



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

FROM CONCEPT TO CONSTRUCTION

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**FINDINGS, CONCLUSIONS AND DECISION OF THE
CITY OF PORTLAND ADJUSTMENT COMMITTEE
ON AN
APPEALED ADMINISTRATIVE DECISION
(TYPE II PROCEDURE)**

Case File Number: LU 11-181812 AD (5506 SE 47th Avenue)

The Administrative Decision for this case was appealed by the applicant, Lloyd J. Calhoun, to the City of Portland Adjustment Committee. The Adjustment Committee **upheld the appeal** and **upheld the Administrative Decision**, with modifications to findings and conditions, approving the requested Adjustment.

GENERAL INFORMATION

Applicant: Lloyd J. and Kirsten J. Calhoun
5506 SE 47th Ave
Portland, OR 97206

Site Address: 5506 SE 47TH AVE

Legal Description: BLOCK 98 N 1/2 OF LOT 4, WOODSTOCK
Tax Account No.: R928906610
State ID No.: 1S2E18CA 12600
Quarter Section: 3635
Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Lori Boisen at 503-760-7968.

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Other Designations: None
Zoning: R5 – R-5000, high density, single dwelling residential
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal:

The applicant obtained a building permit in 2004 to construct a one-story garage structure, to be located in the southeast corner of his property. The applicant had apparently been periodically renewing the building permit. When the applicant came in to renew permits in September, 2011, after beginning construction of a two-level structure rather than the permitted one-level structure, it was determined that the new structure, located in both the side and rear setbacks, no longer qualified for the garage exception, described below.

The Portland Zoning Code, Title 33, requires accessory structures that are over 6 feet tall to be located a minimum of 5 feet from side and rear property lines in the R5 zone, except for garages. Code Section 33.110.253 provides an exception for garages and allows them to be located within setbacks. However, to be located in setbacks without a land use review, garages must meet certain conditions. If a garage does not meet all of the standards of 33.110.253, then the garage cannot use the garage exception and any deviations from the setback standards must be reviewed and approved through the adjustment review process. The

original application, for a single level garage, was allowed in the setbacks without a requirement for a land use review. The garage currently under review, because it has two levels, does not meet the garage exception requirements of 33.110.253.D.3 or D.4.

Standard D.3 limits the height of a garage using the setback exception to 15 feet (measured at the midpoint) with a wall height of no more than 10 feet, excluding that portion of the wall within a gable. The wall height of the garage, at 9 feet, meets the wall height standard. However, the garage height is 17 feet 3 inches, which exceeds the 15-foot garage height standard.

Standard D.4 does not allow garages using the exception to contain space for living, sleeping, eating cooking or sanitation. The applicant has proposed a storage space above the garage. Therefore, the structure cannot use the garage exception.

Garages located outside of setbacks may have taller walls and contain useable space without a land use review.

Because the proposed structure does not meet the standards that allow garages to be located within the setbacks outright, i.e., without a land use review, the applicant must receive approval of adjustments to the setback standards for walls and eaves. The applicant has requested a land use review for adjustments to the requisite setback standards (33.110.220.B).

The south garage wall is located 3 feet, 7 inches from the side (south) property line and the eave is located 2 feet, 1 inch from this property line. The rear wall of the building is located 4 feet, 3 inches from the rear (east) property line, and the eave is located 2 feet 9 inches from the rear property line.

Exceptions to the setback regulations are approved through Adjustment Review if all of the relevant approval criteria are met or can be met through conditions of approval. Therefore, the applicant requests the following adjustments:

A 1-foot 5-inch adjustment to the 5-foot side (south) setback for the wall, and a 1-foot 11-inch adjustment to the 4-foot side (south) setback for the eave; and,

A 9-inch adjustment to the 5-foot rear (east) setback for the wall, and a 15-inch adjustment to the 4-foot rear (east) setback for the eave.

Relevant Approval Criteria:

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 applicants' site is a 5,000 square-foot parcel located on the east side of SE 47th Avenue, just south of and adjacent to Woodstock Park. The property is developed with a 1 ½ level, single-dwelling house that was built circa 1947. A new driveway that will provide access to the garage is under construction on the south side of the property.

The site is located in the Woodstock Neighborhood of SE Portland. The neighborhood is fully developed with single dwelling residences on 5,000 square foot lots, with the occasional 10,000 square-foot lot scattered throughout and also developed with single dwelling residences. Many of the homes were built in the 1920s and 1930s. Of the eight lots on the applicant's block, six of them have garages, and three of them are detached garages. One pair of garages on the block is separated by no more than two feet of space. Almost all houses in the vicinity have garages, and each block appears to have at least one pair of garages that impact side, rear, or both setbacks.

Zoning: The site is zoned R5000 (R5) or High Density Single-Dwelling Residential, and is intended to accommodate single-dwelling development, with an average of one dwelling unit per 5,000 square feet of site area.

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 **October 20, 2011**. The following Bureaus responded either with advice for the applicants, but with no issues, concerns, or conditions of approval for the land use case:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development
- Urban Forestry
- Life Safety

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was also mailed to surrounding neighbors and neighborhood organizations on October 20, 2011. Several letters were received. Issues raised that are relevant to the Approval Criteria are detailed below in the findings. Issues not relevant to the Approval Criteria are described here.

One neighbor responded that several other properties on the block have detached garages located in the side/rear setbacks, citing neither opposition to nor support for the proposal.

Three letters from neighbors, one sent anonymously, responded in opposition to the project and voiced concerns that the useable space above the garage would be turned into a rental apartment. (Staff Comment: This application is for a garage with living space (i.e., storage) above. In order to convert this structure to an Accessory Dwelling Unit, in its current location, an additional land use review would be required.)

An attorney for neighbors at 5514 SE 47th Avenue, responded that, considering the legal incongruities associated with the construction of the subject building, i.e., a series of odd delays with the building permit, constructing a different building than was originally described on the permit, and constructing within the setbacks, the adjustment application should be denied. (Staff Comment: This review is limited to specific approval criteria, none of which address delays or incongruities between permit plans and the actual construction of the structure.)

The Woodstock Neighborhood Association recommended that the request be approved with conditions that the structure meet all Oregon Specialty Code requirements for flame spread and fire safety, and that windows be prohibited on the two walls that encroach into the side and rear setbacks. It should also be noted that this response indicated a neighborhood concern regarding the deviations from the original permit. (Staff Comment: All proposed structures must meet all building and fire code requirements regardless of any conditions of approval in land use review cases.)

Appeal/Public Hearing: On February 21, 2012, the Adjustment Committee held a public hearing to consider an appeal of the Administrative Decision on this case, filed by Lloyd John Calhoun, the applicant. (A copy of the appeal statement is identified herein as Exhibit H.1). Generally, the appellant appealed the imposition of Condition B, which required removal of the dormer on the south side of the roof. The appellant stated the impacts of the structure, where it stands, are “no different than if it were built to the required setbacks, so the neighbor is no more or less impacted by what is allowed by . . . code,” and that removing the dormer on the

south side would only give the building an unbalanced look that would be aesthetically unpleasing.

Kathy Harnden, the case planner and representative of the Bureau of Development Services (BDS)/Land Use Services Division, presented a brief summary of the proposal, showed slides of the subject site and surrounding neighborhood, summarized BDS' findings related to the Adjustment approval criteria, and identified key issues raised in the appellant's statement.

Following the BDS presentation, the appellant testified. Generally, the appellant's testimony focused on the relative impacts on the neighbor's privacy based on the structure's location, 1.5 feet inside the setback. The appellant stated that there was basically no difference to this impact, regardless of whether the structure stayed where it was or was located outside the setback. The appellant described how removal of the dormer would have no better impact on the relative privacy of the neighbor than just making the dormer's window opaque would. He described how awkward and off-balance the structure would appear, with a dormer on the left side but none on the right. He noted that some of staff's comments in the written decision implied that the structure, including the dormer, had almost no impacts on the south neighbor's privacy compared to impacts that would have occurred had the structure been located outside the setbacks.

Following the appellant's testimony, three people testified in support of the appellant, providing arguments supporting retention of the dormer.

This testimony was followed by Paul Norr, testifying on behalf of his clients who own the property adjacent to the south, in opposition to the proposal. Mr. Norr's testimony is generally summarized in his previous written statement provided during the land use review (Exhibit F.4), which largely focused on the history of the construction activity on the site and the applicant's profession. He also stated that the appellant had not adequately addressed the approval criteria. He asked the Committee to deny the entire Adjustment request, or if not that, to deny the appeal, or if not that, then to make the window opaque and inoperable.

Mr. Norr's testimony was followed by a rebuttal from the appellant, stating that Mr. Norr's testimony did not address the criteria and that if the final choice had to be between removing the dormer or keeping it and making the dormer window inoperable, he would choose to keep the dormer and make the window both opaque and inoperable.

The Committee discussed the issues raised during the appeal, stating that they had reviewed similar cases in the past for both proposed and existing encroachments into setbacks. The Committee then proceeded to deliberate on the proposal and on information included in the record, focusing on a comparison of impacts between what could be built by right on the site with what could be approved in setbacks. After deliberation, the Committee voted 4-1 to uphold both the appeal and the administrative decision with the following modifications:

- Strike Condition B of the Staff Report (the condition to remove the south side dormer); and,
- Expand Condition C to make the south side dormer window both translucent and inoperable, with Condition C becoming the new Condition B, etc.

The Committee directed BDS staff to prepare findings supporting its decision for consideration at the Committee's meeting on March 6, 2012. These findings are identified below.

ZONING CODE APPROVAL CRITERIA

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: There are several reasons for requiring setbacks from property lines: to maintain light and air between neighbors, separation for fire protection and access for fire fighting. The 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 among neighboring properties and provide adequate flexibility to site a building so that it can be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

The lots on this block are east-west oriented such that houses on the west side of the block face west and those on the east side of the block face east, with adjoining back yards. This means that shadows from structures and vegetation also stretch along an east-west axis which effectively reduces shading from structures along side property lines. On the neighboring property to the rear of the site are several large trees that screen the properties from each other. Any shading on the property to the rear that might be caused by the garage structure will be largely unnoticeable due to the large amount of shade cast by these trees. Even if the trees were not there, the reduced setback of 9 inches to the wall would have minimal impact to light and air, including shade, on the neighbor to the rear.

On the south side of the addition on the neighbor's property is an existing hedge approximately 8 feet high. This hedge previously provided a great deal of privacy between the rear yards of both lots. However, the subject two-level structure has a 3 ft. by 4 ft wide window in the dormer of its south-facing wall. This window allows a view into the backyard of the property located at 5514 SE 47th Avenue. With the wall at 3 feet 7 inches from the property line, the view from the dormer window will add about one foot of additional width to the viewable area of the neighbor's back yard, measured at ground level, which will be visible because of the 17-inch incursion into the setback. That is, if the wall had been constructed at the 5-foot setback line, the view into the neighbor's backyard would be decreased by about one and one fourth feet (see Exhibit A.2 for details). This small distance would not make a discernable difference in privacy for anyone standing in this neighbor's back yard compared to what is allowed by right.

Although the dormer window on the south side of the structure does not appear to have a larger impact on privacy in the neighbor's back yard than what would occur if the structure were built outside the side (south) setback, still, there are more privacy impacts to the neighbor than there were prior to construction of the building. As mentioned above, the existing hedge formerly provided complete backyard privacy for both dwellings. With the new garage/storage structure with one window overlooking the backyard, the neighbor's sense of privacy has decreased.

Taken altogether, it appears that impacts to light and air on neighboring properties from this development are negligible as compared to what would be expected if the proposal were to meet the required setbacks. That is, there is only one foot and four inches of difference in the amount of visual privacy between a building constructed along the five-foot setback line and the existing building located 17 inches (1 foot 5 inches) from the setback line. However, individual impacts to privacy for the south neighbor are large, i.e., changing from complete privacy to almost no privacy. If the window on the south side of the structure were translucent, and fixed such that it is not operational (i.e., can't be opened), then the neighbor's backyard privacy would not be impacted by the structure. It should be noted that the existing hedge on the neighbor's property will only screen the lower level of the structure, which if it were only one level, would be allowed by right at the setback. Mr. Norr testified that because the hedge is on the neighbor's property that the findings should not speak to screening provided by the hedge. However, these finding do not suggest that the hedge mitigates for the reduced setback. Rather, they state a fact that the hedge previously

created a privacy screen between generally undeveloped backyards, and that with the addition of the structure containing a 2nd level and window, the privacy has been reduced.

The Fire Bureau found that the structure meets the requirements for fire protection and fire fighting. Because three feet seven inches remain between the addition and the south property line and two feet one inch for the eave, separation for fire protection and access for fire fighting remain adequate without the need for fire code appeals.

With a condition of approval that requires the dormer window on the south side of the structure to be translucent and inoperable so that vision through the window is obscured, granting the adjustment will meet the purpose of the regulation being modified, and this criterion will be 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: The addition is located in a residential zone; therefore the second half of this standard does not apply.

Four neighbors responded to the Public Notice in opposition to the proposed adjustments. Most stated objections to the structure's location in the side and rear setbacks. One called it a "monstrosity," but none of the letters spoke to the Approval Criterion regarding livability and appearance.

A letter from the Neighborhood Association voiced concern about fire safety, which will be addressed during the building permit review, and about privacy for neighbors due to the windows facing neighbors to the south and east, which is addressed below.

The neighborhood in the vicinity of this property is composed of one and two-story houses with either attached or detached one-level garages on primarily 5,000 square-foot lots. Two houses south of the site have adjoining driveways and garages that are separated by about two feet of space. These existing garages are also situated well within their side setbacks. Another garage located on SE 48th and one farther south on SE 47th, are within 2 feet of rear and side property lines, respectively. Although a number of garages are built within the setbacks, most of them likely comply with the garage setback exception described on page 2 of this report. Although this situation does not justify the applicant's construction within the setback area, it does show that the garage structure situated in side and rear setbacks is in character with the appearance of the surrounding area and does not detract from the livability of the area. The applicant's structure, had it remained as a one-level structure, could have been constructed in the setbacks without a land use review.

In addition, there does not appear to be one unified architectural style of houses and garages in the neighborhood. Houses range from 1 to 2 levels, from bungalow to craftsman to ranch, and everything in between. Garages are both attached and detached, set at the front of some houses and on the sides or at the rear of others. Again, there is not a cohesive neighborhood "appearance." Rather, the neighborhood "appearance" is somewhat eclectic.

Still, the structure appears large in comparison to surrounding structures because it is a 2-level accessory structure in the setback, rather than the more often seen 1-level accessory structure within the setback. The window in the south side dormer at the top of the structure allows almost a full view into the backyard of the neighbor to the south, which is not the case for other detached structures in the neighborhood. None of the other garages or detached structures has 2 levels. None of the other detached structures contains a window that overlooks neighbors' back yards.

The applicant has provided several architectural details to improve the structure's appearance and help reduce its bulk, including a gabled roof, dormers on the sides, large windows on the first level, and overhanging eaves. The applicant plans to add a band around the circumference of the structure at about 8 to 9 feet up from the ground to further help break up its bulkiness and provide more architectural interest. The applicant also proposes to install siding similar to that of the house and paint to match the house to help offset impacts from its bulk.

Overall, the location of the structure at the back of the lot, partially obscured by the existing house, the architectural details, and the proposed siding and paint to match that of the existing house on the site enhance the structure's aesthetics and its conformity with the existing house. These features further help reduce impacts to the area's livability and appearance.

However, the Committee found there is an impact to livability for the neighbor to the south due to this structure. It has two levels and occupies 24 feet of space along the two backyards where there used to be open area above the existing hedge. The hedge had provided almost complete privacy between these two backyards, while still maintaining a feel of openness between them. In addition, the dormer on the south side of the structure draws the eye upward. It gives the impression of blocking light and air, although it will produce almost no shade on the neighbor's property, and there is no discernable difference in light and air between the structure's current location and a location that would meet setbacks. The dormer's window does provide a view down into the neighbor's backyard. If the window were translucent and inoperable, it would still provide light into the storage area of the structure, but it would not affect privacy to the next door neighbors' backyard.

With the condition discussed in Criterion A, above, that requires the window in the south side dormer to be translucent and inoperable, 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: The applicant requests two sets of adjustments: wall and eave incursions into both the side and rear setbacks. The purpose of the Residential 5,000 zone is to provide relatively high density residential development, which includes garages. The two adjustments are for one structure located in the rear corner of the lot. The adjustments to the side and rear setbacks of less than 1½ feet on the side yard and less than 1 foot on the rear yard setback have been shown to have very limited impacts to adjacent properties. Further, the existing house occupies only about 1,019 square feet and the new garage occupies only 384 square feet of the 5,000 square-foot lot, or about 28 percent of the site. This leaves approximately 3,600 square feet of the lot that is open yard or driveway area. About two-thirds of the garage width is located behind the house, partially obscuring the structure from the street view. Visual impacts to public areas from both adjustments are only apparent from any one viewing area; i.e., the side yard impact is only visible from SE 47th, whereas the rear yard impact is only visible from the adjacent park. Further, the structure, at 16 feet wide is far less bulky in appearance than would be a structure 24 feet wide, which could have been approved for the site.

Impacts from approval of the Adjustments are not cumulative due to the location of the setbacks being adjusted and due to the design elements that were incorporated into the structure to make it architecturally interesting and match the siding and color of the existing house. Therefore, this criterion is met.

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

Findings: There are no City-designated scenic or historic resources on the site. The

nearby Woodstock Elementary School is a designated historical site. However, the garage is screened from the School by other houses and tall trees. Neither the garage, nor its intrusion into the side and rear setbacks, will have any impact on the school. Therefore, this criterion is not applicable.

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

Findings: The impacts from this structure being located within the setback areas are not significantly different from the impacts that would have occurred had the structure been built adjacent to, but outside the setback areas. The applicant has added several architectural details to reduce the visual impacts of a new building on the site. He has also stated that he will use siding similar to that of the existing house siding and paint the structure the same color as the house to help it blend with the existing house.

However, because the structure is located within the setback area, and because both livability and privacy at 5514 SE 47th are impacted, the window in the south side dormer of the structure (the side facing 5514 SE 47th) must be translucent and inoperable to modify impacts to livability. With this condition, this Criterion can be 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 is not in an environmental zone. Therefore, this criterion is 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 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 permit.

CONCLUSIONS

The applicant constructed a 16-foot by 24-foot garage with storage above in the southeast corner of his property. The structure would be allowed by right, i.e., no land use review would be required, had it not been constructed partially within the side and rear setbacks, which are each 5 feet wide. The incursions are less than 1.5 feet (17 inches) to the side/south setback and less than 1 foot (9 inches) to the rear/east setback. The roof eaves also project farther into the setbacks than allowed by right. The eave incursions are just under 2 feet (23 inches) for the side/south setback and just over 1 foot (15 inches) for the rear/east setback. The Adjustment Committee found that the incursions into the setbacks will have little impact relative to maintenance of light and air and that fire fighting access to the structure is still available.

Although the difference in the privacy impact is not large compared to what the impact would be from the structure built outside of the setbacks, the fact that the garage is two levels, is taller than other detached structures in the neighborhood, and because the structure was built within standard setback areas, the Adjustment Committee found that requiring the south side dormer window to be translucent and inoperable would reduce the perception of privacy impacts to the neighbor located at 5514 SE 47th and enhance livability for this neighbor.

Further, the applicant's proposal to finish the siding and painting of the structure to match that of the existing house will also help the structure to better blend in with the site and further reduce impacts caused by its size. With the above listed conditions, all of the relevant approval criteria will be met.

ADJUSTMENT COMMITTEE DECISION

Based on the findings set forth above, and in the exhibits included herein by reference, the Adjustment Committee decides on the appeal as follows:

Uphold the appeal and uphold, with modifications, the Administrative Decision of Approval, subject to the following original and modified conditions:

Approval of the following Adjustments (33.110.220) for a 2-level, 16-foot x 24-foot garage with living/storage area above:

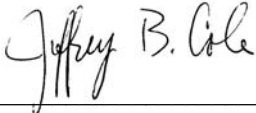
- Reduce the required side (south) setback from 5-feet to 3-feet 7-inches for the building wall, and from 4-feet to 2-feet 1-inch for the eave;
- Reduce the required rear (east) setback from 5-feet to 4-feet 3-inches for the building wall, and from 4-feet to 2-feet 9-inches for the eave;

per the approved plans, Exhibit C.1, signed and dated November 23, 2011 and **revised exhibits** C.2.a and C.2.b, signed and dated March 6, 2012, and subject to the following conditions:

- A. As part of the building permit application submittal, each of 2 required site plans and any additional drawings must reflect the information approved by this land use review as indicated in Exhibits C.1 and Revised C.2.a and C.2.b. The sheets on which this information appears must be labeled, "Proposal and elevations as approved in Case File # LU 11-181812 AD."
- B. The dormer window on the south façade of the structure must be translucent and inoperable.
- C. The siding and paint color on the garage structure must match that of the existing house, except along the bottom portion of the structure, which may have an off-set color and/or material.

Staff Planner: Kathy Harnden

These findings, conclusions and decision were adopted by the City of Portland Adjustment Committee on March 6, 2012.

By: 
Jeffrey Cole, Chair

Date Final Decision mailed: March 9, 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 September 30, 2011, and was determined to be complete on **October 19, 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 September 30, 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 several extensions to the 120-day review period and then signed a request for a full extension of 245 days, as stated in Exhibits A.3, A.4, A.5 and A.6. **The 365th day is October 18, 2012.**

Conditions of Approval. This approval 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 is final and becomes effective the day the notice of decision is mailed. This decision may not be appealed to the City Council; however, it may be challenged by filing a “Notice of Intent to Appeal” with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.620 and 197.830. A fee is required, and 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 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. For further information, contact LUBA at the Public Utility Commission Building, 550 Capitol Street NE, Salem, OR 97130 (Telephone: 503-373-1265).

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.

Recording the final decision. Before the applicant may proceed with the project, this final decision must be recorded with the Multnomah County Recorder. You may record this decision the day following the mailed date. The final decision may be recorded on or after **March 12, 2012** 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. This decision expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time of permit application, 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. 1. Applicant's Statement
- 2. Comparative Impacts Graph
- 3. Applicant's request to extend the review period, dated October 12, 2011
- 4. Applicant's request to extend the review period, dated November 16, 2011
- 5. Applicant's request to extend the review period, dated December 8, 2011
- 6. Applicant's signed Extension of 120-Day Review Period, dated February 15, 2012
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2.a. North & West Elevations
 - 2.b. South & East Elevations
 - 2.a Revised** North & West Elevations (attached)
 - 2.b Revised** South & East Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
 - 3. Decision Mailing List
 - 4. Mailed Decision
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Life Safety
- F. Correspondence:
 - 1. Lennie Bjornsen, October 25, 2011, pointing out that other garages in the neighborhood are located within setbacks
 - 2. Heather Gilroy, November 8, 2011, in opposition to the proposed Adjustments
 - 3. Interested Person in opposition to the proposed Adjustments
 - 4. Paul Norr, Attorney, November 9, 2011, writing for Daniel Waldeck and Robyn Draheim in opposition to the proposed Adjustments
 - 5. Dayle Onyon, November 9, 2011, in opposition to the proposed Adjustments
 - 6. Terry Girffiths, Chair, Woodstock Neighborhood Association, November 9, 2011, in opposition to the proposed Adjustments
- G. Other:
 - 1. Original LU Application
 - 2. Photos of Building Violation
- H. Appeal
 - 1.a. Appeal Form submitted by Lloyd Calhoun, received December 11, 2011
 - b. Appellant's photos
 - c. Privacy Diagram and Elevations
 - d. Letters submitted with appeal:

- i. Michael Herman, Letter in Support of Appeal, no date
 - ii. Edwin Martinis, Letter in Support of Appeal, no date
 - iii. Lennie Bjornsen, Letter in Support of Appeal, no date
 - iv. Jack Vollert and Julie Gedrose, Letter in Support of Appeal, no date
 - v. Courtney Downing, Letter in Support of Appeal, no date
 - vi. David & Elizabeth Garvin, Letter in Support of Appeal, no date
 - vii. Norman Bone, Letter in Support of Appeal, no date
 - viii. JoAnna and Craig Mullett, Letter in Support of Appeal, no date
2. Mailing list for Notice of Appeal Hearing
 3. Mailed Notice of Appeal Hearing, dated December 16, 2011
- I. Material Received Following Appeal Submittal
1. Letter from Paul Norr in general opposition, dated February 17, 2012

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).



ZONING

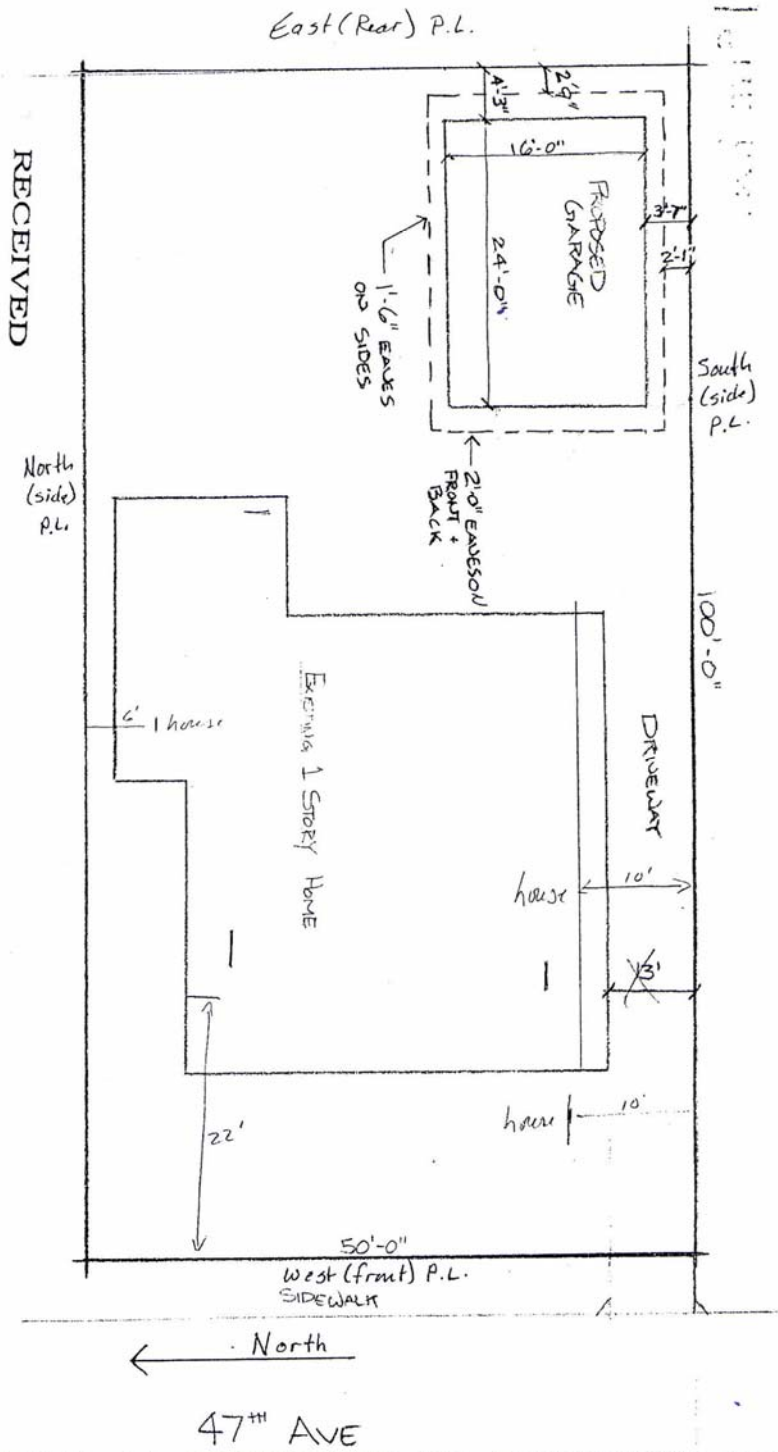
 Site

 Historic Landmark



File No. LU 11-181812 AD
 1/4 Section 3635
 Scale 1 inch = 200 feet
 State_Id 1S2E18CA 12600
 Exhibit B (Oct 07, 2011)

SITE PLAN
 SCALE: 1"=10'-0"



LOT COVERAGE:
 LOT AREA = 5000 sq ft
 EXISTING BLD AREA = 1019 sq ft
 PROPOSED BLD AREA = 384 sq ft

NOTES:
 LOT IS FLAT NO CHANGES TO BE MADE
 GRADE ELEVATIONS MATCH EXIST.
 CITY WATER & SEWER
 ROOF IS 5:12 COMPOSITION ROOF

Approved

City of Portland - Bureau of Development Services

K. Hagaman Date 11/23/11

Comments only to the reviews requested and is not a final decision. Additional zoning requirements may apply.

EXHIBIT

PROJECT ADDRESS:
 5506 SE 47th AVE PORTLAND, OR 97206

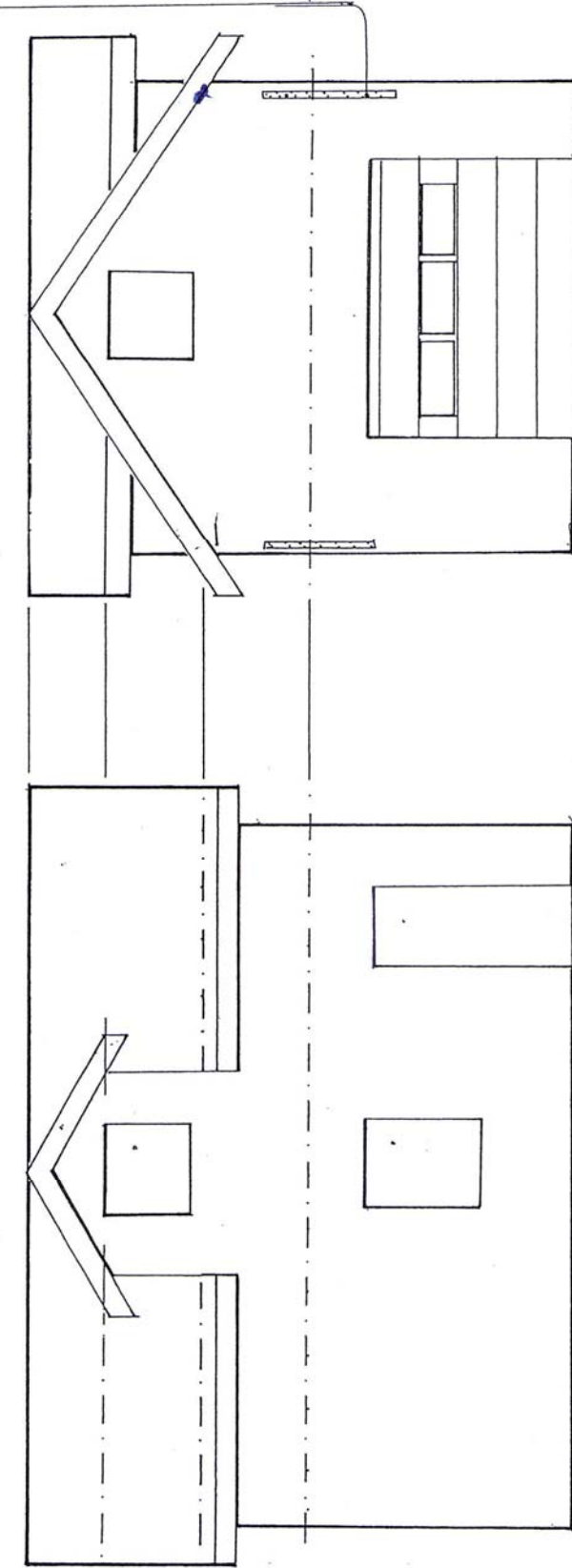
Case: LU11-18182A
 Exhibit C.1

5506 SE 47th AVE PORTLAND, OR 97206

Project Address:

STRAP SSTB16

ARCHITECTURAL COMPOSITION SHINGLE



WEST ELEVATION
SCALE 1/4" = 10"

NORTH ELEVATION
SCALE 1/4" = 10"

- 18'-8" Knee Height
- 15'-10" Garage Ceiling Height
- 12'-9" Top Plate
- 9'-0" 2nd Floor Top Plate
- 0'-0" GRADE

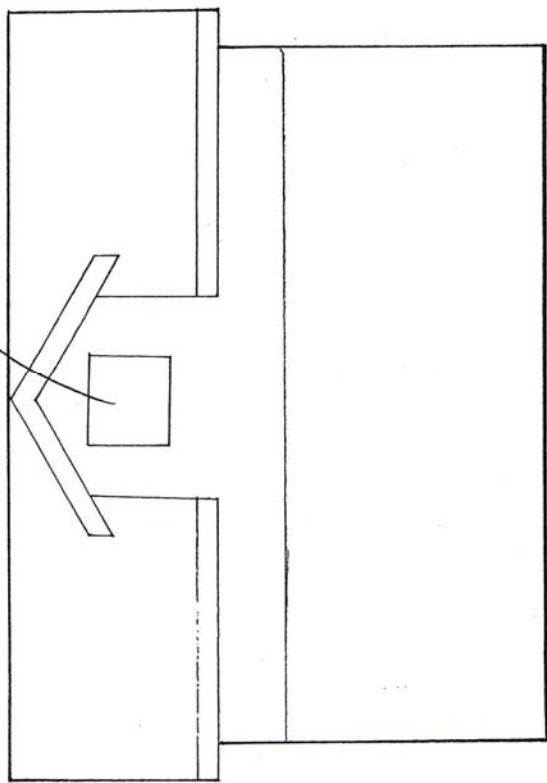
Approved
 City of Portland - Bureau of Development Services
 Planner Kathy Hernandez Date 3/6/12
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

⊕ per Adjustment Committee decision This date

Rev. Exhibit C.2.a
Rev. LU 11-181812 AD

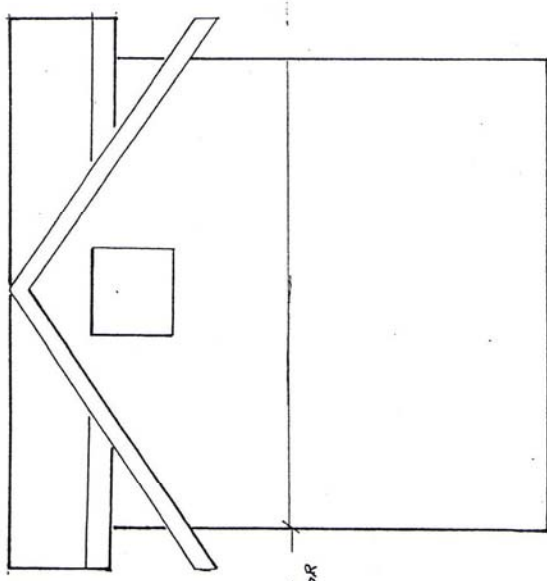
Project Address:
5506 SE 47th Ave Portland, OR 97206

Minimum must be
3' no bigger than
4' x 4' and be
translucent
and impervious



SOUTH ELEVATION

Scale: 1/4" = 1'-0"



EAST ELEVATION

Scale: 1/4" = 1'-0"

9'-0"
2ND FLOOR

* per Adjustment
Committee decision
This date

Approved
City of Portland - Bureau of Development Services
Planner Kathy Harnden Date 3/6/12
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exhibit C.2.b.
LU 11-181812 AD