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**MEETING OF THE BOARD OF ZONING APPEALS
Thursday, December 15, 2011**

PRESENT: Mr. Randall, Mr. Pennoyer, Mr. Bittner,

EXCUSED: Mr. Subotich, Ms. Harris

ALSO PRESENT: J. Ferguson, Planner

Mr. Randall as acting Chair called the meeting to order at 7:03 p.m.

**11623 W. Mount Vernon Avenue Variance
Request by Stephanie Quinn for a Variance to the front yard setback in the AA Single Family District at
11623 West Mount Vernon Avenue to allow for a proposed Land Division.**

The applicant is requesting a variance to the front yard setback as it affects the detached garage, in order to allow for division of the lot and the creation of two parcels. Currently, the property is a corner lot and the front lot is along Oxford Place. (Per zoning, the definition of lot front for a corner lot is the narrowest side fronting on a street.) As such, setbacks for the detached garage are 18 inches from the rear lot line and interior side lot line, and 15 feet from the side lot line along West Mount Vernon. When this garage was built in 2010, it met these setbacks. Also at this time, the applicant was informed of the differing required setbacks/location for the garage should the owner want to divide the lot in the future (refer to included e-mail documentation).

The lot division that the applicant is proposing would create two parcels with front lots along Mount Vernon. The new parcel that would accommodate the existing structures would create a non-conforming situation, as the detached garage would be located in the front yard, violating the front yard setback of 25 feet. Because staff cannot allow for approval and creation non-conforming lots, the applicant is requesting a variance to the front yard setback to make the existing garage legal in order to move forward with a land division application submittal and approval.

Present in favor: Stephanie Quinn, 11623 West Mount Vernon Avenue

Also present for comment: Trent Jay, 11624 West Mount Vernon Avenue

Ms. Quinn stated that she is the owner of the property located at 11623 West Mount Vernon Avenue. Ms. Quinn indicated that she originally purchased this property with the knowledge that she would eventually divide it into two separate lots. The home, when purchased, needed renovation. The garage that was located in the rear was converted into living space. Ms. Quinn then added a new garage to the property. Ms. Quinn stated that during the planning process for the new garage, she looked at various locations within the property to build the garage. The placement of the new garage was due to an extreme sloping hill that is directly behind the garage. If Ms. Quinn located the garage on the other side of the house, it would not be on the main floor. The property is a corner lot and currently the garage meets the setback requirements because the front lot is along Oxford Place. However, the lot division would change the front to be along Mount Vernon and would no longer meet the setback requirements.

Mr. Jay commented that he lives directly across the street from Ms. Quinn and is not here in favor or opposed to the variance. He informed the board that Ms. Quinn has improved the exterior of the home. Mr. Jay stated that he noticed on the map that this property was actually three parcels and was wondering if the property was going to be divided into two lots or three. Ms. Quinn answered that she would like to divide it into two lots. This would make both lots a nice size. Dividing it into three lots would make each lot very small.

Mr. Jay asked why Ms. Quinn built the garage knowing that she was going to divide the property and that the location of the front of the property would change. Mr. Jay understands that Ms. Quinn was informed by the Planning Department that if the garage was built in this location, when she divided the property it would no longer meet the setback requirements. Ms. Quinn said that she originally did not think about dividing the property. Ms. Quinn commented that the property next to her is the same as hers and the garage is closer to the street. She stated further that she is not changing the way her property is, but that when dividing the lots, the location of the front changes which then makes the garage non-conforming.

Mr. Randall asked if this property was out of character for the neighborhood. Mr. Jay answered no.

Mr. Pennoyer commented that this will not create a special detriment and having another structure built on the vacant lot will not be an impairment to the neighborhood. Mr. Jay agreed that building another structure on the vacant lot would not be out of character for the neighborhood.

Mr. Randall stated that he read the e-mails between Ms. Quinn and the Planning Department in which it was explained to her about the location of the garage becoming non-conforming should she decide to divide the property. Ms. Quinn answered that at the time of the e-mails, she was not planning on dividing the property, but now she is.

Mr. Pennoyer commented that the property itself is not changing, but the legal description of the location of the front of the property is changing with the division of the property. Her garage currently meets all required setbacks. Dividing the property into two lots allows for another structure to be built in the neighborhood. Ms. Quinn stated that currently the lot is used for a depository for the neighborhood dogs. Ms. Quinn commented that the lot is fairly large and difficult for her to maintain.

Moved Mr. Pennoyer, seconded by Mr. Bittner to approve the variance request to the front yard setback to allow division of the property into two lots, this board finds:

1. Exceptional circumstances do exist pertaining to this lot. There is an extreme slope and construction of the garage in any other location would create a steep staircase to enter the dwelling.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. Initially it was laid out to be three properties. Two properties would be more consistent with the neighborhood lot sizes.
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests. It would be in keeping with the

neighborhood to have a structure located on the vacant lot.

4. That the difficulty of hardship was not created by the property owner as this is how the lot was originally plated and constructed.

Based upon these findings, I move that the variance be granted.

Roll call vote taken: Ayes: 3

Meeting adjourned 7:55 p.m.

Jennifer Ferguson

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