

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. 25-001**

APPLICATION: Application of Andrew Heneveld for a variance to reduce the required 20-foot setback to a 14-foot setback on the eastern property line for the dwelling on a 4.01-acre parcel in the Special Agriculture (SA) zone at 6140 State St, Salem (T7S; R2W Section 33A; Tax lot 3000).

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 **March 16th, 2027**. 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 structure shall maintain a 14-foot setback from the eastern property line abutting 62nd Ave SE.
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.
4. 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 #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicant should contact the Marion County No. 1 Fire 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 **March 16th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 17th, 2025**, unless appealed.

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

1. The subject properties are designated Special Agriculture and are subsequently zoned SA (Special Agriculture). Areas with this zoning are characterized by a mixture of small, specialized farms and large commercial farm operations. The primary intent of the zone is to allow for flexibility in management of resource zones.
2. The property is located at 6140 State St, on the southwest side of the intersection between State St SE and 62nd Ave SE. The property contains a dwelling, several residential accessory structures and structures related to both a nursery and landscaping business, and a fiber optic repeater site in the northwest corner of the property. There are two previous land use cases on the subject property; AR91-007, which approved the fiber optic repeater facility, and CU15-024, which approved the landscape contracting business in conjunction with a nursery. The parcel has not changed its configuration since CU15-024 was approved and is therefore legal for land use purposes.
3. Surrounding properties in the area are mostly designated as resource zones. To the north and east, most of the surrounding parcels are zoned EFU (exclusive farm use) and are currently engaged in commercial agriculture. To the south and west are more parcels zoned SA with a mix of farm fields and small acreage homesites not engaged in commercial agriculture. Of note, there are some I (industrial) zoned lots along the north side of State St SE, the closest of which is 600 feet from the subject property.
4. The applicant is requesting a variance which would reduce the standard property line setback of 20 feet to 14 feet from the east property line, which abuts 62nd Ave, to allow construction of a living room onto the existing dwelling.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building commented: “No Building Inspection concerns. Permit(s) are required to be obtained prior to any development of structures and/or utilities installation on private property.”

All other 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 proposal to adjust the property line setbacks is to allow an addition to be built off the east side of the existing dwelling. The applicant’s claim is that other options for placing an addition would be significantly more expensive or are already developed with more permanent features (in-ground pool).

(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*

The applicant is proposing to put an addition onto an existing dwelling that was constructed prior to the adoption of planning and zoning ordinances by Marion County. The standards being adjusted were implemented after the dwelling was first constructed, so it was not sited in such a way that accounted for these new codes. The foresight of constructing the dwelling in such a way to allow for new additions to be easily accommodated with modern

zoning standards was not possible, which does constitute an unusual circumstance to the building. 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 proposed setback of 14 feet would place the setback just in front of the exterior wall of the addition, just enough to accommodate the proposed development and nothing additional in that direction. 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 subject property is located in a rural area with no dwellings within 300 feet of the area where the proposed addition would be built. An addition onto an existing residence that does not immediately abut a neighboring property will not have a significant adverse effect on property or improvements in 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*

An addition of a new room onto a dwelling does not pose significant adverse effects to health and safety to the people living and working in the vicinity. The new addition would not create a vision clearance hazard as it is already behind sight obstructing vegetation. The criterion is met.

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

The provision the applicant requests to vary are the required setbacks from property lines. The intent and purpose of property line setbacks, specifically those along a public road right of way, are twofold. First, setbacks are a safety measure for drivers and occupants of the residence because they reduce the risk of a car crashing into an occupied building—particularly a bedroom at night, when a sleeping resident is least capable of reacting to prevent injury. The addition the applicant proposes to construct onto their existing dwelling is a living room that wouldn't be as frequently occupied at night when the risk of an accident is greatest, so the risk to safety is minimized. This meets the intent of safety. The second purpose is to allow ample space for future right of way expansions. Setting dwellings farther from the road means the county does not have to purchase (and demolish) dwellings to provide necessary infrastructure upgrades. 62nd Ave is identified in the Marion County Rural Road Functional Classification as a minor collector and currently has a dedicated right of way size of 90 feet at the point where the addition is proposed. Per MCC 17.112.020.F.1 minor collectors have a special setback of 30 feet measured from the center of the right of way in addition to the standard zone setback of 20 feet, functionally a 50 foot setback from the center of the right of way. The proposed adjustment would site the new addition at least 59 feet from the center of the right of way, which still meets the special setback meant to ensure room for future right of way expansions. As a result, both purposes of the provision are still satisfied by the proposal. 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

Date: February 28th, 2025

If you have any questions regarding this decision contact Alexander Seifer 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.



ZONING MAP


Input Taxlot(s): 072W33A003000


Owner Name: HENEVELD, ANDREW & HENEVELD, ABIGAIL

Situs Address: 6140 STATE ST
City/State/Zip: SALEM, OR, 97317
Land Use Zone: SA
School District: SALEM-KEIZER
Fire District: MARION COUNTY NO.1

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 393 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.