



# TOWN OF FAIRFAX

## STAFF REPORT

### November 4, 2020

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager  
Kara Spencer, Assistant Planner

**SUBJECT:** Appeal of the Planning Commission action approving Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits for the expansion and remodeling of the single-family home located at 6 Walsh Lane; Categorically exempt from CEQA under CEQA guidelines § 15301(e)(2)(A) (Class 1) and 15302 (Class 2)

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#### **RECOMMENDATION**

- 1) Conduct the public hearing
- 2) Adopt Resolution denying the appeal and upholding the Planning Commission's September 17, 2020 action approving the Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits for an addition and 50% remodel of the single-family home located at 6 Walsh Lane, including the conditions of approval, as stated in attached Resolution No. 2020-08.

#### **BACKGROUND**

The project proposes to remodel and expand an existing 1,510 square foot two-story home. The entire home would be remodeled, including replacing the existing natural wood shingle siding with light brown and blue cement board panels, which is a fire safety improvement (See Attachment D – Project Plans). The number of bedrooms would increase from three to five and the number of bathrooms would increase from two to four. The existing crumbling, substandard foundation would be replaced with a new foundation. As part of the foundation replacement, the home would be raised from 20 feet 10 inches, to 31 feet 10 inches, which is within the required height limit of 35 feet.

The expansion involves a two-story addition to the southwestern side of the home with a 421 square-foot, two-car garage on the lower floor and a 398 square-foot primary bedroom with a full bath on the upper floor. An additional eight square feet would be added to the northside of the second floor for a total of 406 square feet of floor area added to the second floor. The other expansion to the home involves converting 950 square feet of existing unconditioned (non-living) space within the lower level into living space. Thus, a total of 1,357 square feet of living space would be added to the existing 1,510 square foot home, for a net floor area of 2,866 square feet (garages under 500 square feet are not counted toward floor area).

The majority of the additional living space would be created by converting the space that already exists within the home's lower level. While the addition would fall outside of the footprint of the existing home, it was designed to blend in with the existing home and complement its rooflines. Moreover, it would be located in an area of the project site that has already been disturbed by the existing development.

Besides the addition, the other change in the appearance of the home will be a two-foot height increase to create an eight-foot lower floor to ceiling height. The project will include replacing the natural wood shingles on the siding with tan and blue cement board panels. Most of the work involves remodeling within the existing house.

The Planning Commission initially heard the project on August 20, 2020 and continued it to the September 17, 2020 Planning Commission meeting, pending additional information and research from staff and the Town Attorney. At the September 17, 2020 Planning Commission meeting, the Planning Commission conditionally approved the Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits for the expansion and remodeling of the single-family home located at 6 Walsh Lane.

The appellant subsequently filed a timely appeal, citing errors in the Planning Commission's decision (see attached appeal letter).

For additional information about the project see Attachment C containing the Planning Commission staff reports and minutes for the project from the August 20, 2020 and September 17, 2020 meetings.

## **DISCUSSION**

On September 28<sup>th</sup>, 2020, the neighbor at 10 Walsh Lane filed an appeal of the Planning Commission's approval of the requested entitlements. The appellant provided the following reasons as the basis for his appeal:

1. He was “excluded from participating in the last half of the Planning Commission meeting, while proponents of the project were able to participate.”
2. “The Planning Commission focused on the compliance of quantitative aspects of the Zoning Code (Floor Area Ratio, Height, Footprint) and ignored requirements [for] Design Review and Hill Area Residential Development.”
3. “Items found in the architectural drawings were incorrect, requiring variances and none were sought.”

At the September 17<sup>th</sup> Planning Commission meeting, the public comment portion allowed the appellant and twelve others to provide comments on the project. After acting Chair Swift closed the public portion of the meeting, the Planning Commissioners discussed the project. During their discussion, questions about the project were addressed to the project architect/applicant, which is why she was afforded additional opportunities to speak. Moreover, the appellant's letter regarding his and neighborhood opposition to the project was included as Attachment E to the September 17, 2020 staff report on the project.

During the public portion of the meeting, the project architect/applicant, requested that staff read a letter from the absent property owner into the record, which due to its late submission was done by staff at the meeting.

The Planning Commission reviewed the project and based on the plans and other documentary evidence in the record, the Planning Commission determined that the applicant met the burden of proof required to support the findings necessary to approve the Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits. Specifically, the Planning Commission found the project to be consistent with the 2010-2030 Fairfax General Plan in that it will preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size and mass (Policy LU-7.15); it will preserve the natural features of the

project site to the extent feasible (Policy LU-7.2.2); and, it will minimize run-off in a manner that does not cause undue hardship on neighboring properties (Policy LU-4.1.4). Moreover, the Planning Commission found the project to be consistent with the findings required for approval of a Hill Area Residential Development Permit, including as stated above, that the project is consistent with the General Plan and preserves identified natural features as much as possible while also complying with other agencies' regulations. In addition, the Planning Commission determined that (1) vehicular access and parking are adequate; (2) the project harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040; (3) the approval of the addition and remodel would not constitute a grant of special privilege and would not contravene the doctrines of equity and equal treatment; (4) implementation of the project would not result in any effects substantially beyond that which might occur without approval or issuance of the permit; (5) the project would not conflict with any other policies or plans officially adopted by the Town; and, (6) approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

Based on the review and recommendation of the Town Engineer, the Planning Commission made the following findings regarding the requested Excavation Permit: the project can be constructed without creating any geological hazards; the health safety and welfare of the public will not be adversely affected; adjacent properties would not be harmed by the project; the requested amount of excavation is the minimum necessary to build the project; the visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary; no more than the minimum amount of landscaping would be removed; and, grading would not occur during the time of year that would result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

Regarding the Tree Permit, the Planning Commission found that the requested tree removals were necessary to protect the public health and safety, prevent damage to property, and to allow the owner to reasonably develop and use the property.

The project proposes to increase the home's height from 20'-10" to 31'-10", at the addition's maximum height. This increase in height is within the required height limit of 35 feet.

The existing home intrudes six inches into the right (northeast) 5-foot required side setback, and nine feet (at the deck) into the 35-foot combined front and rear setback. The project does not propose to increase either of these existing legal non-conformities. Further, Section 17.016.040(C)(2) of the Town Code sets forth that the increased height does not require a Variance because: the off street parking requirements are met, there is no increase in an existing non-conformity, nor would the project create a new non-conformity, and the building is not located in a Ridgeline Scenic Corridor or a Flood Zone.

**FISCAL IMPACT**

n/a

**ATTACHMENTS**

- A. Appeal of the Planning Commission September 17, 2020 Approval of the Project
- B. Proposed Resolution denying appeal of the 6 Walsh Lane Requested Entitlements
- C. Planning Commission August 20, 2020 and September 17, 2020 staff reports, minutes and Resolution No. 2020-08
- D. Project Plans