

MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT
October 26th, 2015

The Mint Hill Board of Adjustment met in regular session on Monday, October 26th, 2015 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Gary Isenhour
Vice Chairman: June Hood
Members: Michael Weslake, Ronald Rentschler, Bobby Reynolds
ETJ Members: Debi Powell and David Tirey
Planning Director: John Hoard
Commissioners: Mickey Ellington
Clerk to the Board: Candice Everhart

CALL TO ORDER

Chairman Isenhour called the meeting to order at 6:30 p.m., declared a quorum present and the meeting duly constituted to carry on business.

ORDER OF BUSINESS

Approval of Minutes of February 24th, 2014 Regular Meeting: Upon the motion of Mr. Reynolds, seconded by Mr. Rentschler, the Board unanimously approved the minutes of the February 24th, 2014 Board of Adjustment.

Reports of Committees, Members and Staff: Mr. Hoard stated we need to elect a Chairman and Vice Chairman as well. Second, we are going to pass along contact information for each of you to review and make sure everything is accurate. Third, we are going to amend the Rules and Procedures based on the 2013 State changes and I have to report this to you in advance so at our next meeting we will bring you our updated Rules and Procedures.

Old Business: None.

New Business:

- A. **Discussion and Decision on Variance Request #V15-1, Filed by Timothy Brun for Property Located at 16300 Blackberry Hill Drive, Tax Parcel #139-173-26, to expand an existing accessory structure.** Mr. Hoard stated that would have the applicant come forward to tell the Board what his plans were and answer any questions they may have.

Mr. Isenhour asked the applicant and Mr. Hoard to step forward and be sworn in. Do you swear or affirm that the testimony you are about to give is to the best of your knowledge so help you God? I do, stated Mr. Brun and Mr. Hoard.

Mr. Brun thanked the Board for their attendance. He stated that he lives at 16300 Blackberry Hills Drive which is in Midland in an unincorporated area of Mecklenburg County. We built our dream house about eight years ago and most lots out there are between four and eight acre lots. I was laid off from work and so I turned my hobby into a business. During the recession it was a struggle, but fast forwards five years and the economy has picked up. My business has grown with that and I'm in need of additional storage space. Upon investigating, I realized that adding on to the left side would cost significantly more and also be environmentally degrading. That is when I went through the direction of getting approval for adding onto the right side through the proper channels of Mecklenburg County. After paying for county fees, requesting surveys which were required and going through the seven month process with the county I was then told I would have to go to Mint Hill and request a variance. So if I were to add on the left side there is a substantial grade drop off from front to back that is five feet in elevation. In addition, if it was on the left side there would be three times larger of an impervious surface required to access that addition. The removing of large mature trees would be required which would not be a financial impact, but it would negatively impact the pond watershed. The pond watershed is directly behind our property. The right side has a much lower grade change, no trees would be taken down and the minimal impervious surface would be required to access the addition. The costs over the last eight months since I've began this process the comparison from one side to the other has increased even more. The contractors noted that with the topographic challenges it would require three times more for flat concrete work, two and a half times more for the foundation itself on the left side and additional step footings in excess of 250% more for inside gravel and compaction all due to the grading changes. Are there any questions as to the left side versus the right side?

Mr. Westlake asked, if you're looking from the street is that the front? If you walk from the house to the driveway that would be the front. What I'm requesting is to go into the setback, towards the cul-de-sac. The cul-de-sac is oversized drastically when compared to the City of Charlotte requirement for a cul-de-sac. With the size of the cul-de-sac and the right of way they put on that, currently the building stands forty-six feet from the edge of the pavement. The setback is twenty feet, so twenty six feet is right of way and that is the process I went through with Mecklenburg County prior to coming here.

Mr. Isenhour said, technically it's not a road. The State of North Carolina and the Town of Mint Hill has not adopted it, but I guess you have to treat the setbacks just as a road. Yes, stated Mr. Brun. That is unmaintained from the State, but if it were a private road then the setback would be five feet. If you go beyond the cul-de-sac then it would be a private road. What I'm trying to do is go towards the cul-de-sac.

Mr. Isenhour asked, if I'm looking straight down on top of the building that is already there from the cul-de-sac looking back, you're wanting to add on to the right hand side towards the right of way, correct? Correct, stated Mr. Brun.

What kind of structure is that, asked Mr. Westlake? It is full hardi-plank structure. It matches to our house with thirty year shingle and shutters like our house.

Are there any restrictions with trying to go backwards? To go backwards the grade keeps falling off.

Mr. Westlake asked, does it drop off five feet from this existing structure? It drops off seventy-two inches then continues to go down towards the watershed.

Mr. Tirey asked, do you want to expand sixteen feet? Yes, it would be fifteen feet into the setback, said Mr. Brun.

Mr. Tirey asked, how much does that leave? It would leave thirty feet to the pavement, but five feet of setback, said Mr. Brun.

Does the setback come from the pavement of the yellow part, asked Mr. Isenhour? Mr. Brun said, that's a good question. It would come from the yellow part, which is the edge of the right of way. The property line on here is the edge of the right of way.

Would you be going into the property line, asked Mr. Isenhour? No, said Mr. Brun.

Do you know what you are to the center point of the cul-de-sac, asked Mr. Westlake?

Mr. Isenhour asked a question to the staff. Are you calling the round part toward the back the cul-de-sac or is the cul-de-sac at the corner of Blueberry Hill Drive and Wild Cherry Lane? Mr. Hoard said, this is the applicants map. According to the survey the right of way line is the exterior of the bulb. The lines that go above the bulb are the easements leading to the flag lots.

What is next to the cul-de-sac now, asked Mr. Tirey? There is only grass and gravel, stated Mr. Brun.

Have all property owners around him been informed, asked Mr. Tirey? Yes, said Mr. Hoard. All adjacent property owners have been and there was also a sign placed at the front of the neighborhood.

Mr. Westlake said, if you're forty six feet from the edge of the pavement, but we don't know the length from the edge of the pavement to the property lines do we? Mr. Brun said it would be twenty six feet because my setback is twenty feet from the building and the other twenty feet is the right of way.

Mr. Rentschler asked, John would you pull up the tax parcel from Polaris? Yes, stated Mr. Hoard.

Mrs. Hood asked, if one of the other three sides have any possibility of being added on to? Mr. Brun said the left side drops off and the other two sides have a substantial grade up and I would have to do a retaining wall.

Mrs. Hood asked what about the other side? Mr. Brun said there is a large Japanese maple tree there that was there when we bought the property.

Mr. Westlake said, I want to make sure your right of way point is from the edge of the cul-de-sac and not from the center point of the radius. Mr. Brun said, I have the actual survey here if you would like to see that.

Mr. Hoard stated, the right of way line and property line are the same line. So the setback is twenty feet from this line. Mr. Westlake said okay that clarifies.

Mr. Isenhour said, our variance tonight is to decide on variance request #V15-1, Filed by Timothy Brun for Property Located at 16300 Blackberry Hill Drive, Tax Parcel #139-173-26, to expand an existing accessory structure. Are there any further questions? If there are no further questions we will go into our Fact Findings section.

Unnecessary hardships would result from the strict application of the ordinance.

Mr. Westlake said, the hardship is a result of the typography of the slope of the land. It would not be a problem going towards the road. I would say it would result from the application of the ordinance.

Mr. Reynolds said, unnecessary hardship would not result from strict application of the ordinance. It is a monetary issue and I understand sometimes that is a hardship, but that is the only thing.

Mrs. Hood said, I agree with Mr. Reynolds.

Mr. Isenhour said, I agree with Mr. Westlake in that the tearing down of the trees would result in a hardship.

Mrs. Powell said, unnecessary hardship would result in that the applicant would not be able to make reasonable use of his property because of the oversized right of way impacting the side setback.

Mr. Rentschler said, I agree with Mrs. Powell.

Mr. Tirey said, I couldn't have said it any better.

The hardship results from conditions that are peculiar to the property, such as location, size or topography.

Mr. Tirey said, the hardship as I understand it, is that the only way to add on to this structure is to do so in this way. His hardship in this case is the area that he has to work with is grading work and mature trees.

Mr. Rentschler said, I agree with that.

Mrs. Powell said the hardship results in that this particular property has an over-sized right of way impacting the side setback. In addition, the South side has grading drop off and large maturing trees prohibiting expansion.

Mr. Isenhour said, I agree with Mrs. Powell.

Mrs. Hood said, I agree that the topography is the problem for his present plan, but that there is a lot of property that is available.

Mr. Reynolds said, the hardship results from conditions that are peculiar to elevation and topography changes.

Mr. Westlake said, I agree with Mrs. Powell.

The hardship did not result from actions taken by the applicant or the property owner.

Mr. Westlake said, the hardship is not a result of the actions taken by the applicant. It is an issue due to topography.

Mr. Reynolds said, the hardship did not result from actions taken by the applicant. They were already in place when he bought the property.

Mrs. Hood said, I agree.

Mr. Isenhour said, I agree.

Mrs. Powell said, the hardship did not result from actions by the applicant in that the oversized twenty-six foot right of way is due to flag lots in the cul-de-sac and the grade work/topography has not been changed and was not self-created.

Mr. Rentschler said, I agree.

Mr. Tirey said, I agree.

The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.

Mr. Tirey said, the request is consistent due to the hardships in this case, the variance should be allowed to go to the right side of the building..

Mr. Rentschler said, I agree. The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.

Mrs. Powell said, the requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved. Granting a variance would not adversely impact the egress or ingress of the abutting property owners and taking into consideration the oversized right of way, the building improvement would still be thirty feet from the edge of the pavement.

Mr. Isenhour said, I agree.

Mrs. Hood said, I agree.

Mr. Rentschler said, I agree.

Mr. Westlake said, I agree.

Mr. Rentschler made a favorable motion on Variance Request #V15-1, Filed by Timothy Brun for Property Located at 16300 Blackberry Hill Drive, Tax Parcel #139-173-26, to expand an existing accessory structure. Mr. Tirey seconded the motion and the Board unanimously agreed.

B. Nominate a Chairman and Vice Chairman for the Board of Adjustments: *Mr. Isenhour said, we will open the floor for nominations.*

Mr. Reynolds motioned to nominate Mr. Isenhour for Chairman. Mrs. Powell seconded the motion and the Board unanimously agreed.

Mr. Isenhour nominated Mrs. Hood for Vice Chairman. Mr. Reynolds seconded the motion and the Board unanimously agreed.

Other Business: None

Adjournment: Upon the motion of Mr. Rentschler, seconded by Mr. Reynolds, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:07 p.m.

Candice Everhart
Program Support Assistant