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BOARD OF ZONING APPEALS MEETING

VIRTUAL PUBLIC HEARING

Thursday, March 17, 2022

7:30 p.m.

1. CALL TO ORDER

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

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

MS. ROUZI: Will do.

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

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

Thank you.

26 2. ROLL CALL

27 RECORDING SECRETARY: Mr. Bartlett.

28 MR. BARTLETT: Here.

29 RECORDING SECRETARY: Mr. Misleh.

30 MR. MISLEH: Here.

31 RECORDING SECRETARY: Mr. Kien.

32 I believe Mr. Kien will be absent this
33 evening.

34 Mr. Eppler.

35 MR. EPPLER: Here.

36 RECORDING SECRETARY: Ms. Ward.

37 MS. WARD: Here.

38 RECORDING SECRETARY: Thank you.

39

40 3. PETITIONS

41 MR. BARTLETT: Thank you, Akida.

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

44 MR. BOYLE: No, sir.

45

46 4. OLD BUSINESS

47 a. Variance application V1630-22 by Priya
48 Krishnan, applicant and owner, for a variance to
49 Sections 48-238(3)a to allow a rear setback of 19 feet
50 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 speaking who were not present last time, we should
126 clarify that.

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

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

135 (Microphone feedback.)

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

138 For the record she waved "yes."

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

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

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

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

154 MR. BARTLETT: Thank you very much.

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

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

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

164 Are there others?

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

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

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

173 (Witnesses sworn.)

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

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

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

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

186 (No response.)

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

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

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

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

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

199 Mr. Boyle?

200 MR. BOYLE: Yeah, your prerogative.

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

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

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

209 MR. BARTLETT: Okay. Thank you.

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

212 MS. ANNA KRISHNAN: Yes.

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

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

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

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

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

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

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

244 MS. ANNA KRISHNAN: Thank you.

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

248 Do I need to be allowed to share it?

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

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

258 (Conferring on technical issues.)

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

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

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

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

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

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

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

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

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

304 MR. BARTLETT: Can you say that again?

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

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

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

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

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

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

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

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

333 I have some questions and I'll start.

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

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

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

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

348 MR. MISLEH: Did they live there?

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

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

354 MS. ANNA KRISHNAN: Yes.

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

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

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

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

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

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

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

377 MR. EPPLER: Yes, exactly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

427 Today this subdivision probably would not have
428 been approved because of the anticipated hardships.

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

443 That's where we're getting this front determination.

444 And then it simply says, All other lines are sides.

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

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

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

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

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

497 MR. BARTLETT: Thank you.

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

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

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

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

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

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

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

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

539 MR. MISLEH: John Boyle, I have a question.
540 The applicant referenced the deck, the existing deck

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

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

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

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

556 Thank you.

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

562 MS. ANNA KRISHNAN: You mean how much does
563 that extend?

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

566 the distance from the frame deck to the property line,
567 on the existing structure.

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

569 Brenda, did we ever measure that?

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

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

575 MR. EPPLER: All right. Thank you.

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

580 MS. ANNA KRISHNAN: Sure. The first one was
581 610 Laura Drive, so the neighbor. 618, 620, and 625.

582 MR. MISLEH: How many properties about this
583 property?

584 MS. ANNA KRISHNAN: One.

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

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

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

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

595 MS. ANNA KRISHNAN: Correct, yes.

596 MR. MISLEH: Thank you.

597 MR. BARTLETT: Do you plan to build a
598 driveway?

599 MS. ANNA KRISHNAN: Yes.

600 MS. BIDINGER: If it is allowed. Just so they
601 can park their cars.

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

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

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

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

620 MR. MISLEH: That was included in the initial
621 submission.

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

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

629 MS. ROUZI: I can pull that up. I'm pulling
630 it up right now.

631 Which slide would be the one that shows the
632 driveway? Maybe it's a question for the builder's rep,
633 Brenda or --

634 MS. BIDINGER: You know what? Our engineer
635 showed the proposed garage. He neglected to add the
636 driveway. So the driveway would come from the street.
637 It would have been this.

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

640 the meeting up if there's any comments from the public.
641 And if you plan to speak, please raise your hand and I
642 will ask you to unmute yourself and you can then share
643 your comments.

644 So if Brenda and Anna can lower your hands,
645 that would be wonderful.

646 And then, Peter Guest, I know that's not your
647 name, please announce your name, your address, and you
648 are free to speak.

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

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

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

656 BOARD MEMBERS: I can hear him.

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

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

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

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

683 So those are my comments. Thank you.

684 MR. BARTLETT: Thank you.

685 Scott Reid?

686 MS. REID: It is Scott Reid but this is Jean
687 Reid speaking. Sorry about that.

688 MR. BARTLETT: That's okay.

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

695 MR. BARTLETT: Okay. Are there any other
696 comments?

697 Peter, are you raising your hand again?

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

705 So there are people who are interested in the
706 property as is.

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

709 (Witness sworn.)

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

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

715 MR. MISLEH: Mr. Miller, what was your address
716 again?

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

719 MR. MISLEH: Thank you.

720 MR. BARTLETT: I don't see anybody else
721 raising their hand.

722 Does any member of the Board have any other
723 questions for the applicant or responses to concerns
724 from the public?

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

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

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

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

739 So there are different facets and different
740 modes of handling storm water management.

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

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

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

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

762 MR. EPPLER: Thank you.

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

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

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

783 MR. BARTLETT: Thank you for clarifying that.

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

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

790 John, can you please comment to that.

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

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

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

800 MR. MISLEH: Correct, but I think when we read
801 the minutes and approve the minutes tonight it will
802 reflect that that amended variance was what was
803 presented prior to those neighbors speaking.

804 MS. ROUZI: You're on mute. I think you're
805 talking but you're on mute.

806 MS. PRIYA KRISHNAN: I'm really bad at this
807 stuff.

808 MR. BARTLETT: Who is this?

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

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

812 (Witness sworn.)

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

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

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

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

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

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

844 So that's how it all turned out.

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

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

860 MR. BARTLETT: Thank you.

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

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

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

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

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

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

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

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

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

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

898 MR. DOLPH: Yes. I just wanted to respond to
899 two things.

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

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

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

915 Thank you.

916 MR. BARTLETT: One other hand.

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

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

925 That's it.

926 MR. BOYLE: Mr. Chair, I think I can weigh in
927 on that. There are no studies required by Code.

928 There's a burden laid out for the applicant that has to
929 be met. There are Supreme Court records that define
930 what a threshold is for a variance and the Commonwealth
931 of Virginia sets that.

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

934 burden of our understanding of what the Supreme Court
935 and the Commonwealth defines as a satisfying the burden
936 for a variance.

937 And in its authority the Board of Zoning
938 Appeals is considered a quasi-judicial body. It's a
939 court for code items that are adopted under local code.
940 So there is no study that's required. It's a simple
941 application of what the understanding burden is on the
942 applicant.

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

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

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

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

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

959 in my mind, it was well known that the property, you
960 know, restrictions were in place with the different
961 setbacks.

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

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

982 My consideration would be a little bit
983 different to you if you were popping the top and moving

984 it over a little bit, that it would be a little bit
985 non-conforming but you're maintaining the structure
986 that's been in existence, not disturbing the entire
987 property -- not that you're disturbing the property --
988 but more of the property than necessary.

989 So that's where I pretty much stand at this
990 point.

991 MR. MISLEH: I think we can close the public
992 comment, Mr. Bartlett.

993 MR. BARTLETT: Yeah, if there are no further
994 comments, we can do just that, Mr. Vice Chair. Thank
995 you.

996 And does the applicant have any further
997 information or comments they would like to make before
998 we close consideration for Board consideration?

999 MS. ANNA KRISHNAN: No, nothing further.

1000 MR. BARTLETT: Okay. Thank you, Anna. I
1001 appreciate it.

1002 At this point I'm going to close comment from
1003 the applicant and the public and open it up for Board
1004 member consideration and discussion.

1005 There are a couple of things I'd like to point
1006 out. I would have liked to have seen a full application
1007 that addresses not just the fact that this home is
1008 trying to be built on an awkward lot. There are three

1009 other elements to the consideration as to what is a
1010 variance. And I would have liked to have seen the
1011 entire proposed build as to what you plan to do to the
1012 property, including if you have seen or have heard
1013 concerns about storm water or other types of
1014 information, what you plan to do to address that.

1015 And I don't see a demonstrated statement that
1016 this is the only thing that you can build on your
1017 property. I don't want to characterize it simply as a
1018 "want" but I don't see that this as the only option to
1019 better enjoy your property. And I'm not trying to stop
1020 you from trying to enjoy your property but I don't think
1021 that this proposed build is the way to do it.

1022 MR. EPPLER: So I've heard lots of and
1023 listened to the discussion back and forth. My problem
1024 is with the October 16, 2008, Falls Church Board of
1025 Zoning Appeals approval which appears to be -- to allow
1026 a structure to be built into the back yard to the
1027 distance of an existing deck structure, which appears to
1028 me to be pretty much what we're looking at here.

1029 So I'm having a hard time distinguishing what
1030 we did back in 2008 from what they're proposing to do
1031 here.

1032 Now that was an addition, it wasn't new
1033 construction but I'd like to have some sense of whether

1034 we have a precedent here that kind of binds us a little
1035 bit or what the precedent is going forward because I
1036 would have a hard time distinguishing what was done
1037 there from what we're proposing here.

1038 MR. BARTLETT: I would just provide some
1039 feedback to that, Mr. Eppler.

1040 We are not bound by any prior decisions. All
1041 of our decisions, while we attempt to be consistent in
1042 our application, are judged and determined on a
1043 case-by-case basis and I don't know also what the
1044 scenario was for this particular addition to their
1045 property and how it relates to a deck. And this
1046 application is also different. It's not trying to go to
1047 the deck, it's trying to deal with it different.

1048 MR. EPPLER: No, I understand. But again, as
1049 stated here is that, The BZA finds that the proposed
1050 addition will not extend further into the rear yard than
1051 the existing deck structure.

1052 Now, admittedly we don't have a number on it,
1053 but if it's 10 feet, we're within one foot or very close
1054 to the same thing. So that's where I was looking at
1055 that, okay, how do we make -- and this again was on
1056 Laura Drive and also citing that the peculiar shape and
1057 shallowness of the lot, etcetera.

1058 So again, I would like to have some thought
1059 given to what is our rule going forward because we are
1060 trying to have some consistency here and I'm struggling
1061 with that, frankly.

1062 MR. MISLEH: I think, Mr. Eppler and Mr.
1063 Bartlett, that the issue at hand and something that the
1064 Board has struggled with is that the precedent that's
1065 set going forward for new homes being built on irregular
1066 lots, if you start granting variances so that the
1067 builders and developers can build what they want rather
1068 than what conforms, it opens up the door going forward.

1069 So I think this Board has consistently tried
1070 to manage that in the best interest of the property
1071 owners and the City so I think it's important that you
1072 consider that as well.

1073 MR. EPPLER: So are we making then a
1074 distinguishing between basically going straight up from
1075 existing structures as opposed to new design which would
1076 have to meet the requirements or would be assessed from
1077 the beginning of an issue as opposed to an existing
1078 building where we've generally speaking have allowed
1079 people to go up?

1080 MR. BARTLETT: I think that's a fair
1081 characterization of how this BZA has resolved various
1082 obligations in the past and I too, am -- to meet --

1083 MR. EPPLER: You froze up there, sorry.

1084 MR. BARTLETT: -- is without demonstrated
1085 hardship. Whereas building up on an existing property
1086 that's already non-conforming is completely
1087 distinguishable.

1088 I have a question. Mr. Misleh, are you at
1089 this point still considered abstaining in this
1090 application?

1091 MR. MISLEH: Yes, Mr. Bartlett. I will not be
1092 voting this evening.

1093 MR. BARTLETT: Okay. Thank you very much.

1094 Are there any further comments from the Board
1095 at this time?

1096 (No response.)

1097 MR. BARTLETT: Hearing none, I'm going to make
1098 a motion to deny variance application V1630-22 by Priya
1099 Krishnan, it's actually not by Priya.

1100 I'm sorry. I'm going to have to start over.
1101 This is how it's advertised.

1102 I'm just going to actually pause and read it
1103 as it's advertised.

1104 I'm going to make a motion to deny the
1105 variance application V1630-22, by Priya Krishnan,
1106 applicant and owner, for a variance to Sections
1107 48-238(3)a to allow a rear setback of 19 feet instead of

1108 40 feet for the purpose of constructing a new single
1109 family dwelling on premises known as 608 Laura Drive,
1110 RPC #52-605-005 of the Falls Church Real Property
1111 Records, zoned R-1A, Low Density Residential.

1112 MS. WARD: I'll second.

1113 MR. BARTLETT: Akida, can we do a roll call
1114 vote on this motion.

1115 RECORDING SECRETARY: Mr. Bartlett.

1116 MR. BARTLETT: No.

1117 RECORDING SECRETARY: Mr. Misleh.

1118 MR. MISLEH: I abstain.

1119 RECORDING SECRETARY: Mr. Eppler.

1120 MR. EPPLER: No.

1121 RECORDING SECRETARY: Ms. Ward.

1122 MS. WARD: No.

1123 RECORDING SECRETARY: Thank you.

1124

1125 MR. BARTLETT: Thank you very much for your
1126 time. I appreciate it.

1127

1128 5. NEW BUSINESS

1129 MR. BARTLETT: Moving on to New Business, John
1130 or Akida, is there any New Business not advertised?

1131 MR. BOYLE: No, sir. Not that I'm aware of.

1132 And, Akida, do we have any applications
1133 pending for next month?

1134 MS. ROUZI: No, we do not.

1135 MR. BOYLE: All right. Potential for no
1136 meeting next month.

1137 Offhand, what is the Board's preference for
1138 continuing remote meetings versus in council chambers?
1139 Anyone have any thoughts on that?

1140 MR. MISLEH: John, I was just going to ask
1141 that question, when and if we were going to return to
1142 the in-person meeting.

1143 MR. BARTLETT: I know City Council and School
1144 Board are meeting in person. How are the other Boards
1145 and Commissions doing?

1146 MS. ROUZI: Planning Commission is still
1147 virtual by the way.

1148 MR. BOYLE: I think it's at the discretion of
1149 the Board unless Council says otherwise. There are some
1150 obvious advantages to being in person but there's also
1151 some disadvantages. I think we've all learned how to do
1152 this remotely and I think we've been serving the public
1153 well remotely so the staff has no preference.

1154 The staff serves a number of Boards and will
1155 do whatever this Board prefers unless we hear otherwise
1156 from Council.

1157 So if I'm hearing Akida correctly, we do not
1158 have an agenda for next month. Maybe April or May the
1159 situation will change but for now we do not anticipate
1160 an April meeting and maybe we'll cross that bridge with
1161 more information at that time.

1162 MR. BARTLETT: And then we can be flexible.
1163 Do you know when we need to let you know or let City
1164 Clerk know that we would like to? I'd like to poll the
1165 members at some point before we make that recommendation
1166 to meet.

1167 MR. BOYLE: I think it hinges on the public
1168 notice so the public knows where the meeting is going to
1169 be. And we notify roughly three weeks out, it's like
1170 two and a half based on actually the newspaper
1171 publication date. But roughly two and a half weeks out.

1172 So if staff notified Board we had an agenda, I
1173 think as long as we were in advance of the newspaper
1174 public notice, we could discuss where that meeting was
1175 going to be.

1176

1177 6. APPROVAL OF MINUTES

1178 a. Approval of the February 17, 2022 Meeting
1179 Minutes

1180 MR. BARTLETT: Then we just have to approve
1181 minutes from the February 17, 2022, meeting. If
1182 everyone could take some time to review those.

1183 (Minutes reviewed.)

1184 MR. BARTLETT: I'm going to abstain from
1185 making a motion to approve minutes because I wasn't at
1186 the February 17, 2022, meeting.

1187 MR. MISLEH: I'll make a motion to approve the
1188 meeting minutes from the Board of Zoning Appeals meeting
1189 on Thursday, February 17, 2022.

1190 MR. EPPLER: I will second.

1191 RECORDING SECRETARY: Roll call.

1192 Mr. Bartlett.

1193 MR. BARTLETT: I will abstain.

1194 RECORDING SECRETARY: Mr. Misleh.

1195 MR. MISLEH: Yes.

1196 RECORDING SECRETARY: Mr. Eppler.

1197 MR. EPPLER: Yes.

1198 RECORDING SECRETARY: Ms. Ward.

1199 MS. WARD: Yes.

1200 RECORDING SECRETARY: Thank you.

1201

1202 7. OTHER BUSINESS

1203

1204 8. ADJOURNMENT

1205 MR. BARTLETT: And I will close the meeting of
1206 the Board of Zoning Appeals for March 17, 2022.

1207 Thank you very much and have a great evening.

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