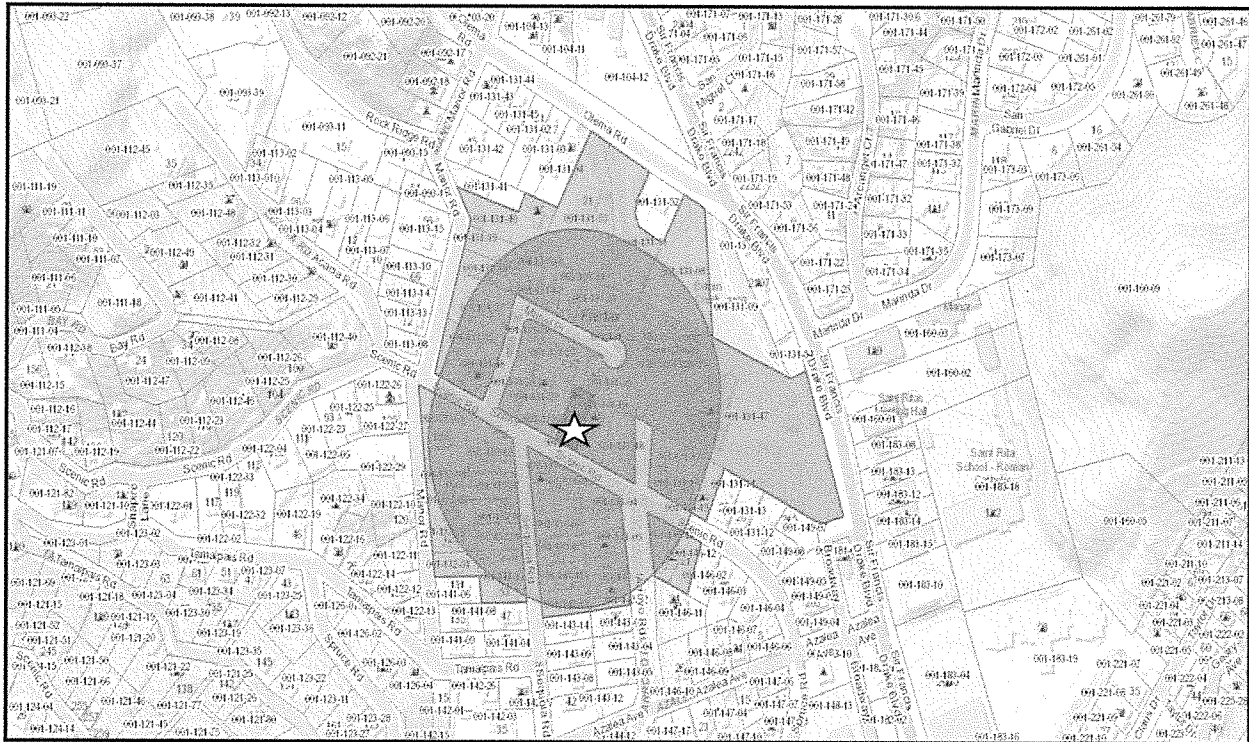


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: May 18, 2017
FROM: Michelle Levenson, Zoning Technician
LOCATION: 50 Scenic Rd.; Assessor's Parcel No. 001-131-20
ZONING: Residential RD-5.5-7 Zone
PROJECT: Garage relocation
ACTION: Conditional Use Permit and Variance; Application # 17-03
APPLICANT: Laura Kehrlein, Architect
OWNER: Jeanne Lotta-Sellars and Thomas Sellars
CEQA STATUS: Categorically exempt, § 15305(a).



50 SCENIC ROAD

BACKGROUND

The project site is 5,500 square feet in area and is flat with a slope of 2-percent. The site is located within the Residential Development RD 5.5-7 Zone. The site is developed with a 687-square-foot single-family residence constructed in 1923 that contains 1 bedroom and 1 bathroom, a 224-square-foot detached garage and a 150-square-foot detached artist studio.

REQUIRED DISCRETIONARY APPROVALS

The proposed project would involve demolishing the existing deteriorated, 224-square-foot, detached garage that is 10 feet, 7 inches in height and replacing it with a 266-square-foot detached garage that would be 11 feet, 1 inch in height. The new garage would be located 10 feet, 8 inches to the northeast of the existing garage location, creating one parking space in front of the garage.

The following discretionary approvals from the Planning Commission are required:

Conditional Use Permit. Town Code Section 17.084.050 requires that a Conditional Use Permit be obtained prior to any expansion/modification of a property or residence on a parcel that does not meet the minimum size and width requirements based on the slope of the site. The project site has a slope of 2-percent, therefore the Town Code requires a minimum area of 5,500 square feet and a minimum width of 60 feet. While the site meets the minimum area requirement (the site is 5,500 square feet), the minimum site width is 50 feet therefore the project requires the approval of a Use Permit by the Planning Commission.

Side Setback and Combined Front-Rear Variance. For sites with an average slope of less than 10-percent, Town Code Section 17.084.070(A)(2) requires that side yards have a width of no less than 5 feet and a combined width of no less than 15 feet. In addition, Town Code Section 17.084.070(A)(1) requires that front and rear yards have a combined depth of no less than 25 feet. Currently, the existing garage is located within the required side and combined front-rear setbacks; these conditions would continue with relocation and reconstruction of the garage due to the location of the residence in relation to the existing driveway and garage, the narrowness of the lot and the presence of an artist studio located 2 feet from the rear property line.

DISCUSSION

The following requirements apply to the RD 5.5-7 Zone:

	Front Setback (ft)	Rear Setback (ft)	Combined Front/rear Setback (ft)	Side Setbacks (ft)	Combined Side Setbacks (ft)	FAR	Lot Coverage	Height (Accessory structure)
Required/ Permitted	6	6	25	5/5	15	.40	.35	15 ft., 1 story
Existing	10 ft, 8 inches	2	12 ft, 8 inches	2/1	3	.15	.29	10 ft, 7 inches; 1 story
Proposed	19	No change	21	No change	No change	.15	.27	11 ft, 1 inch; 1 story

CONDITIONAL USE PERMIT

In order to approve a Use Permit 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.

Several properties in the immediate vicinity of the subject property contain garages including properties at 22, 24, 30 and 61 Scenic Road. At 266 square feet, the size of the proposed garage would be in keeping with garages in the neighborhood while providing slightly more area (42 square feet) than the existing garage to accommodate a vehicle and limited storage. In addition, by relocating the garage a parking space would be created, thus reducing the parking demand along the street. The existing garage has deteriorated beyond the point of repair. By relocating and reconstructing the garage, development of the site would be enhanced and an additional on-site parking space would be provided. Therefore, the project would be consistent with the findings required by Town Code Section 17.032.060, above.

VARIANCE

In order to approve a variance, Section 17.028.070 requires the Planning Commission to make the following findings: (1) because of special circumstances applicable to the property (e.g., size, shape, topography, location of surroundings) strict application of the title would deprive the applicant privileges enjoyed by other property owners in the vicinity and under identical zone classifications; (2) the variance will not constitute a

grant of special privilege, is consistent with the limitations placed upon other properties in the RD 5.5-7 Zone; (3) the strict application of the title would result in excessive or unreasonable hardship; and (4) the granting of the variance would not be detrimental to the public welfare or injurious to other property in the vicinity.

As described above, the current garage is located within the side setback. While the existing garage is located almost 11 feet from the front property line (5 feet more than the required 6-foot front setback), a detached artist studio exists in the rear of the property (2 feet from the rear property line) therefore the combined front/rear setback is not achieved on the site. Because of the narrowness of the site (50-foot minimum width) and the location of the residence on the site, it is difficult to locate the garage outside of the required side setback. While the new garage would be located an additional 9 feet from the front property line (for a total of 19 feet) the combined front/rear setback would continue not to be achieved with construction of the project due to the location of the artist studio. As discussed above, several properties in the immediate neighborhood contain garages that appear to be very close to the required side setbacks. Relocating the garage further into the property would improve conditions along the front of the property, would result in the removal of a deteriorated structure and would provide area for a new on-site parking space. If the owners were not allowed to replace the garage in the proposed location, on-site covered parking would be eliminated, resulting in undue hardship to the owners. In addition, by granting the variance, an unsound structure would be removed and an additional on-site parking would be provided, a benefit for the public and other properties in the vicinity.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

1. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth.
2. 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.
3. Carbon monoxide alarms shall be provided in existing dwelling when a permit is required for alterations, repairs, etc., that exceed \$1,000. CO alarms shall be located outside of all sleeping areas and on every level of the dwelling including the basement.
4. Address numbers at least 4" 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 (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they

may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.

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

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

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve Application No. 17-03 by adopting Resolution No. 17-04, setting forth the findings and conditions for project approval.

ATTACHMENTS

Attachment A – Resolution No. 17-04

RESOLUTION NO. 17-04

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit and a Side Setback and Combined Front-Rear Setback Variance for the Reconstruction and Relocation of a Detached Garage at 50 Scenic Road

WHEREAS, the Town of Fairfax has received an application to relocate and reconstruct an existing 224-square-foot garage, 10 feet, 8 inches to the northeast resulting in a 266-square-foot detached garage.

WHEREAS, the Planning Commission held a duly noticed meeting on May 18, 2017, at which time the Planning Commission determined that the proposed project, as long as the conditions of approval contained within this resolution are met, conforms with the Fairfax General Plan and Zoning Ordinance regulations; 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 proposed residence conforms to the regulations set forth in the Residential Single-family RD 5.5-7 Zone District.
2. The proposed development is in keeping with other garages and associated residences in the neighborhood. Several other properties in the vicinity contain garages including 22, 24, 30 and 61 Scenic Road. The modest size of the garage (266 square feet) is in keeping with the residential character of the neighborhood and will not be out of scale with other structures in the immediate vicinity. In addition, reconstructing the garage will continue to allow for on-site covered parking by the residents. Therefore, the approval of the project shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment, and will not result in excessive hardship for the owner.
3. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area.
4. The garage will continue to be located in the side setback due to the narrowness of the site and the location of the residence on the parcel. While the combined front-rear setback will continue to not be achieved with the project due to the location of an existing artist studio in relation to the rear setback, the garage will be relocated further from the front setback, creating an additional on-site parking space.
5. The development and use of property as approved herein will 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 project approvals.

6. The approval as conditioned herein will not be contrary to those objectives, goals or standards pertinent to the particular case and contained in the 2010 – 2030 Fairfax General Plan or set forth in the Town Code.
7. Approval of the project will result in equal or better development of the premises than would otherwise be the case and is in compliance with the Fairfax General Plan, Zoning Ordinance, accepted engineering techniques and the Uniform Building Code.

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 Fredric C. Divine Associated, entitled, "Garage Improvements, 50 Scenic Road", Sheets A1 through A2, dated October 17, 2016, and received on April 27, 2017.
2. Prior to the issuance of the building permit for the project, the applicant shall record a "Reciprocal Easement" with the adjacent property owners at 52 Scenic Road with the Marin County Recorder's Office. The Easement shall be for the purposes of access and maintenance of structures located on the shared property line.
3. Secure written approval from the Ross Valley Fire Department, Marin Municipal Water District and the Ross Valley Sanitary District noting that the development conforms with all of their recommendations and conditions.
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.

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 No. 17-03. Any construction based on job plans that have been altered without the benefit of an approved modification of Application No. 17-03 will result in the job being immediately stopped and red tagged.

8. Any damages to Scenic 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, 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.

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 applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department. Other agency conditions can be waived by those agencies in writing to the Town Building Department.

12. Other agency/department conditions can be waived by that agency/department in

writing to the Fairfax Planning and Building Services Department.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

1. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth.
2. 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.
3. Carbon monoxide alarms shall be provided in existing dwelling when a permit is required for alterations, repairs, etc., that exceed \$1,000. CO alarms shall be located outside of all sleeping areas and on every level of the dwelling including the basement.
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The Marin Municipal Water District (MMWD) Ross Valley Sanitary District and the Fairfax Police, Public Works and Building Departments

The MMWD, Ross Valley Sanitary District, Ross Valley Fire Department, 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, 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 18th day of May, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Norma Fragoso

Attest:

Linda Neal, Principle Planner