MINUTES ZONING BOARD OF APPEALS FEBRUARY 6, 2019

MEMBERS PRESENT:

DAN SULLIVAN THOMAS QUINN JOAN SALOMON PATRICIA CASTELLI,

LEONARD FEROLDI, ALTERNATE

ABSENT:

MICHAEL BOSCO

ALSO PRESENT:

Ann Marie Ambrose,

Official Stenographer Administrative Aide Deputy Town Attorney

Deborah Arbolino, Denise Sullivan,

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman. Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

GOLLUB

FLOOR AREA RATIO,

ZBA#18-84

73 Eimer Street Tappan, New York SIDE YARD, TOTAL SIDE YARD AND REAR YARD

.RD

77.08 / 1 / 39; R-15 zone

VARIANCES APPROVED AS MODIFIED

DIONNES'S WAY

12-16 North Main Street Pearl River, New York 68.16 / 6 / 67; PAC zone CONTINUED

ZBA#19-01

NEW ITEMS:

MEDINA

11 Bridge Road Nanuet, NY FLOOR AREA RATIO, LOT AREA, LOT WIDTH,

ZBA#19-09

Nanuet, NY FRONT YARD, SIDE YARD, 64.19 / 1 / 27; R-22 zone TOTAL SIDE YARD VARIANCES APPROVED

A CLEANER CITY 16 Route 303 Tappan, New York 77.15 / 1 / 45; CS zone **POSTPONED**

ZBA#19-10

TOWN CLERK'S OFFICE TOWN OF ORANGETOWN

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: St. Thomas Aquinas Dormitory Site Plan, 125 Route 340, Sparkill, NY, 74.16 / 1 / 1; R-40 zone; Lowe's of Orangeburg Site Plan-Outdoor Storage and Fire Lane Plan Review, 200 Route 303, Orangeburg, New York 74.15 / 1 / 3; LI zone; Quinlan Re-subdivision Plan (Lot Line Change), 20 Center Street, Pearl River, New York 68.19 / 2 / 36 & 38; RG zone; Dynamic Productions USA Site Plan, 300 Blaisdell Road, Orangeburg, New York 73.20 / 1 / 1; LIO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:45 P.M.

Dated: February 6, 2019

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

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DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND REAR YARD VARIANCES APPROVED AS MODIFIED

To: David and Claudia Gollub 73 Eimer Street Tappan, New York 10983 ZBA #18-84 Date: November 20, 2018 February 6, 2019 Permit #47756

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-84: Application of David and Claudia Gollub for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .336 proposed modified to 0.286), 9 (Side Yard: 20' required, 7'6" proposed, modified to 11.2'), 10 (Total Side Yard: 50' required, 42'9" proposed, modified to 46.3') and 11(Rear Yard: 35' required, 24' 5" proposed, modified to 26.6') for an addition to an existing single-family residence. The premises are located at 73 Eimer Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.08, Block 1, Lot 39; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meetings held on November 20, 2018 and February 6, 2019 at which time the Board made the determination hereinafter set forth.

Claudia and David Gollub and Joseph Thompson, Architect, appeared and testified.

The following documents were presented:

- 1. Copy of the survey dated April 29, 2018 signed and sealed by Robert E. Sorace, Land Surveyor.
- 2. Architectural plans labeled "Gollub Residence Addition" dated 06/01/2018 signed and sealed by Joseph G. Thompson, Architect.
- 3. A letter dated October 15, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
- 4. A letter dated October 3, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
- 5. A letter dated October 15, 2018 from the Rockland County Department of Health signed by Elizabeth Melo, P.E., Senior Public Health Engineer.
- 6. A letter of opposition signed by three abutting property owners.
- 7. A letter in support of the application by an abutting property owner at 63 Eimer Street.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

Claudia Gollub testified that they are proposing to expand the house to accommodate her parents and her family; that her parents were the original owners of the house since 1979; that they have a son in the school system; that her parents have approval for the owner occupied status for their apartment; that they are proposing to add garages and a master bedroom suite above them; that they did not know that he second front floor was not permitted because there are at least three or four other homes in the immediate area with two front doors and that they would like to request a continuance to answer some of the concerns from the Board and neighbors.

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Permit #47756

At the meeting of February 6, 2019 and on advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

At the February 6, 2019 hearing Claudia and David Gollub and Joseph Thompson, Architect, appeared and testified.

The following documents were presented:

- 1. Copy of the survey dated April 29, 2018 signed and sealed by Robert E. Sorace, Land Surveyor.
- 2. Architectural plans labeled "Gollub Residence Addition" dated 06/01/2018 with the latest revision date of December 6, 2018 signed and sealed by Joseph G. Thompson, Architect.
- 3. A letter dated February 4, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
- 4. A letter dated February 5, 2019 from the Office of Parks Recreation & Historic Preservation Palisades Interstate Park Commission signed by Karl B. Roecker, Senior Landscape Architect.
- 5. A letter in support of the application from the neighbor at 71 Eimer Street dated November 14, 2018.

Joseph Thompson, Architect, testified that they listened to the Board and have made ten changes from their first submission; that they have reduced the magnitude of the variances to make them more palatable for the Board; that they did a breakdown to show where the floor area calculations are, for example 278 sq. ft. of floor area is for covered porches; that the side yard has been reduced to 10.2'; that the rear yard setback has been improved; that the second front door has been re-located to the side of the house; that they have added landscape screening adjacent to the proposed shed along the PIP; that the shed was moved to be off the property line at 10' instead of the originally proposed 5'; that as a compromise on the floor area ratio, they could remove the proposed shed and that would drop the floor area ratio by .018; that they can remove one foot off the rear of the house and one foot off the side of the two story addition (northwest & southwest) that would reduce the floor area ratio; and that he would submit revised plans to show those changes.

Claudia Gollub testified that they listened to the Board and made reduction; that they did not remove the covered porch in the front because the Chair seemed to be fond of front porches and will be useful for her parents to wait for the bus with their 8 year old; that her parents purchased the house in 1979; that they did the local law #7 (Town Code Chapter 43 §4-5 single family conversion) prior to selling another home, that the sale of that home as given them the ability to propose the addition for their portion of the house; that they were not trying to get away with anything or mis-use the intent of the law; that the existing house has five small bedrooms and when the addition is done, there will still be five bedrooms; that two bedrooms will be on the ground level and three bedrooms will be on the second floor; that there are many similar sized lots in the area with larger homes on them; that if they were

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building new, they would not have situated the house on the lot as it sits and that would have eliminated some of the variances; and that they will remove the shed and honor the 20' buffer.

Public Comment:

No public comment

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

- 1. The requested floor area ratio, side yard, total side yard and rear yard variances as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has withdrawn the proposed 300 sq. ft. storage shed and removed one foot off the northeast addition and one foot off the southwest side of the proposed addition, which reduces all the requested variances. Similar additions have been constructed in the area.
- 2. The applicant is removing the proposed 15' x 20' storage shed that was proposed within the 20'buffer for the PIP but they have agreed to implement the planting plan in that area.
- 3. The requested floor area ratio, side yard, total side yard and rear yard variances as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has withdrawn the proposed 300 sq. ft. storage shed and removed one foot off the northeast addition and one foot off the southwest side of the proposed addition, which reduces all the requested variances. Similar additions have been constructed in the area.
- 4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
- 5. The requested floor area ratio, side yard, total side yard and rear yard variances as amended and reduced, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant has withdrawn the proposed 300 sq. ft.

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storage shed and removed one foot off the northeast addition and one foot off the southwest side of the proposed addition, which reduces all the requested variances. Similar additions have been constructed in the area.

6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, side yard, total side yard and rear yard variances as modified: (floor area ratio: 0.286, side yard; 11.2', total side yard: 46.3' and rear yard: 26.6') are APPROVED with the SPECIFIC CONDITION that the applicant implement the planting plan in the area where the proposed 15' x 20' storage shed would have been within the 20'buffer for the PIP; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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Permit #47756

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard and rear yard variances as modified (floor area ratio: 0.286, side yard; 11.2', total side yard: 46.3' and rear yard: 26.6') are APPROVED with the SPECIFIC CONDITION that the applicant implement the planting plan in the area where the proposed 15' x 20' storage shed would have been within the 20'buffer for the PIP; ; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent from the February 6, 2019 hearing.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: February 6, 2019

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

By <u>Xeboual Gebelleni</u>
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPER VISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO, LOT AREA, LOT WIDTH, FRONT YARD, SIDE YARD, TOTAL SIDE YARD VARIANCES APPROVED; UNDERSIZED LOT APPLIES

To: Anthony and Valerie Medina

11 Bridge Road

Nanuet, New York 10954

ZBA #19-09

Date: February 6, 2019

Permit #48046

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-09: Application of Anthony and Valerie Medina for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .2481 proposed); 5 (Lot Area: 22,500 sq. ft. permitted, 15,388 sq. ft. existing); 6 (Lot Width: 125' required, 115.67' existing); 8 (Front Yard: 40' required, 32.71'existing, 26' proposed); 9 (Side Yard: 20' required, 20.79' existing, 15.10' proposed) and 10 (Total Side Yard: 40' required, 51.02' existing, 35.89' proposed); Section 5.21 Undersize lot applies, for an addition to an existing single-family residence. The premises are located at 11 Bridge Road, Nanuet, New York and are identified on the Orangetown Tax Map as Section 64.19, Block 1, Lot 27; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 6, 2019 at which time the Board made the determination hereinafter set forth.

Anthony and Valerie Medina appeared and testified.

The following documents were presented:

- 1. Site plan based on survey dated 8/8/2011 by Afr. Monroe, signed and sealed by Walter Jopling Waldron dated 6/25/2018.
- 2. Architectural plans labeled "Renovation & Addition Single-Family Residence 11Bridge Street" dated 6/25/2018 A-001, A-002, A-101, A-102, A-201, A-301 and A-301 (mislabeled)
- 3. Two letters from abutting property owners in support of the project.
- 4. Two pictures of the house across the street with a similar addition and two pictures of the Medina house.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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Anthony Medina testified that they are the original owners of the house and purchased it in 1994; that the lot is undersized; that the house is a bi-level house and does not have a basement and the existing attic has all the duct work for the air-conditioning, so there is no storage space in the house; that being recently retired he would like to add the garage addition to accommodate his wood working and provide much needed storage area; that the side yard and total side yard are the same as his neighbors and his house is already non-conforming; that they are also requesting a roof over the front entrance for some protection from the weather, since his mother-in-law recently slipped on the steps; that they would be adding a walk-in closet and deck also; that the house across from them on the cul-de-sac did a similar addition and it came out very nice; that this proposal will enhance the character of the neighborhood and his property is pie shaped.

Public Comment:

No public comment

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

- 1. The requested floor area ratio, lot area, lot width, front yard, side yard and total side yard variances (§ 5.21 Undersized lot applies) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized by more than 7,000 sq. ft. and similar additions have been constructed in the neighborhood.
- 2. The requested floor area ratio, lot area, lot width, front yard, side yard and total side yard variances (§ 5.21 Undersized lot applies) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized by more than 7,000 sq. ft. and similar additions have been constructed in the neighborhood.
- 3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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- 4. The requested floor area ratio, lot area, lot width, front yard, side yard and total side yard variances (§ 5.21 Undersized lot applies), although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot is undersized by more than 7,000 sq. ft. and similar additions have been constructed in the neighborhood.
- 5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio (0.2481, lot area (15,388 sq. ft.), lot width (115.76'), front yard (26'), side yard (15.10') and total side yard (35.89') variances (§ 5.21 Undersized lot applies) are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio (0.2481, lot area (15,388 sq. ft.), lot width (115.76'), front yard (26'), side yard (15.10') and total side yard (35.89') variances (§ 5.21 Undersized lot applies) are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: February 6, 2019

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Deborah Arbolino Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

TOWN CLERK
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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