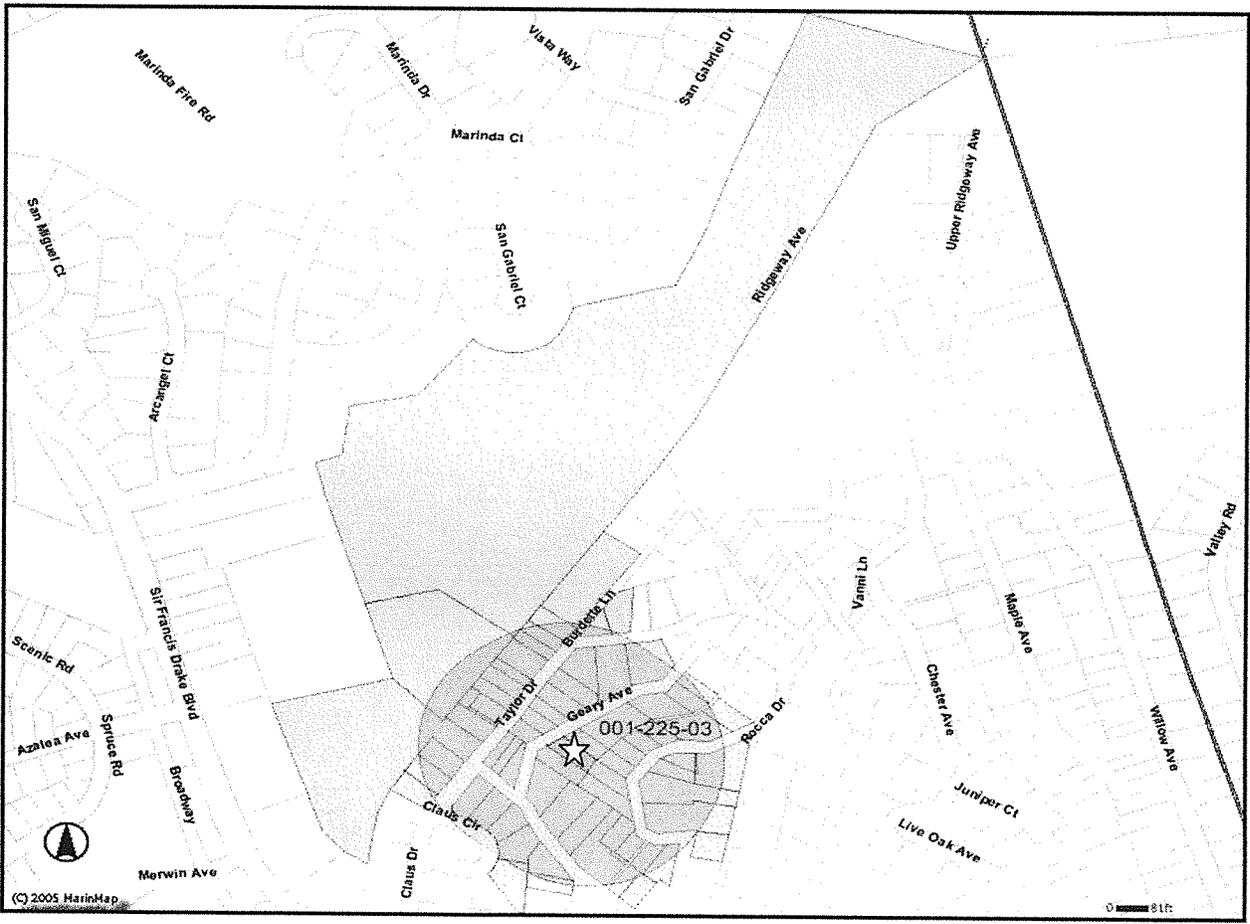


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: February 20, 2014
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Senior Planner
LOCATION: 14 Geary Avenue; Assessor's Parcel No. 001-225-03
PROJECT: Legalization of a third story room addition and 204 square foot second story pantry/storage room expansion
ACTION: Use Permit. Side Yard Setback and FAR Variances; Application # 14-05
APPLICANT: Dustin and Angela Ballard
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(e)(1)



14 GEARY AVENUE

BACKGROUND

This 4,387 square foot, 40 foot wide site slopes up from Geary Avenue at a rate of 49%. The property was developed with a 1,620 square foot residence with a two car garage in 1971. Sometime prior to the purchase of the property by the current owners a previous owner enclosed the 135 feet of the front roof deck on the third floor converting it into a sunroom without permits

The current applicants/owners, after experiencing a plumbing leak, excavated and improved the second story, storage crawlspace behind the house as a dry storage/laundry room (see photographs). This work was also unpermitted.

In 2006 the owner submitted a variance request to construct an elevated stairway from the rear yard connecting with the original access stairway to the front door for fire exiting purposes. At that meeting the exact location of the northern side property line was questioned by a neighbor and the Commission continued the matter off calendar when the owner indicated they would return after obtaining a survey (Exhibit B – minutes from the 9/21/06 Commission meeting).

Since 2006 the owners have constructed wooden stairs on grade that the Building Official has indicated do not require a building permit. These on-grade stairs are exempt from setback regulations and building permit regulations and follow the line of the existing access stairs and house (Exhibit B – e-mail from owner to neighbor at 18 Geary).

DISCUSSION

The project encompasses legalization of the 135 square foot, third story, sunroom addition and the 204 square foot second story storage room/laundry room expansion increasing the square footage of the residence from 1,620 square foot residence to 1,959 square feet.

The property is located in the Residential Single-family RS 6 Zone District and complies with the regulations set forth in that Zone District 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, 3stories
Existing	8 ft	41 ft	49 ft	5 ft & 6 ft	11 ft	.36	.33	27 ft, 3 stories
Proposed	same	same	same	same	same	.43	.33	27 ft, 3 stories

The project requires the following discretionary permits:

Use Permit –

Town Code § 17.080.050 requires that a Use Permit be obtained prior to making any improvements on a building site failing to meet the minimum lot size and width requirements based on the site's average slope. This site has an average slope of 49% and would have to be 45,000 square feet in size and 173 feet wide to comply with the code. The site is only 4,387 square feet in size and 40.1 feet wide so the project requires a Use Permit.

Combined Side Setback Variance

The existing residence is legal non-conforming with respect to side yard setbacks maintaining the minimum side setbacks of 5ft but not the required combined side setback of 20 feet for sloped properties [Town Code § 17.080.070(B)(2)].

The sunroom and storage laundry room maintain a combined setback identical to the house and legalizing them will result in new living space in the required combined 20 foot side setback and require the approval of a Variance by the Commission.

Floor Area Ratio Variance (FAR Variance)

Town Code 17.136.030 limits the Floor Area Ratio, the ratio of living space to lot square footage, to 40%. (the square footage of garages 500 square feet or less is not counted towards lot coverage per Town Code § 17.008.020, definition of floor area).

Approval of the existing, unpermitted additions will increase the square footage of the house from 1,620 square feet to 1,959 square feet and result in a residence that has a Floor Area Ratio of 43%, .03 % above the permitted maximum.

Town Code § 17.136.040 allows the Commission to grant exceptions to the FAR limitation in two ways:

(1) To minimize inconsistencies with the floor area of adjacent or neighboring properties as long as the Variance does not exceed the 40% floor area ratio for a given property by more than 10% [Town Code 17.136.040(A)].

(2) Variances related to the implementation of "Green Building Technologies" set forth in Town Code § 17.136.040(C)

While the home at 12 Geary Avenue to the south of the site is 1,776 square feet on a 3,680 square foot lot and the residence at 18 Geary to the north is 1,705 square feet (based on Tax Assessor and Town Records), there are homes in the area that vary in size from 522 square feet on a 3,772 square foot site (38 Geary) to 2,643 square feet on a 4,242 square foot site (79 Rocca). The proposed 1,959 square foot home on this 4,387 square foot site is similar in appearance, size

and massing to other homes in the neighborhood and a variance to have a FAR of 43% can be granted on this basis.

Staff mentions the green building technology option in case the Commission is unable to find that the proposed 1,959 square foot residence is in proportion with the lot and similar in size to other homes in the neighborhood. During the review of this project it was discovered that the storage/laundry room was built without a foundation wall and as far as we can tell without a foundation underneath the room floor system. A soils engineer is currently reviewing how difficult it will be to install a proper foundation and it is likely that this room will have to be partially or completely removed and rebuilt to retrofit it in compliance with current code. Therefore, green building materials can be used in the rebuilding process which would also enable the Commission to grant a FAR variance of 3%.

Other Agency/Department Conditions

Ross Valley Fire Department

1. A fire sprinkler system shall be installed throughout the building which complies with the requirements of the National Fire Protection Association 13-D and local standards.
2. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not visible from the street, additional numbers are required. Numbers must be internally illuminated, placed next to a light or be of a reflective material.
3. All smoke detector shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
4. Carbon monoxide alarms shall be installed.

Marin Municipal Water District

1. The owners must comply with MMWD's indoor and outdoor requirements of District code Title 13, Water Conservation as a condition of water service.
2. Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Sanitary District

1. The project will require a connection permit from the District. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirement for the fixture count, the applicant has the

option of installing a new lateral or, the old lateral needs to be tested in the presence of a District Inspector and found to meet current District requirements.

Building Department

It has come to the attention of the Building Department that the storage/laundry room was excavated and is un-retained in a manner that has compromised the foundation system of the existing house. The improvements need to either be upgraded to code or removed entirely and the area backfilled in accordance with the written recommendations of a geotechnical engineer and plans from a civil engineer. Backfilling will require an excavation/fill permit from the Building Department

The area can be legalized but legalization will require the submittal and approval of recommendations from a geotechnical engineer as to how the area will be retained while also stabilizing the existing house and foundation. Construction plans will need to be submitted by a Civil Engineer based on the geotechnical engineer's recommendations and a building permit will need to be obtained prior to the start of construction.

Plans to remove the room and restore the stability of the home or to remove and rebuild it in compliance with the building code must be submitted within sixty (60) days of this meeting or the Town may be forced to take further action to ensure the house is safe and stable.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 14-05 based on the following findings and subject to the following conditions of approval:

Recommended Findings

1. The single-family residential project is located on a property zoned for single-family use. Therefore, the proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of this ordinance. 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.
2. The proposed additions are located within the footprint of the existing residence and are similar to other additions made to similar residences 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.

3. 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.
4. Approval to allow expansion of the residence within the existing footprint maintains the remainder of the site in its current undeveloped state. 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 steep, 49 % slope and narrow 45 foot width are the special circumstances applicable to the property that result in the strict application of the combined 20 foot side setback regulation depriving the applicants of the ability to expand and improve their property which is a privilege enjoyed by other property owners in the vicinity and under identical zone classification.
6. The proposed project will maintain the required minimum 5 foot side yard setbacks that are maintained by many other homes in the vicinity. 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.
7. The strict application of the combined 20 foot side yard setback regulations would result in excessive or unreasonable hardship by eliminating the ability of the owners to expand/improve their property.
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.
10. The proposed residence is similar in size and architecture to other homes in the neighborhood and the additions do not extend outside the existing structure footprint. Therefore, the proposed development harmonizes with the surrounding residential development, meets the design review criteria and does not result in the deterioration of significant view corridors.

Recommended Conditions of Approval

1. This approval is limited to the project depicted on the plans prepared by Calandra Design and amended by Dustin Ballard, November of 2013, sheets 1 and 2.
2. Within sixty (60) days, one of the following must occur:
 - a) A building permit application must be submitted to remove the storage/laundry room, restore the area and stabilize the compromised foundation system per the recommendation of a geotechnical engineer and plan prepared by a civil engineer.

- b) Plans to remove and construct a storage/laundry room and foundation that complies with accepted geotechnical and civil engineering practices must be submitted with a building permit application.
3. Prior to issuance of a building permit the applicant or his assigns shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
 4. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Town Code Chapters 8.20, Noise Control, 8.32, Urban Runoff Pollution Protection, 8.12, Litter, 12.28, Obstructions on Roads and Trails and the California Building Code and California Fire Code (as amended in the Town of Fairfax Town Code).
 5. 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 Use Permit # 14-05. Any construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 14-05 will result in the job being immediately stopped and red tagged.
 6. 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.

Ross Valley Fire Department Conditions:

1. A fire protection system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.

3. Carbon monoxide alarms shall be provided.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. A new sewer connection application must be submitted. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirements of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral needs to be tested in the presence of a District Inspector and found to meet all current District requirements. The cost will be based on the number of fixtures.
2. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

Miscellaneous Conditions

1. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
2. Planning Conditions placed on a project by the Planning Commission at the public meeting may only be waived by the Commission at a future public hearing.

ATTACHMENTS

Development Plans

Exhibit A – Applicant's supplemental information

Exhibit B – minutes from the 9/21/06 Commission meeting

Exhibit C - e-mail from owner to neighbor at 18 Geary Avenue

Exhibit D – Other Agency/Department comments/conditions

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- > 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.

This Permit would NOT result in any additional structure outside the existing footprint. The home, even

- > The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
- DIMENSIONAL AS NEXT DOOR (18 GEAR)

Work has been completed. If anything, these changes will improve value of neighboring properties

- > 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, development plan or other plan or policy, officially adopted by the town.

CORRECT

✓ Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

1) FRONT ENCLOSURE [A] . This was done prior to
OUR PURCHASE OF HOME IN 2008 BECAUSE
IT WAS NOT NOTED ON THE RE-SALE DOCUMENT (ATTACHED)
AT THAT TIME WE WERE NOT AWARE THAT IT
WAS NOT PERMITTED

2) DRY STORAGE [B] WE ENDED AN EXISTING STANDING
-HEIGHT CRAWL SPACE TO A DRY STORAGE AREA

AFTER REPAIRING A PLUMBING LEAK 12
THIS WAS NECESSARY, AS THE GARAGE DOES NOT HAVE
WATER-TIGHT STORAGE

August 17, 2006

Herbert: Any changes requested?

Madsen: Page 3 – held to same level of accountability as others

Meigs: Sounds right

Madsen: Motion to move and approve as amended.

AYES: Herbert, Madsen, Meigs, Shaiken

NOES: NONE

ABSTAIN: Lacques and Petty – neither attended meeting

PUBLIC COMMENTS ON ITEMS NOT ON AGENDA

NONE

COMMISSIONER COMMENTS AND REQUESTS

CONSENT CALENDAR

Minor matters to be approved without full hearing. All in favor to keep on calendar:

ALL: AYES

1. 14 Geary Avenue; Application #06-38

Request for a setback variance to construct an access stairway within the combined side yard setback; Assessor's Parcel No. 001-225-03; Residential Single-family RS 6 Zone; Dustin Angela Ballard, applicants/owners; CEQA categorically exempt, §15301(e).

Linda Neal read the Staff Report. Recommends approval based on conditions listed in Staff Report. Take off calendar. Work out difference as survey indicates. To approve there would be a modification of the variance. If the item is not removed from the calendar this evening there may be additional fees involved.

Applicants Dustin and Angela Ballard were present. Main concern is need for safe fire exit due to young infant in home. Open to moving landing back. Willing to work on sight/sound barriers. Minimal traffic, primarily daytime to/from backyard. Mark Hess – neighbor at 18 Geary was present. Concern that the staircases are 7 feet apart. Not for or against the project. Mr. Hess expressed concern over where property line really is.

Mr. Ballard inquired what he should do next. Commissioner Herbert indicated he would have more time. Would consider plan in context of plans at that time. Commissioner Meigs stated that the project may work out if both parties are amenable to working out the issue together.

Action: Mr. Ballard removed item from calendar and will obtain survey.

Meigs moved to take off calendar:

ALL: AYES

NOES: NONE

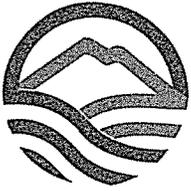
good shape and well maintained. If need us to check on anything for you, please let me know.

Again, we hope you are enjoying your time abroad.

Regards,
Angela

Angela Ballard
Writer/Editor

--
Dustin W Ballard, MD



MARIN MUNICIPAL WATER DISTRICT

220 Nellen Avenue Corte Madera CA 94925-1169
www.marinwater.org

January 22, 2014
Service No. 52930

Linda Neal
Town of Fairfax Planning Dept
142 Bolinas Rd
Fairfax CA 94930

RE: WATER AVAILABILITY - Single Family Dwelling
Assessor's Parcel No.: 001-225-03
Location: 14 Geary Ave, Fairfax

Dear Ms. Neal:

The above referenced parcel is currently being served. The purpose and intent of this service are to provide water to a single family dwelling. The proposed legalization of a 144 square foot sunroom addition and a 350 square foot storage room will not impair the District's ability to continue service to this property.

Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 – Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. You can also find information about the District's water conservation requirements online at www.marinwater.org.

Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

If you have any questions regarding this matter, please contact me at (415) 945-1532.

Sincerely,

Joseph Eischens
Senior Engineering Technician

JE:mp

cc: Town of Fairfax Building Dept

EXHIBIT #

D



TOWN OF FAIRFAX
DEPARTMENT OF PLANNING AND BUILDING SERVICES
 142 Bolinas Road, Fairfax, California 94930
 Phone (415) 453-1584 FAX (415) 453-1618

LETTER OF TRANSMITTAL

From: Fairfax Planning And Building Services Department

Date: January 17, 2014

To: Town Engineer Fairfax Police Dept. Marin County Open Space Dist.
 Town Attorney Sanitary Dist. 1 Other - Building
 MMWD Public Works Dept.
 Ross Valley Fire Marin County Health Dept.

Address and Parcel No: 14 Geary Avenue; Assessor's Parcel No. 001-225-03
 Project: Legalization of a 144 square foot sunroom addition and a 350 square foot storage room added without permits to a 1,548 square foot single-family residence

These plans are being transmitted for review prior to public hearings on discretionary permits before the Fairfax Design Review Board and Planning Commission. Please provide your comments on the completeness and adequacy of the submittal for your agencies reviewing purposes within 10 days.

1	Revised Nov,2013	Preliminary plans

REMARKS: NO COMMENTS AT THIS TIME.

Please respond by February 3, 2014.

If you have any questions please contact: Linda Neal, Senior Planner at (415) 453-1584