



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
June 16, 2010**

TO: Mayor and City Council

FROM: Anjana Mepani, Associate Planner
Terry Blount, AICP, Planning Manager

SUBJECT: Adopt resolution denying an appeal and upholding the Planning Commission's decision on application UP #10-01 and VAR #10-01

DATE: June 9, 2010

RECOMMENDATION:

Adopt resolution denying an appeal and upholding the Planning Commission's decision, approving Use Permit #10-01 and Variance #10-01, for reconstruction and renovation of a vacant single-family residence and garage at 208 Arreba Street.

BACKGROUND:

On May 19, 2010, the City Council held a public hearing on an appeal of a Planning Commission decision to approve the project as described above. After a staff presentation, appellant presentation, applicant presentation, rebuttals, and testimony from the public, the City Council deliberated the project and rendered a decision to deny the appeal and uphold the Planning Commission's decision to approve the project with the attached resolution and exhibits, including the modified conditions of approval. A motion to deny the appeal carried with a vote of 5-0. The attached resolution memorializes that decision.

FISCAL IMPACT:

None.

ACTION:

Resolution denying an appeal and upholding the Planning Commission's decision to approve Use Permit #10-01 and Variance #10-01.

Attachments: Resolution

Exhibits: A. City Planning Staff Report Tables; B. Strict Application of Zoning Ordinance;
C. Variance Vicinity Map and Spreadsheet; and D. Conditions of Approval

APPROVED BY: City Manager

RESOLUTION NO. -10

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ DENYING
AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION TO
APPROVE USE PERMIT #10-01 AND VARIANCE #10-01 ALLOWING
RECONSTRUCTION AND RENOVATION OF A VACANT SINGLE-FAMILY
RESIDENCE AND GARAGE, LOCATED AT 208 ARREBA STREET
(APN: 372-173-001)**

WHEREAS, the City of Martinez received a request for a Use Permit, Variances, and exceptions ("Project") to allow reconstruction and renovation of a vacant, existing single-family residence ("Residence") and a vacant, existing detached garage ("Accessory Structure") at 208 Arreba Street, identified as APN 372-173-001 ("Project Lot", "Project site" or "site"), within the City of Martinez; and

WHEREAS, the Project proposes to renovate the first floor of the Residence, and to place a new, second story addition on the Residence; and the Project proposes to reconstruct the garage/Accessory Structure, and to provide for a two-car garage at street level, with space for a home office and storage on a second level above the garage area; and

WHEREAS, the zoning applicable to the property is R-3.5 (Family Residential District), as set forth in the Municipal Code, Martinez, California, at Title 22 "Zoning," and Chapter 22.12 "Residential Districts" ("Zoning Ordinance"), establishing a minimum site area for the R-3.5 District of 4,000 square feet, and which allows for single-family residences and accessory structures as requested by the Project; and which provides for certain lot size, width, depth, related structure height, setback, and lot coverage requirements; and

WHEREAS, the Project Lot is approximately 3,700 square feet, and is non-conforming in size and shape, and the existing construction on the Project Lot dates back to 1924, and the Residence is placed and oriented on the Project Lot facing Arreba Street consistent with the same time-period mission style bungalow residences on immediately adjacent lots to the east along Arreba Street, and for these and other reasons stated herein the Project requests certain Use Permits, Variances, and exceptions from the strict application of the Zoning Ordinance for both the Residence and the Accessory Structure; and

WHEREAS, for clarity and reference the City Planning Staff Report contained two tables that set forth generally: (i) the Zoning Ordinance requirements and the corresponding need for

Variances for the Residence; and (ii) the Zoning Ordinance requirements and the corresponding need for a Use Permit and for Variances for the garage/Accessory Structure; and

WHEREAS, a copy of the referenced tables is attached to this Resolution as "Exhibit A" for reference throughout this Resolution; and

WHEREAS, the Project is consistent with General Plan policies and with the Group 2 Residential land use designation of the Central Martinez Specific Area Plan because the existing residential character of the neighborhood will be preserved and enhanced with the single-family Residence and garage/Accessory Structure, while respecting the established physical patterns of the neighborhood, and the Project promotes the Central Martinez Specific Area Plan's policies that encourage replacement or repair of structures in poor conditions and restoration and rehabilitation of existing housing; and

WHEREAS, the reconstruction and renovation of the Residence and Accessory Structure are consistent with the development standards of the R-3.5 District and the requirements for the granting of a Use Permit and Variances to those regulations where applicable and as set forth in this Resolution; and

WHEREAS, the Project is categorically exempt from the requirements of CEQA, under Sections 15301 (Existing Facilities) because the Project involves repair and minor alterations of existing structures and there is negligible or no expansion of an existing use, and 15303 (New Construction or Conversion of Small Structures) because the Project, with the Accessory Structure, involves new construction of limited small new structures; and

WHEREAS, the Zoning Administrator denied the applicant's application for a Use Permit and Variances at a duly noticed and held public hearing on February 17, 2010; and

WHEREAS, on February 25, 2010, the applicant (Richard Stahlberg) filed a timely appeal of the Zoning Administrator's denial of the request with the City of Martinez; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 23, 2010, in regards to said actions and considered public testimony and all other substantial evidence in the record, and granted the appeal of the Zoning Administrator's decision and imposed certain conditions of approval; and

WHEREAS, on April 2, 2010, the appellants (Bianca and Luke McCann) filed a timely appeal of the Planning Commission's decision with the City of Martinez; and

WHEREAS, the City Council held a duly noticed public hearing on May 19, 2010, to consider the appeal and considered public testimony on the matter and all other substantial evidence in the record; and

WHEREAS, the City Council as part of its public hearing imposed certain Conditions of Approval on the Project for the Use Permit and the Variances which are required for the Project and incorporated into this Resolution; and

NOW, THEREFORE, the City Council of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this Resolution is based.

FINDINGS REGARDING THE USE PERMIT FOR THE ACCESSORY STRUCTURE

2. As set forth in Exhibit A, under "Accessory Structure," and in the Zoning Ordinance at §22.12.265, exceptions are set forth allowing for the granting of a Use Permit for the construction of the garage/Accessory Structure. The Zoning Ordinance provides for a Use Permit for proposed construction that exceeds: (i) a height limit of 15 feet and a single story; and/or (ii) a building size of 1,000 square feet and 50% of the main structure (the Residence) floor area. The Project proposes: (i) a two-story structure of 24 feet, 3 inches; and (ii) a building size of 1,503 square feet, equaling 77% of the Residence floor area.

3. In order to approve the Use Permit application to allow exceptions to the normally permitted height and size of the Accessory Structure, the City Council must make the following findings (in bold below), which it hereby does:

- (a) **The proposed location of the conditional use is in accord with the objectives of the zoning code, and the purposes of the district in which the site is located.**

The Zoning Ordinance at Title 22, "Zoning" provides at §22.02.010 that Title 22 is adopted to "protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare of the public..." Section 22.02.010 lists specific objectives, including the following:

A. To implement the objectives of the General Plan in all its elements...to guide, control and regulate the maintenance, change, growth and development of the City.

B. To foster a harmonious, convenient, workable relationship between land uses.

C. To promote the stability of existing land uses which conform to the General Plan and to protect them from inharmonious influences and harmful intrusions.

The General Plan designation for the Project is Central Martinez Specific Area Plan: Group 2 Residential. The General Plan provides for family residential development in the area of the Project. The Project will provide for one dwelling unit on the site and a garage (Accessory Structure) with an upstairs space for home office use and storage, and will not alter the stability of existing land uses on the site. Because the existing dwelling does not have a usable garage, users of the existing structure would have to park their vehicles on city streets, creating potential hazards for passing motorists and otherwise negatively impacting the aesthetic quality of the neighborhood. The Accessory Structure will permit on-site parking, thus significantly mitigating these problems and making the Residence and overall Project more usable, convenient and functional. The Accessory Structure, therefore, is a critical component of the residential experience afforded to the owner and/or user of the Project Lot. Moreover, by incorporating space above the garage for home office use, the users of the Residence will be able to conduct their work and employment on the Project Lot, thus reducing their need to commute to and from work by vehicle. The negative impacts caused by the users of the Project in commuting to and from work will be mitigated, thus not only reducing the impact of vehicular traffic (and its attendant noise) on neighboring properties and their owners, but additionally decreasing the amount of pollutants being placed into the environment. Consequently, the Project will be consistent with the General Plan, the Specific Area Plan, and the goals, policies and directions for residential development set forth above.

The purposes of the R - Residential Districts, including the R-3.5 District, are set forth in the Zoning Ordinance at Title 22, Chapter 22.12 "Residential Districts." These purposes include the following:

A. Reserve appropriately located areas for residential living in a variety of types of dwellings, at a reasonable range of population densities consistent with sound standards of public health and safety.

B. Ensure adequate light, air and privacy for each dwelling unit.

C. Provide adequate amounts of private open space in proximity to each dwelling unit.

The intent of "Accessory Structures," are set forth in the Zoning Ordinance at Title 22, Section 22.12.265.A. "Accessory Structures" are intended to ensure adequate light, air, and privacy for residential properties, balancing the appropriateness of the accessory structures' design to preserving the residential character and neighbor's privacy with the applicant's ability to fully utilize the property in accordance with all applicable standards of the City's zoning regulations. Further, Title 22, Section 22.04.530 define "Accessory Structures" as an attached or detached subordinate structure, which is, subordinate in size and incidental to the use of the main structure or the main use of the land, and which is located on the same site with the main structure or use. Examples of detached accessory structures include garages, as is proposed for the Project.

The proposed reconstruction and renovation of the existing Residence and garage/Accessory Structure with the proposed height and size are consistent with the purposes of the R-3.5 District and the intent and definition of "Accessory Structures." The Project will be for residential use, and will not add any uses inconsistent with such residential use. The proposed residential use will be for a one family dwelling unit, and therefore will not cause any increased traffic or related public health and safety impacts. The proposed subordinate Accessory Structure will be used as a 2-car garage, home office, and for storage. The proposed uses for the Accessory Structure will be incidental to

the Residence.

The Project proposes to reconstruct and renovate the existing structures by adding new levels of living and usable space generally on top of and in conjunction with the existing structures on the site. The existing first floor of the garage is 447 square feet and is proposed to increase to 819 square feet. The Accessory Structure and Residence will have a separation that will range from 11.5 feet at the narrowest point to 20 feet at the widest part. This will ensure that new square footage does not significantly reduce the current private open space on the site, and will not significantly reduce the existing amount of open space between the new construction and homes/residences on adjacent lots.

Moreover, the proposed Accessory Structure will not have adverse effects on the light, air and privacy of neighboring properties and owners of such properties. This is so because of where the Accessory Structure is located on the site. The proposed Accessory Structure, as is the existing garage, is set very close (a few inches to a foot from the property line) to Robinson Street, and close to the rear neighbor at 201 Robinson Street who also has a large garage/accessory structure approximately one foot away from the shared property line.

The Accessory Structure will help bring the site into conformance with parking regulations under the Zoning Ordinance at §22.36.030. Currently, the existing Residence does not have a usable parking garage. The reconstruction of the garage will allow the Accessory Structure to ensure adequate on-site parking is provided.

The Project will help ensure that the new development is consistent with the distinct mission style bungalow homes on Arreba Street adjoining the site to the east, all generally constructed in 1924. By providing for significant new construction to be on top of and associated with the current Residence and Accessory Structure, the Project provides for the incorporation of stucco, tile insets, mission tile roof, and other features matching the current construction and consistent with the features on the adjacent homes to the east on Arreba Street. The Accessory Structure is designed to be subordinate to the Residence, to preserve the residential character of the area and to

match the style of the proposed Residence, as well as to fit in with the adjacent homes and garages on Arreba Street and Robinson Street.

By incorporating the proposed, new construction into the existing structures on the Project Lot, the front of the Residence structure will continue to be oriented toward Arreba Street (rather than Robinson Street), consistent with the adjacent, similar residences on Arreba Street. Further, the front of the Accessory Structure will continue to be oriented toward Robinson Street, similar to the nearby corner residences at 201 Robinson Street, 134 Arreba Street, 145 Arreba Street, and 201 Arreba Street, which all have garages/accessory structures oriented on Robinson Street and have reverse/opposite orientation (street-side side) to their respective residences. This will allow a continuity of appearance of frontages and distinctive mission style design appearance on Arreba Street. In contrast, if the Use Permit were not approved, a new project on the corner lot could propose construction and frontage on Robinson Street, which would result in design, frontage, and construction incompatible and inconsistent with the residences along Arreba Street and garage/accessory structures nearby on Robinson Street.

- (b) The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.**

The proposed location of the Project and the Accessory Structure will not have impacts on or be detrimental to, the public health, safety and welfare. The Project will continue to provide for one single-family dwelling on the site with ancillary use of the garage/Accessory Structure, and there will be no increased traffic or related impacts. As determined above, there may be less traffic occasioned by the use of the site due to the fact that home office space is being provided above the proposed reconstructed 2-car garage. The construction of the Accessory Structure will help ensure that all parking is on-site and that no parking impacts are raised.

The Project proposes to generally add new levels of living and usable space on top of and in conjunction with the currently existing structures on the site.

This will ensure that new square footage does not significantly "spread out" over the entire site.

The Project site is a relatively flat lot, and the proposed construction generally retains the existing separation between the Project Residence/Accessory Structure and structures on adjacent properties. Further, the relatively flat lot and location of the Residence and Accessory Structure results in **preventing** the structures' heights and size from materially, negatively impacting views, light, air, and privacy of existing residences.

The new construction of both the Accessory Structure and the Residence will be similar in height to the existing two-story residences sprinkled throughout the surrounding neighborhood. Further, the height of the two-story Residence and Accessory Structure (approximately 22 feet, 3 inches, except for small portions of staircase/entry features), will be only approximately 3 feet higher than nearby one-story residences the heights of which are approximately 19 feet.

For the foregoing reasons, the proposed Project will be consistent with surrounding uses and thus will not be detrimental to public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

- (c) The proposed conditional use will comply with each of the applicable provisions of the zoning code.**

The proposed reconstruction and renovation of the garage/Accessory Structure complies with all other applicable provisions of Title 22 - Zoning of the Martinez Municipal Code, including the development standards for the R-3.5 zoning district and the intent and definition of "Accessory Structures."

FINDINGS REGARDING THE VARIANCE(S) FOR THE RESIDENCE AND THE ACCESSORY STRUCTURE

4. In order to approve the Variance application to allow variance to the yard setback requirements and coverage requirements, the City Council is required to make the

following findings, under its Zoning Ordinance (in bold below), which it hereby does:

- (a) **Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code.**

The Project site is a corner lot, on the corner of Arreba Street and Robinson Street. The current Residence structure is one of six similar mission style bungalow residences, constructed in 1924, and all six structures face north, toward Arreba Street, with Robinson Street on the site's west side. The Project site, as a corner lot, is different from the adjacent lots to the east on Arreba Street in that it has a *wide frontage* on Arreba Street, and a *narrow depth* on Robinson Street. Normally, a new residence on the Project Lot would be constructed with the residence facing Robinson Street, allowing the backyard or "rear" area to take advantage of the longer "width" of the lot.

In this case, however, from a land planning and design standpoint, keeping the Residence facing Arreba Street allows the front of the Residence along Arreba Street to continue its consistency, in design, style, and frontage placement, with the other mission style bungalow homes on Arreba Street.

The City Planning Staff presented a map during the public hearing process showing the severe restrictions to any development on the Project site in the event a strict, literal interpretation of the Zoning Ordinance were applied to this Project. A copy of the City's aerial plat map (entitled "Strict Application of Zoning Ordinance") is attached hereto as "Exhibit B." The map at Exhibit B identifies a small, rectangular area along the Arreba Street frontage which would be the only buildable area on the Project Lot for the Residence. This small, rectangular area is restricted by the standard setback requirements of 25 feet from the rear property line, and 10 feet from the side property line. Even this small buildable area requires the City to make an exception to the minimum front yard setback which would normally be 20 feet to 4 feet under the Zoning Ordinance at Section 22.12.220.B.2, which reduces the minimum front yard setback to the average of the existing front yard depths in the block.

If the City were to strictly enforce the Zoning Ordinance as set forth in Exhibit B, any new Project on the Project Lot would require that the existing

buildings be razed, and a new residence be constructed facing Robinson Street and within the identified small, rectangular area shown on Exhibit B. Such new residence would not be compatible with the existing mission style homes along Arreba Street in terms of design and orientation facing Arreba Street. The footprint of the new Residence would also not be able to exceed approximately 862 square feet in size, a size that would make the Project infeasible, make the utilization and functionality of the Residence difficult and prevent the applicant from achieving the valid objectives of developing a usable and comfortable residential structure suitable to the needs of types of families and home owners living in the area.

The Project Lot is 3,700 square feet, where 4,000 minimum site area is required by §22.12.110 in the R-3.5 Zoning District. The Project Lot is a nonconforming lot in size, and in width/depth. As set forth above, a new project on the Project Lot would require that a new residence be constructed facing Robinson Street. The proposed Project (by allowing new construction generally on top of the existing Residence/Accessory Structure) allows the existing Residence to remain with fronting on Arreba Street, consistent with the other similar mission style bungalow homes on Arreba Street. However, the Project Lot is nonconforming regardless where the "frontage" is designated (either Arreba Street or Robinson Street), and regardless where the corresponding width and depth of the lot are measured. If the corner Project Lot "width" is measured along Arreba Street, then the Project is further nonconforming in terms of its "depth" along Robinson Street (50 feet depth where 100 feet is normally required). If the Project Lot "width" is measured along Robinson Street, then the Project lot is still nonconforming (74 feet depth where 100 feet is normally required).

The enforcement of the typically permitted yard setbacks and coverage requirements would result in practical difficulty, in that the corner lot location of the Project Lot, and its legally non-conforming width/depth and size would limit the possible size of the Residence and location of the Accessory Structure.

- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified on the same zoning district.**

The Project Lot is legally non-conforming in size and corner width. The site does not conform to the underlying zoning requirements pertinent to minimum width size requirements, minimum depth size requirements, and minimum lot size requirements. Thus, the physical size and layout of the Project site does not meet the zoning code requirements in these three different and distinct ways.

The Project Lot is further constrained by the construction in 1924 of a mission style home (that is in a state of disrepair and blight) facing Arreba Street on the Project Lot. The Project proposes to retain the mission style architecture and the frontage on Arreba Street, consistent with the City's ordinances and policies which provide for protecting existing neighborhoods and compatibility with adjacent homes.

- (c) Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.**

As set forth above and in Exhibit B, the strict, literal interpretation and enforcement of the Zoning Ordinance would result in a small, rectangular development area along Arreba Street. That small development area and its site orientation/location would not accommodate a development project consistent with the existing neighborhood.

- (d) The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations on other properties classified in the same zoning district.**

Granting the Variances approved hereby does not constitute as a special privilege, in that the proposed exceptions to the typical yard setbacks and coverage limits are needed to compensate for the site's reduced width, depth, and size which are limitations not typically encumbering those properties located within the R-3.5 zoning district in general, as well as those similarly zoned within the vicinity.

As shown in Attachment #14 of the Staff Report, attached hereto as "Exhibit C," identically zoned properties in the vicinity enjoy the privileges that the applicant is requesting, namely, encroachments into yard setbacks and structures that exceed the zoning district's lot coverage limitations, as well as residential structures that are considerably larger than would otherwise be permitted on the Project Site were the zoning requirements strictly applied to the Project.

Separate from the properties on Exhibit C, lots with older residences in the vicinity, and in the zoning district, and throughout the City, have exceeded the lot coverage limits throughout the years. Many of these lots have simply been improved without permits. This is because the undersized lots generally cannot be improved without violating the strict standards of the zoning district. The original houses with small garages (housing smaller vehicles from the 1920's forward) cannot be reconstructed without exceeding the lot coverage limits.

Furthermore, the granting of the requested Variances would not preclude other property owners in a comparable situation and with similar limitations to apply for similar Variances that can meet all applicable standards and findings for the granting of such Variances.

- (e) The granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.**

Both the relatively flat topography of the lot and the location of the proposed structures result in **preventing** the structures from materially, negatively impacting views, air, light, privacy and traffic circulation of existing residences. In addition, the quality and design of the proposed structures will be either at or above that of the surrounding homes in the area. Therefore, the granting of the Variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity.

5. The City Council incorporates by reference all the findings set forth above in making the following findings as referenced in State of California Government Code Section 65906:

- (a) **Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.**

For the reasons set forth in Findings 3(a) through 3(c), above, 4(a) through 4(e), above, and as set forth in the administrative record, the City finds that there are special circumstances with regard to the Project Lot's size, shape, and surroundings, so that the strict application of the Zoning Ordinance would deprive the Project Lot of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

- (b) **Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

For the reasons set forth in Findings 3 (a) through 3(c), above, and 4(a) through 4(e), above, and as set forth in the administrative record, the City finds that the Project, with the Project Conditions of Approval, shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the Property is located.

The City further finds that the Project Conditions of Approval are designed to ensure there are no grants of special privileges and that there are no significant or material impacts on adjacent landowners. Such Conditions include the following:

(i) Condition A provides that the rear portion of the new second story of the Residence shall be stepped back four feet from the existing first floor kitchen. This results in the new second story being 8 feet from the Project site rear property line.

(ii) Condition B provides that the new second floor rear elevation of the Residence shall reduce the size of windows facing the residence to the rear/south to five small windows -- which shall not be at eye level and shall be placed higher than 6 feet. This will

help ensure there are no privacy impacts on the adjacent neighbor.

(iii) Condition C provides for extensive landscaping and related features to screen the rear elevation structure of the Residence.

BE IT FURTHER RESOLVED that based on the information contained in the entire administrative record and the findings set forth above, the City Council of the City of Martinez hereby denies the appeal and approves Use Permit #10-01 and Variance #10-01, subject to the Conditions of Approval attached hereto as "Exhibit D" and incorporated herein by reference.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A

RESIDENCE

The table below provides the code requirements applicable to the Residence in the R-3.5 zoning district:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR THE R-3.5 ZONING DISTRICT)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	EXISTING (ONE-STORY)	PROPOSED (TWO-STORY)	CONFORMITY
Front Property Line Setback	4 feet*	4 feet	4 feet	Y
Side Property Line Setback	10 feet	3 feet	3 feet	Variance Required
Rear Property Line Setback	25 feet	4 feet	4 feet	Variance Required
Building Height	25 feet	11'-5"	24'-3"	Y
Site Coverage (WHOLE LOT)	(40%)	34%	53%	Variance Required
Parking	1 covered and 1 open space	2 covered spaces	2 covered spaces	Y

*Section 22.12.220.B.2 reduces the minimum required front yard to the average of the existing front yards depths in the block.

ACCESSORY STRUCTURE

The table below provides the code requirements applicable to the Accessory Structure:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR ACCESSORY STRUCTURES)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	EXISTING (ONE-STORY)	PROPOSED (TWO-STORY)	CONFORMITY
Building Height	15'/Single-story	Single-story	24'-3"/Two-story	Use Permit Required
Building Size	<i>(1,000 sq. ft.)/(50% of main structures gross floor area)</i>	447 sq. ft./55%	1,503 sq. ft./77%	Use Permit Required
Rear Property Line Setback	5 feet	1'-4" feet	1'-4" feet	Variance Required
Street-Side Property Line Setback	20 feet	1 foot	6 inches	Variance Required
Site Coverage (MIN. REQ. REAR YARD)	(25%)	58%	63%	Variance Required

Zoning Administrator Hearing: The Zoning Administrator denied the applicants request at a publicly noticed hearing on February 17, 2010. The decision was based on the record as a whole, including the information contained in the staff report and attachments, public testimony, and evidence submitted at the hearing. Both the request for a Use Permit for the garage/accessory structure and the Variances for the addition and alteration to the single-family

EXHIBIT B



Strict Application of Zoning Ordinance



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Attachment #14

Variance Vicinity Map and Spreadsheet



1" = 112'



CityGIS

	APN	Address	Zoning	Exceptions
1	3722910068	325 Robinson Street, Martinez, CA 94553	R-3.5	Front Yard, Side Yard, Rear Yard, Rear Yard Coverage, Site Coverage
2	3722910076	305 Robinson Street, Martinez, CA 94553	R-3.5	Side Yard, Rear Yard, Rear Yard Coverage (Variance approved in 2006 for exceeding rear yard coverage and legalizing a non-permitted addition)
3	3721740110	210 Robinson Street, Martinez, CA 94553	R-3.5	Front Yard, Side Yard
4	3721710071	127 Arriba Street, Martinez, CA 94553	R-3.5	Side Yard
5	3721710113	45 Arriba Street, Martinez, CA 94553	R-3.5	Side Yard
6	3721740029	26 Arriba Street, Martinez, CA 94553	R-3.5	Side Yard

CONDITIONS OF APPROVAL
 AS APPROVED BY CITY COUNCIL

Applicant Name: **Richard Stahlberg**

Location: **208 Arreba Street (APN 372-173-001) (“Subject Property”)**

I. Description of Permit

A. These conditions apply to and constitute the approval of Use Permit #10-01 and Variance #10-01 to allow reconstruction and renovation of a vacant single-family residence and garage. Use Permit approval is required to allow the proposed accessory structure (replacing an existing garage) with a height of two-story/24’-3” when a maximum of one-story/15-feet is allowed without a use permit and of size of approximately 1,500 square feet where a maximum of 1,000 square feet is permitted without a use permit. Variance approval is required for exceptions to the normally required 10-foot interior side yards, normally required 20-foot street-side side yard, and normally required 25-foot rear yard setback requirements to allow a second story addition to the existing residence; and to exceed maximum site area and minimum rear yard coverage requirements.

II. Exhibits

The following exhibits are hereby approved and incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Site Plan, Floor Plans, and Elevations	January 26, 2010	Bill Brobisky	4
Color Elevations	March 23, 2010 and May 11, 2010	Applicant and Bill Brobisky	14

All construction plans and all improvements constructed pursuant to Use Permit #10-01 and Variance #10-01 shall conform to these exhibits. Building permit plans shall include a checklist of these conditions for staff review and verification that the conditions have been met. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Building Division or Engineering Division as noted.

III. Conditions

A. The rear portion of the second story of the Residence located above the existing first floor kitchen shall be stepped back four feet from the existing first floor kitchen, so that it is eight feet from the rear property line and that

the step back and existing first floor roofs shall have hip roofs with mission tile that mimic the existing roof.

- B. The second floor, rear elevation of the Residence shall be changed to reduce the size of windows facing the neighbor to the rear, to five small windows that shall not be at eye level and the sill of each window shall be higher than 6 feet above the finished, interior flooring to provide ambient light.
- C. To soften the massing effect of the rear elevation edifice of the Residence the applicant shall a) add plants such as tall Cyprus trees to the rear yard along the property line for a vegetative screen, or b) add a vertical espalier, consistent with the design of the project, for plants such as ivy (to be planted in the rear yard) to the rear elevation. Irrigation shall be installed and the approved plants/trees shall be maintained to assure that the plants/trees required by this condition live and thrive for at least 5 years after the date of final inspection. The type, number and size of the plants/trees required by this section C, as well as the locations where they shall be planted and the irrigation system shall be subject to the approval of the Planning Division.
- D. Exterior materials, finishes and colors of the main residence and accessory structure shall match those indicated on the approved plans. Where applicable, construction plans shall include: consistent trim of all exterior doors and windows, and window frames and doors shall be color coordinated to match the building.
- E. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All fixtures shall be glare-shielded. Energy-saving fixtures shall be used.
- F. Fences, walls, and hedges shall not exceed 6 feet in height; provided, however, that fences, walls and hedges shall not exceed 3.5 feet in height in the required front yard area and within 50 feet of a street intersection.
- G. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. The permittee shall post a sign on the site notifying all workers of these restrictions.
- H. All construction equipment shall be muffled in accordance with State Law.
- I. All fees and deposits required by City and other agencies having jurisdiction shall be paid to the Building Division. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and deposits including plan check fees, inspection, and drainage impact fees. The final amount for the above fees shall be in accordance with the fee schedule in

effect at the time of payment.

- J. A City Encroachment Permit is required for any work within the City Right-of-Way. A site development permit is required for working on the property.
- K. Construction shall comply with all applicable provisions of the City's Municipal Code and City and State building codes and requirements including energy conservation requirements.
- L. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. Contours with spot elevations shall be used on the site construction drawings.
- M. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1.
- N. The applicant's engineer shall certify the actual pad elevation for the Subject Property in accordance with City standards prior to foundation inspection.
- O. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
- P. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
- Q. Concentrated runoff shall not be permitted to cross sidewalk or driveways. It shall be collected and conveyed to the street or an approved storm drainage system to the satisfaction of the City Engineer. Existing slopes that have no additional discharge directed onto them or are not substantially re-graded can remain as natural runoff.
- R. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to issuance of the site development or Building Permit which ever comes first.
- S. Pursuant to Chapter 12.30 of the Martinez Municipal Code, street frontage improvements along Arriba Street and Robinson Street are required. This

includes sidewalks, curb, gutter, and street pavement (to center line of the street). If the frontage improvement has been previously constructed, such as the case for this project, then existing damaged and hazardous improvements shall be removed and replaced to the satisfaction of the City Engineer. The limits of work shall be determined by field inspection, by the City Engineer's office, during construction. Frontage improvement shall include, but not limited to, the following:

1. Replacing damaged sidewalk, curb and gutter on Arreba Street and Robinson Street at the same location.
 2. Removing the existing driveway curb cut on Arreba Street and replacing it with curb and gutter.
 3. Construct handicap access ramp at the corner of Arreba Street and Robinson Street to meet current ADA standards as per Caltrans Standard Plan No. A88A. All required right of way to accommodate the installation of the access ramp shall be dedicated to the City.
- T. All site improvements, including driveway, frontage improvement, grading and storm drainage, shall be subject to the City Engineer's approval.
- U. All new utility distribution services on-site and off-site shall be installed under ground.
- V. The developer shall keep the adjoining streets free and clean of project dirt, mud, materials and debris during the construction period as is found necessary by the City Engineer.
- W. Water system facilities improvements (if required) shall be designed to meet the requirements of the City of Martinez water service agency and the fire flow requirements of the Contra Costa County Fire Protection District. Applicant shall pay all required water connection fees at the time of payment.
- X. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Central Contra Costa Sanitary District. All requirements of that District shall be met before approval of the improvement plans.
- Y. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and shall be subject to the approval of the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to issuance of a Building, Site, or Encroachment Permit whichever comes first.
- Z. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers' vehicles.
- AA. Efficient irrigation, appropriate landscape design and proper maintenance

shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.

IV. Validity of Permit and Approval

- A. The use permit and variance approval shall expire one year from the date on which they became effective (unless extended under section B, below) unless a building permit is obtained and construction begun within the said one year time period. The effective date of the use permits and variance approval is May 19, 2010.
- B. The applicant may apply to extend the expiration date of May 19, 2011 if an application with the required fee is filed at least 45 days before the said expiration date. (Otherwise the use permit and variance approvals expire, are of no further force or effect and a new application for such permit and variance is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- C. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- D. The permittee, Richard Stahlberg, shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the City Council's decision to approve Use Permit #10-01 and/or Variance #10-01, and any environmental document or determination approved or made, respectively, in connection therewith. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Richard Stahlberg, the City, and/or the parties initiating or bringing such action.
- E. Richard Stahlberg shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as a Negative Declaration), if made necessary by said legal action and if Richard Stahlberg desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents.
- F. In the event that a claim, action or proceeding described in section D, above,

is brought, the City shall promptly notify Richard Stahlberg of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Richard Stahlberg is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Richard Stahlberg in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Richard Stahlberg has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.

- G. Richard Stahlberg shall indemnify the City for all the City's costs, fees, and damages, which the City incurs in enforcing the above indemnification provisions.
- H. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.