




STAFF REPORT COVER SHEET

February 19, 2020

Address:	211 Center Street, North	Case Number:	BZA-01-20
Public Meeting Date:	2/19/2020	Applicant:	Mr. Joseph Patrick Bullis & Mrs. Pilar Bullis
Board/Commission:	Board of Zoning Appeals	Owner:	Mr. Joseph Patrick Bullis & Mrs. Pilar Bullis
Existing Zoning:	RS-10	Existing Land Use:	Low Density Residential
Brief Summary of Request:	<p>Request for approval of a variance from Section 18-33.F of the Vienna Town Code in order to construct a new single-family dwelling, in excess of the maximum permitted lot coverage, on the property located at 211 Center Street North, in the RS-10, Single-Family Detached Residential zone. Application filed by Mr. Joseph Patrick Bullis & Mrs. Pilar Bullis, owners.</p> 		
Site Improvements:	Homeowners wish to demolish an existing house and build a new single-family detached house, which exceeds the 25% maximum lot coverage.		
Size of Property:	8,173 Square Feet		
Public Notice Requirements:	<p>Code of Virginia section 15.2-2204 governing body notice of intention guidelines; have been followed for advertisement, posting and written notices requirements. Code requires posting Ads in local newspaper for two successive weeks prior to Board of Zoning Appeals meeting; advertisement published in Washington Times newspaper on February 5, and February 12, 2020. Code requires public notice placard; property placard on February 5, 2020. Code requires a representative of governing body file an affidavit; affidavit filed on behalf of the Board Clerk certifying proper mailing notification requirements where made and sent to applicant and adjoining property owners.</p>		
Brief Analysis			
<p>PROPERTY HISTORY</p> <p>Built in 1930, this single-family property includes a 1-1/2 story vinyl house; covered front porch, open rear deck, and asphalt driveway. The BZA approved a variance on June 20, 1997 to allow a one-story addition with a staff calculated lot coverage of 27.4%.</p> <p>COMPATIBILITY WITH THE ZONING ORDINANCE</p> <p>The newly proposed house does not comply with lot area coverage requirements and exceeds the Town's 25% maximum lot coverage allowed by Town Code Section §18-33.F, which references section §18-15.F. The applicant is requesting the identical 27.4% lot coverage as the previously approved variance granted on June 20, 1997.</p>			
Attachments:	BZA Application <input checked="" type="checkbox"/> Justification Statement <input checked="" type="checkbox"/> 1997 Variance Plat <input checked="" type="checkbox"/> 2020 House Location Survey <input checked="" type="checkbox"/> Proposed Building Envelope Plat <input checked="" type="checkbox"/> BZA Order <input checked="" type="checkbox"/>		

ITEM NO. 1:

Request for approval of a **variance** from Section §18-33.F of the Vienna Town Code in order to construct a new single-family dwelling, in excess of the maximum permitted lot coverage on the property located at 211 Center St, N; in the RS-10, Single-Family Detached Residential zone. Application filed by Mr. Joseph Patrick Bullis & Mrs. Pilar Bullis, owners.

Introductory Comments / Characteristics of the Existing Property:

The RS-10 zoned property is situated on the northeasterly side of Center Street, North and is located between Wilmar Place, NW and Ayr Hill Avenue, NW. The subject tract is a perfect rectangular lot measuring 71.07 feet in width and 115 feet in depth and encloses a total 8,173 square feet lot. This property does not conform to the Town's current minimum lot size requirement of 10,000 square feet or the minimum midline lot width of 75 feet for this RS-10 Single-Family Detached Residential zoned property, as specified in Section 18-33 of the Town Code.

The original one-story dwelling was constructed in 1930. The "House Location" survey prepared by Rice Associates, P.C., dated 01-14-1997, reveals the original house footprint with front and rear covered porches. This survey was altered and made part of the June 20, 1997 variance package, which shows a hand drawn addition measuring 47' wide by 35' deep with and associated lot coverage of 27.4%. The Board of Zoning Appeals (BZA-14-97) approved a one-story addition, with a lot coverage of 27.4 percent, on June 18, 1997. A building permit to construct the one-story addition was approved the following month. The hand drawn altered survey accepted and approved by the BZA shows the addition meeting all setback requirements. A review of Town records also revealed a July 1998 building permit to construct a 12' X 32' rear sundeck with stairs, per Fairfax County details.

According to the most recently submitted House Location Survey, prepared by William E. Ramsey, P.C. dated January 15, 2020, the **existing one and one-half story dwelling, front porch, rear deck, side yard sheds, and driveway**, cover some 2,278 square feet of area, or 27.87% of the 8,173 square-foot lot. This updated House Location Survey reveals that the house's side-yard setbacks of 11.8 feet and 11.6 feet actually do not meet the Town's minimum side-yard setback of 12 twelve feet as approved. No variances have been granted for encroachments into the side yard setback. This error was revealed when the applicant inquired about a variance requesting to add a second story to the existing structure.

Proposed Improvements:

The applicant is requesting a variance to construct a new single-family dwelling, in excess of the maximum permitted twenty-five percent lot coverage. The proposed new house “Proposed Building Envelope” plan prepared by Land Design Consultants, dated January, 2020, , shows a proposed lot coverage of 27.4%. This “Proposed Building Envelope” plan and proposed architectural drawing will meet all other RS-10 single-family detached residential zoning regulations for height and setbacks.

Relevant Zoning Ordinance Sections:

Section 18-33. - Area requirements.

The following area requirements shall apply in the ~~RS-16~~ (RS-10) zone:

F. *Lot coverage.* Lot coverage shall be the same as specified for the RS-16 zone.

Section 18-15. - Area requirements.

The following area requirements shall apply in the RS-16 zone:

F. *Lot coverage.* Not more than 25 percent of a lot shall be covered by buildings, accessory buildings, automobile parking spaces and access, sport courts, tennis courts, patios and terraces. Decks, as regulated in section 18-169, may not cover more than five percent of the total area of a lot.

Variance Criteria:

Code of Virginia Section 15.2-2201 & Town Code Section 18-4 Definitions:

Variance means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Code of Virginia Section 15.2-2309

§ 15.2-2309. Powers and duties of boards of zoning appeals

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.
2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

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 or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (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; (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; (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; (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 (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.....

Section 18-233. - Variances.

The board of appeals shall have the power to grant, upon appeal or original application in specific cases, such variance from the terms of this chapter provided the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standard for a variance and the criteria set out in this section.

- A. 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 or improvements thereon at the time of the effective date of the ordinance, and
- (1) 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;
 - (2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (3) 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;
 - (4) 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
 - (5) The relief or remedy sought by the variance application is not available through the conditional use permit process or, when permitted by this chapter, determination by the zoning administrator.

Staff Analysis:

1. The property's lot size of 8,173 does not conform to the Town's minimum 10,000 square feet minimum lot size requirement for the RS-10 single-family residential zoning district. The midline lot width of 71.07 feet also does not conform to the minimum midline lot width of 75 feet.
2. The single-family dwelling, constructed in 1930, includes a one-story house with front and rear stoops and asphalt driveway.
3. The Board of Zoning Appeals approved a variance for an addition with the approved calculated lot coverage of 27.4 percent on June 20, 1997.
4. The current owners acquired the property on March 29, 1999.
5. A review of the Town's records revealed a building permit issued July 1998 to build a rear deck.
6. Updated January 15, 2020 "House Location Survey" prepared by William E. Ramsey, P.C., shows an as-built lot coverage of 2,278 square feet or 27.87 percent. This Survey also reveals side-yard setback encroachments, which do not meet the Town's required minimum 12 twelve feet side-yard setback.

Required Board Approval:

The Board shall consider allowing the applicant to keep the existing lot coverage, which exceeds the maximum 25% lot coverage, in order to build a new proposed house footprint as shown on the “Proposed Building Envelope” plan prepared by Land Design Consultants dated January, 2020, (See attached Plat):

1. §18-33.F: Lot Coverage: (by reference from §18-15.F): Subparagraph F of this Code provision specifies that “Not more than 25 percent of a lot shall be covered by buildings, accessory buildings, automobile parking spaces and access, sport courts, tennis courts, patios and terraces. Decks, as regulated in section 18-169, may not cover more than five percent of the total area of a lot.”

According to the “Proposed Building Envelope” Plat previously mention above, the proposed house, covered front porch and driveway yields a total improvement area of 2,240 square feet or 27.4% percent lot coverage, which is 196.75 square feet above the maximum permitted lot coverage of 25 percent.

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The applicant has provided a justification statement. By copy of this staff report, all interested parties are reminded that it will be necessary to attend the public hearing and to provide sworn testimony in support or denial of the variance request.