

**NOTICE OF DECISION
VARIANCE CASE NO. 18-001**

APPLICATION: Application of Iov and Lizaveta Toran for a variance to reduce the required 20 foot minimum side yard setback to fifteen feet for an addition to an existing dwelling on a 1.15 acre parcel in an EFU (Exclusive Farm Use) zone located at 17961 Boones Ferry Rd NE, Hubbard. (T4S; R1W; Section 32D; tax lot 500).

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 **April 11, 2020**. 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 additions to the dwelling shall maintain a 15 foot minimum setback from the north property line.
2. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
3. 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

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 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 **April 11, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 12, 2018** 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 and zoned EFU (EXCLUSIVE FARM USE). The intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The property is located on the west side of Boones Ferry Road NE. The subject parcel is currently developed with a dwelling, accessory structure, well and septic system. The property is described in deeds as far back as

March 24, 1972 and is considered a legal parcel for land use purposes.

3. Surrounding properties in all directions are zoned EFU and consist of residential uses.
4. The applicant is proposing to reduce the required 20 foot side yard setback for the addition onto the dwelling to 15 feet.
5. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Building Inspection commented that building and septic permits are required for new construction

6. In order to obtain a variance the proposal must meet the criteria in found in Section 17.122.020 of the Marion County 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 applicants are proposing to construct additions onto the rear and north side of the dwelling. The subject parcel is small, at 1.15 acres in size and triangular. The dwelling is located close to the north property line and at an angle. Because of the placement of the dwelling on the parcel, in order to add onto the dwelling the applicants are requesting the setback for the additions be reduced to a 15 foot setback from the north side property line. The rear corner of the addition to the side of the dwelling is the only part of the dwelling that would be located closer than 20 feet to the north property line. The additions will not create noise, odor or vibrations that would impact surrounding properties and would have no impact on health or safety of persons working or residing in the vicinity. The adjacent property to the north is in agricultural use, but there is an internal access road next to the property line and the reduction of the setback for the dwelling is not expected to affect farming practices on this parcel. The proposal meets the criteria in Finding #6.
8. Based on the above findings, the applicants' request meets all applicable criteria for a variance and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: March 27, 2018

If you have any questions please contact Lisa Milliman 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.