



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

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Date: May 21, 2021
To: Interested Person
From: David Besley, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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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 21-024344 AD

GENERAL INFORMATION

Applicant: Ted Grund
Theodore Grund Planning & Design
2617 NE 33rd Ave
Portland, OR 97212

Owners: Dean + Alison Freed
2766 SW Hillsboro St
Portland, OR 97239-1408

Site Address: 2766 SW HILLSBORO ST

Legal Description: BLOCK 12 LOT 6, COUNCIL CREST PK
Tax Account No.: R180702130
State ID No.: 1S1E08DA 04900
Quarter Section: 3426

Neighborhood: Southwest Hills Residential League, contact at contact@swhrl.org.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact at 503-823-4592.

Zoning: R7 (Single-Dwelling Residential 7,000)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing build a 59 square foot addition to an existing attached garage near the northeast corner of the site, which includes a 43 square foot addition to the front (north) and a 16 square foot bay window addition to the side (east). Additionally, eave overhangs are proposed to extend to accommodate a front entrance to the west of the garage and a trash

enclosure area to the east of the garage. The Portland Zoning Code requires that structures be set back a minimum of 15 feet from the front lot lines in this zone (Section 33.110.220; Table 110-3). The existing garage is located about 6 feet from the front (north) lot line and the proposed 4-foot expansion would bring the garage as close as 1 foot – 9 inches from the front lot line; an Adjustment is therefore required to reduce the minimum front building setback from 15 feet to as close as 1 foot – 9 inches on the north lot line.

The Portland Zoning Code also requires that garage entrances be set back a minimum of 18 feet from street lot lines in this zone (Section 33.110.220; Table 110-3); a second Adjustment is therefore required to reduce the minimum garage entrance setback from 18 feet to as close 1 foot – 9 inches from the north lot line (fronting SW Hillsboro Street).

Additionally, the Portland Zoning Code allows eaves to extend into required building setbacks up to 20 percent of the depth of the setback (in this case, a 1-foot encroachment into the side setback and a 3-foot encroachment into front setbacks); however, they must be at least three feet from a lot line (Section 33.110.220.C.1). The new eaves are proposed to extend approximately one foot beyond the proposed addition. Additional Adjustments are therefore required to allow eaves to be up to about 1 foot from the north/front property line and 3 feet from the east property line.

To summarize, the applicant is proposing a 59 square foot attached garage addition which requires four (4) Adjustments:

1. To reduce the minimum front building setback from 15 feet to as close as 1 foot – 9 inches on the north lot line;
2. To reduce the minimum garage entrance setback from 18 feet to as close as 1 foot – 9 inches from the north lot line;
3. To allow eaves to be as close as 1 foot from the north lot line; and
4. To allow eaves to be as close as 3 feet from the east lot line.

Relevant Approval Criteria:

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 3,581 square foot site is located on the south side of SW Hillsboro Street, about 290 feet west of the intersection of SW Beaverton Avenue and SW Hillsboro Street. The site slopes downward from northwest to southeast and is bordered to the west by a 10-foot wide alley easement. It is currently developed with a 3,581 square foot two-story house with a basement and a 170 square foot attached garage. The surrounding vicinity is developed with primarily two to three-story single-dwelling residences.

Zoning: The R7 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 **April 5, 2021**The following Bureaus have responded as follows:

- The Portland Bureau of Transportation responded with no concerns regarding the Adjustment review and included information about Title 17 (Transportation Plan) requirements (Exhibit E-1);

- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and included information about building permit requirements (Exhibit E-2); and
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that a safe stormwater disposal location that does not impact adjacent properties and/or structures must be shown at the time of building permit submittal (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Site Development Review Section of BDS;
- The Fire Bureau; and
- The Water Bureau.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. 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 proposing to construct a 59 square foot addition to an existing attached garage near the northeast corner of the site, which includes a 43 square foot addition to the front (north) and a 16 square foot bay window addition to the side (east) which requires four (4) Adjustments:

1. To reduce the minimum front building setback from 15 feet to as close as 1 foot – 9 inches on the north lot line;
2. To reduce the minimum garage entrance setback from 18 feet to as close as 1 foot – 9 inches from the north lot line;
3. To allow eaves to be as close as 1 foot from the north lot line; and
4. To allow eaves to be as close as 3 feet from the east lot line.

The relevant purpose statement and associated findings are found below:

33.110.220 Setbacks

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.*

As noted above, the existing garage is located about 6 feet from the front (north) lot line and the proposed 4-foot expansion would bring the garage as close as 1 foot – 9 inches from the front lot line.

While the front and garage setback reductions to 1 foot – 9 inches, and an eave reduction to 1 foot, are substantial, the garage and eave are proposed to be closer to a street lot line rather than a neighboring residence; the 40 foot width of the adjacent SW Hillsboro Street right-of-way will ensure light, air, and privacy will be maintained, as will the physical relationship between residences.

While the eastern eave (over the proposed bay window addition, east side entrance, and trash storage area) will be as close as 3 feet from the side lot line to the east, approximately 14 feet of this 16-foot long eave will meet the setback requirements. Only about 2 feet of this eave will be between 3 feet and 4 feet. This is relatively minor setback encroachment, toward the north east corner of the building, where it will not impact light or air to the neighboring resident to the east, which is over 8 feet from the eave.

Garages built within street facing and front lot line setbacks are common in this hilly area, as are eaves associated with such development, including the neighboring properties to the north, east, and west, as well as several other properties on SW Hillsboro Street. This proposal will therefore be reflective of the building scale and placement of houses in this neighborhood.

The minimum required garage entrance setback is intended to allow room for a car to park in front of the garage without overhanging the street or sidewalk, and to enhance driver visibility when backing onto the street. PBOT has reviewed the proposal and notes that the existing condition with the current garage location also does not allow a vehicle to be parked without crossing at least the abutting sidewalk (Exhibit E.1). This is a similar condition found east and west of the subject site along both sides of SW Hillsboro as well as along other streets found in this part of the City where home and garage locations are limited in relation to the sloping nature of these lots. PBOT does not expect that the property owner would park in front of the garage door given the extent that a vehicle would project into the street. Accordingly, PBOT has no objections to the proposed Adjustment to the garage entrance setback.

The Fire Bureau has reviewed the request for reduced wall and eave setbacks and offered no concerns with regards to separation for fire protection, or access for fire fighting.

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 subject lot is in the R7 zone, a residential zone, and is in a neighborhood with a mix of two and three-story houses. As noted above, garages with eaves built within street facing/front lot line setbacks are common in this area and the proposed one-story garage will therefore be consistent with the appearance of the residential area. Only about 2 feet of the east side eave will encroach into the setback, which is minor and will not impact the livability or appearance of the 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: The overall purpose of the R7 zone is to preserve land for housing, and to provide housing opportunities for individual households. Development standards in single-dwelling zones work together to promote desirable residential areas by

addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Garages are accessory to residential development and off-street parking is required in this neighborhood. As noted above, the proposed garage placement is consistent with the development pattern in this area and this is a relatively small addition. Based on the findings included in response to approval criteria A and B above, the project is consistent with the overall purpose of the zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: No adverse impacts have been identified for which mitigation would be required.

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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; 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 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 is proposing to construct a 59 square foot addition to an existing attached garage near the northeast corner of the site which requires four (4) Adjustments:

1. To reduce the minimum front building setback from 15 feet to as close as 1 foot – 9 inches on the north lot line;
2. To reduce the minimum garage entrance setback from 18 feet to as close as 1 foot – 9 inches from the north lot line;
3. To allow eaves to be as close as 1 foot from the north lot line; and
4. To allow eaves to be as close as 3 feet from the east lot line.

While the front and garage setback reduction to 1 foot – 9 inches is substantial, the garage is proposed to be closer to a street lot line rather than a neighboring residence; light, air, and privacy will be maintained, as will the physical relationship between residences. Garages with eaves built within street facing and front lot line setbacks are common in this hilly area, including the neighboring properties to the north, east, and west, as well as several other properties on SW Hillsboro Street. While the eastern eave will be as close as 3 feet from the side lot line to the east, only about 2 feet of this eave will be between 3 feet and 4 feet. This is relatively minor setback encroachment, toward the north east corner of the building, where it

will not impact light or air to the neighboring resident to the east, which is over 8 feet from the eave. This proposal will therefore be reflective of the building scale and placement of houses in this neighborhood. PBOT has no objections to the proposed Adjustment to the garage entrance setback and the Fire Bureau offered no concerns with regards to separation for fire protection, or access for fire fighting.

Garages are accessory to residential development and off-street parking is required in this neighborhood. The proposed garage placement is consistent with the overall purpose of the zone. The proposal meets the applicable approval criteria and should be approved

ADMINISTRATIVE DECISION

Approval of four (4) Adjustments (Section 33.110.220; Table 110-3):

1. To reduce the minimum front building setback from 15 feet to as close as 1 foot – 9 inches on the north lot line;
2. To reduce the minimum garage entrance setback from 18 feet to as close as 1 foot – 9 inches from the north lot line;
3. To allow eaves to be as close as 1 foot from the north lot line; and
4. To allow eaves to be as close as 3 feet from the east lot line

for a 59 square foot addition to an existing attached garage including a 43 square foot addition to the front (north) and a 16 square foot bay window addition to the side (east), per the approved site plans, Exhibits C-1 through C-3, signed and dated May 12, 2021, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-024344 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on May 13, 2021.**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 21, 2021

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 March 11, 2021, and was determined to be complete on March 31, 2021.

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 March 11, 2021.

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: July 29, 2021.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on June 4, 2021. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and Ix decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

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 **June 4, 2021**, 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.

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. Site Plan (attached)
 - 2. North Elevation Drawing (attached)
 - 3. East Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Bureaus responding with no concerns (Site Development, Fire, and Water Bureaus)
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incompleteness determination letter, dated March 25, 2021

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).