

MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503.786.7630
 planning@milwaukieoregon.gov

RECEIVED
 JUN 24 2024

CITY OF MILWAUKIE
 PLANNING DEPARTMENT

Appeal of Land Use Decision

File #AP- 2024-001

APPEAL INFORMATION:

Appeal of File # <u>VR-2024-003</u>	Site Address: <u>11932 SE 35th Ave</u>
Review Type of Decision: <input type="checkbox"/> I <input type="checkbox"/> II <input checked="" type="checkbox"/> III	
Appeal Type: <u>Unrestricted De Novo</u>	<u>On the Record De Novo</u>
Map & Tax Lot(s): <u>11E36DB09500</u>	Zoning: <u>R-MD</u>
Comprehensive Plan Designation: <u>MD</u>	Size of property: <u>7,160 sq ft.</u>

RESPONSIBLE PARTIES:

APPELLANT: <u>Barbara Allan</u>
Mailing address: <u>11974 SE 35th Ave Milwaukie Zip: 97222</u>
Phone(s): <u>971-401-4317</u> Email: <u>plantlassie@gmail.com</u>
APPELLANT'S REPRESENTATIVE (if different than above): <u>Teresa Bresaw Lake Rd NDA</u>
Mailing address: <u>12744 SE Weedman Ct Milwaukie Zip: 97222</u>
Phone(s): <u>503-786-4690 L.L.</u> Email: <u>tbresaw50@gmail.com</u>

STANDING FOR APPEAL (check applicable box):

Applicant or applicant's representative from Type I, II, or III decision Barbara Allan, Teresa Bresaw

Person or organization adversely affected or aggrieved by Type II decision

Person or organization that participated or provided testimony or evidence on the record for Type III Hearing decision. List the date and briefly describe the form of participation, testimony, or evidence: June 11, 2024
May 8 Lake Rd NDA meeting members voted to reject non-conforming extension of setback. 4 neighbors submitted letters, 2 Land Use members' letters, 2 testimonies

BASIS OF APPEAL (attach a detailed statement describing the basis of the appeal): at Hearing

Identify which approval criterion or development standard is believed to have been overlooked or incorrectly interpreted or applied and/or which aspect of the proposal is believed to have been overlooked or incorrectly evaluated.

For appeal of a Type II decision, identify either an error as described above or the manner in which the person filing the appeal was adversely impacted or aggrieved by the decision.

SIGNATURE: Barbara Allan Teresa Bresaw Lake Rd NDA 6/24/2024

ATTEST: I have standing to appeal the land use decision identified on this application and have provided the necessary items and information for filing an appeal per Milwaukie Municipal Code (MMC) Subsection 19.1010.1. To the best of my knowledge, the information provided within this appeal package is complete and accurate.

Submitted by: Teresa Bresaw Date: 6/24/2024

IMPORTANT INFORMATION ON REVERSE SIDE

Attach required statement describing basis of appeal.

APPEAL HEARINGS (excerpted from MMC Subsections 19.1001.5 and 19.1010.3):

Appeals of Type I and II decisions:

Appeals of Type I and II decisions are heard by the Planning Commission. The appeal hearing is an unrestricted de novo hearing, which means that new evidence, testimony, and argument that were not introduced in the original decision can be introduced in the appeal. The standard of review for the Planning Commission is whether the initial decision has findings and/or conditions that are in error as a matter of fact or law. The Planning Commission's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

Appeals of Type III decisions:

Appeals of Type III decisions are heard by the City Council. The appeal hearing is an on-the-record de novo hearing, which means that new evidence that was not introduced in the original decision cannot be introduced in the appeal. New testimony is allowed. New argument is also allowed that is based on evidence already in the record and on testimony that is new or already in the record. The standard of review for the City Council is a new evaluation of existing evidence, new and existing testimony, and new and existing arguments. The City Council's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

DECISIONS NOT SUBJECT TO LOCAL APPEAL:

The initial hearing for Type IV and V decisions is held by the Planning Commission. The Planning Commission does not issue a decision on these types of review and, instead, issues a recommendation to the City Council. This recommendation is not a final decision and is not appealable.

The review authority for Type IV and V decisions is the City Council. Since there is no higher authority within the City, the City Council's decisions on these types of reviews are the City's final decision on the land use application. Appeals of these types of applications may be made to the Oregon Land Use Board of Appeals or other court.

Downtown Design Review applications are considered at a public meeting by the Design and Landmarks Committee. The Design and Landmarks Committee does not issue a decision on these types of review and, instead, issues a recommendation to the Planning Commission. This recommendation is not a final decision and is not appealable.

THIS SECTION FOR OFFICE USE ONLY:

	FILE NUMBER	FEE AMOUNT*	DATE STAMP
APPEAL FILE:	AP-2024-001	\$ <i>0</i> NDA SPONSOR	RECEIVED JUN 24 2024 CITY OF MILWAUKIE PLANNING DEPARTMENT
TOTAL AMOUNT RECEIVED:		\$	
RECEIPT #:			
RCD BY:			
Associated application file #s (appeals, modifications, previous approvals, etc.):			VR-2024-003
Neighborhood District Association(s):			LAKE ROAD
Notes:			

CITY OF MILWAUKIE
 NEIGHBORHOOD DISTRICT ASSOCIATION (NDA)
 MEETING MINUTES

Lake Rd NDA
 May 2024

According to the Oregon Public Meeting and Records Laws, meeting minutes shall include at least the following:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- results of all votes
- the substance of any discussion on any matter; and
- subject to the Public Records Laws, a reference to any document discussed at the meeting.

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CITY OF MILWAUKIE
 PLANNING DEPARTMENT

Minutes do not have to be a verbatim transcript.

NDA: Lake Road	DATE: May 8, 2024
BOARD MEMBERS PRESENT:	
<input type="checkbox"/> Chair: Carla Bantz	<input type="checkbox"/> Secretary: Debby Patten (via zoom)
<input type="checkbox"/> Co-Chair:	<input type="checkbox"/> Treasurer: Alex Cotgreave
<input type="checkbox"/> Public Safety Advisory Committee (PSAC) Representative: Christine Giatti	<input type="checkbox"/> Land Use Committee (LUC) Chair: Paul Hawkins
<input type="checkbox"/> Communications: Kate Houston	LUC Member: Teresa Bresaw
NDA GENERAL MEMBERSHIP PRESENT:	
Mary Weisensee	Barbara Allen (?) planklassie@gmail.com
Jeff Woodard	Ryan Burdick, Captain MPD
Margueritte Kosovich	Karen Kersey
Kelli Keehner	Tanya Walker (tauwnja@hotmail.com)
Albert Chen	Tony Leed
Tony Lewis	

ITEM DISCUSSED:	DATE:
<p>Discussion points: home on se 35th wants to extend the garage, but it would encroach on the next door neighbor's house.</p> <p>jeff wood made motion for nda to write letter, teresa seconded. </p> <p style="text-align: right;">1 of 3</p> <p style="text-align: right;">see back side</p>	

VOTING

Motion: passed, zero no, two abstains

Vote: Passed Failed

Number of Attendees Who Voted Yes:

Number of Attendees Who Voted No:

Kelly Keehner Event this weekend at Milwaukie Floral, great opportunity for Hub

Chief Burdick: three officers have been released, so MPD is working on getting new officers. Four are being trained. Sat May 18 is Cpl Diffy Fund Pancake Breakfast. Records Dept is retiring. Two Traffic units out. Neighborhood Watch - how to start. Cpt Burdick advises calling the non-emergency number. Average 3.5 minutes per call for high priority calls.

Fire Dept - no show

Chair notes: per Jason Wachs, a virtual option is required by state law, NDAs encouraged to follow. recommended that laptops be purchased.

Upcoming Budget meeting on May 11th, please take the water survey. Training and Orientation for new Officers in June. Farmers market sign up, Duck Race is July 13th at Milwaukie Bay Park.

Washington St update from Jason Wach's notes. Minthorn Open House, Library opening 2 hours early on Sunday for summer, closing early on Monday. Plant sale is 11th, 12th.

Dogwood Photo submission May 19th, Bike Milwaukie May 18th. Linwood Garage Sale Jun 1.

PSAC - no meeting last month, from 10-2 every Tuesday, Love One is there to help folks with driver's licenses, getting shelter info, etc. Washington St construction has started doing utility/storm pipe work in roadway. Road closure impacts through Mar 2025.

★ Land Use - 13200 SE WhereElse lane at dead end, vacant lot. three lots, potential development. ★ SE 35th garage extension request. Long discussion on this. Jun 11 is Planning Commission meeting. Neighbor will not agree to this variance but will be out of town for the meeting. *Note*

Halloween potential opening for Bowman/Brae park

2 cleanups : Sundays 10-12

10/20/24, 4/13/25

Need estimate on signs by 5/31 for Alex. Carla to give Alex that.

Picnic is tentatively set for Saturday, Aug 3

People interested: Tanya and Jeff

Where Else lane doesn't have a pass through

2 of 3

Lake Rd May 2024

ITEM DISCUSSED:		DATE: May 8, 2024
Discussion points: The minutes were reviewed prior to the meeting by the membership.		
Motion was made by Christine Giatti to accept the Minutes from the April 10, 2024 Lake Road Neighborhood meeting. The motion was seconded by Jeff.		
VOTING		
Motion: <i>passed</i>		
Vote: <input type="checkbox"/> Passed <input type="checkbox"/> Failed		
Number of Attendees Who Voted Yes:		Number of Attendees Who Voted No:

ITEM DISCUSSED:		DATE: May 8, 2024
J e f	Discussion points: Officer Elections	
	Co-Chair Carla and Debby (debby will do secretary unofficially)	
	Christine Giatti - PSAC	
	Kate - Communications	
	Alex - Treasurer	
	Paul and Teresa - Land Use	
	Jeff motioned, Tanya seconded, Tony abstained	
	another year!!!	

3 of 3

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VOTING

Motion:

Vote: <input type="checkbox"/> Passed <input type="checkbox"/> Failed
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Number of Attendees Who Voted Yes:	Number of Attendees Who Voted No:
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MEETING START TIME: 638	MEETING ADJOURN TIME: 6
	750

NAME OF MEETING RECORDER: Debby Patten	DATE:05/08/24
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**CITY OF MILWAUKIE
NEIGHBORHOOD DISTRICT ASSOCIATION
(NDA)
MEETING MINUTES**

*June 12 2024
Lake Rd NDA*

According to the Oregon Public Meeting and Records Laws, meeting minutes shall include at least the following:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their deposition;
- results of all votes
- the substance of any discussion on any matter; and
- subject to the Public Records Laws, a reference to any document discussed at the meeting.

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CITY OF MILWAUKIE
PLANNING DEPARTMENT

NDA: Lake Road	DATE: June 12, 2024
BOARD MEMBERS PRESENT:	
☐ Chair: Carla Bantz	☐ Secretary: Debby Patten
☐ Co-Chair:	☐ Treasurer: Alex Cotgreave
☐ Public Safety Advisory Committee (PSAC) Representative: Christine Giatti	☐ Land Use Committee (LUC) Chair: Paul Hawkins
☐ Communications:	LUC Member: Teresa Bresaw
NDA GENERAL MEMBERSHIP PRESENT:	
Susanna Pai	Sue Richardson
Jeff Woodard	Ryan Burdick, Captain MPD
Margueritte Kosovich	Colleen Rockwell
Virginia Pai	
Albert Chen	
Karen Kersey	

ITEM DISCUSSED:	DATE:
Discussion points:	
Chief Burdick stabbing at Axletree, school is out, please be careful Library, teenage boy harassing teenage girls Catherine Meier getting red lab for K9, Flora PSF funded position, shout out to them, Dave Hedges Suspicious item left by food carts Suspect from shooting came from Hillsboro and was arrested Working on an IT product to communicate better	

VOTING
Motion: Pass meeting minutes from may Teresa motioned, Christine seconded motion pass Treasury Report 7205.10 Picnic Saturday Aug 3, 11-1

*see back
side
1 of 3*

PSAC Christine didn't attend, meeting hasn't happened yet. May meeting TSP (advisory committee). Gave info about performance measures. System completeness, access to transit, bicycle level of traffic stress, no meeting till august. Needs gap analysis at that meeting. Striping on SE Lake Road is an issue brought up by neighbor. Railroad tracks brought up, Union Pacific owns it.

Land Use Where Else Lane approved, SE 35TH was approved. The owner wants to appeal, Lake Road will support the appeal.

Jeff motioned, Christine seconded and the appeal motion passed. We could show up in addition to the letter. We will email when we get that info.

Ranch style house wants to partition behind business on 27th/SE Lake and put up another house. No issues with this.

Old City Hall being gutted and should open in Spring 2025

Food carts on Main St/Scott

Cloud Pine restaurant is closing, but there might be another restaurant coming in.

Milwaukie is second city in Oregon with Pollinator Pathway on Main St and 21st. Colleen Rockwell spoke on this subject; it's in it's third way. The more plants, the more pollinators. Officially on the agenda in September.

Lisa Batey, fireworks prohibited signs will be ready next week. Milwaukie Parks Foundation handouts. Milwaukie Bay Park: at least 20 years, Two phases have been built. Phase Three - amphitheater, bigger bathroom, play area, splash pad. N Clack Park District took over design and engagement. Picked design 9.6 million price tag. Comm Paul Savas pulled it off in agenda in 2021 based on the idea that Milwaukie was considering leaving the Parks District. Our state parks and fed grants are on the verge of expiring. Let's pressure the County Commissioners to get our park finished! We do have system development charges on new developments that should be able to fill the funding gap.

Status of leaving the Parks District: no movement yet

Sue Richardson: proposal for NDA to have crossing signage painted bet se 43rd and 41st at Freeman due to increase in damage of medians and walls and accidents. Request going to PSAC.

Admin School Building has overgrown weeds and bushes. They would provide supplies if the NDA was willint to do some yardwork.

Debby to contact Code Enforcement.

CERT grant \$150 print flyers for Emergency

Christine motioned, Jeff seconded.

Picnic - Jeff volunteered to get some info

Committee Carla, Debby, Jeff, Mary, Tanya, Susanna. Meet in the next few weeks.

June 20 24

~~*~~ note

~~*~~ Land use

Luke H.

June

Lake Hd NDA

Pass meeting minutes from may

Teresa motioned, Christine seconded

Vote:	<input checked="" type="checkbox"/> X Passed	<input type="checkbox"/> Failed	
Number of Attendees Who Voted Yes: all		Number of Attendees Who Voted No:	

ITEM DISCUSSED:	DATE: June 12, 2024		
Discussion points:			
VOTING			
Motion: Support appeal of house on SE35th Jeff motioned, Christine seconded <i>* note</i>			
Vote:	<input checked="" type="checkbox"/> X Passed	<input type="checkbox"/> Failed	
Number of Attendees Who Voted Yes:		Number of Attendees Who Voted No:	

	ITEM DISCUSSED:	DATE: May 8, 2024
J		
e		
f		

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PAGE #:

VOTING

Motion:

Vote: <input type="checkbox"/> Passed <input type="checkbox"/> Failed
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Number of Attendees Who Voted Yes:	Number of Attendees Who Voted No:
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MEETING START TIME: 631	MEETING ADJOURN TIME:
NAME OF MEETING RECORDER: Debby Patten	DATE: June 12, 2024

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To Milwaukie City Council and the Planning Dept

CITY OF MILWAUKIE
PLANNING DEPARTMENT

I am representing the Lake Road neighborhood (NDA) and Barbara Allan who is the neighbor to the south of the above address. I have been a member of the neighborhood for many years and have served on the Planning Commission for 8 years. I have spent hours reading Milwaukie's comprehensive plan and community vision along with the many codes governing decisions. The 7 neighborhoods are officially recognized as the voice of the neighborhood and the basic building blocks of democracy in Milwaukie. The process is somewhat stacked once the Planning Department has approved the applicant's request unless you hire an attorney. The Planning Commission who are volunteers try to make good decisions but there is pressure to back the planning staff as they think the planners are the experts. Three out of five commission members mentioned maintenance on the cinder block wall as a concern, but Milwaukie's codes don't seem to mention that (checked code compliance etc). There were 3 criteria to approve the application and only 1 is enough to approve. Two commissioners said the criteria were subjective. Commissioner Fuenmayer had concerns about the 6" setback and she abstained from the vote.

Background of applicant property

Last year the applicant working with Paul Roeger , a retired Milwaukie city engineer, helped to get their lot divided into two. They chose to put 5 ft as a setback on the north side of their house in order to get a lot large enough for a 2 story duplex lot. The applicant chose 10 ft to be on the south side of the lot. Ms. Allan had no problem with this since this had no impact on her property or the outlook from her property. Ms Allan was unaware that there could even be the possibility of a variance for a non conforming wall to be extended.

Now the applicant wants to add a bedroom and bathroom to the back of the garage and extend the garage out toward the front another 13 ft. The existing cinder block wall is only 6" from Barbara's property line and is in need of repair. She can see the current wall from her living room window and her backyard.

Ms. Allan and her husband looked for over a year to find a large property where they could garden and plant trees. They divided up their large parcel into two with the intent of building a small home for her mother-in-law. She needed more care and ended up moving into their home (deceased now). The address for the newer lot is 11972 (garage to be demolished and future home built) directly south of applicant's lot. Her home address is 11974 and she has a car port directly behind her house along with a detached garage on the south side of her lot behind the house which were necessary prior to the lot split in 2007.

To be fair looking from the street, a person would think maybe that would be okay as you see 2 garages and 2 separate driveways. However once you walk Barbara Allan's property one gets a whole new perspective! There has been no maintenance on the cinder block wall that is "supposed" to last 100 yrs. It has a crack going down the middle. Things go wrong and 6" does not allow for access around this property without going onto Ms. Allan's property. Apparently there is no design regulation for the required firewall or cinder block in residential construction or regulation for maintenance.

Since a working relationship is built between the applicant and planning staff that started with their lot division there is a well intentioned goal of helping the applicant further and bringing money to the city.

The Lake Road neighborhood has seen many changes over the years and we want our city government to respect property rights and the rules the city has put in place specifically with setbacks. A pre-existing setback of 6" on the side lot of the 1947 house is not a good reason to extend the non-conformance. Yes, it would make it cheaper for the applicant, but the applicant could have added onto the north side, added a second story or added onto the back of the house.

The proposed 6 ft wood fence to mitigate visual impact is not a good idea. The building will extend above the six foot fence, Wood needs maintenance, a fence on the property line is a poor choice for determining ownership of the fence and how does one maintain either the wall or the fence in the six inch space between them. There is a 3 ft fence that is Barbara's fence and she does not want it replaced! She gardens on both lots and wants the air circulation, light and visual space for her plantings. With hotter temperatures she does not want a tall wall (faces south) to reflect heat on her plantings. The extension of the block wall can be built from the inside of applicant's property and a sealer needs to be applied since water can infiltrate and damage the wall. However, what about the crack and how does that get checked out? Should a structural engineer check this out? I would assume the city and the owner wouldn't want a problem with the existing structure or for it to get worse. What about the site inspections by the city or county?

The "proposed" variance does not avoid or minimize impacts to Barbara's 2 lots. It extends out the non-conforming garage unsightly wall from 27 ft to 40 ft visible from her living room window at 11974 and to the new future home at 11972.

The "proposed" variance does not have desirable public benefits as it benefits the applicant and not the neighbors.

The "proposed" variance does not respond to the existing built or natural environment in a creative or sensitive manner, but rather for the sole benefit of the applicant.

If the neighbors agreed to this variance then that would be another matter. The Lake Road NDA wholly support her refusal to allow this! Setbacks are important to maintain each individual property and to intensify this non-conformity is a bad precedent unless the impacted neighbors agree! The existing unsightly wall has not had maintenance and why would it change with the extension?

Teresa Bresaw <tbresaw50@gmail.com>

6/23/2024 2:30 PM

To holmanch <holmanch@comcast.net>

VR-2024-003

VR-2024-003 11932 SE 35th Ave

Code Authority and Decision-Making Review

~~MMC 19.508 Downtown and Building Design Standards~~

~~The cinder block wall with no positive design elements should not be visible from the sidewalk. It is visible.~~

MMC 19.804 Alteration of Nonconforming Uses and Development Provisions

“A nonconforming use shall not be moved in whole or in part to any portion of the site other than that occupied by the nonconforming use, except as allowed per subsection ...”

“No additional development or physical alterations associated with the nonconforming use shall occur except as allowed per subsection...”

“No intensification of the nonconforming use shall occur except as allowed per subsection...”

Land Use Review Required

“The applicant shall demonstrate that the proposed move, alteration, or intensification would result in no more of a detriment to surrounding properties than the existing nonconforming use.”

The subsection refers to exceptions granted by the Planning Commission. After reading codes the gist was, that all rules could be granted “an exception” with an appeal to the Planning Commission.

Not all of the commissioners visited the site.

At public hearings normally an organization has 5 minutes at least to present testimony. The hearing on June 11th allotted 3 minutes to Teresa Bresaw for Lake Road NDA.

The neighbor Barbara Allan, who would be affected by this variance was also limited in her testimony.

Bending the rules can be done but it needs approval of the “neighbors”. It is easy to say it is for the public benefit, but the Lake Road NDA and the nearby neighbors to the property say no. It is for the benefit of the applicant! Rules are important for visual aesthetics. Milwaukie does not have design guidelines for residential firewalls per Stephanie in Milwaukie’s Building Department. They can be built with cinder block and I do not know if it even has to be coated to block water infiltration, painted or maintained, when there is only 6” for the side setback (completely impractical). There’s already a problem with the wall and I would hope there would be care in preserving what’s there before it fails.

The applicant’s house is attractive as is and extending out the garage will not make it more so. Actually it will block light where they have a window next to the garage.

The 13 ft extension rather will be a further detriment to Barbara Allan and the future new owner of the lot where the garage is currently.

I would invite Planning staff and Councilors to visit the site and walk on Barbara Allan’s properties to get a full view (with her permission of course).

Unfortunately the procedure has a bias to help the applicant without getting a full picture.

Each of you should ask yourselves, would you want this view of a 27 ft cinder block wall to extend for a total 40 ft to be yours with a 6” setback that is not allowed?

Sent from my iPad

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PLANNING DEPARTMENT

Appeal
✓R-2024-003

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CITY OF MILWAUKIE
PLANNING DEPARTMENT

MMC 19.911 Variances criteria

The proposed variance of an unsightly firewall extension 6" (garage) from the property line another 13 ft to be a total of 40' DOES IMPACT negatively 2 lots to the south and There are no design rules for attractive exterior finishes for cinder block or CMU (concrete masonry unit).

The proposed variance does not have desirable public benefits as it benefits the applicant only and not the general public and definitely not the owner to the south. The variance does not respect the wishes of the Lake Rd NDA who support higher standards.

The proposed variance does not respond to the existing built or natural environment in a creative or sensitive manner but rather is the cheapest for the applicant. There were other options for the applicant but they chose to divide up their large lot last year and chose 5' as a setback on the north side and 10' on the south side where the garage sits 6 inches from the property line!!. The home is 1805 Sq ft and has 4 bedrooms and 2 bathrooms. This is a 95% variance request. A five ft side setback which is the minimum for middle housing would have been reasonable. A 13 ft extension with a 6" setback is not close to reasonable.

The existing wall is an eyesore with a crack down the middle and peeling paint! There was no concern shown at the hearing by the applicant other than they didn't build it and they only have control over the extension. They own the garage and maintenance is important!

Pre-existing doesn't mean the city should intensify the non-conforming use. It lowers the quality of the neighborhood!

The decision to approve this request was in error as apparently no one walked around to get a better view of this intrusive wall or reached out to the neighbor, Ms Allan to get her perspective.

No one wants to rock the boat and vote against the planning staff's recommendations, since they all work together. Everyone tried to be fair but I think the decision was made before the public hearing and as I said the process is stacked against the neighborhood.

Lake Rd NDA
Teresa Bresaw
Land Use

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Type 3 Variance Proposal File#VR-2024-003

Re: 11932 SE 35th Ave.

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JUN 24 2024

CITY OF MILWAUKIE
PLANNING DEPARTMENT

I am the owner of the land at 11972 SE 35th Ave. Milwaukie 97222, and at 11974 SE 35th Ave, 2 side by side lots.

I am writing to express my objection to the requested variance by the owner of the property at 11932 SE 35th Ave. with whom I share a property line.

The proposal requests a variance of a nine and a half feet encroachment into the setback on the South property line at 11932 SE 35th Ave. to construct garage space. This would extend a wall, that was grandfathered in during the 1940s, a further thirteen feet and only 6" from our shared property line.

In opposition to this variance, there is no precedent that something that was "grandfathered" in an earlier era should support a continuation of this unfortunate lack of foresight and the practical need for adequate setbacks. Milwaukie has had a subdivision ordinance since 1967.....57 years! I think it's fair to assume today's codes serve our residents in a more thoughtful, practical manner.

I understand that new zoning laws have created a moderate density zone within which the properties sit. In striving to provide needed housing a great many changes have been made to the zoning laws and requirements. I would point out however that the setbacks for a seven thousand square feet lot(10ft/5ft) remained unchanged despite huge changes in new zoning laws. Obviously in developing new codes, the need for setbacks between properties was still found to be important both for the quality of living and for access to property for maintenance, This would not be possible with a six-inch setback. How would it even be possible to construct a further building without access onto my property?

On reviewing the narrative accompanying the application there are some points that I would like to clarify.

It is presumptive to assume that a 13-foot wall where there is now open space, has no impact on my home or my living space, Furthermore, my property at 11972 SE 35th Ave. Is forty-one feet wide at its narrowest point east of the sidewalk an added 13-foot wall may seriously limit future development of this property as well as provide a formidable visual barrier on the north side of my property. In reference to the proposed remodel having great visual appeal this is certainly subjective depending on who is looking at it and the viewing angle, and I can assure you for me looking out of my living room window at a cinder block wall is not an attractive view, the extension of this wall by thirteen feet will detract from my outlook and have consequences on the devalue my property with an unsightly cinder block wall.

Incidentally, I would add that the properties do not “share a driveway” I have a well established garden bed and a fence on my property line which does and always has distinctly separated the two properties.

I trust that the city of Milwaukie seeks to provide comfortable, visually appealing neighbourhood's for all its citizens including me. Clearly in rezoning the city saw the importance of retaining the building code maintaining the ten feet/five feet setbacks on properties seven thousand square feet or greater, in moderate density areas new codes identify garages of less significant importance. Since zoning allows for on street parking there is no requirement in building codes to provide garage space. When looking at present codes this application is requesting a variance to the side setback of a required ten feet down to six inches which is 95% non compliant for the purpose of providing garage space. In reality because of code changes some people in Milwaukie have given up their garages to provide extended living place. This is certainly a choice in this situation, removing the need for a thirteen feet extension within 6 inches of the property boundary. My neighbor actually parks in their driveway now so it would not affect the environment to leave the building as is, better to see an intermittent vehicle than a solid wall.

I have lived in Milwaukie for 20 years, I know it is a wonderful place to call home, my husband and I worked to maintain and improve our property in a manner always compliant with building codes and considerate of our 6 neighbors on 35th Ave. and 36th Ave with whom we share a property boundary. I follow local affairs and have an understanding of many of the challenges that housing presents the community today. I had no opposition to the division of the property at 11932 in 2023 because it follows the present building code. However, this variance proposal does not provide any new housing, it will detract from the visual appeal of the present neighborhood and more specifically my own visual outlook. The 13 feet extension serves only to satisfy the perceived needs of one property owner to the detriment of another and is out of compliance with today's building codes. It is my personal feeling that my needs and property boundaries, which follow clearly defined codes are equally important. I ask you - will negating the 10ft setback to allow the building of a garage in moderate density neighbours become available to all residents of Milwaukie who would like a little more space than their four bedroom home affords? Is this the intent of our revised city codes? I am asking that the planning commission thoughtfully consider my objection and protect compliance for the interest of my property.

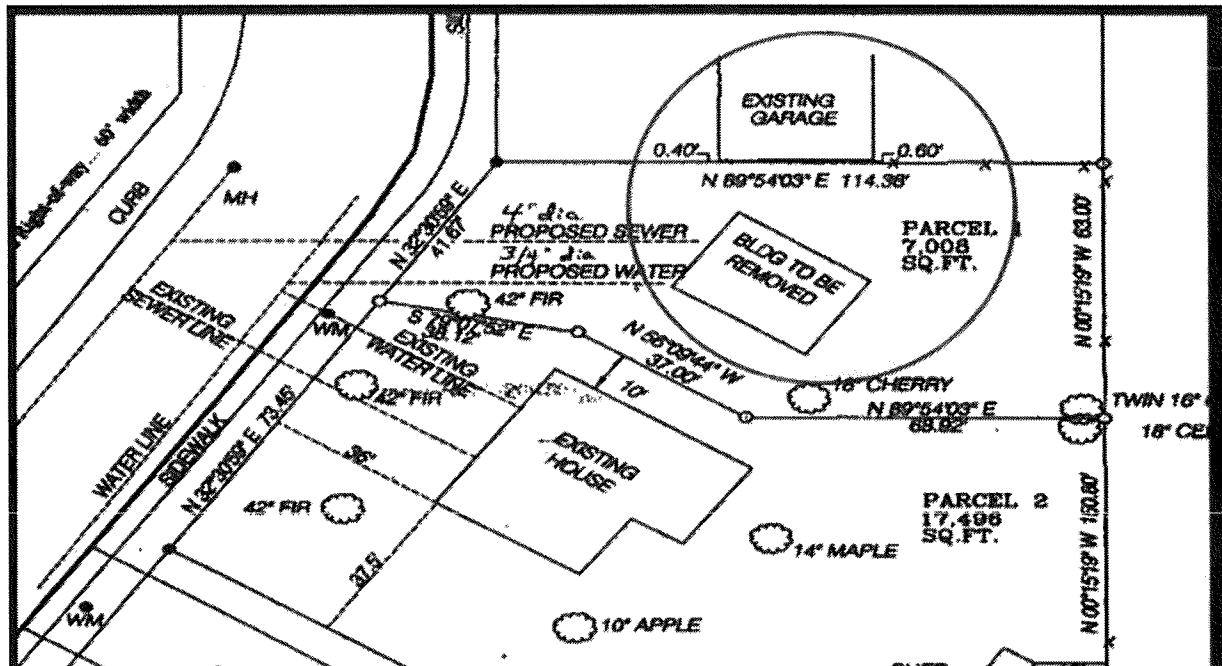
Respectfully,

Barbara Allan

Addendum

These are issues I was not able to raise at the initial hearing due to time constraints. (Only 3 minutes of time allotted to me to speak).

The picture below is a copy of a document introduced to the appeal by Vera Kolas, Senior Planner, City of Milwaukie.



I include it now because as she rightly points out on the document, when this land is developed this building, the present garage, will have to be deconstructed since the land cannot have a building where the lot is narrower than 60 feet wide. Pictures submitted by the applicant tell the story her team seeks to portray however there are missing elements. Right now this building (garage to be deconstructed) is a substantial barrier to viewing the cinder block wall from the east side of my property and that is what the applicant's pictures show. This barrier will be gone when the lot is developed. The lot is 42 feet wide where the applicant is asking to place a 13ft garage wall in addition to the 27ft wall that is nonconforming and sits 6" from the property line. This creates a

solid 40 ft long wall which the occupants at both 11972 and 11974 will have to look at daily. The lot at 11972 has existed since 2007 and in planning it deserves consideration for its future visual appeal and the spatial awareness. It has the potential to provide a beautiful home site in Milwaukie in the future. If the variance is approved there will be significant visual impact on any home built on the land at 11972 as well as even more negative visual impact to my home at 11974.

One other point I would like to revisit since it was alluded to by Jacob Sherman, Chair of the Planning Commission. It is very troubling to me that if this variance is approved it will set a precedent allowing the applicant to pursue another variance in the future to extend her present home again just 6" from the property line on the east side of her house when she needs even more space for her family.

Not one member of either the planning department or commission have reached out to me to visit the property, it may have been viewed from the road and the applicants property but that is only part of the assessment and doesn't include the effect this increasingly long wall will have on my property. Surely as a resident of Milwaukie my property is entitled to the same considerations that other properties in the neighbourhood enjoy.

Planning includes foresight and consideration of the ramifications of new building for everybody involved. I would like to ensure this includes the future visual appeal and the financial value of the property at 11972 SE Avenue.

Respectfully,

Barbara Allan.

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JUN 24 2024

CITY OF MILWAUKIE
PLANNING DEPARTMENT

