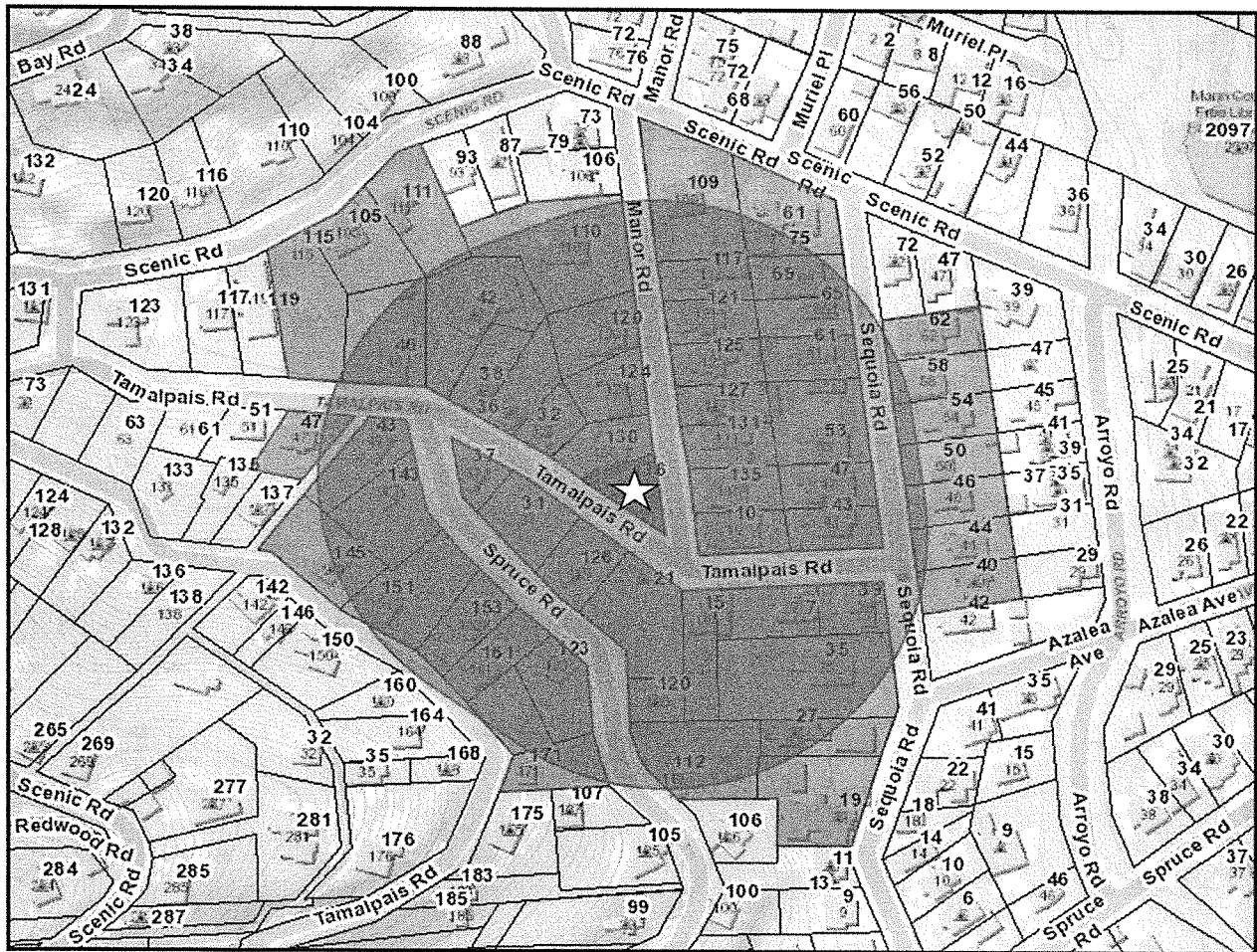


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: March 19, 2015
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Principal Planner
LOCATION: 136 Manor Road; Assessor's Parcel No. 001-122-13
ZONING: Residential RD 5.5-7 Zone District
PROJECT: Bathroom addition
ACTION: Use Permit and Side Setback Variance; Application # 15-06
APPLICANT: Richard Gilards
OWNER: Same
CEQA STATUS: Categorically exempt, §§ 15301(e)(1) and 15305(a)



136 MANOR ROAD

BACKGROUND

The 4,202 square foot site has only an 8% slope and was created by the adoption of the, "Amended Map of Fairfax Manor" by the County of Marin on April 8th of 1919. The 1,116 square foot, 2 bedroom, 1 bath, residence and attached garage were constructed in 1953.

The Planning Commission approved a fence height variance for the property on March 3, 1988 to allow a 6 foot fence along a portion of the Tamalpais Road property frontage where fences are typically limited to 4 feet in height.

DISCUSSION

The project encompasses the construction of an eighty (80) square foot, full bathroom addition to the 1,116 square foot residence resulting in a 1,196 square foot, 2 bedroom, 2 bath structure.

The project complies with the regulations set forth in the Residential RD 5.5-7 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	10 ft	10ft	25 ft	5ft & 5ft	15 ft	.40	.35	28.5ft, 2 stories
Existing	12 ft	14.5 ft	26.5 ft	5 ft & 64 ft	69 ft	.26	.33	14 ft, 1 story
Proposed	12 ft	9 ft	21 ft	5 ft & 64 ft	69 ft	.28	.35	14 ft, 1 story

Note: The site is a corner lot and Town Code § 17.040.020(D) requires that structures on corner lots maintain a 10 foot setback from all street frontage property lines.

The project requires the approval of the following discretionary permits:

A Use Permit

Town Code §17.084.050(A) requires that parcels in the Residential RD 5.5-7 Zone District be a minimum of 5,500 square feet in size. The same section requires that a Use Permit be obtained prior to any improvements or additions on a parcel that is substandard in size. The project site is only 3,200 square feet in size and therefore, the bathroom addition requires a Use Permit.

The purpose of the Conditional Use Permit process is to allow the proper 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.

When considering a request for a Use Permit the Commission shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environment of the proposed use and to all pertinent aspects of the public health, safety and general welfare.

Parcels of similar size in the neighborhood range from 3,200 square feet (the project site) to 3,900 square feet and home sizes on similar sized parcels range from 814 square feet to 2078 square feet. The proposed addition will increase the house at 36 Manor to a 1,196 square foot, 2 bedroom, 2 bath residence which is in keeping with the other homes in the neighborhood on similar sized parcels.

A Combined Front/Rear Setback Variance/Corner Lot Street Frontage Variance

The purpose of the variance process is to allow variation from the strict application of the setback regulations when a parcel has exceptional features, such as narrowness, shallowness or unusual shape or topography such that the strict enforcement of the regulations would cause undue hardship unnecessary to carry out the spirit of the code regarding setback regulations.

The site is unusual because it is triangular and two of the property lines are located on street frontages since the site is located at the intersection of Manor Road and Tamalpais Road. The irregular shape and two street frontages make it difficult to design any addition that complies with all the required minimum and/or combined side setbacks.

Town Code § 17.040.020(D) requires that all street frontages of any corner lot have a yard setback of 10 feet. Town Code § 17.084.070(1) requires a combined front/rear setback of 25 feet.

Only a 48 square foot corner of the proposed bathroom will extend into the required 25 foot front/rear setback area and a 2 square foot corner will extend into the required 10 foot street frontage setback for corner lots while the remainder of the bathroom will be in compliance.

There is a small area in the center of the site where the bathroom could be located in the center of the parcel but this location would remove much of the small private outdoor backyard area available for the residents.

The addition extends out towards Tamalpais Road and does not extend any further towards the neighboring properties than the existing house.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be 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.
2. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition exceeds \$1,000. Carbon monoxide alarms shall be located outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit including basements.
3. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan is available online at Rosssvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible front the street, additional numbers are required. Residential numbers must be internally illuminated (backlit, placed next to a light or be reflective numbers. If your project is a new house or substantial remodel, the numbers may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by breaker so it will remain illuminated all night. If not currently installed they must be installed as part of the project.

Marin Municipal Water District

1. The project site is being served. The purposed and intent of the service is to provide water to a single-family residence. The proposed 80 square foot bathroom addition will not impair the District's ability to continue service to this property.
2. Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements. Any questions regarding District Code Title 13 should be directed to the Water Conservation Department at (415) 945-1497.
3. Should backflow protection be required, said protection shall be installed as a condition of water service. If approved, the building permit final inspection will

not occur until compliance with MMWD requirements is verified in writing by the District.

Ross Valley Sanitary District

If approved, a Sanitary District permit must be obtained from the Ross Valley Sanitary District prior to issuance of the building permit. The District will place a hold on the property once the building permit is issued until the District's permit and sewer requirements are fulfilled pertaining to the private side sewer/lateral.

Fairfax Police and Building Department

The Police and Building Departments had no comments or conditions on/for the project.

RECOMMENDATION

Approve application # 15-06 for Use Permit and Combined Front/Rear setback Variance to allow a bathroom addition at 136 Manor Road by adopting Resolution 15-08 which includes findings and conditions for approval.

ATTACHMENTS

Exhibit A – Resolution No. 15-08

RESOLUTION NO. 15-08

A Resolution of the Fairfax Planning Commission Approving the Use Permit and Variances for a Bathroom Addition to the Existing Single Family Residence at 136 Manor Road

WHEREAS, the Town of Fairfax has received applications for a Use Permit and Setback Variances to construct an 80 square foot bathroom addition at 136 Manor Road; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on March 19, 2015 at which time the Planning Commission approved the Use Permit and Variances; 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 Variances; and

WHEREAS, the Commission has made the following findings:

1. The bathroom addition will not change the single-family character of the site and 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 addition is a first story addition which will not extend closer to any neighboring structures than the existing house. Therefore, the development and use of 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.
3. 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, or other plan or policy, officially adopted by the City.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and allowing the owners to improve the structure and thus maintain the existing housing stock which is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The triangular shape and location of the site on a corner are the special circumstances applicable to the property that result in the strict application of the

zoning setback regulations eliminating the ability of the owner to expand the residence depriving them 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 because similar variances have been granted on other small corner lots that are subject to greater setback regulations, 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 all the setback regulations would prohibit the owners from having the ability to improve/do a minor expansion of their residence which would result in an 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 because although the addition extends toward the street it does not do so in a manner that will obstruct vehicular or pedestrian visibility at the corner. The addition also does not extend any further towards adjacent residences than the existing structure.

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 Richard Gilards, owner, that includes a page showing a combined existing/proposed site plan, a page showing the south and west new elevations, and a page showing the bathroom floor plans, completed and received 2/2/15.
2. Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access routes
 - Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking
 - b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).

- c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of repair of possible roadway damage. .
 - d. If required by the Building Department, the foundation elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Building Official.
 - e. If required by the Building Department the grading, foundation, and drainage elements shall also be stamped and signed by the project engineer.
 - f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
3. During the construction process the following shall be required:
- a. The building official shall field check the concrete forms prior to the new foundation pour.
 - b. All construction related vehicles including 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.
 - c. 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. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
 - b. 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.
5. 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.
6. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."
7. 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 # 15-05. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-05 will result in the job being immediately stopped and red tagged.
8. 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.

Ross Valley Fire Department Conditions:

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be 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.
2. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition exceeds \$1,000. Carbon monoxide alarms shall be located outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit including basements.
3. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan is available online at Rossvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible front the street, additional numbers are required. Residential numbers must be internally illuminated (backlit, placed next to a light or be reflective numbers. If your project is a new house or substantial remodel, the numbers may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by breaker so it will remain illuminated all night. If not currently installed they must be installed as part of the project.

Marin Municipal Water District

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

Sanitary District

If approved, a Sanitary District permit must be obtained from the Ross Valley Sanitary District prior to issuance of the building permit. The District will place a hold on the property once the building permit is issued until the District's permit and sewer requirements are fulfilled pertaining to the private side sewer/lateral.

Miscellaneous Conditions

1. 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.
2. 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 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 19th day of March, 2015, by the following vote:

AYES:
NOES:
ABSENT:

Chair, Philip Green

Attest:

Jim Moore, Director of Planning and Building Services