

Board of Adjustment
Minutes
November 10, 2021

Meeting was called to order at 5:30 p.m. by Roch Player. Those in attendance: Board members Terry Elam, Roch Player, Johnathon Brinson and Lori Boren. Absent: Mark Andresen. Also in attendance: City Planner, Laura Eckles, applicants Denise and Warren Havill.

1. Approval of Agenda. Motion made by Boren, seconded by Brinson to approve agenda. Carried all. Andresen absent.
2. Approval of minutes from October 19, 2021. Motion made by Boren, seconded by Brinson to approve minutes. Carried all. Andresen absent.
3. Discussion and possible action on request for a variance to reduce the rear and side yard setback at 716 8th Street NW, Mount Vernon, IA 52314, after being remanded back to Board of Adjustment by Mount Vernon City Council at their November 1, 2021 meeting. City Planner, Laura Eckles, explained that after further discussion with other City staff and the City Administrator, it was decided that this needed to be looked at one more time due to possible future lawsuits if it was approved with the current ordinance in place. The purpose of this meeting is to refer back to the evidence and if the board is to approve this, the City will need to change the ordinance to allow others to have the same benefits. There are a lot of other properties in Mount Vernon that have the same circumstances, where the lots are conforming but the structures are not. The City felt there was a lack of hardship and granting the variance was more for convenience.

Board members then again went over the Facts for the Record 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) The answer is no, the property itself is conforming.

(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. Player went back to the comment made by the contractor at the last meeting of “By changing the structure and putting the garage in a conforming spot would adversely affect the use of the property, light access (view) and

resale value of the property.” They would also lose the usable portion of the yard.

- (b) ***Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.*** All other properties in the area face the street and meet setbacks in the front and back.
- (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.*** Board members agreed.
- (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.*** In addition to discussion items at the October 19th meeting, location of utilities was also discussed as a hardship.
- (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.*** Board members agreed but said it was ultimately up to City Council to make this decision.
- (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.*** Board members agreed but said it would be up to Planning and Zoning and City Council to decide if the ordinance should be changed.

Brinson made a motion to approve the request for a variance to reduce the rear and side yard setback at 716 8th Street NW, Mount Vernon, IA 52314. Seconded by Elam. Voting yes: Player, Elam and Brinson. Voting no: None. Boren recused herself due to relationship with the applicants. Absent: Andresen. Carried all. Variance approved.

Meeting adjourned at 6:03 p.m. on November 10, 2021

Respectfully submitted,
Marsha Dewell
Deputy Clerk