



Agenda Item No. _____

File Code No. 640.07

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 23, 2011

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of The Architectural Board Of Review Final Approval Of
903 W. Mission Street

RECOMMENDATION:

That Council deny the appeal of Pamela Brandon and uphold the Architectural Board of Review Final Approval of the proposed accessory dwelling unit and new garage.

PROJECT DESCRIPTION:

The proposed project involves the remodel of the existing residence, and the construction of a 442 square foot second story accessory dwelling unit above a new 623 square foot three-car garage. The proposal includes the demolition of an existing 317 square foot non-conforming garage, the addition of a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 442 square foot new accessory dwelling unit and a new 623 square foot three-car garage on a 5,000 square foot lot that is currently developed with an 844 square foot single family residence and a 317 square foot detached garage.

EXECUTIVE SUMMARY:

On October 19, 2010, the proposed project was approved by the City Council, on appeal by Pamela Brandon, a neighbor. The City Council reviewed the project, denied the appeal on a 4/2 vote, thereby upholding the Architectural Board of Review's (ABR) decision to grant a Preliminary Approval. The Council directed the applicant to make the following changes, and return to the ABR: reduce the cantilevered portion of the second story, study and minimize the height of the building and have the proposed clerestory window be a condition of the project approval.

The applicant returned to the ABR on March 7, 2011, incorporating the Council's requested changes into the plans. The appellant opined that the project did not comply with the Zoning Ordinance, in that the cantilevered portion of the accessory dwelling unit encroached into the required open yard area. Due to a misunderstanding about the relevant zoning provisions, the ABR granted the project Final Approval. Staff investigated,

and found that Ms. Brandon was correct. Staff subsequently informed the applicant and the ABR that the project did not comply with zoning, and voided the Preliminary and Final approvals. The applicant redesigned the project to eliminate the cantilevered portion of the accessory dwelling unit, and applied for ABR approvals.

Upon further review, Staff and the City Attorney's Office determined that the voiding of the Preliminary approval was inappropriate, and negated the voiding of the Preliminary Approval, so that the Preliminary Approval remained valid. The ABR granted a Final Approval for the revised plan, and Ms. Brandon appealed that approval. The appellant's letter is attached as Attachment 1.

DISCUSSION:

Project History

On July 28, 2010, the Staff Hearing Officer (SHO) reviewed and approved two modifications to permit construction of a new garage within the required 20 foot front setback along Gillespie Street (SBMC § 28.18.060.A), and to provide less than the required Common Open Yard area of 600 square feet (SBMC 28.18.060.C.3).

On August 23, 2010, the Architectural Board of Review (ABR) granted Preliminary Approval of an application for the design review of an accessory dwelling unit above a new garage, by a vote of 3/1/0. The ABR minutes are attached as Attachment 3.

On September 2, 2010, an appeal of the ABR Preliminary Approval was filed by the adjacent neighbor, Pamela Brandon, residing at 905 W. Mission Street. The appeal asserted that the project design is not consistent with the surrounding neighborhood, the project is not consistent with the Zoning Ordinance, and that the project negatively affects the appellant's property values. On October 19, 2010, the City Council denied the appeal as described above.

On March 7, 2011, the applicant incorporated the Council's requested changes and returned to the ABR requesting a Final Approval. Ms. Brandon pointed out to the Board that the project was not in compliance with the Zoning Ordinance because the cantilevered second story encroached above the required open space, and that open yard must be unobstructed from the ground upward. There was a misunderstanding among the ABR members, who thought that the cantilevered portion of the building complied with a section in the Zoning Ordinance that allows overhangs as long as they are 7' above finished grade, and they granted the project Final Approval. However, the allowance described above only applies in the R-3/R-4 Zone.

Staff investigated Ms. Brandon's allegation, and determined that the cantilevered portion did not comply with the Zoning Ordinance. Two options existed: redesign or apply for a modification. Staff was not in support of a modification and directed the applicant to redesign the project to eliminate the overhang. At the time, not knowing how the applicant would proceed, staff felt it best to void both the Preliminary Approval and Final Approval, and prepared a letter, informing the applicants that these decisions had been voided.

The applicant opted to reduce the size of the second story by eliminating the cantilever, relocating the storage space to the garage, and reducing the second story from 525 square feet to 442. The project returned to the ABR for Final Approval.

Prior to the ABR's final action, staff determined that voiding the Preliminary Approval was inappropriate because the project's Preliminary Approval had already been appealed to City Council, and the revised project substantially conforms to the project approved by Council, and is consistent with the direction that the Council gave the applicant. After consulting with the City Attorney's Office, Staff negated the voiding of the Preliminary Approval. The result is that the Preliminary Approval that was granted by the ABR in August 23, 2010, and upheld by the Council in October 19, 2010, remains valid. The revised project proceeded to ABR and received a Final Approval on May 16, 2011. It is this Final Approval that the appellant is appealing.

APPEAL ISSUES

Reinstatement of Preliminary Approval

The appellant states that because there was a cantilevered portion of the second story which encroached over the required open space, the Preliminary Approval can not be valid.

The zoning issue was not caught prior to the SHO's approval of the modifications or the ABR's Preliminary Approval of the project. If it had been caught, it would have been resolved prior to any discretionary approvals. However, the fact that it wasn't caught does not negate prior approvals. The City's practice for handling these types of situations is to work with the applicants to address the problem by either redesigning so that it complies with all zoning regulations, or requesting a modification. In this case, staff did not believe that an additional modification was appropriate given project history and the concerns which were raised during the previous reviews. Therefore, the applicant revised the project and submitted the smaller, revised project to the ABR for Final Approval.

Staff had initially determined that the Preliminary Approval and the Final Approval should be revoked in order to proceed with a revised project. However, since that initial determination, Staff reviewed the Council appeal hearing again, and concluded that the City Council had specifically considered the design and size of the cantilevered structure during their review. The City Council determined that the design of the cantilevered structure was acceptable as long as its size was reduced. Not only has it been reduced, but it has now been eliminated. Since Council specifically considered the design of the cantilevered structure during the appeal of the Preliminary Approval, Staff concluded that it was not necessary to void the Preliminary Approval (Project Design Approval). A memo to the ABR from staff is provided as Attachment 4.

Staff reviewed the applicant's revised drawings and confirmed that the only significant change is the elimination of the second story cantilever. Other minor revisions include: reduction of the second story Private Outdoor Living Space to meet the minimum required dimensions (as it previously exceeded the minimum required dimensions); the wall of the bedroom moved closer to the 20' foot setback to make up for the 2' taken out of the back of the unit; two (2) 3'-0" French doors with an awning window were added in lieu of four (4)

3'-0" sliding doors; and the north elevation roof eave was extended to the 20'-0" second story front setback line.

The applicant's proposed solution to the open space encroachment resulted in eliminating the cantilevered portion of the second story; therefore, the design remains consistent with the Preliminary Approval granted by the City Council.

Plans do not comply with the zoning ordinance.

The appellant states that the required private storage space for the Accessory Dwelling unit has a different setback requirement than the garage that contains it, and therefore the plans are in violation of the Zoning Ordinance.

The required interior setback for free-standing storage is six feet. The required interior setback for covered or uncovered parking in the R-2 zone is three feet. This project proposes a new three garage with a three foot setback, and proposes the required storage area for the Accessory Dwelling Unit to be in the garage. Storage cabinets can be, and often are, placed within garages.

Required storage can and often is placed in the garage as long as it does not obstruct the minimum dimensions for required parking and does not obstruct access to the required parking. Transportation Planning has consistently determined that storage cabinets may be mounted at the rear of garages at 4' off the finished floor and 4' in from the face of wall, as long as they do not obstruct the only pedestrian path of travel to a door to the interior of the house. If storage were proposed on the side walls of the garage, it would have to be 6'-6" above finished floor.

The prohibition of storage in Section 28.87.190 only prohibits storage in the "required interior setback". As long as an item is stored within covered parking that observes the required setback, the storage is outside the "required interior setback" and therefore not subject to the prohibition. As long as the storage is weather proof, lockable and separate from linen and clothing closets, it complies with the requirement.

Neighborhood Compatibility

The appellant states that the style of architecture, proposed materials and scale of the proposed addition are not consistent with the surrounding neighborhood.

The ABR conceptually reviewed the proposal on three occasions (Attachment 3). During the first and second reviews, with a previous architect, the ABR did not believe that the project was compatible with the neighborhood as proposed. The Board requested that the applicant reduce roof pitches and ridge heights and asked the applicant to study a design that was more compatible in style, massing, and materials with the surrounding neighborhood.

After the first two reviews, the applicant hired AB Design Studio, the current architects, and the project returned for a third time with a revised design on May 17, 2010. With the revised design, the Board supported a modification for the new garage to encroach 18" into the front setback and the modification to provide less than required common area of 600 square feet because of the size of the lot and its location on a corner. The Board

stated their appreciation for the change in architectural design. Satisfied with the revised design, the Board forwarded the project to the Staff Hearing Officer.

Subsequently, the project proceeded to the Staff Hearing Officer on July 28, 2010. The appellant, Pam Brandon spoke at the public hearing and voiced her concerns about loss of privacy and reduced property value and suggested having a skylight in lieu of, or relocating, the window overlooking her backyard. The Staff Hearing Officer approved the project with the added condition that the ABR would review the proposed window location on the second-story building with respect to providing maximum privacy for Ms. Brandon.

The project returned to the ABR for Preliminary Review and at that time the applicant proposed clerestory windows so that the new accessory dwelling unit could still receive light from the south while still addressing the privacy concerns of the adjacent neighbor. The ABR, finding this solution acceptable, granted a Preliminary Approval with comments regarding building materials. The ABR stated that Ms. Brandon's privacy concerns had been sufficiently addressed.

Ms. Brandon filed an appeal of the Preliminary Approval based on a lack of neighborhood compatibility, inconsistency with the Zoning Ordinance, negative affects on her property values and loss of privacy. On October 19, 2010, this appeal was denied on a 4/2 vote. The Council Agenda Report is attached as Attachment 2. A majority of Council agreed with the ABR in that the neighborhood consists of a mix of architectural styles, with no main style dominating the neighborhood, and stated that the project was compatible with the neighborhood. They directed the applicant to reduce the amount of cantilever on the south side, (the side facing Ms. Brandon's property) and to reduce the height of the building. The issue of neighborhood compatibility has been decided with the previous appeal hearing.

The Application Has Been Mishandled by the Architect, City Staff and the ABR.

Architect

The appellant asserts the proposed project 903 W. Mission has been mishandled by the Architect, City Staff and the ABR. The architect's conduct is not a subject for this appeal.

City Staff and the Staff Hearing Officer

There are two specific instances where staff made errors on this project: 1) if Staff had discovered the cantilevered portion of the second story to be out of compliance with the Zoning Ordinance during the initial plan check of the project, prior to the SHO, ABR and Council hearings, there would be less process and confusion for all involved; 2) Upon discovery of the cantilevered portion's non compliance, Staff should have only voided the Final Approval. Voiding then "un-voiding" the Preliminary Approval added unnecessary confusion to the process. However, it is Staff's responsibility to correct errors as soon as they are discovered, and in both instances, this is what happened.

The portion of the project that did not comply with the ordinance has been eliminated, resulting in an overall smaller project.

ABR Review

We do not agree with Ms. Brandon's assertions regarding the ABR mishandling the project. Although Ms. Brandon states that this type of architecture is not appropriate for the neighborhood, the ABR has deemed otherwise and followed the rules that have been set forth for the Design Review process. The applicant worked with the Board and made changes to the project based on input from the neighbors and the ABR. The Board reviewed the project in relation to overall, size, bulk and neighborhood compatibility and found the project to be acceptable.

The appellant's original concerns were that the approved project negatively affects her property values, because allowing a window on the second story facing west, would encroach upon her privacy.

The applicant proposes a clerestory window that is 7'-6" above the finished floor of the second story. The ABR stated at the last meeting that the applicant's privacy concerns had been adequately addressed. Staff believes that the clerestory window does not result in a privacy issue.

The proposed clerestory windows are compatible with the proposed modern architectural style; however, if the project were to be revised to a more traditional style, it could result in windows that may actually impact the appellant's privacy.

Additionally, the required interior yard setback is three feet for parking structures, and six feet for the second story. As proposed, the garage is set back 10' from the property line shared with the appellant, which exceeds the minimum requirement by 7 feet for the first floor and 4 feet for the second floor. Allowing the building to encroach 18" into the front yard provides an additional buffer between the new structure and the neighbor's property and aids in preserving privacy between the two properties, while still meeting the requirements for the garage depth.

Ms. Brandon also states that the ABR has not followed the guidelines because the project is close to a landmark or structure of merit. SBMC §22.68.045 provides a compatibility analysis for the ABR to use when reviewing projects. One of the guidelines asks if the design of the project is appropriately sensitive to adjacent Federal, State, and City Landmarks and other nearby designated historic resources, including City structures of merit, sites or natural features. The proposed project is not adjacent to or in the vicinity of any designated historic resources and therefore, complies with the Compatibility Analysis.

CONCLUSION:

The proposed project has undergone a thorough review by staff, the ABR, the Staff Hearing Officer, and the appellant. The City Council has also reviewed the design and style of architecture on appeal of the ABR's Preliminary Approval, and the appeal was denied. Staff's position is that appropriate consideration has been given to the appellant's issues as part of the Architectural Board of Review and Staff Hearing Officer review process. The project is compatible with the neighborhood; the project is consistent with the Zoning Ordinance, and the proposed clerestory window does not impact the appellant's privacy. Staff recommends that the Council deny the appeal and uphold the ABR's Final Approval. The Preliminary Approval granted by Council in October remains valid and this revised project is a response to the appellant's concerns and the Council's recommendations at the last appeal hearing.

- ATTACHMENTS:**
1. Appellant's letter dated May 25, 2011
 2. Council Agenda Report dated October 19, 2010
 3. ABR minutes
 4. Memo to ABR from Kelly Brodison dated May 16, 2011

NOTE: Project plans have been sent separately to Mayor and Council, and are available for public review in the City Clerk's office.

PREPARED BY: Kelly Brodison, Assistant Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development Director

APPROVED BY: City Administrator's Office

May 25, 2011

RECEIVED

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Dear City Council members,

I'm appealing the ABR's decisions from the May 16, 2011 ABR meeting for 903 W. Mission St.

Only 3 ABR members voted for final approval. 2 ABR members are opposed to these design plans because they are not compatible with the neighborhood. The remaining 2 ABR members recused themselves from voting. They are the current architect and landscape architect hired by the applicant to work on the 903 W. Mission Street project. Before they were hired, they had not favored the project. The structure is too large for this small corner lot and will be an unwelcome intrusion not compatible with the neighborhood which includes a potential historic structure.

It was only after public comments regarding the project on May 16, 2011, that Kelly Brodison, assistant city planner, announced the preliminary approval for 903 W. Mission St. had been reinstated after being voided in March. She blamed the reversal on another mistake. The Agenda did not inform the public that the preliminary and final approvals granted earlier had been voided because the project, as presented and reviewed by the ABR, Staff Hearing Officer, and City Council was not eligible for approval because it violated the zoning ordinance. And the ABR then voted for final approval. That was improper.

I'm appealing the final approval and the preliminary approval which was incorrectly announced as being reinstated on May 16.

This appeal is based on the following:

- 1) **The Voided Preliminary Approval was Wrongly Reinstated.** After discovering the design plans were not in compliance with the zoning ordinance, it was announced at the March 21 ABR meeting that the preliminary and final approvals were voided. Then, at the May 16 ABR meeting, Kelly Brodison announced that staff was retracting the voiding of the preliminary approval and reinstating the preliminary approval. Her stated reason for the retraction was that after further thought, staff's determination was that since City Council had approved the design plans during the preliminary approval appeal hearing, the preliminary approval should not have been voided. However, the fact remains that the design plans did not conform to the zoning ordinance and therefore the design review is still void. City Council made their determination based on incorrect information that staff gave them. Council did not know the plans were not in compliance with the zoning ordinance. A final approval cannot be given until a design review is approved. Therefore, if the design review is void, then the final approval given on May 16 should also be void.
- 2) **The Current Plans do not Comply with the Zoning Ordinance and Therefore, the Design Review and the Final Review Approvals Should be Void.** At the last hearing, the required private storage space for the accessory dwelling unit was shown to have been relocated on the plans so that it now encroaches into the interior setback by 3 feet. This does not comply with the interior setback in the R-2 zone because the zoning ordinance states it only allows covered or uncovered parking within three feet of the property line. It allows no other uses within the setback. The Code section as written does not use the word "garage"; it says covered or uncovered parking. That restriction makes sense because if other uses are allowed within the setback, the property owner is encouraged to build a larger garage just to have a workshop, storage or other uses and it puts more activity too close to the neighbor. (See Attachment A)

That same required private storage space is also partially located within the main house's portion of the parking, which is also against city code. The zoning ordinance specifically requires two parking spaces to be allocated to the larger unit and one space to be allocated to the smaller unit through the use of appropriate signage on the site. Therefore, having the private storage space for the 2nd unit in the main house's parking area is not acceptable according to the zoning ordinance.

The violations have been pointed out to staff and to the ABR and they have allowed the plans to go through anyway.

- 3) **The Design Plans are Not Compatible With the Neighborhood.** The proposed plan is for a metal clad modern industrial building. This is not a style within our neighborhood and is not in keeping with the neighborhood's charm and character. The plans are not compatible in size, scale, style and materials. The plans fail to follow the ABR Guidelines and the Municipal Code in regards to neighborhood compatibility.

According to the Santa Barbara Municipal Code 22.68.045, one of the criteria that shall be looked at by the ABR when it reviews and approves or disapproves the design of a proposed development project is the following question: "Is the design of the project compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and of the particular neighborhood surrounding the project?" In this case, clearly the answer is no. (See attachment B)

- 4) **The Application and Review Process Has Been Mishandled by the Architect, City Staff and the ABR, Which is Deeply Concerning Especially Since 2 ABR Members are Working on this Project.** It appears to me that the architect, Clay Aurell, who is a member of the ABR, has clearly violated ethical standards by communicating with staff about the project. (See Attachment C.) Also, inaccurate information has been presented by the architect to the staff. The Staff Hearing Officer was given inaccurate information and approved 2 modifications – one for less than the required open yard space and one to build 18" into the front setback – with no justification other than the standard reply that the modifications are "consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure appropriate improvement on the lot." The fact is that the size of the improvement is excessive for the lot.

Staff has allowed plans to go through that were not in compliance with the municipal code – the original plans showed a cantilevered living space being built over the already smaller than normally required open yard space. This error led to the original preliminary and final approvals being voided at the direction of the City Attorney and with the concurrence of the Applicant. Afterwards, plans were revised and resubmitted but are still not in compliance with the zoning ordinance and yet staff allowed these flawed plans to go through and ABR gave final approval.

ABR has not followed the ABR guidelines in regards to neighborhood compatibility. One example of this is when a member of the ABR brought up a point in the guidelines that state when a project is close to a landmark or structure of merit, they are supposed to be particularly concerned with compatibility. He asked the other ABR members and staff that were present at the meeting if they knew of this point in the guidelines. None of them were aware of it and therefore brushed it off as if it was not something they had to follow. According to the city historian, 906 W. Mission is listed on the City of Santa Barbara Potential Historic Structures and Sites List. The Potential List contains buildings that have been identified as being likely to qualify for historic designation as either a Landmark or Structure of Merit should the property owner wish to pursue designation. (See Attachment B)

In appealing this decision, I am asking you to make sure accurate information is required and made available to the public and to the design review boards and that design review decisions are made in a transparent and ethical manner.

I intend to submit additional documenting evidence to the City Council prior to the hearing of this appeal.

Sincerely,



Pam Brandon
905 W. Mission St.
Santa Barbara, CA 93101
805.451.1802
PamBrandon@cox.net

Attachment A

Santa Barbara Municipal Code

28.18.060 Setback, Open Yard, and Private Outdoor Living Space Requirements.

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

1. Buildings and structures other than covered parking: 6 feet
2. Covered or uncovered parking: 3 feet

28.18.075 Lot Area and Frontage Requirements.

2. **Private Storage Space.** Each dwelling unit shall have at least 200 cubic feet of enclosed, weatherproof, lockable, and separate storage space in addition to the guest, linen, pantry, and clothes closets customarily provided exclusively for the use of the occupants of the dwelling unit. Such storage space shall be accessible from the exterior of the unit for which it is provided.
483 rev. 9/30/08

3. **Accessory Unit Parking Requirements.** Notwithstanding the parking requirements established for Two-Family Dwelling units on standard-sized lots in excess of 6,000 square feet as provided in Paragraph (2) of Subsection (G) of Section 28.90.100, a two dwelling unit development that meets the criteria delineated in this subsection shall provide not less than two (2) covered and one (1) uncovered parking spaces. Two of such parking spaces shall be allocated to the larger unit and the remaining space shall be allocated to the smaller unit through the use of appropriate signage on the site. Any such uncovered parking space may be provided in a tandem parking arrangement provided that both of the tandem parking spaces are allocated to the larger dwelling unit. Tandem parking spaces may be constructed within a non-conforming interior setback area under circumstances where the setback of the parking area remains consistent with the setback of a pre-existing non-conforming garage structure. The Community Development Director may require the recordation of a parking site plan in the official records of Santa Barbara County with respect to the lot involved for the purposes of memorializing the permanent use and availability of the required parking spaces as allocated to each permitted dwelling unit.

ATTACHMENT B

The following are excerpts from the the Municipal Code and the ABR Guidelines. Specific text is highlighted that shows, by approving these design plans, the ABR failed to follow the ABR Guidelines and the Municipal Code.

SANTA BARBARA MUNICIPAL CODE

Chapter 22.68

ARCHITECTURAL BOARD OF REVIEW

22.68.045 Project Compatibility Analysis.

A. PURPOSE. The purpose of this section is to promote effective and appropriate communication between the Architectural Board of Review and the Planning Commission (or the Staff Hearing Officer) in the review of development projects and in order to promote consistency between the City land use decision making process and the City design review process as well as to show appropriate concern for preserving the historic character of certain areas of the City.

B. PROJECT COMPATIBILITY CONSIDERATIONS. In addition to any other considerations and requirements specified in this Code, the following criteria shall be considered by the Architectural Board of Review when it reviews and approves or disapproves the design of a proposed development project in a noticed public hearing pursuant to the requirements of Chapter 22.68.

1. **Compliance with City Charter and Municipal Code; Consistency with Design Guidelines.** Does the project fully comply with all applicable City Charter and Municipal Code requirements? Is the project's design consistent with design guidelines applicable to the location of the project within the City?

2. **Compatible with Architectural Character of City and Neighborhood.** Is the design of the project compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and of the particular neighborhood surrounding the project?

3. **Appropriate size, mass, bulk, height, and scale.** Is the size, mass, bulk, height, and scale of the project appropriate for its location and its neighborhood?

4. **Sensitivity to Adjacent Landmarks and Historic Resources.** Is the design of the project appropriately sensitive to adjacent Federal, State, and City Landmarks and other nearby designated historic resources, including City structures of merit, sites, or natural features?

5. **Public Views of the Ocean and Mountains.** Does the design of the project respond appropriately to established scenic public vistas?

6. **Use of Open Space and Landscaping.** Does the project include an appropriate amount of open space and landscaping?

Excerpts from Architectural Board of Review Guidelines

9.2 **R-2 (Two Family) Zone Accessory Dwelling Units.** Review of accessory dwelling units proposed on lots with a total lot area of between 5,000 and 6,000 square feet in the R-2 Zone shall be guided by the following. Also, note landscaping guidelines specific to the R-2 zone in the ABR Landscaping Guidelines.

- A. Accessory Dwelling Units shall be reviewed for neighborhood compatibility and neighborhood character preservation.
- B. Encourage existing building preservation when feasible.
- C. Consider second-story window placement in relationship to neighboring buildings to preserve the privacy of existing uses on neighboring parcels.
- D. Fencing or barriers consistent with zoning shall be required along driveways to prevent parking on front yards.

Continued Attachment B – Excerpts from the ABR Guidelines

SECTION 1 Site and Surrounding Area Considerations

1.1 **Relation to Site.** Buildings should be designed to relate to the site's existing landforms and contours and to present an integrated appearance. Over-building of a site may be considered grounds for project denial.

1.2 **Area Compatibility – Commercial and Multi-Family Residential.**

A. **General.** In areas which possess examples of distinctive architecture, structures and additions should present a harmonious character to not clash or exhibit discord with the particular surrounding area in which they are placed. Structure elements should be consistent with the best elements that distinguish the particular area in which they are proposed. These elements include, but are not limited to:

- | | | |
|----------|--------------|-------------|
| • volume | • massing | • rooflines |
| • size | • proportion | • colors |
| | • scale | • textures |
| | • bulk | • materials |

Consideration of the existing setback and patterns of development in the particular area can also be important.

B. **Areas without Distinctive Architecture.** In areas which do not possess examples of distinctive architecture, structures and additions should be designed to lead the area toward designs which are harmonious with Santa Barbara's distinctive built environment.

C. **Transitional Areas.** When a project is within close proximity to a landmark district consideration may be given to that district's guidelines (SBMC 22.22 100 B). In these areas, project design should promote a smooth transition from one usage area or architectural style to the next. Special attention to consistency with the City's Urban Design Guidelines is recommended.

D. **Landmarks or Structures of Merit.** Projects within close proximity to a landmark or structure of merit should be sympathetic to the existing context of the landmark or structure of merit.

SECTION 2 SECTION 2 Architectural Imagery

2.1 **Building Design Compatibility and Consistency.** Buildings shall demonstrate compatibility in materials and consistency in style throughout exterior elevations. Building components such as windows, doors, arches and parapets should have proportions appropriate to the architecture. Additions should relate to the existing building in design, details, colors and materials.

2.2 **Architectural Styles.** The ABR does not mandate required architectural styles for specific areas or locations; however, consideration should be given to several factors that influence the ABR's preference concerning proposed architectural styles. Factors such as an area's prevailing architectural styles, area compatibility and structure visibility are factors which should be considered. One of the ABR's stated goals is to encourage the preservation of pre-1925 and Hispanic styles of architecture. In addition, traditional architectural styles based on the City's Hispanic tradition are preferred at highly visible locations such as: gateway or entry points into the City, hillside development, and locations in close proximity to El Pueblo Viejo Landmark District.

Attachment C

From: Clay Aurell
Subject: 903 W. Mission
Date: April 27, 2011 12:14:44 PM PDT
To: Kelly Brodison , Danny Kato , Tony Boughman
Cc: Anthon Ellis <anthon@aurellblumer.com> , Josh Blumer <josh@aurellblumer.com>

Kelly –

Heidi's project is going back to ABR next Monday. We are on the Agenda for 7.30pm. Per our previous discussion, I am requesting that staff be present to ask questions regarding the reason why the project is back before them. I would request that staff take the position that you have thus far, that being in support of the project. I am sure that ABR will have several questions about why the preliminary approval and the final approval were revoked after the board gave it Final Approval on March 7, 2011.

I would like to make sure that ABR realizes that this was unfortunate oversight by Staff during the previous review of the project which the neighbor brought to light at the last hearing. We are requesting PROJECT DESIGN APPROVAL and FINAL APPROVAL which is currently NOT reflected on the agenda for ABR. Furthermore, Staff should re-assure that there are no other issues to resolve and that this project is ready for and SHOULD receive Final Approval based on the fact that the design is consistent with what they previously approved.

Please confirm that staff will continue to support our project and be there to clearly layout why this project is back on the agenda and that they can give and should give it PDA and Final. I don't want any opportunity for PDA to be appealed and then go back for Final. Heidi was very upset about this and is very concerned.

Thank you,

CLAY AURELL
a l a n c a r b l e e d a p
p r i n c i p a l A R C H I T E C T

AB design studio, inc.
27 E. COTA STREET, SUITE 503
SANTA BARBARA, CALIFORNIA 93101
[O]805.963.2100 [F]805.963.2300 [C]805.452.7522
WWW.ABDESIGNSTUDIOINC.COM

 Please consider the environment before printing this e-mail

Activities:

Mr. Clay Aurell
AB Design Studio
27 E. Cota Street, Suite 503
Santa Barbara, CA 93101

SUBJECT: 903 W. Mission Street, MST#2009-00388,
Revocation of Design Review Approval

Dear Mr. Aurell:

The purpose of this letter is to formalize the revocation of the Design Review Approval of the above-referenced project. The discretionary applications granted for this project are modifications to permit construction of the garage within the required 20 foot front setback and a modification to provide less than the required Common Open Yard area of 600 square feet. The project received approval from the Staff Hearing Officer on July 28, 2010 and on appeal at the City Council on October 19, 2010. The project received a Preliminary Approval from the Architectural Board of Review on August 23, 2010 and, a Final Approval on March 27, 2011. Although a modification was approved to allow less than the required 600 square feet of common open yard, there was an area of 375 square feet behind the garage that was intended to comply with the ordinance. Unfortunately, Staff overlooked the second story cantilever above this portion of the required common open yard area. By definition in the ordinance (SBMC §28.04.715) yard is an open space, on a lot or parcel of land, unoccupied and unobstructed from the ground upward.

Therefore, this project, as designed, does not comply with the ordinance and a modification is required to allow the second story to cantilever over the required common yard. Staff is not inclined to support a modification and recommends revising the project to provide a conforming site design.

Based on this information, the Preliminary Approval that was given to the project on Monday, March 7th, and the Final Approval of March 27, 2011, are considered "void". The modifications remain valid. You may return to the ABR with a conforming design and pursue a new Project Design Approval and Final Approval.

Sincerely,

Kelly Brodison

Kelly Brodison
Assistant Planner

cc: Heidi Ferguson, 903 W. Mission Street, Santa Barbara, CA 93101
Jaime Limon, Design Review and Historic Preservation Supervisor
Planning File

3/7/2011

ABR-Final Approval - Project

3/7/2011

ABR-Final Review Hearing

(Project requires compliance with Staff Hearing Officer Resolution No. 041-10.)

NOTICE:

1. On Thursday, March 17, 2011, this Agenda was duly posted on the indoor and outdoor bulletin boards at the Community Development Department, 630 Garden Street, and online at www.SantaBarbaraCa.gov/abr.
2. This regular meeting of the Architectural Board of Review will be broadcast live on City TV-18, or on your computer via <http://www.santabarbaraca.gov/Government/Video/> and then clicking City TV-18 Live Broadcast. City TV-18 will also rebroadcast this meeting in its entirety on Wednesday at Noon and the following Monday at 9:00 a.m. An archived video copy of this meeting will be viewable on computers with high speed internet access the following Wednesday at www.santabarbaraca.gov/abr and then clicking *Online Meetings*.

GENERAL BUSINESS:

The Full Board meeting was called to order at 3:09 by Vice-Chair Sherry.

Members present: Aurell, Manson-Hing (arrived at 3:25), Mosel, Rivera, Sherry

Members absent: Gilliland, Zink

Staff present: Boughman, Shafer

- A. Public Comment: No public comment.
- B. Approval of the minutes of the Architectural Board of Review meeting of March 7, 2011.

Motion: Approval of the minutes of the Architectural Board of Review meeting of March 7, 2011, as amended / submitted.

Action: Aurell/Rivera, 4/0/0. Motion carried. (Gilliland, Manson-Hing, and Zink absent)
- C. Consent Calendar.

Motion: Ratify the Consent Calendar of March 14, 2011. The Consent Calendar was reviewed by Keith Rivera with landscaping reviewed by Chris Gilliland.

Action: Aurell/Mosel, 4/0/0. Motion carried. (Gilliland, Manson-Hing, and Zink absent)

Motion: Ratify the Consent Calendar of March 21, 2011. The Consent Calendar was reviewed by Keith Rivera.

Action: Aurell/Mosel, 4/0/0. Motion carried. (Gilliland, Manson-Hing, and Zink absent)
- D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.
 1. Mr. Boughman made the following announcements:
 - a) Item 1, 336 N. Milpas Street, is postponed two weeks at applicant's request.
 - b) Members Gilliland and Zink are absent. Chair Manson-Hing will arrive late.
 - c) Member Zink attended the Planning Commission hearing for Highway 101 on Thursday, March 17. The Coastal Development Permit was approved and the project will be returning to ABR; Mr. Boughman requested that board members review the Planning Commission meeting video.
 2. Kelly Brodison, case planner, reported that the Final Approval by the ABR on March 7, 2011 for the project at 903 West Mission Street is deemed void, as well as the project's Preliminary Approval. It was brought to staff's attention by the adjacent neighbor that the project's proposed second-story cantilever over the required open yard does not comply with the Zoning Ordinance.
 3. Member Sherry reported that she will step down from Item #4, 602 Anacapa Street.

NOTICE:

- A. On Thursday, May 12, 2011, this Agenda was duly posted on the indoor and outdoor bulletin boards at the Community Development Department, 630 Garden Street, and online at www.SantaBarbaraCa.gov/abr.
- B. This regular meeting of the Architectural Board of Review will be broadcast live on City TV-18, or on your computer via <http://www.santabarbaraca.gov/Government/Video/> and then clicking City TV-18 Live Broadcast. City TV-18 will also rebroadcast this meeting in its entirety on Wednesday at Noon and the following Monday at 9:00 a.m. An archived video copy of this meeting will be viewable on computers with high speed internet access the following Wednesday at www.santabarbaraca.gov/abr and then clicking *Online Meetings*.

GENERAL BUSINESS:

- A. Public Comment: Any member of the public may address the Architectural Board of Review for up to two minutes on any subject within their jurisdiction that is not scheduled for a public discussion before the Board on that day. The total time for this item is ten minutes. (Public comment for items scheduled on today's agenda will be taken at the time the item is heard.)
- B. Approval of the minutes of the Architectural Board of Review meeting of Monday, May 2, 2011.
- C. Consent Calendar of May 16, 2011.
- D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.
- E. Subcommittee Reports.

FINAL REVIEW**1. 903 W MISSION ST****R-2 Zone**

(3:10) Assessor's Parcel Number: 043-113-009
 Application Number: MST2009-00388
 Owner: Heidi Feguson
 Architect: AB Design Studio
 Architect: Kenneth & Harbaugh

(Revised proposal to construct a new 525 square foot second-story accessory dwelling unit above a new 623 square foot, three-car garage on a 5,000 square foot lot. The proposal includes demolition of the existing 317 square foot non-conforming garage, and a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage. The project requires Staff Hearing Officer review for a requested zoning modification to provide less than the required 600 square feet of open yard and to allow the garage to encroach into the required 20-foot front-yard setback.)

(Project was last reviewed on March 7, 2011.)

Note from Appellant: As you see here, there is no mention of the preliminary and final approvals being voided, which was announced at the March 21 ABR meeting.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 19, 2010

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Architectural Board Of Review Approval Of 903 West Mission Street

RECOMMENDATION: That Council deny the appeal of Pamela Brandon and support the Architectural Board of Review's Preliminary Approval of the proposed accessory dwelling unit and new garage.

DISCUSSION:

Project Description

The proposed project involves the construction of 525 square foot second story accessory dwelling unit above a new 623 square foot three-car garage. The proposal includes the demolition of an existing 317 square foot non-conforming garage, an addition of a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage on a 5,000 square foot lot that is currently developed with an 844 square foot single family residence and a 317 square foot detached garage.

Project History

On July 28, 2010, the Staff Hearing Officer (SHO) reviewed and approved two modifications to permit construction of a new garage within the required 20 foot front setback along Gillespie Street (SBMC § 28.18.060.A), and to provide less than the required Common Open Yard area of 600 square feet (SBMC 28.18.060.C.3). The SHO Resolution #041-01 is attached as Attachment 2.

On August 23, 2010, the Architectural Board of Review (ABR) granted Preliminary Approval by a vote of 3/1/0 of an application for the design review of an accessory dwelling unit above a new garage. The ABR minutes are attached as Attachment 3.

On September 2, 2010, an appeal of the ABR Preliminary Approval was filed by the adjacent neighbor, Pamela Brandon residing at 905 W. Mission Street (Attachment 1). The appeal asserts that the project design is not consistent with the surrounding neighborhood, the project is not consistent with the Zoning Ordinance, and that the project negatively affects the appellant's property values.

Although the ABR's Preliminary Approval of the proposed project has been appealed, the appellant did not appeal the Staff Hearing Officer's decision to approve the modifications.

APPEAL ISSUES

Neighborhood Compatibility

The appellant states that the modern style of architecture is not consistent with the surrounding neighborhood.

The ABR has reviewed the proposal on four occasions (Attachment 3). The first two times the project was reviewed, the ABR took issue with the lack of neighborhood compatibility and the overall style. The Board requested that the applicant reduce roof pitches and ridge heights and asked the applicant to study a design that was more compatible in style, massing, and materials with the surrounding neighborhood. The Board was not fully supportive of the modification to provide less than the 600 square feet of required open yard because the presentation seemed too aggressive for the lot.

On May 17, 2010, the project returned to the ABR with a revised proposal that incorporated changes to the overall design aesthetic, roof forms and building materials. The height of the second story addition was reduced by approximately 5', which in turn reduced the overall mass and bulk of the project. The revisions to the architectural style accomplished a more cohesive proposal and resulted in a reduction in the overall scale of the building that was problematic in the previous design. The Board was in support of the modern architectural style in this eclectic neighborhood as modernism is part of the eclectic mix.

The Board thoroughly reviewed the modification requests and supported the modification for the new garage to encroach 18" into the front setback because it enabled a more usable private space in the back yard and because the plain of the garage is set back from the existing house on site and the structure would not protrude beyond the existing structure on site. The Board supported the modification to provide less than required common area of 600 square feet because of the size of the lot, narrow width and its location on a corner. The Board appreciated the change in architectural design. Satisfied with the revised design, the Board forwarded the project to the Staff Hearing Officer.

One Board member felt that, although this architectural style is seen throughout the City, this proposed design was out of context with the overall neighborhood.

Subsequently, the project was reviewed by the Staff Hearing Officer on July 28, 2010. The appellant, Pam Brandon spoke at the public hearing and voiced her concerns about loss of privacy and reduced property value and suggested having a skylight in lieu of, or relocating, the window overlooking her backyard. The Staff Hearing Officer approved the project with the added condition that the ABR would review the proposed window location on the second-story building with respect to providing maximum privacy for the neighbor.

The project returned to the ABR for Preliminary Review and at that time the applicant proposed clerestory windows so that the new accessory dwelling unit could still receive light from the north while still addressing the privacy concerns of the adjacent neighbor. The ABR granted a Preliminary Approval with comments regarding building materials.

The ABR stated that the introduction of clerestory windows on the second story sufficiently addressed the privacy concerns from the adjacent neighbor. (See Attachment 5)

Zoning Ordinance Consistency

The appellant asserts that the project does not comply with the Municipal Code for accessory dwelling units and that the property is less than 5,000 square feet as required per SBMC §28.18.075.E.

The subject property's dimensions are 50' x 100' per the County of Santa Barbara Assessor's Map and therefore, the size of the lot is 5,000 square feet which, is consistent with the requirements for an accessory dwelling unit.

As summarized in the attached Staff Hearing Officer Staff Report (Attachment 2) dated July 21, 2010, with the approval of the requested modifications, the proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan and Local Coastal Plan.

As of the writing of this report, no other inconsistencies have been alleged by the appellant.

Second Story Window

The appellant states that the approved project negatively affects her property values, because allowing a window on the second story facing west, will encroach upon her privacy.

The applicant proposes a clerestory window that is 7'-6" above the finished floor of the second story (Attachment 5). The ABR stated at the last meeting that the applicant's privacy concerns had been adequately addressed. Staff believes that the clerestory window does not result in a privacy issue.

The proposed clerestory windows are compatible with the proposed modern architectural style; however, if the project were to be revised to a more traditional style, it could result in windows that may actually impact the appellant's privacy.

Additionally, the required interior yard setback is three feet for parking structures, and six feet for the second story. As currently proposed, the garage is set back 10' from the property line and the second story is setback 7.5'. Allowing the building to encroach 18" into the front yard provides an additional buffer between the new structure and the neighbor's property and aids in preserving privacy between the two properties.

CONCLUSION:

The proposed project has undergone a thorough review by staff, the ABR and the Staff Hearing Officer. It is staff's position that appropriate consideration has been given to the appellant's issues as part of the Architectural Board of Review and Staff Hearing Officer review process, the project is compatible with the neighborhood, the project is consistent

with the Zoning Ordinance, and the proposed clerestory window does not impact the appellant's privacy.

NOTE: Attachment 5, Project Plans, has been sent separately to Mayor and Council, and is available for public review in the City Clerk's office.

- ATTACHMENTS:**
1. Appellant's letter dated September 2, 2010
 2. Staff Hearing Officer Staff Report, Minutes and Resolution #041-10
 3. ABR minutes *SEE ATTACHMENTS OF 8-23-11 CAR*
 4. Section showing second story clerestory window
 5. Project Plans

PREPARED BY: Kelly Brodison, Assistant Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development Director

APPROVED BY: City Administrator's Office

September 02, 2010

RECEIVED

2010 SEP -2 AM 11: 12

Dear City Council,

CITY OF SANTA BARBARA
CITY CLERK

This letter appeals the decision of the ABR from the August 23, 2010 meeting in which the board voted 4 to 1 for the Preliminary Approval for 903 W. Mission St., case MST2009-00388. Only 5 ABR members voted because 2 of the ABR members stepped down from voting due to the fact that they are the architect and landscape architect working on the 903 W. Mission Street project.

As recommended by the City Clerk's office, I will keep my reasons for the appeal brief in this letter. My appeal is based on the following:

- 1) The design plans that were approved are not in keeping with the neighborhood style and character. The proposed plan is for a pre-fab metal building with a modern style, which is not a style within our neighborhood.

According to the Santa Barbara Municipal Code, one of the criteria that should be looked at by the ABR when it reviews and approves or disapproves the design of a proposed development project is the following question: "Is the design of the project compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and of the particular neighborhood surrounding the project?"

- 2) As I've looked through the file at the city Planning & Zoning Department for this property, I have discovered substantive inaccuracies. For example, according to city and county records this property is under 5000 square feet. According to the Santa Barbara Municipal Code, accessory dwelling units are allowed on certain R-2 lots with a total lot area of between 5,000 and 6,000 square feet. See attachment for the city and county records regarding 903 W. Mission Street's lot size. I am preparing a detailed presentation to show these inaccuracies at the appeal meeting. I ask you to enforce that accurate information be used to make a decision about modification requests and design plans that come before the city, including this project.
- 3) This project negatively affects my property value. This project did not fit within the standard rules of the Municipal Code for allowing a second dwelling unit, so the property owner of 903 W. Mission St. had to apply for modifications. The city approved the modifications. Then, the ABR gave preliminary approval to plans that further devalue my property. The city, through those approvals, has given that property a huge boost in property value while bringing my property value down.

My realtor gave her expert opinion to the ABR and the Staff Hearing Officer about the negative affect on my property value due to the modification approval and the design plans. If the city allows this second story dwelling unit, then I would ask that you help minimize the further loss of value on my property by requiring the design to fit within the neighborhood and to not allow any windows on the second story that face into my private backyard, unnecessarily invading my property's privacy. If future buyers of my property walk into my backyard and look up to see a 13'(thirteen feet) wide window peering down on them, it will negatively affect their interest in buying my property.

ATTACHMENT 1

From my first notification of this project (which was the notice of a public hearing for the Staff Hearing Officer) I tried to talk to my neighbor and work through my biggest concerns even up to the day before submitting this letter, trying to reach an agreement. I would have much preferred to work this out between neighbors rather than both of us having to spend time and money contesting this.

I intend to submit additional documenting evidence to the City Council prior to the hearing of this appeal.

Sincerely,

A handwritten signature in cursive script that reads "Pam Brandon". The signature is written in black ink and has a fluid, connected style.

Pam Brandon
905 W. Mission St.
Santa Barbara, CA 93101
805.451.1802
PamBrandon@cox.net

Attachment

Home > Residents > Licenses & Permits > Case Status Lookup > Lookup Query Form

Home Government Residents Business Visitors Site Map >> Contact Us >>

Search:

Parcel Lookup Results - Details

Parcel Details

[Back](#)

Parcel Address:	903 W MISSION ST
Parcel Number:	043-113-009
Zone District:	R-2
General Plan Neighborhood:	Westside: Westside
Lot Size (from County Assessor's Rolls):	0.11 Acres
Lot Size (Estimate from City's GIS System):	4,975.35 Square Feet
Slope (Estimate from City's GIS System):	1%
High Fire Area:	No

Parcel Tags



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: July 21, 2010
AGENDA DATE: July 28, 2010
PROJECT ADDRESS: 903 W. Mission Street (MST2009-00388)
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Senior Planner
 Kelly Brodison, Assistant Planner

DNK
KAB

I. PROJECT DESCRIPTION

The 5,000 square foot lot is currently developed with an 844 square foot single family residence and a 317 square foot detached garage. The proposed project involves the construction of 525 square foot second story accessory dwelling unit above a new 623 square foot three-car garage. The proposal includes the demolition of the existing 317 square foot non-conforming garage, and a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage. The discretionary applications required for this project are Modifications to permit construction of the garage within the required 20 foot front setback (SBMC § 28.18.060.A), and to provide less than the required Common Open Yard area of 600 square feet (SBMC 28.18.060.C.3).

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, as submitted.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: AB Design Studio, Inc.
 Parcel Number: 043-113-009
 General Plan:
 Existing Use: One-Family Residence

Property Owner: Heidi Ferguson
 Lot Area: 5,000 sq. ft.
 Zoning: R-2
 Topography: Flat

Adjacent Land Uses:

North – One-Family Residence
 South – One-Family Residence

East - One-Family Residence
 West – One-Family Residence

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	844 sf	557 sf addition = 1,401 sf
Garage	317 sf	623 sf

C. PROPOSED LOT AREA COVERAGE

Building: 1,999 sf 40% Hardscape: 513 sf 10% Landscape: 2,488 sf 50%

IV. DISCUSSION

The subject property is located on the corner of West Mission and Gillespie Streets and therefore, has two front yard setbacks. The proposed project involves the construction of an accessory dwelling unit above a new 623 square foot three-car garage. Modification approvals are required for a new garage to be located within the required 20-foot front setback and to provide less than the required common open yard area of 600 square feet.

The existing 317 square foot garage is non-conforming to size and encroaches within the interior setback. The new garage is proposed to provide a third covered parking spot for the accessory dwelling unit, and would comply with the interior setbacks. However, in order to provide the required 10 foot width for the common open yard at the rear of the lot and the required 20' minimum interior depth of the garage, the applicant is requesting a modification for the garage to encroach approximately 18" into the 20' front setback on Gillespie Street. Staff's position is that requiring the garage to meet the 20' setback for garages facing the street would not benefit the project and would, in fact create the need for a modification of the common open yard minimum dimensions. Transportation Staff has reviewed the proposal, and prefers the requested encroachment into the front setback instead of reducing the interior depth of the garage by 18", because 12" of the encroachment is due to the thickness of the walls of the garage. The length of the area in front of the garage door is 19.5', which meets Transportation Division standards.

Two dwelling units are allowed on this 5,000 square foot lot in the R-2 Zone, with the special provisions for accessory dwelling units. Common open yard on lots developed with accessory dwelling units requires that the open yard may be provided in one area of at least 600 square feet or two areas, each of which must be at least 300 square feet, each with a minimum dimension of 10'x10'. The existing house is situated on the lot in such a way that that neither of these open space requirements can be met and additionally, the lot is constrained with two front setbacks. However, the project does meet the locational requirements for the open yard and provides one area of 375 square feet for the new unit residence, two areas of 237 and 130 square feet, each meeting the 10'x10' minimum dimension, for the existing residence. Additionally, the project meets the requirements for the private outdoor living space for both units as well as provides areas for enjoyment of the yard. Although the minimum area of 300 feet is not being met for the front unit, it is Staff's position that adequate open yard is being provided.

V. FINDINGS AND CONDITION

The Staff Hearing Officer finds that the front setback modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure appropriate improvement on the lot. By allowing the proposed three-car garage to encroach 18" into the front setback, the project meets current Municipal Code requirements by providing three parking spaces on site, while still providing a useable space at the rear of the lot.

The Staff Hearing Officer finds that the Modification of the open yard for the front unit to be less than the required 300 square feet is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. Although one area does not meet the minimum dimension of least 300 square feet, the project provides enough area by providing three separate open yard areas totaling more than the required total of 600 square feet.

Said approval is subject to a condition that all construction within the City right of way, including new driveway, curb, gutter, sidewalk, relocation of street sweeping sign etc. will require a permit from the Public Works Department.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated June 7, 2010
- C. ABR Minutes *SEE ATTACHMENT 3 OF 8-23-11 CAR*



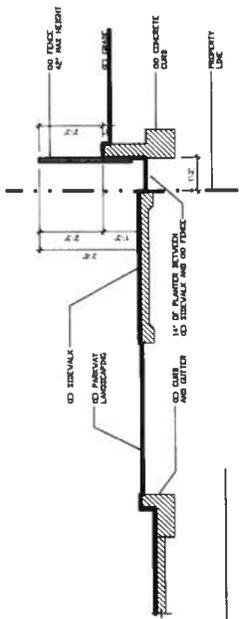
DESIGN STUDIO
 1000 S. GILLESPIE STREET
 SANTA BARBARA, CALIFORNIA 93108
 TEL: (805) 965-1100
 FAX: (805) 965-1101
 WWW.ABDESIGNSTUDIO.COM

PROJECT: 903 WEST MISSION
CLIENT: [REDACTED]
ARCHITECT: [REDACTED]
DATE: [REDACTED]

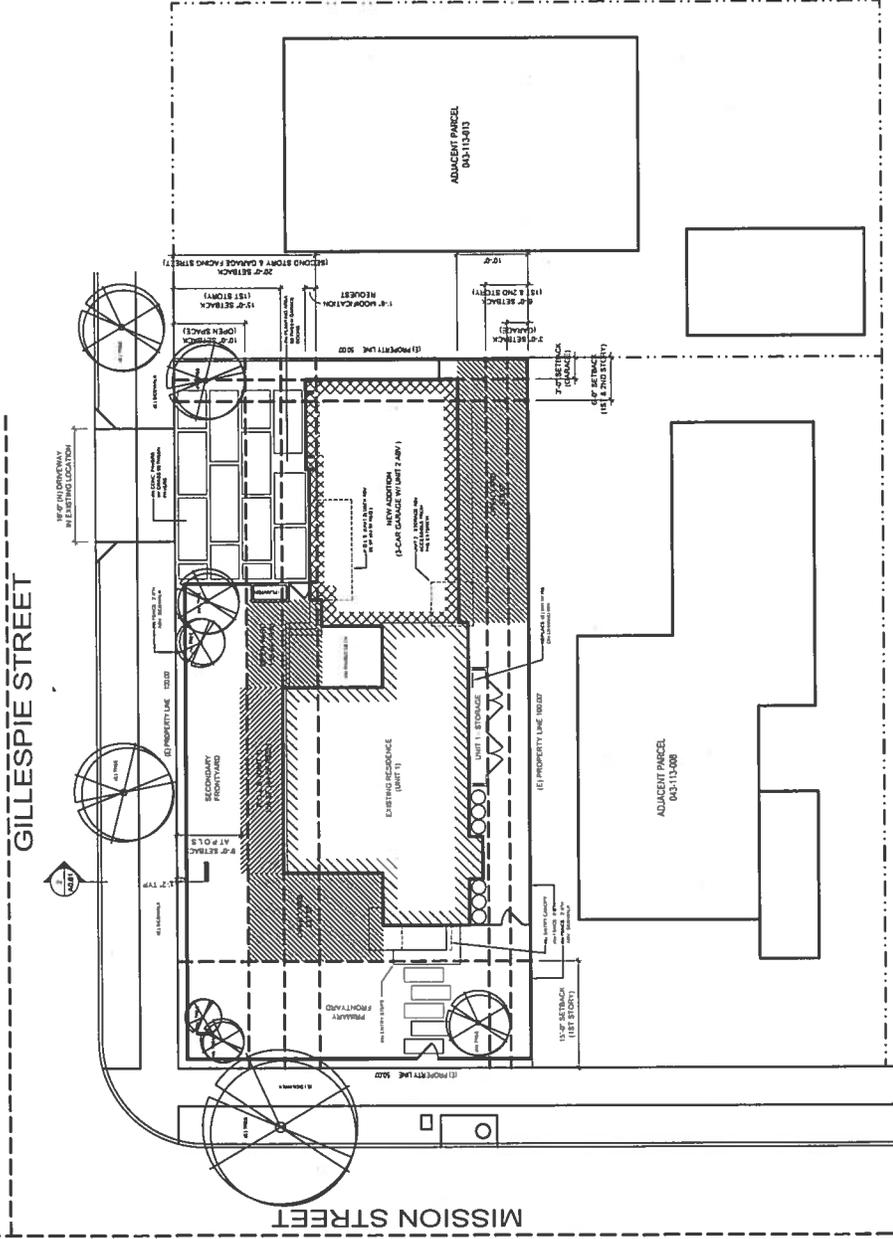


PROJECT NO.	903 WEST MISSION
DATE	10/15/10
SCALE	1/8" = 1'-0"
DESIGNED BY	[REDACTED]
DRAWN BY	[REDACTED]
CHECKED BY	[REDACTED]
DATE	[REDACTED]

903 WEST MISSION
 903 WEST MISSION STREET
 SANTA BARBARA, CA 93108
 TEL: (805) 965-1100
 FAX: (805) 965-1101



PROPOSED FENCE AT SIDEWALK
 SCALE: 1/2" = 1'-0"



PROPOSED SITE PLAN 1
 SCALE: 1/8" = 1'-0"



keynotes

- 1
- 2



DESIGN STUDIOS
DESIGN STUDIOS
 1000 S. GARDEN ST.
 SUITE 100
 SANTA ANA, CALIFORNIA 92705

PHONE: (714) 440-1111
 FAX: (714) 440-1112
 WWW: WWW.ABDESIGNSTUDIOS.COM

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

CONTACT: JEFFREY B. ABRAHAM
PHONE: (714) 440-1111
CELL: (714) 440-1111

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

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FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

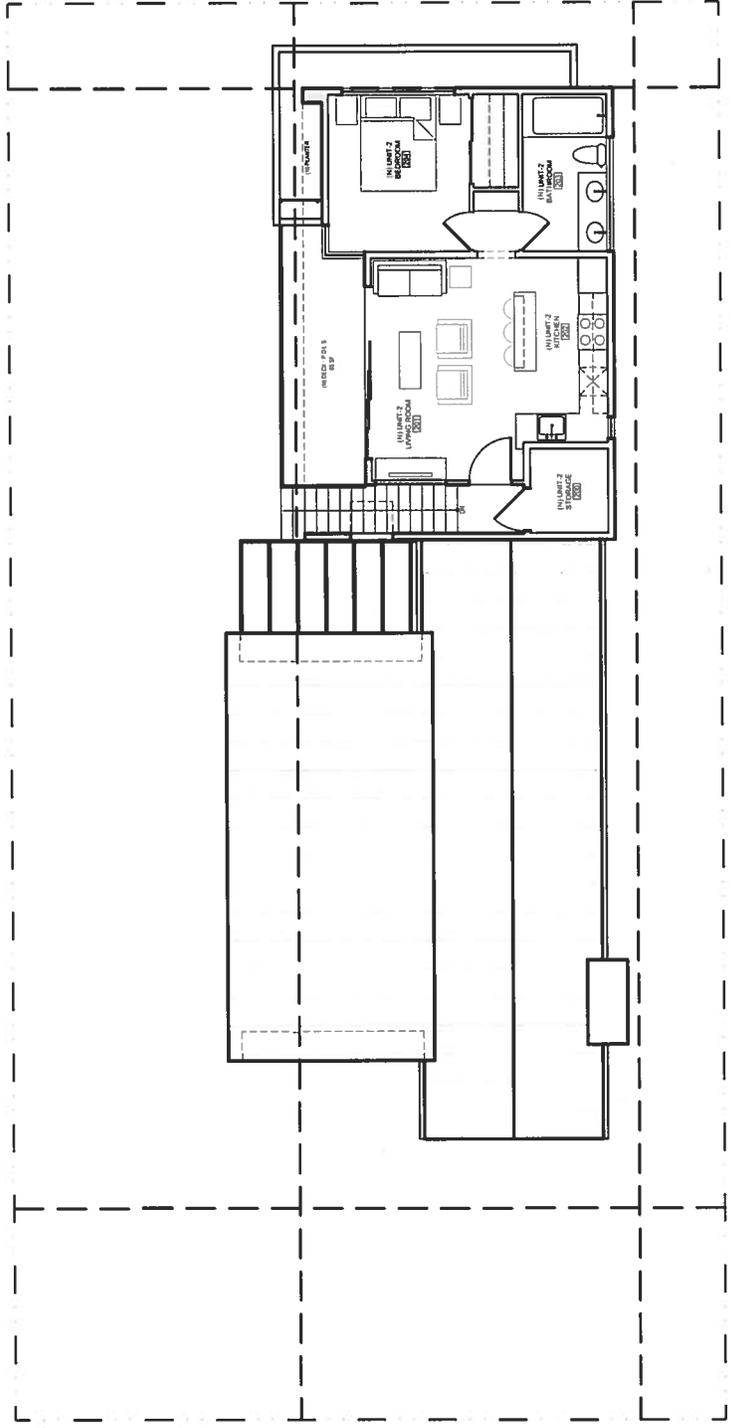
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CITY/STATE: SANTA ANA, CA

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CITY/STATE: SANTA ANA, CA

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CITY/STATE: SANTA ANA, CA

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA

FIRM NAME: AB DESIGN STUDIOS
CITY/STATE: SANTA ANA, CA



- wall legend**
- || HWY WALL
 - || DEMO WALL
 - || (R) WALL TO REMAIN

PROPOSED SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-0"



903 WEST MISSION

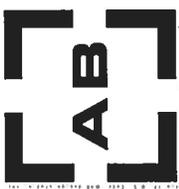
903 WEST MISSION STREET
 SANTA ANA, CALIFORNIA 92705

PHONE: (714) 440-1111
 FAX: (714) 440-1112



keynotes

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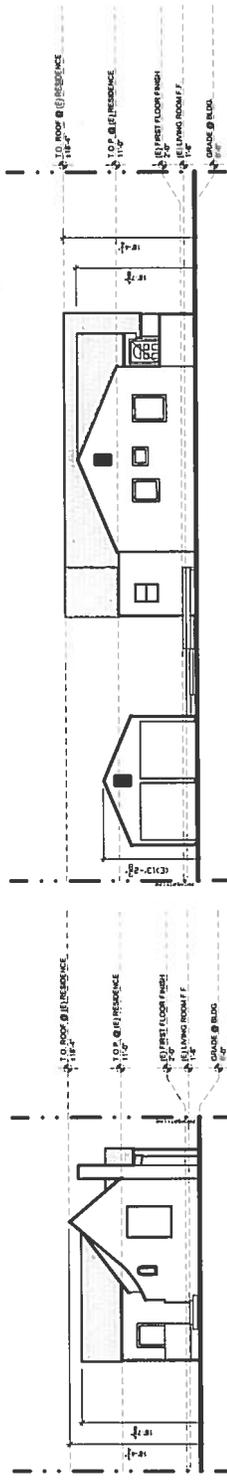


ARCHITECTS
 1180 WEST VILLAGE AVENUE
 SUITE 100
 WASHINGTON, CA 94390
 PH: (925) 365-3378
 FAX: (925) 365-3379
 WWW.ABARCHITECTS.COM
 SANTA BARBARA, CALIFORNIA 93103

PROJECT: 903 WEST MISSION
 CLIENT: [REDACTED]
 FIRM NAME: [REDACTED]
 FIRM NO.: [REDACTED]
 FIRM ADDRESS: [REDACTED]
 FIRM PHONE: [REDACTED]
 FIRM FAX: [REDACTED]
 FIRM WEBSITE: [REDACTED]
 PROJECT NO.: [REDACTED]
 SHEET NO.: [REDACTED]
 DATE: [REDACTED]

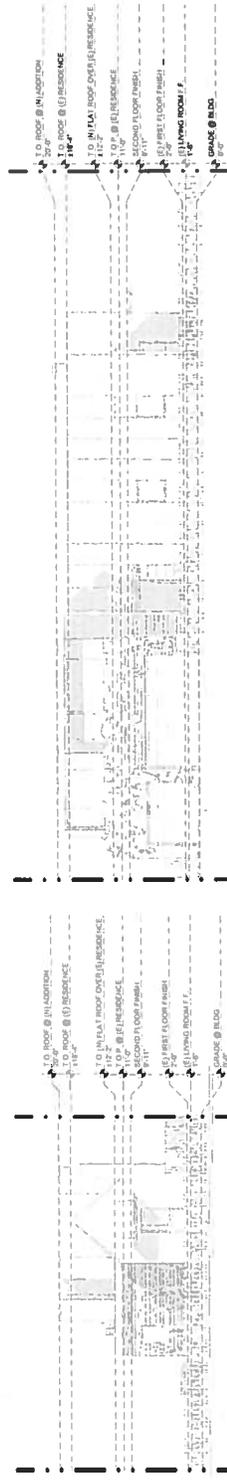


903 WEST MISSION
 903 WEST MISSION STREET
 SANTA BARBARA, CA 93103
 PROJECT NO.: [REDACTED]
 SHEET NO.: [REDACTED]



EXISTING WEST ELEVATION 4
 SCALE 1/8" = 1'-0"

EXISTING WEST ELEVATION 4
 SCALE 1/8" = 1'-0"



EXISTING NORTH ELEVATION 2
 SCALE 1/8" = 1'-0"

EXISTING NORTH ELEVATION 2
 SCALE 1/8" = 1'-0"

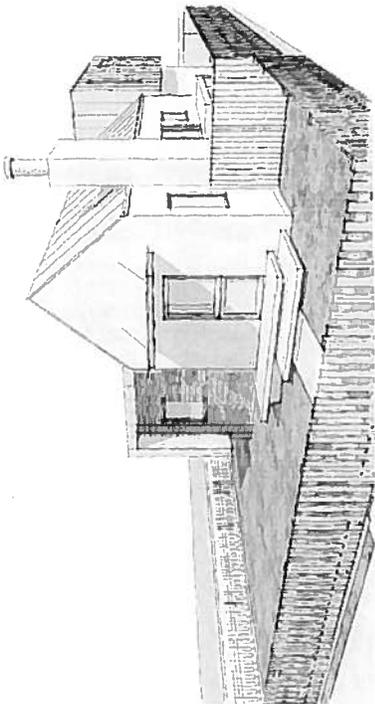
PROPOSED WEST ELEVATION 3
 SCALE 1/8" = 1'-0"

PROPOSED WEST ELEVATION 3
 SCALE 1/8" = 1'-0"

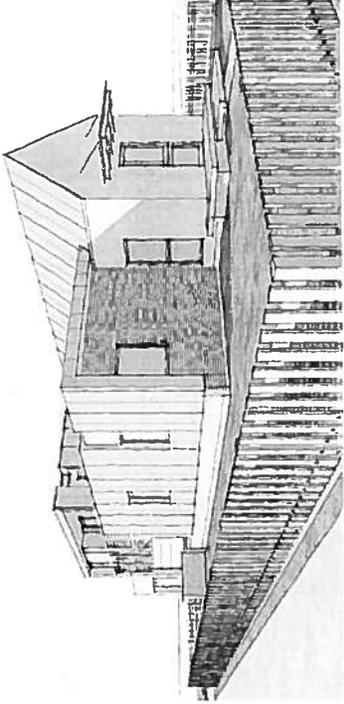
PROPOSED NORTH ELEVATION 1
 SCALE 1/8" = 1'-0"

PROPOSED NORTH ELEVATION 1
 SCALE 1/8" = 1'-0"

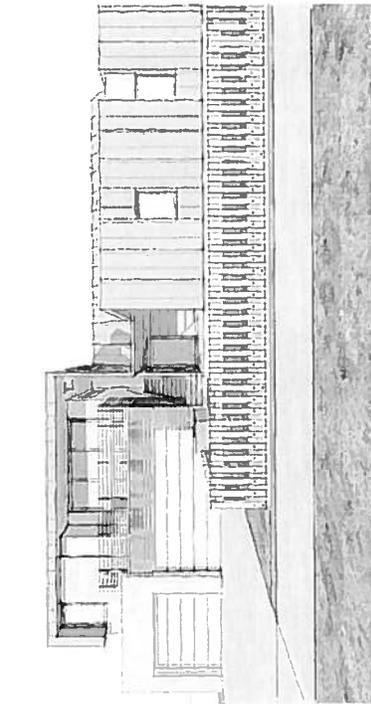
keynotes



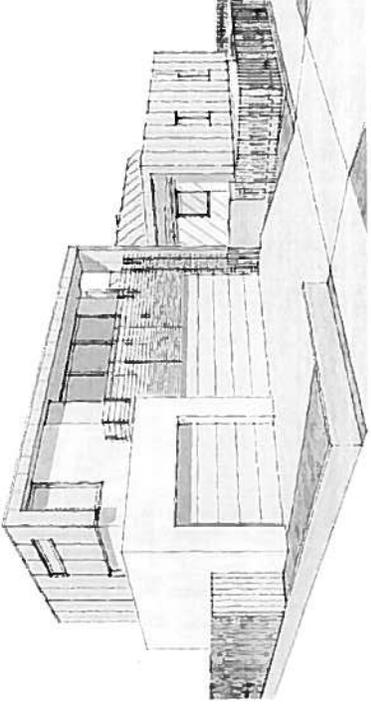
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SCALE N.T.S.



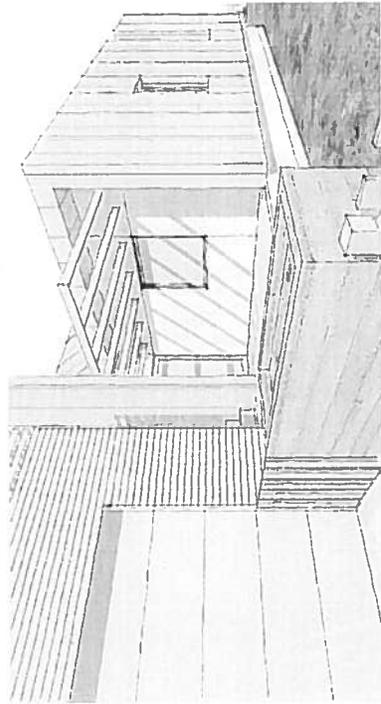
PERSPECTIVE 2
SCALE N.T.S.



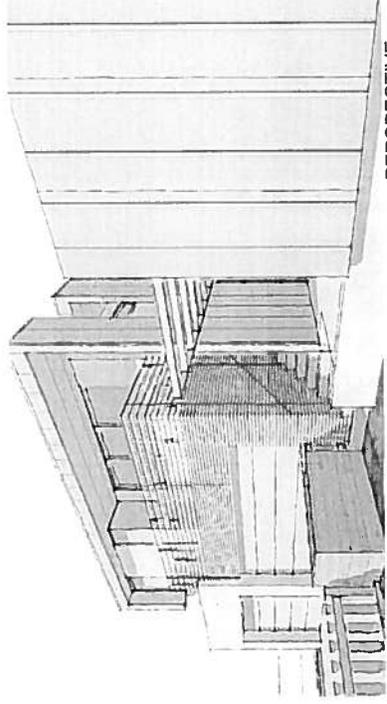
PERSPECTIVE 3
SCALE N.T.S.



PERSPECTIVE 4
SCALE N.T.S.



PERSPECTIVE 5
SCALE N.T.S.



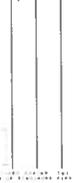
PERSPECTIVE 6
SCALE N.T.S.



DESIGN STUDIO
ARCHITECTURE
INTERIOR DESIGN
1100 WEST MISSION
SANTA ANA, CALIFORNIA 92703

1100 WEST MISSION
SANTA ANA, CALIFORNIA 92703
TEL: (714) 261-1100
WWW.ABDESIGNSTUDIO.COM

ARCHITECT
INTERIOR DESIGN
CONSULTING



903 WEST MISSION
SANTA ANA, CALIFORNIA 92703
TEL: (714) 261-1100
WWW.ABDESIGNSTUDIO.COM





429
Revised
letter
to come
3 rooms
Jed -

MODIFICATIONS LETTER

June 7, 2010

Roxanne Milazzo
City Of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

Subject: 903 W. Mission
Modification Request
APN: 043.113.009; Land-use Zone R-2

Via: Hand Delivered

Dear Staff Hearing Officer

1. There is an existing single-family residence of 844 sf with a detached non-conforming two-car garage of 317 sf on the above referenced property. The property is a corner lot and thus has two front yard setbacks to the Easterly and Northerly. The existing detached non-conforming two-car garage encroaches into the interior yard setback on the Southerly side of the property. All buildings on the lot have building permits. There are no existing enforcement cases open.

The proposal is to add a new 3-car garage with a 525 sf accessory unit above. The existing single-story home will be remodeled on the exterior, the interior will remain as-is. As part of this proposal, the existing non-conforming garage will be removed. A new garage, conforming with interior dimension requirements will be constructed outside of the interior yard setback on the Southerly side of the lot. This garage will be connected to the existing residence. To conform with open yard requirements on this restricted lot, the front face of the garage will encroach into the 20 foot setback, 18".

2. There are two modifications being requested. The first is to allow the new conforming three-car garage to encroach into the front yard setback on the Easterly side (Gillespie) of the lot. The setback for the home is 15 feet, but garages that face streets are to be setback 20 feet. This minor encroachment will allow for a usable open space complying with City Standards to be located behind the new garage. There are other homes (across the street and on the same block) that encroach considerably more than 18". The face of the garage will remaining behind the face of the existing residence.

3. The second modification is necessary to allow the required 600 sf of open yard to be split into two areas. The first area is behind the new garage and totals 375 sf, which complies. The second area is located in the Front Yard and is 237 sf, which does not comply. The Code states that 600 sf is the minimum and can be split into two 300 sf areas on the site. Because our lot is hindered by two front yards and the location of the existing home, we cannot have the other area be larger than 300 sf. This area, however is in the front of the home and adjacent to over 2000 sf of open yard protected by the Setbacks on each street. The area will not be fenced in. This is a common modification for older homes on smaller corner lots with two front yards.

EXHIBIT B

4. These two Modifications allow the homeowner to build a project that fits her needs. They are minor in nature and supported by ABR. There is precedence in the neighborhood of recent projects that have street facing garages encroaching into the front yard setback. There are also several two unit and multi-unit properties on this block on small 5,000 sf lots.

Because this lot has two front yard setbacks, it is impossible for this property to comply with the required 1250 sf open yard requirement for single family. The mod we are requesting for the open yard will not impact the neighborhood, make the home imposing or have an adverse affect on the existing site. The is still ample usable open space that exists today and will remain in perpetuity with this addition. We are actually creating MORE useable open yard for the residents by splitting it up and moving the garage forward.

We feel that this is an appropriate solution in that the addition to the home is consistent with the neighborhood. We have met with many of the neighbors who support the project and modifications. The changes to the exterior will bring this home current and the home owners will be able to raise their family and enjoy it for the next 30 years.

Sincerely,



Clay Aurell, AIA, LEED AP
Principal Architect

CA:ca

cc: Heidi Ferguson

ACTUAL TIME: 10:05 A.M.

C. **APPLICATION OF AB DESIGN STUDIO, ARCHITECT FOR HEIDI FERGUSON, 903 W. MISSION STREET, 043-113-009, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL - 12 UNITS PER ACRE (MST2009-00388)**

The 5,000 square foot lot is currently developed with an 844 square foot single family residence and a 317 square foot detached garage. The proposed project involves the construction of 525 square foot second story accessory dwelling unit above a new 623 square foot three-car garage. The proposal includes the demolition of the existing 317 square foot non-conforming garage, and a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage. The discretionary applications required for this project are Modifications to permit construction of the garage within the required 20 foot front setback (SBMC §28.18.060.A), and to provide less than the required Common Open Yard area of 600 square feet (SBMC 28.18.060.C.3).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 and 15305.

Present: Clay Aurell, Architect, AB Design Studio; Heidi Ferguson, Owner.

Kelly Brodison, Assistant Planner, gave the Staff presentation and recommendation.

Three letters in opposition from Pam Brandon, Brandon Smith and Paula Westbury were acknowledged.

The Public Hearing was opened at 10:26 a.m.

Pam Brandon next door neighbor: concerned about loss of privacy and reduced property value; suggested having a skylight in lieu of, or relocating, the window overlooking her backyard.

Mimi Greenberg: opposed to Ms. Brandon's loss of privacy (submitted written comments).

The Public Hearing was closed at 10:33.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

ACTION:

Assigned Resolution No. 041-10

The front setback Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure appropriate improvement on the lot. By allowing the proposed three-car garage to encroach 18" into the front setback, the project meets current Municipal Code requirements by providing three parking spaces on site, while still providing a useable space at the rear of the lot.

The Modification of the open yard for the front unit to be less than the required 300 square feet is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. Although one area does not meet the minimum dimension of least 300 square feet, the project provides enough area by providing three separate open yard areas totaling more than the required total of 600 square feet.

Said approval is subject to the following conditions: 1) All construction within the City right of way, including new driveway, curb, gutter, sidewalk, relocation of street sweeping sign etc. will require a permit from the Public Works Department; 2) The ABR shall review the proposed window location on the second-story building with respect to providing maximum privacy for the neighbor.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

III. ADJOURNMENT

Ms. Reardon adjourned the meeting at 10:41 a.m.

Submitted by,

Gloria Shafer, Staff Hearing Officer Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 041-10
903 W. MISSION DRIVE
MODIFICATIONS
JULY 28, 2010

APPLICATION OF AB DESIGN STUDIO, ARCHITECT FOR HEIDI FERGUSON, 903 W. MISSION STREET, 043-113-009, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL - 12 UNITS PER ACRE (MST2009-00388)

The 5,000 square foot lot is currently developed with an 844 square foot single family residence and a 317 square foot detached garage. The proposed project involves the construction of 525 square foot second story accessory dwelling unit above a new 623 square foot three-car garage. The proposal includes the demolition of the existing 317 square foot non-conforming garage, and a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage. The discretionary applications required for this project are Modifications to permit construction of the garage within the required 20 foot front setback (SBMC § 28.18.060.A), and to provide less than the required Common Open Yard area of 600 square feet (SBMC 28.18.060.C.3).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 and 15305.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, two people appeared to speak in opposition of the application, and no people appeared to speak in favor thereto, and the following exhibits were presented for the record;

1. Staff Report with Attachments, July 21, 2010.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, 650 Miramonte Drive, Santa Barbara, Ca

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- I. Approved the subject application making the following findings and determinations:

The front setback Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure appropriate improvement on the lot. By allowing the proposed three-car garage to encroach 18" into the front setback, the project meets current Municipal Code requirements by providing three parking spaces on site, while still providing a useable space at the rear of the lot.

The Modification of the open yard for the front unit to be less than the required 300 square feet is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. Although one area does not meet the minimum dimension of least 300 square feet, the project provides enough area by providing three separate open yard areas totaling more than the required total of 600 square feet.

- II. Said approval is subject to the following conditions: 1) All construction within the City right of way, including new driveway, curb, gutter, sidewalk, relocation of street sweeping sign etc. will require a permit from the Public Works Department; 2) The Architectural Board of Review shall review the proposed window location on the second-story building with respect to providing maximum privacy for the neighbor.

This motion was passed and adopted on the 28th day of July, 2010 by the Staff Hearing Officer of the city of Santa Barbara.

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



Gloria Shafer, Staff Hearing Officer Secretary

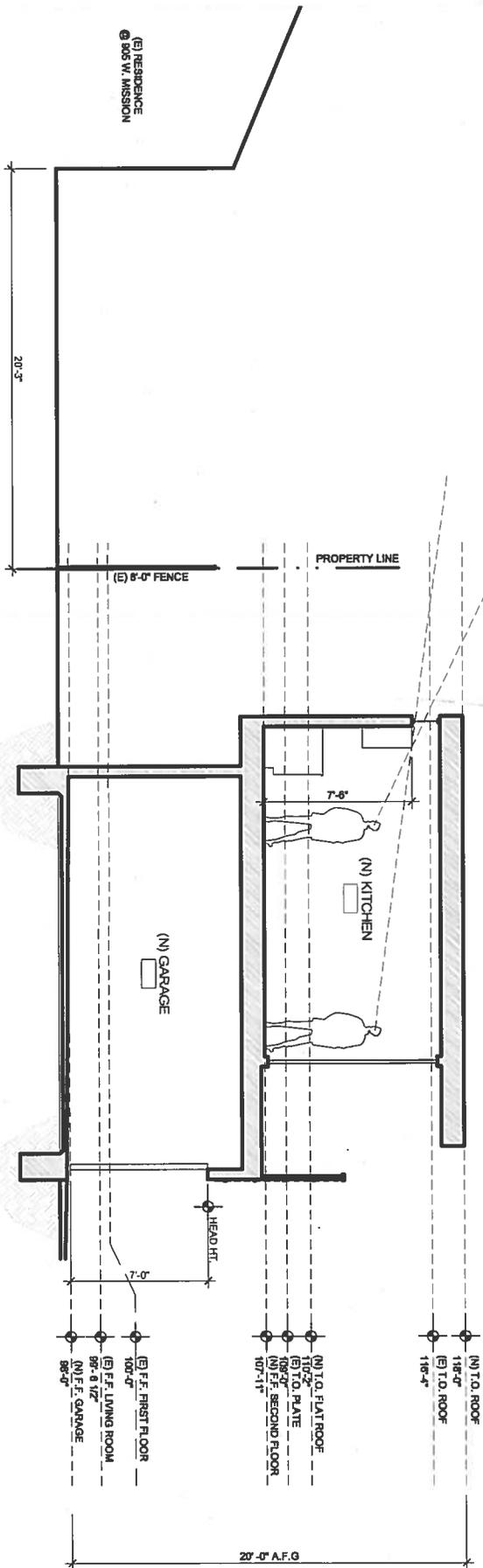
7-29-2010

Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

ATTACHMENT 4



ARCHITECTURAL BOARD OF REVIEW
CASE SUMMARY

903 W MISSION ST

MST2009-00388

R-NEW UNIT

Page: 1

Project Description:

Revised proposal to construct a new 525 square foot second story accessory dwelling unit above a new 623 square foot three-car garage on a 5,000 square foot lot. The proposal includes the demolition of the existing 317 square foot non-conforming garage, and a 25 square foot covered porch to the existing main residence, and a 32 square foot addition to the main residence. The project will result in an 876 square foot main residence, a 525 square foot new accessory dwelling unit and a new 623 square foot three-car garage. The project requires Staff Hearing Officer review for a requested zoning modification to provide less than the required 600 square feet of open yard and to allow the garage to encroach into the required 20 foot front-yard setback.

Activities:

5/16/2011

ABR-Project Design & Final Hrg

(Project was last reviewed on March 7, 2011.)

Actual time: 3:07

Present: Josh Blummer and Anthon Ellis, AB Design Studio; Heidi Ferguson, Owner.

Public comment was opened at 3:19 p.m.

Mercedes Greenburg, Mimi Greenburg, David Jenkins ceded their speaking time to Pam Brandon.

- 1. Pam Brandon, opposed to reinstatement of the previously voided project design approval, lack of new noticing, storage space in garage is located within setback, and lack of neighborhood compatibility (submitted a petition containing signatures of 40 neighbors opposed to the project).*
 - 2. Sue Young, spoke in support of the project. Ms. Young stated that 76 signatures in support of the project were obtained (signatures were not submitted).*
 - 3. Diane Soto, representing Upper Westside Neighborhood Association, spoke in opposition to the lack of neighborhood compatibility (submitted a letter containing nine signatures of neighbors opposed to the project).*
 - 4. Wayne Dorfman, opposed to lack of compatibility of the proposed materials and lack of neighborhood compatibility.*
 - 5. Russell Clay Ruiz, opposed to erosion of the neighborhood's Spanish style architecture.*
 - 6. Kellam DeForest, opposed to the industrial style and the metal material's incompatibility with the neighborhood.*
- Mr. Boughman acknowledged nine letters received in support and four letters opposed to the project.*

Activities:

Public comment was closed at 3:45 p.m.

Kelly Brodison, Assistant Planner provided clarification of the project's previously voided and subsequent reinstated Project Design Approval. Ms. Brodison responded to questions from the Board.

Motion: Final Approval as submitted.

Action: Rivera/Sherry, 3/1/1. Motion carried. (Mosel opposed, Zink abstained, Aurell and Gilliland stepped down.)

5/16/2011 ***ABR-Proj Des & Final Approval***

5/10/2011 ***ABR-Resubmittal Received***

plan substitution

5/2/2011 ***ABR-Project Design & Final Hrg***

(Project was last reviewed on March 7, 2011.)

Postponed two weeks at the applicant's request.

4/22/2011 ***ABR-Resubmittal Received***

3 sets for new PDA and FA

4/7/2011 ***ABR-Correspondence/Contact***

March 30, 2011

*Mr. Clay Aurell
AB Design Studio
27 E. Cota Street, Suite 503
Santa Barbara, CA 93101*

*SUBJECT: 903 W. Mission Street, MST#2009-00388,
Revocation of Design Review Approval*

Dear Mr. Aurell:

The purpose of this letter is to formalize the revocation of the Design Review Approval of the above-referenced project. The discretionary applications granted for this project are modifications to permit construction of the garage within the required 20 foot front setback and a modification to provide less than the required Common Open Yard area of 600 square feet. The project received approval from

Activities:

the Staff Hearing Officer on July 28, 2010 and on appeal at the City Council on October 19, 2010. The project received a Preliminary Approval from the Architectural Board of Review on August 23, 2010 and, a Final Approval on March 27, 2011. Although a modification was approved to allow less than the required 600 square feet of common open yard, there was an area of 375 square feet behind the garage that was intended to comply with the ordinance. Unfortunately, Staff overlooked the second story cantilever above this portion of the required common open yard area. By definition in the ordinance (SBMC §28.04.715) yard is an open space, on a lot or parcel of land, unoccupied and unobstructed from the ground upward.

Therefore, this project, as designed, does not comply with the ordinance and a modification is required to allow the second story to cantilever over the required common yard. Staff is not inclined to support a modification and recommends revising the project to provide a conforming site design.

Based on this information, the Preliminary Approval that was given to the project on Monday, March 7th, and the Final Approval of March 27, 2011, are considered "void". The modifications remain valid. You may return to the ABR with a conforming design and pursue a new Project Design Approval and Final Approval.

Sincerely,

Kelly Brodison

*Kelly Brodison
Assistant Planner*

*cc: Heidi Ferguson, 903 W. Mission Street, Santa Barbara, CA 93101
Jaime Limon, Design Review and Historic Preservation Supervisor
Planning File*

3/7/2011 ***ABR-Final Approval - Project***

3/7/2011 ***ABR-Final Review Hearing***

(Project requires compliance with Staff Hearing Officer Resolution No. 041-10.)

Actual time: 5:25

Present: Josh Blumer, Architect, AB Design Studio; Heidi Ferguson, Owner; Chris Gilliland, Landscape Architect; Anthon Ellis, AB Design Studio.

Public comment was opened at 5:41 p.m.

David Black, in support of the project.

Pam Brandon, next door neighbor: opposed to the cantilevered area over the open yard not in compliance with City code; concerned about style and metal siding not being compatible with the neighborhood.

Kellam DeForest, opposed to this style in this neighborhood, suggested replacing the metal siding with wood.

Public comment was closed at 5:47 p.m.

Activities:

Motion: Final Approval with the following conditions:

1) Indicate on the plans the fixed dimensions and prohibited enlargement or relocation of the kitchen window, in compliance with City Council Resolution and reproduce Resolution on plans.

2) Confirm that the exterior light fixture provides downcast lighting.

Action: Rivera/Sherry, 3/1/1. Motion carried. (Mosel opposed, Zink abstained, Gilliland and Aurell stepped down)

3/1/2011 ***ABR-Resubmittal Received***

10/19/2010 ***CC-ABR Appeal Filed***

10/19/2010 ***CC-ABR Appeal (Project APVD)***

Project approved (appeal by neighbor was denied).

Motion was to deny the appeal and uphold the approval. The project is to return to ABR with the window size and locations to be a condition of approval and to restudy the project to minimize the height and to study minimizing the 2' cantilever.

8/23/2010 ***ABR-Prelim Approval - Project***

8/23/2010 ***ABR-Preliminary Review Hearing***

(Preliminary approval is requested. Project requires compliance with Staff Hearing Officer Resolution No. 041-10.)

(3:36)

Present: Josh Blumer, Architect, AB Design Studio; and Heidi Harbaugh, Owner; Chris Gilliland, Landscape Architect; and Kelly Brodison, Assistant Planner.

The Chair read out to the Board the Staff Hearing Officer Resolution #041-10 requirements.

Public comment opened at 3:49 p.m.

The following public comment spoke either in support or in opposition of the proposed project:

1) Mimi Greenberg (submitted letter as adjacent property owner) - in opposition regarding privacy issues and possible decreased property values.

2) Pam Brandon, (submitted letter) - in opposition regarding previous notification issues, privacy

Activities:

issues, possible decreased property values and solar access.

A letter of concern from Paula Westbury was acknowledged by the Board.

Public comment closed at 3:56 p.m.

Motion: Preliminary Approval and continued indefinitely to Full Board with comments:

- 1) Reconsider the material choice for the entry canopy.*
- 2) Return with sizable material samples of all final finishes, except the concrete, for a final review; the proposed metal finish is to be non-reflective.*

Action: Rivera/Sherry, 3/1/0. Motion carried. (Mosel opposed to architectural style. Aurell and Gilliland stepped down, Zink absent).

8/17/2010***ABR-Resubmittal Received***

Rec'd 3 sets for preliminary approval at ABR. Rec'd SHO approval 7/28/10 Reso No 041-10.

7/16/2010***ABR-Posting Sign Issued*****5/17/2010*****ABR-Concept Review (Continued)***

(Third Concept Review. Project requires Environmental Assessment and Staff Hearing Officer review for two requested zoning modifications.)

(5:45)

Present: Josh Blumer, Architect, AB Design Studio; and Heidi Harbaugh, Owner.

Public comment opened at 6:02 p.m. As no one wished to speak, public comment was closed.

Staff clarified the Alternative Open Yard and Private Outdoor Living Space Requirements, per SBMC 28.18.060.C.3, for proposals involving an accessory dwelling unit.

Motion: Continued indefinitely to Staff Hearing Officer and return to Full Board with comments:

- 1) The Board finds the requested modifications acceptable to achieve the open space, recognizing that it is a small corner lot, which makes it difficult for compliance with standard open space lot requirements.*
- 2) The Board is appreciative of the proposed change in architectural design as it reduces the overall mass of the building.*
- 3) The Boards finds acceptable the second floor setbacks away from the garage, and the inclusion of the planter element to soften that corner of the building.*
- 4) The Board looks forward to refinement of the garage elevation to include secondary architectural elements to add additional scale at the garage doors and the lower wing of the west elevation.*

LANDSCAPING:

Activities:

- 1) *Locate the perimeter fencing five feet back from the existing retaining wall to comply with Ordinance requirements.*
 - 2) *Study providing a landscape area between the two garage doors.*
 - 3) *Study introducing a trellis structure on the large garage door to soften with a vine planting.*
 - 4) *Study incorporating some ground cover relief at the new driveway to be consistent with the character of the neighborhood.*
- Action: Rivera/Sherry, 4/1/0. Motion carried. (Mosel opposed, Aurell stepped down, Gilliland/Zink absent).*

5/12/2010***ABR-FYI/Research***

AB Design Studio is the new architect for the project as of May 2010. The project had two concept reviews with the previous architect and is now on the third concept review (5/17) with the new architect.

5/4/2010***ABR-Resubmittal Received***

Revised description - updated numbers and mod applications.

12/14/2009***ABR-Concept Review (Continued)***

(Second Concept Review. Project requires Environmental Assessment and Staff Hearing Officer review for a modification to provide less than the 600 square feet of the required open yard area.)

(7:35)

Present: Tarah Brown, Applicant; Marc Perry, Architect; and Heidi Harbaugh, Owner.

Public comment opened at 7:46 p.m. As no one wished to speak, public comment was closed.

An opposition letter from Christine Cunningham was acknowledged by the Board.

Motion: Continued indefinitely to Full Board with comments:

- 1) *Study reducing the roof pitches on the addition to further reduce the ridge heights.*
- 2) *Study ways to uniform the style of the building; particularly the window proportions and style, etc.*
- 3) *Eliminate the long shed roof element on the east and west elevation of the addition.*
- 4) *Return with building sections and plate heights of the first and second floor.*
- 5) *Study the eave of the north elevation over the garage.*
- 6) *Study the wood trellis element over the second story balcony.*
- 7) *The Board has mixed opinions on the proposed modification, and defers further comment at this time.*
- 8) *Study introducing dormer elements in the second floor addition to reduce the apparent mass.*

Action: Aurell/Gilliland, 5/1/0. Motion carried. (Mosel opposed, Gross/Sherry absent.)

Activities:**12/8/2009 ABR-Resubmittal Received**

received three sets for continued concept review. Applicant needs to do arch letter report and go to SHC for open yard mod.

10/5/2009 ABR-Concept Review (New) - PH

(Comments Only; Project requires Environmental Assessment.)

(3:30)

Present: Tarah Brown, Applicant; Marc Perry, Architect; and Heidi Harbaugh, Owner.

Public comment opened at 3:53 p.m. As no one wished to speak, public comment was closed.

An opposition letter from Paula Westbury was acknowledged by the Board.

Motion: Continued indefinitely to Full Board with comments:

- 1) The Board understands the constraints involved with corner lots; however, the Board feels the project is moving in the wrong direction as it lacks compatibility with both the existing house and the neighborhood.*
 - 2) Study the overall style for a design that is compatible in style, massing, and materials, and provides neighborhood compatibility and continuity of style throughout the project.*
 - 3) Provide an entrance to the second unit that incorporates a pedestrian street presence and neighborhood compatibility.*
 - 4) Study the proposed fencing and material to be more compatible with the overall style of the house and neighborhood.*
 - 5) The Board finds the proposed curb cut to be excessive in length and would prefer to have it minimized. Verify the length of the proposed curb cut with the Transportation Division staff and if possible revise to reduce the length.*
 - 6) The Board reserves their comments on the modification at this time pending the above items, as the project has not reached the appropriate project threshold.*
- Action: Sherry/Gross, 8/0/0. Motion carried.*

10/5/2009 ABR-Mailed Notice Prepared

Prepared 9/14/09; mail out date 9/24/09; applicant prepared mailing labels.

9/16/2009 ABR-FYI/Research

Note: as the proposal is considered an accessory unit for a lot with 5,000 square feet - this imposes specific size conditions on both units. The main residence may not have more than three bedrooms and may not exceed 1200 sq.ft. The accessory unit may not have more than one bedroom and may not exceed 600 sq.ft. This imposes restrictions on any proposed additions to the main residence which, as a result of this proposal, will be a two-bedrooms and 854 square feet.

Activities:**9/15/2009 ABR-Resubmittal Received**

resubmittal to address prelim plan check comments. First concept review scheduled for 10/5/09.

9/10/2009 ABR-Correspondence/Contact

Spoke to applicant regarding PLCK comments and faxed PLCK to architect Marc Perry (805-653-5321) 9/10/09.

Issues to address include: 200 cubic feet of exterior storage; recalculate the P.O.L.S.; the front steps encroaching into the front setback and the maximum 3' x 3' dimensions.

8/27/2009 ABR-Posting Sign Issued

posting sign issued

8/27/2009 ABR-FYI/Research

Note per applicant, they will be widenign the curbcut as part of this permit and applicant was advised that an encroachment permit will most likely be required and to check with P.W. regarding this matter. Also, applicant advised that she spoke to Chelsey in Transportation Planning and they will be relocating an existing no-parking sign at the site.

8/27/2009 ABR-FYI/Research

note that the applicant provided the mailing labels and therefore was only charged for the posting sign.

--update-- per Jaime Limon - applicant is to be charged the total fee for postage (# of labels x 0.43). Postage fee 79 x 0.43 = 33.97. MJB 9/8/09



City of Santa Barbara California

MEMO

DATE: May 16, 2011
TO: Architectural Board of Review
FROM: Kelly Brodison, Planning Division
SUBJECT: 903 W. Mission (MST2009-00388)

The above-referenced project received Project Design Approval from the Architectural Board of Review (ABR) on August 23, 2010. Subsequently, the adjacent property owner filed an appeal, which was denied by the City Council on October 19, 2010. The project returned to ABR and received a Final approval on March 7, 2011.

At the ABR meeting on March 7, 2011, it was brought to the attention of Planning staff by the adjacent neighbor, that a portion of the cantilevered second story encroached upon the required open yard on the property. Because some members of the ABR believed the encroachment did not violate the zoning ordinance, an understanding that was later determined to be incorrect, the ABR moved forward and granted the project Final Approval. Because the Final Approval had been granted with the encroachment into the open space, making that portion of the design inconsistent with the Zoning Ordinance, Staff originally deemed the Project Design Approval and the Final Approval "void".

Staff initially determined that the Project Design Approval and the Final Approval should be revoked in order to proceed with a revised project. However, since this initial determination, Staff has further reviewed the Council appeal hearing and concluded that the City Council did consider the design and size of the cantilevered structure during their review and that the City Council determined that the design of the cantilevered structure was acceptable, as long as its size was reduced.

Since the Council specifically considered the design of the cantilevered structure during the appeal hearing, Staff has concluded that it is not necessary to void the Project Design Approval in order to correct the zoning violation caused by the encroachment of a portion of the cantilevered second story over the required open yard area. As long as the solution to the setback encroachment results in a reduction in the size of the cantilevered structure, the design is consistent with the Project Design Approval granted by the City Council. The applicant has completely removed the cantilevered portion second story in the proposed design. It is appropriate to void the Final Approval so the project does not move further along in the process with a non-compliant design.

At this time, the applicant has been directed to return to the ABR to request a Final Approval consistent with the Project Design Approval granted by the City Council at the appeal hearing of October 19, 2010.

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Santa Barbara Municipal Code

Chapter 22.68

ARCHITECTURAL BOARD OF REVIEW

Sections:

22.68.010	Architectural Board of Review.	22.68.060	Special Design Districts.
22.68.015	Definitions.	22.68.070	Special Design District – Lower Riviera Survey Area (Bungalow District).
22.68.020	Design Review – Non-Residential and Multi-Family Residential Buildings.	22.68.080	Signs.
22.68.030	Alternative Design Review by Historic Landmarks Commission.	22.68.090	Approval of Plans for Buildings or Structures on City Lands.
22.68.040	Architectural Board of Review Notice and Hearing.	22.68.100	Appeal to Council – Notice and Hearing.
22.68.045	Project Compatibility Analysis.	22.68.110	Expiration of Approval.
22.68.050	Architectural Board of Review Referral to Planning Commission.		

22.68.010 Architectural Board of Review.

A. **PURPOSE.** Section 814 of the Santa Barbara City Charter creates and establishes an Architectural Board of Review for the City to promote the general public welfare of the City and to protect and preserve the natural and historical charm and beauty of the City and its aesthetic appeal and beauty.

B. **MEMBERSHIP.** The Architectural Board of Review shall be composed of seven (7) members to be appointed as provided in the Charter.

C. **OFFICERS - QUORUM.** The members of the Architectural Board of Review shall elect from their own members a chair and vice-chair. The Community Development Director or his or her designee shall act as secretary and record Board actions and render written reports thereof for the Board as required by this Chapter. The Board shall adopt its own rules of procedure. Four (4) members shall constitute a quorum, one (1) of which shall be an architect. (Ord. 5519, 2010; Ord. 5416, 2007; Ord. 5050, 1998; Ord. 4701, 1991; Ord. 3792, 1975; Ord. 3757, 1975; Ord. 3646, 1974.)

APPEAL RE 903 W. MISSION STREET
CITY ENGINEER AND MODEL WORK

ARCHITECTURAL BOARD OF REVIEW GOALS

The Architectural Board of Review (ABR) is guided by a set of general goals that define the major concerns and objectives of its review process. These goals are:

- A. to protect the historic and architectural qualities of Santa Barbara;
- B. to protect the beauty and ecological balance of Santa Barbara's natural resources;
- C. to insure development and building consistent with the policies of the General Plan and Zoning Ordinance;
- D. to promote high standards in architectural design and the construction of aesthetically pleasing structures;
- E. to improve the general quality of the environment and promote conservation of natural and manmade resources of the City;
- F. to encourage planning which is orderly, functionally efficient, healthful, convenient to the public, and aesthetically pleasing;
- G. to promote neighborhood compatibility;
- H. to encourage the preservation of pre -1925 and Hispanic styles of architecture;
- I. to promote visual relief throughout the community by preservation of public scenic ocean and mountain vistas, creation of open space, and variation of styles of architecture;
- J. to preserve creek areas through restoration, maintenance, and enhancement, and to discourage removal of significant trees and foliage removal; and
- K. to encourage landscape design that utilizes water-wise plants and the most efficient irrigation technology available for the protection and conservation of our water resources.

INTRODUCTION

Purpose of the ABR Guidelines

The Architectural Board of Review (ABR) Guidelines set have been developed to guide development proposals to ensure high standards of design are maintained in development and construction in the City of Santa Barbara. The Guidelines are also intended to assist public understanding of the stated goals and adopted policies of the ABR. In addition to ABR-specific guidelines, there are Supplemental Design Guidelines found in a series of separate documents. These Supplemental Design Guidelines provide more detailed direction for some projects. However, many ABR projects are not in an area with supplemental guidelines. These guidelines clarify ABR criteria for reviewing plans throughout the City.

SECTION 1 Architectural Board of Review Background, Purpose, and Interpretation

- 1.1 **Background.** The ABR was established by ordinance on July 16, 1925, and met for seven months before being dissolved. It was re-established by ordinance in 1947. In 1949, the ABR was designated a Charter Committee by popular vote. Currently, the ABR consists of nine members, two of whom must be licensed architects, one a landscape architect, and three other professionals in related fields such as design or engineering. A quorum consists of four members, one of whom is an architect.
- 1.2 **Objective.** The ABR is charged with the responsibility for "the protection and preservation as nearly as is practicable of the natural charm and beauty of the area in which the City is located and the historical style, qualities and characteristics of the buildings, structures and architectural features associated with and established by its long, illustrious and distinguished past". Santa Barbara has, for many years, enjoyed a widespread reputation for its distinctive buildings and the generally pleasing inter-relationship of these buildings with plantings, parks, beaches and the harbor, against a background of gently rounded foothills and mountains. The beauty and charm of this picture has enhanced the basic attraction of its year-round mild and equable climate.

Santa Barbara's distinctive architecture is a regional style with a Mediterranean influence. It reflects the City's historic past and compliments its setting in the natural environment. The successful adaptation of these architectural forms, with ingenious variations to meet modern needs, using simple materials, generous landscaping, human scale and soft colors, has resulted in the achievement of an architectural harmony that distinguishes Santa Barbara from other cities. It is essential for rational and continued improvement of our community that these important facts be recognized. It is paramount that property owners, architects and builders use initiative and their best judgment and talents toward development of buildings of character that harmonize with their surroundings and are suitable for proposed sites.

CORRESPONDENCE



**Neighborhood
Defense League
of California**

(formerly Homeowners Defense Fund)

1482 East Valley Road, Suite 252
Santa Barbara, CA 93108
fax: 805-969-0297

*Accommodating growth
while preserving the character
of our neighborhoods*

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Judith Ishkanian
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Doug Herthel

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Wendy Coggins, Emeritus

Gary Faric, Emeritus

Roy Gaskin, Emeritus

Rob Lowe, Emeritus

Helene Schneider, Mayor, Santa Barbara
Santa Barbara City Council
735 Anacapa Street
Santa Barbara CA 93101

August 8, 2011

Dear Mayor Schneider:

At our recent meeting, the Board of Directors of the Neighborhood Defense League authorized me to write a letter to each Councilperson on behalf of Ms. Pam Brandon, whose Appeal of a city zoning decision will appear before you on August 23rd.

Ms. Brandon, with the support of her neighbors, is appealing the decision by the ABR to approve the project at 903 West Mission Street. We have examined the project plans and urge the City Council to take her complaints very seriously. Clearly, the proposed design is alien to that of the neighborhood, and the fundamental issue of zoning – and its importance to neighborhood character – is at stake.

Property rights should not be abridged, true, but community values, as expressed in zoning, is a trust that each property owner relies upon to make ownership decisions. It is a matter of trust between citizen and government.

We do urge that Ms. Brandon's Appeal be given the highest consideration.

Sincerely,

Judith Ishkanian, President
For the Board of Directors
Neighborhood Defense League of California

ALLIED NEIGHBORHOODS ASSOCIATION

August 17, 2011

Santa Barbara City Council
City Hall
De la Guerra Plaza
Santa Barbara, Calif. 993101

Dear Mayor and Members of the City Council

Allied Neighborhood Association members met July 18, 2011 and heard the concerns of the neighbor appealing the proposed project at 903 W. Mission.

After reviewing the long history of hearings, rehearings, and annulled approvals, Allied members expressed their disappointment and serious concerns about the manner in which this project has been handled by the City Staff and the Architectural Board of Review.

The determination of the project as to its design and the need for modifications were incorrectly made. Allied has long been concerned about the numerous projects that require modifications and has stated that a project should be designed to be constructed within the current zoning laws. Modifications are granted too frequently and are looked upon as a way to bypass zoning laws. This is wrong.

Another concern is the action of the members of the Architectural Board of Review who apparently had financial interest in the project but still sought to influence the decisions in this case.

Allied has a long record of supporting the principle of neighborhood compatibility in proposed projects. This project is not compatible with the surrounding neighborhood. While Allied understands that some flexibility in design is acceptable this design goes beyond what is acceptable. Ask yourselves whether you would like this project built in your neighborhood or next to your home? If you cannot say yes then how can you support this project in someone else's neighborhood?

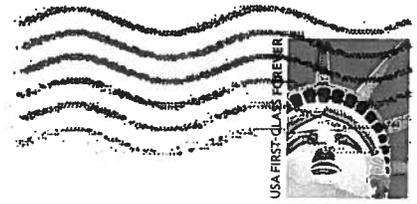
Allied asks you to uphold the appeal. Thank you

Sincerely,

Cathie McCammon, President
Allied Neighborhoods Associations
www.sb-allied.org

From: STEVEN CARTER, AIA
146 WESTMONT RD.
SB, CA. 93108

SANTA BARBARA
CA 931 11
11 AUG 2011 PM



- I support the remodel/addition project at 903 W. Mission Street
- The design has been consistent since the SHO Approval on 7/28/10 to Final ABR Approval on 5/16/11
- Heidi Ferguson has followed all SB Plan & Zoning Ordinances, Municipal Codes and has made changes per City Council's recommendations & the Appellant's concerns.

To: SB City Clerk
Attention: City Council
P.O. Box 1990
Santa Barbara, CA 93102


Signature 8-11-11
Date

9310231990



SEPARATE, SIGNED COPIES OF THIS CARD WERE ALSO RECEIVED FROM:

- M. KIRKHART (29 W. CALLE LAURELES)
- SUE YOUNG (143 SAN RAFAEL AVE)
- DENNIS MORELOS (2007 ROBBINS ST)
- JOSH AND SUZANNE BLUMER (3161 LUCINDA LN)
- ELLEN STRATTON (89 LASSEN DR)
- CIRO COELHO
- MICHAEL INGHAM (1812 GILLESPIE ST)
- KIYOKO SOARING-EAGLE (1926 GILLESPIE ST)

8-16-2011

I am writing you this letter so you all can consider what is fair for Heidi Ferguson w. her project & approved building permits. I seem like she has processed all of her permits which have been approved. Its not fair (proper) for someone to delay all the construction. Please let her enjoy her dream & finish her project.

Sincerely
Armando Rivera
(805) 455-5330
809 W. Peregasa St.
S.B. Ca. 93101

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AUG 17 2011

CITY CLERK'S OFFICE
SANTA BARBARA, CA

PRICE, POSTEL & PARMA LLP

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JAMES H. HURLEY, JR.
J. TERRY SCHWARTZ
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CRAIG A. PARTON
CLYDE E. WULLBRANDT
KENNETH J. PONTIFEX
CHRISTOPHER E. HASKELL
TIMOTHY E. METZINGER
TODD A. AMSPOKER
MARK S. MANION
MELISSA J. FASSETT
IAN M. FISHER
SHEREEF MOHARRAM
SAM ZODEH
KRISTEN M.R. BLABEY
LESLEY E. CUNNINGHAM

COUNSELLORS AT LAW
200 EAST CARRILLO STREET, SUITE 400
SANTA BARBARA, CALIFORNIA
93101-2190

MAILING ADDRESS P. O. BOX 99
SANTA BARBARA, CA 93102-0099

TELEPHONE (805) 962-0011
FACSIMILE (805) 965-3978

2011 AUG 18 PM 1:19

CITY OF SANTA BARBARA
CITY CLERK'S OFFICE

ARTHUR R. GAUDI
DANIEL C. DAVID
SUSAN M. BASHAM
STEVEN K. MCGUIRE
RETIRED PARTNERS
GERALD S. THEDE
DAVID K. HUGHES

OUR FILE NUMBER

22332.1

August 18, 2011

HAND DELIVERY

Mayor Helene Schneider
Members of City Council
City of Santa Barbara
735 Anacapa Street
Santa Barbara, California 93101

Re: Heidi Ferguson
903 W. Mission Street
MST2009-00388
Pamela Brandon's Appeal of ABR Final Approval dated May 16, 2011

Dear Mayor Schneider and Council Members:

On August 23, 2011, the City Council is scheduled to consider the appeal by Pamela Brandon of the ABR's Final Approval of a modest residential project at 903 West Mission Street. The property owner, Heidi Ferguson, has proposed improvements that include creation of a small apartment unit over a new garage structure. The development of a second residential unit on parcels measuring between 5,000 and 6,000 square feet is expressly permitted in the R-2 zone, and the City's ordinances provide for certain Modifications to zoning requirements to accommodate projects on constrained lots. Ms. Ferguson's project has been in process for two full years and on May 16, 2011, the ABR provided Final Approval, clearing the way for the issuance of a building permit. This final step in the process is the subject of Pamela Brandon's current appeal.

This is not the first time the City Council has been asked to review an ABR approval of the 903 West Mission project. Ms. Brandon's public campaign against Ms. Ferguson's project began more than a year ago with her appeal of the ABR's Preliminary Approval of the project. The ABR provided a positive concept review of the proposed design on May 17, 2010, and on July 28, 2010, the Staff Hearing Officer approved the project, which included Modifications of the open yard requirements and the setback requirements for one of the two corner (front yard)

setbacks. Following Staff Hearing Officer approval, Ms. Ferguson returned to the ABR for Preliminary Approval, which the ABR granted on August 23, 2010. Pamela Brandon appealed the ABR Preliminary Approval, and on October 19, 2010, after a lengthy public hearing and extensive consideration of standards for neighborhood compatibility and design, the City Council voted 3-2 to deny the appeal, providing several suggestions to Ms. Ferguson for inclusion in her final plans. Ms. Ferguson adjusted her plans to meet the Council's concerns and the ABR voted its Final Approval on May 16, 2011, approving the construction drawings as consistent with the design it had approved preliminarily in August 2010, as modified by the City Council's suggestions. The ABR's Final Approval required no further changes to the project. Ms. Brandon nevertheless has continued her campaign against the project by continuing to attack the project design – a design approved by the ABR and affirmed by the City Council more than a year ago.

Ms. Brandon's present appeal, filed on May 26, 2011, has almost nothing to do with the proper scope of appeal of an ABR Final Approval which, under the ABR Guidelines, must be focused solely on consistency between the applicant's construction drawings and the approved design. For these and the reasons that follow, we urge you to deny the appeal.

I. The Only Relevant and Proper Question on Appeal of an ABR Final Approval is Whether the Construction Drawings are Consistent with the Approved Design.

According to the ABR's Guidelines, preliminary review "is a formal review of an application prior to preparation of working drawings. . . . Preliminary Approval is the most important approval of plans and determines the site plan configuration and design that must be followed in the working drawings. . . . **[A] preliminary approval shall be considered to be "approval" of the project by the ABR and concludes the discretionary phase of project review.**" (Emphasis added.) By contrast, "Final Review is a formal review of completed working drawings, prior to submittal for a building permit. . . . The final plans will be approved if they are in substantial conformance with the plans given preliminary approval."

The ABR grants Preliminary Approval based upon its evaluation of neighborhood compatibility and design considerations, so if a Preliminary Approval is appealed, the City Council considers whether the ABR properly applied those standards. In this case, there was a long and thorough discussion among the Council Members on October 19, 2010, and the vote to deny Ms. Brandon's appeal resolved the question of whether the ABR's Preliminary Approval reflected proper application of the standards for design and neighborhood compatibility.

Because Preliminary Approval "concludes the discretionary phase of project review," an applicant may rely on that approval to proceed with preparation of construction drawings and the detailing of the project. In its final review, the ABR does not revisit design decisions voted in

the Preliminary Approval. Instead the ABR compares construction drawings with the preliminary plans already approved to ensure design consistency, making sure that the plans have detailed all requirements and conditions of approval, and confirming that all is in order for issuance of a building permit.

Under the ABR's Guidelines, an appeal of an ABR decision is limited to the scope of the ABR's action. The Preliminary Approval is the critical decision on the design elements, while "the Final Approval decision may be appealed **only on the basis that it is inconsistent with the Preliminary Approval.**" (Emphasis added.) Despite Ms. Brandon's present attempt to re-appeal design and compatibility issues that were resolved by the City Council in October 2010, the ABR's Final Approval now on appeal was a non-discretionary decision in which only the consistency between the preliminary plans and the final plans was at issue. Ms. Brandon can challenge only what was actually decided in the Final Approval, and that is all the City Council may consider in acting on the appeal.

II. The ABR Correctly Granted Final Approval of the Project's Plans as Consistent with the Approved Design.

The Final Approval decision of the ABR is fully consistent with its Preliminary Approval of the 903 West Mission project. First, the basic elements of the approved project have remained the same since the ABR provided Preliminary Approval and the City Council rejected Ms. Brandon's appeal of the ABR's Preliminary Approval. Second, the plans were modified between the City Council's action in October and the ABR's final approval in May specifically in response to concerns raised by Council Members (which responded, in part, to concerns raised by Ms. Brandon). These included redesigning the kitchen window on the southerly side of the new unit as a clerestory window that will not permit a direct view into the adjacent Brandon property, deletion of the cantilevered portion of the unit, reduction in overall height of the unit with a sloping roofline reduced by 16 feet at its easterly end and 8 feet at its westerly end (for an average reduction of 12 feet), and substitution of wooden siding on the southerly (Brandon) rear of the garage and new unit to reflect the siding of the existing residence. The design concerns raised by the Council modified the Preliminary Approval, and the modifications in the final plans are consistent with the Council's preferences.

III. The Brandon Appeal of the ABR Final Approval is Premised on Irrelevant and Improper Grounds.

The only proper ground for appeal – and the only question properly before the City Council at this time – is whether the ABR properly decided that the final plans, as presented by Ms. Ferguson for Final Approval, are consistent with the design approved by the ABR in August 2010 and affirmed by the City Council in October 2010. Ms. Brandon nevertheless focuses her

entire appeal on questions that either have been decided already or are not proper grounds for appeal, ignoring the fact that a victory on appeal will serve only to require the ABR to revisit its consistency finding and will not re-open the Preliminary Approval or subject the approved design to further scrutiny.

A. The “Voiding” and “Reinstatement” of the Preliminary Approval was a Procedural Issue Resolved Apart from the ABR Decision on Appeal.

In her leading ground for appeal, Ms. Brandon challenges the ABR’s Final Approval as “void.” In her view, Planning staff’s belated discovery of an error in its calculations should require the voiding of all prior discretionary decisions of the ABR and the City Council, including the ABR Preliminary Approval on August 23, 2010, the City Council’s denial of the appeal of that approval on October 19, 2010, and the ABR’s Final Approval on May 16, 2011. In fact there was some confusion about the potential consequences of staff’s error, but the question has been resolved and does not impact the ABR Final Approval now on appeal.

The ABR first voted Final Approval on March 7, 2011, but Planning staff then discovered that much earlier in the process, before either the ABR’s Preliminary Approval or the Staff Hearing Officer’s approval, staff had miscalculated one portion of the yard area impacted by a cantilevered section of the proposed new garage/apartment structure. The cantilever had been present in all of the plans reviewed and approved at each step in the process, but staff belatedly concluded that the cantilever created a zoning violation. Staff’s admittedly panicked reaction was to declare that it was revoking both the preliminary and final ABR approvals. After conferring with the City Attorney, and upon further consideration of the status of the project, as reported orally by staff at a subsequent ABR meeting, staff concluded that only the Final Approval on March 7, 2011 was problematic because the potential zoning violation would invalidate the central finding – that the construction drawings are complete and the project is ready for a building permit. To resolve staff’s concern, Ms. Ferguson authorized her architect of record, Clay Aurell of AB Design Studio, Inc., to adjust the design to be consistent with the open yard requirement by removing the cantilevered portion of the structure and thus removing the potential zoning violation. The ABR then voted a second Final Approval of the revised design on May 16, 2011. This is the approval that Ms. Brandon has now appealed.

The Final Approval of May 16, 2011 removed any doubt about the validity of the March 7, 2011 ABR vote prior to the revision of the plans and it resolved any potential impact of staff’s error by adjusting the design to harmonize with staff’s calculation as well as with the suggestions of the City Council. As the ABR concluded, the project as shown in the construction drawings is fully consistent with the Preliminary Approval and is fully eligible for a building permit because it meets all zoning requirements.

B. The Approved Plans Comply with the City's Zoning Ordinances.

Ms. Brandon's second ground for appeal is that the ABR should not have approved the final plans for the project because the placement of storage units in the garage area is "against city code." She cites Sections 28.18.060 and 28.18.075 of the Municipal Code, contending that the "interior setback" is compromised by the location of storage space within the proposed new garage structure. By her self-serving interpretation, because the ordinance allows only covered or uncovered parking within three feet of the property line, the location of storage space in the garage is improper. She also contends that the storage space for the second residential unit must be entirely related to the single parking space for that unit and cannot be "within the parking area" for the main house.

Nothing in the cited sections of the Code requires Ms. Brandon's interpretation. In fact the project provides three covered parking spaces within a single garage – two spaces that will be designated for the main residence and one that will be designated for the second unit. The proposed storage space is located at the back of the garage area and meets the basic requirement of Section 28.18.075 for "200 cubic feet of enclosed, weatherproof, lockable, and separate storage space . . . exclusively for the use of the occupants of the dwelling unit . . . accessible from the exterior of the unit for which it is provided." Location of the storage space adjacent to a parking space designated for the main residence compromises neither use, and the ordinance does not require the rigid relation of each unit's parking and storage as Ms. Brandon suggests.

Section 28.18.060 permits a garage structure for "covered parking" to be located within three feet of an interior setback. Ms. Brandon contends that a garage is not the same as "covered parking" and that the ordinance is designed to prevent the construction of an oversized structure to accommodate any other uses. In fact the garage is no larger than is required for its principal purpose and the location of storage within a garage structure is not prohibited by any City ordinance. Planning staff consistently has interpreted these ordinances to allow storage within a garage that meets the required interior setback of three feet.

Under these circumstances, the ABR correctly approved plans showing required storage located in the proposed garage structure.

C. The Project's Compatibility with the Neighborhood was Finally Decided in October 2010.

Ms. Brandon's third ground for appeal is that the plans for the project "fail to follow the ABR Guidelines and the Municipal Code in regards to neighborhood compatibility." She correctly states that Section 22.68.045 of the Municipal Code requires the ABR to consider neighborhood compatibility when it "reviews and approves or disapproves the design of a

proposed development project.” Indeed, the ABR did consider neighborhood compatibility extensively when it voted its Preliminary Approval of the project design in August 2010, making specific findings of compatibility with the eclectic architecture of the area in which the property is located. Ms. Brandon focused on neighborhood compatibility in her appeal of that Preliminary Approval, and the City Council, following a hearing on the appeal, deliberated the compatibility questions extensively. While members of the Council had differing views of the design and its compatibility, the majority of the Council prevailed in affirming the ABR’s Preliminary Approval. That vote provided finality to the ABR’s design approval. Nevertheless, Ms. Brandon is now attempting to re-open basic design questions.

The ABR Guidelines specifically state that Preliminary Approval “concludes the discretionary phase” of project review. Final Approval, then, is effectively ministerial. It results from a review of construction drawings compared with the approved design and a positive vote indicates only that the ABR has found consistency between the two. Because an appeal must be consistent with the scope of the action, the only question properly before the Council at this time is whether the ABR’s finding of consistency was correct. Ms. Brandon’s appeal improperly asks the City Council to revisit a decision finally made by both the ABR and the Council and no longer subject to appeal.

D. Alleged “Mishandling” of the Application and Review Process is Not a Proper Ground for Appeal of an ABR Final Approval.

Ms. Brandon’s fourth ground for appeal amounts to an allegation that the ABR Final Approval was somehow tainted by imperfections in the process. In effect, this contention is little more than a summary of her other three grounds for appeal. She does not contend that the ABR Final Approval is invalid because of alleged errors in the processing of the application, but she asks the Council “to make sure accurate information is required and made available to the public and to the design review boards and that design review decisions are made in a transparent and ethical manner.”

Ms. Brandon’s allegations are intended to create a cloud over the ABR’s decision, as though something happening earlier in the process, or separate from the ABR’s decision-making process, may have compromised the decision. In fact, however, the “errors” she describes were not fatal to the decision-making process and were corrected in due course. Decision-makers act upon the information available to them, and the burden is on decision-makers to inform themselves of relevant facts prior to making a decision. Each decision-maker weighs the significance of the facts as he or she understands them. Ms. Brandon wishes for a more perfect system in which every fact she considers important would have been uppermost in the minds of decision-makers, but that is not realistic, nor is it a reasonable ground for appealing a Final Approval of the ABR which, by its nature, is not even a discretionary decision. Nothing in the

history of this project suggests than any member of the Planning staff, the ABR, or the applicant's team deliberately misinformed others. Ms. Brandon's concern for transparency and ethical practices is laudable, but it is a concern that has nothing to do with the question on appeal.

IV. Conclusion.

While Ms. Brandon expresses great concern for neighborhood compatibility, her primary concern throughout the processing of Ms. Ferguson's project has been the fact that the proposed new structure will be visible from the Brandon property next door – a property for which there is an open enforcement case for an alleged illegal second unit that Ms. Brandon occupies. Even though the ABR and the City Council approved the design of the project long ago, Ms. Brandon has continued to urge citizens of the community to attend the hearing to speak against the design of Ms. Ferguson's project. Just as Ms. Brandon has failed to frame her appeal appropriately, she has failed to inform her supporters that the decision before the City Council concerns only the consistency of final plans with the approved design. The appeal hearing should not become a referendum on the popularity of the project.

Ms. Ferguson has spent more than two years in the process of trying to build a new garage and small apartment on her property – a use entirely consistent with the City's zoning ordinances and for which the Staff Hearing Officer approved the necessary Modifications for full zoning compliance a year ago. Ms. Ferguson has met every reasonable demand of her neighbor, Ms. Brandon, and has satisfied the stated concerns of decision-makers at each step in the process. The project has received all necessary approvals and is ready to move forward to issuance of a building permit. The appeal rests on grounds irrelevant to review of the ABR's Final Approval. For all of the reasons stated in this letter, the Brandon appeal should be denied.

We will attend the hearing on August 23 and will be available to answer any questions you may have at that time.

Very truly yours,



Susan M. Basham
for PRICE, POSTEL & PARMA LLP

SMB:lkh

cc: Heidi Ferguson
Clay Aurell