



Town of Vienna

Meeting Minutes

Board of Zoning Appeals

127 Center Street South

Vienna, Virginia 22180

p: 703.255.6341

TTY 7111

Wednesday, October 15, 2025

7:30 PM

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

Roll Call

Mr. Petersen, Mr. Dhanjal, Mr. Creed, Mr. Gadell, Mr. Nash, and Mr. Rettinger were present.

Absent Member: Mr. Lowther.

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

Public Hearings:

BZA-25146

Request for approval of a variance from Section 18-465.1.C., Fences., to allow a fence greater than 4 feet within the side yard setback to maintain an existing fence on the property at 609 Alma Street SE, in the RS-10, Single-Unit Detached Residential zone.

Andrea West was sworn in and began her presentation. The 13,888-square-foot lot, zoned RS-10 single-family residential and built in 1958, lies within the Resource Management Area (RMA) of the Chesapeake Bay Preservation Overlay, though the proposed project does not trigger additional RMA regulations.

The request seeks approval to construct a 5-foot-10-inch fence along Follin Lane, exceeding the 4-foot height limit allowed in the side yard setback for corner lots under Section 18-4651(C) of the zoning ordinance. The applicant submitted elevation diagrams and photos showing the partially installed fence. The applicable setback for the corner side yard is 25 feet, based on the adjacent RS10 and Parks and Recreation zoning.

Mr. Creed raised a question about which part of the fence is noncompliant. Staff confirmed that the issue is the height, as the posts exceed four feet. The fence was installed without a permit, and staff cannot approve a height over four feet at their level. After being informed of the regulations, the property owner chose to request a variance from the board to keep the additional fence height.

Mr. Rettinger inquired about the height of the solid wood fence. Ms. West clarified that the solid wood portion of the fence is 4 feet high, with an additional 1 foot 10 inches of open “deer barrier” material on top. She confirmed that the code does not differentiate by fence material; all fences are regulated solely by overall height, regardless of whether they are wood, chain link, or deer fencing.

Shawn Achziger, the property owner, was sworn in for his testimony. He expressed appreciation for the opportunity to speak about the fence variance request for 609 Alma Street, explaining that the request stems from unique environmental and physical conditions that existed before their ownership. The property, adjacent to Wildwood Park and Wolf Trap Creek and located within the FEMA floodplain, has sloped terrain, high groundwater, and persistent drainage and erosion issues.

To address these challenges, the applicants have invested in stormwater mitigation measures, including a 500-gallon cistern, 455-gallon rain barrels, rerouted downspouts, and native plant landscaping in accordance with local and state conservation programs. Despite these efforts, they continue to face issues related to infrastructure protection and deer intrusion.

The proposed six-foot fence would help protect their stormwater infrastructure and prevent deer damage to the native plants that support the property’s certified Wildlife Sanctuary and Monarch Way Station. The applicant noted that many nearby properties already have six-foot fences, so this proposal would be consistent with neighborhood character.

He concluded that the hardship arises from natural conditions, not self-created factors, and that the variance would not harm neighboring properties, serving instead as a practical, environmentally responsible solution aligned with Vienna’s sustainability and floodplain management goals.

Mr. Nash asked about what would be installed above the fence posts. The applicant

explained that it would be deer netting made of durable, hard plastic, stronger than typical mesh from hardware stores and easier to maintain, though it requires periodic replacement.

Mr. Creed noted that the applicant's intent was to keep deer off their property. However, he remarked that deer freely move between properties and that many residents experience similar problems. He concluded that until town regulations change, the applicant should comply with the current 4-foot fence height limit.

Mr. Rettinger agreed with prior comments about the persistent deer problem in Vienna, sharing personal experience that even a six-foot fence doesn't fully prevent deer intrusion. He expressed support and appreciation for the applicant's environmental efforts, including native plantings and monarch habitat creation, recognizing their importance to the town's sustainability goals.

Mr. Gadell asked the applicant to clarify if his intent was to direct deer movement toward Wildwood Park and Wolf Trap Creek, not neighboring yards, to which the applicant agreed. Mr. Gadell noted the property's location near a well-used sidewalk and WO&D trail, suggesting privacy might have been a factor. He said that the top 1 foot 10 inches of the fence will be see-through, ensuring visibility and safety at the corner. The applicant confirmed the fence is set back 29 feet, meeting the 25-foot visibility triangle requirement, and stated they maintain trimmed shrubs to preserve sightlines.

Maryam Dadkhah, the property owner, was sworn in for her testimony. The applicant expressed her deep connection to the property they purchased in Vienna in 2020, located next to Wildwood Park. She described challenges with deer overpopulation, flooding, and erosion, which have impacted their efforts to create a sustainable, native-plant-focused wildlife sanctuary. She detailed their investments in stormwater management, native plantings, and community conservation efforts, including a native seed library and donations to a local food bank.

The proposed six-foot see-through fence is essential to protect their environmental work from deer browsing and help maintain the property's ecological integrity. The applicant emphasized that the fence does not block visibility and invites the community to appreciate the sanctuary they have created. She asked for permission to keep their "paradise alive" and welcomed questions from the board.

Public comment - Sandy Shinn was sworn to speak. She praised Merriam Dodka's yard as an inspiring example of native plant habitat that attracts pollinators and supports local wildlife. She highlighted the challenges of growing native plants in Vienna due to deer overpopulation, especially next to Wildwood Park. She argued that corner lots should be allowed taller fences to deter deer, provided they don't block motorists' views. She noted Merriam's fence is mostly see-through and tested for visibility compliance. The speaker also commended Merriam's community efforts, including plant swaps and invasive species removal, and urged the board to grant her the requested variance.

Public comment – Roxanne Paul was sworn in to speak. The speaker addressed concerns about the nearly six-foot fence obstructing motorists' views, clarifying that the top portion is open plastic netting that does not block visibility. She praised the applicants for creating a rare suburban oasis and urged the board to grant the variance. The speaker emphasized that the property is unique, not pushing deer into neighboring yards but toward a public sanctuary, and highlighted that the applicants support habitat for many species beyond just deer.

Public comment – Taylor Beach was sworn in to speak. The speaker, affiliated with Fairfax Relief, highlighted the applicants' long-standing involvement in community programs promoting native trees, shrubs, and rainwater harvesting. She emphasized that the fence is not for privacy but to showcase the beauty of the property, which is a unique and valuable ecological resource. The speaker noted that the applicant will receive the Fairfax County Friend of Trees award for her efforts. She praised the environmental benefits of the property, such as mosquito reduction and improved air and water quality, urging the board to recognize the special value the yard provides to the community.

Public Comment – Aline Moukhtara was sworn in to speak. The speaker, a local resident who frequently travels on Follin Lane, stated she has never experienced any visibility or safety issues caused by the fence. She noted speed traps are often set up nearby without obstruction. As a parent of a new driver, her main safety concern is the high number of deer suddenly crossing the road, implying that the fence helps reduce this risk. She urged the board to consider that the fence does not compromise safety.

Public Comment – Avril Garland was sworn in to speak. The speaker expressed strong support for Miriam's fence variance request. She praised Miriam's yard as exceptionally beautiful and well-designed, serving as a model for native plant landscaping in the town. The speaker emphasized that deer would devastate the property without the fence, undoing important environmental work. She also complimented the fence's appearance and confirmed it does not block visibility. The speaker urged the board to grant the variance.

Mr. Creed emphasized that for a variance to be granted, there must be a demonstrated hardship: special conditions making strict enforcement of the rules an unreasonable restriction on property use, a hardship not generally shared by others in the area, and no substantial harm to neighbors or neighborhood character. He asked the applicant to explain what makes their property unique and how denying the six-foot fence would unreasonably restrict their use of the property.

Mr. Achziger explained that they have invested significant time, money, and effort into sustaining native plants and water conservation on their property. They previously had a temporary six-foot barrier in the backyard and currently maintain a temporary front fence to protect against deer browsing. He noted that many neighbors also use temporary fences to protect their landscaping from deer, so their situation is not unique but necessary to preserve their investment and property use.

Ms. Dadkhah stated that over the past four years, since moving to Vienna, they have actively advocated for deer management in the town, recognizing it as a serious problem. They support applying Fairfax County's deer management policies locally. While deer still browse the front yard plants, the applicant's main goal is to protect the backyard, which contains many seedlings, trees, and shrubs that are vulnerable to deer. Additionally, maintaining these native plants is crucial for managing ongoing water issues on the property.

Mr. Creed acknowledged that deer management is a broader issue beyond the board's authority and recommended that the applicant continue addressing it with the town council and planning commission. The applicant confirmed they have already taken those steps. Mr. Creed emphasized that the board must operate within established guidelines when voting on the fence variance request and thanked the applicants for their presentation.

Mr. Petersen explained that he is likely to vote against the fence variance. He acknowledged the ecological contributions but said those don't directly support the variance criteria. He noted that concerns about fence height discrimination on side yards

aren't relevant here. He questioned how the fence specifically protects water runoff infrastructure, saying that it wasn't clearly demonstrated. He agreed that the deer issue is a broad regional problem, not unique to this property. Despite the applicant's care and investment in the yard, he doesn't see a unique hardship justifying the variance. He invited the applicant to add anything further, but indicated he currently sees no grounds to support the request.

Mr. Achziger explained that their upgraded gutter system, approved through the VCAP process, is part of managing the water runoff on their property. Due to the soil type and high groundwater, their yard used to be like a sponge, very wet and flooded. To address this, they installed a 500-gallon cistern and four 55-gallon rain barrels, rerouting water to native plants with deep roots that absorb water better than lawn grass. The fence supports this drainage setup by holding the necessary infrastructure, including ductwork running over part of it. He emphasized that because of the high groundwater, their only viable water management options were the cistern combined with native landscaping, and the fence helps protect and support this system.

Mr. Creed commented that since their property is in an RMA, he assumes other properties along that road likely face similar water flow and absorption issues due to the high water table in the area.

Ms. Dadkhah clarified that their property sits at the lowest point between Follin Lane and the W&OD Trail, effectively in a valley between Wildwood Park and the surrounding area. She did not survey neighboring properties but noted that flooding has caused the loss of mature trees on her lot and nearby properties. One adjacent home is vacant and heavily frequented by deer, while other neighboring houses are newer developments, so the applicant could not confirm whether they experience similar drainage issues.

Mr. Gadell explained his intent to vote in favor of approving the variance, citing familiarity with the property's location and conditions. He identified the property's unique hardship as its direct proximity to Wildwood Park, which borders both the rear and side yards. He described the park as dense, wooded, and heavily populated with deer, creating conditions not shared by other properties in Vienna. While he acknowledged that water issues are common in the area, he agreed that the fence helps support the applicant's mitigation efforts and concluded that the property's location next to Wildwood Park justifies the variance.

Mr. Nash suggests that future code updates include clarification of the intent behind specific regulations, such as fence height limits. He expressed uncertainty about the purpose of the four-foot restriction, noting that the applicants' see-through fence appears to meet safety and visibility goals while serving to deter deer. Mr. Nash stated that, given the property's unique circumstances and environmental benefits, he is inclined to vote in favor of granting the variance.

Mr. Creed moved to close the public hearing, and Mr. Dhanjal seconded the motion. The motion carried.

Ms. West clarified that the code section reference in the staff memo had been incorrect and was amended to reflect the correct citation. The regulations discussed throughout the meeting remained accurate; only the written code reference needed correction. Mr. Rettinger acknowledged and thanked Ms. West for clarifying.

Mr. Dhanjal made a motion to approve the request for a variance from Section 18-465.1.C., Fences., to allow a fence greater than 4 feet within the side yard setback to maintain an existing fence on the property at 609 Alma Street SE, in the RS-10.

Single-Unit Detached Residential zone.

Mr. Dhanjal stated that he intends to vote in favor of the variance, citing that the property's location in a flood zone and its proximity to Wildwood Park create a unique hardship. He emphasized that the fence does not negatively impact neighbors and that the property's use of native plants for water management strengthens the case. He also noted that other nearby properties have six-foot fences because their lots face the rear of the road, whereas the applicants' corner lot designation limits them to four feet, creating an inequitable situation. Overall, he found the property's circumstances to meet the criteria for granting the variance.

Mr. Rettinger said that he agrees with the perspectives shared by other board members, noting that the unique hardship stems from the property's location in a floodplain and on a downhill slope, which likely collects runoff from surrounding homes. He acknowledged the applicant's efforts to comply with the code by limiting the solid fence portion to four feet and using see-through material above that height. While uncertain that the fence will fully deter deer, he commended the applicants' environmental commitment and contribution to making Vienna a more beautiful and ecologically minded community.

Motion: Mr. Dhanjal

Second: Mr. Nash

Aye: Mr. Dhanjal, Mr. Gadell, Mr. Nash, Mr. Rettinger

Nay: Mr. Petersen & Mr. Creed

Vote 4-2

BZA-25147

Request for approval of a variance from Section 18-219.2. RS-10 Dimensional Standards., Rear Yard, of the Town of Vienna Zoning Code, to construct a covered deck, attached to an existing dwelling located at 644 Tazewell Road NW, in the RS-10, Single-Unit Detached Residential zone.

Ms. West explained that the property is located at the corner of Holmes Drive NW and Tazewell Road, covering 10,876 square feet and zoned RS-10 (single-unit development), not RS-16 as was mistakenly written in the staff report. The house was built in 1955, and the applicant is requesting a variance from the 35-foot rear yard setback requirement to allow for a covered, screened deck.

The proposed deck would comply with outdoor living coverage regulations, remaining unenclosed and within the 400-square-foot allowance for decks with roofs. However, because it has a roof, it must still meet the full setback requirement. The proposal would encroach 12 feet and 2 inches into the rear setback, leaving 22 feet and 10 inches from the rear property line.

Ms. West also confirmed that the red dashed line on the plat represents the required setback boundary, and the corner side yard setback is 25 feet, which is standard across all residential zoning districts.

Mr. Creed noted that what appeared to be a stairwell led to the basement and a small platform deck. He expressed concern that this existing structure was not mentioned in the application and might affect lot coverage calculations.

Ms. West clarified that, based on her review, the existing platform deck is proposed to be removed, though it was not explicitly stated in the documents. She confirmed it would otherwise count toward deck coverage, and the applicant can clarify this point further.

Anne Ferguson, the property owner, was sworn in for her testimony. The applicant thanked the board and Ms. West for guidance throughout the application process and clarified that the existing deck will be removed and replaced by the proposed screened porch. She stated that she has lived in Vienna since 2009, is a single mother of two, and is deeply committed to the community.

Ms. Ferguson explained that the porch is designed to maintain the aesthetic of the 1955 home and preserve the neighborhood's character, and it will not be visible from the front street (Tazewell Rd.); neighbors with direct sightlines have reviewed and approved the plans.

The applicant stated that due to the property's long and narrow layout, a covered porch is not possible under the current code, presenting a unique hardship. The screened porch will allow near year-round use, inspired by a similar design her sister built nearby, and the project aims to enhance usability for the family while benefiting the neighborhood and future owners without negatively impacting neighbors.

There was a question about the sliding glass door and the applicant confirmed that the existing sliding glass door at the rear of the house will lead directly to the new porch, and any existing bars or obstructions will be removed to create an active doorway.

Mr. Petersen acknowledged the applicant's clear presentation and letter but noted that the argument about being disproportionately affected compared to interior lots isn't relevant, since comparisons should be made to similar properties. He also emphasized that the applicant is seeking an improvement rather than addressing an inability to use the

property, and the requested variance is significant, encroaching over one-third into the rear yard setback. Based on this, he stated he was not convinced the variance should be granted, as the issue is town-wide rather than unique to the property.

Ms. Ferguson emphasized that the property's unique shape, long and narrow, makes it challenging to improve and enjoy the space year-round. Constructing a covered porch would enhance privacy in the yard, which has become more exposed due to sidewalks along both Homes Drive and Tazewell Road, resulting in increased foot traffic. The covered porch would therefore provide both functional and private outdoor living space.

Mr. Creed asked for clarification about the lot coverage, and Ms. West stated that the lot coverage with the additional patio would be around 20–25%, and the screened portion of the porch counts toward deck coverage.

The applicant confirmed that the approvals from neighboring property owners were included in the application packet, showing names, addresses, and signatures of those with a direct sight line to the proposed porch. Out of five neighbors, three provided written approval. One (who lives behind the applicant) gave approval via email, while the fifth neighbor on Tazewell verbally agreed but did not provide written confirmation.

The applicant was asked whether they had considered alternatives to the proposed porch that wouldn't encroach as much into the rear setback. She explained she had considered an uncovered, unscreened porch, but found it would have limited usability, only a few months per year, whereas a covered and screened porch with a fan could be used nearly year-round.

When asked if building upward was an option, the applicant said she had looked into it previously but found it significantly more expensive and unsuitable for their needs, as it would add interior rather than outdoor living space, which is important for her family.

Ms. West clarified that an uncovered deck is permitted to encroach up to 10 feet into the rear yard setback, meaning it must remain at least 25 feet from the rear property line. While she didn't have the exact measurements for the applicant's deck, she noted it would likely be close to, or within, the allowable limits if it remained uncovered.

Mr. Creed made a motion to close the public hearing, and Mr. Dhanjal seconded the motion. The motion carried.

Mr. Creed made a motion to approve the request for a variance from Section 18-219.2. RS-10 Dimensional Standards., Rear Yard, of the Town of Vienna Zoning Subdivision Ordinance, to construct a covered deck that would encroach 12 feet to two inches into the required rear setback at 35 feet, leaving a setback at 22 feet and 10 inches, attached to an existing dwelling located at 644 Tazewell Road NW, in the RS-10, Single-Unit Detached Residential zone.

Mr. Creed expressed support for the request, noting that although the proposed porch would extend about 22 feet into the setback, the property's large yard and the spacing between neighboring homes provide sufficient separation. He concluded that the encroachment would not negatively impact the surrounding neighborhood.

Motion: Mr. Creed

Second: Mr. Dhanjal

Aye: Mr. Dhanjal, Mr. Creed, Mr. Rettinger

Nay: Mr. Petersen, Mr. Gadell, Mr. Nash

Vote: 3-3

The applicant was informed that they have the option to appeal the decision to the Circuit Court if they choose to do so.

Regular Meeting:

Approval of the Minutes

Mr. Petersen made a motion to approve the September 17, 2025, meeting minutes, and Mr. Nash seconded the motion. Motion Carried.

Meeting Adjournment

The meeting adjourned at 8:52 pm.

**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.