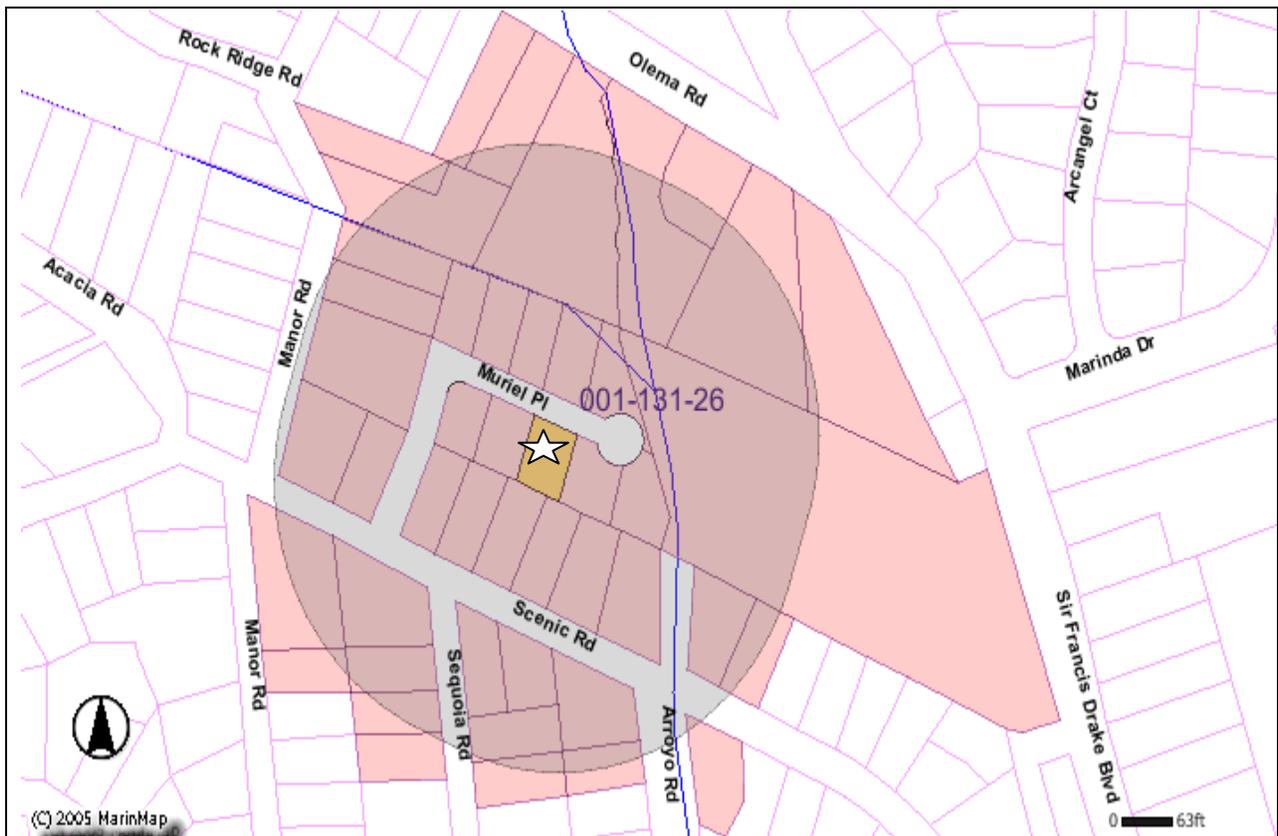


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: May 19, 2011
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 12 Muriel Place; Assessor's Parcel No. 001-131-26
PROJECT: addition/remodel of an existing single-family residence
ACTION: Use Permit and Covered Parking Variance; Application # 11-12
APPLICANT: Peter Parish, Architect
OWNER: Peter Parish and Sarah McKereghan
CEQA STATUS: Categorically exempt, § 15301(e)



12 Muriel Place

BACKGROUND

This 4,510 square foot site is level and developed with a 1,689 square foot single-family residence in 1949. A bedroom addition was constructed at the rear of the residence in 1951.

DISCUSSION

The applicant's propose removing the 199 square foot bedroom at the rear of the residence and constructing a 351 square foot master bedroom/bath as a second floor addition. The project will include removal of a small storage shed at the rear of the site.

The project complies with the regulations set forth in the Residential RD 5.5-7 Zone District as follows:

	Front setback	Rear setback	Front/rear setback	Side setbacks	Combined side setback	FAR	Lot coverage	Height
Required/ permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5 ft 2 stories
existing	9 ft	4 ft	13 ft	5 ft & 3.25 ft	8.25 ft	.38	.71	12 ft 1 story
proposed	9 ft	23 ft	32 ft	5 ft & 3.25 ft	8.25 ft	.40	.49	20 ft 2 in 2 stories

Note: The project originally included a deck trellis and storage shed where the existing bedroom is but the applicants removed (redlined) it from the plans because staff advised them we would be unable to support a variance for their construction (Exhibit B).

The project requires the approval of the following discretionary permits:

A Use Permit: The property is located in the Residential RD 5.5-7 Zone which requires a 5,500 square foot minimum parcel size and 60 feet of width [Town Code § 17.084.050(A)]. The site is only 4,510 square feet in size and 55 feet wide so any addition requires the approval of a Use Permit by the Commission (Town Code § 17.084.050).

Residences in the Muriel Court Subdivision vary in size from 784 square feet to 2,004 square feet. While most of the residences are 1 story, there are 2 other two story homes in the subdivision, one on the west side of the project site and one to the north across the street which is greater in height than the proposed residence. Some of the residences have covered parking and some have garages that have been converted to living space and have no covered parking. The proposed expansion will result in the existing 1,689 square foot, four bedroom, one bath residence being converted to a 1,841 square foot, four bedroom, two bath residence. Therefore, the proposed project will not result in a development that is out of scale with other residences in the neighborhood or that is too large for the site.

The project will reduce the legal non-conforming 71% lot coverage currently existing on the site to 49% which is more in keeping with the maximum permitted 35% lot coverage (Town Code §

A Covered Parking Variance: The project constitutes a 50% remodel based on the Town Code § 17.016.040(B) and the site provides the 2 covered spaces required by the code, but there is no covered parking [Town Code § 17.052.(D)]. Therefore, the parking either has to be brought into conformance with current requirements, or the Commission must grant a Covered Parking Variance for the property.

The requirement for covered parking was not adopted until 1973 and there is no record of when the one car garage on the site was converted to living space. However, it is likely that the garage was converted prior to the 1973 covered parking requirement going into effect because there is no record of the property having covered parking at the Marin County Recorder's Office and the original tax assessment card for the property, when the Town did its own tax collection, makes no mention of a garage. Therefore, staff has determined that the lack of covered parking on the site is legal-non-conforming. The proposed relocation of the fourth bedroom from the ground level to the second floor will not significantly change the use of the site or result in any special need for a covered parking space. Also, a strict interpretation of the Code requiring covered parking would result in either a garage or carport being constructed within the required 6 foot front setback which would require its own variance of Town Code requirements.

Other Agency/Department Requirements (Exhibit C)

Ross Valley Fire Department:

1. The project is a substantial remodel and will require the installation of a fire suppression system throughout the structure to comply with the Fire Code. The system must be installed and approved by the Fire Department prior to the project final inspection by the Building Official.
2. Maintain an effective firebreak around the structure by removing all flammable vegetation or other combustible growth in compliance with Ross Valley Fire Department Fire Protection Standard 220.
3. Smoke detectors and carbon monoxide detectors shall be installed in compliance with the Fire Code.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door and must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch only by a breaker so it will remain illuminated all night.

Marin Municipal Water District

Any landscaping on the site must comply with MMWD's Water Conservation Ordinance 414.

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

Ross Valley Sanitary District

If not already installed, the District requires that the side sewer be equipped with an appropriate back water prevention device. Once installed the applicant shall contact the District to arrange for a District inspector to approve the installation of the device a make a record for the District's files.

RECOMMENDATION

1. Open the public hearing and take testimony.

2. Close the public hearing.
3. Move to approve application # 11-12 based on the following findings and subject to the following conditions:

Recommended Findings

1. Expansion of the 1,689 square foot, four bedroom, two bath residence being converted to a 1,841 square foot, four bedroom, two bath residence, will not significantly change the existing use of the site nor will it increase the need for addition parking. The site provides the required number of parking spaces, within two spaces in the driveway and a third guest space on the street. The existing parking configuration and lack of covered parking is found on other neighboring sites. Therefore, 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.
2. The proposed addition complies with the minimum front, side and combined side setback requirements, the 28.5 foot height limitation and the Floor Area Ratio (FAR) limitation set forth in the Town Code. The proposal includes the removal of the rear bedroom which will bring the site into compliance with the required rear setback and the combined front/rear setback and it will decrease the lot coverage from 71% to 49% which is more in keeping with the permitted 35% coverage limitation. 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.
3. The proposed master bedroom addition does not change the single-family character of the residence or the neighborhood. 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. The project will bring the property into compliance with the setback requirements and closer to being in compliance with the lot coverage limitation. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The residence is located close to the front property line and covered parking cannot be provided with a front setback variance being granted by the Commission. Also, there are other properties in the immediate neighborhood that have the required number of parking spaces but lack a covered space. Therefore, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
6. The variance or adjustment will not constitute a grant of special privilege and is consistent with the limitations upon other properties in the vicinity that do not have covered parking (2, 9 and 19 Muriel Place).

7. The strict application of this title will result in the property having to be granted a setback variance in order to construct covered parking, require the owners to obtain a property survey to show the structure is not encroaching into the right-of-way and will require the construction of a structure immediately adjacent to the front property which will impact the façade of the residence. Therefore, provision of covered parking would be an excessive or unreasonable hardship
8. The residential character of the site is not being changed and the number of bedrooms is not being increased. Therefore, the granting of the variance which will not decrease the number of existing parking spaces but just grants a variance of the covered parking requirement will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by Charles Theobald, AIA, pages A0.1, A0.2, A1.1, A2.1 and A2.2, A3.1 and A3.2 dated 3/24/11 including removal of the rear deck/trellis and storage closet.

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 # 11-12. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 11-12 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 Building Code and Fire Code requirements, and requirements of the Ross Valley Sanitary District and the Marin Municipal Water District.
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 shall be reviewed and approved by the Design Review Board because it is a 50 % remodel and 50% remodel require design review approval per Town Code § 17.020.030.

ATTACHMENTS

- Exhibit A – applicant's supplemental information
- Exhibit B – May 2, 2011 letter from staff to the applicant
- Exhibit C – Other Agency/Department memorandums