



City of Tacoma
Office of the Director
Report And Decision

VARIANCE APPLICATION OF:

Robert Mattson
1766 N Jackson
Tacoma, WA 98406-1131

FILE NO: LU18-0199

SUMMARY OF REQUEST:

The applicant has requested front yard setback variance of 19.5 feet in order to allow for a future expansion of a single family dwelling (garage expansion). The property is located in the "R-1 VSD" Single-Family Dwelling District & View Sensitive Overlay District. *Tacoma Municipal Code* Section 13.06.100 requires a minimum front yard setback of 25 feet for the subject site.

LOCATION:

The site is located at 1766 N Jackson Ave; Parcel Number 5930000350.

DECISION:

The requested setback variance is **APPROVED**, subject to conditions.

Notes:

The appeal period on this decision closes September 13th, 2018 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:

Larry Harala
Planning and Development Services
747 Market Street, Room 345
Tacoma, WA 98402
253-591-5845
Email: lharala@cityoftacoma.org

SUMMARY OF RECORD

The following attachments and exhibits constitute the administrative record:

Attachments:

A – Applicant submitted elevations

B – Site Plan

Exhibits¹:

A – Applicant’s Justification for the Request

B – Public Notice Postcard

C – Public Notice Response

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 Exhibit listed above.

FINDINGS OF FACT²

Proposal:

1. The applicant proposes to expand the existing garage in order to accommodate on site, in garage parking in a more convenient manner. See Attachment “A”.
2. As proposed, the project does not meet all of the TMC 13.06.100 setback requirements of the “R-1 VSD” Single-family Dwelling district & View Sensitive Overlay District. Specifically, there is a 25 foot front yard setback requirement and with the proposed configuration of the expanded garage provides for only a 5.5 foot setback. See Attachments “A” “B” “C”.

Project Site:

3. The site address is 1766 N Jackson Ave; Parcel Number 5930000350.
4. The site is developed with a single-family dwelling built in 1958. The home is situated on the central portion of the property on The dwelling is setback roughly 18 feet from its front property line to the east, providing a largely compliant front yard. The rear yard of the property is steeply sloped. The south side yard is currently comprised of a gravel drive along the southern property line.
5. North Jackson Street, abutting the site to the east, contains generally a 60-foot right-of-way however in front of the subject site the street widens out to a 70-foot right-of-way that is paved to a width of 30 feet. Curb and gutter abutting the site and presently there is no sidewalk. The actual property line is set back approximately 20 feet from paved roadway. There is an 18 foot wide concrete driveway which is approximately 20 feet in depth from the property line to the paved roadway
6. The site is located in the “R-2” Single-Family Dwelling District.
7. The Land Use Designation for the site, as specified in the City’s *Comprehensive Plan*, is “Single-Family Residential”.

¹ All Exhibits are contained in Planning and Development Services File No. LU18-0199. 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.

8. The site is generally trapezoidal in shape, measuring 87 feet wide on average by 80 feet deep and contains approximately 9,000 square feet of lot area. The site has narrows from 110 feet in lot width on the north end of the lot to 62 feet of lot width on the south end.

Surrounding Area:

9. The surrounding area is developed with a mix of 1,500 to 3,000 square foot single-family dwellings and is located in the "R-1 VSD" Single-Family Dwelling & View Sensitive Overlay District. Properties in this area are generally 9,000 square feet in area or more and have a front yard setback of 20 feet and a rear yard setback of 25 feet.

Additional Information:

10. 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. Specifically the odd shape of the lot in combination with steep slope at the rear of the lot and view sensitivity of the site make expansion to the rear or south problematic. Preliminary critical area review indicated that geotechnical evaluation would have to occur for expansion in the rear yard, as well a rear yard setback variance would need to be undertaken. Expansion to the south would impact views of the properties to the east.
11. The Director understands the key points of the applicant's justification to be that the location of the existing dwelling makes any expansion of the garage difficult, that all other setback and development standards will be met, that the distance between the proposed expansion of the dwelling will be compliant with fire code requirements, that the request is the minimum necessary.

The proposal would not present an undue impact to the adjacent properties and, that the proposal is consistent with numerous Comprehensive Plan policies, and that the proposal will have a minimum impact to the neighborhood. The adjacent right of way will not be unduly impacted as Jackson Street is effectively a dead end and there is not currently a sidewalk in front of the home and while the driveway is technically within the public right of way, yet there will still be more than 20 feet of driveway between the property line and the roadway then an additional five feet from property line to garage. The applicant is aware that they may not park vehicles over the area where the sidewalk would be. Additionally traffic engineering has requested that as part of this proposed development the applicant modify the driveway to have pigmented pavement markings which indicate the approximate location of the property line.

The applicant's justification for the variance request is marked as Exhibit "A" to this report and decision.

12. 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*.
13. The application was filed and determined complete on July 11th, 2018.

Public Notice:

14. Public notice of the application was mailed on August 9th, 2018 to owners of property within 100 feet of the site as indicated by the Pierce County Assessor/Treasurer's records, the West End Neighborhood Council, and qualified neighborhood groups, allowing a 14-day comment period.
15. One public comment was received. The public notice is marked Exhibit "C".

16. In response to the public comment letter, the applicant noted that the proposal will be consistent with the City of Tacoma's Comprehensive Plan, that the proposal won't have a negative impact on the neighborhood, and that the proposal will allow for preservation of views for his neighbors. . The applicant's response to the public comment letter is marked as Exhibit "A".

Applicable Regulations:

17. Construction of single-family dwellings and additions thereto is a permitted activity in the "R-2 VSD" Single-Family Dwelling District & View Sensitive Overlay District, including front and rear yard setback requirements. See *TMC* 13.06.100.

18. *TMC* Section 13.06.645.B.1.b includes the criteria required for approval of these variances.

19. The *Comprehensive Plan*, which sets forth policy regarding development in the City of Tacoma, provides the following policy guidance relative to residential development:

GOAL DD-4 | Enhance human and environmental health in neighborhood design and development. Seek to protect safety and livability, support local access to healthy food, limit negative impacts on water and air quality, reduce carbon emissions, encourage active and sustainable design, and integrate nature and the built environment.

Policy DD-4.1 *Preserve and enhance the quality, character and function of Tacoma's residential neighborhoods.*

Policy DD-4.3 *Encourage residential infill development that complements the general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping. Allow a range of architectural styles and expression, and respect existing entitlements.*

Goal H-1 | Promote access to high-quality affordable housing that accommodates Tacomans' needs, preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.

Policy H-1.1 *Maintain sufficient residential development capacity to accommodate Tacoma's housing targets.*

Goal H-4 | Support adequate supply of affordable housing units to meet the needs of residents vulnerable to increasing housing costs.

Policy H-4.10 *Encourage development and preservation of small resource-efficient and affordable single family homes throughout the City.*

CONCLUSIONS OF LAW³

Analysis of Review 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.
 - a. *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 currently developed with a single-family dwellings situated on the central portion of the property. The odd shape of the lot in combination with steep slope at the rear of the lot and view sensitivity of the site make expansion to the rear or south infeasible creating a hardship. Preliminary critical area review indicated that geotechnical evaluation would have to occur for expansion in the rear yard, as well a rear yard setback variance would need to be undertaken if the applicant were to consider a similar garage expansion in the rear yard area. Expansion to the south would impact views of the properties to the east, and while that is not in violation of TMC 13.06.100, it does represent an adverse impact to neighbors. See Exhibit "A""B""C".
 - b. *The requested variance does not go beyond the minimum necessary to afford relief from the specific hardship affecting the site.*

The applicant has requested that the front yard of 5.5 feet deep where 25 feet is required. The applicant has demonstrated that a similar expansion to the rear or south would be as or more impactful to the neighborhood, and also require setback variance request to TMC 13.06.100 setback standards. Therefore, the request is the minimum necessary to afford relief from the hardship. This would result in a 21 foot front yard setback for the subject site. See Attachment "A" "B" "C"; Exhibit "A".
 - c. *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 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 single-family dwellings is a permitted activity in the "R-2". The variance, will allow for two existing dwellings that are non-compliant tot current City of Tacoma zoning regulations to remain, while being positioned on individual lots as well as providing an infill lot for a new single-family dwelling. The block density of the area will be consistent with what is normally present throughout the "R-2." If other properties in the area presented similar facts, they could expect similar relief. Thus, the proposal would not constitute a grant of special privilege. See Attachment "A" "B" "C"; Exhibit "A".
 - d. *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.*

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

The neighborhood is characterized as having older single-family dwellings that provide a minimum front yard setback of 20 feet and are located on lots with 9,000 square feet of area or more. However, if this proposed variance is granted the character of the neighborhood will remain the same, as the appearance of the site from North Jackson Avenue will remain essentially the same. The modified setbacks will not impact the views of adjacent properties as the home is existing and is not moving, and the garage expansion will be within the profile of the home, the roofline will remain unchanged from the perspective of views.

The proposal will be consistent with the character of the neighborhood and by providing a more updated garage bring the home more in line with larger, newer homes in the neighborhood. Nothing in the record indicates the proposal will adversely affect the rights of neighboring property owners. The proposal is not contrary to *Comprehensive Plan*. See Attachment "A" "B" "C"; Exhibit "A".

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

The proposal will not have a negative impact on the character of the surrounding neighborhood. The proposal is not contrary to the *Comprehensive Plan*. This variance request has had public notice and one public comment was received. In addition, potential off-site improvements will be assessed with the preliminary short plat application. The block density will still be consistent with the the policies of the *Comprehensive Plan*. The granting of the variance to will not cause a substantial detrimental effect to the public interest. See Attachment "A" "B" "C"; Exhibit "A"..

- f. *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 setback variance is **APPROVED**, subject to the following conditions:

Conditions:

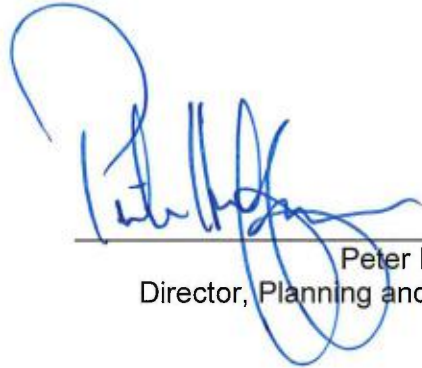
1. The future division and development of the property shall be substantially consistent with the site plan and elevation drawings marked as Attachments "**A**" "**B**" "**C**"; with this variance.
2. Access for Lot 2 will come from the new access way along the western side of the property.
3. Traffic engineering is requiring a concrete colored band be constructed along the property line to delineate public ROW and restricted vehicular parking area.
4. Any future development will comply with all applicable City of Tacoma development regulations and requirements at the time of development.

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 30th day of August, 2018.



Peter Huffman
Director, Planning and Development Services

FULL DECISION TRANSMITTED by first class mail to:

Robert Mattson 1766 N Jackson Tacoma, WA 98406-1131

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. West End Neighborhood Council of Tacoma.

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 September 28, 2018.

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 **\$343.00**. 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.