



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** April 11, 2013  
**AGENDA DATE:** April 17, 2013  
**PROJECT ADDRESS:** 1440 W Valerio Street (MST2013-00074)  
**TO:** Susan Reardon, Senior Planner, Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
 Danny Kato, Senior Planner *DK*  
 Suzanne Riegler, Assistant Planner *SR*

### I. PROJECT DESCRIPTION

The 5,626 square-foot site is currently developed with a 956 square foot, one-story residence and a 324 square foot detached garage. The proposed project involves permitting an “as-built” 45 square foot addition to the rear of the house. The proposal will abate violations listed in ZIR2011-00203 and ENF2013-00268. A Public Works Encroachment Permit will be required for any “as-built” improvements constructed in the public right-of-way. The discretionary application required for this project is a Modification to the open yard location and configuration requirements. (SBMC § 28.15.060 and SBMC § 28.92.110)

Date Application Accepted: 3/18/13

Date Action Required: 6/18/13

### II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, subject to conditions.

### III. SITE INFORMATION AND PROJECT STATISTICS

#### A. SITE INFORMATION

Applicant:	Ramiro Arroyo, Jr.	Property Owner:	Ramiro Arroyo, Jr.
Parcel Number:	041-040-029	Lot Area:	5,626 square feet
General Plan:	Low Density Residential	Zoning:	R-1
Existing Use:	Residential	Topography:	6% average slope
Adjacent Land Uses:	Residential		

**B. PROJECT STATISTICS**

	<b>Existing</b>	<b>Proposed</b>
Living Area	956 sq. ft.	+45 = 1,001 sq. ft.
Garage	324 sq. ft.	No Change
Accessory Space	54 sq. ft.	No Change

**IV. BACKGROUND**

The original residence, porte-cochere, and garage were constructed in 1935 as a part of the Westwood Oaks Subdivision. In 1940, the porte-cochere was enclosed to become an additional bedroom, resulting in a three-bedroom, one-bath residence. The development conformed to the ordinance requirements in place in 1940. The existing development is legally non-conforming to the current open yard location and configuration requirements. The residence is located in such a way that the minimum twenty-foot dimension cannot be achieved.

The current property owner purchased the property in September 2011. The Zoning Information Report (ZIR2011-00203) that was completed prior to the transfer of the property disclosed several violations including the “as-built” bathroom addition. The “as-built” floor area is considered a major violation, and was referred for immediate enforcement (ENF2011-00426). In April 2012, the property owner submitted a building permit application (BLD2012-00658) to permit the “as-built” bathroom. The bathroom location was determined to reduce the largest area of the legal non-conforming open yard. The bathroom’s location requires a Modification, and on February 20, 2013, this application for a modification was submitted.

On February 26, 2013 the City received a request for investigation that resulted in an enforcement case (ENF2013-00268) for a newly constructed fence and unmaintained hedges that were not in compliance with SBMC § 28.87.170. A portion of the recently constructed wood fence exceeds 3.5 feet, and is located within the public right-of-way. The applicant is showing that all hedges and fences are being reduced to comply with SBMC§28.87.170 and therefore, the fence must be reduced to a maximum height of 3.5 feet. A condition has been added requiring the reduction in height of the fence, and that prior to the issuance of a building permit, either the fence be shown on the plans to be relocated onto the private property, or the property owner must submit a separate application for a Public Works encroachment permit to allow the fence to remain in the right-of-way. A revised site plan was submitted in March 2013 that reflected abatement of all outstanding violations listed in ZIR2011-00203, ENF2011-00426, and ENF2013-00268. The project as proposed is exempt from review by the Single Family Design Board.

**V. DISCUSSION**

The proposed project involves permitting a 45 square foot, “as-built” bathroom addition to the rear of a one-story residence on a pie-shaped corner lot. The existing residence is oriented so that the front of the residence does not face either Calle Poniente or West Valerio Street but the intersection. The walkway to the front door and the driveway are taken from the Calle Poniente portion of the street frontage.

The property owner is requesting a modification of the location and configuration requirements for the required open yard to allow a 45 square foot bathroom addition to remain. The City requires 1,250 square feet of open yard area, which must be located in one contiguous area, must have a minimum dimension of twenty feet in each direction, and may not be located within a front yard. The ordinance allows exceptions to the open yard location and configuration requirements when a lot has multiple front yards or is less than 6,000 square feet of net lot area and a slope of less than 20%. For these smaller lots the open yard can be provided in two locations with no more than 850 square feet of open yard provided in the remaining front yard of the lot. When there are multiple street frontages, open yard can be located in a secondary yard at a minimum distance of ten-feet from the front property line.

The applicant is proposing a minor addition to create a three-bedroom home with two bathrooms, which results in the reduction in the non-conforming open yard. In reviewing the site plan it was determined that the property can provide more than the required 1,250 square foot open yard area in two locations as allowed by ordinance. However, the constraints of the existing development coupled with the small size and shape of the lot create many areas that serve the property as open yard cannot be counted towards the required open yard due to requirement to have a minimum dimension of twenty-feet in each direction.

Currently, the property owners use the 839 square foot area that is located ten-feet from the secondary front lot line as the primary outdoor living space for the family to recreate. Staff reviewed the site plan and has delineated on the site plan a contiguous area of 1,260 square feet that has minimum dimensions of not less than ten-feet. This open yard configuration, with the exception of the 45 square foot area where the "as-built" bathroom addition is now located, has been in use since the house was constructed in 1935 and provides the most useable outdoor area for the residents. Due to the construction of the original residence, the slab on grade construction of the 1940 addition, and the floor plan of the residence the bathroom addition could not be located in a conforming location. The proposed addition is minor, and although it reduces the legal non-conforming open yard, the location does not impact the streetscape, the visual open space, or adversely impact the useable outdoor area. In addition, an area greater than the required 1,250 square foot open yard area has been delineated on the plans that meets the purpose and intent of the ordinance and is not anticipated to adversely impact the adjacent neighbors.

## **VI. FINDINGS AND CONDITIONS**

The Staff Hearing Officer finds that the 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 open yard is appropriate because it will provide a useable open yard at the side of the residence as well as additional visual open space.

Said approval is subject to the following conditions

1. The required open yard shall be located in the area designated on the approved plan.
2. The wood fence that has been constructed in the public right-of-way shall be reduced in height to a maximum of 3.5 feet.

3. Prior to the issuance of a building permit, the wood fence that has been constructed in the public right-of-way shall either be shown on the plans to be relocated onto the private property, or the property owner shall submit a separate application for an encroachment to allow the fence to remain in the right-of-way and the encroachment permit shall be issued prior to final sign off of the building permit.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated February 19, 2013

Contact/Case Planner: Suzanne Riegle, Assistant Planner  
([SRiegle@SantaBarbaraCA.gov](mailto:SRiegle@SantaBarbaraCA.gov))  
630 Garden Street, Santa Barbara, CA 93101  
Phone: (805) 564-5470 x **2687**

**RECEIVED**

**FEB 20 2013**

**CITY OF SANTA BARBARA  
PLANNING DIVISION**

Ramiro R Arroyo  
1440 W. Valerio St  
Santa Barbara, CA 93101  
P: 805-896-0663

February 19, 2013

Staff Hearing Officer  
City of Santa Barbara  
P.O. Box 1990  
Santa Barbara, CA 93102-1990

Re: Modification Request for Project Address; 041-040-029; R-1

Dear Staff Hearing Office:

My house is located on an odd shaped. Pie formed corner lot. The house is three bedrooms, one bath at 956.23 s.f. There is a second bath that was built attached to the bedroom located at the north-east corner of the house. This bedroom measure 45.5 s.f. and encroaches in the required rear open yard area of 1250 s.f. and a minimum dimension of 20'. The proposal is to permit the non-conforming 45.5 s.f. bathroom to the rear of the house by submitting a zoning modification to reduce the non-conforming rear open yard space.

The modification being requested is to allow the non-conforming 45.5 s.f. bathroom to encroach into the existing 1209.77 s.f. of rear open yard space. The encroachment would allow the non-conforming bathroom to remain attached to the master bedroom at the north-east side of the house. In attempt to find supportability and conforming option, the results from my Zoning Modification Consultation concluded that the current location of the non-conforming bath is the best present solution.

One conforming options was to locate the bath off the third bedroom, which was a former porte cochere (slab on grade). The proposed location would create plumbing difficulties along with the removal and relocation of the main electrical panel; the second option was to relocated the bath to the south-east side of the house and attach it to the exiting bathroom. This option would require an open yard to permit as-built location and further reduce the non-conforming yard as required by SBMC 28.15.060.C.

The non-conforming bathroom is needed for our growing family, as we have to small children in our lives. One small bathroom and two bedrooms would be very challenging for us as a growing family.

The major benefits of allowing the bathroom to encroach the rear yard open space by reducing the non-conforming size is that it; keeps the bathroom discrete from the from yard; provided a second bathroom off of the master bedroom leaving the main bathroom open for the children and quests; eliminates the challenges of relocating the bathroom to a different location without compromising the character of the house; and the bathroom has been approved by the building department.

Thank you for your consideration,

Sincerely,



Ramiro R Arroyo

**EXHIBIT B**