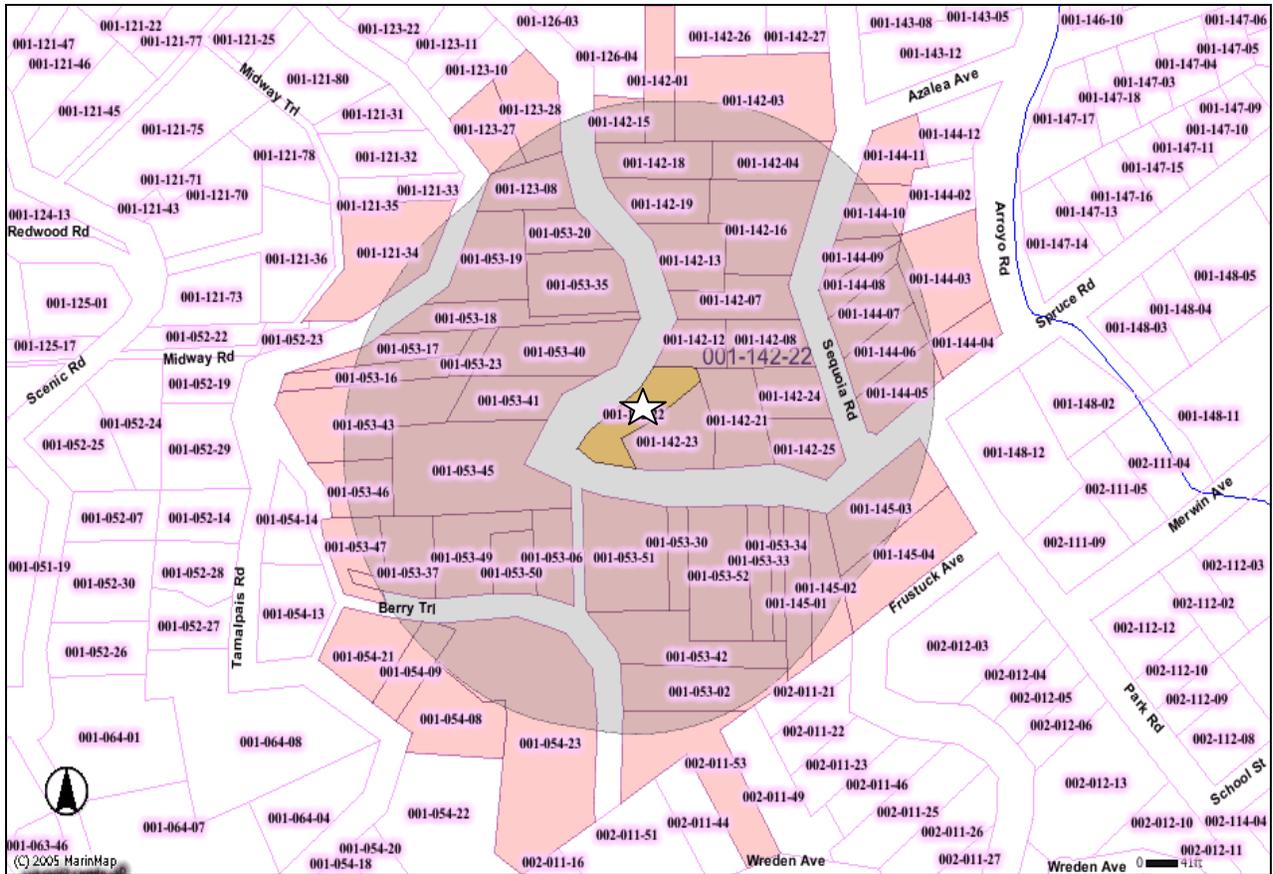


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: January 19, 2012
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 90 Spruce Road; Assessor's Parcel No. 001-142-22
PROJECT: Addition to a single-family residence
ACTION: Use Permit and Variances; Application # 12-28
APPLICANT: Peter Brockman, Architect/Applicant
ZONING: Residential
OWNER(S): Joan and Ron Wada
CEQA STATUS: Categorically exempt, § 154301(e) and § 15305(a)



90 SPRUCE ROAD

BACKGROUND

The 4,900 square foot property site is located at a bend Spruce Road with the road passing the front and the entire western side of the site. The property is irregularly shaped and developed with a 1,263 square foot, two bedroom, two bath residence. The Marin County Tax Assessor records indicate that the structure was constructed 1948 but the structure appears to be older than that. The Town has no record of the construction date.

The site has one parking space located in the carport that extends into the Spruce Road right-of-way and is building within the required western side yard setback. Two uncovered parking spaces are located within in the front yard of the site. The parking is legal non-conforming because it is accessed by two driveways while Town Code § 12.12.050 limits residential properties to having 1 driveway. The three parking spaces on the site complies with the number of parking spaces required for a single-family residence [Town Code § 17.052.030(A)(1)(c) and (2)].

DISCUSSION

The applicant is proposing to construct a 504, two story square foot addition to the 1,263 square foot residence resulting in a 1,767 square foot residence. The addition would contain a 525 square foot art studio are with a laundry closet in the first story and a 85 square foot second story mezzanine.

The project complies with the regulations set forth in the Residential Single Family RS 6 Zone District where it is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6ft	12ft	35ft	5ft & 5ft	20ft	.40	.35	28.5ft, 2 stories
Existing	57ft	51ft	108ft	0ft & 9ft 8 in	9ft 8in	.18	.21	19 ft 4 in, 2 stories
Proposed	33ft	51ft	84ft	0ft & 9ft 7in	9ft 7in	.26	.27	20 ft 1in, 2 stories

Discretionary Permits

The project requires the following discretionary permits:

A Use Permit: The project site is 4,900 square feet in size while the zoning for the property based on its 42% slope requires that a parcel be a minimum of 37,000 square feet in size and be 146 feet wide in order to comply with the minimum size and width requirements [Town Code §17.080.050(C)].

A Side Setback Variance: The addition will comply with the required 5 foot minimum side yard setback but not the combined 20 foot side yard setback [Town Code sections 17.080.070(B)(2)].

Use Permit

The purpose section of the Use Permit Chapter of the Town Code is to allow the property integration into Fairfax of uses which may be suitable only in certain locations or only if the uses are designed or laid out on the site in a particular manner. In considering a Use Permit application the Commission shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and general welfare.

Parcels vary widely in slope and size in the neighborhood as do the residences. The smallest residence in neighborhood is 870 square feet and is located on a 7,700 square foot parcel (76 Spruce Road) while the largest residence 1,941 square feet in size and is located on a 5,400 square foot parcel (161 Tamalpais Road). The proposed 1,767 square foot residence on this 4,500 square foot parcel falls within the range of density found within the neighborhood.

Please note that 100 Spruce Road is 1,730 square feet in size on a 3,250 square foot so it is almost as large as the proposed residence on a parcel that is 1,250 square feet smaller.

Variance

The purpose of the Variance section of the code is to allow variation from the strict application of the terms of the Zoning Ordinance where, by reason of exceptional narrowness, shallowness or unusual shape or exceptional topographic conditions of the piece of property, the literal enforcement of the requirements would cause undue hardship unnecessary to carry out the spirit of the law (Town Code § 17.028.010).

As indicated above, the property has an extremely irregular and narrow shape as well as a steep slope. Because of these features of the site, design an addition that would comply with all the setback regulations would be difficult.

200 square feet of the addition (footprint) will maintain a combined side yard setback of 9 feet in the area where the existing carport maintains a zero foot setback. The remaining 247 square feet of the addition (footprint) will comply with the required 20 foot combined side yard setback. The southern side of the addition, the one closest to a neighboring residence, will maintain a 28 foot setback from garage/workshop at 76 Spruce Road and over a 50 foot setback from the residence.

There addition is proposed in an area of site already developed with the existing front entry stairs, a storage shed and a stone/brick patio. Therefore, construction of the addition will not require significant amounts of excavation or the removal of any trees.

The height of the addition will reach 20ft 1 inch which is less than the maximum permitted 28.5 feet in height and the roof will only extend above the height of the existing residence by about 1 foot [Town Code § 17.080.060(A)]. Therefore, the proposal will not significantly impact any of the neighboring residences view corridors.

The project does not constitute a 50% remodel.

Ross Valley Fire Department

The applicant has worked with the Ross Valley Inspector to utilize alternative materials for the addition because it is physically impossible to create a fire truck turn-out along the property frontage (See Exhibit B).

The project will also be subject to all the other conditions listed in the attaché memorandum from the Ross Valley Department dated 11/22/11 (Exhibit C).

Fairfax Police Department

The Police Department had concerns about where construction vehicles will park because this residence is located on a narrow portion of Spruce Road right where it changes to one-way. The applicant has addressed this issue in Exhibit C.

Sanitary District

If not already installed the side sewer must be equipped with an appropriate backwater prevention device and be inspected and approved by the Sanitary District.

Marin Municipal Water District

The project must comply with all indoor and outdoor requirements of the District's Water Conservation Code.

RECOMMENDATION

1. Move to approve application # 12-28 based on the following findings and subject to the following conditions of approval:

Recommended Findings

1. The 1,767 square foot proposed residence is similar in size and mass to other residential structures in the neighborhood. 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. Most of the addition will comply with all the setback, height, lot coverage, and floor area ratio regulations set forth in the code. Only a small 200 square foot of the addition footprint will extend into the combined side setback while complying with the minimum side setback. 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. 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 addition is being proposed in an area of the site already excavated and/or developed with structures, patios and retaining walls. Construction will not require the removal of significant amounts of soils or the removal of any trees. Therefore, approval of the use permit will not result in significant environmental or site disturbance and is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The site is steep and has a very irregular shape. Therefore, the strict application of the combined side setback regulations would eliminate the owners ability to expand the residence which is a privilege enjoyed by other property owners in the vicinity.
6. The variance of the combined 20 foot side yard setback will not constitute a grant of special privilege because other variances have been approved throughout Fairfax for additions on properties developed prior to the larger setback regulations adopted in 1973. 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.
7. The strict application of the Zoning Ordinance title would result in excessive of unreasonable hardship because there is nowhere on the site an expansion could be located that would comply with the combined sideyard setback.
8. The addition will maintain setback in excess of 50 feet from any of the neighboring properties and it will not block vehicular or pedestrian visibility on Spruce Road. Therefore, 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.

Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by The Brockman Design Studio, dated 1/3/12, pages A0.1, A1.4, A1.5, A2.3, A2.4, AS.1 and AS1.2.
2. 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 # 12-28. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 12-28 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. A concrete driveway apron shall be installed for the upper driveway approach to keep the gravel in the driveway from breaking down the edge of the paved road per the Public Works Inspector.

ATTACHMENTS

Exhibit A – applicant's supplemental information

Exhibit B – Alternative materials proposal and Response to Police Concerns about parking

Exhibit C – Comments by other departments and outside agencies

