



June 9, 2021

Land Use File(s): VR-2021-008

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on June 8, 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.

Applicant(s):	Randolph and Cheryl Ford
Location(s):	11503 SE Wood Ave
Tax Lot(s):	12E31AC02600
Application Type(s):	Variance
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC Section 19.301 Low Density Residential Zones (including R-7)• MMC Section 19.502 Accessory Structures• MMC Section 19.911 Variances
Neighborhood(s):	Hector Campbell

Appeal period closes: 5:00 p.m., June 24, 2021

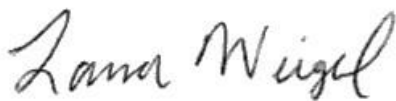
This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Janine Gates, Assistant Planner, at 503-786-7627 or gatesj@milwaukieoregon.gov if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on June 24, 2021, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council 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.



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Randolph and Cheryl Ford, 11503 SE Wood Ave (via email)
Mary Tongue, Applicant's representative (via email)
Planning Commission (via email)
Kelly Brooks, Interim 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)

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.

Tim Salyers, Code Enforcement Coordinator (via email) (variances only)
Mike Boumann and Alex McGladrey, CFD#1 (via email)
NDA(s): Hector Campbell (via email)

Land Use File(s): VR-2021-008

Findings in Support of Approval
File #VR-2021-008, Randolph and Cheryl Ford – 11503 SE Wood Ave

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, Randolph and Cheryl Ford, has applied for a variance to allow a 1,680 sq ft accessory structure, which exceeds the 1,500 sq ft maximum size of an accessory structure. The address of the site is 11503 SE Wood Ave and it is in the R-7 Zone. The land use application file number is VR-2021-008.
2. The subject property is approximately 38,681 sq ft (0.89 acres) in size and is developed with a single-family home, one car garage, and three accessory structures. The applicant would like to use the older accessory structure as a garden accessory structure and artist's studio. In addition, they would like to demolish two accessory structures and build the proposed accessory structure. The applicant proposed a 42' x 40' accessory structure that will be built on the western edge approximately 60' from the west boundary of the property, 296' from the street frontage, and 5' from the southern boundary.
3. The applicant will upgrade and relocate the north driveway 7 ft southward, as required by the Engineering Department. The applicant will submit a right of way permit and pay FILOC instead of completing the required street frontage improvements.
4. The applicant must submit an access and water supply plan as required by the Clackamas Fire District #1 for full review and approval.
5. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.1006 Type III Review
 - MMC Section 19.301 Low Density Residential Zones (including R-7)
 - MMC Section 19.502 Accessory Structures
 - MMC Section 19.911 Variances

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on June 8, 2021, as required by law.

6. MMC Section 19.301 Low Density Residential Zones (including R-7)

MMC 19.301 establishes standards for the low-density residential zones, including the R-7 zone. The subject property is zoned R-7.

MMC Subsections 19.301.4 and 19.301.5 provides applicable development standards for the R-7 zone, summarized in Table 5:

Table 5 R-7 Lot and Development Standards		
Standard	R-7 Requirement	Subject Property
Maximum lot coverage	30%	14% (including the proposed accessory structure)
Minimum vegetation	30%	80%

The Planning Commission finds that approval of the requested variance meets the applicable R-7 development standards. This standard is met.

7. MMC Section 19.502 Accessory Structures

- a. MMC Subsection 19.502.2 establishes the specific provisions for accessory structures on single-family properties.

The applicant submitted a proposal to build a 1,680 sq ft accessory structure to store all their personal belongings. Their goal was to build an accessory structure that will allow them to remove two old accessory structures. With the proposed accessory structure, they will store their RV, equipment, tools, and boats. The accessory structure will not be seen from the front property line and will be more than the maximum size that would be outright permitted in the R-7 zone. The maximum size of an accessory structure is 1,500 sq ft. It is important to note that many of their neighbors on Wood Ave have similar sized accessory structures. The applicant provided photos. A variance has been requested to allow the accessory structure to exceed our maximum requirement.

As proposed, and with approval of the variance discussed in Finding 6, the Planning Commission finds that the applicable standards of MMC 19.502 are met.

8. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

- a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. In addition, MMC Section 12.16.050 allows requests for relief from the City’s access management requirements to be processed according to the procedures and criteria of MMC 19.911. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

The applicant has requested a variance to exceed the maximum accessory structure size. The structure is allowed a maximum footprint of 1,500 sq ft, regardless of the footprint of the primary structure in MMC 19.502.2.A.1.b (3).

The requested variances meet the eligibility requirements established in MMC 19.911.2.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

The requested variance is not identified in MMC 19.911.3.B as being eligible for Type II review. Therefore, the requested variances are subject to the Type III review process and the approval criteria established in MMC Subsection 19.911.4.B.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests.

The applicant has elected to address the criteria of 19.911.4.B.1 Discretionary Relief Criteria.

MMC Subsection 19.911.4.B.1 provides the following approval criteria for Type III variances where the applicant elects to utilize the Discretionary Relief Criteria:

- (1) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The applicant's submittal materials described the conditions that influenced their decision to propose a 1,680 sq ft accessory structure, which is 180 sq ft more than the maximum requirement. Its design and size were carefully considered to minimize any disturbance to the neighborhood. The applicant's proposed accessory structure will match the design of their home and is similar in size to accessory structures in their neighborhood.

There are no identified negative impacts related to the requested variance. The 1,680 sq ft accessory structure will not impact any other zoning requirements and will not be in violation of the building code.

The Planning Commission finds that the applicant's submittal provides an adequate analysis of the impacts and benefits of the requested variance compared to the baseline requirements. This criterion is met.

- (2) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

- (a) The proposed variance avoids or minimizes impacts to surrounding properties.

- (b) The proposed variance has desirable public benefits.
- (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The size of the accessory structure will not result in any identified impacts to surrounding properties. As part of the applicant's discretionary relief explanation, they shared that the desirable public benefits as their current old buildings were unsightly with failing roofs and not aesthetically attractive. It would be a considerable improvement to constructing one matching well-built accessory structure.

Allowing the accessory structure to remain as is would not result in any identified impacts to surrounding properties.

The applicant responded to the current natural environment by not removing any of the trees and will plant two additional trees on their lot.

Staff has not identified any impacts as a result of the variance.

The Planning Commission finds that the requested variance is reasonable and appropriate and meets one or more of the criteria provided in MMC Subsection 19.911.B.1.b. This criterion is met.

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

Currently, there are no identified impacts resulting from the requested variance.

As proposed, the Planning Commission finds that the requested variance meets the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

The Planning Commission finds that the requested variance is allowable as per the applicable standards of MMC 19.911 and is therefore approved.

- 9. The application was referred to the following departments and agencies on April 27, 2021:
 - Milwaukie Building Department
 - Milwaukie Engineering Department
 - Hector Campbell Neighborhood District Association (NDA) Chairperson & Land Use Committee
 - Clackamas Fire District #1

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on May 19, 2021, and a sign was posted on the property on May 18, 2021.