

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  
VARIANCE CASE NO. 23-003**

**APPLICATION:** Application of Timothy and Phyllis Stelzig for a variance to reduce the required setbacks of an accessory structure from 20 feet to 5 feet on an approximate 0.84-acre parcel in an SA (Special Agriculture) zone located at 6016 Turner Road SE, Turner (T8S; R2W; Section 20A; Tax Lot 600).

**DECISION:** The Planning Director for Marion County has **APPROVED** the above-listed Variance application subject to certain conditions.

**EXPIRATION DATE:** This variance is valid only when exercised by **February 22, 2025**. The effective period of an approved application may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

**WARNING:** A decision approving the proposed uses is for land use purposes only. Due to septic, well and drain field replacement areas, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with the Building Inspection Division, (503) 588-5147.

**This decision does not include approval of a building permit.**

**CONDITIONS:** The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain all permits required by the Marion County Building Inspection Division. Per the Marion County Building Division, an engineered design may be required in order to obtain the structural permit.
2. The proposed accessory structure shall maintain a 5-foot setback from the adjacent eastern and southern property lines. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.
3. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

**OTHER PERMITS, FEES, AND RESTRICTIONS:** This approval does not remove or affect any 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. It is recommended that the agencies mentioned in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

4. The applicant should contact the Turner Fire District and obtain a copy of the District's Recommended Building Access and Identification Guidelines. For personal and property safety it is recommended that the applicant follow these guidelines. Fire District access standards may be more restrictive than County Standards.

**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 condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also

request reconsideration (one time only and a fee of \$200) 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. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **February 22, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 23, 2023**, unless further consideration is requested.

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

1. The subject properties are designated Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect small farm operations or areas with a mixture of good and poor farm soils.
2. The property is located on the east side of Turner Road SE approximately 0.40 miles north of its intersection with Crawford Street SE and the City of Turner city limits. The property also abuts the City of Salem boundary. The property is mostly flat. The property is developed with one single-family dwelling and multiple accessory structures. Adjacent properties include those zoned Acreage Residential to the northeast, Special Agriculture to the south, and Public and Private Health Services to the northwest (inside City of Salem jurisdiction). The properties are either undeveloped, developed for rural residential use, or developed as small-scale farms.
3. There is a dwelling on the property that was placed sometime after 1984. The property had also been approved for a second hardship dwelling in the past under Conditional Use 84-034. That hardship dwelling has since been removed. The single dwelling on the property therefore appears to be legal.
4. The subject property has been described as a single parcel by deed prior to September 1, 1977, per a warranty deed recorded in Reel 93, Page 1314 of the Deed Records of Marion County, Oregon. The parcel has remained in its configuration and has not been changed by deed or otherwise since then. Therefore, this parcel is considered legal for the purposes of land use per Marion County Code 17.110.427.
5. Marion County Building Division commented: Permits are required to be obtained prior to the construction of the RV cover. This may require an engineered design in order to obtain the structural permit.
6. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.
7. The applicant is proposing to reduce the required 20-foot setback to 5 feet for a RV cover structure. To obtain a variance, the proposal must meet the criteria found in Marion County Code 17.122.020(A). These criteria are:
  1. *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of this title; and*

The subject property is zoned SA, which is a farm zone that requires 20-foot setbacks for all structures. However, the parcel is only about 0.84 acres in size and is de facto used in a more rural residential fashion. Due to the small size, the location of the home, and layout of the property lines (which were all created prior to modern zoning regulations), fitting a home plus septic system and other items on the property within the required setbacks becomes more difficult. The existing home exists in a corner of the property. Two other shops exist in the middle of the property, leaving nearly no remaining space for the proposed RV cover. Therefore, a variance is necessary to permit the placement of the RV cover. The criterion is met.

2. *There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and*

As stated previously, the unusual parcel size (0.84 acres) constitute circumstances or conditions that do not apply generally to other “normal” properties in the same zone. These conditions are indeed unusual because the SA zone regulations are intended to fit larger farm parcels, but this parcel was created prior to those regulations. The parcel is already developed with other structures that take up space that would be otherwise available for the RV cover. The applicants must also maintain a certain amount of open space for maneuvering vehicles. The criterion is met.

- 3. The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*

The proposed variance is the minimum necessary to accommodate the RV cover. This has been illustrated by the applicant through their site plan and applicant statement. The criterion is met.

- 4. The variance will not have a significant adverse effect on property or improvements in the neighborhood of the subject property; and*

The proposed RV cover would be replacing a previously existing smaller structure in the same location. The proposed location is shielded from view partially by trees. The next closest structure on neighboring properties is a dwelling approximately 80 feet away. Therefore, evidence suggests that the variance for a reduced setback will not adversely impact neighboring properties. The criterion is met.

- 5. The variance will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

The granting of reduced setbacks will not have a significant adverse effect upon the health or safety of adjacent properties or people. The proposed RV cover is typical of the area and does not create any unusual new land use. The RV cover is for personal use. Furthermore, regardless of the variance, the structure will be required to meet any requirements of Marion County Building division and relevant building codes to reduce risks. The criterion is met.

- 6. The variance will maintain the intent and purpose of the provision being varied*

The purpose and intent of the setback requirement is to maintain a healthy distance between land uses and structures. For example, setbacks are applied in order to help maintain noise separation, separation for run-off, and separation for vision clearance. The granting of this variance will maintain the intent of the setback by providing the minimum necessary to allow for the RV cover. The criterion is met.

8. Based on the above findings, the applicants’ proposal meets the criteria for a variance. The variance request is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: February 6, 2023

If you have any questions regarding this decision contact Daniel Jansen 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.