



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

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Date: June 20, 2019
To: Interested Person
From: Andrew Gulizia, 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 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 19-160529 AD

GENERAL INFORMATION

Applicant: Michael Howells
Howells Architecture
3820 SE Bybee Blvd.
Portland, OR 97202

Property Owners: Daniel Webert and Heather Quinter
5707 SW Menefee Dr.
Portland, OR 97239

Site Address: 5707 SW Menefee Dr.

Legal Description: BLOCK 8 LOT 4, TERWILLIGER HTS
Tax Account No.: R825502840
State ID No.: 1S1E16DA 06700
Quarter Section: 3628
Neighborhood: Hillsdale, contact at contact@hna-pdx.com
Business District: **None**
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592
Zoning: R7 – Single-Dwelling Residential 7,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes a 2-story addition which includes a 2-car garage on the west side of the house. The addition would meet all minimum building setback requirements except for the requirement in Zoning Code Section 33.110.220.B (Table 110-3) that the garage entrance is set back at least 18 feet from the street lot line. The applicant requests an Adjustment to reduce the minimum setback between the garage entrance and the street lot line from 18 feet to 14 feet. (The garage entrance would be set back approximately 26 feet from the

edge of the paved street, but much of that distance is within the public right-of-way rather than on the subject property.)

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The subject site is a 10,600-square-foot lot on SW Menefee Drive at the intersection with SW Edgemont Place (Exhibit B). The ground slopes upward from east to west, and the property is developed with a 2-story, single-dwelling house that was constructed in 1942. The main entrance to the house faces the east street lot line. The attached garage, which was behind the house and accessed from the north, was recently demolished. The applicant has an approved building permit for a 2-story addition on the back of the house which includes a 2-car garage (building permit 19-110185 RS). The building permit was approved for the garage entrance to be 18 feet from the street lot line, based on an incorrect location for the existing house footprint. Approval of this Adjustment Review will allow the building permit application to be revised to show the garage entrance 14 feet from the street lot line.

The surrounding neighborhood is hilly and is developed with single-dwelling houses along narrow, winding streets. Southwest Terwilliger Boulevard is one block east of the site.

Zoning: The R7 zoning designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was sent May 23, 2019. The following Bureaus responded with no concerns about the proposed Adjustment:

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

Neighborhood Review: No written responses to the mailed "Notice of Proposal" were received from either the Neighborhood Association or notified neighbors.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 is requesting an Adjustment to the minimum garage entrance setback requirement for a new garage. The purpose of the setback requirements in the R7 zone is stated in Zoning Code Section 33.110.220.A:

Purpose. *The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*

- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Staff finds the proposed Adjustment equally meets the purpose of the garage entrance setback requirement for the following reasons:

- The public right-of-way in front of the proposed garage is 40 feet wide, but the roadway itself is only about 16 feet wide and there are no sidewalks. The garage entrance will be set back about 26 feet from the edge of the roadway, even though it will be set back only 14 feet from the street lot line. With 26 feet of separation between the garage door and the roadway, the Adjustment will maintain adequate space for light, air, and fire safety.
- The new garage will be at the back of the house and accessed from the side of the lot. No changes to the front yard are proposed, and there will still be ample outdoor area on the property.
- There are no sidewalks along this street, and the 26-foot distance between the garage and the roadway will be adequate for a car to park on the driveway without overhanging the street. Furthermore, nothing about the proposal will impede drivers' visibility. The Portland Bureau of Transportation (PBOT) reviewed the proposal and responded with no objections to approval (Exhibit E-2).
- The Adjustment does not bring the garage closer to any abutting lot lines except the street lot line. The new construction will be set back further than required from neighbors' lot lines, maintaining privacy and a reasonable physical relationship between homes.
- The placement of garages in the surrounding neighborhood varies, and a 14-foot setback from the lot line (26 feet from the edge of the street) will not appear unusual. The garage directly across the street from the proposed garage is set back approximately 11 feet from the street lot line.

Since the Adjustment equally meets the purpose of the requirement, approval criterion A 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: Since the site is in a single-dwelling residential zone, the proposal must not detract from the livability or appearance of the surrounding residential area. As mentioned above, the garage entrance will be set back about 26 feet from the edge of the street, even though it will be only 14 feet from the street lot line. With this amount of separation, the Adjustment will not create a crowded or incompatible appearance. Furthermore, the addition will be set back further than required from all lot lines except the street lot line. PBOT reviewed the proposal for potential impacts to the public right-of-way and responded

with no objections to approval (Exhibit E-2). For these reasons, the proposal will not significantly detract from the livability or appearance of the 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: As only one Adjustment is requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability or appearance of the surrounding area. As there are no adverse impacts identified for which mitigation would be needed, this criterion is not applicable.

- 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 there are no environmental overlay zones mapped on the site, 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.

CONCLUSIONS

The proposal to reduce the minimum garage entrance setback requirement equally meets the intent of the regulation and will not have adverse impacts on the livability or appearance of the surrounding residential area. The applicant has demonstrated that the approval criteria are met. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum setback between the garage entrance and the street lot line from 18 feet to 14 feet (Zoning Code Section 33.110.220.B), per the approved site plan, Exhibit C-1, signed and dated June 17, 2019, subject to the following condition:

- A.** As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-160529 AD."

Staff Planner: Andrew Gulizia



Decision rendered by: _____ **on June 17, 2019.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 20, 2019

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 6, 2019 and was determined to be complete on May 20, 2019.

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 6, 2019.

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 extended by the applicant, **the 120 days will expire on September 17, 2019.**

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 July 5, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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.

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 **July 5, 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 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.

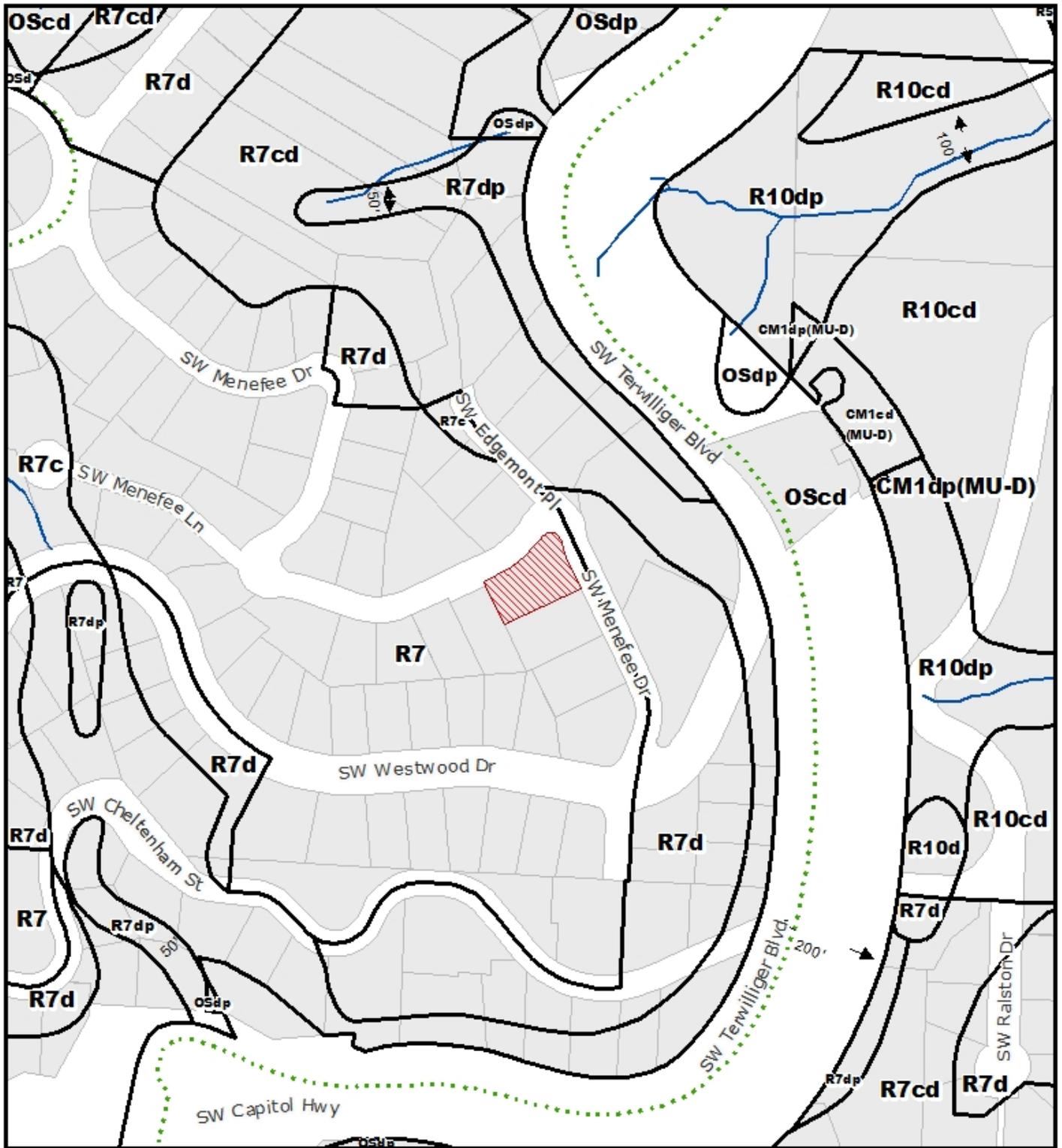
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved site plan (attached)
 - 2. Site plan illustrating compliance with the 20% vehicle area limitation in the side yard (Zoning Code Section 33.266.120.C.3.a)
 - 3. Building elevations
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Land use application form and receipt
 - 2. Incompleteness determination letter, dated May 16, 2019

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 ↑
NORTH

- Site
- Stream
- Recreational Trails

File No.	LU 19-160529 AD
1/4 Section	3628
Scale	1 inch = 200 feet
State ID	1S1E16DA 6700
Exhibit	B May 10, 2019

