



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: November 5, 2015
AGENDA DATE: November 11, 2015
PROJECT ADDRESS: 481 Paseo Del Descanso (MST2015-00264)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Jo Anne La Conte, Assistant Planner *JAL*

I. PROJECT DESCRIPTION

The 9,148 square foot site is currently developed with a 1,390 square foot single family residence, a detached 343 square foot two-car garage and a detached 488 square foot accessory structure. The detached accessory structure was not constructed according to the approved plans as it is located four feet from the detached garage instead of the five feet required and it is ten square feet larger than what was approved. The proposed project is to permit the location of the detached accessory structure to be four feet from the garage, to permit an "as-built" 10 square foot addition, "as-built" relocation of a water heater enclosure and "as-built" FAU to an existing 478 square foot detached accessory structure, to permit "as-built" steps and an "as-built" 36 inch high deck with a proposed deck railing at the interior and rear of the accessory structure, to replace the posts, girders and foundation and for the "as-built" replacement of an FAU unit for the dwelling and for "as-built" exterior alterations at the property. The proposal will address violations outlined in an Enforcement Case (ENF2014-01089).

The discretionary applications required for this project are:

1. Modification to allow the detached "as-built" accessory structure to be located within the required five-foot building separation (SBMC § 28.87.062 and SBMC § 28.92.110) and;
2. Interior Setback Modification to allow an "as-built" deck with a new railing to encroach into the required six-foot north interior setback (SBMC § 28.15.060 and SBMC § 28.92.110); and
3. Interior Setback Modification to allow an "as-built" deck with stair and a new railing to encroach into the required six-foot east interior setback (SBMC § 28.15.060 and SBMC § 28.92.110).

Date Application Accepted: October 8, 2015

Date Action Required: January 6, 2016

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the Modification for building separation and deny the Interior Setback Modifications, subject to conditions.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Kris Kirkelie	Property Owner:	Heidi Victoria Sjollema
Parcel Number:	053-102-005	Lot Area:	9,148 sq. ft.
General Plan:	Low Density Residential (Max. 5 du/acre)	Zoning:	E-3
Existing Use:	Single Family Residence	Topography:	6%

Adjacent Land Uses:

North – Single Family Residential	East - Single Family Residential
South - Single Family Residential	West - Single Family Residential -

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	1,390 sq. ft.	No Change
Garage	343 sq. ft.	No Change
Accessory Space	478 sq. ft.	+10 sq. ft. = 488 sq. ft.

C. PROPOSED LOT AREA COVERAGE

Building: 2,354 sf 26% Hardscape: 3,169 sf 35% Landscape: 3,625 sf 40%

IV. BACKGROUND

There is an existing enforcement case (ENF2014-01089) on file for work without permits at the property. This proposal will address the unpermitted work outlined in the enforcement case.

There are no original Archive plans on file for the property. However, there are subsequent Archive plans on file for the addition of the detached accessory structure (artist studio) and deck approved in 1986. The Archive plans dated 1986 show the detached accessory structure (except for the water heater enclosure) to be located six feet from the detached garage, the deck to be 30 inches in height and located six feet from the interior and the interior/rear property lines, the dwelling to be located 30 feet from the front property line and 11 feet from the interior property line next to the driveway.

V. DISCUSSION

This project is exempt from review by the Single Family Design Board (SFDB).

The proposed project includes permitting the “as-built” location of the detached accessory structure to be four feet from the detached garage instead of the five feet required for separation from one accessory structure to another. Staff understands the requirement for distance between accessory structures is intended to provide ventilation, visual separation and openness. Staff supports the request to allow the four foot distance between the accessory structure and the detached garage because it appears to be part of the original 1986 construction, it still allows for separation and openness between the structures, there is adequate ventilation, the accessory structure is located outside of the required interior setbacks, and the proposal is not anticipated to adversely impact the adjacent neighbor’s.

The proposal also includes permitting “as-built” steps and a deck with a proposed 42 inch high guardrail that are located approximately 3½ feet (steps) and 2½ feet (deck) from the east interior property line. In addition, the proposal includes an “as-built” 36 inch high deck with proposed 42 inch high railing located approximately five feet from the north interior property line instead of the six feet required. The 1986 Archive plans for the deck show it be 30 inches in height and located six feet from both interior property lines. However, the “as-built” deck is located in both required interior setbacks, it is 36 inches in height and per the Building Code, since the deck is 36 inches in height, it requires a 42 inch guardrail.

Staff does not support the request for the steps, deck and guardrails in the required interior setbacks because there is a reasonable design solution that would avoid the necessity for the interior setback modifications, and there are no site constraints that constitute an unreasonable hardship to justify approval of the requested modifications.

Transportation staff has reviewed the improvements along the driveway and have stated that they will not block access to the required parking. However, Transportation staff recommends that the hedge along the driveway be pruned back so that it does not block access to the garage. Therefore, a condition has been included to that effect.

VI. FINDINGS AND CONDITIONS

The Staff Hearing Officer finds that the Modification of distance between accessory buildings is necessary to secure an appropriate improvement on the lot and that it meets the purpose and intent of the ordinance, which is to provide ventilation, visual separation and openness between buildings, and that the “as-built” addition to the detached accessory space is not anticipated to adversely impact the adjacent neighbors.

The Staff Hearing Officer finds that the east Interior Setback Modification for the stairs, deck and guardrail to encroach into the interior setback are not necessary to secure an appropriate improvement on the lot and that they do not meet the purpose and intent of the ordinance because there is a reasonable design solution which would avoid the necessity for a modification and there are no site constraints that constitute an unreasonable hardship to justify approval of the requested modification.

The Staff Hearing Officer finds that the north Interior Setback Modification for the deck and guardrail to encroach into the required interior setback are not necessary to secure an appropriate improvement on the lot and that they do not meet the purpose and intent of the ordinance because there is a reasonable design solution which would avoid the necessity for a modification and there are no site constraints that constitute an unreasonable hardship to justify approval of the requested modification.

Said approval is subject to the following conditions:

1. The violations outlined in ENF2014-01089 shall be abated as part of this permit and shall be included in the Scope of Work.
2. The proposal shall be redesigned so that the stairs, deck and proposed guardrails comply with the Zoning Ordinance.
3. A Zoning Compliance Declaration (ZCD) shall be recorded for the property.
4. All exterior lighting shall comply with the City's Outdoor Lighting Ordinance.
5. The hedge along the east side of the driveway shall be pruned back so that it does not block access to the garage, subject to review and approval by the Public Works Department.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated June 1, 2015

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

Applicant:
Michael and Heidi Sjollema
1170 Crestline Dr.
Santa Barbara, Ca 93105

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6-1-15

CITY OF SANTA BARBARA
PLANNING DIVISION

Staff Hearing Officer
City of Santa Barbara
PO Box 1990
Santa Barbara, Ca 93102-1990

Re: Modification Request for 481 Paseo Del Descanso, APN#: 053-102-005, E-3

Dear Staff Hearing Officer,

There is an existing 1378 sq. ft. Single Family Residence with a detached mechanical shed, a detached legal non-conforming two-car garage (approx. 18'-0" x 20'-0") with a legal non-conforming interior yard setback and a permitted 484 sq. ft. detached heated accessory structure with rear yard deck. Both the residence and garage were permitted and built about 1930. It is unclear when the main house mechanical shed was built, however the existing framing, exterior materials and local knowledge of the property supports that the shed has always been there as part of the main building facade. City street file plans and documentation are grossly lacking, inconclusive and full of discrepancies. It would be difficult to argue when exactly the shed was built. The accessory structure with an exterior mechanical closet and deck were permitted and built in 1986 as a detached artist studio, however at some point was illegally used as a secondary dwelling unit by the previous owner of the property.

In May of 2014 Heidi and Michael Sjollema inherited the property known as 481 Paseo Del Descanso without knowledge of the accessory structure's non-conforming nature. The owner of the property was a non-family member Heidi would help out. When the lady passed away the property was willed to Heidi. A recent inspection of the property revealed the improper conversion as well as uncovered discrepancies between the permitted plans and the "as-built" nature of the accessory structure's setback and building separation. Please note that the street file indicates that these "as-built" and non-permitted items had been approved and signed off in the field by the Building and Safety Inspector at that time in 1986, this includes setbacks, forms, plumbing, electrical, final heating and final building in 1987.

There are three "as-built" zoning discrepancies that are particular to this request. The permitted plans dimension a 6'-0" separation between the existing garage and the accessory structure where current code requires a minimum of 5'-0" building separation. The "as-built" dimension between the two structures signed off by the Building and Safety Inspector in 1986 is 4'-0". In addition, a 36" high above grade permitted deck at the back of the structure was dimensioned to be 6'-0" in width with a rear yard setback of 6'-0". The "as-built" deck width is 6'-0" to the footings with a 12 inch wood deck architectural overhang encroaching into the rear yard setback. The deck also encroaches into the side yard setback by 42" where it adjoins three steps to gain access to the deck.

The first modification being requested is to allow the "as-built" accessory structure to encroach one foot into the required 5'-0" minimum distance between accessory buildings and structures (SBMC28.87.062.D), allowing for a 4'-0" minimum building separation. This would allow the existing accessory structure to be permitted as a legal non-conforming structure and enable its continued use and enjoyment for the residents of the property.

EXHIBIT B

The second request is to allow the permitted 36" high above grade, wood deck architectural overhang to encroach one foot into the rear yard setback. A mature 4'-0" wide by 8'-0" high hedge exists along the full length of the back and side property line which completely screens the deck from all adjacent properties. All existing footings conform to the minimum 6'-0" rear yard setback.

The third request is to allow the deck to encroach into the side yard setback by 42" to gain access to the steps and provide circulation. Approving this encroachment would allow the existing deck to be permitted as legal non-conforming and enable the continued enjoyment of a private deck. It would also allow the owner to proceed with a permit to add a guardrail and handrail required by the California Residential Code.

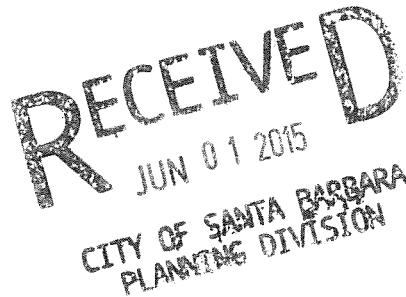
In addition to these three modifications we also request that regular fees be applied to this project instead of the typical "as-built" fees. In reviewing staff counter policy for Configuration of Residential Units, dated Nov. 8, 2001, it states on page 5 item #15, that "the new owners get a "clean slate," and are not penalized by the activities of the violator." In this case the property was conveyed to the current owners by a NON-RELATIVE, and a zoning report was never performed so non-conforming items were unknown. Bringing the property into conformance is costly with the professional submittals, fees, permits and hiring licensed contractors. It is the owner's sincere desire to resolve all these concerns however it is creating a monetary hardship. Paying the normal fees would aid in relieving some of this hardship and instill faith in the community that people should not fear to come forward to correct non-conforming items on their properties that have occurred as the result of a previous owner. Correcting these items should be an amicable exchange between the City and the property owners, it should bring relief to both sides of the community and City and not feel like a punishment for things one couldn't control.

In summary, the modification approval would allow the owner to proceed with the required permits to correct the illegal dwelling issues and apply for a building permit to address other "as-built" items of the structure as outlined in ENF2014-01089. The current residence is a three bedroom, one bath structure. Allowing the permitted accessory structure to become legal non-conforming would also allow the continued use of a much needed guest room and bathroom for the resident's guests.

Thank you for your consideration of this request. We look forward to working with the City.

Sincerely,

Kris Kirkelie (Owners Agent)
on behalf of Heidi and Michael Sjollema (Owner)



Project description continued...

Accessory Structure: Resolve ENF 2014-01089

1986 as-build conditions differing from 1986 permitted structure.

yr. 1986 as-build: tub installed, kitchen sink installed, stove and refrigerator installed, 16'-2" lin. ft. of lower cabinets permitted, lower cabinets reconfigured to 10'-8" lin. ft. installed, water heater relocated, FAU installed in crawl space instead of wall heater unit, building separation to garage is built as 4'-0" not 6'-0", back deck is built with a 12" architectural overhang encroaching into rear yard setback and 42" into side yard setback.

Requesting modification approval for building separation between (e) garage and (e) accessory structure from required 5'-0" to 4'-0"

Requesting modification approval for 12" deck architectural overhang encroachment into rear yard setback

Requesting modification approval for 42" wide deck encroachment into side yard setback.

Yr. 2014 as-build: replaced existing FAU and repaired existing gas line valve at the studio (the gas line was permitted in 1986).

New Scope:

- remove: existing refrigerator and cabinet surround, stove and upper cabinets
- remove: 1'-4" portion of lower cabinet configuration on right hand side of stove
- remove: existing kitchen sink and replace with bar sink
- remove: existing tub and cap all utilities, water and sewer, to below floor joists.

Relocate downspout at back steps to new location

Install approx. 39'-0" of new 42" high guard rail and a 36" high handrail at back deck and steps

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