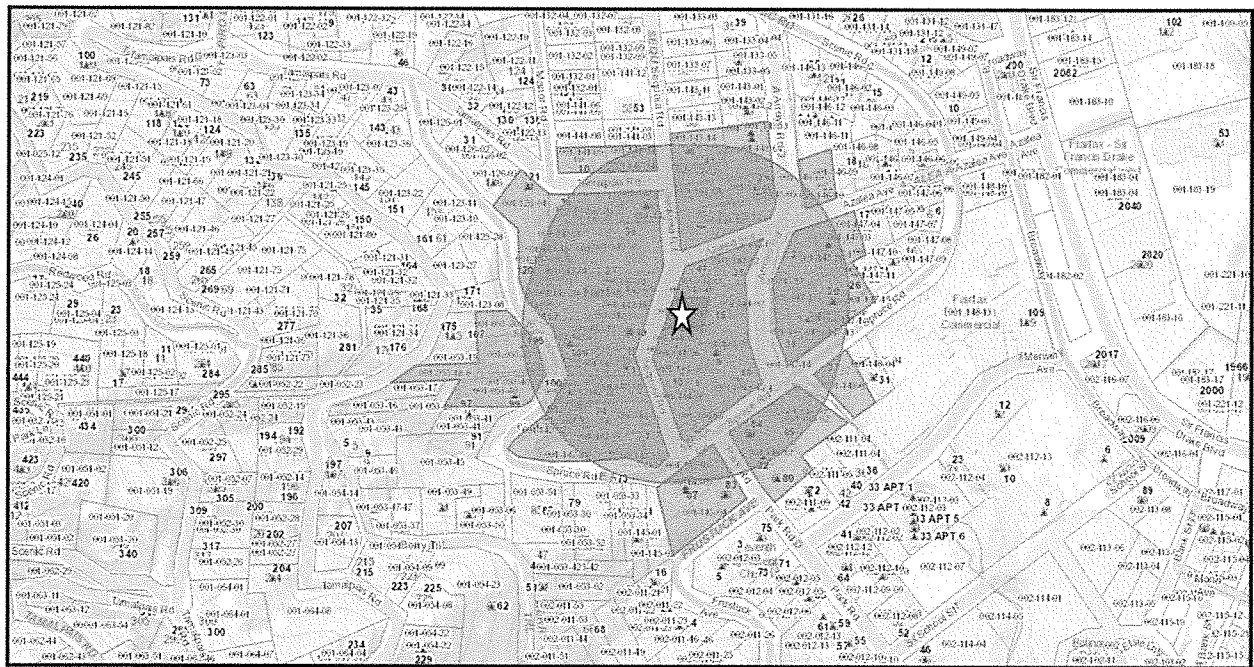


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: October 19, 2017
FROM: Linda Neal, Principal Planner
LOCATION: 22 Sequoia Road; Assessor's Parcel No. 001-144-10
PROJECT: Second story room addition
ACTION: Conditional Use Permit and Parking Variance; Application # 17-38
ZONING: Residential Single-family RS-6 Zone
APPLICANT: Eric and Rolanda Ebert
OWNER: Same
CEQA STATUS: Categorically exempt section(s) 15301(e)(1)



22 SEQUOIA ROAD

BACKGROUND

The 5,022 square-foot and 57 foot wide site is level and is developed with a 1,368 square-foot residence. The residence was constructed in 1930 and the Planning Commission granted a Use Permit in August of 2012 to allow a 29 square-foot expansion and remodel of the structure, resulting in a 1,397 square-foot, 2 bedroom, and 2 bathroom residence.

DISCUSSION

The owners are now proposing to construct a 300 square-foot, studio/office over the garage by increasing the slope of the roof. The project will include the addition of a dormer area on the northern side of the new roof, facing the center of the property. The room would be accessed by an internal stairway leading from the residence entryway to the second story room addition. The addition would result in a 1,697 square-foot, 2 bedroom, and 2 bathroom residence.

The project would not change the setbacks of the residence and would result in a structure that is 20 feet, 6 inches in height, 8 feet, below the maximum allowed 28-foot 6-inch height limit.

The proposed project will comply with the regulations set forth in the Residential Single-family Zone District where the property is located as follows:

| | Front Setback | Rear Setback | Combined Front/rear Setback | Side Setbacks | Combined Side Setbacks | FAR | Lot Coverage | Height |
|----------------------------|----------------------|---------------------|------------------------------------|----------------------|-------------------------------|------------|---------------------|-------------------------|
| Required/ Permitted | 6 ft. | 12 ft. | 25 ft. | 5 ft. & 5 ft. | 15 ft. | .40 | .35 | 28.5 ft., 2 stories |
| Existing | 10 ft. | 3 ft. | 13 ft. | 5 ft. & 12 ft. | 17 ft. | .27 | .36 | 15 ft., 1 story |
| Proposed | no change | no change | no change | no change | no change | .33 | no change | 20 ft. 6 in., 2 stories |

Conditional Use Permit

Town Code §17.080.050 sets forth the minimum parcel size and width for properties located in the Residential Single-family RS-6 Zone in which 22 Sequoia Road is located. Town Code § 17.080.050(A) requires that parcels with less than a 10% slope be a minimum of 6,000 square-feet in size and be at least 60 feet wide. The level project site is only 5,022 square-feet in size and 57 feet wide. Therefore, the 300 square-foot, second story addition requires the approval of a Conditional Use Permit by the Planning Commission.

Considerations in reviewing a Use Permit include:

“The purpose of the Conditional Use Permit (CUP) is to allow the property 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” [Town Code §17.032.010(A)].

“In consideration of an application for a conditional use, the Planning Commission shall give due regard to the nature and condition of all adjacent uses and structure, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and general welfare” [Town Code §17.032.010(B)].

The addition is designed so that the southern side wall of the addition would not increase in height and only the peak of the roof over the garage would increase 6 feet 3 inches in height to 20 feet 6 inches, to accommodate the 300 square-foot studio/office. A dormer is proposed on the northern side of the addition where it would maintain a 34 foot setback from the north side property line. There would be no windows, only skylights, in the southern portion of the new roof where it would be located the closest to the adjacent neighboring 1-story residence at 18 Sequoia Road. As indicated in the table above, the addition would comply with all the setback requirements and the Floor Area Ratio regulation and the legal non-conforming 36% lot coverage maintained by the property now would not be increased.

The height limit in the RS-6 Zone is 28½ feet and 2 stories so the project which would increase the height of the residence to 20 feet 6 inches would comply with the height limit set forth in Town Code § 17.080.060(A).

Residences in the Fairfax Manor Subdivision on similar-sized properties range in size from 1,011 square-foot, 2 bedroom, 1 bathroom residence on a 5,500 square-foot site (44 Sequoia Road) to a 1,920 square-foot, 2 bedroom, 1 bathroom residence on a 5,500 square-foot site (40 Sequoia Road). 1 and 2 story structures can be found throughout the surrounding neighborhood. Therefore, the proposed 1,687 square-foot, 2 bedroom, 2 bathroom, 2 story, residence would not be out of scale or character with the surrounding neighborhood development.

Parking Variance

Town Code §§17.052.030(A)(1)(c) and (A)(2) require that each residence be provided with two 9 foot by 19 foot parking spaces and have a 9 foot wide by 19 foot or 22 foot long guest parking space either along the property frontage or on the property [Town Code §17.052.040(B)(1) and (2)].

The site currently has two 9 foot by 19 foot parking spaces in the garage and a guest parking space within the public right-of-way along the property frontage on Sequoia Road. Therefore, the site currently complies with the parking regulations for a single-family residence.

The project would result in the installation of an internal stairway from the residence entryway up to the second floor room over the garage. The stairway will project into the garage decreasing one of the parking spaces to 9 feet by 17 feet 6 inches, which would be 1 foot 6 inches shorter than a standard parking space but 1 foot wider and 1 foot 6 inches larger than an 8 foot by 16 foot compact parking space. The applicants are requesting a Parking Variance to have one of their on-site parking spaces be a compact space.

Many vehicles are getting smaller and decreasing the depth of one of the on-site parking spaces should not have a significant negative impact on parking in the Fairfax Manor neighborhood because the number of on-site parking spaces is not being reduced.

Agency/Department Comments/Condition

Ross Valley Fire Department

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows: The property is located in the Wildland Urban Interface (WUI) Area and the applicant must comply with requirements for construction in a WUI, including submittal of a Vegetation Management Plan (VMP), and vegetation clearance consistent with the VMP and Fire standards. The structure must be provided with of code compliant fire and carbon monoxide alarms, the new roof must be a class A assembly and the structure must display of compliant address numerals.

Marin Municipal Water District (MMWD)

MMWD submitted written comments which have been incorporated into conditions of approval in the attached resolution and are summarized as follows: The plans must comply with all the indoor and outdoor District Code requirements 13, a gray water system may be required, and backflow prevention must be installed prior to occupancy.

Ross Valley Sanitary District

A Sanitary District sewer connection permit is required to either replace the existing sewer lateral, or demonstrate to a District Inspector that the existing lateral meets current requirements, prior to the project final inspection and issuance of an occupancy permit for the residence.

Fairfax Public Works Department

A public sidewalk shall be installed along the entire property frontage and must comply with the County of Marin Uniform Standards for concrete curb, gutter, sidewalk, driveway and other "Flatwork", Drawing No. 100.

Fairfax Police and Building Departments

The police and the building departments did not provide conditions of approval or comments on the project.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to adopt Resolution No. 17-36 approving Application No. 17-38 and setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A – Resolution No. 17-36

Attachment B – Applicant’s supplemental information

RESOLUTION NO. 17-36

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow a 300 Square-foot, Second Story Addition to the Single-family Residence at 22 Sequoia Road, Application Number 17-38

WHEREAS, the Town of Fairfax has received a request to construct a 300 square-foot, second-story, studio/study addition over the existing garage at 22 Sequoia Road expanding the 1,397 square-foot, 2 bedroom and 2 bathroom, residence to a 1,697 square-foot, 2 bedroom and 2 bathroom residence; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 19, 2017, at which time the Planning Commission determined that the proposed project conforms with the Fairfax 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:

Use Permit

1. The project results in an expanded structure (studio/office over the garage) that maintains or is consistent with the required setbacks and Floor Area Ratio (FAR), and does not increase the existing, legal non-conforming 36% Lot Coverage. The second story addition results in a structure that is 20 feet 6 inches in height and 2 stories, less than the 28 foot 6 inch and 2 story height allowed by the Town Code. 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 second story addition location maintains a distance of 8 feet 8 inches from the residence at 18 Sequoia Road to the south and a 39 foot distance from the residence to the north. Therefore, the project 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 use permit.
3. Approval of the use permit is not 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, particularly those regulations set forth for properties located in the Residential Single-family RS 6 Zone District.
4. Approval of the use permit will result in equal or better development of the

premises than would otherwise be the case by locating the new living space over an existing portion of the residence rather than building into the existing yard area and eliminating the usable outdoor living space area.

Parking Variance

1. The small 5,022 square foot size of the parcel is the special circumstance applicable to the property that would result in the strict application of the parking regulations depriving the applicant of the privileges of expanding their residence, a privilege enjoyed by other property owners in the vicinity and under identical zone classification.
2. The variance will not reduce the number of on-site parking spaces below the 2 spaces required by the code and therefore, 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.
3. The strict application of the parking ordinance would result in excessive or unreasonable hardship.
4. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
5. The expansion does not add any additional bedrooms to the 2 bedroom residence. Therefore, neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulation.
6. Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.
7. Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

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 Dennis Ludlow, dated 7/17/17, pages 1 through 4.
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. 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.
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 developer and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.26 of the Town Code Chapter 8.32, "Urban Runoff Pollution Prevention".
8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 17-38. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 17-38 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. The site shall comply with the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan by maintaining an effective firebreak/defensible space zone around the site structure.
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.
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.
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.

Marin Municipal Water District

14. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
15. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

16. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device.
17. A Sanitary District sewer connection permit is required to either replace the existing sewer lateral, or demonstrate to a District Inspector that the existing lateral meets current requirements, prior to the project final inspection and issuance of an occupancy permit for the residence.

Fairfax Public Works Department

18. The public sidewalk shall be completed from the driveway apron to the northern side of the property to connect with the public sidewalk in front of 41 Azalea Avenue.

Miscellaneous Conditions

19. 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.
20. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.
21. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.
22. 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.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Use Permit and Parking Variance 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 19th, day of October, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Laura Kehrlein

Attest:

Ben Berto, Director of Planning and Building Services

Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

- STREET VIEW HEIGHT & SHAPE LIKE SOUTH SIDE ADJACENT NEIGHBOR.
UNLIKE NEIGHBOR HAS LONGER SETBACK & LIVE OAK SCREEN
- THERE ARE FOUR TWO STORY HOUSES/DUPLEXES WITH LIVING SPACES ABOVE TWO/THREE CAR GARAGES IN THE IMMEDIATE NEIGHBORHOOD.
- THE REAR HEIGHT, VIEW & LOCATION ARE SIMILAR TO THAT OF THE TWO ADJACENT SOUTH SIDE NEIGHBORS (EXIST TREES PROVIDE SCREEN)
- NORTH FACING DORMER DOES NOT IMPACT NORTH ADJACENT NEIGHBOR
- REAR NEIGHBOR'S (EAST) YARD & WINDOWS WILL NOT BE VISIBLE FROM OUR EAST, 1ST STORY WINDOW. (BLOCKED BY EXIST. STRUCTURE)
- DESIGNED AS AN ENGINEERED RETROFIT OF AN EXISTING STRUCTURE TO THE LATEST CALIFORNIA BUILDING CODE.

ATTACHMENT **B**