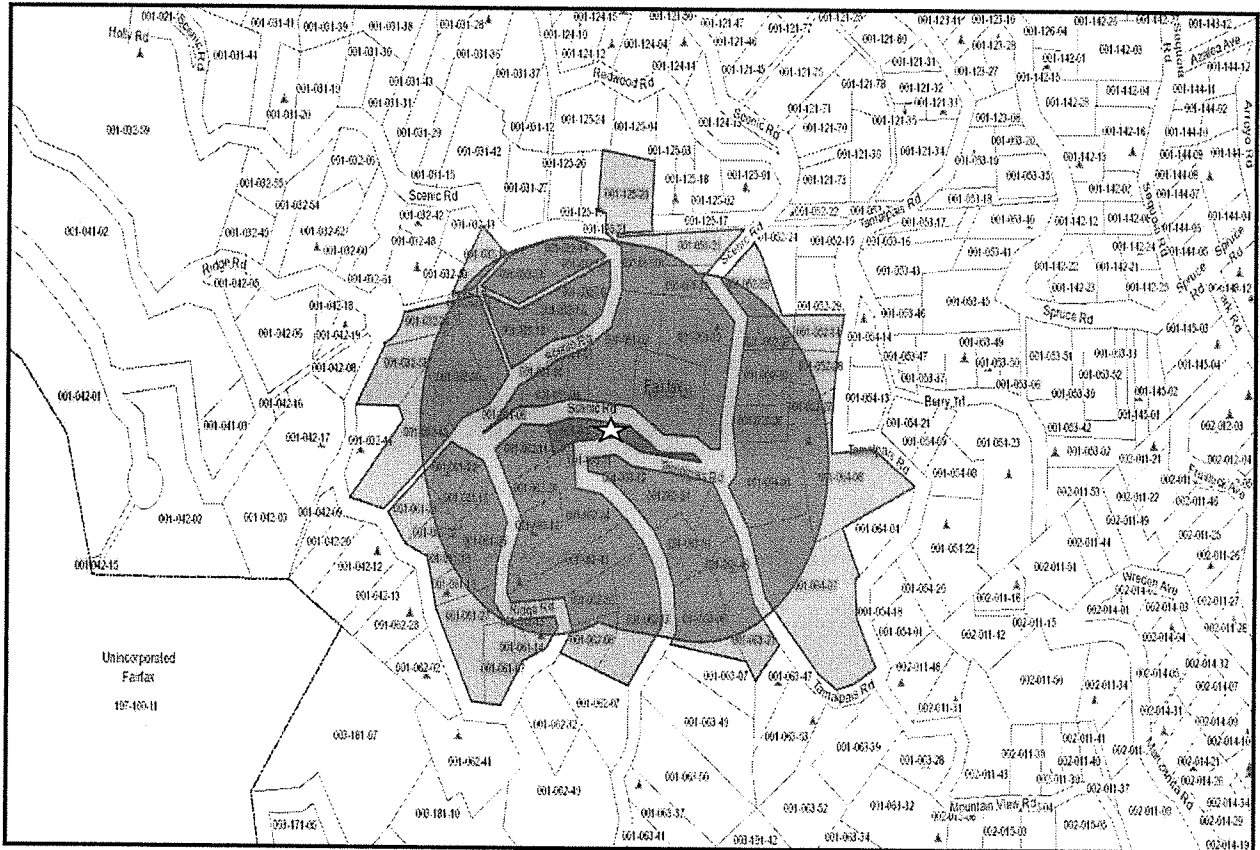


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: October 18, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 355 Scenic Road; Assessor's Parcel No. 001-062-29
ZONING: Residential Single-family RS-6 Zone
PROJECT: Storage room
ACTION: Use Permit, Rear/Combined Front/rear Setbacks
APPLICANT: Patrick Yore
OWNER: Same
CEQA STATUS: 15301(e)(2)(a) and 15303(e)



355 SCENIC ROAD

BACKGROUND

The 10,680 square-foot site is irregularly shaped and slopes down from Scenic Road to Tamalpais Road at an average grade of 62%. The original 1,729 square-foot, 2 bedroom, 2 bathroom, single-family residence was constructed in 1962. The 425 square-foot garage was built in 1984 after the Planning Commission granted both a height variance and setback variances to allow its construction to exceed the 15 foot height maximum and within both the minimum rear and combined front/rear setbacks.

In 2007 the Commission granted a Use Permit and a combined front/rear setback variance to allow a 300 square-foot, 2-story, 2-bedroom and spiral staircase expansion of the residence, to 2,029 square feet in total area.

The 6 foot fence along the front property line was recently reconstructed as permitted by Town Code 17.016.040(A), which allows non-conforming structures such as fences to be reconstructed as long as the reconstruction does not increase the non-conformity.

DISCUSSION

The project encompasses the construction of a 304 (19 ft. x 16 ft.) square-foot storage room beneath the existing 2 car garage. The storage room will provide 183 internal square feet of storage area with a ceiling height of 7 ½ feet and the remaining 92 square-feet of the storage space will be on raised platforms constructed between the foundation footings of the garage back against the hillside, with a clearance height of 4 feet (3.5 feet above grade).

The project (garage addition) will comply with the regulations for the Residential Single-family RS-6 Zone District where the property is located as follows:

GARAGE STRUCTURE	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.	5ft & 5 ft.	20 ft.	.40	.35	15 ft., 1 story
Existing	6 ft.	9 ft.	15 ft.	6 ft. & 72 ft.	78 ft.	.19	.19	24 ft., 1 story
Proposed	no change	no change	no change	no change	no change	.22	no change	24 ft., 2 stories

The proposed storage room would have 2 windows in the south wall and 1 window in the west wall adjacent to the access landing and stairway. The access landing and

stairway are proposed to be located on the west side of the structure between the house and the parking/storage building. The exterior siding and color will match the garage above.

Although the improvement would project south towards the rear property line, the 30foot-wide Tamalpais Road right-of-way is located between the rear property line and the vacant parcels across Tamalpais Road. The parcels across the Tamalpais right-of-way are also at a much lower elevation (approximately 30 feet lower) than the elevation of the proposed storage room Tamalpais Road right-of-way.

Due to the very irregular, elongated, triangular shape of the parcel there is no location for a storage structure that would be out of all the setbacks. Locating the storage room underneath the existing garage will minimize the impacts to the site and vicinity. The location under the existing garage structure, approximately 30 feet higher in elevation than the properties across the 30 foot wide Tamalpais Road right-of-way ensures that the storage room will not significantly impact the privacy of future residences that might be built on these two, small (1,250 square-feet and 1,600 square-feet respectively) parcels.

Other properties in the immediate neighborhood have similar two-story garage structures as follows:

1. 27 Ridge Road (5 houses away from 355 Scenic) has a legal non-conforming accessory dwelling unit beneath the garage.
2. 299 Tamalpais Road (2 houses away) has a storage room underneath the carport.
3. 245 Scenic Road (14 houses away) has a storage/laundry room beneath the garage
4. 309 Scenic Road (3 houses away) has a legal non-conforming accessory dwelling unit beneath the garage.

The storage area will increase the FAR of the site from .19 to .22 which is similar to the FAR's found on other similarly sized and sloped sites in the Scenic/Ridge Road neighborhood of the Fairfax Manor Subdivision where the FAR's range from .08 to .32 as demonstrated in the following table:

355 SCENIC ROAD -- COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
001-031-27	454 Scenic	8750	2064	4	2.5	400	.23
001-051-01	434 Scenic	9000	2928	5	4	0	.32
001-052-30	309 Scenic	10061	3078	3	4	400	.30
001-054-01	245 Tamalpais	11000	2268	3	2.5	400	.20
001-061-26	6 Ridge	10785	1983	4	2.5	0	.18
001-061-27	58 Ridge	13700	1391	2	1	0	.10
001-062-44	17 Ridge	14200	1219	2	2	0	.08
001-062-43	27 Ridge	1300	1668	3	2	480	.09
001-063-08	355 Tamalpais	12100	1544	3	2	0	.13
001-063-41	381 Tamalpais	12100	2200	3	3	480	.18
001-063-51	299 Tamalpais	11700	1667	3	2	0	.14
001-063-54	305 Tamalpais	13626	872	1	2	0	.06
PROJECT SITE - PROPOSED							
001-062-29	355 Scenic	10680	2331	4	2	425	.21

Due to the proposed location of the storage room beneath the existing garage, its elevation relative to the neighboring houses, and the existence of other 2-story accessory structures in the neighborhood, staff has determined that the proposal will not negatively impact neighboring properties and will not be out of character with the surrounding development.

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department (RVFD)

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows: All vegetation and construction materials are to be maintained away from the residence during construction, a fire sprinkler system shall be installed throughout the entire building, address numbers at least 4 " tall visible from the street and internally illuminated, of reflective material or placed near a light must be installed.

Other Agency/Department Conditions/Comments

No other agencies or departments commented or recommended conditions of approval for this project.

Unpermitted Work

During staff's site visit we noted that a garbage/recycling enclosure was under construction possible within the Scenic Road right-of-way and/or the required front-yard

setback. The owner was advised that the structure would require the approval of an encroachment permit and/or a variance. The owner decided to remove the structure and the removal is almost completed.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 18-17 by adopting attached Resolution No. 2018-16 setting forth the findings and conditions for the project approval

ATTACHMENTS

Attachment A – Resolution No. 2018-16

RESOLUTION NO. 2018-16

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Construct a 302 Square-foot Storage Room under the Existing 2-Car Garage at 355 Scenic Road

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit, Minimum Rear Setback and Combined Front/rear Setback to construct a 304 square-foot storage room in the underfloor area beneath the existing 2-car garage at 355 Scenic Road; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 18, 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 Use Permit and Setback Variances (minimum rear and combined front/rear setbacks) as long as certain conditions, listed below, are met; and

WHEREAS, the Commission has made the following findings:

The project conforms with the following 2010-2030 Town of Fairfax General Plan Policies:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size and mass.

Policy LU-7.2.2: to the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Conditional Use Permit

The 304 square-foot storage area is similar in size, mass, design and location on the site to other 2-story accessory structures in the immediate neighborhood of the Scenic/Ridge Road neighborhood of the Fairfax Manor Subdivision. 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.

The construction of the storage room beneath the existing garage will not result in the property exceeding the Floor Area Ratio or Lot Coverage limitations and the room will not change the setbacks maintained by the existing accessory structure that was constructed previously with a discretionary Height and Setback Variances. Therefore, the development and use of the property as approved 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.

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.

Approval of the use permit will maintain the remainder of the site in its natural state requiring no significant excavation or no removal of trees or vegetation. Therefore, the addition underneath the existing garage will result in equal or better development of the premises than would otherwise be the case and is in the public interest.

Minimum Rear and Combined Front/rear Setback Variances

The irregular, narrow and jagged, triangular shape and steep slope of the site are special circumstances applicable to the property that would result in a strict application of the required setbacks depriving the applicant of the ability to construct additional storage on his property, a privilege enjoyed by other property owners in the vicinity and under identical zone classification.

The variance or adjustment 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 this title.

The strict application of this title would result in excessive or unreasonable hardship.

The property is situated at the corner of the intersection of Scenic and Tamalpais Road with only one immediate neighbor to the west of the main house. The site is also at an elevation below the residential structures north of Scenic Road and above the vacant residentially zoned parcels across Tamalpais Road to the south. The addition beneath the garage will have no impact on any neighboring property. Therefore, the granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated

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 Mark Groody dated 3/20/18, pages A-1.0 and A-2.0.
2. 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.

3. 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.
4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
5. 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.
6. 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.
7. During construction, the property owner and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.32 of the Town Code entitled, "Urban Runoff and Pollution Prevention".
8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application No. 18-16. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 18-16 will result in the job being immediately stopped and red tagged.
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.

Ross Valley Fire Department

10. All construction shall comply with the 2016 California Fire Code Chapter 7A & 2016 California Resources Code Section R337. Required conformance to be noted on the plans. All vegetation and construction materials are to be maintained away from the residence during construction.
11. A fire sprinkler system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards.
12. 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.

Miscellaneous Conditions

13. 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. Waiver of an agencies conditions in writing by that agency will not require further Planning Commission review.
14. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.
15. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.
16. A construction management plan shall be submitted to the Building Official with the building permit application and shall become a condition of building permit issuance.
17. Any new exterior lighting installed for the storage area, including access stairway lighting, shall be LED and shall be shielded from direct offsite illumination, and shall direct light downward.

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 the Variances 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 18th day of October, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services