

**CITY OF Willamina
CITY COUNCIL ORDER**

Major Variance 2016-02
City Council Hearing: September 15, 2016

APPLICANT: Chris and Maria Scholten

REQUEST: A Major Variance (**VAR 2016-02**) to allow for a waiver from the garage and driveway paving requirements for the placement of a manufactured home on an individual lot in the R-2 (Residential) Zone.

LOCATION: No situs address (Yamhill County Assessor's Map and Tax Lot: 6701BD/6400)

CRITERIA:

R2 Zone:	Section 2.102
Manufactured Homes:	Section 2.303
Off-Street Parking and Loading:	Section 2.203
Variance:	Section 3.104

I. SUMMARY OF PROPOSAL

The request is to place a manufactured home on an individual lot of approximately 21,756 square feet (.5 acres) with a waiver of the requirement to construct a garage and to pave the driveway. The property is landlocked, with access provided by a 30 foot wide easement on the west side of the adjacent property to the south. The topography of the site is sloped, limiting the buildable area of the site.

II. BACKGROUND

It is ordinarily required that a garage be constructed in association with the placement of a manufactured home. Also, Section 2.203 requires that driveways for off-street parking shall have a durable, hard surface. Because the buildable land on this site is limited due to the steep slopes covering the majority of the property, placement of a manufactured home of the size required by the Willamina Development Code (1,000 square feet) would not be feasible for the applicant if a garage were also required. The applicant is also requesting the driveway paving requirement be waived, due to drainage considerations on site.

III. PROCEDURE

The City of Willamina requires a Major Variance when a standard is to be varied by more than 10 percent. Section 3.104 designates a Major Variance a Type II action with the Planning Commission as the decision authority. A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Because the City of Willamina does not presently have a quorum on the Planning Commission, the City Council is the decision authority in this case. A public notice is provided of the City Council's public hearing. After the hearing is closed the City Council deliberates to a decision and directs staff to prepare a resolution approving, approving with

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conditions, or denying the application. An appeal of the decision is to the Oregon Land Use Board of Appeals.

IV. CRITERIA AND FINDINGS OF FACT

3.104.04 Criteria and Procedure – Major Variance

The Planning Commission may allow a major variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.**

Applicant Response: “Topography restricts placement of a dwelling within setbacks resulting in inadequate space for placement of a garage. Surfacing of driveway to meet city standard would result in excessive runoff that would negatively affect neighboring uses.”

Findings: The applicant's materials include a topographical map, indicating a significantly steep slope (30-40 percent) across much of the property. Because of this slope, only a small percentage of the lot is suitable for placement of a manufactured home. Section 2.303 of the Development Code requires that a manufactured home be at least 1,000 square feet in area. Considering the slope of the lot, it is conceivable that stormwater may run over a paved surface and onto the lot south of the subject property, the walkway, and Main Street, negatively affecting the adjacent lot to the south. The significantly steep slope is an “exceptional circumstance.” Criterion A is met.

- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.**

Applicant Response: “The addition of a garage within the proposed site plan would limit the size of a dwelling that could be built on the subject site, therefore limiting the feasibility of developing the site. Excessive runoff from surfaced driveway would negatively affect neighboring uses.”

Findings: A variance to waive the requirement for a garage and driveway paving would allow for the placement of manufactured home, which is a permitted use in the R-2 Zone under Section 2.102. A variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. Criterion B is met.

- C. The authorization of such variance will not be materially detrimental to the public health, safety or welfare or injurious to property in the vicinity or district in which property is located, or otherwise conflict with the objectives of any City plan or policy.**

Applicant Response: “No effect to public health, safety or welfare are foreseen.”

Findings: It is not anticipated that the granting of a variance to waive the garage and driveway paving requirements will negatively affect the public health, safety or welfare. Criterion C is met.

D. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.

Applicant Response: "All conditions are existing and not due to neglect."

Findings: The special conditions and circumstances on which the application is based result from the natural topography of the land and are not the result of actions taken by the applicant. Criterion D is met.

E. The variance requested is the minimum variance which would alleviate the hardship.

Applicant Response: "Yes."

Findings: The waiver of the garage requirement is the minimum variance which would alleviate the hardship. The waiver of the driveway paving requirement or a requirement to pave a portion of the easement on the south adjacent lot, next to Main St. to prevent gravel from moving onto Main St. is the minimum variance which would alleviate the hardship. Criterion E is met.

V. DECISION AND CONDITIONS OF APPROVAL

Based on the findings, Major Variance 2016-02 is hereby APPROVED by the City Council on September 15, 2016, subject to the following conditions:

1. The easement access to the subject property must be paved at least 20 feet from where it meets Main Street.
2. The applicant must obtain an installation/ set-up permit for the manufactured home from the County.
3. Compliance with the standards of Section 2.303 (Manufactured Homes on Individual Lots) shall be reviewed administratively by the City during the review of applicable building permits and set-up permits.
4. A carport to shelter one car must be provided in lieu of a garage.

Approved by the City Council of the City of Willamina on the 15th day of September, 2016.


Ila Skyberg
Mayor

9-19-2016
Date

Attest:

Robert Sivick
City Manager

Date

