



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 17, 2013
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@portlandoregon.gov

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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-189032 AD

GENERAL INFORMATION

Applicant: Brian Murtagh / Studio Coop Architecture
5901 N Borthwick Ave / Portland, OR 97217

Owners: James and Sylvia Ovregaard
0307 SW Palatine Hill Rd / Portland, OR 97219-6559

Site Address: 0307 SW PALATINE HILL RD
Legal Description: BLOCK 1 TL 200, COLLINS VIEW TR
Tax Account No.: R171600520 **State ID No.:** 1S1E27BD 00200
Quarter Section: 3929
Neighborhood: Collins View, contact Dave and Dixie Johnston at 503-636-0959.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R7, c, p – Single-Dwelling Residential 7,000 zone with Environmental Conservation and Protection overlay zoning on a portion of the site
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an Adjustment to Zoning Code Section 33.110.220, Setbacks to reduce the east side building setback from the required five feet to three feet and a setback reduction for the eave from the required four feet to two feet, five inches. The applicant proposes to replace the current attached one-car garage with a two-car garage and to complete major home renovation. Much of the site area used for this expansion is currently being used as a parking pad with a temporary carport cover.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The site is a 19,061 square foot lot in the Collins View neighborhood in SW Portland, one lot west from the heavily-wooded Riverview Cemetery and adjacent City of Portland Parks property. The site has an average slope over 20%, with the rear of the property leading down towards an open channel stream that flows into the Riverview Subwatershed.

The site is surrounded by single-dwelling residences that are on larger, varied-shaped lots. The feel is open, with extensive tree coverage. The eastern abutting home at 0301 SW Palatine Hill Rd is located around 50 feet from the west property line, separated from the subject site by a driveway and lawn area. Given the variety of lot shapes and sizes and architectural styles, the setback widths vary in this area. SW Palatine Hill Rd. is a City Walkway, City Bikeway and a Community Transit Street.

Zoning: The Residential 7,000 (R7) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 4,200 square feet, with a minimum width and depth dimensions of 40 feet and 55 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 unit per 7,000 square feet of site area.

The Environmental Protection overlay zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances. The Environmental Protection overlay zone is applied wherever the City determines that highly significant resources and functional values are present. The Environmental Protection overlay zone is shown on the Official Zoning Maps with the “p” symbol.

The Environmental Conservation overlay zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development. The Environmental Conservation overlay zone is applied wherever the City determines that significant resources and functional values are present. The Environmental Conservation overlay zone is shown on the Official Zoning Maps with the “c” symbol.

A majority of the site has environmental zoning. However, the proposed expansion is outside of the e-zones and therefore is only subject to the R7 development standards.

Land Use History: City records indicate that prior land use reviews include the following:

PC 5009: The Portland Planning Commission changed the zoning designations of parts of recently-annexed SW Portland from Multnomah County designations to City codes in the late 1960s.

80-034705 VZ: In 1980, the City approved a variance to increase the height of the fence in the front yard from 3.5’ to 5’.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 20, 2013**.

The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Site Development Section of BDS
- Bureau of Parks – Forestry Division

The Portland Bureau of Transportation responded with comments on street improvements required if the project meets the standard for a “significant alteration” (Exhibit E.2).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 20, 2013. No responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

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 providing 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: The purposes of the setback standard requested for Adjustment are found in Section 33.110.220, Setbacks. The setback regulations for buildings and garage entrances serve several purposes:

1. They maintain light, air, separation for fire protection, and access for fire fighting;

Findings: The development is on the SE corner of the lot. The neighbor to the east has a driveway adjacent to that property line, which not only makes for compatible uses at that lot line, but ensures air circulation and access for fire fighting. Light would not be impeded by this development. The site is on the north side of the street and the neighboring house to the east is nearly 50 feet away.

- 3. They promote a reasonable physical relationship between residences;*
- 4. They promote options for privacy for neighboring properties;*

Findings: Because of the environmentally-zoned resource area and steep slope, the home on the subject site and abutting lots are built close to the street lot line and within sight of one another. While the proposed garage addition will be closer to the east property line than currently, the house to the east is about 50 feet away from the shared property line. Windows are proposed in the east-facing wall of the garage. However, garages generally are not active spaces and therefore impacts to privacy will be negligible.

The Zoning Code applies a 5 foot setback requirement for side and rear lot lines in the R7 zone; hence, the City has determined that 5 feet on each side creates a reasonable physical relationship between residences. The 50-foot distance between the proposed development on the subject site and the site to the east ensures the physical relationship between residences remains reasonable.

5. *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
7. *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Findings: Per 33.110.220.D.3, the front building and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. However, the proposal meets the front setback requirement regardless by maintaining the setback of the current garage, just over 25 feet. This space leaves sufficient room to park a car on the driveway, though the development will be providing additional enclosed parking. The development will pose no barriers to visibility when backing onto the street as all of it is proposed for behind the driveway.

2. *They reflect the general building scale and placement of houses in the City's neighborhoods;*
6. *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; and*

Findings: Two-car garages are very common in the neighborhood. There is not a distinct pattern: some nearby homes have garages that are located close to the street while others are set further back, with long driveways. This proposal fits the topography of the site, which is a steeply sloping lot (as measured by an average slope over 20%) and which has environmental zoning on much of the site. Development is limited to the upper southeast quarter of the property outside of the environmental zone. Given the current use on the site, expanding into the setback to build a two-car garage is consistent with the existing character.

- 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: The site is located in a residential zone. Many of the nearby lots are developed with homes with attached 2-car garages. Because of the steep slopes and extensive tree coverage, there is no dominant neighborhood architectural form or commonalities among homes in the neighborhood. The proposal shows matching exterior materials and a matching roof pitch. Because the garage is designed to replicate architectural elements of the home, the proposed garage will not detract from the appearance of the residential area. The garage will be approximately 50 feet from the eastern abutting house. Hence, there will be no impacts to livability for the adjacent residence. This criterion is met.

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

Findings: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: As explained under criterion A and B, the reduced setback will not create any discernable impacts. Therefore, no mitigation is needed. This criterion has been satisfied. This criterion is 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 does have Environmental Conservation and Environmental Protection zoning on the northern three quarters of the site. Development is not proposed on parts of the property with environmental zoning. This criterion is met.

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 proposes an Adjustment to the east (side) building setback requirement from five feet to three feet, with an eave that projects within 2 feet, 5 inches to the east property line. The proposed reduced setback allows for flexibility to develop the garage in a location with little impact. In fact, expanding the garage rather than maintaining the one-car garage with adjacent covered carport increases the visual appearance of the residence while maintaining the necessary space for air, light, fire suppression and privacy. As noted in this report, the proposal meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of Adjustment to reduce the east (side) building setback from five feet to three feet, with a seven-inch eave projection for a new attached two-car garage, per the approved plans, Exhibits C.1 through C.3, signed and dated September 13, 2013, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-189032 AD."

Note: To address building code requirements, if it is determined that the eaves are closer to the property line than three feet, the owner must protect the eaves on the underside as required for one-hour fire-rated construction (ORSC R302.1).



Staff Planner: Amanda Rhoads

Decision rendered by: _____ **on September 13, 2013.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 17, 2013

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 August 6, 2013, and was determined to be complete on August 19, 2013.

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 August 6, 2013.

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. Unless further extended by the applicant, **the 120 days will expire on: December 17, 2013.**

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 October 1, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 **October 2, 2013**.
- 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.

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:

- 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. Elevations (attached)
 - 3. Floor Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
- F. Correspondence: none submitted
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



OVREGAARD REMODEL
 0307 SW Palatine Hill Rd.
 Portland, OR 97219

Approved
 City of Portland
 Bureau of Development Services
 Planner *Fay M*
 Date Sept. 13, 2013
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

studio coop
 architecture, llc
 1015 NW 21st Ave
 Portland, OR 97217
 503.442.8194

Preliminary CD	
Aug 6, 2013	
OVPR-13080	
KRM	SET

REV	REV

ENLARGED SITE PLAN
 A1.2

CASE NO. LU 13-189032 AD
 EXHIBIT C.1

