

To Whom it may concern

Our intent is to build a rectangular pool off the back deck of our current home located at 514 Spring Street SE Vienna, VA 22180.

The pool location was selected essentially to satisfy two important conditions:

1. It was placed off the back deck for functional reasons to provide a short travel distance for my daily medical hydrotherapy use related to my degenerative condition and: 2. It was placed to not interfere with the water drainage further back on the property. Upon review it appeared that we had conformed to the various zoning regulations of Section 18-407 with the exception of item number 3. (The front edge of the swimming pool shall be no less than five feet from an extension of the rear wall line of the principal building on the adjacent lot. ) This is the reason for the variance request. All sections of Section 18-407 pertain solely to the property in question, with the exception of item 3. This code restriction attaches the building conditions of another person's property to the subject property.

While codes typically have broad and consistent applicability, this element of the code prevents a property owner from building on their property something that another property owner would be permitted to build, as a function of conditions or actions on an adjacent property.

Based on variance criteria for approval listed below. Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property.

**A. The property interest for which the variance is being requested is being requested in good faith.**

Based on layout of the property and the conditions of water flow on the property the only location for a pool is where the location has been requested.

See letter from affected neighbor to address their only concern of water drainage and no concern for location of pool.

**B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;**

If the pool were built according to section 3 of the code, and placed 5 feet back from the rear wall of the adjacent lot, this would impede the water flow from the lands natural swale. The swale each of the neighboring homes and the Finn's have addressed over the past 11 years and worked together to allow the water to flow freely during heavy rain events.

**C. 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.**

There are two main hardships present. #1 variance is sought to relieve hardship from the water flow on the property. #2 Code hardship; Codes do not normally create hardships and are predicated on being able to be applied uniformly and equally. This section of the Town's zoning creates conditions where they are not able to be applied uniformly and equally.

Item 3 creates conditions that allow one property owner to build a pool and/or build a pool in a given location on their property while another cannot, namely: lot location; when the principal structure is built; and the size of the principal structure. Based on research in other jurisdictions in the metro area, we have been unable to locate a code that would create such conditions based on actions on an adjacent property.

**D. 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.**

No change in zoning classification is necessary. Pools are allowed on the same property type.

**E. The relief or remedy sought by the variance application is not available through the Conditional Use Permit process or, when permitted by this Chapter.**

Yes, variance is sought to relieve hardship from the water flow on the property.

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