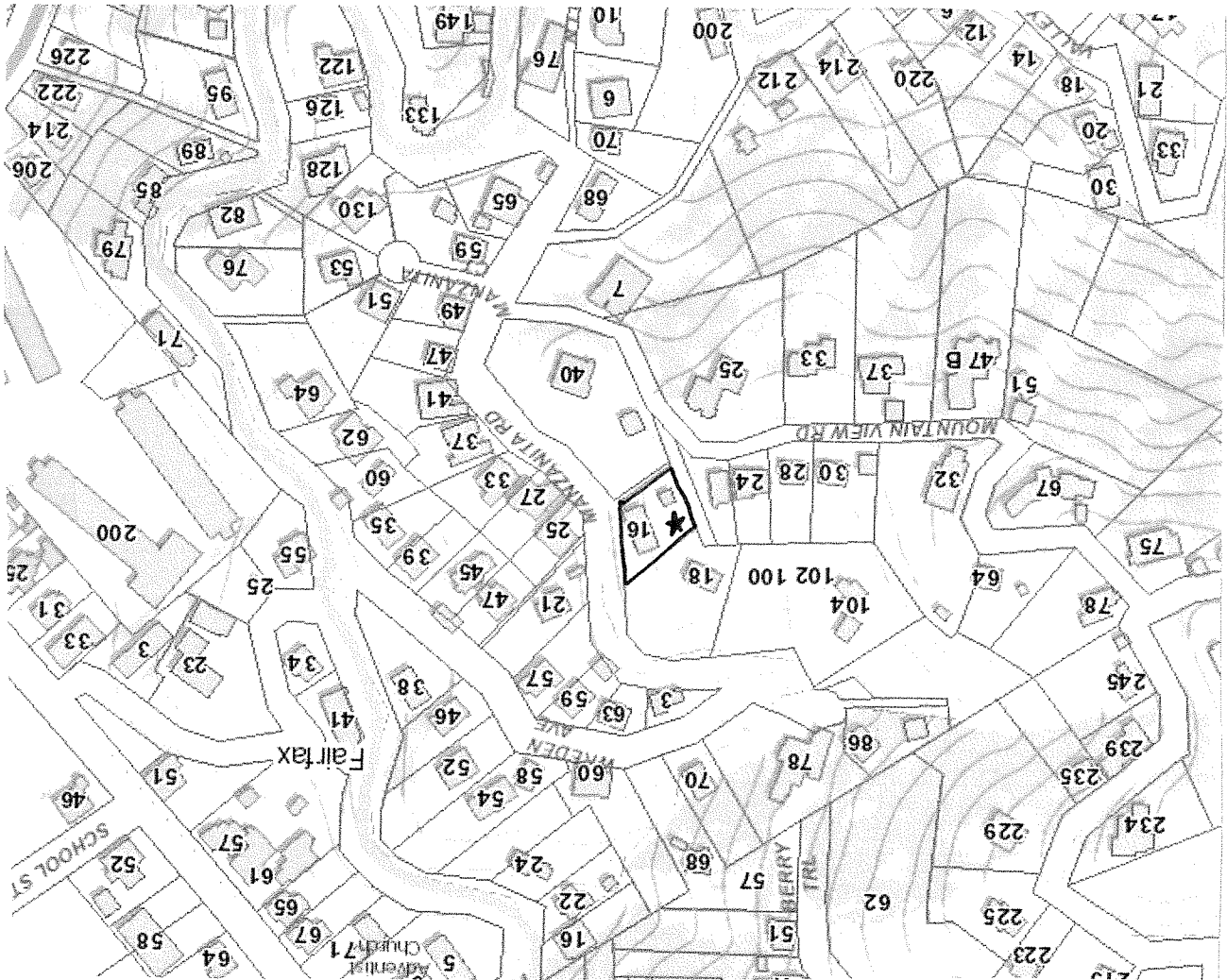


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: August 16, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 16 Mountain View Road; Assessor's Parcel No. 002-011-33
ZONING: Residential RS 6 Zone
PROJECT: Install a Detached Artist Studio
ACTION: Use Permit and Combined Front/rear Setback Variance;
Application # 18-12
APPLICANT: Brian Milton
OWNER: Clarisse Lula
CEQA STATUS: Categorically Exempt, § 15301(e)



16 Mountain View Road

16 Mountain View Road

BACKGROUND

The project site is 6,851 square feet in area and steep, with a 42-percent slope. The site is located within the Residential RS 6 Zone and is developed with a 1,802 square-foot, two-story, single-family residence constructed in 1964 that contains 3 bedrooms and 2 bathrooms, as well as a 240 square-foot garage and 832 square feet of decks and patios.

DISCUSSION

The applicant is requesting approval to install a detached, one-story 115 square-foot, 12-foot 2-inch tall artist studio with minimal electrical improvements and no plumbing.

Project compliance with the Residential Single-family RS-6 Zone District where the property is located, is as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height of Residence
Required/ Permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5 ft., 2 stories
Existing	9 ft	10 ft	19 ft	5 ft & 3 ft.	8 ft.	.26	.29	20 ft., 2 stories
Proposed	same	same	same	same	same	28	.31	Same; Accessory structure-9 feet, 2 inches

REQUIRED DISCRETIONARY APPROVALS

Conditional Use Permit

Based on the average slope of the site, the Town Code requires a minimum area of 34,000 square feet and a minimum width of 146 feet for the site. At 6,851 square feet in area and with a minimum width of 75 feet, the site does not meet the minimum area and width requirements, therefore a Conditional Use Permit is needed for any new construction on the site.

In order to approve a Conditional Use Permit (CUP) for the project, the Commission must make the following findings (Town Code Section 17.032.060): (1) granting of the approval would not constitute a "special privilege" nor contravene the doctrines of equity and equal treatment; (2) the project would not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects or create undue or excessive burdens in the use or enjoyment of the property; (3) approval of the project is in keeping with the

objectives, goals or standards set forth in the Town of Fairfax General Plan; and (4) approval of the project would result in equal or better development of the premises than would otherwise be the case and the approval is in the public interest and for the protection and enhancement of the community.

The applicant is requesting approval to install a 115-square-foot detached artist studio with minimal electrical improvements (e.g., 4 outlets and 1 overhead light). The project site is quite steep and the studio has been sited to minimize grading, while complementing the residence and the garden area. As discussed in more detail below, the site is trapezoidal in shape and there are minimal locations for the shed that would not result in grading and the construction of retaining elements. Several other properties in the vicinity and within Town contain similar structures. For example, 294 Cascade Drive, 101 Cascade Drive, 138 Ridgeway and 23 Olema Road are among those that contain detached structures that are used for a variety of purposes (e.g., art, yoga studio, office, etc.).

It is noted that the shed appears to be proposed to have wood shingle siding. Insofar as the property is in a Wildland-Urban Interface zone, staff is proposing a condition requiring that the shingles be of cementitious material in lieu of wood.

Because the project has been carefully sited, the project would not create a public nuisance, or cause excessive or unreasonable detriment to adjoining properties or premises, and the project would result in better development of the site than would otherwise be the case. Therefore, staff recommends that the Planning Commission approve the CUP for the project.

Rear, Combined Front/Rear, Side Variances

An existing deck as well as the eastern corner of the residence are located within required setbacks. While the proposed studio would be located in the required rear, combined front/rear and side setbacks, the proposed studio would not intrude further into the setbacks than other existing on-site structures.

Town Code Section 17.028.070 requires the Planning Commission to make the following findings when approving a variance to the Town Code requirements: (1) because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of the title will deprive the applicant(s) of privileges enjoyed by other property owners under identical zone classifications; (2) the variance will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity under identical zone classifications and is consistent with the objectives of the title; (3) the strict application of the title would result in excessive hardship; and (4) the granting of the variance will not be detrimental to the public welfare or injurious to the other property in the vicinity of the project.

The site is irregularly shaped and steep, with few locations that would allow for the installation of the studio without grading and retaining walls. The proposed location for the studio is one of the only flat locations on the lot. In addition, the studio would be used for painting and has been sited to take advantage of ambient light. The architecture of the shed has been carefully selected to harmonize with the garden and the residence, and would enable the owner to have a dedicated space to paint. Granting a variance to the setback requirements would not constitute a special privilege as it reflects site constraints. As described above, other residents in the neighborhood have similar detached studios on their property. Due to the careful design and siting of the proposed project, the granting of the variance would not be detrimental to the public welfare or injurious to other property in the vicinity.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

RVFD submitted written requirements (dated March 27, 2018) which are summarized as follows:

Project site is located within the Wildland Urban Interface Zone, therefore all construction shall comply with 2016 CFC Chapter 7A and 2016 CRC Section R337 provisions.

All vegetation and construction materials are to be maintained away from the residence during construction.

Address numbers shall be at least 4-inches tall and internally illuminated.

Marin Municipal Water District (MMWD), Ross Valley Sanitary District and the Town of Fairfax Building, Public Works and Police Departments

The MMWD, Ross Valley Sanitary District and the Town of Fairfax Building, Public Works and Police Department(s) did not provide comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve Application # 18-12 granting the project Use Permit and Combined Front/rear Setback Variance Application by adopting Resolution No. 2018-11

ATTACHMENTS

Attachment A – Resolution No. 2018-11

RESOLUTION NO. 2018-11

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit and a Variance for a Detached Artist Studio at 16 Mountain View Road

WHEREAS, the Town of Fairfax has received an application for approval of a detached artist studio (115 square feet) at 16 Mountain View Road.

WHEREAS, the Planning Commission held a duly noticed Public Hearing on August 16, 2018, at which time the Planning Commission determined that the project complies with the Fairfax Town Code provisions on Conditional Use Permits (Section 17.032) and Variances (Section 17.028); and

WHEREAS, based on the plans and other documentary evidence in the record, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project.

WHEREAS, the Commission has made the following findings:

Front, Side, Combined Front/Rear and Side Setback Variance

1. The slope and irregular shape of the property and the configuration of the existing residence on the site are the special circumstances that make it difficult to conform to the setback requirements.
2. The variance will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification and is consistent with the objectives of the title.
3. If the title were strictly applied would be unable to install the artist studio resulting in an unreasonable and excessive hardship.
4. The granting of the variance to the setback requirements will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Conditional Use Permit Findings

1. Approving the Conditional Use Permit will not constitute a grant of special privilege and contravene the doctrines of equity and equal treatment.
2. The project will not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or cause adverse physical or economic effects in the use or enjoyment of the property;

3. Because the project has been designed to result in minimum site intrusion, the project is in keeping with the objectives, goals, and standards set for in the Town of Fairfax 2010-2030 General Plan, the Zoning Ordinance, accepted engineering techniques and the Uniform Building Code; and
4. The project will allow for enhanced usability and development of the site, and is in the public interest and for the protection and enhancement of the community.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. This approval is limited to the development illustrated on the plans entitled, "Proposed Studio/Shed Site Plan", "Elevation Plan" and "Finished Look", dated June 6, 2018, and the "Topographical Plan", "Floor Plans" and "Cross Section Drawing", dated February 28, 2018, except as amended by these conditions.
2. The shed siding shall be of cementitious shingle in lieu of wood.
3. A Building Permit is required for construction of the artist studio.
4. Prior to issuance of a Building Permit, secure written approval from the Ross Valley Fire Department noting that the development conforms with all of their recommendations and conditions. Other agency conditions can be waived by those agencies in writing to the Town Building Department.
5. All construction-related vehicles including equipment delivery, supply delivery and cement trucks, as well as all construction material shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
6. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
7. The following Best Management Practices shall be employed:
 - a. The roadways shall be kept free of dust, gravel and other construction materials by sweeping these areas, daily, if necessary; and
 - b. Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.
8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 18-10. Any construction based

on job plans that have been altered without the benefit of an approved modification of Application # 18-10 will result in the job being immediately stopped and red tagged.

9. Any damages to Mountain View Road or other public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.
10. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
11. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include but are not limited to the following: Noise Control, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
12. The applicants must comply with all conditions imposed by an outside agency unless that agency waives its conditions in a written letter to the Department of Planning and Building Services Department prior to issuance of the building permit.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

13. Project site is located within the Wildland Urban Interface Zone, therefore all construction shall comply with 2016 CFC Chapter 7A and 2016 CRC Section R337 provisions.
14. All vegetation and construction materials are to be maintained away from the residence during construction.
15. Address numbers shall be at least 4-inches tall and internally illuminated.

Marin Municipal Water District (MMWD), Ross Valley Sanitary District and the Fairfax Police, Public Works and Building Departments

The MMWD, Ross Valley Sanitary District, and the Fairfax Police, Public Works and Building Department(s) did not provide conditions of approval or comments on the project.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

- The approval of the Conditional Use Permit and Variance are in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance and Conditional Use Permit and Variance provisions, Town Code Title 17; and
- Construction of the project can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 16th day of August, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services