

Board of Adjustment  
Minutes  
May 2, 2017

Meeting was called to order at 5:03 p.m. by Chairperson Moe Richardson. Those in attendance: Board members Moe Richardson, Lori Boren, Gary Ulch and Roch Player. Also in attendance: Zoning Administrator, Matt Siders, John and Alice Schumacher, 503 4<sup>th</sup> Street NE, Paul and Sondra Meyers, 514 1<sup>st</sup> Street SE, Sandy and Steve Gollobit, 780 Lisbon Road and Susan Lacey, 301 12<sup>th</sup> Avenue SW.

1. Approval of Agenda. Player made a motion to approve the agenda, seconded by Boren. Carried all.
2. Approval of minutes from November 28, 2016. Motion made by Ulch, seconded by Boren to approve the minutes. Carried all.
3. Public Hearing and discussion and possible action on request for a Conditional Use Permit for the change of use from Residential Use Single Family Detached to Commercial Use Bed and Breakfast at 514 1<sup>st</sup> Street SE. Zoning Administrator, Matt Siders explained that the application was for a Conditional Use Permit for the change of use from residential use of Single Family Detached to Commercial Use Bed and Breakfast. The Meyers would like to turn this property into a bed and breakfast and that falls under commercial use in City zoning. It is a permitted use for the Traditional Use zone as noted in Table 4-2. Richardson asked if the applicants had anything further to add. Paul Meyers explained that in their basic block there are two buildings, their property (which has room for off-street parking) and an apartment building next to them that is multi family. He added that for the most part you will not see a big difference in their property use other than on weekends and a few more cars off the street.

Boren explained that a Conditional Use Permit is different than a variance as it is good for the duration that the property is owned by the current owner or if the use changes. Board members also reviewed a landscape plan provided by the owner. Paul Meyers explained that there has been considerable work done to both the interior and exterior of the property and that reflects the quality that they will put in to the property.

Richardson invited anyone else in attendance to speak if they would like. John Schumacher stated that he and his wife Alice live across the street and when the home went up for sale they were concerned about what would become of

the property. He said what the Meyers have done is very positive and they support the proposal being made today.

Player made a motion to approve the Conditional Use Permit subject to the terms as stated in the application (owner occupied, minimal signage, off-street parking, and improvements done). Boren seconded the motion. Carried all.

4. Public Hearing and discussion and possible action on request for a Variance for a garage that does not meet setback requirements at 780 Lisbon Road NE. Siders explained that he and the owner have been working on this permit for quite some time and trying to come up with a plan that worked. The owner has a large boat on his property as well as a camper and another boat that he would like to store inside and also have a small shop. The way that the proposed garage is designed is that it is attached to the structure. The issue at hand is Suburban Residential has a rear setback of 35 feet and the owner is having a tough time of getting the garage in that area with the size that he needs and wants. Siders explained that the building permit application indicates a 40' x 60' attached garage but the actual size of the proposed garage is 32' x 56', which is indicated on the drawings that were submitted. There is a breezeway connecting the two structures. There will be a garage door and an egress door on the front as well as another door facing the east. Siders went on to explain that part of the structure is 31' from the property line and the other corner of the structure is 37'. Part of the structure is within the required 35' setback but not the entire structure. There is no issue with maximum pervious coverage or maximum building coverage because the lot is fairly large. The requirements for Suburban Residential are maximum building coverage of 35% and maximum pervious coverage of 45%. Siders did some general calculations and there are no issues. Player asked about the property behind this and whether there was any issue with access. He was concerned if the City allowed an encroachment what the impact would be on the neighbors. It was determined that this was not an issue. Siders also explained that the garage height was within the requirements.

Board members then went over the questions and requirements for granting a variance.

***Does the property have an unusual shape or topography that creates exceptional difficulties for using the property for its zoned use? (exceptional narrowness, unusual shape or topography)*** Yes. It does have an unusual shape because of the slope of the back property line and it is not a true square or rectangular lot.

- (a) *Strict application of the zoning ordinance will produce undue hardship and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.*** No, the owner is still able to build a garage here.
- (b) *Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.*** There are no other houses that sit back as far as the one on this property and because of the irregular shape of the lot there is somewhat of a hardship.
- (c) *The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.*** All members agree with this statement.
- (d) *The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.*** No.
- (e) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Ordinance.*** All members agreed with this statement.
- (f) *The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.*** All members agreed with this statement.

Ulch moved that for the property located at 780 Lisbon Road NE the Board of Adjustment grant a variance requesting relief from Chapter 165, Article 4, Table 4-3 (rear setbacks) permitting the owner to infringe one corner of the building be approved for a variance to encroach on the required setbacks by 3 ½ feet with no additional conditions. Richardson stated that this was not a hardship but he would be soft on it and let it go. He also stated if hardship was important on this criteria it wouldn't approve. Ulch said he looked at it that the house was built in 1895, way before any zoning ordinance was adopted. Steve Gollobit said he really wanted the size to be 40' x 60' but there just wasn't enough area. Player asked if there was any way to slide it towards the front of the house. Gollobit said he didn't want it sticking out past the house. He also stated that the proposed size of 32' x 56' was not quite big enough for what he needed but was the only option he had right now. Boren asked why the depth was so detrimental that he couldn't move it the 3 ½ feet back to meet the

requirements. Gollobit stated that he had four boats to store in it plus possibly and RV. It is impossible for him to put what he wants in it by making it any smaller and he doesn't want it sticking out past the front of his house. Boren stated that there is a dilemma with the board approving the variance because technically the garage could be moved to accommodate the requirements. Richardson said he felt that the board should not be that rigid and feels that the variance should be granted. Ulch's motion to approve was seconded by Richardson. Voting yes: Ulch, Richardson. Voting no: Boren, Player. In order for the variance to pass there must be three votes in favor. Boren stated that the most important criteria in her mind is the hardship and to her there is no hardship in this case. Richardson said that the area is so large and no one is going to notice or care. Boren agreed but said the next time someone came to the board and asked why this was granted and theirs wasn't, it could create problems. Ulch again went back to the fact that the house was built in 1895 before there were any zoning ordinance and the property owner shouldn't be held to current standards. Player stated that the board was not asking him to remove a garage that encroaches on setbacks. Player asked if the property had been surveyed. Gollobit said he had located the property pins. Ulch felt that the hardship in this case was that the house was set back so far from the front of the property. Boren just wants to know the next time the board comes into another meeting how they can justify approving this permit. Richardson said because it's unusual and it's large and there is nothing else like it. Boren asked how it is justified if someone says it could have been moved the 3 ½ feet. Richardson stated that the board would say it was a hardship in their judgment. Boren said it wasn't that she didn't want to approve this, she does, but you have to think about these things as a board moving forward. Player said the view shed for the public is from the street and what does it do to the view shed by offsetting the garage to the front. Boren said absolutely nothing. Ulch said this would be considered a "snout house" and he personally does not care for them. Siders said Traditional Residential has a front setback range of 15' to 25' but they allow the garage to be in front of the house. This area is Suburban Residential. Ulch said with the character of the house the way it is now it would not be appropriate to move the garage in front of the house.

Player said he was teetering more towards approval because of the minimal encroachment and the lack of neighbors behind the property. Player also said the strict interpretation is not really a hardship per say but it meets the other criteria. Player made a new motion to approve the variance for the encroachment of the setback at 780 Lisbon Road NE, Mount Vernon, as shown in the application for variance of 4 feet or 31 feet from the property line. Player's motion seconded by Ulch. Voting yes: Ulch, Richardson, and Player. Voting no: Boren. Variance passes.

5. Discussion and possible action regarding electing a chairperson to Board of Adjustment. Richardson felt this process was awkward but understands that the duties should rotate. He has done the best job he knows how. Siders said this was in line with what the other boards and commissions were doing in the City of Mount Vernon and across the nation and this was the only board that didn't have a section on powers and duties and selection of officers. Ulch asked who would run the meetings if Richardson was not in attendance. Siders said that all other boards and commissions had a chairperson and vice chairperson and said that bylaws would need to be added to the current chapter of the zoning ordinance to address this and would recommend a two year term for the election of chairperson and vice-chairperson. Siders suggested that the changes go into effect with the first meeting in 2018. He will draw up some language for the board to review at the next meeting.

Meeting adjourned at 6:03 p.m. with the unanimous consent of the board on May 2, 2017.

Respectfully submitted,  
Marsha Dewell  
Deputy Clerk