



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

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**Date:** April 5, 2019  
**To:** Interested Person  
**From:** Rodney Jennings, Land Use Services  
503-823-5088 / [Rodney.Jennings@portlandoregon.gov](mailto:Rodney.Jennings@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 mailed copy of this document is only a summary of the decision. 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 19-119991 AD**

#### **GENERAL INFORMATION**

**Applicant:** Robin Koch  
Communitecture Architecture Planning & Design  
1421 SE Division St  
Portland OR 97202

**Owner:** Amy Stork  
1423 NE Liberty St  
Portland, OR 97211

**Site Address:** 1423 NE LIBERTY ST

**Legal Description:** BLOCK 23 LOT 15, COLUMBIA HTS  
**Tax Account No.:** R173104510  
**State ID No.:** 1N1E14AC 19900  
**Quarter Section:** 2332

**Neighborhood:** Woodlawn, contact [info@gowoodlawn.com](mailto:info@gowoodlawn.com); [majjaspencer@hotmail.com](mailto:majjaspencer@hotmail.com)  
**Business District:** Soul District Business Association, contact at [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088.

**Plan District:** None

**Zoning:** R5h Single Dwelling Residential 5,000 with Airport Height Overlay

**Case Type:** AD Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

An attached garage at this site was built in the setback with a building permit and later expanded and converted to living space without the required building permits. The wall of the existing converted garage is located 1.3' from the east side lot line. Portland Zoning Code Section 33.110.120, Setbacks, requires a minimum setback of 5' from side lot lines for the wall. The applicant wishes to obtain building permits to legalize the conversion of the garage to living space. An Adjustment is required to reduce the required setback from the east side lot line for the converted garage from 5' to 1.3'.

**Relevant Approval Criteria:**

In order 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 site is a flat 5,000 square foot lot. It is developed with a 1-story house that includes the attached garage structure that was converted to living area at some time in the past. The living area in the converted garage includes a bedroom, a bathroom and a small dressing room. There is also an outdoor covered patio on site located on the east side of the converted garage space. Similar to development on the site, development in the vicinity on both side of NE Liberty St, and on the lots behind the site that front on NE Junior St, consists of 1 and 2 story single family dwellings on 5,000 square foot lots. Most of these homes also have off-street parking spaces, either in attached and detached garages, or in driveways located in front or to the side of the homes. Many of the homes also include attached and detached structures similar in area and length to the attached garage on the site that has been converted to living space.

**Zoning:** R5h – The R5 Single Dwelling Residential 5,000 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

The “h” Aircraft Landing overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport. The proposal complies with the standards of the “h” overlay zone.

**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 **March 4, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5);
- Life Safety Section of BDS (Exhibit E.6).

**Neighborhood Review:** In the original application (Exhibit A.1) the applicant provided 7 signed written letters in support of the proposal. These include letters from the owners of the lots immediately neighboring the site on the west and east sides, and the lots south of the site across NE Liberty Street. One written response has been received from a notified property owner in response to the Notice of Proposal (Exhibit F.1). The author of this written response states no objection to approval of the Adjustment, but does state a wish that no vehicles park in front of her house as she parks on the street. Because of its proximity to frequent transit

service, there is no off-street parking required on the subject site. However, the subject site has one off-street parking space that meets zoning standards. This is an Adjustment request to reduce the required side setback, and will not result in removal of this existing non-required parking space.

## 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:** The applicant requests an Adjustment to reduce the required side setback from 5' to 1.3' to allow an attached garage structure that has been converted to living space within the setback. The original application submitted by the applicant also requested an Adjustment to allow an eave on the attached garage structure to extend 1.1' within the required 5' setback. The applicant later clarified that this feature is not an eave, but a rain gutter for which no Adjustment is required (Exhibit A.2). The several purposes of the building setback regulations are listed in Zoning Code Section 33.110.220.A:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
  - The attached structure in the setback is a converted garage built behind the main body of the house. It is also located behind the main body of the house on the adjacent lot to the west, which maintains open air on both lots.
  - The west facing wall of the attached converted garage structure is about 8' high from the ground to the bottom of the roof. The appearance of the wall is similar to an 8' high privacy fence. The Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.
  - Shadows and reduced open air from the west wall of the attached converted garage structure fall on the open rear yard of the adjacent lot and have similar impact to those that could be caused by 8' high fence that would be allowed by right at this location.
  - The Life Safety Review Section of the Bureau of Development Services responded with no concerns with approval of the Adjustment, indicating that there is adequate separation to provide fire protection that meets the requirements of the building code (Exhibit E.6).
  - The Fire Bureau responded with no concerns with approval of the Adjustment. Access for fire fighting to the converted garage is available from the driveway that provides access from NE Liberty St. to the on-site parking space
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
  - The attached structure in the setback is a converted garage built behind the main body of the house. It is also located behind the main body of the house on the adjacent lot to the west.
  - The house on the adjacent lot west of the site is set back about the same distance as the main body of the subject house. There is about 13' separating these two houses at this point.
  - The appearance from the street of the attached converted structure in the setback is similar to a 1-story garage located in the side yard behind the existing houses. This is a typical and reasonable physical relationship between residences that is reflective of the general building scale and

placement of houses in Portland's single dwelling residential neighborhoods.

- The west facing wall of the converted garage is about 8' high from the ground to the bottom of the roof. The appearance of the wall is similar to an 8' high privacy fence, and the Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.
- *They promote options for privacy for neighboring properties;*
  - There are no windows, doors, or other openings in the west facing wall of the converted garage within the setback that reduce the actual or perceived privacy in the rear yard of the neighboring lot.
  - The west facing wall of the converted garage is about 8' high from the ground to the bottom of the roof. The appearance of the wall is similar to an 8' high privacy fence, and the Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
  - No Adjustment is requested to the front setback, and all existing and proposed structures meet the required 10' minimum front setback in the R5 zone.
- *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.*
  - The garage was converted to living space without permits at some point in the past and the garage door has been removed and replaced with wall and street facing window.
  - There is a 41' long, 9' wide paved driveway between the front property line that provide more than adequate space for a vehicle to park without overhanging the street or sidewalk and to enhance driver visibility when backing on the street.

For the reasons listed in the findings above, the request equally or better meets the purposes of the setback regulations in the R5 zone. This criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposal will not detract from the livability of the surrounding single-dwelling residential area because:

- Privacy is maintained as there are no windows, doors, or other openings in the west facing wall of the converted garage within the setback that would reduce the actual or perceived privacy in the rear yard of the neighboring lot.
- The west facing wall of the converted garage is about 8' high from the ground to the bottom of the roof. The appearance of the wall is similar to an 8' high privacy fence, and the Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.
- Shadows and reduced open air from the west wall of the attached converted garage structure fall on the open rear yard of the adjacent lot and have similar impact to those that could be caused by 8' high fence that is allowed by right in the side setback at this location.

The proposal will not detract from the appearance of the surrounding single-dwelling residential area because:

- The attached structure in the setback is a converted garage built behind the main body of the house. It is also located behind the main body of the house on the adjacent lot to the west.
- The house on the adjacent lot west of the site is set back about the same distance as the main body of the subject house. There is about 13' separating these two houses at this point.
- The appearance from the street of the attached converted structure in the setback is similar to a 1-story garage located in the side yard behind the existing houses, which is a typical and reasonable physical relationship between residences that is reflective of the general building scale and placement of houses in Portland's single dwelling residential neighborhoods.
- The west facing wall of the converted garage is about 8' high from the ground to the bottom of the roof. The appearance of the wall is similar to an 8' high privacy fence. The Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.

As discussed above, the proposal will not significantly detract from the livability or appearance of the R5 zoned residential area. 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:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. 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:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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 or zoning permit must demonstrate that all requirements of Title 11 can be met, and 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.



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 April 19, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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](http://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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **April 19, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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 Statements
  1. Original Applicant's Statement, received February 13, 2019
  2. Email from Applicant, received March 26, 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevations (attached)
  3. Large Scale Site Plan
  4. Large Scale Elevations
  5. Site Survey
- D. Notification information:
  1. Mailing list
  2. Mailed Notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Bureau of Transportation
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Life Safety Review Section of BDS
- F. Correspondence:
  1. Cyndi Furukawa, March 22, 2019, not opposed
- G. Other:
  1. Application 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).**

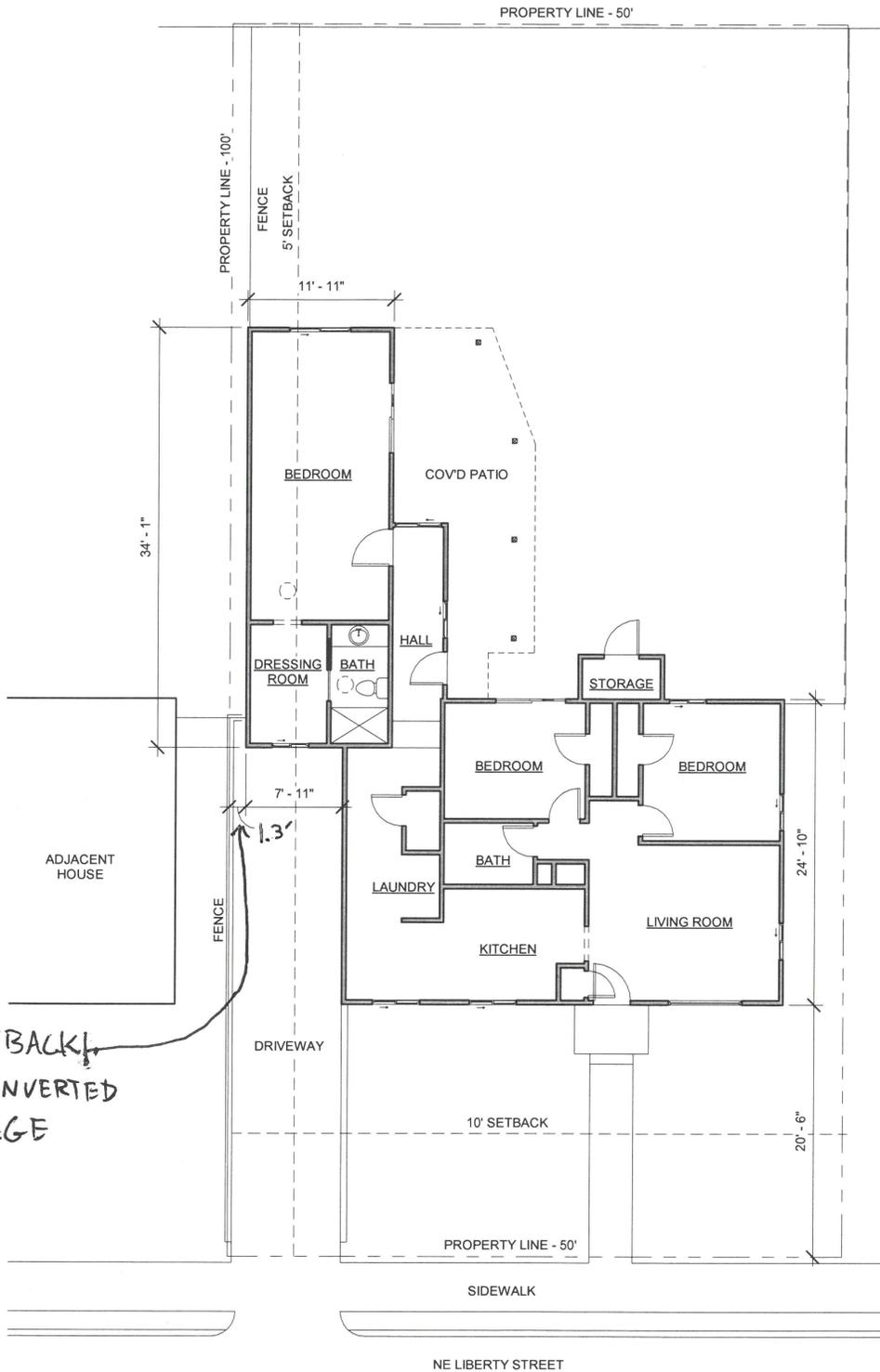


# ZONING



Site

File No.	LU 19-119991 AD
1/4 Section	2332
Scale	1 inch = 200 feet
State ID	1N1E14AC 19900
Exhibit	B Feb 15, 2019



1.3' SETBACK  
FOR CONVERTED  
GARAGE

Approved  
 City of Portland - Bureau of Development Services  
 Planner *Robyn Jennings* Date *4/2/2019*  
 This approval is valid only in the amount requested and is subject to all  
 conditions of approval. Additional zoning requirements may apply.

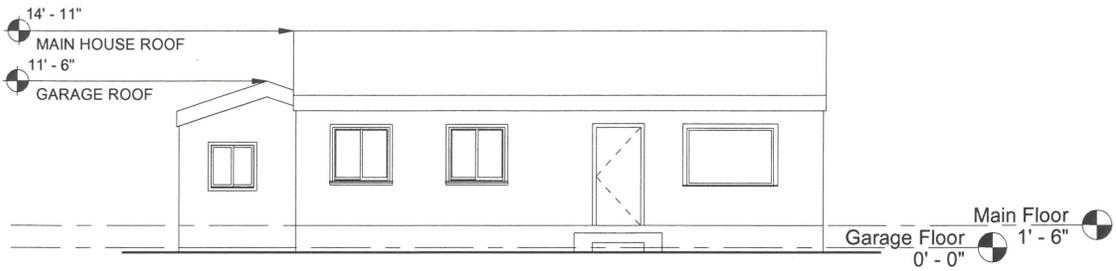
① EXISTING SITE PLAN  
1/8" = 1'-0"



1423 NE LIBERTY STREET  
 PORTLAND, OR 97211  
 ZONE: R-5  
 LOT AREA: 5,000 SF  
 BUILDING COVERAGE: 1,368 SF

CASE NO. 19-119991AD  
 EXHIBIT C.1

LM 19-119991 AD



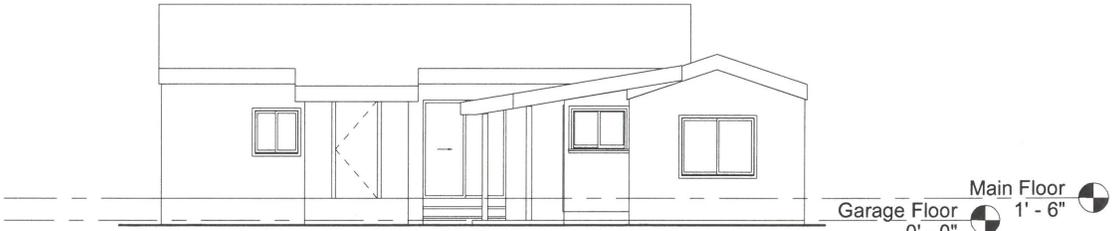
① South Elevation - Front  
1/8" = 1'-0"

\*Approved\*

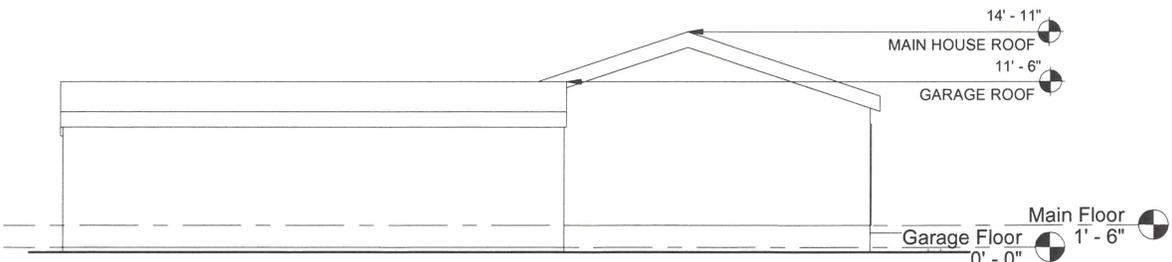
City of Portland - Bureau of Development Services

for Rodney Jensen Date 4/2/2019

This approval is based on the plans as requested and is subject to all conditions of approval. Additional zoning requirements may apply.



② North Elevation - Rear  
1/8" = 1'-0"



③ West Elevation - Side  
1/8" = 1'-0"

1423 NE LIBERTY STREET  
PORTLAND, OR 97211

CASE NO. 19-119991 AD  
EXHIBIT C.2

LM 19-119991 AD