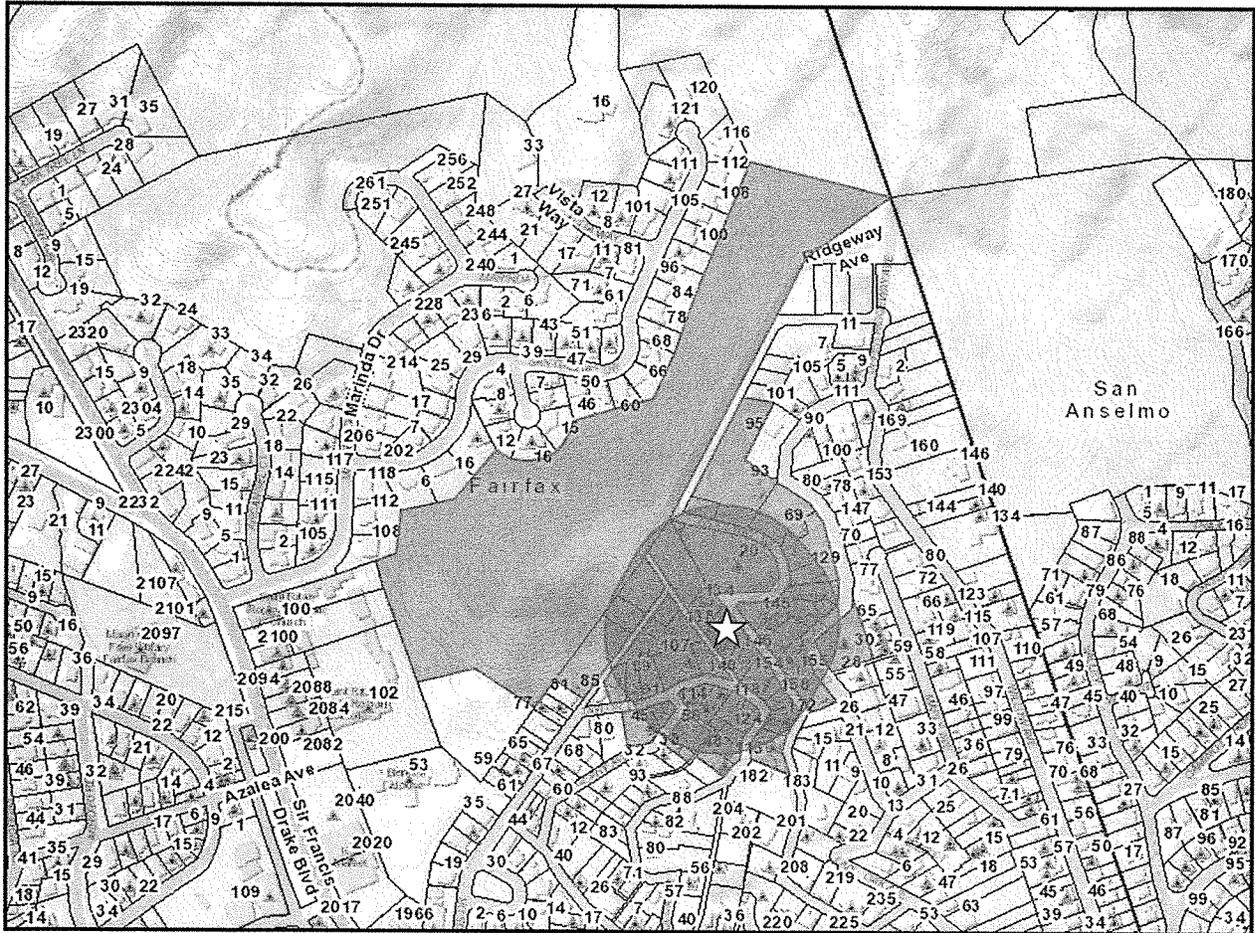


**TOWN OF FAIRFAX  
STAFF REPORT**  
Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** July 16, 2015  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Principal Planner  
**LOCATION:** 138 Ridgeway Ave; Assessor's Parcel No. 001-214-21  
**ZONING:** Residential Single-family RS 6 Zone District  
**PROJECT:** Art Studio  
**ACTION:** Use Permit; Application # 15-22  
**APPLICANT:** David and Idie Weinsoff  
**OWNER:** Same  
**CEQA STATUS:** Categorically exempt, § 15301(a)



**138 RIDGEWAY AVENUE**

## BACKGROUND

The 8,374 square foot site slopes down from Ridgeway Avenue with an average slope of 40%. It is developed with a 1,630 square foot, 3 bedroom, 2 bath, single family residence that was constructed in 1988 after the Planning Commission approved a Hill Area Residential Development, Variances and an Encroachment Permit for the development.

Sometime after the house construction the current owner purchased the vacant lot to the east and merged it with the house site increasing the site square footage from 6,401 square feet to 8,374 square feet.

## DISCUSSION

The applicants are requesting a Use Permit to place a prefabricated 120 square foot art studio structure with electrical service on the southeast side of the residence. The proposed structure and existing residence will comply with the regulations for the Residential Single-family RS 6 Zone District where the site is located 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. (house) | 44 ft.       | 44 ft.                      | 15 ft. & 30 ft. | 45 ft.                 | .19 | .15          | 32 ft., 3 stories (the house) |
| Proposed            | same          | same         | same                        | 15 ft. & 12 ft. | 27 ft.                 | .20 | .16          | 13 ft., 1 story               |

### Use Permit

Town Code § 17.080.050 requires that a Use Permit be obtained prior to any use, occupancy or physical improvement of or on a building site failing to meet the minimum size and width requirements based on slope. The site has an average slope of 40% and would have to be 32,000 square feet in size and 140 feet wide to meet the minimum size and width required by the Town Code § 17.080.050(C). The site is only 8,374 square feet in size. Therefore, placement of a manufactured accessory structure for use as an art studio requires a Use Permit.

The proposal also requires a Use Permit because the Town Code does not permit accessory structures in the Residential Single-family RS 6 Zone District to be used as

living space (for an art studio, office, bedroom, etc.) without the approval of a Use Permit by the Planning Commission [Town Code §§ 17.080.040(B) and (C) and §17.080.030(I)].

The purpose of the Use Permit process 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 art studio maintains setbacks that are greater than those required by the code. It is only 120 square feet in size and it will be located on an existing relatively level area of the property where no mature vegetation exists. Therefore, there will be minimal impacts on the site and the neighboring properties from the project. Similar structures and uses of accessory buildings exist throughout Town and the Ridgeway Park subdivision (18 Willow Avenue, 208 Ridgeway, 103 Live Oak Avenue, etc.)

### **RECOMMENDATION**

Move to adopt Resolution No. 15-22 setting forth findings and conditions approving Application # 15-20.

### **ATTACHMENTS**

Attachment A – Resolution No. 15-20

## RESOLUTION 15-22

### A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 15-22 FOR A USE PERMIT TO ALLOW A 120 SQUARE FOOT ACCESSORY STRUCTURE TO BE PLACED AT 138 RIDGEWAY AVENUE AND BE USED AS AN ARTIST STUDIO

**WHEREAS**, on July 16, 2015 David and Idie Weinsoff submitted an application for a Use Permit to place a 120 square foot accessory art studio with electricity on their property at 138 Ridgeway Avenue; and

**WHEREAS**, on July 16th, 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 or the lot coverage, as defined in the Town Zoning Ordinance, of the property beyond the 40% floor area ratio and the 35% lot coverage permitted by the Town Code and the Commission finds as follows:

1. The proposed accessory structure with its use restricted to that of an artist studio will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. Other similar Use Permits have been granted throughout the Town.
2. The approval of the Use Permit for an artist studio in a location that exceeds most of the required setback requirements and maintains the required 10 foot front setback will not cause unreasonable detriment to adjoining properties or premises. The structure, as designed and in compliance with the height restriction for the RD 5.5-7 Zone, will not 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 Use Permit for use of the accessory structure as an art studio will allow the owners a substantial use of their property and is similar to the use of other residentially zoned properties with accessory structures used for living space.
4. The use permit 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.

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

1. This approval is limited to the placement of a manufactured Summerwood Product structure of a "Copper Creek" style that is 120 square feet or less in size with minimal electrical outlets (to be determined by the Department of Planning and Building Staff).
2. Prior to issuance of a building permit the owners shall sign, have their signatures notarized and then record a deed restriction indicating the accessory structure is to be used as an artist studio only and shall not contain any plumbing. This document shall be prepared by the Department of Planning and Building Services.
3. Prior to issuance of an occupancy permit the Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
4. **Any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-22. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-22 will result in the job being immediately stopped and red tagged.
5. 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.

6. Prior to issuance of the building permit for the project it shall be reviewed and approved, possibly with additional conditions, by all agencies/departments with jurisdiction over the project.

**Miscellaneous Conditions**

The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in writing to the Department of Planning and Building Services.

**NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED** by the Planning Commission of the Town of Fairfax that said Commission does approve the Conditional Use Permit Application No. 15-22 and allows the placement of a 120 (or less) square foot manufactures accessory building on the property at 138 Ridgeway Avenue.

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:  
ABSENT:

\_\_\_\_\_  
Chair, Planning Commission

Attest:

\_\_\_\_\_  
Jim Moore, Director of Planning and Building Services