

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.20-006**

APPLICATION: Application of Jose R. Alvarez Mendoza and Rosalba B. Rangel for an adjustment to reduce the required five foot side (north) yard setback for a carport to zero feet, to reduce the required five foot side (north) yard setback to two feet and the required 14 foot rear (west) yard setback to zero feet for an accessory structure on a 0.19 acre parcel in a RS (Single Family Residential) zone located at 375 Deana St. NE, Salem (T7S, R2W, Section 30DB, Tax lot 12100).

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 **December 21, 2022** (two years) 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 carport shall maintain five foot setback from the north property line.
3. The accessory structure shall maintain a two foot setback from the north property line.
2. 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.

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 **December 21, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **December 22, 2020** unless appealed.

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

1. The property is designated Single Family Residential in the Salem Area Comprehensive Plan. The purpose of this designation and the corresponding Single Family Residential zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.

2. The property is located approximately 180 feet south of the intersection of Monroe Ave. NE and Deana St. NE. The property contains a dwelling.
3. Surrounding uses are single family residential uses in all directions.
4. The applicant proposes to adjust the north (side) yard setback to zero feet for a carport and to reduce the five foot north (side) yard setback to two feet and the required 14 foot west (rear) yard setback to zero feet for an accessory structure.
5. Marion County Code Enforcement commented that there is an open violation file in regards to the accessory structure and the carport/patio cover and that the structures require building permits.

Marion County Building Inspection commented that building permits will be required.

City of Salem Planning Division commented that the proposed development would be considered non-conforming upon annexation into the city. They also commented that “considerations” should be made for building separation between the shed and the existing development on the adjacent property to the west.

Marion County Environmental Services commented that there is a detention basin in the rear yard that operates as part of the storm sewer system that serves the neighborhood.

Marion County Land Development and Engineering commented:

PW Engineering conducted further investigation into the drainage facilities on the subject property by reviewing engineering plans for Alder Estates (Land Use Case #Sub 96-5), making a site visit and reviewing the facilities, speaking with the Property Owners and discussing maintenance access and needs with ESSD personnel. With that, PW Engineering has the following supplemental commentary, and, revised final disposition intended to supersede our original objectionary conclusion given in our October 14th Memo.

- The north driveway served by a pedestrian ramp installed as part of the Alder Estates Subdivision for access to the pond, now also facilitates access to the carport. The pedestrian ramp was not seen to be damaged in any way as a result of vehicular ingress/egress. The driveway is not gated as originally thought.
- The carport is open-sided to the east and west. It serves as auxiliary vehicular covered storage for a recreational-type vehicle (Jeep Wrangler), which is reportedly not used on a daily basis.
- The rear deck is supported on its west side by a landscape block wall. The overall structure commences from the eastern pond toe-of-bank and extends through a portion of the former pond east embankment. The volume lost by the encroachment is estimated at 175 cubic feet.
- The rear shed occupies a portion of what had been a relatively small L-shaped lobe of the pond. The estimated lost volume is 250 cubic feet.
- The estimated total pond lost volume is 425 cubic feet. Given the original pond total design volume of 5,425 cubic feet, there remains roughly 5,000 cubic feet of storage capability. With a Subdivision developed area of approximately 3.75 acres, there is more than adequate storage capacity remaining to serve the development.
- The access port for the storm pipe cleanout structure within the west end of the driveway was sufficiently raised and cast-in-place to be accessible for maintenance personnel.
- A south property line fence is raised off the ground to provide drainage continuity with the southern-half of the pond residing in the neighbor’s backyard.
- The subject property pond area is well-maintained (mowed) by the Property Owner. No vegetative debris cuttings were observed.
- The pond control structure is located street-side in Deana Street. This fact means that it will be accessible to agency personnel, and is not affected by the encroachments.
- The approximate 3” diameter pond control orifice indicated on the engineering plans was not visible within the street-side catch basin, and may have been removed roughly 5 years ago, according to recollection by ESSD personnel. Without the orifice, it is unlikely for the pond to hold or even possibly receive Subdivision stormwater.

- It is speculated that the rear shed, which appears to sit at an elevation lower than that of the rear deck, could become inundated if the pond's functionality is restored by re-installing the aforementioned control orifice.

PW Engineering, in reconsideration after conducting more investigation, is not objected to allowing the carport, rear deck and shed to remain in place. However, we have the following recommendations:

- 1) Property Owner is made aware that the shed and any items of value stored at-grade within could potentially become water-damaged, if and when the pond control structure orifice is replaced.
 - 2) Neither the front nor rear of the carport should be enclosed in order to maintain access by agency personnel to the pond by at least a typical full-size pickup truck.
6. *In order to approve the adjustment, the criteria found in 16.41.030 MCC 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. This proposal is not expected to have any adverse effect on existing or planned uses as it is a residential use in of itself. This proposal is also not expected to have any adverse effects relating to the health or safety of persons in the vicinity. Concerns regarding the detention basin and its functionality were raised, but ultimately it was determined that the construction of the shed and carport do not reduce the functionality of the basin. LDEP has requested that the front and rear of the carport cannot be enclosed so as to allow maintenance access to the drainage basin. LDEP also advises that the shed and any items contained within could potentially become water damaged if and when the pond control structure orifice is replaced. The adjustment is the minimum necessary to facilitate the use. The proposal maintains the intent of the adjustment and would not otherwise be approved without one.
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
Planning Director

Date: December 4, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.