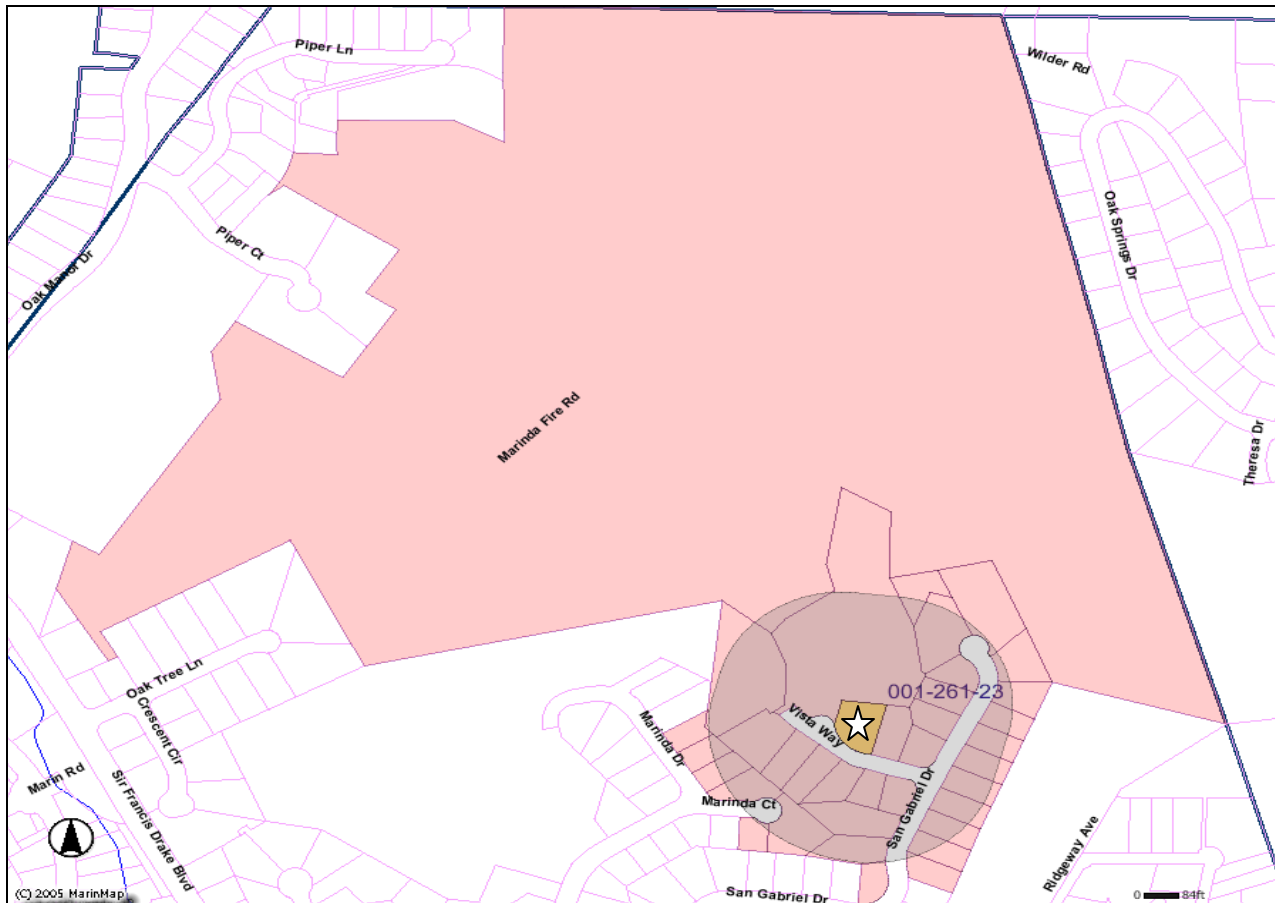


TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: March 21, 2013
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 12 Vista Way; Assessor's Parcel No. 001-261-23
PROJECT: remodel/expansion of a single-family residence including the provision of additional parking
ACTION: Use Permit and Variance; application # 13-08
APPLICANT: Gisella Hollis, Architect
OWNER: Edward Scheidelman and Joanna Brook
CEQA STATUS: Categorically exempt section(s) 15301(a) and 15305(a)



12 VISTA WAY

BACKGROUND

The site is 11,550 square feet in size and it slopes up from Vista Way at an average rate of 50%. The site is developed with a 1,537 square foot, two bedroom, 1 bath single-family residence with a 279 square foot, attached, one-car garage. The residence was constructed in 1959.

In November of 1998 a previous owner was stopped converting a portion of the garage into a bathroom and the office into a third master bedroom. Any time a bedroom is being added to a residence on a non-conforming site, the applicant must demonstrate that the parking on the site meets the minimum requirements of the Town Code. A permit was issued to allow the work to proceed based on plans that showed the garage door being removed and the eave being extended so that a complying 9 foot by 19 foot covered parking spot existed in what used to be an enclosed garage. A second parking pad was shown immediately to the west of the residence. There is no record in the file that any inspections were performed after the permit issuance date so staff is unable to verify that any staff person ever sanctioned the existing parking space adjacent to the garage that has been carved out of the hillside and has an extreme slope (Exhibit B – letter dated May 27, 2009 from staff to the previous owner).

DISCUSSION

The current owner is proposing a similar project to convert the office and rear of the garage into a bedroom, bathroom and laundry room with two major differences. The remaining garage space will comply with the minimum required 9 foot by 19 foot parking space requirement [Town Code § 17.052.040(B)]. The project will also include lowering the grade of the uncovered space and retaining the adjacent hillside with a wood lagging and H-beam wall so that the area becomes viable for parking.

The property is located within the Residential Single-family RS 7.5 Zone and the structure on the site complies with the regulations set forth in that zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	15 ft	40 ft	10 ft & 10 ft	25 ft	.40	.35	28.5 ft, 2 stories
Existing	16 ft	59 ft	75 ft	22 ft & 3 ft	25 ft	.13	.19	12 ft, 1 story
Proposed	8' (to wall)	47'	55'	3 ft & 3 ft	6 ft	.13	.18	same

The remodeling work will all occur within the existing footprint of the residence so the setbacks will not change for the house itself. However, the project will convert an existing room into a bedroom and therefore, the project must include bringing the on-site parking into compliance with the Town Code. As indicated above, Town Code § 17.016.040(B)(2) requires that when any work is done to a non-conforming structure or on a non-conforming property, that adds a bedroom, the project must include the provision of conforming parking or a Parking Variance must be obtained from the Planning Commission. The applicants have chosen to provide the

required parking by retaining the required covered space in the garage, leveling and retaining the space in the side yard and the guest space is provided in the Vista Way public right-of-way.

The project will require the approval of the following discretionary permits:

A Use Permit: The site has an average slope of 50%. In order to comply with the Town Code § 17.076.050(C) which sets the minimum size and width requirements for the RS 7.5 Zone, the site would have to be 52,000 square feet in size and 205 feet wide. The same section of the code requires that a Use Permit be obtained from the Planning Commission prior to doing any improvements on a substandard lot. The project site is only 11,550 square feet in size and 100 feet wide and therefore the remodel and construction of the new parking will require the approval of a Use Permit.

A Variance of the Minimum and Combined Side Yard Setbacks: Town Code § 17.076.070(B)(2) requires that structures in the RS 7.5 Zone maintain minimum side yard setbacks of 10 feet and a combined side yard setback of 25 feet.

The retaining wall will need to be constructed 3 feet from the west side property line to lower the grade and retain the bank of the hillside area around the second required on-site parking space. This will decrease the existing 22 foot western side setback to 3 feet and the existing combined side setback of 25 feet to 6 feet (the eastern corner of the house is currently 3 feet from the eastern side property line). The retaining wall will decrease the 25 foot combined setback to 6 feet, with the eastern corner of the house maintaining 3 foot setback from the east side property line and the parking retaining wall maintaining a 3 foot setback from the west property line. The formalized uncovered space will actually increase the setback maintained by the uncovered parking space from 1.5 feet to 3 feet with the construction of the retaining wall.

As indicated above, the remodel will not extend beyond the walls of the existing residence and the only change to the site will be the grading of the existing non-conforming parking space and construction of the wall around the space. Therefore, the project will not change the single-family residential character of the neighborhood. Also, the new wall will maintain a setback of over 180 feet from the residence to the west which is located on the knoll well above the site (16 Vista Way, APN # 001-261-91).

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 13-08 based on the following findings and subject to the following conditions:

Recommended Findings

1. Residences on similar sized parcels in the neighborhood range from 1,670 square feet to 2,628 square feet in size not including garages. The approval of this remodel which increases the living space by 71 square feet from 1,537 square feet to 1,608 square feet will not change the character of the site or the neighborhood. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The project does not include expansion of the existing residence and the only construction that will occur outside the residence is for the parking space retaining wall which is located over 180 feet from the nearest residence. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. Approval of the use permit to allow the remodel of the existing residence and the bringing of the site into compliance with the Town Code is not contrary to those objectives, goals or standards pertinent to the particular case.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case because the grade of the parking will be lowered so the parking will be accessible by vehicle of any size. Therefore, the approval of Use Permit is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The property slopes up steeply from Vista Way and the residence is constructed on a more level portion of the site next to the street. This is the special circumstance the warrants the approval of a setback variance to construct required parking in the side yard setback.
6. The variance or adjustment will not constitute a grant of special privilege because the new parking and retaining wall will bring the property into compliance with the existing parking regulations and is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.
7. The parking space and retaining wall are setback 8 feet from the property line and are built into the existing hillside above the residence where they will not obstruct vehicular or pedestrian visibility. Therefore, the granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by Gisela Hollis, AIA, pages A1 through A3, dated 1/24/13.
2. Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access routes
 - b. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director/ the Public Works Director can waive this requirement).
 - c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Building Official/Public Works Director. Upon approval of the contract costs, the applicant shall submit bond or letter of credit equaling 100% of the estimated construction costs. The Building Official/Public Works Director may also waive this requirement.
 - d. The foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Plan Check Engineer.
 - e. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the development's conformance with their recommendations and shall include a copy with the building permit submittal.
3. During the construction process the following shall be required:
 - a. The structural engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.
 - b. The structural engineer shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans prior to the concrete form inspection by the building official. The building official shall field check the concrete forms prior to the pour.

- c. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
 - d. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
4. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The structural engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.
 - b. The Planning Department shall field check the completed project to verify that all Planning Commission conditions have been complied with.
5. Excavation shall not occur between October 1st and April 15th. The Town Engineer has the authority to waive this condition depending upon the weather.
6. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
7. During construction the developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 637 (Chapter 8.32 of the Town Code), "Urban Runoff Pollution Prevention".
8. Notwithstanding section #17.072.050 of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 13-08. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 13-08 will result in the job being immediately stopped and red tagged.
9. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.
10. The applicant shall comply with any and all requirements of the Ross Valley Fire Department, the Ross Valley Sanitary District, the Marin Municipal Water District and the Fairfax Building Official.

11. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

12. All conditions of agencies with jurisdiction over the project must be complied with unless that agency waives one or more of them in writing to the Town.

Ross Valley Fire Department Conditions

1. Address numbers at least 4'' tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed to a light or be reflective numbers. If your project is a new house or substantial remodel, they may only be internally illuminated or illuminated an adjacent light controlled by a photocell and switched only by a breaker so it will remain illuminated all night. If not currently as described, they must be installed as part of this project.
3. All smoke detectors shall be provided with AC power and be interconnected for simultaneous alarm and be located as required by the Building Code.
4. Carbon monoxide detectors must be installed in compliance with the Building Code.
5. The site shall comply with Ross Valley Fire protection Standard 220 Vegetative and Fuels Management Plan.

Marin Municipal Water District Conditions

1. All indoor and outdoor improvements shall comply with District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Sanitary District Conditions

1. If not already installed the side sewer be equipped with a backwater prevention device.

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 and to make a record of the backwater prevention device for the District's files.

Note: The Building Official and the Police Department have no concerns about the project.

ATTACHMENTS

Exhibit A – Applicant's supplemental information

Exhibit B – letter dated 6/27/09 to previous owner regarding illegal improvements

Exhibit C – Other Agency/Department comments

Exhibit D – letter from project engineer dated 2/12/13 describing retaining wall

