



City of
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: September 17, 2021

FILE NO.: VAR-21-08

REQUEST: Class I Variance to reduce the street side yard setback from 15 feet to 12 feet at 2775 Dahlia Drive.

PLANNER: John Floyd, Associate Planner

Planning Manager

DSW

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GENERAL INFORMATION

**OWNER/
APPLICANT:** Toll Brothers
Attention: JJ Portlock
4949 Meadows Road
West Linn, OR 97068

SITE LOCATION: 2775 Dahlia Drive

**LEGAL
DESCRIPTION:** West Linn Meadows Lot 19
Map and Tax Lot Number 21E35AB11200

SITE SIZE: 8,306 Square feet

**COMP PLAN
DESIGNATION:** Low Density Residential

ZONING: R-7 (Single Family Residential Detached and Attached, R-7; 7,000 square foot minimum lot size)

**APPROVAL
CRITERIA:** Community Development Code (CDC) Chapter 12: R-7 Zone; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

120-DAY RULE: The application became complete on August 4, 2021. The 120-day period therefore ends on December 2, 2021.

PUBLIC NOTICE: Notice was mailed to property owners within 300 feet of the subject property and the Savannah Oaks Neighborhood Association on August 6, 2021. The property was posted with a notice sign on August 10, 2021. The notice and application were posted on the City's website August 6, 2021. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant requested a Class I Variance from “Required yard and minimum lot dimensional requirements.” The request includes the reduction of the street side yard setback from 15 feet to 12 feet, as allowed in a Class I Variance. The purpose of the variance is to permit the property owner/applicant to construct a three-car garage on Lot 19 of the West Linn Meadows Subdivision (2775 Dahlia Drive).

The Class I Variance provides “minor relief from certain code provisions” that will not harm adjacent properties and conforms to any other code provisions. With approval of the variance, the front yard setback would be reduced to 12 feet.

Public comments:

One comment was received on the application. The comment was received from Jim McKune in an email dated August 20, 2021. The original email and staff response are included in PD-2. Comments included concern about the clarity of the site plan, confirmation of the affected lot, and potential impacts to a water line. Staff provided responses to all comments, confirming the requested variance, the affected lot, and that COWL Public Works has reviewed the application and had no concerns at this time about impacts to public utilities in the area.

DECISION

The Community Development Director (designee) approves this application (VAR-21-08), 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 condition of approval below:

Condition of Approval

- 1. The final plan shall conform to the plans labeled Site Plan for Proposed Class I Variance submitted on August 4, 2021. (See Staff Finding 1)**

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

John M Floyd

John Floyd, Associate Planner

9/17/2021

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 unless substantial construction has taken place or an extension is granted per Chapter 99 CDC.

Mailed this **17th** day of **September 2021**.

Therefore, the 14-day appeal period ends at 5 p.m., on **October 1, 2021**.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-21-08**

*I. CHAPTER 12, SINGLE-FAMILY RESIDENTIAL DETACHED AND ATTACHED, R-7
12.030 PERMITTED USES*

The following uses are permitted outright in this zone.

- 1. Single-family detached residential unit.*
- (...)*

Staff Finding 1: The subject property will contain one single family detached home which is an allowed use within the R-7 zone. This standard is met.

12.070 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:

(...)

E. The minimum yard dimensions or minimum building setback areas from the lot line shall be:

- 1. For the front yard, 20 feet; except for steeply sloped lots where the provisions of CDC [41.010](#) shall apply.*
- 2. For an interior side yard, seven and one-half feet.*
- 3. For a side yard abutting a street, 15 feet.*
- 4. For a rear yard, 20 feet.*

(...)

Staff Finding 2: The applicant is requesting a variance from the setback for a side yard abutting a street. See Staff Finding 3. The proposed reduction is within the allowed 20 percent, or 3 feet. With the Class I variance, this standard will be met.

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.

(...)

Staff Finding 3: As detailed in the project description and findings presented in Exhibit PD-1, the applicant has requested a Class I Variance to reduce the street side-yard setback by 20 percent or 3 feet (15 feet permitted, 12 feet proposed). The purpose of the variance is to facilitate the construction of a single family home with three garage stalls. The additional garage stall and driveway would result in a more efficient use of the site by providing for more off-street parking. There are no natural features to be preserved on this site, and reducing the setback along Salamo Road from 15 feet to 12 feet does not impact any adjoining property in terms of light, air circulation, noise, privacy, and fire hazard. As noted in the findings presented in PD-1, the variance will reduce the potential for street parking at the intersection of Dahlia Drive and Salamo Road. These criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT John Floyd	PROJECT NO(S). VAR-21-08	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S) \$825	REFUNDABLE DEPOSIT(S)	TOTAL \$825

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input 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 checked="" 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: WEST LINN MEADOWS LOT 19 2775 DAKIA DRIVE WEST LINN 97068	Assessor's Map No.: Tax Lot(s): Total Land Area:
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Brief Description of Proposal:
PROPOSED LEVEL I VARIANCE 15' SIDE YARD SETBACK

Applicant Name: JJ PORTLOCK (TOLL BROTHERS) (please print) Address: 4949 MEADOWS RD City State Zip: LAKE OSWEGO 97034	Phone: 425-829-1506 Email: jportlock@tollbrothers.com
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Owner Name (required): (please print) Address: SAME City State Zip:	Phone: Email:
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Consultant Name: (please print) Address: N/A City State Zip:	Phone: Email:
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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 decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. The City accepts electronic (.pdf) land use applications and project submissions from applicants. Applicants should submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

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	7/14/21 Date	 Owner's signature (required)	7/14/21 Date
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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;

A reduction of the side set back allows the additional of the a third car garage providing a more desirable home and more off street parking. Parking was a key issue with the approval of the community, and this allows us to address those concerns while having a more desirable home.

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

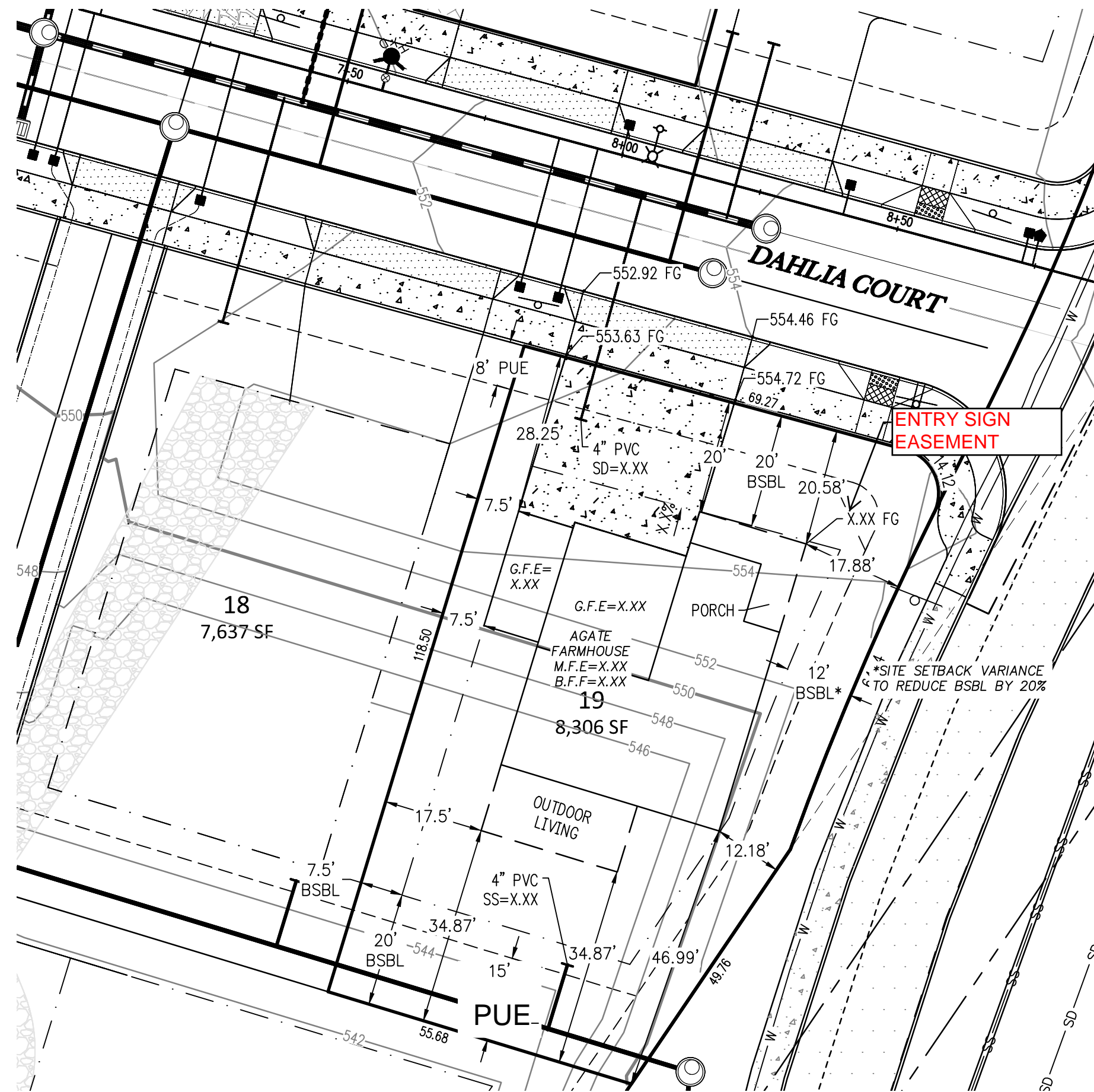
Given it is the larger 15' setback on the side we're requesting the reduction it is not impactful to the overall feel of the community and does not reduce the distances between the homes

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

Given it is the larger 15' setback on the side we're requesting the reduction it is not impactful to the overall feel of the community and does not reduce the distances between the homes

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

By allowing this variance and allowing us to have a 3rd car garage it will reduce potential for street parking in front of the home which is congested with the intersection with Salamo being in front of the home



BUILDING COVERAGE

MAIN	1,226	SF
GARAGE	676	SF
PORCH	179	SF
COVERED DECK	300	SF

LOT COVERAGE: 35% MAX

MAIN	1,226	SF
GARAGE	676	SF
PORCH	179	SF
COVERED DECK	300	SF
BUILDING AREA:	2,381	SF
LOT AREA:	8,306	SF
PERCENTAGE:	29%	SF

IMPERVIOUS SURFACES

DRIVEWAY (INCLUDING ACCESS)	1,248	SF
ROOF:	2,567	SF

FLOOR TO AREA RATIO: 45% MAX

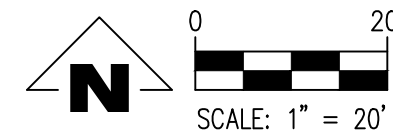
FIRST FLOOR	X	SF
SECOND FLOOR	X	SF
	X%	

UTILITY PLAN LEGEND

- EXISTING STORM SEWER & MANHOLE
- EXISTING STORM SEWER & INLET
- EXISTING SANITARY SEWER & MANHOLE
- EXISTING WATERLINE & SERVICE
- EXISTING WATER VALVE & BOX
- EXISTING GAS LINE
- EXISTING SANITARY CLEAN OUT
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED STORM INLET
- PROPOSED STORM LATERAL
- PROPOSED SANITARY SEWER & MANHOLE
- PROPOSED SANITARY LATERAL
- PROPOSED WATER LINE
- WATER SERVICE & METER
- PROPOSED FIRE HYDRANT
- BSBL

TOPOGRAPHY

- 220 PROPOSED MAJOR CONTOUR LINE
- 219 PROPOSED MINOR CONTOUR LINE



TOLL BROS. INC.
8815 122ND AVE NE, SUITE 200
KIRKLAND, WA 98033

LOT 19
SITE PLAN

WEST LINN MEADOWS
2775 DAHLIA COURT
WEST LINN, OR

EMERIO
ENGINEERING • SURVEYING • DESIGN
6445 SW FALLBROOK PLACE, SUITE 100
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 638-8892
www.emeriodesign.com

ORIGIN
DATE:
2021

EXHIBIT PD-2 PUBLIC COMMENT

From: Floyd, John
To: ["Jim McKune"](#)
Subject: RE: Toll Bros. Variance Request - VAR-21-08
Date: Friday, August 20, 2021 1:47:00 PM
Attachments: [image001.png](#)

Hi Jim,

Thanks for submitting the comments. See my responses in red below.

Regards,

John

From: Jim McKune [mailto:jdmckune@easystreet.net]
Sent: Friday, August 20, 2021 11:12 AM
To: Floyd, John <JFloyd@westlinnoregon.gov>
Subject: Toll Bros. Variance Request - VAR-21-08

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

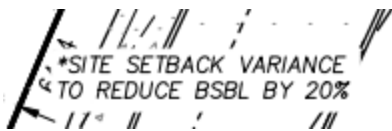
John,

Thanks for the quick info on VAR-21-08.

After looking at the proposal, as submitted, I have a couple of comments:

- The proposal as submitted is not clear that the request is to change the 15' east side setback to 12'. There is a 12' noted on the map and the Notice but not in the written request.

You may have missed a note on the plan that reads "site setback variance to reduce BSBL [base setback line] by 20%". The base street side yard setback here is 15 feet, which drops to 12 feet with a 20% reduction.



- Request that any decision specifically addresses Lot 19 only.

The application is specific to Lot 19 and the decision will reflect that.

- Will there be any impact to the existing water line that was installed a couple of years ago?

Public Works has reviewed the application and there will be no impact to any utilities in the area for this reduced side yard setback.

As noted in our phone conversation, for the record, our property, 22929 Salamo Rd. is within 300 ft. of the proposed variance – we did not receive any notice of this proposal.

Jim McKune

22929 Salamo Rd.

West Linn, OR 97068

(503) 789-3460

jdmckune@easystreet.net

EXHIBIT PD-3 COMPLETENESS LETTER



CITY OF
West Linn

August 4, 2021 (Revised)

JJ Portlock
Toll Brothers
4949 Meadows Road
Lake Oswego, OR 97034

SUBJECT: VAR-21-08 Proposed Type I Variance to a Side Yard Setback

Dear Mr. Portlock:

You submitted this application on July 15, 2021 and provided revised materials on August 3, 2021. Upon review of the revised materials, the Planning and Engineering Departments now find this application **complete**. The city has 120 days to exhaust all local review; that period ends December 2, 2021.

Please be aware that 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 ~~Commission~~ Director 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 503-742-6058, or by email at jfloyd@westlinnoregon.gov if you have any questions or comments.

Sincerely,

John M Floyd

John Floyd
Associate Planner

EXHIBIT PD-4 AFFADIVIT AND NOTICE PACKET

**AFFIDAVIT OF NOTICE
Type B**

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

PROJECT

File No.: **VAR-21-08** Development Name: **2775 Dahlia Street**

Applicant's Name: **Tolls Brothers**

Scheduled Decision Date: **Planning Manager Decision no earlier than 8/20/21**

MAILED NOTICE

As required by CDC Section 99.080, notices were mailed at least 14 days before the decision date to:

1	JJ Portlock Toll Brothers, applicant	8/6/21	<i>Lynn Schroder</i>
2	Property owners within 300 feet	8/6/21	<i>Lynn Schroder</i>
3	Ed Schwarz, Savannah Oaks	8/6/21	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website before the decision date.

8/6/21	<i>Lynn Schroder</i>
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SIGN

A sign was posted on the property at least 10 days before the decision date.

8/10/21	<i>John Floyd</i>
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FINAL DECISION

Notice of final decision was mailed to the applicant, all other parties with standing, and posted on the City's website.

9/17/21	<i>John Floyd</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. VAR-21-08**

The West Linn Planning Manager is considering a request to allow reduction of the street side yard setback from 15 feet to 12 feet.

The decision will be based on the approval criteria in Chapters 12 and 75 of the Community Development Code (CDC). The applicable approval criteria are available for review on the City's website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

You have been notified of this proposal because County records indicate you own property within 300 feet of the subject property (2775 Dahlia Drive) or as otherwise required by CDC Chapter 99: Procedures for Decision Making.

The application is posted on the City's website, <https://westlinnoregon.gov/planning/2775-dahlia-drive-class-1-variance>. Alternatively, the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to present written testimony for consideration shall submit all material before 4:00 p.m. on August 20th, 2021.** Persons interested in party status should submit a letter outlining any concerns about the proposal by the comment deadline to jfloyd@westlinnoregon.gov.

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. 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.

The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of the final decision pursuant to CDC [99.240](#).

Contact John Floyd, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6058 for additional information.