

1 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF
2 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK
3 On DECEMBER 5, 2018, COMMENCING AT APPROXIMATELY 7:00
4 P.M.

5 December 5, 2018
6 Brighton Town Hall
7 2300 Elmwood Avenue
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRMAN
11 ANDREA TOMPKINS WRIGHT
12 JUDY SCHWARTZ
13 CHRISTINE CORRADO
14 JEANNE DALE
15 JENNIFER WATSON

16 DAVID DOLLINGER, ESQ.
17 Town Attorney

18 RICK DISTEFANO
19 Secretary

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

FORBES COURT REPORTING SERVICES, LLC

Phone: 585.343.8612 | E-mail: Kelly@ForbesCourtReporting.com

1 CHAIRPERSON MIETZ: Rick, are we ready to
2 call the roll? I would like to call to order the
3 December session of the Zoning Board of Appeals.

4 MR. DI STEFANO: Please let the record
5 show that Mr. Clapp is not present.

6 CHAIRPERSON MIETZ: Sir, was the meeting
7 properly advertised?

8 MR. DI STEFANO: Yes, Mr. Chairman, it was
9 advertised in the Brighton-Pittsford Post on November
10 29th, 2018.

11 CHAIRPERSON MIETZ: Okay. When you are
12 ready, Rick, you can find out if the applicant for
13 11-A-10-18 is here.

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1 Application 11A-10-18. Application of Susan O'Toole,
2 owner of property located at 71 Astor Drive, for (1)
3 an Area Variance from Section 207-10E(2) to allow
4 front yard pavement coverage to be 46% in lieu of the
5 minimum 30% allowed by code; 2) an Area Variance from
6 Section 207-10E(3) to allow rear yard pavement
7 coverage to be 60% in lieu of the maximum 35% allowed
8 by code; and 3) an Area Variance from Section
9 207-10E(5) to allow pavement throughout the site to
10 extend up to property lines where a minimum 4 ft.
11 Setback is required by code.

12 MR. DI STEFANO: Anybody for application
13 11A-10-18 present? So we will take care of that.
14 Maybe we will call it again at the end.

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1 Application 12A-01-18. Application of Chris Glyde,
2 lessee, and John Nicastro, owner of property located
3 at 1840 Monroe Avenue, for a Sign Variance from
4 Section 207-32B(2) to allow for 43.5 sf of business
5 identification signage (Existing tenant sign - 27.5
6 sf, proposed tenant sign - 16sf) on the building face
7 in lieu of the maximum 33 sf allowed by code. All as
8 described on application and plans on file.

9 CHAIRPERSON MIETZ: First thing you will
10 do is tell us your name and your address.

11 MR. GLYDE: My name is Chris Glyde. This
12 business is 1840 Monroe Avenue. It's down the street,
13 basically.

14 CHAIRPERSON MIETZ: Okay. So you are
15 speaking on your behalf and for Mr. Nicastro.

16 MR. GLYDE: Yes.

17 CHAIRPERSON MIETZ: Okay. So go ahead.

18 MR. GLYDE: Okay. So the project,
19 basically, we want you to approve I believe 15 square
20 footage or 13 square footage. You have the exact
21 numbers in front of you for my business sign on the
22 front of the business. That's basically it. I don't
23 really know how else to say it.

24 CHAIRPERSON MIETZ: Okay. How about why
25 don't you, just for the record, tell us what the

1 business is --

2 MR. GLYDE: It's a music school.

3 CHAIRPERSON MIETZ: -- and why you believe
4 you need a sign that is bigger than what the code was.

5 MR. GLYDE: Okay. Great. So it's a music
6 school, specifically guitar, but I teach voice inside
7 as well. The actual extra room is so I can actually
8 put a sign up. Right now I do not currently have a
9 sign. There is a sign from another business up there
10 now, and it takes up about 27.5 square feet out of 32
11 or 33 total. I'm looking for some extra footage so
12 you can put the sign on the building.

13 CHAIRPERSON MIETZ: Okay. And the sign
14 company that you worked with, Image360, designed it so
15 they believe that's the correct size that, if I was
16 along Monroe Avenue, that I might see your sign.

17 MR. GLYDE: Yeah. I mean, it's actually
18 kind of smaller, but I figured it would be pressing it
19 to get more than 13 or 15.

20 CHAIRPERSON MIETZ: You feel it would be
21 adequate when cars approach that they will find you
22 and the address of the building.

23 MR. GLYDE: They'll see it. Correct. I
24 think it will help with location.

25 CHAIRPERSON MIETZ: Okay.

1 MS. CORRADO: And the sign you are
2 proposing is the one that does not have the telephone
3 number on it as shown in the packet?

4 MR. GLYDE: Correct.

5 CHAIRPERSON MIETZ: Judy, anything?

6 MS. SCHWARTZ: No, I'm fine with it.

7 CHAIRPERSON MIETZ: Go ahead.

8 MS. TOMPKINS WRIGHT: Is there an issue
9 with logos on this one?

10 MR. DI STEFANO: No, I think they did
11 measure it. It went to the Architecture Review Board,
12 and it meets the 25 percent.

13 CHAIRPERSON MIETZ: Everybody else good?
14 Okay. You are all set.

15 MR. GLYDE: Fantastic. Thank you.

16 CHAIRPERSON MIETZ: Is there anyone in the
17 audience that would like to speak regarding this
18 application?

19 Okay. There being none, then the public
20 hearing is closed.

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1 Application 12A-02-18. Application of Janice and
2 Thomas Clark, owners of property located at 2908
3 Brighton Henrietta Town Line Road, for an Area
4 Variance from Sections 203.21B(6) and 203-9A(4) to
5 allow a standby emergency generator to be located in a
6 front yard in lieu of the rear yard behind the house
7 as required by code. All as described on application
8 and plans on file.

9 MR. CLARK: Tom Clark, 2908 Brighton
10 Henrietta Town Line Road. I'm asking for a variance
11 for a standby generator set. It's for the front of my
12 house which, in all aspects to me, is a side, but we
13 live 750 feet off of Brighton Henrietta Town Line
14 Road.

15 Where we would like to place the
16 generator, I'm standing in the location right here
17 where I want to place it. The nearest home -- I only
18 have one of these. I ran out of paper. I am facing
19 the closest home to us. It's 65 or 68 feet. And I
20 think -- I tried to get to all of my neighbors in
21 regards to talking to them about whether or not they
22 have any opinions about me putting in the generator.
23 And I was able to get three neighbors' signatures on
24 the variance request for myself.

25 Also, there is a fourth family that owns

1 the house you see there. Mr. Lee and his wife June
2 are out of town. And I have to wait also until their
3 children come back from college because they don't
4 speak English. They are Chinese. He is a great guy.
5 I get along with him great. I don't think I will have
6 any problems with him either. I still am, when he
7 comes back next week, going to go over and talk to
8 him, show him where it's going to be put in, and see
9 if he had anything that he could get ahold of the Town
10 and deny if he wishes.

11 MR. DI STEFANO: And he is the most
12 directly impacted neighbor; correct?

13 MR. CLARK: He's the closest. Yes, sir.
14 Yes, the next closest home is -- yes, that's his home
15 right there.

16 MS. THOMPSON WRIGHT: That's his home
17 right there?

18 MR. CLARK: Yep, it's 78 feet from the
19 wall where my house is. The next closest home, you
20 can't see it. It's 750 feet up the road. Behind us,
21 there is another house that's 575 feet. And the noisy
22 390, 780 feet.

23 So we are here to request a variance
24 though because the power has gone off in our house in
25 the last five years a total of 39 days. The last time

1 it went off was 11 days. It ruined a lot of stuff in
2 our home including a furnace and everything. So we
3 are going to have a standby generator put in for that
4 reason.

5 CHAIRPERSON MIETZ: Can you, just for the
6 record, tell us why this is the preferred location to
7 put it?

8 MR. CLARK: Well, I had two people come in
9 that we were working with the generators at. And
10 their location, with all of the windows on my home,
11 would be off to the side where the main meters on the
12 house are and where the main feed for the gas line
13 within the 25 feet that they request. You get the gas
14 for the generator and the electric metering system.
15 And the back of my home, it's like sliding glass
16 doors. You can't put anything on the back right
17 there. And where it's at on the side here, it is
18 directly like 17 feet off the closest window but
19 within the 25 feet where you can put the gas metering
20 system in.

21 MS. TOMPKINS WRIGHT: What's the decibel
22 of the generator that you are planning on putting in?

23 MR. CLARK: Ma'am, I have one bad ear. Is
24 it alright if I walk closer to you?

25 MS. TOMPKINS WRIGHT: I'm sorry. What's

1 the decibel of the generator?

2 MR. CLARK: It's 62. It's in the
3 paperwork there. I also have another copy of that.
4 On full throttle, the decibel level is 62 to 63.

5 MS. TOMPKINS WRIGHT: Okay.

6 CHAIRPERSON MIETZ: Okay. Any other
7 questions? Questions?

8 Okay. Thank you very much.

9 MR. CLARK: Thank you.

10 CHAIRPERSON MIETZ: Is there anyone in the
11 audience that would like to speak regarding this
12 application?

13 Okay. There being none, then the public
14 hearing is closed.

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1 Application 12A-03-18. Application of Matthew
2 Brodmann - Fitch Construction, contractor, and Ralph
3 and Elizabeth Dalton, owners of property located at
4 132 Holloway Road, for 1) an Area Variance from
5 Sections 203-2B(3) and 203-16A(4) to allow for the
6 construction of a 576 sf detached garage 2 ft. (3ft.
7 From wall, 2 ft from overhang) from both the north and
8 west lot lines in lieu of the minimum 5 ft. Required
9 by code; and 2) allow building lot coverage to be 32%,
10 after construction of said garage, in lieu of the
11 maximum 25% allowed by code. All as described on
12 application and plans on file.

13 MR. BENEDEK: Good evening. I'm Paul.
14 I'm with Fitch Construction.

15 MR. DI STEFANO: Paul, your last name,
16 please?

17 MR. BENEDEK: Paul Benedek, B-e-n-e-d-e-k.

18 CHAIRPERSON MIETZ: And just an address
19 for Fitch or whatever one you want to use.

20 MR. BENEDEK: Fitch is 7278 Pittsford
21 Palmyra Road in Fairport.

22 CHAIRPERSON MIETZ: Okay. Very good.

23 MR. BENEDEK: The garage is proposed at
24 133 Holloway Road in Brighton.

25 So we are proposing to build a two-car

1 garage in place of a one-car garage that was destroyed
2 by a tree earlier this year. We are using the same
3 footprint as the single-car garage, but we are trying
4 to expand it to a two-car garage for the homeowner's
5 benefit of parking two cars in the garage and also
6 storing lawn equipment, gardening tools, and things of
7 that nature.

8 The setbacks that are there now are
9 actually three feet as it is not five. So we are
10 actually keeping it exactly where it was previously.

11 MR. DI STEFANO: Three feet from the wall,
12 two feet from the overhangs, so that's why it is two
13 feet. So there is that extra foot built into the
14 overhangs, but it is three feet from the wall.

15 MR. BENEDEK: Yes. So basically, the two
16 walls that neighbor closest to those lot lines are
17 going to be in the same location as they are now.

18 MS. WATSON: Would you say the size of the
19 garage is the minimum necessary to store what needs to
20 be stored?

21 MR. BENEDEK: Yes, it is the smallest we
22 can do.

23 MS. WATSON: And have the owners spoken to
24 neighbors at all on the project?

25 MR. BENEDEK: Yes. Did you want to speak

1 about the neighbors?

2 MR. DALTON: Yes, and they both got
3 letters.

4 CHAIRPERSON MIETZ: Sir, can you come up?
5 We have to record what you are saying. Please just
6 state your name, and you are the homeowner.

7 MR. DALTON: Yes, my name is Ralph Dalton.
8 I'm the homeowner.

9 CHAIRPERSON MIETZ: Great. Okay.

10 MR. DALTON: Yes, we talked to our
11 neighbors, and they have all gotten your letter. So I
12 don't imagine there has been any problems with it. I
13 don't think.

14 MR. DI STEFANO: I have not received
15 anything, no.

16 CHAIRPERSON MIETZ: Have not?

17 MR. DI STEFANO: Have not received
18 anything.

19 CHAIRPERSON MIETZ: Okay. Any other
20 questions?

21 MS. WATSON: Not really.

22 CHAIRPERSON MIETZ: Judy?

23 MS. SCHWARTZ: No, I'm fine.

24 MS. CORRADO: The new garage will be
25 finished to complement the appearance of the existing

1 home?

2 MR. BENEDEK: Yes, it won't be sided in
3 the exact same manner, but it is going to be in more
4 of a pole barn look to it, but it will be similar to
5 what's in the neighborhood.

6 MS. CORRADO: Okay.

7 CHAIRPERSON MIETZ: How about the color?

8 MR. BENEDEK: White, same as the house;
9 correct?

10 MR. DALTON: Yes.

11 MS. TOMPKINS WRIGHT: Just so I understand
12 you, the garage that is replacing the one that is
13 damaged is bigger though and that's why you are here
14 for a lot coverage variance as well?

15 MR. BENEDEK: Exactly, we are going from a
16 single-car garage to a two-car garage.

17 MS. WATSON: Are you looking to run any
18 utilities out there besides electric?

19 MR. BENEDEK: No.

20 CHAIRPERSON MIETZ: Are we good?

21 Okay. Thank you.

22 MR. BENEDEK: Thank you.

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1 Application 12A-04-18. Application of Helio Health,
2 Inc., contract vendee, and Genesee Valley Group Health
3 Association, owner of property located at 1850
4 Brighton Henrietta Town Line Road, for a Use Variance
5 from Section 203-93 to allow for an inpatient
6 withdrawal and stabilization facility in an IG Light
7 Industrial district where not allowed by code. All as
8 described on application and plans on file.

9 MS. BRUGG: Hi, good evening. My name is
10 Betsy Brugg. I am from the firm of Woods Oviatt
11 Gilman, and I'm here representing this application. I
12 am putting some boards up, but we got our whole team
13 here tonight: Connie Lickstein, Jeremy Klemanski,
14 Matt Collins. We have Daniel O'Neill, and we have
15 some other folks. So we have a whole bunch of people
16 here to answer any questions that you might have about
17 the use we are proposing for the property. So we are
18 here before you requesting a use variance for the
19 property at 1850 Brighton Henrietta Town Line Road.

20 Helio Health is a Syracuse not-for-profit
21 healthcare provider. They treat folks suffering from
22 substance use and mental health related disorders
23 throughout central New York. They have many years of
24 experience. They have located this site and would
25 like to operate a medically supervised inpatient

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1 withdrawal and stabilization program clinic at this
2 location.

3 So this property has been vacant for about
4 a year. It has been on the market for a year. Daniel
5 O'Neill, who has been representing the property, the
6 broker is here for any questions, but it was operated
7 as medical offices. But as you all know, there has
8 been consolidation in health care in the health care
9 world. The property was offered to the health care
10 networks in the area, the larger networks. They were
11 not interested. They are all consolidating. I think
12 you also know that most of the medical offices in town
13 tend to be now concentrating in certain areas whether
14 it's at White Spruce or at Clinton Crossing, but there
15 are certain areas that are more desirable for those
16 types of uses. The permitted uses in the light
17 industrial district essentially include professional
18 offices, professional office buildings, and banks.
19 And there just has not been a demand for these types
20 of uses. The hardship we are talking about is
21 specific to the property.

22 We do have to demonstrate we meet the
23 criteria for the use variance. We have addressed
24 them. I'm happy to go through them. We would be
25 happy to answer any questions you have about it and

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1 provide you some additional information.

2 We actually think this will be a great
3 location for this type of use. This is a medical
4 facility. The reason that we require approval for a
5 use variance is that this is an inpatient facility.
6 Were this was a daytime office facility, we would not
7 need this relief. That is to say, from the outside of
8 this facility, nobody from the public would ever know
9 what is going on here and that it is any different
10 from any other type of medical office. There is not a
11 lot of traffic. They basically treat people who are
12 coming here voluntarily seeking treatment. They might
13 be referred by a physician or by some agency in the
14 community, or they might come here on their own, but
15 they are all folks coming here looking for treatment
16 for substance use.

17 They are here at a critical period of
18 time. They stay for typically 3 to 14 days. So they
19 come here. They are not feeling well when they are
20 here. They are here primarily for -- you know, they
21 are going to be in withdrawal. They are getting
22 medical treatment. There is medical supervision.
23 There are nurses. They will get counseling. And
24 then, you know, after their stay ends here, they will
25 move on into the community to continue treatment at

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1 some other place. They will be referred to some other
2 agency, whether it is something with the community,
3 some type of outpatient treatment. So that's
4 basically how this facility will operate.

5 It's a huge service to the community. I
6 think everybody here probably knows that we are in an
7 opioid type crisis. So there is a huge demand. There
8 is a lot of information out there about the need for
9 this type of facility. It will be funded and licensed
10 by OASAS which is the Office of Alcoholism and
11 Substance Abuse Services which is very anxious to see
12 these types of operations in our communities. So
13 that's the type of facility that this will be.

14 As far as the use variance itself, we need
15 to demonstrate that the property cannot generate a
16 reasonable return for permitted uses. I think what we
17 presented to you in the package -- and I would be
18 happy to answer any questions about it -- we
19 demonstrated that the property has been marketed.
20 It's been marketed by a professional brokerage firm
21 with a lot of experience in commercial real estate.
22 It was marketed for a reasonable price. They are
23 essentially paying -- the price they are actually
24 paying is the appraised value of the property. There
25 just has been no interest in this property. It is too

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1 large for a lot of the smaller office type users that
2 would be out there. You know, we are not in Twelve
3 Corners where a lawyer or some professional wants to
4 open a small office.

5 It is a very large building. It is over
6 22,000 square feet in size. It is on Brighton
7 Henrietta Town Line Road. The area -- it is directly
8 opposite the Asian market. It is next to DiMarco
9 Construction which, if you have driven by and taken a
10 look at the property, this is really a very mixed area
11 of Brighton Henrietta Town Line Road. We have large
12 construction vehicles parked in the back. There is a
13 variety of flex space and larger industrial uses.
14 Most of the properties in this area are really
15 self-contained. They are kind of spread out so you
16 are not right next to your neighbor in this area. It
17 is actually the ideal location for this type of
18 facility. So this is the only offer that was made on
19 the property over the course of the year.

20 We've also gotten into and given you some
21 information on the actual expenses related to the
22 property. We have to demonstrate that we can't
23 generate a reasonable return. Honestly, the larger
24 healthcare providers have very complicated
25 bookkeeping. So we have given you a breakdown using

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1 your income and expense statement to demonstrate that
2 there have been losses and there continues to be
3 losses generated from the property.

4 As far as any conversion of use, it would
5 be very costly. The property is actually obsolete for
6 its current Article 28 type of use. They are going to
7 have to invest a significant amount of money to really
8 do some interior renovations for what they are
9 proposing. Any other type of permitted use, we would
10 similarly have to invest a lot of money to reconfigure
11 the interior.

12 Let's see, you have a letter from the
13 broker. I think we have kind of -- I have kind of
14 summarized the financial hardship. The hardship is
15 unique to the property. You will not find another
16 property with these issues in this neighborhood.
17 Because of the size of the building and the location
18 on Brighton Henrietta Town Line Road, I think it does
19 have some limitations and who would be willing to go
20 into this building. So that hardship is really unique
21 to this particular property.

22 We are not going to impact the character
23 of the neighborhood in any way. Anyone from the
24 outside is not going to notice any difference of use.
25 It's essentially going to have a sign that says Helio

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1 Health. They will probably assume there is a medical
2 office of some type there. It's a very low intensity
3 type of medical use in that patients come in there.
4 They come in. They come in for treatment. They are
5 there for a short time. They don't have a lot of
6 visitors. There's not a lot of in and out throughout
7 the day. So it's actually a pretty low intensity type
8 of use. Probably more comparable to some of the other
9 office type businesses in the area where people go to
10 work and they are there all day. You just don't see a
11 lot of traffic in and out.

12 The hardship is not self-created. It
13 arises from the unique characteristics of the
14 property, primarily its location and the size of the
15 building, the fact it is obsolete for office use. And
16 I think we have demonstrated that the hardship is not
17 self-created.

18 So I think we meet the criteria for the
19 granting of the use variance. I think it will be a
20 great asset for the community. Hopefully, we have
21 provided you with sufficient information to
22 demonstrate that we meet the requirements for the use
23 variance. And again, we are happy to answer any
24 questions. We have the whole team here.

25 MS. SCHWARTZ: What is the ratio of

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1 medical staff to patients?

2 MS. BRUGG: I believe at any given time
3 there will be approximately 15 employees, and this is
4 designed for 60 beds.

5 MS. SCHWARTZ: And one other question, can
6 you elaborate a little bit about the trails you were
7 talking about?

8 MS. BRUGG: Yes. So this property has
9 some woods in the back. So I think what we are doing
10 is they are proposing to make some very minor
11 modifications just to be able to use that space for a
12 little trail, put a little outside patio area, really
13 to give folks a chance to just go outside and get a
14 little fresh air. They are under constant supervision
15 24/7 at this facility. So if someone were to go out
16 to walk the trail, they would be accompanied as well.

17 MS. CORRADO: Will that open area be
18 fenced in or will it be accessible to passersby?

19 MS. BRUGG: I don't think there is any
20 plans for fencing. No. It is just really taking
21 advantage of what's there and trying to have as little
22 impact and draw as little attention as possible.

23 MS. CORRADO: So it won't end up appearing
24 to be a public space or --

25 MS. BRUGG: No. In fact, I think most

1 people will not even know that there are trails.

2 MS. CORRADO: Okay. I have a couple other
3 questions. So as far as the patients, are they -- is
4 this facility going to be served by emergency vehicles
5 or arriving in other ways?

6 MS. BRUGG: They are arriving primarily
7 individually, independently. They are just coming in
8 because they have been referred for treatment. So
9 they come in their own vehicle or are brought in by a
10 family member.

11 MS. CORRADO: And regarding family, the
12 visiting hours, are they 24/7? Will they be limited
13 to a particular time during the day?

14 MS. BRUGG: Do you want to come up and
15 speak to that?

16 MR. KLEMANSKI: Sure. Jerry Klemanski,
17 555 East Genesee Street, Syracuse, New York, 13202.

18 My name is Jeremy. I serve as the
19 president, CEO, for Helio Health. First of all, thank
20 you for hearing from us this evening.

21 In terms of the question that you are
22 asking about our patients and visiting, every facility
23 is different. This level of care is a medically
24 supervised withdrawal and stabilization program. And
25 then there will be some beds allotted to

1 rehabilitation for people who have completed detox,
2 the street term for it if you will or the popular
3 vernacular.

4 Visitation hours are going to be by
5 appointment for a facility like this during daytime
6 hours. It would be possible that somebody would come
7 in an evening if that was -- maybe they work or that
8 was the only time they can come and see somebody. We
9 do facilitate things like if a mother or father are in
10 treatment and their child is having a birthday or
11 something. They might come and use the family
12 visitation room to have a family meal together or
13 something. It is under supervision. That can happen
14 at night or on the weekend, but it is not frequent or
15 common, if you will. It is very, very infrequent that
16 anyone would be there from like the third shift,
17 midnight to 8:00 a.m. But if someone worked second
18 shift and had to drop off clothing, paperwork, or
19 something, I guess somebody could stop by to drop
20 something off at the desk but not a regular
21 visitation, if you will.

22 Visitation is minimal at this level of
23 care because people are only here for a brief period
24 of time. And they are really focused on trying to get
25 a proper assessment of what the person's needs are.

1 And where family are involved in a positive way is if
2 a family member that brings them, they might stay for
3 an hour or two to help them answer questions with the
4 assessment to make sure it's the right facility or
5 level of care for them. But then often times, the
6 family does not come back in person until they are
7 picking them up to take them back to the next level of
8 care or to bring them home because it just usually
9 gets in the way for the person's treatment at this
10 point.

11 MS. CORRADO: Understandable. Thank you.

12 MR. KLEMANSKI: Sure.

13 MS. CORRADO: And related to that, at the
14 end of the treatment there, are there particular times
15 in which patients will be leaving the facility? Are
16 they leaving them on their own? Are they expected to
17 be met by a family member or any other medical
18 professionals?

19 MR. KLEMANSKI: All of the above, so let
20 me elaborate a little bit. Discharges are not
21 scheduled for third shift. They are rarely scheduled
22 for second shift, but they would if the program taking
23 them were admitting them next and that was when their
24 first appointment is. They are usually after
25 breakfast on the first shift. That is when most

1 people who are leaving leave because most people are
2 then going from here to an outpatient appointment and
3 some sort of housing whether it is their own housing,
4 if they have stable housing with a family member, or
5 they are going to a residential treatment program for
6 a longer stay. It's usually then. Sometimes it is
7 not right after breakfast because we are scheduling
8 transportation and we are coordinating with where they
9 are going next.

10 What we like to do is a process called
11 warm hand-off where we take them to their next level
12 of care rather than discharging them with a card and
13 hope they show up. That doesn't really work well with
14 folks who have detoxed. So sometimes they might be
15 staggered kind of throughout the day more.

16 To answer your question about
17 transportation and who, it could be a family member.
18 It could be a peer. There is a big movement in New
19 York to have certified peers that help people stay
20 engaged in treatment. They often times provide
21 transportation and go with people to their first
22 appointments. And then sometimes it will be us. If
23 they don't have any of those resources in place, a
24 driver or a counselor might take them to that next
25 first appointment to try to make sure that a

1 connection happens properly.

2 CHAIRPERSON MIETZ: Good.

3 MS. CORRADO: I think that's all of the
4 questions I had.

5 MS. TOMPKINS WRIGHT: I have some
6 questions about how the property was marketed
7 originally.

8 MR. KLEMANSKI: That will be for the
9 brokers here.

10 MR. O'NEILL: Yes, I am Daniel O'Neill, 81
11 Aldridge Road, Fairport, New York.

12 MS. TOMPKINS WRIGHT: So I see from the
13 Cushman and Wakefield and the Pyramid letter that it
14 was marketed for sale. Was there any thought given to
15 marketing it for rent instead or along with that in
16 order to build up more interest in the property?

17 MR. O'NEILL: We would consider that, but
18 the owner, which is Excellus Blue Cross and Blue
19 Shield or Excellus Health Plan, they really would like
20 to divest of the property. It would take a
21 considerable amount of money to invest in there.
22 Their charter is not to invest in real estate and then
23 sell it. Their charter is healthcare. So it doesn't
24 really work well for them to do that.

25 MS. TOMPKINS WRIGHT: So the property is

1 relatively obsolete for a medical office?

2 MR. O'NEILL: It was built in the early
3 eighties and renovated many times under Article 28 of
4 the State of New York Health Code, I believe.

5 The rooms are all the wrong sizes for what
6 people do now under Article 28 and what the hospitals
7 do. So it would take a considerable amount of money
8 to renovate it, and they didn't want to spend the
9 money, Excellus, or the developers that I had marketed
10 and walked through the building didn't want to spend
11 all that money at this time.

12 MS. TOMPKINS WRIGHT: Would it be
13 considered obsolete for general office use or
14 professional office use?

15 MR. O'NEILL: Well, there is a lot of
16 plumbing in the building. It would still take a lot
17 of -- because you have very small rooms that are eight
18 by eight and most people don't want an eight by eight
19 office. So it would be still be considered obsolete
20 by today's open floor plan standards that you have in
21 most modern office buildings.

22 CHAIRPERSON MIETZ: Are you good?

23 MS. THOMPSON WRIGHT: Yes.

24 CHAIRPERSON MIETZ: Any other questions?

25 Okay. I got a couple other questions. Do

1 you have anymore?

2 Okay. So maybe someone from Helio can
3 answer this one probably. As the program is being
4 operated, these patients, the maximum amount of
5 patients at any one time would be?

6 MR. KLEMANSKI: Sixty and that's assuming
7 the state ultimately approves 60 beds.

8 CHAIRPERSON MIETZ: So that's what you are
9 applying for the license for?

10 MR. KLEMANSKI: That is correct.

11 CHAIRPERSON MIETZ: Okay. So if a person
12 signs up for the program and starts day one, is there
13 some means that they must stay in that facility for
14 the duration, or are they free to leave day three if
15 they decided to?

16 MR. KLEMANSKI: So this is a -- in New
17 York State, this level of care is not secure meaning
18 it's voluntary. So these are not people that are in
19 custody or under lock and key. We do keep the doors
20 locked, but they can leave. They can administratively
21 discharge themselves or leave against medical advice.
22 That does happen at times. We discourage it. We
23 counsel against it, but it's like any other facility
24 where technically you are free to leave if you're not
25 in some form of custody. It is not a forensic mental

1 health custodial unit.

2 CHAIRPERSON MIETZ: Okay. So you operate
3 a facility such as this in Syracuse currently?

4 MR. KLEMANSKI: We do.

5 CHAIRPERSON MIETZ: Okay. And how long
6 have you operated that?

7 MR. KLEMANSKI: I'm aware of since
8 sometime in the nineties. I have been with the
9 organization for 15 years.

10 CHAIRPERSON MIETZ: So quite a long time.

11 MR. KLEMANSKI: Yes. We have a facility
12 in Rochester currently that has 25 beds and is in the
13 middle of an expansion of 40 beds because New York
14 State doesn't -- we have been trying to find a site
15 for some time. And the state doesn't feel we can
16 continue to wait for the potential other beds. So
17 they asked us to build, and they funded an expansion
18 on a temporary basis. So we have 40 beds in operation
19 on University Avenue but that is leased. It's not
20 permanent, and it doesn't meet the needs of a program
21 kind of on a going forward basis. And the state and
22 we would rather put the money into staffing resources
23 than leasing, if you will.

24 So we have actually been searching for a
25 site that would meet the needs of the program for

1 between 8 and 10 years. And this is the first
2 property that we, and the brokers, and everybody found
3 that lays out well enough that the dormitory -- the
4 Dormitory Authority of New York would oversee the
5 renovation on OASAS behalf because the state would be
6 funding the renovation. And this is the first time we
7 have brought them, and OASAS, and the brokers, and
8 everybody who runs our program to a site and they all
9 said this could work. The footprint, the size of the
10 building, being buffered from neighborhood houses for
11 example but still being on a public transportation
12 line if somebody did utilize public transport to come
13 see somebody or to get to work, the green space behind
14 it, and a whole bunch of other factors.

15 CHAIRPERSON MIETZ: So in your experience,
16 and I know you don't probably have it at the tip of
17 your tongue, but would you say 100 percent of the
18 patients that would fill those 60 beds, what
19 percentage of them might leave before it's over -- the
20 whole program is over?

21 MR. KLEMANSKI: Well, this level of care
22 usually changes from month to month, but 70 to
23 90 percent of folks usually complete their stay and do
24 not leave against medical advice, but that's a little
25 deceptive statistic and let me tell you why so that we

1 are having complete transparency here.

2 It is such a short level of stay care that
3 it's not that hard. And folks that come to this level
4 of care are in a place where they really want to begin
5 the life of recovery, and they know they need to get
6 stabilized medically to be successful at the next
7 level of care. You are much more likely to be
8 successful at an outpatient program or a residential
9 program if you have had a couple days of medical
10 stabilization. What that is is nurses and doctors
11 overseeing your care, making sure you are sleeping
12 right, making sure we get your medications
13 straightened out properly, have a proper detox
14 protocol, and make sure we have a good diagnosis on
15 you before you try to stabilize in a lesser level of
16 care.

17 MS. WATSON: Can you tell us a little bit
18 about your security staffing?

19 MR. KLEMANSKI: Sure. We do not have
20 security staffing at a facility like this. We don't
21 have security staffing at any of our inpatient
22 facilities. I never needed to. The only facilities
23 that we have security staffing at in our entire system
24 are OTP clinics and that is because it's a federal and
25 state regulation because those clinics have methadone

1 on-site which is a controlled narcotic. This is not
2 such a facility. And as a result, we never had a need
3 for it. But we do have protective measures like good
4 lighting. And the plan we proposed to the folks in
5 planning was dark sky compliant downward facing LED
6 lights in all the existing locations. We do use
7 extensive networks of cameras. In a facility like
8 this, there will be probably 60 to 100 plus of high
9 definition color cameras that will record on a server
10 basis that's backed up for somewhere between 30 to 90
11 days. That's a really good deterrent from anybody
12 wanting to commit mischief of some sort if they were
13 so inclined. And we do search patients upon
14 admission. We do a search as part of their exam
15 process of all their belongings, and they get a metal
16 detector scan as well just to make sure nobody is
17 bringing anything into the building they shouldn't be.

18 CHAIRPERSON MIETZ: Question?

19 MR. DOLLINGER: Yes. How does the
20 building -- I'm interested a little bit in how the
21 building gets configured. How big is the building?

22 MR. KLEMANSKI: It's about 23 -- 22,000 to
23 23,000.

24 MR. DOLLINGER: And that's on two to three
25 floors?

1 MR. KLEMANSKI: Two floors, 22,000.

2 MR. DOLLINGER: So an 11,000 square foot
3 footprint.

4 MR. KLEMANSKI: Yep.

5 MR. DOLLINGER: So that's in theory 30
6 units per floor. Is there an elevator?

7 MR. KLEMANSKI: There is. Do you want
8 that pointed out?

9 MR. DOLLINGER: No, it's just -- is that
10 actually a rendering of what it's going to look like?

11 MR. O'NEILL: This is the rendering of the
12 first drafts. I can pretty much assure you that the
13 colleagues at the state of New York will want us to
14 make some sort of modifications to exact sizes in the
15 final licensing process. The Dormitory Authority will
16 probably ask us to move something around because they
17 usually do. But in this setup here, this is the front
18 entrance here. And there is an elevator right through
19 here that is an already existing elevator. We are not
20 proposing a new elevator tower.

21 CHAIRPERSON MIETZ: What's your question,
22 Dave?

23 MR. DOLLINGER: I don't know. It just
24 seems like a lot of people in a small place.

25 CHAIRPERSON MIETZ: What would you --

1 maybe to help --

2 MR. DOLLINGER: No, I'm just curious. No,
3 I am actually just curious.

4 MR. DI STEFANO: I guess maybe a different
5 question for it, maybe a different way of asking that
6 question, is what is your typical square foot room
7 that you are looking for per person or per patient?

8 MR. KLEMANSKI: So the state of New York
9 has guidelines that they use for these facilities.
10 And they have so far reviewed the facility. Their
11 concern is that they thought the building might be a
12 little too big. And we have assured them that we have
13 proper use for the space. We can get the actual --

14 CHAIRPERSON MIETZ: Just a rough idea
15 would be fine I think.

16 MR. KLEMANSKI: The State's standard per
17 bedroom unit is 80 square feet or 120 square feet if
18 there is two beds or a double room. They have
19 different standards for like the size of group rooms,
20 the size of eating areas, ancillary. I think their
21 ancillary space is about 60 square feet per patient,
22 if I remember correctly.

23 MR. DI STEFANO: I have two questions.
24 One is, is this adult only?

25 MR. KLEMANSKI: Yes, this is an adult

1 facility.

2 MR. DI STEFANO: And 18 and over?

3 MR. KLEMANSKI: Let's see, I'm trying to
4 remember what the federal definition of adult is now
5 because they changed it with the Affordable Care Act.
6 Generally speaking, it is a 17-year-old population and
7 up. It is possible a 16 year old can be admitted but
8 that is rare.

9 MR. DI STEFANO: So you would admit a 16
10 year old per the --

11 MR. KLEMANSKI: There are some special,
12 like, guidelines that I'm not the expert on. It's
13 possible, but that's not what this is intended for.
14 It's very uncommon. The average age of our program
15 participants -- the last time I saw the data which was
16 yesterday, our average patient age yesterday in our
17 entire system was 33 point something years old if that
18 helps.

19 MR. DI STEFANO: Okay. And my other
20 question is under New York State or federal codes, is
21 this type of unit -- does this type of unit or
22 facility have a specific classification? Like you
23 mentioned your other one that had the methadone
24 on-site. They were called an OTP type or something
25 like that. Does this type of unit have a specific

1 classification that, if we were to grant the use
2 variance, we can grant it for this specific type of
3 use that has an actual classification under New York
4 State?

5 MR. KLEMANSKI: Yes, New York State would
6 consider this residential/inpatient rehabilitation
7 care, detox and rehabilitation. And the reason I say
8 inpatient/residential is depending on which code,
9 which thing, you are looking at, sometimes it is
10 defined as inpatient. Sometimes it is defined as
11 residential. The state requires us to build to
12 whatever the higher standard is per code. In other
13 words, if there is a local code that is higher than
14 the State's, they will make us build to the higher.

15 MR. DI STEFANO: Okay. And this type of
16 use would only be permissible for a 3 to 14 day stay
17 time. I mean, when you get to 14 days, are you out?

18 MR. KLEMANSKI: Not necessarily. That's
19 why we say average. So the first 40 beds are designed
20 for that. There is an additional 20 beds that the
21 state and county still have to figure out are they
22 going to be residential rehab or inpatient rehab which
23 could be a couple of weeks to a few months, but the
24 majority of the beds are a shorter duration stay.
25 They may end up designating all 60 beds as that. It's

1 really up to the county and the state. They have a
2 process of --

3 MR. DI STEFANO: The need basically?

4 MR. KLEMANSKI: Yes, it's a need type of
5 assessment that they do based on how many people are
6 going to facilities, but no you are not kicked out
7 because -- well, there is a lot of reasons.

8 MR. DI STEFANO: Well, kicked out was not
9 the right word to use.

10 MR. KLEMANSKI: No, it's not a definitive
11 and like this is -- there is not -- it's not a 30 day
12 or a 14 day program. It is variable based on your
13 condition and your circumstances. And it is a
14 combination of medical and do we have your next care
15 lined up. What is your housing situation? We are not
16 going to put somebody out if we know they are going to
17 go to an unsafe circumstance and then probably end up
18 in a shelter, or incarcerated, or something if they
19 were on the street, too.

20 MR. DI STEFANO: Is there a maximum time
21 that a person would stay there?

22 MR. KLEMANSKI: No, there is not maximum.
23 But if the state -- but there is nobody that would be
24 there for an indefinite period or anything. The state
25 monitors all admissions and discharges from programs

1 like this, individually and aggregate, through a
2 system they call Compliant Data System. We have to
3 put all admissions and discharges in, and the state
4 monitors it as their way of making sure that people
5 are not gaming the system in terms of reimbursement or
6 something. They oversee all of that kind of stuff.

7 MR. DI STEFANO: So they can tell you that
8 we notice you had a patient there for 28 days, and
9 they will step in and try to figure out why.

10 MR. KLEMANSKI: Well, we wouldn't even get
11 to that in terms of them having to step in. We have
12 our own utilization review people and QA people who
13 are monitoring our programs. And they look for
14 outliers. They look for somebody. And the reason we
15 do that is just to make sure somebody is not falling
16 through the cracks or something, or if we need to put
17 more resources around somebody because for whatever
18 reason we are having a hard time placing them. And
19 occasionally, that could happen if you had a really
20 hard to place a person, maybe somebody who had a
21 number of disabling conditions and we are having a
22 hard time convincing somebody else to provide their
23 next care. We would then have other case management
24 and supervisory folks get involved to help make those
25 connections. Then if that wasn't successful, then the

1 state, themselves, would get involved and call the
2 other providers and say why are you not taking this
3 patient. Everyone deserves treatment.

4 MR. DOLLINGER: After a person left the
5 14-day 7, 10-day program, where would they go? What
6 type of -- I'm just not familiar with the terms.
7 Where is the next move? What are the options for the
8 next --

9 MR. KLEMANSKI: So a lot of folks will go
10 to outpatient care because they are at that point
11 ambulatory. They are capable of showing up for
12 appointments, taking medications on a schedule, and
13 many of them will also -- if they are not, they will
14 go to a longer term inpatient program somewhere else
15 in the community or somewhere else in the state, or
16 they will go to a residential program whether it's a
17 community residence or rehab environment or supportive
18 living environment. It really depends on each
19 individual person. Some people who have housing will
20 go back to their housing with their outpatient
21 services in place next.

22 MR. DOLLINGER: And then you said it was
23 voluntary. What do you mean by that? I mean, if a
24 court wanted to direct someone to go here as part of a
25 sentencing or some kind of adjournment process --

1 MR. KLEMANSKI: Sure.

2 MR. DOLLINGER: -- would that be
3 considered voluntary? When you say voluntary, what do
4 you mean by that?

5 MR. KLEMANSKI: So it's voluntary. So in
6 a scenario like that, there are people that go to
7 treatment because someone is mandating or leveraging
8 them whether, if it's a wife that says if you don't go
9 I'm throwing you out and we're getting a divorce, or
10 it's an employer that says if you don't go you're
11 going to lose your job, or it's a criminal justice
12 system that says something like that. They are still
13 voluntary because they are not under -- like we are
14 not confining them. We don't have the right to make
15 them stay there. They can still walk out if they
16 don't like the quality of care, or if they don't like
17 the experience, or they don't want to be there. Yes,
18 they can have consequences from some other system, but
19 that system is not -- this is not a jail program, if
20 you will per say.

21 There is a big movement in New York State
22 to make treatment available in the jails. That's a
23 totally separate treatment confined thing.

24 MS. DALE: But it's 10:00 at night on a
25 Tuesday, and they are looking around, and they are

1 grouchy, and a person is trying to help them, and they
2 say -- and they walk out the door, and they just walk
3 down the street.

4 MR. KLEMANSKI: That can happen. In a
5 worst-case scenario, that can happen. And I'm sure it
6 would occasionally. I don't want to paint a perfect
7 rosy picture for you. We would try to discourage
8 that. We would -- counselors would try to counsel
9 them. We would call their family contacts, if we have
10 releases, and say hey they are planning to leave and
11 talk to them. We have a discharge process where we
12 try to coach them through it, but they have the right,
13 just like any other clinic or hospital in the area, to
14 say no I'm out of here. I'm not staying for whatever
15 reason. That is their kind of privilege, if you will.

16 CHAIRPERSON MIETZ: Sure. We can talk a
17 little bit more about that later. I have a little bit
18 of background to help with that.

19 Okay. Are there any more questions for
20 the gentleman?

21 MS. TOMPKINS WRIGHT: Just for Rick, in
22 the code, would this be more like a nursing home or
23 rehabilitation center which are mostly conditional
24 uses in the office districts? Is this how this is
25 because this is sort of a unique use?

1 MR. DI STEFANO: Well, what really makes
2 it for a use variance is truly the fact that it's open
3 24 hours. It is open 24 hours a day. So it is not
4 really like a nursing home because that's a permanent
5 residence. This is temporary.

6 MS. TOMPKINS WRIGHT: Yes, I guess a
7 rehabilitation.

8 MR. DI STEFANO: Yes, it is a form of
9 rehabilitation. So yes, it would, but the part of
10 the variance really is 24 hours. Where most
11 rehabilitation, you go there and you have an
12 appointment and you leave.

13 MR. DOLLINGER: And they wouldn't need a
14 use variance for that.

15 MR. DI STEFANO: No, if they were open
16 9:00 to 9:00 and they had people come in and get
17 outpatient treatment, then they wouldn't need the use
18 variance. It's the overnight stay. The 24-hour
19 overnight stay inpatient care that requires the use
20 variance.

21 MS. DALE: Does the overnight stay require
22 any additional safety or anything?

23 MR. DI STEFANO: Well, because we don't
24 permit it, we don't address it. So it's really -- the
25 questions we are asking on whether or not we grant the

1 variance is, is there some type of extra care, or
2 security, or something that we want to see in place.
3 That's really what it comes more down to as a
4 condition of their approval.

5 MS. TOMPKINS WRIGHT: Are 24-hour
6 rehabilitation centers allowed in any zone?

7 MR. DI STEFANO: No.

8 MS. TOMPKINS WRIGHT: They are not.

9 MR. DI STEFANO: Well, it depends on what
10 you consider rehabilitation. I mean, a nursing home
11 might have rehabilitation associated with people who
12 go there after they have a fall. And they are there
13 and going through rehabilitation, but the nursing
14 home, itself, has the conditional use permit. And as
15 an ancillary use of the condition of the nursing home,
16 they have a rehabilitation.

17 MS. THOMPSON WRIGHT: But a straight rehab
18 center --

19 MR. DI STEFANO: Straight rehab, 24 hours,
20 no.

21 CHAIRPERSON MIETZ: And there is a whole
22 complication of licensing issues related to that that
23 is well beyond the town of Brighton scope and zoning.

24 MR. KLEMANSKI: So maybe to help what you
25 are talking about, I know the state of New York has

1 very specific building code expectations for this type
2 of care. And it goes into special fire protections
3 and other things that they will make us do any
4 renovations to those standards. And they intend to
5 fund this as a complete interior renovation upgrading
6 all systems. So I can give you some assurance that
7 they are going to follow that.

8 MR. DI STEFANO: Yeah, I think a little
9 bit of a concern is -- I mean, a little bit of a
10 concern I have is when you say that you don't have
11 security on staff. Somebody has the right to leave, I
12 understand that. But when somebody leaves at midnight
13 and they are walking down Town Line Road or West
14 Henrietta Road, those are fairly busy avenues. And
15 now you have a person who might be still distressed
16 who are -- you know, at least if it's said there is no
17 way you can get out of this place from 9:00 at night
18 to 9:00 or 7:00 in the morning, there is some form of
19 security that that person is not wandering at night
20 and out. I think it's a little bit of a --

21 CHAIRPERSON MIETZ: You can't do that.

22 MR. DI STEFANO: I know you can't. That's
23 a little bit of a concern.

24 MR. DOLLINGER: That is kind of mine. How
25 is this different than -- there is no overnight. The

1 U of R programs, there is no overnight or something
2 like that?

3 CHAIRPERSON MIETZ: No.

4 MR. DOLLINGER: That is all just in-house?

5 MR. KLEMANSKI: Yes, that is a very
6 different type of program from what I understand.

7 MR. DI STEFANO: Yes, like Strong Ties and
8 Strong Recovery.

9 MR. KLEMANSKI: That is outpatient. That
10 is very different.

11 MR. DI STEFANO: But that patient from
12 this, can go to Strong Ties or Strong Recovery type of
13 facility; correct?

14 MR. KLEMANSKI: Sure. We would make --

15 MR. DI STEFANO: That would be their
16 outpatient treatment after they got through your
17 treatment.

18 MR. KLEMANSKI: Yes.

19 MR. DOLLINGER: One more question because
20 this came up in the very beginning. The medical staff
21 in relation to the patients, in theory there is 50
22 people. What is the staff that's there again? I
23 don't know if that was asked already.

24 MR. KLEMANSKI: So the current staffing
25 plan, again, subject to final approval from New York,

1 and budget, and everything else calls for a medical
2 director. That's usually a half-time physician that
3 is there certain hours of the day to oversee records
4 and check on things, see any patients that the staff
5 thinks needs to be seen by a physician.

6 There is one full-time physician there as
7 well who is there 35 to 45 hours a week, two nurse
8 practitioners or PAs, a service director who is an
9 administrative person, but they usually have a
10 clinical background, a program director who is
11 definitely a clinical person usually masters or a
12 higher level, a clinical team leader who is, again,
13 usually a credential licensed or masters level
14 clinician, a nurse manager, a nursing team leader, an
15 admissions team leader, someone who oversees the
16 admission process, a utilization case manager --
17 that's the person that manages everything we talked
18 about or somebody may be there longer there than they
19 should be -- ten counselors, twelve counselor aids, a
20 peer, seven RNs, eight LPNs, three guest services --
21 guest services are the people who go around and
22 straighten up the building, make sure things are
23 proper. There are snacks in the lounge. There are
24 things to read, help show people to their room, just
25 kind of maintain a certain decorum within the

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1 building, if you will -- a driver, an administrative
2 assistant, and a receptionist. There might be another
3 driver depending on funding.

4 CHAIRPERSON MIETZ: Okay.

5 MR. DI STEFANO: And just real quick, I'm
6 sorry to belabor this. And they have a full meal
7 service, obviously. So you have whatever kitchen
8 staff and everything. So it's a fairly heavily
9 staffed building.

10 MR. KLEMANSKI: Yes, we didn't even get
11 too deep into that. We subcontract food services out.
12 It is prepared on-site. There is a kitchen plan and
13 dining area. We have contracts with -- we are
14 actually in the middle of rebidding it so I can't say
15 who it will be, but usually it's the same vendor for
16 all of our facilities. And they are vendors that do
17 healthcare facilities, college campuses, municipal
18 buildings, if you will.

19 MR. DI STEFANO: Thank you, just to get an
20 idea of the activity.

21 CHAIRPERSON MIETZ: Okay. So anything
22 else?

23 MS. BRUGG: I'm just going to point out
24 one small thing that came to my attention the other
25 day, a referral from my own doctor, to allow medical

1 uses to have overnight stays. You have two sleep
2 clinics in town that have folks come and check
3 themselves in. So I had the fun of doing that.

4 CHAIRPERSON MIETZ: Okay.

5 MS. BRUGG: I just wanted to share that.

6 MS. TOMPKINS WRIGHT: Well, just as a
7 logistical issue, did the sleep clinics get a special
8 area variance?

9 MR. DI STEFANO: Well, sleep clinics are a
10 little different. They are overnight, but they are
11 not staying there. They are there for 12 hours, all
12 right, or not even. It is from 9:00 to 7:00, 9:00 at
13 night to 7:00 in the morning. So it's not really an
14 inpatient thing. It is a nighttime activity. And you
15 know, usually you are there because you don't want to
16 snore anymore. It is not that you are there because
17 you have other problems.

18 MS. THOMPSON WRIGHT: I just wasn't sure.

19 MS. BRUGG: And this is a light industrial
20 district and that's different as well.

21 CHAIRPERSON MIETZ: Okay. Any other
22 questions over here because we can discuss this
23 further? Okay. Great. Thank you very much.

24 MS. BRUGG: Thank you.

25 CHAIRPERSON MIETZ: Is there anyone in the

1 audience that would like to speak regarding this
2 application?

3 Okay. There being none, then the public
4 hearing is closed.

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1 Application 12A-05-18. Application of Aaron Mills,
2 owner of property located at 121 Sandringham Road, for
3 an Area Variance from Section 203-1B(6) to allow a
4 standby emergency generator to be located in a side
5 yard in lieu of the rear yard behind the house as
6 required by code. All as described on application and
7 plans on file.

8 MR. MILLS: Hello, I'm Aaron Mills, 121
9 Sandringham Road. This is pretty self-explanatory.
10 This is for a standby generator on the side of my
11 house rather than the rear of my house. I would just
12 like to go through the generator itself, all of my
13 neighbors, and why it's on the side of my house and
14 not on the rear of my house.

15 So the generator is what you call a
16 typical standby generator. It's Generac. It's new.
17 It's state of the art, 22 kilowatts, and 67 decibels.
18 I believe you allow 72 decibels at full load. So it
19 meets code. The setback from the property line also
20 meets code.

21 So my only real issue is that it's on the
22 side of my house instead of the back of my house. The
23 reason it's on the side of my house and not the back
24 of my house is that's where my gas meter and
25 electrical meter are. I think some of you have been

1 out to my house, and you will see that my backyard is
2 quite far from my gas meter and electrical meter. And
3 it would be approximately 120 feet of ripping my yard
4 out and putting in a gas line and electrical lines to
5 put it in the back of my yard.

6 I talked to the one neighbor it impacts
7 the most which is the neighbor directly on that side.
8 And his only concern was that if we lose power, will I
9 run an electrical cord to his house. I will also say
10 that he is one of my few neighbors that does not have
11 a standby generator. My neighbor directly on the
12 other side of me has a standby generator on the side
13 of their house and received a variance. And their
14 neighbor has a very large standby generator on the
15 side of their house, and they received a variance. My
16 neighbor across the street has a standby generator in
17 the rear of their house, but it's about twice the size
18 of mine. So they are very common in my neighborhood.

19 The reason we are putting one in is
20 because when the power is out and I am walking my dog
21 around my neighborhood, I notice all of my neighbors
22 that have one. And then I come home and don't have
23 one. We typically didn't lose in power. I am a
24 lifelong resident of Sandringham which is unusual. I
25 have been there my whole life. As a child, we never

1 lost power. But as our infrastructure is getting
2 older, we are losing power frequently. It is strange
3 how it happens in our neighborhood. I can't remember
4 a time where we all lost power. We are in a stable
5 area. Even in the ice storm, we didn't lose power at
6 our house but half of the neighborhood did. So there
7 are different phases within our neighborhood. And now
8 that I have two young kids of my own and I have a dog
9 at home, our options, if we do lose power, are fewer
10 than if I were living there alone or with my wife and
11 we just have blankets and call it a day. We will be
12 in this house a long time. I have been there my whole
13 life, and I plan on being there a very, very long
14 time. So I think it's a nice investment in the house.

15 It's completely screened by a row of
16 hemlocks between us and the neighbors that it does
17 impact the most. It cannot be seen by the street at
18 all. It is far enough down the side of my house. And
19 other than that, it is just a normal standby
20 generator.

21 CHAIRPERSON MIETZ: Good. Questions? No.
22 Okay. Great. Thank you.

23 MR. MILLS: Thank you.

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

1 application?

2 Okay. There being none, then the public
3 hearing is closed.

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1 Application 11A-10-18. Application of Susan O'Toole,
2 owner of property located at 71 Astor Drive, for (1)
3 an Area Variance from Section 207-10E(2) to allow
4 front yard pavement coverage to be 46% in lieu of the
5 minimum 30% allowed by code; 2) an Area Variance from
6 Section 207-10E(3) to allow rear yard pavement
7 coverage to be 60% in lieu of the maximum 35% allowed
8 by code; and 3) an Area Variance from Section
9 207-10E(5) to allow pavement throughout the site to
10 extend up to property lines where a minimum 4 ft.
11 Setback is required by code.

12 MR. DI STEFANO: I will just ask, anybody
13 here for 11A-10-18?

14 There being none. Thank you.

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

STATE OF NEW YORK:
COUNTY OF MONROE:

I, BRIANA L. JEFFORDS, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were typed by computer-assisted transcription under my personal supervision and constitute a true record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the town of Brighton, county of Monroe, state of New York.

Briana L. Jeffords
BRIANA L. JEFFORDS
Freelance Court Reporter and
Notary Public No. 01JE6325111
in and for Genesee County, New York

1 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF
2 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK
3 On DECEMBER 5, 2018, COMMENCING AT APPROXIMATELY 7:00
4 P.M.

5 December 5, 2018
6 Brighton Town Hall
7 2300 Elmwood Avenue
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRMAN
11 ANDREA TOMPKINS WRIGHT
12 JUDY SCHWARTZ
13 CHRISTINE CORRADO
14 JEANNE DALE
15 JENNIFER WATSON

16 DAVID DOLLINGER, ESQ.
17 Town Attorney

18 RICK DI STEFANO
19 Secretary

20
21
22
23 Reported By: BRIANA JEFFORDS
24 Forbes Court Reporting Service, LLC
25 21 Woodcrest Drive
Batavia, New York 14020

FORBES COURT REPORTING SERVICES, LLC

1 Application 11A-10-18. Application of Susan O'Toole,
2 owner of property located at 71 Astor Drive, for (1)
3 an Area Variance from Section 207-10E(2) to allow
4 front yard pavement coverage to be 46% in lieu of the
5 minimum 30% allowed by code; 2) an Area Variance from
6 Section 207-10E(3) to allow rear yard pavement
7 coverage to be 60% in lieu of the maximum 35% allowed
8 by code; and 3) an Area Variance from Section
9 207-10E(5) to allow pavement throughout the site to
10 extend up to property lines where a minimum 4 ft.
11 Setback is required by code.

12 Motion made by Mr. Mietz to table
13 Application 11A-10-18 for further
14 information as discussed in last month's
15 meeting.

16 (Seconded by Ms. Corrado.)

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

20 (Open roll call, motion to continue
21 tabling carries.)

1 Application 12A-01-18. Application of Chris Glyde,
2 lessee, and John Nicastro, owner of property located
3 at 1840 Monroe Avenue, for a Sign Variance from
4 Section 207-32B(2) to allow for 43.5 sf of business
5 identification signage (Existing tenant sign - 27.5
6 sf, proposed tenant sign - 16sf) on the building face
7 in lieu of the maximum 33 sf allowed by code. All as
8 described on application and plans on file.

9 Motion made by Ms. Schwartz to approve

10 Application 12A-01-18.

11 FINDINGS OF FACT:

- 12 1. The space for a sign on the building face is
13 limited due to the two large windows and the narrow
14 width of the building face.
- 15 2. The existing building face sign of the other
16 tenant used 27 and a half square feet of the allowable
17 33 square feet. Therefore, there is virtually no
18 allowable space for this business identification sign.
- 19 3. The proposed sign will add a little life into the
20 building and fits in well with all of the commercial
21 businesses around it.
- 22 4. The proposed sign will not create an adverse
23 effect on the area and will clearly identify the new
24 business.

25 CONDITIONS:

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Phone: 585.343.8612 | E-mail: Kelly@ForbesCourtReporting.com

1 1. This variance only applies to the building face
2 sign as presented in the written application and
3 testimony presented

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

6 (Seconded by Ms. Corrado.)

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

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

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1 Application 12A-02-18. Application of Janice and
2 Thomas Clark, owners of property located at 2908
3 Brighton Henrietta Town Line Road, for an Area
4 Variance from Sections 203.21B(6) and 203-9A(4) to
5 allow a standby emergency generator to be located in a
6 front yard in lieu of the rear yard behind the house
7 as required by code. All as described on application
8 and plans on file.

9 Motion made by Ms. Tompkins-Wright to
10 approve Application 12A-02-18.

11 FINDINGS OF FACT:

12 1. The granting of the requested variance will not
13 produce an undesirable change in the character of the
14 neighborhood or be a detriment to nearby properties.
15 Due to the unique configuration of the lot and its
16 setback from Henrietta Town Line Road, the front yard
17 functions more as a side yard. The desired location
18 of the generator will not be visible to any public
19 right of way. It will be at least 60 feet from the
20 nearest neighboring property line.

21 2. The requested variance is not substantial given
22 the aforementioned distances from the neighboring
23 properties and the unique shape of the property which
24 will make the generator less noticeable and intrusive.

25 3. The benefits sought by the applicant cannot

1 reasonably be achieved by any other method given the
2 orientation of the house, windows, and the location of
3 electric and gas power. There are no more appropriate
4 or available locations for a generator.

5 4. There is no evidence that the proposed variance
6 will have an adverse effect or impact on the physical
7 or environmental conditions on the neighborhood or
8 district.

9 CONDITIONS:

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

13 2. All necessary building permits must be obtained.

14 (Secoded by Ms. Schwartz.)

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

18 (Open roll call, motion to approve with
19 conditions carries.)
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1 Application 12A-03-18. Application of Matthew
2 Brodmann - Fitch Construction, contractor, and Ralph
3 and Elizabeth Dalton, owners of property located at
4 132 Holloway Road, for 1) an Area Variance from
5 Sections 203-2B(3) and 203-16A(4) to allow for the
6 construction of a 576 sf detached garage 2 ft. (3ft.
7 From wall, 2 ft from overhang) from both the north and
8 west lot lines in lieu of the minimum 5 ft. Required
9 by code; and 2) allow building lot coverage to be 32%,
10 after construction of said garage, in lieu of the
11 maximum 25% allowed by code. All as described on
12 application and plans on file.

13 Motion made by Ms. Watson to approve

14 Application 12A-03-18.

15 FINDINGS OF FACT:

16 1. The requested variance is not substantial in that
17 the proposed new garage will be in the same location
18 as the existing garage relative to the size of the
19 rear setback lines.

20 2. No other alternative can alleviate the difficulty
21 and produce the desired results. Changing the
22 location of the garage would be impractical because
23 the existing garage will not align with the five foot
24 setback which is required by code.

25 3. The size of the garage is the minimum necessary to

1 park two cars.

2 4. No unacceptable change in the character of the
3 neighborhood and no substantial detriment to nearby
4 properties is expected to result from the approval of
5 this variance. Many other garages already exist in
6 the neighborhood with similarly small setbacks and
7 exceeds the 25% lot coverage maximum.

8 5. The alleged hardship was not self-created by the
9 applicant as the need for replacing the garage arose
10 from windstorm damage. The small size of the lot
11 which poses a challenge to maintain the 25% lot
12 coverage maximum is also outside of the applicant's
13 control.

14 6. The health, safety, and welfare of community will
15 not be adversely effected by the approval of this
16 variance request.

17 CONDITIONS:

18 1. This variance will apply only to the structure as
19 described in the application provided and testimony
20 given. In particular, it will not apply to additional
21 or replacement structures considered in the future
22 that are not in the present application.

23 2. All necessary permits shall be obtained.

24 (Seconded by Ms. Schwartz.)

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

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Ms. Tompkins Wright, yes; Ms. Watson, yes;
Ms. Dale, yes; Mr. Mietz, yes.)
(Open roll call, motion to approve with
conditions carries.)

1 Application 12A-04-18. Application of Helio Health,
2 Inc., contract vendee, and Genesee Valley Group Health
3 Association, owner of property located at 1850
4 Brighton Henrietta Town Line Road, for a Use Variance
5 from Section 203-93 to allow for an inpatient
6 withdrawal and stabilization facility in an IG Light
7 Industrial district where not allowed by code. All as
8 described on application and plans on file.

9 Motion made by Ms. Corrado to approve

10 Application 12A-04-18.

11 FINDINGS OF FACT:

12 1. The Board having considered the information
13 presented by the applicant and pursuant to SEQOR, the
14 Board determines that there will be no environmental
15 impacts and negative declaration is issued for a 24/7
16 day a week 60 bed community based residential
17 inpatient withdrawal, stabilization, and treatment
18 program in the existing vacant office building. Under
19 applicable zoning regulations, the applicant is
20 deprived of all economic use or benefit from the
21 property in question. In fact, Helio Health is the
22 only viable purchaser to have come forward in over a
23 year. The sale is contingent upon the approval of
24 securing use variances.

25 2. The alleged hardship is unique to this property

1 and does not apply to a substantial portion of the
2 district or neighborhood. Further, in its current
3 configuration, the facility is not up to New York
4 State code for its current intended purpose as a
5 medical facility.

6 3. The requested use variance granted will not alter
7 the essential character of the neighborhood. The
8 surrounding properties are primarily commercial with
9 office and light industrial operations. The proposed
10 use is largely in character with the property's past
11 use as an urgent care medical clinic. The primary
12 difference being the inpatient nature of the treatment
13 to be provided under the proposed use.

14 4. The alleged hardship has not been self-created.
15 The property in question has been vacant and
16 aggressively marketed for at least a year. Its
17 location far from concentrations of medical facilities
18 or commercial retail zones renders it undesirable from
19 most code compliant uses.

20 **CONDITIONS:**

21 1. The use approved in this variance is only for that
22 which was described in the application submitted and
23 testified to during this meeting. This use is defined
24 as solely a 24/7 day a week 60 bed community based
25 residential inpatient withdrawal, stabilization, and

1 treatment program. This variance will not apply to
2 any expansion/replacement of the building or services
3 considered in the future.

4 2. The use shall operate in accordance with all
5 applicable New York State and Monroe County
6 regulations.

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

9 (Seconded by Ms. Watson.)

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

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

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1 Application 12A-05-18. Application of Aaron Mills,
2 owner of property located at 121 Sandringham Road, for
3 an Area Variance from Section 203-1B(6) to allow a
4 standby emergency generator to be located in a side
5 yard in lieu of the rear yard behind the house as
6 required by code. All as described on application and
7 plans on file.

8 Motion made by Ms. Thompson-Wright to
9 approve Application 12A-05-18.

10 FINDINGS OF FACT:

11 1. The granting of the requested variance will not
12 produce an undesirable change in the character of the
13 neighborhood or be a detriment to nearby properties.
14 The applicant testified that the generator will be
15 well screened from the view of the public driveway
16 based on an existing tree line between his property
17 and the neighboring property in the distance from
18 Sandringham Road. In addition, most of the properties
19 surrounding this home have generators in the side yard
20 as well.

21 2. The requested variance is not substantial given
22 the distance from the road to the generator and nearby
23 properties with similarly placed generators.

24 3. The benefits sought by the applicant cannot be
25 reasonably achieved by any other method given the

1 location of electric and gas power. There are no more
 2 appropriate or available locations for the generator.
 3 4. There is no evidence that the proposed variance
 4 will have an adverse effect or impact on the physical
 5 or environmental conditions in the neighborhood or
 6 district.

7 CONDITIONS:

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

11 2. All necessary building permits shall be obtained.

12 (Seconded by Ms. Schwartz.)

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

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

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

STATE OF NEW YORK:
COUNTY OF MONROE:

I, BRIANA L. JEFFORDS, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were typed by computer-assisted transcription under my personal supervision and constitute a true record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the town of Brighton, county of Monroe, state of New York.

Briana L. Jeffords
BRIANA L. JEFFORDS
Freelance Court Reporter and
Notary Public No. 01JE6325111
in and for Genesee County, New York