

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on October
1st, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

October 1st, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

CHRISTINE CORRADO

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

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

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Brighton Pittsford Post of September
8 25th, 2014.

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

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

12 MR. CHOLETTE: We have the minutes from our
13 September meeting.

14 Is there any additions or corrections?

15 You're okay with these?

16 Did anybody look at them?

17 Okay. There's no additions or corrections.

18 May I have a motion to approve the minutes?

19 (Motion made by Mr. Goldman to approve the
20 September minutes.)

21 (Seconded by Ms. Schwartz.)

22 (Upon roll call, motion to approve the
23 September minutes carries.)

24 MR. CHOLETTE: Thank you.

25 Rick, when you're ready will you please read

1 the first application.

2 10A-01-14 Application of William Ritchie, owner of
3 property located at 47 North Landing Road, for an Area
4 Variance from Section 205-2 to allow a building
5 addition to extend 12 ft. into the 17.5 ft. side
6 setback required by code. All as described on
7 application and plans on file.

8 UNKNOWN: How you doing?

9 MR. CHOLETTE: Good evening.

10 Will you state your name and address please?

11 MR. RITCHIE: Yeah, William Ritchie. The
12 house address is 47 North Landing Road.

13 MR. CHOLETTE: And just tell us what your
14 application is all about.

15 MR. RITCHIE: Okay. So this application is
16 to add about a seven hundred foot addition that
17 includes a two-car garage and living space above it.

18 I put together some information for the Board
19 in your packet. You should have a copy of the survey
20 of the house or property on the first page. On the
21 second page there's a sketch done by my architect
22 showing the proposed addition to the back corner of the
23 property. On the third page there's a computer
24 generated drawing that shows the side setback of
25

1
2 seventeen feet currently, where that falls on the
3 property line.

4 The thing that I would like to note is the
5 proximity of the existing driveway to the property line
6 and then on the back - that would be the north west
7 corner - how the driveway actually extends beyond the
8 property line currently. Along the --

9 MR. CHOLETTE: The current driveway is
10 actually off your property?

11 MR. RITCHIE: Yeah. You could also see that
12 on the survey on the first page. It extends two feet
13 beyond that.

14 MR. CHOLETTE: Okay.

15 MR. RITCHIE: It's been that way for a number
16 of years.

17 MS. BAKER LEIT: Is there an easement for
18 that driveway with the other property owner at 21?

19 MR. RITCHIE: I don't believe there is --
20 well, yeah, no easement. No -- reference five on the
21 survey drawing says no easement. So I would expect
22 that there's not an easement. I really don't know. I
23 just --

24 MS. BAKER LEIT: So it's technically on 21's
25 property?

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2 MR. RITCHIE: I would guess if I was looking
3 at that drawing I would say it is.

4 MR. DiSTEFANO: Yes. And that's not
5 uncommon.

6 MS. BAKER LEIT: Okay.

7 MR. CHOLETTE: But when you actually build
8 the garage that will be corrected because that driveway
9 will no longer be at that back part?

10 MR. RITCHIE: No, I'm not proposing changing
11 anything at the driveway at all.

12 MR. CHOLETTE: You're not going to fill -
13 you're not going to let it revert to grass or
14 something?

15 MR. RITCHIE: Oh, I imagine -- I mean, I
16 don't -- it's just a two foot --

17 MR. CHOLETTE: You don't plan to dig it out,
18 you're just going to put the garage there?

19 MR. RITCHIE: Yeah, it's there and I don't
20 plan on disturbing anything that's there now.

21 So across the back of the property - that
22 dotted line with the E that's the electrical lines that
23 run across the back of the properties down North
24 Landing Road. So that prevents me from going back and
25 putting any addition to the back of the house. The

1
2 stone wall there on the left side - that stone wall
3 that boundaries the driveway there - it's about a four
4 and a half foot - five foot-high stone wall because the
5 house is on a hill.

6 The photos from the road show the front of
7 the house and you can see from those two photos - one
8 looking directly on the front of the property, and the
9 second one looking down the driveway - that the
10 addition would hardly be seen from the road front. The
11 addition will be sixty-two feet actually off of the
12 road. It will be ten foot further than what the house
13 is now. So it will be well set back. It won't disturb
14 the view of the - the current view of what the neighbor
15 sees.

16 So the next page, the gray house is an
17 example of the property that my architect actually
18 completed. I believe this is on Elmwood. I think it
19 was done in 2008. And's it's an exact replica of what
20 we hope to achieve. Showing how they have a small
21 cape, showing the grading - how it's graded on a hill,
22 how the driveway is lower than the house, and it shows
23 that it's a simple two-car garage with some living
24 space above it. So I would imagine my property would
25 look pretty similar to that.

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2 DR. LAWRENCE: Has your neighbor at 21
3 expressed any concern about your plans?

4 MR. RITCHIE: No, not yet. Actually my
5 neighbor at 21 and I have talked about it. He's
6 currently got his house for sale. And so he's asked me
7 if I was interested in purchasing his house. And, you
8 know, he said you could kind of save yourself all the
9 effort and -- but my equity is in the house that I own
10 and my wife and I have an eighteen-month-old baby. We
11 need a bigger house because this house is a thousand
12 square feet, two bedrooms. So we recently moved to
13 Webster. We really don't want to be in Webster. We
14 really like the proximity of this property and the
15 neighborhood and our neighbors are a big reason why I
16 kept the property because I always wanted to move back.
17 I've got the opportunity.

18 MR. CHOLETTE: Is the house vacated now or
19 are you renting it?

20 MR. RITCHIE: The house is vacant right now;
21 that's correct.

22 So I spent a lot of time maintaining the
23 property in hoping we get through this process. I will
24 no longer have to do that, I could actually live there
25 and cut the grass on my free time.

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2 So the map here is from the county website
3 and I highlighted in orange the houses on both the east
4 side and the west side of the road and did some
5 calculations for you on the final page of all of those
6 properties. What I wanted to note is our house is one
7 of the largest lots on that street. There's an aerial
8 view also from the county website that shows how close
9 the houses are on the east side of the street - how
10 close they are together - and how far apart houses on
11 the west side are, where my house is. So that's just a
12 point of reference for you.

13 So on the final page of the presentation what
14 I would like to point out to you is the homes on the
15 east side of the road. When you look at the lot size
16 and compare that to the square footage of the living
17 space the average house has almost 14% of living space
18 compared to the lot size. On the west side the average
19 house has 10% of living space compared to its lot size.
20 Our house at 47 has 6.2% of living space compared to
21 the lot size. Down to the very bottom is the final
22 calculation showing with a seven hundred and twenty
23 square foot addition our house will still be 1.3% less
24 than the average house on North Landing Road when we
25 look at living space. So I'm not trying to create a

1
2 huge house that is larger than anybody else's. I think
3 it's going to be comparable to all the houses in the
4 area.

5 And, you know, with adding another bedroom
6 and a half bath it will give our family room to grow
7 and enjoy the area. So basically we're taking a two
8 bedroom, one bath house and making a three bedroom and
9 one and a half bath house with a two-car garage because
10 the winters here are not much fun

11 The bedrooms currently are 10x11. So, again,
12 we're pretty cramped in with just my wife and myself.

13 DR. LAWRENCE: And the style would be similar
14 to what your house is now, the same type of siding
15 roofing?

16 MR. RITCHIE: Well, I hope to -- the roof is
17 in very good condition. It's a very well built roof.
18 The aluminum siding I hope to replace that with
19 something newer and upgrade the insulation. All the
20 windows - I just replaced all of the windows in the
21 house last year, floors, roofs. When I bought the
22 house it was going into foreclosure and I've gone
23 through the entire house as a bachelor with my spare
24 time.

25 MR. CHOLETTE: I think the gist of the

1
2 question was the addition will match the rest of the
3 house?

4 MR. RITCHIE: Oh, absolutely. Yes,
5 absolutely.

6 MS. BAKER LEIT: In terms of the distance
7 from the side of your house - I mean, the main variance
8 is going to be this setback so you will be pretty close
9 to the property line.

10 But how far will your house actually be, just
11 for the record, to the other house that's in --

12 MR. RITCHIE: Okay.

13 MS. BAKER LEIT: -- 21?

14 MR. RITCHIE: So I would have to look at this
15 survey map of 21.

16 DR. LAWRENCE: Just a guestimate.

17 MS. BAKER LEIT: Just a guestimate.

18 MR. RITCHIE: I would say it's probably
19 thirty feet.

20 MR. CHOLETTE: If you look at the aerial view
21 and knowing what the distance is, you can get a good
22 approximation of that. It looks like it's about twice
23 as far - more than twice as far from the property line
24 and this house.

25 DR. LAWRENCE: Right.

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2 MR. DiSTEFANO: I think thirty to thirty-five
3 feet is a good guess.

4 MR. RITCHIE: And it will be further back.

5 MR. MIETZ: Right.

6 MR. DiSTEFANO: Will the front edge of the
7 addition be behind the back edge of the neighboring
8 house, or whereabouts to the neighboring house?

9 MR. RITCHIE: I would say the front edge of
10 the addition is going to be behind the front edge of
11 the neighboring house. It's going to be probably
12 midway --

13 MR. DiSTEFANO: Okay. Thank you.

14 MR. RITCHIE: -- of the width of their house
15 - midway back.

16 MR. CHOLETTE: Okay. Thank you.

17 Are there any other questions?

18 MR. RITCHIE: The other thing that I would
19 just like to say is even if I put the addition on the
20 other side of the house I would be here today asking
21 for the exact same resolution.

22 MR. CHOLETTE: Okay. Thank you.

23 Is there anyone in the audience that wishes
24 to comment on this application?

25 There being none this part of public hearing

1
2 is --

3 MR. DiSTEFANO: Wait.

4 MR. CHOLETTE: Oh. Yes, sir?

5 MR. JANETOS: I am number 21, since you've
6 referred to that. My name is Demitri Janetos and I've
7 been the neighbor for thirty-eight years.

8 And I'm not here to oppose, nor am I here to
9 is a support. I'm here to gather some information, but
10 also to share some information with you folks and have
11 you ask me any questions that you would like to after I
12 finish a little bit.

13 I would like to thank Rick for spending time
14 with me for a couple of days because I did have some
15 questions regarding this.

16 As Bill has mentioned, yes, my house is on
17 the market. Not that I wanted to move, but after three
18 knee operations and a brain aneurysm it's time to make
19 things a little bit easier. And so I'm here as a moral
20 obligation, not just being the homeowner but for
21 possibly a voice that you can't hear which will be a
22 future homeowner at some point. So there might be some
23 concerns or considerations that the Board needs to
24 understand.

25 We have a difficult lower - let's call it a

1
2 lower landing. A lower landing has it's own - had many
3 accidents at one time. If some remember the Browncroft
4 Landing, like five deaths. Which was not too good,
5 thus you see the street lights or stop lights or
6 whatever. But also there is a huge, huge drain
7 situation - drainage.

8 And if anyone could have witnessed what went
9 on many years ago - Bill, my good neighbor, wasn't
10 there then when they put the sewers in. And literally
11 the men that put it in were literally standing knee
12 deep in water to try to connect because of the onrush
13 of water. And they had to bring in these I call them
14 the throughway noise barriers to block - as Rick called
15 it, to dam it off because there is such a runoff of
16 water underground. And the head engineer - I happened
17 to be talking to him - he said we didn't anticipate
18 this, which was three hundred underground springs that
19 got -- what do you want -- the table became dislodged
20 so to speak and created all kinds of situations that
21 they didn't expect. The end result of that, of course
22 you can't -- sewers came in and that's a good thing I'm
23 sure -- but the end result which is the two end
24 properties - which would have been number 10 and number
25 11 North Landing Road, the two end properties - the

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2 front yards on both of them became literally useless.

3 The Town of Brighton did everything they
4 could, so they put in grass, gravel - like a ditch -
5 and gravel. That helped number 10. Number 11, which
6 is on the west side - which is on our side - anytime
7 that you see rain you will see the Brighton Highway
8 Department there cleaning out the culverts or whatever
9 to try to alleviate. It doesn't work so well, but at
10 least they're trying. But the font yard is literally
11 useless on house number 11 by just the water runoff.

12 So I just think I'm here as not to torpedo
13 Bill's hopes for enhancing his property, but also an
14 enhancement shouldn't result in a possible - what do
15 you want, problem for neighboring houses due to the
16 severe drainage. There's a forty - thirty - at least a
17 thirty foot drop from the bend in Landing Road, Park
18 Road, right down to Browncroft. So underground, which
19 we can't control, but we know it exists. That's for
20 sure. And the - the actual what you can see is the
21 rain water. On any kind of rain storm it's havoc there
22 at lower Landing for some of the lower neighbors there.

23 That being said, you know, I would want to
24 ensure that if anything is actually approved - and I
25 would leave that up to you, I'm not here for or against

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2 - that there would be some conditions there that the
3 town, which would start right here, be aware of that
4 and any development or addition that it be constructed
5 where driveways are slanted away from number 21. That
6 gutters and whatever, because rain water is a killer,
7 be directed away from that lot because guaranteed it
8 will come on to 21. And whether I'm there or someone
9 else no one deserves to go through what number 11 is
10 going through -- I'm - yes, number 11, because that's
11 just chaos down there. And so it can be avoided.

12 I'm sure if the town knew what was going to
13 happen when the gutters went in some planning might
14 have gone ahead of time, like the drainage system going
15 in, the culverts deeper or the - what do you want to
16 call it - drain pipes could have been enlarged so it
17 wouldn't be running all over that person's lawn. And
18 it stays there for as long as it rains.

19 So there is things that could be mitigated if
20 proper planning and controls were put in place. That's
21 not to, you know, kibosh someone's plan. It's that,
22 you know, when it comes within five feet of the line --
23 and to answer your question; I don't know of any
24 easement of the two feet, because there hasn't been a
25 map that's been drawn accurately in a long time. But

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2 anytime that a property comes as close as this one is
3 coming you're guaranteed that there's going to be just
4 because of the slope. All of the properties are sloped
5 down. So every property sits at least five to
6 ten feet, sometimes twenty feet above the next property
7 because you start going up the hill. And --

8 MR. CHOLETTE: I think we understand your
9 concerns.

10 MR. JANETOS: Yeah.

11 MR. CHOLETTE: We will certainly try to take
12 that into consideration.

13 Besides the drainage issue, do you see the
14 proximity of his addition to your property as a
15 difficulty for you living there or for your ability to
16 sell your property?

17 MR. JANETOS: Well, I guess that remains to
18 be seen. I don't know. It's a good question that you
19 ask.

20 We did have a buyer, but the buyer pulled out
21 because they looked in the backyards of my neighboring
22 properties - not so much Bill's property, but the one
23 on - and called it a pigsty. That's what the realtor
24 told me. Okay?

25 And also I have a boat next to me in a hitch

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2 - trailer hitch - that happens to be Bill's. I don't
3 object, but they objected because - and actually it's
4 not legal to put it there. But I didn't object because
5 I like Bill. But they objected and they decided a
6 neighbor over here and a neighbor over here that it
7 sends a message, we're out. So I lowered the price of
8 my house ten thousand dollars to maybe offset that.

9 So it's a good question that you've asked.
10 It, you know, right now we have -- that's the beauty of
11 Landing Road, you have nice backyards and you have side
12 setbacks between houses. Bill is absolutely correct,
13 on the other side of the street you don't have that.
14 They're closer together. But, you know, that's an
15 asset that buyers always comment that you have such
16 distance, like a hundred and twenty-five feet between
17 the houses - or a hundred and twenty-five foot lots, I
18 should say, with nice I guess you would call it
19 setbacks.

20 So that obviously won't exist --

21 MR. CHOLETTE: I understand your point.

22 MR. JANETOS: -- at this point.

23 MR. CHOLETTE: Is there any other comment
24 that you want to make?

25 Any other questions that you want ask?

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Thank you very much for coming forward.

MR. JANETOS: You're welcome, John.

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

We normally don't have rebuttals.

Is there something quickly that you want to add?

MR. RITCHIE: Oh, yeah. The boat thing is a surprise to me. It's a fourteen foot aluminum boat, registered.

MR. CHOLETTE: That's not --

MR. RITCHIE: I wasn't aware of any issues with --

MR. CHOLETTE: That's not going to influence our --

MR. RITCHIE: Okay. I just wanted to make sure.

MR. CHOLETTE: That's really not an issue.

MR. RITCHIE: Okay. And as far as the drainage goes, I've taken steps in my yard to try to alleviate water. It is damp. It gets damp because it's shaded and it is on the hill. But, you know, I don't have flooding like other people do, but my

1
2 basement gets wet. So I just know it's where we live.

3 MR. CHOLETTE: Right. But we'll pursue that
4 as we discuss what could be done, what provisions might
5 be --

6 MR. RITCHIE: Okay.

7 MR. CHOLETTE: -- to ensure this is not a
8 problem because of this.

9 MR. RITCHIE: Okay. Thank you.

10 MR. CHOLETTE: Thank you very much.

11 MR. DiSTEFANO: Are we done?

12 MR. CHOLETTE: Yes.

13 10A-02-14 Application of William Heberle, owner of
14 property located at 751 Browncroft Blvd., requesting to
15 rebuild a noncomplying building destroyed by fire,
16 larger and higher than the one it replaces where not
17 allowed by code (Section 225-14B). All as described on
18 application and plans on file.

19 MR. FROMBERGER: Good evening. Tom
20 Fromberger, MRB Group. With me is Bill Heberle.

21 As the application states, in March of this
22 year Mr. Herberle's barn unfortunately burned down and
23 he would like to reconstruct a new barn approximately a
24 thousand square feet larger. When you look at it on
25 the footprint it's basically ten feet longer in one

1
2 direction and two feet wider. It fills in the gaps of
3 the pre-existing structure.

4 The barn is used for utility purposes,
5 storage of carriages and hay and typical horse
6 equipment and materials.

7 The reason for the height distance is because
8 of the operations including the materials inside. The
9 original was built as an A-frame that allowed storage
10 in that ten foot of attic space. The new construction
11 is a pole barn with the posts driven into the ground
12 and sheet metal around the sides and it's formed with a
13 trust system, which kind of eliminates any storage in
14 that upper area.

15 So at this point I will open it up for
16 discussion.

17 MR. CHOLETTE: Any questions?

18 MR. DiSTEFANO: Tom, for the record, can you
19 explain why the increase in size also?

20 MR. FROMBERGER: The increase in size is
21 basically to fill in those gaps. It's basically a
22 standard construction size. To build a non-structured
23 size would be more cost prohibitive.

24 It's also we would like the additional space.
25 You know, it's only a thousand square feet, but it's

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2 needed. Right now he's currently storing his materials
3 outside in the other riding arena, and with the
4 onslaught of the winter months he's got to move those
5 from those facilities back either outside or hopefully
6 to the new barn.

7 MR. GOLDMAN: My understanding was that the
8 barn that burned down was an older style, it was built
9 in a different way, and then several additions were put
10 on it according to the people that I talked to when I
11 was there. And then to replace it in kind, if that
12 were done then this wouldn't be necessary. But
13 because, as the person explained to me, you really
14 can't replace it in kind and you have to go to the new
15 style. That's one of the driving factors to the size
16 change.

17 Now I don't want to be putting words in your
18 mouth, but I would like to get that in the record; is
19 that true?

20 MR. FROMBERGER: That is correct and that is
21 what we kind of outlined in our letter to you guys.

22 MR. CHOLETTE: I'm not sure in the
23 application that we have actually have knowledge of
24 what is actually allowed on site. forgetting what you
25 have before.

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What would actually be allowed there, Rick?

MR. DiSTEFANO: Well, it is a residentially zoned piece of property. So what would be allowed is a two hundred and fifty square foot shed, six hundred foot detached garage, if that's what you want to allow them to have.

MR. CHOLETTE: Okay.

MR. DiSTEFANO: Something that would not really fit to the use that's currently on the property.

MR. CHOLETTE: Well, certainly we need to get into the record the size of this parcel, its distance from anybody else and what it looks like back there.

So would be describe those aspects?

MR. FROMBERGER: Sure, I can do that. I'll just grab our plan here.

The existing parcel is 12.4 acres. The building proposed size is four thousand eight hundred square feet, so forty-eight hundred. The existing barn was thirty-eight hundred square feet. The height of the existing barn was eighteen feet. The proposed is twenty-eight feet.

The proposed barn height is actually lower than the existing riding arena, which is thirty-six feet. It's well screened from both the neighboring

1
2 property - as it sits closer towards the existing
3 wetlands to the north, the park areas - and it's very
4 hard to see it from Browncroft Boulevard as well.

5 Mr. Heberle has been in business for well
6 over a hundred years. The barn itself was --

7 MR. HEBERLE: Not me personally.

8 MR. DiSTEFANO: You look good.

9 MR. HEBERLE: I'm four generations.

10 MR. FROMBERGER: The existing barn was
11 approximately eight years old. It was definitely a
12 different style of construction.

13 To facilitate those new forms of construction
14 is why we're here tonight.

15 MR. CHOLETTE: Fine. Thank you.

16 Are there any other questions for the
17 applicant?

18 MR. FROMBERGER: I would like ask just a
19 question in regard to the SEQR process.

20 I know the Planning Board established
21 themselves as - or asked to establish themselves as
22 lead agency. They submitted to New York State DEC - I
23 believe is the only other involved agent. We did speak
24 with them and they had already responded back to the
25 town, saying that the town could be the lead agency.

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2 We did get a permit from New York DEC for work in the
3 proper area already. Just to offer that as part of
4 record as well.

5 MR. CHOLETTE: Okay. Fine. Thank you very
6 much.

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

9 Yes, sir?

10 MR. McLAUGHLIN: I'm Bruce McLaughlin, 40
11 Landing Road North. And I'm probably the closest
12 neighbor who would possibly have a view of this now.
13 Everybody else to the south of my property is screened
14 by woods. I can't or I couldn't see the previous barn
15 from my backyard before. I can't imagine that another
16 few feet up would make any difference. And it's
17 already a large - lot of barns, a lot of structures
18 there. Another barn there as far as us older neighbors
19 are concerned would make no difference as well.

20 MR. CHOLETTE: Fine. Thank you very much.

21 MR. DiSTEFANO: Can I ask a quick question?

22 MR. McLAUGHLIN: Yeah.

23 MR. DiSTEFANO: Can you see the riding arena
24 from there?

25 MR. McLAUGHLIN: Oh, yeah.

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2 MR. DiSTEFANO: You can see the top of the
3 riding arena?

4 MR. McLAUGHLIN: Oh, certainly. Yeah, we can
5 see on - there are a couple of houses there that we can
6 see and it's not been a problem. We've lived there for
7 fifty years now.

8 MR. DiSTEFANO: Okay. Thanks.

9 MR. CHOLETTE: Thank you.

10 MR. McLAUGHLIN: I'm Bill Ritchie. I live at
11 47. I'm right across the street. And I don't think
12 there would be any trouble with drainage or anything.
13 So I wouldn't have any issues with Mr. Heberle
14 extending the height of his property.

15 MR. CHOLETTE: Fine. Thank you.

16 MR. RITCHIE: Thank you.

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

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

22 MR. FROMBERGER: Is there a possibility to
23 get a conditional --

24 MR. DiSTEFANO: Well, we really won't - it
25 will be tabled and then -- but after we will probably

1
2 have some discussions tonight, I can let you know maybe
3 the feeling of the Board.

4 MR. FROMBERGER: Okay.

5 MR. CHOLETTE: When we discuss it we will go
6 through this and we will pretty much come up to the
7 point of the final vote. So you will certainly know
8 where our leaning is, but we can't make an official
9 determination. So you can't take it to the bank.

10 MR. FROMBERGER: I understand. Very good.
11 10A-03-14 Application of Gaetano Abbate, contractor,
12 and Matthew Winslow, owner of property located at 6
13 Elmwood Hill Lane, for modification of approved
14 variance 2A-06-14, part 3, to allow an in-ground pool
15 to move further into the side yard (closer to the
16 street) than originally approved. All as described on
17 application and plans on file.

18 MR. CROWE: Good evening. My name is Dave
19 Crowe, I'm with DJC Architecture. Gaetano Abbate is
20 the Builder. Gaetano has formally made the application
21 for tonight. Gaetano and I are here tonight
22 representing the Winslows for 6 Elmwood Avenue - sorry,
23 6 Elmwood Hill.

24 And the request is to reposition the swimming
25 pool that was approved on a prior variance application.

1
2 For the record, DJC Architecture is the new architect
3 of record for the project, so they did change their
4 direction a bit. So I'm here representing them
5 tonight.

6 The drawing that I think you've seen - the
7 primary changes are that the pool has been centered
8 between the leading edge of the fireplace and the
9 garage, and the addition has been moved forward a bit
10 about nine feet. It's basically the front edge is
11 centered on the fireplace. It still keeps us well
12 behind the leading edge of the principal structure of
13 the property. It gives us sixty-nine feet or so back
14 from the property line. So it's just maybe a little
15 bit better centered on that patio between the two
16 buildings.

17 And that really is the only change, just
18 these two adjustments side to side moving forward.

19 MR. CHOLETTE: Will you remind us of what
20 your landscaping plans are including the swimming pool
21 and the street?

22 MR. CROWE: I'm going to let Gaetano do that.

23 MR. ABBATE: Between the swimming pool and
24 the street there's actually a picket fence that goes
25 all the way around. It actually surrounds the whole

1
2 pool on all four sides.

3 DR. LAWRENCE: So whether it was moved
4 forward it won't be - the change won't be noticeable
5 from the street?

6 MR. ABBATE: Yeah, it wouldn't be noticeable.
7 It was actually placed on one of the surveys that was
8 submitted to the town for approval. But measurements -
9 after I found out from speaking with Rick, you know,
10 when we actually went for the building permit for the
11 pool is that their dimensions were never really set.
12 You can see on the drawing submitted for the town
13 building permit, and we found out that it wasn't placed
14 properly. This is why we're actually trying to move it
15 a few feet forward after speaking with Rick. That was
16 his --

17 MR. CHOLETTE: Besides the fence, what
18 vegetation is going to be there?

19 THE WITNESS: There's all - actually the
20 landscaping plan is not finished, but there's pavers.
21 This(indicating) is a actually a gymnasium. There's
22 pavers here(indicating). All this is(indicating) is
23 actually greenery. There's existing shrubbery and
24 trees right now that we haven't removed. Obviously the
25 whole back of the golf course is all trees. But

1
2 there's a pretty good landscaping design actually in
3 process right now.

4 MR. CHOLETTE: When you're on the street and
5 looking at the swimming pool - if' you're just standing
6 there at six foot high what are you going to see with
7 regard to the swimming area?

8 MR. ABBATE: You probably won't be able to
9 see the fence here because there's so much shrubbery
10 and trees already existing.

11 MR. CROWE: There's an existing strand of
12 trees and shrubs that's so dense we tried to run a tape
13 measure through and couldn't do it. So we actually
14 went around and came back just to confirm those
15 dimensions. And that's not going anywhere.

16 MR. MIETZ: So are you stating for the record
17 that that tree strand in that area is going to be
18 retained?

19 MR. CROWE: That is - yeah, that is already
20 been, absolutely. There's a fence around that area,
21 and that was actually --

22 MR. MIETZ: So when you're talking about
23 future landscaping improvements there maybe something
24 closer to the fence or whatever, but not affecting that
25 existing vegetation?

1
2 MR. ABBATE: It would never affect that,
3 exactly.

4 MR. MIETZ: That will remain. Okay.

5 MR. ABBATE: Yeah.

6 DR. LAWRENCE: Just for curiosity sake, is
7 there any chance that they'll have more variance
8 requests from this point, as we've had a half a dozen?

9 MR. ABBATE: It's been my decision to hire a
10 new architect for certain reasons, this being one of
11 them. So I just couldn't deal with it anymore. I
12 promise at this point, speaking with Rick, I don't
13 believe we have any reason to ever come before this
14 Board for is this particular property. At least this
15 is my first time in front of this Board. So, no.

16 DR. LAWRENCE: Okay.

17 MR. ABBATE: I see that you're all very
18 surprised.

19 MR. CHOLETTE: There's no obligation on your
20 part. If you need another variance you can certainly
21 come before us.

22 MR. ABBATE: No, I'm pretty much - I'm 46,
23 but I feel 98 right now to be honest with you with the
24 stress I've been going through. But, no, this is
25 pretty much it.

1
2 MR. CHOLETTE: Okay. Fine.

3 Are there any other questions for the
4 applicant?

5 Fine. Thank you very much.

6 MR. ABBATE: Thank you.

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

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

12 10A-04-14 Application of John and Harriet Bonin, owners
13 of property located at 16 Meadow Lane, for an Area
14 Variance from Section 209-10 to allow liveable floor
15 area to expand from 3,321 sf to 3,756 sf, after
16 construction of a 435 sf addition, where a maximum
17 3,135 sf is allowed by code. All as described on
18 application and plans on file.

19 MR. BONIN: Good evening. I'm John Bonin and
20 I'm here with my wife Harriet of 16 Meadow Lane, where
21 we've lived for thirty years in January.

22 And for Rick and I think I remember Ms.
23 Schwartz, this is deja vu all over again because we
24 were here in 2010 and sought approval to bump out the
25 same wall by about six feet. The reason being we have

1
2 three kids who have grown and even though they live all
3 over the country they and their friends - all of their
4 friends - seem to come back to our house all the time.
5 Which is great, no complaints except the Wegmans bills.
6 And we just need more space to accommodate them when
7 they're home.

8 We got the approval for the six foot
9 bump-out. As we got into it further with the architect
10 and the builder we realized it wasn't going to solve
11 the space problem, and it also wasn't going to get a
12 laundry up on the second floor, nor permit the
13 remediation - the renovation of the bathrooms in the
14 house. The bathrooms in the house were original to the
15 structure. So we actually took a hiatus. Looked
16 around for another house. Couldn't find anything that
17 we liked. So we're back with Chris again looking for a
18 resolution to that problem.

19 You should have a copy of the plans. If not
20 we've brought some that I can

21 MR. DiSTEFANO: Yeah, why don't you because,
22 as a matter of fact, I left those on my desk. They
23 don't have copies.

24 MR. BONIN: What you'll see is what we've
25 tried to do with Chris is be very careful --

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MR. CHOLETTE: Excuse me for a minute.

Is there anyone in the audience that in particular would like to see these plans?

Fine. Thank you.

MR. BONIN: -- is to try to plan the addition so it was not really visible from the front of the street. So what you see is it tucks behind an existing open porch on the side of the house. And the bathroom bump-outs that accommodate the washer and dryer are behind an existing structure, so they're not visible from the street either.

The other thing we've done to confirm that it's consistent with the nature of the neighborhood is gone through and done a random sample of other houses in the neighborhood, to look at what the square footage of those homes is and the lot sizes and how the ratio compare. And as my kids would say, I think we're in the zone. Our nextdoor neighbor is - their house is forty-one hundred twenty-two square feet. The house right behind us is forty-one hundred square feet. The homes seem to range anywhere from thirty-two hundred up to forty-two hundred square feet in the neighborhood. The percentages seem to range from about .15 to .40 and we would be at .29. So we've tried to be consistent in

1
2 that regard as well.

3 Questions?

4 MR. CHOLETTE: You indicated before what we
5 approved, and of course in that case you were just
6 building a section in a little indentation --

7 MR. BONIN: Yes.

8 MR. CHOLETTE: -- inside of your house and
9 you're going to bring it out flat. Now under this plan
10 of course both on the first floor and on the second
11 floor you're bringing it out to the side.

12 I realize you don't need a side setback
13 variance because you're not too close to your
14 neighbors. But I guess my only concern, and it's not a
15 major one, is that even though it's behind your open
16 porch it is an open porch and you will see through
17 that. So you would certainly see this structure from
18 the street.

19 MR. BONIN: Which is why we took it to the
20 Architectural Review Board for their review and
21 approval, to make sure that it was consistent with
22 their perspective.

23 And to anticipate the question, the siding -
24 all of the trim will be the same as on the existing
25 house.

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MR. CHOLETTE: Okay.

MS. SCHWARTZ: What about the vegetation near your porch, are you going to lose any of that?

MR. BONIN: No.

MS. SCHWARTZ: You wouldn't.

MR. BONIN: Well, there's one shrub that will probably have to be taken down to accommodate the construction equipment, but we'll put it back up.

MR. CHOLETTE: Was any thought given to try the put this addition on the back of the house, I realize it would still be the same variance?

MR. BONIN: We - the challenge with that is the only place to put it is the garage. I mean, this is a house where the family room today is what we think -- we're only the third owner of the home since it was built about 1930 -- we think that when the Stormwatts(phonetic) owned the house that's what is now the family room was the garage and then the garage was pushed out behind it. If we were to push that out again we would - it would be very challenging to get a driveway in there with the turn-around capacity.

MR. CHOLETTE: Okay. Thank you.

Are there any other questions?

Fine. Thank you very much.

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MR. BONIN: Thank you.

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

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

I would like to thank the applicant for this chart, that's very helpful to us. And I would also like to - I didn't say it at the time, but the applicant for North Landing Road I thought that was an excellent presentation, again, with all the detail, what we needed as far as those figures. That was very helpful.

10A-05-14 Application of Ellison Patterson, Jr., applicant, and The Country Club of Rochester, owner of property located at 2935 East Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for a fireworks display on the evening of October 11, 2014 in a RLA Residential District. All as described on application and plans on file

MS. MARLIE: Hi. My name is Lisa Marlie and I'm here to represent Ellison Patterson this evening. I'm the wedding planner for the wedding being held at the Country Club of Rochester next week, October 11th.

1
2 And in the past the GM at CCR has not been
3 open to having fireworks other than July 4th or New
4 Year's Eve. There's been a change in the general
5 manager there and now they are at least open to the
6 idea. And so we were asked to fill out an application
7 for the fire marshal and then a zoning variance.

8 So what you have in your packet is a map of
9 CCR, which is on the eighteenth hole is where the
10 fireworks would be set off from. The fireworks are
11 being managed by Young Explosives. They're the company
12 that manages the fireworks on July 4th and New Year's
13 Eve every year for this club. So they're very familiar
14 with this area and how to do it safely. There's also
15 letter from the client walking through why he would
16 like fireworks for his daughter's wedding. And a
17 letter of agency from CCR allowing us to make this
18 request on their behalf.

19 So we're looking for about twelve minutes of
20 fireworks on Saturday evening, roughly setting off
21 somewhere between 8:45 and 9:00 p.m. It would go no
22 later than 9:15.

23 We sent a letter to every residence within a
24 half mile radius of the club, letting them know that
25 these fireworks would be happening if approved. The

1
2 letter went out about September 10th. We also told
3 them about this meeting.

4 And that's it.

5 MR. CHOLETTE: Where is the eighteenth hole?

6 MS. MARLIE: It's --

7 MR. CHOLETTE: It must be close to the
8 clubhouse.

9 MS. MARLIE: It is. If you're standing at
10 the front door of the club it's at two o'clock.

11 MR. CHOLETTE: Okay. You heard nothing back
12 from any neighbors or anything like that?

13 MS. MARLIE: No. They're used to CCR sending
14 out this letter and hosting fireworks a few times a
15 year. So this is nothing unusual. We are not changing
16 the location of the fireworks. We're not running them
17 any longer than they're typically run. It's just
18 really a third event for CCR this year.

19 MR. CHOLETTE: Thank you.

20 MS. SCHWARTZ: Somewhere I read - I can't
21 seem to find it now, but it said it's going to be at
22 8:30.

23 Now you're saying until 9:15?

24 MS. MARLIE: No. It's more because during a
25 wedding we approximate a time schedule. We think

1
2 dinner will be over at 8:30, but it could be 8:35/8:40,
3 if we can't find the bride in time to make
4 introductions things slip. But we're saying that we
5 would not start any later than 9:00. It would be over
6 by 9:12. And I would prefer to start it by 8:45, but
7 I'm just being realistic here on managing a timeline
8 for a seven hour evening with people drinking. Just
9 rounding them up to get them out we just have to have a
10 few minutes of leeway, but not much.

11 MS. SCHWARTZ: Do you see this starting a
12 precedent?

13 MS. MARLIE: At CCR?

14 MS. SCHWARTZ: Yeah.

15 MS. MARLIE: You know, I don't --

16 MS. SCHWARTZ: How many wedding receptions do
17 they do a year?

18 MS. MARLIE: They probably do about thirty
19 wedding receptions a year.

20 I don't see it starting a precedent right now
21 because I don't think people are aware that they could
22 do it. It's really just because we kept asking.

23 MS. SCHWARTZ: Okay. I don't live nearby,
24 but I hear those fireworks.

25 MS. MARLIE: Yeah.

1
2 MS. SCHWARTZ: Fireworks really travel. I
3 could hear downtown on July 4th --

4 MS. MARLIE: Yeah.

5 MS. SCHWARTZ: -- and I live at Twelve
6 Corners.

7 So I'm just concerned that this is just one
8 event, you have two already scheduled on an annual
9 basis and how many more might there be?

10 MR. DiSTEFANO: I think that's why they're
11 here in front of us. For the most part CCR has been
12 kind of grandfathered in to these two events a year.
13 That's why they don't come to us on an annual basis for
14 their two events. Anything above and beyond, they're
15 coming to us.

16 So we do have some control if all of a sudden
17 they're asking for one every other weekend during the
18 summer. So there is some control through this Board to
19 say no, enough's enough. So I think that's - you know,
20 I don't think there's a precedent being set because for
21 the third event and anything above the two they're
22 going to have to be coming in front of us.

23 DR. LAWRENCE: Rick, do they have to have any
24 fire marshal issues?

25 MR. DiSTEFANO: Yes. They have to have a

1
2 fire marshal permit, which they have already made an
3 application for. So, yeah, that's typical for any
4 display. Even CCR when they have their displays have
5 to get a permit from the fire marshal also.

6 MS. SCHWARTZ: If this were not approved, how
7 would that alter the evening? Would it cause you to
8 move something else in that time slot?

9 MS. MARLIE: We would be fine. I mean, as
10 the wedding planner we would be fine. I don't want to
11 -- we would love to have the fireworks, butt I'm not
12 going to over dramatize it. It would be fine. It
13 would be great to have them, but we would be fine.

14 MS. SCHWARTZ: Thank you.

15 MR. DiSTEFANO: And there's no rain date,
16 right?

17 MS. MARLIE: There is no rain date. So if
18 it's a raining night the fireworks would not go off and
19 that's that.

20 MR. DiSTEFANO: There's guidelines that Young
21 has to abide by.

22 MS. MARLIE: And Young is one of the best
23 companies in Rochester. So they won't do anything
24 that's unsafe regardless of how hard I push them.

25 MR. CHOLETTE: Any other questions?

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Fine. Thank you very much.

MS. MARLIE: Okay. Thank you.

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

There being none --

UNKNOWN: I live by the country club and I've heard those --

MR. CHOLETTE: Can you state your name and --

UNKNOWN: -- fireworks. And as a matter of fact --

MR. DiSTEFANO: Can you just state your name?

MS. SCHAFFER: My name is Marilyn Schaffer. I live at 3489 Elmwood Avenue.

I'm always shocked when I hear the fireworks, but I kind of know everyone is having a great time. You know, they're enjoying them. So as a neighbor of CCR it wouldn't bother me, but I understand what you're saying as well. But it's a wedding, what are you going to do.

MR. CHOLETTE: I actually live within a half mile of the country club too and I did not receive a letter. But I assume that you don't pick everybody off on the outskirts, because I'm further from the

1 clubhouse.

2
3 MS. SCHAFFER: Yeah. Well, the irony of this
4 all is this Ellison Patterson, he was the lifeguard at
5 the Renaissance when my husband and I moved here
6 thirty-some odd years ago. So I'm amazed that his kids
7 are now grown and getting married. This whole thing
8 was just so shocking when I saw that.

9 Anyway, once again --

10 MR. CHOLETTE: Before you start we have to
11 close the previous one.

12 Is there anybody else that would like to
13 speak with regard to the previous application?

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

16 Rick, will you read the application.
17 10A-06-14 Application of Marilyn Schaffer, owner of
18 property located at 3489 Elmwood Avenue, for an Area
19 Variance from Section 203-2.1B(c) to allow a stand-by
20 emergency generator to be located in a side yard in
21 lieu of the rear yard behind the house as required by
22 code. All as described on application and plans on
23 file.

24 MS. SCHAFFER: I think that pretty much says
25 it. I would like to put in an emergency generator.

1
2 The back of my house is totally hardscaped and there's
3 no place to put a generator. I'm set way back from the
4 road, far from both my neighbors on either side - on
5 the west and the east. And the generator would be
6 totally hidden by landscaping.

7 So that is what I'm asking the Board to
8 approve.

9 MS. SCHWARTZ: Is the panel right there, is
10 it that white rectangle in the front?

11 MS. SCHAFFER: Yes. It's actually -- you saw
12 it, it's on the -- you're talking about the pad to put
13 the generator?

14 MS. SCHWARTZ: Yes.

15 MS. SCHAFFER: Yes.

16 MS. SCHWARTZ: How about the neighbor who is
17 on the --

18 MS. SCHAFFER: In the front?

19 MS. SCHWARTZ: Yeah, I guess I would call it
20 the front.

21 MS. SCHAFFER: No, they wouldn't -- I've
22 already spoken to them, but they wouldn't hear
23 anything. It doesn't in any way affect them. It's
24 quite a setback from their house and obviously a very
25 big setback from CCR. It's a big setback from east and

1 west. So -- and you wouldn't be able to see it either.

2 MR. CHOLETTE: The closest neighbor I guess,
3 besides the one that you were just talking about is
4 sort of kitty-corner to the front - is that barn I
5 guess?
6

7 MS. SCHAFFER: Yes.

8 MR. CHOLETTE: That's to the east.

9 MS. SCHAFFER: Yes, the barn and the house
10 behind the barn.

11 MR. CHOLETTE: Okay.

12 Any questions for the applicant?

13 MS. SCHWARTZ: And it will be tested during
14 the daylight hours?

15 MS. SCHAFFER: I'm sorry?

16 MS. SCHWARTZ: It will be tested during the
17 daylight hours?

18 MS. SCHAFFER: Yes, for a very short period
19 of time, I think once a week.

20 I'm not that familiar with generators, but
21 after that ice storm and living through that ice storm
22 I think it's not a bad idea in this city to have some
23 kind of emergency.

24 MR. CHOLETTE: Rick, I'm assuming every
25 generator request that comes in meets the other

1
2 criteria or we would hear about it?

3 MR. DiSTEFANO: Yeah. The sound - the
4 decibel rating on the newer-generation generators have
5 really cut down on the decibel rating. Even this one
6 being fairly large I think the maximum - or the full
7 load rating is like sixty-six, where I think the code
8 says seventy-two at full load now. So they're coming
9 in quite a bit quieter than when we wrote the code.

10 MS. SCHWARTZ: And they test them for what,
11 five minutes?

12 MR. DiSTEFANO: Yeah, I think the test time
13 is down to five to ten minutes in lieu of the fifteen
14 minutes that the older ones had to be tested. Now
15 they're down to five minutes, maybe ten minutes a week.

16 MR. CHOLETTE: So the technology is moving
17 right along.

18 MR. DiSTEFANO: The technology, yeah, is
19 really getting quite good. Just look how the air
20 conditioners went from being pretty loud systems to
21 being quiet. Now the generators are kind of following
22 suit.

23 MR. CHOLETTE: I guess there's no more
24 questions.

25 Thank you very much for coming in.

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MS. SCHAFFER: Thank you.

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

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

MR. DiSTEFANO: Is Application 10A-07-14 here?

Just so the Board knows, Application 10A-07-14 did inform me he was flying in today and his plane was supposed to be in like around 7:30. He is trying to get here, but I suggest that we move it to the end of the night. If not, we might just have to table it until next month.

MR. CHOLETTE: Was there anyone in the audience that came to speak with regard to 10A-07, just for comments?

This was a sign variance.

I agree with you, we should wait until the end, but I would suggest that even if he doesn't come in that we might consider the application anyway and even vote upon it.

MR. DiSTEFANO: That's fine.

Okay. We'll move on to Application 10A-08.

1
2 10A-08-10 Application of Stephen and Beverly Sabin
3 owners of property located at 1869 Westfall Road, for
4 an Area Variance from Section 205-2 to allow a front
5 porch to extend 5 ft. into the existing 37.5 ft. front
6 setback where a 40 ft. front setback is required by
7 code. All as described on application and plans on
8 file.

9 UNKNOWN: Good evening. I had to tear out a
10 collapsing cement slab porch.

11 MR. DiSTEFANO: Could you just state your
12 name and address for the record?

13 MR. SABIN: Steven Sabin, 1869 Westfall Road.

14 So in trying to rebuild the original deck I'm
15 trying to extend the front porch in part -- nine feet
16 across, out another - not to exceed five feet -- just
17 to have a little bit more porch space than a 4-foot
18 slab that was on of the house when I bought it. The
19 present setback says forty feet. I'm already within
20 thirty - I'm already at 37.5. So I'm just trying to go
21 get out a little bit more porch space as I approach
22 retirement, so I could sit outside a little more
23 comfortably and make the house look a little more
24 better. And I've got to have the porch done so that I
25 can then start looking at siding it and so forth and

1
2 get windows replaced. So it's all part of it, but they
3 want the porch up first.

4 MR. CHOLETTE: Will you describe for us a
5 little bit, I had trouble looking at the drawings and
6 the diagrams and visualizing what it was going to look
7 like?

8 MR. SABIN: The original porch is 14x4.
9 Okay?

10 The concrete slab and two pressure treated
11 posts. All right?

12 I want to put it in from the northwest
13 corner, right along the line of the side of the house,
14 and bring that out to eight to nine feet. Okay? The
15 original porch is four.

16 And then going to the east it would be nine
17 feet wide and then go back into the house and then to
18 the left of that would be the stair steps going up to
19 the wooden porch deck.

20 MR. CHOLETTE: So this does not include the
21 front entranceway or it does?

22 MR. SABIN: The wood --

23 MR. CHOLETTE: Is the porch part of an --

24 MR. SABIN: Yes.

25 MR. CHOLETTE: -- entranceway to the main

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part of your house?

MR. SABIN: Yes, it is.

MR. CHOLETTE: And this is an open porch?

MR. SABIN: Yes. The idea is to basically try to -- I've got to -- I want to put railings up around it once I get the --

MR. CHOLETTE: So it would be open on three sides?

MR. SABIN: No, it would be -- the extension would be closed on three sides simply with railings.

MR. CHOLETTE: Yeah, but there won't be a wall?

MR. SABIN: No.

MR. MIETZ: Just three feet or whatever they have.

MR. DiSTEFANO: Three and a half foot railing.

MR. SABIN: Yeah, thirty-six inches minimum is what I understood this to be.

MS. BAKER LEIT: What materials will the railing be made of?

MR. SABIN: I'm sorry?

MS. BAKER LEIT: Materials -- what material will you be using for the railing?

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2 MR. SABIN: My wife and I are looking at wood
3 to be painted. Something with some kind of a character
4 to them rather than just squared-off spindles.

5 MR. GOLDMAN: The front setback was once it's
6 in place, the --

7 MR. SABIN: Yup.

8 MR. GOLDMAN: -- additional five feet towards
9 the street --

10 MR. SABIN: Umm-hmm.

11 MR. GOLDMAN: -- looking down that line
12 towards your neighbors to the right and to the left,
13 how will that be in relation to their setback from the
14 street?

15 I went back there and looked at it --

16 MR. SABIN: The immediate at 1863, okay?

17 MR. GOLDMAN: Yeah.

18 MR. SABIN: If I drew a line - their front
19 porch was an enclosed front porch plus their steps
20 leading up to that porch is out towards the street, I
21 think it's about eight feet. I'm not sure if I
22 measured it correctly because I'm not familiar with
23 setback lines and where they start and stop and so
24 forth. But his front porch would extend about
25 eight feet past towards the street than what I would

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like to do.

MR. GOLDMAN: That's what I thought I saw and I just wanted to get you to say it.

MR. SABIN: Umm-hmm.

MR. CHOLETTE: Are there any other questions for the applicant?

Fine. Thank you very much for coming in.

MR. SABIN: Thank you.

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

Yes, ma'am?

MS. GILBERT: Hi. How is everyone tonight?

I'm Alison Gilbert. My Husband Larry and I live at 1863 Westfall Road. We've lived there for almost forty years this January. We are against the extension of the front entrance of his house. I consider it more of a front entrance than I do a porch and let me explain to you why.

Two and a half years ago Mr. Sabin removed the whole inside of the front entrance. If you open his front door you will drop three to four feet and it has been that way for two and a half years. I have pictures to show you. He left up the wall around what

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2 he just called the slab and the front steps. So if you
3 were to walk out the front door and open the front door
4 you would make that drop. At night if you were to come
5 up his driveway and go up those steps - there's no
6 warning, no nothing - you would drop the three to
7 four feet because there is no inside to that front
8 entrance.

9 Last September he dug two footers - I guess
10 they would be footers, they were holes for footers - to
11 the front of that entrance to the front of the steps as
12 if he was going to extend the front entrance of the
13 house. They were left like that all winter. No more
14 work was done. So if someone was to come across the
15 front lawn of that house and snow was covering them,
16 they would have dropped right into the holes.

17 I've been to the town and complained. Thy
18 told me it was an insurance issue and not a structural
19 issue.

20 He's also had at different times no front
21 beams on that front entrance. In fact, he's been
22 working on it for the last two or three days. The
23 beams have been cut, so they're hanging about this
24 far(indicating) from the wall around it and he's got
25 2x4s shoved up there to hold it up.

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2 One of the reasons Larry and I are against
3 the construction on this house is because in the last
4 four years we've had big problems with the house, with
5 construction done on it. After they removed the inside
6 of that front entrance two and a half years ago they
7 started work on their basement because they were going
8 to add rooms into their basement, which they have done.
9 They've added a couple bedrooms, a bathroom, a living
10 room and whatever, which is fine, you know, to add to
11 his house. He ran into a foundation issue on the left
12 hand - if you're facing his house, the left hand side.
13 So obviously he had a lot of construction work to have
14 done. So big equipment was brought in. The yard was
15 all tore up. At the same time, after he had that done
16 he put a back entrance out of his house from the
17 basement, so that, you know, with the rooms that were
18 added he had a back entrance. And he also was
19 connected to sewers because he was on septic before.

20 It all sounds like a wonderful project.
21 Unfortunately, as you can see from these pictures Mr.
22 Sabin is wonderful at starting these things, however,
23 all the debris is left all over the lawn and I can't
24 get the town to help me with it. I've been down to the
25 town on several occasions, I've spoken to Mary Ellen I

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2 spoken to Chris and nobody is willing to help me
3 because it's my problem apparently.

4 The people on the other side of him have a
5 wood fence up to past his house and then they go chain
6 link and it's all filled in with trees and bushes and
7 so forth. So they do not get to see his backyard. I,
8 on the other hand, from our back deck can see his
9 entire backyard because our, you know -- and we also
10 have a garage that sets back from our house - a long
11 driveway.

12 And I think you can see the first picture is
13 what his house looked like when he first took it off
14 two and a half years ago. And then you could see all
15 the pictures of the debris in the backyard. Now, there
16 was a washer and dryer sitting out there all last
17 winter and all last fall. My husband did try and talk
18 to Mr. Sabin about some of the things that were going
19 on - the porch and whatever and different things in the
20 yard - and it was to no, you know -- so we went to the
21 town again. Still we couldn't get anything.

22 Now, I'm very -- you know, some of his
23 projects were done by construction people. Other parts
24 of his jobs are his construction work by family
25 members. This job is supposed to be done by him and

1
2 his brother from what I understand. I'm very concerned
3 about what it's going to look like to the front of the
4 house because already, I mean, I have people come to
5 the house and it looks like I'm living - if you look at
6 those pictures, it looks like I'm looking over inner
7 city.

8 Now, in July he finally -- now, we're talking
9 a long period of time here when all this work was
10 started -- he finally grassed the left hand side of his
11 house and the backyard where it came around and by the
12 entrance. The Quanza hut(SIC) -- is that what they
13 call it, Larry?

14 Every winter it blows all over his yard and
15 that's how it lays all winter. That got picked up in
16 August. The debris finally left the backyard in July.
17 So you can understand by looking at those pictures just
18 how concerned I am on him starting work on the front of
19 his house that for two and a half years he has let lay
20 with nothing. And it's really not a porch, it's an
21 entrance way. And Larry and I are very concerned about
22 it because how long can he prolong the front of the
23 house.

24 Last year he started - it looked like he was
25 going to start work on his front entrance -- I think I

1
2 took those pictures at the end of September. So I
3 mean, you know -- we're also concerned about the term
4 porch, you know, what that really is. Because to Larry
5 and I a porch can have - be enclosed or whatever.
6 Where, you know, this is more of a deck extension that
7 he wants to his front entrance.

8 He has a huge backyard. He could add any
9 amount of deck room there that he wanted and have -
10 actually the back of our properties is Allen's Creek
11 and look out over that. What he is going to be sitting
12 in his chair looking out at Westfall Road's traffic is
13 beyond me. He has the smallest yard on Westfall - one
14 of the smallest yards on Westfall Road. So to bring it
15 out, he's going to have even less yard. And, you know,
16 I --

17 MR. CHOLETTE: I understand your concern with
18 how the lack of progress there, but if we were to deny
19 this his recourse probably would be to, you know,
20 either do nothing there or to put in an entranceway
21 that didn't extend this extra little distance, just
22 sort of finish off the front of the house.

23 MS. GILBERT: And I have no problem with
24 that.

25 MR. CHOLETTE: Is that something that you

1
2 would feel better about --

3 MS. GILBERT: I would feel better if he just
4 put --

5 MR. CHOLETTE: -- the fact that --

6 MS. GILBERT: -- back what he had. I mean
7 for two and a half years we've been waiting. I do not
8 want to wait two and a half more years to see that
9 extension finished. I don't know if he's going to keep
10 it painted. His kids started four years ago painting
11 his house. You can look at his house, it's been
12 painted, let's see, two summers they were working on
13 it. It's not done yet. It's all scraped down. The
14 house looks terrible. And for you to let him add so
15 many more feet to go in the front yard so that -- the
16 curb appeal is zero now. The curb appeal is going be
17 even worse.

18 But who, you know -- and I'm sure he
19 finished. You know, he added the stuff downstairs and
20 everything, but the minute he started down there the
21 whole outside was just left. And we have no recourse
22 because no one would help us with it, no one at the
23 town. It was our problem. And you know something if,
24 you know -- I'm sure others of our neighbors got this
25 letter - a lot of people don't come down to talk at

1
2 these hearings, but I would be willing to bet you that
3 if I walked around with paperwork I would get a lot of
4 people to sign a petition of some sort because it's a
5 joke. It's a joke - the house - the way it looks.

6 MR. CHOLETTE: Okay.

7 MS. GILBERT: I mean, can you imagine living
8 next to that all for a year, a year and a half, all
9 that stuff in the backyard?

10 And the pictures show it. The pictures show
11 it.

12 MR. CHOLETTE: Morrey?

13 MR. GOLDMAN: The question I asked him about
14 the front of it - and not at your house - extends
15 closer to the street than --

16 MS. GILBERT: Our house extends closer, but
17 our house was built in 1909 and that's how it came, you
18 know, it's got a front porch, yeah.

19 MR. GOLDMAN: I'm trying to establish where
20 the setbacks are.

21 MS. GILBERT: Yes.

22 MR. GOLDMAN: Thank you very much.

23 MS. GILBERT: Yeah. And I'll tell you I feel
24 bad to be here because until all this happened we were
25 neighbors that, actually, we went over to each other's

1
2 house if his kids had a birthday. And, of course, that
3 just doesn't happen now.

4 MR. CHOLETTE: Thank you very much for coming
5 in. Thank you for the photographs.

6 MS. GILBERT: Thank you.

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

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

11 10A-09-14 Application of JPP Real Estate, LLP, owner of
12 property located at 2195 Monroe Avenue, for 1) an Area
13 Variance from Section 207-10E(3) to allow rear yard
14 paved area to be 52.16% of the rear yard area in lieu
15 of the maximum 35% allowed by code; and 2) an Area
16 Variance from Section 207-10E(5) to allow rear yard
17 pavement to extend to a side property line in lieu of
18 having a 4 ft. setback as required by code. All as
19 described on application and plans on file.

20 MR. WILLIAMS: Good evening, members of the
21 Board. My name is Richard Williams. I am an attorney
22 for JPP Real Estate. With me this evening are Joseph
23 and Phil Valenti, two of the members of the LLP that
24 owns the property 2195 Monroe Avenue.

25 I hate to start by throwing myself under the

1
2 bus, but I have to. There's a typographical error in
3 the materials submitted to the Board and unfortunately
4 that finds its way into the legal notice, and that is
5 the amount of the variance that we're requesting with
6 regard to the coverage of the lot. It says - it says
7 in the written materials 52.16, I believe it is.
8 That's incorrect. It's actually 47.2%. If you add
9 those two numbers you get roughly a 100%. Essentially
10 what happened is somehow or another it was misstated.
11 But if the Board has seen drawing number 5 of 6 of the
12 materials, which is the next to last sheet in the
13 materials, it very clearly shows that the entire area
14 of the rear yard is sixty-nine hundred thirty-eight
15 feet and then it shows the area of the air conditioning
16 pad and the area of the pickleball court themselves,
17 totaling up to as it shows there 47.2%. So while 35%
18 is the maximum allowed of coverage, we're requesting
19 the area variance of approximately 12% to allow for
20 coverage of 47.2%.

21 MR. CHOLETTE: So you're modifying your
22 application to read 47.2% --

23 MR. WILLIAMS: That's correct.

24 MR. CHOLETTE: -- instead of where it says
25 52.16%?

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MR. WILLIAMS: That's correct.

With that done I can kind of start at the beginning. This is an application for two related area variances concerning pickleball courts at the Monroe Avenue address of 2195 Monroe Avenue.

The need for the area variance is - the reason why the area variance is required is in two regards: One, is to allow the pickleball courts to exceed the maximum lot coverage; and the second, is to allow the pickleball courts to come close to the lot line rather than be four feet from the west lot line only.

By way of a little bit of background, pickleball is a sport -- I don't know if any of you are familiar with it or have played it, but it's a sport that is gaining a tremendous amount of popularity.

MR. CHOLETTE: I'm going to interupt a little bit.

MR. WILLIAMS: Sure.

MR. CHOLETTE: The applicants were in with a related case, was it two years ago?

MR. WILLIAMS: Okay.

MR. CHOLETTE: So we may have one new Board

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2 member since then.

3 MR. WILLIAMS: You had pickleball education
4 already?

5 MR. CHOLETTE: Quite a bit.

6 MR. WILLIAMS: All right. Good. Fine, I'll
7 skip over that.

8 Essentially, I don't have a lot to add to the
9 written materials, which we tried to capture all the
10 issues there in terms of the factors that the Board
11 needs to consider. I just want to point out of couple
12 highlights or summary points.

13 With respect to area variance as to the open
14 space requirement in the back, it's my understanding
15 first of all, the reason why the zoning exists the way
16 it is - which includes a portion of lot being in a
17 residential district, while the other front portion is
18 in the commercial district - was to keep presumably
19 commercial activities and the buildings associated with
20 those commercial activities confined to a good buffer
21 area away from the residential.

22 We are not proposing to build any buildings.
23 We are not proposing any commercial activities.

24 The pickleball is being played by family.
25 The Valentis are a somewhat large family. They are all

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2 pickleball enthusiasts. And they get together and play
3 amongst themselves and a small circle of friends. It
4 doesn't have anything to do with the commercial
5 business whatsoever.

6 Secondly, presumably the 35% requirement is
7 to keep an open buffer area. In terms of potential
8 visual impact, again, a probable structure is more
9 likely than anything else. In this particular case
10 there's a full six-foot fence that runs along the back.
11 It's pre-existing. It runs along the back of the 2195
12 Monroe Avenue property, which essentially means the
13 back of that property is invisible. This will not have
14 any impact on it.

15 What's happening here is the situation for
16 purely safety reasons and convenience of the play, the
17 out-of-bounds areas need to be wider than they could be
18 if compliance with the code occurred. Compliance with
19 the code would reduce those areas to roughly two feet
20 on the side lot line - or the side out-of-bounds area,
21 and roughly three feet on the rear out-of-bounds areas.
22 That's a little dangerous because then typically when
23 you're playing pickleball you will find yourself going
24 out of the actual court area to get shots or your
25 momentum takes you out of there after you made a shot.

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2 Transitioning from an asphalt area to a grass area
3 simply increases the trip hazard.

4 Can it be done? Yes.

5 Is it safer to have it be asphalt
6 out-of-bounds? Absolutely, yes.

7 Now, ideally you want the out-of-bounds area
8 as big as possible, but one of the requirements here -
9 and we understand it - is to do what we can to minimize
10 the amount of variance being requested. And therefore
11 we're trying to balance the two and say that we'll keep
12 the out-of-bounds area. Therefore the encroachment
13 into the lot coverage to a reasonable minimum to
14 maximize the safety as best as possible while still
15 minimizing the actual variance requested.

16 As to the side lot line requirement, that
17 particular area is one that, again, the one lot line to
18 the west that is not four feet of buffer area and
19 that's, again, fully fenced with a six-foot fence and
20 it abuts a parking lot. It's the Bamboo House
21 restaurant and that restaurant has a large parking area
22 in the back. So it's essentially asphalt abutted up to
23 a parking lot. And, again, fully screened with a
24 fence.

25 That being said, I will certainly entertain

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any questions.

DR. LAWRENCE: David, can you refresh some of our memories what the decision of the Board was two years ago related to pickleball courts in residential neighborhoods?

MR. DOLLINGER: What the was the application precisely?

Was it an interpretation two years ago?

MR. DiSTEFANO: No, not an interpretation. It was to allow pickleball as --

MR. DOLLINGER: As a use?

MR. DiSTEFANO: -- part of the commercial use of that property.

MR. DOLLINGER: That's right.

So what we've done - the history of this is when it originally came in we had all of these commercial concerns because of it being a residential district, and a commercial use in a residential district they had advertised it. And we really thought they were coming in here and they were going to bring this as part of the commercial use of the selling and they were going to have leagues and all this kind of stuff.

Well, part of the process has been is that

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2 hasn't occurred. We were - the town was relatively
3 observant over the last couple of years with respect to
4 this, having the police go by, we really stayed on top
5 of the activity that has gone at this location. The
6 police came back without complaints. We had six or
7 seven police go there and they would say this isn't
8 that loud, et cetera, et cetera. It became clear from
9 observation and testimony from the owners that were not
10 using it for commercial uses and, in fact, it's the
11 town's conclusion generally that they're really not.
12 It's not related to the use. It really is a much more
13 a family and a small circle of friends, like a
14 basketball court.

15 MR. CHOLETTE: So when they came in before
16 this was for a use variance and not an area variance?

17 MR. DOLLINGER: No, it was not an area
18 variance at all. It was --

19 MR. CHOLETTE: Well, then --

20 MR. DiSTEFANO: I think it --

21 MR. DOLLINGER: Yeah, I think it was a use
22 variance.

23 MR. DiSTEFANO: I think it was a --

24 MR. DOLLINGER: Or was it -- you know what,
25 it was a temporary revocable use permit.

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MR. DiSTEFANO: -- temporary revocable.

MR. DOLLINGER: It was a temporary and revocable. That was it.

MR. DiSTEFANO: Yes.

MR. DOLLINGER: They came in a with a temporary revocable to use this as an adjunct to the commercial building.

MR. CHOLETTE: I would have to see the written testimony, but I do not believe -- I think at the meeting - maybe not so much in the paperwork, but I think specifically at that time said that it was for personal use and it was not part of the business. I may be wrong, but I think that is what someone --

DR. LAWRENCE: Didn't someone point out the internet site?

MR. DOLLINGER: No, they did testify. They did, but by the time they came - honestly, by the time they had come to the meeting they had realized that it was going to be a difficult situation with the business because we had written them letters and hammered them. Because that's a losing situation. I mean, I was looking over --

MR. CHOLETTE: Right. And they have it advertised --

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2 MR. DOLLINGER: So they came in and they
3 rebutted --

4 MR. CHOLETTE: We still denied the temporary
5 use permit.

6 MR. DiSTEFANO: Right.

7 MR. DOLLINGER: Correct.

8 MR. CHOLETTE: So how - even if we were to
9 allow the area variance how would they be allowed to
10 use it?

11 MR. DOLLINGER: Well, because the town has
12 essentially determined that it is a residential use in
13 a residential district.

14 MR. CHOLETTE: Well, I don't see how the town
15 could decide that. They have to come back before the
16 Zoning Board --

17 MS. SCHWARTZ: Right.

18 MR. CHOLETTE: -- and get our approval.

19 I don't see how the town can usurp this --

20 MS. SCHWARTZ: Right.

21 MR. CHOLETTE: -- an actual decision that
22 we've made.

23 MR. WILLIAMS: If I could just inject --

24 MR. DOLLINGER: Yeah, I --

25 MR. WILLIAMS: The code provisions relating

1
2 to what can happen in a residential area indicate that
3 there can be recreational activities within the
4 residential area.

5 I think there was some question -- I wasn't
6 involved in the situation a couple of years ago, but I
7 believe what was happening was there was either a
8 conclusion or a suspicion - whatever the right word is
9 - that this was a part of the commercial activity. And
10 in fact that would be incorrect to allow the commercial
11 activity within the residential area. We're making it
12 clear now and have made it clear and we're certainly
13 willing to agree to a condition in any resolution of
14 this Board or the Planning Board, when we review site
15 with them, this is strictly going to be used
16 recreational - family and friend recreation and not
17 connected in any way with the commercial business.

18 It's up to the code enforcement office to
19 make a determination as to whether the use is allowed
20 within the zoning district. And the procedures that
21 we've gone through, that we've talked about it and the
22 procedures that we're told to go through was the area
23 variance because of the lot coverage and the side
24 setback issue and of course the site plan.

25 MR. CHOLETTE: Well, it sounds to me that you

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2 need the area variance. But I think, and I'm assuming,
3 because winter is almost here you're under no
4 particular pressure to get this thing approved, that we
5 --

6 DR. LAWRENCE: Especially because the period
7 that they said it would be used is until October.

8 MR. CHOLETTE: We may well need to study what
9 was done before and try to make a resolution so that
10 we're just on firm ground with what we did before and
11 what we really need.

12 I realize you may be getting a different view
13 from town staff versus what I'm saying now, but I still
14 think this Board is going to have to pursue this a
15 little bit more. So I doubt we're going to be able
16 reach a decision tonight.

17 DR. LAWRENCE: But, Dave --

18 MR. DOLLINGER: There's no question, just so
19 you know, this has not been easy for us either.
20 Unfortunately it's not a good situation to have --

21 MR. CHOLETTE: I understand that, but I just
22 do not see how a ruling from the staff can be made
23 which is exactly counter to what --

24 MR. DOLLINGER: It's not exactly counter.

25 MR. CHOLETTE: Well, we said that they were

1
2 not allowed to use it as a pickleball court.

3 MR. DOLLINGER: Right, but the reason why
4 they came in here at that time is because we had sited
5 them for violations for using this as a commercial
6 district. So their testimony at the time --

7 MR. CHOLETTE: If the situation has changed
8 then we need to purse that and this Board is going to
9 have to be comfortable with that.

10 MR. DOLLINGER: Right, I agree. But the
11 underlying -- there's no question that the reason they
12 were here the first time - the underlying reason - was
13 we had served them for violations for what we
14 considered to be a commercial use in that district. So
15 I do agree with you they came in here and were like no
16 we're not using it for that. There's no question about
17 that, but the stance of the town at that time was that
18 you were using this for a commercial area and you can't
19 do that.

20 DR. LAWRENCE: David, what changed now --

21 MR. DOLLINGER: And that's why --

22 DR. LAWRENCE: -- have the courts changed in
23 the last two years? Are these the same courts?

24 MR. DOLLINGER: Essentially the same courts,
25 but this application if granted would require tearing

1
2 up of a bunch of asphalt that's currently there
3 currently now. But I mean --

4 MR. CHOLETTE: When you say a bunch of
5 asphalt, you're just talking about that little pad?

6 MR. DOLLINGER: Oh, no, no. There's more
7 asphalt than what's shown on the plan. So we're
8 required that the asphalt that's existing is over the
9 42% would need to come out.

10 MR. CHOLETTE: Well, I was back there and I
11 don't know what asphalt you're talking about. So I
12 would like to know what that is.

13 DR. LAWRENCE: What was the impetus for them
14 if it's been used - even if it's not proposed, it's
15 been used for two years, what was the impetus for them
16 to come back here now?

17 Were there come complaints or --

18 MR. DOLLINGER: No. Because the fact is all
19 along from the very beginning when we had first started
20 pursuing it we pursued them in two basis: One, that it
21 was a commercial use in a residential district; and
22 two, regardless of the use, there is lot more asphalt
23 out there currently than shown on this plan and it
24 truly is like -- how much would you say, like fifty?

25 MR. DiSTEFANO: I don't know. It's an awful

1
2 lot.

3 MR. DOLLINGER: It's really --

4 MR. DiSTEFANO: Plus --

5 MR. DOLLINGER: -- this whole backyard.

6 MR. MIETZ: It's pretty much paved.

7 MR. DOLLINGER: Yeah.

8 MR. CHOLETTE: It's pretty much paved with
9 the courts, not the other stuff?

10 MR. DiSTEFANO: I can't remember off the top
11 of my head. I would have to go pull that file.

12 DR. LAWRENCE: Because it seems that --

13 MR. DOLLINGER: It's pretty big.

14 DR. LAWRENCE: -- if it was over the set code
15 for paved area now, it was certainly two years ago.

16 MR. DOLLINGER: Right. We sited them for
17 that violation two years ago.

18 MR. CHOLETTE: I'm getting what I think is a
19 good suggestion here, and that is maybe we should try
20 to limit our questions for the applicant and then these
21 others arguments amongst ourselves are better suited
22 for a discussion period.

23 MR. WILLIAMS: Well, the only thing that I
24 would say is that my position is that whatever
25 application came before the Board two years ago was

1
2 based on what staff advised the applicant what was
3 necessary in order to pursue the courts themselves. And
4 that's the function of staff, is to interpret the code
5 and make decisions as to what if any applications need
6 to be made whether they're variances, site plan, or
7 subdivision or whatever it might be. That's their job.
8 They came to a different conclusion here in 2014 than
9 they came to in 2012.

10 Then again, I suggest what happened in 2012
11 is that sports, pickleball, Valenti got to be connected
12 with the store, even though it really isn't. And
13 therefore the suggestion was to come in and ask for
14 your special activities permit or whatever it's
15 correctly called. Since that time it's become very
16 clear to everybody who has been looking at this from a
17 town staff perspective, and we're saying it here on the
18 record and willing to see it on the record or in any
19 granting of an application, it's not being used for
20 commercial. Therefore, once staff agrees with that
21 concept it then flips over to, oh, it's an allowed use.
22 That's their determination to make.

23 MR. CHOLETTE: We don't need your input on
24 that. Okay? We can wrestle with it --

25 MR. WILLIAMS: Okay.

1
2 MR. CHOLETTE: -- ourselves as to internally
3 what the town staff does and what this Board does.

4 I understand your position and you're
5 presenting it as an area variance. There's nothing
6 wrong with that.

7 MR. WILLIAMS: Okay.

8 MR. CHOLETTE: So let's return to the area
9 variance.

10 MR. WILLIAMS: Okay.

11 MR. CHOLETTE: And you've talked about the
12 fact there's a six-foot fence all around this, so it
13 won't be seen. I guess my question is, there's
14 probably other reasons to not allow full paving in a
15 residential area besides whether or not the neighbors
16 can see it. If I were to put a fence around my
17 backyard and wanted to pave the whole area I think the
18 people might have some problems with that for
19 environmental concerns, drainage, just an approach to,
20 you know, clean air, the whole green initiative.

21 So would you like to address that in any way?

22 MR. WILLIAMS: Well, to the extent that those
23 are issues that I think that are reasons for a site
24 plan approval, amongst others and we're going to have
25 to demonstrate before the Planning Board that in fact

1
2 drainage is going to be handled properly and any other
3 site plan issues.

4 I'm not aware of any other reason why the
5 code -- when it comes to side setbacks, front setbacks,
6 area variances in general the most typical reason is
7 for visual impact on the community or the neighborhood
8 involved and I think that's the case here. And I think
9 that plus the commercial use of the property so close
10 to a residential is the reason why the code is the way
11 it is, leaving that residential buffer.

12 So, again, I think that it's critically
13 important that there's not going to be any commercial
14 use of the property in that area. In particular,
15 there's not going to be any commercial buildings that
16 are going to be put there. And I think that's the
17 primary reason for this particular code provision --
18 excuse me, for making it residential in the back. And
19 then the 35% comes with the residential as an overall
20 good buffer area for residential whether it's in any
21 neighborhood or along Monroe Avenue, either way.

22 DR. LAWRENCE: Is there a reason -- in most
23 properties in residential we don't have two tennis
24 courts or two swimming pools.

25 Is there a reason for two pickleball courts

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on this?

MR. WILLIAMS: Well, first of all there's enough room for the two pickleball courts. I just wanted to come back with that. It's only the issue of the --

MR. CHOLETTE: Excuse me, there actually isn't enough for two pickleball courts to fit within the code, that's why you're in here for the variance.

MR. WILLIAMS: No, there is. If you look at the --

DR. LAWRENCE: It would be without the skirts.

MR. CHOLETTE: You want the skirts. I wouldn't play pickle -- I mean, if the game were anything like tennis I wouldn't dream of playing on a paved surface that just went up to the boundary lines.

MR. WILLIAMS: There is a buffer. There is an out-of-bounds area, it's just substandard. So, yes, make no mistake that the out-of-bounds area is important and having a safe out-of-bounds area is the reason for the area variance.

MR. CHOLETTE: The question that Dave was posing though is: What is the need for two pickleball courts instead of one, you could clearly come in for

1
2 one pickleball court on this property without needing
3 any variances whatsoever.

4 MR. WILLIAMS: Correct.

5 MR. CHOLETTE: That's the question.

6 MR. WILLIAMS: And I don't know if you want
7 to wait for him to come back, since it was his
8 question, but pickleball is played typically either
9 singles or doubles. If you're playing a game of
10 singles there's only two people playing. If you're
11 playing a game of doubles there's only four people
12 playing.

13 The typical routine is there are mom and dad
14 Valenti and then there are their four sons and then
15 there's also the wives and then there's some friends
16 and you could leave out the extended family, if you
17 will. What they typically want to do is have a group
18 of people come - or six or eight people come over,
19 maybe ten - play pickleball. They can play two games
20 of doubles, then you have eight able to play. If you
21 have more people than that, if you've got ten then
22 you've got people who rotate in and out. The games are
23 relatively short. So it's a social event as well as a
24 recreational event. And for that reason, having two
25 courts allows you the flexibility in terms of, you

1
2 know, if you have a group of people over you can all be
3 playing most of the time, if not all the time. So it
4 just makes it a lot nicer experience.

5 MR. CHOLETTE: Fine.

6 Does that answer your question?

7 DR. LAWRENCE: Yeah.

8 MR. CHOLETTE: Okay. Thank you.

9 MR. WILLIAMS: Okay.

10 MR. CHOLETTE: Are there other questions for
11 the applicant?

12 MS. SCHWARTZ: So you are no longer taking a
13 customer out who's interested in the sport and showing
14 them how it's played, because that's what was being
15 done the first time around, that doesn't happen
16 anymore?

17 MR. WILLIAMS: No, absolutely not.
18 Absolutely not.

19 MR. CHOLETTE: Any other questions?

20 MR. GOLDMAN: I've been restrained. You know
21 how I was at the last one.

22 MR. CHOLETTE: Well --

23 MR. GOLDMAN: I've been very restrained.

24 One specific question: It's my understanding
25 that we expressly prohibited pickleball to be played

1
2 back there; am I wrong?

3 MR. WILLIAMS: That's not my understanding
4 that you expressly prohibited it.

5 MR. GOLDMAN: I'm asking the staff?

6 MR. WILLIAMS: I'm sorry.

7 MR. CHOLETTE: I think, again, that's
8 something we can talk about --

9 MR. DOLLINGER: Yeah, we can talk about that.

10 DR. LAWRENCE: Should this be denied what
11 would the plans be for these two pickleball courts?
12 Would they go down to one?

13 MR. WILLIAMS: Either go to one or go to the
14 courts that are compliant with the 35% rule.

15 MR. GOLDMAN: Did you - Jack, did you want to
16 see where he's removing some of this asphalt or not?

17 MR. CHOLETTE: Yeah, thank you. When I was
18 back there, I mean, I thought this looked gorgeous back
19 there. Those courts are probably the nicest pickleball
20 courts ever. But besides visually looking to me like
21 it's more than 50% of the area -- I have been fooled
22 before and of course I wasn't counting the area that's
23 up to the west of the building that is shaded here in
24 green, so I wasn't seeing that whatsoever. But other
25 than this little pad here that's here in the southeast

1
2 corner, I didn't know any other areas that were going
3 to be ripped out and returned to grass or vegetation.

4 So could you point those out for me?

5 MR. WILLIAMS: We'll try.

6 MR. CHOLETTE: I even looked at the website
7 on line and didn't see it in the picture that you have
8 on the website.

9 MR. WILLIAMS: May I approach?

10 MR. CHOLETTE: Yes, please do.

11 MR. WILLIAMS: The modified drawing that is
12 now in blue, the blue shows the area that will be
13 removed.

14 MR. CHOLETTE: So that is all paved in there?

15 MR. WILLIAMS: Yeah.

16 MR. CHOLETTE: I did not realize that when I
17 was out there.

18 MR. WILLIAMS: Well, it's green so --

19 MR. DiSTEFANO: Richard, can I guesstimate how
20 much pavement that is there now that will be removed?

21 UNKNOWN: 65% is asphalt right now.

22 MR. WILLIAMS: 65% is asphalt.

23 MR. CHOLETTE: So you're going from 65% down
24 to 47 -- I'm sorry, we actually need your name, but you
25 can just nod if --

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MR. VALENTI: Joe Valenti.

MR. CHOLETTE: And you're really going to get out there with a jackhammer and rip this out?

MR. VALENTI: Yeah, we have two quotes - two estimates so far.

MR. CHOLETTE: And you're going to return it to grass?

MR. VALENTI: Batavia Sod is preferably going to come out and rip up the asphalt and rip up the stone and lay six inches of fill and then sod the top of the dirt.

MR. CHOLETTE: How about this(indicating), is this coming out?

MR. VALENTI: That will come out, same spot. Right now we're 65% asphalt, 35% green space.

MR. CHOLETTE: I don't want to get carried away with this, but you've got a backboard or something on the back of this building?

MR. VALENTI: Yeah, we've gotten rid of that. We do have a --

DR. LAWRENCE: There was hoop or something around here.

MR. VALENTI: There was a hoop there. We got rid of it - a permanent hoop. And there is a temporary

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basketball hoop.

MR. CHOLETTE: Isn't there a backboard along one of your buildings?

MR. VALENTI: No.

MR. CHOLETTE: Wasn't there one there within the last two days?

MR. VALENTI: No, it's temporary.

MR. CHOLETTE: You've got a temporary backboard?

MR. VALENTI: A temporary --

MR. CHOLETTE: I don't mean basketball backboard, I'm talking about like a tennis --

MR. VALENTI: That's the building.

MR. CHOLETTE: That's the building itself?

MR. VALENTI: Yeah. There's no backboard, no tennis wall.

MR. CHOLETTE: Would it surprise you if I said that I personally know somebody that was there within the last week that tried out pickleball rackets in your backyard here against your building?

MR. VALENTI: I haven't taken anyone out. We have a spot in the basement that I send people to hit against the wall in the basement. I have not taken anyone out to play - to try them out.

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MR. DiSTEFANO: Can you please back up?

Thanks.

MR. WILLIAMS: Is that person here today.

MR. CHOLETTE: No, he's not.

DR. LAWRENCE: Quick question: You have the side skirts at four feet; is four - is that where five is better?

MR. VALENTI: Well, right now we've got 65% asphalt. That would be your best what we have now, but it's --

DR. LAWRENCE: I mean the skirts on the --

MR. VALENTI: Oh, the sidelines.

DR. LAWRENCE: One is five foot on either side, the other through the fence is four foot.

Is four foot adequate and five is better?

MR. WILLIAMS: Yeah. I mean, again, we're attempting to minimize the variance requested as much as possible while still dealing with the safety factor of having a larger sideline.

I am a little curious, Mr. Chairman, as to where the information came from that you just mentioned.

MR. CHOLETTE: It came from a personal friend and I wasn't going to bring it up because it would come

1
2 across as hearsay.

3 MR. WILLIAMS: Well, and I don't have an
4 opportunity to ask - inquire as to --

5 MR. CHOLETTE: I asked the applicant and they
6 said no, it didn't happen on their watch. I can take
7 it at face value what you say. My friend could have
8 been mistaken.

9 MR. WILLIAMS: Okay.

10 MR. CHOLETTE: Are there any other questions?

11 Fine. Thank you very much.

12 MR. WILLIAMS: Thank you.

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

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

18 10A-10-14 Application of Parrone Engineering, agent,
19 and Robert Wheeler, owner of property located at 140
20 Winslow Avenue, for an Area Variance from Section 205-2
21 to allow a side setback to be 4.6 ft. in lieu of the
22 minimum 19.5 ft. required by code (currently 18 ft. is
23 required), all for the purpose of resubdivision
24 approval. All as described on application and plans on
25 file.

1
2 MR. STAERR: Good evening. My name is Dave
3 Staerr with Parrone Engineering, we're located in East
4 Rochester.

5 We've been asked by the Wheelers to represent
6 them in a subdivision application on Winslow Avenue.
7 They own two homes adjacent to one another and they
8 would like to make an adjustment of the lot line
9 separating the units which of course will force a need
10 for an area variance, specifically side setback.

11 I don't remember the exact year, I think it
12 was 1996, they actually adjoined their existing home
13 that they live into one parcel. And at that time we
14 got a variance on the southern boundary which is
15 pre-existing, it was 4.6 feet. The north boundary line
16 is the one they desire to shift to the north ten feet
17 and then bring the parcel rear line forward, and,
18 again, it will cause a side setback variance request.

19 MR. MIETZ: So it's really unchanged in
20 essence?

21 MR. STAERR: Correct, physically nothing's
22 changing.

23 MR. CHOLETTE: Physically it will look the
24 same?

25 MR. STAERR: Absolutely.

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MR. CHOLETTE: We've handled it before.
Can I just ask why the change in that --

MR. STAERR: I'm going to yield to the
Wheelers. I know that they've purchased the home and
will eventually sell the home.

UNKNOWN: Basically we're gardeners and --

MR. DiSTEFANO: Can you just state your name
please, sir?

MR. WHEELER: Robert Wheeler, owner of 140
Winslow, where we live, and 126 Winslow, which we just
purchased within the last year. We're in the process
of fixing that home up for eventual resale.

We're avid gardeners. The font of our yard
is heavily gardened right now and we're looking for a
little extra space that we can do a little more
gardening. The backyard of 126 Winslow as well as our
property is quite deep compared to all the other
properties around us. So taking a portion off of the
126 property on to ours, you know, still leaves a nice
size lot for 126.

MR. CHOLETTE: Okay. Thank you.

MR. STAERR: So to just add, with the
adjustment they're not going to require any variances
on the 126 property. It will be brought compliant to

1
2 the existing codes.

3 MR. CHOLETTE: Any other questions?

4 Fine. Thank you very much.

5 MR. STAERR: Thank you.

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

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

11 MR. DiSTEFANO: Before we break I do have to
12 ask, again, anybody here for 10A-07-14?

13 I don't see anybody for 10A-07. And I think
14 it's good idea to take the new business item now.

15 MR. CHOLETTE: With regard to 10A-07, should
16 we open it, read it in and close the public hearing if
17 we are going to in fact discuss it and possibly vote on
18 it?

19 MR. MIETZ: Why would you want to discuss it
20 if he hasn't --

21 MR. CHOLETTE: I guess I'll ask -- it seemed
22 to me very straight forward and I think he gave us all
23 the information.

24 MR. MIETZ: Okay.

25 MR. CHOLETTE: And I don't know that we need

1
2 more information.

3 Do you want more information on the State
4 Farm sign?

5 MS. BAKER LEIT: I don't need more
6 information.

7 MR. CHOLETTE: I just think it would be one
8 less thing to have to hold over and deal with next
9 time.

10 MR. DiSTEFANO: I'll read it in and --

11 MR. CHOLETTE: What do you want to do?

12 MS. SCHWARTZ: So it's just a no show, they
13 didn't say they weren't coming?

14 MR. DiSTEFANO: No, he told me that he was
15 flying in tonight and he was expecting to be in about
16 7:30 or something like that. He didn't know if he was
17 going to be able to make it and if he didn't make it he
18 would ask us to hold it over to the next meeting.

19 But if you feel that we don't - if it doesn't
20 make any difference one way or the other if he's here
21 or not then you certainly could vote on that
22 application at any time. Just from a precedent
23 standpoint point it's not something we usually do.

24 MR. CHOLETTE: I guess my sense is I wouldn't
25 want to deny it without him having his chance to give

1
2 us input, but if we were going to approve it I don't
3 see there's a problem.

4 I'm not asking you to vote, but do you have
5 any problems with this application?

6 MS. SCHWARTZ: Yeah.

7 MR. CHOLETTE: You do, okay.

8 MR. DiSTEFANO: For the record I'll read it
9 in --

10 MR. CHOLETTE: And we'll talk about it.

11 MR. DiSTEFANO: -- and then we'll ask the
12 applicant --

13 MR. CHOLETTE: And then we will close it and
14 reopen it. Fine. Let's do that.

15 10A-07-14 Application of Van C. Travis III, owner of
16 property located at 1978 Monroe Avenue, for a Sign
17 Variance from Section 207-32 to allow a business
18 identification sign to include nonbusiness
19 identification text where not allowed by code. All as
20 described on application and plans on file.

21 MR. DiSTEFANO: I don't see anyone here for
22 that application, Mr. Chairman.

23 Therefore, would you like to close the public
24 hearing and we'll --

25 MR. CHOLETTE: Since the applicant is not

1
2 here, but we have written input that we can consider we
3 will do so. And at this time unless there's any input
4 from the audience we will close this part of the public
5 hearing.

6 MR. DiSTEFANO: Thank you. Now I would like
7 to take care of new business item.

8 As stated earlier the Heberle Stables barn
9 replacement does impact two environmental protection
10 overlay districts. In accordance with the town code
11 once you impact two environmental protection overlay
12 districts it makes it a type-1 action under SEQR. The
13 Planning Board has requested lead agency status.

14 Since we are involved agent we either need to
15 accept it and challenge that the fact that the Planning
16 Board wants to be it, or we can sign off on the letter
17 that you have stating the fact that we will grant the
18 Planning Board lead agency status.

19 My suggestion is to sign off and grant lead
20 agency to the Planning Board.

21 (Motion made by Ms. Schwartz to grant lead
22 agency status to the Planning Board.)

23 (Seconded by Ms. Baker Leit.)

24 (Upon roll call, motion to grant lead agency
25 status to the Planning Board is approved.)

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 October
1st, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

October 1st, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

CHRISTINE CORRADO

(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 10A-01-14

3 10A-01-14 Application of William Ritchie, owner
4 of property located at 47 North Landing Road, for an
5 Area Variance from Section 205-2 to allow a building
6 addition to extend 12 ft. into the 17.5 ft. side
7 setback required by code. All as described on
8 application and plans on file.

9 Motion made by Mr. Cholette to approve
10 Application 10-A-01-14.

11 **FINDINGS OF FACT:**

12 1. The requested variance is the minimum variance
13 possible. It will not be substantial to this property
14 location since the addition of the house will be well
15 screened from the road. Furthermore, the nearest
16 neighbor's house on the north is well removed from the
17 property line so the spacing between the houses should
18 be adequate.

19 2. No other alternative can alleviate the difficulty
20 and produce the desired result. This is the only
21 reasonable location for this garage with the living
22 space above it. Adding living space in the rear would
23 be very expensive and would also require moving
24 electrical lines behind the house if that was in fact
25 possible at all.

3. No unacceptable change to the character of the neighborhood is expected to result from the approval of this variance. Other residences are similarly spaced as will occur with this addition.

CONDITIONS:

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

2. All necessary provisions with regard to drainage associated with this project must be carefully considered so that additional water runoff will not adversely affect any neighbor.

3. All necessary Architectural Review Board approvals shall be approved.

(Seconded by Mr. Goldman.)

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

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

1
2 APPLICATION 10A-02-14

3 10A-02-14 Application of William Heberle, owner
4 of property located at 751 Browncroft Blvd., requesting
5 to rebuild a noncomplying building destroyed by fire,
6 larger and higher than the one it replaces where not
7 allowed by code (Section 225-14B). All as described on
8 application and plans on file.

9 Motion made by Mr. Goldman to table
10 Application 10A-02-14, waiting for the SEQR results.

11 (Seconded by Ms. Baker Leit.)

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

15 (Upon roll call, motion to table application
16 carries.)

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2 APPLICATION 10A-03-14

3 10A-03-14 Application of Gaetano Abbate,
4 contractor, and Matthew Winslow, owner of property
5 located at 6 Elmwood Hill Lane, for modification of
6 approved variance 2A-06-14, part 3, to allow an
7 in-ground pool to move further into the side yard
8 (closer to the street) than originally approved. All as
9 described on application and plans on file.

10 Motion made by Dr. Lawrence to approve
11 Application 10A-03-14.

12 **FINDINGS OF FACT:**

13 1. This small nine foot modification of the previous
14 variance is minimal as it is relating to an in-ground
15 pool that is a substantial distance from the street.

16 2. As the pool will be screened by fencing and
17 shrubbery, having an enclosure to the street should not
18 have a negative visual impact on any nearby property.

19 3. No unacceptable change in the character of the
20 neighborhood or detriment to nearby properties is
21 expected from the modification of the previous
22 variance.

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

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CONDITIONS:

1. The location of the pool shall be as shown on plans submitted and testimony given.

(Secoded by Ms. Schwartz.)

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

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

1
2 APPLICATION 10A-04-14

3 10A-04-14 Application of John and Harriet
4 Bonin, owners of property located at 16 Meadow Lane,
5 for an Area Variance from Section 209-10 to allow
6 liveable floor area to expand from 3,321 sf to 3,756
7 sf, after construction of a 435 sf addition, where a
8 maximum 3,135 sf is allowed by code. All as described
9 on application and plans on file.

10 Motion made by Mr. Mietz to approve
11 Application 10A-04-14.

12 **CONDITIONS:**

13 1. The proposed addition will increase the liveable
14 floor area 3,321 square feet to 3,756 square feet,
15 which is not inconsistent with other homes in the
16 neighborhood.

17 2. Since the proposed first floor addition will sit
18 behind an existing open porch, hence, the second floor
19 addition will not exceed the width of the house and it
20 will be minimally visible from the street.

21 3. No other alternative can meet the needs of the
22 applicant since the conversion and additional new
23 construction would require additional variance
24 requests.

25 4. No negative effect on the character of the

1
2 neighborhood will result from the approval of this
3 request since similar additions to family rooms and
4 porches in the neighborhood, and the addition will be
5 built with comparable materials.

6 **CONDITIONS:**

7 1. The variance will apply only to the addition that
8 was described in application and testimony given.

9 2. All necessary Architectural Review Board approvals
10 and building permits shall be obtained.

11 (Seconded by Mr. Goldman.)

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

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

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1
2 APPLICATION 10A-05-14

3 10A-05-14 Application of Ellison Patterson,
4 Jr., applicant, and The Country Club of Rochester,
5 owner of property located at 2935 East Avenue, for a
6 Temporary and Revocable Use Permit pursuant to Section
7 219-4 to allow for a fireworks display on the evening
8 of October 11, 2014 in a RLA Residential District. All
9 as described on application and plans on file.

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

12 **FINDINGS OF FACT:**

13 1. The manager of the fireworks display is well known
14 in the community and will work with the fire marshal in
15 making sure that there will be no unsafe practices
16 associated with this fireworks display.

17 2. Fireworks at the Country Club of Rochester have
18 normally occurred a couple of times per year and adding
19 a third one is not deemed to be excessive.

20 3. The fireworks display will last for a limited time
21 of less than fifteen minutes and will be over by 9:15
22 in the evening, so it will not cause much if any
23 problem with the neighbors.

24 **CONDITIONS:**

25 1. This will be on the date specified, October 11th,

2014, in the timeframe specified, no later than 9:15.

2. All necessary fire marshal permits shall be obtained.

(Seconded by Dr. Lawrence.)

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

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

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2 APPLICATION 10A-06-14

3 10A-06-14 Application of Marilyn Schaffer,
4 owner of property located at 3489 Elmwood Avenue,
5 for an Area Variance from Section 203-2.1B(c) to
6 allow a stand-by emergency generator to be located in a
7 side yard in lieu of the rear yard behind the house as
8 required by code. All as described on application and
9 plans on file.

10 Motion made by Ms. Baker Leit to approve
11 Application 10A-06-14.

12 **FINDINGS OF FACT:**

13 1. The requested variance if granted will not create
14 an undesirable change to the neighborhood or to the
15 community given that the generator will not be visible
16 from the main road, as the house is located on a flag
17 lot off of Elmwood Avenue. Other neighbors' homes are
18 shielded by the landscaping and set far away.

19 2. The difficulty regarding placement of the generator
20 is not self-created given the rear yard is covered in
21 hardscape that prevents the placement of the generator.

22 3. There is no alternative to alleviate the difficulty
23 and produce the desired result of providing emergency
24 backup power.

25 **CONDITIONS:**

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2 1. This variance will apply only to the generator and
3 its placement described in the application and
4 testimony.

5 2. Testing will occur once per week during the day.

6 3. All necessary building permits shall be obtained.

7 (Seconded by Ms. Schwartz.)

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

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

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2 APPLICATION 10A-07-10

3 10A-07-14 Application of Van C. Travis III,
4 owner of property located at 1978 Monroe Avenue,
5 for a Sign Variance from Section 207-32 to allow a
6 business identification sign to include nonbusiness
7 identification text where not allowed by code. All as
8 described on application and plans on file.

9 Motion made by Mr. Cholette to table and keep
10 the public hearing open for Application 10A-07-14 to
11 hear the applicant in person present his application.

12 (Seconded by Ms. Schwartz.)

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

16 (Upon roll call, motion to table and keep the
17 public hearing open carries.)
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2 APPLICATION 10A-08-14

3 10A-08-10 Application of Stephen and Beverly
4 Sabin, owners of property located at 1869 Westfall
5 Road, for an Area Variance from Section 205-2 to allow
6 a front porch to extend 5 ft. into the existing 37.5
7 ft. front setback where a 40 ft. front setback is
8 required by code. All as described on application and
9 plans on file.

10 Motion made by Mr. Goldman to table and
11 reopen the public hearing for Application 10A-08-14
12 because the renditions in the application were not
13 sufficient to give us full knowledge of what it will
14 look like once completed.

15 (Seconded by Mr. Mietz.)

16 (Ms. Baker Leit, yes; Ms. Schwartz, yes; Dr.
17 Lawrence, yes; Mr. Cholette, yes; Mr. Mietz, yes; Mr.
18 Goldman, yes.)

19 (Upon roll call, motion to table and keep the
20 public hearing open carries.)
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2 APPLICATION 10A-09-10

3 10A-09-14 Application of JPP Real Estate, LLP,
4 owner of property located at 2195 Monroe
5 Avenue, for 1) an Area Variance from Section 207-10E(3)
6 to allow rear yard paved area to be 52.16% of the rear
7 yard area in lieu of the maximum 35% allowed by code;
8 and 2) an Area Variance from Section 207-10E(5) to
9 allow rear yard pavement to extend to a side property
10 line in lieu of having a 4 ft. setback as required by
11 code. All as described on application and plans on
12 file.

13 Motion made by Mr. Cholette to approve
14 Application 10A-09-10.

15 **FINDINGS OF FACT:**

16 1. The requested variance is not substantial because
17 the rear yard is totally enclosed by a six-foot fence,
18 thereby making it unseen from any other residences or
19 from the street.

20 2. No other alternative can alleviate the difficulty
21 and produce the desired result other than to either go
22 to a single pickleball court, which does not meet the
23 desires of the applicant, or to reduce the paved area
24 to such an extent that there's less out-of-bounds paved
25 area around the courts which could be a safety concern

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2 to players on the court.

3 3. No unacceptable change in the character of the
4 neighborhood and no substantial detriment to nearby
5 properties is expected to result from the approval of
6 this variance since the deviation from the allowed 35%
7 to 47.2% is relatively small and will, again, not be
8 seen by the surrounding neighbors because of the fence.
9 Additionally, the paving of the area up to the lot line
10 on the west boundary will present a little or no
11 concern since it is behind the fence and is adjacent to
12 a parking lot that is behind a commercial
13 establishment.

14 4. Additionally, abutting properties have more paved
15 area on percentage basis than what this applicant is
16 requesting.

17 5. Since the considered property of the application is
18 residentially zoned and is behind part of a parcel that
19 is commercially zoned there is some concern that the
20 pickleball courts would be utilized somehow with the
21 business it shares the property with. However, the
22 Board was assured this would not be the case and it
23 would be for personal use for the applicants, their
24 relatives and friends and would not be connected with
25 the business use, since it was clear from the writing

of the code that such use connected solely in a commercial district would not be permitted.

CONDITIONS:

1. The court area and the layout and the utilization in use will be as specified in the application and in testimony and as shown in the diagrams presented to this Board, and in particular the paved area will not be greater than the 47.2% plus or minus by .5% that was requested in the application.

2. In order to meet that requirement and still allow the planned paved perimeter area around the courts for safety purposes the other non-pervious areas in the backyard, as described by the applicant, will be removed and replaced with sod.

3. All necessary Planning Board approvals shall be obtained.

(Seconded by Mr. Goldman.)

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

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

1
2 APPLICATION 10A-10-14

3 10A-10-14 Application of Parrone Engineering,
4 agent, and Robert Wheeler, owner of property located at
5 140 Winslow Avenue, for an Area Variance from Section
6 205-2 to allow a side setback to be 4.6 ft. in lieu of
7 the minimum 19.5 ft. required by code (currently 18 ft.
8 is required), all for the purpose of resubdivision
9 approval. All as described on application and plans on
10 file.

11 Motion made by Mr. Mietz to approve
12 Application 10A-10-14.

13 **FINDINGS OF FACT:**

14 1. Due to the requested re-subdivision of the existing
15 lot the lot width requirement at 140 Winslow will
16 change and thus effect the setback requirements.

17 2. The current structure is 4.6 feet from the lot at
18 140 Winslow and is covered by a previous variance, and
19 will remain unchanged after the resubdivision.

20 3. The existing topography and landscaping along the
21 south property line will not be changed and no negative
22 effect on the character of the neighborhood will result
23 from the variance requested.

24 4. No other alternative can meet the desired result.

25 **CONDITIONS:**

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2 1. This approval is based on the plans submitted for
3 the resubdivision dated 8-7-14 and testimony given.

4 (Seconded by Ms. Baker Leit.)

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

8 (Upon roll call, motion to approve with
9 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

•	205-2 [6] 3/5 48/4 86/20 95/5 107/5 111/6	46/2 51/21 51/24 53/23 55/18 56/3 56/21 57/3 58/2 59/13 70/21 72/16 73/5 73/11 76/11 81/8 81/9 83/13 84/13 90/15 91/10
.15 [1] 33/24	207-10E [4] 60/13 60/16 108/5 108/8	above [8] 3/18 6/24 16/6 40/14 40/21 93/6 95/22 113/6
.29 [1] 33/25	207-32 [2] 91/17 106/5	above-entitled [2] 93/6 113/6
.40 [1] 33/24	209-10 [2] 31/14 100/5	absolutely [8] 10/4 10/5 17/12 29/20 65/6 80/17 80/18 87/25
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07 [3] 47/17 89/13 89/15	219-4 [2] 36/18 102/7	abutting [1] 109/14
08 [1] 47/25	2195 [5] 60/12 60/24 62/6 64/11 108/4	accept [1] 92/15
1	225-14B [2] 19/17 97/7	accidents [1] 13/3
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10A-01-14 [3] 3/3 95/2 95/3	2x4s [1] 53/25	accurately [1] 15/25
10A-02-14 [4] 19/13 97/2 97/3 97/10	3	achieve [1] 6/20
10A-03-14 [4] 26/11 98/2 98/3 98/11	3,135 [2] 31/17 100/8	acres [1] 22/17
10A-04-14 [4] 31/12 100/2 100/3 100/11	3,321 [3] 31/15 100/6 100/14	across [6] 5/21 5/23 25/11 48/16 53/14 86/2
10A-05-14 [4] 36/15 102/2 102/3 102/11	3,756 [3] 31/15 100/6 100/14	action [1] 92/12
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10A-07 [3] 47/17 89/13 89/15	3489 [3] 42/15 43/18 104/4	activity [3] 67/5 70/9 70/11
10A-07-10 [1] 106/2	35 [8] 60/15 61/17 64/6 77/19 81/14 83/16 108/7 109/6	actual [4] 14/20 64/24 65/15 69/21
10A-07-14 [6] 47/8 47/11 89/12 91/15 106/3 106/10	37.5 [3] 48/5 48/20 107/6	actually [34] 4/7 4/10 5/7 6/11 6/17 7/4 7/24 10/10 14/24 17/3 21/23 21/24 22/2 22/23 27/24 27/25 28/7 28/10 28/14 28/19 28/21 28/23 29/2 29/13 29/21 32/15 42/22 44/11 57/10 59/25 61/8 78/7 82/24 87/12
10A-08 [1] 47/25	4	add [9] 3/17 18/9 54/8 54/10 57/8 58/14 61/8 63/8 88/23
10A-08-10 [2] 48/2 107/3	4-foot [1] 48/17	added [3] 54/9 54/18 58/19
10A-08-14 [2] 107/2 107/11	4.6 [4] 86/21 87/15 111/6 111/17	adding [3] 9/5 95/22 102/18
10A-09-10 [2] 108/2 108/14	40 [3] 24/10 48/6 107/7	addition [26] 3/6 3/17 3/23 5/25 6/10 6/11 8/23 10/2 11/7 11/10 11/19 15/4 16/14 27/9 31/16 33/6 35/11 95/6 95/14 96/5 100/7 100/13 100/17 100/19 101/4 101/7
10A-09-14 [2] 60/11 108/3	42 [1] 73/9	additional [5] 20/24 51/8 96/11 100/22 100/23
10A-10-14 [4] 86/18 111/2 111/3 111/12	435 [2] 31/16 100/7	Additionally [2] 109/9 109/14
10E [4] 60/13 60/16 108/5 108/8	46 [1] 30/22	additions [4] 2/14 2/17 21/9 101/3
10th [1] 38/2	47 [6] 3/4 3/13 8/20 25/11 82/24 95/4	address [5] 3/11 3/13 48/12 62/6 76/21
10x11 [1] 9/11	47.2 [6] 61/8 61/17 61/20 61/22 109/7 110/9	adequate [2] 85/16 95/18
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11th [2] 36/25 102/25	5	adjoined [1] 87/12
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140 [5] 86/19 88/10 111/5 111/15 111/18 14020 [2] 1/24 94/25	65 [5] 8/21 82/22 82/23 83/16 85/9	advertised [4] 2/5 2/7 66/20 68/25
14618 [2] 1/5 94/5	7	advised [1] 75/2
14B [2] 19/17 97/7	751 [2] 19/14 97/4	aerial [2] 8/7 10/20
14x4 [1] 49/8	7:15 [2] 1/3 94/3	affect [3] 30/2 44/23 96/12
16 [3] 31/13 31/20 100/4	7:30 [2] 47/12 90/16	affected [1] 98/24
17.5 [2] 3/6 95/6	8	affecting [1] 29/24
18 [2] 86/22 111/7	8-7-14 [1] 112/3	after [12] 12/11 12/17 25/25 28/9 28/15 31/15 45/21 54/5 54/15 64/25 100/7 111/19
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19.5 [2] 86/22 111/7	8:40 [1] 39/2	agency [8] 23/22 23/25 37/17 92/13 92/18 92/20 92/22 92/24
1909 [1] 59/17	8:45 [2] 37/21 39/6	agent [4] 23/23 86/18 92/14 111/4
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1996 [1] 87/12	9:00 [2] 37/21 39/5	
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2.1B [2] 43/19 104/5	A	
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2010 [1] 31/24	Abbate [3] 26/11 26/19 98/3	
2012 [2] 75/9 75/10	abide [1] 41/21	
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<p>A</p> <p>agree [4] 47/20 70/13 72/10 72/15 agrees [1] 75/20 ahead [1] 15/14 air [3] 46/19 61/15 76/20 Alison [1] 52/15 all [86] 3/7 3/15 5/11 7/8 8/5 9/3 9/19 9/20 13/20 15/17 16/4 19/17 26/16 27/25 28/2 28/19 28/22 28/25 30/17 31/17 31/23 32/2 32/3 32/4 34/24 36/12 36/20 40/16 43/4 43/22 48/7 49/2 49/11 53/13 54/15 54/20 54/23 54/23 55/6 55/14 55/16 55/17 56/9 56/14 56/15 58/13 59/8 59/8 59/24 60/18 63/6 63/9 63/15 63/25 66/17 66/23 67/18 73/18 76/12 78/3 80/2 80/3 82/14 86/23 86/24 88/18 89/22 91/19 95/7 95/25 96/9 96/13 97/7 98/8 100/8 101/9 102/8 103/3 104/8 105/6 106/7 107/8 108/11 110/16 111/8 111/9 Allen's [1] 57/10 alleviate [5] 14/9 18/23 95/19 104/22 108/20 allow [29] 3/5 22/6 26/14 31/14 36/19 43/19 48/4 60/13 60/16 61/19 62/9 62/11 66/11 69/9 70/10 76/14 86/21 91/17 95/5 98/6 100/5 102/7 104/6 106/5 107/5 108/6 108/9 110/11 111/6 allowed [18] 19/17 20/9 21/24 22/2 22/4 31/17 60/15 61/18 69/9 70/19 72/2 75/21 91/19 97/7 100/8 106/7 108/7 109/6 allowing [1] 37/17 allows [1] 79/25 almost [3] 8/17 52/17 71/3 along [9] 4/8 46/17 49/13 64/10 64/11 73/19 77/21 84/3 111/20 already [12] 23/24 24/3 24/17 29/10 29/19 40/8 41/2 44/22 48/19 48/20 56/4 63/4 also [19] 4/11 8/8 12/10 13/6 14/13 16/25 20/19 20/24 32/11 36/9 37/14 38/2 41/5 53/20 54/18 55/9 57/3 79/15 95/23 alter [1] 41/7 alternative [5] 95/19 100/21 104/22 108/20 111/24 aluminum [2] 9/18 18/11 always [3] 7/16 17/15 42/16 am [6] 12/5 12/8 56/18 60/21 81/2 85/21 amazed [1] 43/6 amongst [3] 64/3 74/21 76/24 amount [4] 57/9 61/5 62/17 65/10 And's [1] 6/19 aneurysm [1] 12/18 annual [2] 40/8 40/13 another [8] 9/5 24/15 24/18 30/20 32/16 48/16 61/10 87/7 answer [2] 15/23 80/6 anticipate [2] 13/17 34/23 any [62] 2/14 5/25 7/3 11/17 12/11 14/21 15/4 15/23 17/23 17/25 18/14 20/13 20/17 23/16 24/16 25/12 25/13 30/7 30/13 31/3 35/4 35/10 35/24 38/12 38/17 39/5 40/23 41/3 41/25 44/23 45/12 52/6 57/8 62/15 63/22 63/23 64/14 66/2 70/13 70/17 75/5 75/18 76/21 77/2 77/4 77/13 77/15 77/20 79/3 80/19 82/2 86/10 88/24 89/3 90/20 90/22 91/5 92/3 96/12 98/18 102/22 108/18 anybody [6] 2/16 9/2 22/13 43/12 89/12 89/13 anymore [2] 30/11 80/16 anyone [18] 11/23 13/8 18/4 24/7 25/17 31/7 33/3 36/3 42/4 47/3 47/16 52/10</p>	<p>60/7 84/22 84/25 86/13 89/6 91/21 anything [14] 5/11 5/20 14/24 25/12 32/16 38/12 40/14 40/21 41/23 44/23 55/21 64/4 64/9 78/16 anytime [2] 14/6 16/2 anyway [2] 43/9 47/22 anywhere [2] 29/15 33/22 apart [1] 8/10 apparently [1] 55/3 appeal [2] 58/16 58/16 APPEALS [3] 1/2 2/4 94/2 applicant [20] 23/17 31/4 36/8 36/11 36/16 45/12 52/7 74/20 75/2 80/11 86/5 91/12 91/25 94/19 100/22 102/4 106/11 108/23 109/15 110/14 applicants [2] 62/22 109/23 application [106] 3/2 3/3 3/8 3/15 3/16 11/24 18/6 19/13 19/18 19/21 21/23 24/8 25/19 26/11 26/17 26/20 26/25 31/9 31/12 31/18 36/5 36/15 36/21 37/6 41/3 42/6 43/13 43/16 43/17 43/22 47/5 47/8 47/10 47/22 47/25 48/2 48/7 52/12 60/8 60/11 60/19 61/22 62/4 66/7 72/25 74/25 75/19 86/15 86/18 86/24 87/6 89/8 90/22 91/5 91/15 91/20 91/22 95/2 95/3 95/8 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