



**SAN RAFAEL ZONING ADMINISTRATOR
REGULAR HEARING
November 8, 2024**

***Minutes and Notice of Decision
(Pursuant to San Rafael Municipal Code 14.28.050)***

- 10:22-10:35 1. **532 D Street** - Request for a Variance to encroach into the required side and front yard setbacks to lift the existing home to create a new ground floor, expand the rear deck, and construct new entry stairs; APN: 074-112-05; Multifamily Residential Zoning District (MR2); Permit V23-002 (PLAN23-094)

Project Planner: Renee Nickenig, Associate Planner

PERMITS REQUESTED

- **Variance (V23-002).** The proposed project exceeds the required front and side setbacks for the zoning district, and so a Variance is required to address the special circumstances pertaining to the land (such as size, shape, topography or location) that deprives such property of privileges enjoyed by other properties in the vicinity and in the same zoning district pursuant to San Rafael Municipal Code (SRMC) 14.23.010.

SITE DESCRIPTION

The project site is located at the east side of D Street, from which the property is accessed. The site is rectangular in shape and is approximately 4,800 square-feet in size. The existing residence has a gross building area of 2,169 square-feet with a 180 square-foot garage structure. A narrow-paved driveway runs from the street to the garage structure. The site otherwise has limited landscaping and fencing surrounding the property.

PROJECT DESCRIPTION

The project proposes to lift the existing home to create additional living space and a new ground floor. The new proposed height of the dwelling is approximately 29 feet. The project also proposes to continue the nonconforming setback at the north and expand the entry steps to encroach into the required front (west) yard setback. The proposed alterations would match the existing residence in colors and materials, including the reconstruction of the stairs.

The project will additionally include a reconstruction and expansion of the rear deck, which does not require additional planning entitlements.

BACKGROUND/PRIOR APPROVALS

No previous design review approvals were located for the subject dwelling.

PUBLIC HEARING

On November 8, 2023, a Zoning Administrator meeting was convened for this Variance (V23-002). The Acting Zoning Administrator for this meeting, Renee Nickenig, opened the meeting at 10:22 am.

A. Applicant presentation

The applicant presented the project and reviewed the proposed findings for the requested Variance.

B. Public Comments

No members of the public provided comment prior to or during the hearing.

C. ZA discussion

Staff and the applicant discussed the potential for the existing and proposed windows on the north elevation to be moved or made opaque to ensure privacy between the subject property and the neighboring property to the north.

D. Action

The Acting Zoning Administrator Conditionally Approved the request for Variance (V23-002) per the Findings and subject to conditions (below).

The hearing was adjourned at 10:35 am.

FINDINGS

CEQA Findings

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”). Furthermore, none of the exceptions found in Government Code §15300.2 apply.

Variance Findings for V23-002 (SRMC §14.23.070)

- A. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the requirements of this title deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;**

The subject lot has a reduced area and width below the minimum required in the Multifamily Residential Districts: Medium-Density (MR) zoning district by approximately 20%. As such, any dwelling at the site would not be able to fully utilize the allowable living space which other properties in the vicinity and within the MR District would be able to use.

The proposed project will otherwise meet the property development standards required pursuant to SRMC Section 14.04.040.

B. That the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated;

The project does not grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated because the lot is substandard in width and area, situated in the flood zone and adjacent single-family residential zoning district which requires additional setback in the rear yard.

C. That granting the variance does not authorize a use or activity which is not otherwise expressly authorized by the zoning regulations for the zoning district in which the subject property is located;

Single-family residential is permitted in Multifamily Residential Districts: Medium-Density (MR) zoning districts.

D. That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

The project will be reviewed by the Building Division, Fire Department, and the Department of Public Works prior to issuance of a building permit.

CONDITIONS OF APPROVAL

General Conditions

1. Approved Project. This Variance (V23-002) conditionally approves the project that consists of lifting the existing home to a new height of approximately 29 feet and create additional living space and a new ground floor. The project proposes to continue the nonconforming setback along the north elevation and expand the entry steps to encroach into the required front (west) yard setback. The proposed alterations would match the existing residence in colors and materials, including the reconstruction of the stairs. The project is located at 532 D Street.

Plans submitted for building permit shall be in substantial conformance to the plans dated June 15, 2023, with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval by the Zoning Administrator. Modifications deemed greater than minor in nature by the Community Development Director may require review and approval by the Planning Commission pursuant to SRMC Section 14.23.020.

2. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.

3. Permit Validity. This Permit shall become effective on **November 16, 2023** and shall be valid for a period of two (2) years from the date of final approval or **November 16, 2025**, and shall become null and void if a building permit is not issued or a time extension granted by **November 16, 2025**. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
4. Building Permit. Prior to the commencement of work, a building permit shall be obtained from the Building Division.
5. Construction Hours. Except as otherwise provided in subsection B of the San Rafael Municipal Code Section 8.13.050, or by the Planning Commission or City Council as part of the development review for the project, on any construction project on property within the city, construction, alteration, demolition, maintenance of construction equipment, deliveries of materials or equipment, or repair activities otherwise allowed under applicable law shall be allowed between the hours of seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.), Monday through Friday, and nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.) on Saturdays, provided that the noise level at any point outside of the property plane of the project shall not exceed ninety (90) dBA. All such activities shall be precluded on Sundays and holidays. Violation of the foregoing may subject the permittee to suspension of work by the chief building official for up to two (2) days per violation.
6. Colors, Materials, and Lighting. Colors, materials and lighting shall be designed to avoid creating undue off-site light and glare impacts. New or amended building or site colors, materials and lighting shall comply with San Rafael Municipal Code Section [14.16.227](#), subject to review and recommendation by the Police Department, Public Works Department, and Community Development Department.
7. Exterior Lighting. Any exterior lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with San Rafael Municipal Code Section [14.16.227](#) - Light and glare. The project proponent is responsible for hiring a qualified lighting expert to conduct the inspection and to prepare a summary analysis verifying the projects meets City standards to be submitted to the Planning Division.

Project Specific Conditions

8. Window Placement. If any new windows are proposed at the north elevation they shall be placed in a manner that would not align with any existing windows on the existing dwelling to the north. If that cannot be avoided, the new window will be made of opaque glazing to ensure privacy of both dwelling are maintained.

ACTION TAKEN: On November 8, 2023, the Zoning Administrator Conditionally Approved the requested Variance (V23-002) subject to the Findings and Conditions above.

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - *Notice of decision*. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - *Filing and time limit of appeals*, by submitting a letter of appeal

ZA Minutes and Notice of Decision
November 8, 2023
532 D Street
V23-002 (PLAN23-094)

and the appropriate fees within five (5) working days of the date of approval, or by **November 15, 2023 at 5:00 p.m.** This approval shall become effective at the end of the appeal period.

Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the time period specified; e.g., duration of the project/use.

 _____

Renee Nickenig, Acting Zoning Administrator

11/16/2023

Date



**SAN RAFAEL ZONING ADMINISTRATOR
REGULAR HEARING
November 8, 2024**

***Minutes and Notice of Decision
(Pursuant to San Rafael Municipal Code 14.28.050)***

- 10:04 - 10:22 am 1. **34 Mooring Road** - Request for an Environmental and Design Review permit to construct an upper-story addition over 500 square feet in the Canalfront Review Overlay District; APN: 008-010-46; Duplex Residential – Canalfront Review Overlay Zoning District (DR-C) – Water District (W); Permit ED23-045 (PLAN23-106)

Project Planner: Renee Nickenig, Associate Planner

PERMITS REQUIRED

- **Environmental and Design Review (Minor) (ED23-045).** Upper-story additions over five hundred (500) square feet in size to single-family and duplex residential structures require an Environmental and Design Review permit per San Rafael Municipal Code (SRMC) Section 14.25.040.B.2.f.

SITE DESCRIPTION

The project site is located between Mooring Road at the northeast and the San Rafael Creek (canal) at the southwest (rear). The site is rectangular in shape and is approximately 8,755 square feet in size and is occupied by two existing dwellings totaling approximately 3,522 square feet in area (36 and 34 Mooring Road). The site is minimally landscaped and includes a decoratively paved driveway and parking area shared by the two dwellings. A dock system at the rear property line provides access from the canal.

PROJECT DESCRIPTION

The proposed project is focused on the existing dwelling at the southwest of the property (34 Mooring Road). The dwelling has an uneven square in plan with a pyramidal hipped roof and cupola at the peak. The project proposes to remove and replace the second level of the dwelling to accommodate additional living space. The addition will expand the area of the second floor but will not exceed with limits of the existing floor plan or overall height.

Architectural Features

The new roof plan is rectangular with parallel extensions facing southwest (rear). The primary roof form would be hipped, and the extensions pitched. An open deck is shown across the rear elevation, and at the right side of the front elevation.

Windows and Doors

Windows line the front, rear, and southeast (“left” on plan) elevations. No windows are shown on the northwest (“right” on plan) elevation. Sliding glass doors are shown at the northeast

(front) and southwest (rear) elevations. The windows and doors will be casement style with painted metal frames.

Materials and Colors

The proposed colors and materials shown would match the existing. This includes exposed standing seam metal roofing and stucco siding in a dark green. The deck railings will be painted metal with vertical posts and horizontal rails.

BACKGROUND/PRIOR APPROVALS

No previous design review approvals were located for the subject dwelling. A variance was approved in 1983 to construct an addition to the other structure at the site (V83-11).

PUBLIC HEARING

On November 8, 2023, a Zoning Administrator meeting was convened for this Environmental and Design Review Permit (ED23-045). The Acting Zoning Administrator for this meeting, Renee Nickenig, opened the meeting at 10:04 am.

A. Applicant presentation

The applicant presented the project and informed the Acting Zoning Administrator that additional screening will be introduced at the west side of the rear second floor deck.

The Acting Zoning Administrator requested that the applicant confirm the intention for window placement at the northwest elevation and the finish of the proposed metal roof.

The applicant confirmed: that the window placement will be sensitive to the neighboring property towards the northwest; and that the proposed metal roof will have a painted, non reflective finish.

B. Public Comments

Megan Verad, a neighboring owner, was present at the meeting to comment on safety concerns regarding the construction phase of the project.

C. ZA discussion

The applicant addressed the public comment and noted the roadway will be kept clear.

D. Action

The Zoning Administrator Conditionally Approved the request for an Environmental and Design Review Permit (ED23-045) per the Findings and subject to conditions (below).

The hearing was adjourned at 10:22 am.

FINDINGS

CEQA Findings

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”). Furthermore, none of the exceptions found in Government Code §15300.2 apply.

Environmental and Design Review Permit Findings for ED23-045 (SRMC §14.25.090)

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;

- a) The subject property has a General Plan 2040 designation of Medium Density Residential (MDR). The project is in accord with the general plan as it does not change the existing multi-family residential use.
- b) The subject property is in accord with the zoning ordinance as it will meet the regulations for the Duplex Residential – Canalfront Review Overlay Zoning District (DR-C) and Water District (W) zoning districts.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;

In addition to the design criteria outlined in SRMC Section 14.25.090 and the property development standards for the Duplex Residential District (SRMC Section 14.04.040) and the Water District (SRMC Section 14.11.020), the proposed project meets the criteria for projects in the Canalfront Review Overlay Zoning District, in that:

- a. There are no proposed alterations to the site design, and so there will be no impact on the existing access to the canal.
- b. The project will not expand the lower floor or existing footprint of the building, and therefore there will not be an impact to any existing public viewpoints to the canal from the right of way.
- c. The proposed colors and materials will be neutral in tone, harmonious with the surroundings, and should not produce excessive glare.

C. That the project design minimizes adverse environmental impacts; and

As conditioned, the project will minimize adverse environmental impacts. The Department of Public Works has identified this project as a substantial improvement, which will require that the project be designed in accordance with California Building Code Section 1612 and *ASCE 24-14: Flood Resistant Design and Construction*.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

The project will be reviewed by the Building Division, Fire Department, and the Department of Public Works prior to issuance of a building permit. In addition, all new lighting and exterior finishes will be required to meet the general light and glare standards required by SRMC Section 14.16.277.

CONDITIONS OF APPROVAL

General Conditions

1. Approved Project. This Environmental and Design Review Permit (ED23-045) conditionally approves the project that consists of removing the second story and roof structure and replacing with an expanded second floor and new roof plan. The proposed alterations would match the existing residence in colors and materials. The project is located at 34 Mooring Road.

Plans submitted for building permit shall be in substantial conformance to the plans dated September 20, 2023, with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed greater than minor in nature by the Community Development Director may require review and approval by the Zoning Administrator pursuant to SRMC Section 14.25.080.

2. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.
3. Permit Validity. This Permit shall become effective on **November 16, 2023** and shall be valid for a period of two (2) years from the date of final approval or **November 16, 2025**, and shall become null and void if a building permit is not issued or a time extension granted by **November 16, 2025**. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
4. Building Permit. Prior to the commencement of work, a building permit shall be obtained from the Building Division.
5. Construction Hours. Except as otherwise provided in subsection B of the San Rafael Municipal Code Section 8.13.050, or by the Planning Commission or City Council as part of the development review for the project, on any construction project on property within the city, construction, alteration, demolition, maintenance of construction equipment,

ZA Minutes and Notice of Decision
November 8, 2023
34 Mooring Road
ED23-045 (PLAN23-106)

deliveries of materials or equipment, or repair activities otherwise allowed under applicable law shall be allowed between the hours of seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.), Monday through Friday, and nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.) on Saturdays, provided that the noise level at any point outside of the property plane of the project shall not exceed ninety (90) dBA. All such activities shall be precluded on Sundays and holidays. Violation of the foregoing may subject the permittee to suspension of work by the chief building official for up to two (2) days per violation.

6. Colors, Materials, and Lighting. Colors, materials and lighting shall be designed to avoid creating undue off-site light and glare impacts. New or amended building or site colors, materials and lighting shall comply with San Rafael Municipal Code Section [14.16.227](#), subject to review and recommendation by the Police Department, Public Works Department, and Community Development Department.
7. Exterior Lighting. Any exterior lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with San Rafael Municipal Code Section [14.16.227](#) - Light and glare. Should an issue arise, the project proponent would be responsible for hiring a qualified lighting expert to conduct the inspection and to prepare a summary analysis verifying the projects meets City standards to be submitted to the Planning Division.
8. Landscaping. Pursuant to SRMC Section 14.25.080, all landscaping shall be maintained in good condition and any dead or dying plants, bushes, or trees shall be replaced with new healthy stock of a size compatible with the remainder of the growth at the time of replacement. Any new landscaping and irrigation must meet the Marin Municipal Water District's (MMWD) water conservation rules and regulations.

Project Specific Conditions

9. Rear Deck Screening. Any screening proposed at the at the west side of the rear second floor deck should be constructed in a manner and with materials that will adequately block the view to and from the neighboring property to the west to the satisfaction of the Community Development Director.
10. Window Placement. If any new windows are proposed at the northwest elevation they shall be placed in a manner that would not align with any existing windows on the existing dwelling to northwest. If that cannot be avoided, the new window will be made of opaque glazing to ensure privacy of both dwelling are maintained.
11. Roof Material. A sample shall be provided of the final roofing material prior to approval of a building permit to confirm that the surface will not be excessively reflective.

ACTION TAKEN: On November 8, 2023, the Zoning Administrator Conditionally Approved the requested Environmental and Design Review Permit and Use Permit (ED23-045) subject to the Findings and Conditions above.

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - *Notice of decision*. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - *Filing and time limit of appeals*, by submitting a letter of appeal

ZA Minutes and Notice of Decision
November 8, 2023
34 Mooring Road
ED23-045 (PLAN23-106)

and the appropriate fees within five (5) working days of the date of approval, or by **November 15, 2023 at 5:00 p.m.** This approval shall become effective at the end of the appeal period.

Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the time period specified; e.g., duration of the project/use.



Renee Nickenig, Acting Zoning Administrator

11/16/2023

Date