

Mount Vernon Board of Adjustment  
Minutes  
June 19, 2014

Meeting was called to order and public hearing opened at 6:00 p.m. by Moe Richardson. Those in attendance: Moe Richardson, Pat Charboneau, Liz Sparks and Gary Ulch. Absent: Lori Boren. Also in attendance: Zoning Administrator, Matt Siders, and applicants David and Angela Randall.

1. Approval of Agenda / Minutes. Motion to approve the agenda made by Charboneau, seconded by Ulch. Carried all. All board members have received and reviewed the minutes of the last meeting of February 6, 2014. Motion made by Ulch, seconded by Charboneau to approve the minutes. Carried all.
2. Public Hearing and discussion and possible action on a request for a variance for a garage at 123 2<sup>nd</sup> Avenue SW. Siders explained that the Randall's submitted a building permit on May 15, 2014 for a garage in the rear side yard of their property. He denied the permit based on Chapter 165, Supplemental Site Development Regulations, Section 702 (b)(6)(d) Setback Adjustments, Street Yards, where it states "no accessory building shall be located within 20 feet from any street right-of-way line". The site plan submitted stated the proposed garage would be less than 20 feet from the street right-of-way line, therefore the permit was denied. The garage was targeted to be between 3 to 5 feet from the street right-of-way line.

Angela Randall stated that they purchased the house to use as a residence. The back yard is small and they poured a concrete pad for a basketball hoop for the kids and for the cars to sit on. There is a grassy area next to the concrete slab that they wanted to place the garage. If they had to move the garage, they would need to remove the concrete slab and possibly cut down a very large tree. The new garage would be used for storage and vehicles and would also act as a barrier for surrounding residences and businesses. Randall also stated that they have spoken to the immediate neighbors and they are in agreement with the placement of the garage. The garage is not "new" looking and will match the house.

According to the Randall's, the hardships faced would be theft of their items that need to be left outside and removal of the large tree and concrete pad. They are also concerned about water runoff from the hill if it is placed somewhere else. Safety is also a concern. If they were to place the garage in another area of the property, they would lose visual site of the traffic coming down the alley from the bank. Sparks felt that these items were preferences and did not rise to unnecessary hardship. Charboneau felt that there was historical value for the large tree on the property. Dave Randall also stated that he was originally told by Matt Siders, approximately a year ago, that there was zero setbacks and could place the garage

where he wanted it and poured the concrete pad based on this information. Siders said this was verbal only and he told the Randalls he could not give a definitive answer until he had actual plans to review. The concrete pad does not have any footings because they knew they were not going to put the garage on it. They would like to keep the space in the back yard that they have.

Sparks also stated that the board does not have the power to grant relief from zoning ordinances unless they find undue hardship. Sparks noted that if the Randalls had incurred money damages by installing the cement pad in reliance on Siders' statements in 2013, the Randalls could pursue reimbursement. Sparks believed the question of damages is different from the question of undue hardship for a zoning variance request. Richardson felt the hardship was the removal of the tree, the monetary hardship for the concrete pad and the fact that they were told they could put the garage there. Charboneau agreed, saying that the fact that the Randall's previously checked on the placement of the garage, implied intent and therefore placed a hardship on them. Ulch believed that the high volume of bank employee traffic down the alley created a safety issue backing out of a garage that created an undue hardship. Sparks felt that the garage could be put in a location on the property that complied with the zoning setback and all the issues raised could be accommodated in other ways, and therefore no undue hardship was proven.

The board members discussed the elements of finding a request for a variance. At the conclusion of the discussion the members decided that they would not state a finding of facts for the minutes as each member was basing their decision on different factors and there was no consensus on what facts proved an undue hardship. The members were ready to make their decision and the chairman called for a vote. Charboneau made the following motion:

Moved that for the property located at 123 2<sup>nd</sup> Avenue SW, Mount Vernon, the Board of Adjustment grant a variance requesting relief from §165.702(b)(6)(d) public street right-of-way set back requirements to permit locating a residential accessory building (garage) on this property with a 4 foot set back from the public street right-of-way.

Ulch seconded the motion. Voting yes: Ulch, Charboneau and Richardson. Voting no: Sparks. Motion carries.

Meeting adjourned at 7:10 p.m., June 19, 2013.

Respectfully submitted,  
Marsha Dewell  
Administrative Assistant