

**FINAL FINDINGS OF FACT  
PLANNING COMMISSION  
VARIANCE VAR23-008**

**REQUEST:** To allow a rear yard setback variance of greater than 10 percent.

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**OWNER/APPLICANT:** Alma Nunez L.  
316 SW Kindkade Rd.  
Boardman, Oregon 97818

**PROPERTY DESCRIPTION:** Tax Lot 1300 of Assessor's Map 4N 25 17AA.

**ZONING OF THE AREA:** Residential

**PROPERTY LOCATION:** North side of SW Kinkade Road at the corner with SW Blalock Street

- I. **GENERAL INFORMATION:** Code Enforcement received a Home Occupation Complaint from a citizen concerning unlicensed bakery/business out of a residential home citing Public Health, Safety, and Building Code Regulation Violations. Upon inspection, Code Enforcement found that the home in question was not in violation of codes brought up by citizen but did find an unrelated violation. Applicant placed a hickory shed measuring 230 ft. sq. in the back yard. Applicant applied for Variance Request due to proximity to the rear yard property line.
- II. **APPROVAL CRITERIA:** The application has been filed under the City of Boardman Development Code Chapter 5.1 Variances, more specifically 5.1.400 Class C Variances. The criteria are identified below in **bold** type with responses in regular type.

**5.1.400 Class C Variances**

- A. **Purpose.** The purpose of this section is to provide standards for variances which exceed the Class A and Class B variance criteria in Sections 5.1.200 and 5.1.300. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, sensitive lands (Chapter 3.7), or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" or "prohibited uses" shall be granted.

As stated above the hickory shed is placed to close to the rear property line. However there also needs to be at least 10 feet between structures to meet fire code separation standards. The current placement is 10 feet from the home and more than 10 feet from the neighboring home. After consultation it was determined that the best course would be to apply for a Class C Variance to allow a diminished rear yard setback.

**B. Applicability.**

1. The variance standards are intended to apply to individual platted and recorded lots only.
2. An applicant who proposes to vary a specification standard for lots not yet created through a land division process may not utilize the Class C variance procedure.
3. A variance shall not be approved which would vary the “permitted uses” or “prohibited uses” of a land use district (Chapter 2).
4. Variance to Parking Standards (Chapter 3.3).
  - a. The City may approve variances to the minimum or maximum standards for off-street parking in Section 3.3.100 upon finding all of the following:
    - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
    - (2) The need for additional parking cannot reasonably be met through shared parking with adjacent or nearby uses; and
    - (3) All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2 and Chapter 3.
  - b. The City may approve a reduction of required bicycle parking per Section 3.3.200, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
  - c. The City may allow a reduction in the amount of vehicle stacking area required for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.

This Variance is applicable to a platted lot, is not for a lot not yet created, and does not address a permitted or prohibited uses. It is also not concerned with parking standards. Parking standards, if applicable, would be considered as part of the Home-Based Business.

**C. Approvals Process and Criteria.**

1. Class C variances shall be processed using a Type III procedure, as governed by Section 4.1.500, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Section 4.1.500, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.

This Variance request has been processed as a Type III with notice and a public hearing before the Planning Commission.

2. The City shall approve, or approve with conditions, an application for a variance based on finding that all of the following criteria are satisfied:
  - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
  - b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);

- c. The use proposed will be the same as permitted under this title, and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- d. Existing physical and natural systems, such as, but not limited to, traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
- e. The hardship is not self-imposed; and
- f. The variance requested is the minimum variance which would alleviate the hardship.

The proposed variance is not materially detrimental to this Code or applicable policies or standards. The Variance is being requested to address encroachment on the rear yard setback requirement of 7 feet. There are no other development impediments. The Variance will not impact on the proposed residential use. Physical and natural systems are not impacted by the use or this Variance. The Variance requested is the minimum needed to alleviate the hardship.

There is also a requirement for a 10-foot separation between buildings, which is achieved in this instance. Should the neighboring property choose to place a large building immediately behind this proposed structure there would be a conflict which could not be resolved by a Variance.

- III. **LEGAL NOTICE PUBLISHED:** East Oregonian  
August 29, 2023
- IV. **PROPERTY OWNERS NOTIFIED:** August 29, 2023
- V. **AGENCIES NOTIFIED:** September 13, 2023  
Jose Fernandez, Code Compliance Official; Glenn McIntyre, Building Official; Rolf Prag, Public Works Director; Marty Broadbent, Boardman Fire Protection District
- VI. **HEARING DATE:** September 20, 2023  
Council Chambers  
Boardman City Hall  
200 City Center Circle  
Boardman, Oregon 97818
- VII. **PLANNING OFFICIAL RECOMMENDATION:** The Planning Official recommends approval.

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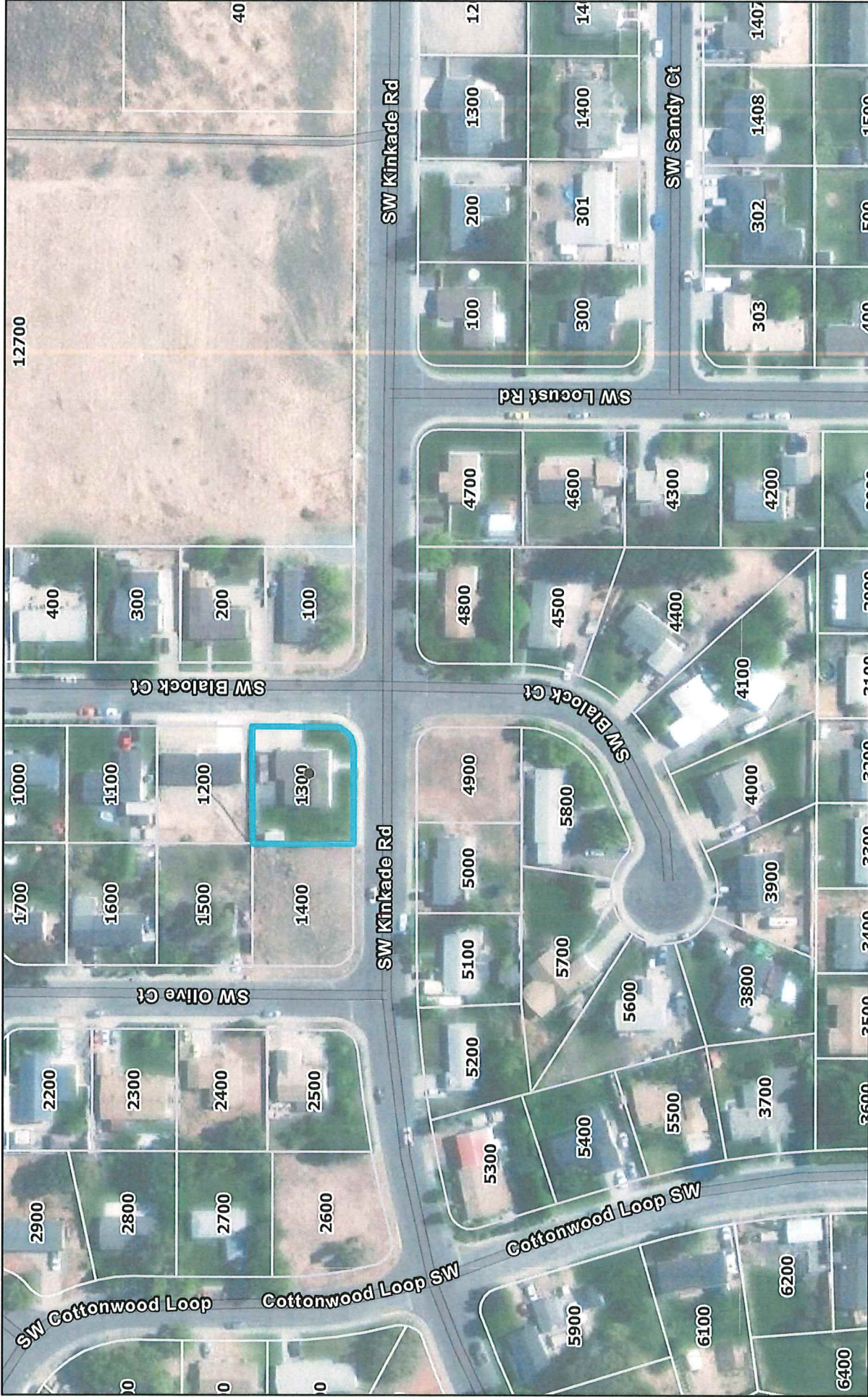
Zack Barresse, Vice-Chair  
Planning Commission

Date

ATTACHMENTS:  
Vicinity Map  
Applicant's Plot Plan



# Nunez VAR-23-008 Vicinity Map



8/28/2023, 11:56:59 AM



CityLimits



Taxlots

1:2,257

0 0.01 0.03 0.05 mi

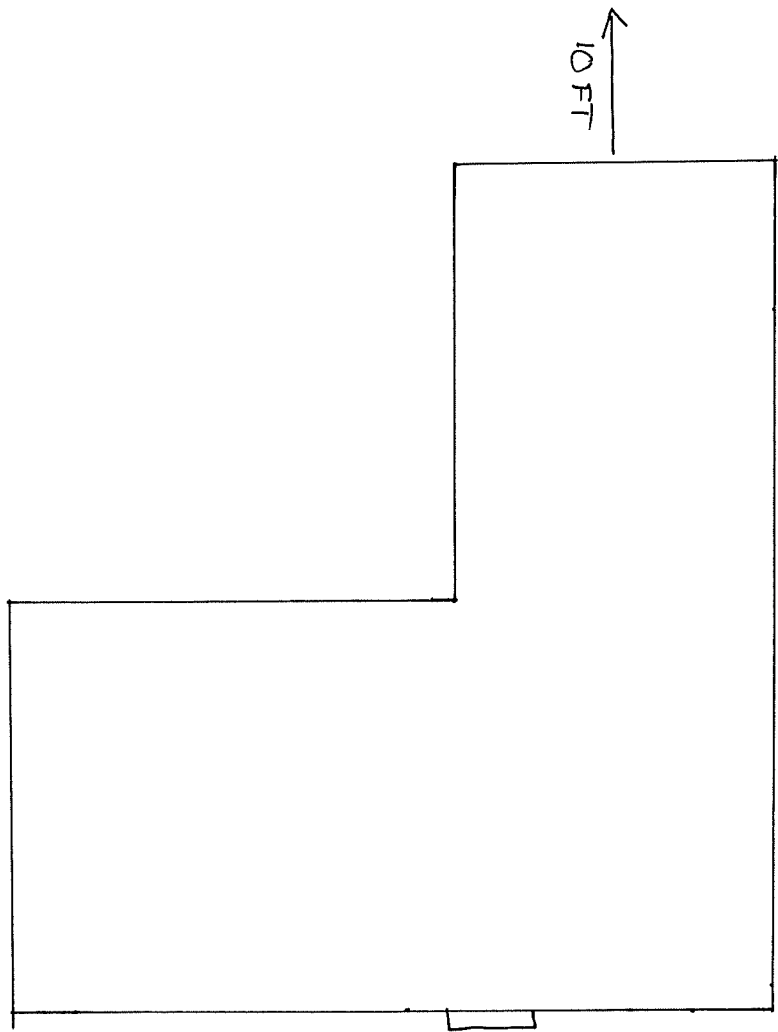
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KINKADE ST

SW BALLOCK ST



32 1/2 FT

10 FT

20 FT

11.5 FT

65 FT