



CITY OF MILWAUKIE

March 9, 2022

Land Use File(s): VR-2022-002

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on March 9, 2022.

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):	Dave Spitzer on behalf of Brian and Nicole Meehan
Location(s):	12101 SE 70 th Ave
Tax Lot(s):	1S2E32CD10500
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):	Linwood

Appeal period closes: 5:00 p.m., March 24, 2022

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 Ryan Dyar, Assistant Planner at 503-786-7661 or dyarr@milwaukieoregon.gov if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/vr-2022-002.

This decision may be appealed by 5:00 p.m. on March 24, 2022, which is 15 days from the date of this decision.¹ 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

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.

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 in 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



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Brian and Nicole Meehan, Applicants (via email)
Dave Spitzer, Applicant's Representative (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)
Alex McGladrey, CFD#1 (via email)
NDA(s): Linwood (via email)
Land Use File(s): VR-2022-002

EXHIBIT 1
Findings in Support of Approval
File #VR-2022-002, Meehan Addition – 12101 SE 70th Ave

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

1. Dave Spitzer, on behalf of Brian and Nicole Meehan, has applied for approval to add an addition to the single-family dwelling at 12101 SE 70th Ave. This site is in the Residential R-7 Zone. The land use application file number is VR-2022-002.
2. The applicant is seeking land use approval for a front yard setback variance for a proposed addition to an existing single-family dwelling on the property.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 – Low Density Residential Zones
 - MMC Section 19.911 - Variances
 - MMC Section 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	13,821 sq ft	Complies with standard.
2. Minimum Lot Width	60 ft	Approx. 136 ft	Complies with standard.
3. Minimum Lot Depth	80 ft	Approx. 177 ft	Complies with standard.
4. Front yard setback	20 ft	Approx. 17 ft	Requires variance.
5. Side yard setback	5ft/10 ft	Approx. 8 ft and 17 ft	Complies with standard

6. Rear yard setback	20ft	Approx. 77 ft	Complies with standard.
7. Lot Coverage	30% max.	Approx. 17%	Complies with standard.
8. Minimum Vegetation	30% required.	Approx. 68%	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 Subsection 19.911.2 Applicability

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. Ineligible variances include requests that result in any of the following: change in 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 reduce the front yard setback from 20-feet to 17-feet.

The request meets the eligibility requirements.

b. MMC Subsection 19.911.3 Review Process

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

MMC 19.911.3.B allows for a variance of up to 25% to a front, rear, or street-side yard width standard, with the limitation that a front yard width cannot be reduced to less than 15-feet through a Type II review. The requested variance is to reduce the front yard setback from 20-feet to 17-feet, a 15% reduction.

The requested variance is eligible for a Type II review.

c. MMC Subsection 19.911.4.A establishes criteria for approving Type II Variance applications.

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

- (1) The proposed variance, or the 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. The applicant's narrative discusses that the dwelling's minimum setback from the front property line

will be no less than 17-feet; this is three feet closer to the street than the dwelling currently is. The lot is on the inside corner of a curve so the direct relationship to the adjacent neighbors is not easily observed. Moreover, only a small portion of the dwelling will extend into the front yard setback.

There are no inventoried natural resources areas on the property or evidence that the proposed variance will impact public health, safety, or welfare.

- (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 City of Milwaukie's Transportation Systems Plan lists 70th Ave as a local road in its functional classification inventory. The existing right-of-way is 50-feet wide and includes two lanes; it is unlikely that the right-of-way will need to be expanded. There is no evidence that the proposed variance will interfere with any officially adopted plan.

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

The applicant's narrative discusses that the portion of the dwelling that would be brought into the setback is the main gable portion. In doing so, the addition will further accentuate the dwelling's entryway, thereby maintaining the integrity of the existing site improvement.

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

The applicant did not propose any mitigation. The property is slightly under double the minimum lot size for the zone and is screened with shrubs. Mitigation should not be necessary.

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 9, 2024).
 - Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by March 9, 2026).
7. The application was referred to the following departments and agencies on February 17, 2022: Milwaukie Engineering Department, Milwaukie Building Department, Clackamas Fire District #1 (CFD). Notice was also sent to the Linwood Neighborhood District Association and to surrounding property owners within 300 ft of the site on February 17, 2022; a sign was posted on the property on February 18, 2022. No comments were received.