

**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission

FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner

DATE: January 21, 2010

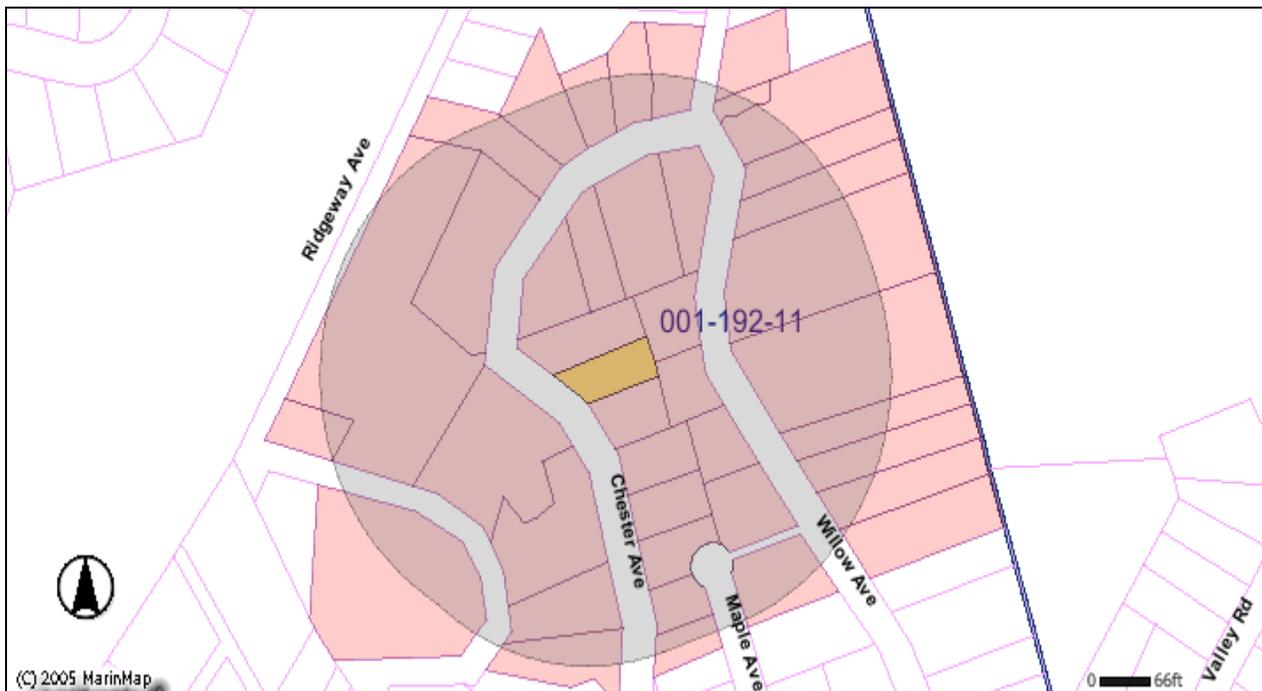
SUBJECT: Continued consideration of a request for Use Permit and Parking, Setback and Floor Area Ratio Variances for an addition/remodel of an existing single-family residence; Application # 09-25

ADDRESS: 80 Chester Avenue; Assessor's Parcel No. 001-192-11

APPLICANT: Rushton-Chartock Architects

OWNERS: Cameron and Kamber Mason

CEQA: Categorically exempt, § 15301(e)(1) and 15305(a)



80 CHESTER AVENUE

BACKGROUND

This matter was continued from the November 19, 2009 Planning Commission meeting when a neighbor advised the Commissioners that a recorded deed restriction exists which limits the height of any residence on the site to two stories and the document might affect the ability of the Planning Commission to approve the project (Exhibit B - minutes from the 11/19/09 meeting and Exhibit C – deed restriction). The Town Attorney has reviewed the Deed Restriction and indicates that the document does not preclude the Planning Commission from taking action on the project because it does not result in the residence becoming a three story structure (Exhibit D).

Neighbors also expressed concerns at the November 19th meeting about the height of the entryway and the possibility that the redesigned parking might result in the applicants parking vehicles in a manner that would block access and parking for the residence at 84 Chester Avenue.

DISCUSSION

The project has been redesigned to reduce the height of the entry area from 34 feet to 31 feet (see the south elevation on page A7.1 of the plans received September 3, 2009 and the revisions dated January 11, 2010).

The retaining wall that had been proposed north of the proposed garage to create a level area has been removed from the plans and a fence will be rebuilt following the access easement line for the driveway access easement to 84 Chester Avenue.

The garage doors have been increased to eight feet in height to ensure the applicant's truck can be parked in the garage.

For a further discussion of this project and the required discretionary permits see the attached November 19, 2009 staff report (Exhibit D).

RECOMMENDATION

Move to approve application # 09-25 based on the following findings and subject to the following conditions:

Recommended Findings:

1. 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 because the addition will not change the single-family character of the structure.
2. The living space addition complies with the required setbacks and height limitations. Only the northeastern 2 square feet of the garage, the southern 25 square feet of the parking deck and the southwestern 8 square feet of the garage

will project into the required setbacks. 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.

3. The Residential RD 5.5-7 Zone District and the General Plan Designation of the project site allows single-family dwellings. 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 will allow the owners to provide storage for their vehicles in a manner with a minimal impact on the neighboring residences. Therefore, the project will result in equal or better development of the premises than would otherwise be the case.
5. The site is narrow and slopes down steeply from Chester Avenue. The front property line is 11 feet away from the paved edge of Chester Avenue and the site is accessed by a shared driveway easement. Therefore, there is no way for the owner to provide covered parking without encroaching into the required 6 foot front yard setback.
6. The narrow 50 foot width of the site and the orientation of the residence to the access drive makes it difficult to construct a garage without encroaching into the front and combined 20 foot side yard setbacks. Likewise, the strict application of the front and combined side yard setback regulations will deprive the owners of the ability to provide covered parking for their residence unless a variance is granted (which is a privilege enjoyed by other property owner throughout the Willow Avenue neighborhood) .
7. The variance or adjustment will not constitute a grant of special privilege because the garage will maintain a setback from the paved edge of Chester Avenue of 19 feet and it will exceed the minimum 5ft side yard setback requirement on both sides. The proposed addition complies with all the other regulations of the RD 5.5-7 Zone District. Therefore, the granting of the setback variances 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.
8. The strict application of the Zoning Ordinance would result in excessive or unreasonable hardship because the owners would be unable to provide covered parking for their residence including a small entryway addition and minor remodel.
9. The addition will not obstruct the visibility of pedestrians or vehicles using

Chester Avenue. Therefore, 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.

10. The expansion does not include additional bedrooms which might increase the number of persons residing in the residence. Therefore, neither present nor anticipated future traffic volumes generated by the use of the site require strict or literal interpretation and enforcement of the 9 foot by 19 foot parking size regulation.
11. The Parking Variance is not to decrease the number of parking spaces for the site but to reduce the guest parking space to an 8 foot by 18 foot guest stall. Therefore, granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets or to create a safety hazard.
12. The project is incorporating a significant amount of green building materials in the project design and therefore qualifies to exceed the FAR by 4 percent (as provided by Town Code § 17.136.040).

Recommended Conditions:

Standard Planning Department/Commission Conditions

1. This approval is limited to the development illustrated on the plans prepared by Rushton Chartock Architecture, pages A1.1, A2.1, A2.2, A4.1, A4.2, A6.1 and A 7.1.
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. The applicant shall 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 grading, weatherization and repair 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.

d. Prior to issuance 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.

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 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. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.

6. 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".

7. 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 # 09-25. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 09-25 will result in the job being immediately stopped and red tagged.

8. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.

9. 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.

10. 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.

11. The project must be reviewed and approved by the Design Review Board prior to issuance of the building permit.

Ross Valley Fire Department Conditions

1. The applicant must comply with all the standard fire department requirements as described in Exhibit B, September 23, 2009 memorandum from the Ross Valley Fire Department. Compliance must be verified by the Ross Valley Fire Department prior to the project final inspection.

Marin Municipal Water District Conditions

1. Landscape and irrigation plans must comply with Landscape Ordinance # 385.
2. Should backflow protection be required it shall be installed as a condition of water service.

Sanitary District Conditions

1. If not already provided the side sewer shall be equipped with a backwater prevention device and shall be inspected and approved by the Ross Valley Fire Department.

See Exhibit B for the above outside agency memorandums. The Public Works Department and Police Department had no comments on the project.

ATTACHMENTS

Exhibit A – Applicant’s supplemental information

Exhibit B – Minutes from the November 19, 2009 Commission meeting

Exhibit C – Declaration of Restrictions on the Use of Real Property

Exhibit D – e-mail from Town Attorney addressing Deed Restriction document

Exhibit E – November 19, 2009 staff report and attachments