



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: September 14, 2011
AGENDA DATE: September 21, 2011
PROJECT ADDRESS: 1312 E. Gutierrez Street (MST2011-00249)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Senior Planner *RB*
 Jo Anne La Conte, Assistant Planner *JAL*

I. PROJECT DESCRIPTION

The 7,739 square foot parcel is currently developed with a two-story residence, an attached two-car garage, a storage area, an attached two-car carport, a deck and an "as-built" wall. The proposed project involves the "as-built" conversion of an 886 square foot garage and storage area to a second dwelling unit, a 90 square foot first-floor addition, the "as-built" enclosure of an existing second-story sun porch, two new uncovered parking spaces, permitting an "as-built" wall at the front and interior property lines and permitting an "as-built" portion of an existing deck in the interior setback.

The discretionary land-use applications required for this project are:

1. Modifications to allow a wall to exceed 3.5 feet in height within ten feet of the front lot line and within 10 feet of a driveway for a distance of 20 feet back from the front lot line (SBMC §§28.87.170 & 28.92.110);
2. A Modification to allow alterations, "as-built" construction, and conversion of a portion of the existing dwelling to habitable space within the required six-foot interior setback (SBMC § 28.18.060 & 28.92.110); and
3. A Modification of the open yard area requirements (SBMC §28.18.060 & 28.92.110).

Date Application Accepted: August 23, 2011

Date Action Required: November 23, 2011

II. RECOMMENDATION

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

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	David L. Burke	Property Owner:	Jasen Bodie Nielsen
Parcel Number:	031-392-003	Lot Area:	7,739 sq. ft.
General Plan:	12 units/acre	Zoning:	R-2
Existing Use:	“As-built” duplex	Topography:	4%

Adjacent Land Uses:

North - Residential	East - Residential
South - Residential	West - Residential

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	Upper Unit = 1,070 sq. ft. Lower Unit - None	Upper Unit = 1,197 sq. ft. Lower Unit = 954 sq. ft.
Garage/storage area	886 sq. ft.	0 sq. ft.
Carport	445 sq. ft.	445 sq. ft.

C. PROPOSED LOT AREA COVERAGE

Building: 2,150 sf 28% Hardscape: 2,868 sf 37% Landscape: 2,721 sf 35%

IV. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/Allowance	Existing	Proposed
Setbacks			
- Front	Ground floor – 15’ Upper Story – 20’	108’ 108’	108’ 108’
- Interior	Parking – 15’	Carport – 78’	Uncovered spaces – 21’
- Rear	Buildings -6’ Parking – 3’ 6’	Approx. 5’ 6’ Approx. 7’	Approx. 5’ 6’ Approx. 7’
Building Height	30’	Approx. 24 ft.	Approx. 24 ft.
Parking	2 covered, 2 uncovered	4 covered	2 covered, 2 uncovered
Open Yard	1,250 sq. ft.	850 sq. ft.(plus)	1,373 sq. ft.

V. BACKGROUND

The City's archive plans show the dwelling to be five feet from the interior property line and the garage/storage area to be 840 square feet. However, according to the applicant, the existing garage/storage area is 866 net square feet and the existing interior setback is approximately 4'-8", based on a survey prepared and measurements taken out in the field.

Modification approval was obtained on January 16, 1975 for the over height wall that currently exists at the front property line. However, the building permit for the wall expired on December 17, 1976 prior to receiving a final inspection and thus, the modification also expired.

A new deck and carport for the residence were approved in 1990. The City's archive plans show the deck to be located six feet from the West interior property line. However, according to the applicant, a portion of the deck (the support posts and handrails) was constructed in the required six-foot interior setback.

VI. DISCUSSION

The project was heard at the Architectural Board of Review (ABR) on August 1, 2011 and was forwarded to the Staff Hearing Officer with comments.

The property is zoned R-2 and, with a lot size of 7,739 square feet, allows for a duplex. The parking required for the duplex is two covered and two uncovered parking spaces. The two covered parking spaces are being provided in an existing two-car carport and two new uncovered parking spaces are proposed as part of this project. Transportation Operations staff has reviewed the proposed uncovered parking spaces and confirmed that they meet maneuverability requirements.

Fence & Wall

A Modification is required to allow the "as-built" wall to exceed 3 ½' in height within ten feet of the front lot line and within ten feet of a driveway for a distance of 20 feet back from the front lot line. Transportation Operations staff has reviewed the wall and determined that the wall will not create visibility issues. Staff does not support the requested modification to allow the over height wall because there are conforming options to allow a 3 ½ foot wall at the property and there does not appear to be a constraint that would necessitate this Modification request.

Interior Setback

The project site was originally developed with a single family residence and a garage/storage area below. The garage/storage area has been converted to a dwelling unit, without benefit of permits. A Modification is required to permit the change of use from garage/storage to habitable space and to permit a new first floor window for the dwelling, due to a portion of the building's location within the required six-foot West interior setback. Also, in 1990 a deck was approved to be constructed six feet from the West interior setback. However, portions of the deck (support posts and handrails) were constructed within the required six foot interior setback and require modification approval at this time. It is Staff's position that the improvements are minimal encroachments within the setback and would allow for appropriate improvements, without anticipated impacts to the neighbors.

Open Yard

The property is currently non-conforming to open yard requirements in that it is 850 square feet. The Zoning Ordinance requires 1,250 square feet of open yard area, which may be provided in multiple areas with minimum dimensions of 20 feet. The Ordinance does not permit any portion of the front setback to be used as open yard area, but does allow for up to 850 square feet of the open yard area to be provided in the remaining front yard. The proposal is to provide all of the open yard area (approximately 1,373 square feet) for the property in the remaining front yard due to the location of the residence set-back approximately 108 feet from the front property line. A portion (850 sq. ft.) of the open yard area, located in the remaining front yard, meets the ordinance requirements. However, 523 square feet of open yard area does not meet the ordinance requirements as, technically, the area is considered the remaining front yard. Staff is in support of the open yard modification because of the site constraints associated with the current development's location on the lot and as the proposed open yard will provide a more functional open yard for the residential development.

VII. FINDINGS AND CONDITIONS

The Staff Hearing Officer finds that the Modification requested for alterations, "as-built" construction, and conversion of a portion of the existing dwelling to habitable space within the required interior setback is necessary to secure appropriate improvements to the existing structures on site and meets the purpose and intent of the Zoning Ordinance. The support posts and handrail encroachment is minimal, there are no anticipated impacts to the neighbors with the new window and the new unit will not result in additional floor area in the setback.

The Staff Hearing Officer finds that the Modification to allow the over-height wall on the front and interior property lines is not consistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. A conforming option is feasible to construct a wall that complies with the Zoning Ordinance.

The Staff Hearing Officer finds that the Modification of the open yard area is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The open yard request is appropriate due to the site constraints associated with the current development's location on the lot, while maintaining adequate area for the property occupant's outdoor enjoyment.

Said approval is subject to a condition that the wall shall be reduced in height to comply with the Zoning Ordinance.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated August 1, 2011
- C. ABR Minutes dated July 11, 2011

Contact/Case Planner: Jo Anne La Conte, Assistant Planner
(jlaconte@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470 x3320



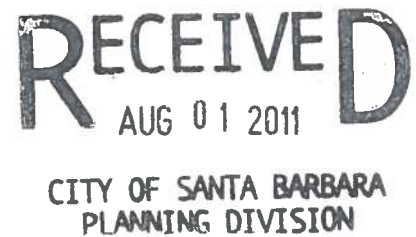
BURKE DESIGN

ARCHITECTURE • PLANNING • CONSTRUCTION

Applicant: Burke Design, David Burke, Architect
Phone: ofc: 805-964-8800; cell 805-293-8538

August 1, 2011

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



Re: Modification Request for 1312 E. Gutierrez, APN 031-392-003, Zone R2

Dear Staff Hearing Officer

1. Existing Condition:

There is an existing two story, 2,100 sq ft house on a 7,739 sq ft R2 lot that has an existing 1,130 sf two bedroom living unit and 127 sq ft covered porch on the second floor over a 970 sq ft garage/storage area on the first floor. A previously permitted remodel added a two car carport to the site in front of the existing house which sits near the rear of the property. The original two story house with the second floor living space, porch and first floor garage were constructed with building permits. On March 7th, 2011 an enforcement action was started, ENF2011-00131, in regards to a remodel of the first floor garage/storage to living space requiring the owner to either return the living space to the original garage configuration or get a building permit for the improvements. The Owner's have chosen the latter course and are now in the process of legalizing all improvements on the property. Upon completion of a Planner Consultation, PRE2011-00081, and a preliminary hearing at the ABR on July 11, 2011, there are three Modifications that need to be obtained as follows:

2. Modification Request #1: Over height wall in front setback:

According to the Planner Pre-case there was an approved modification for an over height wall in the front setback approved on 1-16-75. The wall was built but the building permit was never finalized so the permit and Mod Expired. The Owner would like to re-new this modification. Attached is an e-mail from Chelsea Swanson in Public Works supporting the modification. The ABR has also approved the modification request.

3. Modification Request #2: Side yard encroachment

4141 State Street, Suite C 4.1 • Santa Barbara, CA 93110 • Phone (805) 964-8800 • Fax (805) 293-8538

www.burke-design.biz

EXHIBIT B



1312 E. GUTIERREZ
Page 2 of 2

The existing, permitted, two story structure was originally built with a side yard setback of less than the current six feet. Due to the intensification of the use on the first floor from garage to living space a modification is required for this encroachment. The covered parking spaces being lost in the garage-to-living conversion has already been replaced with the two covered parking stalls constructed in front of the house. This modification request was approved by the ABR.

4. Modification Request #3: Front yard open space:

Due to the fact that the existing house was built at the rear of the property there is no room to place the required min 20' wide open yard area behind the house in the rear yard. Since there is ample space in the front yard the entire 1,250 sq ft of open space is placed in an area that has historically been used for an open patio. This modification requests that the 850 sq ft limit to front yard open space be increased to allow the entire 1,373 sq ft open space to remain in the front yard. The ABR has approved this modification request.

These modifications will allow the Owner's to obtain the full benefit of their property as a legal R2 use that will provide an additional living unit sorely needed in Santa Barbara and the frontage improvements will enhance the overall appearance in this part of the neighborhood.

Regards,

A handwritten signature in black ink, appearing to read "DLB", with a long horizontal line extending to the right from the end of the signature.

David L. Burke
Architect,

DLB:dlb

Dave Burke

From: Swanson, Chelsey A. [CSwanson@SantaBarbaraCA.gov]
Sent: Wednesday, May 18, 2011 4:33 PM
To: Dave Burke
Cc: LaConte, JoAnne
Subject: RE: 1312 Gutierrez, Enforcement action ENF2011-00131

Dave,

We can support a Mod for the wall to remain. This support is based on observations at the site visit and review of the previously approved Modification for the wall. However, please clarify the height of the wall from the lowest adjacent grade (public sidewalk) within 10' of the edge of the driveway on the downhill side. I assume it is 36" above finished grade on-site, but might be a bit taller as measured from the sidewalk?

Thanks,
Chelsey

From: Dave Burke [<mailto:dlburke@burke-design.biz>]
Sent: Wednesday, May 18, 2011 7:52 AM
To: Swanson, Chelsey A.
Cc: LaConte, JoAnne
Subject: 1312 Gutierrez, Enforcement action ENF2011-00131

Chelsey,

Have you had a chance to take a look at the sight-distance situation at this address that we talked about last week. The height of the masonry out to at least 10' on the downhill side of the driveway is 36". The height of the masonry on the uphill side is less than 3'. The pilaster columns are about 5' tall.

Dave Burke

Burke Design
David Burke, AIA



DLBurke@Burke-Design.BIZ
www.burke-design.biz
Office: 805-964-8800
Fax: 805-293-8538
Cell: 805-453-6464
4141 State Street
Suite C 4.1
Santa Barbara, CA
93110

ATTACHMENT

CONCEPT REVIEW - NEW ITEM: PUBLIC HEARING**2. 1312 E GUTIERREZ ST**

R-2 Zone

(3:40) Assessor's Parcel Number: 031-392-003
Application Number: MST2011-00249
Owner: Jasen Bodie Nielsen
Architect: David Burke

(Proposal to convert an 886 square foot garage and storage area into a second dwelling unit, add 90 square feet of storage space on the first floor, and enclose a second-floor porch. Staff Hearing Officer approval of modifications are requested to convert a portion of garage and storage area to habitable within the interior setback, to provide greater than 850 square feet of open yard area in the remaining front yard and for a wall to exceed 3 1/2 feet in height at the front lot line and within 10 feet of a driveway. The project will address violations in enforcement case ENF2011-00131.)

(Comments only; project requires environmental assessment and Staff Hearing Officer review of modifications.)

Actual time: 3:33

Present: Dave Burke, Architect.

Public comment was opened at 3:43 p.m. As no one wished to speak, public comment was closed.

Motion: Continued to the Staff Hearing Officer and return to Full Board with the following comments:

- 1) The modification for the front yard over-height fence is acceptable and poses no negative aesthetic impact.
- 2) The open yard location is acceptable in the front yard.
- 3) The existing side-yard has no negative aesthetic impact.
- 4) Provide a landscape plan that provides mitigation of proposed tree removal, a detailed description of proposed planting. Move the fence at the parking area back to provide a space for landscaping in front of the fence behind the front parking spaces.
- 5) Coordinate all plans and elevations and accurately show proposed window locations.
- 6) Confirm that the proposed south facing windows are not an intrusion into the privacy of the adjacent neighbor's north facing windows.
- 7) Study resolution of the south addition design to integrate with the existing architecture.

Action: Mosel/Rivera, 5/0/0. Motion carried. (Aurell/Manson-Hing absent)

EXHIBIT C