

1 BOARD OF ZONING APPEALS MEETING

2 VIRTUAL PUBLIC HEARING

3 Thursday, March 17, 2022

4 7:30 p.m.

5
6 1. CALL TO ORDER

7 MR. BARTLETT: My name is Keith Bartlett, and
8 I'm going to, as chair of the Board of Zoning Appeals
9 for the City of Falls Church, call to order the BZA
10 meeting for Thursday, March 17, 2022.

11 Akida, could you do a roll call of the members
12 of the Board of Zoning Appeals.

13 MS. ROUZI: Will do.

14 Before I do that I am required to read this
15 virtual meeting notice.

16 This meeting will be held pursuant to and in
17 compliance with the Virginia Freedom of Information Act,
18 Section 2.2-3708.2 and state and local legislation
19 adopted to allow for continued government operation
20 during the COVID-19 declared emergency. All
21 participating members will be present at this meeting
22 through electronic means. All members of the public may
23 view this electronic meeting via the meeting link listed
24 above and the City's website calendar.

25 Thank you.

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2. ROLL CALL

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Here.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Here.

RECORDING SECRETARY: Mr. Kien.

I believe Mr. Kien will be absent this evening.

Mr. Eppler.

MR. EPPLER: Here.

RECORDING SECRETARY: Ms. Ward.

MS. WARD: Here.

RECORDING SECRETARY: Thank you.

3. PETITIONS

MR. BARTLETT: Thank you, Akida.

Are there any new Petitions in front of the Board this evening?

MR. BOYLE: No, sir.

4. OLD BUSINESS

a. Variance application V1630-22 by Priya Krishnan, applicant and owner, for a variance to Sections 48-238(3)a to allow a rear setback of 19 feet instead of 40 feet for the purpose of constructing a new

51 single family dwelling on premises known as 608 Laura
52 Drive, RPC #52-605-005 of the Falls Church Real Property
53 Records, zoned R-1A, Low Density Residential.
54

55 MR. BARTLETT: So we'll move on to Old
56 Business.

57 This is variance application V1630-22 by Priya
58 Krishnan, applicant and owner, for a variance to Section
59 48-238(3)a to allow a rear setback of 19 feet instead of
60 40 feet for the purpose of constructing a new single
61 family dwelling on premises known as 608 Laura Drive,
62 RPC #52-605-005 of the Falls Church Real Property
63 Records, zoned R-1A, Low Density Residential.

64 And I'm just going to start talking for a
65 second because I believe that's inaccurate. And so I'm
66 going to clarify based on the information presented in
67 an update, it seems from the applicant, for a variance
68 of 29 feet instead of 40 feet along the rear of the
69 property as submitted in the application included in the
70 Agenda.

71 So I'm just going to also share that my
72 understanding is that there was a -- this variance
73 application was presented at the February 2022 meeting
74 of the Board of Zoning Appeals. There were lots of
75 questions. There were concerns presented by the public.

76 There were some changes to the variance application that
77 was advertised and shared with neighbors prior to the
78 actual meeting and new information was presented during
79 the February '22 BZA meeting.

80 And I'm stating this information because we
81 have an attendance concern for members of the BZA.
82 Currently we have four members present and according to
83 the minutes from February 2022, BZA meeting for this
84 application, Vice Chair John Misleh recused himself for
85 voting purposes from this application due to his living
86 as a neighbor. He felt that it was in his best interest
87 not to have to vote and I'm fine with that.

88 But I would also share with the applicant that
89 right now you have three voting members present for this
90 meeting of the BZA. I was not present as I said, I was
91 not present at the prior meeting but I reviewed the
92 minutes from that meeting. I feel I'm aware of the
93 concerns and the issues that we're considering tonight
94 and the concerns that were presented by members of the
95 public.

96 So I feel like I am sufficiently apprised of
97 the information to be able to vote on and consider this
98 application for a variance.

99 (Microphone feedback.)

100 MR. BARTLETT: And so I feel like I'm
101 sufficiently able to and capably able to consider this
102 without rehashing everything, without having to
103 discredit -- with also considering all the other
104 comments that were presented at the prior meeting.

105 So what I'd like to do at this point is to ask
106 for a quick update from staff and the City as to what is
107 new, what is the status of the application, and what are
108 we considering this evening as a variance.

109 And I would also say that was something
110 presented at the last one but I would like to just
111 clarify what we're considering this evening.

112 MR. MISLEH: Chair Bartlett, you think now
113 would be a good time to swear in anybody that's planning
114 to speak this evening.

115 MR. BARTLETT: I was going to wait for John
116 but we can do that now or then.

117 MR. MISLEH: Let's go ahead and wait for John.

118 MR. BOYLE: Thank you, Mr. Chair.

119 Couple of points to clarify. I think it's
120 appropriate to ask the applicants if they object to
121 anyone speaking tonight that was not present before. I
122 think that's the first thing, first and foremost.

123 If the Chair could ask the applicants do they
124 object if any Board members or members of the public

125

126 speaking who were not present last time, we should
127 clarify that.

128 MR. BARTLETT: We're going to pause for a
129 second and I'm going to agree with Mr. Misleh. There
130 are a bunch of people on this participant list and I
131 would like to ask, first of all I have a question for
132 John Boyle and Akida: Who owns this property?

133 MS. ANNA KRISHNAN: I'm sorry. There's a lot
134 of interference and I just was able to get on. I'm Anna
135 Krishnan and I own the property.

136 (Microphone feedback.)

137 MR. BOYLE: All right. Anna, you're the owner
138 of the property.

139 For the record she waved "yes."

140 MR. MISLEH: Mr. Bartlett and John, I think
141 it's important to note that what was circulated prior to
142 this meeting and what's being presented on the screen is
143 an updated description of the application. So I think
144 that the comment of whether or not you'll allow new
145 speakers, I think there's new information that was
146 presented since our last meeting. So I don't know if
147 that has an impact on that comment.

148 MR. BOYLE: I think that's the only thing that
149 matters. If there's sufficient new material, then let's
150 consider this a do-over, a new hearing from square one

151 and then that would bring us up to the chair's point of
152 swearing in folks from this point forward.

153 MS. ANNA KRISHNAN: I think I fixed the thing.
154 Can you guys hear me better now?

155 MR. BARTLETT: Thank you very much.

156 So I would like to find out in this chat, who
157 is going to be speaking. If you write your name into
158 the chat that you plan to speak, we can read those names
159 off, if I just see --

160 MR. BOYLE: I'm sorry. Mr. Chair, does
161 everyone have the ability to show the "raise the hand"
162 icon perhaps?

163 MR. BARTLETT: Scott Reid, Anna Teeter,
164 Brenda.

165 Are there others?

166 And, Anna, you intend to speak for your
167 application and you only?

168 MS. ANNA KRISHNAN: I believe me and Brenda,
169 yes. I have some slides I would like to share.

170 MR. BARTLETT: So I would just ask that
171 everyone who has raised their hand and intends to speak,
172 and if others do eventually want to add their names to
173 this, they can do this afterwards.

174 (Witnesses sworn.)

175 MR. BARTLETT: So if we're going treat this as
176 a new application based on sufficient new information,
177 I'm just going to ask the City to provide a quick
178 scenario of the situation, staff update on this variance
179 application.

180 MR. BOYLE: Mr. Chair, just to clarify, do we
181 now have four members of the Board, is that correct?
182 That's not our Peter from the Board?

183 MR. BARTLETT: I don't know who that "Peter
184 Guest" is but that "Peter Guest" can try to get their
185 name into the chat and we can announce that name.

186 MR. BOYLE: Peter Guest, are you a citizen?

187 (No response.)

188 MR. BOYLE: I don't think it's Mr. Kien.

189 MR. BARTLETT: Peter Guest says he is not on
190 the Board but a neighbor.

191 MR. BOYLE: Just to cover all our bases then,
192 we're down one member. We have a quorum but we're short
193 one so just as a matter of routine, the applicant should
194 be given the opportunity to continue.

195 The Board at this point because there's been
196 one continuance doesn't have to grant it but they should
197 at least be asked on the record.

198 MR. BARTLETT: Do we do that now? We usually
199 do that later, right?

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Mr. Boyle?

MR. BOYLE: Yeah, your prerogative.

MR. BARTLETT: So, Anna, this is not really a request actually, John, because they've already been given a continuance. You can ask for voting members, you have to have a -- receive a unanimous vote for approval of your variance application.

You can request a continuance and as Mr. Boyle already stated, we don't have to approve that.

MS. ANNA KRISHNAN: I guess we'll continue.

MR. BARTLETT: Okay. Thank you.

MR. BOYLE: Continue meaning we'll hear the case tonight?

MS. ANNA KRISHNAN: Yes.

MR. BOYLE: Mr. Chair, you had asked for a staff summary. I think enough of this application has evolved and notices to abutting neighbors that staff, then what was presented at the last meeting, that staff is going to get out of the way and defer to applicant.

You should have a very complete application package that lists past variances for other properties on this street and some additional contact with neighbors and leave it to the applicants to describe how they further explained their intentions to the neighbors.

225 That was a concern at the last meeting. A
226 number of neighbors had expressed that they didn't feel
227 that they understood completely what was planned, what
228 was going to be done and so the Board directed the
229 applicants to reach out and share that information.

230 We believe that's been done but we'll leave it
231 up to the neighbors present tonight and the applicants
232 to confirm that.

233 So the Board should have something of a
234 revision and additional contact with the neighbors to
235 report on tonight.

236 I think it's important that we consider this a
237 fresh start and I would encourage the applicants to
238 remake their case from the beginning stating how they
239 qualify for a variance under the City Code and then if
240 the Board could simply follow our routine procedure, not
241 leaving any of the steps out, then we'll guarantee a
242 fair and complete hearing.

243 With that, I will defer to the applicant's
244 presentation.

245 MS. ANNA KRISHNAN: Thank you.

246 I would just like to share my screen. I'm
247 familiar with how to do it on Zoom. I don't see a
248 "share screen" button here.

249 Do I need to be allowed to share it?

250 MS. ROUZI: At the very top do you see a
251 little screen with an arrow up next to the giant "leave"
252 or "end call" button.

253 MR. BARTLETT: And I see it right next to the
254 "Mute button" and the microphone. There's a box with an
255 arrow in it. Click that and then it says "open your
256 share train" and it provides the windows that are open
257 for you and then you click on the particular window you
258 want to share.

259 (Conferring on technical issues.)

260 MS. ANNA KRISHNAN: So I'm requesting a rear
261 variance on my house at 608 Laura Drive and for the City
262 Code to be granted a variance, I found that we have to
263 document a hardship, which is either, one, the
264 exceptional size or shape of the property at the time of
265 the effective date of the ordinance, or two, the
266 exceptional topographic conditions or other exceptional
267 situation of such property.

268 And my property the hardship is for number
269 one, the size and shape of the property.

270 So it's a triangular shape. It extremely
271 reduces the building envelope which creates a 48 percent
272 reduction in the allowable building envelope so I'm
273 requesting a rear setback of 29 feet instead of 40 feet.

274 Here is a plat of the house. So as you can
275 see the green lines are the setbacks and the house, this
276 is the proposed house I would like to build. And so
277 those little three triangles would be sticking out
278 beyond the setback and so that's why I'm asking for the
279 29 foot variance but I'm not building up to it
280 completely, it will just be that area that you see
281 there.

282 And of note, the front and the sides, the back
283 will be adhered to.

284 So normally there's 25 percent coverage
285 allowed and I would be able to put a house with a
286 footprint of 2831 square feet on this lot. I'm
287 requesting to build this house with a footprint of 1485
288 square feet so it's less than the 25 percent coverage
289 allowed for the Code. But because of this triangular
290 shape of the lot and with the setbacks, I cannot build
291 the proposed house without the requested variance in the
292 rear.

293 To work with the lot constraints, I'm
294 positioning the house at an angle and that will conform
295 to the front and side setbacks as you saw on the
296 previous picture. So requesting the variance on the
297 rear and only about 150 square feet of the house would
298 be extended into this setback.

299 The two neighboring properties on the back, we
300 tried to minimize the impact on them. They have deeper
301 lots so I was hoping it would just be a minimal impact.

302 There's also a deck in the current house that
303 extends into this setback. So I'm really not building
304 beyond that.

305 MR. BARTLETT: Can you say that again?

306 MS. ANNA KRISHNAN: Yes. About the deck in
307 the back, they are deeper lots, rectangular deeper lots,
308 and so I don't believe my request would impact them a
309 lot, with building where the deck currently is.

310 I'm just trying to minimize the impact of
311 building there. I'm not building to that complete 29
312 feet. This is what I was just explaining there, it's
313 just going to be where the current deck is, is where I
314 wanted to build.

315 There's been a precedence of variances granted
316 on Laura Drive and none of these houses had this
317 hardship of the triangular lot that I have.

318 I'm proposing a really cute, charming
319 Craftsman-style house with a builder who's very familiar
320 with building in Falls Church City. The total living
321 space is 2970 square feet. It's smaller than most of
322 the recent new built homes.

323 And this is just showing that the 12
324 properties built in the last 10 years, they were larger
325 than what I want to build. I believe my house is going
326 to look beautiful in the neighborhood, have curb appeal
327 and add to the charm and increase the value of everyone
328 else's house as well.

329 That's all I have. Are there any questions?

330 MR. BARTLETT: Thank you for your presentation
331 for your request for a variance.

332 I will open it up to members of the Board to
333 ask questions and some clarification on some items.

334 I have some questions and I'll start.

335 I don't know what's currently on this property
336 so I don't know what the existing home or footprint
337 looks like. Do you have any information on what's there
338 currently?

339 MS. ANNA KRISHNAN: Yes. It's a small ranch.
340 It's a three bedroom, one bath. There's no basement.
341 And it's really in need of repair. So that's why I
342 would like to build a new house.

343 MR. MISLEH: Ms. Krishnan, it's important for
344 everyone, including Mr. Bartlett, to know that the house
345 is a rental and it's been rented since purchase, is that
346 correct?

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MS. ANNA KRISHNAN: Well, yeah, it was
348 parents' house so I bought it from them.

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MR. MISLEH: Did they live there?

350

MS. ANNA KRISHNAN: My parents? No, it was a
351 rental for them. Right now I have a friend staying
352 there but it's not a rental anymore.

353

MR. MISLEH: Got it. Do you intend to occupy
354 this new home that you're proposing?

355

MS. ANNA KRISHNAN: Yes.

356

I also wanted to add onto my slides, since the
357 last meeting I went around and tried to drop off and
358 meet all the neighbors and give them this information.
359 I mailed like 30 packets with the letters and the plats
360 with more information to 30 neighbors and I have
361 received four letters of support. I was just not able
362 to talk to a whole lot of people in person when I was
363 coming around and ringing doorbells.

364

MR. BARTLETT: So I'm going back to asking
365 sort of the same questions that I don't have information
366 on and I can't make decisions or inferences or
367 conclusions about how this new structure will compare to
368 what is currently.

369

MS. ANNA KRISHNAN: I wish I had a picture of
370 the current house.

371

MR. BARTLETT: Mr. Boyle, do you --

372 MR. EPPLER: There's a picture in the package
373 of the current building envelope. I can put that up if
374 I can share a screen.

375 MS. ANNA KRISHNAN: It's in the original
376 application, that's right.

377 MR. BARTLETT: Is that page 3, Mr. Eppler?

378 MR. EPPLER: Yes, exactly.

379 MS. ANNA KRISHNAN: No, this is the proposed
380 house.

381 MR. EPPLER: No, page 3 has the current
382 building envelope on it which I think is what he was
383 asking to see.

384 MR. BARTLETT: I'm going to try to do some
385 quick math here so hold on a second.

386 So it says here it's about 38.5 by 26 feet
387 when this house was built it was somehow perfectly to
388 Code or Code-less. I'm not sure when this house was
389 built.

390 My intent of the question was to try to figure
391 out based on the setbacks of your current home, could
392 you build your current home to Code? So when I look at
393 this plot, I see a structure that is not built to Code,
394 not that that's a problem.

395 That front left corner of your current home is
396 in the front yard setback; is that correct, Akida and
397 John, is that what I'm seeing here?

398 MR. BOYLE: Yes, that's correct. The real
399 estate data base says the existing house built in 1950.
400 It's possible that the subdivision went in with the plan
401 to put storm water pipes in the back and they probably
402 did the subdivision with an eye towards keeping the
403 houses away from the easements at the rear.

404 The 40s and 50s are a fascinating period of
405 zoning and setbacks if anyone has the time to read about
406 it. We deal with it to this day.

407 MR. BARTLETT: John, I have another question
408 for you from a historic and zoning perspective.

409 This is a very unique lot: A split lot on the
410 inside of a curve that's split diagonally down the
411 middle. Is this not an inside corner lot that's split
412 that is not technically normal front yard/front yard/
413 side yard/side yard, R-1A lot?

414 MR. BOYLE: I'd say it's approaching it but it
415 doesn't meet the angle definition at the front. It
416 escapes me but there's a definition of what constitutes
417 a corner. I think it's 140 degrees at the front.

418 What I see here is a subdivided lot that meets
419 the minimum area. The Planning Commission at the time
420

421 would have been looking at 11,250 for its lot size and
422 it obtains it. And a burden would have been placed on
423 the building envelope where they would have been forced
424 to originally to push the front setback to the rear
425 until it met the minimum lot width which is 75 feet.

426 All of which I consider constraints on this lot and
427 argue towards the variance but that's for the Board to
428 consider.

429 Today this subdivision probably would not have
430 been approved because of the anticipated hardships.

431 If the lines had been slightly different, like
432 at the back corner, if that had been a true triangle
433 back there and not that little leg, the short, brief leg
434 where there's an IPS note at the back right, if those
435 two points had been joined, it's been staff's practice
436 for many, many years to draw an arc from that single
437 point of 40 feet and then everything else is considered
438 a side yard setback. This lot I think is further
439 encumbered by the presence of that pretty much useless
440 travel of a few feet at the back there that requires
441 staff to define all of the other property lines as
442 follows: The front is simply the line that separates
443 the property from the right of way. The rear is the
444 line that is most distant and opposite from the front.

445 That's where we're getting this front determination.
446 And then it simply says, All other lines are sides.

447 So staff in coming up with what the
448 recommended setbacks were, the required setbacks, not
449 recommended, we really struggled with -- this is
450 probably the most extreme example of what you could get
451 away with under that definition. What's the most
452 distant and opposite line from the line that separates
453 it from the right of way.

454 Well, there you have the very long line across
455 the back and then everything else becomes a side. In
456 this particular case it's an extreme example of maybe
457 unintended consequences works in most cases but in this
458 case it's resulting in this unusually constrained
459 building envelope.

460 Something else that staff considers, is they
461 have 11,495 square feet. That is more than enough for
462 an R-1A lot. The Code limits them to 25 percent lot
463 coverage. I don't think they can even meet that, given
464 the setbacks.

465 So that's highly unusual that a lot would be
466 configured in such a way where you can't even satisfy --
467 or you can't even enjoy 25 percent of your lot. I can't
468 think of another example. Maybe there are.

493 I represent NDI, the builder, just for
494 everybody's intent and purposes. It will be a two story
495 building. You know, finished on two levels. They
496 haven't determined whether they're going to finish the
497 basement or not but it would be unfinished at this
498 point.

499 MR. BARTLETT: Thank you.

500 I just wanted to point out that there are
501 homes being built in the City of Falls Church, many
502 homes that don't have 2970 square feet above ground.
503 I'm not sure where this number of 3350 came from, but
504 there have been a whole lot more than 12 houses built in
505 the City of Falls Church in the last 10 years.

506 My concern is trying to sort of force this
507 design into this sort of twisted building envelope. And
508 I understand that you have almost -- you're limited to
509 38.5 feet wide and 26 feet deep at its widest widths and
510 depths for building a new home, because that's where
511 your home is right now.

512 So trying to force this design with those
513 three corners into it at that particular angle is tough.
514 And I know it's better to build a home that, you know,
515 the specs are the way they are and instead of designing
516 and coming up with, I think you referenced some sort of
517 a new, modern home.

518 MS. ANNA KRISHNAN: True, but we're not trying
519 to like use up all that space. I'm just asking for a
520 little bit of that, the variance, so that the kitchen
521 can be finished, extend just that little space. I mean
522 it is much less than that. It's less than the 25
523 percent and it's not like we're trying to use up --

524 MR. BARTLETT: Most homes are. I'm just
525 saying, most homes are substantially less than 25
526 percent of their buildable envelope. Some do max out
527 because they have smaller lots and they want to build
528 big homes. You can build to 25 percent but just because
529 you can, doesn't mean you should.

530 I have one other question about your
531 orientation for this property. Have you considered
532 orienting it as your current home is instead of at an
533 angle and what you could build with those dimensions and
534 those angles?

535 MS. ANNA KRISHNAN: Then we would need a lot
536 more, I think it would jut into the side and front, so
537 that would be a higher request, we believe, than this.
538 So I thought this was like the least impact.

539 MR. BARTLETT: Okay. I'm going to defer to
540 other members of the Board at this time.

541 MR. MISLEH: John Boyle, I have a question.
542 The applicant referenced the deck, the existing deck
543

544 that's shown on the plat. Do we know, was that deck
545 permitted at the time it was installed?

546 MR. BOYLE: We don't have any past permits for
547 this but it would not have been unusual to have approved
548 that. The practice has been if it's at the main level
549 of the house, the first floor or lower, decks without
550 roofs are treated as patios, pavers. They're not
551 structures that require an extensive review. Not
552 unusual.

553 MR. MISLEH: There was an inference that the
554 requested setback is going to become equivalent to the
555 deck. I just want to make sure that we understood that
556 there's a clear delineation between the two.

557 I have another question. Actually, I'll pause
558 and allow the other Board members to speak.

559 Thank you.

560 MR. EPPLER: Ms. Krishnan, I have a question
561 for you also about the deck. I'm looking on the screen,
562 it shows the frame deck off the back of the house but it
563 doesn't give dimensions. How far or how close is it to
564 the property line, if you know?

565 MS. ANNA KRISHNAN: You mean how much does
566 that extend?

567 MR. EPPLER: In other words, it shows 40 feet
568 from the existing house to the property line. What is
569

570 the distance from the frame deck to the property line,
571 on the existing structure.

572 MS. ANNA KRISHNAN: I'm not sure.

573 Brenda, did we ever measure that?

574 MS. BIDINGER: No. I think when we sited it,
575 it was about a 10 foot deck. It was like a 10 by 10.

576 MR. BOYLE: In staff's experience if it's not
577 part of the discussion, it's not unusual for items like
578 decks and sheds to not have their dimensions shown.

579 MR. EPPLER: All right. Thank you.

580 MR. MISLEH: Ms. Krishnan, you pointed out
581 that you had some new letters of approval. Can you
582 please clarify which lots and where they are in
583 reference to your specific property?

584 MS. ANNA KRISHNAN: Sure. The first one was
585 610 Laura Drive, so the neighbor. 618, 620, and 625.

586 MR. MISLEH: How many properties about this
587 property?

588 MS. ANNA KRISHNAN: One.

589 MR. MISLEH: No, I'm saying how many other
590 neighbors do you have?

591 MS. ANNA KRISHNAN: One on each side of those
592 two, I'm not sure if technically -- I think there's two
593 in the back. Let me look.

594 Two in the back and then one in that tiny
595 point. So, two on Poplar and then one might be like
596 just on the edge, so maybe three on Poplar.

597 MR. MISLEH: And you have just one of those 5
598 or 6 that are in support.

599 MS. ANNA KRISHNAN: Correct, yes.

600 MR. MISLEH: Thank you.

601 MR. BARTLETT: Do you plan to build a
602 driveway?

603 MS. ANNA KRISHNAN: Yes.

604 MS. BIDINGER: If it is allowed. Just so they
605 can park their cars.

606 MR. MISLEH: Mr. Bartlett, I think it's
607 important, there was a previous submission. On that
608 initial submission, it showed a garage, detached garage
609 along with a driveway that ran to the rear of the
610 property. Is that not --

611 MS. BIDINGER: I think what happened -- this
612 is the builder speaking here, I think we pulled it out
613 due to the fact that I think their intent is to try to
614 get the house approved with what they're focused on.

615 MR. MISLEH: I think, Mr. Bartlett, the
616 driveway and the garage don't require a variance so
617 they're not being featured on this request, is what I'm
618 hearing.

619 MR. BARTLETT: Right. And to be candid I feel
620 like it would have been appropriate to show how the
621 entire build would impact this property, and how
622 by-right build and by-variance request build impacts
623 everything.

624 MR. MISLEH: That was included in the initial
625 submission.

626 Are we able to bring that up or is that not
627 part -- this is not a new package. It's just that this
628 is a supplement. So should we bring up those initial
629 photographs so you can see it so you have the full
630 context of the --

631 MR. BARTLETT: I recall what they submitted
632 last time but I didn't remember where the driveway was.

633 MS. ROUZI: I can pull that up. I'm pulling
634 it up right now.

635 Which slide would be the one that shows the
636 driveway? Maybe it's a question for the builder's rep,
637 Brenda or --

638 MS. BIDINGER: You know what? Our engineer
639 showed the proposed garage. He neglected to add the
640 driveway. So the driveway would come from the street.
641 It would have been this.

642 MR. BARTLETT: At this time I don't have any
643 further questions at this time but I would like to open
644

645 the meeting up if there's any comments from the public.
646 And if you plan to speak, please raise your hand and I
647 will ask you to unmute yourself and you can then share
648 your comments.

649 So if Brenda and Anna can lower your hands,
650 that would be wonderful.

651 And then, Peter Guest, I know that's not your
652 name, please announce your name, your address, and you
653 are free to speak.

654 MR. DOLPH: Yeah, Peter Dolph, 604 Laura
655 Drive, so I'm two doors down.

656 I'm opposed to this. I spoke out last time.
657 The two neighbors directly behind who would be most
658 impacted spoke out against this last time as well.

659 MR. BARTLETT: I can't hear you. Am I the
660 only one who can't hear him?

661 BOARD MEMBERS: I can hear him.

662 MR. DOLPH: Well, I'll continue. Four
663 neighbors are impacted by this strongly, the one on 610
664 who said okay, the two behind spoke up last time saying
665 they were opposed, the neighbor at 606 said no as well,
666 and as 604 I'm saying no.

667 But I would like to articulate why. The house
668 was purchased at a substantial discount. It went tax
669 assessed value, which is pretty much unheard of in Falls

670 Church, precisely because it's on a funny shaped lot.
671 It hasn't been maintained. So I think it was bought
672 with the knowledge that this would be hard to do.
673 That's my speculation. I can't prove that. So I don't
674 think it's reasonable to ask the City to grant a
675 variance to build a larger house there than the lot will
676 afford. 1000 square foot is what the house is right
677 now. That's what I live in. That's worked out just
678 fine for me.

679 The family who's put forth this application is
680 a real estate investment family. I think it's
681 reasonable to expect that this might well end up being
682 sold, so compared to the other variances that were
683 listed, all of which were for properties that people
684 lived in for decades, they were actual residents of
685 their homes, they were asking for variances on to expand
686 them marginally, I think it's just a completely
687 different application.

688 So those are my comments. Thank you.

689 MR. BARTLETT: Thank you.

690 Scott Reid?

691 MS. REID: It is Scott Reid but this is Jean
692 Reid speaking. Sorry about that.

693 MR. BARTLETT: That's okay.

694 MS. REID: I am the neighbor at 606 Laura
695 Drive and I am the property that's the longest length of
696 the property. And what I'd really like to say is what
697 Peter just said, I am 100 percent agreeing with. He
698 made all the comments that I had written down that I
699 wanted to say.

700 MR. BARTLETT: Okay. Are there any other
701 comments?

702 Peter, are you raising your hand again?

703 MR. DOLPH: Yeah, sorry. One quick addendum.
704 This is almost neither here nor there, but a couple of
705 months ago, a real estate agent, I didn't write down her
706 name, I think it was Julie Ann, knocked on my front
707 door, saying, Hey, I know this house was listed for sale
708 and it's not anymore. Do you know what the deal is.
709 I've got an older couple who would like to buy it.

710 So there are people who are interested in the
711 property as is.

712 MR. BARTLETT: Tim Miller, I didn't swear you
713 in earlier but if you'd unmute yourself.

714 (Witness sworn.)

715 MR. MILLER: I'm Tim Miller, 603 Poplar Drive.
716 I just wanted to express the same as the previous two.

717 In addition to it, our concern is the runoff
718 of the lot being the highest peaking point and the
719 impact that it could have across the different lots.

720 MR. MISLEH: Mr. Miller, what was your address
721 again?

722 MR. MILLER: 603 Poplar Drive. So we are the
723 third lot there on the corner.

724 MR. MISLEH: Thank you.

725 MR. BARTLETT: I don't see anybody else
726 raising their hand.

727 Does any member of the Board have any other
728 questions for the applicant or responses to concerns
729 from the public?

730 MR. EPPLER: This is Dale. I just have one
731 followup question from that, for Ms. Krishnan, if she's
732 taken any steps or if any of her design team wants to
733 address the concern about run-off.

734 MS. ANNA KRISHNAN: Yeah, Brenda can talk more
735 about it because we definitely discussed with them ways
736 to control the water.

737 MS. BIDINGER: Yeah, we just recently had a
738 home off of Lincoln, there's different modes of water
739 runoff that we can do to the property. Planter boxes,
740 which we did at -- I'd have to look at the address real
741 quick, but it was off of Lincoln that we just settled.

742 There's a couple of them that we have just settled. One
743 was a water infiltration trench.

744 So there are different facets and different
745 modes of handling storm water management.

746 We've been in business since 1988 and we
747 comply with everything that the County, the City of
748 Falls Church, everybody looks at this and puts in their
749 two cents and we will do whatever it needs to abide and
750 comply and take care of whatever you may need.

751 MR. EPPLER: If I could just follow up with
752 that. So have you done any studies or looked at what
753 the existing runoff is or how to measure if something
754 additional is needed because of this proposed new
755 construction?

756 MS. BIDINGER: We have not gotten to that
757 point yet. The biggest point as a builder, we recommend
758 our clients to get, I mean this is, I call it the
759 biggest issue at hand, is whether we can get a variance.
760 If we can't get a variance, then we have to either
761 change the building, a, or the project -- the clients
762 have to determine if they just want the project to die.

763 So there are a lot of things that we have to
764 get to before we have to look at that. Because at that
765 point you're getting an engineer involved on something
766 that may not even happen, so why invest in that?

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MR. EPPLER: Thank you.

MS. ANNA KRISHNAN: I believe the initial request that had gone out was when the two houses on Poplar had opposed, it was requesting 19 and we changed it to 29 so I did not get any more feedback from them once we went with the updated letters.

I just wanted to put that out there because I know that Peter said that everybody is still opposed but I'm not -- I mean they were when they thought it was 19 so unless they are on this call and can speak, I don't believe that they are opposed.

In addition, somebody brought this up last time that, Oh, they must have boughten (sic) it at a great deal. When you go through and you look at the houses -- first of all it's irrelevant. Secondly when you go through and look at what they bought it for a few years ago, to me it didn't stand out as anything like a great deal. And I lived for 10 years on Greenwich Street. I'm not in real estate, whatever you said. My parents are. I've been in the City for ten years. So, yeah, some misinformation.

MR. BARTLETT: Thank you for clarifying that.

MR. MISLEH: I think it's important, Ms. Krishnan, to point out that it was clarified at the last meeting that you were amending your request and that was

792 stated prior to those neighbors speaking. And I think
793 the fact that they're not on -- I don't believe the City
794 readvertised this meeting.

795 John, can you please comment to that.

796 MR. BOYLE: Akida, was this sent for
797 readvertisement? I don't think we're required to.

798 MS. ROUZI: No, we did not because the changes
799 were lesser of a request compared to what was advertised
800 so we did not readvertise.

801 MR. BOYLE: Right. So anyone that was present
802 at the earlier hearing heard a greater request than what
803 is being present tonight and an opportunity to appear
804 tonight because they heard the case continued.

805 MR. MISLEH: Correct, but I think when we read
806 the minutes and approve the minutes tonight it will
807 reflect that that amended variance was what was
808 presented prior to those neighbors speaking.

809 MS. ROUZI: You're on mute. I think you're
810 talking but you're on mute.

811 MS. PRIYA KRISHNAN: I'm really bad at this
812 stuff.

813 MR. BARTLETT: Who is this?

814 MS. PRIYA KRISHNAN: This is Priya. I'm the
815 original -- Anna's mom.

816 MR. BARTLETT: I need to swear you in.

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(Witness sworn.)

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MR. PRIYA KRISHNAN: What I was trying to say was in the past the neighbors that did object last time did say that they didn't have time to review this proposal. And so they've had time to review it and we've also sent them all the updates and attempted to talk to them, give them the phone number and email and say that we want to explain everything if they had any questions. We haven't heard anything from them.

They did not have a chance to see the whole picture last time, at least that's what they said, they didn't have time to review it.

And I think I should add since someone commented about me being the original owner, I just wanted to say that first of all I don't know where that matters in this conversation about my purchasing the property six years ago or five years ago, however long that was. At that time I honestly had no idea of the setbacks and I thought it was a pretty lot and thought that eventually we would do something to the property. Because it was a very run down property even at that time but liveable.

And so we just weren't able to do anything then so the easy thing was to rent it and when we're able to do something about it, we were going to come back and

842 see what we could do with the property, build on it or
843 renovate it or something.

844 And then I did try to sell it because we were
845 like, Okay, you know what, it's just something that we
846 didn't want to take on and then my daughter said, No, I
847 want to buy it from you and I want to build a house and
848 move there.

849 So that's how it all turned out.

850 And, in fact, I think it was Peter who made
851 that comment about having gotten it at some discount
852 rate. I went back because I was so shocked of that
853 because honestly I never thought it was a discount rate
854 at 500 and 50,000 or whatever I paid for it in the year
855 that I did buy it. And I went back and looked at as
856 many property records as I could find in Falls Church
857 City records and actually many properties of the same
858 three bedroom, one bath ranches sold for less, equal or
859 less price in the next three years, between the time I
860 bought it in 2018.

861 So I started to think well, I clearly overpaid
862 for the lot. So I don't understand where that's coming
863 from. Whether it's relevant or not is another issue.
864 But I wanted to make that point.

865 MR. BARTLETT: Thank you.

866 I think from my perspective and I'm not trying
867 to pick sides at all about who is valuing property
868 appropriately or reasonably or anything. But there are
869 properties that people buy that are lower cost than
870 other easily buildable lots and they think that they can
871 build what they want instead of what they're able to.

872 And this lot has concerns and this Board does
873 issue variances when there are true hardships to make it
874 to the point where the property can't be used for its
875 intended purpose.

876 The size of the lot is one factor for us to
877 consider in granting a variance to the building code.

878 What I see in front of me is not sufficient
879 information. I'm concerned that there was a request to
880 take a pre-designed home that you would like and build a
881 home on this lot that demands a variance instead of
882 trying to figure out what is truly best for this
883 property.

884 We have issued variance, we have denied
885 variance requests in the past as well where on awkward
886 and what might be considered difficult to build lots.
887 In some of those circumstances what we've done is we've
888 allowed structures to be extended up that are
889 non-conforming and those are technically a variance but

890 we do not allow extensions of those non-conforming
891 spaces to build new homes.

892 So I'm sort of torn at this point as to
893 whether or not you have demonstrated hardship to build
894 this home on this property.

895 And I'm going to stop talking right there and
896 let other people speak.

897 MR. MISLEH: Chairman Bartlett, before we get
898 too far, it looks like we have a hand up. Are we
899 closing the public comment at this point?

900 MR. BARTLETT: No, John. I didn't see that.
901 It looks like Peter has his hand raised, is that
902 correct, Peter?

903 MR. DOLPH: Yes. I just wanted to respond to
904 two things.

905 I wanted to emphasize, as Mr. Misleh said
906 earlier, that the two neighbors on Poplar who objected
907 to this build were present for the entire duration of
908 the meeting last time so they were fully aware of the
909 exact design that was being proposed. So there hasn't
910 been any updates since then. So they're opposed and
911 they remain opposed.

912 And it's somewhat cumbersome to have to keep
913 coming to these meetings when nothing has changed.

914 Number two, the home was purchased in December
915 of 2016 for \$553,000. The 2016 Falls Church tax
916 assessment was \$595,000. So it was bought at a discount
917 and if my memory is correct it was listed for about 595
918 or 600 K. So it definitely was purchased for a
919 discount.

920 Thank you.

921 MR. BARTLETT: One other hand.

922 MS. REID: Yeah, it's Jean Reid again, at 604
923 Laura Drive.

924 I feel like I'd like some clarification
925 because I am a property that adjoins this home and I am
926 concerned about the runoff and the power lines that run
927 between our two homes and it concerns me that we have
928 this proposal of this large house but there have been no
929 actual studies done to support this variance.

930 That's it.

931 MR. BOYLE: Mr. Chair, I think I can weigh in
932 on that. There are no studies required by Code.
933 There's a burden laid out for the applicant that has to
934 be met. There are Supreme Court records that define
935 what a threshold is for a variance and the Commonwealth
936 of Virginia sets that.

937 Falls Church under its charter respects those.
938 So it's a question of whether this request meets the
939

940 burden of our understanding of what the Supreme Court
941 and the Commonwealth defines as a satisfying the burden
942 for a variance.

943 And in its authority the Board of Zoning
944 Appeals is considered a quasi-judicial body. It's a
945 court for code items that are adopted under local code.
946 So there is no study that's required. It's a simple
947 application of what the understanding burden is on the
948 applicant.

949 And I think this Board's been very good at
950 applying past decisions and consistency in application
951 of the Code and I think that's where we are tonight.

952 MR. BARTLETT: And I'm just going to throw
953 something out there as well that but for the awkwardness
954 of this lot, they could build a house this size and
955 there would be no concern about storm water other than
956 developing it and instrumenting an appropriate grading
957 plan pursuant to state and local authorities and Code.

958 My concern is that we're trying to force this
959 house into this building lot, building space when there
960 are other potential options.

961 MS. WARD: I know I haven't spoken yet but I'm
962 kind of going to echo what Keith has already brought up.

963 When I think of hardship, this property was
964 purchased in 2016 after our Code has been in place. So

965 in my mind, it was well known that the property, you
966 know, restrictions were in place with the different
967 setbacks.

968 And then we also have only one direct neighbor
969 support that's been provided. So that's concerning to
970 me, that the neighbors still are not in support. And I
971 still think, like he said, that there may be some other
972 options within that shape. The house may not be
973 perfectly square but this was the lot, this was the
974 house that was purchased. And, yes, I am still
975 struggling with those things.

976 MR. BARTLETT: One of the other things I'd
977 like to discuss is the list of the other variances and
978 how we review and consider variances to new builds
979 relative to additions or second floor additions. And
980 when homes that are built, as I alluded to earlier, when
981 they are non-conforming, if you want to do anything to
982 that structure, whether it's up or left or anything to
983 move those basically cornerstones of the non-conforming
984 portions of the home or amend them, you have to get a
985 variance to do anything that would extend up or move it
986 a little bit. And that's where it's like, yeah, this
987 home is in an awkward space.

988 My consideration would be a little bit
989 different to you if you were popping the top and moving
990

991 it over a little bit, that it would be a little bit
992 non-conforming but you're maintaining the structure
993 that's been in existence, not disturbing the entire
994 property -- not that you're disturbing the property --
995 but more of the property than necessary.

996 So that's where I pretty much stand at this
997 point.

998 MR. MISLEH: I think we can close the public
999 comment, Mr. Bartlett.

1000 MR. BARTLETT: Yeah, if there are no further
1001 comments, we can do just that, Mr. Vice Chair. Thank
1002 you.

1003 And does the applicant have any further
1004 information or comments they would like to make before
1005 we close consideration for Board consideration?

1006 MS. ANNA KRISHNAN: No, nothing further.

1007 MR. BARTLETT: Okay. Thank you, Anna. I
1008 appreciate it.

1009 At this point I'm going to close comment from
1010 the applicant and the public and open it up for Board
1011 member consideration and discussion.

1012 There are a couple of things I'd like to point
1013 out. I would have liked to have seen a full application
1014 that addresses not just the fact that this home is
1015 trying to be built on an awkward lot. There are three

1016 other elements to the consideration as to what is a
1017 variance. And I would have liked to have seen the
1018 entire proposed build as to what you plan to do to the
1019 property, including if you have seen or have heard
1020 concerns about storm water or other types of
1021 information, what you plan to do to address that.

1022 And I don't see a demonstrated statement that
1023 this is the only thing that you can build on your
1024 property. I don't want to characterize it simply as a
1025 "want" but I don't see that this as the only option to
1026 better enjoy your property. And I'm not trying to stop
1027 you from trying to enjoy your property but I don't think
1028 that this proposed build is the way to do it.

1029 MR. EPPLER: So I've heard lots of and
1030 listened to the discussion back and forth. My problem
1031 is with the October 16, 2008, Falls Church Board of
1032 Zoning Appeals approval which appears to be -- to allow
1033 a structure to be built into the back yard to the
1034 distance of an existing deck structure, which appears to
1035 me to be pretty much what we're looking at here.

1036 So I'm having a hard time distinguishing what
1037 we did back in 2008 from what they're proposing to do
1038 here.

1039 Now that was an addition, it wasn't new
1040 construction but I'd like to have some sense of whether
1041

1042 we have a precedent here that kind of binds us a little
1043 bit or what the precedent is going forward because I
1044 would have a hard time distinguishing what was done
1045 there from what we're proposing here.

1046 MR. BARTLETT: I would just provide some
1047 feedback to that, Mr. Eppler.

1048 We are not bound by any prior decisions. All
1049 of our decisions, while we attempt to be consistent in
1050 our application, are judged and determined on a
1051 case-by-case basis and I don't know also what the
1052 scenario was for this particular addition to their
1053 property and how it relates to a deck. And this
1054 application is also different. It's not trying to go to
1055 the deck, it's trying to deal with it different.

1056 MR. EPPLER: No, I understand. But again, as
1057 stated here is that, The BZA finds that the proposed
1058 addition will not extend further into the rear yard than
1059 the existing deck structure.

1060 Now, admittedly we don't have a number on it,
1061 but if it's 10 feet, we're within one foot or very close
1062 to the same thing. So that's where I was looking at
1063 that, okay, how do we make -- and this again was on
1064 Laura Drive and also citing that the peculiar shape and
1065 shallowness of the lot, etcetera.

1066 So again, I would like to have some thought
1067 given to what is our rule going forward because we are
1068 trying to have some consistency here and I'm struggling
1069 with that, frankly.

1070 MR. MISLEH: I think, Mr. Eppler and Mr.
1071 Bartlett, that the issue at hand and something that the
1072 Board has struggled with is that the precedent that's
1073 set going forward for new homes being built on irregular
1074 lots, if you start granting variances so that the
1075 builders and developers can build what they want rather
1076 than what conforms, it opens up the door going forward.

1077 So I think this Board has consistently tried
1078 to manage that in the best interest of the property
1079 owners and the City so I think it's important that you
1080 consider that as well.

1081 MR. EPPLER: So are we making then a
1082 distinguishing between basically going straight up from
1083 existing structures as opposed to new design which would
1084 have to meet the requirements or would be assessed from
1085 the beginning of an issue as opposed to an existing
1086 building where we've generally speaking have allowed
1087 people to go up?

1088 MR. BARTLETT: I think that's a fair
1089 characterization of how this BZA has resolved various
1090 obligations in the past and I too, am -- to meet --

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MR. EPPLER: You froze up there, sorry.

MR. BARTLETT: -- is without demonstrated hardship. Whereas building up on an existing property that's already non-conforming is completely distinguishable.

I have a question. Mr. Misleh, are you at this point still considered abstaining in this application?

MR. MISLEH: Yes, Mr. Bartlett. I will not be voting this evening.

MR. BARTLETT: Okay. Thank you very much.

Are there any further comments from the Board at this time?

(No response.)

MR. BARTLETT: Hearing none, I'm going to make a motion to deny variance application V1630-22 by Priya Krishnan, it's actually not by Priya.

I'm sorry. I'm going to have to start over. This is how it's advertised.

I'm just going to actually pause and read it as it's advertised.

I'm going to make a motion to deny the variance application V1630-22, by Priya Krishnan, applicant and owner, for a variance to Sections 48-238(3)a to allow a rear setback of 19 feet instead of

1116 40 feet for the purpose of constructing a new single
1117 family dwelling on premises known as 608 Laura Drive,
1118 RPC #52-605-005 of the Falls Church Real Property
1119 Records, zoned R-1A, Low Density Residential.

1120 MS. WARD: I'll second.

1121 MR. BARTLETT: Akida, can we do a roll call
1122 vote on this motion.

1123 RECORDING SECRETARY: Mr. Bartlett.

1124 MR. BARTLETT: No.

1125 RECORDING SECRETARY: Mr. Misleh.

1126 MR. MISLEH: I abstain.

1127 RECORDING SECRETARY: Mr. Eppler.

1128 MR. EPPLER: No.

1129 RECORDING SECRETARY: Ms. Ward.

1130 MS. WARD: No.

1131 RECORDING SECRETARY: Thank you.

1132

1133 MR. BARTLETT: Thank you very much for your
1134 time. I appreciate it.

1135

1136 5. NEW BUSINESS

1137 MR. BARTLETT: Moving on to New Business, John
1138 or Akida, is there any New Business not advertised?

1139 MR. BOYLE: No, sir. Not that I'm aware of.

1140 And, Akida, do we have any applications
1141 pending for next month?

1142 MS. ROUZI: No, we do not.

1143 MR. BOYLE: All right. Potential for no
1144 meeting next month.

1145 Offhand, what is the Board's preference for
1146 continuing remote meetings versus in council chambers?
1147 Anyone have any thoughts on that?

1148 MR. MISLEH: John, I was just going to ask
1149 that question, when and if we were going to return to
1150 the in-person meeting.

1151 MR. BARTLETT: I know City Council and School
1152 Board are meeting in person. How are the other Boards
1153 and Commissions doing?

1154 MS. ROUZI: Planning Commission is still
1155 virtual by the way.

1156 MR. BOYLE: I think it's at the discretion of
1157 the Board unless Council says otherwise. There are some
1158 obvious advantages to being in person but there's also
1159 some disadvantages. I think we've all learned how to do
1160 this remotely and I think we've been serving the public
1161 well remotely so the staff has no preference.

1162 The staff serves a number of Boards and will
1163 do whatever this Board prefers unless we hear otherwise
1164 from Council.

1165 So if I'm hearing Akida correctly, we do not
1166 have an agenda for next month. Maybe April or May the
1167 situation will change but for now we do not anticipate
1168 an April meeting and maybe we'll cross that bridge with
1169 more information at that time.

1170 MR. BARTLETT: And then we can be flexible.
1171 Do you know when we need to let you know or let City
1172 Clerk know that we would like to? I'd like to poll the
1173 members at some point before we make that recommendation
1174 to meet.

1175 MR. BOYLE: I think it hinges on the public
1176 notice so the public knows where the meeting is going to
1177 be. And we notify roughly three weeks out, it's like
1178 two and a half based on actually the newspaper
1179 publication date. But roughly two and a half weeks out.

1180 So if staff notified Board we had an agenda, I
1181 think as long as we were in advance of the newspaper
1182 public notice, we could discuss where that meeting was
1183 going to be.

1184

1185 6. APPROVAL OF MINUTES

1186 a. Approval of the February 17, 2022 Meeting
1187 Minutes

1188 MR. BARTLETT: Then we just have to approve
1189 minutes from the February 17, 2022, meeting. If
1190 everyone could take some time to review those.

1191 (Minutes reviewed.)

1192 MR. BARTLETT: I'm going to abstain from
1193 making a motion to approve minutes because I wasn't at
1194 the February 17, 2022, meeting.

1195 MR. MISLEH: I'll make a motion to approve the
1196 meeting minutes from the Board of Zoning Appeals meeting
1197 on Thursday, February 17, 2022.

1198 MR. EPPLER: I will second.

1199 RECORDING SECRETARY: Roll call.

1200 Mr. Bartlett.

1201 MR. BARTLETT: I will abstain.

1202 RECORDING SECRETARY: Mr. Misleh.

1203 MR. MISLEH: Yes.

1204 RECORDING SECRETARY: Mr. Eppler.

1205 MR. EPPLER: Yes.

1206 RECORDING SECRETARY: Ms. Ward.

1207 MS. WARD: Yes.

1208 RECORDING SECRETARY: Thank you.

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1210 7. OTHER BUSINESS

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1212 8. ADJOURNMENT

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MR. BARTLETT: And I will close the meeting of
the Board of Zoning Appeals for March 17, 2022.

Thank you very much and have a great evening.