

## MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT

June 25, 2018

The Mint Hill Board of Adjustment met in called meeting session on Monday, June 25, 2018 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

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

### ORDER OF BUSINESS

**Approval of Minutes of June 4, 2018 Called Meeting:** Upon the motion of Mrs. Hood, seconded by Mr. Tirey, the Board unanimously approved the minutes of the June 4, 2018 called meeting.

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

**Old Business:** None.

#### **New Business:**

- A. **Variance Request #V18-2 Filed by Craig Grimmer, Property Located at 12145 Jumper Drive, Tax Parcel #197-24-135 from Section 6.1 Dimensional Requirements for a Residential District:** The following individuals were sworn in and spoke in conjunction with V18-2: Director John Hoard, Mr. Craig Grimmer, and Mr. Chuck White. Director Hoard asked the applicant, Craig Grimmer to present his case.

Mr. Grimmer stated his address 3111 Houston Branch Road, Charlotte NC 28270. Mr. Grimmer was representing his father's property at 12145 Jumper Dr. He said this was one of the last vacant lots in the subdivision. It was not built on originally because the septic tank area would only allow for a three-bedroom house for a standard type system. In order to build a four-bedroom house, they hired a company called Thompson's Environmental Consulting. Mr. Grimmer said the owners name of the company was Larry Thompson, a soil engineer who design specialty septic systems when a person had a challenging lot or a challenging soil. Mr. Grimmer said Larry evaluated his property and came up with a diagram that showed how he could design for a specialized system for a four- bedroom house on the lot, but in the process, it restricted the building area down to 35ft depth. The building area had been restricted by the septic tank area. They were requesting a variance of 20ft additional depth so that they would have a 55ft depth envelope to work with and by granting them a variance the front setback would be 40ft instead of

the 60ft. The typical homes today built in the subdivision, most were in the 50' by 50' depth and width associated with only the main section of the house and didn't include the garage. Mr. Grimmer said they were trying to figure out their maximum building area, so they could build a home.

Chairman Isenhour asked if it was possible to build a two-story home on a 35' depth residential building? Mr. Grimmer said they could build a two-story home, but the floor plan showed around 55' depth. The problem with the 35' depth was that it was located on the main area of the house. If they added a porch, or a deck in the back of the house, the deck would be out in the septic tank area which was not allowed. They would have to fit all that material in a certain amount of depth. Mr. Weslake asked was his father or he looking to live in the residence? Mr. Grimmer said they were looking to sell the lot. They were trying to get the lot in a marketable position so they could present it to potential buyers. They would show these buyers what they could build and what their restrictions were within the septic tank area. Mr. Weslake asked if they had a copy of the soil report? Mr. Grimmer said they do not have one with them, but they could get you one. Mr. Weslake asked had the option been explored of locating the septic tank in the front yard? Mr. Grimmer said yes, that could not be done because the front yard was filled with soil when it was developed. There had been a pond in the front yard and they had removed and replaced it with soil. They were not allowed to dig or disturb the soil; it would mess up the perking essence of what the soil could handle from absorption. Chairman Isenhour asked would the soil in the front yard interfere with the foundation of the house? Mr. Grimmer asked no, if they did not fill in the pond correctly, they would need an engineer footing placed in so that it would be a stable house. Mr. Weslake asked was there any evidence of the joining property owners if they had perk problems? Mr. Grimmer said they had not asked anyone. Mr. Weslake asked was it a temporary detention pond located specifically on this lot or did it extend into the other lots? Mr. Grimmer said they do not know; they would have to look back at the plans. Mr. Grimmer said the majority of the pond was on this particular lot. Mr. Rentschler asked about the septic system that was on the drawings had a 10' measurement off; were those lines the drain field for the septic system? Mr. Grimmer said yes, those lines were the septic tank filled areas that the soil scientist laid out. Mr. Rentschler asked if they took it to Mecklenburg County and got approval from the health department? Mr. Grimmer said not yet. They had a permit years ago for a three-bedroom. In order to get the four-bedroom they had to get a specialized system which Mecklenburg does not do. It required a soil scientist to have it done and they would submit it to them. Mr. Rentschler stated it seemed that there was an excessive amount of drainage lines on the diagram. Mr. Grimmer said they were told they needed them. Mr. Rentschler asked how big the septic tank was? Mr. Grimmer said they did not know the exact dimensions of it. The standard system was a two-chamber system. They needed a multiple system, more than two. Chairman Isenhour asked if the reason they could not build back further from the house was because of the septic tank placement? Mr. Grimmer said that was correct. Mr. Weslake asked how far back did the pond go? Mr. Grimmer said they do not know. Chairman Isenhour asked was there any particular reason why they wanted to sell it as a four bedroom? Mr. Grimmer said they tried to sell it as a three bedroom, but people walked away when they noticed it only had three-bedrooms. Most people want a four-bedroom. Mrs. Powell asked did they believe there was a way to build a house that would be in character with the neighborhood houses within that buildable area, if they just added 5' instead of the 20' variance? Mr. Grimmer said they would take any footage they could get. Mrs. Powell said the 20' would be intruding on the neighbors. Mr. Grimmer said they were trying to get the best markable option that came with the physical restrictions for building the house. Chairman Isenhour said if they denied the variance, would they

come back and ask for a 10' setback? Mr. Grimmer said if they could make an adjustment now, they would be fine with it. Director Hoard said the Board could make an adjustment on the lot. There was no need to deny it and have them come back. Mrs. Powell said they would like to see the blue prints and where they were wanting to put the house. Mr. Grimmer explained the dimensions of the building on the blue prints. They were having problems with the dimensions as far as the depth. Chairman Isenhour asked if this was the only lot that needed the specialized septic system? Mr. Grimmer said they believe there were other houses in the neighborhood with a specialized septic system.

Chairman Isenhour asked if there was someone else in the room that would like to speak. Mr. Chuck White came up to the platform. He introduced himself and stated his address 12125 Jumper Drive. Mr. White stated with him were other residence and the president of the homeowner's association. The neighbors on both sides of the property and the neighbor across the street were in attendance. Mr. White said he was a member of the Architectural Community of homeowner's association and represented them in his comments. Mr. White asked Director Hoard to put up the post construction zone so that he could show it to the Board. Mr. White described the homes built around the lot had only a three-bedroom home. The three-bedroom homes were mostly single story and the four-bedroom homes were mostly two-story. They would like to maintain their neighborhood in its current format. Mr. White said on behalf of the neighbors and the homeowner's association, they objected this variance application. Mr. Weslake asked did they know if there were perk problems on either adjacent property? Mr. White said there were no perk problems. Mr. White thanked the Board for allowing him to speak.

Mr. Grimmer came back to the podium. Mr. Grimmer explained the houses on either side of the lot had septic tanks located in the front. The soil was acceptable to have a septic tank in their front yard. Mr. Grimmer stated the soil scientist told him the back yard was the only area the lot could handle a septic tank. They would like to get some type of variance if possible. Mr. Weslake asked was there a minimum square footage in this subdivision? Mr. Grimmer said 2,400 sq. ft total heated area.

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 hardships would not result from the strict application of the ordinance. The owner still had a buildable area of 2,450 sq. ft. and the two adjacent lots on either side of the property were 2,730 sq. ft. and 2,353 sq. ft. and his had fallen between the two. The owner could still build a home with a 60ft setback with alternative designs and may have to require a design professional to help him.

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

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

Mr. Tirey stated there was no hardship based on the topography, the property, or the location.

Mr. Rentschler agreed with Mr. Tirey.

Mrs. Powell the hardships result from conditions that were not peculiar to the property such as location, size, or topography. The lack of good soil where the septic system could be placed does not create enough of a hardship building a house with the shallow buildable area

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

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

Mrs. Powell stated the hardship did result from actions taken by the applicant or the property owner. The hardship was created by wanting a four-bedroom verses a three-bedroom house built on the property.

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

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

Mr. Rentschler stated he does not agree the variance would be inconsistent with the purpose of the neighborhood and public safety was not affected.

Mr. Tirey agreed with Mr. Rentschler.

Mrs. Powell stated the request variance was not consistent with the spirit, purpose and intent of the ordinance such that public safety was secured and substantial justice was achieved. With the quality of good soil limiting the depth of the buildable area and taking in consideration the need to build a single family dwelling similar of sizes existing houses in Mint Hill. She could see where a variance would be beneficial but at 20 sq. ft. request would create a hardship on the neighbors by situating a house 30ft. closer to the street, altering the essential character of the neighborhood and substantial justice would not be achieved.

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

Mr. Weslake stated requested variance was not consistent with the spirit, purpose and intent of the ordinance. The requested variance reduces the minimum setback by 33% and was not a minimum amount. If the request of variance was to be approved, it would place the home significantly closer to the road than the adjacent properties by 30ft.

Upon the motion of Chairman Isenhour, seconded by Mr. Tirey, the Mint Hill Board of Adjustment voted unanimously to deny Variance Request #V18-2 Filed by Craig Grimmer, for Property Located at 12145 Jumper Drive, Tax Parcel #197-24-135 from Section 6.1 to reduce the front setback from 60' to 40', for the following reasons:

1. Unnecessary hardships would not result from the strict application of the Ordinance. Reasonable or beneficial use could be made of this property with the construction of a house designed within the 90' x 35' buildable space.
2. The hardship results from conditions that was not peculiar to the property, as well as they resulted from actions taken by the applicant, in that any hardship created by the bad soil and limited placement of the septic system was not enough to prevent building a house within the shallow buildable area.
3. A 20' variance would not be consistent with the spirit, purpose and intent of the ordinance, such that public safety was secured in that a variance of this size could create a hardship on the surrounding neighbors by situating a house 30 closer to the street, altering the essential character of the neighborhood and substantial justice would not be achieved.

The vote was 6-0; the variance was denied.

**Other Business:** None

**Adjournment:** Upon the motion of Mr. Rentschler, seconded by Chairman Isenhour, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:15 p.m.

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Cassie Crutchfield  
Program Support Assistant