

April 10, 2004

To: City of Fairfax Design Review

From: Residents of Frustuck Avenue

Planning Commission for 4/15/04 mtg item

R. EL 190 Frustuck

APR 13 2004

TOWN OF FAIRFAX

Dear Council Members,

We the residents of Frustuck Avenue are concerned about the 2953 s.f. home building permit for 190 Frustuck Avenue. Most specifically, the lot is substantially smaller than the surrounding lots and the proposed house has more square footage than other homes in the neighborhood. Therefore, it is out of character with the rest of the neighborhood homes.

(attachment#1)

Other concerns and observations we share:

- Current positioning of house and garage would render it necessary to clear-cut the upper portion of the lot removing fifteen mature oak trees (those over 24" and up to 51" in circumference) and five additional Oaks between 23" and 6" as well as six bay trees. (attachment #2)
- Clear-cutting would displace screech owls and an abundance of wild life that currently inhabit the lot.
- The parking structure would be positioned on an already problematic and dangerous, blind curve.
- Clear-cutting and proposed structure would devastate the views and privacy for residents with homes beside, above and below the development.
- It is unlikely that trees with large canopies, as shown in the rendering, will grow to look as pictured for at least another 25-30 years. That is if there is indeed adequate space for planting new saplings. (attachment #3)

Construction mobilization and construction staging would be difficult due to narrow blind curve at top of road,

- Since road was recently repaved there is a 5 year moratorium to keep it intact and newly repaired.
- There is concern that the soft asphalt shoulder on the upper road is a safety issue for large vehicles and easily susceptible to construction damage.
- There is a survey dispute on property line locations.

We Frustuck Avenue residents see this current proposal as unacceptable since it unnecessarily takes the forest off the top of the lot and is proportionally too large for the size of the lot.

Overall, this project is too big, too impacting and too devastating.

Signed,

Neighbors Supporting Neighbors

<u>Name</u>	<u>Address</u>	<u>Phone</u>
Bruce Bunnell	170 Frustuck Ave	453-7904
Bill Miler	1898 Frustock	497-1276
Sant and Miles	189 Frustuck	305-4719
Jean Greville	155 Frustuck	454-6822
Mike Giff	155 Frustuck	—
Bob Norwood	10 Walsh Lane	453-5393
Kathy Norwood	10 Walsh Lane	453-5393
Barbara Casady	24 Walsh Lane	454-0251
Robert Ross	24 Walsh Lane	454-0251
Michele DiGregorio	170 Frustuck Ave	453-7904

1110000 - 4120144

100 0 - 1

Al Cuth 195 Frustuck 4545632

Angela de Celle 211 Frustuck 456-9746

Martin Koepfel 215 Frustuck Av 459-4991

Robert A. New 220 Frustuck Av 485-4489

Jan Bunnell 170 Frustuck 453-7904

Jean Mariech 195 Frustuck Av 459-2821

Philip Weber 175 Frustuck Av 457-6158

Gleanda Vandoy 275 Frustuck 459-0890

Name

Address

Phone

PETER AMMERALL  
GEORGE FISHER

222 FRUSTUCK  
72B Frustuck

457-7051

149 Frustuck ← 161?

165 - Frustuck

171 - Frustuck.

ATTACHMENT #1

LOT SIZE AND SQUARE FOOTAGE OF EXISTING FRUSTUCK AVE HOMES

175 Frustuck Ave

House and Carport = 2,400 s.f.

Lot size = 13,000 s.f

House to lot proportion = 1 to 5.5

275 Frustuck Ave

House and Garage = 1,000 s.f.

Lot size = 7152 s.f.

House to lot proportion = 1 to 7

155 Frustuck Ave

House = 1,500 s.f.

Lot size = 5,000 s.f.

170 Frustuck Ave

House and garage = 1,564 s.f.

Lot size = 10,000 s.f.

House to lot proportion = 1 to 6.4

190 Frustuck Ave - Proposed house

House and garage = 3382 s.f.

Lot size = 10,000 s.f

House to lot proportion = 1 to 3

ATTACHMENT #2

In order to build the proposed 430 s.f. garage on upper lot at 190 Frustuck Ave, these trees will have to be removed.

- Five large oaks; two of them double trunked, so they appear to be two trees together.
- Six bay trees, one of them large.

TREE SIZES:

At south "story pole" for garage:

#1 Oak, 43 ½" circumference, 3' from the ground at center "story pole"

#2 Oak, 51" circumference at 3" from the ground with a double trunk measuring 48" at 3".

At north "story pole":

#3 Oak, 25" circumference at 3' high & 3 smaller bays in a cluster.

At the driveway:

2 small bays together  
1 large bay

#4 Oak, Double trunked; first trunk is 50 ½" with large overhead branching and canopy; second trunk is 47" circumference at 3" high.

#5 Oak nearest the top of street is 48 ½" circumference at 3' high.

\*\*\*\*If the parking was moved to lower lot on Frustuck only 2 small bays would be eliminated.

## Cronyism alleged in planning commission

*Town council responds to flap over handshake*

OLGA AZAR  
EDITOR

It might be a study in anthropology, but then again it just might be Fairfax. Two alleged handshakes at a Fairfax Planning Commission meeting are in question, and have pitched the concerned parties into opposing camps.

Two commissioners are alleging improper interactions and the appearance of cronyism — but in the interest of civility, are also refusing to name names.

There are seven commissioners. Two of them — Bill Madsen and Laurie Hailer — made their allegations at the last Fairfax Town Council meeting. That leaves Paul Herbert, Steve Shaiken, Brian Craine, Pamela Meigs and Chair Nick Arguimbau as possible culprits.

At the June 8 Town Council hearing about a property at 190 Frustuck Ave., the two commissioners spoke about perceived improprieties regarding

the manner in which the Planning Commission handled the case during an April hearing.

The case, heard on appeal at the council meeting, was set forth twice before the commission. At its last hearing in May, the application, involving a 2,500-square-foot home, was denied by a 3-3 vote, with one commissioner absent. Shaiken, Meigs and Arguimbau denied the application because they believed the house was too big and not in character with the neighborhood, and also objected to elements such as the placement of the garage. The applicants sought to overturn the commission's decision at last week's council meeting.

Although Mayor Frank Egger stressed that the council hearing was de novo, or viewed from start to finish as a fresh case without great regard to previous hearings, the planning commissioners expressed their views.

Madsen spoke about two commissioners shaking Niccolo Caldararo's hand after the rejection of the home's application. Caldararo served on the Fairfax Town Council

See CRONY, page 9

## Crony

Continued from page 1

until last November, when he did not seek re-election and later ran without success against Hal Brown for the Board of Supervisors. He was also portrayed as one of the leading opponents of the Frustuck residence.

Initially, Madsen distributed an internal memo to his fellow commissioners, criticizing the appearance of impropriety in the hand-shaking event. Subsequently, he says he was accused of violating the Brown Act (which dictates public communication among public officials) and read his memo at the council meeting to ensure that it was entered into the public record.

Madsen said that at the May Planning Commission meeting, one of the commissioners attempted to insert a recess into the minutes of the April meeting. "There is an appearance of grave impropriety," Madsen said. "It reflects badly on the commission and the town."

Hailer, who was not present at the April meeting, was direct and passionate in her statement to the council. "Cronyism is an ugly word, and I don't like to use it," she said of her experience at the May meeting.

Hailer said she spoke out because she wanted to "save the town from another lawsuit it can't win." Hailer believes that the only reason the project was denied was because a politically influential person

was against a new residence.

"I only came to the council meeting to speak to the matter," she said. "I could not be silenced about what I saw at the Planning Commission meeting, and normally I would never go."

"I wasn't there," said council member Lew Tremaine of the meeting. "It's a little hard to know what to do when the supposed culprits are not identified."

"It seems very political ... It was a de novo hearing. The Planning Commission was background information," said Tremaine.

"It's a little hard to know what to do when the suspected culprits are not identified," he said. "There is a growing divisiveness in that commission and I'm concerned about that."

In the draft minutes of the Planning Commission's May meeting, two commissioners disputed the minutes, but deferred to staff to review the tape recording of the meeting.

The staff found, in the draft minutes, that the "chair did not call a recess at any time during the length of the meeting."

Nick Arguimbau, chair of the commission, said, "If somebody is alleging cronyism they have got to point the finger. I can't comment on something that is that vague." Arguimbau said that the minutes are still unofficial and need approval from the commission.

"So what?" if a recess was called or not, remarked Tremaine. "Who gives a damn? It's petty and unimportant. The

Planning Commission needs to start acting like adults, not getting into little squabbles about such trivial things. They have many more weighty matters to deal with and all this is just political jabber and it is a waste of time ... I don't want to hear about their arguing over a recess or who shook hands. Give me a break."

Arguimbau said that pending the next meeting of the Planning Commission on June 17, the record of previous meetings is still under the purview of the commission.

Nevertheless, the minutes of the May meeting of the Planning Commission clearly state that "Commissioner Shaiken changed the minutes ... that a recess was called by the chair after the vote on 190 Frustuck."

"[A commissioner] tried to insert a recess," said Madsen at the council meeting. "It has the appearance of grave impropriety."

"Right now, there is somebody who recalls a recess being called and somebody who doesn't recall one being taken," said Arguimbau. "Who in reality cares? Nobody I know."

After hearing the allegations, Town Council member Mike Ghiringhelli called for an investigation.

"The stories I heard tonight did not sound good to me," he said. "There needs to be an investigation."

Welcome to small-town America," said Arguimbau. "I love Fairfax."



photo by Privette

This area along Frustuck Ave. is the site for a 2,000-square-foot home. The owners appealed the Planning Commission's denial of the project, and won approval from the Town Council.

## Plans for home move forward

OLGA AZAR  
EDITOR

Plans to build a controversial house have finally been approved by the Fairfax Town Council.

After months of appeals, the undeveloped property at 190 Frustuck will become a construction site for a 2,000-square-foot home, despite the application being denied by the Planning Department and neighbors' protests.

The council was impressed by the owner's willingness to compromise with a next-door neighbor, having significantly altered the plans at the request of neighbors and the council, which first heard the case in June.

"We did as the council requested," said owner John Owens, adding that this was the fourth time he and co-owner Diana Dullaghan submitted plans.

The revised plans moved a stairway, reduced the size of the carport and storage space,

saved two trees and agreed to plant six more. The size of a deck was also reduced so that it would be 15 feet instead of 5 feet away from the property line.

"They have pretty much reached an agreement, as far as the owner of 175 Frustuck is concerned," said Art Chartok, a lawyer representing the owner of a neighboring home.

Other neighbors, however, were not content.

"The size is out of proportion to the neighborhood," said Nicolo Caldoraro, who lives at 165 Frustuck.

Steve Kesten, lawyer for Owens, countered that no plans would ever satisfy some of the neighbors.

"They have made it clear that they want to keep the property as their own private forest," he claimed. "They are using this forum to derail the project. The plans have been with the town for six months. It's just a simple house. My only fear is that the house will look like it was designed by a

committee, not an architect."

Bill Miles, who lives at 189 Frustuck, said, "I've been to all the meetings and John Owens is not the friendly guy he says he is."

"At our last meeting, there was a lot of public input and we gave pretty specific direction to the appellant," said council member Mike Ghiringhelli. "I was amazed that the neighbor most affected by this hired (attorney) Art Chartok. They seem to have come up with a resolution on their own. That's always a nice thing for the council to hear."

Council member Lew Tremaine said the project seemed to be "on the right track," but he added provisions that protected trees during construction and removed the roof from the carport to dispel fears that it might be used as a second unit.

The council voted 4-0 (council member Lawrence Bragman recused himself) to grant the appeal.



**PLANNING APPLICATION FORM**  
Town of Fairfax Planning Department

<p>For <b>PLANNING COMMISSION</b> action:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Annexation</li> <li><input type="checkbox"/> General Plan Amendment from _____ to _____</li> <li><input type="checkbox"/> Design Review (hillside*, commercial*, multi-family*, 5'-8' residential setback additions to existing dwellings)</li> <li><input type="checkbox"/> Precise Development Plan**</li> <li><input type="checkbox"/> Second Unit Use Permit *</li> <li><input type="checkbox"/> Sign Review *</li> <li><input type="checkbox"/> Parcel Map/ Tentative Map/ Vesting</li> <li><input type="checkbox"/> Tentative Map, Lot Line Relocation</li> <li><input type="checkbox"/> Use Permit *</li> <li><input type="checkbox"/> Variance</li> <li><input type="checkbox"/> Zone Change from _____ to _____</li> <li><input type="checkbox"/> Encroachment</li> <li><input type="checkbox"/> Certificate of Compliance</li> <li><input type="checkbox"/> Hill Area Residential Development</li> <li><input type="checkbox"/> Other: _____</li> </ul> <hr/> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental Review*</li> </ul>	<p>For <b>ADMINISTRATIVE</b> action:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Admin. Sign Review (commercial)*</li> <li><input type="checkbox"/> Admin. Design review (hillside)*</li> </ul> <hr/> <ul style="list-style-type: none"> <li><input type="checkbox"/> Admin. Lot Line relocation</li> <li><input type="checkbox"/> Other</li> </ul> <hr/> <p>For Office Use Only</p> <p>Application # _____</p> <p>Receipt # _____</p>
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\* Please complete the appropriate Supplemental Questionnaire.

\*\* See special submittal requirements.

~~~~~ Please see fee schedule for required application fees. ~~~~~

|                                              |                                            |                      |
|----------------------------------------------|--------------------------------------------|----------------------|
| Job Site Address:<br><b>177 Frustuck Ave</b> | Assessor Parcel No.:<br><b>003-193-02.</b> | Zone:<br><b>RS6.</b> |
|----------------------------------------------|--------------------------------------------|----------------------|

|                                                                        |                                                                  |                                |
|------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------|
| Property Owner(s) Name:<br><b>John Owens</b><br><b>Diana Dullaghan</b> | Phone Numbers:<br>Home: <b>456 8064</b><br>Work: <b>717 7621</b> | Fax Number:<br><b>456 9017</b> |
| Mailing Address:<br><b>177 Frustuck</b>                                | City:<br><b>Fairfax</b>                                          | State/Zip:<br><b>94930.</b>    |
| Applicant(s) Name (contact person): <b>John Owens</b>                  | Phone Numbers:<br>Home: <b>456 8064</b><br>Work: <b>717 7621</b> | Fax Number:<br><b>456 9017</b> |
| Mailing Address:<br><b>//</b>                                          | City:<br><b>"</b>                                                | State/Zip:<br><b>"</b>         |

PROJECT DESCRIPTION: Addition of a 2 car garage on the existing car deck. Develop 2nd unit in the existing space under the house. Add fifth parking place by extending the existing steel and concrete deck to the property line.

GENERAL INFORMATION (if applicable):

| Item                                                   | Existing        | Proposed            |
|--------------------------------------------------------|-----------------|---------------------|
| Lot size                                               | 9009            | 9009.               |
| Size of structure(s) or commercial space (square feet) | 2093            | 2637.               |
| Height and No. of stories                              | 35ft. 2 stories | 35ft 3 stories.     |
| Lot coverage                                           | 1800 sq ft      | 1800 sq ft.         |
| No. of dwellings units                                 | one             | two                 |
| Parking <sup>1</sup> No. of spaces                     | Four            | Five                |
| Size of spaces                                         | 9' x 19' x 4'   | 4x 9'x19' 1x 8'x16' |

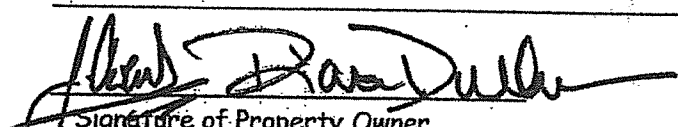
|                                        |                            |           |
|----------------------------------------|----------------------------|-----------|
| Amount of proposed excavation and fill | Excavation = 6 cubic yards | Fill = 0. |
|----------------------------------------|----------------------------|-----------|

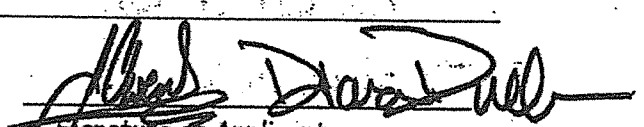
Estimated cost of construction \$ 100,000.

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade, including all projections from the face of the building.

<sup>1</sup>Minimum parking dimensions are 9' wide by 19' long by 7' high. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? No.

  
Signature of Property Owner  
2.19.08.

  
Signature of Applicant  
2.19.08.

Date

Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584

## FLOOR AREA RATIO (FAR) AND LOT COVERAGE STATISTICS

The following information will be used to verify application FAR and lot coverage amounts. Applications will not be considered complete until the following table is complete.

|                                                | Existing | Proposed           |
|------------------------------------------------|----------|--------------------|
| Footprint square footage for all structures    | 1400     | 1400               |
| Living space square footage                    | 2093     | 2637               |
| First floor                                    | 1069     | 1069               |
| Second floor                                   | 1024     | 1024               |
| Third floor                                    | 0        | 554                |
| Total                                          | 2093     | 2637               |
| Accessory structure square footages            |          |                    |
| Sheds                                          |          |                    |
| Pool houses                                    |          |                    |
| Studios/offices                                |          |                    |
| Second units                                   |          |                    |
| Miscellaneous <del>storage</del> (specify use) | 400      | <del>400</del> 400 |
| Total                                          |          |                    |
| Square footage of impervious surfaces          |          |                    |
| Walkways                                       |          |                    |
| Patios                                         |          |                    |
| Impervious decks                               |          |                    |
| Miscellaneous (specify use)                    |          |                    |
| Total                                          |          |                    |
| Garage/carport square footages (specify type)  | 0        | 400                |

\* All square footage measurements must be the sum of all interior floor area measured from the exterior faces of the exterior walls for structures (Town Code § 17.008.020).

**FLOOR AREA:** Fairfax Town Code § 17.008.020, Definitions, defines "floor area" as the sum of all interior floor area measured from the exterior faces of the exterior walls. The "floor area" of any accessory structures on the same lot shall be included. The "floor area" of any garage in excess of 500sf in size for single-family residences and 800sf in size for duplexes shall also be included.

**LOT COVERAGE:** Fairfax Town Code § 17.008.020, Definitions, defines "lot coverage" as the percentage of the lot area that is occupied by the ground area of a building, any accessory building(s), as well as any impervious surface areas such as patios (other than driveways) adjacent to the building or accessory structure.

## Submittal Requirements Checklist

- Title report for the project property

**For Administrative actions** (Sign permits that comply with the Sign Ordinance, lot line adjustment or certificates of compliance.)

- Two (2) sets of site plans and floor plans (elevation plans for new construction)
- Completed Application form(s)
- Fee (see "Fee Schedule")

**For Planning Commission actions**

- Fourteen (14) full size sets of site plans and floor plans (elevation plans for new construction)
- Completed Application forms(s)
- 14 sets of photographs of the project site
- Fee (see "Fee Schedule")
- Environmental Initial Study Questionnaire (if applicable)

**For Design Review actions**

- Eight full sized (8) sets of plans for design review action**

- **Note:** You must include a completed "Applicant Affidavit for Property Owners Mailing List" along with the required materials for Planning Commission or Design Review actions.

**\*\*\*ALL PROJECT PLAN MUST INCLUDE\*\*\***

**A Site Plan that is fully dimensioned and drawn to scale, collated and folded with other pages of the project, including the following:**

1. Property boundaries and easements.
2. Foundation and roof lines of all existing and proposed structures located on the property; differentiate between proposed and existing structures.
3. Foundation lines of all neighboring structures.
4. On-site drives, parking, loading spaces, landscaped areas, patios, etc.
5. Street right-of-way lines, curb line or pavement edge, sidewalks, and parkways.
6. The location and species of all trees on site, showing trunk circumferences (measured 2' above natural grade) and driplines.
7. Fences and walls, existing and proposed.
8. Yards and open space areas.
9. Storage areas and screening.
10. Topographic features: streams, drainage channels, ditches, rock outcroppings, etc. If the project is adjacent to a watercourse a cross section of the watercourse channel must also be provided.
11. Existing visible landmarks (utility poles, street lights, fire hydrants).
12. Accurate contour lines:
  - Slopes below 5% - contours not required
  - Slopes between 5% and 15% - contour interval must be two feet
  - Slopes exceeding 15% - contour interval must be five feet
13. Other information deemed necessary to evaluate this application.
14. Flood Zone and flood elevation certificate if property is located in an A' zone or B' zone.

## SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

### DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

1. Exterior finish: \_\_\_\_\_
2. Proposed exterior wall color(s): \_\_\_\_\_
3. Proposed exterior trim color: \_\_\_\_\_
4. Proposed exterior window color: \_\_\_\_\_
5. Proposed roof material and color: \_\_\_\_\_
6. Special features: \_\_\_\_\_
7. Lot Coverage: \_\_\_\_\_
8. Number of existing parking spaces and their sizes: \_\_\_\_\_
9. Number of proposed parking spaces and their sizes: \_\_\_\_\_

### DESIGN REVIEW APPLICABILITY

#### 1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

#### 2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

#### 3. 50% remodels of additions to residential properties

**Floor Plans**

1. Provide existing and proposed floor plan for all structures on the site.
2. Provide proposed floor plans separately from existing floor plan.
3. Other information deemed necessary to evaluate this application.

**Building Elevations must include:**

1. Existing and proposed ground line, wall height, floor height, and ridge height, roof pitch, as well as the appearance of the structure(s).
2. Cross section drawings of existing and proposed structures.
3. For Design Review:
  - Color rendering of proposed exterior addition (one copy).
  - Color board (8 1/2" x 11") to include exterior finish/color, window trim, roof material, siding materials, etc. (one copy).
  - Photographs of the existing property and abutting neighbors.
4. Other information deemed necessary to evaluate this application.

**Landscape Plans are required for all new residences, 50% remodels and all commercial projects and must include:**

1. The type, size, and spacing of plants, and maintenance provisions. (Maintenance information includes; type of irrigation system, location of clocks, sprinkler heads and areas to be drip irrigated.)
2. Retaining walls, lighting, slopes, if applicable.
3. Other information deemed necessary to evaluate this application.

Within 30 days of submittal, Town staff will review this application for completeness of required information and/or fees, and a notice of completeness or non-completeness will be mailed to the applicant. Applications cannot be processed until accepted as complete. Further revisions of completed material may be necessary after the 30 day period.

**All plans must be fully dimensioned and drawn to scale, collated, and folded.**

| <b>OTHER IMPORTANT DEPARTMENT/AGENCIES:</b>                                                                                                                                                               |                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| <b>Ross Valley Fire Service:</b> It is your responsibility to contact the Fire Marshal for Fire Department requirements (e.g., sprinklers, hydrants, turnouts).                                           | Contact Fire Marshal @<br>415/258-4686    |
| <b>Building Department:</b> If you are increasing the occupancy (number of people) and/or altering the structural character of a building, you may trigger seismic, Fire and other Building requirements. | Contact Building @<br>415/453-2263        |
| <b>Marin Municipal Water District:</b> Your project may generate the need for additional water.                                                                                                           | Contact MMWD @<br>415/924-4600 ext. 335   |
| <b>Ross Valley Sanitary District:</b> If you are adding on or building new; you may need to upgrade or install a lateral sewer line.                                                                      | Contact RVSD @<br>415/461-1122            |
| <b>Ross Valley School District:</b> If adding on or building a house, school fees will likely be charged. Contact school district for the dollar amount.                                                  | Contact School District @<br>415/454-2162 |

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

\_\_\_\_\_ foot front yard variance to construct a \_\_\_\_\_ within \_\_\_\_\_ feet of the front property line.

\_\_\_\_\_ foot rear yard variance to construct a \_\_\_\_\_ within \_\_\_\_\_ feet of the rear property line.

5 foot side yard variance to construct a parking space within \_\_\_\_\_ feet of the side property line.

\_\_\_\_\_ foot creek setback variance to construct a \_\_\_\_\_ within \_\_\_\_\_ feet of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.) \_\_\_\_\_

FINDINGS:

- List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

Currently under the second unit amnesty tandem parking is accepted. This parking spot is a better solution than tandem parking. Excavation at the bottom of the lot was not allowed by the town engineers as it ruin the rock outcroppings.

- List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

Parking space will have no effect on the health and safety of the neighborhood. It is not accessible to the public.

- Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

No parking means no second unit, and the town needs to provide 125 units for the state

→ very little impact as the house has to extend the side of the existing road for a fire engine turn out

### Hill Area Residential Development (HRD) - Additional information required.

- Amount of excavation and fill required for development (in cubic yds.) 6  
If the excavation and fill amounts exceed 100 cubic yards it must be reviewed and approved by the Planning Commission. Please submit an excavation application and fee as well.
- If any public roads will need to be extended to access the residence plans must include the existing and proposed type of surface, the length and width of roadway to be improved, slope of roadway, elevations of any retaining walls that will need to be constructed, locations of curbs, gutter and drainage improvements and identification of emergency vehicle turn arounds (if required).
- Locate all trees within the right-of-way easement and any trees that will need to be removed (must include size and species of trees). An application for a tree permit and approval by the tree committee is required for the cutting or trimming of trees with a trunk circumference of 24 inches or more.  
 Check if a tree permit is required.
- List any notable physical features of the site, such as creeks, drainage channels, rock outcroppings, tree stands, etc.:

Two rock outcroppings at bottom of lot

- Lot size 9009 square feet Lot frontage 85 feet. lower.
- Name and address of Licensed Surveyor: J.L. Engineering  
1539 Fourth St.  
San Rafael CA 94901.
- Name and address of Registered Civil Engineer: Michael Watkins.  
174 Pine St. San Anselmo CA 94960.

NOTE: In order to visualize the dimensions and location of the proposed structure, the Town review process requires story poles. Story poles must be erected prior to an application being filed with the Planning Department. Poles shall be erected at all proposed building corners (rising to the proposed height of the building at that corner), and at the highest point of the proposed roof-line. Also the front corners of undeveloped land must be staked and tagged in the field. You, the applicant, will have to maintain the poles and corner flags in good condition until all public hearings on the project are over and appeal periods have lapsed. Avoid unnecessary delays to your project by maintaining the poles through out the review process.



### Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
  
- Floor plans must include location of any special equipment.
  
- Designate customer, employee and living areas.
  
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

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**TOWN OF FAIRFAX**  
**PUBLIC NOTICE REQUIREMENTS**  
**FOR ALL LAND USE ENTITLEMENTS**

Public notice is sent to property owners, residents and businesses for all land use entitlements including the following:

Zoning Change Amendments, Design Review, Variance, Use Permit, and Hill Area Development Permits. The area to be noticed is any parcel within 300 feet of the boundary line of the property that is the subject of the application.

When filing your application include a Notification Map and a Mailing List and Mailing Labels and stamps for property owners and residents to be notified as described below.

The applicant is responsible for the accuracy of these materials.

Erroneous information may require re-mailing or re-scheduling of the public hearing. When you file your application please sign and submit the attached affidavit stating that the required map, mailing list and labels have been prepared following these instructions.

The applicant prepares and provides the following:

1. A neighborhood notification map, mailing list and mailing labels
2. Postage stamps for each label
3. Completes the affidavit certifying the accuracy of the mailing list
4. Posts the site with an 11 inch x 17 inch Notice Form provided by the Planning Department.

If the approval of an application is delayed by unresponsiveness of an applicant, the address list and labels may have to be redone to ensure their accuracy.

Once Planning staff determines that an application is complete, they send a notice of completeness and provide the poster for the applicant. The poster is to be filled out by the applicant to describe the project. The poster is to be waterproofed and posted in a clearly visible location along the street frontage of the property at least 10 days prior to the public hearing.

The Planning Department provides the notices, reviews the mailing information provided by the applicant, and mails the notice.

**Mailing List:**

List the Assessor's Block and Lot Numbers for all lots within the Notification Map with the Names and Mailing Addresses of all the property owners and the Mailing Address for all residents and businesses. Include yourself and anyone else you wish notified. Please count the addresses and provide a stamp for each label.

Submit self-adhering **Mailing Labels** with this information, one name and address per label. For property owners, use the names. For residents and businesses, you may use either their name or "Occupant". Property Owners are those in the latest Assessors Tax Roll, available at the Marin County Assessor's Office

Application No: \_\_\_\_\_

Project Location: \_\_\_\_\_

### Authorization for Engineering Review

I, JOHN OWENS, as owner / applicant on the above application and property hereby authorize the Town Engineer to review the application plans and subject site and agree to reimburse the Town for any and all charges. I understand this includes the actual cost charged by the Town Engineer, plus 20% to cover the cost of staff review, coordination and general overhead. I am making a deposit of \$ \_\_\_\_\_ toward such charges. Should the cost of the review exceed this deposit, an additional deposit to cover overages must be made before processing the application continues or prior to the issuance of respective permits and entitlements.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

---

Property Owner / Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: (H) \_\_\_\_\_ (W) \_\_\_\_\_

---

Deposit Amount: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

Date: \_\_\_\_\_

For Residents or Businesses you can get the number of dwellings or businesses on a lot from the property owner or building manager, or by counting the mail boxes, doorbells and any businesses. You may also use the reverse telephone directory at the library, use addresses shown on the mailbox, doorbell or reverse telephone directory, including any letter suffixes (134, 134A) or fractions (249, 249 1/2). If a doorbell or mailbox has a name but no separate street or apartment number, use that name for the mailing labels. There is usually a Resident anytime the Property Owner in the Townwide Tax Roll has a different mailing address.

In addition, a list of apartment/ multifamily renters is available on disk or in hard copy from the Planning Department. This list is an additional resource for creating the mailing list. Where the address of the owner differs from the location address of the property to be noticed, labels should be created for both owners and residents.

**Affidavit of Preparation of Notification Map,  
Mailing List and Mailing Labels for Public  
Notification for Land Use Public Hearing**

I, JOHN OWENS, do hereby declare as follows:  
(print name)

1. I have prepared the **Notification Map, Mailing List and Mailing Labels for Public Notification** for in accordance with Planning Department guidelines.
2. I understand that I am responsible for the accuracy of this information, and that erroneous information may require re-scheduling the public hearing.
3. I have prepared these materials in good faith and to the best of my ability.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED ON THIS DAY, \_\_\_\_\_, 200\_\_ in the Town of Fairfax,  
California.

\_\_\_\_\_  
Signature

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- 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.
- 
- 

- The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
- 
- 

- 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, development plan or other plan or policy, officially adopted by the town.
- 
-

- Show existing and proposed on-site and off-site drainage facilities and necessary improvements on the site plan.
- Provide a signed and sealed report by a registered civil engineer specializing in soils and foundations, containing the following information:
  - site soil drainage
  - relevant watershed boundaries (hydrologic units)
  - relationship of proposed construction to drainage patterns in the vicinity, and the cumulative effects of run-off, necessary drainage improvements, on and offsite foundation adequacy, site geology, and the safety of proposed construction
- Include an erosion control plan with the grading plan, including a re-vegetation program.
- Floor plans should include finished floor elevations for all living levels including attic, basement and loft areas. If the residence has multiple floor elevations (a split level residence), finished floor elevations should be included for all rooms.
- A summary table including the following square footages; footprint, total living space, subtotals for each floor, garage, decks and any accessory buildings.
- Profiles depicting the relationships between proposed structures on the project site and structures existing on neighboring properties (i.e. neighboring homes, parking structures).
- Elevations of all proposed retaining walls including a description of construction materials.
- Report from Ross Valley Fire Authority.  
Indicate in writing how the project has been designed to comply with the HRD OVERLAY ZONE DEVELOPMENT STANDARDS, Chapter 17.072 of the Fairfax Zoning Ordinance.

## Variance - Additional information required.

- Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

1. lower lot has two rock outcrops.  
Excavating in this area would be against the intentions of the HRD ordinance.
2. Currently tandem parking is being accepted for amnesty 2nd units.
3. No variance - no affordable second unit
4. The public has spoken consistently on the need for affordable housing.

#### 4. Commercial Design Review

The Design Review Board must approve any minor modifications to existing buildings, structures or improvements such as awning, canopies, window, doors, color changes, automated teller machines, or other modifications similar to the above for properties located in the Commercial Zones.

#### 5. Signs

Signs complying with the Sign Ordinance can be approved by staff. Other signs require the approval of the Fairfax Design Review Board.

#### Design Review Application - Additional information required.

- Only 8 complete sets of plans are required for design review applications. If your project requires design review you will need to prepare the additional information described below in addition to the information required in pages 3 and 4 of the planning application.
- Exterior elevations from all sides. If multiple buildings are proposed, composite elevations for the entire street frontage are required.
- Cross section through project, showing project and existing adjacent features.
- Lighting plan - detail of exterior fixtures, location and illumination (amount of light).
- Utility entrance location, trash storage location, mechanical equipment location.
- Detail of fascias, trim, railing, trellis.
- Specify irrigation systems to be used on the landscaping plan.
- 8 color elevations.
- 8 copies of the color samples.
- Projects in the Downtown Area are required to submit a drawing at 1" = 40'.

We would like you to put in your own words how the project meets the design review criteria set forth in section #17.020.040 of the Fairfax Zoning Ordinance. This will help you and the Planning Commission focus on the ordinance requirements.

**NOTE:** In order to visualize the dimensions and location of the proposed structure, the Town review process requires story poles. Story poles must be erected prior to an application being filed with the Planning Department. Poles shall be erected at all proposed building corners (rising to the proposed height of the building at that corner), and at the highest point of the proposed roof-line. Also the front corners of undeveloped land must be staked and tagged in the field. You, the applicant, will have to maintain the poles and corner flags in good condition until all public hearings on the project are over and appeal periods have lapsed. Avoid unnecessary delays to your project by maintaining the poles through out the review process.



**BALLARD & WATKINS**  
CONSTRUCTION SERVICES

February 18, 2008

John Owens  
177 Frustuck Avenue  
Fairfax, CA 94930

PROJECT: Proposed Garage and Parking Deck Extension for  
John Owens and Diana Dullaghan  
177 Frustuck Avenue Fairfax, CA 94930  
A.P. No. 003-193-02

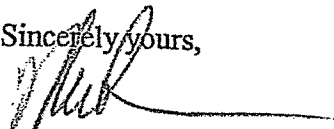
SUBJECT: Acceptability of the Existing Foundation and Parking Deck Framing  
To Support a New Garage on Existing Parking Deck

Dear Mr. Owens:

This letter is in response to an inquiry from you regarding the construction of a garage on the existing parking deck which was constructed on your property in the past three years. I have reviewed the project drawings and structural calculations which we prepared for the existing parking deck and have concluded that there is adequate margin of safety within the calculated load capacity to support the proposed parking garage on the existing deck.

Additionally, I examined the possibility of extending the existing parking deck by adding additional width to provide for more parking on the deck. In order to accomplish the addition of width to the parking deck, it will be necessary to provide additional piers and grade beams on the side where width is added. The existing grade beam can accept the loading, but further width would require foundation extensions beyond the existing foundation currently in place.

Sincerely yours,



Michael G. Watkins, P.E.  
Principal  
MGW/pc  
Cc: File



# ROSS VALLEY FIRE DEPARTMENT

777 SAN ANSELMO AVENUE  
SAN ANSELMO, CALIFORNIA 94960 • 415-258-4686 • FAX 415-258-4689



Date: March 10, 2008

Address: 177 Frustuck  
Applicant: For Fairfax Planning Department  
Application #: 08-0036

The following is a preliminary review to advise the Planning Department and the applicant of conditions required by the Ross Valley Fire Department for project approval. An additional review of the building will be made when the plans are submitted for building permit approval.

The proposed project was found to be within the Wildland Urban Interface area as designated by the Town of Fairfax.

All additions and alteration to the building or structure are required to meet Chapter 7A of the California Building Code and the 2006 International Wildland Interface Code as amended and adopted by the Town of Fairfax.

The plans as submitted were incomplete for the purpose of determining compliance with Chapter 7A of the California Building Code.

The existing fire hydrant at 177 Frustuck Avenue will need to be upgraded to a fire hydrant with 1 - 2.5" outlet and 1 - 4.5" outlet. The hydrant is required to be a Jones Model # 4040. A minimum of three feet of clearance is required around the hydrant.

The existing fire protection sprinkler system shall be extended into the proposed new living space as well as the garage. The system shall comply with the requirements of the National Fire Protection Association (NFPA) 13-D. 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.

If you have any questions about any of the items listed above please call me at (415) 258-4686.

Sincerely,

  
Roger Meagor  
Fire Chief

Claw Model  
950



# MARIN MUNICIPAL WATER DISTRICT

220 Nellen Avenue Corte Madera CA 94925-1169

March 4, 2008 [www.marinwater.org](http://www.marinwater.org)  
Service No. 62323  
Map No. K17-09

RECEIVED

MAR - 7 2008

TOWN OF FAIRFAX

Linda Neal  
Town of Fairfax Planning Dept  
142 Bolinas Rd  
Fairfax CA 94930

**RE: WATER AVAILABILITY – Second Unit - Detached**  
Assessor's Parcel No.: 003-193-02  
Location: 177 Frustuck Av., Fairfax

Dear Ms. Neal:

Water is currently being provided to the above referenced parcel by Service No. 62323. According to District records the purpose and intent of this service are to provide water to a single family dwelling. Water required for the 554 square foot second unit will be available upon request and fulfillment of the requirements listed below.

1. Complete a Standard Water Service Application.
2. Submit a copy of the building permit.
3. Pay appropriate fees and charges.
4. Comply with the District's rules and regulations in effect at the time service is requested, including the installation of a separate meter to serve the second unit.
5. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (currently from Ordinance #385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems. Any questions regarding the District's current water conservation and landscape Ordinance should be directed to Charlene Burgi at (415) 945-1525.
6. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

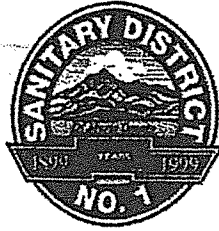
If you have any questions regarding this matter, please contact me at (415) 945-1531.

Very truly yours,

Joseph Eischens  
Engineering Technician

JE: F:\ENGINEER\WP\FORMLTRS\la-WaterAvail-2nd Unit.doc

1301 Andersen Drive  
San Rafael, California 94901  
Tel: 415-259-2949  
Fax: 415-460-2149



Vivian W. Housen  
*Interim District Manager*

Directors:

*Sue Brown  
Patty Burke  
Marcia Johnson  
Patrick A. Guasco  
Steven M. Vanni*

**ROSS VALLEY SANITARY DISTRICT**

March 3, 2008

Ms. Linda Neal  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

**RECEIVED**  
MAR - 5 2008  
TOWN OF FAIRFAX

**Re: Proposed Secondary Unit and Garage  
APN: 003-193-02  
177 Frustuck Avenue**

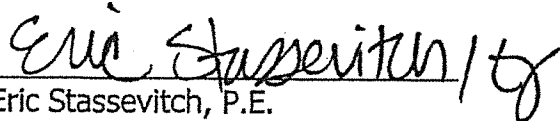
Dear Ms. Neal:

In response to your transmittal dated February 25, concerning the above-referenced project, Sanitary District No. 1 (District) has no objection in general, but has the following comments and requirements if the project is approved:

1. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device (e.g., Contra Costa valve, as warranted by the individual site conditions).
2. After the project is approved, the owner or contractor should contact the District to arrange for a District Inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device(s) and to make a record for the District's files.

Should you require additional information, please do not hesitate to contact this office.

Sincerely,

  
Eric Stassevitch, P.E.  
District Engineer

cc: Applicant (w/District Specifications)

*Serving: Bon Air • Fairfax • Greenbrae • Kentfield • Kent Woodlands • Larkspur • Murray Park • Oak Manor • Ross • San Anselmo • Sleepy Hollow*



# TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 / FAX (415) 453-1618

March 20, 2008

John Owens  
177 Frustuck Avenue  
Fairfax, CA. 94930

Dear Mr. Owens,

The Department of Planning and Building Services has completed its review of the above referenced application and it has been *deemed incomplete*. The following represents our findings and request for additional information:

## SITE PLAN

Provide the existing site plan separately from proposed site plan or more clearly delineate the existing parking deck and driveway footprint and the proposed parking deck and driveway footprint.

## FINISHED FLOOR ELEVATIONS

Provide finished floor elevations for the unit.

## SQUARE FOOTAGE

Revise the table on sheet A1.1 of the plans to reflect square footages that comply with the way the Town measures floor area for both the existing residence and the proposed unit. "Floor area" is defined as the sum of all interior floor area measured from the exterior faces of the exterior walls (i.e. sheet A1.1 indicates the unit is only 554sf when it actually is 640sf based on the Town Code § 17.008.020, Definitions).

## FLOOR PLANS

Provide floor plans for the existing residence and for the storage area underneath the proposed garage as required in the application (include any electrical or plumbing outlet locations in the storage area, if there are any).

## TREES

Identify the trees species, size and drip lines on the site plan as required in the planning application (i.e. the trees may be impacted by the construction/excavation necessary to create the access paths). If the pathways intersect with the drip lines of any of the trees, provide a report

from a board certified Master Arborist evaluating the health of the trees and making recommendations for mitigation measures to be taking during and after construction to ensure the trees continued health.

## **ELEVATIONS**

Provide elevations for the proposed stairs and landing off Lower Frustuck Avenue.

## **ENCROACHMENT PERMIT**

Although the encroachment box is checked on the application form it appears that the fee has not been paid. The following are the fees that have been received: \$250.00 for the Hill Area Residential Dwelling Engineering fee, \$1,100.00 for the Hill Area Residential Development permit fee itself, \$562.50 for the Side Yard Setback/Parking Variance fee (for the expanded parking deck to provide a compact parking space) and \$750.00 for the Design Review fee for a total of \$2,662.50. Please submit the required \$200.00 encroachment fee for the new expanded parking deck area and stairs and path (lower portion of site) that will be in the right-of-way.

## **HEIGHT VARIANCE**

The project also requires a height Variance because the construction of the garage over the parking deck/storage room will result in a two story accessory structure [Town Code § 17.080.060(B)]. Please complete the supplemental Variance Questionnaire providing findings for the Height Variance and submit it with the required \$925.00 Variance fee. The full fee is required because the Height Variance for the garage is not tied to the proposed residential second unit.

This letter shall also serve to notify you that story poles will be required for the garage structure because it requires a height variance. The story poles will need to be erected a minimum of 10 days prior to the public hearing where the project will be discussed.

## **PARKING VARIANCE**

The project requires a height variance since the garage/storage room will be 2 stories in height while the code only allows accessory structures to be one story.

## **ACCESS PATHWAYS**

Provide a cross section and show the elevations at 5ft intervals along the access paths to demonstrate to the Town Engineer that the pathways meet the uniform building code requirements for safe access. If the pathways need to be revised to include structures, elevations and cross sections of the structures must be provided and materials information must be provided for design review.

## DESIGN REVIEW

- Complete the enclosed design review supplemental questionnaire.
- Provide a lighting plan including any lighting proposed for the access paths.
- Provide a landscaping plan as required in the application.

## HILL AREA RESIDENTIAL DEVELOPMENT APPLICATION

The Hill Area Residential Development Permit requires the submittal of the following (see enclosed page 11 of the application):

1. An erosion control plan with the grading plan.
2. The relationship of the proposed access ways on the drainage patterns in the vicinity.
3. Provide 8 color elevations showing the residence, second unit and privacy screen and 8 sets of color samples, and required material boards (copies of the proposed color are no longer accepted and the samples must include the brand name of the paint and/or stain and the stain or color number).

## LOT SIZE

The original submittal for the residence indicated that the lot size was 8,943sf and the submitted for the second unit indicates that the size is 9,009sf based on a CAD drawing. Have the surveyor verify the lot size, provide a letter to the Town and amend the plans if necessary.

## SURVEY

Provide 14 copies of the record of survey including topography [Town Code §17.048.040(D) of the Second Unit Ordinance].

## NOTICING LIST

On September 6, 2007, the Fairfax Town Council adopted Ordinance 716 requiring that both property owners and renters within 300ft of a project site receive notices of the public hearing. Please provide "current resident" labels and self adhesive stamps for the addresses in the enclosed Owner/non-owner mailing list that have tenants living in a residence with the homeowner living off-site (example 1 Cascade Drive has a tenant and the owner, Charles Peri Trust has a mailing address at 29 Broadway).

Once the above information required in the application and Town Ordinances is submitted the project will be sent to the Town Engineer for his review and will again be reviewed by the staff for completeness. If you have any questions, please do not hesitate to contact the Department of Planning and Building Services.

Sincerely,



Linda Neal  
Senior Planner

Enclosures: Supplemental Design Review Questionnaire  
Supplemental Variance questionnaire for the Height Variance  
HRD Attachment, page 2  
Copy of original receipt with an indication of what fees were paid  
List of properties within 300ft of the project site that have tenants  
Comments from the Ross Valley Fire Department, Sanitary District and Marin  
Municipal Water District



**DETACHED.** A detached unit does not sharing a common building wall.

**EXISTING LEGAL NON-CONFORMING SECOND UNIT.** An existing second unit that was constructed in accordance with the town ordinances in effect at the time of construction. Evidence substantiating the date of construction of the specific improvements which constitute the second unit must be provided. An example of the evidence would include County Assessor's or town records which specifically refer to the construction of the subject improvements and/or document approval by the town of the subject use.

**KITCHEN.** Any portion of a structure with any combination of the following: sink, other than that within a bathroom, food storage and preparation area(s), refrigerator, stove, microwave oven, convection oven, cooking burners or similar appliances which may reasonably be used for the preparation of food.

**NEW SECOND UNIT.** A second unit constructed subsequent to adoption of, and in conformance with, this title.

**OTHER EXISTING SECOND UNIT.** An existing second unit that was not constructed in accordance with the town ordinances in effect at the time of construction or for which evidence of the unit's legal construction has not been provided. The units shall be subject to securing permits in accordance with the provisions of this title.

**RESIDENTIAL SECOND UNIT.** A completely separate housekeeping unit with kitchen, sleeping and bathroom facilities which is a part of, an extension to, or a separate structure on a site developed with a single-family residence, in excess of the maximum density designated by the zoning district in which the property is situated or as prescribed thereby.

**USE PERMIT.** Use permits referenced in this chapter are granted to allow the legalization of other existing residential units that comply with Title 17 of

the Town Code and the California Building Code and the development of new residential second units that do not meet the requirements set forth in this chapter and Title 17 of the Town Code.  
(Ord. 704, passed 6-8-2004)

#### § 17.048.040 REQUIREMENTS FOR RESIDENTIAL SECOND UNITS.

Residential second units that comply with all of the following standards shall be approved and granted a ministerial permit by the Director:

(A) *Owner occupancy.* Either the primary residence or the second unit shall be owner-occupied. The occupancy shall be verified by the submission to the Director of an affidavit of occupancy signed by the property owner prior to issuance of the permit for a residential second unit. The affidavit shall be provided by the town. The affidavit shall be renewable every three years or upon the sale of the property, whichever occurs first, and shall require a re-inspection of the second unit by town staff to verify continued conformance with the development standards. A nominal fee shall be imposed for the affidavit renewal and inspection, as set by resolution of the Town Council.

(B) *Size limits.* Second units shall be limited to studio or one-bedroom units only not to exceed 700 square feet or 30 percent of the principal residence, whichever is more restrictive. The size of the principal residence shall be based on gross square footage, excluding the accessory unit and required garage space. However, a second unit shall not be less than 320 square feet in size.

(C) *Unit type.* Second units shall be limited to those contained within the existing single-family residential structure, additions thereto, or detached structures on sites developed with a single family residence.

(D) *On-site parking.* The site must be able to accommodate a legal on-site parking space for the

second unit in addition to the parking required for the principal residence on private property and as further prescribed by Chapter 17.052 of this title. The parking space for the second unit shall not be in tandem with the spaces for the main residence and must be located in an area of the site where it is accessible at all times. A record of survey including the site topography is required to demonstrate the location of the all the required parking for the main residence and second unit.

(E) *Development standards.* The second unit shall meet all property development standards of the residential zoning district in which it is located, and the additional density and alteration of the use of the property shall not change the character or purpose of the neighborhood as defined in each zone district.

(F) *Construction and Fire Code compliance.*

(1) All new construction (including structural modifications to existing facilities) shall conform to the requirements of the Uniform Building Code as currently adopted by the town.

(2) Existing facilities shall conform to the requirements of the Uniform Housing Code to assure minimum health and safety standards for the occupants of the structures.

(3) A central smoke/fire detection system shall be installed in each primary and approved second unit, of a type acceptable to the local fire and building officials. The system shall provide simultaneous warning to residents of both units of a fire in either unit. The installation of smoke/fire detectors in each unit is required at all times; however, this requirement for a common wiring of detectors between units may be waived by the local fire and building officials if the system is deemed unnecessary.

(G) *Maximum number.* Only one residential accessory unit is allowed for a single-family residence developed on a legal and conforming building site, as determined by the town. Accessory units are not

allowed in conjunction with duplex or multiple residential development.

(H) *Design standards.* Any modifications to the exterior of the building, or construction of new structures, shall be strictly in keeping with the architectural character of the principal residence, and shall maintain the scale and character of the existing residence within the neighborhood in which the second unit is situated.

(I) *Utilities.* Adequate utility service shall be available for sewer, water, telephone, gas and electricity.

(J) *Separate entry and facilities.* The unit shall contain a separate entry, kitchen and bathroom.

(K) *Negative impacts.* The second unit shall not cause excessive noise, traffic/parking congestion or overloading of public facilities, nor change the character of the neighborhood.

(L) *Minimum site size.* The project site shall meet the minimum size and width requirements, based on the slope of the property, that are set forth for the residential zoning district in which the property is located.

(M) *Required inspection.* The property owner(s) shall provide written consent to a physical inspection of the premises as part of the application requirements.

(N) *Metering requirements.* The main unit and the second unit shall be provided with separate meters. A statement shall be provided of how the utilities are to be metered.

(O) *Sanitary service requirements.* If an existing septic system is to be utilized, the applicant must provide written confirmation from the Marin County Environmental Health Department that the existing sanitary system is adequate to handle the unit(s) it serves.

(Ord. 704, passed 6-8-2004)

TOWN OF FAIRFAX  
142 BOLINAS ROAD  
FAIRFAX, CA 94930  
(415)453-1584

WELCOME TO FAIRFAX

REG-RECEIPT:01-0027533 C:FEB 20 2008  
CASHIER ID:S 11:41 am A:FEB 20 2008

2050 PLAN CHECK-ENGINEER \$250.00  
PLAN CHECK ENGINEER - 177 FRUSTUCK AVE.  
2030 PLANNING-REVIEW FEE \$1,100.00  
HRD - PLAN REVIEW FEE  
2030 PLANNING REVIEW FEE \$562.50  
PLAN REVIEW FEE - 177 FRUSTUCK AVE.  
2030 PLANNING REVIEW FEE \$750.00  
DESIGN REVIEW - PLAN REVIEW FEE

*HRD \$500 ÷ 2 = 250*

*HRD Fee*

*1/2 VAR*

*DED.*

TOTAL DUE \$2,662.50

RECEIVED FROM:  
JOHN OWENS/DIANA DULLAGHAN

CHECK: \$2,662.50

TOTAL TENDERED \$2,662.50

CHANGE DUE \$0.00

THANK YOU

## SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

### DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

1. Exterior finish: \_\_\_\_\_
2. Proposed exterior wall color(s): \_\_\_\_\_
3. Proposed exterior trim color: \_\_\_\_\_
4. Proposed exterior window color: \_\_\_\_\_
5. Proposed roof material and color: \_\_\_\_\_
6. Special features: \_\_\_\_\_
7. Lot Coverage: \_\_\_\_\_
8. Number of existing parking spaces and their sizes: \_\_\_\_\_
9. Number of proposed parking spaces and their sizes: \_\_\_\_\_

### DESIGN REVIEW APPLICABILITY

#### 1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

#### 2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

#### 3. 50% remodels of additions to residential properties

#### 4. Commercial Design Review

The Design Review Board must approve any minor modifications to existing buildings, structures or improvements such as awning, canopies, window, doors, color changes, automated teller machines, or other modifications similar to the above for properties located in the Commercial Zones.

#### 5. Signs

Signs complying with the Sign Ordinance can be approved by staff. Other signs require the approval of the Fairfax Design Review Board.

#### Design Review Application - Additional information required.

- Only 8 complete sets of plans are required for design review applications. If your project requires design review you will need to prepare the additional information described below in addition to the information required in pages 3 and 4 of the planning application.
- Exterior elevations from all sides. If multiple buildings are proposed, composite elevations for the entire street frontage are required.
- Cross section through project, showing project and existing adjacent features.
- Lighting plan - detail of exterior fixtures, location and illumination (amount of light).
- Utility entrance location, trash storage location, mechanical equipment location.
- Detail of fascias, trim, railing, trellis.
- Specify irrigation systems to be used on the landscaping plan.
- 8 color elevations.
- 8 copies of the color samples.
- Projects in the Downtown Area are required to submit a drawing at 1" = 40'.

We would like you to put in your own words how the project meets the design review criteria set forth in section #17.020.040 of the Fairfax Zoning Ordinance. This will help you and the Planning Commission focus on the ordinance requirements.

**NOTE:** In order to visualize the dimensions and location of the proposed structure, the Town review process requires story poles. Story poles must be erected prior to an application being filed with the Planning Department. Poles shall be erected at all proposed building corners (rising to the proposed height of the building at that corner), and at the highest point of the proposed roof-line. Also the front corners of undeveloped land must be staked and tagged in the field. You, the applicant, will have to maintain the poles and corner flags in good condition until all public hearings on the project are over and appeal periods have lapsed. Avoid unnecessary delays to your project by maintaining the poles through out the review process.

Height variance \$925.00

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

\_\_\_\_\_ foot front yard variance to construct a \_\_\_\_\_ within

\_\_\_\_\_ feet of the front property line.

\_\_\_\_\_ foot rear yard variance to construct a \_\_\_\_\_ within

\_\_\_\_\_ feet of the rear property line.

\_\_\_\_\_ foot side yard variance to construct a \_\_\_\_\_ within

\_\_\_\_\_ feet of the side property line.

\_\_\_\_\_ foot creek setback variance to construct a \_\_\_\_\_ within \_\_\_\_\_ feet  
of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.) \_\_\_\_\_

FINDINGS:

1. List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Variance - Additional information required.

- Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

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- Show existing and proposed on-site and off-site drainage facilities and necessary improvements on the site plan.
- Provide a signed and sealed report by a registered civil engineer specializing in soils and foundations, containing the following information:

site soil drainage

relevant watershed boundaries (hydrologic units)

relationship of proposed construction to drainage patterns in the vicinity, and the cumulative effects of run-off, necessary drainage improvements, on and offsite foundation adequacy, site geology, and the safety of proposed construction

- Include an erosion control plan with the grading plan, including a re-vegetation program.
- Floor plans should include finished floor elevations for all living levels including attic, basement and loft areas. If the residence has multiple floor elevations (a split level residence), finished floor elevations should be included for all rooms.
- A summary table including the following square footages; footprint, total living space, subtotals for each floor, garage, decks and any accessory buildings.
- Profiles depicting the relationships between proposed structures on the project site and structures existing on neighboring properties (i.e. neighboring homes, parking structures).
- Elevations of all proposed retaining walls including a description of construction materials.
- Report from Ross Valley Fire Authority.

Indicate in writing how the project has been designed to comply with the HRD OVERLAY ZONE DEVELOPMENT STANDARDS, Chapter 17.072 of the Fairfax Zoning Ordinance.



Save Set Results

Page 1 of 2

To download selected parcels/addresses, Right Click here Save Target As

The Owner/nonOwner Mailing list contains 52 Addresses Print

| Name                       | Mail address      | City        | State | ZIP Code |
|----------------------------|-------------------|-------------|-------|----------|
| Current Resident           | 1 CASCADE DR      | FAIRFAX     | CA    | 94930    |
| FITZGERALD PAUL M &        | 1 COREE LN        | FAIRFAX     | CA    | 94930    |
| STUART SPENCER M &         | 1 HICKORY RD      | FAIRFAX     | CA    | 94930    |
| Current Resident           | 10 CYPRESS DR     | FAIRFAX     | CA    | 94930    |
| NORWOOD ROBERT S TR        | 10 WALSH LN       | FAIRFAX     | CA    | 94930    |
| NORWOOD ROBERT S TR &      | 10 WALSH LN       | FAIRFAX     | CA    | 94930    |
| Current Resident           | 14 CASCADE DR     | FAIRFAX     | CA    | 94930    |
| WALL ROSEMARY              | 149 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| WILLIS STEVEN J &          | 15 CASCADE DR     | FAIRFAX     | CA    | 94930    |
| BASSIK ELAINE R TR         | 15 KENILWORTH TER | GREAT NECK  | NY    | 11024    |
| GJEVIK ASMUND /TR/ &       | 155 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| Current Resident           | 16 COREE LN       | FAIRFAX     | CA    | 94930    |
| MONTEROSSO MARIE D /TR/    | 16 CYPRESS DR     | FAIRFAX     | CA    | 94930    |
| CALDARARO NICCOLO L &      | 165 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| DI GREGORIO MICHELE E      | 170 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| MARTINEZ SHONE M & ALICE O | 171 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| MARIAH JOAN /TR/           | 175 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| OWENS JOHN &               | 177 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| MILES WILLIAM C.           | 189 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| TAYLOR PATRICIA L          | 19 CASCADE DR     | FAIRFAX     | CA    | 94930    |
| CUTLER ALLEN G TR          | 195 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| FRANTZIS BRUCE K /TR/ &    | 195 VAN WINKLE    | SAN ANSELMO | CA    | 94960    |
| FOLAN JAMES P              | 20 COREE LN       | FAIRFAX     | CA    | 94930    |
| Current Resident           | 20 CYPRESS DR     | FAIRFAX     | CA    | 94930    |
| LOEB KERRY S /TR/          | 20 HICKORY RD     | FAIRFAX     | CA    | 94930    |
| RILEY BARRY M &            | 20 WALSH LN       | FAIRFAX     | CA    | 94930    |
| MURPHY DENIS C JR &        | 200 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| Current Resident           | 21 WALSH LN       | FAIRFAX     | CA    | 94930    |
| DE CELLÉ ANGELA S TR       | 211 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| KOEPPEL MARTIN P /TR/ &    | 215 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| WICK DONALD A &            | 226 REDWOOD DR    | WOODACRE    | CA    | 94973    |
| SCHEREMETOW ALEXANDRA TR   | 228 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| SHAW RICHARD B /TR/ &      | 231 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| BROWN NANCY K TR           | 232 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| CLARK DOREE S &            | 238 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| LAMONT CHARLES &           | 24 HICKORY RD     | FAIRFAX     | CA    | 94930    |
| CASADY ROBERT M &          | 24 WALSH LN       | FAIRFAX     | CA    | 94930    |
| JONES BRIAN K & THERESE M  | 241 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| KLOCK ROBERT M TR          | 242 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| VANDERGRIFT GLENDA         | 275 FRUSTUCK AVE  | FAIRFAX     | CA    | 94930    |
| PERI CHARLES A TR          | 29 BROADWAY       | FAIRFAX     | CA    | 94930    |

|                         |                 |           |    |       |
|-------------------------|-----------------|-----------|----|-------|
| BRAGMAN LAWRENCE W      | 30 HICKORY RD   | FAIRFAX   | CA | 94930 |
| Current Resident        | 300 BOLINAS RD  | FAIRFAX   | CA | 94930 |
| Current Resident        | 33 CASCADE DR   | FAIRFAX   | CA | 94930 |
| CAMPODONICO SANDRA G    | 33 HICKORY RD   | FAIRFAX   | CA | 94930 |
| ROBINSON MICHAEL E      | 35 CYPRESS DR   | FAIRFAX   | CA | 94930 |
| OLIVER GEORGE D         | 42 HICKORY RD   | FAIRFAX   | CA | 94930 |
| DEAL SHANE &            | 44 BELLE AVE    | FAIRFAX   | CA | 94930 |
| PELLETIER GERALD L TR & | 45 HICKORY RD   | FAIRFAX   | CA | 94930 |
| NIEVERGELT PETER 50%    | 510 MAIN ST     | SAUSALITO | CA | 94965 |
| Current Resident        | 76 MANZANITA RD | FAIRFAX   | CA | 94930 |
| Current Resident        | 8 CYPRESS DR    | FAIRFAX   | CA | 94930 |

John Owens & Diana Dullaghan  
177 Frustuck Avenue  
Fairfax CA 94930  
415 456 2906 Fax 415 456 9017

4.11.08.

Ann Welsh  
Planning Director  
Town of Fairfax  
142 Bolinas Road  
Fairfax CA 94930

Re: Application for a garage and second unit  
177 Frustuck Ave, Fairfax

Dear Ann,

This letter is in response to the Planning Department's letter dated 3/20/08, regarding our application for a garage and second unit at our house. The item of great concern in the letter is that you are requiring a height variance for a two story detached garage.

When my wife and I decided to build our family home we were well aware that the Planning Commission of 2003 would be unlikely to approve a new house that required a variance. This was fundamental to our design, and reinforced by Linda Neal's letter dated December 18<sup>th</sup> 2003, urging us to redesign our garage/storage so that it did not require a front yard setback and a height variance. The garage/storage was redesigned to be attached. This design did not require variances (as confirmed by my letter to Linda Neal dated March 9<sup>th</sup> 2004). It was accepted as an attached garage on the staff report dated April 15<sup>th</sup> 2004. It continued to be described as attached-garage on every document until the time the project was approved by the Council on August 3<sup>rd</sup> 2004.

Our recent application is for the same garage that appeared on our original application before the Planning Commission on April 15<sup>th</sup> 2004. At that time the project was described as a 2093 s.f. single family residence with an attached 430 s.f. garage and 420 s.f. storage area. After a long drawn out procedure the project was approved by the Council on August 3<sup>rd</sup> 2004, with the garage removed to leave an uncovered parking deck over a storage building. We fully expected to re-apply for the garage in the

future. We are now dismayed that our garage reapplication will need a variance.

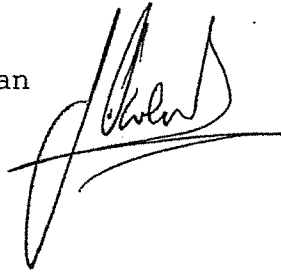
We have invested almost a million dollars in building our home. It was built as per the accepted design of April 15<sup>th</sup> 2004, minus the garage. The house and the storage are connected by a roof, a wall, a floor, and a foundation. By the current interpretation of the code the storage building would be detached and could not exist where it is located. However, we are not willing to redesign or reconstruct our house because someone interprets the Town Code differently in 2008.

We disagree with the need for a height variance. Evidently, a mistake was made by the planning department in 2004. The house and storage are already built, and we need our garage. We have built the most sustainable energy efficient house to date in Fairfax, and our application includes a sustainable energy efficient affordable unit (The Town needs to provide 128 affordable units). We expect that our application will be approved by the Planning Commission or the Town Council.

Our hope is that this application will move smoothly through the system and our project will be approved. We would be happy to discuss this further with you, the Town Manager, the Town Attorney, Council members, etc., to resolve this situation.

Thank you for your consideration,

John Owens, Diana Dullaghan

A handwritten signature in black ink, appearing to read "John Owens", with a long horizontal flourish underneath.



# TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 / FAX (415) 453-1618

December 18, 2003

John Owens and Diana Dullaghan  
22 Banchero Way  
Fairfax, CA 94930

RE: 190 Frustuck Avenue; planning application.

Dear Mr. Owens and Ms. Dullaghan,

The Department of Planning and Building Services has completed its review of the above referenced application and we regret to inform you that it is incomplete. The following represents our findings and request for additional information:

1. The proposal requires the approval of a front setback variance, a combined side yard setback variance and a height variance. The garage/storage/shop structure does not comply with the required 10' front yard setback. The proposed residence and deck located on the east side of the structure maintain a combined side yard setback of 10' while the code requires a combined setback for a residence and deck of 18' (decks can encroach 2' into a required setback). Additionally, the accessory parking storage structure exceeds the maximum 15' height limit and the one story limitation. The project should be revised to comply with requirements or variance applications should be submitted with the required fees. When it is physically possible, staff recommends that applicants strive to comply with the code. It is our experience that project are more likely to proceed smoothly through the planning process when the number of discretionary permits being applied for are minimized. Therefore, our recommendation would be to redesign the project so that it complies with the code requirements.
2. The site plan shall show the location of all the buildings on adjacent properties.
3. Provide one color elevation of the residence and a colors and materials board (see the enclosed Planning Application form).
4. Provide a cross section through the project showing project and adjacent residences.
5. Provide a lighting plan including details of exterior fixtures, location and illumination.
6. The Town Engineer and Public Works Director request the following items be addressed before processing of this application continues (see enclosed Town Engineer's memorandum dated 12/16/03):

John Owens and Diana Dullaghan  
22 Banchemo Way, Fairfax, CA 94930  
Tel: 415-456-8064 Fax 415-456-9017

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March 9, 2004

Linda Neal  
Senior Planner  
Town of Fairfax  
142 Bolinas  
Fairfax, CA 94930

Re: 190 Frustuck Ave., Planning Application

Dear Ms. Neal:

We are responding to your letter of December 18, 2003, as to the incomplete planning application for 190 Frustuck. We are resubmitting the plans with the following modifications to address the items listed in your letter, including the Town Engineer's memorandum.

1. Front setback variance, combined side-yard setback variance, and a height variance for the garage structure:

The project is now one structure which complies with the 6-foot front-yard setback. The stairways and decks have been modified to comply with the combined side-yard setbacks. There is no longer a separate utility structure, and therefore no need for a height variance. On the week of 1/19/04, I met with you briefly over the counter to look at sketches of the above-noted modifications, and you agreed that these planned changes would bring the setbacks into compliance.

2. Buildings on adjacent properties:

As per your conversation with Pete Gang, architect, we have added the appropriate drawing (sheet A2) showing the properties east and west of the lot.

3. Color elevation of residence and color/materials board:

One sheet of colored elevations is included. An 8 ½ X 11 color board is also included.

4. Cross-section through project showing project/adjacent residences.

A cross-section is included. There are no adjacent residences close enough to appear in the cross-section view.

Regarding letter dated March 20<sup>th</sup> from Planning Department.  
Completed review of second unit/ garage application 177 Frustuck Ave.

Dear Ann Welsh, Michael Rock,

In my letter dated 4.11.08. my wife and I stated we disagreed with the one item on the march 20<sup>th</sup> review by the Planning Department in regards to the need for a variance for height and setback on our garage. Due to the garage now being regarded as detached. When the same garage was applied for in 2004 it was clearly described in signed documents as attached.

In preparing our plans for re submittal I find the whole review to have irrational comments, mistakes, and requests for information from expensive experts that is not part of the Submittal Requirements Checklist. I now disagree with the majority of the review and I question the validity of the review.

Having gone through the planning process to build a new house in Fairfax, and attended many Planning Commission meetings over the last six years. I am very familiar with the requirements and the procedures to have a project approved through the Planning Department. Some of the requests made of myself and other applicants do not seem relevant or required by the application, or the application checklist.

The march 20<sup>th</sup> letter to us is a perfect example;

**Square Footage** Yes the total footprint of the second unit is very close to 640 square feet. However it clearly includes storage space which is unconditioned space. Therefore the unit is 560 sq feet and the storage 112 sq feet – obvious basic mistake.

**Floor Plans** - Yes floor plans for the existing buildings are required. There is no requirement for electrical and plumbing outlets in the storage area. ( this is an irrational request). The electrical outlets for the storage unit are clearly shown on the approved building plans of 2005. This detail is required for a Building Permit not Planning. Please do not ask for something that is not required.

**Trees** Hardscape pathways on grade do not require a permit. I believe the code requires a permit when retaining walls and steps reach 3 feet above grade. If it's on grade it's on grade end of story. The pathways will not require a permit. Therefore they cannot require a Master Arborist's report. ( I paid for three expensive arborists reports on the 2004 application)

**Encroachment Permit** I already paid for an encroachment permit for my existing driveway in 2003. The existing driveway extends to the property line in the Town Right of Way. In the next submittal the lower steps in the Town Right of Way have been removed. Therefore an encroachment permit will not be required.

**Height Variance** The project does not require a height variance. The garage is to be built on top of an existing storage building which is described in the original 2004 application as an "attached storage building". This is the same garage which was in the 2004 application and described as "Attached" on at least five signed documents. When the garage is built on the "attached storage" building it will be an "attached garage". According to the 2008 interpretation of the Town Code my storage building could not be built in it's present location if it were detached.

**Parking Variance** – same issue. The garage did not need a parking variance for a 2 story garage in 2004, and it does not need a parking variance in 2008.

**Access Pathways** Hardscape pathways on grade do not require a permit. The Town Engineer has not reviewed the plans. So where did the requirement come from for the sections every five feet ? It's not in the Planning Application Submittal Checklist.

I do know exactly where this request for sections every five feet came from. It has nothing to do with my application. It stems from the construction of a new residence at 205 Scenic. The approved plans showed steps on grade. The builder poured non engineered piers without a soils report, and framed a stairway above grade that was allowed to slip through the Building and Planning Department. The house was given final approval and signed off with the stairway above grade. The builder also deviated greatly from the pathway lighting plan. This caused great embarrassment to the Planning Department when a neighbor complained to the Town Council on numerous occasions. A path is either on grade or it's a framed permitted stairway. If someone builds a framed stairway outside the approved plans – the stairway should have been red tagged and removed. I should not have to incur thousands of dollars of expert fees because 205 Scenic built an illegal stairway. The sectional details are not a requirement of a path on grade.

**Uniform Building Code** The Town of Fairfax does not use the Uniform Building Code. Obviously before a Building Permit is issued the Building Permit Plans would have to meet current Town building codes.



**Hill Area Residential Development Permit** When I submitted my plans for review on February 8<sup>th</sup> 2008 I was charged for a HRD Permit. This addition to our property will require a Use Permit not an HRD permit. The HRD permit is for the proposed development of undeveloped lands. It has many restrictions and requirements that a Use Permit does not. Section 17.38.050 - Uses permitted without an HRD states " Additions to existing structures provided that the addition is not a fifty percent remodel as defined in Section 17.10.040" My project was incorrectly categorized before the plans were reviewed.

**Erosion Control Plan** \_ not required because there is no HRD

**Drainage Patterns** - not required because there is no HRD

**8 color elevations for Design Review**\_ not required no HRD

**Survey** A Record of Survey was submitted ( yes more copies are needed). The Record of Surveys which are recorded at the County of Marin Recorders Office do not include topography. It's a Recorded Survey that shows the property boundaries. Topography is not a requirement of a Record of Survey. Sheet A1.1 the site plan includes a topographical survey which is a requirement of the application. Please don't ask for something that does not exist.

**Design Review** Design review is not required as the garage does not require variances, and there is no HRD Permit.

**Landscape Plan** is not required. It is only required for new residences and remodels over 50% ( this one comment alone would have cost me thousands of dollars )

**Lighting Plan** is not required, as no design review is required.

**Story Poles** The story poles are not required as the garage does not require a height variance.

These irrational comments and requirements continue to cost the tax paying applicants dearly. The situation exists because applicants usually belong to one of two categories.

1. Architects and Engineers who get paid by the hour to make these corrections. Are they really going to complain when the Town of Fairfax just gave them \$20,000 more billable hours on the job ? Or more realistically they are professionals and don't want to rock the boat for future projects. It's very easy for an Architect to justify these costs to a client because the Town requested the changes.

2. First time applicants who do not know planning procedures and are frightened to speak up. They also know that if they upset the Planning Department they stand little chance of approval at the Planning Commission. These extra requests and expert fees drive the pre Planning Commission development costs often to above \$100,000 on large projects.

I do not belong to either of these two categories. If I pay \$2662.50 in application fees I expect my project to be reviewed accurately and

correctly. Firstly my project was incorrectly categorized to HRD with very restrictive consequences. I'm not willing to pay thousands of dollars for unnecessary experts , or resubmit information which has already been submitted, or submit information which is not required as part of the application.

I would like to meet with you both to discuss this application. I need to move this project forward this summer. I am not prepared to go in front of the Planning Commission, the Town Council, or my neighbors to try and seek approval for a garage that needs a variance. The garage application for the proposed new home next to me went through months of expensive meetings and negotiations. I will not endure torture for the same garage application that required no variances in 2004.

Yours sincerely,

John Owens