BRIGHTON
ZONING BOARD OF APPEALS
MEETING

July 2, 2024
At approximately 7:00 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:
DENNIS MIETZ,
Chairperson

HEATHER McKay-Drury
KATHLEEN SCHMITT
JUDY SCHWARTZ
MATTHEW D'AUGUSTINE

LAUREN BARON, ESQ.,
Attorney for the Town

RICK DiSTEFANO,
Secretary

REPORTED BY: SUSAN M. RYCKMAN, CP, Court Reporter,
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive,
Batavia, NY 14020,
(585) 343-8612
CHAIRMAN MIETZ: Okay. Good evening, Folks. This is the July meeting of the Brighton Zoning Board of Appeals. Let me just tell you quickly how we do this, maybe if you are not familiar. So it's a very limited amount of applications. I think we have three tonight that we're going to hear.

So what happens is when Rick calls your application, then just come up to the podium. Please tell us your name and an address, like where you live or where your business address is.

And then please let us know why you feel we should approve your application. Give us -- you know, you don't have to regurgitate it, but you know, hit the high points and whatever. And then the Board Members will ask any questions they like. And then after that, we'll ask if there's anybody in the audience that might like to speak. And then we move to the next application.

When we finish going through all three, we will go right to deliberation, and we'll hopefully, unless something is tabled for some reason, then there will be a decision made tonight. You're welcome to sit there and listen to deliberation. There is no more cross talk with the applicants, but you can certainly listen. Then we vote on each one tonight.
So if you want to stay, you will hear exactly what happened, and how it's -- okay.

So is there anything you want to tell the Board, other than what they already know or don't know?

MR. DiSTEFANO: No. Obviously, you all are aware that packets for some reason got lost in the mail. Hopefully everyone took a look online at all the applications.

CHAIRMAN MIETZ: Yes.

MR. DiSTEFANO: We had the minutes in there.

So I don't know if we want to postpone the minutes?

CHAIRMAN MIETZ: Judy didn't read the minutes.

MEMBER SCHWARTZ: I was going to read them.

CHAIRMAN MIETZ: Rick, we're looking at April, May, June minutes, possibly July. So this one won't be much, so okay. All right. Is there anything else?

MR. DiSTEFANO: Any questions?

MEMBER D' AUGUSTINE: I just expect hand delivery for next month.

MR. DiSTEFANO: I expect everybody to stop in, and I will hand it over-the-counter to you.

CHAIRMAN MIETZ: One of those Town of
Brighton EV bicycles, you can ride around to all our offices and deliver them. Like we did the Democrat & Chronicle, you know.

    MR. DiSTEFANO: All right. First time this happened in, like, 30 some odd years, that they haven't been delivered.

    CHAIRMAN MIETZ: There is a first for everything.

    MR. DiSTEFANO: Yeah. I have to retire.

    CHAIRMAN MIETZ: All right. So very good. So was the meeting properly advertised?

    MR. DiSTEFANO: Yes, Mr. Chairman. It was advertised in the Daily Record of June 26th, 2024.

    CHAIRMAN MIETZ: Can you call the roll, please?

    (Whereupon, the roll was called.)

    MR. DiSTEFANO: Please let the record show that Mr. Premo and Ms. Tompkins-Wright are not present.


    MR. DiSTEFANO: Okay. Just for the audience, I don't think there is anybody here, but if anybody is interested in 7A-02-24, that application has been postponed to the August 7th meeting.
Application 7A-01-24

Application of Robert Piazza Palotto, owner of property located at 2500 Elmwood Avenue, for an Area Variance from Section 207-10E(5) to allow a 12-foot-long sidewalk to be 1 foot from the side lot line in lieu of the minimum 4 feet required by code. All as described in applications and plans on file.

CHAIRMAN MIETZ: Come ahead, don't be bashful. Come on.

MR. PIAZZA PALOTTO: Good evening, guys. My name is Robert Piazza Palotto. I am owner of the 2500 Elmwood Avenue.

CHAIRMAN MIETZ: So that's your residence address?

MR. PIAZZA PALOTTO: My residence, correct.

CHAIRMAN MIETZ: That's fine. Okay.

MR. PIAZZA PALOTTO: And you know, recently we built an addition. We actually took the existing garage and extended it about -- went from 12 feet to 15 feet, which brought my side property line closer to about five feet. We actually got a variance for that.

However, because of the elevations of the garage itself, and trying to make everything consistent, the backyard or the side yard starts to drop significantly. So it was, you know, we decided,
actually, to put a sidewalk or a paver sidewalk or extend the pavers to the side of the garage.

And I'll actually pass out these pictures right here, just so you guys can see them.

CHAIRMAN MIETZ: How many do you have?

MR. PIAZZA PALOTTO: I have 12.

CHAIRMAN MIETZ: Okay.

MR. PIAZZA PALOTTO: I just took the -- it's probably easier just to kind of explain it as you go through it.

As you look at the top left -- top left picture, that's kind of what it would look like if the driveway or if the sidewalk was paved or put together right there.

And as you look to the right of it in the first picture, there is no fence there. But I did actually remove the pavers previous to, you know, coming here, and I spoke with my neighbor. And you know, I said, you know, I can understand how you may feel, it might be a little bit intrusive, is there anything I could do to, you know, make this better, make it look more appealing? And we talked about doing some bushes right there, but she felt that -- and she seemed to be satisfied with having a fence that goes out about eight feet from the side right
there. And this allows her to, you know, finish her gardens right there, too, on the other side, but gives her the privacy.

But just to the right of that, that cornered garage there is an entryway going in and out. And one of the things you can't really tell from this picture is that there is a 14-inch drop right there from the -- from the bottom of the door to the -- to the pavers right there. So there still needs to be a step installed. So coming down from the side of the garage out through the entry door, there's still going to be a step right there.

As you can see, like, in the bottom, middle picture, I got three steps going down the elevation because it does drop significantly there. So I had to actually build it up, and include the steps going down over there so that you could, you know, walk safely and not hurt yourself right there.

So, you know, I think, you know, from a standpoint of everything that I could do, you know because of the elevations and because of, you know, the corner of the garage to the side setback is five feet right now, there's not much room to do much less than other than just to put some type of a place where you can actually step safely and onto safely so that
you don't hurt yourself. And because of the elevation
dropping so significantly towards the back, we were
able to actually build it up and put a retention -- a
small retention wall, and then, obviously, the steps
going right there.

But I think, you know, if we accomplish what
we are looking to do is, you know, ask for a small
variance so that we can get out through the side of
the garage, and then go to the backyard.

MEMBER SCHWARTZ: In your middle picture in
the bottom row, that building is an extension of the
garage, I mean?

MR. PIAZZA PALOTTO: Yes.

MEMBER SCHWARTZ: Okay. And then there
seems to be an older fence?

MR. PIAZZA PALOTTO: Yes. That's the
property line.

MEMBER SCHWARTZ: Is that yours or hers?

MR. PIAZZA PALOTTO: That's hers.

MEMBER SCHWARTZ: So yours is just going to
extend it?

MR. PIAZZA PALOTTO: Yeah, I'm just
extending out eight more feet from her corner.

CHAIRMAN MIETZ: Now in this picture, where
is the setback line coming from the fence over to --
so if you take the top, right picture, top section, right picture, so if I had my foot on the fence, and then was looking towards the building, where -- where is the four foot?

MR. PIAZZA PALOTTO: Well, that's -- I mean, from the corner of the garage to the fence is five feet right there.

CHAIRMAN MIETZ: Oh, it is. Okay.

MR. PIAZZA PALOTTO: Yep.

CHAIRMAN MIETZ: It's hard in the picture because it distorts it.

MR. PIAZZA PALOTTO: Yeah, no, I agree. So you know, obviously, it can only be a foot or four feet from the property line, and pretty much -- I'm a little bit in from the new fence that I put in, but not by much. But you're still, at least, five feet right there.

So I'm asking for, you know, to extend the sidewalk four feet out. So it would be about a foot away from the fence.

CHAIRMAN MIETZ: So the way it's depicted in this top, right picture, this lower masonry, whatever we call it. We can't really see it. At the end of that, that is about a foot away from the fence?

MR. PIAZZA PALOTTO: Yes.
CHAIRMAN MIETZ: So that's really what you're asking for something, and is this the something that's going to be put there?

MR. PIAZZA PALOTTO: Yes. You can see what it would look like in the far, left corner, far top corner.

CHAIRMAN MIETZ: When it's finished?

MR. PIAZZA PALOTTO: When it's finished. And there is a fence now there, too.

CHAIRMAN MIETZ: And then, basically, to the edge of it then you would, what, grade it somehow, between it and the fence?

MR. PIAZZA PALOTTO: Yeah.

CHAIRMAN MIETZ: Okay. And you don't feel there would be a problem with any runoff onto her property or anything like that?

MR. PIAZZA PALOTTO: No, not at all.

CHAIRMAN MIETZ: It's dry through there?

MR. PIAZZA PALOTTO: Yeah. The garage, I've actually installed four-inch sewer and drain lines to discharge towards the backyard.

CHAIRMAN MIETZ: Okay. Other questions for this fine gentlemen?

MR. DiSTEFANO: I just have a question. So what's happening on the back side of the stairs from
the bottom step going towards the backyard?

MR. PIAZZA PALOTTO: Probably that's just going to be grass.

MR. DiSTEFANO: That's grass. So no -- so the sidewalk stops at the top of the first step?

MR. PIAZZA PALOTTO: Yes.

MR. DiSTEFANO: Okay.

CHAIRMAN MIETZ: Okay. Thank you, sir.

MR. PIAZZA PALOTTO: Thank you, guys.

CHAIRMAN MIETZ: Okay. Is there anyone in the audience that would like to speak regarding this application?

(No response from the audience.)

CHAIRMAN MIETZ: Then there being none, then the public hearing is closed.

MR. PIAZZA PALOTTO: Thank you.

(Public hearing closed.)

Application 7A-03-24

Application of Paul Morabito, agent, and Robert Tortorella, owner of property located at 171 Thackery Road, for an Area Variance from Section 205-2 to allow a deck to extend 14 feet into the 60-foot rear setback required by code. All as described on application and plans on file.

MR. MORABITO: Thanks, Rick. Everyone, I am
representing Rick Tortorella, who is, like I say, a gentleman permanently in a wheelchair. He's currently redoing the house inside to make it more accessible for him.

CHAIRMAN MIETZ: Sir, can you just give us your name and address?

MR. MORABITO: Paul Morabito, architect with the project, and I am representing --

CHAIRMAN MIETZ: What is an address, your business address, some address, please? Not the property address, your address?


CHAIRMAN MIETZ: Thank you. Go right ahead.

MR. MORABITO: So to continue. Revamping the whole inside. You know, putting a fair amount of money into making the house accessible for his disability, and he's looking to build a deck on the back of his house that is over the maximum height it can be without -- it counts into the setback because it is too tall. I think it is 11 inches or some height that we're over at. And so it's been designed in such a way that he's going to be able to have a grilling area, a lounge area, and it's able -- he wants to just be able to wheel directly out of his house,
and be on the deck and spend time with his family and whatnot, as what you do with a deck. So yeah.

And you didn't get packets, but everyone might have seen online, he is going to be using a cable rail system because he realizes he is encroaching the setback. And the elevation is about two feet off the ground. So the cable rail is kind of like the least visual impact from neighboring houses and whatnot.

So the house current setback, I think it's 63.5. And so we are looking for a 20-feet deep deck, which puts us at 46 feet to the back of that deck from -- well, the house jogs in the back, but the one area is 46, and so.

CHAIRMAN MIETZ: Okay.

MR. MORABITO: Pretty simple.

CHAIRMAN MIETZ: Questions?

MEMBER SCHWARTZ: When I stopped this afternoon, I went through the garage, and there's this -- this barren area out in the back. Is that whole area going to be the deck?

MR. MORABITO: Did you -- were you able to view the site plan?

MEMBER SCHWARTZ: No, I didn't. I just went out to look at it. I didn't have it.
CHAIRMAN MIETZ: It's 20 feet off the building, isn't that what you said?

MR. MORABITO: You would come walking through here, through the garage. And so the deck is going to be Selco which means, right now, I'm in receipt of that. But you have living space for him, and then going along the back of the house and then going through doors, the great room, which is here. So it will be a little table area, grilling area, and some place for some furniture.

MEMBER SCHWARTZ: Oh, okay. Off to the side, not straight out the back. Okay. This is the garage, and I just came straight out.

MR. DiSTEFANO: Judy and Paul, I need you guys, if you want to --

MEMBER SCHWARTZ: Oh, I'm sorry.

MR. DiSTEFANO: I need the stenographer to be able to hear you guys, that's all. That's all.

MEMBER SCHWARTZ: Okay. So I came out the back of the garage right here, and this was all a barren area. So I was assuming it was going back this way. Okay.

MR. MORABITO: You walk through the garage, and then behind the house here, and then this is all plantings here.
MEMBER SCHWARTZ: Okay. This is -- the neighbor in the back seems to have more of a view of it than the neighbors on this side.

MR. MORABITO: Yeah. One of the photos that I have is from here, and it looks like this neighbor would have a view of it, too.

MEMBER SCHWARTZ: Okay. All right. Thank you.

CHAIRMAN MIETZ: Okay. Other questions for us?

Can you just tell us, briefly, how did you determine that 20 feet was the size that was needed for this deck?

MR. MORABITO: He had hired a decorator and designer who did a lot of the work, friend of his wife's, or something. And so this was laid out and handed to me. They needed architectural, they need the stamp, they need the structure. But the artwork of the layout is determined by this.

CHAIRMAN MIETZ: And the dimension of this is what?

MR. MORABITO: It's 20 by 20, the main section.

CHAIRMAN MIETZ: Four hundred square feet.

MR. MORABITO: It's 790 square feet all
together.

CHAIRMAN MIETZ: Oh, altogether?

MR. MORABITO: Twenty by 20, then there is a
12-foot section that is about 22 feet.


MEMBER D'AUGUSTINE: Would you say that size
is necessary for him to be able to negotiate around
the deck with his wheelchair?

MR. MORABITO: It does make sense to me,
being he can't get off the deck. So when he is out
there, that's the only place he can be. And so to
enjoy any kind of time outside in his backyard to
limit it to, like, oh, you can go here. And the
wheelchair does take room. So it does make sense to
me that it's the size it is. I mean, it is not 28
feet where you could say, wow. You know, 16 by 16 is
kind of a small-ish deck, especially if someone is in
a wheelchair trying to get around deck furniture and
whatnot. So.

CHAIRMAN MIETZ: Makes sense. Okay. Any
other questions? Okay. Thank you.

Is there anyone else in the audience wants
to speak regarding this?

(No response from the audience.)

CHAIRMAN MIETZ: Okay. Public hearing's
closed.

MR. MORABITO: Thanks a lot.

(Public hearing is closed.)

Application 7A-04-24

Application of Thomas Pschierer, agent, and Thomas Terry, owner of the property, located at 1475 Crittenden Road, for an Area Variance from Sections 203-2.1B(6) and 203-9A(4) to allow a standby emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

MR. PSCHIERER: Hello. Tom Pschierer. The company's located at 999 Rush-Henrietta Townline Road. The property is 1475 Crittenden Road.

CHAIRMAN MIETZ: Okay.

MR. PSCHIERER: So we want to put the generator in the side yard because when you're looking at the house from the front, the gas service and the electrical service are inside the garage. And on that side of the house, if you go back behind the house, it's all wooden deck, and the slope is, probably, something like this to get down to anything that would be flat, which is about, probably, 60 or 70 feet away if you did all the adding up.
To get to that flat part of the back of the house, which would be on the right-hand side, I would have to go through his house, in the upper level of his house, and the lower level of his house is all drywall and all finished.

If I tried to go around the other way, I would have to go through his driveway, which is at least 30 to 35 feet of that, and then go another 150 feet around the house to try and trench to get that spot.

So we want to put it on the side in front of a fence, basically, that's about 300 feet from the center line of the road. So you can't really even see it from the road, you know, if you're standing there. And I guess that's why we want to put it there.

CHAIRMAN MIETZ: How far is it from the nearest structure, if you put it where you're proposing? If you put it where your proposal is?

MR. PSCHIERER: Well structure, you mean his house?

CHAIRMAN MIETZ: Yeah, or is there a neighborhood -- I'm sorry, I didn't get a chance to get there, so I don't know the lay of the land there, but.

MR. PSCHIERER: Okay. So he owns actually
not only the house where the generator would be going, but he owns the house next door also.

CHAIRMAN MIETZ: Okay.

MR. PSCHIERER: And on the other side of him is a park.

CHAIRMAN MIETZ: Yeah, right. Right.

MR. PSCHIERER: And behind him is an apartment complex, which he has big six-foot fences through there.

CHAIRMAN MIETZ: So even to the house that he owns, which I would say to the right of it, then how far away would you say this generator would be to the corner of that house, approximately?

MR. PSCHIERER: I'm gonna say 200 feet, probably.

CHAIRMAN MIETZ: Oh, okay.

MR. PSCHIERER: Yeah.

MEMBER McKAY-DRURY: How about from the apartment buildings? Because it actually looks closer to the apartment buildings so.

CHAIRMAN MIETZ: I know the location, but I didn't get a chance to look at it.

MR. PSCHIERER: Yeah, no. I mean, I didn't take that measurement, but it's got to be 150 feet, I would say. Because there's fences, then there is
another big fence behind the fence that I'm talking about.

MEMBER McKay-Drury: Right.

CHAIRMAN Mietz: Those are brick buildings, if I remember, right there. So yeah. Okay. Very good.

Okay. So other questions for this gentleman?

(No response from the Members.)

CHAIRMAN Mietz: Okay. Thanks very much. Is there anyone in the audience that would like to speak on this?

MEMBER McKay-Drury: Did we do -- are we good with the decibels?

CHAIRMAN Mietz: Well, I said, are you all set. If you have a question, go ahead and ask, before I close the public hearing.

MEMBER McKay-Drury: You normally ask about that.

CHAIRMAN Mietz: No, no.

MEMBER McKay-Drury: I think the question goes, Rick, is this within our permissible decibel level for the town?

CHAIRMAN Mietz: I don't have the packets.

MR. DiSTEFANO: Good question for the
Applicant. What is the decibel rating at full load and at test?

MR. PSCHIERER: Okay. So I don't have it in front of me, but I believe the spec on that generator says it's 67 decibels at 20 feet, whatever it is.

MR. DiSTEFANO: Is that at the full load?

MR. PSCHIERER: Yes. Yeah, I believe it's in the spec that way.

MR. DiSTEFANO: I don't think they make generators at 72 decibels anymore.

CHAIRMAN MIETZ: No, I don't think so, but.

MR PSCHIERER: To me --

MR. DiSTEFANO: Unless it's a huge commercial generator.

CHAIRMAN MIETZ: They're usually mid sixties, 62, 65.

MR. PSCHIERER: I work on them all the time. When I hear them running, to me, it is like a riding lawn mower. It's really no louder.

CHAIRMAN MIETZ: No, they've come a long way.

MEMBER McKay-Drury: And then the -- in terms of visibility from the road, I am just trying to understand. The application says that it won't be visible from the road. I am just trying to
understand. Is there preexisting plantings that are
going to be blocking it? Because obviously, it's 300
feet, so that's a significant distance, but in terms
of actually blocking the view?

MR. PSCHIERER: So the homeowner is willing
to do whatever. So if he has to plant flowers or
trees or whatever there, he doesn't care.

But when I say -- you know, I said it wasn't
visible from the road. I mean, technically, I was
just thinking of the 300 feet. And I did stand down
there in the middle of the road looking, and because
of the lay of the land, I suppose technically you
might see some of it, but it's not like it would be
sticking out like a sore thumb.

MR. DiSTEFANO: Yeah. That's a long way.
Okay.

MR. PSCHIERER: And he would plant if you
wanted him to plant stuff.

MEMBER McKay-Drury: Right. Okay.

CHAIRMAN MIETZ: Well we can discuss it
further, but is there any other questions anybody has?

(No response from the Members.)

CHAIRMAN MIETZ: Okay. Thanks a lot.

MR. PSCHIERER: I can just wait?

CHAIRMAN MIETZ: Yeah, you can, yep.
Is there anyone, again, in the audience.
(No response from the audience.)
CHAIRMAN MIETZ: I see no one else. So the
public hearing is closed. Okay. All right.
(The public hearings concluded at 7:24 p.m.)
(Beginning of deliberations.)
REPORTER CERTIFICATE

I, Susan Ryckman, 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 2nd day of July, 2024
at Rochester, New York.

SUSAN M. RYCKMAN, C.P., Notary Public.
BRIGHTON
ZONING BOARD OF APPEALS
DELIBERATIONS AND DECISIONS

July 2, 2024
At approximately 7:00 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York  14618

PRESENT:
DENNIS MIETZ,
Chairperson

HEATHER McKay-Drury
KATHLEEN SCHMITT
JUDY SCHWARTZ
MATTHEW D'AUGUSTINE

LAUREN BARON, ESQ.,
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RICK DiSTEFANO,
Secretary

REPORTED BY:  SUSAN M. RYCKMAN, CP, Court Reporter,
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive,
Batavia, NY   14020,
(585) 343-8612
Application 7A-03-24

Application of Paul Morabito, agent, and Robert Tortorella, owner of property located at 171 Thackery Road, for an Area Variance from Section 205-2 to allow a deck to extend 14 feet into the 60-foot rear setback required by code. All as described on application and plans on file.

MEMBER D'AUGUSTINE: I move to approve Application 7A-03-24 based on the following findings of fact:

Findings of Fact:

1. The requested variance will not result in a substantial change to the character of the neighborhood. Rear decks are common in the area, and the proposed deck is of modest height and unobtrusive in design.

2. The difficulty cannot be solved without a variance, given that the rear of the house is already near the 60-foot setback limit. So any deck construction would require a variance.

3. The requested variance is not substantial, given the deck will only extend 14 feet beyond the setback, and there is a large area of yard remaining.

4. The requested variance is the minimum necessary, given the Applicant's desire to have an outdoor
seating and dining space that is navigable by a wheelchair, and that provides him access to the rear of his house.

5. The requested variance will not have an adverse effect on the physical or environmental conditions of the neighborhood, given that the design blends in with the house and yard in a way that will not be visually intrusive.

6. The difficulty is not self-created, given that the owner is currently wheelchair bound.

**Conditions:**

1. The deck design and construction will adhere to the specifications in the plans submitted and the testimony given this evening.

2. Applicant will acquire all necessary building permits.

   MEMBER SCHWARTZ: I second it.

   MR. DiSTEFANO: Judy, you got second on this?

   MEMBER SCHWARTZ: Yes.

   MR. DiSTEFANO: Motion is to approve with conditions.

   (Ms. Schmitt, yes; Ms. McKay-Drury, yes;
   Mr. Mietz, yes; Ms. Schwartz, yes;
   Ms. D'Augustine, yes.)
(Upon roll, motion to approve with conditions carries.)
Application 7A-04-24

Application of Thomas Pschierer, agent, and Thomas Terry, owner of the property, located at 1475 Crittenden Road, for an Area Variance from Sections 203-2.1B(6) and 203-9A(4) to allow a standby emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

MEMBER MCKAY-DRURY: I move we approve Application Number 7A-04-24 based on the following findings of fact:

Findings of Fact:
1. The requested variance will not result in a substantial change to the neighborhood, given the overall size of the lot and the distance from the road, as well as from surrounding nearby properties.
2. The difficulty necessitating the variance cannot be solved in another manner without rerouting power hookups through the house or going under the driveway, which would be cost prohibitive.
3. The variance is not substantial because although not in the back of the home, it still won't be visible from the street.
4. The variance is the minimum necessary to grant
relief from the difficulty, in that this is the only location where it can be placed near the existing power hookup without incurring significant costs.

5. The proposed variance is consistent with surrounding properties, and not expected to have an adverse impact on the environmental conditions.

CHAIRMAN MIETZ: Can I stop you one second? The last one you did, would you be willing to add, because we asked about how far it was from the two properties, really, on either side, especially the side where it appears, that you could maybe add that and say the adjacent property is approximately 150 or 200 feet, whatever.

MR. DiSTEFANO: From structures.

CHAIRMAN MIETZ: Yeah, just so you get a sense of the size. It may be meaningless, but...

MEMBER McKay-Drury: So I will change Finding Number 5 to: The proposed variance is consistent with the surrounding properties, and not expected to have an adverse impact on the environmental conditions, in that the generator's proposed location will be, approximately, 150 feet from the apartments to the rear, and approximately 200 feet from the neighboring property, which is also owned by the same homeowner.
Findings of Fact as Amended:

5. The proposed variance is consistent with the surrounding properties, and not expected to have an adverse impact on the environmental conditions, in that the generator's proposed location will be, approximately, 150 feet from the apartments to the rear, and approximately 200 feet from the neighboring property, which is also owned by the same homeowner.

Conditions:

1. Limited to the generator in the plans on file, and described in the testimony given.
2. The generator shall be screened from the road and surrounding properties.

   MEMBER D’AUGUSTINE: Second.

   MR. DiSTEFANO: Can I add a condition that all necessary building permits shall be obtained? Is that okay with you, Matt?

   MEMBER D’AUGUSTINE: Yes.

Additional Conditions as Amended:

3. All necessary building permits shall be obtained.

   MR. DiSTEFANO: The motion is to approve with conditions.

   (Ms. Schmitt, yes; Ms. McKay-Drury, yes; Mr. Mietz, yes; Ms. Schwartz, yes; Ms. D’Augustine, yes.)
(Upon roll, motion to approve with conditions carries.)
Application 7A-01-24

Application of Robert Piazza Palotto, owner of property located at 2500 Elmwood Avenue, for an Area Variance from Section 207-10E(5) to allow a 12-foot-long sidewalk to be 1 foot from the side lot line in lieu of the minimum 4 feet required by code. All as described in applications and plans on file.

MEMBER SCHWARTZ: I move that we approve Application 7A-01-24 based on the following findings of fact.

Findings of Fact:

1. The reason for this variance of a 12-foot sidewalk is to provide a safe walkway to the backyard along the side of the garage.

2. The backyard drops or slopes down substantially, exactly 14 inches, from the top of the proposed three steps to the sidewalk path.

3. In addition, the Applicant is installing an 8-foot fence to line up with the neighbors' to offer privacy, and is what she preferred.

4. There will be no adverse effect on the character of the neighborhood because the walkway will be constructed with decorative pavers. The variance of a 1 foot side lot in lieu of the minimum 4 foot may be substantial, but due to a previous variance to extend
the garage, this variance offers the only option to the Applicant.

**Conditions:**

1. This variance only applies to the written application and testimony presented.
2. Runoff cannot be on the neighbor's property.

   MEMBER McKay-Drury: May I add or just throw out, that he needs to maintain or keep up the fence? I say that because it seems after ten years, that fence may have problems.

**Additional Conditions as Amended:**

1. This variance only applies to the written application and testimony presented.
2. Runoff cannot be on the neighbor's property.
3. The eight foot fence along the property line shall be properly maintained.

   MEMBER McKay-Drury: Do you have a second?

   MR. DiStefano: Judy already seconded.

   CHAIRMAN Mietz: Judy wrote it.

   MEMBER McKay-Drury: I will second.

   MR. DiStefano: Judy, your finding of that it's a decorative walk, so it won't have an impact because the decorative walk will not have an impact on the neighbors. I don't think it matters, the decorative, or not.
MEMBER SCHWARTZ: Leave it out?

MR. DiSTEFANO: Yeah. So go back to wherever you say that.

MEMBER SCHWARTZ: I said there would be no adverse effect on the character of the neighborhood because the walkway will be constructed of decorative pavers. We can take that out.

Finding of Fact as Amended:

5. There would be no adverse effect on the character of the neighborhood.

MR. DiSTEFANO: Heather, you second that?

MEMBER McKAY-DRURY: Yes, I did.

MR. DiSTEFANO: Motion is to approve with conditions.

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

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

CHAIRMAN MIETZ: Okay.

(The proceeding concluded at 7:45 p.m.)

* * *
REPORTER CERTIFICATE

I, Susan Ryckman, 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 24th day of July, 2024 at Rochester, New York.

SUSAN M. RYCKMAN, C.P., Notary Public.