

## MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT

June 4, 2018

The Mint Hill Board of Adjustment met in called meeting session on Monday, June 4, 2018 at 6:38 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

### ATTENDANCE

Chairman: Gary Isenhour

Members: June Hood, Michael Weslake, Ronald Rentschler

ETJ Members: Debi Powell and David Tirey

Absent Member: Todd Fisher and Bobby Reynolds

Planning Director: John Hoard

Clerk to the Board: Cassie Crutchfield

### CALL TO ORDER

Chairman Isenhour called the meeting to order at 6:38 p.m., declared a quorum present and the meeting duly constituted to carry on business.

### ORDER OF BUSINESS

**Approval of Minutes of September 25, 2017 Regular Meeting:** Upon the motion of Mr. Rentschler, seconded by Mr. Tirey the Board unanimously approved the minutes of the September 25, 2017 regular meeting.

**Reports of Committees, Members and Staff:** None.

**Old Business:** None.

#### **New Business:**

- A. **Variance Request #V18-1 Filed by Chad Sherrill, Property Located at 10113 Arlington Church Road, Tax Parcel #139-101-27 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 V18-1: Director John Hoard, Mr. Chad Sherrill, and Mr. Daniel Blackwelder. Director Hoard presented the applicants case to the Board. The ordinance stated that accessory structures cannot exceed 900 sq. ft., typically located in the rear yard, no more than 8 ft. setback. It can exceed 900 sq. ft. if the site consisted of two acres or more. The rear and side setbacks will have increased to 20 ft. and the garage must be located in the rear yard. Director Hoard asked the applicant, Chad Sherrill to present his case.

Mr. Sherrill stated he was the home owner of 10113 Arlington Church Road. He showed on the projector screen his house and the detached garage. They had poured a concrete foundation as an addition to the garage. He went to the permit office and told them what he was building, and they gave him a permit. When the inspector came out to the property, the inspector failed him. Mr. Sherrill stated he got in touch with Director Hoard who explained the ordinance. Mr. Sherrill stated he tried other ways such as separating the two buildings, but it would had caused a water

problem. Mr. Sherrill stated he spent so much time and money to get where he was at now. He already spent \$25,000 in the building process. He requested the Board to grant the variance to expand his detached garage to exceed 900 sq. ft.

Chairman Isenhour asked about the white area shown in the picture. Mr. Sherrill said it was the foundation that they had started. The round circles in the middle were pillars that supported the building. They had to dig six feet into the soil to get to the hard soil for the base of the foundation. Mr. Sherrill stated he spoke with his neighbor, Mr. Blackwelder, whose property they were interfering with, said he was ok with him building the garage. Mr. Sherrill stated his property was 100 ft. wide and 999 ft long. If they came 20 ft from the line and build the building, it would be in the middle of the yard. It would be difficult to move, and he did not know what else to do. Chairman Isenhour asked if the blue line shown in the picture was a creek. Mr. Sherrill said correct, they were told that the blue line was a 35 ft buffer zone where they could not build. Mr. Weslake asked did they rebuke the drawings. Mr. Sherrill said no. Mr. Weslake asked who did the drawings. Mr. Sherrill said his father, who was not a license professional. His father used to own commercial construction companies. His dad consulted an architect at his church. Mr. Tirey asked how many acres were on the property. Mr. Sherrill said three. Mr. Weslake asked how big the new garage was on the property. Mr. Sherrill said 24ft by 38ft which would be shaped perpendicular. We have been on standstill since 2017. Mrs. Powell asked if it would have been an issue if they weren't complying with the Mint Hill Code. Would it be allowed under the Mecklenburg County requirements. Mr. Sherrill said Mecklenburg County. Mrs. Powell asked did the town not know if they weren't under Mint Hill guidelines and were still under Mecklenburg's, would this still be a problem. Mr. Sherrill said it would not be a problem. Mr. Sherrill stated that his land was originally owned by his neighbor, Mr. Blackwelder. He stated Mr. Blackwelder' father and uncle gave the land to him. It had stayed in Mr. Blackwelder's family for many years. Mr. Sherrill stated that it would upset the family if Mr. Blackwelder's got rid of it or gave some of the land to his neighbor. Mr. Rentschler asked what was the reason for expanding the garage. Mr. Sherrill stated he wanted it for his car collection or use it for a mancave. Chairman Isenhour asked Mr. Blackwelder to come to the podium. He stated that his property 10209 Arlington Church Road, joins in with Mr. Sherrill's property. Mr. Blackwelder stated that he has no problem with Mr. Sherrill building a garage. He inherited his property 30 years ago and did not want to separate it. Mrs. Hood asked Mr. Sherrill if he considered of buying 10 feet or more of property. Mr. Sherrill stated he did and asked his neighbor, Mr. Blackwelder, if he could have some of his land. Mr. Blackwelder did not want to sell his land because he inherited it from his family.

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 there wouldn't be any hardships from the application of ordinance and he would have reasonable use of his property but due to the fact that the permit was issued, and construction had begun on the building already that alone would create a hardship.

Mrs. Hood stated even though there was a hardship, it was not the type of hardship we use to approve in the ordinance.

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

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

Mr. Tirey stated there was a hardship due to the location property that having two separate buildings were not going to accomplish his goal and due to the natural wet area, he had found the proper location of accomplishing his goal.

Mr. Rentschler stated there was no hardship resulting from the conditions that were peculiar to the property such as location, size or topography, however; the building had already been issued and construction had already been started, it does create a hardship.

Mrs. Powell agreed with Mr. Tirey.

Chairman Isenhour agreed with Mr. Rentschler and Mr. Tirey.

Mrs. Hood stated there was a soil condition that was peculiar to this property.

Mr. Weslake stated he would have a hardship if he tried to relocate the building to another portion of the property due to the high-water creek and the drainage of the property.

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

Mr. Weslake stated the hardship was not a result from actions taken by the applicant or the property owner. Charlotte Mecklenburg Code Enforcement should have had never issued a permit with the setbacks that were given to them on their drawings.

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 was consistent with the spirit, purpose and intent of the ordinance such that public safety was secured and substantial justice was achieved.

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

**Upon the motion of Chairman Isenhour, seconded by Mr. Rentschler, the Mint Hill Board of Adjustment voted unanimously to grant Variance Request #V18-1 Filed by Chad Sherrill, for Property Located at 10113 Arlington Church Road, Tax Parcel**

**#139-101-27 from Section 6.9.7(11) Accessory Uses and Structures to allow expansion of his detached garage to exceed 900 square feet that would not comply with the 20-foot clearance requirement for buildings that size for the following reasons:**

- 1. Unnecessary hardships would result from the strict application of the Ordinance. Without a variance, it would be unreasonable for the property owner to tear down the existing garage and rebuild in order to have a larger building for after receiving a county permit and construction already begun.**
- 2. The hardship results from conditions that were peculiar in that the unique topography causing collecting water.**
- 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, mainly because adjacent neighbors have given their approval.**

**The vote was 6-0; the variance was granted.**

**Other Business:** None

**Adjournment:** Upon the motion of Chairman Isenhour, seconded by Mr. Rentschler, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:09 p.m.

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Cassie Crutchfield  
Program Support Assistant