



April 13, 2015

Land Use File(s): ADU-2015-002

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on April 13, 2015.

Applicant(s): Ben Bianchi
Location(s): 5704 SE Flora Dr.
Tax Lot(s): 12E30DB01000
Application Type(s): Accessory Dwelling Unit Review
Decision: Approved with Conditions
Review Criteria: Milwaukie Zoning Ordinance:

- MMC Section 19.301 Low Density Residential Zones
- MMC Section 19.600 Off-street Parking and Loading
- MMC Section 19.910.1 Accessory Dwelling Units
- MMC Section 19.1005 Type II Review

Neighborhood(s): Lewelling

Appeal period closes: 5:00 p.m., April 28, 2015

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Vera Koliass, Associate Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on April 28, 2015, which is 15 days from the date of this decision. Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years

of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Ben Bianchi, has applied for land use review to allow the construction of a detached garage with a 780 sf accessory dwelling unit (ADU) on the second floor at 5704 SE Flora Dr. This site is in the R-10 Zone. The land use application file number is ADU-2015-002.
2. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 Low Density Residential Zones
 - MMC Section 19.600 Off Street Parking and Loading
 - MMC Section 19.910.1 Accessory Dwelling Units
 - MMC Section 19.911 Variances
 - MMC Section 19.1006 Type III Review
3. The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review.
4. MMC 19.301 Low Density Residential Zones
 - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.
 - b. The property was annexed into the City in 2014. Prior to being annexed, the property had two single family homes; one home was demolished, which is the general location of the proposed detached garage and ADU.
 - c. The applicant has proposed a two-story detached garage with a 780 sf ADU on the second floor located behind the existing primary dwelling unit and approximately 114 ft from the front property line on SE 56th Ave.

d. **Table 1. Compliance with relevant R-10 standards**

R-10 Zone	Standards	Existing	Proposed
Lot Coverage	30% max.	Approx. 9%	Approx. 19%
Front Yard Setback	20 ft	18 ft (existing home)	18 ft (existing home) 114 ft (ADU)
Rear Yard Setback	20 ft	107 ft (existing home)	107 ft (existing home) 20 ft (ADU)
Side Yard Setback	10 ft	16 ft/18 ft (existing)	16 ft/18 ft (existing)

R-10 Zone	Standards	Existing	Proposed
		home)	home) 13 ft/22 ft (ADU)

The proposal complies with the applicable standards of the R-10 zone.

5. MMC Chapter 19.600 Off Street Parking and Loading

- a. MMC 19.605.1 establishes minimum off-street parking requirements. Single family homes are required to provide a minimum of 1 off-street parking space per dwelling unit.

The applicant has proposed a detached garage to provide off-street parking for both the existing single family home and the ADU.

- b. MMC 19.607.1.C.1 establishes the development standards for residential driveways and off-street parking areas.

The applicant has proposed a gravel driveway from SE Flora Drive to the garage. All vehicle parking areas and maneuvering areas located within a required front or side yard must have a durable and dust-free hard surface. A condition has been established to require compliance with this section.

As conditioned, the proposal complies.

6. MMC Chapter 19.910.1 Accessory Dwelling Units

- a. MMC 19.910.1 establishes the design and development standards that are applicable to ADUs. Table 2 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The applicant has proposed a 780 sf ADU located 114 ft from the front property line on the second floor of a new detached garage.

Table 2. Compliance with relevant ADU standards

ADU	Type I	Type II	Proposed
Maximum Structure Footprint	600 sf	800 sf	780 sf
ADU Front Yard Setback	10 ft behind front yard (10' behind front façade of the primary dwelling) unless located at least 40' from the front lot line		114 ft
Design Standards	(1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 standard.		
	(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.		n/a

ADU	Type I	Type II	Proposed
	(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.		n/a
	(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.		Eaves will project 12 in
	(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.		Horizontal lap siding in proposed.
	(e) Window trim around all windows at least 3 in wide and 5/8 in deep.		Window trim will be used on the street side and driveway side.
Privacy Standards	(1) A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria. Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.		
	(a) The wall is within 20 ft of a side or rear lot line.		20 ft
	(b) The wall is at an angle of 45 degrees or less to the lot line.		yes
	(c) The wall faces an adjacent residential property.		Rear property line
	(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.		
	(a) All windows on a wall shall be placed in the upper third of the distance between a floor and ceiling.		Interior access stairs are located on the east side and a small window for light is proposed; no sight lines exist in this small window.
	(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft		n/a

ADU	Type I	Type II	Proposed
	high within 1 year. Existing features on the site can be used to comply with this standard.		

The proposal complies with the applicable standards for a detached ADU in the R-10 zone.

b. MMC 19.910.1.D establishes the criteria for approving a Type II accessory dwelling unit.

An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.

- (1) *The standards in Subsection 19.910.1.D.1 are met.*
 - a. *An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.*
 ADUs are permitted in the R-10 zone. This criterion is met.
 - b. *The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.*
 The primary use of the subject property is a single-family dwelling. This criterion is met.
 - c. *One accessory dwelling unit per lot is allowed.*
 This is the only ADU proposed on the subject property. This criterion is met.
 - d. *The development standards of Subsection 19.910.1.E are met.*
 Table 2 identifies all of the design and development standards in Subsection 19.910.E and how the proposed ADU complies with them.
 This criterion is met.
- (2) *The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.*
 The design of the proposed ADU is not incompatible with homes on adjacent lots.
 This criterion is met.
- (3) *The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.*
 The ADU is positioned such that it sits sideways on the lot and is set back 20 ft from the rear property line – the nearest residential abutter. The more open and transparent sides of the ADU have been placed to the interior and side of the lot which will not impact the privacy of adjacent residential properties. The east side of the structure faces the rear yard of the adjacent lot and has been designed to

only have a small window above the access staircase. There are no sight lines into or out of the ADU on this side. An existing 6 in holly tree on this side of the ADU is to be retained.

This criterion is met.

- (4) *There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.*

The lot is mostly lawn; the eastern lot line has an existing 6 in holly tree which will be retained. The east side of the structure faces the rear yard of the adjacent lot and has been designed to only have a small window above the interior access staircase. There are no sight lines into or out of the ADU on this side. The rear side of the ADU is 13 ft from the side property line and the adjacent lot is a park.

This criterion is met.

7. As per MMC 19.906.2.C, the proposed development is exempt from the requirement to submit a development review application and the other requirements of MMC 19.906 Development Review. However, the proposal must still comply with all applicable development standards and will be reviewed during the building permit review process.
8. The application was referred to the following departments and agencies on March 13, 2015: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Lewelling Neighborhood District Association. Notice of the application was also sent to surrounding property owners within 300 ft of the site on March 18, 2015, and a sign was posted on the property on March 19, 2015. No comments were received by the City.

Conditions of Approval

1. Per MMC 19.607.1.C.1.b the first 10 ft of driveway from SE Flora Drive to the garage shall be constructed with a durable and dust-free material.

Other requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



Dennis Egner, AICP
Planning Director

cc: Ben Bianchi (13760 SW Twelve Oaks Ct, Tigard, OR 97224)
Steve Nys, Nys Associates (10250 SW 87th Ave, Suite B, Tigard, OR 97223)
Planning Commission (*via e-mail*)
Jason Rice, Acting Community Development Director; Engineering Director (*via e-mail*)
Brad Albert, Civil Engineer (*via e-mail*)
Samantha Vandagriff, Building Official (*via e-mail*)
Bonnie Lanz, Permit Specialist (*via e-mail*)
Mike Boumann and Matt Amos, CFD#1
NDA(s): Lewelling (*via e-mail*)
Interested Persons
Land Use File(s): ADU-2015-002