

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on December  
3rd, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

December 3rd, 2014  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

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

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

5 Rick, was the meeting properly advertised?

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

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

10 MR. DiSTEFANO: Please let the record show  
11 all members are present.

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

14 Are there any additions or corrections?  
15 Judy?

16 MS. SCHWARTZ: I just have a little one.  
17 On page 33, line 19, the name is  
18 S-c-h-a-c-t-e-r.

19 And on line 23, it's Turnabout. And that's  
20 really -- and then the name is repeated on other pages.

21 MR. CHOLETTE: That's all?

22 MS. BAKER LEIT: On page 20, line 4, wrought  
23 iron, wrought is w-r-o-u-g-h-t.

24 On page 20, line 20, there's an extra word,  
25 so. That should be deleted.

1  
2 Capitalize Randy on page 28, line 19.

3 And page 32, line 13, just to clarify it was  
4 three feet four inches and right before that it says  
5 3.4 feet. We should just eliminate the 3.4 feet  
6 because it is 3 feet 4 inches.

7 MR. CHOLETTE: Right. Okay.

8 Christine?

9 MS. CORRADO: On page 4, line 15, excerptible  
10 should be acceptable, a-c-c-e-p-t-a-b-l-e.

11 Page 21, line 10, you've got a neighbor.

12 Line 18, I think there's an extra word there.  
13 Strike he, this Board is not equipped.

14 And page 24, line 22, effect should be  
15 affect, a-f-f-e-c-t.

16 And page 37, line 7, the first it's does not  
17 need an apostrophe, i-t-s.

18 And page 63, line 3, I believe it's brick  
19 pizza oven, rather than piazza

20 MR. CHOLETTE: Anything else?

21 Anybody else have anything?

22 MR. GOLDMAN: I just have one.

23 Page 7, line 7, insert the word what between  
24 of and this.

25 MR. CHOLETTE: Okay. Anything else?

1  
2 May I have a motion to approve the minutes as  
3 amended?

4 (Motion to approve November's amended minutes  
5 made by Ms. Schwartz.)

6 (Seconded by Mr. Goldman.)

7 (Upon roll call, motion to approve November's  
8 amended minutes carries.)

9 MR. CHOLETTE: We will move right into the  
10 agenda.

11 Rick, when you're ready will you please read  
12 the first one?

13 11A-03-14 Application of O'Donnell and Associates Inc.,  
14 architect, and Ronald Balcerzak, owner of property  
15 located at 163 Clover Hills Drive, for an Area Variance  
16 from Section 207-6 to allow a detached garage to be 24  
17 ft. in height in lieu of the maximum 16 ft. allowed by  
18 code. All as described on application and plans on  
19 file. TABLED AT THE NOVEMBER 5, 2014 MEETING - PUBLIC  
20 HEARING REMAINS OPEN

21 MR. O'DONNELL: Good evening. My name is Joe  
22 O'Donnell, I'm the architect of record for the project.  
23 We have offices at 150 Versailles Road, Rochester, New  
24 York.

25 I'm here tonight, it's a leftover from last

1  
2 month's agenda I believe. Last month we'd gone through  
3 the details and the standards that are set forth in the  
4 zoning code. And I believe one of the concerns that  
5 the Board had and wanted us to go back and study a  
6 little bit was the scale of the garage relative to the  
7 existing house, as it's set back approximately thirty  
8 feet from the existing house.

9           As I mentioned last month, I thought it would  
10 be a little bit of challenge to show that graphically  
11 just in the scale without having a very sophisticated  
12 computer program to do so. So what we tried to do is,  
13 what we presented in your packet in drawing A-3, the  
14 two dimensional elevation to show how the garage  
15 relates to the existing house. And then I went out  
16 there and took another photograph from the street level  
17 and we inserted a color rendering of the garage as best  
18 we could into that. I kind of felt that, you know,  
19 when we saw the color rendering that maybe the color of  
20 it relative to the rest of the house made it pop out a  
21 little bit more.

22           But one thing I would like to point out is  
23 that the garage in this graphic in real life scenario  
24 is going to actually appear even smaller. But one  
25 thing, when I took this photograph, if you look at the

1  
2 perspective lines of the side of the existing garage -  
3 I don't know if you can pick that up on the graphic  
4 that I did submit - and if you follow those vanishing  
5 lines back to thirty feet the garage got so small it  
6 almost looked like a shed back there. I just knew it  
7 wasn't -- it was like the other extreme of what we're  
8 trying to present here. So what I did was we just  
9 presented what the absolute worst case that the scale  
10 of the garage would look like even if it was viewed in  
11 two dimensions or even pulled up closer than what it  
12 actually showed on the site plan.

13 The other thing I think the graphic shows -  
14 the three dimensional photograph shows - it does, I  
15 think, address Rick's concern that he brought up last  
16 month about drainage going onto the neighbor's  
17 property. You can see the slope continues up to the  
18 east, if I have my bearings correct. But we are  
19 prepared to submit the landscape grading plan to show  
20 that the drainage would be controlled on the property  
21 in question.

22 So I think that was pretty much the issue  
23 that we got the feedback from your deliberations. So I  
24 would just like to open it up to questions. I think  
25 it's pretty straight forward.

1  
2 MR. CHOLETTE: Thanks for piecing this  
3 together. This is exactly what I wanted. I realize  
4 that you have a perspective issue and the fact that the  
5 garage is going to be placed further back also.

6 MR. O'DONNELL: Yes.

7 MR. CHOLETTE: Thank you for this.

8 MR. O'DONNELL: Mr. Chairman, if you  
9 literally follow those perspective lines to the  
10 existing header of the garage you would see that this  
11 thing would come out almost in scale like  
12 that(indicating) on the 3D graphic.

13 MR. CHOLETTE: Yeah.

14 MR. O'DONNELL: So I didn't want to -- I  
15 think if I came in with that you would be asking me to  
16 make it bigger.

17 Would that be the case?

18 MR. CHOLETTE: It does raise a couple of  
19 questions though.

20 MR. O'DONNELL: Okay.

21 MR. CHOLETTE: One is the siding that is  
22 depicted.

23 I think in the application you talked about  
24 the siding of the garage is going to match the house --

25 MR. O'DONNELL: Yes.

1  
2 MR. CHOLETTE: -- with color also?

3 MR. O'DONNELL: Yes, exactly. This graphic  
4 was strictly done off of a sketch-up rendering program  
5 that we use.

6 But looking at it I would even introduce -  
7 propose introducing some of the darker shingles that's  
8 shown on the existing garage, maybe on the lower part  
9 of the proposed garage, and kind of minimize or  
10 mitigate that poppiness(phonetic) that this graphic is  
11 showing. So -- but yeah, the existing siding is going  
12 to match - the proposed siding is going to match the  
13 existing house.

14 MS. SCHWARTZ: I do thank you for this  
15 rendering. But I really have to say that I still have  
16 my feelings that I had last month. To me it even looks  
17 more like a second house next to this first one. And I  
18 think I really have a problem with the storage area.

19 And I have to ask is there any way that could  
20 be made smaller in some way?

21 To me it's just so overpowering. I know it's  
22 back, but there is nothing there blocking it from the  
23 street and you look -- I know it's back. It's still  
24 so, so big.

25 MR. O'DONNELL: I think we would be prepared

1  
2 to lower it a couple more feet if you really - if that  
3 would make you feel more comfortable.

4 I think if you -- and I'm sure that you do,  
5 Judy, because I've been here so many times and I know  
6 you go visit the sites quite a - or all the time --  
7 that a lot of the houses in that neighborhood have very  
8 sizable garages. And again, I beg you to think about  
9 this being diminished even much more than this is  
10 showing because that's the reality of it. I mean, if I  
11 drew this -- and the reality of it, the garage door  
12 right here(indicating) would probably be only a quarter  
13 of an inch high in the graphic. And I just think that  
14 would have -- it just looked so phony that I didn't  
15 want to the present it.

16 DR. LAWRENCE: Did I hear you say that you  
17 would be willing to reduce the height?

18 MR. O'DONNELL: Yeah, I talked to the owner.  
19 He couldn't be here tonight, but I had asked what  
20 flexibility that I have and he said if the Board really  
21 wanted it to come down a couple of feet, you know, we  
22 would be willing to do that.

23 MR. CHOLETTE: Would that bring the height of  
24 it numerically to about the height of the present  
25 garage section?

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MR. O'DONNELL: Within six inches.

MR. CHOLETTE: Okay. Where as now it appears about the size of the main house.

MR. O'DONNELL: Right. That's almost dead nuts.

MR. CHOLETTE: Dennis?

MR. MIETZ: The windows there, are these exactly what's --

MR. O'DONNELL: No, they're going to match what you see on the existing house.

MR. MIETZ: Is there going to be a three-light setup like that, that high?

Is there a reason --

MR. O'DONNELL: No.

MR. MIETZ: -- it takes up the whole gable, it looks like?

MR. O'DONNELL: I will be honest with you, why this was presented, and I don't know if I should say that, but the day before we were going to come to you for a variance on the old addition; remember that whole project? The owner pulled the plug on that whole project and said let me do a single-car garage. So we took a pretty standard garage -- we had one day to get it in here.

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MR. MIETZ: I remember you told us that.

MR. O'DONNELL: Yeah. So I would be more than happy to study that to make sure because I would agree, those windows look a little out of scale.

MR. MIETZ: Yeah, I can see --

MR. O'DONNELL: As the architect with my name on it you can trust that I'm going to study that detail a little bit better.

MR. MIETZ: Matching would help, but the windows look way out of scale.

MR. O'DONNELL: Absolutely. Not a problem.

MR. CHOLETTE: So you're saying they might be shrunk down?

MR. O'DONNELL: Yeah.

MR. CHOLETTE: And they might also have more panes in them?

MR. O'DONNELL: Yeah, I mean if you look at the house itself it has a six over six on the dormers. It has six over six on the lower and then it has three over none on the garage. So even that in itself is different. So we would certainly most likely match the ones on the existing garage. Which we did in the 2-D graphic, it's just on the 3-D graphic - the color rendering - we didn't put the grills in. We could

1  
2 certainly -- I would be willing to, you know, pick --  
3 if that needs to be reduced by fifty percent even,  
4 those windows are not that critical to us.

5 MR. CHOLETTE: The windows aren't really our  
6 issue here anyway.

7 Fine. Any other questions?

8 Thank you very much for coming in.

9 MR. O'DONNELL: Thank you.

10 And is this your last month then?

11 MR. CHOLETTE: This is the last time.

12 MR. O'DONNELL: Thanks for all your great  
13 service.

14 MR. CHOLETTE: Thank you.

15 MR. O'DONNELL: Rick, you said you have  
16 something?

17 MR. DiSTEFANO: No.

18 MR. O'DONNELL: Okay. Thank you.

19 MR. CHOLETTE: Is there anyone in the  
20 audience that would like to talk about this preceding  
21 application we just went through?

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

24 11A-04-14 Application of Richard Samuel, owner of  
25 property located at 2799 Monroe Avenue for modification

1  
2 of an approved sign variance (5A-08-02) to allow for  
3 the relocation of an approved second building face sign  
4 from the rear face to a side face. All as described on  
5 application and plans on file. TABLED AT THE NOVEMBER  
6 5, 2014 MEETING - PUBLIC HEARING REMAINS OPEN

7 MR. SAMUEL: Good evening. I'm Richard  
8 Samuel, owner/operator and this is Jamie Rowley, she's  
9 from the sign company.

10 So last time I was here I got a lot of  
11 feedback from you guys. The feedback that I got was  
12 this should more or less be small and less in your  
13 face, more directional. So I tried to achieve that by  
14 doing a few things.

15 I went from 29.7 square feet down to 14.3  
16 square feet, which is less than half the square  
17 footage. The sign letters are now smaller and the  
18 arrow is now bigger to make it more directional. The  
19 Maximum Tan went from fifteen inches down to  
20 eight inches. So using like the chart that you had,  
21 you could see this from a hundred feet away as you're  
22 driving from Monroe Avenue - legible from about a  
23 hundred feet away. Now, the arrow has the word  
24 entrance and parking, kind of directing you exactly  
25 where to come back.

1  
2 As far as being lit, there seemed to be some  
3 resistance to it being lit so what I did is instead of  
4 channel letters I used halo lit. So it's still lit,  
5 but it's back lit so it's not nearly as bright. Up  
6 close it has a real nice glow to it. It's just not  
7 nearly as visible. So it's kind of like a happy  
8 medium. We did explore putting it on the lower portion  
9 of the building, but halo-lit channel letters stick out  
10 about six inches and the drive is very narrow. So we  
11 decided not to do that just because of the possibility  
12 of it getting damaged.

13 And that's about it.

14 MS. ROWLEY: Another thing too that we did  
15 with the letters - that you wanted the Maximum Tan not  
16 to be as visible as the arrow - like Rich said, we made  
17 those halo lit, but the arrow we actually left face  
18 lit. So that one will be more visible and the letters  
19 will kind of be more of the focal point of it rather  
20 than the Maximum Tan.

21 MR. DiSTEFANO: I'm sorry, can you just state  
22 your name again for the record?

23 MS. ROWLEY: Jamie Rowley, Premier Sign  
24 Systems.

25 MR. DiSTEFANO: Thank you.

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MS. ROWLEY: Uhm-hmm.

MR. CHOLETTE: You did a very nice job on this. I think you listened to what we wanted and I think, at least from my perspective, this is much better. I think it will be beneficial for what you're trying to accomplish --

MR. SAMUEL: Yeah.

MR. CHOLETTE: -- as far as the directional arrow goes.

MR. SAMUEL: Right.

MR. CHOLETTE: I think it is much more obvious now what you're doing.

Are there any other questions?

DR. LAWRENCE: No. It was a good job.

MR. CHOLETTE: Fine. Thank you very much. It was great.

MR. SAMUEL: Thank you very much.

MS. ROWLEY: Thank you.

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

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

12A-01-14 Application of Anthony and Tiffany D'Angelo,

1  
2 owners of property located at 479 French Road, for an  
3 Area Variance from Sections 203-2.1B(6) and 203-9A(4)  
4 to allow a stand-by emergency generator to be located  
5 in a side yard in lieu of the rear yard behind the  
6 house as required by code. All as described on  
7 application and plans on file.

8 MR. D'ANGELO: Good evening. My name is  
9 Anthony D'Angelo, I'm the homeowner of 479 French Road,  
10 Rochester, New York.

11 I'm putting in my application to put in the  
12 stand-by generator on the side of the house,  
13 particularly due to the manufacturer's recommendations  
14 to have it first off of the natural gas. And I believe  
15 it's RG&E's recommendation as well - because it would  
16 suck so much natural gas - to be located as close as  
17 possible.

18 The other issue that you will see on the  
19 map(indicating) is the back right corner of the house  
20 is a covered patio, and with the landscaping and my  
21 retaining wall around that it would be very difficult  
22 to put the generator physically behind the house. I  
23 would have to put it on the opposite side of the house  
24 near the air conditioners and to stretch that far away  
25 from the natural gas was disconcerting.

1  
2           So putting in the application -- and I  
3 currently have some arborvitaes surrounding that side  
4 of the house. So it won't even be visible to the road.  
5 And then if I do actually put the generator in I'll  
6 probably put in more landscaping to make it a little  
7 bit more appealing.

8           MR. CHOLETTE: Just for the record, I think  
9 we all probably visited the property. It looked to me  
10 like the adjacent house to the left was quite a ways  
11 away.

12           Do you have an approximate footage that is  
13 away?

14           MR. D'ANGELO: The house itself?

15           I know I'm about fifteen feet off the  
16 property line, but I don't know the footage of the  
17 actual house.

18           I did go to each of my neighboring residences  
19 and I got a little form signed saying they were all  
20 okay with me putting it on that side of the house.

21           MR. DiSTEFANO: Do you have that?

22           MR. D'ANGELO: It should be in part of the  
23 application.

24           MR. DiSTEFANO: Oh, it was part of the  
25 application, right.

1  
2 MR. D'ANGELO: And all the residing people  
3 were all okay with me putting that --

4 MR. CHOLETTE: See, one of the things - one  
5 of the reasons that the code is written the way it is  
6 about not having a generator in the side yard is if the  
7 two houses are fairly close together you get sort of an  
8 echoing affect between the two homes. But looking at  
9 your distance from the property line and then the  
10 distance from the house - the nextdoor house - from  
11 their property line it looks like quite a distance from  
12 there.

13 MR. DiSTEFANO: Can I just ask in maybe a  
14 different way: Is the house the most effected  
15 neighbor?

16 Would their house be entirely in front of the  
17 generator location?

18 MR. D'ANGELO: Almost. My house is almost  
19 two hundred feet off the road. So it's where the  
20 generator would be placed wouldn't even be parallel to  
21 the neighbor's house at all. It would actually be --

22 MR. DiSTEFANO: It would be actually --

23 MR. D'ANGELO: -- in the backyard.

24 MR. DiSTEFANO: -- adjacent to their  
25 backyard, correct?

1  
2 MR. D'ANGELO: Exactly. Yes. I don't think  
3 the echoing from what you're describing would be  
4 problematic just because how you far back my house is  
5 from the road versus the neighbor.

6 MR. CHOLETTE: Okay. Good.

7 Any other questions?

8 Fine. Thank you very much.

9 MR. D'ANGELO: Okay. Thank you.

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

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

15 12A-02-14 Application of John Cortese, lessee, and 2525  
16 Henrietta, Inc., owner of property located at 2425 West  
17 Henrietta Road, for a Temporary and Revocable Use  
18 Permit pursuant to Section 219-4 to allow for the  
19 storage of new car inventory where not allowed by code.  
20 All as described on application and plans on file.

21 MR. ARVAY: Thank you. Good evening. My  
22 name is Chris Arvay. I'm here on behalf of John  
23 Cortese of Cortese Auto, located at 2400 West Henrietta  
24 Road.

25 We made an application for use of the

1  
2 property across the street at 2425 West Henrietta Road,  
3 which was formerly the Friendly's location which is  
4 closed down. What we would like to do is use that  
5 parking lot which has seventy-five parking spaces for  
6 new vehicles, to place them there during the winter on  
7 a month-to-month basis.

8           And the reason we would like to do that is  
9 because of our growth, because of our inventory.  
10 Working with the manufacturers they require certain  
11 amounts of vehicles. And as you know, a lot of snow  
12 that we have causes a lot of damage because there's not  
13 a lot of places for us to put the snow. So we do push  
14 the snow around the best that we can, but because  
15 there's an opportunity with this location across the  
16 street we'd ask that we be allowed to use this on a  
17 month-to-month basis, until the owner decides to sell  
18 or if they sell or lease it to somebody else.

19           Our intentions would be to keep it so there  
20 would be no customers going over there. It would be  
21 strictly new vehicles, not used vehicles. So if you  
22 wanted; for example, a Grand Cherokee and you were  
23 looking at one in a black color and you happened to  
24 want one in a red color, that would be brought across  
25 from an employee. So we wouldn't have, again, any

1  
2 customers or we wouldn't have any traffic or anyone  
3 over there. So we would use it as strictly keeping new  
4 vehicles.

5 We have a plan in place where there wouldn't  
6 be any more traffic in or out of there than you  
7 normally would have from Friendly's exit from the south  
8 part of Cortese. And two people in one vehicle to  
9 drive up, enter in and then bring the new vehicle back  
10 across.

11 We wouldn't be using the Friendly's building.  
12 We don't need any of that. We keep all of the snow and  
13 keep everything clear as well.

14 And then at some point in time we hope to  
15 talk to you about some property that we have in the  
16 back we might be able to use for vehicles, but at this  
17 time we don't use that property.

18 MS. SCHWARTZ: This is a T and R.

19 How long do you expect this to be necessary?

20 MR. ARVAY: Through the winter is what we  
21 would like to do. As the snow piles up, that's when it  
22 makes it a little bit tighter for us. We still have  
23 space. We're still able to maneuver through.

24 We would like to go through the winter and if  
25 the owner does sell or lease - they're at a

1  
2 month-to-month for us and we're prepared to move out if  
3 we have to move out.

4 MR. CHOLETTE: So you're going with them on a  
5 month-to-month basis, but from our point of view you  
6 would like this to be four months, five months, six  
7 months, whatever you're asking for?

8 MR. MIETZ: End of April or?

9 MR. ARVAY: I'm sorry?

10 MR. MIETZ: The end of April or?

11 MR. ARVAY: Through the winter.

12 And how long is the winter here?

13 MR. DiSTEFANO: The application says until  
14 spring or summer. So I think -- I understand that, but  
15 I think, you know, through the winter we could probably  
16 draw a month out of there.

17 MR. CHOLETTE: I mean, we could specify  
18 something or if you want to indicate a date that would  
19 help to guide us.

20 MR. ARVAY: Into the first part of the  
21 summer.

22 MR. CHOLETTE: Okay. That's fine.

23 MR. ARVAY: That would be good.

24 MS. CORRADO: Going back to getting access to  
25 the property, that's a very busy stretch of road there.

1  
2 Do you anticipate having employees running  
3 across the road or how will -- will they create  
4 traffic?

5 MR. ARVAY: Great question. I don't think  
6 anybody could run across the road if they wanted to  
7 there, but obviously not. And what we've talked about,  
8 because our lot - our block is long enough to exit from  
9 the south block, make a right-hand turn and  
10 conveniently without really any problem merging into  
11 the middle lane and then making a left-hand turn into  
12 Friendly's. Just as if when people were doing that  
13 when it was there. And there would be less traffic  
14 because it would only be a couple of individuals from  
15 Cortese doing that, the lot personnel whose  
16 responsibility is moving cars. So two people going  
17 over, one driving and the other one gets out and brings  
18 the car back.

19 MR. CHOLETTE: And coming back are you going  
20 to do the same thing, you'll make a right and then make  
21 a left?

22 MR. ARVAY: That's correct, make a right and  
23 then merge into the center lane and then make a left.  
24 The Ford dealership of ours is the furthest southern  
25 point which you can come in and run all the way up

1  
2 inside, or go around the back.

3 MR. CHOLETTE: Is there a security issue for  
4 these cars?

5 MR. ARVAY: Well, there's always a security  
6 issue for everything, but I don't really think so  
7 because it's a well lit area. We have lighting on both  
8 sides, MCC is right there, there's a restaurant on the  
9 other side there as well.

10 We haven't had any security issues because we  
11 have a lot of cars that are parked right there in the  
12 front as well. There's not people there twenty-four  
13 hours a day.

14 MR. CHOLETTE: Okay.

15 MR. MIETZ: Will you be using the existing  
16 lighting that Friendly's had out in the parking lot?

17 MR. ARVAY: Correct.

18 MR. MIETZ: And will that be running all  
19 nights then or --

20 MR. ARVAY: No. I believe - I do not know  
21 how late they run, but I think they're on a timer just  
22 as we are on a timer as well.

23 MR. MIETZ: Okay. And will the entrance off  
24 of West Henrietta Road be secured in some fashion, so  
25 that people that see those new cars aren't just driving

1  
2 into that parking lot like people do on a Sunday and  
3 tool around?

4 MR. ARVAY: Yes. And that's something we've  
5 talked about and maybe give you some guidance on it.

6 What we don't want is people pulling in to  
7 look at vehicles there.

8 MR. MIETZ: That was my question.

9 MR. ARVAY: Yeah, they'll pull into Cortese.  
10 And one of the things that we've talked about is  
11 something that could be as simple as the front  
12 entrance, a cord with streamers which people wouldn't  
13 run into. You know, it might be a little bit - a flag  
14 or something like that.

15 So we have to talk about that, if that's  
16 okay?

17 But something that says not an entrance and  
18 it's an entrance only for those that know they can  
19 enter there.

20 MR. MIETZ: Because I'm sure those vehicles  
21 will generate interest of people that are just  
22 meandering and that will create more traffic.

23 MR. ARVAY: I would agree with you that would  
24 be something we want to make sure that we don't just  
25 have people wandering in. They tend to, which the lots

1  
2 are open on the other side and they come in -  
3 encouraged to drive in and look around.

4 But if we could put something across there  
5 that would make it so it would not be convenient to  
6 come in, but you would have to know what you were doing  
7 to actually come in, which would be the lot personnel  
8 that would know how to drive in there.

9 MR. MIETZ: I'd also suggest that it should  
10 at least be placed back far enough so that when your  
11 personnel come in --

12 MR. ARVAY: Right.

13 MR. MIETZ: -- they don't block into West  
14 Henrietta Road. That would be another big problem if  
15 they try to do that.

16 MR. ARVAY: And that will work because the  
17 entrance is big enough and wide enough and deep enough  
18 that you could really move - you could pull in one car  
19 here and some you could pull in a couple cars. So you  
20 would have room behind you. So it wouldn't be where  
21 you're sticking out into the road. Absolutely, that  
22 would safe and convenient.

23 MR. CHOLETTE: How full do you plan to make  
24 that Friendly's parking lot.

25 MR. ARVAY: There's seventy-five spaces and

1  
2 that's all that we would use is seventy-five spaces.

3 MR. CHOLETTE: So you wouldn't be using some  
4 spaces that are out more towards the street?

5 MR. ARVAY: Is your question we'd be using  
6 them out by the street there?

7 MR. CHOLETTE: The ones that are in the front  
8 of the store.

9 MR. DiSTEFANO: Where the handicapped parking  
10 is.

11 MR. ARVAY: That's a good -- no. By nature  
12 we don't park in handicapped spots. So, yeah.

13 MR. CHOLETTE: Well, as I view this, there's  
14 a lot of spaces behind the building and there's some  
15 that are along the side of the building.

16 I was just wondering if you plan to fill it  
17 all up?

18 MR. ARVAY: No more than seventy-five,  
19 whether it be some in the front or some in the back.

20 Would it matter if we used the front - the  
21 handicapped spots?

22 MR. CHOLETTE: I don't know. I'm just asking  
23 so I have a some idea how to visualize what this is  
24 going to look like.

25 MR. ARVAY: Yeah, if all spots -- it's nice

1  
2 to show vehicles. They do show nice when they're clean  
3 and we do keep them clean and we do keep the snow off  
4 and they look shiny. I wouldn't want to have to put  
5 them all in the back, if I could put them in the front  
6 as well because, again, there's enough space to pull in  
7 to make the transition and pick up the new vehicle.

8 MR. DiSTEFANO: Well, let me ask you a  
9 question: Do you think it would cause any issues for  
10 your storage if this Board were to condition it that  
11 there's no vehicles that can be parked in front of the  
12 building face?

13 MR. ARVAY: I don't think that would be an  
14 issue.

15 MR. DiSTEFANO: Okay.

16 MR. MIETZ: I guess a little bit of our  
17 concern here is that this is not supposed to be a  
18 marketing opportunity.

19 MR. DiSTEFANO: Right.

20 MR. MIETZ: It's meant to be storage.

21 MR. ARVAY: That's why I said I don't see it  
22 as being a concern.

23 MR. MIETZ: Okay.

24 MR. GOLDMAN: There's only seven spaces  
25 facing the store.

1  
2 MR. CHOLETTE: Are there any other questions  
3 for the applicant?

4 Fine. Thank you for coming in.

5 MR. ARVAY: Thank you very much.

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 12A-03-14 Application of the Top Deal Corporation,  
12 owners of property located at 2835 Monroe Avenue, for  
13 modification of previously approved variances (3A-02-03  
14 and 7A-03-03) allowing for a change to an approved sign  
15 on a second building face. All as described on  
16 application and plans on file.

17 MR. PATEL: Hi. My name is Tarpin Patel, I'm  
18 one of the owners of the property.

19 What we're looking to do is replace the  
20 existing signage with new signage that's in line with  
21 the brand requirements that we're now switching to.

22 MR. CHOLETTE: Is your change entirely just  
23 taking down the Holiday Express signs and putting up  
24 the sign that you depict here for Country Inn Suites.

25 MR. PATEL: Correct.

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MR. CHOLETTE: So it's the same size sign?

MR. PATEL: Correct.

MR. CHOLETTE: And the same location?

MR. PATEL: Correct.

MR. GOLDMAN: I have to ask you, again, what he just said.

You said this sign --

MR. PATEL: Yup.

MR. GOLDMAN: -- is going to be the same size, shape and fit right over that box that's there now?

MR. PATEL: It's not the same shape. Right now it's a box sign.

MR. GOLDMAN: Yeah.

MR. PATEL: That box sign is going to come off and channel letters are going to go in it's space. But the overall --

MR. GOLDMAN: It's going to be this sign here(indicating)?

MR. PATEL: Correct.

MR. GOLDMAN: Okay. So I measured the existing box --

MR. PATEL: Uh-huh.

MR. GOLDMAN: -- and it's eight feet by three

1  
2 foot ten, and this thing is measured out at roughly  
3 eight feet four inches wide by almost a little over  
4 five feet high. So it's significantly larger by your  
5 own dimensions here. You're saying it's forty-one  
6 square feet and I calculate that the existing one is  
7 thirty square feet. That's a significant difference.

8 So what you just told him isn't entirely  
9 true; is it?

10 MR. PATEL: No, I guess not. I was told by  
11 the sign company it was supposed to be the exact same  
12 size. That's the information that they had given me.

13 MR. GOLDMAN: Okay. My next question is the  
14 one on the front --

15 MR. PATEL: Uh-huh.

16 MR. GOLDMAN: -- is several portions. What's  
17 depicted here is one piece, roughly here(indicating).  
18 I couldn't get up there to measure what the square  
19 footage is.

20 MR. PATEL: Sure.

21 MR. GOLDMAN: And again, my sense is that  
22 this is larger than what's up there now the age with  
23 the Holiday Inn.

24 MR. PATEL: What's it say for the square  
25 footage of that sign on top.

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MR. GOLDMAN: Twenty-two square feet.

MR. PATEL: Okay. Unfortunately I don't have that information with me right now, but I'm pretty sure that sign is going to be -- that front face should be smaller than what's there now because they're twenty-inch channel letters and I -- I have to go back and a look I guess.

MR. GOLDMAN: I suggest to you that just by the colors -- this is a rectangular, solid, rectangular, and it fills up more of the area.

MR. PATEL: Right.

MR. GOLDMAN: And it kind of appears that it might be wider than what's up there now. So I'm suggesting to you that this isn't just a form-fit change.

MR. PATEL: Sure.

MR. GOLDMAN: There is significant change here.

Would you like to help me understand that?

MR. PATEL: Again, the sign company gave me the drawings. They went through the town code and told me this is what you had previously approved and that's what they had drawn up.

The front face sign though, you know, we draw

1  
2 a square around the entire sign and take the square  
3 footage. I don't see how that one would be more -- or  
4 sorry, less than twenty-two square feet. But the only  
5 way to really figure that out is to go back to the old  
6 variance and see what was approved at that time.

7 MR. GOLDMAN: Do you have any leeway in the  
8 signage to change what they're showing here with the  
9 flower on the top and by Carlson on the bottom or are  
10 you locked in by what they have?

11 MR. PATEL: Yeah, we're locked in  
12 unfortunately. Trust me, I would like to get rid of it  
13 too. It makes it cheaper for me, but I can't do that.

14 MR. GOLDMAN: It's really going to fill up  
15 that space in that alleyway.

16 MR. PATEL: Yeah.

17 MR. DiSTEFANO: Yeah, I think one of the  
18 things that adds the square footage to that proposed  
19 sign is the flower.

20 Is that what it's supposed to be?

21 MR. PATEL: Yes.

22 MR. DiSTEFANO: Because you have to do the  
23 rectangle around that highest point. So I don't know  
24 what the square footage would be if you took the flower  
25 out. I would think that probably would be reduced

1  
2 significantly, total square footage.

3 MR. GOLDMAN: Yeah, that would bring down the  
4 height.

5 MR. DiSTEFANO: By another two feet or  
6 something.

7 MR. CHOLETTE: With regard to what was  
8 approved previously from the minutes that we have for  
9 when the Holiday Inn wanted the sign, and I believe  
10 they're speaking to the sign on the side of the  
11 building, we said at that time the sign would be no  
12 larger than thirty-two square feet. So your proposed  
13 sign here is listed at forty-one square feet.

14 If we were to revert back and say that we  
15 want to stick with this thirty-two square feet does  
16 that for some corporate reason or some other reason  
17 represent a problem to you?

18 MR. PATEL: No, because -- and I apologize I  
19 didn't bring my copy here, but does it say what inch  
20 channel letter set it is inside the building?

21 MR. CHOLETTE: Certainly, it's all specified.

22 MR. PATEL: So --

23 MR. CHOLETTE: And again, it may be that  
24 flower adding to the --

25 MR. MIETZ: Sure.

1  
2 MR. DOLLINGER: The interesting thing is the  
3 flower is two feet higher and it's five feet wide.  
4 It's ten feet.

5 MR. MIETZ: Yeah, but it's eight feet long.

6 MR. DOLLINGER: The flower would be adding a  
7 lot of increase.

8 MR. CHOLETTE: Absolutely. So the letters  
9 might actually be smaller as we define the size of the  
10 sign.

11 MR. PATEL: Yeah.

12 MR. MIETZ: Again, it's a thirty-two. The  
13 letters would have to be smaller yet in order to get to  
14 thirty-two.

15 MR. PATEL: I mean, you could leave it at -  
16 you could max me out at thirty-two square feet and I  
17 could make sure that they design a set of channel  
18 letters that fit thirty-two square feet. They have  
19 different sizes, again, you know --

20 MR. CHOLETTE: I don't know how sensitive we  
21 are to that. We're just looking for some information  
22 from you.

23 MR. PATEL: Sure.

24 MR. CHOLETTE: And then we can discuss  
25 whether we're concerned about it or not concerned about

1  
2 it at all.

3 MR. GOLDMAN: Are you saying it's not going  
4 to be a box now with a cover on it?

5 MR. PATEL: Correct, it's not going to be a  
6 box. It's going to be individual letters.

7 MR. GOLDMAN: If you read the information  
8 that we're working with, the last time that building  
9 came before us we originally approved having separate  
10 letters and they came back and said we can't do that  
11 because we have our food bar there --

12 MR. PATEL: Correct.

13 MR. GOLDMAN: -- and we have to put this box  
14 on.

15 MR. PATEL: Correct. They have the ability  
16 to design - if you look at the drawing(indicating)  
17 there's kind of a little feature that runs through the  
18 middle of --

19 MR. MIETZ: Raceway.

20 MR. PATEL: A raceway that runs through  
21 middle of it. So they've got the ability to do that,  
22 where Holiday Express didn't have the ability to do it  
23 that way.

24 MR. MIETZ: So they can service it from the  
25 front and the back?

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MR. PATEL: Correct.

MR. GOLDMAN: Fair enough. You looked at that issue.

Thank you very much for that.

MR. PATEL: No problem.

MR. CHOLETTE: Are there any other questions? Anything else Morrey, you Okay?

Thank you very much.

MR. PATEL: Thank you very much. Have a good evening.

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.

12A-04-14 Application of Wegmans Companies, Inc., owner of property located at 1350 Westfall Road, for an Area Variance from Section 203-1.1B(8) to allow a stand-by emergency generator to have a 77.6 decibel sound rating in lieu of the maximum 72 decibel sound rating allowed by code. All as described on application and plans on file.

MR. SWEDROCK: Good evening. My name Linc Swedrock, with BME Associates. Also with me tonight is

1  
2 Dan Murphy with the Wegmans Companies. We're here  
3 tonight requesting a variance for the emergency  
4 generator for the Emeritus Brighton Landing project.

5 Just a little clarification of things, I had  
6 a conversation with Rick earlier today. We did not get  
7 the sign posted on time, holiday or whatever. It's our  
8 mistake. But I think from everything that was sent  
9 out, all the neighbors were notified and everything, it  
10 sounds like everybody was aware of the signage for the  
11 Emeritus and all that. But I just wanted to put that  
12 out there to start.

13 Based on the application, the project is  
14 located in a RLL zoning district and it is approved as  
15 incentive zoning. There's ninety-six beds that were  
16 proposed for the Emeritus Brighton Landing project.  
17 And we're requesting the variance based on the 203-1.1B  
18 section 8 of the code. The proposed generator is to  
19 provide the twenty-four hour emergency power supply to  
20 support the operations.

21 And the generator meets the code requirements  
22 for the location because it's located in the rear of  
23 the yard on the site and the location greater than ten  
24 foot from all the property lines. The generator is  
25 located about three hundred and ninety-two feet from

1  
2 the western property line which borders the Barclay  
3 subdivision. In addition from the western property  
4 line, the generator also -- the wing from the building  
5 comes out and is in between the generator and that  
6 property line, so it's also sort of buffered by the  
7 building itself. And it's also approximately a hundred  
8 and seventy-three feet from the northern property line  
9 which borders the park land, and a hundred and  
10 sixty-six feet from the eastern property line that  
11 borders the church.

12 The generator is fueled with natural gas and  
13 will be used only during electrical power outages and  
14 for testing required by the manufacturer for  
15 maintenance purposes once a week for thirty minutes.  
16 The testing will be done in daylight hours and  
17 according to the town code.

18 The size of the generator is what was needed  
19 to serve the ninety-six units. And it omits 77.6  
20 decibels with a distance of twenty-three feet from the  
21 unit. Which exceeds the code allowable by 5.6 decibels  
22 at twenty-three feet. The generator enclosure that  
23 we've specified is the greatest buffering capacity that  
24 they can do for that particular generator. And as we  
25 go away, as we double it every twenty-three -- if we go

1  
2 from twenty-three feet to forty-six to ninety-two, the  
3 decibel level drops by six decibels every time you move  
4 or you double the distance. So therefore, we're under  
5 -- we're three hundred and ninety-two feet away from  
6 the property on the west. So it will be dropped to  
7 about fifty-three decibels by the time we get to that  
8 property line based on the manufacturer's  
9 recommendations on that.

10 And also the generator -- I just want to do  
11 some from the health, safety and welfare of these  
12 residents. Basically there's ninety-six beds in here.  
13 There's also dementia care. They need this -- they  
14 would need this generator in case of an emergency. It  
15 would only be for a power outage. But for the health,  
16 safety and welfare of the people so that they can be  
17 provided uninterrupted care to the residents in the  
18 community they would request this generator to make  
19 sure that they could provide this uninterrupted service  
20 to the assisted living and the dementia patients that  
21 will be residing in this building. And they also -- if  
22 they didn't have the generator the alternate would be  
23 that you would have to relocate in case of an emergency  
24 if the power went out or whatever. They would have to  
25 relocate the residents because they have to conform

1  
2 with the codes and everything for the assisted living  
3 and the dementia units.

4 Also the generator location is consistent  
5 with where it was shown on the approved site plan. And  
6 we had shown the approximate location on the site plan  
7 and where we are showing it is consistent with that  
8 approved site plan.

9 And with our application we have provided our  
10 responses to the five factors and provided that to you  
11 for your review as part of your application.

12 I guess with that, Dan and I would be happy  
13 to answer any questions.

14 DR. LAWRENCE: It's further buffered by that  
15 part of the building; is that correct?

16 MR. SWEDROCK: Yeah.

17 DR. LAWRENCE: And do we know what lessening  
18 impact that would have on that potentially?

19 MR. SWEDROCK: I don't know - I don't have it  
20 quantified per se, but basically, you know, you're  
21 going almost right through the middle of that building.

22 MR. CHOLETTE: That's a regular building  
23 there too. I mean, that's a solid building?

24 MR. SWEDROCK: Yeah, it's --

25 MR. CHOLETTE: It's not open or anything

1  
2 else?

3 MR. SWEDROCK: No, it's part of the facility,  
4 so it's a solid building. It's not -- I mean it's  
5 tucked in here too, behind the dumpster enclosure.  
6 That will be blocked by that building there(indicating)  
7 and then to the north(indicating) you've got the park  
8 and then that way(indicating) is the church.

9 MR. CHOLETTE: Since we've got quite a few  
10 people here that are interested in this application, it  
11 might be worth while for you to again identify how  
12 often - other than the fact if there is an emergency  
13 and you need it; in other words, if the main power goes  
14 out, but how often will this be on for testing?

15 MR. SWEDROCK: Once a week for thirty  
16 minutes, and that would be in daylight hours, and I  
17 think it's flexible when would be the best time during  
18 the day to do it. That would only be -- they only need  
19 to test it --

20 MR. CHOLETTE: But you would pick a day?

21 MR. SWEDROCK: A day.

22 MR. CHOLETTE: And it would be every single  
23 week for half an hour on that day at that time to test  
24 it?

25 MR. SWEDROCK: To test it to make sure it

1  
2 works and operates. Other than that the only time it  
3 would be on would be in the case of an emergency, where  
4 if the power was out in this building the chances are  
5 the power would be out around the area too. And there  
6 would probably be other generators running in the  
7 neighborhood if they were out of power too, and you  
8 probably wouldn't even be able to hear the generator  
9 running at this facility.

10 MR. CHOLETTE: Okay.

11 DR. LAWRENCE: Does any type of secondary  
12 landscaping nearby the generator lessen the sound?

13 MR. SWEDROCK: We do have landscaping  
14 proposed around that area and I think we could probably  
15 look at -- I think there's some on the approved plan  
16 and I could check some more. But I think that the -- I  
17 know the enclosure reduces it quite a bit. But I'm not  
18 sure -- the landscaping probably could as well.

19 MS. SCHWARTZ: And why is it running for  
20 thirty minutes, because of size or what?

21 MR. SWEDROCK: That's just the manufacturer's  
22 recommendation. So I'm thinking it's just to make sure  
23 that it's operating properly in order to keep it  
24 running.

25 MS. SCHWARTZ: Rick, is it different for a

1  
2 commercial property?

3 MR. DiSTEFANO: Well, I would think that the  
4 smaller generators we hear fifteen to twenty minutes a  
5 week. Now again, I'm not familiar with this size  
6 generator. Maybe because of its size it needs to test  
7 longer. I know every manufacturer is a little  
8 different.

9 MS. SCHWARTZ: And the other thing is I  
10 believe you said this was approved, the site plan?

11 MR. DiSTEFANO: No, a generator was approved  
12 as shown on the site --

13 MS. SCHWARTZ: But not this?

14 MR. DiSTEFANO: But at that point in time  
15 when they presented the site plan for approvals the  
16 generator hadn't been sized.

17 MS. SCHWARTZ: Okay.

18 MR. SWEDROCK: We just showed an approximate  
19 location where we knew we would probably end up  
20 installing one. So we showed the proximate location  
21 and labeled it on the plan where we thought it would  
22 go.

23 MR. CHOLETTE: Again, I want to reiterate  
24 because I know very few people have any idea what  
25 decibels mean, but a difference of six DBs is about

1  
2 twice the noise level.

3 MR. SWEDROCK: Uhm-hmm.

4 MR. CHOLETTE: And it falls off as the  
5 distance is doubled as you indicated. So if our  
6 criteria was seventy-two DB at twenty-three feet and if  
7 you have a generator which has an extra six DB, that  
8 you will get the same level of noise out at forty-six  
9 feet as a generator that would be consistent with the  
10 town code.

11 MR. SWEDROCK: Correct.

12 MR. CHOLETTE: So another way of looking at  
13 this is if we're concerned that the nearest residences  
14 are twenty-three feet away and that would be approved,  
15 and if then the nearest was forty-six feet away they  
16 would have no more sound than some other neighborhood  
17 where they were twenty-three feet from a generator that  
18 was consistent with the code.

19 DR. LAWRENCE: Rick, what were we  
20 guestimating the distance from the one on French Road  
21 is to the next house?

22 MR. DiSTEFANO: I don't know.

23 DR. LAWRENCE: A hundred feet would be an  
24 over estimate?

25 MR. DiSTEFANO: No, it wouldn't be that far.

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MR. CHOLETTE: It wasn't a hundred feet.

DR. LAWRENCE: A hundred feet -- if it were less than a hundred feet the one on French Road would end up being noisier within code than this one would be?

MR. DiSTEFANO: It could be because of the distance being over three hundred almost four hundred feet away.

DR. LAWRENCE: Okay.

MR. CHOLETTE: And not even counting the fact that you've got a building wing in between?

MR. DiSTEFANO: Correct.

MR. CHOLETTE: Okay. So I'm just precluding what some of the people are going to perhaps raise as an objection, but it seems to me that the distance that Barclay Square Homes are that this is going to sound like a lawnmower at worst.

Do you think that is a fair statement?

MR. SWEDROCK: I think that's a fair assessment, yes, because of the distance.

MR. CHOLETTE: Right.

MR. SWEDROCK: As the distance -- the distance, as you work further away from the building here(indicating) you're dropping decibel levels and

1  
2 you're, you know, by that time you get to the property  
3 line or even halfway to the property line you're below  
4 the decibel levels allowed by code.

5 MR. CHOLETTE: Your bigger concern might be  
6 the residents in your facility.

7 Have you considered that and has anybody  
8 thought about that?

9 MR. SWEDROCK: Well, I think they've talked  
10 about that they would just try to do it as a routine  
11 and find out the best time to test that. When the  
12 power is out I think everybody is going to be happy  
13 that it's running.

14 MR. CHOLETTE: Well, I'm not really concerned  
15 about when the power is out. I'm concerned about the  
16 once a week testing.

17 MR. SWEDROCK: Well, I think -- I mean Dan  
18 could talk to that. I mean, I think what they would  
19 try to do is schedule it when the best they could to  
20 accommodate their residents.

21 MR. CHOLETTE: Okay.

22 MR. DiSTEFANO: And just a general question:  
23 As part of the health law or whatever state law, are  
24 facilities like this required to have back up power?

25 MR. SWEDROCK: I'm going to --

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UNKNOWN: Not assisted living.

MR. CHOLETTE: Can you come forward and make sure we have your name?

UNKNOWN: No, not in the --

MR. DiSTEFANO: State your name.

MR. MURPHY: My name is Dan Murphy. I'm with Wegman Company, the owner of the property.

Assisted living is not required and for quite a few years we did not include generators with our facilities. But it seemed like in the last six or seven years we've had a lot more extreme weather. And also have - we've also found that our average age resident is now eighty-three to eighty-four years old. And the combination of the extreme weather and we're regulated by New York State and we have to maintain certain temperature levels, so if we have power outages and temperatures drop we have no choice, we have to evaluate our residents. And evacuating eighty-three and eighty-four year old residents, including some of our memory-care people, that's a pretty traumatic experience. I've been involved in those.

And so we have gone back and retrofitted some of our older buildings and now we're starting to plan for putting in the new buildings. And families are

1  
2 expecting it too, quit honestly. When they bring, you  
3 know, their parents to us and there's power outages  
4 they're, you know, in support of it.

5 But to answer the original question, it is  
6 not required by assisted living.

7 MR. DiSTEFANO: But it's probably strongly  
8 suggested.

9 MR. MURPHY: Yes.

10 MR. CHOLETTE: Was any consideration given to  
11 installing two smaller generators instead of this one  
12 larger one?

13 MR. MURPHY: We actually researched propane  
14 because it's another allowable fuel and we would have  
15 had to have three propane generators to generate enough  
16 power to run our building. And so not only from an  
17 expense but from a functional standpoint it didn't seem  
18 to make a lot of sense running three generators. So  
19 no, that's how we wound up with the natural gas.

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

22 Fine. Thank you very much.

23 MR. MURPHY: Thank you.

24 MR. CHOLETTE: Is there anyone in the  
25 audience that would like to speak?

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Yes, please come forward.

The way we do this, by the way, is the people who want to speak are speaking to the Board members, they're not speaking to the applicant and we don't get into a back and forth between the neighbor who comes in and wants to speak to the applicant. So you can just address your concerns or whatever to us.

MS. GROSS: My name is Michelle Gross, G-r-o-s-s, and I live at 140 Barclay Square Drive.

I would like to say that I believe that a back-up generator is a good thing for such a unit. To move people - older people - around or have that potential I don't think is good, and I think the crazy weather I agree with that.

However, I do think that some consideration should be given to the fact this is a residential area. During the day you might have children sleeping or you might have people that are home ill or maybe in hospice care, who knows. And I would like to see a unit that does comply with the regulations.

Actually a six DB increase - and I realize it's a logarithmic scale, so you're talking about twice the amplitude of the sound and about four times the power that you'd get under from a regular residential

1  
2 or approved decibel limit. So it is noisy and you  
3 don't always no from the location whether you're  
4 actually going to be augmenting the sound or decreasing  
5 it. You might have an effect of the reverse effect,  
6 where you get reverberation from the structure rather  
7 than an absorption, and the next thing you know you're  
8 getting an increase in sound or an echo effect. You  
9 may get a resonance effect where something - it's  
10 creating a loud noise not from the motor, but from  
11 resonating portions of the unit itself.

12 And from what I understand there's a number  
13 of ways that could be addressed. A little pricier unit  
14 maybe runs at a lower RPM - the motor - and it will be  
15 quieter, but it will cost more probably. I don't know  
16 if that was looked into.

17 You could also weight - put in weights on the  
18 sides of the generator to decrease the amount of  
19 resonance effect that you get, which would augment the  
20 sound ordinarily. So where the motor might only be  
21 producing a certain amount of sound, you could get that  
22 increased considerably by all these other effects you  
23 don't know. You might get echoes, you might get the  
24 sound bouncing off of somebody's structure or what have  
25 you.

1  
2           They might want to look into the sound  
3 absorbing or buffering blankets that you can put around  
4 generators. They're made for commercial structures and  
5 -- so there are things available to dampen the sound if  
6 they can't get a generator that has a lower decibel  
7 output and/or they can't get one with perhaps a better  
8 motor, you know, running at a slower RPM.

9           There are things that could be done and I  
10 would like to suggest that some of those options be  
11 looked into because it may be where they're going to  
12 put this, as you say, may even be worse for the  
13 residents. And they may want to look how to protect  
14 the residents. They may be even creating an echo  
15 effect by putting -- or chamber - almost a chamber  
16 effect by putting this generator in where the sound is  
17 reverberating off brick or whatever.

18           So I would like to make those suggestions.

19           But on the whole, I could understand why they  
20 would want it. I'm not opposed to it out of hand.

21           MR. CHOLETTE: Fine. Thank you very much.  
22 Those are good comments.

23           Is there anyone else in the audience who  
24 would like to speak with regard to this application?

25           Anybody?

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We do have a lot of letters also?

MR. DiSTEFANO: We have a lot of letters and basically all the letters - maybe twenty are in opposition to the request.

MR. CHOLETTE: If there is anybody here that may have written one of those letters and would like to reiterate what was in that letter, feel free to come forward.

If not then, we'll close this part of the public hearing.

12A-05-14 Application of Norman Adams, owner of property located at 8 Glenhill Drive, for renewal of a Temporary and Revocable Use Permit (12A-05-12) pursuant to Section 219-4 allowing for the outdoor storage of a recreational vehicle where not allowed by code. All as described on application and plans on file.

MR. ADAMS: Good evening. Norman Adams, from 8 Glenhill Drive.

And I'm looking for renewal of my T and R for the storage of an RV that I use as a mobile communications vehicle. And I'm under the ARES RACES, we support Monroe County Office of Emergency Communications and also have Red Cross and other agencies, weather service through Scott Warren and

1  
2 others. I keep the radio -- the vehicle there with  
3 radio equipment that I can put in and basically it's  
4 backup for the County Emergency System.

5 DR. LAWRENCE: Has there been any other --  
6 just for the Board members that have not been here for  
7 the previous nine applications, have there been or is  
8 there any other use other than emergency purposes; such  
9 as personal use?

10 MR. ADAMS: Right now I haven't used it for  
11 personal use. It's just used for that.

12 I also have a statement.

13 MR. DiSTEFANO: Just for the record, as a  
14 neighbor of Norman Adams, 8 Glenhill Drive, I have no  
15 objection to the use and placement of the recreational  
16 vehicle located at the above address. And this is  
17 signed one, two, three, four by neighbors on Glenhill  
18 Drive and Idlewood Road.

19 DR. LAWRENCE: When was the last time it was  
20 used, maybe you said that? When was the last time it  
21 was used by the County?

22 MR. ADAMS: I keep it ready. So far this  
23 year we haven't had anything. It was about a year and  
24 a half ago there was a instance.

25 DR. LAWRENCE: Thank you.

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MR. ADAMS: That's why I say it's like Buffalo, you could have --

DR. LAWRENCE: Sure.

MR. ADAMS: -- you never know. But you'd be prepared.

MR. CHOLETTE: How old is the vehicle itself, Norman?

MR. ADAMS: Right now it's going on about seventeen years.

MR. MIETZ: The location where you have it parked at hasn't changed, correct?

MR. ADAMS: Nothing has changed.

MR. MIETZ: Did you describe what someone in profile would see going by the house?

MR. ADAMS: Basically it's behind the front garage line. There are trees in front of it, bushes down the side. So you really don't even see it.

MR. MIETZ: So you would just see the front of it?

MR. ADAMS: Right. You would only actually see the --

MR. MIETZ: So just like the front of any other --

MR. ADAMS: -- front if you were coming down.

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2 MR. CHOLETTE: Okay. Any other questions?

3 Just for the other Board members, how many  
4 times have you come in before us on this?

5 MR. ADAMS: This is probably about seven.

6 MR. CHOLETTE: Okay. Thank you very much for  
7 coming back again.

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

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

12 12A-06-14 Application of New Cingular Wireless PCS,  
13 LLC, lessee, and Jewish Community Center of Greater  
14 Rochester, Inc., owner of property located at 1200  
15 Edgewood Avenue, for an Area Variance from Section  
16 203-2.1B(6) to allow for the installation of a diesel  
17 powered stand-by emergency generator where only an LP  
18 gas or natural gas powered generator is allowed by  
19 code. All as described on application and plans on  
20 file.

21 MR. HINKLEY: Hello. My name is Alan  
22 Hinkley. I represent -- or I'm NB&C, LLC, Network  
23 Building and Consulting, 1777 Sentry Parkway West, Blue  
24 Bell, Pennsylvania. And we represent AT&T Wireless or  
25 New Cingular Wireless, LLC, as the licensing name for

1  
2 this area.

3 And we are proposing -- we were before this  
4 Board back in, I guess it was, February 7th and were  
5 granted an area variance for a side-yard variance.  
6 We're proposing to install an emergency generator  
7 within the existing fence compound at the cell tower  
8 located at the JCC facility.

9 In going through the process we determined  
10 after the fact - after the variance was granted - that  
11 there was not sufficient space within that compound to  
12 install a propane tank to operate the generator with  
13 propane. And this was not brought up at the last  
14 variance hearing. So with that being said, there is  
15 also no natural gas at the area - at the location. So  
16 the only other alternative AT&T would have would be to  
17 go with a diesel generator, which actually includes a  
18 fuel tank incorporated into the generator itself and it  
19 fits directly underneath the generator as one solid  
20 unit.

21 I will add that the generator unit does meet  
22 all EPA and Federal and State DEC codes concerning  
23 noise levels and emissions. So there is really no  
24 difference between that and either an LP or a propane  
25 or a natural gas generator.

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2           As I said, the fuel tank is installed. It is  
3 a two hundred and ten gallon fuel tank. It fits  
4 underneath the existing generator as part of the  
5 structure. It is a double wall enclosed tank with leak  
6 monitoring. It does have a leak monitor switch in it.  
7 So it's designed to be as safe as possible and is,  
8 again, approved by most federal and state agencies.  
9 There's thousands of them in use around the country and  
10 around the city, I'm sure.

11           Basically that's what we've got to say. The  
12 nearest property line - residential property line - to  
13 this facility is approximately one hundred and  
14 seventy-seven feet, and that's a back property line. I  
15 don't have an exact measurement to the residents, but  
16 I'm guessing it's over a couple hundred feet to the  
17 nearest residents from this site.

18           DR. LAWRENCE: Since these applications - I'm  
19 going to do a pun here - are generating a lot of  
20 discussion, I see that -- that's bad -- the decibel  
21 rating is either eighty-four or seventy-one based on  
22 the type of enclosure.

23           What type of enclosure do you have?

24           MR. HINKLEY: This would be a level 2A  
25 enclosure, which keeps the decibel level below the

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required seventy-two decibels.

MR. DiSTEFANO: Which I think is something we talked about --

MR. HINKLEY: Yes.

MR. DiSTEFANO: -- with the original approval.

MR. HINKLEY: Yes.

MR. DiSTEFANO: Does this generate the same size --

MR. HINKLEY: Yes.

MR. DiSTEFANO: -- as the one that you originally proposed?

MR. HINKLEY: Yes.

MR. DiSTEFANO: But just a different fuel source?

MR. HINKLEY: Yeah. It's a fifty KW generator, the same as was originally proposed. The only difference is instead of a spark ignition - LP gas engine - it would be using a diesel engine.

DR. LAWRENCE: So it's the seventy-one decibel rating?

MR. HINKLEY: Yes. And actually the actual -- I think I put some decibel rating charts in there for the deasil generators. It's considerably below the

1  
2 seventy-one level. It's like sixty-four, sixty-five  
3 decibels.

4 MS. SCHWARTZ: Rick, why doesn't our town  
5 allow diesel fuel?

6 MR. DiSTEFANO: Again, this is in a  
7 residential district and in the residential districts  
8 we didn't want to have diesel tanks basically, you  
9 know, sitting. In commercial districts the Planning  
10 Board could approve a diesel-tanked generator.

11 MR. CHOLETTE: The concern was a safety  
12 issue?

13 MR. DiSTEFANO: Yeah. A leak issue, you  
14 know, just having storage of diesel gas on somebody's  
15 property in large quantities.

16 MS. SCHWARTZ: But because the tank being  
17 under, do you feel that there's --

18 MR. DiSTEFANO: Well, I think a little  
19 difference here is that, you know, all tanks would be  
20 under for a diesel generator for the most part.

21 MS. SCHWARTZ: Right.

22 MR. DiSTEFANO: But this is in an enclosed  
23 compound. Where if you were to put one in your house  
24 you could just have your generator sitting out in your  
25 backyard sitting on top of a storage of diesel fuel.

1  
2 So when we created the regulations for generators in a  
3 residential district we wanted to make sure that they  
4 were as safe as possible with the use of either natural  
5 gas or LP gas.

6 MS. SCHWARTZ: Uhm-hmm.

7 MR. DiSTEFANO: Not that both of those can't  
8 be somewhat dangerous.

9 MS. SCHWARTZ: Right.

10 MR. CHOLETTE: Well, then help us in  
11 understanding why this in fact is safe relative to --

12 MR. DiSTEFANO: I'm not saying -- that's up  
13 to the applicant.

14 MR. HINKLEY: I believe I provided in your  
15 packets some information. There's an EPA certification  
16 in there.

17 Just to explain this, the actual generator  
18 unit(indicating). The tank is integral part of the  
19 base of the generator unit. And as I said, it is a  
20 double-wall tank and it has been approved for storage  
21 for fuel. I mean, it's approved by the New York State  
22 DEC.

23 MR. CHOLETTE: I'm sure that it is, but --  
24 and maybe you disagree with the town code having this -  
25 prohibiting diesel generators in residential areas, but

1  
2 I guess now that this has been raised we would like to  
3 have some insurance as to why this particular setup is  
4 going to be safe, not just that it's approved. But I'm  
5 sure if a person was here and wanted to put one in  
6 their backyard they would come in and say this is  
7 approved by the state or by somebody.

8 MR. HINKLEY: The only thing I could say is  
9 this is a manufactured system that's designed by the  
10 generator manufacturer. They have had to go through  
11 the approvals process with the New York State DEC to be  
12 able to install them wherever, it doesn't matter  
13 whether it's a residential or commercial district.  
14 They're designed to be within the limits that are  
15 required by the New York State DEC. So they would be  
16 available whether this was being installed in a  
17 commercial area or residential area. The New York  
18 State codes have certain ramifications and obviously  
19 certain qualifications for fuel storage. One of those  
20 being a double-wall tank, which is very common.

21 It is an above-ground tank. So it has --  
22 it's not like it's buried where it's going to be a  
23 problem where you wouldn't notice the leak. There's  
24 also a leak monitoring system.

25 MR. DiSTEFANO: Let me ask you this

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2 differently: How is this locked where the tank is  
3 going to be located - where the generator is going to  
4 be located?

5 How is that different than your typical  
6 residential lot?

7 MR. HINKLEY: Locked as far as?

8 MR. DiSTEFANO: The property, how is the  
9 property different than your typical single-family  
10 residential lot?

11 MR. HINKLEY: Well, in this particular case,  
12 as with most cell towers, there's a fence compound  
13 around it that is locked and secured. There's also  
14 security lighting and fencing and everything else. So  
15 the generator is within a fenced area. I mean, there  
16 are on the shelter that's next to it --

17 MR. GOLDMAN: The question we have is: How  
18 close is the closest inhabited building to where your  
19 compound is? Understanding that it's next to a parking  
20 lot and there would be cars there, but if God forbid  
21 something should happen to that unit and some disaster  
22 goes, how close is the inhabited unit - house to that?

23 MR. HINKLEY: I don't have the exact  
24 measurements to the nearest houses. However, the  
25 closest distance to a property line is - which I'm

1  
2 assuming is probably residential properties based on  
3 the size of them - is a hundred and seventy-seven feet,  
4 and that's across the corner of the parking lot. It is  
5 in a wooded area. I would assume that on these  
6 properties the houses are somewhere in the middle of  
7 the parcel.

8 If you need to know the exact measurement I'm  
9 sure we could get that for you.

10 MR. CHOLETTE: Well, not just worrying about  
11 the residents, which of course we do need to be  
12 concerned about, but we're also concerned about the  
13 people that are using the JCC.

14 So how close are you to your own building?

15 Q I believe the JCC building -- and again, I  
16 don't have a measurement on these drawings for that  
17 distance, but judging by the other distances I'm  
18 guessing it's probably three hundred and fifty to four  
19 hundred feet from the existing building to the JCC.

20 MR. CHOLETTE: I think that goes to Rick's  
21 question about what is different. You not only have  
22 this great distance to the nearest residences, but as  
23 we've heard from other generator applications one of  
24 their biggest driving forces is to put the generators  
25 as close to their house as possible.

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MR. HINKLEY: Sure.

MR. CHOLETTE: You're in fact in this case putting this an extraordinary distance.

MR. HINKLEY: This generator has nothing to do with the building.

MR. CHOLETTE: What does it generate?

MR. HINKLEY: The generator goes to the towers.

MR. CHOLETTE: The towers?

MR. HINKLEY: It's for --

MR. CHOLETTE: So that is the difference then?

MR. HINKLEY: Yeah.

MR. CHOLETTE: That's why you're able to put it there. But that is the difference.

MR. HINKLEY: Yeah, this generator is nowhere near any buildings other than the communications building, which is the small building within the compound - I believe it's eleven and a half by twelve - were the AT&T wireless equipment goes. This is strictly for backup power for that facility. It has absolutely nothing to do with the JCC building.

MR. CHOLETTE: Okay. Any other questions?

DR. LAWRENCE: Is the testing time the same?

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MR. HINKLEY: Yes.

DR. LAWRENCE: And what would that be -- I said the same, but what would that be?

MR. HINKLEY: It's basically whatever the town code allows. These generators are designed so that they can be programmed to run whatever time they require. Generally it's fifteen to twenty minutes a day - or a week.

MR. DiSTEFANO: What is the run time on a tank of gas?

MR. HINKLEY: On a two hundred and ten gallon tank I would guess maybe several days based on the amount of usage that's there. And, again, it's just a guesstimate.

MR. DiSTEFANO: So I guess the next question that kind of leads me to is, your fuel source - I mean these things you've got to bring in a truck --

MR. HINKLEY: Sure.

MR. DiSTEFANO: -- to fill it.

MR. HINKLEY: Uhm-hmm.

MR. DiSTEFANO: How often does the truck come on site to fill; I mean, if you have to test it once a week, a half hour let's say --

MR. HINKLEY: They have standard monitoring

1  
2 set up and that's probably going to be on a regular  
3 monthly or bimonthly basis, whatever they would  
4 require. They would check the tank and if it's down  
5 they would refill it.

6 MR. CHOLETTE: You don't have an estimate of  
7 what that would be?

8 MR. HINKLEY: I would estimate it's probably  
9 not more than once every two to three months at the  
10 most.

11 MR. DiSTEFANO: In a non-emergency situation?

12 MR. HINKLEY: In a non-emergency situation.  
13 Obviously, if there was an emergency they would arrange  
14 to have it filled as much as needed. But they will run  
15 quite a while if you're only running them fifteen  
16 minutes a day.

17 MR. CHOLETTE: In your comment - maybe it was  
18 just offhand - when Dave asked the question about how  
19 long will it run in the testing mode, you indicated,  
20 "Well, whatever the town allows."

21 MR. HINKLEY: Well, what I --

22 MR. CHOLETTE: And I guess my answer then,  
23 especially having heard these other generator concerns,  
24 is suppose the town all of a sudden then said we want  
25 it to be only ten minutes testing each week?

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2 MR. HINKLEY: I guess I should retract that  
3 statement and say that it will be based on whatever the  
4 manufacturer's suggestions are for testing, which  
5 generally is fifteen to twenty minutes or thirty  
6 minutes, whatever they require depending on the size  
7 and the use of the generator.

8 DR. LAWRENCE: Is there any difference to the  
9 affect on air quality?

10 When I think diesel I always think of these  
11 trucks or cars spewing out --

12 MR. HINKLEY: Actually, no. And I did, I  
13 believe, include in your packets there's a  
14 certification in there from the EPA for the admissions  
15 for diesel that shows it's within the admissions  
16 levels. It's actually very similar to the propane  
17 almost.

18 MR. CHOLETTE: Anything else?

19 Fine. Thank you very much.

20 MR. HINKLEY: Thank you.

21 MR. CHOLETTE: Is there anyone in the  
22 audience who would like to speak with regard to this  
23 application?

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

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2 12A-07-14 Application of NYS Sitepower Corp.  
3 contractor, and Cynthia Kozlowski, owner of property  
4 located at 1 Milford Road, for an Area Variance from  
5 Sections 203-2.1B(6), 203-9A(4) and 207-7 to allow a  
6 stand-by emergency generator to be located in an area  
7 of a side yard not allowed by code. All as described on  
8 application and plans on file.

9 MR. CHOLETTE: Rick, before we start, did you  
10 save up all the generators for the December meeting?

11 MR. DiSTEFANO: We have a lot of generators  
12 tonight.

13 MR. CHOLETTE: Unfortunately we can only  
14 approve twenty percent of them.

15 MR. BAKER: I see it's a percentage deal now,  
16 okay.

17 My name is Bill Baker, with New York State  
18 Site Power in Walworth, New York. And your packet  
19 describes the situation we have with a house on the  
20 corner of Milford and Forest Hill that is on a corner  
21 lot, which by your "definition" has two faces - two  
22 fronts, one on Milford and one on Forest Hill. The  
23 rear lot is located as a garage on that end of the  
24 house. And the side lot - which is now declared a side  
25 lot - has a large stone patio and it's surrounded by a

1  
2 wood fence and it also has a large chimney that is on  
3 that side of the house.

4 The utilities come in to the corner of the  
5 house that is the corner that is the one we're  
6 concerned about putting the generator in. It's the  
7 most practical location for it. All the other  
8 locations were disqualified because of the extreme cost  
9 and having to run fuel lines all over the place and  
10 maybe even dig up and put underground fuel lines in  
11 just to get to the generator and get the electric from  
12 the generator to the building itself.

13 So we've asked for a variance to allow us to  
14 put the generator on the side lot adjacent to the  
15 chimney that's on there where the fence is. And it has  
16 to be located a few feet away from the fence and also  
17 about three feet away from the building itself to meet  
18 code. So we're looking at locating it at a distance of  
19 maximum of five feet. The front of it will be  
20 five feet past the front face of the garage of the  
21 neighboring house, which that apparently is declared  
22 because that's the face of the adjoining property is  
23 the garage which is set back about twelve feet or so  
24 from the front of the house itself. If it was just the  
25 front of the house we would easily meet the

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2 requirements because we wouldn't be in front of it -  
3 exceeding that. But apparently the code has been  
4 selected such that it means the nearest structure and  
5 the nearest structure is the garage of the neighbor.  
6 So because the garage is set back from the front of  
7 their house it winds up, you know, interfering with,  
8 you know, the proper location of the approved location  
9 of the --

10 MR. DiSTEFANO: I just for a little  
11 clarification on that; because it is a corner lot and  
12 this is a side yard where the generator is being  
13 proposed, we do make an exception in the code for  
14 corner lots that accessory types of uses can be located  
15 in a side yard provided they do not extend beyond the  
16 front face of the neighboring property. So they're  
17 allowed to put the generator in the side yard because  
18 this is a corner lot. However, that generator has to  
19 be behind the front face of the neighboring property,  
20 which in this case is the garage face even though the  
21 garage face is offset from the house face.

22 MS. SCHWARTZ: Right.

23 MR. DiSTEFANO: So --

24 MR. BAKER: So there's the situation.

25 It's natural-gas operated. It's not diesel.

1  
2 It's very quiet. It's less than the seventy-two  
3 decibels at twenty-three feet. In fact, at  
4 twenty-three feet somebody would have to tell you that  
5 it's running. It's very, very quiet.

6 DR. LAWRENCE: Is the sound talk that we've  
7 been having this evening accurate, that it does  
8 decrease by doubling? Experience wise, you're saying  
9 that this is very quiet at twenty-three feet?

10 MR. BAKER: They are very quiet.

11 DR. LAWRENCE: So when we get in the fifty  
12 range by distance it would, which it probably is  
13 because the distance to the nearest neighbors, it would  
14 be very quiet?

15 MR. BAKER: Yes. The nearest property line  
16 from any neighbor is twenty feet away from the unit,  
17 the occupant at that end of the building is a couple of  
18 cars. So they're probably not ever going to know that  
19 the unit runs unless they're actually standing out in  
20 the yard and listens and happens to be there when it  
21 goes through a test cycle or something and actually  
22 hears it start. Otherwise -- that's actually the  
23 noisiest time for the generator is on starting - when  
24 it's cranking - it's like starting your car up, it  
25 makes the most noise when you're starting your car up.

1  
2 Once it's started your car is nice and quite. So the  
3 same thing with the generator, it's noisy for three or  
4 four seconds while the engine starts and then it  
5 smooths right out, and unless you're there when it  
6 starts you don't even know it's running.

7 DR. LAWRENCE: And these Generac models,  
8 whichever you have to contend with this evening,  
9 they're the state-of-the-art and --

10 MR. BAKER: This is the Cummins unit.

11 DR. LAWRENCE: Oh, I thought --

12 MR. BAKER: So it's a state-of-the-art. It  
13 should be a Cummins. I don't think it's a Generac.

14 MR. DiSTEFANO: That's what we were getting,  
15 the Generac.

16 MR. BAKER: All right. It would be a Generac  
17 one. And they're very quiet. It would be the latest  
18 state-of-the-art version of it and they're very, very  
19 quiet.

20 MR. CHOLETTE: Rick, we've had a lot of these  
21 generators in town installed because they've been  
22 fairly popular.

23 Has the town every gotten a complaint from  
24 anybody about noise level?

25 MR. DiSTEFANO: I'll have Judy answer that

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question.

MS. SCHWARTZ: -- come to my house. It was installed without a permit and the house has been sold. I hear it. It's in the backyard and I hear it in my front hallway with all the doors and windows closed. I know when 10:20 comes on Tuesday morning. It is horrendous.

MR. CHOLETTE: How far would you estimate you are away from it?

MS. SCHWARTZ: A hundred something, maybe. More than a hundred.

MR. DiSTEFANO: I don't know.

MS. SCHWARTZ: It's a distance.

MR. CHOLETTE: And is that generator in code as far as you know?

MS. SCHWARTZ: It's in code as far as location is concerned, but I don't think the decibels are.

MR. CHOLETTE: And the noise level?

MR. DiSTEFANO: We don't know because there was never a permit issued.

MS. SCHWARTZ: They never pulled the permit.

MR. CHOLETTE: Okay.

MR. DiSTEFANO: But that being said, no,

1  
2 we've been relatively complaint free with generators.  
3 Now, as -- and again, you have to remember that the  
4 generator movement is fairly new still. Although the  
5 generators are definitely getting better than when we  
6 first started seeing this, however, as the older models  
7 are getting older and wearing we might be getting  
8 complaints because just like air-conditioning  
9 compressors once they start going they make a lot more  
10 noise than they did when they were new. So we still  
11 might be close, you know, we still might get some  
12 complaints as these older generators age.

13 DR. LAWRENCE: Is there a code for portable  
14 generators?

15 MR. DiSTEFANO: No, there's no code for  
16 portable generators because portable generators really  
17 don't test. You start it up when there's a problem.

18 DR. LAWRENCE: They're very noisy during  
19 operation.

20 MR. DiSTEFANO: Yeah, portable can be even  
21 more - are probably more noisy than the new models that  
22 are coming out.

23 DR. LAWRENCE: Sure. Okay.

24 MR. DiSTEFANO: I mean, if you --

25 MR. BAKER: Typically the portable ones and

1  
2 in a sense they're portable and they can be located  
3 anywhere. They might be closer to somebody than --

4 MR. DiSTEFANO: They're usually smaller,  
5 though. They're usually smaller in size.

6 MR. BAKER: They should be tested every week  
7 but they don't and that's --

8 The test cycle is only about ten to fifteen  
9 minutes and you could set it - the user can set that  
10 cycle to come on once a week at the same time, anytime  
11 you want. So it doesn't interfere with it.

12 A lot of people set them so they know they're  
13 home at the time when the generator tests itself, that  
14 way they know it starts up. So the day they're home  
15 and it doesn't start up then they can give us a call,  
16 the generator didn't start. So that's the reason.

17 MS. BAKER LEIT: So in terms of choice of the  
18 location, you're saying that's where some of the  
19 utilities were?

20 MR. BAKER: That's the only spot --

21 MS. BAKER LEIT: Because I was looking at the  
22 other property line. It shows there's like  
23 ninety-one feet on that other side and you know --

24 MR. BAKER: But that's the rear of the lot --

25 MS. BAKER LEIT: Right.

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MR. BAKER: -- and the garage is on that end.  
MS. BAKER LEIT: So why was the rear of the lot -- what was the rationale, again, for placement of the --

MR. BAKER: The garage is on that end and all the utilities are on the other end of the house.

MS. BAKER LEIT: Okay.

MR. BAKER: Which would mean we would have to run the fuel line - the natural gas fuel line - underground from the front of the house to the back of the house there to that rear area.

MS. BAKER LEIT: All right.

MR. BAKER: And the electric would have to be run underground back in there, increasing the cost, increasing -- any time you run natural gas lines or propane lines underground you add risk.

MS. BAKER LEIT: Right.

MR. BAKER: There's no two ways about it. You could hit it driving a stake in the ground or whatever. It's always better to keep it as short as possible.

MS. BAKER LEIT: I know there's a --

MR. BAKER: And it's got a big shrub in front. There's a big --

1  
2 MS. SCHWARTZ: Right. There is that cute  
3 little area that's right there.

4 MR. BAKER: Right.

5 MS. SCHWARTZ: Is it possible -- I would like  
6 it behind the fence.

7 Is it a little too crowded to put it behind  
8 the fence?

9 MR. BAKER: You can't really put it behind  
10 the fence because there's an air-conditioner behind the  
11 fence.

12 MS. SCHWARTZ: I saw that, yeah.

13 MR. BAKER: And then you've got the chimney  
14 and then all patio blocks and so forth back there. So  
15 you so really can't, you know, without destroying their  
16 patio you can't get back there. Plus you still would  
17 have to run the fuel lines around the side of the house  
18 - along the side of the house in the back - in order to  
19 get to the generator.

20 MR. DiSTEFANO: Have you talked to that  
21 neighboring property owner?

22 Has the property owner talked to the  
23 neighboring property owner or did you talk to them?

24 MR. BAKER: I'm not aware whether they have  
25 or not.

1  
2 But has anybody lodged a complaint or lodged  
3 an idea on it?

4 We haven't heard anything.

5 MR. CHOLETTE: Do we have any other  
6 questions?

7 Fine. Thank you very much.

8 MR. BAKER: Okay.

9 MR. CHOLETTE: Is there anyone in the  
10 audience who would like to speak with regard to this  
11 application?

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

14 12A-08-14 Application of Minesh Patal, agent, and River  
15 Road Hospitality Associates LLC, owner of property  
16 located at 717 East River Road, for a Sign Variance  
17 from Section 207-32B(3) to allow a building face sign  
18 (south elevation) to be located 49.25 ft. above grade  
19 in lieu of the maximum 20 ft. allowed by code. All as  
20 described on application and plans on file.

21 UNKNOWN: Hello, everyone. I just want to  
22 say I would like to amend the application to include a  
23 generator.

24 I was here previously and --

25 MR. DiSTEFANO: Could you just state your

1  
2 name for the record?

3 MR. PATAL: Oh, sorry. Minesh Patal, agent  
4 for River Road Hospitality.

5 So we've previously discussed the signs at  
6 this location. And Holiday Inn IHG basically came back  
7 and said that the one sign that we had proposed  
8 basically on the south elevation, below the twenty foot  
9 I guess existing allowed by code, wasn't -- they didn't  
10 like it. We really didn't like it. And therefore  
11 we're asking for a variance for the twenty-foot  
12 variance on the front south elevation of the building.

13 MR. CHOLETTE: Before we get into that sign,  
14 the sign on the north side was that approved as a --

15 MR. DiSTEFANO: That was originally approved  
16 as the Hampton Inn back in the '80s, and then when La  
17 Quinta took it over they basically maintained the same  
18 variance as what was granted back in the '80s.

19 MR. CHOLETTE: So they did originally need a  
20 variance for this --

21 MR. DiSTEFANO: Yes.

22 MR. CHOLETTE: -- because of height?

23 MR. DiSTEFANO: The one on the north is under  
24 a variance.

25 MR. CHOLETTE: And I would assume that one of

1  
2 the driving forces behind that was because it faced out  
3 on the expressway and the high speed of traffic?

4 MR. DiSTEFANO: Yeah.

5 MR. CHOLETTE: So that leads me to the  
6 question here on the south side. I don't want to be  
7 too critical, this is my last meeting, but this  
8 application really doesn't explain why it needs to be  
9 high. We would need to have some real reasons as to  
10 why, other than the fact that the --

11 MR. PATAL: The brand required it.

12 MR. CHOLETTE: The brass wanted it high.

13 Why should it be high?

14 MR. PATAL: Aesthetically if you look at the  
15 building and where it was before, it was located --

16 MR. CHOLETTE: I know where it was. I think  
17 we all probably saw where it was.

18 MR. PATAL: And it looked like it was just  
19 stuck on the building. It made no practical sense as  
20 to why it was there. And when we looked at it and  
21 really said you know what are you going to do. It's  
22 also going to create a nuisance for the guests next to  
23 it with the green and lights, basically with guests'  
24 rooms right next to it.

25 So we just thought, you know, where else can

1  
2 it go?

3 And when we looked at it mirroring the front  
4 of the building and the back of the building,  
5 aesthetically it does make sense from there. I mean,  
6 also have from a guest perspective when they're coming  
7 in, yeah, they see the long building but without any  
8 really signage on it.

9 I mean, I guess the alternative is to have  
10 nothing there. They're not even going to know what the  
11 brand of the hotel is until they basically come to the  
12 doors.

13 MR. CHOLETTE: Will you have signage out at  
14 the street - I mean driveway markings or something that  
15 point to Holiday Inn Express?

16 MR. PATAL: Not on the street, but there's  
17 like directional signage that comes into the hotel.  
18 So, yes.

19 MR. DiSTEFANO: Yeah, there's one sign that  
20 they were given approvals for that's basically just off  
21 of Crittenden, by where you would enter for the Crab  
22 Shack, there's a little free-standing enter sign for  
23 the hotel. And then there's another one if you go by  
24 the plaza portion, the main entrance into Corporate  
25 Woods, there's like a directional sign as you get to

1  
2 the T, which they could put there Holiday Inn sign, you  
3 know, small sign.

4 MR. CHOLETTE: Other than the fact that the  
5 signage might be detrimental to the guests that are  
6 inside, is there anything unique about either your  
7 building - it's location - or anything else that is  
8 unique so that you need a sign up toward the top of the  
9 building, relative to any other building that would  
10 like to have their sign higher so that they're more  
11 visible?

12 There's another hotel across near where  
13 Friday's is across the street. They have a sign at an  
14 appropriate level I believe.

15 So what is special about --

16 MR. PATAL: There's is up higher too.

17 MR. CHOLETTE: It's not up at the sixth  
18 floor.

19 MR. PATAL: If you are referring to the  
20 Country Inn Suites, that is one of our properties. And  
21 I believe we had to come in here for the variance,  
22 because it's a four-story building and it's mounted at  
23 the top.

24 MR. CHOLETTE: I don't think it is. I think  
25 you're wrong.

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MR. PATAL: Okay.

MR. CHOLETTE: Because I drove around there and I didn't think it was up there.

Did anyone drive around this area?

MR. MIETZ: I didn't know how high it was. I know what you're talking about.

MR. PATAL: I mean, it's -- the hotel itself -- I mean, when you're going through Corporate Woods and you're not familiar with the area, it does get kind of; which way do I turn, which way do I come in, what's the left and there. I mean, that's really the only unique thing I could say that may differentiate this building versus another building in the area.

MR. CHOLETTE: Okay.

MR. PATAL: And it is in like -- you know, we're not in close proximity to really any residents or anything there. I mean, the area right there is basically all commercial.

MR. CHOLETTE: Okay. Any other questions?

Fine. Thank you very much.

MR. PATAL: Thank you.

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

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

4       12A-09-14 Application of Cycle Swami LLC, lessee, and  
5 Clover Commons LLC, owner of property located at 2900  
6 Monroe Avenue, for an Area Variance from Section 205-12  
7 to allow for 97 on-site parking spaces in lieu of the  
8 minimum 110 parking spaces required by code. All as  
9 described on application and plans on file.

10           MS. VANTUCCI: Thanks. Hi, everyone. My  
11 name is Trish Vantucci, as Mr. DiStefano just described  
12 what I'm here for. Current address of this business,  
13 Cycle Swami, who I'm here representing, is 140 Hamilton  
14 Road, Fairport, New York.

15           We're interested in leasing property in  
16 Clover Commons, which is 2900 Monroe Avenue. It's  
17 where Park Avenue Bike Shop is. I'm told by the owner  
18 of the building that the space has been vacant for well  
19 over two years. And while he doesn't live locally, he  
20 has provided us some unique and really hard to turn  
21 down incentives if we can get the variance to be able  
22 to lease the space because it's been vacant for so  
23 long.

24           We want to open a yoga and indoor cycling  
25 training center which is specifically geared toward

1  
2 triathlon athletes and road cyclists in our area. If  
3 you're familiar with the Rochester Area Triathletes,  
4 the Genesee Valley Cycling Club, the Rochester  
5 Bicycling Club, Park Ave. has a cycling team, it's that  
6 kind of specific athlete geared for cycling training.  
7 And the yoga itself, unlike a breath or a prana or some  
8 of our other Rochester area local yoga studios, would  
9 specifically geared towards cyclists.

10 We think the space at 2900 Monroe Avenue is  
11 ideal for what we're looking for. It's about  
12 twenty-nine hundred and fifty square feet. But the  
13 owner did say we're going to need a parking variance if  
14 we wanted to lease the space. That was little  
15 concerning not knowing what that meant.

16 I am good friends with Andy August, who is  
17 the owner of the Park Avenue Bike Shop and I frequently  
18 shop there. So I began to speak to him - and he's very  
19 good friends with the owner of the Starbucks that's  
20 there in the plaza as well -- and as a matter of fact  
21 Andy provided a letter for me to bring tonight. I did  
22 make ten copies and I did include the original if you  
23 needed it. And then in your packet, I did start a  
24 parking survey where the hours of operation that we're  
25 looking at are really only in the morning. This is

1  
2 targeted at people prior to going to work and then  
3 getting to them after work. And this was a big pain,  
4 but I thought it would be really important and plus,  
5 honestly, we didn't want to open a business in an area  
6 no matter how ideal the space was if parking was going  
7 to be a hassle for the customers, because then nobody  
8 would come anyway. So that's why we did the parking  
9 survey.

10 MR. CHOLETTE: Just on the side, did you do  
11 the parking survey yourself or did you hire it out?

12 MS. VANTUCCI: Not all myself, no. This was  
13 a team effort of about six people.

14 MR. CHOLETTE: But it wasn't hired out to --

15 MS. VANTUCCI: Oh, no. We did --

16 MR. CHOLETTE: This is one of the best  
17 parking studies I've ever seen.

18 MS. VANTUCCI: Oh, thank you.

19 MS. SCHWARTZ: That we've ever seen.

20 MS. VANTUCCI: Thank you. I appreciate that.  
21 We don't -- knowing Andy and shopping at his  
22 store, knowing that we're going to compliment each  
23 other -- I mean -- Rick, I don't know if you passed  
24 that around?

25 MR. DiSTEFANO: Yeah, it's around.

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MS. VANTUCCI: Sorry.

He was excited at the prospect of a having a business in the plaza with him that would help him grow sales. And honestly, a lot of his cyclists and mountain bike team would hopefully train with us. So we thought of it as a win win. And then for me personally, every time I do a workout I always want a cup of coffee. So we figured Starbucks would benefit as well.

We have limited class sizes because we don't want do have any adverse effects on anyone else in the plaza. We have eight computrainers, which is the piece of equipment and I brought pictures of that if anybody would be interested. It's merely just a bike trainer. These types of classes people would bring their own bike so they're set for their size and height for the type of racing they do. So they would bring their own bike. So we have eight trainers, so the maximum riders you're ever going to have for any class is eight.

And then in the yoga studio I think you have a floor plan attached for how we potentially wanted the layout to be. The class size is sixteen. So there would never be more than sixteen in a yoga class at one time.

1  
2           And the way that we're going to control that,  
3           so everybody understands, is there are online  
4           scheduling software tools. I'm not sure if you've ever  
5           heard of the Zen Planner or there's something called  
6           Front Desk, and the one that we're going to use  
7           Mindbody: Online. So from your smartphone, from your  
8           I-pad, from your computer you can sign up for a class  
9           and once those sixteen spots are full the class closes.  
10          So that's how that's going to work. And the same thing  
11          for the computrainer piece, eight people can ride at  
12          one time, and once those classes are filled through the  
13          online tool they'll close.

14               MR. DiSTEFANO: So you expect no walk-in  
15          traffic per se?

16               MS. VANTUCCI: You can't do walk-in, yeah.

17               MR. DiSTEFANO: Okay.

18               MS. VANTUCCI: That won't be an option.

19               MR. DiSTEFANO: Thank you.

20               MS. VANTUCCI: You're welcome.

21               So in summary, with Mr. DiStefano's help,  
22          with the current businesses - if I understand  
23          everything correctly - and then added with what we  
24          would need and based on what we just described, your  
25          code would say I need twenty-six parking spaces to

1  
2 operate my business. Add that to the other stores in  
3 that plaza that equals a hundred and ten parking  
4 spaces. Unfortunately the plaza only has ninety-seven  
5 spaces. So that's why we're hoping to get a variance  
6 for the thirteen spaces in order to operate the  
7 business.

8 Now, one other thing I'll point out - and  
9 Andy mentioned this to me today when I stopped by to  
10 pick up the letter, he said, "Trish, you know the bike  
11 shop is the largest square footage store in the plaza."  
12 A lot of that square footage is used up by inventory.  
13 I'm not sure what the retail calculation is that the  
14 town uses, but he has a lot more parking spaces  
15 allotted to his business than he says he needs.

16 And the other thing he pointed out is that  
17 they don't sell a lot of bikes in the winter, so their  
18 business slows. The computrainer piece of this  
19 business as you can imagine is great in the winter. In  
20 the summer when the weather is nice people want to be  
21 outside on the bike. So that part of our business goes  
22 down. So it kind of compliments; when he's at a high,  
23 we're at a low and when we would be at a high, he would  
24 be a lower point. He does a small amount of  
25 cross-country skiing stuff to supplement during the

1  
2 winter.

3 Hopefully I explained all of that well enough  
4 so --

5 DR. LAWRENCE: You listed -- again, I agree  
6 with what they said about the parking study -- on the  
7 weekend though, do you have classes other than the  
8 times you've listed?

9 MS. VANTUCCI: No. We're only going to do --  
10 and we're not even sure we're going to do anything on  
11 Sunday, but we're only going to do 6:00 and 8:00. And  
12 then for the yoga piece, if there's private  
13 instruction, which is a one-on-one, that would be set  
14 up separately. So we don't plan to do -- otherwise --  
15 I work full-time at Wegmans, my brother who is doing  
16 this business with me is a full-time insurance  
17 adjustor. This is a supplemental business and that's  
18 why it's early in the morning and it's in the  
19 afternoon. We don't expect the weekend to be a big  
20 time.

21 The other thing we might offer to some of the  
22 local triathlon coaches in the area is that if they  
23 have a group of athletes, say they have eight cyclists  
24 they want to bring in, we would talk about renting the  
25 eight trainers to them. And generally people would

1  
2 come in and ride for an hour/hour and fifteen minutes.  
3 If you're training for a specific race like an Iron Man  
4 Triathlon, at different points during your training you  
5 need to be on that bike five, six, seven, eight hours.  
6 So in that case, on a weekend you might want to  
7 schedule a long ride and so you would have eight people  
8 in there during that time if there were eight people  
9 that were doing it. I don't know, that's a long ways  
10 for me, an hour ride is plenty.

11 MR. CHOLETTE: Any other questions?

12 This is great. Thank you very much.

13 MS. VANTUCCI: Thank you.

14 Is there anyone in the audience who would  
15 like to speak with regard to this application?

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

18 12A-10-14 Application of Corwin and Lisa Marsh, owners  
19 of property located at 398 Cromwell Drive, for an Area  
20 Variance from Sections 203-2.1B(6) and 203-16A(4) to  
21 allow a stand-by emergency generator to be located in a  
22 side yard in lieu of the rear yard behind the house as  
23 required by code. All as described on application and  
24 plans on file.

25 MR. D'ANGELO: Hi. My name is Michael

1  
2 D'Angelo, I'm from Reliable Power Systems. I'm  
3 involved with the installation of the generator and the  
4 design of the system.

5 MR. MARSH: My name is Corwin Marsh, I'm the  
6 homeowner there.

7 MR. D'ANGELO: So we're proposing placing the  
8 generator on the right side of the residence and  
9 there's several reasons why. The primary reason is it  
10 would be extremely difficult to install it in the rear  
11 yard because there's all the utilities, both the gas  
12 and the electric, where we have to make connections to  
13 the generator occur in the right front corner of the  
14 house. So in order to put the generator in the back -  
15 which is what you traditionally like to see - we would  
16 have to pass all those things not only through a small  
17 section of basement through also a crawl space, but  
18 also there's a large grade in the backyard. We  
19 couldn't put the generator on the grade without doing  
20 some major terracing and, you know, pavers and all  
21 kinds of really extensive work.

22 The other option is to go at the end of the  
23 grade, down and it would be out in the middle of the  
24 backyard. It would probably be at least  
25 twenty-five feet from the house. It would be really

1  
2 far away. And besides that, off the back of the house  
3 there's a deck there too and it's just very difficult  
4 to get through it.

5 The right side of the house -- Mr. March's  
6 house is the last house on the left. The right side of  
7 his house is opposite a ravine and the nearest house is  
8 quite a distance away. In fact, probably most cases  
9 except in winter when all the leaves are down you might  
10 not even be able to see the generator, much less hear  
11 it because it's so far way. So the space we're  
12 planning to put it - where we'd like to put it is right  
13 next to the utilities in a place that even anybody  
14 coming down the street wouldn't see it unless they  
15 literally drove a little bit past the house where it's  
16 a dead end and looked back.

17 MR. CHOLETTE: Okay. Any questions?

18 MR. DiSTEFANO: Just for the record, what's  
19 the size and decibel rating of this generator?

20 MR. D'ANGELO: It's a sixteen KW, I believe  
21 it's seventy-one or seventy-two hertz.

22 MR. MARSH: Actually it's a 65 hertz.

23 MR. D'ANGELO: Sixty-five.

24 DR. LAWRENCE: And lastly or maybe there's  
25 more, but the testing time for these generators - you

1  
2 may have heard from the other twenty of them tonight -  
3 is that varied based on size or can you say you can  
4 only test fifteen minutes --

5 MR. D'ANGELO: The way the testing works is a  
6 lot of manufacturers do it different ways. The primary  
7 purpose is to get the engine hot to burn off moisture  
8 that's condensed in the engine. Most of the  
9 manufacturers of the air-cooled ones often used in  
10 residential applications is about twelve minutes.

11 Sometimes they've been varying a little bit.  
12 Some of the software on some of the newer controllers  
13 can allow you to turn that down to six minutes. But  
14 it's not on every generator and you never know what  
15 you're going to get until you get your generator  
16 because they change the software so frequently. But  
17 usually twelve minutes is a good rule of thumb. Larger  
18 ones could go twenty minutes, sometimes even a half  
19 hour.

20 But for most air-cooled ones, like in this  
21 case here would be Generac, it's twelve minutes.  
22 That's once a week at any time you want. So that --  
23 but in this particular case there's not going to be  
24 many people around to hear it. It's so far away from  
25 anything.

1  
2 MR. CHOLETTE: When the generator is tested  
3 is there some mechanism that if it's not operating  
4 correctly it is indicated in some way or is --

5 MR. D'ANGELO: There's several levels of it.  
6 All the current models of air-cooled Generac brands  
7 have an indicator lamp on the side that's green when  
8 it's in good operating condition, there's yellow when  
9 there's a warning and red means it's offline. But now  
10 one of the most common things people are putting on  
11 them is a monitoring system that will send me a cell -  
12 a text message to let me know when the generator tests  
13 or when it goes offline. Because the generator is an  
14 out-of-site out-of-mind machine. Unlike HVHC which  
15 works and works and works and you know within fifteen  
16 minutes when it stops working, a generator can be  
17 offline for days or weeks, you might even tell  
18 yourself, "I didn't hear it exercise today, oh, I must  
19 have been vacuuming." You could easily not realize  
20 that. And even then when it exercises, that's not a  
21 hundred percent test of the system. It doesn't test  
22 the transfer switch which is the main mechanism that  
23 ties the electrical from the generator into your houses  
24 electrical system. None of them test that except for  
25 the very large, very expensive systems.

1  
2 So, yeah, there's multiple kinds of  
3 monitoring systems that are available, built right onto  
4 them and you can purchase a couple different levels of  
5 them too.

6 MR. CHOLETTE: Thank you.

7 Any other questions?

8 Fine. Thank you very much.

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

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

13 12A-11-14 Application of Delmonico's Italian  
14 Steakhouse, lessee, and Southview Commons Associates,  
15 owner of property located 125 White Spruce Blvd., for  
16 an Area Variance from Section 203-74B(3)(b) to allow a  
17 restaurant bar to be 47.75 ft. in length in lieu of the  
18 maximum 20 ft. allowed by code. All as described on  
19 application and plans on file.

20 MR. HAUSNER: Good evening. My name is  
21 Norbert Hausner, I'm principal of NH Architecture, here  
22 in Rochester. I'm going to do my best to try to be as  
23 interesting as generators. We're talking about steaks.  
24 I don't know if you guys ever deal with that. Here's  
25 the proof of everything. First of all, hopefully

1  
2 everybody has had a chance to have one of the steaks  
3 and some great food at Delmonico's. I have with me  
4 tonight Dave Gasol, dressed in the vibrant clothing of  
5 a Delmonico executive. It's Italian I think.  
6 Delmonico's is -- and also Paul Guillod, from my  
7 office.

8 Delmonico's is a single-owner entrepreneur by  
9 the name of John Wade, living in Utica. I'll give you  
10 a little bit quick, I know it's late and just give me a  
11 sign if you want me to get the heck out here. He's a  
12 single-owner guy and owned in Utica and he owns six of  
13 these locations; one in Orlando, and then a couple in  
14 Albany, Syracuse and here in Rochester. And his  
15 business -- he's been in the restaurant business for  
16 fifty years. And prides himself the fact that his  
17 locations are like a real food location.

18 Delmonico's has been around in Rochester for  
19 nine years. And this store has about a  
20 eighty-three percent food and seventeen percent alcohol  
21 relationship. So you could tell by those percentages  
22 that we're here to talk about the bar, obviously. It  
23 is a predominately food oriented type of enterprise.

24 We are expanding that location. We've had  
25 the luxury of having some available space next door.

1  
2 We're adding about a thousand square feet - a thousand  
3 sixty-four square feet to the space on the right-hand  
4 side as you're facing the building. And we're taking  
5 that opportunity to freshen up the decor after nine  
6 years.

7           One of the things that's kind of happening in  
8 the restaurant business nowadays is - and because of  
9 that location, is that it's such a strong -- first of  
10 all, this restaurant itself has such a great  
11 reputation. I don't know if you guys know it, but  
12 Delmonico's in the Albany market was just awarded, you  
13 know, it's number one in the Capital District for  
14 steaks. D&C gave it the best steak award and Rochester  
15 Rocks gave it the best steaks in Rochester. It's four  
16 stars TripAdvisor. It's not your typical run of the  
17 mill location. So it's very strong in terms of its  
18 food presentation. So what we're trying to say here by  
19 that is that this isn't a beer joint. This isn't a,  
20 you know, fly-by-night situation. They don't operate  
21 or live off of the alcohol.

22           What we're trying to show you here tonight is  
23 that based on the location -- there are hotels in the  
24 area -- there's a strong need for this operation to use  
25 that bar -- the bar is used in this location to satisfy

1  
2 what we call the road warrior; the guy who maybe is  
3 traveling out of town, stays in a local hotel like some  
4 of the ones that you had here tonight, and he wants to  
5 get a good meal. So he's going to go there and he's  
6 either going to sit by himself in a booth or he's going  
7 to have a chance to sit at a bar and have a little talk  
8 with the guy next to him or the bartender or something  
9 like that or watch a television show or something like  
10 that. You know, he can't do that at a drink rail. You  
11 can't do that, you know, in a bar that's not convenient  
12 or accommodating for that kind of application.

13 If you've been to Delmonico's, right now they  
14 inherited a bar from the previous rib place that they  
15 had there. So it's one sided, you face a wall, you  
16 don't really - you know, it's not really accommodating.

17 What I'm here to show you tonight is that the  
18 drink rail application that you -- you probably can't  
19 see it from where you are, but you can see it in the  
20 application. We have a bar that's shaped like this  
21 right now(indicating) it's a U-shaped bar, there's a  
22 certain number of seats and there's a drink rail. Now,  
23 I know that the drink rail is not a bar because you  
24 don't get service at it, but there's a waitress  
25 constantly serving those people because they want to

1  
2 sell the alcohol and the drinks while people are  
3 waiting. But you can't eat at it. No one is going to  
4 want to sit at a tiny little rail and eat. That's a  
5 bad situation for the high food percentage atmosphere  
6 that they have here.

7 So what we've done when we expanded the  
8 restaurant by adding this piece(indicating) onto the  
9 side - which obviously the people that own the plaza  
10 are in love with - is to basically get rid of the drink  
11 rail, add some more seats for dining and to make a bar  
12 that's this size(indicating). So the statistics that  
13 you see in the application is of what we had before  
14 which was forty-nine foot three inches of drink area,  
15 if you will, seats that you could pull up a stool at.  
16 And what we have now is forty-seven foot nine inches.  
17 So, I mean, you know, it's really not a bar in the  
18 sense that you can serve drinks at because it's a drink  
19 rail, but it's, you know, still a bar in a sense.

20 We feel strongly that this will give us the  
21 atmosphere that we want to -- it's not a karaoke type  
22 of situation. The hours of operation are meant to be  
23 restaurant oriented. The restaurant closes at a  
24 tolerable evening time. It opens at a dinner hour and  
25 closes at a dinner hour. It doesn't stay open until

1  
2 two o'clock in the morning. It's not what it's about  
3 here.

4 We want to bring your attention that this  
5 organization, in Delmonico's and John Wade, are a very  
6 strong charity organization. They believe in  
7 Galisano's and they believe in, you know, the Bivona  
8 Child Advocacy Center and things like that. They  
9 wouldn't be playing around with organizations like that  
10 if they were sponsoring a lot of alcohol in situations  
11 like that. Again, this bar is not a bar type of  
12 environment.

13 We feel that maybe this district, this - I  
14 guess in your zoning ordinance it's a BF1 district.

15 MR. DiSTEFANO: Uhm-hmm.

16 MR. HAUSNER: I don't know, I think that  
17 without putting words in anybody's mouth, but Monroe  
18 Avenue is clearly a spot for that type of zoning. You  
19 know, twenty-four foot bar with a residential right  
20 behind it, small little vignettes of property. You  
21 know, it's a perfect atmosphere for something like  
22 that. You know, we've got TGI Friday's and the Crab  
23 House and, you know, everything else that's around in  
24 those spots. The nearest piece of residential property  
25 is nine hundred feet away and it's multi-family at high

1  
2 density. We've got hotels and a college campus there.  
3 So we're really kind of out of our element in terms of  
4 that district. So I think that's a case that speaks  
5 and bodes towards possibly giving us some consideration  
6 here.

7           Again, we did -- we're kind of caught off  
8 guard. We do our best to try to come in and looking  
9 for building permits purposes and sat down with  
10 everybody, and we sat down with staff and said here's  
11 our plans we're trying to put an addition on. We  
12 thought the building permit would be our biggest  
13 stumbling block and then all of a sudden the zoning  
14 ordinance came out of the woodwork. So we're here to  
15 beg your indulgence on this.

16           But I think we want to make sure that you  
17 understand the plaza, people - Bill Beach and the other  
18 people that own the plaza are a hundred percent behind  
19 it because expanding this into what -- there was a sub  
20 shop and there's always been striving people in the  
21 corner that never could make ends meet there. So  
22 Delmonico's is doing well and they do serve a lot of  
23 that corporate environment and a lot of those office  
24 spaces and things of that nature, hospitals right near  
25 there. So they do a lot of group meetings and stuff

1  
2 like that, so having some larger spaces in that  
3 restaurant will definitely help them in terms of having  
4 some additional dining space.

5 So, again, we're adding some space over in  
6 here(indicating). We're adding some seating area in  
7 front for people that don't want to be in the bar area.  
8 Right now we don't have anything for them to sit. So  
9 people can eat in the bar and basically wait in another  
10 spot in the front corner. So the interior will be  
11 upgraded and hopefully you can listen -- or not listen,  
12 if you believe what I'm saying you will allow us the  
13 variance.

14 We're here to answer any questions that you  
15 might have and thank you for --

16 MR. CHOLETTE: Are there any questions?

17 DR. LAWRENCE: Other than I do this  
18 situation, I travel for lectures and things --

19 MR. HAUSNER: You're a road warrior.

20 DR. LAWRENCE: That's what I was just going  
21 to say, I'm a road warrior.

22 MR. CHOLETTE: Glad to know it.

23 MR. HAUSNER: It's true; isn't it though?

24 DR. LAWRENCE: It's very true.

25 MR. GOLDMAN: I have a question unrelated to

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the bar.

In the addition there's a new doorway.

MR. HAUSNER: Yeah, out front.

MR. GOLDMAN: Is that going to be for emergencies and you're going to direct people to the current entrance?

MR. HAUSNER: Yeah. This will be a predominant front entrance(indicating). It's just an exit.

MR. GOLDMAN: Thank you.

MR. HAUSNER: When they had a Planning Board approval in the beginning there was a small nondescript entrance there, but it's really directed to the main entrance because that's the podium.

DR. LAWRENCE: Sure.

MR. CHOLETTE: Anything else?

MR. DOLLINGER: How much square footage is the total space?

MR. HAUSNER: I know that. Now, with the addition it's seven thousand, seven hundred and six. We added one thousand and sixty-four.

MR. DiSTEFANO: The total number of seats, dining seats?

MR. HAUSNER: I don't know that one.

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MR. DiSTEFANO: You don't know, okay.

MR. CHOLETTE: Anything else?

Fine. Thank you very much.

MR. HAUSNER: Thank you very much for your  
time, folks.

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

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

\* \* \*

REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated

At Rochester, New York

---

Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on December  
3rd, 2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

December 3rd, 2014  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

(The Board having considered the information presented  
by the Applicant in each of the following cases and  
having completed the required review pursuant to SEQRA,  
the following decisions were made:)

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

1  
2 APPLICATION 11A-03-14

3 11A-03-14 Application of O'Donnell and Associates  
4 Inc., architect, and Ronald Balcerzak, owner of  
5 property located at 163 Clover Hills Drive, for an Area  
6 Variance from Section 207-6 to allow a detached garage  
7 to be 24 ft. in height in lieu of the maximum 16 ft.  
8 allowed by code. All as described on application and  
9 plans on file. TABLED AT THE NOVEMBER 5, 2014 MEETING -  
10 PUBLIC HEARING REMAINS OPEN

11 Motion made by Mr. Cholette to approve  
12 Application 11A-03-14.

13 **FINDINGS OF FACT:**

14 1. The requested variance is the minimum variance  
15 possible to achieve the stated needs of the applicant.  
16 The garage limited to twenty-two feet in height will  
17 not be larger than the existing attached garage on the  
18 house. It will also be further from the street and  
19 therefore appear less noticeable. The garage is built  
20 into a hill and the desire to utilize the second floor  
21 of the garage having access directly from the outside  
22 to that floor is one of the reasons for the needed  
23 height requirement. The most affected neighboring  
24 property to the east of this residence is at a higher  
25 elevation due to the topography, and therefore the

1  
2 height of the proposed garage will be relatively less  
3 compared to that structure.

4 2. No other alternative can alleviate the difficulty  
5 and produce the desired result. This is, again, due to  
6 the fact the needs of the applicant is to try to access  
7 the second floor for storage purposes based on the  
8 topography of the land.

9 3. No unacceptable change in the character of the  
10 neighborhood and no substantial detriment to nearby  
11 properties is expected to result from the approval of  
12 this variance. The structure will be set back a  
13 substantial distance from the street, and other  
14 residences have garages that are similarly sized in  
15 height; in particular, this house's existing garage is  
16 at the stated height of twenty-two feet.

17 **CONDITIONS:**

18 1. This variance will apply only to the structure that  
19 was described in the application and testimony with  
20 proviso that the maximum height of the garage would be  
21 no greater than twenty-two feet.

22 2. A grading plan shall be submitted prior to the  
23 issuance of building permits depicting that the change  
24 proposed will not adversely affect the drainage onto  
25 nearby properties.

1  
2 3. There will be no utilities to the garage other than  
3 electrical and cold water.

4 4. The type of siding and the color of the siding will  
5 match that of the existing house. And the windows will  
6 be in similar style to those that are on the front of  
7 the house.

8 5. All necessary building permits shall be obtained.

9 (Seconded by Mr. Mietz.)

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

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

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2 APPLICATION 11A-04-14

3 11A-04-14 Application of Richard Samuel, owner of  
4 property located at 2799 Monroe Avenue for modification  
5 of an approved sign variance (5A-08-02) to allow for  
6 the relocation of an approved second building face sign  
7 from the rear face to a side face. All as described on  
8 application and plans on file. TABLED AT THE NOVEMBER  
9 5, 2014 MEETING - PUBLIC HEARING REMAINS OPEN

10 Motion made by Ms. Baker Leit to approve  
11 Application 11A-04-14.

12 **FINDINGS OF FACT:**

13 1. The requested modification of the sign variance  
14 will have a minimal impact on the neighborhood since it  
15 will assist in safely directing customers to the rear  
16 entrance, as the present rear signage has not  
17 alleviated the difficulty for customers to find the  
18 appropriate entrance.

19 2. This application represents the minimum variance  
20 necessary to alleviate the confusion on the customers'  
21 part as to where to enter the building, given that the  
22 main entrance to the building is from the rear parking  
23 lot.

24 3. This sign is directional in function and the  
25 lighting and size of the sign are the minimum necessary

1  
2 to assist customers at night.

3 **CONDITIONS:**

4 1. This variance applies only to the revised signage  
5 package submitted to the Board at their 12/3/14.

6 2. The building-face sign on the rear shall be  
7 removed.

8 3. All necessary Architectural Review Board and  
9 Planning Board approvals shall be obtained.

10 (Seconded by Ms. Schwartz.)

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

14 (Upon roll call, motion to approve with  
15 conditions carries.)  
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2 APPLICATION 12A-01-14

3 12A-01-14 Application of Anthony and Tiffany  
4 D'Angelo, owners of property located at 479 French  
5 Road, for an Area Variance from Sections 203-2.1B(6)  
6 and 203-9A(4) to allow a stand-by emergency generator  
7 to be located in a side yard in lieu of the rear yard  
8 behind the house as required by code. All as described  
9 on application and plans on file.

10 Motion made by Mr. Cholette to approve  
11 Application 12A-01-14.

12 **FINDINGS OF FACT:**

13 1. The requested variance is not substantial since the  
14 location of the proposed emergency generator will be  
15 well screened by vegetation from the road and the  
16 nearest neighbor. Additionally, the distance between  
17 the applicant's house and the most affected house to  
18 the west is so large as to greatly minimize any sound  
19 echoing between the two houses. The applicant has  
20 chosen a relatively small sized generator of sixteen  
21 kilowatts or less which will not produce objectionable  
22 noise during its testing or operating cycle.

23 Furthermore, the most adjacent house is closer to the  
24 street than where the generator will be located at the  
25 applicant's house, therefore also minimizing noise

1 between the two houses.

2  
3 2. No other alternative can alleviate the difficulty  
4 and produce the desired result. Placing the generator  
5 in the allowed location behind the applicant's house  
6 would be difficult and costly due to a covered patio in  
7 the backyard and the length of service lines necessary.

8 3. No unacceptable change to the character of the  
9 neighborhood is expected to result from the approval of  
10 this variance. The generator will be well screened  
11 from the street and from the neighbor's house to the  
12 west.

13 **CONDITIONS:**

14 1. This variance will apply only to the generator and  
15 its location as described in the application and  
16 testimony. It shall be screened by vegetation in such  
17 a way as to minimize seeing it or hearing it from the  
18 neighbor's house or the street.

19 2. All necessary building permits shall be obtained.

20 (Seconded by Ms. Schwartz.)

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

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

1  
2 APPLICATION 12A-02-14

3 12A-02-14 Application of John Cortese, lessee, and  
4 2525 Henrietta, Inc., owner of property located at 2425  
5 West Henrietta Road, for a Temporary and Revocable Use  
6 Permit pursuant to Section 219-4 to allow for the  
7 storage of new car inventory where not allowed by code.  
8 All as described on application and plans on file.

9 Motion made by Ms. Corrado to approve Application  
10 12A-02-14.

11 **FINDINGS OF FACT:**

12 1. The use is temporary and does not vary  
13 substantially from the permitted use that is parking.  
14 In fact, there would be a reduction in traffic entering  
15 and exiting the lot while used as a temporary location  
16 for inventory storage.

17 2. No unacceptable change in the character of the  
18 neighborhood will result and there's no detriment to  
19 nearby properties.

20 3. The hardship is not self-created, it's  
21 weather-created. The offset storage during winter  
22 months will make snow removal on the applicant's lots  
23 less complicated.

24 4. The health, safety and general welfare of the  
25 community will not be negatively impacted.

**CONDITIONS:**

1. The lot will be used for storage only. No sales will be conducted there.

2. Only new cars will be stored on this lot.

3. No cars will be parked in the spaces to the front of the existing building adjacent to the road.

4. No marking signage may be mounted.

5. Access to the lot will be appropriately restricted, allowing access only to the applicant's employees and only during business hours.

6. This temporary use permit expires as of 6/1/15.

(Seconded by Ms. Schwartz.)

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

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

1  
2 APPLICATION 12A-03-14

3 12A-03-14 Application of the Top Deal Corporation,  
4 owners of property located at 2835 Monroe Avenue, for  
5 modification of previously approved variances (3A-02-03  
6 and 7A-03-03) allowing for a change to an approved sign  
7 on a second building face. All as described  
8 on application and plans on file.

9 Motion made by Mr. Mietz to approve Application  
10 12A-03-14.

11 **FINDINGS OF FACT:**

12 1. While the proposed sign is in excess of the current  
13 sign which has a variance to allow thirty-two square  
14 feet, the proposed sign exceeds this size only due to  
15 the presence of the rose feature which is centered with  
16 the top of the sign.

17 2. All findings of earlier approvals still apply.

18 **CONDITIONS:**

19 1. This variance modification only applies to the sign  
20 as submitted in application and per testimony given.

21 2. All necessary Architectural Review Board and  
22 Planning Board approvals shall be obtained.

23 (Seconded by Ms. Baker Leit.)

24 (Ms. Corrado, yes; Mr. Goldman, no; Ms.  
25 Schwartz, yes; Dr. Lawrence, yes; Mr. Cholette, yes;

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Ms. Baker Leit, yes; Mr. Mietz, yes.)

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

1  
2 APPLICATION 12A-04-14

3 12A-04-14 Application of Wegmans Companies, Inc.,  
4 owner of property located at 1350 Westfall Road, for an  
5 Area Variance from Section 203-1.1B(8) to allow a  
6 stand-by emergency generator to have a 77.6 decibel  
7 sound rating in lieu of the maximum 72 decibel sound  
8 rating allowed by code. All as described on application  
9 and plans on file.

10 Motion made by Dr. Lawrence to approve Application  
11 12A-04-14.

12 **FINDINGS OF FACT:**

13 1. Although this variance is substantial it is  
14 mitigated by the great distance from nearby properties  
15 and buffered by the fact that the location of it is  
16 sheltered behind a wing of the building that would help  
17 minimize the sound from reaching the nearest neighbors  
18 to the west.

19 2. The applicant has stated that this is the smallest  
20 generator that will meet the needs of supplying backup  
21 power to the assisted living facility.

22 3. No unacceptable change in the character of the  
23 neighborhood and no substantial detriment to nearby  
24 properties is expected to result by the approval of  
25 this variance because of its such great distance from

the nearest residential property.

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

**CONDITIONS:**

1. This variance will only apply to the generator and its location as described in application and in testimony.

2. The generator will be tested for the duration indicated in testimony during daylight hours.

3. The generator, in particular, shall be enclosed with the type 2 acoustical enclosure.

4. All necessary building permits shall be obtained.

(Seconded by Ms. Schwartz.)

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

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

1  
2 APPLICATION 12A-05-14

3 12A-05-14 Application of Norman Adams, owner of  
4 property located at 8 Glenhill Drive, for renewal of a  
5 Temporary and Revocable Use Permit (12A-05-12) pursuant  
6 to Section 219-4 allowing for the outdoor storage of a  
7 recreational vehicle where not allowed by code. All as  
8 described on application and plans on file.

9 Motion made by Mr. Mietz to approve Application  
10 12A-05-14.

11 **FINDINGS OF FACT:**

12 1. The use permit is a renewal of a previously granted  
13 permit by this Board under application 12A-05-12. The  
14 use continues under similar circumstances. There have  
15 been no complaints due to the previous granting of the  
16 temporary and revocable use permit.

17 2. The utilization of this vehicle is for emergency  
18 purposes. It mitigates the impact of having the  
19 recreational vehicle of this kind located in the side  
20 yard.

21 3. The vehicle is utilized for emergency situations in  
22 Monroe County and other areas equipped with emergency  
23 equipment and auxiliary power and is used as a backup  
24 to the County Emergency Communication Program.

25 **CONDITIONS:**

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2 1. The recreational vehicle shall not be permitted in  
3 the front yard. It shall be located in the side yard  
4 of the house and no closer than ten feet from the side  
5 property line in such a way that no portion of the  
6 vehicle protrudes past the front of the garage.

7 2. Suitable screening will be continually maintained  
8 between the vehicle and the side lot line.

9 3. The temporary and revocable use permit shall only  
10 apply for the two years and apply only to the vehicle  
11 as it's presently owned or for replacement of the same  
12 size and type.

13 4. The use permit shall expire upon termination of the  
14 owner's association with the County Emergency Response  
15 System.

16 5. This temporary and revocable use permit is valid  
17 only for the period ending on December 4th, 2015.

18 (Seconded by Ms. Schwartz.)

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

22 (Upon roll call, motion to approve with  
23 conditions carries.)  
24  
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1  
2 APPLICATION 12A-06-14

3 12A-06-14 Application of New Cingular Wireless  
4 PCS, LLC, lessee, and Jewish Community Center of  
5 Greater Rochester, Inc., owner of property located at  
6 1200 Edgewood Avenue, for an Area Variance from Section  
7 203-2.1B(6) to allow for the installation of a diesel  
8 powered stand-by emergency generator where only an LP  
9 gas or natural gas powered generator is allowed by  
10 code. All as described on application and plans on  
11 file.

12 Motion made by Ms. Schwartz to approve  
13 Application 12A-06-14.

14 **FINDINGS OF FACT:**

- 15 1. There is insufficient space to install an LP tank  
16 within the enclosed equipment compound.  
17 2. For all practical purpose there is no access to  
18 natural gas at the location of the generator.  
19 3. The proposed diesel generator has a fuel tank  
20 within the unit, thus eliminating any additional space.  
21 4. The proposed equipment meets all federal, state and  
22 local environmental and noise standards.  
23 5. The diesel fuel tank is hundreds of feet away from  
24 the JCC and any residential property.

25 **CONDITIONS:**

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1. This variance applies only to the diesel generator as described in testimony and written application.

2. All necessary building permits shall be obtained.

(Seconded by Ms. Corrado.)

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

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

1  
2 APPLICATION 12A-07-14

3 12A-07-14 Application of NYS Sitepower Corp.,  
4 contractor, and Cynthia Kozlowski, owner of property  
5 located at 1 Milford Road, for an Area Variance from  
6 Sections 203-2.1B(6), 203-9A(4) and 207-7 to allow a  
7 stand-by emergency generator to be located in an area  
8 of a side yard not allowed by code. All as described on  
9 application and plans on file.

10 Motion made by Ms. Baker Leit to approve  
11 Application 12A-07-14.

12 **FINDINGS OF FACT:**

13 1. The requested variance is not substantial as this  
14 is a corner lot where a generator would be allowed to  
15 be placed in a side yard. However, the function and  
16 placement of this generator in relation to the  
17 neighboring garage that creates the necessity for the  
18 variance.

19 2. No unacceptable change in the character of the  
20 neighborhood will occur to nearby properties because  
21 landscaping will shield the generator from view.

22 3. No other alternative can alleviate the difficulty  
23 and produce the desired result because the placement of  
24 the generator on the side yard is necessary due to the  
25 location of the utilities and electricity.

4. The alleged hardship is not self-produced by the applicant.

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

**CONDITIONS:**

1. This variance applies only to the generator as described in the application and testimony.

2. Testing of the generator shall occur once a week during daylight hours, on a week day for up to a half an hour.

3. The landscaping shall be maintained around the generator.

4. All other necessary building permits shall be obtained.

(Seconded by Ms. Schwartz.)

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

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

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2 APPLICATION 12A-08-14

3 12A-08-14 Application of Minesh Patal, agent, and  
4 River Road Hospitality Associates LLC, owner of  
5 property located at 717 East River Road, for a Sign  
6 Variance from Section 207-32B(3) to allow a building  
7 face sign (south elevation) to be located 49.25 ft.  
8 above grade in lieu of the maximum 20 ft. allowed by  
9 code. All as described on application and plans on  
10 file.

11 Motion made by Mr. Mietz to approve Application  
12 12A-08-14.

13 **FINDINGS OF FACT:**

14 1. The sign is necessary for the applicant because the  
15 hotel is: 1. Not on a direct access road to  
16 Crittenden. 2. Is a great distance from Crittenden -  
17 over five hundred feet. 3. The grade change from both  
18 East Henrietta Road and Crittenden Road to the hotel.  
19 All of these factors make it more difficult to locate  
20 the hotel, thereby necessitating the need for a sign at  
21 the greater elevation.

22 2. No negative impact on the character of the  
23 neighborhood will result from the approval of this  
24 variance.

25 3. The safety and welfare of the neighborhood will be

1  
2 enhanced due to the better delineation of a property  
3 that may be routinely visited by people from out of  
4 town.

5 **CONDITIONS:**

6 1. This variance applies only to the sign as per plans  
7 submitted and plans given.

8 2. All necessary Architectural Review Board and  
9 Planning Board approvals shall be obtained.

10 (Seconded by Mr. Goldman.)

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

14 (Upon roll call, motion to approve with  
15 conditions carries.)  
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2 APPLICATION 12A-09-14

3 12A-09-14 Application of Cycle Swami LLC, lessee,  
4 and Clover Commons LLC, owner of property located at  
5 2900 Monroe Avenue, for an Area Variance from Section  
6 205-12 to allow for 97 on-site parking spaces in lieu  
7 of the minimum 110 parking spaces required by code. All  
8 as described on application and plans on file.

9 Motion made by Ms. Corrado to approve Application  
10 12A-09-14.

11 **FINDINGS OF FACT:**

12 1. The requested variance is not substantial as the  
13 applicant has demonstrated the pattern of use will not  
14 impact peak use times on the existing businesses in the  
15 plaza. Further, it is not substantial as the nature of  
16 the business hours of operation are earlier and later  
17 than the other businesses and is limited to small group  
18 instruction.

19 2. No other alternative can alleviate as there's no  
20 means for expanding the parking and it's not  
21 self-created.

22 **CONDITIONS:**

23 1. This variance applies only to the applicant  
24 business as described in the application and testimony.

25 2. The hours of operation should predominately be

beginning at 5:00 a.m. and concluding at 8:00 a.m. and  
resuming at 6:00 p.m. and concluding at 9:00 p.m.

3. Maximum class size for cycling is eight and maximum  
class size for yoga is sixteen.

4. All necessary Planning Board approvals for extended  
hours of operation shall be obtained.

(Seconded by Ms. Baker Leit.)

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

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

1  
2 APPLICATION 12A-10-14

3 12A-10-14 Application of Corwin and Lisa Marsh,  
4 owners of property located at 398 Cromwell Drive, for  
5 an Area Variance from Sections 203-2.1B(6) and  
6 203-16A(4) to allow a stand-by emergency generator to  
7 be located in a side yard in lieu of the rear yard  
8 behind the house as required by code. All as described  
9 on application and plans on file.

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

12 **FINDINGS OF FACT:**

13 1. The placement of the generator in the rear yard is  
14 not feasible due to the grading and location of the  
15 utilities.

16 2. The requested location will not create an  
17 undesirable change to the neighborhood because the  
18 generator will be placed on the side of the property  
19 that has no immediate neighbors.

20 **CONDITIONS:**

21 1. This variance will apply only to the generator and  
22 its placement as described in the application and  
23 testimony given.

24 2. Testing will occur once a week, on a weekday during  
25 daylight hours.

3. All necessary Brighton permits shall be obtained.

(Seconded by Ms. Baker Leit.)

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

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

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2 APPLICATION 12A-11-14

3 12A-11-14 Application of Delmonico's Italian  
4 Steakhouse, lessee, and Southview Commons Associates,  
5 owner of property located 125 White Spruce Blvd., for  
6 an Area Variance from Section 203-74B(3)(b) to allow a  
7 restaurant bar to be 47.75 ft. in length in lieu of the  
8 maximum 20 ft. allowed by code. All as described on  
9 application and plans on file.

10 Motion made by Dr. Lawrence to approve  
11 Application 12A-11-14.

12 **FINDINGS OF FACT:**

13 1. Although this location is considered BF1 for zoning  
14 purposes, in reality it acts as a BF2 as there are not  
15 nearby residential neighbors. BF2 properties do not  
16 have a bar length limitation.

17 2. Although the request may be considered substantial,  
18 it is the minimum necessary to produce the desired  
19 result for the applicant. This is due to the location  
20 near many hotels and many of the patrons being  
21 individual customers preferring to eat at a counter/bar  
22 rather than booth or table.

23 3. No unacceptable change in the character of the  
24 neighborhood and no detrimental effect to nearby  
25 properties is expected to result from the approval of

1  
2 this variance.

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

6 **CONDITIONS:**

7 1. This variance will only apply to the new restaurant  
8 bar as described in application and testimony.

9 2. This variance will only apply to Delmonico's  
10 Italian Steakhouse.

11 (Seconded by Mr. Mietz.)

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

15 (Upon roll call, motion to approve with  
16 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

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Chad L. Smith



**A**  
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