

**FINDINGS OF FACT and FINAL ORDER
TYPE II VARIANCE PROPOSAL**

DATE:	May 22, 2024
FILE NO.:	24-027 VAR
PROJECT NAME:	Malone Shed Location Variance
NATURE OF APPLICATION:	Variance – Accessory Structure Location
APPLICANT/OWNER:	Linda and Thomas Malone
MAP/TAX LOT:	24E13CB03105
ADDRESS:	17740 Bluff Road
LEGAL DESCRIPTION:	Lot 5 of Halo Addition No. 1
ZONING:	Single Family Residential (SFR)
STAFF CONTACT:	Kelly O’Neill Jr., Development Services Director

BACKGROUND

This application request included one variance to the placement of a new 144 square foot accessory shed. The variance is to Section 17.74.10(B)(1) which states, “No accessory structure shall be located in front of the primary building. If located to the side of the primary building on an interior lot, the structure shall not be placed closer to the front lot line than the farthest back front wall of the primary building.” The applicant requests to place the new shed in front of the front wall of the primary building to align with the driveway.

According to the applicant, the existing house is setback approximately 56 feet from the Bluff Road right-of-way and the house does not have a garage.

The above-referenced proposal was reviewed as a Type II Administrative Variance. The variance and relevant criteria are described in greater detail in Section 17.66.60., below. The following exhibits, findings of fact, and conditions of approval explain the proposal.

EXHIBITS

Applicant’s Submittal:

- A. Land Use Application
- B. Site Plan
- C. Tuff Shed Information

Public Comments:

- D. James Swanson

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittal materials received on May 1, 2024.
2. The site has a comprehensive plan map designation of Low Density Residential and a zoning map designation of Single Family Residential (SFR). The lot is 15,952 square feet.
3. Notification of the proposal was mailed to property owners within 300 feet of the subject property and affected agencies on May 7, 2024, requesting comments. One public comment was received (Exhibit D) with stated support for the variance request.
4. Lot 5 of Halo Addition No. 1 is to the east of Bluff Road and approximately 150 feet south of Strawbridge Parkway. The lot has direct vehicular access to Bluff Road.

APPLICABLE CRITERIA

Chapter 17.34 - Single-Family Residential (SFR)

5. The applicant does not request a variance to the standards of Section 17.34.30. These standards will be met. The application involves one variance for Lot 5 of the approved and recorded Halo Addition No. 1, as outlined below.

Chapter 17.74 – Accessory Development

6. The variance is to Section 17.74.10(B)(1) which states, "No accessory structure shall be located in front of the primary building. If located to the side of the primary building on an interior lot, the structure shall not be placed closer to the front lot line than the farthest back front wall of the primary building." The applicant requests to place the new shed in front of the front wall of the primary building to align with the driveway. According to the applicant, the existing house is setback approximately 56 feet from the Bluff Road right-of-way and the house does not have a garage.

Section 17.66.70. Type II and type III variance criteria.

The authority to grant a variance does not include authority to approve a development that is designed, arranged, or intended for a use not otherwise approvable in the location. The criteria are as follows:

- A. The circumstances necessitating the variance are not of the applicant's making.
 7. The situation compelling this variance is not of the applicant's making. The existing home was constructed in 1943 at the current location of Les Schwab and was moved to the subject lot in 1977. The existing homeowner purchased the house in 1988 and a garage has never existed on the subject lot. Due to the previous location of Bluff Road as identified on the plat, the house on the subject lot was setback a greater distance from the front property line than is typical. The intent of Section 17.74.10(B)(1) is to not allow accessory structures,

such as sheds, in front of the primary structure to limit clutter, and preserve front yards for landscaping, vehicles, and to maintain an adequate setback to the right-of-way. The proposed shed will serve as a storage area since the lot does not include a garage. ***The variance meets criterion A.***

B. The hardship does not arise from a violation of this Code, and approval will not allow otherwise prohibited uses in the district in which the property is located.

8. Granting the variance for the proposed shed location will not create a situation for a prohibited use to be in the SFR zoning district. The variance will allow for the shed to be in a location similar to a garage. ***The variance meets criterion B.***

C. Granting of the variance will not adversely affect implementation of the Comprehensive Plan.

9. Granting this variance request to a new shed location will not conflict with the implementation of the Comprehensive Plan. ***The variance meets criterion C.***

D. The variance authorized will not be materially detrimental to the public welfare or materially injurious to other property in the vicinity.

10. The variance to locate a new shed in front of the existing primary building on Lot 5 will not be materially detrimental to the public welfare or materially injurious to other property. The shed will be located at the east terminus of the driveway, approximately 39 feet from the front property line along Bluff Road. This application included a notice to all property owners within 300 feet of the subject property. ***The variance meets criterion D.***

E. The development will be the same as development permitted under this Code and City standards to the greatest extent that is reasonably possible while permitting some economic use of the land.

11. Approval of this variance allows for a new shed to be constructed to serve as a storage area since the house does not have a garage. The installation of the shed will be the same as development permitted under this Code, especially since there will still be 39 feet between the new shed and the front property line. ***The variance meets criterion E.***

F. Special circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape (legally existing prior to the effective date of this Code), topography, or other circumstances over which the applicant has no control.

12. The existing house is setback approximately 56 feet from the Bluff Road right-of-way. Most houses in Sandy on Single Family Residential (SFR) zoned lots are setback 22 feet. Some houses have setbacks greater than 22 feet, but a setback of 56 feet is rare. Approval of the variance to Section 17.74.10(B)(1) will allow a new shed to be constructed to serve as a storage area since the house does not have a garage, while still following the SFR zoning

regulations. Also, as described in (A) above, these constraints were not of the applicant's making and are circumstances of which the applicant has no control other than to obtain a variance. Approval of this variance would grant relief to these unique site attributes. *The variance meets criterion F.*

DECISION

For the reasons described above, the Planning Division has **approved** the requested variance as modified by the conditions listed below for Lot 5 of the Halo Addition No. 1 to place a new shed in front of the front wall of the primary building to align with the driveway.

CONDITIONS OF APPROVAL

A. Prior to construction, the applicant shall submit all pertinent permit applications (building, mechanical, plumbing (electrical goes through Clackamas County)) along with all required submittal documents for review and approval. Contact building@cityofsandy.com for submittal requirements or questions.

B. General Conditions of Approval:

1. Variance approval shall be void after two (2) years per Section 17.66.190 from the date of the Final Order unless the applicant has submitted plans for building permit review or installed the shed in an instance when a building permit is not necessary.
2. Comply with all other conditions or regulations imposed by the Clackamas Fire District, county, state, and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



Kelly O'Neill Jr.
Development Services Director

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, "Notice of Appeal", and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.