

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. 22-008**

**APPLICATION:** Application of Sandra Ramirez for a variance to reduce the back yard setback of a modular structure from 30 feet to 15 feet on a 0.67-acre parcel in a C (Commercial) zone located at 1050 S. Pacific Highway, Woodburn (T5S; R1W; Section 19A; Tax Lot 900).

**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 26, 2024**. 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. 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.
4. The structure shall maintain a 15-foot eastern property line setback.

**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 #\_\_\_\_ below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicant should contact the Woodburn 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 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 26, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 27, 2022**, unless appealed.

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

1. The subject properties are designated Commercial in the Marion County Comprehensive Plan and correspondingly zoned C (Commercial). The purpose of the C (commercial) zone is to implement the rural development policies of the Comprehensive Plan and recognize existing commercial uses in rural and natural resource areas of the county.
2. The property is located on the eastern side of HWY 99E, approximately 230 south of its intersection with Bell Passi Rd. The subject parcel contains multiple accessory structures related to the auto dealers business as well as a newly placed modular unit. The property was the subject of ZC/CP87-009 and is there considered legal for land use purposes.
3. Surrounding properties to the north, east and south consist of properties zoned EFU. Parcels to the north and east are small and developed with homesites, parcels to the south are larger and in commercial farm operation. Parcels across the road to the west are zoned UT and developed with home sites.
4. The applicant is proposing to reduce a 30-foot rear yard setback to 15 feet for a modular office structure.
5. All 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*

The applicant has stated that the well which serves the property would be covered by the modular structure if it were to meet the 30-foot setback. The criterion is met.
  - (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*

Commercial parcels are generally larger than the subject property which leaves more vacant area for offices, additionally, the 30-foot setback adjacent to farmland greatly reduces the buildable area of the parcel. These factors coupled with the location of the well described above constitute unusual circumstances. The criterion is met.
  - (c) *The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*

The home is already placed in the location, and this allows them to best utilize the subject property for an auto dealers business. The applicant still proposes a 15-foot setback, which meets the intent of the setback code. The criterion is met.

- (d) *The variance will not have a significant adverse affect on property or improvements in the neighborhood of the subject property; and*

The variance will allow a building to be placed on the property closer to the rear property line than code allows, the use of the building will be that of the auto dealers business and will be in line with the historical use of the property. This is not expected to have any adverse impact on the neighborhood. The criterion is met.

- (e) *The variance will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*

The variance still maintains a 15-foot setback which is reasonable in this area. The office being 15 instead of 30 feet from the property is not likely to affect the health of persons in the area will be affected. The criterion is met.

- (f) *The variance will maintain the intent and purpose of the provision being varied.*

The variance still maintains a 15-foot setback which will buffer the office from farm and forest use. The criterion is met.

7. Based on the above findings, the applicant's request meets all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: October 11, 2022

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.