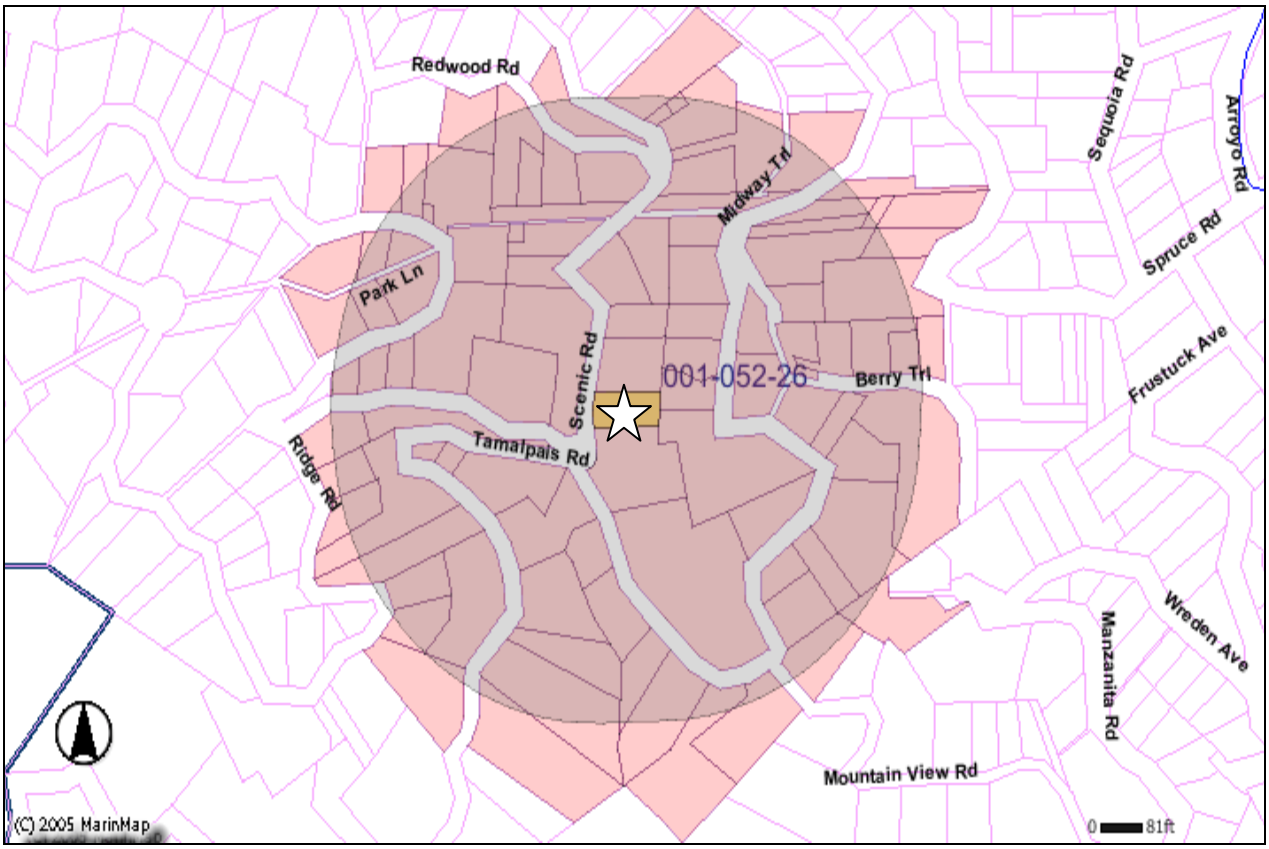
TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services

TO:	Fairfax Planning Commission
DATE:	March 17, 2011
FROM:	Jim Moore, Director of Planning and Building Services Linda Neal, Senior Planner
LOCATION	317 Scenic Road; Assessor's Parcel No. 002-192-46
ZONING:	Residential Single-family RS 6 Zone District
PROJECT:	Fifty percent (50%) remodel/addition to a single-family residence, construction of a two car parking deck and legalization of a shed
ACTION:	Hill Area Residential Development Permit, Encroachment Permit and Variances; Application # 11-07
APPLICANT:	Graham Irwin, Remodel Guidance
OWNER:	John and Erika Brooks
CEQA STATUS:	Categorically exempt, § 15301(e)(1), 15303(e) and 15305(a) and (b)



317 SCENIC ROAD

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BACKGROUND

The project site is 7,379 square feet in size, about 60 feet wide and it slopes down from Scenic Road at an average rate of 42%. The site is currently developed with a 1,083 square foot, two bedroom, one bath single-family residence that was constructed in 1918 before the Town was incorporated in 1931.

There is no record of when the one car covered parking deck was constructed on the property in Town or County records.

There is also a storage shed with electrical service on the site located within the required minimum 5 foot side yard setback. Staff finds no record that a Setback Variance or Building Permit were issued for this structure. Town records indicate that the shed was constructed sometime between 1992 when plans were submitted showing only a low deck in the rear yard and 2010 when the current owner purchased the property and the existence of a shed was noted in the Residential Resale Report. Unfortunately, notation in the resale report does not legalize a structure that requires a Variance and a building permit.

DISCUSSION

The owners are now applying to remodel and expand the existing residence to include a two story addition at the rear and to remodel both existing floors. The project will include increasing the height of the residence from 18 feet to 25 feet at the peak of the new roof. The remodel/addition will increase the square footage of the residence living space by 348 square feet from 1083 square feet to 1,431 square feet. The project will not increase the number of bedrooms in the residence but will increase the number of bathrooms from 1 to 2 with a laundry room added on the first story. A 299 square foot upper deck will be added off the living room and a 369 square foot deck will be added off the lower, master bedroom.

The project includes removal of a covered, dilapidated, one car parking deck and construction of an uncovered, two car parking deck with a 151 square foot storage area underneath.

The owner is also applying for a setback variance to legalize the unpermitted storage shed located in the site yard setback.

Required Discretionary Permits

In order to approve this project the Commission must approve the following discretionary permits:

A Hill Area Residential Development (HRD) Permit

The project site has a 42% slope. In order for a site with a 42% slope to comply with the minimum lot size and width requirements for the RS 6 Zone it would have to be a minimum of 34,000 square feet in size and 146 feet wide [Town Code §17.080.050(C)]. The site is only 7,379 square feet and 60 feet wide. The addition and remodel constitute a 50% remodel based on the Town Code definition and the legal non-conforming structures section of the Town Code [Town Code § 17.008.020 and 17.016.040(A) and (B)].

The Hill Area Residential Development Permit Ordinance requires a HRD permit for any project constituting a 50% remodel on a non-conforming property [Town Code § 17.072.020(D) and 17.072.050(A)].

Encroachment Permit

The Town Code gives the Planning Commission the authority to grant an encroachment permit for parking structures constructed upon portions of the public roadway easement if they are not being used by vehicular or pedestrian traffic.

143 square feet of the proposed parking deck/driveway approach will be constructed within the public right-of-way so the project requires an encroachment permit.

Side Setback Variance

The Town Code requires that sloped properties in the RS 6 Zone maintain minimum side setbacks of 5 feet and a combined side setback of 20 feet [Town Code § 17.080.070(B)(1)]. The proposed parking deck will be constructed on the southern side property line with no setback and the residence has a 1 foot 9 inch setback from the northern side property line. Therefore, the project requires the approval of a Variance from the minimum and combined side yard setback requirements.

The parking deck will also be constructed within the required 10 foot front setback for accessory structures [Town Code § 17.040.020(A)]. However, a variance of the front setback is not required because the Town Code exempts properties with over a 15% downslope from having covered parking and uncovered parking decks are permitted in the front setback [Town Code § 17.052.020 and 17.052.010(C)(2)].

The shed also requires a variance of the minimum and combined side yard setback because it maintains a minimum side setback of 3 feet which results in the structures on the site maintaining a combined setback of 4 feet 9 inches.

Parking Variance

The Town Code requires that when a proposed project constitutes a 50% remodel, the parking either needs to be brought into compliance with the current regulations or the

Commission must grant a parking variance [Town Code § 17.080.070(B)(2) and 17.040.020(C)]. The Code further requires that each single-family residence be provided with three 9 foot by 19 foot parking spaces [Town Code § 17.052.030(A)(1) and (2) and 17.052.040(B)]. The applicants are proposing a 50% remodel addition and are providing only two parking spaces so the project requires a parking variance.

Trees

The project will require the removal of one oak tree and one bay tree. The applicant received approval to remove the trees subject to issuance of a building permit for the project on 12/20/10.

Other Agencies/Department Comments (Exhibit D)

1. The Ross Valley Fire Department is requiring the following:

   a) A fire suppression system
   b) Compliance with the Wildland Urban Interface Ordinance
   c) Approval of a Vegetative Management plan prior to issuance of the building permit
   d) Illuminated house numbering in a visible location
   e) Smoke detectors

2. The Building Official is requiring that engineered plans be submitted for the roof framing and the exterior decks in compliance with the Building Code.

3. The Marin Municipal Water District has conditioned the project upon compliance with the Water District's Water Conservation Ordinance 414 and upon backflow protection being provided if it does not already exist or if it is inadequate. Installation/adequacy must be confirmed in writing prior to the project final inspection and issuance of the occupancy permit.

4. The Ross Valley Sanitary District is requiring that the side sewer be equipped with a backflow protection if it is not already equipped or if the existing protection device is inadequate. Installation/adequacy must be confirmed in writing prior to the project final inspection and issuance of the occupancy permit.

ANALYSIS

Homes on similar parcels vary in size from 616 square feet to 2,693 square feet. The proposed addition/remodel, increasing the residence from 1,083 square feet to 1,431 square feet, will not result in a residence that is larger or otherwise out of character with other residences in the neighborhood with similar sized and sloped properties.

The residence is located close to the front property line. This orientation coupled with the narrow width of the site results in the only location available for the parking deck

being in the minimum and combined side yards. The narrow width also makes it impossible to provide the third required guest parking space on the site. However, the parking deck is being expanded to accommodate two vehicles and the residence remodel/addition does not increase the number of bedrooms beyond the two that exist now. Therefore, the project will bring the property more into compliance with the parking regulations for a single-family residence while not adding to the parking need generated by the residence (Town Code §[17.053.030(A)(1) and (2)].

The steep slope and narrow width also makes use of the rear ½ of the site problematic. Relocation of the shed to the rear of the property will result in a much taller structure because of the slope, possibly one that exceeds the 15 foot height limit for accessory structures and it would be very hard to access [Town Code § 17.080.060(B)]. Relocating the shed parallel to the residence to get the encroaching portion out of the setback will impact the tree located at the northwest corner. Also, the area of the storage structure that encroaches into the setback is very small, only 8.5 square feet. The neighbors to the south have no objection to this small encroachment (see attached Exhibit C, letter dated 1/23/11 from Bruce and Joan Jones).

The Town Engineer has reviewed the following information, plans and studies and has determined that the project can be constructed without negatively impacting the site, the neighboring sites or the adjacent public right-of-way:

1. The preliminary development plans by Graham Irwin, Remodel Guidance, dated 12/13/10, pages A0.0, A0.1, A1.0 through A1.4, A2.0 and A3.0.

2. A geotechnical report dated 9/25/10 by Dave Olnes, Civil and Soil Engineer and addendum letters dated 11/29/10 and2/9/11 (Exhibit B).

3. An arborist report on the health of the Black Acacia adjacent to the storage shed, undated and received by the Town 2/28/11 from Zachary Olson, Certified Arborist # 6848 (Exhibit F).

The proposed floor plan, with an outside entrance, full bathroom and a laundry room on the lower level, lends itself to conversion to a second unit. Laundry rooms have the necessary supply lines to allow easy conversion into kitchen areas. A living room, kitchen, and full bathroom on the same story with its own entrance constitute a second unit. Therefore, whenever such a floor plan is proposed, the staff includes a recommended condition that the owner sign, notarize and record a deed restriction at the County Recorder's Office prior to issuance of the building permit. The deed restriction indicates that the residence may only have one kitchen and may only be used as a single-family residence. If second unit parking regulations change, this restriction can be lifted if the owner obtains a second unit Use Permit.

The proposed addition complies with the minimum and combined required setbacks.

RECOMMENDATION

1. Open the public hearing and take testimony.

2. Close the public hearing.

3. Move to approve application # 11-07 based on the following findings and subject to the following conditions of approval:

Recommended Findings

1. The proposed development is consistent with the General Plan and policies of the Town of Fairfax, and is consistent with the purpose and intent of the Zoning Ordinance, Title 17 of the Town Code.

2. Only 1 oak and 1 bay will be removed to allow construction. Therefore, the site planning preserves identified natural features

3. Based on the soils report finding, the site can be developed without geologic, hydrologic or seismic hazards. The Town Engineer has reviewed the following information, plans and studies and has determined that the project can be constructed without negatively impacting the site, the neighboring sites or the adjacent public right-of-way:

- The preliminary development plans by Graham Irwin, Remodel Guidance, dated 12/13/10, pages A0.0, A0.1, A1.0 through A1.4, A2.0 and A3.0.

- A geotechnical report dated 9/25/10 by Dave Olnes, Civil and Soil Engineer and addendum letters dated 11/29/10 and2/9/11 (Exhibit B).

- An arborist report on the health of the Black Acacia adjacent to the storage shed, undated and received by the Town 2/28/11 from Zachary Olson, Certified Arborist # 6848 (Exhibit F).

4. Only two bedrooms are proposed in the residence and two parking spaces are being provided out of the paved roadway area. Therefore, vehicular access and parking are adequate.

5. The proposed residence is similar in design and size to other residences in the Fairfax Manor Subdivision. The proposed development harmonizes with the surrounding residential development and does not result in the deterioration of significant view corridors.

6. The site is steep and narrow and drops offs significantly from the edge of the paved portion of Scenic Road. These are the special circumstances applicable to the property that result in the strict application the setback requirement depriving the applicant of

privileges enjoyed by other property owners in the vicinity and under identical zone classification including providing additional parking and having an accessory storage shed.

7. The shed is 13 feet from the neighboring residence which meets the intent of the minimum side setback variance. Approval will not affect the 1 foot 9 inch setback maintained by the existing residence. Therefore, the variance or adjustment will not constitute a grant of special privilege, 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 this title would result in excessive or unreasonable hardship because the property could not be provided with additional parking if the code were strictly interpreted.

9. 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 shed and parking structure will be located over 12 feet from the neighboring residence.

10. The portion of the public right-of-way that the parking structure will be located in is not currently being used by vehicles or pedestrians.

Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by Graham Irwin, Remodel Guidance, dated 12/13/10, pages A0.0, A0.1, A1.0 through A1.4, A2.0 and A3.02. 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. The applicant shall 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. The applicant shall secure the applicant shall secure written approval from the Ross Valley Fire Authority noting the development's conformance with their recommendations prior to issuance of the building permit.

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 the 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 # 11-07. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 11-07 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 applicant’s shall sign, notarize and record a deed restriction prior to issuance of the building permit.

12. The applicant’s shall obtain a building permit for the storage shed prior to issuance of the building permit.

13. The parking deck shall be constructed concurrently with construction on the residence. Failure to construct the parking deck with the residence will result in the project being stopped.

ATTACHMENTS

Exhibit A – applicant’s supplemental information
Exhibit B – Geotechnical Engineer’s reports
Exhibit C – 1/23/11 letter from neighbors
Exhibit D – Other agency/department memorandums
Exhibit E – Town Engineer’s memorandums
Exhibit F - arborist’s report dated 12/2/10