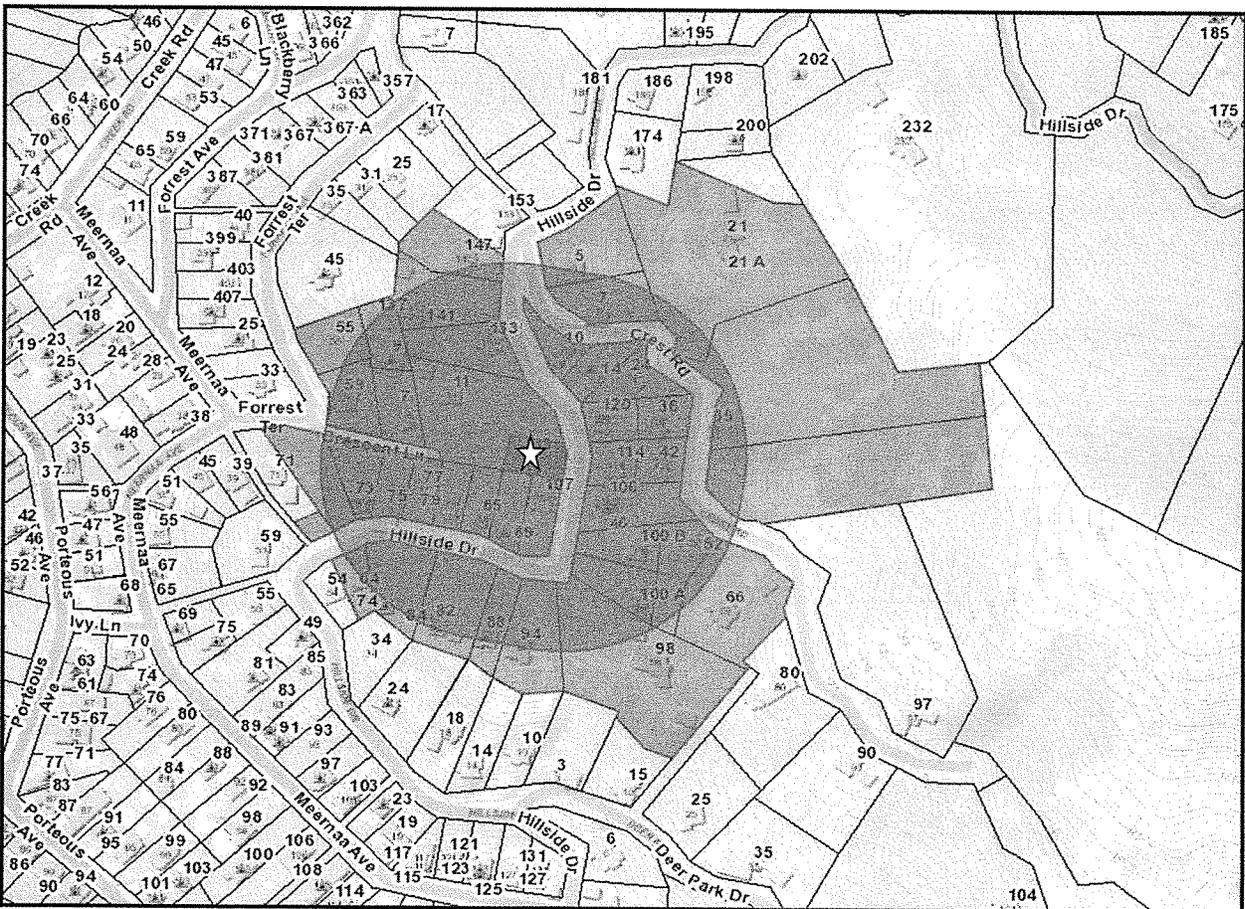


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 16, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 113 Hillside Drive; Assessor's Parcel No. 002-092-45
ZONING: Residential Single-family RS 6 Zone
PROJECT: Cardeck replacement/Addition
ACTION: Use Permit, Variances and Encroachment Permit; Application # 15-19
APPLICANT: Ruth Todd
OWNER: Ruth Todd and Daniel Baker
CEQA STATUS: Categorically exempt, § 15301(a), 15301(e)(1) and 15303(e)



113 HILLSIDE DRIVE

BACKGROUND

The 5,925 square foot site slopes down from Hillside Drive at an average slope of 23% and is developed with a 1,738 square foot, 2 bedroom, 1 bath single-family residence that was constructed in 1964. The parking deck is suffering from deferred maintenance and needs to be replaced.

DISCUSSION

The original project submittal encompassed demolition of existing car deck to construct; a) a new 576 square foot, three car, parking deck with a 280 square foot storage area underneath that encroaches into the public right-of-way; b) replacement of the entry deck to the upper level (third floor) of the house including a storage cabinet that projects into the 5 foot side setback; c) a new 77 square foot lower front facing deck; d) a 64 square foot rear facing deck off the ground floor; e) a garbage enclosure; f) a first floor, 123 square foot storage room with adjacent 282 square foot deck; and g) landscaped areas within the Hillside Drive right-of-way.

Staff corresponded with the owners advising them that we were going to be unable to support; a) expansion of the rear deck into the minimum rear and combined front/rear setbacks; b) construction of the storage locker in the required 5 foot setback and construction of the portions of the storage room under the parking deck into the public right-of-way. The plans have been redesigned to eliminate the rear deck expansion and the extension of the storage locker into the setback. Although the plans still show the storage area underneath the parking deck extending into the right-of-way, the owner have agreed that they will be able to keep the storage room on their property.

The property is zoned Residential Single-family RS 6 Zone and the project and property complies with the RS 6 Zone regulations as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 ft., 3 stories
Existing	0 ft.	7.5 ft.	7.5 ft.	5 ft. & 6 ft.	11 ft.	.29	.20	30 ft., 2 stories
Proposed	0 ft.	7.5 ft.	7.5 ft.	5 ft. & 6 ft.	11 ft.	.29	.29	30 ft., 3 stories

The project requires the approval of the following discretionary permits:

A Use Permit

Town Code § 17.080.050 requires that a Use Permit be obtained prior to any improvements or modification of a property failing to meet the minimum size and width

requirements based on its slope. Town Code § 17.080.050(C) requires that a property with a 23% slope, like 113 Hillside Drive, be 15,000 square feet in size and 89 feet wide to comply with the code. The project site is only 5,925 square feet in size and 60 feet wide so the project requires the approval of a Use Permit.

The purpose of the Use Permit Section of the Code is to allow the proper integration into a neighborhood of uses that may only be suitable in certain locations on a site or only if they are designed in a particular way. In considering an application for a Use Permit the Commission should take into consideration the impact of the proposed use on all the adjacent structures and uses and on the public health, safety and general welfare.

The proposed project will not change the single-family character of the neighborhood nor are the proposals to build storage under the parking deck and underneath the house unusual for a property on a down-sloping site. Similar improvements can be found in the immediate neighborhood and throughout Town. The proposal also does not increase any of the existing non-conforming setbacks maintained by the existing development so impacts on neighboring properties will not be significant.

Encroachment Permit

Town Code § 12.32.010 gives the Planning Commission the authority to allow private property owners to place carports and other structures within the public right-of-way. Town Code § 12.32.020 further clarifies that the right to build a private improvement on the public easement is contingent upon a property owner having no place on their private property to erect or construct a carport or other structure.

Encroachment permits are routinely granted by the Commission for parking structures and garbage can enclosures. The Town roadway easements are usually 30 to 40 feet in width while the paved roadways are much narrower. This results in property owners on sloped properties having to build portions of their parking decks on downslope lots or garage wing walls on upslope lots within the public easement. Steep sites without garbage enclosures approved near the street result in owner being required to haul their garbage cans up or down steep stairways to get the out of the public right-of-way as required by Town Code § 8.08.050(B).

Due to the steep 23 % slope on this property and the location of the front property line over 12 feet from the edge of the improved Hillside Drive roadbed it is impossible for the parking deck to be replaced without constructing a portion of the structure in the right-of-way. There are also no level areas near the front property line where the garbage cans can easily be stored out of the public right-of-way unless they are stored on the parking deck which can interfere with the parking.

Please note that uncovered parking decks on properties with slopes of over 15% are permitted within the required front setback area [Town Code § (17.052.020(C))].

The applicants have agreed to revise the plans prior to submittal for a building permit to keep the storage area under the parking deck on the private property. Staff advised them in our June 1, 2015 letter that we would be unable to support this request because there are other locations on the property to locate storage out of the public easement. In fact, staff is able to make findings, due to the steep slope of the site, for the portion of the area underneath the parking that is located on the applicant's private property, to be enclosed and used for a 336 square foot storage room which is more space than your standard 1 car garage (see front setback variance discussion below).

Variance

A front setback and combined front/rear setback variance is being requested for the storage area underneath the parking deck.

The proposed storage area underneath the parking deck will be constructed in the 10 foot front setback required for accessory structures and as proposed will encroach 2 feet into the public easement with roughly 22 square feet of the space extending off the private property [Town Code § 17.040.020(A)]. As explained above staff is unable to support the request to extend the storage area into the public easement and the applicants have agreed to build the storage area only on their private property. Staff is able to recommend findings for a front setback and combined front/rear setback variance to approve construction of the storage room up to the front property line. The steep slope of the site makes it difficult to access a storage building further downslope near the house to keep items such as bikes, kayaks, tools, etc, that would normally be stored in a garage. Building the storage area underneath the deck where the site is already disturbed will also minimize further impacts to the site natural vegetation and topography and allow for a generous 336 square foot storage room.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department

1. A fire suppression system shall be installed in the storage area under the parking deck with complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A permit is required for the system with plans and specifications for the system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. Minimum hydrant fire flow of 1000 gallons per minute (GPM) at 20 pounds per square inch (PSI) is required for this project. A hydrant flow test is required to determine current flow.
3. Fire apparatus access is required to be provided to within 150 feet of any portion of the 1st floor exterior walls. The building plans will have to show how Ross Valley Fire Standard #210 for minimum design requirements will be met.

4. The applicant may propose alternate materials or method of construction in accordance with Section 103.3 of the Building code. All approved alternate material requests and supporting documentation shall be included in the plans set submitted to the Fire Department for final approval.
5. 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.
6. An effective fire break must be maintained around the structures by removing and clearing all flammable vegetation and/or other combustible growth with the defensible space zone of 30 to 100 feet (Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management Plan).
7. Carbon monoxide alarms shall be provided.
8. 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. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.
2. If the project is approved the applicant shall contact the District to arrange for a District Inspector to approve the existing installation or to approve plans for the proposed installation.

Fairfax Police, Public Works and Building Departments

The Fairfax Police Department and the Building Department had no comments on the project.

RECOMMENDATION

Move to approve application # 15-19 by adopting Resolution No. 15-24 setting forth findings and conditions for approval of the requested Use Permit, Encroachment permit and Variances. The recommended conditions of approval include approval of the storage area under the parking deck on private property only.

ATTACHMENTS

Exhibit A – Resolution No. 15-24

Exhibit B – Staff letter dated 6/1/15

RESOLUTION NO. 15-24

A Resolution of the Fairfax Planning Commission Approving a Use Permit, Minimum Front Setback and Combined Front/rear Setback Variance and an Encroachment Permit for Replacement of the Parking Deck and Other Miscellaneous Repairs and Improvements at 113 Hillside Drive

WHEREAS, the Town of Fairfax has received an application to replace the parking deck and build a storage room beneath it, reconstruct the front deck and access bridge, building storage and an access deck underneath the house and create a garbage enclosure along the property frontage from Ruth Todd and Daniel Baker; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on July 16th, 2015 at which time the Planning Commission determined that the proposed project will not change the single-family character or the site or the neighborhood; and

WHEREAS, based on the plans and other documentary evidence in the record, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project.

WHEREAS, the Commission has made the following findings:

1. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area.
2. The project does not extend beyond the footprint of the existing residence and does not increase any existing non-conformity nor create any new non-conformity and preserves the existing natural topography and vegetation on the site.
3. The project complies with the Floor Area Ratio and Lot Coverage regulations and restores the parking for the property which is currently in a dilapidated condition. 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.
4. The development and use of property as approved under the use permit and variances will 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.
5. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained 2010 – 2030 Fairfax General Plan or set forth in the Town Code.

6. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. This approval is limited to the development illustrated on the plans prepared by Page and Turnbull, Architects, dated 7/1/15, pages G0.00, G1.11, G1.21, G1.31, G2.01, G2.02, C1.00, A1.11, A1.21, A2.11, A2.21, A2.31, A2.32, A3.01, A3.02, A3.03 and A3.04. Page A2.21 of the plans shall be revised prior to issuance of the building to pull the storage area underneath the parking deck back out of the Hillside Drive right-of-way.

2. Prior to issuance of any of the residence building permits 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
- Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking

- b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).

- c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.

- d. The foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Plan Checker.

- e. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to any geotechnical design recommendations.

f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the development conformance with their recommendations. The residence shall be provided with sprinkler system that complies with the requirements of the Ross Valley Fire Authority. If required, a fire truck pull out shall be provided or shall be identified and marked in the field.

g. Submit the record of survey with the building permit plans.

h. Have the surveyor stake the front property line location in the field and have the Building Official inspect the staking once it is completed.

3. During the construction process the following shall be required:

a. The geotechnical engineer shall be on-site during the grading and shall submit written certification to the Town Staff that the grading has been completed as recommended prior to installation of foundation and/or retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the geotechnical and structural engineers 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. The Building Official shall field check the concrete forms prior to the pour.

c. All construction related vehicles including equipment delivery, supply 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 geotechnical 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 prior to issuance of the certificate of occupancy.

5. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

6. a) The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

b) Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.

7. During construction the developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."

8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-19. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 15-19 will result in the job being immediately stopped and red tagged.

9. Any damages to Hillside Drive or public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

10. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

11. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.

12. The applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department. Other agency conditions can be waived by those agencies in writing to the Town Building Department.

13. The applicant must comply with all outside agency conditions unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.

14. Prior to issuance of the building permit the applicant shall sign, notarize and record the Revocable Encroachment Permit prepared by staff for the improvements that will be located in the public easement of Hillside Drive.

Ross Valley Fire Department

1. A fire suppression system shall be installed in the storage area under the parking deck with complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A permit is required for the system with plans and specifications for the system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. Minimum hydrant fire flow of 1000 gallons per minute (GPM) at 20 pounds per square inch (PSI) is required for this project. A hydrant flow test is required to determine current flow.
3. Fire apparatus access is required to be provided to within 150 feet of any portion of the 1st floor exterior walls. The building plans will have to show how Ross Valley Fire Standard #210 for minimum design requirements will be met.
4. The applicant may propose alternate materials or method of construction in accordance with Section 103.3 of the Building code. All approved alternate material requests and supporting documentation shall be included in the plans set submitted to the Fire Department for final approval.
5. 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.
6. An effective fire break must be maintained around the structures by removing and clearing all flammable vegetation and/or other combustible growth with the defensible space zone of 30 to 100 feet (Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management Plan).

7. Carbon monoxide alarms shall be provided.
8. 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. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.
2. If the project is approved the applicant shall contact the District to arrange for a District Inspector to approve the existing installation or to approve plans for the proposed installation.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

- The approval of the Use Permit, Variances and Encroachment Permit for the proposed miscellaneous improvements and reconstruction of the parking deck at 113 Hillside Drive as depicted in the plans described above drawn by Page and Turnbull, Architects dated July 1, 2015 is in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and
- Construction of the project can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 16th day of July, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Planning Commission

Attest:

Jim Moore, Director of Planning and Building Services



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618

June 1, 2015

Ruth Todd
113 Hillside Drive
Fairfax, CA. 94930

Re: 113 Hillside Drive; planning application

Dear Ms. Todd,

Thank-you for clarifying the extent of your project and providing complete plans showing that project. The Department of Planning and Building Service has now completed its initial review and regrets to inform you that your submittal is incomplete. The following represents our findings and request for additional information:

1. Provide an electrical plan and floor plan for the storage area underneath the parking deck and future third floor storage area and indicate to what extent these areas will be finished (sheetrock, flooring, etc.) and provide a cross section and finished ceiling height and floor elevation indications.

2. We are assuming that once we obtain the floor plans for the storage area under the parking deck that it will extend into the required 10 foot front setback for accessory structures. Location of storage within the required 10 foot front setback requires the review and approval of a front setback variance by the Planning Commission [see Town Code § 17.040(A)]. Staff has determined that we will be able to support a request for a front setback variance to construct the storage room in this location. We have enclosed the supplemental variance pages of the planning application for your convenience. These must be completed and be submitted with the \$1,125 variance application fee if you intend to go forward with the storage under the parking deck. Please keep in mind that staff just makes recommendations to the Commission and our support does not guarantee the variance will be granted.

Please make sure the plans show the storage area does not extend into the public right-of-way. While the code allows and supports necessary private improvements in the public area, such as garbage enclosures and parking, it does not support the location of other types of improvements such as storage, which can be located elsewhere on the site. You can submit the floor plans on 8 ½ by 12 inch sheets of paper which staff will then affix to the project plan sets.

3. The proposed rear deck expansion off the second floor extends into the required 12 foot minimum rear setback and requires a rear setback variance [see Town Code §

ATTACHMENT B

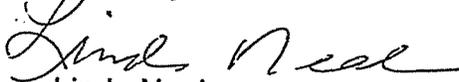
17.080.110(B)(1)]. It is doubtful that staff will be able to make required findings necessary to support expansion of this deck that already extends into the minimum rear setback. You may want to consider eliminating the deck expansion from the project plans. If you decide to eliminate this deck expansion you can do so by indicating in writing that is your intention and staff will include elimination of the expansion as a condition of project approval. There is no need to revise the submitted plans

4. Storage cabinets are not listed as one of the architectural features that can project into the required setback (See Town Code 17.044.070). The storage cabinet on the south side of the front deck extends into the required minimum 5 foot side setback area and must be redesigned to comply. You may indicate in writing your intention to redesign the cabinet so it maintains a 5 foot setback; there is no need to revise the project plans and the relocation will be made a condition of approval.

Note: The stairway from the garbage enclosure to the landscaping path is in the setback which is permitted as long as the stairs remain at grade, landscaping stairs. If, in order to construct them and make them safe, they become raised wooden stairs, they will require revised plans and a setback variance. You should check the elevation changes to ensure they will remain on-grade stairs as shown.

Once the above matters are addressed the submittal will be complete and can be scheduled for a Planning Commission hearing. If you have any questions, please do not hesitate to contact me.

Sincerely,



Linda Neal
Principal Planner

Enclosure; variance application supplemental pages and variance fee from fee schedule