

BEFORE THE STAYTON PLANNING COMMISSION

In the matter of
The application of
Tim Zerkel

)
) Variance
) File # 1-01/26
)

ORDER OF APPROVAL

I. NATURE OF APPLICATION

The applicant is requesting a variance to the rear setback requirements of the Low Density (LD) Residential Zone.

II. PUBLIC HEARING

A public hearing was held on the application before the Stayton Planning Commission on March 30, 2026. At that hearing the Planning Commission reviewed Land Use File #1-01/26, application for variance, and it was made part of the record.

III. FINDINGS OF FACT

A. GENERAL FACTS

1. The owner of the property is Tara Manning.
2. The property can be described as tax lot 091W03DC07200.
3. The property is zoned Low Density Residential (LD).
4. The property is located at 2250 Springbreeze Ct.
5. The property to the southeast is zoned Low Density (LD) Residential, and the property to the north and west are zoned Public (P). The property to the southeast is a single-family dwelling and the property to the north and west is Santiam Park.

B. EXISTING CONDITIONS

1. The property is approximately 10,890 square feet in area with approximately 44.22 feet of frontage on Spring Breeze Court.
2. There is a 1.960 square foot single-family home located on the western side of the property.

C. PROPOSED DEVELOPMENT

The applicant proposes building a 300-square-foot addition to be used for a home office. The addition is proposed to have a 7-foot setback instead of the required 20 feet.

D. CODE REQUIREMENTS

The property is located in the Low Density (LD) Residential Zone. The minimum rear yard setback requirement is 20 feet.

E. AGENCY COMMENTS

The following agencies were notified of the proposal: City of Stayton Public Works, Santiam Water Control District, Wave Broadband, Stayton Cooperative Telephone Company (SCTC), Pacific Power, Northwest Natural Gas, Stayton Fire District, Stayton Police Department, North Santiam School District, Marion County Public Works, City of Salem, and Santiam Hospital.

No comments were received on this application.

F. PUBLIC COMMENTS

The surrounding property owners were notified of a pending variance. No written comments were received prior to the public hearing.

G. ANALYSIS

Variance applications are required to satisfy approval criteria contained within Stayton Municipal Code (SMC) Chapter 17, Section 17.12.200.6.

H. APPROVAL CRITERIA

Pursuant to SMC 17.12.200.6 the following criteria must be demonstrated as being satisfied by an application for a variance:

a. *General Criteria Applicable to All Requests.*

- 1) *The granting of the variance would not be materially detrimental to the public health, safety, or welfare or the overall public interest of the citizens of the City as expressed within this title and the adopted Comprehensive Plan.*

Finding: If the back yard setback to the addition was 7 feet from the property, it would not be detrimental to the public health, safety, or welfare or the overall public interest.

- 2) *The granting of the application complies with the applicable specific approval criteria as follows:*

b. *Specific Variance Criteria*

- 1) *Variance to Land Use Regulations*

- a. *The property is subject to exceptional or extraordinary circumstances such as lot size, shape, topography, or other similar circumstances over which the property owner has no control and which do not generally apply to other properties in the same zoning district and/or vicinity.*

Finding: The lot is unusual because of its shape, the angle of the northeast corner of the plot restricts the space available for this addition to be created within setback requirements. These exceptional circumstances were not created by the property owner.

- b. *The variance is necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district.*

Finding: The proposal for an office addition is allowed in the Low Density (LD) Residential zone. If the variance was not approved, then the owner would not be able to build the 300-square-foot home office space.

- c. The variance would conform to the purposes of the applicable zoning regulations and would not generate a significant adverse impact on the other property in the same zoning district or vicinity.*

Finding: The proposed use would conform to the purposes of the zoning regulations and not generate adverse impact. The property adjacent to the rear setback in question contains a walking trail, which would not be impacted by the addition.

- d. Approval of the variance would not create an identifiable conflict with the provisions of the Comprehensive Plan or achieve the same conditions and a comprehensive plan amendment or zone change for the property.*

Finding: There are no policies in the comprehensive plan that address setback requirements.

- e. The variance being requested is the minimum relief available to alleviate the difficulty giving rise to the application.*

Finding: There is no other location on the property where it would be feasible to build this addition without a variance in the setback requirement. Other orientations of this addition would also result in a need for a similar variance.

- f. The variance would not have the effect of granting a special privilege not generally shared by other property in the same zoning district.*

Finding: Many other properties of a similar size in the Sylan Springs Subdivision would not require a setback variance for a similar addition. This variance would not grant a special privilege to the property owner.

- g. The request for the variance is not the result of an action taken by the applicant or a prior owner.*

Finding: The request for the variance is due to the site's unusual proportions, which was not created by the owner.

IV. CONCLUSION

Based on the facts above, the Planning Commission concludes that the application meets the requirements established in SMC 17.12.200.6.

V. ORDER

Based on the conclusion above, the Planning Commission approves the application subject to the attached standard conditions of approval for land use applications.

VI. APPEAL DATES

The Planning Commission's action may be appealed to the Stayton City Council pursuant to Stayton Municipal Code Section 17.12.110 APPEALS.

Larry McKinley,
Planning Commission Chairperson

Date

Jennifer Siciliano,
Community and Economic Development Director

Date

Standard Conditions of Approval for Land Use Applications

1. Minor variations to the approved plan shall be permitted provided the development substantially conforms to the submitted plans, conditions of approval, and all applicable standards contained in the Stayton Land Use and Development Code.
2. **Agency Approval:** The applicant shall obtain all necessary permits and approvals from the City of Stayton prior to construction of the project.
3. **Change in Use** - Any change in the use of the premises from that identified in the application shall require the City Planner to determine that the proposed use is an allowed use and that adequate parking is provided on the parcel.
4. **Landscaping** - The applicant shall remain in substantial conformance to the approved landscaping plan and follow the criteria established in SMC 17.20.090 for maintenance and irrigation. Dead plants shall be replaced within six months with a specimen of the same species and similar size class.
5. **Utilities** - Utility companies shall be notified early in the design process and in advance of construction to coordinate all parties impacted by the construction.
6. **Agency Approval** - The Developer shall be responsible for all costs relating to the required public improvements identified in the approved plan and the specific conditions of approval and within the City Ordinances and Standard Specifications. The developer is also responsible for securing design approval from all City, State and Federal agencies having jurisdiction over the work proposed. This includes, but is not limited to, the City of Stayton, the Fire District, Marion County, DEQ, ODHS (water design), DSL, 1200C (state excavation permit), etc
7. **Construction Bonding** - Bonding shall be required if there are any public improvements. Prior to start of construction of any public improvement, the developer shall provide a construction bond in the amount of 100% of the total project costs, plus added City costs associated with public construction. The bond shall be in a form acceptable to the Director of Public Works.
8. **Inspection** - At least five days prior to commencing construction of any public improvements, the Developer shall notify the Director of Public Works in writing of the date when (s)he proposes to commence construction of the improvements, so that the City can arrange for inspection. The written notification shall include the name and phone number of the contracting company and the responsible contact person. City inspection will not relieve the developer or his engineer of providing sufficient inspection to enforce the approved plans and specifications.
9. **Public Works Standards** - Where public improvements are required, all public and private public works facilities within the development will be designed to the City of Stayton, Standard Specifications, Design Standards & Drawings (PW Standards) plus the requirements of the Stayton Municipal Code (SMC). (SMC 12.08.310.1)
10. **Engineered Plans** - Where public improvements are required, the applicant's engineer shall submit design plans for approval of all public improvements identified on the approved plan or as specified in conditions of approval. All design plans must meet the Stayton PW Standards. Engineered construction plans and specifications shall be reviewed by the City

Engineer and signed approved by the City Engineer, or Stayton Public Works Department, prior to construction.

11. **Street Acceptance** - Where public improvements are required, acceptance of completed public street improvements associated with the project shall be in accordance with SMC 12.04.210.
12. **Construction Approval** - All public improvements and public utilities shall be fully constructed and a letter of substantial completion provided by the City Engineer prior to any building permit applications being accepted or issued unless the required improvements are deferred under a non-remonstrance or other agreement approved and signed by the City. Construction items must be completed within a specified period of time provided in the approval letter or the approval of any additional building permits will be withdrawn by the City.
13. **Maintenance Bond** - After completion and acceptance of a public improvement by the City, the developer shall provide a 1-year maintenance bond in the amount of 30% of the construction bond amount. The bond shall be in a form acceptable to the Director of Public Works.
14. **As-Builts** - Where public improvements are required, the developer shall submit to the City, reproducible as-built drawings and an electronic file of all public improvements constructed during and in conjunction with this project. Field changes made during construction shall be drafted to the drawings in the same manner as the original plans with clear indication of all modifications (strike out old with new added beside). As-built drawings shall be submitted prior to final acceptance of the construction, initiating the one-year maintenance period.
15. **Drainage Permit** – A 1200C permit will be secured by the developer if required under the rules of the Oregon State DEQ.
16. **SDC** - Systems Development Charges are applied to the project at the time of issuance of a building permit.