



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 15, 2015

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Zoning Information Report Process Improvements – Municipal Code Amendment To Establish A Minor Zoning Exception Process

### **RECOMMENDATION:**

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Municipal Code Chapter 28.92 to Add Section 28.92.130 Regarding Minor Zoning Exceptions for Errors in Zoning Information Reports.

### **EXECUTIVE SUMMARY:**

The creation of the Minor Zoning Exception process is a recommendation of the Zoning Information Report (ZIR) Working Group. Minor Zoning Exceptions (MZE) are proposed as one method to efficiently resolve a discrepancy or error in a ZIR that involves a minor inconsistency with zoning standards. Currently, the primary method to resolve zoning violations that qualify for a MZE, short of demolishing or removing the subject improvement, is to seek and obtain approval of a Modification.

### **DISCUSSION:**

#### **Background**

Planning staff has been working with the Santa Barbara Association of Realtors (SBAOR) and the Planning Commission to address issues regarding the preparation of ZIRs. The issues include timeliness of report preparation, discrepancies between ZIRs, report reliability and understandability, and violation identification.

In January 2014, a ZIR Working Group was created to recommend improvements to the ZIR process. One recommendation of the ZIR Working Group was to establish a process allowing administrative approval of minor reductions or waivers of zoning standards for improvements not accurately documented in previous ZIRs, thus expediting the resolution of discrepancies found during the preparation of a ZIR. An

amendment to the Santa Barbara Municipal Code (SBMC) is necessary to establish this new administrative review process.

On February 10, 2015, the City Council initiated an amendment to the Zoning Ordinance to establish an administrative review process. On June 4, 2015, the Planning Commission reviewed an outline of the proposed ordinance and provided comments to the Council Ordinance Committee.

On October 13, 2015, the Council Ordinance Committee held a public hearing on a draft Ordinance and forwarded it to the Planning Commission for their review and recommendation to City Council.

On November 5, 2015, the Planning Commission held a public hearing on a draft Ordinance. The Planning Commission recommended that Council adopt the Ordinance Amendment presented to them with two revisions: 1) allow façade alterations within the interior setback to qualify for an MZE; and 2) allow for an appeal of the decision on a Minor Zoning Exception to the Community Development Director (Attachment – Draft PC Resolution). Both revisions have been incorporated into the proposed Ordinance; the recommended appeal process is discussed further below.

### **Minor Zoning Exception**

Currently, the primary method to resolve zoning violations that would qualify for a Minor Zoning Exception (MZE) is to seek and obtain a Modification. Since the Modification process can be an expensive and a time consuming process for minor zoning violations, the MZE process is intended to be an inexpensive and procedurally efficient means of resolving these minor inconsistencies brought to light through ZIRs. Because MZEs are processed administratively, without notice to neighbors or a public hearing, the MZE is only appropriate for minor deviations from the zoning standards and is not a solution for all zoning violations. More substantial zoning violations may require demolition, application for a Modification, or another form of resolution.

The proposed types of improvements eligible for a MZE are detailed in the proposed Ordinance and generally include, but are not limited to:

- Conversion of required parking to another use, as long as the number and configuration of parking spaces required at the time of the conversion is provided on site.
- Within the required setback, open yard, or distance between buildings, decks less than 200 square feet in size, not extending above the finished floor level of the first floor; building additions less than 250 square feet; and trash enclosures.
- Conversion of a legal non-conforming carport to a garage or vice versa.
- An accessory building less than 120 square feet, which is not considered a separate residential unit, was constructed prior to August 1, 1975, and is not located in a front yard or required open yard.

- Accessory building(s) or garage(s) which exceed the size limits established by SBMC §28.87.062.B.3 by no more than 100 square feet and were built prior to August 1, 1975.
- Additions to residences which currently exceed the required maximum Floor to Lot Area Ratio, if the addition is interior only within the existing legal building volume (e.g., loft, cellar)

It is important to note that improvements authorized by a MZE may still require a building permit. The City does not have the ability to waive a building permit. However, Planning and Building & Safety staff have been working together to streamline the permit process for these types of projects and generally request minimal information to document the existing situation on the site.

The proposed Ordinance contains a list of required findings that must be made in order to approve a MZE (§28.92.130.C). The findings include, but are not limited to, a provision related to the time period when the improvement was first on the site, and that the improvement: 1) is the subject of a discrepancy or error in a ZIR; 2) does not adversely affect a historic resource; and 3) is in general compliance with the Single Family Design Board's (SFDB) good neighbor policies.

#### Opportunity to Appeal a Decision on a Minor Zoning Exception

The City's current processes for administrative decisions of design review applications and minor exceptions to the fence/hedge ordinance do not include an option for appeal. The purpose of an administrative review process, without public notice or a public hearing, is to allow minor improvements that meet specific criteria to be expeditiously reviewed and potentially approved, or approved with conditions. Staff believes that allowing an appeal of an administrative decision to another review body would be counter to that purpose. Furthermore, as in the case of other City administrative approvals, if a MZE is not granted or the improvement does not qualify for a MZE, another City review process is available to the applicant; in this case, the Modification review process.

At the Planning Commission and Council Ordinance Committee meetings, the SBAOR requested that MZE decisions be appealable to the City Council. They stated that an appeal to the City Council should be available for major issues. Again, the purpose of an administrative review process is to allow minor improvements that meet specific criteria to be expeditiously reviewed and acted on at the administrative level. An appeal of an administrative decision to another review body would be counter to that purpose.

In their recommendation to Council, the Planning Commission stated that the appeal body should remain at an administrative level and not be referred to the Staff Hearing Officer, Planning Commission, or City Council. As drafted, the Ordinance would allow an appeal of the MZE decision to the Community Development Director.

## **Environmental Review**

The Environmental Analyst has determined that this project is exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15301, Existing Facilities, 15303, New Construction or Conversion of Small Structures, and 15305, Minor Alteration in Land Use Limitations. Adoption of the proposed Ordinance would not result in a change in land use or density. The intent of the MZE process is to expedite the resolution of discrepancies between ZIRs through an administrative review process. As such, the scope of the eligible improvements is limited to minor projects that will not cause impacts to historic resources and should not adversely affect neighbors. Given the limited scope of the eligible improvements and the minor nature of the improvements, individual projects will qualify for one of the listed CEQA exemption categories above.

## **BUDGET/FINANCIAL INFORMATION:**

As part of the recommended ZIR process improvements, Council directed staff to waive Planning fees for projects undergoing discretionary review as a result of a discrepancy or error in a ZIR. Since the proposed MZE process is a component of the ZIR process improvements, staff is not proposing to charge a fee to request a MZE. Staff estimates that this would result in an annual revenue loss of approximately \$5,000 to \$10,000 due to a reduction in Modification applications.

Since many of the anticipated MZE requests will replace applications currently being processed as Modifications, staff does not anticipate a significant increase in overall workload as a result of implementation of the MZE process. However, if Council introduces the ordinance as drafted, and includes the option to appeal a decision on a MZE to the Community Development Director, staff anticipates a minor increase in workload. The types of projects eligible for a MZE are minor in nature and have not historically been appealed by an applicant when they were processed as Modifications. If an appeal process is included, Council should consider whether an appeal fee should be imposed. The current Fee Resolution does not include a fee to appeal an administrative decision of this nature. The minimum appeal fee currently in place is \$220. The Planning staff hourly rate is currently \$140 and staff anticipates an appeal would take approximately four to five hours of combined staff time (Staff Hearing Officer and Community Development Director).

**ATTACHMENT:** Planning Commission Draft Resolution 016-15

**PREPARED BY:** Susan Reardon, Senior Planner

**SUBMITTED BY:** George Buell, Community Development Director

**APPROVED BY:** City Administrator's Office



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 016-15

#### CITYWIDE

### RECOMMENDATION TO CITY COUNCIL

NOVEMBER 5, 2015

## ZONING ORDINANCE AMENDMENT TO ALLOW MINOR ZONING EXCEPTIONS IN THE INSTANCE OF DISCREPANCIES OR ERRORS IN ZONING INFORMATION REPORTS

The purpose of this public hearing was for the Planning Commission to review and make recommendations to the City Council regarding amendments to the Santa Barbara Municipal Code (SBMC) to allow the Community Development Director the authority to grant Minor Zoning Exceptions in the case of a discrepancy or error in Zoning Information Reports (ZIRs). This new Minor Zoning Exception process was one of the recommendations of the ZIR Working Group for ZIR process improvements. The City Council initiated the proposed amendment to the SBMC on February 10, 2015.

The Environmental Analyst determined that the project was exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301, Existing Facilities, 15303, New Construction or Conversion of Small Structures, and 15305, Minor Alteration in Land Use Limitations.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, 1 person appeared to speak in favor of the Zoning Ordinance Amendment, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 29, 2015

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission recommends the City Council consider the following changes to the Zoning Ordinance Amendment to allow Minor Zoning Exceptions in the instance of discrepancies or errors in Zoning Information Reports and adopt said Zoning Ordinance Amendment:

1. Revise §28.92.130, Subsection B.1.c to include façade changes in the interior setback.
2. Allow the administrative decision on a Minor Zoning Exception to be appealed to the Community Development Director and not require a notice or a public hearing.

This motion was passed and adopted on the 5th day of November, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (Higgins) ABSTAIN: 1(Schwartz) ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

\_\_\_\_\_  
Julie Rodriguez, Planning Commission Secretary

\_\_\_\_\_  
Date



**COMMUNITY DEVELOPMENT DEPARTMENT**

# **ZIR PROCESS IMPROVEMENTS – MINOR ZONING EXCEPTION ORDINANCE**

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City Council – December 15, 2015



## BACKGROUND

- Outcome of ZIR Working Group
- City Council Initiation February 10, 2015
- Planning Commission review June 4, 2015
- Council Ordinance Committee review October 13, 2015
- Planning Commission review and recommendation November 5, 2015



## MINOR ZONING EXCEPTION (MZE)

- Purpose of the MZE Process
- Eligible Improvements
- Required Findings
  - Five required for all MZEs
  - Four additional Findings as applicable



## Eligible Improvements

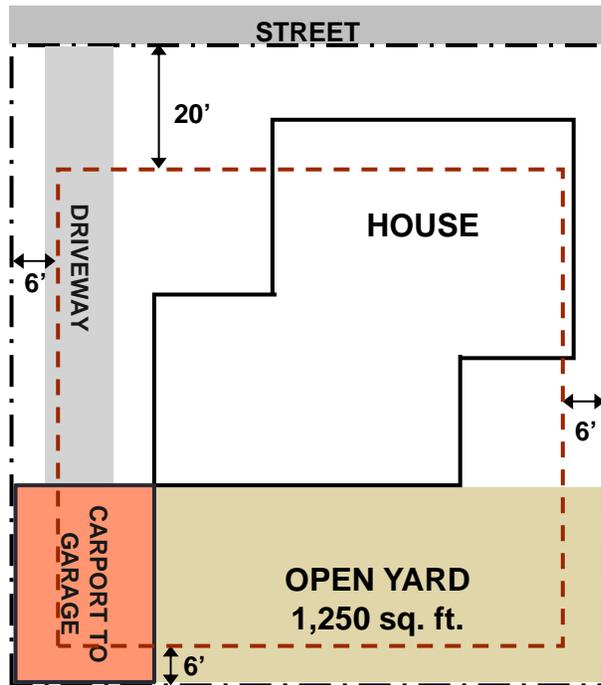
- Three main categories
  - Unpermitted alterations & additions to legal non-conforming buildings
  - “As-Built” additions/expansions of hardscape, landscape, site improvements
  - “As-Built” detached accessory buildings



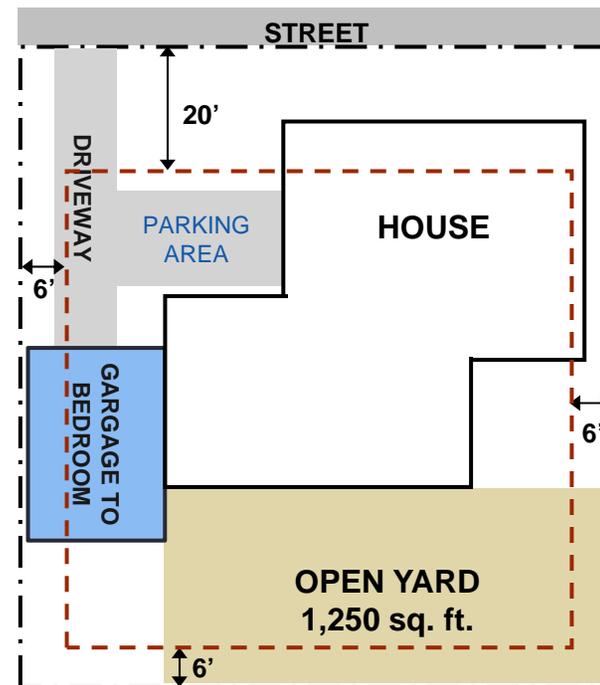
# Unpermitted Alterations & Additions to Legal Non-conforming Buildings



### Convert Carport to a Garage



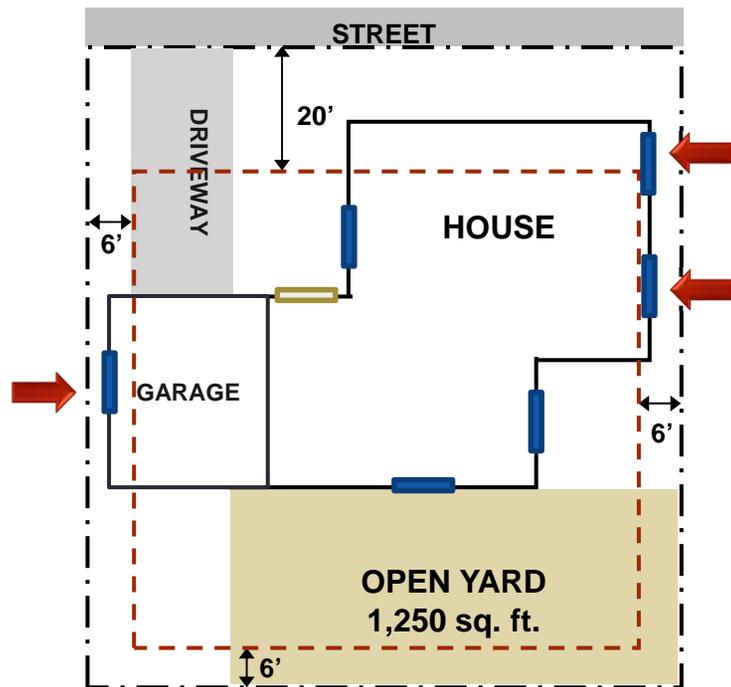
### Convert Garage to a Living Area



--- Required Setback  
- - - Property Line

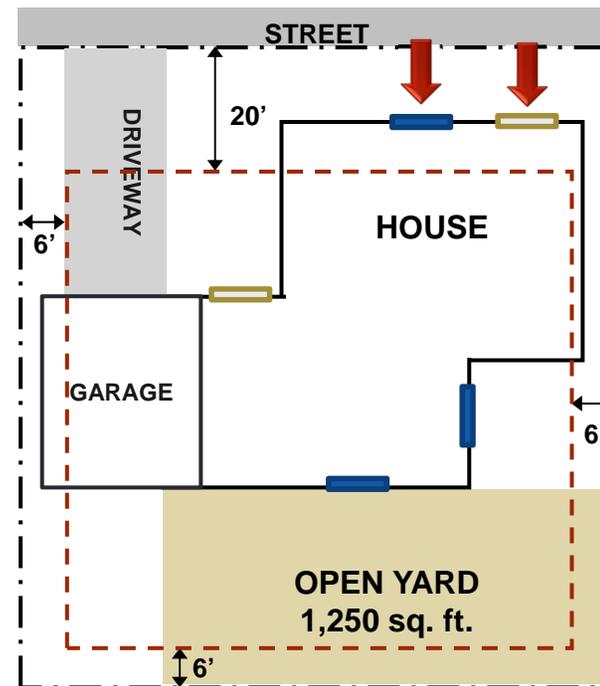
Not To Scale

### New Windows in Interior Setback



--- Required Setback  
- - - Property Line

### Alterations in Front Setback

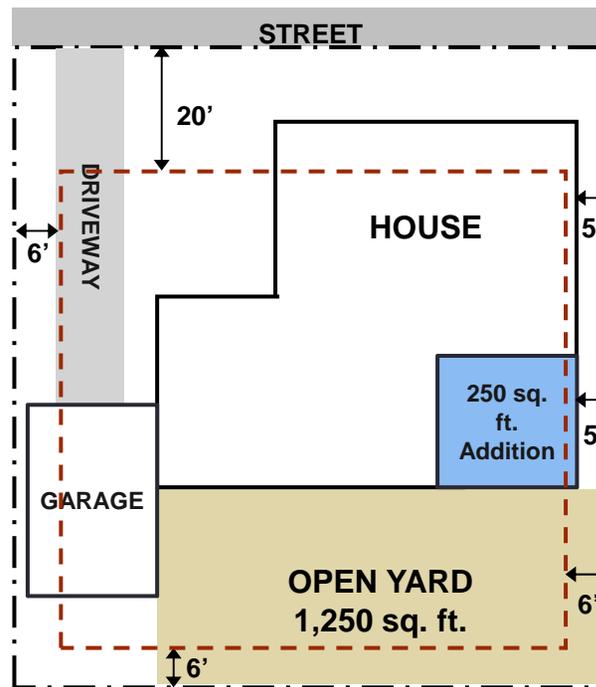


■ New windows  
▭ New doors

Not To Scale



## Encroaching Ground Floor Additions

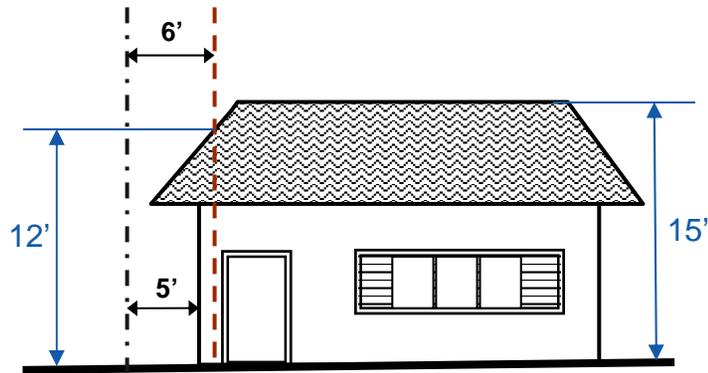


- - - - - Required Setback  
- - - - - Property Line

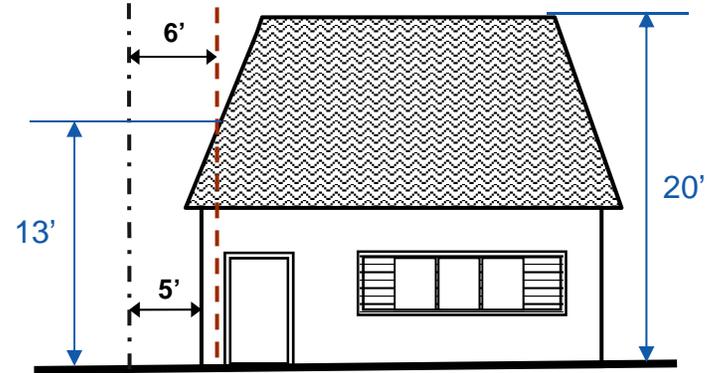
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## Alterations to Roof Height



Permitted



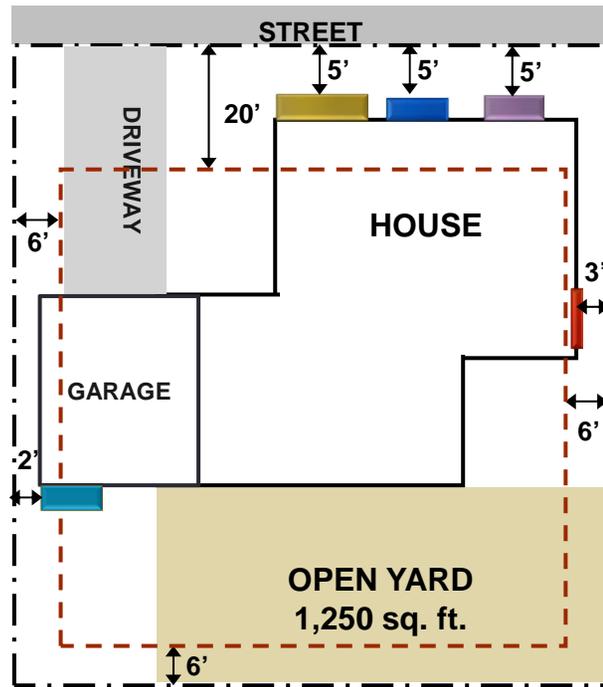
As-Built

- - - - - Required Setback
- · - · - · Property Line

Not To Scale



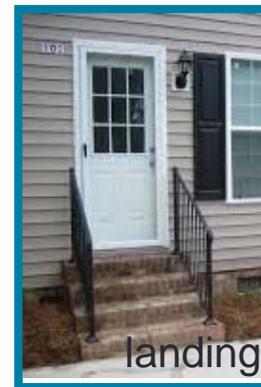
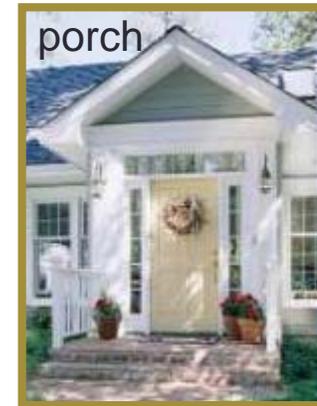
## Architectural Features



- - - - - Required Setback  
 - - - - - Property line

■ bay window  
 ■ chimney  
 ■ balcony

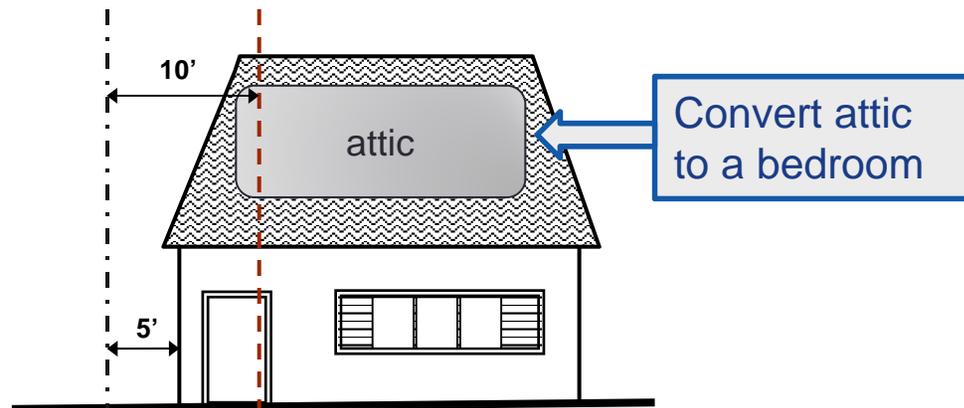
■ porch  
 ■ landing



Not To Scale



## Interior Additions that exceed Maximum FAR



Existing house exceeds 100%  
of the maximum FAR allowed

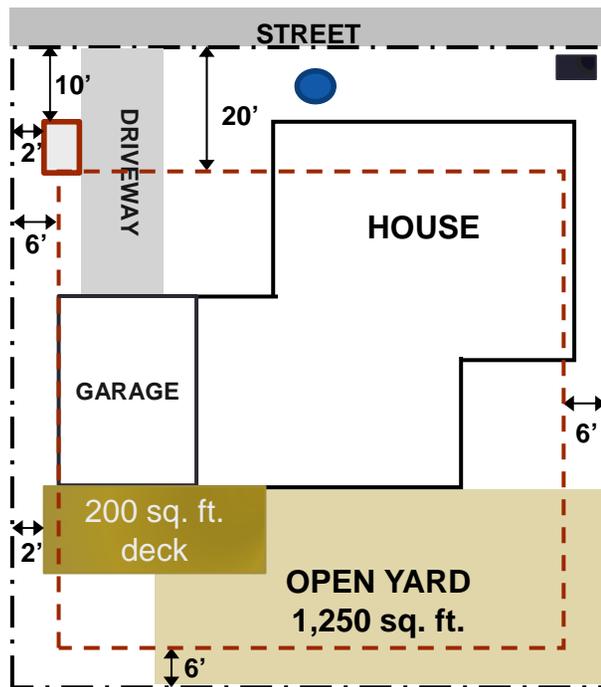
- - - - - Required Setback
- . . . . - Property Line

Not To Scale



# Hardscape, Landscape, Site Improvements

## Hardscape, Landscape, Site Improvements



- - - - - Required Setback  
- - - - - Property line  
 deck  
● fountain

mailbox  
 trash enclosure



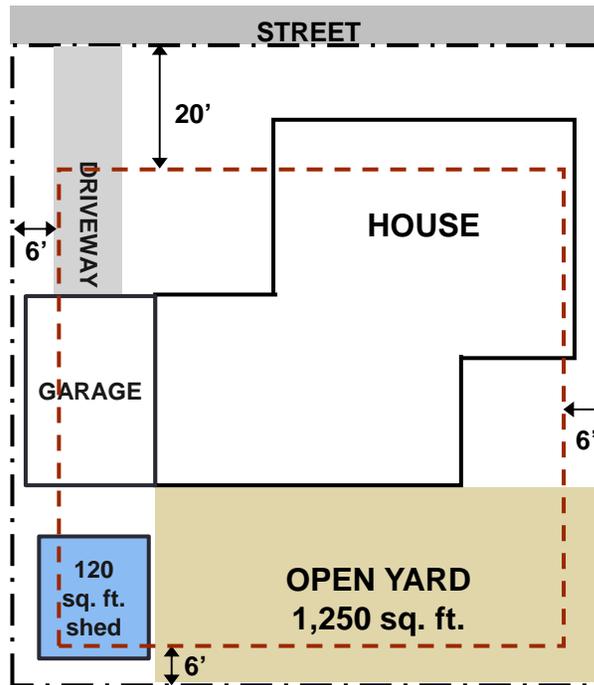
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# “As-Built” Detached Accessory Buildings



## Detached Accessory Building

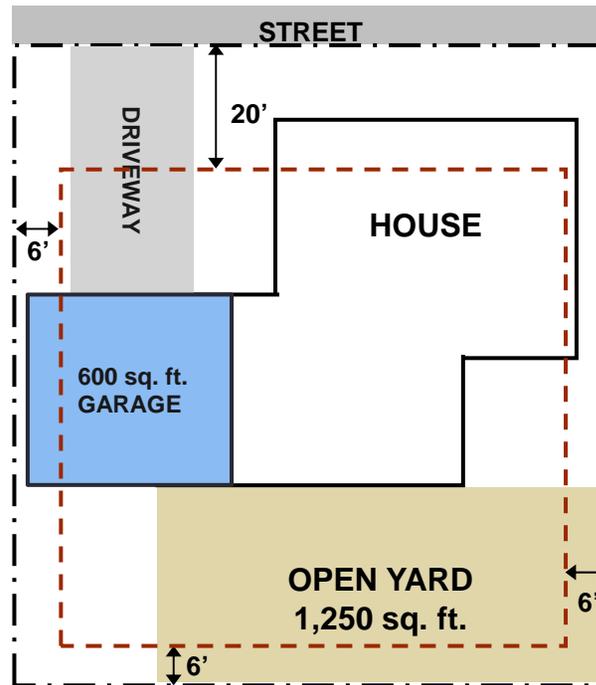


- - - - - Required Setback
- . . . . - Property Line

Not To Scale



## Oversized Accessory Building



- - - - - Required Setback
- . . . . - Property Line

Not To Scale



## Required Findings

- *Material discrepancy or error in ZIR which directly involves the zoning standard from which relief is sought*
- *Improvement existed on the site in its current form prior to January 1, 1980, or August 1, 1975 for accessory structures*



## Required Findings – Cont.

- *Does not result in the permanent removal of a significant component or a character defining element from a historic or potential historic resource, or an un-surveyed building located in a Demolition Review Study Area which is more than 50 years old*



## Required Findings – Cont.

- *The improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines*



## Additional Findings as Appropriate

- In the required **open yard** or minimum **distance between buildings**:
  - *The site will maintain adequate yard areas to provide light and air, separation of buildings, and privacy and enjoyment of occupants*



## Conditions of Approval

- If necessary to minimize potential adverse impacts on neighboring properties
- Proportionate to the potential impacts on neighboring properties



## Action on Decision

- Staff Recommendation:
  - Final and Effective on date decision made
- Planning Commission Recommendation:
  - Appealable to Community Development Director



## Action on Decision

If appealable to Community Development Director:

- Appropriate fee for appeal
- Estimate 4 to 5 hours of SHO & CDD time
- Current Planning staff hourly rate = \$140
- Current minimum appeal fee for Discretionary Review = \$220



## Recommendation

- Introduce and subsequently Adopt Minor Zoning Exception Ordinance

