



CITY OF ROLLINGWOOD BOARD OF ADJUSTMENT MEETING AGENDA

Tuesday, April 19, 2022

Notice is hereby given that the Board of Adjustment of the City of Rollingwood, Texas will hold a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on April 19, 2022 at 6:00 PM. Members of the public and the Board of Adjustment may participate in the meeting virtually, as long as a quorum of the Board of Adjustment and the presiding officer are physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. The public may watch this meeting live and have the opportunity to comment via audio devices at the link below. The public may also participate in this meeting by dialing one of the toll-free numbers below and entering the meeting ID and Passcode.

Link: <https://us02web.zoom.us/j/5307372193?pwd=QmNUbmZBQ1lwUINjNmK5RnJreIRFUT09>

Toll-Free Numbers: (833) 548-0276 or (833) 548-0282

Meeting ID: 530 737 2193

Password: 9fryms

The public will be permitted to offer public comments via their audio devices when logged in to the meeting or telephonically by calling in as provided by the agenda and as permitted by the presiding officer during the meeting. If a member of the public is having difficulties accessing the public meeting, they can contact the city at awayman@rollingwoodtx.gov. Written questions or comments may be submitted up to two hours before the meeting. A video recording of the meeting will be made and will be posted to the City's website and available to the public in accordance with the Texas Public Information Act upon written request.

CALL BOARD OF ADJUSTMENT MEETING TO ORDER

1. Roll Call

PUBLIC COMMENTS

Citizens wishing to address the Board of Adjustment for items not on the agenda will be received at this time. Please limit comments to 3 minutes. In accordance with the Open Meetings Act, the Board of Adjustment is restricted from discussing or taking action on items not listed on the agenda.

Citizens who wish to address the Board of Adjustment with regard to matters on the agenda will be received at the time the item is considered.

CONSENT AGENDA

All Consent Agenda items listed are considered to be routine by the Board of Adjustment and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

2. Discussion and possible action on the minutes from the December 2, 2021 Board of Adjustment meeting

REGULAR AGENDA

3. Discussion and possible action to elect a Chair of the Board of Adjustment
4. Training for the Rollingwood Board of Adjustment provided by Denton Navarro Rocha Bernal and Zech, P.C.

ADJOURNMENT OF MEETING

CERTIFICATION OF POSTING

I hereby certify that the above Notice of Meeting was posted on the bulletin board at the Rollingwood Municipal Building, in Rollingwood, Texas and to the City website at www.rollingwoodtx.gov on Thursday, April 14 at 5:00 p.m.



Ashley Wayman, City Secretary

NOTICE -

The City of Rollingwood is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact the City Secretary, at (512) 327-1838 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

The Board of Adjustment will announce that it will go into executive session, if necessary, to deliberate any matter listed on this agenda for which an exception to open meetings requirements permits such closed deliberation, including but not limited to consultation with the city's attorney(s) pursuant to Texas Local Government Code section 551.071, as announced at the time of the closed session.

Consultation with legal counsel pursuant to section 551.071 of the Texas Local Government Code;
discussion of personnel matters pursuant to section 551.074 of the Texas Local Government Code;
real estate acquisition pursuant to section 551.072 of the Texas Local Government Code;
prospective gifts pursuant to section 551.073 of the Texas Local Government Code;
security personnel and device pursuant to section 551.076 of the Texas Local Government Code;
and/or economic development pursuant to section 551.087 of the Texas Local Government Code.
Action, if any, will be taken in open session.



CITY OF ROLLINGWOOD BOARD OF ADJUSTMENT MEETING MINUTES

Thursday, December 02, 2021

The Rollingwood Board of Adjustment met at the Rollingwood Municipal Building located at 403 Nixon Drive in Rollingwood, Texas on December 2, 2021 at 6:09 p.m. Members of the public and the Board of Adjustment were permitted to participate in the meeting virtually, as long as a quorum of the Board and the presiding officer were physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. The public was permitted watch this meeting live and have the opportunity to comment via audio devices at the link below. The public was also permitted to participate in this meeting by dialing one of the toll-free numbers below and entering the meeting ID and Passcode.

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Toll-Free Numbers: (833) 548-0276 or (833) 548-0282

Meeting ID: 530 737 2193

Password: 9fryms

The public was permitted to offer public comments via their audio devices when logged in to the meeting or telephonically by calling in as provided by the agenda and as permitted by the presiding officer during the meeting. A video recording of the meeting was made and was posted to the City's website and available to the public in accordance with the Texas Public Information Act upon written request.

CALL BOARD OF ADJUSTMENT MEETING TO ORDER

1. Roll Call

Chair Chris Braden called the meeting to order at 6:10 p.m.

Present Members: Chair Chris Braden, Brad O'Donnell, Keith Martinson, and Jim Beneke

Also Present: Attorney Megan Santee, Director of Development Services Carrie Caylor, and Planner Bryce Cox

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

All Consent Agenda items listed are considered to be routine by the Board of Adjustment and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

2. Discussion and possible action on the minutes from the November 4, 2021 Board of Adjustment meeting

Brad O'Donnell motioned to approve the minutes. Keith Martinson seconded the motion. The motion passed 4-0.

PUBLIC HEARING

3. Public hearing, discussion and possible action on a request for variance from the City's Code of Ordinances section 107-76 (C)(2) minimum depth of side yards on a corner lot for 5000 Timberline Drive.

Chair Chris Braden opened the public hearing at 6:12 p.m.

Duke Garwood spoke on behalf of the applicants Matt and Ashley Horne, owners at 5000 Timberline Drive.

Chris Braden closed the public hearing at 6:28 p.m.

Keith Martinson motioned to approve the variance as requested, stating he believed that it met all of the findings as required of the board. Jim Beneke seconded the motion. The motion passed 4-0.

4. Public hearing, discussion and possible action on a request for variance from the City's Code of Ordinances section 107-34 (C)(1) that fences on a corner lot may be no closer than 15 feet from the edge of the curb closest to the property for 502 Riley Road

Chair Chris Braden opened the public hearing at 6:33 p.m.

Property owner Jami Bonyun addressed the board.

Chris Braden closed the public hearing at 6:36 p.m.

Keith Martinson motioned to approve the request for variance, stating he believed that it met the requirements for variance by the board. Chris Braden seconded the motion. The motion passed 4-0.

REGULAR AGENDA

5. Discussion and possible action to adopt a set of rules for the Board of Adjustment
Bryce Cox with Denton Navarro addressed the Board regarding the document versions shown in the packet.

Chris Braden motioned to adopt the draft version of the rules. Keith Martinson seconded the motion. The motion passed 4-0.

6. Discussion and possible action on the application forms

Bryce Cox with Denton Navarro addressed the Board regarding the changes made to the application forms.

Chris Braden motioned to approve the application form. Brad O'Donnell seconded the motion. The motion passed 4-0.

7. Discussion and possible action on findings documents for variances

Bryce Cox with Denton Navarro described the findings document included in the packet.

Keith Martinson motioned to approve the findings document. Chris Braden seconded the motion. The motion passed 4-0.

8. Discussion regarding intent to continue serving on the Board of Adjustment

All members stated that they would continue to serve on the Board of Adjustment if reappointed.

ADJOURNMENT OF MEETING

The meeting was adjourned at 6:50 p.m.

Chris Braden, Chair

ATTEST:

Ashley Wayman, City Secretary

Rollingwood Zoning Board of Adjustment

Rules of Procedure.

- 1) Preface. The Rollingwood Board of Adjustment (the “Board”) is appointed by the Mayor and confirmed by the City Council to fulfill the duties prescribed in Texas Local Government Code Sections 211.008 through 221.011 and Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City’s Code of Ordinances. In the event of a conflict between these rules and the applicable statutory authority or city code, the statute or code shall prevail.
- 2) Purpose and scope. These rules of procedure shall govern the operations of the Board in conducting the business authorized by state statute and the city code, which includes deciding appeals of administrative decisions and/or interpretations made in the enforcement of the City’s zoning regulations (“appeal”); authorizing variances from the City’s zoning regulations in particular cases (“zoning variance”), and deciding special exceptions to the terms of the City’s regulations (“special exception”).
- 3) Election of officers.
 - a. The Board shall consist of five regular members and four alternates.
 - b. Members of the City Council or Planning and Zoning Commission are not eligible for appointment to the Board.
 - c. The officer of the Board shall be a chairperson. There is no limit on the number of terms an officer may serve. The chairperson shall serve for a term of 1 year, commencing on January 1 and ending on December 31, except that upon expiration of the term the chairperson shall continue to serve until his or her successor is elected.
 - d. At the first meeting of the board following January 1 of each year, the chairperson shall ask for nominations for chairperson and close the nominations after all members have had an opportunity make a nomination. If there is only one nominee, the nominee shall be appointed unless an objection is raised, and the objection is supported by a majority of the members. If there are multiple nominees, the vote shall be by written ballot; and by runoff ballot in the case of a tie between two or more nominees or other means approved by the Board.
- 4) Presiding Officer and Secretary. The Chairperson shall preside over all meetings of the Board. If a question over meeting procedures shall arise, Robert’s Rules of Order, Newly Revised, shall apply. The City Secretary shall serve as Secretary to the Board.
- 5) Minutes and Records. The minutes of each proceeding shall indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. These minutes and records shall be prepared as soon as practicable after each meeting and upon approval by the Board shall be filed immediately in the Office of the City Secretary, which shall serve as the office of the Board.

- 6) Meetings. Meetings shall be convened as necessary to hear appeals or consider variances and special exceptions as filed. All meetings shall be open to the public.
- 7) Voting. The concurring vote of at least 75% of the members of Board is required (i) on an appeal to reverse an order, requirement, decision or determination of an administrative officer; (ii) to decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; (iii) to authorize a zoning variance from the terms of the zoning ordinance; or (iv) to hear and decide on special exceptions to this chapter. The concurring vote of a majority of the members of the Board is required to approve any other matter. All votes shall be by roll call.
- 8) Application forms. An application for an appeal of an order, requirement, determination, or decision of an administrative official, special exception, or variance shall be submitted on a form approved by the City. An application shall include all evidence the applicant intends to submit in support of the requested action. The application shall include the appropriate fee as set out in the City's fee schedule.
- 9) Hearing required. The Board shall hold a hearing on an administrative appeal, special exception, or a variance. These hearings should generally adhere to the following format, but the Board may modify the format for particular cases as deemed appropriate:
 - a. Standing to Submit an Application & Requests for Postponement.
 1. The chair should begin by stating: "Before we open the hearing, are there any requests for postponement or issues of standing that anyone would like to raise?"
 2. If objections to standing (which include issues of timeliness, jurisdiction, or ripeness) or requests for postponement are raised, the chair should resolve them before proceeding to the hearing. The chair should limit testimony and discussion to only those issues, not the merits of the case. If no objections are raised, the chair should open the hearing and follow the format below.
 - b. Presentation by staff. Time limit 20 minutes.
 - c. Presentation by applicant. Time limit 20 minutes
 - d. Neighboring Party. Comments by any neighboring party which is located within 250 feet of the subject property in support of or in opposition to the application. Time limit of 10 minutes each.
 - e. Interested Party. Comments by Interested Parties in support of or in opposition to the application (3 minutes each), subject to reasonable limits imposed by chair to save time and avoid redundant or irrelevant testimony.
 - f. Rebuttal by applicant. Time limit 10 minutes.
 - g. Rebuttal by staff. Time limit 10 minutes.
 - h. After the close of the presentations, Members may ask questions of the applicant, staff, Neighboring parties, or Interested Parties. There shall be no time limit for members' questions.

- i. By majority vote of the Board additional time may be given for the hearing of testimony.

10) Deliberation, Voting and Findings.

- a. Board Deliberation. At the close of the hearing the chairperson may call for deliberation of the Board on the question. During deliberation a board member may call upon any staff, the applicant, Interested Parties, or other individuals the board deems also have relevance to the case for further questioning.
- b. Disposition.
 - i. Administrative Appeal. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City’s Code of Ordinances for regulations regarding Administrative Appeals.
 - ii. Zoning Variance. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City’s Code of Ordinances for regulations regarding Zoning Variances.
 - iii. Special Exceptions. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City’s Code of Ordinances for regulations regarding Special Exceptions.
 - iv. The Board may defer action on an application, for not more than the time frame allowed by law, if it concludes additional evidence is needed, alternative solutions require further examination, or the evidence presented requires further review.
 - v. The Board may dismiss or postpone consideration of an application if it is found the matter was improperly filed.

11) Board Decisions.

- a. The Board shall make a decision on each appeal, request for a variance or application for a special exception. The Board may make such order, requirement, decision or determination as, in its opinion, ought to be made under the circumstances on such appeal, request or application.
- b. The Boards decisions shall be recorded by order, signed by the Presiding Officer, on a form as approved by the Board.
- c. A Board decision is considered filed in its office upon execution of an order on the matter by the Presiding Officer. The order will be filed on a form as approved by the Board.

12) Prohibition on Ex Parte Communications.

- a. Quasi-Judicial Body. The Board is a quasi-judicial body with authority to decide the rights of individual parties, subject to the requirements of state law and the City’s code of ordinances. In deference to its decision-making role, no one other than City staff may contact a board member outside of a hearing regarding a matter that is pending, or may in the future be

pending, before the Board. All communications directed to a Board member outside of a hearing should be directed to the City Secretary.

- b. Limitations on Outside Investigations. Members shall not individually investigate cases before the Board, other than routine site visits or reviewing publicly available information.
- c. Disqualification. A Board member that receives material information regarding a case other than the publicly filed documents and presentation at the hearing is disqualified from participating in the case unless the member publicly discloses the information and its source at the earliest reasonable opportunity. A Board member may disqualify him or herself if an applicant, interested party, or agent has sought to influence the member's vote other than in a hearing.

14) Limitations on Authority of Zoning Board of Adjustment:

- a. The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.
- b. The Board shall have no power to grant or modify Special Use Permits.
- c. The Board shall have no power to grant a zoning amendment. If a written request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
- d. The Board shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, is pending on the agenda of the commission and, where applicable, by the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board.

City of Rollingwood

Zoning Board of Adjustment

Presented by: Denton Navarro
Rocha Bernal & Zech, P.C.

Zoning Commission

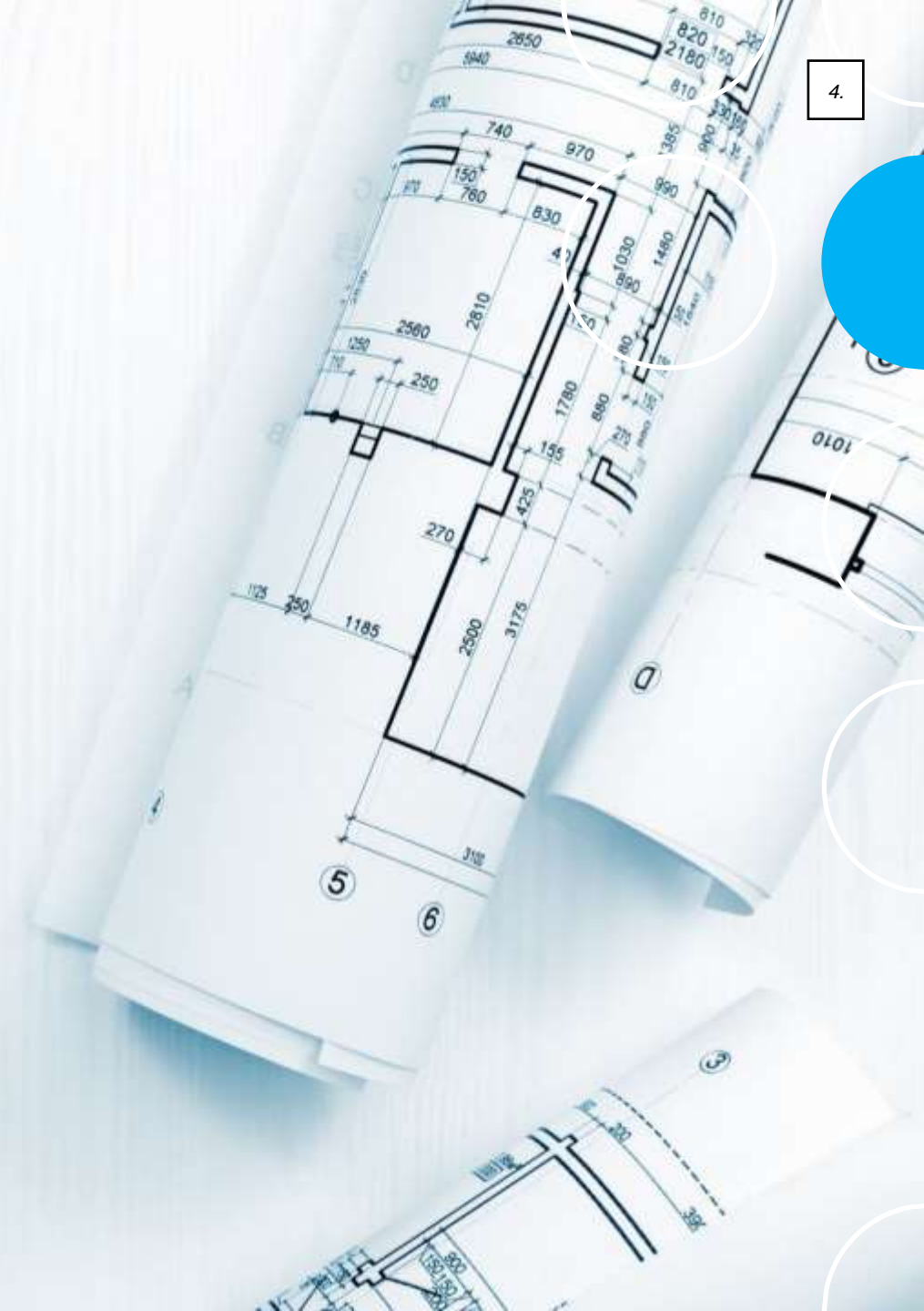
Performs
advisory
functions

Develops a
comprehensive
zoning plan

Reviews and
reports on
amendments to
zoning

Focus is usually
on large scale
planning issues

Zoning is Discretionary



Zoning Board of Adjustment

More of an action
agency

Deals with issues
on a tract-by-
tract basis

Quasi - judicial

Zoning Board of Adjustment



CITY MAY CREATE



MUST BE BOARD SEPARATE
FROM CITY COUNCIL IN
HOME RULE CITY

Zoning Board of Adjustment

- LGC Sections 211.008-211.011
 - Five members
 - Two-year terms
 - Mayor appoints; City Council approves the appointment slate
 - Mayor appoints Alternates ensure quorum; City Council approves
 - Removal only for cause





Zoning Board of Adjustment

- LGC Sections 211.008-211.011
 - Alternate members may be appointed to serve in the absence of one or more regular members when requested by the mayor or city manager (by ordinance)
 - Each case must be heard by at least 75% of the membership

Zoning Board of Adjustment

- LGC Sections 211.008-211.011
 - The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter and with the approval of the governing body.
 - The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses.
 - All meetings of the board shall be open to the public.
 - Each case must be heard by at least 75% of the membership.



Zoning Board of Adjustment

- LGC Sections 211.008-211.011
 - The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote.
 - The board shall keep records of its examinations and other official actions.
 - The minutes and records shall be filed immediately in the board's office and are public records.
-

Zoning Board of Adjustment

- LGC Sections 211.008-211.011
 - Decide appeals from a decision of an administrative official regarding the Zoning Ordinance
 - May reverse, affirm, or modify an administrative official's order, requirement, or decision
 - Authorize a variance if:
 - public interest is served;
 - substantial justice is achieved; and
 - **unnecessary hardship** would otherwise result
 - Hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;
 - Decide other matters authorized by ordinance under the Chapter 211 Subchapter A



Rules of Procedure

Rules of Procedure

Preface

Purpose and Scope

Election of Officers

Presiding Officer, Secretary

Minutes and Records

Meetings

Voting

Application Forms

Hearing Required

Deliberation, Voting, and Findings

Board Decisions

Prohibition on Ex Parte Communications

Limitations on Authority of Zoning Board of Adjustment

Procedures con't

The Board and Selection of Officers

Presiding Officer, Secretary, Legal Counsel, Minutes and Records

Consultants and Volunteer Assistance

Quorum and Absences

Meetings

Public Comment

Motions and Discussions

Voting on Motions

Reconsideration of Decisions

Conflicts of Interest



What Board of Adjustments CANNOT do

Grant	Grant a “use” variance
Grant	Grant an increase to the variance requested
Overturn	Overturn a staff decision, authorize a variance from the zoning ordinance, or approve an applicant’s request with less than 75% of the affirmative votes of the members

What Board of Adjustments CAN do

Grant variance that will:

- Not be contrary to public interest
- Where due to special conditions literal enforcement would result in unnecessary hardship
- So that the spirit of the ordinance is observed, and substantial justice is done

Board of Adjustments is the escape valve for the Zoning Ordinance when land does not fit ordinance mold

Unnecessary Hardships

- What they are NOT
 - Property that cannot be used for its highest and best use
 - Financial or economic hardship
 - Self created hardship
 - The development objectives of the property owner are or will be frustrated
 - Structures
-



Practical Tips

1

BE CAUTIOUS –
DON'T SPEED
UP THE
PROCESS.

2

TREAT ALL
APPLICANTS
FAIRLY.

3

MAKE PROPER
FINDINGS.

4

FRAME
COMMENTS IN
OBJECTIVE
TERMS.

5

BE ATTENTIVE!

Questions?

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