

CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Variances V.1.25 – V.3.25

DATE: January 31, 2025
TO: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner

APPLICANT: Kevin & Katherine McCarter
OWNER: Same as applicant

ZONING: Moderate Residential, R7
LOCATION: 35732 Hankey Road; 4N1W-4AB-100
PROPOSAL: Variances (x3) for reduced side yard (setback), reduced lot size, and reduced lot width

SITE INFORMATION / BACKGROUND

The subject property is approximately 0.31 acres (13,504 sq. ft.) and developed with a detached-single-family dwelling and a 30'x 30' attached shop. The shop was an addition to the dwelling with Building Permit No. 13222 in 2015. It is built with a garage on the first floor and living space on the 2nd floor. As a condition of its approval, it was required to be attached to the dwelling with a breezeway and it was *not permitted as a legal dwelling* with permanent cooking facilities (e.g., a stove). This is because in 2015, additional permitting would have been required for an auxiliary dwelling unit (ADU).

NOTE: Upon inspection, it was discovered that the breezeway between the structures had been removed without proper permitting. Regardless of the outcome of these applications, proper permitting to reflect the on-site conditions will be required. Current land use regulations allow two detached single-family dwellings on a property, but they do not allow accessory structures greater than 600 sq. ft. of gross floor area for the subject property.

In 2015, an Access Variance (V.4.15) was approved for a new access which did not meet the drive-to-drive spacing standards for Hankey Road, which is a collector classified street. V.4.15 approved the location of the approach which currently serves the single-family dwelling and attached shop. In 2016, a Lot Line Adjustment (LLA.1.16) was approved which moved the location of the shared property line between the subject property and the property just to the north of the subject property. The property to the north is owned by the applicant as well.

The applicant would like to create a new lot line (partition) between the shop and the existing dwelling.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: February 11, 2025

Notice of this proposal was sent to surrounding property owners within 100 feet of the subject property on January 16, 2025, via first class mail. Notice was sent to agencies by mail or e-mail on January 15, 2025.

Notice was published on January 31, 2025, in Columbia County Spotlight newspaper.

AGENCY REFERRALS & COMMENTS

As of the date of this staff report, there are no referrals from relevant agencies.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

VARIANCE—V.1.25 REDUCED YARD (SETBACK)

DISCUSSION:

In the R7 zone, the minimum side yard (setback) is 7'. The applicant is proposing a property line which would create an approximate 4.1' side yard from the dwelling and an approximate 3.8' side setback from the shop.

SHMC 17.64.050 allows eave projections into side yards provided that the width is not reduced to less than 3'. For the dwelling, the eave projects an additional 10" which leaves approximately 3.3' from the eave to the property line. However, for the shop, the eave projects approximately 13.75" which leaves only 2.7' from the eave to the property line.

VARIANCE—V.2.25 REDUCED LOT SIZE

DISCUSSION:

In the R7 zone, the minimum lot size is 7,000 sq. ft. for detached single-family dwellings. With the proposed property line, the lot with the shop would be approximately 5,100 sq. ft., while the lot with the dwelling would be approximately 8,400 sq. ft. This is a request for a lot which is approximately 1,900 sq. ft. too small for a detached single-family dwelling in the R7 zone.

VARIANCE—V.3.25 REDUCED LOT WIDTH

DISCUSSION:

In the R7 zone, the minimum lot width at the building line shall be 60'. On the lot with the shop, the proposed lot width at the building line is approximately 47.8', which is approximately 12.2' too narrow for the R7 zone.

CRITERIA:

SHMC 17.108.050 (1) – Criteria for granting a Variance

- (a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;
- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The Commission needs to find all these criteria **(a)** – **(e)** are met in order to approve the three (3) variances.

FINDINGS:

(a) This criterion requires a finding that the variance will not be detrimental.

- See applicant’s narrative.
- Staff’s comments: The surrounding properties are mostly zoned R7, except for a larger County property across Hankey Road. Generally, the lots surrounding the subject property are much larger than 7,000 square feet.
- Generally, the lots surrounding the subject property have side setbacks which meet the minimum 7’ for R7. For comparison, even the City’s highest density zoning district, Apartment Residential, requires 5’ side setbacks.
- Hankey Road is a very steep road with a curve that creates site distance challenges when viewing oncoming traffic. The applicant proposes shared access from the property to the north from an existing concrete driveway approach. This existing gravel driveway serves an undeveloped 1.37-acre (59,677 sq. ft.) lot. This undeveloped lot has potential (based on 7,000 sq. ft. minimum lots only) for 8 lots. This existing approach is in the location with the most visibility in relation to the blind steep curve of Hankey Road. Utilizing this driveway approach for access to the lot with the dwelling seems to be the least detrimental to the surrounding properties. However, it would require a legal access agreement being a separate property.
- Both the proposed access (currently gravel) and parking area (currently gravel) would have to be paved as part of the future partition permitting process.

(b) The criterion requires a finding that there are special and unique circumstances.

- See applicant’s narrative.

(c) This criterion prohibits a use variance and requires a finding that the applicable standards are maintained to the greatest extent that is reasonably possible.

- See applicant's narrative.
- Staff's comments: The Commission can find this is not a use variance.
- There a number of issues with existing structures encroaching over the proposed property lines or into required fire separation requirements.
- If these variances are granted, any requirements of the Building Official would have to be met, including but not limited to, fire-resistant construction for structures (including eaves) within 3' of any proposed property line. The eaves could also be altered such that no portion encroached within 3' of the property line.
- There is an existing retaining wall and porch stairs/landing which appear to cross onto the proposed property line. Both structures would have to altered/removed or shared agreements recorded as part of the partition application if these Variances are granted.

(d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.

- See applicant's narrative.
- Staff's comments: There are existing frontage improvements (curb and sidewalk) fronting the subject property. The proposal would not change this.
- The request creates a very narrow setback between the structures which creates less area to be able to effectively manage stormwater runoff. For example, there are currently rain drains from the existing dwelling that are directed towards the proposed property line and the natural slope of the property would create nuisance stormwater runoff between the properties. If the Commission grants these variances, this will have to be addressed with stormwater improvements as part of a partition application.
- It appears there are a number of shared utilities (power, sewer, water) between the two structures which would have to be re-configured, or easements recorded prior to any partition which would create disparate ownership.
- If these variances are approved, and a land partition is pursued using them, the air, light, and space between the properties will not be what the R7 zone intends. The Commission needs to find this acceptable.

(e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.

- See applicant's narrative.
- Staff comments: The code permits two dwellings as configured on the subject property outright without any needed variances, easements, access agreements, or modifications to utilities or structures. If these variances are granted, it will create a highly complicated subsequent partition for the purpose of creating two developed lots which the code already outright without any exceptions to the code.

The Commission needs to find all these criteria **(a)** – **(e)** are met in order to approve the variances. If you think one of these is not met, we will need to address why.

CONCLUSION & RECOMMENDATION

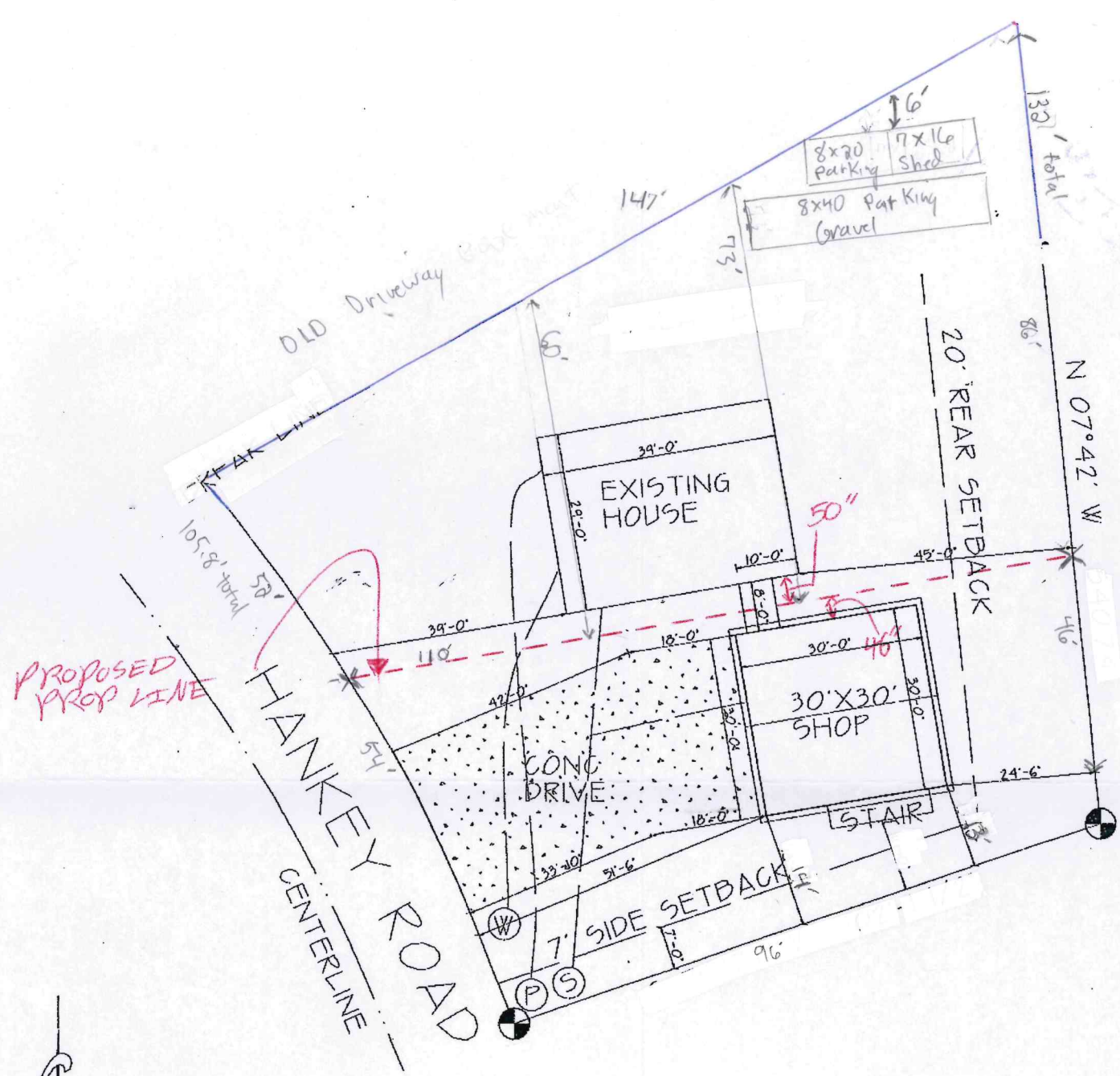
Based upon the facts and findings herein, if the Commission wants to approve the Variances, staff recommends the following conditions:

1. These Variance approvals are valid for a limited time pursuant to SHMC 17.108.040.
2. These Variance approvals do not constitute a land partition. Subsequent preliminary plat and final plat partition applications are required. **As part of the partition permitting process,** the following issues will need to be addressed:
 - a. 30' x 30' shop shall be properly permitted as a detached single-family dwelling prior to any subsequent application.
 - b. Actual lot dimensions, lot sizes, and setbacks are to be verified by a surveyor licensed in the state of Oregon prior to preliminary plat application. If any estimated dimensions substantially differ than those approved by these Variances, re-permitting may be required. Utilities shall be verified by survey as well (see condition 2d).
 - c. A detailed shared access proposal which meets the requirements of SHMC Chapter 17.84 to serve the existing dwelling is required with the preliminary plat. Prior to final plat, access will be required to be paved along with two non-tandem parking spaces.
 - d. The dwelling and the shop appear to share utilities (power, sewer, water, storm) which cross the proposed property line. Utility easements and/or reconfiguration of utilities will be required as part of the preliminary plat application. This includes any stormwater improvements and/or modifications as required by City Engineering and/or the Building Official to ensure there is no nuisance stormwater runoff between the properties.
 - e. Any requirements of the Building Official would have to be met prior to final plat, including but not limited to, fire-resistant construction for residential structures (including eaves) within 3' of any proposed property line, or a reduction of the eave width to ensure no encroachment within 3' of the property line.
 - f. Any structures, including but not limited to, the retaining wall and dwelling porch stairs/landing, shall not be located on or over a property line without respective shared agreements or they shall be removed.
3. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.

Attachments: *Photos Attachment, Site Plan, Applicant's Narrative, General Aerial*



TOP LEFT
View from Hankey Road looking north with dwelling pictured
TOP RIGHT
View of dwelling from Hankey Road.
BOTTOM LEFT
Location of proposed lot line showing distance between dwelling and shop.
BOTTOM RIGHT
Front of shop and paved parking



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SCALE:

1" = 30'

MCGARTER GARAGE
 35732 HANKEY RD
 ST. HELENS, OR 97051



McCarter Proposed Lot Splitting: 35732 Hankey Road

17.108.050 Criteria

- A) If approved, this variance will not be detrimental to this code, in conflict with any policies or standards, or other properties. This will actually help alleviate the current Home Shortage by allowing 2 affordable homes to be available, instead of the current 1 home with 6 bedroom configuration.
- B) The new home was built on the only relatively flat and tree free area we had, which was rocky and overgrown with Blackberries. It is next to our neighbors garage, and set back approximately as much as our neighbors garage. The old house had no garage, and it appeared this would solve many problems.
- C) The proposed use is the same as permitted, all standards will be maintained to the minimum standards. Previously required Breezeway between new home and old home to be removed.
- D) Structure and Driveway are already built. Permission is being sought to make this an individual Home, instead of being part of the old home. From my understanding another Driveway will never be allowed, as Hankey is a Feeder street. Utility easement required on new lot, Parking access easement required from unimproved lot.
- E) If allowed, this would be the best use for both homes by allowing full ownership of each. Someday in the future when my wife and I are no longer around, this could end up as a bed and breakfast/ short term rental, which is contradictory to helping solve real problems.

Additional Info: Current lot size is .31 Acre, measuring 14,300 sq. ft. The proposed split would make the new lot Aprox. 5,150 sq. ft., and old lot aprox. 9,150 sq. ft.

Buildings are 8 feet apart. Roof eaves of new building are 13.75", old building 10". Proposed property line to be offset for 3' fire safety, resulting in 46" from old house, and 50" from new house.

VARIANCES V.1.25-V.3.25 GENERAL AERIAL

