



CITY OF MILWAUKIE

June 3, 2020

Land Use File(s): VR-2020-002
601-20-000632-STR

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on June 3, 2020.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

Applicant(s):	Brenden Petricko
Location(s):	3040 SE Malcolm St
Tax Lot(s):	11E25BD04200
Application Type(s):	Variance
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 – Low Density Residential Zones• MMC 19.911 - Variances• MMC 19.1005 – Type II Review
Neighborhood(s):	Ardenwald-Johnson Creek

Appeal period closes: 5:00 p.m., June 18, 2020

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Vera Koliass, Associate Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/vr-2020-002.

This decision may be appealed by 5:00 p.m. on June 18, 2020, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Any person

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

None.

Director's Declaration of Impartiality

I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

Decision

- Approved
- Approved with Conditions
- Denied



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval

cc: Brenden Petricko, 2050 South Beaver Creek Rd., Oregon City, OR 97045
Nicholas and Jessica Haselwander, 3040 SE Malcolm St.
Planning Commission (via email)
Leila Aman, Community Development Director (via email)

Steve Adams, City Engineer (via email)
Engineering Development Review (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Tim Salyers, Code Enforcement Coordinator (via email) (variances only)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Ardenwald-Johnson Creek (via email)
Land Use File(s): VR-2020-002

EXHIBIT 1
Findings in Support of Approval
File #VR-2020-002, Brenden Petricko

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Brenden Petricko, on behalf of Nichalas and Jessica Haselwander, has applied for approval to construct an addition at 3040 SE Malcolm St. This site is in the Residential R-7 Zone. The land use application file number is VR-2020-002.
2. The applicant is seeking land use approval for a side yard setback variance for a proposed addition to the existing home on the property.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.301 – Low Density Residential Zones
 - MMC 19.911 - Variances
 - MMC 19.1005 – Type II Review

The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review with a decision by the Planning Director.

4. MMC 19.301 Low Density Residential Zones
 - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

Table 1. Compliance with relevant R-7 standards

Table 19.301 Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq ft	17,256.97	Complies with standard.
2. Minimum Lot Width	60 ft	72 ft	Complies with standard.
3. Minimum Lot Depth	80 ft	240 ft	Complies with standard.
4. Front yard setback	20 ft	Approx. 26 ft	Complies with standard.

5. Side yard setback	5ft/10 ft	3 ft (setback on west side to the existing garage) and 6.16 ft (proposed east side setback)	Variance requested from the 10 ft required setback on the east side. The 3 ft setback on the west side is an existing non-conforming situation
6. Rear yard setback	20ft	150+ ft	Complies with standard.
7. Lot Coverage	30% max.	15%	Complies with standard.

Subject to a Type II variance, the proposal complies with the applicable standards of the R-7 zone.

5. MMC 19.911 Variances

- a. MMC 19.911.3 establishes the review process for variance applications.
- b. MMC 19.911.4.A establishes criteria for approving Type II Variance applications.

An application for a Type II Variance shall be approved when all of the following criteria have been met:

- (1) The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety or welfare.

The proposed variance will not be detrimental to surrounding properties, natural resources areas, or public health, safety, or welfare.

Properties in the surrounding neighborhood are similarly sized lots as the subject property, with setbacks varying between 5 ft and 10 ft. As proposed, the variance to the required 10 ft side yard setback to allow a 6 ft setback would be applied to the lot line with the adjacent neighbor’s second driveway. The variance is proposed for a small 256 sq ft addition that is 16 ft wide; it is not proposed for the entire length of the home, only for the kitchen addition. Further, both the home on the subject property and that of the adjacent neighbor are single story. The height of the proposed addition would be approximately the same height as the neighbor’s home.

There is no natural resource area applicable to these lots.

- (2) The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

The proposed variances will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

- (3) Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

The proposed addition has been designed to match and blend with the existing single-story home.

- (4) Impacts from the proposed variance will be mitigated to the extent practicable.

No impacts from the proposed variance to reducing the side yard setback has been identified.

The Planning Director finds that the approval criteria have been met.

6. As per MMC 19.1001.7.E, this variance request shall expire and become void unless the proposed development completes the following steps:

Obtain and pay for all necessary development permits and start development of the site within 2 years of land use approval (by June 18, 2022).

Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by June 18, 2024).

7. The application was referred to the following departments and agencies on May 19, 2020:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Ardenwald Neighborhood District Association

A notice of application was mailed to all properties within 300 ft of the subject property on May 19, 2020. No comments were received.