

Memorandum to the City of Markham Committee of Adjustment

August 09, 2018

File: A/106/18
Address: 198 Elson Street, Markham
Applicant: Abdul Rizwan and Naserah Rizwan Khan
Agent: Abdul Razzq Khan
Hearing Date: Wednesday August 29, 2018

The following comments are provided on behalf of the East Team:

The applicant is requesting relief from the following requirements of By-law 90-81, as amended:

- a) **Section 5.2.1:** a second dwelling unit, whereas the By-law permits no more than one single detached dwelling on one lot; as it relates to an existing basement apartment.

Property Description

The 460.38 m² (4955.48 ft²) subject property is located on the west side of Elson Street, north of Markham Road and East of Middlefield Road. The property is developed with a 301.19 m² (3242 ft²) detached dwelling, which according to assessment records was constructed in 1991. According to the drawings provided by the applicant, the property provides a total of 3 parking spaces, 1 in the garage and 2 on the driveway.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposed secondary suite has direct and separate access provided by an existing door on the east side of the building. No changes are being proposed to the exterior of the dwelling or the property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

2014 Official Plan (partially approved on Nov 24/17, and further updated on April 9/18)

The 2014 Official Plan designates the subject property "Residential – Low Rise", which provides for low rise housing forms including town house dwellings. The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility

for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including: The building type in which the secondary suite is contained;

- a) The percentage of the floor area of the building type devoted to the secondary suite;
- b) The number of dwelling units permitted on the same lot
- c) The size of the secondary suite;
- d) The applicable parking standards; and
- e) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-law 90-81

The subject property is zoned R8 “Eight Density Single Residential” under By-law 90-81, as amended, which does not permit a secondary suite.

Applicant’s Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant on the application form, “*apply minor variance for permit secondary suite*”.

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. Consequently, it is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variances in the application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance application(s) may be required to address the outstanding matters and there will be a delay in application processing.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 09, 2018. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:




Stacia Muradali, Senior Planner, East District
File Path: Amanda\File\ 18 239614 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/106/18

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on July 10 2018, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
3. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite;
4. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects



SITE SUMMARY

ZONING : (RESIDENTIAL)

TOTAL SITE AREA: 460.93 sm (0.11 ac)
4,951 sf

EXISTING BUILDING COVERAGE
157.91 sm (34.25 %)
(1,699.72 sf)

EXT. BUILDING G.F.A.:

GROUND FLOOR 151.52 sm (1,631 sf)
LIVING AREA 119.74 sm (1,288.87sf)
GARAGE AREA 31.77 sm (342 sf)
SECOND FLOOR 117.24 sm (1,262 sf)
TOTAL EXT. G.F.A. 268.76 sm (2,893 sf)

BASEMENT WALKOUT STAIR

AREA 4.94 sm (53.2 sf)

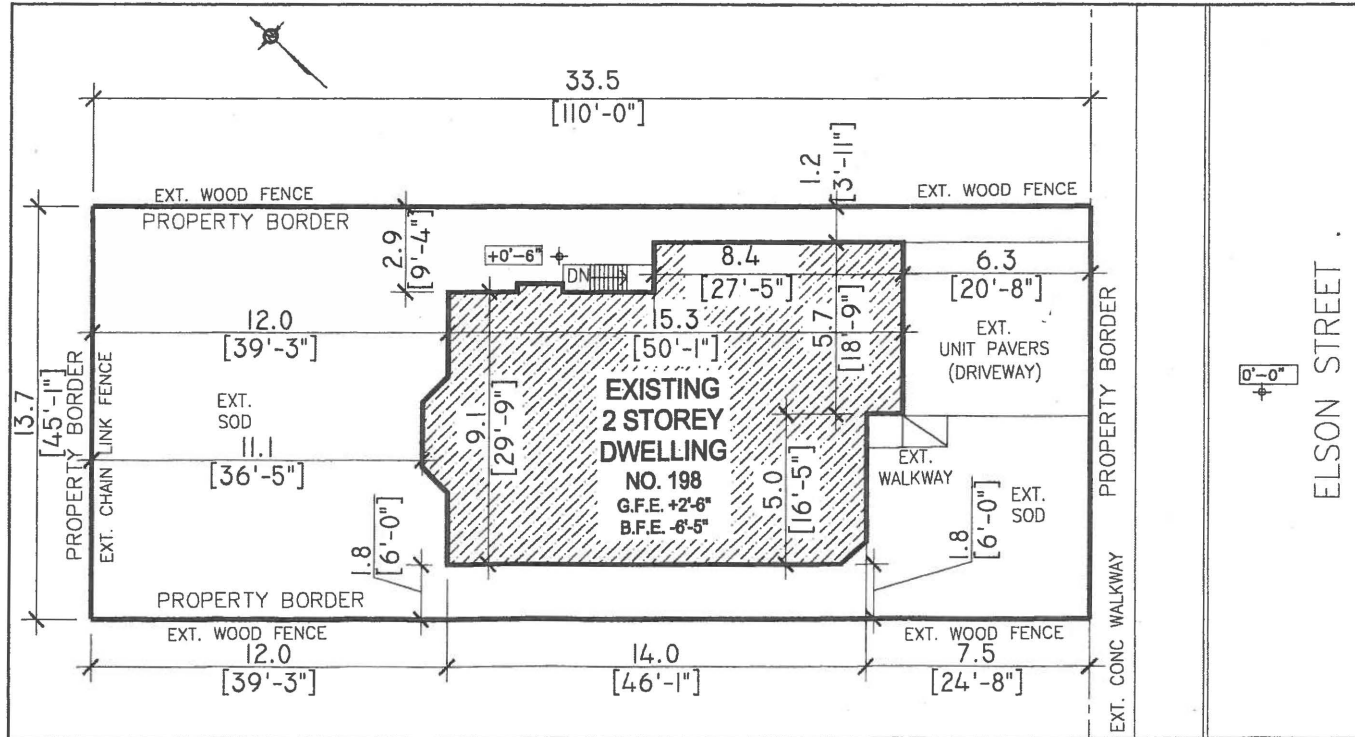
BASEMENT WALKOUT STAIR

SETBACK
FROM NORTH SIDE LOT LINE 1.9 m

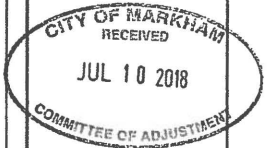
EXISTING SETBACKS FOR DWELLING UNIT

FRONT 6.3M(MIN) - MAX 7.5 m
SIDE (NORTH) 1.2M(MIN) - MAX 2.9M
SIDE (SOUTH) 1.80M(MIN)
REAR 9.9M(MIN)- MAX 10.8M

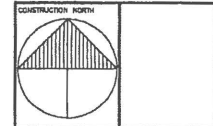
KEY PLAN
N.T.S.



SITE PLAN
SCALE 1/50



NO.	DATE	REVISIONS & ISSUES
1	17-12-27	ISSUED FOR BUILDING PERMIT FOR BASEMENT APARTMENT



PROJECT
RESIDENTIAL HOUSE
198 ELSON STREET
MARKHAM, ONTARIO.

DRAWING	
SITE PLAN	
DRAWN BY AR	PROJECT NO
PLOTTED DATE 2017-12-27	DRAWING NO
SCALE	A0

EXISTING CONSTRUCTION
EXISTING WALL/ PARTITION TO REMAIN

EXISTING WALL/ PARTITION TO REMAIN
1/2 DRYWALL BOTH SIDE WITH INSULATION
TAPED , SANDED PLASTERED PAINTED

EXISTING DWELLING

1 WASHROOM FAN
WASHROOM TO BE MECHANICALLY VENTED TO
PROVIDE AT LEAST 1AIR CHANGE PER HOUR

2 DRYER & STOVE TOP FAN
DRYER & COOKTOP TO BE VENTED
DIRECTLY TO OUTSIDE THROUGH WALL

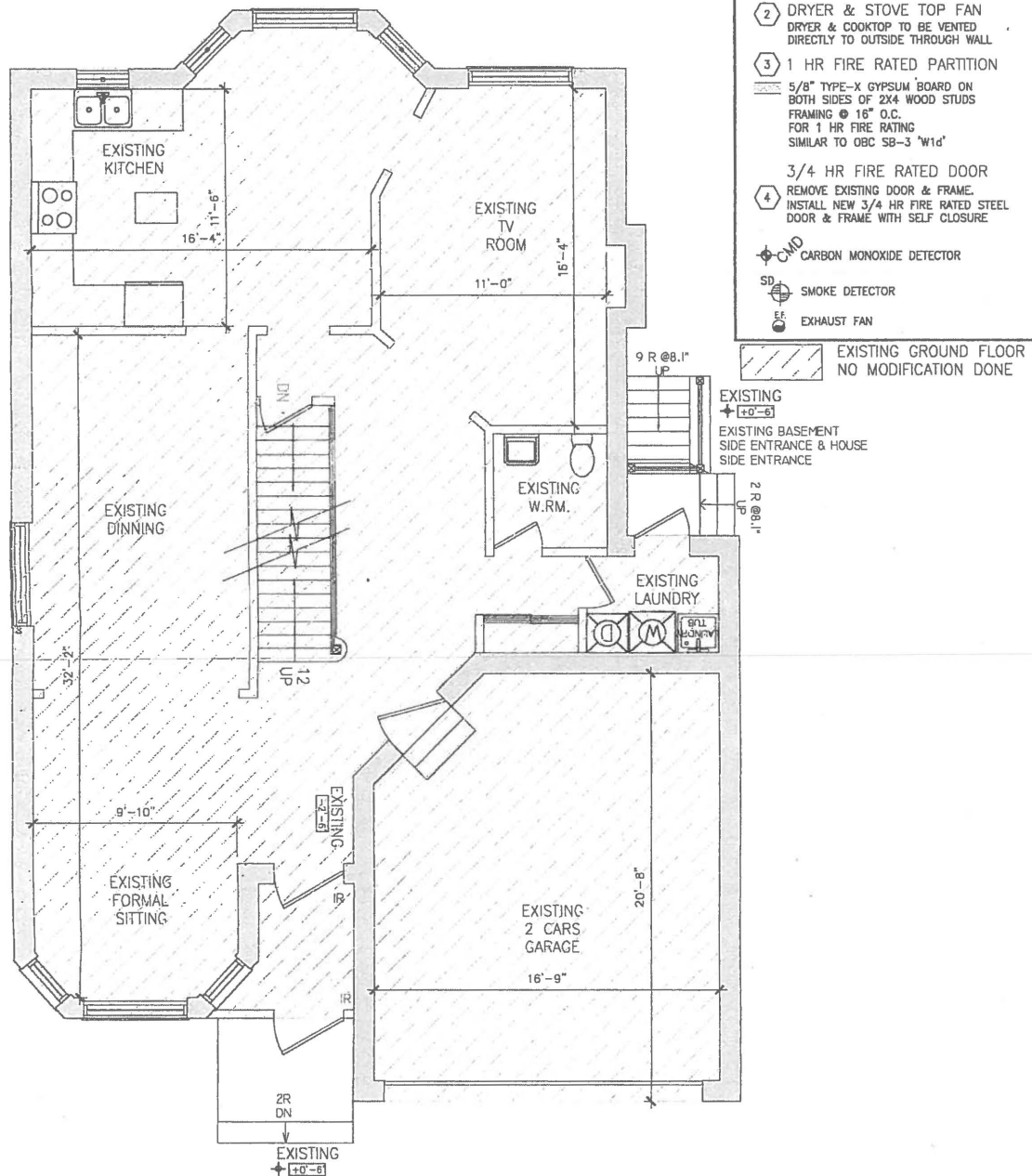
3 1 HR FIRE RATED PARTITION
5/8" TYPE-X GYPSUM BOARD ON
BOTH SIDES OF 2X4 WOOD STUDS
FRAMING @ 16" O.C.
FOR 1 HR FIRE RATING
SIMILAR TO OBC SB-3 "w/d"

3/4 HR FIRE RATED DOOR
REMOVE EXISTING DOOR & FRAME.
INSTALL NEW 3/4 HR FIRE RATED STEEL
DOOR & FRAME WITH SELF CLOSURE

CMD CARBON MONOXIDE DETECTOR

SD SMOKE DETECTOR

EF EXHAUST FAN

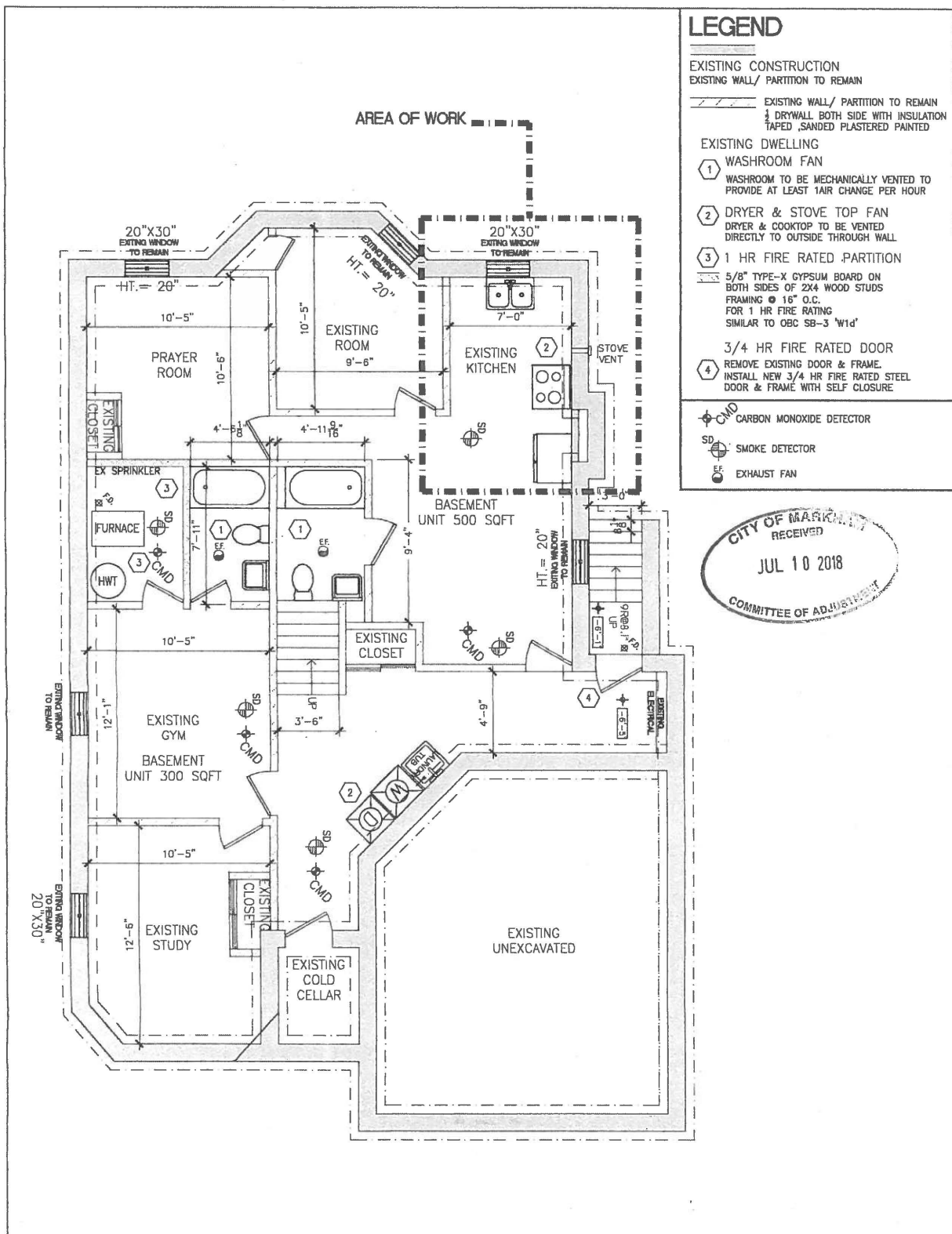


1.	171227	ISSUED FOR PERMIT
NO.	DATE	REVISIONS & ISSUES

PROJECT

RESIDENTIAL HOUSE
198 ELSON STREET .
MARKHAM . ONTARIO

DRAWING GROUND FLOOR PLAN	
DRAWN AR	PROJECT NO 2017-19BEL
PLOTTED DATE DEC-25-2017	DRAWING NO A1
SCALE 3/16"=1'-0"	



CITY OF MARKHAM RECEIVED JUL 10 2018 COMMITTEE OF ADJUSTMENT		<table border="1"> <tr> <td>1.</td> <td>171227</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>NO.</td> <td>DATE</td> <td>REVISIONS & ISSUES</td> </tr> </table>	1.	171227	ISSUED FOR PERMIT	NO.	DATE	REVISIONS & ISSUES	PROJECT RESIDENTIAL HOUSE 198 ELSON STREET . MARKHAM , ONTARIO	DRAWING BASEMENT FLOOR PLAN	
			1.	171227	ISSUED FOR PERMIT						
NO.	DATE	REVISIONS & ISSUES									
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