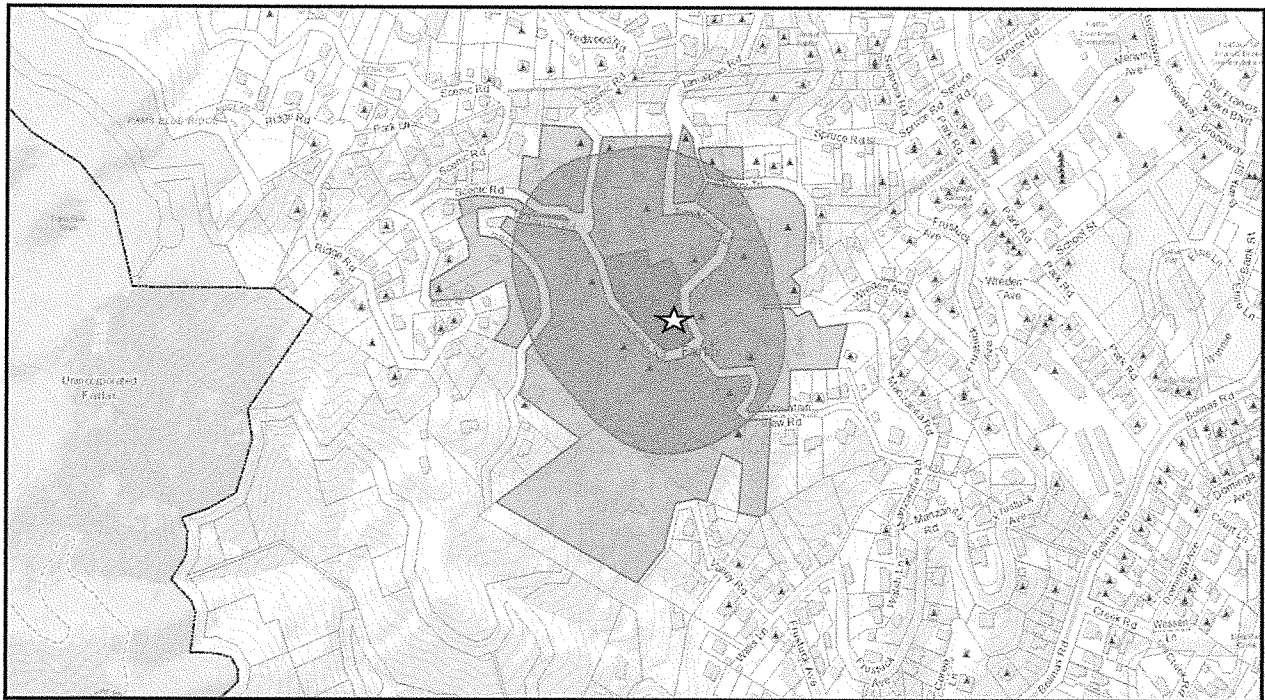


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: March 15, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 290 Tamalpais Road; Assessor's Parcel No. 001-064-07
ZONING: Residential Single-family RS-6 Zone
PROJECT: Retaining wall
ACTION: Retaining Wall Height Variance
APPLICANT: Leo den Ouden, Architect
OWNER: Christopher Morrill
CEQA STATUS: Categorically exempt, § 15303(e)



290 TAMALPAIS ROAD

BACKGROUND

The 50,282-square-foot site is located on a knoll surrounded on 3 sides by Tamalpais Road. The property is located within a Ridgeline Scenic Corridor as identified on the General Plan Open Space Map. The average slope of the site is 35%. The residence was constructed in 1920 prior to the Town's incorporation in 1931.

A major remodel of the residence was completed in 1980, with Planning Commission approval, which included the installation of a swimming pool, pool house and a 2-car garage. In 2000, permits were issued to construct a greenhouse and expand the pool house to include a bathroom and sauna.

In 2007 permits were issued with Planning Commission approval to renovate and expand the 2-car garage into an accessory structure with two 1-car garage spaces, a carport accommodating 2 cars and two workshop/storage rooms.

In 2016 the owner obtained approval from the Planning Commission to further expand the residence and to construct an accessory dwelling unit. A Building Permit for this project was never obtained by the owner and the unit was not constructed.

DISCUSSION

This applicant is requesting a retaining wall height variance to construct 8 foot tall steel I-beam and poured concrete retaining wall that would be 64 feet in length, adjacent to the eastern property line. The wall would maintain a setback from the paved edge of Tamalpais Road of 3 feet 2 inches, and would be located entirely on the private property. The purpose of the wall is to stabilize an unstable landslide scarp that has the potential to continue to move and undermine the pool house on the site, as well as damage Tamalpais Road. Construction would require the excavation and fill of 96 cubic yards of material to remove the unstable soils and backfill the wall to a slope of 1.5/1. Weep holes would be incorporated into the wall spaced at 3 inches on center and the wall would have an earth colored, exposed aggregate façade similar to that found on the retaining wall 100 feet north of the site along the frontage of 234 Tamalpais Road.

Town Code § 17.044.080(B)(2) limits retaining walls beyond the front setback line to 6 feet in height. Therefore, the project requires the approval of a retaining wall height variance and an excavation permit by the Planning Commission.

Note: Town Code § 12.20.080 requires that an excavation permit be granted for any project where the excavation and fill will total 100 cubic yards or more. Dave Olnes, the project engineer, has indicated that the project excavation and fill amount would be 96 cubic yards so the project does not require an excavation permit from the Planning Commission.

The steep slope of the hillside and scarp makes it difficult and more expensive to design a stepped repair that would keep the retaining walls to at or below the permitted 6 feet in height. Additionally, the creation of 2 walls would be more disruptive to through traffic on Tamalpais road during the construction phase and would likely require more excavation and fill.

Therefore, staff recommends that the project be approved as proposed (see attached Resolution No. 18001).

OTHER AGENCY CONDITIONS/COMMENTS

Ross Valley Fire Department

An effective fire break shall be maintained around the work area by removing and clearing all flammable vegetation and/or other combustible growth in accordance with Ross Valley Fire Department Fire Protection Standard 220, Vegetation/Fuels Management Plan.

Fairfax Public Works Department

The Public Works Department supports the proposed project.

Marin Municipal Water District, Ross Valley Sanitary District, Fairfax Police Department and Fairfax Building Departments did not comment on the project.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application #18-01 by adopting Resolution No. 18001 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment 1 – Resolution No. 18001

RESOLUTION NO. 18001

A Resolution of the Fairfax Planning Commission Approving a Retaining Wall Height Variance for an Eight Foot Tall, 64 Foot Long Retaining Wall at 290 Tamalpais Road

WHEREAS, the Town of Fairfax has received an application to construct a retaining wall to repair a slide at 290 Tamalpais Road; 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 with certain conditions of approval as listed below; and

WHEREAS, the Commission has made the following findings:

Wall Height Variance Findings

1. The site slopes up at a 90° angle from Tamalpais Road along most of the property frontage. It is the steep slope of the road cut surrounding most of the site that is the special circumstance applicable to the property. The steep cut results in the strict application of the 6 foot, maximum retaining wall height – if enforced –depriving the applicant of the ability to maintain his property while also minimizing the disturbance to the site, a privilege enjoyed by other property owners of hillside lots in the Residential Single-family RS-6 Zone District.
2. The strict application of the 6 foot retaining wall maximum would require the applicant to excavate further towards the pool house to create a stepped 2 retaining wall system to stabilize the bank, further disturbing the site and resulting in additional excavation.
3. The granting of the variance will be beneficial to the public welfare by stabilizing the roadway cut above Tamalpais Road along this section of the right-of-way.
4. The variance 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.

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

Conditions of Approval

1. The surveyor shall mark the side property line in the presence of the Building Official prior to the start of construction.
2. The applicant shall comply with any conditions of the Fairfax Building Official, Public Works Director/Manager, Town Engineer, Ross Valley Fire Department, Marin Municipal Water District and Ross Valley Sanitary District.

3. This approval is limited to the development illustrated on the following plan pages: Sheets A-1 and A-2 by Architect Leo den Auden dated 1/31/18 including engineered drawings by Dave Olnes, Civil and Soils Engineer, pages 1 through 3, dated 4/20/17.

4. Prior to issuance of a building permit, the applicant or his assigns shall submit a bond, cash deposit or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Public Works Director. Upon approval of the contract costs, the applicant shall submit a cash deposit, letter of credit or bond equaling 100% of the estimated construction costs.

5. Prior to issuance of the building permit, the applicant shall provide the Town with a video of the access streets to be used during construction. The Public Works Director shall make a decision prior to the project final inspection, regarding street resurfacing and repair that may be required as a result of damage and wear and tear from project vehicles.

6. Prior to issuance of the building permit, the applicant shall submit a Construction Management Plan subject to review and approval by the Building Official/Public Works Manager. The plan shall include:

- 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

7. During the construction process, the following shall be required:

a. The project engineer shall be on-site during the grading/drilling process and shall submit written certification to the Town staff that the grading has been completed as designed and recommended prior to installation of retaining forms. The applicant and project engineer shall notify the Town in writing in advance if any circumstance prevents the engineer from complying with this requirement.

b. All construction related vehicles including 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 contractor.

c. Additionally, 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.

8. Prior to the project final inspection the following shall be completed:
 - a. The project engineer shall field check the completed project and submit written certification to Town Staff stating that the retaining, grading and drainage elements have been installed in conformance with the approved building plans.
 - b. The Building Official shall field check the completed project to verify that the work has been installed as per the approved plan.
9. Excavation shall not occur between October 1st and April 1st of any year. The Town Engineer has the authority to waive this condition depending upon the weather.
12. The applicant shall comply with the Town Noise Ordinance Chapter 8.16 of the Fairfax Town Code.
13. Any changes, modifications, additions or alterations made to the approved set of plans will require approval in advance of any work by the Town Engineer and the Director of Planning and Building Services. Any construction based on project plans that have been altered without the benefit of an approved modification will result in the job being immediately stopped and red tagged.
- 14 Any modification of these Conditions of Approval must be approved by the Fairfax Planning Commission.
15. 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.
16. 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 Permit 18-01. Any construction based on job plans that have been altered without the benefit of an approved modification of Permit 18-01 will result in the job being immediately stopped and red tagged.

OTHER AGENCY CONDITIONS

Ross Valley Fire Department

An effective fire break shall be maintained around the work area by removing and clearing all flammable vegetation and/or other combustible growth in accordance with Ross Valley Fire Department Fire Protection Standard 220, Vegetation/Fuels Management Plan.

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

The approval of the Retaining Wall Height Variance and Excavation Permit for construction of the retaining wall at 290 Tamalpais Road can be made without causing significant impacts on neighboring residences and the environment and is in compliance with the Fairfax General Plan Town Code and Fairfax Zoning Ordinance.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on March 15, 2018 by the following vote:

AYES:
NOES:
ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Planning Director