

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF MONROE

In the Matter of  
BRIGHTON RESIDENTS AGAINST VIOLENCE TO  
EVERYONE, INC., ROC LOVE, INC.,  
CAROL N. CROSSED, ELLEN DUNCAN, and  
WILLIAM MCGINN,

Plaintiffs-Petitioners,

**AFFIDAVIT IN SUPPORT OF  
COMPLAINT-PETITION**

-v-

PLANNING BOARD OF THE TOWN OF BRIGHTON,  
And KENNETH W. GORDON, in his capacity as  
TOWN ATTORNEY FOR THE TOWN OF BRIGHTON, and  
WESTFALL MEDICAL REALTY, LLC

Defendants-Respondents,

For Relief Pursuant to CPLR Article 78 and  
for Declaratory Judgment Relief Pursuant to CPLR 3001

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CAROL N. CROSSED, being duly sworn, deposes and says:

1. I am a resident of the Town of Brighton, a community with an aging demographic according to the Master Plan of the Town.
  
2. That very fact makes one wonder why locating an abortion clinic within a block which already has an existing abortion clinic would serve the needs of the Brighton residents, as opposed to medical facilities more geared toward an aging population. Although perhaps that question cannot be asked in the context of site plan review, the cumulative environmental and community character impacts of having two such abortion facilities in one corridor possessing a school, a playground, and a mosque should be.

3. I am the President of Brighton Residents Against Violence to Everyone, Inc., an organization which was at the forefront many years ago in trying to prevent the damage done to young women and our community by the abortion clinic operated by Dr. Wortman, a “physician” which was so recently and negatively in the local news.
4. Then, as now, the applicant for the abortion clinic hid under cover of a generic “construction of a medical office” site plan application. Not long after construction started, though, a berm was sought to be added because it was an abortion clinic.
5. Although BRAVE prevailed in a challenge to the berm amended approval at the Monroe Supreme Court level, it was reversed by the Fourth Department on the grounds of lack of standing. Much of the Fourth Department’s focus in that action was on the fact that the challenge was only to the modification to include the later construction of a berm, rather than the underlying site plan approval process o the facility itself.
6. BRAVE has continuously since that time sought to raise awareness of the negative impacts of such abortion facilities not only to the women in the community, and the lost lives of the unborn children, but also the ways in which such facilities damage the environment and general community character at large.
7. Those very issues are supposed to be the subject of SEQR and site plan approvals, and so, when I learned through the grapevine that the Project at issue might be a Planned Parenthood abortion clinic, I made sure to attend all meetings and to speak out *before* the approval was issued. None of our expressed environmental and community character

concerns were considered by the Planning Board, though, due to the improper and unlawful directives of the Town Attorney telling the Board that they could not apply the very Town of Brighton Code site plan approval standards set forth in the Town of Brighton Code to this Project.

8. It is my hope that this Court will realize that the concerns raised are within the zone of interests to be protected by SEQR and the Town of Brighton Code, and that they should have been considered by the Town Planning Board, and that the failure to do so has resulted in injury to me as a Town resident who pays for and relies upon the wastewater treatment facility, who travels the roads along which the Project is located while picking up my grandsons at the McQuaid School and who has standing, on my own behalf and that of my family, to challenge the approval's failure to consider the deleterious secondary effects wrought by the sex traffickers who frequent such facilities as the Project and engage in lewd and obnoxious behavior damaging to the children attending the school, the Muslims attending and praying at the neighboring mosque, and the children playing in the nearby playground.

9. The Brighton Town Code, Article III Planning Board, at § 217-8 states:

***The purpose of site plan approval is to determine compliance with the objectives of this article in zoning districts where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating unhealthful and unsafe conditions and thereby adversely affect the public health, safety and general welfare.***

10. As has been seen over the past many years with the Wortman Clinic, abortion facilities such as the one at issue in this action-proceeding are not compatible uses with Catholic schools, playgrounds, mosques, and pediatrician offices because abortion clinics, unlike other medical facilities, tend to attract unsavory elements like sex traffickers into

communities which should not be subjected to them any more than they should be subjected to those elements who frequent adult uses.

11. It has long been accepted that adult uses can be prohibited from areas in which schools and other community facilities are present because of their deleterious secondary effects on such sensitive areas. It is respectfully submitted that the abortion clinics tend to attract a similar community disamenity in terms of the draw to sex traffickers, who should not be loitering around schools, mosques, playgrounds and pediatrician offices.
12. I have concerns about the impact upon the McQuaid students, like my three grandsons, from such activities and the clientele which such facilities often draw.
13. The secondary effects of this Project, *i.e.* its impacts upon the community character and neighboring properties, were not considered at all by the Planning Board, though, for several reasons.
14. First, Planned Parenthood was not disclosed as an applicant or tenant of the applicant in the site plan approval application process. BRAVE had to discover that fact through deep investigation and gathering rumors, not the way that the public approval process is supposed to work.
15. Second, the Town Attorney specifically told the Planning Board that it couldn't consider the use at all, that there was a Certificate of Need that had been issued for the facility (even though no such Certificate was included in any of the record materials we received in response to our FOIL request), and that the Planning Board was not allowed to consider

any waste disposal issues, etc., that might be caused by the facility, even though such issues are at the heart of the SEQR environmental review process.

16. All attempts to raise issues such as impacts to the community in terms of community character, waste disposal, traffic, sidewalk access, demands on police resources, etc., i.e. SEQR and site plan approval criteria, were promptly shut down by the Town Attorney in violation of the Town Code who vests such authority in the Planning Board, not in the Town Attorney.
17. Now that we have learned that the Town Supervisor sent a letter, at the request of Planned Parenthood, in support of a grant for the Project even before the Project had been approved by the Planning Board, and was in constant email communication with Planned Parenthood at a time when they were not the disclosed tenant or use on any publicly available forms or disclosures, it seems clear why the Town Attorney was so eager to shut down any meaningful public review of the Project.
18. Because of the lack of transparency of the applicant and the Town, as well as the improper comments and directives of the Town Attorney, this Project was not given the “hard look” required by SEQR and the Town of Brighton Code.
19. The approval was therefore issued in violation of law, was affected by numerous procedural errors and ultra vires actions.
20. The approval was also in violation of the Town Code of Brighton in that no determination was made by the Planning Board that the use is one authorized under the zoning district for the project location in that the Project includes, upon information and belief,

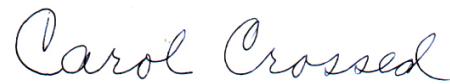
procedures which are beyond that permitted for a “medical office” within the Brighton Town Code. This issue was previously raised with respect to the Wortman Clinic by the Monroe County Supreme Court, and was never reversed by the Fourth Department who instead dismissed the petition on standing grounds and thus never reached the issue of the compatibility of abortion clinics with the Town of Brighton zoning code definition of “medical office”

21. Notably, the Town of Brighton Code definition has never been changed since the issuance of that Monroe County Supreme Court decision.

22. I therefore request that this Court determine the approval to be null and void, and declare the approval to be in violation of the NYS Constitution, as recently amended, and also in violation of the Town of Brighton Code.

DATED: December 14, 2021

Sworn to before me this  
\_\_\_\_ day of December, 2021.



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CAROL N. CROSSED

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Notary Public