

Mount Vernon Board of Adjustment
Minutes
February 3, 2015

Meeting was called to order and public hearing opened at 6:01 p.m. by Moe Richardson. Those in attendance: Moe Richardson, Roch Player, Gary Ulch and Lori Boren. Absent: Liz Sparks. Also in attendance: Zoning Administrator, Matt Siders, and applicants Marsha and Molly Collins from Ain't Life Grand, Adam Smith from Guppy's on The Go and Troy Pins from Garling Construction.

1. Approval of Agenda. Motion made by Boren, seconded by Ulch to approve agenda. Carried all.
2. Approval of minutes from June 19, 2014. Motion made by Player, seconded by Boren to approve minutes. Carried all.
3. Public Hearing and discussion and possible action on a request for a variance for an addition at 1206 1st Street SW. Siders explained that originally on the application for a variance the present property zoning classification was identified as Traditional Residential. This property actually falls under Limited Commercial. Before this was discovered, he had heard rumors that this location had received a Conditional Use Permit to operate as a convenience store. The City of Mount Vernon does not physically have that Conditional Use Permit and it made it difficult to know what those stipulations and regulations might have been on that Conditional Use Permit. Siders did some research and found some old archives with The Sun and found that there was a Conditional Use Permit but we don't know the specifics of it. What that said, the scope of things changed in what is going to be granted tonight. Instead of granting the enlargement of a non-conforming use, a variance will be granted in regards to encroachment to the setbacks. On the site plan that was provided it identifies a setback of 10'. The current building right now does not encroach within the setback, other than the retaining wall. What they are asking to do is encroach on that 10' setback because it is street side. It does not go into the sidewalk and it stays within the retaining wall. What the applicant is asking for is an expansion encroaching on the street side setback. Siders went on to say that after speaking with the City Attorney at length about this issue, the Conditional Use Permit granted in 1992 was for the existing environment. The City Attorney felt that in order for them to expand outside of the scope of the environment, they would need to seek another Conditional Use Permit in order to do that. What the board will do tonight is grand a variance encroaching on the setback based on the fact that a Conditional Use Permit will be granted at another meeting of the Board of Adjustment. The Conditional Use Permit cannot be granted until the Planning and Zoning Commission gives their recommendation. That meeting is scheduled for next Wednesday at 6:30 p.m. They will review the Conditional Use Permit and give their recommendation to Board of Adjustment. Then Board of Adjustment will set another meeting in the near future and

come back and either grant or not grant that Conditional Use Permit for the expansion of the building itself. Once that Conditional Use Permit is granted, then the variance can therefore take place. If it is not granted then the variance is null and void. Ulch said he did not feel comfortable granting a variance tonight without the Conditional Use Permit either denied or approved. He feels that the steps are not being followed properly. Siders said he was just following the advice of the City Attorney to proceed with this meeting as planned. Player agreed that there is an order and in fairness to everyone that comes before Board of Adjustment he feels that the specific order should be followed so that they can make sure the recommendations are given fairly. Richardson asked the applicant how he felt about the change in the process. Adam Smith said that he didn't care either way, whatever made the board more comfortable. He is familiar with the process and will say that from their perspective, it has taken a while to get to this point and they are trying to make an improvement this year. He took over the store in August of 2011 and recently decided to purchase the business. Smith stated that in order for the business to be financially sound, these improvements and additions will need to be made. Ulch stated that he followed the process on the original building and he believes that it was residential at that time and at some point was changed to Limited Commercial. Siders stated that in Limited Commercial, a convenience store is allowed with a Conditional Use Permit. He also said that the only issue that the City Attorney had was that the building is being expanded, which changes the original Conditional Use Permit that was granted, based on the original building and the original lot. These items change the conditions. Smith stated that the proposed renovations allows them to make the restroom ADA compliant and allows them to be in regulation with their kitchen. Player said that these were all persuasive arguments and would be taken into consideration. Boren asked how far into the setback the addition was encroaching. Siders said he thought it might be 5 feet. Smith said initially they asked for 12 feet but it was scaled back. Boren asked whether they had explored cutting the building back to that to avoid needing the variance. In order to get the kitchen the way it needs to be and to get an ADA restroom, that space is needed. Anything smaller would not allow the necessary upgrades.

Richardson then asked for a motion to table this application and wait for Planning and Zoning to give a recommendation and meet again in the near future. Player made a motion tabling this application, seconded by Boren. Carried all.

4. Public Hearing and discussion and possible action on a request for a variance for a sign at 102 1st Street SW. Siders explained that Karen Thornton is actually the owner of the building but Marsha and Molly operate the business as Ain't Life Grand. They have been in the building since September. Back in October or November someone brought it to the City's attention that there was a new sign up in Town Center that may not fit within the sign regulations. Siders observed the sign and there was not a sign permit obtained for the permit. The business owners are new to town and did not know that they needed a sign permit. He shared with them how everything functions

and gave them a building permit form, which he denied. He did not want them to take the sign down before they had a chance to go through the variance process. The section of the sign ordinance that Siders cited as the deficiency was Article 10, Section 1003, under General Sign Regulations, Letter C, Item #10 (signs which include attention getting devices, including visible mechanically moving parts, search lights, flags, banners, propellers, streamers, ribbons, strings of bare bulbs, balloons or similar devices, except for special occasions such as grand openings subject to the issuance of a permit from the Zoning Administrator). This is the reason that he denied the sign permit.

Molly Collins said that when they originally decided to open the business, they contacted the City about a business permit and were told that one was not needed. They didn't even think about needing a sign permit. They ordered the sign and had it installed. Once they realized there was a process they wanted to make sure they took the right steps to be able to keep the sign. Collins said that they went before Historic Preservation for feedback but they were neutral. Putting up the sign incorrectly was not intentional. A lot of thought and money has been invested into this part of their business and feel that it encapsulates what their store is about and what they sell. It does attract a lot of business.

Richardson referred everyone to the requirements for granting a variance and asked for comments about how this applies. Boren asked if they had talked to their neighbors and how they felt about it. Collins stated that they had received several positive comments and haven't heard of any negative feedback. Player stated that the center part of the sign was an asset but the moving parts are where the concern is. Collins stated in regards to the hardship part of the variance requirements, she feels that the financial aspect is a hardship. A lot of money was invested for the sign and having it installed. A good portion of their startup funds went towards that purchase. Boren stated that this does not constitute a hardship for everyone in the area. Gary Ulch stated that no one in the area is allowed to have a sign like that so they aren't being singled out.

Richardson asked for a motion. Ulch made a motion to deny the request for a variance because it did not meet the requirements. Seconded by Player. Carried all. The application is respectfully denied. Siders said he would allow time to have the attention getting portion of the sign removed.

Meeting adjourned at 6:43 p.m., February 3, 2015.

Respectfully submitted,
Marsha Dewell
Deputy Clerk