

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.20-006

APPLICATION: Application of TEK Properties LLC for a variance to reduce the required 20 foot front yard setback to 8 feet for an accessory structure on a 2.0 acre property in an AR (Acreage Residential) zone located at 7552 Bartol Way Se, Salem (T08S, R02W, Section 23C, Tax lot 1202).

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 **October 20, 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.

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. The applicant is advised of the following:

3. The applicant is advised of the engineering requirements received from Public Works Land Development Engineering and Permits Division (LDEP) outlined in the Findings and Conclusions section 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 **October 20, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 21, 2020** unless appealed.

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

1. The subject property is designated Rural Residential in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding AR (Acreage Residential) zone is to provide home sites in rural areas.

2. The property is located at the end of Bartol Way, 520 feet north of its intersection with 76th Ave. The parcel is vacant.
3. Surrounding properties consist of acreage home sites to the north, east and south and are zoned AR, while the western properties are zoned EFU and are in agriculture use with homesites.
4. The applicant is proposing a variance to reduce the required 20 foot front yard setback to 8 feet for an accessory structure.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING ADVISORY

A. Bartol way due to its length is considered a *Fire Apparatus Access Road*. In review of the application site plan and in consideration of the fact that the subject property is the terminal property served by the Lane, there does not appear to be adequate all-weather surfacing depicted for a fire turnaround. Applicant is advised to consult with the local Fire Marshall as to their access requirements, if any.

Marion County Building Inspection commented that a building permit is required for new construction.

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

6. 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.*
7. The applicant states that due to the slope of the property and subsequent septic drain fields, this building configuration was their best option to make the site suitable for development, which required them to have a reduced setback for the shop. This constitutes unusual circumstances and in addition, allows for the least amount of trees to be cut down and shortest asphalt driveway to be poured. This variance is the minimum needed and will not cause any adverse health effects or other adverse effects to the surrounding properties. The proposal meets the criteria in #6 (a), (b), (c), (d), (e) and (f).
8. Based on the above findings, the applicant's request meets all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: October 5, 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.