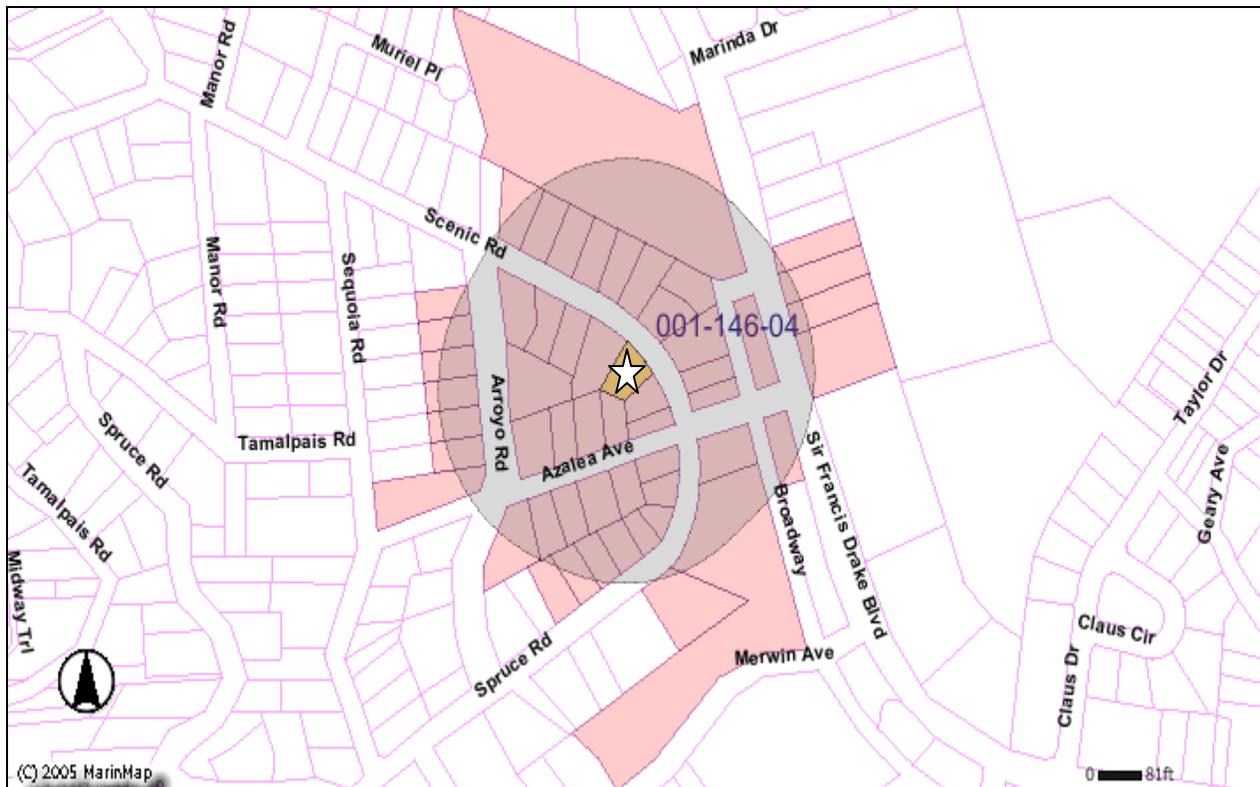


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: November 18, 2010
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 9 Scenic Road; Assessor's Parcel No. 001-146-04
PROJECT: Conversion of workshop/laundry to living space
ACTION: Use Permit; application # 10-30
APPLICANT: Dolores Cordell
OWNER: Kenneth and Shawn De Mont
CEQA STATUS: Categorically exempt, § 15303(e)



9 SCENIC ROAD

BACKGROUND

The project site is 3,575 square feet in size and is developed with a 1,341 square foot single-family residence and a 400 square detached structure that has been converted into living space that includes a full bathroom.

The previously existing residence on the site fell into disrepair in the 1970's. The Planning Commission approved variances and a use permit to allow the construction of a new residence on the site in December of 1978. A condition of the project approval was that the existing dilapidated residence be reduced in size to 400 square feet and be used as a workshop.

The applicant purchased the property in 1994 after receiving a resale report indicating that the accessory structure was a workshop/laundry room and was not to contain a bathroom. She constructed a bathroom in the structure and improved it for living space sometime between 1994 and 2010 when she went to sell the property. The Building Official discovered the work without permits during the resale inspection on September 28, 2010.

The property has now been purchased by new owners and as a condition of the sale the previous owner submitted the use permit application along with the fees and required penalty fees so that the new owners could go through the process to try and retain the accessory structure as living space.

DISCUSSION

Town Code 17.084.040 lists permitted accessory structure uses and they include cabanas, greenhouses, patios, tool sheds, play houses and garages. Detached bedroom/living space and baths are not listed as a permitted accessory structure use. However, Town Code § 17.084.030(H) allows the Planning Commission to grant use permits for accessory uses not listed in the code.

The Commission has granted other use permits to allow accessory structures to be used for living space and to include bathrooms as long as the structures are used by the residents of the main house and not rented out.

The applicants are proposing to use the accessory structure as an extension of the main residence and therefore, its use for living space will not change the single-family residential character of the property and will not negatively impact the neighborhood.

Other Department/Agency Requirements

Ross Valley Sanitary District

- The sewer lateral serving the detached structure will have to meet District

standards.

- If not already installed, the District requires that the side sewer serving the existing structure be equipped with an appropriate backwater prevention device.
- After the project is approved, the owner or contractor should contact the District to arrange for a District Inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device(s) and make a record for the District's files.

Marin Municipal Water District

- The applicants must comply with the District's Water Conservation Ordinance 414.
- Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Fire Department

- A fire protection sprinkler system shall be installed throughout the entire structure. Plans for the system shall be prepared by an individual or firm licensed to design and/or design-build sprinkler systems.
- Prior to installing the system the applicants must obtain a permit from the Ross Valley Fire Department. The system must be installed before the building permit final inspection is done by the Building Official.
- The applicant shall obtain a Defensible Space/Vegetative Management permit prior to issuance of the building permit.
- The smoke detector(s) in the accessory structure shall be provided with AC power and be interconnected for simultaneous alarm.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 10-30 based on the following findings and subject to the following conditions:

Suggested Findings

The Commission has allowed other residential properties to be improved with accessory

structures used for living space. 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.

The living space is created in an existing structure and will require only the legalization of the bathroom and other conversion improvements through the building permit process. The structure will only be used by residents of the main residence. 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 approval of the use permit and conversion of the accessory structure to living space with a bath will not change the single-family residential character of the property. 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.

Approval of the use permit will result in equal development of the premises than would otherwise be the case because the structure will only be used by residents of the main house and will not be rented out or converted to a second living unit.

Suggested Conditions

1. The applicants shall obtain a building permit to legalize the work that has been done to install the bathroom and convert the workshop to living space.
2. Prior to issuance of the building permit the applicant shall sign, notarize and record at the Marin County Recorder's Office a deed restriction stating that the accessory structure is to be used by residents of the main house and shall not contain a kitchen.
3. The sewer lateral serving the detached structure will have to meet Sanitary District standards.
4. If not already installed, the Sanitary District requires that the side sewer serving the existing structure be equipped with an appropriate backwater prevention device.
5. After the project is approved, the owner or contractor should contact the District to arrange for a Sanitary District Inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device(s) and make a record for the District's files.

6. The applicants must comply with Marin Municipal Water District's Water Conservation Ordinance 414.
7. Should backflow protection be required, said protection shall be installed as a condition of water service.
8. A fire protection sprinkler system shall be installed throughout the entire structure. Plans for the system shall be prepared by an individual or firm licensed to design and/or design-build sprinkler systems.
9. Prior to installing the system the applicants must obtain a permit from the Ross Valley Fire Department. The system must be installed before the building permit to legalize the conversion receives a final inspection by the Building Official.
10. The applicant shall obtain a Defensible Space/Vegetative Management permit prior to issuance of the building permit.
11. The smoke detector(s) in the accessory structure shall be provided with AC power and be interconnected for simultaneous alarm.

ATTACHMENTS

- Exhibit A – applicant's supplemental information
- Exhibit B – Other Agency/Department memorandums