

# CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138  
(503) 738-5501 • (503) FAX 738-9385

## APPLICATION BEFORE THE CITY OF GEARHART PLANNING COMMISSION

PLANNING COMMISSION  
2<sup>ND</sup> THURSDAY, 6:00 PM

DATE RECEIVED 06 27 17

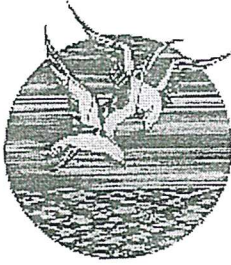
1. APPLICANT: Stephen P. Rickles  
MAILING ADDRESS: 2855 SW Champlain Drive, Portland, OR 97202  
EMAIL ADDRESS: strickles@aol.com  
PHONE: 503.229.1850 (business) CELL PHONE: 503.720.2225
2. PROPERTY OWNER: NSJ Properties, LLC  
MAILING ADDRESS: same as above  
EMAIL ADDRESS: same as above  
PHONE: same as above CELL PHONE: same as above
3. SURVEYOR/ENGINEER: NONE  
MAILING ADDRESS: N/A EMAIL ADDRESS: N/A  
PHONE: N/A CELL PHONE: N/A
4. LEGAL COUNSEL: Stephen P. Rickles  
MAILING ADDRESS: 1839 NW 24<sup>th</sup> Avenue, Portland, OR 97210  
EMAIL ADDRESS: steve@rickles-law.com  
PHONE: 503.229.1850 CELL PHONE: 503.720.2225
5. PROPERTY LOCATION: 837 Neacoxie Boulevard, Gearhart, OR 97138
6. LEGAL DESCRIPTION OF PROPERTY:  
(A) ASSESSORS PLAT AND TAX LOT: 61004DA02900  
(B) ADDITION, BLOCK, AND LOT: Gearhart Shores, Lot 16

PER SEC 13.080 OF THE GEARHART ZONING CODE ACTUAL EXPENSES INCURRED BY THE CITY DURING THE PROCESS OF TECHNICAL EVALUATION OF AN APPLICATION SHALL BE BORNE BY THE APPLICANT, IN ADDITION TO THE FILING FEES ESTABLISHED BY RESOLUTION. UNPAID PENALTIES, FINES OR INCUMBRANCERS OWED TO THE CITY OF GEARHART ARE GROUNDS FOR WITHHOLDING ISSUANCE OF A PERMIT. DO YOU OWE ANY MONEYS TO THE CITY OF GEARHART? (CIRCLE) YES  NO

7. SIGNATURE (APPLICANT) [Signature] DATE: 6/26/17  
PRINT Stephen Rickles
8. SIGNATURE (OWNER) [Signature] DATE: 6/26/17  
PRINT Stephen Rickles

NOTICE: ALL ITEMS MUST BE COMPLETED IN ORDER FOR THE APPLICATION TO BE DEEMED COMPLETE AND READY FOR PROCESSING.

TO BE COMPLETED BY STAFF  
DOES APPLICANT OWN ANY MONEY TO THE CITY? \_\_\_\_\_ IF SO, AMOUNT \_\_\_\_\_  
FOR \_\_\_\_\_ ACCOUNT # \_\_\_\_\_ DEPARTMENT STAFF \_\_\_\_\_ (INITIAL)



# CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138  
(503) 738-5501 • (503) FAX 738-9385

## APPLICATION FOR VARIANCE

APPLICATION FEE: \$400.00 PD \_\_\_\_\_

*02*

APPLICANT: Stephen P. Rickles/Dawn-Jeanine Davis  
ADDRESS: 2855 SW Champlain Drive, Portland, OR 97202  
EMAIL ADDRESS: strickles@aol.com  
CONTACT PHONE: 503.229.1850 (business) CELL PHONE: 503.720.2225

OWNER NAME: NSJ Properties, LLC  
OWNER SIGNATURE: \_\_\_\_\_

PROPERTY ADDRESS: 837 Neacoxie Boulevard, Gearhart, OR 97138  
LEGAL MAP & TAX LOT # 61004DA02900 PRESENT CITY ZONE DISTRICT: B R3

DESCRIBE THE REQUEST: TO ALLOW PARKING ADJACENT TO PROPERTY FOR SHORT TERM RENTAL USE, OFF THE CITY ROADWAYS BUT ON THE CITY'S RIGHT-OF-WAY AS OUR HOUSE HAS NO GARAGE, AND ON-SITE PARKING IS PRECLUDED BY CITY TREES AND ITS UNDEVELOPED ROADWAY.

ATTACH A SITE PLAN SKETCH OF THE PROPOSAL DRAWN TO SCALE illustrating the size, and location, of existing uses and structures on the property and describing the proposed variance. (1"=20' scale will fit on an 8-1/2" x 11" sheet of paper.)

GEARHART ZONE CODE SECTION 9.030 CRITERIA FOR GRANTING VARIANCE: Variance to a requirement of this ordinance with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, decks and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation, evidence submitted and findings are made based on the four approval criteria. Please attach a narrative that answers the following approval criteria: *See Attached*

1. Explain how the request is necessary to prevent a hardship to the applicant; and
2. Will the proposed development that results from the granting of the variance be injurious to the adjacent area in which the property is located? Describe adjoining uses and possible impacts if the variance is granted; and
3. Is the request necessary to enable reasonable use of the property; and
4. Is the request in conflict with the Gearhart Comprehensive Plan?

PLEASE NOTE: In addition to the fee, costs may be incurred as a result of staff time investigating and/or writing of the staff report that may be required to be paid by the applicant. City Staff may determine that other material or information is deemed necessary for their evaluation. The applicant may find it beneficial to consult with the planning staff about the application.

COPIES: AFTER THE APPLICATION IS DEEMED COMPLETE SUPPLY 15 COPIES DRAWN TO SCALE NO SMALLER THAN 11" X 17" AND ONE PDF SENT TO [planning@ci.gearhart.or.us](mailto:planning@ci.gearhart.or.us)

PUBLIC NOTICE: ATTACH LIST OF NAMES OF RECORD OWNERS OF CONTIGUOUS LAND WITHIN 100 FEET

NOTICE: ALL ITEMS MUST BE COMPLETED IN ORDER FOR THE APPLICATION TO BE DEEMED COMPLETE AND READY FOR PROCESSING.

OCTOBER 2016

VARIANCE

*72*

STEPHEN P. RICKLES  
Admitted in Oregon and Washington  
e-mail: steve@rickles-law.com

June 12, 2017

**1. Explain how the request is necessary to prevent a hardship to the applicant; and**

My mother, Shirley Rickles, purchased our home around 1988, shortly after it was built as a "spec house" to spur sales in our new housing development. As approved by the City of Gearhart, the house was built without a garage, or driveway, or any paved off-street parking.

The backyard area of the home has a septic field in it, and it borders an undeveloped street right-of-way owned by the City of Gearhart. Eighth Street is only drivable to the east for about half of its length, and turns into a mere pedestrian pathway along the southern border of our home. There has never been an opportunity to develop any off-street parking in the rear of our home, because there is no road access available. The area has always been a grove of sea pines with a narrow pedestrian path running through it.

Similarly, the minimal front yard area that was present at the time of the purchase of the house was not amenable to turning it into a parking lot, either, due to the differences between the grades of the home and the street.. Rather than have an ugly parking lot along the street, where cars would be virtually up against the front of our home, the yard was landscaped to provide a visual and privacy benefit to the occupants of the house, to those passing by the home, and for our neighbors.

The home as constructed was built below grade-somewhat below the level of Neacoxie Boulevard that fronts the property, creating a slope down to the house. Because pedestrians and cars were able to look down into the living room and front bedroom of the home, my mother planted an escallonia hedge there as a privacy screen.

Neacoxie Boulevard is a dead-end street. From our northerly next-door neighbor to the end of the street, there are only two additional homes south of our location, reachable by Neacoxie Boulevard: Tax Lot 600, owned by the

June 26, 2017

Page 2

Drake Irrevocable Children's Trust; and Tax Lot 602, owned by the Leonard Schnitzer Family Trust.

Throughout the nearly 30 years of ownership of our home, our family and our guests have always parked in the graveled area off the asphalted roadway either in front of the house on Neacoxie Boulevard; or on the south side of our home, on a graveled area along the undeveloped portion of Eighth Street. Our cars, when parked out front of, or alongside our house, are generally out of the view of our neighbors. They do not adversely impact any of our neighbors, nor do they impede emergency vehicle access to our home or those of our few neighbors.

There is room for up to four vehicles to park in front of our home, or two vehicles can be parked on the south side of our home without impacting anyone. There are almost never more than two cars at our home at a time. In addition, there is no restricted parking along Neacoxie Blvd. Visitors are allowed to park along both sides of the streets when using the beach access areas to the north and south of our home, or when visiting other homes in the area. It would be unfair to allow visitors and tourists to park along both shoulders of Neacoxie Blvd, yet prohibit us, homeowners and taxpayers, and our guests from doing the same.

My mother rented the house on an occasional basis from roughly 1994 to the time of her death in 2001; and my brothers and I have been required to rent the house out since approximately 2010 in order to afford to retain the home in our family. If the house cannot be rented under the new restrictions that have been imposed, the house will have to be sold, as we cannot afford the high taxes, and expensive maintenance required to keep it. As third-generation north Oregon coast homeowners, that result would be tragic for our family.

The new ordinance mandates that there be one off-street parking space per bedroom, and our house has four bedrooms. We refuse to rent the house to any groups of more than eight people. The vast majority of those renting our home are families with small children. The average group size is four to six persons, and they almost always arrive in two cars or less.

In all of the years that the home has been rented to guests, we have never received a single complaint from any of our neighbors, or from the Gearhart Police or Fire Departments about any of them. Our guests have never caused a problem for anyone. Persons parking their vehicles in the gravel area off of our

June 26, 2017

Page 3

dead-end street, or along undeveloped Eighth Street, pose no risk of harm to any contiguous neighbor, as the cars parked there are either blocked from view by our home, our backyard fence, or by the well-maintained escallonia hedge in front of our home. Parking in this fashion poses no traffic impediment to anyone, and there are no neighbors which will face any altered or changed parking patterns from those in place for nearly 30 years now.

Unless a variance is granted to allow us to continue parking cars for owners or our guests in the fashion that has proved to be without the slightest harm to anyone, we will be prevented from obtaining our Vacation Rental Permit, resulting in severe hardship to the owners. It should be noted that the individual who inspected our house for our Vacation Rental Permit found it to be exceptionally well-maintained and outfitted in all other respects (with the sole exception of three electrical plugs we are in the process of changing to GFCI outlets). We have been excellent owners, good neighbors, and outstanding hosts. Allowing this variance will allow us to continue to be all three.

In order to assist in fully explaining this request, please consult Exhibit 1, attached, which includes photographs detailing the overall neighborhood and the need for this variance.

**2. Will the proposed development that results from the granting of the variance be injurious to the adjacent area in which the property is located? Describe adjoining uses and possible impacts if the variance is granted; and**

This variance will not be injurious to anyone in the adjacent area. As is shown in the photographs attached as Exhibit 1, our house sits in the southwest corner of our housing development, very near the end of a dead end street. To the south of our home is a gravel area for the undeveloped portion of Eighth Street, and eventually a pathway that leads toward the beach. The only two homes south of ours on Neacoxie Boulevard are across the street, and have large and private parking areas and turn-arounds.

Allowing the variance will not impact our next-door neighbors to the north, either. We would simply be parking our cars in the same locations that they have been parked for nearly 30 years now. Our next-door neighbors have a much more pleasant view into our beautiful backyard, and our front landscaped area for not having cars parked in them. At present, the one or two vehicles of the

June 26, 2017

Page 4

owners or our guests are almost entirely hidden from view by our escallonia hedge, which are regularly trimmed by our weekly landscape maintenance service.

As for adjoining uses, we are in a residential area. There will be no impact to anyone in our residential area if this variance is granted.

Although continuing to allow us to simply park our cars where we always have will not impact anyone around our home, the traffic which does drive by our house would be substantially reduced if the City simply moved the "dead-end" sign from halfway down Neacoxie Boulevard, and placed it where it belongs at the start of our street, where it borders Tenth Avenue. For some reason, the sign is not in a location that keeps tourists and travelers from immediately seeing that it is a dead-end street.

**3. Is the request necessary to enable reasonable use of the property; and**

Yes. As is noted above, ever since this house was approved for construction and built there has never been a way to add four off-street parking places to this property. The City of Gearhart prevents us from even accessing our backyard area in a motor vehicle, even if we chose to tear out all of our beautiful backyard plantings, and we could overlook the fact that our septic field is there. Be it owners or renters, the only places to park for our home are on the graveled areas where Neacoxie Boulevard and Eighth Street abut our home.

**4. Is the request in conflict with the Gearhart Comprehensive Plan?**

In the overall scheme of things, the short answer is no. We are not trying to make any use of our home other than as a residence, for our family, and for our occasional renters. We only want to park cars for our residence on a graveled and unused City right of way.

As a technical matter, if renting our house to occasional guests is not considered to be a residential use; and given that the City has determined to crack down on the few "bad apple" rental houses in the area by imposing strict off-street parking requirements on every short-term rental house, then apparently our parking plan requires a variance. Granting this variance will not alter how

76

June 26, 2017

Page 5

vehicles have been parked in the area for the last nearly 30 years, without a single complaint or incident. Allowing a maximum of four cars to park using the area in front of our hedge and along the side of our home will not impact any road traffic, let alone our immediate neighbors.

In our view, this request will not conflict with the Gearhart Comprehensive Plan, and will allow our family to maintain the home in its current outstanding condition, both inside and out.

Very truly yours,

**THE RICKLES LAW FIRM, PC**



Stephen P. Rickles

SPR:jlt

This aerial photo demonstrates why this variance would not impact any neighbor or the City of Gearhart. This is the view from directly overhead.



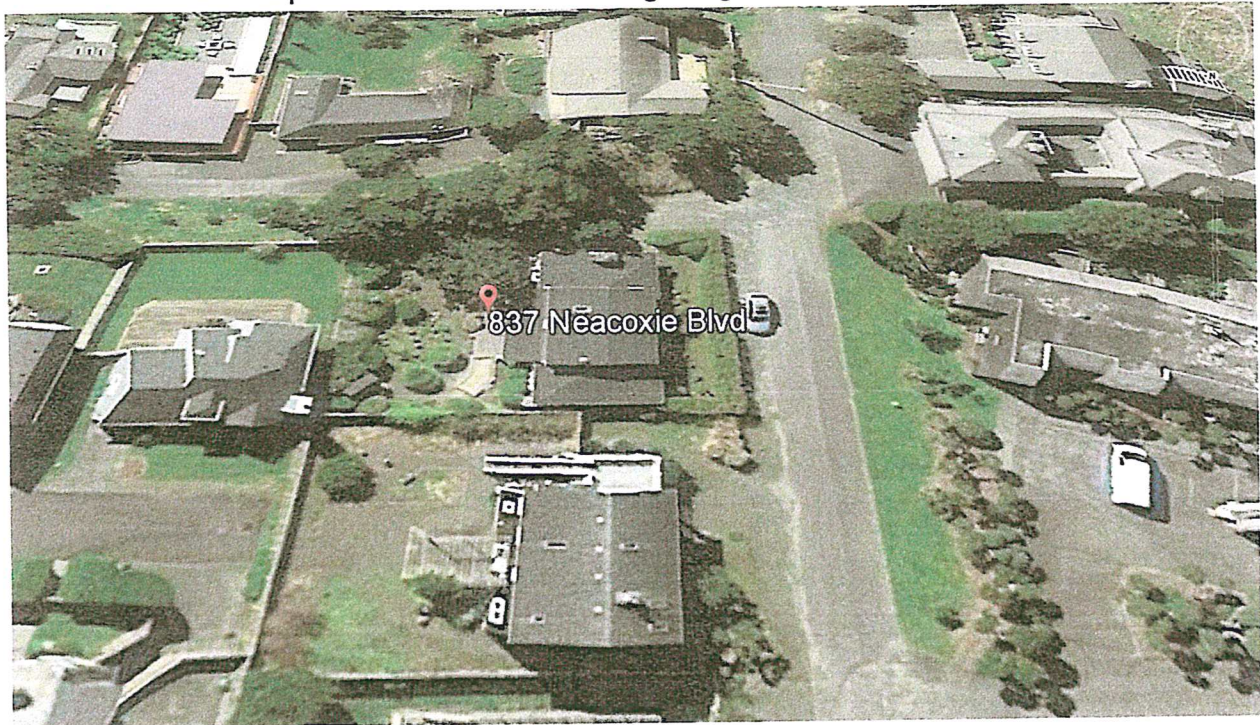
You can see that the sea pines that are growing wild on the City's undeveloped 8<sup>th</sup> Street right-of-way adjacent to our home on the south side have always created a total barrier to parking any vehicles in our back yard area, even if we did not have our septic field there. We like to think that our beautiful backyard landscaping offers a much more valuable asset to the City, our neighbors and our guests than asphalt and carports ever would.

As is shown here, there has always been ample parking for up to four cars on the west side of our Escallonia hedge out front. As is noted above, however, there are almost never more than two vehicles at a time at the house. The car shown in this photo is parked a bit farther from our hedge than usual.

There is also room for up to two vehicles to park along 8<sup>th</sup> Street, in the gravel area along the south side of the home. Cars parked there are invisible to our other neighbors in Gearhart Shores, and neither of our neighbors to our southwest and across the street are impacted in any way,

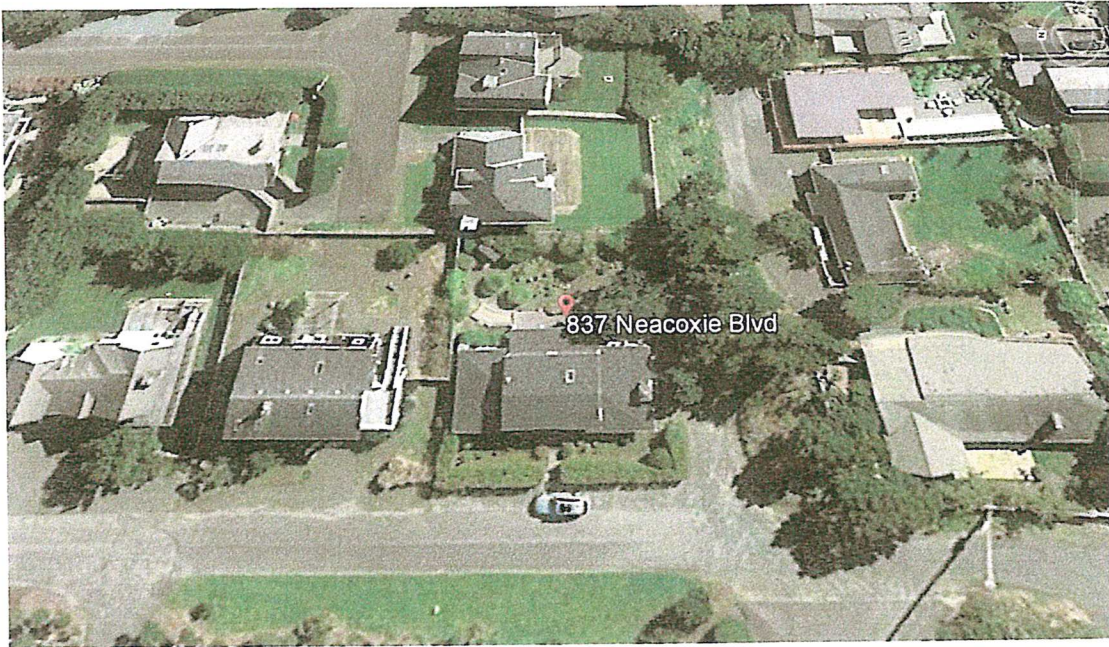


either. Only the Drake house can see our front area, and then only from the “mother-in-law” apartment above their garage.



The photo above shows our home looking southward, and demonstrates how few neighbors are near our property. The Windward Condominiums to our west do not have a single window that looks at our property, and its driveway at the bottom of the photo diverts all of their owners from passing by or around our home. The neighbors directly to our south are invisible to us due to the high berm with trees on it.

The Drake home is the one in the upper right corner with the big asphalt parking square out front. The only other property on our dead-end street is the Schnitzer home, very top right of the photo. Their home isn't visible from ours, and will not be impacted by allowing our guests to continue parking in the area in front of, or to the side of our home.



This is a view looking to the east. It shows the area of 8<sup>th</sup> Street that is graveled for about 40 feet off Neacoxie Blvd, and which allows us to park up to two vehicles off the roadway and entirely out of sight of our neighbors.



Here is a photograph showing the front parking area, looking due north. As can be seen, those parking here are well off the roadway itself, and are generally shaded from our neighbors by the hedge. One neighbor

has even planted a tree in the City right of way, and it doesn't appear to be posing a problem.

It also shows how our "spec home" was originally constructed very low on its lot, and below the level of the roadway. The "dead end" sign which should be located at the street junction with 10<sup>th</sup> Street, is instead quite a ways down Neacoxie Blvd, and is silhouetted against the hedge in the upper left of the photo. Most of the traffic which turns around in the area of our home could be eliminated by just putting that sign in the proper location to warn persons against entering.



This is a photo looking due south. It shows how cars parking in front of our hedge won't impact anyone. It also demonstrates how far south our nearest neighbor is in that direction, separated as we are by the high berm.



Here is a photo showing 8<sup>th</sup> Street, to the south of our home. It is graveled for only about 40 feet or so, then turns into a narrow walking path. The sea pines that are growing on City property prevent us from ever considering ripping out our beautiful backyard garden area in order to make it an asphalt parking area +in strict compliance with the new parking regulations that have been imposed.



Finally, a photo of part of our backyard, which offers a peaceful and pleasant area to relax in for all of us, as well as hordes of hummingbirds, songbirds and other winged visitors. I am confident that our neighbors enjoy looking down into this garden, as opposed to asphalt. We feel that the same is true for the landscaped area in the front of our property.

SCALE 1" = 20'  
AS DRAWN

Each Square = 4 feet

TAX Lot  
2800

← 75' →

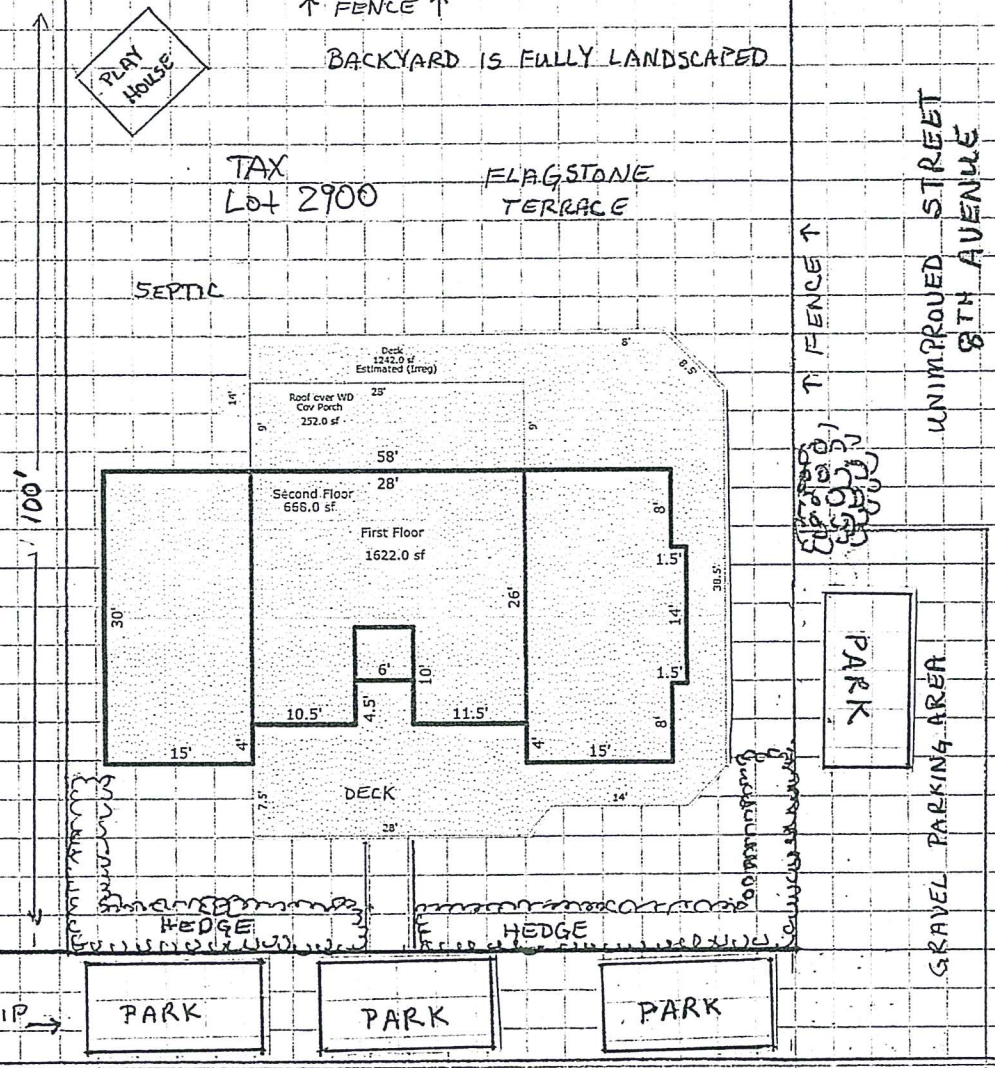
↑ FENCE ↑  
BACKYARD IS FULLY LANDSCAPED



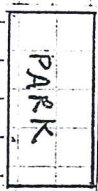
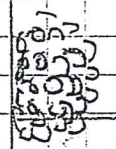
TAX Lot 2900

FLAGSTONE TERRACE

SEPTIC



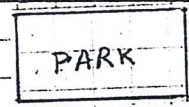
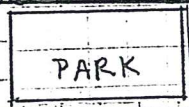
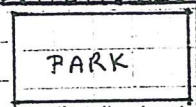
UNIMPROVED STREET  
8TH AVENUE



GRAVEL PARKING AREA

TAX Lot 3000

GRAVEL PARKING STRIP



← Z

NEACOXIE BLVD

84

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THE  
RICKLES  
LAW FIRM, PC

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1839 NW 24<sup>th</sup> Avenue  
Portland, OR 97210-2537  
Telephone 503.229.1850  
Facsimile 503.229.1856  
Toll Free 800.669.1850

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www.rickles-law.com

STEPHEN P. RICKLES  
Admitted in Oregon and Washington  
e-mail: steve@rickles-law.com

July 5, 2017

City of Gearhart  
698 Pacific Way  
PO Box 2510  
Gearhart, OR 97138

Re: Variance application of Stephen P. Rickles  
for 837 Neacoxie Boulevard

Dear Sir or Madam:

In my prior application for a variance to allow off-premises parking at our beach house, I failed to be aware of the particular requirements of Section 9.040 which deals specifically with the variance for off-street parking. I want to respond to those specific requirements which must be satisfied:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance; and

As my prior materials reflect, our home is on a dead-end street. Traffic volumes are generally very light, and primarily involve people turning around in the gravel strip to the south of our home, because people don't see the dead-end sign which is fairly small and located probably 50 feet of the juncture of Neacoxie Boulevard and 10<sup>th</sup> Street.

From our home southward, there are only two other residences on the street, both with ample off-street parking. Allowing us to continue to park next to our home will have absolutely no impact on any future traffic volumes to be expected on our quiet street.

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and

85

July 5, 2017

Page 2

As has been shown in the photographs and diagrams previously provided, allowing my family and our guests to park where they have always parked will have absolutely no impact on the free flow of traffic on our dead-end street. The roadway is very wide, and can fully and safely accommodate two cars heading in opposite directions, even if a car or two is parked in front of our hedge on the ample graveled parking area or on the south side of the house on the graveled area of 8<sup>th</sup> Street. Allowing us to continue to park as we have done since 1989 will pose absolutely no interference at all with the free flow of traffic on quiet Neacoxie Boulevard.

3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan.

Allowing us to continue to park our cars as we have for nearly 40 years will not create any safety hazard. The cars will be parked off the roadway, and the roadway is more than wide enough for the passage of vehicles heading north and south on Neacoxie at the same time.

In addition, allowing us to continue to park as we have since 1989 will not be inconsistent with the general purpose of this ordinance or the Comprehensive Plan. There will generally be just one or two cars parked at the house at any time, and the home is always used solely for residential purposes. Fewer cars will be parked at the home on a yearly basis than if we were full-time occupants of the home.

Thank you for your attention to this matter. I look forward to receiving this necessary variance. As always, feel free to contact me if you have any questions concerning this matter.

Very truly yours,

**THE RICKLES LAW FIRM, PC**

*/s/ Stephen P. Rickles*

Stephen P. Rickles

SPR:jlt