



Town of Vienna

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Vienna, Virginia 22180
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Meeting Minutes Board of Zoning Appeals

Wednesday, November 20, 2024

7:30 PM

Charles Robinson Jr. Town Hall, 127
Center St. South

Roll Call

The Board of Zoning Appeals met for the regular meeting in the Vienna Town Hall at 127 Center St S, Vienna, Virginia, on Wednesday, November 20, 2024, at 7:30 pm.

Roll Call: Mr. Petersen, Mr. Rettinger, Mr. Creed, Mr. Gadell, and Mr. Nash were present.

Absent members: Mr. Dhanjal and Mr. Lowther

Staff present: Zoning Administrator Andrea West and Board Clerk Yaska Camacho Castillo.

Election of Chair: Election of Chair for tonight's meeting

In light of the Chair (Mr. Dhanjal) and Vice Chair (Mr. Lowther) being absent, Mr. Nash was nominated to serve as temporary Chairman, and Mr. Gadell was nominated to serve as temporary Vice Chair to lead the meeting.

Motion: Mr. Peterson

Second: Mr. Creed

The motion carried unanimously.

Chairman Mr. Nash opened the meeting by noting a request to defer agenda item#3.

Public Hearings:

[BZA-24125](#)

Request to hear an appeal of the Zoning Administrators Determination in accordance with the requirements of Section 18-820 Appeals of Zoning Administrator Decision., of the Town of Vienna Zoning and Subdivision Ordinance, affecting property located at 430, 440, 444 Maple Ave W, Vienna, Virginia, tax map numbers: 0383 02 0139, 0383 02 0140, 0383 02 0141, in the AW - Avenue West zoning district. Filed by Sara Mariska, of Odin Feldman Pittleman, on behalf of Vienna Development Associates LLC, property owner.

The decision being appealed is the issuance of a Notice of Violation by the Zoning Administrator, case number 24-208, for a violation of Section 18-836 Site Plan Review. The Zoning Administrator determined that the existing condition of the property did not meet the requirements of the site plan approved in June of 2021.

The Zoning Administrator Andrea West was sworn in. Ms. West stated that there has been some progress and indicated that the proposed plans for the project have been received since the last deferral. Additional time is requested to resolve the violation notice on this application.

Mr. Peterson questioned whether this could be resolved in a timely manner. He noted that the determination was dated May 8, 2024. More than six months have passed, and all the Board has seen from the developer is a request to defer (which has occurred several times). The Board has seen no action from the developer to suggest that they have made the adjustments required on the determination.

Ms. West responded that they received recent information on the site plan in mid-October that would allow them to provide the applicant with feedback. She noted that they have met with the applicant a few times since the last deferral. Ms. West would like the opportunity to continue working with the applicant to improve the conditions. She understands that timing from the developer has been a problem.

Mr. Creed said he would consider the deferral until the December Board of Zoning Appeals meeting. Mr. Nash wondered if there had been any physical improvement, to which Ms. West indicated this was the issue under discussion. The applicant has submitted a plan that showed some improvement to the site. Staff would like to continue working with the applicant to figure out what can be done which may include the applicant submitting for additional permits.

Sara Mariska, of Odin Feldman Pittleman, on behalf of the property owner Vienna Development Associates LLC, stated that the request for deferral will allow them to continue working with staff. She noted that Mr. Creeds' December timing wouldn't allow for the resolution of the violation. An interim site plan was submitted that would change the site's condition. There has been an ongoing conversation about the site plan. These discussions will help document the changes to meet the town's approval. Once approved, the necessary permits for the site plan revision will be obtained.

Mr. Nash asked the applicant what timing she would suggest. Ms. Mariska indicated that a timeline closer to three to four months would allow the opportunity to provide a substantive resolution. Ms. West agreed with the applicant's timeline because of the holiday schedule coming up and also the need to work through other boards and commissions.

Mr. Rettinger stated that his concerns rest with the fact that there is a site plan already and questioned the point of a new site plan. Ms. Mariska responded that they have an approved site plan that remains valid. They have been discussing with the Town about revising the site plan to have an interim phase. This phase would alter the property's appearance without requiring full implementation of the approved site plan.

Mr. Creed questioned whether the current site plan meets the current zoning code. Ms. West responded that the current site plan is based on the zoning that was applicable when it was previously approved. The violation notice was issued because the site that remained after the buildings were demolished led to compliance issues. The applicant and staff are currently working together to find a temporary solution that addresses the zoning violation until construction begins. The applicant aims to establish a midterm condition that meets the town's requirement, which will then be documented in an approved site plan showing compliance. Ms. Mariska stated that although they don't know the time frame for the completion of the project at this point, they would start construction as soon as possible.

Mr. Peterson remarked the frustration from the Board because the site plan was approved in June of 2021 yet since the noncompliance notice was issued all the Board has been told is that the property owner is "working on the issue". Not hearing anything that helps the Board understand what is being done with the property is frustrating. He asked Ms. Mariska if she could provide more information.

Ms. Mariska stated that the site plan remains valid for five years, which is consistent with the state code requirements. They are aiming to start construction as soon as possible, but various factors beyond their control, such as the pandemic, interest rates, and construction costs, have affected the project's feasibility and delayed the timeline. Despite these challenges, their goal is to move forward with construction while the site plan remains valid.

Mr. Nash opened the floor for comments from the public.

Nancy Logan, 410 Millwood Ct., SW: Ms. Logan is frustrated with the long-lasting issues related to the property, which has been empty and unsafe for years. She mentioned that previous property owners, including the Wolf Trap Motel, violated regulations, and the town failed to enforce rules consistently. The speaker feels that developers are disrespecting the town, highlighting the lack of transparency and care for the community. She emphasizes the importance of holding the developers accountable and suggests that the town may need to re-evaluate its zoning regulations to prevent future issues.

Dan McLean, 416 Millwood Ct., SW: Mr. McLean described the property as a usual plot of land, with a portion owned by the developer being overrun with weeds. He lives on a cul-de-sac and owns part of the land along the street. The town cleared one-half of the land but not the second half, as it is privately owned. The speaker expressed frustration about the lack of action over the years and disagreed with the current approach.

Penny Ozak, 221 Nutley St., NW: Ms. Ozak expressed opposition to the development. She was under the impression that the meeting was about a zoning violation issued to the developer, who appealed it. She questioned whether the developer's request to update the site plan means there is no violation or if they acknowledge the site is not up to standard. She suggests that if the developer needs three months to resolve the issue, they should be fined.

Mr. Peterson stated that he believes the Board can make one of three decisions 1) Uphold the Zoning Administration's determination of May 8, 2024; 2) Overturn it; or 3) Accept deferral, which is what the developer seeks. He is uncomfortable continuing to defer the matter. He feels the Board has a role in protecting the interests of the community.

Mr. Rettinger agreed with Mr. Petersen's statement. Perhaps the Board needs to set a specific deadline for the developer to reach an interim state of compliance and address the violations. If the developers fail to meet the deadline, fines will be imposed.

Mr. Nash asked Ms. West if she could lay out a timeline for the board to understand when the site plan would be reviewed by other boards to have a concrete plan moving forward. Ms. West indicated that the applicant has provided a preliminary plan that is part of the request in the violation notice. The goal is always to work with the applicant to reach a point of resolution, rather than move to court proceedings. The violation was intended to begin communication and start working with the applicant to get a plan in place to improve the condition of the site, not to force construction, which is outside of the Zoning purview.

Ms. West stated that the interim site plan was received by Zoning on October 17, 2024. The applicants met with the Zoning Staff on November 18, 2024, and are awaiting a response from that meeting. There will be a 30-day review period with formal comments. At the same time, the applicant plans to proceed to a work session with the Board of Architectural Review regarding fencing on the property which would be in mid-January.

Mr. Creed suggested that given this information, the Board give the applicant until the March 2025 Board of Zoning Appeals meeting. If the matter is not finalized by that time the Board will move forward and make a decision.
With no further discussion, Mr. Nash closed the public hearing.

Mr. Creed made a motion to give the applicant and the town until the March 2025 Board of Zoning Appeals meeting to allow the matter to be resolved by that time. By March 2025 no matter what occurs the board would make a final determination.

Motion: Mr. Creed

Second: Mr. Rettinger

The motion carried unanimously.

[BZA-24121](#)

Request for approval of variances from Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), Buildable Lot Dimensions, of the Town of Vienna Zoning Code, to create a new non-conforming lot from existing non-conforming parcels, known as 0384 03 0061 (Lots 61 & 62), to construct a single-unit dwelling on the newly created lot, on a portion of the parcels known as 130 Wilmar Place NW, in the RS-10, Single-Unit Detached Residential zone. The proposed non-conforming lot will not meet the following Buildable Lot Dimensions: 1) Lot area, 2) Lot Width at Front Building Line, and 3) Lot Width at Midline.

Mr. Nash called on Andrea West, the Zoning Administrator, to provide information on the item. Ms. West stated that the property in question is part of a multi-phase process to consolidate two lots (lot 61 & lot 62) on Wilmar Place, a subdivision dating back to at least 1924. The two lots each 3,500 square feet are proposed to be combined into a single non-conforming lot of 7,000 square feet which is below the required 10,000 square feet for the RS-10 zoning district. Additionally, the lots do not meet the required width at the front building line or at the midline. The variance is needed because this new lot has not been previously developed, unlike other lots on Wilmar Place that have been re-developed and met zoning requirements. This requires the approval of the board as part of the consolidation process to then be a buildable lot. Lot 63A (the second proposed consolidation (lots 63,64,65, and part of 66) is a different matter that would meet the basic requirements of the zoning code which will not require any approval from the Board of Zoning Appeals. It will go from the Planning Commission and then to the Town Council.

Michael Van Atta of McGuire Woods LLP on behalf of Sekas Homes, LTD, the contract purchaser, and the Estate of Robert & Mary Thompson, owner, was sworn in. He indicated that the goal is to match the two parcels. The variance is necessary to build on these lots due to their size and width. The proposal includes consolidating two lots, 61 and 62, to create a 50-foot wide, 7000-square-foot parcel, which would still fall short of the RS10 zoning requirements but would better align with the surrounding neighborhood. Several nearby properties have similar dimensions, with some even smaller than the proposed consolidated lot, which is consistent with the character of the area. The justification for the variance is based on the hardship caused by the existing lot dimensions, which predate the zoning ordinance. Without the variance, development on the property would not be feasible. The applicant emphasizes that the proposed lot consolidation reduces non-conformity and does not create any new hardship. The development would align with the existing neighborhood, with similar lot sizes and home scales, and would not negatively impact adjacent properties. The project also aligns with the town's comprehensive land use plan, which encourages more diverse housing stock in transitional areas, including smaller lots. The variance and consolidation would help meet this goal and provide additional housing options.

Mr. Gadell asked if lots 61 and 63 would be a plot for one house to which the applicant clarified that Lots 61 and 63 will each contain one house that will conform to no more than 25% lot coverage. Mr. Nash questioned if it was not feasible to combine the lots, and then split the combined lots in half to bring the properties into greater compliance.

The applicant indicated that while this is not unreasonable, it is not practical, as it would require additional variances. It is a more complex process/solution. The home on lot 61 will be much smaller than the home on lot 63 but will align with "what's out there".

Mr. Creed wondered what was being looked at when it came to the home for lot 61. It would be a small home. Since the neighborhood is developing, he would like for it to be simpatico. The applicant responded that the home would align with what is out there today.

Mr. Gadell stated that he passed by the area and although it is a small lot it matches the other homes that the applicant is proposing on that street.

Mr. Rettinger asked if there was any opposition from the community about this application to which Ms. West responded she had not received any communication about the variance application.

Mr. Petersen commented on how a board member suggested that a better solution might be to consolidate and adjust the lot sizes of parcels 61 and 63, as they are under single ownership, to make them more compliant with the RS-10 zoning and the applicant, however, rejected the idea, stating that doing so would require a second variance request, which they prefer to avoid. Mr. Petersen found this reasoning unconvincing, viewing the second variance as a minor step to improving the parcels' compliance. He noted how the applicant also argued that without the requested variance, the property's use would be "unreasonably restricted." However, Mr. Petersen disagreed, asking why granting the variance would be necessary and suggesting that it might create a future problem for others to handle.

The applicant responded that if the variance is not granted, use of the property will be unreasonably restricted. Parcels 61 and 62 cannot be developed under the zoning ordinance. Even with the proposed dimensions, without a variance, the property cannot be developed. Without a variance parcel 61 has only one option – consolidation.

Mr. Peterson stated that he cannot accept the inability to build a parcel in Vienna as an unreasonable restriction. There may be parcels of land that simply cannot withstand development, due to the lot size or other factors.

Mr. Nash opened the floor for public comment.

Penny Oszak, 221 Nutley St., NW – (previously sworn in) suggested consolidating all the lots and building one big house to have all of their needs met.

With no additional speakers, Mr. Nash called for a motion to close the Public Hearing.

Motion: Mr. Gadell

Second: Mr. Rettinger

The motion carried unanimously.

Mr. Gadell made a motion to approve variances from requirements of Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), of the Town of Vienna Zoning Code, to construct a single-unit dwelling on the newly created nonconforming parcel, subject to Town Council approval of the proposed consolidation, on a portion of the parcel known as 130 Wilmar Place NW, Map No. 0384 03 0061 (Lots 61 & 62), in the RS-10, Single-Unit Detached Residential zone.

Motion: Mr. Gadell

Second: Mr. Rettinger

Further discussion by the Board included the following points:

- As long as this conforms to the code, it is reasonable.
- Supporting this action is tantamount to approving a problem; Approval endorses a

property that is 30% less than what the RS10 requires.

- Dividing properties equally creates two nonconforming properties, which might create additional problems.

- The current situation features an overgrown 25-foot strip of land.

Mr. Nash closed the discussion and called for a vote on the motion on the floor.

Motion: Mr. Gadell

Second: Mr. Rettinger

The motion carried unanimously.

Mr. Sekas commented that there is a need for smaller homes, especially for elderly people.

[BZA-24122](#)

Request for approval of variances from 1) Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), Building Placement Standards, Rear Yard, 2) Section 18-219, Residential Coverage, and 3) Section 18-213 Lot Coverage, 2.A. Outdoor living coverage., of the Town of Vienna Zoning Code, to construct: A) A covered deck, and B) an addition to the rear of the property, attached to an existing non-conforming single-family dwelling located at 409 East Street NE, in the RS-10, Single-Family Detached Residential zone. The proposed structures will encroach into the required rear yard setback of 35 feet, exceed the 25% lot coverage requirement, and deviate from the standards of Outdoor Living Coverage.

Andrea West, Zoning Administrator, (previously sworn in) presented the Item to the board. Me. West stated that the property at 409 E Street Northeast is 11,020 square feet, with a home built in 1989. The property was developed under Fairfax County's regulations before being annexed into the town of Vienna. Some features of the property, including a deck and a second nonconforming deck, were permitted by Fairfax County. However, the rear of the house encroaches into the 35-foot rear yard setback required by Vienna.

The property is located in the RS-10 single-family residential zone. While decks are allowed to encroach into the rear yard setback by up to 10 feet, the existing decks do not conform to this standard. The applicant seeks approval to cover one of the decks, which requires review due to its nonconformity. Additionally, the lot coverage is an issue, as the property includes a road in the front yard that counts toward lot coverage, which differs from current Vienna regulations.

The proposed modifications involve adding a new compliant deck, an addition to the rear of the house that encroaches into the setback, and covering the existing deck within the rear setback. There is also a patio under the deck, which requires a variance due to the town's regulations on outdoor living coverage. The applicant provided a plan and design drawings to the board, indicating the complexity of the proposal. The lot coverage increase is minimal, but a variance is still needed.

Mr. Nash called for the applicant to be sworn in for testimony.

Rich Sedlak, 409 East St NE, the property owner is seeking variances to modify their home in Vienna to allow for aging in place. After struggling to find suitable housing in the neighborhood, the homeowners want to make their current home more livable, both inside and outside. They plan to add a covered outdoor area to enable them to spend more time outside as they age. One challenge is that their deck is not directly connected to the kitchen, so they want to add a small extension to make the deck more accessible.

The house was originally built under Fairfax County rules, which differ from Vienna's codes. As a result, the house's positioning and small lot size have led to discrepancies with the current zoning requirements. They are requesting variances for several issues, including encroachment into the setback (a 2.5-foot bump-out) and adding a cover to an existing deck, which already encroaches at 15.7 feet from the neighbor.

Additionally, because the road on East Street Northeast is part of their property, it is counted in the lot coverage calculation, leading to a need for a variance to add a small amount (0.18%) to their lot coverage. They also learned that a patio underneath the

deck may trigger a two-story issue in the zoning code. However, the patio has never been used as living space—it serves as a basement entrance and storage area for yard equipment. The owners are willing to modify the patio, potentially removing it from the lot coverage calculation to resolve the issue.

Mr. Nash remarked that the space is already impervious due to the concrete.

Ms. West discussed the situation regarding a deck with a potential patio or areaway underneath it. The surveyor called it an area way for safety, but Ms. West wanted the board to approve it as a variance to ensure it was properly covered. The town council's intent was to avoid allowing two-story decks or features underneath covered decks. Ms. West pointed out that, historically, features like patios under decks have not been allowed in outdoor living space bonuses.

The lot coverage requirement, in place since 1957, originally focused on maintaining open lawns and residential aesthetics, with less concern about stormwater runoff. While the 2021 lot coverage revision linked the bonus allowance to drainage, Ms. West emphasized that stormwater rules for new developments differ from how lot coverage is calculated. The primary focus in this case is whether there is a second level or feature under the structure, staying in line with the original zoning intent.

Mr. Rettinger discussed several issues related to the property, focusing on a concrete pad that may need to be removed. The applicant stated he is willing to remove it if necessary but would like to retain a landing for the doorway. The discussion then shifts to the lot coverage issue, where the applicant claims that the E Street Road on their property contributes to exceeding the allowed lot coverage, which is a hardship not faced by most neighboring properties.

Mr. Rettinger expressed that lot coverage might not be the primary issue. Instead, he is more concerned about setback requirements and how they affect the project. He also clarifies that the house is a non-conforming structure, grandfathered into the lot when it was purchased, though the applicant did not anticipate the long-term implications of this when they bought the property.

Furthermore, Mr. Rettinger asked whether the project would involve removing any vegetation, specifically trees at the back of the lot, which are noted in an opinion letter from a community member as providing privacy between properties. The concern is related to the setback requirements and how the removal of trees might affect privacy.

Mr. Sedlack assured the Board that the trees along the side of the property are not to be touched. He planted the trees, and they are on his property.

Mr. Creed questioned the height of the roof on the deck given concern expressed by one neighbor. Mr. Sedlack indicated the neighbor's deck is higher than his and that several other homes have similar roofs so this is not an unusual plan. Mr. Nash commented that to him it seems the roof would provide privacy for both parties.

Mr. Nash stated that the hardship appears to be that the house is situated on the lot in an unfavorable spot such that the easement cuts across the front of the lot. There are issues here that have no immediate remedy. The proposed remedy is what is available for this situation.

With no further comments, Mr. Nash called for a motion to close the public hearing.

Motion: Mr. Gadell

Second: Mr. Rettinger

The motion carried unanimously.

Mr. Creed made a motion to approve variances from: 1) Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), Building Placement Standards, Rear Yard, 2) Section 18-219, Residential Coverage, and, 3) Section 18-213 Lot Coverage, 2.A. Outdoor living coverage., of the Town of Vienna Zoning Code, to construct a covered deck, and an addition to the rear of an existing non-conforming single unit dwelling located at 409 East St., NE in the RS-10 Single Family Residential Zone, along with necessary removal of the concrete slab under the existing ground level to permit not more than 15 square ft. of the concrete entrance.

Ms. West suggested removing the wording “not more than 15 Ft. of concrete entrance” to read “to create an areaway no wider than 5 feet.” Her suggestion was accepted.

Motion: Mr. Creed

Second: Mr. Petersen

The motion carried unanimously.

[BZA-24123](#)

Request for approval of a variance from Section 18-410, Fences. 1.A., of the Town of Vienna Zoning Code, to install a non-conforming fence, located at 714 Kingsley Rd SW, in the RS-10, Single-Family Detached Residential zone. The proposed fence will exceed the 4-foot height limit for fences within the corner side yard setback.

Andrea West, Zoning Administrator, (previously sworn) presented the item for consideration. Ms. West stated that the property at 714 Kingsley Rd. SW, located at the corner of Kingsley Road and Nutley St., is a 13,184 square-foot lot zoned RS-10, constructed in 2017. The property owner is seeking a variance to build a six-foot fence in the corner side yard, which faces Nutley St. In residential districts, properties with frontage on two streets have a front yard and a corner side yard, with the latter typically being the narrowest. The property owner needs a variance because the zoning code restricts fence height in this area to a maximum of three or four feet, in order to maintain sightlines at corners. The requested variance is to allow a six-foot fence in this restricted area.

Mr. Petersen drew attention to a swale running along Nutley St. that is approximately 24 inches in depth.

Jonathan Morin 714 Kingsley Rd SW, Property owner, was sworn in. Mr. Morin agreed and clarified that the swale dips slightly more in some areas, closer to 28 inches.

Mr. Gadell stated he visited the site and measured the fence against the rail. He found that the six-foot fence was about six inches taller than the rail. Based on this measurement, he believes that the swell is a little more than two feet.

Mr. Rettinger stated that he sees how a four-foot fence won't provide much protection. He acknowledged it might be an easement and could be considered a hardship that wasn't caused by the applicant. While he sees some justification for the fence, his main concern is the visibility issue, particularly for drivers turning from Kingsley onto Nutley or cyclists. He is concerned that the fence might obstruct the view of approaching traffic, which could be dangerous. The applicant responded there should be no blockage at all and provided his explanation.

Mr. Creed stated that the distance from the fence to the house or lot line was estimated to be around 40 to 50 feet. He also mentioned that while precedent shouldn't be used as a basis for decisions, this isn't the first time a 6-foot fence has been requested along Nutley Street. He noted that at least one or two similar requests have been approved in the past.

Ms. West said that the Department of Public Works looks at things like clearance and street corners and if cars can see and turn. They were part of the review process. If the future presents an issue, the Department of Public Works would request some modifications from the property owner.

The public hearing closed.

Mr. Petersen made a motion to approve the request for a variance from Section 18-410, Fences. 1.A., of the Town of Vienna Zoning Code, to install a non-conforming fence, along the perimeter of Nutley St. located at 714 Kingsley Rd SW, in the RS-10, Single-Family Detached Residential zone. The proposed fence will exceed the four-foot height limit for fences within the corner yard setback and will be limited to

a maximum of four feet above the level of the sidewalk that runs along Nutley St.

Motion: Mr. Petersen

Second: Mr. Rettinger

The motion carried unanimously.

[BZA-24124](#)

Request for approval of a variance from Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), Building Placement Standards, Rear Yard, of the Town of Vienna Zoning Code, to construct a covered deck on the rear of an existing conforming dwelling, located at 1201 Ross Dr. SW, in the RS-10, Single-Family Detached Residential zone. The proposed structure will encroach into the required rear yard setback of 35 feet.

Andrea West, Zoning Administrator, presented the item for consideration. The property in question is located at the corner of Courthouse and Ross Drive, with a lot size of 12,568 square feet. The home, completed in 2022, is zoned RS10 and backs up to a Parks and Recreation zone, likely a stream valley. The applicant submitted a plat showing the proposed porch's encroachment, which will match the existing compliant open deck that can encroach up to 10 feet. The proposed setback from the rear property line is 30.7 feet, whereas the code requires 35 feet for a covered structure, prompting the request for a variance. Plans showing the structure's footprint, stairs, and other elements were provided.

Mr. Creed asked if the town had any objection to the variance request. Ms. West responded that no one has expressed objection to the application.

The applicant Shawn Dawson, 1201 Ross Dr. SW was sworn in. The applicant explained that he was not made aware that the lot coverage was maxed, making it impossible to cover the deck. The contractor provided an alternative plan that met the required regulations, but it was not what they were hoping for. The reason for wanting a screened-in deck is because his wife envisions them dining outdoors every night, though he is unsure if that will happen. Mr. Dawson said that the alternative plan doesn't align with this goal, and they likely wouldn't screen in the deck if they went with that option.

Mr. Nash expressed frustration with the situation, acknowledging that the encroachment isn't much more than allowed but feeling uneasy about it. He believes the builder was aware of the issue, pointing out how the email exchanged (included in the application packet) seemed to suggest that the homeowner could proceed without approval and deal with the consequences later. Mr. Nash compares this situation to others where homeowners were unaware of zoning rules, such as driveway expansions, which developers knew about but didn't inform the homeowners. He is concerned about the pattern of developers exploiting this knowledge gap, leaving unsuspecting homeowners unaware of town regulations.

A motion to close the public hearing was in order.

Motion: Mr. Creed

Second: Mr. Rettinger

The motion carried unanimously.

Mr. Rettinger made a motion to approve a variance from Section 18-219 Residential - Single-Unit, 10,000 sq. ft. Zone (RS-10), Building Placement Standards, Rear Yard, of the Town of Vienna Zoning Code, to construct a covered deck on the rear of an existing conforming dwelling, located at 1201 Ross Dr., SW, in the RS-10, Single-Unit Detached Residential zone. The proposed structure would encroach into the required rear yard setback of 35 Ft.

Motion: Mr. Rettinger

Second: Mr. Creed

The motion carried unanimously.

Approval of the Minutes: July 17, 2024 and September 18, 2024.

Mr. Gadell made a motion to approve the July 17, 2024, meeting minutes.

Motion: Mr. Gadell
Second: Mr. Petersen
The motion carried unanimously.

Mr. Creed made a motion to approve the September 18, 2024, meeting minutes.

Motion: Mr. Creed
Second: Mr. Gadell
The motion carried unanimously.

Meeting Adjournment

Mr. Nash called for a motion to adjourn at 9:24 PM.

Motion: Mr. Gadell
Second: Mr. Rettinger
The motion carried unanimously.

Yaska Camacho Castillo
Clerk to the Board

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6341, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

About the Board of Zoning Appeals

About the Board of Zoning Appeals:

The Board of Zoning Appeals is a quasi-judicial board comprised of seven members – all of whom are residents of the Town of Vienna, VA. The Board serves as an arm of the Fairfax County Circuit Court, as all members are appointed to the Board by the Court after receipt of recommendation from the Vienna Mayor and Town Council.

The Board is empowered by the Code of Virginia to:

- Hear and decide appeals from any order, requirement, decision or determination of the Zoning Administrator.
- Grant variances from the Zoning Ordinance – as defined in Section 15.2201 of the Code of Virginia – as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will unreasonably restrict the utilization of the property to a degree that is not shared generally by other properties within the same zone or district, and its authorization will not be of substantial detriment to adjacent properties or change the character of the neighborhood
- Hear and decide applications for interpretation of the Zoning District Map when there is any uncertainty as to the location of the boundary line.
- Grant Conditional Use Permits in accordance with the provisions of Section 18-209 – 216 of the Vienna Town Code.

The Board of Zoning Appeals does not have the power to change the Zoning Ordinance or the rezone property. Those powers rest with the Mayor and Town Council. Please be advised, the Board decides each application on its own merit – there are no precedents.

The Board will first consider each application during the Public Hearing portion of the meeting. As part of the Virginia Court System, the Board of Zoning Appeals takes sworn testimony and each participant will be sworn in prior to offering comments. During the public hearing each agenda shall be closed a decision will be rendered.

The grant of a Conditional Use Permit, Variance, or appeal from a decision by the Town's Zoning Administrator requires an affirmative vote of no less than a majority of membership, of the Board. The Board consists of 7 members and a majority consists 4 members. If the applicant is unable to stay for the Board's decision portion, the applicant may learn the Board's decision by contacting staff.

The second portion of the meeting – the Regular Meeting – is for approval of meeting minutes and new business and will convene after the Public Hearing has been closed.

If any party is not satisfied with the decision of the Board, an appeal may be filed with the Circuit Court of Fairfax County within 30 days after the issuance of the Board's decision on the matter.