



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** September 6, 2006  
**AGENDA DATE:** September 13, 2006  
**PROJECT ADDRESS:** 1235 E. Haley Street (MST2006-00453)  
**TO:** Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
 Danny Kato, Zoning & Enforcement Supervisor *DJK*  
 Roxanne Milazzo, Associate Planner *RM*

### I. PROJECT DESCRIPTION

The 5,700 square foot project site is currently developed with a 1,740 square foot single-family residence with detached two-car garage with "as-built" roof deck above. The proposed project involves demolition and replacement with a legal roof deck. The discretionary applications required for this project is: 1. A Modification to permit new construction within the required front and interior yard setbacks and 2. A Modification to allow existing hedges and walls to exceed 3 ½' in height when located along a front lot line or within ten-feet (10') of a driveway or eight feet (8') in height when located within a required yard (SBMC §28.18.060 & 28.87.170).

Date Application Accepted: July 25, 2006      Date Action Required: October 25, 2006

### II. SITE INFORMATION AND PROJECT STATISTICS

#### A. SITE INFORMATION

Applicant: Paul Zink	Property Owner: Guillermo Serrano
Parcel Number: 031-253-009	Lot Area: 5,746 sf
General Plan: 5 Units Per Acre	Zoning: R-2
Existing Use: Residential	Topography: 15% Slope
Adjacent Land Uses:	
North - Residential	East - Residential
South - Residential	West - Residential

**B. PROJECT STATISTICS**

	<b>Existing</b>	<b>Proposed</b>
Living Area	1,740 sf	No Change
Garage	320 sf	No Change
Accessory Space	None	No Change

**III. LOT AREA COVERAGE**

Lot Area: 5,746 sf  
Building: 2,700 sf; 47%  
Hardscape: 1,835 sf; 32%  
Landscape: 1,211 sf; 21%

**IV. DISCUSSION**

The existing covered deck, located above the existing two-car garage, was constructed prior to the current property owner's purchase 38 years ago. It has been used as an outdoor living area since that time. However, a record check associated with a recent request for repairs, revealed that the deck had no permit in the City's records. Although demolition and replacement of the existing non-conforming garage is permitted by SBMC §28.87.030, the unpermitted upper level deck constitutes new construction within required front and interior yard setbacks and would require a Modification approval to be built. During preliminary consultations with Staff, the applicant was advised that the City typically is not able to support requests of this type due to the inability to make the required findings. It is Staff's position that the purpose and intent of the setback is to provide a buffer zone between neighbors and the public right-of-way, and that an amenity which encourages congregation does exactly the opposite. Although the deck has existed without a single documented complaint being file with the City, Staff must treat the application as a request for installation. It is consistently Staff's position that amenities that encourage congregation are not appropriate within required yards. Fortunately, this site provides legal open yard area, improved with outdoor amenities, for the site.

The second Modification being requested for this site is related to existing overheight hedges along the front and interior lot lines. Staff understands that the purpose and intent of the height regulations is safety related. It has been determined that the 6' high westerly interior lot line hedge, which is located on top of a 5' high retaining walls, and exceeds the maximum allowable height of 8' is acceptable as it exists. Due to the tiering of the lots, the 6' high hedge on the subject property appears to be in compliance with allowable maximums. The overheight hedges along a portion of the front lot line and for the first 20' back along the easterly property line, are being removed as a part of this application. A 21' linear section located between the subject garage and the walkway to the residence will be maintained. This section, due to the slope of the sidewalk, provides a guard rail to the 5' drop-off.

V. **RECOMMENDATION/FINDING**

Staff recommends that the Staff Hearing Officer deny the roof deck, making the findings that it is not an appropriate improvement for the required yards, nor does it meet the purpose or intent of the ordinance. Any repair to the existing garage shall show a re-roof with roof rafters, not floor joists, and a guard rail to restrict access to the garage's roof. The section of front lot line hedge, which is located between the garage and entry walk way, may be supported at a maximum height of 3 ½' because public safety is not jeopardized. The portion of hedge located between the walkway and the neighboring driveway shall be removed in its entirety. The hedge located on top of the wall, along the westerly lot line, may be maintained at a maximum height of 6'.

Exhibits:

- A. Site Plan
- B. Applicant's letter dated July 24, 2006

Contact/Case Planner: Roxanne Milazzo, Associate Planner  
([rmilazzo@SantaBarbaraCA.gov](mailto:rmilazzo@SantaBarbaraCA.gov))  
630 Garden Street, Santa Barbara, CA 93101  
Phone: (805)564-5470

## PAUL R. ZINK, AIA

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779 Calabria Drive  
Santa Barbara, CA 93105  
(805) 569-3909  
zinkaia@aol.com

July 24, 2006

Staff Hearing Officer  
City of Santa Barbara  
630 Garden Street  
Santa Barbara, CA 93101

RE: Modification request for 1235 East Haley  
APN 031-253-009 Zoning R-2

There is an existing single family house (1,740 sq.ft.) with a detached two car garage (320 sq. ft.) on this property. There are no original plans on file for these buildings. There are no building permits in the street file for these buildings. The existing garage is semi sub terrain with two full height retaining walls. The garage is located in the front and side setback areas with two walls built on the property line. The current Owner of the property purchased the property in 1967. When he purchased the property the roof top area over the garage was being used as a deck and there was a trellis over the deck. The Zoning Information Report issued when the house was purchased is not in the street file and the Owner is not able to find his copy. The area over the garage has been used as outdoor living area by the current Owner for the past 38 years with no complaints to the City from the neighbors or citizens of Santa Barbara.

The modification that is being requested is to replace the garage roof / deck framing. We are not making the deck or garage any larger. We are proposing to remove the existing trellis over the deck. There is no change to the existing structure's encroachment. The wood framing for the garage roof / deck has experienced decay and these repairs are needed to maintain the building's usefulness and for the safety of the Owners. The existing guardrail around the deck is at 29" and we are proposing a wrought iron railing to be installed behind the existing wall to a height of 36".

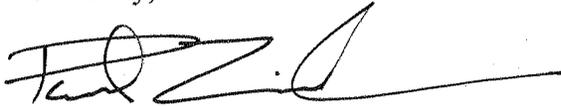
There are many examples in town of these types of garages located in the front and side setback areas. There are also many examples of these buildings with an outdoor deck being built as the garage roof. There have been many Zoning Information Reports written on these types of garages that do not list the deck over the garage under 'ITEMIZE ANY VIOLATIONS OBSERVED'. The house at 337 East Mission with a ZIR dated 6-18-76 is such an example. The use of a deck over the garage within the setback area at one time was considered an acceptable use.

We are also asking for a modification for the existing hedge that is over 6' in height within 10' of a driveway for the hedge adjacent to the existing garage. This garage is built on the property line and the hedge is in the same plane as the front of the garage. The height of the hedge has no bearing on the safety or visibility of the driver exiting the garage. The hedge located at the South East corner of the property will be lowered to comply with the 3' maximum height requirements.

THE HEDGE IS ALSO NECESSARY TO SERVE AS A GUARDRAIL WHEN THE (F) RETAINING AT THE FRONT PROPERTY LINE.

The Owner of 1235 East Haley has lived at his house since 1967. During this time his family has used the deck over the garage as part of their outdoor living area. The Owner pulled a building permit to construct an addition on his property in 1992 without having to 'correct' any outstanding zoning violations relating to the existing deck and trellis over the garage. The plans clearly indicate the existing garage and covered deck above garage. This modification request is not for a new structure or for a new use. This structure and it's use has been in place for over 38 years.

Sincerely,



Paul R, Zink, AIA