



1. CALL TO ORDER
2. ROLL CALL AND DECLARATION OF QUORUM
3. APPROVE MINUTES OF AUGUST 22, 2022 REGULAR MEETING
4. REPORTS OF COMMITTEES, MEMBERS, AND STAFF
5. OLD BUSINESS
6. NEW BUSINESS
 - A. VARIANCE REQUEST [#V22-04](#), FILED BY MERCEDES CASTRO, PROPERTY LOCATED AT 8908 BROWN OAK COURT, TAX PARCEL #135-413-24, TO REQUEST A VARIANCE TO ALLOW A 3' LEFT SIDE SETBACK TO ACCOMMODATE A HOME ADDITION
7. OTHER BUSINESS
8. ADJOURNMENT

<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/3guVL4 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
AUGUST 22, 2022**

The Mint Hill Board of Adjustment met in regular session on Monday, August 22, 2022 at 6:30 p.m. in the Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Ronald Rentschler

Members: Todd Fisher, Frank Norwood, Bobby Reynolds, and Michael Weslake

ETJ Members: Debi Powell and David Tirey

Planning Director: John Hoard

Commissioner: Twanna Henderson

Town Attorney: Kevin Bringewatt

Clerk to the Board: Savanna Ocasio

Absent: Bill Mathers

CALL TO ORDER

Vice Chairman Rentschler 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 28, 2021 Regular Meeting and July 26, 2021 Quasi-Judicial Training: Upon the motion of Mr. Reynolds, seconded by Mr. Tirey, the Board unanimously approved the minutes of the June 28, 2021 regular meeting and July 26, 2021 Quasi-Judicial Training.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business: The following individuals were sworn in to speak in conjunction with the requested Variances: Planning Director Hoard, Ms. Sherri Hartsell, Ms. Gay Diller, Ms. Emily Foster, Mr. and Mrs. Smart, and Mr. Scott Bartholomew.

A. Elect a Chairperson for Board of Adjustment: Mr. Tirey nominated Mr. Rentschler to be Chairman, Mr. Reynolds seconded, and the Board unanimously agreed to elect Mr. Rentschler to be Chairman. Mr. Reynolds nominated Mrs. Powell to be Vice Chairman. Mrs. Powell declined the nomination. She nominated Mr. Reynolds to be Vice Chairman, Mr. Tirey seconded, and the Board unanimously agreed to elect Mr. Reynolds as Vice Chairman.

B. Variance Request #V22-01, Filed by Sherri Hartsell, Property Located at 6902 Matthews-Mint Hill Road, Tax Parcel #195-182-63, to request a Variance to allow an increase to the on-structure signage: Planning Director Hoard submitted the following memo to the Board:

The applicant is requesting a variance from Section 6.5.6 Sign Design and Construction Standards of the Mint Hill Unified Development Ordinance, for property located at 6902 Matthews-Mint Hill Road, Tax Parcel #195-182-63. The applicant is asking for a 126.81 square foot sign and one for 67.24 square feet. The ordinance allows a total of 64 square feet of on structure signage. The total signage, if permitted, would exceed the allowable signage provided by the ordinance by 130.05 square feet.

Ms. Sherri Hartsell, Advantage Permitting Services, introduced herself to the Board and began her proposal. She explained due to the property in question being landlocked, the building would not be visible from the two road fronts: Matthews-Mint Hill and Lawyers Road. Due to the size of the building, she felt larger signage would look most appropriate and would assist with visibility issues.

Mr. Weslake asked how much of an increase in signage the applicant was requesting. Ms. Hartsell stated it was quite substantial; they were requesting to increase their signage from the allowable 64 sq. ft. to 126 sq. ft.

Chairman Rentschler clarified the applicant was requesting to exceed the Ordinance by 130.05 sq ft with both sides. Ms. Hartsell confirmed that was their request.

Mr. Fisher stated he remained unconvinced action by the Board was required on this request, or the one following. He believed both signs were allowable under section 6.5.10 of the Town of Mint Hill Ordinance. He asked Town Attorney Bringewatt to review and render an opinion. Town Attorney Bringewatt stated he was not prepared to answer but would investigate further. Chairman Rentschler clarified this was discussed via email last month and determined the Ordinance Mr. Fisher referred to did not apply. Planning Director Hoard stated he disagreed with Mr. Fishers statement. He explained if the applicant wanted to cancel their Variance request to try under that Ordinance and come back before the Board to appeal, they were welcome to do so. Town Attorney Bringewatt stated Planning Director Hoard was correct. He explained Staff had made their interpretation of the Ordinance and the applicant was allowed to appeal a Staff interpretation of the Ordinance which would put the applicant back before the Board of Adjustment to appeal. Town Attorney Bringewatt recommended staying on track with the current Variance request unless the applicant decided otherwise. The Board agreed and continued to hear the applicant's request.

Chairman Rentschler asked if the property in question was part of the Mint Hill Festival Shopping Center. Ms. Hartsell stated she believed so. Chairman Rentschler asked if the applicant could place signage in the marquee that stood at the entrance of the shopping center. Ms. Hartsell stated yes if the marquee was not already full. Planning Director Hoard mentioned he was unsure if there was an available slot in the marquee. Chairman Rentschler stated the marquee sounded like a good alternative due to the building not being visible from the road, he did not see a purpose behind larger signage as it would not be seen until someone was in the shopping center anyway; he felt as though large signage would be a waste of time, effort, and money.

Mr. Tirey confirmed the applicant would exceed the permitted square footage by 130 sq. ft. Ms. Hartsell said yes, that was their request.

Mr. Weslake asked why the applicant chose this site knowing the property was landlocked and signage was a possible issue. Ms. Hartsell explained unfortunately, the builder did not take signage into consideration until a permit was needed; she wished architects looked closer into signage when developing sites similar to this one.

Hearing no further questions, Chairman Rentschler 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 not result from the strict application of the Ordinance; due to the size of the sign and location of the building, the increase in signage would not be visible anyway.

Mr. Reynolds stated unnecessary hardships would not result from the strict application of the Ordinance.

Chairman Rentschler agreed with Mr. Weslake.

Mr. Tirey stated unnecessary hardships would not result from the strict application of the Ordinance.

Mr. Norwood agreed with Mr. Tirey

Mr. Fisher stated unnecessary hardships would not result from the strict application of the Ordinance if Staff interpreted correctly.

Mrs. Powell stated unnecessary hardships would not result from the strict application of the Ordinance. The applicant had provided good reasons as to why they believed a Variance was needed; however, reasonable use could be made of the property.

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

Mrs. Powell stated the hardship resulted from conditions that were not peculiar to the property, such as location, size, or topography. The hardship resulted from conditions that were common to many, if not all the businesses located within the Mint Hill Festival Shopping Center.

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

Mr. Reynolds stated the hardship did not result from conditions that were peculiar to the property, such as location, size, or topography as almost all the business located within the Mint Hill Festival Shopping Center were in the same scenario.

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

Mr. Weslake stated the hardship resulted from actions taken by the applicant or the property owner as the signage was a self-created hardship by the owner.

Mr. Reynolds stated the hardship did result from actions taken by the applicant or the property owner as signs were allowed, just not the requested size.

Chairman Rentschler, Mr. Tirey, Mr. Norwood, and Mr. Fisher agreed with Mr. Reynolds.

Mrs. Powell stated the hardship did not result from actions taken by the applicant or the property owner as the hardship was an inherited condition of the location of the Mint Hill Festival Shopping Center.

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 was not consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved. This Variance would not just affect a small parcel of residential property but would affect the entire Town by over-riding the decisions made in the development of the Town by the Planning Committee, which would not keep with the spirit, purpose, and intent of the Ordinance. Additionally, it would create injustice to surrounding businesses that were abiding by the 64 square foot sign Ordinance.

Mr. Fisher 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 but he did not believe the Ordinance had been interpreted correctly.

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

Mrs. Powell made a motion to deny Variance Request #V22-01, filed by Sherri Hartsell, for property located at 6902 Matthews-Mint Hill Road, being Tax Parcel #195-182-63, requesting an increase to the on-structure signage. Mrs. Powell made a motion to deny the Variance for the following reasons:

- 1. Unnecessary hardships would not result from the strict application of Ordinance as reasonable use can still be made of the property without a Variance.**
- 2. The hardship results from conditions that are not peculiar to the property, in that these conditions are common to many, if not all, of the businesses within the Mint Hill Festival Shopping Center.**
- 3. A Variance would not just affect a small parcel of residential property but would affect the entire Town by over-riding the decisions made in the development of the Town by the Planning Committee, which would not keep with the spirit, purpose, and intent of the Ordinance. Additionally, it would create injustice to surrounding businesses that are abiding by the 64 square foot sign Ordinance.**

Mr. Tirey seconded the motion, and the Board unanimously voted to deny the Variance.

C. Variance Request #V22-02, Filed by Chad Earp, Property Located at 7020 Brighton Park Drive, Tax Parcel #135-381-68, to request a Variance to allow an increase to the on-structure signage: Planning Director Hoard submitted the following memo to the Board:

The applicant is requesting a variance from Section 6.5.6 Sign Design and Construction Standards of the Mint Hill Unified Development Ordinance, for property located at 7020 Brighton Park Drive, Tax Parcel #135-381-68. The applicant is asking a variance to add a 19.5 square foot sign to the wall extending from the building facing north. The 19.5 square foot is in addition to the existing, permitted 64 square feet of on-structure signage.

Ms. Gay Diller, Mark Oil Company, introduced herself to the Board and explained Mark Oil Company was the property owner but she was speaking on behalf of Chad Earp, the applicant, and owner of Earp's convenience store. Ms. Diller believed Earp's was the oldest, still operating, business in Mint Hill as they were proud to celebrate 70 years in business this year. Ms. Diller

stated Mark Oil Company purchased this property in 2006. Mark Oil Company carefully selected this site as it was situated along commuter routes, near neighborhoods, and located next to Harris Teeter whom they partnered with. With that being said, they anticipated this Earp's location to be one of their most successful convenient stores. Over the past few years, their Staff had realized this Earp's location was not doing as well as the Fairview location; so, they remodeled, added signage, and began studying the site in hopes to see a change in sales. Ms. Diller presented the Board with a site plan and explained their current signage was not visible from Matthews-Mint Hill Road as overtime the trees lined behind the convenient store had grown and blocked the view of signage which led their Staff to believe they had a visibility issue. Due to the lack of visibility headed Southbound, it was difficult for one to identify Earp's as the building was brick and the car wash and canopy were not visible. Ms. Diller presented the Board with pictures of the proposed sign stating they were requesting to place a 19.5 square foot illuminated Earp's wing logo facing North, visible to Southbound traffic. Ms. Diller shared the reasonings behind their request:

- **To ensure safe and easy access to their site:** Identifying their building was essential for drivers to safely approach and prepare to enter their site.
- **High visibility and brand recognition:** The Earp's wing symbol had become an identifiable brand emblem. Displaying their logo would allow customers to quickly identify their building as an Earp's location.
- **Enhance the appearance of the store:** Installing an illuminated graphic to the North side of the building would add visual interest and character to a solid brick wall and façade. The South side was anchored by an architectural pergola and sign. The West side facing the canopy had a glass storefront and large sign. The East side facing Matthews-Mint Hill Road consisted of a false storefront and minimal signage hidden by tall trees.

Mr. Fisher asked if the applicant could change their goal by rearranging their previously approved signage to the side of the store. Ms. Diller stated this was discussed but was not cost-effective.

Mr. Weslake asked what percentage of Earp's business was local. Ms. Diller believed it was a large amount as they were very involved with their community. Mr. Weslake believed the majority of Mint Hill residents were familiar with Earp's. Ms. Diller agreed and explained when Earp's opened at the Brighton Park location, they projected this store would take all the business away from the original store located on Fairview Road, but it did not. Mr. Weslake added someone from out of Town would not recognize the proposed Earp's wing. Ms. Diller stated this was discussed as well but as of right now, they felt the convenient store looked like an empty storefront in hopes the requested signage could change that.

Mrs. Powell asked if the sign located on the East side of the building was removed, would that allow the requested sign to be put up without violating the Ordinance. Planning Director Hoard explained the Board of Commissioners previously required the signage Mrs. Powell referred to, the Earp's letters. He stated when Ms. Diller mentioned the building reached the maximum 64 square foot requirement, the Earp's sign was not included. The sign was not impossible to remove, but the removal would not result in extra square footage.

Hearing no further questions, Chairman Rentschler 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 stated unnecessary hardships would not result from the strict application of the Ordinance. The hardships described by the applicant were legitimate concerns; however, even with the BP canopy not being visible from Matthews-Mint Hill Road, the gas pumps along with their roofs and coverings were visible.

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

Mr. Reynolds stated unnecessary hardships would result from the strict application of the Ordinance and would minimize their street visibility.

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

Mr. Weslake stated the hardship did not result from conditions that were peculiar to the property, such as location, size, or topography. With the building being there for fourteen years, he did not see any reason to add more signage.

Mr. Reynolds stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography due to the tree growth causing limited visibility.

Chairman Rentschler and Todd Fisher agreed with Mr. Reynolds.

Mr. Tirey stated the hardship did not result from conditions that were peculiar to the property, such as location, size, or topography.

Mr. Norwood agreed with Mr. Tirey.

Mrs. Powell stated the hardship resulted from conditions that were not peculiar to the property, such as location, size, or topography. The hardship resulted from conditions that were common to many businesses whose signage was only identifiable upon entering the shopping center.

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 particular hardship of the trees blocking the wall signage facing Matthews-Mint Hill Road did not result from actions taken by the property owner.

Mr. Fisher, Mr. Norwood, Mr. Tirey, Chairman Rentschler, Mr. Reynolds, and Mr. Weslake 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.

Mr. Weslake stated the requested 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 surrounding businesses having to abide by the same signage requirements.

Mr. Reynolds 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 by allowing additional visibility.

Chairman Rentschler and Mr. Norwood agreed with Mr. Reynolds.

Mr. Tirey agreed with Mr. Weslake.

Mr. Fisher 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 based on varying interpretation of the Ordinance.

Mrs. Powell stated the requested Variance was not consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved. The Variance would affect the entire Town by overriding the decisions made in the development of the Town by the Planning Committee which would not keep with the spirit, purpose, and intent of the Ordinance. Additionally, it would create injustice to surrounding businesses that were abiding by the 64 sq. ft. sign Ordinance.

Mrs. Powell made a motion to deny Variance Request #V22-02, filed by Chad Earp, for property located at 7020 Brighton Park Drive, being Tax Parcel #135-381-68, requesting an increase to the on-structure signage. Mrs. Powell made a motion to approve the Variance for the following reasons:

- 1. Unnecessary hardships would not result from the strict application of the Ordinance as the gas pumps are visible from Highway 51 even if the BP canopy is not.**
- 2. The hardship results from conditions that are not peculiar to the property, in that these conditions are common to many businesses whose signages are only identifiable upon entering the shopping center.**
- 3. A Variance would not be consistent with the spirit, purpose, and intent of the Ordinance as it would affect the entire Town by over-riding the decision made in the development of the Town by the Planning Committee. Additionally, it would create injustice to surrounding businesses that abide by the 64 square foot sign Ordinance.**

Mr. Tirey seconded the motion, and the Variance was voted upon with Mrs. Powell, Mr. Fisher, Mr. Norwood, Mr. Tirey, Chairman Rentschler, and Mr. Weslake voting to deny, and Mr. Reynolds voting to approve the Variance. Variance #V22-02 was denied; the vote was 6-1.

D. Variance Request #V22-03, Filed by Scott W. Bartholomew, Property Located at 10609 Russet Place, Tax Parcel #139-274-24, to request a Variance to request a reduction to the 20' side setback: Planning Director Hoard submitted the following memo to the Board:

The applicant, on behalf of the property owner, Michael Patrick Donnelly, 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 10609 Russet Place, Tax Parcel #139-274-24. The applicant is asking for a variance to reduce the 20' side yard setback to 10'.

Mr. Scott Bartholomew, Architect, introduced himself and stated he was before the Board on behalf of his client, Michael Donnelly. Mr. Bartholomew stated the property in question was a non-compliant lot that predated the Ordinance. He presented the site plan and stated cul-de-sac lots had intention in the Ordinance for a very wide pie shape which allowed for 20 ft side setbacks and still allowed for a reasonable front on the house. The site plan presented their intentions and how the house plan would fit on the lot provided they were granted the 10 ft setbacks versus the

required 20 ft. Ultimately, he felt it was within the intent of the Ordinance to make a lot viable. The neighbor's houses on both sides were relatively far away so he did not think the house would encroach on either of them and they left necessary fire separations between the house and property lines as required by North Carolina code.

Mr. Weslake asked the applicant to provide the Board with the history of he and his client, Michael Donnelly. Mr. Bartholomew stated his client was from New York City and was eager to move to Mint Hill to enjoy the Southern environment. He explained Mr. Donnelly bought the lot recently, prior to contacting him. Mr. Donnelly had to get a custom septic design done for this lot to accommodate a septic system in the backyard. This was a custom house; it was driven with intention by Mr. Donnelly as well as the topography. He explained the site plan showed a 10-foot front to back elevation change of the house which would allow for a decent lower level or basement area. If they were to go beyond that, they would enter a very significant stem wall, easily becoming a 10–15-foot stem wall before even reaching the lower level. Mr. Weslake asked the square footage of the home. Mr. Bartholomew stated the house as drawn was approximately 1600 square feet; not very large. Mr. Weslake asked what percentage of the house was in the setback. Mr. Bartholomew stated approximately 30%. Mr. Weslake stated that was a significant amount. He asked if the house could be pushed back further or the addition of half a basement. Mr. Bartholomew stated the house had a basement. Mr. Weslake asked if the applicant could design a home to fit within the 20 ft setback requirements. Mr. Bartholomew stated he could as he was an architect but cost feasibly, not particularly. He added they were getting into some areas that were dump sites on the property as well and the excavation and the foundation would be prohibitively expensive. Mr. Weslake asked if it was possible if the cost factor was removed. Mr. Bartholomew stated yes, with a precondition on not knowing things such as height restrictions. He stated a multilevel building could be built to accommodate the square footage and uses the applicant was trying to accomplish, but it became so narrow he was not sure it would meet the Ordinance. The layout was designed per the desires, and it did not go much further than a schematic to get to the point where they realized they needed a Variance in order to proceed with this design. Mr. Weslake clarified the lot was not in compliance on the frontage. Planning Director Hoard confirmed. Mr. Weslake stated the applicant did not ask for a Variance on the frontage so even if he got a Variance on the side setbacks, the lot was not in compliance. Planning Director Hoard agreed.

Mr. Fisher asked if section 3.7.7 of the Mint Hill Ordinance would apply in this case for a non-conforming lot. He explained section 3.7.7 read any lot that was approved prior to adoption of the current Ordinance was subject to the prior Ordinance under which it was adopted or created. Planning Director Hoard stated without knowing what the Ordinance was as it was most likely created under Mecklenburg County. He explained the process of determining setbacks for an older lot, stating Staff would review the recorded plat which most likely showed front setbacks, but not the side setbacks. If the setbacks were shown on the plat, Staff would honor those setbacks. If not, Staff would apply Mint Hill's current setbacks.

Mr. Bartholomew asked if the setbacks were shown on the property in question. Planning Director Hoard stated they were not shown so the applicant had to use the setbacks Mint Hill applied today, which were 20 ft. Mr. Fisher added the lot might not even had setbacks if none were shown. Planning Director Hoard stated he was sure the lot had some form of setback back then.

Mrs. Powell stated the applicant mentioned the 10-foot side setback had requested maintains in North Carolina code compliant fire per separation between proposed structures and the property line. She asked Planning Director Hoard if that was a true statement. Mr. Bartholomew elaborated further mentioning that statement was in the building code, it was not an Ordinance. He stated he could be closer to five feet from the setback but then he would have to fire protect that side of the house to protect both the applicant and the neighbor's house. Planning Director Hoard stated there were sections in the Towns Ordinance which allowed different setbacks.

Mr. Reynolds asked if the property's drain field was approved. Mr. Bartholomew stated they applied but had not received approval yet. Mr. Reynolds asked if it was an engineered system. Mr. Bartholomew said yes, Larry Thompson, Thompson Environmental Consulting, did it.

Mr. Tirey asked if there were any opposed neighbors wanting to speak on behalf of this Variance.

Ms. Emily Foster, 10608 Russet Place, approached the podium and introduced herself to the Board. She received a letter from the Town of Mint Hill informing her of the Variance request, so she went before the Board to say she did not want this Variance to be granted as she felt approval would adversely affect the value of the property she owned. She added she did not like the idea of a 10-foot setback.

Mrs. Lauren Smart, 10605 Russet Place, approached the podium and introduced herself to the Board. Mrs. Smart stated their home was to the left of the home being built. Mr. and Mrs. Smart had reviewed the Variance request with Town Staff to further their understanding of what their neighbor was requesting. She explained the applicants request would not directly affect their property, so they did not have a problem with the requested Variance. Mrs. Smart stated their one concern was the driveway. As presented on the site plan, their driveway was directly to the left of where the cul-de-sac and the applicants driveway began. She asked if the property owner could have a survey done before the driveway was built to ensure it would not infringe on their property.

Mrs. Powell asked Planning Director Hoard what the setbacks of the other homes in the neighborhood were. Planning Director Hoard stated it could vary, but most had 20 ft setbacks. He mentioned the property located at 10604 Russet Place appeared to be a house 10 feet away from the property line. Planning Director Hoard presented the Board with an aerial view of Russet Place on Polaris so the Board could see the example he was giving.

Hearing no further questions, Chairman Rentschler 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 not result from the strict application of the Ordinance as the design could be altered to fit with the topography of the lot and the applicant stated he was able to design something to fit within the 20-foot setback, making reasonable use of the property.

Mr. Reynolds stated unnecessary hardships would result from the strict application of the Ordinance by not allowing the home to be built as the applicant requested.

Chairman Rentschler, Mr. Tirey, and Mr. Norwood agreed with Mr. Reynolds.

Mr. Fisher stated unnecessary hardship would result from strict application of the Ordinance.

Mrs. Powell stated unnecessary hardships would result from the strict application of the Ordinance with the development of this lot predating the Ordinance, it would create an unnecessary hardship to require them to adhere to the current lot side yard setback.

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

Mrs. Powell stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography resulting from the pie shaped size of the lot non-compliant frontage with slope of the land and the septic area creating limited space.

Mr. Fisher stated the hardship resulted from conditions that were not peculiar to the property, such as location, size, or topography. The lot was created prior to the adoption of the current Ordinance that did not contemplate 20-foot side yard setbacks.

Mr. Norwood agreed with Mr. Fisher.

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

Mr. Reynolds stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography, due to the property being pie shaped.

Mr. Weslake stated the hardship did not result from conditions that were peculiar to the property, such as location, size, or topography. The hardship was self-created by the design of the house.

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

Mr. Weslake stated the hardship was resulted from actions taken by the applicant or the property owner due to the design of the house.

Mr. Reynolds stated the hardship did not result from actions taken by the applicant or the property owner as the lot was subdivided years ago.

Chairman Rentschler, Mr. Tirey, Mr. Norwood, Mr. Fisher, and Mrs. Powell agreed with Mr. Reynolds.

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 was consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved. She agreed the requested Variance provided the owner through further creative architectural design with the reasonable ability to utilize the lot for a single-family home as set up by the Ordinance.

Mr. Fisher, Mr. Norwood, Mr. Tirey, Chairman Rentschler, and Mr. Reynolds agreed with Mrs. Powell.

Mr. Weslake stated the requested Variance was not consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved as the 20-foot side setback should be maintained to try to keep some consistency through the neighborhood.

Mrs. Powell made a motion to approve Variance Request #V22-03, filed by Scott W. Bartholomew, Architect, for property located at 10609 Russet Place, being Tax Parcel #139-274-24, requesting a reduction to the 20' side setback. 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 as this developed lot predates the Ordinance and no reasonable use could be made of the property without a Variance.
2. The hardship results from conditions that are peculiar to the property, in that the size of the lot is peculiar in its pie-shape size, it has non-compliant frontage width, and the slope of the land and septic area creates limited space.
3. A Variance would keep with the spirit, purpose, and intent of the Ordinance such that public safety is secured and substantial justice is achieved in that the lot will adhere to the setbacks as surrounding residences in a neighborhood built prior to the current Ordinance.

Mr. Reynolds seconded the motion, and the Variance was voted upon with Mrs. Powell, Mr. Fisher, Mr. Norwood, Mr. Tirey, Chairman Rentschler, and Mr. Reynolds voting in favor, and Mr. Weslake voting to deny the Variance. Variance #V22-03 was approved; the vote was 6-1.

Other Business: None.

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

Savanna Ocasio
Program Support Assistant

Memo

To: Board of Adjustment

From: Staff

Date: September 26, 2022

Re: Variance Request #V22-04, Filed by Mercedes Castro, Property Located at 8908 Brown Oak Court, Tax Parcel #135-413-24

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 8908 Brown Oak Court, Tax Parcel # 135-413-24. The applicant is asking for a variance to reduce the side yard to 3' (left side if facing the house), to accommodate a 9'x10' walk-in closet home addition.

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 #:	<u>✓ 22-4</u>
Date Filed:	<u>8/10/22</u>
Received By:	<u>NJ</u>

Variance requested on property located at: 8908 Brown Oak Court, Charlotte, NC 28227

Tax Parcel Number: 13541324 Zoning District: Mint Hill

Describe variance being requested:

I are requesting for the left side setback of 3' for us to be able to add an attached closet/office to my house. The size that I would like add-on a 9'x10' walk-in closet. If you are facing the house, the left is where we would like the variance to be granted.

(Complete if Applicant is other than Property Owner)

Mercedes Castro
Name of Property Owner

Name of Applicant

8908 Brown Oak Court
Address of Owner

Address of Applicant

Charlotte, NC 28227
City, State, Zip

City, State, Zip

704-224-4992
Telephone Number

Telephone Number

mercedescastro92@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 way that my home sits the left-hand side does not have any other use and without this variance this piece of land is deadspace. My home sits at an angle. It cannot be made part of the backyard. My land is long and narrow which is why by granting this variance, we can make more use of the land.

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.

My property has a transformer in the backyard on the left-hand side. I also have two broadband utility box to the right of my house. None of my surrounding neighbors have these on their lawns. I have had to work around these. I have my playground on the right hand side due to the transformer occupying so much space and because I do not want my son playing around it. The playground is next to two utility boxes. If this variance is granted, I can expand my house and have more storage and office are which will allow my son to have more play area indoors.

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.

I cannot move any of the equipment on the land around my home. I have worked around it but we have outgrown the home and the land.

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.

I will now be working from home, and need an office space. I purchased the home in 2018, and since then I have added value to my community by adding value to my house. By being able to add to my house, my neighbor's property value will positively be impacted. The left-hand neighbor will have plenty of space between

~~the addition and their property line. I have remolded the home and make so many improvements. If this~~
variance is approved, it will be consistent with Mint Hill's ordinance.

Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 9/19/2022 9:08:17 AM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 9/19/2022 9:07:21 AM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.