

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.20-003**

APPLICATION: Application of Joseph Fahlstrom and Kayla Taylor for a variance to reduce the required 20 foot side yard setback to five feet for an accessory structure on a 5.58 acre parcel in an EFU (Exclusive Farm Use) zone located at 19074 Old Mehama Rd., Stayton (T9S; R1E; Section 15D; tax lot 100).

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

EXPIRATION: This Variance is valid only when exercised by **August 11, 2022**. The effective period 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal the applicant should contact 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.
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.
3. The building must maintain a special 30 foot setback from the right of way of Old Mehama Rd on the north side of the property.
4. 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 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 restrictions or conditions. It is recommended that agencies mentioned in finding # 6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicant is advised of the engineering requirement received from Public Works Land Development Engineering and Permits Division (LDEP) outlined in item 5 below.

APPEAL PROCEDURE: The Marion County Zone Code provides that Variance 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 disagrees 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 fee of \$200.00) 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 **August 11, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 12, 2020** unless appealed.

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

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding EFU (EXCLUSIVE FARM USE) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located at 19074 Old Mehama Rd SE, Stayton, OR 97383. It is approximately 0.75 miles from the intersection of Old Mehama Rd and North Santiam Highway 22. The property contains a dwelling, an accessory building and an old manufactured home.
3. Surrounding properties in every direction consist of various sized parcels in the EFU zone. Some are in agricultural use and some also contain dwellings.
4. A soil analysis of the property revealed that 99% of the soils were high value.
5. The applicant is proposing to reduce the required 20 foot side yard setback to five feet for an accessory structure.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Requirements: The existing Old Mehama Road public right-of-way half-width is currently 25 feet. There is a 30-foot Special (half-width) Setback per the zone code from which the front yard building setback is to be measured.

Marion County Building Inspection commented: “a building permit is required for new construction.”

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

7. In order to obtain a variance the proposal must meet the criteria in found in Section 17.122.020 of the Marion County Rural Zone Code (MCC). These criteria are:
 - (a) *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of the ordinance; and*
 - (b) *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*
 - (c) *The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*
 - (d) *The variance will not have a significant adverse affect on property or improvements in the neighborhood of the subject property; and*
 - (e) *The variance will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
 - (f) *The variance will maintain the intent and purpose of the provision being varied.*

8. Due to the current development, topography, drainage, location of driveways and location of drain fields on the property as outlined in the applicant statement, the ordinance must be modified to allow a shop to be built on this parcel. This variation from the standard appears to be the minimum necessary to achieve the desired development. This variance is not expected to have any adverse effects on the area, neighbors or their health. This variance maintains the intent of the provision being varied, which is to create space between yards, buildings and property lines. The proposal meets the criterion listed in #7 (a), (b), (c), (d), (e) and (f).
9. Based on the above findings, the applicant's request meets all applicable criteria and is, therefore, **APPROVED**.

Joe Fennimore
Planning Director

Date: July 27, 2020

If you have any questions regarding this decision contact Austin Barnes 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.