

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on February  
5th, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

February 5th, 2014  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN  
CANDICE BAKER LEIT, ESQ.  
MORREY GOLDMAN  
DR. DAVID LAWRENCE  
CHRISTINE CORRADO  
JUDY SCHWARTZ  
DENNIS MIETZ

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

Reported by: CHAD L. SMITH, Court Reporter  
EDITH E. FORBES COURT REPORTING SERVICE  
21 Woodcrest Drive  
Batavia, New York 14020

1  
2 MR. CHOLETTE: I would like to now call to  
3 order the February session of the Brighton Zoning Board  
4 of Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was  
7 advertised in the Brighton Pittsford Post of January  
8 30th, 2014.

9 MR. CHOLETTE: Will you please call the roll?

10 MR. DiSTEFANO: Let the record show that all  
11 members are present.

12 MR. CHOLETTE: We do have the December  
13 minutes that I would like to get modified or changed if  
14 you find any errors in them and get them approved.  
15 Again, let's not worry about typographical errors, a  
16 word here or there. Mainly focus on the decision part  
17 of these minutes so that we can get through them  
18 quickly. Let's try to speed through this unless you  
19 think it's critical. If you think that it's real  
20 important say so.

21 MS. SCHWARTZ: On page 13, the last word on  
22 line 3, I think should be tested. The word doesn't make  
23 sense, but it's about a generator.

24 MR. DiSTEFANO: Tested would be right.

25 MS. SCHWARTZ: Tested.

1  
2 MR. CHOLETTE: Okay.

3 MS. SCHWARTZ: And, Jack, the other one is  
4 yours. On page 80, line 8, the last word I think is  
5 my.

6 And that's all I have.

7 MS. CORRADO: Page 28, line 22, except I  
8 think should be accept.

9 MR. CHOLETTE: Okay. Thank you.

10 Anything else? Anybody?

11 Great. Can I have a motion to approve the  
12 minutes as amended?

13 (Motion made by Ms. Schwartz to approve the  
14 December amended minutes.)

15 (Seconded by Mr. Goldman.)

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

18 12A-04-13 Application of Buckingham Properties LLC,  
19 property manager, and 2600 Elmwood LLC, owner of  
20 property located at 2600 Elmwood Avenue, for 1)  
21 modification of a Use Variance (5A-07-97) to allow for  
22 frozen yogurt sales and a short order eatery in  
23 conjunction with bagel sales, and 2) modification of an  
24 Area Variance (5A-08-97) allowing for the continuation  
25 of less parking than that as required by code with a

1  
2 change in restaurant use as described in 1 above. All  
3 as described on application and plans on file. TABLED  
4 AT THE DECEMBER 4, 2013 MEETING - PUBLIC HEARING  
5 REMAINS OPEN

6 MR. MALBONE: Good evening. I'm back.

7 Do you want me to do my name and address?

8 MR. DiSTEFANO: Yes.

9 MR. MALBONE: Aaron Malbone from Buckingham  
10 Properties. 793 Red Fox Circle, Ontario, New York.

11 I'm back in front of the Board to ask for  
12 approval of use variances for 2600 Elmwood for the  
13 frozen yogurt use and the kosher restaurant use.

14 We've submitted --

15 UNKNOWN: Can you increase the volume?

16 MR. MALBONE: We've submitted some  
17 information from the last --

18 MR. CHOLETTE: Wait. I'm not sure your  
19 microphone is on.

20 Is his mike on?

21 MR. DiSTEFANO: Yeah, it's on. It's just his  
22 is down.

23 MR. MALBONE: Better?

24 MS. SCHWARTZ: Yeah.

25 MR. DiSTEFANO: Okay. Go ahead.

1  
2 MR. MALBONE: We've submitted some additional  
3 information from the December meeting that the Board  
4 had requested.

5 We have all the tenants present here in the  
6 building this evening, so if you need to ask any  
7 specific questions about the use and what they're  
8 planning to do so that we can get this approved.

9 MR. CHOLETTE: I think maybe it would be  
10 useful for you to describe exactly what the uses as you  
11 see them are now going to be. There are some concerns  
12 about that and it's not clear in our minds as what is  
13 going down. There is a newspaper report on what it was  
14 going to be. They talk about four different places in  
15 there. And then there's this question of whether  
16 there's going to be a fryer or not.

17 So if you could go through all of those  
18 details I think --

19 MR. MALBONE: Absolutely. We have three  
20 tenants in the building. The first tenant is Brugger's  
21 Bagels, which is approved for the existing use. The  
22 second tenant would be Yolickity Frozen Yogurt. And  
23 the third tenant would be Sabra Grill which would be a  
24 kosher restaurant. I know there is some information  
25 for that. We're kind of trying to blitz the community

1  
2 with information, but that wasn't completely accurate.

3 So there are only three tenants in the  
4 building. And the Sabra Grill - in the additional  
5 information that we've submitted for the December  
6 application - would like to have a fryer in their  
7 space.

8 MR. CHOLETTE: You indicated that there were  
9 kinds of fryers that might not be as problematic with  
10 respect to odors.

11 Can you describe that more fully?

12 MR. MALBONE: I'm going to turn that over to  
13 the tenant on how they're manufactured specifically.

14 MS. BOTIER: Hello. Basically we --

15 MR. CHOLETTE: Will you give your name?

16 MS. BOTIER: Noy Botier.

17 MR. CHOLETTE: Will you spell it for Rick?

18 MS. BOTIER: N-o-y, last name B-o-t-i-e-r.

19 We have done some research on the equipment  
20 and have spoken with our venders. And what they have  
21 confirmed is that the odors coming from the fryers  
22 wouldn't matter as much at the type of ventilation  
23 system that we have in place. And we have all the  
24 information regarding the hood and the ansul system  
25 that would go along with that to eliminate the odors

1 and break up the particles in the air.

2 Within walking distance from this space we've  
3 done research and there are five other establishments  
4 in Brighton that have a hood and fryers. So we are  
5 asking that you take that under consideration.  
6

7 MS. SCHWARTZ: Could you describe where these  
8 are located please?

9 MS. BOTIER: The fryers?

10 MS. SCHWARTZ: These five establishments that  
11 you've just referred to.

12 MS. BOTIER: Yes. There are two synagogues  
13 within walking distance that have fryers. There is  
14 Pontillo's Pizza. There is Otter Lodge. And there's  
15 Aja Noodle, which is directly across from our space.

16 MS. SCHWARTZ: Is it fair to say that the  
17 food that you're most interested in frying is falafel?

18 MS. BOTIER: Falafel, yes. And it's all made  
19 to order, so it's not that we'll be frying every  
20 minute. And there's also an array of salads and fresh  
21 meat. And we're not --

22 MS. SCHWARTZ: But those don't need a fryer?

23 MS. BOTIER: No fryer.

24 MS. SCHWARTZ: Okay. Would you consider  
25 baking the falafel instead of frying?

1  
2 MS. BOTIER: It's the type -- the taste and  
3 flavors are not the same. It's a type of ethnic food  
4 that --

5 MS. SCHWARTZ: Oh, I know. It's just --  
6 Okay. Thank you.

7 MS. BOTIER: And we have looked into the  
8 fryers that lids on top of them that are ventless, but  
9 the cost involved in that and the production you can  
10 make in those is just not sufficient enough.

11 But this restaurant is very important to the  
12 community. It's the first of it's kind and to be  
13 kosher and the community is really asking for it. We  
14 would like to be able to provide that.

15 MR. CHOLETTE: One of the concerns that I  
16 have is that when we approve a use variance there's the  
17 consideration of if your establishment, for whatever  
18 reason, goes out of business and some other  
19 establishment comes in and has similar items of food  
20 that they're going to be offering, it will be very  
21 difficult for us to say that they couldn't go in there  
22 after we approve your use variance. And on the menu  
23 that was supplied to us at the December meeting when we  
24 heard this there was a mixture of things that, you  
25 know, like a hamburger, a hot dog, I believe there were

1  
2 even perhaps french fries - I don't see that right now  
3 - but there's hamburgers anyway.

4 And my point is do you still plan to offer  
5 all these even if your place just specializes in just a  
6 few of them?

7 And my concern is that if we approve your use  
8 what would then preclude us in the future if somebody  
9 wanted a burger joint or something else wanted to come  
10 in the neighborhood like this?

11 MS. BOTIER: First off, this menu is just a  
12 sample of the one that we know of down in Florida that  
13 we were looking at, kind of doing similar things. But  
14 a lot of these items are not on the menu at all. And  
15 again, it's made to order. It's not like a fast-food  
16 restaurant where you're constantly making hamburgers  
17 and french fries and things like that. Those items  
18 we're basically going to do for a kids menu.

19 We're basically specializing in fresh salads,  
20 meats and the falafel. So that would be our specialty.  
21 We're not going to be advertising as much that we're  
22 kosher, but it just happens to be kosher.

23 MR. CHOLETTE: I guess I'm looking for a way  
24 to perhaps constrain this in some way when you get to  
25 trying to consider approving it that would be more

1  
2 limiting.

3 You know, at one point when we first heard  
4 this I think most of us thought this was going to be,  
5 you know, like a deli or a sandwich shop and now it  
6 seems like perhaps it's going to be more than that. I  
7 think that's the concern that some of us have.

8 MS. BOTIER: I'm on the committee in the area  
9 that is formulated by a group here called  
10 Rocklahad(phonetic), and they have one specific group  
11 for looking to start a kosher establishment. And the  
12 falafel is something that a lot of people have shown  
13 interest in. I have a lot of support and backing on  
14 it. It's been asked by the community that we look into  
15 it. That's why we're trying to come up with this  
16 concept. Delis have been done and they have delis  
17 here. But this is something that is not available in  
18 Rochester.

19 MS. BAKER LEIT: Just a question: Do you  
20 think that if we approved your application as  
21 specified, that your particular establishment would be  
22 kosher, that might be something that would alleviate  
23 the concern about having like a Burger King or some  
24 other heavy duty, like, you know, fast food variety?

25 MS. BOTIER: Yes. This is very specialized

1  
2 and unique and it's not -- I mean, if someone else came  
3 in there I don't think they would be able to do the  
4 same.

5 MR. CHOLETTE: Well, I'm in the same line.  
6 You were modifying the use of kosher. It sounded to me  
7 like it was going to be like quasi-kosher or  
8 semi-kosher or something.

9 MS. BOTIER: No. We have full backing from  
10 the rabbis and everything.

11 We didn't want to make it so it segregated  
12 anyone from trying our food or feel like well, we don't  
13 keep kosher. It is open to anybody. But we don't need  
14 to publicize it so much that it is kosher. Just a good  
15 place to eat that happens to be kosher.

16 MR. CHOLETTE: You're not going to advertise  
17 it as being kosher, but it truly is kosher? I mean, if  
18 you --

19 MS. BOTIER: Well, the only --

20 MR. CHOLETTE: -- if you participate in a  
21 kosher household this is acceptable?

22 MS. BOTIER: Right. But it's not --

23 MR. DOLLINGER: And every item would --  
24 because I don't know -- every item would be kosher so  
25 in theory the entire restaurant would be kosher?

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MS. BOTIER: Um-hmm.

MR. DOLLINGER: Every item would be kosher?

MS. BOTIER: Um-hmm.

MR. GOLDMAN: The concern I have, as Jack pointed out, you have things on this menu that involve more frying than the falafel and then you -- my understanding was this is your menu --

MS. BOTIER: No, this is --

MR. GOLDMAN: -- and now I'm hearing this is not your menu.

How do I know -- how can I get a feel for how much frying is going to be going on?

As you can understand frying is a big issue.

MS. BOTIER: Right. The only thing that we're going to be frying is falafel and French fries. Everything else is fresh salads or grilled chicken and then the Shawarma meat that's on its own rack and has its own ventilation.

MR. GOLDMAN: It's like a Curro?

MS. BOTIER: Right. So nothing else is frying, and again, it's made to order.

MR. GOLDMAN: Okay. So there will be no French fries. It's just --

MS. SCHWARTZ: Yes, she said --

1  
2 MS. BOTIER: There will be French fries, but  
3 that's more, I think, it's more for kids. It's not  
4 something everyone is going to want with their meal.

5 MR. GOLDMAN: I apologize.

6 MS. BOTIER: That's okay. This was just  
7 meant as a sample that we went off of because we know  
8 the owners of this restaurant.

9 MS. SCHWARTZ: Well, my question to you then  
10 is: If you're not going to include everything that's  
11 on this printed menu that you gave us, are there things  
12 that you're going to put on this that we don't know  
13 about?

14 How can we --

15 MS. BOTIER: No.

16 MS. SCHWARTZ: How can we make a judgment and  
17 then make a decision when we really don't know for sure  
18 what your menu is going to be?

19 MS. BOTIER: The only thing that's not on  
20 here is soup that we're going to add, but that's it.  
21 Everything else would be either eliminated from here.  
22 It's a very small menu, but it's specialized.

23 MR. CHOLETTE: The other problem we have is  
24 that this Board and I'm sure that Rick and the town  
25 don't want to be placed in the position of policing

1  
2 menu changes that occur two years from now when they  
3 want to add some other item. And so the desire that we  
4 have is to be able to in broad strokes say what is  
5 allowed and what is not allowed. And that's part of  
6 the motivation around saying you can't have a fryer.  
7 That's seems like it's something that is very  
8 definitive we put in place and then everybody  
9 understands what that is and give you the flexibility.

10 I understand that you really want this and  
11 you feel that the fryer that you're proposing will not  
12 be as problematic as some people might think.

13 MS. BOTIER: And it's really not, again, it's  
14 just -- it's not the fryer per se, it's the hood. We  
15 would still have to have a hood in place because  
16 there's, you know, a grill, a gas burner. So we would  
17 still need that anyways underneath.

18 But if we could limit it to at least just the  
19 falafel and take the French fries off, if that is  
20 something that --

21 MR. CHOLETTE: I understand.

22 MS. BAKER LEIT: Now in terms of your  
23 advertising to the general public is this going to be  
24 an Israeli restaurant or, like, how would it be  
25 marketed to the general public so that, you know, you

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have a broader appeal?

MS. BOTIER: An Israeli restaurant with some aspects of being healthy because of salads and falafel is kind of a vegan option. And advertising a lot of it is from the kids at the schools and area businesses. So --

MR. MIETZ: You had made a comment right near the beginning about the fryer, and you made a comment something to the effect that it was different than what normal other venting systems are because obviously - as you stated - every grill has a hood, okay, for ventilation.

MS. BOTIER: Uhm-uhm.

MR. MIETZ: So what is different about the ventilation that you're providing for the fryer?

Because maybe I misheard you, but isn't that what you said?

MS. BOTIER: It's the filters. They've come out with different kinds of filters that break up the odors and toxins in the air.

MR. MIETZ: That would be helpful, if you're willing to pass those along.

MS. BOTIER: And there's the fryer as well.

MR. CHOLETTE: And you gave examples of other

1  
2 places in the area that had these same kinds of hoods  
3 and ventilations?

4 MS. BOTIER: Yes.

5 MR. CHOLETTE: And the closest one to your  
6 establishment you said was?

7 MS. BOTIER: Aja Noodle. It's directly  
8 across the street.

9 MR. CHOLETTE: I know where it is.

10 Were we aware of that?

11 MR. DiSTEFANO: Well, it's a different zoning  
12 district.

13 MR. CHOLETTE: Yes.

14 MR. DiSTEFANO: So they were permitted by  
15 right under a conditional use permit. Where this is a  
16 different zoning district where originally it wasn't  
17 zoned for any type of restaurant use.

18 The zoning has changed on it to allow for a  
19 sit-down type of restaurant would be permitted in that  
20 district. However, it's closest to the residential  
21 district where we would have an issue. So there is  
22 some - there is a little more of a buffer between Aja  
23 Noodle zoning and the residential zoning.

24 MR. CHOLETTE: All right. I think we know  
25 what the applicant wants. We'll pass this around.

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2 MR. GOLDMAN: The menu here - while it's not  
3 exactly the one you will do - is there anything you  
4 will do that's not on this menu that we should be aware  
5 of?

6 MS. BOTIER: The only thing was the soup.

7 MR. GOLDMAN: Okay. That's it.

8 MS. BOTIER: Uhm-Hum.

9 MR. DOLLINGER: So if we found one of these  
10 items objectionable and we were to approve it, for  
11 instance without the French fries - just use that as an  
12 example - and then we were to say that you could do  
13 everything on this menu except for the French fries,  
14 that would be - assuming it was okay with French fries  
15 - that would be okay with you because it would be  
16 nothing other than soup --

17 MS. BOTIER: Right.

18 MR. DOLLINGER: -- and we said soup there  
19 would be nothing outside of that menu that you would  
20 expect to be doing --

21 MS. BOTIER: Right.

22 MR. DOLLINGER: -- in the place. Okay.

23 MS. BOTIER: Uhm-hum.

24 MR. GOLDMAN: Thank you.

25 MR. CHOLETTE: Okay. We will pass this

1  
2 around. We're talking about technical specifications  
3 here. I'm not sure that's going to be helpful very  
4 much.

5 MR. DOLLINGER: Do we have the vent for --  
6 does that cover the vent?

7 MS. BOTIER: We had the person that was  
8 installing the hood and makes the vent, Patrick. He  
9 was going to be present, but he got stuck in Webster  
10 due to weather. So we could give you his contact  
11 information if that's going to be a help.

12 MR. GOLDMAN: The question I'm hearing is the  
13 vent that blows out is it going to be straight up, out  
14 the back, out the side or where's it going?

15 MS. BOTIER: Straight up and it's towards the  
16 back.

17 MR. CHOLETTE: What do you consider the back  
18 of this building?

19 MS. BOTIER: Our space is --

20 MR. CHOLETTE: By the loading dock?

21 MS. BOTIER: Yes.

22 MR. CHOLETTE: Okay. The back side away from  
23 Elmwood near the --

24 MS. BOTIER: Right.

25 MR. DOLLINGER: What would it be? Do you

1  
2 know if it would be towards the parking lot or towards  
3 the --

4 MS. SCHWARTZ: The houses.

5 MR. DiSTEFANO: That's towards the houses.

6 MR. DOLLINGER: So it's going to be on the  
7 northwest corner of the building, your roof, correct?

8 MS. BOTIER: Correct.

9 MR. DiSTEFANO: They have seating on the  
10 northeast corner.

11 MR. DOLLINGER: Right.

12 MR. CHOLETTE: Okay. Any other questions?

13 MR. DiSTEFANO: Mr. Chairman, I think we had  
14 additional questions about the - and I don't know if  
15 you're going to bring the applicant back up - regarding  
16 just the typical hours of operation, you know, that was  
17 never clear.

18 MR. CHOLETTE: Let's get into those details  
19 too.

20 The question here revolved around because of  
21 the parking situation there was the concern there was  
22 going to be overlap between these businesses, when are  
23 they going to be most busy.

24 And if you could just go through that again?

25 MR. MALBONE: Sure. The Brugger's Bagels --

1  
2 you guys have this information also. The Brugger's  
3 Bagels is going to be open the entire hours of  
4 operation. The building is open from 5:30 a.m. to  
5 11:00 p.m. Their peak hours of business are going to  
6 be from 5:30 to 1:00 - about somewhere in that area.

7 And then the other applicant, Yolickity, is  
8 going to be open seven days a weeks from 11:00 a.m. -  
9 11:30 a.m. to 10:00 p.m. with their peak hour ending  
10 Monday through Saturday from 2:00 to 5:00 and 7:00 to  
11 9:00.

12 And then Sabra Grill, Monday through Thursday  
13 and Sundays 11:00 to 9:00 p.m. and Fridays 11:00 to  
14 5:00. They'll be closed on Saturdays. And then their  
15 peak hours are from 12:00 to 2:00, usually the lunch  
16 hours and 6:00 to 8:30 during dinner.

17 MS. SCHWARTZ: I have a question.

18 MR. MALBONE: Sure.

19 MS. SCHWARTZ: Being so close to the school  
20 you don't think your hours for Yolickity are going to  
21 be earlier than 2:00?

22 I could see 11:00.

23 You said Yolickity 2:00 p.m. to 5:00 p.m.  
24 would be your peak hours. I could see the peak hours  
25 much longer than that, like starting at 11:00 with the

1 kids and then you've got Bruegger's at the same time.

2 How's that going to --

3 MR. MALBONE: Well, Bruegger's is -- they're  
4 done usually after lunch time, around 1:00. And then  
5 Yolickity would have their busy peak from 2:00 to 5:00  
6 and then they're done.

7 UNKNOWN: We're the owners of Yolickity.

8 MR. CHOLETTE: Give your name please.

9 MR. MENDLER: Sorry. My name is Brian  
10 Mendler. I live at 345 Palmer Road here in Brighton.

11 MR. CHOLETTE: Did you get that name?

12 MR. DiSTEFANO: No.

13 MR. MENDLER: Mendler, M-e-n-d-l-e-r. And  
14 our peak hours are those hours. We know that because  
15 we have two other locations that are open right now,  
16 very, very close to schools. There's one in Greece,  
17 right near Greece Athena and one in Webster right  
18 between Thomas and Schrader. Those are our peak hours.  
19 We do open at 11:30. We get a lot of senior citizen  
20 groups that come in early in the morning -- sorry, I  
21 get nervous talking in front of people. We have  
22 different groups that come in, but 2:00 to 4:00 is our  
23 busy hours in the afternoon and that's proven just from  
24 our other locations.  
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MR. CHOLETTE: Okay. Thank you.

MR. DiSTEFANO: Can I just ask what is your typical employee count during these times?

MR. MENDLER: It just depends on the time of year. A night like tonight, one or two people. Sometimes two - usually two because of safety issues, but he could get away with one. In the summer at night we usually have three to four people on working and during the day one to two people. Always one person during this time of year.

You guys haven't been to our store yet in Webster or Greece? Nobody? Or Henrietta, we just opened in Henrietta as well?

It's totally local. All right. I'm just curious. Brighton guy here opening a store, so, you know.

MR. CHOLETTE: It sounds good. Thank you.

MR. MENDLER: Any other questions about Yolickity?

MR. CHOLETTE: Not for you. Thank you.

MR. MENDLER: All right. Thank you.

MR. GOLDMAN: I thought you were nervous.

MS. SCHWARTZ: Yeah, right.

MR. CHOLETTE: I had one other question from

1  
2 last time. I think you attempted to answer, but let me  
3 raise it again. When you were talking about the need  
4 for parking or the lack of need for parking one of the  
5 statements you made were that a lot of the employees  
6 were going to be young people, many of who you said  
7 were not even going to be driving.

8 And my concern was is there going to be adult  
9 supervision running this establishment during the day  
10 all the time?

11 MR. MALBONE: Absolutely. Yes. There's  
12 going to be a percentage of students are kids in school  
13 that either ride their bikes or walk to the stores.  
14 But there will always be an adult I guess inside on  
15 staff representing Bruegger's - they're charged with  
16 maintaining the building and they all have people on at  
17 those times.

18 MR. CHOLETTE: And the responsibility is with  
19 Bruegger's?

20 I mean if there was a problem with the  
21 establishment the town is not going to faced with the  
22 problem of going to one establishment and they're  
23 saying "Oh, no, we're not involved. It's somebody  
24 else."

25 I mean who will be the contact point and who

1  
2 takes responsibility?

3 Is that agreed to by the participants?

4 MR. MALBONE: Yes. Bruegger's will be the  
5 on-site people taking care of the building, but we are  
6 managing the property. So on the whole we are  
7 responsible for maintaining - to make sure that  
8 happens. So I guess we would be the main point of  
9 contact and we would disseminate that information to  
10 the tenants or whoever is running the building at the  
11 time.

12 MR. CHOLETTE: And the name of we is what?

13 MR. MALBONE: Buckingham Properties. I'm  
14 sorry.

15 MR. CHOLETTE: So that's the full Buckingham  
16 Properties?

17 MR. MALBONE: Yes.

18 MR. CHOLETTE: Okay. Pretty well  
19 established.

20 Any other questions?

21 MS. CORRADO: The last time around we had  
22 started to address some questions about the service,  
23 paper waste, disposables versus China. And I don't  
24 recall that there were answers on that with concerns  
25 about potential for trash and debris up in the front of

1  
2 the building.

3 MR. MALBONE: Can I let the tenant speak to  
4 that directly as well?

5 MR. GREEN: Hi, everybody. I'm Ken Green  
6 with Bruegger's. My address is 57 Sunset Blvd. in  
7 Pittsford. And Bruegger's will be responsible with  
8 maintaining the cleanliness both inside and outside the  
9 property.

10 The majority of things that will be served  
11 will be served on paper. Although Bruegger's having a  
12 brand of coffee service will have ceramic for some of  
13 its coffee products. But it will be a traditional  
14 Bruegger's just like the one that you have on Monroe  
15 and Clover, they're paperless.

16 But Bruegger's is the responsible party for  
17 cleanliness inside and out. There is an agreement in  
18 place between all of the tenants.

19 MR. GOLDMAN: One of the --

20 MR. CHOLETTE: Does that answer your question  
21 or is that a walk around?

22 MS. CORRADO: I think it's a broad answer,  
23 but we know who to contact if there is a challenge.

24 MR. GOLDMAN: I have a specific question  
25 addressing that. One of the previous conditions that

1  
2 was put on the Bagel Bin and was accepted by the  
3 property owners was that a trash receptacle was kept  
4 under cover.

5 Is that what you're planning?

6 MR. GREEN: Yes.

7 MR. GOLDMAN: Meaning they're indoors until  
8 the time that they need to be picked up?

9 MR. GREEN: Yes.

10 MR. GOLDMAN: Okay. Thank you.

11 MR. GREEN: You're welcome.

12 MS. SCHWARTZ: I have a further question.  
13 Was there ever any consideration for the  
14 benefit of the environment to use ceramic rather than  
15 paper?

16 MR. GREEN: In the Bruegger's world we have  
17 experimented with paper and ceramic in some of our  
18 stores and the consumers don't want it. That just  
19 happens to be the truth behind it. People want to talk  
20 about the environment and paper, but they'll start  
21 eating their food on China and then they'll have  
22 whatever they have left and they'll like it wrapped up  
23 and they'll like it put into a paper bag. And they  
24 finally said we just don't want to bother getting the  
25 China along the way and they stop using it. So our

1  
2 store in the Village of Pittsford has the dishwasher  
3 and the overhead with China and the service has just  
4 stopped using it. And so we have not made the  
5 investment going forward to continue that process.

6 That being said, with the coffee program with  
7 this particular facility, China will be available if  
8 you want coffee in ceramic cups.

9 MR. DiSTEFANO: On the coffee aspect --

10 MR. GREEN: Yes, sir.

11 MR. DiSTEFANO: You won't be doing any actual  
12 roasting of coffee on the site?

13 MR. GREEN: No. That's correct, no roasting  
14 of coffee. But I talked about -- we're talking about  
15 espresso. Bruegger's isn't traditionally known for its  
16 espresso based drinks. This location will have  
17 espresso, but no roasting.

18 MR. DiSTEFANO: Okay. Thank you.

19 MS. BAKER LEIT: The other two restaurants in  
20 there, Yolickity and Sabra, will those also be all  
21 paper products?

22 MR. GREEN: I can't speak for them.

23 MR. MENDLER: We have cups - paper cups and  
24 we are the only frozen yogurt store in Rochester that  
25 recycles our spoons always. We're big into recycling.

1  
2 There's at least two recycling bins in each of our  
3 stores. We totally believe in that. So all the  
4 plastic spoons which people collect because we have all  
5 different colors so a lot of people take them home, but  
6 if they don't we recycle bottles, spoons, anything else  
7 always. Just so you know.

8 MS. BAKER LEIT: Thank you.

9 MS. BOTIER: Due to kosher laws we're doing  
10 everything paper. We are using green labeled products.  
11 So --

12 MR. CHOLETTE: I think that we're all set.

13 MR. MALBONE: Okay.

14 MR. CHOLETTE: Thank you very much.

15 MR. MALBONE: Thank you.

16 MR. CHOLETTE: Is there anyone in the  
17 audience that would like to speak with regard to this  
18 application?

19 There being none this part of the public  
20 hearing is closed.

21 UNKNOWN: I'm sorry about that. Is it  
22 possible to speak on her application?

23 MR. CHOLETTE: Yes.

24 MR. WOLK: Jeremy Wolk, 270 Parkway.

25 MR. CHOLETTE: We'll keep it open.

1  
2 MR. WOLK: I just wanted to mention the  
3 significance to the Jewish community to have an  
4 opportunity to have a kosher restaurant, particularly  
5 within Brighton. For those of you that have been in  
6 Rochester a while of course there was Fox's back in the  
7 day which has moved away from a kosher alternative,  
8 there is Geulah's at the JCC. But there's very little  
9 opportunity for one to go out and enjoy a kosher meal  
10 and I don't want the significance of that opportunity  
11 to be lost, especially with so many Jews residing in  
12 the Brighton community.

13 MR. CHOLETTE: Thank you.

14 MR. WOLK: Thank you.

15 MR. CHOLETTE: We'll therefore close that  
16 part of the public hearing and move on.

17 1A-03-14 Application of Joseph O'Donnell, architect,  
18 and Sherry Dampier, owner of property located at 3176  
19 Elmwood Avenue, for Area Variances from Section 205-2  
20 to 1) allow an addition to extend 4.48 ft. into the  
21 existing 14.48 ft. side setback (south side) where  
22 a 19.8 ft. side setback is required by code, and 2)  
23 allow a garage addition to extend 11.8 ft. into the  
24 19.8 ft. side setback (north side) required by code and  
25 5 ft. into the 40 ft. front setback required by code.

1 All as described on application and plans on file.

2 MR. O'DONNELL: Thank you. Good evening. My  
3 name is Joe O'Donnell. I'm the architect for record on  
4 this project. My address is 150 Versailles, Rochester,  
5 New York.  
6

7 Before I begin, Rick, I would like to submit  
8 the affidavit that the notification was posted in the  
9 time frame required by the town.

10 We're here tonight to seek three variances.  
11 They're all setback variances for the proposed  
12 three-bay garage addition to the northwest corner of  
13 the existing house and also the variance on the side  
14 setback on the south and of course kind of in  
15 conjunction with the northwest on the front.

16 We've been in the design process for probably  
17 a good year, trying to figure out the best and highest  
18 use of the property. It's kind of a unique piece of  
19 property given the fact that Buckman Creek is located  
20 on the north side. This homeowner does own the  
21 property north of Buckman Creek. And there is an  
22 existing residence I would guess about three hundred  
23 yards north of this property.

24 The proposed addition as I mentioned is the  
25 three-bay garage. The existing garage on the house

1  
2 will become a new kitchen. So there won't be multiple  
3 garages on the site. That was a question asked at the  
4 Planning Board meeting last month.

5 The proposed master bedroom addition extends  
6 off the back of the existing house approximately  
7 eighteen feet. We then jogged it three and a half feet  
8 in order to maintain at least ten foot of setback  
9 between the Dampier residence and the residence at lot  
10 22 to the south.

11 The configuration of the garage is such that  
12 this private drive does come down and dead ends. So we  
13 projected the garage off on a forty-five degree angle  
14 on the northwest corner. Again, we took some  
15 precautions in the last day the garage to jog it over  
16 four feet and extend it over, minimizing the impact on  
17 the front setback of the five feet.

18 We are convinced that the proposed addition  
19 does not affect the essential character of the  
20 neighborhood. There is a large custom home to the  
21 north. This is a private drive with upscale houses up  
22 and down the street.

23 We don't believe the proposed addition adds  
24 any physical or environmental detriment to the  
25 neighborhood given the fact it doesn't omit any

1  
2 additional odors, gases, create any environmental  
3 litter issues.

4           There is a question whether or not any  
5 additional runoff is there. Yes, that is the fact, but  
6 given the fact Buckman Creek is right there the  
7 additional runoff is very minimal.

8           Are the variances substantial? One could  
9 argue yes, on the north side. But given the fact that  
10 Buckman Creek does border the north side of the  
11 property, this owner does own the property to the north  
12 side. We don't feel that this is very significant - or  
13 substantial I should say. And the fact that we're only  
14 going for about five yards on the west side, we don't  
15 feel that is substantial. And maintaining at least ten  
16 foot --

17           MR. DiSTEFANO: You meant five feet.

18           MR. O'DONNELL: Oh, I'm sorry, five feet.  
19 Thanks for the correction.

20           And then, again, the configuration addition  
21 on the south side we're trying to maintain at least ten  
22 feet. I believe -- I don't know off the top of my head  
23 how far back the neighbor to the south side is off of  
24 that, but it's at least ten maybe fifteen feet. She  
25 may even be here this evening. She could actually

1 address that.

2  
3 And finally, is it self-created? I think we  
4 know about ninety-nine percent of variance requests are  
5 self-created, but we don't feel that being that these  
6 are self-created because of the proposed addition  
7 overrides the end result of the project.

8 With that we'll open it up to questions from  
9 the Board.

10 MR. CHOLETTE: And what is the current  
11 existing garage, that's going to be a kitchen did you  
12 say?

13 MR. O'DONNELL: Uhm-hum.

14 MR. CHOLETTE: Is this a single floor?

15 MR. O'DONNELL: Yes, all of the proposed  
16 addition is single floor.

17 MR. CHOLETTE: And then behind that kitchen  
18 was --

19 MR. O'DONNELL: It's an existing family room.

20 MR. CHOLETTE: -- a family room.

21 MR. O'DONNELL: Right.

22 MR. CHOLETTE: Is this going to be taken out?

23 MR. O'DONNELL: No, the family room will  
24 remain and we've come --

25 MR. CHOLETTE: With the fireplace?

1  
2 MR. O'DONNELL: Yes. The fireplace is to  
3 remain. It has some sentimental value to the  
4 homeowner. Her father did build it, so she wanted to  
5 keep the fireplace.

6 MR. CHOLETTE: And then behind that is going  
7 to be a master bedroom with a master bath?

8 MR. O'DONNELL: Correct, in that area that's  
9 shaded in, the eighteen feet and the twelve feet.

10 MR. CHOLETTE: The concern that I had when I  
11 looked at the site concerning this outside and the fact  
12 that the house -- and I hope that homeowner is here, it  
13 would be more of a concern to her than anybody else.  
14 As you know that house is turned sideways, if you will,  
15 from the street. So that side of that house is facing  
16 the private drive. And so this is the back of their  
17 house.

18 MR. O'DONNELL: Uhm-hum.

19 MR. CHOLETTE: And almost no front yard  
20 either.

21 MR. O'DONNELL: Uhm-hum.

22 MR. CHOLETTE: They are very tight in there,  
23 both front and back.

24 So the concern that I have is that you're  
25 limiting only a ten foot side setback there, and of

1  
2 course this Board is always looking for trying to  
3 minimize the variances.

4 And it would occur to me that, at least to  
5 raise the question: Why can't the master bedroom and  
6 the master bath be split over perhaps a little bit to  
7 the north and jog in that way so you're not actually  
8 creating more of an infringement on the side setback?

9 MR. O'DONNELL: Let me ask if she is here  
10 tonight because -- is the neighbor here tonight?

11 MR. CHOLETTE: We will give her the  
12 opportunity to come forward.

13 Have you spoken to her?

14 MR. O'DONNELL: Yes, I have at the Planing  
15 Board meeting and she did indicate to me that she has  
16 no objections to the project. She did, in fact, call  
17 the Dampiers tonight to be sure of whether or not the  
18 meeting was on. I said that I didn't receive any  
19 notification that the meeting was canceled due to the  
20 weather. So I thought she would be here, but --

21 MR. CHOLETTE: Well, we'll certainly welcome  
22 anyone to speak with regard to this.

23 MR. O'DONNELL: Okay.

24 MR. CHOLETTE: To the best of your knowledge  
25 you thought she was okay with it?

1  
2 MR. O'DONNELL: Yes. I sat with her right  
3 after the Planing Board meeting last month and she  
4 said, "I don't have any objection to it. I love my  
5 neighbors and it looks fine to me. I just wanted to  
6 understand what was going on."

7 But, Mr. Chairman, to answer your question,  
8 that creates some challenges given the fact that  
9 there's an existing deck there to push it a little bit  
10 further to the north and that would create somewhat of  
11 an awkward spot. If you look at the site plan there  
12 that one jog is 7.25 feet. It would almost create like  
13 a cubby, if you will, in that little area there. So we  
14 were just using the existing lines of the house to  
15 align the new addition.

16 MR. CHOLETTE: Yeah, I understand that and I  
17 guess from if you had all the space in the world that  
18 certainly makes a lot of sense.

19 MR. O'DONNELL: Yes. One of the other things  
20 that --

21 MR. CHOLETTE: I'm assuming that the jog that  
22 is in the back of the shaded area is the master bath,  
23 although I'm not sure of --

24 MR. O'DONNELL: Yes. If you could --

25 MR. CHOLETTE: I guess my question is just

1  
2 sacrificing some of the deck or moving some of the deck  
3 over to where the patio is or something to make that  
4 master bath on the north side of the master bedroom.

5 I'm just raising the question: Did you  
6 consider other alternatives and why couldn't you do  
7 those other alternatives?

8 MR. O'DONNELL: Yeah, we did and we did have  
9 -- as I said, this design process has been going on for  
10 probably a good year. We, in fact, looked at possibly  
11 locating the whole master suite on the north side. But  
12 as you can see from the site plan where it has  
13 floodplain issues on the north side. So we flipped it  
14 over to the south side, looking to get away from any  
15 encroachments on the floodplain.

16 It would take a -- I mean, it just wouldn't  
17 be as functional as this floor plan came out to be, not  
18 only from a flow from inside the house, but also from  
19 the exterior. You know, the existing roof lines would  
20 line up a lot better from a construction standpoint.  
21 Like I said, it was something that was most desirable  
22 by the homeowner.

23 MR. CHOLETTE: Thank you.

24 Do we have any questions here?

25 MR. DiSTEFANO: Yeah, I just want for the

1  
2 record, Joe, can you maybe just summarize quickly some  
3 of the concerns that the Planing Board had with the  
4 garage addition?

5 MR. O'DONNELL: Yeah. Well, what happened  
6 when we did go to the Planning Board meeting we were  
7 scheduled on the agenda. I received a call from Ramsey  
8 about three hours before the meeting indicating that  
9 engineering had just turned in their comments and that  
10 they noticed that floodplain information that our  
11 surveyor had used was incorrect. It had been updated I  
12 believe in 2008.

13 MR. DiSTEFANO: Was that done in '11?

14 MR. O'DONNELL: In any event, it didn't  
15 reflect that correct floodplain information.

16 The recommendation from the Planning Board  
17 was to table us, go back have the survey redone. It  
18 was a little unfortunate because this was the map that  
19 we received from the staff that indicated the  
20 floodplain locations. So it was a little bit confusing  
21 to us. But in the spirt of cooperation we agreed to go  
22 back and have that redone.

23 The other concern, obviously, was the  
24 construction of the garage relative to taking the  
25 assertion of forces on from the flood. You know, a

1  
2 garage structure in itself the foundation is really  
3 supported on both sides. So there's really not a  
4 significant amount of lateral pressure on the  
5 foundation itself because it's not excavated such as a  
6 basement. Basements - obviously basements built in a  
7 floodplain need to have the ability to have water flow  
8 through them so that the static pressure and the  
9 hydrostatic pressure on the walls doesn't collapse the  
10 house. But in a garage structure that concern is not  
11 as prevalent.

12 They did ask that I go back and I would have  
13 to provide some construction details to the building  
14 department before that permit could be issued.

15 I don't know, was there anything else?

16 MR. DiSTEFANO: There was one other issue and  
17 maybe you have an answer for this: The distance from  
18 the garage to the bank of the creek?

19 MR. O'DONNELL: Yes. Thanks for reminding me  
20 of that.

21 That's funny because that morning I did go  
22 out and I measured it as best as I could determine what  
23 the edge of the bank was. I mean, is the edge of the  
24 bank exactly where it starts to slope, is it exactly  
25 where the water line is? Where you see on my site plan

1  
2 it shows a little flagpole it was about twenty-six feet  
3 from the corner to the creek. But I don't know what  
4 the definition of bank is. And I needed to clarify  
5 that. That was the only thing that really --

6 MR. DiSTEFANO: Yeah, just for the Board in  
7 the EPOD regulations no structure can be within  
8 twenty-five feet of the bank or the creek. The  
9 structure can be located in an EPOD and/or a  
10 floodplain, however, cannot be located within  
11 twenty-five feet of the bank or creek. So that was a  
12 question posed.

13 The variance obviously pushes this closer to  
14 the creek. If it's less than twenty-five feet from the  
15 creek then it's another variance on top of the setback  
16 variance. It's a variance from the EPOD regulations.

17 MS. SCHWARTZ: When I was out there --

18 MR. CHOLETTE: I'm sorry. Your suggestion is  
19 that until we have a definitive answer on that we  
20 should probably table this?

21 MR. DiSTEFANO: That's a concern of mine,  
22 yes, that we have a definitive answer on the distance  
23 from the structure to the edge of the bank. And I  
24 don't know if we have that at this point.

25 MR. O'DONNELL: I don't have a technical

1  
2 answer for that.

3 MS. SCHWARTZ: This ties into my question.  
4 When I was out there, there was a son or son-in-law or  
5 whatever, but there was a young man who was out in back  
6 and he walked me through it. And there's that circled  
7 flower bed --

8 MR. O'DONNELL: Uhm-hum.

9 MS. SCHWARTZ: Okay. And I said, "Where will  
10 the garage be in relation to the creek?" And it was my  
11 understanding that it was almost going to be - the  
12 flower bed was going to be lost. And he walked off the  
13 corner of where the garage would be to the bank of the  
14 creek and he walked off about eight to ten feet at the  
15 most.

16 MR. O'DONNELL: Again, I don't have the  
17 definition of the bank, where does the bank start.

18 MR. CHOLETTE: I think in all reality because  
19 we really need to know what we're getting into probably  
20 that part of the request we would be better off  
21 tabling. But we certainly can take up the request on  
22 the south side.

23 MR. O'DONNELL: Right. That's fine.

24 MR. CHOLETTE: And of course if you change  
25 the whole plan and wanted to come back later, that's

1  
2 fine too. I don't think that any decision we make on  
3 the south side will be impacted if all of a sudden you  
4 decided --

5 MR. O'DONNELL: That's correct.

6 MR. CHOLETTE: -- to change the three-bay  
7 garage to a two-bay garage or something.

8 MR. O'DONNELL: That's correct. Right. Make  
9 it easy for another time.

10 MR. GOLDMAN: I have a question for Rick.

11 Who on our side would make a determination of  
12 where this bank is?

13 MR. DiSTEFANO: That's basically they hired  
14 the engineer to go out and do the survey work. The  
15 engineer verifies where the bank is - their  
16 professional opinion of where the creek is. We then  
17 review that information and we yes, are in agreement or  
18 no, we aren't in agreement. So we make that call based  
19 on their professionals submitted information.

20 MR. CHOLETTE: Anything else?

21 Fine. Thank you very much.

22 MR. O'DONNELL: Okay.

23 MR. CHOLETTE: Is there anyone in the  
24 audience that would like to speak with regard to this  
25 application?

1  
2           There being none this part of the public  
3 hearing is closed.

4           2A-01-14 Application of Frank, Jr. And Jennifer  
5 Mazzerella, owners of property located at 52  
6 Sandringham Road, for an Area Variance from Section  
7 209-10 to allow liveable floor area to increase from  
8 3,709 sf to 3,790 sf where a maximum 3,353, sf is  
9 allowed by code. All as described on application and  
10 plans on file.

11           MR. WANZENRIED: Good evening. My name is  
12 Paul Wanzenried. I am the project manager for Patrick  
13 J. Morabito, Architect. I am here on behalf of my  
14 clients, Frank and Jennifer Mazzerella.

15           This evening we're seeking relief from - for  
16 an area variance from Section 209-10. In essence, as  
17 the picture that goes around, as you can see, we  
18 basically want to pull that wall with the door to the  
19 north 6.7 feet - or six feet seven inches.

20           It's not.

21           MR. CHOLETTE: With so many birds flying,  
22 we'll see that it's been changed?

23           MR. WANZENRIED: Yes, pretty much.

24           MS. SCHWARTZ: Also I don't know if it's you  
25 or the homeowners, but thank you for putting out your

1  
2 sign of notification. It was great. Thank you very  
3 much for that.

4 MR. WANZENRIED: Thank you.

5 MR. CHOLETTE: I think this is pretty  
6 straight forward.

7 Does anybody have any questions about this  
8 interior fill in?

9 Fine. I think that's all we need.

10 MR. WANZENRIED: Okay. Thank you very much.

11 MR. CHOLETTE: Is there anyone in the  
12 audience that would like to speak with regard to this  
13 application?

14 There being none this part of the public  
15 hearing is closed.

16 2A-02-14 Application of New Cingular Wireless PCS, LLC,  
17 (AT&T) lessee, and the Jewish Community Center of  
18 Rochester, Inc., owner of property located at 1200  
19 Edgewood Avenue, for an Area Variance from Section  
20 205-2.1B(6) to allow a standby emergency generator to  
21 be located in a side yard in lieu of the rear yard  
22 behind the building as required by code. All as  
23 described on application and plans on file.

24 MS. BARNASHUK: Hi. My name is Kim  
25 Barnashuk. I am an attorney representing AT&T this

1  
2 evening. With me is my colleague, Adam Walters and  
3 Steve Linard, AT&T site acquisition consultant.

4 We're actually here on two separate matters  
5 this evening. Both are part of AT&T's buildup of its  
6 LTE network. And it's an upgrade to its network across  
7 the area. As you know many people are getting rid of  
8 their land lines and getting more dependent on cell  
9 phones these days. And AT&T is working on expanding  
10 its in-building coverage.

11 The first application that we're here for  
12 tonight is at the Jewish Community Center. We were  
13 here before the Planning Board last month. We received  
14 approval for our pole location on the existing wireless  
15 telecommunications facility there.

16 Tonight we're requesting an area variance for  
17 the placement of a generator.

18 AT&T and several other wireless carriers are  
19 finding it increasingly important that generators be  
20 placed in their facilities given events like Superstorm  
21 Sandy and these types of storms that are causing power  
22 outages. And with an increasing number of people  
23 depending on their cell phones for telecommunications  
24 these facilities need to be up and running. We need to  
25 have back up power.

1  
2 The code requirement states that the  
3 generator shall be in a rear yard behind a house. As  
4 you know the town code states a preference for pole  
5 location rather than building a new tower. AT&T's pole  
6 is located on an existing tower. There already was an  
7 existing equipment compound where that tower was  
8 located, which happens to be on the side of the  
9 property rather than the rear of the property.

10 So AT&T would like to locate their generator  
11 within that fenced equipment compound rather than the  
12 rear yard, which would be right in the middle of the  
13 parking lot at the JCC.

14 The generator meets all of the other  
15 requirements of the code. It's a natural gas  
16 generator. It meets the noise requirements. It will  
17 be a hundred and seventy-seven feet from the nearest  
18 property line. And again, AT&T is finding this an  
19 extremely important vital service to provide backup  
20 power to our wireless facilities.

21 Questions?

22 MS. SCHWARTZ: I have a couple of questions.  
23 On your sure EAF, number 9, 10 and 11.

24 Number 9 was: Does the proposed action meet  
25 or exceeds state energy code requirements?

1  
2 And you answered yes. And it says that if  
3 proposed we need an explanation for that. There is  
4 none.

5 MS. BARNASHUK: Yes, the explanation -- go  
6 ahead.

7 MS. SCHWARTZ: And number 10 it was: Will  
8 the proposed action connect to an existing private  
9 water supply, if no then describe another supply for  
10 water?

11 But there is no explanation on there with --

12 MS. BARNASHUK: Okay.

13 MS. SCHWARTZ: -- your waste water utilities.

14 So how can --

15 MS. BARNASHUK: So for number 9, that  
16 response was does it meet or exceed the energy code  
17 requirements.

18 MS. SCHWARTZ: Uhm-hum.

19 MS. BARNASHUK: You provide an additional  
20 description if you're going to exceed.

21 MS. SCHWARTZ: You answered yes.

22 MS. BARNASHUK: We will meet the state  
23 energy code. So by the time you add as if you were  
24 going to go above and beyond you can use that  
25 opportunity to explain the efforts that you're making

1  
2 to meet the energy code requirements. We will be  
3 meeting the energy code requirements.

4 MS. SCHWARTZ: Okay. And the other thing is:  
5 Will there be any other noise?

6 When I was there the other day the existing  
7 equipment has a hum, which is objectionable or  
8 whatever.

9 Will there be any additional noises other  
10 than the testing from the generator?

11 MS. BARNASHUK: No. It's only run during  
12 the testing or if there is an emergency situation.

13 MS. SCHWARTZ: Can you determine when that  
14 testing will occur?

15 MS. BARNASHUK: It will be based on the  
16 maintenance required by the manufacturer.

17 MR. WALTERS: Typically -- I'm sorry, Adam  
18 Walters. I'm an attorney at Phillips Lytle and I also  
19 represent AT&T.

20 Typically the generators are programmed to  
21 turn on once a month. The tests usually run through in  
22 twenty to thirty minutes. They can be programmed at  
23 any time of the day.

24 MS. SCHWARTZ: Just once a month?

25 MR. WALTERS: Just about once a month, yep.

1  
2 MS. SCHWARTZ: Okay. And I have another  
3 question on this one.

4 Will you be using a level two electrical box?

5 MS. BARNASHUK: Yes.

6 MS. SCHWARTZ: Will that help to minimize the  
7 seventy-two decibels?

8 MR. WALTERS: It's 68.3 decibels. I believe  
9 that's the standard with that phase two - type two test  
10 - screen.

11 MS. SCHWARTZ: Okay.

12 MR. WALTERS: You did have two questions that  
13 we did not reply to.

14 MS. SCHWARTZ: On the EAF.

15 MR. WALTERS: Yes. So let's clean that up  
16 for the record.

17 MS. BARNASHUK: So question number 10, we  
18 will not be having portable water so we will not be  
19 connected.

20 MS. SCHWARTZ: But it says note, describe  
21 your method -- okay. So you're not going --

22 And the last one was connected to the system  
23 for utilities and you said no. And it says if no  
24 describe the method you will provide for waste water  
25 treatment.

1  
2 MS. BARNASHUK: Again, we will not need any  
3 waste water treatment.

4 MR. CHOLETTE: Thanks, Judy.

5 Anything else?

6 Fine. Thank you very much.

7 Okay. With regard to this one is there  
8 anyone in the audience that would like to speak with  
9 regard to this generator at JCC?

10 There being none we will close this part of  
11 the public hearing and move on to the other  
12 application.

13 2A-03-14 Application of New Cingular Wireless PCS, LLC,  
14 (AT&T) lessee, and Our Lady of Lourdes Church, owner,  
15 of property located at 166 Rhinecliff Drive, for 1) an  
16 Area Variance from Section 207-42C1(b) to allow  
17 cellular antenna support equipment to be located in an  
18 accessory structure placed on the roof of the building  
19 in lieu of inside the building as required by code; and  
20 2) an Area Variance from Sections 203-9A(4) and  
21 205-2.1B(6) to allow a standby emergency generator to  
22 be located on the roof of a building in lieu of in the  
23 rear yard behind the building as required by code. All  
24 as described on application and plans on file.

25 MS. BARNASHUK: Thank you. Would you like

1  
2 me to repeat names or --

3 MR. DiSTEFANO: Sure, make these official.

4 MS. BARNASHUK: Again, Kim Barnashuk,  
5 representing AT&T, Adam Walters, also representing AT&T  
6 and Steve Linard, AT&T site acquisition consultant.

7 This is a regarding the proposed wireless  
8 telecommunications facility on the rooftop of the Seton  
9 Catholic School.

10 We are here tonight only for the variance  
11 portion of the application. As you know, we are  
12 requesting variances for rooftop placement of our  
13 generator and rooftop placement of our equipment in an  
14 equipment shelter.

15 AT&T is proposing a rooftop wireless  
16 telecommunications facility which will contain nine  
17 antennas at a center line height of fifty-nine foot  
18 above ground level, radio remote units and associated  
19 equipment and fire cables that will be located on a  
20 twenty foot by thirty-four foot steel platform which on  
21 top of it will house the equipment shelter and the  
22 generator.

23 We will be appearing next week before the  
24 Planning Board for a public hearing regarding our tower  
25 permit, but tonight we're here just requesting the

1 rooftop placement.

2 Behind me are the drawings that were  
3 included. You can see where the facility will be  
4 located - the proposed location of the facility.  
5

6 This facility is specifically designed to  
7 meet AT&T's coverage gap. It's an in-building coverage  
8 gap in the surrounding residential community including  
9 Highland Avenue, Winton Road, Warrington Drive and  
10 Cobbs Hill Drive along with other areas in the  
11 immediate vicinity of the site. This site is meant to  
12 address an inadequate service capacity and meet  
13 coverage enhancement needs. These needs limit the  
14 search ring to a half mile. This proposed facility  
15 provides sufficient coverage in the area. It provides  
16 in-building coverage, which you can see on the  
17 provocation maps that we've provided with our  
18 application materials, and further enhance public  
19 welfare of the town by providing these vital  
20 telecommunication services.

21 AT&T evaluated other sites within that search  
22 ring. Our site acquisition consultants and our RF  
23 engineers explored other options. The structures they  
24 found were a rooftop at 919 South Winton, east cap  
25 Brighton. However, it does not meet our needs because

1  
2 it provides overlapping RF coverage with similar sites  
3 we have in the vicinity. There are also four towers  
4 located on Highland Avenue. However, those towers are  
5 more than a mile away which is outside of our search  
6 ring to meet our RF coverage needs.

7           Regarding the specific variances tonight,  
8 the generator is similar to the last application. It's  
9 a natural gas generator. I meets all of the other  
10 requirements of the code with exception of the rooftop  
11 placement.

12           We worked with the school. Our site  
13 acquisition consultants walked the property with  
14 representatives of the school and there really was no  
15 other location for the generator. There's tight  
16 spacing with the school having basketball courts, a  
17 volleyball court, parking lot. The school is also very  
18 concerned about visual impact. The code requirement  
19 states that it has to be in a rear yard, but here we  
20 have a situation where there are streets on all four  
21 sides of the building and similarly the generator would  
22 be visible from within the school wherever it was  
23 placed in the yard. This was also a concern of the  
24 school and they prefer the rooftop placement of the  
25 generator.

1  
2           Regarding the equipment, the code prefers all  
3 equipment to be housed within the building. However,  
4 in doing a walk through of the building with the school  
5 there was no room large enough to house the equipment  
6 associated with the facility.

7           Regarding visual impacts of the facility, we  
8 think that the area, with the exception of Rhinecliff  
9 Drive right in the center - right in front of the  
10 school where you're going to have some ability to see  
11 the facility - the extremely mature trees surrounding  
12 the facility do provide a level of screening, as well  
13 as the other existing buildings on the property when  
14 you're driving around Rhinecliff or driving around the  
15 surrounding streets.

16           If anyone has any questions regarding any  
17 aspects of the application we're happy to take any  
18 public comments or concerns.

19           MR. CHOLETTE: Well, the biggest problem, of  
20 course, is the site impact visually.

21           MS. BARNASHUK: Uhm-hum.

22           MR. CHOLETTE: That's what most people are  
23 concerned about. And I guess there's three. One is  
24 the antennas, which is not before this board. And the  
25 other is the equipment shelter and the generator.

1  
2 In looking at your diagram - your fourth  
3 diagram - the size of the generator along the roof line  
4 looks miniscule relative to anything else and I'm  
5 assuming the implication I'm drawing from this sketch  
6 is in fact correct that if you're going to be concerned  
7 about something, that's the last thing you would be  
8 concerned about visually; is that correct?

9 MS. BARNASHUK: Correct.

10 MR. CHOLETTE: Now with regard to the  
11 shelter, that looks like it's own relatively large size  
12 room up on top of the school. Perhaps it looks like  
13 the top of an elevator shaft. That's how I would view  
14 it.

15 And then it looks like on top of that you've  
16 got these what would be nine antennas?

17 MS. BARNASHUK: Correct.

18 MR. CHOLETTE: When you say that there was no  
19 room within the school itself or room not large enough,  
20 I'm probing at the - not actually the validity of that  
21 statement, but rather trying to understand why perhaps  
22 there's not.

23 Is it the school has room, but the rooms are  
24 being utilized too much so that they can't spare a  
25 room, or is it one of just physically there will be a

1  
2 problem where you can't run the lines that far or  
3 whatever?

4 So what's the real problem putting the  
5 generator inside?

6 MS. BARNASHUK: Steve can speak to that.

7 MR. LINARD: My name is Steve Linard with  
8 MB&C.

9 Basically you hit it right on the head. The  
10 school -- we could conceivably come up with the room in  
11 the school, but the school did not want that to happen.  
12 And the thing is also, even if we put the equipment  
13 within the school that doesn't change the look of the  
14 antennas. Like you said, the shelter will house all of  
15 our equipment and that will basically look like a  
16 penthouse.

17 Did that answer your question?

18 MR. CHOLETTE: Well, I think you have  
19 answered part of the question.

20 Is there - I think I know the answer to this,  
21 but is your only -- if it were within the building  
22 itself, is the only possible place on the top floor?  
23 Can you put it down in the basement? Can you put it  
24 anywhere?

25 MR. LINARD: Oh, absolutely.

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MR. CHOLETTE: And there's no room anywhere?

MR. LINARD: Really, the restriction here is the property owner. The property owner's preference is not to take up any space. We did look in the basement. I don't believe there was any room in the basement. We looked outside to put our shelter on the outside of the building. We do try to avoid doing that so we're not really messing with the landlord's parking, a ball park or their green space. And a lot of landlords don't want the shelter outside.

MR. CHOLETTE: Well, I can understand that. In this case you don't really have a rear of the building anyway.

MR. LINARD: Exactly.

MR. CHOLETTE: Because of how it's located. Is the school, in fact, being paid for you being able to locate the site here?

MR. LINARD: Absolutely.

MR. CHOLETTE: Okay. So it's a matter of they may prefer it up on stop, but there's a trade off here and so that is something that could be considered. I mean it could be something you could deal with.

MR. LINARD: We've had the discussion with the school because we actually had to play around with

1  
2 the design so that structurally everything was okay.  
3 We really - when we walked the site we were trying to  
4 find a location within the building, but it really did  
5 seem to be a deal killer. It seemed to be an issue  
6 with the school that they did not want to utilize space  
7 because we would be talking a pretty good sized space.  
8 Basically the size of the shelter, a twelve by twenty -  
9 something equivalent to that size. It's a pretty good  
10 size space for a building owner to give up. We do --

11 MR. CHOLETTE: But this is twelve by twenty.  
12 So you're talking about two hundred and forty square  
13 feet in a building that must have thousands of square  
14 feet.

15 MS. BAKER LEIT: Just a question about the  
16 location: How typical is it to locate this type of  
17 facility in a residential area on an educational  
18 non-profit elementary school?

19 MR. LINARD: That's a tough question.

20 We're finding more and more as the networks  
21 really mature and with capacity needs increasing we are  
22 having to go into tougher areas. Five years ago, six  
23 years ago when I was inset acquisition typically I  
24 would have a two or three mile radius and you would  
25 search and you would look for municipal properties, the

1  
2 existing towers or so forth. It's gotten to the point  
3 now where there are so many people using their cell  
4 phones, streaming video, working from their phones with  
5 e-mail, the capacity is the big issue now. And for us  
6 to cover that section of residential homes in Brighton  
7 that really is the one that works the best for my RF  
8 engineer. And next week for our tower permit we'll  
9 prove the actual need for that.

10 But we did look at other sites. We did look  
11 trying to stray away. I just recently today looked at  
12 Brighton High School because it was brought to my  
13 attention. Even that's too far away. It will not --

14 MS. BAKER LEIT: But to answer my question,  
15 how often do you actually locate in this type of  
16 elementary location?

17 MR. WALTERS: I would say quite often. So  
18 it's not --

19 MS. BAKER LEIT: In terms of percentage  
20 basis?

21 MR. WALTERS: We're working on about seventy  
22 sites across the state. There's probably four or five  
23 that fall into this.

24 MS. BAKER LEIT: Okay. Thank you.

25 MR. WALTERS: That's the border magnitude.

1  
2 Steve is exactly right. Preferences go to  
3 location wherever you can. That's why we obviously  
4 went to JCC. We will go on existing towers wherever --  
5 we all are, wherever we can.

6 The problem really is you've got areas -  
7 neighborhoods that are not covered. They don't have  
8 sufficient strength for reliable service. And we have  
9 to cover those remaining neighborhoods. They're  
10 getting fewer. They're getting fewer and further  
11 between, but they do remain and it is a real challenge.

12 I know we have a lot folks here tonight that  
13 are going to express their concern. Our goal -- I  
14 think our big goal tonight is really to identify what  
15 additional information you need so that you can process  
16 the applications.

17 We understand based on discussions with the  
18 ZBA attorney that you're unlikely to move forward until  
19 the Planning Board makes a decision on the tower  
20 permit. We understand that as well. As long as we  
21 don't end up in a situation where both Boards say they  
22 won't move forward until the other one does - perfectly  
23 fine. We let you dictate the process. You tell us  
24 where to go.

25 So far I think we've heard you have got to

1  
2 provide some additional information on why you can't  
3 put the shelter and the equipment inside the building.  
4 Fair and appropriate request and we will nail that down  
5 further. Steve has had a number of meetings with the  
6 school and we will ask them to document what they are  
7 willing to do and what space will be available and  
8 whether we can get the shelter off of the roof. To  
9 Steve's point, that will take care of the shelter  
10 issue. I think you pointed out that the generator is  
11 pretty miniscule.

12 You're still left with the antennas. The  
13 antennas right now are proposed to be on top of the  
14 shelter. That's not just so that -- well, that's not  
15 just because we wanted to throw antennas on top of the  
16 shelter. We really need that height for the antennas  
17 to get that provocation, to get that coverage in the  
18 neighborhood. If you drop down to roof level for those  
19 antennas - this is only a four-story building - it's  
20 not going to be high enough. We have to document that  
21 for the Planning Board, no question. The need issues,  
22 the minimum height issues, all of those things.

23 But probably something you're going to need  
24 to consider, something Steve and Kim and I were  
25 discussing earlier here, if you are going to table and

1  
2 wait for the Planing Board we will pledge to you that  
3 every piece of document - every piece of documentation  
4 we submit to them we will also get to you. So you have  
5 the same information they have and you're kind of  
6 seeing the same things and working from the same  
7 information. I think that would be very helpful and  
8 appropriate for you and we would be happy to do that.

9 MR. CHOLETTE: Thank you.

10 How do the other carriers cover this area? I  
11 mean where are they located?

12 MR. WALTERS: Good questions. Generally  
13 speaking the sites are not public unless we can see  
14 them. So the carriers do not monitor each other's  
15 networks. Frankly, I don't know. I have been working  
16 on AT&T for a very long time. But I don't know how  
17 T-Mobile, Verizon, Sprint, Nextel cover this  
18 neighborhood.

19 What I do know and we can clearly document is  
20 that AT&T has a coverage gap in this neighborhood. We  
21 will solve it any way we can. We want to do the least  
22 intrusive alternative that we can develop for the  
23 community. But at the end of the day we have to solve  
24 that problem which is the hole.

25 If anybody - whether it's in the Planning

1  
2 Board context or this context - has suggestions for  
3 specific alternatives that should be examined, we would  
4 be happy to do that. It fleshes out the record, make  
5 sure you're clear on what the alternatives are.

6 Steve has done his due diligence as a site  
7 acquisition rep. He has looked at all of the  
8 alternatives he could come up with. And this is what  
9 we think is the least intrusive alternative. We hope  
10 at some point you are going to agree with that, but we  
11 understand you may need some more information.

12 So if there are suggestions for specific  
13 alternatives by all means you just need to let us know.

14 MR. CHOLETTE: Well, if you're trying to  
15 collocate with other carriers why isn't this  
16 information available between carriers?

17 It seems like you're at cross purposes here.

18 MR. WALTERS: It's a fairly simple issue. We  
19 are all competitors and there is no sharing of --

20 MR. CHOLETTE: But that means you're not  
21 trying to collocate. The carriers are not trying to  
22 collocate if they don't share the information.

23 MR. WALTERS: Let me tell you why we  
24 collocate. We collocate for two important reasons.  
25 One is it's a much municipal process. In fact Congress

1  
2 passed a new law about two years ago that actually  
3 allows us to collocate on an existing  
4 telecommunications facility by right. In fact, what  
5 the Section 6409 of the federal tax - middle class tax  
6 relief act says is, "If we're collocating on an  
7 existing telecommunications facility and it does not  
8 constitute a substantial change in the appearance of  
9 the facility, the municipality - local zoning - cannot  
10 deny. It must approve the application."

11 So if we can collocate, we have great reasons  
12 to do so and we do. It's not really a secret where  
13 these things are. Usually we start with the  
14 municipality. You have great records. You've been  
15 requiring tower permits for facilities in the town for  
16 a very long time. There are no known facilities that  
17 we know of. If you know of something by all means just  
18 let us know.

19 The carriers themselves for various reasons -  
20 which as I understand it relates to antitrust issues -  
21 they do not communicate amongst themselves. They do --  
22 it's just if they have an existing tower and we find  
23 out about it there will be an application. But  
24 generally the carriers don't own their towers. Tower  
25 companies own the towers.

1  
2           That's a very brief snapshot of the industry.  
3           It's just -- but if there's an existing facility, if  
4           you know about it, if the town has any records on  
5           anything that we've missed you just need to let us  
6           know.

7           MS. SCHWARTZ: I'm not a cell phone user.  
8           Okay?

9           MR. WALTERS: Fair enough.

10          MS. SCHWARTZ: But I am interested to know  
11          what indications were there to determine that you need  
12          more coverage here?

13          MR. WALTERS: Yeah.

14          MS. SCHWARTZ: What kind of situation  
15          presented itself that sent this information and how do  
16          you determine it?

17          MR. WALTERS: I can't speak to specifically  
18          why this particular site came up on the search ring,  
19          but I can tell you generally how that works and I would  
20          be pleased to do that.

21          MS. SCHWARTZ: But then if you don't know  
22          specifically for this then how do you know what you  
23          need?

24          MR. WALTERS: It's documentation. So in your  
25          exhibits in your packages we've submitted to you --

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MS. SCHWARTZ: I saw that, yeah.

MR. WALTERS: -- our RF information. It is the existing coverage we have. So it clearly documents that we have some coverage in the area, but there's a fairly significant coverage in the immediate vicinity - this neighborhood and in fact Seton - the Catholic school section of Brighton - in the middle of that coverage hole. That has been an existing condition for a while.

What AT&T - what the RF engineers do is there's constant feedback from customers, usually in the form of complaints. There's an app you can have on your smartphone, it's called mark this spot - it's an AT&T app, I have it on my phone - and every time you have a location where you can't get a signal or you can't make a call or you can't receive data you ping it and it goes back to AT&T. The folks back at AT&T - the network folks - crunch the numbers and see where there's lots of dropped calls. They then prioritize - they have a limited amount of capital to do improvements.

We're actually in what I would call a fairly significant build out. The new smartphone revolution - as we're calling it - has really driven a lot of need

1  
2 for improvements to the networks. All the major  
3 carriers are in the process of upgrading their networks  
4 to address the need. And it's really going back  
5 because of complaints and because of issues you've got  
6 to go back and fill those holes that have been there  
7 for a while. And that's what we're trying to do.

8 MS. SCHWARTZ: So financial being one.

9 But what about critical mass to warrant the  
10 hole?

11 MR. WALTERS: So AT&T has FCC licenses. They  
12 require AT&T to provide coverage to a certain portion  
13 of the population in a metro market - Rochester metro  
14 market for instance - by a certain period of time. And  
15 that is the obligation, to provide additional coverage.  
16 You're constantly building out your networks and  
17 improving your coverage holes. Which particular  
18 targets you do go for really do depend on those  
19 complaints and all sorts of intrinsic information.

20 But once a site has been identified as  
21 there's a coverage gap and we need to fill it by  
22 federal law. We have to fill it by the least intrusive  
23 means, but you also can't say no if we've identified  
24 the least intrusive needs.

25 And I'm not certainly suggesting here that

1  
2 this is you have to approve this. I'm simply saying if  
3 you ask us good questions, get what data you need from  
4 us to judge for yourself that this is the least  
5 intrusive means to fill the hole. We do have to fill  
6 the hole.

7 MR. CHOLETTE: Can you go higher somewhere  
8 else?

9 MR. WALTERS: You can build a new tower  
10 somewhere else.

11 MR. CHOLETTE: That or taking one of your  
12 existing towers that doesn't quite cover this area and  
13 build it higher to cover this hole?

14 MR. WALTERS: To -- you can see on what is  
15 Exhibit --

16 MR. CHOLETTE: They have to prove that to the  
17 Planning Board?

18 MR. DOLLINGER: The question is fine, but  
19 it's - they really don't need the technical -- the  
20 Planning Board level we will actually hire -- in the  
21 past we've had a guy unidentified and our RF engineer  
22 kind of validates --

23 MR. CHOLETTE: That's fair enough. There's  
24 no reason for the Zoning Board to get in the details of  
25 the Planning Board.

1  
2 MR. DOLLINGER: But it is kind of interesting  
3 though because - and to answer Judy's question a little  
4 bit too and also it's good to understand this. There  
5 is a certain concept, like, particularly they're trying  
6 to make it harder with this recent one where, you know,  
7 if it's a collocation allegedly we can't even deny it.  
8 I mean it's crazy how much the federal law is imposing  
9 itself in the practice of cell phones because they know  
10 there's a greater and greater demand. They're going to  
11 need to put these things in and they don't want the  
12 local municipalities to get in the way.

13 So the interesting thing is it's a game that  
14 we just try to validate at the Planning Board level  
15 their need and their information. Because at that  
16 point if it's all true then we lose a lot of ability to  
17 say, "No, you can't put it there." If they prove all  
18 these things and we do go ahead and validate them and  
19 they pay for our expert and our expert comes back and  
20 says, "Yeah, it's true, they got to put it there within  
21 a certain distance. There is no other alternatives,"  
22 that's where we end up.

23 MR. CHOLETTE: Let's get back.

24 MR. DOLLINGER: It's a fascinating thing  
25 actually.

1  
2 MR. CHOLETTE: But again, because of what  
3 we're trying to consider I think the relative question  
4 is one that you said you would give an answer to: Why  
5 this auxiliary structure has to be on the top and can't  
6 be hidden in the inside somewhere?

7 And I guess the other aspect would be if  
8 there was a way for us to visualize - other than by  
9 this little sketch here - what we're dealing with here?

10 MR. WALTERS: Sure.

11 MR. CHOLETTE: I don't want to be fighting  
12 over a structure. Just like I said with regard to the  
13 generator, in the end if you're going to have the  
14 towers, the structure might even improve the tower  
15 somehow. You know they might look better partly being  
16 a building rather than being long spiders or something.

17 So if we can get some better feeling for  
18 exactly what we're dealing with?

19 And also, some people have come before us  
20 with towers and have pointed out because of the angles  
21 and everything that you're viewing these from --

22 MR. WALTERS: Uhm-hum.

23 MR. CHOLETTE: -- from the ground level  
24 really as to who is really going see them.

25 MR. WALTERS: Sure.

1  
2 MR. CHOLETTE: And what that impact is going  
3 to be. And I know that many people have been concerned  
4 about towers, that in the end nobody even sees it.

5 I know on the corner of Monroe and 590  
6 there's a tower and most people in this room don't even  
7 think about it.

8 MR. WALTERS: And that's a really good point.  
9 As your attorney points out, the tower permit in  
10 addition to hiring an expert and reviewing all of our  
11 outlying information, the need issues we fully expect  
12 that the tower permit is going to require a detailed  
13 visual analysis and photo simulations. So we do expect  
14 we need to have a dialogue with the Board about where  
15 you do those from and those kinds of things. So that  
16 and we do anticipate as part of that next round of  
17 processing and you will have access to that  
18 information.

19 Again, as Kim said earlier, we think this is  
20 a pretty good site from a number of perspectives,  
21 particularly in terms of screening and the limited  
22 number of view points you're actually going to be able  
23 to see it because of the layout of the campus and where  
24 it places on the building.

25 But very good questions. And I have for

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2 follow-up for us so far I think we have documentation  
3 from the school on the shelter inside and visuals.

4 MR. DOLLINGER: You know, I have a question  
5 too.

6 MR. WALTERS: Yup.

7 MR. DOLLINGER: I'm concerned about what the  
8 odds are when you put this here there will be some  
9 demand, I presume some sense of collocation.

10 And I guess my question is - and I think the  
11 Board would like to also see -- my concept is - the  
12 problem is if we say, "Okay, put this structure on the  
13 roof," and then they come back also you get another  
14 collocator who comes in -- and we really do -- if we're  
15 going to build these here for this neighborhood we want  
16 them all here. We don't want to have to put a tower  
17 down here at this end.

18 But the problem is if they come in and prove  
19 the need - if Cricket or somebody comes in and says, "I  
20 can't put my --

21 MR. DiSTEFANO: Can I ask a question about  
22 that?

23 MR. DOLLINGER: Yes.

24 MR. DiSTEFANO: Do you have an exclusive  
25 right to this location or is the school opening it up

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to anybody?

MR. WALTERS: The school hasn't opened it up to anybody. But --

MR. DOLLINGER: Well, they can.

MR. WALTERS: -- good points.

MR. DOLLINGER: The Planning Board --

MR. DiSTEFANO: But the school could or we could condition that this is the only provider?

MR. WALTERS: You really --

MR. DiSTEFANO: I don't know if we can or not. I don't know if --

MR. DOLLINGER: -- the Planning Board and then we have a problem.

MR. WALTERS: So, it's a really good point.

MR. DOLLINGER: My problem is -- my concern is that if we put the structure on the roof it may - and I would like some information back on this, how it limits collocation.

MR. WALTERS: Correct.

MR. DOLLINGER: It may be that you want to collocate here and it may be that this Board -- you may end up not wanting to put the structure on the roof --

MR. WALTERS: From a collocation --

MR. DOLLINGER: -- because you limit this

1  
2 structure and how much you can put on this roof because  
3 it may not support it.

4 MR. WALTERS: Where I thought you were going  
5 was under this new federal law once you allow this one  
6 everybody else can come in by right.

7 MR. DOLLINGER: Correct.

8 MR. WALTERS: And that is absolutely true.

9 MR. CHOLETTE: That might be right with  
10 regard to the school, but the school still has --

11 MR. WALTERS: The school still has the  
12 ability to say --

13 MR. DiSTEFANO: To say no, right?

14 MR. WALTERS: Right.

15 MR. DiSTEFANO: The school still has the  
16 ability to say no.

17 MR. WALTERS: Just as all the other rooftop  
18 locations, once a facility goes up people like Steve  
19 call up the landlord and say, "Hey, I saw you entered  
20 into a lease with T-Mobile. I have another client that  
21 would like to go on to your facility on your rooftop.  
22 Can we talk about a lease?" That's how it works. And  
23 typically these leases are non exclusive. So --

24 MR. DOLLINGER: Right. But the Planning  
25 Board is going to require them to allow collocation

1  
2 because we have a policy at the town to promote  
3 collocation.

4 Well, most important is you may not want -- I  
5 want information that says if you put this --

6 MR. WALTERS: Shelter.

7 MR. DOLLINGER: -- structure on the roof will  
8 other collocators also be able to put their shelters up  
9 there.

10 What level do you say -- because I don't want  
11 this one up here and then the next guy comes in - by  
12 right he has the right to put it there, under federal  
13 law he has the right to put it there - and all of a  
14 sudden we can't structurally put it on the roof  
15 anymore. So we're putting it downstairs anyway. Now  
16 we have the roof and downstairs. If we're going to  
17 have that happen it should be downstairs to start with.

18 MR. WALTERS: That's a good point.

19 MR. DOLLINGER: I would like information on  
20 that.

21 MR. WALTERS: Presumably you would take the  
22 position you took with JCC which is yes, you can  
23 collocate by right, but your generator can't because  
24 you need a variance for that.

25 MR. DOLLINGER: Exactly. So we --

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MR. WALTERS: But --

MR. DOLLINGER: But I don't want one upstairs and another one upstairs.

MR. WALTERS: Right. Because upstairs you can't handle the collocation.

I think we need to think about that collectively, put our legal minds together.

MR. CHOLETTE: How long does your lease run for?

MR. LINARD: Initially five years and then four five year options. It's basically a twenty-five year lease.

MR. WALTERS: They usually run a long time. These are big investments.

MR. CHOLETTE: I mean the technology is moving along and I read the other day in the paper that some company has this idea of putting these little ones on light poles and having thousands down the street or something like that.

MR. WALTERS: We've also heard of blimps and balloons in kind of the stratosphere.

MR. CHOLETTE: But we're in essence buying into 25 years here at least?

MR. WALTERS: At least. And one trend - I

1  
2 mentioned this to a number of Boards over the last few  
3 months - with the smart phone technology, with the  
4 iPads, soon your cars are going to be communicating  
5 with you, sending you e-mails when you need service.  
6 There's a tremendous increase in the demand of the  
7 level of service, the coverage that's necessary. What  
8 used to work from signal strength at less than  
9 eighty-five just to be fine with any vehicle coverage  
10 is no longer going to be good enough. It doesn't carry  
11 the signal for the data. It's not strong enough.

12 The last statistic that I heard was that in  
13 the last twenty years we've built about two hundred  
14 thousand sites in the United States. We need about two  
15 million by the year 2020. So we're only about ten  
16 percent of the way there in the first ten years. We've  
17 got seven more years to build out another ninety  
18 percent. That seems to be where the industry is going.  
19 That's reflective of JCC. That's reflective of this  
20 application. There's a lot more coverage coming.

21 MR. CHOLETTE: How many carriers are there on  
22 the earth?

23 MR. WALTERS: Currently there are four.  
24 There are discussions I believe between T-Mobile and  
25 Sprint to merge, which would put it at three big ones.

1  
2 There used to be seven. When I started doing this and  
3 when Steve started doing this there were seven.

4 There's been a lot of consolidations.

5 MR. GOLDMAN: Going back to your shelter and  
6 collocating with other people.

7 Is there a normal collocation place - does  
8 the one shelter house both your equipment and your  
9 competitors? Do you have separate shelters?

10 MR. WALTERS: Almost always. In fact,  
11 there's shelters just for AT&T's equipment. Verizon  
12 has a standard shelter that's big enough for it's  
13 equipment.

14 MR. GOLDMAN: Thank you.

15 MR. DOLLINGER: The thing is with the current  
16 law - whatever type of law it is we have to think about  
17 these applications as collocating. This will not be -  
18 once they establish this one the next guy comes in by  
19 right. We're going to have three or four people on  
20 this building.

21 MR. DiSTEFANO: Not if we get the school to  
22 say no more.

23 MR. DOLLINGER: Well, we don't - well because  
24 unless --

25 MR. CHOLETTE: We have to move along here.

1  
2 MR. WALTERS: I'm sure there are lots of  
3 folks that would like to speak.

4 Any other questions for us?

5 Thank you for your time.

6 MR. CHOLETTE: Is there anybody in the  
7 audience -- before you all rush up here, how many of  
8 you would like to speak?

9 Is there any spokesman for you or are you all  
10 just --

11 UNKNOWN: We can speak for ourselves.

12 MR. CHOLETTE: Again, you've heard the  
13 dialogue we've had. This Board is not in position to  
14 really rule on the towers themselves.

15 UNKNOWN: Okay.

16 MR. CHOLETTE: So if you could focus at least  
17 some of your comments on the subject.

18 UNKNOWN: Okay. I will try summarize some of  
19 the comments from neighbors and I promise I will try to  
20 keep it to less time than you've talked about falafel  
21 today. So --

22 MR. CHOLETTE: Remember if there are twenty  
23 of you that would like to speak --

24 UNKNOWN: Right.

25 MR. CHOLETTE: -- that's over an hour and a

1  
2 half.

3 UNKNOWN: Okay.

4 UNKNOWN: Yeah, but at the same time you gave  
5 the other people as much time as they need.

6 MR. CHOLETTE: I'm just pointing out that --

7 MR. BAYLOR: I'll get started. My name is  
8 Scott Baylor. I live at 192 Rhinecliff Drive. Thank  
9 you for giving us the opportunity to speak tonight.

10 In regards to the plans by the Town to  
11 consider variances to Our Lady of Lourdes Church and  
12 AT&T for the construction of a cellular radio tower and  
13 emergency generator on the roof of the Seton Building  
14 on Rhinecliff Drive per the Town Notice dated January  
15 29th.

16 I am one of several residents concerned about  
17 the impact of this project and the proposed deviations  
18 from the Town Code will have on your neighborhood.  
19 Bel-Air is a quiet residential neighborhood area and  
20 this project does not fit the character of our  
21 neighborhood. I have reviewed the available details of  
22 this project and created a list of unresolved questions  
23 which I'm going to provide to you in writing tonight -  
24 unresolved questions about the project that should be  
25 answered by the Town and the applicant before these

1  
2 variances are granted.

3 The Town Zoning Board of Appeals is required  
4 to take into consideration the benefit of the applicant  
5 if the variance is granted, as weighed against the  
6 detriment to the health, safety and welfare of the  
7 neighborhood or community. As well as whether the  
8 proposed variance will have an adverse effect or impact  
9 on the physical or environmental conditions in the  
10 neighborhood or district. As you know this is your  
11 responsibility.

12 First, I would like to talk briefly about my  
13 background because I feel it's relevant to some of the  
14 issues at hand. I work here in town as a Fireman with  
15 the Brighton Fire Department. Previous to this I was  
16 the plant Fire Protection Engineer for the Ginna  
17 Nuclear Power Plant in Ontario, New York, and I have  
18 over ten years experience in private sector Fire  
19 Protection Engineering, Safety Engineering, and  
20 Emergency Management. I also have a Bachelors degree  
21 in Fire Protection Engineering. I'm mentioning this  
22 because I think some of this is going to be relevant to  
23 what I talk about. I grew up in Brighton, moved away  
24 to the west coast for many years and came back  
25 specifically because I appreciate and my wife and I

1  
2 appreciate the character of Brighton's neighborhoods.  
3 As I said, I live at 192 Rhinecliff. This is right  
4 across from the church.

5 I have the following concerns about the project and  
6 the variance:

7 Issue #1) The public notice provided by the town about  
8 this meeting and project was defective, incomplete, and  
9 confusing.

10 A Town notice dated the 29th was sent to  
11 residents as notice of the Board of Appeals meeting  
12 being held today. This gave residents less than five  
13 days to learn about the project, view project details  
14 at the town hall, learn about the proposed variances  
15 and schedule to attend this meeting. It's not adequate  
16 notice. In the Town Notice of this meeting the  
17 location of the project subject to the variances is  
18 listed as 166 Rhinecliff Drive. An address of 166  
19 Rhinecliff would place it on the east side of  
20 Rhinecliff where the even street addresses are. Where  
21 Our Lady of Lourdes Church owns no property. This  
22 factually incorrect information sent out by the town  
23 has caused confusion to residents and the public. In  
24 addition, the public notice lists three area variances  
25 being requested: 207-42C1(b), 203-9A(4) and

1  
2 205-2.1B(6). The third reference is factually  
3 incorrect. There is no 205-2.1 in the town code. It's  
4 been corrected on the notice that you handed out  
5 tonight, but it was wrong on the one sent to residents.  
6 Again, this incorrect information sent out by the town  
7 is likely to have caused confusion and affected  
8 awareness and understanding of the issues, as well as  
9 attendance at this meeting tonight. Whether they are  
10 unintentional, or intended to push through decisions  
11 with minimal public knowledge, the process of granting  
12 variances of the town code in our neighborhoods should  
13 be open, accurate, and informed.

14 So I have the questions:

15 Q1-1) Will the town consider the Town Notice dated the  
16 29th a defective public notice, and resend a factually  
17 correct notice to residents with adequate time for  
18 residents to understand the project and schedule to  
19 attend the meeting?

20 Another issue, the application to the Town  
21 Board is not complete, it's not factually accurate,  
22 does not contain details as to why the project is  
23 deserving of variances from the town code.

24 The application that AT&T provided also lists  
25 the wrong address for the project. When discussing on

1  
2 page 4 they state - they simply state that, "There will  
3 be no material or visual impact nor aesthetic or safety  
4 issues with the proposed facility." And then they go  
5 on to post the maps that show it clearly extending  
6 above the roofline. They don't have any other  
7 substantiation of that application. They don't discuss  
8 it. They don't provide any evidence. They don't  
9 substantiate the claims as to why they can justify this  
10 variance with details or any other evidence. They  
11 don't explain it. They don't even discuss it. They  
12 don't discuss the residential classification of the  
13 area, the uniformity of the church campus architecture,  
14 or the fact that the campus is surrounded on all sides  
15 by residences. Further, when discussing its  
16 justification for the variance request to place the  
17 fifty thousand watt gas generator on the roof of the  
18 school, on page 6 AT&T states: During the initial site  
19 walk with the property owner, the only suitable  
20 location for the generator apart from the rooftop was  
21 directly in front of the Seton Catholic school's  
22 windows. Both the property owner and AT&T consultants  
23 decided to site the generator on the rooftop so that  
24 the generator would not be visually intrusive." So  
25 you've heard me right. They put it on the roof because

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2 they didn't want it to be visually intrusive. I hope  
3 the Board can see the hypocrisy and disregard AT&T and  
4 the church displayed to the neighbors with this  
5 statement. No technical justification whatsoever is  
6 provided for this location. Only the fact that the  
7 church (who will be collecting the monthly lease check  
8 for the project) does not want the inconvenience of  
9 looking at a generator outside their windows. That's  
10 right, AT&T and the church propose that since they  
11 don't want to see the generator out their windows, the  
12 Town of Brighton should grant them a variance from the  
13 town code so that the generator can be placed on the  
14 roof, so that an entire residential neighborhood can  
15 look at the generator from out of their windows. To  
16 add further skepticism toward any technical basis for  
17 this "requirement", a quick look around the property  
18 reveals that there are currently multiple things  
19 installed outside the first floor windows of the  
20 school. There is a large HVAC unit installed outside  
21 the first floor windows near the northwest corner of  
22 the building, and a large dumpster is permanently  
23 placed on the west side of the building, also outside  
24 the first floor windows. There's also a fenced yard on  
25 the north side of the building in between the building

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2 - one building to the north, that's fenced in, it  
3 wasn't even discussed in AT&T's application or analysis

4 Also the justification for the variance to  
5 allow radio equipment to be installed on the roof,  
6 instead of inside the building, AT&T and the church  
7 state that: "AT&T's consultants worked with the  
8 property owner to find a suitable location within the  
9 building to house equipment, including the basement of  
10 the building, however, no space was large enough in the  
11 building for the equipment to be housed." It makes  
12 sense that the church would want to collect the monthly  
13 lease check for the tower and not be inconvenienced by  
14 housing the associated equipment. Again, no discussion  
15 or data is provided to back up the claim that there are  
16 absolutely no spaces sized 11'5" x 20' in the entire  
17 building for this purpose. And again, the church's  
18 proposal is that the town should allow them to  
19 externalize this burden to the community, while they  
20 reap the financial benefit.

21 When responding as to whether the benefit  
22 sought by the applicant can be achieved by any other  
23 method other than the requested variance, AT&T simply  
24 ignores the question in the application to this  
25 question of the town code. They simply reiterate their

1  
2 need for the location of the tower, but it doesn't  
3 explain why their requested variance from the equipment  
4 location and generator placement are necessary and  
5 could not be achieved by another method. That's what  
6 the code requires.

7 Finally, in all the discussion regarding the  
8 requested variance for locating the generator on the  
9 roof, there is no discussion of the safety impacts of  
10 this variance. The Zoning Board is required to  
11 evaluate proposed variances against "the detriment to  
12 the health, safety and welfare of the neighborhood or  
13 community." This is an important discussion. The  
14 Seton School is an elementary school with approximately  
15 two hundred and ninety-seven K-6 students, one hundred  
16 preschool, and staff. The proposed variance would  
17 allow AT&T and the church to place a 50,000 watt,  
18 natural gas fired generator, connected via natural gas  
19 supply from inside the building, forty feet up on the  
20 roof of the school - of a school building. Due to the  
21 age of this building it does not have a fire sprinkler  
22 system. As both a fire protection engineer, and a  
23 firefighter here in town, I can tell you that an  
24 equipment fire located forty feet on the roof of a  
25 school building is much more challenging than one

1  
2 located on the ground, as the code prescribes. I am  
3 frankly surprised that the church would agree to this  
4 placement, simply to avoid having to look a generator,  
5 due to the additional hazard it could create for  
6 schoolchildren and staff. This is also contrary to  
7 AT&T's application letter, page 4, there are no safety  
8 issues with the proposed facility. And I would also  
9 add I question if AT&T, the School, and the Town  
10 evaluated for what, if any, fire code requirements that  
11 might be triggered by the addition of this hazard to  
12 the roof, and if required, what the cost impact would  
13 be for adding the required Fire of Life Safety measures  
14 to the building.

15 Q2-1) So will the town require AT&T and Our Lady of  
16 Lourdes to provide proof and allow the town to verify  
17 that there is no location in the entire Seton Building  
18 to house this radio equipment?

19 Q2-2) Will the town require AT&T and the Church to  
20 provide any type of justification, other than their  
21 wishes, as to why the town should grant a variance to  
22 the town code to allow a 50,00 watt generator to be  
23 installed on the roof of an unsprinklered elementary  
24 school?

25 Q2-3) Will the town require AT&T and the Church to

1  
2 provide justification as to whether the proposed  
3 variance can be achieved by any other method as  
4 prescribed in Town Code 219?

5 Q2-4) Will the town consider the additional fire and  
6 life safety hazard to the children and staff of the  
7 Seton School, as well as commit to evaluating fire and  
8 life safety requirements caused by granting such a  
9 variance, that the proposed variance to 203-2.1B(6) to  
10 allow a generator to be installed on the roof of the  
11 school creates?

12 The documentation provided in the next issue  
13 that I have is documentation provided by AT&T in the  
14 application Exhibits E and F is lacking important  
15 information and does not provide -- and this is what we  
16 were talking about earlier - it doesn't provide  
17 sufficient technical justification for the  
18 establishment of the search ring center location, the  
19 maximum distance from the search ring center, or a  
20 thorough evaluation of the alternative site locations  
21 within the distance requirement. It also ignores the  
22 siting preferences established by the Town under  
23 207-42.

24 The information in Exhibits E and F is  
25 lacking in detail. There is no mention in the Engineer

1  
2 Justification Memo, or the Existing Proposed  
3 Propagation Maps of when the data was collected and  
4 what methodology was used.

5 Why the center of the search ring was placed  
6 directly on the Seton School, when this is not the  
7 center of the area that AT&T says has low coverage?

8 Why in an area that has geographical and terrain  
9 differences - why was a strict one half mile criteria  
10 applied to the center of the search ring if the only  
11 acceptable places that they could put another tower is  
12 within this strict one half mile radius?

13 And why, as described in Exhibit E, the collocation  
14 of antennas on an existing tower on the East Cap  
15 Mortgage building on 919 Winton Road would provide too  
16 much overlap in existing coverage, especially when on  
17 their own maps there's more overlap between other and  
18 existing proposed towers, such as the JCC tower and the  
19 Winton Road Henrietta tower and the Nazareth and the  
20 Pittsford tower?

21 So they have these towers already that have more  
22 overlap or equal overlap this would be if they chose  
23 another area besides the Seton School.

24 And then why does the center of the search ring  
25 chosen over a location further north, closer to the

1 intersection of Monroe and Highland?

2 If you look at Exhibit F, Exhibit 7, "Proposed  
3 Coverage" this is their after picture of coverage.  
4 There's still a huge gap along the corridor of 490.  
5

6 So again, the question raised about how many of  
7 these towers are we going to add, are we picking the  
8 right sites to achieve this?

9 Why in their after picture they still have a major  
10 gap that's not addressed by this tower?

11 So without all of this -- without any technical  
12 justification or for alternative sites it's clear that  
13 a thorough investigation wasn't done.

14 I'll point this out, even if you take their  
15 arbitrary half mile criteria and draw that, they took  
16 that search ring and dropped it right on Seton School  
17 and gave you a half mile line around it. So if you  
18 take that criteria here's some of the buildings they  
19 didn't mention or evaluate: St Thomas --

20 MR. CHOLETTE: I'm going to interupt you for  
21 a second. You've taken a lot - quite a bit of time.

22 MR. BAYLOR: Yes.

23 MR. CHOLETTE: If everybody else is going to  
24 speak this long we're never going to get out of here.

25 MR. BAYLOR: Okay. That's fair.

1  
2 MR. CHOLETTE: A lot of the points that  
3 you're raising are very valid, but probably much more  
4 valid for the Planning Board than for us. You've  
5 raised some interesting points with regard to the  
6 generator. But again, this Board is not going to be  
7 involved directly, and probably only very indirectly,  
8 with whether or not this is the right location that  
9 should be chosen. Our --

10 MR. BAYLOR: I guess --

11 MR. CHOLETTE: -- our aspect is around these  
12 two variances with regard to the support structure and  
13 the support equipment and the generator.

14 MR. DOLLINGER: And your comments about  
15 putting them one place or the other are real  
16 interesting.

17 MR. CHOLETTE: They're very interesting.

18 MR. DOLLINGER: But that's really our  
19 decision is whether these things are on the ground or  
20 on the roof. I would like to hear some information  
21 like that, saying they'd all be one place or the other,  
22 but --

23 MR. BAYLOR: Well, what I would like to do is  
24 I'd like to get the commitment from the Board that they  
25 will review what I wrote, that it will -- I brought

1  
2 copies to provide, but I could have it passed out to  
3 each member. Because what I did for the residents is  
4 we have a lot of questions and I basically itemized  
5 those questions. And I would like to see -- and I'm  
6 aware the difference between what the Zoning Board is  
7 considering and what the Planning Board is considering.

8 I have a lot of concerns about the generator.  
9 I won't address them all as specifically as I was up to  
10 now. But we have concerns about the generator being on  
11 the roof. There's not really an accurate picture of  
12 the noise profile it will create. So we have the  
13 potential that we have bedroom windows that are three  
14 hundred feet away from this generator elevated, and it  
15 looks like the sound data they took is from, like,  
16 engineer cut sheets.

17 So tell me that's going to be the same noise  
18 as when you put it elevated with no parapet protecting  
19 it, coming across the street?

20 And also, we've heard of one month for  
21 maintenance run time, but then in that case you have  
22 how often is power going to be lost from this cell site?

23 There is one quick thing -- and I know I've  
24 taken a lot of time, but I would like to say one  
25 particular thing and it has to do with what you're

1  
2 considering and it's the collocation. So there's  
3 basically what I was about to say is there's an entire  
4 list of areas within the Monroe Avenue corridor, which  
5 is all within a half mile of AT&T's own criteria, which  
6 seemed to be pulled out of thin air. So even if you  
7 take the criteria that they gave to the town in the  
8 application package, there's buildings like the Twelve  
9 Corners Middle School is .47 miles away. That's within  
10 their ring. That's in a more appropriate zoning area.  
11 The Brighton fire Station Number 2 at 2605 Elmwood  
12 Avenue, that's .46 miles away from where they drew the  
13 center of their search ring. So -- and I actually had  
14 a discussion with the director of the fire district.

15 I think an important thing that the Board  
16 should consider is that when you mount -- the reason  
17 that the town - as far as I understand the town has  
18 siting preferences is because when you put an antenna  
19 or a roof mounted location on a public building -- you  
20 know, AT&T has touted a lot in their application that  
21 they're all about the greater good and that these  
22 services are used for the greater good. But if that's  
23 the case, when you locate a collocation on a roof mount  
24 or you put an antenna up and it's on public property  
25 you have the additional benefit of the public services

1  
2 and public service communication are allowed to use  
3 that for public safety. So if you pick a building --  
4 and I believe that's the basis for the town's siting  
5 preference -- so if you pick a town owned property or a  
6 school district owned property or a fire district owned  
7 property you have the added ability of not only maybe  
8 address what you're talking about with future sites  
9 that might request more antennas on that location, but  
10 you also provide the public service for the police and  
11 fire and other public service communications that can  
12 piggyback off that. They're required to grant access  
13 to them to use them, it's not like --

14 So if you grant this benefit to Seton to put  
15 up a -- you have a private organization to say we're  
16 going to grant you these variances so you can put up  
17 this generator and you can collect this monthly lease  
18 check and you can put your equipment on the roof  
19 because you simply don't want to.

20 There's no public benefit when it comes to a  
21 fire department or a police department or Monroe County  
22 Communications putting a collocation on that building  
23 because they don't have to allow it.

24 So I think one of the things I'll just say in  
25 summary, because I'm not going to have time to go

1  
2 through all of this - I didn't realize we were going to  
3 be going so late until we started and I apologize, but  
4 I would like to provide this. I'd like to ask the  
5 Board here to consider the written questions that I  
6 have submitted, that I've spent a lot of time - it's  
7 pretty detailed. And I think there is some severely  
8 concerning questions, especially regarding there's been  
9 no discussion of terrestrial TV reception and how that  
10 will affect neighbors on the east side of Rhinecliff  
11 Drive, where I live, because of our shot to Pinnacle  
12 Hill for our directional antennas is right past the  
13 school, right in line site of the proposed  
14 installation.

15 And I think that I really would like to see the  
16 town or this Board address the questions about the  
17 reasoning why the town should grant these variances  
18 with no substantial discussion or technical  
19 justification of why they need to put all of this stuff  
20 on the roof.

21 MR. CHOLETTE: Thank you very much.

22 MR. BAYLOR: Thank you. And I'll submit a  
23 copy.

24 MR. CHOLETTE: Yes, I am going to limit you  
25 to five minutes to shorten this.

1  
2 MR. BAYLOR: I just want to say I hope  
3 everyone makes it back to Buffalo. But if you don't,  
4 you can come see that those mature trees in our  
5 neighborhood, they're not shielding too much.

6 MR. MOWRY: David Mowry, M-o-w-r-y. I'm a  
7 nine year Seton parent. I have two children in the  
8 school now. One has graduated and moved to Bishop  
9 Kearney.

10 I'm a little confused. First of all, as a  
11 lawyer, which I am an attorney, never say something on  
12 the record that might be false. I'm holding an AT&T 4G  
13 phone and in the nine years I've been at Seton I've  
14 never had a problem. The fact that there's some hole  
15 at Seton and Seton is the epicenter of the hole as was  
16 stated on the record here is absolutely false.

17 All right?

18 Second, we spent a lot of time listening to  
19 French fries and fryers and the smell of French fries  
20 and falafel. I'm confused how that is important, but  
21 the safety of children who would be underneath this  
22 tower and this generator is not as important, or is not  
23 something for this Board to consider because you're all  
24 considering the French fry smell.

25 How do you not consider the safety of these

1  
2 children? Because I don't want my kids six hours a day  
3 underneath a radio tower, when the CDC, the WHO have  
4 all made it a priority to study the effects which have  
5 not been studied on children. AT&T, I'm sure, and  
6 their site manager will tell you RF is safe, and the  
7 EMF is safe, blah, blah, blah. Those are studies on  
8 adults. There's been no studies on children. Before  
9 you put a tower and allow a tower on an elementary  
10 school -- which is also stated as being done often and  
11 when pressed seventy, sixty - seventy throughout the  
12 state, but five or six schools, less than 10 percent.  
13 Okay, that's not often.

14 You have a serious consideration here. I  
15 appreciate your time. I'm a little nervous standing  
16 up, it's been a while since I've been in front of  
17 anyone. I used to litigate. I go in-house so I don't  
18 have to do this anymore. But I'm concerned about the  
19 children and I hope that this Board is too. I will see  
20 you next week. Hopefully there won't be a storm  
21 because there will be a lot more people here to voice  
22 their opinions.

23 Thank you.

24 MR. CHOLETTE: Thank you.

25 MR. DEETS: Good evening. I'm Michael Deets

1 from 166 Mayflower Drive.

2 I just want to echo two comments. Ms.  
3 Schwartz, you brought up a good point earlier also that  
4 I didn't feel was answered properly, whether it was on  
5 accountability from the AT&T team, and that was with  
6 regards to the need also. You pressed for what data is  
7 there to support why this is the right spot and I would  
8 just like accountability from this team for that.

9 Secondly, I have the aesthetics here are  
10 obviously very important. We've heard about those. I  
11 would like those to be considered with better drawings  
12 and diagrams so that we can have a better visual what  
13 that will look like.

14 In addition, I have a letter from myself and  
15 five other neighbors requesting that you deny the  
16 variance at this point. And I would just like to on  
17 the record submit those to the Board.

18 MR. CHOLETTE: Yes, please do.

19 Rick, do you want to make a quick statement?

20 MR. DiSTEFANO: Yes. I received letters from  
21 five individuals: Rebecca Bethlandy, Mary Bell,  
22 Catherine Smith, Elizabeth Umoff, Linda Deets and  
23 Michael Deets requesting the Board deny the variances  
24 requested.  
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MR. CHOLETTE: Thank you.

MR. KANTOR: I'm Charles Kantor, K-a-n-t-o-r,  
104 Rhinecliff Drive. This is my wife Nancy.

I'm just want to submit a letter from  
neighbors Nicholas Russo and Jennifer Russo at 364  
Warrington Drive as being opposed to the tower on Seton  
School and I will just submit that to you.

And just a couple questions before Nancy  
reads a statement that I was a little confused about.

One was that this is the first Zoning Board  
meeting that I've ever been to. I've lived in Brighton  
for thirty years. That's probably not good, but I'm  
here. I'm confused that we're having a variance  
meeting before the Planing Board meeting. It sounded  
like the other applications with a variance after the  
Planning Board had occurred.

Is there -- does it not matter? Is this an  
exception?

I'm disappointed.

MR. CHOLETTE: The timing of these things  
often gets confused because of various postponements  
and need of more information. And the feeling, and it  
has been expressed and in all likelihood we will table  
this and we will not be making a decision until we get

1  
2 information from the Planning Board.

3           So you're correct that logically the  
4 information from the Planning Board would make more  
5 sense. However, in other situations for economic  
6 reasons in whatever, developers sometimes do not want  
7 to go further if they think that they're not going to  
8 get approval from on a variance that dictates their  
9 whole project, and would encumber much more work in  
10 order to justify it to the Planning Board than perhaps  
11 it would to the Zoning Board. So that's why sometimes  
12 they come here before us. We try to orchestrate that  
13 and not get into a finger pointing situation where  
14 nothing can happen because the other Board is not  
15 making a decision.

16           MR. KANTOR: Okay.

17           MR. CHOLETTE: So if we feel that we have  
18 enough information we will make a decision. Which in  
19 the prior application you may have heard that we  
20 discussed we would like to try and do part of that.  
21 But in this case almost assuredly we will table it  
22 until we get more information from the Planning board.  
23 And actually we need more information from the  
24 applicants based on questions that we've raised and  
25 very good questions that have come before us already

1  
2 from the neighbors.

3 MR. KANTOR: Okay. Thank you.

4 And just one question and maybe I just didn't  
5 understand it. I wanted to ask the Board to ask AT&T  
6 or ask them directly: When you -- if you collocate a  
7 another antenna, if this were to be placed on top of  
8 Seton and there was another collocation, is it possible  
9 that the size of the tower would be extended even  
10 higher?

11 MR. DiSTEFANO: I think that there's a little  
12 misnomer here. It's not really a tower per se. They  
13 need a tower permit because of the height of the  
14 antennas which are going to be placed on the building  
15 are greater than six feet above the height of the roof.  
16 So the array of antennas that AT&T are proposing is an  
17 array of nine antennas that basically form a triangle.  
18 There's no center pole that these antennas will be  
19 around. So there's a little -- we call it a tower  
20 permit, but it's only called a tower permit because  
21 it's the height of the antennas, not because they're  
22 actually putting a tower on the property.

23 MR. KANTOR: So let me change the question.

24 Can this structure be extended higher once  
25 it's there, without permit?

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MR. DiSTEFANO: No.

MR. DOLLINGER: You need a permit.

MR. KANTOR: Without a hearing?

MR. DiSTEFANO: They have to go back --

MR. DOLLINGER: They have to come back.

MR. DiSTEFANO: -- through the process because if they were to get approval it's basically be an approval for antennas that are at twenty feet above the height of the roof.

So if they want to put another set of antennas on top of that --

MR. KANTOR: Right.

MR. DiSTEFANO: -- and that goes back to is it a substantial change. And I would think that this town would think that would be a substantial change, in which they would be back in front of the Planning Board for additional approvals for the expansion of that array of antennas.

MR. KANTOR: Okay. Thank you.

MS. KANTOR: I'm Nancy Kantor, at 104 Rhinecliff Drive. And I just want to read a statement that's less than two minutes I think. So --

We are opposed, my husband and I, to having a cellular tower and generator installed on the rooftop

1  
2 of Our Lady of Lourdes Church property under any  
3 conditions. And I apologize in advance for this is  
4 zoning versus planning and all that. So --

5 It's inappropriate for a commercial  
6 enterprise to be located in a residential neighborhood.  
7 By its nature a cellular tower or antennas on a rooftop  
8 of an old church would interfere with the aesthetics of  
9 an old and established neighborhood. We believe this  
10 would undoubtedly lead to the devaluation of our homes  
11 and interfere with the quality of life in our  
12 neighborhood.

13 We have been tax rate payers - my husband and  
14 I - in Brighton for the last thirty years and we are  
15 also AT&T share holders. Our children have attended  
16 the five Brighton schools, which have been supported by  
17 the taxes based on the evaluations of our homes.

18 Not only would this commercial enterprise  
19 fail to add to the tax base of the Town of Brighton - I  
20 suspect - but the fact that it would likely devalue our  
21 homes. It would also lead to a reduced Brighton tax  
22 base and it would effect the character of our  
23 neighborhood. This domino effect would either reduce  
24 revenues available to support our excellent school  
25 system and therefore in the long run would reduce the

1  
2 quality of the system, or would require the town to  
3 increase assessments in others the in the town.

4 We find this proposal not to be of the  
5 greater good of the community.its implementation is  
6 likely to be detrimental.

7 We will not mention - even though I am here -  
8 about the potential for compromising our health as a  
9 result of radiation admitted from the tower.

10 Apparently research is unclear. In our lay reading  
11 this past week of reports we were struck by the range  
12 of conclusions by researchers that were wide and  
13 varied.

14 I would like to present the following names  
15 of ninety-seven neighbors of the church who have signed  
16 a petition requesting that Our Lady of Lourdes Catholic  
17 Church abandon plans to erect a cell phone tower in our  
18 neighborhood and on their property. Although we were  
19 given very short notice, these names were collected  
20 over a few hours last weekend. And our sampling of the  
21 neighbors surrounding the church, of the one hundred  
22 and six people contacted ninety-seven people - Brighton  
23 residents and tax payers - chose to support this  
24 petition. Seven people wanted additional information  
25 before signing the petition - and one is here tonight -

1  
2 and two people remain neutral. Let me repeat -  
3 ninety-seven people signed this petition out of a  
4 hundred and six.

5 At the conclusion of this meeting should the  
6 Zoning Board have questions about whether to grant  
7 variances to the church, we ask for you to respond to  
8 the following questions:

9 What would be gained by the town for allowing  
10 a cell phone tower to be erected at the church in the  
11 middle of residential neighborhood?

12 Can the town demonstrate that our property  
13 values would not decrease?

14 Can the church demonstrate the hardship to  
15 them requiring this variance?

16 Can the town show a rendering of how the  
17 building would look from all angles should a cell tower  
18 be installed?

19 How loud would the generator be?

20 Would there be lights on the tower?

21 What would be the fire risks by having the  
22 generator on the roof of the building?

23 Would the cell tower interfere with the other  
24 signals from other companies?

25 And I just want to go back - I'm extending it

1  
2 a little bit - to the ninety-seven people that signed  
3 this petition that are surrounding this church -- and  
4 there's a diagram here. But I also want to say that  
5 these people are not worried about their cell coverage  
6 from AT&T.

7 Can the town -- here's another question.

8 Can the town ensure that additional height  
9 would not be added to the structure -- which I think we  
10 already discussed - in the future once original  
11 variances are granted?

12 And can we be provided with a full literature  
13 review on the longterm health risks of such a tower in  
14 a residential neighborhood, and who supported each  
15 piece of that research and the extensiveness of that  
16 long term study research?

17 And finally, to insure due diligence, would  
18 the Board consider hiring an expert consultant to  
19 review the details of the proposal and determine if  
20 there could be alternatives to placing this tower in a  
21 residential neighborhood?

22 Thank you for allowing us to express our very  
23 strong thoughts and concerns about this matter and to  
24 present the concerns of so many people that signed the  
25 petition and were unable to make the meeting tonight.

1  
2 We ask the Zoning Board not to make a decision to grant  
3 the variance until all of these questions are addressed  
4 fully and satisfactorily.

5 MR. CHOLETTE: Thank you very much.

6 MR. DiSTEFANO: Do you have a copy of the  
7 petition?

8 MS. KANTOR: Actually this is a copy.  
9 Unfortunately the original is in the hands of someone  
10 else tonight and due to the weather there were some  
11 issues with it. So we will be providing it tomorrow.

12 MR. DiSTEFANO: Okay.

13 MS. KANTOR: But I do have a copy.

14 Do you want the copy?

15 MR. DiSTEFANO: Yeah, why don't you give me  
16 the copy so that I have it for the file.

17 MS. KANTOR: And I think that I counted  
18 correctly.

19 MR. DiSTEFANO: Thank you.

20 MS. KANTOR: Thank you.

21 MS. NUGENT: Good evening. My name is Eileen  
22 Nugent. I'm a primary care physician here in Brighton.  
23 My daughter goes to Seton Catholic School, she's in the  
24 fourth grade.

25 I would like to just make some comments about

1  
2 the health risks associated with this proposal this  
3 evening.

4 Cell phone towers give off electromagnetic  
5 rays - energy waves that travel through human tissue.  
6 Since our brains control our bodies with electric  
7 impulses, the signals from the cell towers disrupt the  
8 normal transmission and reception of those impulses,  
9 and thereby disrupt the normal functioning of all  
10 systems in the body. People living with chronic  
11 exposure to cell towers have a threefold greater risk  
12 of developing cancer, especially brain and reproductive  
13 tumors. There is also a higher rate of birth defects,  
14 psychosis, and child leukemia reported. Shorter term  
15 exposure can cause radio frequency sickness.

16 The National Institute of Health confirms  
17 that installed mobile towers on school roofs cause  
18 serious damage to health of students and staff. The  
19 NIH states that mobile towers are responsible for  
20 memory loss, sudden loss of audible ability, difficulty  
21 in understanding, and difficulty in vision in children  
22 living nearby.

23 In Bayville, New York, Attorney Andrew  
24 Capanelli has claimed that there is a higher than  
25 normal rate of cancer at the Bayville Elementary School

1  
2 which may be a result of cell phone antennas. He  
3 reports that as many as thirty percent of the staff at  
4 the school have been diagnosed with various illnesses,  
5 including leukemia and other forms of cancer since the  
6 installation of the antennas.

7 A case study at 2 Regal Street in Toronto,  
8 Canada showed that cell phone towers do generate  
9 radiation in all directions, and that this radiation  
10 passes through walls and into apartments. In fact, the  
11 highest levels were measured directly below the towers.  
12 Not only do we have to think of our children's exposure  
13 in the classroom, but also of their safety on the  
14 ground as they play during recess.

15 Did At Tarleton High School in Lancashire,  
16 England an eleven year old girl suffered headaches,  
17 nausea and vomiting on Wednesday afternoons. The  
18 symptoms went away until the following Wednesday when  
19 she had class in the math building, above which were  
20 cell phone antennas located directly above her  
21 classroom. After many weeks the school administration  
22 recognized that the cell phone antennas may have been  
23 causing her symptoms. Once her scheduled class changed  
24 location, she no longer suffered with these symptoms.  
25 Other Students also got sick.

1  
2           How can we rationalize making a profit for  
3 the school if our students, our children, and faculty  
4 members, administrators, and residential neighbors are  
5 to suffer potentially serious health consequences if  
6 not death from terminal cancer and other debilitating  
7 illness?

8           Weighing the risk versus benefit: profit  
9 versus loss, we can anticipate that any monetary profit  
10 will be nullified by the potential loss in enrollment  
11 of students who will be deterred by the hazards to  
12 health, the loss of students presently enrolled, and  
13 the implications of work related/environmentally  
14 induced illness among faculty and staff of Seton  
15 Catholic School.

16           The Seton Catholic Community has plenty of  
17 collective talent among its members. Let's work  
18 together with God's help, to achieve effective fund  
19 raising to alleviate any monetary shortfalls that  
20 exist. This will insure our profit without loss.

21           Thank you.

22           MR. CHOLETTE: Thank you.

23           MS. NUGENT: I'm going to leave the Board's  
24 review, a copy of this which summarizes the symptoms of  
25 radio frequency sickness, which incidentally effects

1  
2 every system of the body, neurologic, cardiac,  
3 respiratory, dermatologic, ophthalmologic and others.

4 MR. SCHAFER: My name is Fred Schafer. I  
5 live at 355 Warrington Drive, it's right across the  
6 street from where they're thinking about the antennas.

7 In considering the variance, as in most  
8 decisions, it's important to take into account money.  
9 That's not the only factor, but it's an important  
10 factor. Now there's considerable evidence that my wife  
11 and I will be out twenty thousand dollars if the  
12 variance is provided. Okay?

13 Now AT&T and Lourdes are asking us to accept  
14 that twenty thousand dollar devaluation of our house.  
15 We didn't do anything wrong, but never the less we're  
16 being asked to pay a penalty. And, why I ask, in my  
17 retirement years, when I have to live on my savings,  
18 that I should lose twenty thousand dollars for somebody  
19 else's benefit.

20 And I know that AT&T doesn't care about the  
21 impact on me or my wife, but expect Brighton to do so.  
22 I expect the town to do so. I expect the Zoning Board  
23 to do so and to act accordingly.

24 Now, you might ask where did that twenty  
25 thousand dollar figure come from. Well, it's about ten

1  
2 percent of the value of my house.

3 Now, how do I know my loss will be ten  
4 percent? Because my wife and I live right across the  
5 street from the proposal - from the school - and  
6 because various studies show that's a reasonable  
7 estimate. It's based on academic and real estate  
8 professionals' research. Now, the definitive work on  
9 the subject was done by DR. Sandy Bond. She concluded  
10 that the percentage decrease in values actually ranges  
11 from two percent to twenty percent, with the percentage  
12 moving higher when the person's property is closer to  
13 the actual tower. DR. Bond published several studies  
14 and one of them is referenced in my notes that I will  
15 be happy to pass to you.

16 In addition to that, the Appraisal Institute  
17 - which is the largest global membership organization  
18 for appraisers in the world, with ninety-one chapters  
19 around the world - spotlighted the issue of cell towers  
20 and the fair market value of a home. They said that a  
21 cell tower should, in fact, cause a decrease in home  
22 value.

23 In addition, in Burbank California,  
24 twenty-seven real estate professionals signed a  
25 petition/statement that offered their professional

1  
2 opinion about a proposed cell tower. They said, "It is  
3 our professional opinion that cell towers decrease the  
4 value of homes in the area tremendously." They  
5 continued and said peer research also concurs that cell  
6 sites do indeed cause a decrease in home value. So  
7 unfortunately ten percent loss/twenty thousand dollars  
8 is a reasonable amount that my wife and I will lose.

9 Of course, it's not just my house, our house,  
10 that will have a loss. There are about thirty houses  
11 that surround the block where the school is that will  
12 also have a ten percent loss. There are about two  
13 hundred houses in the adjoining neighborhood. So each  
14 of the home owners in the whole neighborhood will loose  
15 some value.

16 That big of a loss means that Brighton will  
17 loose a chunk of its tax base. In turn, that means the  
18 taxes over everyone else in Brighton will increase.

19 Okay?

20 So everyone living in Brighton and every  
21 business located in Brighton will pay extra school,  
22 town and county taxes. This is to enable AT&T to make  
23 a profit and the church to eliminate a dead spot in  
24 it's wireless service. I don't think it's worth it.

25 Now, the loss of value of homes in our

1  
2 neighborhood because of the tower will unfortunately  
3 accentuate a recent loss of value due to abandoned  
4 houses. In recent years, several houses have been  
5 abandoned and property assessments have gone down.  
6 Brighton has lost some of it's appeal as a desirable  
7 place to live. Building a giant tower in the midst of  
8 a neighborhood would unfortunately continue that loss  
9 in value and tax base.

10 Now, as we've all talked about the ideal  
11 location is one that is on a collocating existing  
12 tower. There is such a tower at Jiffy Lube at 2472  
13 Monroe Avenue. Now, it may not be the ideal location.  
14 It may be a little bit further away than what you  
15 really want, but all you need to do is give them a  
16 variance to build as big a tower there as is necessary.  
17 Okay?

18 Now, also another good choice, frankly, is on  
19 top of local government property.

20 Why not put the tower on top of the fire  
21 house at Twelve Corners?

22 It's only a half mile away. Okay?

23 Then AT&T's rent payments will go directly to  
24 our local government, and that in turn will reduce the  
25 taxes of all Brighton residents and businesses.

1  
2 Yet, another good choice would be on a nearby  
3 commercial location. There are several properties on  
4 Monroe Avenue between Twelve Corners and Highland  
5 Avenue that have extra space in the rear of their  
6 parking lots and/or their rooftops. They would  
7 probably love to get the extra rent. Okay?

8 The worst place to put a tower is in the  
9 middle of a residential neighborhood. Seriously, would  
10 you like to live next to one of those things?

11 Ask yourself that question and answer it in  
12 private. But unfortunately it's going to reduce the  
13 quality of life in the whole neighborhood.

14 And then there's the question of why  
15 construct the tower at all?

16 As it has been pointed out, there's new  
17 technology available that says they can build small  
18 cell units the size of a rugby ball. Okay? Or a  
19 suitcase and they're placed on top of existing utility  
20 poles. And the leading corporation that's pushing this  
21 or providing this service is right here in Brighton.  
22 Why not let that person do something?

23 There may be problems with that technology  
24 too, but at least they're not going to have a giant  
25 tower. Okay?

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Now, I've listened --

MR. CHOLETTE: Can you wrap this up please?

MR. SCHAFER: Pardon?

MR. CHOLETTE: Can you wrap up your presentation?

MR. SCHAFER: Yes. I will by saying that I don't believe the case or the strength by Lourdes Church has been fully tested. I don't believe that the total community is in favor of this project.

We've had a lot of feedback from individual parents whose kids go to that school that are saying the same thing that has already been said, namely that they're fearful of the effect on their children.

I think the parishioners themselves that go -- people that run it will think twice about saying, "Hey, there's now going to be a tower that's on top that's higher than the cross that's on the church."

I think they will come back and say if they find out about if there's a fire hazard, that there was a fire, frankly, in some place in Georgia where the tower on a roof fell down.

Do they want to have that kind of risk? I don't think so. I think the more and more that the parents and the parishioners know about what the

1  
2 implications of this are that they will find that  
3 they're not really happy, and they themselves would not  
4 support this.

5 MR. CHOLETTE: Thank you.

6 How many more people would like to speak,  
7 will you raise your hands please?

8 Okay. I really would like to get this part  
9 of it done by ten o'clock. So I'm going to rigidly  
10 hold you to five minutes.

11 MR. RAPP: I'll be quick, but I do talk slow.  
12 My name is Steve Rapp. I live as 418 Oakdale Drive.

13 And I can see the top of this building from  
14 my front door.

15 MS. CORRADO: Could you talk into the  
16 microphone?

17 MR. RAPP: I can see the top of the Seton  
18 School from my front door.

19 I also have some experience with these  
20 generators. I own a piece of property in the Finger  
21 Lakes, on Owasco Lake. And there's a cell phone tower  
22 across the lake, about a mile and a half from me. But  
23 when the power goes out I can hear the generator. It's  
24 up really high on the hill and there's water. So I  
25 know it's not the same situation, but I think the

1  
2 higher the generator - I think especially with the  
3 reciprocating gas engine - the louder or the further  
4 the sound travels.

5 So I think there's good reason why the code  
6 insists that the generator be inside a building on the  
7 ground floor or underground.

8 My kids went to Seton. And I've been in  
9 their basement and it's bigger than this room. Also  
10 I've been in the convent building, which I understand  
11 is not belong fully utilized right now, and they have  
12 space there.

13 So in terms of a variance, I would like to  
14 make sure that the actual code -- an effort to meet the  
15 code without a variance has been tried first.

16 The second thing is in many industries  
17 there's a fuel cell generator that don't make any  
18 noise. And have those been considered for this?

19 And everything else -- well, the topography  
20 of the neighborhood, you know, there's a hill that  
21 blocks the signal close by. When you go to Highland  
22 Avenue it's high - high land - so a signal is not going  
23 to go any further than that. So it's kind of a waste  
24 to locate something so close to the hill.

25 All of those things, I think in terms of a

1  
2 variance I would like to see a genuine effort to meet  
3 the code we have because that's why we have it.

4 Thank you.

5 MR. CHOLETTE: Thank you.

6 MS. MASI: DR. Barbara Masi, M-a-s-i, 263  
7 Rhinecliff Drive.

8 I have three degrees from MIT, two in  
9 engineering and one from the Sloan School of  
10 Management.

11 When I look at this, you know, the first  
12 thing an engineer does is do a quick back of the  
13 envelope calculation.

14 What's the feasibility of this?

15 This doesn't make any sense whatsoever. And  
16 you know I don't need - as an engineer, I don't need to  
17 be a telecommunication engineer, nor a SCC lawyer to  
18 know the absolute technical legal and business  
19 feasibility of this, that the benefit is only and  
20 entirely to AT&T as the cheapest possible solution for  
21 moving this signal through a neighborhood.

22 The town, they seem to infer legally that  
23 somehow both God and the federal government has given  
24 AT&T the absolute responsibility for protecting public  
25 safety and welfare. This is beyond absurd. We have

1  
2 fabulous cell phone signal. We do not need AT&T. The  
3 only thing standing between the people of this good  
4 town and this corporation are you. And we expect the  
5 trust -- we expect with trust that the Zoning Board and  
6 the Planning Board will protect the people of the  
7 neighborhood.

8 And if you like to discuss the technical  
9 feasibility and the absurdity of this solution, I'm  
10 very happy to consider it.

11 And since AT&T has claimed that this is the  
12 place where they need to place this tower because God  
13 and the federal government has told them to, I demand,  
14 along with the people of the town, to see their  
15 alternative site data. Because I have a lot of  
16 technical questions to try to determine how they came  
17 up with a school full of hundreds of elementary  
18 children as the only possible place to place this  
19 thing. It is absurd beyond belief. The legal  
20 ramifications are incredible if there is any possible  
21 problem with that school with those children in it.  
22 That for me as a corporation would send me running.

23 Having consulted for Boeing, General  
24 Dynamics, Dupont, Toyota around the world, I know what  
25 I'm talking about. That this solution is only the

1  
2 cheapest possible solution for AT&T. And poor Seton  
3 Hall, who probably negotiated the worst possible lease  
4 contract. It's probably a very cheap place to place  
5 this tower. It does not belong here.

6 Again, the only reason that AT&T needs to do  
7 this is telecommunication companies have the most  
8 absurd relationship with one another, where they refuse  
9 to share equipment, they will collocate equipment. And  
10 so we alone become the sitting ducks for their fight of  
11 where these towers are placed.

12 And, oh, by the way, where these towers are  
13 placed and who owns them is public record. I even  
14 looked it up this afternoon. It is available for New  
15 York State and it's available for every state. To say  
16 they don't know where they are is completely absurd.

17 So that is all I have to say tonight. And  
18 again, I really want this feasibility study, completely  
19 every page, every detail, every photograph.

20 Thank you.

21 MR. CHOLETTE: Thank you.

22 MS. STUCKEY: Hi. My name is Mary Stuckey.  
23 I live at 176 Rhinecliff, directly across the street  
24 from Seton Catholic School.

25 I'm not going to speak this evening. I'm

1  
2 submitting a letter from Deborah Hall. She is the  
3 Bel-Air coordinator of the Bel-Air Neighborhood  
4 Association

5 MR. CHOLETTE: We'll make note of that and  
6 put it into the record.

7 MS. DALLAS: Good evening. My name is Joan  
8 Dallas. I live at 111 Glen Ellyn Way, a couple of  
9 blocks away from the project site.

10 My bedroom window looks right out on the  
11 exact, precise location where this project is going to  
12 be. And I was thinking about there is no mature tree  
13 coverage right now when you look out on. So I look  
14 right at the roof of the church - the school. And I  
15 was thinking about what it would be like in the summer  
16 with the windows open to look at that, to hear that.  
17 And I ask you if that's what you would want for your  
18 house?

19 I want to add my voice to that of my  
20 neighbors tonight in strongly opposing this project,  
21 and urging you to deny the request for the zoning  
22 variances.

23 These are our homes that we value. Other  
24 speakers have spoken about the loss of value for houses  
25 that are located near these types of facilities. The

1  
2 figures that I saw were more along the lines of twenty  
3 to twenty-five percent loss of value, rather than ten.

4 So I would just ask you as steward to the  
5 town, to consider the town's tax base and to consider  
6 the town's future and to consider the wellbeing of the  
7 residents as well as considering the economic interest  
8 of the applicant.

9 I have a rather longer statement, which in  
10 the spirit of the Chairman I will not read tonight, but  
11 I would like to offer it to be made part of the public  
12 record. And I'm also going to include a couple of  
13 pages of links that we found in our internet research  
14 about the effects of these types of facilities on  
15 nearby residents and on their property values.

16 Thank you.

17 MR. CHOLETTE: Thank you very much.

18 MS. O'REILLY: Hi. My name is Mary O'Reilly.  
19 I'm a resident of the neighborhood and also a parent of  
20 a preschooler at Seton Catholic School. I live at 424  
21 Claybourne Road.

22 I am one of two preschool parent liaisons to  
23 the PTA for Seton Catholic School. I reached out to  
24 the parent population in the preschool. I have  
25 received about a twenty-five percent response to an

1  
2 email that I sent upon learning about this hearing last  
3 Thursday, and one hundred percent of them are not in  
4 favor of the tower. Their responses that I received  
5 range from, "I'm absolutely sick over this," to, "My  
6 husband and I are one hundred percent opposed to the  
7 tower." I would give serious consideration to pulling  
8 my child out of Seton if the cell tower moves ahead.

9 The risk of harm appears inconclusive based  
10 on the various research and sites that I have seen. So  
11 why on earth would the school support something like  
12 this?

13 In addition, I would echo on my own personal  
14 research things that have been found here today, loss  
15 of property value anywhere from two to twenty percent.  
16 I have seen cases on the internet where residents have  
17 petitioned the town for lowering the property values on  
18 their assessment and they've succeeded.

19 I would also note that only sixteen percent  
20 of the student body at Seton - according to their  
21 website - are Brighton residents. Therefore, that  
22 means eighty-four percent of the student body of Seton  
23 Catholic School are folks who travel in and out of  
24 Brighton. As a resident, I think this is a wonderful  
25 opportunity for diversity. And in addition, I would

1  
2 submit that if these folks take their children out of  
3 the school then there's less people that are shopping  
4 in our neighborhoods, dropping their dry cleaning,  
5 utilizing our business in Brighton and thus, loss of  
6 revenue to business owners in the area.

7           Personally, I am also concerned about the  
8 property value and the potential for devaluation. I  
9 received notification as a resident being less than one  
10 thousand feet from the school and I agree with what Mr.  
11 Baylor said, the documentation is confusing as to  
12 whether it is at 165 or 166 Rhinecliff. And there has  
13 been virtually no information communicated by the  
14 school to the parents of Seton Catholic School in the  
15 three month period since it was briefly mentioned at  
16 the PTA meeting in November.

17           Personally, I find this outrageous, and I  
18 thank you for your time. I do also want to say that  
19 I'm grateful that you are considering tabling this  
20 motion as we've all had about six days notice to  
21 prepare.

22           Thank you.

23           MR. CHOLETTE: Thank you.

24           MR. DOBOSZ: Hello. My name is Robert  
25 Dobosz, D-o-b-o-s-z. I live at 120 Glen Ellyn Way.

1  
2 I sit in my backyard on Seton School and the  
3 church steeple. And I have a question for this young  
4 lady that brought up the point of she said that there's  
5 plenty of mature trees around Seton, but several have  
6 been cut down. She also brought up about Hurricane  
7 Sandy. We had an ice storm and we lost several mature  
8 trees.

9 So if those mature trees go, who's going to  
10 replant mature trees there? Is AT&T or the school?

11 They're going to go with small ones. It's  
12 going to be twenty-five or thirty years before they get  
13 big and cover up the tower that I see from my backyard.

14 And the other things that people brought up,  
15 the devaluation of property, are you going to lower our  
16 property taxes twenty - thirty thousand dollars?

17 I very rarely see mine go down. They always  
18 seem to go up.

19 So these are things that you're going to be  
20 facing if that cell tower goes up.

21 Thank you very much.

22 MR. CHOLETTE: Thank you.

23 Is this the last speaker?

24 Okay. Great.

25 MR. SULLIVAN: Hi. My name is Patrick

1 Sullivan. I live at 19 Glen Ellyn Way.

2 And I'm also against the proposal, and I  
3 share a lot of the sentiments of all my neighbors.

4 In addition, listening to the AT&T folks  
5 speaking, I'm hoping that the Board will get further  
6 information on the federal law that says that AT&T must  
7 fill the gap in coverage in Brighton. I'm curious  
8 where that law comes from, how that gap is determined,  
9 what the timeframe is to fill that gap. Does that mean  
10 that people up in North Dakota have to have their gap  
11 filled too? Okay?

12 I think everybody here has cell phone  
13 coverage already and seems to be relatively happy. So  
14 I'm not quite understanding that. That's the important  
15 points to me because if there's no answers to that then  
16 the rest of the conversation is moot.

17 Okay. Thanks for your time.

18 MR. CHOLETTE: Thank you very much.

19 If that's it, I would like to express my  
20 appreciation for all of you coming out on such a  
21 wintry night.

22 The application itself - the Planning Board  
23 application - is available here in the Department of  
24 Public Works, if anybody wants to see that.

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When is the Planning Board meeting?

MS. BARNASHUK: The 13th.

MR. CHOLETTE: So I'm sure that many of you will be interested in attending that next week.

I'm not going to ask the applicant for rebuttal. We don't do that. So we will take it as input certainly. I'm pretty convinced we will, in fact, table this during discussion, and in fact, I doubt there will be much discussion other than the fact we will want to table it.

I think that the applicants have certainly heard from the residents. They know that there's a lot of concern over this, to put it mildly. It generates a lot of questions that I think that we and of course the Planning Board would want answers to. We've also noted some things that we've asked specifically.

I would also like - there's one group that is not here and that's Our Lady of Lourdes Church, who's the co-applicant. I would actually appreciate somebody from Our Lady of Lourdes or from Seton School. I was actually unaware that Our Lady of Lourdes owns Seton School. That strikes me as a surprise, I happen to attend Our Lady of Lourdes. But at any rate, I would like a representative from the church to attend our

1  
2 next meeting, assuming that we hold this over. And I  
3 think there might be some relevant questions to ask of  
4 them also, especially in regard to: Why can't some of  
5 the equipment be located somewhere else? What's wrong  
6 if there's a garbage disposal bin on the ground floor  
7 or why can't a generator be next to that? Just what  
8 are the concerns? I think they're the ones to answer  
9 it rather than getting it second hand from you people.

10 So I would give that as a point of advice,  
11 but of course I can't force them to come in.

12 MR. DiSTEFANO: Also the fact that we'll keep  
13 the public hearing open.

14 MR. CHOLETTE: Yes, we will be keeping the  
15 public hearing open. What that means is that we will  
16 be looking for more input and that also means that the  
17 residents will have another opportunity to come back  
18 and express their views.

19 Again, thank you very much. And with that we  
20 will keep this part of the public hearing open, but  
21 move on to the next application.

22 2A-04-13 Application of Jack Sigrist, architect, and  
23 Jean Joseph, owner of property located at 426 French  
24 Road, for an Area Variance form Section 205-2 to allow  
25 for the expansion of an attached garage from 1,075 sf

1  
2 to 1,416 sf where a maximum 900 sf is allowed by code.  
3 All as described on application and plans on file.

4 MR. SIGRIST: Good evening. My name is Jack  
5 Sigrist. I'm the architect for the project.

6 We are here to ask for permission to build a  
7 garage - basically a four-car garage that's fourteen  
8 hundred square feet. We have a site plan, I think it's  
9 a part of your package.

10 Presently, with the way that the house is set  
11 up it's about seven hundred feet off of French Road, on  
12 a private drive. And then our driveway is another  
13 three hundred feet to our front door. And then  
14 probably another hundred feet behind our front door is  
15 where we're asking to build the garage addition.

16 We have -- first of all, the house has a  
17 four-car garage. It was built in the early '90s.  
18 That's the configuration. It's about twelve hundred  
19 square feet or whatever I have in my book. We are  
20 expanding into that four-car garage, leaving this  
21 portion of the garage a two-car garage. It's  
22 twenty-six foot deep now. We are proposing to add what  
23 we've lost here with another two-car garage turned at  
24 an angle so that we don't have a long wall, twenty-two  
25 foot deep, twenty-four feet wide.

1  
2           And basically what we end up in a little bit  
3 of trouble with is this triangle. To keep the roof in  
4 there adds up to additional square footage that you  
5 would normally put on the house. So that kind of  
6 pushes it up over fourteen hundred square feet. I know  
7 that we're allowed nine hundred square feet attached to  
8 the house and we're also allowed six hundred square  
9 feet as a detached garage.

10           This is a five acre lot. The homes in that  
11 same area - adjacent to us - have two four-car garages,  
12 One in our subdivision, right behind us at 202  
13 Heatherstone. There's a house further up towards  
14 French Road that has a three-car garage and a free  
15 standing at least one-car garage - a pretty large  
16 building, it is used as a garage.

17           So we don't think that we're changing the  
18 character of the neighborhood at all. We're not --  
19 we're allowed to have a four-car garage. We're not.  
20 When the house is built we're just asking to kind of  
21 take that space and shift it around and make it as  
22 small as we can make it.

23           I do have some pictures for you taken this  
24 afternoon unfortunately.

25           I don't know if you want to pass those

1  
2 around?

3 But the -- actually in the top one is the  
4 four-car garage. Right next to us is the property just  
5 to the west of us. Even though the bottom photograph  
6 is in Pittsford, it has a five-car garage and it's more  
7 than two hundred feet from our driveway. So I'm not  
8 saying it's Brighton, but it is in our overall scope of  
9 the neighborhood.

10 Outside of that I don't know what else I can  
11 add?

12 MR. CHOLETTE: Now, just so it gets into the  
13 record, I know you had it written, but you made a  
14 comment about number of trees, screening, isolation of  
15 this property versus the other homes nearby.

16 MR. SIGRIST: The lot is completely screened  
17 with trees. And we are, like I said, a hundred and  
18 fifty-five feet to our back property line. You have to  
19 go right to the property line and through the trees to  
20 where the other houses are. It's difficult to see the  
21 house from any angle and it's very difficult to see the  
22 garage addition from any angle.

23 MR. CHOLETTE: Thank you.

24 Are there any questions for the applicant?

25 Fine. Thank you very much.

1  
2 MR. SIGRIST: That was less than five  
3 minutes.

4 MR. CHOLETTE: Is there anyone in the  
5 audience that would like to speak with regard to this  
6 application?

7 There being none this part of the public  
8 hearing is closed.

9 Thank you.

10 MR. SIGRIST: Thank you.  
11 2A-05-14 Application of Anthony DiMarco, contract  
12 vendee, and Bonnie Hoepel, owner of property located at  
13 2370 Monroe Avenue, for an Area Variance from Section  
14 205-7 to allow an accessible ramp to extend 3.8 ft.  
15 into the existing 45.8 ft. rear setback where a 50 ft.  
16 rear setback is required by code. All as described on  
17 application and plans on file.

18 MR. DiMARCO: Hello. My name is Anthony  
19 DiMarco. Our architect couldn't make it today because  
20 of the weather, Martin Muller.

21 My brother and I have a purchase offer  
22 pending on the property at 2370 Monroe Avenue. Our  
23 intention is to move our business, Security Mortgage  
24 Group LLC, into the building. This constitutes a  
25 change of use of the property from retail to business.

1  
2 We received a certificate of compliance from the Town  
3 of Brighton allowing this. With this change in use,  
4 the New York State Existing Building Code requires the  
5 building to be made handicapped accessible, thus the  
6 need for the ramp as shown on the drawing. Which --

7 MR. DiSTEFANO: We have them.

8 MR. DiMARCO: Okay. The ramp has been  
9 designed to code and has been laid out to have as  
10 little impact on the property as possible. There will  
11 be no negative impacts on the neighborhood either  
12 environmentally or by appearance. The design has been  
13 approved by the Architectural Review Board.

14 There's no way to provide the ramp as  
15 required by state code on this site without requesting  
16 a variance.

17 That's all I have.

18 MR. CHOLETTE: My only concern when I drove  
19 by there was -- maybe I didn't look at the diagram well  
20 enough. I was a little concerned as I drove in on the  
21 side toward Pittsford that this ramp was going to be  
22 pretty close to the drive isle.

23 Is there any danger at all that cars that are  
24 coming in that way or around the other way will  
25 actually run into the ramp?

1  
2 MR. DiMARCO: No. There's adequate room  
3 there. The way Mark described it to us and sort of  
4 laid it out - with sort of verbally - is that for the  
5 ramp - I guess given the code and the proper elevation  
6 and things you come around from the back and the side.  
7 The other alternative would be to have it jet even more  
8 into that area. The reason he wrapped it around was  
9 because of potential plow problems with snow removal  
10 and things like that.

11 So is that what you're referring to?

12 MR. CHOLETTE: I'm really -- I guess I'm just  
13 concerned as you're -- maybe, since the ramp is wrapped  
14 around, from any angle that you're approaching it you  
15 actually see the ramp. But just that corner of the  
16 ramp, which I guess would be a landing area for the  
17 ramp, it just seems like it's pretty close into the  
18 drive isle when you're coming around.

19 MR. DiMARCO: Right. And I know the Board  
20 has to look at things from perspective future use and  
21 not just ours, but we're myself and my brother and one  
22 other employee. There will be less traffic there or as  
23 little as there is now.

24 MR. CHOLETTE: So you will have very few  
25 people driving back there who don't know the way?

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MR. DiMARCO: Basically none.

MR. DiSTEFANO: And I guess the other question is --

MR. DiMARCO: And we plan -- I'm sorry?

MR. DiSTEFANO: And if you do have visitors there's a good chance they're going to be parking in front, unless they are handicapped and need to get around back to use the ramp, correct?

MR. DiMARCO: Right. And we're currently in the Crossroads Building downtown and we don't have visitors.

MR. CHOLETTE: Fine. Thank you.

Any other questions?

Fine. Thank you very much.

MR. DiMARCO: Thank you.

MR. CHOLETTE: Is there anyone in the audience that would like to speak with regard to this application?

There being none this part of the public hearing is closed.

2A-06-14 Application of Tim Tyskiewicz, architect, and Matt and Courtney Winslow, owners of property located at 6 Elmwood Hill Lane, for 1) an Area Variance from Section 209-10 to allow liveable floor area to be 6,380

1  
2 sf, after construction of a 2,107 sf addition, in lieu  
3 of the maximum 5,580 sf allowed by code; 2) an Area  
4 Variance from Section 203-2.1B(3) to allow a detached  
5 garage to be 864 sf in lieu of the maximum 600 sf  
6 allowed by code; and 3) an Area Variance from Section  
7 207-11A to allow an in-ground swimming pool to be  
8 partially located in a side yard where not allowed by  
9 code. All as described on application and plans on  
10 file.

11 MR. TYSKIEWICZ: Thank you. Tim Tyskiewicz,  
12 architect.

13 This is the project. This is number 4, where  
14 we demolished the blue house. And this is the house  
15 that the Winslows live in now.

16 We would like to build an addition. They  
17 have a growing family. And this addition makes it so  
18 that we're over on the percentage of lot coverage. And  
19 I looked around --

20 MR. DiSTEFANO: Over on the livable floor  
21 area.

22 MR. TYSKIEWICZ: Livable floor area. In the  
23 neighborhood, on that street there are eleven houses.  
24 Four of them have a higher percentage of livable floor  
25 area. So we aren't making this house larger than the

1 rest of the houses on that street.

2 We are also -- on the project right now  
3 there's an attached garage. It's very small, 20 x 20,  
4 you can just fit the cars. So we would like to add a  
5 three-car garage attached. The code says that's got to  
6 be six hundred square feet and we would like it a  
7 little larger than that. The attached garage could  
8 have been nine hundred square feet, but ours is only  
9 four hundred. We can't really grow in either direction  
10 because of the side setback. So if you add the two  
11 garages together they're under what the attachment  
12 would be and vice versa. But you know they've got a  
13 few cars and they've got some kids with outdoor toys,  
14 they've got a golf cart. They would really like to  
15 tuck that away if they can.

16 The other thing we're asking for tonight is a  
17 swimming pool in a side yard, where it's only allowed  
18 in a rear yard.

19 This is the Country Club of Rochester and  
20 there's a t-box just about thirty - forty feet right  
21 off the back of the property line. And there's really  
22 no trees once you're across and on to the golf course.  
23 So the only opportunity for any privacy for the  
24 Winslows is the back of the property line on their  
25

1  
2 property to plant landscaping to block, so that they  
3 could swim, have the kids there and not have the  
4 golfers watching.

5 I hope you will consider granting us the  
6 relief.

7 MR. GOLDMAN: In driving around the  
8 neighborhood I noted that several of the homes had  
9 fairly large garage complexes.

10 With these two garages would you state or  
11 think that this was similar to what I saw?

12 MR. TYSKIEWICZ: We have less garages than  
13 some on the street.

14 We have five spaces, really just enough for  
15 five cars. Where as there are houses on the street  
16 that have really six garage doors, but really more  
17 space than that for additional cars to fit. So --

18 MR. GOLDMAN: Thank you.

19 MR. TYSKIEWICZ: And we're not grouping the  
20 doors together, which I think really makes a  
21 difference. Not having rows of five in a row. They're  
22 in different places, facing different directions.

23 MR. DiSTEFANO: What's the height of the  
24 detached garage.

25 MR. TYSKIEWICZ: It's nineteen feet and you

1  
2 allow sixteen feet. But we have this existing house  
3 that has all of these roof pitches and we really want  
4 to make them all the same. And so to make a garage  
5 that fits just the length of a car and about a garbage  
6 can, that's about it. And to match the pitch it goes  
7 nineteen feet.

8 MR. DiSTEFANO: That does require a variance  
9 if you want to go nineteen feet.

10 MR. TYSKIEWICZ: Yes.

11 MR. DiSTEFANO: And you did not ask for that  
12 in --

13 MR. CHOLETTE: So you're going to be coming  
14 back for another variance?

15 MR. TYSKIEWICZ: No. I mentioned that -- I  
16 did apply for it. It's in the paperwork, but I forgot  
17 to mention it.

18 MR. CHOLETTE: I don't believe that it's in  
19 the paperwork that we saw.

20 MR. DiSTEFANO: I don't believe it's in the  
21 paperwork either. Where it says under C you have three  
22 requests: Livable floor area, square foot garage and  
23 pool in rear yard.

24 MR. TYSKIEWICZ: I guess we need to come back  
25 for that.

1  
2 MR. CHOLETTE: You'll need to come back for  
3 that.

4 And are there any other variances that you  
5 expect you're going to need for this project?

6 MR. TYSKIEWICZ: No.

7 MR. CHOLETTE: Is this really like a regular  
8 swimming pool or is this like a lap pool, it looks long  
9 and narrow?

10 MR. TYSKIEWICZ: Proportionately it's long  
11 and narrow, but it's really not the -- it's forty feet  
12 long and fifteen wide. So it's about the same square  
13 footage as a 16 x 32. It's just a longer pool because  
14 it, you know, makes for a nice reflection and it's nice  
15 for outdoor space.

16 MR. CHOLETTE: I drove behind there and  
17 looking at the drawing that you submitted it looks like  
18 there would be room for a pool behind the house even  
19 the existing house.

20 But it looks to me that given the topography  
21 of the land, there's no way you can put a pool there;  
22 is that correct?

23 MR. TYSKIEWICZ: Yeah, but it's too steep.  
24 It slopes off and then it gets wooded. So it's not  
25 like a flat spot.

1  
2 MR. CHOLETTE: I wasn't as convinced that you  
3 couldn't put it behind where the new addition was  
4 going. But I guess my bigger problem with this whole  
5 project, and perhaps it's the way it's presented in  
6 this drawing, is that this looks like one gigantic  
7 house because you sort of boxed in the area for the  
8 swimming pool and the grassy area there and the garage  
9 as though it's all a part of the house. And so I have  
10 this horrible feeling that somehow that's what it's  
11 going to look like.

12 MR. TYSKIEWICZ: Well, I think it manners  
13 down the home quite nicely. It's not the largest house  
14 on the street. And if you look here we've got a couple  
15 of very nice trees and we're planning on planting five  
16 more in front there. And, you know, it all occurs  
17 between the house and the addition and that garage. So  
18 I think it breaks it up very nicely.

19 MR. DiSTEFANO: What is between the house and  
20 the garage? Do you have a solid wall type of screen?  
21 Do you have an open rot iron fence proposed?

22 MR. TYSKIEWICZ: It's going to be low fencing  
23 that has a stone base on it. So it's going to be a  
24 nice product.

25 MR. CHOLETTE: And that's going to surround

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this whole thing?

MR. TYSKIEWICZ: Well, it goes across the front and then at the back it will be a wooden fence.

MR. CHOLETTE: And how high is it going to be?

MR. TYSKIEWICZ: Forty-two or forty-eight is required for a fence around the pool.

MR. CHOLETTE: So this is a forty-eight inch fence in your front yard?

MR. DiSTEFANO: No, it would be considered the side yard.

MR. TYSKIEWICZ: The side yard, yeah.

MR. DiSTEFANO: The detached garage doesn't set the yard. That front edge of the house sets the yard. So it would be in the side yard, so they would meet code for the height.

MR. CHOLETTE: Do you have or do you plan to produce a model of this - an architectural model?

MR. TYSKIEWICZ: No, just the construction documents that will show all of the elevations and the heights.

MR. DiSTEFANO: Do you have --

MR. CHOLETTE: Dennis is saying full sized elevation.

1  
2 MR. MIETZ: It's a lot of scale to get a  
3 sense of it.

4 Could it be brought to regular scale?

5 MR. TYSKIEWICZ: This is the scale of the  
6 drawing I wanted to match. Yeah, I can make it as big  
7 as you like.

8 MR. CHOLETTE: I would like at least that.  
9 I mean my problem with this is I can't  
10 visualize this. This might look great, it might be  
11 fine or it might be just horrible.

12 MR. TYSKIEWICZ: I would never draw anything  
13 horrible.

14 MR. CHOLETTE: I mean it will not be horrible  
15 from the perspective of the owner, but it might be  
16 horrible from the perspective of the people that live  
17 across the street from it.

18 UNKNOWN: I will say --

19 MR. CHOLETTE: Excuse me, you can't -- if you  
20 want to come forward you can come forward and certainly  
21 talk.

22 The key thing that you're in here for,  
23 besides the swimming pool in the side yard, is that  
24 you've got too much livable floor area. And I need to  
25 feel comfortable that this is going to look okay. And

1  
2 you've got it on a double lot, which has become  
3 re-subdivided into one lot, but it's all squished into  
4 one end of it. So you're not spread out to the center  
5 of this lot, so it's going to look like a very large  
6 house. If in fact the side things - this garage and  
7 swimming pool and the yard are all surrounded by some  
8 sort of fence that makes this look like a compound or  
9 estate.

10 If on the other hand everything sort of  
11 flowed in and you had trees and it was well screened,  
12 and then it might look great. And I cannot visualize  
13 that with the information that you've given me. So  
14 that's my problem.

15 MR. TYSKIEWICZ: Courtney Winslow, 6 Elmwood  
16 Lane.

17 MS. WINSLOW: Hi. Courtney Winslow.

18 I appreciate your concern. And that's a  
19 concern of myself too. That's why we've been working  
20 on this project for so long. We don't want it to look  
21 odd on the street. It's a hard lot to combine without  
22 us tearing our house down and then putting it smack in  
23 the middle of the lot or making an even bigger house  
24 and spanning it across both lots.

25 We really wanted room for our kids to play.

1  
2 We don't have a backyard right now. My kids, a five  
3 and a half, there's the two and a half year old and one  
4 on the way, and we wanted them to be able to have a  
5 yard on this other side so that they could play soccer  
6 with their friends or they could -- we have wonderful  
7 new neighbors on the other side who are really excited  
8 for their property to begin. They have a little girl.  
9 We're great friends with the people across the street  
10 who just bought the house, and the other people across  
11 the street, whose parents actually live down the  
12 street. Everybody is --

13 MR. CHOLETTE: Did you talk to the people  
14 across the street and they have no problem?

15 MS. WINSLOW: They have no problem at all.  
16 Everyday they're like, "When's it going to start, when  
17 are you going to start?" They couldn't wait to see the  
18 property come down.

19 We are very close with the people on our  
20 street. They're all very excited for the property to  
21 go up and for the work to start and I'm sure to be  
22 over, just like I am.

23 But the way that it flows was really a way to  
24 provide some - a flow. It really was to provide a flow  
25 so that this property and this garage looked like part

1  
2 of our house and not like an extra garage.

3 And then the gates that are going up are  
4 beautiful white gates with stones and so that it comes  
5 down. It comes down this way and then all of these  
6 trees -- I mean we want to make it as beautiful as  
7 possible. But we are not looking to make it a grand  
8 estate on the street that just sticks out. That is not  
9 our intention.

10 My parents lived on the that street for  
11 twenty years. I have a lot of friends on the street  
12 and we value that property. We moved back here from  
13 Brooklyn and that's our home. That's where we're going  
14 to stay for the rest of our lives. And we really want  
15 to make it somewhere where we can raise our family and  
16 our kids can come home from college and still live  
17 there. So it's a really important thing for us.

18 It's taken us a long time. We've spent a lot  
19 of time acquiring the property next door. That's one  
20 of the reasons we bought the house to begin with.  
21 Yeah, and so I want you to know I want it to look as  
22 beautiful as you guys do.

23 MR. CHOLETTE: Thank you.

24 Can you sort of summarize the number of trees  
25 that are coming down and --

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MS. WINSLOW: There is one --

MR. CHOLETTE: -- the trees that you're going to put in?

MS. WINSLOW: Sure. One beach tree that has to come down.

MR. TYSKIEWICZ: It's right down here in the middle of the new addition. We're keeping all the ones across the front and all the ones across the back.

MR. CHOLETTE: There's some evergreen trees that are not in very good shape.

Are they staying or are you --

MS. WINSLOW: That are in the front?

We actually relocated those when we moved to try to save them. They were in another awkward position, so we relocated one to try and save them. We kind of plopped them three in a row.

And I think that when we get -- we have a landscape architect that we're going to work with, Mark Bayer, and once we get him to take a look at things we can make it enclosed. I certainly - I want some privacy too. So I mean we're certainly going to make sure that -- we're right on the tee, so -- and I belong to the Country Club of Rochester, so we don't want to ruffle anybody's feathers over there.

1  
2 MR. CHOLETTE: I can see where -- I mean  
3 you've expressed a concern to be screened from the golf  
4 course.

5 My bigger concern is to be screened from the  
6 street?

7 MS. WINSLOW: You can't see it here because  
8 it's just showing the house, but of course there will  
9 be trees here, there'll be a maple here and we will  
10 heavily landscape around the property.

11 MR. TYSKIEWICZ: These all here are existing,  
12 we're not taking them down, six inch spruces - there's  
13 three of them there, four inch birch tree, a twenty  
14 inch crap-apple, a twenty-six inch maple all right in  
15 front. They're existing now and we're not taking them  
16 down.

17 MR. CHOLETTE: Well, Dennis is saying it  
18 would really be helpful to see a whole landscaping  
19 plan.

20 MR. MIETZ: Would you be able to at least  
21 place them in scale when you do the elevation, so you  
22 could at least understand -- because I think that's  
23 what the concern is, as you approach up the street what  
24 is it going to look like?

25 Will it really make a difference, as Jack is

1  
2 saying, how that house is viewed as it relates --

3 MS. WINSLOW: I think --

4 MR. MIETZ: You start thinking about it and  
5 your mind goes in either one direction or another  
6 because it's sort of arbitrary when it's just plopped  
7 there, you know, by itself.

8 MS. WINSLOW: And I think that it is hard - I  
9 can imagine that it's hard to visualize because that  
10 lot scene is so -- and now that house is down it's so  
11 vacant, and so I could imagine. It's hard for me to  
12 look at.

13 MR. MIETZ: Right. The request is to your  
14 plan here so that we could understand in scale a little  
15 bit better.

16 MR. TYSKIEWICZ: These trees were from the  
17 survey. They were never moved and the label on there  
18 is the size of the diameter of the tree. So they're  
19 there.

20 MR. CHOLETTE: Well, from what I see on this  
21 plan is there's the crab-apple tree and, you know, I  
22 have a crab-apple tree in my front yard and it really  
23 isn't a good screening tree. And I don't know what the  
24 two smaller trees are that you show between the  
25 crab-apple and in front of the swimming pool. I don't

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know what those trees are --

MR. TYSKIEWICZ: Yeah, all the dark --

MR. CHOLETTE: -- I don't know what size they are, I don't know how much screening they're going to provide. But my sense just looking at this -- and then you have this Austrian Pine out at the street and my thought was that's not providing much screening either. So I'm not sure that the swimming pool is really going to be screened that much as I look at it.

MR. TYSKIEWICZ: It's pretty wooded between the existing No. 6 and the existing No. 4. That whole front area you almost can't see one --

MS. WINSLOW: Right. There's a huge triangle.

MR. TYSKIEWICZ: There's six/seven trees in there and they're all marked and they provide -- it's a combination of deciduous and evergreens, so you have the high and you have the low and it blocks the view.

But I can't really -- when you put those on here then you can't see the house in that. It would have blocked, that's why I drew them in so light. So if I would have just shown trees then you wouldn't have seen the addition.

MR. CHOLETTE: Okay.

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MR. GOLDMAN: I have a question.

This is the third time you've been before this Board and now it sounds like you're going to have to come back - if we don't table it you're going to have to come back for the garage height.

Is there any way that we can do that if we decide not to table it?

MR. DiSTEFANO: No, it wasn't advertised.

MR. GOLDMAN: It doesn't seem right; does it?

MR. DiSTEFANO: That's why you want to make sure you get all of your variances up front and on the application and everything needs to be properly advertised.

I think - it sounds to me like the Board might be leaning towards tabling it in order to get some elevation drawings that they can look at, you know, and really get their hands around, Tim. I think at the same time and then make the application for the height variance, so that we could be handling the height variance and the tabling of this variance - variances together.

MR. TYSKIEWICZ: We've been at it a couple years and I would really appreciate it if you would consider giving us the ones we've asked for so far. It

1  
2 would be really good for us.

3 MS. WINSLOW: Yeah, we're actually --

4 MR. TYSKIEWICZ: It's been a couple of years.

5 MS. WINSLOW: I can't move back in too much  
6 further after this baby is born. We're moving out of  
7 our house.

8 MR. CHOLETTE: I understand where you're  
9 coming from.

10 MR. TYSKIEWICZ: We could actually not build  
11 the garage or build it shorter or, you know, take that  
12 off as part of our project before we would like to have  
13 it tabled. We really have -- we could --

14 MR. CHOLETTE: We will not table it because  
15 of the situation with the garage.

16 MR. TYSKIEWICZ: Okay.

17 MR. CHOLETTE: And my sense is that I'm  
18 probably the one here that has this concern about how  
19 this looks. So rest assured that it's not going to get  
20 tabled just because of the garage.

21 We'll get the view of this thing and see how  
22 we feel about it. If we table it, fine, we table it.  
23 And Rick's comment is that when you come back you could  
24 do the garage at the same time, so it won't be a total  
25 loss to you because you have to come back anyway. And

1  
2 if we choose to approve it then it becomes approved.

3 MR. DiSTEFANO: And we could just table the  
4 garage too. Or you could table that part of it and --

5 MR. CHOLETTE: Right.

6 MR. TYSKIEWICZ: That would be great.

7 MR. DiSTEFANO: There's a lot of options.

8 MR. CHOLETTE: Okay. Fine. Anything else?

9 Thank you very much.

10 MS. WINSLOW: Thank you.

11 MR. TYSKIEWICZ: Can I leave this up here for  
12 you, in case you want to look at it?

13 MR. CHOLETTE: Thank you.

14 MS. WINSLOW: Have a good night.

15 MR. CHOLETTE: Good night.

16 Is there anyone in the audience that would  
17 like to speak with regard to this application?

18 There being none this part of the public  
19 hearing is closed.

REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated

At Rochester, New York

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Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on February  
5th, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

February 5th, 2014  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN  
CANDICE BAKER LEIT, ESQ.  
MORREY GOLDMAN  
DR. DAVID LAWRENCE  
CHRISTINE CORRADO  
JUDY SCHWARTZ  
DENNIS MIETZ

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

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

Reported by: CHAD L. SMITH, Court Reporter  
EDITH E. FORBES COURT REPORTING SERVICE  
21 Woodcrest Drive  
Batavia, New York 14020

1  
2 APPLICATION 12A-04-13

3 12A-04-13 Application of Buckingham Properties  
4 LLC, property manager, and 2600 Elmwood LLC, owner of  
5 property located at 2600 Elmwood Avenue, for 1)  
6 modification of a Use Variance (5A-07-97) to allow for  
7 frozen yogurt sales and a short order eatery in  
8 conjunction with bagel sales, and 2) modification of an  
9 Area Variance (5A-08-97) allowing for the continuation  
10 of less parking than that as required by code with a  
11 change in restaurant use as described in 1 above. All  
12 as described on application and plans on file. TABLED  
13 AT THE DECEMBER 4, 2013 MEETING - PUBLIC HEARING  
14 REMAINS OPEN

15 Motion made by Mr. Goldman on the following  
16 items of Application 12A-04-13.

17 1. I approve the partial use of the property  
18 for a frozen yogurt facility.

19 **FINDINGS OF FACT:**

20 1. This fits within the original framework of low  
21 intensity non-cooking restaurant as originally approved  
22 through the Bagel Bin Cafe approval use variance.

23 **CONDITIONS:**

24 1. The hours of operation are from 5:30 to 11:00. The  
25 use is being approved for the bake sales and frozen

1 yogurt.

2  
3 2. The use is being approved as requested for  
4 Yolickity Frozen Yogurt only.

5 3. Business deliveries and trash pickup occurs between  
6 normal business hours of 7:00 a.m. and 5:00 p.m. Trash  
7 receptacles will be kept under cover.

8 4. No admission shall be permitted of noxious gases or  
9 other odors and matters in such findings as recently  
10 detected.

11 5. Outside policing of grounds for grounds shall be  
12 done on a daily basis.

13 6. No external signage shall be on Elmwood at the east  
14 side of the building.

15 7. All necessary approvals and permits from the Town  
16 of Brighton shall be obtained.

17 2. I table the use of this by Sabra Grill  
18 for further clarification since the Board is opposed to  
19 most uses requiring frying and grilling. The public  
20 hearing shall remain open.

21 3. I approve the parking application as  
22 proposed because there will be enough parking in this  
23 combined for the approved uses.

24 (Seconded by Ms. Schwartz.)

25 (Ms. Corrado, yes; Ms. Baker Leit, yes; Mr.

Cholette, yes; Ms. Schwartz, yes; Mr. Goldman, yes, Dr.  
Lawrence, abstain; Mr. Mietz, abstain.)

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2 APPLICATION 1A-03-14

3 1A-03-14 Application of Joseph O'Donnell,  
4 architect, and Sherry Dampier, owner of property  
5 located at 3176 Elmwood Avenue, for Area Variances from  
6 Section 205-2 to 1) allow an addition to extend 4.48  
7 ft. into the existing 14.48 ft. side setback (south  
8 side) where a 19.8 ft. side setback is required by  
9 code, and 2) allow a garage addition to extend 11.8 ft.  
10 into the 19.8 ft. side setback (north side) required by  
11 code and 5 ft. into the 40 ft. front setback required  
12 by code. All as described on application and plans on  
13 file.

14 Motion made by Ms. Corrado to table  
15 application 1A-03-14 due to the need in the second  
16 variance for reassessment of the flood zone and  
17 proximity to the creek bank and the impact that will  
18 have on the first request for variance. And for the  
19 applicant to provide alternatives which were rejected  
20 which would have allowed the less extensive variance  
21 for part one.

22 The public hearing will remain open.

23 (Seconded by Mr. Mietz.)

24 (Mr. Goldman, yes; Ms. Schwartz, yes; Dr.  
25 Lawrence, yes; Mr. Cholette, yes; Ms. Baker Leit, yes;

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Mr. Mietz, yes; Ms. Corrado, yes.)

(Upon roll call, motion to table and leave  
the public hearing open carries.)

1  
2 APPLICATION 2A-01-14

3 2A-01-14 Application of Frank, Jr. And Jennifer  
4 Mazzerella, owners of property located at 52  
5 Sandringham Road, for an Area Variance from Section  
6 209-10 to allow liveable floor area to increase from  
7 3,709 sf to 3,790 sf where a maximum 3,353, sf is  
8 allowed by code. All as described on application and  
9 plans on file.

10 Motion made by Mr. Mietz to approve  
11 Application 1A-01-14.

12 **FINDINGS OF FACT:**

13 1. The current house is a nonconforming pre-existing  
14 condition. You have 3,709 square feet where 3,353  
15 square feet is allowed by current code.

16 2. The proposed addition of 91 square feet is the  
17 minimal additional relief necessary to meet the  
18 objectives of the owner and is not substantial.

19 3. An analysis of adjacent properties provided  
20 averaged 4,390 square feet on the street which is  
21 significantly greater than the subject property with  
22 the minimum variance of 3,790 square feet.

23 4. The location of the addition in the rear of the  
24 property will not be visible from the street or cause  
25 any negative effect to the character of the

neighborhood.

**CONDITIONS:**

1. All building permits shall be obtained.

2. This variance is based only on the specific addition as described in testimony and plans submitted.

(Seconded by Ms. Schwartz.)

(Ms. Baker Leit, yes; Dr. Lawrence, yes; Mr. Cholette, yes; Mr. Goldman, yes; Ms. Corrado, yes; Ms, Schwartz, yes; Mr. Mietz, yes.)

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

1  
2 APPLICATION 2A-02-14

3 2A-02-14 Application of New Cingular Wireless  
4 PCS, LLC, (AT&T) lessee, and the Jewish Community  
5 Center of Rochester, Inc., owner of property located at  
6 1200 Edgewood Avenue, for an Area Variance from Section  
7 205-2.1B(6) to allow a standby emergency generator to  
8 be located in a side yard in lieu of the rear yard  
9 behind the building as required by code. All as  
10 described on application and plans on file.

11 Motion made by Ms. Schwartz to approve  
12 Application 2A-02-14.

13 **FINDINGS OF FACT:**

14 1. The installation of a standby generator will be  
15 behind the JCC, even though this location is considered  
16 to be a side yard. A rear yard installation would  
17 result in the visibility of the equipment to JCC  
18 members.

19 2. The installation will be in the rear area of a  
20 large parking lot, not visible by any road or nearby  
21 residences. It is also buffered by the lot to the  
22 south. The generator is a hundred and seventy-seven  
23 feet from the nearest lot line.

24 3. The generator will be located within the fenced  
25 compound that currently houses the wireless

1  
2 telecommunication equipment.

3 **CONDITIONS:**

4 1. The test period for this generator will occur  
5 during the day.

6 2. A level 2 acoustical box will keep the decibel  
7 level below seventy-two.

8 3. This generator is only to be used for emergency  
9 purposes.

10 4. This variance only applies to the generator as  
11 described in the application and testimony presented by  
12 the applicant.

13 5. All necessary Planning Board approvals and building  
14 must be obtained.

15 (Seconded by Ms. Baker Leit.)

16 (Ms. Corrado, yes; Mr. Mietz, yes; Mr.  
17 Cholette, yes; Dr. Lawrence, yes; Mr. Goldman, yes; Ms.  
18 Baker Leit, yes; Ms. Schwartz, yes.)

19 (Upon roll call, motion to approve with  
20 conditions carries.)  
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2 APPLICATION 2A-03-14

3 2A-03-14 Application of New Cingular Wireless  
4 PCS, LLC, (AT&T) lessee, and Our Lady of Lourdes  
5 Church, owner, of property located at 166 Rhinecliff  
6 Drive, for 1) an Area Variance from Section 207-42C1(b)  
7 to allow cellular antenna support equipment to be  
8 located in an accessory structure placed on the roof of  
9 the building in lieu of inside the building as required  
10 by code; and 2) an Area Variance from Sections  
11 203-9A(4) and 205-2.1B(6) to allow a standby emergency  
12 generator to be located on the roof of a building in  
13 lieu of in the rear yard behind the building as  
14 required by code. All as described on application and  
15 plans on file.

16 Motion made by Ms. Baker Leit to table  
17 Application 2A-03-14 to the next March Meeting in order  
18 for the Zoning Board of Appeals to have time to review  
19 the many submissions from area residents and also to  
20 have additional detail provided on various questions  
21 that arose during the open hearing. And also for the  
22 Planning Board to review the application for a tower  
23 permit.

24 The public hearing will remain open.

25 (Seconded by Ms. Schwartz.)

1  
2 (Mr. Goldman, yes; Dr. Lawrence, yes; Mr.  
3 Cholette, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms.  
4 Schwartz, yes; Ms. Baker Leit, yes.)

5 (Upon roll call, motion to table and leave the  
6 public hearing carries.)

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2 APPLICATION 2A-04-14

3 2A-04-13 Application of Jack Sigrist,  
4 architect, and Jean Joseph, owner of property located  
5 at 426 French Road, for an Area Variance form Section  
6 205-2 to allow for the expansion of an attached garage  
7 from 1,075 sf to 1,416 sf where a maximum 900 sf is  
8 allowed by code. All as described on application and  
9 plans on file.

10 Motion made by Mr. Cholette to approve  
11 Application 2A-04-14.

12 **FINDINGS OF FACT:**

13 1. The requested variance is the minimum variance  
14 possible to obtain the benefit sought by the applicant.  
15 He currently has a four-car garage and is converting  
16 part of that as space for living area. To accommodate  
17 the loss of garage space he is proposing to add the two  
18 bays lost with two new garage bays which is somewhat  
19 larger in size. However, this increase in size will be  
20 made less apparent by configuring the bay additions to  
21 a forty-five degree angle to the existing garages.  
22 Given the very large size of the house and of the lot,  
23 which is over five acres, the total proposed garage  
24 area of 1,416 square feet is reasonable.

25 2. No other alternative can alleviate this difficulty

1  
2 and produce the desired result. Houses of this size on  
3 a five acre parcel typically have up to four garages  
4 and as described in 1 above has been configured several  
5 ways to minimize its appearance. While the overall  
6 size of the four-car garage will be reduced by  
7 attaching all four bays side by side in a linear  
8 fashion. Special configuration will actually appear  
9 greater in size than the proposed configuration of  
10 having the two new bays at a forty-five degree angle to  
11 the other two bays.

12 3. No unacceptable change to the character of the  
13 neighborhood and no substantial detriment to nearby  
14 properties will result from the approval of this  
15 variance. The house in question is located in a four  
16 large lot subdivision and this residence is on a  
17 private driveway approximately three hundred feet from  
18 the private road for the subdivision. That road itself  
19 extends about seven hundred feet from French Road. The  
20 applicant's property is well screened by trees and  
21 therefore the larger garage area will have no visible  
22 impact on any other houses.

23 **CONDITIONS:**

24 1. This variance applies only to the garage described  
25 in the application and testimony with regard to its

1  
2 size and location.

3 2. All other necessary approvals from the Town of  
4 Brighton will be obtained.

5 (Seconded by Ms. Schwartz.)

6 (Dr. Lawrence, yes; Ms. Corrado, yes; Ms.  
7 Baker Leit, yes; Mr. Mietz, yes; Mr. Goldman, yes; Ms.  
8 Schwartz, yes; Mr. Cholette, yes.)

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

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APPLICATION 2A-05-14

2A-05-14 Application of Anthony DiMarco, contract vendee, and Bonnie Hoepel, owner of property located at 2370 Monroe Avenue, for an Area Variance from Section 205-7 to allow an accessible ramp to extend 3.8 ft. into the existing 45.8 ft. rear setback where a 50 ft. rear setback is required by code. All as described on application and plans on file.

Motion made by Ms. Corrado to approve Application 2A-05-14.

**FINDINGS OF FACT:**

1. The requested variance is not substantial due to the location of the home on the adjacent property which is adequately screened.
2. The requested variance will put the property in compliance with New York State code requiring an access ramp be provided, which is precipitated by the change of use of the building from retail to business.

**CONDITIONS:**

1. All appropriate permits must be obtained.

(Seconded by Ms. Schwartz.)

(Ms. Baker Leit, yes; Mr. Mietz, yes; Mr. Cholette, yes; Dr. Lawrence, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Ms. Corrado, yes.)

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

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2 APPLICATION 2A-06-14

3 2A-06-14 Application of Tim Tyskiewicz,  
4 architect, and Matt and Courtney Winslow, owners  
5 of property located at 6 Elmwood Hill Lane, for 1) an  
6 Area Variance from Section 209-10 to allow liveable  
7 floor area to be 6,380 sf, after construction of a  
8 2,107 sf addition, in lieu of the maximum 5,580 sf  
9 allowed by code; 2) an Area Variance from Section  
10 203-2.1B(3) to allow a detached garage to be 864 sf in  
11 lieu of the maximum 600 sf allowed by code; and 3) an  
12 Area Variance from Section 207-11A to allow an  
13 in-ground swimming pool to be partially located in a  
14 side yard where not allowed by code. All as described  
15 on application and plans on file.

16 Motion made by Mr. Goldman to approve  
17 Application 2A-06-14.

18 **FINDINGS OF FACT:**

- 19 1. This property was formerly two properties merged to  
20 form a single unit.
- 21 2. The requested variance creates livable floor area  
22 similar to several of the properties on Elmwood Hill  
23 Lane.
- 24 3. The requested variance for a larger detached garage  
25 is in keeping with the surrounding homes.

4. The proposed location of the swimming pool is the best possible location for the pool and will be well screened from the street and the adjoining properties.

5. No unacceptable change to the character of the neighborhood and no substantial detriment are expected to result from the approval of this variance because the proposed use is similar to what was there previously.

**CONDITIONS:**

1. The detached garage shall be no larger than 864 square feet and no higher than 16 feet as allowed by code or a variance shall be obtained to increase its height.

2. The area variance for livable floor space and the area variance to allow an in-ground swimming pool, the variances shall only apply to those items as described in the application and in testimony.

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

(Seconded by Ms. Schwartz.)

(Ms. Baker Leit, yes; Mr. Mietz, yes; Mr. Cholette, yes; Dr. Lawrence, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Ms. Corrado, yes.)

(Upon roll call, motion to approve with

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conditions carries.)

REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

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

Dated

At Rochester, New York

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Chad L. Smith

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