



City of Tacoma
 Planning and Development Services Department
 747 Market St, Room 345
 Tacoma, WA 98402

NOTICE OF DECISION

Date of Decision: 3/10/2016
 Appeal Period Ends: 3/24/2016
 Decision Effective: 3/25/2016

Decision: Approved, subject to conditions

Proposal:

The applicant is requesting a variance to allow for a detached structure to be constructed in the required front yard area. The site is located in the "R-2SRD" Single-Family Dwelling Special Review District.

Applicant: April Godwin, 3724 South "D" Street, Tacoma, WA 98418, 253-227-2801

Location: 3724 South "D" Street, parcel number 7470025510

Application No: MLU2015-40000258365

For further information regarding the proposal, **log onto the website at <http://tacomapermits.org> and select "Message Board"**. The case file may be viewed in Planning and Development Services, 747 Market Street, Room 345.

Appeal Procedures:

Reconsideration: Any person having standing may request reconsideration of the Director's decision, based upon errors of procedure or fact, by submitting a request in writing to Planning and Development Services at the address below.

Appeal to Hearing Examiner: Any aggrieved person or entity may appeal to the Hearing Examiner by filing a written Notice of Appeal and submitting the filing fee of \$320.90 to the Hearing Examiners Office (747 Market St, Room 720) which contains the following:

- A brief statement showing how the appellant is aggrieved or adversely affected
- A statement of the grounds for the appeal, explaining why the appellant believes the administrative decision is wrong.
- The requested relief, such as reversal or modification of the decision.
- The signature, mailing address and telephone number of the appellant and any representative of the appellant.

THE FEE SHALL BE REFUNDED TO THE APPELLANT SHOULD THE APPELLANT PREVAIL.

Staff Contact: Dustin Lawrence, Senior Planner, 747 Market St, Room 345, (253) 591-5845, dlawrence@cityoftacoma.org

Environmental Review: Per SEPA, WAC 197-11-800 and TMC Chapter 13.12, the Environmental Official has reviewed this project and determined the project is exempt from SEPA provisions.

To request this information in an alternative format or a reasonable accommodation, please call 253-591-5030 (voice). TTY or STS users please dial 711 to connect to Washington Relay Services.



City of Tacoma
Planning and Development Services Department
747 Market St, Room 345
Tacoma, WA 98402

NOTICE OF LAND USE DECISION



City of Tacoma
Office of the Director
Report And Decision

VARIANCE APPLICATION OF:

April Godwin
3724 South "D" Street
Tacoma, WA 98418

FILE NO: MLU2015-40000258365

SUMMARY OF REQUEST:

The applicant has requested a variance to allow for a detached structure to be constructed in front of the existing house in the required front yard area. The property is located in the "R-2SRD" Residential Special Review District. *Tacoma Municipal Code* Section 13.06.100.F requires that detached accessory buildings be located behind the front wall line of the main building for the subject property.

LOCATION:

The site is located at 3724 South "D" Street; Parcel Number 7470025510

DECISION:

Approved with conditions

Notes:

The appeal period on this decision closes March 24, 2016, and the effective date of this decision is the following business day, provided no requests for reconsideration or appeals are timely filed as identified in APPEAL PROCEDURES of this report and decision.

The Director has jurisdiction in this matter per *TMC* 13.05.030. The applicant bears the burden of proof to demonstrate the proposal is consistent with the provisions of the *TMC*, the applicable provisions and policies of the City's *Comprehensive Plan*, and other applicable ordinances of the City.

FOR ADDITIONAL INFORMATION CONCERNING THIS LAND USE PERMIT PLEASE CONTACT:

Dustin Lawrence
Planning and Development Services
747 Market Street, Room 345
Tacoma, WA 98402
253-591-5845
Email: dlawrence@cityoftacoma.org

SUMMARY OF RECORD

The following attachments and exhibits constitute the administrative record:

Attachments:

A – Site Plan

Exhibits¹:

A – Applicant's justification for the request

B – Photos provided by the applicant

C – Public comment letter in response to the public notice

D – Applicant's response to public comment letter

The Director enters the following Findings of Fact and Conclusions of Law based upon the applicable criteria and standards set forth in the *Tacoma Municipal Code (TMC)*, the policies of the *Comprehensive Plan*, and the Attachment and Exhibits listed above.

FINDINGS OF FACT²

Proposal:

1. The applicant is requesting a variance to allow a partially completed shed to remain located in front of the existing house within the site's required front yard area to remain. See Attachment "A".
2. The shed measures 10 feet wide, 10 feet deep, and 11 feet in height. The partially constructed shed is located roughly 3 feet to 3 feet, 6 inches from the north side property line and in front of the main dwelling. *TMC* 13.06.100.F requires that detached structures be located behind the front wall line of the main dwelling. See Attachment "A".
3. The shed is designed in a manner in which it will appear similar in scale and character with sheds throughout the City's residential neighborhoods. See Exhibit "B".

Project Site:

4. The site address is 3724 South "D" Street. The parcel number is 7470025510
5. The site is developed with a one-story single-family dwelling that was constructed in 1922. The existing dwelling is situated on the far westerly, rear, portion of the site.
6. The existing dwelling is located roughly 11 feet from the west rear property line, five feet from the north side property line, five feet from the south side property line, and 96 feet from the east front property line. The "R-2SRD" Residential Special Review District has a rear yard setback requirement of 25 feet. As such, the site is legally non-conforming to the rear yard setback requirement.
7. The site is rectangular in shape, is 50 feet wide, is 142 feet deep, and contains 7,100 square feet of area.
8. The site has a 95 foot deep front yard obscured by a five to six foot tall solid wood fence facing South "D" Street. The subject site is the only property in the immediate area with a significantly larger front yard and in which the dwelling is situated on the far rear portion.

¹ All Exhibits are contained in Planning and Development Services File No. MLU2015-40000258365. They are referenced and incorporated herein as though fully set forth.

² Any conclusion of law hereinafter stated which may be deemed a finding of fact herein is hereby adopted as such.

9. An existing shed is located within the required front yard along the southerly side property line. The southerly shed is not being included as part of this variance.
10. South "D" Street abuts the site to the east. South "D" Street contains an 80-foot right-of-way with a 28-foot wide paved street. Curb, gutter, and sidewalks are located on both sides of South "D" Street.
11. The site is located in the "R-2SRD" Residential Special Review District. In addition to the location requirement for accessory structures, five foot side yard setbacks, a 20 foot front yard setback, and a 25 foot rear yard setback are required.
12. The Generalized Land Use Element (GLUE) of the City's *Comprehensive Plan* identifies the site as located within a "Single-Family Detached Housing" area.

Surrounding Area:

13. The surrounding area is located in the "R-SRD" Residential Special Review District.
14. The surrounding area is developed with older single-family dwellings that were constructed prior to the establishment of zoning within the City.

Additional Information:

15. The applicant has provided a written analysis of how they believe the proposal is consistent with the criteria required to be met for the approval of a variance. The Director understands the key points of the applicant's justification to be that the property does not have a functional backyard; all zoning requirements will be met; it is reasonable to allow the variance; that the request is fair and equitable; the shed will be attractive; the neighborhood will not be negatively impacted; the shed has already been constructed, and that loss of the shed would result in costs being incurred. The applicant's justification for the variance request is marked as Exhibit "A" to this report and decision.
16. A Notice of Violation/Stop Work Order was issued on September 30, 2015 due to the construction of the shed that is the subject of this variance. While the Stop Work Order notes that permits need to be obtained, IRC Section R105.2 notes that structures less than 200 square feet do not require a building permit. However, said structures must meet various codes and regulations, including the front yard location requirement for accessory structures.
17. Pursuant to WAC 197-11-800, Subsection (6)(b) and the City of Tacoma's *SEPA* Procedures, this proposed action is categorically exempt from the Threshold Determination and Environmental Impact Statement requirements of *SEPA*.
18. The application was filed and determined complete on November 9, 2015.

Public Notice:

19. Public notice of the application was mailed on November 25, 2015 to owners of property within 100 feet of the site as indicated by the Pierce County Assessor/Treasurer's records, the South End Neighborhood Council, and qualified neighborhood groups, allowing a 14-day comment period.
20. The property owner to the north at 3720 South "D" Street, John Coyne, provided a letter raising multiple concerns regarding the proposed variance. The concerns include that the shed impacts light to Mr. Coyne's kitchen, the shed is in close proximity to an existing pergola, the shed can be seen from neighboring properties, the shed may be a fire hazard, and that Mr. Coyne attempted to work with the applicant. The comment letter is marked as Exhibit "C".

21. The applicant provided a response to the comments provided from Mr. Coyne. In response, the applicant notes that Mr. Coyne never attempted to work with them to find an agreeable location for the shed, that the exact distance of the sheds north wall and the property line cannot be confirmed at this time, the shed will be at least 3.5 feet from the north property line, that the distance between the shed and pergola was verified by City of Tacoma staff, that the only issue of concern is the placement of the shed within the required front yard, and that Mr. Coyne's garage presents a greater fire risk than the proposed shed. The response letter is marked as Exhibit "D".

Applicable Regulations:

22. Construction of accessory structures and additions thereto is a permitted activity in the "R-2SRD" Residential Special Review District, subject to development regulations, including the accessory structure location requirement. See *TMC* 13.06.100.F
23. *TMC* 13.06.645.B.1 contains the review criteria for approval of a variance request of this type.

CONCLUSIONS OF LAW³

Criteria for Review and Analysis of Criteria:

1. In order for the Director to authorize a variance, the request must be found consistent with all criteria set forth in Section 13.06.645.B.1 of the *TMC*. The relevant criteria, as stated in *TMC* 13.06.645.B.1, are as follows:

(1) The restrictive effect of the specific zoning regulation construed literally as to the specific property is unreasonable due to unique conditions relating to the specific property, and which do not result from the actions of the applicant, such as: parcel size; parcel shape; topography; location; documentation of a public action, such as a street widening; proximity to a critical area; or character of surrounding uses.

The site is developed with a single-family dwelling that is situated on the far westerly portion of the site. Because of the dwelling's location, a significantly larger front yard exists while there is no functional rear yard. The location of the existing dwelling makes construction of a detached structure in the rear yard impractical and therefore, the location requirement for detached structures is unreasonable due to unique conditions affecting the property. See Exhibit "A"; Findings 4-9, 15, 22-23.

(2) The requested variance does not go beyond the minimum necessary to afford relief from the specific hardship affecting the site.

The minimum relief necessary for the subject variance would be to allow an accessory structure in the required front yard. The applicant has placed the shed in a portion of the front yard that, when conditioned properly, will be located within the standard setbacks required in the "R-2SRD" Residential Special Review District. The request is the minimum necessary to provide relief. See Attachment "A"; Exhibit "A" and "B"; Findings 1-11, 15, 16 and 22.

(3) The grant of the variance would allow a reasonable use of the property and/or allow a more environmentally sensitive site and structure design to be achieved than would

³ Any Finding of Fact later deemed to be a Conclusion of Law is hereby adopted as such.

otherwise be permitted by strict application of the regulation, but would not constitute a grant of special privilege not enjoyed by other properties in the area.

The use of the site is reasonable, as the construction of accessory structures is an allowed activity in the "R-2SRD" Residential Special Review District. Further, the variance will allow for a structure in a generally viable location given the location of the existing dwelling. If other properties presented similar facts, they could expect similar relief. Thus, the proposal would not constitute a grant of special privilege. See Attachment "A"; Exhibit "A" & "B"; Findings 1-14, 19-22.

- (4) *The grant of the variance will not be materially detrimental or contrary to the Comprehensive Plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners.*

While the existing dwelling and the exceptional size of the front yard are not consistent with the character of the neighborhood, small sheds are a common feature found throughout the neighborhood and City. In order to preserve the character of the area as much as possible while still allowing the shed within the front yard, the structure will meet all required setbacks established by the "R-2SRD" Residential Special Review District. Nothing in the record indicates the proposal will adversely affect the rights of neighboring property owners. Further, the proposal is not contrary to *Comprehensive Plan*. See Attachment "A"; Exhibits "A"; Findings 1-15, 17, 19-23.

- (5) *The grant of the variance will not cause a substantial detrimental effect to the public interest.*

One comment letter was received by the City in response to the public notice. The letter brought up multiple issues regarding the potential detriment that would result to the neighborhood by granting of the variance. One concern was regarding the shed's close proximity to the north side property line. The Director notes that if an addition to the main dwelling or a new main dwelling were proposed, it would be required to be located at least 5 feet from the north side property line. Therefore, it is reasonable that any other structure should also have to meet this requirement. Therefore, the shed shall be required to meet the 5 foot side yard setback. As conditioned and because of the unique conditions, the established character, and the small scale of the shed, it is the Director's opinion that granting of the variance to allow the detached structure would not cause a substantial detrimental effect to the public interest. . See Exhibits "A" – "D"; Findings 1-3, 5-9, 19-23.

- (6) *Standardized corporate design and/or increased development costs are not cause for variance.*

No information has been submitted to the Director that would indicate that this project involves corporate design.

DECISION

Based on the findings and conclusions, the requested location variance for an accessory structure is **APPROVED**, subject to the following conditions.

Conditions:

1. The shed shall be located an additional 1.5 to 2 feet to the south. This will result in the shed providing a minimum five foot north side yard setback. Should the applicant or City inspector wish to dispute the location of the existing shed, a professional land survey

shall be required demonstrating that the shed will be five feet from the north side property line. Obtaining and paying for the survey will be the responsibility of the applicant.

2. The applicant shall contact the building inspector for the area and have the inspector verify that the shed is providing a five foot north side yard setback.
3. In addition to the zoning code, the applicant shall ensure that the shed meets all other City requirements, including those that pertain to fire and building safety.

Advisory Notes:

The below notes are meant to provide additional information to the applicant relative to the specific development proposal. These notes are not conditions of the permit nor do they constitute a complete review of the project.

1. The decision set forth herein is based upon representations made and information, including development plans and proposals, submitted to the Director. Any substantial change(s) or deviation(s) in such development plans, proposals, or conditions of approval imposed shall be subject to the approval of the Director, and may require additional permitting, public notification and comment.
2. The variance shall become void after a period of five (5) years has expired from the date of this decision or appeal decision in the event no substantial construction has taken place in accordance with plans for which the variance was authorized.

ORDERED this 10th day of March, 2016.



Peter Huffman
Director, Planning and Development Services

FULL DECISION TRANSMITTED by first class mail to:

April Godwin, 3724 South "D" Street, Tacoma, WA 98418
John Coyne, 3720 South "D" Street, Tacoma, WA 98418
Pierce County Office of the Assessor-Treasurer, Darci Brandvold, 2401 South 35th Street, Room 142, Tacoma, WA 98409-7460

SUMMARY OF DECISION TRANSMITTED by first class mail and interoffice to:

All owners of property as indicated by the Pierce County Assessor/Treasurer's records within 100 feet of the subject site.

South End Neighborhood Council of Tacoma
Steve Ward, PDS
Brad Dorman, NCS

NOTE: Pursuant to RCW 36.70B.130, you are hereby notified that affected property owner(s) receiving this notice of decision may request a change in valuation for property tax purposes consistent with Pierce County's procedure for administrative appeal. To request a change in value for property tax purposes you must file with the Pierce County Board of Equalization on or before July 1st of the assessment year or within 30 days of the date of notice of value from the Assessor-Treasurer's Office. To contact the board, you may call 253-798-7415 or by e-mail at www.co.pierce.wa.us/boe.

RECONSIDERATION and APPEAL PROCEDURES

Any request for RECONSIDERATION and/or any APPEALS must be submitted in the applicable manner as outlined below on or before **March 24, 2016**.

RECONSIDERATION:

Any person having standing under the ordinance governing this application and feeling that the decision of the Director is based on errors of procedure or fact may make a written request for review by the Director within fourteen (14) days of the issuance of the written order. This request shall set forth the alleged errors, and the Director may, after further review, take such further actions as deemed proper, and may render a revised decision. A request for RECONSIDERATION of the Director's decision in this matter must be filed in writing to the staff contact listed on the first page of this document.

APPEAL TO HEARING EXAMINER:

Any decision of the Director may be appealed by any aggrieved person or entity as defined in Section 13.05.050 of the *Tacoma Municipal Code*, within fourteen (14) days of the issuance of this decision, or within seven (7) days of the date of issuance of the Director's decision on a reconsideration, to appeal the decision to the Hearing Examiner.

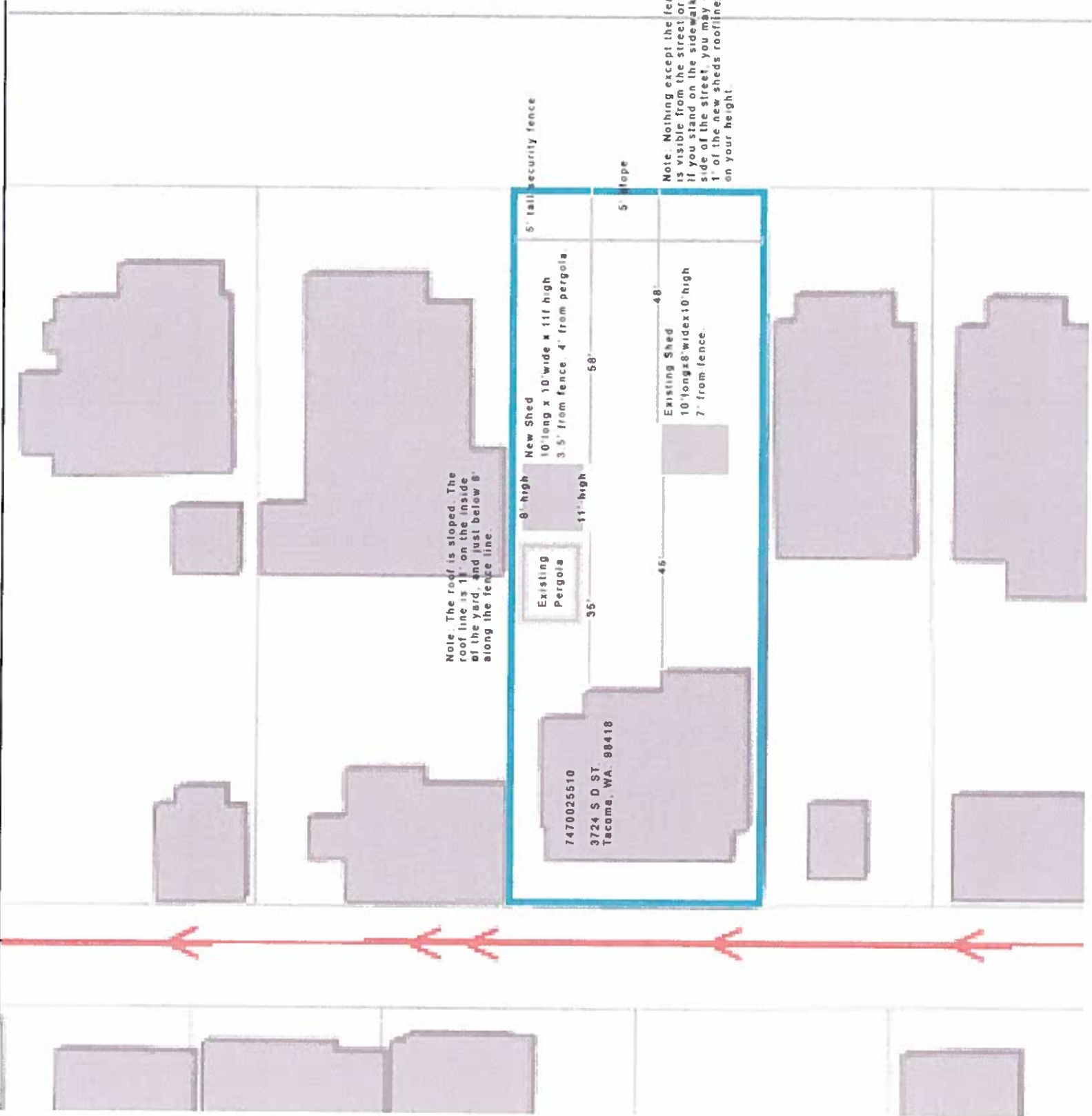
An appeal to the Hearing Examiner is initiated by filing a Notice of Appeal accompanied by the required filing fee of **\$320.90**. Filing of the appeal shall not be complete until both the Notice of Appeal and required filing fee has been received. **THE FEE SHALL BE REFUNDED TO THE APPELLANT SHOULD THE APPELLANT PREVAIL.** (Pursuant to Section 2.09.020 of the *Tacoma Municipal Code*, fees for appeals shall be waived for qualifying senior citizens and persons who are permanently handicapped who are eligible for tax exemption because of financial status.)

The Notice of Appeal must be submitted in writing to the Hearing Examiner's Office, Seventh Floor, Tacoma Municipal Building, and shall contain the following:

- (1) A brief statement showing how the appellant is aggrieved or adversely affected.
- (2) A statement of the grounds for the appeal, explaining why the appellant believes the administrative decision is wrong.
- (3) The requested relief, such as reversal or modification of the decision.
- (4) The signature, mailing address and telephone number of the appellant and any representative of the appellant.

S D S T

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Note: The roof is sloped. The roof line is 11' on the inside of the yard, and just below 8' along the fence line.

5' tall security fence

New Shed
10' long x 10' wide x 11' high
3.5' from fence, 4' from pergola

Existing Pergola
8' high
11' high

7470025510
3724 S D ST
Tacoma, WA, 98418

58'

35'

Existing Shed
10' long x 8' wide x 10' high
7' from fence.

5' slope

Note: Nothing except the fence is visible from the street or the sidewalk. If you stand on the sidewalk on other side of the street, you may see about 1' of the new sheds roofline, depending on your height.