



**City of Santa Barbara
California**

**STAFF HEARING OFFICER
STAFF REPORT**

REPORT DATE: March 4, 2009
AGENDA DATE: March 11, 2009
PROJECT ADDRESS: 1415 Mission Ridge Road (MST2009-00051)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Senior Planner *RIB*
 Roxanne Milazzo, Associate Planner *Rmf*

I. PROJECT DESCRIPTION

The 13,766 square foot project site is currently developed with a single family residence and attached 2-car garage. The proposed application is a request for the “as-built” enclosure of a 192 square foot second-story patio. The discretionary application required for this project is a Modification to permit alterations/additions within the required ten-foot interior setback (SBMC §28.15.060).

Date Application Accepted: February 17, 2009 Date Action Required: May 17, 2009

II. RECOMMENDATION

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

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Dudek & Associates	Property Owner: Richard Godfrey
Parcel Number: 019-103-004	Lot Area: 13,766 sf
General Plan: 3 Units Per Acre	Zoning: A-2
Existing Use: One-Family Residence	Topography: 22%

Adjacent Land Uses:

North – Mission Ridge Road	East - One-Family Residence
South – One-Family Residence	West – One-Family Residence

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	2,613 sf	192 sf "as-built" = 2,805 sf
Garage	400 sf	400 sf
Accessory Space	N/A	N/A

C. FLOOR-AREA RATIO (FAR)

MAX. ALLOWED FAR: .31 PROPOSED FAR: .23 = 75.9% OF MAX. ALLOWED FAR

IV. ZONING ORDINANCE CONSISTENCY

Interior Setback 10' Required 3' Existing 3' Proposed

V. DISCUSSION

Due to this property's location within the Hillside Design District and an overall slope in excess of 20%, this project is subject to review by the Single Family Design Board (SFDB). On February 17, 2009, the SFDB reviewed the "as-built" construction and continued the item indefinitely to the Staff Hearing Officer with the following comments: 1) Architecture is compatible. 2) The Modification request is supportable. 3) Project is compatible with the neighborhood given the large lot next door; the large distance between houses mitigates impact.

The residence, built in 1952, was constructed with a raised patio at a distance of 3' from the interior lot line. In 1998, the current owners enclosed the patio which resulted in new floor area within the required 10' interior setback. A recent Zoning Information Report (ZIR) identified the violation and initiated enforcement activity against the current owners. In an effort to legalize the addition as it exists, the property owner is requesting a Modification for new floor area within the required setback. It is the applicant's position that the "as-built" room results in an improvement over the legal deck encroachment, which, due to its size encouraged congregation within the setback. The applicant also pointed out that due to the distance between the "as-built" room and the nearest neighbor's living and outdoor living areas, the purpose and intent of the buffer zone is being met.

Although Staff discourages the use of the Modification process for legalization of illegal construction, particularly when the approval results in habitable space within a required setback, Staff supports this request for the following reasons: 1) The new floor area is an enclosed space versus the original raised open deck. When considering the impacts related to noise, the room provides a better buffer than an area used for outdoor entertaining; 2) Adequate distance is provided between residential uses. The required 10' interior setbacks intend to provide 20' between neighboring living spaces. As seen in the aerial photograph, the distance existing between this room addition and the neighbor's living space greatly exceeds that distance. Even when the overheight hedge, which separates the properties, is reduced to

regulation height, the windows of the "as-built" room will not look into neighboring living or outdoor living space areas.

VI. FINDINGS

The Staff Hearing Officer finds the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on site. The second-story patio is non-conforming and could remain in its location and use as an outdoor congregation area. The large separation between the "as-built" habitable space and the adjacent neighbor provides the buffer zone as intended by the Ordinance and the typical impacts related to noise and odor associated with an outdoor amenity that encourages congregation has been reduced by the solid wall construction.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter dated 2-23-09

Contact/Case Planner: Roxanne Milazzo, Associate Planner
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DUDEK

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February 23, 2009

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

REGARDING: Abatement of Zoning Violation; Resolution of ENF Case #2008-01522 for the property located at 1415 Mission Ridge Road; (APN 019-103-004)

Staff Hearing Officer,

Thank you for the opportunity to present for your consideration our requests in the abatement of zoning violations associated with Case number ENF 2008-01522. My client and I are seeking to resolve the violations by requesting: 1) a modification and an "As Built" designation for the enclosure of an existing and permitted patio within the westerly setback of the property; 2) an "As Built" designation for a bar sink plumbed to code on the rear deck; and 3) an "As Built" designation for the vented decorative gas fireplace that replaced a BBQ on the original patio. The decorative gas fireplace is not a source of heat and has been installed to code with proper clearances, connections and a roof vent.

The above cited violation also included comments regarding the storage of items in the garage as well as the citation of a shed in the setback. Photos attached to this submittal demonstrate that the items in the garage have been removed, thereby resolving the inaccessibility issue and that the shed within the setback has been removed, thereby rectifying that comment.

Existing Site Conditions/Background

The subject property (APN 019-103-004) is located on Mission Ridge Road within the A-2 Zone District. It is presently developed with a 3,205 sq. ft., two-story, single-family residence including three bedrooms, three and a half bathrooms and a two car garage. The FAR limit on the parcel is .31 and the improvements total 73.6% of the total allowed FAR. The 13,766 sq. ft. lot is accessed off Mission Ridge Road, which serves as the northerly boundary (with residences across the road) of the property; and is bounded by residential uses to the west, south and east.

Review of planning archive indicates that the residence was built in 1952. The 1952 signed and stamped set of plans for the house, which are on file with the City of Santa Barbara, clearly show the (then unenclosed) patio is within the setback area of the lot. In addition, the 1972 aerial of the home (also attached to this submittal) show the unenclosed patio. Thus, the patio area is entirely permitted and has existed in this location for over 50 years. The request for a modification and an "as built" designation for the enclosure would in no way increase the density of the area or conflict with the neighboring parcel because the uses have nicely coexisted for over half a century.

The present owner acquired this property in 1993, at which time an entire renovation was completed of the home. (Plans submitted to you for this request to abate the subject violation are dated 1994, and are a result of the aforementioned renovation.) In 1998, the owner enclosed the existing and permitted west patio to create an office/den. The construction associated with the enclosure was completed to code and blends in with the existing structure. The construction materials used for the enclosure are an identical match to the rest of the house, including the roofing and the windows.

At the time the enclosure was constructed, there was no obvious boundary line with the property to the west and the property owner was not aware that the patio was located in the setback. Subsequently, the westerly adjacent property changed hands, and the assuming owner fixed the property line. A fence was built and ficus were planted along the property line, with costs jointly shared between the neighbors. The enclosure is unable to be seen from the westerly adjacent property.

Project Description

The requests for your consideration in the abatement of Case ENF2008-01522 involve: 1) an "as built" designation and modification for enclosure of the 192 sq. ft. permitted patio in the westerly setback, which was constructed to code; 2) an "as built" designation for a bar sink on the rear patio, which was plumbed to code; and 3) a decorative gas fireplace in the enclosure which replaced a BBQ, which is not a source of heat or smoke and has been installed to code with proper clearances, connections and a roof vent.

The unenclosed patio was included in the original design of the house when it was built in 1952 and has been within the setback for over 50 years. After purchase of the home, the enclosure of this patio was completed in 1998 to code and has added value to the house while also reducing impacts to the neighborhood which were previously associated with the outdoor patio. These impacts include noise and light resulting from the outdoor congregation area and odors associated with the previous BBQ on the patio. In addition, the enclosure has positively impacted the aesthetics of the residence and the surrounding area. More recently, at the February 17, 2009 Single Family Design Board (SFDB) Hearing, the enclosure received very favorable comments affirming the improvement as complementary to the residence and compatible with the neighborhood. Moreover,

numerous letters neighbors in support of the enclosure were submitted to the SFDB.

Although the enclosed patio is in the setback, the distance from the enclosure to the residence on the neighboring property is over 100' and well landscaped. The enclosure on the subject property is completely obscured from the westerly adjacent property. In discussions with the westerly adjacent neighbor regarding the enclosure, the neighbor has stated there are no negative impacts associated. The same neighbor has written a letter (attached) stating, "I am entirely comfortable with this addition and believe it should be left in place." Finally, items previously in the garage which made the area inaccessible have been removed, and the shed that was within the westerly setback has also been removed, thereby completely resolving the additional comments.

Presently, the owner is in escrow and the potential buyer intends to continue to use the enclosure as an office/den. He will likely back out of the purchase of the home if the area and associated improvements are not permitted. This would be a devastating financial blow. Given the discussion above, we earnestly hope you will support the requests we have made.

I hope this letter provides you with enough information to process the request. Please do not hesitate to contact me with any questions or concerns. I can be reached at 963.0651 ext. 3531 or via email: jgray@dudek.com.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Jane Gray". The signature is written in dark ink and is positioned above the typed name and title.

Jane Gray
Environmental Planner