



PLANNING DEPARTMENT
6101 SE Johason Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: VR-2017-011

Review type*: I II III IV V

☐ CHECK ALL APPLICATION TYPES THAT APPLY:

- ☐ Amendment to Maps and/or Ordinances:
 - ☐ Comprehensive Plan Text Amendment
 - ☐ Comprehensive Plan Map Amendment
 - ☐ Zoning Text Amendment
 - ☐ Zoning Map Amendment
- ☐ Code Interpretation
- ☐ Community Service Use
- ☐ Conditional Use
- ☐ Development Review
- ☐ Director Determination
- ☐ Downtown Design Review
- ☐ Extension to Expiring Approval
- ☐ Historic Resource:
 - ☐ Alteration
 - ☐ Demolition
 - ☐ Status Designation
 - ☐ Status Deletion

- ☐ Land Division:
 - ☐ Final Plat
 - ☐ Lot Consolidation
 - ☐ Partition
 - ☐ Property Line Adjustment
 - ☐ Replat
 - ☐ Subdivision
- ☐ Miscellaneous:
 - ☐ Barbed Wire Fencing
 - ☐ Modification to Existing Approval
 - ☐ Natural Resource Review
 - ☐ Nonconforming Use Alteration
- ☐ Parking:
 - ☐ Quantity Determination
 - ☐ Quantity Modification
 - ☐ Shared Parking
 - ☐ Structured Parking
- ☐ Planned Development
- ☐ Preliminary Circulation Plan

- ☐ Residential Dwelling:
 - ☐ Accessory Dwelling Unit
 - ☐ Duplex
 - ☐ Manufactured Dwelling Park
 - ☐ Temporary Dwelling Unit
 - ☐ Sign Review
 - ☐ Transportation Facilities Review
 - ☒ Variance:
 - ☐ Building Height Variance
 - ☐ Use Exception
 - ☒ Variance
 - ☐ Willamette Greenway Review
 - ☒ Other: Fence Height
- Use separate application forms for:**
- Annexation and/or Boundary Change
 - Compensation for Reduction in Property Value (Measure 37)
 - Daily Display Sign
 - Appeal

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): REBECCA BANYAS

Mailing address: 2157 SE Sparrow St. Milwaukie Zip: 97222

Phone(s): 310-405-4534 E-mail: banyasr@gmail.com

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: _____ Zip: _____

Phone(s): _____ E-mail: _____

SITE INFORMATION:

Address: same Map & Tax Lot(s): 11E35DD05301

Comprehensive Plan Designation: _____ Zoning: R5 Size of property: 0.15 ac

PROPOSAL (describe briefly):

Variance to fence height

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) 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: Rebecca Banyas Date: 8/10/17

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.

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.

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	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file		\$			\$	RECEIVED AUG 10 2017 CITY OF MILWAUKIE PLANNING DEPARTMENT
Concurrent application files		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
SUBTOTALS		\$			\$	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:		RCD BY:	

Associated application file #s (appeals, modifications, previous approvals, etc.):

Neighborhood District Association(s): *Island Station*

Notes:

*After discount (if any)



Transaction Receipt

Record Number: 601-17-000111-PLNG

Receipt Number: 13237

MILWAUKIE

6101 SE Johnson Creek Blvd

Milwaukie, OR 97206

Phone: 503-786-7613

www.milwaukieoregon.gov

building@milwaukieoregon.gov

Address: 2157 SE SPARROW ST, MILWAUKIE, OR 97222

Parcel Number: 11E35DD05301

Receipt Date: 8/10/17

Fee Items Paid

DESCRIPTION	ACCOUNT CODE	AMOUNT PAID
Type II Administrative Review	110-000-4480-0000	\$500.00
		\$500.00

Payment Summary

PAYMENT METHOD	PAYER	COMMENTS	AMOUNT PAID
Check Number - 1591	REBECCA RHOTEN BANYAS	PAYOR IS OWNER AND APPLICANT	\$500.00
			\$500.00



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For all Land Use Applications
(except Annexations and Development Review)

Submittal Requirements

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.
Applications without the required application forms and fees will not be accepted.
2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.
Where written authorization is required, applications without written authorization will not be accepted.
3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.
Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.
4. **Detailed statement** that demonstrates how the proposal meets the following:
 - A. All applicable development standards (listed below):
 1. **Base zone standards** in Chapter 19.300.
 2. **Overlay zone standards** in Chapter 19.400.
 3. **Supplementary development regulations** in Chapter 19.500.
 4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
 5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.
 - B. All applicable application-specific approval criteria (check with staff).
These standards can be found in the MMC, here: www.qcode.us/codes/milwaukie/
5. **Site plan(s), preliminary plat, or final plat** as appropriate.
See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.
6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

- Five hard copies of all application materials are required at the time of submittal (unless submitted electronically). Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Rebecca Banyas, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

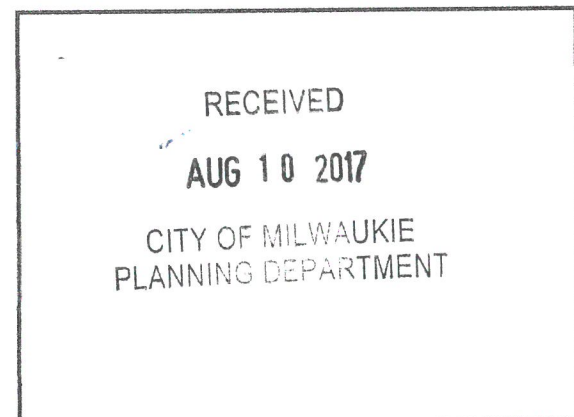
Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: Rebecca Banyas

Date: July 28, 2017

Official Use Only

Date Received (date stamp below):





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Preapplication Conference Waiver

I/We, Rebecca Banyas (print), as applicant(s)/property owner(s) of 2157 SE Sparrow Street, 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

I had previously met with Denny Egner, Planning Director, and discussed the variance request by phone and email with Vera Kolas and Denny.

Signed: Rebecca Banyas
Applicant/Property Owner

Approved: Denny Egner
Planning Director

**Rebecca Banyas
2157 SE Sparrow Street
Milwaukie, OR 97222
503-303-7337**

August 10, 2017

Request for Variance for Fence Height

I am requesting that the City of Milwaukie grant me a variance for the fence at my property at 2157 SE Sparrow Street, Milwaukie, OR 97222 (corner of Sparrow St. and 22nd Street), which was constructed in 2016 and built higher than Milwaukie code allows. I thank you in advance for your consideration. The entire fence is below street grade.

As background, my property is at the corner of 22nd Avenue and Sparrow Street, at the entrance to the Island Station neighborhood. I am directly across the street from the Amadeus Restaurant. The property sits well below street grade -- approximately 10' below grade along 22nd Avenue and about 6' below grade along Sparrow side.

The fence was the final step in a three-year work plan to improve the visual appearance and usability of the property. Prior to improvements, the site was covered in blackberries and wild cherry trees which had grown out of control. There was a nearly dead tree in one corner (on city property, for which I paid the City \$150 for permission to remove) which I believed was a hazard to both vehicular and pedestrian passersby and my house, and was also a terrible eyesore. The City Code Inspector told me he had cited this property many times for code violations because of the uncontrolled vegetation.

From early 2014 – 2016, I made extensive improvements to my exterior landscaping as well as the City right of way, removing trees, ivy, blackberries, and planting numerous trees, shrubs and perennials.

While planning for the fence construction in early summer 2016, my contractor and I consulted with an architect, who looked at Milwaukie's fence code and interpreted it the same as the Portland code – that fence height is measured from the road grade up. Since my home site sits well below road grade on both the 22nd avenue and Sparrow sides, we erroneously concluded that the height of the fence at 6' would still be well below the code for height, since the entirety of the fence would be below street grade.

However, when the fence was almost completed, we learned that this was not the correct interpretation of the fence code. I was served with a notice of code violation. Upon receipt, I was then provided guidelines for measuring fence height, which I did not see online when I researched the fence code. (Note: it would be helpful if the explanatory materials on fence height were cross referenced in the code).

The fence varies in height from 6' - 1" to 6' - 4" along both 22nd Avenue and Sparrow Street due to the sloping grade of the yard. Please refer to the attached photographs.

Per MMC 19.502.2.B.1, the maximum height of a fence in the front yard is 42 inches and in the street and side yards, it is 6 feet. I am requesting a variance to allow a 6'-1" to 6'-4" fence in the front and street side yards.

The fence has given me much needed visual privacy and division from a very busy street (22nd Avenue) and a commercial property (Amadeus Restaurant) with a large parking lot directly across the street on Sparrow. I have had numerous neighbors and visitors to the neighborhood comment on how beautiful the fence is, and what an asset it is to the area.

Per MMC 19.911.3.B.8, a Type II variance to fence height would allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences.

MMC 19.911.4.A Type II Variance Approval Criteria

- Does not impede any site lines and meets all clear vision standards;
- Does not restrict visual access to the property for law enforcement, as the fence slats are spaced about 1" apart with an easily accessible gate visible from the street;
- The fence is located below street level, so its appearance is less than the actual fence height. It is not a detriment to adjacent properties, natural resources, public health, safety or welfare; and
- Does not interfere with any planned future transportation improvements.

Given the added fact that I maintain the City ROW along both 22nd Avenue and Sparrow Streets at my own expense, and that I have greatly improved this property within the City of Milwaukie, I hope you will grant me this variance so that I may continue to enjoy my property with the added privacy the fence affords.



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12223

12212

2111

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2157

12222

12215

22ND

SPARROW

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2216

BANYAS
FENCE













