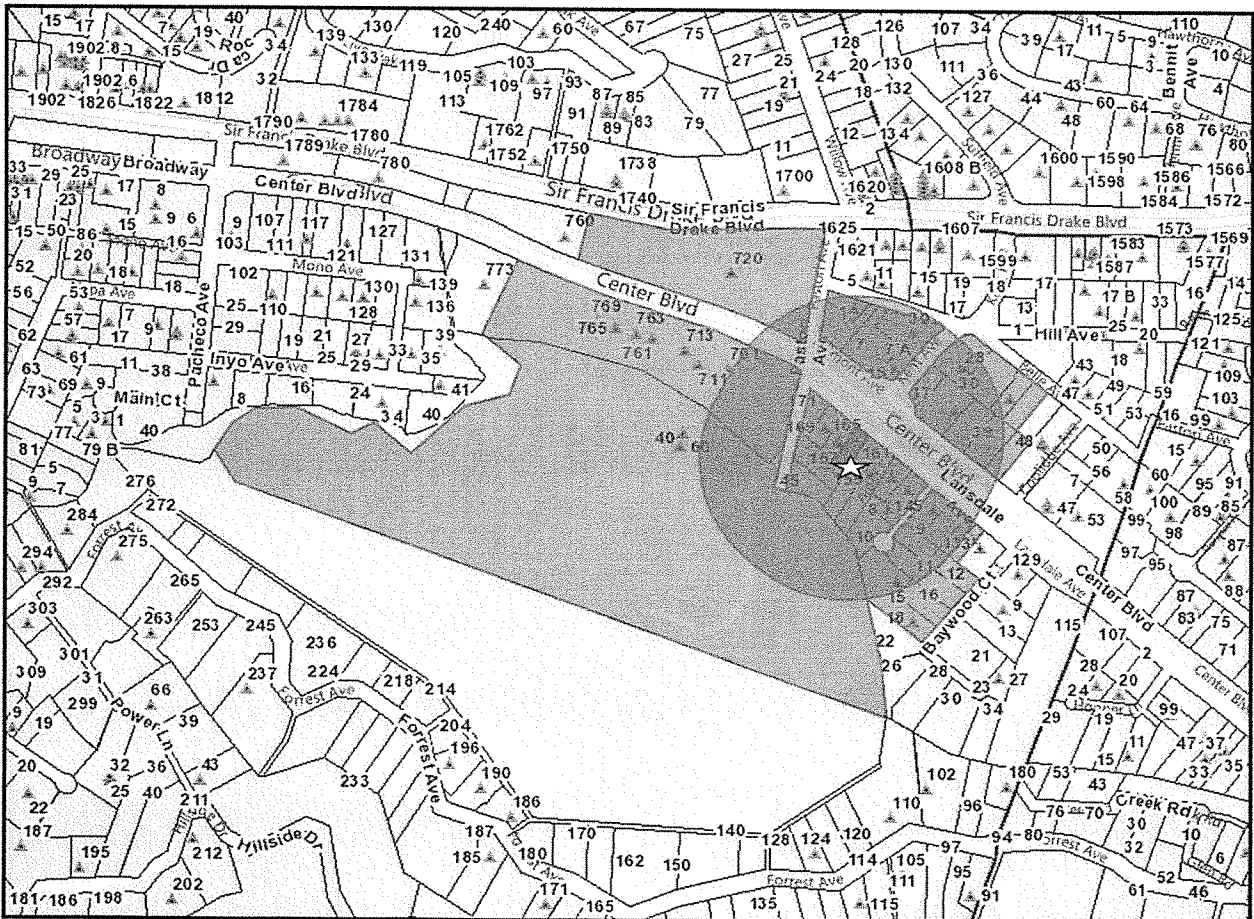


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: August 20, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 163 Lansdale Avenue; Assessor's Parcel No. 002-201-50
ZONING: Residential RD 5.5-7 Zone
PROJECT: Addition to a single-family residence
ACTION: Use Permit and Parking Variance; Application # 15-25
APPLICANT: Eric and Anne Engert
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(e)(2)(A) and (B)



163 LANSDALE AVENUE

BACKGROUND

The 3,750 square foot site is level and is developed with a 704 square foot, 1 bedroom, 1 bathroom, residence that was constructed in 1973. There is also an existing 30 square foot, storage shed in the rear southwest corner.

On November 14, 1973 the Town Council approved an exception (variance) for the property exempting the site from having to have a covered parking space (Exhibit A – Town Council letter of action).

DISCUSSION

The applicants are proposed to construct a 592 square foot, hall/office, master bedroom/bath and loft addition to a 704 square foot single family residence increasing the living space square footage to 1,296 square feet.

The project complies with the regulations for the Residential RD 5.5-7 Zone 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	30 ft	43 ft (house) 1.5 ft (shed)	31.5 ft (house/shed)	6 ft & 9 ft	15 ft	.19	.22	14 feet, 1 story
Proposed	30 ft	13 ft (house) 1.5 ft (shed)	31.5 ft (house/shed)	6 ft & 9 ft	15 ft	.35	.32	20 ft, 2 story

The proposed addition complies with the setback, lot coverage, floor area ratio and height regulations for the RD 5.5-7 Zone where it is located.

The project does constitute a 50% remodel and the property is substandard in size and width. Therefore, the project requires the approval of the following discretionary permits:

Use Permit

Town Code § 17.084.040(A) requires that a Use Permit be obtained from the Planning Commission prior to any use, occupancy, or physical improvement of or on a building site failing to be 5,500 square feet in size and 60 feet wide. The project site is only

3,750 square feet in size and 37.5 feet wide. Therefore, the proposed addition requires a Use Permit.

The purpose of the Use Permit is to ensure that modifications to existing improved properties fit in with the character of the neighborhood, are not out of scale with the project site and do not have a significant negative impact on neighboring properties. In reviewing the application, the Commission must take into consideration the nature and condition of all adjacent uses and structures and to any pertinent aspects of the public health safety and general welfare.

The house to the east of the site is a 2 story structure, there is a 2 story structure immediately to the south and a 1 story duplex to the west.

Homes in the neighborhood on other similar lots range from a 629 square foot, 1 bedroom 1 bath home on a 2,500 square foot parcel (137 Lansdale Avenue) to a 2,593 square foot, 4 bedroom, 3 bath house on a 6,000 square foot parcel (129 Lansdale Avenue). The loft addition height will be well below the permitted 28.5 foot height limit at a maximum of a little over 20 feet 4 inches and will not project above the adjacent two stories structures to the east and south that are both 21 feet or over in height.

Therefore, the proposed 1,296 square foot, single-story with a loft, 2 bedroom, 2 bath residence will not be out of character with the surrounding neighborhood.

Design Review

Town Code § 17.020.030(A) requires that additions that constitute 50% remodels are subject to design review approval. In order to approve a design review application the Commission must be able to find that the project complies with the design review criteria contained in Town Code § 17.20.040.

The proposed addition has been designed to complement the architecture of the existing residence. The sloping shed roof and use of several different window sizes and shapes adds articulation to the exterior. The shingled siding, trim, roof and gutters will match the existing residence.

Variance

Town Code § 17.016.040 only allows substantial, 50% remodels or expansions of non-conforming structures when either the off-street parking requirements are met, or the Planning Commission grants a variance to allow the expansion without the provision of the parking [Town Code § 17.016.040(B)(1) and (B)(2), (C)(2)(a) and (C)(2)(b)].

The site is non-conforming with respect to parking and only has 2 parking spaces with no guest parking space along its frontage because of the narrow width of the site.
Town Code

§ 17.052.030(A)(2) requires that a guest parking stall be provided on the site if the guest space is not available along the property frontage in the right-of-way.

Town Code § 17.052.010(D) requires that at least one parking space be covered in residential parking plans. In this case covered parking is not required because the Town Council granted an exception exempting the property from the covered parking requirement in 1973.

The applicants are proposing creating the 3rd, guest parking space in the side yard setback of the front yard area at an angle to the street which is permitted because it will only be in tandem with one of the main parking spaces for the house in compliance with Town Code § 17.052.040(E). The space will require a variance because it will be located in the site yard setback in conflict with Town Code § 17.052.010(B) that prohibits parking in the side setback.

The narrow, 37.5 foot width of the site makes it impossible to provide the required parking without it being in the required setback.

Many other properties along Lansdale have their parking in the required side yard setbacks.

Other Agency/Department Comments/Conditions

Marin Municipal Water District

1. The project will require a Standard Water Service Application and compliance with District Code Title 13.
2. Backflow prevention requirements must also be complied with if not currently in place and in compliance with current regulations.

Ross Valley Fire Department

1. A fire suppression system is required in compliance with the National Fire Protection Association (NFPA)13-D and local standards.
2. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth within the defensible space zone of 390 – 100 feet (see Ross Valley Fire Standard 220, Vegetation and Fuels Management Plan).
3. The smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. They 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 1 detector per story of the occupied portions of the residence.

4. Carbon monoxide alarms shall be provided outside each sleeping area in the vicinity of the bedrooms and one every level of the dwelling.
5. Address numbers at least 4 inches tall must be in place adjacent to the front door and must be internally illuminated and controlled by a photocell and be switched off only by a breaker so it remains illuminated all night.
6. Applicant may propose alternate materials or methods in accordance with Section 103.3 of the International Wildland-Urban Interface Fire Code. All approved alternate requests and supporting documentation shall be included in the plan sets submitted for final approval.

Ross Valley Sanitary District

1. The project will require a connection permit from the District. The size of the lateral will depend on the fixture count calculated during the permitting process. A hold will be placed on the property and the Building Department will not be able to perform a final inspection or issue a certificate of occupancy until the Sanitary District conditions are met.

Note: Neither the Fairfax Police Department, Building Department or Public Works Department had any comments, concerns or conditions for the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 15-25 by adopting Resolution No. 15-26 setting forth findings and conditions of approval for the project.

ATTACHMENTS

Attachment A – Resolution No. 15-26

Attachment B - Town Council letter of action from 11/14/73 variance hearing

RESOLUTION NO. 15-26

A Resolution of the Fairfax Planning Commission Approving the Use Permit and Variance to Construct a 592 Square Foot, Hall/Office, Master Bedroom/Bath and Loft Addition to the Residence at 163 Lansdale Avenue

WHEREAS, the Town of Fairfax has received applications for a Use Permit and a Variance to construct a 592 square foot, hall/office, master bedroom/bath and loft addition at 163 Lansdale Avenue; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on August 20, 2015 at which time all interested parties were given a full opportunity to be heard and to present evidence; 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 Variance as long as certain conditions, listed below, are met; and

WHEREAS, the Commission has made the following findings:

1. The 592 square foot addition to the 704 square foot single family residence increasing the living space square footage to 1,296 square feet will not change the single-family character of the site. 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 will not extend closer to any neighboring structures than the existing house and will maintain the required minimum and combined setback, Floor Area Ratio, lot coverage and its 21 foot height is less than the permitted 28.5 foot height limit. 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 the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case and the provision of an additional parking space will bring the property into compliance with the Town Parking

Ordinance. Therefore, the project is in the public interest will enhance the general health, safety and welfare of the community.

5. The narrow 37.5 foot width and small 3,750 square foot size of the site are the special circumstances applicable to the property that result in the strict application of the parking setback regulation eliminating the ability of the owner to improve and expand the available parking on the site, 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 parking configurations exist throughout the Town and similar variances have been granted on other small lots to allow parking within the side setback. Therefore, the approval of this variance 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 and expand their parking to accommodate an expansion of the on-site living space.
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 the location of the third parking space is on private property and will not obstruct pedestrian or vehicular traffic or visibility on Lansdale Avenue.

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 Brandt McCorckle, Architect, dated 7/11/15, pages A-1.0, A-2.0, A-3.0, A-3.1, S-0 and S-1.
2. Prior to the building permit final inspection the parking improvements shall be improved as depicted in the per the project plans.
3. 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.
4. 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.

5. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
6. 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.
7. 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.
8. 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".
11. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-25. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-25 will result in the job being immediately stopped and red tagged.
12. 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

1. A fire protection system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector 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. Maintain an effective firebreak around the structure in compliance with Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management Plan.
4. Carbon monoxide alarms shall be provided.
5. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.
6. Applicant may propose alternate material or methods in accordance with Section 103.3 of the International Urban Wildland Interface Fire Code. All approved alternate requests and supporting documentation shall be included in the plan sets submitted for final approval.

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 required it shall be installed and inspected prior to the project final inspection.

Sanitary District

1. A sewer connection permit is required and the owner must file an application with the District prior to issuance of the project building permit.

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 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 20th day of August, 2015, by the following vote:

AYES:
NOES:
ABSENT:

Chair, Philip Green

Attest:

Jim Moore, Director of Planning and Building Services

November 14, 1973

163 Lansdale

John E. Zimmer
114 Peralta Avenue
Mill Valley, Ca 94941

Dear Mr. Zimmer:

This will confirm action taken by the City Council at its meeting of November 12, 1973 at which time the Council approved your application to waive the requirement for one covered carport at 163 Lansdale Avenue, Fairfax. The Use Permit was granted with the condition that there still be two paved parking spaces.

Very truly yours,

Eileen L. Foster
City Clerk

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ATTACHMENT **B**