

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

**BRIGHTON**

**ZONING BOARD OF APPEALS**

**MEETING**

---

July 6, 2022  
 At approximately 7 p.m.  
 Brighton Town Hall Zoom  
 2300 Elmwood Avenue  
 Rochester, New York 14618

PRESENT:

DENNIS MIETZ  
Chairperson

EDWARD PREMO	)	Board Members
HEATHER MCKAY-DRURY	)	
ANDREA TOMPKINS-WRIGHT	)	
JUDY SCHWARTZ	)	
KATHLEEN SCHMITT	)	
MATTHEW D'AUGUSTINE	)	

KEN GORDON, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

BRENDAN RYAN

REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,  
 FORBES COURT REPORTING SERVICES, LLC  
 21 Woodcrest Drive  
 Batavia, NY 14020

1 CHAIRPERSON MIETZ: Okay, folks. Welcome to  
2 the July meeting of the Brighton Zoning Board of  
3 appeals. Rick, let's begin by calling the roll.

4 (Whereupon the roll was called.)

5 MR. DiSTEFANO: All members are present.

6 CHAIRPERSON MIETZ: Okay, Rick. And was the  
7 meeting properly advertised, sir?

8 MR. DiSTEFANO: Yes, Mr. Chairman. It was  
9 advertised in the Daily Record of June 30th, 2022.

10 CHAIRPERSON MIETZ: Okay. Very good. And  
11 tonight we do have five applications. Is there  
12 anything you would like to discuss with us before I  
13 talk about the meeting itself?

14 MR. DiSTEFANO: I have nothing unless any  
15 members have any questions regarding the new  
16 applications.

17 CHAIRPERSON MIETZ: Okay. Very good. All  
18 right. So for those of you who are not familiar with  
19 the Zoom format and the format of the Zoning Board,  
20 what we will do is there are five new applications  
21 that we need to hear tonight.

22 When you hear the application called by  
23 Mr. DiStefano, please identify yourself as the  
24 speaker. And then we will allow you to present your  
25 application. You should talk to the Board members as

1 it relates to why you feel your application should be  
2 approved and what you're trying to do.

3 Board members then will ask any questions  
4 they would like to ask. Once we finish that, we will  
5 check on the call to see if there's anyone who wants  
6 to speak regarding your application. If there is,  
7 they will speak. If there isn't, we will close the  
8 public hearing and move on to the next application.

9 After we hear them all we will go back to  
10 the beginning and deliberate. You're welcome to  
11 listen on the call for the deliberation portion. If  
12 you decide not to -- we do make our decisions tonight  
13 unless there was an application that would be tabled  
14 for some reason. You would hear the decision tonight.  
15 If you don't want to stay on the call, you can call  
16 Mr. DiStefano at the Brighton plumbing -- not  
17 plumbing -- Brighton Building Department tomorrow and  
18 he will let you know the result of your application.  
19 Okay.

20 MR. DiSTEFANO: Mr. Chairman, can I just  
21 make a comment please?

22 CHAIRPERSON MIETZ: Yeah.

23 MR. DiSTEFANO: If we could just have  
24 everybody in the audience just turn off your video  
25 until you're called on to speak to the Board. It just

1 makes the screen a little easier to see. I really  
2 appreciate that.

3 CHAIRPERSON MIETZ: Okay. Very good.

4 MR. DiSTEFANO: Thank you.

5 CHAIRPERSON MIETZ: Whenever, Rick, that  
6 you're ready to call the first application please  
7 call --

8 MR. DiSTEFANO: We got some minutes to take  
9 care of.

10 CHAIRPERSON MIETZ: Oh, geez. That was a  
11 Freudian thing.

12 MR. DiSTEFANO: We were just talking about  
13 them.

14 CHAIRPERSON MIETZ: Oh, my God. I'm looking  
15 at the pile right here. Okay. Yes. We have three  
16 sets of minutes. I'm so sorry. I was just trying to  
17 avoid that. No. April, May and June. Okay.

18 So let's talk about April first. Any  
19 comments on April? Go ahead, Judy.

20 MS. SCHWARTZ: Yes. It's page 25. There's  
21 no numbers. So I'm just going to go down and tell the  
22 person who's speaking is down near the bottom, it's  
23 Mrs. Muller. The last word should be Middlebrook,  
24 Middlebrook.

25 Page 33 -- oh gosh -- second paragraph,

1 fourth fine, starting with locate, delete the word  
2 "deep."

3 Page -- hold on -- 52. Gosh. Mr. Carlucci  
4 is speaking down near the bottom. The line starts  
5 with "homeowner." And almost at the end the word  
6 should be "planting."

7 Page 60, the very last line, the very last  
8 word is "garage."

9 Page 61, very end of paragraph one, please  
10 insert the word "be" after actually be, B-E.

11 Page 72 -- let me see. We're on the  
12 conditions one and two up at the very top of the page.  
13 It seems to me that the two should go together because  
14 the first one seems incomplete. So I would -- don't  
15 write it yet, but let me read -- one, based on the  
16 plans submitted, testimony given, this permit is for a  
17 maximum of 12 months from issuance. Because otherwise  
18 one, based on the plans submitted, testimony given.  
19 Well, maybe based on -- all right. All right. Maybe  
20 strike it. Okay.

21 Page 74, one, two, third person -- second  
22 person speaking, Mr. DiStefano, second line starting  
23 with conditions should be "T and R." The same thing  
24 is true on page 75, the very end of paragraph 2. And  
25 the same thing is true under "Mr. Gordon" a little

1 further down the page.

2 Page 78, one, two, three, this is Heather  
3 speaking, Ms. McKay-Drury, third line down, the third  
4 word should be "word,"

5 Page. Oh, my. Maybe that's it. No, no,  
6 no. Hold on. Page 102, this is Rick DiStefano  
7 talking. The second line, third word is "garage."

8 Page 110, one, two, three, fourth photograph  
9 down, Willard should be Avenue, Avenue.

10 Page 114, second paragraph, third line,  
11 third word should be "fence," F-E-N-C-E.

12 And that is all I have.

13 CHAIRPERSON MIETZ: Okay. Is there any  
14 other comments on the April minutes? Okay. Can I  
15 have a motion please?

16 MR. PREMO: I move we approve the April  
17 minutes as corrected.

18 MS. TOMPKINS-WRIGHT: Second.

19 MR. D'AUGUSTINE: Second.

20 CHAIRPERSON MIETZ: Got a second.

21 MS. SCHWARTZ: Second, Judy.

22 CHAIRPERSON MIETZ: Yup.

23 MR. DiSTEFANO: The motion is to approve  
24 with corrections, April minutes.

25 (Mr. Premo, yes; Ms. Schwartz, yes;

1 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
2 yes; Mr. Meitz, yes; Ms. McKay-Drury, yes.)  
3 (Upon roll motion to approve with  
4 corrections carries.)

5  
6 CHAIRPERSON MIETZ: Okay how about the May  
7 minutes?

8 MS. SCHWARTZ: Ready?

9 CHAIRPERSON MIETZ: Yup.

10 MS. SCHWARTZ: Okay. Page 17, line 19, I'm  
11 not sure if it should be side or site, but it's  
12 talking about the church. And it says "property owner  
13 has the right to egress and ingress and parking on  
14 that side based on the easement or parking on that --  
15 must be side, based on the easement; right?

16 MR. DiSTEFANO: It is side, Judy.

17 MS. SCHWARTZ: Side. Okay. All right.

18 Line -- page 36, up at the top, line 1, the  
19 third word is "are," A-R-E.

20 Page 55, line 21, towards the end of the  
21 line, the word should be "chance, good chance."

22 Page 59, line 20, the word is C-H-L-I --  
23 C-H-I-L-I, C-H-I-L-I, Chili.

24 Page 77, line 7, the second word is "back,"  
25 B-A-C-K.

1           Page 100, line 13, I'm pretty sure the  
2 fourth word should be "shelter," not smelter; right?  
3 Okay.

4           CHAIRPERSON MIETZ: All right.

5           MS. SCHWARTZ: Talking about the thing on  
6 the roof.

7           On page 122, I have a question mark here  
8 with line 16, 17. We're talking -- Andrea, this is  
9 yours about the Grassroots movement and it says, "My  
10 problem with that is they could put on that second  
11 sign -- second sign without this variance; right?  
12 Second?

13           MS. TOMPKINS-WRIGHT: Yes. Second. As in  
14 two.

15           MS. SCHWARTZ: That's what I thought.

16           Page 130, line 13, under the conditions, a  
17 little halfway in, the word should be "plans,"  
18 P-L-A-N-S.

19           Page 132, line 3, the second part of the  
20 word should be "finding."

21           Page 134, line 23, again, towards the middle  
22 of the page, it should be "plans," P-L-A-N-S.

23           Page 152, line 7, the first word should be  
24 "leaning," L-E-A-N-I-N-G.

25           Line 10, the third word should be "be," B-E.



1           Page 163, the first -- oh, line 20, the  
2 first word should be "buffering."

3           Line 1 -- I'm sorry -- page 174, line 10,  
4 the first word should be "line."

5           Page 178, line 19, the fourth word should be  
6 "applies."

7           And that's all I have.

8           CHAIRPERSON MIETZ: No one else have  
9 anything else for the May minutes? Thank you, Judy.

10          MS. SCHWARTZ: You're welcome.

11          CHAIRPERSON MIETZ: Can I have a motion  
12 please?

13          MR. PREMO: I move --

14          MS. TOMPKINS-WRIGHT: I move --

15          MS. SCHMITT: Sorry Andrea.

16          MR. DiSTEFANO: Andrea, you made the motion?  
17 Ed was the second?

18          MR. PREMO: Yup.

19          CHAIRPERSON MIETZ: Sounds good.

20          MR. DiSTEFANO: The motion is to approve the  
21 May minutes with corrections.

22                 (Mr. Premo, yes; Ms. Schwartz, yes;  
23 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
24 yes; Mr. Mietz, yes; Ms. McKay-Drury, yes;  
25 Ms. Schmitt, yes.)

1 (Upon roll motion to approve with  
2 corrections carries.)

3 CHAIRPERSON MIETZ: Then the last one, we  
4 have the June shorter one. Does anyone have anything?  
5 I know, Judy, you were not there.

6 MS. SCHWARTZ: I was there, but I  
7 couldn't --

8 CHAIRPERSON MIETZ: Does anyone have  
9 anything for June meeting? Anything for June? Going  
10 once, going twice. Okay. Can someone make a motion  
11 for June?

12 MR. D'AUGUSTINE: Motion to approve June  
13 minutes.

14 MS. TOMPKINS-WRIGHT: Wright, second.

15 CHAIRPERSON MIETZ: Second, Andrea.

16 MR. DiSTEFANO: The motion is to approve the  
17 June minutes.

18 (Mr. Premo, yes; Ms. Schwartz, abstain;  
19 Ms. Tompkins-Wright, yes; Mr. D'Augustine,  
20 yes; Mr. Mietz, yes; Ms. McKay-Drury, yes;  
21 Ms. Schmitt, yes.)

22 (Upon roll motion to approve carries.)

23 MR. DiSTEFANO: Mr. Chairman, just let me  
24 state, I failed to do that earlier, if anybody on the  
25 call is here for applications 5A-01-22 and 5A-02-22,

1 they were applications for 2720 West Henrietta Road,  
2 those two applications have been adjourned to a  
3 further -- to a future meeting. So they will not be  
4 heard tonight.

5 CHAIRPERSON MIETZ: Okay. Very good. So  
6 whenever you're ready, sir, please proceed.

7 **Application 7A-01-22**

8 Application of John and Vanessa Geer, owners  
9 of property located at 2171 West Henrietta Road, for a  
10 Temporary and Revocable Use Permit pursuant to Section  
11 219-4 to erect a 30 foot X 30 foot tent partially  
12 covering an outdoor dining area for the summer and  
13 fall months of 2022. All as described on application  
14 and plans on file.

15 CHAIRPERSON MIETZ: Okay. And who do we  
16 have speaking for the restaurant?

17 MR. GEER: Hi. This is John Geer.

18 CHAIRPERSON MIETZ: Hi, John. Whenever  
19 you're ready, please proceed.

20 MR. GEER: Yeah. So we're looking to put up  
21 the 30 by 30 tent on our north patio. We're not  
22 changing anything, but -- nothing with tables, nothing  
23 with chairs, everything's the same. Just putting the  
24 tent up to keep, you know, us and our friends and  
25 stuff, our patrons, in the shade and, you know,

1 sometimes out of the rain.

2 It is the only shade that we do have on the  
3 property since we have all, you know, fresh  
4 landscaping and everything there.

5 CHAIRPERSON MIETZ: Okay. And how long will  
6 this tent exist?

7 MR. GEER: Just till the end of October.

8 CHAIRPERSON MIETZ: Okay. Anything else you  
9 want to add?

10 MR. GEER: That's it.

11 CHAIRPERSON MIETZ: Okay. Questions by the  
12 Board members please.

13 MS. SCHMITT: Hi. This is Member Schmitt.  
14 I just have a few questions.

15 Can you refresh my recollection? The  
16 outdoor seating has been previously approved; that's  
17 correct?

18 MR. GEER: Yes, it has.

19 MS. SCHMITT: Yes. And you're just talking  
20 about a tent, no nighttime lighting, music, anything  
21 like that.

22 MR. GEER: No.

23 MS. SCHMITT: Okay. And the parking  
24 situation will not change? You're not using anything  
25 that will encroach onto parking spaces; is that

1 correct?

2 MR. GEER: That is correct, yes.

3 MS. SCHMITT: Great. Thank you.

4 MS. TOMPKINS-WRIGHT: This is Member Wright.

5 I think you said this already, but you're not

6 increasing tables or chairs?

7 MR. GEER: We are not.

8 MS. TOMPKINS-WRIGHT: Outside -- it'll be

9 conducted the same way that it is now, it will just be

10 under --

11 MR. GEER: Yes. Yup. And this is a

12 commercial tent, fire retardant. It's an expensive

13 tent made specifically for this.

14 MR. DiSTEFANO: John, does the tent have

15 sides and are those sides down all the time or what do

16 you do with the sides?

17 MR. GEER: Yup. So no sides at all. It's

18 just opened and anchored and just an overhead, you

19 know, canopy.

20 MR. DiSTEFANO: And did you give any thought

21 to just doing the typical umbrellas, you know,

22 attached to the tables?

23 MR. GEER: Yeah. So we've -- we did the

24 umbrellas. You know, it's kind of a little wind

25 tunnel over there. So we spent a fortune on umbrellas

1 because they get damaged with just -- we like to call  
2 it over there -- it's like the Bermuda Triangle over  
3 there. We get storms when anyone else is getting  
4 storms. We got windstorms. You know, we get some  
5 rain.

6 But, you know, we've had -- we've  
7 accumulated quite a cost on umbrellas. They haven't  
8 worked out. And they're quite dangerous. You know,  
9 we don't serve out there, you know, on storms or rainy  
10 or anything like that anyway. But sometimes the wind  
11 just gusts up out of nowhere and has caused us  
12 problems in the past. And not to mention, you know,  
13 we've had some, you know, theft over there.

14 MR. DiSTEFANO: So what I -- what we'd like  
15 to understand is that you are now going to serve now  
16 if it rains or if it rains, you still won't be using  
17 the actual tent?

18 MR. GEER: No. We won't be using the tent  
19 if it rains. But if someone wants to go sit under  
20 there, eat some ice cream, you know, people seem to  
21 quite enjoy it.

22 CHAIRPERSON MIETZ: Okay. Any other  
23 questions by the Board members?

24 MR. GORDON: Dennis, I have one.

25 CHAIRPERSON MIETZ: Go ahead.

1 MR. GORDON: Mr. Geet [sic], is there table  
2 service?

3 MR. GEER: Yes, there is.

4 MR. GORDON: In the outdoor area. And  
5 that's currently with the tent, yes?

6 MR. GEER: Yes. We have a north and a south  
7 patio.

8 MR. GORDON: When will this tent come down  
9 for the season?

10 MR. GEER: So we're thinking it would be  
11 nice to have it from May to the end of October.

12 MR. GORDON: And then the tent and all the  
13 poles or whatever else will be stored inside after  
14 that?

15 MR. GEER: Yes, it would.

16 MR. GORDON: Okay. Those are my questions.  
17 Thank you.

18 MR. DiSTEFANO: Just one more thing.  
19 Beginning in October you get some pretty chilly days.  
20 Are you looking to heat -- provide heat for this tent?

21 MR. GEER: No. No. We're just, you know,  
22 hopefully we get --

23 MR. DiSTEFANO: No heating or anything like  
24 that for the time it's up?

25 MR. GEER: Right. Yup.

1 CHAIRPERSON MIETZ: Very good. Any other  
2 questions for Mr. Gear? Okay, John, thank you.

3 MR. GEER: Okay. Thank you.

4 CHAIRPERSON MIETZ: Is there anyone on the  
5 Zoom call that would like to speak regarding this  
6 application? Okay. There being none, then the public  
7 hearing's closed.

8 **Application 7A-02-22**

9 Application of The University of Rochester,  
10 owner of property located at 300 East River Road for  
11 renewal of a Temporary and Revocable Use Permit  
12 (4A-03-20) pursuant to Section 219-4 to erect two  
13 tents (one of which will remain up) and hold up to  
14 three (per year) outdoor special events for the years  
15 2022 and 2023. All as described on application and  
16 plans on file.

17 CHAIRPERSON MIETZ: Okay. And who do we  
18 have speaking for U of R?

19 MS. LONDON: Doreen London.

20 MR. MCHUGH: And Barry McHugh.

21 CHAIRPERSON MIETZ: Okay, folks. Then go  
22 ahead and proceed then.

23 MS. LONDON: We will have the larger tent,  
24 which is on the parking lot. It's 130 by 60. That is  
25 the one that we would do twice a year for our



1 commencement and for Meliora Weekend. It is up and  
2 down within a week.

3 The smaller tent, which is the 20 by 40, the  
4 people in that building are looking for it to be up  
5 from May 1st to October 30th for an additional outside  
6 space for them to be able to break in and/or have  
7 meetings in. Since most of them have been working  
8 remotely for the last two years, they're not all very  
9 excited I could say about coming back, working inside  
10 the office. So we're transitioning.

11 CHAIRPERSON MIETZ: Okay. Now, on a regular  
12 basis then, if that's going to exist through the whole  
13 season, will people like be going out there to eat?  
14 What will they be doing out there?

15 MS. LONDON: They would be having meetings  
16 and possibly taking a break, eating their lunch, just  
17 going outside to get away from inside the building  
18 with their computers because the Wi-Fi still does work  
19 in that space.

20 CHAIRPERSON MIETZ: Okay. There wouldn't be  
21 any organized food service or anything I guess I'm --

22 MS. LONDON: No. No.

23 CHAIRPERSON MIETZ: They would bring their  
24 sandwich out there or something? --

25 MS. LONDON: Correct.

1 CHAIRPERSON MIETZ: -- and have it? Okay.  
2 Very good.

3 Other -- are you guys -- anything else you  
4 want to add? I'm sorry.

5 MS. LONDON: I don't think I have anything.  
6 Barry, do you?

7 MR. McHUGH: Meliora is our homecoming  
8 weekend if you don't know what that is. So that's it  
9 along with graduation. It's a reception tent.

10 CHAIRPERSON MIETZ: Okay. So there would  
11 probably be some food service on that weekend out  
12 there?

13 MS. LONDON: On the large tent, correct.

14 CHAIRPERSON MIETZ: Right. Okay.

15 MR. McHUGH: It would be catered by the  
16 University.

17 MS. TOMPKINS-WRIGHT: This is Member Wright.  
18 Is the use and plans for the next two years relatively  
19 consistent with the uses of the tent -- size of the  
20 tent and the uses for the previous two years?

21 MS. LONDON: Correct. Yes.

22 MS. TOMPKINS-WRIGHT: Okay. And this is a  
23 question for U of R, to the applicant, but also I  
24 guess for Rick as well, any issues reported in past  
25 with -- based on the area, I'm guessing you don't have

1 any neighbors complaining about noise or music or  
2 anything like that. But were there any complaints,  
3 any issues with the tents from the last two years?

4 MS. LONDON: Actually we don't usually put  
5 lights in either one of those tents. So it's like a  
6 dusk to dawn or dawn 'til dusk type of situation.  
7 We've not had any complaints.

8 MR. MCHUGH: And there is no music.

9 MS. TOMPKINS-WRIGHT: Okay.

10 MS. SCHWARTZ: This is Member Schwartz. I  
11 have a couple questions for tent number 2, because one  
12 has been done in previous years and is okay.

13 I'm a little concerned about trash because  
14 it's not a catered event. And so it won't be cleaned  
15 up on -- you know, naturally by the catering service.

16 So what are you planning for trash  
17 receptacles or is it carry-out or whatever for tent  
18 number 2.

19 MS. LONDON: Tent number 2 is carry-in,  
20 carry-out because it is basically just -- the person  
21 that is going out there to eat their lunch, they would  
22 take their trash back in.

23 There are two trash receptacles outside of  
24 the door entering the building. So they can utilize  
25 those.

1 MS. SCHWARTZ: Okay. And how often would  
2 those be emptied? Because it will be food and it's  
3 outside and warm weather.

4 MS. LONDON: Every day they get emptied.

5 MS. SCHWARTZ: They do. Okay. Are they out  
6 there all the time so these wouldn't be new trash  
7 receptacles just for this tent going up; is that  
8 correct?

9 MS. LONDON: That is correct.

10 MR. MCHUGH: And there is no catering.

11 MS. SCHWARTZ: I know that. Right.

12 MR. MCHUGH: Oh, okay.

13 MS. SCHWARTZ: No, I meant as far as  
14 maintenance is concerned for the building. And you're  
15 saying on a daily basis. Okay.

16 How many people will be able to fit under  
17 this smaller tent?

18 MS. LONDON: 48 is the max capacity.

19 MS. SCHWARTZ: Okay. How are you going to  
20 prevent it from being used on the weekends?

21 Let's say, you know, somebody in the office  
22 says, oh, I got a great picnic spot. I know it won't  
23 be used. And a group going over. How will you manage  
24 that?

25 MS. LONDON: That would be the department,

1 our DP -- our public safety department would take care  
2 of that because they monitor that area all the time.

3 MS. SCHWARTZ: Okay. So there would be no  
4 concern then for it to be -- being used off hours and  
5 so forth?

6 MS. LONDON: Correct.

7 MR. MCHUGH: It's paroled -- it's on a  
8 parole cycle and it's seven days a week.

9 MS. SCHWARTZ: Okay. Okay. Oh. And what  
10 style will that tent be? Is it just a canopy? Is  
11 there going to be sides or what?

12 MS. LONDON: It has two sides. It has one  
13 on the short end and one on the long end. So it's  
14 open -- half open facing the building. So that's how  
15 they would have it set up.

16 MS. SCHWARTZ: You have a second tent on any  
17 other -- at any facility on the overall campus?

18 MS. LONDON: No. We have outside areas for  
19 them that we don't need to have tents. We have like  
20 patios and outside gathering areas.

21 MS. SCHWARTZ: Okay. All right. I think  
22 you've answered my questions. Thank you.

23 CHAIRPERSON MIETZ: Okay. Any other  
24 questions by the Board members?

25 MR. GORDON: Dennis, this is Ken. I just

1 have a couple.

2 And really one of them is just a point of  
3 clarification. The second tent, this is a new  
4 application, not a renewal for the second tent; is  
5 that right?

6 MS. LONDON: That is correct.

7 MR. GORDON: Okay. So I didn't know if I  
8 heard Member Wright correctly, but it sounded like you  
9 were saying have there been problems with the tents in  
10 the past. I just want to make sure the Board  
11 understands that tent number 2 is brand new and hasn't  
12 existed in the past.

13 What are you putting under the tent? Like  
14 tables, chairs, fireplaces, you know, what?

15 MS. LONDON: There are only tables and  
16 chairs under -- Are we referring to number 2?

17 MR. GORDON: Number 2.

18 MS. LONDON: Yes. It's just tables and  
19 chairs and fire extinguishers.

20 MR. GORDON: And seating for 48 people in  
21 tent number 2, is that what I heard you say?

22 MS. LONDON: Yes. Correct.

23 MR. GORDON: And what's the -- what's the  
24 surface it's getting set up on? Is it grass? Is it  
25 pavement? What is it?

1 MS. LONDON: They would put a floor. They  
2 would install a floor. So it would be a hard surface.

3 MR. GORDON: Is it a raised floor?

4 MS. LONDON: Yeah. It's like an inch high.

5 MR. GORDON: Okay. Any electricity being  
6 run out to that --

7 MS. LONDON: No.

8 MR. GORDON: -- tent?

9 And that tent and the platform would come  
10 down you said at the end of October and be stored  
11 somewhere inside on campus, yes?

12 MS. LONDON: Correct. Yes.

13 MR. GORDON: That's all I have.

14 CHAIRPERSON MIETZ: Okay. Any other  
15 questions for the applicant? Okay. Thank you very  
16 much.

17 And is there anyone on the Zoom call that  
18 would like to speak regarding this application? Okay.  
19 Then there being none, then the public hearing is  
20 closed.

21 MR. MCHUGH: Thank you.

22 CHAIRPERSON MIETZ: Thanks.

23 **Application 7A-03-22**

24 Application of Michael Pallischeck and  
25 Patricia Hogenmiller, owners of property located at

1 186 Dale Road, for an Area Variance from Section  
2 207-2A to allow a 6.5 foot high fence in a front yard  
3 area in lieu of a maximum 3.5 foot high fence as  
4 allowed by code. All as described on application and  
5 plans on file.

6 CHAIRPERSON MIETZ: Okay. And who do we  
7 have speaking for this application?

8 MR. PALLISCHECK: This is Michael  
9 Pallischeck.

10 CHAIRPERSON MIETZ: Okay, Michael. When  
11 you're ready, please proceed.

12 MR. PALLISCHECK: I'm wondering if you could  
13 put up the colored layout? There we go. Might be a  
14 little easier to understand.

15 So our residence is a flag lot. And you can  
16 see the blue line is the driveway. Dale Road is to  
17 the left at that -- where we come down the driveway.

18 And the application is that we have a  
19 6-foot-6 fence along our driveway, which is owned by  
20 the neighbor. And that's the brown group in the  
21 foreground.

22 And by code we are only permitted to have a  
23 42-inch fence along the same area given that that's  
24 technically our front yard, whereas it's her backyard.

25 This fence has been in disrepair for the



1 better part of two years. Only recently has most of  
2 the fence been repaired. But in that repair, the  
3 repairs -- the repairs have not been what you could  
4 call a restoration. But, yes, it's the -- the red  
5 portion of the line is their fence that is 6-foot-6  
6 high, but is -- was in disrepair.

7 The corner piece, the red, is now all  
8 intact, albeit not a great job as I say the  
9 restoration not -- anyway. So -- and also all of the  
10 yellow that you see is the neighbor's fence is all  
11 6-foot-6.

12 So our driveway is essentially lined with  
13 high fences. And we're gardeners. We enjoy the  
14 surroundings of our house. And this is a beautiful  
15 spot until a tree fell. And you can kind of see  
16 diagonally from -- to red in the backyard, that's the  
17 tree trunk, which still remains. It did a tremendous  
18 amount of damage, both to their fence, but also across  
19 the way to our gardens.

20 And we've restored those -- the garden on  
21 one side, but the fence on her side is really out of  
22 keeping with the rest of the entryway. And, of  
23 course, this is our -- this is where guests first get  
24 their first impression. So it's important to us.

25 But also not mentioned in the application,

1 we often have deliveries that are mistaken for either  
2 for us or for the neighbor's house or the reverse of  
3 that. It gives us pause to wonder sometimes what  
4 might happen in an emergency. We had Google change  
5 their map three times -- I'm sorry -- two times.  
6 We've asked a third time to once again try and get it  
7 corrected because it takes you to another place, not  
8 our house.

9 At any rate, it's not obvious when you turn  
10 the corner into our driveway that it's our house that  
11 you're going to. It gives you the impression that  
12 it's the brown roofed house in front of us.

13 And by allowing us to make a better fence,  
14 restore the gardens and make that look continuous, I  
15 don't know, look, that would make one think that when  
16 you turn down that driveway, you are indeed coming  
17 back to the residents behind.

18 And we have tried to work with the neighbor.  
19 We were always on good terms. We've been there for 17  
20 years. And when the tree came down, I'm not sure  
21 where it went off the tracks, but we haven't been able  
22 to restore that relationship. I have some hope we'll  
23 be able to do that someday, but it doesn't look like  
24 it's something that has much possibility.

25 I even offered to do the labor restoration

1 on her fence. She would have to buy the materials.  
2 And she turned me down unfortunately. So I'm not sure  
3 that we'll ever be able to make that restoration  
4 happen any other way than to make it happen on our  
5 side of the line.

6 So essentially what we're asking here is to  
7 have a fence height of 6-foot-6 that would match what  
8 the neighbors have. And this is just along the area  
9 in green. And I think that's it in a nutshell.  
10 Anything, Patricia?

11 MS. HOGENMILLER: No.

12 MR. PALLISCHECK: Any questions?

13 CHAIRPERSON MIETZ: Okay. Board members,  
14 any questions?

15 MS. TOMPKINS-WRIGHT: This is Member Wright.  
16 The height proposed is the exact height of the fence  
17 that the unrestored -- or the partially restored fence  
18 that's there now?

19 MR. PALLISCHECK: Yes, it is. Uh-huh. Her  
20 fence is all the high fence.

21 MS. TOMPKINS-WRIGHT: Okay. And how close  
22 will this -- because it's not as if she's taking her  
23 fence down. So how close will this new proposed fence  
24 actually be to the fence that's already existing?

25 MR. PALLISCHECK: Her fence does not

1 precisely follow the lot line. I had it surveyed. So  
2 we knew exactly where the points were. And we  
3 actually ended up cutting our driveway to make a more  
4 even strip of grass along there as a result of that.

5 So -- but at the left side of her fence at  
6 that corner, that corner is almost right on top of the  
7 line. The distance to our driveway from that line is  
8 about 4 feet.

9 It's probably a little less than that at the  
10 other end of the driveway. It's near about 42 inches  
11 from that lot line. And her fence is a little bit  
12 further back, but in the process of putting up the  
13 panels in the past couple of months, she, now knowing  
14 where the line is, has moved it over a little bit.

15 And so I'm making a long story, but it's --  
16 it varies. So it's not exactly along the line, but  
17 it's close. And then because we only have 3 feet to 4  
18 feet, something like that, in the area of her fence,  
19 we would have to do it pretty doggone close.

20 We've talked about a lot of possibilities  
21 for this, maybe not doing a continuous fence, maybe  
22 doing some lattice. But when it comes right down to  
23 it, it doesn't seem to be a solution unless we say we  
24 want to have the same privilege in having that high  
25 fence. And it will be on our side of the line, but

1 you may or may not be able to get back there.

2 MS. TOMPKINS-WRIGHT: So at any point will  
3 it be, you know, closer than like a foot to the other  
4 fence so that, you know, you couldn't get in between?

5 MR. PALLISCHECK: Yeah. Yeah. I would say  
6 so.

7 CHAIRPERSON MIETZ: Have you --

8 MS. TOMPKINS-WRIGHT: Have you --

9 CHAIRPERSON MIETZ: Go ahead.

10 MS. TOMPKINS-WRIGHT: I was going to say,  
11 you actually started to answer one of my other  
12 questions. What else have you considered in order to  
13 shield this? You mentioned kind of lattice. Have you  
14 considered kind of a less solid fence or plantings or  
15 things that which -- you know, arborvitaes that would  
16 like hide that side? That could be part of your  
17 plantings that would screen it without the need for a  
18 variance.

19 MR. PALLISCHECK: Sure. I think we've tried  
20 every possibility under the sun. So we're gardeners.  
21 We love gardening. And this would not be a fence that  
22 would not have plantings on it.

23 In fact, with her permission the neighbor  
24 when we first moved here, we asked if we could put  
25 some plantings along climbing her fence. And she was

1     okay with that as long as it didn't hurt the fence.  
2     And, in fact, in years past she welcomed me back into  
3     her backyard to make sure that the climbing stuff  
4     wasn't growing through her fence, which it would  
5     unintendedly.

6             Now, she's not interested in having me back  
7     there. I guess I understand that.

8             So there will be plantings as a part of  
9     this. But, I don't know -- I don't know --

10            MS. HOGENMILLER: Can I say something?

11            MR. PALLISCHECK: Sure. Go ahead.

12            MS. HOGENMILLER: There's -- there's --

13            MR. DiSTEFANO: Just state your name for the  
14     record please.

15            MS. HOGENMILLER: Oh, I'm sorry. This is  
16     Patricia Hogenmiller. I'm Michael's wife.

17            MR. DiSTEFANO: Thank you.

18            MS. HOGENMILLER: There's not really enough  
19     space with the grass, I think it's 3 feet, to put in  
20     plantings that would hide the repair of her fence and  
21     not grow into the driveway, especially with plowing  
22     snow and things. We have -- we have considered that.

23            MS. TOMPKINS-WRIGHT: And so the purpose of  
24     the fence is to 100 percent screen, just screening of  
25     the neighbor's fence essentially?

1 MS. HOGENMILLER: Yes.

2 MR. PALLISCHECK: Yes.

3 MS. SCHMITT: I have a question. You talked  
4 about the two fences not being so close that they  
5 touch, but having some space in between. Is there  
6 grass in between? And if so, how would that space be  
7 maintained if it's only a few inches?

8 MR. PALLISCHECK: I actually always mulch  
9 that, even though I was technically putting a little  
10 mulch on her property. So it's grass right now. I  
11 think in our gardening plan that it would probably  
12 be -- remain grass. In fact, I would put new grass  
13 in. Or we would, I should say.

14 But I use the term "tempt." I would not  
15 want to tempt the line so to speak. So that would  
16 mean that I would not put our fence on top of the  
17 line. I think that's, you know -- just to be careful  
18 that would be set off from her fence.

19 So it's not like we would possibly touch her  
20 fence, or whatever. But as far as the bottom where  
21 the skirt boards, or whatever, might approach the  
22 ground, that would be left up high enough to put mulch  
23 underneath. And so it would stop the weeds from  
24 growing.

25 MS. SCHMITT: So it's not a question of you

1 figuring out how to mow a 3-inch path between the two  
2 fences?

3 MR. PALLISCHECK: No.

4 MS. SCHMITT: Okay.

5 MS. TOMPKINS-WRIGHT: Rick, are there any  
6 regulations about how close neighbors' fences can be  
7 to each other? Because, I mean, I know there has to  
8 be a few inches within your own property line for a  
9 fence permit generally; right?

10 MR. DiSTEFANO: No. Basically you go right  
11 up to the lot line. You know, we have a lot of  
12 instances in the Town where somebody has a chain link  
13 and the neighbor wants a board-on-board screen fence.  
14 So those fences abut each other. Happens quite often.

15 MR. GORDON: Yeah. The preference is for  
16 the owner who's going to be installing the fence to  
17 have a current survey and give that survey to their  
18 fence contractor so that they can put that fence right  
19 on the property line. That would be the ideal  
20 situation.

21 MR. PALLISCHECK: As I said, we had the line  
22 surveyed. And there's the markers in the ground and  
23 such. That was done last year.

24 MR. DiSTEFANO: And you got to remember that  
25 there is no rule that says you have to be right on top



1 of the lot line.

2 CHAIRPERSON MIETZ: Right.

3 MR. DiSTEFANO: Obviously a fence can be off  
4 the lot line.

5 MR. GORDON: Yeah. It can be off for sure.

6 MS. TOMPKINS-WRIGHT: It just can't be  
7 outside the line.

8 MR. GORDON: Right. Not on her property.

9 I'm wondering what type of fence you are  
10 installing, what each side will look like. I might  
11 have missed that in your materials, but if you could  
12 just describe that.

13 MR. PALLISCHECK: We don't have a proposed  
14 fence at this point, but what we've been working on is  
15 a wood fence. And that wood fence would, by  
16 necessity, be -- have to be double-sided, in other  
17 words, not an A and a B side, because of the  
18 regulation requiring the good side to our neighbor.  
19 Obviously they might never see it, but we would  
20 respect that obligation. And by virtue of that,  
21 wanting a good side on our side, it would likely be an  
22 A-A type situation.

23 MR. GORDON: Right. I just wanted to make  
24 that point. And I'm glad that you are familiar with  
25 that provision of the Town Code. As you say, that it

1 was important that you were really doing this for  
2 aesthetics, in order to have an attractive entry to  
3 your home or towards your home going down the  
4 driveway. If there is a -- if there is only a single  
5 decorative side, the fence would need to face the  
6 adjacent property.

7 MR. PALLISCHECK: Yes. I understand.

8 MS. MCKAY-DRURY: This is Member  
9 McKay-Drury. I just want to make sure I understand.  
10 I'm looking at page 3 of 3 of your submissions with  
11 the photo. And I'm just trying to make sure that I  
12 understand.

13 You're saying that currently now the fence  
14 has all been filled in so there's not holes or gaps in  
15 the fence?

16 MS. HOGENMILLER: Yes. Just recently, just  
17 in the last maybe two weeks.

18 MS. MCKAY-DRURY: Okay.

19 MR. PALLISCHECK: I would add that that's  
20 only in the portion where -- is along my driveway.  
21 The portion towards Corbett's Glen remains unrepaired.

22 MS. MCKAY-DRURY: Okay. Just to the left of  
23 the picture on 3 of 3?

24 MR. PALLISCHECK: You know, I'm -- pull  
25 these out, Patricia.

1 MS. MCKAY-DRURY: If we pull it up.

2 MR. DiSTEFANO: Hey, Brendan, can you pan  
3 down, see if you can find the page that --

4 MR. RYAN: This is the last page I got. I  
5 just have these two I think.

6 MR. DiSTEFANO: There's 3 of 3 right there.

7 MR. PALLISCHECK: Yeah. That section is now  
8 continuous. I -- you know, she might attempt to do  
9 more work on it. As I said, it's pretty inconsistent  
10 in terms of the quality.

11 MS. MCKAY-DRURY: Okay. And your concern  
12 with this is the aesthetic because some of it -- the  
13 new isn't the color of the wood because of how it's --

14 MR. PALLISCHECK: No.

15 MS. MCKAY-DRURY: -- newer or is it  
16 something else? Because I'm just not seeing it in the  
17 picture.

18 MR. PALLISCHECK: If I could share our show  
19 I can show you more readily. I have a picture that --  
20 three weeks before the photo came -- or before the  
21 tree came down.

22 The fence is very nice. It was straight.  
23 It was true. And now it is all over the place, up,  
24 down. She actually increases in height in areas  
25 and -- higher than the original fence. Sometimes it

1 leans in. Sometimes it leans out. It's not what I  
2 would -- it might be an adequate fence for somebody's  
3 backyard, certainly not for the entryway of our home.

4 And the light and dark parts, as much as --  
5 I was really unhappy because for three years I've been  
6 asking her to please get that tree taken down. It was  
7 so dangerous. You know, the repair is not going to  
8 match the new, but at least you could make an attempt.  
9 And I understand that the light boards don't match the  
10 dark boards, but --

11 MS. MCKAY-DRURY: But they will eventually.

12 MR. PALLISCHECK: They will eventually, but  
13 I would make a comment that the neighbors on the other  
14 side of the driveway, one of them just put up, a few  
15 years ago, a white plastic fence. It's pretty bright.  
16 And we have nice gardens along that area.

17 And I said to that neighbor, "Would you mind  
18 if we painted the backside of your fence?"

19 And she said, "It's what you see. I don't  
20 see it. Please, paint it all you want."

21 This won't be the case with this neighbor.  
22 If I said to her, could I put some gray stain on the  
23 white boards to kind of match it up a little bit, I'm  
24 going to guess that I'd be turned down flat.

25 MS. MCKAY-DRURY: And related to that I'm

1 wondering if you had any communications with this  
2 neighbor about this application and gotten any  
3 feedback? Is she -- does this person have any idea  
4 that you're planning on putting up a fence right near  
5 this one?

6 MR. PALLISCHECK: Well, there's a sign out  
7 front that says "Variance application." We've talked  
8 many times about the fence. I have two phone numbers  
9 for her. I've texted her, not about the variance, but  
10 about backyard things. And she has not responded to  
11 those. And she says, "Oh, I don't watch those phone  
12 numbers."

13 I have to go bang on her door. And she's  
14 never, ever responded to me unless I'm standing in  
15 front of her door.

16 MS. MCKAY-DRURY: All right. And then --

17 MR. DiSTEFANO: I will comment that the  
18 neighbor did come in after the sign was posted on the  
19 property. The neighbor did come into the Building and  
20 Planning Department, reviewed the application. And we  
21 have not received comment back from her.

22 MS. MCKAY: Okay. And then I just wanted to  
23 make sure I understand the plan for the landscaping  
24 between the two fences.

25 So is it your understanding that none of her

1 fence encroaches on your land; correct?

2 MR. PALLISCHECK: That is correct.

3 MS. MCKAY: And then --

4 MR. PALLISCHECK: I'm sorry. The back  
5 portion that hasn't been repaired, I think it's a  
6 little bit over the line. I don't care.

7 MS. MCKAY-DRURY: Okay. So presumably some  
8 of the land that's between the -- what will be two  
9 fences is hers; correct?

10 MR. PALLISCHECK: Yes. Yes. Like inches.

11 MS. MCKAY: Okay. Then what you had said I  
12 think or I just missed, but what you had said in  
13 response to Ms. -- to Member Schmitt's question about  
14 what will happen with like grass that's growing in  
15 there? How will it get trimmed or, you know, any of  
16 that? What is the plan for that? I don't think I  
17 heard that portion.

18 MR. PALLISCHECK: I've always put mulch in  
19 there to tell you the truth. I've never wanted to mow  
20 it. But that's just enough to have a border at the  
21 bottom of the fence.

22 MS. MCKAY-DRURY: Okay. So the  
23 understanding -- your understanding is that no one  
24 will have to get in there to cut grass or weeds or  
25 whatever?

1 MR. PALLISCHECK: Yeah. I'll be the one.

2 MS. HOGENMILLER: If I could say something.

3 So her fence is mostly 6 feet, except it's a little  
4 higher where the repair is. But maybe since she went  
5 into the Town to see about the variance, she bought  
6 some kind of like bamboo -- like a roll of bamboo.  
7 And she's put it on the inside of the fence now. So  
8 it sticks up 66 inches so that she has 6.6 feet I  
9 guess.

10 So now there's 6 inches sticking up at the  
11 top of the fence of these thin little bamboo things.  
12 I know that's relevant to this decision, but it's  
13 just --

14 MR. GORDON: Mr. Pallischeck, this is Town  
15 Attorney, Ken Gordon. I've asked our staff member to  
16 bring up this photograph. This is what you had in  
17 your packet as showing prior -- the fence prior to the  
18 tree damage; is that correct?

19 MR. PALLISCHECK: Yes. Yes. Uh-huh.

20 MR. GORDON: And you described this as  
21 straight and true --

22 MR. PALLISCHECK: Yes.

23 MR. GORDON -- how the fence appeared?

24 MR. PALLISCHECK: Yeah.

25 MR. GORDON: And Brendan, if you could now

1 go back down to the current existing. That's the 3 of  
2 3 picture again. Keep going.

3 And this is what it looks like now?

4 MR. PALLISCHECK: Yes.

5 MS. HOGENMILLER: Except that she's filled  
6 in that one section.

7 MR. PALLISCHECK: Yeah. But it's a good  
8 representation.

9 MR. GORDON: And it doesn't show perhaps as  
10 it would live, but it would appear that portions of  
11 the fence are leaning either in or out as opposed to  
12 how they showed perfectly erect in the original  
13 picture.

14 MR. PALLISCHECK: It does vary. And when  
15 she saw that -- our surveyor stake in -- near the  
16 corner, she realized that she had little more room  
17 than she thought. And she actually moved the fence  
18 over very slightly as well, which is not in line with  
19 the original fence that remains further toward Dale  
20 Road.

21 MR. GORDON: Thank you.

22 CHAIRPERSON MIETZ: Okay. Is there anything  
23 else, applicants, you would like to add?

24 MS. HOGENMILLER: No.

25 MR. PALLISCHECK: No.



1 CHAIRPERSON MIETZ: Okay. Very good. And  
2 is there any last questions by the Board? I think we  
3 got a pretty good idea of what's going on.

4 MR. PALLISCHECK: Thank you.

5 CHAIRPERSON MIETZ: Okay. Very good. All  
6 right. Being that -- is there anyone on the call that  
7 would like to speak regarding this application? Okay.

8 There being none, the public hearing is  
9 closed.

10 MR. PALLISCHECK: Okay.

11 MS. HOGENMILLER: Thank you.

12 CHAIRPERSON MIETZ: Okay thanks.

13 **Application 7A-04-22**

14 Application of The University of Rochester,  
15 owner of property located at 220 East River Road for  
16 renewal of a Temporary and Revocable Use Permit  
17 (10A-11-20) pursuant to Section 219-4 to allow a  
18 mobile MRI scanner (trailer) to be on site for an  
19 Additional 18 month period where not allowed by code.  
20 All as described on application and plans on file.

21 CHAIRPERSON MIETZ: Okay. Who do we have  
22 for U of R please?

23 MR. SAXTON: Hello. My name is Joshua  
24 Saxton. I am a civil engineer at Passero Associates.

25 CHAIRPERSON MIETZ: Could you just give us

1 your last name again, Josh?

2 MR. SAXTON: Saxton, S-A-X-T-O-N.

3 CHAIRPERSON MIETZ: Okay. Very good. And  
4 an address for you please.

5 MR. SAXTON: 242 West Main Street.

6 CHAIRPERSON MIETZ: Okay. Very good. Okay.  
7 Go ahead.

8 MR. SAXTON: So if you weren't around for  
9 when this originally came to the Board back in 2020,  
10 this was a temporary MRI trailer on a permanent slab  
11 that was proposed kind of during the peek of COVID  
12 where you had a lot of delays and backups for, you  
13 know, medical procedures and testing, one of the those  
14 being MRIs. So that was the main use for this tent  
15 and trailer was to have it available for, you know,  
16 MRIs that needed given the back up with COVID.

17 You know, now in 2022, you know, we were  
18 hoping that things would be a little better, but  
19 there's still, you know, a delay in getting some of  
20 these tests and exams for MRIs, you know, in the  
21 Rochester area. So, you know, keeping this trailer,  
22 you know, operational is, you know, very important  
23 just to maintain, you know, the lack of a health risk  
24 of, you know, if it were to go away, people wouldn't  
25 be able to get MRIs.

1           That's one of the main reasons for, you  
2 know, continuing this operation of the trailer. The  
3 other use or reasoning behind the continued use is  
4 that there are some existing MRIs that are going to be  
5 going offline in the coming 18 months for maintenance  
6 and repair. It takes a while to repair these  
7 machines. So, you know, having something like this,  
8 the temporary trailer available, you know, would be  
9 crucial for that as well for when those go offline for  
10 an extended period of time that there isn't a  
11 significant, you know, delay for people to get, you  
12 know, their MRI scans for the -- you know, for  
13 whatever procedures they need.

14           There's no proposed change at all, no  
15 additions, you know, no -- no modifications at all to  
16 the original design, you know, built as designed. You  
17 know, it's just basically a continued formality of  
18 getting the approval from this Board to still maintain  
19 the trailer during the next 18 months while COVID is  
20 creating some issues as well some of the MRIs that are  
21 actually permanent going offline.

22           So if the Board has any questions at all,  
23 I'm here to answer any of them at this time.

24           CHAIRPERSON MIETZ: Okay. Any questions?

25           MS. MCKAY-DRURY: This is Member

1 McKay-Drury. I wanted to ask you -- well, one of my  
2 questions is -- I'm trying to understand, is there  
3 other MRI machines in this particular building or no?

4 MR. SAXTON: I do not know the answer. I  
5 know that it was mainly in this MRI building. I know  
6 Walt's on the call as well. Maybe he can answer that  
7 question.

8 MR. POTEAT: Sure. I'd be happy to answer  
9 that question. My name is Walt Poteat. I'm the  
10 director of facility operations.

11 The -- that building actually has two MRIs  
12 existing. It's -- actually we're under -- right now  
13 to add a third one. And that's anticipated to be done  
14 late this fall, early winter.

15 And to continue with what Josh was speaking  
16 of, as soon as that comes online, they're going to  
17 take off one of the other two MRIs and do a major  
18 upgrade on it, which really is the reason we're asking  
19 for an extension, to maintain three operational MRIs  
20 throughout this, especially with the ongoing backlog  
21 of MRIs that are needed in the community. That's --  
22 it's really the reasons we really need to extend the  
23 use of this.

24 MRIs are backed up in scheduling almost four  
25 weeks, which is pretty difficult if you have an

1 emergent situation that you need to have an MRI for.

2 MS. SCHWARTZ: This is Member Schwartz. I  
3 noticed on the plan that you have two trees that are  
4 existing that are to be removed. Is there any  
5 possibility of keeping them? I know it's different  
6 than an MRI, but a tree is a tree. Any possibility?

7 MR. POTEAT: That's a very good point. In  
8 the original proposal, they were relocated on the  
9 property.

10 MS. SCHWARTZ: Oh.

11 MR. POTEAT: We agreed to do that. It was  
12 actually part of the original plan, was proposed.  
13 Like we said, literally nothing's being done. It's  
14 just that we saw a need for a third MRI in the  
15 community. We approved it. We had to go through the  
16 C-Chap [phonetic] to get approval for a third MRI,  
17 which we always thought we would need. That's why we  
18 built the shell space. That's actually an ongoing  
19 building permit right now in the Town of Brighton for  
20 the third MRI.

21 And as soon as that's completed, they're  
22 going to take down one of the other two and put -- put  
23 a new one in. But they really want this mobile one to  
24 continue throughout to maintain the need for MRIs in  
25 the community.

1 MS. TOMPKINS-WRIGHT: This is Member Wright.  
2 Just speaking about the need in the community, one of  
3 the things we discussed when we approved this  
4 initially was the fact that because it was during  
5 COVID, patient load was a little bit light. So that  
6 the existence of this MRI trailer was clearing a  
7 backlog, but not really no increasing parking  
8 requirements at the site.

9 What does that look like now? You know, is  
10 this a meaningful increase on the amount of patients  
11 that are able to come in and out? And is that going  
12 to be a strain on parking either now or in the future?

13 MR. POTEAT: The original design of this  
14 whole campus did call for three MRIs. Essentially  
15 we've only had -- we only had two when we opened. We  
16 brought the mobile one in and it added the third.

17 And like I already mentioned, the shell  
18 space for the third MRI, permanent, is ongoing right  
19 now, due to be done in I think in November, December  
20 timeline. And then they're going to do the other one.  
21 So parking was already planned for three MRIs at this  
22 location.

23 MS. TOMPKINS-WRIGHT: I'm not sure if you  
24 know this or -- might know this, but parking counts  
25 based on square footage, are they close to code? Are

1 they well over Code?

2 MR. POTEAT: I can't speak to it  
3 specifically. I would really have to go back to the  
4 original design when this building was built.

5 But, you know, it instantly passed all the  
6 reviews of the Town of Brighton before it was built to  
7 get the building permit.

8 MR. DiSTEFANO: Andrea, I believe they meet  
9 parking regulations at one space per 150 square feet.

10 MS. TOMPKINS-WRIGHT: And if we added this  
11 MRI trailer to the square footage, would you -- any  
12 opinion on whether or not it would still meet Code?

13 MR. DiSTEFANO: I don't think that the  
14 trailer itself would impact the need for parking on  
15 the site.

16 MS. TOMPKINS-WRIGHT: Okay.

17 CHAIRPERSON MIETZ: Okay.

18 MR. DiSTEFANO: Can I ask just one question?  
19 So in the future when you have three units up and  
20 running that are in the building, will there ever be a  
21 need to bring this trailer back? Can you -- will  
22 you -- when one goes down, can you work with the two  
23 remaining ones or will you be back to us saying, you  
24 know what, we need that fourth MRI while number three  
25 is being worked on?

1 MR. POTEAT: As far as the design of this  
2 whole thing, it's very mobile. In other words, when  
3 we're finished with it, the intent was to take it  
4 away. However, we had heavily invested to put the  
5 infrastructure in place to make it work.

6 So the intent is if for some reason we're  
7 doing a major upgrade of a MRI in the future, we may  
8 come back to the Town Board and ask again, is it okay  
9 if we put this in place for six months?

10 I'm not saying it would never happen, but  
11 healthcare being the way it is, it's drastically  
12 always changing.

13 MR. DiSTEFANO: Thank you for that.

14 MR. GORDON: If I could ask a follow-up  
15 question, Mr. Poteat. This is Ken Gordon. I'm the  
16 Town Attorney.

17 I just want to understand the sequencing  
18 here. So if I understand correctly, there's going to  
19 ultimately be three MRIs inside of three permanent  
20 shelters or structures; correct?

21 MR. POTEAT: Yes, sir.

22 MR. GORDON: And when will that be  
23 accomplished by? What's the date on that?

24 MR. POTEAT: We think by mid-summer of next  
25 year. That's why we asked for an extension to August.



1 I will say that we have experienced dramatic  
2 delays and supply chain issues across all of our  
3 construction projects. So I -- you know, it's our  
4 hope that we'll be done before August of next year.

5 MR. GORDON: That helps me. Thank you.

6 MR. POTEAT: Sure.

7 CHAIRPERSON MIETZ: Okay. Other questions  
8 for these gentlemen? Okay. Very good. Thank you  
9 very much.

10 MR. POTEAT: Thank you.

11 MR. SAXTON: Thank you.

12 CHAIRPERSON MIETZ: Is there anyone on the  
13 call that would like to speak regarding this  
14 application? Okay. There being none, then the public  
15 hearing's closed.

16 **Application 7A-05-22**

17 Application of Srinagesh Ramaswamy, owner of  
18 property located at 67 Branchwood Lane, for an Area  
19 Variance from Section 207-2A to allow a front yard  
20 fence (French Road frontage) to be 4.5 feet in height  
21 in lieu of the maximum 3.5 feet allowed by Code. All  
22 as described on application and plans on file.

23 CHAIRPERSON MIETZ: Okay. And who do we  
24 have speaking please?

25 MR. RAMASWAMY: Hi. This is Srinagesh

1 Ramaswamy.

2 CHAIRPERSON MIETZ: Okay. And do you reside  
3 at Branchwood Lane?

4 MR. RAMASWAMY: I do. I'm not able to start  
5 my video. I'm not sure -- not sure if you need to let  
6 me in.

7 CHAIRPERSON MIETZ: Brendan can you take a  
8 look?

9 MR. RYAN: Yeah. No. There's nothing on  
10 our end. You should be able to.

11 MR. DiSTEFANO: There you go.

12 MR. RAMASWAMY: Thank you, ladies and  
13 gentlemen, for taking the time to attend this meeting.  
14 My name is Srinagesh Ramaswamy and I reside at 67  
15 Branchwood Lane.

16 My application is regarding -- is actually  
17 to seek a variance to have a 4 and a half foot fence  
18 in place of the 3 and a half foot fence.

19 So the reason I'm asking for this variance  
20 is because I understand the Town views this as being  
21 my backyard, but in reality this is -- I'm sorry.  
22 Other way around. The Town views this as being my  
23 front yard, but in reality this is actually my  
24 backyard.

25 My driveway and my front door is basically

1 Branchwood Lane. And this is actually -- for all  
2 practical purposes is a backyard. And that's the case  
3 for all the houses on the street.

4 The 3 and a half foot fence would not  
5 provide me -- the reason I'm asking for this variance  
6 is because the 3 and a half foot fence would not give  
7 me the privacy. And I know aesthetically it might be  
8 pleasing, but it really wouldn't solve the problem.  
9 So the fence, I'm asking if I could go 1 foot higher,  
10 basically go 4 and a half feet.

11 Couple things I just thought I'd add. This  
12 would not bring any change to the character of the  
13 neighborhood, hardly would probably not even be  
14 noticeable. In fact, two houses down from where I  
15 live, my neighbors have hedges, which are almost 5  
16 feet in height.

17 And my current neighbors on either side are  
18 actually aware of this project that I'm looking to  
19 undertake. In fact, I think one of them emailed Rick  
20 directly. And one of the neighbors lives on the east  
21 side of my house was able to forward me a letter. I  
22 may have sent that to Rick. If not, I can share it.  
23 I have it with me.

24 MR. DiSTEFANO: Members have both those  
25 letters.

1 MR. RAMASWAMY: Okay. Great.

2 CHAIRPERSON MIETZ: Okay. Anything else you  
3 want to add, sir?

4 MR. RAMASWAMY: It's a standalone fence at  
5 this point. It doesn't connect to any other fences.  
6 My neighbors on either side don't have a fence at this  
7 point. I guess if you have any questions, feel free  
8 to ask them please.

9 CHAIRPERSON MIETZ: Are you planning to do  
10 anything landscaping-wise or is it going to be right  
11 at the property line?

12 MR. RAMASWAMY: Probably just to the  
13 property line. Landscaping would just be like just  
14 general gardening and stuff like that, but not related  
15 to this project.

16 CHAIRPERSON MIETZ: Okay. So there'll be  
17 nothing connecting, even vegetation-wise, where the  
18 fence ends going back towards your house, you know,  
19 towards the block wall there?

20 MR. RAMASWAMY: Nope.

21 CHAIRPERSON MIETZ: It will just remain  
22 open?

23 MR. RAMASWAMY: Yup.

24 CHAIRPERSON MIETZ: Okay. Very good. All  
25 right.

1 Other questions by the Board members please?

2 MS. TOMPKINS-WRIGHT: This is Member Wright.

3 Are there any other homes along this strip that have  
4 fences along French Road that are -- fences at all or  
5 fences above the 3 and a half front yard?

6 MR. RAMASWAMY: Yeah. There -- there are  
7 not really like wooden fences. There are hedges that  
8 are actually higher than 4 and a half foot, almost  
9 like 5 feet.

10 But further down there's -- there are two  
11 houses which have -- I'm not sure of the exact height.  
12 They may be exactly 3 and a half feet or they may be a  
13 little higher. I've not measured them. But it's  
14 further down Branchwood Lane.

15 MS. SCHWARTZ: This the Member Schwartz.  
16 Where -- oh. Did you finish, Andrea?

17 MS. TOMPKINS-WRIGHT: Just to confirm,  
18 further down, they have the fence on -- further down  
19 on Branchwood that face French Road that might be  
20 higher than 4 and a half or that me higher than 3 and  
21 a half?

22 MR. RAMASWAMY: I'm sorry. I didn't catch  
23 the question. Are you saying -- what was the question  
24 exactly?

25 MS. TOMPKINS-WRIGHT: Sure. Are there -- I

1 didn't see and I just didn't notice -- I understand  
2 the hedges. But are their fences along French Road  
3 that are 3 and a half feet or higher than 3 and a half  
4 feet?

5 MR. RAMASWAMY: I don't know the exact  
6 height, but there are fences. Couple -- most of the  
7 houses don't have anything. Some of them -- there are  
8 two houses that do. And I'm not sure of the exact  
9 height that they have.

10 CHAIRPERSON MIETZ: Sir, those are to the  
11 east of you though; right?

12 MR. RAMASWAMY: Yes.

13 CHAIRPERSON MIETZ: I saw them. I don't  
14 know, Andrea, if they were 3 and a half or 4 and a  
15 half. I didn't measure.

16 MS. TOMPKINS-WRIGHT: And have you  
17 considered planting hedges to achieve the same effect?

18 MR. RAMASWAMY: I didn't. I just figured it  
19 would be a very long undertaking for them to, you  
20 know, grow and -- yeah. I didn't think too much about  
21 it. I just figured this would be the way to go.

22 CHAIRPERSON MIETZ: Okay.

23 MS. SCHWARTZ: Rick, I have a question. It  
24 seems bizarre to me that he would be allowed to put a  
25 6 foot tall fence out on Branchwood, which clearly --

1 MR. DiSTEFANO: Well --

2 MS. SCHWARTZ: -- like a front yard, I mean  
3 a backyard --

4 MR. DiSTEFANO: Judy, it's a through lot.  
5 It's a through lot. So it's two front yards  
6 basically. The front yard on Branchwood; the front  
7 yard of French Road.

8 MS. SCHWARTZ: Oh.

9 MR. DiSTEFANO: Basically they don't have a  
10 rear yard.

11 MS. SCHWARTZ: Okay. Thank you.

12 MR. GORDON: Actually that was going to be  
13 my question, Rick. Is there any --

14 CHAIRPERSON MIETZ: It's a through lot,  
15 which we don't see too often.

16 MR. GORDON: Is there anywhere on the French  
17 Road side of his property that he could put a fence in  
18 excess of 3 and a half feet without a variance?

19 MR. DiSTEFANO: The way we work through  
20 lots, what is the perceived rear yard, which would be  
21 the French road side, after you meet the required  
22 front setback from French Road, that area from that  
23 line to the actual structure would be considered a  
24 rear yard.

25 So I do not know the distance from the front

1 property line to the backside of the house to  
2 determine exactly where a 6 and a half foot high fence  
3 would be allowed. But you can bet it's going to be  
4 pretty darn close to the backside of the house.

5 CHAIRPERSON MIETZ: Yeah. It wouldn't  
6 really provide any resolution to the issue.

7 MR. DiSTEFANO: Yeah. I believe it's a 35  
8 foot front setback requirement in this zoning  
9 district. So 35 feet back from French Road is where  
10 he can start --

11 CHAIRPERSON MIETZ: You can see his lot was  
12 like 29 feet. So turn that sideways, you're going to  
13 be right to those words "block wall" at least.

14 MR. DiSTEFANO: Right. Exactly. And I  
15 think you'll see a number of fences that are up  
16 against the patios that might be higher than the 3 and  
17 half feet because they probably are meeting that  
18 setback requirement.

19 CHAIRPERSON MIETZ: Right.

20 MR. RAMASWAMY: I thought I heard someone  
21 mention 6 feet. I'm not looking to have a 6 foot --

22 CHAIRPERSON MIETZ: We understand, sir. We  
23 were just talking about --

24 MR. DiSTEFANO: I just think -- hey, can I  
25 just ask, do you know what the style of this fence is



1 going to be?

2 MR. RAMASWAMY: Yes. Just a plain fence,  
3 white vinyl fence. But what I was told by the  
4 contractor is that due to supply chain issues, it may  
5 be out in October before I get it. But he also said  
6 it's possible he may be able to get the  
7 pressure-treated wood earlier and white vinyl fence  
8 may get delayed. And if there's a possibility that  
9 could happen, I might switch to the pressure-treated  
10 one.

11 MR. DiSTEFANO: But there's --

12 MR. RAMASWAMY: At this point I'm looking to  
13 have white vinyl fence put in.

14 MR. DiSTEFANO: It's going to be solid too?

15 MR. RAMASWAMY: Solid. No gaps, nothing.

16 MR. DiSTEFANO: Okay. Thank you.

17 CHAIRPERSON MIETZ: Okay. Very good. Any  
18 other questions? Okay, sir. Thank you very much.

19 MR. RAMASWAMY: Thank you. I appreciate you  
20 taking the time.

21 CHAIRPERSON MIETZ: Yes. You're welcome.  
22 Is there anyone else on the call who would like to  
23 speak regarding this application?

24 There being none, the public hearing is  
25 closed.

1                   Does anyone need a break or are we okay? I  
2 know Heather's on a break for a minute. Everybody  
3 okay?

4                   MS. MCKAY-DRURY: I need a break you guys  
5 please.

6                   CHAIRPERSON MIETZ: Heather needs a break.  
7 You want to give -- you just need a few minutes,  
8 Heather?

9                   MS. MCKAY-DRURY: Yes, please, if we can.  
10 That would be helpful.

11                   CHAIRPERSON MIETZ: Okay. Is everybody okay  
12 to break for ten minutes? Come back at 8:27.

13                   (Public hearings concluded.)

14   \*       \*       \*

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER CERTIFICATE

I, Holly E. Castleman, do hereby certify that I did report the foregoing proceeding, which was taken down by me in a verbatim manner by means of machine shorthand.

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 6th day of July, 2022  
at Rochester, New York.

*Holly E. Castleman*

-----  
HOLLY E. CASTLEMAN,  
Notary Public.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

**BRIGHTON**  
**ZONING BOARD OF APPEALS**  
**MEETING**  
**DELIBERATIONS**

---

July 6, 2022  
At approximately 7 p.m.  
Brighton Town Hall Zoom  
2300 Elmwood Avenue  
Rochester, New York 14618

**PRESENT:**

DENNIS MIETZ  
Chairperson

EDWARD PREMO	)	Board Members
HEATHER MCKAY-DRURY	)	
ANDREA TOMPKINS-WRIGHT	)	
JUDY SCHWARTZ	)	
KATHLEEN SCHMITT	)	
MATTHEW D'AUGUSTINE	)	

KEN GORDON, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

BRENDAN RYAN

REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, NY 14020

1 CHAIRPERSON MIETZ: Okay. Are you ready,  
2 Rick?

3 MR. DiSTEFANO: I'm ready.

4 CHAIRPERSON MIETZ: Okay. Let's talk about  
5 the Application 7A-01, which is the West Henrietta  
6 Road. That Sunny's Restaurant for those of you who  
7 are unclear about it.

8 Does anyone have concerns about this, about  
9 the tent? There's a lot of general conditions that we  
10 always impose on tents that are requirements of the  
11 Fire Marshall et cetera. But other than that, is  
12 anyone concerned about the tent being there?

13 MS. TOMPKINS-WRIGHT: No. And we're just  
14 going to be approving it for one season; right? They  
15 with try it out --

16 CHAIRPERSON MIETZ: Right. Right. The  
17 other thing -- I'm sorry.

18 MR. GORDON: Go ahead.

19 CHAIRPERSON MIETZ: The other thing is that,  
20 you know, there were a whole bunch of conditions when  
21 we approved the restaurant on the site, those of you  
22 who were involved. So, you know, it would seem that  
23 there would be no changes in that because that handled  
24 outdoor seating. That handled the time that you could  
25 have outdoor seating out there.

1           So in my mind none of those conditions would  
2 change. Would everyone agree with that?

3           MR. D'AUGUSTINE: Yes.

4           MR. GORDON: I have a question about that  
5 actually. And Rick, I know you and I spent a little  
6 bit of time talking about this. But I want to touch  
7 on it again just to make sure.

8           So Dennis just said it was approved for  
9 outdoor seating I heard him say. But clearly what  
10 they're doing is outdoor dining. Those are two  
11 different things under our Code.

12           So my question -- what's that?

13           MR. DiSTEFANO: I'm sorry. No. It was  
14 outdoor dining.

15           MR. GORDON: That was my question. When  
16 the --

17           CHAIRPERSON MIETZ: Yeah. I don't have that  
18 in front of me.

19           MR. GORDON: When the variance was granted,  
20 we're sure we -- that the variance included outdoor  
21 dining for that area?

22           MR. DiSTEFANO: Yes.

23           MR. GORDON: Okay.

24           CHAIRPERSON MIETZ: And there was a  
25 specific -- again, I don't have it in front of me.

1 There were a specific amount of seats. That's kind of  
2 what I was driving at, Ken. But, you know, we would  
3 want to make sure that isn't increasing in any  
4 fashion.

5 MR. DiSTEFANO: Yeah. I think I'd put a  
6 general condition on there that all previous  
7 conditions still apply.

8 CHAIRPERSON MIETZ: Right.

9 MR. DiSTEFANO: All previous conditions in  
10 regards to outdoor dining still apply.

11 CHAIRPERSON MIETZ: That would make sense.

12 MR. GORDON: And is there going to be a  
13 seasonal condition like "Shall be removed no later  
14 than...?"

15 CHAIRPERSON MIETZ: I think you asked that  
16 question and they said October 31st is what they said.

17 MR. GORDON: I'm just asking if are we --

18 MS. SCHMITT: I include that language in my  
19 write-up.

20 CHAIRPERSON MIETZ: Yup. Yeah. I don't  
21 remember, Rick, if there was any -- that we imposed  
22 any stopgap on when they could have outdoor dining on  
23 that. I don't remember that.

24 MR. DiSTEFANO: No. I think it's just  
25 general, you know, you're not going to allow outdoor

1 dining in November.

2 CHAIRPERSON MIETZ: Right. Kind of  
3 self-understood; right? This is a little different  
4 with the tent -- as Ken pointed out with the tent  
5 needing to come down.

6 MR. DiSTEFANO: Well, that's why I kind of  
7 asked about the heating devices because if they're  
8 heating, then, yeah, they might be able to go into  
9 November, December.

10 CHAIRPERSON MIETZ: Yeah, yeah.

11 MR. DiSTEFANO: But it doesn't have any  
12 sides either. So I think you may want to -- maybe,  
13 you know, condition the sides, condition a few things  
14 to kind of keep it --

15 CHAIRPERSON MIETZ: Okay. Kathleen can work  
16 through that. Does anyone have any other concerns  
17 before Kathleen goes with this? We can discuss the  
18 conditions as she goes through them. Okay, Kathleen.

19 MS. SCHMITT: Okay. I'm just writing about  
20 the openness.

21  
22  
23  
24  
25



1     **Application 7A-01-22**

2             Application of John and Vanessa Geer, owners  
3     of property located at 2171 West Henrietta Road, for a  
4     Temporary and Revocable Use Permit pursuant to Section  
5     219-4 to erect a 30 foot X 30 foot tent partially  
6     covering an outdoor dining area for the summer and  
7     fall months of 2022. All as described on application  
8     and plans on file.

9             Motion made by Ms. Schmitt to approve  
10    Application 7A-01-22 based on the following findings  
11    of fact.

12    **Findings of Fact:**

13    1. Granting of a temporary and revocable use permit  
14    will not negatively impact the health, safety or  
15    general welfare of the community and, indeed, it may  
16    have a positive impact. The applicant is seeking to  
17    provide protection from inclement weather and heat in  
18    erecting an open 30 by 30 fireproof tent that will  
19    partially cover an existing outdoor dining area for  
20    the summer and fall of 2022, providing shade where  
21    there currently is none.

22    2. The applicant has explored alternatives such as  
23    table umbrellas without success due to excessive wind  
24    and theft.

25    3. If the permit is granted, there will be no

1 negative effects on the facility as limited outdoor  
2 seating has already been approved by the Board and the  
3 tent will not have lighting or music. The applicant  
4 discussed that there continues to be ample parking.

5 4. Granting of the request will not result in a  
6 change of the character of the neighborhood or be  
7 detrimental to surrounding properties. This location  
8 of the proposed tent is behind the restaurant and not  
9 visible from the road and is partially blocked on two  
10 sides by landscaped trees and a large parking lot.

11 **Conditions:**

12 1. The application is granted as per the application  
13 submitted and testimony given for use of May through  
14 and including October 31st, 2022.

15 2. All conditions related to outdoor dining  
16 previously put in place remain in effect.

17 3. The tent must be removed no later than  
18 November 1st, 2022, and stored indoors.

19 4. The tent must remain open with no sides.

20 5. All necessary Fire Marshal permits shall be  
21 obtained.

22 (Second by Mr. Premo.)

23 (Ms. Schwartz, yes; Ms. Tompkins-Wright,  
24 yes; Mr. D'Augustine, yes; Mr. Mietz, yes;  
25 Ms. McKay-Drury, yes; Mr. Premo, yes; Ms.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Schmitt, yes.)

(Upon roll motion to approve with conditions carries.)

1           CHAIRPERSON MIETZ: Okay. Our next one is  
2 the U of R two tents. They had, as was pointed out,  
3 one tent in the last couple years. And now, they're  
4 adding this COVID tent or whatever they're calling it,  
5 COVID relief tent.

6           Okay. Does anyone have any concerns about  
7 this?

8           MS. SCHWARTZ: No. I feel better asking  
9 questions. My real concern really was tent number 2.

10          CHAIRPERSON MIETZ: Yup.

11          MS. SCHWARTZ: And how we're going to, you  
12 know, prevent it from being used otherwise. And they  
13 answered my questions.

14          CHAIRPERSON MIETZ: Yeah. Their public  
15 safety is all over the place. They patrol pretty good  
16 over on West Henrietta Road and in this area. So I'm  
17 sure they'll keep a pretty good eye on it.

18          MS. SCHWARTZ: Okay.

19          MR. DiSTEFANO: So my question is that --  
20 we're familiar with the one tent that they have for  
21 their events and probably feel comfortable with giving  
22 it the two-year approval. Do you feel comfortable  
23 giving tent number 2 a two-year approval or you want  
24 to see how it goes for a year and you pull them back  
25 in regards to it? Something to think about.

1 MS. SCHWARTZ: Oh. They didn't ask for more  
2 than the end of October for tent number 2.

3 MR. DiSTEFANO: Well, for the -- if you see  
4 the way it's written, it was for the years 2022 and  
5 2023.

6 MS. McKAY-DRURY: Yeah. That's how I read  
7 it as well.

8 MS. SCHWARTZ: Oh, did you?

9 MR. D'AUGUSTINE: I would say given their --  
10 the amount of outdoor spaces that they already have --  
11 in their area and their ability to maintain those I  
12 have no issue with them having that go for two years.

13 MS. McKAY-DRURY: Yeah. I would agree. And  
14 I think that's pretty great they're doing that to  
15 accommodate people when it's been rough coming back  
16 obviously to locations after remote working. So I  
17 think it's really nice they're doing that for their  
18 employees.

19 CHAIRPERSON MIETZ: And again, if there's  
20 issues or problems, we're still under control of it.  
21 Okay.

22 Let's see. Judy, you have this one. Does  
23 anyone have any other issues?

24 MS. SCHWARTZ: No, I'm okay. And I took  
25 some of Kathleen's testimony or written comments from

1 last time --

2 CHAIRPERSON MIETZ: Oh.

3 MS. SCHWARTZ: -- and changed it. So bear  
4 with me.

5 MS. SCHMITT: I'm going to love it.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1     **Application 7A-02-22**

2             Application of The University of Rochester,  
3     owner of property located at 300 East River Road for  
4     renewal of a Temporary and Revocable Use Permit  
5     (4A-03-20) pursuant to Section 219-4 to erect two  
6     tents (one of which will remain up) and hold up to  
7     three (per year) outdoor special events for the years  
8     2022 and 2023. All as described on application and  
9     plans on file.

10            Motion made by Ms. Schwartz to approve  
11    Application 7A-02-22 based on the following findings  
12    of fact.

13     **Findings of Fact:**

- 14     1. Granting of this permit for two tents will not  
15     have a negative impact on the health, safety or  
16     general welfare of the community. It may have a  
17     positive impact by providing protection from inclement  
18     weather with tent number 1 and offer a safe meeting  
19     area with tent number 2.
- 20     2. If the permit is granted, there will be no effect  
21     on available facilities from the increased population  
22     in attendance at the event under tent 1 and the events  
23     are usually less than one day and will not include  
24     music or lighting. The applicant has stated that  
25     there is applicant [sic] parking.

1 3. Landing of the two tents will not result in the  
2 change of the character of the neighborhood or be  
3 detrimental to surrounding properties as the location  
4 of the proposed tents are within the University's  
5 campus.

6 **Conditions:**

7 1. The applicant and the application is granted for  
8 tents 1 and 2 as stated in the application submitted  
9 and testimony given for the remainder of 2022 and  
10 2023.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 MS. SCHWARTZ: Can I stop for a moment  
2 because Doreen said two events this year, but the  
3 application says three. Should we do three?

4 MR. DiSTEFANO: Yeah. I don't think it, you  
5 know -- I think they probably already had their  
6 earlier event, you know, graduation.

7 MS. SCHWARTZ: Yeah. Yeah.

8 MR. DiSTEFANO: I mean, if they had a third  
9 event, are we really going to --

10 CHAIRPERSON MIETZ: Worry about it. Right.

11 MS. SCHWARTZ: Okay. So we'll add then when  
12 we say given -- for the year 2022 and the year 2023  
13 for up to three events per year. Tent 2 will be up  
14 from now to the end of October 2022.

15 MR. DiSTEFANO: Wait. Do you want to make  
16 that a separate condition that tent 2 shall be  
17 removed?

18 MS. SCHWARTZ: Oh. That's down further.  
19 Yeah.

20 MR. DiSTEFANO: I think then just -- I don't  
21 think you need that last portion of what you said  
22 then.

23 MS. SCHWARTZ: So take out tent number 2  
24 will be up now to the end of October?

25 MR. DiSTEFANO: Yeah. I think you can put

1 that down in the conditions where we just talk about  
2 tent number 2.

3 MS. SCHWARTZ: Okay. Hold on. Let me just  
4 draw an arrow. Okay. Number 4 --

5 MR. DiSTEFANO: Judy, can I just --

6 MS. SCHWARTZ: Yeah. Go ahead.

7 MR. DiSTEFANO: You're on condition  
8 number 2. You said number 4.

9 MS. SCHWARTZ: Application -- two. I'm  
10 sorry. Two. My numbers are mixed up. All right.  
11 Two.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**Conditions:**

1. The applicant and the application is granted for tents 1 and 2 as stated in the application submitted and testimony given for the remainder of 2022 and 2023.

2. Tent number 2 will only be used during working hours by U of R staff for said purposes and will be monitored by campus security.

3. All trash shall be carried out and disposed of in the receptacles at the building's entrance and maintenance will dispose of all trash daily.

4. Poles and tent number 2 will be taken down at the end of October and stored inside the building.

5. All necessary Fire Marshal permits shall be obtained.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. GORDON: Can we add the words "each year" to the end of condition number 4 please.

MS. SCHWARTZ: Sure.

MR. DiSTEFANO: End of October each year, that's what you want to say, Ken?

MR. GORDON: Yes please.

MR. DiSTEFANO: End of October each year. Thank you.

1 Conditions:

2 1. The applicant and the application is granted for  
3 tents 1 and 2 as stated in the application submitted  
4 and testimony given for the remainder of 2022 and  
5 2023.

6 2. Tent number 2 will only be used during working  
7 hours by U of R staff for said purposes and will be  
8 monitored by campus security.

9 3. All trash shall be carried out and disposed off in  
10 the receptacles at the building's entrance and  
11 maintenance will dispose of all trash daily.

12 4. Poles and tent number 2 will be taken down at the  
13 end of October each year and stored inside the  
14 building.

15 5. All necessary Fire Marshal permits shall be  
16 obtained.

17 CHAIRPERSON MIETZ: Okay. Do we have a  
18 second please?

19 (Second by Ms. Schmitt.)

20 (Ms. McKay-Drury, yes; Mr. Mietz, yes;  
21 Mr. D'Augustine, yes; Ms. Tompkins-Wright,  
22 yes; Mr. Premo, yes; Ms. Schmitt, yes;  
23 Ms. Schwartz, yes.)

24 (Upon roll motion to approve with conditions  
25 carries.)

1 CHAIRPERSON MIETZ: Okay. All right. So  
2 the next application relates to Dale Road and the  
3 fences, plural. Okay. So why don't we go around on  
4 this one.

5 Kathleen, what do you think about this one?

6 MS. SCHMITT: This is the MRI? I'm sorry.

7 CHAIRPERSON MIETZ: Nope. Nope. We're  
8 talking about Dale Road by Corbett's Glen.

9 MR. D'AUGUSTINE: Bad fences make bad  
10 neighbors.

11 MS. SCHMITT: Yeah. I went back and forth,  
12 but ultimately in my mind I understood what they were  
13 trying to do. And I don't think it really harms any  
14 of the neighbors who already have the 6 foot tall  
15 fences.

16 And I think if -- I was provided some bit of  
17 comfort by Rick saying that the most affect party went  
18 in and looked at the application and then ultimately  
19 chose not to file an objection or come to the meeting.  
20 And so that pushed me into the area of saying I would  
21 approve it.

22 CHAIRPERSON MIETZ: Okay. Ed, what do you  
23 think?

24 MR. PREMO: You know, I mean, it's one of  
25 those things you look at and can say it's a shame

1 because there really only needs to be one fence there.  
2 I mean, the idea that you have two fences within  
3 inches of each other just seems strange. Although I  
4 guess it's on the applicant's property. So I guess if  
5 they feel that's what's necessary, then the issue is  
6 do we think there's any harm from the variance? And I  
7 guess I really don't see it. It just seems like an  
8 unfortunate situation.

9 CHAIRPERSON MIETZ: Sounds it. Okay. Judy?

10 MS. SCHWARTZ: I don't have a problem. We  
11 have a situation on our street with two fences that  
12 could not be more than 3-4 inches apart. Okay? Right  
13 together and whatever.

14 No. I -- I feel that this really will  
15 enhance their property and I think it will be lovely.  
16 I'm fine with it.

17 CHAIRPERSON MIETZ: Okay. Matt?

18 MR. D'AUGUSTINE: Yeah. I -- I agree in  
19 allowing it. I think that they certainly should have  
20 the ability to sort of recover the aesthetic to which  
21 they were accustomed.

22 CHAIRPERSON MIETZ: Okay. Andrea?

23 MS. TOMPKINS-WRIGHT: Yeah. I mean, the  
24 variance was sort of meant for -- in part for weird  
25 shaped lots and weird situations and that's what this

1 is.

2 CHAIRPERSON MIETZ: Okay. Heather?

3 MS. MCKAY-DRURY: Just to make sure that I  
4 understand. The -- they would be able to put the  
5 fence just like they're talking about, but it would  
6 have to only be 3 and a half feet tall.

7 MR. DiSTEFANO: Correct.

8 MS. MCKAY-DRURY: So they could do that  
9 either way and then the variance -- the variance is  
10 just letting them do that, but it's taller?

11 MR. DiSTEFANO: Correct.

12 CHAIRPERSON MIETZ: To match the rest of it.

13 MS. MCKAY: Okay. So I mean, by that logic  
14 I don't see how, you know -- there's certainly no  
15 problem. Because otherwise it would just be a 3 and a  
16 half foot tall fence. And then they would see a  
17 neighbor's fence. So there's really no reason why --  
18 it doesn't make sense to let them do it.

19 I think it's weird to have two fences  
20 like -- you know, Judy, that's interesting to me that  
21 you've seen that -- like you have that near you. Like  
22 I've actually never seen it. But knowing that people  
23 can freely do that whenever they want to do, to me  
24 kind of makes it all a non-issue. So I'm fine with  
25 it.



1 MR. DiSTEFANO: Yeah. Like I said earlier,  
2 it really happens quite often with the chain link  
3 fence, then another person wants -- in the backyard  
4 wants the privacy fence.

5 CHAIRPERSON MIETZ: Right. Where there's  
6 pools --

7 MR. DiSTEFANO: All the time with that chain  
8 link fence and then -- and then the weeds start  
9 growing through the chain link fence. So --

10 MR. GORDON: I do think -- I just want to  
11 jump in here. I don't think it's a mistake to presume  
12 that the other fence, the allegedly offending fence,  
13 will continue in any way. We have a homeowner who's  
14 asking for a variance to put up a fence. We don't  
15 know what the other homeowner is going to do. They  
16 could remove the fence. They could come in and ask  
17 for their own variance. We don't know. Or some  
18 future owner could remove the fence.

19 So, you know, if the goal here is to, as I  
20 think Heather put it well, simply allow these  
21 homeowners to extend a fence they can already put up,  
22 a higher fence than what would otherwise be allowed by  
23 Code, I think that's how you should look at it really  
24 without regard to what may or may not happen on that  
25 other owner's property with respect to her fence.

1 Because we don't have control of that.

2 CHAIRPERSON MIETZ: Okay. Let's just clear  
3 up one other thing because it came up a couple times  
4 in the conversation of wherever this gentleman decides  
5 to put that fence and whether there's grass, mulch,  
6 whatever, you know, whatever's on his property line,  
7 he's responsible to maintain. So how he does that is  
8 really his business. But it would be his  
9 responsibility.

10 MS. MCKAY-DRURY: Yeah. When I asked about  
11 that I was mainly just curious about how --

12 CHAIRPERSON MIETZ: Yeah.

13 MS. MCKAY-DRURY: -- sort of any portion  
14 that's just -

15 CHAIRPERSON MIETZ: Yeah.

16 (Simultaneous conversation.)

17 MR. GORDON: The converse is also true  
18 though, Dennis; right? As a zoning board we have no  
19 authority to tell him to go on his neighbor's property  
20 in any way to maintain any portion.

21 CHAIRPERSON MIETZ: Correct. Absolutely.  
22 It's just --

23 MS. MCKAY-DRURY: No. I think, if anything,  
24 you know, he shouldn't be.

25 CHAIRPERSON MIETZ: Right. It doesn't sound

1 like it. Sounds like the Hatfields and McCoys a  
2 little bit, but we'll see. Okay. So --

3 (Simultaneous conversation.)

4 CHAIRPERSON MIETZ: So are we okay on this  
5 one? I think it sounds like yes.

6 MS. TOMPKINS-WRIGHT: Yes. Just I don't  
7 have conditions other than the fence being in the  
8 location and the necessary building permits or --  
9 yeah. Fence permit. Okay. Just wanted to make sure  
10 we didn't want to put anything else because we don't  
11 know exactly -- you know, we didn't have a picture of  
12 the exact fence. But given the testimony, I don't  
13 think we need to put a lot of conditions on it.

14 CHAIRPERSON MIETZ: I don't think so.

15 MR. GORDON: Do you think that there should  
16 be a condition that the fence be erected in compliance  
17 with fence Code?

18 CHAIRPERSON MIETZ: Solid?

19 MR. GORDON: With respect to solid that  
20 the --

21 CHAIRPERSON MIETZ: He did say that. He  
22 just did say he didn't know --

23 MR. DiSTEFANO: He said that, but I don't  
24 think we want to condition it that it'd be solid. I  
25 mean, it's really up to him. The point is that he's

1 going to do a solid because he wants to block the  
2 neighbor's property.

3 CHAIRPERSON MIETZ: Right. It's kind of  
4 pointless to --

5 MR. GORDON: I was more talking about the --

6 MS. TOMPKINS-WRIGHT: The nicer side.

7 MR. DiSTEFANO: You kind of faded out there.  
8 You were talking about side what?

9 MR. GORDON: That the decorative side face  
10 the adjacent property.

11 MR. DiSTEFANO: Well, that is a Code  
12 requirement.

13 CHAIRPERSON MIETZ: Right. Yeah. We don't  
14 usually restate the Code.

15 MR. GORDON: Okay. That's fine.

16

17

18

19

20

21

22

23

24

25

1     **Application 7A-03-22**

2                     Application of Michael Pallischeck and  
3     Patricia Hogenmiller, owners of property located at  
4     186 Dale Road, for an Area Variance from Section  
5     207-2A to allow a 6.5 foot high fence in a front yard  
6     area in lieu of a maximum 3.5 foot high fence as  
7     allowed by Code. All as described on application and  
8     plans on file.

9                     Motion made by Ms. Tompkins-Wright to  
10    approve Application 7A-03-22 based on the following  
11    findings of fact.

12    **Findings of Fact:**

13    1. The granting of the requested variance will not  
14    produce an undesirable change in the character of the  
15    neighbor or be a detriment to nearby properties.

16                     The proposed plan is the replacement of a  
17    similarly sized fence construction in the rear yard of  
18    the neighbor's property and is consistent with other  
19    similarly sized fences in the rear yard along that  
20    driveway to the applicant's home.

21                     Given the flag lot nature of this parcel and  
22    the neighborhood, the fence will continue to appear to  
23    be a rear yard fence.

24    2. The requested variance is not substantial for the  
25    same reason. The existence of this fence at that

1 height, if constructed by the neighboring property  
2 owner would be permitted.

3 3. The benefit sought by the applicant cannot  
4 reasonably be achieved by any other method as the  
5 homeowner seeks to create an attractive and consistent  
6 driveway entry to their property.

7 Given the limited yard space between the  
8 current fence and the driveway and the height of the  
9 neighbor's fence, applicant is not able to accomplish  
10 their goal without a variance for a higher fence.

11 4. There is no evidence that the proposed variance  
12 will have an adverse effect or impact on the physical  
13 or environmental conditions in the neighborhood or  
14 district.

15 **Conditions:**

16 1. The variance granted herein applies only to the  
17 location and the height of the fence described and in  
18 the location as depicted on the application and in the  
19 testimony given.

20 2. All necessary permits must be obtained.

21 (Second by Ms. Schwartz.)

22 (Ms. Schmitt, yes; Ms. McKay-Drury, yes;

23 Mr. Mietz, yes; Mr. D'Augustine, yes;

24 Mr. Premo, yes; Ms. Schwartz, yes;

25 Ms. Tompkins-Wright; yes.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Upon roll motion to approve with conditions carries.)

1 CHAIRPERSON MIETZ: Okay. Very good. The  
2 next is the PET scanner situation. This has gone on  
3 for quite a few years in various places. We've had it  
4 over on Westfall. We've had it here. To the best of  
5 my knowledge, Rick, I don't think we've ever had any  
6 problems with anything related to these. They  
7 clearly --

8 MR. DiSTEFANO: No.

9 CHAIRPERSON MIETZ: Clearly are just helping  
10 the community to --

11 MR. DiSTEFANO: Yeah. We've had quite a few  
12 around town.

13 CHAIRPERSON MIETZ: Yeah. When the machines  
14 go offline. Okay. Any concerns by anybody?  
15 Otherwise, Heather, you can go ahead.

16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1     **Application 7A-04-22**

2             Application of The University of Rochester,  
3     owner of property located at 220 East River Road for  
4     renewal of a Temporary and Revocable Use Permit  
5     (10A-11-20) pursuant to Section 219-4 to allow a  
6     mobile MRI scanner (trailer) to be on site for an  
7     Additional 18 month period where not allowed by Code.  
8     All as described on application and plans on file.

9             Motion made by Ms. McKay-Drury to approve  
10     application 7A-04-22 based on the following findings  
11     of fact.

12     **Findings of Fact:**

13     1. The temporary use permit is not substantial in  
14     that this is already a commercial or institutional use  
15     area boarded by East River Road and the highway I-390  
16     with existing mature vegetation blocking residential  
17     homes.

18     2. The requested time duration is the minimum relief  
19     necessary for the reasonable use. Per the testimony  
20     given their plans are to -- there's a backlog of MRIs  
21     needed to the COVID-19 pandemic. The long-term plan  
22     is to have a third MRI unit installed in the building,  
23     which is expected to happen in early winter. And then  
24     another one of their MRIs will be going offline at  
25     that time. And so therefore the requested duration

1 will hopefully take them through the time period, at  
2 which point they'll have three working MRIs in the  
3 building.

4 3. There's a minimal effect on the available  
5 facilities given that the building was constructed  
6 with a plan or at least a capacity to have up to three  
7 MRI machines. So it has the necessary facilities,  
8 including parking in place.

9 4. This will not cause a substantial change in the  
10 character of the neighborhood since this is already a  
11 medical building. The trailer has already been  
12 present for 18 months.

13 5. Rather than endangering the health, safety or  
14 general welfare of the community, this permit is aimed  
15 at providing access to needed healthcare following the  
16 pandemic.

17 6. The interests of justice are served by allowing  
18 the permit to be extended to allow for the full  
19 reduction of the backlog of needed MRIs.

20 **Conditions:**

21 1. It is limited to extension of the permit as  
22 described in the application and the testimony given.

23 2. The trailer and covered walkway shall be removed  
24 within two years.

25

1 MS. MCKAY-DRURY: That was how it was  
2 conditioned previously. I just want to note that for  
3 the record. And three, all necessary permits shall be  
4 maintained.

5 MR. DiSTEFANO: So Heather, you're giving  
6 them an extra six months?

7 MS. MCKAY: Well, that's what we did  
8 previously. So I wanted to discuss it. For the  
9 actual removal, it sounds like that's what we did. We  
10 approved it for 18 months and then we --

11 MR. DiSTEFANO: We did say August, which  
12 puts it at about 14 -- 13 to 14 months. So I think he  
13 did build in a little bit of time that -- for another  
14 four months.

15 So, you know, I don't have a problem going  
16 with the 18. I don't know if the Board feels if you  
17 want to give him two years and say who knows what's  
18 going to happen in the supply change, whether or not  
19 they're going to be able to complete this in that time  
20 frame or not. It has been out there for two years  
21 already.

22 I'll leave that up to the Board to make a  
23 call on. They did ask -- the only reason is that they  
24 did ask for 18. They didn't ask for two years.

25 CHAIRPERSON MIETZ: Yeah. Probably don't

1 want it out there for winter either, you know.

2 MS. McKAY-DRURY: Well, I think that it is  
3 used through the seasons.

4 MR. DiSTEFANO: It is used through the  
5 season.

6 CHAIRPERSON MIETZ: No. I understand. But  
7 to have it out there another season.

8 MR. DiSTEFANO: Okay. Do you just want to  
9 go through your conditions again real quick just so  
10 Holly has it correct.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**Conditions:**

1. Is limited to the extension of the permit as described in the application and testimony provided.
2. The trailer and covered walkway shall be removed within 18 months.
3. All necessary permits shall be maintained.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRPERSON MIETZ: Second?

MR. DiSTEFANO: I don't know if we need the three on that.

MS. McKAY-DRURY: Yeah. I said maintained because I'm assuming that they've already obtained permits. I wasn't sure --

MR. DiSTEFANO: Yeah. I think the walkway got a permit for when they constructed it. But I don't believe there's any other like building permits that would be necessary for them to maintain. So we dump number 3, strike number 3.

MS. McKAY-DRURY: I have no problem with that.

MR. DiSTEFANO: So those two conditions.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**Conditions:**

1. Is limited to the extension of the permit as described in the application and testimony provided.
2. The trailer and covered walkway shall be removed within 18 months.

(Second by Ms. Tompkins-Wright.)

(Mr. Premo, yes; Ms. Schwartz, yes;  
Mr. D'Augustine, yes; Mr. Mietz, yes;  
Ms. Schmitt, yes, Ms. Tompkins-Wright, yes;  
Ms. McKay-Drury, yes.)

(Upon roll motion to approve with conditions carries.)

1           CHAIRPERSON MIETZ: Okay. So the last  
2 application is Branchwood and French Road. This is  
3 the rear yard that has two fronts and two backs,  
4 whatever it has. So kind of an odd situation there.  
5 When you look along there, there's various buffers.  
6 There's trees. There's bushes. There's a couple  
7 fences. So there's -- everyone probably has the same  
8 problem with French Road. Okay. Any concerns here?

9           MS. SCHWARTZ: No. When I was there he  
10 said -- and I think was it Andrea or Heather who was  
11 concerned about vegetation. He is setting it behind  
12 the trees that are there. So there is really a lot of  
13 vegetation on their property already.

14           So I don't think that's going to be an issue  
15 at all. I think it will be fine.

16           CHAIRPERSON MIETZ: Okay. Any concerns by  
17 anyone else? Okay. I've got this.

18           MS. TOMPKINS-WRIGHT: Well, can I just real  
19 quickly? I mean, did you notice how much higher the  
20 yard kind of sat from the sidewalk so that -- I feel  
21 like four and a half is going to feel higher when  
22 you're walking along French Road.

23           Not necessarily -- not necessarily voting no  
24 on it. I just -- it did feel higher on that side of  
25 French Road turning the corner and there are other



1 fences that seem higher because that one sidewalk and  
2 those yards are sort of at the same elevation. This  
3 one feels a couple feet higher in elevation from the  
4 sidewalk.

5 CHAIRPERSON MIETZ: I don't know about a  
6 couple feet. Yeah. And also I think, you know, it's  
7 going to be different if you view it from the sidewalk  
8 or if you're driving by on French Road. Because it's  
9 a reasonable distance.

10 You know, I don't think you discern a foot  
11 difference in a car. You might walking I suppose.  
12 But I don't think you would in a car.

13 MS. SCHWARTZ: And if you only built it  
14 according to Code, it wouldn't give them any  
15 protection or privacy whatsoever. That extra foot  
16 makes a difference while they're sitting on their  
17 patio or wherever.

18 CHAIRPERSON MIETZ: Just because of the way  
19 the profile of the lot is.

20 MS. SCHWARTZ: Right.

21 CHAIRPERSON MIETZ: Okay. Any other  
22 concerns? Okay.

23

24

25

1     **Application 7A-05-22**

2             Application of Srinagesh Ramaswamy, owner of  
3     property located at 67 Branchwood Lane, for an Area  
4     Variance from Section 207-2A to allow a front yard  
5     fence (French Road frontage) to be 4.5 feet in height  
6     in lieu of the maximum 3.5 feet allowed by Code. All  
7     as described on application and plans on file.

8             Motion made by Mr. Mietz to approve  
9     application 7A-05-22 based on the following findings  
10    of fact.

11    **Findings of Fact:**

- 12    1. The request is not substantial since existing  
13    vegetation and fencing within the subject neighborhood  
14    appear in excess of three and a half feet in height.  
15    2. The backyard backs up to French Road. And a 4 and  
16    a half foot fence is the preferred alternative to  
17    provide immediate privacy for the owner.  
18    3. No negative effects on the character of the  
19    neighborhood will result from the installation of the  
20    additional 1 foot in height of fencing as it's viewed  
21    from French Road.

22    **Conditions:**

- 23    1. It's based on the testimony given and drawings  
24    submitted as to the specific location of the fence.  
25    2. All necessary building permits shall be obtained.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Second by Ms. Schwartz.)  
(Ms. McKay-Drury, yes; Mr. D'Augustine, yes;  
Ms. Tompkins-Wright, yes; Mr. Premo, yes;  
Ms. Schmitt, yes; Ms. Schwartz, yes;  
Mr. Mietz, yes.)  
(Upon roll motion to approve with conditions  
carries.)

1 CHAIRPERSON MIETZ: Okay. Thank you,  
2 everybody.

3 And Ed, hope you rest up because next month  
4 we're going to have lots of applications. You'll get  
5 two or three.

6 MR. PREMO: Oh, good. Well, we were both  
7 supposed to have another one.

8 CHAIRPERSON MIETZ: You were relaxing  
9 tonight. You look well rested.

10 MR. DiSTEFANO: We don't know if we're going  
11 to have a lot of applications.

12 CHAIRPERSON MIETZ: I'm just messing.

13 MS. McKAY-DRURY: No one say the words well  
14 rested to me.

15 CHAIRPERSON MIETZ: I think all of our  
16 residents are out of money. So they can't do their  
17 projects. They're busy paying for gas.

18 MR. DiSTEFANO: Anybody planning vacations  
19 for the first week of August or is everybody going to  
20 be here?

21 MR. PREMO: Going to be here.

22 MR. DiSTEFANO: Just to let you know, I will  
23 be out of the office the week of July 18th.

24 So if you need me, come visit me at the  
25 beach.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRPERSON MIETZ: Okay. Thank you  
everybody.

(Proceeding concluded at 9:01 p.m.)

\* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER CERTIFICATE

I, Holly E. Castleman, do hereby certify that I did report the foregoing proceeding, which was taken down by me in a verbatim manner by means of machine shorthand.

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 6th day of July, 2022,  
at Rochester, New York.

*Holly E. Castleman*

-----  
Holly E. Castleman,  
Notary Public.