



231 NE Fifth Street • McMinnville, Oregon 97128 • www.mcminnvilleoregon.gov

August 20, 2019

Hans Van Dale
1032 NE Hembree Street
McMinnville, OR 97128

RE: Variance VR 1-19 Land Use Decision
1032 NE Hembree Street, Tax Lot 4-4-16-CD-12000

Dear Mr. Van Dale:

This is to advise you that, at a meeting of the McMinnville Planning Commission on Thursday, August 15, 2019, your application for a setback variance (VR 1-19) was presented and considered. The subject property is located at 1032 NE Hembree Street. The subject property is more specifically identified as Tax Lot 12000, Section 16CD, T. 4 S., R. 4 W., W.M.

Based on the material submitted and the review criteria, the City Council voted to **APPROVE** the application, **subject to the following conditions:**

1. This variance shall be for the specific development of the new front porch and stairs described in the application. The front yard setback on NE Hembree Street shall be reduced by 5 feet. This variance therefore authorizes the proposed covered porch to be 10 feet rather than 15 feet from the property line, and authorizes the eaves to encroach up to 30 inches within the reduced setback. This variance also authorizes the uncovered & unenclosed stairs to be 5 feet rather than 10 feet from the front property line.

The exterior side setback on NE 11th Street shall be reduced by 1-1/2 feet for the northerly portion of the front porch. This variance therefore authorizes the proposed covered porch to be 13-1/2 feet rather than 15 feet from the north property line, and authorizes the eaves and kneebrace/bracket to encroach up to 30 inches within the reduced setback.

This variance shall not authorize encroachment of other development not included in the proposal, and doesn't allow encroachment into the required front yard or exterior side yard to a greater depth or width than specified for the proposed front porch and stairs. This variance doesn't authorize the future enclosure of the porch to become additional interior living space. The variance doesn't authorize redesign of the porch and stairs without reapplication for a new variance to demonstrate such future design would meet the applicable criteria. The Planning Director may authorize minor "de minimus" changes to the design that don't materially affect the character of development or consistency with the applicable criteria.

2. As specified in Section 17.74.130(A) of the Zoning Ordinance, the variance “runs with the land.” The variance shall become an integral part of the property and shall be conveyed to the benefit of the owner or other person(s) entitled to possession regardless of transfer of title or interest unless otherwise specified herein.
3. The variance is subject to the following Termination Conditions and Procedures, specified in Sections 17.74.130 of the Zoning Ordinance.
 - A. The variance shall be terminated if:
 1. Any construction or remodeling relative to the variance as approved has not been started within one year of the date specified on a development schedule approved with the variance, or in case no such development schedule was approved, within one year of the effective date of approval;
 2. There is a failure to meet any condition as may be specifically required by the Planning Commission at the time of approval of the variance;
 - B. The Planning Director shall determine if a variance is in compliance with this section and any condition imposed by the Planning Commission. At such time as a variance becomes subject to termination as provided by this section, the Planning Director shall notify in writing the legal owner of record or the occupant the grounds on which the variance will be terminated. Notice of termination will be delivered by registered mail. A receipt of delivery will be returned to the Planning Director;
 - C. An action or ruling of the Planning Director pursuant to this section may be appealed to the Planning Commission within thirty days after the recorded date of delivery of the notice of termination. In the event the notice is not deliverable or acceptance is refused or unclaimed, the thirty days in which an appeal may be filed shall be computed from the date of mailing. Notice of appeal shall be in writing and filed with the Planning Department. The decision of the Planning Director is final if the appeal is not taken within the 30 (thirty) day period. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the Planning Director and shall hold a public hearing on the appeal pursuant to Section 17.72.130. The variance shall be invalid during the appeal process, and no work shall be undertaken during the appeal process;
 - D. Upon termination of a variance, the property shall thereafter be used in accordance with the zoning ordinance and other applicable plans, ordinances, resolutions, rules, and regulations unless a variance or other action is subsequently approved.

Enclosed for your records is a copy of the signed land use decision document with the Planning Commission’s findings and decision.

Pursuant to Section 17.72.180 of the McMinnville Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within 15 days of the date this written notice of the Planning Commission’s decision is mailed to parties who participated in the local proceedings and are entitled to notice. If no appeal is filed on or before September 4, 2019, the decision of the Planning Commission will be final.

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If you have any questions regarding this matter, please feel free to contact me at (503) 434-7311.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Schauer".

Tom Schauer, AICP
Senior Planner

TS:sjs

Enclosures:

VR 1-19 Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of a Variance to the Front and Exterior Side Yard Setback for Property at 1032 NE Hembree Street