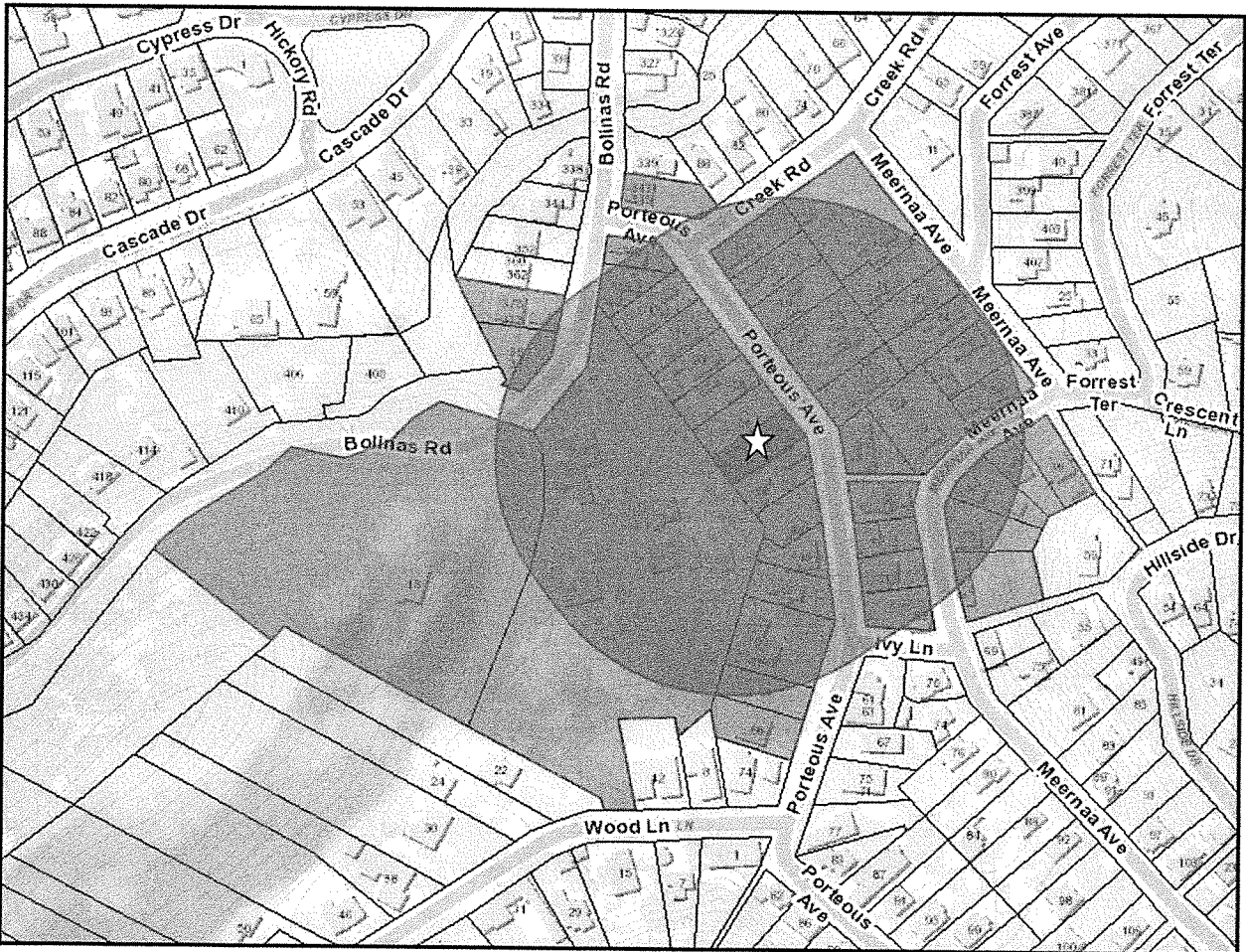


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: March 19, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 32 Porteous Avenue; Assessor's Parcel No. 002-041-04
ZONING: Residential RD 5.5-7 Zone
PROJECT: Addition, sauna and hot tub
ACTION: Use Permit; application # 15-06
APPLICANT: Ann Bool, Designer
OWNER: Mariana Caplan
CEQA STATUS: Categorically exempt, § 15301(e)(1)



32 PORTEOUS AVENUE

BACKGROUND

The 6,250 square foot site is level and was created by the adoption of Map No. 1 of Deer Park Subdivision by the County of Marin on December 26, 1907. The 2 bedroom, 1 bath residence was constructed in 1974 and a living/family room was added in 1981 bringing the square footage to 1,383 square feet. The record is not clear on when a carport was built on the site but it was replaced with a 291 square foot garage in 2011.

DISCUSSION

The proposed project encompasses construction of a 338 square foot master bedroom, bathroom addition to the house increasing it to a 1,721 square foot, 3 bedroom, 2 bath residence. The project includes Installation of a sauna and hot tub in the northwest corner of the rear yard.

The project complies with the regulations set forth in the Residential RD 5.5-7 Zone District where the site 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 | 6 ft | 25 ft | 5 ft & 5 ft | 15 ft | .40 | .35 | 28.5ft, 2 stories |
| Existing | 22 ft | 28 ft | 50 ft | 5 ft & 4 ft (shed) | 9 ft | .23 | .29 | 16 feet, 1 story |
| Proposed | same | 6 ft | 28 ft | same | same | .28 | .35 | same |

The project requires the approval of a Conditional Use Permit. Town Code § 17.084.050(A) requires that a Use Permit be obtained prior to any modification, improvement or expansion on a property failing to meet the minimum 60 foot width requirement. The project site is only 50 feet wide and the project involves expansion of the home and installation of improvements in the rear yard. Therefore, the project requires the approval of a Use Permit.

No other discretionary permits are required. The addition, sauna and hot tub comply with the minimum and combined setback regulations and do not violate the 35 % Lot Coverage limitation. The project does not constitute a 50% remodel and the site provides the required 2 on-site parking spaces with one space in the garage and 1 next to the garage in the side yard setback. The guest parking space is provided along the property frontage. The project will not require the removal of any mature trees.

The purpose of the 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. In considering a

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

Homes in the neighborhood on parcels also 6,250 square feet in size range from a 1000 square foot, 2 bedroom 1 bath residence (24 Porteous) to a 2,543 square foot 2 bedroom, 2 ½ bath residence (64 Porteous). The proposed 1,721 square foot residence will fit in with the surrounding neighborhood and is not out of proportion with the 6,250 square foot site.

The Spa and sauna are located in the far northwest corner of the rear yard with a residence to the north (28 Porteous) and a residential garage structure on the old Deer Park Villa Restaurant site to the west. The neighboring residential structure at 28 Porteous is located in the center of its lot where noise from the operation of the sauna and hot tub should not disturb residents in the house. Nevertheless, staff has included a condition that any spa and sauna equipment must be inaudible from neighboring properties.

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 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 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

Move to approve application # 15-06 by adopting Resolution 15-09 which sets for the findings and conditions of approval.

ATTACHMENTS

Exhibit A – Resolution No. 15-09

RESOLUTION NO. 15-09

A Resolution of the Fairfax Planning Commission Approving the Use Permit for a Master Bedroom Addition to the Existing Single Family Residence and a Sauna and Hot Tub installation at 32 Porteous Avenue

WHEREAS, the Town of Fairfax has received an application for a Use to construct an 338 square foot master bedroom and bath addition and to install a sauna and hot tub at 32 Porteous Avenue; 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

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

WHEREAS, the Commission has made the following findings:

1. The master bedroom and bath, sauna and hot tub additions 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 project includes a first story addition which will not extend closer to any neighboring structures than the existing house. The addition, sauna and hot tub will maintain the required setbacks and the sauna and hot tub all equipment will be enclosed/muffled so as not to be audible from neighboring properties. 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 not result in a residence that is out of scale with the project site or significantly dis-similar to other homes in the neighborhood. Therefore, the project 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 property 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.

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 Ann Bool, Designer, pages A1, A1.1, A.2 and A.4 and dated 1/27/15.
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.
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. 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.
6. 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.
7. 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."
8. 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 # 15-06. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-06 will result in the job being immediately stopped and red tagged.

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.
10. Any spa and sauna equipment must be inaudible from neighboring properties. If it is not possible to make them inaudible, every effort shall be made to render the equipment as quiet as possible. The Building Official shall determine if adequate effort has been made to minimize noise impacts.

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 be 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 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