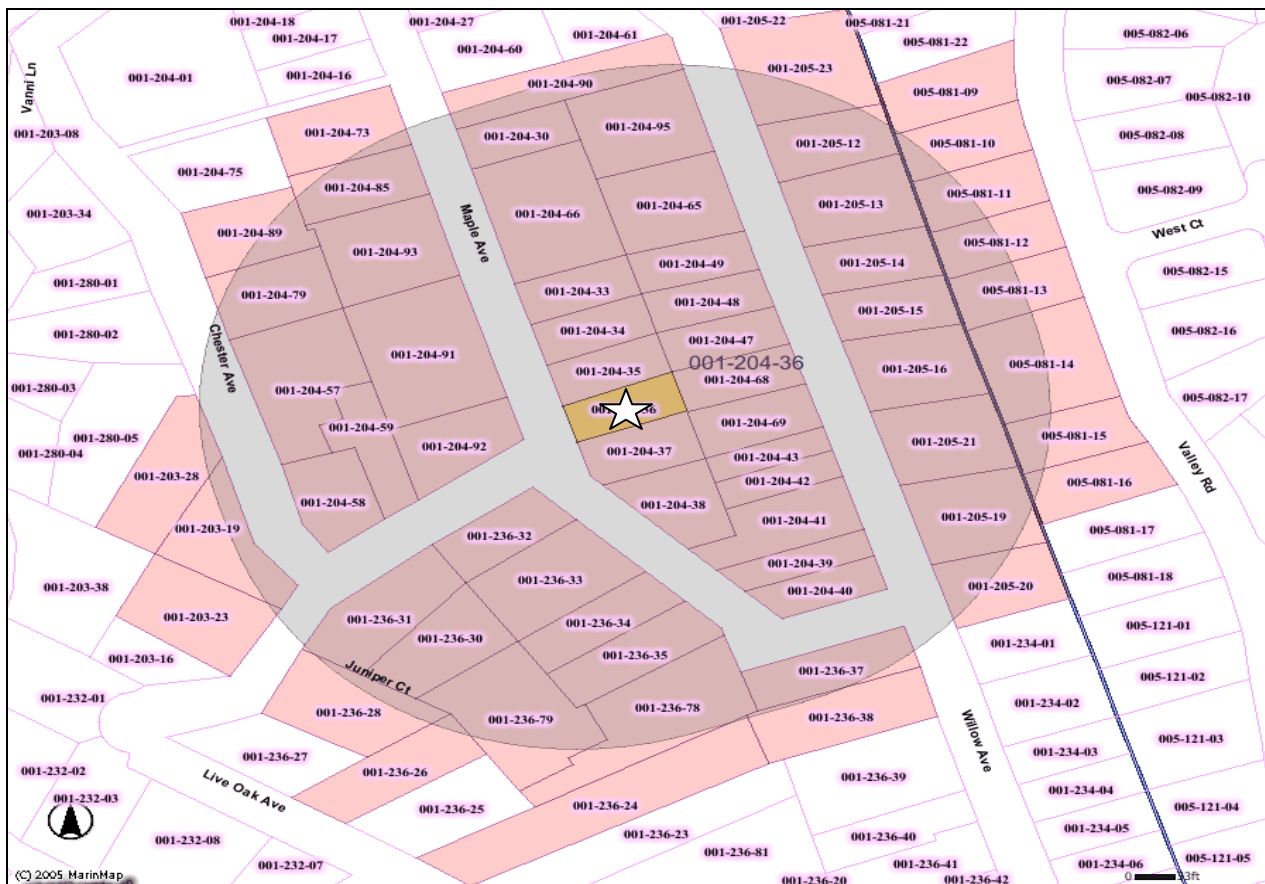


**OWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: March 21, 2013
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 30 Maple Avenue; Assessor's Parcel No. 001-204-36
PROJECT: Garage, roof deck and access stairway with roof addition to a single-family residence
ACTION: Use Permit and Front Setback Variance; Application # 13-07
APPLICANT: Laura Kehrlein, Architect
OWNER: Richard Miller and Karen Belanger
CEQA STATUS: Categorically exempt section(s) 15301(a) 15303(e)



30 MAPLE AVENUE

BACKGROUND

The 4,000 square foot site is nearly level with only a 7% slope. The property was developed with a 1,076 square foot, two bedroom, 1 bath residence in 1963. The structure was expanded with a 420 square foot, second story addition into a 4 bedroom, 2 bath house in March of 2001.

DISCUSSION

The project encompasses a 73 square foot addition to expand an existing entryway and remodel and expand the residence to include a 2-car garage and a new stairway to a 245 square foot, second story roof deck (no access to second floor living space). The addition will increase the residence square footage from 1,496 square feet to 1,569 square feet.

The applicants are also requesting approval to erect a 7 ¾ foot entry arbor over the front walkway at a 45° angle to the property line.

The property complies with the regulations for the Residential RD 5.5-7 Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	12 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5ft, 2 stories
Existing	15 ft	20 ft	35 ft	7 ft & 6 ft	13 ft (house)	.26	.37	23'
Proposed garage/ addition	12 ft	20 ft	32 ft	7 ft & 6 ft (house) 9 ft & 18 ft (new addition)	13 ft (house) 27 ft (new addition)	.28	.37	23 ft (house) 16 ft 6 in (addition)

The project does not constitute a 50% remodel but it does require the approval of the following discretionary permits:

A Use Permit: Town Code § 17.084.050(A) requires that parcels located in the Residential RD 5.5-7 Zone must be a minimum of 5,500 square feet in size and 60 feet wide to conform to the Code. The same section indicates that a Use Permit must be obtained from the Planning Commission prior to any use, occupancy or physical improvements of or on a building site failing to meet the minimum requirements. The site is only 4,000 square feet in size and 40 feet wide and therefore, the project requires a Use Permit.

Homes in the neighborhood range in size from small 500 square foot structures to 1,700 square foot structures on similar sized parcels (ranging from 4,000 to 5,000 square feet). Therefore, the proposed addition will not result in a residence that is out of scale with the neighborhood or the project site.

The garage and access stair will not project any closer to the neighboring houses than the existing carport and residence and the elevation of the roof over the new stairway will reach 16 feet 6 inches in height while the second story of the residence reaches 21 feet 1 inch in height. The small area of new second story over the stairway is located in the center of the footprint for the existing dwelling and will not result in windows overlooking the neighboring yards or into their living spaces.

A Front Setback Variance: Town Code 17.008.020, Definition of Structure, indicates that a structure is, "Anything constructed or erected, the use of which required a location on the ground or attached to something having a location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, fences, pergolas, radio and television towers, masts and aerials". The same section, Definition of Accessory Structure reads, "a detached subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use of the land".

The definitions require that staff treat the trellis structure as an accessory structure which per Town Code § 17.040.020(A) is to maintain a 10 foot setback from the front property line. Therefore, the Commission must grant a Front Setback Variance per Town Code § 17.028.010 in order to approve the proposed trellis in its proposed location.

In the mid 90's the staff attempted to get the Town to adopt a Zoning Administrator process to process simple projects such as the proposed trellis, second units, minor fence height variances, etc., but we were not successful. Therefore, in order to approve a variance we still have to be able to make the required legal findings for a variance:

1. Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
2. The variance or adjustment will not constitute a grant of special privilege, 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.
3. The strict application of this title would result in excessive or unreasonable hardship.
4. 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.

Therefore, because the site is flat, the trellis structure is not essential to the owners enjoyment of their property and the fact that the fence could be redesigned to jog back in the gate entry area, or be relocated to be at an angle to the southwest corner of the garage so that it maintains a 10 foot setback, staff is unable to make the findings required to recommend approval.

That being said the proposed trellis will not obstruct vehicular or pedestrian visibility because of its open design and the fact that it only runs the width of the access gate which is a little over 3 feet.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 13-07 based on the following findings and subject to the following conditions:

Recommended Findings

1. The proposed 1,569 square foot residence and attached 343 square foot garage/roof deck (total 1,912 square feet) is not out of character with the residences in the neighborhood on similar sized lots which vary in size from 502 square feet to 2,197 square feet (with garage). 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 garage, entryway and stairway addition will exceed the required setbacks set forth in the Town Code, will not project beyond the setbacks maintain currently by the existing residence and carport will not exceed the 28.5 foot height limit. 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. The proposed addition will not change the residential character of the property which is zoned for single-family dwellings on lots of the 5,500 square feet or more and duplexes on 7,000 square feet or more. The surrounding neighborhood is developed with single family residences and some duplexes. Therefore, approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.

4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. Granting of a Front Setback Variance for the entry trellis would be a grant of special privilege because there are ways to redesign it to comply with the 10 foot setback requirement. Therefore, the project should be redesigned in compliance with the Town Code.
6. Compliance with the 10 foot front setback regulations would not result in excessive or unreasonable hardship.

Recommended Conditions

1. The entry trellis shall be relocated to comply with the required 10 foot front setback for accessory structures.
2. This approval is limited to the development illustrated on the plans prepared by Laura Kehrlein, Frederic Divine Associates Architects, pages A1 (dated 2/23/13), A2.1 (dated 1/22/13), 2.2 , 3 and 4 (all dated 2/2/12) .
3. 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.

4. 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.

5. 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.

6. Excavation shall not occur between October 1st and April 15th. The Town Engineer has the authority to waive this condition depending upon the weather.

7. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.

8. 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".

9. 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 # 13-07. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 13-07 will result in the job being immediately stopped and red tagged.

10. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.

11. 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.

12. 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.

13. 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. Project must comply with all indoor and outdoor requirements of the 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 – Other Agency/Department comments