

19114 NW Sauvie Island Road – The Property

The property at 19114 NW Sauvie Island Road is 2.10 acres. It contains a 4,000 square foot home with an attached garage. The property also contains a 1,185 square foot unpermitted accessory structure. The goal of this application is to establish the use of the accessory structure as well as request a variance from the required front and side yard setbacks as part of the retroactive approval process.

In order for the County to be able to approve any land use application for development or building permits, the property must be in full compliance with all applicable codes [MCC 39.1250]. Full compliance means the property is a Lot of Record where any structures on site were properly reviewed or permitted and conditions from previous land use decisions were satisfied. According to the County Assessor's data, 19114 NW Sauvie Island Road contains a single-family dwelling and a detached structure. The County permit records show the dwelling was originally approved in 1951 under Historic Multnomah County Permit #54519. The record includes a subsequent building permit record for a dwelling addition in 2010 (BP-2010-757). There are no permit records for the additional structure currently located on the subject property. The purpose of this application is to retroactively permit the 1,185 sq ft studio/shed structure on the property. See Exhibit B for site plans.

There is one active code compliance case (UR-2016-5740) associated with 19114 NW Sauvie Island Road. The case pertains to the non-permitted development of a structure for use as a second dwelling and a non-permitted short-term rental business. The short-term rental business was not operating when compliance staff checked-in on that aspect in November of 2022. The homeowners, Vanessa Dawson and Grant Casey, bought this property in June 2023 and unknowingly inherited the code compliance issues. They have been in contact with the Code Compliance Office and have a deadline of September 20, 2024, to submit the paperwork to permit the existing studio/shed and determine the use of the structure.

The County has not made a Lot of Record determination for 19114 NW Sauvie Island Road. As part of the application, we are requesting a Lot of Record verification. We have provided a Chain of Title. See Exhibit A.

Multiple Use Agriculture Zone Criteria – The Dilemma

In the MUA-20 zone, an accessory building is an "Allowed Use" if it demonstrates compliance with MCC 39.4310(F): A. The accessory structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. B. The accessory structure may contain one sink. C. The accessory structure shall not contain: more than one story, cooking facilities, a toilet, bathing facilities such as a shower or bathing tub, a mattress or bed, and a closet built into a wall. D. The combined footprints of all accessory buildings (existing and proposed) shall not exceed 2,500 square feet. E. An accessory structure that exceeds any of the Allowed Use standards shall be considered through the Review Use provisions under MCC 39.4315(H).

See the existing floor plan of the studio/shed in Exhibit C. The structure appears to have been used as a housing rental unit in the past by the previous owners prior to 2023. It contains a kitchen with a sink, cooking facilities, a bathroom with a sink, toilet, and tub/shower. It also contains a living space, a

bedroom with a closet, and a room with no closet. The structure is 1,185 sq ft. The studio is 803 sq ft. and the shed is 382 sq ft. The accessory structure exceeds the “Allowed Use” standards of MCC 39.4310(F). Due to the features Vanessa and Grant would like to keep in the structure, it will need to be reviewed under MCC 39.4315(H) and obtain authorization through the “Accessory Use Determination.”

The accessory building must be located outside of the setback which is designated by MCC 39.4325(C). Currently, parts of the studio/shed are within the setback. See Exhibit B. The studio/shed sits diagonally to the property lines. The front right corner is 6.97 feet away from the front property line and the front left corner is 40.78 feet from the front property line. The front right corner is also 13.59 feet from the side property line and the back right corner is 1.93 feet from the side property line. The height of the studio/shed is 14 ft. Using MCC 39.8200, 39.8205, and 39.8215 the homeowners would like to obtain a Variance to leave the studio/shed in its current location.

Because the studio/shed created an impervious surface of 500 sq ft or more, MCC 39.6235 is part of this application. See Exhibit F. Deborah Beck from White Pelican Consulting was hired to analyze the current stormwater management system and provide a site plan, report, details, and calculations for a recommended stormwater management plan. Exhibit F also contains the Stormwater Drainage Control Certificate. Vanessa Dawson and Grant Casey will follow her recommendations and disconnect all existing downspouts and install erosion control per detail SW-120.

The application includes a Lighting Plan showing the location of all existing and proposed exterior lighting and addressing the Dark Sky Lighting Standards in MCC 39.6850. The existing lighting on the studio/shed already contains “dark sky certified” light fixtures: one in the front and two in the back. No light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. The shielding is permanently attached. Illumination from the existing light fixture is contained within the boundaries of the subject property. See Exhibit G for pictures and model numbers of the lighting.

Accessory Use Determination (Type II Land Use Permit) – The explanation and the solution

The current design of the Studio/Shed exceeds the standards listed under MCC 39.4310(F). See Exhibit C for the existing floorplan. Using the Accessory Use Determination, Vanessa Dawson and Grant Casey would like to propose the structure’s use be a personal office space/shed. The office will be used for personal use only. It will consist of a sink, a bathroom with a sink, toilet, and shower. It will consist of a workspace and two rooms for storage with no closets. The shed would remain and would be used for storing tools and such. See Exhibit D for a proposed floor plan.

The personal office/shed would comply with MCC 39.4315(H): A. The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit. B. The Accessory Structure shall not contain a bathing tub. C. Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building. D. An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities. E. The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage. F. Upon approval, compliance with MCC 39.8860 will be fulfilled where Vanessa Dawson and Grant Casey will record a covenant related to the restrictions/use of the proposed Accessory Building. See Exhibit K.

The personal office/shed contains the minimum departure from the Allow Use standards to accommodate the use given the circumstances. Vanessa and Grant did not build this structure but bought this property in June of 2023 where the structure was already built unpermitted. Vanessa and Grant did not anticipate the number of land use issues they would face upon the purchase of this property. The seller did not properly disclose the lack of permitting and zoning violations at the time of the sale. Vanessa and Grant were led to believe that the use of the studio/shed could be an ADU, that the paperwork was submitted to get approval, and the last step was to have a meeting with the county. Because the existing use of the structure violates the zoning code, the homeowners would like to change the use to a personal office to bring it into compliance. The structure complies with all zoning rules of MCC 39.4315(H) when the bathtub, cooking facilities, and closet are removed. Vanessa and Grant would like to ask permission for the 3-piece (contains sink, toilet and shower) bathroom to stay. The personal office is far enough from the house that a bathroom in the structure is needed for convenience. **The kitchen sink is needed to assist Vanessa in her business as she runs a lawn and garden company. She will use this space for repotting, planting, floral arrangements, harvesting fruits veggies and plants from the garden as well as photo shoots. She needs a large workstation with water, a large sink and the ability to wash things in an open area.**

Variance – (Type III Land Use Permit) – The explanation and the solution

The studio/shed violates the setback dimensions described in MCC 39.4325(C). The studio/shed was built within the setback by the previous owners. Using MCC 39.8200 and MCC 39.8205, Vanessa Dawson and Grant Casey would like to apply for a Variance.

Figure 1

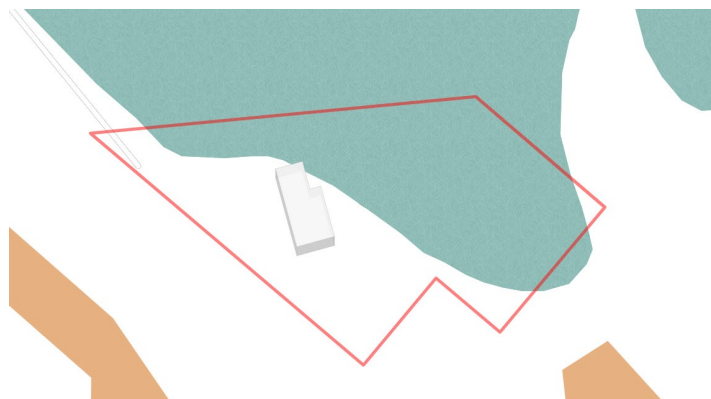


Figure 2



Figure 3

All parts of MCC 39.8215 have been considered in the following. A: The property has unique natural features and topography that influenced the previous homeowners to build the studio/shed in its current location. Much of the property is categorized as wetland area by Metro (see figure 2) and is covered in trees and vegetation (see figure 3). When trying to avoid those two things, the previous homeowners were left with no other choice but to put the studio/shed in its current location. B. Vanessa and Grant did not build this structure but bought this property in June of 2023 where the structure was already built within the setback. The seller did not disclose that the location of the structure was a problem with the county. They are now going through the process to fix a mess they did not create. C. Building the studio/shed somewhere else would have created an unnecessary hardship of money, time, and resources. It would have been expensive for the previous owners to cut down trees and clear the land of vegetation to make room for the studio/shed somewhere else. Building in the wetland area would have required engineering to ensure the building was suitable for those conditions. It would have also complicated the design and required additional money for construction. Furthermore, clearing the land and building in a wetland area would have changed the natural surroundings and been detrimental to native wildlife. D. Considering how far away the homes around the property are, authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity. With the base zone being MUA-20, it should not affect the development of adjoining properties. E. The Variance requested is the minimum necessary. The natural conditions of the property that prevented the studio/shed from being built in any other location when it was built are still issues now. The wetland area and the trees and vegetation are reasons why the studio/shed must be left in the same place and the variance is necessary. F. Vanessa and Grant are willing to mitigate the view of the studio/shed from their neighbors at 19014 NW Sauvie Island Rd. by offering to plant trees or large shrubs that could create a natural barrier between the studio/shed and the neighbor's view. They are also open to other mitigation strategies recommended by the county. G. This application consists of the documentation to bring the structure's use into lawful compliance.

In short, Vanessa Dawson and Grant Casey unknowingly inherited this problem when they bought this property in June 2023. Because of the permanence of the structure, it would be costly to relocate or demolish. The structure is far enough away from other homes, and the neighboring lots are big enough to absorb the impact to the surrounding neighbors. For these reasons, we feel that the setback should be changed to accommodate the existing structure: 1.93' setback on the side and 6.97' in the front per the survey in Exhibit B.

Ground Disturbance

This project meets all the requirements for a Minimal Impact Project permit described in MCC 39.6220 which include A. The total square footage of ground surface that was disturbed to construct the studio/shed was 1,185 which is less than 10,000 sq. ft. B. Disturbed areas were not within 200 ft. from the top of the bank of a water body. C. Unsupported finished slopes were less than 33% grade (3 Horizontal: 1 Vertical) and did not exceed four ft. in height. D. Slopes before development where ground disturbance is proposed are 10% grade or less. E. The ground disturbing activity involved 0 cubic yards of fill which is less than 10 cubic yards. F. Fill was not used to physically support a building requiring a structural building permit. Exhibit B contains the materials listed in MCC 39.6220(A) and the standards in MCC 39.6220(B) were met. We assume erosion and sediment control best management practices were used in construction.