

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



1931 Leonidas Trail



Existing Rear Deck

Recommended Action:

Kevin Moore, petitioner for the owner, is requesting a variance to allow the construction of an enclosed deck project into the required rear yard setback. The subject property and all adjacent properties are zoned R-2 (Single Family Residential – 2 units/acre) and are located within the Hardage Farm subdivision off of Burnt Hickory Road.

At the closest point, the existing rear deck for the home is located 16.3 feet from the rear property line. Per Section 710.14 (A) “*an open unenclosed porch...may project into a required setback no more than 50% of that established by the zoning district.*” This would allow their deck to be as close as 15 feet without a variance. However, the property owner would like to enclose a portion of the top deck and make a screened porch, which would require the full 30 foot setback. On October 26, 2007, an administrative variance (AV2007-18) was granted for a reduction in the rear yard setback from 30 feet to 20 feet to allow the screened in porch. Subsequently, a building permit (07-1924) was issued and renewed (10-131) in January 2010 that allowed the construction of the porch, provided it was at least 20 feet from the rear property line.

During the construction of the porch, the adjacent property owner to the rear contacted Code Enforcement to ask for assurance that the setbacks were being met. However, it was determined that the porch was being constructed 16.3 ft. from the property line, instead of 20 ft. as was granted by the variance. Construction was stopped, and the property owner was given the option of either complying with the 20 ft. setback or acquiring a variance to allow the porch to encroach to within 16.3 ft. of the property line. The adjacent property owner has voiced their objection to the variance.



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If the applicant were to stay within the allowance granted by the administrative variance, then the proposed screened area would not be able to extend the full depth of the existing porch. This would leave a minimum 3.7 foot unenclosed ledge between the new enclosure and the edge of the porch, which the property owner would rather not have. Unfortunately, the two neighbors have not been able to agree to a resolution. Further, the applicant has not demonstrated a sufficient hardship, a necessity for the preservation and enjoyment of the property, or cause of unreasonable property loss that would necessitate granting the variance. **Staff recommends denial of this variance.**