



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: June 2, 2008
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / sean.williams@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 08-121526 AD

GENERAL INFORMATION

**Applicant/
Representative:** Holly A. Dodson
3606 NE 8th Avenue
Portland, OR 97212

Site Address: 3606 NE 8th Avenue

Legal Description: N 33 1/3' OF LOT 4 BLOCK 18, LINCOLN PK
Tax Account No.: R497102750
State ID No.: 1N1E23CC 19500
Quarter Section: 2631
Neighborhood: King, contact Erik Emerick at 503-504-0401.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.
Plan District: None
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
Case Type: Adjustment (AD)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an adjustment to the side setback requirements of the R2.5 zone of 5 feet (33.110.220) to allow an addition to an existing single-family home to be within 3 feet of the northern (side) property line. The existing residence consists of two stories with the upper floor contained within the gable of the roof. The existing building setback to the northern property line is 3 feet. The proposed addition will add 14 feet to the rear of the house and a full two stories. An adjustment is required as the proposed addition will be flush with the existing building wall which is currently at an existing non-compliant setback of 3 feet and because the proposed building wall is taller than the existing building wall.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.805.040 A.-F., Approval Criteria for Adjustments.**

ANALYSIS

Site and Vicinity: Improvements consist of a single family residence, shed and a carport accessible via a driveway located on the adjacent lot to the south. The subject lot is 3,300 square feet in area with dimensions of 33' by 100'. The vicinity is predominately developed with detached single dwelling homes and Irving Park is located approximately 200 feet south of the site.

Zoning: The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This proposal is not using any of the provisions of the "a" overlay.

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 **May 1, 2008**. The Water Bureau, Fire Bureau, Bureau of Transportation, Bureau of Environmental Services and Urban Forestry all have no concerns regarding the adjustment proposal (Exhibit E-1). The following Bureaus have responded with comments:

Site Development Section of BDS: Responded with no objection to the proposed adjustment. However, advisory comments were provided relating to stormwater management requirements to apply at the time of building permit (Exhibit E-2).

Life Safety Plans Examiner: Provided comments relating to building permit requirements at the time of development including insulation and fire-rating requirements (Exhibit E-3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 1, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**APPROVAL CRITERIA FOR ADJUSTMENTS****33.805.010 Purpose**

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.

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

Findings: The purpose of the setback standards in the Single-Dwelling zone is as follows:

- **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;**
- **They promote options for privacy for neighboring properties;**
- **They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;**
- **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**
- **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.**

Measured from the midpoint of the gable, the height of the existing structure is 18-feet. The new addition to the rear of the home will increase the height to 26-feet. Development on the adjacent lot to the north consists of a two-story attached house set back approximately 10-feet from the common property line shared with the subject site. The proposed addition will not adversely affect sunlight for the neighboring property to the north based on the minimal gain in height. Fire protection should not be compromised as there is adequate room on other portions of the property to access the dwelling and the 3-foot setback meets the building code requirement for fire protection and access. In addition the Fire Bureau had no concerns regarding the proposal. The existing roof appears to contain eaves that project 1-foot within the northern property line and the proposed addition appears to continue this trend. As indicated by the Life Safety Plans Examiner, it should be noted that building code limits roof and eave projections to no closer than 2-feet to a property line and eaves less than 3-feet to a property line must be constructed to 1-hour fire rated standards. Therefore, the proposed addition shall not include eaves closer than 2-feet to the northern property line. The eaves of the new construction will be fire rated, thereby improving fire protection.

Development along NE 8th Avenue between NE Fremont and NE Beech Street, where the subject property is located, consists mostly of detached single family homes built around the turn of the century. Residences within the neighborhood were established with building setbacks generally less than what is currently required by code as evidenced by at least 11 other dwellings on this street with non-conforming side building setbacks. Therefore the proposal is a continuation of nonconforming setbacks that are found generally throughout the neighborhood.

As noted above, the residence most affected by this proposal is effectively 13-feet from the subject residence and two-stories in height. The proposed development will add 14 linear feet to the rear of the house and two-stories along the common property boundary. A 6-foot tall fence between the two properties extends east from the general location of the proposed addition to the rear of the site. Three windows are proposed on the northern elevation of the addition with one on the first story and two on the second story. A majority of the first floor window on the addition will be screened by the existing fence and the second story windows are narrow in configuration and therefore are not anticipated to infringe on the privacy of the adjacent residence to the north. In addition, the applicant has indicated that all of these new windows will be in proposed bath areas and will likely be screened for privacy.

The front setback will not be impacted as the addition is to the rear of the house. The addition will maintain the existing building setback from the southern property line of approximately 10 feet and will be located approximately 20 feet from the east property line, exceeding required

side and rear setbacks for the zone. The resultant outdoor area for the property after the addition will be approximately 500 square feet which is double the requirement for detached development in the R2.5 zone. This criterion is met.

- A. 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 two-story addition to the rear of the house will be visibly discernable from the street. However, the finished product will not detract from the appearance of the neighborhood as both the house to the north and south are two stories in height. Further, if a two-story addition to the existing residence were constructed to meet setback standards it would create a disconnected look that would not conform to the traditional building scale within the neighborhood. The existing house's building coverage of 880 square feet will be increased to a total of 1,210 square feet with the addition, which is comparable with existing development in the vicinity and well under the allowed building coverage of 1,612 square feet. As demonstrated through architectural elevations, it appears the applicant is attempting to maintain the Victorian character of the structure which is demonstrated in several homes on this street. Therefore, the proposed addition within 3 feet of the property line will not detract from the livability or appearance of the residential area. This criterion is met.

- B. 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.

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

Findings: The site does not contain any scenic or historic resource designations. This criterion is not applicable.

- D. Any impacts resulting from the adjustments are mitigated to the extent practical; and**

Findings: As discussed above, the proposed two story addition at the rear of the house will pose little to no impacts for surrounding properties and the neighborhood based on the scale of the development, existing conditions and architectural elements. Therefore, mitigation is deemed unnecessary with this proposal. This criterion is met.

- E. 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 is not within an environmental overlay zone. This criterion does not apply.

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

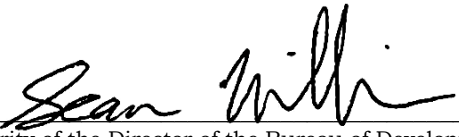
The applicant proposes one side building setback adjustment associated with the planned construction of a two-story addition at the rear of the existing house. As noted in this report,

the project is able to meet the adjustment approval criteria based on substantial conformance with applicable setback standards and established situations in the surrounding neighborhood. With approval requiring that the permit drawings substantially conform with the site plan and elevation drawings attached, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the required side setback (33.110.220 & Table 110-3) in the Residential 2,500 (R2.5) zone to allow a two-level addition to the existing dwelling 3-feet from the northern property line in general compliance with the approved site plan and elevation drawings as illustrated with Exhibit C-1 & C-2, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-121526 AD."

Decision rendered by:  on May 30, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed: June 2, 2008

Staff Planner: Sean Williams

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 April 10, 2008, and was determined to be complete on April 28, 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 April 10, 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 June 16, 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. Recognized neighborhood associations are not subject to the appeal fee. 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 **June 17, 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:

- 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. North Elevation (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services; Bureau of Transportation Engineering and Development Review; Water Bureau; Fire Bureau; Bureau of Parks, Forestry Division
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application

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

 Site



File No. LU 08-121526 AD
 1/4 Section 2631
 Scale 1 inch = 200 feet
 State_Id 1N1E23CC 19500
 Exhibit B (Apr 15,2008)

FLATWORK AREA

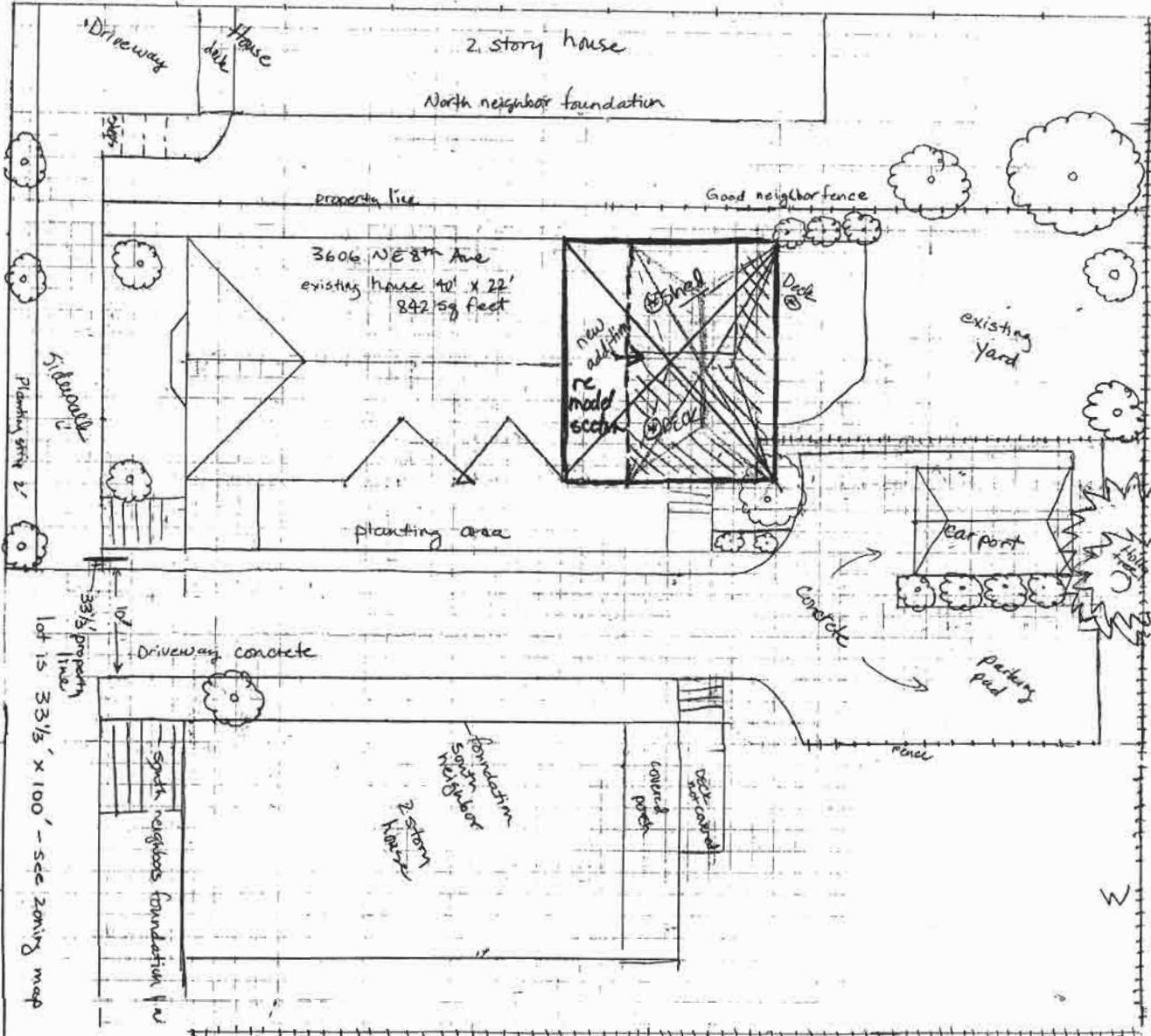
SIDEWALK 6' wide
 DRIVEWAY 10' wide
 PORCH _____
 PATIO _____
 TOTAL _____

LOT COVERAGE

LOT AREA 33 1/3' x 100'
 BLDG AREA _____
 (INCLUDING OVERHANG)
 (bldg area) ÷ (lot area) = %
 LOT COVERAGE _____

NOTES

⊗ - shed and both decks to be removed
 new addition is outlined in RED - proposed size 14' x 22' + remodel of 5' portion of house
 308 sq feet on main floor
 308 sq feet on second floor - additional roof area
 616 feet total



existing house has a 12° pitch roof. The height from the ground surface 5' away from the eastern foundation of the home to the midpoint of the highest gable is 18'.

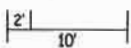
the proposed first and second story additions to the eastern side of the house would result in the height from the ground surface 5' away from the proposed new foundation of the addition to the midpoint of the highest gable that has a matching 12° pitch to be 26'. This is less than the 30' maximum that is allowed.

These grade measurements were taken from the eastern ground level of the house as the grade of the lot falls to street level by 6 feet.

CASE NO. 08-121526
 EXHIBIT C-1

SITE PLAN

SCALE: 1" = 10'



PROJECT LEGAL

Holly A. Dodson - owner

PROJECT ADDRESS

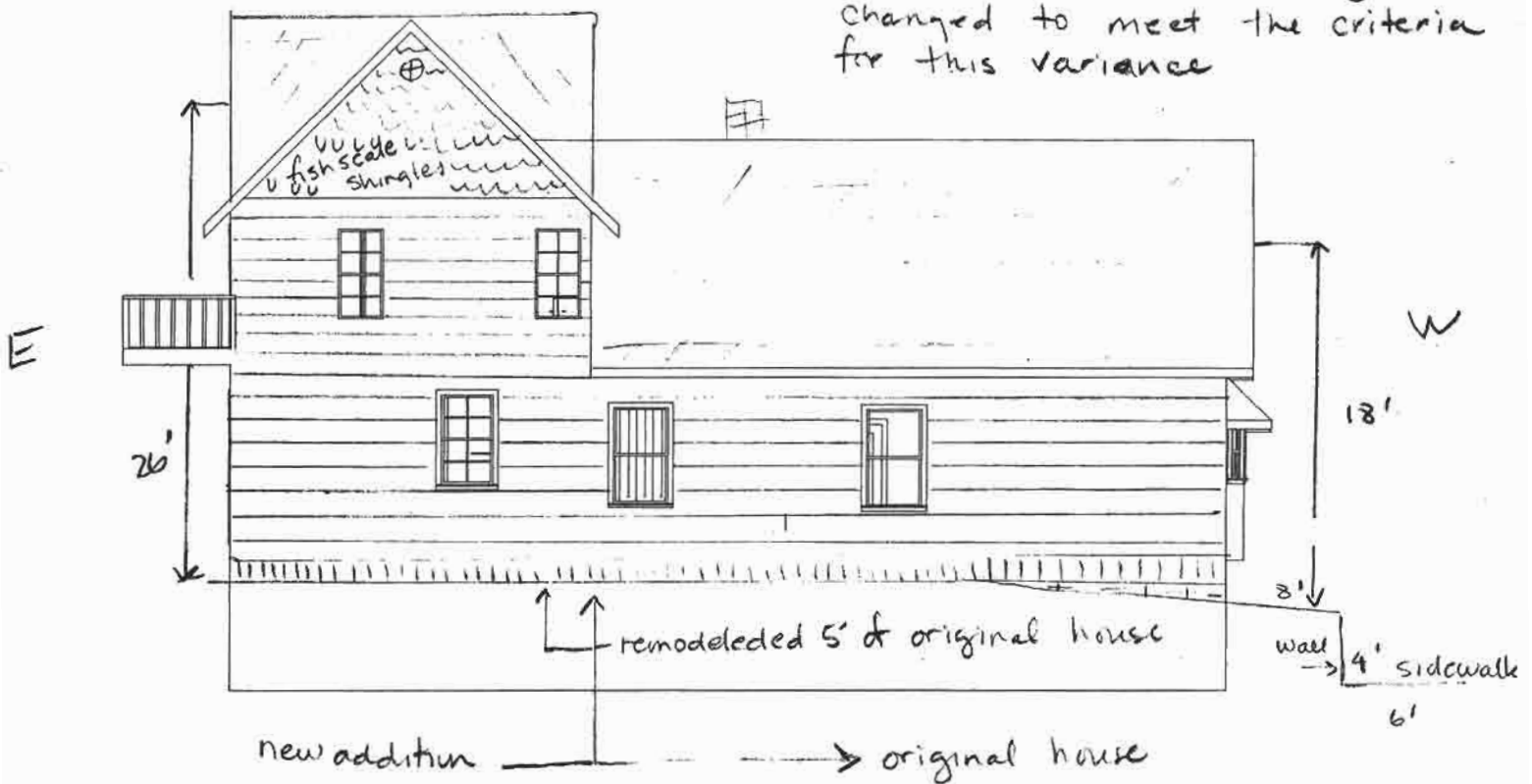
3606 NE 8th Ave
 Portland OR 97212
 LU08-121526 AD



NORTH

* I am unfamiliar with codes on window sizes that are allowed in a variance situation - The window size and position can easily be changed to comply with the granting of this variance.

Window sizes can easily be changed to meet the criteria for this variance



Roof pitch 12°

Siding on new addition will closely match 118 y/o siding on front of house

North facing side

Plan A

Holly Wodson
3606 NE 8th Ave
Portland OR 97212

Plan "A" 3' set back side

CASE NO. 08-121526
EXHIBIT C-2