

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE ARCHITECTURAL BOARD OF REVIEW TO GRANT PROJECT DESIGN APPROVAL FOR A PROPOSED ACCESSORY DWELLING UNIT AND TWO NEW GARAGES AT 806 ALBERTA AVENUE

WHEREAS, Jyl Ratkevich, architect for Mary Martinez, applied for a new accessory dwelling unit and two new garages at 806 Alberta Avenue, a 5,061 square foot lot located within the R-2 Zone in the Westside Neighborhood of the City of Santa Barbara;

WHEREAS, the project received its initial concept review by the Architectural Board of Review (ABR) on June 22, 2015, at which time the ABR reviewed the proposal and indicated that determined that the second-floor addition was small enough to be an acceptable addition to the building. However, in response to the neighbors' concerns, the ABR asked the architect to reduce the massing and size of the second story. The Board's comments focused on reducing possible privacy-related impacts to the adjacent neighbors by adjusting the second-floor windows. The Board also requested additional landscaping be provided for the project;

WHEREAS, the project returned to the ABR on July 20, 2015, with minor design revisions, and the ABR determined the project's mass, bulk, and scale were acceptable; found the reduced size of windows facing the rear neighbor acceptable; and continued the project for further refinement of architectural details;

WHEREAS, On August 3, 2015, the project returned to the ABR with changes to the size and location of the second floor, slightly increasing the setback from one neighboring property. During this ABR hearing, other concerns were raised by neighbors involving the negative appearance of the structure, regulations that should not allow build-out of the small parcel, and the potential for future illegal uses of the property. Some Board members indicated that some of these issues were outside their purview. One Board member stated that the modest nature of the proposed project was sufficiently set back from the rear and side yards. It was also understood that the proposed project was intended for this type of small R-2 lot. The ABR granted Project Design Approval with additional comments regarding building materials. The ABR stated that the adjustments made to the second-story window locations sufficiently addressed the privacy concerns of the adjacent neighbor;

WHEREAS, on August 13, 2015, a timely appeal of the ABR decision was filed by the appellants: Catherine "Lily" Bastug Vicenti, David Hale, James and Karen Hurst, Roberta VanRossen, Susan Lafond, and Brian King. The appellants assert that the project design is not consistent with the surrounding neighborhood, the project's massing is not consistent with development patterns on the narrow street, and that the project negatively affects the appellants' property values;

WHEREAS, on November 16, 2015, the City Council conducted a duly noticed site visit during which it conducted an inquiry into the physical aspects of the issues presented on appeal;

WHEREAS, on November 17, 2015, the City Council conducted a duly noticed public hearing on the appeal. The project design presented to the City Council on appeal was the project design approved by the Architectural Board of Review on August 3, 2015. The appeal hearing included the following evidence relied upon by the Council:

1. A detailed written report and staff presentation, including a City staff report discussing the appeal issues, and a PowerPoint presentation on the appeal issues – both of which are incorporated by reference into this Resolution (along with the entire record of proceedings);
2. A presentation by the appellants' attorney, James Griffith, arguing the points of the appeal;
3. A presentation by architect, Jyl Ratkevich, which is part of the record in this case and was fully considered by the City Council in making its decision on this appeal.
4. Comment from Howard Wittausch of the Architectural Board of Review explaining the Board's perspective on the Project design and the appeal issues.
5. Personal comment from appellant, Susan Lafond.

WHEREAS, after consideration of all of the evidence presented (both written and oral), as well as the public testimony received, and after deliberation by the Council members, the City Council voted to direct the preparation of written findings which, consistent with the oral findings made by Council, would deny the appeal of the Project and to uphold the decision of the Architectural Board of Review.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated into these findings.

SECTION 2. All written, graphic and oral materials and information submitted to the Architectural Board of Review and the City Council by City staff, the public and the parties are hereby accepted as part of the record of proceedings. The facts and findings in the November 17, 2015 Council Agenda Report are incorporated into this Resolution and determined to be true.

SECTION 3. With respect to alleged incompatibility of the project with its neighborhood, using the criteria set forth in Evidence Code section 780, and in particular subsection (f), the Council finds that the appellants were not credible.

SECTION 4. The Council carefully reviewed the evidence it obtained during the site visit and public hearing and finds and determines as follows:

- A. With the revision of the open yard, the project complies with the applicable provisions of Chapter 28.18 of the Santa Barbara Municipal Code regarding the development of accessory dwelling units on R-2 lots with a lot area between 5,000 and 6,000 square feet.
- B. The application is consistent with the ABR design guideline that encourages the preservation of existing buildings because the project proposes to retain the residence at the front of the lot.
- C. The proposed location of the accessory dwelling unit to the rear of the existing residence maintains the character of the neighborhood's streetscape.
- D. The proposed two-story accessory dwelling unit will be located centrally on the lot so as to minimize its intrusion on the private enjoyment of the adjacent properties.
- E. The proposed locations of second-story decks and windows are compatible with the neighborhood and adequately address the privacy concerns of the neighbors. In addition, the applicant has raised the height of some windows and completely eliminated other proposed windows in order to address privacy concerns of the neighbors.
- F. The proposed accessory dwelling is modest in size and proposes a building height of 20 feet 6 inches when the maximum building height allowed under the zoning is 30 feet.

- G. All summaries of information in the findings in this Resolution are based upon substantial evidence in the record. The absence of any particular fact from any summary contained in a finding does not indicate that a particular finding is not based upon that fact. All evidence in the record shall be considered when interpreting the findings.

- H. California Environmental Quality Act Determination. The project involves the construction of an accessory dwelling unit within an existing duplex zone. The development of an accessory dwelling unit on this R-2 lot is consistent with the policies of the City's 2011 General Plan Update for which an Environmental Impact Report was certified. City staff examined the proposed accessory dwelling unit and determined there are no project-specific significant effects that are peculiar to this project. Therefore, pursuant to State CEQA Guidelines section 15183, the City Council determines that no further environmental review is necessary and no unusual circumstances are presented by the location or nature of the project.

SECTION 5. The City Council hereby denies the appeal and grants Project Design Approval for the project as presented to the City Council on November 17, 2015 subject to the following conditions:

- A. Before the Architectural Board of Review may grant the project Final Approval, the design of the proposed accessory dwelling unit and site plan shall be redesigned in order to comply with the common open yard requirements of Section 28.18.060.C.3 of the Santa Barbara Municipal Code;

- B. Before the Architectural Board of Review may grant the project Final Approval, the plans shall be amended to accurately reflect the location of the hedge at the rear of the lot; and

- C. Before a building permit may be issued, the property owner shall record a Zoning Compliance Declaration, in a form acceptable to the City Attorney, providing notice of the permitted use of the real property.