CITY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 612
Tuesday, June 23, 1992, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Bolzle, Chairman Chappelle Doverspike S. White T. White Gardner Jackere, Legal
Jones Department
Hubbard, Protective
Inspections
Parnell, Code
Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Thursday, June 18, 1992, at 3:10 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Bolzle called the meeting to order at 1:00 p.m.

MINUTES:

On MOTION of S. WHITE, the Board voted 3-0-2 (Bolzle, S. White, T. White, "aye"; no "nays"; Chappelle, Doverspike, abstaining"; none "absent") to APPROVE the Minutes of June 9, 1992.

UNFINISHED BUSINESS

Case No. 16007

Action Requested:

Variance of the required number of off-street parking spaces from 133 to 101 - Section 1208.D. Off-Street Parking and Loading Requirements - Use Unit 8, located 5170 South Vandalia Avenue.

Comments and Questions:

Mr. Jones informed that the applicant needs Planning Commission approval of a major amendment before the development can be completed. He pointed out that the Board has continued the case on two previous occasions.

Mr. Gardner stated that he has not spoken with the applicant recently, but in a previous meeting he indicated that the variance may not be needed.

Protestants:

None.

Case No. 16007 (continued)

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to STRIKE Case No. 16007; finding that the application has been continued at two previous meetings, and the applicant has had no recent contact with Staff concerning the case.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16070

Action Requested:

Minor Special Exception to permit a residential accessory use (tennis courts) on a lot other than the lot containing the principal use - Section 402. ACCESSORY USES PERMITTED IN THE RESIDENTIAL DISTRICT - Use Unit 6, located 2609 East 23rd Street South.

Presentation:

The applicant, Robert Parks, Jr., was represented by Patricia Parks, 2617 East 23rd Street South, Tulsa, Oklahoma, who requested permission to install a tennis court on a vacant lot adjacent to her home. A plot plan (Exhibit H-1) was submitted.

Comments and Questions:

Mr. Bolzle asked if lights will be installed, and the applicant replied that there will be no lights on the court, and the neighbors have been assured that the court will remain unlighted.

Ms. White asked Ms. Parks if she would be amenable to tieing the two lots together in order to prevent the sale of one without the other, and she replied that it would be a more workable situation for her family if the lots could remain separate. She explained that the property will be sold in approximately 15 years, and the tennis court will be removed at that time.

Mr. Jackere explained that the tie contract could be worded to allow the applicant to remove the tennis court in the future and use the lot for a single-family dwelling.

Mr. White asked if water drainage from the court will be toward the east, and she answered in the affirmative.

Protestants:

None.

Case No. 16070 (continued)

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Minor Special Exception to permit a residential accessory use (tennis courts) on a lot other than the lot containing the principal use - Section 402. ACCESSORY USES PERMITTED IN THE RESIDENTIAL DISTRICT - Use Unit 6; per plot plan submitted; subject to the tennis courts remaining unlighted, and subject to the execution of a tie contract; finding the use to be compatible with the neighborhood and in harmony with the spirit and intent of the Code; on the following described property:

Lot 52 and the W/2 of Lot 51, Harter's 4th Resubdivision, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16062

Action Requested:

Appeal the decision of the Code Enforcement officer that the existing screening does not meet the requirements of the Zoning Code, located 3808 and 3820 East 51st Street South.

Presentation:

The applicant, Jim Butler, 3820 East 51st Street, Suite E, Tulsa, Oklahoma, stated that the application concerns two buildings that were constructed several Mr. Butler informed that the required six years ago. foot screening fence was installed between his buildings and the abutting residential property to the rear. pointed out that a City representative met with him on the property and instructed him as to the location of the The applicant stated that he was recently fence. notified that the screening fence is not in compliance with the Code. Mr. Butler voiced a concern with the expense he has incurred by being forced to appear before the Board to prove a fence is in compliance with the current Code when he was instructed as to the location of the fence approximately seven years ago. He stated that he was also annoyed by the fact that he has now been told to install the fence 3' behind his property line, which would result in the loss of that portion of his lot.

Comments and Ouestions:

Mr. Bolzle submitted photographs (Exhibit A-1) and a letter from Code Enforcement (Exhibit A-2) concerning the case.

Case No. 16062 (continued)

Protestants:

Diane Scargall, 5123 South Marion, Tulsa, Oklahoma, stated that there are nine windows across the back of Mr. Butler's building, which provides a full view of her back yard. She pointed out that the building is occupied during the evening as well as during the day. Ms. Scargall stated that her yard is fenced, but to adequately screen the commercial buildings from her residence, the fence on Mr. Butler's property should be placed on the existing retaining wall.

Additional Comments:

In response to Mr. Doverspike, Ms. Scargall stated that she has lived in the residence behind the applicant's building for approximately 2 years, and is the owner of the property.

Mr. Doverspike asked Ms. Scargall if the property is the same as it was at the time of purchase, and she replied that the hedges that blocked the view of the building have been removed.

Mr. Bolzle asked Ms. Scargall if the hedges belonged to the applicant, and she replied that they were on her property.

Applicant's Rebuttal:

Mr. Butler pointed out that the fence was inspected by the City at the time of installation, and it is located on the property line.

Additional Comments:

Mr. White asked the height of the ground where the railroad ties have been installed, and the applicant stated that the fill is approximately 4'. Mr. Butler stated that there has been no change in the property since it was initially inspected by the City.

Mr. White asked if the 3' of land between the railroad ties and the property line is used at this time, and Mr. Butler stated that it is not used because of the steep grade.

In response to Ms. White, the applicant stated that it was his understanding that the fence was to be installed on the property line, but was not aware it was to provide visual separation between his property and the residence to the rear.

Ms. Parnell advised that the ordinance states that the screening fence must provide visual separation of uses and that the fence height be a minimum of 6'.

Case No. 16062 (continued)

Mr. Butler stated that Ms. Scargall removed a natural screening wall when she cut the trees and shrubs on her lot. He reiterated that his screening fence was in compliance with the City Code when it was construction approximately 7 years ago.

Mr. Jackere asked Mr. Butler when he was first notified of a violation, and he replied that he was notified in April 1992. In response to Mr. Jackere's question concerning the 10-day period for filing an appeal, he stated that the notice stated that there was a 10-day period for filing, but that Mr. Miller, Code Enforcement, advised him to wait. Mr. Jackere advised that Mr. Butler received more than one notice concerning the violation, and it appears that the he has exceeded the allotted time for making an appeal. He added that an administrative official cannot alter the Ordinance to extend the time for appeal, and that the Board should determine if the appeal has been properly filed.

Mr. Bolzle asked Ms. Parnell if the applicant has delayed the process, and she stated that it was delayed by her supervisor, Mr. Miller.

Mr. Gardner advised that the ordinance states that the screening fence is to be installed on the property line, and there are instances when the topography will render a screening fence ineffective.

Mr. Jackere noted that an error by the building inspector does not stop the City from issuing a citation when the error is discovered.

Mr. Gardner pointed out that it has been generally determined that a screening fence is to be constructed on the lot line between the two uses. He pointed out that, if the topography of the land is considered, the building inspector would have to site check each building to determine where on the property the fence must be constructed to provide visual separation.

Mr. Bolzle stated that, if the fence is relocated to the top of the retaining wall, the 3' of property between the fence and the boundary line has a potential of becoming a "no mans land".

Mr. Doverspike stated that he does not feel the applicant's fence should be allowed to remain at its current location for several years and then a determination be made that it does not comply with the ordinance; however, by the letter of the Code it does not provide visual separation between the two uses.

Case No. 16062 (continued)

Mr. Butler stated that his buildings abut two different properties and the other abutting residents do not object to the location of the screening fence on the property line.

Ms. White noted that the screening fence does not provide visual separation between the two uses.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to <u>UPHOLD</u> the decision of the Code Enforcement officer that the existing screening does not meet the requirements of the Zoning Code; and to <u>DENY</u> the appeal; finding that the existing 6' solid screening fence on the lot line does not provide visual separation between the office and residential uses.

East 155', west 660', south 125', north 175', NE/4, NW/4, Section 33, T-19-N, R-13-E, and Lot 1, Block 1, Murphy Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16063

Action Requested:

Special Exception to permit a single-family residence in a CS zoned district - Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 6, located 210 West Latimer.

Presentation:

The applicant, Linda Rollins, 210 West Latimer, Tulsa, Oklahoma, was not present.

Comments and Questions:

Mr. Jones informed that he has contacted the applicant by phone and she failed to remember the hearing date. He stated that Ms. Rollins was advised of the protestants in attendance, and she requested that the case be continued. Mr. Jones stated that the applicant was advised that the Board would either strike the case from the agenda, or continue it to the next meeting date.

Ms. Parnell stated that the case was referred to her by Roy Ballentine, Code Enforcement. She added that Mr. Ballentine had attended a meeting of the homeowners in the area, and they voiced concerns that several people and animals were living in the building. Photographs (Exhibit B-1) and a violation notice from Code Enforcement (Exhibit B-2) were submitted.

Case No. 16063 (continued)

Mr. Bolzle informed the protestants that the Board normally approves one continuance to either the applicant or interested parties if a timely notice is received.

Ms. White stated that she does not find that a timely notice was submitted.

Protestants:

The following neighborhood residents were in attendance to protest the application (Exhibit B-2):

Tim Williams - 627 North Cheyenne Avenue

Cherokee Pettis - 708 North Cheyenne Avenue

Renee Lander - 1151 North Cheyenne Avenue

Andre Romeo - 1014 North Cheyenne Avenue

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to <u>DENY</u> without prejudice a **Special Exception** to permit a single-family residence in a CS zoned district - **Section 701.** PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 6; finding that the applicant failed to present her case as scheduled, or submit a timely request for a continuance; on the following described property:

West 62.3' Lot 1, and west 62.3' Lot 2, Block 10, Burgess Hill Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16064

Action Requested:

Special Exception to permit automobile sales in a CS zoned district - Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 17, located 3612 South Sheridan.

Presentation:

The applicant, Wolfe Enterprises, 3612 South Sheridan, Tulsa, Oklahoma, was represented by Jim Wolfe, who explained that he is operating a business that includes the installation of automobile alarms, stereo equipment, etc., along with some automobile sales. Mr. Wolfe stated that he found that the property was not properly zoned for automobile sales when he applied for his license. He added that the property has previously been used as a car sales lot.

Case No. 16064 (continued)

Comments and Questions:

Mr. Bolzle asked if the sale of automobile accessories is permitted by right at this location, and Ms. Hubbard answered in the affirmative.

In response to Mr. Bolzle, the applicant stated that the primary use of the lot would be the sale of auto accessories, with occasional automobile sales.

The applicant pointed out that there are numerous established car sales businesses in the immediate area.

Mr. Doverspike asked if all work is completed inside the building, and he answered in the affirmative.

In reply to Mr. White, the applicant stated that he is not a licensed used car dealer, because the zoning question had to be resolved before the license can be issued.

Protestants:

None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a **Special Exception** to permit automobile sales in a CS zoned district - Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 17; subject to a maximum of 10 cars for sale on the lot at any given time; subject to no automobile repair at this location; and subject to all installation of accessories performed inside the building; finding that there are similar uses in the vicinity, and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

North 150' of Lot 1, Block 1, Wilmot Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16065

Action Requested:

Variance of the rear yard setback from 20' to 7' - Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6, located 7506 South 69th East Avenue.

Case No. 16065 (continued)

Presentation:

The applicant, Billy Cassitty, 3627 South Harvard, Tulsa, Oklahoma, was represented by Lea Romanello, 4823 South Sheridan, Suite 306, Tulsa, Oklahoma, who submitted a site plan (Exhibit C-1) and explained that the case report states that the encroachment is approximately 13'; however, the plan has been revised and the encroachment reduced to 5'. Ms. Romanello stated that the irregular shape of the lot on a cul-de-sac imposes a hardship on the applicant. She pointed out that there are other dwellings on the cul-de-sac that are closer to the lot line than the house in question.

Comments and Questions:

Mr. Gardner stated that the revised plot plan shows that the construction no longer encroaches into the City easement, and Ms. Romanello replied that the closest point of construction will be 5' from the easement.

In response to Ms. White, Ms. Romanello informed that the house in question was built approximately 20 years ago.

Protestants:

None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE Variance of the rear yard setback from 20' to 15' Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6; per revised plan finding a hardship demonstrated by the submitted; curvature of the street, the cul-de-sac location, the irregular shape of lot and the placement of the existing dwelling on the lot; finding that there are other encroachments on the cul-de-sac lots, and approval of the variance will not be detrimental to the neighborhood, or impair the spirit, purpose and intent of the Code; on the following described property:

Lot 8, Block 3, Valley South, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16066

Action Requested:

Variance of the required rear yard setback from 25' to 5' to permit construction of a residence - Section 403.

BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6, located 201 Woodward Boulevard.

Case No. 16066 (continued)

Presentation:

The applicant, Loren Smith, 3778 East 82nd Street, Tulsa, Oklahoma, was represented by Carl Pickhart, 1324 East 39th Street, Tulsa, Oklahoma, who explained that the garage in question is to be attached to the dwelling and will be 10' from the property line. He pointed out that a detached garage can extend to within 5' of the property line, and many of the homes in the area have detached garages. A site plan (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Bolzle asked Mr. Pickhart to explain the use of the shed beside the garage, and he stated that tools and lawn mowing equipment are stored in the shed.

Ms. Hubbard noted that the garage could cover more than 20% of the required rear yard if it was detached.

Mr. Jones pointed out that the future garage depicted on the site plan could require additional relief.

Protestants:

Patricia Terrell, 212 Sunset Drive, and Joe Ellen Brown, 206 Sunset Drive, were concerned with the removal of trees and water runoff as a result of the construction.

Mr. Pickhart informed that the trees and shrubs will not be removed, and the water will run off to the west of the property. He pointed out that the back portion of the lot drains to the north at this time, but it will be graded to direct all water to the west.

Mr. Gardner noted that the purpose of the rear yard setback is to keep the rear yard unobstructed; however, there is an exception when the garage is detached and not a part of the living unit.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance of the required rear yard setback from 25' to 5' to permit construction of a residence - Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6; per plot plan submitted; finding that the garage would be permitted 5' from the property line if detached; and finding that the lot will be graded to direct all water runoff toward the street; on the following described property:

Lot 11, Block 5, Sunset Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16067

Action Requested:

Variance of the required setback from an R District from 75' to 30' to permit construction of a building - Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS - Use Unit 15, located 5821 South 107th East Avenue.

Presentation:

The applicant, **Preaus Landscape**, 2535 East 55th Place, Tulsa, Oklahoma, was represented by **Ruby Preaus**, 2535 East 55th Place, Tulsa, Oklahoma, who informed that her sons are proposing to construct a metal building to house their landscaping equipment. She informed that the long narrow shape of the lot constitutes a hardship since there is only a 10' strip for construction after the required setbacks are met. Ms. Preaus stated that her sons are currently storing their equipment in a pole barn located on the rear portion of the tract. A plot plan (Exhibit E-1) was submitted.

Comments and Questions:

Mr. Doverspike inquired as to the use of the abutting property to the north, and Ms. Preaus stated that the land is undeveloped.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance of the required setback from an R District from 75' to 30' to permit construction of a building 903. Section BULK AND AREA REQUIREMENTS INDUSTRIAL DISTRICTS - Use Unit 15; per plan submitted; finding a hardship imposed on the applicant by the narrow shape of the lot, with setbacks that would restrict the building space to a 10' strip in the middle of the tract; finding that approval of the variance would not have a detrimental impact on the neighborhood, or violate the spirit and intent of the Code, since the entire area is designated industrial by the Comprehensive Plan; on the following described property:

Beginning at the Northwest Corner of said Lot 12; thence East along the North line of said Lot 12, a distance of 305.0' to a point; thence South 60°56'43" East a distance of 102.96' to a point; thence South 19°31'18" East a distance of 116.71' to a point on the South line of said Lot 12' thence West along the South line of said Lot 12, a distance

Case No. 16067 (continued)

of 434.0' to the Southwest Corner of said Lot 12; a distance of 434.0' to the Southwest corner of said Lot 12; thence North along the West line of said Lot 12, a distance of 160.23' to the Point of Beginning, containing 1.45 Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16068

Action Requested:

Variance of the rear yard setback from 20' to 5' to permit the addition of an attached garage - Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6, located 1107 East 19th Street.

Presentation:

The applicant, Michael Dwyer, 201 West 5th, Suite 120, Tulsa, Oklahoma, submitted a site plan (Exhibit F-1) and stated that his client is proposing to add a three-car garage, which will encroach into the rear yard setback. Mr. Dwyer pointed out that the alley has been vacated, and the proposed garage will be 15' from the rear boundary line. explained that the He house was constructed in 1917 (Exhibit F-2), and the garage will be similar to the existing dwelling. The applicant noted that the area property owners are supportive of the proposed construction (Exhibit F-4). A drawing (Exhibit F-3) was submitted.

Comments and Questions:

In response to Mr. Bolzle, Mr. Jones stated that the property line would be 15' from the proposed garage if 10' of the vacated alley is added to the property.

Mr. Dwyer pointed out that the detached garages in the area are not more than two or three feet from the centerline of the alley.

Mr. Bolzle inquired as to the type of covering that will connect the house to the garage, and Mr. Dwyer informed that they will be connected by a small open-sided covering.

Protestants:

None.

Case No. 16068 (continued)

Board Action:

On MOTION of T. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance of the rear yard setback from 20' to 5' to permit the addition of an attached garage - Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6; per plan submitted; finding that the addition of the 10' portion of the vacated alley to the lot would cause the garage to be 15' from the property line (or the centerline of the alley); and finding that there are other garages in the older area that are closer to the rear lot line than the one in question; on the following described property:

Lots 11 and 12, and the west 16' of Lot 13, Block 4, and south 10' of vacated alley, Maple Ridge Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16069

Action Requested:

Variance of the required setback from the centerline of East 11th Street from 50' to 37' to permit a parking lot - Section 215. STRUCTURE SETBACKS FROM ABUTTING STREETS - Use Unit 10-14, located SE/c East 11th Street South and South Delaware Place.

Presentation:

The applicant, William Jones, was represented by Vaden Bales, 3800 First National Tower, Tulsa, Oklahoma, who explained that the proposed parking lot is abutted by a Taco Bueno restaurant to the west, a Coney Islander to the east and a pest control business across the street. He pointed out that the majority of the older buildings in the area have been constructed 35' from the centerline of 11th Street, instead of the current 50' setback requirement. He stated that the property is included in a Planned Unit Development (PUD), which has extensive architectural and landscaping requirements to prevent commercial encroachment into the residential area to the south.

Comments and Questions:

Mr. Bolzle asked if the PUD requires a greenbelt buffer on the south side of the building to protect the residential area, and Mr. Bales answered in the affirmative. He added that numerous meetings have been conducted with the surrounding property owners. Mr. Bales noted that the proposed parking area exceeds the Code requirement for the tenants who will occupy the building.

Case No. 16069 (continued)

Mr. Bolzle asked if some of the trees proposed for the back of the lot could be moved to the front, and Mr. Bales stated that trees along 11th Street would interfere with signage.

In response to Mr. Bolzle, Mr. Jones advised that the new landscape requirement, which will be considered by the Planning Commission and the City Council, states that one tree will be planted for every 10 parking spaces in an unenclosed parking area. He added that projects that are being considered within a one-year period after adoption of the proposed amendment will probably be exempt from the requirement. Mr. Jones pointed out that this will prevent an undue hardship on developers that currently have projects under way.

Mr. Gardner informed that parking lots with 20 or less parking spaces will not be required to landscape. He noted that required landscaping will consist of small flowering trees and shrubs, and not large trees along the street that will block the view of signs.

Protestants:

None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance of the required setback from the centerline of East 11th Street from 50' to 37' to permit a parking lot - Section 215. STRUCTURE SETBACKS FROM ABUTTING STREETS - Use Unit 10-14; per plot plan submitted; finding that the some of the buildings and most of the parking lots in the older area have been constructed 35' from the centerline of 11th Street, and the proposed parking lot will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lots 19 - 24, Block 2, Signal Addition, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at $2:57\ \mathrm{p.m.}$

Date Approved: July

Chairmax

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