



# CITY OF MILWAUKIE

March 16, 2021

Land Use File(s): VR-2021-003  
601-21-000036-STR

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on March 16, 2021.

*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](mailto:espanol@milwaukieoregon.gov).*

<b>Applicant(s):</b>	Tony Frassetto
<b>Location(s):</b>	6400 SE Plum Dr.
<b>Tax Lot(s):</b>	12E32CC00100
<b>Application Type(s):</b>	Variance
<b>Decision:</b>	Approved
<b>Review Criteria:</b>	Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• MMC 19.301 – Low Density Residential Zones</li><li>• MMC 19.911 - Variances</li><li>• MMC 19.1005 – Type II Review</li></ul>
<b>Neighborhood(s):</b>	Linwood

**Appeal period closes: 5:00 p.m., March 31, 2021**

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. Please contact Vera Kolias, Associate Planner, at 503-786-7653 or [koliasv@milwaukieoregon.gov](mailto:koliasv@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at [www.milwaukieoregon.gov/planning/vr-2021-003](http://www.milwaukieoregon.gov/planning/vr-2021-003).

**This decision may be appealed by 5:00 p.m. on March 31, 2021, which is 15 days from the date of this decision.**<sup>1</sup> Any person 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.

<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> 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.

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](mailto: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**

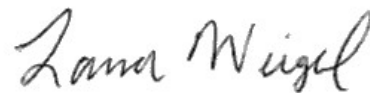
None.

### **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



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Laura Weigel, AICP  
Planning Manager

### **Exhibits**

1. Findings in Support of Approval

cc: Tony Frassetto, 17855 NE Halsey St., Portland, OR (via email)  
Cheryl and Gary McClain, 6400 SE Plum Dr. (via email)  
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)  
Mike Boumann and Alex McGladrey, CFD#1 (via email)  
NDA(s): Linwood (via email)  
Interested Persons  
Land Use File(s): VR-2021-003

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #VR-2021-003, Tony Frassetto**

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, Tony Frassetto, on behalf of Cheryl and Gary McClain, has applied for approval to construct a larger deck at 6400 SE Plum Dr. This site is in the Residential R-7 Zone. The land use application file number is VR-2021-003.
2. The applicant is seeking land use approval for a rear yard setback variance for a proposed expansion to an existing deck at the 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**

<b>Table 19.301 Residential Zone R-7 Development Standards</b>			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq ft	7,112.48 sq ft	Complies with standard.
2. Minimum Lot Width	60 ft	77 ft	Complies with standard.
3. Minimum Lot Depth	80 ft	Approx. 80 ft	Complies with standard.
4. Front yard setback	20 ft	Approx. 20 ft	Complies with standard.
5. Side yard setback	5ft/10 ft	5 ft and 12.8	Complies with standard

6. Rear yard setback	20ft	17 ft	Variance requested.
7. Lot Coverage	30% max.	30%	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 198.911.4.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 rear yard setbacks varying between 15 ft and 38 ft. As proposed, the variance to the required 20 ft rear yard setback to allow a 17 ft setback would be applied to the lot line with the adjacent neighbor’s vegetated and fenced rear yard. The variance is proposed for a small 252 sq ft deck that is less than 6 ft wider than the existing deck. The wider deck is not proposed for the entire length of the home, only for 18 ft.*

*There is no natural resource area applicable to the lot.*

- (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 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.*

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

*The proposed deck has been designed to match and blend with the existing home.*

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

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

*The Planning Manager 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 March 16, 2023).
  - Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by March 16, 2025).
7. The application was referred to the following departments and agencies on February 26, 2021:
  - Milwaukie Building Division
  - Milwaukie Engineering Department
  - Clackamas County Fire District #1
  - Linwood Neighborhood District Association