



Town of Tiburon

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on the front of the building and wraps around the back of the building. A new upper-level balcony would be constructed on the right side of the building. Other improvements would be new exterior siding, and new windows throughout.

The proposed new deck in the front of the residence would be located in the front yard setback. Therefore, the applicant is requesting a variance for reduced front yard setback.

ANALYSIS:

Design Issues

The applicant has stated that the main reason for the proposed project is to replace the existing dry-rotted deck. In addition, the existing deck is cantilevered out with minimal vertical support, exacerbating the unsafe situation. The new deck would have decorative and functional support columns in several locations. Although the deck would be expanded, it would look very much the same from the street.

The new deck off the upper level would also be supported with the use of columns and would match the design of the main deck. The other exterior alterations would enhance the appearance of the existing structure. For these reasons, staff foresees no design issues with the proposed project.

Zoning

As previously mentioned, the project would not comply with the front yard setback requirements for the RO-2 zoning district. The existing residence and decks are almost completely within the front yard setback area. Since the proposed deck would be expanded closer to the street, the nonconforming situation would be increased. The new deck would be 5'5" from the front property line. Since the required front yard setback is 30', the applicant is requesting a variance of 24'7".

Variance

In order to grant the requested variances, 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 Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.**

The applicant has suggested that the combination of the steeply sloped lot and the position of the existing residence in the front yard setback area create an unusual circumstance that deprives the applicant of privileges enjoyed by other properties on Mark Terrace.

- 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.**

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The granting of the requested variance would not constitute a special privilege because similar variances for reduced front yard setback have recently (since 1994) been approved at 197, 199, and 201 Stewart Drive; and 100 Geldert Drive. .

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

It would be an unnecessary hardship to strictly apply the Ordinance because the subject property does not have much usable outdoor living space, unlike most properties in the vicinity. The existing deck in the front of the residence is the main area for outdoor use, and the only outdoor area where views can be obtained. The existing deck is unsafe in its current condition and a variance would be required for any replacement deck or retrofit. Not granting the variance would deprive the property owners of privileges enjoyed by other property owners in the vicinity.

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

The granting of the variance would not appear to affect other properties in the vicinity in regards to views, privacy, or otherwise.

Public Comment

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

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 for reduced front yard setback, then it is recommended that the project be approved with the attached Conditions of Approval.

EXHIBITS:

1. Conditions of Approval
2. Application and supplemental materials dated December 10, 2003.
3. Applicant's findings for the variance.
4. Plans for the project

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EXHIBIT 1

CONDITIONS OF APPROVAL 30 Mark Terrace FILE #20332

1. This approval shall be used within three (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 and plans dated by the Town of Tiburon on December 10, 2003, or as amended by these conditions of approval. Any modifications to the plans must be reviewed and approved by the Design Review Board.
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.