

1 BOARD OF ZONING APPEALS MEETING

2 CITY COUNCIL CHAMBERS

3 Thursday, March 16, 2023

4 7:30 p.m.

5
6 1. CALL TO ORDER

7 MR. MISLEH: I'd like to call the Board of Zoning
8 Appeals meeting for Thursday, March 16, 2023, to order.

9 Akida, will you please make the roll call.

10
11 2. ROLL CALL

12 MS. ROUZI: Sure.

13 Mr. Misleh.

14 MR. MISLEH: Here.

15 MS. ROUZI: Ms. Ward.

16 MS. WARD: Here.

17 MS. ROUZI: Mr. Kien.

18 Mr. Kien is absent.

19 Mr. Eppler.

20 MR. EPPLER: Here.

21 MS. ROUZI: Mr. Bartlett.

22 Mr. Bartlett is absent.

23 Thank you.

24
25 3. PETITIONS

26 MR. MISLEH: Do we have any Petitions this evening?

27 MS. ROUZI: No, sir, we do not.

28

29 4. OLD BUSINESS

30 MR. MISLEH: Any Old Business?

31 MS. ROUZI: No Old Business.

32

33 5. NEW BUSINESS

34 a. Cases

35 i. Variance application V1637-23 by Andra Popa,
36 applicant and owner, for a variance to Section 48-238(4)c. to
37 allow a detached garage with a height of 13.8 feet instead of 12
38 feet maximum at premises known as 806 Ridge Place, RPC
39 #53-215-004 of the Falls Church Real Property Records, zoned
40 R-1A, Low Density Residential.

41 MR. MISLEH: All right. Well, then let's move on to
42 the New Business.

43 The first case this evening is variance application
44 V1637-23 by Andra Popa, applicant and owner, for a variance to
45 Section 48-238(4)c. to allow a detached garage with a height of
46 13.8 feet instead of 12 feet maximum at premises known as 806
47 Ridge Place.

48 If that applicant would like to come forward please.

49 The applicant would like to ask for a continuation.

50 Do we need to take a vote on that?

51 MS. ROUZI: No, you do not.

52 MR. MISLEH: All right. We'll look forward to seeing
53 you next month. Thank you.

54
55 ii. Variance application V1638-23 by Steve Deering,
56 applicant and owner, for a variance to Section 48-238(3) a. To
57 allow a rear setback of 18.25 feet instead of 40 feet for the
58 purpose of constructing a covered porch at premises known as 104
59 Lawton Street, RPC #53-116-007 of the Falls Church Real Property
60 Records, zoned R-1A, Low Density Residential.

61
62 MR. MISLEH: The next application is variance
63 application V1638-23 by Steve Deering, applicant and owner, for
64 a variance to Section 48-238(3)a. to allow a rear setback of
65 18.25 feet instead of 40 feet for the purpose of constructing a
66 covered porch at premises known as 104 Lawton Street.

67 MS. ROUZI: Good evening. Just a quick background on
68 this.

69 This property is zoned R-1A and it is substantially
70 substandard for lot area. For such lots our Code allows a
71 reduction in the rear setback requirement of 30 percent of the
72 lot depth; that yields approximately 29 feet instead of the
73 standard 40 feet.

74 Another challenge for this property is the existing
75 front yard of approximately 50 feet which is significantly more
76

77 severe than the standard front setback of 30 feet required by
78 Code and this has pushed the house close to the rear property
79 line leaving very limited space to work with in the back yard.

80 They have an existing deck in the back that's about 18
81 feet from the rear property line so it's within the required
82 setback. They're requesting to put a roof over a central
83 portion of that deck which is considered a building by Code
84 definition. So the requested rear setback encroachment requires
85 a variance.

86 I will also add a similar porch would have been
87 allowed by right to encroach up to 8 feet in the front yard but
88 that flexibility is not afforded for the back yard. It is a
89 Code amendment staff is working on to get through to City
90 Council, so hopefully in the future when that Code amendment is
91 approved, this will be an administrative approval.

92 That's all I have to say on the application. The
93 applicants are here to present.

94 MR. MISLEH: Thank you, Akida.

95 If the applicant would like to come forward please.

96 If you would please sign in.

97 MR. DEERING: Sure.

98 MR. DEERING: While you're standing, I'll ask you to
99 raise your right hand.

100 (Witnesses sworn.)

101 MR. MISLEH: Thank you very much.

102 MR. DEERING: We are the owners of the property at 104
103 Lawton. We are undergoing a major renovation of the house,
104 plans that were approved some time ago. When we took the house
105 it was single story rambler down to foundation and have built a
106 two story building there now. We are now actually in the final
107 throes of it. We are on the 8th month of living above a
108 (inaudible) and hopefully we'll get back out of our two bedroom
109 apartment and back to our house.

110 As part of the plans we have this deck on the back.
111 Our builder suggested that the deck might be more useable if we
112 added some shade and covered space and that's why we're here
113 before you, we'd like to ask for a variance on the setback to
114 allow for a covering over the deck portion, as I say, and that's
115 already been approved.

116 We're not asking for any change in the footprint of
117 the approved plans. We'd just like to just put a covering.

118 And I have some conceptual drawings here as part of
119 the documents that I provided. The red up there is the piece
120 that we're talking about providing coverage.

121 I do also have letters as part of the package from my
122 immediate neighbors on the left and right of the house who both
123 have provided their approval for concurrence on the front of the
124 deck.

125 We have to answer any questions? This is my first
126 time in front of you.

127 MS. WARD: I think you guys may have already mentioned
128 it, I just want to double check. So the deck was an existing
129 structure?

130 MR. DEERING: The deck is not an existing structure.
131 If you look at the pictures of the back yard, actually scroll
132 back down. This is the back of the house.

133 MS. WARD: Okay.

134 MR. DEERING: The deck does not exist at this point
135 but was part of the plans that were approved.

136 MS. ROUZI: I apologize for that. I think I got that
137 wrong.

138 MR. DEERING: No problem.

139 MR. MISLEH: Is the proposed deck permitted?

140 MS. ROUZI: Yeah, the deck is permitted. It's just
141 the enclosure over. The roof triggers the definition for a
142 building. It's like an addition in some ways.

143 MR. DEERING: If you scroll back up just a little bit,
144 a little bit higher up into the conceptual piece, you can see
145 that covered piece there that's over the deck and if you go up a
146 little higher, you can see that's the piece that we're talking
147 about, asking the variance for, the covering.

148 As I understand it we had to come ask for a variance
149 because it would attach the house as opposed to simply free
150 standing.

151 We talked about doing some other things but it
152 required structural engineers and we also likely provide the
153 level of shade that we were hoping to get in making that space.
154 You can see there are some pretty big glass doors there that
155 would open up to that piece where it would be a nice space to
156 extend the house up.

157 MR. EPPLER: I'm assuming since it's southern
158 exposure.

159 MR. DEERING: So this space is the Presbyterian
160 Church. So Broad is -- so that's actually facing -- we back
161 right up to the parking lot of the church. If you're heading
162 out towards Seven Corners, right, on Broad, we're the first
163 street after 7 and 10 Lee Highway and so our property backs to
164 the Presbyterian Church on Broad Street.

165 MS. WARD: The house in the rear was always been in
166 construction, you guys went down to the foundation, and then you
167 rebuilt the first story, rebuilt the second story.

168 MR. DEERING: Yeah, that's right. The only -- right.
169 So we went all the way down to the foundation. They kept some
170 of the exterior walls on the first level. They're not really
171 structural. We added some square footage on the front of the
172 house where we were allowed to, but we didn't have any room to
173 build back which is one of the reasons we went up.

174 MS. WARD: And just so I understand, the 50 foot, I'm
175 not familiar with, is that a Lawton Street thing?

176 MS. ROUZI: It is. I think it's the original
177 subdivision building restriction line, which by the way the
178 Zoning Office does not enforce. We enforce the standard or yard
179 averaging requirement that's in the Code.

180 MR. MISLEH: Just to be clear, it's 40 feet or 30
181 percent, what you explained.

182 MS. ROUZI: Oh, so the rear yard requirement is
183 reduced to 30 percent of the lot depth so you end up with about
184 29 feet.

185 MR. EPPLER: The back of the house is at 25 feet?

186 MS. ROUZI: 29 feet. Or some fraction of.

187 MR. DEERING: If you look at this from a satellite,
188 it's pretty clear that the church purchased part of our back
189 yard at some point. It's a cutout in their parking lot.

190 MR. MISLEH: How long have you owned this property?

191 MR. DEERING: We moved in in July of 2012.

192 MR. EPPLER: Did you by any chance contact the church
193 to find out if they had any objection? I know, it's on the
194 other side of the property.

195 MR. DEERING: Actually I did not. It's a fair
196 question. I will tell you, the existing house before we went
197 down had a second study. There was an exit out of the back of
198 the house, I assume about the same level as this would be so we
199 could oversee into the church parking lot.

200 To be honest, when we bought the house I tried to have
201 some communication with them around some of their lights and
202 that sort of thing. I didn't get a lot of feedback from them.

203 So to answer your question, no, I didn't. On the
204 other hand, I don't think that we've had any communications from
205 them whatsoever.

206 MR. EPPLER: I don't know what the property looks
207 like, your back yard or the details of the property, you've got
208 some curved buildings on the other side. You want to comment.

209 MR. DEERING: Right, so we have a fence. Directly on
210 the other side of the fence is their parking lot, the church's.
211 So if we're looking out the back of the house, looking at the
212 east side, across the parking lot, to Fairfax Street I guess it
213 is, it's not unlike our neighbor to our -- that's closer to
214 Broad Street. It's got a second level balcony that is
215 overlooking.

216 MS. WARD: Isn't this represented by in front of the
217 property?

218 MS. ROUZI: That's correct, within 150 feet of the
219 subject property, so they would have to proceed left.

220 MS. WARD: Okay.

221 MR. MISLEH: I have a question about the impervious
222 lot coverage. What's the requirement for this lot?

223 MS. ROUZI: It's 35 percent maximum. The Zoning Code
224 also limits the authority of the Zoning Office to review

225

226 impervious lot coverage at grading plan. So if a project
227 proposal does not trigger a grading plan, the Zoning
228 Administrator does not have the ability to not waive impervious
229 lot coverage.

230 MR. DEERING: So I will tell you that we did actually,
231 Akida asked a question earlier this week about that and I did
232 have my builder go through sort of a -- and I don't want to call
233 it formal because I don't know exactly how he did it, but still
234 below that 35 percent that Akida just mentioned, impervious
235 surface.

236 MS. ROUZI: That's correct. Actually, yeah, Mr.
237 Deering was courteous enough to actually provide that number. I
238 think it is in your packet, both the lot coverage and the
239 impervious coverage right below the maximum permitted by Code.
240 We're looking for that numbers now, unless it's in front of you.

241 MR. MISLEH: In that proposed condition it's within
242 the variance request. Thank you.

243 Just for the record, that document shows 34.9 percent
244 coverage.

245 Do you have any additional comments for the Board this
246 evening?

247 MR. DEERING: It would be lovely to have a covered
248 porch.

249 MR. MISLEH: Okay. So I must tell you, I'm sure
250 staff's already told you, because there are only three members
251

252 this evening, it would require a unanimous approval in order to
253 pass this variance request. So you have the option to request a
254 continuance this evening to wait for a full Board which you
255 would only need a majority.

256 MR. DEERING: Can I poll the council, the members
257 first?

258 MR. MISLEH: No helping.

259 MR. DEERING: I mean, here's the thing: I guess
260 there's no reason for me to continue because it's not going to
261 change, right? If we can't do this, I don't know if we would
262 have to do something different. So I don't think there's any
263 reason for a continuance.

264 MS. DEERING: How many more people would be here?

265 MR. MISLEH: It would be five potentially.

266 MS. DEERING: Okay.

267 MR. MISLEH: You have up until the time when we call
268 the vote.

269 MR. DEERING: Yes, certainly. Maybe I should have
270 done some homework and research.

271 MS. DEERING: Did we know before coming here tonight
272 that we wouldn't have a full panel to assess?

273 MS. ROUZI: Yeah, we would have. Laura would have
274 them, the members attending.

275 MS. DEERING: I guess we weren't informed of that.

276 MR. MISLEH: You have up until we call for a vote.

277 We're going to deliberate openly.

278 MR. DEERING: Okay.

279 MR. MISLEH: We'll poll you before we --

280 MR. DEERING: Fair enough. Thank you.

281 MR. MISLEH: At this time if the applicant has no
282 additional comments, I'd like to open it up for the Board.

283 MR. EPPLER: Okay. So I'll start.

284 So, given the shape of the lot and the fact that they
285 built the existing foundation, this does not seem to be an
286 unreasonable request. Shade would be, as he said, quite useful.
287 And there does not appear to be neighbor opposition. The Church
288 did not respond. (Audio distortion)

289 MS. WARD: Yeah, I tend to agree about all the
290 comments. I initially wasn't sure about the deck, building
291 existing, you know, permit in place, but that's been addressed
292 tonight. And I think that the proposed structure is
293 minimalistic with this kind of how much space it takes up for
294 the neighbors and I'm supportive of it.

295 MR. MISLEH: Thank you.

296 Akida, a quick question. You commented about if this
297 were to be a covered porch on the front it would encroach on the
298 setback there. It would be approvable at staff level; is that
299 correct?

300 MS. ROUZI: Correct.

301 MR. MISLEH: Thank you.

302 MS. WARD: Yes, I guess just one question on that. Is
303 it 12 feet, the deck?

304 MS. ROUZI: Yes.

305 MS. WARD: Because I thought 8 feet was the --

306 MS. ROUZI: Yeah, encroachment in the front up to 8
307 feet, yeah.

308 MS. WARD: Okay. In the back.

309 MS. ROUZI: It's further.

310 MS. WARD: It's further in the back?

311 MS. ROUZI: Yeah.

312 MS. WARD: Okay.

313 MR. MISLEH: Any additional comments?

314 (No response.)

315 MR. MISLEH: Would you like to continue forward?

316 MR. DEERING: Yes.

317 MR. MISLEH: Thank you.

318 Would someone like to make a motion?

319 MS. WARD: I'd like to make a motion to approve
320 variance application V1638-23 by Steve Deering, applicant and
321 owner, for a variance to Section 48-238(3) a. to allow a rear
322 setback of 18.25 feet instead of 40 feet for the purpose of
323 constructing a covered porch at the premises known as 104 Lawton
324 Street, RPC -- hold on. One thing. Do we need to specify how
325 large we're allowing, width?

326 MR. MISLEH: Go ahead and continue the motion and then
327 we'll --

328 MS. WARD: Okay.

329 -- instead of 40 feet for the purpose of constructing
330 a covered porch at premises known as 104 Lawton Street, RPC
331 #53-116-007 of the Falls Church Real Property Records, zoned
332 R-1A, Low Density Residential.

333 MR. MISLEH: Akida, can you give us the specific
334 dimensions of the covering for the motion? I see 12 feet on
335 the plat provided but there's no width.

336 MS. ROUZI: I don't know. I wonder if the applicant
337 has that information, the width of the -- I don't see it on the
338 plat either.

339 Was the Board thinking to approve the setback but
340 control the width of the deck I think.

341 MR. MISLEH: It's important that it's limited to
342 what's been calculated as impervious and what's been presented.

343 MR. DEERING: I don't have it with me.

344 MS. ROUZI: I wonder if you can say as shown on this
345 plat and we can make sure they submit the dimensions that are
346 more or less similar to the footprint that's provided on the
347 plat; does the Board feel comfortable with that?

348 MR. MISLEH: That's fine. If you're okay with that, I
349 think we could amend the motion to limit the size of the
350 covering, of the proposed covered porch to the length and width

351 or the depth and width as shown on the plat and as considered by
352 the impervious lot coverage calculation provided by the
353 applicant's drawing.

354 Does someone need to restate that in its entirety for
355 the record?

356 MS. ROUZI: I think we've got it. We've got it in the
357 recording so we'll make sure it's written well.

358 MR. EPPLER: I will second the motion.

359 MS. ROUZI: Okay. For roll call.

360 Ms. Ward.

361 MS. WARD: Yes.

362 MS. ROUZI: Mr. Misleh.

363 MR. MISLEH: Yes.

364 MS. ROUZI: Mr. Eppler.

365 MR. EPPLER: Yes.

366 MS. ROUZI: Thank you.

367 MR. MISLEH: Thank you very much for coming this
368 evening and good luck with your project.

369 MR. DEERING: Thank you for your consideration. We
370 appreciate it very much.

371 What happens from here?

372 MS. ROUZI: We will send you an official resolution,
373 approval resolution. But we'll connect with you.

374 MR. DEERING: Thank you very much.

375

376 b. Approval of 2023 BZA Rules of Procedures (Revised)

377 MR. MISLEH: Next on the Agenda is the Approval of the
378 2023 BZA Rules of Procedures, revised.

379 Will staff please point out what's changed.

380 MS. ROUZI: Yes. It was a typo I believe. There was
381 a typo. I can't remember exactly what it was but our Deputy
382 Zoning Administrator Laura Arseneau corrected that typo. That's
383 why it's coming back for approval.

384 MR. MISLEH: Would someone like to make a motion?

385 MR. EPPLER: I will move to approve the 2023 Rules of
386 Procedure of the Board of Zoning Appeals, adopted and revised.

387 MS. WARD: I'll second.

388 MS. ROUZI: Ms. Ward.

389 MS. WARD: Yes.

390 MS. ROUZI: Mr. Misleh.

391 MR. MISLEH: Yes.

392 MS. ROUZI: Mr. Eppler.

393 MR. EPPLER: Yes.

394 MS. ROUZI: Thank you.

395 MR. MISLEH: Can we please have Laura circulate this
396 updated copy to the Board through email?

397 MS. ROUZI: Yes, sir.

398

399 6. APPROVAL OF MINUTES

400 a. Approval of the January 12, 2023, Meeting Minutes

401 MR. MISLEH: So the next item on the Agenda is the
402 Approval of the Minutes from January 12, 2023.

403 Were you at that meeting? If not, then there's no
404 point in reviewing.

405 MS. ROUZI: That's correct, you would have to abstain
406 since you weren't there and two members can't vote to approve
407 something so we'd have to continue the minutes.

408 MR. MISLEH: Okay. We will continue the Approval of
409 the Minutes until the next meeting.

410
411 7. OTHER BUSINESS

412 MR. MISLEH: There's no Other Business.

413
414 8. ADJOURNMENT

415 MR. MISLEH: We'll go ahead and move to adjourn.

416 MS. ROUZI: All those agree?

417 (A chorus of "ayes.")

418 MR. MISLEH: Thank you.

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