

**STAFF REPORT
FOR THE CITY COUNCIL**

FILE NUMBER: AP-20-01

HEARING DATE: May 11, 2020

REQUEST: Appeal of the Planning Manager decision to deny a Class I Variance request to reduce the required rear yard setback from 20 feet to 16.5 feet at 2622 Dillow Drive (VAR-19-05).

APPLICABLE CRITERIA UNDER APPEAL: Community Development Code (CDC):
CDC 75.020.A.1(a)
CDC 75.020.A.1(b)
CDC 75.020.A.1(c)

STAFF REPORT PREPARED BY: Chris Myers, Associate Planner

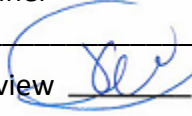
Community Development Director Review 

TABLE OF CONTENTS

STAFF ANALYSIS AND RECOMMENDATION

GENERAL INFORMATION 2

BACKGROUND/ANALYSIS..... 3-6

PUBLIC COMMENT/RECOMMENDATION6

EXHIBITS

CC-1 PLANNING MANAGER DECISION 7-15

CC-2 APPELLANT APPLICATION 16-18

CC-3 PUBLIC COMMENT 19

CC-4 PROPERTY MAPS..... 20

CC-5 AFFIDAVIT AND NOTICE PACKET 21-24

GENERAL INFORMATION

APPELLANT:	Jennifer Skyler 2622 Dillow Drive West Linn, OR 97068
APPEAL DEADLINE:	The appeal deadline was 5:00 p.m. on January 9, 2020. The appellant filed the appeal application at January 6, 2020, thus meeting the deadline.
PUBLIC NOTICE:	Public notice was mailed to all persons with standing, neighborhood association, and property owners within 500-feet on March 31, 2020. The property was posted with a notice sign on March 31, 2020. The notice was published in the West Linn Tidings on April 9, 2020. In addition, the application was posted on the City's website March 31, 2020.
SITE LOCATION:	2622 Dillow Drive
LEGAL DESCRIPTION:	Clackamas County Assessor Map 2S-1E-25AB, Tax lot 1900
SITE SIZE:	11,067 square feet
ZONING:	R-10, Single-Family Residential Detached and Attached.
COMP PLAN DESIGNATION:	Low-Density Residential
OWNER/APPLICANT:	Jennifer Skyler 2622 Dillow Drive West Linn, OR 97068
120-DAY PERIOD:	This approved application became complete on February 1, 2020. The appellant requested an extension of the 120-day maximum application-processing period to May 15, 2020.

BACKGROUND

The variance request resulted from a building permit application on April 2, 2019, for an addition to the home located at 2622 Dillow Drive. The building permits were issued and construction proceeded. During a site visit in late June 2019, West Linn Building staff identified that the joist spans didn't match and the addition was larger than the approved permit plans. Building and Planning staff returned to the site to measure the size of the addition and setbacks and confirm whether the addition was consistent with the approved permit plans. It was determined the addition was encroaching into the required 20 foot rear yard setback and not consistent with approved building permit plans.

The City stopped construction until revised building plans were submitted and approved, and a new hub and tack (a measurement taken by a certified surveyor) was submitted to verify that the required setbacks were being met. The hub and tack showed a 3.5 foot encroachment into the required rear yard setback. The appellant was provided the option to either modify the addition to comply with the originally approved permit plans and 20 foot rear yard setback, or apply for a Class I Variance. A Class I Variance, decided by the community development director, allows for minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties.

The property owner submitted a land use application on August 20, 2019 for a Class I Variance (VAR-19-05) to reduce the required rear yard setback from 20 feet to 16.5 feet. The application was deemed complete on September 17, 2019. The variance application required review and approval by the West Linn Planning Manager.

Public notice was sent per Community Development Code Chapter 99 requirements. The adjacent property owner to the west, Tom Taylor at 2690 Dillow Drive, submitted a comment that the encroachment into the required setback would block his view of Mt. Hood from a portion of his yard. He objected to the variance request based on the assertion that his view was blocked.

A staff report was written and the Community Development Director, using the discretionary decision-making power in a variance application, denied the Class I Variance (VAR-19-05) based on an adverse impact to the adjacent property at 2690 Dillow Drive.

The applicant appealed the denial of the Class I Variance. The appellant met the application requirements by referencing the application to be appealed, providing a statement of standing, paying the required fee, and identifying the applicable approval criteria that were misapplied.

ANALYSIS

In this analysis, staff has provided the provisions of the West Linn Community Development Code the appellant contends were misapplied, with a summary of the record regarding each provision, including appellant arguments and associated findings or a reference to where the information can be found in the record.

APPROVAL CRITERIA #1 CONTENDED TO BE MISAPPLIED

75.020 CLASSIFICATION OF VARIANCES

A. *Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:*

1. *Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:*

The appellant contends the request was below the maximum allowed modification to a required yard of 20 percent.

Staff concurs that reducing the rear yard setback from the required 20 feet to 16.5 feet (17.5 percent) is below the maximum allowed modification if all other criteria are satisfied. The Community Development Director found, using the discretionary decision-making power in a variance application, all relevant criteria were not met and denied the variance request based on an adverse impact to the adjacent property at 2690 Dillow Drive.

a. Provides for a more efficient use of the site;

The appellant contends that extending the addition into the rear yard setback will be a more efficient use of space as it is a currently unused backyard space and the additional space is needed for ADA accessibility.

The Community Development Director found, using the discretionary decision-making power in a variance application, all relevant criteria were not met and denied the variance request based on an adverse impact to the adjacent property at 2690 Dillow Drive. The Community Development Code dictates minimum setbacks in all residential zones. The subject property is 11,000 square feet, 10 percent above the 10,000 square foot minimum required in the R-10 zoning district. The variance need could have been avoided with proper site design and planning to efficiently use the site.

b. Preserves and incorporates natural features into the overall design of the project;

The appellant contends that original, mature trees and landscaping will remain intact.

Staff concurs the variance request will preserve and incorporate natural features, primarily trees, into the design. However, the variance need could have been avoided with proper site design and planning to efficiently use the site.

c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and

The applicant contends the variance request does not adversely impact adjoining properties:

1. In terms of light, the existing mature trees already provide shade on two borders of the property including the setback property line in question.
2. In terms of *air circulation*, there is 16.5 feet from the addition to the property line fencing. Furthermore the neighbor adjacent to the rear yard, and directly impacted, has significant distance from his structure to the property line.
3. In terms of *noise level*, there will be no increase in associated noise due to building into the setback.
4. In terms of *privacy*, there are mature trees and fencing that border the rear setback and trees and fencing on the west side of the property (neighboring property that sent public comment during variance review that the view of Mt. Hood would be blocked). There is a retaining wall between the east property line and the neighboring property.
5. In terms of *fire hazard* there won't be any increase in fire hazard if the structure is built into the setback by 3.5 feet.

The appellant also contends there is no Class I code criteria related to a reduced setback and view obstruction. The appellant contends the neighboring property to the south (neighboring property that sent public comment during variance review that the view of Mt. Hood would be blocked) is not impacted in regards to light, air circulation, noise levels, privacy, or fire hazards. The appellant contends the public comment of an obstructed view of Mt. Hood was incorrectly used to deny the variance request as:

1. The variance request is for the rear yard setback on the south side of the property.
2. The west side of property has existing mature trees, fencing, and the neighbor's windowless outbuilding that block both views of Mt. Hood and the home addition being constructed. Mt. Hood can be viewed from the front yards (north side) and street of both the neighboring property and our property. Mt. Hood cannot be viewed from the south of either of the properties. *please see property map and photos*

The Community Development Director found, using the discretionary decision-making power in a variance application, all relevant criteria were not met and denied the variance request based on an adverse impact to the adjacent property at 2690 Dillow Drive. The Community Development Code requires minimum setbacks in all residential zones. The variance need could have been avoided with proper site design and planning to efficiently use the site.

d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.

The applicant contends the variance request does not impact vehicular or pedestrian access as the request is for the rear yard setback.

Staff concurs the variance request will not impact vehicular or pedestrian access as the request is for the rear yard setback. However, the variance need could have been avoided with proper site design and planning to efficiently use the site.

PUBLIC COMMENT

As of the publication date of this report, staff has received one public comment from the neighboring property to the south. All comments can be found in Exhibit CC-3.

RECOMMENDATION

Staff recommendation is to approve the appeal (AP-20-01) of VAR-19-05 and allow construction to continue into the rear yard setback. This recommendation is based upon new information received after the denial was issued. Specifically that the view of Mt. Hood will not be affected by allowing the addition of the home at 2622 Dillow Drive. The blocked view of Mt. Hood was considered to be the adverse impact on the adjacent property and thus the reason for denial of VAR-19-05.

In consultation with City Attorney Tim Ramis, he concurred that with the new information regarding the view of Mt. Hood the adverse impact on an adjacent property does not exist and therefore the variance criteria have been met.

EXHIBIT CC-1 PLANNING MANAGER DECISION



**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: December 26, 2019

FILE NO.: VAR-19-05

REQUEST: Class I Variance to reduce side yard setback standard up to 20% at 2622 Dillow Drive

PLANNER: Chris Myers, Associate Planner

Community Development Director

TABLE OF CONTENTS

	<u>Page</u>
STAFF ANALYSIS AND RECOMMENDATION	
GENERAL INFORMATION.....	2
EXECUTIVE SUMMARY.....	2
DECISION.....	3
ADDENDUM	
STAFF FINDINGS.....	4
EXHIBITS	
PD-1 COMPLETENESS LETTER.....	6
PD-2 AFFADAVIT OF NOTICE.....	8
PD-3 APPLICANT'S SUBMITTAL.....	13
PD-3 PUBLIC COMMENTS	17

GENERAL INFORMATION

**OWNER/
APPLICANT:** Jennifer Skyler
2622 Dillow Drive
West Linn, OR 97068

SITE LOCATION: 2622 Dillow Drive

SITE SIZE: 11,113 sq. ft.

**LEGAL
DESCRIPTION:** Tax Lot Number 21E25AB01900

**COMP PLAN
DESIGNATION:** Low Density Residential

ZONING: R-10 (single family residential detached, R-10; 10,000 square foot minimum lot size)

**APPROVAL
CRITERIA:** Community Development Code (CDC) Chapter 11 R-10 Zone; Chapter 75 Variances and Special Waivers.

120-DAY RULE: The application became complete on August 20, 2019. The 120-day period therefore ends on January 15, 2020.

EXECUTIVE SUMMARY

The applicant requested a provision for "Required yard and minimum lot dimensional requirements." The request considers a reduction of the rear yard setback up to the 20% allowed in a Class I variance (20% of a 20' setback is a 4' reduction). The property owner/applicant is doing an addition to their home to assist family members, is dealing with upcoming weather issues, and is asking for the lessor variance. A Class I variance is considered a lessor variance and provides "minor relief from certain code provisions" that will not harm adjacent properties and conforms to any other code provisions.

The applicant requested to waive the pre-application requirement for a Class I variance for an allowed reduction of the rear yard setback up to 4'. A Class I variance is a lessor variance that is considered a minor relief from code provisions that does not harm adjacent property owners.

Public comments:

See exhibit PD-4 for comments submitted.

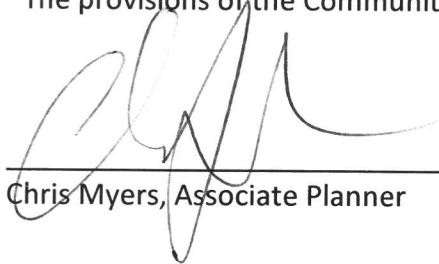
DECISION

The ***Community Development Director*** denies this application (VAR-19-05), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the conditions of approval below:

Condition of Approval

- 1. The final plan shall conform to the submittal dated April 2, 2019. (See Staff Finding 1)**

The provisions of the Community Development Code Chapter 99 have been met.


Chris Myers, Associate Planner

12/26/2019
DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 27th day of December 2019.

Therefore, the 14-day appeal period ends at 5 p.m., on January 9, 2020

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-17-05**

I. CHAPTER 11, SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

11.030 PERMITTED USES

The following uses are permitted outright in this zone.

1. Single-family detached residential unit.

(...)

Staff Response 1: The subject property has one single family detached home and no proposed change to the use with this application.

11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

...

- a. *For the front yard, 20 feet; except for steeply sloped lots where the provisions of CDC 41.010 shall apply.*
- b. *For an interior side yard, seven and one-half feet.*
- c. *For a side yard abutting a street, 15 feet.*
- d. *For a rear yard, 20 feet.*

Staff Response 2: The applicant is proposing a variance to the dimensional requirements. See Staff Response 3.

III. CHAPTER 75, VARIANCE

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. *Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:*

- a. *Provides for a more efficient use of the site;*

- b. Preserves and incorporates natural features into the overall design of the project;*
 - c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and*
 - d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*
- 2. Off-street parking dimensional and minimum number of space requirements may be modified up to 10 percent if the decision-making authority finds that the use is designed for a specific purpose, which is intended to be permanent in nature.*
- 3. Dimensional sign requirements may be modified up to 10 percent if the decision-making authority finds that the proposed larger sign is:*
 - a. Necessary for adequate identification of the use on the property; and*
 - b. Compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.*
- 4. Landscaping requirements in the applicable zone may be modified up to 10 percent if the decision-making authority finds that the resulting approval:*
 - a. Provides for a more efficient use of the site;*
 - b. Preserves and incorporates natural features into the overall design of the project; and*
 - c. Will have no adverse effect on adjoining property.*

Staff Response 3: The applicant has applied for a class I Variance to reduce the setback requirement to allow for the expansion and remodel of the existing structure. The reduction would allow the proposed expansion to encroach into the rear setback by the maximum allowed, 20% or 4', for a Class I Variance. The applicant is not proposing any changes to the off-street parking on the subject property. The applicant is not proposing a sign or landscaping. Findings show an adverse impact on the adjoining property located at 2690 Dillow Drive. *This criteria is not satisfied.*

PD-1 COMPLETENESS LETTER



CITY OF
West Linn

September 17, 2019

Jennifer Skyler
2622 Dillow Drive
West Linn, OR 97068

SUBJECT: VAR-19-05 application for a Class I Variance to side yard setbacks at 2622 Dillow Drive.

Dear Ms. Skyler:

Your application was received on August 20, 2019 and found to be **complete**. The City has 120 days to exhaust all local review. That period ends January 15, 2020.

Please be aware that a determination of a complete application does not guarantee a recommendation of approval from staff for your proposal as submitted – it signals that staff believes you have provided the necessary information for the Planning Manager to render a decision on your proposal.

A 14-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Manager.

Please contact me at 503-742-6057, or by email at jarnold@westlinnoregon.gov if you have any questions or comments.

Sincerely,

Jennifer Arnold
Associate Planner

PD-2 AFFADAVIT OF NOTICE

AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

GENERAL

File No. VAR 19-05 Applicant's Name Jennifer Skyler
Development Name 2622 Dillow Drive
Scheduled Meeting/Decision Date Oct 23, 2019

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A

- A. The applicant (date) _____ (signed) _____
- B. Affected property owners (date) _____ (signed) _____
- C. School District/Board (date) _____ (signed) _____
- D. Other affected gov't. agencies (date) _____ (signed) _____
- E. Affected neighborhood assns. (date) _____ (signed) _____
- F. All parties to an appeal or review (date) _____ (signed) _____

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) _____ (signed) _____
City's website (posted date) _____ (signed) _____

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) _____ (signed) _____

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B

- A. The applicant (date) 10-9-19 (signed) Lynn Schroder
- B. Affected property owners (date) 300 feet 10-9-19 (signed) Lynn Schroder
- C. School District/Board (date) W/A (signed) _____
- D. Other affected gov't. agencies (date) W/A (signed) _____
- E. Affected neighborhood assns. (date) all 10-9-19 (signed) Lynn Schroder

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: 10-9-19 (signed) LS

STAFF REPORT mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) _____ (signed) _____

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) _____ (signed) _____

PD-3 APPLICANT'S SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT	PROJECT No(s).	
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S)	TOTAL

Type of Review (Please check all that apply):

- | | | |
|--|--|--|
| <input type="checkbox"/> Annexation (ANX)
<input type="checkbox"/> Appeal and Review (AP) *
<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Review (DR)
<input type="checkbox"/> Easement Vacation
<input type="checkbox"/> Extraterritorial Ext. of Utilities
<input type="checkbox"/> Final Plat or Plan (FP)
<input type="checkbox"/> Flood Management Area
<input type="checkbox"/> Hillside Protection & Erosion Control | <input type="checkbox"/> Historic Review
<input type="checkbox"/> Legislative Plan or Change
<input type="checkbox"/> Lot Line Adjustment (LLA) */**
<input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan)
<input type="checkbox"/> Non-Conforming Lots, Uses & Structures
<input type="checkbox"/> Planned Unit Development (PUD)
<input type="checkbox"/> Pre-Application Conference (PA) */**
<input type="checkbox"/> Street Vacation | <input type="checkbox"/> Subdivision (SUB)
<input type="checkbox"/> Temporary Uses *
<input type="checkbox"/> Time Extension *
<input checked="" type="checkbox"/> Variance (VAR)
<input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP)
<input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)
<input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)
<input type="checkbox"/> Zone Change |
|--|--|--|

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: 2622 Dillow Drive West Linn, OR 97068	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal:
Proposed Class 4 Variance of Back yard Set-back.

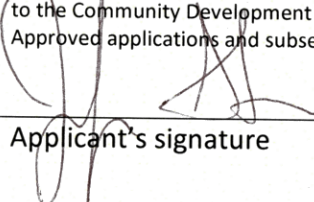
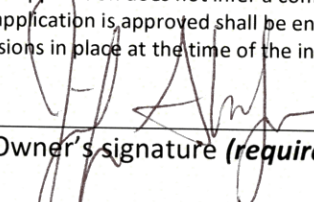
Applicant Name: (please print) Jennifer Skycer	Phone: 503-888-5426
Address: 2622 Dillow Drive	Email: skypdx@gmail.com
City State Zip: West Linn, OR 97068	

Owner Name (required): (please print) U	Phone:
Address:	Email:
City State Zip:	

Consultant Name: (please print)	Phone:
Address:	Email:
City State Zip:	

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
 2. The owner/applicant or their representative should be present at all public hearings.
 3. A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
 4. **Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application.**
One (1) complete set of digital application materials must also be submitted on CD in PDF format.
If large sets of plans are required in application please submit only two sets.
- * No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

 Applicant's signature	8/16/2019 Date	 Owner's signature (required)	8/16/2019 Date
---	-------------------	--	-------------------

75.020 CLASSIFICATION OF VARIANCES

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:

a. Provides for a more efficient use of the site;

This 3' 6 back yard setback adjustment enables more efficient use of the addition by providing for more square footage for handicap (ADA) accessibility than what the original plans provided. (Homeowner will be caring for elderly parents and a grandparent once the addition is complete.)

b. Preserves and incorporates natural features into the overall design of the project;

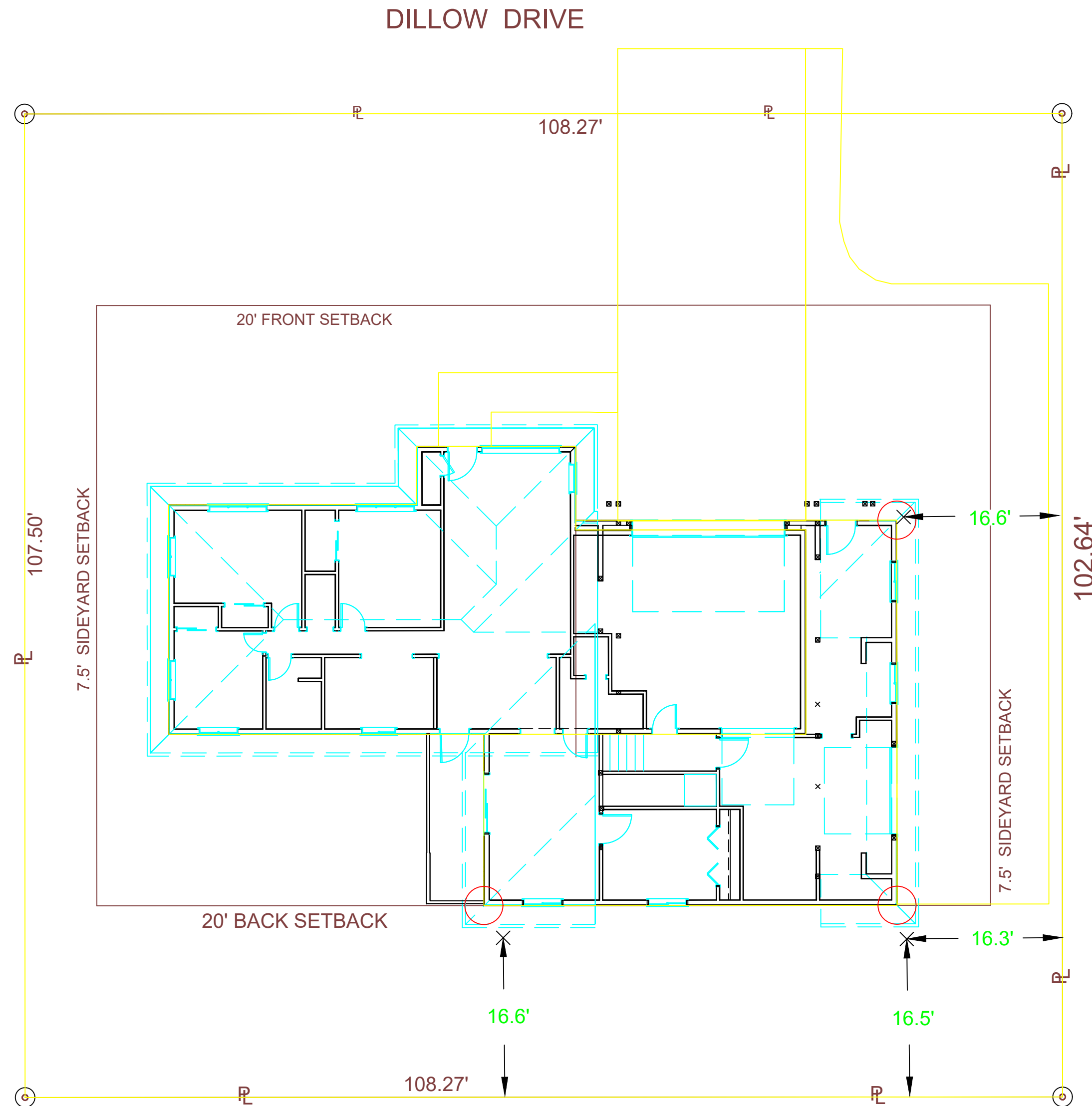
A setback adjustment does not impede the pre-existing landscape or trees (mature and young) in any way.

c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and

The initial (approved) design of the addition back wall was precisely at the 20' setback. The several additional feet of encroachment into the 20' setback still allows for 16' 4" of air circulation and fire safety. Mature trees and fencing maintain the same level of privacy with the bordering properties. Noise levels are not impacted.

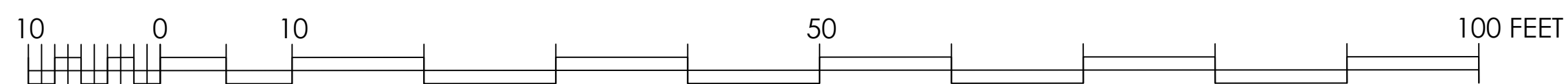
d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.

The setback adjustment to the addition does not interfere with vehicular or pedestrian access and circulation in any way.



10/20/18:
 From previously established boundary monuments, I Brian Paull, Professionally Licensed Land Surveyor in the State of Oregon, set hub and tacks at the northeast, southeast and southwest corners of proposed garage addition on October 20, 2018, as per this plan and setbacks shown hereon (red circles). Corners were staked according to the linework in CAD format provided to me by my client's architect, which is represented on this map.

UPDATE 7/8/19:
 Upon the most-recent visit, the as-built structure was located and the NE, SE and SW corners were measured. They are represented by the "X" symbols shown hereon, along with dimensions to the Approximate property lines.



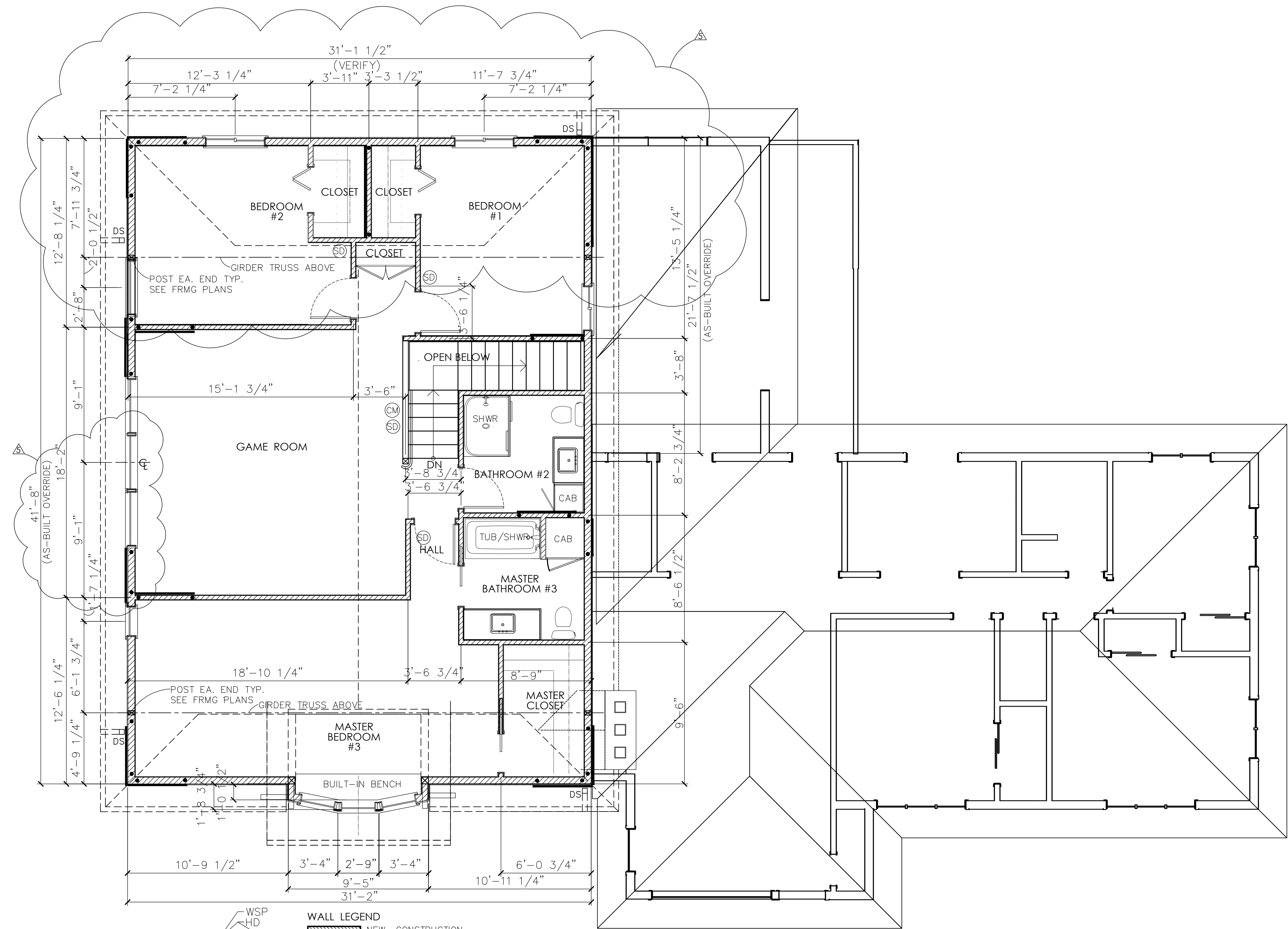
Survey for:
 Greg Liacos
 2622 Dillow Dr
 West Linn OR, 97068

REGISTERED
PROFESSIONAL
 LAND SURVEYOR
Brian Paull
 OREGON
 MARCH 13, 2018
 BRIAN W. PAULL
 89074
 Expires 12/31/2020

Brass & Stone Land Surveying
 Brian Paull, PLS (503) 871-0030

Date: 07/08/2019	479 E. Robidoux St. Stayton, OR 97383
Scale 1"= 10'	Sheet 1 of 1

SKYLER RESIDENCE REMODEL
WEST LINN, OREGON



BRACED WALL PANEL TYP. 4' TYP.
 HD = 1800 LB CAPACITY HOLDDOWN TYP.
 WSP = WOOD STRUCTURAL PANEL
 1/2" STRUCTURAL PLYWOOD SHEATHING W/ 8D NAILS @ 6" O/C EDGES, 12" FIELD.
 4' TYP. LENGTH, 3' MIN. AT 10'-9" FLOOR TO CEILING GARAGE.

WALL LEGEND
 NEW CONSTRUCTION
 EXISTING CONSTRUCTION
 EXISTING REMOVE

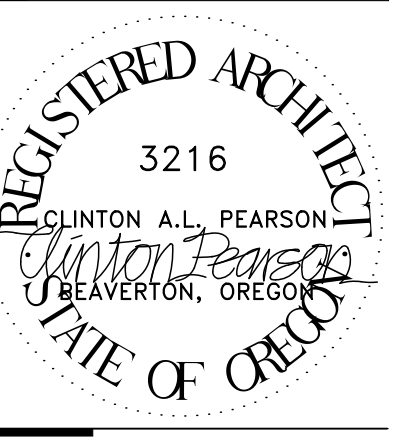
= SMOKE DETECTOR
 = CARBON MONOXIDE DETECTOR

BACK EXTENDED 4'
 DORMERS REMOVED EAST WALL EXTENDED EAST.

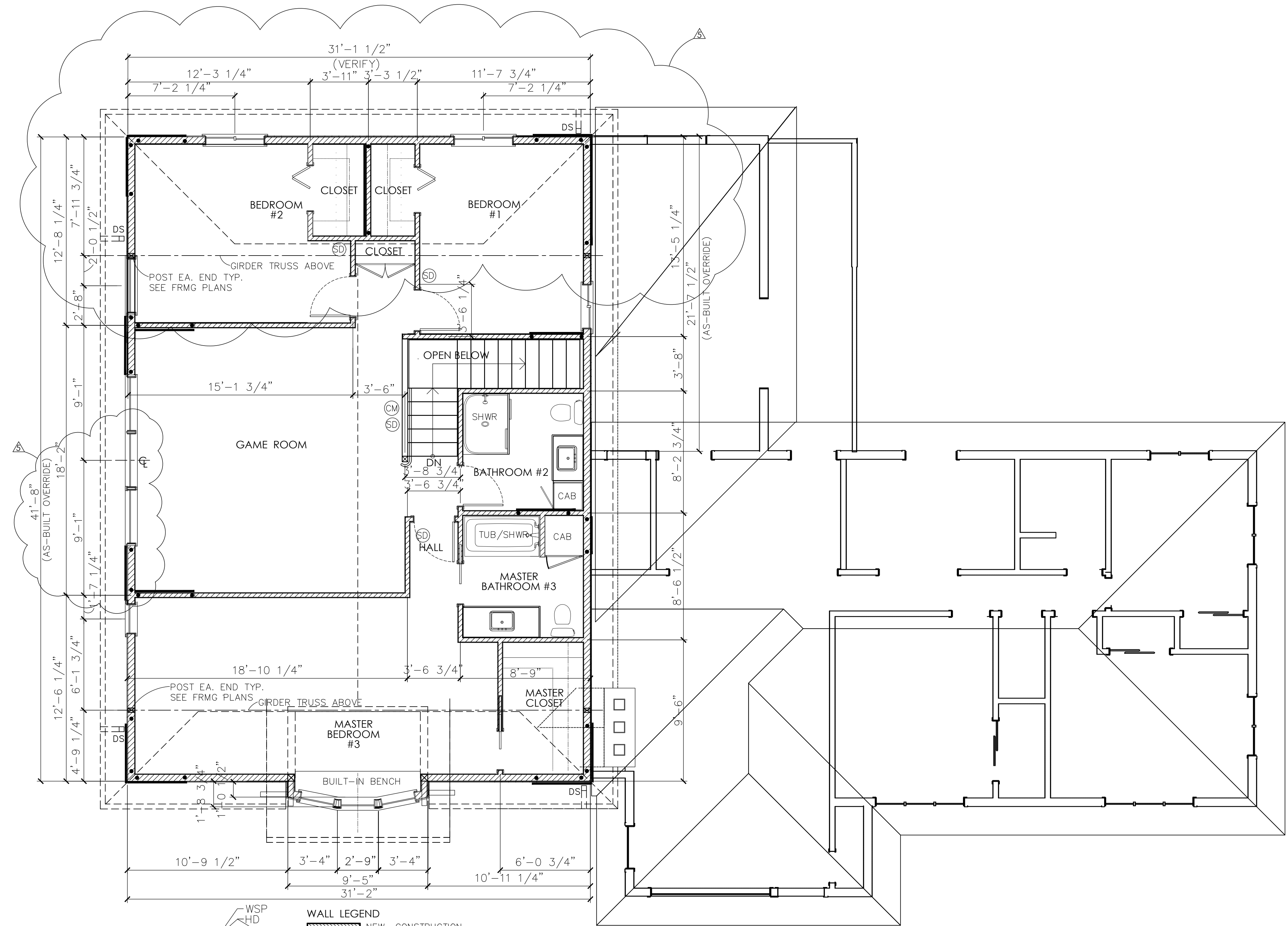
UPPER FLOOR PLAN
SCALE: 1/4" = 1'-0"

PERMIT DATE:	21 May 2018
REVISION DATE:	13 SEPT 2018
	8 OCT 2018
	30 MAR 2019
	23 JULY 2019

DRAWN BY: CAL
 SCALE:
 FILE NAME:



SKYLER RESIDENCE REMODEL
WEST LINN, OREGON



BRACED WALL PANEL TYP. 4' TYP.
HD = 1800 LB CAPACITY HOLDDOWN TYP.
WSP = WOOD STRUCTURAL PANEL
1/2" STRUCTURAL PLYWOOD SHEATHING W/ 8D NAILS @ 6" O/C EDGES, 12" FIELD.
4' TYP. LENGTH, 3' MIN. AT 10'-9" FLOOR TO CEILING GARAGE.

WALL LEGEND
 NEW CONSTRUCTION
 EXISTING CONSTRUCTION
 EXISTING REMOVE

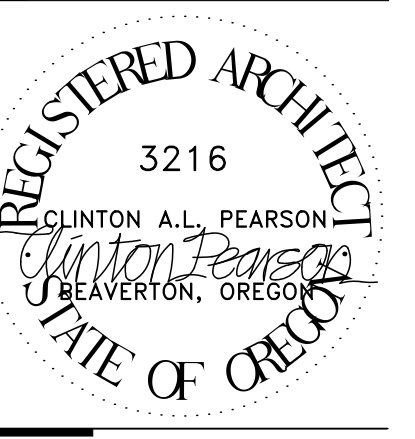
= SMOKE DETECTOR
 = CARBON MONOXIDE DETECTOR

BACK EXTENDED 4'
 DORMERS REMOVED EAST WALL EXTENDED EAST.

UPPER FLOOR PLAN
SCALE: 1/4" = 1'-0"

PERMIT DATE:	21 May 2018
REVISION DATE:	13 SEPT 2018
	8 OCT 2018
	30 MAR 2019
	23 JULY 2019

DRAWN BY: CAL
SCALE:
FILE NAME:



PD-4 PUBLIC COMMENTS

**CITY OF WEST LINN
NOTICE OF UPCOMING
PLANNING MANAGER DECISION
FILE NO. VAR-19-05**

The West Linn Planning Manager is considering a request for a reduction of the rear yard setback up to the 20% allowed in a Class I Variance (20% of a 20' setback is a 4' reduction) at 2622 Dillow Drive.

The decision will be based on the approval criteria in Chapters 11 and 75 of the Community Development Code (CDC). The approval criteria from the CDC are available for review at City Hall, at the City Library, and at <http://www.westlinnoregon.gov/cdc>.

You have received this notice because County records indicate that you own property within 300 feet of this property (Tax Lot 01900 of Clackamas County Assessor's Map 21-E25AB) or as otherwise required by Chapter 99 of the CDC.

All relevant materials in the above noted file are available for inspection at no cost at City Hall, and on the city web site <https://westlinnoregon.gov/planning/2622-dillow-drive-class-i-variance-rear-yard-setback> or copies may be obtained for a minimal charge per page. A public hearing will not be held on this decision. **Anyone wishing to present written testimony for consideration on this matter shall submit all material before 4:00 p.m. on October 23, 2019.** Persons interested in party status should submit their letter along with any concerns related to the proposal by the comment deadline. For further information, please contact Chris Myers, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6062, cmyers@westlinnoregon.gov.

Any appeals to this decision must be filed within 14 days of the final decision date with the Planning Department. **It is important to submit all testimony in response to this notice.** Failure to raise an issue in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes the raising of the issue at a subsequent time on appeal or before the Land Use Board of Appeals.

LET THE RECORDS SHOW WE STRONGLY OPPOSE THE REQUESTED SET BACK.

THE ADDITIONAL 4' SET BACK BLOCKS OUR VIEW OF MT. HOOD FROM A LARGE PORTION OF OUR YARD.

GREGORY LIASCOS STATED TO US LAST SUMMER THAT HIS PLAN IS TO OPEN A SOUP KITCHEN HERE AT THE RESIDENCE.

FOR WELL OVER A MONTH, LARGE BLUE TARPS ARE BLOWING IN THE WIND, UN MAINTAINED, EXPOSING THE NEW STRUCTURE TO THE ELEMENTS. PERHAPS CAMO TARPS WOULD BE LESS OF AN EYE SORE!

WE ARE IN FULL SUPPORT OF OUR NEIGHBOR PULLING BACK THE 4' AND COMPLETING THEIR ENDEAVOURS IN A TIMELY FASHION.

EXHIBIT CC-2 APPELLANT APPLICATION



DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>Chris Myers</i>	PROJECT No(s). <i>AP 20-10, VAR 19-05</i>	
NON-REFUNDABLE FEE(S) <i>\$ 400</i>	REFUNDABLE DEPOSIT(S) <i>0</i>	TOTAL <i>\$ 400</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input checked="" type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address:

*2622 Dillow Drive
West Linn, OR 97068*

Assessor's Map No.:

Tax Lot(s): 21E25AB01900

Total Land Area: 11,113 sq. ft.

Brief Description of Proposal:

Asking to appeal the denial of requested 20% rear yard setback.

Applicant Name:
(please print)

Jennifer Skyr
*2622 Dillow Drive
West Linn, OR 97068*

Phone: *503-888-5426*

Email: *skypdx@gmail.com*

Owner Name (required)
(please print)

Jennifer Skyr
*2622 Dillow Drive
West Linn, OR 97068*

Phone: *503-888-5426*

Email: *skypdx@gmail.com*

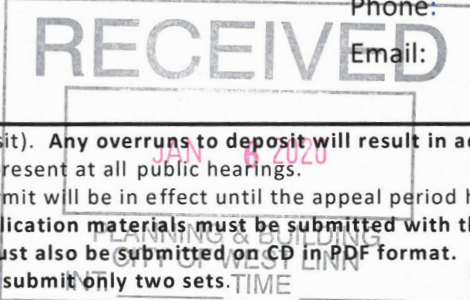
Consultant Name:
(please print)

Address:

City State Zip:

Phone:

Email:



- All application fees are non-refundable (excluding deposit). Any overruns to deposit will result in additional billing.
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application. One (1) complete set of digital application materials must also be submitted on CD in PDF format. If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Applicant's signature

Date

Owner's signature (required)

Date

Jan 6th, 2020 *Jan. 6th, 2020*

Jennifer Skyler
2622 Dillow Drive
West Linn, OR 97068

March 2, 2020

Dear West Linn City Council,

My name is Jennifer Skyler. I have lived in the City of West Linn off and on for the past 30 years, and I co-own 2622 Dillow Drive with my parents Elaine and Gordon Grose, who also reside in West Linn. I am currently in the midst of building an addition on 2622 Dillow Drive.

On July 3rd, 2019, I stopped work on the addition in order to apply for a Class 1 Variance for our backyard setback. Per City of West Linn instruction, we wrapped the new construction in tarps to prevent rain damage. On August 6th, 2019 I submitted new drawings and new hub & tack information, as well as my application for the Class 1 Variance. I was informed that all decisions regarding the variance would be based on meeting code criteria for Class 1 Variances. On September 17th, 2019 I received a letter from Jennifer Arnold at the City of West Linn, that my application was received and then reviewed on August 20th, 2019 and that it was found to be complete. On December 26th, 2019 I received a letter from City of West Linn Planning, stating that my request for a Class 1 Variance was denied by the Community Development Director 1) based on the findings I submitted 2) supplementary staff findings, and that 3) conditions of approval to continue building, were that I would have to use our original drawings, which do not provide for ADA accessibility. Included, was a letter of complaint by my neighbor at 2690 Dillow.

In the staff report, there was **no description regarding the ways in which the documents I submitted did not meet code criteria**. There was **no documentation of staff findings and how those findings concluded that my variance did not meet code criteria**. **None of my neighbor's complaints referenced code violation**. I concluded that the decision was not in fact based on code. I filed an appeal.

My request for a Class 1 Variance of the backyard setback at 2622 Dillow Drive complies with code:

1. Required yards may be modified up to 20% - which is 4ft. Our drawings use 3.5 ft of the 4 ft.

- a. The variance I request for **our addition provides for more efficient use of space. It is an unused backyard space, and that space is needed for ADA accessibility.**
- b. The variance I request **keeps original, mature trees and landscaping intact.**
- c. The variance I request does not adversely affect adjoining properties in terms of:

Light - There is **no impact on adjoining properties** regarding light. Mature trees already provide shade on two borders of the property, including the setback property line.

Air Circulation - There are still **16.5 ft from our construction to the property line fencing** bordering our setback. The neighbor bordering the setback has significant footage between their residence and the fencing we share.

Noise Levels - There will be **no increase** in noise levels.

Privacy - We have **mature trees and fencing** bordering our setback (south side of our property) as well as the west side of our property (neighbor who wrote the complaint). We have a **retaining wall** built between our property and our neighbor to the east.

Fire Hazards - There is **no alteration** in fire hazards.

2. We have plenty of additional parking, paved and unpaved.
3. No change to sign requirements.
4. No impact or alteration to mature landscaping, whatsoever.

Now that I have addressed code, I would like to briefly address my neighbor's (2690 Dillow Drive) concerns.

- 1) Our neighbor's complaint of an obstructed view of Mt. Hood:
The 4' Class 1 Variance of our setback is at the south of our property. Mature trees, fencing, and our neighbor's windowless outbuilding are in line of sight of our construction and setback, not Mt. Hood. Mt. Hood can be viewed from the north of both our neighbor's property and from the street. Mt. Hood cannot be viewed from the south of either of our properties. *please see property map and photos*

Regardless, there is nothing in Class 1 Variance code criteria about a view obstructed, and our neighbor is in no way impacted in regards to light, air circulation, noise levels, privacy or fire hazards.

2) Our neighbor is afraid I will run a soup kitchen out of the addition:

I am executive director of a small non-profit that supplies and supports food-sharing as a way to ease food insecurity for Portland area residents. There will never be a “soup kitchen” at our residence. This was a simple misunderstanding. And has nothing to do with code criteria.

3) Blue Tarps:

We were instructed to tarp and wrap our construction. We did so. This has nothing to do with code criteria.

4) Completing Construction in a timely manner:

Believe me, we want the same thing. Our hands have been tied. This complaint also has nothing to do with code criteria.

Thank you for your time, I look forward to meeting with you soon.

Sincerely,
Jennifer Skyler

EXHIBIT CC-3 PUBLIC COMMENT

I am Richard Ponting and have lived at 2615 Hughes Dr since 1974.

I would like to offer my support to the home owners remodel of second house down the street on Dillow from Highway 43. They have been remodeling and I know have been stopped because their setback is 16' and needs to be 20'.

I wholeheartedly and without reservation support their building project. I do not know these people and have not spoken to them. But they are trying to improve their property and must have hugely invested in doing so in bettering their home and neighborhood. I absolutely support this project.

I imagine the neighbor in back, Kenneth Orr has complained. Well I am his neighbor on Hughes. It was once a beautiful home and property when the Quinn's lived there. Now it's a dump and it has been for years. He put high intensity lighting on a pole on his garage that stays on all night that I have had to mitigate by planting a laurel hedge. It illuminates all the garbage that is everywhere. I have repeatedly complained to the city about the tires, trailers, appliances, and misc trash against my fence and all over the property. It is an eyesore, disgraces the neighborhood and city, and attracts vermin. Some of it has been there for decades. The city had done nothing but note it.

Now his sewer line is broken. He is above me and I image it is somehow leaching into the clay. This repair will be expensive. They started work then stopped.

I have had to live with his crap all over his yard and against my fence while he destroys the property and lowers property value. Now I am afraid I have to live with his crap literally. It is unacceptable that his crushed sewer line is allowing His sewage to leach in the ground above me. The work needs to be properly completed, monitored, and permitted; and now.

So two things: I completely support the construction at the house on Dillow. I remain unhappy that Kenneth Orrs house is tolerated as a junk yard, that he had been allowed to illuminate the junk all night with a high powered light forcing me to deal with it, and that his broken sewer line remains broken with the work repairing it stopped.

I hope you and city can do something in both circumstances, both involving Mr. Orr.

Thank you for your consideration.

Richard Ponting
2615 Hughes Dr
West Linn
503 929 8249

Sent from my iPhone

Hello,

My name is Andrew Young. I live close to the property in question and I'd like to state my support for the development application at 2622 Dillow Drive. My family walks by this property often and we have been able to see the development as it has both progressed as well as halted because of the denial of Class I Variance. After reviewing the city's available information on the process as well as the information provided by Jennifer Skyler it appears that the area needed to accomplish ADA accessibility complies with the available space allotted in the reduced setback requirements. The current renovations done at this address do not pose any visual or other burden on the neighborhood in terms of use or aesthetics and I feel that allowing exceptions for ADA accessibility is a form of support that should be considered very important in West Linn where there is a substantial elderly population. In fact as I can visualize the completed project I can clearly see that this addition will increase the overall quality of the home and perception of the neighborhood. I find it very concerning that the city did not specify exact details for the variance denial based in specific code compliance. I feel that we should be supporting much needed improvements to properties in the area so that we can increase the overall quality of the homes available in a city with very little room for new construction. I would hope that the planning department would cooperate and help this family finish a project that is important for them to be able to care for their aging family. We are a community and we are strongest when we help each other and our city should be working on our behalf in a manner that is transparent and logical. Allowing this variance is the ethical and right thing to do and I urge you to reverse the decision made on December 26, 2019. The alternative is a construction project that is needlessly delayed and a neighborhood that is left with unfinished views of tarps on roofs for months on end. Please let this family finish their project and let's move on.

Thank you for your time.

--

Andrew Young

andrew@splintmedia.com

www.splintmedia.com

www.andrewmyoung.com

Mr. Myers; my original position stands regarding the subject property. I thought codes were written to insure equality for everyone. Some years back we were denied because of the current code of the day even though it changed later to suit some one else. The man knew he was in violation but proceeded any way. I'm writing this so as not to violate the government mandate of shelter in place. Thank you for your consideration in this matter. Tom Taylor 2690 Dillow Dr, West Linn. OR 97068

Good morning Mr. Myers –

Just a quick note of thanks for taking my call yesterday afternoon. I appreciate your attentiveness and empathy regarding the blue tarps covering the “never ending project” at 2622 Dillow Drive. My hope like yours, is that they can proceed and finish the project VERY soon so as to not continue to negatively impact the value of the properties in the area.

As I expressed to you on our call, we and other fellow home owners in immediate proximity to this address, are scared and feel that there is a real and assessable negative cost impact to the value of our properties due directly to the ongoing negligent condition of 2622 Dillow Drive. We would like that noted for the record. We as neighbors also feel that due to the direct causal nature of the delays and the ongoing “abandoned” condition (homeowner negligence in not adhering to the building code and in violation of the building permit issued = stop work order) that the value of the damages to our properties could be punitive.

Point being, we have reached our limit and are out of patience with the blue tarps, half-finished retaining walls, stacks of water damaged building materials, exposed pipes and utilities, gaping ditches with mud run-off, lack of silt fences, excavation and other equipment being left on the road and in our midst for over a year.

As a fellow “West Linner” and based on what you told me, I know you understand and empathize. Please do what you can to expedite this in any/every way possible. Let me know if there is anything further we, as neighbors, can do as well. We are invested in the community and feel it is time for this project to draw to a close and to be completed.

Thanks again for your time.

Mike Rodgers

Engineered Products

503-872-3618 Desk

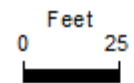
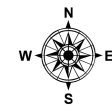
541-992-6101 Cell

ewp@shelter-products.com



EXHIBIT CC-4 PROPERTY MAPS

2622 Dillow Drive Aerial Photo



Scale 1:600 - 1 in = 50 ft
Scale is based on 8-1/2 x 11 paper size



Map created by: DWYSS
Date Created: 31-Mar-20 05:13 PM

WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Map scale is approximate. Source: West Linn GIS (Geographic Information System) MapOptix.

EXHIBIT CC-5 AFFIDAVIT AND NOTICE PACKET

AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

GENERAL

File No. AP-20-01 Applicant's Name Jennifer Skylan
Development Name 2622 Dillow DR
Scheduled Meeting/Decision Date 5-11-20

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A

- A. The applicant (date) 4/20/20 (signed) J Schroder
B. Affected property owners (date) 4/20/20 (signed) J Schroder
C. School District/Board (date) — (signed) —
D. Other affected gov't. agencies (date) — (signed) —
E. Affected neighborhood assns. (date) Botton 4-20-20 (signed) J Schroder
F. All parties to an appeal or review (date) (4) on 4-20-20 (signed) J Schroder

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) April 30, 2020 (signed) Juan Schroder
City's website (posted date) 4-20-20 (signed) J

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) _____ (signed) _____

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B _____

- A. The applicant (date) _____ (signed) _____
B. Affected property owners (date) _____ (signed) _____
C. School District/Board (date) _____ (signed) _____
D. Other affected gov't. agencies (date) _____ (signed) _____
E. Affected neighborhood assns. (date) _____ (signed) _____

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: _____ (signed) _____

STAFF REPORT mailed to applicant, City Council, Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) 4-20-20 to applicant (signed) Juan Schroder
5-1-20 to cc

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) _____ (signed) _____

**CITY OF WEST LINN
CITY COUNCIL
PUBLIC HEARING NOTICE
FILE NO. AP-20-01**

The West Linn City Council will hold a public hearing on **Monday, May 11, 2019**, starting at **6:30 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn. The public hearing will consider a denial of a Class I Variance to reduce side yard setback standard up to 20% at 2622 Dillow Drive made by the Planning Manager on December 26, 2019 (File VAR-19-05).

The review of the Community Development Director's decision will consider the criteria in Chapter 75.020.1. of the Community Development Code. This review will examine the potential adverse impact on an adjoining property based upon a denial of VAR-19-05 at 2622 Dillow Drive.

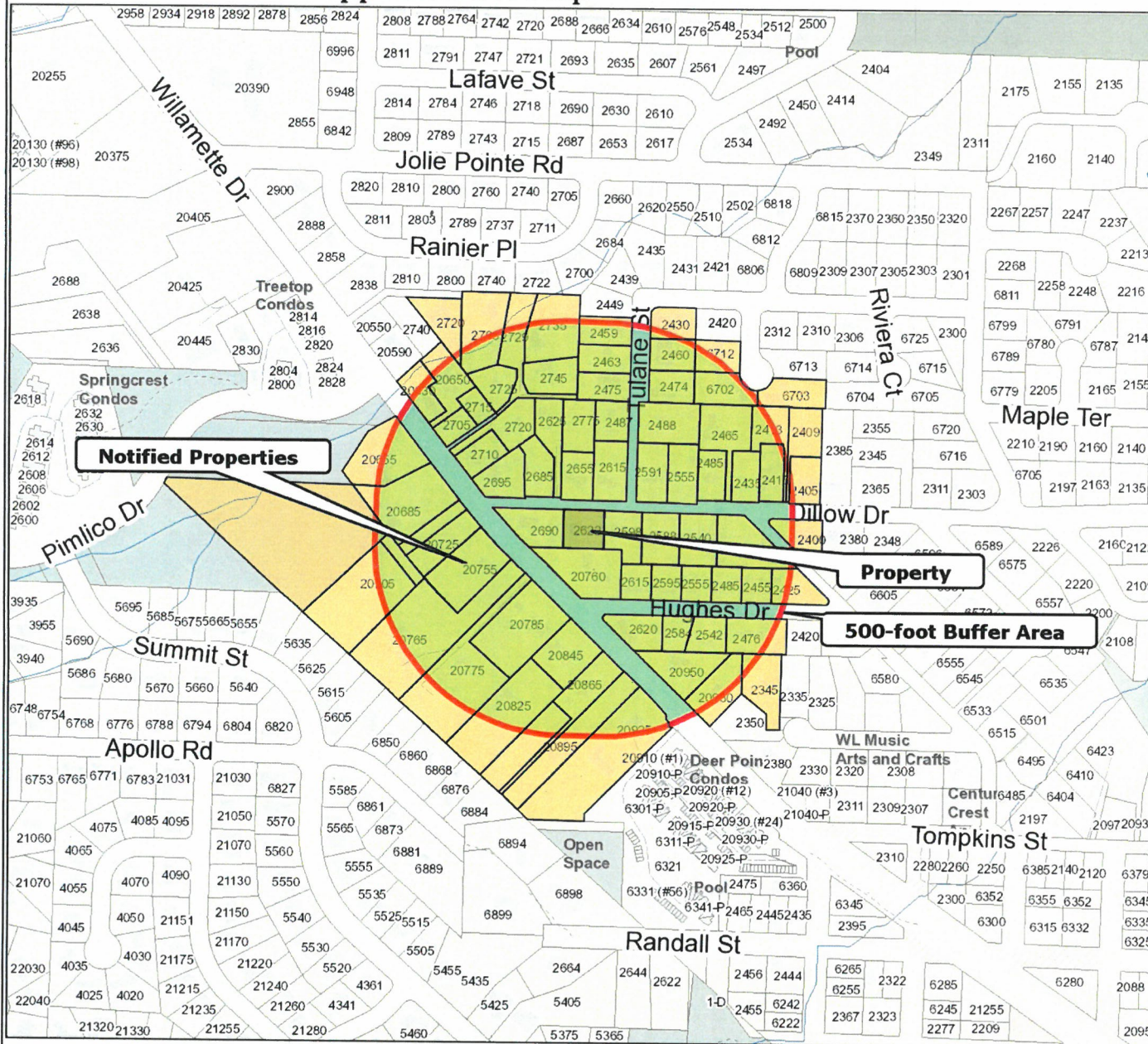
An appeal or review is de novo hearing and not limited to the stated grounds for review, and all relevant issues may be considered. All evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal. The Criteria applicable to the Variance approved by the Planning Manager and under review by City Council are in Chapter 75 of the Community Development Code (CDC). The approval authority may affirm, reverse, or modify the December 26, 2019 decision that is subject of this appeal or review.

You have been notified of this proposal because City records indicate that you had standing on case VAR-19-05 or because notice is required by CDC 99.140 and 99.260.

The notice of appeal or review and complete application for AP-20-01 is available for inspection at no cost at City Hall or via the City of West Linn's website <https://westlinnoregon.gov/planning/2622-dillow-drive-appeal-planning-manager-decision-var-19-05>. Printed copies of these documents may be obtained at City Hall for a minimal charge per page. At least 10 days before the hearing, a copy of the staff report will be available for inspection at no cost or copies can be obtained for a minimal charge per page. For further information, please contact Chris Myers, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, 503-742-6062 or cmyers@westlinnoregon.gov.

Anyone wishing to present written testimony on the issue under review may do so before, or at the public hearing. At the public hearing, the City Council will receive a staff presentation and then invite both oral and written testimony from the public. The City Council may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the review as provided by CDC 99.290. Failure to raise an issue in person or in writing at some point before the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

2622 Dillow Drive - Appeal Notice Map



Scale 1:4,800 - 1 in = 400 ft
Scale is based on 8-1/2 x 11 paper size



Map created by: LSCHRODER
Date Created: 31-Mar-20 12:16 PM

WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Map scale is approximate. Source: West Linn GIS (Geographic Information System) MapOptix.



**NOTICE OF UPCOMING
CITY COUNCIL DECISION**

**PROJECT # AP-20-01
MAIL: 4/20/2020 TIDINGS: 4/30/20**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.