



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

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Date: June 22, 2022
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 22-131554 AD

GENERAL INFORMATION

Applicant: Izhak Shafran
2824 NW Savier St.
Portland, OR 97210
(650) 793-6825
tamarindpdx@gmail.com

Property Owner: Izhak Shafran Tr
2824 NW Savier St. #A
Portland, OR 97210

Site Address: 2824 NW Savier St.

Legal Description: BLOCK B E 45' OF LOT 5, WILLAMETTE HTS ADD
Tax Account No.: R913406230
State ID No.: 1N1E29DC 11900
Quarter Section: 2826
Neighborhood: Northwest District, contact Greg Theisen at contact@northwestdistrictassociation.org

Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene urban Garrett at darlene@nwnw.org

Plan District: None

Zoning: R5 – Single-Dwelling Residential 5,000

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

Proposal: The applicant proposes to construct a new, one-car garage with a rooftop deck at the front of this property. The ground slopes upward from the street on this site, so the garage will

be built into the hillside. The applicant requests approval of four Adjustments to Zoning Code requirements for this project:

- To reduce the minimum front building setback for the garage from 10 feet to zero (Zoning Code Section 33.110.220.B)
- To reduce the minimum garage entrance setback from 18 feet to zero (Zoning Code Section 33.110.220.B)
- To reduce the minimum east side building setback for the garage from 5 feet to zero (Zoning Code Section 33.110.220.B)
- To allow the garage to be closer to the street lot line than the living space of the house (Zoning Code Section 33.110.250.D.3)

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 4,500 square feet in area and located on the south side of NW Savier Street, between NW 28th Avenue and NW 29th Avenue. The site is developed with a 2,282-square-foot house that was constructed in 1923. The ground slopes upward from the street toward the house, and the property currently has no driveway or garage. Neighboring properties are also developed with houses, some with garages and some without. A commercial area is two blocks north of the site and Forest Park is two blocks to the west.

Zoning: The R5 single-dwelling residential zone is 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” was sent May 25, 2022 (Exhibit D-2). The following Bureaus responded with no objections to the proposed Adjustments:

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

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: Three of the Adjustment requests are to the minimum front, side, and garage entrance setback requirements in Zoning Code Section 33.110.220.B. Zoning Code Section 33.110.220.A states the purposes for these setback requirements:

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 residences in the city's single-dwelling neighborhoods;*
- *They foster 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 proposal equally meets the intent of the front, side, and garage entrance setback requirements for the following reasons:

- The new garage will be detached from the house and will be adjacent to a similarly situated garage on the abutting property to the east. The existing physical relationship between neighboring residences will not change, and garages built close to the street into front yard hillsides are common in older residential areas. Nearby properties with such garages include 2884 NW Savier Street, 2864 NW Savier Street, 2848 NW Savier Street, and 2816 NW Savier Street.
- The building area within the front setback and garage entrance setback will be 14 feet wide, which is only 31% of the 45-foot-long front and garage entrance setbacks. The building area within the east side setback area will be 20 feet long, which is only 20% of the 100-foot-long east side setback. A majority of the setback areas will remain open and unobstructed, preserving light, air, and access for fire fighters.
- During the building permit review and inspection process, the structure will be required to meet fire protection requirements in the residential building code. The Fire Bureau and BDS' Life Safety Review Section both reviewed the Adjustment proposal and responded with no objections (Exhibits E-4 and E-6, respectively).
- The structure will be a single story and about 280 square feet, which is a typical building scale for detached garages in single-dwelling residential areas.
- The new garage will not significantly affect the privacy of neighboring houses or yards. Most of the side and rear walls of the structure will not be visible (Exhibit C-2), and the exposed front wall will face a 60-foot-wide street right-of-way rather than an abutting property. The portions of the rooftop deck within the reduced setbacks will overlook the public street and the driveway and garage roof on the abutting property to the east. (Exhibit C-1).
- The open area on the site will remain in compliance with the minimum outdoor area requirement in Zoning Code Section 33.110.240.B-C. While the new garage will reduce the green area of the front yard, the structure will be only 14 feet wide, and most (approximately 69%) of the 45-foot-wide front yard will remain as open area.
- Since the garage entrance will be only 12 feet from the curb and 2 feet from the sidewalk, the Portland Bureau of Transportation (PBOT) found that cars are not likely to park in front of the garage door and obstruct the street or sidewalk (Exhibit E-2). Parking will be inside the new garage, as intended, and drivers will have unobstructed views when backing out onto the street.

The fourth Adjustment request is to the requirement in Zoning Code Section 33.110.250.D.3 prohibiting garages from extending closer to the street than the living space of the house. Zoning Code Section 33.110.250.A states the purposes of the garage requirements:

These standards:

- *Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;*
- *Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;*
- *Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;*
- *Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and*
- *Enhance public safety by preventing garages from blocking views of the street from inside the residence.*

Staff finds the proposal equally meets the intent of the garage requirements for the following reasons:

- The new garage will be built into the hillside at the basement level of the house, so existing views between the street and the living area, which will be above the garage, will remain (Exhibit C-2). These views will continue to support public safety and maintain the existing connection between the house and the street.
- The new construction will not obscure the existing front door or covered front porch, and the wide stairs leading to the house will remain a prominent feature of the front yard (Exhibits C-1 and C-2). Therefore, the proposal will maintain the visual prominence of the house over the garage, and the main entrance for pedestrians will remain the most prominent one.
- The garage will be 14 feet wide, which is less than half the street-facing width of the house and narrower than the maximum garage width permitted for this site by Zoning Code Section 33.110.250.C.3.a. The structure will be a single story with a flat roof and will be the same height as the abutting garage to the east (Exhibit C-2). Therefore, although the garage will be close to the street, it will be too small to dominate views of the property.

Summary

The proposal equally meets the purposes of the regulations to be modified. Criterion A 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: Since the site is in a residential zone, the Adjustments must not significantly detract from the livability or appearance of the residential area. The surrounding area is developed with single-dwelling houses that were mostly constructed in the early 20th Century. Some neighboring properties which slope upward from the street, including the abutting property to the east, also have garages near the street lot line that are built into the hillside. As discussed above, while the new garage subject to this review will be closer to

the street and the east side lot line than allowed outright, the structure will be relatively small (280 square feet and a single story), and the building scale and the placement in the hillside will appear compatible with the neighborhood. Most of the property's front yard will remain open, and because of the grade, most of the side and rear walls of the structure will not be visible (Exhibit C-2). The Adjustments will not detract from the privacy of neighboring homes or yards, because the parts of the rooftop deck within the reduced setbacks will overlook the public street and the driveway and garage roof on the abutting property to the east (Exhibit C-1). For these reasons, staff finds the proposal will not significantly detract from the livability or appearance of the residential area. Criterion B 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 purpose of single-dwelling residential zones such as R5 is described in Zoning Code Section 33.110.010:

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

A. Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.

B. Development standards. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.

The property will continue to be used as a residence, as intended for the R5 zone. As discussed in the findings for approval criteria A and B, the proposal will not create safety issues and will not be incompatible with the surrounding residential neighborhood. The Adjustments will not inhibit opportunities for energy conservation or recreation on the subject site or nearby sites, and the proposal will not detract from neighbors' privacy. For all these reasons, staff finds the Adjustments will provide flexibility on a sloping site without unreasonably impacting neighbors. Staff finds the proposal to be consistent with the overall purpose of the R5 zone and that criterion C is therefore met.

- D.** City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks 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 resources or historic resources 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: Staff has identified no negative impacts specifically resulting from the Adjustment requests which require mitigation. Therefore, staff finds approval criterion E 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 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

Staff finds the proposed Adjustments to be consistent with the purposes of the regulations to be modified and with the overall purpose of the R5 residential zone. No significant negative impacts are expected, and the proposal will not detract from the appearance or livability of the surrounding residential area. Staff finds the proposal meets each of the applicable Adjustment Review approval criteria. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

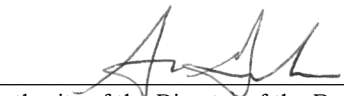
Approval of the following Adjustments for a new garage and rooftop deck:

- To reduce the minimum front building setback for the garage and rooftop deck from 10 feet to zero (Zoning Code Section 33.110.220.B)
- To reduce the minimum garage entrance setback from 18 feet to zero (Zoning Code Section 33.110.220.B)
- To reduce the minimum east side building setback for the garage and rooftop deck from 5 feet to zero (Zoning Code Section 33.110.220.B)
- To allow the garage to be closer to the street lot line than the living space of the house (Zoning Code Section 33.110.250.D.3)

per the approved plans, Exhibits C-1 and C-2, signed and dated June 16, 2022, 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 Exhibits C-1 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-131554 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  on June 16, 2022
By authority of the Director of the Bureau of Development Services

Decision mailed: June 22, 2022

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 April 11, 2022 and was determined to be complete on May 23, 2022.

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 April 11, 2022.

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 20, 2022.**

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.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on July 6, 2022. 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 email, 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 Office of Community and Civic Life recognized organizations for the appeal of Type II 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 this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and City bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 6, 2022** 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 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
 - 2. Original plan set
 - 3. Email from applicant received May 23, 2022
 - 4. Revised narrative received May 23, 2022
 - 5. Revised plan set received May 23, 2022
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Building elevations (attached)
- 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. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence (none received)
- G. Other:
 - 1. Land use review application form
 - 2. Incompleteness determination letter, dated April 22, 2022

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).