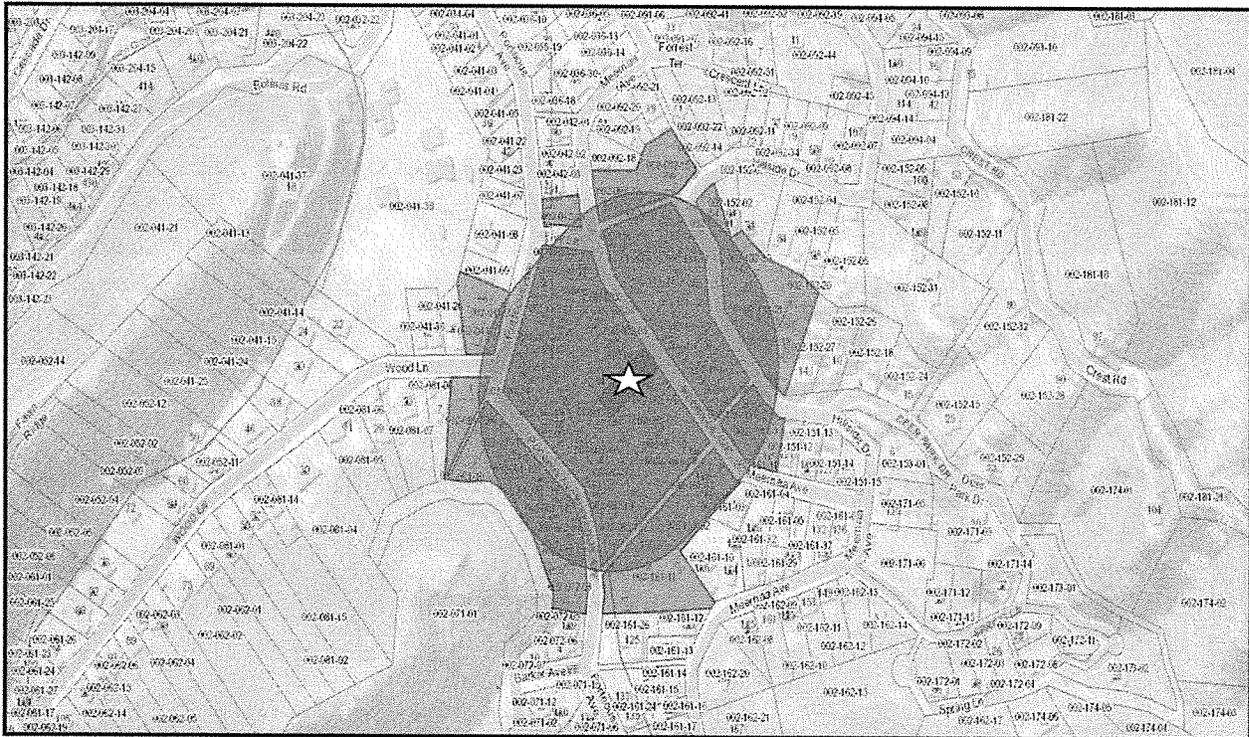


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: April 21, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 88 Meernaa Ave.; Assessor's Parcel No. 002-082-07
ZONING: Residential RD 5.5-7 Zone
PROJECT: 2 Storage Sheds
ACTION: Use Permit; Application # 16-12
APPLICANT: Laura Kehrlein, Architect
OWNER: Delia Reid and Tom Yarker
CEQA STATUS: 15301(l)(4), 15303(e) and 15305(a)



88 MEERNAA AVENUE

BACKGROUND

This 7,500-square-foot site is relatively level and is developed with a legal duplex that constructed in 1912. (Attachment C – topography map of site). The duplex is 1,335 square feet. The site also contains an arbor structure, a chicken coup and a small storage closet for the chicken coup.

DISCUSSION

The applicants had contacted the staff asking if they could remove and replace an existing storage shed on the property some time ago. The previously existing shed was located within the side setback and staff advised the owner that the structure could be replaced but that the replacement shed should be located at least 5 feet from the side property line (side-yard setback requirement). On February 4, 2016, the Department of Planning and Building Services received a complaint that 2 large sheds were being constructed/installed at 88 Meernaa Avenue. A site inspection performed on February 5, 2016, confirmed that fact and the owner was advised that the project (e.g., installation of two storage sheds) requires the approval of a Conditional Use Permit and a Side Setback Variance.

The project involves the installation of two, 120 square foot, accessory, storage structures equipped with windows and minimal electrical improvements (1 overhead light and 1 outlet, each). The sheds are 1 story and reach 11 feet, 4 inches in height, 3 feet, 4 inches less than the maximum permitted, 15 foot height for accessory structures [Town Code § 17.084.040(B)]. The owners would relocate the chicken coup and coup storage shed out of the minimum rear-yard setback area as part of the project.

The sheds would comply with the zoning regulations for the RD 5.5-7 Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	6 ft.	25 ft.	5 ft. & 5 ft.	15 ft.	.40	.35	28.5 ft., 2 stories (main house)
Existing	23 ft.	4 ft.	27 ft.	4 ft. (coop), 5 ft. (house)	9 ft.	.17	.09	11 ft. 4 in (sheds)
Proposed	same	6 ft.	29 ft.	10 ft. (coop & arbor), 5 ft. (house)	15 ft.	.21	.12	same

The project requires the approval of the following discretionary permits:

Conditional Use Permit

Town Code 17.084.050(A) requires that a Conditional Use Permit be obtained prior to any improvements or modifications to a site or structure on a site failing to meet the minimum 60-foot width requirements. This site is 50 feet wide therefore installation of the sheds requires the approval of a Use Permit. The site exceeds the minimum 7,000-square-foot size requirement for development of a site with a duplex.

Storage sheds are a permitted use in the Residential RD 5.5-7 Zone [Town Code § 17.084.040(B)]. Three of the neighboring properties have at least 1 accessory storage structure; the adjacent property at 84 Meernaa Avenue has 3 accessory structures (2 storage sheds and an accessory structure used as a laundry/bathroom).

It is common for properties developed with structures predating the Town's incorporation, such as this one, to have minimal or no storage space and small closets with minimal storage capacity. As a result, many garages are used for storage and several properties have one or more accessory storage structures.

Allowing 2 storage sheds on the subject property would not result in the property being out of character with similar developments found throughout the Deer Park neighborhood. The following properties in the immediate neighborhood have at least 1 or more storage sheds: 68, 70, 74 and 91 Meernaa Avenue(s) each have 1 storage/accessory building; 80 and 126 Meernaa Avenue(s) have 2 accessory storage buildings; and 84 Meernaa Avenue has 3 accessory storage/laundry/bath structures.

All of the structures on the site would comply with the required minimum and combined setbacks, the Floor Area Ratio and the Lot Coverage Limitation once the project is complete.

The adjacent neighbors at 84 Meernaa Avenue have expressed concern over the visual impacts the sheds would have on their property directly east of the site. A survey shows that their house is located on the property line, between the 2 residences. The residents at 84 Meernaa Avenue have provided photographs showing the view of the sheds from their property.

The Town of Fairfax has not adopted ordinances guaranteeing unobstructed views in its neighborhoods. The Town is an urban environment with small narrow lots and houses that do meet the minimum required setbacks. The proposed sheds are shorter than the allowed maximum height for accessory structures, and would be located to exceed the minimum required eastern side-yard setback.

The neighbors at 84 Meernaa Avenue would see the rooftops of the sheds from their yard and would see the rooftops of the shed from their interior living space. However,

the owners of 88 Meernaa Avenue see sheds located on the 84 Meernaa Avenue property from their upper floor deck and rear windows. The impact of the sheds on the neighboring property is not significant enough for staff to determine that the sheds prohibit the owners from having substantial use of their property.

Other Agency/Department Comments/Conditions

No agencies or departments had any comments or conditions for the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 16-12 by adopting Resolution No. 16-08 setting forth the findings and conditions for the project approval.

ATTACHMENTS

- Attachment A – Resolution No. 16-08
- Attachment B – Applicant's supplemental information
- Attachment C – Topography of site
- Attachment D – Letter from the neighbors at 84 Meernaa Avenue
- Attachment E - Letters of support from adjacent neighbors

RESOLUTION NO. 16-08

A Resolution Of The Fairfax Planning Commission Approving A Use Permit to Erect 2 Sheds For Storage On The Property At 88 Meernaa Avenue

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit to erect two, 120-square-foot sheds with minimum electrical improvements to be used for storage at 88 Meernaa Avenue; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 21, 2016, at which time the Planning Commission approved the Use Permit; and

WHEREAS, based on the plans and supplemental information provided by the applicants, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the project's requested discretionary Use Permit as long as certain conditions, listed below, are met; and

WHEREAS, the Commission has made the following findings:

1. The construction of the 2 sheds will not change the single-family character of the site and 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. The shed will not extend closer to any neighboring structures than the existing residence and will maintain 7 foot eastern side setbacks which exceed the required 5-foot minimum side setback by 2 feet. Other properties in the immediate neighborhood have multiple accessory structures. 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.
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 the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit to allow the construction of storage for this 1921 duplex will have less of an impact on neighboring properties than a remodel to provide adequate interior storage space would have on adjacent sites. Therefore, the project as proposed results in 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 Laura Kehrlein, Frederic C. Divine Associates, dated 2/22/16, page A1.
2. Prior to issuance of a building permit to finish construction of the sheds, the owner shall sign and notarize a deed restriction indicating the accessory structure will contain minimal electrical improvements and will only be used for storage by the residents of the duplex. The Town will record this document at the Marin County Recorder's Office. The deed restriction can be revised if the owners obtain approval of a modification of this use permit to allow the storage sheds to be used for another use.
3. During the construction process, all construction-related vehicles including fixture/supply or 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.
4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
5. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.
6. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
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. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 16-13. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 16-13 will result in the job being immediately stopped and red tagged.
9. 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.

10. The applicants shall comply with all the regulations set forth in Town Code 8.20, Noise Control during the completion of the construction.

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 can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21th day of April, 2016, by the following vote:

AYES:

NOES:

ABSENT:

Acting Chair

Attest:

Jim Moore, Director of Planning and Building Services

Property Owner's Statement

Our home is a small duplex. Our family of four lives on the top floor which only has two tiny closets – one in each bedroom – for storage. The 11x13 shed that came with the property backed to the property line, had subsided six inches on one side, was infested with termites, and didn't meet our storage needs. Delia Reid, owner, was in a serious car accident when she was young and, as a result, never learned to drive so isn't able to easily access off-site storage.

We want to install a smaller shed in place of the previous one with a greater than five-foot setback as well as a second shed. Our neighbors to the right have three accessory buildings (all against property lines) and our neighbor to the left has two accessory buildings. Others in the neighborhood have more than one accessory building [LK – I can provide photos and addresses if needed on 2/27].

The placement in the garden of the two sheds is in the only space available. We chose a quality product and finish to reflect the aesthetic of the house and plan to landscape around the sheds and cover them with vines and climbing roses in order to have them blend into the garden. [LK – I have a Photoshop rendering of how this would look if needed.] We discussed the project with the owners of 84 Meernaa Avenue on several occasions – showing them the proposed location, telling them the square footage and height, walking the property line, and agreeing to the placement of a new fence to be built by us.

It has been very challenging to have the house at 84 Meernaa Avenue on our property line. When we first moved in seven years ago, the owner asked that we not be in that back corner of our garden. They have said that they designed that side of their house to look out onto our garden and were previously irrigating the privet and bamboo hedge that is on our property. They now access our property through a gate in their fence to prune a portion of that hedge. One of the proposed sheds is built in front of the hedge and they can see the peak of the roof from a window near the ceiling of their living room. We conducted informal shadow studies hourly during one day and determined that the shed in that location does not cast a shadow on their window. [LK – can provide photos if needed.]

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.

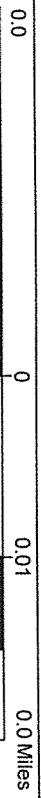
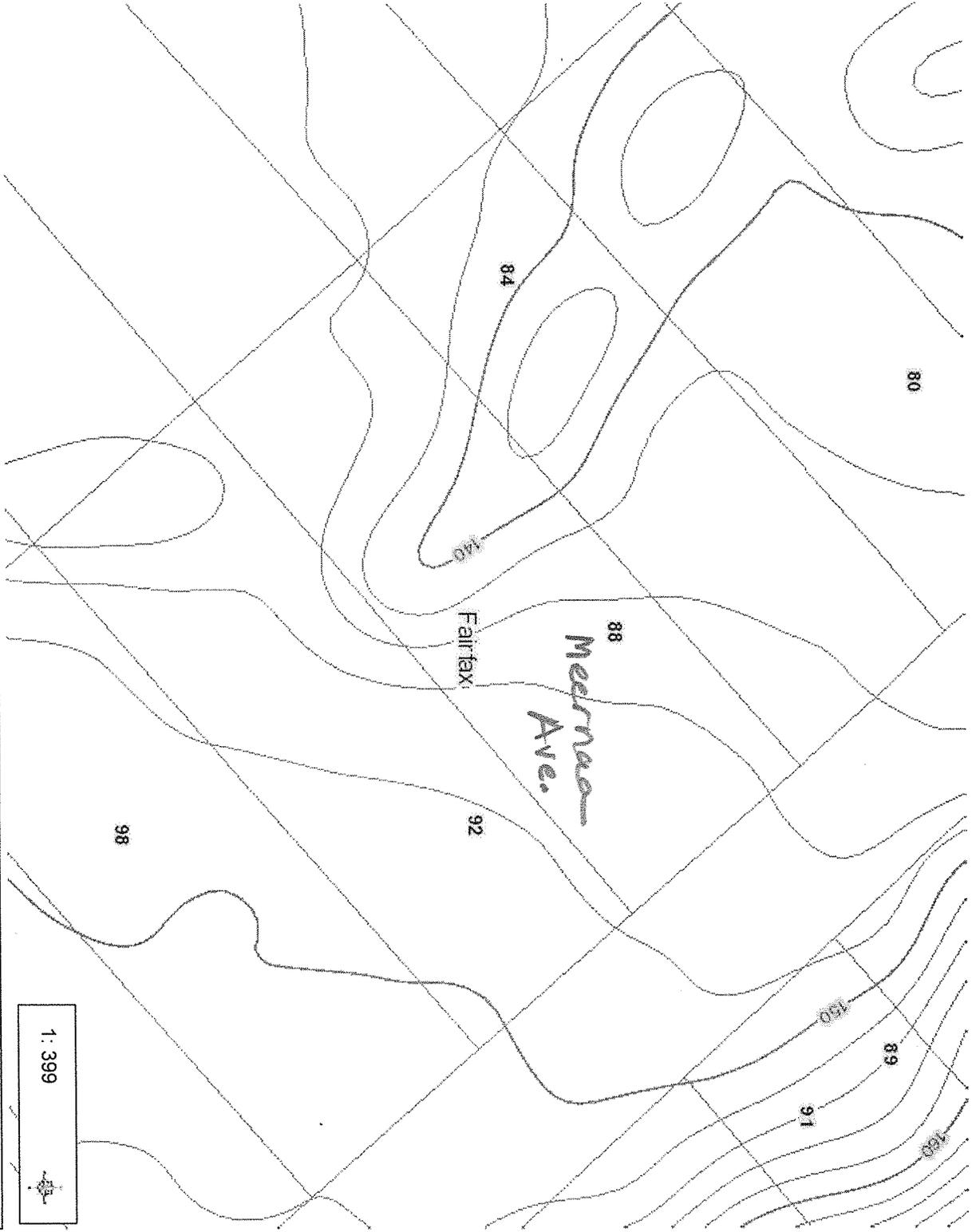
- A USE PERMIT IS REQUIRED BECAUSE THE LOT IS 50'-0" WIDE, WHERE 60'-0" WIDE IS REQUIRED BY ZONING REGULATIONS.

- 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.

THE PROPOSED SHEDS MEET ALL OTHER ZONING REQUIREMENTS INCLUDING SETBACKS AND HEIGHT AND LOT COVERAGE. OTHER NEIGHBORS HAVE SIMILAR SHEDS.

- 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.

- AS STATED ABOVE A USE PERMIT IS REQUIRED DUE TO LOT WIDTH ALL OTHER ZONING REGULATIONS ARE MET. THE SHEDS ARE ACCESSORY STRUCTURES TO THE EXISTING RESIDENCE.

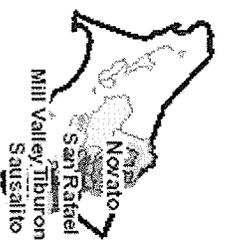


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 © Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

1:399



- Legend**
- Address
 - Parcel
 - Condominium Common Area
 - Mobile Home Pad
 - City
 - Community
 - Marin County Legal Boundary
 - Other Bay Area County
 - 2-foot Elevation NAVD88
 - Interior
 - Index

Notes

Construction at 88 Meernaa

APR 11 2016

RECEIVED

We, Phillip Hammond and Marlena Kushner live at 84 Meernaa right next to the proposed 88 Meernaa project.

We are concerned about the size, height and, most importantly, location of the new proposed sheds. The previous shed was on the property line but further away from our house and it did not block our view.

The new larger structure is located squarely in front of our side living room window with a 5' setback. It has a high peaked roof with 2 large windows on either side of the door and smaller windows in back facing our property. The high peaked roof now impedes the view from our clerestory window by 50% and when the next proposed "shed" goes up, it will block our other front corner clerestory window. In addition to the height, these "sheds" look more like small houses made ready for insulation, electricity and water. We are concerned about their future usage so close to our home.

We have asked Mrs. Reid to modify her plans and move the construction further from the property line, so as not to block our views but she was not willing to compromise.

Going beyond the foot print of the previous structure, the plan for 2 new higher, larger structures going length-wise along our property line will adversely affect our property. It looks like 2 small houses on top of our house, overshadowing our property.

We ask the planning commission to take into consideration the adverse effect these two large structures have on our property, so close that they block the views in our clerestory windows. We suggest a compromise of an additional 5 feet further away from our house and into Ms. Reid's large back yard. Another option might be moving the sheds to the other side of her yard where there are no homes to be impacted.

Thank you for your consideration.

Phillip Hammond

Marlena Kushner

ATTACHMENT

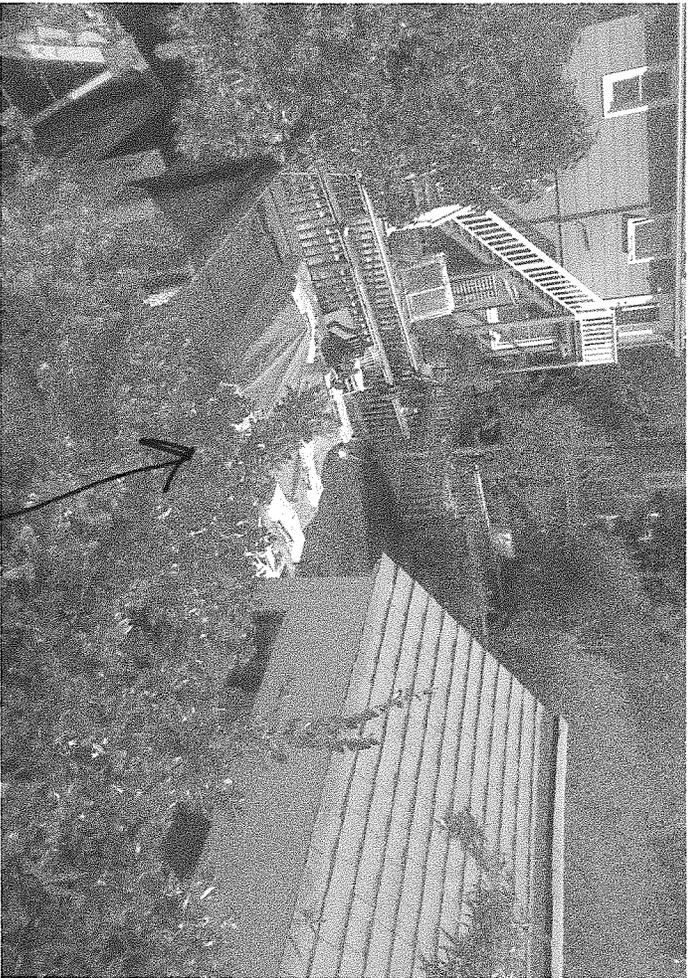
D



Our view used to be open - now it is blocked by this large structure



When the end shed is built, it will block our view in both windows



Side of end shed



View from our deck



MAR 09 2016

RECEIVED

Planning Commission
Town of Fairfax
142 Bolenas Rd.
Fairfax, CA 94930

To Whom it may concern:

I am a next door neighbor of the Reid-Yarkers (Tom, Delia, Sophie + Marco) who live at 88 Meernaa Ave. They are a delightful family + I have enjoyed them as neighbors for several years. I understand that they will, hopefully erect two sheds (10x12 each) in their back yard + I want to say that it doesn't bother me one bit. I hope you will consider their needs.

sincerely Maicia Roeter
(92 Meernaa Avenue)

TOWN OF FAIRFAX

9th
MAR 08 2016

RECEIVED

February 23, 2016

RE : 88 Meerna

To whom it may concern,

I am writing as a neighbor of Delia Reed and family, they are our backdoor neighbors and we share a common fence. We have lived next door to each other for approximately 6 years. The Reed family have been nothing short of kind, considerate and respectful neighbors. Like many homes in the Deer Park neighborhood ours are small and storage is a premium. We both have large deep lots and I think it is a brilliant idea to use some of her yard as storage or workspace. We have a 10x12 storage shed in our backyard and it is used all the time.

Please feel free to contact us if you have any questions or concerns.

Sincerely,



Monty and Caroline Stephens
95 Porteous Avenue
Fairfax, CA 94930
415-456-9146
monty.stephens@colliers.com