



Town of Vienna

127 Center Street South
Vienna, Virginia 22180
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TTY 7111

Meeting Minutes Board of Zoning Appeals

Wednesday, June 5, 2024

7:30 PM

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

Special meeting

Roll Call

The Board of Zoning Appeals met for a special meeting in the Vienna Town Hall at 127 Center St S, Vienna, Virginia, on Wednesday, June 5, 2024, at 7:30 pm.

Chair Mr. Dhanjal called the meeting to order at 7:30 pm.

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

Absent Members: Mr. Lowther.

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

Public Hearings:

Mr. Dhanjal announced that item number four on the agenda was deferred prior to the meeting date.

[BZA-24097](#)

Request for approval of a conditional use permit, as required by Section 18-304 of the Vienna Town Code, for a Family Day Home care of up to twelve (12) children at 100 Battle Street SE, in the RS-10, Single-Family Residential zoning district. Application filed by Anastasia Abraham.

Ms. Andrea West, Zoning Administrator & Maggie Costello, Senior Planner – 127 Center St South Vienna, VA – were sworn in to speak.

Ms. Costello presented the board with information about the site location, future land use, and zoning of the property, the existing conditions, off-street parking areas, outdoor (deck) play area, the proposed use of the interior space for the daycare, and parking analysis. Ms. Costello concluded that the Family Day Home Care as proposed meets the minimum requirements of the town code and aligns with the town's comprehensive plan. She noted that the board may suggest conditions to mitigate the expected impacts of this use if necessary.

Applicant present: Anastasia Abraham, 100 Battle St SE Vienna, VA 22180, was sworn in to speak.

The applicant did not have more details to add she said she felt that the presentation by Ms. Costello was very thorough.

Mr. Nash asked what was the age range of the children. Ms. Abraham replied (0) zero to (2) two years old which she already has (4) four children with the same age range.

Mr. Nash voiced his concern with the area not fenced near the pool and asked if the pool had not presented a problem in the past, to which the applicant responded that the Fairfax County inspector had inspected the property before issuing a permit and approved the fence. Additionally, the state licensing inspector visited the property for a consultation and had no issue with the fence or pool. The applicant noted that she needs to submit an official application with the state which she can not complete without the Board of Zoning Appeals approval.

Mr. Gadell asked the applicant if she was the only one caring for the four children that are currently enrolled to which she replied yes and noted that the state-required ratio is one to four for the youngest children. Mr. Gadell then asked if she has (12) twelve children ready to enroll as she mentioned on her application hiring one additional person which makes him believe that she has more than (4) four children under her care. Ms. Abraham said that she is planning to hire one additional person plus a resident of the home so in total there will be (3) three teachers for (12) twelve children since the ratio is (1) one teacher for (4) four children.

Mr. Creed asked staff if the town follows the Fairfax County regulation of not parking within (10) ten feet of a driveway. Ms. Costello took a moment to review the town zoning code 9-12.3.1 which discusses parking restrictions on public streets and concluded that there are no restrictions regarding distance parking from a driveway in the town.

Mr. Creed commented that the applicant gathered letters of support from neighbors who live on Center St and Berry St but didn't see letters of support from neighbors on Battle St. He pointed out the opposing letter from a neighbor on Battle St that was sent to staff. He was concerned about the neighborhood's feedback. After the discussion he requested all letters be part of the record. The applicant responded that the letters of support are also from residents of the town who are interested in her Family Day Care services.

Mr. Gadell asked the applicant if she had scheduled or staggered drop-off times in the morning to which she said no because there are only (4) four children being dropped off. However, she submitted staff with a possible transportation policy that she would like to offer the families when she goes over the (4) four children. The diagram she created will provide the families with the drop-off and pick-up times and the parking spaces available on her property during those times.

Mr. Nash asked how much time are the children inside and outside. The applicant replied that her business hours are from (8) eight in the morning until (6) in the evening. They try to spend (1) one hour outside weather permitting. The plan is to have (12) twelve children divided into groups of (3) three to limit the amount of children outside at the same time.

Mr. Creed voiced his concerns about the pool. He asked the applicant what prevented the children from getting down to the pool and having access to the pool. Ms. Abraham responded with proper supervision, teacher-to-child ratio, and smaller groups. She noted that the fence that's there is based on the recommendation of the state licensing inspector. She added that the state's major concern is if children play on the same level as the pool. The floor plan was reviewed to get a better understanding of how you can get to the pool from where the children will be playing. Ms. Abraham assured the board that if there is anything else that the state licensing requires her to do after the official inspection she is happy to comply with the requirement.

There was a discussion on vegetation. The applicant said that the only vegetations that were removed were the ones endangering their lives like the one that fell after a storm and cracked the side of the pool. Ms. Abraham noted that she has planted flowers to redo the vegetation and all are blossoming.

No public comment. Mr. Creed made a motion to close the public hearing and Mr. Gadell seconded the motion. Motion carried.

Mr. Petersen made a motion to approve the request for a conditional use permit for a Family Day home for up to (12) twelve children at 100 Battle St. SE in accordance with sections 18-304 of the Vienna town code as filed by Ms. Anastasia Abraham.

Motion: Mr. Petersen

Second: Mr. Nash

The board discussed the motion and the discussion included the following points:

- The request meets the use-specific standards for Family Day homes.
- The request is not detrimental to the public welfare or would have any injurious impact on the properties in the neighborhood.
- Home Daycare provides working families the benefit of dropping their children off close to their neighborhood.
- The drop-offs and pick-ups are set up in a way that would not be of any disturbance to the neighborhood.

Motion: Mr. Petersen

Second: Mr. Nash

Aye: Mr. Petersen, Mr. Rettinger, Mr. Gadell, Mr. Nash, Mr. Danjhal

Nay: Mr. Creed

Absent: Mr. Lowther

Motion Carried

[BZA-24098](#)

Request for approval of a conditional use permit, as required by Section 18-304 of the Vienna Town Code, for a Family Day Home care of up to twelve (12) children at 108 Yeonas Circle SE, in the RS-10, Single-Family Residential zoning district. Application filed by Tania Giviani-Faris and Kami Faris, owners.

Mr. Rettinger recused himself from this item as his child attends this family day home.

Ms. Costello presented the board with an overview of the property that included the site location, future land use, and zoning, on and off-street parking areas, outdoor play area, existing screening, interior use and parking plan, available parking, and zoning regulations. Ms. Costello noted that the applicant currently holds a conditional use permit allowing care for up to (10) ten children. The applicant is now requesting a conditional use permit to extend care for up to (12) twelve children. Staff is not aware of any complaints relating to the existing use and there have been no violations on site.

Mr. Creed asked Ms. Costello if there had been any type of violation since the last conditional use permit issued in 2019 to which Ms. Costello responded there have been no issues. Mr. Creed commended the applicants for doing a great job with their business operation since their first initial conditional use permit in 2018.

Applicant: Tania Giviani-Faris, 108 Yeonas Circle SE, was sworn in to speak.

The applicant stated she didn't feel the need to provide more information besides what Ms. Costello presented. She stated that the reason she was requesting approval for (12) twelve children was because they would like to have space for some of the children's siblings.

Mr. Nash asked if the increase in children would require additional staff. Ms. Giviani-Faris stated that she has one full-time employee, a housekeeper, her daughter, and her husband who help her out.

No public comment. Mr. Nash made a motion to close the public hearing and Mr. Petersen. Motion carried.

Mr. Petersen made a motion to approve the request for a conditional use permit for a Family Day home for up to (12) twelve children at 108 Yeonas Circle SE in accordance with sections 18-304 of the Vienna town code as filed by Tania Giviani-Faris and Camille Faris the owners of the property.

Motion: Mr. Petersen

Second: Mr. Nash

Mr. Creed stated he would like the 2019 conditional use permit to become the basis for the approval and for the order that is developed for the request.

The board discussed the motion and the discussion included the following points:

- The 2019 conditional use permit is the basis for approval for this conditional use permit request.
- The daycare operations have not had any issues since the last conditional use permit was granted.
- The request for this conditional use permit complies with the town's comprehensive

plan.

- Providing home daycare is a contribution to the welfare of our community.
- Home daycare is a service in high demand.

Motion: Mr. Petersen

Second: Mr. Nash

Aye: Mr. Petersen, Mr. Creed, Mr. Gadell, Mr. Nash, Mr. Dhanjal

Nay: none

Absent: Mr. Lowther

Recuse: Mr. Rettinger

Motion Carried

[BZA-24099](#)

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, attached to an existing single-family dwelling located at 231 Talahi Road SE, in the RS-10, Single-Family Detached Residential zone. The Zoning Code requires that all structures in the Single-Family Residential zoning districts maintain a setback of 35' from the rear property line. The proposed porch encroaches 8.4' into the setback leaving a setback of 26.6' from the rear property line.

Ms. West provided a brief presentation that included the property's zoning, square footage, subdivision, non-conforming lot size, setbacks, and the variance request. During her presentation, Ms. West stated that the actual property square footage is 9520 square feet. Prior to a dedication of land for a sidewalk, the property was 9920 square feet. 400 square feet were dedicated to the town. She noted that the lot was a non-conforming lot size because it is below the 10,000 square feet minimum lot area within the RS-10 zoning district required by code.

Mr. Nash recused himself from this item as John Paul (JP) built his home and also because he is good friends with the Bryants family.

Applicants present: John Paul Sorrell, 210 Talahi Rd SE & Kimberly Bryant, 231 Talahi RD SE, were sworn in to speak.

Ms. Bryant explained that the request was not to expand the existing deck but to cover it by building out from the existing roof line. They would love to utilize the deck year-round in all conditions. Ms. Bryants pointed out that the neighbors all have second-level balconies/decks which allows them to look into her yard. Covering the deck with a roof would provide some privacy.

Mr. Sorrell stated that behind the applicant's backyard, there is a storm inlet and they believe the backyard was shortened to accommodate the easement for the stormwater management. He said that he didn't believe that a covered deck would affect the neighbor's views. Additionally, he noted that he also built the next door neighbor's home and their backyard extends twice the length of the Braynt's backyard. Lastly, he pointed out that the Bryants already had a pergola over the deck so the only difference would be making it a dry space year-round.

Mr. Gadell asked the applicants if they were not intending to put any side walls or back covering, simply a roof to which they responded yes.

Mr. Petersen stated that from what he read on the application the applicant's main thrust of the argument is that the property is smaller than most of the neighboring properties. The reduction in size of the property from the RS-10 zone is de minimus. If the property is smaller, then what can be constructed would be smaller than neighboring larger properties. If this request was to be approved the encroachment into the rear yard setback would be 24% of the 35 feet which is not de minimis, it is a significant extension beyond the town's zoning regulations. As a result of what he read, visiting the site, and attending the meeting, he would not be able to support the approval of the variance request.

John Paul Sorrell explained that when they were designing the house the deed of dedication was a new process. A lot was based on verbal conversation. They didn't want to push the house back but they ended up pushing it back to avoid any issue with getting the occupancy permit. This house is the only house that was pushed back

from the neighborhood.

Mr. Creed commented that he would like the supporting letters to be part of the record. Mr. Rettinger asked if any neighbors expressed opposition to this request to which Mrs. Bryant responded that she was not aware of anyone being opposed to the proposed project. Many have seen the sign in front of her property advertising the meeting and proposed scope of work and no one has voiced opposition to the project. The only neighbors she was not allowed to speak with were Tim and Linda who live on the backside of the property since they were on vacation.

There were no public comments. Mr. Creed made a motion to close the public hearing and Mr. Petersen seconded the motion. Motion carried.

Mr. Creed made a motion to approve the 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, attached to an existing single-family dwelling located at 231 Talahi Road SE, in the RS-10, Single-Family Detached Residential zone.

Motion: Mr. Creed

Seconde: Mr. Gadell

The board discussed the motion and the discussion included the following points:

- Mr. Petersen did not support the motion because he believes the property owners will continue to have the enjoyment of their property. They're not going to be deprived of significant use or enjoyment of the property by not getting approval for the variance. He doesn't feel that anything that he read on the application, saw when visiting the site, or heard during the meeting is a significant need for the board to approve the variance request.
- Changing the pergola to a permanent roof does not impact the community.
- The way the adjacent properties line up impacts the privacy of the house.

Motion: Mr. Creed

Second: Mr. Gadell

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

Nay: Mr. Petersen

Absent: Mr. Lowther

Recuse: Mr. Nash

Motion Carried

[BZA-24100](#)

****Deferred**** 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, 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 Zoning Code requires that all structures in the Single-Family Residential zoning districts maintain a setback of 35' from the rear property line. The proposed porch encroaches 19'-2.5" into the setback leaving a setback of 15'-9.5" from the rear property line.

Regular Business

Approval of the Minutes: February 21, 2024, meeting minutes.

The meeting minutes for February 21, 2024, were approved with an amendment.

Discussion:

1. Mr. Rettinger introduced himself to the board.
2. Brief discussion on the total of items for the July 17, 2024 meeting.
3. Mr. Creed would like the board to be able to select dates when meetings need to be rescheduled due to conflicts with holidays.

Meeting Adjournment

Mr. Gadell made a motion to adjourn and Mr. Rettinger seconded the motion.
Motion carried.

The meeting adjourned at 8:52 p.m.

Yaska Camacho Castillo
Board Clerk

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.