



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue - Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type II and IIX Decision Appeal Form

LU Number: 15-257970

FOR INTAKE, STAFF USE ONLY

Date/Time Received 12/6/2016 8:45 AM Action Attached _____
 Received By L. DANCE Fee Amount 250.00
 Appeal Deadline Date 12/7/2016 4:30 pm [N] Fee Waived
 Entered in Appeal Log _____ Bill # _____
 Notice to Dev. Review _____ Neighborhood IRVINGTON

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 2011 NE Susiyou DEADLINE OF APPEAL 12/7/16
 Name Dean Gisvold rep Irvington Comm Association
 Address 2225 NE 15th Ave City Portland OR State/Zip Code 97212
 Day Phone 503 412 3548 Email dean@mcween Fax _____
503 284-3885 cell gisvold.com ICA neighborhood association
 Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 846 . Ord G 1, 7, 8 Zoning Code Section 33. _____
 Zoning Code Section 33. _____ +10 Zoning Code Section 33. _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

See attached

Appellant's Signature

Dean Gisvold

FILE THE APPEAL - Submit the following:

- This completed appeal form
- A copy of the Type II or IIX Decision being appealed
- An appeal fee as follows:
 - \$250, payable to City of Portland
 - No appeal fee is charged when appeal is filed by ONI recognized organizations for properties within organization's boundaries
 - Fee waiver request letter for low income individual is signed and attached
 - Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

The City must receive the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee (or fee waiver request as applicable) at the Reception Desk on the 5th Floor of 1900 SW 4th Ave, Portland, Oregon, between 8:00 am and 4:30 pm Monday through Friday.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by an ONI recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Information is subject to change

Irvington Community Association Appeal of LU 15 257970 at 2011 NE Siskiyou

Contrary to the decision by BDS, the ICA believes that the criteria in PCC 33.846.060 G 1, 7, 8, and 10 have not been met.

A. The approved front yard setback of 18.5 feet is not compatible with historic fabric of surrounding block faces.

This new house is proposed for lots 11 and 12 in Block 27 of the Irvington plat. When this area was platted, Mrs. Irving's rules for home value and setback applied. Minimum setback from the street was 25 feet. However, the covenants which enforced that rule expired around 1916 or 1917. Thus some of houses on these blocks built after 1917 typically are slightly closer to the street than the original 1910 to 1915 period homes which were the first to be built in this area.

Notwithstanding the expiration of the Irving covenants, my calculations for setbacks show that for the block face on which the proposed house is located, the average is 26.37, and the one across the street is 24, which comes out on the average just about the Irving covenant of 25. If you use the other two block faces shown in the decision you have 24 and 24.75. Clearly the 18.5 does not measure up on these four block faces.

B. An internal ADU was added after the notice was sent out which means that we (the neighborhood, the association, and the notified neighbors) did not know about and could not comment on this part of the proposal. This is a basic violation of the due process underlying the concept of official notice and the right to comment on all aspects of this application. Letting this procedural error go uncorrected means that the ICA and the neighbors must appeal the decision in order to comment on the ADU, which is still impossible to do because there is no information about the ADU other than the notice on page 2 that it complies with the code.

C. Aluminum clad wood windows for the entire house is not compatible with the existing neighborhood fabric. The ICA has never approved an all house development with all aluminum clad windows. It should be all wood windows. This project is brand new construction of a house clearly intended to be architecturally compatible with the existing neighborhood fabric, and aluminum clad windows don't fit.

D. As to the tree removal, it appears that if this property was really 50 x 100, the garage and driveway could be swapped to the south side of the yard and adjacent to the corner house, thus preserving the tree. Such a layout would also be consistent with the layouts of other houses in the neighborhood. This issue shows us that this project is being squeezed into a 4600 sq foot area and contorted to accommodate two new garages and the largest new house possible. Again, it does not fit the historic fabric.