



# CITY OF MILWAUKIE

November 18, 2021

Land Use File(s): VR-2021-018  
601-21-000114-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>	Thomas Jackson
<b>Location(s):</b>	4272 SE Keil St
<b>Tax Lot(s):</b>	12E31BC12180
<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>	Hector Campbell

**Appeal period closes: 5:00 p.m., December 3, 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 December 3, 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**

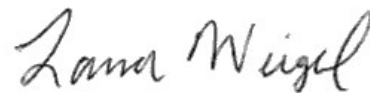
None.

### **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: Thomas Jackson, North Star Homes & Construction (via email)  
Bo Robinson, Applicant's designer (via email)  
Planning Commission (via email)  
Joseph Briglio, 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)  
Valere Liljefelt, CFD#1 (via email)  
NDA(s): Hector Campbell (via email)

Land Use File(s): VR-2021-018

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #VR-2021-018, Thomas Jackson**

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, Thomas Jackson, applied for approval to allow an existing front porch at 4272 SE Keil St to remain as constructed. This site is in the Residential R-5 Zone. The land use application file number is VR-2021-018.
2. The applicant is seeking land use approval for a front yard setback variance for an existing front porch on a recently completed new home construction.
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-5 standards**

<b>Table 19.301 Residential Zone R-5 Development Standards</b>			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	5,000 sq ft	5,988 sq ft	Complies with standard.
4. Front yard setback	20 ft	15 ft	Variance requested.
5. Side yard setback	5ft	5 ft	Complies with standard
6. Rear yard setback	20ft	10 ft	Variance received (VR-2017-001)
7. Lot Coverage	35% max.	32%	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 front yard setbacks meeting the minimum requirement. Some of the homes built in this new subdivision have front porches within the front yard setback, but they were constructed at or below 18 inches in height. As proposed, the variance to the required 20 ft front yard setback to allow a 15 ft setback would be for a newly constructed home with a front porch taller than 18 inches due to the existing topography of the site. The variance is proposed for a small 35 sq ft porch.*

*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 porch has been designed and built to match and blend with the new home.*

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

*No impacts from the proposed variance to reducing the front 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 December 3, 2023).

Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by December 3, 2025).

7. The application was referred to the following departments and agencies on November 3, 2021:
  - Milwaukie Building Division
  - Milwaukie Engineering Department
  - Clackamas County Fire District #1
  - Hector Campbell Neighborhood District Association