

July 31, 2020

Multnomah County DCS

Land Use Planning Division

Via electronic delivery: lisa.m.estrin@multco.us & graham.martin@multco.us

RE: Case File T2-2020-13164 & EP-2020-13167 Application for SEC Permit & Road Rules Variances

To whom it may concern:

Please accept this letter and documentation as comments in opposition of the above referenced permit and variances. Our property would be directly affected by any road variance on SE Victory Road. We have addressed our concerns related to each applicable code below.

First, a little history about Victory Road. We purchased our house in 2003. At that time, from our garage West the road was further South than it is now (see Attachment 1 & 2.) The gentleman that used to own 31325 SE Victory Rd continually dumped small ¼" minus gravel on the roadway and slowly but surely the road began migrating North from our garage West. This left our property encroached upon. In fact, our driveway parking pad began to disappear in 2014-2015. The strip of grass between the road and our property line disappeared. We asked him to stop putting gravel on the road, he refused. We went to mediation and he finally agreed. What was left was our SW corner post fully surrounded by gravel and little to no clearance between our property line and the road. We are aware that the right of way is 5 feet wider to the North from our West property line on, yet the gentleman that used to own that property had apparently built a small retaining wall and drain system to ensure he would have clearance between the road and his property. We had somebody come in and repair the damage to our property, remove the excess gravel and slightly flatten out the poor grading that had been created by the excessive gravel being placed on the road.

The westerly extension of Victory Road from 317th has significant clear zones from 317th West until approximately in line with the East wall of our house at 31431 SE Victory Rd. From that point West to the our West property line, there is no clear zone. In fact, we have had multiple people pull up and park in our yard, the post office was continually using our yard as a turn around, and the applicants for this permit continually trespassed over our property in order to open a gate which somebody installed on our corner post. There is no clear delineation of private property to public right of way. We are concerned due to speeding traffic (see Attachment 3 & 4) and accidents (see Attachment 5.)

The property in question is not unique. It was formerly addressed as an Oxbow address but has recently been changed to Victory. There are at least 2 adjacent properties (31035 & 31090 SE Oxbow) which both have residential structures and access from Oxbow. This property has approximately 260 feet of Oxbow frontage as well as a 40 foot wide unnamed county right of way bordering it for over 400 feet on the West.

It is apparent that the applicants created a situation by which they believe they require a variance. This property was purposefully logged off by means of a state forestry permit which stated 'clearing a 1 acre homesite.' It would seem that a property owner should actually talk to the entity who issues permits before determining what portion of a property, which clearly lies in a special environmental overlay zone, would be appropriate to permit as a homesite. Once the logging was complete, hundreds of cubic

yards of rock and fill were dumped on the property adjacent to Victory in order to create the homesite. If ever there was a concern for a road being narrow, this logging proved our point. Multiple log trucks came and went. Multiple log trucks hit our trees which line Victory to the West of our house. These trees are limbed to at least 13 feet above the road but due to there being no clearance, the trucks still hit them. Multiple dump trucks – 20 plus loads on some days – were dumped between Spring and Summer of 2019. The road was torn up and a mess. In October 2018, the applicants set a dangerous fire to burn the remnants of their logging endeavors (the second time the fire department was called for the same reason.) Please see Attachment 6. The fire engine that arrived was able to access, however, this was an engine, not a truck and again, they were able to access by driving within inches of our property line from our house West.

Interestingly, there is rip rap under the sod and grass on the South side of Victory – particularly toward the West side of our property. It is there because, as stated previously, the road used to run much further South than it does now.

In short, we believe that the applicants have not proven a case for variance as follows:

MCCR 16.200(A) -The applicant's property is not unique as evidenced by multiple residential structures already built along SE Oxbow.

MCCR 16.200(B) -Clearly the variance is not necessary to maintain the enjoyment of the property. Adherence to the street improvement standards should not be considered a hardship considering the applicants could improve an already platted right of way accessed from Oxbow or a private driveway from Oxbow to their liking.

MCCR 16.200(C) -By allowing this variance, we feel the county would be essentially telling us that our rights to preservation of our enjoyment and use of our property does not matter as much as the applicant's rights. Clearly more traffic means more opportunity for our property to be further encroached upon.

MCCR 16.200(D) -It is obvious to us that applicant's request for variance is directly related to circumstances created by them. They logged a homesite without first finding out what restrictions or possible requirements they may need to adhere to. They created a level homesite closest to Victory without first establishing if they would need to improve Victory or if they might have created less hardship for themselves by accessing from Oxbow or another right of way.

Should the county approve the variance and Victory remains unimproved on this section West of our house, we will not be allowing for any further encroachment, trespassing, construction easement or otherwise. Although un-related to the permit application, the applicants have proven to be less than honorable, stepping around a no trespassing sign continually, skirting development permits and codes, firing weapons which caused ricochet so severe that bullets whizzed past both our family and other neighbors. We do not trust that any covenant or restriction of use by your office will be adhered to due to actions by the applicants over the past 3 years.

Don & Barbara Hentges
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