



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

503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

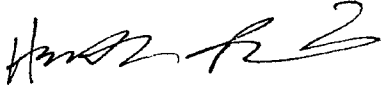
**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF AN ADMINISTRATIVE VARIANCE AT 2326 NE EVANS STREET**

- DOCKET:** AV 1-18 (Administrative Variance)
- REQUEST:** The applicant has requested a variance to reduce the required yard setback for the proposed construction of an addition to the existing garage on the property. The reduced setbacks would apply to the rear yard, and the requested reduction is within the ten (10) percent reduction that is allowable through the administrative variance process.
- LOCATION:** The property is located at 1205 NE Evans Street and is more specifically described as Tax Lot 6700, Section 16CC, T. 4 S., R. 4 W., W.M.
- ZONING:** R-4 (Multiple-Family Residential)
- APPLICANT:** John Newberg
- STAFF:** Chuck Darnell, Associate Planner
- DATE DEEMED COMPLETE:** January 11, 2018
- HEARINGS BODY:** McMinnville Planning Director
- DATE & TIME:** February 22, 2018
- 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. Their comments are provided in this exhibit.

**DECISION**

Based on the findings and conclusions, the Planning Director recommends **APPROVAL WITH CONDITIONS** of the administrative variance request (AV 1-18).

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**DECISION: APPROVAL WITH CONDITIONS**  
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Planning Department:  Date: 2-22-18  
Heather Richards, Planning Director

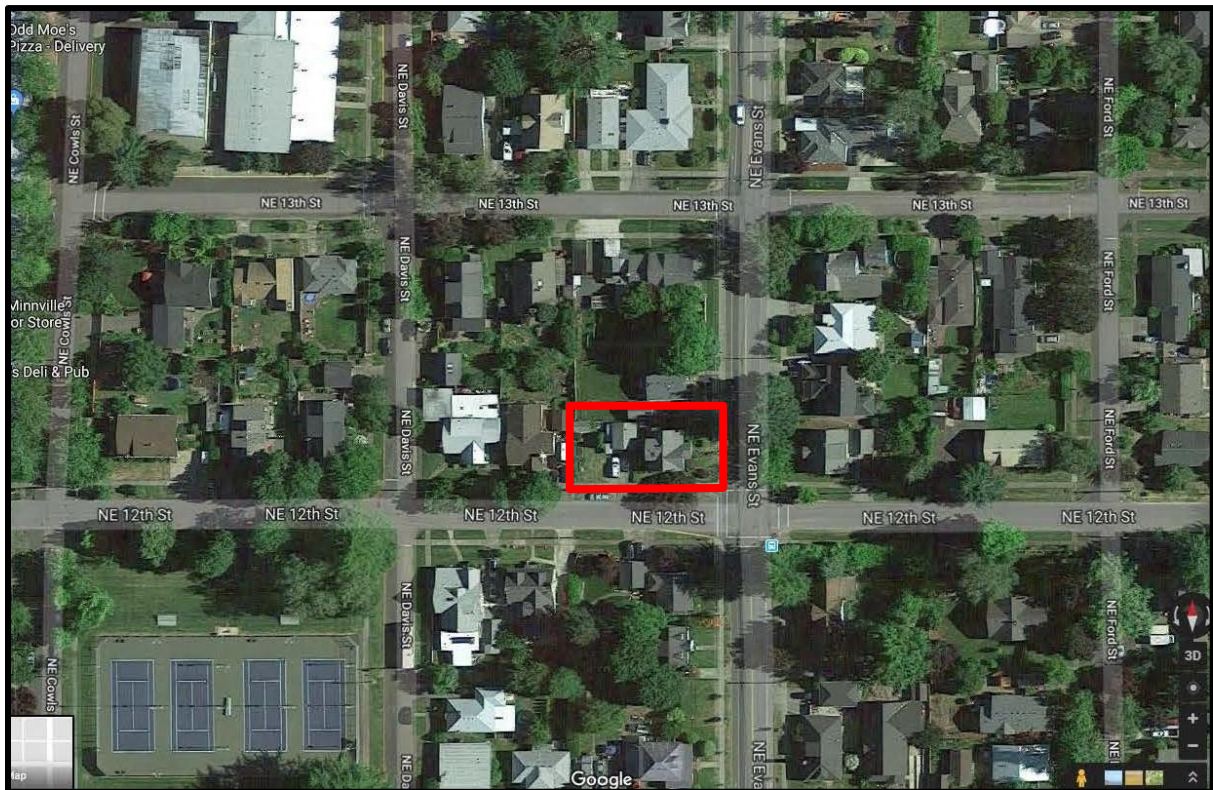
**APPLICATION SUMMARY:**

The applicant has requested an administrative variance to reduce the required setback for the proposed construction of a new garage on the subject property. The reduced setbacks would apply to the rear yard, and the requested reduction is within the ten (10) percent reduction that is allowable through the administrative variance process.

The applicant is proposing to construct a second garage on the property. In order to provide a functional site layout and due to some unique physical characteristics of the lot and surrounding development, the applicant is requesting to reduce the required rear yard setback requirement. Specifically, the applicant is requesting that the rear yard setback be reduced from 20 feet to 18.65 feet. This setback reduction would allow the applicant to construct an addition to the existing garage on the property.

A map of the subject site and the proposed site plan are provided below:

**Site Reference Map**

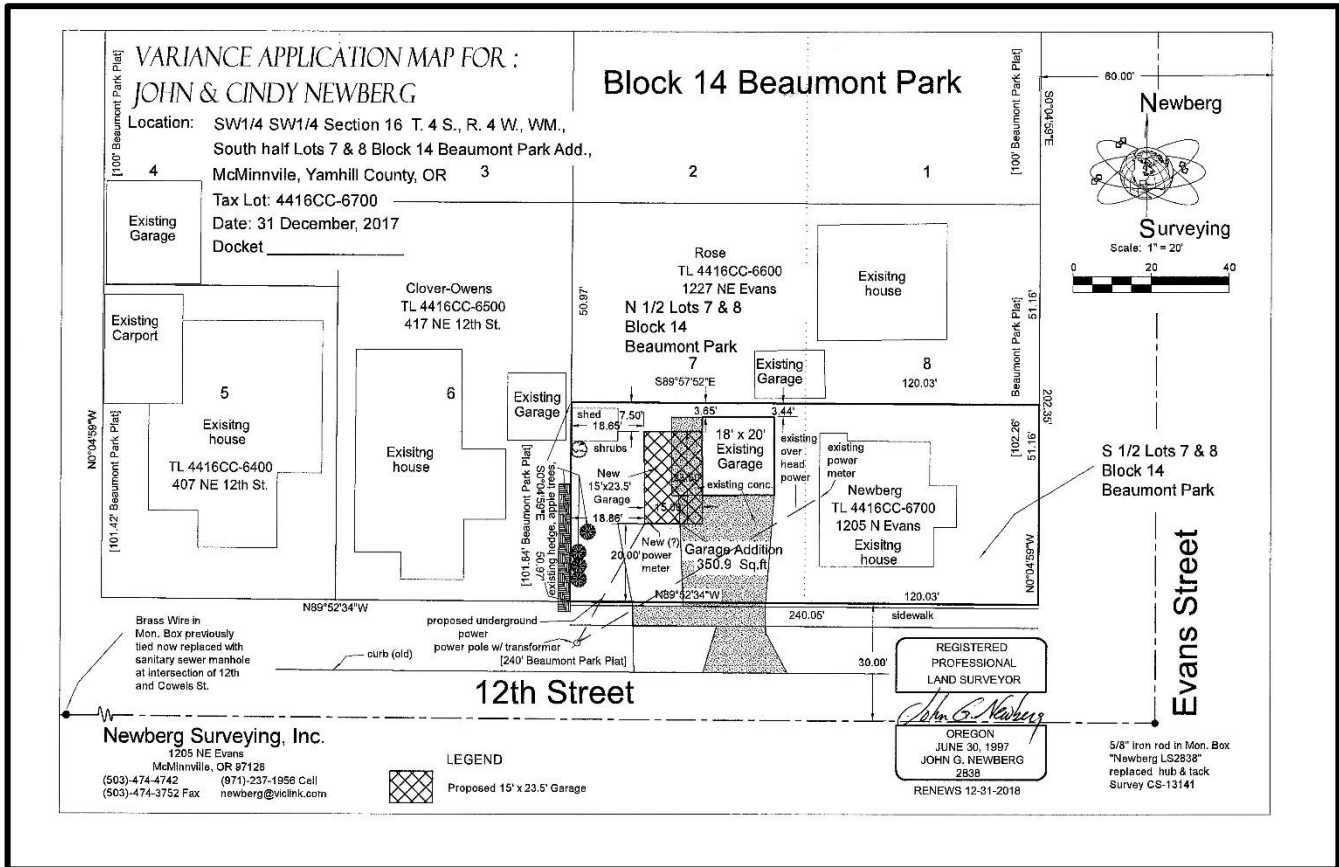


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**Attachments:**

Attachment 1 – Application and Attachments

**Proposed Site Plan**



**CONDITIONS OF APPROVAL:**

1. That the final design of the garage addition be of the same style, building materials, and color scheme as the exiting residence and detached garage.
2. That the existing fruit trees and shrubs along the westerly property line remain and be continuously maintained to act as a buffer between the subject site and the property to the west.

**ATTACHMENTS:**

1. Application and Attachments (on file with the Planning Department)

**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 had been received:

*Attachments:*

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**McMinnville Engineering Department:**

We have reviewed proposed AV 1-18, and do not have any comments or suggested conditions of approval.

**McMinnville Fire Department:**

We have no issues for this variance.

**McMinnville Water and Light:**

MW&L has no comments on this application.

**FINDINGS OF FACT**

1. The applicant, John Newberg, has requested a variance to reduce the required setback for the proposed construction of a new garage on the subject property. The reduced setback would apply rear yard, and the requested reduction is within the ten (10) percent reduction that is allowable through the administrative variance process.
2. The property is located at 1205 NE Evans Street and is more specifically described as Tax Lot 6700, Section 16CC, T. 4 S., R. 4 W., W.M.
3. The subject property is currently zoned R-4 (Multiple-Family Residential), and is designated as Residential on the McMinnville Comprehensive Plan Map, 1980.
4. 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. No comments in opposition were provided to the Planning Department.
5. 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.
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

**CONCLUSIONARY FINDINGS:****McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

**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*

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*planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

Finding: Goal X 1 and Policy 188.00 are satisfied in that 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's City Code:**

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

#### Chapter 17.21 – R-4 Multiple-Family Residential Zone

17.21.040 Yard Requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

A. [...]

C. A rear yard shall not be less than twenty feet;

Finding: The applicant has requested an administrative variance to reduce the rear yard setback from 20 feet to 18.65 feet. The administrative variance allows for a reduction in setback requirements by up to 10 percent of the standard required setback.

#### Chapter 17.72 – Applications and Review Process

17.72.110 Applications – Director's Review with Notification. The following applications shall be submitted as stated above in Section 17.72.020 and shall be reviewed by the Planning Director or designee.

Administrative Variance [...]

- A. Notice of the request shall be provided to owners of property within 100 feet of the site for which the application is made. For applications involving classification of an unlisted use, the only notification provided shall be that published in a newspaper of general circulation a minimum of 14 (fourteen) days prior to a decision being rendered. Notices for applications listed in Section 17.72.110 shall:
1. Provide a 14 (fourteen) day period for submission of written comments prior to the decision;
  2. State that issues which may provide the basis for an appeal to the Land Use Board of appeals (LUBA) shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
  3. List, by commonly used citation, the applicable criteria for the decision;
  4. Set forth the street address or other easily understood geographical reference to the subject property;
  5. State the place, date and time that comments are due;
  6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
  7. Include the name and phone number of a local government contact person;
  8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and
  9. Briefly summarize the local decision making process for the land use decision being made.

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- B. During the 14 (fourteen) day comment period, a person who has received notice may request a public hearing following the procedure as outlined in Section 17.72.120.
- C. The Director or designee shall make a decision for the above applications within 30 (thirty) days following the close of the 14 (fourteen) day comment period. The Director's decision may be appealed as outlined in Section 17.72.170.

Finding: The administrative variance application was reviewed and noticed as described in Section 17.72.110. No comments were received from the public or from surrounding property owners included on the property owner notification that was sent to owners within 100 feet of the subject site.

#### 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.

Finding: 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.

Finding: The applicant has requested a 6.75 percent reduction in the required rear yard setback for the proposed construction of an addition to the existing garage on the subject site. Specifically, the applicant is requesting that the rear yard setback be reduced from 20 feet to 18.65 feet. The applicant intends to use the reduced setback requirements to construct an addition to the existing garage on the property.

The applicant has argued that the site has some unique physical circumstances, noting the age of the subdivision and stating that most of the structures do not meet the current setback requirements. The applicant states that original residence and detached garage were built in the 1920's and that the existing garage does not meet the required 7 ½ foot side yard setback on the north side of the garage. He states the new garage will meet the required side-yard setback.

The applicant has also indicates that the reduced rear yard setback would not be detrimental to surrounding properties. The less than two (2) foot reduction of the rear yard setback would encroach only slightly on the adjacent property, but the existing hedge and fruit trees along the western property line would act as a screening buffer.

In order to mitigate for the reduced setback, a condition of approval has been included as allowed by Section 17.74.090(D). As the building will be closer to the rear property line and therefore closer to the adjacent property and uses, the condition of approval requires that the existing landscaping (shrubs and fruit trees) along the western property remain in place and are maintained to act as a screening buffer. Also, a condition of approval has been included to require that the garage addition be

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constructed with a design in the same style, building materials, and color scheme as the existing home and garage. This will ensure that the garage addition is compatible with and has minimal impact on the subject site and the surrounding area.

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