

1
2 PROCEEDINGS HELD BEFORE THE BRIGHTON ZONING BOARD OF
3 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK, ON
4 AUGUST 4TH, 2021, AT APPROXIMATELY 7:15 P.M.

5 August 4th, 2021
6 Brighton Town Hall
7 2300 Elmwood Avenue
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRPERSON
11 EDWARD PREMO)
12 KATHLEEN SCHMITT) Board Members
13 JUDY SCHWARTZ)
14 ANDREA TOMPKINS WRIGHT)

15 KENNETH GORDON, ESQ.,
16 Town Attorney

17 RICK DiSTEFANO
18 Secretary

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

23 REPORTED BY: DOREEN SHARICK, Court Reporter
24 FORBES COURT REPORTING SERVICES, LLC
25 21 Woodcrest Drive
Batavia, New York 14020

1 CHAIRMAN MIETZ: Okay. At this point I'd
2 like to call to order the August session of the
3 Zoning Board of Appeals of Brighton. Was the
4 meeting properly advertised?

5 MR. DiSTEFANO: Yes, Mr. Chairman. It
6 was advertised in the Brighton-Pittsford Post
7 on July 29th, 2021.

8 CHAIRMAN MIETZ: Okay. So we've have no
9 minutes. So I guess, Rick, when you're ready,
10 we're ready.

11 MR. DiSTEFANO: Shall I call the roll?

12 CHAIRMAN MIETZ: Yes, I think you should.

13 (Whereupon the roll was called.)

14 MR. DiSTEFANO: Please let the record show
15 that Ms. Dale is not present.

16 CHAIRMAN MIETZ: Okay.

17 MR. DiSTEFANO: All righty.

18 CHAIRMAN MIETZ: All right.

19 MR. DiSTEFANO: Application 8A-01-21,
20 Application of Brian and Nancy Bennett, owners
21 of property located at 205 Viennawood Drive,
22 for an Area Variance from Section 205-2 to
23 allow a covered porch addition to extend 8.2
24 feet into the 40 foot front setback required by
25 code. All as described on application and

1 plans on file.

2 MR. SYLVESTER: Good evening. My name is
3 Gary Sylvester, offices on West River Road in
4 Scottsville, New York. I'm the architect
5 working with the Bennetts on a couple of the
6 projects.

7 The one we're here for tonight is an
8 addition of a porch. And in doing so, we will
9 encroach into a setback, thereby requiring a
10 front setback variance.

11 With me is Brian Bennett, who is the owner
12 of the home located at 205 Viennawood Drive for
13 about five years now.

14 The house is on the corner of Viennawood
15 and Middlebrook. And as such, being on a
16 corner lot, the front of the house is on the
17 Viennawood side with the driveway and all the
18 comings and goings occur on the Middlebrook
19 side. Other than formal guests that use the
20 front door, day to day everybody is using the
21 door that goes into a mud room here next to the
22 garage. It's their request that they be able
23 to construct a porch at that entrance, so that
24 they can have some protection for the kids.
25 They have two young school kids. They pick up

1 a bus at the end of the driveway here. So they
2 wait for the bus.

3 CHAIRMAN MIETZ: Can you raise it up?
4 That may help.

5 MR. SYLVESTER: I've never done anything
6 like this. The addition itself is about 13.9
7 feet wide. That's defined by the existing mud
8 room that I had mentioned. And basically, what
9 we're doing is taking this gable end of the
10 roof, pushing it out 10 feet toward Middlebrook
11 to create the porch. We will put in a Trex
12 type of deck. For the porch, it will have
13 railings and two columns on the front.

14 We looked at three or four different
15 variations trying to keep this to minimize the
16 amount of variance required. Currently, that
17 space, that existing mud room sits about a foot
18 and a half outside the setback. So there's 40
19 feet or 41.8 feet, I believe it is, you know,
20 off of the right of way.

21 40 foot is the required setback. And
22 doing what we're doing, you know, we would
23 encroach into that setback 8.2 feet by the way
24 of an addition.

25 If you get a chance to go through the

1 neighborhood or if you're familiar with the
2 neighborhood, I think both what they're asking,
3 architecturally and setbackwise, fits in fine
4 with the neighborhood. It's a fairly mature
5 tree growth in all areas.

6 I've gone out and taken a number of
7 photographs around Middlebrook and Viennawood
8 to see what the impact would be in putting this
9 addition in and I believe it's very negligible.
10 I don't think it should have any kind of impact
11 on anything in the neighborhood. This similar
12 type of addition has been done on other homes
13 in that neighborhood. I can't say that they
14 required setbacks. That I don't know or
15 variances, I don't know that. But again, this
16 is very fitting, what we're asking you to do is
17 very fitting of what has been done previously
18 throughout the neighborhood.

19 Again, there are two elementary school
20 kids with use of this door. Now, they have to
21 use this door daily coming and going. They do
22 play out in this yard, what would be now the
23 front of the patio. And again, it just gives
24 the Bennetts a place to gather and sit, keep an
25 eye on the kids, enjoy the neighborhood and

1 again, without, in my opinion, any negative
2 impact on the neighborhood.

3 Brian, do you have anything you would like
4 to add?

5 MR. BENNETT: I'll make sure to talk into
6 this.

7 CHAIRMAN MIETZ: Excuse me, Brian, can you
8 just name and address for the record, please?

9 MR. BENNETT: Yeah, Brian Bennett, 205
10 Viennawood Drive.

11 I think Gary kind of summed up what I was
12 here to say. You know, our kids use the side
13 yard. We think of it as a side yard for being
14 outside. My wife and I are just looking for a
15 place to kind of gather with the kids, be
16 outside, engage with the neighbors, have a
17 little insulation or protection from the
18 elements.

19 You know, in terms of minimizing the
20 impact or the need for a variance, we looked at
21 a couple different depths, six feet, eight
22 feet, ten feet. We landed on ten feet because
23 of the narrowness of the space that we have to
24 work with it. As Gary mentioned, it's under 14
25 feet wide. So we thought about different

1 designs, different depths. There's no lights
2 or walls or anything that would infringe on
3 visibility around the corner.

4 So I guess that's all I would really add
5 and then just ask, you know, sort of what
6 questions the Board has that I can answer.

7 MS. TOMPKINS WRIGHT: I just have one.
8 There is a home on Middlebrook that, also, has
9 a front porch expansion, is that right?

10 MR. BENNETT: Yes, Sandy has, maybe three
11 houses down I believe.

12 MS. TOMPKINS WRIGHT: Just to remind the
13 Board, we did approve that front yard variance
14 back in 2019, on that same street.

15 MR. BENNETT: And what we're proposing is
16 not inconsistent with what was done there.
17 It's kind of a similar style of what we were
18 thinking and they have a much larger -- their
19 house faces Middlebrook. So they have a much
20 larger space. So I don't know if ours is a
21 little deeper than what they have or not, but
22 slightly different, but very consistent at
23 least in my opinion.

24 CHAIRMAN MIETZ: Yeah, go ahead. Go
25 ahead, Kathleen.

1 MS. SCHMITT: Yeah, this is Kathleen
2 Schmitt. I just wanted to verify that the
3 porch that you're proposing is an open porch,
4 not enclosed in any way?

5 MR. BENNETT: 100 percent, correct.

6 MS. SCHMITT: Thank you.

7 CHAIRMAN MIETZ: Okay. Other questions,
8 Board Members? Ed, anything?

9 MR. PREMO: You know, my name is Edward
10 Premo. Just to confirm, Mr. Bennett, the drop
11 off for the school is on Middlebrook, right?

12 MR. BENNETT: Yeah, it seems to change
13 each year. So last year it was on Middlebrook.
14 I think that, you know, with COVID -- a lot,
15 but that's where it was in the prior year. We
16 had one at Council Rock and one at a friend's
17 for another year. So it could vary between the
18 bussing systems. But my son -- last year when
19 he was on the bus, which everyone knows is kind
20 of up in the air these days.

21 MR. PREMO: And Middlebrook is the main
22 entrance that you use to go in and out of the
23 house? That's where your driveway is?

24 MR. BENNETT: That's correct. Our house
25 faces Viennawood and then our driveway is on

1 the side on Middlebrook.

2 CHAIRMAN MIETZ: Okay. Thanks, Ed. Okay.
3 Any other questions? Okay. Gentlemen, thank
4 you very much.

5 MR. BENNETT: Thank you. Appreciate it.

6 CHAIRMAN MIETZ: Okay. Is there anyone in
7 the audience who would like to speak regarding
8 this application? If there are none, then the
9 Public Hearing is closed.

10 MR. DiSTEFANO: Application 8A-02-21,
11 Application of Robert Shea and Catherine
12 Weisskopf, owners of the property located at
13 166 North Landing Road, for an Area Variance
14 from Sections 203-2.1B(6) and 203-9A(4) to
15 allow a standby emergency generator to be
16 located in a side yard in lieu of the rear yard
17 behind the house as required by code. All as
18 described on application and plans on file.

19 CHAIRMAN MIETZ: Good evening.

20 MR. SHEA: Good evening. My name is
21 Robert Shea and I live at 166 Landing Road
22 North or North Landing Road depending.

23 CHAIRMAN MIETZ: Okay. Very good.

24 MS. WEISSKOPF: I'm Catherine Weisskopf.
25 I'm his wife and I live at the same place.

1 CHAIRMAN MIETZ: Beautiful. Okay.

2 Onward.

3 MR. SHEA: Onward, it is. We're asking
4 for this variance for a number of reasons.
5 First of all, the necessity for us to have a
6 standby generator. For the past few years, I
7 say four or five, we experienced a number of
8 black outs. Part of that is just our location
9 in the neighborhood with a lot of trees. And
10 that presents a challenge both in cold weather,
11 certainly, and in the warm weather now.

12 For my wife and I are in our seventies and
13 the home -- I don't know if you've seen the
14 pictures. Where this generator will be, there
15 are no neighbors. Faces directly to the park,
16 Ellison Park. The land is contoured in such a
17 way that the master electrician representing
18 the generator company, Generac, explained to us
19 that given where our gas meter is, which is
20 where we want to have it installed, in that
21 region there, is not visible from the street,
22 but if we had to do it in the back yard, two
23 things, one, it would be extraordinarily
24 expensive because of the gas piping having to
25 go underground. Secondly, it would actually

1 put the generator closer to our neighbors on
2 that side, who have two young kids and a mother
3 who works at home.

4 So we're asking for those considerations
5 in giving us the variance, so we can -- for
6 this winter, for example, I will be teaching
7 again at RIT. Right now, we're supposed to be
8 on campus, but as I found out in 2020, it goes
9 online. It puts another burden on us to have
10 electricity for my teaching.

11 CHAIRMAN MIETZ: All right.

12 MS. WEISSKOPF: Any questions?

13 CHAIRMAN MIETZ: Yes. Board Members, any
14 questions? Seems pretty straight forward.

15 Are you going to do anything
16 landscapingwise around it for your own? I
17 imagine the deer probably don't mind. Do you
18 have any --

19 MS. WEISSKOPF: I will do as much as the
20 generator people will let me. Apparently, they
21 have to have access to service it.

22 CHAIRMAN MIETZ: Clearance.

23 MS. WEISSKOPF: As you can see, you can't
24 even barely see our house from the street.

25 CHAIRMAN MIETZ: Yes.

1 MS. WEISSKOPF: Nobody is going to see it.
2 I did ask if I can paint it to make it blend
3 in. Maybe they'll let me do that.

4 CHAIRMAN MIETZ: Very good. All right.
5 No questions then? Okay. Thank you very much.

6 MR. BENNETT: Thank you.

7 MS. WEISSKOPF: Thank you.

8 CHAIRMAN MIETZ: Is there anyone in the
9 audience who would like to speak regarding this
10 application? There appears to be none. Then
11 the Public Hearing is closed.

12 MR. DiSTEFANO: Application 8A-03-21,
13 Application of Erick Anderson, owner of
14 property located at 43 Sylvan Road, for one, an
15 Area Variance from Section 205-2 to allow an
16 existing detached garage to be attached to the
17 principle building and have a 10.1 foot side
18 setback in lieu of the minimum 12.7 foot side
19 setback required by code; and two, an Area
20 Variance from Section 209-10 to allow livable
21 floor area to increase to 3,701 square feet in
22 lieu of the maximum 3,172 square foot allowed
23 by code. All as described on application and
24 plans on file.

25 CHAIRMAN MIETZ: Okay. Randy, if you can,

1 pull the mask down so our court reporter can
2 hear.

3 MR. PEACOCK: I can do that.

4 CHAIRMAN MIETZ: Yes, you can.

5 MR. PEACOCK: Okay.

6 CHAIRMAN MIETZ: We'll go on probation,
7 Randy.

8 MR. PEACOCK: I'll stay far away. Good
9 evening. My name is Randall Peacock. My
10 office is on 545 Spring Meadow Lane, Webster,
11 New York.

12 I'm here this evening with my clients,
13 Erick and Kate Anderson. They purchased this
14 house just recently at 43 Sylvan Road and we're
15 here tonight to ask for two variances. The
16 original house was built in 1926. It was
17 considerably enlarged in 1986, with a rather
18 horribly built addition. I can show you
19 things.

20 CHAIRMAN MIETZ: Is that a professional
21 comment?

22 MR. PEACOCK: That is, yes. It's really
23 kind of amazing that this was allowed to
24 happen. The Andersons would like to do a
25 couple things, number one, fix the house. The

1 problem with the house is -- I've provided you
2 with some photographs in my report. When they
3 built that addition in '86, they expanded to
4 the back and the stairway was originally a
5 U-shaped stair. It went up about 12 risers,
6 turned and came up another three or four up.
7 When they built this addition, they extended it
8 up towards the back and they created this very
9 strange landing that was quite disconcerting.
10 So the Andersons haven't moved in yet and
11 already their son has fallen down these stairs.
12 So one of the things we're trying to do is fix
13 the stairs. Another stair problem that
14 occurred at the house is the stair from the
15 second floor to the attic.

16 There are two finished bedrooms in the
17 attic right now. And these bedrooms appeared
18 to have been finished out somewhere in the
19 fifties. They are all knotty pine panels,
20 paneling, wood trim and that which wreaks of
21 the 1950's.

22 The stairway all the way up has about a
23 five foot clearance. So I clocked my head on
24 it the first time up and then the bedrooms
25 themselves at that upper level are -- the

1 ceiling height is 6 foot 5. One of the things
2 that will happen is, the way we fix the stairs
3 from the first floor to the second floor is to
4 move it forward in the house. That eliminates
5 the ability to recreate the stair to the attic
6 where it is now, we're going to move that stair
7 to the back corner of the house, essentially,
8 consuming one of the existing bedrooms on that
9 floor to give us access up to the attic level.

10 I mentioned to you the horrible
11 construction of 1986. They used 2x6 ceiling
12 joists that span about 20 feet. And then they
13 framed the roof above it with 2x6's that have
14 some knee walls that bear on those 2x6 ceiling
15 joists that span 20 feet. This is an accident
16 waiting to happen. So we want to fix that. I
17 don't want to take the whole roof off the
18 house. We're trying to do it within some type
19 of budget. What we're planning on doing there
20 is actually running a beam line across through
21 to the master bedroom. I need to land that
22 somewhere and extend that out, as you look at
23 the house, to the right side or the garage
24 side, so land on the outside wall.

25 We would like to expand that bedroom out

1 so that beam isn't just coming out and standing
2 in the space. So I'm going to pull that out
3 about 6 and a half feet, which is the depth of
4 an original porch on this house that was
5 enclosed and finished off in the 1986 addition.

6 When they finished that porch, they left
7 the interior bearing wall and so you've got a
8 very strange room that's about 6 foot by 20
9 foot long. Baffled as to what you actually do
10 with that space. With the variance, we're
11 going to open a wall, the bearing wall between
12 the porch and the living room of the house to
13 expand the living room on the inside. That's
14 all the space that exists.

15 Our issue is that the expansions we're
16 planning take us above the allowed LFA. We
17 would go 529 square feet above what's
18 permitted. Right now, the allowed LFA for this
19 house is 3,172. With the proposed additions,
20 I'll come back to what those are, we would be
21 at 3,701. So we would be 529 square feet above
22 what is permitted.

23 Our first floor, we're planning on adding
24 279 square feet. By the way, that 529 is 16.6
25 percent larger than what's permitted.

1 The first floor we're planning on adding
2 279 square feet and that area comes in the form
3 of a connection between the freestanding garage
4 and the house. There's 8 feet between the two
5 of them right now. The actual entrance to the
6 house, a swing door, is at the far opposite
7 corner of the house. So you either have to use
8 the sliding glass door in the living room to go
9 out to the garage or use the front door, come
10 around the house to the garage. Our plan is to
11 connect the two of them and have an interior
12 door that connects to a little mud room space
13 with closets and space for the kids to hang up
14 their clothes.

15 The bathroom, Erick does construction
16 work. He comes home dirty and would like kind
17 of a back area, separate from the house, so he
18 can change and then a small laundry there so
19 that those clothes can be washed, without
20 dragging all of that into the house itself.

21 The second floor, we're adding is going to
22 be 286 square feet. This primarily comes from
23 taking that first floor porch I mentioned
24 earlier, extending that all the way up and
25 enlarging the bedrooms on the second floor. It

1 lets me take one bedroom, which was the
2 original master bedroom of the house. It's
3 about 12 feet by 24 feet I think. It's another
4 odd shaped room. I'm going to split that extra
5 6 feet, split it in two, create two decent
6 walk-in closets and have two decent size
7 bedrooms out of it.

8 Then the last 177 square feet of the
9 additions are in the attic space. I have about
10 I think it's 302 square feet in the attic right
11 now. Because of the way the house was done in
12 '86, they left the original rear roof in place
13 with all the asphalt shingles on it.
14 Everything is up there, just built on top of
15 it. We want to take all that asphalt out of
16 the inside of the house. It's not a good idea
17 to have asphalt shingles stacked up inside your
18 house. Even at that age, they have gases that
19 come out of them.

20 When we do that, we're able to open this
21 up, provide a reasonable ceiling height for
22 that third floor and expand the space just a
23 little bit. That 177 square feet all occurs
24 within the body of the house that's there right
25 now.

1 One of the things we're planning on doing
2 as part of this -- our lot coverage I believe
3 is 18.4 percent now and it goes to 20.6 for
4 buildings, but one of the things we do plan on
5 doing, there's a driveway on the left side of
6 the house that was there from the original
7 house. There's a little tiny garage in the
8 back. When they did the addition in '86, for
9 some reason they didn't take that driveway out.
10 We're going to pull that driveway out as part
11 of this. That gives us about 700 square feet
12 of green space back on this property.

13 Rick, were you able to distribute that
14 table? Okay. I brought extra copies.

15 MR. DiSTEFANO: Yes.

16 MR. PEACOCK: What it is, I've provided
17 you with a table. I went through it and I
18 said, okay, the livable floor area calculation
19 is really based on a ratio between the floor
20 area of the house and the size of the lot. So
21 I got creative. I said, let me take the six
22 largest houses around this particular house and
23 do a comparison for you.

24 What I did is, I divided the floor area of
25 the house, which I got from the tax records, by

1 the lot area, and that gave me a decimal number
2 and you can see that what occurs is, right now
3 out of those six largest houses, this house
4 would be in fifth place. If when we do these
5 additions, it takes the house from fifth place
6 to third place. It's still going to be a big
7 house. It has one of the larger square
8 footages, but this is a ratio between the lot
9 area and the house size, which is what that
10 livable floor area regulation is directing us
11 towards. My purpose of doing that is to show
12 you that this is not going to be something
13 that's unusual for this neighborhood. We don't
14 have the highest ratio of lot area, floor area,
15 for the neighborhood. We're going from fifth
16 to third. There's this roof of six houses.
17 This is in the first couple of houses right of
18 off Monroe Avenue on Sylvan Road. There's six
19 big houses. Once you get beyond this, they
20 tend to dwindle off. Those houses that I
21 calculated are a house across the street, a
22 house to the left of us and a house kitty
23 corner across from the house. I think there's
24 one other, one or two down from that corner on
25 Sylvan.

1 So we do not believe that we are creating
2 a situation here which is out of conformity
3 with the neighborhood. We believe that it does
4 conform with this part of this neighborhood.

5 I would also like to mention that we
6 presented this proposal, the additions to the
7 Architectural Review Board. The Architectural
8 Review Board granted us approval, a Certificate
9 of Appropriateness for the addition. They
10 wanted one thing, which was another window on
11 the first floor, which I knew I should have put
12 in in the first place but didn't. So we're
13 having to add that window on the first floor
14 structure.

15 I think I've gone through my statistics
16 and numbers. I know Erick wanted to speak to
17 you a little bit.

18 MR. DiSTEFANO: Just touch on the
19 secondary, the side setback.

20 MR. PEACOCK: Oh, I'm sorry. Yeah, I
21 will, yes.

22 MR. DiSTEFANO: Thanks.

23 MR. PEACOCK: Right at the moment, the
24 garage sits I think it's 10.1 feet, Rick. I
25 don't have the exact number, off of the side

1 yard lot line as a freestanding garage,
2 committed to do that, I can be as close as five
3 feet, yeah, 10.1 feet. When I linked the two
4 of them together, the garage now becomes part
5 of the main house and it would require that it
6 meet the required setback for the whole house.
7 That takes us to 12.65 I think was my
8 calculation across the front of that. That,
9 yeah, 12.675. We believe that's a minimal
10 change. The garage is there. It doesn't
11 really -- yeah, unless you're standing right in
12 front of this house, you can't tell if the
13 garage isn't already attached to the house.
14 There's just that 8 foot space between the two
15 of them. I don't believe that results in any
16 change detrimental to the neighborhood. It's
17 simply maintaining the status quo and we're
18 changing the parameters around it.

19 I'll let Erick speak to you for a moment.

20 CHAIRMAN MIETZ: Okay.

21 MR. ANDERSON: Hi, folks. Can I take this
22 down?

23 CHAIRMAN MIETZ: Yes.

24 MR. ANDERSON: Thank you very much. Thank
25 you for your time tonight and thank you for

1 your service on this Board. I went to --

2 CHAIRMAN MIETZ: Sir, just your name and
3 address?

4 MR. ANDERSON: Oh, I'm sorry. My name is
5 Erick Anderson. I live at 43 Sylvan Road even
6 though I'm not particularly living there at the
7 moment.

8 CHAIRMAN MIETZ: All right.

9 MR. ANDERSON: Two things, it's hard to
10 not live in a place and be moving in and try to
11 get neighborhood support for any sort of a
12 project that you're trying to get on, but what
13 it did cause was a really nice thing.

14 We went around to the neighborhood -- and
15 I'm going to hand some stuff out to you guys.
16 I hope you don't mind. We went to the
17 neighborhood and we handed everybody one of
18 these letters as an introduction. It was an
19 introduction to everybody. It was our way of
20 saying, hi, we have a project that we have to
21 endeavor into, which we didn't want. We wanted
22 a turnkey house and unfortunately, we were one
23 of many stories I'm sure you'll hear over time
24 about this crazy real estate market that puts
25 you in an awkward position and if you want to

1 buy a house --

2 CHAIRMAN MIETZ: It's very hard for the
3 court reporter.

4 MR. ANDERSON: We're the collateral damage
5 I guess you could say of a really historically
6 crazy real estate market. To be competitive to
7 buy a house especially in Brighton, you have to
8 be into a situation where you're not doing
9 inspections. You need to close quickly, yadda,
10 yadda, yadda, and we did all that so we could
11 buy our dream house.

12 Unfortunately, as Randy went into the
13 great detail to tell you, that house is flawed.
14 When we put our head through the ceiling, when
15 we finally could and we saw the status of the
16 roofing on this house, obviously, no decent
17 parent would let their kids sleep underneath
18 that roof. Let me get you the rest of these.
19 These are letters of support from our
20 neighbors. Each one of them is a different
21 one.

22 We sent this letter around. We introduced
23 ourselves to the neighbors. We are excited as
24 all can imagine that we have a great
25 neighborhood. The neighborhood embraced us

1 from the beginning. They started calling the
2 phone number. We started having conversations.
3 We started meeting our neighbors and we started
4 to show them our plans, our drawings that Randy
5 made up for us. Bring them into the house and
6 let them see that we have asphalt shingles
7 inside the envelope of our house. If you stood
8 there right now and on a hot day like today,
9 you're going smell tar in our bedroom. It is
10 ghastly and it needs to come out.

11 To come out of that, we have to do all the
12 work that Randy proposed. And not only that,
13 we're touching the inside of that envelope.
14 We've got to bring those rooms up to code,
15 which means we're going to have to sprinkle the
16 third floor. We're going to have to take the
17 rakes off the side of the house. We're going
18 to have to put in the egress windows and do all
19 that, but unfortunately, once we touch it, it
20 changes the whole effect. It's ways to make
21 those rooms different to get the ceiling
22 heights and it starts this domino effect.
23 We've got to do the staircase, to fix that so
24 that's safe. And then we have to put up a
25 different staircase that goes up to the third

1 floor.

2 So that we don't lose a bedroom in the
3 house, we have six bedrooms as we bought it, we
4 have to sacrifice a bedroom on one side.
5 That's really what that second floor addition
6 does. And it also allows us to brace -- Randy
7 can speak to this more. I was doing it because
8 I started. It's bracing the third floor that
9 we need to address.

10 All of this is connected. It's just a
11 giant domino effect. It's a gigantic expense
12 that my wife and I did not expect. I bought a
13 lemon. And I'm stuck with it and I've got to
14 fix it and it stinks. And that's not your
15 fault. It's not my fault. Unfortunately,
16 because the pending market, you have to buy it
17 right now. And it's a problem. The good news
18 is you're seeing all those different -- I hope
19 you have them all by now. Every one of my
20 neighbors signed off on this project. Every
21 single one of them. And I just got a call from
22 one of them, who was just getting back from
23 vacation and -- I think I left it in my other
24 folder. She's at 28 Sylvan.

25 MR. DiSTEFANO: For the record, we

1 received letters of support from neighbors at
2 51 Sylvan Road, 36 Sylvan Road and 31 Sylvan
3 Road.

4 MR. ANDERSON: That includes my neighbor,
5 Rabbi Noble, who is the neighbor that is
6 directly connected to the garage where the
7 second variance happens where there's a
8 difference of that. He signed off on that
9 garage in 1996. He was there as well. And at
10 that time, he said that the garage was fine.
11 We're not moving the garage. He saw the plans.
12 He loved the plans. The neighbor across the
13 street, Sarah Davidowitz, saw the plans. She
14 said, I don't know why they never filled that
15 in in the first between the garage and house.
16 She stares directly at the house. She's been
17 there for 46 years. She's the longest tenured
18 member of this group of houses, wonderful
19 neighbor, super sweet woman. Wished us the
20 best in the world and said, I love that you're
21 going to raise that thing on the side, that
22 side porch. That should have been done when he
23 did it.

24 It's really nice to have the support of
25 all your neighbors on a project like that.

1 Weirdly get thrown into and you get to know.
2 The reality is, no one wants to sleep in that
3 bedroom and in those bedrooms the way it sits
4 right now, the third floor, because it's going
5 to fall on us. It's just a matter of time.
6 Any snow load, you can see the pictures with
7 the crippling 2x4's that are holding it up.
8 It's just a mess.

9 So I'm sorry we're here, but in a really
10 neat way, it became a really nice way for me to
11 meet my neighbors and to get a lot of support
12 on the project.

13 I know that in this Board one of the
14 things that everybody wants us to prove or to
15 try to resolve is this a matter that is
16 self-created. I did not do this renovation in
17 1986. Whoever did it should be stripped of
18 everything and whoever inspected it, should be
19 given a very strong talking to because that's a
20 travesty of what they let happen in there, but
21 I will fix it if you please give us the ability
22 to get this job done and wipe this out and
23 we're going to give back to our neighborhood by
24 putting in 700 square feet of green space that
25 didn't exist there in the first place with this

1 old stinking driveway on the other side. We'll
2 use it one last time to put the dumpsters in
3 and then when we're done, we'll pull it and it
4 will be gone and I think it will be a nicer
5 thing. I know the Abrahams on that side
6 thought that was the greatest thing out of the
7 whole thing. The fact that we're going to do
8 that, that's great.

9 For what it's worth, sorry, that I don't
10 have a really glitsy presentation. We've been
11 doing this on the fly since we've got this
12 house on June 7th. So this has been a really
13 quick turn around for us, but I'd love to
14 answer any questions that you have.

15 CHAIRMAN MIETZ: Any of the Board Members
16 have questions?

17 MS. SCHWARTZ: Yes, Judy Schwartz. Are
18 you taking the old garage down as well as the
19 driveway?

20 MR. ANDERSON: The garage, it's more of a
21 shed. It's on our survey as a shed. It's all
22 the way in the back of the property. So I'm
23 actually going to make that into my son's and
24 daughter's play house and their bikes can sit
25 in there and they can use that and that

1 structure is solid in the back. We're paying
2 for it. It's not effecting anything. You
3 can't see it from the street. It is well in
4 the back yard. All the way in the back corner.

5 Do you have a survey there?

6 CHAIRMAN MIETZ: Yes, yes.

7 MR. ANDERSON: My daughter is pretty
8 psyched about that being a playhouse and that
9 my son has a half basketball court on the
10 property. It looks like a Model T could fit in
11 there barely.

12 CHAIRMAN MIETZ: Okay. Any other
13 questions?

14 MR. PREMO: Yeah, I just have some. Maybe
15 Mr. Peacock can come up.

16 CHAIRMAN MIETZ: Yes.

17 MR. PREMO: So right now, you have two
18 bedrooms that are in the attic?

19 MR. PEACOCK: Correct.

20 MR. PREMO: Which are not sprinkled and
21 there's no separate egress from?

22 MR. PEACOCK: There's a very small window
23 that does not meet the current state egress
24 requirement.

25 MR. PREMO: Right.

1 MR. PEACOCK: Our plan is to sprinkle it.
2 And it's a residential sprinkler system. So
3 the attic is -- it's a special residential
4 sprinkler system. They install sprinklers in
5 the attic and in the stairway from the attic
6 down to the exit of the house. So the first
7 floor central hallway will be protected. The
8 second floor hallway will be protected, the
9 entirety of the attic.

10 MR. PREMO: Okay. So the emergency exit
11 from the third floor bedroom would be through
12 the sprinkled areas?

13 MR. ANDERSON: And off of the second floor
14 as we raise that up, you'll be able to get out
15 the egress window and get onto that second
16 floor. Once we raise it from the first to
17 second floor, it gives us a great egress there
18 as well.

19 MR. PEACOCK: And there's a full size
20 egress window on each side of the gable.

21 MR. ANDERSON: That second floor addition
22 really helps us out in two different ways like
23 that.

24 MR. PREMO: Okay. And then the way this
25 is done, there's two bedrooms on the third

1 floor. When you're done, there will be one
2 bedroom on the third floor?

3 MR. ANDERSON: There will be two.

4 MR. PEACOCK: Two.

5 MR. ANDERSON: There will still be two.

6 MR. PREMO: Yup, yup, because you're
7 talking about losing a bedroom --

8 MR. ANDERSON: We lose a bedroom on the
9 first floor -- up on the second floor, excuse
10 me, and we add one back in on the second floor.
11 When we put the second floor addition on, we cut
12 that in two. So that's how we solve that
13 problem with the staircase.

14 MR. PEACOCK: Would it help if I had a
15 plan for you?

16 CHAIRMAN MIETZ: Are you okay, Ed?

17 MR. PREMO: No, I think I'm fine.

18 CHAIRMAN MIETZ: You're okay?

19 MR. PREMO: Yeah.

20 CHAIRMAN MIETZ: Okay. All right.

21 MR. PEACOCK: And the bedroom we lose is a
22 tiny bedroom and that's why we picked it to do
23 that stair on that side. Well, it's a
24 passageway --

25 CHAIRMAN MIETZ: Go ahead, Mr. Gordon.

1 MR. GORDON: Thank you. Ken Gordon, I'm
2 the Town Attorney. Mr. Anderson, you own a
3 company called Rolling Properties?

4 MR. ANDERSON: I do, yes.

5 MR. GORDON: Is the renovation you're
6 doing to this property on Sylvan for commercial
7 purposes --

8 MR. ANDERSON: Not at all. It is my
9 house. I have a two year old and a five year
10 old and I plan to stay there for at least their
11 school years.

12 MR. GORDON: If I could, just finish the
13 question?

14 MR. ANDERSON: Oh, I'm sorry, sir.

15 MR. GORDON: Is it for commercial purposes
16 or for rental purposes?

17 MR. ANDERSON: No.

18 MR. GORDON: Is it your intention to flip
19 the house?

20 MR. ANDERSON: Not intention to flip the
21 house. My wife would kill me. We've been
22 looking for this house for two and a half
23 years. This is for my personal residence.
24 I've lived in my last house for 26 years. So I
25 plan to live here at least that if I can.

1 MRS. ANDERSON: But the reason we're
2 moving --

3 CHAIRMAN MIETZ: Ma'am, ma'am, you have to
4 come up. We can't hear you.

5 MRS. ANDERSON: Okay, okay. That's fine.

6 MR. GORDON: I'm satisfied with his
7 answers.

8 MRS. ANDERSON: It's for our
9 kindergartner.

10 CHAIRMAN MIETZ: Okay. That's fine.
11 You're welcome to come up and speak, ma'am.

12 MR. ANDERSON: Our daughter starts
13 kindergarten on September 9th, which I will be
14 driving her to the house and putting her on the
15 bus right there.

16 CHAIRMAN MIETZ: All right. Questions by
17 the Board Members? Any more questions, any
18 more questions? No more questions. Thank you,
19 gentlemen.

20 MR. ANDERSON: Thank you so much.

21 MR. PEACOCK: Thank you.

22 CHAIRMAN MIETZ: Is there anyone in the
23 audience who would like to speak? Yes, sir.

24 MR. HEININGER: All right.

25 CHAIRMAN MIETZ: Just give us your name

1 and address and you can proceed.

2 MR. HEININGER: Larry Heininger,
3 H-E-I-N-I-N-G-E-R. I live at 376 Meadow Drive,
4 have for 38 years. Got 43 years experience as
5 a civil engineer. I was code certified when I
6 was a municipal employee. I love hearing that
7 you have Mr. Peacock. You've got one of the
8 best architects in Western New York. I don't
9 know how you found him. Anyway, this really
10 should be approved. When I hear of 2x6's with
11 20 foot spans, the rule of thumb for 2x6's, is
12 take that 6, multiply by 1.5, is 9 feet. Got a
13 2x10, multiply by 1.5, 15 foot span. This is
14 over double.

15 So all I can say is, this sounds like a
16 fabulous project. I'm glad I didn't have to
17 figure it out, but Brighton is going to be in a
18 much better place with this thing cleaned up.
19 That's all.

20 CHAIRMAN MIETZ: Thank you, Larry. Okay.
21 Anyone else would like to speak regarding this
22 application? Okay. There being none, then the
23 Public Hearing is closed.

24 MR. DiSTEFANO: Application 8A-04-21
25 Application David Feor, owner of property

1 located at 185 Boniface Drive, for an Area
2 Variance from Section 205-2 to allow a side
3 setback to be 9.7 feet in lieu of the minimum
4 11.95 feet required by code, all for the
5 purpose of resubdividing two lots into one.
6 All as described on application and plans on
7 file.

8 MR. HEININGER: This is a lot simpler than
9 the one you just heard. David is here.

10 MR. DiSTEFANO: Larry, just for the
11 record --

12 CHAIRMAN MIETZ: Your name?

13 MR. DiSTEFANO: -- Your name?

14 MR. HEININGER: Larry Heininger,
15 H-E-I-N-I-N-G-E-R, Vice President of
16 Engineering for Markus Smith Associates. Our
17 offices are at 930 East Avenue, Suite 1000.
18 That's the Hutchison House next to the Eastman.
19 David and his wife own 185 and 195 Boniface and
20 I think, Judy, that's kind of in your neck of
21 the woods.

22 MS. SCHWARTZ: No.

23 MR. HEININGER: Anyway, 195 is a flag lot.
24 It's got about a 15 foot pole and goes behind
25 and David wants us to combine it all into one

1 lot, file that with the county and 195 goes
2 away.

3 So why are we here? Well, real simple,
4 the side setback of the house is currently 9.7
5 feet and when you approve something to make the
6 lot wider, we have to conform with the setback
7 of the new lot and that setback Rick tells me
8 is at 40 feet. So that means that our setback
9 is 15 percent of 40 and we need 11.95 and we
10 only have 9.7. We're not going to pick up and
11 move the house 2.25 feet. So that's what the
12 variance is for.

13 CHAIRMAN MIETZ: Very good.

14 MR. HEININGER: That's all.

15 CHAIRMAN MIETZ: Very good. Okay. Go
16 ahead.

17 MS. TOMPKINS WRIGHT: This is Member
18 Wright. Just to confirm, Rick, that side lot
19 is based on a percentage. It's 15 percent of
20 what?

21 MR. DiSTEFANO: Of the lot width and the
22 lot width is taken at the required setback
23 line. So on a pie shaped lot, it's going to be
24 greater than what it is at the road. So if you
25 go up to 40 feet, you take 15 percent at that

1 point, that lot width, it came up 11.2.

2 MS. TOMPKINS WRIGHT: And there's no plan
3 change to the home, no expansion there?

4 MR. HEININGER: No, no, you know, the
5 neighbors, they just want to combine the lots.
6 I mean let's say you want to build a swimming
7 pool in the back yard and it straddles the lot
8 lines, you couldn't do it. If you want to
9 build a she shed in the back yard and you've
10 got this lot line running through your back
11 yard, it's a problem. And let's say you did
12 sell this flag lot to somebody. You've got a
13 15 foot flag, which is difficult to work with
14 anyway, and you have people driving within six
15 inches of your garage. It's also not a good
16 situation.

17 CHAIRMAN MIETZ: All right. Very good.
18 Questions? Over here anything, over here
19 anything? Okay. Thank you, Larry.

20 MR. HEININGER: Thank you.

21 CHAIRMAN MIETZ: Is there anyone in the
22 audience who would like to speak regarding this
23 application? Yes, sir.

24 MR. FEOR: My name is David Feor from 185
25 Boniface Drive and 195.

1 CHAIRMAN MIETZ: You can take the mask
2 down while you speak, sir.

3 MR. FEOR: So it's pretty simple. The
4 lots have been sold together for the past three
5 or four transactions. Nobody spent the time or
6 effort to combine them. We are. It eliminates
7 another building lot within Brighton and the
8 only thing is our house is just off center on
9 the map. So we're just off center from where
10 we are because we're close to one side and
11 that's it. So I think it's a really nice lot.
12 It is going to be one of the biggest in the
13 neighborhood. It's very beautiful back there
14 and very private. So you know, for various
15 administrative reasons, that's why we're doing
16 this. Thank you.

17 CHAIRMAN MIETZ: Good. Thank you. Is
18 there anyone else in the audience that would
19 like to speak regarding this application?
20 There being none, the Public Hearing is closed.

21 All right. Very good. Do we need any
22 time? Is everybody okay to move forward? We
23 can move forward. Here we go.

24 (Proceedings concluded.)
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C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the proceedings held before the Brighton Zoning Board of Appeals, at Brighton Town Hall, 2300 Elmwood Avenue, Rochester, New York, on August 4th, 2021.

That the transcript herewith is a true, accurate and complete record of my stenotype notes.

Doreen M. Sharick

Doreen M. Sharick,
Notary Public.

1
2 PROCEEDINGS HELD BEFORE THE BRIGHTON ZONING BOARD OF
3 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK, ON
4 AUGUST 4TH, 2021, AT APPROXIMATELY 7:15 P.M.

5 August 4th, 2021
6 Brighton Town Hall
7 2300 Elmwood Avenue
8 Rochester, New York 14618

9 PRESENT:

10 DENNIS MIETZ, CHAIRPERSON
11 EDWARD PREMO)
12 KATHLEEN SCHMITT) Board Members
13 JUDY SCHWARTZ)
14 ANDREA TOMPKINS WRIGHT)

15 KENNETH GORDON, ESQ.,
16 Town Attorney

17 RICK DiSTEFANO
18 Secretary

19
20
21
22 REPORTED BY: DOREEN SHARICK, Court Reporter
23 FORBES COURT REPORTING SERVICES, LLC
24 21 Woodcrest Drive
25 Batavia, New York 14020

1 APPLICATION 8A-01-21

2 8A-01-21 Application of Brian and Nancy
3 Bennett, owners of property located at 205 Viennawood
4 Drive, for an Area Variance from Section 205-2 to allow a
5 covered porch addition to extend 8.2 feet into the 40 feet
6 front setback required by code. All as described on
7 application and plans on file.

8 Motion made by Mr. Premo to approve
9 Application 8A-01-21 based on the following findings and
10 facts.

11 FINDINGS AND FACTS:

12 1. The requested setback and Area Variance for a single
13 family house is a Type II Action pursuant to 6 NYCRR
14 Section 617.5 (C) (16) and (17). And no review is
15 required pursuant to the State Environmental Quality
16 Review Act.

17 2. The requested variance is the minimum variance
18 necessary to address the benefit sought. The house is on
19 a corner lot with the front setback measured on
20 Middlebrook Lane. The variance is to allow a 10 foot by
21 14 foot covered porch for use with children and parents
22 are waiting for the school bus. The existing house has a
23 setback just two feet over the setback requirement
24 necessitating a variance to allow the porch.

25 3. No other alternative can alleviate the difficulty and

1 produce the desired result. The current setback is an
2 existing condition and the need for the porch is based in
3 part on Middlebrook Drove being the usable entrance in
4 school bus stop.

5 4. No unacceptable changes in character of the
6 neighborhood and no substantial detriment to nearby
7 properties is expected from approval of the variance. The
8 proposed porch is consistent with other porches in
9 the neighborhood and it will be covered, not enclosed,
10 minimizing visual impacts.

11 5. The hardship was not self-created by the Applicant.

12 6. The health, safety and welfare of the community will
13 not be adversely effected by approval of the variance.

14 **CONDITIONS:**

15 1. The variance is based on the Application submitted
16 including various drawings and plans and only authorizes
17 the porch described therein.

18 2. The Applicant shall obtain all necessary A and B
19 Architectural Review Board approvals and building permits.

20 (Second by Ms. Tompkins Wright.)

21 (Ms. Schmitt, yes; Mr. Mietz, yes; Ms.
22 Schwartz, yes; Ms. Tompkins Wright, yes; Mr. Premo, yes.)

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

25

1 APPLICATION 8A-02-21

2 8A-02-21 Application of Robert Shea and
3 Catherine Weisskopf, owners of property located at 166
4 North Landing Road, for an Area Variance from Section
5 203-2.1B(6) and 203-9A(4) to allow a standby emergency
6 generator to be located in a side yard in lieu of the rear
7 yard behind the house as required by code. All as
8 described on application and plans on file.

9 Motion made by Ms. Schmitt to approve
10 Application 8A-02-21 based on the following findings and
11 facts.

12 **FINDINGS AND FACTS:**

- 13 1. The variance request is to allow a standby generator
14 to be placed on the side yard where the code requires
15 generators to be placed in the back yard. The proposed
16 generator will not be facing any residence nor could it be
17 visible from the road due to a tall -- grove across the
18 front of the yard. Because the proposed placement of the
19 generator will on the side yard that adjoins Ellison Park
20 and abuts a large ravine, there will be no neighbors. And
21 as such, it will be less visible to any neighbor placed
22 there than if it were placed in the rear of the home.
- 23 2. When the generator is operational, it will be in
24 compliance with the noise levels required by code.
- 25 3. The granting of this variance will not produce an

1 undesirable change in the character of the neighborhood or
2 be a detriment to nearby properties. The proposed
3 generator, the Generac Guardian Series, with a power
4 rating of 14, is advertised as a small, light weight unit
5 easily hidden by landscaping.

6 4. There's no evidence that there will be a negative
7 impact on the health, safety and welfare of the
8 neighborhood.

9 **CONDITIONS:**

10 1. The variance applies only to this application for
11 placement of the generator on the side yard facing Ellison
12 Park and testimony provided will not apply to future
13 projects.

14 2. The homeowner shall continue to maintain landscaping
15 around the generator to shield it from the street view.

16 3. All necessary building permits shall be obtained.

17 (Second by Ms. Schwartz.)

18 (Mr. Premo, yes; Ms. Tompkins Wright, yes;
19 Mr. Mietz, yes; Ms. Schwartz, yes; Ms. Schmitt, yes.)

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

22

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1 APPLICATION 8A-03-21

2 8A-03-21 Application of Erick Anderson,
3 owner of property located at 43 Sylvan Road, for 1) an
4 Area Variance from Section 205-2 to allow an existing
5 detached garage to be attached to the principle building
6 and have a 10.1 foot side setback in lieu of the minimum
7 12.7 foot side setback required by code; and 2) an Area
8 Variance from Section 209-10 to allow livable floor area
9 to increase to 3,701 square feet in lieu of the maximum
10 3,172 square feet allowed by code. All as described on
11 application and plans on file.

12 Motion made by Ms. Schwartz to approve
13 Application 8A-03-21 based on the following findings and
14 facts.

15 **FINDINGS AND FACTS:**

- 16 1. The property line runs on an angle to the detached
17 garage where the Applicant wishes to attach it to the
18 house. This 8 feet will result in an encroachment only at
19 the front corner of the house by a little over 2 feet.
20 The back corner of the garage will remain within the side
21 setback.
- 22 2. This connection is minimal and will have little effect
23 on surrounding properties.
- 24 3. This connection will provide direct access into the
25 home from the garage.

1 4. The maximum permitted livable floor area for this
2 house according to code is 3,172 square feet. After
3 needed repairs and improvements, the livable floor area
4 will be 3,701 square feet. However, the footprint is only
5 increasing by 292 square feet and 177 square feet are
6 directed to the bedrooms and the attic, which are under
7 the existing roof.

8 5. The slight encroachment at the front corner of the
9 side setback and the actual increase of the livable floor
10 area will not have an adverse effect on the character of
11 the neighborhood and more importantly, will correct
12 structural and dangerous problems in the house.

13 **CONDITIONS:**

14 1. This variance only applies to connecting the detached
15 garage to the main house and repairing and improving
16 structural problems in the house as presented in testimony
17 and written Application.

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

20 (Second by Ms. Tompkins Wright.)

21 (Mr. Mietz, yes; Ms. Schmitt, yes; Mr.
22 Premo, yes; Ms. Tompkins Wright, yes; Ms. Schwartz, yes.)

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

1 APPLICATION 8A-04-21

2 8A-04-21 Application of David Feor, owner
3 of property located at 185 Boniface Drive, for an Area
4 Variance from Section 205-2 to allow a side setback to be
5 9.7 feet in lieu of the minimum 11.95 feet required by
6 code, all for the purpose of resubdividing two lots into
7 one (185 and 195 Boniface Drive). All as described on
8 application and plans on file.

9 Motion made by Ms. Tompkins Wright to
10 approve Application 8A-04-21 based on the following
11 findings and facts.

12 **FINDINGS AND FACTS:**

13 1. The granting of the requested variance will not
14 produce an undesirable change in the character of the
15 neighborhood or be a detriment to nearby properties. In
16 fact, the combination of the two lots into one and the
17 related setback areas will have no effect whatsoever on
18 neighboring properties as there are no physical changes to
19 the property proposed.

20 2. The requested variance is not substantial given that
21 the house is already situated 9.7 feet from the property
22 line.

23 3. The benefit sought by the Applicant cannot reasonably
24 be achieved by any other method as the house is already
25 located 9.7 feet from the property line.

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

4 **CONDITION:**

5 1. The variance granted herein applies only to the
6 location of the house as it is currently constructed and
7 shall not apply to any future expansions that violate the
8 setback.

9 (Second by Ms. Schwartz.)

10 (Mr. Premo, yes; Ms. Schmitt, yes;
11 Mr. Mietz, yes; Ms. Schwartz, yes; Ms. Tompkins Wright,
12 yes.)

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

15 (Proceedings concluded.)

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C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the Public Hearing before before the Brighton Board of Appeals, at Brighton Town Hall, 2300 Elmwood Avenue, Rochester, New York, on August 4, 2021.

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