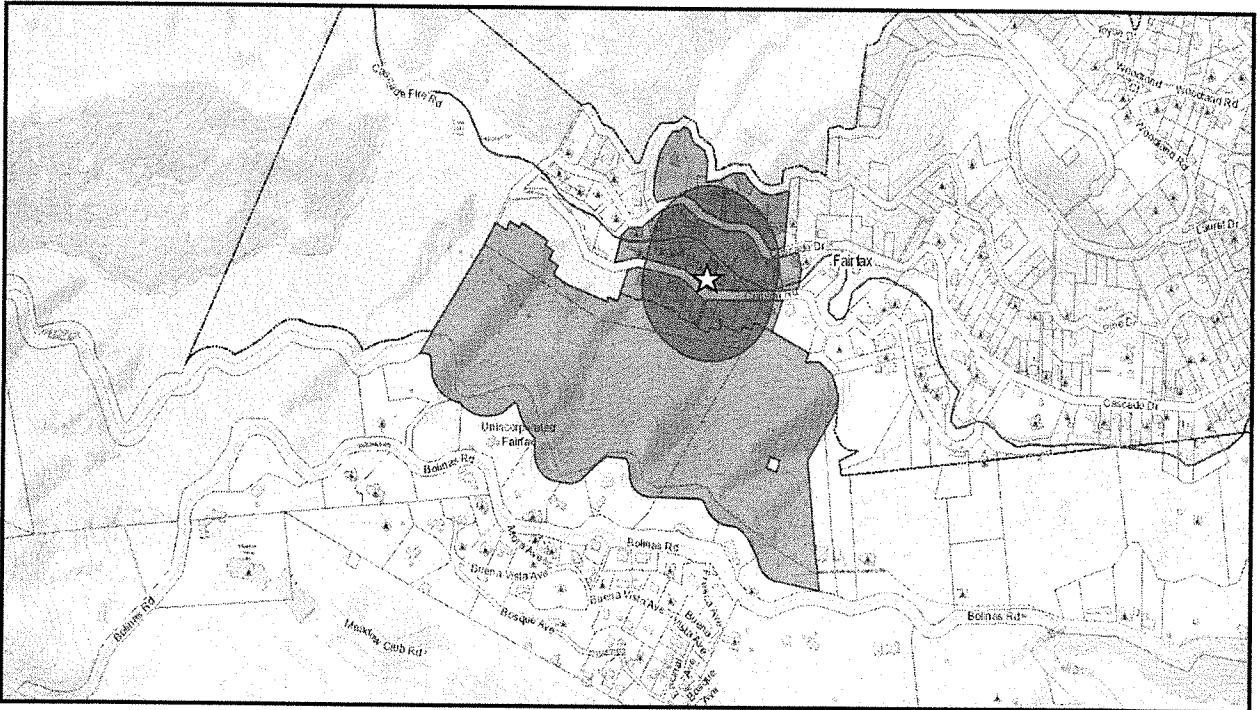


**I TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: June 21, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 168 Canyon Road; Assessor's Parcel No. 003-013-44
ZONING: Residential Single-family RS-6 Zone
PROJECT: Storage Shed
ACTION: Use Permit; Application # 18-10
APPLICANT: Kelvin Wu and Monglian Yu
OWNER: Same
CEQA STATUS: Categorically exempt, § 15303(e)



168 CANYON ROAD

BACKGROUND

The 6,250 square-foot site is mostly level but slopes down at the rear towards San Anselmo Creek. The site is developed with a 1,547 square-foot, 2 bedroom, 2 bathroom, single-family residence, a carport and 2 accessory storage structures. The residence was constructed in 1969, and the carport was built with Planning Commission Front Setback Variance and an encroachment permit approvals in 1987.

Information in the property file indicates that the 80 square foot storage structure at the rear of the property has existed on the site since before 1986, and electrical was installed in the building with an electrical permit in 1999.

There is no record of when the second small, prefab storage structure to the north of the larger, 80 square-foot storage structure, was placed on the property. A resale inspection of the property in 2000 cited the existence of the 80 square-foot storage structure but not the smaller storage structure. The small prefab storage structure appears to be located within the required twenty (20) foot creek setback area [Town Code § 17.040.040(A)].

DISCUSSION

The previous owner began installing without permits a 120 square-foot accessory structure on top of the rear deck in early 2018. The project was stopped after the Building Official received a complaint and staff determined that the structure required a Use Permit from the Planning Commission. The construction requires the approval of the Planning Commission because the 50 foot wide property does not meet the minimum 60 foot width requirement for sites located in the Residential Single-family RS-6 Zone. Town Code § 17.080.050(A) requires that a Use Permit be secured prior to any physical improvement on a site that does not meet the minimum width requirements.

The previous owner submitted a Use Permit application to try and legalize the structure as an art studio in April but subsequently decided to sell the property prior to completing the entitlement process. The new owners have amended the application, requesting a Use Permit for a 119 square-foot accessory structure to be used as a storage shed. The reduction in the size of the shed and the change in use from living space to storage may eliminate the Ross Valley Fire Department's requirement that the accessory structure have a fire suppression system.

The proposed development will comply with the requirement of the Residential Single-family RS-6 Zone as follows:

| | Min. Front Setback | Min. Rear Setback | Combined Front/rear Setback | Min. 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 | 0 ft. | 3 ft. 5in. | 3ft. 5 in. | 6 ft. & 9 ft. | 15 ft. | .24 | .20 | 21 ft., 2 stories |
| Proposed | no change | no change | no change | no change | no change | .27 | .32 | no change |

The residence itself has only 2 storage closets that provide 63 square-feet of storage space. The new owner has indicated that his family of three would like to retain the shed under construction for much needed storage space.

Many other properties in the vicinity have accessory storage structures (177, 182, 189 and 134 Canyon Road to name a few).

A survey of other properties in the neighborhood on similar sized lots revealed that houses range from a 1,344 square-foot, 2 bedroom, 2 bathroom residence on a 6,250 square-foot site with an FAR of .21 (182 Canyon Road) to a 2,266 square-foot, 3 bedroom, 2.5 bathroom, residence on a 6,500 square-foot site with an FAR of .34 (170 Canyon Road). The shed will result in a Floor Area Ratio (FAR) for the project site of .32 which is consistent with the FAR's found throughout the neighborhood on similar sized lots. The shed is not visible from Canyon Road and maintains all the required setbacks. Maximum shed height above grade, including the deck it is built on, is 13 feet, which is less than the 15 foot maximum accessory structure height limit [Town Code § 17.080.060(B)].

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department

The Fire Department reviewed the plans for the previously proposed 120 square foot art studio structure and required that it have a Class A roof assembly, a smoke/carbon monoxide detector alarm, a fire extinguisher with a minimum 2A:10 BC rating, a fire suppression system. All vegetation and construction materials are to be maintained away from the residence during construction and a notation to this effect shall be included on the building permit project plans.

California Building Code Chapter 7A, Material and Construction Methods for Exterior Wildfire Exposure, § 701A.3(A)(1), which is cited by the Fire Department in their requirement for the art studio sprinkler system, exempts accessory structures from having a fire suppression system if the structure is 30 feet away from other structures. Staff has not received comments on the updated project from Fire.

Due to the 2.5 foot distance of the shed from the residence, the Building Official believes that decreasing the size to 119 square feet would not eliminate the requirement for the fire suppression system. Therefore, staff has included all the previous conditions in the Resolution's recommended conditions of approval for this project. The Resolution conditions also include standard language that allows the Fire Department to modify their conditions of approval at the Building Permit stage without the project having to go back before the Commission. Therefore, the owner will have an opportunity to determine whether the Ross Valley Fire requirements can be modified prior to issuance of the building permit.

Fairfax Building Department

Although not strictly required by the Building Code, the Building Official recommends that the size of the structure be reduced on its west side, to increase the separation between the residence and the house (currently only 2.5 feet).

Creek Setback

The smaller prefab storage structure, located north of the completed storage shed, is within the required creek setback and there is no evidence that a creek setback variance was ever granted for it. Staff recommends that this structure be relocated to a conforming location on the site, or be removed. This requirement has been included in the recommended conditions of approval.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to conditionally approve Application # 18-10 by adopting attached Resolution No. 2018-09 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 2018-09
Attachment B – applicant's supplemental information

RESOLUTION 2018-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 18--10 FOR A USE PERMIT TO ALLOW A 119- to 120 SQUARE FOOT ACCESSORY STRUCTURE TO BE CONSTRUCTED AT 168 CANYON ROAD FOR USE AS A STORAGE STRUCTURE

WHEREAS, on May 24, 2018 Kelvin Wu and Monglian Yu submitted an application for a Use Permit to construct a 120 square-foot accessory storage structure on their property at 168 Canyon Road; and

WHEREAS, on June 21, 2018, the Planning Commission considered a staff report and its exhibits; and

WHEREAS, as set forth in the staff report prepared for the Planning Commission, the proposed improvement will not increase the floor area or the lot coverage, as defined in the Town Zoning Ordinance, of the property beyond the 40% floor area ratio and the 35% lot coverage permitted by the Town Code and the Commission finds as follows:

1. The proposed accessory structure with its use restricted to that of a storage structure will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. Other similar Use Permits have been granted throughout the Town.
2. The approval of the Use Permit for a storage structure in a location that exceeds the required setback requirements and complies with the height limitation for accessory structures will not cause unreasonable detriment to adjoining properties or premises. The structure as designed is in compliance with the height restriction for the Residential Single-family RS-6 Zone, will not cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. The Use Permit for use of the accessory structure as a storage structure will allow the owners a substantial use of their property and is similar to the use of other residentially-zoned properties with accessory structures that are used for extra storage space.
4. The use permit is not contrary to the objectives, goals and standards set forth in the Town Zoning Ordinance and the findings required by Town Code §17.032.040 for a conditional use permit.

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

1. This approval is limited to the completion of an accessory structure that does not exceed 120 square feet in size and 10 feet in height above the rear deck of the residence. The shed is not approved to have electricity or plumbing.
2. Prior to issuance of an occupancy permit the Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
3. **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 Use Permit 18-10 will result in the job being immediately stopped and red tagged.
4. 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, Design Review Board 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.
5. Prior to issuance of the building permit for the project it shall be reviewed and approved, possibly with additional or amended conditions, by all agencies/departments with jurisdiction over the project.

Ross Valley Fire Conditions

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

residence during construction and a notation to this effect shall be included on the building permit project plans.

7. A class A roof assembly is required.
8. A smoke/carbon monoxide detector alarm shall be provided in the storage shed.
9. A fire extinguishers with a minimum 2A:10 BC rating shall be provided in the structure.
10. A National Fire Protection Agency 13 D fire sprinkler system is required to be installed in the accessory structure.

Miscellaneous Conditions

11. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in writing to the Department of Planning and Building Services.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does approve the Conditional Use Permit Application No. 18-10 and allows the construction of a 119 to 120 square-foot accessory building on the property at 168 Canyon Road.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21st day of June, 2018, by the following vote:

AYES:
NOES:
ABSENT:

Chair Newton

Attest:

Ben Berto, Director of Planning and Building Services

We will use the storage structure to store our teenage son's gear, and the family's outdoor gear such as skiing equipment and golf clubs.

The main house has very limited storage for such items, as there is no attic, no space in the ~~basement~~ subarea, and no closet in the second bedroom. As such, personal items that might go in the closet, attic or basement would likely be stored in the storage structure as well.

Kelvin Wu

5/24/2018

(New owner: KELVIN WU)