

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

TO: Fairfax Planning Commission
DATE: September 21, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 192 Scenic Road; Assessor's Parcel No. 001-024-08
PROJECT: New Shower as part of Existing Bathroom Renovation
ACTION: Conditional Use Permit; Application #18-15
APPLICANT: Rita Swenson
OWNER: Same
CEQA STATUS: Categorically Exempt, § 15303(e) and 15305(a)

BACKGROUND

The project site's principal frontage is along Scenic Road. The property is a merged assemblage of what were once four separate parcels. The total project area is 39,070 square feet (sf). Based on Marin County data at www.marinmap.org, the site's average slope is 41%. A 1,591 sf single-family residence, a 377 sf attached garage, and wood deck were constructed in 1962. The residence has two levels, with 2 bedrooms, a full bathroom, living room, kitchen and dining room on the upper level, and 1 bedroom, ½ bathroom, and family room on the lower level.

DISCUSSION

The owner proposes to install a new shower in what is now a crawl space that adjoins the existing half bathroom in the lower, ground floor of the residence. The shower addition would add 16 feet of usable floor area. Creation of the shower space would be require the construction of a combined concrete footing and retaining wall.

The project will not change any of the setbacks, lot coverage, or height of the building, and would only sub-fractionally change the Floor Area Ratio (FAR). The building would maintain the following with respect to the Residential Single-family RS-6 Zone regulations that govern 192 Scenic Road:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 feet, 3 stories
Existing	44 ft.	86 ft.	130 ft.	10 ft. & 85 ft.	95 ft.	.04	.04	23 ft., 3 stories
Proposed	no change	no change	no change	no change	no change	no change	no change	no change

All proposed improvements would be within the existing building envelope. The FAR of 0.04 would remain, and would remain much less than the maximum allowable FAR of 0.40. The Lot Coverage of 0.04 would remain unchanged, and would remain less than the maximum allowable Lot Coverage of 35%.

Use Permit

A Conditional Use Permit is required in RS-6 zones, if the site exceeds a slope of 15%, and if the site area or lot width are less than the requirements set forth in Town Code §17.080.050. The minimum lot size requirement for a property with a 41% slope is 33,000 square feet, and the minimum lot width is 143 feet. Staff analysis indicates that while the site area conforms to minimum requirements, the 135-foot lot width is 8 feet less than the required 143 feet.

Town Code § 17.032.010(A) states that, "The purpose of the conditional use permit is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the Town or in a zone, or only if the uses are designed or laid out on the site in a particular manner...."

When considering an application for a use permit, Town Code § 17.032.010(B) requires the Planning Commission to assess the impacts of the proposal on all adjacent uses and structures, to the site itself, as well as the potential project impacts on public health, safety and general welfare. The proposed shower addition is contained completely within the existing footprint of the structure, and will have no impact on the surrounding properties. Nor will the small 16 square-foot addition result in a house that is out of character with the rest of the neighborhood. Following is a table with the square footages of other residential structures on similar sized properties.

192 Scenic Road – COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	Floor Area Ratio
1-023-18	139 Redwood	21645	1654	3	2	400	.08
1-024-15	180 Scenic	28750	696	2	1	0	.02
1-025-16	70 Redwood	17400	2294	4	3.5	410	.13
1-121-75	269 Scenic	19035	2316	3	3	0	.12
1-121-79	205 Scenic	11700	2206	3	3	0	.19
1-124-04	26 Redwood	15530	3084	5	3	660	.20
Project Site Characteristics							
	192 Scenic	39070	1607	3	1 1/2	400	.04

Other Agency/Department Comments/Conditions

Ross Valley Fire District

RVFD submitted written comments which have been incorporated into the conditions of approval and are summarized as follows: construction materials are to be maintained away from the residence during construction, smoke detectors and carbon monoxide detectors shall be installed throughout the building in compliance with the Building Code and shall be interconnected for simultaneous alarm, address numbers at least 4 inches tall and permanently or automatically illuminated shall be visible from the street and the owner must maintain an effective firebreak around the structure by removing, clearing all flammable vegetation and/or other combustible growth is required in compliance with Ross Valley Fire Department Standard 220.

Ross Valley Sanitary District, Marin Municipal Water District, Fairfax Police, Public Works and Building Departments

The above listed agencies and department were provided with the plans but did not comment or have conditions to be placed on the project.

Conditions noted in this Report are only related to this Use Permit application, and do not include all conditions associated with building permits or other permits.

RECOMMENDATION

Move to adopt Resolution #2018-14 approving Application #18-15 and setting forth the findings and conditions of approval for the project.

ATTACHMENT

Attachment: Resolution No. 2018-14

RESOLUTION NO. 2018-14

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow Installation of a New Shower and Construction of an Associated Concrete Footing and Retaining Wall, Within a Crawl Space Area That Adjoins an Existing Half Bathroom on the Lower Level at 192 Scenic Road.

WHEREAS, the Town of Fairfax has received an application for a Use Permit to add a 16 square-foot shower, and construction of an associated concrete footing and retaining wall, to an existing 1,591 square-foot single-family, 3-bedroom, 1½ -bathroom residence at 192 Scenic Road; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 20, 2018, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the project's requested discretionary Conditional Use Permit as long as certain conditions, as listed below, are met; and

WHEREAS, the Commission has made the following findings:

1. The proposed shower installation, and associated concrete footing and retaining wall, does not alter the existing building envelope, and therefore remains similar in size, mass and design on the site to other residential structures in the vicinity. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The residence will continue to maintain the required minimum setbacks, and Floor Area Ratio and Lot Coverage limitation(s) with construction of the addition. Therefore, the development and use of the property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or 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. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case. Therefore, the project is in the public interest and will enhance the general health, safety and welfare 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 prepared by Millar Architecture with sheets 1-4, and stamped "received" by the Town on 8/7/2018.
2. Prior to the building permit final inspection the 16-square-foot shower installation, and associated concrete footing and retaining wall, shall be constructed as shown on the above referenced plans.
3. During the construction process, all construction-related vehicles including fixture/supply or equipment delivery, cement trucks and construction materials 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.
4. Additionally, 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.
5. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
6. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.
7. The roadways shall be kept clean and the site free of dust, by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
8. During construction, the developer and all employees, contractors and subcontractors must comply with all requirements set forth in Town Code Chapter 8.32, Urban Run-off Pollution Prevention.
9. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 18-15. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No.18-15 will result in the job being immediately stopped and red tagged.

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, 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.

Ross Valley Fire Department

11. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence, and shall be identified on plans submitted for construction permits.
12. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alteration, repairs or additions that exceed \$1,000. Carbon monoxide alarms shall be located outside each dwelling unit sleeping area, in the immediate vicinity of bedroom(s) and on every level of a dwelling unit including basements, and shall be identified on plans submitted for construction permits.
13. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated, placed next to a light, or be reflective numbers.
14. Vegetation and construction debris are to be maintained clear of construction site.

15. Alternate materials or methods in accordance with Section 103.3 of the Fire Code may be proposed; all approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

Miscellaneous Conditions

16. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
17. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing. ‘
18. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.

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 can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 20th, day of September, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services