

CITY OF PEORIA
ZONING BOARD OF APPEALS MEETING
OCTOBER 14, 2010
CITY HALL, 419 FULTON STREET, ROOM 400 —1:30 PM

AGENDA

1. ROLL CALL
2. APPROVAL OF SEPTEMBER 9, 2010, MINUTES
3. REGULAR BUSINESS

CASE NO. ZBA 2927

Petitioner Doyle Signs, Inc. (Lisa Neal, Agent) is requesting a variance from the City of Peoria Zoning Ordinance: Article 17.11.c.(2), allowing a freestanding sign to be greater than 70 square feet in area for the property located at 5901 W. Route 150 (1 Sprinkler Lane).

4. ADJOURNMENT

Inquiries: Gene Lear, (309) 494-8604 or glear@ci.peoria.il.us

: OFFICIAL PROCEEDINGS :**: OF THE CITY OF PEORIA, ILLINOIS :**

A Zoning Board of Appeals Meeting was held on Thursday, September 9, 2010, at approximately 1:32 p.m., City Hall, 419 Fulton Street, Council Chambers, Room 400, with Chairperson Weaver presiding.

ROLL CALL

The following Zoning Board of Appeals Commissioners were present: Chairperson Weaver; and Commissioners Barry; Blackwell; Ierulli; Jackson; and Kouri – 6. Absent: Wagner - 1.

PGM Staff Present: Gene Lear, Shannon Techie, and Polly Stainback

MINUTES

Commissioner Barry moved to approve the minutes of the meeting held on August 12, 2010; seconded by Commissioner Blackwell.

Approved by viva voce vote.

Chairperson Weaver explained the meeting procedures, and Ms. Stainback administered the swearing in for those planning to give testimony.

CASE NO. ZBA 2926 PETITIONERS ROBERT and VIRGINIA DEWALT are requesting the following three variances from the City of Peoria Zoning Ordinance: Article 3.2.f.(4), allowing a FENCE in the FRONT YARD without following the administrative approval process; Article 3.2.f.(4)(c)(1), allowing a fence, 6 feet in height with an additional 8 inches for the fence posts; and Article 3.2.f.(4)(c)(2), allowing a fence less than 40 percent open in design. These variances apply to the front yard along GLEN AVENUE for the property located at **4826 N. BIGELOW STREET.**

Chairperson Weaver announced Case No. ZBA 2926 and asked Gene Lear to read the case into the record.

Gene Lear, Senior Urban Planner, City of Peoria, Planning and Growth Management, read Case No. ZBA 2926 into the record as listed above. He explained that the Commission had to either make a decision, "Yes" or "No." If "Yes," the petitioners could keep their fence without applying for a front yard fence permit; if "No," the petitioners would have to remove the fence from the front yard.

Mr. Lear reported the following Staff conclusions and recommendations:

STAFF CONCLUSIONS AND RECOMMENDATIONS:

Standards for front yard fences require that the Zoning Administrator consider that the fence does not exceed four feet in height, that it shall be at least 40% open in design and that the proposed fence shall not alter the established character of the neighborhood. Therefore, the proposed fence, which is existing, cannot be approved administratively by the Zoning

Administrator. However, if the Zoning Board of Appeals grants all of the requested variances, the existing six-foot privacy fence will be allowed without going through the administrative approval process.

After reviewing the petitioner's application and performing a site inspection, the SPRB recommends denial of the submitted request for the above stated variances for the following reasons:

1. There is no practical difficulty or particular hardship which would cause the need for a six-foot solid fence. There are no unique or exceptional characteristics of this property which would prevent it from meeting the requirements of the Zoning Ordinance.
2. If granted, the proposed variances would establish a precedent allowing solid, six-foot fences, which the Zoning Board of Appeals has consistently denied, not only in this neighborhood, but in the entire City of Peoria, which would alter the essential character of neighborhoods citywide.
3. The existing fence does not meet the standards for front yard fences.

Mr. Lear displayed the subject property on the corner of Bigelow and Glen Avenue and pointed out the portion of the fence that was not in compliance with the Zoning Ordinance. He explained where the fence could be placed to be in compliance. He also displayed other area properties which had no front yard fences, as well as the existing subject fence.

Mr. Lear indicated that the previous fence on the subject property had been in place approximately 50 years and taken down. He pointed out that prior to 1984, front yard fences of any kind were not permitted in the City of Peoria. He explained that even if the subject property was not in the City of Peoria when the original fence was installed, the fact that the fence was removed caused it to lose its nonconforming status. He reiterated that this fence in this location was not installed in compliance with the City of Peoria Zoning Ordinance, as the approval process for placement, location, and openness was not followed.

There being no questions of Mr. Lear, Chairperson Weaver opened the floor for public testimony.

Tom Hoehne, Peoria, attorney, indicated that he was representing Bob DeWalt. He explained the following main points:

- The DeWalts moved into their home in about 1985 or 1986.
- When they moved there, there was a fence on the premises in the same location as the existing fence.
- Because the fence was getting old, Mr. DeWalt had a six-foot fence installed by D's Fencing Company in 1986 or 1987 in the same location. He assumed that the fencing company would have taken all necessary measures to make sure the fence complied with all regulations.
- Three or four years ago, that fence was removed because it was dilapidated. He then hired someone and purchased the five-foot existing fence with lattice on it, which might make it six feet. This fence was placed in substantially the same place as the previous two fences.
- Approximately three years later, at a meeting held here, there was discussion regarding this fence.

- Never once during this entire period of time, has his client received a complaint about the fence. Mr. Hoehne pointed out there was no one present to make any objection to the fence. To the contrary, he has heard from several of his neighbors who do not understand what the problem is and have no problem with the fence.

Mr. Hoehne stated, "We are asking that you allow these variances." He said that demolition of this fence would change the character of the neighborhood. He also stated, "That is his back yard; I don't care what you call it." He went on to say that he thought due to circumstances such as these and a person who cares about his property and maintains it, the Commission had the discretion to find that there is not a violation; or if there is, there is good cause for allowing these variances. He said he did not think it would set any kind of precedent, but rather that it was good sense for a couple who have been good citizens in this community for many years.

In discussion with Chairperson Weaver, Petitioner Robert DeWalt confirmed Mr. Hoehne's statements as accurate.

Ms. Stainback swore in Mr. Matthys for his testimony.

Hector Matthys, Peoria, was very apologetic for causing this problem and stated it was not his intention. In discussion with Chairperson Weaver, Mr. Matthys indicated that his intent was to show that his fence would not disturb the aesthetics of the neighborhood because there were similar fences in the area.

During discussion with Chairperson Weaver, Mr. Matthys stated that he would have no objection to addressing the requested variances and would be greatly disappointed if Mr. DeWalt's fence was not approved. Stating for the record, he indicated that it would not change his position on any future variance filings and said that he planned to leave the City of Peoria prior to doing anything with his fence.

Mr. Lear spoke in disagreement with Mr. Hoehne regarding the setting of a precedent. He stated that if the variances were granted, he could guarantee that other property owners would apply for variances. He said it may be a fence right on the property line, may not be a nice looking fence, and maybe the neighborhood would not approve; but if the Commissioners approve this one, it would be hard to deny another front yard fence since it would not be different in terms of the law.

Mr. Lear commented that if the petitioners' requests were denied by the Board, the petitioners could appeal their decision to the Circuit Court. He asked Ms. Techie to go over how Staff received this complaint.

Shannon Techie, Urban Planner, City of Peoria, Planning and Growth Management Department, explained that during discussion for a variance of a six-foot fence at the May 13, 2010, meeting, the subject fence was mentioned as an example of another six-foot front yard fence in the area. The question was raised by Commissioners regarding if the fence was legal. She further stated that this was an enforcement case that resulted from the meeting in May.

Mr. Lear explained that once the information on the violation was received, even if this Commission had said nothing, the department would have been duty bound to address this violation. He reiterated that a fence could be placed on the subject property but not at this location. He disagreed with Mr. Hoehne's comment that this was a rear yard. He again

displayed the property and pointed to the portion in violation and stated, "Per the Zoning Ordinance, it is not a rear yard; it is a front yard."

Mr. Matthys reiterated his concern that "his ignorance of a permit" caused this problem and stated that it was his fault because he tried to go through the legal channels. He stated, "It is disappointing."

Chairperson Weaver indicated that he personally felt disappointed. He spoke of "awareness." He questioned the process issue of how the complaint was filed and whether complaints should be written.

In discussion with Chairperson Weaver, Mr. Lear explained that Staff did not have to have a written complaint. He said most complaints were received over the phone with the correct address.

Chairperson Weaver asked about the mention of the complaint at the meeting. Mr. Lear indicated that a Commissioner asked if this was a complaint and if they had a permit for this fence. Based on that fact, Staff is now looking at this fence as a violation. He reiterated that Staff is duty bound to address the complaint.

Ms. Techie read from the minutes of the May 13, 2010, meeting as follows:

"Referring to Mr. Matthys' comment regarding a similar fence at 4826 N. Bigelow, Mr. Lear mentioned that there were no permits issued for that property. He explained the fence at Bigelow is not a legal fence, but an illegal fence. He further stated that had the owner of the Bigelow property applied for a fence, it would have been denied. He responded to Commissioner Jackson that the Bigelow fence would be investigated as a violation."

Discussion ensued regarding the complaint process. Mr. Lear reiterated the department's being "duty bound to enforce the Zoning Ordinance."

Mr. Matthys questioned whether or not Mr. Lear is "duty bound" to file complaints on violations that he sees as he travels throughout the City. Mr. Lear explained that in terms of enforcing the Zoning Ordinance, the Planning and Growth Management Department operates on a "complaint basis," and because this violation was brought before the Commission, Staff was duty bound to enforce the Zoning Ordinance. He concurred with Commissioners Blackwell and Jackson that the issue before this Commission now is whether to say, "Yes" or "No" to the requested variances.

Ms. Techie explained that Staff has enforced other properties during the processing of a front yard fence application or Zoning Board of Appeals hearing. She gave one example of a corner property on Alex Drive, in which a six-foot fence was placed closer than 10 feet from the property line. She said they applied through the administrative approval process for the fence, and it was denied. It went before the Zoning Board of Appeals as an appeal. During the review process, Staff found another similar fence near the Alex property, and Staff also did enforcement on that property. She indicated that when Staff processes applications, they examine other fences in the area, as well.

Mr. Matthys disagreed with Mr. Lear regarding "awareness." He said that when Mr. Lear is out, he should not be "blind" to other violations because that is an avenue of "awareness."

Mr. Hoehne spoke regarding the City having sat on its rights with respect to this particular parcel for 40 to 50 years. He said there has to be some limitation that would affect these proceedings. He referred to Mr. Matthys' comments as a concerned citizen. He indicated there were a number of ways that Commissioners could allow what is productive and what is good ownership to continue. He indicated that he thought that the Commissioners could conclude that under the facts and circumstances heard today, these variances make sense; and he asked that they so rule.

In discussion with Chairperson Weaver, Mr. Lear referred to "grandfathering" as nonconformity. He stated that if it was in the County, and the fence was legal when it came into the City of Peoria, it lost its nonconforming use when the fence was removed and had to comply with the Zoning Ordinance.

There being no more testimony, Chairperson Weaver closed the public portion of this case.

DELIBERATION OF CASE NO. ZBA 2926:

Chairperson Weaver administered the Findings of Fact.

Commissioners agreed there was no hardship presented.

Motion:

Commissioner Jackson motioned to **deny** the requested variances. The motion was seconded by Commissioner Barry.

Chairperson Weaver indicated that he was probably going to vote against the motion because of what he assumes is right and wrong. He mentioned that a fence had been there for 40 years, and he was not comfortable with the process.

Commissioner Blackwell stated that he did not think how it came to the Board was a concern. He said the Board makes a decision based on information presented.

Commissioner Ierulli stated that regardless of how the complaint was assigned, the petitioner applied for the variances.

Chairperson Weaver entered a letter from Molly Black, a neighbor, who spoke in support of the variances requested. He marked the letter as Petitioner's Exhibit 1.

Motion was approved to **deny** the requested variances by roll call vote 5 to 1.

Yeas: Barry, Blackwell, Ierulli, Jackson, and Kouri;
Nays: Weaver.

WELCOME TO COMMISSIONER STEVIE KOURI:

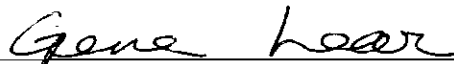
Chairperson Weaver welcomed newly appointed Commissioner Stevie Kouri.

ADJOURNMENT


Commissioner Jackson moved to adjourn the regular meeting of the Zoning Board of Appeals; seconded by Commissioner Barry.

Approved unanimously by viva voce vote.

The Zoning Board of Appeals Meeting adjourned at approximately 2:20 p.m.

A handwritten signature in cursive script, reading "Gerfe Lear", written over a horizontal line.

Gerfe Lear, Senior Urban Planner
Planning and Growth Management Department

A handwritten signature in cursive script, reading "Shannon Techie", written over a horizontal line.

Shannon Techie, Urban Planner
Planning and Growth Management Department

/ps

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TO: City of Peoria Zoning Board of Appeals Commissioners

THRU: Site Plan Review Board

FROM: Gene Lear, Senior Urban Planner

DATE: October 7, 2010

**SUBJECT: RECOMMENDATION FROM STAFF AND SITE PLAN REVIEW BOARD
FOR CASE NO. ZBA 2927**

PETITIONER: Lisa Neal, Doyle Signs, Inc.

LOCATION: 5901 W Route 150 (1 Sprinkler Dr)

BACKGROUND:

Petitioner Lisa Neal of Doyle Signs, Inc., representing Bosch, is requesting a variance from the Zoning Ordinance of the City of Peoria, Section 17.11.c.(2) *Limitations for Area and Sign Height*, to allow for a freestanding sign to be greater than 70 square feet in area.

The property is located at 5901 W Route 150 (1 Sprinkler Drive) in the I1 Industrial/Business Park District.

SPRB CONCLUSIONS AND RECOMMENDATIONS:

After reviewing the petitioner's application and performing a site inspection, SPRB recommends denial of all of the requested variances for the following reasons:

1. The lot is not restricted by topography or shape. Although the lot is large, it is similar to surrounding properties.
2. The practical difficulty is created by the current owner.
3. There is no unique hardship.



September 2, 2010

Re: **Request for Sign Variance**
Robert Bosch Tool Corporation
1 Sprinkler Lane
Peoria, IL 61615

To Whom It May Concern:

Robert Bosch Tool Corporation, the owner and operator of the facility at 1 Sprinkler Lane, is requesting a variance for a new monument sign along War Memorial Drive. A variance is being requested to allow the relocation of an existing sign from another Bosch facility to the Peoria site. This existing sign is slightly larger than the Peoria sign ordinance allows. By granting this variance, Robert Bosch Tool will avoid the unnecessary costs and resources to construct a new, compliant sign.

I hereby authorize Advertising Products Incorporated of Elk Grove Village, Illinois and its agents, and Doyle Signs Incorporated of Addison, Illinois and its agents, to represent the Robert Bosch Tool Corporation in its request for a variance related to this proposed sign in its Peoria facility located at One Sprinkler Lane.

If there are any questions regarding this authorization, i can be reached at david.luepke@us.bosch.com or by mobile phone at (708) 870-0096.

Regards,

A handwritten signature in black ink, appearing to read 'DL', written over a horizontal line.

David Luepke
Director, Environmental, Safety & Facilities Services
Robert Bosch Tool Corporation

Cc: API Glenn Rebechini



CITY OF PEORIA
APPLICATION FOR VARIANCE/ZONING BOARD OF APPEALS

For Office Use Only	
Date	_____
Received:	_____
Time:	_____
Initials:	_____

I. PROPERTY INFORMATION:

- A. Street address: 8901 ~~W.~~ ROUTE 150 Zip Code + 4 _____ - _____
- B. Tax ID number: 13-10-200-003
- C. Legal description (required to be on attached form, "Attachment A", Legal Description, typed, single-spaced, one inch (1") margins)
- D. Area (square feet or acres): _____
- E. Current property use: _____
- F. Current zoning district: II

II. APPLICANT(S):

- A. Name: Doyle Signs, Inc. (Lisa Neal Agent)
- B. Company name: Doyle Signs, Inc.
- C. Address (Street, City, Zip + 4): 232 W. Interstate Road Addison, IL 60101-4514
- *E-mail Address: Permits@DoyleSigns.com
- D. Daytime phone number: 630-543-9490
- E. Interest in subject property: Owner ☒ Representative
- F. Applicant(s) signature(s): Lisa Neal Date: 9/10/2010
- _____ Date: _____

III. OWNER(S) OF SUBJECT PROPERTY:

- A. Name: Robert Bosch Tool Corporation
- B. Company: Robert Bosch Tool Corporation
- C. Address (Street, City, Zip): One Sprinkler Lane Peoria, IL
- * Email Address: _____
- D. Daytime phone number: 708-870-0096
- E. Owner(s) signature(s): Please see attached Date: _____

***PLEASE NOTE: EMAIL WILL BE USED FOR ALL CORRESPONDENCE UNLESS OTHERWISE REQUESTED.**

CORRESPONDENCE/COMMUNICATION TO BE SENT TO: Select only one

☒ Applicant ☐ Owner

IV. VARIANCE INFORMATION:

A. 1. Variance being requested To allow for more square footage than allowed by the current
sign code.

2. From what section of the zoning ordinance is a variance being requested? _____

B. What unique or exceptional characteristics of your property prevent it from meeting the requirements in your zoning district? (Check applicable)

Too narrow ☐ Too small ☐ Soil ☐

Subsurface ☐ Elevation ☐ Slope ☐

Too shallow ☐ Shape ☐ Other ☐

C. What is your hardship? Please be specific. Bosch would like to use an existing sign
from another location rather than putting forth the extra expense to fabricate a new sign.

D. Are the conditions of the hardship, for which you are requesting a variance, true only of your property?
☐ Yes ☒ No

If not, what number of properties are similarly affected? _____

E. If granted a variance in the form requested, will it be in harmony with the neighborhood and not contrary to the intent and purpose of the Zoning Ordinance?

☒ Yes ☐ No

Please elaborate: The sign will adhere to the sign code in all other aspects with the
exception of the overall square footage.

V. FILING FEE (MUST ACCOMPANY APPLICATION):

Variance Application Fees for any property in the City shall be as set forth in the table below:

Zoning Ordinance Section 2.17.a (1) Variance Application Fees Table

Land Development Code Section 2.14.a Variance Application Fees Table:

<u>Variance Application Fees (Non-refundable)</u>	<u>Residential, Before Construction</u>	<u>Residential, After Construction</u>	<u>Non-Res., Before Construction</u>	<u>Non. Res., After Construction</u>
<u>Administrative Variations all, (<20%)</u>	<u>\$150</u>	<u>\$300</u>	<u>\$300</u>	<u>\$600</u>
<u>Principal Structure, Major</u>	<u>\$350</u>	<u>\$700</u>	<u>\$475</u>	<u>\$950</u>
<u>Accessory Structure, Major</u>	<u>\$250</u>	<u>\$500</u>	<u>\$425</u>	<u>\$850</u>
<u>Signs & Multi-Family/Sub. Signs, Major</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Fence, Major</u>	<u>\$250</u>	<u>\$500</u>	<u>\$425</u>	<u>\$850</u>

A. MINOR VARIANCE – Requires Administrative Approval
Ordinance Section: 2.12.b. (1) Minor Variations. Minor variations from height, yard (with the exception of transitional buffer yard requirements), bulk, lot area, and fence height provisions of this Ordinance that are less than twenty percent (20%) of the required standard. (For example, a variation from a required 20-foot yard setback in an amount of less than 4 feet is a minor variation.) No minor variation shall be allowed in a Form District.

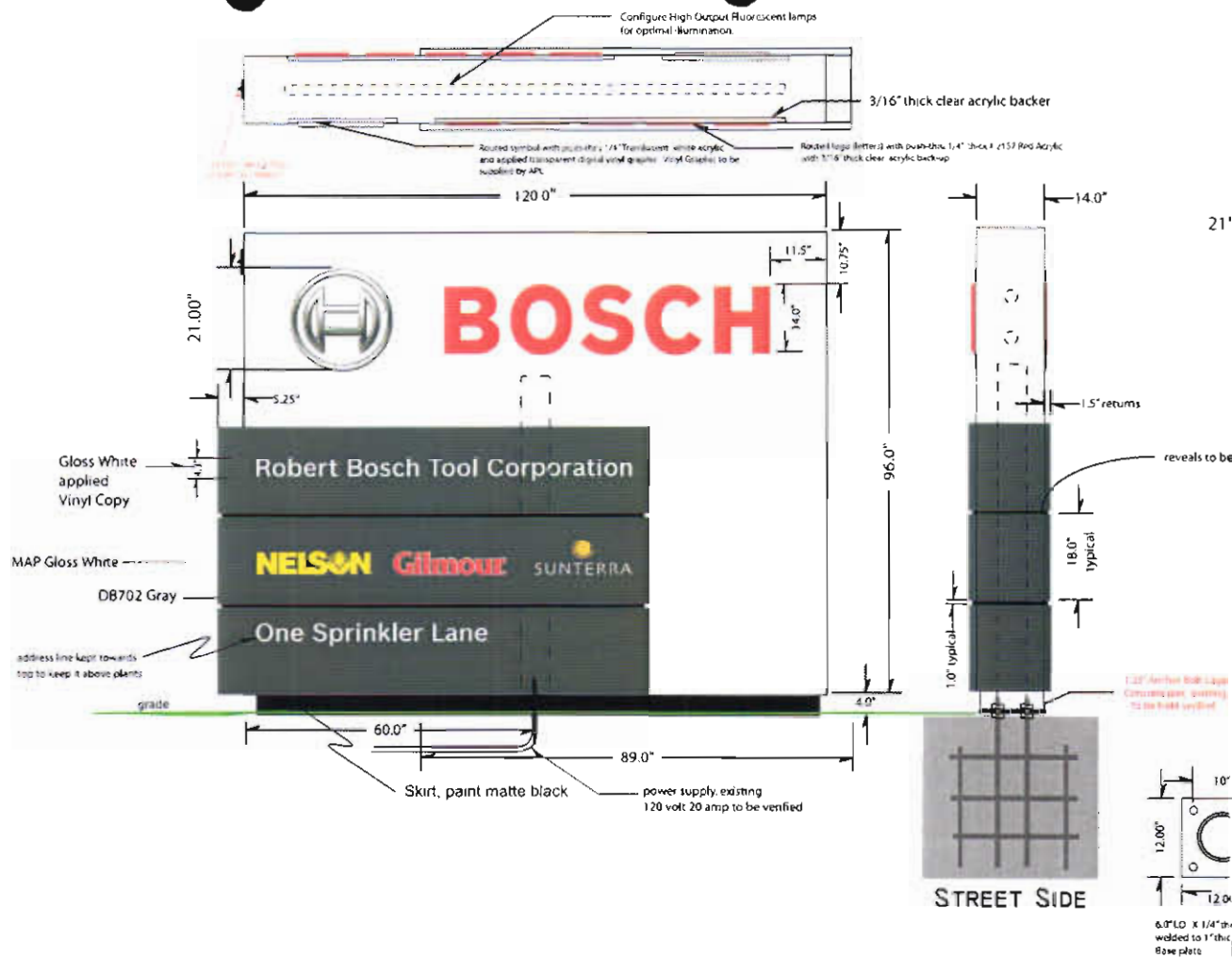
B. MAJOR VARIANCE – Requires Public Hearing and ZBA Approval
Ordinance Section: 2.12.b.(2) Major Variations. All variations authorized by this Ordinance, which are not minor variations, shall be considered major variations. Any variation request of transitional buffer yard requirements shall be considered a major variation. Any variation in a Form District shall be considered a major variation.

VI. REQUIRED SITE PLANS:

A. MINOR VARIANCE
Residential uses: Two (2) full-size copies, folded to a maximum dimension of 9" x 12"
All other uses: Ten (10) full-size copies, folded to a maximum dimension of 9" x 12"

X B. MAJOR VARIANCE
All uses: Twenty (20) full-size copies, folded to a maximum dimension of 9" x 12", one (1) copy reduced to 8-1/2" x 11"

Please provide a legal description of the property here or as an attachment



Existing



