

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

October 7th, 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
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

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

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

5 Rick, was the meeting properly advertised?

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

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

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

12 MR. MIETZ: Okay. So the first thing is we
13 need to look at the September minutes.

14 Judy, please.

15 MS. SCHWARTZ: On page 10, the last line -
16 line 25, the middle word should be talking.

17 Page 11, line 18, the second word should be
18 renovation.

19 Page 17, on line 9, Rick, you're talking and
20 it says the setback is the closest -- oh, I'm sorry,
21 forget that. The first word on line 9 is point.

22 Page 29, line 15, after the word avenue the
23 word is has.

24 Page 34, line 24, the only word is section.

25 Page 36, line 4, the last word is handling.

Page 41, line 21, it should be Gould; corner of Gould, G-o-u-l-d.

On page 100, line 3, it should be more visible.

And that's all I have.

MR. MIETZ: Okay.

MR. DiSTEFANO: Before we do Christine's modifications please let the record show that Ms. Corrado is now present.

MS. CORRADO: Sorry for the tardiness.

Stop me if I'm getting anything that Judy already caught because she's always very thorough.

Page 7, line 15, the word deplete should be delete.

Page 29, line 15, should be East Avenue has avoided.

Page 30, line 22, its does not require an apostrophe.

Page 40, line 21, the word locked should be looked.

Page 45, line 21, I have a question; is that really cotton colored fern?

If no one knows what I'm talking about then it's probably just fine and it's probably not material.

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2 On that same page(45) line 23, planing should
3 be planning.

4 Page 59, line 21, insert the word doing
5 before that.

6 Page 67, line 13, the word should be mobile,
7 m-o-b-i-l-e.

8 Page 68, line 16, the word passed,
9 p-a-s-s-e-d, should have been p-a-s-t.

10 And page 79, line 19, the word lines should
11 be lights - plexiglass side lights.

12 And page 100, line 3, the word physical
13 should be visible.

14 And that's all.

15 (Motion made by Ms. Baker Leit to approve the
16 amended September minutes.)

17 (Seconded by Mr. Goldman.)

18 (Upon roll call, motion to approve the
19 September amended minutes carries.)

20 MR. MIETZ: Okay. Rick, when you're ready
21 you can read the first application.

22 10A-01-15 Application of Fred R. Steele Enterprises,
23 contractor, and Sanford Abbey, owner of property
24 located at 209 Whitewood Lane, for an Area Variance
25 from Section 205-2 to allow an enclosed entryway to

1
2 extend 2 ft. into the existing 49.8 ft. front setback
3 where a 60 ft. front setback is required by code. All
4 as described on application and plans on file.

5 MR. STEELE: Good evening. I'm Bruce Steele.
6 I'm the agent for the client.

7 What we are proposing is to extend the front
8 wall of what is now frankly a corridor in their house
9 which is used as a mudroom. They would like to extend
10 it out two feet and actually make a side entrance which
11 would also be a mudroom.

12 This is an application that was approved a
13 year or so ago for this and they did not do it. The
14 application ran out so we now have to apply again.

15 MR. MIETZ: Okay. Are there any changes to
16 the original plan?

17 MR. STEELE: No. They're the same drawings
18 as they were presented a year ago.

19 MR. MIETZ: Then what is the plan moving
20 forward?

21 MR. STEELE: What is the plan?

22 MR. MIETZ: Yeah.

23 MR. STEELE: What they would like to do is
24 take the front wall of the existing --

25 MR. MIETZ: No, I don't mean that.

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I mean timing wise?

MR. STEELE: They want to start construction immediately.

MR. MIETZ: So they want to try to get it rolling?

MR. STEELE: Yup. We want to get the foundation standing up while we still have good weather.

MR. MIETZ: Okay. Does anyone have any questions about this?

Judy, any questions?

Okay.

MR. GOLDMAN: Rick, it was approved by us previously?

MR. DiSTEFANO: Yes.

MR. GOLDMAN: I didn't see anything.

MR. STEELE: They did the kitchen portion, but they did not do the mudroom portion.

MR. DiSTEFANO: I thought maybe - it was just a year ago so I thought --

MR. MIETZ: They come together after a while.

Okay. So no other questions; we're all good?

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

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2 There being none, the public hearing is
3 closed
4 10A-02-15 Application of Susan Engel, owner of property
5 located at 1428 South Clinton Avenue, for 1) an Area
6 Variance from Sections 203-2.1B(2) and 203-9A(4) to
7 allow a shed to be 297 sf in size (161.6 sf existing
8 shed with 135.6 sf addition) in lieu of the
9 maximum 250 sf in size allowed by code; and 2) an Area
10 Variance from Section 207-6A(3) to allow shed addition
11 to be 1.7 ft. from a side lot line in lieu of the
12 minimum 5 ft. required by code. All as described on
13 application and plans on file.

14 UNKNOWN: Hi. So I would like to --

15 MR. DiSTEFANO: Just state your name and
16 address.

17 MS. ENGEL: Susan Engel, 1428 South Clinton.

18 What I would like to request is permission to
19 expand the size of the existing shed.

20 The shed was built - it's original to the
21 home built in 1911, I believe. There is no garage or
22 any other facility for storage. I was using the
23 basement. The basement has become - after many, many
24 attempts to fix it - not feasible because there is
25 water issues. So I would like to use the shed for

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2 bicycles, tools, a lawnmower and things that are, you
3 know, essential to get out of the elements. And I'm
4 just going to stay on the line, the line that's closest
5 to the property line.

6 MS. SCHWARTZ: How much larger will it be?

7 When we were there, there's what's like an
8 original --

9 MS. ENGEL: Yeah.

10 MS. SCHWARTZ: -- and it looks like an
11 addition is almost entirely --

12 MS. ENGEL: Right.

13 MS. SCHWARTZ: How much larger will it be
14 than what's there or is that the size that --

15 MS. ENGEL: It won't. That's it.

16 MS. SCHWARTZ: That's the size?

17 MS. ENGEL: That's the size I would like to
18 keep it.

19 MS. SCHWARTZ: Okay. And will all the things
20 that are out in the yard and everything --

21 MS. ENGEL: Go into the shed.

22 MS. SCHWARTZ: They'll go in, so it will all
23 get --

24 MS. ENGEL: Correct.

25 MS. SCHWARTZ: -- put away?

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MS. ENGEL: Right, correct.

MS. TOMPKINS WRIGHT: Any input from the neighbor to the northeast?

MS. ENGEL: I haven't heard from any neighbors except for one of the large houses on Highland and they were very supportive.

MS. BAKER LEIT: And just for the record, how long has the original shed been in that space?

MS. ENGEL: I think the original shed was built, it looks to me, with the home in 1911.

MS. BAKER LEIT: Okay.

MS. ENGEL: So when I moved in I removed it because it was collapsing.

MS. BAKER LEIT: It will be placed at the same location as --

MS. ENGEL: Yeah, there would be no movement at all. Just the back addition would be roofed to match the roof that was done a couple of years ago. And I will also cedar shake the whole thing.

MS. SCHWARTZ: And no trees have to be removed?

MS. ENGEL: No trees have to be removed at all. Nope, nothing. There's just a large tree that's seven or eight feet away.

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2 MS. TOMPKINS WRIGHT: The original portion of
3 your shed, the application talks about it being in very
4 poor condition.

5 You're repairing the original portion and
6 then just adding on?

7 MS. ENGEL: Well, yes. The original -- I'm
8 not going to do much more to the original except cedar
9 shake it. I've already done the roofing.

10 MS. TOMPKINS WRIGHT: Okay.

11 MS. ENGEL: The roofing is three years old.
12 So the newer part that extends would match that
13 roofing.

14 MS. TOMPKINS WRIGHT: So what you're adding
15 sort of is - it's not like custom sized; it's like a
16 kit you're purchasing or --

17 MS. ENGEL: No. I'm just simply extending
18 the walls. It's currently eleven three. I would
19 continue that eleven three width and go back twelve
20 more feet.

21 MS. TOMPKINS WRIGHT: So was there any
22 thought to try and make it within code as far as two
23 hundred and fifty square feet instead of three hundred
24 square feet?

25 MS. ENGEL: It -- that's a very good

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2 question. Yes, if I could have kept it within code and
3 fit everything I want to fit in there.

4 I did buy some pre-made metal shelving units,
5 and that's the height and the length that I'm going to
6 fill the walls with these shelving units. That is how
7 I happened to pick that length.

8 MS. TOMPKINS WRIGHT: Okay.

9 MS. ENGEL: I know it's going to be
10 forty-seven feet beyond the code -- it will be forty
11 square feet, I guess, beyond the code.

12 MS. SCHWARTZ: So did you inherit this
13 addition as well or did you put that --

14 MS. ENGEL: I inherited the poor condition of
15 the shed and then in repairing it, you know, I'm
16 looking at what -- and since then, having some water
17 issues with the basement, I added on to the back
18 portion.

19 MS. SCHWARTZ: The back portion, you added
20 that?

21 MS. ENGEL: Right.

22 MR. MIETZ: Okay. Any other questions?

23 Okay. Thank you very much.

24 MS. ENGEL: Thank you.

25 MR. MIETZ: Is there anyone in the audience

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2 that would like to speak regarding this application?

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

5 10A-03-15 Application of Anthony J. Costello and Son
6 Development, LLC, owner, of property located on Reserve
7 View Blvd. (off of South Clinton Avenue) known as "The
8 Reserve" housing community, for renewal of a Temporary
9 and Revocable Use Permit(8A-05-14) pursuant to Section
10 219-4 to allow for six (6) temporary site/development
11 signs for a two year period where only one sign is
12 allowed by code. All as described on application and
13 plans on file.

14 MS. BRUGG: Hi, good evening. My name is
15 Betsy Brugg. I'm from the firm Woods Oviatt Gilman.
16 Todd Grady from Costello and Son is here tonight.

17 So we've been here before, been here a couple
18 of times. For a little bit of background; this is a
19 huge project, sixty-three acres, three hundred and
20 twenty-seven units, a hundred and eighty million
21 dollars. It started a couple of years back and it's
22 going to continue for several years to come. The
23 project involves marketing demands. They've been, you
24 know, there's always surprises in marketing. Over time
25 things are always changing and you learn new things.

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2 The last time we were here we obtained
3 temporary and revocable use permits for six signs.
4 They were a little evolution from the previous signs
5 that were there. We are asking for essentially an
6 extension of the approval for five of the six signs.
7 There was a job trailer out there that is no longer
8 there. It's no longer necessary so we've eliminated
9 one sign.

10 The signs that we are requesting; we have the
11 same advertising sign on the canal, which is sign A.
12 We have the same signage both at the entrance on South
13 Clinton and on the 590 expressway that advertise the
14 project and show a little bit about what it is, with
15 phone numbers. We propose to keep those. Those are
16 really the larger signs.

17 We also have a feather(indicating) and a
18 sandwich board. I think we wanted to change really the
19 content on the sandwich board. And these are really
20 only out there when there's open houses and model homes
21 to see. So a few times I've been by I haven't seen
22 them, but I believe this one(indicating) was out there
23 this afternoon. I don't remember seeing the feather.
24 But basically that lets people know that's a good time
25 to come in. You know, it's a very long driveway and

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2 off of South Clinton. It tells people what's going on
3 back there and there's activity and if you want to see
4 a house come in.

5 So that is that in a nutshell.

6 You know the project continues to progress.
7 There's been some activity; some larger homes built,
8 some condos have been successful, the town homes. The
9 loft units, still nothing built yet; it's still early.
10 The clubhouse just opened.

11 We just don't -- we're asking for renewal of
12 these signs because they've been effective for the time
13 being. In all honesty, we might find, you know, that
14 sometime sooner than the expiration we might have to
15 change that. The clubhouse is an interesting element.
16 It's getting a lot of attention, a lot of visitors
17 coming in to see that.

18 So we think this is what we need for now.
19 We're just asking for renewal.

20 MS. SCHWARTZ: You said the A-frame would be
21 out there just when there's an open house.

22 It's Monday through Sunday, so you're asking
23 for that to be 24-7?

24 MS. BRUGG: The A-frame?

25 MS. SCHWARTZ: Yeah.

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MS. BRUGG: It's not out there all the time.

MS. SCHWARTZ: But you said when you have an open house it will be there and your sign says the model open Monday through Sunday. To me that's --

MS. BRUGG: Oh, they're not always out there. Todd, what time do they open?

Because I can tell you I've driven by on my way to work in the morning and they're not out there because the homes - the models are not open yet.

UNKNOWN: I'll just speak to that. The signs go up at 11:00 in the morning.

MR. DiSTEFANO: Todd, you're going to need to come up here if you're going to speak.

MR. MIETZ: Just state your name for the record.

MR. GRADY: My name is Todd Grady and I'm the marketing director for the project.

The signs go up at 11:00 in the morning and they come down at dusk now. So with the clubhouse being open -- which obviously dusk is coming a lot earlier. And as we get into the summer again they'll stay open until the sun goes down on Monday through Sunday. You know, we are open seven days a week.

MR. MIETZ: Any questions about this?

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Judy, any other questions?

MS. SCHWARTZ: You have a model sign, the A-frame, you have monument signs and you have a feather.

The other thing is you're saying this is going to take a long, long, long time. Perhaps it might. And you're asking for two years now.

So you're going to come in every two years for how many years?

MS. BRUGG: That's because of the mechanism in the code. We have an incentive zoning that includes the signage, but did not include the particular timing.

MS. SCHWARTZ: Right. So I'm saying you're coming in right now asking for a two year extension.

How many more times do you envision coming in for this variance?

MS. BRUGG: If I had a crystal ball I'd answer that. I honestly don't know. I don't know, we might be in sooner than two years. We would like to -- we need the signage. It's a tremendous project and the visibility and letting people know what's going on there is extremely important.

The frontage is on 590. People have to pass by traffic. People have come in just to look at the

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2 project. People who aren't even from the area have
3 driven by an said, "Oh, there's something going on,
4 there's a big development. Let's go check it out."

5 On South Clinton, even people who live in
6 town and know their way around, you'd really have to
7 want to go in there behind those, you know, antennas
8 and check out what's going on if you're busy like most
9 of us are. You know, it takes some extra effort to go
10 back there. So the signage is really helpful. There's
11 visibility on the canal for folks that might happen to
12 be on the canal.

13 So I think it's a reasonable amount of
14 signage. This is a tremendous project. Both the town
15 and the developer have a tremendous amount at stake and
16 it's just important that the public know that there is
17 activity there, how big it is. They need to see it
18 changing because they need to know there's activity.

19 MS. SCHWARTZ: How many people that come in
20 to look say, "Oh, I found it because you had a sign on
21 Clinton" or "I saw it in an add"; how many people
22 actually tell you --

23 MS. BRUGG: I know they have quite a few. I
24 think last year we actually brought some letters from
25 some of the residents who said that they --

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2 MS. SCHWARTZ: No, no, no. That's not what I
3 mean. That was something else.

4 How many people who come in to look and say,
5 "Oh, I saw your signs all over and that's how I knew to
6 come in"? Do you hear that from people?

7 MS. BRUGG: Oh, I think they do. I mean Todd
8 can tell you first hand, but absolutely.

9 MS. SCHWARTZ: -- adds that you have in the
10 paper; I mean which draws more?

11 MR. GRADY: Combination of both. So we get
12 people on almost a daily basis that see the signs on
13 the street and come back.

14 MS. SCHWARTZ: And it's because of those
15 signs?

16 MR. GRADY: Absolutely. For sure.

17 MR. DOLLINGER: Again, it's the only way that
18 you can see the property from behind. You can't see
19 the property from anywhere else.

20 MS. SCHWARTZ: I don't know that you need all
21 those signs.

22 MS. BRUGG: I can tell you my mother, that's
23 lived on Highland Drive since 1950-something, has asked
24 about the project and what's going on in there. She
25 doesn't have internet service. She basically doesn't

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2 get the newspaper anymore because it's too expensive.
3 And she only knows what she sees when she drives by.
4 So I think there's probably a lot of folks like that.

5 MS. TOMPKINS WRIGHT: Can you just point out
6 again where the sandwich board and where the feather
7 signs are?

8 MS. BRUGG: They're at the entrance on South
9 Clinton Avenue.

10 MS. TOMPKINS WRIGHT: Entrance on South
11 Clinton.

12 MS. BRUGG: Yeah.

13 MR. MIETZ: You have another question,
14 Morrey?

15 MR. GOLDMAN: You mentioned incentive zoning
16 for your signs, so this is beyond me. The pier's is
17 what I'm assuming you're talking about. You have a
18 very beautiful sign on the pier with the canal boat and
19 all that. It's really gorgeous. And then you have
20 three more on the other side going south, two of which
21 have nothing on top.

22 MS. BRUGG: They're not signs.

23 MR. GOLDMAN: What are those going to be?

24 MS. BRUGG: They are supposed to be
25 reminiscent of the canal locks. In fact --

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MR. GOLDMAN: That's the only thing I --

MS. BRUGG: That is what they're supposed to be.

MR. GOLDMAN: All right. Thank you very much. I didn't understand that.

MS. DALE: So about how far from the project do you think you are?

MR. MIETZ: On a percentage basis?

MR. GRADY: Ten to fifteen percent.

MS. DALE: About ten to fifteen percent completed?

MR. GRADY: It's the largest single residential property to be developed in Monroe County.

MS. BAKER LEIT: So in terms of a timeline, I mean I think that was sort of what Judy was driving at; we don't like the timeline at this point.

We know we're going to give you this extension for two years, and when you come back in two years where are we going to be? Will we be --

MR. GRADY: Hopefully --

MS. BRUGG: We might have this. We might have -- honestly, we might have a different sign package at that point as well.

MS. BAKER LEIT: Okay.

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2 MS. BRUGG: It really depends on how things
3 sell and how the project progresses.

4 MS. BAKER LEIT: Right. So I guess what
5 we're wondering is at what point will it be to a
6 capacity where it's well enough known that you can just
7 have the monuments and you won't have to have all these
8 feathers and other things?

9 MS. BRUGG: Well, I think like any
10 development, it's going to be some time. You wait and
11 see how it sells, how the economy does, how the
12 community responds. I don't have an answer to that.

13 I think I can say clearly, the other avenue
14 would be a variance. And I don't think we want
15 something of a permanent nature like an area variance
16 because that's not the avenue we've chosen. We're
17 really looking now for something short-term and then we
18 reassess as we go.

19 MR. MIETZ: Any other questions on this part
20 of the --

21 MS. BAKER LEIT: I still don't think I got an
22 answer to the timeline though.

23 MS. BRUGG: Oh. It will be quite a few
24 years.

25 MS. BAKER LEIT: When do you --

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2 MS. BRUGG: I don't know that we have an
3 answer to that.

4 MS. BAKER LEIT: When do you envision the
5 townhouses going up?

6 MR. GRADY: I could speak to that.
7 Right now, as you've probably seen driving
8 by, the townhome neighborhood - the first neighborhood
9 is called Glennville. And we're more than half way
10 through Glennville.

11 MS. BAKER LEIT: Okay.

12 MR. GRADY: So there's tremendous response.
13 We are opening another neighborhood of townhomes
14 shortly called Brewerton.

15 Likely what you are going to see in longer
16 terms is that up north townhomes in the only remaining
17 patio neighborhood to be built out and essentially, as
18 we said earlier, we haven't started the lofts. So what
19 you're probably going to end up seeing grassy knoll
20 along the canal and then buildings going up one at a
21 time. We will have five buildings. So --

22 MS. BAKER LEIT: And currently this plan is
23 adequate to address that additional building?

24 MR. GRADY: Sure.

25 MS. BRUGG: The plan is fine for now, right.

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2 MR. DiSTEFANO: Todd, maybe a better way of
3 stating it is: Of the three hundred and twenty plus or
4 minus units that are proposed, how many are built out
5 right now?

6 MR. GRADY: Between forty and fifty. We're
7 actually closer to fifty as far as construction goes.
8 It's on fire really.

9 MR. DiSTEFANO: That gives you an idea of
10 where they are and what they have left to build.

11 MS. SCHWARTZ: Just a matter of semantics
12 perhaps, but you called them townhomes.

13 Are they really condos?

14 MS. BRUGG: Yes.

15 MR. GRADY: Sure.

16 MS. SCHWARTZ: For the record they should be
17 condos.

18 MS. BRUGG: They are condos.

19 MR. DiSTEFANO: Betsy, just for the record,
20 could you state again the five signs that you are
21 asking for now?

22 MS. BRUGG: Sure.

23 MR. DiSTEFANO: Just maybe let me state them
24 and then agree or disagree with me.

25 MS. BRUGG: Okay.

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2 MR. DiSTEFANO: Large development
3 identification sign facing I-590?

4 MS. BRUGG: Correct.

5 MR. DiSTEFANO: A large development
6 identification sign facing South Clinton Avenue, which
7 is lit?

8 MS. BRUGG: Yes.

9 MR. DiSTEFANO: A feather "open" sign at the
10 entrance to South Clinton Avenue?

11 MS. BRUGG: Correct.

12 MR. DiSTEFANO: An A-frame "open" sign at
13 entrance of South Clinton Avenue?

14 MS. BRUGG: Correct, except that it now --
15 this is it(indicating).

16 MR. DiSTEFANO: Right. The wording has
17 changed, but it's still the A-frame sign.

18 MS. BRUGG: Right.

19 MR. DiSTEFANO: And then a development
20 identification sign facing the canal.

21 MS. BRUGG: Correct.

22 MR. DiSTEFANO: Okay. So those are the five
23 signs?

24 MS. BRUGG: Those are the five. No trailer
25 sign.

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MR. DiSTEFANO: No trailer sign. Thank you.

MR. MIETZ: All right. Any other questions on this?

Thank you very much.

MS. BRUGG: 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.

10A-04-15 Application of Brendan Taylor and Kelly Ronan, owners of property located at 116 Fairhaven Road, for an Area Variance from Sections 203-2.1B(3) and 203-9A(4) to allow for the reconstruction of a detached garage with a 3.1 ft. side setback and a 3.5 ft. rear setback where a minimum 5 ft. setback is required from all lot lines. All as described on application and plans on file.

MR. TAYLOR: Hi. My name is Brendan Taylor.

And essentially Kelly and I are looking to have our existing two-car garage taken down and a newer one put up of the exact same dimensions in the exact same spot, in the same style.

That's about it.

MS. CORRADO: And the reason for taking the

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2 garage down and replacing it?

3 MR. TAYLOR: It's an older stucco garage.
4 Some of the stucco is starting to crack. Probably
5 could have it resided, but we figured if we're going to
6 do it let's do it right and have the whole frame
7 replaced.

8 The reason I want to keep it where it is, is
9 because all of the houses that were built in that era
10 all have detached garages set back in the exact same
11 location and if we pulled ours forward and to the left
12 it would look, quite frankly, kind of silly. So I'm
13 trying to keep the consistency and the uniform look of
14 the neighborhood.

15 MS. CORRADO: And how will you finish the new
16 garage?

17 MR. TAYLOR: It will be the same stucco. We
18 have -- they're all Tudor styles. So we'll have the
19 stucco finish and pretty much the same thing that it is
20 now, painted to match the trim and everything to match
21 the houses. That's how they all are.

22 MS. CORRADO: And it will be the same height
23 as well?

24 MR. TAYLOR: Same dimensions everywhere. And
25 it's going to be on the existing foundation. We want

1
2 to keep the foundation.

3 MS. CORRADO: Electricity to it; any other
4 services?

5 MR. TAYLOR: No. There's currently
6 electricity and that's the only thing that we would
7 have still in there. No water or anything.

8 I did talk to my neighbors on the side that
9 it affects. And actually because, you know, the stucco
10 is getting kind of older and cracked they're all for it
11 because they look at that side.

12 MR. MIETZ: Okay.

13 MR. DiSTEFANO: Could you just state for the
14 record who would be impacted to the rear of the
15 property?

16 MR. TAYLOR: 590.

17 MR. DiSTEFANO: Okay. Thank you.

18 So you have no neighbors to the back?

19 MR. TAYLOR: No neighbors to the back. Just
20 the ones to the right facing the garage that he owned
21 for 16 years. I didn't ask the ones to the left
22 because it doesn't come close to impacting them.

23 MR. DiSTEFANO: Right.

24 MR. MIETZ: Any other questions?

25 Okay. Thank you very much.

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MR. TAYLOR: 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.

10A-05-15 Application of Dean Faklaris, agent, and Upstate Portfolio, LLC, owner of property located at 140 Canal View Blvd., for a Sign Variance from Section 207-26D to allow two business identification signs to have a logo occupying 33% of the sign area in lieu of the maximum 25% of sign area allowed by code. All as described on application and plans on file.

MR. FAKLARIS: Good evening. Dean Faklaris, University of Rochester Medical Center.

I'm here to request variance from code to allow two allowable business identifiers to have logo of thirty-three percent from the allowable 25 percent at 140 Canal View. The request is to be consistent with all of our other properties that use that mark.

MS. SCHWARTZ: Could you tell me what businesses are in 140 or what was in there?

MR. FAKLARIS: Currently there's nothing. We took over the property. Previously it was Performance Technologies, which was the previous tenant.

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MS. SCHWARTZ: And where was their signage?

MR. FAKLARIS: Certainly on the Brighton Henrietta Town Line facing view, which is on the back side of the entrance, which is sign two that we're showing in our proposal.

MR. DiSTEFANO: Just for the record, this property has had a variance ever since Element K for signage on both sides - both the parking lot side and the Town Line Road side. So that variance is still in effect. They're just using that variance for the location of the sign.

MS. SCHWARTZ: But 140 is facing the inner parking lot.

MR. DiSTEFANO: And it faces Town Line Road.

MS. SCHWARTZ: And Town Line Road.

MR. DiSTEFANO: Right.

MS. SCHWARTZ: Okay. When I went over I could find it because of the map and so on and so forth. But as you're coming in, that road that 140 hits you. You can't miss it. I could understand why you need signage on Town Line, that's important. But I don't think that it's all that necessary, especially when you want a larger percentage for your logo. I think that would be a nice concession.

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Had you thought about that?

MR. DiSTEFANO: Just let me interject a little bit. The variance is not for the two sides. They're allowed the two sides under a previous variance that we --

MS. SCHWARTZ: To allow two business identification signs?

MR. DiSTEFANO: Each having a logo. The variance for the two sides was granted already to Element K.

PT also used that variance. PT came into us because they needed a variance for their logo. They were a hundred percent logo. So they came to us, but they were still using the same variance that was granted to Element K.

MS. SCHWARTZ: But my questions is: If you want a bigger logo than allowed --

MR. DiSTEFANO: But their -- that's why do you need a bigger logo. That's what you need to concentrate on here, not the fact that they're using two sides because they're allowed to use two sides. So just concentrate on the logo.

MR. GOLDMAN: Were the previous logos illuminated?

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2 MR. DiSTEFANO: PT, I don't know the answer
3 to that.

4 MR. GOLDMAN: I don't remember them being --

5 MR. FAKLARIS: I don't know if they were.
6 But this point they're removed. But I would say we
7 would follow existing code which says logos can be lit
8 thirty minutes before opening and shut down thirty
9 minutes after closing. So we would not ask for a
10 variance on timing. We would follow code on that. So
11 whatever our hours are for our cardiology practice we
12 would not ask for more than that.

13 MR. MIETZ: As far as the size of the logo
14 you're kind of at a standard format.

15 MR. FAKLARIS: Yes, that follows the logo we
16 use everywhere; every property, every advertising we do
17 on TV, every brochure we make.

18 MR. MIETZ: Style and size?

19 MR. FAKLARIS: When you say style?

20 MR. MIETZ: Style I mean obviously the logo.
21 But size?

22 MR. FAKLARIS: Yes, we only have a version
23 that we put on a dark background that would have a
24 lighter UR Medicine, and light background goes blue.
25 And that's our only two variations.

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2 MR. MIETZ: So basically these, we'll call
3 them store fronts or developments, right?

4 MR. FAKLARIS: Uhm-hum.

5 MR. MIETZ: The scaling of that sign in order
6 for it to be readable from the location you're
7 suggesting you need it to be able to identify it from,
8 was it scaled for that purpose or was it scaled just
9 because this is the standard size that you use no
10 matter --

11 MR. FAKLARIS: I'm sorry, if you mean the
12 shield --

13 MR. MIETZ: Yes, the shield.

14 MR. FAKLARIS: The shield for UR Medicine is
15 standard. We never break. That is a lockup, we never
16 break it for anywhere.

17 If you mean the total scale of shield and UR
18 Medicine, it's four feet high. So we think that's the
19 proper visibility from Brighton Henrietta Town Line
20 Road and Canal View if you're looking back. It is an
21 allowable -- it is smaller than code allows for the
22 size of the building, which is ten percent of
23 fifteen feet times length of store front. So we are
24 well within the size of code.

25 MR. MIETZ: Okay. So I guess to summarize,

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2 the proportionality of the logo to UR Medicine's
3 capture/feature - however - the size of UR Medicine as
4 far as store front is concerned and the visibility and
5 that's how you scale the UR Medicine first and then the
6 logo goes along with that proportionally?

7 MR. FAKLARIS: Right. We would scale the
8 entire thing as one unit. We will never break --

9 MR. MIETZ: That's, I guess, what I wanted.

10 MR. FAKLARIS: If we do a rectangle around
11 the shield and UR Medicine we would consider that one
12 unit and we never disassemble that.

13 MR. MIETZ: Okay. You answered the question.

14 Okay. Thank you.

15 MS. SCHWARTZ: Did you explain why you need
16 to have it lit at night?

17 MR. FAKLARIS: I don't think you would ever
18 see this lit in the summer because of the hours of
19 operation of the practice that's going in there. Half
20 of it is going to be a cardiology practice and so we
21 are probably looking at 7:00 a.m. to the latest I can
22 imagine is 7:00 p.m. So you're probably only going to
23 see it lit during rush hour during the winter. I don't
24 think you'll ever see it lit in June just because the
25 hours of operation.

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2 MR. GOLDMAN: Are you going to have it on
3 some kind of light sensitive thing that --

4 MR. FAKLARIS: It will be both timer and
5 light sensor. It will be both. So it will have to
6 meet two criteria, it would have to be both dark enough
7 for the light to go on and meet the time criteria of
8 open operation. So we would have both on that sign.

9 MS. CORRADO: One half will be a cardiology
10 office.

11 What is the other half anticipated to be?

12 MR. FAKLARIS: The other half is vascular.
13 So it's a related practice, but with more of a broader
14 area than just the heart.

15 MR. MIETZ: All right. Is there anyone in
16 the audience that would like to comment beyond all
17 those comments?

18 There being none, the public hearing is
19 closed.

20 10A-06-15 Application of David Crowe, architect, and
21 Matthew and Courtney Winslow, owners of property
22 located at 6 Elmwood Hill Lane, for an Area Variance
23 from Section 209-10 to allow livable floor area to
24 increase from 6,380 sf, as approved under variance
25 application 2A-06-14. to 7,428 sf where a maximum 5,648

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2 sf is allowed by code. All as described on application
3 and plans on file.

4 MR. CROWE: Good evening, folks. My name is
5 Dave Crowe. I'm the architect for the project at 6
6 Elmwood Hill. I have a little laryngitis, but I'll try
7 to push through. I apologize for that. I know we've
8 been here before. And this is sort of a difficult
9 variance to ask for because it is after the fact and
10 you've probably figured that out.

11 The issue -- well, I'll start at the
12 introduction. They are very close to finishing the
13 house. In fact, this is probably the last hurdle for
14 us to get past and then hopefully they can get their C
15 of O and move in after nearly two years of waiting to
16 get the house finished. None the least of which
17 they've been a big part of that delay because they
18 wanted to have a beautiful home. And it's been a very
19 long and sort of complicated process. If you saw the
20 home hopefully everybody thinks it's an extraordinary
21 piece of architecture and a hundred years from now
22 we'll be fighting to make it an architectural gem here
23 and protect it. The point is it's brand new and we're
24 trying to push things forward to get it finished.

25 And I will just note that Courtney - one of

1
2 the owners of the home - has a child that has never
3 known this is home because it was born, I don't know,
4 maybe sixteen months ago or so. So they're looking
5 forward to going home for the first time hopefully
6 soon.

7 The project's history has been a difficult
8 one. There was an original architect on the project
9 who unfortunately simply didn't understand the town
10 process very well and frankly was completely out of his
11 league in terms of managing a project of this size.
12 And as you know the number of visits we've had here is
13 pretty much because of that. Because he just didn't
14 deal with it at once. He didn't anticipate the issues,
15 didn't put the project together at the beginning to
16 make it go smoothly. You need to respect these
17 processes. So we're trying to get past those issues
18 and fix those wounds doing the best we can.

19 So we - Dave Crowe, DJC Architecture and HB
20 Cornerstone - we got involved last summer. We got
21 involved simply to solve some problems with the
22 fireplace. It became pretty clear to us that there was
23 a number of other issues that we did get involved with.
24 When we got involved the loft was already under
25 construction. And so we began to solve some structural

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2 problems on that, not being aware frankly that it
3 wasn't an approved component of the project.

4 On or around the end of September I was asked
5 to do a code review. I did that. We submitted that to
6 the town. We went into a black hole. We never heard
7 any comments back. And honestly at that point I
8 thought we were in good shape. I thought it was a good
9 review and everybody was happy with that.

10 Recently, I think at the end of August, the
11 owners and the builder put in the application to get a
12 certification of occupancy and that's when these issues
13 came up; that you don't have approval for your loft,
14 what loft, we don't know anything about a loft, that
15 sort of thing.

16 So there were four other issues that we're
17 dealing with with the town architect. I think we're
18 just about past those in a very favorable way. We
19 worked at that very well.

20 As Rick had read in the application, right
21 now there is a variance to allow livable floor area
22 sixty-three eighty. The loft, which is one thousand
23 forty-eight square feet is what we're asking for today.

24 And what I can tell you about the origin of
25 the loft -- and I can explain it a little better here

1
2 if you're not aware because you can't see it from the
3 outside. But that footprint of the house, here's
4 Elmwood Hill(indicating). And so the loft actually
5 occupies what is the vaulted or sort of the two-story
6 portion area of the living room. When they converted
7 it they took the ceilings out and they realized that
8 they had a forty foot high vaulted ceiling, which was
9 absolutely beautiful. So the intent was to put this
10 vault - this loft ten feet off the ground into that
11 space. So it ends up being just an extension of the
12 livable floor area of the living room.

13 At the end of the day that gray
14 portion(indicating) is the loft. This is the
15 kitchen(indicating). This is the living
16 area(indicating). And this little area(indicating) is
17 going to be living area as well. So that is what's
18 been constructed. It's eleven thousand - one thousand
19 and forty-eight square feet.

20 As far as the criteria here in considering
21 the application, what I can say and probably the most
22 significant issue is that the loft occurs completely
23 within the footprint of the existing building. It just
24 takes advantage of that second floor space. I know
25 that's still livable floor area and that's not an

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2 excuse. It shouldn't have been built without the
3 approval of the town. But the upside of that is it
4 didn't do anything in terms of an addition or any
5 extension of the building. In fact, it's completely
6 invisible to anyone outside. So in terms of impact or
7 any change to the character of the neighborhood, I can
8 safely say there's none because it is a completely
9 interior development on the property. It's just trying
10 to take advantage of the second floor space.

11 In terms of other solutions, it's built at
12 this point. And the only solution, frankly, at this
13 point would be to tear it out. So I don't know that
14 there's necessarily an attractive option on that
15 question.

16 In terms of substantial, it's a sixteen
17 percent increase on the livable floor area to the
18 building. While still considerable, hopefully less
19 than substantial.

20 Again, in terms of the neighborhood
21 character, we don't see that there's any adverse
22 conditions. In fact, it's a 1.2 acre piece of
23 property. The coverage of the building and all the
24 other buildings is about thirteen percent. So in terms
25 of development, they're well below the maximum

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2 permitted coverage area for the site. They're just
3 over the livable floor area unfortunately.

4 And in terms of whether or not it was
5 self-created, most certainly they built it and
6 certainly they built it without approval.
7 Unfortunately that had a lot to do with the
8 mismanagement of the original approvals on the project
9 and maybe some miscommunication with us and the town as
10 we proceeded through, not sort of communicating clearly
11 in terms of what was happening.

12 So that's the sort of the good, the bad and
13 the ugly on the application. They're hopeful for an
14 approval on this so that they can move in, with luck,
15 one day hopefully. We'll see how that goes.

16 So that's the application. I'm happy to
17 field any questions you might have.

18 MR. MIETZ: Okay. Questions?

19 MS. BAKER LEIT: So just to reiterate, there
20 basically will be no impact on the roofline because it
21 was just an interior that met with the space that was
22 put inside?

23 MR. CROWE: Absolutely. The peak is
24 forty-five feet high. This is ten feet high. So it's
25 only a portion of that. The house doesn't look that

1
2 high, but there's a very high, soaring, beautiful
3 architectural ceiling and they were just trying to take
4 advantage of that. There was no impact to the
5 exterior.

6 MR. DiSTEFANO: Provided, except for the
7 skylights?

8 MR. CROWE: Except for the skylights, but we
9 don't need a variance for skylights.

10 MR. DiSTEFANO: No. I'm just saying I want
11 them - to make sure --

12 MR. CROWE: Sure.

13 MR. DiSTEFANO: -- there was some exterior
14 modifications?

15 MR. CROWE: Absolutely. There are skylights
16 that allow light to the loft. And Patricia Hinkley -
17 including the architect, actually pointed this out and
18 we've read on our res check, not that you care, but
19 we're flying straight in terms of what the approvals
20 are and making sure that those skylights are compatible
21 with the architectural requirements of the New York
22 State Building Codes. So we're in really good shape on
23 that front. We just need our variances, that's all.

24 MR. DOLLINGER: What's the difference between
25 a loft and a second floor?

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2 MR. CROWE: Well, that's a good question.
3 And we actually had a robust discussion with Patricia
4 Hinkley, who's the town architect, and strict
5 interpretation of the building code says that this is a
6 two-story home with a basement. It's not a three-story
7 home. So we can call it a loft or we can call it a
8 second floor, it doesn't really change anything in
9 terms of the way the building code looks at it in terms
10 of egress or windows or any of that.

11 So we call it a loft because it's open. It's
12 basically a floating floor with a forty-two inch high
13 glass guardrail that looks down.

14 MR. DOLLINGER: Yeah, that's what I'm trying
15 to get to.

16 So this area like along where the - here, you
17 know, the part here(indicating) that heads down, that
18 aims - what, that would be west - goes in a westerly
19 direction?

20 MR. CROWE: Sure.

21 MR. DOLLINGER: That area, you're saying when
22 I'm sitting -- when I'm walking around that area I can
23 walk over to the side of it and look down and see down
24 to the living room?

25 MR. CROWE: Here, so you when you're on the

1 loft, this edge(indicating) looks into the living area.

2 Okay?

3 And then this edge(indicating) looks over the
4 kitchen. And then this(indicating) is actually an
5 exterior wall, exterior wall(indicating) and exterior
6 wall(indicating). But this is sort of(indicating) -
7 the garage is here(indicating). And so this space was
8 sort of inserted into that roof area over the garage.
9 So no change --

10 MR. DOLLINGER: So that space has an exterior
11 -- that space has walls. So where the garage used to
12 be --

13 MR. DiSTEFANO: Where the garage is. It's
14 above the garage.

15 MR. DOLLINGER: It's above the garage, okay.
16 So it's above the garage.

17 So where -- it's above the garage. You don't
18 want to look out and see -- in theory it's loft so far
19 as it's suspended, but it has walls because you want to
20 look out over the garage.

21 But that same suspended floor, "suspended",
22 where it goes over the living space - because it
23 doesn't have walls and you can look down into the
24 living space --

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MR. CROWE: It does, right.

MR. DOLLINGER: That is why that's the loft aspect of it?

A Yes. This(indicating) just took advantage of the vaulted roof of the garage. And then this one(indicating) took advantage of the vaulted roof over the library. And then there's a much larger roof over the main living area(indicating). So it was all sort of just needled in over there. So it sits within the footprint of the roof and the floor and the walls of the original home. Nothing was added or changed to the structure of the home.

MR. DOLLINGER: So under the original proposal there was a vaulted ceiling above the garage?

MR. CROWE: Well, I'm not entirely familiar with the absolute original. But as when I came into the project what they did is when we -- when they demolished the ceiling it was a one-story and that was just attic space. When they demolished that ceiling that attic space then became part of the living area. And so basically the loft was inserted into that attic space, I guess for the lack - vaulted is probably a better word for it.

MR. DOLLINGER: And I'm just trying to get

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this in my head because --

MR. CROWE: Let me show you a picture.

MR. DOLLINGER: Yeah, because -- so how high is the ceiling above the loft?

How high is the ceiling?

MR. CROWE: Ultimately the peak is forty-five feet.

MR. DOLLINGER: From the loft to the peak?

MR. CROWE: No, from the living area.

MR. DOLLINGER: Right. But from the loft to the peak how high is it?

MR. CROWE: It would be thirty-five feet.

MR. DOLLINGER: So it's still tall?

MR. CROWE: It's still very tall. Yeah, it's a deceivingly, deceptively tall home. Now, it was an existing home. We've just renovated it and worked within the footprint of the building. There was an addition put on the end where the gym is. That was all approved.

MR. GOLDMAN: On this drawing, this doorway goes into what would be the second floor of the house?

MR. CROWE: No. That's a the mechanical space. That's an unfinished - it's insulated, but that's where the HVAC equipment sits.

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2 MR. GOLDMAN: So this floating thing, the
3 stairs are here(indicating) and they come up and down.

4 MR. CROWE: Right.

5 MR. GOLDMAN: There's no connection to other
6 living space in the rest of the house other than
7 through the stairs?

8 MR. CROWE: No. It sits -- all the living
9 spaces in the home are at the basement level or at the
10 first floor. And then the loft or what we'll call the
11 second floor sits above all of that. It doesn't
12 connect to anything.

13 MR. DOLLINGER: That's a good question. So
14 there's no other second floor?

15 MR. CROWE: There is not.

16 MR. MIETZ: Okay. When you described the
17 basement level of the house let's define what's there.
18 It's a little bit of a misnomer, yes, as far
19 as not from a code perspective --

20 MR. CROWE: Sure.

21 MR. MIETZ: -- but from just a physical
22 perspective; if I was to walk in right now what am I
23 seeing on the basement level of the house?

24 MR. CROWE: Sure. I can do that.

25 At this end(indicating) this is where the

1
2 addition was put on. It's actually a two-story vaulted
3 and it's built like a gym. Frankly, it is a gym. So
4 we'll call it a gymnasium. So that's what this
5 rectangle is(indicating). And that was the primary
6 addition.

7 And then as you head back in there's two
8 bedrooms on the back side(indicating). There's a
9 laundry room and another bedroom here(indicating) or
10 maybe a den, I'm not sure what the nature of the use
11 is. As soon as you get down to this area(indicating),
12 this area back here is the basement utilities storage.
13 And then in the front is a living area, there's a pool
14 table and bar. So this is sort of another living area.
15 And then under the garage - which is kind of
16 surprising, but under the garage is another storage
17 area(indicating). Now, everything from that point over
18 was existing. So they didn't do a lot of work to that.
19 They renovated it. You know, changed the finishes.
20 Everything from this point is all new. And so
21 everything from this point is all new.

22 So it's - it is a two-story home. We worked
23 it out with Patricia.

24 MR. MIETZ: With three levels?

25 MR. CROWE: It took some careful -- you know,

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the code is complicated. And this is --

MR. MIETZ: I understand that, but I'm just asking you from a physical perspective, there are three levels including the loft?

MR. CROWE: Absolutely.

MR. MIETZ: Okay. So it is a little bit of just a misnomer. So I want to make sure that the Board members --

MR. CROWE: Sure.

MR. MIETZ: So there's not a traditional basement, as we're talking about the first floor --

MR. CROWE: Yeah, I would say --

MR. MIETZ: Is that a fair statement?

MR. CROWE: Yeah, you would probably describe it more as a walk-out basement.

MR. MIETZ: It's built into the grade.

MR. CROWE: I can tell you fifty-one percent of that basement - the first floor is within six feet of grade and forty-nine percent of the basement is greater than six feet to grade, which is the way the New York State Building Code defines it. And we worked very closely with Patricia to make sure that was all measured and marked and documented.

MS. SCHWARTZ: Rick and Dave, I need my

1
2 memory refreshed, did they need a variance for --
3 what's the phrase for --

4 MR. DOLLINGER: Livable floor area?

5 MS. SCHWARTZ: Yes.

6 Did they? I know it's a large lot; did they
7 need that originally?

8 MR. DiSTEFANO: Yes. That was the original
9 variance they got when they came in for the addition.

10 MS. SCHWARTZ: Okay. So they knew at that
11 point that they were over.

12 MR. DiSTEFANO: Yes.

13 MS. SCHWARTZ: So at this --

14 MR. DiSTEFANO: But I think that was
15 explained by Dave earlier that there was some
16 miscommunication with previous professionals. You
17 know, they're in the situation they're in.

18 MS. SCHWARTZ: But they did get a variance
19 for that. So they knew they were over to begin with.

20 MR. DiSTEFANO: Yeah, they were over to begin
21 with, with the addition.

22 MS. SCHWARTZ: So one would assume that they
23 would know they would be over with this even more so;
24 just asking?

25 MR. CROWE: Yeah. What I will say is I did

1
2 provide written notice to the town on October 2nd, 2014
3 and I gave them a full code review of that loft. I
4 don't know what happened to it, but that was submitted.
5 Honestly, that's the time we should have had this
6 discussion, not when we go to submit for the change to
7 get the certificate of occupancy.

8 Just the same as Rick says, this is where we
9 are. And, you know, we all agree. I've got it worked
10 out with Patricia that everybody agrees it's a safe
11 house, it's a code compliant house. So hopefully those
12 issues are past us and now it's in terms of doing the
13 best we can to adhere to the zoning requirements of the
14 town.

15 MS. CORRADO: Out of curiosity, what will the
16 loft space be used for?

17 MR. CROWE: It's living area. There will be
18 seating areas with televisions. And it's not intended
19 for sleeping. There's no bedrooms up there. It's just
20 an extension of their living area.

21 MR. DiSTEFANO: Can you assure us on record
22 that this space will not be used for a bedroom?

23 MR. CROWE: Absolutely. Yup. We'd be happy
24 to give you -- and I've spoken with them already, we'd
25 be happy to give you a letter that says that. In fact,

1
2 I had talked to the state about it in terms of the code
3 interpretation and the state recommended to Patricia
4 that when the C of O is issued that it be straitly
5 stated that the loft is not to be used for sleeping.
6 So that seemed like a pretty good --

7 MR. DiSTEFANO: And the reason that is, is
8 that the code requires a sleeping area to have certain
9 means of egress which this loft does not have. So that
10 becomes a very important factor in the future use of
11 this loft area.

12 MR. CROWE: Yup. And the owners would be
13 happy to do that, to get a C of O that had that
14 condition in it, absolutely.

15 MS. SCHWARTZ: So is there an area in the
16 house if there's a sleepover with sleeping bags and
17 everything?

18 MR. CROWE: They can sleep in the basement.
19 They have a gymnasium they can sleep in. They have
20 lots of options.

21 MR. MIETZ: Have you thought about - I
22 understand the interpretation of the code as it relates
23 to each of those floors.

24 Have you thought about any other mitigation
25 on your own behalf as it relates to protecting that

1
2 area?

3 I understand that you're warranting this
4 won't be a sleeping area, however it is a third floor
5 really inhabited space.

6 MR. CROWE: Well, there's certainly options.
7 And there's for instance; there's skylights that can be
8 used for egress. But one of the challenges of that is
9 I think their oldest son is maybe seven and those
10 skylights are wonderful doorways onto a roof. And on
11 the front of the building it's only effectively one
12 story, but on the back side it's two stories. And so
13 the idea of giving, you know -- everybody can say don't
14 touch this, you put an alarm on it, but it would be the
15 easiest thing in the world because it still has to be
16 less than forty-four inches and there has to be a step.
17 So they would be creating a doorway out onto the roof.
18 And while, you know, the safety issues in terms of
19 fire, you know, the day-to-day issues that come with
20 having a feature like that will probably have them
21 locking it shut or some, you know, sort of more
22 dacuronium, you know, basic measure to keep the kids
23 from getting hurt. And I just note because I was out
24 there last week and looking at it, that back side is
25 very high. That roof -- the thought of having a nine

1
2 year old or an eight year old on the roof is pretty
3 scary stuff.

4 And in terms of other things like a whole
5 house sprinkler system, had we had this discussion a
6 year ago it was probably something they would have
7 considered. But at this point it's finished, you know,
8 and drywalled and taped and wired and carpeted. And,
9 you know, to go back and to put something like that in
10 at this point would be extraordinarily difficult. They
11 would have had to start over.

12 MR. MIETZ: Rick, again, because of the
13 definition of the code as it relates to that it meets
14 all building code requirements?

15 MR. DiSTEFANO: Yes.

16 MR. MIETZ: And there's no other fire
17 protection --

18 MR. DiSTEFANO: Required, no.

19 MR. MIETZ: All right.

20 MR. DiSTEFANO: No, there is not.

21 If it is was fifty-one percent the other way
22 then, yes, they would be required to put in a sprinkler
23 system. But it doesn't meet the code for a three-story
24 residential home.

25 MR. MIETZ: So just base whatever the

1
2 building code requires as far as fire protection?

3 MR. DiSTEFANO: Yes.

4 MR. MIETZ: Smoke detectors and whatnot?

5 MR. DiSTEFANO: Yes.

6 MR. CROWE: I will add I have letters from
7 all the neighbors in support of the variance. I'll
8 just give you those so you have that.

9 MR. DiSTEFANO: Let's see, for the record, we
10 received letters from neighbors at 7 Elmwood Hill Lane,
11 2 Elmwood Hill Lane, 3 Elmwood Hill Lane.

12 And Richard lives at what number?

13 MR. CROWE: 14.

14 MR. DiSTEFANO: 14 Elmwood Hill Lane, in
15 support of the application.

16 MR. MIETZ: Does anyone have any other
17 questions regarding this in application?

18 Okay.

19 MR. CROWE: Okay. Thank you.

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

22 There being none, the public hearing is
23 closed.

24

25

REPORTER CERTIFICATE

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

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

Dated

At Rochester, New York

Chad L. Smith

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

October 7th, 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
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

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

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

1
2 APPLICATION 10a-01-15

3 10A-01-15 Application of Fred R. Steele
4 Enterprises, contractor, and Sanford Abbey, owner of
5 property located at 209 Whitewood Lane, for an Area
6 Variance from Section 205-2 to allow an enclosed
7 entryway to extend 2 ft. into the existing 49.8 ft.
8 front setback where a 60 ft. front setback is required
9 by code. All as described on application and plans on
10 file.

11 Motion made by Ms. Baker Leit to approve
12 Application 10A-01-15.

13 **FINDINGS OF FACT:**

- 14 1. This is the same proposal that was approved by this
15 Board two years ago. There are no changes, the same
16 plans and drawings have been submitted.
17 2. This will not change the character of the
18 neighborhood.
19 3. The house currently has a non-conforming setback
20 due to when it was built.
21 4. The requested variance is only for encroaching two
22 feet into the front setback.

23 **CONDITIONS:**

- 24 1. This approval is only for the proposed entryway
25 that will extend two feet into the front setback, as

presented in testimony and written application.

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

(Seconded by Ms. Baker Leit.)

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

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

1
2 APPLICATION 10A-02-15

3 10A-02-15 Application of Susan Engel, owner of
4 property located at 1428 South Clinton Avenue, for 1)
5 an Area Variance from Sections 203-2.1B(2) and
6 203-9A(4) to allow a shed to be 297 sf in size (161.6
7 sf existing shed with 135.6 sf addition) in lieu of the
8 maximum 250 sf in size allowed by code; and 2) an Area
9 Variance from Section 207-6A(3) to allow shed addition
10 to be 1.7 ft. from a side lot line in lieu of the
11 minimum 5 ft. required by code. All as described on
12 application and plans on file.

13 Motion made by Ms. Tompkins Wright to approve
14 Application 10A-02-15.

15 **FINDINGS OF FACT:**

16 1. The granting of the requested variance will not
17 produce an undesirable change in the character of the
18 neighborhood or be a detriment to nearby properties is
19 not substantial. The existing portion of the shed
20 already lies 1.7 feet from the side lot line and a new
21 addition will not be placed any closer than the
22 existing shed. Further, as expanded only represents a
23 twenty percent increase to what is permitted by code
24 and will be an improvement over the current property
25 condition.

2. The benefit sought by the applicant can not be reasonably achieved by any other method. It is the minimum necessary to grant relief from the applicant's difficulty, and that difficulty is not self-created. The applicant stated that storage space in her home is severely limited due to natural causes beyond her control and this variance will allow her to create adequate dry storage.

3. There is no evidence that the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

CONDITIONS:

1. The variances apply only to the shed and in the location as depicted in the application.

2. The current shed and addition shall be in uniform appearance as testified by the applicant.

3. All necessary permits and approvals must be obtained.

(Seconded by Ms. Schwartz.)

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

(Upon roll call, motion to approve with

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conditions carries.)

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2 APPLICATION 10A-03-15

3 10A-03-15 Application of Anthony J. Costello and
4 Son Development, LLC, owner, of property located on
5 Reserve View Blvd. (off of South Clinton Avenue) known
6 as "The Reserve" housing community, for renewal of a
7 Temporary and Revocable Use Permit(8A-05-14) pursuant
8 to Section 219-4 to allow for six (6) temporary
9 site/development signs for a two year period where only
10 one sign is allowed by code. All as described on
11 application and plans on file.

12 Motion made by Ms. Baker Leit to approve
13 Application 10A-03-15 based on the findings of fact as
14 determined in Application 8A-05-14, with the following
15 conditions:

16 **CONDITIONS:**

17 1. The total number of site development signs is
18 limited to five. These signs shall consist of: a large
19 developmental identification sign facing I-590(not
20 lighted), a large developmental identification sign
21 facing South Clinton Avenue(lighted), a feather "open"
22 sign at entrance on South Clinton Avenue, an A-frame
23 "open" sign at entrance on South Clinton Avenue and a
24 development identification sign facing the canal.

25 2. The feather "open" sign and A-frame "open" sign

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2 shall only be displayed when the model home/office is
3 open.

4 3. The signs shall be located per plans submitted and
5 testimony given.

6 4. The temporary and revocable use permit is valid for
7 two years and shall expire on October 7th, 2017.

8 (Seconded by Mr. Goldman.)

9 (Ms. Schwartz, no; Ms. Tompkins Wright, yes;
10 Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Mr.
11 Goldman, yes; Ms. Baker Leit, yes.)

12 (Upon roll call, motion to approve with
13 conditions carries.)
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2 APPLICATION 10A-04-15

3 10A-04-15 Application of Brendan Taylor and
4 Kelly Ronan, owners of property located at 116
5 Fairhaven Road, for an Area Variance from Sections
6 203-2.1B(3) and 203-9A(4) to allow for the
7 reconstruction of a detached garage with a 3.1 ft. side
8 setback and a 3.5 ft. rear setback where a minimum 5
9 ft. setback is required from all lot lines. All as
10 described on application and plans on file.

11 Motion made by Ms. Corrado to approve
12 Application 10A-04-15.

13 **FINDINGS OF FACT:**

14 1. The requested variance is not substantial as the
15 proposed new garage will be built on the footprint of
16 the original structure, which was built in 1938 in
17 conformance with the town code at that time.

18 2. No other alternative can alleviate the difficulty
19 and produce the desired result. In fact, replacing it
20 on the same location on the lot will preserve the
21 architectural and historic integrity of the
22 neighborhood.

23 3. No unacceptable change in the character of the
24 neighborhood and no substantial detriment to nearby
25 properties is expected to result, as nearly all

1
2 surrounding homes built in the same era had the same
3 prior non-conforming detached garages at approximately
4 the same setback as the proposed. Additionally, this
5 variance will allow the new structure to be built on
6 the original foundation, mitigating the need for
7 additional waste through demolition of otherwise
8 functional infrastructure.

9 4. The alleged hardship was not self-created by the
10 applicants. As already noted, the original garage was
11 conforming as setback in 1938.

12 5. The health, safety and welfare of the community
13 will not be adversely affected by the approval. In
14 fact, by permitting reconstruction of the deteriorated
15 garage in the requested location on the lot, the
16 property owners will be able to appropriately store
17 vehicles, lawn equipment, recreational equipment et
18 cetera out of view of the neighbors and improve the
19 view through better construction.

20 **CONDITIONS:**

21 1. The variance will only apply to the structure that
22 was described in the application and testimony; in
23 particular it will not apply to any additional
24 structures considered in the future that are not
25 considered in the application.

2. Construction will be measured will the appearance of the existing home, finished in appropriate form.

3. All necessary town permits shall be obtained.

(Seconded by Ms. Schwartz.)

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

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

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2 APPLICATION 10A-05-15

3 10A-05-15 Application of Dean Faklaris, agent,
4 and Upstate Portfolio, LLC, owner of property
5 located at 140 Canal View Blvd., for a Sign Variance
6 from Section 207-26D to allow two business
7 identification signs to have a logo occupying 33% of
8 the sign area in lieu of the maximum 25% of sign area
9 allowed by code. All as described on application and
10 plans on file.

11 Motion made by Ms. Dale to approve
12 Application 10A-05-15.

13 **FINDINGS OF FACT:**

- 14 1. There is an existing variance for the building
15 which allows for a sign on a second exterior wall.
16 2. The previous tenant was permitted a variance that
17 allowed their sign to be a hundred percent logo.
18 3. The logo percentage will allow for an existing
19 application for the business across other properties.
20 4. The proportion on the shield logo relationship to
21 the U of R medicine name is standard and set for all
22 signage in other identification uses.
23 5. The size of the sign is actually smaller than the
24 code allows for the size of the building.
25 6. There will be no substantial change in the

1
2 character or detriment to adjoining properties.

3 7. The variance request is not substantial in relation
4 to the code, it's 33% versus 25%.

5 **CONDITIONS:**

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

8 2. Will follow all applicable codes for illumination
9 including on thirty minutes before opening and off
10 thirty minutes after closing.

11 3. All necessary Architectural Review Board and
12 Planning Board approvals shall be obtained.

13 (Seconded by Ms. Baker Leit.)

14 (Mr. Goldman, yes; Ms. Schwartz, yes; Ms.
15 Tompkins Wright, yes; Mr. Mietz, yes; Ms. Corrado, yes;
16 Ms. Baker Leit, yes; Ms. Dale, yes.)

17 (Upon roll call, motion to approve with
18 conditions carries.)
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2 APPLICATION 10A-06-15

3 10A-06-15 Application of David Crowe, architect,
4 and Matthew and Courtney Winslow, owners of property
5 located at 6 Elmwood Hill Lane, for an Area Variance
6 from Section 209-10 to allow livable floor area to
7 increase from 6,380 sf, as approved under variance
8 application 2A-06-14. to 7,428 sf where a maximum 5,648
9 sf is allowed by code. All as described on application
10 and plans on file.

11 Motion made by Mr. Goldman to approve
12 Application 10A-06-15.

13 **FINDINGS OF FACT:**

14 1. A variance was previously granted February 2nd,
15 2014, to allow livable floor area of six thousand three
16 hundred eighty square feet.

17 2. A loft of one thousand forty-eight square feet was
18 not included in the previous request and has since been
19 constructed.

20 3. Because the loft is totally within the footprint of
21 the existing home no unacceptable change to the
22 character of the neighborhood and no substantial
23 detriment are expected to result from the approval of
24 this variance from what was previously granted on
25 February 2nd, 2013.

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CONDITIONS:

1. The loft area shall be confirmed to be the same as the plans submitted to the Board at the Meeting of October 7th, 2015.

2. The loft area shall not be used for sleeping or for bedroom purposes.

3. Any other required approvals from the Town of Brighton shall be obtained.

(Seconded by Ms. Tompkins Wright.)

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

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

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REPORTER CERTIFICATE

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

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

Dated

At Rochester, New York

Chad L. Smith

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