

FINDINGS OF FACT and FINAL ORDER
TYPE IV APPEAL DECISION

DATE: May 19, 2021

FILE NO.: 21-018 AP

PROJECT NAME: 38797 & 38799 Creekside Loop Garage Setback Adjustment Second Appeal

APPLICANT/OWNER: Jeff Newberry

APPELLANT: William Trimble

LEGAL DESCRIPTION: T2S R4E Section 13CA Tax Lot 9008

The above-referenced proposal was reviewed as an Appeal of a Type III Appeal of a Type I and Type II Adjustment request. As discussed further in this Order, the City Council ultimately denies the appeal and upholds the Planning Commission decision, which upholds the staff decision from the final order for File No. 20-049 ADJ dated December 30, 2020. The following Findings of Fact are adopted to support denial of the appeal in accordance with the Sandy Municipal Code.

FINDINGS OF FACT

General

1. Jeff Newberry previously submitted an application (File 20-049 ADJ) requesting an adjustment to Section 17.40.30 to reduce the required garage setbacks for an approved duplex at 38797 and 38799 Creekside Loop from 20 feet to 17 feet 4 inches for one unit of the duplex (a Type II Adjustment request) and 18 feet 2 inches for the second unit (a Type I Adjustment request). The applicant proposed four off-street parking spaces for the duplex (two spaces for each dwelling unit) in addition to the area in front of the garages that can accommodate smaller vehicles. The reduced setback request allows construction of a duplex on the lot while meeting all other applicable setback requirements. This duplex was previously approved on November 7, 2018 (File No. 18-042 DR) and a building permit application was received on October 30, 2020 within the two (2) year application approval period, so the approval of File No. 18-042 DR is active and valid.
2. Staff approved the applicant's request for a Type I Adjustment to the garage setback for Unit A with conditions in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40, and permitted the applicant to reduce the garage setback to 18 feet 2 inches for Unit A. Staff denied the applicant's request for a Type II Adjustment to the garage

setback for Unit B; however, staff approved a Type I Adjustment with conditions and permitted the applicant to reduce the garage setback to a minimum of 18 feet for Unit B.

3. William Trimble appealed the staff decision on January 11, 2021 (File No. 21-001 AP). Mr. Trimble stated the garage setback adjustment should be denied and requested that the Planning Commission “deny the adjustment and ensure the applicant provides the full 20-foot setback for the garage of both units as required by Code Section 17.40.30 or the applicant revises the access to be off Tupper Road.”
4. The Planning Commission reviewed the appeal at a public hearing on March 29, 2021. Jeff Newberry spoke as the applicant and Aryn Ferguson spoke on behalf of the appellant. There were no public comments.
5. The Planning Commission agreed with staff that Type I adjustments to the garage setback are in compliance with the adjustment criteria in Section 17.66.40 and upheld the staff decision.
6. William Trimble appealed the Planning Commission decision on April 12, 2021 (File No. 21-018 AP). The appellant states that he owns property adjacent to the subject property that takes access via Creekside Loop and is adversely affected and aggrieved by the Planning Commission decision.
7. The City Council reviewed the appeal at a public hearing on May 17, 2021. Jeff Newberry spoke as the applicant and William Trimble spoke as the appellant. There were no public comments.
8. The City Council upheld the Planning Commission decision, which upheld the staff decision from the final order for File No. 20-049 ADJ dated December 30, 2020.

DECISION

For the reasons described above, the City Council **denies** the appeal of the garage setback adjustment request by William Trimble by a vote of 6-0.

The City Council upholds the staff decision as outlined in the Final Order for File No. 20-049 ADJ dated December 30, 2020. The City Council adopts by reference the findings and conclusions contained in the staff’s December 30, 2020 Final Order for File No. 20-049 ADJ.



Stan Pulliam
Mayor

RIGHT OF APPEAL

Any person who appeared before the City Council, either orally or in writing, may appeal this decision to the Land Use Board of Appeals. An appeal to the Land Use Board of Appeals must be made within 21 days of this order's date and must comply with ORS 197.830 and LUBA's rules at OAR Chapter 661, division 10. A notice filed thereafter will not be timely filed and LUBA will dismiss the appeal.