

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. 25-003**

**APPLICATION:** Application of James and Tina Johnson for a variance to reduce the required 20-foot setback to a 5-foot setback on the western property line for an accessory structure on a 1.10-acre parcel in the Exclusive Farm Use (EFU) zone at 8515 Stayton Rd SE, Turner (T9S; R2W Section 24C; Tax lot 1000).

**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 29<sup>th</sup>, 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, including septic authorizations.
2. The accessory structure shall maintain a 5-foot setback from the west property line.
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 Stayton 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 April 29<sup>th</sup>, 2025. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective April 30<sup>th</sup>, 2025, unless appealed.

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

1. The property is designated Primary Agriculture in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding EFU (Exclusive Farm Use) zone is to provide areas for the continued practice of farm use. This designation is also applied to small inclusions of tracts composed of non-high-value soils and lots of small size to avoid potential conflicts between commercial farming and wider ranges of non-farm uses.
2. The property is located at 8515 Stayton Rd SE on the north side of Stayton Rd SE, 1,100 feet down an unnamed access easement. The property contains a 1947 dwelling, several accessory structures and animal corrals, and a portion of the Marion Ditch runs along the southern property line. The property was created in its current configuration by a land purchase agreement on July 10, 1962 (Vol 561 Page 72) and has remained in its current configuration since. Therefore, it is legal for land use purposes.
3. Surrounding properties immediately adjacent on all sides are zoned EFU. Those properties to the south and east are predominantly agricultural fields while the properties to the northeast are in use as large acreage residences with comparatively small farm activity.
4. The applicant is proposing a variance to reduce the required front property line setback from 20 feet to 5 feet for an accessory structure.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building commented: "Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property. If the building is to be used for commercial purposes, additional building and life safety codes may be applicable."

Marion County Septic commented: "Current driveway and parking is over drain field. Where is area for repair drain field. A repair area is required per OAR340-07-150 (4) (c)."

Stayton Fire District commented: "We need to see measurements of the gravel parking area to determine if proposed building impacts turnaround requirements. Will not approve until we see document."

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*
  - (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 subject property is relatively small for the area and is triangularly shaped. This shape makes it difficult for traditionally shaped buildings to meet all setbacks, particularly when the parcel is already developed with other structures and requires a septic system for proper waste disposal. The building area is also limited by the need to maintain the driveway through the center of the parcel to allow vehicle access to the rear (north) portion of the property. The proposed location and degree of variance from the 20-foot minimum standard will allow sufficient open space to access the rear portion of the property with vehicles and keep the proposed structure away from the well and open areas necessary for potential replacement drain field locations. The reduced setback will not encroach upon a potential right-of-way expansion, nor will it create a safety hazard for vehicles. Additionally, this structure is not proposed immediately adjacent to structures on neighboring properties, so there is decreased risk of fire danger and the applicant is required to meet the standards of the local fire district as a condition of approval. Lastly, the proposed structure is for residential uses, which is a use that is unlikely to cause any adverse effects on the health and safety of those working and living in the local area. With this combination of factors, the applicants are able to meet each of the above criteria. The criteria *a-e* are 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 14<sup>th</sup>, 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):** 092W24C001000

**Owner Name:** JOHNSON, JAMES A & JOHNSON, TINA  
L

**Situs Address:** 8515 STAYTON RD SE

**City/State/Zip:** TURNER, OR, 97392

**Land Use Zone:** EFU

**School District:** CASCADE

**Fire District:** STAYTON

### Legend



Input Taxlots



Lakes & Rivers



Highways



Cities



scale: 1 in = 384 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.