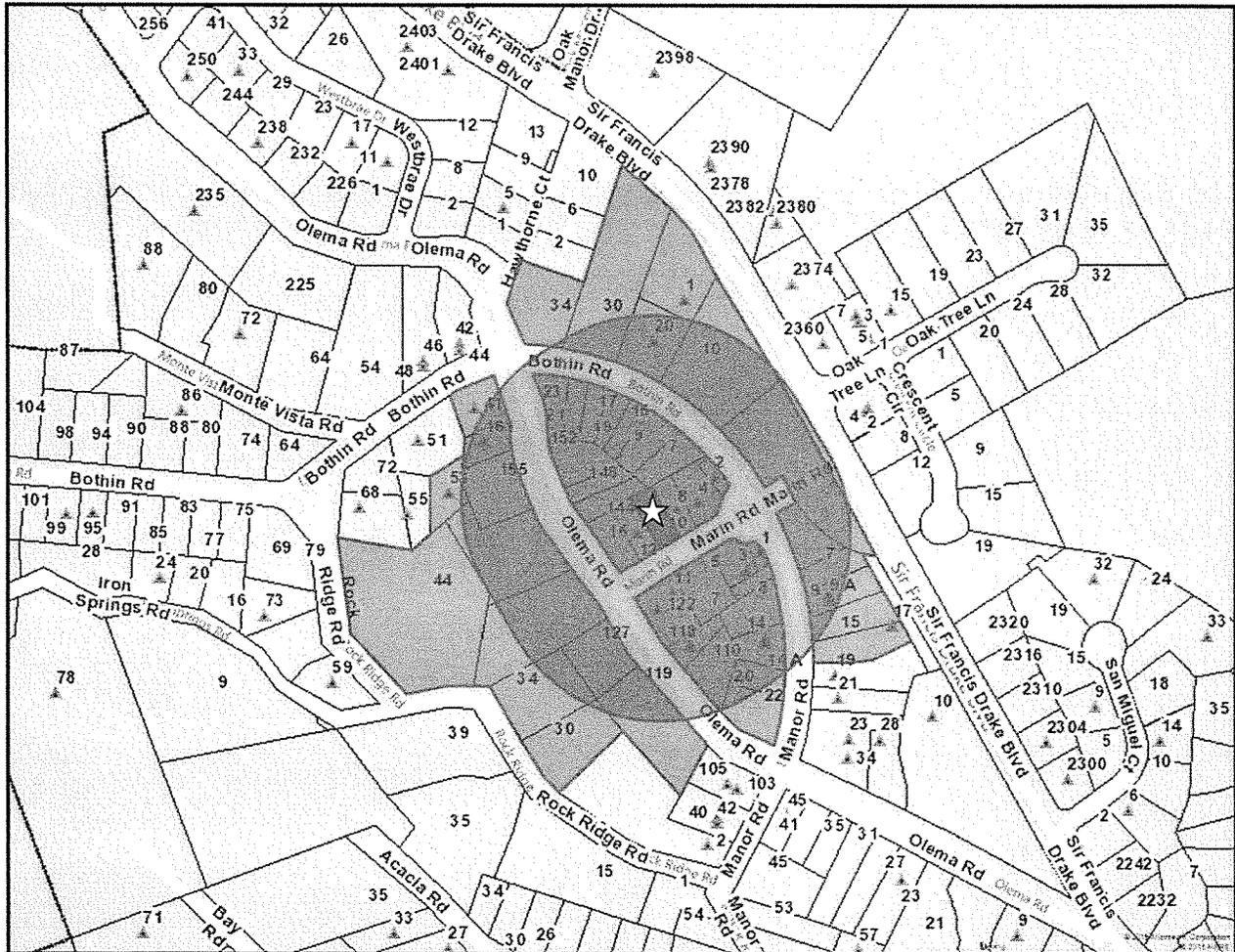


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: October 15, 2015
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Senior Planner
LOCATION: 10 Marin Road; Assessor's Parcel No. 001-102-10
PROJECT: Shed
ACTION: Use Permit and Variance; Application # 15-29
ZONING: Residential RD 5.5-7 Zone District
APPLICANT: Sarah and Chris Teuksbury
OWNER: Same
CEQA STATUS: Categorically exempt section(s) 15303(e) and 15305(a)



10 MARIN ROAD

BACKGROUND

The 4,000 square foot, 40 foot wide, site is level and is developed with a 1,244 square foot, 3 bedroom, 1 bath, single-family residence, and previously had a 128 square foot shed that had been on the site since at least 2004 (where its existence is first recorded in a resale inspection of the site).

In early August the Town received a complaint that a new shed was being constructed at 10 Marin Road. Staff contacted the owners and advised them that the new larger and slightly relocated shed, requires the approval of discretionary permits. The owners stopped construction, prepared their plans, and filed their application.

DISCUSSION

The owners propose completing the 190 square foot, wooden, replacement shed which will be used only for storage and will contain no plumbing or electrical. Light is allowed into the interior of the structure through 1 window adjacent the access door and through transom windows just below the eaves on the east side of the building. The building has 2 access doors, 1 on the east side and 1 on the south side. The structure reaches 14 feet in height on the east side where it is closest to the residence but decreases to 9 feet, with a sloped roof where the structure is closest to the western side property line.

The shed complies with the regulations for the Residential RD 5.5-7 Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	15 ft, 1 story (accessory structures)
Existing	16 ft	2 ft	18 ft	2 ft & 3.5 ft	5.5 ft	.35	.35	12 feet, 1 story (old shed)
Proposed	same	same	same	3.5 ft & 3.5 ft	7 ft	.36	.35	14 ft, 1 story

The storage shed requires the approval of the following discretionary permits:

A Use Permit: Town Code §17.054.050 requires that a conditional use permit be obtained from the Planning Commission prior to any use, occupancy or physical improvement of or on a building site failing to meet the building site size and width requirements. The minimum lot size in the RD 5.5-7 Zone is 5,500 square feet and the minimum width is 60 feet [Town Code 17.0874(A)]. The project site is only 4,000 square feet in size and 40 feet wide. Therefore, the construction of the new shed requires the approval of a Use Permit.

The house is only 1,244 square feet in size with limited storage in the form of three small closets; 1 off of each of the 2 bedrooms and 1 small hall closet. The only way to provide for more storage on the site is to either expand the house or construct a storage shed to replace the one that previously existed in the southwest corner of the property. Some type of storage is needed to accommodate a secure place to keep items typically stored on residential properties such as bicycles, camping gear, sports equipment, tools, etc.

Many of the surrounding properties throughout the Manor Subdivision have storage structures because the houses, many that were built in 1920's or 30's, lack adequate storage space to accommodate a modern, active, lifestyle. Approval of the use permit to allow construction of a new storage shed on this property will not be a grant of special privilege and will not change the residential character of the neighborhood.

A Side Setback Variance: In 1973 the Town of Fairfax adopted a new Zoning Ordinance, significantly increasing the setback regulations and the minimum size and width regulations for properties in its residential zone districts. The adoption of this new ordinance, Ordinance No. 352, rendered more than ½ of Fairfax's residential properties legal non-conforming. 10 Manor Road is one of those properties that became legal non-conforming both in size and in the setbacks maintained by its structures with the adoption of Ordinance 352.

Town Code §17.084.070(A) lists the minimum and combined setback requirements for the RD 5.5-7 Zone. In order to comply with the setbacks the shed would need to be located in the center of the rear yard effectively breaking up the 800 square foot rear yard into 4 small spaces, each no more than 10.5 feet in width effectively eliminating any usable private outdoor space for the property.

The previous shed was constructed only 2 feet 2 inches from the south side property line and 2 feet from the rear western property line. The new shed will maintain a larger 3 foot 6 inch setback from the south property line which will be closer to the required minimum 5 foot side setback but will still retain a 2 foot rear setback. The proposed location requires an exception of the 6 foot minimum rear setback, the 5 foot minimum side setback, the combined 25 foot front/rear setback and the combined 15 foot combined side setback.

The narrow width and small size of the site are the special circumstances that make it difficult to comply with the current regulations.

Height

Town Code § 17.084-060(B) indicates that accessory structures can be 15 feet in height and 1 story. The proposed shed reaches 14 feet in height at its tallest point and

therefore, complies with the height limits for accessory structures in the RD 5.5-7 Zone District.

Site Disturbance

Since the shed will be located in almost the same location as the previously existing shed, site disturbance will be minimal.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

Walls built less than 5 feet from the property line must have at a minimum a 1 hour fire resistive rating.

Maintain around both the house and the shed an effective firebreak by removing and clearing all flammable vegetation and/or other combustible grown within the defensible space zone of 30 to 100 feet to comply with Ross Valley Fire Standard 220 Vegetation/Fuels Management Plan.

Marin Municipal Water District

Compliance with all indoor and outdoor requirements of District Code Title 13, water Conservation is a condition of water service.

Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Sanitary District, Fairfax Police Department, Fairfax Building Department and Public Works

The above departments and agencies have no comments or conditions to place on the project.

RECOMMENDATION

Move to approve Application # 15-29 by adopting Resolution No. 15-32 setting forth findings and conditions for the project approval.

ATTACHMENTS

- Attachment A – Resolution No. 15-32
- Attachment B - applicant’s supplemental information
- Attachment C – signatures/e-mail of support from neighbors

RESOLUTION 15-32

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 15-32 FOR CONSTRUCTION OF A 190 SQUARE FOOT STORAGE SHED TO BE CONSTRUCTED AT 10 MARIN ROAD

WHEREAS, on September 24, 2015 Sara and Chris Tewskbury submitted an application for a Use Permit and Setback Variance to construct a 190 square foot storage structure at 10 Marin Road; and

WHEREAS, on October 15, 2015, the Planning Commission considered a staff report and its exhibits; and

WHEREAS, as set forth in the staff report prepared for the Planning Commission, the proposed improvement will not increase the floor area or the lot coverage of the property beyond the permitted 40% floor area ratio and the 35% lot coverage, and will comply with the height regulations for the RD 5.5-7 Zone, the Commission finds as follows:

1. The proposed 190 square foot accessory structure with its use limited for storage for the residence will not constitute a grant of special privilege and does not contravene the doctrines of equity and equal treatment. Other similar storage structures have been allowed with the grant of special entitlements for properties developed with houses with minimal interior storage space.
2. The storage shed and house conform to the Floor Area Ratio, Lot Coverage and height limits set forth in the Zoning Ordinance and the Setback Variances requested are the minimum necessary to allow construction of a storage shed to meet their storage needs. Therefore, approval of the Use Permit as conditioned will not cause 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. The approval of the Use Permit and Setback Variance will enable the owners to have on-site storage without losing the functionality of the back yard and without the disruption of trying to expand the house. The accessory storage shed will allow the owners a substantial use of their property and is similar to the use of other residentially zoned properties with accessory structures used for extra storage.
4. The use permit is not contrary to the objectives, goals and standards set forth in the Town Zoning Ordinance or to the findings required by Town Code §17.032.040 for a conditional use permit.

5. The site is small, 4,000 square feet, and only 40 feet wide. These are the special circumstances applicable to the property that result in the strict application of this title depriving the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
6. 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.
7. The strict application of this title would result in excessive or unreasonable hardship.
8. 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 2KS Design Services, pages 1, 2, 4 and 5, and the floor plan of the house, the last page of the plan set, also labeled page 4.
2. Prior to the building department final inspection the Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
3. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-29. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-29 will result in the job being immediately stopped and red tagged.
4. The applicant and their 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 Conditions:

1. Walls built less than 5 feet from the property line must have at a minimum a 1 hour fire resistive rating.
2. Maintain around both the house and the shed an effective firebreak by removing and clearing all flammable vegetation and/or other combustible grown within the defensible space zone of 30 to 100 feet to comply with Ross Valley Fire Standard 220 Vegetation/Fuels Management Plan.

Marin Municipal Water District

1. Compliance with all indoor and outdoor requirements of District Code Title 13, water Conservation is a condition of water service.
2. Should backflow protection be required, said protection shall be installed as a condition of water service.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does approve Application No. 15-29 and allows the construction of the 190 square foot storage shed at 10 Marin Road subject to the implementation of the above listed conditions.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 15th day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Philip Green

Attest:

Jim Moore, Director of Planning and Building Services

PROJECT DESCRIPTION: Replacing existing storage shed. This structure is to store items such as: camping gear, skis, garden tools and bikes. It will not have electricity or water or gas.

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size	4000	4000
Size of structure(s) or commercial space (square feet)	1244 + 160 = 1404	1244 + 190 = 1434
Height and No. of stories	single story	single story
Lot coverage	34%	34% / 35%
No. of dwellings units	1	1
Parking ¹ No. of spaces	2 uncovered	2 uncovered
Size of spaces	35" L x 13.6 W	35" L x 13.6 W

Amount of proposed excavation and fill	Excavation = \emptyset	Fill = \emptyset
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Estimated cost of construction \$9,000.

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade and all impervious surfaces except driveways

¹Minimum parking dimensions are 9' wide by 19' long. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? NO

S. Tewksbury
Signature of Property Owner

S. Tewksbury
Signature of Applicant

August 23, 2015
Date

August 23, 2015
Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584

ATTACHMENT **B**



SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

NA foot front yard variance to construct a within feet of the front property line.

3 foot rear yard variance to construct a shed within 2 feet of the rear property line.

1 ft. 6 in. foot side yard variance to construct a shed within 3'6 feet of the side property line.

NA foot creek setback variance to construct a within feet of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.)

FINDINGS:

- 1. List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

Historical precedence

1 The previous garage, then shed were out of variance and were closer to lot line than proposed shed.

other lots out of variance

2 Current neighbors house (12 Marlin Rd.) is out of variance. The house is 3 ft. from lot line. In addition they have an illegal, unpermitted dwelling in garage.

- 2. List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

It will have no impact on persons in neighborhood. It is a storage shed used only by homeowners. It is less invasive than garages or nearby sheds with electricity.

- 3. Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

To comply with side and rear line variance the shed would be in the middle of our yard.

This is a small, narrow lot and requiring the shed to be within variance would substantially reduce value of lot and render yard mostly unusable. our house is small

Variance - Additional information required.

- Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- Lot coverage calculation including all structures and raised wooden decks.

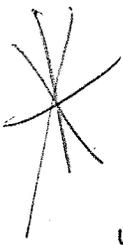
In order to approve your project, the Planning Commission must make findings of fact which state that ① there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

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

- ① The lot is very small + narrow.
- ② Neighboring houses and garages are out of variance on side and rear lines* And on lot coverage.
- ③ strict enforcement of side & rear line adherence would diminish our lot's value. The shed would be in middle of the already small yard. Our small house lacks storage. The previous garage on our site, similar to 12 and 16 Marin Road* was closer to lot line ~~than~~ than proposed shed.
- ④ This will improve this lot and have no effects on neighborhood.
- ⑤ A similar variance was granted to 23 clem.

* See attached photos.

* = 10, 12 and 16 Marin Road were all built at the same time. 12 and 16 still have garages, acc. structures and have been⁹ expanded.



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.

- Hours of work: Saturdays 8am-5pm, homeowner + 1 helper

- no special equip. needed. one truck will be parked in our driveway during hours of work

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- 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.

We are seeking to replace a storage shed. This structure is smaller than other nearby garages, or sheds, which are used for same purpose.

- The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

The storage of bikes, skis and household items will produce no noise or any burdens on neighbors.

- 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 any master plan, development plan or other plan or policy, officially adopted by the town.
-
-

As a neighbor, I support the application of a permit for 10 MARIN ROAD to have a 190 ft shed. It does not negatively impact the neighborhood in any way.

Name	Address
Donna Eichhorn Shirley Virgil	7 marin Rd Fairfax, Ca.
Ray Larsen & Dana Esau	11 MARIN RD FAIRFAX, CA
Vickie & Joe Stranzl	148 Ofema Rd. Fairfax, ca
John Miller + Emily Busch	16 marin Rd
Charles [Signature]	144 Ofema Rd

These are all neighbors (owners) who live on our street - next door or directly across the street or are backyard adjacent.

●●●●● AT&T M-Cell 6:47 PM

✳ 85% 

New iMessage

Cancel

To: Seth Goddard

Next door neighbor at 12 Marin Rd.

Delivered

Wed, Sep 2, 5:13 PM

Just heard through grapevine that ur project was red tagged. Wasn't us. If you need our support at a planning mtg let us know.



iMessage

