

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Case File VAR 2022-01)	
6604 NE Logan Rd)	Final Order No. 2022-04
Street Side Setback Variance)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact and Conclusions of Law regarding compliance with applicable approval criteria as set forth in the Lincoln City Planning and Community Development Department Staff Report for VAR 2022-01, together with documents and application materials in the record including public testimony and written comments, all being hereby adopted and incorporated into this Order by this reference

The Planning Commission motion denying (Baker, Blackerby, Johnson, Sumner in favor; Vincent opposed) the application indirectly references as findings and conclusions the following points provided during deliberation by Chair Blackerby and Commissioner Baker, with concurrence from Commissioner Johnson, and Commissioner Sumner:

1. Regarding Criterion 1: *Exceptional or extraordinary circumstances 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 date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control;*
 - The applicant did not provide any evidence showing that exceptional or extraordinary circumstances apply to the property. The applicant’s contention that the staff error is the exceptional or extraordinary circumstance does not meet the criterion since it doesn’t apply to the property, staff error is not an exceptional or extraordinary circumstance, and the applicant does have control over this particular circumstance. It is the responsibility of the applicant to read the code and ascertain for themselves the requirements. In this case, the applicant was responsible to read LCMC 17.17.070 and see that the minimum required street side setback is 20 feet (except that it may be one foot less for each two feet of front setback over the minimum but not to less than 10 feet), not the 10 feet that the applicant used.

2. Regarding Criterion 2: *The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess.*
 - The applicant did not provide any evidence that a property right is being lost if the variance is not granted. The property is in a residential zone, and the construction of detached dwellings is permitted. The applicant obtained a building permit and constructed a detached dwelling. The fact that the applicant did not place the dwelling in accordance with the minimum street side setback requirement is not loss of a property right. The applicant did not provide any evidence showing that violating the minimum required street side setback is a property right.

3. Regarding Criterion 3: *The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy.*
 - The variance is detrimental to the neighborhood and the unique characteristics of Roads End. The variance would have negative impacts on the neighborhood in that it would specifically be in conflict with the terms of the code adopted by the City of Lincoln City and the citizens of the Road's End neighborhood.
4. To approve a variance all four criteria must be met. Criterion 1, Criterion 2, and Criterion 3 were not met for the reasons stated above.

Commissioner Vincent voted against the motion, stating that he agrees with the director's recommendation to approve as outlined in the verbal update given at the beginning of the deliberations.

FINAL ORDER

Based on the evidence presented at the public hearing on March 15, 2022, and the additional written comments received in the 7-day record extension period after the close of the public hearing, including the staff report and the supporting application materials contained in Case File VAR 2022-01, the Planning Commission finds and determines that the application contained in the file DOES NOT SATISFY all applicable approval criteria as detailed in the written staff report and noted above, and the application is therefore DENIED.

FINAL ORDER APPROVED THIS 19th DAY OF APRIL, 2022.

DocuSigned by:

Kim Blackerby

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Planning Commission Chair

ATTEST:

DocuSigned by:



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Anne Marie Skinner

Director, Planning & Community Development