

**City of West Linn**  
**PRE-APPLICATION CONFERENCE MEETING**  
**SUMMARY NOTES**  
**June 7, 2012**

SUBJECT: Class II Variances for existing 6-foot fencing and structure along front and side setback at 2100 Mountain View Court

ATTENDEES: Applicants: Bob Straight, Brenda Abraham, Cathy Stuhr  
Staff: Tom Soppe (Planning), Jeff Randall (Public Works)

---

***The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any “follow-up” items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.***

#### **Project Details**

The applicants own a lot with a single-family detached house in the R-15 zone in the Marylhurst neighborhood. It is on Mountain View Court, but backs up to Marylwood Court, making it a “through lot”. Most houses along this row of lots that stretch between the two streets face Marylwood, but the house on the subject property fronts to Mountain View Court. Across the street are houses and undeveloped lots in the Breckenridge Heights subdivision which front to Mountain View Court.

In the R-15 zone, the required front yard setback is 20 feet per Community Development Code (CDC) Subsection 10.070(5)(a), and the required side yard setback is 7.5 feet per Subsection 10.070(5)(b). Per Subsection 44.020(A)(1)(a) fences within the front setback of a property are required to be three feet tall or less.

The applicant constructed a 6 foot fence in the front yard, abutting part of the front property line. Behind this is a walless structure consisting of pillars, a roof, and a hardscape floor. The structure is just behind the fence, so it is very close to the front property line as well, not complying with the 20-foot setback. The structure is also approximately on the north side property line of the lot, not in compliance with the 7.5-foot setback minimum.

When staff learned that the structure and fence had been built at these locations, staff informed the applicant that they would have to remove or move the structures, go through the variance process, or face fines for CDC violations. The applicant has expressed the desire to go

through the variance process, knowing the variance might not be approved. The first step in this process is this pre-application conference.

There are two types of variances, Class I and Class II. When it comes to front and side setbacks, Class I is only for setback variances of 2 feet or less per Section 75.020(A). Since the applicant's requested variances are for modifications to the requirements totaling 20 feet in front and 7.5 feet for the side, these are both Class II Variances. The request for fencing more than 3 feet tall in the front setback area requires another Class II Variance, since this requires a modification of the requirements not related to building height, dimensions, or setback, per 75.020(B)(3).

The CDC requires that Planning Commission be the decision-making body for Class II Variances. As discussed with the applicants, they are welcome to apply for and complete the variance process, complete with the public hearing in front of the Planning Commission. There is no guarantee as to what the outcome would be. The applicants may have to tear down or move the fencing and structure anyway if the application is denied, as well as paying the staff-hour-based bills for these applications even upon denial. Staff is not necessarily likely to recommend approval to the Planning Commission. However the applicants are welcome to make their best case to the City that they do meet the variance criteria. The applicant argues in the submitted materials that the variances are in part justified due to the property being unique in this row of through lots in that it faces Mountain View instead of Marylwood. This may be a stronger argument for the fencing (since other properties have fencing along Mountain View in their rear) in this regard, but the structure would not be allowed up against the property line even in the rear of a property. As the applicant discussed, emphasizing the slope and trees in the rear, in combination with the front of the property fitting in with the rear appearance of the other through lots, might help make the applicant's case.

### **Process**

Three Class II Variances required for front yard structural setback, side yard structural setback, and fencing over 3 feet high within the required front yard setback.

No neighborhood meeting is required per CDC 99.038. However, these meetings are always encouraged to solicit public input and make the public more informed of an applicant's plans. The site is in the Marylhurst Neighborhood Association, and is within 500 feet of the Skyline Ridge Neighborhood Association. Contact Jeff Treece, Marylhurst NA President, at [treece@gsp.org](mailto:treece@gsp.org) or 503-636-1218, and/or Kristin Campbell, Skyline Ridge NA President, at [kristinc@windermere.com](mailto:kristinc@windermere.com). If the applicant does present at a neighborhood meeting, the applicant is required to provide the neighborhood association with conceptual plans and other material at least 10 days prior to the meeting.

The Class II Variances application will require a full and complete response to the submittal requirements per CDC Section 75.050 and a completed application form. Submittal requirements may be waived but the applicant must first identify the specific submittal

requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director. The approval criterion is identified in Section 75.060. A narrative response is required for each approval criterion, related to each variance requested.

The CDC is online at <http://westlinnoregon.gov/planning/community-development-code-cdc>.

Prepare the application and submit to the Planning Department with deposits of \$1,900 for the first Class II Variance, and \$950 each for the other two (\$3,800 total initial deposit). Submit a completed application form as well.

**PLEASE NOTE that the deposit total quoted represents an initial deposit. Staff time is charged against this deposit. It is common for there to be more staff time spent on development applications than deposits cover, and therefore additional billing is possible.**

The Planning Director will send out public notice (20 day minimum) of the Planning Commission hearing upon application completeness. A Planning Commission decision may be appealed by the applicant or anyone with standing to City Council, requiring at least one City Council hearing.

Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required. Any code amendments to the CDC during that period would have to be addressed by the applicant and could affect the proposal.

If approved and a building permit applied for, for the structure, a hub and tack survey would be required due to the location close to the property line.

***Typical land use applications can take 6-10 months from beginning to end.***

**DISCLAIMER:** This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed.

P:\Dev rev\pre-apps\pre-apps 2012\2012.06.07\Pre ap summary Mtn View Ct