

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Michael Rock, Town Manager 
Jim Moore, Planning Director
Linda Neal, Senior Planner

Date: March 2, 2011

Subject: Adoption of Resolution No. 11-15; granting a driveway width Variance at 77 Porteous Ave.; Assessor's Parcel No. 002-082-26

RECOMMENDATION

Move to approve Resolution No. 11-15 granting the request for a Variance to construct a 33 foot wide driveway at 77 Porteous Avenue.

BACKGROUND

The applicant, Scott Hurd, has applied for a variance to construct a 33 foot wide driveway on a site that is 7,190 square feet in size, irregularly shaped and was recently developed with a 1,078 square foot manufactured residence.

The installation of the manufactured residence did not require the approval of any discretionary permits from the Planning Commission because the parcel meets the minimum size and width requirements for the Residential RD 5.5-7 Zone and the structure and proposed 1 car garage meet the required setback, height and lot coverage limitations.

Because Town Code § 12.12.030 limits the width of residential driveways to 20 feet, the applicant needs a variance and Section 12.12.090 of the Town Code provides that such variances are granted by the Town Council.

DISCUSSION

The site is located on the side of Porteous Avenue where no on-street parking is permitted. Therefore, the applicant is unable to provide the three on-site parking spaces that are required by the Town Code without widening the driveway beyond 20 feet. The proposed driveway is 33 feet wide to accommodate two additional parking spaces adjacent to the one car garage for the total of three spaces required by the Town Code [Town Code § 17.052.030(A)(1) and (2)].

Widening of the driveway will not remove any on-street parking used by the public since the curb is red along the property frontage. In addition, allowing the site to accommodate three vehicles out of the public right-of-way will decrease vehicular congestion along this portion of Porteous Avenue.

Town Code § 12.12.090 allows the Town Council to grant variances from the 20 driveway width regulation if it makes the following findings:

(A) There are exceptional or extraordinary circumstances or conditions applying to the site which do not apply generally to land buildings or other uses in the same zone district.

(B) The granting of the exception is necessary for the preservation and enjoyment of the substantial property rights of the petitioner; and

(C) The granting of the Variance will not adversely affect the health or safety of people in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Staff believes that the findings can be made for a variance that is conditioned upon the applicant improving the portion of the driveway apron on the public right of way and in compliance with Marin County Standards, and has prepared the attached Resolution No. 11-15 for your consideration.

ATTACHMENTS

Resolution No. 11-15
Applicant's site plan

RESOLUTION NO. 11-15

A RESOLUTION OF THE FAIRFAX TOWN COUNCIL GRANTING A DRIVEWAY VARIANCE FOR A PROJECT LOCATED AT 77 PORTEOUS AVENUE, ASSESSOR'S PARCEL NO. 002-082-26

WHEREAS, the Town of Fairfax has received an application for 77 Porteous Avenue (the "Property") to construct a 33-foot wide driveway; and

WHEREAS, the driveway will serve a manufactured residence on the Property, which did not require any discretionary permits from the Planning Commission because the parcel meets the minimum size and width requirements for the Residential RD 5.5-7 Zone; and

WHEREAS, because the Property is located on the side of Porteous Avenue where no on-street parking is permitted, the applicant is unable to provide the three on-site parking spaces that are required by the Town Code without widening the driveway beyond 20 feet, which is the maximum width allowed by Town Code 12.12.030, and the irregular shape of the Property precludes alternate placement of the residence; and

WHEREAS, Town Code section 12.12.090 authorizes the Town Council to grant roadway variances where the Town Council can make certain determinations, and the applicant has requested a driveway width variance to allow a 33ft wide driveway to accommodate the on-site parking places; and

WHEREAS, widening the driveway will not remove any on-street parking used by the public since the Property is on the east side of Porteous where on-street parking is prohibited, and allowing the site to accommodate three vehicles out of the public right-of-way will decrease vehicular congestion in the area; and

WHEREAS, the Project is Categorically Exempt from the Environmental Quality Act (CEQA) pursuant Section 15303(a), One Single-Family Residence in a Residential Zone, Class 3, of the CEQA Guidelines; and

WHEREAS, the Town Council held a duly noticed Public Hearing at which time all interested parties were given a full opportunity to be heard and to present evidence;

NOW, THEREFORE, the Town Council after considering the record of the Planning Commission hearing on the matter and other testimony and documentary evidence, does hereby find and determine as follows:

1. The location of the Property and its irregular shape limit the options for relocating the residence farther from the street, thus constituting extraordinary circumstances that a) prohibit the applicant from providing the third required guest parking space in the public right-of-way as permitted by code; or b) limit the applicant's ability to shift the residence back from the street to provide more parking in the driveway.

2. Without granting the variance to allow the three on-site parking spaces required by the Town Code, the applicant would be denied substantial property rights to preserve, use and enjoy the Property for its intended purpose; and

3. Because granting the variance will allow the Property to accommodate three vehicles out of the public right-of-way and decrease vehicular congestion along this portion of Porteous Avenue, the granting of the Variance will not adversely affect the health or safety of people in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

NOW, THEREFORE, the Town Council of the Town of Fairfax does hereby grant a driveway variance to permit a 33-foot driveway on the Property as described more particularly in the applicant's application and on the condition that the driveway apron in the area of the public right-of-way be improved in compliance with Marin County Standards.

The foregoing Resolution was duly passed and adopted at a Regular Meeting of the Town Council of the Town of Fairfax held in said Town on the 2nd day of March, 2011 by the following vote, to wit:

AYES:
NOES:
ABSENT:

Larry Bragman, Mayor

Attest:

Judy Anderson, Town Clerk