

**MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT
JANUARY 25, 2021**

The Mint Hill Board of Adjustment met in regular session on Monday, January 25, 2021 at 6:30 p.m. in the Flex Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Gary Isenhour
Members: Todd Fisher, Bill Mathers, Ronald Rentschler, and Michael Weslake
ETJ Members: Debi Powell and David Tirey
Town Planner: Nathan Farber
Clerk to the Board: Savanna Ocasio
Commissioner: Mike Cochrane
Absent: Bobby Reynolds

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 October 26, 2020 Regular Meeting: Upon the motion of Mr. Rentschler, seconded by Mr. Mathers, the Board unanimously approved the minutes of the October 26, 2020 regular meeting.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business:

A. Variance Request #V20-5 Filed by Jack and Bonnie Munday, Property Located at 10618 Williams Road, Tax Parcel #139-101-08, from Section 6.1 Building Lot Standards and Dimensional Requirements of the Mint Hill Development Ordinance: The following individuals were sworn in and spoke in conjunction with #V20-5: Town Planner Farber and Mr. Munday. Town Planner Farber submitted the following memo to the Board:

The applicant is requesting a variance from Section 6.1 *Building Lot Standards and Dimensional Requirements* of the Mint Hill Unified Development Ordinance, for property located at 10618 Williams Rd, Tax Parcel 139-101-08. The applicant is asking to subdivide the existing parcel into two lots to be served by well and septic systems. Based on the well and septic combination, the 40,000 SF minimum lot size and associated other dimension requirements apply. The applicant is requesting a reduction in the lot frontage to 119' for one of the lots in order to subdivide. All other requirements applicable will be met.

Chairman Isenhour read the staff memo (above) aloud to the Board.

Mr. Munday thanked the Board for reviewing this variance request. He stated in 1996, 10618 Williams Road was a six-acre lot that had two existing properties, which was the topic of the variance request. The back side of the property, four acres, was subdivided into two parcels with a fifteen foot right of way. Mr. Munday said in 1997, he had the front section of the two homes surveyed by Jack Christian with the intent the property would then be subdivided for a future sale. He stated the survey was never recorded however, both houses had been their individual dwellings. Mr. Munday said Rick Whittier was interested in buying 10626 Williams Road. This would leave 10622 Williams Road a dwelling because when selling 10626 Williams Road, with a request for road frontage to be 140 feet to meet the minimum requirement, that would leave 10622 Williams Road at 118 feet, which was the combined road frontage when he purchased the property. Mr. Munday approached his neighbors about purchasing additional road frontage needed to subdivide the property, but the request was denied. Mr. Munday stated when the property was surveyed in 1997, he was told there was a one-acre minimum requirement; he did not know about the 140-foot minimum road frontage. Mr. and Mrs. Munday were at a place where their request was to have a variance for 10622 Williams Road. Mr. Munday stated they could meet the 140-foot minimum requirement at 10626 Williams Road, but the remaining road frontage was 118.75 feet for the second house which was a 777 square foot one bedroom cottage. In essence, the hardship was he could not sell one house and leave the other as a dwelling without approval for a variance to have room for road frontage.

Chairman Isenhour asked Town Planner Farber if the decision should be made by using building lot standards. Town Planner Farber said yes but because they did not meet the building lot standard requirements (the road frontage was less than the required 140 feet; 118 feet was the exact remaining road frontage amount), the variance was necessary. Chairman Isenhour clarified that the applicant was seeking the variance because he did not meet the building lot standard requirements. Town Planner Farber said correct.

Mr. Rentschler asked if both lots were going to be serviced by the same well and septic system. Mr. Munday said no, they had separate systems. Mr. Rentschler asked if 10622 Williams Road had an easement that ran down to the property behind it. Mr. Munday said yes. Mr. Rentschler asked if the easement was included with the property as it sat right now. Mr. Munday said it was filed in the deed he had of his property. Mr. Rentschler asked if the easement would stay there. Mr. Munday said yes.

Chairman Isenhour asked who had surveyed the property. Mr. Munday said Jack Christian, a licensed surveyor. Chairman Isenhour asked if he had filed it. Mr. Munday said no, he had a copy of the survey with him if any of the members wanted to look at it. He also had a drawing representing the variance he was seeking. The survey/drawing showed 10622 Williams Road had 120 feet in the back and 140 feet on 10626 Williams Road.

Mr. Fisher asked if Town Planner Farber was able to speak to the intent behind a 140-foot dimensional requirement. Town Planner Farber stated he could not specify the reason as to why that number was established.

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.

Mrs. Powell said unnecessary hardships would result from the strict application of the Ordinance with all other requirements of Section 6.1 having been met and the two houses situated on this parcel of land were built prior to 1955. It would create an unnecessary hardship to require them to adhere to the current lot width front setback requirement.

Mr. Weslake said unnecessary hardships would result from the strict application of the Ordinance due to two homes being located on one lot.

Mr. Mathers said unnecessary hardships would result from the strict application of the Ordinance. Being in real estate, trying to sell two homes on one lot was definitely a hardship.

Mr. Tirey said unnecessary hardships would result from the strict application of the Ordinance.

Chairman Isenhour said unnecessary hardships would result from the strict application of the Ordinance.

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

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

Mrs. Powell said the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography. She agreed with the applicant stating the hardship was peculiar to the historical establishment of the road frontage when the parcel was granted to a Williams family member in the 1940's. There was no available neighboring property to purchase to provide additional front footage and the Charlotte Water Department would not extend water lines any farther than 1,000 feet to eliminate the need for a well and septic system.

Mr. Weslake said the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography. The hardship was a result of two homes being on one lot, dividing the property would allow each home to have its own parcel.

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

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

Mrs. Powell said the hardship did not result from actions taken by the applicant or the property owner. The hardship was established prior to the purchase of the property in 1996.

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

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 was consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved. A variance would be consistent in that these two houses have been at this location for over 65 years and allowing a variance on the front footage so each can have individual deeds would have no negative impact on the Town and public safety would be secure.

Mr. Mathers said 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. On top of that, we would have a new homeowner in Mint Hill.

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

Mrs. Powell made a motion to approve Variance Request #V20-5, filed by Jack and Bonnie Munday, for property located at 10618 Williams Road, being Tax Parcel number 139-101-08, requesting a variance to Section 6.1 Building Lot Standards and Dimensional Requirements, asking to subdivide the existing parcel into two lots to be served by well and septic systems. Mrs. Powell made a motion to approve the variance for the following reasons:

- 1. Unnecessary hardships would result from the strict application of the Ordinance in that it is reasonable to allow property with two existing houses built prior to 1955 to be subdivided to allow individual deeds as it meets all requirements of Section 6.1, except for the front width setback.**
- 2. The historical establishment of the road frontage when the parcel was granted to a Williams family member in the 1940's, as well as adjacent neighbors not interested in selling portions of their property to allow this parcel additional front footage and Charlotte Water Department not extending water lines the additional needed 3,168 feet are unique conditions that create hardships that were peculiar to the property.**
- 3. A variance would be consistent with the spirit, purpose, and intent of the ordinance as these two houses have been at this location for over 65 years and have had no negative impact on the Town and public safety will be secure.**

Mr. Rentschler seconded the motion, and the variance was unanimously approved. The vote was 7-0.

Other Business: None.

Adjournment: Upon the motion of Mr. Rentschler, seconded by Chairman Isenhour, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 6:48 p.m.

Savanna Ocasio
Program Support Assistant