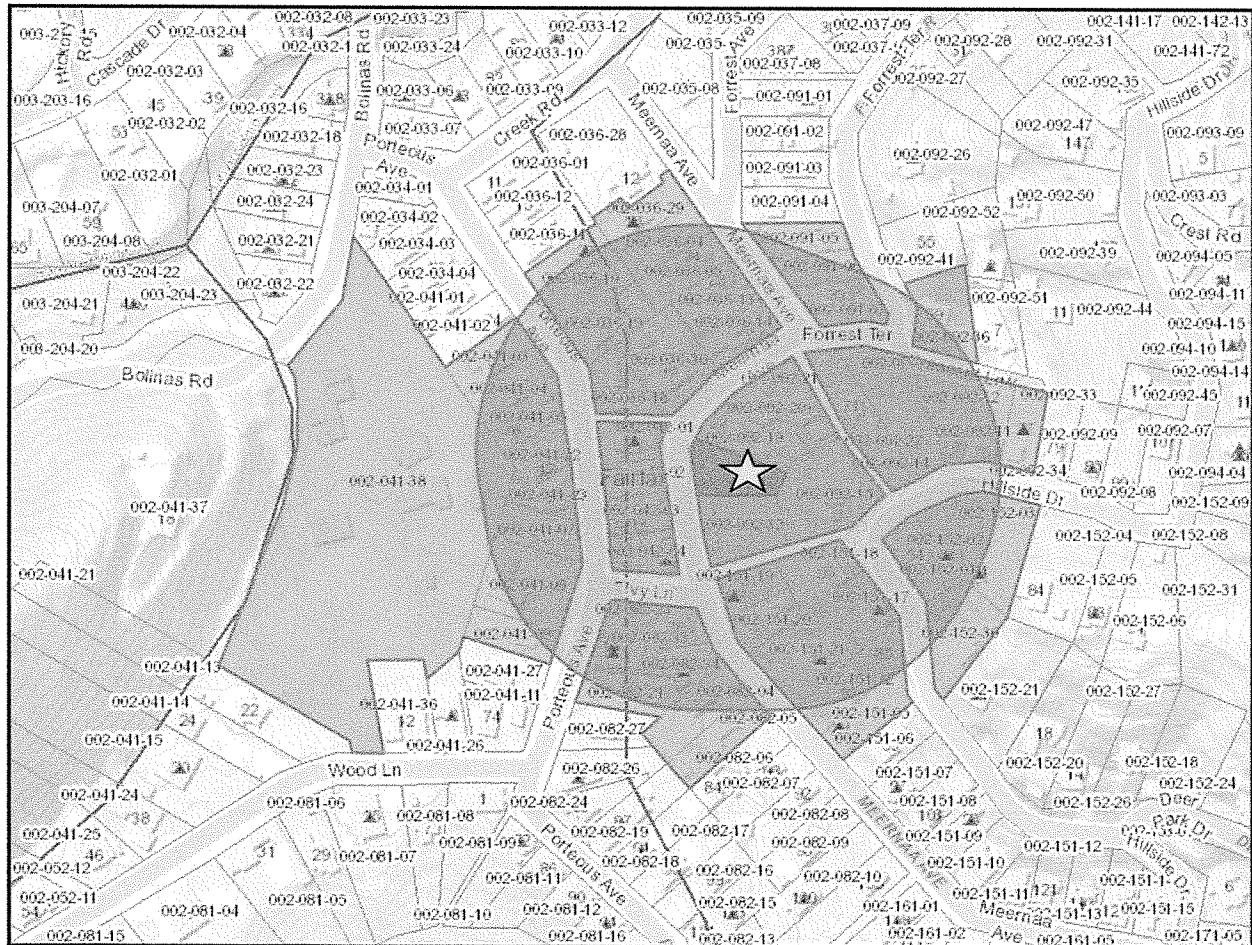


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 21, 2016
FROM: Jim Moore, Director of Planning and Building Services
Michelle Levenson, Zoning Technician
LOCATION: 55 Meernaa Avenue; Assessor's Parcel No. 002-092-18
PROJECT: Closet Addition and Retaining Wall
ACTION: Use Permit; Application # 16-09
APPLICANT: Melann Mushet
OWNER: Same
CEQA STATUS: Categorically Exempt, § 15303(e) and 15305(a)



55 Meernaa Avenue

BACKGROUND

The trapezoidal-shaped, 7,483-square-foot site is located at 55 Meernaa Avenue and slopes up from Meernaa Avenue at an average rate of 32-percent. The site is developed with a 940-square-foot, single-family residence that was constructed in 1953; the residence contains 2 bedrooms and 1 bathroom.

DISCUSSION

The larger of the residence's two bedrooms contains a small closet with a depth that is 24 inches, resulting in limited storage capacity and functionality. The owner proposes to relocate and expand the closet to the southern-side of the residence by 63 square feet (the closet dimensions would be 9 feet long and 7 feet wide).

The closet addition would reach a maximum height of 9 feet, and would be below the maximum height of the residence (20 feet). Because the site slopes upward from Meernaa Avenue and the average slope of the site exceeds 10-percent, Town Code §17.084.060(A)(2) restricts the maximum height of the addition to 28.5 feet in the corresponding residential zone (RD 5.5-7). The closet addition would be well below the maximum height requirement.

In order to retain the soils in the area of the addition, an 11-foot-long retaining wall is proposed that would vary in height, reaching a maximum height of 4 feet. The wall would be constructed of concrete and would require the excavation and disposal of 3.2 cubic yards of earth material. The retaining wall would be 4 feet or less in height and is subject to the same regulations as a fence and can therefore be located within the required setbacks).

The residence, closet addition and retaining wall comply with the regulations of the Residential RD 5.5-7 Zone District 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	35 ft	5 ft & 5 ft	20 ft	.40	.35	28.5 feet, 3 stories (slope exceeding 10-percent and sloping upward)
Existing	23 ft	44 ft	67 ft	14.5 ft & 17 ft	31.5 ft	.12	.24	20 feet, 2 stories
Proposed	same	same	same	5.5 ft & 17 ft	22.5 ft	.16	.25	same

Use Permit

Town Code 17.084.050 requires that a Use Permit be obtained from the Planning Commission prior to any use, occupancy or physical improvements of or on any site failing to meet the minimum size and width requirements based on average slope. The site has an average slope of 32-percent therefore the site would need to be 24,000 square feet in area and 246-feet wide to comply with the Code. The site is 7,483 square feet and has a minimum width of 30 feet (rear of the property) therefore the closet addition requires the approval of a Conditional Use Permit.

Town Code § 17.032.010(A) states that, "The purpose of the conditional use permit 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 an application for a conditional use permit, Town Code § 17.032.010(B) requires the Planning Commission to assess the impacts of the proposal on all adjacent uses and structures, to the site itself, as well as the potential project impacts on public health, safety and general welfare.

Neighboring structures include a legal, non-conforming duplex (65-67 Meernaa Avenue) located directly south of the site, approximately 22 feet from the subject residence. To the north, there is a legal, non-conforming, single-family residence (51 Meernaa Avenue) located approximately 26 feet from the subject residence. The closet addition would extend 9 feet from the southern wall of the existing residence, and would be approximately 13 feet from the adjacent duplex at 65-67 Meernaa Avenue. The area where the closet is proposed is currently behind a fence and is not viewable from the public roadway (Meernaa Avenue); the owner proposes to remove the fence with the

project.

Construction of the closet addition would not result in a significant visual impact as the height of the addition would be 9 feet, well below the height of the existing residence (20 feet) and would be partially obscured from the roadway and the adjacent duplex at 65-67 Meernaa by existing vegetation and trees. In addition, the height and bulk of the proposed addition and existing residence are in keeping with the other residences in the general vicinity.

Other Agency/Department Comments/Conditions

Ross Valley Fire District –

1. The site shall comply with the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan by maintaining an effective firebreak/defensible space zone of 30 to 100 feet around the site structures.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors 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. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alteration, repairs or additions that exceed \$1,000. Carbon monoxide alarms shall be located outside each dwelling unit sleeping area, in the immediate vicinity of bedroom(s) and on every level of a dwelling unit including basements.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated, placed next to a light or be reflective numbers.
5. Alternate materials or methods in accordance with Section 103.3 of the Fire Code may be proposed; all approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

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, it shall be installed as a condition of water service.

The following agencies/departments did not provide comments or conditions for the project:

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

RECOMMENDATION

Move to adopt Resolution #16-09 approving Application # 16-09 and setting forth the findings and conditions of approval for the project.

ATTACHMENTS

Attachment A-Resolution No. 16-06

RESOLUTION NO. 16-06

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Expand an Existing 950-Square-Foot Residence by 63 Square Feet at 55 Meernaa Avenue

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit to expand an existing 950-square-foot, 2-bedroom, 1-bathroom residence by 63 square feet to accommodate a closet and install a retaining wall at 55 Meernaa Avenue; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 21, 2016, 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 Conditional Use Permit as long as certain conditions, as listed below, are met; and

WHEREAS, the Commission has made the following findings:

1. The proposed 63-square-foot closet addition is similar in size, mass and design on the site to other residential structures in the Fairfax Tract subdivision. 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 residence will continue to maintain the required minimum setbacks, and Floor Area Ratio and Lot Coverage limitation(s) with construction of the addition. The addition to the residence will reach a maximum of 9 feet in height, 19.5 feet less than the maximum permitted 28.5-foot height limit. Therefore, the development and use of the 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. Therefore, the project is in the public interest and will enhance the general health, safety and 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 BHW Engineers, LLC, stamped "received" on 3/24/16, Sheets S1 through S3.
2. Prior to the building permit final inspection the 63-square-foot closet addition shall be constructed as shown on the above referenced 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, the developer and all employees, including contractors and subcontractors 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 # 16-09. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 16-09 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

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2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors 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.
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5. Alternate materials or methods in accordance with Section 103.3 of the Fire Code may be proposed; all approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

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, it shall be installed as a condition of water service.

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. ‘
3. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.
4. A construction management plan shall be submitted to the Building Official with the building permit application and shall become a condition of building permit issuance.
5. All exterior lighting, including landscape lighting, shall be LED and shall direct light downward.

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 21st, day of April, 2016, by the following vote:

AYES:

NOES: None

ABSTAIN: None

Acting Chair,

Attest:

Jim Moore, Director of Planning and Building Services