





# Town of Tiburon

## STAFF REPORT

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reduced scale of the proposed second story addition would be compatible with the overall character of the surrounding neighborhood, and would not result in significant view or sunlight impacts on nearby homes. The Board acknowledged that the proposed second story deck could result in unwanted privacy impacts on neighbors, and required that the deck be eliminated. The Board then unanimously (4-0) voted to approve the subject application. On May 31, 2005, the appellants filed a timely appeal of this decision to the Town Council.

The Town Council heard the appeal on June 29, 2005. It was the consensus of the Council that the second story addition was acceptable in concept, but that modifications needed to be made to the project design to further mitigate potential view and privacy impacts of the proposed project and make the project more compatible with the surrounding predominantly single-story residential neighborhood. A majority (3-2) of the Council voted to remand the application to the Design Review Board for further review, recommending that the Board consider the following modifications to the previously approved project design:

- Pull back the garage away from the front property line to reduce view impacts on the adjacent home at 691 Hilary Drive;
- Eliminate the second floor hallway at the front;
- Shorten the floor to ceiling windows at the front of the second floor family room
- Reduce the interior height of the second floor area;
- Reduce the overall size of the second floor area, possibly by reducing the size of the area open to the first floor below; and
- Reduce the height of the front yard fence

A minority of the Town Council did not support the appeal and felt that the Design Review Board's decision to conditionally approve the application as modified before the May 19 meeting was appropriate.

### ANALYSIS

#### Design Issues

The applicant has now submitted revised plans for the proposed additions, which include the following changes from the design approved by the Design Review Board on May 19:

- A bedroom to the rear of the garage has been moved to the other side of the house, with the front of the garage pulled back 7 feet, 8.5 inches from its previous position
- The living room has been lengthened by approximately 5 feet
- The upper floor has been shortened by 3 feet, 8 inches, primarily by eliminating most of the walkway area at the front, in front of the opening to the lower floor below
- The upper level front deck has been eliminated, and the sill heights of the front windows raised
- A hip roof has been reinstated above the windows on both sides of the upper floor, with the sill heights of these windows raised to 6 feet



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- The submitted plans do not include any fence details to indicate whether the design would be in compliance with the Council direction for the front yard fence

With the revised project design the lot coverage on the site would increase by 946 square feet from the previously approved plans to a total of 2,885 square feet (24.0%), which is less than the 30.0% maximum lot coverage permitted in the R-1 zone; this represents an increase of 105 square feet of lot coverage from the previously approved design. The floor area of the existing house would be 2,936 square feet, which represents an increase of 62 square feet from the previously approved design, and would be less than the maximum floor area for a lot of this size.

The revised project design substantially addresses the issues raised by the Town Council. The garage has been pulled back out of the view from the front bedroom windows of the adjacent home at 691 Hilary Drive. The hallway at the front of the upper floor has essentially been eliminated, and the windows at the front of the upper floor have been shortened. The overall size of the upper floor has been reduced. However, the interior height of the second floor area has not been lowered, and has actually been increased at the areas of the hipped roof. No information has been presented regarding compliance with the recommendation to lower the height of the front fence.

The hipped roof on the sides of the upper floor would add unnecessary visual bulk on either side of the house. Although this roof change allows additional light to the upper floor from the side windows, the addition has substantial windows at the front and back which would appear to provide more than adequate light into this floor area. This roof change also does not address the concern regarding the overall height of the second story area.

### **Zoning**

Although the second story addition would not extend into the required side yard setback, a small roofline change along the right side of the house made prior to the May 19 Design Review Board meeting would still require a variance for reduced side yard setback. The revised plans still include this small intrusion into the required setback. The remainder of the proposal is in conformance with the development standards for the R-1 zone.

### Variance

In order to grant the requested variance, the Board must make all of the following findings 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.***

As previously noted, the existing house was developed with a 6 foot eastern side yard setback, which was consistent with the Marin County zoning requirements in



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effect at that time, prior to the incorporation of the Town of Tiburon. The rear of the lot is somewhat steep, limiting the ability to add onto this portion of the lot. These characteristics create special circumstances that limit the areas and extent of construction on the site; the strict application of the side yard setback requirement on such a lot would deprive the applicant of the development potential enjoyed by other homes in the vicinity.

- 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.***

Numerous other properties in the R-1 zone and similar single-family residential zones have received variances for reduced side yard setbacks to continue the line of an existing nonconforming residence.

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

The strict application of the required side yard setback would eliminate any potential changes to the roofline of the existing house. Such a restriction would place a hardship on the property owner that is unnecessary for the desired visual appearance of the addition.

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

As described above, the revised project design would not create any significant visual or privacy impacts on neighboring homes.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance.

### **Public Comment**

As of the date of this report, no letters have been received regarding the project since the June 29 Town Council meeting.

### **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) and the direction of the Town Council, and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15301. If the Board wishes to approve the project, Staff would recommend that the attached conditions of approval be applied if the project is approved.

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### ATTACHMENTS

1. Conditions of approval
2. Supplemental materials submitted by the applicant
3. Design Review Board Staff report dated April 21, 2005
4. Design Review Board Staff report dated May 19, 2005
5. Town Council Staff report dated June 29, 2005
6. Minutes of the April 21, 2005 Design Review Board meeting
7. Minutes of the May 19, 2005 Design Review Board meeting
8. Minutes of the June 29, 2005 Town Council meeting
9. Revised plans

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### CONDITIONS OF APPROVAL

**689 HILARY DRIVE**

**FILE #20508**

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 with the application dated by the Town of Tiburon on March 28, 2005, or as amended by these conditions of approval. Any modifications to the plans of July 25, 2005, must be reviewed and approved by the Design Review Board.
3. Plans submitted to the Building Division 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 Division 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 Planning Division 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 Planning Division approval is not valid and shall be subject to stop work orders and may require removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures must be down light type fixtures. The lighting fixtures indicated on the submitted plans are not approved, and shall be replaced with appropriate down lights.
6. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.