

Town of Mint Hill
John M. McEwen Assembly Room
4430 Mint Hill Village Lane
Mint Hill, North Carolina 28227

Mint Hill Board of Adjustment Agenda
September 25, 2017 at 6:30 p.m.

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Approve Minutes of June 26, 2017 Regular Meeting
4. Reports of Committees, Members, and Staff
5. Old Business
6. New Business
 - A. Discussion and Decision on Variance Request #V17-4 Filed by Alton Brent Grayson, Property Located at 6038 Robin Hollow Drive, Tax Parcel #135-271-06 from section 6.9.7(11) specifies Accessory Structures are limited to 900 sq ft.

 - B. Discussion and Decision on Variance Request #V17-5 Filed by Linda Kragnes & Dan Kragnes, Property Located at 12902 Telfair Meadow Drive, Tax Parcel #135-343-22 from Section 6.9.7 Accessory Use and Structures
7. Other Business
8. Adjournment

Cassie Crutchfield
Program Support Assistant

MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT

September 25, 2017

The Mint Hill Board of Adjustment met in regular session on Monday, September 25, 2017 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Gary Isenhour

Members: June Hood, Michael Weslake, Ronald Rentschler and Bobby Reynolds

ETJ Members: Debi Powell and David Tirey

Absent Alternate Member: Todd Fisher

Planning Director: John Hoard

Clerk to the Board: Cassie Crutchfield

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 June 26, 2017 Regular Meeting: Upon the motion of Mr. Reynolds, seconded by Mrs. Hood the Board unanimously approved the minutes of the June 26, 2017 Board of Adjustment regular meeting with the following correction:

Mr. Reynolds made a favorable motion to grant Variance request #V17-1, filed by Suzanne Wolf for property located at 7200 Apple Creek Drive, Tax Parcel #135-366-06 due to the fact that unnecessary hardships would result from the strict application of the ordinance, hardships result from conditions that are peculiar to the property and not by actions taken by the applicant or property owner and that substantial justice would be achieved. Mr. Weslake seconded the motion and the motion went to a vote. Mrs. Hood, Mrs. Powell and Mr. Tirey were in favor of the motion. Mr. Fisher and ~~Mr. Reynolds~~ **Mr. Rentschler** were opposed to the motion, therefore the motion did not carry and the variance was denied.

Reports of Committees, Members and Staff: Planning Director Hoard stated Planner Chris Breedlove had left the Town to become an Arborist.

New Business:

- A. **Variance Request #V17-4 Filed by Alton Brent Grayson, Property Located at 6038 Robin Hollow Drive, Tax Parcel #135-271-06 from section 6.9.7(11) specifies accessory structures are limited to 900 sq ft.:** The following individuals were sworn in and spoke in conjunction with V17-4: Mr. John Hoard and Mr. Alton Brent Grayson. Mr. Grayson stated the odd angle of the home and the definitions of rear, side and front yard imposed by the Ordinance made locating an accessory structure very difficult. He stated he had grown up in Mint Hill, moved to Fort Mill, and had returned recently to Mint Hill. He stated the property was located on 3.5 acres of land and because the house was placed on the property, before the road had been extended, it was impossible to build a structure on the property in the "rear yard". Mr. Grayson had met with Planner Breedlove to discuss the 1130

square foot garage, had applied for a permit by Mecklenburg County and received a call from Planner Breedlove to say they had an issue because the road had been extended in the early 1990's. The extension of the road had created new side and front yards. Mr. Grayson and Planning Director Hoard showed several renderings/slides (see attached) to show the orientation of the house on the lot in comparison to the road.

Chairman Isenhour asked where the road had originally ended. Mr. Grayson said right passed his property. Mr. Reynolds asked if this was originally family land that had been divided over the years. Mr. Grayson and Planning Director Hoard said possibly. Chairman Isenhour asked who had decided what the front, side and rear yard. Planning Director Hoard said the Ordinance dictates what is considered front, side and back yard. Mr. Weslake asked how far into the front yard would the structure protrude. Mr. Grayson said 2-3 feet. Planning Director Hoard directed the Board back to the drawings/renderings to explain the side, rear and front yards. Mr. Weslake asked if the structure could be moved closer to the house. Mr. Grayson stated it must be 10 feet from the house; he stated to get the structure out of the front yard that the second line must be used. Mr. Tirey asked if a 900 square foot structure could be used in the side yard; was there any way to place it in the physical back yard? No. Mr. Rentschler stated the side yard couldn't really exist. Planning Director Hoard stated the property did have atypical setbacks. Chairman Isenhour and Mr. Rentschler asked what the setbacks would have been if the road had not been extended. Mr. Hoard stated they would still be encroaching into the side yard but the Board of Adjustment had discretion in granting variances that Staff did not have.

Hearing no further questions, Chairman Isenhour asked the Board to move into the fact finding portion of the case.

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

Mr. Tirey stated unnecessary hardships would result from the strict application of the ordinance the extension of the road caused the orientation of the house to have new side, rear and front yards.

Mr. Rentschler agreed with Mr. Tirey.

Mrs. Powell stated unnecessary hardships would result from the strict application of the ordinance due to placing the structure in an impractical location.

Chairman Isenhour and Mrs. Hood agreed with Mrs. Powell.

Mr. Reynolds stated unnecessary hardships would result from the strict application of the ordinance due to the unusual location of the house in regard to the road.

Mr. Weslake stated unnecessary hardships would not result from the strict application of the ordinance because the property owner had reasonable use of the house with the setback requirements.

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

Mr. Weslake stated the hardship results from conditions that are peculiar to the property, such as location, size or topography due to the road extension and the original placement of the house.

Mr. Reynolds stated the hardship results from conditions that are peculiar to the property, such as location, size or topography due to the location of the house on the lot.

Mrs. Hood and Chairman Isenhour agreed with the previous statements.

Mrs. Powell stated the hardship results from conditions that are peculiar to the property, such as location, size or topography due to the unique placement and the changing lines.

Mr. Rentschler and Mr. Tirey agreed with Mrs. Powell.

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

Mr. Tirey stated the hardship did not result from actions taken by the applicant or the property owner but instead was caused by the road extension.

Mr. Rentschler, Mrs. Powell, Chairman Isenhour agreed with Mr. Tirey.

Mr. Reynolds stated the hardship did not result from actions taken by the applicant or the property owner because it was caused by the original owners of the property.

Mr. Weslake stated the hardship was a result from actions taken by the applicant or the property owner because they chose the location of the garage.

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. Weslake stated the requested variance is not consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is not achieved.

Mr. Reynolds stated 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 because the garage may be placed in a good location.

Mrs. Hood stated 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 because the garage could be placed in a convenient location to the house.

Chairman Isenhour, Mrs. Powell, Mr. Tirey and Mr. Rentschler agreed with Mrs. Hood.

Upon the motion of Mrs. Powell, seconded by Mr. Reynolds, the Mint Hill Board of Adjustment voted to grant Variance Request #V17-4 Filed by Alton Brent Grayson, for Property Located at 6038 Robin Hollow Drive, Tax Parcel #135-271-06 from Section 6.9.7(11) Accessory Uses and Structures to place a 1,100 square foot accessory structure in the front yard based on the following reasons:

1. Unnecessary hardships would result from the strict application of the Ordinance. Without a variance, the property owner would have to place their structure in the required “new” side yard which would be an impractical location as the structure would be better situated according to the original front/rear and side yard placement when the house was built.
2. The hardship results from conditions that are peculiar to the property, as well as did not result from actions taken by the applicant, in that the hardship results from the unique situation of the road being extended through the property many years after the residence was constructed changing the front/rear and side property lines.
3. A variance would be consistent with the spirit, purpose and intent of the ordinance, such that public safety secured. With the road extension creating a “revised” front and side yard a variance places the structure where it would be intended on the original lot development and a variance would have no negative impact and substantial justice would be achieved.

The vote was 6-1; Mr. Weslake opposed the granting of the variance request.

- B. **Variance Request #V17-5 Filed by Linda Kragnes & Dan Kragnes, Property Located at 12902 Telfair Meadow Drive, Tax Parcel #135-343-22 from Section 6.9.7 Accessory Use and Structures:** The following individuals were sworn in and spoke in conjunction with V17-5: Mr. John Hoard, Mr. Dan Kragnes and Mr. Huffman. Planning Director Hoard stated conservations subdivisions like Telfair restricted all accessory structures to the rear yard. Mr. Kragnes stated Bonterra Builders had built his home in Telfair and that he had a short rear yard that caused the pool be built in this location. He stated the majority of the pool, an estimated 70%, would be placed in the rear yard. He had selected San Juan Pools to build the pool; the pool will have a 6’ vinyl privacy fence to screen from the view of the neighbors.

Mr. Rentschler asked what portion of the berm was located on the property. The entire berm is located on the property, according to Mr. Kragnes. Mr. Rentschler asked by the berm area could not be use. Mr. Kragnes stated the storm drain easement would prevent him from placing the pool back further. Mr. Rentschler asked if the storm drain easement ran through the patio. Yes, the patio is made of pavers not concrete and approximately 1 foot is in the easement. Mr. Rentschler stated he wouldn’t want to look at a pool in the side yard. He asked if there was a storm drain there now. There was no storm drain there now; the neighbors had planted for privacy and they would be unable to see the pool. Mr. Rentschler asked about the drain at the patio. Mr. Kragnes stated there was a 15” landscape drain at the patio. Chairman Isenhour asked if the pool would interfere with the drainage. Mr. Kragnes stated the pool would be 7-8’ away from the drainage area. Mr. Weslake asked if there was an option of a smaller pool. Yes, there was a smaller option. Mr. Weslake asked if the smaller option would get the pool out of the

setback. Mr. Kragnes stated it would only lessen it. Mr. Tirey asked about the condition of conservation subdivisions as accessory structures in rear only; wouldn't the owners have known. Planning Director Hoard stated a 20' set back was used for a normal subdivision and an 8 foot setback was required with the smaller lot; unless owners read the Town ordinances they would not have known. Mr. Weslake asked about the 10 foot rule; Planning Director Hoard stated it was an old fire code but since this was a pool and not a building then it wasn't as strict. Mr. Kragnes stated 60-70% of the pool would be located in the back yard.

Hearing no further questions, Chairman Isenhour asked the Board to move into the fact finding portion of the case.

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

Mr. Weslake stated unnecessary hardships would result from the strict application of the ordinance because the property had a berm which made it unsuitable to build on.

Mr. Reynolds stated unnecessary hardships would not result from the strict application of the ordinance because a smaller pool could be utilized.

Mrs. Hood and Chairman Isenhour agreed with Mr. Weslake.

Mrs. Powell stated unnecessary hardships would result from the strict application of the ordinance because there was no other location for hydrotherapy and exercise.

Mr. Rentschler and Mr. Tirey agreed with Mrs. Powell.

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

Mr. Tirey stated the hardship results from conditions that are peculiar to the property, such as location, size or topography because of the berm and the storm drain easement.

Mr. Rentschler agreed with Mr. Tirey.

Mrs. Powell stated the hardship results from conditions that are peculiar to the property, such as location, size or topography because of the 15' storm drain easement and the berm.

Chairman Isenhour, Mrs. Hood and Mr. Weslake agreed with Mrs. Powell.

Mr. Reynolds stated the hardship results from conditions that are peculiar to the property, such as location, size or topography because it was in a conservation subdivision.

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

Mr. Weslake stated the hardship did not result from actions taken by the applicant or the property owner but instead was caused by berm and the storm drain easement.

Mr. Reynolds stated the hardship did not result from actions taken by the applicant or the property owner but instead was caused by the conservation subdivision.

Mrs. Hood, Chairman Isenhour, Mrs. Powell, Mr. Rentschler and Mr. Tirey agreed with Mr. Weslake.

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 stated 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. Rentschler stated 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 stated 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 because a 6' fence would screen the pool from the neighbors.

Chairman Isenhour, Mrs. Hood, Mr. Reynolds and Mr. Weslake agreed with Mrs. Powell.

Upon the motion of Mrs. Powell, seconded by Mr. Rentschler, the Mint Hill Board of Adjustment voted to grant variance #V17-5 Filed by Linda and Dan Kragnes, for Property Located at 12902 Telfair Meadow Drive, Tax Parcel #135-343-22 from Section 6.9.7 Accessory Use and Structures to allow a pool to partially extend into the side yard and be located 5' from the property line based on the following reasons:

- 1. Unnecessary hardships would result from the strict application of the Ordinance. Without a variance, the property owner would have no other location on their property, besides the front yard, to place a pool needed for hydrotherapy and exercise.**
- 2. The hardship results from conditions that are peculiar to the property, as well as did not result from actions taken by the applicant, in that the hardship results from the unique situation of a 15' storm drain easement in the rear yard as well as a 10' raised earth noise barrier running along the rear of the property. And the need to meet the National Electrical Swimming Pool Code requires the pool to be placed 5' away from the 2 AC compressor units.**
- 3. A variance would be consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured. And a variance would have no negative impact and substantial justice would be achieved with the pool and equipment being hidden by a 6' high vinyl fence on the requested 5' side and will not be visible from the front or the next door neighbor.**

The vote was 6-1; Mr. Weslake opposed granting the variance request.

Other Business: None

Adjournment: Upon the motion of Mr. Reynolds, seconded by Mrs. Powell and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:33 p.m.

Cassie Crutchfield
Program Support Assistant