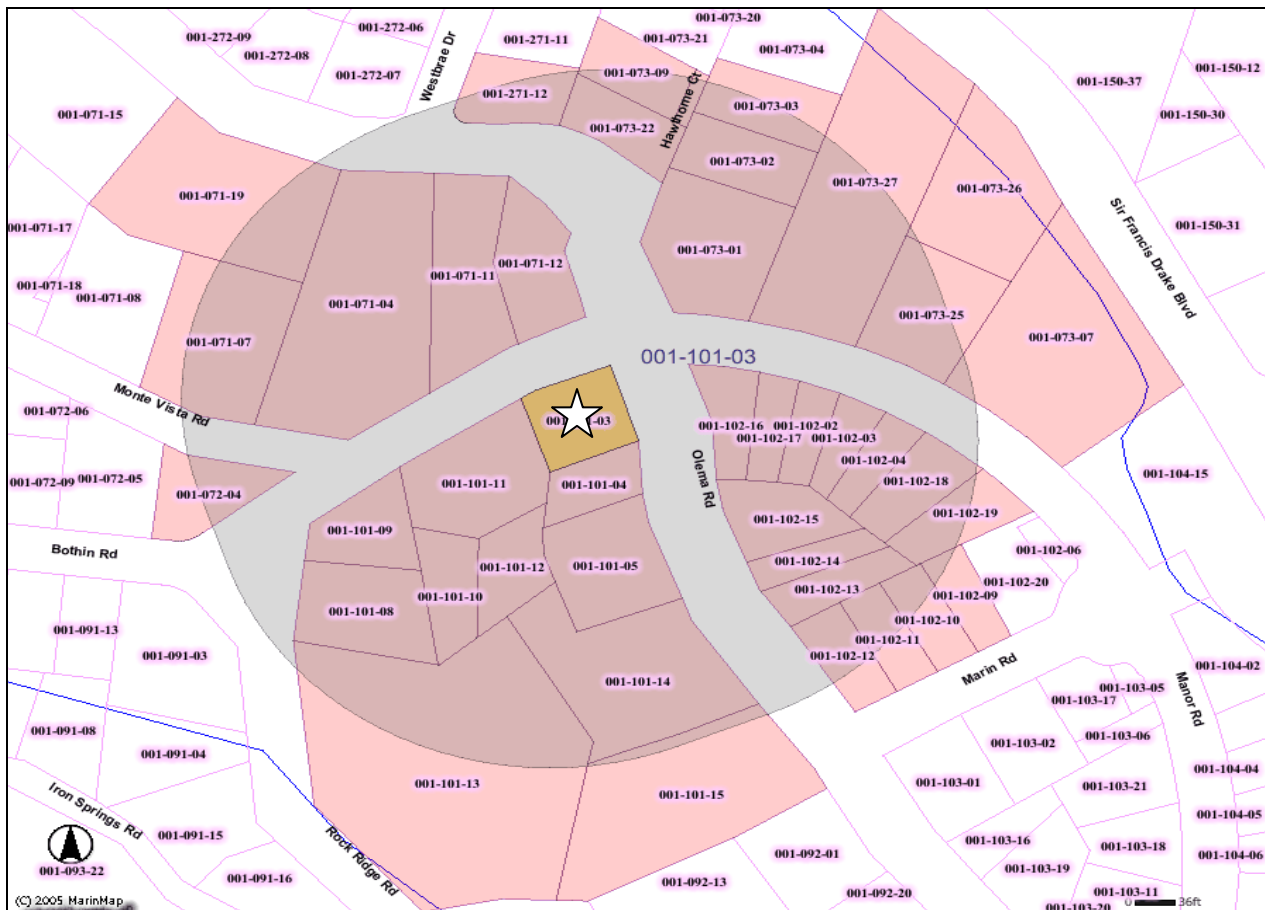


TOWN OF FAIRFAX STAFF REPORT

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: 41 Bothin Road; Assessor's Parcel No. 001-101-03
PROJECT: Addition to a single-family residence
ACTION: Use Permit and Combined Front/rear Setback Variance;
 Application # 13-06
APPLICANT: Christopher Fiore, Architect
OWNER: Mark Fiore and Chelsea Donovan
CEQA STATUS: Categorically exempt section(s) 15301(e) and 15305(a)



41 BOTHIN ROAD

BACKGROUND

This 7,184 square foot site slopes up from Olema and Bothin Roads at an average rate of 36% and is developed with a 1,587 square foot residence with a 1 car garage constructed in 1926.

DISCUSSION

The project encompasses the construction of a 212 square foot addition to a single-family residence increasing its square footage from 1,587 square feet to 1,799 square feet. The remodel/addition adds a family room to the lower floor and relocates the bathroom.

The residence complies with the regulations set forth in the Residential Single-family RS 6 Zone District as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6ft	12ft	35ft	5ft & 5ft	20ft	.40	.35	28.5ft, 2 stories
Existing	20 ft	10 ft	30 ft	14 ft & 25.5 ft	39.5 ft	.16	.24	25.5 ft, 2 stories
Proposed	same	same	same	14 ft & 24 ft	38 ft	.26	.27	same

The parking on the site is legal non-conforming because only 1 space exists in the garage on the site and guest parking is provided on Bothin Road within the public right-of-way. The project does not constitute a 50% remodel and therefore, the legal non-conforming parking is not being addressed with this project. However, future additions/improvements may result in the parking having to be increased or a parking variance being required. Town Code § 17.016.040(B) indicates that the aggregate amount of construction/alteration/enlargement on a non-conforming lot or building *during the life of the building* may not exceed 50% without either making the parking conform or obtaining a Parking Variance from the Commission.

The project requires the approval of the following discretionary permits:

A Use Permit: Town Code § 17.080.050(C) requires that a Use Permit be obtained prior to improving any property that fails to meet the minimum size and width requirements based on slope. The site has a 36 % slope and the site would have to be 28,000 square feet in size and 128 feet wide to meet the Town's minimum lot size and width requirements. The site is only 7, 184 square feet in size with an average width of 79 feet and therefore, the project requires a Use Permit.

Residences in the neighborhood on similar sized and sloped properties range in size from 1,200 square feet to 2,400 square feet (not including garages). The 212 square foot addition to this property will bring the living space square footage to 1,799 square feet which is within the range of home sizes found in the neighborhood and will not result in the house being out of scale with the site or the neighboring structures.

A Combined Front/Rear Setback Variance: Town Code § 17.080.110(B)(1) requires that structures maintain a combined front/rear setback of 35 feet. The proposed addition complies with the required minimum front and rear setbacks and the required minimum and combined side setbacks. However, the project will still result in the construction of 36 square feet of the western portion of the addition maintaining a combined front/rear setback of only 32 feet. Therefore, the project requires an exception to the front/rear setback regulation.

The combined 32 foot front/rear setback is greater than the 30 foot combined front rear setback maintained by the existing residence. Also, the encroachment into the combined setback is towards the front property line where the nearest residence is over 50 feet away, across Bothin Road at 42 Bothin Road.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 13-06 based on the following findings and subject to the following conditions:

Recommended Findings:

1. The project will increase the 1,587 square foot addition by 212 square feet to 1,799 square feet while residences in the immediate are range in size from 1,200 to 2,400 square feet. 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 change the single family character of the site or of the 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. The addition does not extend any further towards the property lines than the existing structure and it complies with the Town Floor Area Ratio, Lot Coverage and Height limits set forth in the Town Code. 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 and variance will allow the owners to improve their property in a location on the site that will have least impact on the neighbors. Therefore, 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. The substandard sized property is a corner lot that slopes up steeply from both Olema and Bothin Roads. The house is oriented at a 45 degree angle to the property frontage. These are the special circumstances that result in the strict application of the Combined Front/Rear Setback requirement being difficult to comply with. The strict application of the setback regulations will deprive the applicants of the ability to expand the residence. Expansion and improvement of private property is a privilege that has been enjoyed by other property owners in the vicinity.
6. The addition will maintain a greater combined front/rear setback than the existing residence. Therefore, the variance 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.
7. The strict application of this title would result in excessive or unreasonable hardship because a strict interpretation of the setback regulations results in a building envelope where almost any addition, except one that adds third story to the residence, encroaches into one of the required setbacks.
8. 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 because the addition maintains over a 50 foot setback from the nearest residence at 42 Bothin Road which is located across the street.

Recommended Conditions:

1. This approval is limited to the development illustrated on the plans prepared by Christopher Fiore, Architect, pages A1.0, A2.0, A2.1, A2.3, A3.0, A3.1 and A4.0 revised February 12, 2013.
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. 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 # 13-06. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 13-06 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 – Other agency/department comments

