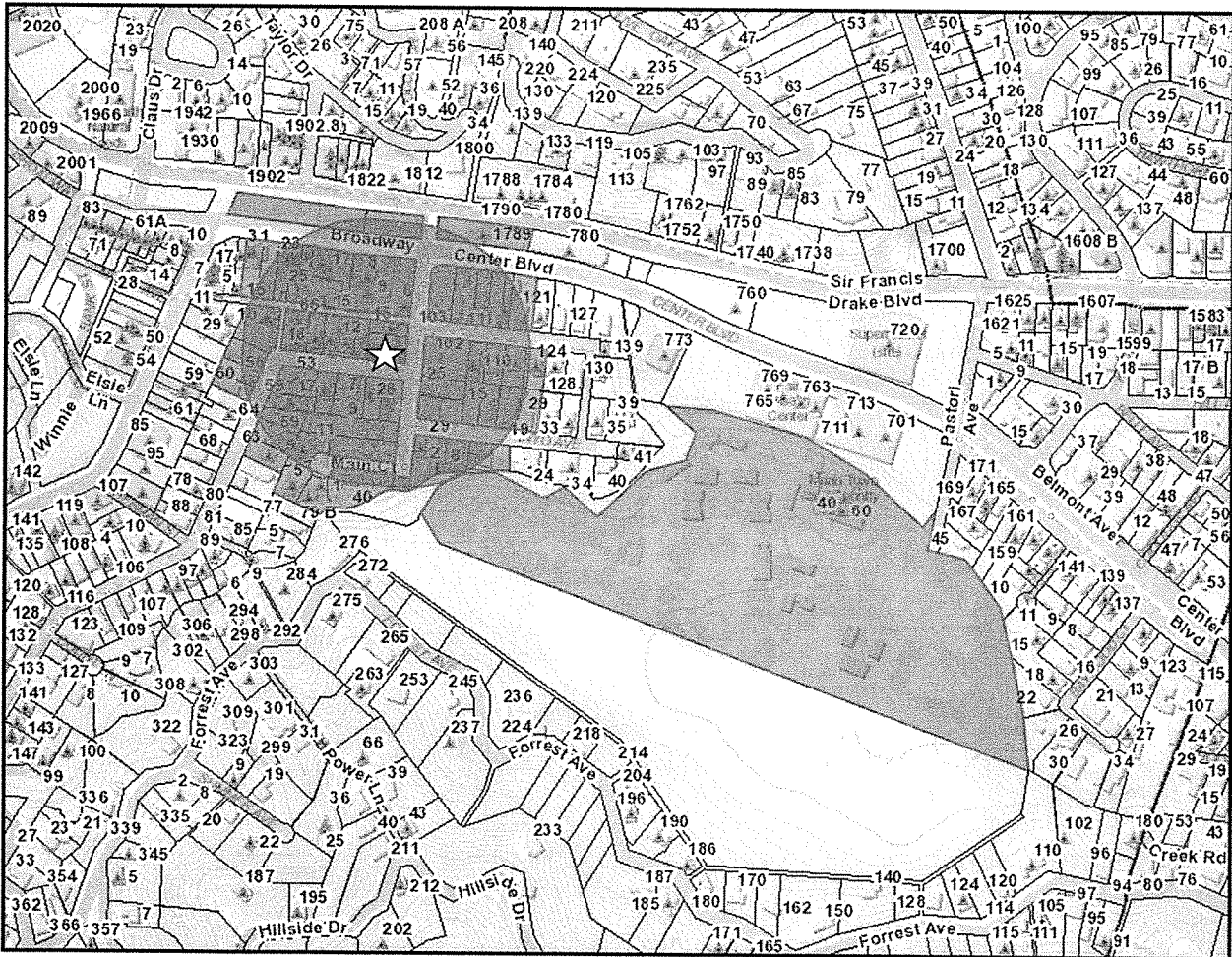


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 16, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 22 Pacheco Avenue; Assessor's Parcel No. 002-122-38
ZONING: Residential RD 5.5-7 Zone District
PROJECT: Miscellaneous repairs and additions
ACTION: Use Permit; Application # 15-20
APPLICANT: Morgan Hall, Architect
OWNER: Martha Noble and Lisel Blash
CEQA STATUS: Categorically exempt, § 15301(a) and 15303(e)



22 PACHECO AVENUE

BACKGROUND

The 3,325 square foot site is relatively level and is developed with a 768 square foot, 1 bedroom, 1 bath, single-family residence that was constructed in 1915. Also existing on the property is a detached 241 square foot 1 car garage with an attached 220 square foot storage shed that wraps around the side and rear. There are also two smaller storage sheds on the property measuring 121 square feet and 23 square feet respectively. The record is not clear on when the garage and storage structures were originally built but they are located on the property lines maintaining no setbacks. Setbacks have been required since the adoption of Ordinance No. 102 on October 10th, 1947 so they probably predate the original setback ordinance and are therefore "legal non-conforming".

A building permit was issued to construct a room on the rear deck in 1986 although the configuration shown in the plans for this addition is slightly different than the footprint of the laundry room that exists there now.

A fence height variance was granted by the Planning Commission in July of 1986 for a 6 foot tall fence to be located along a 35 foot portion of the southern side property line which fronts on Napa Avenue (fences are limited to 4 feet in height along street frontages without the approval of a variance -Town Code §§ 17.040.020(D) and 17.044.080).

DISCUSSION

The project encompasses demolition of the 2 free standing sheds, reconstruction of the 6 foot fence with a different design along a 35 foot portion of the southern side property line, reconstruction of the laundry room and rear deck/trellis and a small, 18 square foot, porch addition at the front of the house.

The existing improvements comply with the Residential RD 5.5-7 Zone District regulations as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	10 ft. (corner lot)	6 ft.	25 ft.	5 ft. & 10 ft. (corner lot)	15 ft.	.40	.35	28.5ft., 2 stories
Existing	10 ft.	2 ft.	12 ft.	9.5 ft. & 0 ft. (garage)	9.5 ft.	.30	.37	13 ft., 1 story
Proposed	same	same	same	same	same	.27	.34	same

In the early 1970's the Town of Fairfax adopted a new Zoning Ordinance (ordinance 352) setting forth new minimum setbacks and adding a new category called "combined setbacks" that previously had not existed. The effect of adopting this ordinance was to render more than 2/3rds of the Town's residential properties legal non-conforming with respect to setbacks. This parcel is no exception. As evidenced from the above table the existing structures do not comply with required setbacks. In addition to the non-conforming setbacks the site itself is legal non-conforming being only 3,325 square feet in size and 35 feet wide while the minimum parcel size in the RD 5.5-7 Zone where the property is located is 5,500 square feet with a minimum width (frontage) of 60 feet [Town Code § 17.084.050(A)].

Please note, that when reviewing projects on non-conforming parcels staff strives to not support work that will make any non-conforming aspects of the property and structures more non-conforming while also allowing homeowners to make improvements. This appears to be the intent of the Zoning Ordinance [see Town Code § 17.016.010(2) and 17.016.040(c)(2)(b)].

Use Permit

Town Code § 17.084.050(A) requires that a Use Permit be granted by the Planning Commission prior to any improvement or modification of or on a building site failing to meet the minimum size requirements. Since this parcel is only 3,325 square feet in size, less than the required 5,500 square foot parcel size, the project requires the approval of a Use Permit.

The purpose of the Use Permit process is to allow the proper integration into a neighborhood of uses that may only be suitable in certain locations on a site or only if they are designed in a particular way. In considering an application for a Use Permit the Commission should take into consideration the impact of the proposed use on all the adjacent structures and uses and on the public health, safety and general welfare.

The proposed project will result in the property becoming more conforming with the existing regulations. Two of the existing sheds that are currently located on the north and south side property lines will be removed. The shed on the south side that fronts on Napa Avenue will be replaced with a small garbage can enclosure. The fence, for which a height variance has already been granted, will be replaced with a more decorative fence, the laundry room and rear deck/trellis are being replaced in their existing location and the small front porch is being proposed over the existing front deck structure. Therefore, none of the improvements will result in any further disruption of the site, and the removal of the 121 square foot garden shed will restore that portion of yard area and none of the improvements will increase or create any new non-conformity. Likewise, the removal of the two sheds will result in the lot coverage of the site being decreased from 37% which exceeds the permitted 35% lot coverage limitation, to 34%, a conforming measurement (Town Code § 17.040.010).

OTHER AGENCY AND DEPARTMENT COMMENTS

Ross Valley Fire Department

1. 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.
2. An effective fire break must be maintained around the structures by removing and clearing all flammable vegetation and/or other combustible growth with the defensible space zone of 30 to 100 feet (Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management Plan).
3. Carbon monoxide alarms shall be provided.
4. 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.

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

1. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.
2. If the project is approved the applicant shall contact the District to arrange for a District Inspector to approve the existing installation or to approve plans for the proposed installation.

Fairfax Police, Public Works and Building Departments

The Fairfax Police Department and the Building Department had no comments on the project.

RECOMMENDATION

Move to adopt Resolution No. 15-23 approving application # 15-20 and setting forth findings and conditions of approval.

ATTACHMENTS

Attachment A – Resolution No. 15-23

RESOLUTION 15-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 15-20 FOR A USE PERMIT TO ALLOW MISCELLANEOUS REPAIRS AND IMPROVEMENTS TO THE PROPERTY AT 22 PACHECO AVENUE

WHEREAS, on July 16, 2015 Martha Noble and Daniel Baker submitted an application for a Use Permit to remove 2 accessory storage structures, replace the 6 foot portion of the fence along Napa Avenue, replace the laundry room and add an 18 square foot, front, entry porch at 22 Pacheco Avenue; and

WHEREAS, on July 16th, 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 improvements will not increase any existing or create any new non-conforming features on the site and will decrease the lot coverage amount to a conforming 34% the Commission finds as follows:

1. The proposed project will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. Other similar Use Permits have been granted throughout the Town.
2. The approval of the Use Permit 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, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. The Use Permit for miscellaneous repairs, the removal of 2 accessory structures and addition of a small front porch cover 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 living space.
4. The use permit is not contrary to the objectives, goals and standards set forth in the Town Zoning Ordinance and the findings required by Town Code §17.032.040 for a conditional use permit.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. This approval is limited to the plans by Morgan Hall dated 6/4/15, pages A1 through A6.
2. Prior to issuance of a building permit the applicant or his assigns shall:

2. Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Provide the Town with an Elevation Certificate for the property as required the Federal Emergency Management Agency and Town Code § 17.068.120.
 - b. 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. 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.
 - b. 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 Planning Department shall field check the completed project to verify that the project has been constructed in compliance with the plans approved by the Planning Commission with the approval of Use Permit application # 15-20.
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. **Any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Use Permit 15-20. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-20 will result in the job being immediately stopped and red tagged.

8. Any damages to Napa or Pacheco Avenues resulting from construction activities shall be the responsibility of the property owner. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.
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, 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. ***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. ***A Vegetative Management Plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan. Please submit directly to the Fire***

Department for review.

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.

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 not already installed the side sewer shall be equipped with an appropriate backwater prevention device. Either the existing or the new side sewer shall be inspected and be approved by a District inspector prior to the building permit final inspection.

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 HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does approve the Conditional Use Permit Application No. 15-20 and allows the miscellaneous repairs and addition depicted in the plans by Morgan Hall, Architect, dated 6/4/15, pages A1 through A5 at 22 Pacheco Avenue.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 16th day of July, 2015, by the following vote:

AYES:

NOES:

ABSENT:

Attest:

Chair, Philip Green

Jim Moore, Director of Planning and Building Services