

Justification Statement

Owners and Applicant: Richard and Marcia Sedlak
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We are requesting variances to the current setback and coverage requirements [in Section 18-24 of the Code of the Town of Vienna] in order to (1) construct a single-story screened porch on an existing deck at the rear of our house, and (2) add a single-story doorway on the same level from our kitchen directly to the deck at the rear of our house.

The property is located in the East Creek development. The lot area is 11,020 square feet (SF). It is rectangular in shape (deeper than wider) with the front facing East Creek Street NE, the right side facing a shared driveway and the back and left side facing neighboring residential properties (Attachment 1 – Plat - 409 East Street NE). It is zoned RS-10. The Town of Vienna Zoning and Subdivision Ordinance (effective January 1, 2024) requires a 35' setback at the rear of the house. The two-story house on the property was originally built in 1988 when the development was outside the boundaries of the Town of Vienna. The house on the property was placed very close to the back left corner of the property. We were not informed at the time of purchase of the property in 2000 that the house itself encroached on the 35' Building Restriction Line (BRL) (by 5.3'), that the deck at the rear of the house did not conform to the 10' encroachment from the BRL allowed under Town of Vienna code, or that the total coverage of the lot exceeded allowances under the Town of Vienna code. The existing deck is irregularly shaped. At its maximum distance from the back of the house, the deck encroaches 14' beyond the back of the house, for a total encroachment of deck plus house of 19.3' beyond the BRL. The existing lot coverage for our property is 37.14%.

We believe that the variances are justified by the restrictive placement of the house as originally built near the back lot line, extending beyond the BRL, and a very small lot size that is rendered less utilizable by the existence of roadway (East Street NE) on the property, which in itself covers 13.8% of the property. A screened porch cannot be built without utilizing the encroachment of the existing deck. Further, we cannot build access to our deck directly from our kitchen because the rear of the house at the location of the kitchen projects beyond the 35' BRL and the proposed doorway would add additional coverage to a lot that already exceeds the coverage allowance under the Town of Vienna code.

Unreasonable Restriction on the Utilization of the Property/Hardship

We purchased our house in 2000 and have not expanded the profile of areas designated as "covered" areas since we moved in. Our deck in the rear of the house was constructed at the time the house was constructed, 1988. Photos #1 through #4 (Attachment 2 – Photos) show three sides of the deck from outside the deck.

We have enjoyed living in the Town of Vienna and, in particular, in our neighborhood, East Creek. We desire to age-in-place in this particular house rather than move. As part of our plan to improve the livability of our house long term for aging in place, we seek to have a covered outside space we can access from our main living level that would minimize exposure to sun, precipitation and biting insects. We see this need growing with age as we become less mobile. This proposed home improvement

coincides with age-in-place improvements on the inside of our home whereby a sunken family room with doors leading to the existing deck will be raised to the same plane as the rest of the floor on the first level of the house. To align the deck with the raised floor of the family room, the plan is to raise the deck approximately 5" higher when it is renovated.

Further, we seek to have a doorway installed from our kitchen directly to the deck. Currently, there are two doorways to the deck from our family room and there is no direct access from our kitchen to the deck. As a result, we need to go to the other side of a wall separating our kitchen and family room and then through our family room to access the deck. While we have lived with this situation since we moved into the house, it has resulted in many of spills of food and beverages as we move them between the kitchen and the existing deck. We expect that carrying food and beverages between the kitchen and deck through our family room to become more challenging as we age. Thus, we seek to construct a door way from our kitchen directly to the deck.

We believe we are unreasonably restricted from making these changes due to the unique combination of the the placement of the house within the property such that it does not meet the setback requirements of the Town of Vienna, and the very small lot size, covered portions of which are comprised of roadway and, to a lesser extent, a shared driveway, leading to current lot coverage exceeding lot coverage allowances under the Town of Vienna code.

We cannot make a deck addition to the front of the house as decks are not allowed in the front yard (Section 18-213(2)(B)). The setback requirement for the right and left sides of the house is 12'. A 12' setback on the left side of the house only allows a 2.5' deep deck. The setback requirement for the right side of the house would allow a 14' deep deck, but staying within the BRL and a 4' maximum allowed for decks in non-rear yards, while avoiding the existing driveway, would allow a deck of only 44 SF with no access to the house. As our goal on the installation of a new doorway to the deck is to facilitate movement from the kitchen to the deck, placing a new deck on either side of the house does not meet this goal.

Building a covered, screened porch in the rear of our house within the footprint of the existing deck with improved access from a highly used room in our house (i.e., kitchen) to uncovered deck is the most practical and safe way to increase and improve our living space far into our future while minimizing impact on our surrounding neighborhood and our existing house. These two changes would require three variances.

Description of Proposed Alterations to Property

Item 1: Screened Porch and Remaining Uncovered Portion of Deck

Per Town Code Sec 18-15, up to 400 square feet of decks may be covered and not count towards lot coverage with the following conditions: a. Covered decks must be single-story and cannot be converted into conditioned, interior living space; b. Covered decks cannot be located in the front yard; and c. Covered decks must provide for stormwater BMPs in accordance with the Stormwater Manual for Outdoor Living Areas and meet all criteria included in said manual.

The covered, single-story, screened porch would be within the footprint of the existing deck at the rear of the house (Attachment 3 – Existing Deck) and not be conditioned living space, with a portion of the existing deck (and a conforming expansion of the deck) remaining uncovered. The resulting screened

porch would be 20' wide by 14' deep. The screened porch would be aligned with our family room, which encroaches on current Town of Vienna building rear set back requirements by 5.3'. The depth of the proposed screened porch (14', which is the depth of the existing deck), combined with the existing encroachment of the house at the location of the family room leads to the same total encroachment of 19.3' toward the rear property line as the existing deck. This would create a usable covered, screened space of 279 square feet, after accounting for a portion of the screened porch area that would be unusable as the chimney would be within its footprint (approximately 13 square feet).

We propose to retain an existing 8' x 14' section of the deck, which would be the location of a new doorway between our kitchen and the deck (Item 2 below). The retained deck area would encroach on the rear setback the same as the existing portion of deck, 13.5'. We propose to supplement this existing uncovered portion of the deck with an adjacent expansion of the uncovered deck against the back of the house to the edge of the back, right corner of the house. Staying within the allowed 10' encroachment into the setback from the rear BRL, the additional uncovered deck would be 90 SF (10' wide x 9' deep).

The proposed arrangement of the deck is shown from an aerial perspective in Attachment 4 (Proposed Screened Porch/Deck & Entrance) and is shown in an amended plat (Attachment 5 - Amended Plat Showing Proposed Improvements). Diagrams of the proposed deck are shown from 2 perspectives in Attachment 7.

Accounting for lot coverage associated with the concrete patio underlying the deck (111 SF), coverage of the proposed deck, both covered and uncovered, would be 369 SF, 3.35% of the lot size (Attachment 6 – Lot Coverage). This total proposed deck area would be in compliance with the 5% maximum coverage for decks allowed under the Town of Vienna's code.

Further, per Town Code Sec 18-15, covered decks must provide for stormwater BMPs in accordance with the Stormwater Manual for Outdoor Living Areas. To meet Section 18-15.C, a BMP facility is proposed to offset the increase in impervious area. The proposed 269 SF of covered deck would sit above an existing concrete patio of 111 SF, resulting in a net increase in coverage of 169 SF resulting from covering the deck space beyond the patio area. Two (2) fifty-gallon rain barrels, which are associated in the Stormwater Manual for Outdoor Living Areas with sizing for outdoor living areas less than or equal to 200 SF, are proposed to accommodate the increase in covered deck associated with the proposed covered screened porch (169 SF). The location of the new BMP facility is shown on an attached amended plat (Attachment 5 - Amended Plat Showing Proposed Improvements).

A variance is sought to allow placing a cover over and within the boundaries of the existing deck, which encroaches beyond the BRL by more than 10'.

Item 2: Bump out for Kitchen Access to Deck

As mentioned above, access to the deck is currently complicated by the need to go around a wall and through another room (family room) to access it from the kitchen. There is currently an original bay window in the kitchen that protrudes 1.8' out the back of the house under a 1.5' second floor overhang (Attachment 2 – Photos; Photo #5). We seek to replace the bay window with an 8' wide by 2.5' deep, one-story bump out from our kitchen at the location of the current bay window in order to place a doorway directly from the kitchen to an uncovered, existing portion of the deck (Attachment 3 – Proposed Screened Porch/Deck & Entrance; Attachment 8 – Diagram of Proposed Entrance to Deck). This depth of the bump out is sought to accommodate the installation of a door to the deck that would

be in proximity to an existing built-in kitchen table that approaches within 1' of the existing kitchen wall (Attachment 2 – Photos, Photo #6). Without the bump out, a portion of the built-in kitchen table would be unusable due to the door being too close to the table to accommodate someone sitting in a chair at the table.

The existing lot coverage for our property is 37.14% (Attachment 6 – Lot Coverage Calculations), comprised of the house, front stoop, driveway, shared driveway, roadway and patio. The proposed bump out for a kitchen door would add 20 SF to the lot coverage, 0.18% of the total lot size, for a projected total coverage of 37.33% (Attachment 6 – Lot Coverage).

Two variances are sought to allow placing a door in a bump out that would project beyond the existing back of the house, which already extends beyond the BRL, and would add to lot coverage that already exceeds allowances in the Town of Vienna code.

Adjoining Properties

Adjoining Properties include the following:

- 401 East Street NE across the shared driveway to the right of the property
- 411 East Street NE adjoining to the left of the property
- 407 East Street NE adjoining to the rear of the property

Variance Criteria

Granting these variances would alleviate the hardships caused by the placement of the main structure within the building restriction line specified by the Town of Vienna. The following address the specific factors listed in Section 15.2-2309 of the Code of Virginia (Powers and duties of boards zoning appeals):

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

A portion of the house was built within the rear BRL required by the Town of Vienna code. The house and existing deck protrude a total of 25.3' beyond the rear BRL.

We acquired the property in good faith without being informed of the house or deck's non-compliance with BRL requirements in the zoning code of the Town of Vienna, or that the total lot coverage was non-compliant by exceeding the allowance for lot coverage in the Town of Vienna Code. We have not conducted any construction on the exterior of the house or deck since our purchase of the house in 2000 and, therefore, have not created the hardship for which we seek a variance.

- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

Granting the variances being sought would not have a substantial detrimental impact on adjacent and nearby properties. The three adjacent properties (411 East Street NE adjoining on the left of the property; 401 East Street NE across the shared driveway to the right of the property; 407 East Street NE adjoining on the rear of the property) could partially see the

deck and screened porch from their backyards. The bump out for a kitchen door to the deck would not be visible to 411 East Street NE but may be visible from the other two adjacent properties. However, landscaping along the back and sides of our rear yard restrict vision into our back yard making it unlikely that the requested variances would have a detrimental impact on adjoining or nearby properties (Attachment 2, see photos #7 through #9 showing the views from three sides of the deck toward adjoining properties).

Further, there are a number of screened porches (4), as well as sun rooms (2), on the back of houses in our East Creek neighborhood. As such, placement of a screened porch on our deck would not be out of character in our neighborhood.

We have used our existing deck over the past 25 years for family gatherings, meals, relaxation, etc. without complaints and don't envision that substantively changing with a screened porch.

- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

The condition or situation of our property is not of so general or of recurring nature as it is related to a home built that did not meet the requirements of the Town of Vienna coupled with the builder's decision to place the property in the left, back corner of the lot close to the rear property line. With the house being positioned with its rear already outside the allowed rear BRL and the deck extending beyond the 10' encroachment allowed under the Town of Vienna code, as well as the lot coverage exceeding Town of Vienna limits as originally built, under these unique conditions it is impossible to build a screened porch or a doorway from the kitchen to the deck without a variance.

- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

The screened porch would be used for the same general purpose as the existing deck, e.g., eating, small family gatherings, relaxation. The bump out with an entryway between the kitchen and the deck would be used for similar activities. Neither improvement would be used for purposes inconsistent with RS-10, such as business or commercial uses.

- (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § [15.2-2309](#) or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § [15.2-2286](#) at the time of the filing of the variance application.

It does not appear that processes authorized under these ordinances would be sufficient to build a screened porch or a doorway between our kitchen and deck, leaving a variance granted by the Board of Appeals as our sole recourse.