

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
ADJUSTMENT CASE NO. 18-002**

APPLICATION: Application of Fred and Wanda Casner for an adjustment to increase the maximum allowed rear yard coverage from 280 square feet to 423 square feet on a 0.25 acre parcel in an RS (Single Family Residential) zone located at 4294 Durbin Avenue SE, Salem (T7S; R2W; Section 31AC; tax lot 1800).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Adjustment, subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **July 9, 2020** unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS:

1. The applicants shall obtain any permits required by the Marion County Building Inspection Division.
2. No additions to the existing structure or placement of other structures within the required rear yard area is permitted without a new adjustment approval.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, state or federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying any restrictions or conditions thereon.

3. The applicants should contact Marion County Fire District #1 to obtain a copy of the District's Recommended Building Access, water supply and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must deny the application. Anyone who disagree with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **July 9, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **July 10, 2018** unless appealed.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject parcel is located within the Salem Urban Growth Boundary (UGB), designated Single Family Residential in the Salem Area Comprehensive Plan, and zoned RS (Single Family Residential) under the jurisdiction of Marion County.
2. The subject property is located on the south side of Durbin Avenue SE approximately 640 feet east of its intersection with Elma Avenue SE. The property was created in its current configuration as the north half of Lot 7, Block 4 of Meadowlawn Tracts and is consider a legally created parcel.
3. The surrounding properties to the east, south and west are zoned RS and developed as single-family subdivisions. The property to the north is zoned Public and is developed with a school.
4. The applicant requests to increase the maximum allowed rear yard coverage from 280 square feet to 423 square feet.
5. Marion County Assessor's Office provided comments related to taxes on the subject property.

All other contacted agencies either failed to respond, or stated no objection to the proposal, at the time this report was written.

6. The development standards in the RS zone and the development requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for adjustments:
 - A. *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
 - B. *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*
 - C. *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*
 - D. *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.*
7. The proposal is to increase the maximum allowed coverage within the required rear yard area from 280 square feet to 423 square feet. Since the parcel is 80 feet wide, the required rear yard area is 1,120 square feet. MCC 16.28.020 (1) states that: "The lot coverage by all accessory or secondary structures located in the required rear yard, except fences or retaining walls, shall total no more than 25 percent of the required rear yard." The applicants replaced a residential accessory structure that was located on the property prior to their purchase of the property and had a larger foot print than the existing structure. No building permit was obtained prior to construction of the new structure and the new structure was placed in approximately the same location of the previous structure. The new structure is less nonconforming to the lot coverage standard than the previous structure was. The original structure was built in the 1940s or 1950s, according to the applicants, which was prior to the requirement for building permits. Marion County Tax records indicate the dwelling was built in 1946 but has no date of construction for two accessory buildings on the property. The proposed increase of the required maximum area of accessory building in the required rear yard will not have a significant impact on surrounding properties or uses or impair the health or safety of people in the area in this case because the location of the structure has been occupied by a building for at least the past 50 years and is somewhat smaller and less nonconforming than the structure it replaced. The proposed adjustment is the minimum necessary to permit the existing structure to remain on the property. Since the parcel is one quarter acre in size, it is 2.7 times the minimum lot size allowed in the RS zone and there is an abundance of open space between the dwelling and the accessory structures on the property.

There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the subject structure is consistent with existing uses in the vicinity. There is no indication the

proposal would create health and safety issues in the vicinity. The degree of adjustment requested appears to be the minimum necessary to allow the existing structure to remain to meet the property owner's needs and allows more efficient use of the remainder of the property.

8. Based on the above discussion, the request to increase the maximum allowed rear yard coverage from 280 square feet to 423 square feet is **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: June 22, 2018

If you have any questions regarding this decision contact Lisa Milliman at (503) 588-5038.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.