ZONING APPEAL STAFF REPORT
BZA# VAR16-196

APPLICANT: KIRK D. BECCHI
ADDRESS: 2991 BARRINGTON DRIVE
ROCKINGHAM, VA 22801

AMOUNT OF LAND: .47 ACRE ZONING: R2-C
TAX MAP NO.: 125H-(5)-18
DESCRIPTION: (existing use of property) according to tax records:
Single-family dwelling

HISTORY: The existing residence was constructed in 1998. In 2001 a 24' x 12' deck was added to the rear of the house. At that time, decks and screened-in porches were allowed to encroach 50% into the rear yard setback. In the 2014 rewrite of the zoning ordinance, that stipulation was removed, and the Code required decks and screened-in porches to meet main building setbacks. This deck was considered a legal, non-conforming use. However, staff cannot approve a change that would make a non-conforming use more non-conforming by allowing the deck to become a screened-in porch.

Applicant could enclose a 15' x 12' area of the deck and meet the 35' setback.

REQUEST: Rear yard reduction from 35' to 30.8' to allow a portion of a deck to be enclosed into a screened-in porch.

THINGS TO CONSIDER:

1. Is there a topographical hardship?
2. If there is not a topographical hardship, is there a hardship approaching confiscation?
3. Is this request a necessity or is it a convenience to the applicant?
4. Is this a self-imposed hardship brought about by the applicant?
5. Does the applicant have an alternative that could be used which would bring the property into compliance with the law?

POINTS TO REMEMBER:

1. **THE BURDEN OF THE PROOF IS ON THE APPLICANT. IT IS NOT UP TO THE BOARD TO FIND A WAY TO GRANT THE VARIANCE. IT IS UP TO THE APPLICANT TO PROVE TO THE BOARD WHY THE VARIANCE SHOULD BE GRANTED.**
2. **THE BOARD SHOULD BASE ITS DECISION ON THE EVIDENCE PRESENTED TO IT.**
3. **FINANCIAL HARDSHIP CANNOT BE THE SOLE REASON USED FOR GRANTING A VARIANCE.**
4. **THE CRITERIA SET ASIDE BY THE STATE OF VIRGINIA FOR GRANTING A VARIANCE MUST BE MET. IF THAT CRITERIA CANNOT BE MET, THE VARIANCE SHOULD NOT BE GRANTED.**