



CITY OF West Linn

STAFF REPORT PLANNING MANAGER DECISION

DATE: September 16, 2021

FILE NO.: VAR-21-09

REQUEST: Class I Variance to reduce the front yard setback for an accessory structure by up to 20 percent at 1464 Buck Street.

PLANNER: John Floyd, Associate Planner

Planning Manager

DSW

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GENERAL INFORMATION

OWNER/ APPLICANT:	Andrew Campbell 1464 Buck Street West Linn, OR 97068
SITE LOCATION:	1464 Buck Street
LEGAL DESCRIPTION:	Lot 3, Block 28, Bolton Subdivision (1896) Map and Tax Lot Number 22E30BB02201
SITE SIZE:	5,000 Square feet
COMP PLAN DESIGNATION:	Low Density Residential
ZONING:	R-5 (Single Family residential Detached and Attached/Duplex, R-5; 5,000 square foot minimum lot size)
APPROVAL CRITERIA:	Community Development Code (CDC) Chapter 13: R-5 Zone; Chapter 34: Accessory Structures; 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 Bolton 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 project site is located at 1464 Buck Street, within the Bolton Neighborhood. The applicant has requested a Class I Variance from “Required yard and minimum lot dimensional requirements.” The request is to reduce the front yard setback for a 200 square foot shed, intended to replace two now demolished sheds that were damaged in an ice storm earlier this year. Section 34.060 of the City of West Linn Development Code permits sheds under 500 square feet to be located within 3 feet of the side property line provided that the accessory structure is set back 60 feet from the front property line. Due to the presence of a water resource area and steep slope at the rear of the property, the applicant has requested a 20% reduction of the front yard setback to avoid impacts to this resource area.

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 for the 200 square foot shed would be reduced by up to 20 percent.

Public comments:

One public comment was received in support of the application (Exhibit PD-2).

DECISION

The Community Development Director (designee) approves this application (VAR-21-09), 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 substantially conform to the plans labeled Site Plan for Proposed Class I Variance submitted on August 6, 2021. (See Staff Finding 1)**

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

John M Floyd

John Floyd, Associate Planner

9/16/2021

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-21-09**

*I. CHAPTER 13, SINGLE-FAMILY RESIDENTIAL DETACHED AND ATTACHED, R-5
13.040 ACCESSORY USES*

Accessory uses are allowed in this zone as provided by Chapter 34 CDC.

Staff Finding 1: The subject property contains an existing single-family dwelling and the proposed shed is accessory to the dwelling. See staff finding 2 regarding compliance with Chapter 34 CDC. This standard is met.

II. 34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)

(...)

B. A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, with the exception of alleys platted and dedicated prior to September 30, 1984, as defined in this code; provided, that:

- 1. The structure is erected more than 60 feet from the front lot line;*
- 2. The structure does not exceed one story or 15 feet in height;*
- 3. The structure does not exceed an area of 500 square feet; and*
- 4. The structure does not violate any existing utility easements.*

(...)

Staff Finding 2: The applicant is requesting a Class I variance from the front lot line setback for accessory structures within 3 feet of a side property line. The structure will be less than 15 feet high, will be less than 500 square feet, and does not violate any existing utility easements. The proposed reduction to the front setback is within the allowed 20 percent permitted through a Class I Variance. See Staff Finding 3. With the Class I variance, these standards 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: Staff incorporates applicant's findings in PD-1. These criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only

STAFF CONTACT John Floyd	PROJECT NO(S): VAR-21-09	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: 1464 BUCK STREET, WEST LINN, OR 97068	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal: **VARIANCE TO ALLOW 20% REDUCED SETBACK FOR SHED PLACEMENT ON DRIVEWAY**

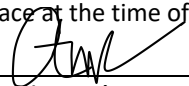
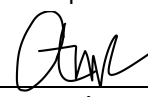
Applicant Name: ANDREW CAMPBELL <small>(please print)</small>	Phone: 503-878-0300
Address: 1464 BUCK STREET	Email:
City State Zip: WEST LINN, OR 97068	andrewcampbell127@gmail.com

Owner Name (required): ANDREW CAMPBELL <small>(please print)</small>	Phone: 503-878-0300
Address: 1464 BUCK STREET	Email:
City State Zip: WEST LINN, OR 97068	andrewcampbell127@gmail.com

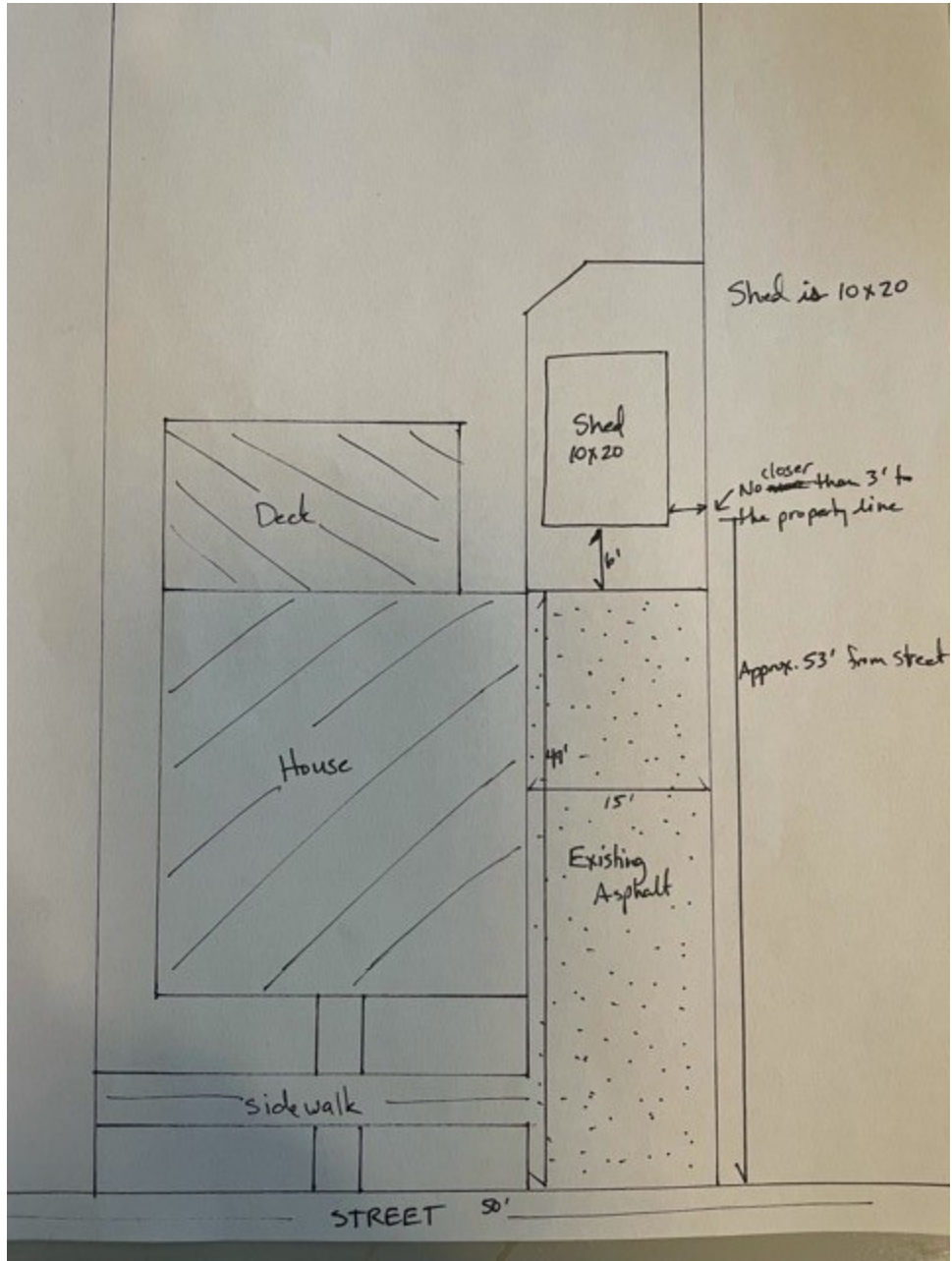
Consultant Name: <small>(please print)</small>	Phone:
Address:	Email:
City State Zip:	

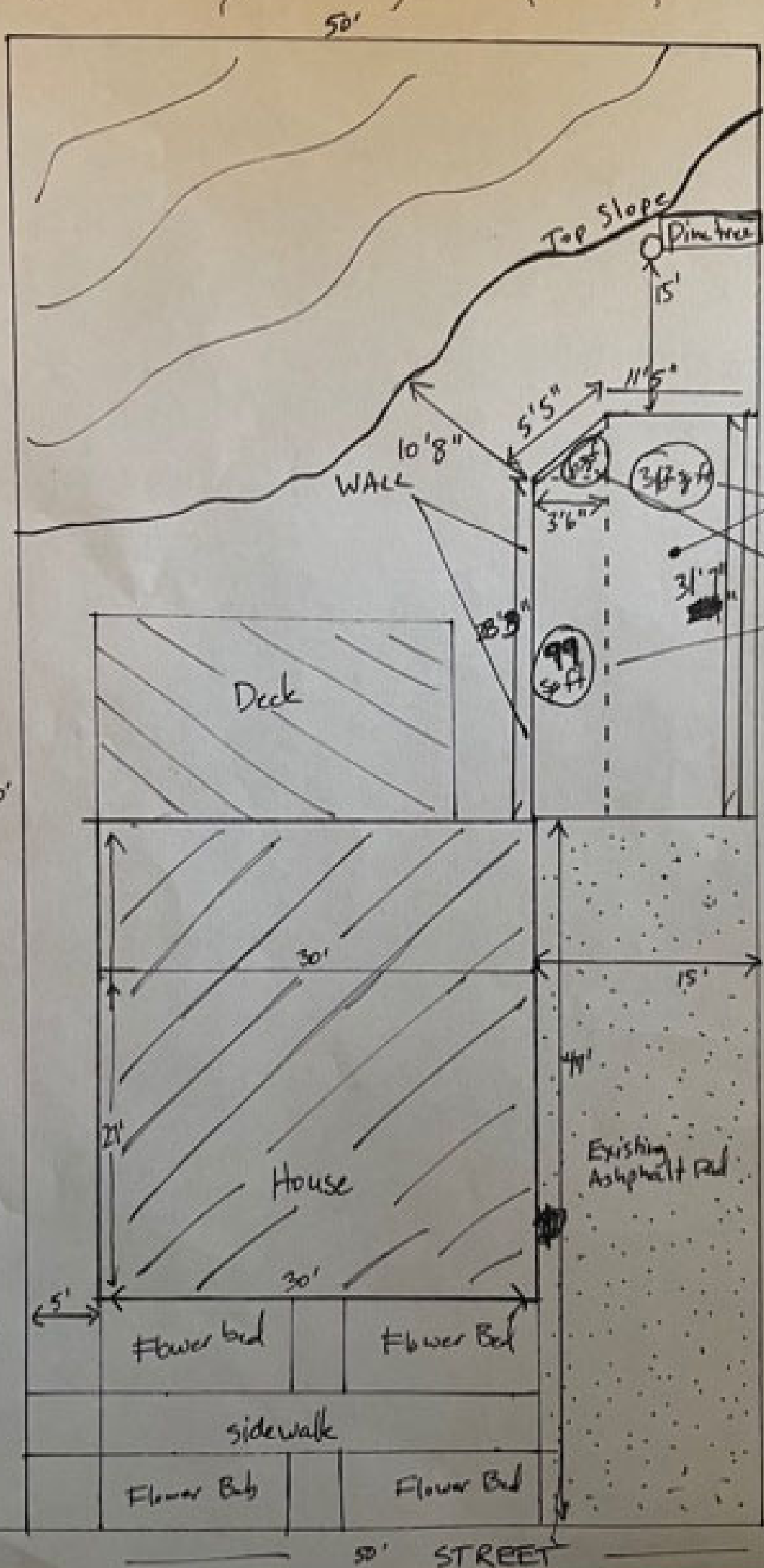
1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until 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	7/22/2021 Date	 Owner's signature (required)	Date
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Our lot is 50' x 100' with houses on both sides. The asphalt pad extended beyond where the current pad will be. We replaced an old wooden retaining wall and old asphalt with concrete.

Total Sq ft
 401 sq ft

312
• 99
• 6

467

Floyd, John

From: Andrew Campbell <andrewcampbell127@gmail.com>
Sent: Monday, August 2, 2021 10:17 AM
To: Floyd, John
Subject: Re: Follow up

Hi John,

Please see below for my comments in red that address each approval criteria. As I stated on the phone the placement of the new shed will be an improvement over the placement of the old shed. It will be further from the neighbors fence and be a brand new shed built and installed by a reputable company. Please reach out with any questions.

Thank you,

Andy

On Thu, Jul 29, 2021 at 5:47 PM Floyd, John <JFloyd@westlinnoregon.gov> wrote:

Hi Andrew,

Here are the four approval criteria we discussed on the phone a few days ago and I mentioned in this evening's voicemail. Can you provide a summary statement that addresses how your variance will comply? You may wish to include the comparison you shared between the old and new shed which had to be removed due to the failure of the old retaining walls.

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; The winter storm of February 2021 destroyed our retaining wall and damaged two sheds beyond repair. We are replacing those two sheds with one single brand new 200 sq ft shed. The previous shed was closer to the street and only 2' from our neighbors fence. The new shed will be further from the street and further from our neighbors fence, thus improving the site. Having one shed instead of replacing the two sheds that were damaged is more efficient use of the space and allows for landscaping behind the new shed where one of the sheds was previously located.
 - b. Preserves and incorporates natural features into the overall design of the project; The previous site included two sheds and one of those sheds was too close to the slope. We will not have a shed that far back on the property thus allowing for more natural landscaping behind the new shed, improving the space.
 - c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and The new shed is further away from the neighbors property line. The light is improved as the shed is further away from the neighbor. Air circulation is improved as the new shed is further from the neighbors fence. There is no change to the noise level for either property since there was shed on the property at this approximate location previously. There is no change to the privacy for either property since there was shed on the

property at this approximate location previously. Fire Hazard is improved due to the shed being further away from the neighbors fence.

d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation. The placement of the shed does not apply/affect to vehicular circulation as the shed is placed on a concrete pad where cars do not have access. The pedestrian circulation is improved because the new shed is further from our neighbors fence than the previous shed.

Noticing will begin on Thursday, August 5th and end on August 19th.

I am out tomorrow but back on Monday. Have a good weekend.

John Floyd

Associate Planner

Planning

Pronouns: he, him, his

22500 Salamo Rd.

West Linn, Oregon 97068

jfloyd@westlinnoregon.gov

westlinnoregon.gov

503-742-6058



[Click to Connect!](#)

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This e-mail is subject to the State Retention Schedule and may be made available to the public

EXHIBIT PD-2 PUBLIC COMMENT

From: [Kurt Pothast](#)
To: [Floyd, John](#)
Subject: 1464 buck Street variance
Date: Tuesday, August 10, 2021 6:07:43 PM

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.

Hello, I live at 1393 Buck St. I have no issue whatsoever with the new shed being placed 7 feet closer to the curb line. I applauded the home owner for taking the time to permit items for his property and am sure it will be a vast improvement from the two sheds the previous owner left when selling.

Kurt Pothast

EXHIBIT PD-3 COMPLETENESS LETTER



CITY OF West Linn

August 4, 2021 (revised)

Andrew Campbell
1464 Buck Street
West Linn, OR 97068

SUBJECT: VAR-21-09 Proposed Type I Variance to a Front Yard Setback

Dear Mr. Campbell:

Upon review of your application materials for a Type I Variance, the Planning Department finds your 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-21-09** Development Name: **1464 Buck Street**
Applicant's Name: **Andrew Campbell**
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	Andrew Campbell, applicant	8/6/21	<i>Lynn Schroder</i>
2	Property owners within 300ft	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.

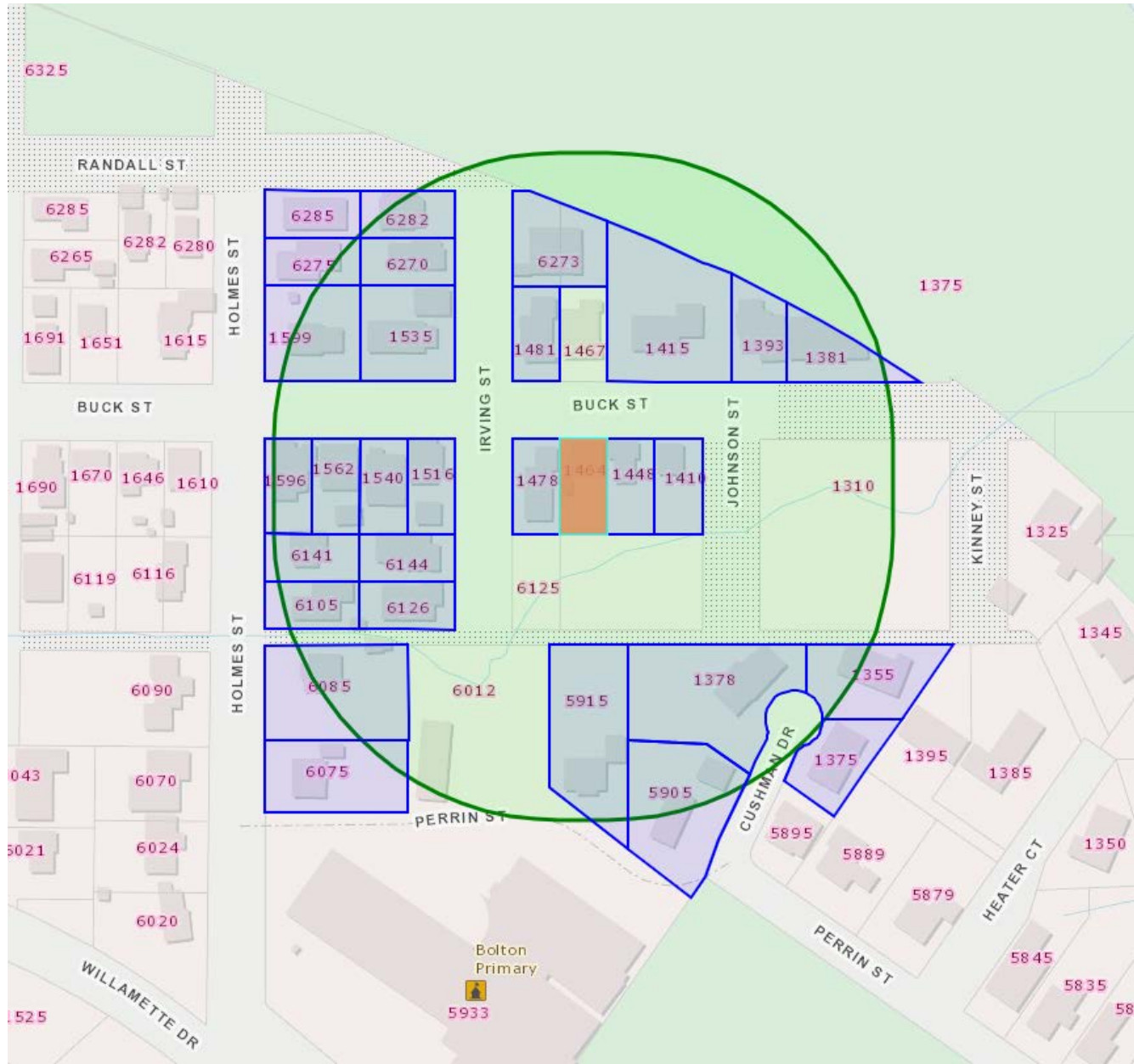
8/10/21	<i>John Floyd</i>
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FINAL DECISION

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

9/17	<i>John Floyd</i>
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Properties within 300 feet of 1464 Buck Street



**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. VAR-21-09**

The West Linn Planning Manager is considering a request to allow a reduction of the front side yard setback for an accessory structure (storage shed) from 60 feet to approximately 53 feet.

The decision will be based on the approval criteria in Chapters 34 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 (1464 Buck Street) 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/1464-buck-street-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.