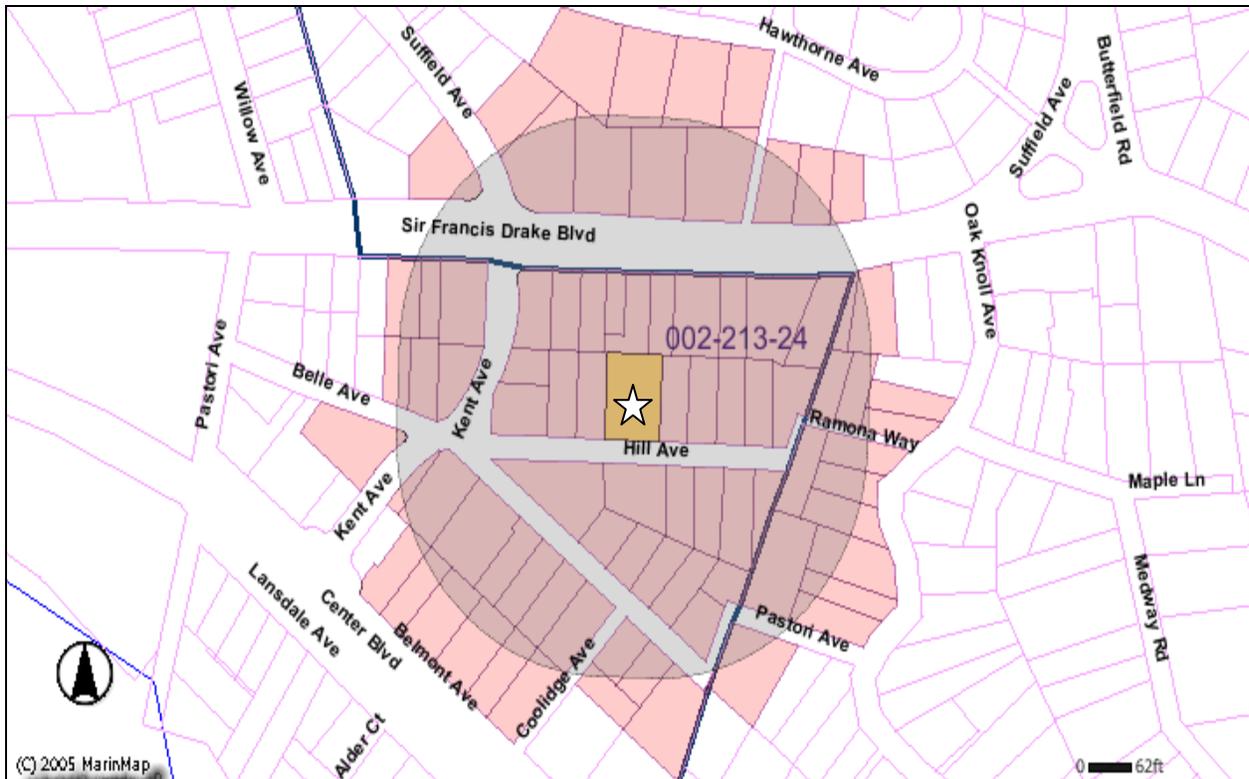


**OWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** October 21, 2010  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION** 17 Hill Avenue; Assessor's Parcel No. 002-213-24  
**PROJECT:** Addition to a single-family  
**ACTION:** Combined Side-yard Setback Variance; Application # 10-27  
**ZONING:** Residential RD 5.5-7 Zone District  
**APPLICANT:** Derek Schutt  
**OWNER:** Rachel Schutt-Mesrahi  
**CEQA STATUS:** Categorically exempt, § 15301(e)(1) and 15305(a)



**17 HILL AVENUE**

## **BACKGROUND**

The project site is 9,219 square feet in size and 80 feet wide and is almost level. The site is located in an area that is subject to localized flooding. Numerous basements on Hill Avenue and on Belle Avenue flood on a regular basis.

The site is located in the Residential RD 5.5-7 Zone which allows single-family residences on lots of 5,500 square feet or more and duplexes/two units on sites of 7,000 square feet or more (Town Code § 17.084.020).

The site is currently developed with two residences. The Fairfax Town Council approved the re-use of the two separate structures as a duplex use on March 1, 1979. The unit was expanded and remodeled in April of 1979.

The construction year for the residences is not available but Town records indicate they were in existence as early as 1947.

There is also a carport and a covered deck area and a hot tub on the site.

## **DISCUSSION**

Due to the seasonal flooding on the site the applicant is proposing to construct a 220 square foot second story living room addition to the residence at the rear of the property. The lower level of the structure is a basement, which has substandard ceiling heights that do not meet the building code minimum ceiling height requirement for living space. The basement is currently used for a laundry area and storage.

The existing site does not meet the minimum 6 foot rear setback or the combined front/rear setback because the rear living unit and covered deck area are located 0 to 1.5 feet from the rear property line and the front unit is located 6 feet from the front property line (see page 1 of the development plans, the site plan).

The structures on the site currently conform to the 15 foot combined side yard setback with the carport maintaining a 6.5ft side setback and the rear unit maintaining as 16.5 foot side setback for a combined setback of 23 feet.

The addition is proposed for the west side of the rear unit and will maintain the minimum required 5 foot side yard setback and 6 foot rear setback [Town Code § 17.084.070(A)(1) and (2)]. The unit with the addition will also comply with the combined 15 foot side yard setback requirements. However, the unit with the addition when considered with the carport structure results in the structures on the property maintaining a combined side yard setback of 11.5 feet.

The combined 44 foot side yard setback maintained by the rear unit itself, meets the intent of the combined side yard setback requirement.

## **Other Agency/Department Conditions**

### **Building Department**

The applicant shall obtain a building permit prior to the start of construction.

Engineered drawings are required for the foundation and framing before the construction permit will be issued.

### **Marin Municipal Water District**

Compliance with the District's Water Conservation Ordinance # 414 is a condition of water service.

Should backflow protection be required, it shall be installed as a condition of water service.

### **Ross Valley Fire Department**

Address numbers at least 4 inches tall must be in place adjacent to the front door and must be reflective.

Smoke detectors in the residence shall be provided with AC power and be interconnected.

## **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 10-27 based on the following findings and subject to the following conditions:

### Recommended Findings

- The large size of the property and the spread out development pattern on the site are the special circumstances applicable to the property that warrant the granting of the requested variance of the combined 15 foot combined side yard setback. The proposed addition and existing unit maintain the required combined setback. It is the close proximity of the carport, located towards the front of the property that is resulting in the non-conforming combined setback.
- The variance or adjustment will not constitute a grant of special privilege because the structure and addition comply with the setback, lot coverage, Floor Area Ration and height limits of the Residential RD 5.5-7 Zone District.

- The strict application of this title would result in excessive or unreasonable hardship because the owner would have to remodel the existing interior of the residence to make a living room addition off the east side of the residence work because that is where the bedrooms are currently located.
- 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 addition will be located 18 feet from the nearest neighboring residence at 15 Hill Avenue.

#### Recommended Conditions

1. The owner must obtain a building permit prior to the start of construction.
2. The foundation shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation shall be stamped and signed by the structural engineer.

During the construction process the following shall be required:

1. Prior to the concrete form inspection by the Building Official, the structural engineer shall field check the forms of the foundations 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. The Building Official shall field check the concrete forms prior to the pour.
2. 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.
3. Additionally, 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. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
5. 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".

6. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 10-27. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 10-27 will result in the job being immediately stopped and red tagged.

Prior to Project Final Inspection:

1. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner and shall be repaired as soon as possible (but no later than prior to the project final inspection).

#### General Conditions

1. 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.
2. The applicant must comply with all the requirements of the Building Department, Ross Valley Fire Department and the Marin Municipal Water District as described above and incorporated in the conditions by reference (Building Official letter of Transmittal dated 9/1/10, MMWD letter dated 9/20/10 and RVFD memo dated 9/21/10).

#### **ATTACHMENTS**

Exhibit A - Applicant's supplemental information

Exhibit B – Other agency and Department comments

