

**BOARD OF ZONING APPEALS
PUBLIC HEARING
MINUTES
May 18, 2016**

The Board of Zoning Appeals (BZA) held one advertised public hearings in the Council Room of the Vienna Town Hall, located at 127 Center Street, South, Vienna, Virginia, on May 18, 2016, beginning at 8:00 PM with Robert Petersen presiding as Chair. The following members were present: Bill Daly, Gregory Haight, Donald Chumley, Robert Dowler and Michael Gadell. Absent was George Creed. Also attending and representing staff were Patrick Mulhern, Director of Planning & Zoning, Frank Simeck, Senior Zoning Inspector and Emily Goodman, Board Clerk.

Chairman Petersen took a moment to point out the authority and responsibilities of the Board which are listed on the back of the agenda.

Item No. 1

Request for approval of a variance from Sections 18-33.E and 18-198 of the Vienna Town Code to construct a second story addition on an existing nonconforming dwelling that encroaches into the rear setback on property located at 400 Holmes Drive NW, in the RS-10, Single-Family Detached Residential zoning district. Application filed by Lei Kou of Bryce Enterprise, agent for Capital Investment Partners, LLC, owners.

Mr. Lei Kou, owner, was sworn in to speak.

Mr. Kou said they are seeking to do a simple, second story addition. They are not expanding the footprint, they are only going up. They would like to also add a front porch but they are within the setback for the porch.

Mr. Dowler said looking at the plat, it looks like the far right corner of the front porch does encroach slightly into the front setback. Mr. Simeck said the plat shows an overhang which is allowed to encroach into the setback up to four feet. Mr. Dowler said the architectural plans show a front porch. Mr. Simeck agreed that there was a front porch on the architectural plans that was not correctly labeled on the plat. Mr. Dowler asked if the porch needs an additional variance and Mr. Simeck said yes, there is 1-2 feet of porch that encroaches into the setback.

Mr. Chumley asked if the property would need a variance if it faced Holmes Drive instead of being placed on an angle. Mr. Simeck said the problem is the house isn't perpendicular to any lot line so it makes the setbacks difficult. The house was built before the Code was written.

Mr. Daly asked if the applicant needs to resubmit since the front porch was not part of the original request.

Mr. Dowler said he believes they can approve it as amended but isn't sure if there is an issue with the notification procedures.

Mr. Mulhern said the public notice is general regarding setbacks and he feels the Board can take action on the front setback if they decide to do so.

Chairman Petersen asked if there were any questions or comments and as there were none, he requested a motion to close.

Mr. Daly made a motion to close the public hearing.

Mr. Dowler seconded the motion.

Motion:	Daly
Second:	Dowler
Passed:	6-0
Absent:	Creed

**BOARD OF ZONING APPEALS
REGULAR MEETING
MINUTES
May 18, 2016**

The Board of Zoning Appeals (BZA) met in session to review one advertised public hearings in the Council Room of the Vienna Town Hall, located at 127 Center Street, South, Vienna, Virginia, on May 18, 2016, beginning at 8:00 PM with Robert Petersen presiding as Chair. The following members were present: Bill Daly, Gregory Haight, Donald Chumley, Robert Dowler and Michael Gadell. Absent was George Creed. Also attending and representing staff were Patrick Mulhern, Director of Planning & Zoning, Frank Simeck, Senior Zoning Inspector and Emily Goodman, Board Clerk.

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Mr. Dowler made a motion that the request for a variance from Sections 18-33.E, 18-33.C and 18-198 of the Town Code to build a second story addition which encroaches into the rear yard setback and a front porch which encroaches into the front setback as shown on the submitted plat on property located at 400 Holmes Drive NW be granted.

Mr. Dowler said the majority of the addition is on the existing footprint and the amount that encroaches is de minimis.

Mr. Daly seconded the motion.

Mr. Daly said the addition looks like it will be nice and he thinks the neighbors will be happy.

Chairman Petersen said if you walk the street and look at properties in the area, the proposed house fits with the general character of the neighborhood. He can't see any negative affect on the neighboring properties.

Chairman Petersen called for a vote on the motion.

Motion: Dowler
Second: Daly
Passed: 6-0
Absent: Creed

Approval of the Minutes

Mr. Dowler made a correction on page five of the minutes. The conditional use permit being voted on was to be valid pending the start of construction within two years.

Mr. Dowler made a motion to approve the minutes of April 20, 2016 as corrected.

Mr. Chumley seconded the motion.

Motion: Dowler
Second: Chumley
Passed: 6-0
Absent: Creed

Mr. Dowler wondered why the language in the Code limited conditional use permits to six months pending construction or operation, instead of simply construction. He asked Mr. Mulhern if the Town ever makes changes to the Code and Mr. Mulhern said he has actually initiated a departmental Code edit and review. Most of the Code hasn't been looked at since 1969 and he feels strongly that if the same issues are being brought before the BZA over and over then changes should be made.

Adjournment

The meeting was adjourned at 9:04 PM.

Respectfully submitted,
Emily L. Goodman
Clerk of the Board of Zoning Appeals