



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 002-14

1732 GILLESPIE STREET

INTERIOR SETBACKS, FRONT SETBACK, AND OPEN YARD MODIFICATIONS

JANUARY 23, 2014

APPEAL BY MEHDI HADIGHI OF THE STAFF HEARING OFFICER'S DECISION FOR THE APPLICATION OF MEHDI HADIGHI, AGENT FOR KC YOUNG, LLC, 1732 GILLESPIE ST, APN: 043-181-017, R-2 TWO-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: MEDIUM DENSITY RESIDENTIAL (MAX 12 DU/ACRE) (MST2013-00381)

The 4,000 square-foot site is developed with a 1,894 square foot two-story single-family residence. The project site is currently under construction. There are two open building permits (BLD2013-01155 and BLD2013-00761) that were issued for alterations to the residence, including exterior repairs and alterations, an interior remodel, and a replacement roof. The proposed project includes permitting the "as-built" alterations to the entry porch, proposed construction of an attached one-car garage (Option 1), relocation of utilities, and removal of an existing tree along the proposed driveway. An alternate detached garage design (Option 2) was also proposed for consideration that would result in a reduction of the required open yard.

On November 13, 2013, the Staff Hearing Officer approved the modification to allow the alterations to the front porch and denied Modification requests to allow a one-car garage to be constructed within the interior setback and the open yard at the rear of the house. The applicant is appealing the partial denial of the project.

Staff recommends that the Planning Commission also consider a third alternative (Option 3) to allow an uncovered parking space within the required 20-foot front setback and the three-foot interior setback to the east.

The discretionary applications required for this project, as proposed, are:

1. An Interior Setback Modification to allow the "as-built" alterations to the entry porch, including an increase in the roof height, within the required six-foot interior setback to the west (SBMC § 28.18.060 and SBMC § 28.92.110); and
2. An Interior Setback Modification to allow the construction of a one-car garage within the required three-foot interior setback to the east (SBMC § 28.18.060 and SBMC § 28.92.110); and
3. An Open Yard Modification to reduce the required 1,250 square foot open yard area due to construction of a one-car garage (SBMC § 28.18.060 and SBMC § 28.92.110); and

An additional discretionary application that may be required for this project is:

4. A Front Setback Modification to allow an uncovered parking space within the required twenty-foot front setback (SBMC § 28.18.060 and SBMC § 28.92.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 and 15305 (Existing Facilities and Minor Alterations in Land Use Limitations).

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

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

1. Staff Report with Attachments, January 16, 2014
2. Site Plans

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

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

A. **INTERIOR SETBACK MODIFICATION (West)**

The Planning Commission finds that the western Interior Setback Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed change to the height of the roofed entry porch will provide a minimum vertical clearance of 8' - 6", and is an appropriate improvement to a single-family residence that is not anticipated to adversely impact the adjacent neighbor.

B. **FRONT SETBACK MODIFICATION FOR OPTION 3 (SBMC§28.18.060)**

The Planning Commission finds that the Front Setback Modification to allow an uncovered parking space (Option 3) to be located within the twenty-foot front setback is not consistent with the purposes and intent of the Zoning Ordinance, is not necessary to secure an appropriate improvement on the lot, and is inconsistent with the pattern of development within the neighborhood.

C. **EAST INTERIOR SETBACK MODIFICATIONS FOR OPTION 1 (SBMC§28.18.060)**

The Planning Commission finds that the Interior Setback Modification to allow the construction of an attached one-car garage (Option 1) to be constructed up to the property line is not consistent with the purposes and intent of the Zoning Ordinance. The proposed zero setback is not appropriate and it does not provide an adequate setback from the interior property line, which is anticipated to adversely impact the adjacent neighbor to the east.

D. **OPEN YARD AND EAST INTERIOR SETBACK MODIFICATIONS FOR OPTION 2 (SBMC§28.18.060)**

The Planning Commission finds that the eastern Interior Setback and Open Yard Modifications to allow construction of the detached garage (Option 2) to encroach one foot into the required three-foot setback and to reduce the required open yard to 935 square feet are consistent with the purposes and intent of the Zoning Ordinance. The construction of the one-car garage is appropriate because it will provide a one-car garage on a site that is currently developed without on-site parking, the 40' wide lot is constrained by the location of the existing development limiting the opportunity for a conforming garage, and is an appropriate improvement to a single-family residence that is not anticipated to adversely impact the adjacent neighbor. The Open Yard Modification is appropriate because the new one-car garage will provide an on-site parking space that is consistent with the pattern of development for the neighborhood and the proposed 935 sq. foot open yard will provide a useable open yard at the rear of the residence.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Record any required documents (see Recorded Conditions Agreement section).
2. Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on January 23, 2014 is limited to the approval of an Interior Setback Modification to allow alterations to a 1,984 square foot (net), two-story, single-family residence to increase the height of roofed front porch within the required six-foot interior setback, the approval of Interior Setback Modification and an Open Yard Modification to allow the construction of a detached 210 square foot, one-car garage that will encroach one foot into the required three-foot interior setback and reduce the conforming open yard to 935 square feet, and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
3. **Deck Expansion Prohibited.** The second floor deck shall not be extended over the new entry porch and shall be maintained at a minimum distance of 7' – 3" from the interior property line.
4. **Fences, Hedges, Walls, and Screens to be Removed.** The fence and hedges along the eastern edge of the new driveway shall be removed for the entire length of the residence's first floor to provide a minimum driveway width of 8' – 8".
5. **Vertical Clearance along Driveway.** A minimum vertical clearance of seven feet shall be maintained for the entire length of the driveway.
6. **Documentation on Plan.** The locations of all fences, hedges, walls, and screens shall be documented on the plans and it shall be noted that the hedges will be trimmed and maintained in compliance with SBMC § 28.87.170.

C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition

or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

- a. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
- b. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water Management Plan (treatment). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.
- c. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.
- d. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.

D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading

and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.

F. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the City of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans, or conditions must be reviewed and approved by the City, in accordance with the Planning

Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

3. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

III. NOTICE OF MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 23rd day of January, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 1 (Pujo) ABSENT: 0

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PAGE 7

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



Julie Rodriguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

