



MILWAUKIE PLANNING
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Primary File #: VR-2023-005

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|---|--|---|
| <input type="checkbox"/> Amendment to Mops and/or | <input type="checkbox"/> Land Division: | <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Comprehensive Plan Map Amendment | <input type="checkbox"/> Final Plat | <input type="checkbox"/> Residential Dwelling |
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Lot Consolidation | <input type="checkbox"/> Manufactured Dwelling Park |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Manufactured Dwelling |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Temporary Dwelling Unit |
| <input type="checkbox"/> Community Service Use | <input type="checkbox"/> Replat | <input type="checkbox"/> Transportation Facilities Review** |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Variance: |
| <input type="checkbox"/> Development Review | <input type="checkbox"/> Mixed Use Overlay Review | <input type="checkbox"/> Use Exception |
| <input type="checkbox"/> Director Determination | <input type="checkbox"/> Modification to Existing Approval | <input checked="" type="radio"/> Variance |
| <input type="checkbox"/> Downtown Design Review | <input type="checkbox"/> Natural Resource Review** | <input type="checkbox"/> Willamette Greenway Review |
| <input type="checkbox"/> Extension to Expiring Approval | <input type="checkbox"/> Nonconforming Use Alteration | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Historic Resource: | <input type="checkbox"/> Parking: | Use separate application forms for: |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Quantity Determination | Annexation and/or Boundary Change |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Quantity Modification | • Compensation for Reduction in Property |
| <input type="checkbox"/> Status Designation | <input type="checkbox"/> Shored Parking | • Value (Meosure 37) |
| <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Structured Parking | • Daily Display Sign |
| | | • Appeal |

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Joshua Samuelson

Mailing address: 9631 SE 42nd Ave. Milwaukie State/Zip: OR 97222

Phone(s): (206)229-9021 Email: josh.samuelson@gmail.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: _____ State/Zip: _____

Phone(s): _____ Email: _____

SITE INFORMATION:

Address: 9631 SE 42nd Ave. Milwaukie Map & Tax Lot(s): 11E25DA00100

Comprehensive Plan Designation: _____ Zoning: R-MD Size of property: 0.44 Acres

PROPOSAL (describe briefly):

A section of fence in front yard up to 6 feet tall. The area covered is not directly in front of the house.

SIGNATURE: I attest that I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: [Signature] Date: 5/22/23

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.
 ** Natural Resource and Transportation Review applications may require a refundable deposit.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

DEPOSITS:

Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	VR-2023-005	\$ 500.00			Application materials received on 6/6/2023. Payment received on 6/07/2023.
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR/TFR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Ardenwald-Johnson Creek ; Lewelling					
Notes: Application for Type II variance to accommodate a fence in the front yard that exceeds the permitted 42 in height.					

Approval Criteria Narrative:

A. Type II Variances

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.

When we initially bought the property, it was very over-planted and overgrown. Along the south fence, there had been several non-native eastern white cedar trees that had been topped at some point and then had regrown from the stumps. These were completely woven into the chain link fence which was very unsightly. The taller sections shaded a large portion of the yard in the winter and made it feel very dark. After we cleared those out, we realized that the overgrown fence had provided some privacy and now our neighbors' side yard was fully exposed to the street. Our intention in building a taller fence along that side is to restore that privacy for us and our neighbors. On the corner where the south lot line meets 42nd street, there were several quince bushes that had been poorly maintained, these bushes completely blocked visibility from our neighbors driveway. We pruned and thinned these bushes to allow better line of sight and intentionally angled that corner of the fence so that it would not obstruct their view of the road. Shortly after we bought the house a neighbor asked if she could harvest some of the quince blossoms for Tet, the Vietnamese new years festival. We'd like to find a way to preserve the bushes for that purpose in the future, while still maintaining clear sight lines.

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 fence won't interfere with these plans. There is a storm drain near the end of the driveway, but the front yard is below the grade of the road along the fence line, so runoff won't flow into the storm sewer.

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

Part of why we wanted a taller fence for this section is because we're planting a garden there. There is an existing pear tree and we've added a fig, apple, and plum. We've also planted blueberries and raspberries in that area. There are large trees that shade most of the back yard, so this was the most logical area that would provide full sun, but we also wanted a bit of privacy around the garden. We also wanted to keep a section that felt like more of a traditional "front yard", which is why we used a lower fence for the area directly in front of the house. We've been focusing on replacing non-native species with either edible plants or native species so we've planted camas in several sections of the yard to see where it's best suited. We're also planning to plant some shade tolerant native edible plants like oregon grape.

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

The fence is set back 5 feet from the sidewalk, it's angled near the neighbors driveway to give a clear line of sight. The sidewalk is also significantly above the grade where the fenceposts are located, so the visual

height to pedestrians is less imposing. Most of the front fence is 42 inches tall which covers the area directly in front of the house plus an additional 11 feet on the south and north side of the house. There is a wide unobstructed view to the north of that because of the driveway and alley. The view from the sidewalk actually looks more balanced now because the house is centered within the section of 42 inch fence. For the taller section of fence in the front yard, we'd like to have a semi-transparent section above 42 inches so that the fence can restore some privacy without making the street feel like a tunnel.

5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32.

There are several large trees on our property already and as part of our garden project we've planted a fig, apple, and plum tree. We have cleared out some smaller non-native trees that we're not well maintained to improve the health of the other trees. When the house was built in the 1920s, the area around it was all orchard land. Part of our intention with planting fruit trees was to honor that heritage. There is one very old cherry tree in the back yard that may actually be a remnant of the original orchard.

Legend:
42" high fence
72" high fence
Scale: 1 in = 6"



Neighbors driveway

fence 72" tall

Garden

32' x 98' wide yard

House
Porch

fence 72" tall

fence 42" tall

fence 42" tall

Parking

12' Driveway

Alley

Sidewalk



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PREAPPLICATION CONFERENCE WAIVER

I/We, Josh and Sara Samuelson (print), as applicant(s)/property owner(s) of 9631 SE 42nd Ave, Milwaukie, OR 97222 (address of property), request to waive the requirement for a preapplication conference for the submission of a **Type II / III / IV / V** (circle one) land use application per MMC Subsection 19.1002.2 Applicability.

Please provide an explanation for the waiver request:

MMC Section 19.1002 Preapplication Conference is provided on the reverse

We have already discussed the application with Ryan Dyar via email and have filed the application. We based the details of our plan on examples he shared of similar variances that had been approved in the past.

Signed: _____

Applicant/Property Owner

Approved: _____

Planning Director