

Roseway Neighborhood Association
4415 NE 87th Avenue
Portland, OR 97220

Appeal Statement

Roseway Neighborhood Association is submitting an appeal of the decision to approve the adjustment requested in LU 07-105025 AD.

This was a requested adjustment to code section 33.110.235, which requires an outdoor area of at least 250 square feet, with a dimension that allows a 12' by 12' square to fit entirely within the outdoor area. The applicant requested a reduction in the minimum dimension to permit a narrower width of 10', but a longer length. The requested reduction from 12' to 10' is a reduction of 17%, or cutting the width of the outdoor area by 1/6.

Roseway does not believe that applicant has met the adjustment criteria and therefore is appealing the decision.

Background:

The subject property is approximately 2500 square feet in size, substandard under the current R-5 zoning, located in what was the rear yard of a small house fronting on NE 79th Avenue. The lot was made buildable in 2006 by reverting to historic underlying platting through lot segregation, while pursuing a property line adjustment to re-orient the lot line. The now-buildable lot has an irregular lot line along the NE Klickitat Street frontage that is inconsistent with the square or rectangular lots found within the neighborhood. Although this lot is odd-shaped and small, Roseway Neighborhood Association does recognize that the lot is buildable under the Code, provided Title 33 standards can be met.

Approval Criteria:

The approval criteria, A through F, for adjustments are found at 33.805.040:

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

The applicant has proposed that an outdoor area of 10' by 19' will equally or better meet the purpose of the regulation, because 46 more square feet are being provided.

Roseway Neighborhood Association finds that this proposal does NOT equally or better meet the purpose of regulation, which is intended to:

...assure opportunities in the single-dwelling zones for outdoor relaxation or recreation. The standards work with the maximum building coverage standards to ensure that some of the land not covered by buildings is of an adequate size and shape to be usable for outdoor recreation or relaxation. The location requirements provide options for private or semiprivate areas. The requirement of a required outdoor area serves in lieu of a large rear setback requirement and is an important aspect in addressing the livability of a residential structure.

Roseway holds that Title 33 specifically contains a minimum dimension to ensure usability of the required outdoor area, as a critical component of livability. Increased square footage does not mean better or even equal usability – the dimension of the space is the critical component. The dimensions required by the code are square, with a minimum of 12' width.

Roseway believes that the narrower, linear nature of the proposed rectangular outdoor area does not meet the purpose of Code's minimum. Even though a reduction of 2' sounds insignificant, as previously noted, the request is a reduction of 17%, or cutting the width of the outdoor area by 1/6.

The Code already requires a minimum square footage of required outdoor area (250 s.f.), which the applicant is meeting. If square footage were the only issue, the Code would not require a minimum dimension. Therefore, Roseway holds that the applicant's proposal to provide more square footage in lieu of the required width DOES NOT equally or better meet the purpose of the regulation.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area...

If approved, this adjustment will detract from the livability of the surrounding residential lots. While the proposal meets or exceeds setback standards, the Code notes that the required outdoor area is in lieu of a "large rear setback". Because the lot is already smaller than typically found in R-5 zoning, any further reduction in the usable outdoor area dimension will be detrimental to surrounding neighbors, both currently and into the future.

C. Not Applicable – only one adjustment is being requested at this time.

D. Not Applicable – no scenic or historic resources are located in the area

E. Any impacts resulting from the adjustment are mitigated to the extent practical;

Roseway Neighborhood Association finds that the impacts from the adjustment are NOT mitigated. As previously noted, the lot is smaller than would be permitted in the R-5 zone under most circumstances, resulting in a home larger than many nearby residences but on a lot half the size. With the requested adjustment, livability of the neighboring properties will be negatively impacted for the reasons previously noted and no mitigation has been proposed for negative impacts on other properties.

F. Not Applicable – not in an environmental zone.