

**FINDINGS OF FACT and FINAL ORDER**  
**TYPE III APPEAL DECISION**

**DATE:** March 31, 2021

**FILE NO.:** 21-001 AP

**PROJECT NAME:** 38797 & 38799 Creekside Loop Garage Setback Adjustment 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 I and Type II Adjustment request. As discussed further in this Order, the Planning Commission ultimately denies the appeal and 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. Staff recommended the Planning Commission review the final order for File No. 20-049 ADJ and the appellant’s notice of intent to appeal and do one of the following:
  - a. Uphold the staff decision to approve a Type I adjustment to the garage setback for both units of the duplex per the final order for File No. 20-049 ADJ dated December 30, 2020.
  - b. Deny both garage setback adjustment requests and require the garage setbacks for both units of the duplex to meet the 20 foot minimum setback as requested by the appellant and required by Section 17.40.30.
  - c. Approve the applicant’s original adjustment requests, which includes both a Type I and Type II garage setback adjustment.
6. The Planning Commission discussed the applicant’s garage setback adjustment request, the appellant’s request to deny the requested garage setback adjustments, and staff’s decision to approve Type I adjustments for both units of the duplex. 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.

## DECISION

For the reasons described above, the Planning Commission **denies** the appeal of the garage setback adjustment request by William Trimble by a vote of 6-1.

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



March 31, 2021

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Jerry Crosby  
Planning Commission Chair

Date

## **RIGHT OF APPEAL**

A decision on a land use proposal or permit may be appealed to the City Council 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:

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 Chapter 17.28.50; and,
5. Payment of required filing fees.