

**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>23-</u>
Date Filed:	<u>12-11-23</u>
Received By:	<u>NJ</u>

Variance requested on property located at: 8720 Vagabond rd

Tax Parcel Number: 139-274-19 Zoning District: \_\_\_\_\_

**Describe variance being requested:**

I am formally requesting a setback variance for constructing a new property at 8720 Vagabond Rd, Mint Hill, NC 28227. After noticing a neighboring property, located at 8726 Vagabond Rd, Mint Hill, NC 28227, allowed a 40-foot setback, I aim for the same allowance for my land due to its steep terrain. Despite the 60-foot regulation, a 40-foot setback seems more practical, aligning with the neighborhood's structures and optimizing land use without safety or traffic concerns. I am committed to adhering to zoning rules and preserving the neighborhood's aesthetics. Thank you for your consideration.

(Complete if Applicant is other than Property Owner)

Nestor Leon

Name of Property Owner

Name of Applicant

7231 Idlewild Brook Ln

Address of Owner

Address of Applicant

Charlotte NC 28212

City, State, Zip

City, State, Zip

980 322 73 47

Telephone Number

Telephone Number

nestorleon2002@icloud.com

E-Mail Address

E-Mail Address

Nestor Leon

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.

Strictly following the ordinance would create unnecessary problems due to the property's unique features. The steep terrain makes sticking to a 60-foot setback tough and limits our building options. Opting for a 40-foot setback eases these problems, allowing safer and more practical construction. This variance aims to balance rule compliance while dealing with the property's challenges, avoiding unnecessary hassle.

**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 hardship in meeting the standard setback requirement is primarily due to the steep and irregular topography of the property. The land features a significant slope that makes it challenging to position any structure according to the standard setback distance of 60 feet from the road. Additionally, the peculiar shape of the property exacerbates this issue, limiting the available space for construction. These unique characteristics of the property's topography and size necessitate a reduced setback of 40 feet from the road to ensure the safe and practical placement of the proposed house.

**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.

The hardship in meeting the setback requirement is not a result of any actions taken by either the current applicant or the previous property owner. The challenges stem from inherent conditions inherent to the property, such as its steep topography and unique location. These characteristics were pre-existing and beyond the control of any property owner. As such, the request for a reduced setback is necessitated by these inherent and unalterable conditions rather than by any deliberate actions undertaken by the applicant or the property owner

**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.**

The requested variance aligns with the ordinance's spirit and intent, ensuring public safety and fairness. By allowing a reduced setback due to unique property features like steep topography, this variance

maintains safety regulations while enabling practical construction.  
Granting this variance upholds the ordinance's purpose by  
balancing property rights with community interests, achieving both  
safety and fairness