

**FINDINGS OF FACT and FINAL ORDER
TYPE II ADJUSTMENT**

DATE: April 18, 2023

FILE NO.: 23-010 ADJ

PROJECT NAME: 15237 Birch Avenue Front and Rear Yard Setback Adjustments

APPLICANT/OWNER: Russ Bartels

LOCATION: 15237 Birch Avenue

LEGAL: T2S R4E Section 11AC Tax Lot 3000 (Lot 6, Jewelberry Meadows subdivision)

The above-referenced proposal was reviewed as two Type II Adjustments. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

EXHIBITS:

Applicant's Submission

- A. Land Use Application
- B. Narratives (Front Yard and Rear Yard)
- C. Site Plan

Additional Documents Submitted by Staff

- D. Jewelberry Meadows Plat, Book 153, Page 021, No. 4670

FINDINGS OF FACT

1. These findings are based on the applicant's submittal received on March 21, 2023. This application was deemed complete on March 30, 2023.
2. The applicant requests two (2) Type II Adjustments to Section 17.80.20 and Section 17.34.30(E) to reduce the required front and rear yard setbacks from 20 feet to 16 feet (a 20 percent reduction) at 15237 Birch Avenue (Lot 6 of the Jewelberry Meadows subdivision). The reduced setback will allow construction of a 38-foot-wide home on the lot.
3. The applicant previously received approval for the Jewelberry Meadows subdivision (File No. 19-018 SUB). **All conditions of approval for File No. 19-018 SUB shall be met.**

4. The recorded plat (Exhibit D) details the subject property as Lot 6 of the Jewelberry Meadows subdivision. Lot 6 is located at the northwest corner of Birch Avenue and Agnes Street and is addressed as 15237 Birch Avenue.
5. Notification of the proposal was mailed to property owners within 300 feet of the subject property on March 31, 2023. No comments were received.

Chapter 17.34 – Single-Family Residential (SFR)

6. The subject property is zoned SFR, Single-Family Residential.
7. Section 17.34.30(E) contains setback requirements for the SFR zoning district, including a required minimum 10-foot front setback and 20-foot rear setback. However, the subject lot fronts on Agnes Street, which is a collector street and is therefore subject to the 20-foot setback required by Section 17.80.20. The applicant is requesting a Type II Adjustment to Section 17.34.30(E) to reduce the required rear yard setback from 20 feet to 16 feet and a Type II Adjustment to Section 17.80.20 to reduce the required front yard setback from 20 feet to 16 feet.

Chapter 17.66 – Adjustments and Variances

8. The applicant is requesting adjustments to the front and rear yard setbacks. The proposed front yard and rear yard setbacks are 16 feet, which is a 4-foot or 20 percent reduction from the required 20-foot front yard and rear yard setbacks; thus, both requests can be processed as Type II Adjustments.
9. The Type II Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 20 percent.
10. Adjustment Criteria A. Criterion A states: “The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City.” The reduction to front yard and rear yard setbacks will not be contrary to the purposes of the Sandy Development Code, the policies of the Comprehensive Plan, or any other applicable policies and standards adopted by the City. The lot will maintain a 16-foot setback to the shared property line with Lot 7, which is greater than the minimum 7.5-foot setback that Lot 7 is required to meet. Criteria A is met.
11. Adjustment Criteria B. Criterion B states: “The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code.” As stated in the narratives (Exhibit B), the reduced front yard and rear yard setbacks will not substantially reduce the amount of privacy enjoyed by the residents of neighboring structures and no surrounding property owners will be encumbered by the structure being 4 feet closer to the front and rear property lines. Typically, a minimum 7.5-foot setback would be required for all interior side yards. Due to the layout of Lot 6 and its required orientation towards Agnes Street, the rear property line of Lot 6 abuts the side property line of Lot 7.

With a 16-foot setback, the structure on Lot 6 will be located further from the shared lot line than the structure on the adjacent Lot 7. Criteria B is met.

12. Adjustment Criteria C. Criterion C states: “The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks.” The reduction to the front yard and rear yard setbacks will not adversely affect existing physical systems and natural systems such as traffic, drainage, dramatic landforms, or parks. Public and private utilities will not be affected by the setback adjustment. There are no retention trees, wetlands, or streams on the subject lot. Criteria C is met.
13. Adjustment Criteria D. Criterion D states: “Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site.” The applicant is requesting a reduction to the front yard and rear yard setbacks so that they can construct a new 38-foot-wide home. A building permit will need to be submitted to construct the proposed home, which will need to be designed in accordance with the Sandy Style residential design standards in Section 17.90.150. Criteria D is met.

Chapter 17.80 – Additional Setbacks on Collector and Arterial Streets

14. Chapter 17.80 pertains to setbacks required on collector and arterial street. Agnes Street is a collector street; thus, the standards of Chapter 17.80 apply to the setback from Agnes Street. Lot 6 is located at the northwest corner of the intersection of Birch Avenue and Agnes Street, with the front yard being adjacent to Agnes Street.
15. Section 17.80.20 requires a minimum 20-foot setback to collector streets such as Agnes Street. Lot 6 abuts Agnes Street, therefore, a 20-foot setback from Agnes Street is required for development on Lot 6. The applicant is requesting a Type II Adjustment to reduce the required 20-foot front yard setback to 16 feet on Lot 6.

DECISION

The applicant's request for two (2) Type II Adjustments to the front and rear yard setbacks is **approved with conditions** in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40. The applicant is permitted to reduce both the front yard and the rear yard setbacks to 16 feet at 15237 Birch Avenue (Lot 6). All conditions of approval shall be met.

CONDITIONS OF APPROVAL

1. The applicant shall obtain the appropriate permits from the City of Sandy and Clackamas County prior to construction of the residential dwelling.
2. All conditions of approval for File No. 19-018 SUB shall be met.
3. The City may revoke this Type II Adjustment if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site.



Kelly O'Neill Jr.
Development Services Director

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain at least the following:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.