



1. CALL TO ORDER
2. ROLL CALL AND DECLARATION OF QUORUM
3. APPROVE MINUTES OF JANURARY 25, 2021 REGULAR MEETING
4. REPORTS OF COMMITTEES, MEMBERS, AND STAFF
5. OLD BUSINESS
6. NEW BUSINESS
 - A. VARIANCE REQUEST #V21-02, FILED BY ENZA PILLA, PROPERTY LOCATED AT 13605 FAIRINGTON OAKS DRIVE, TAX PARCEL #192-212-56, FROM SECTION 6.1 BUILDING *LOT STANDARDS AND DIMENSIONAL REQUIREMENTS* OF THE MINT HILL UNIFIED DEVELOPMENT ORDINANCE.
7. OTHER BUSINESS
8. ADJOURMENT

<p style="text-align: center;">VIEWING A PUBLIC MEETING ONLINE</p> <p>The Town of Mint Hill live-streams the regularly scheduled meetings of the Board of Commissioners, Planning Board and Board of Adjustment. Anyone can view the live meetings or watch at a later time on the Town's YouTube Channel. To watch a meeting, hover a smartphone camera app over the QR Code to the right or navigate any web browser to https://bit.ly/2YBIORz.</p>	 <p style="text-align: center;">LIVE STREAM</p>
<p style="text-align: center;">AGENDAS & MINUTES</p> <p>Current and past Agendas and Minutes for the Board of Commissioners, Planning Board and Board of Adjustment can be found at https://bit.ly/3gulVL4 or hover a smartphone camera app over the QR Code to the right.</p>	 <p style="text-align: center;">AGENDA & MINUTES</p>

**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

Memo

To: Board of Adjustment

From: Staff

Date: 6/10/2021

Re: Variance Request #V21-02, Filed by Enza Pilla, Property Located at 13605 Fairington Oaks Dr, Tax Parcel #192-212-56

Variance Request

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 13605 Fairington Oaks Drive, Tax Parcel 192-212-56. The applicant is asking that an addition to her home encroach into the current required 20' setback. She states that it will encroach by 4 feet and 11 inches. All other requirements will be met.

Please see enclosed application for more information.

VARIANCE
APPLICATION

Town of Mint Hill
Board of Adjustment
4430 Mint Hill Village Lane
Mint Hill, N.C. 28227
(704) 545-9726

Office Use Only

Petition #: _____

Date Rfd: _____

Received Ely _____

Variance requested on property located at: 13605 Fairington Oaks Drive, Mint Hill, NC 28227

Tax Parcel Number: 192-212-56 Zoning District: 3

Describe variance being requested:

We would like to construct a single car garage totally 334 sq ft attached to the house. We are applying for a variance for the proposed garage due to the irregular shape of the property line in comparison to the home. The rear of the proposed garage would extend over the 20' side setback due to the angle of the property. The rear of the proposed garage would encroach 4'11" on to the side setback.

Enza Pilla

Name of Property Owner

Name of Applicant

13605 Fairington Oaks Drive
Address of Owner

Address of Applicant

Mint Hill, NC 28227
City, State, Zip

City, State, Zip

845.300.9942
Telephone Number

Telephone Number

Enzpilla@gmail.com
E-Mail Address

E-Mail Address


Signature of Property Owner

Signature of Applicant

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (1) that unnecessary hardships would result from the strict application of the Ordinance ; (2) the hardship results from conditions that are peculiar to the property, such as location, size, or topography ; (3) that the hardship did not result from actions taken by the applicant or the property owner and, (4) 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.

In the spaces provided, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions.

UNNECESSARY HARDSHIPS WOULD RESULT FROM THE STRICT APPLICATION OF THE ORDINANCE. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The proposed garage is needed for our personal property, storage and also space to be utilized for our livelihood. Due to the HOA Rules and Covenants, a detached garage is not an option due to the 200 sq ft limit as for the size of any accessory structures permitted on the property. Therefore, the only way to obtain the needs we require personally and for our livelihood is through the proposed garage.

THE HARDSHIP RESULTS FROM CONDITIONS THAT ARE PECULIAR TO THE PROPERTY, SUCH AS LOCATION, SIZE OR TOPOGRAPHY. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The property line and the house are not in alignment. This is causing the rear of the
proposed garage to extend over the 20' side setback by 4' 11" and not be consistent throughout the
placement of the proposed garage.

THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

No. The hardship is not a result from any actions taken on our behalf. The placement
of the home when it was originally constructed was not in alignment with the property line.
We were unaware that a 20' side setback would be required to construct the proposed garage at the
time we purchased the home in January, 2021.

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.

Yes. The nature of our parcel does not allow us to do with our property what others in our
neighborhood are rightfully able to do.