

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

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

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:

MORREY GOLDMAN

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 March session of the Brighton Zoning Board of  
4 Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was  
7 advertised in the Brighton Pittsford Post of February  
8 27, 2014.

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

10 MR. DiSTEFANO: Please let the record reflect  
11 that Mr. Goldman and Ms. Baker Leit are not present.

12 MR. CHOLETTE: Thank you.

13 We have the minutes from the February 5th  
14 meeting. They're pretty extensive, but let's just hit  
15 any important changes.

16 Judy?

17 MS. SCHWARTZ: On page 21, line 11, It's  
18 Palmerston, add s-t-o-n to the street

19 On page 30, line 19 and there after, it's  
20 Buckland, l-a-n-d, Creek.

21 On page 46, line 23, the third word should be  
22 short.

23 On page 48, line 7, it should be is not  
24 objectionable. So please add the word not.

25 On page 143, line 21 the word rot it sounds

1  
2 like wrought, w-r-o-u-g-h-t, wrought iron.

3 And then on page -- oh, you're going to need  
4 help on this. On page 159 on conditions number 5 and  
5 then 6 too. So --

6 MR. CHOLETTE: Well, 5, outside policing of  
7 grounds for, let's just call it clean up.

8 MS. SCHWARTZ: Okay. So the second --

9 MS. CORRADO: Could it be rubbish?

10 MR. CHOLETTE: It could be rubbish.

11 Okay. And the next one?

12 MS. SCHWARTZ: Okay. Number 6 says no  
13 external signage shall be on Elmwood at the east side  
14 of the building and to me east is facing Winton Road.

15 MR. CHOLETTE: Yeah, it's actually on the  
16 south side.

17 MS. SCHWARTZ: South.

18 MR. DiSTEFANO: Yeah, Elmwood Avenue is the  
19 south side.

20 MS. SCHWARTZ: Okay. And then on page 166,  
21 line 14, please insert the word permits before must.

22 That's it.

23 MR. CHOLETTE: Fine. Thank you, Judy.

24 Are there any other additions or corrections?

25 MS. CORRADO: Page 49, line 18, we want

1  
2 potable water not portable.

3 And that's all. Judy is more thorough than I  
4 am.

5 MR. CHOLETTE: Anything else?

6 Can I have a motion to approve the minutes as  
7 amended?

8 MR. DiSTEFANO: Please let the record show  
9 that Ms. Baker Leit is present.

10 (Motion made by Mr. Mietz to approve the  
11 amended February minutes.)

12 (Seconded by Ms. Baker Leit.)

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

15 12A-04-13 Application of Buckingham Properties LLC,  
16 property manager, and 2600 Elmwood LLC, owner of  
17 property located at 2600 Elmwood Avenue, for 1)  
18 modification of a Use Variance (5A-07-97) to allow for  
19 frozen yogurt sales and a short order eatery in  
20 conjunction with bagel sales, and 2) modification of an  
21 Area Variance (5A-08-97) allowing for the continuation  
22 of less parking than that as required by code with a  
23 change in restaurant use as described in 1 above. All  
24 as described on application and plans on file. 1)  
25 Modification of Use Variance - Frozen Yogurt sales -

1  
2 Approved with conditions at the 2/05/14 meeting, Short  
3 Order Eatery - Tabled at the 2/05/14 meeting - Public  
4 hearing remains open, 2) Modification of Area Variance  
5 - Approved with conditions at the 2/05/14 meeting.

6 MS. BOTIER: Good evening. I'm Noy Botier  
7 and this is regarding Sabra Grill.

8 Basically the last time we were in front of  
9 you we heard your concerns and we've made some  
10 modifications as you can see in the packets that were  
11 distributed to you. And we're here basically to answer  
12 any questions on the packets that you do have.

13 We've seen tremendous support from the  
14 community since we were in front of you. We have over  
15 nine hundred signatures on a petition ongoing to have  
16 this establishment formed. We've put a lot of time,  
17 energy and dollars into this project and we are hoping  
18 to seek your approval.

19 We also have our exhaust and hood installer  
20 here to answer any questions that you may have in  
21 regards to the fryers and we also have various members  
22 of the community here to speak as well.

23 MR. CHOLETTE: It wasn't clear to me whether  
24 you wanted to make a full presentation or if you would  
25 like to just allow these people to help answer

1  
2 questions as we pose them to you?

3 MS. BOTIER: I have additional information  
4 based on the zoning. We do have images based on the  
5 building where we will be, in the southeast corner  
6 where there is an existing exhaust present. We can  
7 ultimately move that exhaust from where it is to be  
8 farther away, but we are over fifty feet from any  
9 residential property and that is shown here on this  
10 map.

11 And then we wanted to reiterate the fact that  
12 we would only be frying as needed. It's not like a  
13 fast-food restaurant and there would only be one item  
14 on the menu.

15 DR. LAWRENCE: This kitchen emission control  
16 system would be installed so that in theory odors won't  
17 be an issue?

18 MS. BOTIER: Right. And there will be the  
19 use of high efficiency oils which will also decrease  
20 the amount of smoke and odors in the air. But we have  
21 people that can answer those questions.

22 MR. CHOLETTE: Maybe that would be a good  
23 point to start this. I think that's the biggest issue.

24 MS. BOTIER: Sure.

25 MR. CHOLETTE: And if we could be able to get

1  
2 as much information as possible. Maybe somebody would  
3 be able to speak to other locations that use this kind  
4 of venting system. That would also be helpful to us.

5 MS. SCHWARTZ: Can I just ask one question  
6 that's related to this?

7 MR. CHOLETTE: Sure.

8 MS. SCHWARTZ: Am I hearing correctly that  
9 you're only going to have one fried item on your whole  
10 menu?

11 MS. BOTIER: Yes. And we -- I distributed  
12 the menu in those packets and it shows there's only one  
13 item to be fried.

14 DR. LAWRENCE: This ventilation system would  
15 also help with any odors from grilled foods and --  
16 well, we can ask the questions to the vendors that are  
17 going to speak.

18 MR. DELFONSA: My name is Mike Delfonsa. I'm  
19 a ventilation specialist with Alongi Mechanical. We do  
20 an extensive amount hood work for multiple different  
21 companies.

22 This is a pretty common system that is able  
23 to exhaust basically all the cooking issues or odors  
24 that would come out of the front of the building and  
25 distribute them extremely high. With the way their

1  
2 items are set up on their menu and what they'll be  
3 cooking and when they'll be cooking them, which is to  
4 order - you're talking about one item that is being  
5 fried, it is extremely minimal on the exhaust end  
6 restaurant wise. When I was first introduced to the  
7 project my statement was I can cause more smoke by  
8 having a turkey fryer in my driveway than this system  
9 ever would. So --

10 MR. CHOLETTE: You've had experience with  
11 these Smog-Hogs?

12 MR. DELFONSA: There's multiple different  
13 systems. As far as what -- we've proposed three  
14 different options to them as far as what they could go  
15 with: a standard system, as well as a charcoal  
16 filtration system, and a high velocity system which  
17 will distribute any exhaust extremely high up. Your  
18 residential people that are within the area are not  
19 going to be effected.

20 DR. LAWRENCE: But in particular the one that  
21 they've submitted was the Smog-Hog system with the new  
22 materials.

23 MR. DELFONSA: I'm not a hundred percent sure  
24 which one they've submitted as far as - or which one  
25 was distributed to them.

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MR. CHOLETTE: Well --

MR. DELFONSA: I believe they gave you multiple examples.

MR. CHOLETTE: Well, there's multiple models of Smog-Hog, but it seemed like it was focused on this particular manufacturer.

Is that in fact the case or are you now saying you might go with a different manufacturer?

MS. BOTIER: No, they are Ventilation Direct.

MR. DELFONSA: Right.

MS. BOTIER: They work -- that's the manufacturer. That's who creates them.

MR. DELFONSA: Right.

MS. BOTIER: It's custom made through them.

MR. DELFONSA: Which the system that they've shown you is a generic system of it and there's multiple different levels of advancement that they can go with upon that. As far as its ability to exhaust issues, it's phenomenal. Even from their standard model it's going to be more than sufficient for exhausting a restaurant such as this.

MR. CHOLETTE: I think we're looking for sort of an assurance and I don't know how you can give that to you us other than saying their needs are low and

1  
2 this thing is --

3 MR. DELFONSA: Way overkill.

4 MR. CHOLETTE: -- over cable. But, you know,  
5 both in the literature they say they guarantee it and  
6 your input to us you say you guarantee it. I'm sure  
7 these things are only as good as they are installed  
8 properly and maintained properly and cleaned properly.  
9 We need the assurances that would work. It would be  
10 helpful if you said, you know, that we've installed  
11 this at McDonalds or something and they have no  
12 problems there at all.

13 The input that your giving us to say this  
14 would put this way up in the air and nobody is going to  
15 smell it, I think that's a little different than saying  
16 we can put a gauge at the output of the vent and there  
17 are no odor smells found by some sort of an instrument  
18 that can detect odors.

19 So we're looking for some sound assurance  
20 that this is really going to work.

21 UNKNOWN: Let me interupt you here a little  
22 bit.

23 MR. CHOLETTE: Okay. We need your name  
24 please.

25 MR. ALONGI: My name is Joe Alongi. I'm the

1  
2 owner of Alongi Mechanical.

3 MR. CHOLETTE: Okay.

4 MR. ALONGI: As far as assurance, with the  
5 product that they're cooking - the one little item that  
6 they're cooking - I can pretty much assure you that  
7 nobody is going to smell this thing unless they've got  
8 their nose up to the fan to be honest with you.

9 On a standard system the smell, the odors  
10 actually exhaust seven to ten feet. With a distance of  
11 the homes being -- what is it a hundred and fifty feet  
12 away?

13 MR. DELFONSA: It's a minimum of --

14 MR. ALONGI: I don't think --

15 MR. CHOLETTE: They're not a hundred and  
16 fifty feet away. Okay? There's a home right nextdoor  
17 to this restaurant.

18 MR. ALONGI: Even if it's fifty feet from  
19 within the limits, I don't think you're going to smell  
20 anything. I really don't.

21 He lives across the street from a gas station  
22 which -- don't they have a fryer there?

23 MR. DELFONSA: They have three. They cook  
24 all the time and you couldn't stand at my house and  
25 tell me that they were cooking. They could cook more

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out of fryers and --

MR. CHOLETTE: Unfortunately you're not giving me the information that I'm looking for. On one hand you're saying the amount and the frequency of the items that are going to use the fryer are minimal, which makes it sound like they don't need any special system at all, which may in fact be true, but I don't know that's the case.

DR. LAWRENCE: Is this going to have a rooftop?

MR. DELFONSA: The fan will have -- I have some literature here if you want to take a look?

MR. ALONGI: Do you want to see what --

MR. DOLLINGER: Whose system are we putting in?

MR. ALONGI: You want to see what we're doing?

MR. CHOLETTE: Can we get an answer to that question: Have you determined what system is going to go in?

MR. DOLLINGER: They appear to be all different sizes --

MR. ALONGI: No, an --

MR. DOLLINGER: -- an in-line duct system, an

1  
2 in-hood system.

3 MR. ALONGI: We have a standard ten foot hood  
4 going in, you know, your typical sixteen gauge cold  
5 steel grease shaft, exhaust fan. That's our standard  
6 system. And we have upgraded filters - charcoal. We  
7 have this new kind of filter called a Captrate filter  
8 which eliminates odors, traps ninety percent of any  
9 kind of grease activity. You know, and then of course  
10 we have another system which is a high velocity exhaust  
11 system that shoots air.

12 MR. DOLLINGER: Do you know which one is  
13 going in here?

14 MR. ALONGI: The one that I'm proposing to  
15 this gentleman is this particular one right here. If  
16 you want to --

17 DR. LAWRENCE: Is that the one, the Smog-Hog  
18 Kitchen?

19 MR. DELFONSA: It's a --

20 MR. ALONGI: I actually have the specs in my  
21 office.

22 Am I allowed to come up here?

23 MR. CHOLETTE: You certainly may.

24 MS. BAKER LEIT: Do you have an extra copy  
25 that we can keep as part of the record?

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MR. ALONGI: You guys can have all of these.  
MR. DiSTEFANO: What are you passing out?  
MR. ALONGI: I'm giving you some information on, you know, a brief description of what the actual fan looks like.

MR. DiSTEFANO: The problem that the Board is going to have is that none of us are experts in hood ventilation systems. The information that was given to us as part of this package shows a number of different hoods or models of a system that we thought was what was going to be installed. And you were going to comment on the system that they proposed and the package that was given to us.

MR. ALONGI: Okay.

MR. DiSTEFANO: So now you're -- I don't know if this is what you have here or something totally different than what was given to the Board in this package?

MR. ALONGI: What do you have?

MR. DiSTEFANO: This is the --

MR. ALONGI: I mean I haven't seen it.

MR. DiSTEFANO: I think that's the issue that we're having is that we're given something that said this is the type of system that we want to use, and the

1  
2 night of the meeting you guys get up here and say well  
3 maybe not that system, but here's another system. We  
4 might not deal with this system, we deal with this  
5 system.

6 We've been given a lot of --

7 MR. ALONGI: We will submit --

8 MR. DiSTEFANO: -- conflicting information  
9 here.

10 MR. ALONGI: Let me look at this and let's --  
11 it's a Smog-Hog.

12 MR. CHOLETTE: Here's what I'm going to  
13 suggest, okay? We're going to postpone this session -  
14 this meeting on this agenda item to the end of the  
15 meeting tonight. I want the applicants and your  
16 vendors to meet behind these doors - the vestibule -  
17 and decide what it is that you're really going to  
18 propose to us as to what you're going to install.

19 Now, if you're uncomfortable making that  
20 decision now, then you could ask for a postponement to  
21 a later month. But if you can make a decision as to  
22 what your actual talking about for this venting system  
23 I think it would add a lot of clarity. I don't feel it  
24 should be up to us to have you go back and forth at  
25 this time, not seemingly to know what it is that the

1  
2 system you're putting in is going to be.

3 MS. BOTIER: Can I speak for minute?

4 The issue is that we obtained information on  
5 various different types of systems. If we were to go  
6 with one of the very high pollution control units -  
7 which isn't necessary from what we're told by these  
8 vendors - we could do that, but it's not -- first of  
9 all, it's a lot of money out of our pockets for this  
10 project and the other is it's not needed and they're  
11 telling us it's not needed.

12 MR. CHOLETTE: It's not necessary for you to  
13 go with the most expensive system. What is necessary  
14 is for you to come and tell us what it is you're going  
15 to go with.

16 MS. BOTIER: But the --

17 MR. CHOLETTE: Now, if you're telling me that  
18 the only thing that you're going to put in is just a  
19 hood arrangement and a venting system and then that's  
20 going to take care of it --

21 MS. BOTIER: No, we're --

22 MR. CHOLETTE: -- then we need to know that's  
23 what you're coming with.

24 MS. BOTIER: We're putting in filters that  
25 are high efficiency, using high efficiency oil, having

1  
2 it cleaned every week. There are steps that we're  
3 going to put in place to make sure that this happens.  
4 We have restaurant experience.

5 We know -- we've looked at options for  
6 preparing this item other ways, but it's kind of like  
7 saying why don't you make a pizza in the microwave.  
8 You just can't do it, it's not going to taste the same.

9 MR. CHOLETTE: We understand that, but the  
10 issue isn't whether or not you need to fry this. The  
11 issue is are there going to be odors that are going to  
12 be omitted if you fry this. And you can certainly come  
13 here and say there won't be any odors.

14 MS. BOTIER: But you also have the power to  
15 forbid the use of that if there are issues.

16 MR. CHOLETTE: The problem is that you gave  
17 us a sheet here in your application - your resubmission  
18 has said this is what we're going to go with - and now  
19 you're coming in here tonight saying no, this isn't  
20 what we're going to go with --

21 MS. BOTIER: These are --

22 MR. CHOLETTE: -- because that's overkill.

23 We don't want options. We want to know what  
24 system it is that you're going to go with.

25 MR. ALONGI: I'll be honest with you, as an

1  
2 expert, they do not need this system. This Smog-Hog is  
3 definitely overkill, no question. Even McDonalds  
4 doesn't use stuff like this.

5 MR. DOLLINGER: I think you need to get a  
6 coherent presentation as to what you're going to do,  
7 what the --

8 MR. ALONGI: Yeah. I have one -- if you want  
9 to know --

10 MR. DOLLINGER: If you spend a little time  
11 doing that it's probably --

12 MR. CHOLETTE: Now, I'm going to go back to  
13 what I suggested and I'm not going to suggest it, I'm  
14 going to say that's what you're going to do. Either  
15 you're going to wait until the tail end of this meeting  
16 tonight and we'll go through the other four  
17 applications and then you can come back with a coherent  
18 story, or you can postpone this again, or you can just  
19 let us have no information at all and we'll just vote  
20 on it.

21 MR. ALONGI: Well, let me just say --

22 MR. CHOLETTE: I'm really upset over this  
23 procedure. Okay?

24 MR. ALONGI: Do you want to know  
25 specifications, model numbers?

1  
2 MR. CHOLETTE: I want to know what the system  
3 is that you're going to put in. Describe that. Don't  
4 say, well, it could be a charcoal. I want to have  
5 examples of where this is used.

6 MR. ALONGI: Here's what I'm going to do,  
7 here's what I propose --

8 MR. CHOLETTE: I don't think you heard me.  
9 Okay?

10 I want you and the applicants to assemble,  
11 get your story together and come back and present it to  
12 us.

13 MR. ALONGI: Okay.

14 MS. BOTIER: Thank you. We'll present at the  
15 end.

16 MR. ALONGI: We'll do that.

17 (Application held for the last of the public hearings.)  
18 3A-01-14 Application of John Samperi, contract vendee,  
19 and Rene and Carol Gignac, owners of property located  
20 at 2341 Monroe Avenue, for relief of conditions placed  
21 on the approval of a parking variance (6A-05-09) to  
22 allow for a change of use from a pharmacy to a flooring  
23 showroom. All as described on application and plans on  
24 file.

25 MS. LALIK: Hi.

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MR. CHOLETTE: Good evening.

MS. LALIK: My name is Ann Lalik and I'm the employee and this is John Samperi, the owner.

MR. SAMPERI: How are you?

MR. CHOLETTE: Hi there.

MS. LALIK: Tell us -- we've never done this before.

DR. LAWRENCE: Why don't you tell us a little bit about your business and how you plan to utilize the space.

MS. LALIK: We have a flooring business right now down on Railroad Street by the Public Market and we - John is intending to buy this building and we would like to move the business there.

The business is a high-end business without much traffic. We cater designers' clients and builders' clients. They generally come in with an appointment and rarely do we have much walk-in traffic whatsoever. We're not that type of store. And we sell hardwood flooring, carpeting and tile. And what we generally do is make an appointment, you come in and you sit with me and we choose everything that you're going to put in your home. John is the installer. He has a group of people that work for him that do that.

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2 They will never be on site because there is no need for  
3 them to be on site. And none of the materials will be  
4 delivered there, they'll all be done off-site. So it's  
5 just going to be a flooring showroom.

6 MR. SAMPERI: We have an off-site warehouse.

7 DR. LAWRENCE: And there's - I think I read  
8 there will only be two employees?

9 MS. LALIK: There's me, I'm the only one in  
10 the store and then John takes care of the installation  
11 and then basically that's basically it.

12 We're going to be open 10:00 to 5:00 Monday  
13 through Friday and 9:00 to 2:00 on Saturdays and never  
14 on Sundays.

15 DR. LAWRENCE: And as you said all the  
16 storage is --

17 MS. LALIK: Yes, it's off site. Everything  
18 would be shipped right to the off-site location because  
19 there would be a big tractor-trailer bringing stuff, so  
20 obviously not on Monroe Avenue.

21 DR. LAWRENCE: The actual showroom size is  
22 about, out of the sixteen hundred about, twelve hundred  
23 square feet, you said?

24 MR. SAMPERI: Yeah, I mean, there's the two  
25 bathrooms and then an office in the back. I don't

1  
2 intend on changing any of the layout. I just want open  
3 space for the displays.

4 MS. SCHWARTZ: So you're not going to operate  
5 a traditional flooring store where you have, you know,  
6 sales every four months with a sign saying, you know,  
7 fifty percent off or anything?

8 MR. SAMPERI: No. That's not the market that  
9 we go after.

10 MS. LALIK: We don't put prices on things  
11 either.

12 MR. SAMPERI: Yeah, that's what they do with  
13 the box stores. I'm a more higher-end clientele.

14 MS. LALIK: You would come in if you wanted  
15 something that was a little more unusual than what you  
16 would find at Lowes, Home Depot and Bill's Carpet  
17 Center and things like that. John picks out some very  
18 unusual woods and then I choose the carpets and the  
19 tiles. So you're not going to see everything in the  
20 world. You're going to see chosen things that we like  
21 and that we can offer installation.

22 MR. CHOLETTE: Now, is all the work that you  
23 do with your customers by appointment or are there  
24 walk-ins?

25 MR. SAMPERI: There can be walk-ins. We

1  
2 mainly do -- our customer base mainly sets up  
3 appointments before they come.

4 MS. LALIK: Because a lot of them want time  
5 with you. They don't want to be standing there saying  
6 can you help me. They want -- they're spending money  
7 and they want to sit, they want undivided attention and  
8 if takes two to three hours, that's what they want of  
9 your time. So ninety-nine percent of the time it's by  
10 appointment.

11 MR. CHOLETTE: In your wildest expectations  
12 how many cars can you envision ever being at your  
13 location at one time?

14 MR. SAMPERI: If there were two or three --

15 MS. LALIK: That would be a lot.

16 MR. SAMPERI: -- I would be shocked. It's  
17 just not that type of business to be honest with you.

18 MS. LALIK: Because we're not open on nights  
19 and weekends. We don't cater to that client, so we  
20 wouldn't -- they wouldn't be interested.

21 MR. SAMPERI: Besides from that, where we are  
22 now we don't have more than one or two cars at a time.

23 MR. CHOLETTE: So you would certainly have  
24 adequate parking space?

25 MR. SAMPERI: Yeah, I feel so, absolutely.

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2 MR. DiSTEFANO: Are you purchasing the  
3 building?

4 MR. SAMPERI: Correct.

5 MR. DiSTEFANO: Are you aware of one of the  
6 other conditions that were placed on the other property  
7 owner regarding the apartments and that they are only  
8 allowed to have one --

9 MR. SAMPERI: One space.

10 MR. DiSTEFANO: -- parking space?

11 MR. SAMPERI: Uhm-hum.

12 MR. DiSTEFANO: And that works under your --

13 MR. SAMPERI: Absolutely.

14 MR. DiSTEFANO: Okay.

15 DR. LAWRENCE: There's three apartments?

16 MR. DiSTEFANO: There's three apartments  
17 there, correct?

18 MR. SAMPERI: That's correct.

19 MR. CHOLETTE: So we have three spaces?

20 MR. DiSTEFANO: We have three spaces that  
21 were associated with the three apartments and we had a  
22 condition on there that it had to be in the lease that  
23 they could only have one parking space?

24 MR. SAMPERI: Yeah, which it's going to stay  
25 that way.

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MR. DiSTEFANO: Okay.

MR. CHOLETTE: And how many other spaces are there?

MR. SAMPERI: I believe there's four others.

MR. DiSTEFANO: I think there's seven total on site.

MR. CHOLETTE: Okay. Are there any other questions?

MR. DiSTEFANO: Just for clarification, do you retail floor cleaning products out of there, so if I bought something from you and had it installed I could come back to this site and say I need some of this cleaner that you --

MR. SAMPERI: Honestly, I send them to Lowes because there's no markup on it.

MR. DiSTEFANO: Okay. That's fine. Thank you.

MR. CHOLETTE: Okay. Nothing else?

Fine. Thank you very much.

MS. LALIK: Thank you.

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.

1  
2 3A-02-14 Application of Cornella Wilson, contract  
3 vendee, and Edward Zonneyville, owner of property  
4 located at 3137 Elmwood Avenue, to allow for a change  
5 from one nonconforming use (custom wood furniture and  
6 cabinet maker) to another nonconforming use (custom  
7 woodworker) pursuant to Section 225-13C. All as  
8 described on application and plans on file.

9 MR. HULL: Good evening, Mr. Chairman,  
10 Members of the Board. My name is Ron Hull. I'm with  
11 the law firm of Underberg and Kessler and I represent  
12 Cornella Wilson who is the contract vendee.

13 What we are asking for from the Board is a  
14 determination that the proposed use of the property is  
15 a continuation of the existing nonconforming use.  
16 These are not identical, but closely matched business  
17 uses of this particular property, which since the Board  
18 is familiar with it you will know that it really as its  
19 been constructed it's been in a nonconforming state  
20 since its inception of the code. This building I  
21 believe was built in the 1930's. It has been used for  
22 this light industrial commercial type use ever since.

23 The current usage is for a woodworking  
24 cabinet maker. The proposed use is for woodworking and  
25 cutting of specialty parts on a CNC machine, which is

1  
2 basically a power tool similar to the power tools that  
3 are used in the carpentry trade. It's in the same vein  
4 as the current use. It will not be a retail operation,  
5 so there will not be customers coming and going.

6 We don't really foresee any real change in  
7 the intensity of the use or the people coming to the  
8 site. It would be from outward appearances probably no  
9 different. I don't think it would be perceptible from  
10 anyone in the neighborhood or from others passing by  
11 that it had any change at all.

12 And the change that we are proposing here is  
13 actually less than the change that was approved to put  
14 the woodworking shop in there in the first place in  
15 1978. The previous use had been a distribution center  
16 for a ceiling tile distributor. It was approved at  
17 that time to continue the nonconforming use for the  
18 woodworking business. The application that we're  
19 making is to continue with a different kind of  
20 woodworking business, essentially with the same  
21 intensity and with the same impacts.

22 MR. CHOLETTE: There's a slight difference in  
23 the way that you phrase what your application is all  
24 about than what is written up in the applications that  
25 were given to us. You're sounding like you're saying

1  
2 that you feel this is the same nonconforming use and  
3 the application that was submitted to the Board  
4 indicated that it was a change from one nonconforming  
5 use to another nonconforming use.

6 MR. HULL: I think the application indicated  
7 we were looking for a continuation of the determination  
8 that it's a nonconforming use.

9 MR. CHOLETTE: I understand that.

10 MR. HULL: And my intention was to proceed  
11 225-13A because C had a condition in it that I'm not  
12 sure that we can meet. Because I'm not sure since  
13 there is no real change in the businesses I don't know  
14 if we can demonstrate to the Board that it brings the  
15 property into more compliance.

16 MR. CHOLETTE: So you are content with having  
17 the Board rule either this is the same continuing use  
18 or if we rule that we don't believe that is the case  
19 then that's just the way we rule?

20 You're not asking us to try to determine  
21 whether or not we should approve this --

22 MR. HULL: Well, certainly as an alternative  
23 I would go to C. We believe it's the same - basically  
24 the same use. If it's going to be C then we would ask  
25 the Board to let us know in what measure -- I think it

1  
2 may -- how you would measure additional compliance with  
3 the code based on the two proposed uses.

4 MR. CHOLETTE: Okay. Let's try to get to the  
5 heart of this as to whether or not this is really the  
6 same use or not.

7 MR. HULL: Fair enough.

8 MR. CHOLETTE: Can you describe or is the  
9 present owner/operator of this facility here in the  
10 room who could describe what it is that has been  
11 carried out for the last twenty-five years or however  
12 long it is?

13 MR. HULL: The present owner is not here, I  
14 believe. No, he's not. It's been --

15 MR. CHOLETTE: He is one of the applicants  
16 though?

17 MR. HULL: He's an applicant because he's the  
18 current owner.

19 MR. CHOLETTE: Right.

20 MR. HULL: He has to be an applicant along  
21 with the perspective purchaser.

22 MR. CHOLETTE: He's trying to sell the  
23 property?

24 MR. HULL: That's correct.

25 MR. CHOLETTE: But he chose not to come here?

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MR. HULL: I guess.

MR. CHOLETTE: I guess it will fall to you then to try - I think what we need is a description of what that work was versus the description of what the work would be.

MR. HULL: Well, I can certainly - we can describe what the new work will be.

Do you also want to take a shot at describing what the old work that's going on there?

MR. WILSON: Carlton Wilson the owner of MDB Technologies. I'm proposing to buy the building.

What we are is primarily a contract manufacturer. We cut up plywood for -- right now, like this week we're cutting up plywood for a company that makes fitness equipment. So we bring in sheets of plywood and cut into their parts. We do not assemble it. We then package it and send it to them and they distribute it from their own warehouse outside of Brighton. Next week we could be cutting out soft hardwoods.

I was telling Mr. Hull we have customers that we carve fish for. They make - they're primarily lawn ornaments. And we carve -- they send us their wood. It comes in UPS. We put it on the machine and we turn

1  
2 it in - it looks like a fish. Then back in the box.  
3 We put it back in the box and send it off to them. And  
4 I guess they paint it, some of them may get clear  
5 coated. I don't know exactly what the end use is on  
6 them.

7 So that's what we do. It's a fairly broad  
8 spectrum. Mixed in with that we occasionally get  
9 builders coming in that ask for specific, we'll call it  
10 an art piece. They may have a specific - a lot of  
11 times live-slab countertop that we'll cut the sink hole  
12 in. Things of that nature. A little bit of furniture  
13 work, some people may need a replacement leg or  
14 replacement staircase part. But that's really a very  
15 insignificant amount of what we actually do. We are  
16 primarily a contract manufacturer.

17 My understanding of the previous use he was  
18 actually very dedicated to actual cabinetry. He  
19 expressed to me that he did a lot of work in Kodak  
20 Tower renovating corporate offices and things of that  
21 nature. Which was much more start to finish including,  
22 you know, hardware, some installation, assembly, a  
23 little bit of finishing, which is not what our focus is  
24 by any means. We use similar tools. Compared to what  
25 he's doing now we just do more. And we do more because

1  
2 we have much more hi-tech equipment compared to what  
3 he's working with from the '70s.

4 MR. CHOLETTE: When you say that you do more,  
5 do you mean more quantity wise --

6 MR. WILSON: Yes.

7 MR. CHOLETTE: -- or more sophistication?

8 MR. WILSON: Actually both. I was thinking  
9 primarily quantity. We do on average we cut about  
10 thirty sheets of plywood a week. That could grow up to  
11 a hundred and fifty, I could see. But that again has  
12 no real impact to the outside of the building. It's  
13 just a matter of what we unload from the truck.

14 Everything else is self-contained within the building.

15 MR. CHOLETTE: How many truck deliveries do  
16 you have coming in there?

17 MR. WILSON: Once a week. If we have a rush  
18 order our primary distributor comes twice a week. But  
19 we usually only order and have them come on Fridays.

20 MR. CHOLETTE: You're operating in Victor now  
21 or somewhere else?

22 MR. WILSON: We were in Victor, yeah.

23 MR. CHOLETTE: And you're now - this is a  
24 secondary location or you're going --

25 MR. WILSON: This will be a primary.

1  
2 MR. CHOLETTE: So is there an office set up  
3 here in any way?

4 MR. WILSON: There is an office on -- if you  
5 look at the plans there's a second floor that is set up  
6 for office space. Because of the way -- we've taken  
7 over part of that for offices. But it's really - I  
8 have three employees, it's me, one other and my father.  
9 I run all the books, so I'm really the only one that  
10 has an office per se.

11 We have an enclosed area for my main employee  
12 because he does all the computer programming for the  
13 CNC to do the cutting. But he has to be near the  
14 machine, so we would probably end up creating a small  
15 enclosure just to get the dust out of his computer.

16 MR. CHOLETTE: So you'll have three full-time  
17 employees?

18 MR. WILSON: Yes, currently. That could  
19 potentially - I don't want to say that's where we'll be  
20 five years from now. I'd like to think we can grow. I  
21 have no interest at this point to see growth beyond  
22 about five employees additional to myself.

23 MS. SCHWARTZ: It seems as though you're  
24 going to have a lot of in and out of traffic with  
25 clients coming or customers coming to pick up --

1  
2 MR. WILSON: We have no customers because we  
3 deliver.

4 MS. SCHWARTZ: You deliver?

5 MR. WILSON: Yup.

6 MS. SCHWARTZ: Well then you'll have lots of  
7 deliveries if you can, you know, cut this one for this  
8 one and the next for the next one and so on.

9 So will it be generating more truck traffic  
10 than currently?

11 MR. WILSON: I don't - I can't speak as to  
12 what the truck traffic is there now. Typically our  
13 primary customer we deliver - if they place an order,  
14 they will place the order, the truck will come in on  
15 Friday the following week, at some point we would  
16 deliver to them from what came in on Friday.  
17 Everything else is primarily UPS, FedEx, things like  
18 that.

19 MR. CHOLETTE: I looked at your website and  
20 it a very nice website.

21 MR. WILSON: Thank you.

22 MR. CHOLETTE: And it looked like you were -  
23 a lot of your customers or who you want them to be are,  
24 you're serving as I guess I would almost call it a  
25 model shop. You're making the models out of wood and

1  
2 you're trying to sell them that way of fabricating to  
3 somebody else who will then scale it up or do that.

4 Is that correct?

5 MR. WILSON: Yeah. We're doing a little bit  
6 less of that. That sort of portion of the business  
7 took a pretty severe downturn in '09. So we've gone  
8 back to more actual manufacturing. That's not where I  
9 would like to be ultimately. We are - I would actually  
10 like to be in more prototype and process design end of  
11 things.

12 MR. CHOLETTE: You would like to be more of  
13 what your website says, but you're forced to be more of  
14 a --

15 MR. WILSON: Yeah.

16 MR. CHOLETTE: Now, when you talk about  
17 cutting up the sheets, you're talking strictly wood  
18 products? Are you dealing with plastics at all?

19 MR. WILSON: Very few plastics. For one of  
20 our customers we cut up a recycled u.h.m.w.(phonetic)  
21 for a bumper that they use on one of their products.  
22 They make basically weight lifting equipment and they  
23 have hooks that we make a little bumper that drops in  
24 there so that when the bar sits on the hooks it doesn't  
25 bar the bar.

1  
2 But we'll do a little bit of acrylic. We did  
3 - one of our primary customers we did some office work  
4 for them because they couldn't find anybody locally.  
5 They're in Connecticut. And we built an acrylic  
6 partition, accordion across so that they could move it.  
7 So at one point we cut up five sheets of half inch  
8 acrylic. But, again, it's all just self-contained  
9 within our dust collection system and goes out to the  
10 garbage.

11 MR. CHOLETTE: Are you in a situation ever  
12 where you're making hundreds of similar items and  
13 you're running out hundreds or thousands of --

14 MR. WILSON: Thousands is really not -- if  
15 someone is asking for a thousand of something we would  
16 direct them to someone else. We provide the software,  
17 the plans, the model, and that's really beyond the  
18 scope of what we are good at. Our niche is really that  
19 ten to five hundred range. Five hundred is - I don't  
20 know if we ever hit five hundred. I think the most  
21 that we ever made is something that's in the - we made  
22 three hundred and fifty of a widget once. But, again,  
23 those were small. They went out UPS.

24 MR. CHOLETTE: Do you finish the items, is  
25 there varnish or shellac?

1  
2 MR. WILSON: We occasionally will hit it with  
3 primer for protection, but it's rare. We have used a  
4 lacquer before, but it's really not a focus or an  
5 interest that we want to pursue.

6 MR. CHOLETTE: I think your website maybe  
7 talked about modifying customer's equipment or  
8 something to show them the way to do modifications?

9 MR. WILSON: Without looking at exactly what  
10 you're looking at I think that one of the services that  
11 we provide is modifying existing g-code, which is the  
12 entry code that makes the machine move. We do a lot of  
13 optimization to increase the speed for other companies,  
14 so that people don't spend all day. You know, for a  
15 company that's making ten thousand of something in one  
16 day they may have a program written by somebody. They  
17 could send us that program or we could rewrite it to  
18 make it faster and more efficient. We have a fairly  
19 updated software compared to a lot of people in that  
20 position.

21 MR. CHOLETTE: How much of your work is in  
22 fact doing the software design versus actually doing  
23 the cutting?

24 MR. WILSON: Right now it's minimal, one  
25 percent.

1  
2 MR. CHOLETTE: And how much of your cutting  
3 is actually computer controlled?

4 MR. WILSON: The actual cutting 99.8. We  
5 will actually get out -- well, I shouldn't say that.  
6 Maybe ninety-eight percent. One of the things, we  
7 sometimes have to cut - we make handles for something.  
8 We get dowels that come in a forty-eight inch length  
9 and we have to cut them to nine inch lengths. So we'll  
10 put them on a chop-saw to cut them to that nine inch  
11 length before they go on the CNC.

12 MR. CHOLETTE: But most of the work is in  
13 fact computer aided, so it's a regular cam kind of  
14 operation?

15 MR. WILSON: You know, we have a table saw,  
16 we have a jointer, a bandsaw, just because occasionally  
17 we need to make sudden - we need to pre-prepare the piece  
18 that's going on the CNC. The focus of using a table  
19 saw is just not there. We have it simply as a  
20 secondary or breakdown operation.

21 MR. CHOLETTE: Could you give us an idea of  
22 what the dollar volume of the business was this past  
23 year?

24 MR. WILSON: I can. I want to say we did  
25 eighty-two thousand this past year. Previous to that

1  
2 our highest year was one seventy-eight, a hundred and  
3 seventy-eight thousand.

4 DR. LAWRENCE: Now as far as your  
5 understanding of the previous building - the previous  
6 use of the building and yours, will there be any change  
7 in noise externally?

8 MR. WILSON: I don't anticipate it. We have  
9 some additional equipment, in particular we have a  
10 vacuum pump that actually holds the material on the  
11 machine as it's being cut. That's fairly noisy, but  
12 it's not any noisier than a planer.

13 You know, he had - the existing owner has a  
14 very old planer in there now. If you've ever been  
15 around them they're not the quietest machine on the  
16 planet. Our vacuum pump - which is our noisiest piece  
17 of equipment - is significantly quieter than that.

18 I can't say that walking past the building  
19 you might not here a little hum emanating from it, but  
20 it's not something where you're going to have to cover  
21 your ears by any means.

22 DR. LAWRENCE: What are your hours of  
23 operation?

24 MR. WILSON: We're happy say within 8:00 to  
25 5:00, Monday through Friday, you know, with an

1  
2 occasional - if we have a rush order we might need to  
3 go in on a Saturday for a few hours. You know, I would  
4 like to have that option. But if it was an issue we  
5 would work around it. But I have two small children, I  
6 don't have time to work on Saturdays.

7 MS. SCHWARTZ: So we heard that noise when  
8 walking by.

9 So then windows are never open? Is it  
10 air-conditioned or what do you do?

11 MR. WILSON: The only windows I believe that  
12 open are on the second floor office area. I don't  
13 believe any of the windows actually open in the  
14 manufacturing area.

15 MS. SCHWARTZ: And I think that I read that  
16 you were going to add some landscaping.

17 Can you tell us --

18 MR. WILSON: (Indicating no.)

19 MS. SCHWARTZ: No?

20 MR. WILSON: Not to the best of my knowledge.

21 MR. CHOLETTE: That was the previous owner  
22 that was going to do that.

23 MS. SCHWARTZ: Oh, he said that?

24 Okay. I got mixed up. Sorry.

25 MR. MIETZ: As far as the exterior of the

1  
2 building, not aesthetically but operationally, there's  
3 not going to be anything stored outside in any fashion?

4 MR. WILSON: No.

5 MR. MIETZ: Everything that gets delivered  
6 gets dropped off, it comes in and then leaves, right?

7 MR. WILSON: The driveway is gravel.

8 MR. MIETZ: Right.

9 MR. WILSON: Our forklift isn't going to  
10 drive on gravel. So any delivery that we take - you  
11 know, when we bring in twenty sheets of plywood we  
12 don't do that by hand because we're lazy. So the truck  
13 backs up, we drive - the forklift has to stay on a  
14 concrete floor, we unload it and put it into the loft  
15 or corner.

16 MR. MIETZ: So just let me ask the question:  
17 You would have no problem with the restriction on  
18 nothing being stored outside or any other accessory  
19 structures to store things or whatever kind of thing?

20 MR. WILSON: No, I would have no problem.  
21 No, not at all. That's not an issue for me.

22 With the exception of we do have a  
23 fourteen-foot box truck that would remain parked there,  
24 but it's just a vehicle. I don't have any auxiliary  
25 equipment that needs to go outside.

1  
2 MS. SCHWARTZ: It's not like what's there  
3 now. There's a lot stored out there.

4 MR. MIETZ: Yeah, there's some stuff out  
5 there.

6 MR. WILSON: There's a couple of trailers  
7 that he's renting out.

8 MR. MIETZ: We have to try to talk about  
9 what's going to happen going forward, how you're going  
10 to operate your businesses and how we feel, you know,  
11 it should fit into the neighborhood.

12 MR. WILSON: Okay.

13 DR. LAWRENCE: And the waste that's  
14 generated, how's that dumped?

15 MR. WILSON: I don't know exactly know how -  
16 I should say what company. I've actually recently  
17 became aware of a company that deals primarily with  
18 what they call green ways, wood and things like that.  
19 Assuming that this goes forward I would be working with  
20 them to set up some sort of -- we don't generate that  
21 much - a five-yard - I forgot what they're called.  
22 Like an apartment style lift and dump dumpster would be  
23 more than sufficient for our waste generation.

24 MS. SCHWARTZ: So once a week then?

25 MR. WILSON: What's that?

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MS. SCHWARTZ: So like once a week?

MR. WILSON: I would expect. I mean, that's based on what we're doing now. Once a week - once every two weeks would probably be sufficient.

MS. SCHWARTZ: Okay.

MR. WILSON: We just -- the waste, we try to turn as much of it in - if it's not product we try to make sawdust out it, because it's much easier to pack sawdust into things than little stupid pieces of wood.

MR. CHOLETTE: You alluded to wanting to put up a sign to indicate the entrance?

MR. WILSON: Potentially. You know, it's not a major consideration for me.

MR. CHOLETTE: You don't really need a business identification sign?

MR. WILSON: No. As the current owner does, he's got it on the side of his mailbox. He has a large mailbox. We can get away with that if necessary.

I would like to be able to put up a sign just so people can see it as they drive by, but it's not a major - if that wasn't possible it's not a deal breaker by any means.

MR. CHOLETTE: And all the entrances coming in off Elmwood?

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2 MR. WILSON: Uhm-hum. I understand that  
3 there's a right-of-way to Valley Road that a driveway  
4 could be potentially put in there. That's what was  
5 expressed to me. We would never.

6 MR. CHOLETTE: When your customers interact  
7 with you do they come in and sit down with you and talk  
8 about their project?

9 MR. WILSON: Not very often. A lot of our  
10 customers are out of state. My day is spent with  
11 email. We do a little bit --

12 MR. CHOLETTE: So they just send their ideas  
13 to you and you --

14 MR. WILSON: Yup.

15 MR. CHOLETTE: -- put them to wood?

16 MR. WILSON: Or I go to them. I try truly  
17 hard to keep the foot traffic to a minimum because as  
18 soon as someone comes in all work stops because people  
19 like to talk.

20 MR. CHOLETTE: Okay. Any more questions for  
21 this gentleman?

22 MR. DOLLINGER: I have a question.

23 How does the machine distribute any of the  
24 sawdust or anything outside? Is the venting all  
25 internal and filtered kind of thing?

1  
2 MR. WILSON: Yes. We have what's called a  
3 dust collector. It's basically an industrial vacuum  
4 cleaner that would sit over in the corner. It runs  
5 through typical HVAC piping, but a heavier gauge, that  
6 drops down through a big flexible tube to the actual  
7 router - that does the actual cutting on the machine.  
8 So at the point of contact when the machine is cutting  
9 we have a vacuum that collects all dust and small  
10 debris and sucks it back to the machine to the dust  
11 collector and it gets emptied to whatever we choose,  
12 green waist or --

13 MR. DOLLINGER: So in theory your upstairs  
14 office doesn't have dust - sawdust?

15 MR. WILSON: I mean, there is some.

16 MR. DOLLINGER: Not exactly, but in theory  
17 you don't walk in and have a layer of sawdust in there?

18 MR. WILSON: No.

19 MR. DOLLINGER: Okay.

20 MR. WILSON: We also have brooms.

21 MR. CHOLETTE: Can we talk a little bit about  
22 your knowledge of the present occupant?

23 MR. WILSON: I --

24 MR. CHOLETTE: Is he still operating there?

25 MR. WILSON: Right now he's in the process of

1  
2 cleaning up because we're all assuming that this is  
3 moving forward. When we first toured the place he was  
4 working on a dining room table. He was working on some  
5 repairs for that. He's older and I think he's winding  
6 down, but he's definitely still using the property and  
7 using it as he has. It's more of a personal shop. I  
8 don't get the impression that he's done any cabinetry  
9 for Kodak Tower in a couple years. So --

10 MR. CHOLETTE: Given where Kodak Tower is  
11 it's not too surprising.

12 Do you have anything else to say about the  
13 present occupant?

14 My sense in just trying to go read between  
15 the lines is I thought of him as sort of a custom  
16 cabinet maker. You know, I mean you go to him and  
17 maybe Kodak got involved with him so -- I know these  
18 bookshelves and all of these things before, they were  
19 always building and spending fortunes on.

20 MR. WILSON: I think that's an accurate  
21 assessment. I think he did a lot - seeing what he has,  
22 he has twenty-five years of collecting jigs and  
23 leftover materials from specific jobs. He was doing  
24 some very high-end work and there's no question about  
25 it. And with that I don't think he was ever stamping

1  
2 out melamine cabinets that are being sold at Home  
3 Depot. He was doing very high-end work.

4 MR. CHOLETTE: Okay.

5 MR. MIETZ: One last thing.

6 MR. WILSON: Okay.

7 MR. MIETZ: Can we just talk about the hours  
8 issue a little bit?

9 MR. WILSON: Sure.

10 MR. MIETZ: You know, you stated about  
11 Mondays through Fridays, which is good, and then you  
12 said about Saturdays.

13 Would there be a big concern on your part if  
14 we restricted it to Monday through Friday?

15 MR. WILSON: Only in that we do occasionally  
16 get an order in where sometimes things don't go  
17 according to plan and customers are not necessarily  
18 interested in hearing about that the drive belt broke  
19 or that the motor fried. And not having the option  
20 when something like that happens to go in on a Saturday  
21 for a few hours to try and meet a deadline could be a  
22 problem. But it's not something that I'm going to be  
23 combative about. You know, that's - that would be at  
24 most a once a month kind of thing. Again, I don't have  
25 any interest in working on Saturdays and Sundays.

1  
2 MS. SCHWARTZ: Did you have this happen,  
3 let's just say, this past year where you did have to go  
4 in on Saturdays and if so about how many do you think  
5 in the past year?

6 MR. WILSON: Probably in the ten to twelve  
7 times range. Without really, you know, shooting off  
8 the cuff ten to twelve times.

9 Because things break and that's our primary  
10 issue. Our primary machine is great and does a great  
11 job, but it also gets used and things break and tools  
12 break. That's another - a lot of the tools we use are  
13 custom to do very specific things and if we set  
14 something when we're programming it and it goes ramming  
15 into it too fast and they break we get into a bind  
16 there as well. We try really hard to keep our  
17 deadlines because it's a lean world and everybody -  
18 it's just-in-time delivery. So, you know, having the  
19 ability to go in if needed would be very beneficial.

20 MR. HULL: I think that the preference would  
21 be to have it available Monday through Saturday. But  
22 if the Board were to impose a condition at least we  
23 would ask that it be one that allows it to be used at  
24 least a certain number of times, once a month or a  
25 certain number of times a year on Saturdays, so we

1  
2 could at least have the flexibility to meet deadlines.  
3 I think that is what he's looking for here.

4 MS. CORRADO: How early would you anticipate  
5 being in on Saturday on the occasional emergency to  
6 meet a deadline?

7 MR. WILSON: It wouldn't be any earlier than  
8 8:00, and on a Saturday 9:00 or 10:00 is probably a  
9 little more realistic. And I don't think I could get  
10 them to stay much past 2:00 or 3:00. So --

11 DR. LAWRENCE: An evening restriction isn't  
12 problematic?

13 MR. WILSON: No.

14 MR. CHOLETTE: Anything else?

15 Fine. Thank you very much.

16 MR. WILSON: Thank you.

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

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

22 3A-03-14 Application of Nick Cannizzo - Skylight Signs,  
23 agent, and REIT Management, owner of property located  
24 at 140 Canal View Blvd., for a Sign Variance from  
25 Section 207-26D to allow a logo to be 31% of the area

1  
2 of a business identification sign in lieu of the  
3 maximum 25% allowed by code. All as described on  
4 application and plans on file.

5 MR. CANNIZZO: All right. How we doing?

6 My name is Nick Cannizzo. I work for  
7 Skylight Signs. I'm going to be the agent for this  
8 tonight.

9 What we're proposing is they have two  
10 existing signs, one is facing south of Brighton  
11 Henrietta Town Line Road, that sign is lit, and there's  
12 another sign facing the parking lot north, which is not  
13 lit. So what we're proposing is to remove both of  
14 those signs and only replace the one that is facing the  
15 parking lot, which is the north side. Square footage  
16 is actually going down from sixty-five to sixty-three.  
17 And again, this one is not lit.

18 There was two variances for the last two  
19 signs. The first being that there were two signs. And  
20 I believe the second one was for the same thing that  
21 we're going for tonight, which is to allow the logo  
22 part of the sign to be more than twenty-five percent.  
23 If I remember correctly there's pictures of what's  
24 there and what's proposed.

25 So any questions, fire away.

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MS. SCHWARTZ: Will you be repairing Town Line Road?

MR. CANNIZZO: Yes. Once the sign is removed there's going to be a supple person that comes by and fixes all of the holes.

MS. SCHWARTZ: And it won't look patchy, it will look --

MR. CANNIZZO: It will look - it will blend right in.

MS. SCHWARTZ: All right. Are these pre-fabricated signs, are they already made?

MR. CANNIZZO: These are laser cut acrylic. So it will go on the machine and it will be cut out to a custom shape.

MS. SCHWARTZ: My question then is then can it be proportionately reduced to fit according to the code?

MR. CANNIZZO: The logo part?

MS. SCHWARTZ: Can you make it smaller? I mean --

MR. DiSTEFANO: Well, that's what the variance is for.

MS. SCHWARTZ: I know, but I'm asking if it can be limited and that way they wouldn't need the

1  
2 variance. Right?

3 MR. CHOLETTE: Obviously they could do that.  
4 I mean --

5 MS. SCHWARTZ: Well, sometimes the proposal  
6 they can't and I just want to know if they can.

7 MR. MIETZ: Going to scale? Is that --

8 MR. DiSTEFANO: Yes, it would be possible,  
9 but it's the size that it is because it's their  
10 corporate registered trademark. Much in the same way  
11 that the m in McDonalds is proportionate to the word  
12 McDonalds.

13 Yes, if need be it is feasible.

14 MR. CHOLETTE: Any other questions?

15 Fine. thank you very much for coming in.

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.

20 3A-04-14 Application of Paul Minor, architect, and  
21 Selvakumar and Miraba Chockalingham, owners of property  
22 located at 50 Indian Spring Lane, for Area Variances  
23 from Section 205-2 to 1) allow a vestibule to extend 6  
24 ft. into the existing 52.75 ft. front setback where a  
25 60 ft. front setback is required by code, and 2) allow

1  
2 livable floor area, after construction of additions, to  
3 be 4,472 sf in lieu of the maximum 3,698 sf allowed by  
4 code. All as described on application and plans on  
5 file.

6 MR. MINOR: Good evening. My name is Paul  
7 Minor. I'm here representing Kumar and Miraba  
8 Chockalingham from 50 Indian Spring Lane, a house that  
9 they've lived in since about ten years ago.

10 This is a neighborhood - as I explain in the  
11 application, this is a neighborhood that was created in  
12 about 1950. There are twenty-one houses on it. It's a  
13 cul-de-sac. The Kumar's house -- The Chockalingham's  
14 house was built in 1950. The last house was built in  
15 about 1958. And since that time according to county  
16 records other than garages and screened porches, the  
17 Chockingham's house is the only one that's had an  
18 addition put on. About a six hundred and thirty  
19 square-foot family room was put on in 1977, prior to  
20 their purchasing the house.

21 We're here really on two variances. One is  
22 for a foyer on the front of the house. And that's the  
23 visuals that I presented to you to show you, and I  
24 think you saw the photographs in the application. It's  
25 a rather plain house. And if you drive down through

1  
2 the neighborhood and you look most of the other houses  
3 have character. There's some three dimensionality to  
4 it, color, difference of materials. It's rather plain.  
5 And one of the reasons that we want to do to the foyer  
6 is to enhance the front of the house, plus provide some  
7 decent coat storage space. Today, in an era of energy  
8 conservation, people are looking to put air locks to  
9 their houses. In my years as an architect many times  
10 there's always an issue of you walk into the front door  
11 and you're tripping over the stairway right there.  
12 There's no room for people.

13 So this variance is necessitated by the fact  
14 that this house and probably every other house on the  
15 street does not meet the front yard setback to begin  
16 with. If you look at the site plan that was submitted  
17 you will see that with a requirement of sixty feet  
18 we're a little bit over fifty-two feet. The proposed  
19 addition would reduce that by six feet and the total  
20 area is about sixty-one square feet. That is the one  
21 that the owner and every other owner on the street has  
22 no control over. The zoning was changed before these  
23 houses were built.

24 The second variance that we're here before  
25 you --

1  
2 MR. CHOLETTE: The zoning was changed after  
3 the houses were built?

4 MR. MINOR: After the houses were built, yes.  
5 Sorry.

6 And I tried to find when these were actually  
7 enacted, but it's after the house was built.

8 The house as built at that era is a fairly  
9 standard, fairly straight forward, typical house plan.  
10 Reasonably inexpensive, not lavish materials and things  
11 like that. They didn't take into account of exposure,  
12 southern exposure. People now - houses - are orienting  
13 houses for sunlight, exposure to the outdoors. If you  
14 look at so many houses today and the bathroom, the  
15 kitchen is on the back with tiny little windows.  
16 Nobody has interaction with the yard out back.

17 The Chockalinghams are one of your sandwich  
18 families. They have two teenage kids of different  
19 sexes. They also have his parents that live with them.  
20 Right now they're living in the family room.

21 The house is a four-bedroom house as it is.  
22 One of the bedrooms is a small bedroom right off the  
23 kitchen. It's a legal bedroom. It's got a closet.  
24 It's being used as an office right now. What we would  
25 like to do is build a one-story addition on the back of

1  
2 the house that would accommodate - move his parents out  
3 of the family room and into an isolated suite. They  
4 would have a bedroom and a handicap accessible bathroom  
5 and a small-stack washer and dryer. There is no  
6 kitchen facility involved. Right now there bedroom is  
7 right off the kitchen.

8 So that's the first part of it.

9 While doing this we're changing some  
10 circulation in the house. Right now it's a typical  
11 situation, a large living room with one entrance.  
12 We're trying to pop an entrance out of the other end  
13 and get across through the house without having to go  
14 through the dining room and things like that. So  
15 that's why we proposed a ten foot addition on the back  
16 of the house, which is south, which would have a lot of  
17 glass. The exposure, it's open to the yard. And it  
18 would provide circulation - good circulation from one  
19 end of the house to the other end of the house. It  
20 also opens up the kitchen. It's more popular today,  
21 the open kitchen where people congregate for  
22 entertaining and things like that.

23 At that same time we're building a small  
24 addition on the west end of the house. We want to  
25 accommodate a more appropriate office for

1  
2 Dr. Chockalingham. He's at --

3 Rochester General? Are you at Rochester  
4 General?

5 UNKNOWN: And Unity.

6 MR. MINOR: And Unity. And he has a lot of  
7 work that he has to do at home. He needs an isolated  
8 space for this.

9 While they're doing this they're trying to  
10 bring the laundry up out of the basement to the main  
11 floor. They would also like to replace the bedroom  
12 that is lost by changing the circulation on the second  
13 floor. Right now they have a son and a daughter. They  
14 have two bedrooms. There's a moderate size master  
15 bedroom and no guest room. They didn't have it when  
16 the office went in there. They would have -- they  
17 wouldn't have one now.

18 So we're proposing that above the footprint  
19 of what we're building for the first floor - part of  
20 the footprint, not the entire footprint - part of it to  
21 have a second-floor addition which would create a  
22 bedroom and a master bath. So you've got a decent size  
23 master bedroom suite which would be comparable for a  
24 house -- these are three hundred and fifty to four  
25 hundred dollar houses. When we're done we're going to

1  
2 have a six hundred thousand dollar house. People are  
3 looking for a decent master bedroom suite today.

4 So what we're here for is the living floor  
5 area that you have in your zoning by-law. Number one  
6 is based on lot size. Well, we're already  
7 disadvantaged because the lot isn't as big as what your  
8 zoning calls for, the twenty-three thousand square  
9 feet. We're only twenty-one thousand five hundred. So  
10 we're only ninety-four percent of what would be allowed  
11 for what we want to add to it. I think also the  
12 demographics of houses today are such that, as I said,  
13 it's a sandwich family where you've got young kids  
14 living at home and you have elderly parents. You need  
15 more space there.

16 We've kept the addition entirely on the back  
17 face of the house. You would only see -- I tried to  
18 point this out in the application, that we're near the  
19 end of the cul-de-sac. It's where the road starts to  
20 take a curve. The neighbor that is adjacent to this  
21 that would see. You would have to drive past the house  
22 to see it. The neighbor that would see it, his house  
23 is on the curve going around. It's set diagonally and  
24 the garage abuts what we would be putting on to our  
25 house.

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If you took standard --

MR. CHOLETTE: This is 84 Indian spring that you're talking about?

MR. MINOR: What?

MR. CHOLETTE: 84 is the street address of the house that is going to be most affected by your adding on.

MR. MINOR: I'll take your word for it.

MR. CHOLETTE: If you look at it you're referring to both house number 6 and 84 I believe.

MR. MINOR: I think the vegetation across the back is greater and would shield 84 more. 60 --

MR. CHOLETTE: Is 84's garage on that side also or is it --

MR. MINOR: I think that's the back of the house.

MR. CHOLETTE: Well, I'm asking is the garage on the side that will be on the north side of lot 84 or is it on the south side of lot 84? Do you know?

MR. MINOR: Looking at it I can't tell you that specific house. Most of them, they're on the end of the house. Just as it is with number 60, it's at the end of the house.

MR. CHOLETTE: Yeah, I'm asking which end of

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the house it's on?

MR. MINOR: That I don't know. That I don't know.

MR. CHOLETTE: Are the owners here from house number 84?

DR. LAWRENCE: No. The owner proposing, he would know?

MR. CHOLETTE: Can you ask the owner if he knows what his neighbor's --

The 84 is the house behind you.

UNKNOWN: I think it's on the north side of the house.

MR. DiSTEFANO: Do you have an area?

MR. CHOLETTE: Can you tell from the area?

MR. DiSTEFANO: Well, it's difficult but if you look -- do you see where the driveway comes in?

UNKNOWN: We have Google map.

MR. DiSTEFANO: There's an aerial there.

MR. MINOR: Actually --

MR. CHOLETTE: Well, you're saying it's well screened anyway with vegetation and --

MR. MINOR: Yes. And I believe actually that is the garage that butts up.

MR. CHOLETTE: Okay. We can tell from here I

1  
2 think.

3 MR. MINOR: And if you took typical side  
4 yards in this zoning the combined between number 50 and  
5 number 60 would be about thirty-seven feet and the  
6 corner of the garage at number 6 is close to sixty-five  
7 or seventy feet. So there's quite a bit of separation  
8 there.

9 And we've tried to minimize any visual impact  
10 from the street. We've held it back. I did butt it  
11 over to one side a little bit that jets out, so that  
12 you didn't have a plain wall there. Again, the houses  
13 in this neighborhood have some character, a little bit  
14 of in and out, some roofs at different levels, things  
15 like that. So we had a twenty-one foot side yard  
16 setback. We're allowed eighteen and we're down to  
17 about nineteen and a half. So we're still within that  
18 requirement. This zone also requires no more than  
19 twenty percent lot coverage. I believe that we're  
20 seventeen and a half, something like that. So in spite  
21 of the amount of living area that we have we're still  
22 within the other aspects of the zoning regulations.

23 MR. CHOLETTE: Are there any other houses in  
24 this neighborhood that approach this with regards to  
25 the livable floor area?

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2 MR. MINOR: There's one that is over five  
3 thousand, yes, number 75.

4 MR. CHOLETTE: But they have more acreage.

5 MR. MINOR: They have more acreage.

6 MR. CHOLETTE: So their percentage turns out  
7 better.

8 MR. MINOR: And it appears that the house was  
9 originally built at that size. They haven't added on.

10 I would venture that this is sort of a  
11 premium neighborhood. It is a cul-de-sac. It's just  
12 down the road from Harley School. As I note in the  
13 application, five of these properties abut the  
14 Rochester Country Club.

15 I don't believe that we've really changed the  
16 character of the neighborhood. We've accommodated what  
17 this family needs in this 1950's house with very little  
18 visual impact. We're not talking lots of extra cars or  
19 anything like that. It's just what a normal family  
20 would have.

21 Any questions?

22 MR. CHOLETTE: Anything else?

23 Great. Thank you very much.

24 MR. MINOR: Thank you.

25 MR. CHOLETTE: Is there anyone in the

1  
2 audience that would like to speak with regard to this  
3 application?

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

6           We will return to the first one we were  
7 dealing with.

8 (Return to Application 12A-04-13.)

9           MS. BOTIER: So basically we've come together  
10 and figured out what our loopholes were.

11           I did want to point out as well that in the  
12 packet I distributed to you there's a list of our  
13 advisers for this project there. We are working with  
14 the Kessler Corporation and they have another forty  
15 years in fast food industry. And they've said they've  
16 never once gotten a complaint from a Burger King or  
17 Friendly's or anything that they've done - that there  
18 were odors or that any residents complained. And they  
19 used the exact same systems that we've looked into.

20           MR. DOCTOR: Hi. My name is Brian Doctor  
21 with Doctor Heating and Cooling and Ductwork. I'm  
22 going to be working with Chuck and we're one of the  
23 contractors, and this is the other contractor that's  
24 bidding on the job.

25           We just had a meeting out in the lobby and we

1  
2 decided the best system that would be feasible for this  
3 job, and it does not include the Smog-Hog -- what is  
4 it?

5 MR. ALONGI: The Smog-Hog.

6 MR. DOCTOR: The Smog-Hog because this item  
7 is probably a forty to fifty thousand dollar item  
8 installed. It has to have a fire suppression system in  
9 it and it is also going to be a high-maintenance. It  
10 has charcoal filters that probably have to be changed  
11 every week which makes it a high-maintenance item and  
12 it also makes it a little dangerous for store employees  
13 to go up on the roof and do this on a weekly basis.

14 So what we came up with was a basic system  
15 which is a make-up air system that is tempered to  
16 supply to the hood. This will supply 2,530 CFMs to the  
17 hood. And we will be exhausting at peak times and we  
18 will be exhausting 2,812 CFMs, which is a ninety  
19 percent ratio. So we're going to be -- so what we're  
20 exhausting, we're going to be bringing into the  
21 building ninety percent of the air that's coming into  
22 the building through the tempered make-up air unit is  
23 going to be exhausted through the hood. And at this  
24 time --

25 MR. DiSTEFANO: In laymen's terms do you want

1  
2 to explain that?

3 MR. DOCTOR: Yeah. At this time we're going  
4 to have a ninety percent make-up air coming into the  
5 building and exhausting ten percent of because it's  
6 going to be fumes and heat and air. So then out of  
7 that ten percent --

8 MR. CHOLETTE: So you're diluting it nine to  
9 one, is that what you're saying?

10 MR. DOCTOR: Yes, that's correct. This is  
11 one of the things we're going to try to point out to  
12 you.

13 So out of the fumes from the deep fryer we're  
14 talking about two percent is going to be falafel smell  
15 when they're cooking them. Unless of course when I go  
16 in there, I'll probably have ten or something, so it's  
17 going to be a little more. You know?

18 But it's really going to dilute the amount of  
19 exhaust or the amount of smell going through the  
20 exhaust system of the hood. And when you're exhausting  
21 that little bit, when you're -- we also discussed even  
22 adding a high-speed fan to the system, but we feel that  
23 a high-speed fan has higher pitched noises which might  
24 be more difficult or more noisy and more inconvenient  
25 to the neighborhood than having a low-speed fan exhaust

1  
2 the fumes. So we're thinking on the verge of exhaust  
3 from CFMs from the deep fryer will probably be along  
4 the range of two percent of the exhaust from the  
5 system. So when we're fifty feet away we figure it  
6 will probably be .2 percent. Now, I'm not an engineer,  
7 but that's kind of what I'm figuring it's going to be.

8 And then when we look at the area that's  
9 involved, seventy to seventy-five percent of the time  
10 the wind blows out of southwest. Now, I'm sure when  
11 everybody in here - we get big storms, all the storms  
12 and the trees blow over to one way. You can see them  
13 leaning that way. That's my old boy scout scenario  
14 here. So eighty percent of the time the wind is going  
15 to be blowing out of that direction to the east or the  
16 northeast. So we don't feel it's going to effect that  
17 house or those parcels most of this time.

18 Now this system - these are peak ratings of  
19 this system -- this system has a variable speed drive  
20 to conserve energy, and basically when they're not  
21 using it at peak times the CFMs are going to be much  
22 less. So, you know, it could be down to twenty-five  
23 percent, fifty percent or seventy percent of the time.  
24 So the fan is not going to be working as hard. So we  
25 might have it down to five hundred CFMs exhausting and

1  
2 four hundred CFMs of fresh air coming in, which we're  
3 not really going to be exhausting anything most of the  
4 time. So that would be a peak rating and I'm thinking  
5 that will be the peak rating during dinner time and  
6 maybe at lunch time that you're going to have these  
7 smells.

8 So we feel that this will be the best system.  
9 This will be the most economical system. And this  
10 system is available in every brand here competing  
11 basically to work with Dave on this store. Now, we're  
12 not engineers and stuff, but I would basically say that  
13 it's not going to smell fifty feet away when the wind  
14 is blowing five miles per hour from the southwest.

15 Do you know what I mean?

16 I'm a pretty good sailor and I could smell  
17 food from pretty far away. But I would stake my life  
18 on that one.

19 Now, we've talked to the owner about this and  
20 he feels the same way. And this is a system we're  
21 going to go to. This is the most economical system for  
22 a store of this size. These hedgehogs(SIC) and stuff  
23 aren't really used in this area. They're basically  
24 used out in California or in big city areas when you're  
25 really jammed up next to buildings and things like

1  
2 that.

3 MR. ALONGI: And small conditions.

4 MR. DOCTOR: And small condition areas. And  
5 we don't feel that this is one of them.

6 MR. CHOLETTE: If there were a problem --

7 MR. DOCTOR: Yes.

8 MR. CHOLETTE: -- and let's suppose that we  
9 have some wind out of the northeast or something --

10 MR. DOCTOR: And I know that happens too.

11 MR. CHOLETTE: -- and that happens too, and  
12 you know, the neighbor that's most likely to be  
13 affected and comes to the town and starts complaining  
14 saying, "This is what we've got."

15 Is there any remedial action that could be  
16 taken --

17 MR. ALONGI: There's actually --

18 MR. CHOLETTE: -- to put in more heavy duty  
19 filters or something up in the venting system?

20 MR. ALONGI: There's actually four options:  
21 we have our standard filters, and then an upgrade to  
22 that which would be a charcoal filter, and then we have  
23 an upgrade to that is a ninety percent filter called a  
24 Captrate filter and that filters ninety percent of  
25 anything, odors, smell, smoke, whatever traveling

1  
2 through that filter. Now, at his two percent and this  
3 ninety percent filter, I guarantee you will not smell a  
4 thing coming out of that fan.

5 DR. LAWRENCE: What's the difference in the  
6 cost from the standard to the ninety percent filter?

7 MR. ALONGI: Probably looking at a hundred  
8 dollar inexpensive furnace filter versus about a five  
9 hundred dollar filter.

10 DR. LAWRENCE: And how long do these filters  
11 last?

12 MR. ALONGI: They last forever. You just  
13 wash them. But --

14 MR. CHOLETTE: Are they electrostatic  
15 filters?

16 MR. ALONGI: No. It's just a filtration - a  
17 very fine particular, you know --

18 MR. CHOLETTE: Can you go to the  
19 electrostatic filter or isn't there --

20 THE WITNESS: No. You don't want to -  
21 electric and grease you'll have a fire. If you do that  
22 you're going to have a problem. Absolutely not.

23 DR. LAWRENCE: So you're saying the only  
24 difference in getting insurance against maximum  
25 filtration is four hundred dollars?

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MR. ALONGI: Exactly, per filter.

DR. LAWRENCE: And how many filters?

MR. ALONGI: There's probably -- what is it, about eight filters?

MR. DOCTOR: Eight filters that would sit in the rack of the hood.

MR. CHOLETTE: And these are accessible from the interior of the restaurant?

MR. DOCTOR: Yes, which would be a great --

MR. CHOLETTE: Now, could this - I'm assuming that if you went with the less expensive filters initially if there was a problem you could change to these filters? You don't have to retrofit or --

MR. ALONGI: The hood comes with the standard stainless-steel filter - a hundred dollar filter each. Again, normally what we do when we use a charcoal filter it's as if you're burning mystique, you know, like Ted's Hot Dogs they burn mystique.

MR. DOCTOR: Well, he's from Buffalo. You can tell, Ted's.

MR. ALONGI: People that use the upgraded filters are typically, you know, who should I say? Old Country Buffet. I don't even see them in Burger King or McDonalds. They don't use them. And Burger King is

1  
2 - they produce a lot of smoke, but they don't use them.  
3 Who else can I say? High volume - actually schools use  
4 them just because they can afford them. Places like  
5 that. Niagra County Jail, I believe they have them.  
6 We did some air-conditioning work over there. You  
7 know, a lot of public places that basically do have the  
8 budget for an upgraded filter. You don't see these  
9 kinds of filters typically on a mom-and-pop restaurant  
10 or even a Burger King for that matter because they  
11 don't need them.

12 Now, there's two kinds of oils that we could  
13 use or actually that they could use, is peanut oil  
14 which is near - I mean, a good peanut oil is a pretty  
15 decent oil to cook with, if providing the business  
16 owner changes the oil weekly the residents are not  
17 going to smell what's traveling up through the roof.  
18 Now, should he - should they do smell something then we  
19 have a another oil that they would have to use, it's  
20 called grapeseed oil. And that's odorless and if  
21 anybody smells that oil then they're making up stories.  
22 Okay?

23 MR. CHOLETTE: Okay. So to hone in on this  
24 you feel that the two of you are in agreement that this  
25 is what you're going to propose to the restaurant

1  
2 owner. She will make a decision on one or the other  
3 ideas, but basically you will go with what both of you  
4 feel is sufficient to get rid of the smells.

5 But you have the back-up of being able to  
6 change the oil and you have the back-up of being able  
7 to change to a higher filtration system if need be?

8 MR. ALONGI: That's correct. And then we  
9 have two --

10 MR. CHOLETTE: Can I see the applicant?

11 This is in agreement with --

12 MS. BOTIER: Yes.

13 MR. ALONGI: And then we have two back-ups on  
14 top of those back-ups.

15 MS. BOTIER: Yes, and we're happy to try any  
16 options.

17 MR. CHOLETTE: And you would also be willing  
18 if there are complaints coming in and the town were to  
19 contact you that you wouldn't say, "Well, that was just  
20 a bad day," or whatever? You would say, "Okay. We  
21 will make this change. We'll bite the bullet. We'll  
22 upgrade the filters and if we still have trouble we'll  
23 upgrade the oil." And you're all certain that this  
24 will solve any possible problems?

25 MS. BOTIER: Absolutely. We would --

1  
2 DR. LAWRENCE: Is there a significant cost  
3 difference between the peanut oil and the grapeseed  
4 oil? Wouldn't you just use grapeseed oil?

5 MR. DOCTOR: It might be taste, though.

6 UNKNOWN: We don't know the cost yet.

7 UNKNOWN: We don't know the cost, but I know  
8 it's one of the best oils.

9 MR. ALONGI: We can't answer.

10 Do you want to come up and --

11 MS. BOTIER: Yeah.

12 MR. CHOLETTE: Or you can just answer for  
13 her.

14 MS. BOTIER: They're one of the best oils.  
15 Basically as long as falafel is fried it doesn't matter  
16 what oil as long as you're frying it. It will give it  
17 the same flavor. But we're willing to do whatever to  
18 get this project moving. We're very eager.

19 MS. SCHWARTZ: How often do these filters,  
20 you said they need to be washed?

21 MR. ALONGI: Typically restaurant owners wash  
22 their hoods - it's gauged on how much grease is built  
23 up on the hoods. Now, some of the Greek restaurants  
24 that we work at -- we notice Olympia Restaurant, on  
25 Niagra Falls Boulevard, in North Tonawanda, they are a

1  
2 heavy, heavy volume Greek restaurant. They have a full  
3 house of two hundred and fifty people in that  
4 restaurant on a full shift, and I'm not kidding you  
5 when I say this. I am -- we do other maintenance work  
6 and other service work, HVAC, with the exception of  
7 hood cleaning which is contracted out by JK Hood  
8 Cleaning. He's out there every six months cleaning the  
9 hoods, and this is a high volume - I mean these guys do  
10 more volume than a McDonalds.

11 MS. SCHWARTZ: So you're saying that they  
12 have to be maintained professionally?

13 MR. ALONGI: To answer your question, I can  
14 guarantee -- there we go guaranteeing again, if these  
15 guys honestly clean their hood - if they need to clean  
16 their hood every two years that would probably be a  
17 lot. And I'm not kidding you.

18 But how this will all work is once they start  
19 frying they will go through inspections - you can hire  
20 us for the inspection if you like or JK or whoever -  
21 they'll know how much hood cleaning, you know, is  
22 required. Okay?

23 Just a precaution, perhaps every six months  
24 for an inspection or even every three months for an  
25 inspection would be adequate for these guys. Okay?

1  
2 All right. There's no way they need anything  
3 once a week. Although cleaning your own filters once a  
4 week that's totally up to you. I don't think that  
5 you're going --

6 MR. DOCTOR: Being a contractor we also  
7 provide certain things that they can clean the inside  
8 of the duct work with. And basically at every turn we  
9 provide an access door and basically it's a fire-rated  
10 and welded solid access door that is accessible at  
11 every ninety degree turn, so that we can enter there to  
12 clean out the grease or push the grease down or spray  
13 the grease down to a certain direction at a ninety  
14 degree elbow or where the drop is. We also provide a  
15 3/8s pipe with an end cap on it so that when they do  
16 spray it down they can hook up a hose or something to  
17 drain the grease from and it's an easy clean access to  
18 get the grease out of the ductwork. These are all  
19 provided to fryers and stuff like that to keep the  
20 smell down and, you know, other safety features also.

21 MR. ALONGI: Now, the system that I'm  
22 proposing in this packet right here -- this would be  
23 your copy, right?

24 MS. BOTIER: Uhm-hum.

25 MR. ALONGI: Do you guys want this?

1  
2 MR. CHOLETTE: You can give it in here. But  
3 I don't want to get caught in the middle of two vendors  
4 trying to sell their systems here.

5 MR. DOCTOR: Well, basically we're kind of  
6 working together.

7 MR. CHOLETTE: I think that we've got enough  
8 information that I don't think that we're going to  
9 learn anything more by questioning or perusing this.

10 Go ahead.

11 MR. DOLLINGER: I just have one question.  
12 When you started out your system with the air and  
13 putting a whole bunch of air and diluting it by the  
14 ninety percent or ninety-one percent or whatever.

15 When you said it would dilute it down from  
16 your system it would dilute it down to what, from like  
17 ninety percent?

18 MR. DOCTOR: Well, we're going to bring in  
19 ninety percent make-up air and we're going to be  
20 exhausting -- I'm sorry. Let me turn that around.  
21 We're going to bring in a hundred percent outside air  
22 and we're going to be exhausting ninety percent of the  
23 air. So basically it's going to be ten --

24 MR. ALONGI: No, it's the other way around.

25 MR. DOCTOR: I'm sorry. You're right. I'm a

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little nervous.

MR. ALONGI: Let me --

MR. DOCTOR: Go ahead.

MR. DOLLINGER: But was that -- my real question is: Was that before -- sorry.

MR. ALONGI: You see --

MR. CHOLETTE: While we're all --

MR. DOLLINGER: My real question is: Is that before the filters or after the filters?

MR. DiSTEFANO: Well, let's not even ask the question then. We're all --

MR. DOLLINGER: That's what my question is going to be.

MR. CHOLETTE: Let's get it clear and then you can ask the question.

You want to know what the dilution factor is?

MR. DOLLINGER: Well, no, not really. I just want to know - I understand the dilution factor. Then later on we heard that the filters were standard equipment.

So I was just curious was that the dilution factor we were talking about was with the filters or without the filters?

MR. ALONGI: With the filters. It's with the

1  
2 standard filters.

3 MR. DOLLINGER: It's with the standard  
4 filters.

5 MR. ALONGI: Exactly.

6 MR. DiSTEFANO: Let me ask you a question  
7 here.

8 MR. ALONGI: Okay.

9 MR. DOLLINGER: Yeah, my question is: When  
10 you gave us that ninety percent ratio was that with the  
11 filters you talked about in the system?

12 MR. ALONGI: With the filters.

13 MR. DOLLINGER: Okay. So - all right.  
14 That's fine.

15 MR. ALONGI: Do you see -- let me just say  
16 this, whatever you put in you're going to get out.  
17 It's just like a furnace at home, forced-air furnace,  
18 whatever you put in you'll get out. Okay? Same with  
19 an exhaust system. The only difference with an exhaust  
20 system is the fact that in order to draw smoke out of  
21 an exhaust system we need to have a negative pressure,  
22 what they call a negative pressure.

23 Negative pressure means what he delivers us -  
24 income air has to be less than what we draw because we  
25 need a negative pressure. In other words, how this

1  
2 hood looks like - you've got a hood and you have your  
3 fryers underneath. Okay? The exhaust fan is sucking  
4 air up while he's taking air into the hood. The smoke  
5 - the air has to grab the smoke somehow and it can only  
6 do that through a negative pressure. And when I mean  
7 pressure it's just how it's classified, the physics of  
8 it. It's still pressure even though it's a negative.

9 MR. DOCTOR: And what's good --

10 MR. ALONGI: It takes the air and just --

11 MR. DOCTOR: And what's good about this  
12 negative pressure thing is all the smells associated  
13 with that store are being exhausted out of that hood  
14 from that store. So Yolickity is not going to get the  
15 smell of their restaurant possibly spoiling, or  
16 bothering the flavor or smell of Yolickity or the Bagel  
17 Bin smell won't be going across - won't be effected by  
18 the smells in his store.

19 MR. CHOLETTE: Now, when the top here where  
20 it exits, how high up are we and how is it angled  
21 directionally?

22 MR. ALONGI: The exhaust hood is going to be  
23 a horizontal device. It's all in the package. You're  
24 going to --

25 MR. CHOLETTE: You're talking about up on the

1  
2 roof?

3 MR. ALONGI: Right. We're going to have no  
4 more than a ten-foot shaft as per code. A ten-foot  
5 shaft and the curve is going to be eighteen inches,  
6 which the fan then is going to sit on top of that  
7 eighteen inches. Okay? So it's not going to be any  
8 higher than what you see right now. If you look from  
9 the road --

10 MR. DOCTOR: Do you have the picture?

11 MR. CHOLETTE: Yeah, I think we saw that.

12 MR. ALONGI: I mean you may see a little  
13 higher than what the other fan is. There's a rooftop  
14 up here.

15 MS. BOTIER: It's pre-existing. So it was  
16 there before.

17 MR. CHOLETTE: So that's what you're going to  
18 be using?

19 MR. DOCTOR: No, we're going to be doing the  
20 - replace this.

21 MR. CHOLETTE: You're going to replace this?

22 MR. DiSTEFANO: Yeah, if you guys want just  
23 for the record -- Jack, you need this for the record.  
24 We need this so he can hear it, what's being said.

25 MR. CHOLETTE: Just say as indicating.

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So it's just this here(indicating)?  
THE WITNESS: Just this(indicating). But if  
our unit sticks up maybe another four or five inches  
it's not going to be higher than this(indicating).  
Because this unit here(indicating) - this rooftop - I  
want to believe it's --

How tall is the rooftop it's on? About four  
foot?

MR. DOCTOR: Yeah.

MR. CHOLETTE: Is there directional? Does it  
blow the exhaust in one particular --

MR. ALONGI: Straight up.

MR. CHOLETTE: It just goes straight up?

MR. ALONGI: Straight up.

MR. CHOLETTE: So it goes up and then it goes  
to some altitude and then it's just dissipated?

MR. ALONGI: Yeah.

MR. DOLLINGER: How big is the fryer?

MS. BOTIER: It's one fryer.

MR. DOLLINGER: Twenty-inch fryer?

MS. BOTIER: Eighteen inches.

MR. ALONGI: It's about this  
wide(Indicating.)

MS. BOTIER: And it has a lid on it as well.

1  
2 MR. ALONGI: It's about this  
3 tall(Indicating.)

4 MR. DOLLINGER: So - and I'm just maybe  
5 stupid -- so where you do the grilling and the fryer  
6 are all serviced by the same piece of equipment that  
7 we're talking about?

8 MS. BOTIER: Yes.

9 MR. ALONGI: Everything goes up the hood,  
10 yeah.

11 MR. DOLLINGER: All right. Thanks.

12 MR. ALONGI: You see, like I said, the  
13 exhaust hood is the standard practice that you need for  
14 a commercial kitchen. We use them all over this entire  
15 world. The same exact setup. Nobody is different.  
16 The only ones that are different are the guys that are  
17 cheap. All right? But as per code - and we all follow  
18 the same code nationally - it's an exhaust hood, a  
19 welded greece shaft, all fire-rated sixteen-gauge cold  
20 steel or stainless steel, exhaust shaft, exhaust fan  
21 right out the top. There's nothing that is in contact  
22 with anything combustible whatsoever period. At the  
23 grease shaft is all wrapped with a double fire blanket  
24 - as per code - wrapped with stainless-steel wire and  
25 tied with a special tool provided by the fire company -

1  
2 or by the manufacturer.

3 MR. DOCTOR: The manufacturer, yeah.

4 MR. ALONGI: It's all inspected. Chris --  
5 What's Chris's last name?

6 MR. DiSTEFANO: Chris Roth.

7 MR. ALONGI: Chris Roth, he's the guy that  
8 inspects it.

9 MR. CHOLETTE: Okay. I don't want to draw  
10 this out any further. I think that we've done enough.  
11 Go ahead.

12 MS. SCHWARTZ: We have to go back to the  
13 grilling. We had talked about --

14 MR. CHOLETTE: Before we get to that, are we  
15 done with the exhaust systems? We've asked and had all  
16 of our questions answered?

17 MR. DOCTOR: Great. Thank you.

18 MR. CHOLETTE: Thank you very much.

19 Judy you want to talk about the grill?

20 MS. SCHWARTZ: I believe the last time we  
21 talked about eliminating the grilling. And I'm looking  
22 here on the kids' menu and a I see a burger, a hot dog  
23 and grilled chicken and on the adults' side I also see  
24 grilled chicken. I think we talked about the grilling  
25 of items and we had some concerns about that and now I

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see it back on here.

So this is your definite menu that you have pictured here?

MS. BOTIER: Right. I mean, the kids' menu is also made to order --

MS. SCHWARTZ: No, I'm not concerned about that.

MS. BOTIER: -- and the hot dogs are on a roller. It's not a fried or grilling, it's --

MS. SCHWARTZ: It's the items that --

MR. CHOLETTE: You're not grilling the hot dogs?

MS. BOTIER: Right, there on a roller. There's no smell from that. It's something totally different. This is a healthy -- this is catering to vegetarians. There's mainly salads and --

MR. CHOLETTE: Right.

MS. BOTIER: -- that's what it's really for.

MR. CHOLETTE: And that's what we're looking for.

MS. BOTIER: Right.

MS. SCHWARTZ: And then how do you prepare your burgers and grilled chicken then?

MS. BOTIER: The grilled chicken is on a

1  
2 griddle which is underneath the hood. It's not --

3 MR. DiSTEFANO: Is it baked? Fried?  
4 Broiled?

5 MS. BOTIER: It's not fried. It's just --

6 MR. ALONGI: On a griddle.

7 MR. CHOLETTE: It's grilled.

8 MS. BOTIER: Right.

9 MR. CHOLETTE: So you're grilling the chicken  
10 and you're grilling the hamburgers and the hot dogs are  
11 just --

12 MS. BOTIER: On rollers.

13 MR. CHOLETTE: -- on the rollers?

14 MS. BOTIER: It's not in no way shape or form  
15 like a Tom Wahl's or McDonalds. This is healthy salads  
16 and fresh --

17 MR. ALONGI: They want to know how the  
18 chicken is grilled. Is it --

19 MS. BOTIER: On a griddle, not a flame.

20 MR. ALONGI: It's like cooking an egg on a  
21 frying pan, that kind of a surface. But it's not going  
22 to be on any --

23 MR. CHOLETTE: So it's not on a grill with a  
24 fire on it?

25 MS. BOTIER: No, it's like a hot plate,

1  
2 griddle.

3 MR. ALONGI: A griddle. So there's got to be  
4 an electric element under a hot late. Typically --

5 MR. DOLLINGER: Can I ask a question real  
6 quick?

7 MR. CHOLETTE: Of course.

8 MR. DOLLINGER: What would you say is the  
9 maximum amount as a percentage of your sales - what  
10 would you expect your maximum amount of griddled or  
11 whatever you called --

12 MS. BOTIER: Grilled foods. Grilled and  
13 fried foods.

14 MR. DOLLINGER: What would you expect out of  
15 your total percent of your sales would you expect your  
16 griddled and fried foods --

17 MR. CHOLETTE: Don't include the fried. Just  
18 ask the grilled.

19 MR. DOLLINGER: Okay.

20 MR. CHOLETTE: Because the bulk of their  
21 sales are going to be the fried.

22 MR. MIETZ: We've already discussed --

23 MR. CHOLETTE: We've already discussed this.  
24 The grilled is going to be --

25 MR. DOLLINGER: Okay. How much --

1  
2 MR. CHOLETTE: The grilled is going to be  
3 chicken and you said hamburgers?

4 MS. BOTIER: Only the hamburgers and hot dogs  
5 -- only hamburgers.

6 MR. DOLLINGER: Percentage of your sales what  
7 would you guess?

8 MS. BOTIER: I would say maybe --

9 MR. DOLLINGER: Like maximum?

10 THE WITNESS: Maybe like ten at max.

11 MR. DOLLINGER: Okay.

12 MS. BOTIER: Most of it is going to be from  
13 falafels, salads, you know, the fresh ingredients.

14 It's not from anything --

15 MR. DOLLINGER: All right. Okay.

16 MS. BOTIER: It's just --

17 MR. DOLLINGER: That's fine. That's all I  
18 needed.

19 MR. CHOLETTE: You don't have no problem if  
20 we were to specify that the hot dogs and hamburgers  
21 were only part of the kids' menu?

22 MS. BOTIER: Right. That's fine. I mean, we  
23 would like to have the falafel and the salads. That's  
24 our bread and butter of the business. That's what we  
25 would like to do. That's something different that

1  
2 Brighton has never had. The residents are eager for  
3 it. You saw in the petition they will do anything to  
4 have this open. So -- and we're willing to work with  
5 you on any kind of --

6 MS. SCHWARTZ: Do you ever see a need for  
7 your menu increasing variety wise or --

8 MS. BOTIER: No, because we have gone to  
9 various restaurants in Florida and New York that have  
10 the same concept and the limited menu works. There's  
11 no reason to add more.

12 MR. CHOLETTE: Any other questions for the  
13 applicant?

14 Thank you very much.

15 MS. CORRADO: I do have one question.

16 MR. CHOLETTE: Okay. Go ahead.

17 MS. CORRADO: We have in the previous  
18 materials provided with this, there's one letter  
19 against from the neighbor right next door. We've  
20 consulted with them recently about we need a plan for  
21 more aggressive management of the smells.

22 MS. BOTIER: We weren't aware that he had  
23 written a letter, but that's for the whole building and  
24 we're a small part of it. So I didn't know -- I don't  
25 know if he's referencing us in particular or not.

1  
2 MS. CORRADO: He's referencing that he had  
3 been assured that there would be no additional cooking  
4 and specifically the frying on the premises from the  
5 previous iteration of the business there. And he's  
6 concerned about the change in the --

7 MS. BOTIER: I mean, he's welcome to come ask  
8 us. We can present to him as well. But there are also  
9 nine hundred other people that are for this project.

10 MS. CORRADO: And a largely they're a number  
11 not in the area.

12 MS. BOTIER: Right.

13 MS. CORRADO: It's certainly an appealing  
14 restaurant, but the location is the problem not the  
15 concept itself in Brighton. It's being --

16 MS. BOTIER: And again, we're happy to do  
17 anything we can to assure him this will not be an  
18 issue. We have experts that are willing to guarantee  
19 it as well.

20 MR. ALONGI: Again, they do have four extra  
21 percussions above the original system, you know, as a  
22 guarantee for the oils and the extra filters.

23 MR. CHOLETTE: We understand. But that's why  
24 we're here. We're here to make that decision. It's  
25 not in the hands of every individual in the

1  
2 neighborhood.

3 MS. BOTIER: Right. In addition, for that  
4 neighbor, Aja Noodle is there as well. They have the  
5 same type of system and they - for my knowledge - don't  
6 have any complaints. I don't see how he could from the  
7 minimal amount that we would be doing compared to what  
8 they do --

9 MS. CORRADO: But you are directly next door  
10 to his home and Aja is a considerable distance away.  
11 He has a concern and it's a legitimate one --

12 MS. BOTIER: Right.

13 MS. CORRADO: -- considering the original use  
14 of the building was a post office.

15 MS. BOTIER: Right.

16 MS. CORRADO: And therefore my question.

17 MR. CHOLETTE: But the noodle --

18 MS. SCHWARTZ: They're zoned for it.

19 MR. CHOLETTE: Forget where they're zoned.

20 MS. BOTIER: Right.

21 MR. CHOLETTE: It is using fryers.

22 MS. BOTIER: And way more than we would ever  
23 use them.

24 MR. CHOLETTE: And so, I mean when you go to  
25 mail boxes or whatever it's now called do you smell

1  
2 anything? I mean have you ever smelled anything in  
3 that area?

4 MS. CORRADO: Yeah. It smells good, but I'm  
5 not living next door to it.

6 MS. BOTIER: The other thing that you have to  
7 remember is that we're closed on Saturdays which is the  
8 time people are predominately home. So they wouldn't  
9 smell it then and then Friday evening we're closed. So  
10 our peak time is probably during lunch and when school  
11 is out and people are still at work. So I don't think  
12 there would be much for them to complain about.

13 MR. CHOLETTE: I want to draw this to a  
14 close.

15 Are there any other questions?

16 Fine. Thank you very much.

17 MS. BOTIER: Thank you.

18 MR. CHOLETTE: Thank you for pulling this all  
19 together.

20 Is there anyone in the audience that would  
21 like to speak with regard to this application?

22 Yes, sir?

23 UNKNOWN: There was a confusing statement.

24 MR. CHOLETTE: You need to come forward and  
25 give your name.

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MR. MINOR: Paul Minor.

There was a confusing statement at the beginning. I'm not sure whether they are or are not providing an ansul fire protection system in the hood?

I would say this close to a residential I think the code requires it. But it should be clear.

MR. DiSTEFANO: That would be required by code.

MR. MINOR: Okay.

MR. DiSTEFANO: And also required by code would be a grease separator. That would also be required by the town code.

MR. CHOLETTE: And that's all haul away, right, the grease?

MR. DiSTEFANO: Usually it's trapped and then you clean out your grease trap.

MR. CHOLETTE: And then what do you do with it?

MR. DiSTEFANO: You dispose of it. A lot of time people will have grease dumpsters that it goes into and then they have actual people come and pick it up.

UNKNOWN: A special company picks it up.

MR. CHOLETTE: I think that we're going to

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close then.

We will take a five minute break and then reconvene and deliberate on the applications.

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

---

Chad L. Smith

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

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

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:

MORREY GOLDMAN

(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. 1)  
13 Modification of Use Variance - Frozen Yogurt sales -  
14 Approved with conditions at the 2/05/14 meeting, Short  
15 Order Eatery - Tabled at the 2/05/14 meeting - Public  
16 hearing remains open, 2) Modification of Area Variance  
17 - Approved with conditions at the 2/05/14 meeting.

18 (Motion made by Mr. Cholette to approve  
19 Application 12A-04-13.)

20 **FINDINGS OF FACT:**

21 1. The currently applicable use variance 5A-07-97  
22 allowed for the sale of bagels and associated items  
23 including the sale of sandwiches and non-alcoholic  
24 drinks. This use will continue at this location, but  
25 the desire is to add two other establishments, namely

1  
2 the sale of frozen yogurt approved at the February 2014  
3 ZBA meeting and a short-order eatery as described in  
4 this part of the application.

5 2. The short-order eatery, well focused on kosher  
6 items, will not represent a significant departure from  
7 the type of food already allowed for the bagel business  
8 that is currently allowed at this location. Although  
9 named Sabra Grill, the restaurant will not serve  
10 typical grilled foods. Instead it will serve  
11 Middle-Eastern falafel and Shawarma along with other  
12 meat options prepared in a wrap, pita, rice bowl or  
13 salad.

14 The need for this use variance modification results  
15 from the fact that falafel is deep fried which is  
16 explicitly listed as not being allowed at this location  
17 as one of the conditions in use variance 5A-07-97.

18 3. The main concern with the use of fryers at this  
19 location is with odors being emitted into the nearby  
20 residential areas which are immediately to the south  
21 and west. The application is proposed to solve this  
22 concern by installing kitchen emission control systems  
23 in the restaurant venting system which are claimed  
24 capable of eliminating virtually all odors. This  
25 system is guaranteed by the manufacturer and

1  
2 distributor to adequately control odors from being  
3 emitted when it is installed and maintained properly.  
4 The applicant has promised to live up to their  
5 commitment to ensure that this occurs.

6 **CONDITIONS:**

7 1. The use being approved is for a Middle-Eastern  
8 restaurant serving cuisine similar to that shown in the  
9 menu presented as part of the application. The  
10 roasting of coffee and the sale of alcoholic beverages  
11 will not be permitted. The grilled hamburgers and hot  
12 dogs as shown on the kids' menu shall not exceed  
13 fifteen percent of total sales.

14 2. The hours of retail operation for this part of the  
15 facility will be between 11:00 a.m. and 9:00 p.m.,  
16 operating no more than six days a week.

17 3. No emission of noxious gases or other odorous  
18 matter in such quantities as to be detected outside the  
19 building shall be permitted. The restaurant management  
20 will strictly adhere to proper installation and  
21 cleaning and maintenance of the emission control  
22 system. The system will be equipped with the maximum  
23 filters which were described in the application and  
24 testimony. Legitimate complaints about exterior odors  
25 will be dealt with by the restaurant management in a

1  
2 timely fashion and such odors must be prevented from  
3 reoccurring for this variance to remain in effect.

4 4. There will be no drive-thru service provided by  
5 this restaurant or any of the other restaurants at this  
6 location.

7 5. Business deliveries and trash pickup will occur  
8 during normal business hours, that is between 7:00 a.m.  
9 and 5:00 p.m.

10 6. Outside policing of grounds shall be done on a  
11 daily basis.

12 7. No greater intensity of plaza lighting shall be  
13 utilized in conjunction with any of the three  
14 restaurant operations in this building.

15 8. The exterior treatment of the building shall be as  
16 described in testimony given or as approved by the  
17 Architectural Review Board.

18 9. No external signage on the Elmwood Avenue side of  
19 the building will be permitted.

20 10. The approved use shall be subject to all  
21 regulations of the Town of Brighton regarding  
22 restaurants.

23 11. The use of this property for the three restaurants  
24 as contemplated in this and the associated approvals  
25 shall constitute revocation of any prior use variance

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granted by this Board.

12. A grease trap shall be installed per code.

13. All necessary building permits and Town of Brighton Fire Marshal approvals shall be obtained.

(Seconded by Ms. Baker Leit.)

(Ms. Schwartz, no; Dr. Lawrence, yes; Ms. Corrado, no; Ms. Baker Leit, yes; Mr. Mietz, yes; Mr. Cholette, yes.)

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

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2 APPLICATION 3A-01-14

3 3A-01-14 Application of John Samperi, contract  
4 vendee, and Rene and Carol Gignac, owners of property  
5 located at 2341 Monroe Avenue, for relief of conditions  
6 placed on the approval of a parking variance (6A-05-09)  
7 to allow for a change of use from a pharmacy to a  
8 flooring showroom. All as described on application and  
9 plans on file.

10 (Motion made by Dr. Lawrence to approve  
11 Application 3A-01-14.)

12 **FINDINGS OF FACT:**

13 1. The proposed new business, although retail, has the  
14 majority of its customers by appointment. There are  
15 only two employees in the store during business hours,  
16 therefore the variance is reasonable and will only  
17 require the same amount of parking as the previous  
18 business.

19 2. The business will not change the character of the  
20 neighborhood as this has been a residential commercial  
21 use for years.

22 3. The apartments involved are allowed one space per  
23 residence.

24 **CONDITIONS:**

25 1. This variance will only apply for the proposed use

1  
2 as a flooring showroom as described in the application  
3 and testimony.

4 2. The lease agreement for the apartments will  
5 continue to specify that only one space is allocated  
6 per apartment.

7 3. The maximum size of the showroom shall be no  
8 greater than 1,250 feet, as shown in the application.

9 4. There will be no storing of materials at the  
10 showroom facility. Materials will be stored off site.

11 (Seconded by Ms. Schwartz.)

12 (Mr. Cholette, yes; Mr. Mietz, yes; Ms.  
13 Corrado, yes; Ms. Baker Leit, yes; Ms. Schwartz, yes;  
14 Dr. Lawrence, yes.)

15 (Upon roll call, motion to approve with  
16 conditions carries.)  
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2 APPLICATION 3A-02-14

3 3A-02-14 Application of Cornella Wilson,  
4 contract vendee, and Edward Zonneville, owner of  
5 property located at 3137 Elmwood Avenue, to allow for a  
6 change from one nonconforming use (custom wood  
7 furniture and cabinet maker) to another nonconforming  
8 use (custom woodworker) pursuant to Section 225-13C.  
9 All as described on application and plans on file.

10 Motion made by Mr. Cholette to deny  
11 Application 3A-02-14.

12 **FINDINGS OF FACT:**

13 1. The proposed use is deemed to not be a continuation  
14 of a nonconforming use, but rather a new use at this  
15 location.

16 2. The new use as proposed is not closer to the  
17 residential nature of the neighborhood in which it will  
18 be located, and therefore according to Section 225-13C  
19 should not be approved.

20 3. The reasoning that this proposed new use is  
21 different from the existing approved nonconforming use  
22 that was approved in 1978 is that the use envisioned  
23 custom wood furniture and cabinet maker at this  
24 location, consisting primarily of himself making custom  
25 furniture. This furniture was utilized then

1  
2 state-of-the-art equipment for woodworking and was then  
3 sold to the end customer. The proposed new use while  
4 working primarily with wood, but sometimes other  
5 materials would be a larger operation consisting upward  
6 of three to five full-time employees producing larger  
7 quantities usually of a prototype nature to be sold to  
8 other manufacturers for completion. And this Board  
9 feels that this proposed use is closer to an industrial  
10 use than it is a residential.

11 (Seconded by Mr. Mietz.)

12 (Ms. Corrado, yes; Ms. Baker Leit, yes; Dr.  
13 Lawrence, no; Ms. Schwartz, yes; Mr. Mietz, yes; Mr.  
14 Cholette, yes.)

15 (Upon roll call, motion to deny carries.)  
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2 APPLICATION 3A-03-14

3 3A-03-14 Application of Nick Cannizzo -  
4 Skylight Signs, agent, and REIT Management, owner  
5 of property located at 140 Canal View Blvd., for a Sign  
6 Variance from Section 207-26D to allow a logo to be 31%  
7 of the area of a business identification sign in lieu  
8 of the maximum 25% allowed by code. All as described on  
9 application and plans on file.

10 Motion made by Ms. Schwartz to approve  
11 Application 3A-03-14.

12 **FINDINGS OF FACT:**

13 1. The request to allow a logo to be 31% of the area  
14 of a business identification sign in lieu of the 25%  
15 allowed by code is minimal.

16 2. The requested sign will be located over the  
17 building entrance which is on the interior of the  
18 office park and not visible from the public street.

19 3. The overall sign is sixty-three square feet which  
20 will be located on a building with a two hundred and  
21 sixty-two foot frontage and will be well below the  
22 allowable square footage.

23 4. The sign will not be lit.

24 **CONDITIONS:**

25 1. There will be only one building face sign located

1  
2 on the north face of the office park.

3 2. The sign band on Brighton Henrietta Town Line Road  
4 will be repaired after the existing second sign is  
5 removed.

6 3. This variance only applies to the sign as described  
7 in the application and testimony presented.

8 4. All other necessary approvals from the Planning  
9 Board shall be obtained.

10 (Seconded by Ms. Baker Leit.)

11 (Ms. Corrado, yes; Mr. Mietz, yes; Dr.  
12 Lawrence, yes; Mr. Cholette, yes; Ms. Baker Leit, yes;  
13 Ms. Schwartz, yes.)

14 (Upon roll call, motion to approve with  
15 conditions carries.)  
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2 APPLICATION 3A-04-14

3 3A-04-14 Application of Paul Minor, architect,  
4 and Selvakumar and Miraba Chockalingham, owners of  
5 property located at 50 Indian Spring Lane, for Area  
6 Variances from Section 205-2 to 1) allow a vestibule to  
7 extend 6 ft. into the existing 52.75 ft. front setback  
8 where a 60 ft. front setback is required by code, and  
9 2) allow livable floor area, after construction of  
10 additions, to be 4,472 sf in lieu of the maximum 3,698  
11 sf allowed by code. All as described on application and  
12 plans on file.

13 Motion made by Ms. Baker Leit to approve  
14 Application 3A-04-14.

15 **FINDINGS OF FACT:**

16 1. Given the nonconforming nature of the lots in this  
17 neighborhood which was built prior to the current  
18 zoning codes the variances sought are the minimum  
19 possible to maintain the benefit sought by the  
20 applicant.

21 2. The vestibule would extend six feet into the  
22 existing 52.75 foot setback, which was in existence  
23 prior to the requirement of the sixty foot front  
24 setback. This vestibule will serve to assist with  
25 energy conservation and form an air lock. This will

1  
2 have a minimal impact on the neighborhood.

3 3. The additional livable floor area will be used to  
4 accommodate the family's growing needs and this family  
5 includes two professionals, teenagers and aging  
6 parents. The increase from and maximum of 3,698 square  
7 feet to 4,472 is reasonable given the outdated 1950's  
8 floor plan and the need for handicap as assessable  
9 backgrounds and home offices for this family.

10 4. No other alternatives can alleviate these  
11 difficulties and produce the desired result.

12 5. No unacceptable change to the character of the  
13 neighborhood will incur, particularly as the addition  
14 has been added to the rear of the property and the  
15 property is well screened by vegetation.

16 **CONDITIONS:**

17 1. The variance only applies to the vestibule and  
18 additions as described in the application and testimony  
19 presented by the applicant.

20 2. All necessary Architectural Review Board and  
21 building permits from the Town of Brighton must be  
22 obtained.

23 (Seconded by Ms. Schwartz.)

24 (Dr. Lawrence, yes; Mr. Cholette, yes; Mr.  
25 Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Ms.

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Baker Leit, yes.)

(Upon roll call, motion to approve with  
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

|   |  |   |
|---|--|---|
|   | 46 [1] 2/21<br>48 [1] 2/23<br>49 [1] 3/25  | adding [2] 59/8 65/22<br>addition [9] 53/18 54/19 55/25 56/15<br>56/24 57/21 58/16 90/3 108/13<br>additional [6] 6/3 29/2 33/22 39/9 89/3<br>108/3<br>additions [4] 3/24 53/2 107/10 108/18<br>address [1] 59/6<br>adequate [2] 23/24 74/25<br>adequately [1] 98/2<br>adhere [1] 98/20<br>adjacent [1] 58/20<br>adults' [1] 83/23<br>advancement [1] 9/18<br>advertised [2] 2/5 2/7<br>advertised in [1] 2/7<br>advisers [1] 63/13<br>aerial [1] 60/19<br>aesthetically [1] 41/2<br>affected [2] 59/7 68/13<br>afford [1] 71/4<br>after [9] 2/19 22/9 53/2 55/2 55/4 55/7<br>77/10 106/4 107/9<br>again [11] 18/18 32/11 36/8 36/22 47/24<br>50/17 61/12 70/17 74/14 89/16 89/20<br>against [2] 69/24 88/19<br>agenda [1] 15/14<br>agent [3] 49/23 50/7 105/4<br>aggressive [1] 88/21<br>aging [1] 108/5<br>ago [1] 53/9<br>agreement [3] 71/24 72/11 102/4<br>ahead [4] 76/10 77/4 83/11 88/16<br>aided [1] 38/13<br>air [24] 6/20 10/14 13/11 40/10 54/8<br>64/15 64/21 64/22 65/4 65/6 67/2 71/6<br>76/12 76/13 76/19 76/21 76/23 78/17<br>78/24 79/4 79/4 79/5 79/10 107/25<br>air-conditioned [1] 40/10<br>air-conditioning [1] 71/6<br>Aja [2] 90/4 90/10<br>alcoholic [2] 96/23 98/10<br>all [67] 4/3 4/23 7/23 10/12 11/24 12/8<br>12/22 14/2 16/9 18/19 19/23 21/4 21/15<br>22/22 26/7 27/11 27/23 33/9 33/12 35/18<br>36/8 37/14 41/21 43/24 44/18 44/24 45/9<br>46/2 46/18 50/3 50/5 51/6 51/11 53/4<br>66/11 72/23 74/18 75/2 75/18 77/8 77/12<br>78/13 79/12 79/23 82/6 82/11 82/14<br>82/17 82/17 82/19 82/23 83/4 83/15<br>87/15 87/17 91/18 92/14 96/11 97/24<br>99/20 100/4 101/8 103/9 105/8 106/8<br>107/11 108/20<br>alleviate [1] 108/10<br>allocated [1] 102/5<br>allow [15] 4/18 5/25 19/22 26/4 49/25<br>50/21 52/23 52/25 96/6 101/7 103/5<br>105/6 105/13 107/6 107/9<br>allowable [1] 105/22<br>allowed [14] 13/22 24/8 50/3 53/3 58/10<br>61/16 96/22 97/7 97/8 97/16 101/22<br>105/8 105/15 107/11<br>allowing [2] 4/21 96/9<br>allows [1] 48/23<br>alluded [1] 43/11<br>almost [1] 34/24<br>along [3] 29/20 66/3 97/11<br>Alongi [3] 7/19 10/25 11/2<br>already [5] 51/12 58/6 86/22 86/23 97/7<br>also [27] 5/19 5/21 6/19 7/4 7/15 17/14<br>30/9 45/20 48/11 55/19 56/20 57/11<br>58/11 59/15 61/18 64/9 64/12 65/21<br>72/17 75/6 75/14 75/20 83/23 84/6 89/8<br>92/11 92/12 |
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**A**  
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