

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. 19-003**

APPLICATION: Application of Lewis and Adele Sutton for an adjustment to reduce the required 14 foot rear yard setback for an accessory structure to five feet on a 2 acre parcel in a UT-5 (Urban Transition - 5 Acre Density) zone located at 148 Cambridge Avenue, Silverton (T6S; R1W; Section 35AD; tax lot 200).

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 **May 28, 2021** 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 all permits required by the Marion County Building Inspection Division.
2. The accessory structure shall maintain a five-foot rear yard setback.

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 **May 28, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **May 29, 2019** unless appealed.

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

1. The property is designated Single Family in the City of Silverton Comprehensive Plan and correspondingly zoned UT-5 (Urban Transition – 5 Acre Density) under the jurisdiction of Marion County.
2. The property is located on the south side of Princeton Ave in the 100 block. The property contains an existing dwelling and accessory structure.
3. Surrounding properties to the north, west and south are zoned R-1 (Single Family Residential) inside the City of Silverton. Properties to the east are zoned UT-5 (Urban Transition – 5 Acre Density).
4. The applicant proposes an adjustment to reduce the required 14 foot rear yard setback for an accessory structure to five feet on a 2 acre parcel. The development is required to be a minimum of five feet from the southern property

line, which in this case is the side property line. The minimum side property line setback applies regardless of this request to reduce the rear yard setback. Therefore, the side setback will not be affected by this land use case.

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

All other commenting agencies stated no objection to the proposal.

6. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. These include:

- (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
- (b) *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
- (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*
- (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.*

7. There is no evidence that the adjustment will have any significant adverse impact on adjacent existing or planned uses and development. The applicant proposes to place the accessory structure in close proximity to the existing dwelling on the property. Therefore, the proposed location of the accessory structure will have minimal impact on future development of the property. The accessory structure will be in compliance with the established five-foot side yard setback on the property. For this reason, the accessory structure will not adversely affect existing dwellings on properties to the south. There is no indication that the proposal would create health and safety issues in the vicinity. Based on available information the proposal can comply with the criteria listed in #6(A) and (B).

The applicant proposes to reduce the required 14 foot rear yard setback to five feet. Therefore, the degree of adjustment requested appears to be the minimum necessary to allow construction of an accessory structure that meets the property owner's desired development needs. The adjustment will allow the accessory structure to be placed in close proximity to the existing dwelling. In addition, the accessory structure will meet the five-foot side yard setback adjacent to existing dwellings to the south. Therefore, it appears that the adjustment would maintain the intent and purpose of the provision in 16.41.030 MCC, 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. For these reasons, the proposal meets the criteria listed in #6(C) and (D).

8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: May 13, 2019

If you have any questions regarding this decision contact Seth Thompson 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.