



**CITY OF MCMINNVILLE  
PLANNING DEPARTMENT**  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128

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**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF AN ADMINISTRATIVE VARIANCE AT 335 NW 8<sup>TH</sup> STREET**

- DOCKET:** AV 3-20 (Administrative Variance)
- REQUEST:** Approval of an administrative variance to reduce the required rear yard setback on the subject property from 20 feet to 18 feet.
- LOCATION:** 335 NW 8<sup>th</sup> Street (Tax Lot 9501, Section 20AA, T. 4 S., R. 4 W., W.M.)
- ZONING:** R-2 (Single Family Residential)
- APPLICANT:** Howard Aster, property owner
- STAFF:** Chuck Darnell, Senior Planner
- DATE DEEMED COMPLETE:** October 21, 2020
- DECISION MAKING BODY & ACTION:** McMinnville Planning Director
- DECISION DATE & LOCATION:** November 17, 2020
- PROCEDURE:** An application for an Administrative Variance is processed in accordance with the procedures in Section 17.72.110 of the McMinnville Municipal Code for a Director's Review with Notification.
- CRITERIA:** The applicable criteria for an Administrative Variance are specified in Section 17.74.090 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. Proposals specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.
- APPEAL:** As specified in Section 17.72.170 of the McMinnville Municipal Code, the Planning Director's decision may be appealed to the Planning Commission within 15 (fifteen) calendar days of the date the written notice of the decision is mailed.
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology

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*Attachments:*

Attachment 1 – Application and Attachments



**I. APPLICATION SUMMARY:**

***Subject Property & Request***

The subject property is located at 335 NW 8<sup>th</sup> Street and is zoned R-2 (Single Family Residential). **See Figure 1: Vicinity Map and Figure 2: Zoning Map. Note – 335 NW 8<sup>th</sup> Street is the southern parcel identified in Figure 1, and the parcel is identified in Figure 1 and Figure 2 as it exists prior to a proposed property line adjustment submitted for concurrent review.**

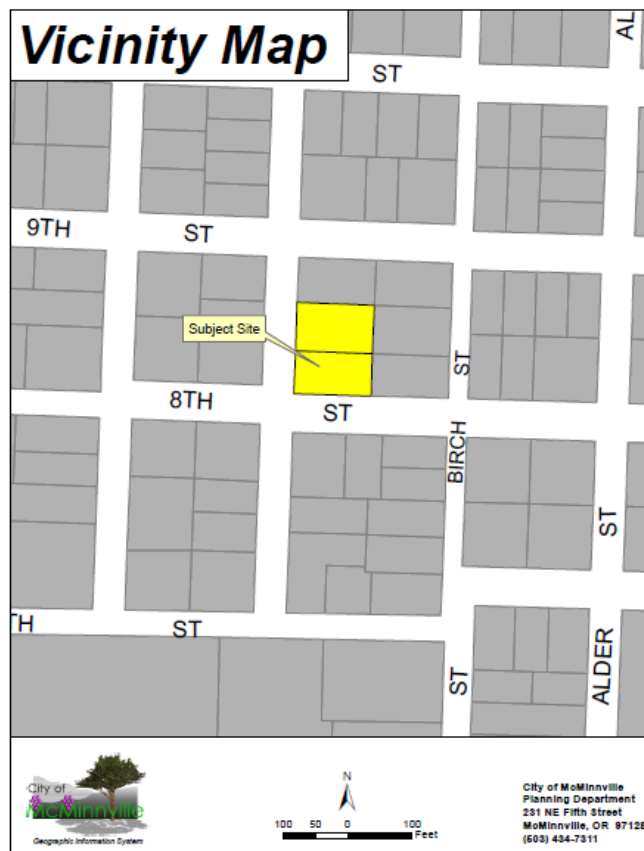
The applicant has requested an administrative variance to reduce the required rear yard setback of the subject property to allow for a property line adjustment that was submitted for concurrent review (application BLA 1-20) and also allow for a future addition to the existing house at 335 NW 8<sup>th</sup> Street. The request is to allow for the rear yard setback to be reduced from 20 feet to 18 feet, a reduction of 2 feet or 10 percent. **See Figure 3: Proposed Property Line Adjustment and Figure 4: Site Plan.**

***Summary of Criteria & Issues***

The requested reduction is within the ten (10) percent reduction that is allowable through the administrative variance process. The subject site is zoned R-2, and the proposed future development, an expansion of an existing single family dwelling, is a permitted use. The R-2 zone requires a 20 foot minimum rear yard. The application indicates that the proposed reduction of the rear yard setback would provide flexibility in the design and layout of a first floor addition that could allow for a main floor bedroom and also potentially allow for the first floor addition to be converted to an ADU in the future.

The properties surrounding the subject site are all also zoned R-2, and are primarily developed with single family dwellings.

**Figure 1 - Vicinity Map (Note – 335 NW 8<sup>th</sup> Street is the southern parcel identified below)**



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Figure 2 - Zoning Map

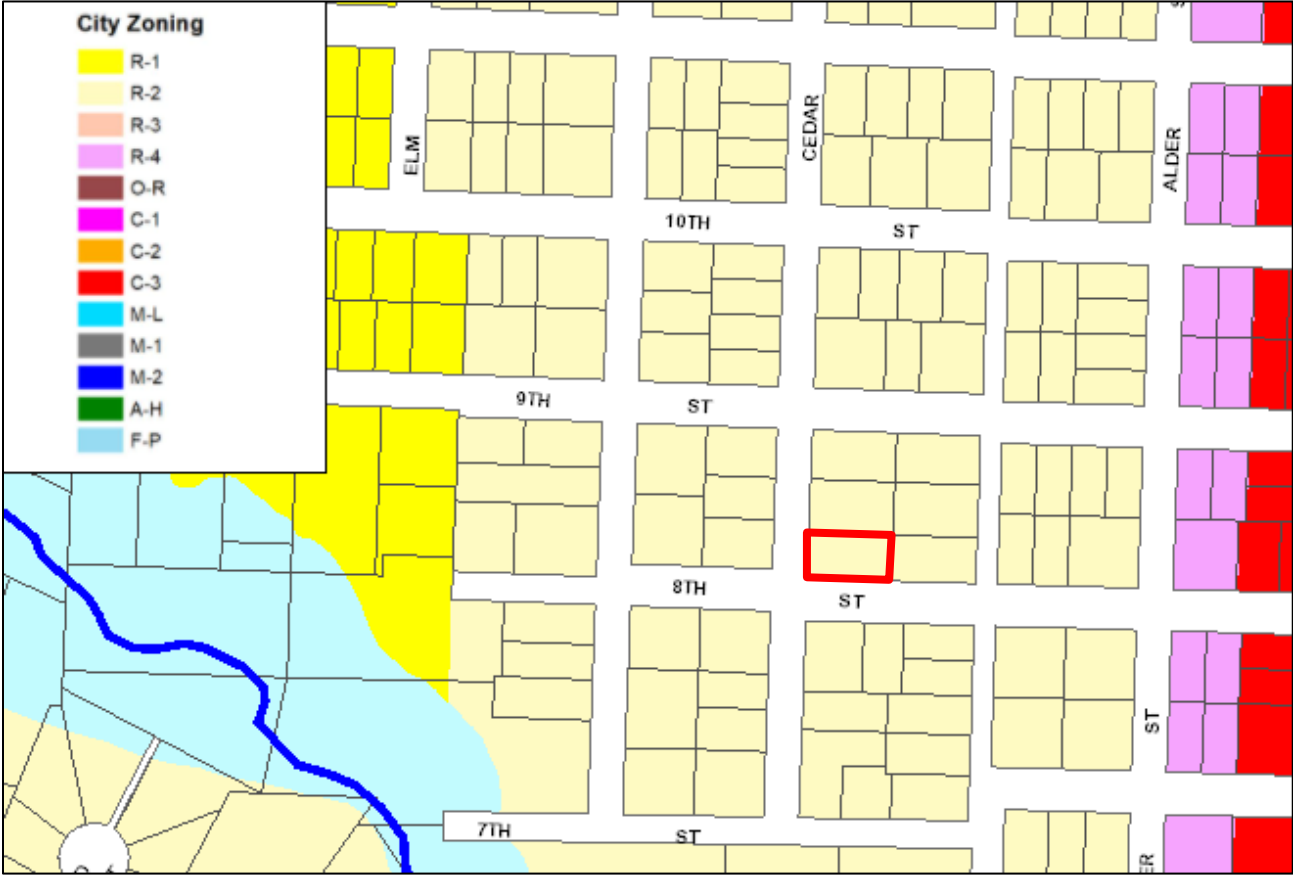
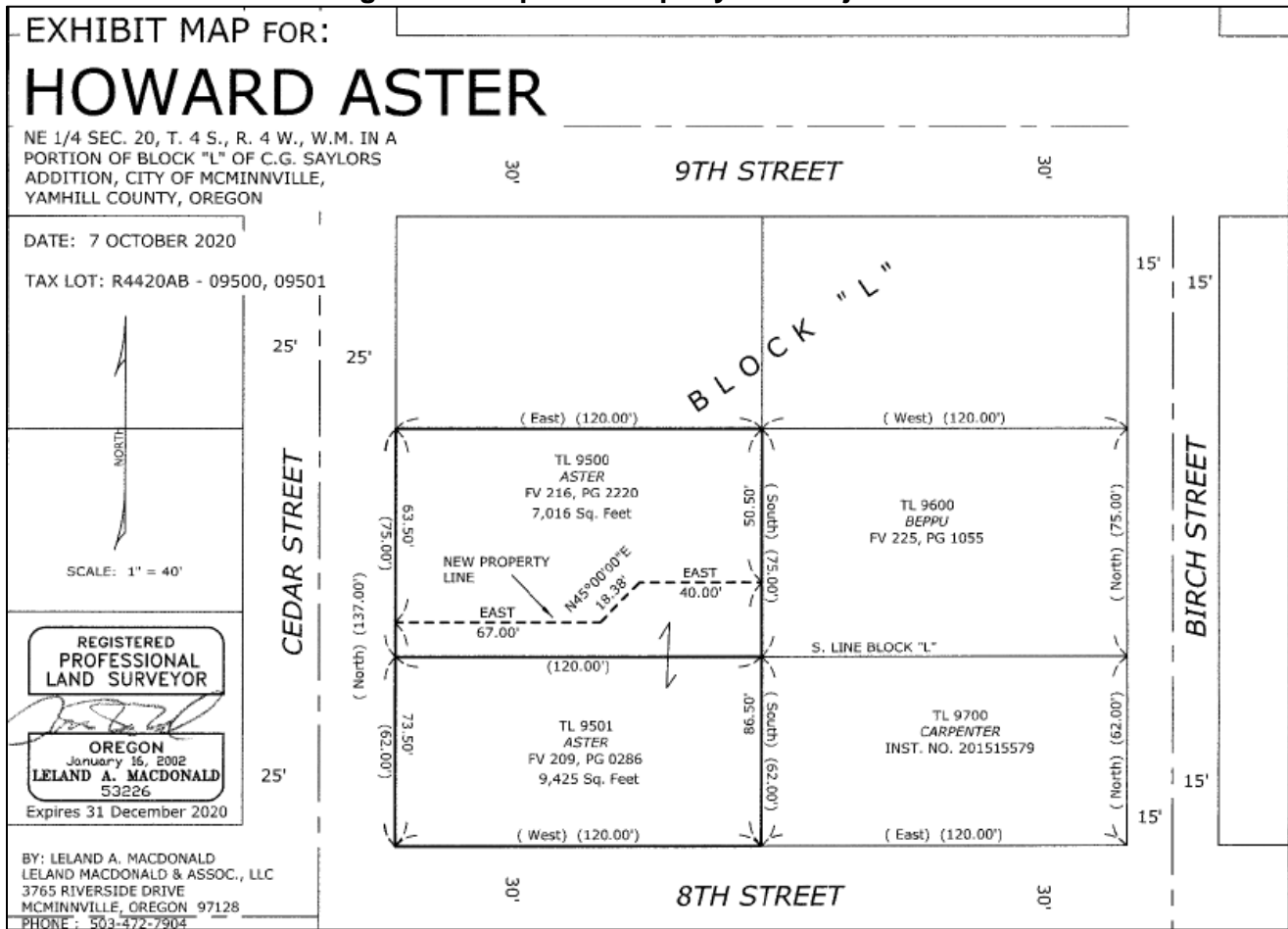


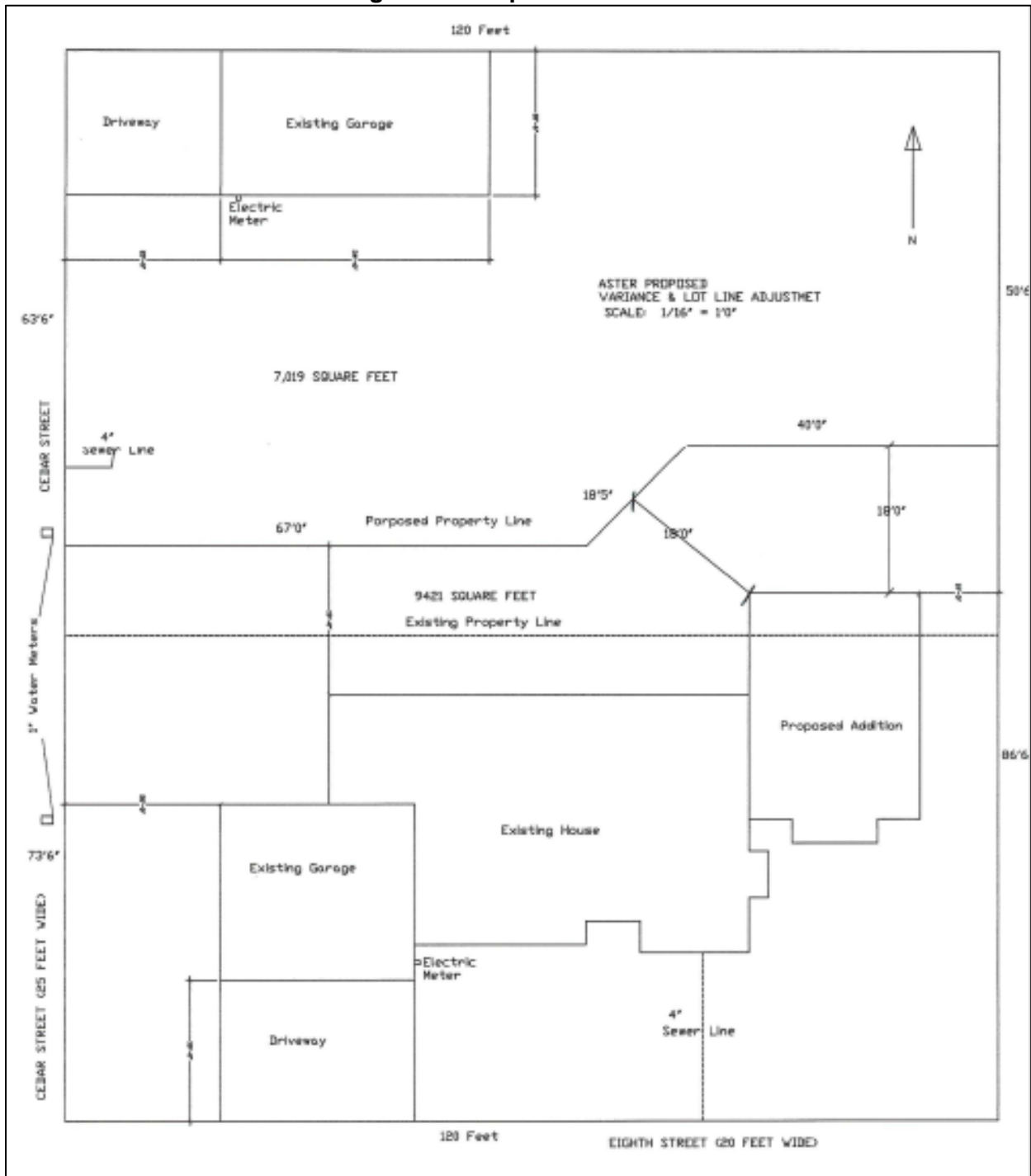
Figure 3 - Proposed Property Line Adjustment



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Figure 4 – Proposed Site Plan



**II. CONDITIONS OF APPROVAL:**

1. That the decision for approval of the Administrative Variance (AV 3-20) is not rendered, and does not take effect, until and unless the Property Line Adjustment application (BLA 1-20) submitted for concurrent review is approved and all appeal timeframes have passed. Prior to the decision of the Administrative Variance (AV 3-20) taking effect, the proposed property line adjustment must also be completed and recorded with the Yamhill County Clerk’s office, and copies of the amended deeds and surveys of the associated properties must be submitted to the McMinnville Planning Department.

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**III. ATTACHMENTS:**

1. AV 3-20 Application and Attachments (on file with the Planning Department)

**IV. COMMENTS:****Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments have been received.

- McMinnville Engineering Department:

No comments.

- McMinnville Building Department:

No building code concerns.

- McMinnville Fire Department:

We have no issues with this variance.

- McMinnville Water and Light:

McMinnville Water & Light has no comments on this administrative variance.

**Public Comments**

Notice of the application was provided by the McMinnville Planning Department to property owners within 100 feet of the subject site, consistent with Section 17.72.110 of the McMinnville Zoning Ordinance. No public comments were received by the Planning Department.

**V - FINDINGS OF FACT – PROCEDURAL FINDINGS**

1. The applicant submitted the Administrative Variance application (AV 3-20) on October 8, 2020.
2. The application was deemed complete on October 21, 2020. Based on that date, the 120 day land use decision time limit expires on February 18, 2021.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Comments received from agencies are addressed in the Decision Document.
4. Notice of the application was provided by the McMinnville Planning Department to property owners within 100 feet of the subject site, consistent with Section 17.72.110 of the McMinnville Zoning Ordinance. No public comments were received by the Planning Department.

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## **VI. FINDINGS OF FACT - GENERAL FINDINGS**

1. **Location:** 335 NW 8<sup>th</sup> Street (Tax Lot 9501, Section 20AA, T. 4 S., R. 4 W., W.M.)
2. **Size:** The existing parcel is 7,440 square feet. After the proposed property line adjustment that was submitted for concurrent review (application number BLA 1-20), the parcel would be 9,425 square feet.
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-2 (Single Family Residential)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single Family Dwelling
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** None Identified
8. **Other Features:** There are no significant or distinguishing natural features associated with this property.
9. **Utilities:**
  - a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
  - d. **Stormwater:** Storm sewer service is available to the subject site.
  - e. **Other Services:** Other utility services are available to the property. Northwest Natural Gas and Comcast are both available to serve the site.
10. **Transportation:** Birch Street is identified in the McMinnville Transportation System Plan as a Neighborhood Connector street. The McMinnville Transportation System Plan also identifies 8<sup>th</sup> Street as a Local Residential street. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for these classifications of streets, and both types of streets have a right-of-way width of 50 feet. The existing right-of-way width for Birch Street adjacent to the property frontage is 50 feet, and the existing right-of-way width of 8<sup>th</sup> Street adjacent to the property frontage is 60 feet. Therefore, no right-of-way dedication is required during the course of development of the property.

## **VII. CONCLUSIONARY FINDINGS**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for an Administrative Variance are specified in 17.74.090 of the Zoning Ordinance, which include consistency with the Comprehensive Plan.

### **Comprehensive Plan Volume II:**

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application.

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The following additional findings are made relating to specific Goals and Policies:

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.**

*Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Director’s review of the request. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

**McMinnville Municipal Code**

The following Sections of the McMinnville Municipal Code (MMC) provide criteria applicable to the request:

**Chapter 17.74. Review Criteria**

**17.74.080 Administrative Variance Limitations.** Limitations for an administrative variance are outlined in Section 17.74.090. A request for an administrative variance beyond these limitations shall be submitted and processed as a variance application.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The administrative variance requested is within the limitations outlined in Section 17.74.090, as described in more detail below.

**17.74.090 Administrative Variance-Review Criteria.** The Planning Director may grant limited adjustments to the terms of this title as follows:

- A. Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;
- B. Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.
- C. These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.
- D. Special conditions may be attached to adjustments if such conditions relate directly to the adjustments.

Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density or use of property.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITION #1.** The subject site is zoned R-2, and the proposed future development, an expansion of an existing single family dwelling, is a permitted use. The R-2 zone requires a 20 foot minimum rear yard. The applicant has requested an administrative variance to reduce the required rear yard setback to 18 feet for a proposed future addition onto an existing single family dwelling building on the subject property. During the review of the

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proposed property line adjustment application (BLA 1-20) that was submitted for concurrent review, it was determined that the administrative variance would also be required to allow for the property line adjustment to occur and still have both resulting parcels meet minimum lot size requirements of the R-2 zone. The rear yard setback of the existing house would be 19 feet after the proposed property line adjustment, which is within the requested 2 foot reduction of the rear yard setback.

The application indicates that the proposed reduction of the rear yard setback would provide flexibility in the design and layout of a first floor addition that could allow for a main floor bedroom and also potentially allow for the first floor addition to be converted to an ADU in the future. The request is to allow for the rear yard setback to be reduced from 20 feet to 18 feet, a reduction of 2 feet or 10 percent. The requested 10 (ten) percent adjustment is the maximum adjustment of 10 (ten) percent allowed by Administrative Variance procedure.

A condition of approval is included to require that the decision and application of the requested administrative variance does not take effect until and unless the Property Line Adjustment application (BLA 1-20) submitted for concurrent review is approved and not appealed. The condition also states that, prior to the decision of the Administrative Variance (AV 3-20) taking effect, the proposed property line adjustment must also be completed and recorded with the Yamhill County Clerk's office, and copies of the amended deeds and surveys of the associated properties must be submitted to the McMinnville Planning Department.

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