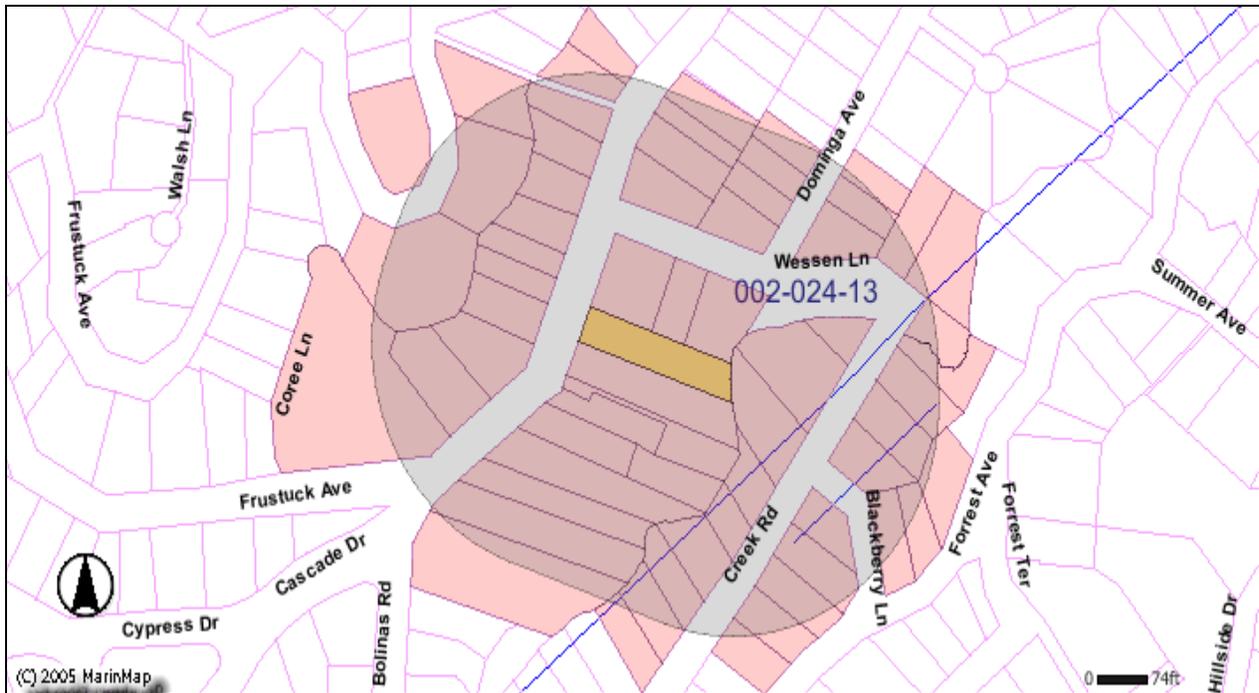


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
DATE: June 17, 2010
SUBJECT: Construction of a storage shed
APPLICATION: Variance; application # 10-13
LOCATION: 263 Bolinas Road; Assessor's Parcel No. 002-024-13
APPLICANT: Rich Dowd
OWNER(S): Sandy Gartzman and Jack Judkins
CEQA: Categorically exempt, 15303(e) and 15305(a)



263 BOLINAS ROAD

BACKGROUND

The 11,197 square foot parcel slopes down gently from Bolinas Road at a rate of less than 10% except for approximately ¼ of the rear of the site which slopes down steeply being part of the San Anselmo Creek bank.

The 2,690 square foot single-family residence on the site was constructed in 1928. There is no record indicating when the two accessory structures were built.

The applicants are proposing to replace the retaining wall at the rear of their property that runs underneath the storage shed and along the side of the covered dog run and in the process they plan to remove the existing dilapidated shed structure and the dog run.

The retaining wall replacement is allowed per Town Code § 17.040.040 so the proposed retaining wall is not being reviewed as a part of this project.

DISCUSSION

The site is located within the Residential RD 5.5-7 Zone which allows single-family residences on parcels of 5,500 square feet or more and duplexes on lots of 7,000 square feet or more. The existing residence complies with all the setback requirements, height limitations, floor area ratio (FAR) and lot coverage limitations.

The applicants are requesting a Use Permit and Variances in order to construct a new 370 square foot storage shed that essentially replaces the old storage structures. The shed will maintain a creek setback of 16 feet and a side setback of 2.5 feet. They are also proposing to relocate and replace the stairway that provides access to the portion of the property below the retaining wall for access/maintenance purposes.

Use Permit

The site is only 50.1 feet wide while the Town Code requires a minimum parcel width in the RD 5.5-7 Zone of 60 feet [Town Code § 17.084.050(A)]. Town Code § 17.084.050 requires that a Use Permit be obtained prior to any physical improvement of a property failing to meet the minimum size or width requirements. Therefore, the Commission must grant a Use Permit to approve the proposed storage shed.

The proposed storage shed is typical of those found throughout Fairfax where homes often do not have adequate storage space within the residential structures. It will be set at the rear of the site where it will not impact the architecture or character of the existing residence.

Variances

Town Code § 17.040.040(A) requires that structures maintain a setback from the top of the San Anselmo Creek bank of 20 feet or twice the depth of the bank whichever is greater.

Town Code § 17.040.020(c) and 17.084.070(A)(2) require that accessory structures maintain a minimum side yard setback of 5 feet.

The proposed shed will be located 2.5 feet from the southern side property line and it will maintain a creek setback of 16 feet. Therefore, the structure requires the approval of a creek

setback variance and a minimum side setback variance by the Planning Commission [Town Code sections 17.040.040(A) and 17.084.110].;

As indicated above, the owners are proposing to remove the two accessory structures that encroach into the setback now. The dog run maintains a creek setback of 8 feet while the storage shed maintains a 0 foot creek setback with portions of the structure projecting over the lower creek bank area. Roughly 496 square feet of the accessory structures are located in the creek setback.

The owners are removing two structures that are seriously out of compliance with the creek setback and they are proposing to construct a structure that maintains a much greater creek setback with only 34 square feet of the structure projecting into the setback. The entire structure will be located west of the retaining wall that needs to be replaced, away from the creek channel. The proposed shed location also increases the side yard setback from 4 inches to 2.5 feet.

The proposed storage shed is 370 square feet which is smaller than the existing 402 square foot shed by 32 square feet.

Placing the new storage shed in the southeast corner of the yard maintains most of the usable outdoor space currently enjoyed by the owners while improving setbacks and bringing those more into compliance with the Town Code and still meeting the owner's storage needs.

OTHER AGENCIES COMMENTS

Building Department

The shed walls located within 5 feet of the property line must be one hour fire walls and may not have any openings.

Ross Valley Fire Department

The project shall comply with all the conditions listed in the attached Ross Valley Fire Department memorandum dated June 9, 2010 including but not limited to the following:

1. The shed is located within the Wildland Urban Interface Zone which requires that fire sprinklers be installed in all new buildings. The shed will have to have a fire suppression system.
2. An approved Vegetative Management Plan shall be submitted with the building permit application.

Marin Municipal Water District

1. Any landscaping plans must comply with the District's Water Conservation Ordinance 414.
2. If backflow protection is not already provided a backflow prevention device shall be installed and shall be inspected and approved by the District prior to the project final inspection.

RECOMMENDATION

Move to approve application # 10-13 based on the following findings and subject to the following conditions:

Recommended Findings

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 proposed storage shed is typical of residential storage sheds found throughout Fairfax.

The proposed structure will maintain a greater setback from the nearest neighboring property than the existing shed and the dog run will also be removed as part of the project. 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, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

The proposed storage shed will not change the residential character of the neighborhood. Therefore, approval of the use permit is not contrary to Residential RD 5.5-7 Zoning.

Approval of the use permit will result in better development of the premises than would otherwise be the case because the project will include the removal of two non-conforming accessory structures that currently encroach 8 to 20 feet into the creek setback.

The variance will not constitute a grant of special privilege because the proposed structure will bring the property more into compliance with the required 20 foot creek setback because the project includes the removal of two sizable structures that are currently located in the setback.

The strict application of this title would result in a hardship for the owners because they would have to locate the storage shed within the existing rear yard area that has been used as their private outdoor living space for many years.

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 because the structure will maintain a greater setback from the neighboring duplex at 271 and 275 Bolinas Road (Exhibit A – see letter of support from the owner of 271 – 275 Bolinas Road dated 6/8/10).

Recommended Conditions

1. Both the existing storage shed and the covered dog run shall be removed prior to the start of construction on the new shed.
2. Prior to the project final the applicant will need to provide evidence to the Building Official that the required sprinkler system has been installed to the satisfaction of the Ross Valley Fire Department.
3. If electricity is to be supplied to the shed it shall be limited to that necessary to illuminate the

interior of the structure.

4. A surveyor will have to have to stake the 2.5 foot side setback in the field and certify that the setback is accurate prior to the start of construction.

5. The applicant shall comply with all conditions and requirements of the Fairfax Building Official, the Ross Valley Fire Department and the Marin Municipal Water District and shall demonstrate compliance prior to the project final inspection.

6. This approval is limited to the development illustrated on the plans by Rich Dowd, pages 1 through 4.

7. 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 schedule (deliveries, worker hours, etc.)
- Notification to area residents

b. The applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations prior to submittal of the building permit plans.

8. During the construction process the following shall be required:

a. 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.

b. 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.

9. 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".

10. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 10-13. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 10-13 will result in the job being immediately stopped and red tagged.

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

12. 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.

ATTACHMENTS

Exhibit A – Applicant's supplemental information and letter of support from the neighbor

Exhibit B – Other agency comments and requests