

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on June  
3rd, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

June 3rd, 2015  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN  
CHRISTINE CORRADO  
JEANNE DALE  
JUDY SCHWARTZ  
MORREY GOLDMAN  
ANDREA TOMPKINS WRIGHT

KENNETH GORDON, ESQ.  
Town Attorney

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:

CANDICE BAKER LEIT, ESQ.

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

1  
2 MR. MIETZ: I would now Like to call to order  
3 the June 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 May 28,  
8 2015.

9 MR. MIETZ: Please call the roll.

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

12 MR. MIETZ: Okay. We have some minutes to go  
13 over from the May meeting.

14 Are there any corrections to the said  
15 minutes?

16 Judy?

17 MS. SCHWARTZ: On page 91, line 2, the last  
18 word is range, r-a-n-g-e.

19 On page 99, this is a person's name, line 25,  
20 is Costich, C-o-s-t-i-c-h

21 On page 105, Rick, this is you on line 16 and  
22 17 and - oh, gosh, I'm trying to find the beginning of  
23 the sentence. It's talking about coming out of Five  
24 Star coming on to Elmwood Avenue.

25 MR. DiSTEFANO: Uhm-hum.

1  
2 MS. SCHWARTZ: And it says, "Something might  
3 be done with that line to get cars into a turning lane  
4 so they wouldn't block the eastbound Elmwood Avenue  
5 traffic."

6 But --

7 MR. DiSTEFANO: Maybe it should be westbound  
8 traffic.

9 MS. SCHWARTZ: And then --

10 MR. DiSTEFANO: Getting them so it wouldn't  
11 block --

12 MS. SCHWARTZ: Okay.

13 MR. DiSTEFANO: -- the westbound traffic.

14 MS. SCHWARTZ: And the reason I underlined  
15 that --

16 MR. DiSTEFANO: No, Eastbound going east.

17 MS. SCHWARTZ: Okay. The reason I underlined  
18 it, I didn't see my other one. Up in 13 it talks about  
19 restriping and repaving Elmwood Avenue that left-hand  
20 turn onto Elmwood Avenue it says westbound traffic.

21 But it's eastbound isn't it?

22 Whatever, I just bring that up.

23 MR. DiSTEFANO: Yeah, I can't remember  
24 exactly.

25 MS. SCHWARTZ: And then on page 106, line 25,

1  
2 the last two words should be Elmwood Avenue, not Town  
3 Road.

4 On page 109 the first word in line 9 is even.

5 Page 119, the first word in line 7 is in.

6 And the last one, page 147, line 12, the  
7 first finding of fact, it's just exit - one. And I  
8 believe it should be hazard not hazardous on line 12.

9 And then on line 24, just plain create.

10 And that's it

11 MS. DALE: I just have one thing. On page 5,  
12 line 5, it says could we wake the garage addition. It  
13 should be make.

14 MR. MIETZ: Okay. Is there anything else?

15 MS. CORRADO: I have a few.

16 MR. MIETZ: Yes?

17 MS. CORRADO: Beginning on page 4 and  
18 throughout I believe the Masaschi's name is spelled  
19 inconsistently. I believe the correct is shown on line  
20 8, M-a-s-a-s-c-h-i. And it's incorrect on lines 21, 22  
21 and the following page, 5, lines 8 and 9.

22 On page 10, line 12, site to, spelled  
23 s-i-t-e, t-o should be c-i-t-e.

24 On page 25, line 19, the word eave currently  
25 spelled e-v-e should be e-a-v-e.

1  
2           Page 99, this is just a punctuation matter  
3 for clarification. On line 11 there should be dash at  
4 the end of the line going through that - to my mind -  
5 surprising circumstances.

6           Page 103, line 10, there's repetition.  
7 Strike portion of the lot at the end of the sentence.

8           Line 18, griefs should be just grief, I  
9 believe.

10           Page 106 and throughout the rest of the  
11 document starting on line 14, the word cue, spelled  
12 c-u-e should be spelled q-u-e-u-e and that shows up in  
13 numerous places until - through page 112.

14           And also page 116, line 17 queue is also  
15 misspelled there.

16           I swear this is the last one. Page 147, line  
17 18 cued, c-u-e-d should be queued, q-u-e-u-e-d.

18           And now I am done.

19           MR. MIETZ: Very good. Anything else?

20           Can I have a motion to approve the minutes as  
21 amended?

22           (Motion made by Ms. Schwartz to approve the  
23 May amended minutes.)

24           (Seconded by Mr. Goldman.)

25           (Upon roll call, motion to approve the May

1 amended minutes carries.)

2 5A-09-15 Application of S.E. Baker & Co., agent, and  
3 Brighton Corners, LLC, owner of property located at  
4 1900 Monroe Avenue, for a Use Variance from Section  
5 203-9 to allow a bank with drive-thru teller to be  
6 located in a RLB - Residential District where not  
7 permitted by code. All as described on application and  
8 plans on file. TABLED AT THE MAY 6, 2015 MEETING -  
9 PUBLIC HEARING REMAINS OPEN.  
10

11 MR. ESSLER: Good evening, Board Members. My  
12 name is Karl Essler, attorney for Bond, Schoeneck and  
13 King, representing the applicant/owner, twelve star --  
14 excuse me, Twelve Corners Plaza.

15 Real briefly and I think we can do this real  
16 briefly. We left the public hearing open last time on  
17 the use variance request that the applicant has made to  
18 essentially restore a long standing bank and drive-thru  
19 teller use which had expired because the bank had  
20 remained empty for more than a year and lost it's  
21 non-conforming status. We went through everything at  
22 the last meeting, but unfortunately we had not received  
23 the County Planning report yet and therefore we had to  
24 hold the public hearing open.

25 We have since received the County Planning

1  
2 Board report and also an earlier report that they  
3 referenced from Monroe County DOT. We have responded  
4 to both of those reports. Essentially the answerers  
5 were they wanted to know is there any particular  
6 jurisdiction by DEC or the State Department of Health  
7 over this matter. The answer is no. Was there going  
8 to be work performed in the highway right-of-way? The  
9 answer was no. And then we were asked to provide again  
10 documentation of the existing pave and striping, which  
11 we did. That's their only response, the only thing we  
12 were asked to provide.

13 I have nothing further unless the Board has  
14 any questions.

15 MR. MIETZ: Questions?

16 Okay. Thank you very much.

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

19 There being none, then the public hearing is  
20 closed.

21 MR. GORDON: I just want to make sure the  
22 County DOT report and correspondence from Bond,  
23 Schoeneck and King is noted in the communications.  
24 6A-01-15 Application of Buckingham Properties, agent  
25 and 2600 Elmwood, LLC, owner of property located at

1  
2 2600 Elmwood Avenue, for relief of a condition of  
3 approved use variances (5A-07-97 & 12A-04-13) to allow  
4 for the outdoor placement of trash receptacles in lieu  
5 of placement inside the building as conditioned. All as  
6 described on application and plans on file.

7 MR. MALBONE: Good evening. Aaron Malbone,  
8 from Buckingham Properties. We are coming back to the  
9 Board with some improvements, I guess, to the building  
10 based on some of the other applications that we've done  
11 there.

12 We're really asking for relief of the outdoor  
13 garbage storage on the property due to the allowance of  
14 the grease for the Sabra Grill there. They have a  
15 grease trap as well as the other tenants in the  
16 building when they store their refuse in the building  
17 we were getting a lot of rodents and other animals in  
18 there that are detrimental to their business. The  
19 Department of Health has been in multiple times. So we  
20 would like to close off this area, the recessed area of  
21 the building for storing the grease in that area - the  
22 grease trap in that area - so it's not an eyesore on  
23 the property and we can get everything outside.

24 MS. SCHWARTZ: So are you saying it will be  
25 completely enclosed and nothing can get outside from

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the gate?

MR. MALBONE: No. We're proposing a seven foot tall fence.

MS. SCHWARTZ: It was kind of dark. It would have been nice if you used --

MR. MALBONE: I'm sorry, I can't hear you.

MS. SCHWARTZ: But that doesn't tell me anything. It really doesn't.

I want to know if there is a way for anything to crawl under or around or will this be so secure that nothing can get in from the outside?

That's my question.

I see your drawing --

MR. MALBONE: It's a standard fence. I mean, it will have to be held off the ground so the gate swings.

MS. SCHWARTZ: Right.

MR. MALBONE: But the doors will be maybe a half inch off the ground just so there's clearance there.

MS. SCHWARTZ: So it's only going to be a half inch off the ground?

MR. DiSTEFANO: Judy, I don't think you can keep any critters out of dumpster enclosures.

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MS. SCHWARTZ: Oh, that's --

MR. DiSTEFANO: This is a dumpster enclosure though and this is what their asking for.

MS. SCHWARTZ: At a restaurant you have rats. That's terrible.

MR. DiSTEFANO: You know, I can't hold them different from anyone on Monroe Avenue that's a restaurant. They're all the same and a dumpster enclosure can only do so much.

MS. SCHWARTZ: This really bothers me because we have been led down a path from the beginning and I just - I'm very troubled by this. I really, really am. And if it weren't for the fryer we wouldn't have this problem, because Bagel Bin Cafe kept their trash inside. They did.

MR. MALBONE: They had a completely separate area inside their space for garbage.

MS. SCHWARTZ: Yeah.

MR. MALBONE: We don't have that inside the building anymore. That space doesn't exist.

MR. GOLDMAN: But you agreed to it.

MS. SCHWARTZ: Yeah.

MR. GOLDMAN: You agreed to have it inside as part of its conditions --

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MR. MALBONE: I agree.

MR. GOLDMAN: -- back when we started this.

MR. MALBONE: Correct. That's why we're here asking for relief of that condition --

MR. GOLDMAN: I understand that --

MR. MALBONE: It was an existing condition when we purchased the building.

MR. GOLDMAN: Don't say to the lady that you don't have it anymore when you agreed to have it and now you say you don't have it as, "Gee, it was already known back then." It wasn't known.

Forgive me, but it's also a hot button for me.

MR. MALBONE: Okay.

MR. MIETZ: And the question is if you decided not to dedicate space in the leased space for such a facility or --

MR. MALBONE: We have space in the building. The reason the garbage isn't in there is the Department of Health came in said you can't store garbage in the building anymore. That's why it's been moved outside. We had allocated space for refuse in the building.

MS. SCHWARTZ: I have a quick question for --

MR. MALBONE: I'm sorry?

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2 MS. SCHWARTZ: So when a dumpster comes to  
3 pick up your trash it takes it from the ground level?

4 I mean, I can't visualize a commercial  
5 trailer --

6 MR. MALBONE: They're all like totes for your  
7 residential use. There aren't any big dumpsters there.  
8 It's a residential truck. So a truck comes and throws  
9 it in the side of the truck basically.

10 MS. SCHWARTZ: This might sound a little bit  
11 outlandish, but it might make me feel a little bit  
12 better and it might make Morrey feel a little bit  
13 better: There's the loading dock that they had for the  
14 old post office --

15 MR. MALBONE: Yes.

16 MS. SCHWARTZ: Okay. What if you were to put  
17 things up there off the ground and really, really  
18 enclose that?

19 MR. MALBONE: That loading dock there it's  
20 just flush. There's no latch there at all.

21 MR. DiSTEFANO: There's no loading dock there  
22 anymore.

23 MR. MALBONE: That area is recessed, but it's  
24 flush.

25 MS. SCHWARTZ: But you see you really can't

1  
2 tell -- I mean the least you could have done was to use  
3 a flash or something so we could have seen what was  
4 back there.

5 But there's no dock anymore?

6 MR. MALBONE: Correct. The dock has always  
7 been -- there's an overhead door there. There was  
8 never a recess so someone could set something there.  
9 There was always a recess so a truck could drive in  
10 there and --

11 MS. SCHWARTZ: Right.

12 MR. GOLDMAN: Did you go by there this  
13 evening before you came?

14 MR. MALBONE: I'm sorry?

15 MR. GOLDMAN: Did you drive by this evening  
16 before you came here?

17 MR. MALBONE: I did not.

18 MR. GOLDMAN: I did. You have eight garbage  
19 totes.

20 MR. MALBONE: Uhm-hum.

21 MR. GOLDMAN: You have six blue recyclables,  
22 on top of several recyclable - blue boxes. You have  
23 cardboard boxes streaming across the top there - if  
24 they have broken those down maybe they would have fit  
25 in there.

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What I'm saying is it looks terrible.

MR. MALBONE: Which is one of the reasons that we're trying clear --

MR. GOLDMAN: I'm hoping that this will alleviate it.

MR. MALBONE: Absolutely.

MR. GOLDMAN: And I appreciate the effort that you're going through to do it.

MR. MALBONE: Thank you.

MS. CORRADO: What type of fencing will this be?

MR. MALBONE: We're proposing a wood stockade fencing that could be painted or left natural, whatever the Review Board would approve or like.

MS. CORRADO: Okay. And then the toters would, you know --

MR. MALBONE: Yes, just so they can --

MS. CORRADO: So they will be secured regularly, not left open?

MR. MALBONE: Correct.

MS. CORRADO: Be hidden by that fence?

MR. MALBONE: Yup.

MS. SCHWARTZ: Will it be kept clean?

I mean with a fence there you can hide

1  
2 anything you want. But I don't feel that we should  
3 have to go and see if you're keeping it clean. I mean,  
4 this is really serious because you are right on a  
5 residential neighborhood. You are bordering a  
6 residential neighborhood and to bring this in I find  
7 very, very troublesome. I really, really do, you know.  
8 And you have this much with just two food-type  
9 businesses there. And I understand you're proposing a  
10 third.

11 What are you going to do then?

12 MS. DALE: It looks like about fifty percent  
13 is for --

14 MS. SCHWARTZ: Well, I counted as many as  
15 thirteen toters there.

16 MS. DALE: It looks like --

17 MS. SCHWARTZ: Plus the big thing for grease.

18 MR. MALBONE: There's space allocated for  
19 more refuse there.

20 MS. CORRADO: How often is your trash  
21 serviced?

22 MR. MALBONE: Daily. They usually pick up in  
23 the morning. By the time they -- it's the first thing  
24 in the morning it gets picked up.

25 MS. SCHWARTZ: And what about the grease, how

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often does that --

MR. MALBONE: I'm not sure about the grease. I know it's at least weekly. I don't know if it's anymore than that.

MS. SCHWARTZ: And that's enclosed?

MR. MALBONE: It's in a grease trap - like a metal bin, I guess, you would call it.

MR. MIETZ: It's like a little small dumpster almost.

MR. GOLDMAN: Is Youngblood your trash removal people?

MR. MALBONE: Yes, they are. We've been working with them and trying to get that frequency and schedule ironed out.

MR. MIETZ: The seven foot height on the fence, you picked that based on the height of the toters?

MR. MALBONE: Yeah. We just wanted to conceal as much as we could.

MR. MIETZ: And how close is that?

MR. MALBONE: To the toters on top?

MR. MIETZ: Yes.

MR. MALBONE: It's about eighteen to twenty inches above the toters.

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2 MR. MIETZ: I'm just concerned that, you  
3 know, when they settled in there --

4 MS. SCHWARTZ: Right.

5 MR. MIETZ: -- and heaved up and, you know,  
6 it's like you do with your own house.

7 MR. MALBONE: So, yeah, even if there's  
8 something coming out of the toters you can't see it.

9 MR. MIETZ: Rick, is there an issue how high  
10 the fence is?

11 MR. DiSTEFANO: No, because we're looking at  
12 it as an enclosure and not a fence per se.

13 MR. MIETZ: Right.

14 MR. DiSTEFANO: And when we deal with  
15 enclosures we do not have a height regulation on them.

16 MR. MIETZ: Okay.

17 MR. DiSTEFANO: Basically we want them as  
18 high as the dumpster or the toters that are in there.  
19 So seven foot I think is a reasonable height to  
20 consider.

21 MR. MIETZ: Right.

22 MS. SCHWARTZ: Did you ever consider an  
23 enclosure rather than just a fence across the front?

24 MR. MALBONE: We did, but we wanted it to be  
25 open and, you know, breath a little bit. Having stuff

1  
2 just locked in there where it gets hot and --

3 MS. SCHWARTZ: Well, it's like a fence. I  
4 mean, there is space between.

5 MS. DALE: No, he's saying that's why they  
6 went with a fence.

7 MS. SCHWARTZ: Right. But you can put the  
8 same kind of top across.

9 MR. MALBONE: It's open across. There's  
10 nothing above.

11 MS. SCHWARTZ: I know that, but if you took  
12 similar material to the fence down across the front and  
13 put it on the top to enclose it more at least we would  
14 not have trash piled up high, you know, with the top of  
15 the lid popping open because it's over stuffed and  
16 such.

17 MR. MALBONE: A couple of things; when you do  
18 that the gates become very big and heavy and I don't  
19 want to say ugly, but really they're going to be really  
20 big gates and we want to make it look nice obviously.  
21 We're open to the possibility of taking that up, but I  
22 don't know if that really accomplishes that complete  
23 screening. I'm just afraid there's going to be things  
24 stuck in there or if there's not much air circulation  
25 in there.

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2 MR. MIETZ: Is there any other questions for  
3 the applicant?

4 MR. DiSTEFANO: Just real quick, are you  
5 going to have gates at either end or just one end -  
6 gates at either end?

7 MR. MALBONE: Yes, each said.

8 MR. GOLDMAN: A special one for the grease  
9 and --

10 MR. MALBONE: Yeah. The grease space will  
11 have it's own gate and the toters will have their own  
12 gate on the other side.

13 MS. TOMPKINS WRIGHT: And there is a roof  
14 overhang now?

15 MR. MALBONE: Correct.

16 MS. TOMPKINS WRIGHT: Just so it's clear on  
17 the record, the Health Department came in and said you  
18 can no longer keep all refuse inside or just couldn't  
19 keep the grease trap?

20 MR. MALBONE: Well, we can't keep the grease.  
21 That was right out of the gate. They came in and told  
22 us we could not store it inside anyone.

23 MS. TOMPKINS WRIGHT: No storage of any --

24 MR. MALBONE: Correct.

25 MR. MIETZ: Okay. Any other questions?

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Thank you.

MR. MALBONE: Thanks.

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

There being none, the public hearing is closed.

6A-02-15 Application of Martin and Marjane Selleck, owners of property located at 95 Eastland Avenue, for an Area Variance from Section 205-2 to allow a garage addition to extend 5 ft. into the existing 37 ft. rear setback where a 40 ft. rear setback is required by code. All as described on application and plans on file.

MR. SELLECK: Good evening. We have this form that we're supposed to bring to the meeting. I don't know --

MR. DiSTEFANO: Thank you.

MR. SELLECK: My name is Martin Selleck. This is my wife Marjane. We're the owners of 95 Eastland Avenue, which currently has an attached three-car garage which quite frankly we're surprised didn't fall down last winter. So we have to do something with the garage.

We worked with our architect to design a

1  
2 replacement three-car garage which essentially mirrors  
3 the architecture of the current garage. However, based  
4 on the way it was previously built we have a furnace  
5 and fireplace enclosure that are in the current - the  
6 left-hand bay - the current garage, which requires us  
7 to push the garage out an additional five feet to have  
8 a fully functional three-bay garage.

9 Our house is in somewhat of a unique  
10 situation in that although the address is 95 Eastland -  
11 which means the area that we're going into is  
12 technically our backyard - our house faces Midland  
13 Avenue. So the front door, what would be the  
14 traditional entry to the house is on Midland Avenue and  
15 the door that everyone uses to go into the house is  
16 adjacent from driveways also on Midland Avenue. So if  
17 you look at the house from Eastland Avenue what you're  
18 looking at is the end of the house. So it's somewhat  
19 unique in the home acres and then it's turned  
20 ninety degrees from what most of the homes and home  
21 acres are.

22 I walked around the neighborhood. I can't  
23 say for certain we're the only house that faces one of  
24 the across streets, but if we're not then we're one of  
25 one or two. In fact, when people come to our house we

1  
2 say 95 Eastland and they drive around and they realize  
3 we're on Midland.

4 One of the criteria that we laid out for the  
5 architect was knowing that we would be going for a  
6 variance we wanted the minimum footprint. So when you  
7 look at the traditional car widths and things like that  
8 we reduced them pretty much to the minimum. You're not  
9 opening -- pulling two cars in and opening both doors.  
10 You're going to open one door and then the other door.  
11 So we really did work to minimize the footprint and  
12 have it kind of fit the existing architecture of the  
13 house.

14 The other thing I would add is our neighbor  
15 on Sutherland, which is just west of us, their house is  
16 about a hundred and twenty-six/twenty-seven feet from  
17 our fence and they have a detached garage that is six  
18 and a half feet from our fence. So in terms of them  
19 being able to build out towards us there is really no  
20 room for them to build into that space because they  
21 already have a detached garage there. I don't know --

22 Does anybody have any questions?

23 MR. GOLDMAN: It appears that you're going to  
24 change the way the house looks today to a new facade  
25 that matches the existing house.

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2 MR. SELLECK: Actually, architecturally it's  
3 going to look better because we did -- we asked the  
4 architect to build a false twelve twelve dormer over  
5 the double door, which is a now a seven twelve dormer.  
6 So the house now really has, I don't know, three or  
7 five different pitches to it. So what we did is  
8 anything that faces Eastland is going to be a twelve  
9 twelve pitch and anything if you look at -- if you're  
10 looking at the house from the west is a seven twelve  
11 pitch because the current what we call the family room  
12 - I'm sure it was an old garage at one point - when you  
13 look at that from the west it has a seven twelve pitch.  
14 So anything looking to the west will be seven twelve,  
15 anything looking at Midland will be twelve twelve.

16 And there's no storage space. This is all  
17 done architecturally. We put a window in that dormer  
18 to make it look architecturally similar to the house.  
19 So the idea - quite frankly the idea is to take a  
20 property that has been ill cared for for the last ten  
21 years and kind of bring it into the character of the  
22 neighborhood. I mean, we've cut trees, you know,  
23 cleared brush and kind of looked at it and said, you  
24 know, there's character here that doesn't really kind  
25 of fit the neighborhood now, but we have to do

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2 something with the garage so let's make it fit the  
3 neighborhood.

4 MR. MIETZ: Can you just for the record, just  
5 talk about the materials that will be used on the  
6 garage as they relate to the house?

7 MR. SELLECK: Actually, we've been meeting  
8 with contractors kind of trying to figure that out and  
9 we're down to two options. One option is to obtain  
10 vinyl siding that's the same profile as the current  
11 siding. Side the garage in that profile and then paint  
12 both that vinyl siding and the vinyl siding on the  
13 house to match because the siding on the house -  
14 contractors tell me you they can match it. I don't  
15 believe them. You're never going to match it. Who  
16 knows when it was put on. The other option we've  
17 looked at - quite frankly it would be out of our price  
18 range - is to put hardie board siding on the whole  
19 thing. But whichever way we're going to go it will  
20 either be vinyl siding same profile all painted to  
21 match or hardie board.

22 MR. MIETZ: And the color would match either  
23 case?

24 MR. SELLECK: Yes. And the other thing we  
25 said to the contractor -- because if you look at the

1  
2 plans, the roofline on the new garage goes into the  
3 existing roofline. What we're saying is do a tear off  
4 on the roof. Even though that doesn't need to be torn  
5 off, do a tear off on the existing roof where they  
6 match shingles and then shingle that all the way over  
7 to the roof on the front. So from the front where it  
8 steps out they may not be an exact match, but you're  
9 not going to see the step, you know, new and old  
10 shingles where -- it's not enough roof to not make it  
11 match.

12 MR. MIETZ: Okay. Very good.

13 MS. TOMPKINS WRIGHT: The current setback on  
14 the current garage is thirty-seven feet.

15 MR. SELLECK: It is thirty-seven feet.

16 MS. TOMPKINS WRIGHT: And you're proposing  
17 thirty-two?

18 MR. SELLECK: Correct.

19 MS. TOMPKINS WRIGHT: Which is a five foot  
20 difference?

21 MR. SELLECK: Correct. And that really comes  
22 from the fact that if you look at the floor plan, when  
23 they built this -- I don't know if when they built it  
24 or at some point they put in a fireplace and a furnace  
25 which encroaches on that first bay of the garage. So

1  
2 in order to make that first bay usable you have to get  
3 out that extra distance to be able to drive a car in  
4 because the first bay of the garage you can't put a car  
5 in.

6 MR. DiSTEFANO: For the record, the total  
7 square footage of the new garage?

8 MR. SELLECK: It's eight ninety. It's under  
9 the nine hundred.

10 MR. DiSTEFANO: Thank you.

11 MR. MIETZ: Very good. Any other question?

12 Okay. Thank you very much.

13 MR. SELLECK: Okay.

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

16 There being none, the public hearing is  
17 closed.

18 6A-03-15 Application of Winton Place Business Centre,  
19 LLC, owner of property located at 20 Allens Creek Road,  
20 for 1) an Area Variance from Section 205-7 to allow  
21 impervious lot coverage to be 67%, after expansion of  
22 the parking lot, in lieu of the maximum 65% allowed by  
23 code; and 2) an Area Variance from Section 205-18B to  
24 allow two(2) new parking spaces to be 2.4 ft. from a  
25 lot line in lieu of the minimum 10 ft. required by

1  
2 code. All as described on application and plans on  
3 file.

4 MR. SERTL: Good evening. Kurt Sertl, from  
5 Gallina Development. This is the -- does everybody  
6 know where this building is; 20 Allens Creek Road?

7 We have a parking problem there. We have  
8 three nice, viable businesses in the building after  
9 having about forty percent vacancy in the building for  
10 about three years. When Rochester School of Fitness  
11 went out it took us about three years to backfill that  
12 space. The optometrist expanded and took the front  
13 thousand feet of it. Then we backfilled the rear three  
14 thousand square feet with Brighton Personal Training.  
15 And Microworx is a long standing existing tenant in the  
16 building. They've been there for over ten years.

17 We're in need of additional existing parking  
18 spaces due to the successes of those three businesses.  
19 So we are proposing to add some additional asphalt in  
20 the rear northeast corner, where there will be three  
21 additional spots there. At the northeast corner of the  
22 building we want to take out just a concrete bullnose  
23 landscape area because we can squeeze one more spot in  
24 there. And then up in the front southwest corner we  
25 want to add two additional spots there and those are

1  
2 the two spots that encroach on the side setback. So we  
3 have two issues.

4 Our current impervious area is  
5 sixty-four percent and with these additional spots we  
6 would be at sixty-seven percent, where we would be two  
7 percent over the required sixty-five percent. And then  
8 the second is the setback issue on those two front  
9 parking spots.

10 Some of you may remember before we bought  
11 this building ten plus years ago there was asphalt all  
12 the way down the whole west side of the building that  
13 we ripped out and turned into green space. I'm sure  
14 that asphalt was encroaching on that ten foot setback  
15 from the best of my memory.

16 We wouldn't be asking for the spots if the  
17 businesses didn't tell us that we need them. I have  
18 been there on numerous times when that parking lot has  
19 been chalk full, and Brighton Personal Training has  
20 been really just getting going. So I think they'll be  
21 even more successful as we get going here. And then  
22 obviously the parking there is a little bit more needed  
23 in the cold months with Brighton Personal Training than  
24 it is now because people tend to be out doing stuff.  
25 But we really just want to try to support the three

1  
2 successful businesses we have in there and we're asking  
3 you to do the same.

4 This site really doesn't have much visibility  
5 given that it backs up to the creek and the 590 onramp  
6 there and then butts up to the state land on the west  
7 side there where all those big, mature trees are in  
8 that small grassy area before you get out to Monroe  
9 Avenue. So there's not a whole lot of exposure. I  
10 don't think it's a detriment to the neighborhood or  
11 anything like that.

12 MS. DALE: Did you perform a study of  
13 different days and times and hours when the parking lot  
14 is full?

15 Because I drove by four times and counted the  
16 number of open spaces. I just wondered about the need  
17 because?

18 MR. SERTL: I have not, but Mr. Leist from  
19 Microworx is here and he was going to speak in the  
20 public forum.

21 So I don't know if you want him to come up  
22 now or hold that until --

23 MR. MIETZ: He can speak.

24 MR. SELLECK: He's there everyday, all day.

25 MR. SERTL: Jeff Leist, owner of Microworx

1  
2 along with my wife who is not here tonight.

3 Three or four times a week we max out that  
4 parking lot because people are parking in the fire lane  
5 or in the spaces in front of doorways or things like  
6 that. It doesn't happen all the time. A lot of time,  
7 you know, on a Saturday there's twenty spots available.  
8 But three or four times a week we're maxing out the  
9 parking lot. Usually Tuesday through Thursday from  
10 2:00 to 4:00 in the afternoon seems to be a big time  
11 when we're maxing it out.

12 MS. DALE: What are the -- do your own  
13 employees park there as well?

14 How many employees are there?

15 MR. SERTL: How many employees?

16 MS. DALE: Yeah. I was just wondering how  
17 many cars are for the employees who are, I guess,  
18 parked there all day long or whatever their hours are.

19 MR. SERTL: I mean, I can tell you that we  
20 have fifteen employees and there's probably about  
21 twelve vehicles there for our employees. Some of my  
22 outside technicians go out on service calls. So two or  
23 three people may be out of the parking lot at any time.

24 MS. DALE: Well, I think it's a  
25 chiropractor's office right next to you?

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MR. SERTL: Uhm-hmm.

MS. DALE: And that lot seems to be gigantic and had - at least the four times I went by it was like half full.

MR. SERTL: They --

MS. DALE: I wondered if you considered maybe asking them if you could, you know, let employees park a couple cars there?

MR. SERTL: They also do max out their parking lot pretty often during the day where every spot is filled from the front and back.

MS. DALE: Okay. What are the -- are all three of these businesses have the same hours?

MR. SERTL: Brighton Personal Training will start early, 6:30 or 7:00 and then run late to 7:00 at night. They bring in trainers and individuals. But we're there from 9:00 to 6:00 most days, 8:00 a couple days on Saturdays. And the optometrist is about those same hours.

MS. DALE: Because I guess I would have thought that a lot of the people with the personal trainer would maybe be in, you know, before work or in the evening and maybe that would help the other businesses because not everyone is there necessarily at

1  
2 the same time.

3 MR. SERTL: They do seem to bring in a lot of  
4 people during lunch, again 12:00 to 2:00/3:00. That's  
5 really, you know -- it's 2:00 to 4:00 in the afternoon  
6 that I see most often that parking lot is maxed out.  
7 And quite frankly the chiropractor is pretty maxed out  
8 at that time too.

9 MR. SELLECK: Jeff and his wife Kay and  
10 myself and Bob Bovee, who is Brighton Personal  
11 Training, we all met on site and walked the lot and we  
12 kind of let's say assigned for lack of a better term.  
13 Jeff has his employees parking in certain spots. Bob  
14 has his employees that are there all day parking in  
15 certain spots. So we can leave as many of the prime  
16 spots that are available which would be on the south  
17 and on the east side of the building available for the  
18 customers of, you know, the three businesses. So we  
19 have, you know, done our best to try to isolate the  
20 employees all into kind of one - into kind of what  
21 would be the back end northwest area to leave the other  
22 spots available open for the people that are coming and  
23 going.

24 MS. DALE: And so it's six new spots total?

25 MR. MIETZ: Seven.

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MR. SELLECK: Seven.

MS. DALE: It's seven?

MR. SELLECK: Yeah.

MS. DALE: Three in the northeast, two in the northwest and you said one where a divide --

MR. SELLECK: Actually, I think there's four. I think there's four in the northeast corner.

MS. DALE: Oh, okay.

MR. SELLECK: Even though he only shows - he shows one, two -- he's only got arrows for one, two, three, but there's that one fourth spot there and the one where the landscape area is and then the two up front. So four and two and one.

MR. MIETZ: Seven.

MR. SELLECK: Yeah.

MR. DiSTEFANO: Kurt, many times with green space variances there's some sort of mitigation proposed.

Are you guys doing anything in terms of additional landscaping; something out by the road, somewhere on the site that maybe adds some vertical green space, just a question?

MR. SELLECK: I hadn't planned to do so, but I could if that was required. I wasn't aware that was

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standard operating procedure.

MR. DiSTEFANO: A lot of times it's mitigation for the loss of green space.

MR. MIETZ: A trade off.

MR. SELLECK: We could --

MR. DiSTEFANO: We're going to offset by, you know, doing some --

MR. SELLECK: We can try to screen --

MR. DiSTEFANO: I don't know what's there. I can't --

MR. SELLECK: There's not much there.

MR. DiSTEFANO: Yeah. I don't know what's out by the road.

MR. SELLECK: There's not much there.

MR. DiSTEFANO: A lot of times you'll see some street trees out by the --

MR. SELLECK: We can try to screen this transformer. There's kind of a transformer that's right on the lot line there that's not super attractive. We can try and do some shrubs around that and screen that up and, you know, a little bit of green space here between the driveway and the fence that we could --

MR. DiSTEFANO: How much room do you have?

1  
2           You have a full twenty feet between the front  
3 property line and those first rows of parking spaces.

4           MR. SELLECK: No. No, there's four or  
5 five feet there.

6           Oh, between the property line, sorry.

7           MR. DiSTEFANO: Yeah, between the property  
8 line and --

9           MR. SELLECK: Fourteen feet there.

10          MR. DiSTEFANO: Yeah. I mean I'm just  
11 wondering if something could be proposed in that --

12          MR. SELLECK: I can put something in there as  
13 long as it's --

14          MR. DiSTEFANO: All right. Well, something  
15 --

16          MR. SELLECK: As long as it's very salt  
17 resistant because I just know from what the grass looks  
18 like there every spring that it gets, you know, it gets  
19 a lot of snow and salt pushed on to it.

20          MR. DiSTEFANO: Sure.

21          MR. SELLECK: Because that's where the road  
22 goes from one lane to two so you can make that right  
23 onto Monroe or you can go straight - or go straight or  
24 left. So --

25          MR. MIETZ: Okay. Any other questions?

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Okay. Thank you very much.

MR. SELLECK: Thank you very much.

Is there anybody in the audience that would like to speak regarding this application?

There being none, the public hearing is closed.

6A-04-15 Application of Jeffrey Levinson and Wendy Howitt, owners of property located at 130 Barclay Square Drive, for an Area Variance from Sections 203-2.1(6) and 203-9B to allow a stand-by emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

MR. LEVINSON: Good evening. I'm Jeffrey Levinson from 130 Barclay Square Drive.

And we're asking for a variance to place our generator on the side of our house where the existing gas meter is and also the fewest windows on the house are on that side of the house that faces kind of southeast. And it's is screened from our neighbor. Our neighbor has a fence and a whole line of arborvitaes between us and them.

MR. MIETZ: Okay. Pretty straight forward.

Any questions?

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MR. GOLDMAN: The testing will occur?

MR. LEVINSON: During the daytime during the week. I mean, our neighbor who we face also has a generator.

MR. DiSTEFANO: For the record, could you describe the model and sound decibel rating of the unit that you will be using?

MR. LEVINSON: Yeah. It is a Generac and the sound decibel rating was sixty-three decibels.

MR. MIETZ: Okay.

Any other questions?

MS. TOMPKINS WRIGHT: Are you proposing any kind of screening on your property?

MR. LEVINSON: No, because the neighbor has huge arborvitaes and a fence between us and them.

MS. SCHWARTZ: Do you think that your neighbor knows you're going to be doing this as well?

MR. LEVINSON: If they got --

MR. DiSTEFANO: They would have been notified directly.

MS. SCHWARTZ: That's true.

And they didn't speak to you or anything about it?

MR. LEVINSON: No.

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MR. MIETZ: All right. Anything?  
Okay, very good. Thank you very much.  
MR. LEVINSON: Thank you.  
MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application?  
There being none, the public hearing is closed.  
6A-05-15 Application of Jack Siegrist, applicant, and James and Sharon Cerone, owners of property located on East Avenue (between 2940 and 2980 East Avenue) known as Tax ID #138.05-1-70, for Area Variances from Section 205-2 to 1) allow a new single family house to be constructed with a 10 ft. side setback (south side) in lieu of the minimum 16.5 ft. required by code, and 2) allow said house to have 4,480 sf of livable floor area in lieu of the maximum 3,963 sf allowed by code. All as described on application and plans on file.  
MR. MIETZ: Do you have everything up there? Are you ready to roll?  
MR. SIEGRIST: I think so. We'll get it up as we need it.  
MR. MIETZ: Okay.  
MR. SIEGRIST: My name is Jack Siegrist. I'm the architect. This is 2960 East Avenue. It sits

1  
2 between 2980 which is to the east and 2940 which is to  
3 the west.

4 We are asking for two variances. One is for  
5 the side setback which is on the south -- I'm sorry,  
6 the east side where we have sixteen and a half is  
7 required and we're asking for actually eight to the  
8 overhang. And then the second variance is for the  
9 square footage of forty-four eighty where thirty-nine  
10 something is required.

11 The thirty-nine --

12 MR. DiSTEFANO: Before we go on, so your  
13 application said ten feet but you did not include the  
14 overhang with the ten feet?

15 MR. SIEGRIST: I did not include the  
16 overhang.

17 MR. DiSTEFANO: So you're going to for the  
18 record modify your application to reflect --

19 MR. SIEGRIST: Eight feet.

20 MR. DiSTEFANO: Eight feet on that side  
21 setback request.

22 MR. SIEGRIST: The livable floor area  
23 of forty-four eighty is including some storage area  
24 which we don't need. We were looking to square off the  
25 box, let's say, but it ended up being forty-four

1  
2 eighty. And - but we really will need -- it will be  
3 here(indicating). So it will be two hundred square  
4 feet less. It will be this area here(indicating).

5 MR. MIETZ: The corner?

6 MR. SIEGRIST: Which is now just storage  
7 area. It has an attic - it has up stairs up to the  
8 attic. And that's not going to be included. It will  
9 only be about forty-two hundred square feet.

10 The other --

11 MR. MIETZ: So we really need to amend the  
12 square footage request as well.

13 MR. SIEGRIST: Yes, if you --

14 MR. DiSTEFANO: I think we can condition the  
15 square footage request since it's less than what is  
16 requested here?

17 MR. MIETZ: Is it accurate on the drawings  
18 that you have?

19 MR. SIEGRIST: Yes.

20 MR. DiSTEFANO: It's accurate on the drawings  
21 that we have, but it wasn't accurate on the  
22 application.

23 MR. SIEGRIST: It would -- well --

24 MR. DiSTEFANO: I think the drawings say four  
25 thousand four hundred and eighty square feet.

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MR. SIEGRIST: Right. And we wanted to be careful and include the square footage of storage that we --

MR. DiSTEFANO: Is it heated area?

MR. SIEGRIST: No, it is not.

MR. DiSTEFANO: Okay. Then that wouldn't be included as --

MR. SIEGRIST: That's why --

MR. DiSTEFANO: -- livable floor area.

MR. SIEGRIST: Right. That's why we have two hundred square foot less and we're forty-two hundred square feet.

The second variance is for a livable floor area -- side setback on the right side of ten square feet -- eight square feet. And the -- from sixteen and a half feet.

We have set the house back. You couldn't see here(indicating). The setback is way up front. Our house is way back here(indicating). This is actually the present owner's house right now. This is their neighbor's house over here(indicating). So as you can see it's quite a bit of a distance.

MR. MIETZ: Can you just, because it will come up later, approximate from those two structures?

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MR. SIEGRIST: How far --

MR. MIETZ: Yeah, just roughly guess.

MR. SIEGRIST: It looks like two hundred square feet -- or two hundred feet here(indicating) and maybe one sixty from here(indicating) and then the Ludwig residence is about two hundred.

MR. MIETZ: About two hundred, okay.

Go ahead. Go on.

MR. SIEGRIST: What else do you want me to say?

MR. MIETZ: Oh, I didn't know if you were finished or not.

MR. SIEGRIST: That's our show.

MS. DALE: Did you draw up any new plans --

MR. SIEGRIST: Yes.

MS. DALE: -- that would not have required the variances?

MR. SIEGRIST: No, because we were in our similar areas - similar houses in the area that are larger or about approximately our size. We percentage wise are there at about -- I can't believe this, it's getting to be -- they'll be about the same size. We didn't explore it because we didn't feel we needed it to. We had the two hundred square foot reduction and I

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guess that's all we had to do.

MS. DALE: So the reason for the variances is you don't want to have a house that's smaller than houses nearby?

MR. SIEGRIST: Well, I don't think it's a very big house. I mean, it's a big house, but it's not a very big house. It's --

MS. DALE: Because the lot is a little skinnier than --

MR. SIEGRIST: Yes. It's a hundred and ten feet and we need a hundred and twenty-five.

MR. MIETZ: You made comments, and one of the things that usually happens in situations like this is it's important because we're looking at the neighborhood.

MR. SIEGRIST: Uhm-hum.

MR. MIETZ: We all obviously drive down East Avenue and there's some very big homes there.

But you didn't do any real surveying of the adjacent structures, you know, at least in the reasonable neighborhood to suggest what the size of those actually are?

MR. SIEGRIST: Yes, actually we did.

MR. MIETZ: Okay.

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MR. DiSTEFANO: Not only the size, but how they --

MR. SIEGRIST: The floor --

MR. DiSTEFANO: -- pick the floor area ratio compared to the lot size?

MR. MIETZ: Right.

MR. DiSTEFANO: That's the key here, the floor area ratio. We could have some very large houses on very large lots, but they don't compare favorably to this size lot.

MR. SIEGRIST: We didn't color it up for you because we weren't sure if it was going to be necessary.

This is East Avenue along here(indicating). We have -- I'm sorry can you see this?

MR. MIETZ: Probably not really, but just --

MR. SIEGRIST: Well, this is our hundred and ten foot lot(indicating). This is a hundred foot lot(indicating). This is townhouses(indicating). And these are town houses along here(indicating). This is our property(indicating). This is our other property next door(indicating). We have a small lot almost the same size as ours, a little bit smaller than theirs(indicating) that's exactly the same size. This

1  
2 is a combined lot(indicating). This is another small  
3 lot (indicating) with over forty-two hundred square  
4 feet on it. This has over a five thousand square feet  
5 on it(indicating).

6 MR. MIETZ: I think it's important that those  
7 ratios are understood as it relates to those  
8 properties. It's very important for us making that  
9 decision. It's a little hard to extrapolate on a plan,  
10 but we can discuss that further.

11 Are there any other questions?

12 So your testimony is that the house was  
13 designed as to need and there were no other  
14 alternatives or efforts made to try to fit something on  
15 this lot that would fit - maybe not related to the side  
16 variance, but to the square footage situation?

17 MR. DiSTEFANO: Yeah. For instance; did you  
18 look at a front-loading garage where the house could be  
19 moved centered more on the lot, the use of a  
20 front-loading garage where no variance would be  
21 necessary for the side setbacks?

22 MR. SIEGRIST: I don't think that we would be  
23 able to put in a front-loading garage.

24 MS. DALE: But the application said they  
25 didn't want to have a front-loading garage because of

1  
2 the way it would look.

3 MR. DiSTEFANO: Well, that's what I'm saying.  
4 But a front-loading garage would, you know - the  
5 variance wouldn't be required.

6 I'm trying to say why a front-loading garage  
7 doesn't work and that's what's forcing them into a  
8 variance request.

9 MR. SIEGRIST: We feel that our narrow front  
10 side-load garage is twenty-two feet, which is really  
11 minimal and we have a laundry room next to it and we  
12 have half of a living room and a kitchen and that's all  
13 front-loaded. It's - there's an access point and all  
14 those rooms are behind there. The garage is followed  
15 up with the master bedroom. So that would be  
16 important.

17 MS. TOMPKINS WRIGHT: Most of the garages --  
18 aren't most of the garages in this neighborhood  
19 side-entry garages?

20 MR. SIEGRIST: No. They're -- the townhouses  
21 are all side-entry. Our garage and our present home  
22 which is right now a two-car front-load and then  
23 there's us. And then I don't know what Jerry Ludwig  
24 is. I can't imagine that the narrower lots are - have  
25 a front-load garage.

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MR. MIETZ: Okay. Rick, did you have any --

MR. DiSTEFANO: No.

MR. MIETZ: Andrea?

MS. TOMPKINS WRIGHT: Who subdivided this property to make it --

MR. SIEGRIST: It was divided before the zoning. It was like a hundred years ago or ninety years ago.

MS. TOMPKINS WRIGHT: Okay.

MS. DALE: Do you already have somebody that is going to buy this house and is going to move in or is this --

MR. SIEGRIST: Yes. It's their desire to have the house as it is.

MS. DALE: But they haven't seen other options?

MR. SIEGRIST: Well, we've -- this has been a six to eight month process. We've done other options, but we haven't brought them in with me because it just didn't seem to be important.

MS. DALE: Oh, I'm sorry. I thought you said you hadn't tried any plans that would not require a variance.

Did I misunderstand that?

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MR. SIEGRIST: I don't have them with me.

MS. DALE: Oh, I thought you said you haven't drafted any.

So you have --

MR. SIEGRIST: We do.

MS. DALE: -- presented options to your client and they just didn't like those?

MR. SIEGRIST: That's correct.

MS. DALE: Okay.

MR. SIEGRIST: And besides, it would give you a wider footprint here(indicating). And, you know, having three garage doors facing the street is not really desirable to be thirty feet from the house or thirty-four feet.

MR. DOLLINGER: Back to the relative livable floor area; that's the standard, right?

Do you -- I was confused in your answer. I thought you had it, but maybe you don't.

Do you have any analysis of the livable floor area ratios for the surrounding properties, neighborhood or anything?

MR. SIEGRIST: I do not. I mean, we have a general feel and we know we're within, you know, a percentage or two of what is there. But I don't have

1  
2 an analysis.

3 MR. MIETZ: All right.

4 Okay. Other questions related to this at  
5 this point?

6 We can discuss it further.

7 Okay. Thank you very much.

8 Is there anyone in the audience that would  
9 like to speak regarding -- Jerry?

10 MR. LUDWIG: Jerry Ludwig, 2940 East Avenue.

11 Honorable Chair, Members of the Commission,  
12 Staff, thank you for being here on this beautiful night  
13 when we would all probably rather be someplace else.

14 I have a couple concerns. One, if you drive  
15 down East Avenue from Rochester to Pittsford there have  
16 not been to my knowledge any houses that have been  
17 wedged in between existing houses in at least the last  
18 sixty years. And if you drive down Clover Street or  
19 even Ambassador there are a few examples where there  
20 was a lot - whether non-conforming or not - and all of  
21 a sudden presto, there's a new house and it pretty much  
22 is obvious where it is. East Avenue is probably one of  
23 the most beautiful streets in Monroe County. So I'm  
24 concerned that having a house so close to not  
25 necessarily to our house -- although the plans call for

1  
2 us losing a beautiful Maple Tree on our property line  
3 -- having a house so close to another house will be an  
4 obvious change on East Avenue.

5 And I know a year ago the Sharons planned to  
6 combine the two lots and add on to their existing  
7 house, which I thought was a fine idea because that  
8 would alleviate the non-conforming lot and it would  
9 still give plenty of space around the house. And I  
10 think that's what this comes down to. This was brought  
11 up a couple of times that big houses tend to be on  
12 bigger lots and smaller houses tend to be on smaller  
13 lots. But throughout East Avenue I think you can say  
14 that there is this proportion of open space and the  
15 house, and a good proportion at that.

16 So that's the extent of my comments.

17 Any questions for me?

18 MR. MIETZ: No.

19 MR. LUDWIG: Okay. Thank you.

20 MR. DiSTEFANO: Thank you.

21 MR. MIETZ: Thank you, Jerry.

22 Is there anyone else in the audience --

23 MS. SCHWARTZ: I do have one question for  
24 Jerry.

25 MR. LUDWIG: Yes, Judy?

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MS. SCHWARTZ: Front-loading or side-loading, because --

MR. LUDWIG: Well, currently now it's a side-loading garage and that's why we're going to lose the tree because of the driveway coming around to the I guess that's the west side. I never can quite keep it straight, north side, west side.

MS. SCHWARTZ: Okay.

MR. LUDWIG: I don't care about whether the garage is front-loading or side-loading. I think it's more the question of would a smaller house be more suitable given the size and the setbacks.

MS. SCHWARTZ: Okay.

MR. MIETZ: Great. Thank you very much.

MR. LUDWIG: Thank you.

MS. SCHWARTZ: Thank you.

MR. MIETZ: Anyone else related to this application?

There being none, the public hearing is closed.

6A-06-15 Application of Robert Taylor, agent, and Diane Taylor, owner of property located at 224 Edgewood Avenue, for an Area Variance from Section 207-6 to allow a shed to be 2.5 ft. from the rear lot line and 4

1  
2 ft. form a side lot line where a minimum 5 ft.  
3 setback from all lot lines is required by code. All as  
4 described on application and plans on file.

5 MR. MIETZ: You can go ahead, sir.

6 MR. TAYLOR: Okay. Thank you. Good evening.  
7 I'm Robert Taylor. I'm here for 224 Edgewood Avenue.  
8 I'm requesting a variance to put a shed, an 8x10  
9 storage shed in the backyard.

10 The prime reason for my request is we have a  
11 very small backyard and in order to put it where the  
12 code calls for would be pretty much in the middle of my  
13 yard.

14 Do you want these, sir?

15 Are these yours?

16 I have written permission from both  
17 neighbors, the one behind us and the one next to us.  
18 They have no concern with putting the shed where I  
19 requested. There is a fence in the back of the  
20 property. So actually the shed would be - according to  
21 my request it would be two feet in from the fence. The  
22 fence is six inches from the property line.

23 If I were to put a shed where the code  
24 requires it would cover the sewer. There is a sewer  
25 access line that goes across our backyard. The

1  
2 superintendent of the sewers of Brighton came out and  
3 looked. I had it roped off where I wanted to put the  
4 shed, which would clear that. And he had absolutely no  
5 problem with where the shed was going to be.

6 MR. DiSTEFANO: So even though it was located  
7 in the easement he was okay with that?

8 MR. TAYLOR: Yes.

9 MR. DiSTEFANO: Thank you.

10 MR. TAYLOR: The only thing he did stipulate  
11 is in the event down the road they had to dig that line  
12 up I may have to move the shed. The shed will not be  
13 on the sewer line, but if they come in with big enough  
14 equipment I may have to move the shed. I don't object  
15 to that. I have been there since a long time and  
16 nobody has been in the backyard.

17 MR. MIETZ: Okay. To clear it completely  
18 then, what would you have to do to clear the easement  
19 completely so the shed would never have to be disturbed  
20 if they worked on the easement within that area?

21 MR. TAYLOR: It would have to be right on the  
22 property line.

23 MR. MIETZ: So it would encroach even closer  
24 to the property line?

25 MR. TAYLOR: It would have to be on it and

1  
2 then it's going to be - it's still within an area that  
3 it might be. It depends on how big of equipment they  
4 bring in.

5 MR. MIETZ: Right. Okay.

6 MR. TAYLOR: Hopefully --

7 MR. MIETZ: So basically this given the sewer  
8 location of the sewer easement and the line itself,  
9 this is the path of least resistance?

10 MR. TAYLOR: Yes. Also the shed being 8x10  
11 will be color coordinated with the house so it would  
12 not be an eyesore in the backyard.

13 I have pictures of the area with it if  
14 anybody is interested.

15 MR. MIETZ: Do you want to take a look at it?

16 I've seen them so --

17 MR. TAYLOR: Okay.

18 MR. MIETZ: Okay. I think we're fine. Thank  
19 you.

20 MR. TAYLOR: Any questions?

21 MR. MIETZ: Any other questions other than  
22 that?

23 No, okay. Thank you very much.

24 MR. TAYLOR: Thank you.

25 MR. MIETZ: Is there anyone in the audience

1  
2 that would like to speak regarding this application?

3           There being none, this public hearing is  
4 closed.

5 6A-07-10 Application of Fisher Associates, agent, and  
6 Peter Sun / Sukora Home, owner of property located at  
7 2775 Monroe Avenue, for 1) an Area Variance from  
8 Section 205-12 to allow total on-site parking to be 89  
9 spaces, after expansion of restaurant seating,  
10 in lieu of the minimum 105 spaces required by code; and  
11 2) an Area Variance from Section 205-18 to allow four  
12 (4) new parking spaces to be located along the front  
13 lot line in lieu of being setback a minimum 20 ft. as  
14 required by code. All as described on application and  
15 plans on file.

16           MR. LOGUE: Good evening, Members of the  
17 Board. My name is Shawn Logue from Fisher Associates.  
18 I'm representing the applicant and owner of Sukora  
19 Home, Peter Sun. We are here before you to request two  
20 variances as Rick had indicated.

21           Really quickly, Sukora Home is located at 775  
22 Monroe Avenue within the general commercial zoning  
23 district. It's situated on 1.10 acres of land and it's  
24 consistent with the adjacent land uses, mostly retail  
25 and service industries/restaurants.

1  
2           The total footprint of the building is nine  
3 thousand square feet. Currently they're utilizing  
4 sixty-eight hundred square feet of that building. And  
5 the remaining twenty-two hundred square feet is used  
6 for storage purposes. Currently they have eighty-two  
7 spaces and we are proposing an additional seven spaces,  
8 which is the first request which is an area variance to  
9 allow total on-site parking of eighty-nine spaces after  
10 the expansion of the restaurant, in lieu of a hundred  
11 and five spaces.

12           This is kind of a two part application. The  
13 applicant is going before the Planning Board on  
14 June 17th to request a conditional use to allow them to  
15 occupy that rear storage space.

16           So -- and then the second part of the request  
17 is an area variance to allow four parking spaces to be  
18 located within the front lot line, pre-existing  
19 non-conforming, in lieu of the twenty foot minimum  
20 setback requirement.

21           MR. MIETZ: Okay. So before we talk about  
22 the parking situation, could we make sure that all the  
23 Board members are clear?

24           What's really happening in the building;  
25 what's changing specifically?

1  
2 MR. LOGUE: There are no structural changes  
3 within the building. There's no structural changes on  
4 the exterior of the building. There are no increases  
5 of impervious surface.

6 All they're doing is changing the utilization  
7 - they want to utilize the storage area and add sixty  
8 additional seats, which would require - per the one per  
9 one hundred would require twenty-two --

10 MR. MIETZ: So there will be some storage  
11 back there and some additional seating?

12 MR. LOGUE: They would be utilizing the  
13 basement area for storage purposes and then they would  
14 be proposing the sixty seats in the rear storage area.

15 MR. MIETZ: Okay. So then now let's talk  
16 about the exterior. You talked about the location  
17 along Monroe Avenue for the four spaces and then --

18 Are -- again for the record, what's going on  
19 on the west side of the building; are these handicapped  
20 spots and all that stuff being done?

21 Now, it's kind of a rocky mess along there  
22 with various asphalt and what not.

23 What's going on on this side of the building?

24 MR. LOGUE: Right here(indicating) is now  
25 what you have. Right here is(indicating) is the former

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curb cut right here.

MR. MIETZ: Right.

MR. LOGUE: The DOT closed that off.

And we're proposing four additional spaces here(indicating).

MR. MIETZ: Correct.

MR. LOGUE: And we're adding some pavement markings here(indicating) and adding one more additional space here(indicating). We're removing this planter that kind of sticks out in the paving area and we're adding two additional spaces there for a total of seven additional spaces.

MR. MIETZ: But is there other -- what other improvements are along this side?

Is the asphalt being redone completely?

What's being done?

Because I see the configuration of the handicapped spaces is quite different than the --

MR. LOGUE: Right. Some of the handicapped spaces exceeded the requirements. Some were actually below the requirements. So we kind of played around with the dimensions and we were able to move the handicapped space to the very northern section and we were able to add two more additional spaces.

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2 We are adding pavement markings. We are  
3 going to be restriping the whole entire parking lot.  
4 The dumpster enclosure - they're going to be proposing  
5 a new dumpster enclosure. Other than that there are  
6 going to be no other --

7 MR. MIETZ: So the lot itself where parking  
8 is being added is not being resurfaced or recoated,  
9 sealed or whatnot?

10 MR. LOGUE: It may be we recoated. I know  
11 they're going to be restriping it. That may be  
12 something that he'd take into consideration.

13 MR. MIETZ: There's some concern, you know,  
14 when you're adding and subtracting markings and things,  
15 you know, again, how it appears. If you do that and  
16 it's not uniform --

17 MR. LOGUE: But being out back I guess it  
18 couldn't hurt to put a new coat on there.

19 MR. MIETZ: Okay. The dumpster enclosure is  
20 something you're proposing now or proposing later?

21 MR. LOGUE: No, it's there now. We're just  
22 proposing a new enclosure.

23 MR. MIETZ: Do you know what its -- is it a  
24 plan?

25 What it's going to look like?

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What kind of material?

I mean I know it's there now, but --

MR. LOGUE: I think they're going to propose a kind of a stockade, wooden enclosure in between the gates.

MR. MIETZ: Okay.

MS. TOMPKINS WRIGHT: Regarding the parking, right now you're basically right up to what the code requires give or take a parking space or two.

So what's the parking like right now?

I was cornered -- obviously, you know, you can sometimes get a variance.

But really what makes you from not creating too much need for the parking and not providing enough?

MR. LOGUE: That's a good question. We conducted some parking counts on April 3rd, April 4th, April 24th and April 25th during what we saw as peak hours between 6:00 p.m. and 8:30 p.m. And on April 3rd during the peak time which we considered right about 7:45 we counted forty-two vehicles. On April 4th there was total of seventy-two vehicles. On April 24th there were forty-eight vehicles. And on April 25th there were fifty-four. So they have, you know, significant amount of parking remaining during those peak hours.

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2 MS. TOMPKINS WRIGHT: April 4th, what day is  
3 that - the day of the week was --

4 MS. DALE: They were Fridays and Saturdays.

5 MR. LOGUE: Fridays and Saturdays we did that  
6 on, yeah.

7 MR. MIETZ: They picked the busier days.

8 MR. LOGUE: I wanted to make sure they  
9 weren't Mondays or Tuesdays.

10 MR. DiSTEFANO: So exactly what is the need  
11 for if they're not filling all the tables -- maybe they  
12 are filling all the tables. I don't know. But it  
13 seems like there's a lot of additional seats going in  
14 here where I don't see where the need for all the  
15 additional seats actually is.

16 What is -- I guess why are we adding - I  
17 don't know what that number is -- what's that; how many  
18 additional seats are we adding?

19 MR. MIETZ: Sixty.

20 MS. DALE: Sixty.

21 MR. DiSTEFANO: Sixty?

22 MR. LOGUE: Yeah, sixty additional seats.

23 From my understanding he wants to hold, you  
24 know, events there. Kind of not receptions, but he  
25 wants to hold, like, birthday parties, corporate events

1  
2 and so forth. And like -- and that did cross my mind.  
3 And I did do a little research and I did see it's a  
4 hibachi restaurant, so they have those big hibachi  
5 tables. And usually you have a bigger party going to a  
6 hibachi restaurant, as opposed to, you know, just a  
7 regular restaurant. So maybe that's why there is less  
8 vehicles.

9 MR. MIETZ: Okay. All right. Are there any  
10 other questions for the applicant?

11 Okay. Thank you very much.

12 MR. LOGUE: Thank you very much.

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

15 There being none, then the public hearing is  
16 closed.

17 6A-08-15 Application of Nancy LaRouche, owner of  
18 property located at 307 Allens Creek Road, for an Area  
19 Variance from Section 205-2 to allow an addition to  
20 extend 8.5 ft. into the 60 ft. rear setback required by  
21 code. All as described on application and plans on  
22 file.

23 MS. LaROUCHE: Good evening. I'm Nancy  
24 LaRouche, the owner of the residence.

25 And the reason we are asking for a variance

1  
2 is because we are -- we have a three-season porch that  
3 is connected to the back of the house. Apparently  
4 prior to when we moved into the house or owned the  
5 house a slab was put down there as a terrace. And then  
6 sometime between that owner and a couple of other  
7 owners it was enclosed. I have no idea when it was  
8 enclosed. But the fact being they did not get a permit  
9 to do that. So we need to be here in order to get the  
10 variance.

11 So what we're going to do is make it a  
12 four-season room. No -- footprint is the exact same.  
13 We're just taking out the walls and putting in windows  
14 and heat. That's it.

15 MR. GOLDMAN: I looked at your plans and it  
16 looks like you're going to enclose your sun room --

17 MS. LaROUCHE: Yes.

18 MR. GOLDMAN: -- that room and create a  
19 facade that continues on, and so in return the house  
20 will resemble one unit as opposed to separate units.

21 Could you just speak to how you're going to  
22 finish the house - the siding, how's it going to --

23 MR. MIETZ: The exterior.

24 MS. LaROUCHE: Oh, the exterior. Okay.  
25 That's going to be shingles like the other houses -

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like the rest of the houses.

MR. MIETZ: So it will all be uniform in color --

MS. LaROUCHE: Yes.

MR. MIETZ: -- and size?

MS. LaROUCHE: Yes.

MR. MIETZ: Okay.

MS. LaROUCHE: And the trim work that goes from around the house right now, that's also going to be.

MR. MIETZ: All that trim?

MS. LaROUCHE: Yes.

MR. MIETZ: Very good.

MS. TOMPKINS WRIGHT: And this three-season porch --

MS. LaROUCHE: Uhm-hum.

MS. TOMPKINS WRIGHT: -- was put on prior to you owning the property?

MS. LaROUCHE: Yes. We've only been in the house not even a year.

MS. TOMPKINS WRIGHT: Okay.

MS. LaROUCHE: Last June. I do know that the prior owners before us did not put in the enclosure. They were only there three years.

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I don't know who had it before that.

MS. TOMPKINS WRIGHT: Okay.

MR. MIETZ: Okay. Any other questions?

Okay. Thank you very much.

MS. LaROUCHE: Thank you.

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

There being none, the public hearing is closed.

6A-09-15 Application of Julie and Chris Gangai, owners of property located at 5 Winslow Avenue, for an Area Variance from Section 207-6A to allow a gazebo to extend 20.5 ft. in height above grade in lieu of the maximum 16 ft. in height above grade as allowed by code. All as described on application and plans on file.

UNKNOWN: You pronounced our last name right.

MR. DiSTEFANO: Yeah, I remembered. I asked you and I remembered.

UNKNOWN: Hi, everyone. We are here for tearing down --

MR. MIETZ: Just for the record, state your name and address.

MS. GANGAI: Julie Gangai, 5 Winslow Avenue.

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MR. MIETZ: Thank you.

MS. GANGAI: Before we moved into our house about fifteen years ago there was already a deck on the back of the house, which is above grade level because of the way our house is configured. So it's multi-level right now and it's starting to fall apart and not very safe. So we're tearing that down and we would like to put a one-level deck on so it just comes right out of our family room. And that will be a about eight feet above grade.

The other thing that we're hoping to do is to have some kind of screened-in area. We can't just do a screened-in porch back there because of the roof lines of the house. So we would like to put in a gazebo on the back that is screened-in and that's what takes us past the variance - a variance with the height. So we'll be about four/four and a half feet above the limit for the height of the gazebo, which you can see in the plans there.

MS. SCHWARTZ: Are you going to be losing the tree that's facing it on the right?

MS. GANGAI: Right now the tree that is there, the existing deck was built around the tree. Yeah, that's another thing that's happened is the tree

1  
2 outgrew its little space. The deck was built around  
3 which has caused the deck to kind of heave there. So  
4 that tree does need to come down. It's caused us some  
5 problems with insects and such because it's so close to  
6 the house.

7 MS. SCHWARTZ: Okay.

8 MR. DiSTEFANO: Can you kind of explain what  
9 your neighbors across the street might see?

10 MS. GANGAI: Across Parkwood?

11 MR. DiSTEFANO: Yeah.

12 MS. GANGAI: Not very much because we are --  
13 that is the size of our lot. There are trees that line  
14 our yard and then there's about maybe five feet of  
15 grass or ground cover to the street. So when you're on  
16 Parkwood looking in you can see kind of the outline of  
17 our house, but it's not wide open where they're going  
18 to see.

19 MR. DiSTEFANO: Very mature trees that are  
20 lining that, right?

21 MS. GANGAI: Yes.

22 MR. DiSTEFANO: Is the road a little higher  
23 than your -- does your property kind of go down from  
24 Parkwood?

25 MS. GANGAI: It goes down from Parkwood and

1  
2 from Winslow. So that's part of the configuration.  
3 When you're in the front of the house the first floor  
4 really feels like the first floor. When you're in the  
5 back of the house you're still on the first floor, but  
6 you are up from the lot.

7 MR. DiSTEFANO: So the neighbors across the  
8 street, from their perception, it's not going to appear  
9 that that gazebo is twenty feet in height?

10 MS. GANGAI: No.

11 MR. DiSTEFANO: From their perception it's  
12 going to be lower than that?

13 MS. GANGAI: Right. It's going to look just  
14 like near the family room. It's as if you were going  
15 to put a screened-in porch behind that family room.  
16 The roof of the gazebo looks like it would go with  
17 those standards.

18 MS. CORRADO: Have you shared your plans with  
19 the neighbors, your adjacent neighbors at all?

20 MS. GANGAI: We haven't. The one neighbor  
21 right behind us probably has the clearest view of our  
22 yard. She stopped by tonight because they have gotten  
23 a letter about the meeting. So we just talked about  
24 what we're doing. She said, "I'm glad you'll have a  
25 screened-in area." It's just so buggy as soon as the

1  
2 sun goes down that we're never out in the yard at that  
3 time of night. She didn't have any concerns. That is  
4 definitely the neighbor with the clearest view of it.

5 MR. MIETZ: You mentioned earlier that  
6 obviously your objective or one of your objectives was  
7 to create some type of screening in that area.

8 MS. GANGAI: Uhm-hmm.

9 MR. MIETZ: And you said due to the roof line  
10 I believe --

11 MS. GANGAI: Yes.

12 MR. MIETZ: -- that there was an issue where  
13 you could not construct a structure out there that  
14 could be enclosed --

15 MS. GANGAI: Right.

16 MR. MIETZ: -- like a standard porch?

17 MS. GANGAI: Right, right off the family  
18 room. We put an addition on our home a few years ago  
19 and I don't know the different application processes.  
20 I don't know which photos you have.

21 Do you have a color photo of the house?

22 It was probably with the --

23 MR. DiSTEFANO: No, we don't.

24 MS. GANGAI: Okay. This is from the side  
25 view(indicating). Our family room that faces the deck,

1  
2 it's a cathedral ceiling, and the wall that faces the  
3 deck there is a triangular window up above the door  
4 frame. So if you were to extend - you know, screen in  
5 right off of there we would have the window that we  
6 would be losing or closed in. And the addition that we  
7 put on a few years ago is a garage to the side of that  
8 room, and the way the roof lines go it's just  
9 everything is off just by a couple feet if we were to  
10 come off. So when our contractor looked at it he said,  
11 "I wished you would have thought of this stuff six  
12 years ago, we could have just scooted that over." So  
13 that is where the issue is.

14 MR. MIETZ: It would be major modifications  
15 required in order to --

16 MS. GANGAI: Yes.

17 MR. MIETZ: Okay. That's fine.

18 MS. TOMPKINS WRIGHT: Do you know the height  
19 of the gazebo from the floor of the deck?

20 MS. GANGAI: From the floor of the deck I  
21 believe it is twelve feet and maybe one and a half  
22 inches or something like that. So the total that you  
23 have -- the way that it's written on the summary for  
24 tonight is -- does that say the height of the gazebo is  
25 a twenty --

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MS. SCHWARTZ: Right. Twenty feet --

MR. DiSTEFANO: 20.5.

MS. GANGAI: 20.5. So the deck is 8 feet off grade. So that would be twelve and one half inch.

MS. TOMPKINS WRIGHT: Okay.

MR. MIETZ: Okay. Very good.

MS. GANGAI: Any other questions?

MR. MIETZ: Other concerns or questions?

Okay. Thank you very much.

MS. GANGAI: Thank you.

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

There being none, 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

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Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on June  
3rd, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

June 3rd, 2015  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN  
CHRISTINE CORRADO  
JEANNE DALE  
JUDY SCHWARTZ  
MORREY GOLDMAN  
ANDREA TOMPKINS WRIGHT

KENNETH GORDON, ESQ.  
Town Attorney

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

NOT PRESENT:

CANDICE BAKER LEIT, ESQ.

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

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

1  
2 APPLICATION 5A-09-15

3 5A-09-15 Application of S.E. Baker & Co., agent,  
4 and Brighton Corners, LLC, owner of property located at  
5 1900 Monroe Avenue, for a Use Variance from Section  
6 203-9 to allow a bank with drive-thru teller to be  
7 located in a RLB - Residential District where not  
8 permitted by code. All as described on application and  
9 plans on file. TABLED AT THE MAY 6, 2015 MEETING -  
10 PUBLIC HEARING REMAINS OPEN

11 Motion made by Ms. Corrado to approve  
12 Application 5A-09-15.

13 **FINDINGS OF FACT:**

14 1. The requested variance is not substantial as it  
15 replaces a previous located bank and drive-thru teller  
16 window. In fact, the teller is being relocated further  
17 from the corner of the building to allow for better  
18 traffic flow, mitigating cross traffic and minimizing  
19 delay of stack up of vehicles in the queue.

20 2. No other alternative can alleviate the difficulty  
21 due to the existing configuration of the building and  
22 the parking adjacent to it. In fact, the plan, again,  
23 minimizes and corrects from any of the traffic  
24 difficulties created previously.

25 3. There is no unacceptable change in the character of

1  
2 the neighborhood and no detriment to nearby properties  
3 is expected.

4 4. The alleged hardship is not self-created. Again,  
5 this is an existing plaza with parking adjacent.

6 5. The health, safety and welfare is not to be  
7 adversely affected.

8 6. Under applicable zoning regulations the applicant  
9 will not be able to establish a reasonable rate of  
10 return without the use variance and as demonstrated  
11 with facts to establish that finding.

12 7. This property presents unique circumstances in that  
13 it is located in both the RLB district and the BF1  
14 zoning district.

15 **CONDITIONS:**

16 1. This variance applies only to the plaza's leased  
17 space as shown in plans submitted and testimony given  
18 and the adjacent area for the drive-thru facility.

19 2. This applies only to the drive-up teller. No ATM  
20 is permissible in the drive-up lane.

21 3. The drive-up teller must be located, as described  
22 in the application and in testimony, at the rear corner  
23 of the leased space.

24 4. The hours of operation must coincide with the bank,  
25 but shall not operate beyond 6:00 p.m.

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5. All necessary Planning Board approvals and Planning Board approvals shall be obtained.

(Seconded by Ms. Tompkins Wright.)

(Mr. Goldman, yes; Ms. Schwartz, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Tompkins Wright, yes; Ms. Corrado, yes.)

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

1  
2 APPLICATION 6A-01-15

3 6A-01-15 Application of Buckingham Properties,  
4 agent, and 2600 Elmwood, LLC, owner of property located  
5 at 2600 Elmwood Avenue, for relief of a condition of  
6 approved use variances (5A-07-97 & 12A-04-13) to allow  
7 for the outdoor placement of trash receptacles in lieu  
8 of placement inside the building as conditioned. All as  
9 described on application and plans on file.

10 Motion made by Ms. Dale to approve Application  
11 6A-01-15.

12 **FINDINGS OF FACT:**

13 1. The health, welfare and safety of the area will not  
14 be adversely affected by this variance. In fact, the  
15 requested variance is necessary to comply with the  
16 Department of Health.

17 2. The benefit sought by the applicant cannot be  
18 achieved by another feasible method other than the  
19 relief from the original condition.

20 3. There will be no unacceptable change to the  
21 character of the area and no substantial detriment to  
22 nearby properties.

23 4. The alleged hardship is not self-created by the  
24 applicant.

25 5. The requested relief is not substantial.

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**CONDITIONS:**

1. The totes shall be enclosed/screened by a solid fence as shown on plans submitted and testimony given.

2. The fence will be painted to match the back side of the building.

(Seconded by Mr. Goldman.)

(Ms. Corrado, yes; Mr. Mietz, yes; Ms. Tompkins Wright, yes; Ms. Schwartz, no; Mr. Goldman, yes; Ms. Dale, yes.)

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

1  
2 APPLICATION 6A-02-15

3 6A-02-15 Application of Martin and Marjane  
4 Selleck, owners of property located at 95 Eastland  
5 Avenue, for an Area Variance from Section 205-2 to  
6 allow a garage addition to extend 5 ft. into the  
7 existing 37 ft. rear setback where a 40 ft. rear  
8 setback is required by code. All as described on  
9 application and plans on file.

10 Motion made by Mr. Goldman to approve  
11 Application 6A-02-15.

12 **FINDINGS OF FACT:**

13 1. The variance is required due to the intrusion of  
14 the fireplace and furnace in the first garage space.

15 2. The variance is not substantial in that the  
16 extension is well hidden from street and the neighbors.

17 3. Although by definition this is a rear yard, by all  
18 intents and purposes it's perceived as a side yard and  
19 will therefore have an ample setback.

20 4. This variance does not have a large impact on the  
21 adjoining neighbor in that this living space is a  
22 substantial distance from their living space, and in  
23 between the living space and his property there is a  
24 detached garage.

25 5. No unacceptable change in the character of the

neighborhood will occur.

**CONDITIONS:**

1. This variance only applies to the garage structure as per plans submitted and testimony given at the June 3rd meeting, 2015.

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

(Seconded by Ms. Schwartz.)

(Mr. Mietz, yes; Ms. Dale, yes; Ms. Tompkins Wright, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Mr. Goldman, yes.)

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

1  
2 APPLICATION 6A-03-15

3 6A-03-15 Application of Winton Place Business  
4 Centre, LLC, owner of property located at 20 Allens  
5 Creek Road, for 1) an Area Variance from Section 205-7  
6 to allow impervious lot coverage to be 67%, after  
7 expansion of the parking lot, in lieu of the maximum  
8 65% allowed by code; and 2) an Area Variance from  
9 Section 205-18B to allow two (2) new parking spaces to  
10 be 2.4 ft. from a lot line in lieu of the minimum 10  
11 ft. required by code. All as described on application  
12 and plans on file.

13 Motion made by Mr. Mietz to approve  
14 Application 6A-03-15.

15 **FINDINGS OF FACT:**

- 16 1. The addition of seven parking spaces is needed to  
17 accommodate the current tenants at the property and is  
18 in fact nine spaces over the code requirement.
- 19 2. The increase in impervious surfaces from 64% to 67%  
20 is not substantial and only two of the additional  
21 spaces will be visible from the street.
- 22 3. The 2.4 feet setback in the front area is  
23 substantial, but it abuts land that is presently New  
24 York State land that is undeveloped and landlocked.
- 25 4. No negative effect on the character of the

neighborhood will result from the approval of this variance, and having adequate parking will add to the land safety of the lot line.

**CONDITIONS:**

1. All Planning Board approvals shall be obtained.
2. This variance is based on the drawings submitted at the 6/3/15 meeting and testimony given.
3. A landscaping plan helping to mitigate the loss of green space shall be reviewed and approved by the Conservation Board and Planning Board.

(Seconded by Ms. Schwartz.)

(Ms. Dale, no; Ms. Tompkins Wright, yes; Mr. Goldman, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes.)

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

1  
2 APPLICATION 6A-04-15

3 6A-04-15 Application of Jeffrey Levinson and  
4 Wendy Howitt, owners of property located at 130 Barclay  
5 Square Drive, for an Area Variance from Sections  
6 203-2.1(6) and 203-9B to allow a stand-by emergency  
7 generator to be located in a side yard in lieu of the  
8 rear yard behind the house as required by code. All as  
9 described on application and plans on file.

10 Motion made by Ms. Schwartz to approve  
11 Application 6A-04-15.

12 **FINDINGS OF FACT:**

- 13 1. The rear yard location for the emergency generator,  
14 as specified by code, is not a practical location.  
15 There is a deck immediately off the rear of the house  
16 and the yard drops down several feet all around this  
17 deck, making it difficult to situate the generator.  
18 2. The side yard is not visible from the street and  
19 therefore the generator will be out of sight.  
20 3. The properties to the immediate north and south  
21 have generators in the side yard.

22 **CONDITIONS:**

- 23 1. This variance only applies to the side yard  
24 location of the emergency generator as described in the  
25 application and testimony presented.

2. All necessary building approvals shall be obtained.

(Seconded by Ms. Corrado.)

(Mr. Goldman, yes; Ms. Tompkins Wright, yes;  
Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms.  
Schwartz, yes.)

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

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2 APPLICATION 6A-05-15

3 6A-05-15 Application of Jack Siegrist,  
4 applicant, and James and Sharon Cerone, owners of  
5 property located on East Avenue (between 2940 and 2980  
6 East Avenue) known as Tax ID #138.05-1-70, for Area  
7 Variances from Section 205-2 to 1) allow a new single  
8 family house to be constructed with a 10 ft. side  
9 setback (south side) in lieu of the minimum 16.5 ft.  
10 required by code, and 2) allow said house to have 4,480  
11 sf of livable floor area in lieu of the maximum 3,963  
12 sf allowed by code. All as described on application and  
13 plans on file.

14 Motion made by Ms. Tompkins Wright to table  
15 and leave the public hearing open for Application  
16 6A-05-15 for 1) The applicant to produce additional  
17 information related to the square footage of livable  
18 floor area in comparison lot size in the immediate  
19 neighborhood surrounding the property. 2) Additional  
20 information related to the current side setbacks for  
21 other homes in the immediate neighborhood. 3) For a  
22 discussion for alternative designs for a single-family  
23 home that may not need or minimize the need for the  
24 requested variances.

25 (Seconded by Ms. Schwartz.)

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2 (Mr. Goldman, yes; Ms. Dale, yes; Mr. Mietz,  
3 yes; Ms. Corrado, yes; Ms. Schwartz, yes; Ms. Tompkins  
4 Wright, yes.)

5 (Upon roll call, motion to table and leave the  
6 public hearing open carries.  
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2 APPLICATION 6A-06-15

3 6A-06-15 Application of Robert Taylor, agent,  
4 and Diane Taylor, owner of property located at 224  
5 Edgewood Avenue, for an Area Variance from Section  
6 207-6 to allow a shed to be 2.5 ft. from the rear lot  
7 line and 4 ft. from a side lot line where a minimum 5  
8 ft. setback from all lot lines is required by code. All  
9 as described on application and plans on file.

10 Motion made by Ms. Mietz to approve  
11 Application 6A-06-15.

12 **FINDINGS OF FACT:**

- 13 1. The variance is predicated by a sewer easement  
14 which is located at the rear corner of the rear yard.  
15 2. The proposed location minimizes the loss of green  
16 space in the area while avoiding the sewer easement and  
17 placing the shed closer to the property line than  
18 requested.  
19 3. The shed will only be visible from the neighbor to  
20 the north at the rear corner of the lot.  
21 4. No negative effect on the character of the  
22 neighborhood will result from the approval of the  
23 variance as similar structures exist within the  
24 immediate neighborhood.

25 **CONDITIONS:**

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1. This variance applies only to the structure as per plans submitted and testimony given.

2. All necessary building permits shall be obtained.

(Seconded by Ms. Schwartz.)

(Ms. Corrado, yes; Ms. Dale, yes; Ms. Tompkins Wright, yes; Mr. Goldman, yes; Ms. Schwartz, yes; Mr. Mietz, yes.)

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

1  
2 APPLICATION 6A-07-15

3 6A-07-10 Application of Fisher Associates,  
4 agent, and Peter Sun / Sukora Home, owner of property  
5 located at 2775 Monroe Avenue, for 1) an Area Variance  
6 from Section 205-12 to allow total on-site parking to  
7 be 89 spaces, after expansion of restaurant seating,  
8 in lieu of the minimum 105 spaces required by code; and  
9 2) an Area Variance from Section 205-18 to allow four  
10 (4) new parking spaces to be located along the front  
11 lot line in lieu of being setback a minimum 20 ft. as  
12 required by code. All as described on application and  
13 plans on file.

14 Motion made by Ms. Dale to approve Application  
15 6A-07-15.

16 **FINDINGS OF FACT:**

17 1. The property owner is comfortable that the number  
18 of parking spaces will be sufficient based upon the  
19 parking studies provided.

20 2. The granting of the area variance will be  
21 consistent with the overall character of the  
22 neighborhood and will not create any adverse impacts to  
23 the quality of life to the surrounding area.

24 3. The proposed pavement markings will enhance the  
25 existing conditions of the site.

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2 4. The type of restaurant being that it includes a  
3 hibachi-style does not have as much of a parking demand  
4 as a conventional restaurant.

5 5. The variance for the four additional parking spaces  
6 in the front on Monroe Avenue do not alter or  
7 negatively impact the character of the neighborhood.  
8 They are consistent with the existing spaces and it's  
9 just an extension due to the curb cut. No other  
10 location on the site could accommodate additional  
11 parking.

12 **CONDITIONS:**

13 1. All necessary Planning Board approvals shall be  
14 obtained.

15 2. This variance applies only to the Sukora Home  
16 restaurant in its current use as described in  
17 application and testimony given.

18 3. The maximum number of seats shall be that as shown  
19 on plans submitted.

20 4. Employees shall park in the non-parallel spots to  
21 the east.

22 5. Traffic along the east side of the building shall  
23 be marked as one-way only as shown on plans submitted.

24 (Seconded by Ms. Schwartz.)

25 (Mr. Goldman, yes; Ms. Tompkins Wright, yes;

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Mr. Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes;  
Ms. Dale, yes.)

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

1  
2 APPLICATION 6A-08-15

3 6A-08-15 Application of Nancy LaRouche, owner of  
4 property located at 307 Allens Creek Road, for an Area  
5 Variance from Section 205-2 to allow an addition to  
6 extend 8.5 ft. into the 60 ft. rear setback required by  
7 code. All as described on application and plans on  
8 file.

9 Motion made by Mr. Goldman to approve  
10 Application 6A-08-15.

11 **FINDINGS OF FACT:**

- 12 1. The variance is to memorialize an existing setback  
13 condition created by previous owners.  
14 2. No unacceptable change in the character of the  
15 neighborhood will occur.

16 **CONDITIONS:**

- 17 1. The addition shall be constructed and furnished in  
18 the manner of the existing home.  
19 2. The addition shall be constructed as per plans  
20 submitted to the Board at the meeting of June 3rd,  
21 2015.  
22 3. All necessary approvals and building permits from  
23 the Town of Brighton shall be obtained.

24 (Seconded by Ms. Schwartz.)

25 (Ms. Corrado, yes; Mr. Mietz, yes; Ms. Dale,

yes; Ms. Tompkins Wright, yes; Ms. Schwartz, yes; Mr. Goldman, yes.)

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

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2 APPLICATION 6A-09-15

3 6A-09-15 Application of Julie and Chris Gangai,  
4 owners of property located at 5 Winslow Avenue, for an  
5 Area Variance from Section 207-6A to allow a gazebo to  
6 extend 20.5 ft. in height above grade in lieu of the  
7 maximum 16 ft. in height above grade as allowed by  
8 code. All as described on application and plans on  
9 file.

10 Motion made by Ms. Corrado to approve  
11 Application 6A-09-15.

12 **FINDINGS OF FACT:**

13 1. The requested variance is minimal as it replaces a  
14 multi-level deck in poor repair with a slightly smaller  
15 single-level deck.

16 2. No other alternative will make the proposed  
17 screened porch possible without obstructing existing  
18 windows on the house. Additionally, the existing roof  
19 line will not accommodate an addition or extension.

20 3. No unacceptable change to the character of the  
21 neighborhood will occur. Furthermore, it will improve  
22 both the view seen by neighbors and it will improve the  
23 safety of the deck. Additionally, due to the sloping  
24 lot the additional height beyond code will not be  
25 visibly apparent.

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2 4. The hardship is self-created only in that the prior  
3 addition to the home did not anticipate the need to  
4 replace the deck, nor the desire to add a screened  
5 structure.

6 **CONDITIONS:**

7 1. The variance applies only to the structure as  
8 described in application and testimony.

9 2. All necessary permits shall be obtained.

10 (Seconded by Mr. Goldman.)

11 (Mr. Mietz, yes; Ms. Dale, yes; Ms. Tompkins  
12 Wright, yes; Ms. Schwartz, yes; Mr. Goldman, yes; Ms.  
13 Corrado, yes.)

14 (Upon roll call, motion to approve with  
15 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

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