



*Where Life is Sweet*

## *Planning Department*

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**To:** Planning Commission  
**From:** Clinton Spencer, City Planner  
**Subject:** Otnes Variance Request – 1035 SW Judith Pl  
**Date:** July 6, 2016

Dave Otnes has requested a variance from the 10 foot rear yard setback requirement for property located at 1035 SW Judith Pl. The applicant requests that the 10 foot rear yard setback requirement be reduced to 7 feet in order to build a shop in the rear yard. If approved, the applicant proposes to build a 12' x 28' (336 square feet) shop 7 feet from the side lot line and 7 feet from the rear lot line.

The property is described as 4N 28 15AB Tax Lot 10500. The site is zoned Single Family Residential (R-1). The property is entirely surrounded by low density, single family dwellings.

Per §157.225(A) of the Hermiston Code of Ordinances, the planning commission may grant variances where it can be shown that, owing to special and unusual circumstances, literal interpretation of the zoning code would cause an undue or unnecessary hardship.

### **Criteria**

The specific criteria relied upon by the planning commission are contained in §157.225(A)(1) of the Hermiston Code of Ordinances. In granting a variance, the applicant must demonstrate that all of the following criteria have been met:

1. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by owners of other property in the same zone or vicinity.
3. The authorization of the variance shall not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development patterns or policy.

4. It is impractical to maintain the zoning ordinance and at the same time, build, erect or use the structure.
5. The variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

It is not necessary to restate other ordinances and statutory requirements of the variance as part of the proceedings. The granting or denial of the variance will not affect the requirements of the City of Hermiston to comply with building, plumbing and electrical codes, other ordinances, statutory or regulatory compliance issues.

### **Draft Findings**

**Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography or other circumstances over which the applicant has no control.**

1. The property is an unusual configuration with few right-angle lot line intersections and no straight front lot line. This configuration creates few buildable areas which can meet setbacks and not interfere with existing buildings.
2. The property contains a 25 foot irrigation easement for a buried irrigation pipe. This irrigation easement renders a large portion of the rear yard unbuildable.
3. Areas not constrained by existing buildings, irrigation easements, or odd lot line angles are limited.
4. Construction of the shop at the standard 10 foot setback line will require moving an existing patio or constructing a smaller shop.

**The variance is necessary for the preservation of a property right of the applicant that is substantially the same as is possessed by owners of other property in the same zone or vicinity.**

5. The variance is necessary to build the structure and make full use of the property.
6. The majority of the shop will be located outside of the setback area with only a portion of the northeast corner of the building encroaching.

**The authorization of the variance shall not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development pattern or policy.**

7. The variance will allow only a small portion (roughly 24 square feet) to encroach into the setback area and not allow an entire wall of the structure to encroach.
8. Any variance approved is vetted by the planning commission through the public hearing process and duly noticed to neighboring property owners and the public at large. This

process guarantees an opportunity that all public concerns will be voiced to the planning commission.

**It is impractical to maintain the zoning ordinance requirements and at the same time build, erect or use the structure.**

9. The variance is necessary for the construction of a 12' x 28' shop.
10. The applicant considers the 12' x 28' size to be optimal for workshop purposes. A smaller size which fits within the zoning requirements is not practical for some shop related uses.

**The variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.**

11. As stated in Finding #10, the applicant considers the 12' x 28' size to be optimal for workshop purposes. A smaller size which fits within the zoning requirements is not practical for some shop related uses.

### **Draft Conditions**

Should the planning commission approve the variance request, staff does not recommend any conditions of approval to mitigate potential impacts.

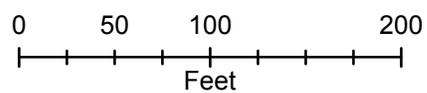
### **Planning Commission Action**

The planning commission may choose to approve or deny the variance request.



**Legend**

-  Area of Proposed Variance
-  Property Line
-  City Limits



# CITY OF HERMISTON

## APPLICATION FOR MAJOR VARIANCE

Pursuant to the provisions of §157.225 of the Hermiston Code of Ordinances, application is hereby made for a variance for the following described property:

Name of Applicant: Dave Otnes Phone: 541-567-9258

Mailing Address: 1035 West Judith Pl. Hermiston OR 97838

Name of Owner (If Different): Phone:

Mailing Address:

Legal Description: Assessor's Map No: 4N2815AB Tax Lot No: 10500

Subdivision (If Applicable):

**Please Attach a Metes and Bounds Legal Description**

Street Address: 1035 West Judith Pl.

Current Zoning Designation: R-1

Variance Requested: Would like to build a work shop and to better make use of property, we would like to move east property line setback from 10 feet to 7 feet - only on the South East section of property

**IMPORTANT!** Oregon's Land Use Planning Laws and §157.225 of the Hermiston Code of Ordinances require the planning commission to make "findings of fact" with regard to variance requests. The findings provide justification to either approve or deny the application. Read the questions that follow and answer them as completely as you can; use additional sheets if necessary. Your responses will be used by the City to make findings and evaluate the merits of your request. The chances of a successful application depend upon the adequacy of the arguments you present to justify approval of the application.

1. Explain what exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, topography or other circumstances over which the applicant has no control. (Note: These exceptional circumstances should relate to the land rather than persons.)

The South East property line has a 70 degree angle - not a 90 degree angle so the shop will have to be built on that angle. If North East corner of shop could be positioned 3 feet into the 10 setback it would better make use of that area of land. Without the exception the shop would have to be moved 3 feet to the West which would require moving existing patio or constructing a smaller shop. See figures 1-3.

2. Why is the variance necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity?

The variance is necessary to better make use of the property. The variance should not affect utility easement and the North East corner of shop would be the only part to enter the existing 10 foot side yard setback the rest of the east side of shop would still meet the setback..Other property owners should not be affected.

3. Explain why the authorization of the variance would not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development pattern or policy.

Would not think it would be detrimental to the zoning ordinance as only a small portion of North East corner of shop would enter the side yard easement. Figure 3.

4. Explain why it is impossible to maintain the zoning ordinance requirements and, at the same time, build, erect or use the structure.

It really is not impossible to maintain the zoning ordinance requirements, it would require me to build a smaller shop which the 12 foot by 28 foot shop is basically the smallest that would meet my needs while still fitting on the property.

5. Explain why the variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

Again without the variance change we would have to build a smaller shop and like was mentioned only the North East corner of shop would be the only part to enter the 10 foot easement to the 7 foot requested. The South side yard set back is already set at 7 foot.

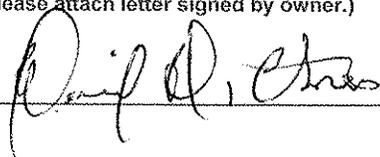
**ADDITIONAL INFORMATION TO BE FURNISHED & ATTACHED TO APPLICATION:**

1. Evidence that applicant is owner or purchaser of the property or has written permission of such owner to make an application for the variance.
2. Two copies (one digital copy) of a site plan (11"x17") drawn to scale, showing the location of the property concerned with all proposed or existing building(s), and the location of all highways, streets and alleys.

The above statements are true to the best of my belief and knowledge. As applicant, I understand that the planning commission requests my attendance, or the attendance of my authorized representative.

I am the  owner/  owner's authorized representative  
(If authorized representative, please attach letter signed by owner.)

Signature of Application: \_\_\_\_\_



Date: \_\_\_\_\_

6/6/16

**OUT-OF-POCKET EXPENSES FOR MAILING & PUBLICATION COST WILL BE BILLED LATER**

**NOTE:** The Hermiston Planning Commission meets the second Wednesday of each month. Because of public notice requirements and time constraints, this application must be returned to City Hall no less than **four weeks** prior to the hearing date. If you have any questions about completing the application or the procedure, please feel free to contact the planning department at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon 97838, or telephone (541) 567-5521. The City's fax number is (541) 567-5530.

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**Office Use Only**

Date Filed: 6/27/16      Received By: *Wkppl*      Meeting Date: 7/13/16  
Fee: \$420.00      Date Paid: 6/27/16      Receipt No: 1-098210

To whom it may concern,

Along with the Major Variance forms, attached diagrams, and other required documents. I wanted to include my detailed description of what we are trying to accomplish. The variance may not totally explain to you my intentions.

I recently retired and want to build a 12' X 28" shop to stay busy,. The reason for the variance is that the area we want to build on the South East corner of the lot has a 70 degree angle not a 90 degree angle, so the shop will be at an angle on the East property line.(see figure 1) using the 10 foot set back on the East property line would make the South East corner of the shop out 15 feet, leaving that area a waste.(see figure 2)

By moving to a 7 foot setback the South East corner would diminish to 11 feet. allowing more useable property.(see figure 3)

Looking at figure 3 only the North East corner of the shop would be out of the original 10 foot setback, so most of the building will still meet the 10 foot setback.

I talked with Clint at City Hall Planning Department and he gave me the Major Variance forms and some advice, I also talked to Heidi in the Building Permits Department and she helped me to calculate that the lot coverage would not be exceeding the lot coverage of 30%

The lot is 11647 sq/ft.

The house is approximately 2700 sq/ft.

The patio is 308 sq/ft

Total sq/ft 3008

30% of 11624 (lot size) is 3882 minus 3008 (lot coverage) equals 874 sq/ft - this would be the largest building that could build.

The 12' X 28' would be 336 sq/ft well within the 874 sq/ft limit.

If variance is approved we have a licensed contractor who is willing to build shop. He would supply the prints for approval and obtain all proper permits and locates.

Thanks, Dave Otnes

