



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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

Date: July 18, 2014

To: Interested Person

From: Mark Walhood, City Planner

503-823-7806 / mark.walhood@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 14-156604 AD

GENERAL INFORMATION

Applicant: John Hasenberg, Architect

2104 NE 45th Avenue Portland, OR 97213

Property Owners: Sarah and Steve Schubert

2335 SW 19th Ave Portland, OR 97201

Site Address: 2335 SW 19TH AVE

Legal Description: E 85' OF S 50' OF BLOCK 86, CARTERS ADD TO P

 Tax Account No.:
 R140406110

 State ID No.:
 1S1E04CB 03200

Quarter Section: 3227

Neighborhood: Southwest Hills Residential League, contact Nancy Seton at 503-224-

3840.

Business District: None

District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R5 (Single-Dwelling Residential 5,000 base zone)

Case Type: AD (Adjustment Review)

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

PROPOSAL: The applicant has proposed to construct a single-story addition connecting the existing detached garage to the main residence. The proposed 1-story mudroom has a door on the exposed wall facing west, windows on the exposed wall facing north, and a hip roof form matching the house. Siding and window trim will be similar to that found on the existing home, and the mudroom addition has a height of approximately 12'-0" above grade to the eave line. The garage wall is directly against (0'-0" setback) the north side lot line, and 1'-7" away

from the east rear lot line. The goal of the project is to provide a secure and weather-protected access to the home from the garage.

Regulations for garages in the single-dwelling zones allow a detached garage structure with a footprint under 24'-0" by 24'-0" to be located in the otherwise-required 5'-0" side and rear building setbacks. As built, the existing garage met this exception to the required setbacks. By connecting the detached garage to the house with the new mudroom, the garage becomes attached and is no longer allowed by-right in the side and rear setbacks. Therefore, in order to construct the mudroom as proposed, the applicant has requested Adjustments to reduce the north/side setback from 5'-0" to 0'-0", and to reduce the west/rear setback from 5'-0" to 1'-7" (Adjustment to 33.110.220.B).

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-F**, *Adjustment Approval Criteria*.

ANALYSIS

Site and Vicinity: The site is a single residential parcel on the northwest corner of the intersection of SW 19th Avenue and SW Elm Street, in the Portland Heights neighborhood. The surrounding neighborhood is generally characterized by large, well-maintained homes on sloping lots. The site is one half-block away from SW 20th Avenue at Elm Street, where a small neighborhood cluster including apartments, retail shops and a school are located. All abutting public streets are paved and improved with curbing, sidewalks, and planting strips with street trees.

Zoning: The Single-Dwelling Residential 5,000 (R5) zone is intended to create, maintain, and promote single-dwelling neighborhoods. The development standards seek to foster desirable residential areas by addressing aesthetics, safety, privacy, and other concerns.

Land Use History: City records indicate no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 2, 2014**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and offered no objections or concerns. The proposed mudroom addition is 101 square feet per the submitted plans; runoff from that roof area can be directed to the existing storm drain system. Exhibit E.1 is a hard copy of their electronic 'no concerns' response.

The *Development Review Section of Portland Transportation* has reviewed the proposal and responded without concern or comment. Exhibit E.2 is a hard copy of their electronic 'no concerns' response.

The *Water Bureau* has reviewed the proposal and responded with technical information about available water service to the site, but no objections or concerns regarding the requested Adjustment. Exhibit E.3 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and responded without concern or comment. Exhibit E.4 is a hard copy of their electronic 'no concerns' response.

The Site Development Section of the Bureau of Development Services has reviewed the proposal and responded with technical details regarding landslide and flood hazards, septic systems, and site topography, but no objections or recommendations regarding the requested Adjustment. During permitting, the project will be required to comply with the City of Portland Erosion and Sediment Control Manual. Exhibit E.5 contains staff contact and additional information.

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and responded without comment or concern. Exhibit E.6 is a hard copy of their electronic 'no concerns' response.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with standard comments noting that the proposal must receive a separate Building Permit for the project, and that the proposal must be designed to meet all applicable Building Codes and Ordinances. It is recommended that the applicant visit the Development Services Center to obtain preliminary information. Exhibit E.7 contains staff contact and additional information.

Neighborhood Review: In response to the mailed public notice, one written response was been received from the property owners living immediately adjacent to and north of the site. The letter expresses four points of concern regarding the proposed setback Adjustment:

- 1. The existing detached garage on the site was wrongly set to zero setback on their shared lot line and encroaches on their property. The property line should be surveyed to ensure all setbacks are measured from the property line;
- 2. The site plan suggests that the existing laurel hedge along the shared lot line will remain. The applicants should guarantee that the hedge will remain;
- 3. The new deck facing north towards the shared lot line should be enclosed from the deck surface to the ground to ensure that a rodent den is not created; and
- 4. If the new deck requires a railing, it should be of a height and design that does not block sunlight, as the existing garage already blocks sunlight to the backyard.

Staff Response to points of concern:

- 1. The applicant bears the responsibility to present the information accurately on the site plans, including the location of lot lines. During visual inspection of the site by staff from the adjacent right-of-way on July 14th, 2014, it was impossible to determine the exact location of the shared lot line vis-à-vis the north garage wall, but it appeared generally to be on the applicant's property as expected. Disputes on the location of a property line between two private landowners are generally a civil matter, and beyond the scope or authority of this Adjustment request, as the proposal does not involve any new structures on or within 10'-0" of the shared lot line. The existing detached garage was constructed with the benefit of a building permit in 1996 (permit #96-051786 RS), the drawings showed the structure entirely on the subject site, and the garage received a final inspection. The existing detached garage was allowed by-right when constructed both in 1996 and today under Zoning Code setback exceptions for garages, as it sits in the back corner of an R5-zoned property (33.110.253.D);
- 2. No changes are shown to the existing laurel hedge, which is well outside the footprint of the proposed mudroom addition;
- 3. The applicant has indicated that the deck will be enclosed from the deck to the ground, although the deck is not under review in this Adjustment;
- 4. The deck appears to be at or under 2'-6" high off the ground, which does not require perimeter railings under building code. A low uncovered deck under 2'-6" off the ground without railings is allowed by-right in the side and rear setback, and is not under review in this Adjustment.

ZONING CODE APPROVAL CRITERIA

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. have been met.

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

Findings: Relevant excerpts of the R5 setback purpose statement for side and rear setbacks are as follows (33.110.2220.A):

"The setback regulations for buildings... serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general 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; and
- 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."

The requested setback Adjustments are necessary to connect the main house to the existing detached garage. The garage was allowed as a detached structure, but the act of attaching a mudroom to both the house and garage eliminates the ability of the garage to meet setback exceptions. No changes to the size, bulk, or height of any structure within the setback are involved with the current proposal. The mudroom addition, although it triggers setback Adjustments for the existing garage, is located entirely outside of the required 5'-0" side and rear building setbacks.

The mudroom addition is aligned with, and does not project beyond, the existing main house exterior walls, maintaining the existing relationship of the primary building mass on the site to the surrounding homes and neighborhood. The single-story scale of the garage addition is modest and of a scale and placement that can be found in other Portland neighborhoods including Portland Heights. With single-story height placement approximately 13'-0" to 19'-7" from the closest adjacent residential properties, there are no significant impacts to the light or air access to adjacent homes. Fire access is still readily available to this corner lot from both adjacent public streets and side/rear yards. The mudroom is not likely to have significant privacy impacts to the adjacent properties to the north and west as it will be relatively infrequently used. There are no topographic constraints, and outdoor areas are provided for with the existing side yard and/or front porch.

Overall the addition is modestly scaled, in keeping with the neighborhood, and at least equally supportive of the above purpose statement. Therefore, this criterion is 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: As noted above under findings for criterion A, the proposal will not significantly detract from the livability or appearance of the surrounding residential area. Therefore, 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: Two adjustments are requested: one to the side setback, and a second to the rear setback. Given the limited scale of the mudroom addition, the lack of changes to the existing detached garage in terms of scale or setbacks, and the way in which the addition has been designed to integrate well with the existing structure and neighborhood, there are no cumulative effects which keep the proposal from meeting the overall purpose of the zone to establish, maintain and promote single-dwelling neighborhoods. Therefore, this criterion is met.

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

Findings: There are neither scenic nor historic resources designated on the site under the Zoning Code or maps. Therefore, this criterion does not apply.

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

Findings: As noted in previous findings, the existing detached garage is of a scale and placement that is found throughout Portland neighborhoods, and was originally allowed by-right under Zoning Code. Mitigation of potential impacts from the mudroom addition are achieved through the single-story height, compatible roof form, siding and windows, alignment of new exterior walls with existing walls, and the distance of the addition to the closest neighboring property lines. Therefore, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not in an environmental zone. Therefore, 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 has requested two setback Adjustments to construct a single-story mudroom attachment between the home and detached garage at 2335 SW 19th Avenue. The scale, design, and placement of the addition is in keeping with the character of the existing house and surrounding neighborhood, without noticeable impacts in terms of access to air, light, and fire protection. The proposal meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the north/side setback from 5'-0" to 0'-0", and to reduce the west/rear setback from 5'-0" to 1'-7" (33.110.220.B), per the approved site plan and drawings, Exhibits C.1 through C.3, all signed and dated July 15, 2013, and subject to the following condition:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File #LU 14-156604 AD."

Staff Planner: Mark Walhood

Decision rendered by: on July 15, 2014.

By authority of the Director of the Bureau of Development Services

Decision mailed: July 18, 2014

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 May 14, 2014, and was determined to be complete on May 28, 2014.

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 May 14, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on September 24, 2014.**

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 August 1, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 August 4, 2014 (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.; OR
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

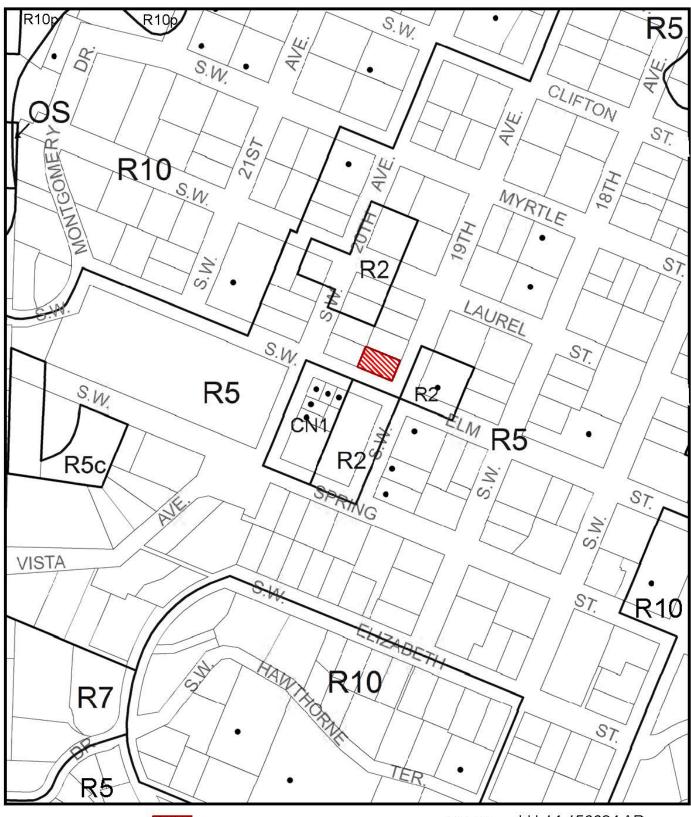
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original narrative statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan and Elevations (attached)
 - 2. Large, Scalable Site Plan and Elevations
 - 3. Floor Plans
- D. Notification information:
 - 1. Mailing list with notice
 - 2. Mailed notice with postmark
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Development Review Section of Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Section of BDS
 - 6. Urban Forestry Division of Portland Parks and Recreation
 - 7. Life Safety Section of BDS
- F. Correspondence:
 - 1. Letter with concerns from Leslie and Sridhar Balakrishnan
- G. Other:
 - 1. Original LU Application form and receipt

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

↑ NORTH

File No. LU 14-156604 AD

1/4 Section 3227

Scale 1 inch = 200 feet

State_Id 1S1E04CB 3200

Exhibit B (May 16,2014)

