

NOTICE OF DECISION


Case File: T2-2019-11761
Permit: Adjustment
Applicant(s): John Carson **Owner(s):** Steven & Marta Cooper
Location: 6670 SE Clare Rd. Gresham
Tax Lot 600, Section 20AA, Township 1 South, Range 4 East, W.M.
Tax Account #R677804900 Property ID #R250472
Zoning: Multiple Use Agriculture – 20 (MUA-20)
Overlays: None
Proposal Summary: The applicant requests an adjustment to the minimum required north side yard for a proposed 20 ft. x 24 ft. garage. The adjustment will reduce the 10 ft. require side yard to 6 ft.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, June 3, 2019 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-9882964 or at chris.liu@multco.us.

Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued By: 
Chris Liu, Assistant Planner

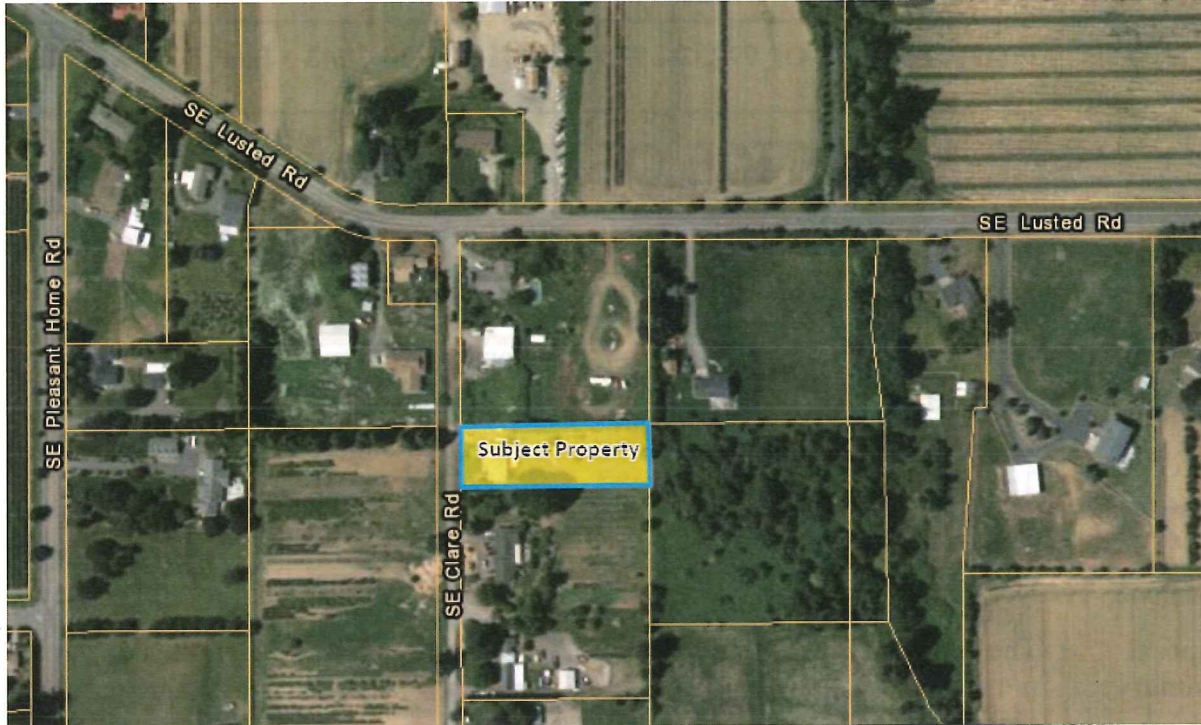
For: Adam Barber
Interim Planning Director

Date: Monday, May 20, 2019

Instrument Number for Recording
Purposes: #2018-124553

Vicinity Map

N↑



Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 39 Zoning Code including: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record (MUA-20), MCC 39.4310 Allowed Uses(F) Accessory Structures, MCC 39.4325(C), (D), (G), (J) Dimensional Requirements and Development Standards, MCC 39.8205 -39.8210 Adjustments, and MCC 39.6850 Dark Sky Lighting Standards.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-304 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link *Chapter 39: Multnomah Zoning Code*.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. This land use permit shall **expire**, pursuant to MCC 39.1185(B), as follows:
 - a) When construction has not commenced within two (2) years of the date the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a

frame or foundation, commencement of construction shall mean actual development or actual excavation of trenches for an approved underground utility or development, or

- b) When the structure has not been completed within four (4) years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 39.1185(B)(2)]

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

- 3. Prior to Land Use Planning review and sign-off for a building permit, the property owners or their representative shall:
 - a) Record pages 1 through 4 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]
- 4. Prior to issuance of the Certification of Occupancy, the property owners or their representative shall:
 - a) Remove the non-permitted physical improvements; specifically, the two accessory structures noted in the Voluntary Compliance Agreement (VCA) associated with case #UR-2019-11882
 - b) Obtain a building permit for the deck addition as noted in the VCA associated with case #UR-2019-11882.
- 5. All proposed and existing exterior lighting shall comply with the dark sky lighting standards in MCC 39.6850. This includes ensuring that all exterior lighting is fully shielded / hooded and directed downward.

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

- 1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
- 2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
- 3. Contact Chris Liu, Staff Planner, at 503-988-2964 or chris.liu@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

1	SITE PLAN
SP	1" = 20'-0"

Taxlot: 6670 SE CLARE RD

Propid: R250472

Maptaxlot: 154E20AA -00600

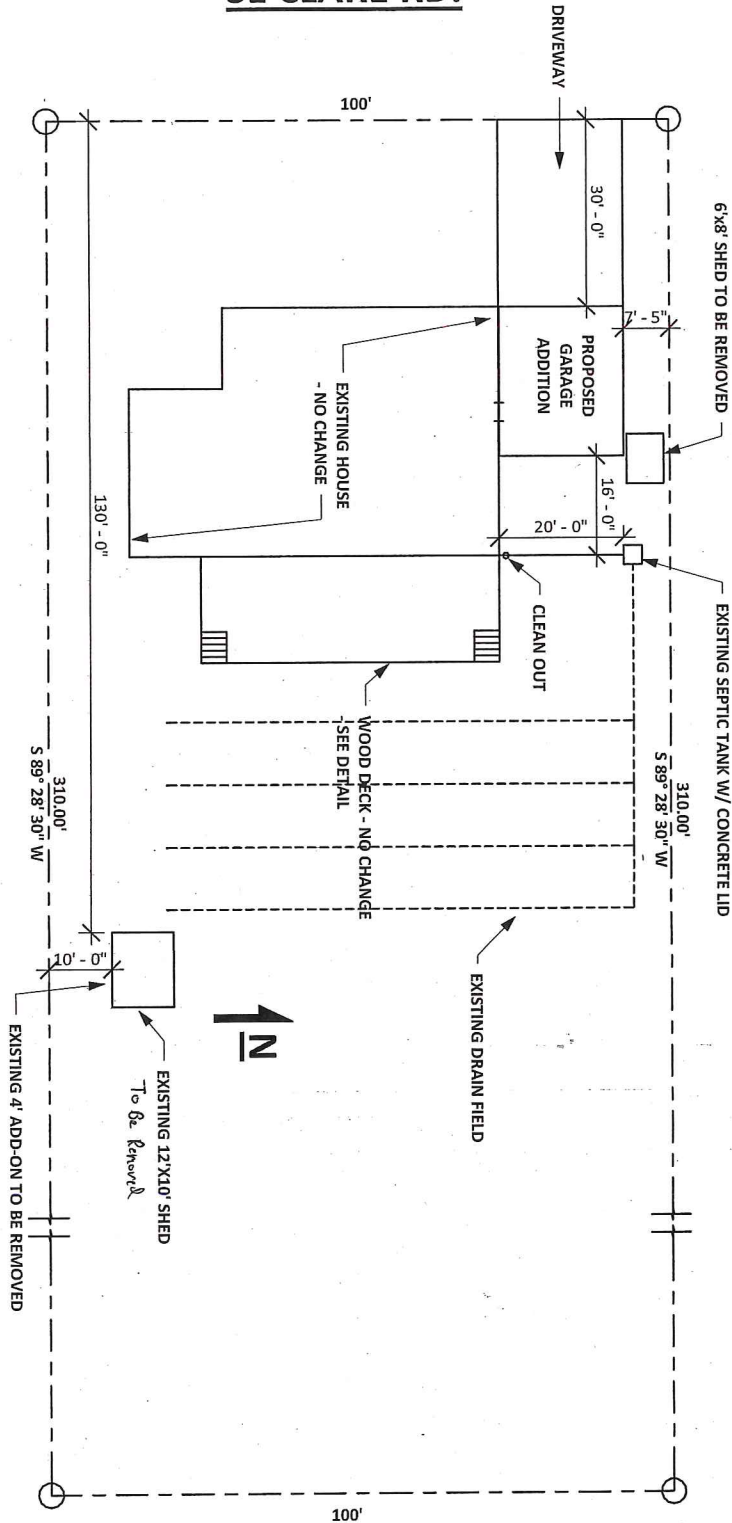
AltAcctNum: R677804900

Assessor Legal: PROCTOR, BLOCK 8, N 100' OF W 310' OF LOT 3

Owner: COOPER, STEVEN D & COOPER, MARTA A 6670 SE CLARE RD

RECEIVED
2019 APR 23 AM 8:51
MULTNOMAH COUNTY
PLANNING SECTION

SE CLARE RD.



Note: This copy Reduced
-Not To Scale-

JOHN CARSON		BUILDERS DESIGN INC
SITE PLAN		
Project number:	11591	COMMERCIAL · RESIDENTIAL · REMODELING
Date:	3/1/2019	11125 NE WEIDLER ST. · PORTLAND, OR 97220
Drawn by:	KG	PHONE: (503) 252-3453 · FAX: (503) 252-3454
Checked by:		EMAIL: BUILDERSDESIGN@GMAIL.COM
Area:		
Scale:	1" = 20'-0"	
SP		

Exhibit
A.8

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 PROJECT DESCRIPTION:

Staff: The applicant requests an Adjustment to the 10 ft. minimum required north side yard for a proposed garage addition to the existing single-family dwelling. Granting the adjustment would allow the applicant to construct the garage addition with a reduced minimum required north side yard of 6 ft. from the northern property line.

2.0 PROPERTY DESCRIPTION & HISTORY:

Staff: The subject property is located in East Multnomah County in the West of Sandy River Rural area. Adjacent properties are primarily zoned Multiple Use Agriculture, with a section of Exclusive Farm Use zoned properties north of SE Lusted Rd. Tributaries of Beaver Creek run to the east and west of the subject property; however, the subject property is not located within the 200 ft. buffer area of those tributaries.

County permit records show the issuance of a building permit for the placement of the current manufactured home in 1998. In 1999, the County issued a building permit for a 12 ft. x 14 ft. deck adjacent to an above ground pool. There are other buildings/structures that exist on the site but are not in the permit record.

3.0 ADMINISTRATION & PROCEDURES CRITERIA:

3.1 MCC 39.1515 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace

faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: The subject property contains two non-permitted accessory structures as well as a non-permitted deck addition to the existing single-family dwelling. A Voluntary Compliance Agreement executed by the property owners and the Code Compliance office through case #UR-2019-11882, allows the sequencing of permits.

The non-permitted improvements will be removed prior to the certificate of final occupancy for the addition. The deck will be permitted as part of the plan review and building permit for the garage addition. No other discretionary actions will be necessary separate from this decision. Therefore, staff may issue this decision.

4.0 LOT OF RECORD CRITERIA:

4.1 MCC 39.3005 Lot of Record – Generally:

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
- 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)**

Staff: An Exempt Minor Partition / Lot Line Adjustment and subsequent recording of a new warranty deed, created the current configuration of the subject property (Exhibit B.2). The County Land Development Section stamped the proposed legal descriptions and indicated the proposed adjustment satisfied all applicable zoning and land division requirements in effect at the time. Subsequently, the new deed for the subject property was recorded on September 16, 1986 in Book 1937, Page 86 (Exhibit B.2).

The current legal description, describes the subject property as "THE NORTH 100 FEET OF THE WEST 310 FEET OF LOT 3, BLOCK 8, PROCTOR, IN THE CITY OF GRESHAM, COUNTY OF MULTNOMAH AND STATE OF OREGON" (Exhibit B.3). This description matches the description from the 1986 deed that completed the Exempt Minor Partition / Lot Line Adjustment. *Criteria met.*

4.2 MCC 39.3080 Lot of Record – (MUA-20):

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The subject property does not meet the MUA-20 zone current minimum lot size of twenty-acres; however, as noted in section 4.1 above, an exempt minor partition / lot line adjustment in 1986 adjusted the configuration of the subject property into its current configuration. The subject property contains an access point onto the public street known as SE Clare Rd. (Exhibit A.8). *This criterion is met.*

4.3 (C) Except as otherwise provided by MCC 39.4330, 39.4335, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

Staff: The applicant is not proposing a land division or property line adjustment at this time (Exhibit A.1). This criterion does not affect the outcome of this decision.

- 4.4 (D) The following shall not be deemed to be a Lot of Record:
- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
 - (2) An area of land created by the foreclosure of a security interest.
 - (3) An area of land created by court decree.

Staff: The subject property was created through an exempt minor partition in 1986 (Exhibit B.2). The subject property was not created by the foreclosure of a security interest or a court decree. The subject property is not an area of land described solely for assessment and taxation purposes.

Based upon the findings in 4.1 through 4.4, the subject parcel is a Lot of Record.

5.0 **MULTIPLE USE AGRICULTURE -20 ZONE CRITERIA:**

5.1 **MCC 39.4310 Allowed Uses**

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(A) Residential use consisting of a single family dwelling on a Lot of Record

Staff: The applicant proposes to construct a garage addition to the single family dwelling on the subject property, which is a Lot of Record as noted in section 4.1 – 4.4 above.

5.2 **MCC 39.4325 Dimensional Requirements and Development Standards**

(C): Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

Staff: This application is for an adjustment to the minimum required north side yard for a garage addition to the existing single-family dwelling, which would reduce the minimum required side yard from 10 feet down to 6 feet. The existing dwelling has a 30 ft. yard between it and Clare Road right-of-way. An approximately 12 ft. side yard to the southern side property line and approximately 150 ft. rear yard for the dwelling (Exhibit A.8). The proposed height for the garage is 14 ft. (Exhibit A.9). *Criteria met.*

- 5.3 (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official

Staff: The County Right-of-way office did not note that Clare Rd. has insufficient right-of-way (Exhibit A.5). No additional yard area is required at this time. *This criterion is met.*

- 5.4 (G) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot...

Staff: The County Sanitarian determined that the existing on-site sewage disposal system meets all requirements (Exhibit A.6). No plumbing is proposed in the garage addition (Exhibit A.9). *This criterion is met.*

- 5.5 (J) All exterior lighting shall comply with MCC 39.6850.

MCC 39.6850 Dark Sky Lighting Standards:

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

Staff: The applicant did not propose any exterior lighting as part of the garage addition proposal. Given the proposed addition will expand the single-family dwelling by approximately 480 sq. ft., a condition of approval will be added to this decision requiring all existing lighting to meet the dark sky lighting standards. *Criteria can be met through a condition of approval.*

6.0 **ADJUSTMENT CRITERIA:**

6.1 **MCC 39.8210 Adjustment Approval Criteria**

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (F) are met:

MCC 39.8205 - Scope: (A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks,

forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:...

Staff: This application requests the maximum 40 percent reduction for the 10 ft. minimum required north side yard. Granting the adjustment would reduce the minimum required north side yard to 6 ft. *This criterion met.*

6.2 (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Staff: The purpose of yards between buildings and property lines is to provide adequate space, light, air circulation and safety from fire hazards. Aerial photos do not show any structures on the neighboring property immediately adjacent to the proposed garage addition location. Therefore, the existing site conditions ensure that the general purpose of the yard requirement is met following the adjustment, as space would remain allowing light and air circulation between the subject property and the neighboring property (Exhibit A.10). *This criterion is met.*

6.3 (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Staff: As the applicant notes, there does not appear to be any impacts to the property adjacent to the north side property line (Exhibit A.10). Staff mailed an opportunity to comment regarding the proposal to all adjacent property owners within 750 ft. of the subject property. Neighboring property owners did not voice any concerns with the proposal. *This criterion is met.*

6.4 MCC 39.8210 (C), (D), and (E)

Staff: The above criteria do not affect the outcome of this decision as the applicant requests a single adjustment, and the property is located within the MUA-20 zone.

6.5 (F) The adjustment must be in support of a lawfully established use or in support of the lawful establishment of a use.

Staff: As noted in section 2.0, the County issued a permit for the placement of the existing manufactured home in 1998. The proposal will add a garage addition to the manufactured home. *This criterion is met.*

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Adjustment to reduce the 10 ft. minimum required north side yard to 6 ft. from the north side property line in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

8.0 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibits with a "*" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-11761 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	3.27.2019
A.2	1	Narrative	3.27.2019
A.3	1	Site Plan (Not-To-Scale)	3.27.2019
A.4	1	Floor Plan and Elevations (To-Scale)	3.27.2019
A.5	2	Transportation Planning Review	3.27.2019
A.6	3	Septic Review Certification	3.27.2019
A.7	3	Fire Service Agency Review	3.27.2019
A.8	1	Revised Site Plan (To-Scale)	4.23.2019
A.9	2	Floor Plan and Elevations (To-Scale)	4.23.2019
A.10	1	Revised Narrative	4.23.2019
A.11	1	Revised Fire Service Agency Review	5.8.2019
'B'	#	Staff Exhibits	Date
B.1	1	A&T Property Information	3.27.2019
B.2	3	Exempt Minor Partition / Lot Line Adjustment from 1986 and Warranty Deed from Book 1937, Page 86.	4.23.2019
B.3	2	Warranty Deed recorded as instrument #2018-124553 on December 12, 2018	4.23.2019
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	4.10.2019
C.2	1	Complete Letter (Day 1)	4.26.2019
C.3	3	Opportunity to Comment	4.29.2019
C.4	11	Administrative Decision	5.20.2019