



Town of Tiburon

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The proposed addition would be located at the southeast side of the building, in the area of an existing greenhouse. The greenhouse would be removed, and an au-pair bedroom would be constructed in its place. The project would also include the conversion of a portion of under floor space into living space, to be incorporated into the au-pair bedroom. The roof of the addition would be used as a terrace for the existing bedroom above.

The addition would be on the lower level of the residence, and would increase the height of the structure to 34'6"; a variance for excess structure height is requested. The addition would be located 10 feet away from the side property line; a variance for reduced side yard setback is proposed. The addition would add approximately 555 square feet to the residence, for a total of 7,183 square feet; a floor area exception is requested. Additional information regarding the requested variances and floor area exception will follow.

ANALYSIS:

Design Issues

The addition would have a shed style roof, stone veneer siding, and wrought iron railings. The addition would accent the Mediterranean style of the existing building. Although the addition would be located within the side yard setback, it appears that the project would cause no adverse impacts to the adjacent residence at 140 Lyford Drive. Staff foresees no design issues with this project.

Zoning

As previously mentioned, the proposed dwelling would not comply with the structure height limit, side yard setback, and floor area regulations of the RO-2 zoning district. Additional information regarding these zoning criteria follows:

Excess Structure Height The tallest portion of the existing building is in the area of the greenhouse; which is approximately 34'6" high. The addition would be located in the area of the existing greenhouse, and would expand upon the existing non-conforming situation. For these reasons, a variance for excess structure height is requested (34'6" in lieu of 30').

Reduced Side Yard Setback The required side yard setback for the property is 15 feet. The proposed addition would be located 10 feet from the side property line. Therefore a variance for reduced side yard setback is requested (10 feet in lieu of 15 feet).

Floor Area Exception The existing home is approximately 6,628 square feet in size, which exceeds the maximum floor area for the property of 4,418 square feet. The addition would bring the residence to 7,183 square feet; therefore a floor area exception of 2,765 square feet is proposed.

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:

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- 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 reason for the requested variances for excess structure height and reduced side yard setback is that there are no other areas where the addition could be located without affecting the integrity of the existing rooms of the residence. Although compromising the existing floor plan may not be the ideal situation, there does not appear to be any physical condition of the site that would preclude the construction of an addition in compliance with the setback and height requirements.

- 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.**

Similar variances for reduced side yard setback have been granted for the properties in the same neighborhood at 6 Acela Drive (#27122, #28411), and 8 Audrey Court (#298015), and 4 Acela Drive (#20321), 130 Lyford Drive (#78498) and 140 Lyford Drive (#290610). Therefore the granting of the proposed setback variance would not constitute a special privilege.

Variances for excess structure height are generally highly scrutinized by the Board due to the potential view impacts now and in the future. However, in cases where an applicant has proposed additions to an existing non-conforming structure, where the visual height of the building does not increase, the Board has taken a more liberal approach in the review of the application. Similar height variances have recently been granted at 100 Lyford Drive, 136 Hacienda Drive, 116 Sugarloaf Drive, 130 Geldert Drive, and 5047 Paradise Drive. For these reasons, the granting of the height variance would not appear to be a special privilege.

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

The strict application of the Ordinance would result in the addition being located elsewhere on the property, which would not appear to be a practical difficulty or unnecessary hardship. The existing residence consists of 5 bedrooms and a "media room". Since the addition would add another bedroom, there does not appear to be a practical difficult or necessary hardship to strictly apply the Ordinance.

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

As proposed, the project would not result in significant view, privacy or other impacts detrimental to the public welfare or injurious to other properties in the vicinity.



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Floor Area Exception

In order to grant the requested floor area exception, the Board must make the following findings as required by Section 4.02.08 of the Tiburon Zoning Ordinance:

- 1. The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood.**

Although the visual size and scale of the proposed structure would not significantly change, the magnitude of the exception request (2,765 square feet) appears to be excessive. In addition to the property exceeding the FAR, the property is also in excess of the lot coverage requirement; the lot coverage is 23% in lieu of 15%.

In several previous applications, the Board has considered the fact if the improvements on a property cause an excess of both FAR and lot coverage requirements, the project may be considered an overbuilding of the property. Based on the magnitude of the proposed floor area exception and the existing lot coverage calculation, it appears that the project would result in an overbuilding of the property.

- 2. The applicant has demonstrated that the proposed structure is compatible with the physical characteristics of the site. The characteristics include, but are not limited to, the scale of trees, rock outcroppings, stream courses, land forms, and the dimensions of the lot.**

It appears that the addition would be compatible with the physical characteristics of the site because it would step down the slope of the property. The addition would also break up the mass and bulk of the rear wall of the residence.

Public Comment

No public comment has been received regarding this application.

CONCLUSION:

The proposed addition would not appear to adversely impact the neighbors in the vicinity, and would not be highly visible from outside the rear yard of the property. In addition, the mass and bulk of the building may actually improve. However, it appears that there is no unique physical characteristic of the property that precludes development that complies with the zoning regulations, there would be no unnecessary hardship or practical difficulty if the variances are not granted, and the floor area exception appears to be excessive.

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RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07, 4.03.05, 4.02.08 (Guiding Principles, and Variance Findings, Floor Area Exception Findings) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. It is recommended that the Board closely consider the factors discussed in the findings for the variances and floor area exception, and if the Board is inclined to approve the project, the Board should provide specific language to support the requested variances and the floor area exception. If the Board is inclined to approve the project, it is recommended that the attached Conditions of Approval be adopted.

EXHIBITS:

1. Conditions of Approval
2. Application and supplemental materials dated May 7, 2004.
3. Applicant's findings for the variance and floor area exception.
4. Plans for the project

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EXHIBIT 1

CONDITIONS OF APPROVAL 138 Lyford Drive FILE #20418

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 May 7, 2004, or as amended by these conditions of approval. Any modifications to the plans must be reviewed and approved by the Design Review Board.
3. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
4. 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.