

**MINUTES OF THE MEETING OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
September 3, 2015**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, September 3, 2015 at 6:00 p.m. in the **City Hall Boardroom**.

Members present:            Dave Rittenberry  
                                      Greg Caesar  
                                      Frank Jones  
                                      Gillian Fischbach

Staff present:                 Brad Baumgartner, Planning & Sustainability  
                                      Kristen Corn, Law Department

The agenda read as follows:

Minutes, August 6, 2015

A **Variance Request** by Patrick and Deborah Weisend to vary the rear yard setback by five (5) feet for the property located at 704 Harrow Lane in the Chestnut Bend Subdivision to allow for the addition of a covered porch.

Chair Jones called the meeting to order at 6:00 pm and requested to know if there were any non-agenda items.

Staff stated there were no non-agenda items.

**Minutes, August 6, 2015**

Mr. Rittenberry moved to approve the August 6, 2015 minutes. Ms. Fischbach seconded the motion and the motion passed 4-0.

1. **A Variance Request by Patrick and Deborah Weisend to vary the rear yard setback by five (5) feet for the property located at 704 Harrow Lane in the Chestnut Bend Subdivision to allow for the addition of a covered porch.**

Mr. Baumgartner stated the appellant requests a five (5) foot variance from the rear yard setback for the property located at 704 Harrow Lane in the Chestnut Bend Subdivision to construct a covered porch. Mr. Baumgartner stated the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of forty (40) feet. Mr. Baumgartner stated in order for the Board to grant a variance, three standards must be established and include the following:

1. There must be an extraordinary or exceptional situation or condition pertaining strictly to the property considered (generally due to narrowness, shallowness, unusual shape or some exceptional topographic condition);

2. Strict application of the Ordinance would result in practical difficulties to, or undue hardship upon, the owner of the property; and
3. The relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.

Mr. Baumgartner stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property. Mr. Baumgartner stated the lot is located on Harrow Lane and the lot's dimensions (112-foot width and 150-foot depth) are typical of standard lots in the subdivision. Mr. Baumgartner stated the applicant is looking to place a screened in porch within the setback and based on the subject property's typical shape and the Board's previous actions in similar cases, staff finds that there is not an extraordinary or exceptional situation pertaining strictly to the subject property, thereby not meeting the first threshold for granting a variance. Mr. Baumgartner stated the second standard to be considered is that of hardship or practical difficulty. Mr. Baumgartner stated the Board must determine whether the inability to construct a screen porch on the subject property is a hardship or practical difficulty. Mr. Baumgartner stated Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property and the appellant appears to have few options for placing a covered porch adjacent to the house. Mr. Baumgartner explained situating the porch on the northern or southern sides of the house may be inconsistent with the orientation of the house and the design context of the neighborhood. Mr. Baumgartner stated the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. Baumgartner stated ultimately, the Board must decide whether the inability to construct a covered porch within the required forty (40) foot rear setback constitutes a hardship or practical difficulty. Mr. Baumgartner stated the final standard the Board must consider is whether the requested relief would be a detriment to the public good or impair the intent and purpose of the Zoning Ordinance. Mr. Baumgartner stated the intent of rear yard setbacks is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and in this case, thirty-five (35) feet of the rear yard will remain unencumbered with the proposed screen porch. Mr. Baumgartner stated granting this variance should not greatly impact any adjacent structure's access to light and air. Therefore, staff finds that granting this variance would not impair the intent and purpose of the Zoning Ordinance and that the third threshold is satisfied. Mr. Baumgartner stated in order for the Board to grant a variance, all three variance standards must be met and based on that the lot is not of an extraordinary or exceptional situation pertaining to the subject lot, staff recommends disapproval of the five (5) foot rear yard setback variance requested by the appellant.

Chair Jones requested to know if there were any non-agenda items and Mr. Baumgartner stated no.

Ms. Weisend stated they wanted to enjoy their backyard and explained they just put a pool in.

Mr. Weisend stated they already have an existing deck and just wanted to cover it.

Chair Jones requested to know if any citizens from the audience wished to speak and no one requested to speak, thus closing the public hearing portion.

Mr. Caesar requested to know if any other communication received other than what was in the packet.

Mr. Caesar requested to know if there was anything with the lot topography that made this lot unusual.

Ms. Weisend stated there was a drain that runs through the backyard.

Mr. Weisend stated the neighbor's lot behind them sits higher than theirs.

Chair Jones stated he measured the lot and it seems there is only 51 or 52 feet of actual lot behind the structure.

Mr. Caesar stated so 11 feet or less.

Chair Jones stated roughly. Chair Jones requested to know from Ms. Weisend how much of the drainage was in their yard.

Ms. Weisend stated all of it.

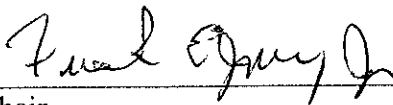
Discussion and deliberation ensued on whether all three standards were met here and realizing they were not Mr. Caesar moved to disapprove the variance request to vary the required forty (40) foot rear-yard setback by five (5) feet to thirty-five (35) feet because the standards for granting a variance have not been satisfied. Ms. Fischbach seconded the motion and the motion passed 4-0.

**Other Business.**

No other Business was discussed.

**Adjourn.**

With there being no further business the meeting was adjourned at 6:25 pm.

  
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Chair

