

# STAFF REPORT



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## Application for a Lot of Record Determination, Accessory Use Determination, and Variance

**Case File:** T3-2024-0006

**Applicant:** Kim Hancock

**Proposal:** Request for retroactive approval of a 1,185-square-foot accessory building in the MUA-20 zone

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**Location:** 19114 NW Sauvie Island Road, Portland

**Property ID #** R325011

**Map, Tax lot:** 2N1W17B -00100

**Alt. Acct. #** R971170520

**Base Zone:** Multiple Use Agriculture (MUA-20)

**Overlays:** None

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Scheduled before one of the County's Hearing's Officers on **Friday, July 11, 2025** or soon thereafter via virtual hearing.

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### Applicable Approval Criteria:

**Multnomah County Code (MCC):** General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.6235 Stormwater Drainage Control, MCC 39.6850 Dark Sky Lighting Standards

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agriculture – 20

Multiple Use Agriculture (MUA-20): MCC 39.4310 Allowed Uses, (F) Accessory Structures, MCC 39.4325(C), (D), (E), (G), (I) (J) Dimensional Requirements and Development Standards

Accessory Use Determination: MCC 39.4315 Review Use, (H) Accessory Structures

Variance: MCC 39.8200 Adjustments and Variances; Generally, MCC 39.8205 Scope, MCC 39.8215 Variance Approval Criteria

Copies of the referenced Multnomah County Code sections are available by visiting <https://www.multco.us/landuse/zoning-codes> under the link **Chapter 39: Multnomah County Zoning Code** and at <https://www.multco.us/landuse/comprehensive-plan> under the link **Multnomah County Comprehensive Plan**.

## Vicinity Map

N↑



## Recommended Hearing Officer Decision

Staff recommends that the Hearings Officer approve, subject to conditions of approval, the request for retroactive approval of an accessory building with a reduced front and side yard setback.

### **If the Hearings Officer finds the proposed application is approvable, staff recommends the following Conditions of Approval:**

1. Permit Expiration – This land use permit shall expire two years from the date of the final decision, unless all other required land use and building permits for the development have not been obtained from Land Use Planning and the Portland Building Department. The development shall be established according to all specifications and conditions of approval in the land use approval. [MCC 39.1185(E)]
  - a. For the purposes of 1, expiration of an approval means that a new application is required for uses that are not established during the approval period.
  - b. For purposes of 1.a, the property owner shall demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us) with the case no. T3-2024-0006 referenced in the subject line. [MCC 39.1185]

**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.

2. 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. [MCC 39.1170(B)]
3. **Prior to submitting Building Plans for Zoning Review**, the property owner(s) or their representatives shall:
  - a. Record pages 1 through 4 and Exhibit A.3 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]

- b. The property owners shall acknowledge in writing that they have read and understood the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Izze Liu at [isabella.liu@multco.us](mailto:isabella.liu@multco.us). [MCC 39.1170(A) & (B)]
  - c. Remove the existing cooking facilities from the accessory building. [MCC 39.4310(F)(4)]
  - d. The property owner shall record a restrictive covenant with County Records confirming that the accessory building will not be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 39.8860]
4. **When submitting Building Plans for Zoning Review**, the property owner(s) or their representatives shall:
- e. Provide a Letter of Acknowledgement and recorded Notice of Decision as required in Condition 3a and 3b above. [MCC 39.1170(A) & (B)]
  - f. Provide a copy of the recorded covenant required under MCC 39.8860.
  - g. Provide an updated floor plan showing the removal of the cooking facilities (stove, refrigerator, dishwasher), and the replacement of the bathing tub with a shower. [MCC 39.4315(H)(2)]
5. The property owner shall obtain all necessary building permits required by the City of Portland.
6. The accessory building shall not be used as an accessory dwelling unit, guest cottage, second dwelling unit without first obtaining permission from Land Use Planning to convert the building to such use. [MCC 39.4315(H)]
7. Prior to the use of the accessory building for a commercial office for the landscaping business, the business owner/property owner shall obtain any required home occupation approvals. [MCC 39.4305 Uses, MCC 39.4315(I), MCC 39.4320(D)]
8. No mattress, murphy bed, cot or any other similar item designed to aid in sleep as a primary purpose may be placed in the accessory structure unless it is disassembled for storage. [MCC 39.4315(H)(5)]

**Note:** Land Use Planning must sign off on the building plans before you can go to the Building Department. When ready to submit Building Plans for Zoning Review, complete the following steps:

- 9. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to submitting Building Plans for Zoning Review..." Be ready to demonstrate compliance with the conditions.
- 10. You will need to provide a copy of your Transportation Planning Review (TPR) sign-off with your building plans. If you have not yet received sign-off, visit the following webpage for instructions on how to request a review of your plans: <https://www.multco.us/planreview>. Failure to obtain TPR sign-off of your plans will result in delaying your zoning review.
- 11. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail [septic@portlandoregon.gov](mailto:septic@portlandoregon.gov) for information on completing the Septic Permit or Evaluation process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
- 12. Visit <https://www.multco.us/landuse/submitting-building-plan> for instructions regarding the submission of your building plans for zoning review and review of conditions of approval. Please ensure that any items required under, "When submitting Building Plans for Zoning Review..." are ready for review. Land Use Planning collects additional fees at the time of zoning review.

Once you have obtained an approved zoning review, application for building permits may be made with the City of Portland.

**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.

## 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 retroactive approval of a 1,185-square-foot accessory building that will be used as a personal office and storage shed. The accessory building encroaches into the required front and side yard areas.

### 2.0 Property Description & History:

**Staff:** The subject property is in unincorporated Multnomah County in the area known as the Sauvie Island/Multnomah Channel Plan Area. The subject property is zoned Multiple Use Agriculture – 20 and is located outside of Metro’s Urban Growth Boundary (UGB). The subject property is developed with a single-family dwelling and the unauthorized accessory building.

### 3.0 Public Comment:

**Staff:** Staff mailed a Notice of Public Hearing regarding the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.3). Staff did not receive public comments before this report was issued seven days prior to the Hearing.

### 4.0 Code Compliance and Applications Criteria:

#### 4.1 MCC 39.1250 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 or zoning review approval of development or any other approvals authorized by this code 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; or**
- (4) It brings a non-conforming structure or non-conforming use into compliance with current regulations; or**
- (5) The Planning Director determines the development qualifies as a minor project. For purposes of this provision, a minor project is defined as small in scale, located outside a Flood Hazard zone or Geologic Hazard overlay, intended for the primary benefit of the residents, farm uses, or natural habitat on the subject property and will meet all other applicable zoning and building regulations. A minor project shall qualify under at least one of the following categories:**
  - (a) Request for trade permits (such as electrical, mechanical and/or plumbing) that does not change the use of a structure or property; or**

- (b) Accessory structure(s) with an individual footprint(s) up to 200 square feet. This includes a structural addition(s) or modification(s); or
- (c) Free standing renewable energy and heating systems up to 400 square feet ground coverage including, but not limited to solar (including solar panels), geothermal and wind generated systems; or
- (d) Roof mounted solar renewable (including solar panels) and solar heating systems not exceeding the size of a structure's roof area, or roof height; or
- (e) Mechanical equipment such as heating and air conditioning units, heat pumps, ventilation and air filtration systems, electrical boxes, back-up power generators, energy storage systems, water pumps, and similar equipment; or
- (f) Heating oil, propane and similar tanks; or
- (g) Development requests to protect or enhance natural resources, such as but not limited to water quality or wildlife habitat.

**(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:** This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

A finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

There is an open compliance case for the unpermitted accessory building (case no. UR-2016-5740). Staff has identified the issue to the current property owners and conducted a pre-application meeting to discuss the retroactive approval process for the building. Approval of this pending application along with the proposed conditions of approval will resolve the open compliance case.

## **5.0 Lot of Record Criteria:**

### **5.1 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.**

- (1) “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.
- (2) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

- (a) By a subdivision plat under the applicable subdivision requirements in effect at the time; or
- (b) 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
- (c) 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

\* \* \*

**Staff:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet MCC 39.3005(B) of this section and meet the Lot of Record standards set forth in the MUA-20 zoning district. More specifically, section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

The applicant provided a deed to support the Lot of Record request (Exhibit A.4). The earliest deed provided was recorded/in recordable form in 1973 and contains a legal description matching the current configuration of the subject property (Exhibit A.4). In 1973, the subject property was zoned F2 per historical County zoning maps (Exhibit B.3).

The F2 zone had a minimum lot size of 2 acres. There was no requirement for road frontage or minimum front lot line length or lot width requirements.

*The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration.*

In 1973, the process to create or divide a parcel required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the 1973 deed, the applicable land division laws were satisfied (Exhibit A.4).

*Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1973.*

## **5.2 MCC 39.3080 Lot of Record – Multiple Use Agriculture – 20 (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.**

**Staff:** Section (A) is for information purposes.



**(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 has less than the minimum lot size for new parcels or lots in the MUA-20 zone and is subject to (B) above.

**(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:** Subsection (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time.

**(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:** As discussed above under section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree.

*Based on the findings in 5.1 & 5.2 above, the subject property is a single Lot of Record.*

## **6.0 Multiple Use Agriculture Criteria:**

### **6.1 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.**

\* \* \*

**(F) Accessory Structures subject to the following:**

- (1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:**

\* \* \*

**Staff:** The subject property is developed residentially and the applicant is seeking retroactive approval of a 1,185-square-foot accessory building to be used as a personal office and storage shed (Exhibit A.5). Storage sheds are an allowed use per MCC 39.4310(F)(1)(e). A private office is a similar use to a workshop. [MCC 39.4310(F)(1)(n)]

- (2) 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.**

**Staff:** The applicant is proposing to modify the existing structure to remove components that had allowed the structure to be used as a guesthouse or dwelling in the past. The applicant is proposing to remove the kitchen appliances (stove, refrigerator, dishwasher) and to remove the closet in one of the rooms previously used as a bedroom. The bathtub in the bathroom will be modified to a shower. The proposed changes reconfigure the structure so it can be used for the proposed uses as a personal office and storage shed (Exhibit A.5).

- (3) The Accessory Structure may contain one sink.**



**Staff:** The applicant is proposing a sink in the office area and the bathroom. These exceeds the limitations under MCC 39.4310(F) (Exhibit A.5). An Accessory Use Determination is required.

**(4) The Accessory Structure shall not contain:**

**(a) More than one story;**

**Staff:** The accessory building does not contain more than one story (Exhibit A.5).

**(b) Cooking Facilities;**

**Staff:** The applicant is proposing to remove the cooking facilities (Exhibits A.5 & A.13). Staff recommends a Condition of Approval requiring the removal of the cooking facilities.

**(c) A toilet;**

**(d) Bathing facilities such as a shower or bathing tub;**

**Staff:** The applicant is requesting an Accessory Use Determination to allow a toilet and bathing facilities. The Review Use standards are addressed in Section 7.1 below.

**(e) 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; or**

**(f) A closet built into a wall.**

**Staff:** The applicant is proposing to remove the closet and use the two rooms for storage (Exhibit A.5).

**(5) Compliance with MCC 39.8860 is required.**

**Staff:** Staff recommends a Condition of Approval requiring compliance with this standard.

**(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.**

**Staff:** The accessory building is 1,185-square-foot in size. There are no other accessory buildings on the subject property.

**(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.**

**Staff:** The applicant is requesting an Accessory Use Determination to allow a toilet and bathing facilities. The Review Use standards are addressed in Section 7.1 below.

**(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**

**Staff:** The accessory building is not used in conjunction with a farm use.

## **7.0 Accessory Use Determination Criteria:**

### **7.1 MCC 39.4315 Review Uses**

**The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter.**

\* \* \*

**(H) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the “accessory structures” standard in MCC 39.4310 Allowed Uses, but which meet the following provisions:**

**(1) 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.**

**Staff:** See additional findings above under MCC 39.4210(F)(2). The applicant is proposing to remove the cooking facilities, closet, and use the building as a personal office and storage shed (Exhibits A.5 & A.13). A condition of approval has been recommended to re-enforce that the building may not be used as a dwelling in the future.

**(2) The Accessory Structure shall not contain a bathing tub.**

**Staff:** The applicant is proposing to remove the bathing tub and replace with a shower (Exhibit A.5).

**(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.**

**Staff:** The accessory building is one story (Exhibit A.5).

**(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.**

**Staff:** The applicant is proposing to remove the cooking facilities (stove, refrigerator and dishwasher) (Exhibit A.13).

**(5) 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.**

**Staff:** The applicant is proposing to use the two rooms for storage which will not contain a bed or any similar item designed to aid in sleep as a primary purpose (Exhibit A.5).

**(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.**

**Staff:** The applicant is requesting a bathroom with a toilet and shower for convenience (Exhibit A.13). The property owner is proposing to use the space for activities associated with growing and maintaining a garden such as repotting, planting, creating floral arrangements, and storage. The property owner operates a commercial business off-site and may use the building as a business office or use in the future. A condition of approval has been recommended to obtain the necessary home occupation permit prior to commencement of use of the building for a commercial business. The applicant states a large workstation with water and the ability to wash things in an open area are necessary for the use. The County has approved bathing facilities in an accessory building when used for similar activities such as a farm use, therefore, staff finds the addition of a bathroom in this accessory building to be the minimum possible departure from the Allowed Use standards to accommodate the use.

**(7) Compliance with MCC 39.8860 is required.**

**Staff:** Staff recommends a Condition of Approval to ensure compliance with this standard.

## **7.2 MCC 39.4325 Dimensional Requirements and Development Standards**

**All development proposed in this base zone shall comply with the applicable provisions of this section.**

\* \* \*

### **Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

### Maximum (Structure) Height – 35 feet

**Staff:** The County defines the front lot line for interior lots as the line separating the lot from the street or accessway. The rear lot line is defined as the line dividing one lot from another and on the opposite side of the lot from the front lot line. Based on these definitions, the southwestern property boundary is the front lot line, the northeastern property boundary is the rear lot line and all other property boundaries are considered the side lot lines. See *Figure 1* below.

*Figure 1*



The accessory building is located 6.97 feet from the front lot line, 1.93 feet from the southwestern side lot line, and meets the setback requirements from all other property boundaries. The applicant has requested a variance for the front and one side yard which is discussed further in Section 8.1 below.

## 8.0 Variance Criteria:

### 8.1 MCC 39.8215 Variance Approval Criteria

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (G) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or base zone. The circumstance or condition may relate to:

- (1) The size, shape, natural features and topography of the property, or
- (2) The location or size of existing physical improvements on the site, or
- (3) The nature of the use compared to surrounding uses, or
- (4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or base zone, or
- (5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

**(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.**

**Staff:** The applicant is requesting a Variance from the front and side yard setback requirements for the accessory building. The accessory building is located 6.97 feet from the front lot line which requires a 30-foot setback and 1.93 feet from the nearest side lot line which requires a 10-foot setback. The building meets the setback requirements from all other property boundaries.

The subject property is a 2.1-acre interior lot and irregular in shape. The existing development is surrounded by a moderate coverage of vegetation. The site plan shows five trees between the single-family dwelling and the accessory building (Exhibit A.3). The mapped wetlands are identified on the northern side of the single-family dwelling and the eastern half of the property as shown in Figure 2 below.

*Figure 2*



The applicant states that the previous owners built the accessory building in the current location to avoid removing the existing vegetation and to avoid the mapped wetlands on the property (Exhibit A.13). The applicant states that building in the wetland area would have created financial barriers to meet the additional requirements for construction (Exhibit A.13). In addition, the applicant states that the removal of trees, and building in a wetland area would have impacts to the natural surroundings and native wildlife (Exhibit A.13).

**(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.**

**Staff:** The current property owners purchased the property in June 2023 and were not responsible for constructing the accessory building and they were not aware of the code violation (Exhibit A.13). The applicant states that the previous owners constructed the accessory building in its location to avoid impacts to the natural surrounding and native wildlife.

**(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.**



**Staff:** The applicant states that it would be costly to relocate or demolish the existing accessory building due to the permanence of the structure (Exhibit A.13). In addition, the current owners would need to remove trees or build within the mapped wetlands to meet the setback requirements which triggers additional construction standards and permitting requirements through the Department of State Lands.

**(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or base zone in which the property is located, or adversely affects the appropriate development of adjoining properties.**

**Staff:** The development on the subject property is consistent with the development on adjacent properties. The adjacent properties to the south are located in the MUA-20 zone and developed with residential uses. Based on the County's GIS aerial images, there are no structures within 100 feet of the adjacent properties to the south.

**(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.**

**Staff:** The Variance request is for reduced yard requirements from the front lot line and a side lot line. The accessory building meets the yard requirements from all other property boundaries. The accessory building is located 6.97 feet from the front lot line which requires a 30-foot yard and 1.93 feet from the nearest side lot line which requires a 10-foot yard. As stated in prior findings, the specific location avoids disturbance within the wetland area and the removal of vegetation.

**(F) Any impacts resulting from the variance 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.**

**Staff:** The applicant has not identified any specific impacts resulting from the approval of the Variance but the applicant has stated that they're open to mitigation conditions if the County deems it necessary.

**(G) The variance must be in support of a lawfully established use or in support of the lawful establishment of a use.**

**Staff:** The approval of the Variance would support the lawful establishment of the accessory building.

## 9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Lot of Record Determination, Accessory Use Determination, and Variance to obtain retroactive approval for an accessory building in the MUA-20 zone. Planning staff recommends approval of the proposal along with conditions of approval.

## 10.0 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

All exhibits are available for digital review by sending a request to [LUP-comments@multco.us](mailto:LUP-comments@multco.us).

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	Application Form	09.13.2024
A.2	5	Narrative	09.13.2024
A.3	2	Site Plans	09.13.2024

A.4	39	Deed History	09.13.2024
A.5	3	Floor Plans	09.13.2024
A.6	1	Elevation Drawings	09.13.2024
A.7	22	Stormwater Drainage Control Certificate	09.13.2024
A.8	2	Exterior Lighting	09.13.2024
A.9	6	Fire Service Agency Review	09.13.2024
A.10	5	Septic Review Certification	09.13.2024
A.11	1	Transportation Planning Review	09.13.2024
A.12	4	Covenant (blank/unsigned)	09.13.2024
A.13	4	Revised Narrative	11.25.2024
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Assessment and Taxation Property Information for 2N1W17B -00100 (Alt Acct# R971170520 / Property ID# R325011)	09.13.2024
B.2	1	Current Tax Map for 2N1W17B -00100	09.13.2024
B.3	1	1962 Zoning Map	09.13.2024
B.4	2	1968-5-21 Zoning Ordinance 100 as amended	09.13.2024
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete Letter	10.25.2024
C.2	2	Applicant Incomplete Response	11.24.2024
C.3	7	Hearing Notice	06.20.2025
C.4	14	Staff Report	06.27.2025