MINUTES
BOARD OF ADJUSTMENT
DECEMBER 10, 2013

Chair Townsend called the meeting to order at approximately 7:00 p.m. Those members attending included David Townsend, Martha John, Fred Carroz, Matt Reichert and Phil Clithero. Also attending were the City Clerk, Sheela Amin, Senior Building Inspector, Doug Kenney, and Assistant City Counselor, Rose Wibbenmeyer.

The minutes from the regular meeting of November 12, 2013 were approved as submitted on a motion by Mr. Clithero and a second by Ms. John.

The following case, properly advertised, was considered. All persons testifying were duly sworn by the City Clerk.

Case Number 1872 was a request by T. Linda Sneed for a variance to the minimum setback requirement for an accessory structure by allowing the garage to be located less than 60 feet from the front lot line on property located at 314 McNab Drive.

Ms. Amin stated Jill Raitt, who resided at 1806 Cliff Drive, had contacted the City Clerk’s Office to state her support for granting the variance to allow the garage to remain in its current location.

Chair Townsend opened the public hearing.

Terry Linda Sneed, 314 McNab Drive, commented that the employees of the Naugle Company had indicated to her that her garage had to be setback 25 feet from the street line and six feet from the adjoining property line. She did not believe she could have placed the garage 60 feet back from the front lot line given the shape of her lot. Her lot was a corner lot and narrowed toward the back. She stated if she had been informed of the 60 foot requirement, she would have been before the Board earlier asking for a variance.

Gary Naugle, Jr., 1700 Dozier Station Road, explained he had not been notified by the Building and Site Development Division that he needed to stop construction on the garage when the inspection was done. The inspector, when conducting the footing inspection, mentioned the setback needed to be 60 feet, but still signed off on the permit showing the footings were approved. He noted he was not given a stop order.

Richard Shanker, 1829 Cliff Drive, stated he lived in the neighborhood and drove by the property everyday. He explained he was happy to see the improvements made by Ms. Sneed to the home and believed the garage fit better on the property where it was located currently than if it had been built 60 feet back from the front lot line. He hoped the Board would grant the variance.

Mike McMillen, 2709 Squire Circle, commented that he believed part of the issue was with the wording in the ordinances, and read the applicable section. The ordinance stated “such garage shall be located not less than 60 feet from the front of the lot line.” He believed the ordinances should be rewritten in correct parse syntax grammar to eliminate confusion. The word “not,” with or without an auxiliary verb, would always modify a verb. In this particular sentence, “less” was modified and was a determiner like “more.” The word “no” was more versatile since it could
function as an adjective and an adverb. In this instance, it acted like an adverb because it referred to the determiner “less,” and determiners and adjectives were always modified by verbs. He thought “fewer” should be used instead because it referred to things that were countable while “less” referred to things that were not countable. He suggested the ordinances be reviewed and reworded to clear up future problems. He provided the copy of the ordinance discussed to the Board.

Ms. Sneed provided the Board a copy of an e-mail sent to the City Clerk’s Office by her sister, Pamela Heath. Ms. Amin read the e-mail to the Board, and it indicated Ms. Heath owned the lot next to 314 McNab Drive and was supportive of the variance request. The e-mail indicated Ms. Sneed’s lot was shaped such that she had no real choice and had difficulty walking, so it would be a hardship for her to have to routinely walk a distance. The e-mail further stated Ms. Heath currently lived in California and was, therefore, unable to attend the meeting in person, and hoped the Board would approve the variance request.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Kenney stated Mr. Naugle had come into the office to discuss the site plan prior to starting work on the project and part of the problem was the result of an oversight on his part due to different interpretations of the ordinances. He explained he used the setback for an attached structure, and the garage location met the requirements for an attached structure. He pointed out Mr. Naugle was correct in that he did not blatantly build it knowing there was a problem.

Ms. Wibbenmeyer noted the standard was one of practical difficulties or unnecessary hardships.

Mr. Clithero made a motion to approve the variance as requested. The motion was seconded by Ms. John.

CASE NO. 1872 VOTE RECORDED AS FOLLOWS: VOTING YES: TOWNSEND, JOHN, CARROZ, REICHERT, CLITHERO. VOTING NO: NO ONE. The variance was approved as requested.

There being no further business, the meeting adjourned at 7:11 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk