

1 BOARD OF ZONING APPEALS MEETING

2 CITY COUNCIL CHAMBERS

3 Thursday, April 13, 2023

4 7:30 p.m.

5  
6 1. CALL TO ORDER

7 MS. WARD: I'd like to call to order the April 13,  
8 2023, meeting of the Falls Church Board of Zoning Appeals.

9  
10 2. ROLL CALL

11 MS. WARD: Roll call please.

12 RECORDING SECRETARY: Mr. Kien.

13 MR. KIEN: Here.

14 RECORDING SECRETARY: Mr. Misleh.

15 Mr. Misleh is not present.

16 RECORDING SECRETARY: Ms. Ward.

17 MS. WARD: Here.

18 RECORDING SECRETARY: Mr. Bartlett.

19 MR. BARTLETT: Here.

20 RECORDING SECRETARY: Mr. Gresko.

21 MR. GRESKO: Here.

22  
23 3. PETITIONS

24  
25 4. OLD BUSINESS

26 a. Variance

27 i. Variance application V1637-23 by Andra Popa,  
28 applicant and owner, for a variance to Section 48-238(4)c. to  
29 allow a detached garage with a height of 13.8 feet instead of 12  
30 feet maximum at premises known as 806 Ridge Place, RPC  
31 #53-215-004 of the Falls Church Real Property Records, zoned  
32 R-1A, Low Density Residential.

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

39 Can we have the applicant step up and sign in.

40 And can you raise your right hand to be sworn.

41 (Witnesses sworn.)

42 MS. WARD: Staff.

43 MS. ROUZI: Sure. This is a R-1A property. The  
44 applicant is requesting to allow a height of 13.8 feet for a  
45 detached garage which is about 1.8 feet above the maximum  
46 permitted in the zoning district for an accessory building.

47 Prior to letting the applicant present her  
48 application, I do want to provide some background as to why  
49 she's here today.

50           For a new house construction like this, our process  
51 requires a grading plan submission and approval and then  
52 building plan submission and approval which can take up to years  
53 until a building permit is issued to allow building.

54           In this case the grading plan was first submitted in  
55 early 2021 showing the proposed garage and non-conforming  
56 height. And while staff identified the issue to the applicant  
57 in an email during that time, that communication was not  
58 entirely clear in my opinion and the grading plan was ultimately  
59 approved with that height.

60           There were internal staff notes citing the issue and  
61 that the applicant needed to address the height issue during  
62 building permits but I don't think that was made clear to the  
63 applicant during the grading plan process.

64           So the applicant thought this height was okay and  
65 would be approved and she continued to invest time and finances  
66 designing and engineering the same plan for the past two years.

67           It wasn't until this January when I took the office of  
68 the Zoning Administrator that I rejected her plans for the  
69 proposed height and was very clear with her that the height  
70 could not be approved administratively and that's why she's here  
71 today.

72           MS. WARD: Thank you, Akida.

73           Now can we please have the applicant share your  
74 project, speak on your need for a variance and the Board will

75 have a discussion with you, after that discussion to determine  
76 if it's appropriate to issue a variance request.

77 Yes, if you don't mind to present a summary.

78 MS. POPA: Thank you for hearing my variance.

79 Essentially when years ago, we bought the property we  
80 had (audio distortion). It was clear that it was (audio  
81 distortion), the front of the garage.

82 So I had hoped at some point that it would be -- the  
83 condition and I had looked at the Code and saw that there was  
84 the possibility of requesting a variance if the topographic  
85 conditions is allowed to be a consideration.

86 And I had over the course of many years initially even  
87 before the planning phase or even before the conceptual design  
88 phase of this process, I had spoken to the previous Zoning  
89 Administrator and kind of raised all of the concerns that I had  
90 and asked what the possibilities were at the time.

91 And I had an email from him -- I think I included it.  
92 I haven't looked at the package since the last month but I think  
93 I included where he said it could be able to request the height  
94 based on the topographic kind of a slope. You know, he did say  
95 that it was measured from the -- up to 12 feet beyond the  
96 average grade of the structure.

97 So, you know, in that email he did indicate that it  
98 had be confirmed with a survey of the property, like essentially  
99 all the specifics of the measurements of the property. And so

100 since that time I had submitted the survey, had submitted the  
101 building plan. I had three submissions actually and on each of  
102 the three submissions, every department and the front office has  
103 to sign off on it.

104           And I had not gotten -- I assume that I had properly  
105 satisfied the conditions that you wanted to see because with  
106 every iteration of letters that I got and the form letters that  
107 I'd gotten from the front office, the zoning department  
108 regarding permit. And then on November 29 I had gotten a formal  
109 letter saying that it had passed all departments.

110           So essentially I've been following the required steps  
111 to kind of proceed with the process.

112           And then in January, when Akida got in she said that  
113 the best way to proceed was really to come before you and  
114 request a variance to allow the height.

115           We can scroll through the pictures but at the very  
116 back of the property, at the back of the garage, some of these  
117 pictures show the existing structure, the back of the garage.  
118 You'll see me standing at the very edge of that garage. You can  
119 see the back edge. That's the back corner. So you literally  
120 can kind of step up on to there.

121           While we were living there before we started this  
122 renovation process, the children played up there. Like I think  
123 I have a picture at the very end of the first set of pictures  
124 here that shows my dog's been up there, neighbors' dogs have

125 been up there. There's been a fox up there. There it is, right  
126 at the roof there, that's like the 14 foot drop that I'm trying  
127 to show.

128           Essentially what I'm trying to do lift it enough so  
129 that no animal can step up there. There's been deer that comes  
130 from the adjoining cemetery that jump over the fence and jumps  
131 over this roof.

132           What this picture shows also is when first buying this  
133 property, you can see that the cinder block line, this entire  
134 area was built up behind like -- it's like a retaining wall  
135 essentially. When we first bought it, it's like a three wall  
136 retaining wall, three sided retaining wall.

137           We tried to mitigate some of the lateral pressure that  
138 this garage was experiencing by removing the dirt on this one  
139 side. Obviously I couldn't from the back of the property,  
140 because that encroaches on the neighboring property.

141           But on the inside you'll see that the previous owners  
142 had also tried to mitigate some of the lateral pressure that  
143 this garage was experiencing, by digging all the way around the  
144 perimeter of the wall. It just kind of leans towards that  
145 support.

146           The problem is it's still taking on water. It's not  
147 up to building standards. It's a non-functional garage. I just  
148 parked my car for about just over a month while I was away on a

149 business trip and I came back and the entire wall was molding on  
150 the inside just because of the wet condition.

151           And I think I have a picture of that.

152           I can address any questions with respect to the  
153 concerns that the neighbors have expressed.

154           I actually reached out to the immediate neighbors on  
155 the little island of houses that are built.

156           So, essentially to the left of the house that you see,  
157 the forefront of this image, that's under construction, you can  
158 kind of see a little bit of the white, I came to this a couple  
159 years ago, and that's where the garage fits right now. One of  
160 the pictures basically shows that it's below eye level of the  
161 adjoining property. Both pictures show the street.

162           This picture actually shows the house that's right  
163 behind me. You can kind of make out, because of the glare it's  
164 hard to see, but you can see where the deck is. The deck of  
165 that property is if you're standing above at this point of my  
166 property and so essentially like all of the focus is at eye  
167 level as it stands now.

168           I think one of her concerns was this privacy interest  
169 stated in her letter. Even with the approval of the 1.8 foot  
170 variance, it's still going to be below eye level from her deck.

171           My neighbor to the left, it's going to be about 3 feet  
172 above the existing level, because essentially that retaining  
173 wall that this is built into is at 5 foot, so the first level is

174 -- the first level for the section I think this area is just  
175 about grade, the house to the left.

176           So essentially everything I want is below our  
177 adjoining neighbors' view.

178           MS. WARD: Thank you. Anything else at the moment?  
179 You'll have a chance to speak again.

180           Next we will have a discussion and questions.

181           MS. POPA: Absolutely.

182           MR. KIEN: I have a question in regards to the  
183 existing structure height, just so that I'm clear, is not the  
184 same height as what you're looking to build, it is at the same  
185 height that is required by the City, is that correct?

186           MS. POPA: I didn't have the existing structure  
187 measured with respect to what is required by the City. I think  
188 it's actually slightly below it because if you're looking at the  
189 existing grade, so basically that's the top of the roof of this  
190 structure is 14 feet.

191           Yes, I don't have that.

192           But you can see the retaining wall to the left of it  
193 is actually one and the same wall. It's part of the same  
194 structure but that section that the retaining wall is just five  
195 feet. I mean, it is five feet. What you see up to the peak of  
196 the gable, that's 14. If I'm allowed to build 1.8 foot variance  
197 for the clearance, the difference is going to be about 5 feet  
198 above what that peak is, so it's going to be about 19 feet.



199           Even with that increase, it's still going to be below  
200 eye level.

201           So essentially, and I'm not an engineer but -- and I'm  
202 not sure what the motivation behind that specific measurement  
203 cap is but in most situations where you have a detached  
204 structure there is enough space for a garage, it exists on a  
205 flat plane generally speaking. Most of these properties are not  
206 built into a wall or into a hill where they have to retain  
207 adjoining property, like the lateral structural.

208           If you were to stand on either of those two  
209 properties, the height, the impediment from a visual standpoint  
210 wouldn't be beyond -- it would actually be below what would be  
211 -- if all the vertical for all three lots were on the same  
212 level, it would still be below the existing height. I don't  
213 know if that makes sense.

214           So basically if we were all on one flat point  
215 together, the 12 foot height above the existing grade would  
216 still be below what this point, from their vantage.

217           MR. KIEN: In looking at the rear elevation, the  
218 illustrations here, and there's going to be substantial  
219 excavation behind when this is taken down, so it will allow for  
220 that, you're saying 5 feet from the roof line to the grass at  
221 that point, based on this rear elevation.

222           MS. POPA: Say that again. I'm sorry.

223 MR. KIEN: Looking at the rear elevation illustration,  
224 as part of what you submitted. This one right here. And the  
225 extension of the roof line to get five feet above ground will be  
226 from where the existing ground is or will there be additional  
227 excavation to allow for that 5 foot? You're saying you're  
228 raising it by 5 feet to try to keep it off the ground, did I  
229 understand that correctly?

230 MS. POPA: No, actually it's going to be lower than 5  
231 feet on the back end because it slopes down. The front, if you  
232 look at that elevation, that's what's going to be five feet  
233 above. That's the peak of the roof. That's where it's going to  
234 be five feet above.

235 MR. KIEN: What I'm trying to understand is the safety  
236 concerns that the rear part of the building sits on the ground.

237 MS. POPA: Basically.

238 MR. KIEN: Your changes to this, that rear portion,  
239 will it still sit on the ground or will it be substantially  
240 higher?

241 MS. POPA: So it's going to be -- so if this is the  
242 peak of the gable, it's going to be 5 feet above this. So  
243 basically we won't have a condition where you could step up on  
244 it.

245 MR. KIEN: Because it will be much higher.

246 MS. POPA: Not much, it will be --

247 MR. KIEN: Yeah, that's what I was saying.

248 MS. POPA: If you can see, this isn't the best -- and  
249 I invite anybody to go out -- I would be happy to allow anybody  
250 to go out onto the property and just check it out. But  
251 essentially like the roof of this, the top of this privacy fence  
252 is very close to the line, to the top of this line. And this is  
253 still lower, it's a lower grade than the hill, it needs to go  
254 up, so the actual deck off the back of the property behind me is  
255 still significantly elevated still.

256 Again, if you're standing on the deck and looking  
257 forward, the top of the proposed garage is still going to be  
258 above the roof line.

259 I understand the privacy concern, but really trying to  
260 rectify what is and has been an ongoing safety issue and also  
261 the functional space there.

262 The fact of the matter is I am going to build a two  
263 story house. The house itself, even that doesn't seem as high  
264 as allows height for the main structure but I'm going to have a  
265 balcony off the second floor so as it is, I understand the  
266 concern about privacy there but the fact of the matter is I do  
267 have a (inaudible) during construction and so that privacy  
268 inclusive is not compromised necessarily because they can --  
269 they can -- anybody that tells me that but this will be a  
270 structure that cannot fake height. It will make it as if  
271 they've all on the same level.

272 MR. KIEN: So if you were to lower the front of this,  
273 the highest peak in front of the garage by 1.8 feet from said  
274 peak of the pitch, wherever that is, so you have to lower the  
275 back by the same amount, is that correct, roughly 3 feet off the  
276 ground, not to build prohibitively higher than the ground.

277 MS. POPA: Yeah, and I don't have the pictures now and  
278 I saw in the letter from the owner of the property behind me  
279 that she, her camera never captured any children on the roof.

280 We've been in the process of trying to get this,  
281 nobody has lived in that home during the full duration (audio  
282 distortion). Nobody has gone up on that roof as far as I know.  
283 But I have pictures of -- literally I had a birthday party for  
284 my son, we had a couple of his friends over and I was out there  
285 with them but I went in to get the cake and when I came out the  
286 kids were on the roof. I mean it was so easy for them. And it  
287 doesn't take much for a child, even at three feet.

288 The fourteen feet drop off on the front definitely  
289 has made me look at the entire property because I felt that I  
290 didn't have the condition and lack of experience and for all of  
291 my conversations with the Zoning Administrator that I had prior  
292 to, I thought I understood them and had formed an assumption.  
293 And my situation, I didn't even close on the construction until  
294 I had what I believed enough of an assurance that I could rely  
295 upon to give them the proposed plan because the future value was  
296 based upon that.

297           The bank at this point is wondering what's happening.  
298 I mean, from my perspective and I could be wrong, but I think it  
299 would be like a win-win-win situation if I am able to do this  
300 because it would help the neighborhood in the sense that it  
301 would take two cars off the street that would otherwise be  
302 parked on the street, if I actually build a garage.

303           If this doesn't pass, I honestly am not sure what I'm  
304 going to do. I'm going to probably have to talk to the bank.  
305 It may -- I don't know if it will jeopardize -- I don't know  
306 honestly if it will jeopardize. If I'm required to build  
307 something, I may not want to put any money towards building  
308 something that maintains an existing, dangerous condition. I  
309 may not be able to do that.

310           If they require that I build something, it wouldn't be  
311 a garage. I would have to build a space similar to what the  
312 plan is now just for that. As close as possible financially,  
313 because again the future value is based on that is they're going  
314 to want the most for potential return.

315           My goal is to own this house and I want to raise my  
316 kids here, like high school here. I also don't want to find  
317 myself in a position that I raised before the possibility of  
318 losing, that is what makes me most nervous. I really thought  
319 that this (audio distortion).

320           MR. GRESKO: I think worth keeping in mind that is,  
321 (audio distortion) but I think it's really important to find, I

322 don't pity being in this sort of situation, is that it really is  
323 strange. Essentially there's a structure that supports property  
324 behind it. If you remove what we do consider to be in fact a  
325 nuisance, you do jeopardize the structure behind the grade  
326 against this side.

327 MS. POPA: But the lateral structural stability is my  
328 point.

329 MR. GRESKO: Exactly. But if you need to follow sort  
330 of a limited, if you will, concurrence of zoning, you're  
331 essentially keeping in place something that, as I said before,  
332 still attracts accidents, right? We don't want that.

333 So I think, we think in an effort to sort of make sure  
334 it's the win-win-win that was mentioned, to basically preserve  
335 the soil and structure, the land behind the garage, that also  
336 able to alleviate what we think is an attractive nuisance  
337 essentially.

338 MS. POPA: I think --

339 MR. BARTLETT: Can I just ask a question?

340 MS. POPA: Yes.

341 MR. BARTLETT: Can I ask a question of the City? Does  
342 the City differentiate between the garage, an accessory  
343 structure, not attached to the primary structure?

344 MS. ROUZI: You can have a detached accessory  
345 structure and its use can be storage of vehicles, which is a

346 garage in a sense, or it can be home office suite, a rec room  
347 for a family. What it cannot be is an accessory dwelling unit.

348           And the floor plan in the grading permit and the  
349 building permit shows living space, bathrooms, a kitchenette,  
350 which is also a wet bar which is acceptable by the City  
351 requirements and standards. It's similar to other jurisdictions  
352 nearby in Fairfax County. As soon as we see a full kitchen with  
353 permanent cooktop, that's when it triggers the definition of  
354 accessory dwelling which is not permitted.

355           MR. BARTLETT: If this property, the structure, what  
356 is the actual height?

357           MS. ROUZI: That would be 12 feet.

358           MR. BARTLETT: So this structure at its front is how  
359 high? So if it's was on flat (audio distortion) -- but you're  
360 benefitting from contour to increase the actual height of the  
361 structure adding it into the structure from the ground floor.  
362 So that's a couple of points to make.

363           MS. POPA: It benefits in several ways. So the 19  
364 minus this part of the five foot elevation, still gets us like a  
365 difference of about -- higher than --

366           MR. BARTLETT: You're saying the front --

367           MS. POPA: Oh, I see what they're saying. The back  
368 elevation is on here. Essentially 16 feet.

369           MR. BARTLETT: I think I'm just trying to, this is on  
370 flat (audio distortion).

371           Can I just ask a question to clarify the purpose, that  
372 purpose is to try to rectify an issue of safety but also the lot  
373 there includes a retaining structure to retain soil. Your  
374 neighbor --

375           MS. POPA: These are failing walls. Actually they  
376 need to give us (audio distortion). For moving this structure  
377 the main issue that we have (audio distortion).

378           MR. BARTLETT: So have you considered the other  
379 alternatives to insuring the compaction of soil, like a brick  
380 wall?

381           MS. POPA: Retaining wall, yes, but again it's  
382 disproportionately burdensome because irrespective of everything  
383 I just talked about, we would be devaluing our property for the  
384 benefit of others because we would be removing a structure that  
385 otherwise could be a structure.

386           The policy on the wall, the possibility of actually  
387 having that structure there is -- it doesn't make sense. I can  
388 barely comprehend that things would not be okay with this that  
389 would otherwise be non- functional.

390           MS. WARD: So I guess talking about other options, I  
391 know right now the garage is (audio distortion). How about  
392 moving that structure? When I look at your property it's very  
393 flat. It goes up in the back.

394           MS. POPA: The lot itself is actually on a grade, the  
395 front property line. The back is on a 20 foot distance. So the



396 survey shows that. So it was leveled I guess from the back of  
397 the property.

398 MS. WARD: Laid out the back of the house to the  
399 garage door.

400 MS. POPA: Yes, we were. We were essentially going to  
401 extend like the existing kind of like parking spot like.  
402 Essentially it already exists but we were going to remove that  
403 fence. As you can see. We kind of have it here.

404 MR. POPA: I see what you're saying.

405 MS. WARD: I know you guys are concerned about the  
406 back.

407 MR. POPA: Yeah. Still we would have to make  
408 significant changes to just like the landscape upgrade, a part  
409 of our property. There is such significant building involved,  
410 if we moved up, I'd still have the same thing. I just wonder if  
411 that's possible. So we're not really alleviating that like  
412 incline. Just moving it up to support the soil.

413 MS. POPA: So basically in the sense you would be  
414 instead of just building one retaining wall that is like the  
415 structural kind of reinforcement, everything that goes into the  
416 structural stability, you'd have to build an additional  
417 retaining wall. Again, it's disproportionate on the one owner  
418 to support the lateral structure of the other adjoining  
419 properties when it could be done in a way that essentially just  
420 fixes what's there.

421           It also creates -- you still have a different problem.  
422 You don't have the problem with the roof, but you have the  
423 problem still at the back end, even more than a five foot drop  
424 off.

425           So if we move this structure forward, you still have a  
426 gap. You still have kids that can play up there. The retaining  
427 wall that's there, it's right behind the property, that property  
428 line. That's not on my property but kids can get up there,  
429 animals can get up there and then you have an even greater  
430 thrust up, not from the peak of the gable but certainly  
431 essentially from the back of that roof line. So you create  
432 another problem and then you have whatever else that could be  
433 between those two spaces.

434           And just to go back to address a previous point about,  
435 if we're talking about average grade, the average roof height,  
436 the back of that garage is going to be at most 16 feet, the  
437 front of it is going to be 19 feet. The average between those  
438 two is 3 feet. That's one and a half foot average, right? So  
439 if you're looking at 3 feet down from 16, remove the five foot  
440 kind of buffer, you know, you're still under the 12 foot.  
441 That's like 11 feet, right?

442           MR. BARTLETT: I see a structure, the average of 17  
443 and a half feet.

444           MS. POPA: 17 and a half feet tall and then minus the  
445 5 feet.

446 MR. BARTLETT: Your new structure is actually  
447 completely different than that version, the garage and so on.

448 MS. POPA: Right. Essentially it's just moved over.

449 MR. BARTLETT: Right, what we can't see is like what  
450 that actually is. You're going to put a 17 and a half foot  
451 structure potentially average grade of 5 feet, not the top  
452 grade, average grade.

453 MS. POPA: Right.

454 MR. BARTLETT: So 17 and a half feet tall, I'm not  
455 sure, the average grade of that is still beyond five feet.  
456 Looks to me from back of this picture maybe five feet tall. I'm  
457 not sure of the 5 feet on that grading.

458 MS. POPA: Yes. Again, I'm just what I -- (audio  
459 distortion).

460 MR. GRESKO: Thanks.

461 Ms. Popa, again I'm struggling in that you keep  
462 indicating you want to rectify the current safety issues.

463 MS. POPA: Right.

464 MR. GRESKO: Understandably.

465 But obviously you're not just taking away one part of  
466 the garage and making a new one car garage, not even making a  
467 two car garage, right?

468 MS. POPA: Right.

469 MR. GRESKO: You're making a two car garage plus space  
470 which if it wasn't for the space above, we probably wouldn't be

471 talking here, right? So what I get, I want to focus on the one  
472 person objecting that's convinced me behind you, okay? And  
473 she's indicating that because of that extra structure above,  
474 someone standing at the window would look into her property and  
475 her hot tub and her deck and you're saying that that wouldn't  
476 happen.

477           However, there's two things: One, this new bigger  
478 structure seems like it's closer to the wall than just the  
479 current one is.

480           The documents I see say one end is 3 feet and the  
481 other end is 6 feet to her boundary line. That's what I'm  
482 seeing in this document, okay, which seems a lot closer than  
483 that current one garage structure is to the line.

484           So here's where I'm going in that I'm trying hard to  
485 reconcile her saying that we look into her property and you  
486 saying you won't, because again, this is a bigger building that  
487 seems to be closer, higher, and the only side view of this  
488 structure is on Slide 24 but there's no reference of that versus  
489 the fence.

490           So I'm struggling in terms of will or will you not be  
491 able to look into her property, her deck, her hot tub, etcetera,  
492 which is one of the crux of Ms. Kaminski's objection.

493           MS. POPA: I understand her objections of privacy  
494 interests. Again, the existing structure right now, I believe  
495 that we have the survey submitted to the City, the existing and

496 proposed, but -- so I personally don't have the measurements  
497 right now on me of the existing condition is but I do know that  
498 the orientation of the pivot point I guess of closeness, that 3  
499 feet, is still within your required legal limit.

500 MR. GRESKO: I think it's closer than what you  
501 currently have, higher, and I'm just struggling with  
502 Ms. Kaminski's concern and looking out those back windows could,  
503 because you're closer and higher, could look into her property  
504 which is the crux of her issue.

505 And I don't see anything here in the documentation  
506 that would say yea or nay, that's true.

507 MS. POPA: I mean I guess what we would have to have  
508 is some measurement of her side of the property.  
509 It's still again, like the whole structure is still below, below  
510 her eye level of her property. I think that's a factor. I can  
511 attest to that, her house.

512 MR. GRESKO: The current structure?

513 MS. POPA: No, I'm talking about if you're standing  
514 from her property, yes, you can see out as well but even with a  
515 five foot increase which it wouldn't be five feet.

516 MR. GRESKO: But that is what allows --

517 MS. POPA: Yes, but the way the roof is, there will be  
518 three windows, you can see them here. I'm not sure that those  
519 three windows are actually going to be looking over onto her  
520 property.

521           But I guess it's possible but it's still going to be  
522 below like and if the issue is really like visibility, I'm happy  
523 to put some kind of like special kind of window that nobody can  
524 see in or out of but still allow light.

525           It's just that privacy really is like a -- unless  
526 someone --

527           MR. GRESKO: I think seeing in but seeing you or you  
528 seeing her.

529           MS. POPA: Right, I understand but if we have a  
530 certain kind of special window that secures that view,  
531 ultimately I'm still going to be able to see in to her back yard  
532 because my (audio distortion) the ability to do that.

533           MR. GRESKO: But we're talking about this structure,  
534 okay.

535           MS. POPA: Right. So I mean is that something that  
536 could be rectified by the type of glass that we choose?

537           MR. GRESKO: Would it be rectified by not having  
538 windows back there?

539           MS. POPA: I think it could be, yeah.

540           MR. GRESKO: Yeah.

541           MS. POPA: Yeah, it's not necessary, right. I just  
542 put them on my side. Essentially what I was thinking from a  
543 design perspective is the angle of the light is greater.

544           MR. GRESKO: Okay. So we talked about Ms. Kaminski's  
545 issue and concern. Now I'd like to talk about Linda and Bill

546 Garvelink's concern. In this one, I just look at in that  
547 document there, that it was a conditional approval assuming  
548 under no circumstance would be supportive of the structure if it  
549 would set up a living structure. So that's what that concern  
550 was.

551 MS. POPA: So I am not trying to live there, I'm not  
552 trying to rent it. I'm not trying to submit anything but use it  
553 as an office space. We both work remotely. I work remotely the  
554 vast majority of the time. I'm in the office once a week. He  
555 works remotely. The sole purpose of that space is meant to be  
556 an office space. We're not living there. That was never the  
557 intent.

558 MR. BARTLETT: Will there be a full driveway from the  
559 street, these garage spaces?

560 MS. POPA: It's going to be storage for the two cars  
561 that I was planning to have. I have a car, a gift from my  
562 grandfather that is not drivable and I have one car that  
563 essentially is (inaudible).

564 MR. BARTLETT: So no driveway?

565 MS. POPA: No driveway. Just storage. But it removes  
566 two cars that would otherwise be on the street.

567 MR. BARTLETT: I just want to share that I understand  
568 your concerns but I would characterize it as potential  
569 frustration over the process for the last two years and  
570 potential miscommunication and I sympathize with that, truly.

571 And if I was in your situation I would think that this was quite  
572 appropriate or potentially appropriate.

573 But my concern is that you don't need it. Not  
574 necessary for the property, not necessary to satisfy your  
575 concern about safety, not necessary to solve your problem, the  
576 retention wall (audio distortion).

577 So I'm getting to the point where I'm thinking that  
578 this is more of a want than a need and when we deal with  
579 variances we don't deal with needs. Is this necessary for you  
580 to utilize your property. And I don't think this structure  
581 necessary.

582 To me there are a myriad of alternatives: Two car  
583 garage that doesn't have a use as a garage and then add  
584 additional space. To get a variance for that entire structure,  
585 I'm just struggling with how we apply our standards to this  
586 situation. It just makes me feel -- (audio distortion).

587 MR. GRESKO: Again, back to the other issue of Linda  
588 and Bill, back to your comment in terms of zoning regulations,  
589 I'm looking at definitions in our Zoning. I'm looking at  
590 Section 48-2, okay, where it defines. 48-2 is the definition  
591 section of everything that then follows in Zoning. In that 48-2  
592 it says: Accessory dwelling unit means a dwelling unit which is  
593 in the same structure as, under the same ownership and  
594 subordinate to a one family dwelling.



595           And then it goes into that structure as defined in the  
596 first sentence, which means in the same structure as the main,  
597 it says, then it asks to be called that, sleeping, eating,  
598 cooking, sanitation, living. But again, only addressing  
599 accessory dwelling unit when it's attached to the main  
600 structure.

601           In looking through all the Zoning, I've seen nothing  
602 for detached structures, and the whole issue of eating, cooking,  
603 sanitation, etcetera, so you've just made a statement that the  
604 City has applied this attached standard to a detached standard;  
605 am I correct in my interpretation of what you're saying?

606           MS. ROUZI: In some ways. So you are correct. A  
607 detached, accessory dwelling unit is not permitted under the  
608 Code. An attached accessory dwelling unit is permitted by  
609 Special Use Permit, that's correct. But we use this definition  
610 to identify whether a detached accessory structure has a  
611 dwelling unit or not in it.

612           If they don't have a cooktop, our interpretation and  
613 practice is that it is not considered an accessory dwelling  
614 unit.

615           MR. GRESKO: So this is more of a case of extending  
616 this, which is directly to an attached accessory dwelling unit  
617 by special permit a City interpretation to extend it to a  
618 detached unit, am I correct?

619           MS. ROUZI: That is correct.

620 MR. GRESKO: Okay. So I'm clear on that. We're in a  
621 little gray zone there. The way I look at it, I like to be,  
622 here's what is stated literally and this is not stated other  
623 than practice.

624 MS. ROUZI: That's correct. And not all aspects of  
625 the Code is stated so clearly that there is gray areas where  
626 staff has to exercise some discretion and this is actually one  
627 of those cases.

628 MR. GRESKO: I understand. Which is, just like my  
629 neighbor here, concerning, okay? I'm trying to be respectful of  
630 the applicant but also to people who have concerns. But I fear  
631 that absolutely this won't be used as a living structure but  
632 then I see every aspect except a stove, even though when I go to  
633 hotels and I see a microwave or a hotplate or a coffee maker,  
634 you can do a lot of cooking in this space as presented and it's  
635 concerning. And it's also concerning given this gray area that  
636 we've identified. So I just present that concern.

637 MR. KIEN: So what happens if the structure is 1.8  
638 feet short?

639 MS. POPA: It wouldn't be. I think that that is  
640 average. I'm not sure.

641 MR. KIEN: If you decreased it to the average, 1.8  
642 feet shorter in that Code, what would happen to the structure?  
643 Would it make it unusable?

644 MS. POPA: Essentially it would make the second story  
645 -- I would have to -- and I haven't really had to contemplate  
646 that far. I would probably have to choose between any other  
647 option. It really honestly is going to be dependant on what the  
648 bank says for that, definitely. It's really what I agreed with  
649 the bank when I thought I had what I did, a construction loan  
650 that is not referred to as additional work not done. But right  
651 now it is conditioned. And there are things that I did not  
652 want.

653 I feel like I'm -- and granted, I fully acknowledge,  
654 that for my part too, I could have misunderstood. I really as  
655 just as a reasonable person looking at those letters I really  
656 thought that I had the equipment I needed versus other  
657 considerations. But I feel that I might be potentially  
658 detrimental to your item from a staff's understanding. My  
659 understanding is that essentially I feel as to what the bank is  
660 concerned that I'm (audio distortion).

661 I don't know what the outcome is, their concerns. I  
662 kind of have, when I think about it I have one of three options:  
663 Build a garage and hope that's okay for them; don't build  
664 anything and like remove whatever money out of that aspect of  
665 the build, if they're okay with that because the future value is  
666 affected. It could potentially like change the terms of the  
667 loan. It might be complicated and obviously at the time I

668 secured that loan the interest rates were much lower. I don't  
669 know. I don't know about the future.

670 And then the other option is, is this building  
671 absolutely safe without the build. And again, I have nothing  
672 else to go on for this but I think if the bank is going to  
673 require me to build something, it will not be (audio  
674 distortion). Because that's how they think.

675 My goal is to build on this property and just raise my  
676 kids here.

677 That's kind of the situation.

678 MR. BARTLETT: I just want to reiterate, I certainly  
679 understand that perspective and that goal and objective and our  
680 job is to be like arbiters of equality across the City in how  
681 things are allowed to be built in the City. And just to clarify  
682 that we are not real estate agents, we are not appraisers, we  
683 are not lenders. All we do is determine whether or not an  
684 application for a variance is appropriate considering the  
685 circumstances.

686 I just wanted to put that out there, that those  
687 considerations are not part of our deliberations unfortunately.

688 And I'm just going to stop there.

689 MS. WARD: Yes, to kind of get where I am, he said  
690 some things around hardship which is one of the main criteria.  
691 And I know you guys do have this slope and the retaining wall

692 issues to deal with but I do see that there are options  
693 available to the enclosed structure.

694           This is a structure that is 4.8 feet lower. Whether  
695 that is exactly what was you wanted, sounds like it's not the  
696 case. But I do think that placing that existing garage with  
697 something that (audio distortion) -- will still get you from a  
698 purchase standpoint but at the back of it and there's other  
699 space for construction, on top.

700           But, yeah, that's where I am. I'm fully supportive of  
701 the project to replace the garage but just given what we've  
702 heard, I don't think it meets the (audio distortion).

703           All right. Any other questions?

704           Anything else the applicant would like to bring up?

705           MR. POPA: I am struggling to see how other options  
706 given obviously the limits, other options to avoid the hazard  
707 that we've seen. To me, the easiest would be, just to sort of,  
708 less burdensome, the arrangement would be to increase. There  
709 are a bunch of different -- to completely alleviate this concern  
710 to preserve the (audio distortion) -- you had mentioned I think  
711 the whole drop still exists, right, but it's just closer to the  
712 house.

713           MR. BARTLETT: But we are not structural engineers, we  
714 are not landscape engineers, we are not builders. But just  
715 colloquially, it seems there are many different options to  
716 preserve that slope or retain that soil rather than building a

717 two story space above it as your only solution. Again, the bank  
718 is not part of our consideration.

719 MR. POPA: No.

720 MS. POPA: Can I make one comment? Really with my  
721 structural engineer, and even with the City's civil engineer, we  
722 have explored the options. This proposed option was the one  
723 that stuck and the civil engineer was the one that actually  
724 recommended that I contact you. We couldn't figure out a thing  
725 on this issue.

726 MR. BARTLETT: I will clarify that. His intent was  
727 that the only way you could build is to come to us.

728 MS. POPA: Yes.

729 MR. BARTLETT: So that's why he suggested you come.

730 MS. POPA: That's true. That's right. It's not that  
731 I haven't already explored all the -- (audio distortion).

732 MR. BARTLETT: I'll start. I don't consider it  
733 necessary to repeat all of my points. I'm concerned about the  
734 fact that you presented the only option to provide a solution to  
735 your problem. And while I sympathize and understand that this  
736 would have been wonderful and important and you're stuck on a  
737 solution, I do believe there are other alternatives that can  
738 resolve your concerns without getting -- (audio distortion).

739 MR. KIEN: I echo what the other Board members have  
740 said. It seems that there is the ability to build something  
741 within Code that will either be a garage or a unit. I know a

742 lot of that is somewhat contingent on what I imagine the  
743 finished square footage calculation that you're working through.  
744 I certainly empathize with the presumption going into something  
745 like that and now having to modify it after the fact.

746           Again, the hardship being created here doesn't seem to  
747 be acceptable towards design. That is not something that we  
748 would consider.

749           MS. WARD: On that last point, in my mind what I'm  
750 debating, that second story, you need that height on the second  
751 story, that to me is not a necessity, having an existing  
752 required garage by replacing it with a two car garage. You'll  
753 still be able to have a retaining wall structure at one point  
754 1.8 feet lower but you still would have all those items that you  
755 (audio distortion).

756           The only thing that you wouldn't get would be your  
757 second story. It isn't something that I feel is necessary.

758           MR. GRESKO: I share the concerns of the other members  
759 and I just focus on that one item of if this was on the flat, it  
760 would still be 19 feet in the front, 16 feet in the back beyond  
761 lines. And is that -- are we really solving just the hardship  
762 or because of this larger structure we are hanging our hat on  
763 the safety issues and retaining wall, etcetera.

764           Back to my Board members, I just see that as a -- and  
765 I empathize that we got to this point before this is all sorted  
766 out. Regardless, it just seems like the issues being created by

767 what you want to build as opposed to strictly that existing  
768 structure.

769 MS. POPA: So the existing proposed structure is just  
770 about 19. So is what you're saying is I have to build now going  
771 to be 8 feet, would be like 17 -- (audio distortion).

772 MS. WARD: Based on your final grading plan and all  
773 the requirements (audio distortion) the exact height that you  
774 have to have.

775 MR. BARTLETT: Just to share a procedural perspective,  
776 that again our job is to interpret the Code, make sure that it's  
777 applied appropriately and consistently across the City. Some  
778 variances we do not have a lot of options as well and we make  
779 sure that we're consistent.

780 (Audio distortion.)

781 MS. WARD: If there's no other discussion, does anyone  
782 have a motion?

783 MR. BARTLETT: I would make a motion. I will make a  
784 motion to not approve application V1637-23 by Andra Popa,  
785 applicant and owner, for a variance to Section 48-238(4)c. to  
786 allow a detached garage with a height of 13.8 feet instead of 12  
787 feet maximum at premises known as 806 Ridge Place, RPC  
788 #53-215-004 of the Falls Church Real Property Records.

789 MR. KIEN: I'll second that motion.

790 MS. WARD: Okay. Can we have a roll call.

791 RECORDING SECRETARY: Ms. Ward.



792 MS. WARD: Yes, to deny.

793 RECORDING SECRETARY: Mr. Bartlett.

794 MR. BARTLETT: Yes.

795 RECORDING SECRETARY: Mr. Kien.

796 MR. KIEN: Yes.

797 RECORDING SECRETARY: Mr. Gresko.

798 MR. GRESKO: Yes, to deny.

799 MS. WARD: Thank you for coming out. Really sorry for  
800 all this trouble.

801 MS. POPA: Thank you.

802

803 5. NEW BUSINESS

804 MS. WARD: We're going to move into New Business, is  
805 there any New Business?

806 MS. ROUZI: No.

807

808 6. APPROVAL OF MINUTES

809 a. Approval of the January 12, 2023, Meeting Minutes  
810

811 MS. WARD: We'll move into Approval of Minutes.  
812 (Minutes reviewed.)

813 MS. WARD: Would someone like to make a motion to  
814 approve the January 12, 2023, Board of Zoning Appeal minutes.

815 MR. BARTLETT: I'll second that motion.

816 RECORDING SECRETARY: Ms. Ward.

817 MR. WARD: Yes.

818 RECORDING SECRETARY: Mr. Bartlett.

819 MR. BARTLETT: Yes.

820 RECORDING SECRETARY: Mr. Kien.

821 MR. KIEN: Yes.

822 RECORDING SECRETARY: Mr. Gresko.

823 MR. GRESKO: I'd like to abstain.

824

825 7. OTHER BUSINESS

826 MS. WARD: Is there any Other Business?

827 MS. ROUZI: No.

828

829 8. ADJOURNMENT

830 MS. WARD: Move to adjourn? All in favor?

831 (A chorus of "ayes".)

832

833

834