

Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

VARIANCE # ZP2015-0077

Property Address: **1335 SANTA FE AVENUE**

Permittee Name: **SOGNO DESIGN GROUP**

Use and/or Construction Permitted:

to allow 35.86% lot coverage where 35% lot coverage is required for a 3-story residence in the R-2 Zoning District and modification to Administrative Use Permit Modification #ZP2015-0013 to revise Condition of Approval #24 and remove Condition of Approval #28 related to lot coverage.

- Variance to modify the percentage of lot coverage, under BMC Section 23.B.44.010

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on May 13, 2015.

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 23, 2015

1335 Santa Fe Avenue

Variance ZP2015-0077 to allow 35.86% lot coverage where 35% lot coverage is required for a 3-story residence in the R-2 Zoning District and modification to Administrative Use Permit Modification #ZP2015-0013 to revise Condition of Approval #24 and remove Condition of Approval #28 related to lot coverage.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

VARIANCE FINDINGS FOR ISSUANCE AND DENIAL

2. Pursuant to Berkeley Municipal Code Section 23B.44.030.A.1 (Variance Findings for Issuance and Denial), the Zoning Adjustments Board finds that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use which do not apply generally to land, buildings and/or uses in the District, in that a building permit was issued for the 2,533 square foot, 28’6” in average height residence, and during project construction a change in use (attic space to master bedroom) was identified. The bulk, mass, and fenestration for this structure did not change, but the change in use changes the definition of the attic level to a third story. The maximum lot coverage for a two story building is 40%, where the maximum lot coverage for a three story building is 35% (BMC 23D.28.070). Lot coverage is 35.86%, or 25.5 square feet over the allowed coverage. The removal of 25.5 square feet from either the existing residence or the rear yard shed would be expensive, structurally complicated and/or aesthetically undesirable. The combination of timing of the discovery, the difficulty in removing the necessary covered area, and the small amount of exceedance, make the subject property unique, and therefore, this Variance finding can be made.
3. Pursuant to Berkeley Municipal Code Section 23B.44.030.A.2 (Variance Findings for Issuance and Denial), the Zoning Adjustments Board finds that the Variance is necessary for the preservation and enjoyment of substantial property rights of the subject property’s owner, in that keeping the existing residence and shed intact allows

the preservation of the buildings on the site (buildings for which the height, mass and bulk have been approved) and enjoyment of the site as envisioned by the applicant.

4. Pursuant to Berkeley Municipal Code Section 23B.44.030.A.3 (Variance Findings for Issuance and Denial), the Zoning Adjustments Board finds that the increased lot coverage by 25.5 square feet will not materially affect adversely the health or safety or persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to public welfare or injurious to property or improvements in said neighborhood, and will promote the municipal health, welfare and safety and benefit the City as a whole. As described in the Findings made for AUP Modification #ZP2015-0013, the change in use from attic to master bedroom is found to be non-detrimental and permissible; it would not create significant impacts to sunlight, air or views.

REVISION TO #ZP2015-0013 CONDITIONS OF APPROVAL

Conditions of Approval were approved with Administrative Use Permit Modification #ZP2015-0013. With approval of this Variance, those conditions are modified as follows (changes are shown in strike-through/underline). Specifically, Condition of Approval #24 is revised and Condition of Approval #28 removed; these two conditions relate to lot coverage.

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER
Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

□ Name: _____ Phone: _____

11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:

- Alterations, closures, or blockages to sidewalks or pedestrian paths
- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere in the public ROW
- Provision of exclusive contractor parking on-street
- Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

Prior to Issuance of Any Building Permit:

12. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

During Construction:

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

Prior to Issuance of Occupancy Permit or Final Inspection:

23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated January 22, 2015 and Revised Sheet A0, ~~twenty-five (25) square feet shall be removed from the existing rear yard shed.~~

At All Times (Operation):

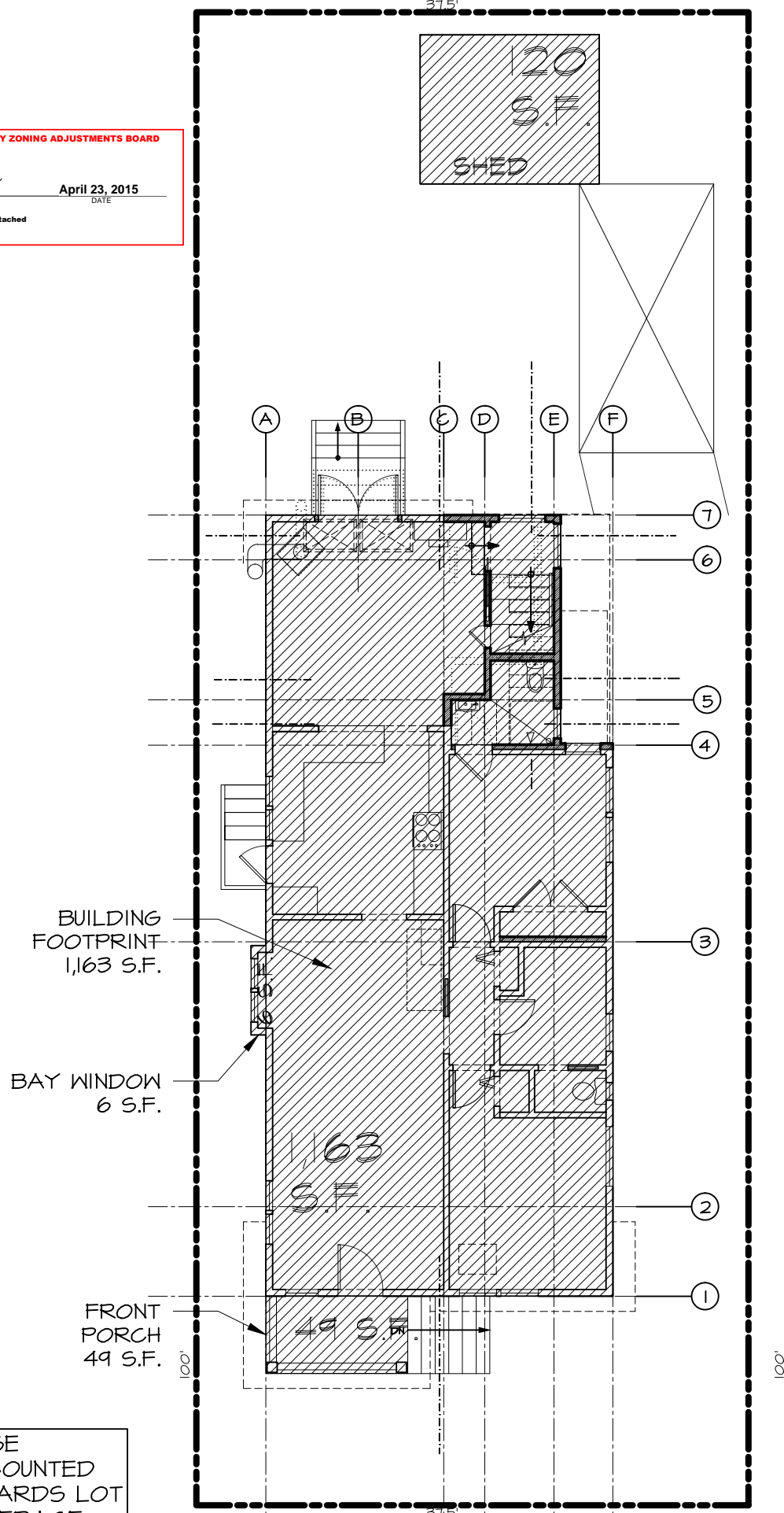
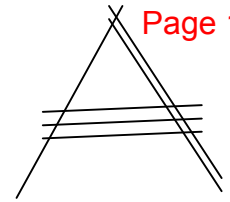
25. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
26. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
27. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.
- ~~28. The lot coverage shall not exceed 35% as defined by BMC Section 23F.04 (Definitions).
Coverage Area: All the area of a lot, as projected on a horizontal plane, which is enclosed by the exterior walls of buildings or enclosed Accessory Structures; or covered by decks, porches, stairs and/or landings which cover an enclosed space or paved ground area~~

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Shanna Alu
 SIGNATURE

April 23, 2015
 DATE

* Findings and Conditions Attached



HOUSE
 SF COUNTED
 TOWARDS LOT
 COVERAGE
 1,163+6+49
 =1,218SF

PROPOSED LOT COVERAGE
 $1,218SF + 120 SF = 1,338SF / 3,750SF$ (LOT AREA)
 =35.68%