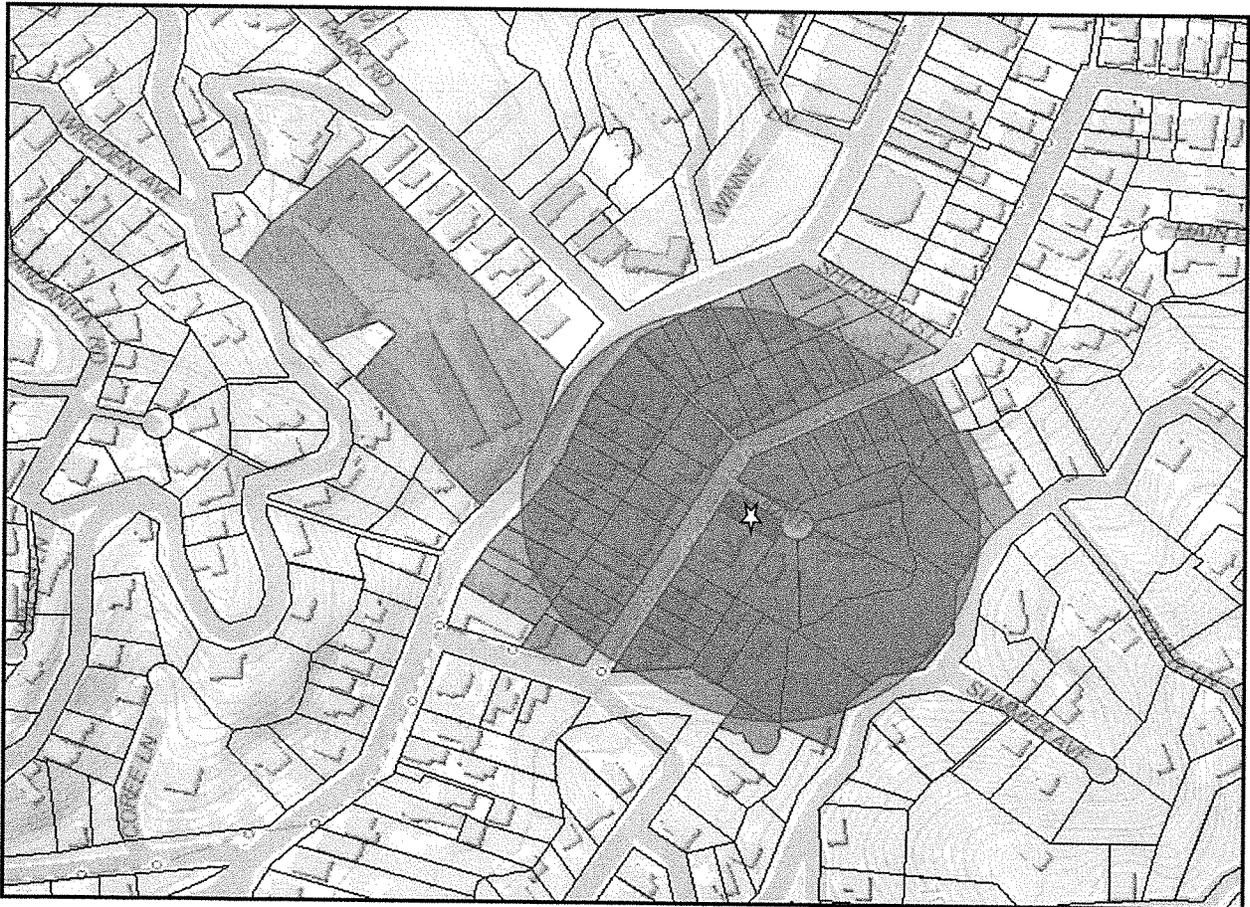


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 23, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 127 Dominga Ave.; Assessor's Parcel No. 002-025-06
ZONING: Residential RD 5.5-7 Zone
PROJECT: Remodel/addition to a single-family residence
ACTION: Modification of Use Permit; Application # 14-11
APPLICANT: David Grabham, Contractor/Applicant
OWNER: Krishna Tyner
CEQA STATUS: Categorically exempt §§ 15301(a), (3)(1) and 15305(a)



127 DOMINGA AVENUE

BACKGROUND

The 3,700 square foot, 37.5 foot wide site is level and was created when the Pacheco Tract Subdivision, Map 2, was recorded on May 2, 1910. The 1,327 square foot, two bedroom, 1 bath residence was constructed in 1916. A 360 square foot improved basement area is located on the first floor while the remaining 967 square feet of living space is on the second floor.

There is also a detached garage structure on the property that has a bedroom and bathroom above it. This structure appears to have been built some time prior to 1956 and is presumed to have been built with permits.

The Planning Commission approved a Use Permit and Setback Variances to allow the house to be lifted to bring the existing basement area living space into compliance with the building code ceiling heights and to add a full bathroom on March 20, 2014.

On October 29th, 2014 the building official stopped the construction in the basement. During an inspection he discovered that the project was not being built per the approved plans. The laundry room had been relocated into a portion of the basement that was to remain unfinished, windows had been framed into the walls of the unfinished area, which had not yet been sheet rocked or insulated, and the hallway to the bathroom had been widened. The Building Official advised the contractor, Mr. Grabham, that the unpermitted construction in the basement must stop until an application was made to modify the approved plans and the modified plans are approved by the Planning Commission.

The applicants applied on November 13th, 2014 to relocate the laundry area contained in the first floor living area into the previously unimproved basement area and convert 299 square feet of the remaining 598 square foot unfinished basement into a finished conditioned space that has 6 foot 8 inch ceiling heights and windows. The other half of the unimproved area will remain a basement. Although considered substandard for living space by Building Code standards, staff determined that the improved 6 foot 8 inch ceiling height and finished conditioned nature of the new area lends itself to use as living space, being only 4 inches short of the 7 foot ceiling height now required by code for areas used as living space.

The Commission originally discussed the project and took testimony from the applicant at the December 18th, 2014 meeting (the December 18th, 2014 minutes, pages 2 through 5, can be found at the end of the meeting packet and the previous staff report is attached as Exhibit A). The Commission was having difficulty making findings to approve the modification as proposed and continued the project to give the applicant's contractor time to discuss the matter with his client to see if she wanted to modify the project in the hopes that the Commission would be able to make the required legal findings to approve a modified design.

The owner chose to not make modifications to the project and the Commission denied

the requested Use Permit modification on March 19, 2015 without prejudice, advising the applicant and owner that they would be willing to review a modified plan for the basement in the future.

The applicants have reapplied for a modification of Use Permit 14-46 proposing the following:

The 2 large windows will be closed in and a smaller 2 by 2 window that faces Court Lane will be replaced with an operable 2 by 2 foot window for ventilation and natural light.

There will be only three light fixtures for the area, 1 at the top of the stairs, 1 in the middle of the room and 1 in the laundry area. There will be 1 electrical outlet for the space.

The area will be sheet rocked.

The owner will sign, notarize and record a deed restriction indicating that the improved basement area will not be used for living space and is for storage only and the remaining unimproved basement area shall remain unimproved.

The removal of the large picture windows and minimization of electrical improvements to the basement area will go a long way towards ensuring that the improved basement is used for storage and not as an extension of the rest of the lower floor living area.

The deed restriction will alert future owners of the restrictions on the use of the basement space.

RECOMMENDATION

Move to adopt Resolution No. 15-07, approving the requested modification to Conditional Use Permit No. 14-11 based on the findings and subject to the conditions contained in said resolution.

ATTACHMENTS

Exhibit A – Resolution No. 15-07

RESOLUTION 15-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 14-11 FOR CONVERSION OF A PORTION OF THE BASEMENT AT 127 DOMINGA AVENUE TO CONDITIONED STORAGE SPACE

WHEREAS, on April 6, 2015 David Grabham, on behalf of Krishna Tyner, submitted an application for a Use Permit modification to include conversion of an 299 square feet of unimproved basement area to conditioned space as part of the project originally approved under Use Permit No. 14-11; and

WHEREAS, April 23, 2015, the Planning Commission considered a staff report and its exhibits; and

WHEREAS, as set forth in the staff report prepared for the Planning Commission, the proposed improvement will not increase the floor area, as defined in the Town Zoning Ordinance, of the residential structure beyond the .40 permitted by the Town Code and the Commission finds as follows:

1. The proposed remodel, as modified with the removal of the picture windows, installation of limited electrical improvements and use limited by a recorded deed restriction, discourage utilization of the 299 square foot as living space. This limitation will not increase the existing Floor Area Ratio beyond the permitted .40 FAR. Therefore, granting the use permit will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The conversion of 299 square feet of the basement to an additional conditioned room and laundry will not increase the potential for the home to accommodate more persons. The conditions of approval limit the natural light and minimize the electrical fixtures and outlets to only those necessary to provide safety lighting and allow for the operation of cleaning tools discouraging the use of the space as additional living space or an additional bedroom. Therefore, approval of the Conditional Use Permit modification will not cause 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 finishing of a portion of the basement to allow for the secure storage of items and protection from the elements will allow the owner a substantial use of her property and is similar to the use of other residentially zoned properties with basements in the neighborhood.
4. The modification of Use Permit 14-11, as conditioned, is not contrary to the objectives, goals and standards set forth in the Town Zoning Ordinance and the findings required by Town Code §17.032.040 for a conditional use permit.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does approve the modification of Conditional Use Permit Application No. 14-11 and allows the conversion of 299 square feet of the single-family residence basement into conditioned space at 127 Dominga Avenues subject to the implementation of the above listed conditions.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 23rd day of April, 2015, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Philip Green

Attest:

Jim Moore, Director of Planning and Building Services