

Mount Vernon Board of Adjustment
Minutes
August 21, 2013
City Hall Conference Room

Meeting was called to order at 6:04 p.m. Those in attendance: Moe Richardson, Lori Boren, Liz Sparks and Gary Ulch. Absent: Pat Charboneau. Also in attendance: Zoning Administrator, Matt Siders.

1. Approval of Agenda. Motion made by Ulch, seconded by Boren to approve agenda. Carried all.

2. Public Hearing and discussion and possible action on a request for a variance for a fence at 101A and 101B First Avenue SE. The public hearing was opened. Zoning Administrator, Matt Siders, gave a brief explanation of the application. Siders said he was approached by Mark Doubet in regards to putting a fence in the back of his property. Siders came across an item in the Mount Vernon Code of Ordinances under fence regulations (705), location restrictions. It states that “no fence shall be built on any lot or tract outside the surveyed lots or tract outside the surveyed lot lines or adjacent to any municipal property, excluding public streets”. Siders discussed this with the City Administrator and the City Attorney as to the definition of what a municipal property might be, excluding a public street. Hatala had responded that an alley is a municipal property, therefore a fence could not be adjacent to it per the fence regulations. Based on that information he was inclined to deny the permit.

Penny Doubet then addressed the board. When the Doubet’s purchased the building they focused on improving the interior with focus on preserving the historical aspect. They were concerned about the exterior of the building and felt that a lot of the work could be done by trimming trees and landscaping. What they discovered after taking possession of the property was that the back part of 101B is used as a parking lot and there are frequently beer bottles and drug paraphernalia in that area. The tenants of the building have had people knock on their windows. What they would like to do is put something in place that can make the property look more appealing and keep the beer bottles and drug paraphernalia out. Richardson asked if they were confident of where the property lines are, to which they replied yes. The previous owner had the property surveyed and they have copies of that. They would not be blocking access or impeding access to and from the bar next door. They want to make improvements to the back area but don’t want them to be degraded by some of the activities that are going on there. Mr. Doubet added that they will be

making a lot of improvements to the building itself as they move along. Ms. Doubet stated that another challenge with the property is that it is both residential and commercial and as they read the City code it is not clear to them which version of which code should apply to the building. They also referred to the design proposal that was put together few years ago for uptown streetscaping and felt that their fence fit into the spirit of this plan.

Siders stated that the property is zoned as Town Center so both residential and commercial are allowed as uses. Ulch said it was his understanding that it would be commercial with allowable residential units. Hatala stated that the fence ordinance would apply regardless of the zoning classification and Siders agreed, but said when it came to the height of the fence he used residential because it says “fences constructed within residential districts or on land used for residential purposes are subject to the following provisions”. He interpreted that this area has a residential purpose so the height restrictions would be based on residential. Hatala stated that the code says it can’t be adjacent to a municipal property and asked if there was a distance from a municipal property that a fence would be allowed. Siders stated that the setback is zero in Town Center on all sides and said there was no setback requirement for a fence for commercial. Hatala said that the restriction on building adjacent to city property only applies to fences. If you had a park or an alley, any kind of municipal property at the rear of a town center property, you could build a building up to and adjacent to the municipal property because there is not a similar restriction. Siders agreed, saying that maximum building coverage is 100%. The proposed fence would be in line with the building and would not come clear out to the alley.

Sparks asked the Doubet’s what the intended use was for the area. Mr. Doubet replied that they want to make a patio area and also be used as a barrier. It will not be used for parking. The proposed fence will not impede the access of delivery trucks to the adjoining business. Sparks how close it would be to the adjoining building once the fence was put up. Doubet replied that there would be approximately 7 feet. He also stated that garbage pickup is in the alley and every week there is an accumulation of garbage next to their building.

Sparks then asked the Doubet’s what they felt the hardship was. They stated that they don’t have access to their own property and at times don’t have access to back door of their building because it is blocked by a vehicle. And they would like to improve the area by having a patio and additional sitting area. Hatala said that hardship needs to arise from the zoning ordinance and not from the bad behavior of your neighbor. Penny Doubet stated that the hardship is that the zoning ordinance does not allow them to put a fence up, therefore they cannot have a patio in and prevent anyone from driving into it.

She also stated they want to improve the property and make it a nice place for the residents to live and feel that a fence would go a long way with dispelling any further hard feelings between neighbors.

Sparks verified with Siders that the only fence problem would be the portion along the alley. Siders agreed, saying it would be the portion adjoining the municipal property. There was then a brief discussion on what the definition of “adjacent” was and how it would apply in this situation. The consensus was that adjacent meant it would be “abutting” something. Ulch felt that the fence, as it was proposed, was not “adjacent” to the alley because it was set back by three feet. If he wanted to put the fence right on the lot line then it might be a problem. Hatala then said that the board had three options. The first would be to deny the variance because it doesn’t meet the criteria. Second would be to determine whether this would even be a violation of the zoning ordinance if the fence is set back three fence. Third would be to grant a variance conditioned upon the fence being three feet from the municipal property. Hatala then stated that he felt this fence would not be “adjacent” to a municipal property. He suggested tabling the variance and looking at it again. If it’s decided that it is an appropriate building permit, then the application for a variance is moot. All members agreed with this.

Ulch made a motion to close the public hearing, seconded by Sparks. Carried all. Sparks moved that regarding the request for a variance for a fence at 101A and 101B First Avenue SE that the board table the request pending Matt Siders reviewing the building permit to determine whether or not the requested fence would actually be in compliance because it is not adjacent to a municipal property or to determine whether or not the fence is actually adjacent to a municipal property. Motion seconded by Ulch. Carried all.

Meeting adjourned at 6:44 P.M.

Respectfully submitted,
Marsha Dewell
Administrative Assistant