

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. 18-006**

**APPLICATION:** Application of James and Susan Brennan for an adjustment to reduce the required 10 foot side yard setback to seven feet on a 1.01 acre parcel in an AR (Acreage Residential) zone located at 9463 Dusty Lane SE, Turner (T9S; R2W; Section 6B; tax lot 2200).

**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 **October 11, 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 all permits required by the Marion County Building Inspection Division.
2. The dwelling, and any attached accessory structures, shall maintain a seven foot minimum setback from the north property line and standard setbacks from all other property lines.

**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.

**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 **October 11, 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 **October 12, 2018** unless appealed.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan and zoned AR (Acreage Residential).
2. The property is located on the west side of Dusty Ln SE approximately 240 feet north of its intersection with Cloverdale Dr SE. The 1.01 acre parcel identified as tax lot 2200 contains an existing dwelling, accessory structures, well and septic system. The property was created in its current configuration by Partition Plat 417.

3. Surrounding properties in every direction are zoned AR and in rural residential use.
4. The applicant proposes to reduce the required 10 foot side yard setback to seven feet for construction of an accessory structure in the side yard.
5. Marion County Building Inspection commented that a building permit is required for the proposed accessory structure.

Marion County On-Site Sewage commented that septic permits may be required.

Marion County Tax provided tax information concerning the parcel.

All other contacted agencies either failed to respond or stated no objection to the proposal.

6. In order to approve the adjustment, the criteria found in MCC 17.116.020 must be satisfied. These include:
  - (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 affect 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. There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the proposed construction is consistent with existing dwellings in the vicinity. The proposed adjustment would occur along the northern property line which is buffered by several large trees. The dwelling on the subject property is located in the northern section of the property. The applicants want to construct a garage seven feet from the northern property line. There is no indication the proposal would create health and safety issues in the vicinity. Based on available information the proposal can comply with the criteria listed in #6(A) and (B).

The degree of adjustment requested appears to be the minimum necessary to allow construction of a garage that meets the property owner's needs. The property is a 1.01 acre lot, and the location of the existing dwelling and sewage disposal system with replacement drainfield area significantly limits the area on the property where an accessory structure can be placed. The development meets the intent of the setback provision that provides for open space and a safe access onto the roadway. The proposal can meet #7(C) and (D).

8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: September 26, 2018

If you have any questions regarding this decision contact Patty Dorr 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.