



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

FROM CONCEPT TO CONSTRUCTION

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Date: January 24, 2012
To: Interested Person
From: Kathleen Stokes, Land Use Services
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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 11-193661 AD

GENERAL INFORMATION

Applicant: Ed Harczo
4616 SE Naef Rd
Milwaukie, OR 97267

Site Address: 7401 SW CORBETT AVE

Legal Description: BLOCK 48 TL 1000, FULTON PK
Tax Account No.: R300401800
State ID No.: 1S1E22BC 01000
Quarter Section: 3729

Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R5 (R5,000, High Density Single-Dwelling Residential)

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant is seeking to gain final approval for a two-story, 20 by 38-foot accessory structure (garage with storage above), that was built in 2001 under permit number 01-144582 RS, but was never approved as being completed. At the time of the issuance of the original permit, the property line was not shown accurately. It has since been determined that the structure is located only 9 inches from the rear (west) property line and 2 feet, 5 inches from the north side property line. The roof eaves are 14 inches wide on the north and south sides and so extend to 15 inches from the north property line, The extension of the eave is 12 inches on the east and west sides and so extends 3 inches over the property line on the west side. The applicant has determined that he will remove the eave extension on that side.

The development standards for the R5 zone require the building walls of most structures to be located a minimum of 5 feet from side and rear property lines. Roof eaves may extend for one-foot, to 4 feet from the side and rear property lines. Therefore, the applicant is requesting approval of adjustments to Code Section 33.110.220 to reduce the minimum setbacks for the

building walls for the structure, from 5 feet to 9 inches from the rear (west) property line, and from 5 feet to 2 feet, 5 inches from the north side property line. The Adjustment requests would also reduce the minimum setback for the roof eave, from 4 feet to 15 inches from the north side property line.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 15,900 square-foot property that is located on the west side of SW Corbett Street, four houses to the north of the intersection with SW Logan Street. The property slopes steeply up from the street frontage, to the east side of the site, which abuts the I-5 freeway. The site is developed with a single-dwelling residence, built in 1913. A detached garage is located at the street edge and the combination garage and storage building that is the subject of this review is located in the northwest corner of the site.

The area around the site is developed with other single-dwelling residences, in a variety of ages and architectural styles. Development within the block where the site is located, facing both sides of SW Corbett, ranges over 100 years in building age, from 1989 to 1998. The steep slopes, presence of the freeway and lack of a standard street grid, south of SW Nevada Street, have created an area that does not have any uniform pattern for the placement and orientation of structures.

Zoning: This site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to provide opportunities for single-dwelling development. The development standards for the zone require buildings and other structures that are taller than 6 feet above grade level to be set back a minimum of 5 feet from the side and rear property lines.

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 **December 8, 2011**. The following Bureaus have responded to indicate that there are no issues or concerns regarding approval of the requested Adjustments. Agencies that provided comments on requirements for building permit review are noted with exhibit numbers. The other agencies provided an electronic response of "no concerns":

- Environmental Services noted that, while there were no approval criteria that were directly related to storm water management, they wanted to see an acceptable method of storm water management shown before approval of the land use review, so that it could be assured that any plan that was approved would be acceptable for building permit review. The applicant worked with BES to determine an acceptable method of storm water detention and disposal and BES issued an addendum that stated that sufficient information had been provided to show that the project will be able to meet any necessary stormwater management requirements at the time of building permit review (Exhibit E-1).
- Transportation Engineering
- Water Bureau provided a response that noted the details of the existing water service for the site (Exhibit E-2).
- Fire Bureau
- Site Development Section of BDS
- Life Safety Plan Review Section of BDS stated that the original building permit for the structure will either have to be reinstated or a new permit established. The actual distances to the building walls and roof eaves must be shown and these elements of the structure must meet the building code requirements for fire-rating (Exhibit E-3).
- Parks Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 8, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of 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 Adjustment Approval Criteria

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

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: *The purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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 applicant's request to reduce the minimum setbacks from the northern and western property lines, for the building walls and eaves for the garage/storage structure is not likely to create any impacts on the adjacent neighbor or on the view from the street.

The residence of the neighbor to the north appears to be set an adequate distance away from the structure to ensure that light and air will be maintained and there are mature trees that provide a visual screen for privacy. To the west, the structure abuts the I-5 freeway embankment, so there are no impacts at all from the reduced setback from this rear property line. The structure will meet the building code requirements for fire protection, which require a one-hour fire rated wall for structures that are located less than three feet from adjacent property lines. Adequate access for fire fighting is available on this site from the adjacent street frontage and the driveway. The accessory structure is architecturally compatible with the primary structure on the site, which was built as a part of the residential development of this neighborhood. The proposed location of the building will still maintain the reasonable physical

relationship between residences, on both the applicant's site and the neighboring property. Based on these considerations, the purpose of the regulation is equally met by this proposal.

Two Adjustments have been requested, but no cumulative impacts have been identified. Further, the project is still consistent with the overall purpose of the R5 zone, which is to preserve land for housing and to provide housing opportunities for individual households. The structure serves as a building that provides vehicle parking and storage, which are accessory activities for the residential use. There are no scenic or historic resources on this site. No impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, all of the relevant approval criteria are met and the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

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.

ADMINISTRATIVE DECISION

Approval of Adjustments to Code Section 33.110.220, to reduce the minimum setbacks for the building walls for the accessory structure, from 5 feet to 9 inches from the rear (west) property line, and from 5 feet to 2 feet, 5 inches from the north side property line and to reduce the minimum setback for the roof eave, from 4 feet to 15 inches from the north side property line, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated January 20, 2012, 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 11-193661 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on January 20, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 24, 2012

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 November 15, 2011, and was determined to be complete on **November 29, 2011**.

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 November 15, 2011.

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 requested that

the 120-day review period be extended, as stated in Exhibits A-3 and A-4. Unless further extended by the applicant, **the 120 days will expire on: April 17, 2012.**

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 February 7, 2012** 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 **February 8, 2012 – (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
 1. Application, narrative and plans
 2. Additional information, November 30, 2011
 3. First request to extend 120days for final local decision, November 30, 2011
 4. Second to extend 120days for final local decision, January 9, 2012
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation Drawings (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Water Bureau
 3. Life Safety Plan Review Section of BDS

- 4. Summary of electronic responses from City agencies
 - F. Correspondence: (none received)
 - G. Other: (none)

IMPERVIOUS AREA

DRIVEWAY _____

PATIO _____

WALK _____

ROOF AREA (INCL. OVERHANG) 928.25 Sq. Ft.

TOTAL _____

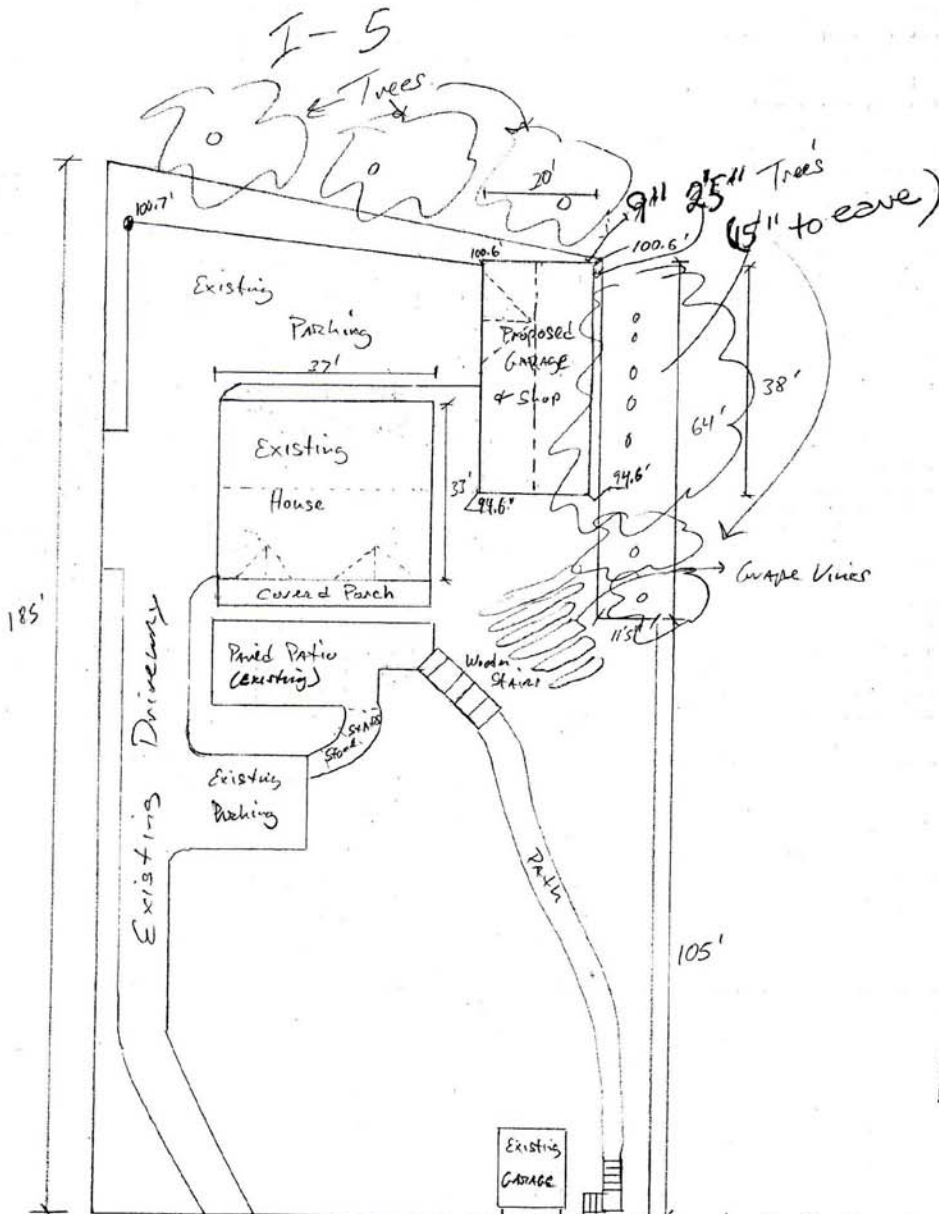
BUILDING COVERAGE

BUILDING FOOTPRINT 760 Sq. Ft.

LOT AREA

13,500 Sq. Ft.

Shop: 22' x 38'
1.5' Eaves



Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date December 20, 2017
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

S.W. Corbett

Exhibit C-1
LU 11-193661 AD

PROJECT LEGAL

PROJECT ADDRESS

7401 SW Corbett
Portland OR 97219

SITE PLAN

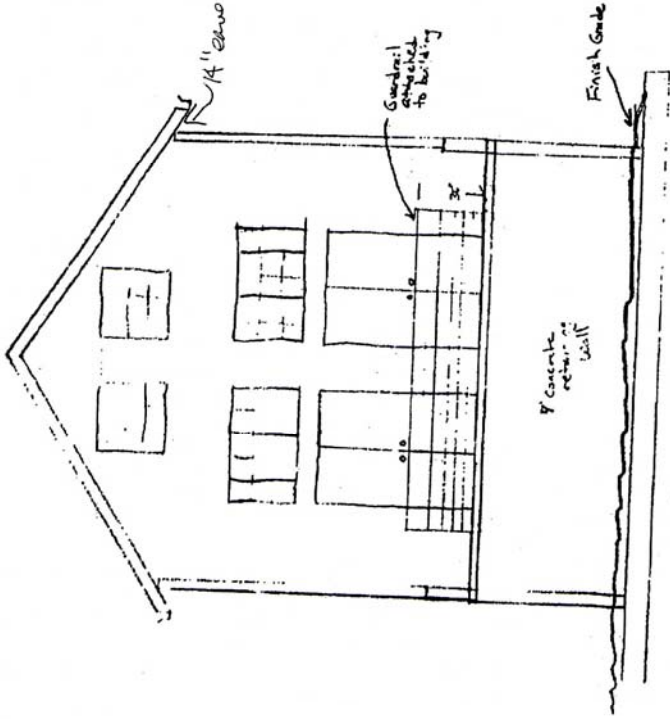
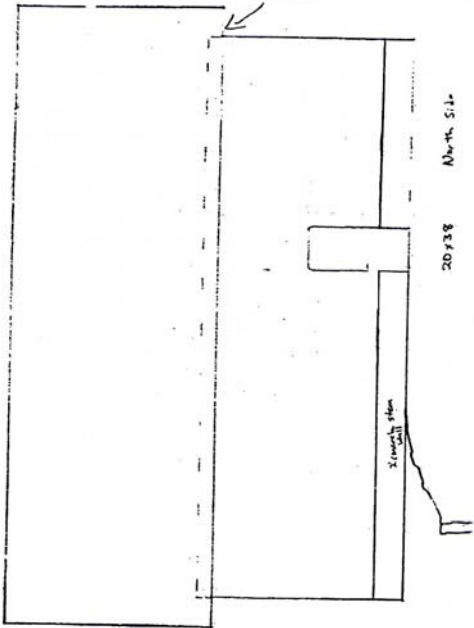
SCALE 1" = 10' x 20'
 20'
 20'



Dimmick
503 246 0659

No cement curb on west side

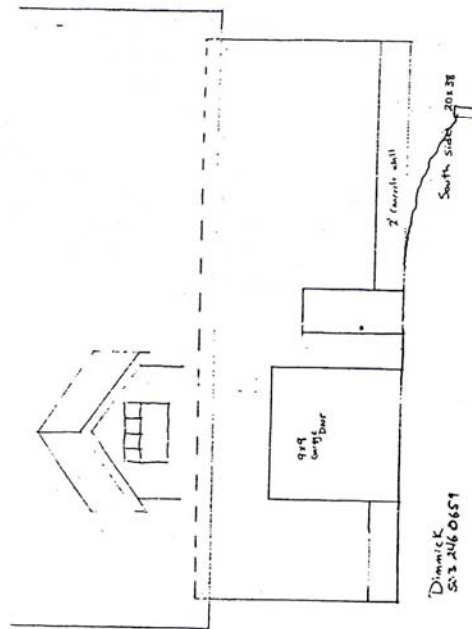
2" ledge
(with 1" on west side)



Front Elevation (East) 20x38
L011-193661 AD

L011-193661 AD

Exhibit C-2



Approved
City of Portland - Bureau of Development Services
Planner Kathleen A. Stokes Date January 20, 2012
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.