May 26, 2016

Jeremy Schaub
Gabriel Ng+ Architects
1360 9th Avenue, Suite 210
San Francisco, CA 94122

Dear Mr. Schaub:

This letter is in response to your request for a Letter of Determination regarding the property at 106 Bache Street. This parcel is located in the RH-2 (Residential House, Two-Family) Zoning District, Bernal Heights Special Use District, and 40-X Height and Bulk District. The request is whether a garage structure located on the adjacent property at 118 Bache Street could be defined as a qualifying adjacent building for the purposes of averaging to determine the front setback requirement per Planning Code Section 132. In addition, the request seeks to determine the minimum front setback requirement for the subject property.

Per Planning Code Section 132, the required front setback is calculated as the average depth of the building walls of the two adjacent properties, up to a maximum of 15 feet or 15% of lot depth (whichever is less). Section 132(c) provides the method of measurement for this calculation as follows: "the extent of the front setback of each adjacent building shall be taken as the horizontal distance from the property line along the street or alley to the building wall closest to such property line, excluding all projections from such wall, all decks and garage structures and extensions, and all other obstructions." Given that Section 132(c) explicitly excludes "garage structures" from the calculation to determine the required front setback, the garage structure at 118 Bache Street does not qualify as an adjacent building for the purposes of calculating the required front setback.

Your request cites an interpretation of Section 132(c) (dated 9/87) as justification for including the garage structure at 118 Bache Street. This interpretation states "for the purpose of determining the required front setback, the wall of the adjacent building/s which is structural with a foundation (touches to ground) is to be counted as the main building wall unless such wall conforms to the configuration of a permitted obstruction in the front setback." It should be noted that this interpretation further clarifies the requirements of Section 132(c), which is that the wall of the adjacent building, for the purposes of averaging, should be taken from the main structure of the building with a foundation, rather than an
obstruction. In no way can this interpretation be construed to allow garage structures to be included in the front setback calculation as they are explicitly excluded per Section 132(c).

In regard to the front setback requirement for the subject property, a front setback of 10.5 feet (measured from the front property line) is required. Averaging the qualifying building walls of the adjacent properties, which are respectively 0 feet at 104 Bache Street and approximately 46.86 feet at 118 Bache Street, yields an average of approximately 23.45 feet. Given that this exceeds the maximum requirements of Section 132, the property requires a minimum front setback of 10.5 feet (which is 15% of the lot depth).

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Scott F. Sanchez
Zoning Administrator

cc: Jonathan DiSalvo, Planner
    Property Owner
    Neighborhood Groups
March 30th, 2016

PROPERTY ADDRESS:  106 Bache Street
Block 5826 / Lot 003

CASE NUMBER:  #2015-015831

BUILDING PERMIT APPLICATION:  #2007-0427-9893 S

ZONING DISTRICT:  RH-2, Bernal Heights Special Use District, South Slope

DETERMINATIONS SOUGHT:  Required Front Setback §132(a)
Interpretation dated 9/87

Dear Mr. Sanchez;

I am writing to request a Letter of Determination regarding the Required Front Setback for the proposed new building at 106 Bache Street.

Site Description
The subject lot is located on the east side of Bache Street, in the block bound by Benton Avenue, Porter and Ellsworth Streets. The area is in the Bernal Heights Special Use District, and subject to the additional controls of the Bernal South Slope. Bache Street is a dead end street approximately 280’ long, although the right of way is only improved for about 125’. Below the subject site is the Alemany Public Housing.

The adjacent parcel to the north (104 Bache Street, lot 002) was formerly the garage and storage shed for the corner building at 100 Bache, and had the address of 100 ½. The demolition date is unknown, although it was extant in 1915 Sanborn maps and the 1938 Rumsey aerial photographs. Building permit #2007-0626-5226 was approved in 2009 to construct a two family dwelling. The foundation was built in 2014 and inspected by DBI on 10/3/14, although construction has since stalled.

106 Bache Street, the subject site, is a vacant lot that has never been improved.

The adjacent single family building to the south (118 Bache Street, lot 004) was built in 1935. The front garage structure was added at a later date.

Background Information:
The former owners, Edzel & Merrie Jo Musni, purchased lots 2-9 in 2004 & 2005, and 7 out of 8 were vacant. Lot 4 (118 Bache Street) is improved with a single family house and garage. The Musnis pursued the development of all 8 lots, from 2005 until their sale in 2010.

- 104 Bache: Building Permit #2007-0626-5226 was issued in 2009, and the foundation was inspected by DBI in 2014. This project also requested and was granted a Variance #2008.0382V for the required rear yard and off street parking.
- 106 Bache: Building Permit #2007-0427-9893 was filed in 2007, and reviewed by Corey Teague. The Musnis sold the project in 2010.
• 118 Bache: No formal project was proposed, although there is a memo (re: 2005.0288E) from Debra Dwyer dated 10/6/2010 requiring a Supplemental Information Form to alter the possibly historic garage. This memo also notes that 118 Bache had actually been sold already.

• 120-128 Bache: Five new Building Permit Applications were filed in 2005 and the Environmental Application was filed in 2009.

Proposed Project:
The proposed project is to construct a new single family dwelling on a vacant lot. The original building permit was filed in 2007 for a two dwelling building, although we want to alter that based on the smaller than normal buildable envelope. The structure is proposed to be 3 stories, to meet the Bernal Heights limit of 30'-0". The design has a zero front setback to match both adjacent lots’ buildings, and a 45% required rear yard.

Determination Requested:
The NOPDR #1 dated March 2nd, 2016, states that “the existing garage structure at 118 Bache Street shall not be used for the purpose of measuring front setback averaging.” We are requesting a determination that the adjacent garage at 118 Bache shall in fact count for averaging.

The interpretation to §132 dated 9/87 states:
“For purposes of determining the required front setback, the wall of the adjacent building/s which is structural with a foundation (touches the ground) is to be counted as the main building wall unless such wall conforms to the configuration of a permitted obstruction in the front setback.”

The garage at 118 Bache does have a foundation on the ground. It also does not conform to any of the permitted obstruction categories in §136. Therefore it should be counted for averaging.

In more recent history, the original applicant for this building also applied for the adjacent project at 104 Bache. That scheme was approved by Planning in 2009, and construction started in 2014. The Zoning Administrator also approved a rear yard and parking Variance. Notable, the project was approved with a 0'-0" front setback without needing a variance. The only eligible buildings to average the required front setback were 100 Bache Street, and 118 Bache Street (25' away). That shows that the front garage structure at 118 Bache was acknowledged as being eligible for averaging the front setback.

I would like to request an official determination from you about the required front setback, and how the method of averaging per §132(a) should be applied.

Thank you for your consideration

Sincerely,

Notice of Planning Department Requirements #1

March 2, 2016

Jeremiah Schaub
c/o Gabriel Ng Architects
1360 9th Ave # 210
San Francisco, CA 94122

RE: 106 Bache St
5826/003
2007.04.27.9893S

Your Building Permit Application #2007.04.27.9893S has been received by the Planning Department and has been assigned to planner Max Setyadiputra. Max has begun review of your application but the following information is required before it is accepted as complete and/or is considered Code-complying. Time limits for review of your project will not commence until we receive the requested information or materials and verify their accuracy.

In order to proceed with our review of your Building Permit Application, the following is required:

1. The subject property is located in Bernal South Slope Area and it requires a Conditional Use approval for new development/ new construction within this area.
2. The Zoning Administrator has determined that the existing garage structure at 118 Bache Street shall not be used for the purpose of measuring front setback averaging. Therefore, the proposed project requires a front set back Variance based on averaging of both adjacent buildings at 104 Bache and 118 Bache streets.
3. Show the proposed building height measured from the center line of the lot and the top of the curb to top of the roof on all elevations and sections.
4. Show the height dimensions on all elevations and sections.
5. The proposed project would require three (3) car parking spaces. Please add the information on the cover sheet.
6. The Residential Design Team reviewed the proposed project on January 28, 2016 and the comments are as follows:
   - Introduce a raised entryway, which is common for the neighborhood
   - Swap garage location from right-side (North) to left-side (South) of primary building façade
   - Center the garage door under the bay window.
   - Ensure that all windows are unified with respect to size and proportion
   - Provide a detailed window plan.
   - Primary façade windows should be recessed at least 2"-3" from the front wall.
   - Siding should be made of wood material, cement board material is not supported by RDT

www.sfplanning.org
Please note that further comment may follow review of the requested information.

Please provide the requested information within thirty (30) days. The application will be sent back to the Department of Building Inspection for cancellation if we do not receive the requested information in this time. Please contact the assigned planner if you need more time to prepare the requested information.

All plans submitted must be to an appropriate scale: site plan 1/8" = 1'; floor plans 1/4" = 1'. Plans should be clearly labeled.

All plan revisions must be filed at the Department of Building Inspection, Permit Processing Center, 1660 Mission Street, 2nd Floor. Do not submit plans directly to the Planning Department. Plans will not be accepted by mail or messenger, and all plans must be signed by preparer, architect or engineer.

Please respond fully with all requested information and/or plan revisions as described above. You may file any plan revisions responding to this notice at no extra charge. However, please be advised that failure to address all the items listed above, leading to additional requests for revisions beyond those filed in response to this notice, will require a Back-Check Fee for Permit Revisions ($191 per hour, Planning Code Sections 355(a)2). If you file additional plan revisions in the future, those plan revisions will be subject to the Back-Check Fee.

Please direct any questions concerning this notice to the assigned planner, Max Setyadiputra at 415) 575-9180 or max.setyadiputra@sfgov.org. Contact the assigned planner to set up any meeting, should one be necessary. Please do not come to the Planning Department to discuss this notice without an appointment.

Please be informed that Max works part time and his work days are Tuesdays, Wednesdays and Thursdays.

Thank you for your attention to this notice. An early and complete response on your part will help expedite our review of your permit application.

Cc. Kai Zheng
885 Duncan Street
San Francisco, CA 94131
Variance Decision

Date: June 12, 2008
Case No.: 2008.0382V
Project Address: 104 BACHE STREET
Zoning: RH-2 (Residential, House Districts, Two-Family)
40-X Height and Bulk District
Block/Lot: 5826/002
Applicant: Jorge Saucedo
62 Edinburgh Street
San Francisco, CA 94112
Staff Contact: Corey Teague – 415.575.9081
corey.teague@sfgov.org

DESCRIPTION OF VARIANCE – REAR YARD AND OFF-STREET PARKING:

The proposal is to construct a two-family residential building that will extend into the required rear yard and provide 2 off-street parking spaces.

Planning Code Section 242 establishes the minimum rear yard for properties in the RH-2 Zoning District in the Bernal Heights Special Use District at 45 percent of the lot depth. The proposed rear yard is 25 percent of the lot depth. Section 242 also requires residential buildings between 2,151 and 3,850 square feet of useable floor area to provide 4 off-street parking spaces. The proposed development provides 2 off-street parking spaces.

PROCEDURAL BACKGROUND:

1. This proposal was determined to be categorically exempt from Environmental Review.


3. Planning Code Section 311 notice has not been completed for this project.

DECISION:

GRANTED, to construct a two-family residential building that will extend into the required rear yard and provide 2 off-street parking spaces.

All other aspects of the project proposal meet the parameters of the Planning Code and the intent of the General Plan. The proposal as designed does not require any additional variances, is in general conformity with the plans on file with this application, shown as Exhibit A, and is subject to the following conditions:

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1. Any further physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.

2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.

3. Minor modifications as determined by the Zoning Administrator may be permitted.

4. The project sponsor shall continue to work with the Planning Department on an appropriate façade design.

5. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.
That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

A. The variance request is based on providing adequate accommodations for an occupant with a significant disability. The definition of discrimination regarding housing in California Government Code Section 12927(c) includes “refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.” The need to provide adequate accommodations for a disabled occupant on a lot with a shallow depth of 70 feet constitutes an exceptional or extraordinary circumstance applying to the intended use of the property.

FINDING 2.
That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.
Requirement Met.

A. Without a variance the project must provide a 31 feet 6 inches rear yard and 4 independently accessible off-street parking spaces. The required rear yard would limit the structure to a depth of 38 feet 6 inches that, combined with the required 4 parking spaces, would significantly reduce the amount of useable floor area. Additionally, providing the parking in car stackers to conserve useable floor area would create major access issues for any disabled persons.

B. There are no alternatives under the Planning Code that may provide an equivalent level of accommodation.

FINDING 3.
That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

A. The variance request is based on providing adequate accommodations for an occupant with a significant disability. The definition of discrimination regarding housing in California Government Code Section 12927(c) includes “refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.” The useable floor area for this project is significantly limited by Planning Code requirements. The variance is necessary to ensure that the disabled occupant has equal opportunity to use and enjoy the dwelling as do residential occupants of property in the vicinity and same class of district.

FINDING 4.
That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

A. Granting the variance still provides 1 off-street parking space for each dwelling unit in the project, which is the requirement for the majority of the rest of the City outside of the Bernal Heights Special Use District.

B. Reducing the rear yard does not significantly impact the existing mid-block open space as the adjacent building to the north occupies its entire lot and the building 2 properties to the south sits on its rear property line.

C. Granting the variance will not impose an undue financial or administrative burden on the City or require a fundamental alteration of the Planning Code requirements.
FINDING 5.
The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

A. Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:

1. That the existing neighborhood-serving retail uses will be preserved, enhanced, and expanded, and that the proposed project will not impact any existing neighborhood-serving retail uses.

   The project does not add or remove any neighborhood-serving retail uses.

2. That the project will preserve and conserve the existing housing and neighborhood character.

   The proposed 2-family structure is consistent in scale and design with the housing character of the surrounding neighborhood.

3. That no affordable units will be impacted by this proposal.

   The request for the variance does not remove or create any affordable dwelling units.

4. That the proposed project does not adversely impact neighborhood parking or public transit.

   The project provides 1 off-street parking space for each dwelling unit, as is typically required throughout the City, and will not significantly impact neighborhood parking. The small scale of the project (2 dwelling units) significantly limits any potential impact on public transit.

5. That the proposed project will have no impact on the City’s industrial sector.

   The project does not add or remove any industrial space.

6. That all proposed work will be constructed to current seismic codes, as per the Uniform Building Code, and therefore protect against injury and loss of life in a natural disaster.

   The proposed structure will be constructed in accordance with all applicable building and structural regulations and codes, including seismic safety requirements.

7. That the project will have no significant impact on the City’s landmarks or historic buildings.

   The request for the variance does not involve any landmarks or historic buildings.
8. That the project would not affect any existing or planned public parks or open spaces.

The request for the variance does not impact any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, (Room 3036) or call 575-6880.

Very truly yours,

[Signature]

Lawrence B. Badiner
Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.
Lot 3 Development Only
* SUD require DBE review of foundation, related to nearby steps, steps.
  DD will follow up on documentation necessary for E review of Lot 3 only.

To Do:
// Front SB? None Req.

NOTES

PROJECT ALARMS PER Sec. 2.1412
PROJECT ALARMS PER Sec. 2.1416

DIAMETER ABBREVIATIONS

M  POUND OR NUMBER
A LUM. ALUMINUM
A DJ. ADJACENT
I~ PROPERTY LINE
C ONC. CONCRETE
C LO. CLOSET
C AB. CABINET
C .O. CLEANOUT
C .B. CATCH BASIN
B M. BIM
B LDG. BUILDING
G IG. CEILING
C SMT. CFSEMENT WINDOW
C ORR CORRIDOR
C ONST. CONSTRUCTION
D IM. DIMENSION
D IA. DIAMETER
D ET. DETAIL
E LEV. ELEVATOR
E L ELEVATION
E A. EACH
D N. DOWN
F .D.C. FIRE DEPT. CONNECTION
F .D. FLOOR DR41N
E Q. EQUAL
F LUOR. FLUORESCENT
F LR. FLOOR
F DN. FOUNDATION
F IN. FINISH
F TG. FOOTMG
G L. GLASS
G E. WINDOW
G INsu~. INSULATION
I NTR. INTERIOR
H R. HOUR
M 4X. MAXIMUM
M FR. MANUFACTURER
M ECH. MECHANICAL
O .C. ON CENTER
N O OR# NUMBER
N .T.S. NOT TO SCALE
O PNG. OPENING
O .H. OVERHANG
P T. POINT
P LYWD. PLYWOOD
P IL PROPERTY LINE
S IN. INCH
S W. WEST
S YM. SYMMETRICAL
S .S. SOUN.
Q .T. QUARRY TILE
R D. ROOF DRAIN
R EFR. REFRIGERATOR
R AD. RADIUS
R .W.L. RAIN WATER LEADER
S Q. SQUARE
S PEC. SPECIFICATION
R ET. RETAINING
S TOR. STORAGE
S TL STEEL
S .G.D. SLIDING GLASS DOOR
S .G. S. STANDARD
S .G.S. SIMILAR
S H. HAVING
S Y. SOUTH
W .D. WATER DISCONNECT
W .T. WEIGHT
W P. WATERPROOF

GENERAL NOTES

When this plan is used, the dimensions and areas provided by drawing no. = architect's no. for the project are limited to the extent as required for planning. Provided by drawing no. = architect's no. for the project. ALAEDS TO ALL APPROPRIATE CODES & ORDINANCES

SCOPES OF WORK

CONSTRUCT NEW 3 STORY SINGLE FAMILY DWELLING

COMPANY DATA

BUILDING SITE ADDRESS:
106 BACHE ST.
BLOOMFIELD, CT. 06007

NOTES

Area Calculation as shown is intended for permit application purposes only and shall not be used for selling or leasing purposes. Final square footage and finished dimensions may vary from these plans due to construction variables.

SYMBOLS

DRAWING INDEX

A A-3 RENDING & PROJECT INFO
A A-4 RENDING & PROJECT INFO
A A-8 SITE PLAN & BODY PLAN
A A-9 SITE PLAN & BODY PLAN
A A-10 SITE PLAN & BODY PLAN
A A-11 PLAN & DETAILS
A A-12 PLAN & DETAILS
A A-13 PLAN & DETAILS
A A-14 PLAN & DETAILS

APPLICATIONS CODES & ORDINANCES

2001 CALIFORNIA BUILDING CODE (CBC), AS APPLICABLE
2007 CALIFORNIA MECHANICAL, ELECTRICAL, & PLUMBING CODE

APPLICATIONS CODES & ORDINANCES

APPLICABLE CODES & ORDINANCES

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ATTACHED

REQUEST FOR APPROVAL OF LOCAL EQUIVALENCY FOR MODIFICATION OR ALTERATION WITHIN SECTIONS WITHOUT CONSTRUCTION

PROJECT ID: 2001-0427-9893

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PROJECT ID: 2001-0427-9893

REQUEST FOR APPROVAL OF LOCAL EQUIVALENCY FOR MODIFICATION OR ALTERATION WITHIN SECTIONS WITHOUT CONSTRUCTION

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REQUEST FOR APPROV...
SUBJECT AND ADJACENT BUILDINGS ON BACHE STREET (LOOKING WEST)

BUILDINGS ACROSS THE STREET ON BACHE STREET (LOOKING EAST)