

Brighton Zoning Board of Appeals 9/5/18

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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON SEPTEMBER 5TH,
2018 AT APPROXIMATELY 7:15 P.M.

September 5th, 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

1 Brighton Zoning Board of Appeals 9/5/18

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

6 Rick, was the meeting properly advertised?

7 MR. DiSTEFANO: Yes, Mr. Chairman, it was
8 advertised in the Brighton-Pittsford Post of August 27, 2018.

9 CHAIRPERSON MIETZ: Please call the roll.

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

12 CHAIRPERSON MIETZ: So when you are ready,
13 Rick.

14 MR. DiSTEFANO: We have two sets of minutes.

15 CHAIRPERSON MIETZ: Okay, Judy?

16 MS. SCHWARTZ: I have July. Page 8, Line 21,
17 the word should be filled, that I filled.

18 Page 11, Line 16, the second word should be
19 arborist.

20 Page 20, Line 23, I believe it should be being
21 at the faculty, so you want to change on to at.

22 Page 24, Line 23, the first word is
23 neighborhood.

24 Page 35, Line 17, in the middle of the line it
25 should be happy.

1 Brighton Zoning Board of Appeals 9/5/18

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3 On Page 47, Line 21, please insert the word
4 that between me and is.

5 That is all I have.

6 CHAIRPERSON MIETZ: Anything else? Okay, can
7 I have a motion?

8 MS. CORRADO: Move to approve.

9 (Second by Ms. Tompkins Wright.)

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

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

15 CHAIRPERSON MIETZ: Now, let's look at August.

16 MS. CORRADO: Just a few things. On Page 71,
17 Lines 3 and 4, it should read attempting to accommodate a
18 physically disabled resident's safety.

19 Page 79, Line 4, strike the word be, spell the
20 word complement with an E, c-o-m-p-l-e-m-e-n-t; strike the
21 word with. Line 6 and 7, just for clarity insert a comma
22 after code in Line 6, and a comma after self-created in
23 Line 7.

24 That is all.

25 CHAIRPERSON MIETZ: Okay, anything else,

Brighton Zoning Board of Appeals 9/5/18

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3 motion?

4 MS. TOMPKINS WRIGHT: So moved.

5 (Second by Ms. Watson.)

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

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

11 CHAIRPERSON MIETZ: Okay. When you are ready,
12 starting with Fieldston Terrace.

13 APPLICATION 9A-01-18

14 9A-01-18 Application of Home Power Systems,
15 contractor, and Walter Ferguson, owner of property located at
16 11 Fieldston Terrace, for an Area Variance from Sections 203-
17 2.1B(6) and 203-9A to allow a standby emergency generator to
18 be located in the front yard in lieu of the rear yard behind
19 the house as required by code. All as described on
20 application and plans on file.

21 KEN STAVALONE: Good evening, everyone. My
22 name is Ken Stavalone, I'm a project manager for Home Power
23 Systems. I'm here tonight on behalf of Walter Ferguson who
24 resides at 11 Fieldston Terrace. Tonight we're seeking a
25 variance to move the generator from the rear of the structure

Brighton Zoning Board of Appeals 9/5/18

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3 and place it on the side of the structure, which is
4 technically the front yard because the side of the home faces
5 Clover Street.

6 If you look at the site survey map there's
7 about a 12-foot setback from the rear of the home to the
8 property line of the closest neighbor there. Unfortunately,
9 with fire codes and us having to be 5 feet from any window or
10 opening, it would place that generator within 6 feet of the
11 property line which then wouldn't meet the current
12 10-foot code for the rear of the home.

13 The resident is very agreeable to plantings.
14 The plan is to plant green shrubbery to block the generator
15 right around, completely around the generator and build up a
16 foot-high landscape wall to get a little more height to
17 completely block that view. Also, he's agreeable to putting
18 in a white vinyl picket fence in the interim until the
19 plantings can go in, from the point of installation to when
20 the plantings can go in to cover it to make sure that, you
21 know, to be a good neighbor.

22 Also, the arrangement of the generator is
23 going to face out towards -- the noise would be faced out
24 towards Clover Street. The neighbor to the west, the
25 generator would be completely blocked from their view. They

Brighton Zoning Board of Appeals 9/5/18

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3 wouldn't be able to see it from their home. The neighbor to
4 the north, the house is set back quite a bit from the other
5 home, so it would be blocked by shrubs and the house itself.
6 I have some pictures here if anyone would like to see them.

7 CHAIRPERSON MIETZ: Yes, you can pass them
8 around. Have you or Mr. Ferguson talked to any of the
9 neighbors about this?

10 KEN STAVALONE: We have not.

11 CHAIRPERSON MIETZ: I presume it will have a
12 once-a-week exercise?

13 KEN STAVALONE: Once a week for 5 minutes.
14 And during those once-a-week exercises it's not running under
15 a load, so it runs under what's called a quiet test. So it's
16 quieter than normal operation.

17 CHAIRPERSON MIETZ: Okay.

18 MR. DiSTEFANO: For the record could you state
19 what the decibel rating is?

20 KEN STAVALONE: Yes, it's 67 decibels under a
21 full load and it's 55 decibels under quiet test.

22 CHAIRPERSON MIETZ: They're getting them
23 quieter.

24 KEN STAVALONE: Yes, and they've come quite a
25 way for sure.

1 Brighton Zoning Board of Appeals 9/5/18

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CHAIRPERSON MIETZ: Okay, any questions?

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MR. CLAPP: The only question I have is if there's a fence does that also require a permit?

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MR. DiSTEFANO: A fence would require a permit, which they could do at the same time they get the generator permit.

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CHAIRPERSON MIETZ: So that can be one of the conditions. How tall is the generator?

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KEN STAVALONE: It is 28-inches tall.

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MR. DiSTEFANO: So three and a half foot maximum, so that would cover that generator.

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CHAIRPERSON MIETZ: Okay. No other questions? Thank you.

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

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APPLICATION 9A-02-18

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9A-02-18 Application of Home Power Systems, contractor, and Dr. John Wayman, owner of property located at 90 Indian Spring Lane, 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

Brighton Zoning Board of Appeals 9/5/18

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on file.

JIM SWETMAN: Good evening, my name is Jim Swetman, President and owner of Home Power Systems, here to represent the Waymans that are at 90 Indian Springs Lane for the installation of an automatic home standby generator system.

We do a lot of generators in the Town of Brighton and we are always, always, always understanding of the code and understanding that rear of house only, but sometimes things just don't work out that way. The Waymans, we took a look at the rear of the house and if you had a chance to look, they have a beautiful back patio in the back area there. And we looked and we looked and the only place preliminary that we saw an opportunity to put it is on the left-hand side as you are standing out in the street.

Knowing that the Town has issues with that, we took a look at placement of the generator -- the neighbor on the left side, it's their garage side, we're about 36 feet off of the property line. And then they have another, their driveway length and to the edge of their -- onto their garage area is so many feet. I did not walk over on the property with that.

The homeowner is willing to put year-round

Brighton Zoning Board of Appeals 9/5/18

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3 greenery around it. There are pictures that were submitted
4 I'm pretty sure with the application. I did stand out in the
5 street and take pictures directly at it. So even at the
6 location we are now, it's very, very difficult to see it from
7 the street because we understand that architectural integrity
8 is extremely important with the Town of Brighton, so we want
9 to make sure we try to hide those things.

10 I also -- there was a question that was raised
11 in the last application, if there was an okay by the
12 neighbor, we did get a letter from Number 86 Indian Springs
13 from Tom Sever. I do have copies of this -- I'll just give
14 you a whole bunch you can handout -- that will show he did
15 accept the location and he is the neighbor that is closest to
16 where the generator is going to be located.

17 MS. TOMPKINS WRIGHT: 86 or 87?

18 MS. SCHWARTZ: 87.

19 JIM SWETMAN: This is a signed letter from the
20 neighbor.

21 MS. DALE: So it looks in the picture like
22 this large evergreen tree will pretty exclusively hide it
23 from the street.

24 JIM SWETMAN: Yes, but they are willing to do
25 whatever the Town wants. We pretty much know what the

Brighton Zoning Board of Appeals 9/5/18

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3 requirements are for the Town, so they are willing to put
4 separate screening up if they have to. And they also plan
5 on -- they have to do it this year because they just did a
6 very, very extensive renovation in the interior of their home
7 in their kitchen. They held off this year, but they are
8 planning on putting an addition on the house. So that was
9 another factor in the location on the side that it would not
10 be in the way of any future expansions that they have
11 planned.

12 CHAIRPERSON MIETZ: Okay.

13 MS. CORRADO: Just for the record, as in the
14 last application, what's the decibel level?

15 JIM SWETMAN: Exactly the same, 58 under
16 whisper test function, which is a lot different than when I
17 assisted Rick back 15 years ago writing the code for the Town
18 of Brighton, they were at 72 and 74 decibels. We called them
19 screamers. They were very loud.

20 MS. CORRADO: And the location that's
21 proposed, this is adjacent to the existing mechanics?

22 JIM SWETMAN: Yes. The gas -- and that's
23 another issue they had if we had put it on the other side in
24 the back we were looking at 120-130 feet of gas pipe. There
25 was a concern about running that amount of gas pipe through

1 Brighton Zoning Board of Appeals 9/5/18

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3 the residence.

4 MS. CORRADO: Thank you.

5 CHAIRPERSON MIETZ: Any other questions?

6 Thank you.

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

10 APPLICATION 9A-03-18

11 9A-03-18 Application of Our Lady of Mercy
12 School, lessee, and Sisters of Mercy NYPPAW, Inc., owner of
13 property located at 1437 Blossom Road, for an Area Variance
14 from Sections 203-2.1C(2)(a) and 203-16B(1) to allow a
15 storage shed/press box to be located 48.1 ft. from a lot line
16 in lieu of the minimum 100 ft. required by code. All as
17 described on application and plans on file.18 RICK SYLVESTER: Good evening, I'm the
19 softball coach at Mercy High School. I do have a speech
20 impediment, it isn't that I'm nervous --

21 CHAIRPERSON MIETZ: Take your time.

22 RICK SYLVESTER: -- it's just to let you know.

23 CHAIRPERSON MIETZ: Can we have your name?

24 RICK SYLVESTER: Rick Sylvester. And yes, the
25 thing we would like to do is build a press box. It's a 20 by

Brighton Zoning Board of Appeals 9/5/18

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3 20 structure and I think the top which will be the mezzanine
4 I think is 6 by 20, I believe so, it's all within the
5 parameters.

6 If you look, the treeline along the right
7 side -- I believe they must have pictures, if not it's in the
8 plans there -- it's woods right there on the right side and
9 it has got to go there because we have to put it behind the
10 backstop and I cannot move the softball field. That's why we
11 would like the variance for the space and for the sprinkler
12 system. This press box --

13 MR. DiSTEFANO: We haven't gotten into that
14 one yet, so let's stick with the location.

15 RICK SYLVESTER: Yes.

16 CHAIRPERSON MIETZ: To summarize, I guess we'd
17 say it's really, unless the whole softball field is
18 reconfigured that's the only location the press box could go.

19 RICK SYLVESTER: Yes.

20 CHAIRPERSON MIETZ: Very good.

21 MR. DiSTEFANO: And on that other side of that
22 property line that it's going to be close to, what's there?

23 RICK SYLVESTER: It's woods. It's just woods
24 between the property line and 590. It's the woods you can
25 see when you're going up 590 north to Blossom Road. It's the

Brighton Zoning Board of Appeals 9/5/18

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3 woods.

4 MR. CLAPP: Just curious, will there be any
5 loud speakers or --

6 RICK SYLVESTER: The speakers which we have
7 right now, which we set up before every game which are
8 temporary because we just have to stick on the dugouts, will
9 be put upstairs in the press box. So there will not be any
10 change in the speaker systems.

11 CHAIRPERSON MIETZ: Now, I presume that that
12 field isn't used for anything other than softball?

13 RICK SYLVESTER: Yes. The gym teachers will
14 go out there and do stuff with it, but it's a softball field.

15 CHAIRPERSON MIETZ: So it's fair to say the
16 press box would not be used for anything else?

17 RICK SYLVESTER: No, nothing. There will be
18 some storage underneath for softball equipment and some
19 maintenance tools and that's it.

20 CHAIRPERSON MIETZ: Okay.

21 MR. DiSTEFANO: And approximately how many
22 times a year are there home games?

23 RICK SYLVESTER: Well, the JV team plays about
24 nine to ten games depending on the schedule and the weather.
25 The varsity has been successful, have gone to states, so it's

1 Brighton Zoning Board of Appeals 9/5/18

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3 about 12 to 13 home games. So you are talking 23 games a
4 year.

5 CHAIRPERSON MIETZ: Okay.

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

9 APPLICATION 9A-04-18

10 9A-04-18 Application of Our Lady of Mercy
11 School, lessee, and Sisters of Mercy NYPPAW, Inc., owner of
12 property located at 1437 Blossom Road, for relief from
13 Section 73-27 Fire Sprinkler Systems and the requirements of
14 Section 73-29 to allow a press box to be constructed without
15 a sprinkler system where one is required by code. All as
16 described on application and plans on file.

17 RICK SYLVESTER: Good evening. Again, this is
18 basically a glorified shed. It will be used 20 to 24 times a
19 year, for each event is about two hours. There will be one
20 to two people standing upstairs. There's no concessions,
21 there's no -- it's used in the spring so we don't have any
22 heat system in there. There's no fireplace, no nothing.

23 And by the way we don't have any water access
24 to the storage thing anyway so it would cost us 15- to 20,000
25 to run 150 feet of plumbing. And this shed's going to cost

Brighton Zoning Board of Appeals 9/5/18

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3 8 to 10 grand.

4 CHAIRPERSON MIETZ: The reason obviously with
5 the sprinkler system, you're aware of why that ordinance is
6 there. So my only concern was about what you brought up is
7 the concessions. You wouldn't want to be in a position where
8 the thing would be used to cook hot dogs and other stuff.
9 You would have no issue if we suggested that that wouldn't be
10 allowed to be used for that purpose at all.

11 RICK SYLVESTER: Yes, that's fine.

12 MS. DALE: It will be locked at all times?

13 RICK SYLVESTER: Absolutely. It has to be or
14 the stuff will walk.

15 CHAIRPERSON MIETZ: That equipment is quite
16 expensive.

17 RICK SYLVESTER: The only thing I'd ask on the
18 concessions is if we ever got to the point of selling, you
19 know, some drinks and stuff where we did not have a grill
20 would that still be in that?

21 CHAIRPERSON MIETZ: We can talk that through.
22 I am sure there's a way to draft something. We wouldn't want
23 any kind of cooking in there. If you're selling candy bars
24 and soda, we don't care about that.

25 RICK SYLVESTER: I'm not looking at a grill.

1 Brighton Zoning Board of Appeals 9/5/18

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3 CHAIRPERSON MIETZ: As long as the building
4 isn't used for anything other than what you've intended.

5 RICK SYLVESTER: Yes.

6 MR. CLAPP: My only other concern, other than
7 the cooking which was covered, would be how many -- you
8 mentioned one or two people on that upper level?

9 RICK SYLVESTER: Yes.

10 MR. CLAPP: My concern would be that at one
11 point a lot of students decided to go up there and something
12 happened.

13 RICK SYLVESTER: Students are not allowed up
14 there. We may have one student manager.

15 MR. CLAPP: Are we able to specify?

16 CHAIRPERSON MIETZ: Here's the thing -- we can
17 save that for our discussions.

18 MR. CLAPP: Okay.

19 RICK SYLVESTER: Basically, it will be one or
20 two parents and I may have a student up there who's the team
21 manager to keep stats. This is not about to be a fun hangout
22 for students. Just, I'm not that guy, I have been at it way
23 too long.

24 CHAIRPERSON MIETZ: Thank you. Are there
25 other questions?

1 Brighton Zoning Board of Appeals 9/5/18

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3 MS. TOMPKINS WRIGHT: I have a question for
4 Rick, no letter of recommendation from Chris Roth?

5 MR. DiSTEFANO: Right.

6 CHAIRPERSON MIETZ: Thank you.

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

10 APPLICATION 9A-05-18

11 9A-05-18 Application of William Clark, owner
12 of property located at 1658 Clover Street (Tax ID #s
13 137.11-3-20 and 137.11-3-21.1) for an Area Variance from
14 Section 205-2 to allow a side setback of an existing house to
15 be 15.1 ft., after combining two lots into one, in lieu of
16 the minimum 37.5 ft. required by code. All as described on
17 application and plans on file.

18 DAVE STAERR: Good evening, my name is Dave
19 Staerr, I'm president of Parrone Engineering. I'm here
20 representing Mr. William Clark who lives at 1658 Clover
21 Street. The maps I brought show the area in which he lives.
22 This is Clover Street and Elmwood, the southeast corner. His
23 home is over on what was Lot 4 and 5. We prepared the
24 subdivision back in 2004, re-appropriated some of the lot
25 line.

1 Brighton Zoning Board of Appeals 9/5/18

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3 He's purchased both lots and at this point in
4 time what he would like to do is build a swimming pool in the
5 backyard, but it's going to straddle the lot line, so the
6 best solution is to eliminate the lot line. The unfortunate
7 part is the code requires a 15 percent --

8 MR. DOLLINGER: Base.

9 DAVE STAERR: Pardon me?

10 MR. DOLLINGER: No, it's just a weird result.
11 Bigger, but yet a different --

12 DAVE STAERR: Right. So the 15 percent side
13 tithe for the lot width on one side brings him into
14 violation. So we are looking for a relief for the side
15 setback. The structures are there, they are already
16 nonconforming, pre-existing. The original map in the
17 application did ask about some of the other structures. As
18 you can see, here's his existing home, the nearest home is
19 behind him, and immediately behind him is the tennis court.
20 So, again, we're seeking relief from --

21 CHAIRPERSON MIETZ: Okay. Pretty expensive
22 swimming pool.

23 DAVE STAERR: It could be.

24 CHAIRPERSON MIETZ: So I think we understand.
25 Any specific questions?

1 Brighton Zoning Board of Appeals 9/5/18

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3 MR. CLAPP: Just to be clear, the only
4 construction is building the new pool.

5 DAVE STAERR: That is correct. He's not
6 trying to build another building.

7 MR. CLAPP: So there's no structure being
8 built, it's just the --

9 DAVE STAERR: I can't answer that. He could be
10 putting a pool house in, I don't know that.

11 MR. CLAPP: That's not the part of --

12 DAVE STAERR: No.

13 MR. CLAPP: Okay.

14 MS. TOMPKINS WRIGHT: Rick, is the 15.1 feet
15 that it currently is, is this in compliance with the current
16 single part?

17 DAVE STAERR: I don't believe it is.

18 MR. DiSTEFANO: What's the lot width?

19 DAVE STAERR: It's 100.

20 MR. DiSTEFANO: Yeah, so it's right at, but
21 the garage isn't.

22 DAVE STAERR: The house is, the garage is not.
23 Through this area is the neighboring driveway, there's really
24 no neighbor there.

25 CHAIRPERSON MIETZ: It's a little bizarre the

Brighton Zoning Board of Appeals 9/5/18

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3 way that whole thing was chopped up. Questions? Great,
4 thank you.

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

8 APPLICATION 9A-06-18

9 9A-06-18 Application of Kirk Wright, Sign and
10 Lighting Services, contractor, and Shailesh Patel, owner of
11 property located at 2729 Monroe Avenue, for modification of
12 Sign Variance approval 3A-07-08 to allow for
13 replacement/change of the approved sign. All as described on
14 application and plans on file.

15 SHAILESH PATEL: Hi, my name is Shailesh
16 Patel.

17 KIRK WRIGHT: Kirk Wright.

18 SHAILESH PATEL: I'm the owner of 2729 Monroe
19 Avenue, and also 2323 Monroe Avenue. So just a little bit of
20 history on the building because there was an application for
21 a second facing sign by my brother.

22 MR. DiSTEFANO: We are going to do that one
23 after this one. So let's just stick with the front sign
24 first and then we'll go on to the backside.

25 SHAILESH PATEL: Of course. We're converting

Brighton Zoning Board of Appeals 9/5/18

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3 it from a Comfort Inn to a Quality Inn and we simply are
4 asking that the face of the sign to be replaced by a Quality
5 Inn sign. It's approved by the franchise. It's actually
6 dictated by the franchise. The colors, specifications, the
7 logo, the lettering, it's not too much different other than
8 we're going from blue to green and the logo is changing. The
9 size of the Inn part is almost identical and the size of the
10 Quality and the Comfort are almost identical. It's literally
11 the logo. So in our view it seems like a pretty simple one.

12 We're also going to be making it energy
13 efficient. There's several tube lights in there right now,
14 it's going to be going to LEDs because their sign does run 12
15 to 13 hours a day.

16 So other than that Part A, we're just asking
17 to swap out the plexiglass in it and replace the LEDs.

18 CHAIRPERSON MIETZ: Is it really a whole new
19 box?

20 SHAILESH PATEL: No. The box is better.

21 KIRK WRIGHT: The sign will actually stay on
22 the wall. We will replace the panel on the sign itself.
23 It's actually a fabric Panaflex face, so it's actually like a
24 modification of the existing sign, same size, more efficient
25 lighting.

Brighton Zoning Board of Appeals 9/5/18

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3 MS. WATSON: The switch to the LED, is there
4 any changes to brightness or any substantial change in the
5 brightness?

6 KIRK WRIGHT: No, the lumens won't increase at
7 all.

8 MS. TOMPKINS WRIGHT: Based on how Brighton
9 measures a logo, is this logo larger than --

10 MR. DiSTEFANO: Comfort?

11 MS. TOMPKINS WRIGHT: Yes.

12 MR. DiSTEFANO: I don't know. That's a good
13 question for the applicant.

14 MS. TOMPKINS WRIGHT: Do you know how big the
15 actual logo is in comparison to the sign? What percentage of
16 the sign is the logo?

17 KIRK WRIGHT: 25 percent, roughly.

18 MR. DiSTEFANO: Well, it's greater than
19 25 percent, but I don't know if we ever got that answer.

20 KIRK WRIGHT: The logo being the actual gold
21 part of it?

22 MR. DiSTEFANO: Yes.

23 MS. TOMPKINS WRIGHT: Logos in Brighton are
24 measured with a box around them. So you draw a square around
25 it and measure that or draw a rectangle around it and measure

Brighton Zoning Board of Appeals 9/5/18

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3 that rectangle. Eyeballing it, it looks like it's close to
4 probably 40 to 50 percent.

5 CHAIRPERSON MIETZ: Might even be 60 percent.

6 MS. TOMPKINS WRIGHT: I don't have a problem
7 with the size, it's just hard to grant a variance you don't
8 know what percentage of the sign the logo takes up.

9 KIRK WRIGHT: I wasn't ready for that
10 question. I didn't realize it would be something that
11 significant because the logo itself has been given to us by
12 the franchise. And based on the aspects, the way the Q
13 looks, you notice on there it's not the entire Q.
14 Specifically as done, you only want the bottom half of the Q
15 to show. If I was to shrink it, it would distort it.

16 CHAIRPERSON MIETZ: We're not saying that.

17 MS. TOMPKINS WRIGHT: No. We understand these
18 are dictated by the franchise and you have no control over
19 it, but when we grant a variance we normally need to put in
20 how substantial it is. So if the code only allows 25 percent
21 over, you know.

22 KIRK WRIGHT: Based on Mr. Mietz's, you know,
23 guess or hypothesis, it would be 40 to 60 percent.

24 CHAIRPERSON MIETZ: I'm sure it is. Because
25 the existing Comfort Inn one was about the same.

1 Brighton Zoning Board of Appeals 9/5/18

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3 MR. DiSTEFANO: But back then they said it was
4 32 percent or something. They testified back when that
5 Comfort Inn came in, I asked them to figure that number out
6 for us.

7 SHAILESH PATEL: I wasn't around, I wasn't
8 here, so it's not my application.

9 MR. DiSTEFANO: Not that one, I asked when it
10 came in this time, I said, do that calculation. Not to you,
11 but do the calculation so we know the number so we can
12 present that to the Board. We don't know what that number
13 is.

14 KIRK WRIGHT: Well, we can come back with a
15 scientific calculation if you like, the ratio of color and
16 the logo.

17 CHAIRPERSON MIETZ: We kind of need to know.

18 MS. TOMPKINS WRIGHT: We can't enforce it
19 unless we know what percentage it is supposed to be.

20 MR. DiSTEFANO: If they have a scaled drawing
21 they can figure that out.

22 CHAIRPERSON MIETZ: Well, they can sit down
23 and work on it.

24 SHAILESH PATEL: So what is the exact
25 specifications of the calculation you'd like to have us do?

Brighton Zoning Board of Appeals 9/5/18

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3 MR. DiSTEFANO: You place a rectangle around
4 the logo.

5 SHAILESH PATEL: Is there a spec sheet that we
6 can follow? I want to make sure the lines are in it.

7 MR. DiSTEFANO: Well, just place rectangle
8 around the logo, you take that measurement, and if that
9 measurement is greater than 25 percent -- what is that
10 measurement of the entire sign face? So you have a box
11 within a box. How much is that box within a box? Is it
12 40 percent of the sign face, is it 30 percent, 50 percent?

13 MS. DALE: Just need a ruler and a calculator.

14 KIRK WRIGHT: Exactly, in a couple moments.

15 MR. DiSTEFANO: Yeah, then we will go on to
16 the other one. On that one we need the calculation too. Do
17 you need a scale?

18 KIRK WRIGHT: Yes, thank you.

19 MR. DiSTEFANO: We can move on to the next
20 application while they're trying to --

21 CHAIRPERSON MIETZ: We will have the same
22 issue.

23 MR. DiSTEFANO: We will have the same issue
24 because that's part of the request for the new sign.

25 SHAILESH PATEL: Well, for that part of it

Brighton Zoning Board of Appeals 9/5/18

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3 because it will be two parts of that.

4 MR. DiSTEFANO: Yeah, we can start --

5 CHAIRPERSON MIETZ: Do you want to just defer
6 some time here and go on to eight and nine, and we can come
7 back to this?

8 MR. DiSTEFANO: Yeah, why don't we do that.
9 You work on it and we will take the next two.

10 CHAIRPERSON MIETZ: We will go on to eight and
11 nine.

12 APPLICATION 9A-08-18

13 9A-08-18 Application of Richard Carvotta - RJC
14 Holdings, LLC, owner of property located at 1890 South
15 Clinton Avenue, for modification of use variances (5A-03-87
16 and 5A-15- 89) to allow for outdoor dining in conjunction
17 with an approved restaurant use in a BE-1 Office District
18 where not allowed by code. All as described on application
19 and plans on file.

20 APPLICATION 9A-09-18

21 9A-09-18 Application of Richard Carvotta - RJC
22 Holdings, LLC, owner of property located at 1890 South
23 Clinton Avenue, for an Area Variance from Section 205-6 to
24 allow impervious coverage to increase from 84.2% to 85.7%
25 (after construction of a 735 sf outdoor patio) where a

Brighton Zoning Board of Appeals 9/5/18

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3 maximum 65% is allowed by code. All as described on
4 application and plans on file.

5 PETER ROETZER: Good evening, my name is Peter
6 Roetzer, I'm an architect for Richard Carvotta. I'm here
7 regarding MacGregor's property, it used to be a Zebb's. We
8 would like to put an outdoor dining area in the front facing
9 Clinton Avenue. Right now it's zoned a B1 district, which
10 doesn't typically allow restaurants. And you've got a
11 variance back in the 80s when it was originally built to
12 allow for a restaurant, but there wasn't outdoor dining
13 included in that variance. That's what I'm here to do, to
14 ask for an outdoor dining area component to be amended to
15 that original variance.

16 The outdoor dining area was designed to meet
17 the standards as proposed in the areas that allow outdoor
18 dining. The Tops Plaza area and the Lac De Ville shops, they
19 do have four restaurants in there currently, and each one has
20 an outdoor dining element associated with it. So there's the
21 Rita's ice cream, there's Amaya, there's a grill coming soon,
22 and the Golden Dynasty which has closed down but it had
23 outdoor dining right next to it.

24 And the character of the outdoor dining will
25 be very similar to the business area. It will have a maximum

Brighton Zoning Board of Appeals 9/5/18

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3 42-inch high aluminum fence with an evergreen hedge around
4 the front of it, so it will disguise almost the entire patio.
5 The patio itself will be comprised of cultured stone of
6 various types, and it will look very nice and keep in nature
7 with the neighborhood.

8 MS. SCHWARTZ: What are you doing as far as,
9 are there going to be dishes or will it be paper? What are
10 the people going to be eating off of?

11 PETER ROETZER: It's going to be the same as
12 what they're eating on inside, so it will be dishes.

13 MS. SCHWARTZ: Okay. And I'm not familiar,
14 are they waited on?

15 PETER ROETZER: Yes, it's a full service.

16 MS. SCHWARTZ: Okay.

17 CHAIRPERSON MIETZ: It's not like a bar.

18 PETER ROETZER: No, the bar area will be kept
19 inside. This is reserved for dining.

20 And in regards to the parking area, originally
21 there were -- the seat count had 288 people in it, with the
22 renovation we have 188 people to accommodate the 30 to 32
23 people that are going to be eating at that outdoor dining
24 area. So we still have to fall within the original seat
25 count from the original variance.

Brighton Zoning Board of Appeals 9/5/18

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3 MS. DALE: And the outdoor seating will only
4 be three quarters of the year, closed in the winter?

5 PETER ROETZER: On a good year, three quarters
6 of the year.

7 MS. DALE: So during that time there wouldn't
8 be as much seating.

9 PETER ROETZER: Right.

10 MS. TOMPKINS WRIGHT: Basically just July and
11 August.

12 MS. CORRADO: Will there be loud speakers on
13 the patio?

14 PETER ROETZER: No.

15 MS. CORRADO: No outdoor music?

16 PETER ROETZER: No live music, no outdoor
17 music.

18 CHAIRPERSON MIETZ: What are the planned hours
19 for the restaurant?

20 PETER ROETZER: I think food service stops at
21 10:00 p.m., so then it will be people left over. They
22 wouldn't be serving alcohol only out there.

23 CHAIRPERSON MIETZ: I guess the question then
24 is, obviously the bar, et cetera is open later than
25 10:00 p.m. inside, yes?

Brighton Zoning Board of Appeals 9/5/18

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PETER ROETZER: Yes.

CHAIRPERSON MIETZ: So will people be allowed to take their drinks and sit outside?

PETER ROETZER: No.

CHAIRPERSON MIETZ: Will that area be shutdown?

PETER ROETZER: That area will be shutdown.

CHAIRPERSON MIETZ: Okay.

MS. SCHWARTZ: So it's really only going to be for dining at all times?

PETER ROETZER: Yes.

MS. SCHWARTZ: So just as he said, you can't order a drink at the bar and come out, you stay inside?

PETER ROETZER: Right.

MS. TOMPKINS WRIGHT: But you can order a drink out there?

PETER ROETZER: You can, yes. You will order from your server to bring with your meal.

MS. SCHWARTZ: Okay.

CHAIRPERSON MIETZ: I think we have it. Any other questions?

MR. CLAPP: A question about the drainage. There was a garden there, but having that area paved do you

Brighton Zoning Board of Appeals 9/5/18

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3 anticipate any issues or extra consideration for --

4 PETER ROETZER: There shouldn't be any issue
5 overall. If you look at the whole area it's all paved, and
6 it goes into a retention pond to the east. But right now we
7 have a three-foot minimum landscape border around the entire
8 patio. So anything that comes on the patio is mostly gong to
9 be absorbed into that three-foot area. And it's small pavers
10 too, so maximum 9 inch by 9 inch, so there's going to be some
11 water seepage to the paver itself. It's not a concrete
12 patio.

13 CHAIRPERSON MIETZ: You just redid the
14 sidewalks in front, right?

15 PETER ROETZER: Yes.

16 MR. CLAPP: Does this affect coverage area?

17 MR. DiSTEFANO: That's what they're asking for
18 another variance for, because they are already preexisting
19 nonconforming and they're adding to that nonconformance. So
20 they need the variance over the coverage requirement.

21 Just again, I may have missed it at the very
22 beginning, what's the mitigation that you are proposing for
23 the loss of green space?

24 PETER ROETZER: We are landscaping. There's
25 going to be better landscaping there.

1 Brighton Zoning Board of Appeals 9/5/18

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3 MR. DiSTEFANO: Just in that particular area
4 or are you proposing something for out towards the road?

5 PETER ROETZER: Just the entire front of the
6 building's going to get all new landscaping. There's no plan
7 right now to do anything at South Clinton.

8 MR. DiSTEFANO: This does have to go to the
9 Planning Board also for the site plan modifications. Do you
10 have that landscaping plan?

11 PETER ROETZER: Not as specific with plan
12 materials.

13 MR. DiSTEFANO: You might want to have
14 something for the Planning Board at that point in time. That
15 meeting is September 17th.

16 MS. TOMPKINS WRIGHT: For modification of a
17 use variance does it follow the same requirements as a
18 traditional use variance?

19 MR. DiSTEFANO: No. You don't need to find a
20 hardship or anything, financial hardship. It's just whether
21 or not you feel that expanding the original use variance is
22 warranted here.

23 CHAIRPERSON MIETZ: Reasonable. Okay. Any
24 other questions related to the patio? Okay.

25 Is there anyone in the audience that would

Brighton Zoning Board of Appeals 9/5/18

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

5 We will move to Part 2.

6 PETER ROETZER: So right now the existing site
7 is almost completely covered with impervious 84.84 and some
8 change percent, where the code requires a maximum 65 percent.
9 So we are looking with the patio it's about 735 square feet,
10 it's going to increase the impervious area by one and a half
11 percent. Again, it's the nature of having an outdoor patio.
12 I wish we could have more green space in this area, but with
13 all the constraints it's tough.

14 CHAIRPERSON MIETZ: So for the record, like,
15 at the back corner where the Dumpster enclosure is and all of
16 the other things you put anywhere, you couldn't find any
17 place to grade some mitigation?

18 PETER ROETZER: Without losing parking, it's
19 kind of which way do we go? We would have to go for a
20 parking variance to lose some parking spaces or go for the
21 increasing of impervious area.

22 CHAIRPERSON MIETZ: Okay. It's a pretty tight
23 site anyway.

24 MS. CORRADO: Do you anticipate that all of
25 the parking will be in full demand so there couldn't be a

Brighton Zoning Board of Appeals 9/5/18

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3 reduction in parking spaces to mitigate?

4 PETER ROETZER: I'm sure the owner has hopes
5 that that's going to be.

6 MR. DiSTEFANO: I will add this in regards to
7 that. Back when it was approved for I think Ponderosa was
8 the original variance, the code required one space for every
9 three seats. Today's code requires one space for every two
10 seats. So in essence, they are pre-existing nonconforming in
11 terms of their parking now, so they really have less on site
12 than what the code requires. But because it was approved
13 that way they can continue with that.

14 It was mentioned earlier that they have the
15 right to 220 seats and I think they have 70-some odd parking
16 spaces, or 80 parking spaces. So they're real close to that
17 three-to-one ratio. They can maintain that, but if they lose
18 any parking spaces then they're coming back for variances
19 because it's gotten worse, the nonconformance has gotten
20 worse. We don't want them to lose anymore parking spaces on
21 that site because they're already nonconforming in terms of
22 parking.

23 So parking could be a little tight there to
24 begin with, but they have the right to the 221 seats or
25 whatever that number was back when it was considered

Brighton Zoning Board of Appeals 9/5/18

Ponderosa under the original use variance.

MS. CORRADO: The direction it has gone in is not a good one.

CHAIRPERSON MIETZ: So are there any questions about the analysis of this?

MS. WATSON: Just a tangential question, but are there bike racks on site?

PETER ROETZER: No.

MS. CORRADO: Would there be an opportunity to find space for bike racks?

PETER ROETZER: I think so. The front entry there's a lot of space that we could do a bike rack there.

MS. CORRADO: They'd be willing to accept that as a condition of the variance?

PETER ROETZER: I think so.

CHAIRPERSON MIETZ: Okay. Any 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.

Gentlemen, are we ready?

MR. DiSTEFANO: Just for the record we are bringing up Application 9A-06 to 9A-07 once again.

1 Brighton Zoning Board of Appeals 9/5/18

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3 KIRK WRIGHT: We have the logo at 47 percent
4 of the sign area.

5 CHAIRPERSON MIETZ: This is on the first
6 application, the Quality Inn face?

7 KIRK WRIGHT: Quality Inn, Q logo.

8 MS. TOMPKINS WRIGHT: 47 percent?

9 KIRK WRIGHT: That's correct.

10 SHAILESH PATEL: That's mostly attributed to
11 the design of the logo.

12 CHAIRPERSON MIETZ: That's fine. We
13 understand what corporate America is, so let's finish up on
14 9A-06. Are there any other questions on that sign face
15 replacement, the logo portion of it 47 percent of the
16 proposed sign?

17 Rick, you don't know that they're allowed that
18 sign?

19 MR. DiSTEFANO: Well, under the original
20 approval I believe it was 32 percent under the Comfort Inn
21 logo. Now whether or not that Comfort Inn logo was 32 or
22 not, I think if you look at the comparisons I think it's
23 closer to 47 than it is the 32.

24 CHAIRPERSON MIETZ: It will be important when
25 we're talking a little bit about Application 7. Do we know

Brighton Zoning Board of Appeals 9/5/18

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3 what based on their street frontage how much square footage
4 of signage they're allow on the building?

5 MR. DiSTEFANO: Yes, I can find that number
6 out if we have it scaled there. You're just looking for the
7 square footage?

8 CHAIRPERSON MIETZ: Yes, for the single sign.

9 MR. DiSTEFANO: Do you know the width of the
10 building?

11 SHAILESH PATEL: The width of the building is
12 important to the sign?

13 MR. DiSTEFANO: Right. I think the sign area
14 is fine because that was not a request of a variance with the
15 Comfort Inn.

16 CHAIRPERSON MIETZ: I understand.

17 MR. DiSTEFANO: I know, but I'm just saying
18 it's not -- the size is not a variance issue.

19 CHAIRPERSON MIETZ: For the next application
20 it's just nice to know, if they knew what it was. I don't
21 see anything that's a scale here for sure to figure it out.

22 MS. WATSON: In the previous application,
23 Rick, it says that the 62 square feet of signage would
24 normally be allowed and that they were about 47 square feet.

25 CHAIRPERSON MIETZ: Okay.

Brighton Zoning Board of Appeals 9/5/18

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3 MR. DiSTEFANO: That was in the original one,
4 right?

5 MS. WATSON: Yes.

6 MR. DiSTEFANO: So about 52 square feet.

7 SHAILESH PATEL: So if the actual sign is
8 47 square feet, you said?

9 MS. WATSON: Yes.

10 SHAILESH PATEL: So the actual sign today is
11 47 square feet and the allowance would be for 62.

12 CHAIRPERSON MIETZ: Okay.

13 SHAILESH PATEL: So we have 15 square feet
14 roughly that we haven't used. The new sign in back would
15 be --

16 CHAIRPERSON MIETZ: Hang on, let's finish up
17 Number 6.

18 MR. DiSTEFANO: Yeah, we will get there.

19 CHAIRPERSON MIETZ: Let's finish up Number 6.
20 Is there any other questions related to the logo on the sign
21 face change?

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

25 APPLICATION 9A-07-18

1 Brighton Zoning Board of Appeals 9/5/18

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3 9A-07-18 Application of Kirk Wright, Sign and
4 Lighting Services, contractor, and Shailesh Patel, owner of
5 property located at 2729 Monroe Avenue, for 1) a Sign
6 Variance from Section 207-32B to allow a sign on a second
7 building side (rear) where not allowed by code; 2) a Sign
8 Variance from Section 207-32B(3) to allow said sign to
9 project 29+/- ft. above grade in lieu of the maximum 20 ft.
10 allowed by code; and 3) a Sign Variance from Section 207-26D
11 to allow the logo area to be greater than the maximum 25% of
12 sign area allowed by code. All as described on application
13 and plans on file.

14 CHAIRPERSON MIETZ: Okay.

15 SHAILESH PATEL: So we would like to have a
16 sign put on the back, basically the same sign we are asking
17 to put in the front. So that folks coming off of the highway
18 can identify that our hotel is on the right-hand side not on
19 the left-hand side, when they need to make a right or left.

20 Our neighbor has also been granted a variance
21 for a sign on the rear, City Mattress, which is a beautiful
22 sign. It lights it up nicely and shows our exit to Monroe
23 Avenue. We would like to do the same thing, just complement
24 it. We realize the sign will be predominately visible in the
25 fall and winter months and that is actually perfect. That's

Brighton Zoning Board of Appeals 9/5/18

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3 when we're looking to gather folks to come more off the
4 highway anyway. The sign, you know, would be made to the
5 specifications required by our franchisee and as Kirk has
6 shown you, what it will look like in the imagery.

7 A little bit of history on the hotel. When my
8 brother purchased this hotel it had the infamy of being known
9 as one of the worst hotels in America. Yeah, my brother had
10 spent good energy and effort into converting it to a Comfort
11 Inn, which then won five platinum awards from Choice Hotels
12 International, which is only given to ten hotels out of
13 fifteen hundred in the entire system.

14 In 2009, he passed away. After that, the
15 hotel had still maintained the Comfort Inn franchise
16 standards, but hasn't won any awards. So what my wife and I
17 are planning here is to get some awards again and make this
18 thing a platinum hotel for Monroe Avenue and the residents of
19 Brighton.

20 My family also owns the hotel down the street,
21 the Towpath Motel, which also is our next project so I'll be
22 up here in front of you guys for a couple times because our
23 plan is to also convert that into a franchise and upscale it.
24 Because, unfortunately, the situation we live at down the
25 street from downtown, it's a magnet for the lower end of

Brighton Zoning Board of Appeals 9/5/18

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3 clientele we can attract to the hotel. So we'd like to shift
4 the whole concept of hotels on Monroe Avenue since we own two
5 out of three of them, and we'd like to make sure that we
6 don't let these hotels go into disarray and go really bad,
7 because unfortunately our town has a history of hotels going
8 bad. I think some of you -- all of you must know the history
9 of CVS before it was there.

10 So I don't want to be known as that. I'm a
11 family person, my children go to school here, plan to be here
12 for the next 15 to 20 years. We're simply asking to put up a
13 sign in the back like our neighbor has also been granted a
14 variance for. And we believe the sign will, you know, make
15 our exit off 590 very attractive for customers, tourists,
16 folks to come by.

17 So we're simply asking for the variance
18 because we know that the numbers and things maybe look big
19 compared to what the actual allowances are, but we believe
20 the fundamental concept of what we're trying to do here will
21 be beneficial to the community and Monroe Avenue and the
22 County as well.

23 This is also the first hotel the County has
24 backed in ten years, so my wife and I have convinced the
25 County to back this hotel. So take that into consideration

Brighton Zoning Board of Appeals 9/5/18

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3 as well that our pitch to Monroe County was effective enough
4 for them to support the hotel.

5 So our overall master plan of converting this
6 to a Quality Inn, improving the inside, improving the outside
7 tremendously as well, is beneficial to everyone who lives in
8 the town. So as owners of two out of three hotels in this
9 town we'd like to make sure that you understand that our
10 intent here is to bring these hotels to a very nice standing.
11 We'd like your cooperation to help us to do that.

12 But a few of these things are dictated by the
13 franchisee, which, you know, we are arguing with them as much
14 as we want to sort of customize it to our clientele and our
15 customer. We've asked for variances from them on things like
16 having Kosher meals available for our guests, currently we
17 don't.

18 So overall we're trying to cater our hotel
19 towards our community. So, you know, I know that he faced a
20 lot of questions by Ms. Schwartz back then when he applied
21 for these about the peak of the hotel. And I think the peak
22 ended up being a good feature of the hotel, it won it some
23 awards. It was a beautiful hotel.

24 The other thing is, you know, the concerns
25 that it would have a detrimental effect on the neighboring

Brighton Zoning Board of Appeals 9/5/18

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3 residential neighborhood. I don't think I need to even speak
4 to that because I'm pretty positive that it has not been
5 detrimental. If it had remained the Aloha Hotel I'm pretty
6 sure that would have been detrimental.

7 Also, it said an unacceptable change to the
8 character of the neighborhood would occur. Again, probably
9 not something I need to speak to, but I'm pretty sure our
10 reputation and our awards themselves speak to that change in
11 the character of the neighborhood.

12 So with that being said, I don't know if
13 there's anything on the sign end of it from the physical
14 attributes that we did not address, but overall that is our
15 request for the variance and the changing of the logo itself.

16 CHAIRPERSON MIETZ: Okay.

17 MS. WATSON: I have a couple questions. Would
18 you say that the need for the rear-facing sign is primarily
19 way finding or promotional, or how would you articulate the
20 need?

21 SHAILESH PATEL: Way finding. Because
22 everyone goes left for some reason, they think the hotels are
23 going to be towards the center of Brighton not towards the
24 outer edge of Brighton-Pittsford. The buildings are obvious,
25 you know, we ourselves, we all live here so we know that's

Brighton Zoning Board of Appeals 9/5/18

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3 the hotel. But if you are a visitor, then they may not
4 realize that they have to go right.

5 There's no small signage, like Safety
6 Department of Transportation signs. If you see the thruway
7 exits that show you where the hotels are, left or right, or
8 the Dunkin' Donuts are left or right, there's nothing like
9 that there, so it's easy to be mistaken and go left.

10 And over the lifetime of, you know,
11 10/12 years I'm sure that a small percentage have gone left
12 and had to come back right, caused some confusion, some
13 accidents. We just want the folks to know to go right. It's
14 simple, it's right there.

15 MS. WATSON: Do most people not use GPS or use
16 advance reservations for addresses?

17 SHAILESH PATEL: Most of our population of our
18 guest clientele we found are grandparents, parents of college
19 students. They're coming to drop them off at Nazareth and
20 Fisher. You know, I can't speak to the general population of
21 GPS users, but those folks tend to seem to get lost trying to
22 find us.

23 MS. WATSON: What other alternatives have you
24 explored to solve the direction and way finding need? Have
25 you considered placing a sign on the side of the building as

Brighton Zoning Board of Appeals 9/5/18

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3 opposed to the back? For me when I was driving around the
4 property, and I even, like, went up and down 590 and back and
5 forth trying to see it from various perspectives. The back
6 was not easily visible, the side was.

7 SHAILESH PATEL: The side is visible, but my
8 guest rooms are there. In order for me to -- as my brother
9 explained back then -- if I put a sign on the side of the
10 building I would have to literally rip out sheetrock in order
11 to service that sign, getting it fixed every time, because
12 the way the structure is built. It's an old building built
13 in 1965, converted to a Comfort Inn. And now we're trying to
14 upgrade it a little bit, but some of these things are
15 restricted by the building itself.

16 We did upgrade all of the electrical and the
17 fire, and all of those things back then. But putting a sign
18 on the side of the building, I don't think it would look as
19 attractive as putting it on the back. Because simply the
20 building is also very symmetrical, the peaks on top, it just
21 makes sense to it put it on the end of it and on the front as
22 well.

23 CHAIRPERSON MIETZ: Okay. Questions?

24 MS. SCHWARTZ: Would you consider seeing if
25 things worked in a few months and then come back and ask for

Brighton Zoning Board of Appeals 9/5/18

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3 the second sign?

4 SHAILESH PATEL: Unfortunately, no, I don't
5 have time on our side. I need to convert it to a Quality Inn
6 so that I can get my franchise fee reduced from what they're
7 charging right now to a reasonable one, which I've
8 renegotiated. They only give me that once the sign is up.
9 The sign is the keystone and before I can get officially
10 approved, everything inside has been converted --

11 MS. SCHWARTZ: So you're saying that corporate
12 is demanding that you put the sign up there?

13 SHAILESH PATEL: No. Corporate's demanding
14 that we change the sign to a Quality Inn. Because of the
15 cost of changing a sign and having a vender that's in
16 Michigan --

17 KIRK WRIGHT: Watertown, South Dakota.

18 SHAILESH PATEL: So the sign is actually
19 physically made in South Dakota. So, you know, whether I
20 need one or two, the way signs are made it's very important
21 to know. And from a cost perspective I don't want to have to
22 redo it again as it's quite expensive.

23 MS. SCHWARTZ: No, I'm not saying that. You
24 missed my point. My point is, yes, go ahead with your front
25 one. That's fine that you're changing, but wait a few months

Brighton Zoning Board of Appeals 9/5/18

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3 to see if you get complaints from customers who stay there
4 that they really couldn't find it when they came off the
5 expressway and then if there really is a need, then you
6 can --

7 SHAILESH PATEL: I'd be willing to consider
8 that, Ms. Schwartz, but the thing is, it's been a hotel for
9 so many years it's not like you don't have the guests that
10 are getting lost. Changing the name isn't going to be the
11 problem, that's not the issue of why we would need to wait.
12 We already know that our guests can't find us sometimes, so
13 that's why we would need to wait. We already know this.

14 CHAIRPERSON MIETZ: They have a track record.
15 It's not like they're opening a new hotel. City Mattress
16 could make that argument there.

17 MS. WATSON: I don't debate the need for way
18 finding, my concern is that I'm not sure that the placement
19 of the sign in the rear really solves that problem. Because
20 from all the driving around I did I couldn't see the back of
21 the building at all. I know that you said it's because of
22 the foliage on the trees, but I'm not sure that the sign
23 would solve the need.

24 SHAILESH PATEL: It's also dark back there,
25 because the lighting is not appropriate, because the lighting

Brighton Zoning Board of Appeals 9/5/18

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3 has been gone. Like I said, the hotel's a platinum hotel.
4 The lights simply just went out year by year. It's not lit
5 up back there like it should be. We're in the process of
6 doing that, but we literally have owned it since my birthday
7 April 15th, and we're working on things one at a time. The
8 lighting on the back is something I can address as well,
9 because, you know, brighter --

10 MS. WATSON: That's why I'm wondering if
11 you've considered any other alternatives to help with that
12 way finding other than this variance?

13 SHAILESH PATEL: A sign. Folks, a sign is
14 going to tell you where it is. There's no beating an old
15 fashioned sign, which is what we're are asking for. City
16 Mattress is there, I mean, if anyone did not need a sign,
17 they are the first property. You know, you wouldn't need one
18 there, it's the ones that go inward that are going to need
19 more way finding.

20 So in fact, the City Mattress building which
21 did get a variance has two signs on the back. You know, in
22 my view, you know, you see that building because of the
23 lights already. They don't need a sign. I actually need a
24 sign and the folks next door, and the eventual businesses,
25 I'm the first one in there on that triangle. You know, they

Brighton Zoning Board of Appeals 9/5/18

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3 turn their lights off about midnight there and some of our
4 guests arrive at 2:00 or 3:00 in the morning. So when they
5 turn those lights off it's pitch black, so it matters.

6 There's a lot of sort of seasonal things.
7 There's the reality of operating a hotel, name is changing.
8 The sign on the back to me, you know, the reason we are going
9 at it again is because my brother had this idea then, he just
10 wasn't able to present it, maybe, and there wasn't a
11 convincing argument? Our reason now is the neighbors were
12 granted a variance, they have a second sign. It looks
13 beautiful. We simply have a test case that it works. We're
14 simply asking to follow along. You know why we are doing it.

15 CHAIRPERSON MIETZ: Okay. Any other
16 questions?

17 SHAILESH PATEL: Just a final closing. We are
18 also the first ones who helped with the green initiative on
19 Monroe Avenue. No businesses wanted to give up their parking
20 spaces. We actually had three entrances at our hotel. We
21 didn't need the second and third entrance, so we told the
22 town to close it up, make some green space. So we were the
23 first case, Ramsey can testify to this. We were the first
24 ones to sort of help out, so we have been cooperative by all
25 means.

Brighton Zoning Board of Appeals 9/5/18

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CHAIRPERSON MIETZ: All right, thank you. We appreciate that.

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 five-minute break.

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Brighton Zoning Board of Appeals 9/5/18

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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 21st day of September, 2018.

At Rochester, New York


Rhoda Collins

Brighton Zoning Board of Appeals 9/5/18

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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON SEPTEMBER 5TH,
2018 AT APPROXIMATELY 8:30 P.M.

September 5th, 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 9/5/18

APPLICATION 9A-01-18

9A-01-18 Application of Home Power Systems, contractor, and Walter Ferguson, owner of property located at 11 Fieldston Terrace, for an Area Variance from Sections 203-2.1B(6) and 203-9A to allow a standby emergency generator to be located in the front 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 Mr. Clapp to approve Application 9A-01-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The generator meets the decibel requirements of the current code and the location is not in close proximity to any adjacent properties.
2. There's not adequate setback in other parts of the property for the location of a generator.
3. The requested variance is not substantial as the lot is a corner lot and therefore technically has two front yards.
4. The proposed variance will not have an adverse effect or detriment to the physical and environmental conditions in the neighborhood as the proposed location is approximately 50 feet back from the right of way.

Brighton Zoning Board of Appeals 9/5/18

CONDITIONS:

1. The variance applies only to the generator in the location as shown and per the style of generator as shown in plans submitted.

2. The owner will install evergreen plantings to mask the generator and/or a fence.

3. All necessary permits shall be obtained.

(Second by Ms. Schwartz.)

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

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

Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-02-18

9A-02-18 Application of Home Power Systems, contractor, and Dr. John Wayman, owner of property located at 90 Indian Spring Lane, 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. Corrado to approve Application 9A-02-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance is not substantial as the home's other external mechanicals and gas meter are already located in the side yard.
2. No other alternative will alleviate the difficulty and produce the desired result, that not intruding on the existing back patio or requiring the installation of an extensive and disruptive gas line to the unit if it were to be sited according to code.
3. No unacceptable change in the character of the neighborhood and no substantial detriment to nearby properties is expected to result from the approval of this

Brighton Zoning Board of Appeals 9/5/18

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3 variance as the generator is to be used only in the case of
4 power interruption, not as a primary source of power.

5 Further, the generator will be screened by existing bushes
6 and evergreens to minimize the negative aesthetic impact.

7 4. The alleged hardship was self-created by the applicant
8 only in that the standby generator was not part of the
9 original construction of the home.

10 5. The health, safety, and welfare of the community will not
11 be adversely affected by the approval of this request.

12 **CONDITIONS:**

13 1. This variance will apply only to the generator as
14 described in the application and testimony, it will not apply
15 to additional external mechanical equipment considered in the
16 future that are not included in the present application.

17 2. All necessary Town approvals and permits shall be
18 obtained.

19 (Second by Ms. Schwartz.)

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

23 (Upon roll call, motion to approve with
24 conditions carries.)
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Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-03-18

9A-03-18 Application of Our Lady of Mercy School, lessee, and Sisters of Mercy NYPPAW, Inc., owner of property located at 1437 Blossom Road, for an Area Variance from Sections 203-2.1C(2)(a) and 203-16B(1) to allow a storage shed/press box to be located 48.1 ft. from a lot line in lieu of the minimum 100 ft. required by code. All as described on application and plans on file.

Motion made by Ms. Dale to approve Application 9A-03-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The location of the desired softball storage shed press box on the applicant's property is based upon the existing location of the softball field and the logical need for the structure to be placed next to the softball field.

Therefore, the fulfillment of the need for softball equipment storage and an elevated position to video tape games cannot be solved in another manner.

2. The new structure as requested will be approximately 250 feet away from the nearest property line adjacent to a residential neighbor and there's an existing large area of mature trees which will shield the structure from view.

Also, the lot line in question backs into I-590. There will

Brighton Zoning Board of Appeals 9/5/18

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3 be no adverse effect or negative impact to surrounding
4 properties.

5 3. The requested variance for a 48-foot setback versus
6 100-foot setback is not substantial due to the property being
7 a school, the large size of the property, and it's location
8 in relation to the residences and the location of the field
9 on the property.

10 **CONDITIONS:**

11 1. The location of the new storage shed/press box shall be
12 as specified in the application.

13 2. All necessary Planning Board approvals and building
14 permits shall be obtained.

15 (Second by Ms. Watson.)

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

19 (Upon roll call, motion to approve with
20 conditions carries.)
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Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-04-18

9A-04-18 Application of Our Lady of Mercy School, lessee, and Sisters of Mercy NYPPAW, Inc., owner of property located at 1437 Blossom Road, for relief from Section 73-27 - Fire Sprinkler Systems and the requirements of Section 73-29 to allow a press box to be constructed without a sprinkler system where one is required by code. All as described on application and plans on file.

Motion made by Chairperson Mietz to approve Application 9A-04-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. While the variance is substantial, the proposed use of the press box will be seasonal in nature and not used for any other purpose than athletic events and storage of sporting equipment.
2. The lack of services to this building and the location of utilities that would be required would be cost prohibitive and exceed the benefits sought.
3. No other proposed location would meet the needs of the applicant and provide the desired result.

CONDITIONS:

1. This variance is based on the structure as describe in

Brighton Zoning Board of Appeals 9/5/18

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3 testimony given and plans submitted.

4 2. All necessary permits shall be obtained.

5 3. The building will not be used for any cooking use of any
6 kind.

7 4. No other use than a press box to support athletic events
8 will be permitted.

9 5. Fire extinguishers shall be maintained and installed.

10 (Second by Ms. Corrado.)

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

14 (Upon roll call, motion to approve with
15 conditions carries.)
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Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-06-18

9A-06-18 Application of Kirk Wright, Sign and Lighting Services, contractor, and Shailesh Patel, owner of property located at 2729 Monroe Avenue, for modification of Sign Variance approval 3A-07-08 to allow for replacement/change of the approved sign. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to approve Application 9A-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. The size and height of the sign will remain consistent to the already existing sign on the property. Further, the size of the logo being increased 47 percent will not appear out of character given the many signs on Monroe Avenue. Further, the requested variance is not substantial given the fact it is merely replacing a sign in the same location.

2. The benefits sought by the applicant cannot reasonably be achieved by any other method. The branding of the hotel has changed and thus requires a change to the signage. Further,

Brighton Zoning Board of Appeals 9/5/18

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3 the size of the logo on the sign is dictated by the
4 franchisor. For these reasons difficulties leading to the
5 requested variance are not self-created.

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

9 **CONDITIONS:**

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

13 2. All necessary Planning Board and Architectural Review
14 Board approvals shall be obtained.

15 (Second by Ms. Corrado.)

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

19 (Upon roll call, motion to approve with
20 conditions carries.)
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Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-07-18

9A-07-18 Application of Kirk Wright, Sign and Lighting Services, contractor, and Shailesh Patel, owner of property located at 2729 Monroe Avenue, for 1) a Sign Variance from Section 207-32B to allow a sign on a second building side (rear) where not allowed by code; 2) a Sign Variance from Section 207-32B(3) to allow said sign to project 29+/- ft. above grade in lieu of the maximum 20 ft. allowed by code; and 3) a Sign Variance from Section 207-26D to allow the logo area to be greater than the maximum 25% of sign area allowed by code. All as described on application and plans on file.

Motion made by Ms. Watson to approve Application 9A-07-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance is the minimum variance possible to improve way finding from I-590, as the front facing sign cannot be seen in this corridor. Over the course of the hotel's history guests have reported difficulty finding the hotel.

2. The size and height of the proposed sign will be consistent with the existing front sign, but the two signs

Brighton Zoning Board of Appeals 9/5/18

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3 will not be viewed simultaneously. Each individual sign is
4 47 square feet, as the total square footage allowed on the
5 building is 62 square feet the additional sign is not a
6 substantial variance.

7 3. No other alternative can alleviate the difficulty and
8 produce the desired result as there is not access to install
9 and maintain a sign on the side of the building and no other
10 height or position is practical on the rear of the building.

11 4. No unacceptable change in the character of the
12 neighborhood is expected to result from the approval of this
13 variance because the immediate neighboring property has a
14 similar rear-facing sign.

15 5. The health, safety, and welfare of the community will not
16 be adversely affected by the approval of this variance.
17 Traffic safety may be improved by the additional way finding.

18 6. The benefit sought by the applicant cannot be reasonably
19 achieved by any other method. The branding of the hotel has
20 changed and the design and proportion of the corporate sign
21 increases the logo percentage to 47 percent.

22 **CONDITIONS:**

23 1. This variance only applies to the sign as depicted in
24 drawings submitted and testimony give.

25 2. The sign shall be no greater than 47 square feet in size

Brighton Zoning Board of Appeals 9/5/18

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and no higher than 29 feet above grade.

3. All Architectural Review Board approvals and Planning Board approvals shall be obtained.

(Second by Ms. Corrado.)

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

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

Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-08-18

9A-08-18 Application of Richard Carvotta - RJC Holdings, LLC, owner of property located at 1890 South Clinton Avenue, for modification of use variances (5A-03-87 and 5A-15- 89) to allow for outdoor dining in conjunction with an approved restaurant use in a BE-1 Office District where not allowed by code. All as described on application and plans on file.

Motion made by Mr. Clapp to approve Application 9A-08-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested modification of the existing variance will not produce an undesirable change in the character of the neighborhood or detriment to nearby properties as other restaurants in the area already have similar outside seating.
2. The benefit cannot be achieved by any other means.
3. The requested variance is not substantial and is the minimum necessary for the applicant to achieve the desired benefit.

CONDITIONS:

1. Total number of seats should not exceed 220 of the entire facility.

Brighton Zoning Board of Appeals 9/5/18

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2. All Brighton Comprehensive Development Regulations associated with outdoor dining facilities as specified in Section 203-74B(4) shall be adhered to.

(Second by Ms. Watson.)

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

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

Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-09-18

9A-09-18 Application of Richard Carvotta - RJC Holdings, LLC, owner of property located at 1890 South Clinton Avenue, for an Area Variance from Section 205-6 to allow impervious coverage to increase from 84.2% to 85.7% (after construction of a 735 sf outdoor patio) where a maximum 65% is allowed by code. All as described on application and plans on file.

Motion made by Ms. Corrado to approve Application 9A-09-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The requested variance for an additional 1.5 percent impervious coverage is not significant as the impervious coverage on the property already exceeds the maximum coverage allowed by 19.2 percent as granted in an earlier variance. Further, the patio will consist of cultured stone pavers rather than a single concrete slab mitigating the impact on water management.
2. No other alternative will alleviate the difficulty and produce the desired result, that is to provide an attractive, appropriately scaled patio for outdoor dining without reducing the amount of parking required by code.

Brighton Zoning Board of Appeals 9/5/18

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3 3. No unacceptable change in the character of the
4 neighborhood and no substantial detriment to nearby
5 properties is expected to result in the approval of this
6 variance. In fact, by providing an outdoor dining space the
7 patio will contribute to a positive social atmosphere in the
8 predominantly commercial neighborhood.

9 4. The alleged hardship was not self-created by the
10 applicant.

11 5. The health, safety, and welfare of the community will not
12 be adversely affected by the approval of this variance
13 request.

14 **CONDITIONS:**

15 1. This variance will apply only to the patio addition as
16 described in the application and testimony. In particular,
17 the applicant will ensure that the 3-foot landscape border
18 will be installed and maintain as presented in the
19 application and testimony.

20 2. The applicant shall consider installing parking
21 accommodations for bicycles on the property.

22 3. All necessary Planning Board approvals shall be obtained.

23 (Second by Ms. Schwartz.)

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

25 Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes;

Brighton Zoning Board of Appeals 9/5/18

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

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

Brighton Zoning Board of Appeals 9/5/18

APPLICATION 9A-05-18

9A-05-18 Application of William Clark, owner of property located at 1658 Clover Street (Tax ID #s 137.11-3-20 and 137.11-3-21.1) for an Area Variance from Section 205-2 to allow a side setback of an existing house to be 15.1 ft., after combining two lots into one, in lieu of the minimum 37.5 ft. required by code. All as described on application and plans on file.

Motion made by Ms. Schwartz to approve Application 9A-05-18 based on the following findings and facts.

FINDINGS AND FACTS:

1. The change in the side setback is merely due to the combining of two lots into one, both owned by the applicant.
2. The structures already exist on the parcel thus causing the need for the side setback to be 15.1 feet in lieu of the minimum 37.5 feet required by code.
3. There's no other alternative that will achieve the desired result by the applicant.
4. The reason for combining the two lots is to allow a swimming pool to be built. Without the subdivision the pool would straddle the two lots.
5. There will be no adverse effect on the neighborhood as

Brighton Zoning Board of Appeals 9/5/18

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the lots are heavily landscaped and not visible at all.

CONDITIONS:

1. This application applies only to the combining of lots into one as stated in the written application and testimony presented.

(Second by Ms. Dale.)

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

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

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Brighton Zoning Board of Appeals 9/5/18

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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 21st day of September, 2018.

At Rochester, New York


Rhoda Collins