

Appeal Application

RECEIVED
FEB 09 2023

APPELLANT INFORMATION:

NAME:

ADDRESS:

PHONE:

E-MAIL:

CASE INFORMATION OF REQUESTED APPEAL:

CASE FILE NUMBER: DI 2022-02 Trout

DECISION BEING APPEALED: _____

Director's Interpretation Decision re: setbacks

REVIEW AUTHORITY THAT MADE THE DECISION: Ann Marie Skinner

DATE OF THE DECISION: January 30, 2023

DOCUMENTATION THAT THE APPELLANT WAS A PARTY TO THE INITIAL PROCEEDINGS: See decision documents and application for director's interpretation submitted November 23, 2022

DETAILED STATEMENT ON THE BASIS OF THE APPEAL, INCLUDING WHICH APPROVAL CRITERIA, DEVELOPMENT STANDARDS, OR CONDITIONS OF APPROVAL WERE ALLEGEDLY IMPROPERLY EVALUATED OR APPLIED TO THE DECISION: *(attach additional sheets as necessary to include the applicable criteria, development standards, or conditions of approval that were allegedly improperly evaluated)* _____

The decision is based on defining an entire structure as more than one story if ANY portion of the structure is more than one story. This is not supported by the definitions provided in the decision, namely "Story mean that PORTION of a building included between a floor and ceiling above. The decision fails to demonstrate that "7-1/2' for structures more than one story" refers to "buildings with any second floor of any footprint." The decision also fails to address the INTENT of the two different setbacks. The fact that the two setbacks exist in the code demonstrates an intent to allow the first story of a building to be closer to the property line. In common practice, this type of regulation is intended to protect solar and view rights of adjacent property. Inflicting the 7.5' setback on the lower floor does nothing to meet this intent which was not addressed in the decision.

The required appeal application fee must accompany this application.

I hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information is true, complete, and accurate.

SIGNATURE:

Appellant

1.30.2023

Date



Additional explanation page

Photo A and land use plan AS101 (first story addition within 5 ft setback) demonstrates the corner of the house where the addition we are proposing does not meet the cities 7 1/2ft setback. The city approved the current 7 ½ ft code so the adjacent houses can have solar rights and protected views. As you can see from this photo, the house adjacent to us is elevated due to the land being incredibly sloped from our property up to theirs. Per photo A, the elevation of the foundation of our neighbor's home is higher than our roofline. Per photo B1 & C, the part of the addition we are proposing that infringes upon the 7 ½ ft setback is staying one level which would not cause any issue whatsoever to our neighbor's ability to add solar to their home or obstruct any views. Per photo B2, C & D, the same goes for the opposite side of the proposed addition as the lot that is adjacent to the front door area of the addition is an easement for parking and can never be built on so no solar rights or views would ever be infringed upon. We propose the code should be interpreted to allow both these 1 level portions of the new structure to be approved at the 1 level setback of 5 feet.

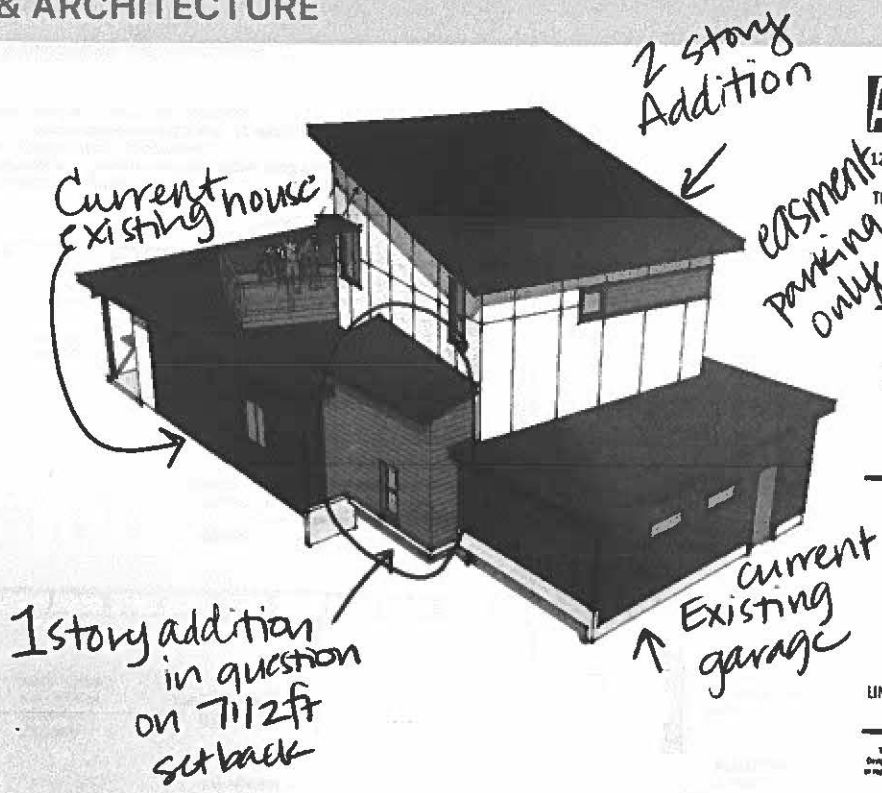
We are proposing the planning commission takes a hard look and considers re-interpreting the current code more accurately, or amending the current code to include specific language that addresses split level homes where the first story is not infringing on solar rights or the rights of neighboring views. If an amendment to the code cannot be facilitated, we are asking for a variance or conditional use permit or just a more accurate interpretation of the current code to address the unique split level design of our plans. There are many split level homes in our city and we hope the city can see the need for the code to be interpreted with this in mind to approve or deny permits. Per Anne Marie Skinner's printed language in her denial of our directors review, no such language exists to determine any rights for setbacks on the first story to remain at 5 ft.

She writes: "The code does not provide a separate requirement for split level structures, nor does it provide any relief for minimum setback requirements for split level structures. The code does not provide a separate requirement for each level of a multi-level structure. Rather, the code provides a minimum setback requirement for one story structures and a more restrictive minimum setback requirement for structures with more than one story. LCMC17.16.070 does not provide any provisions for step-back building forms or for graduated setbacks. Rather, LCMC17.16.070 clearly lists a minimum 5-foot setback requirement for one-story structures and a 7 ½'-foot setback requirement for structures more than one story."

We feel her language clearly shows the need to address split level structures as she feels her hands are tied in interpreting the code to address the needs of homes who don't fit into the box of only one story or only 2 story homes.

Thank you for your consideration,

Photo
B1



ARCHITROUT
DESIGN & ARCHITECTURE

12558 SW AUTUMNVIEW
STREET
TIGARD, OREGON, 97224
503.329.7448
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FOWLER
RESIDENCE

ADDITION

2864 NE LAKE DRIVE
LINCOLN CITY, OR, 97367
LINCOLN COUNTY

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PERMIT SET
06.22.2022

3/16" = 1'-0"






PERSPECTIVES

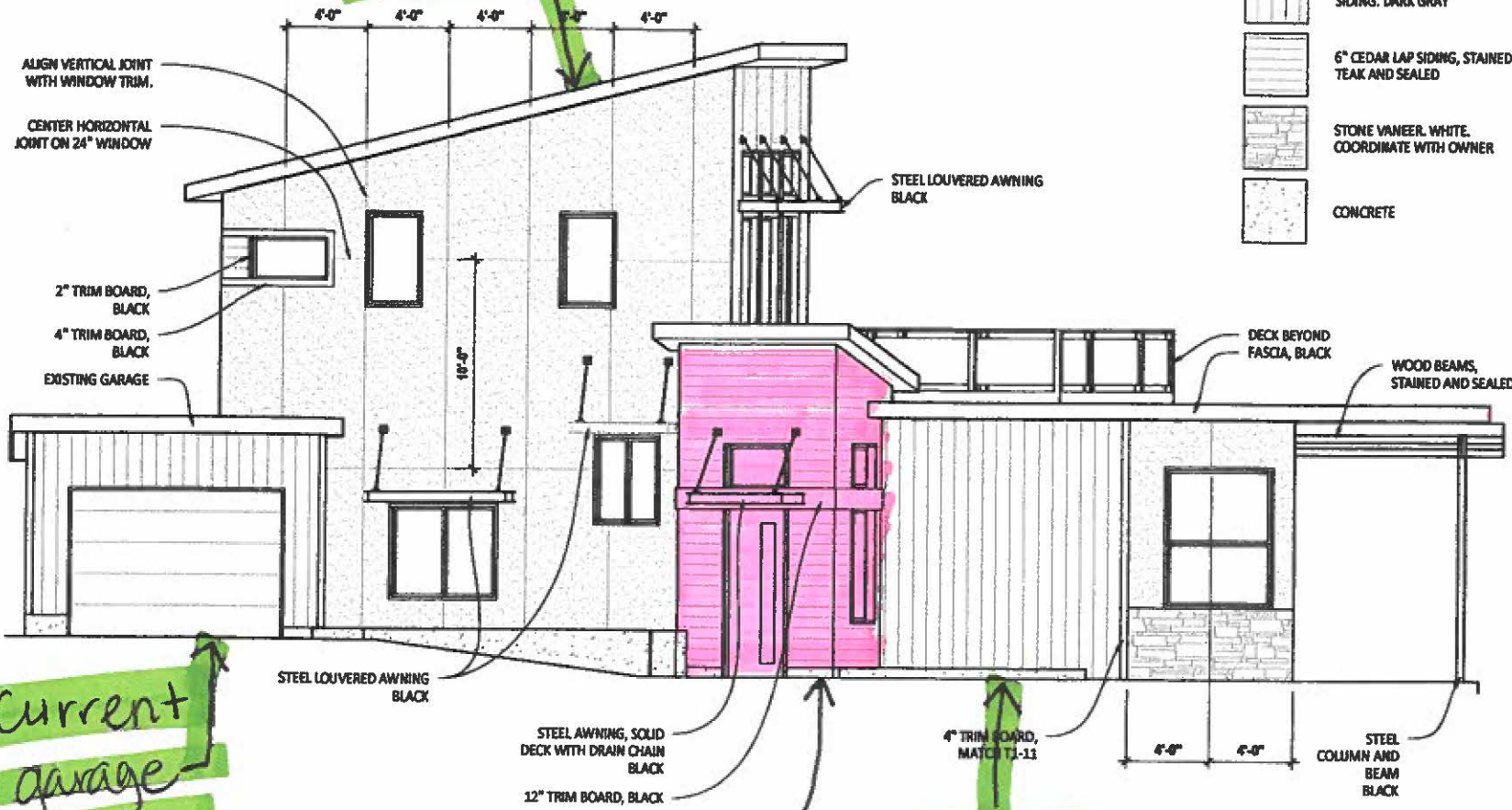
A405

Photo
B2

New addition
2 levels

NOTE: COORDINATE ALL EXTERIOR FINISH MATERIALS AND COLORS WITH OWNER.
ALL WINDOW SURROUNDS TO BE 1.5" TRIM, BLACK, UNLESS OTHERWISE NOTED.

-  HARDIE ARCHITECTURAL PANEL, 4'X10', FINE SAND FINISH, WHITE
-  T1-11 SIDING, 8" SCORE, VERTICAL SIDING, DARK GRAY
-  6" CEDAR LAP SIDING, STAINED TEAK AND SEALED
-  STONE VANEER, WHITE, COORDINATE WITH OWNER
-  CONCRETE



Current
garage
1 level

structure in
question
drawn 5 ft
back from
property line
since its 1 level

Current
house
1 level



12558 SW ALUMINUMVIEW STREET
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DRAWN 04.06.2022

FOWLER RESIDENCE

ADDITION

2854 NE LAKE DRIVE
LINCOLN CITY, OR, 97367
LINCOLN COUNTY

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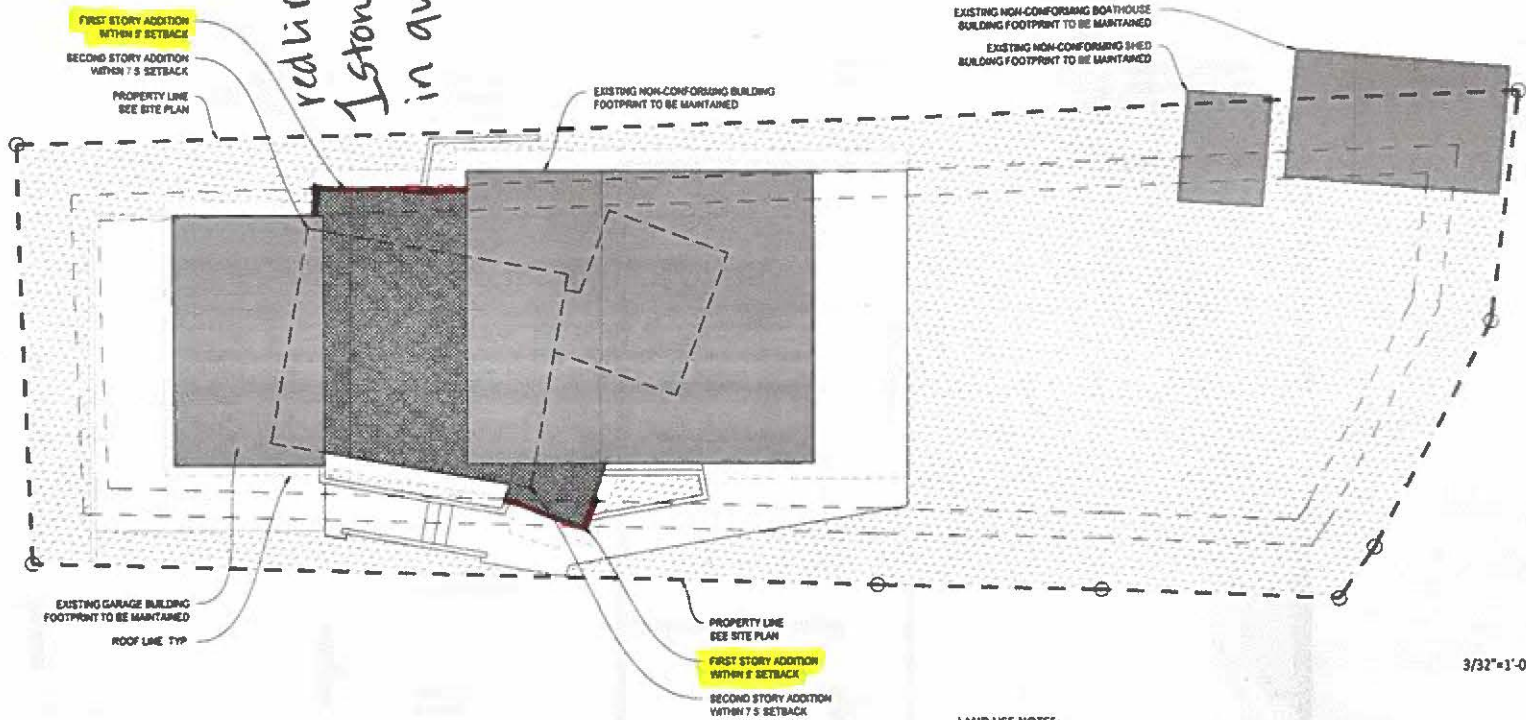
PROGRESS SET
04.06.2022

3/16" = 1'-0"

SOUTHEAST ELEVATION

A401

Photo



SURVEYOR'S NARRATIVE FROM DAVID LOOMIS SURVEYING, JANUARY 2022.

THIS SURVEY WAS DONE TO MARK THE BOUNDARIES OF TAX LOT 700 AS DESCRIBED IN DOC. 2021-08041. THESE BEARINGS ARE BASED ON COUNTY SURVEY 18,806 PRIOR TO THE YEAR 2000 THE OLD MONUMENTS WERE LOCATED AND USED FOR THE BOUNDARY LINES. IN CS 18,697 AND FUTURE SURVEYS IT WAS DETERMINED THAT THE DEED TIES FROM THE QUARTER CORNER BETWEEN SECTIONS 2 & 11 WERE WRONG FOR MANY YEARS. THE OLD MONUMENTS HAVE BEEN USED FOR 50+ YEARS SO THE OLD MONUMENTS SHOULD BE HELD FOR THE LINE BETWEEN THE LOTS AND THE RECORD. NEW SURVEYS SHOULD BE USED TO LOCATE THE WESTERN BOUNDARY OF THESE LOTS IN FOREST PARK. A TOPCON ONE SECOND GPT 3102W TOTAL STATION AND DATA COLLECTION WERE USED TO MAKE THE MEASUREMENTS IN THIS SURVEY.

7-11-11-AB-00700
AREA 6402 SF
BUILDING COVERAGE 1580 SF (20.8%)

COUNTY RECORDS INDICATE THAT THE EXISTING LOT 700 IS 13 ACRES OR 5,662 SQ.FT. THIS AREA HAS BEEN USED FOR LAND USE CALCULATIONS DESPITE THE 2022 SURVEY CONCLUDING THAT THE SITE IS 6,402 SQ.FT.

LAND USE NOTES:

- 1) ZONING: LINCOLN CITY R-1-7.5
- 2) SETBACKS.
 - 2|1) ONE STORY: 5', ALL SIDES
 - 2|2) OTHER: 7'-6", ALL SIDES
- 3) YEAR BUILT 1962
- 4) PROPERTY LINES SHOWN ARE DERIVED FROM SITE SURVEY BY DAVID LOOMIS SURVEYING, JANUARY, 2022
- 5) EXISTING LOT = 13 ACRES = 5,662 SQ.FT
- 6) MAXIMUM LOT COVERAGE = 35% = 1,981 SQ.F.T
- 7) (E) MAIN HOUSE FOOTPRINT = 937 SQ.FT. (ARCH SURVEY)
- 8) (E) BOAT HOUSE = 240 SQ.FT
- 9) (E) DETACHED GARAGE = 341 SQ.FT. (ARCH SURVEY)
- 10) (E) TOTAL LOT COVERAGE = 1,518 SQ.FT
- 11) AVAILABLE FOOTPRINT INCREASE = 463 SQ.FT
- 12) TOTAL PROPOSED ADDITION FOOTPRINT = 410 SQ.FT. (< AVAILABLE)
- 13) TOTAL PROPOSED FOOTPRINT = 1,928 SQ.FT
- 14) TOTAL PROPOSED FOOTPRINT COVERAGE = 34%
- 15) TOTAL PROPOSED PERVIOUS AREA = 3,019 SQ.FT
- 16) TOTAL IMPERVIOUS AREA = 2,643 SQ.FT. = 47%
- 7) LOT PERIMETER 359'



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PERMIT SET
06.22.2022

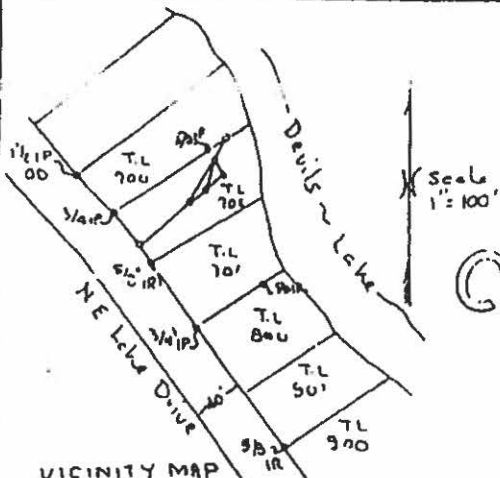


LAND USE PLAN

AS101

SURVEY OF EASEMENT LINES ON TAX LOT 702
MAP 7-11-11 AB LINCOLN COUNTY, OREGON

3304 2:36 PAGE 1961

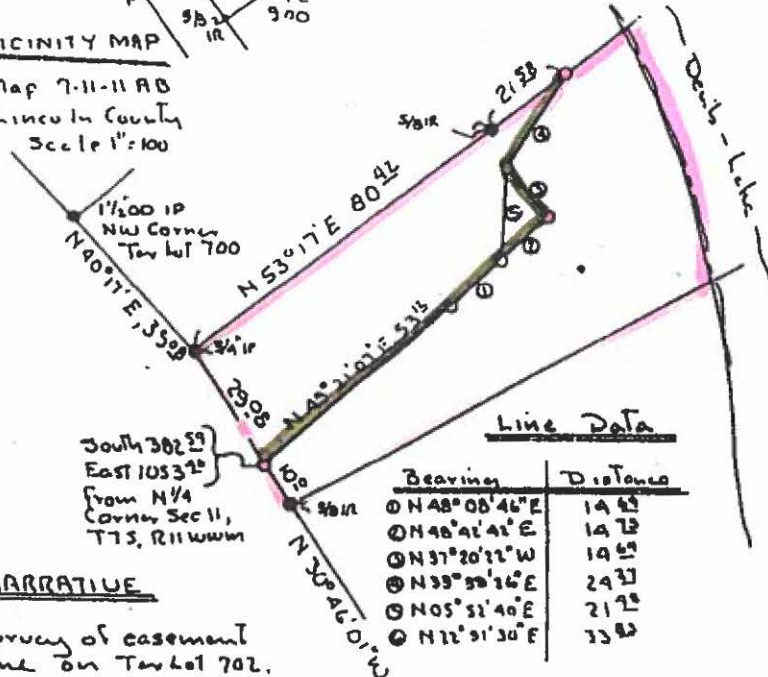


COPY

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
James A. Paeth
 OREGON
 JAMES A. PAETH
 1999

VICINITY MAP

Map 7-11-11 AB
 Lincoln County
 Scale 1"=100'



Line Data

Bearing	Distance
⊙ N48°08'46"E	14.63
⊙ N48°41'41"E	14.73
⊙ N37°20'11"W	14.63
⊙ N33°28'16"E	24.37
⊙ N05°21'40"E	21.28
⊙ N12°21'30"E	33.80

NARRATIVE

Survey of easement
 line on Tax lot 702.

basis of Bearing N 1/4
 & E 1/16 Corner Sec 11
 T7S, R11W1M (East/West)

NOTES

- ⊙ Denote Monuments Set
 3/8" x 30" IR (R.L.S. 1285)
- ⊙ Denote Monuments Found

Equipment Used:
 1 Sec gun
 EDM
 Steel Tape

JAMES A. PAETH P.E.
 LAND SURVEYOR, R.L.S.
 2411 NW HIGHWAY 101
 LINCOLN CITY, OREGON
 97367
 Phone: 994-7574

SEC. 11 T 7 S, R 11 W, 10. M.
 NW 1/4 of the NE 1/4
 LINCOLN COUNTY
 FOR: Fowler/Neal

Scales: As Noted
 Date: 3/24/91
 Jobs: 89-189

Exhibit A
Lot 1

Photo
 D
 Easement
 lot is
 highlighter

Photo
A

