

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES
NOVEMBER 21, 2024**

Those present at 7:00 p.m.:

Members:	Jeff Bergstrom, Chair Mark Morehead Kevin Hudson James Cloonan
Absent:	Chris Rogers
Staff:	Paul Bilodeau, City Solicitor Mike Fortner, Senior Planner Heather Amos, Administrative Professional II, Paralegal

Mr. Bergstrom called the meeting to order at 7:01 p.m.

1. Approval of minutes from meeting held June 20, 2024:

Mr. Bergstrom asked the Board if they read the minutes and noted any necessary additions or corrections to be made.

Mr. Hudson affirmed.

Mr. Cloonan stated that there were no additions or corrections.

MOTION BY MR. HUDSON, SECONDED BY MR. BERGSTROM: TO APPROVE THE MINUTES FROM THE MEETING HELD JUNE 20, 2024.

MOTION PASSED. VOTE: 4 to 0.

Aye: Bergstrom, Hudson, Morehead, Cloonan.

Nay: 0.

Absent: Rogers

2. Approval of minutes from meeting held October 17, 2024:

Mr. Bergstrom asked the Board if they read the minutes and noted any necessary additions or corrections to be made.

MOTION BY MR. HUDSON, SECONDED BY MR. BERGSTROM: TO APPROVE THE MINUTES FROM THE MEETING HELD JUNE 20, 2024.

MOTION PASSED. VOTE: 4 to 0.

Aye: Bergstrom, Hudson, Morehead, Cloonan.

Nay: 0.

Absent: Rogers

3. The appeal of Tupp Signs, Inc., property address 292 W. Main Street, Newark, DE 19711, for the following variances:

Mr. Bergstrom read the facts of the case into the record:

Sec. 32-60 – Schedule of sign regulation

- Per the table under Section 32-60(a)(1), the maximum area of an identification ground sign is 10 square feet. Applicant is proposing an area of 21.4 square feet. An 11.4 square foot area variance is requested.

Mr. Bilodeau noted there was one small correction in that “identification ground sign” should instead read “bulletin board.”

Mr. Bergstrom did not think the error was issue enough to affect the meeting’s substance.

Mr. Bilodeau agreed. He added size of the requested variance was correct.

Mr. Bergstrom read the second variance request into the record:

- Per the table under Section 32-60(a)(1), a bulletin board sign is not permitted to be illuminated in a residential zoning district. Applicant is proposing allowance for an internally illuminated bulletin board in a residential zoning district.

Mr. Bergstrom asked if there was a representative for the applicant in the appeal and swore in Mr. Don Tancredi.

Mr. Tancredi acknowledged that the meeting from May was tabled so that the Church could negotiate with neighbors in opposition and that the next scheduled meeting in October was postponed due to an error in the City code.

Mr. Bergstrom expressed regret for the error.

Mr. Tancredi stated that he hoped the Board had the chance to review all the submitted materials. He claimed to have reached out to the “Harts” with a first-class letter, followed a month later by a return-receipt letter, to which he received no response to either. He stated he also sent an email to Ms. Lesko at 246 W. Main who responded, stating that she would love to speak to him. The pastor of the Church called her and the summary of his conversation with her was submitted to the Board. He noted Ms. Lesko lives out of state, her house is a rental and as long he has been a member of First Presbyterian, the only interaction he has had with her is through her tenant who had repeatedly thrown their garbage in the church’s dumpster, which was reported to the police.

He continued by noting other materials submitted by him describing the type of lights that would be used for the sign, which are designed for use by municipalities with strict adherences as to lighting that can be lowered at night automatically and by scrolling. He stated that if the City had an ordinance requiring the lights to be lowered at night, it can easily be done by the manufacturer with the type of sign proposed.

Mr. Tancredi commented that it was nice to meet the neighbors present at the meeting and noted he knew some of them from Church.

An unidentified member of the audience interjected “for the first time.”

Mr. Tancredi responded to the person affirming that he was seeing some neighbors for the first time and some he knew from Church.

Mr. Hudson interrupted by redirecting the conversation to the Board.

Mr. Tancredi reiterated that it was nice to see everyone in attendance. He stated the present sign at the Church is approximately 40 years old, falling apart, makes the Church look like it is dying, and a new sign is needed. The current sign is illuminated, and he also believed it was considered a bulletin sign. The present sign is over 10 square feet at approximately 51” x 91” and illuminated. The proposal is to move the sign to where the vinyl signs are currently located at the front of the Church. In his letter to Ms. Lesko and Dr. Hart, he expressed willingness to darken the sign at night and that the scrolling would be every 20-30 minutes, and not like other signs such as that at the Aetna Fire Hall. He noted this is the Church’s busy season and there are many events he wishes to be advertised with the new sign. After the busy season, the sign will likely be dormant, changing more on a daily basis. The sign may only change at a more frequent rate when the Church becomes busier with various musical events.

He continued by stating he has done everything he can to reach out to neighbors in opposition and to concede to their concerns. He has asked people to be reasonable and decide in favor of the Church. The Church is called upon to be disciples of Christ and to spread God’s word and message, and it is done by a sign or word-of-mouth and not by sitting in church, rather by going out to the public. He concluded by stating that because of this, he feels he has a fundamental right to express God’s word and love.

Mr. Bergstrom asked the Board if they had the chance to read the similar appeal from 2006 submitted by the Church and Tupp Signs.

The Board affirmed.

Mr. Bergstrom then asked if there was anyone else who wished to speak on the matter and referred to the list of names from the sign-in sheet and asked if it would be okay to call them order.

The members of the public in attendance confirmed this was acceptable.

Mr. Bergstrom swore in Nic Hudson.

Mr. Nic Hudson, 287 W. Main Street, began by thanking the Board, Mr. and Mrs. Hart for ensuring the local neighbors were aware of the sign and the Church, who has been a good neighbor. He empathized with the decline in the Church’s congregation size and acknowledged that their work is important. He went on to pose the question “is self-imposed hardship a reason for variance?” He then pointed out that the former City Solicitor, Roger Aken, in his memo dated December 6, 1999, believed that a self-imposed hardship is not a basis for a variance, further stating, according to City precedence, a church is an institution and is its own self which caused these hardships, a variance is not allowed for changing the current sign or lowering congregation numbers. Mr. Nic Hudson went on to express his concern with the variance and the square footage, noting that he read the previous minutes and how it was changed from 4 to 10 square feet. In every

zone, residential, business, industrial and office, the square footage is listed as 4 square feet, to which he requested the Board address that issue. His other concern was the location of the sign, and how the Code offers that a bulletin board placement is either on the ground or the wall. The Code also offers that the identification sign location is on a fence, ground or wall. The code does not state that an identification sign can be stacked on another sign, and he asked rhetorically whether this warranted a variance, admitting that he does not know.

He referred to the prior mentioned 2006 appeal, pointing out the Church assured Mr. Stritzinger, a neighbor at the time, that there would be no flashing, and he is concerned as the Church is now requesting a scrolling sign. He went on to state he is aware permits were submitted to the City classifying the proposed sign as a bulletin board, but he believed this classification is a misrepresentation and requested the Board hear the following points. In comparing the purpose of a bulletin board versus an advertising sign, a bulletin board is meant to convey basic information to a targeted group like a community center or office or church, where an advertising sign aims to reach a wider audience with a promotional message. In comparing the design of these types of signs, bulletin board signs tend to have a simpler design with basic text, while advertising signs are often visually appealing with graphics, logos and vibrant colors to grab attention. In comparing the size and placement of these signs, bulletin boards are typically smaller and placed in specific locations like inside a building or on an exterior wall, where advertising signs are often large and positioned in highly visible areas, like along roadsides or buildings.

For clarification, he points out that even the Church references the proposed sign as an advertising sign, quoting Mr. Tancredi, "the new sign design will allow the church to advertise." He quoted other members of the Church who submitted written public comments as follows: "advertising our services will be a need to include students outside our premises and UD," and "advertising enables us to keep the community aware of what's happening on our campus as well as to invite others." He believed bulletin boards are meant for local communication, not outside the church. He believed it is the Church's clear intention to use the sign for advertising purposes. He added advertising signs are not permitted in residential areas, supporting his opinion that the variance should not be granted. He also stated that advertising signs in are not allowed to be illuminated in business zones, whereas bulletin boards are, because they are small, against buildings and they post bulletin boards on them, which is all defined in the City's code. He again asked the Board rhetorically whether the sign being proposed is a bulletin board or an advertising sign.

Mr. Nic Hudson noted scrolling advertising signs are a distraction to drivers, which he submitted in his original letter to the Board where he cited the source of his claim. The Church is in a residential area with a speed limit of 25 miles per hour. He believed the Board should be concerned about safety as well as distracting drivers with a sign. He stated there are dedicated codes to protect the community's right to live peaceably. He believed limiting the size, illumination, and types of signs maintains peace, property values and largest investments. He noted he lives directly across from the proposed sign, which would create a daily hardship of scrolling light pollution entering his sunroom and living space, and instead of finding comfort and relaxation in his home, he will be driven to frustration because of the sign. He believed the solution for the Church is to use computers and cell phones to reach the youth and community, and by utilizing social media to keep people informed and building the congregation. He noted the University of Delaware (UD) and local school districts use this technique, where no audacious sign is needed. He had volunteered to help change the letters on the existing sign.

Mr. Bergstrom swore in Mary Lee Lesko.

Mary Lee Lesko, 246 W. Main Street, noted she reviewed the adjustments to the submission for variance relief regarding both the size and internal illumination of a proposed sign at 292 W. Main. She did

not support the approval of this request. She asked the Board whether they would like to see a sign of this nature on their residential street. She believed Newark has many wonderful small-town features and suggested not commercializing the residential areas. She referred to the previous meeting where it was discussed that granting the variance could have many unintended consequences such as providing a precedence for like advertising signs on Main Street. She continued that a secondary concern for the Board to consider is driver safety as revolving, backlit signs of this nature are designed to get driver's attention off the road and onto the sign. She asked if the City opens itself to an increased liability if a serious accident occurs due to a driver being distracted by the sign. She asked the Board, with respect to the Church's recommendation to minimize resident concerns, to consider how they would be monitored. She noted the brightness of the sign at night and scrolling during the day could all be altered electronically and asked the Board if it was their intention to have local authorities monitor the sign or if it would be up to the residents to monitor. She asked if there were deviations from the Board's agreed variance, and what recourse the residents would have and at what expense. The nature of the sign and its potential installation opens a host of unintended consequences and issues today and in the future. She asked the Board to not grant the variance request. She explained she recently inherited the house from her mother, who opposed a similar variance request in 2006. She rents out the home, her sister lives next door, and she may move back to the property as her primary residence. In describing her communication with the Church clergy, she indicated she had never communicated directly with Mr. Tancredi but had a pleasant conversation with Pastor McKenty. However, despite being pleased with the Church's outreach and programs to engage the community, she and other residents would not prefer to see a large back-lit electronic sign in a predominately residential neighborhood. While she appreciated the Church's efforts to minimize the size and impact of the sign, it remains very large. She did not believe the nature of the sign fits the character of the neighborhood. She sympathized with the Church's mission but felt they should utilize other forms of social media to reach its constituents instead of a commercially oriented sign. She expressed hope the Board would respect the wishes of the local residents and tax-payers and reject the variance request.

Mr. Bergstrom swore in Ms. Hart.

Ms. Hart stated that she lives down the street from where the sign would be. She believed it is prohibited to have a sign of that size in a residential neighborhood. She continued by stating her belief that the sign will disfigure the area and if others decide to have similar signs it would turn into a commercial atmosphere. She concluded by stating she believes that the people who live on Main Street do not want that to happen.

Mr. Bergstrom called Mr. Hart of 257 W. Main Street, swore him in and advised him of the time limit.

Mr. Hart stated the sign is proposed to advertise events at the Church and agreed that it would be useful. He argued that the problem is that it is virtually impossible to read the sign and follow the road at the same time, and it would be a distraction. He continued that there are a lot of young drivers who will be distracted. He suggested other methods of communication such as email and bulletins and commented that the Roselle Center for the Arts on Orchard Road does not have a sign, but people are able to find it without difficulty. He opined the people of Newark will find an event if they are interested in going. He also stated the Church is in a residentially zoned area and it is his belief that the Board of Adjustment should not be changing the zoning that prohibits this type of sign. He continued that the other issue is that many people who live in a residential area would not like an illuminated messaging sign across from where they live. He stated that there are many other issues with the sign but granting the variance will set a precedent outside of what he envisioned for the quality of life and atmosphere of this town.

Mr. Bergstrom called Robert Black, Jr., who stated he did not wish to talk.

Mr. Bergstrom then called James Pierson Perry, of 20 Cheryl Drive in Elkton Maryland, swore him in and advised him of the time limit.

Mr. Perry stated that he would like to be brief and speak to the following points. First, there have been several comments made about the nature of the sign that he believes are factually incorrect. The sign will be illuminated but it will not be scrolling as Mr. Tancredi explained already and will not be constantly changing like the signs along I95 where people drive 55 miles per hour. This is a sign that will have information about community and Church events and inform UD students and needy people with no means of communication that the food bank is open and ready to help with their food insecurity issues. He went on to address the issue of distracted drivers pointing out the road is 25 miles per hour and that there is consistent police monitoring. At this time, there was a momentary disruption from the members of the public in attendance. He continued that having a static sign that will change every 30 seconds to a minute will not be a distraction to drivers at that rate of speed. The sign will also be turned off at night to not be a distraction in the darkness. The sign is meant to enhance community as well as church events and there are community organizations that use the church facilities that people need to know about. The church has just started a food bank and outreach to people in recovery and homeless communities that do not have the ability to receive communication by email and reading the newspaper.

Mr. Bergstrom called Tim Boulden of 65 Hidden Valley Drive, swore him in and advised of the time limit.

Mr. Boulden stated that he lived in Newark for 59 years and attended the church for so long he can't remember. He stated he is present on behalf of the church as well as his parents who moved to PA, as well as a brother who also moved away, all of which were active members of the church for longer than he. He reflected on the many changes and variances that have changed the look and feel of Newark but opined that this request is not one of them. He pointed out the church is between two commercial establishments, but also added they're not asking for the sign to be Times Square, and it will not be keeping people awake at night. He further commented that the sign is an opportunity for the church, who is continually giving back to the community, to communicate with its members and the people of Newark of the great things that are happening at the church and asked for the Board's support of the variance request.

Mr. Bergstrom called Mimi Lovelace, 1010 Baylor Drive, swore her in and advised her of the time limit.

Ms. Lovelace asked the Board to look favorably upon the petition to grant the variance stating the church exists for the benefit of people that are not members of it including the recovery community who has meetings there and they have a small food pantry to serve the hungry. She stressed the importance of making those events especially known throughout the community so that those in need can be directed to services that would be of benefit. She concluded by expressing sadness that the church's desire to serve is not often thought of by the opposition of the variance request.

Mr. Bergstrom called Daniel McKenty, swore him in and advised him of the time limit.

Mr. McKenty stated that a church is unique and different than other institutions and when other members of the church say they wish to get the church's message out, it is not for the church's sake. He acknowledged that they are blessed to have a venue that is deeply involved and committed to the arts in the community and the university. He went on to describe the deep commitment to the recovery community and to the Boy Scouts of America, and multiple other groups, all of which use the facilities at no charge. He claimed

that the witness who have testified in opposition are operating under two premises which he believes to be faulty. The first being that the sign will cause drivers to careen off the road, into the ditch or other automobiles, causing catastrophe and physical injury, which is not a genuine argument since it has been made clear that the sign will scroll maybe once every half hour. He continued that the idea that the light from the sign will invade someone's bedroom and keep them up all hours of the night is not a genuine concern and has already been addressed. He claimed that if the sign was limited to 2'x2' it would serve virtually no purpose. He argued that the major room in the church is called a sanctuary specifically because the church is called to be a sanctuary to the community and someone who is wrestling with addiction, who made the decision to finally seek help, isn't going to be on their email list. He added that the argument that the church can reach its members through social media and email is not a genuine argument, either. He reiterated that the church's messages are not for its own sake and mentioned the church has a vibrant community where students and families come to worship, and they have a Sunday school. He concluded, asking the Board to consider the church in a different way because it is a different entity than most applicants seeking a variance.

Mr. Bergstrom called the final name, Dave Lovelace of 1010 Baylor Drive of 41 years, swore him in.

Mr. Lovelace began by referring to a point implied by a previous comment made by his wife, Mimi Lovelace, that the church is the only institution that exists for the benefit of those that are not yet members. He referenced a book "Bowling Alone" that discussed the demise of voluntary organizations. He went on to list several local organizations no longer in business and that the ones that are left are withering on the vine. He went on to state that the church is one of the last hopes for meeting the increasing needs of the community as personal responsibility has decreased. He continued that voluntary organizations that exist for the benefit of the community should be treasured. He stated that he resented the use of the word "advertising" because the church is not selling anything, rather offering gifts.

Ms. Schiano interrupted, stating that the computer was rebooting and the meeting needed to pause.

Ms. Amos thanked everyone for their patience and announced that the meeting was back up and running.

Mr. Lovelace noted he and his wife came to Delaware in 1983 and did not leave town because they liked the community's nature and City services. However, tonight's discussion pertains to the greater good of a wider community versus the personal preferences of a few. He believed it is good to be willing to do some giving as well as giving up for the wellbeing of many. He stated the church is based on this sacrificial nature.

Mr. Bergstrom swore in Mark Sisk, Esq., who clarified he was present as a member of the church and not an attorney representing the church.

Mark Sisk, Esq., 700 Prides Crossing, stated that he had the privilege of sitting in Mr. Bilodeau's seat for 15 years with the Board so he understands and respects the challenging work they do, acknowledging that it is particularly difficult when there are passionate views on both sides. He pointed out that his friends, the Harts, were present, he was glad to see them, that their views [about the sign] had not changed since 2006, and he thanked them for coming. He described how he surveyed the City and nearby areas with consideration of precedent and found two comparable signs to the sign being requested in this variance. He compared the Methodist Church on Main Street and Emmanuel Presbyterian on Possum Park Road just outside the City limits. He acknowledged the sign at Methodist Church was comparable in size and type, more so than the setting or area. He went on to point out how similar the area and setting of Emmanuel Presbyterian and First Presbyterian Church are, including being surrounded by nice residences. The differences he outlined were that Emmanuel Presbyterian did not have a nursing home or country club next to or nearby, nor as many

rental properties as there are surrounding First Presbyterian Church. He offered that renting property is a commercial enterprise, Sean's House is a commercial enterprise in the sort of way the church would be in its outreach efforts, and that even though Main Street is zoned residential, there is a lot of variety among types of establishments. He believed the nature of the neighborhood is in the eye of the beholder, and the appropriate advertising is in the eye of the beholder as well. He perceived this variance request meets each of the KWIK Check tests, the restriction is essential to the church's mission, and he would submit this as an appropriate application to grant.

Mr. Bergstrom swore in Nancy Lewis.

Nancy Lewis, 22 Abelia Lane (outside of City limits), stated she has lived in Newark her entire life and that her family was the first to move into Fairfield on Country Club Drive. She has been a long-time member of First Presbyterian Church. There have been many times they have tried to get a sign on Main Street. She was aware this is a residential area, but the church is next to both a nursing home and a country club. She acknowledged the many objections about how the large sign will disturb people at night, to which the church has expressed the sign will be turned down at night to prevent disturbance. She has heard the discussion of whether this sign will serve as a directory or as an advertisement. This sign will notify the public about ongoing events, which are not only for the members of the church, but also for UD. There are many music groups who come in, along with the recovery community. She noted the mention of the new food pantry started, dubbed "Food for Success." If the church were to instead only send out Facebook messages or emails, they may not reach the people who need those services. The church needs different ways to communicate to the community that they are here and are providing services to the community. [The sign] is not only for the church and its congregation members; it is a vital service for many of the people residing within Newark. She noted there are many individuals who are in support of this sign.

Ms. Amos noted individuals who have submitted written comments but have chosen to speak at this meeting will only have their written comments added, but not read, into the record. She proceeded to read multiple written public comments into the record.

(Secretary's Note: The following public comments were received from:

- [Mimi Lovelace.](#)
- [Janeen Brown Ruff.](#)
- [James B. McNeely.](#)
- [Larry L. Haid.](#)
- [Nancy & Urie Boulden.](#)
- [Chris Locke, 300 West Main Street.](#)
- [Robert Wojewodzki.](#)
- [Nick Hudson & Lucrezia Alaimo Hudson.](#)
- [MaryLee Brown Lesko.](#)
- [Robert Wunder.](#)
- [Gary Beste.\)](#)

Mr. Bilodeau explained when this was previously applied for in 2007, it was handled under the definition of a bulletin board sign. He believed this is the correct definition for what they are currently dealing with. The bulletin board sign indicates the names of persons associated with events conducted on or products or services offered. An institutional sign is something public charitable, educational, or religious, whereas an advertising sign is more about business, commodity, service or entertainment. He believed the Planning &

Development Department in 2007 applied the correct definition, which he did not see any reason to change. He noted Mr. Nick Hudson's comments about self-imposed hardships. He explained the law indicates self-imposed hardship is not a ground to deny a variance, but self-imposed hardships should not be rewarded and can be factored into the decision making.

Mr. Bergstrom opened the table to Board comments.

Mr. Hudson clarified he and Mr. Nic Hudson are not related. He acknowledged there are differing opinions. He stated had concerns about this request. He acknowledged the mention of other signs that are similar as such as the one in Newark Methodist or Aetna Fire Hall, both of which did not receive variances for those signs. Mr. Hudson address the *KWIK Check Factors*.

1. *The nature of the zone in which the property is located* – It has been a mixed residential area for a long time.
2. *The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity* – The character is mixed, with Newark Manor and Newark Country Club adjacent to the property. The neighbors of this area who have provided their input have voiced they are against the sign. Additionally, he was also concerned about the potential precedent allowing this sign could set for the adjacent properties.
3. *Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses* – Mr. Hudson believed such removal would affect those neighbors, noting an electric sign would not be preferred by the residential community and could be detrimental to the enjoyment of their own property.
4. *Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to efforts to make normal improvements in the character of that use of the property* – The sign is already larger than what is allowed, and the church appears to have a vibrant community already without the new sign. He did not see any unnecessary hardship or exceptional practical difficulty with these factors in mind. He was also concerned who will be the responsible part to monitor this, as no party will have the time to monitor it. Any variance runs with the land, so if the property is to change hands, the variance would still be allowed to the new owner. He recognized the church is asking for this and it is not a typical business, but it is not part of the Board's analysis to take that into consideration.

Mr. Hudson concluded the church still has a vibrant community that operates successfully without the need for a digital sign. He was inclined to vote against this variance for this reason.

Mr. Morehead believed Mr. Hudson had a clear understanding of these issues and agreed with his perspective on each point. He believed if this were to be approved, it would significantly change the nature of the surrounding neighborhood. He stated this particular church houses many communities and each of those communities have the opportunity for their own outreach. He believed the individuals stated to need the information presented by the sign are already receiving that information through word of mouth. He believe the church is selling itself short by stating it needs this sign for outreach. He was also inclined to vote against this variance.

Mr. Cloonan concurred with Mr. Morehead and Mr. Hudson. He was primarily concerned about the precedent being set for other facilities who want to install signage. He believed there are other ways to get messages out contrary to what was stated by the church community. He believed it was a stretch to state the community most in need of the outreach would not receive it by any other means beside a sign. He noted the other church signs given as examples are in another business area or on the outskirts/borders of town, so he was unsure how they apply to the current situation. Overall, the churches in this community are given some leeway by being the only institutions that are allowed to have internally lit signs. He did not believe a lightened bulletin board with changing signage would fit the nature of this part of the community. He was inclined to vote against this variance.

Mr. Bergstrom stated he had hoped to hear a better analysis of the KWIK Check Factors by the applicant. He did not believe the church adequately addressed what the Board needed to consider.

MOTION BY MR. HUDSON, SECONDED BY MR. MOREHEAD: TO GRANT BOTH VARIANCES.

MOTION FAILED. VOTE: 4 to 0.

Aye: 0.

Nay: Cloonan, Morehead, Hudson, Bergstrom.

Absent: Rogers.

MOTION BY MR. HUDSON, SECONDED BY MR. MOREHEAD: TO ADJOURN.

Aye: Bergstrom, Hudson, Morehead, Cloonan.

Nay: 0.

Absent: Rogers.

The meeting adjourned at 8:14 p.m.

Heather Amos
Administrative Professional II

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