

FINDINGS OF FACT and FINAL ORDER TYPE II ADJUSTMENT

DATE:	August 13, 2025
FILE NO.:	25-038 ADJ
TAX MAP AND LOT:	T2S R4E Section 14BC Tax Lot 05600
ADDRESS:	17250 New Circle
APPLICATION:	Type II – Adjustment
APPLICABLE CRITERIA:	Section 17.66.40 Type II Adjustment criteria
PROJECT NAME:	New Circle Shed Adjustment
OWNER/APPLICANT:	James Swensen
ZONING:	Single Family Residential (SFR)
STAFF CONTACT:	Patrick Depa, Senior Planner

PROPOSAL

The applicant has applied for a height adjustment to an accessory structure on residential property. The accessory structure is to provide secure, weather-resistant storage for residential equipment and seasonal items. The applicant's address is 17250 New Circle which is located three lots north of Dubarko Road on the east side of New Circle.

The applicant is proposing a 256 square foot shed with a mansard roof. A mansard roof is a multi-sided gambrel-style hip roof characterized by two slopes on each of its sides, with the lower slope at a steeper angle than the upper slope. The City of Sandy defines a Mansard roof's height to be measured at the deck line which is where the two slopes meet.

The proposed shed's deck line is specified to be at sixteen (16) feet, six (6) inches. The Sandy Development Code states that an accessory structure shall not exceed a maximum height of 16 feet. An additional six (6) inches above the deck line equates to a 3.2 percent increase above the maximum allowed height.

The request for an adjustment to the maximum height allowed may be approved if certain criteria are met under Section 17.66.10 – Adjustments. Section 17.66.10 – Adjustments, states that the Director may grant or deny an adjustment if the request involves only the expansion or reduction by not more than 20 percent of one or more quantifiable provisions of the Sandy Development Code. The proposed height of the accessory structure is below the allowable 20 percent adjustment; therefore, the adjustment may be approved if it meets the required criteria in Section 17.66.40.

EXHIBITS

Applicant's Submission

- A. Land use application and site plan
- B. Construction drawings

Public Comments

No public comments were received during this application review.

Department/Agency Comments

- The Clackamas County Fire Marshall and the City of Sandy Building Official had no comments and are in support of the adjustment.
- The SandyNet Director does not have any issues with the adjustment but reminds the applicant to call 811 prior to construction to identify any and all underground utilities.

FINDINGS OF FACT

- Finding 1.** These findings are based on the applicant's submittal received on June 13, 2025.
- Finding 2.** The application was deemed incomplete on July 1, 2025. The applicant submitted additional materials, and the application was deemed complete on July 18, 2025.
- Finding 3.** This application is being reviewed as a Type II Adjustment.
- Finding 4.** On July 24, 2025, notification of the proposal was mailed to property owners within 300 feet of the subject property, and an affidavit of mailing was completed.
- Finding 5.** The subject property is zoned Single Family Residential (SFR). Adjacent zoning to the north, south, east, and west are all zoned Single Family Residential (SFR).
- Finding 6.** The property is located in recorded plat #2361 – Tickle Creek Estates (Block 3) which consists of a total of twenty-four (24) lots.
- Finding 7.** The subject property is identified as Lot 17.
- Finding 8.** The plat was approved and recorded in 1978.
- Finding 9.** Because the plat pre-dates subdivisions approved prior to 2005, previous setbacks apply such as front yard at 10 feet, side yard at 5 feet, and rear yard at 15 feet.
- Finding 10.** All lots in the subdivision shall adhere to a five (5) foot wide utility easement along all front, side, and rear lot lines.

FINDINGS APPLYING SANDY DEVELOPMENT CODE CRITERIA

Sec. 17.74.10. Residential accessory structures.

Accessory structures (e.g., sheds) may be constructed or installed when in conformance with the standards of this section. A detached accessory structure shall be separated from the primary structure by at least six feet. An accessory structure located closer than six feet from the primary

structure shall be considered attached and is required to comply with the same setbacks as the primary structure.

- A. *Detached Accessory Structure Setbacks.* Table 17.74.10 below and Figures 17.74.10.A. and B. specify setbacks for detached accessory structures. If not specified below, these structures are subject to the standards identified in the respective zoning district where the structure is to be located. For purposes of these regulations, solariums, greenhouses, garages, or other enclosed areas which are attached to the residential structure shall not be considered accessory but shall be considered part of the primary building. Rigid frame fabric structures are considered accessory structures subject to these standards.

Table 17.74.10: Setbacks for Detached Accessory Structures (Sheds)

Accessory Structure Size	Interior Side Yard Setback	Rear Yard Setback
Larger than 200 sq. ft. or taller than 12 ft. in height	5 feet minimum or same as primary structure whichever is greater	15 feet minimum or same as primary structure whichever is greater

B. *General Standards.*

1. No accessory structure shall be located in front of the primary building. If located to the side of the primary building on an interior lot, the structure shall not be placed closer to the front lot line than the farthest back front wall of the primary building.
2. An accessory structure located on the street side of a corner lot shall follow the same setbacks as the primary building.
3. The roof of the structure shall be constructed so that water runoff from the structure does not flow onto an abutting parcel.
4. Accessory structures for private vehicle storage which have an entrance from the street side yard, except alleys, shall have a minimum street side yard setback of 20 feet.
5. The total accumulative square footage of all accessory structures on an individual lot shall not exceed 1,200 square feet.
6. **An accessory structure shall not exceed a maximum height of 16 feet.**
7. An accessory structure may be located on an adjacent lot that does not contain a primary structure provided:
 - a. Both lots are under the exact same ownership; and
 - b. A deed restriction is recorded requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot into separate ownership; and
 - c. The accessory structure complies with setback requirements as applied to the lots under same ownership.

Finding 11. The applicant is requesting an adjustment to the maximum allowed height of sixteen (16) feet in accordance with Section 17.74.10.B.6. The applicant is proposing to erect a sixteen (16) foot six (6) inch shed with a mansard roof. The City of Sandy defines a Mansard roof's height to be measured at the deck line which is where the two slopes meet. The applicant's proposed shed is six (6) inches above the maximum height of sixteen (16) feet, necessitating an adjustment.

Chapter 17.66 – Adjustments and Variances

Sec. 17.66.10. Adjustments.

Adjustments are a Type II procedure that provides a means to vary the quantifiable development standards applied in a particular district or design standard. This option exists for those circumstances where uniform, unvarying rules would prevent a more efficient use of a lot.

Except in the case of a nonconforming development or use, the Director may grant or deny an adjustment if the request involves only the expansion or reduction of not more than 20 percent (20%) of one or more quantifiable provisions of this Code.

Finding 12. The applicant has applied for a 3.2 percent adjustment which is below the 20 percent limit to qualify for an adjustment. For the adjustment to be approved, the applicant shall meet all the criteria set forth in Section 17.66.40. Adjustment Criteria.

Sec. 17.66.40. Adjustment criteria.

- A. 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;

Finding 13. Exceeding the maximum height allowed for an accessory structure by 3.2 percent will not be contrary to the purposes of the Sandy Development Code or the policies of the Comprehensive Plan. The proposed shed has been reviewed and meets all the remaining requirements set forth in Section 17.74.10.B – General Standards. The proposed accessory structure is larger than 200 square feet in size and taller than 12 feet in height which requires a building permit. The applicant has applied for a building permit, and both the Building and Planning Divisions have preliminarily reviewed the plans.

The shed is 256 square feet in size. By allowing the shed to be added onto the property, the total accumulative square footage of all accessory structures allowed on an individual lot would still be below the 1,200 square foot maximum.

The applicant is proposing the shed to be located in their rear yard behind the primary building as required. An accessory structure above 200 square feet shall follow the same setbacks as the primary building. The shed is 256 square feet in size and the required setbacks for the proposed shed in the Single-Family Residential (SFR) zoning district built before 2005 have been met.

The roof of the structure shall be constructed so that water runoff from the structure does not flow onto an abutting parcel. No gutter system or down spouts directing stormwater to a designated area on site have been identified. **The applicant shall install gutters and down spouts that direct stormwater to an**

approved location on the subject property. The applicant shall submit a stormwater plan detailing that no stormwater will flow onto an adjacent property.

The development code allows for the option of an adjustment for these circumstances where uniform, unvarying rules would prevent a more efficient use of a lot. **Criteria A is met.**

- B. 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;

Finding 14. The adjustment will not adversely affect the privacy of surrounding properties. An increase of six inches above the maximum allowed height will not be hard to reconcile visually with any other accessory structures in the area or any of the residential dwellings in close proximity of the subject property.

The increase will not substantially affect privacy or reduce available light or compromise the enjoyment by the residents of neighboring properties. No surrounding property owners will be encumbered any further by the addition of an accessory structure than they are now, even one that exceeds the maximum height allowed by six inches.

The City sent notice of this proposed adjustment to property owners within 300 feet of the subject property, and no objections or comments were received.

Criteria B is met.

- C. The proposed development will not adversely affect existing physical systems and natural systems, such as the existing or planned transportation network, stormwater facilities, slopes greater than 25 percent, wetlands, creeks, or parks; and

Finding 15. The proposed adjustment to add an additional six inches in height to a sixteen (16) foot tall accessory structure will not adversely affect existing physical systems and natural systems such as traffic or drainage.

The shed is proposed to be placed in the rear yard of an established subdivision built in 1978 where all existing physical systems such as slope stabilization and wetlands were addressed and mitigated for during construction of the subdivision. The placement of the shed will not interfere with any element of the current stormwater management system for the subject property or subdivision.

The recorded subdivision contains a “Note” that states there are “5 foot utility easements on all front, side, and rear lot lines”. Special care should be taken such as calling 811 the “Call before you dig” line for verifying utility locations. **The applicant shall call 811 prior to the assembly and placement of the shed to**

identify any and all underground utilities. Public and private utilities shall not be negatively affected. **Criteria C is met.**

- D. Architectural features of the proposed development will be compatible with the design character of existing structures on adjoining properties and on the proposed development site.

Finding 16. The shed is consistent with the residential character of the neighborhood and will be located in the rear yard. Due to the mansard/gambrel roof design, the additional height is largely confined to the central portion of the structure, minimizing visual impact. The increased height will not be out of scale considering the average residential dwelling heights in the neighborhood.
Criteria D is met.

DECISION

The applicant's request for a Type II Adjustment to exceed the maximum allowed accessory structure height by 3.2 percent is **approved** with the conditions below in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40. The applicant is permitted to place the prefabricated shed in their backyard outside of the required setbacks and easements.

CONDITIONS OF APPROVAL

1. The applicant shall acquire a building permit related to the installation of the proposed shed.
2. The applicant shall install gutters and down spouts that direct stormwater to an approved location on the subject property. The applicant shall submit a stormwater plan detailing that no stormwater will flow onto an adjacent property.
3. The applicant shall call 811 prior to assembly and placement to identify any and all underground utilities.
4. The City may revoke this Type II Adjustment if conditions of approval are not met.



Patrick Depa
Senior Planner

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by a party with appeal standings by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the City to obtain the form, "Notice of Appeal", and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an 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:

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) or 500 feet of the subject property for appeal of a Type II or Type III decision. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal. Note that a Type IV decision may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.