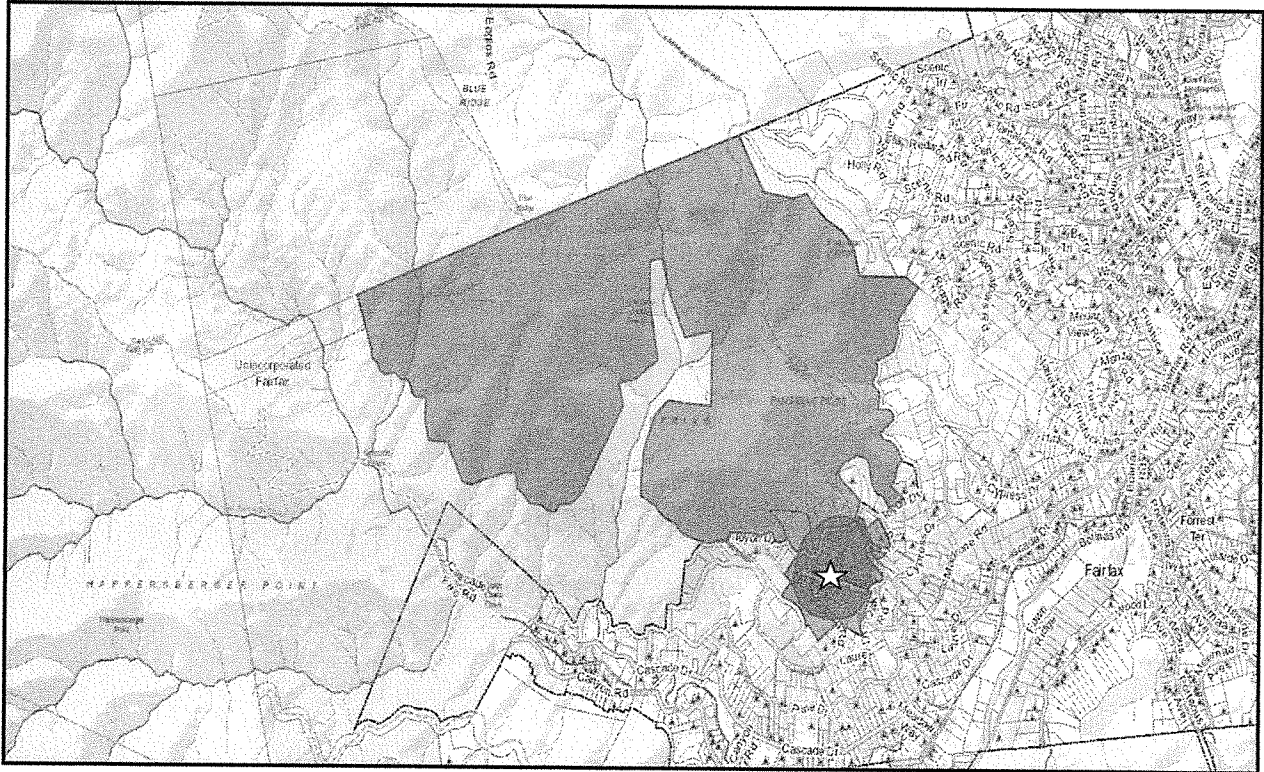


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: September 21, 2017
FROM: Linda Neal, Principal Planner
LOCATION: 75 Woodland Rd.; Assessor's Parcel No. 003-081-40
ZONING: Residential Single-family RS-6 Zone
PROJECT: Addition to a single-family residence
ACTION: Conditional Use Permit and Combined Side-yard Setback Variance; Application # 17-35
APPLICANT: Baird Wheatley, Designer
OWNER: Alexis Tatarski
CEQA STATUS: Categorically exempt, § 15301(e)(1)



75 WOODLAND ROAD

BACKGROUND

The 25,000 square foot, irregularly shaped, site slopes up from Woodland Road at an average rate of 40%. While the front of the property measures 158-feet in width, the site is boot shaped, with the rear of the property where the residence is located measuring only 50-feet in width. The 3,055-square-foot, 3 bedroom, 2 bathroom residence was constructed in 1935 and includes 400-square-foot, 2 car garage and recreation room on the first floor, 2 bedrooms, 2 bathroom, living room, dining room, kitchen, den and laundry room on the second floor and the master bedroom on the third floor.

DISCUSSION

The project encompasses the legalization of an unpermitted 25-square-foot, window seat, addition to the master bedroom located on the third floor of the residence. The addition will increase the living space square footage of the residence from 3,055-square-feet to 3,080-square-feet.

The project complies with the requirements of the Residential Single-family RS-6 Zone District 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.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft., 3 stories
Existing	130 ft.	10 ft.	140 ft.	5 ft. 6 in. & 13 ft. 6 in.	19 ft.	.10	.09	25 ft. 6 in., 3 stories
Proposed	No change	No change	No change	5 ft. 6 in. & 10 ft. 2 in.	15 ft. 8 in.	No change	No change	No change

Discretionary Permits

The project requires the approval of a Use Permit and a Combined Side Setback Variance.

Use Permit

Town Code § 17.080.050 requires that a Use Permit be secured prior to any use, occupancy or physical improvement of or on a building site with a 40% average slope failing to meet the minimum size and width requirements set forth in Town Code §17.080.050(C). A building site with an average slope of 40% would have to be 32,000-square-feet in size and 140-feet in width to comply with the minimum size and

width requirements. The project site is only 25,000-square-feet in size and the northern portion of the site is only 50-feet wide. Therefore, the expansion requires the approval of a Use Permit by the Planning Commission.

Houses vary in size on similar sized parcels within the immediate Cascade Subdivision Neighborhood from a 952-square-foot, 2 bedroom, 1 bathroom residence on a 20,000-square-foot property (148 Cypress Dr.) to a 3,793-square-foot, 5 bedroom, 4 bathroom residence on a 25,500-square foot property (100 Woodland Rd.). Therefore, the proposed 3,080-square-foot residence on this 25,000-square-foot parcel is not out of character with the neighborhood.

The 25-square-foot addition is on the west side of the house, over 90 feet away from the residential structures to the west at 88, 90 and 94 Toyon Road. The houses to the west are also located at higher elevations on the hillside where their windows look out over the rooftop of the project structure and where there is substantial tree cover between the structures to provide visual screening. Staff has estimated that the residence windows at 88, 90 and 94 Toyon Road are roughly 20 to 25-feet higher in elevation than the window seat elevation (Attachments B1 and B2 – aerial view of site and elevation contours, also see page 8 of the project plans, cross sections showing neighboring residences and topography).

Combined Side-yard Setback Variance

Town Code §17.080.070(B)(2) indicates that structures in the RS-6 Zone on sloped properties must maintain a combined side-yard setback of 20-feet unless the Planning Commission grants a variance to allow a smaller combined side-yard, setback.

As indicated above the property is irregularly shaped with the rear portion only 50-feet wide and much narrower than the 158-foot wide street frontage. The irregular shape results in the residence, located at the rear of the site, maintaining the minimum required 5-foot, side-yard, setbacks but not the combined 20-foot, side-yard, setback. The house, built in 1935, maintains a combined side yard setback of 19-feet. The window seat on the west side of the structure projects an additional 3-feet, 4-inches from the building resulting in a combined, side-yard setback of 15-feet, 8 inches.

The only way the structure could comply with the combined side-yard setback would be if it were relocated to the front portion of the parcel which would be a significant hardship for the owner and not commensurate with any minor impacts the 25-square-foot window seat might have on any neighboring property.

Other Agency/Department 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: 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.

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 protection is required.

Fairfax Police and Building Departments and Ross Valley Sanitary District (RVSD)

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

RECOMMENDATION

1. Conduct the public hearing.
2. Move to adopt Resolution No. 17-33 approving application # 17-35 and setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 17-33

Attachment B - B1- Aerial view of site, B2- Elevation contours

RESOLUTION NO. 17-33

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit and a Combined Side-yard Setback Variance to Expand an Existing 3,055 square foot residence by 25 Square Feet at 75 Woodland Road

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit and a Combined Side-yard Setback Variance to expand an existing 3,055-square-foot, 3 bedroom, 2 bathroom residence by 25 square feet to accommodate a window seat at 75 Woodland Road; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 21, 2017, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans 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 and Combined Side-yard Setback Variance as long as certain conditions, as listed below, are met; and

WHEREAS, the Commission has made the following findings:

General Plan

The minor expansion of the residence in this neighborhood developed with single-family residences and located within the Residential Single-family RS-6 Zone complied with the 2010-2030 Fairfax General Plan as follows:

1. Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.
2. 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.

Use Permit:

- A. The proposed 25 square-foot window seat addition is similar in size, mass and design on the site to other residential structures in the Cascade Tract 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.

- B. The residence will continue to maintain the required minimum setbacks, Floor Area Ratio, Lot Coverage and Height limitation(s) of the RS-6 Zone with construction of the addition. The addition to the residence will reach a maximum of 6 feet 10 inches in height and 7 feet 5 inches in width and does not extend above the existing residence roofline that is 6 ½ feet less than the maximum permitted 28.5 foot height limit. 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.
- C. 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.
- D. 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.

Combined Side-yard Setback Variance

- A. The irregular shape and narrowing of the property to 50 feet at the rear where the house is located is the special circumstance that results in the project requiring the Combined Side-yard Setback Variance. The strict application of the 20 foot, combined side-yard setback will deprive the owner of privileges enjoyed by other property owners in the vicinity under the RS-6 Zone Classification.
- B. The variance 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.
- C. The strict application of this title would result in excessive or unreasonable hardship.
- D. 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 because the addition will be located over 90 feet from the nearest neighboring residence, there is significant tree cover between the addition and the neighboring houses .

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 Baird Wheatley of Wheatley Design, pages 0 through 8 dated July 12, 2017.

2. Prior to completing work on the 25 square foot window seat addition and the building permit final inspection the applicant shall obtain a building permit for the improvement.
3. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
4. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 17-35. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 17-35 will result in the job being immediately stopped and red tagged.
5. 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

6. 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 of 30 to 100 feet around the site structures.
7. 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.

8. 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.
9. 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

10. Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service.
11. Should backflow protection be required, it shall be installed as a condition of water service.

Miscellaneous Conditions

12. 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.
13. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing. ‘

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 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 21st, day of September 2017, by the following vote:

AYES:
 NOES:
 ABSTAIN:

Chair Fragoso

Attest:

Ben Bert
 Director of Planning and Building Services