

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. 18-007**

**APPLICATION:** Application of Mikhail Grigoryev and Yelena Grigoryeva for an adjustment to allow an accessory structure over 20 feet in height to set back 5 feet from the side property line where an 11 foot setback is required and to allow accessory structures to cover 50% of required rear yard where a maximum 25% coverage is allowed on a 0.3 acre parcel in an RS (Single Family Residential) zone located at 4275 Hager St SE, Salem (T7S; R2W; Section 31DB; tax lot 4200).

**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 **November 22, 2020** 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:** The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicants shall obtain any permits required by the Marion County Building Inspection Division.
2. No additions to the existing structure or placement of other structures within the required rear yard area is permitted without a new adjustment approval.
3. Unless required by building codes, the proposed building shall not have windows facing adjacent properties.
4. The building shall solely be used for storage, a craft room, and similar activities. Bedrooms, guestrooms, and living space are prohibited.

**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 any restrictions or conditions thereon.

5. The applicants should contact Marion County Fire District #1 to obtain a copy of the District's Recommended Building Access, water supply and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.

**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 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 \$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 **November 22, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **November 23, 2018** unless appealed.

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

1. The subject parcel is located within the Salem Urban Growth Boundary (UGB), designated Single Family Residential in the Salem Area Comprehensive Plan, and zoned RS (Single Family Residential) under the jurisdiction of Marion County.
2. The subject property is located on the north side of Hager Street SE in the 4200 block. The property was created in its current configuration as the Lot 8, Amended Plat Hager's Addition and is consider a legally created parcel.
3. The surrounding properties in all directions are zoned RS and developed with single-family homes.
4. The applicant requests to allow an accessory structure over 20 feet in height to set back 5 feet from the side property line where an 11 foot setback is required and to allow accessory structures to cover 50% of required rear yard where a maximum 25% coverage is allowed.
5. Land Development and Engineering Permits commented that the applicant should be aware that no new access will be allowed from Hager Street to the subject property to serve the accessory structure.

Marion County Building Inspection commented that new construction would require a building permit.

Comments were also received from the East Salem Suburban Neighborhood Association recommending that the required setbacks be applied.

All other contacted agencies either failed to respond, or stated no objection to the proposal, at the time this report was written.

6. Since the parcel is 67 feet wide, the required rear yard area (the rear 14 feet of the lot) is 938 square feet. MCC 16.28.020 (1) states that: *"The lot coverage by all accessory or secondary structures located in the required rear yard, except fences or retaining walls, shall total no more than 25 percent of the required rear yard."* The proposal is to increase the maximum allowed coverage within the required rear yard area from 234 square feet to 469 square feet.
7. MCC 16.28.030 permits an accessory structure to be located in the rear yard with the following height limitations: *"Structures in residential zones or the UD and UT zones shall not project above the following height limits: nine feet at the lot line, increasing one foot for each one foot of distance from the lot line to a maximum height of 20 feet. Roof drainage shall be accommodated within the confines of the property."* The proposal would permit a structure to be located 5 feet from the side property line where 11 foot would be the required setback for a structure 20 feet tall or higher.
8. The development standards in the RS zone and the development requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for adjustments:
  - A. *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The applicant states that existing residences adjacent to the subject property are already in place away from the proposed building. Existing buildings on neighboring properties are used for storage or for animals. The proposed

building will not have windows facing adjacent properties. The property to the north has installed slats in a chain link fence. This building will improve the private separation between the subject property and the property to the north. It appears the proposal would not have a significant adverse impact upon adjacent existing or planned uses and development.

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

The applicant states the proposed building will be used for storage for tools, toys, bikes, and crafts and will be able to be accessed by the fire department. Due to the minimal residential use of the building, it appears the proposal will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity.

*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*

The applicant states that the storage space is necessary because there is not a garage on the property and the house is relatively small. Currently, toys are being stored outside under tarps, which is causing the toys damage. Crafts are being stored in the house, which is causing space issues. It appears the adjustment would be the minimum necessary to permit the applicant's residential use of the property.

*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.*

The applicants state the proposed development will not shade houses on adjacent properties, nor cast a shadow on the northern adjacent property. The adjustment will allow the property to fit into the neighborhood as other properties have garages, larger houses and shops. It appears that the adjustment would maintain the intent and purpose of the provision, which is to ensure adequate setbacks from development on surrounding properties, to ensure adequate fire access to the parcel, and to ensure the development does not block sunlight or otherwise interfere with the enjoyable use of neighboring residential properties.

9. Based on the above discussion, the request to allow an accessory structure over 20 feet in height to set back 5 feet from the side property line where an 11 foot setback is required and to allow accessory structures to cover 50% of required rear yard where a maximum 25% coverage is allowed is **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: November 7, 2018

If you have any questions regarding this decision contact Brandon Reich 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.