

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on January
7th, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

January 7th, 2015
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN
CANDICE BAKER LEIT, ESQ.
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ

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

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2 MR. MIETZ: I would like to call to order the
3 January 2015 session of the Brighton Zoning Board of
4 Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Brighton Pittsford Post of
8 January 1st, 2015.

9 MR. MIETZ: Would you please call the roll?

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

12 MR. MIETZ: We have a long, large stack of
13 minutes.

14 Do you have any --

15 MS. SCHWARTZ: Yes.

16 MR. MIETZ: I would have been disappointed if
17 you didn't and so would Chad.

18 MS. SCHWARTZ: On page 20, line 25, the first
19 word should be by, not from.

20 On page 25, line 5, delete give, and after
21 the word you insert can give.

22 On page 31, line 22, the second to last word should
23 be signage.

24 Page 32, line 8, insert the word take after the
25 word and.

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2 On page 39, line 19, the second to last word is
3 emits.

4 Page 51, line 3, the third word is k-n-o-w.

5 Page 88, line 12, the second word is to, t-o.

6 Page 120, line 25, I believe the word such should
7 be deleted, because of its great distance - you don't
8 need such.

9 MR. MIETZ: That's fine.

10 MS. SCHWARTZ: Page 126, on line 17, I
11 deleted the word that.

12 Page 128, line 17, finding #3, there is a
13 grade change.

14 MS. CORRADO: I've got a couple others to
15 add.

16 Page 53, line 21, the last word should be
17 mobile, m-o-b-i-l-e.

18 And page 116, line 21, offset should be off
19 set, two words.

20 MS. BAKER LEIT: I just have a couple.

21 Page 37, there's an extra space on line 19
22 between all and ow, it should be allow.

23 On page 40, line 22, alternate should be
24 alternative.

25 On page 59, line 25, diesel is misspelled.

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2 That's the only place it's misspelled.

3 Page 113, line 5, it reads revised signage
4 package submitted to the Board at their 12/3/14, just
5 add the word meeting at the end of the sentence.

6 (Motion made by Ms. Baker Leit to approve the
7 amended December minutes.)

8 (Seconded by Ms. Schwartz.)

9 (Upon roll call, motion to approve the amended
10 December minutes carries.)

11 MR. MIETZ: Rick, will you read the first
12 application?

13 1A-01-15 Application of F & H Development, owner of
14 property located at 1338 Brighton Henrietta Town Line
15 Road, for a Temporary and Revocable Use Permit pursuant
16 to Section 219-4 to allow for the temporary outdoor
17 storage of construction equipment where not allowed.
18 All as described on application and plans on file.

19 MR. DiSTEFANO: State your name and address
20 for the record.

21 MR. HOWARD: David Howard, F&H Development,
22 1338 Brighton Henrietta Town Line Road.

23 MR. DiSTEFANO: Kind of just explain what you
24 want to do.

25 MR. HOWARD: We're looking for a temporary

1
2 use for twenty-four months to get coordinated with
3 future project plans working with the DEC Start-Up New
4 York Program that we're involved with and to coordinate
5 studies with the architect - engineers for an eight
6 thousand square foot structure on the property.

7 MR. MIETZ: What has got to be stored -- we
8 read construction equipment; like what?

9 MR. HOWARD: I'm sorry?

10 MR. MIETZ: What type of construction
11 equipment?

12 MR. HOWARD: Construction trailers, landscape
13 trailer, small six-wheel dump truck and a mini
14 six-wheel dump truck.

15 MS. SCHWARTZ: And this will all be behind
16 the fence that you have up?

17 MR. HOWARD: Yes, ma'am, that's correct, on
18 the back side of the property. That side of the
19 property is bordered on both sides by wooded areas on
20 both sides.

21 MR. MIETZ: Right.

22 MR. HOWARD: In the back there's a small pond
23 that we're working with the DEC now, an EPOD permit, to
24 get that approved so we can shorten the distance from
25 the edge of the water. It's on the base of the

1
2 property line right now. We're in the process of
3 working with them right now to get that submitted and
4 approved.

5 MR. MIETZ: So how would you describe what
6 someone's going to see from the street based on the
7 proximate distance?

8 MR. HOWARD: They're going to see a fence and
9 the elevation of the land. And the equipment will be
10 down to the back edge of the property line. So it's
11 not anywhere near the front of the road or not visible
12 from the street.

13 MR. MIETZ: Is that area going to be lit?

14 THE WITNESS: Yes.

15 MR. MIETZ: Okay. All night or --

16 THE WITNESS: Just dimly for security
17 purposes. So -- and our neighbors on the other side of
18 us, they have their facility quite lit up.

19 MR. MIETZ: Yes.

20 MS. SCHWARTZ: I may have missed it, but did
21 you ask for a length of time?

22 MR. HOWARD: Twenty-four months if we could.

23 MS. SCHWARTZ: Two years?

24 MR. HOWARD: If we could, yeah.

25 MS. BAKER LEIT: Just for the record, how far

1
2 back would these materials be from the front?

3 It looks like it's several hundred feet?

4 MR. HOWARD: It's roughly a hundred and
5 seventy-two, a hundred and seventy-three feet off the
6 road.

7 MS. BAKER LEIT: Okay. Thank you.

8 MR. DiSTEFANO: And how far is that from the
9 wetland area?

10 MR. HOWARD: Right now we're not quite a
11 hundred foot from the edge of the water forward. So it
12 would be right in front of that hundred foot right now.
13 So we're probably a hundred foot or you're talking
14 probably eighty foot from the sidewalk back.

15 MR. DiSTEFANO: So the parking of the
16 vehicles is actually in that buffer area?

17 MR. HOWARD: Yeah, it's going to be right on
18 the edge of that buffer area.

19 MR. DiSTEFANO: So the vehicles would be in
20 the buffer or would the buffer be at the back end of
21 the vehicles?

22 MR. HOWARD: The buffer is going to be at the
23 back end of the vehicles.

24 MR. DiSTEFANO: And is that area flagged?
25 Did the DEC come out and flag it?

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2 MR. HOWARD: Originally when we purchased the
3 property, yes.

4 MR. DiSTEFANO: Purchased the property?

5 MR. HOWARD: Yes.

6 MR. DiSTEFANO: So you know you're going to
7 be out of that area?

8 MR. HOWARD: Yes.

9 MR. DiSTEFANO: Could -- one issue that I
10 would see is that oil leakage or anything like that in
11 that wetland buffer, you know, we want to make sure
12 that nothing --

13 MR. HOWARD: Train tracks is back there.

14 MR. DiSTEFANO: Right. So we want to make
15 sure that stays out of the buffer - the wetland buffer
16 area at this point in time.

17 So again, just for the record, there's like
18 backhoes - none of that, it's really just trailers and
19 dump trucks?

20 MR. HOWARD: Yeah, a small dump truck and a
21 small -- we have a skid steer.

22 MR. DiSTEFANO: I'm sorry, a what?

23 MR. HOWARD: A small skid steer.

24 MR. DiSTEFANO: Oh, like a Bob Cat?

25 MR. HOWARD: Yeah. And usually it's always

1
2 transgressing. It's in and out a lot so it's never
3 really there permanently all the time.

4 MR. DiSTEFANO: About how many pieces would
5 you guess are there at your heaviest load time?

6 MR. HOWARD: Six.

7 MR. DiSTEFANO: Six pieces at the heaviest
8 load time?

9 MR. MIETZ: Including the trailers?

10 MR. HOWARD: Uhm-hmm.

11 MR. DiSTEFANO: Okay.

12 MR. MIETZ: All right. Any other questions
13 for the applicant?

14 Thank you very much.

15 Is there anyone in the audience that would
16 like to speak regarding this application?

17 If not, the public hearing is closed.

18 1A-02-15 Application of Teresa Viggiani, agent, and
19 Sawgrass Associates, LLC, owner of property located at
20 160 Sawgrass Drive, for a Sign Variance from Section
21 207-32A(5) to allow a building directory sign to be
22 located in such a manner as to be readable from
23 Sawgrass Drive where not allowed by code. All as
24 described on application and plans on file.

25 MR. MIETZ: Good evening.

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MS. VIGGIANI: Hi.

MR. MIETZ: If you could just give us your name and address please?

MS. VIGGIANI: Teresa Viggiani, and I'm from Sawgrass Associates, which is for the property on 160 Sawgrass Drive.

MR. MIETZ: Okay.

MS. SCHWARTZ: How long have the two signs been up?

MR. MIETZ: Go ahead, Teresa.

MS. SCHWARTZ: Sorry.

MS. VIGGIANI: The only sign I'm here trying to get a variance for is one that's not obviously existing. So I'm trying to place a sign right as you come in off of Sawgrass Drive to try to catch patients' attention. Because right now basically the signage that is on the property is set back in.

And if you look at the site plan that I submitted the way the islands are laid out you have the ability to come in right off of Sawgrass Drive and make your first right, and there's no signage in that first island there. So what happens is a lot of patients turn right, they round the corner, they park, or they're in a medical transport vehicle and they get

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2 loaded in -- I'm the project manager for this property,
3 so I'm here telling you first hand what I witnessed.
4 These elderly patients get unloaded all the way into
5 the building only to find out that the suite that
6 they're looking for is in the back of the building. So
7 they have to load back up and drive around to the back
8 and then enter through the back of the building.

9 So what I'm trying to do is put a sign right
10 as you come in off of Sawgrass - not right there, but
11 set back, I don't know, maybe thirty feet just so as
12 soon as they're coming in they can see a sign that says
13 all the suites, tenants names, as well as front
14 entrance or rear entrance, so that they know that I
15 need to park here or I need to go around the back and
16 park in that lot.

17 MR. MIETZ: Okay. How long have you - has
18 this condition existed?

19 MS. VIGGIANI: Since basically the building
20 opened up for operation I've noticed it. And I've been
21 the property manager there for I would say eight years.

22 MR. MIETZ: So is it getting worse or --

23 MS. VIGGIANI: It's just always -- it's --
24 well, yeah, as more tenants, you know, originally we
25 had one tenant in the building and now the building is

1
2 fully occupied. So, yeah, I see it constantly. And
3 actually tenants have reached out to me. The U of R in
4 fact - which occupies three quarters of the building -
5 it's a big concern for them too.

6 MS. SCHWARTZ: So how long have those two
7 signs been up, you said eight years?

8 MS. VIGGIANI: The existing signage that's
9 there is actually multiple signs; there's one, two and
10 then three in the back - one in the back, so that makes
11 three. They've been there probably since the building
12 was built.

13 MS. SCHWARTZ: And question: Why did you
14 make them so small and put up two originally?

15 I mean they're really small.

16 MS. VIGGIANI: Yeah. Good question.

17 I wasn't part of the design of that, so I
18 would have never agreed to that myself. What happens
19 is the construction team kind of designs that or works
20 with the signage company. Then when it's complete it
21 comes to me to manage and I deal with the headaches,
22 the tenants complaining saying why did you guys do this
23 and I'm like I don't know.

24 MR. DiSTEFANO: I think one of the reasons
25 they did that is keeping it under the two square feet

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2 and in the code we have under the two square feet it's
3 not a sign, it's more of a directional helping to the
4 public. So, you know, I think they probably kept them
5 under two square feet.

6 Now what they're proposing are actual
7 directory signs, which can be larger. And they have
8 the two that are close to the building, which are fine.
9 They can't be read from the road. The third one, the
10 only reason they're here is because it may be read from
11 the road itself, which is not permitted by the code.

12 MS. VIGGIANI: Right.

13 MR. DiSTEFANO: So the other ones that are
14 currently there are meeting the two square foot signage
15 requirement.

16 MS. VIGGIANI: And I'm actually -- I
17 submitted a previous sign application for some of the
18 existing signs to replace them with more legible
19 signage, in different colors and different wording;
20 instead of east and west entrance, front and rear.
21 Just more legible, more, you know, for the patients to
22 understand. So that's separate.

23 MS. SCHWARTZ: When I went there they had me
24 drive close enough to the building, but when I went in
25 I saw just the two on the grass area.

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You're saying now --

MR. DiSTEFANO: Go further back, there's another one.

MS. VIGGIANI: There's another one in the back, yeah.

MS. SCHWARTZ: Behind the building?

MS. VIGGIANI: Correct.

MR. DiSTEFANO: Yes.

MS. SCHWARTZ: Oh, okay.

MR. DiSTEFANO: And for the record, there is if you walked in off the let's call it the front entrance --

MS. VIGGIANI: Right.

MR. DiSTEFANO: -- you can't get to --

MS. VIGGIANI: The back, correct.

MR. DiSTEFANO: You can't get to the back?

MS. VIGGIANI: Correct. And that's the problem. After they're, you know, cumberously getting unloaded and finally getting to the building, only to find out oh, my God, my tenant is in the back, I have to get back in my car. So then they get angry and then it's just a frustration for everybody.

And also, you know, which is aesthetically not very pleasing, there's signage - like paper signs -

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2 that tenants have posted on the inside of the door by
3 their suites saying the back tenants you have to exit
4 the building and walk. So it's ugly, you know, the
5 paper signs that were posted and --

6 MS. SCHWARTZ: So your three signs will come
7 down and be replaced by this one?

8 MS. VIGGIANI: No. So what's happening is
9 I'm asking for a variance for this right at the front.
10 There's two other signs that are at the front of the
11 property. I'm removing one. The other one I'm trying
12 to replace with a more legible one; different words,
13 you know, different colors. And then the one in the
14 back - which is existing - I'm also trying to replace
15 that with a more legible --

16 MS. SCHWARTZ: Why would you need the two in
17 the front then?

18 MS. VIGGIANI: Why would I need the two in
19 the front?

20 MS. SCHWARTZ: Yeah.

21 MS. VIGGIANI: Well, we're getting rid of
22 one.

23 MS. SCHWARTZ: Yeah.

24 MS. VIGGIANI: And the other one is just for
25 redundancy. Just based on the way the islands are laid

1
2 out, I just think in case, you know, people are
3 missing, you know -- it's just for redundancy.

4 MS. SCHWARTZ: But the new one is larger,
5 right?

6 MS. VIGGIANI: The new one is -- what's it
7 for --

8 MR. MIETZ: I don't think we have the
9 dimensions.

10 MS. SCHWARTZ: It looked like it.

11 MS. VIGGIANI: Nope, same size, 40x60 -- oh,
12 I'm sorry, for the one that's existing. A little bit
13 bigger, yes.

14 MS. SCHWARTZ: Yeah, they are.

15 MS. VIGGIANI: Yup.

16 MS. SCHWARTZ: And you don't feel that you
17 could manage with just one?

18 MS. VIGGIANI: Well, it's always good to have
19 -- I mean, there's - they put that many there already
20 now, you know. There's the one, two and then the one
21 in the back. So obviously we're trying to catch as
22 many -- I mean, I would say ninety percent of the
23 people that come to this building are elderly.

24 So I think being that I'm getting rid of the
25 one in the front and asking for this one, just to have

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2 that second one for redundancy because most of the
3 patients do go in the front.

4 MS. SCHWARTZ: How many of the patients would
5 you say are repeat?

6 MS. VIGGIANI: Oh, I would say seventy-five
7 to eighty percent.

8 MS. SCHWARTZ: Wouldn't they know it the next
9 time they're there?

10 MS. VIGGIANI: You would think.

11 MS. SCHWARTZ: I'm just trying to cut down on
12 the number of signs.

13 MS. VIGGIANI: I hear you.

14 MR. MIETZ: Are we clear enough on what's
15 staying and what's leaving?

16 MR. DiSTEFANO: I would just say in the code
17 there is no limit to the number of directory signs. So
18 if they want to have three that won't be read from the
19 road they could do that.

20 Again, it's just that one that's being read
21 from the road that really is --

22 MS. VIGGIANI: And I think it was very, kind
23 of, on the line of whether it's going to be read, you
24 know --

25 MR. DiSTEFANO: It could be on the line,

1
2 yeah. We don't know.

3 MS. VIGGIANI: Because the letters themselves
4 are fairly small.

5 MR. MIETZ: Yup.

6 MS. VIGGIANI: So I don't even know if it's
7 going to be legible, but I wanted to be safe.

8 MR. MIETZ: Are we clear on that?

9 Okay. Thank you very much.

10 MS. VIGGIANI: Thanks.

11 MR. MIETZ: Is there anyone in the audience
12 that would like to speak regarding this application?

13 If not, this public hearing is closed.

14 1A-03-15 Application of the John Moody, agent, and
15 Elizabeth Haggerty, owner of property located at 1041
16 Highland Avenue, for an Area Variance from Section
17 203-2.1B(6) to allow a stand-by emergency generator to
18 be located in a side yard 6 ft. from a lot line in lieu
19 of the rear yard, behind the house, no closer than 10
20 ft. from a lot line as required by code. All as
21 described on application and plans on file.

22 MR. MIETZ: Good evening.

23 MR. MOODY: Hi. I'm John Moody, at the
24 residence 1041 Highland Avenue in Brighton.

25 MR. MIETZ: Okay.

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2 MR. MOODY: And I live with Elizabeth
3 Haggerty, who because of her physical condition is
4 really not able to get out. She has extreme rheumatoid
5 arthritis.

6 MR. MIETZ: Okay.

7 MR. MOODY: Which is the main motivation for
8 us wanting to have a stand-by generator available
9 should the electricity go out.

10 MR. MIETZ: Okay.

11 MR. MOODY: To be able to maintain the heat
12 and the stairway lift that's required for her to get up
13 and down the stairs. She's not able to go up and down
14 on her own power generally speaking.

15 MR. MIETZ: All right.

16 MR. MOODY: And then what else do I need?

17 MR. MIETZ: How about why you are proposing
18 it in the location that you're proposing?

19 MR. MOODY: The practicality of the location,
20 it's right next to where the gas line comes into the
21 house in the northwest - northeast corner of the house.
22 We're proposing to have it -- it's behind a brick - a
23 stone wall that is actually physically attached to the
24 house. It's completely invisible from the street side.
25 And it's in a shielded area where it's protected from

1
2 the wind and weather. And in terms of hooking the unit
3 up into the existing electricity and gas, it's really
4 the best possible location and to put it -- there's
5 practically no place behind the house to put it.

6 MR. MIETZ: Okay.

7 MR. MOODY: Really, unfortunately it's just
8 the way the house is constructed. It's a very narrow
9 lot. Just really isn't enough level, flat ground
10 without getting into - we would have to get bulldozers
11 in or something.

12 MR. MIETZ: Okay.

13 MR. DiSTEFANO: Do you know the decibel
14 rating of the proposed unit?

15 MR. MOODY: Actually, I did discover that.
16 It's on the application.

17 MR. DiSTEFANO: I think what you submitted
18 says sixty-two decibels; is that correct?

19 MR. MOODY: Yup. That sounds right, yeah. I
20 believe it was sixty - in the low sixties.

21 MR. DiSTEFANO: And it would be the eight
22 kilowatt unit that you would be proposing?

23 MR. MOODY: Yeah, it's the smaller wattage.

24 MR. DiSTEFANO: The smaller one.

25 MR. MIETZ: Any other questions for Mr.

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Moody?

MR. DiSTEFANO: Have you talked to your neighbors at all, the most directly affected neighbor?

MR. MOODY: Our neighbors - the Mahoneys(phonetic) - on the left-hand side - they really wouldn't be able to see it.

MR. DiSTEFANO: Not so much the seeing it, it's the noise.

MR. MOODY: Well, I guess, you know, the only time it would be running would be if there was a power outage. Which, knock on wood, has never really happened since we've been there these past ten years. But that would be the only time that it would actually be engaged.

The side of their house where it is, those are like bedroom sides of the house. And I'm not exactly sure what the footage is, but it's - it must be at least ten yards or more from the edge of the property to where there house is.

MR. MIETZ: So where the generator is would be about thirty feet you said?

MR. MOODY: Yeah.

MR. DiSTEFANO: And you said that is the living side of the house, it's not like the garage is

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2 there?

3 MR. MOODY: No, the garage is on the other
4 side. But there aren't like -- there's small bedroom
5 windows. Their electrical box would be on the side of
6 the house that would be facing that area of ours.

7 MS. CORRADO: How often would you be testing
8 it and for how long and what time of day?

9 I understand these have to be tested
10 periodically.

11 MR. MOODY: I haven't really thought that
12 far. I would imagine during the middle of the day, you
13 know, it wouldn't be a particular disturbance to
14 anyone.

15 MR. MIETZ: Okay. Any other questions?

16 Thank you.

17 MR. MOODY: Thank you.

18 MR. MIETZ: Is there anyone in the audience
19 that would like to speak regarding this application?

20 If not, the public hearing is closed.

21 1A-04-15 Application of Yolickity Brighton, LLC,
22 lessee, and 2600 Elmwood, LLC, owner of property
23 located at 2600 Elmwood Avenue, for 1) an Area Variance
24 from Section 203-64B(4)(h) to allow a front yard dining
25 area to abut a residential district where not allowed

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2 by code; and 2) an Area Variance from Section 205-7 to
3 allow impervious coverage to increase from 72.4% to 73
4 % where a maximum 65% impervious coverage is allowed by
5 code. All as described on application and plans on
6 file.

7 MR. MIETZ: Okay. Good evening.

8 MR. CRAB: Good Evening. My name is John
9 Crab, I'm one of the owners of Yolickity Frozen Yogurt
10 Bar. My address is 603 Fox Hunt Drive. I figured with
11 it being negative twenty degrees outside it would be a
12 great time to talk about outdoor seating.

13 As you guys remember, we applied for this
14 last spring. We were denied without prejudice and we
15 were given a temporary T and R. And the reason,
16 obviously, we wanted the patio -- and I don't know if a
17 hundred percent was made clear -- was for the safety
18 factor. And what we had was kids and families
19 basically sitting on our curb with their feet hanging
20 in the parking lot, literally a foot away from cars
21 pulling in. So it was a very dangerous situation.

22 I would like to pass out some pictures that I
23 took of this so you can just kind of see what I'm
24 talking about. So as you can see, we believe this is a
25 bad accident waiting to happen and it was our hope to

1
2 get this patio - a fenced in patio away from the
3 parking lot for the safety of our patrons. We
4 certainly don't want an incident to occur and we
5 believe at this -- without a patio this could obviously
6 happen.

7 Now the good news is with the temporary patio
8 that you did grant us we saw most of this go away.
9 Unfortunately, with only being ten seats there were
10 plenty of nights -- that's when we're busiest, at night
11 -- where there wasn't enough seats and then people came
12 out and started to sit on those curbs.

13 The other thing that was with the existing
14 space was that it was also very close to the parking
15 lot. We actually had to put in a table because that
16 patio wasn't designed for outdoor seating. It was a
17 walkway. So actually we had to put a table right by a
18 parking space. There's a four inch curb that separated
19 that from the table that was literally two feet away.
20 Again, not the safest of places. That's why we're
21 really looking for the patio.

22 I do have a letter here that our neighbor,
23 Tony, signed that I will just submit to you guys as
24 well. He is endorsing this project. He's had zero
25 problems after the T and R was, you know, the date came

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2 and passed when you talked to him. He said,
3 "Literally, I have no problems." The signs that we had
4 posted that he requested early on saying that this is
5 private property that really helped as well. But he's
6 in favor of the project and I have a letter here that
7 he signed a few days ago just stating that fact.

8 MR. DiSTEFANO: If you want to read it that
9 would be great.

10 Why don't you give the stenographer a copy if
11 you have an extra one then you could read for him.

12 Dear Planning and Zoning Board:

13 In a effort to include and accommodate the
14 needs of the residential neighbor (Tony Caiazza)
15 located at 2566 Elmwood. We have shared the proposed
16 patio and landscaping plans with Mr. Caiazza whose
17 property is adjacent to 2600 Elmwood to get his input.
18 Mr. Caiazza is in favor of the patio and landscaping
19 and does not foresee any issues.

20 We have added two signs marking his property
21 line as private property. We have two additional signs
22 reminding customers to dispose of their garbage. We
23 have outside garbage cans making it easy for customers
24 to dispose of their trash and we have an assigned staff
25 member whose job is to make sure the patio is free of

1
2 garbage at all times.

3 Over the summer we had a temporary license to
4 use the existing patio space to have outdoor seating to
5 see what type of impact, if any, there would be on the
6 neighborhood. We are happy to report that Tony did not
7 have any negative experiences with the outdoor seating.

8 This signed letter is to serve as his
9 endorsement for the project. Thank you for your time.
10 Please let me know if you have any questions.

11 So Tony was read this before signing
12 obviously, and signed.

13 MR. MIETZ: Anything else?

14 MR. CRAB: So, yeah, based on the fact that
15 we haven't had any negative comments from any of the
16 neighbors, the community wants this, this is going to
17 increase the safety for our community members, it's a
18 beautiful patio, it's going to update the landscaping
19 in that area that hasn't been touched in many years,
20 we're hoping that you guys will grant us the right to
21 build this patio.

22 MS. SCHWARTZ: You mentioned something about
23 being out on the patio.

24 I assume you were talking about the existing
25 pavement that's outside your two doors?

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MR. CRAB: Yes.

MS. SCHWARTZ: Now, when were you using that?

MR. CRAB: We had -- well, when we were using it for the temporary and revocable we were granted ten tables and we were using an existing little flagpole area.

MS. SCHWARTZ: And they would wind up on the lawn with the tables and chairs out there?

MR. CRAB: Nope, no tables and chairs on the lawn.

MS. SCHWARTZ: And why did you find this to be inadequate?

MR. CRAB: Two reasons; one, it was only ten seats and with two restaurants and soon to be three restaurants it's really inadequate. I mean, for us twenty seats is really the minimum. When we had ten seats, if you were to drive by in the evening when we're the busiest -- we're usually the busiest between 7:00 and say 8:30, those are our prime times -- there would be times when people would come out and there wouldn't be any seats out there because we only had ten seats. So if you have two families of four and, you know, one other family, you know, of two and that's all you have. So it really wasn't enough seats. So that,

1
2 again, the problem started happening again when people
3 were still sitting on the curb.

4 And number two; and I think there's some
5 people that will actually attest to this tonight, they
6 said, "Gees, your table is two feet away from parking
7 spaces. If this car taps, you know, the gas by mistake
8 this is going to plow right into this table. You know
9 it's really not that safe. Why don't you have, you
10 know, a fence or something like that?" So we explained
11 it was a temporary, we do have a plan to, you know,
12 build something a little bit farther away from the
13 parking lot with a fence. So we said, you know, this
14 is just a temporary situation. We explained that to
15 our customers as best we could.

16 MR. GOLDMAN: You mentioned soon to be a
17 third restaurant.

18 What did you mean by that?

19 MR. CRAB: Well, there would be three tenants
20 in that space. Right now there's currently two,
21 there's us and Sabra Grill. And there's supposed to be
22 a third.

23 MR. GOLDMAN: So you have no knowledge of
24 what's going in there or when?

25 MR. CRAB: No.

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MR. GOLDMAN: Okay.

MR. CRAB: The sooner the better. But I don't have any knowledge of that.

MR. GOLDMAN: Thank you.

MR. MIETZ: Other questions?

MS. SCHWARTZ: Yes. When you were here, I don't think - well, not you personally - when you first presented we were told -- before you got your approvals for anything we were told that there would be no outside garbage storage, it would be all inside like Bagel Bin Cafe. When I drove over this time there are thirteen toters, there's one dumpster, there were two recycle boxes and loose cartons. I don't really call that storage of debris - of garbage - inside. I would hate to see the storage outside. And this wasn't the first time. When you came in for the T and R the first time there were about eight toters outside. So I'm very confused. And now it seems like you're going to be generating even more garbage and this is really bordering really a residential neighborhood.

I have a real problem because to me with the new patio that you're proposing to me it's creeping commercialism down our residential streets and it's taking much more than what we have bargained for, what

1
2 we were led to believe. When you first came it was
3 going to be these three restaurants inside, period, the
4 end, which was a stretch. Everything has expanded so
5 since you've gotten your permission, your approvals,
6 and I'm really troubled by this. And if you look at
7 our big poster in our lobby, we're now what is a green
8 climate or something, we're Tree City USA. You don't
9 take out grass and put in pavers. You don't cut down
10 the tree. That really beautifies Elmwood Avenue and
11 the residential character that continues on down there.

12 So I don't see -- I mean, you can look at
13 Park Avenue, when you go to Frog Pond, when you go to
14 John's the curb is there, your chair is there and
15 people are there and it works. I think that it really
16 would work here. I really do. I think that by taking
17 out grass is really a hard thing to do in this town,
18 especially because it abuts a residential neighborhood.

19 I know Tony may not be so upset about it, but
20 some of us still live in the town and find it
21 troublesome to see grass taken out of residential
22 areas. So I really have a problem with what you're
23 proposing. I really think that the sidewalk could work
24 there.

25 I went and counted the other night when I went over

1
2 and looked and you could really get a lot of tables in
3 there. You really can. If you go all the way around
4 you really can.

5 MR. DiSTEFANO: Can I just ask kind of in
6 regards to what Ms. Schwartz just said: Was any other
7 thought given to maybe a different configuration, maybe
8 a configuration that kind of took into consideration
9 some of the existing pavement, maybe getting this patio
10 a little further away from the residential property
11 line, bringing it a little closer to the parking lot?

12 You could still do a fence along the edge of
13 the sidewalk.

14 I'm just wondering if any other thoughts or
15 layouts were considered or was this basically just what
16 you thought was the best at the time and went with it?

17 MR. CRAB: Well, we find that this is the
18 safest of all the plans.

19 Using the existing is a possibility. It
20 wouldn't be impossible to do that. And we could put up
21 a railing that would help, you know, prevent the car
22 from going, but it wouldn't stop a car. Let's face it.

23 So when we looked at, you know, what's the
24 safest option, it was hugging that building, removing
25 some of that old landscaping that was in there - the

1
2 evergreen bushes - and, you know, using that as our
3 design. And of course then adding back some, you know,
4 updated landscaping as we have proposed here obviously.

5 So correct me if I'm wrong, is that
6 impervious area being increased or decreased?

7 MR. TOMLINSON: In design, one of the -- Matt
8 Tomlinson, from Marathon Engineering. We're the design
9 engineers for this.

10 One of the reasons that we came in for the
11 increase in green space was it's somewhat of a gray
12 area. What's proposed to be used is permeable pavers
13 within this. So there is an element of green design
14 within this, where the water would infiltrate down and
15 be collected.

16 You're right, it is taking out grass, but
17 it's in a way that allows the drainage for infiltration
18 instead of just adding more runoff to the storm system.
19 So that is one thing that was taken into consideration
20 before we went to the Conservation Board and Planning
21 Board the first time.

22 MR. DiSTEFANO: I guess one of the issues I
23 see with some of the members is that we do have other
24 outdoor dining facilities in the town that basically
25 use part of the parking lot or right up to the parking

1
2 lot for tables and chairs. Thank God we've not had an
3 issue where somebody has hit the gas instead of the
4 brake and has caused any issues. So that being said, I
5 understand your concern with safety, but we certainly
6 have other cases in the town where that situation is
7 occurring.

8 So going back to possibly looking at
9 different design options that might, again, draw it
10 closer to the more commercial portion of that property,
11 away from more of the residential portion of that
12 property. I'm just wondering if that is something you
13 could consider or would like try to consider?

14 And that's only if the Board members would
15 want something like that. I'm just, you know, kind of
16 jumping ahead.

17 MR. CRAB: I'm not against that. I'm not
18 against looking at, you know, if that was the decision
19 that you guys, you know, would allow a patio but move
20 it closer, we could look at that. I guess my only --
21 the only difference here is that for us we deal with so
22 many young families with so many kids --

23 MR. MIETZ: Right.

24 MR. CRAB: -- because it is, you know, frozen
25 yogurt. It's dessert. So, you know, when you have a

1
2 four-year-old and he breaks free we just want to make
3 sure that he doesn't break free and go into the parking
4 lot. And that's the concern.

5 MR. MIETZ: Sure.

6 MR. CRAB: You know, I'm not worried about
7 you as an adult coming there and, you know, walking in
8 the parking lot and getting hit by a car. I'm really
9 not. I'm worried about the four-year-old who is going
10 to, you know, just break free and run. I mean I've got
11 a five-year-old at home. I know what he's capable of
12 and I've seen it happen before. So that's all I'm
13 trying to prevent.

14 But that doesn't mean that I'm not against
15 looking at another plan.

16 MS. CORRADO: Question about the plantings
17 you're talking about removing one tree, but filling in
18 with more plantings.

19 Can you tell us a little more about the
20 balance of what's removed and what will be put in
21 place?

22 MR. TOMLINSON: Sure. On the corner of the
23 existing building, right around this area(indicating)
24 there's an existing Arborvitae - a large overgrown
25 Arborvitae - that's not in great shape, there's also a

1
2 third tree, right around here(indicating) that we
3 looked at potentially saving but by the time you put
4 the pavers and the stone in that you need for the
5 infiltration it wasn't able to be saved with the
6 current configuration.

7 If we did go to a modified one there is that
8 potential.

9 One of the reasons we were looking at that
10 was the branches are very close to the building at this
11 point and it's also somewhat crowded by the two trees
12 that are closer to the road. Our landscape architect
13 said that the three trees are so close together it's
14 actually impinging on the health to the two closer to
15 the road. So we didn't view it as a large negative to
16 have to remove it at this point. So -- and we
17 explained that to the Conservation Board when we went
18 and they seemed to be all right with that.

19 MS. CORRADO: And you're filling back in
20 where the arborvitae is coming out?

21 MR. TOMLINSON: Correct. Those are larger
22 Junipers that get to probably six to eight feet in
23 height. They'll be pruned and maintained. The rest of
24 it is pretty low-growth with some Burning bush and some
25 other stuff around the outside.

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MR. MIETZ: Morrey?

MR. GOLDMAN: Can somebody talk a little bit about Mrs. Schwartz's comments about the trash in the back?

MR. CRAB: Yeah. As far as the garbage, there's a small dumpster that's actually a grease trap which is, you know, not allowed to be kept indoors is what I've been told by the Health Department.

As far as the other trash, they're just being kept -- originally there was two dumpsters - two large dumpsters - and then I guess we were told by Buckingham that they were not allowed to be there. They were removed. They are now these receptacle cans and we need to keep those outside when we put trash in them simply because you will get rodents and bugs and both restaurants will go out of business, it's as simple as that.

MR. GOLDMAN: But as I remember, correct me if I'm wrong, the conditions that we allowed for, as Ms. Schwartz said, that the trash would be kept under cover?

MR. CRAB: It is under cover. If you look back there there's an overhang.

MS. SCHWARTZ: Inside your building we were

1
2 told. Inside.

3 MR. GOLDMAN: I'll have to --

4 MR. DiSTEFANO: Maybe if somebody from
5 Buckingham would like to make comments on this.

6 MR. MALBONE: Just in time.

7 MR. MIETZ: Go ahead.

8 MR. MALBONE: Aaron Malbone, Buckingham
9 Properties. It's an issue we know we have to to deal
10 with the tenants in the building. Thank you for
11 bringing it up. It's been an ongoing issue. It's
12 something we have to resolve, yes, absolutely, we
13 agree. We know that's a stipulation or condition for
14 the uses of that building.

15 MS. SCHWARTZ: Because originally I believe
16 the type of food that was going to be prepared/served
17 wasn't as intense as it is now, and therefore the
18 feeling probably was that, yes, the garbage could be
19 kept in the building. But now maybe you're saying --
20 you're saying now you can't because of what it is and,
21 you know, it would cause a problem inside the building.
22 So something must have changed somewhere along the line
23 because we were clearly told inside.

24 MR. MALBONE: You're absolutely right. The
25 Health Department came and said, "You guys can't store

1
2 garbage inside, you're going to attract all these
3 insects and rodents."

4 MS. SCHWARTZ: Well, what's the difference
5 between yours and Bagel Bin Cafe, they had theirs
6 inside?

7 MR. MALBONE: I can't speak to that. I don't
8 know.

9 MS. SCHWARTZ: That's why something has to be
10 different because originally you said you could and it
11 would and now you're saying you can't.

12 MR. MALBONE: I'm saying it's an issue we
13 know we need to resolve. We don't want this outside.
14 We absolutely want to correct it.

15 MR. MIETZ: So what you're saying is that
16 you're going to come up with a plan --

17 MR. MALBONE: Yes.

18 MR. MIETZ: -- on how to resolve it?

19 MR. MALBONE: Yup. We've already started
20 talking to the tenants.

21 MR. MIETZ: Okay.

22 MS. SCHWARTZ: I have another question: So
23 what looks to me like a dumpster --

24 MR. MALBONE: That's a grease trap for Sabra
25 Grill.

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MS. SCHWARTZ: This big thing out there is a greece trap?

MR. MALBONE: That black -- it's a grease trap.

MS. SCHWARTZ: It's a permanent fixture out there?

MR. MALBONE: Well, as long as you have a fryer you need to put the grease somewhere and that cannot be stored inside.

MS. SCHWARTZ: You can't camouflage it in any way?

MR. MALBONE: You could build a fence around that, but I don't know what the regulations of that are in that area.

MS. SCHWARTZ: Did we know that they were going to need that when we said yes to the fryer?

MR. DiSTEFANO: You do need a grease recyclable unit when you have a fryer.

MR. MIETZ: Maybe it doesn't need to be quite as large as it is, but I presume if you're researching the rest of the problem you can research that.

MR. MALBONE: We could certainly look at that, absolutely.

MR. DiSTEFANO: We would appreciate that.

1
2 MR. MIETZ: Do the Board members have any
3 other questions?

4 MR. DiSTEFANO: About the outdoor dining.

5 MS. CORRADO: I'm sorry?

6 MR. DiSTEFANO: About the outdoor dining, not
7 the garbage.

8 MR. MIETZ: Any more questions at this point?

9 MS. CORRADO: Not at this point.

10 MR. MIETZ: You're all set?

11 Okay. Thank you very much.

12 MR. CRAB: Thank you.

13 MR. DiSTEFANO: Do you have anything else you
14 want to add to the --

15 MR. CRAB: Nope.

16 MR. DiSTEFANO: Okay.

17 MR. MIETZ: Is there anyone in the audience
18 that would like to speak regarding this application?

19 Just give me some hands and then we'll get a
20 sense of how many people.

21 All right. I guess you're in front, Teresa.

22 MS. VIGGIANI: Ironically enough I manage the
23 property right nextdoor to them. I'm at 2602 and 2604.

24 And I totally agree with these guys with the
25 fact that there are kids wandering the parking lot like

1
2 crazy. I've almost hit them myself because they're
3 younger kids they don't watch where they're going,
4 they're carrying their ice cream. It's just -- and
5 surprisingly, I don't know if you have this with
6 Abbot's, but Abbot's -- another huge problem between
7 Abbot's and Yolickity, like, these guys are just
8 wandering the parking lot. So it's actually not that.
9 And before ES&L moved into our parcel, they used to
10 come over to our parcel and sit in our parcel and eat
11 their ice cream. So I agree with them that it's very
12 unsafe.

13 MR. MIETZ: Okay.

14 Okay, sir?

15 MR. SCHACTER: Hi. My name is Charlie
16 Schacter. I live at 15 Turnabout Lane in the town.
17 I'm here because we think this is a good
18 thing for the community. We're patrons of Yolickity.
19 We think it's a great family owned business - locally
20 owned business - we want to support. And I think
21 having an outdoor patio for use by families in the
22 summer is a natural thing for this type of business.
23 It would be both attractive and as mentioned enhance
24 the safety. And I think what we want to do is be able
25 to help local businesses succeed, and it employs people

1
2 in our community. And we don't want to raise
3 impediments to their success, we want to help them be
4 successful. And I think having a patio like this for
5 both safety and it would be more attractive than having
6 people sit on the curb or in the parking lot. And I
7 think it would make, you know -- be good for the
8 community.

9 MR. MIETZ: Okay. Thank you very much.

10 Ma'am?

11 MS. GARMUGA: Donna Garmuga. I live at 70
12 Viennawood.

13 I just think the parcel - that area around
14 Twelve Corners - is very much a business with Aja and
15 Abbot's and all the businesses there, and I recognize
16 there's residential around that. But I think this
17 looks much more attractive with landscaping and a nice
18 seating area.

19 It wasn't that long ago after a little league
20 game a bunch of kids would want to go, you know, and
21 get ice cream or something after the game and there's
22 very few places where you can have a bunch of people.
23 The seating behind twelve corners is just a few
24 individual tables and if you go there for lunch at a
25 busy time you're almost always waiting until somebody

1
2 leaves before you can sit and enjoy it. And the season
3 - the nice weather in Rochester is so short and to have
4 a nice business where people can socialize and gather
5 and have a little bit of room to be a community I think
6 is a really nice thing. I think the project looks like
7 an attractive way to do that.

8 MR. MIETZ: Thank you.

9 MR. VANDERWALL: My name is Nate Vanderwall.
10 I live at 181 Evandale, a farm neighborhood. We have
11 three kids; 3, 5 and 8. And we're frequent patrons of
12 Yolickity.

13 That area, as you say, is drawn by
14 neighborhoods, young families. It's a very - it's a
15 welcome place for everyone to congregate during the
16 summer. I'm not sure if there's anything that goes
17 together more than a dessert and an ice cream place
18 like that and an outdoor seating area. It's utilized,
19 you know, a large percentage of the summer months
20 people want to be outside and enjoy that time.

21 And I think -- and they talk about other
22 alternatives - sitting on the sidewalks, you know, as
23 other businesses on Park Avenue and other places use
24 that. And I think it would be a mistake to lose site
25 of the fact that the partons that this type of business

1
2 draws, and that's young families and that's kids.

3 And where, you know, curbside seating might
4 be appropriate in other venues, it's not so much here
5 where safety is a real concern with so many kids
6 frequenting the place. Many times throughout the
7 summer we felt uncomfortable, especially during larger
8 crowds, with watching our kids and where they could sit
9 and where they could enjoy the ice cream with their
10 friends outside because there's just no place to go.
11 With cars passing through, that's an out-drive for many
12 of the businesses behind it as well.

13 So the situation and an arrangement like this
14 I know would go a long ways in quelling our safety
15 concerns as well as many others who have joined us at
16 Yolickity and have raised with the owners as far as
17 frequenting Yolickity.

18 Thank you.

19 MR. MIETZ: Thank you very much.

20 Yes, sir?

21 MR. SCOTT: Kevin Scott, at 252 Idlewood.

22 And I'm a coach of several baseball teams in
23 town. And we like to support a local business. We go
24 there to sit outside. Other towns have outdoor seating
25 with this type of food. And here you just really can't

1
2 do it, not very well anyway. It's dangerous.

3 So as much as we would like to go and support
4 that business it is kind of difficult because it
5 doesn't take much to fill up that temporary outside
6 seating that they have. One family and, you know, a
7 couple of stragglers could fill that seating up. So we
8 really can't patron that business. An entire softball
9 or baseball team will show up there and there's really
10 nothing for us to do there. You can't sit outside. So
11 we take our business to a another town, a nearby town,
12 that lets them sit outside and has a nice outside
13 seating.

14 I know that you mentioned green space and
15 grass and all that. Without an outdoor seating I don't
16 know now how long they can survive with just indoor
17 seating when people want to sit outside. I think it
18 would look a lot nicer than a vacant building with a
19 lot of nice grass out front than an outdoor seating
20 with people enjoying themselves and patronizing a
21 Brighton business. I think that's what you need as
22 opposed to a vacant building. So it would be great if
23 you could grant them this use outside.

24 Thanks.

25 MR. MIETZ: Thank you.

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Ma'am?

MS. LIETERMAN: Good evening. My name is Karen Lieterman 50 Pickwood Drive.

I concur with a lot of the other people that support the enlargement of the patio. I highly respect the preservation in Brighton, but I do think that this is aesthetically more pleasing. It updates.

I'm a mother of three and usually travel with three plus so safety and having a place where your kids can congregate, you can socialize with them, create a better - a safe social situation and a bigger sense of community within our own community supporting community businesses. It's something I'm very in support of.

Thank you.

MR. MIETZ: Thank you very much.

Yes, ma'am?

MS. WILMONT: Hi. I'm Zoe Wilmont. I live at 1410 Clover Street.

And this doesn't have much to do with the patio. But I have a local charity for pediatric cancer and Yolickity has been very supportive, and often they're doing different types of promotions at the store to support other local communities. And I think this will help them stay in business.

1
2 I have a daughter at the Twelve Corners
3 Middle School. Those kids love to walk over there.
4 And it would be nice to know that they have a safe
5 place to sit outside. And as we know, there aren't a
6 lot of great days of the year in Rochester, so we want
7 to be able to sit outside when we can. So I'm just -
8 I'm in support of this and I think, again, this will
9 only make that area look nicer than it already does.

10 Thank you.

11 MR. DiSTEFANO: Can I just have your last
12 name again, sorry?

13 MS. WILMONT: Sure, Wilmont.

14 MR. DiSTEFANO: Wilmont?

15 MS. WILMONT: Yes.

16 MR. DiSTEFANO: Thank you.

17 MR. MIETZ: Okay. Is there anyone else who
18 would like to speak regarding this application?

19 If not, the public hearing is closed.
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REPORTER CERTIFICATE

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

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

Dated

At Rochester, New York

Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on January
7th, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

January 7th, 2015
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN
CANDICE BAKER LEIT, ESQ.
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ

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 1A-01-15

3 1A-01-15 Application of F & H Development, owner
4 of property located at 1338 Brighton Henrietta Town
5 Line Road, for a Temporary and Revocable Use Permit
6 pursuant to Section 219-4 to allow for the temporary
7 outdoor storage of construction equipment where not
8 allowed. All as described on application and plans on
9 file.

10 Motion made by Mr. Mietz to approve
11 Application 1A-01-15.

12 **FINDINGS OF FACT:**

13 1. The applicant is planning to redevelop this
14 property and is in the process of planning and
15 redesign.

16 2. The storage of construction equipment at the
17 southwest corner of the property will be shielded by
18 existing fencing and the grade change at the rear of
19 the property as it relates to the street.

20 3. No negative effect on the character of the
21 neighborhood will result from the approval of this
22 variance since the continuous use of this property are
23 commercial in nature.

24 **CONDITIONS:**

25 1. This temporary and revocable use permit shall apply

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2 to a maximum amount of six pieces of equipment and in
3 the location of the southwest corner of the property as
4 specified in plans submitted and testimony given.

5 2. The permit shall be valid from January 7th, 2015 to
6 January 6th, 2017.

7 3. The storage for vehicles and equipment as described
8 shall not impinge on the wetland at the south portion
9 of the property.

10 (Seconded by Ms. Schwartz.)

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

13 (Upon roll call, motion to approve with
14 conditions carries.)
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2 APPLICATION 1A-02-15

3 1A-02-15 Application of Teresa Viggiani, agent,
4 and Sawgrass Associates, LLC, owner of property located
5 at 160 Sawgrass Drive, for a Sign Variance from Section
6 207-32A(5) to allow a building directory sign to be
7 located in such a manner as to be readable from
8 Sawgrass Drive where not allowed by code. All as
9 described on application and plans on file.

10 Motion made by Ms. Schwartz to approve
11 Application 1A-02-15.

12 **FINDINGS OF FACT:**

13 1. The new sign will be more explicit, stating which
14 offices are in the front entrance and which are in the
15 back.

16 2. The location of the proposed sign is readable from
17 the road where not allowed by code, but this section of
18 the street is well within the complex and will have
19 less of an impact on traffic.

20 3. There will be no adverse impact on the character of
21 the office complex.

22 4. The proposed sign will enhance the health and
23 safety of the people in the area because it will afford
24 them clear directions as they drive through the
25 complex.

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CONDITIONS:

1. This variance is for a directional sign readable from the street as presented in testimony and in written application.

2. Total number of directional signs shall not exceed three, including this proposed sign.

3. There will be no illumination of any type for the proposed sign.

4. All necessary Architectural Review Board and Planning Board approvals must be obtained.

(Seconded by Ms. Corrado.)

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

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

1
2 APPLICATION 1A-03-15

3 1A-03-15 Application of the John Moody, agent,
4 and Elizabeth Haggerty, owner of property located at
5 1041 Highland Avenue, for an Area Variance from Section
6 203-2.1B(6) to allow a stand-by emergency generator to
7 be located in a side yard 6 ft. from a lot line in lieu
8 of the rear yard, behind the house, no closer than 10
9 ft. from a lot line as required by code. All as
10 described on application and plans on file.

11 Motion made by Ms. Baker Leit to approve
12 Application 1A-03-15.

13 **FINDINGS OF FACT:**

14 1. The requested variance to allow a stand-by
15 emergency generator located in a side yard, six feet
16 from the lot line, within ten feet in the rear yard
17 behind a house as required by code is not substantial
18 because the generator will be well shielded by a stone
19 wall.

20 2. There is no alternative to alleviate the difficulty
21 of both finding space on this narrow lot to accommodate
22 the emergency generator and to find an adequate
23 location for accessing the existing gas and electric
24 service.

25 3. The difficulty is not self-created given the

pre-existing location of the gas and electric service and the existing grading of the rear yard.

4. No unacceptable change to the character of the neighborhood is expected to result from the approval of this application as the generator will be located behind a stone wall and will not be visible by the neighbors or from the street.

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

2. All necessary building permits shall be obtained.

(Seconded by Mr. Goldman.)

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

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

1
2 APPLICATION 1A-04-15

3 1A-04-15 Application of Yolickity Brighton, LLC,
4 lessee, and 2600 Elmwood, LLC, owner of property
5 located at 2600 Elmwood Avenue, for 1) an Area Variance
6 from Section 203-64B(4)(h) to allow a front yard dining
7 area to abut a residential district where not allowed
8 by code; and 2) an Area Variance from Section 205-7 to
9 allow impervious coverage to increase from 72.4% to 73
10 % where a maximum 65% impervious coverage is allowed by
11 code. All as described on application and plans on
12 file.

13 Motion made by Ms. Corrado to table
14 Application 1A-04-15 without prejudice and keep the
15 public hearing open for alternative outdoor seating
16 designs.

17 (Seconded by Ms. Baker Leit.)

18 (Mr. Goldman, yes; Ms. Schwartz, yes; Mr.
19 Mietz, yes; Ms. Baker Leit, yes; Ms. Corrado, yes.)

20 (Upon roll call, motion to table Application
21 1A-04-15 and keep the public hearing open carries.)
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REPORTER CERTIFICATE

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

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

Dated

At Rochester, New York

Chad L. Smith

1	7	already [3] 16/19 38/19 47/9 also [5] 14/24 15/14 24/14 34/25 35/11 alternate [1] 3/23 alternative [3] 3/24 54/20 56/15 alternatives [1] 43/22 always [4] 8/25 11/23 16/18 42/25 amended [2] 4/7 4/9 amount [1] 51/2 angry [1] 14/22 another [6] 14/4 14/5 34/15 38/22 41/6 45/11 any [19] 2/14 9/12 20/25 22/15 25/19 26/5 26/7 26/10 26/15 26/15 27/22 29/4 31/6 31/14 33/4 39/11 40/2 40/8 53/8 anyone [6] 9/15 18/11 22/14 22/18 40/17 47/17 anything [5] 8/10 26/13 29/10 40/13 43/16 anyway [1] 45/2 anywhere [1] 6/11 APPEALS [3] 1/2 2/4 49/2 applicant [3] 9/13 49/18 50/13 application [36] 4/12 4/13 4/18 9/16 9/18 9/24 13/17 18/12 18/14 18/21 20/16 22/19 22/21 23/5 40/18 47/18 50/2 50/3 50/8 50/11 52/2 52/3 52/9 52/11 53/5 54/2 54/3 54/10 54/12 55/6 55/14 56/2 56/3 56/11 56/14 56/20 applied [1] 23/13 apply [2] 50/25 55/13 appreciate [1] 39/25 appropriate [1] 44/4 approval [3] 50/21 55/5 55/10 approvals [3] 29/9 30/5 53/11 approve [8] 4/6 4/9 50/10 51/13 52/10 53/15 54/11 55/20 approved [2] 5/24 6/4 APPROXIMATELY [2] 1/3 49/3 arborvitae [3] 34/24 34/25 35/20 architect [2] 5/5 35/12 Architectural [1] 53/10 are [34] 2/11 9/5 10/20 13/6 13/8 13/8 13/13 13/14 15/10 15/25 16/2 16/14 16/23 17/5 17/14 18/4 18/8 19/17 21/17 26/6 27/20 29/12 30/15 35/10 35/12 35/13 35/21 36/14 39/14 40/25 41/7 50/22 52/14 52/14 area [30] 6/13 7/9 7/16 7/18 7/24 8/7 8/16 13/25 18/16 19/25 22/6 22/23 22/25 23/2 26/19 27/7 32/6 32/12 34/23 39/15 42/13 42/18 43/13 43/18 47/9 52/23 54/5 56/5 56/7 56/8 areas [2] 5/19 30/22 aren't [2] 22/4 47/5 around [9] 11/7 11/15 31/3 34/23 35/2 35/25 39/13 42/13 42/16 arrangement [1] 44/13 arthritis [1] 19/5 as [65] ask [2] 6/21 31/5 asking [2] 15/9 16/25 assigned [1] 25/24 Associates [3] 9/19 10/6 52/4 assume [1] 26/24 attached [1] 19/23 attention [1] 10/17 attest [1] 28/5 Attorney [2] 1/12 49/12 attract [1] 38/2 attractive [4] 41/23 42/5 42/17 43/7 audience [4] 9/15 18/11 22/18 40/17 available [1] 19/8 AVENUE [12] 1/2 1/5 18/16 18/24 22/23
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