

MAR 01 2012

Dear Council Members,

TOWN OF FAIRFAX

We thank you for hearing our appeal. We very much hoped that we could reach an agreement with the owner without the need for this hearing. Unfortunately, the owner did not contact affected homeowners ahead of time, did not respond to our letter, and did not address our design review issues during the time frame to prevent an appeal, so the neighbor-to-neighbor agreement we hoped for was not possible.

We recognize that the owner is going through a personal and emotional tragedy that few of us can understand. We also completely understand the need for the owner to rebuild her family home. We have often thought about her climbing out of her window to save her life that night and how terrifying that must have been. We don't wish to stand in the way of her rebuilding, but only to make some design modifications to protect the quality of life that we treasure.

We are writing to ask that steps be taken to minimize our loss of privacy from the proposed development. Fortunately, Mr. Kroot stated at the DRB that Mrs. Kibbe has no interest in the view toward our house, so we don't think these accommodations should cause undue hardship.

Design Review Board Meeting

We aren't surprised that the Design Review Board (DRB) approved Mr. Kroot's design. Mr. Kroot was well prepared at that meeting and made a good case, while we were un-prepared and made a very poor one. ~~We haven't gone through this before and simply didn't understand the process. Unfortunately,~~ several assertions at the DRB were misleading and we believe they affected the decision of the DRB.

Home size and position

At the Planning Board meeting and the DRB, it was stated that the proposed design is "just replacing the family home" and that the new home is "slightly larger" and "about the same size" as the previous home. In fact, the proposed house is more than twice as tall as the bulk of the previous structure (26.5 ft vs. ~10-12 ft) and has nearly twice the square footage (2700 sq.ft. vs. 1400). The statements about the relative size of the existing structure and the proposed structure left the impression that there was little additional development and therefore little additional visual encroachment. That is clearly not the case. The proposed structure is listed right at the maximum allowable height of 28.5 ft. In fact, the house at the peak is 37.5 ft tall and falls within the height limit of 28.5 ft only if the entire 1st story is counted as below grade at that point. It is telling that the fire Marshall's report lists the house at 35 ft. tall, not 28.5. This design pushes the legal height limit to its absolute maximum. It is not simply a replacement home but a major enlargement that creates new impacts on neighbors like us as it is currently designed. The proposed home is large for the scale of the neighborhood and the third story is very visually prominent, jutting above and out of the trees, and visually intruding into neighboring house view corridors. Rebuilding the previous home or increasing the square footage in two stories rather than maxing out the height allowance with a new third story would likely not have caused neighboring privacy issues.

At the DRB, it was stated that the new home is oriented 90 degrees from our home and it is 'facing south' for a view of cascade canyon. The architect stated "everything is designed to look perpendicular from where you are to look toward Cascade Canyon. The rooms are not designed to look in your direction. Some are just a closet or a master bath." In fact, we discovered that the proposed structure is oriented toward our home and that, contrary to the above assertions, many of the floor length or almost floor length living room windows have direct views of our house and decks. The largest windows in the house – the 12ftx8ft living room windows – face north east toward our property, not south to Cascade Canyon. The house is in no way "designed to look perpendicular" to our house. The peak of the roof and the largest windows are oriented toward our house because if the peak and the largest windows were

Late submittal from neighbor

AGENDA ITEM # 17

oriented south, more toward Cascade Canyon, the house would no longer be 28.5 ft tall – the peak would be 37.5 ft. above grade.

At the DRB, Mr. Kroot stated that we are at a much higher elevation than Mrs. Kibbe's house and therefore weren't impacted. This view was backed up by city planning staff. Our elevation was characterized as roughly 80 ft above Mrs. Kibbe's. That estimate was based on the street level of our lot and the ground level of Mrs. Kibbe's. In fact, our bedroom level is 4 stories below our street-level garage and Mrs. Kibbe's proposed living room and decks are 3 stories above her ground level, making her proposed new 3rd story only slightly below our house and creating nearly straight-on sightlines. In the design review, Mr. Kroot said that we "look down on her" and that we "would impact her privacy, not the other way around". Clearly if we can see her, she can see us, and vice-versa. It is the proposed new 3rd story that creates the impact on our privacy, not our existing house that impacts hers.

At the DRB, Mr. Kroot stated that we are "the equivalent of 5 lots away" from Mrs. Kibbe's lot implying that we are too far away to be impacted. Perhaps this was based on the average lot size in the densest parts of Fairfax. In fact, lots in our neighborhood are not average size and there is only one large vacant lot between Mrs. Kibbe and us. People choose to live up our crazy narrow roads in the hills because we value larger lots and increased privacy. The value of our privacy shouldn't be judged by the privacy of the average lot in the densest parts of Fairfax. Homes within a certain distance from a project are given notice because they will be impacted, as stated in the zoning codes.

~~At the DRB, both the architect and planning staff stated that 'it is not possible to make a house entirely invisible' and that residents don't have a right for neighbors to "be invisible."~~ That is an unfair characterization of our requests. Before the fire, Mrs. Kibbe's two-story home was invisible to us, but since the trees have come down around the home, and third story bars have risen, the structure (especially the proposed third floor) is very visible. We never even remotely asked that the new home be made invisible to us. To characterize a request for limiting direct sight-lines as a request to make the home invisible is simply not the case.

Proposed remedies

We live in a small house (833 sq. ft.) with a large 2-story deck on the west side of our house that is currently completely private. We live on our decks whenever the weather allows. We bought our tiny house largely for the joy of sitting on our deck in the woods and our privacy and quiet is a large part of our quality of life. Currently, the nearest neighbor with a view of our west decks is about a ¼ mile away. In a relatively pristine area, any encroachment has a greater effect.

We are asking that the new home be the least visually prominent as possible without spoiling Mrs. Kibbe's enjoyment of her home, and be designed to have minimal views of our deck, living room and bedroom.

To maintain the maximum privacy for the neighborhood and our home, be the least visually prominent, and to have a home in step with the scale of the neighborhood, the best remedy would be to approve a two-story home that increases the square footage of the home without drastically increasing its height.

If the house is permitted to be built out to the absolute maximum legal height possible, we ask that we be allowed to retain the absolute maximum privacy possible.

We hope we have described for you how this new third story encroaches on the neighborhood, would impact our home and our quality of life, and that we are not 'far away and way above' the proposed home as asserted.

If the third story is approved, we are asking:

1. That there not be an east facing deck on the third story with direct views of our deck, living room and bedroom. There appears to be room for a deck to the south that would be entirely private and afford Mrs. Kibbe the views of Cascade Canyon she apparently desires.
2. That if there is an east facing deck that a screening wall or trellis structure be built along the north side of the deck to minimize direct sight-lines.
3. That the glass on the large north-facing living room windows and east facing floor length windows be made translucent.
4. That no additional mature trees be removed between our properties unless required by the fire department, since removal would increase the visibility of the house.
5. That fast-growing, mature, fire-safe trees be planted on the north and north-east side of the home. Unfortunately, this would only provide screening in the very long-term. Since the house sits on a hillside, planting trees 30 feet away from the house will place the trees 10-20 feet lower on the hill below the house. Thus, it could take 10-20 years before even a mature tree will grow 50 feet to provide screening. We appreciate the owner's stated willingness to plant these trees to help screen the house in the future.

All of these remedies minimize the sight-lines from the proposed house to the north and east, which is a view Mrs. Kibbe is apparently not interested in.

We believe that these adjustments to the design will maintain everyone's quality of life and minimize the privacy intrusion from the currently proposed third story.

Additional questions/issues that have come up during this process

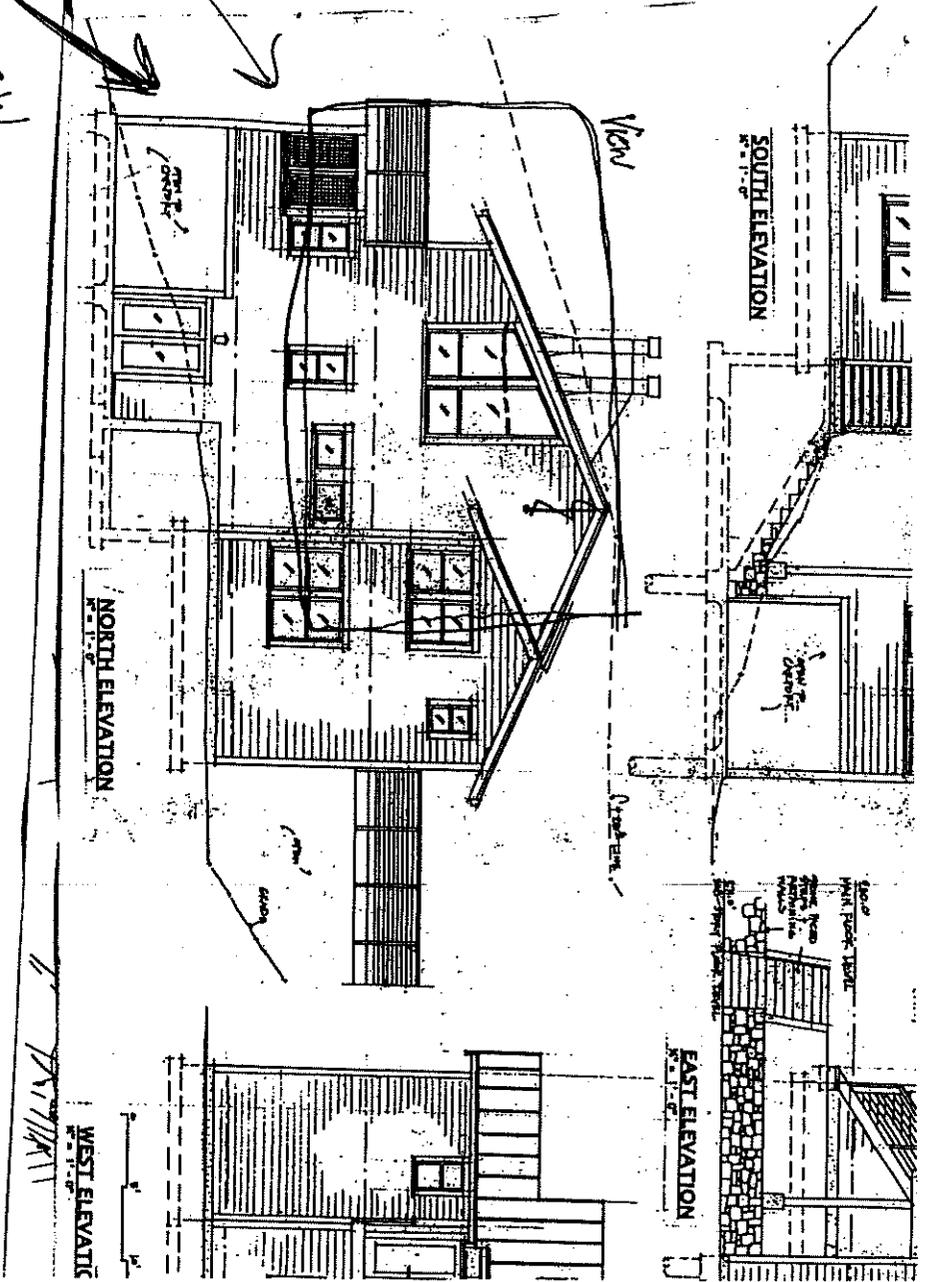
- We have noticed that the width requirements of the road / driveway to the home has changed a few times during the process. It is unclear how these modifications on how the state fire code was met occurred, given the importance of fire truck entry to the home. We are thankful for the owner's fire safety concerns. We are also extremely grateful to the fire department for their work the night of the fire. That fire could have been a disaster to not only that home and the owner, but to Fairfax, if it would have spread. We commend the fire department's expertise and dedication.
- Deeming an application complete, based on a technicality, while meets the letter of the law, is not in the spirit of the law. After listening to the planning commission meeting from January, that situation clearly put the town engineers, city council, planning department staff and others in an extremely difficult situation. We were also not able to comment on how this new third story affected our home prior to the application being deemed complete.
- House Size and Height: 2700 sq ft is not 'about the same' or even 'slightly bigger' than 1400 sq ft (based on the town records, which are likely more correct than the county records). 2700 is not even 'slightly bigger' than 2000. - a 35% increase. 28.5 feet is definitely not 'about the same' as the original home height.

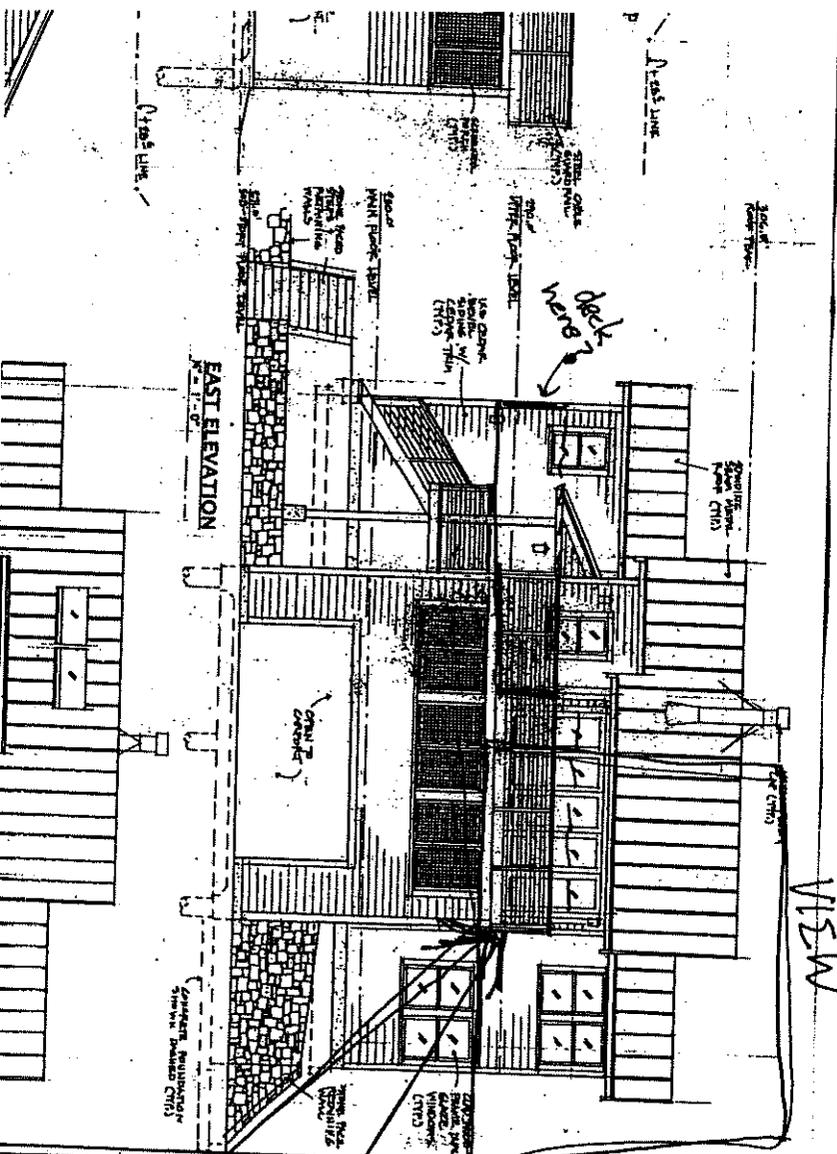
Thank you again for hearing our appeal.

Steve and Rochelle



OUR VIEW
IS FROM THE
CORNER





EAST ELEVATION

VIEW

EXTERIOR ELEVATIONS

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01-01 & 02

ONE VIEW