

City of Portland

Bureau of Development Services

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868

FAX: 503-823-5630 www.portlandonline.com/bds

Date: July 31, 2008

To: Interested Person

From: Nan Stark, Land Use Services

503-823-7828 / nstark@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-139446 AD

GENERAL INFORMATION

Applicant/Owner: Rafael Saakyan

7916 N. Wall Avenue Portland, OR 97203

Site Address: 7916 N WALL AVENUE

Legal Description: NELY 1/2 OF LOT 1&2 BLOCK 8, WILLUMBIA

Tax Account No.: R918001980 **State ID No.:** R918001980 1N1E07AD 09300

Quarter Section: 2124

Neighborhood: Portsmouth, contact Matthew Denton at 503-866-2185 **Business District:** North Portland Business Association, contact Steve Weir at

503-283-3883

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at

503-823-4099

Zoning: R5, Single-Dwelling Residential 5,000

Case Type: AD, Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee

Proposal: The applicant proposes to place a wooden shed at the southeast corner of the site located at 7916 N. Wall Avenue. The shed will measure 8 feet by 14 feet (112 square feet) and will be 9 feet in height. There will be a 4-foot covered extension on the west side of the structure. Within the R5 zone, the required setback for sheds greater than 6 feet in height is 5 feet. The applicant requests an Adjustment to Section 33.110.220 and Table 110-3 of the Zoning Code to reduce the south side setback for the shed from 5 feet to 2 feet. There will be no eaves on the shed that will extend closer than 2 feet to the side property line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Section 33.805.040.A.-F., Adjustments, of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The 5,000 square foot site is located at 7916 N. Wall Avenue. It is bounded by N. Wall Avenue to the west, an alleyway to the north, and two developed lots to the south and east. There is a single-family dwelling on the site that was built in 1923. There is no garage on the lot.

The surrounding area is made up primarily of older detached single-dwelling homes. There are scattered multi-dwelling structures in the area, particularly along N. Lombard Street to the south. Most commercial development within the area is also located along N. Lombard Street. The nearest park is Northgate Park and the nearest school is Clarendon Elementary School, both northeast of the site.

Zoning: The site is zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 5,000 square feet.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 3, 2008**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Parks Bureau Urban Forestry
- Fire Bureau
- Portland Office of Transportation
- Life Safety Section of BDS

The Site Development Section of BDS responded with no concerns but notes that stormwater from the shed should be directed to splash blocks that discharge the stormwater to vegetated areas at least 5 feet from property lines, 10 feet from structures on adjacent properties, and 6 feet from basements.

The Bureau of Environmental Services responded with no concerns but also notes that there must be an identified stormwater disposal location for the shed.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 3, 2008. No written responses have been received from either the Neighborhood Association or from notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: Per Zoning Code section 33.110.220, the setback regulations for buildings serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences, and options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards; and
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

The proposed shed will be located at the southeast corner of the site. It will measure 8 feet by 14 feet (112 square feet), will be 9 feet in height, and will have a 4-foot covered extension on its west side. The shed will be set back the required 5 feet from the rear property line. The applicant has requested an Adjustment to reduce the south side building setback from 5 feet to 2 feet.

Approval of this Adjustment request will not diminish light or air for the residence on the adjacent lot to the south, since adequate separation will exist between the residence and the shed. The house is set back approximately 10 feet from the applicant's side property line. As shown on the attached site plan, the shed will abut a detached garage on the adjacent lot, rather than the residence. The garage will screen much of the shed from the house. There will be a 2-foot separation between the shed and the windowless rear wall of the garage, which is much taller than the shed and extends to the side property line. The reduced side setback of 2 feet will still provide adequate separation for fire protection and access for fire fighting. The Fire Bureau did not respond to this proposal with issues or concerns.

Given the relatively small size of the shed and the size of the structures that are adjacent to it (larger garages on lots to the south and east), approval of this Adjustment request will not result in a structure that is inconsistent with the building scale of the immediate area. The proposed corner location for the shed is reasonable, especially when considering the layout of the lot and the location of other features on the site. Reducing the side setback from 5 feet to 2 feet will not adversely impact the privacy of the adjacent residence to the south, since the shed will have no windows along its southern wall and will largely be screened from the residence by a detached garage and by a fence along the side property line.

This Adjustment request is limited to the setback along the side (south) property line of the site. The rear building setback standard of 5 feet will be met. The front building setback and the side building setback along the north property line are not affected by this proposal.

For the reasons stated above, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: An Adjustment to reduce the side setback for the shed from 5 feet to 2 feet will not significantly detract from the livability of the residential area. As discussed under criterion A, the reduced side setback will not diminish light, air, or privacy for the adjacent residence to the south, since there will be adequate separation between the residence and the shed. Similarly, this proposal will not diminish light, air, or privacy for the residence on the adjacent lot to the east. The house on that lot is set back considerably from the rear property line of the subject site and will be separated from the shed by the detached garage on that property. There are no windows along the west side of the garage, a portion of which will abut the shed. Since the proposed shed will comply with the 5-foot rear setback standard, there will be adequate separation for fire protection and access for fire fighting.

Further, the shed will not significantly detract from the appearance of the residential area. It will be made of wood, will have a low-pitched roof, and will be painted a color similar to the residence on the site. The shed will be located at the southeast corner of the lot and will be substantially screened from view by adjacent structures and by fences along both the south and east property lines.

For the reasons stated above, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the one; and

Findings: Only one Adjustment is being requested. This criterion is therefore not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: There are no city-designated scenic or historic resources located on the site. This criterion is therefore not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: There will be no impacts that result from the Adjustment. This criterion is therefore met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: The site in not within an environmental zone. This criterion is therefore not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has demonstrated that the approval criteria have been met. The Adjustment to reduce the side setback from 5 feet to 2 feet for a wooden shed will still meet the intent of the Zoning Code for setbacks in single-dwelling residential areas, will not diminish the livability or appearance of the residential neighborhood, and will not result in any adverse impacts that require mitigation. This proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required side setback within the R5 zone from 5 feet to 2 feet (33.110.220.C) per the approved site plans, Exhibits C.1 and C.2, signed and dated July 29, 2008.

Note: The applicant should install splash blocks to direct stormwater from shed gutters to vegetated areas for infiltration on site. Splash blocks should extend a minimum of 2 feet beyond the building foundation and should direct drainage to vegetated areas at least 5 feet from property lines and at least 10 feet from adjacent buildings.

Decision rendered by:

on July 29, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: July 31, 2008

Staff Planner: Nan Stark

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on June 20, 2008, and was determined to be complete on June 30, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on June 20, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed by 4:30 PM on August 14, 2008 at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. An appeal fee of \$250 will be charged. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final. Any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, the final decision may be recorded on or after August 15, 2008 (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

• By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

• In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with the following:

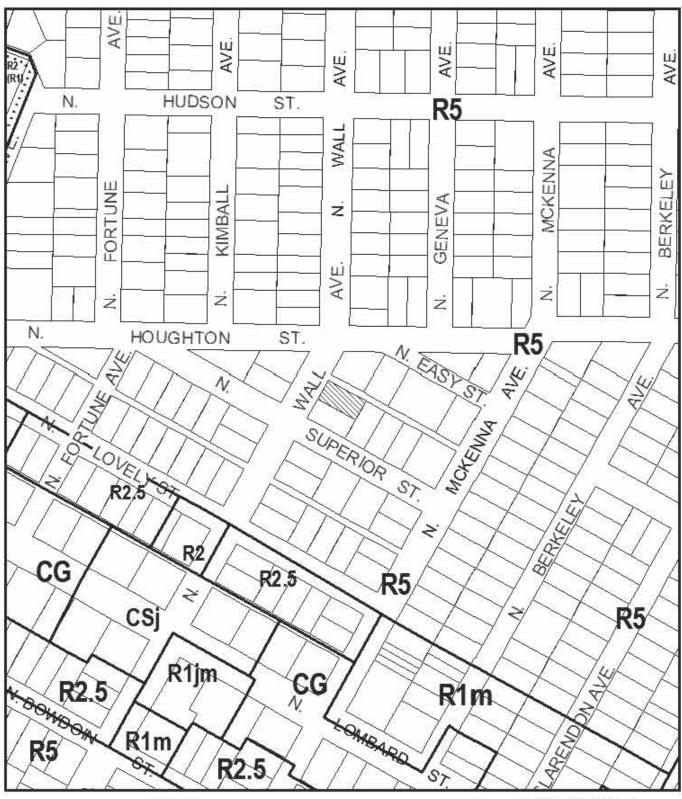
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services, Life Safety Section of BDS, Site Development Section of BDS.
- F. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



File No. LU 08-139446 AD

1/4 Section 2124

Scale 1 inch = 200 feet

State_Id 1N1E07AD 9300

Exhibit B (Jun 23,2008)



