



# City of Santa Barbara

## BUILDING AND FIRE CODE BOARD OF APPEALS MINUTES OCTOBER 4, 2018

2:30 P.M.  
Public Works Main Conference Room  
630 Garden Street  
[SantaBarbaraCA.gov](http://SantaBarbaraCA.gov)

### BOARD MEMBERS:

Paul Spieler, *Chair*  
James D. Langhorne  
John Maloney  
Eric N. Pedersen  
Marsha Zilles

### STAFF:

Andrew Stuffer, Chief Building Official  
Joe Poire, Fire Prevention Division Chief  
Greta Walters, Executive Assistant

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### CALL TO ORDER

The Board meeting was called to order at 2:37 p.m. by Chair Paul Spieler.

### ATTENDANCE

Members present: Langhorne, Maloney (arrived at 2:41 PM), Pederson, Spieler, Zilles  
Members absent: None  
Staff present: Assistant City Attorney John Doimas, Building Inspector Pete Mikelson, Chief Building Official Andrew Stuffer, Executive Assistant Greta Walters

### NOTE

The minutes presented here provide a summary of the meeting; a full recording is available online at <https://www.santabarbaraca.gov/gov/brdcomm/ac/bfcba/audio.asp>.

### GENERAL BUSINESS

#### A. Public Comment:

1. The meeting opened for public comment at 2:37. No one chose to speak.

#### B. Approval of the September 6, 2018, Minutes

**Motion: Approval of the minutes from the September 6, 2018, Building and Fire Code Board of Appeals meeting, as submitted.**

Action: Pedersen/Spieler, 4/0/0. Motion carried.

NOTE: Agenda schedule is subject to change as cancellations occur.

- C. Announcements, requests by appellants for continuances and withdrawals, future agenda items, and appeals.

Assistant City Attorney John Doimas advised the board about conduct for the meeting, noting that no comments are allowed during deliberation, and that the scope of the appeal is simply whether the property's grading was over or under the allotted amount. John Doimas explained that although two appellants were present, they agreed to merge under one appeal.

John Maloney joined the meeting at 2:41 PM.

## **SUBJECT ITEMS**

### **1. 836 De La Guerra Terrace — Second Appeal of Decision to Issue a Building Permit**

Chief Building Official, Andrew Stuffer, explained that this is the second appeal of the decision to issue a building permit for an Accessory Dwelling Unit (ADU) at 836 De La Guerra Terrace. MarBorg Industries, the company that hauled away debris from the site, reported to the City they estimated that less than 50 cubic yards of soil (exclusive of footings) was removed from the property. The CBO also provided a signed and stamped letter from Christopher Wall, a licensed civil engineer and surveyor, concluding that grading removed from the site totaled less than 50 cubic yards. Based on the MarBorg report and the licensed professional's findings, the CBO reissued a building permit to the owner of 836 De La Guerra Terrace.

Present: William Curran, Miles Barrett, John J. Thyne, Ted Meeder

Appellant William Curran argued that more than 50 cubic yards had been removed from the site already, with considerably more soil to be removed before completion of construction. He asked the Board to instruct staff to revoke the building permit and cease work on the property; instruct staff to require the property owner to provide a survey of record to verify the property boundaries for the purpose of ensuring the ADU is in compliance with the required setbacks; instruct staff to refer the project to the Single Family Design Board because of evidence showing that more than 50 cubic yards of grading is involved with this project; and direct staff not to allow the building permit to be reinstated without final approval of the ADU by the Single Family Design Board.

Appellant Miles Barrett disputed the findings of civil engineer, Christopher Wall, and the project architect, Ted Meeder, and argued that grading from the site has exceeded 50 cubic yards. He reminded the Board that grading that exceeds 50 cubic yards requires discretionary review by the Single Family Design Board as well as compliance with Tier Three storm water requirements. He added that storm water has run onto the Barrett property or a neighbor's property in the past.

John Thyne, attorney for the owner of 836 De La Guerra, stated that the ADU had been designed to legally conform to codes and requirements, and all work has been done accordingly. Architect Ted Meeder, designer of the grading for the ADU project, stated that that the design was created precisely to be 49 cubic yards and to cut shallower into the hillside in order to avoid triggering design review and Tier Three storm water management.

The Board was directed by staff to take a vote on the standing motion prior to hearing public comment. As the Board voted on the standing motion, Board member Zilles questioned the direction given by staff and her vote. Staff realized the error in their direction to the Board (not receiving public comment before voting) and advised the Chair of the Board to open public

comment on this hearing item, then discuss the standing motion and take a vote of the Board on the standing motion.

Thus, the Chair opened public comment for this hearing item at 3:49 PM.

Silvia Corral stated that she believed the Board should look closely at the information provided by the appellants and act on behalf of the neighborhood. Vijay Sharma recommended that the Board apply Tier Three storm water management requirements. Anna Marie Gott stated that she did not know how well-trained the board members were to make their decisions. The meeting was closed for public comment at 4:01 PM.

### **Questions from Board Members to Staff**

James Langhorne asked for clarification about how the City is measuring grading permits, where they stop and start. The CBO explained that aerial views of the property show grading has been done over the past two decades, but that it is difficult to assess precisely when changes were made. He stated that grading done in prior years, as a separate project, can be considered separate from the grading required for an ADU project. He also noted that concrete and rubble (debris) are not classified as soil by MarBorg Industries. Marsha Zilles and John Maloney were in agreement that it was difficult to determine exactly what amount of grading was taken from the site. Chair Paul Spieler added that the Board also needs to consider in-house calculations from the City and data from MarBorg. Marsha Zilles felt that the owner needed to prove that the work had stayed true to the design intent—especially since it was designed to avoid the expense of discretionary review and storm water management.

**Motion:**           **Standing motion: uphold the decision of the building official to issue a building permit.**

Action:           3/2/0. Motion carried.

### **Findings/Basis of Support:**

Paul Spieler stated that although he was not generally in favor of ADUs, the civil engineer and architect stood behind their work. He acknowledged that it is difficult to accurately measure soil removed from any site but that the proper process had been followed and staff had done its work. Eric Pedersen noted that the appellants' and neighbors' testimony was compelling, but the Board had to determine how much earth was removed from the site legally—which he had done based on what was presented to the Board. James Langhorne stated that there is often less dirt removed from a project than there appears to be. He appreciated the time and energy that the CBO and the staff put into the work.

## **2. 1209–1211 Chino Street — Appeal of Notice of Violation**

Present:       Michael Gilson, Appellant and Owner

Chief Building Official, Andrew Stuffer, explained that the Building and Safety Division received a complaint that a driveway was being replaced and a small wall was being constructed at the subject address without a permit. During site inspection, City Inspector, Pete Mikelson, noted that the wall's footing obstructed the historic flow of water. A Stop Work Notice of violation was issued to the appellant/owner.

Appellant/owner Michael Gilson stated that when he purchased the property, there was a grading problem caused by dirt and a tree removed by the previous owner. He explained that water diverted by an uphill neighbor flows into 1209–1211 Chino, and he's doing work to mitigate the water flow problems. He stated that he believed a permit was not required for the work he has done, based on an exemption for flat work.

**Motion:**        **Standing motion: uphold the decision of the Chief Building Official to issue a notice of violation at 1209–1211 Chino Street.**

Action:        5/0/0. Motion carried.

**Findings/Basis of Support:**

The board noted that according to municipal code, a building permit is required for work intended to alter or demolish driveways and parking areas.

**ADJOURNMENT**

**Motion:**        Adjourn the meeting.

Action:        Spieler/Maloney. 5/0/0. Motion carried.

Meeting adjourned at 5:02 PM.