

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. 22-003**

APPLICATION: Application of Andrew and Andrea Beyer for a variance to reduce the eastern side setback from 20 feet to 14 feet on a 3.40-acre parcel in an EFU (Exclusive Farm Use) zone located at 2420 Meadow Lane, Woodburn (T5S; R1W; Section 09C; Tax lot 1300).\

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 23, 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.

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:

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 **April 25, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 23, 2022**, unless appealed.

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

1. The subject properties are designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use) The primary intent of the designation is to provide for commercial farm uses and agriculture.
2. The property is located on the southern side of Meadow Ln NE, approximately 0.44 miles east of its intersection with Cooley Rd NE. The property contains a dwelling built in 1976 and an accessory farm structure. The parcel was the subject of MP79-119 and is therefore considered legal for land use purposes.
3. Surrounding properties in every direction consist of EFU zoned properties developed with dwellings. Most are smaller parcels (3-6 acres) and have some land in active farm use. To the north is large commercial farm across Meadow Ln NE.
4. The applicant is proposing to reduce a eastern side setback from 20 feet to 14 feet for an addition to their home.
5. Soil survey for Marion County indicates that approximately 98.5% of the soil is high value.
6. Marion County Land Development Engineering & Permits (LDEP) commented:

ENGINEERING REQUIREMENT

- A. *An Access Permit will be required at the time of application for building permits to administrate inspection for the removal of arborvitae plants within the Vision Clearance Areas on either side of the driveway approach that are infringing on Intersection Sight Distance.*

Marion County Building Division commented that building permits will be required for the proposed structure.

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*

In conversations with the applicant, it was explained that they cannot reasonably add on to the living space/bathroom of the home in another direction as the other side of the home is taken up by the garage. This leaves the space on the eastern side boarded by the property line, furthermore as the property was created in 1974 before our minimum acreages were implemented, this sub-standard lot cannot be expected to meet modern setbacks. 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*

As explained above this parcel was created before the minimum lot sizes were implemented and does not provide for the ability to expand residential structures as well as other parcels created after minimum lot sizes were implemented. This prevents easy expansion of the home. 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*

This variance is the minimum necessary and will keep the addition in line with the existing home roof line. 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*

This variance is not expected to have any adverse effects as it is an existing residential use that will not affect other properties by expanding a bathroom and living space. 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*

As stated above, this is a typical use in the area and the setback reduction will not create adverse impacts. The criterion is met.

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

The house will still maintain a 14' setback. The criterion is met.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: April 8, 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.