



Town of Tiburon

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setback areas is six feet, therefore a variance is requested. The other modification is the new bay window at the front of the residence.

During an inspection of the property, the Building Division found that the above referenced work, in addition to some interior construction, was done without the benefit of a permit. A Stop Work order was placed on the property, and the applicant was informed that permits must be obtained. The applicant is currently seeking design review approval for the exterior work.

ANALYSIS:

Zoning

The maximum allowable fence height within a required setback area is six (6) feet. When a wall and fence are approximately parallel, and within a horizontal distance of three (3) feet of each other, they are considered part of the same structure, and therefore cannot exceed a combined height of six feet. When the height of the subject fences and walls are combined, the highest point reaches 10 feet. A variance of 4 feet is requested for excess fence height. The project appears to meet the remaining standards of the R-1-BA zoning district.

Design Issues

The design of the fences along the front and sides of the property is solid natural redwood. At the rear of the property the fence is wire mesh. The fences themselves are approximately six feet high nearly all the way around the property. However, in certain locations along the side property lines there are retaining walls below the subject fences. Along the right side property line there is a concrete block retaining wall below the fence. Along the left side property line, there is a wooden retaining wall below the fence. The height of the retaining walls varies from 16" to 48" depending on the elevation of the adjacent grade. The retaining walls are necessary due to the elevation difference between the subject property and the adjacent properties.



The new bay window is located to the right of the front door, and faces towards the front of the property. This particular modification is minor in scope; therefore staff foresees no design issues with the bay window.

Variance

In order to grant the requested variance, the Board must make the following findings as required by Section 4.03.05 of the Tiburon Zoning Ordinance:

- 1. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this**

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Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.

There is a sudden and significant grade change between the subject property and the properties on either side. This elevation difference necessitates fences that are taller than six feet. If the fences were built in strict compliance with the Zoning Ordinance, it would result in fences that would be effectively lower as viewed from the uphill side, limiting the privacy between properties.

2. The variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.

Significant and abrupt grade changes between properties are commonplace in the surrounding neighborhood. Where privacy issues have been a concern, variances have been granted to build similar fences over six feet in height. Therefore, granting the variance would not constitute a special privilege inconsistent with the neighborhood.

3. The strict application of this Ordinance would result in practical difficulty or unnecessary hardship.

The lack of privacy and safety a six foot fence would provide would be an unnecessary hardship for the applicant.

4. The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.

The affected property owners are in support of the application, therefore the granting of the variance would not appear to be detrimental to the public welfare or injurious to other properties in the vicinity.

Public Comment

To date, no public comment has been received regarding this project.

RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07 and 4.03.05 (Guiding Principles, and Variance Findings by Acting Body) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board finds that the design of the project is consistent with the Guiding Principles for Site Plan and Architectural Review, and all necessary findings can be made for the variance, then it is recommended that the project be approved with the attached Conditions of Approval.

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EXHIBITS:

1. Conditions of Approval.
2. Application and supplemental materials dated May 28, 2003.
3. Applicant's findings for the variances.
4. Plans and photos for the proposed project.

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EXHIBIT 1

CONDITIONS OF APPROVAL 322 Karen Way FILE #20319

1. This approval shall be used within 3 years of the approval date, and shall become null and void unless a building permit has been issued.
2. The development of this project shall conform to the application received by the Town of Tiburon on May 28, 2003, or as amended by these conditions of approval. Any modifications to the approved plans must receive further design review and approvals.
3. Plans submitted to the Building Department for plan check shall be identical to those approved by the Design Review Board. If any changes are made to the approved Design Review plans, the permit holder is responsible for clearly identifying all such changes when submitted to the Building Department for plan check. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the submitted plans. A list describing in detail all such changes shall be submitted and attached to the building plans, with a signature block to be signed by the Design Review Staff member indicating that these changes have been reviewed and are approved, or require additional Design Review. All changes that have not been explicitly approved by Staff as part of the Building Plan Check process are not approved. Construction that does not have Design Review approval is not valid and shall be subject to stop work orders and may require removal.