

ORDER

THIS MATTER was considered by the Board of Zoning Appeals during a public hearing held on **September 18, 2013**, for a requested variance from Sections 18-33C and 18-198 of the Code of the Town of Vienna, Virginia. Based upon testimony offered by the applicant, exhibits offered into evidence, comments offered by members of the public and other interested parties, the Board has determined the following findings of fact:


- A. Perhaps best described as a “relatively-narrow trapezoid,” the subject lot is situated on Ware Street SW, mid-block between its intersection with Kingsley Road SW and Kibler Circle SW. The parcel ranges in width from 65.93 to 71.04 feet, from 164.42 to 170.79 feet in depth and encloses an area of 11,464 square feet. Existing improvements include the two-story dwelling, driveway and a sidewalk leading between the two.
- B. This is the second variance application in 2013 for the subject address. The first—considered in July—contemplated the addition of a porch along the entire front of the existing dwelling. That application was continued by the Board and then continued indefinitely at the request of the applicants due to a possible revision to the Town Code with respect to the required setback for front porches.
- C. The current variance proposes improvements—onto the rear of the existing dwelling—of a 17-foot by 23-foot rear addition including an 11.8-foot long bay window with foundation below [414.6 square feet], and a 12-foot by 17.3-foot rear porch and steps (total area w/o steps equals 173.4 square feet). Both the rear addition—minus the bay window and its foundation—and the rear porch meet the minimum side setback of 12 feet as set forth in § 18-33D of the Vienna Town Code and can be permitted by-right. Because the proposed bay window and its foundation (*interpreted by the Zoning Administrator as being a building addition*) extends to a point that is 11.1 feet from the side property line at its front and 10.9 feet at the rear, a variance from § 18-33D is required. According to the staff’s calculations, the area of encroachment beyond the side setback line is approximately 11.8 square feet (2.01 percent) of the total area of improvements that has been calculated at 588 square feet (rear addition plus rear porch minus steps).
- D. In the staff’s review of the July 2013 application, it was discovered that the subject parcel is nonconforming with respect to its width at the lot midline. According to staff calculations, the parcel measures about 67 feet in width, which is some 8 feet below the minimum width of 75 feet as now prescribed for the midline width of RS-10 zoned lots. Should the proposed variance request be granted, then the grant of this “housekeeping variance” from § 18-208 of the Code (Continuance of Nonconforming Use of Land) is again suggested by the Town Staff.

AND FROM THE FINDINGS OF FACT AS DETERMINED ABOVE, the Board of Zoning Appeals makes the following conclusions of law:

- 1. Granting of the requested variance, as considered by the Board of Zoning Appeals, will not be detrimental to the health, safety or welfare of the neighborhood, nor to the persons who reside therein, and is approved in accordance with the provisions of § 18-233 of the Town Code.
- 2. During the public hearing, board members discussed breaking down the issue into two separate motions. In doing so, the majority of the Board then determined that there is a de minimus variance from Section 18-33D of the Vienna Town Code as proposed by the applicants. While the majority of the Board supported the side-yard variance request, it was decided not to address the “housekeeping variance” during this particular hearing and table this matter until the resolution of the issue pertaining to the front-yard setback.

3. A minority of the Board determined that in order to grant a variance, it is necessary to determine that the subject lot is impacted by exceptional narrowness. It was apparent, as well, that most of the properties along Ware Street SW exhibit a similar size and lot width. It was also noted as troubling to other members of the Board that there is a lack of data with respect to lot width and lot size of each of the parcels in the same block of said Ware Street SW.

IT IS, THEREFORE, ORDERED, this 19th day of September, 2013, that the application, as submitted by R. Jonas and Darcey K. Geissler, 919 Ware Street SW, for a variance from Section 18-33D of the Vienna Town Code shall be **approved**.


Robert W. Dowler, Vice-Chairman
Board of Zoning Appeals
Town of Vienna, Virginia