



## ORDER No. 2008-0012

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**AN ORDER APPROVING A VARIANCE TO THE ACCESS SPACING STANDARDS TO ALLOW A SECOND DRIVEWAY ON PROPERTY LOCATED AT 1801 VILLA RD, TAX LOT 3217BC-00400**

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### RECITALS:

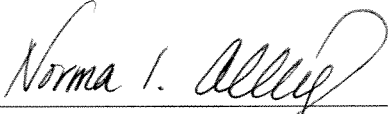
1. In 2002, Larry Hill applied for a building permit to construct a new garage in the rear of the existing house. The plans submitted with the building permit also showed dual driveway entrances connected by a semi-circular drive. At the time of building permit review, staff from the Engineering and Planning Divisions made red-line comments on the plans that specified that the second driveway entrance was not allowed. The permits were issued, construction on the garage was completed, and the applicant called for a final inspection at the end of January 2008. When Planning staff went out to the property to conduct a final inspection they found the second driveway entrance installed and paved in accordance to the original plan, but in conflict with the red-line comments made on the plans that the second driveway entrance was not allowed. Final inspections were disapproved until the property conforms to the approved site plans dated 4/25/02.
2. Larry Hill applied for a variance to the access spacing standards on February 28, 2008. The Planning Director denied the application for a variance on April 10, 2008, finding that the application on the whole did not meet the criteria required by NDC § 151.163 for a variance. On April 23, 2008, the applicant submitted an application to appeal the Director's decision to the Planning Commission.
3. After proper notice, on May 22, 2008, the Planning Commission heard the request and passed Resolution 2008-251 which denied the requested variance to the access spacing standards. On June 2, 2008, the Newberg City Council moved to hear an appeal of the Planning Commission's decision.
4. On July 21, 2008, after proper notice, the Newberg City Council held a hearing on the variance appeal. After public testimony and discussion, the City Council voted to table the issue to a City Council meeting on August 18, 2008 and directed staff to write findings for approval of the variance request.
5. On August 18, 2008, the City Council revisited the variance with new findings which are hereto attached as Exhibit "A". The City Council finds that the applicable criteria for a variance have been met, and that approval of the variance is granted as requested until such time as Villa Rd becomes fully improved to major collector standards as defined in the Transportation System Plan.

**THE CITY OF NEWBERG ORDERS AS FOLLOWS:**

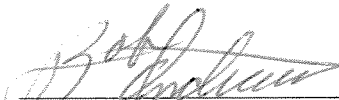
1. The request for a variance to the access spacing standards to permit a second driveway entrance to remain at 1801 Villa Rd, tax lot 3217BC-00400, is hereby approved.
2. The second driveway entrance, as shown on the site plan in Exhibit "B", may remain in place until such time as Villa Rd becomes fully improved to major collector street standards as defined by the Transportation System Plan.
3. The findings which are attached hereto as Exhibit "A" are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: August 19, 2008.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 18<sup>th</sup> day of August, 2008.

  
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Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of August, 2008.

  
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Bob Andrews, Mayor

**QUASI-JUDICIAL HISTORY**

By and through the Planning Director on 4/10/08, the Newberg Planning Commission at the 05/22/08 meeting, and the City Council at the 07/21/08 meeting.

Attached:

Exhibit "A": Findings

Exhibit "B": Site Map

Exhibit "C": Access Spacing Table

## EXHIBIT "A": FINDINGS

### VAR-08-001

1801 Villa Rd – Variance to the access spacing standards to allow a second driveway entrance

#### I. APPLICABLE VARIANCE CRITERIA – NEWBERG DEVELOPMENT CODE § 151.163:

*(A) That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.*

**Finding:** Strict enforcement of the access spacing regulation would require the applicant to remove the eastern 15 ft of their second driveway (the northernmost driveway entrance which was installed illegally and contrary to approved construction plans). This would not constitute a physical hardship; however, it may constitute a practical difficulty as the applicant would need to pay to remove a portion of the driveway and have the area landscaped in conformance with the rest of the yard.

*(B) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

**Finding:** Villa Road between Haworth Ave and Crestview Dr is an older area with many built-out parcels that are unlikely to further develop and create more accesses onto Villa Rd. Parts of the neighborhood are constrained by topography, the railroad trestle, and R-1 zoning that would make further division or development of parcels unlikely to occur. As a result, there is likely to be lower density of housing and a smaller number of potential access points onto Villa Rd in that stretch as compared to other R-2 zoned neighborhoods. This could be found to be an exceptional circumstance applicable to this property and neighborhood that would mitigate the safety concerns of too many access points onto a major collector. In addition, the proximity of the stop sign at Crestview Drive to the applicant's property will also help to regulate traffic flowing through the area.

*(C) That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

**Finding:** During the public hearing for this proposal at the City Council meeting on July 21, 2008, the applicant brought up several other circular driveways and unconventional parking arrangements currently being used in his neighborhood. Several City Councilors concurred during the discussion that the applicant should be permitted to enjoy the same privileges as those other property owners in the same neighborhood. Strict interpretation and enforcement of the access spacing standard in this case would require the applicant to remove the second driveway entrance and return to single-driveway use, something his neighbors would not have to do until Villa Rd is fully improved or there was significant development or re-development requiring building permits on their properties.

*(D) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

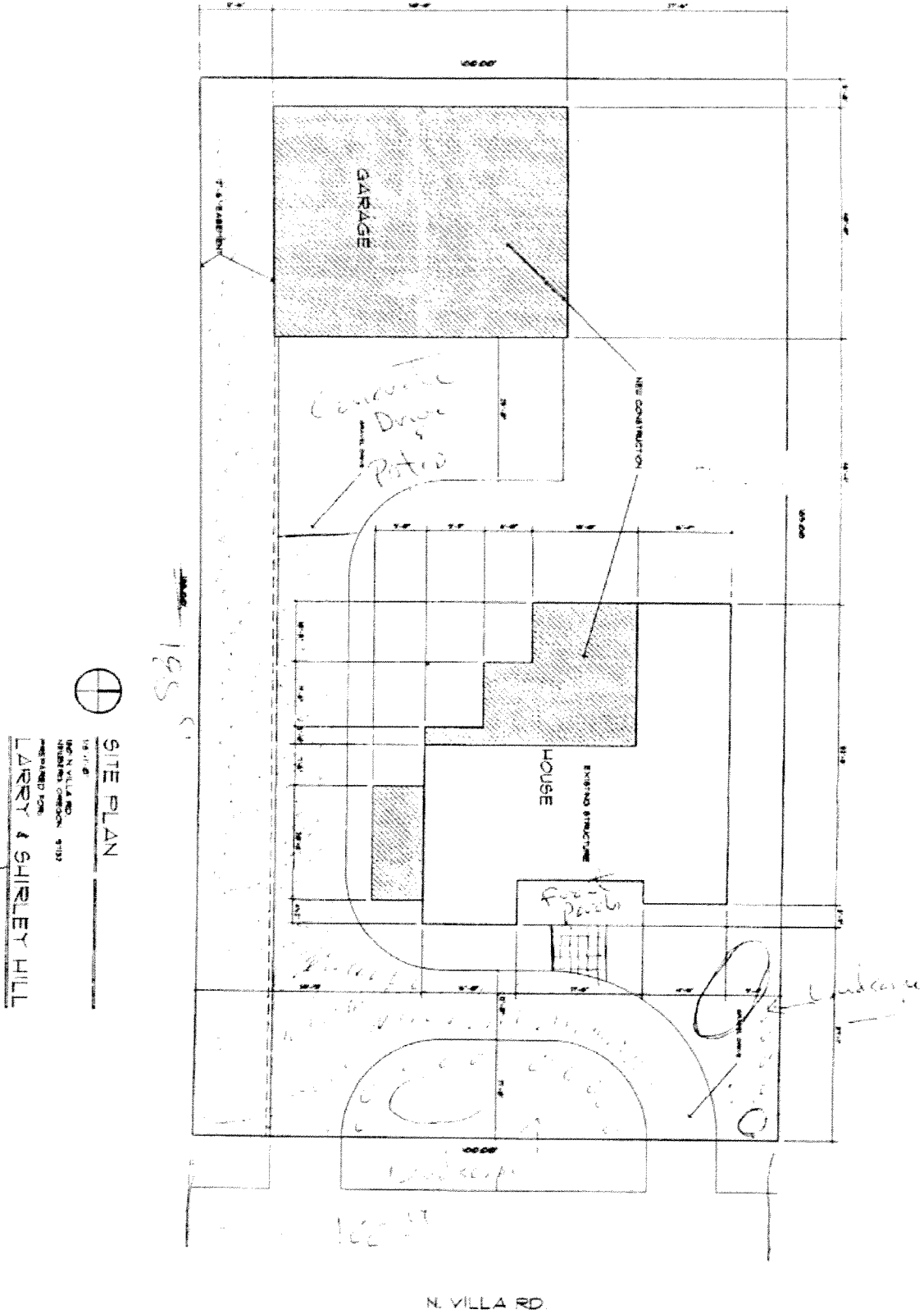
**Finding:** As discussed in section C above, the Villa Road area is an older neighborhood with several cases of non-conforming driveways. These properties are considered to be "grandfathered" in and legally nonconforming uses because most of them were finished before the current code

standards came into effect. These properties will eventually be brought into code compliance as they apply for permit approval of projects on their property. Granting this variance to the access spacing standards would essentially allow the applicant to make the second driveway entrance a legally nonconforming use similar to other properties in the neighborhood, but one that would not have to be updated to meet the current code until such time as Villa Rd becomes fully improved to major collector street standards as defined by the Transportation System Plan.

*(E) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.*

**FINDING:** Granting the variance could be found to be beneficial to public safety because vehicles exiting the applicant's property could always utilize the circular driveway to pull out into the street nose-first instead of backing out. This causes fewer disruptions to the flow of traffic made by a car backing out onto a busy road. While the second driveway entrance may create additional points for conflict with bicycles and pedestrians, the safety concern is mitigated due to the likely nose-first vehicle use of the driveway which will allow for better sight distance down the street prior to pulling out.

EXHIBIT "B": SITE PLAN



**EXHIBIT "C": ACCESS SPACING STANDARDS TABLE  
NDC § 151.703(B)**

Access Spacing Standards						
Roadway Functional Classification	Area <sup>1</sup>	Minimum Public Street Intersection Spacing (Feet) <sup>2</sup>	Frontage Required per Additional Driveway <sup>3</sup>	Driveway Setback from Intersecting Street <sup>4</sup>	Typical Median Treatment	Minimum Spacing of Median Openings
Expressway	All	As shown in Newberg Transportation System Plan	NA	NA	Recessed swale and/or crash barrier	NA
Major arterial	Urban CBD	600 200	300 300	150 100	Raised median or center left-turn lane	600 NA
Minor arterial	Urban CBD	300 100	200 200	100 100	Raised median or center left-turn lane	300 NA
Major collector	All	200	150	100	Center left-turn lane	NA
Minor collector	All	150	75	75	None	NA
Local streets	All	100	75	50	None	NA
<p>1 "Urban" refers to intersections inside the city urban growth outside the Central Business District (C-3 Zone). "CBD" refers to intersections within the Central Business District (C-3 Zone). "All" refers to all intersections within the Newberg Urban Growth Boundary.</p> <p>2 Measured centerline to centerline.</p> <p>3 Requirement is the minimum frontage required per additional driveway beyond the first. Where two driveways are constructed, at least one curb parking space shall separate each driveway approach.</p> <p>4 The setback is based on the higher classification of the intersecting streets. Measured from the curblines of the intersecting street to the beginning of the driveway, excluding flares. If the driveway setback listed above would preclude a lot from having at least one driveway, including shared driveways or driveways on adjoining streets, one driveway is allowed as far from the intersection as possible.</p>						