

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on July
2nd, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

July 2nd, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

CANDICE BAKER LEIT, ESQ.

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

1
2 MR. CHOLLETE: I would like to now call to
3 order the July 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 June 26,
8 2014.

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

10 MR. DiSTEFANO: Please let the record show
11 that Ms. Baker Leit is not present.

12 MR. CHOLLETE: We have the minutes from our
13 previous meeting.

14 MR. DiSTEFANO: Did everybody get those in
15 time?

16 They went out, like, late Friday and I didn't
17 know if you were going to get them or not.

18 You did get them in plenty of time?

19 MS. CORRADO: Yes.

20 MS. SCHWARTZ: No.

21 MR. CHOLLETE: Are there any additions or
22 corrections to the minutes?

23 MS. CORRADO: I'm filling Judy's role today.
24 Just a few.

25 On page 8, line 6, complimentary with an i

1
2 should be complementary with an e. Tough to hear those
3 subtle pronunciation differences.

4 On page 20, line 5, your should be 're.

5 Page 25, line 20 should be its, no
6 apostrophe.

7 Page 27, line 4, we need to insert the word
8 is, percentages. Or I'm sorry, if you do the
9 percentages - I'm sorry, how does this read? Asking
10 for you if you do the percentages, percentages are
11 slightly larger.

12 Page 31, I believe in line 15, it should be
13 plantings rather than plannings.

14 And then line 18, it should be planters, not
15 planners.

16 Line 22 more should are moor should be more,
17 m-o-r-e.

18 Page 58, line 22, Mr. Gupta answered
19 affirmatively, so self-contained is a statement not a
20 question.

21 Page 67 line 21, Mr. Cost is misspelled. It
22 should be C-o-s-t, not K-o-s-t.

23 And page 69 line 21, also the same
24 correction, Mrs. Cost with a C.

25 And that is all I found. I'm not as

1
2 eagle-eyed at Judy is.

3 MR. CHOLLETE: Are there any other additions
4 or corrections?

5 May I have a motion to approve the minutes as
6 amended?

7 (Motion to approve the amended June minutes
8 made by Dr. Lawrence.)

9 (Seconded by Ms. Schwartz.)

10 (Upon roll call, motion to approve the
11 amended June minutes carries.)

12 MR. CHOLLETE: When you're ready, Rick,
13 please read the first application.

14 THE WITNESS: Once again, the application
15 1A-02-14 is the application of Tops Markets.

16 Is there anyone here to represent Tops
17 tonight?

18 There being none, would you like to open it
19 up, in case there's anybody else in the --

20 MR. CHOLLETE: Yes. Since there's nobody to
21 submit information, what we will likely do -- well,
22 we'll determine during the decision making process - we
23 have the capability of turning it down with or without
24 prejudice or I suppose we have the option of tabling it
25 again.

1
2 But since there is someone in the audience
3 that would like to speak with regard to this
4 application, if would you just come forward and give
5 your name and address and then make any statement that
6 you would like to regarding --

7 DR. LAWRENCE: Rick, just a point of
8 clarification, since it's been tabled since the April
9 meeting are we running into any time issues?

10 MR. DiSTEFANO: No because -- well, prior to
11 that they've requested the extensions to postpone and
12 extend it to the next meeting. We didn't hear anything
13 this meeting. So we possibly could be running into a
14 time frame with it. So I think we should probably act
15 on it in some fashion tonight just so that we don't get
16 up against a time frame.

17 MR. CHOLLETE: I think so too.

18 DR. LAWRENCE: True.

19 MR. CHOLLETE: Good evening.

20 MR. SHAPIRO: My name is Sheldon Shapiro. I
21 live at 136 Eastland Avenue.

22 I have been attending for the last three
23 months to attend a hearing on this application. I was
24 planning to listen as a member of the public to this
25 public hearing. And I had in my mind various reasons

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2 that might have been presented in support for this
3 application. But I'm not authorized to represent the
4 applicant.

5 And I feel that instead of my offering any
6 reasons in support of the application, I should instead
7 suggest this is sort of under an analogy to a legal
8 doctrine called laches, and I'll spell that,
9 L-a-c-h-e-s. It's a legal doctrine that indicates that
10 when there's been an unreasonable delay a party should
11 be denied relief. And so instead of offering any
12 reasons in support of this application, I would
13 recommend that the application be denied.

14 You probably won't use the word latches, but
15 I think that you are justified in denying the
16 application on the basis of the applicant's
17 unreasonable delay. And I think you can do this
18 without prejudice. But at the same time it would be
19 good to notify any person that applies for this form of
20 relief that they shouldn't file an application until
21 they're ready to present reasons in support of it.

22 Thank you.

23 DR. LAWRENCE: Thank you.

24 MR. CHOLLETE: Thank you for your comments.

25 My understanding is that part of what went on

1
2 with Tops is that they plan to expand what they plan to
3 do in the whole plaza, and therefore they're trying to
4 get their act together. And it seems obvious that they
5 have not quite done that.

6 Thank you for your comments.

7 Is there anyone else that would like to speak
8 with regard to this application, 1A-02-14?

9 If not, then we'll close this part of the
10 public hearing and move on to regularly scheduled
11 applications.

12 7A-01-14 Application of Sealand Contractors, applicant,
13 and Dan Morgenstern, owner of property located at 2750
14 Monroe Avenue, for a Temporary and Revocable Use Permit
15 pursuant to Section 219-4 to allow for the open storage
16 of construction equipment(staging area) for a seven
17 month period where not allowed by code. All as
18 described on application and plans on file.

19 MR. DiSTEFANO: Is there an applicant?

20 MR. CHOLLETE: Please come forward.

21 MR. DEEDS: Good evening. Tim Deeds with
22 Sealand Contractors. I live at 45 South Avenue, Avon.
23 And this is in regards to 2750 Monroe Avenue, behind
24 Clover Lanes.

25 We're doing work on Monroe Avenue and the

1
2 ramp on 590 and we need some place to store equipment
3 and materials. And we've used Clover Lanes in the past
4 for work we've done in Brighton. Seven month period
5 should be, like, to October. We've worked it out with
6 them. We just have everything organized back there, a
7 conex box. I have some pictures too to give you guys.

8 And we really don't have any other options or
9 places to go. We just have to store some stuff behind
10 there.

11 DR. LAWRENCE: You just mentioned seven
12 months and then you said October. My math would be
13 into January, seven months from now.

14 MR. DEEDS: When I first started this process
15 and talked to Rick it was going to be, like, through
16 November or December. The job it is going quicker than
17 we anticipated. So now we're thinking, like, October.

18 DR. LAWRENCE: So we could say December 1st
19 or November 1st and you would be comfortable with that?

20 MR. DEEDS: Yes.

21 DR. LAWRENCE: Is this a situation where
22 you're renting the space from whoever owns it?

23 MR. DEEDS: No. It's just equipment and
24 material storage for the job that's going on in Monroe
25 Avenue.

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2 DR. LAWRENCE: So he's donating the space for
3 free?

4 MR. DEEDS: Yeah, we've used him in the past
5 for jobs we've done.

6 MR. CHOLLETE: What's that space normally
7 utilized for?

8 MR. DEEDS: It's the back parking lot.
9 There's a little access road there that goes out to
10 Clover and Allens Creek. It's pretty much where our
11 stuff is stored.

12 We actually put that in the last time we did
13 work and used his yard there - or his back parking lot.

14 MR. CHOLLETE: Normally is there cars parked
15 there for any purpose at all?

16 MR. DEEDS: Not the very back, no.

17 MR. MIETZ: How --

18 MR. DiSTEFANO: I just -- go ahead.

19 MR. MIETZ: How late in the evening would you
20 need to access this area?

21 MR. DEEDS: Originally it was an all night
22 job throughout the whole summer, but we pretty much
23 changed it to, like, ninety percent daytime. I mean
24 there are a couple of times during the week when we're
25 in there at night, but it's in and out and there's no

1
2 noise. All our guys understand, you know. And there
3 really isn't residential. There's no houses near or
4 anything, but --

5 DR. LAWRENCE: You just drop off the
6 vehicles?

7 MR. DEEDS: That's it. It's just storage.
8 They're not congregating or we're not doing any
9 construction there.

10 MS. SCHWARTZ: So, Rick, what was the issue
11 then with the --

12 MR. DiSTEFANO: My question to Tim: I was
13 out there today and I noticed that you had equipment
14 stored along the property line that is shared with
15 Mario's, like --

16 MR. DEEDS: We took --

17 MR. DiSTEFANO: -- trucks, some light
18 fixtures. I can't remember all the inventory that was
19 there, but that storage crept down along the property
20 line with Mario's.

21 Is that typical or is that something --

22 MR. DEEDS: We took a couple parking spots
23 for our lights, but there's another contractor in there
24 KBH/RG&E. I don't know what they had worked out.
25 Whether they had --

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2 MR. DiSTEFANO: So that's not your equipment
3 that's there?

4 MR. DEEDS: Only a couple of spaces, like,
5 the lights are ours. Otherwise, that's it.

6 MR. DiSTEFANO: That's down that property
7 line?

8 MR. DEEDS: Right. And as the job goes on
9 we're going to condense everything. We're going to use
10 the materials up and bring everything back by the conex
11 box. That's the plan.

12 MR. DOLLINGER: I have a question on how you
13 access this?

14 This right-of-way access road, who owns that?

15 MR. DEEDS: Clover Lanes.

16 MR. DiSTEFANO: It's an RG&E easement that's
17 part of the Clover Lanes' property. Just like it's on
18 Mario's property, but it's an RG&E right-of-way. And
19 that runs all the way through Clover Street to Monroe
20 Avenue.

21 MR. CHOLLETE: So you will be accessing it
22 off of Clover or not directly on to Monroe?

23 MR. DEEDS: No. Pickup trucks, yes. But
24 dump trucks or any deliveries come off the side roads
25 there. We have access points from both ends, Allens

1
2 Creek and Clover.

3 MS. SCHWARTZ: Is that a temporary access?

4 MR. DEEDS: No, that's permanent.

5 MR. CHOLLETE: Dave or Rick, do you have a
6 question on this?

7 MR. DOLLINGER: No.

8 MR. CHOLLETE: Are there any other questions?

9 Fine. Thank you very much.

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

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

14 7A-02-14 Application of Igor and Marcia Spivak, owners
15 of property located at 330 Grosvenor Road, for an Area
16 Variance from Section 205-2 to allow a deck to extend 6
17 ft. into the existing 58 ft. rear setback where a 60
18 ft. rear setback is required by code. All as described
19 on application and plans on file.

20 MR. SPIVAK: Good evening. My name is Igor
21 Spivak. I live at 330 Grosvenor Road.

22 And we have an existing patio on the back of
23 our house and we would like the deck to be within the
24 perimeter of that patio.

25 The primary reason for us building the deck

1
2 is my wife and I both have elderly parents who come to
3 visit. Right now the patio, you have to walk four big
4 steps to get from the house to the patio. And with a
5 deck you would be able to walk right out the door to
6 the patio, you will be able to be outside.

7 The current setback for the house as it
8 exists is fifty-eight feet, even though the requirement
9 is sixty feet. And the current design of the deck
10 we're requesting an additional -- we have a current
11 plan with an additional five and a half feet.

12 The deck is a two-part deck and the part
13 where there will be an extension into the setback is
14 actually only twenty-four inches high and there would
15 be steps coming down - there will be two steps coming
16 down.

17 Our home is enclosed. There's trees all
18 around and you can't really see the patio right now
19 from either side or from the back. We feel that it
20 will be no inconvenience for anyone - any of the
21 neighbors if there was a couple foot extension of that
22 deck into a setback.

23 DR. LAWRENCE: Besides the railing to prevent
24 people from falling off, there's no other enclosures?

25 MR. SPIVAK: No. There's a railing that's

1
2 going to go on the upper part of deck, but the lower
3 part of the deck it extends into the setback, it's just
4 steps coming down - three steps.

5 MR. CHOLLETE: Any other questions?

6 Fine thank you very much.

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

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

11 7A-03-14 Application of R. Jon Schick, architect, and
12 John and Rebecca Bucci, owners of property located at
13 3620 Elmwood Avenue, for Area Variances from Section
14 205-2 to 1) allow a garage addition to extend 6.7 ft.
15 into the 39.9 ft. side setback required by code, and 2)
16 allow for total attached garage area to be 1,209 sf in
17 lieu of the maximum 900 sf allowed by code. All as
18 described on application and plans on file.

19 MR. SCHICK: Good evening. My name is John
20 Schick and I'm the architect for the project at 3620
21 Elmwood Avenue.

22 When the property was purchased there was
23 already a four-car garage there. Two of the four cars
24 was an addition at some point. It was not very
25 sensitively designed.

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2 We're sort of doing a major redo of the house
3 because it's a very large home as you probably know and
4 so we're sort of reconfiguring it so that it's more
5 family friendly. The new owners have three young boys
6 so we're doing a large eat-in kitchen and family room.
7 Previously the kitchen and family room stuff was sort
8 of squeezed in the back corner of the house behind the
9 garages.

10 So part of the overall scope of the project
11 is to rebuild these two car - the two-car garage that
12 were removed. So we will still have a four-car garage
13 there, but we're proposing to pull it a little bit
14 further back away from the common lane and also pull it
15 away from the existing garage so that it's sort of a
16 twin to the existing - the original garage.

17 So we exceed the allowable nine hundred
18 square foot garage maximum by rebuilding this garage.
19 And there's a setback - the side yard setback is about
20 forty-feet because of the width of the property is so
21 wide, that's sort of the maximum side yard setback of
22 forty-feet. There's an odd little zig zag at that
23 corner of the property and we can't really make the
24 forty-feet. I think we're at like thirty-three and
25 some change - thirty-three feet. So --

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2 MR. CHOLLETE: That's at the front of the
3 garage that you're - where you're missing by
4 thirty-three feet and at the rear of the garage you've
5 got a little more at the same thing?

6 MR. SCHICK: This is the side
7 yard(indicating) it's forty-eight.

8 MR. CHOLLETE: Right.

9 MR. SCHICK: But this corner(indicating) I
10 guess is still considered the side yard somehow, but
11 that little zig zag there(indicating) we're at 33.2
12 inches.

13 MR. CHOLLETE: Okay. But it's really just
14 that corner that is the worse situation?

15 MR. SCHICK: The corner that is the worse
16 situation, yes.

17 DR. LAWRENCE: Except for the neighbors -
18 there's a couple of the neighbors at the end of the
19 cul-de-sac that won't be able to see this?

20 MR. SCHICK: Correct. That's absolutely
21 correct. The party's intent is to -- Mark Bayer is the
22 landscape architect. He's going to be - he's putting
23 together the whole design of this. But the intent is
24 to break up this facade a little bit more and to add
25 some opportunities for more landscaping, and to break

1
2 up what is now a large area of asphalt - in front of
3 where all of the garages were and connecting to this
4 auto court(indicating) is all one big paved area. The
5 intent is to break it up and to have some more
6 landscaping interspersed along this long facade of the
7 house(indicating).

8 MR. CHOLLETE: Why couldn't the garage,
9 though, be further to - it would be to the south than
10 where you placed it?

11 MR. SCHICK: Push this(indicating) to the
12 south?

13 MR. CHOLLETE: Yes.

14 MR. SCHICK: Well, we kind of wanted it
15 pulled apart so that there was - there's going to be
16 sort of this garden(indicating) between these two
17 garages. Like I said, we're going to break up the
18 asphalt here(indicating) and sort of breaking up what
19 was kind of a large area of asphalt. So it's really a
20 component of the design. There will be a covered
21 walkway next to the garage and the house.

22 MR. CHOLLETE: But there's no topography or
23 anything like that that really dictates that the garage
24 has to be that far removed. You could have avoided
25 this need for the variance all together, I don't - for

1
2 the side setback which is moving it in a little bit to
3 the south.

4 MR. SCHICK: It's actually more than you
5 think. But, I mean, I agree with you at some level
6 that is a true statement. It was really more part of
7 this covered walkway here(indicating).

8 So this is the facade(indicating) that you
9 could see from the driveway. This is an existing porch
10 structure that's behind this(indicating). So it's
11 really just, you know, making this covered walkway
12 substantive enough to not look -- I don't know, at some
13 point they get to be close together and this walkway
14 gets sort of - it's an awkward length.

15 MR. CHOLLETE: I understand what you're
16 saying.

17 The garage that will be constructed, there's
18 a hedge or something right in front it --

19 MR. SCHICK: There's --

20 MR. CHOLLETE: -- will that remain and the
21 garage will be hidden behind it, or --

22 MR. SCHICK: This portion -- there's a lot of
23 landscaping along this whole property line(indicating).
24 There's a large burning bush hedge here(indicating).
25 Part of that will be removed because that's where the

1
2 new proposed driveway will be. But then we will be
3 replacing that portion of landscaping with some new
4 landscaping between the two garages.

5 MR. CHOLLETE: So there will be a driveway
6 then coming out of the garage straight out to that
7 private lane.

8 MR. SCHICK: Correct.

9 MS. SCHWARTZ: Is the connector open and just
10 how --

11 MR. SCHICK: No, it's enclosed.

12 MS. SCHWARTZ: Enclosed. And the purpose is?

13 MR. SCHICK: It's just more of a design piece
14 just to, like I said, separate these two
15 garages(indicating) so it wasn't one big large garage
16 to give it a little bit more presence. It also helps
17 to create some nice spaces in the back area.

18 There will be an attic on the second floor of
19 this garage(indicating) for outdoor storage - for
20 storage of outdoor furniture because the basement is
21 actually pretty hard to access.

22 So that's about it.

23 MR. CHOLLETE: Rick, a private drive is not
24 considered a street regarding variances because they
25 would be much too close to the street?

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MR. DiSTEFANO: Right.

MR. CHOLLETE: I guess what we need to grapple with - and we can do this when we discuss it - is the fact that much of our thinking, if this were on a regular street our concerns would be quite different than the fact this is on a private drive.

Especially a cul-de-sac that ends just two house past this, right, one on each side?

MR. DiSTEFANO: Three.

MR. CHOLLETE: Three.

MR. SCHICK: There's three. You can't see these.

MR. DiSTEFANO: Just for clarification, Jack, I don't know if I answered your question correctly. For the purpose of this lot we did consider the private drive as their frontage. Therefore, that side that they're asking for is a true side setback requirement. When you have these lots that come off private drives or some of the old flag lots you don't know when they built the house what they were considering to be front, side, rear yards. We had to make a determination and since this kind of made sense because they have a pool that's kind of in the rear yard. And so we used the private drive even though it's not a town road, we used

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2 a private drive as their frontage.

3 However, the private drive doesn't meet that
4 requirement of only having one access. The private
5 drive itself is the one access for all of these lots
6 out onto Elmwood Avenue. So the fact that they have
7 multiple curb cuts I'll call them, even though they're
8 not curb cuts, that's not a violation of the code.

9 DR. LAWRENCE: Have any of the neighbors said
10 anything about this addition?

11 MR. SCHICK: We met with the neighbor
12 directly to the north, I don't remember her name. They
13 had expressed some concerns about the project. We met
14 with them a couple of weeks ago and showed them the
15 proposed application and the drawings. And I'm
16 surprised they're not here tonight, but they were very
17 relieved when they saw it.

18 I know they were concerned with some drainage
19 issues, the driveway. We're not proposing to change
20 the drainage. But the way it was originally designed
21 is the driveway or the common lane is sort of -- so I'm
22 talking about the north, which is here(indicating) --
23 but the common lane sort of comes around here and you
24 could see the tow post here. The grade is dropping as
25 it goes sort of towards - this is the CCR parking lot

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2 here(indicating). There's a catch basin right
3 here(indicating) and there is a swale that's sort of
4 molded right into the asphalt that runs along this
5 driveway down to that catch basin. So it is designed
6 to drain down basically on the property line to this
7 catch basin down there. That was their - their only
8 concern was are we going to create more paved area and
9 change the drainage situation, which we're not planning
10 to do.

11 MR. CHOLLETE: I don't think we've talked
12 about the size of the garage at all. Can you make a
13 statement as to --

14 MR. SCHICK: Yes.

15 MR. CHOLLETE: -- what the need is for the
16 extra size?

17 MR. SCHICK: The original four-car garage
18 square footage was one thousand eighty-five square
19 feet. The new total square footage of the garage - of
20 all four garages would be twelve hundred and nine
21 square feet. So that's a net increase of about a
22 hundred and twenty odd square feet. Most of that is
23 attributed to the addition of a garage - excuse me, a
24 stair - an access stair in the back of the garage to
25 get up to the attic. So - and that's like I said --

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2 MR. CHOLLETE: So the depth of the garage is
3 being added to the size more than the width?

4 MR. SCHICK: Correct. It's twenty-four feet
5 wide, which is a pretty standard width and twenty-six
6 foot seven inches deep. So 24x24 is pretty much a
7 standard garage.

8 MR. CHOLLETE: And the height of this garage
9 is within code?

10 MR. SCHICK: Yes.

11 MR. DiSTEFANO: Within code for an attached
12 garage, not for a detached garage. This is considered
13 an attached garage because it's connected with enclosed
14 space, the breezeway which is actually fully enclosed.

15 MR. CHOLLETE: Right.

16 MR. SCHICK: So the height of the garage is
17 twenty-five foot three. Which I think is almost
18 exactly the same as the existing one. I think it might
19 be a little bit lower because it's stepping down hill.
20 It's definitely lower because it's stepping down hill,
21 but I think it might even be a little bit less than the
22 existing garage. We lowered the plate height.

23 MS. SCHWARTZ: What utilities do you plan on
24 having in the garage?

25 MR. SCHICK: Utilities?

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MS. SCHWARTZ: What utilities?

MR. SCHICK: Electric and water.

MS. SCHWARTZ: Any more?

MR. DiSTEFANO: Again, it's not a detached garage, so they could put living space above that if they wanted to. They would have to meet the livable floor area requirements at that point, which I don't know if they would or not. But because it's attached you can put living space above it.

MR. SCHICK: But we're not proposing livable square footage up there.

MR. CHOLLETE: Okay. I guess we know what it is.

Are there any other questions?

Fine. Thank you very much.

MR. SCHICK: Okay. Thank you.

MR. CHOLLETE: 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.

7A-04-14 Application of Tim Tyskiewicz, architect, and Matt and Courtney Winslow, owners of property located at 6 Elmwood Hill Lane, requesting modification of

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2 condition #2 from approved application 4A-03-14 to
3 allow additional utilities, other than just
4 electricity, be allowed in the approved detached
5 garage. All as described on application and plans on
6 file.

7 MR. TYSKIEWICZ: Good evening. Tim
8 Tyskiewicz, architect.

9 Thanks for approving the variances on this
10 project. The project is underway and it's going well.

11 Laying out the pool area and thinking about
12 how that space is going to be used. The owner would
13 like for you to consider to allow us to put a kitchen
14 and bath in the garage with an opening facing the pool
15 area, so that when they have pool parties they can
16 serve drinks from there and have a change room and have
17 a bathroom. It's a fair distance to the kitchen and
18 bath going through the house and you can't really do it
19 without a little wet feet making a mess.

20 DR. LAWRENCE: So when they planned the pool
21 there's no cabana or anything?

22 MR. TYSKIEWICZ: There's no cabana.

23 DR. LAWRENCE: Are you okay with this?

24 Rick, how does this just - how does this not
25 become a house?

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2 MR. DiSTEFANO: Well it's - that's one of the
3 issues that you have. And that's why you put the
4 condition on in the first place, to safeguard this
5 structure from becoming a second dwelling unit on the
6 property.

7 MR. TYSKIEWICZ: We don't want to finish - we
8 don't want any sleeping rooms. We just want a
9 kitchenette that serves the pool area. No one will be
10 sleeping. We won't even finish that upstairs area.

11 MR. CHOLLETE: When you were in before - I
12 did not look back on the minutes - but we obviously
13 talked about this garage.

14 MR. TYSKIEWICZ: We did. I swore --

15 MR. CHOLLETE: Is this actually ever going to
16 have an automobile in it or is this something else?

17 MR. TYSKIEWICZ: It is.

18 MR. CHOLLETE: At that time what did you
19 describe to us as the --

20 MR. TYSKIEWICZ: At that time I described we
21 would have a couple of cars and a golf cart in there.
22 And that was the intention at the time. And then to
23 just have access to store all of the pool toys and all
24 of the lawn furniture and that sort of thing.

25 And it grew from there as we talked about how

1
2 we were going use that pool space. That it's pretty
3 far to stir up a margarita. So that's what generated
4 the idea for us to have kind of like what would be a
5 pool house, but no one is sleeping there. Just kind of
6 a place to serve the pool, have a drink or use the
7 restroom.

8 MR. CHOLLETE: Let me go back to my question:
9 Will it be used as a garage at all.

10 MR. TYSKIEWICZ: It will be used as a garage.

11 MR. CHOLLETE: It still has room inside there
12 for an automobile?

13 MR. TYSKIEWICZ: Two full-size car spaces and
14 a space that will fit a golf cart, which they own now.

15 MR. CHOLLETE: And --

16 MR. DiSTEFANO: There is a floor plan.

17 MR. CHOLLETE: I looked at the floor plan,
18 but I guess it wasn't obvious to me what I was trying
19 to see in this floor plan.

20 MR. TYSKIEWICZ: (Inaudible.)

21 MR. DiSTEFANO: Tim, he can't pick you up.

22 MR. TYSKIEWICZ: Sorry.

23 MR. CHOLLETE: But you can still come and
24 show us. Just speak --

25 MR. TYSKIEWICZ: Yeah. As your facing the

1
2 garage door, on the right fits a convertible, the one
3 in the middle fits a golf cart and the one on the left
4 fits a full size SUV. So it's definitely a garage.

5 MR. CHOLLETE: So the width of this garage is
6 almost enough for three cars?

7 MR. TYSKIEWICZ: It is a three-car garage.

8 MR. CHOLLETE: And the back of it then, away
9 from the garage doors, is going to have on - the center
10 part is going to have this kitchen?

11 MR. TYSKIEWICZ: Yup.

12 MR. CHOLLETE: And those are stairs leading
13 to a storage place above?

14 MR. TYSKIEWICZ: Yup. That's where we're
15 going to put the lawn furniture off-season.

16 MR. CHOLLETE: And then we've got the bath on
17 the other side with the pool.

18 And so that's what you want?

19 MR. TYSKIEWICZ: Yes.

20 MR. CHOLLETE: When you talk about other
21 utilities, what utilities are you talking about putting
22 in there?

23 MR. TYSKIEWICZ: The bathroom and a kitchen.

24 MR. CHOLLETE: Well, I know that.

25 But what I want to talk about electricity,

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water, sewage, heat, gas?

MR. TYSKIEWICZ: Yeah, there's going to be a pool heater there. So you have --

MR. CHOLLETE: Plus the heater for the building itself?

MR. TYSKIEWICZ: Yeah, and there'll be a little -- that's right.

MR. CHOLLETE: Okay.

MR. TYSKIEWICZ: So the pipes don't freeze.

DR. LAWRENCE: Is there --

MR. CHOLLETE: Air conditioning?

MR. TYSKIEWICZ: No.

DR. LAWRENCE: Is there an entrance to the new addition accessing the pool area?

MR. TYSKIEWICZ: Directly into the kitchen there's a double door.

DR. LAWRENCE: So in the picture it doesn't look much further - maybe it's deceiving - from the pool to the kitchen as it would be to the garage, a few extra feet?

MR. TYSKIEWICZ: You mean in the other direction, towards the house?

DR. LAWRENCE: Yeah, I'm looking at the diagram that shows the new addition, the swimming pool

1
2 and the garage and the new addition.

3 MR. DiSTEFANO: Yeah, I think --

4 MR. TYSKIEWICZ: This floor plan shows the
5 work that is proposed within the footprint of the
6 garage that has been approved.

7 DR. LAWRENCE: I am talking about the other
8 way, if you're going towards --

9 MR. TYSKIEWICZ: Oh, yeah, the other way the
10 first twenty-five feet of that addition is a gymnasium,
11 double height space. And then it's past that that goes
12 to the bathroom and towards the kitchen. So you have
13 to walk across the --

14 DR. LAWRENCE: Gym.

15 MR. TYSKIEWICZ: -- gym. And that is a gym
16 for when the kids are little. When the kids get big
17 it's a great room.

18 MR. CHOLLETE: There's doors going into the
19 kitchen from the pool, you said?

20 MR. TYSKIEWICZ: Correct.

21 MR. CHOLLETE: Is there a door going into the
22 bath from the pool area?

23 MR. TYSKIEWICZ: When you walk into the
24 kitchen and turn left.

25 MR. CHOLLETE: Yeah. You can't walk directly

1
2 into the bath from the pool?

3 MR. TYSKIEWICZ: Correct.

4 MR. CHOLLETE: Okay. I think we know what
5 they want.

6 Any other questions?

7 MS. CORRADO: Yes, one other question.

8 In the kitchen - access to the kitchen is
9 only from the outside and not from the inside of the
10 garage?

11 MR. TYSKIEWICZ: Correct.

12 MS. CORRADO: Thank you.

13 MR. CHOLLETE: That escaped me. That's an
14 interesting question.

15 So there is no access to the kitchen or the
16 bath from the garage itself?

17 MR. TYSKIEWICZ: Correct, only from the pool
18 area.

19 MR. CHOLLETE: If you're in the garage,
20 suppose you're in there doing something, how do you get
21 out of - where are the exits from the garage besides
22 the main doors?

23 MR. TYSKIEWICZ: There's a man door - there's
24 three garage doors and there's a man door, door number
25 three thirteen --

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MR. CHOLLETE: I see that.

MR. TYSKIEWICZ: -- goes directly to the outside.

MR. CHOLLETE: That's at the front of the garage?

MR. TYSKIEWICZ: Correct. And that faces the golf course.

MR. CHOLLETE: So in theory then if you were in the garage, you would have to go out that door and walk around the outside of the garage?

MR. TYSKIEWICZ: That is our intention, yeah. We only want people to use that kitchen who are in the pool area.

MR. DiSTEFANO: And added to that, you cannot get to the second floor of the garage from inside the garage.

MR. TYSKIEWICZ: Correct.

MR. CHOLLETE: You have to go outside and go up the steps - outside, through the pool area and then up the steps to get to your storage area.

MR. TYSKIEWICZ: That's right. So the pool stuff goes right up in there.

MR. CHOLLETE: I guess I understand. It just seems very strange to me that you -- the vehicles that

1
2 are going to be parked in here, are they more like for
3 storage? Is it seldom used vehicles?

4 MR. TYSKIEWICZ: Well, there's a two-car
5 garage attached to the house.

6 MR. CHOLLETE: Right, on the other side.

7 MR. TYSKIEWICZ: And there's a golf cart and
8 the two cars. But they want a convertible. And it's
9 better to park a golf cart in a detached so there's
10 room in the attached for both his and her cars.

11 So we really are going to use these spaces
12 for cars.

13 MR. CHOLLETE: Yeah, but I'm just floored at
14 the lack of access from the garage to the pool area, to
15 the house, to anything. Because --

16 MR. TYSKIEWICZ: Yeah. We really only want
17 that kitchen and bath to be used by people using the
18 pool. It doesn't --

19 MR. CHOLLETE: Yeah, I understand that. I'm
20 forgetting that altogether. I guess I shouldn't pursue
21 this because it's your design work that you and the
22 owner have certainly wrestled with that. It just seems
23 strange to me.

24 You don't have to answer that.

25 MR. GOLDMAN: It seems very inconvenient if

1
2 these cars are going to be used on a daily or
3 semi-daily usage, to access them from the house all the
4 way around to get to that door to get through.

5 MR. TYSKIEWICZ: Well, the other attached
6 garage is at the end of the house that we couldn't
7 expand in that direction. We probably would have, but
8 it's so snug to the property line over there.

9 MR. CHOLLETE: Okay. I guess we understand
10 what it is.

11 Any other questions?

12 Thank you very much.

13 MR. TYSKIEWICZ: Thank you.

14 MR. CHOLLETE: Is there anyone in the
15 audience that would like to speak with regard to this
16 application?

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

19 7A-05-14 Application of Patricia Tuliavo and Jackie
20 Dunn, owners of property located at 41 Ashley Drive,
21 for an Area Variance from Section 205-2 to allow a
22 garage addition to extend 5.4 ft. into the existing 9
23 ft. side setback where a 15.75 ft. side setback is
24 required by code. All as described on application and
25 plans on file.

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2 MR. RONCHI: Good evening. My name is
3 Michael Ronchi. I'm representing Patricia Tuliavo and
4 Jackie Dunn for the 41 Ashley Drive.

5 MR. DiSTEFANO: Mike, could you spell your
6 last name for me please?

7 MR. RONCHI: R-o-n-c-h-i.

8 MR. DiSTEFANO: Thank you.

9 MR. RONCHI: We're trying to get an extended
10 garage, make the garage a little bigger and add a
11 little room into the dining area in the kitchen. So
12 we're asking for the setback on the side yard to move
13 the garage wall out and make the garage bigger, so I
14 still have room to extend the dining area.

15 DR. LAWRENCE: It's only a portion of the
16 side that needs the variance; is that correct, it's not
17 the whole garage extension?

18 MR. RONCHI: No, no, no. The garage will be
19 extended out.

20 DR. LAWRENCE: I mean, if you look at it,
21 because the lot line --

22 MR. RONCHI: Right

23 MR. DiSTEFANO: Probably the whole garage or
24 a good portion of the garage does need the variance.
25 It's just that shortest distance is only at a corner

1
2 portion of the garage.

3 MR. CHOLLETE: Well, that's partly because
4 they have a pre-existing situation.

5 MR. DiSTEFANO: Right with that back room.

6 MR. CHOLLETE: Right. And so this addition
7 is well within - is infringing on the side setback
8 because the setback is supposed to be --

9 MR. DiSTEFANO: Fifteen.

10 MR. CHOLLETE: -- almost 15.75.

11 MR. DiSTEFANO: Right. And the pre-existing
12 setback is nine something. They're extending an
13 additional five feet into that five plus or minus feet
14 into that, but it's more than just the corner because a
15 good portion of that would require a variance. But the
16 five point feet is just that corner point.

17 MR. CHOLLETE: Well, why don't we just ask
18 the question: At the front corner of the garage how
19 far are you from the property line?

20 MR. RONCHI: Approximately, I think it's
21 somewhere between, like, twelve and fifteen feet I want
22 to say.

23 MR. DiSTEFANO: It's scaling at about
24 15 feet.

25 MR. CHOLLETE: So that would be about 15 feet

1
2 there and then in the back it is the --

3 MR. RONCHI: Five.

4 MR. CHOLLETE: -- 5.4.?

5 MR. RONCHI: Five foot four inches.

6 MR. CHOLLETE: Now, my sense was when I
7 visited the property that the neighbor's house is -
8 because again it's around the curb, that is fairly well
9 removed.

10 Do you have any dimensions as to how far away
11 their house is from their property line?

12 I'm trying to get a feeling for how much
13 distance there will be between the garage addition that
14 you're planning --

15 MR. RONCHI: And his house.

16 MR. CHOLLETE: -- and his house?

17 MR. RONCHI: Well, the neighbor - I didn't
18 take that measurement, but I do know that in the area
19 on the street they will be approximately pretty much
20 the same distance as quite a few of the houses on the
21 street.

22 DR. LAWRENCE: It seemed like thirty or forty
23 feet. It was --

24 MR. CHOLLETE: I'm just trying to get it on
25 the record.

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2 So we have an estimate thirty of forty, but
3 you're saying it's - you've, from eyeballing it your
4 sense is that it will still be about as far away from
5 the neighbor's house as many other homes nearby?

6 MR. RONCHI: Yes, if not further away.

7 But if you do need that measurement, I don't
8 live far and --

9 MR. CHOLLETE: That's not necessary.

10 MR. RONCHI: Okay.

11 MR. CHOLLETE: Are there other questions?

12 DR. LAWRENCE: And the style of this will be
13 consistent with the --

14 MR. RONCHI: Existing part of the house,
15 absolutely.

16 MR. CHOLLETE: This garage then will be built
17 into the house just as the current garage is, so it
18 will be under the same roof - the house and the garage,
19 just --

20 MR. RONCHI: Yes, same roof line.

21 MR. CHOLLETE: -- the roof line continues to
22 drag across?

23 MR. RONCHI: Same exact roof line.

24 MR. CHOLLETE: So when we look at it after
25 it's done it will look just like a wider house than it

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does today?

MR. RONCHI: Yes.

MR. DiSTEFANO: And just for clarification,
it's a one-car garage now.

It's still going to be a one-car garage
because - or maybe one, maybe one and a half, but for
the most part --

MR. RONCHI: Probably one and a half.

MR. DiSTEFANO: It's because you're bumping
inside the --

MR. RONCHI: Inside the kitchen --

MR. DiSTEFANO: -- kitchen and --

MR. RONCHI: -- and dining area out.

MR. DiSTEFANO: -- dining area out, so it
won't be a two-car garage?

MR. RONCHI: No. Technically, a two-car
garage is pretty much nowadays about twenty-four feet.
A tight one - and I've seen some in the area because
I'm a contractor and I do a lot of work in the area -
I've seen some real tight two-car garages at
sixteen feet, but again, that's pretty tight.

MR. DiSTEFANO: But your interior dimension
is fourteen feet eight inches, I think that's what it's
saying there?

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MR. RONCHI: Yes.

MR. DiSTEFANO: So in essence, one and a half is the best you're going to do there.

MR. RONCHI: Pretty much.

MR. DiSTEFANO: With one door - one garage door.

MR. RONCHI: Yes.

MR. CHOLLETE: Well, I'm missing something here I think because you're extending five, five and a half feet into the existing setback.

So doesn't that mean your only moving the garage over five and a half feet?

MR. RONCHI: No. The five foot four inches is coming off the property line to the back corner of the garage.

DR. LAWRENCE: It's eight feet isn't it?

MR. RONCHI: Yes, it's roughly about eight foot.

MR. CHOLLETE: I can't listen to you both.

MR. RONCHI: I'm sorry.

UNKNOWN: I apologize.

MR. CHOLLETE: No, that's all right. Thank you for bringing this.

So this eight 8.2, eight foot two inches that

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you show here --

MR. RONCHI: Yeah.

MR. CHOLLETE: -- is what is moving over?

MR. RONCHI: Correct.

MR. CHOLLETE: So why aren't you - why in the application is this extending eight feet two inches into the existing nine foot setback?

Why - what's the --

MR. DiSTEFANO: Because they're not going to be at one foot from the set - you're not going to be at one foot from the lot line.

MR. CHOLLETE: Okay.

MR. DiSTEFANO: You're still going to be about four and a half feet from the lot line.

Do you see where that fence is located right there(indicating)?

The fence is - according to the survey the fence is 4.6 feet in from the property line.

MR. RONCHI: That's correct.

MR. DiSTEFANO: And the new addition is going right up to the fence. So in essence, where this addition is going to end up is four and a half feet from the lot line.

DR. LAWRENCE: With the --

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2 MR. DiSTEFANO: So the extension is 5.6 feet
3 into the existing nine foot setback. But that nine
4 foot setback is taken off the addition to the rear, not
5 to the house itself.

6 DR. LAWRENCE: And the reason it says 9.6 is
7 because there's an overhang.

8 MR. CHOLLETE: Okay.

9 MR. DiSTEFANO: The house itself is actually
10 about twelve feet back, so there's your eight and a
11 half.

12 MR. CHOLLETE: Okay. So that's where he's
13 coming from.

14 MR. DiSTEFANO: Right.

15 MR. CHOLLETE: Okay. Thank you.

16 MR. DiSTEFANO: Because of that weird angle
17 of the lot line.

18 MR. CHOLLETE: Okay.

19 MR. MIETZ: You show on the drawing a
20 fifteen inch overhang?

21 MR. RONCHI: Yes. That's the existing
22 overhang that's on the existing garage.

23 MR. MIETZ: Rick --

24 MR. DiSTEFANO: Take it from the overhang.

25 MR. MIETZ: Well, then it's further - the way

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2 this drawing is then it would be further than the eight
3 foot two inches.

4 DR. LAWRENCE: He does say that. He says
5 nine point something in his application.

6 MR. MIETZ: Nine point --

7 DR. LAWRENCE: Six or something like that.

8 MR. MIETZ: I just want to make sure they're
9 in there so that it doesn't become whether or not --

10 MR. CHOLLETE: And what are you doing with
11 the driveway?

12 MR. RONCHI: Well, as the other houses in the
13 area, the driveway at the street would stay the same,
14 and then a certain amount of feet back from Ashley
15 Drive it would veer off and go up and circle around to
16 the end of the garage there - the new garage.

17 MR. DiSTEFANO: He would still maintain the
18 required four foot setback there.

19 MR. CHOLLETE: Yeah, I know. I'm just
20 wondering - I'm just trying to get a feel for -- so the
21 entrance onto Ashley is going to be exactly where it is
22 now?

23 MR. RONCHI: Yes.

24 MR. CHOLLETE: And then - as you show on the
25 diagram - it's going to jet out to line up with the new

1
2 garage?

3 MR. RONCHI: That's correct.

4 MR. CHOLLETE: But you're not backfilling any
5 of the driveway with grass, you're going to leave the
6 driveway that's there?

7 MR. RONCHI: The driveway - the existing
8 driveway that's there will probably just get resurfaced
9 and it will be all brand new once the addition is done.
10 If I'm allowed to do it. The whole driveway will be
11 redone. I'll just add the little --

12 MR. DiSTEFANO: Bump out.

13 MR. RONCHI: Bump out.

14 MR. CHOLLETE: But part of where the driveway
15 is now, going up to the existing garage --

16 MR. RONCHI: Can I come and see what you're
17 --

18 (Off the record.)

19 (Back on the record.)

20 MS. CORRADO: When you expand the driveway to
21 accommodate the new garage, will any trees need to come
22 out?

23 MR. RONCHI: No, I won't have to touch any of
24 them.

25 MR. CHOLLETE: Any other questions?

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Thank you very much.

MR. RONCHI: Thank you.

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

There being none this part of public hearing is closed.

7A-06-14 Application of Susan Spoto, DDS, PLLC, owner of property located at 2109 South Clinton Avenue, for a Use Variance from Section 203-44 to allow a beauty/hair salon to occupy a portion of a 6,600 sf office building in an BE-1 Office district where not permitted by code. All as described on application and plans on file.

MR. GEOSJEAN: Good evening. My name is Russ Geosjean and I'm here representing Susan Spoto. I'm her business manager and accountant.

I would like to on the record commend you all for your service on a nice night like this. I'm on a similar Board in another community and coming here in the summer is always a tough thing for me to do. So congratulations and thank you for your service.

Dr. Spoto started her building in 2009 and it was supposed to be done in 2010. And her intent was to occupy half the building or approximately half the

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2 building for a dental office and for sleep apnea
3 procedures on Friday. The other half of the building
4 was going to be occupied by a medical professional as
5 well. Through no fault of Dr. Spoto's, the building
6 didn't get finished until 2012 and the original person
7 that was going to take the other part of the building
8 backed out of the deal because the building was not
9 done. We couldn't give him any dates and we finally
10 had to allow him out of his lease - or his potential
11 lease because we couldn't provide the space when he
12 needed it.

13 We had a second medical professional also
14 come in after the first one. We gave him a tentative
15 date, our building was still nowhere near being done.
16 It was no fault of Dr. Spoto's. We had to let him out
17 of his commitment.

18 So at that point the building has been vacant
19 now for over three years. We started out trying to
20 rent the space --

21 MR. CHOLLETE: When did she move in?

22 MR. GEOSJEAN: It was in the beginning of
23 2012.

24 MR. CHOLLETE: She moved in the beginning of
25 2012?

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MR. GEOSJEAN: Yes.

MR. CHOLLETE: Okay. So it hasn't actually been vacant quite that long?

I mean you can't start the clock until the beginning of 2012.

MR. GEOSJEAN: Well, we could have because the spaces on the other side were supposed to be done first. She had a lease where she was operating out of. So she had planned to move in a little bit later.

MR. CHOLLETE: I don't want to nitpick.

MR. GEOSJEAN: So that's the reason why it's three years. The space has been vacant, sir, for three years.

And started out trying to rent the space for nineteen dollars and fifty cents a foot. We have sense dropped are asking price to twelve dollars and fifty cents a foot. So we've had vacant space for over three years and we've dropped our price dramatically.

We submitted for all of your preview a letter from our broker who's been trying to rent this space. And she commends us for the nice building we've built, how it's an asset to the community. And we've done nothing to inhibit anyone from coming in there. In fact, we've offered many enticements to try and get a

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2 medical professional to occupy our space, but we've not
3 been able to get one. We've since contacted other
4 brokers. They were not even interested in representing
5 us.

6 So as a way to make Dr. Spoto almost near
7 financially whole in this building we are suggesting -
8 or requesting your permission to allow us to rent the
9 other space out to an individual that is going to have
10 a wellness and health and beauty facility.

11 The facility is going to not inhibit anybody
12 in the neighborhood. It's going to require at most
13 sixteen parking spots, that's with staff and all of the
14 individuals that would be there for whatever services
15 they are there for. Our dental practice is never going
16 to be more than eleven spots. Our lot currently has
17 forty-four spots.

18 We did have another doctor who actually took
19 spaces across the street, a Dr. Urebean(phenetic). I'm
20 sure I said that wrong, so I apologize to Dr.
21 Urebean(phenetic) but I know he's not here. He was
22 interested in taking half of our space. He wanted us
23 to subdivide the building - or actually put it in
24 thirds. We didn't do that because we feared that may
25 be a drain or a potential problem with parking. We

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2 didn't want to do anything that would be potentially
3 detrimental to the neighborhood. So when we found an
4 occupant that was willing to take half the space and
5 occupy it in a way that would not be of any detriment
6 to anybody in the neighborhood it seemed like it was a
7 good fit.

8 And believe me, if we could come up with
9 another use for this space we would have done it. But
10 this is a space that is very beautiful. The building
11 is new, very well maintained. And the potential person
12 that is going to occupy this space will only be an
13 attribute to the neighborhood. There's no negative as
14 far as we can see. And Dr. Spoto will be just as proud
15 of her tenant as she is of her own practice in that
16 building.

17 MS. SCHWARTZ: Will the exterior of the
18 building, especially that facing South Clinton be
19 changed in any way?

20 MR. GEOSJEAN: Not one iota.

21 MR. CHOLLETE: How about signage?

22 MR. GEOSJEAN: If there's going to be signage
23 it will be attached to the signage she has. There'll
24 be no problems with signage. There'll be no variances
25 or do nothing over and above what the law --

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MR. CHOLLETE: That's not my question.
What signage will be planned for the front of the building?

MR. GEOSJEAN: I believe we were talking about adding to the sign that she has on the building, but keeping it within the height restrictions that are there.

MR. CHOLLETE: I don't know what signage she has on the Clinton Avenue side.

UNKNOWN: Actually, we're looking --

MR. CHOLLETE: I'm sorry, you'll have to come forward and give your name.

MS. SPOTO: I'm Susan Spoto. I own the building at 2109 South Clinton.

We actually don't have any permanent signage on the building because I was waiting for a tenant to come in and see what was going to be most feasible. I know that there's rules and restrictions that the town has.

Some of the concerns that I see in the neighborhood, even with my neighbor, is there's some monument signs or signs on the building or that whole South Clinton Street has a variety of signs. So in watching the traffic and in seeing what takes place,

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2 it's kind of interesting to watch people go down the
3 street, that they tend to be looking for what they've
4 seen first, monument sign and then all of a sudden it's
5 on the door or on the window. So I haven't put any
6 signage up pending. You know medical practice is a lot
7 different.

8 Some of the things I would be looking at and
9 discussing with the Board would be whether it has to be
10 on the building. The building really doesn't lend
11 itself to signage on the building the way it's
12 designed. I would have to change some of the windows
13 to get it on the window. There's a big window in the
14 entrance. So the perspective tenant and I have talked
15 about that.

16 Another option we had looked into at one
17 point and had drawn up is if we did awnings. Which I
18 know would involve coming to the town because of that.
19 So we have no distinctive signage on the building right
20 now.

21 MR. GOLDMAN: How do you identify your side
22 from the other side?

23 MS. SPOTO: The true entrance for the
24 building is through the parking lot and that's the
25 double glass doors - the aluminum doors that have my

1
2 name on it and the other side blanked out. But they're
3 more of a shop door, than trying to keep -- I wanted it
4 to look more like a home to fit in the area. So I
5 don't have any intention of changing it. Just putting
6 lock sets on the doors. We still have the original
7 building lock sets.

8 MR. GOLDMAN: And one last question: The
9 beauty hair salon, will it be by appointment only?

10 MS. SPOTO: It's not a walk-in salon. It's
11 absolutely by appointment only. She's actually been
12 the number one salon in Rochester the last three years
13 in a row. And she does everything organic, which is
14 really important. And she's expanding into the
15 wellness arena and stress reduction, massage therapy,
16 essential oils and makeover.

17 MR. GOLDMAN: Thank you.

18 MR. CHOLLETE: Where is she currently
19 located?

20 MS. SPOTO: The Jefferson - the old Cohoes
21 Commons - Tops Plaza now. Tops is in there now and I
22 think Cohoes was years ago.

23 MR. CHOLLETE: We would need - for a use
24 variance we need more information on exactly what this
25 business is; I mean, hours of operation, number of --

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MR. GEOSJEAN: We've got all that.

MS. SPOTO: I have all that.

Would you like that now?

MR. CHOLLETE: If we're going to consider that, we need that information.

MS. SPOTO: Sure. So Christine's hours of operation is she's closed on Sundays and Mondays and has no intention on opening. On Tuesdays she teaches her hair cutting to her employees and she also colors for Schwarzkopf Color, so she teaches in the salon her employees different techniques. On Tuesday her hours of operation would be 9:00 to 4:30, and she's basically only open about once a month and that is one of her teaching days. She does travel for teaching also. On Wednesdays her hours at this location would be 11:00 to 6:00. Thursday they would be 11:00 to 6:00. Friday 9:00 to 7:00. Saturday 9:00 to 4:00.

MR. CHOLLETE: Is she a single operator or how many people would be operating in --

MS. SPOTO: She currently employs five people. They're not all full-time employees, but there's currently five employees.

MR. CHOLLETE: So five employees plus herself?

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MS. SPOTO: Yes.

MR. DiSTEFANO: Does she propose expansion of the employees?

I'm just looking at the floor plan, I see eight cutting stations, you know, the spa area.

Some other seating area that I'm not sure what that's exactly supposed to represent, it's around the shampoo stations?

MS. SPOTO: That's color processing.

MR. DiSTEFANO: That's the color processing area.

So it appears just from looking at the floor plan there would be more than six employees.

MS. SPOTO: Absolutely. Six are all hair cutters and they come and go. And usually you have your chair and you don't share it.

MR. DiSTEFANO: Correct.

MS. SPOTO: So she's hoping to bring aboard over time another three employees.

That is her ultimate dream location as far as building it. She had no intention of being that large, but she would like to employ at different times eight people. That would vary with whether they did hair. She likes to hire cosmetologists who would also be

1
2 doing skin, hair, nails.

3 MR. DiSTEFANO: I guess one of the numbers
4 that we're looking for since parking might become an
5 issue here --

6 MS. SPOTO: Uhm-hmm.

7 MR. DiSTEFANO: -- what is the total number
8 of employees - and this includes hair stylists,
9 cosmetologists, spa people, receptionists - how many
10 people is she going to have on this site?

11 MS. SPOTO: On that site, what she told me is
12 she currently employs five plus herself and she would
13 hope to bring aboard another three max at different
14 times throughout.the --

15 MR. GEOSJEAN: There will never be more than
16 -- I interrupted and I apologize. There will never be
17 more than six in the facility.

18 MR. GOLDMAN: Six employees?

19 MS. SPOTO: Right, plus herself.

20 MR. GOLDMAN: So there's seven?

21 MS. SPOTO: Typically in a hair salon people
22 rent a chair out. They don't - they're not always per
23 se an employee. And that chair is theirs. So it's not
24 like she can say, "Okay, one person use it today and
25 another." That's very classic of how a lot of salons

1
2 work.

3 MR. GOLDMAN: I'm unfamiliar, but if there's
4 seven employees in there --

5 MS. SPOTO: Uhm-hmm.

6 MR. GOLDMAN: -- I would assume the intent is
7 to have seven clients in there at the same time?

8 MS. SPOTO: Maximum, yes. They don't all
9 work the same day.

10 MR. GOLDMAN: Twelve - fourteen, and that
11 gets to your idea of sixteen spaces that are required
12 as you move into the area?

13 MS. SPOTO: Uhm-hmm.

14 MR. DiSTEFANO: A little more than that per
15 the code. The code will require two per station plus
16 one for each employee, and then we have to consider the
17 spa area also because that's kind of separate from the
18 hair styling section of this.

19 MS. SPOTO: Uhm-hmm.

20 MR. DiSTEFANO: So we would have to break
21 that out and that could be done on a square footage
22 calculation. I calculated it to be about six hundred
23 and fifty square feet that is part of the spa area.
24 Which we would require a little more than two parking
25 spaces for that portion of the business. So you could

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see where numbers start adding up quickly.

So with that being said, how much square footage do you utilize, your practice?

MS. SPOTO: I'm approximately thirty-six hundred square foot.

MR. DiSTEFANO: That would be one space for every one hundred and fifty gross square feet.

MR. CHOLLETE: So you can do all these calculations for us and then we can --

MR. DiSTEFANO: I think we're going to be - I think --

MR. CHOLLETE: You think it might be --

MR. DiSTEFANO: -- the parking issue might be - there might be an issue with parking per code. I'm not saying that they might not think there's an issue but per code --

MR. CHOLLETE: So if we were to approve it you would have to get a variance for that - it would have to be part of it?

MR. DiSTEFANO: It might have to or they might have to cut back on the stations.

MS. SPOTO: Yeah, if she cut back her stations, would that be an option then for her, just so I know what's --

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DR. LAWRENCE: Rick, --

MS. SPOTO: -- feasible for her business?

DR. LAWRENCE: -- she needs twenty-four spaces?

MR. DiSTEFANO: One per one hundred and fifty gross square feet. So --

DR. LAWRENCE: Which is twenty-four.

MR. DiSTEFANO: -- it's thirty-six hundred. So that works out to be of twenty-four?

DR. LAWRENCE: And then the hair salon would be --

MR. DiSTEFANO: Well, if you want two per station, that's eight stations. That's sixteen.

MR. CHOLLETE: Rather than do that here, we can do the calculation when we discuss this.

MR. DiSTEFANO: Yes.

MR. CHOLLETE: And as far as what you would tell her --

MS. SPOTO: Uhm-hmm.

MR. CHOLLETE: -- is that if we were to approve this, we would approve it in such a way that you would have enough parking.

MS. SPOTO: Uhm-hmm.

MR. CHOLLETE: And if that required that it

1
2 limits the number of employees or chairs or whatever
3 she has --

4 MS. SPOTO: Sure.

5 MR. CHOLLETE: -- then that's what she would
6 be limited to. And if in the future or right away she
7 wanted something greater than that, you would have to
8 come back and get a variance for parking.

9 MS. SPOTO: Okay.

10 MR. CHOLLETE: I think that would be the
11 easiest way for us to try and handle it.

12 MS. SPOTO: That makes the most sense.

13 MR. CHOLLETE: I want to go back to the
14 uniqueness of this building and why you're having so
15 much difficulty in renting it out for the intended
16 purpose. You've talked about medical applications.

17 Did you also pursue other kinds of office
18 uses for the building?

19 MS. SPOTO: Aldora Hines had talked to an
20 insurance - insurance people and financial planners.
21 So that was two different options that Aldora brought
22 along. Gerbach(phenetic) Hines, that's her realtor
23 agent, she actually sold me the property.

24 I have people walk in through - a couple of
25 different real estate people wanting to know if we can

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2 bring in financial institutions. They wanted to know
3 if drive-thru windows could be made. I mean, it's
4 amazing people have walked in to ask if it's space for
5 rent to live in. It's amazing to me, but I haven't
6 actually had a lot. But if you do drive in that area
7 you will see from the Vasile building cross from
8 McQuaid all the way around the corner, there's quite a
9 bit of space for lease. That's why I kept dropping my
10 square footage.

11 MR. CHOLLETE: Is there anything unique with
12 this building that makes it difficult to rent versus
13 other office buildings in this general area?

14 MS. SPOTO: I think that's --

15 MR. GEOSJEAN: I can answer the question.
16 The building was originally going to be all
17 medical and in 2009, when we started this process, that
18 was an area where a lot of doctors and other medical
19 professionals were looking at renting. But because of
20 some of the consolidations in the medical business
21 there's no longer doctors looking for space in that
22 area.

23 MR. CHOLLETE: So you're arguing that there's
24 a lot of available space for the current market?

25 MR. GEOSJEAN: Yes.

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MR. CHOLLETE: Okay.

MR. GEOSJEAN: As witnessed by our dropping the price to twelve fifty per square foot.

MR. GOLDMAN: And again, just to restate the total number of parking spaces is forty-two?

MR. DiSTEFANO: Forty-four.

DR. LAWRENCE: Twenty-four.

MR. GEOSJEAN: I think it's forty-four.

MR. GOLDMAN: Thank you.

MR. DiSTEFANO: Which if you do the calculation, sixty-six hundred square feet, that's what's required for the - forty-four parking spaces was required as a medical office building when it was constructed.

MS. SPOTO: Actually, because we don't have a dumpster on the site - we needed to move that with the town's approval - we have a fifth parking spot. But I didn't count that in case we ever went into dumpster mode. I have trash compactors throughout the building to minimize usage of waste. So I supply that to the tenants as part of the lease.

So we actually have a --

MR. GEOSJEAN: Forty-five.

MS. SPOTO: -- forty-five spots, but I didn't

1
2 include that because it's not on my original plan.

3 MR. CHOLLETE: How many employees do you have
4 in your operation?

5 MS. SPOTO: I currently have five.

6 MR. CHOLLETE: And can you tell me what there
7 functions are?

8 THE WITNESS: Yes. I have one at the front
9 desk. I have two dental hygienists - actually I have
10 three, but they job share, so two of them work
11 part-time. And then I have a dental assistant. And
12 then I have a lab technician. I do have a book keeper
13 that comes in and then we are training another lab
14 person to take over.

15 My equipment just went in for sleep center
16 work. We had a couple hundred thousand dollars worth
17 of equipment go in the last months that needed
18 training. Originally we had a flooring issue, so it
19 couldn't be installed until the floors were resolved.

20 MR. CHOLLETE: My question was going after
21 that.

22 It's not in the cards for you to expand your
23 operation or to bring in another dental practice into
24 that space?

25 MS. SPOTO: No.

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2 MR. CHOLLETE: It's space that you want to
3 rent?

4 MS. SPOTO: I would gladly rent to a dentist
5 if there is one. I have no problem with that. I would
6 prefer it. But I've asked --

7 MR. GEOSJEAN: Right now there's no thought
8 of that. There's not even --

9 MS. SPOTO: No. And not even to expand into
10 my business.

11 MR. CHOLLETE: When you say there's no
12 thought of that, you've got a building that seemed to
13 be perfect for that.

14 So why would you say there's no thought of
15 that?

16 MS. SPOTO: In the tenant space --

17 MR. CHOLLETE: There's not a possibility of
18 it?

19 MS. SPOTO: In the tenant space I would
20 easily rent it to another dentist if we had one
21 available.

22 At one point Para Health Specialists - who
23 are right down the street - looked at the space. But
24 they currently have a lower level/upper level in the
25 Vasile building. They didn't have enough space to move

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2 over there. Because we could have shared equipment,
3 but --

4 MR. CHOLLETE: See what bothers me - and I
5 think that you're going to say that the market doesn't
6 support it - but you've got a beautiful, brand new
7 building there --

8 MS. SPOTO: Uhm-hmm.

9 MR. CHOLLETE: -- in an office district --

10 MS. SPOTO: Uhm-hmm.

11 MR. CHOLLETE: -- that is seemingly ideal for
12 an office operation. And now you're not able to rent
13 it and you're coming in for a use variance to put in
14 something there that strikes me as being inappropriate
15 for that building for that area.

16 MS. SPOTO: Uhm-hmm.

17 MR. CHOLLETE: And I guess maybe that's
18 frustrating for you also. It's frustrating for me to
19 think that we're in that situation.

20 MS. SPOTO: It wasn't my first intention, but
21 I had to think about it quite a bit. Knowing that Tina
22 Marie next door - which was Christopher's - watching
23 them, I had to accept the fact that really I do have
24 one right next door. It might not be in the building
25 --

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2 MR. CHOLLETE: I'm assuming that they're a
3 pre-existing condition.

4 MR. DiSTEFANO: No, they actually obtained a
5 use variance from the Board.

6 MR. CHOLLETE: We gave them a use variance?

7 MR. DiSTEFANO: Yes.

8 MR. CHOLLETE: Do you know when that was?

9 MS. SPOTO: She moved in about a year ago.

10 MR. DiSTEFANO: She moved in - it actually
11 started off - this is the third hairdresser that's been
12 in that building. Rashard's I think was the original
13 and that was probably in the early 2000's I believe.

14 MR. CHOLLETE: So we approved the use?

15 MR. DiSTEFANO: We approved that use.

16 That was a house that could not be --

17 MR. CHOLLETE: So their argument was
18 different from this situation?

19 MR. DiSTEFANO: Their argument was different
20 because they had a house structure that they could not
21 rent for office because it just wouldn't work for
22 office use.

23 MR. CHOLLETE: Right.

24 MR. DiSTEFANO: And they had numerous other
25 people looking at it for uses that were not permitted

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2 in that district.

3 MR. CHOLLETE: Speaking only for myself, I
4 don't know if I have a problem with this or not. But
5 according to us granting use variances, one of the
6 criteria is that there's a problem with this particular
7 building that makes it difficult to rent. That is not
8 just a general condition that there is something
9 specific to this building that is a problem. And it's
10 hard to justify for a building that was erected so
11 recently and designed as an office building to then
12 come back and say it's within your right to come in and
13 ask for a variance.

14 MS. SPOTO: Thank you.

15 MR. CHOLLETE: It has to be difficult.

16 MR. GEOSJEAN: We've done everything in our
17 power, sir, to get a medical professional in that
18 building and have been rejected for over three years.
19 So it's not for lack of effort and it's not for lack of
20 price. So we have certainly tried our best.

21 MS. SPOTO: I actually had Cabot Group notify
22 me today - because I've still been trying, the salon is
23 not my first choice - and they wrote back telling me
24 about three o'clock today they would not take the
25 listing on. They have a lot of property. They're

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2 Strong Memorial's - University Of Rochester's - that's
3 who their liaison is.

4 And a lot of it is true. I mean, you no
5 longer see the solo medical practitioner anymore. Most
6 of them have been brought up by the hospitals and
7 they're large groups.

8 The building is - the space is almost too big
9 for a solo doctor and - but everybody wants me to
10 divide it and put multiple tenants in and I don't think
11 that's an advantage to the area. I think that's a true
12 disadvantage.

13 You know, if I had a two thousand square feet
14 instead of thirty-one fifty I probably could have
15 rented it ten times over. But then I have to start to
16 look for multiple tenants. I can't put multiple
17 tenants in and keep that front South Clinton door as a
18 private entrance as it is because, you know, they want
19 a commercial entrance of some sort and not the private
20 entrance that was designed for the building. So that's
21 part of the issue.

22 MR. CHOLLETE: Okay. Any other questions?

23 Finish. Thank you very much.

24 MS. SPOTO: Thank you. Thank you for your
25 time.

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2 MR. GEOSJEAN: I just have - would it be
3 interesting for anyone on the Board, we did receive the
4 e-mail - that Susan has got in her phone - today from
5 that commercial realtor that they were not interested
6 in our space?

7 MR. CHOLLETE: No, your word is fine.

8 MS. SPOTO: All right.

9 MR. GEOSJEAN: Thank you very much. Thank
10 you all for your time.

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

14 Yes, sir?

15 MR. HASTINGS: I'm David Hastings. I'm here
16 on behalf of Tina Sheer(phenetic) who owns the Tina
17 Marie Salon. She can't be here tonight. She owns the
18 property 2119 Clinton, right next door.

19 And she's obviously opposing the issuance of
20 a variance of any type of use along those lines. She
21 recently purchased the real property. And part of the
22 consideration for her purchasing that property was
23 exactly the reason why they're here, is that this type
24 of business was not going to go in there. And it's a
25 function of her business model and she's thinking that

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2 she should have the ability as a tax payer of Brighton
3 to rely on.

4 So she's asking the Board not to approve the
5 ask. So --

6 MR. CHOLLETE: Fine. Thank you very much.

7 Is there anyone else in the audience that
8 would like to speak with regard to this application?

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

11 7A-07-14 Application of Brian Geary, owner of property
12 located on Avon Road, Lot 40, Tax ID #123.13-03-022,
13 for an Area Variance from Section 205-2 to allow for
14 the construction of a new house with 25.9% lot coverage
15 in lieu of the maximum 25% lot coverage allowed by
16 code. All as described on application and plans on
17 file.

18 MR. CLARK: Good evening. My name is John
19 Clark. I'm here tonight on behalf of Mr. Brian Geary,
20 with DDS Companies.

21 Mr. Geary is the owner of lot 40 on Avon
22 Road. It's back in the northwest corner of the
23 cul-de-sac. It's tucked back in there. He's proposing
24 to construct a new single-family home there, a
25 retirement home for him and his wife.

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2 And we are wrapping up the Planing Board
3 approval process. We're going to the July 16th meeting
4 for our final approval. We have been to the
5 Architectural Review Board and have received their
6 final approval. We've been to the Conservation Board
7 and received their approval as well.

8 So we're here tonight seeking an area
9 variance for lot coverage. The lot itself is about
10 twelve thousand square feet. It's a pre-existing
11 non-conforming lot. Thirteen thousand five hundred is
12 the minimum square footage for a lot, but as I stated
13 we're a little over twelve thousand. In addition to
14 that, the lot width is pre-existing non-conforming.
15 We're seventy feet where ninety is required. So from
16 the get go we're a little bit behind the eightball
17 trying to get a home in here.

18 So the home that's being proposed is actually
19 only 1.16% greater than the maximum lot coverage. 25%
20 is required. We are at 26.16. That's differing
21 slightly from the letter of intent that you've seen,
22 but we have gone back and reconfirmed the numbers
23 through the architectural plans. So --

24 MR. CHOLLETE: So you would like to amend
25 your request to go to 26.16% --

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MR. CLARK: Correct.

MR. CHOLLETE: -- on coverage?

Okay. We'll make a note of it.

DR. LAWRENCE: What is the footage over,
before it was a hundred and eight?

MR. CLARK: It's now a hundred and forty.

DR. LAWRENCE: One forty?

MR. CLARK: Yes. So obviously we're talking
about a very slight number. It's certainly -
one percent is over, but in the grand scheme of things
we're really not talking about a great deal here.
Certainly it's not something that is going to change
the character of the neighborhood. It's not going to
be the detriment of the neighborhood. It's a
single-family home. It's single-story home. And it's
going to be constructed very well by my client. And it
is his retirement home.

So the thought is we are hoping to get this
approved because when you look at the calculations that
the town does to come up with their square footage
requirements for lot coverage, they include not just
your building footprint but the roof coverage. So if
you have a patio or front stoop and it's covered by the
roof then it gets counted in to your calculation. So

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2 what we're talking about here is a front stoop which is
3 about six foot by six foot and it's covered by the
4 roof, so that goes into the calculation. As well as a
5 back patio area they have that's about a twenty-three
6 foot by ten foot area that will be covered by the roof.
7 The main reason for doing that - for covering that
8 patio area is because it makes the construction and the
9 cost of building much easier. Now, you're talking
10 about running the roof over this patio area and not
11 having to worry about different peaks, different eaves,
12 different gutters, drainage situation. So we thought
13 it was much easier overall.

14 So that's really where we're at with that -
15 with the lot coverage. We feel that it is fairly
16 insignificant. We don't think it will be a detriment
17 to the area. So --

18 DR. LAWRENCE: The two houses - close homes
19 right next door to each other - to me look exactly the
20 same except for the patio and the garage. The garage
21 is ten feet longer and twelve feet wider.

22 MR. CLARK: Correct.

23 DR. LAWRENCE: I was wondering why is that
24 necessary?

25 I could see covering the patio front,

1
2 covering the patio stoop, but why do you need a garage
3 that's a hundred and twenty - because you almost don't
4 need a variance if you made it to that extent?

5 MR. CLARK: Definitely, and we looked at
6 that. One of the things that Mr. Geary, and again, lot
7 40 is Mr. Geary's home and he is planning for it to be
8 a retirement home and is planning ahead. And he wants
9 the home itself - the living space to be handicapped
10 accessible. We're talking a little bit wider
11 aisleways, bigger bathrooms. We're only talking a two
12 bedroom with a living room and a kitchen. So it's a
13 very modest floor plan, but looking to the future we
14 want to make it a little bit bigger.

15 And likewise with the garage. We're under
16 the square footage - the nine hundred square foot
17 maximum - but he likes to have that longer space
18 because he may have a car, an antique car he wants to
19 buy, a boat, a trailer, something that he could store
20 in there that's not stored outside, which we feel would
21 be a negative impact to the character of the
22 neighborhood. But in addition to that, it also
23 provides for a handicapped accessible ramp in the
24 garage itself. So the thought would be, if there's
25 ever a need for that, then that could be in the back

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2 area where it's extended - where it's elongated - which
3 would also serve for some additional storage area there
4 for an extra vehicle or a boat or something of that
5 nature.

6 So that was the reason by having the larger
7 garage.

8 MR. CHOLLETE: You probably mentioned this,
9 but will you again reiterate: This is at the end of
10 the street, there's no other house that's beyond his
11 house?

12 MR. CLARK: Correct.

13 MR. CHOLLETE: That's correct?

14 MR. CLARK: Correct.

15 MR. CHOLLETE: And across the street from him
16 is there a home there?

17 MR. CLARK: There is a street that's
18 kitty-corner to the - I guess it would be to the east
19 -- I'm sorry - yeah, to the southeast, there's a home.
20 There's a lot of vegetation in the area. Mr. Geary --

21 MR. CHOLLETE: But there's a circle there,
22 right?

23 MR. CLARK: There is a circle there, yes.
24 It's a small circle with a large tree in the middle of
25 the circle.

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MR. CHOLLETE: Okay.

MR. CLARK: And Mr. Geary is also planning on planting about thirty-six arborvitaes along the property lines, and that would also provide a visual screening of the property.

MR. CHOLLETE: So the only people that are -- since somebody would never be driving by this - the only people that would be affected are the people that are, I guess, directly to the south on his side of the street?

MR. CLARK: Yes.

MR. CHOLLETE: And then whoever is across the circle?

MR. CLARK: Correct.

DR. LAWRENCE: Really no one is affected because you're just putting a roof over the patio and no one sees that.

MR. CHOLLETE: Well, if you argue that's where all the --

MR. DiSTEFANO: And am I correct, directly across Avon, that house is actually on the Forest Hills, it doesn't access off of Avon?

MR. CLARK: Correct, the one that is directly across.

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2 MR. DiSTEFANO: It accesses off of Forest
3 Hills?

4 MR. CLARK: Correct.

5 MR. DiSTEFANO: So there's really no house
6 that is directly across the street from his?

7 MR. CLARK: Just the one that is kitty-corner
8 that has a large pine in front of it.

9 So it's very secluded on a daily basis.
10 There's probably not too many eyes that are going to be
11 back in that cul-de-sac.

12 MR. CHOLLETE: Any other questions?

13 MR. DiSTEFANO: Just for the record, if you
14 did not put this porch roof on you would not need the
15 variance, correct?

16 MR. CLARK: If we did not put the porch roof
17 on?

18 MR. DiSTEFANO: The rear porch with the
19 patio, yes.

20 DR. LAWRENCE: It's two hundred and sixty
21 square feet, so he --

22 MR. DiSTEFANO: I just wanted --

23 MR. CLARK: Yes.

24 MR. DiSTEFANO: So it's really the coverage
25 really comes from this back patio?

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MR. CLARK: Yes.

MR. DiSTEFANO: If you did not have the house
itself --

MR. CLARK: The roof extending over that
then, yes, we would meet - we would be less than.

DR. LAWRENCE: There's no intention to
enclose this and make this into a room?

MR. CLARK: Not at all.

DR. LAWRENCE: It's an open patio with a roof
over it?

MR. CLARK: Absolutely.

MR. CHOLLETE: Okay. Very good. Thank you
very much.

MR. CLARK: Thank you.

MR. CHOLLETE: 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.

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 July
2nd, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

July 2nd, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

CANDICE BAKER LEIT, ESQ.

(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 1A-02-14

3 1A-02-14 Application of Tops Markets, LLC,
4 lessee, and DiMarco Group, owner of property located at
5 1900 South Clinton Avenue, for a Sign Variance from
6 Section 207-32B(2) to allow for 319.88 sf of business
7 identification signage in lieu of the maximum 150
8 sf allowed by code. All as described on application and
9 plans on file. TABLED AT THE APRIL 2, 2014 MEETING -
10 PUBLIC HEARING REMAINS OPEN

11 Motion made by Mr. Cholette to deny without
12 prejudice Application 1A-02-14.

13 (Seconded by Mr. Mietz.)

14 (Mr. Goldman, yes; Ms. Schwartz, yes; Dr.
15 Lawrence, yes; Ms. Corrado, yes; Mr. Mietz, yes; Mr.
16 Cholette, yes.)

17 (Upon roll call, motion to deny application
18 without prejudice carries.)
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APPLICATION 6A-01-14

6A-01-14 Application of Buckingham

Properties, agent, and 2600 Elmwood LLC, owner of property located at 2600 Elmwood Avenue, for 1) an Area Variance from Section 203-64B(4)(h) to allow a front yard dining area abut a residential district where not allowed by code; and 2) an Area Variance from Section 205-7 to allow impervious coverage to increase from 72.4% to 73% where a maximum 65 % impervious coverage is allowed by code. All as described on application and plans on file. TABLED AT THE JUNE 4, 2014 MEETING

Motion made by Mr. Cholette to deny Application 6A-01-14 parts 1 and 2 without prejudice.

However, we will approve a temporary and revocable use permit to allow front yard dining for this property.

FINDINGS OF FACT:

1. No permanent structures are involved and the requested use is temporary.
2. The need for this is not immediately apparent, hence the desire to use a temporary and revocable permit to determine the effect of the proposed use on the neighborhood.

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CONDITIONS:

1. The temporary and revocable use permit will expire on November 1st, 2014.
2. The front yard dining area will be limited to the concrete area on the south side.
3. The number of tables will be limited to five with a total of ten seats available at any one time.
4. When this permit expires all tables and chairs will be removed from the outdoor area.
5. A conditional use permit shall be obtained from the Planning Board.

(Seconded by Ms. Corrado.)

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

(Motion to grant the temporary and revocable use permit is approved with conditions.)

1
2 APPLICATION 7A-01-14

3 7A-01-14 Application of Sealand Contractors,
4 applicant, and Dan Morgenstern, owner of property
5 located at 2750 Monroe Avenue, for a Temporary and
6 Revocable Use Permit pursuant to Section 219-4 to allow
7 for the open storage of construction equipment
8 (staging area) for a seven month period where not
9 allowed by code. All as described on application and
10 plans on file.

11 Motion made by Mr. Mietz to approve
12 Application 7A-01-14.

13 **FINDINGS OF FACT:**

- 14 1. The applicant is completing roadway improvements
15 along Monroe Avenue adjacent to this site.
16 2. Due to the conditions along Monroe Avenue and the
17 previously used area has been identified behind the
18 Clover Lanes property away from the roadway.
19 3. No negative effect on the character of the
20 neighborhood will result from this approval since it is
21 not visible from the street or neighboring properties.

22 **CONDITIONS:**

- 23 1. The permit shall be valid from July 3rd, 2014,
24 through November 15th, 2014.
25 2. Only the area described in the testimony given and

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2 plans submitted shall be used for the storage of
3 materials.

4 (Seconded by Mr. Goldman.)

5 (Ms. Corrado, yes; Mr. Cholette, yes; Ms.
6 Schwartz, yes; Dr. Lawrence, yes; Mr. Goldman, yes; Mr.
7 Mietz, yes.)

8 (Upon roll call, motion to approve with
9 conditions carries.)
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2 APPLICATION 7A-02-14

3 7A-02-14 Application of Igor and Marcia Spivak,
4 owners of property located at 330 Grosvenor
5 Road, for an Area Variance from Section 205-2 to allow
6 a deck to extend 6 ft. into the existing 58 ft. rear
7 setback where a 60 ft. rear setback is required by
8 code. All as described on application and plans on
9 file.

10 Motion made by Ms. Schwartz to approve
11 Application 7A-02-14.

12 **FINDINGS OF FACT:**

13 1. The requested variance of extending only the step
14 portion of the overall deck by six feet into the
15 pre-existing fifty-eight foot rear set back where a
16 sixty foot setback is required by code is minimal.

17 2. The perimeter of the entire rear yard is densely
18 landscaped, therefore the small portion of the deck
19 encroachment will not be visible to any neighboring
20 properties or will alter the character of the area.

21 3. The design of the deck, in particular the angled
22 three steps compliment the modern character of the home
23 and create a large enough space to maintain perspective
24 of the home.

25 4. No other design could alleviate the difficulty and

1
2 produce the desired result of the aesthetically
3 proportioned design and functional space.

4 **CONDITIONS:**

5 1. This variance applies only to the deck in the
6 application and testimony presented.

7 2. All necessary building permits shall be obtained.

8 (Seconded by Mr. Goldman.)

9 (Mr. Mietz, yes; Ms. Corrado, yes; Mr.
10 Cholette, yes; Dr. Lawrence, yes; Mr. Goldman, yes; Ms.
11 Schwartz, yes.)

12 (Upon roll call, motion to approve with
13 conditions carries.)
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2 APPLICATION 7A-03-14

3 7A-03-14 Application of R. Jon Schick,
4 architect, and John and Rebecca Bucci, owners of
5 property located at 3620 Elmwood Avenue, for Area
6 Variances from Section 205-2 to 1) allow a garage
7 addition to extend 6.7 ft. into the 39.9 ft. side
8 setback required by code, and 2) allow for total
9 attached garage area to be 1,209 sf in lieu of the
10 maximum 900 sf allowed by code. All as described on
11 application and plans on file.

12 Motion made by Mr. Cholette to approve
13 Application 7A-03-14 parts 1 and 2.

14 **FINDINGS OF FACT:**

15 1. This large stately home is located off of Elmwood
16 Avenue on a wooded, private drive on a relatively
17 large, but odd lot configuration with pre-existing
18 non-conforming setbacks from the road to lot lines. As
19 a result, the requested variance is not substantial
20 because the applicant merely seeks to replace an
21 existing two-car garage with a new two-car garage which
22 will extend 6.7 feet into the 39.9 foot side setback
23 required by code, and for the total attached garage
24 area to be twelve hundred and nine square feet in lieu
25 of the maximum nine hundred square feet allowed by

code.

2. Given that the demolished attached two-car garage was not designed in keeping with the architecture of the home, the difficulty of creating a new two-car garage to be compatible with the home while maintaining flat area for the owner's children to play couldn't be resolved in another manner not requiring a variance for the side setback and the total attached garage area.

3. The present variance is the minimum variance requested to grant relief from the difficulty.

4. Given that the garage addition is located on a private drive and has appropriate landscaping, shielding neighbors' homes, no unacceptable change to the character of the neighborhood and no substantial detriment to nearby properties is expected to result from this variance.

CONDITIONS:

1. This variance will only apply to the addition which was described in the application and in testimony with regards to the size, appearance and location.

2. Adequate landscaping to provide screening of the garage must be maintained.

3. All necessary building permits and Architectural Review Board approvals shall be obtained.

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(Seconded by Mr. Mietz.)

(Ms. Corrado, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Dr. Lawrence, yes; Mr. Mietz, yes; Mr. Cholette, yes.)

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

1
2 APPLICATION 7A-04-14

3 7A-04-14 Application of Tim Tyskiewicz, architect, and
4 Matt and Courtney Winslow, owners of property located
5 at 6 Elmwood Hill Lane, requesting modification of
6 condition #2 from approved application 4A-03-14 to
7 allow additional utilities, other than just
8 electricity, be allowed in the approved detached
9 garage. All as described on application and plans on
10 file.

11 Motion made by Ms. Corrado to deny Application
12 7A-04-14 due to the Board found no compelling reason to
13 grant the modification.

14 (Seconded by Ms. Schwartz.)

15 (Mr. Mietz, yes; Mr. Cholette, yes; Dr.
16 Lawrence, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Ms.
17 Corrado, yes.)

18 (Upon roll call, motion to deny application
19 carries.)
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1 APPLICATION 7A-05-14

2 7A-05-14 Application of Patricia Tuliavo and Jackie
3 Dunn, owners of property located at 41 Ashley Drive,
4 for an Area Variance from Section 205-2 to allow a
5 garage addition to extend 5.4 ft. into the existing 9
6 ft. side setback where a 15.75 ft. side setback is
7 required by code. All as described on application and
8 plans on file.
9

10 Motion made by Mr. Cholette to approve
11 Application 7A-05-14.

12 **FINDING OF FACTS:**

13 1. The requested variance is not substantial due to
14 the pie shape of the lots involved. Well the garage
15 would be fairly close to the side property line at the
16 rear of the garage, it is much more distant at the
17 front of the garage.

18 2. No other alternative can alleviate the difficulty
19 and produce the desired effect. The renovation
20 requested incorporates part of the existing garage into
21 the living area of the house. No other suitable
22 location is available to the applicant. This results
23 in the need to add width to the house from the north
24 side to accommodate the modest sized new garage.

25 3. No unacceptable change to the character of the

1
2 neighborhood is expected to result from the approval of
3 this variance. The nearest affected house, which is on
4 the neighbor's parcel, is well removed from the
5 property line because that house is located on the
6 inside of a curve in the street, producing a pie-shaped
7 lot. Therefore, the space in between homes will
8 continue to be fairly large and the two houses will not
9 be unusually close in this neighborhood.

10 **CONDITIONS:**

11 1. This variance will only apply to the structure as
12 described in the application and testimony with regard
13 to its location, size and construction.

14 2. All necessary approvals from the Town of Brighton
15 will be obtained.

16 (Secoded by Ms. Schwartz.)

17 (Mr. Goldman, yes; Dr. Lawrence, yes; Mr.
18 Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Mr.
19 Cholette, yes.)

20 (Upon roll call, motion to approve with
21 conditions carries.)
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2 APPLICATION 7A-06-14

3 7A-06-14 Application of Susan Spoto, DDS, PLLC,
4 owner of property located at 2109 South Clinton Avenue,
5 for a Use Variance from Section 203-44 to allow a
6 beauty/hair salon to occupy a portion of a 6,600 sf
7 office building in an BE-1 Office district where not
8 permitted by code. All as described on application and
9 plans on file.

10 Motion made by Mr. Goldman to table
11 Application 7A-06-14 for: 1. Better evidence for the
12 Board's consideration of the elements that are required
13 for a use variance and how this property is unique to
14 the neighborhood. 2. A much fuller explanation for
15 the proposed use.

16 (Seconded by Ms. Corrado.)

17 (Mr. Cholette, yes; Mr. Mietz, yes; Dr.
18 Lawrence, yes; Ms. Schwartz, yes; Ms. Corrado, yes; Mr.
19 Goldman.)

20 (Upon roll call, motion to table carries.)
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1
2 APPLICATION 7A-07-14

3 7A-07-14 Application of Brian Geary, owner of
4 property located on Avon Road, Lot 40, Tax ID
5 #123.13-03-022, for an Area Variance from Section 205-2
6 to allow for the construction of a new house with 25.9%
7 lot coverage in lieu of the maximum 25% lot coverage
8 allowed by code. All as described on application and
9 plans on file.

10 Motion made by Dr. Lawrence to approve
11 Application 7A-07-14 as modified by the applicant.

12 **FINDINGS OF FACT:**

13 1. The requested variance is not substantial as it is
14 only a hundred and forty square feet more than allowed
15 by code. It is only this small amount over code
16 because of the roof covering the rear patio.

17 2. Covering the rear patio of the roof will have no
18 negative visual impact on any neighboring properties.

19 3. No unacceptable change will be expected to occur in
20 the neighborhood as a result of the approval of this
21 variance.

22 4. The health, safety and welfare of the community
23 will not be adversely affected by the approval of this
24 variance.

25 **CONDITIONS:**

1
2 1. This variance will only apply to the structure that
3 was described in the application and testimony.

4 2. All necessary town applications will be filed and
5 all town approvals obtained prior to construction of
6 this home.

7 (Seconded by Ms. Schwartz.)

8 (Ms. Corrado, yes; Mr. Mietz, yes; Mr.
9 Cholette, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Dr.
10 Lawrence, yes.)

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

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1.16 [1] 70/19	4A-03-14 [2] 25/2 90/6	50/16 52/11 59/23 60/6 61/16 61/23 62/9
11:00 [2] 53/16 53/17	5	65/4 65/10 66/21 70/18 75/22
123.13-03-022 [2] 69/12 94/5	5.4 [3] 34/22 37/4 91/6	add [4] 16/24 35/10 44/11 91/23
136 [1] 5/21	5.6 [1] 42/2	added [2] 23/3 32/15
14 [38] 4/15 7/8 7/12 12/14 14/11 24/23	58 [3] 3/18 12/17 85/6	adding [2] 50/6 57/2
25/2 34/19 45/9 69/11 80/2 80/3 80/12	590 [1] 8/2	addition [21] 14/14 14/24 21/10 22/23
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90/6 90/12 91/2 91/3 91/11 93/2 93/3	6.7 [3] 14/14 87/7 87/22	88/12 88/19 91/6
93/11 94/2 94/3 94/11	60 [2] 12/17 85/7	additional [6] 13/10 13/11 25/3 36/13
14020 [2] 1/24 79/25	64B [1] 81/6	74/3 90/7
14618 [2] 1/5 79/5	65 [1] 81/10	additions [2] 2/21 4/3
15 [1] 3/12	67 [1] 3/21	address [1] 5/5
15 feet [2] 36/24 36/25	69 [1] 3/23	Adequate [1] 88/22
15.75 [3] 34/23 36/10 91/7	6:00 [2] 53/17 53/17	adjacent [1] 83/15
150 [1] 80/7	6A-01-14 [3] 81/2 81/3 81/15	advantage [1] 67/11
15th [1] 83/24	7	adversely [1] 94/23
16th [1] 70/3	72.4 [1] 81/10	advertised [2] 2/5 2/7
18 [1] 3/14	73 [1] 81/10	aesthetically [1] 86/2
1900 [1] 80/5	7:00 [1] 53/18	affected [4] 75/9 75/16 92/3 94/23
1A-02-14 [5] 4/15 7/8 80/2 80/3 80/12	7:15 [2] 1/3 79/3	affirmatively [1] 3/19
1st [3] 8/18 8/19 82/4	7A-01-14 [4] 7/12 83/2 83/3 83/12	after [3] 38/24 46/14 62/20
2	7A-02-14 [4] 12/14 85/2 85/3 85/11	again [8] 4/14 4/25 24/5 37/8 39/22 61/5
20 [2] 3/4 3/5	7A-03-14 [4] 14/11 87/2 87/3 87/13	73/6 74/9
2000's [1] 65/13	7A-04-14 [4] 24/23 90/2 90/3 90/12	against [1] 5/16
2009 [2] 45/23 60/17	7A-05-14 [4] 34/19 91/2 91/3 91/11	agent [2] 59/23 81/4
2010 [1] 45/24	7A-06-14 [4] 45/9 93/2 93/3 93/11	ago [3] 21/14 52/22 65/9
2012 [4] 46/6 46/23 46/25 47/6	7A-07-14 [4] 69/11 94/2 94/3 94/11	agree [1] 18/5
2014 [10] 1/3 1/4 2/8 79/3 79/4 80/9	8	ahead [2] 9/18 73/8
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203-44 [2] 45/11 93/5	9	aisleways [1] 73/11
203-64B [1] 81/6	9.6 [1] 42/6	Aldora [2] 59/19 59/21
205-2 [8] 12/16 14/14 34/21 69/13 85/5	900 [2] 14/17 87/10	all [57] 3/25 7/17 9/15 9/21 10/2 10/18
87/6 91/5 94/5	9:00 [3] 53/13 53/18 53/18	11/19 12/18 13/17 14/17 17/3 17/4 17/25
205-7 [1] 81/9	A	21/5 22/12 22/20 25/5 26/23 26/23 27/9
207-32B [1] 80/6	ability [1] 69/2	34/3 34/24 40/23 44/9 45/14 45/18 47/20
21 [4] 1/24 3/21 3/23 79/25	able [5] 13/5 13/6 16/19 48/3 64/12	48/13 51/4 53/2 53/3 53/22 54/15 56/8
2109 [3] 45/10 50/15 93/4	aboard [2] 54/19 55/13	57/9 60/8 60/16 68/8 68/10 69/16 75/20
2119 [1] 68/18	about [39] 15/19 19/22 21/10 21/13	77/9 80/8 81/11 82/9 83/9 85/8 86/7
219-4 [2] 7/15 83/6	21/22 22/12 22/21 25/11 26/13 26/25	87/10 88/24 90/9 91/8 92/14 93/8 94/8
22 [2] 3/16 3/18	28/20 28/21 28/25 30/7 36/23 36/25 38/4	95/4 95/5
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25.9 [2] 69/14 94/6	72/10 72/11 75/4	25/13 34/21 45/11 46/10 48/8 69/13 80/6
26 [1] 2/7	above [6] 24/6 24/10 28/13 49/25 78/6	81/6 81/9 81/17 83/6 85/5 87/6 87/8 90/7
26.16 [2] 70/20 70/25	96/6	91/5 93/5 94/6
2600 [2] 81/4 81/5	above-entitled [2] 78/6 96/6	allowable [1] 15/17
27 [1] 3/7	absolutely [5] 16/20 38/15 52/11 54/15	allowed [14] 7/17 14/17 25/4 44/10
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3	accept [1] 64/23	almost [6] 23/17 28/6 36/10 48/6 67/8
31 [1] 3/12	access [16] 9/9 9/20 11/13 11/14 11/25	73/3
319.88 [1] 80/6	12/3 19/21 21/4 21/5 22/24 26/23 31/8	along [10] 10/14 10/19 17/6 18/23 22/4
32B [1] 80/6	31/15 33/14 34/3 75/23	59/22 68/20 75/4 83/15 83/16
33.2 [1] 16/11	accesses [1] 76/2	already [1] 14/23
330 [3] 12/15 12/21 85/4	accessible [2] 73/10 73/23	also [14] 3/23 15/14 19/16 46/13 53/10
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amount [2] 43/14 94/15
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angle [1] 42/16
angled [1] 85/21
another [12] 10/23 45/20 48/18 49/9
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63/20 88/8
answer [2] 33/24 60/15
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anticipated [1] 8/17
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anybody [3] 4/19 48/11 49/6
anymore [1] 67/5
anyone [13] 4/16 7/7 12/10 13/20 14/7
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