

# Freeland Response to Hentges Comments

\*In red is the Hentges comments, \*Black is Freeland's response

**16.200 General Variance Criteria:** In order to be granted a variance, the applicant must demonstrate that:

**A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;**

**Applicant Response:**

*Due to site conditions and the configuration of the subject property and adjacent properties, the proposed dwelling is likely to be the last residence accessed by this section of SE Victory Road. This portion of SE Victory from SE 317th Avenue is 1,050 feet long and functions more as a private access drive more than it does as a public road because of the limited number of homes currently served by this road (three existing residences). The road right-of-way also traverses both SEC-wr and SEC-h overlay areas and while the grade of this road, east to west is gradual, grades to the south of the road on the property and adjacent property to the east increase significantly. Most of the other properties accessed by this road do not contain these same constraints. For these reasons the proposal complies with this criteria.*

**Secondary Access for Fire/Emergency Vehicle Turn-Around response:** *the special circumstances that apply to this project in relation to the secondary access and fire truck turn around is due to the fact that this development is proposed at the end of a rural dead end road and a fire apparatus turn around is required to be the responsibility of the applicant and their development. We are proposing this secondary access to be in an area where the clearances and accessibility is best utilized. No other location on the entire length of victory road is better for this access and turn around than where it is being proposed.*

**MCCR 16.200(A) -The applicant's property is not unique as evidenced by multiple residential structures already built along SE Oxbow.** Statement does not apply to code.

**RESPONSE:**

Comment is unaware to the fact that the applicant is required to access through Victory road and shows no evidence of the applicant's property not having the listed unique details in our demonstration of conditions. Multnomah county specifically states in our pre-file notes from 2017- "access will be limited to SE Victory Road"

**B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;**

**Applicant Response:**

**The requested variance to the road width standards** to allow use of SE Victory Road without completing extensive widening or surfacing improvements will also allow the applicant to construct the proposed dwelling. Because of the length of this road (1,050 feet), strict adherence of County rules will be financially burdensome to the applicant and will likely prevent them from developing their Single family dwelling.. To be held in strict compliance would require road engineering, another SEC permit, as well as significant amount of fill and gravel to be brought in. The applicant has gone out of their way in the planning of this development to plan the least amount of cut and fill for this project. The development is planned to be significantly conservative in the placement of the development and the proposed improvements to the property and right of way. Requiring the applicant to complete these improvements constitute an extraordinary hardship for the applicant and cause significant environmental impact to the SEC overlays that the applicant has gone out of their way to avoid completely.

**Secondary Access for Fire/Emergency Vehicle Turn-Around response:** to be held in strict compliance of the one access standard would prevent the development of an approved fire apparatus turn around the applicant will not be able to move forward with the project at all, this variance is essential to the enjoyment and development of the property as well as being important for the safety of the emergency services. Denying this secondary access variance and the accompanied dimensional standard variances would cause a financial hardship and may make the property unbuildable. This emergency hammerhead turnaround is a very vital requirement to this property and the proposed development. Denial of the listed variances would constitute extreme hardship for the property owner. Additionally, if these variances are not approved the property owner will be forced to take a significant financial loss and give up on their dream home and their hope of ever living on Victory Road. Not to mention the significant time and finances that have already been poured into this project. The applicant requests approval of these variances as submitted.

**MCCR 16.200(B) -Clearly the variance is not necessary to maintain the enjoyment of the property. Adherence to the street improvement standards should not be considered a hardship considering the applicants could improve an already platted right of way accessed from Oxbow or a private driveway from Oxbow to their liking**

**RESPONSE:** Again, this statement is that of opinion or perspective and has no evidence or application to code criteria. And contrary to the Hentges statement of how they think it is clear the variance is not necessary to maintain the enjoyment, we believe enjoyment of the property would be to live on the property and enjoy it to the fullest. Without the variances requested approved our enjoyment would not be possible.



This improvement is allowed by the county to be considered a hardship under the pretense that this improvement of widening the road to 20ft is unnecessary and would result in a severe financial burden to the applicants. Victory Road only has two dwellings that are west of the Hentges. Additionally, Multnomah county specifically states in our pre-file notes from 2017- "access will be limited to SE Victory Road"

**C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;**

**Applicant Response:**

*Approval of this request will allow the applicant to construct their dream home on property they purchased for this purpose in 2017. As noted above, this section of SE Victory Road has adequately served three existing single-family residences who have used this road for a number of years. The applicant's proposal to construct a new single-family at the end of this road (1,050 feet from SE 317th Avenue) will marginally increase traffic along this road section and is not expected to impact the use of this road enjoyed by these property owners or adversely affect development of these properties. The applicant is not opposed to doing some light grading and adding gravel to this road including enhancing the existing pull-out as necessary.*

**Secondary Access for Fire/Emergency Vehicle Turn-Around response:** *A secondary access has been proposed for the sole purpose of designating a specific area for the fire truck/emergency vehicle turn around. This variance will not be materially detrimental to the public welfare. In the contrary, approval of the requested variance and construction of this facility will actually increase the safety and usage of Victory Road for all residents and potential emergency resources.*

**MCCR 16.200(C) -By allowing this variance, we feel the county would be essentially telling us that our rights to preservation of our enjoyment and use of our property does not matter as much as the applicant's rights. Clearly more traffic means more opportunity for our property to be further encroached upon.**

**RESPONSE:**

EXHIBIT #1 – Shows the other side of this story line of property "Encroachment"

EXHIBIT #5 & #6 \_ Shows the reality of where the road as traveled falls within the right of way and that in fact the Hentges are not encroached upon.

The key word in this statement is "Feel"

The rights of the Hentges and the applicants are EQUAL.

Again, this statement is that of opinion or perspective and shows no evidence or facts that would pertain to the RRV that we are requesting for the road width standard.

The Hentges rights of enjoying their land will not be deprived by the use of victory road by the applicants. Again this issue has NOTHING to do with the RRV and is only a matter of the Hentges not wanting the applicants to even use Victory road at all and instead access through oxbow road as the Hentges have stated multiple times.

This is a common story from the Hentges that they do not want anyone to have use of the road as a public space. Barbara has an obsession with control over this public right of way and has shown this multiple times through intimidation and abuse of county emergency services. Over the last three years emergency services have been called on behalf of the Hentges and the Palmers in excess of 10 calls. With all of this emergency service activity and the fact that the Hentges obviously video record the roadway as seen in their exhibits, there has been NO citations and no action taken by either the police or the fire department.

\*The photos that the Hentges submitted of the Freeland Property show no code or permit violation and has no application to the requested RRV. all that is evident was our lawfully permitted logging activity and clearing of that logging debris.

\*The Videos submitted as exhibits by the Hentges are of a vehicle that is not owned by the Freeland's, and is also no evidence toward the requested RRV.

**D. The circumstances of any hardship are not of the applicant's making.**

**Applicant Response:**

*The applicant proposes completing only minimal improvements to the existing SE Victory Road segment to include minor grading and adding gravel at the existing pull-out as needed. As shown on the figure below, this portion of SE Victory Road is encumbered by the County's SEC-h and SEC-wr overlays for approximately one-half of its length. County requirements to widen this road would cause unnecessary impacts within these overlays and to the resources intended to be protected by these overlays. In addition as noted above, the grade of the terrain to the south of the road is relatively steep on the subject property and adjoining property to the east. Because of these conditions, the circumstances necessitating this variance are not of the applicant's making. Circumstances preventing the road widening are not of the applicant's making, and the necessity for a secondary fire/emergency turn around are not of the applicants making.*

MCCR 16.200(D) -It is obvious to us that applicant's request for variance is directly related to circumstances created by them. They logged a homesite without first finding out what restrictions or possible requirements they may need to adhere to. They created a level homesite closest to Victory without first establishing if they would



need to improve Victory or if they might have created less hardship for themselves by accessing from Oxbow or another right of way.

RESPONSE: The Hentges are presumably uninformed to the fact that we actually did talk to the land use planning before determining what would be logged off for the proposed home sight. This was done in our pre-file meeting in 2017 before purchasing the property let alone beginning any logging operation.

"Multnomah County limits access from the double frontage lots onto the lesser classification roads, which in this case is SE Victory Road. This subject parcel has frontage on three roads, SE Victory road (Local Access Road), SE Oxbow Drive( rural collector), and an unnamed and unconstructed local access road. Therefore, access will be limited to SE Victory Road. The purpose of this standard is to reduce the number of existing and proposed access points on Arterial and collector facilities and to improve traffic flow and safety on all County Roads"

**Again, this is a matter of opinion and perspective and does not pertain to the details the applicant has addressed in the RRV.**

To whom it may concern:

1. Please accept this letter and documentation as comments in opposition of the above referenced permit and variances. Our property would be directly affected by any road variance on SE Victory Road. We have addressed our concerns related to each applicable code below.
2. First, a little history about Victory Road. We purchased our house in 2003. At that time, from our garage West the road was further South than it is now (see Attachment 1 & 2.) The gentleman that used to own 31325 SE Victory Rd continually dumped small 1/4" minus gravel on the roadway and slowly but surely the road began migrating North from our garage West. This left our property encroached upon. In fact, our driveway parking pad began to disappear in 2014-2015. The strip of grass between the road and our property line disappeared. We asked him to stop putting gravel on the road, he refused. We went to mediation and he finally agreed. What was left was our SW corner post fully surrounded by gravel and little to no clearance between our property line and the road. We are aware that the right of way is 5 feet wider to the North from our West property line on, yet the gentleman that used to own that property had apparently built a small retaining wall and drain system to ensure he would have clearance between the road and his property. We had somebody come in and repair

the damage to our property, remove the excess gravel and slightly flatten out the poor grading that had been created by the excessive gravel being placed on the road.

**Response to paragraph 2.**

Please see attached document that has the testimony of this "gentleman" that used to own 31325 and his experiences with Barbra and Donald. **EXHIBIT #1-**

**The Hentges have made habit of bending and fabricating their perspective of reality. They also have a known history of trying to control traffic to the property's known as 31325, 31330 SE Victory Road. This history began pretty soon after the Hentges moved into the property in 2003. Even going as far as attempting to get the "gentleman" trespassed off of Victory road.**

**Please see Exhibit #2, Exhibit #3, Exhibit #4, Exhibit #7, Exhibit #8, and Exhibit #9 for examples of her bullying and intolerance for ANYONE using Victory road and especially property owners of 31325, 31330. The Hentges track record for antisocial/ bullying behavior dates back to 2003. As per EXHIBIT #1**

I caution the County in taking any of the following claims Barbra and Don have made on our character and their recollection of events at face value. She has engaged in racial prejudice and harassment of the current property owner at 31325 that has resulted in a court case that has yet to go to trial. TREAD CAREFULLY. There is a court trial date set in October and Abigail Freeland has been subpoenaed to testify on behalf of the current property owner of 31325 to give testimony on personal experience with the Hentges and their harassment of multiple neighbors. Her sole reason for response to the RRV is to further her harassment of the Freeland's over the last 3 years and seek to harm the Freeland's for testifying against her in this case.

- 3. The westerly extension of Victory Road from 317<sup>th</sup> has significant clear zones from 317<sup>th</sup> West until approximately in line with the East wall of our house at 31431 SE Victory Rd. From that point West to the our West property line, there is no clear zone. In fact, we have had multiple people pull up and park in our yard, the post office was continually using our yard as a turn around, and the applicants for this permit continually trespassed over our property in order to open a gate which somebody installed on our corner post. There is no clear delineation of private property to public right of way. We are concerned due to speeding traffic (see Attachment 3 & 4) and accidents (see Attachment 5.)**



### **Response to Paragraph 3**

See EXHIBIT #5 and EXHIBIT #6

This exhibit is our survey's of the public right of way. That we have contracted to have done. At no point along the Hentges property line does the road as traveled cross their property line. Barbra has made it clear in her statement that at no point does the road as traveled fall on her property. If the Hentges has issues with travelers not knowing what is private and what is public it would be their responsibility to delineate those areas. On the contrary, the Hentges state that they actually had the road repaired and the excess gravel that is said to have encroached on their property in the past removed. "We had somebody come in and repair the damage to our property, remove the excess gravel and slightly flatten out the poor grading that had been created by the excessive gravel being placed on the road." This was in 2015 and no grading by said "Gentleman" has been done since by court order.

This paragraph yet again has no code compliance issue or evidence that our proposal is not code compliant. Does not apply

4. The property in question is not unique. It was formerly addressed as an Oxbow address but has recently been changed to Victory. There are at least 2 adjacent properties (31035 & 31090 SE Oxbow) which both have residential structures and access from Oxbow. This property has approximately 260 feet of Oxbow frontage as well as a 40 foot wide unnamed county right of way bordering it for over 400 feet on the West.

### **Response to paragraph 4.**

The frontage on Oxbow road is actually only 102'. These other property's that have access on Oxbow do not pertain to our RRV Application of Victory Road. The county stated in our pre-file meeting before we even purchased the property in 2017 that we would be required to access the property through Victory road. The statement above does not contain any evidence or facts that would require the applicants to change county access roads. This is yet another example of the Hentges having issue with ANYONE using Victory Road.

5. It is apparent that the applicants created a situation by which they believe they require a variance. This property was purposefully logged off by means of a state forestry permit which stated 'clearing a 1 acre homesite.' It would seem that a property owner should actually talk to the entity who issues permits before

determining what portion of a property, which clearly lies in a special environmental overlay zone, would be appropriate to permit as a homesite. Once the logging was complete, hundreds of cubic yards of rock and fill were dumped on the property adjacent to Victory in order to create the homesite. If ever there was a concern for a road being narrow, this logging proved our point. Multiple log trucks came and went. Multiple log trucks hit our trees which line Victory to the West of our house. These trees are limbed to at least 13 feet above the road but due to there being no clearance, the trucks still hit them. Multiple dump trucks – 20 plus loads on some days – were dumped between Spring and Summer of 2019. The road was torn up and a mess. In October 2018, the applicants set a dangerous fire to burn the remnants of their logging endeavors (the second time the fire department was called for the same reason.) Please see Attachment 6. The fire engine that arrived was able to access, however, this was an engine, not a truck and again, they were able to access by driving within inches of our property line from our house West.

#### **Response to paragraph #5**

The applicants did not create this situation of the Road conditions and SEC overlays as stated in our application. On the contrary in our pre-file meeting in 2017 we were notified by land use planning of the following: "Multnomah County limits access from the double frontage lots onto the lesser classification roads, which in this case is SE Victory Road. This subject parcel has frontage on three roads, SE Victory road (Local Access Road), SE Oxbow Drive( rural collector), and an unnamed and unconstructed local access road. Therefore, access will be limited to SE Victory Road. The purpose of this standard is to reduce the number of existing and proposed access points on Arterial and collector facilities and to improve traffic flow and safety on all County Roads"

"It would seem that a property owner should actually talk to the entity who issues permits before determining what portion of a property, which clearly lies in a special environmental overlay zone, would be appropriate to permit as a home site."

RESPONSE: The Hentges are presumably uninformed to the fact that we actually did talk to the land use planning before determining what would be logged off for the proposed home sight. This was done in our pre-file meeting in 2017 before purchasing the property let alone beginning any logging operation or clearing of logging debris in the form of burning and hauling truckloads of stumps, debris and small limbs to a recycle center.



The "level home site" the Hentges are referencing is clear that they are again not educated on the facts of this project. The home site remains untouched and sloped as to preserve our septic field area and repair area as well as preserve where we will be digging out the foundation. There is not a level home site. We expect to have inspections by county officials on these areas. It would make no sense to "level a home site" when in fact that's not how our plans are stating we will be using the land or how the foundation is proposed. The slope is a **huge** factor in the type of foundation we have to use for this house and would make absolutely NO SENCE to level the site and ruin our untouched slope before we are prepared to pour foundation and backfill it.

The road is approved by the fire department. The statement of, there being a fire truck not engine is actually not accurate. We had a slash pile burning, in compliance with our logging permit and county burn ordinances. The Hentges and the Palmers called the fire department themselves in attempt to get the Freeland's in some sort of trouble. There was the fire chief in his SUV, and a complete fire engine. The road has supported many trucks for our permitted logging activity in addition to the fully loaded fire engine and has had no issues with width, clearance, or trespassing on the property of the Hentges. The fire department left the slash pile in the supervision of the Freeland's and had no issues or citations for the burn. No action to extinguish the fire was made by the fire department. Again, this accusation of abuse of the road is unfounded and has nothing to do with the proposed RRV. If anything, these comments prove the point of the Hentges attempting yet again to abuse county entity's in a futile attempt at harassing us and trying to force us out of use and enjoyment of our property.

6. Interestingly, there is rip rap under the sod and grass on the South side of Victory – particularly toward the West side of our property. It is there because, as stated previously, the road used to run much further South than it does now.

#### **Response to paragraph 6**

There is no evidence of this "Rip Rap" existing, additionally the Hentges also stated that they repaired the road so there should be no issue with where it is currently placed. There is no evidence of the road moving. There is also no evidence that the road as traveled falls on the property of the Hentges. It also meets the county fire code standards and we have have surveys done to show that fact. SEE EXHIBIT #5 & #6

7. "Should the county approve the variance and Victory remains unimproved on this section West of our house, we will not be allowing for any further encroachment, trespassing, construction easement or otherwise. Although un-related to the permit application, the applicants have proven to be less than honorable, stepping around a no.trespassing sign continually, skirting development permits and codes, firing weapons which caused ricochet so severe that bullets whizzed past both our family and other neighbors. We do not trust that any covenant or restriction of use by your office will be adhered to due to actions by the applicants over the past 3 years.

"

**Response to paragraph 7.**

It sounds like the Hentges think that they have a say in if this is approved or not and that is not even close to accurate. The Hentges do not have a say in what they will be "allowing" this is a public road that serves our property that we own and our rights to enjoy our property are EQUAL to those of the Hentges. The county has stated that we would need to be accessing our property via Victory road, that is the making of the county.

We have not trespassed onto any property, especially the property owned by the Hentges. And If we had it would have been unknowingly as the Hentges stated *"There is no clear delineation of private property to public right of way. We are concerned due to speeding traffic" there is also not a single "no trespassing" sign on the Hentges property in the past or to this day.*

The speed limit on Victory road is 15MPH as Oregon code states for rural county roads of this kind. If the Hentges are concerned with traffic speeds then they should be taking that up with the proper governing agencies. Again, this has no relation to our RRV request and is just opinion of the Hentges. This entire paragraph does not pertain to code. Additionally, this paragraph sounds like a demand or threat that the Hentges will not allow us to access our property if we receive approval. This is yet again an example of bullying/aggressive behavior, obsession, and intolerance of anyone using Victory Road.

**We request that the County APPROVE our RRV requests for this project and look forward to building our family home on Victory Rd, as we have been pursuing this regardless of the futile attempts to run us off by the Hentges.**