

NARRATIVE/ VARIANCE PROCEDURE

CITY OF SANDY BUILDING CODE

17.66

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Variances are a means of requesting a complete waiver or major adjustment to certain development standards. They may be requested for a specific lot or as part of a land division application. The Type II variance process is generally reserved for major adjustments on individual lots, while variances to development standards proposed as part of a land division are processed as a Type III application (requiring a public hearing).

Sec. 17.66.70. - Type II and type III variance criteria.

The authority to grant a variance does not include authority to approve a development that is designed, arranged or intended for a use not otherwise approvable in the location. The criteria are as follows:

A.The circumstances necessitating the variance are not of the applicant's making

Answer:

1. Location and site of proposal:

-The existing location of the detached garage on the property dates to approximately the time of construction of the home, 1967, well before the city code regulated both the orientation of the home, and the site of the detached structure.

-The applicants did not choose the orientation of the home or the site of the detached structure.

-The existing detached shop structure is positioned "in front of" the home, which also has an atypical orientation on the lot. (see site plan)

2. Square footage typical limitation:

-The existing square footage of the detached garage/shop structure is not suited to modern standards and use. The growth of hobby shops and of household vehicle ownership have both increased substantially since the home was built. (see attached chart from <https://transportgeography.org/>) (see attached article excerpt from Backyard Oasis) From Backyard Oasis: "The larger the detached garage, the more value it will add to the home. A two or 3 car garage building provides more usable space and storage capacity compared to a single-car garage. Homebuyers looking for extra space to park multiple vehicles, store tools, and equipment, or use as a personal workshop will pay a premium for a spacious detached garage."

-Additional garage/storage type square footage is also required due to the relative size of the property, and the maintenance requirements of the property.

.B.The hardship does not arise from a violation of this Code, and approval will not allow otherwise prohibited uses in the district in which the property is located.

Answer:

-Sec. 17.38.10. - Permitted uses.

Amended by Ordinance No. 2024-01

A.Primary Uses Permitted Outright:

1.Single detached dwelling (subject to design standards in Chapter 17.90)

B.Accessory Uses Permitted Outright:

2.Accessory structure, detached or attached subject to the provisions in Chapter 17.74;3.

7.Other development customarily incidental to the primary use.

-The proposed detached shop garage will be an accessory building to the home, providing for personal workshop, personal vehicle garage, and personal storage.

C.Granting of the variance will not adversely affect implementation of the Comprehensive Plan

Answer:

From the comprehensive plan:

"Land Use Regulations

"8. The City of Sandy encourages land developments which are designed to take advantage of innovative design and technology, energy conservation, and the protection and conservation of cultural and natural resources. Examples of

innovative residential developments include:" ... " planned developments which provide for variety in housing types and mixed uses."

9. Planned development methods are particularly encouraged for special lands

*which display the following characteristics: property of large sizes or those which are well situated in relation to the street and traffic circulation network; properties which have natural features which limit development potential; and properties which involve significant natural or cultural resources, particularly active or passive recreational opportunities.*"

-Due to the relative size of the property, the topography, and the relationship of the property with the FSH slope hazard overlay; and additionally, the lack of safe, easy access to a neighborhood collector street, the best possible economic development of the property as it exists today, will be to utilize and modernize the existing structure(s); a proposal which leaves a considerable portion of the property open for future creative development (see citing from comprehensive plan), while allowing the current owners the maximum in potential for use of the property.

-Proposal makes use of existing structure, with amendments that bring the use of the building into line with modern standards of personal enrichment, the potential for home based business or self employment, and the potential for future use in that same vein (relative to the position of the building adjacent to the arterial (HWY 26)); while preserving the the majority of the property.

-Rather than developing an additional area of the property, the current owners propose to add to the existing detached structure. This is the best use of the existing possibilities for the owners.

.D.The variance authorized will not be materially detrimental to the public welfare or materially injurious to other property in the vicinity.

Answer:

The proposed structure should have no material effect on public welfare, other than as an improvement.

E.The development will be the same as development permitted under this Code and City standards to the greatest extent that is reasonably possible while permitting some economic use of the land.

Answer:

-The scale of the proposed development should in no way negatively impact the intent of the code and city standards. The code seeks to preserve the integrity and beauty of the community by encouraging open space and landscape development.

-The current home and detached garage existing on the property represent a 2.4% density of impermeable structures on the property. The proposed addition to the detached shop building represents an increase of +/- .45%, with the total square footage of structures on the property still less than 3%.

-Adding to the existing detached structure provides the best possible current use of the property and is in the best economic interest of the current owner.

F.Special circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape (legally existing prior to the effective date of this Code), topography, or other circumstances over which the applicant has no control.

Answer:

-Both the size and topography of the property, in addition to the orientation of the legally preexisting home and shop, built in +/- 1967, represent special circumstances beyond the scope of a typical city lot. This proposal seeks to expand the current usage of the property in the most conservative manner possible.

Sec. 17.66.80. - Type III special variances.

Amended by Ordinance No. 2024-01

The Planning Commission may grant a special variance waiving a specified provision for under the Type III procedure if it finds that the provision is unreasonable and unwarranted due to the specific nature of the proposed development. In submitting an application for a Type III Special Variance, the proposed development explanation shall provide facts and evidence sufficient to enable the Planning Commission to make findings in compliance with the criteria set forth in this section while avoiding conflict with the Comprehensive Plan

One of the following sets of criteria shall be applied as appropriate.

A.The unique nature of the proposed development is such that:

- 1.The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
- 2.Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

Answer A:

-The proposed development constitutes an improvement to the general area. The legally preexisting structures are dated and run down. The value of the property, and

thereby of adjacent properties, should be increased, by the proposed addition and improvements.

-Utilizing the existing detached garage site represents the best current possible use of the property.

B.The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.

Answer: please see attached code excerpt 17.74

From the Director, and applicants pre-application conference:

Chapter 17.74 – Accessory Development

· Detached accessory structures are generally only allowed behind or beside the primary structure. A request to add on to the existing garage in front of the house would require a Type III Special Variance ....

· The total accumulative square footage of all accessory structures on an individual lot is generally not allowed to exceed 1,200 square feet. A request to exceed this maximum would require a Type III Special Variance....

Answer B:

-Applicants have exhausted all potential avenues of construction which would fall under a lesser variance in development of the property.

-Minimum variances observed in proposal (see site plan).

C.When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

N/A

Sec. 17.66.90. - Application.

Amended by Ordinance No. 2024-01

An application for an adjustment or variance shall be made on forms provided by the Director and include the following, where applicable:

A. Description of the land (address, lot, block, tract, or similar description) on which the proposed development is to take place.

Answer:

Legal Owner(s): Ricky Rayburn & Victoria Bishop Francis

Site Address: 40155 SE Highway 26 Sandy, OR 97055

Legal Description: SECTION 13 TOWNSHIP 2S RANGE 4E QUARTER

AD TAX LOT 01400

Parcel #: 24E13AD01400

APN: 00656944

County: Clackamas

Year Built: 1967

Lot SqFt: 156,816

Lot Acres: 3.60

-A through lot with frontage on HWY 26 arterial, backing up to Ten Eyk Road, with limited discernable access at that road.

-The FSH overlay applies to this property, with a drop of +/- 100 feet in elevation from property frontage to rear at Ten Eyk. (site maps and FSH slope hazard survey map reflect this facts).

**B. Narrative addressing how the application meets the specified review criteria.**

-Applicants have put forward all diligence in researching relevant code and intent, and every step in process has been met, providing to the planning board all required documentation necessary to make a decision.

-Applicants have demonstrated the unique nature of the site for the requested variances, and thoughtfully considered future development of the property in their planning and preparation.

-Applicants have satisfied every requirement set forth for procedure and process of application and paid to the city all applicable associated fees.

-Applicants have demonstrated the personal value of the proposal.

**C. Site plan no larger than 11 inches by 17 inches (include a reduced copy if drawn larger) suitable for photocopy reproduction. The site plan shall be drawn to scale and show:**

1. Relationship of the site to adjoining properties, streets, alleys, structures, public utilities, and drainageways;

2. Lot line dimensions;

3. Existing and proposed structures

;4. Structures on adjacent property(ies) affected by the request;

5. Vehicle and pedestrian access points and accessways;

6. Drainageways and any other prominent features;

7. Location of trees and shrubs over three feet in height;

8. Fences and walls;

9. Off-street parking facilities;

10. Any other information relevant to the proposal.

The Director may modify the submission requirements as necessary

#### 17.74

These provisions are intended to establish the relationship between principal and accessory development and specify criteria for regulating accessory developments.

In addition to uses expressly included in each zoning district as primary or conditional uses each district shall provide for accessory developments identified in this chapter. When a proposed accessory use is not specified, the Director shall determine the appropriateness of the use and whether it is customarily associated with, and subordinate to, the principal development. The Director shall base the decision on the similarity of the proposed accessory development to those developments specifically identified as accessory to the principal developments and the relationship between the proposed accessory development and principal development. The Director's determination shall be made in accordance with procedures set forth in Chapter 17.14—Request for Interpretation.