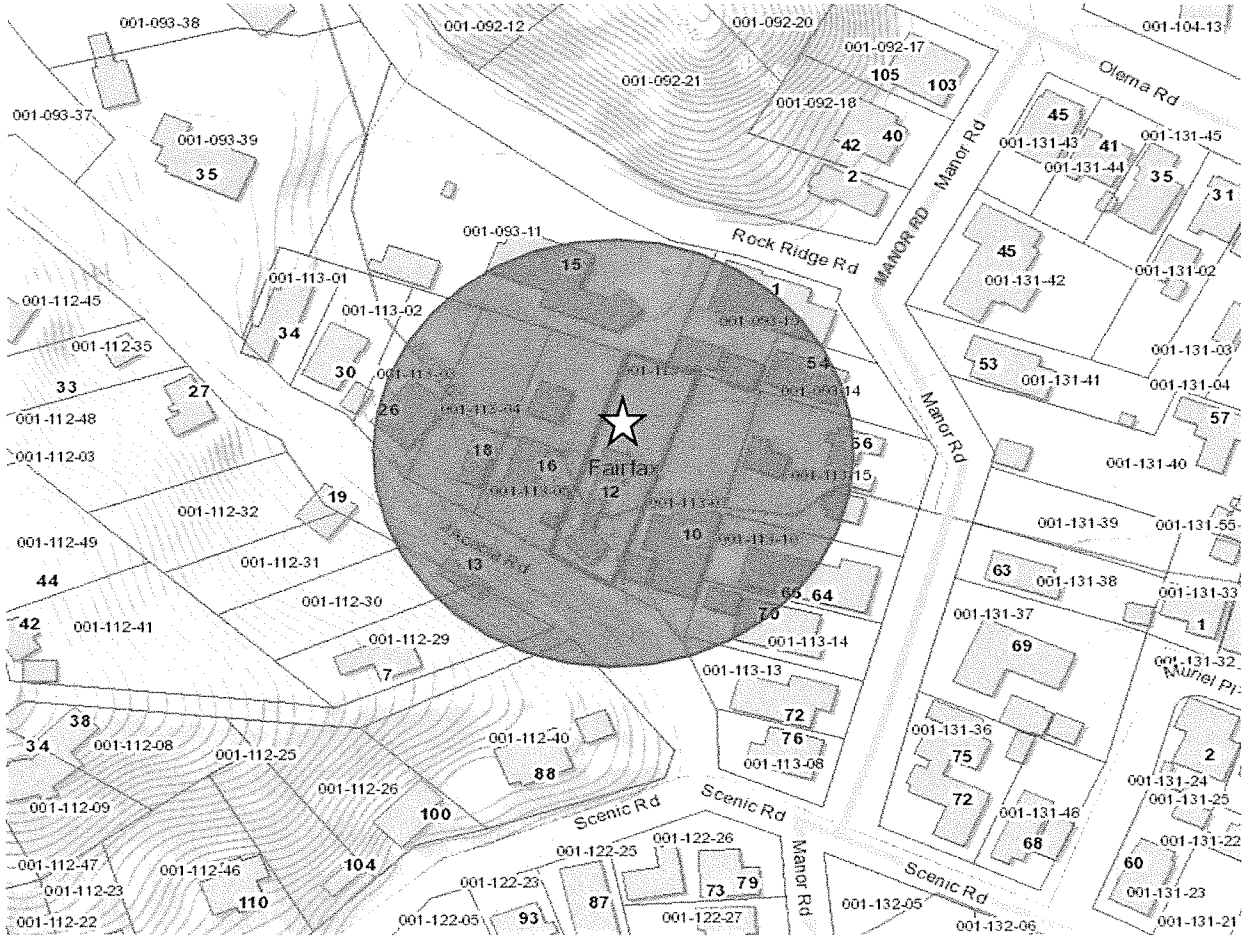


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 19, 2018
FROM: Michelle Levenson, Assistant Planner
LOCATION: 12 Acacia Road; Assessor's Parcel No. 001-113-06
ZONING: Residential RS 6 Zone
PROJECT: After-the-Fact Approval of Workshop Conversion and Addition
ACTION: Conditional Use Permit and Compact Parking Space Variance;
Application # 18-03
APPLICANTS: Glen Janssens and Michelle Roney-Janssens
OWNERS: Same
CEQA STATUS: Categorically Exempt, § 15301(e)



12 Acacia Road

BACKGROUND

The project site is 8,500 square feet in area and flat with a 3-percent slope. The site is located within the Residential RS 6 Zone and is developed with a 1,546 square-foot, two-story, single-family residence constructed in 1918 that contains 2 bedrooms and 2 bathrooms, as well as a 495 square-foot garage and 400 square feet of decks. In 1984, the Planning Commission approved a Creek Setback Variance and Conditional Use Permit for a second story workroom and bathroom addition above the garage with a connection from the workroom to the residence.

As part of a residential resale inspection request in 2017, the Building Inspector documented that there appeared to be an addition to one of the bedrooms and that the workshop had been converted to a bedroom and used as an accessory dwelling unit without the required approvals. After receiving notification of these alleged violations, the owners have been diligently working with Planning staff to bring the property into compliance with the Town's regulations.

DISCUSSION

The applicants are requesting after-the-fact approval for the following improvements: (1) add a total 29.5 square feet to the northern bedroom; and (2) convert the 495 square-foot workshop to a bedroom. With the project, the residence would total 2,070 square feet and increase to a 3-bedroom home. A compact parking space (dimensions of 8 feet by 16 feet) variance is requested for one parking space in the existing garage.

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
Required/ Permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5 ft., 2 stories
Existing	9 ft	26 ft	35 ft	3 ft & 20 ft.	23 ft.	.18	.29	23 ft., 2 stories
Proposed	same	same	same	same & 17.5 ft	20.5 ft.	.24	.30	same

REQUIRED DISCRETIONARY APPROVALS

Conditional Use Permit

At 8,500 square feet, the site meets the minimum area requirement of 6,000 square feet. However at 50 feet in width, it does not meet the minimum width requirement of 60 feet, therefore a Conditional Use Permit is needed for any new construction on the site.

Because the project would involve the conversion of a workshop to a bedroom, it is considered a 50-percent remodel under the Town's provisions and the on-site parking must be compliant with the Town's parking requirements (a total of three on-site parking spaces must be provided, one of which must be covered).

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 applicants are requesting after-the-fact approval of a bedroom expansion and conversion of a workroom to a bedroom. Other homes in the immediate neighborhood range in size from a 2-bedroom, 2-bathroom 1,772-square-foot residence on a 7,224-square-foot lot at 64 Manor Road, a 3-bedroom, 2-bathroom, 2,270-square-foot residence on a 9,565-square-foot lot at 16 Acacia and a 3-bedroom, 2-bathroom, 1,762-square-foot residence on a 10,033-square-foot lot at 10 Acacia Road. At 2,070 square feet and with 3 bedrooms and 2 bathrooms, the residence would be in keeping with the size and development of other properties in the immediate neighborhood with project construction.

The area of the bedroom expansion is over 17 feet from the side property line and a tall bamboo hedge exists along this property line, screening the addition from the neighboring property. Conversion of the workshop would not require the addition of new square footage and is completely contained within the existing structure.

As described above, because a new bedroom would result from the project, three on-site parking spaces must be provided. While the garage was originally constructed as a two-car garage, the construction of the stairway that leads to the second-story workroom reduced the available parking width in the garage to 17 feet, 1 foot shy of the required 18-foot width that is required to accommodate two standard sized parking spaces. Thus a variance for a compact space is requested in the garage, as described below. The third parking space would be provided in the driveway (Attachment 2).

Because the project would provide the required on-site parking, would be screened from the adjacent property and would consist of conversion of existing space, 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.

Compact Parking Space Variance

As described above, because the project results in the conversion of existing living space to an additional bedroom, the project must provide three on-site parking spaces to comply with the Town Code. As indicated in the attached parking plan (Attachment 2) the applicants propose to locate two spaces in the existing garage and one space in the driveway. Because a stairway was constructed in the garage to access the second-story workroom, the available width of the garage was reduced and does not meet the 18-foot width necessary to accommodate two standard sized parking spaces required under the Code. A compact parking space (dimensions of 8 feet by 16 feet) variance is requested for one space in the garage, all other spaces would be standard in size.

Town Code Section 17.028.070(B) requires the Planning Commission to make the following findings when approving a variance to the off-street parking requirements: (1) neither present nor anticipated future traffic volumes generated by the use of the site reasonably require strict or literal interpretation of the regulation; (2) granting of the variance will not result in the parking or loading of vehicles public streets in a manner as to interfere with the free flow of traffic on the streets; and (3) granting of the variance will not create a safety hazard or other condition inconsistent with the objectives of the title.

All of the required parking would be provided on site. Granting of the variance would not result in parking on public streets that would interfere with the free flow of traffic or create a safety hazard. Therefore, staff recommends that the Planning Commission approve the parking variance.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

RVFD submitted written requirements which are summarized as follows:

Maintain an effective firebreak around the structure in accord with accepted standards.

Carbon monoxide and smoke detectors that comply with the fire department requirements shall be installed prior to issuance of an occupancy permit.

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 # 18-03 by adopting Resolution No. 2018-01

ATTACHMENTS

- Attachment 1 – Resolution No. 2018-01
- Attachment 2 – Parking Configuration Plan

RESOLUTION NO. 2018-01

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit and a Compact Parking Space Variance for After-the-Fact Approval of a Workroom Conversion to a Bedroom and Addition to a Bedroom at 12 Acacia Road

WHEREAS, the Town of Fairfax has received an application for after-the-fact authorization of conversion of a workroom to a bedroom and addition of 29.5 square feet to an existing bedroom, as well as a compact parking space (dimensions of 8 feet by 16 feet) variance for one of the parking spaces in the garage,

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 19, 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:

1. The project involves after-the-fact approval of a workroom conversion to a bedroom and expansion of a bedroom by 29.5 square feet. With implementation of the project, the residence conforms to the regulations set forth in the Residential Single-family RS 6 Zone District.
2. Variance Findings: The project complies with the provisions for a variance to the off-street parking requirements because the project will provide the required three on-site parking spaces and will improve parking on the site and in the overall neighborhood. By siting all parking on the site, parking on public streets should not be involved, and a safety hazard will not result from the granting of the variance.
3. Conditional Use Permit Findings: The project complies with the provisions for approval of a Conditional Use Permit (CUP) as follows: (i) by approving the CUP, the owner will receive approval of improvements that were constructed without the required approvals. The improvements to the residence will not intrude into required setbacks and are in keeping with development of other properties in the neighborhood ; (ii) because the bedroom addition is modest and is located a sufficient distance from the side property line, 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; (iii) 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 (iv) 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, "Residential Remodeling, Glen-Michelle Janssens, 12 Acacia Road, Fairfax, CA 94930", Sheets A0.0 through A0.2, and Sheets A1.0 through A3.0, dated June 26, 2017.
2. A Building Permit is required for construction of the bedroom addition and conversion of the workroom to a bedroom.
3. 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.
4. 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.
5. 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.
6. 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.
7. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 18-03. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 18-03 will result in the job being immediately stopped and red tagged.
8. Any damages to Acacia Road or other public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

9. 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.

10. 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.

11. 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)

12. Maintain an effective firebreak around the structure in accord with Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan.

13. Carbon monoxide and smoke detectors that comply with the fire department requirements shall be installed prior to issuance of an occupancy permit.

14. 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 19th day of April, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services

Parking - 12 Acacia Plan

