4 ED MARTIN: It has gone to Historic  
5 Preservation and they did not require a Public Hearing.  
6 Which I interpret that to mean there is not a concern with  
7 losing anything of historic value. The existing pool house I  
8 understand was built circa 1930, and so that being maintained  
9 I think perhaps is viewed favorably by them, but I don't want  
10 to speak for them. But, no, there was no concern in removing  
11 the existing home for historic value.

12 CHAIRPERSON MIETZ: For the first variance you  
13 made some representation to the text related to the size of  
14 other structures in the immediate area. Did you do any  
15 survey that says at this location there's 6,200 square feet  
16 and at this location there's 8,000 square feet? Where did  
17 those numbers come from?

18 ED MARTIN: We reviewed public tax records  
19 which reflect lot areas and livable square footage in each  
20 home and we founds 34 homes within walking distance of this  
21 with livable square footage of at least 6,000. So that puts  
22 it into what I'll call the category of the proposed home.  
23 Twenty-two of which are larger than the home being proposed  
24 by the Judsons and 14 of those 34 homes are on lots that are  
25 smaller than the Judsons. So I think that kind of paints the

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3 picture that, number one, large homes are desired in this  
4 area and some of them are even on lots that are smaller than  
5 what the Judsons own.

6 MR. DiSTEFANO: Just for the Board's  
7 edification, can you kind of tell us, what is this  
8 neighborhood that you surveyed? Is it just Elmwood Avenue,  
9 or is it Sandringham coming into it, or Elmwood Hill Lane  
10 come into it? Can you kind of give us --

11 ED MARTIN: I did it by the tax number, to be  
12 honest with you. This is, I think it's 137-something. We  
13 just did that and did a search and they popped up on a map  
14 indicating where those are, and we just noted they're within  
15 walking distance. I can provide a printout to the town.

16 MR. DiSTEFANO: No, I just wanted so  
17 somebody --

18 MS. TOMPKINS WRIGHT: What was considered  
19 walking distance, a half a mile away, was it a mile away?

20 ED MARTIN: I would say within a mile, mile  
21 and a half at the most. And just within their neighborhood I  
22 think it's the Bounds, yes, the Bounds, they have a  
23 considerably large home. I don't have the numbers in front  
24 of me of what it is, but they were one of the ones that came  
25 up on the --

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2  
3 MR. CLAPP: I read in one of the support  
4 letters, that the neighbor that you need to negotiate access  
5 with a neighbor's driveway. And I'm noting on the plan here  
6 it looks like there's a flagged driveway access to Elmwood  
7 that's not being utilized currently. I guess my question is  
8 what's the nature of the agreement being reach for the  
9 driveway and if it's not an actual right of way, it looks  
10 like there may be room to use this other -- if they said  
11 forget it, no deal, you could still get from Elmwood and put  
12 a driveway up. Am I looking at that correctly?

13 ED MARTIN: Theoretically they could,  
14 realistically it would be very difficult because of the  
15 topography in that area. That particular neighbor has voiced  
16 their support. The attorneys are doing their job in saying  
17 what can and can't be done. So what the agreement will be  
18 is, number one, that they can remove two of their trees that  
19 exist today to put in that second access out to the shared  
20 driveway up to Elmwood, and then also install that second  
21 access.

22 So it's just saying that within this area  
23 there's something called a legal description and a map that  
24 will go with that, and that gets filed at the county. That  
25 gives them a legal right to use that for those purposes. And

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3 it will be very clear. So it's just allowing the attorney to  
4 work out the legal details of that, but she is in support of  
5 that.

6 MR. CLAPP: And then that would carry with the  
7 property now.

8 ED MARTIN: It will, even when they sell.

9 CHAIRPERSON MIETZ: So the formality of that  
10 appears to be no issue at this point.

11 ED MARTIN: Correct.

12 CHAIRPERSON MIETZ: And then when the home is  
13 built, then the construction access will be across that  
14 driveway?

15 ED MARTIN: It will utilize the driveway that  
16 they are currently using, which is that shared driveway. And  
17 we'll use the existing driveway into the property for  
18 construction access. And all of the details are being worked  
19 out with the Planning Board.

20 CHAIRPERSON MIETZ: Okay, very good.

21 MS. TOMPKINS WRIGHT: For purposes of reusing  
22 that existing detached garage, is it just to keep the  
23 historical character of that building, or do you envision an  
24 actual need for a 920 square feet pool house?

25 ED MARTIN: You know, I don't think so. If

## Brighton Zoning Board of Appeals 5/2/18

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3 you guys think otherwise, speak up. But I think just that  
4 it's a very nice structure. It wouldn't make sense to take  
5 any of it down. I understand from making this application  
6 that there's historic brick in this area. I don't know if  
7 this contains that, but it would just be a shame to tear it  
8 down. It is in very good shape. It provides a really nice  
9 buffer to the LeChase property to the east. So it would be  
10 used for storage of lawn furniture, things like that.

11 MR. DiSTEFANO: On that note, can you give us  
12 a little more explanation on what's going to transpire in  
13 this building? There are not, of course, going to be any  
14 living area or anything like that.

15 ED MARTIN: No. Last I knew, and again if I  
16 misspeak let me know, there will be electricity run to it,  
17 probably heat -- already has electric, possibly heat. And  
18 literally just the way you would use a pool house, to change  
19 from swimming trunks into clothing and vice versa. And if  
20 it's a rainy day and they're having a party, it's a place to  
21 hang out. That's it.

22 MR. DiSTEFANO: Bathroom facilities?

23 ED MARTIN: No.

24 MR. DiSTEFANO: No bathroom facilities.

25 ED MARTIN: No.



Brighton Zoning Board of Appeals 5/2/18

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CHAIRPERSON MIETZ: So, other questions?

Thank you.

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

We will take a short break.

\* \* \*

Brighton Zoning Board of Appeals 5/2/18

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REPORTER CERTIFICATE

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

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

Dated this 23rd day of May, 2018.

At Rochester, New York

  
Rhoda Collins

Brighton Zoning Board of Appeals 5/2/18

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT  
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON MAY 2ND, 2018 AT  
APPROXIMATELY 9:44 P.M.

May 2nd, 2018  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

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

REPORTED BY: RHODA COLLINS, Court Reporter  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, New York 14020

Brighton Zoning Board of Appeals 5/2/18

APPLICATION 5A-01-18

5A-01-18 Application of Monroe Realty Associates, contract vendee, and Toliver, LLC, owner of property located at 2087 Monroe Avenue, for Area Variances from Section 205-7 to construct a new medical office building with 1) a 10 ft. front setback (Monroe Avenue) where a 30 ft. Front setback is required by code, 2) a 10 ft. rear setback (west property line) where a 50 ft. rear setback is required by code, and 3) to allow impervious lot coverage to be 75.7 % in lieu of the maximum 65% allowed by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to table Application 5A-01-18, for submission of a floor plan and consideration of an amended site plan that reduces the overall impact of all of the variances requested.

(Second by Mr. Clapp.)

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

(Upon roll call, motion to table carries. The Public Hearing will remain open.)

1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-02-18

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5A-02-18 Application of Monroe Realty

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Associates, contract vendee, and Toliver, LLC, owner of

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property located at 2087 Monroe Avenue, for Area Variances

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from Section 205- 18A to 1) allow for front yard parking

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(Brooklawn Drive frontage) where not allowed by code, 2)

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allow parking/pavement within 5 ft. of the south property

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line where a 10 ft. setback is required by code, and 3) to

11

allow parking/pavement within 1.5 ft. from the west lot line

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where a 10 ft. setback is required by code. All as described

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on application and plans on file.

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Motion made by Ms. Tompkins Wright to table

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Application 5A-02-18, for submission of a floor plan and

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consideration of an amended site plan that reduces the

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overall impact of all of the variances requested.

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(Second by Ms. Corrado.)

19

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

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

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Ms. Tomkins Wright, yes.)

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(Upon roll call, motion to table carries. The

23

Public Hearing will remain open.)

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Brighton Zoning Board of Appeals 5/2/18

APPLICATION 5A-05-18

5A-05-18 Application of Iryna Shkavritko, owner of property located at 55 Oak Lane, for Area Variances from Section 205-2 to 1) allow for the construction of a 953 sf attached garage where a maximum 900 sf attached garage is allowed by code, and 2) allow said attached garage to have a 19.6 ft. rear setback where a 60 ft. rear setback is required by code. All as described on application and plans on file.

Motion made by Ms. Schwartz to deny Application 5A-05-18 based on the following findings and facts.

**FINDINGS AND FACTS:**

1. The proposed addition will dramatically change the character of the neighborhood because of the size and due to the potential impact on neighboring property.
2. The variance is substantial in that it represents an over 60 percent variance of the required 60-foot rear setback and there are possible alternatives.
3. There's no evidence that this variance requested is the minimum relief necessary to meet the applicant's needs of the required 60-foot rear setback.

Brighton Zoning Board of Appeals 5/2/18

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(Second by Ms. Tompkins Wright.)

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

(Upon roll call, motion to deny carries.)

Brighton Zoning Board of Appeals 5/2/18

APPLICATION 5A-06-18

5A-06-18 Application of Design Works

Architecture, agent, and Iyla and Isanna Voloshin, owners of property located at 2700 East Avenue, for an Area Variance from Section 205-2 to allow for the construction of a house with a 42.25 ft. rear setback in lieu of the maximum 60 ft. rear setback required by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 5A-06-18 based on the following findings and facts.

**FINDINGS AND FACTS:**

1. The granting of the requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. Due to the size of the lots and the distance between homes to the rear of the property, the smaller rear setback will likely not be noticeable. Further, there is a line of trees further separating those adjacent properties such that the neighbor will not be impacted. In essence, this yard acts as a side yard to the home in lieu of the rear yard as determined by the code.

2. The requested variance is not substantial as the existing



Brighton Zoning Board of Appeals 5/2/18

structure extends 17.6 feet into the setback and the home will sit over 176 feet from the nearest East Avenue property.

3. The benefit sought by the applicant cannot reasonably be achieved by any other method. The proposed variance is reusing the existing foundation which corresponds to the previously existing foundation on a historical property.

4. There's no evidence that the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighbor or district.

**CONDITIONS:**

1. The variance granted herein applies only to the construction of the building described in and in the location as depicted on the application and in the testimony given.

2. All necessary Planning Board and Architectural Review Board approvals and permits must be obtained.

(Second by Ms. Corrado.)

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

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

## Brighton Zoning Board of Appeals 5/2/18

Number application 5A-07-18

5A-07-18 Application of Timothy and Carol Fitzgerald, owners of property located at 11 Old Mill Road for 1) an Area Variance from Sections 203-2.1B(3) and 207-11 to allow an in-ground pool to be located in a front yard in lieu of the rear yard as required by code; and 2) an Area Variance from Section 207-2A to allow a front yard fence to be 4 ft. in height in lieu of the maximum 3.5 ft. allowed by code. All as described on application and plans on file.

Motion made by Ms. Watson to approve Application 5A-07-18 based on the following findings and facts.

**FINDINGS AND FACTS:**

1. The applicant's home is on a corner lot which therefore has two yards which are considered front yards. The requested location of the pool and the 4-foot high fence would be considered a rear yard if viewing the house from Old Mill Road, but it's considered a front yard when viewing from Clover.

2. The requested variance is the minimum variance possible because the proposed location of the pool and the fence is limited by the topography of the yard.

3. The existing landscaping that lines the yard will screen

## Brighton Zoning Board of Appeals 5/2/18

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3 the fence and the pool from view from Clover Street  
4 minimizing the impact of the variance along with the proposed  
5 landscaping.

6 4. The granting of the request will not produce an  
7 undesirable change in the character of the neighborhood or a  
8 detriment to the nearby properties, nor will it have an  
9 adverse effect or impact on the physical or environmental  
10 conditions of the neighborhood. The proposed location of the  
11 pool and the fence is desirable to preserve the character of  
12 the adjoining backyards and the views of Allens Creek. Other  
13 corner lots have similar layouts of pools within a quarter  
14 mile of the property.

15 **CONDITIONS:**

16 1. The fence and pool will be located as per the application  
17 and testimony given and will be as described by the  
18 applicant.

19 2. Landscaping shall be maintained and added to provide  
20 screening from Clover Street.

21 3. All necessary building permits shall be obtained.

22 (Second by Mr. Clapp.)

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

Brighton Zoning Board of Appeals 5/2/18

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

1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-08-18

4 5A-08-18 Application of Timothy and Carol  
5 Fitzgerald, owners of property located at 11 Old Mill Road  
6 for an Area Variance from Section 203-2.1B(2) to allow a shed  
7 to be located in a front yard in lieu of the rear yard as  
8 required by code. All as described on application and plans  
9 on file.

10 Motion made by Mr. Clapp to approve  
11 Application 5A-08-18 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The applicant's home is on a corner lot which therefore  
15 has two yards which are considered front yards. The  
16 requested location of the shed would be considered the rear  
17 yard if viewing the house from Old Mill Road, but it's  
18 considered a front yard when viewing from Clover.

19 2. The requested variance is the minimum variance possible  
20 because the proposed location of the shed is limited by the  
21 topography of the yard.

22 3. The existing landscaping that lines the yard will screen  
23 the shed from view from Clover Street minimizing the impact  
24 of the variance along with the proposed landscaping.

25 4. The granting of the request will not produce an

## Brighton Zoning Board of Appeals 5/2/18

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3 undesirable change in the character of the neighborhood or a  
4 detriment to the nearby properties, nor will it have an  
5 adverse effect or impact on the physical or environmental  
6 conditions of the neighborhood. The proposed location of the  
7 shed is desirable to preserve the character of the adjoining  
8 backyards and the views of Allens Creek.

9 **CONDITIONS:**

10 1. The shed will be located and sized as per the application  
11 and testimony given and will be as described per plans  
12 submitted.

13 2. Landscaping shall be maintained and added to provide  
14 screening from Clover Street.

15 3. All necessary building permits shall be obtained.

16 (Second by Ms. Schwartz.)

17 (Ms. Corrado, yes; Ms. Watson, yes; Mr. Mietz,  
18 yes; Ms. Dale, yes; Ms. Tompkins Wright, yes; Ms. Schwartz,  
19 yes; Mr. Clapp, yes.)

20 (Upon roll call, motion to approve with  
21 conditions carries.)  
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1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-11-18

4 5A-11-18 Application of Rufus and Amy Judson,  
5 owners of property located at 3525 Elmwood Avenue, for Area  
6 Variances from Section 205-2 to 1) allow for the construction  
7 of a new house with 6,686 +/- square foot of livable floor  
8 area where a maximum 5,490 square foot of livable floor area  
9 is allowed by code, and 2) allow for said house to have a  
10 1,556 +/- square foot attached garage where a maximum 900  
11 square foot attached garage is allowed by code. All as  
12 described on application and plans on file.

13 Motion made by Chairperson Mietz to approve  
14 Application 5A-11-18 based on the following findings and  
15 facts.

16 **FINDINGS AND FACTS:**

- 17 1. Though the variances of the building constructed, house  
18 and garage, are significant, they represent the minimum  
19 relief required to meet the needs of the applicant on the  
20 large 1.6 acre lot.
- 21 2. Since the location is a flagged lot and the house is  
22 essentially being constructed on the same location as the  
23 original structure, there will be no significant impact on  
24 the character of the immediate neighborhood.
- 25 3. Numerous other homes in the subject area are greater than

Brighton Zoning Board of Appeals 5/2/18

6,000 square feet and the proposed house and garage will not be out of character for this neighborhood.

4. No other configuration could meet the requirements of the owner and it is the relief desired.

**CONDITIONS:**

1. This variance is based on testimony given and drawings submitted as to the size and location of the two structures

2. All necessary Planning Board approval shall be obtained.

(Second by Ms. Schwartz.)

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

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



1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-12-18

4 5A-12-18 Application of Rufus and Amy Judson,  
5 owners of property located at 3525 Elmwood Avenue, for Area  
6 Variances to allow for the conversion of a detached garage  
7 into a pool house. These variances include 1) an Area  
8 Variance from Section 203-2.1B to allow said pool house to be  
9 located in side yard in lieu of the rear yard as required by  
10 code; 2) an Area Variance from Section 203-2.1B(2) to allow  
11 the pool house to be 920 square foot in lieu of the maximum  
12 250 square foot allowed by code; 3) an Area Variance from  
13 Section 207-6A(1) to allow the pool house to be 19.8 ft. in  
14 height in lieu of the maximum 16 ft. allowed by code; and 4)  
15 an Area Variance from Section 207-6A(2) to allow the pool  
16 house to be 3.4 ft. from a side lot line in lieu of the  
17 minimum 5 ft. required by code. All as described on  
18 application and plans on file.

19 Motion made by Ms. Schwartz to approve  
20 Application 5A-12-18 based on the following findings and  
21 facts.

22 **FINDINGS AND FACTS:**

23 1. The applicant is repurposing an existing structure, a  
24 garage, rather than demolishing it and will use it as a pool  
25 house.

## Brighton Zoning Board of Appeals 5/2/18

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3 2. Though the height variance of 19.8 feet in lieu of  
4 16 feet, and the 920 square feet in lieu of the 250 square  
5 feet for a pool house allowed by code are substantial, this  
6 structure is in good condition and is fitted to the character  
7 of the area for 90 years.

8 3. There will be no detriment to the surrounding properties  
9 as there is substantial vegetation on this flagged lot  
10 creating privacy among the homes.

11 4. This variance allows retaining the only original historic  
12 structure that's remaining on this site.

13 **CONDITIONS:**

14 1. This variance only applies to the conversion of the  
15 existing detached garage into a pool house as stated in the  
16 written application and testimony presented.

17 2. The entire structure will not be used for living space.

18 3. All necessary Planning Board approvals must be obtained.

19 (Second by Ms. Corrado.)

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

23 (Upon roll call, motion to approve with  
24 conditions carries.)  
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1 Brighton Zoning Board of Appeals 5/2/18

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3 Number APPLICATION 5A-13-18

4 5A-13-18 Application of Rufus and Amy Judson,  
5 owners of property located at 3525 Elmwood Avenue, for 1) an  
6 Area Variance from Section 203-2.1B(6) to allow a standby  
7 emergency generator to be located in a side yard in lieu of  
8 the rear yard behind the house as required by code; and 2) an  
9 Area Variance from Sections 203-2.1B and 207- 11A to allow an  
10 in-ground swimming pool and spa to be located in a side yard  
11 in lieu of the rear yard as required by code. All as  
12 described on application and plans on file.

13 Motion made by Ms. Tompkins Wright to approve  
14 Application 5A-13-18 based on the following findings and  
15 facts.

16 **FINDINGS AND FACTS:**

17 1. The granting of the requested variance will not produce  
18 an undesirable change in the character of the neighborhood or  
19 be a detriment to the nearby properties. The property is a  
20 flagged lot minimally adjoining Elmwood Avenue to the north,  
21 but with physical access to the property through a driveway  
22 located to the west. The orientation of the home as  
23 historical use is such that a western portion of the property  
24 while technically considered a side lot, is used as a front  
25 yard. And the eastern portion of the property, while

## Brighton Zoning Board of Appeals 5/2/18

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3 technically also a side lot is used as a rear yard. Thus,  
4 the placement of the generator, swimming pool, and spa in the  
5 practical rear, but technical side lot of the property will  
6 not change the character of the neighborhood nor be a  
7 detriment, but continue the practical and historical use of  
8 the property.

9 2. The requested variance is not substantial given the fact  
10 that the location of the improvements will appear to be in  
11 the rear yard of the property and will be well screened from  
12 view by an existing garage/pool house and vegetation.

13 3. The benefits sought by the applicant cannot reasonably be  
14 achieved by any other method. Locating the pool, spa, and  
15 generator in what is technically the rear yard would result  
16 in the removal of existing mature trees, additional privacy  
17 fencing, and significant earth work.

18 4. Difficulties leading to the requested variance are not  
19 self-created as the subdivision and development of the lot,  
20 including the driveway access along the western side lot and  
21 orientation of the home, are historical in nature.

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

25 **CONDITIONS:**

## Brighton Zoning Board of Appeals 5/2/18

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3 1. The variance granted herein applies only to the generator  
4 and pool/spa as described in the location as depicted on the  
5 application and in testimony given.

6 2. All necessary Planning Board approvals and building  
7 permits shall be obtained.

8 (Second by Ms. Watson.)

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

12 (Upon roll call, motion to approve with  
13 conditions carries.)  
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Brighton Zoning Board of Appeals 5/2/18

APPLICATION 5A-03-18

5A-03-18 Application of Victoria Goldstein, owner of property located at 490 Claybourne Road, for an Area Variance from Section 203-2.1B(6) to allow a standby emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

Motion made by Ms. Dale to approve Application 5A-03-18 based on the following findings and facts.

**FINDINGS AND FACTS:**

1. The difficulty necessitating the variance cannot be solved in another manner not requiring a variance as there are no oppositions in the rear yard that meet code. For example, the generator cannot be placed near the rear driveway on the east side of the rear yard because it could not be placed far enough away from existing windows and the applicant has an existing shed and hot tub which prevent placement of the generator 10 feet from the property line.

2. The proposed location of the generator is the minimum necessary to grant relief from the applicant's difficulty as the placement keeps the generator within the required distance of the property line and also places the generator close to the existing gas line.

Brighton Zoning Board of Appeals 5/2/18

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3 3. The variance request will not result in a substantial  
4 change in character to the neighborhood or detrimentally  
5 affect surrounding properties as the generator would be  
6 installed next to an existing air conditioning unit and  
7 there's an existing brick wall blocking out the view of the  
8 generator from the street. The applicant has also testified  
9 additional screening vegetation will be provided.

10 **CONDITIONS:**

11 1. The emergency generator shall be placed as specified in  
12 the application.

13 2. All necessary building permits shall be obtained.

14 (Second by Ms. Schwartz.)

15 (Mr. Mietz, yes; Ms. Watson, yes; Ms. Corrado,  
16 yes; Ms. Tompkins Wright; Mr. Clapp, yes; Ms. Schwartz, yes;  
17 Ms. Dale, yes.)

18 (Upon roll call, motion to approve with  
19 conditions carries.)  
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1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-04-18

4 5A-04-18 Application of Paul Viele, owner of  
5 property located at 55 Southern Drive for a Variance from  
6 Section 73-27 Fire Sprinkler Systems, and in accordance with  
7 Section 73-29, to allow a new storage building/addition to be  
8 constructed without a sprinkler system where one is required  
9 by code. All as described on application and plans on file.

10 Motion made by Chairperson Mietz to approve  
11 Application 5A-04-18 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The storage of equipment, specifically snow removal  
15 equipment and ancillary parts, in the newly constructed block  
16 building and the fact that no permanent employees will be  
17 occupying the space diminishes the need for a sprinkler  
18 system.

19 2. The proposed block construction also alleviates some of  
20 the risk for combustion in this type of building.

21 3. The addition of three egress points and a monitored fire  
22 alarm system also helps mitigate the need for a sprinkler  
23 system.

24 **CONDITIONS:**

25 1. This variance applies only to the building depicted on



## Brighton Zoning Board of Appeals 5/2/18

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3 the site plan as new block construction and testimony given.

4 2. No permanent employee occupancy will be allowed in the  
5 subject structure.

6 3. Three egress points and a monitored fire alarm system  
7 shall be installed in the space and remain.

8 (Second by Ms. Schwartz.)

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

12 (Upon roll call, motion to approve with  
13 conditions carries.)  
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1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-09-18

4 5A-09-18 Application of David Waldarek,  
5 architect, and Nathan Schroeder, owner of property located at  
6 190 Idlewood Road, for an Area Variance from Section 205-2 to  
7 allow a garage addition to extend 6 ft. into the 12 ft. side  
8 setback required by code. All as described on application  
9 and plans on file.

10 Motion made by Ms. Corrado to approve  
11 Application 5A-09-18 based on the following findings and  
12 facts.

13 **FINDINGS AND FACTS:**

14 1. The requested variance is the minimum variance possible  
15 to allow construction of an appropriately scaled attached  
16 garage.

17 2. No other alternative can alleviate the difficulty and  
18 produce the desired result, namely that an attractive  
19 attached two-car garage provides adequate storage for the  
20 resident family.

21 3. No unacceptable change in the character of the  
22 neighborhood and no substantial detriment to the nearby  
23 properties is expected to result in the approval of this  
24 variance as the proposed garage addition will be in character  
25 with the existing home and other homes in the neighborhood.

Brighton Zoning Board of Appeals 5/2/18

4. The alleged hardship is not self-created by the applicant.

5. The health, safety, and welfare of the community will not be adversely affected through the variance requested.

**CONDITIONS:**

1. This variance will apply only to the structure as described in the application and testimony. It will not apply to further additions considered in the future that are not included in the present application.

2. All necessary Architectural Review Board approvals and building permits shall be obtained.

(Second by Ms. Tompkins Wright.)

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

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

1 Brighton Zoning Board of Appeals 5/2/18

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3 APPLICATION 5A-10-18

4 5A-10-18 Application of Kim Weeks and Greg  
5 Hurwitz, owners of property located at 104 Council Rock  
6 Avenue, for an Area Variance from Section 205-2A to allow a  
7 front yard fence to be 5 ft. in height in lieu of the maximum  
8 3.5 ft. allowed by code. All as described on application and  
9 plans on file.

10 Motion made by Ms. Dale to approve Application  
11 5A-10-18 based on the following findings and facts.

12 **FINDINGS AND FACTS:**

13 1. The applicant is seeking to put a fence in their backyard  
14 to contain their dog but the location of the house on a  
15 corner lot means that a portion of the fence would be in what  
16 is officially deemed to be the front yard.

17 2. The fence would be about 100 yards from the property line  
18 towards Council Rock.

19 3. The applicant has explored the possibility of an  
20 invisible fence and has testified that an invisible fence or  
21 a shorter fence would not be sufficient to contain their dog.  
22 Therefore the variance request is the minimum necessary to  
23 grant the relief sought by the applicant.

24 4. Although 5-feet high, the fence would be black aluminum  
25 or wrought iron that is not a solid panel and allows

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3 visibility and the fence style is common to the Tudor style  
4 of the house. The variance request will not result in a  
5 substantial change in the character of the neighbor or be a  
6 detriment to the nearby properties.

7 5. The proposed variance is consistent with surrounding  
8 properties so as not to have an adverse effect or impact on  
9 the physical or environmental conditions of the neighborhood.

10 6. The variance request will not result in a substantial  
11 change in character to the neighborhood or detrimentally  
12 affect surrounding properties due to the proposed type of  
13 fence, its location in the applicant's yard, and the home  
14 being situated on a corner lot.

15 **CONDITIONS:**

16 1. The style and type of fence and its location must be as  
17 described in the application.

18 2. All necessary building permits shall be obtained.

19 (Second by Ms. Schwartz.)

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

23 (Upon roll call, motion to approve with  
24 conditions carries.)  
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REPORTER CERTIFICATE

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

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

12

13 Dated this 23rd day of May, 2018.

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At Rochester, New York

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Rhoda Collins

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