



Town of Tiburon

STAFF REPORT

of the cabana was since converted into a bedroom, bathroom, and kitchen with doors providing exterior access to the lower level. The existing structure now has a maximum height of 26 feet. Since accessory structures are subject to a 15 foot height limit, a variance for excess building height is required.

The original approval for the property was for an 8,000 square foot dwelling (approved in 1994), and the property is currently developed with an 8,350 square foot single-family home with tennis court, pool, and guest cabana. The unpermitted lower level contributes 350 square feet of living space to the property, and the proposed addition would contribute 951 square feet to the existing residence. The new square footage total would be 9,305 square feet. For lots greater than 60,000 square feet, the floor area limit is 8,000 square feet, so a floor area exception is requested for the additional space in the cabana and garage.

ANALYSIS:

Design Issues

The cabana is located adjacent to the pool in the southeast corner of the property. Due to the large size of the property and the surrounding pine trees, the addition of a lower level is not highly visible from Hacienda Drive or neighboring properties. In this case, the excess height stems from the over excavation of the downhill side of the structure, not from elevated roof line. There are no privacy or view issues resulting from the lower level addition of the cabana. (Because the structure requires a variance, it could not be approved as a secondary dwelling unit, so the kitchen must be removed).

The proposed conversion of unfinished space above the garage would create a large bedroom and bathroom area separate from the main building of the residence. The dormers would remain in place and the garden storage conversion would include a new window at the location of a stucco wall on the lower level. The proposed conversion of undeveloped space into floor area would not be visible from the exterior other than one new window on the south elevation where the existing garden storage area is located.

The subject property is significantly larger than most of the nearby properties on Tanfield Road and Hacienda Drive. The size of the residence is also significantly larger than surrounding residences, (the average size of surrounding homes is 3,440 square feet, and the average size of other lots in the vicinity is 48,507 square feet). The house does seem somewhat disproportionate in terms of square footage in relation to the property size; however, the additional square footage proposed as well as the as-built construction would not contribute additional mass and bulk to the residence, nor would it make the house any more out of scale with the neighborhood.

Zoning

As previously mentioned, the proposed project would not comply with the accessory building height requirements or the floor area ratio regulations of the RO-1 zoning district. The project would be in compliance with all other zoning district requirements.



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Variance

- 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 variance request stems from the sloping area surrounding the accessory structure on the site, which does not exist on many other properties with accessory structures in the RO-1 zoning district. These circumstances would deprive the applicant of privileges enjoyed by other properties 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.**

The buildable area of this property is constrained because of the steepness of the slope, and variances for excess accessory structure height for properties with similar topography in the RO-1 zoning district have been granted on several occasions. Therefore, the granting of this variance would be consistent with the limitations upon other properties in the vicinity and in the same or similar zones.

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

It would not be an unnecessary hardship to strictly apply the Ordinance in this case because the originally approved cabana provided sufficient living space for an accessory structure. Requiring compliance with the accessory structure height limit as was originally approved would not create a practical difficulty or unnecessary hardship on the applicant.

- 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 granting of the variance would not result in significant view, privacy or other impacts detrimental to the public welfare or injurious to other properties in the vicinity.

From the evidence provided Staff believes there is insufficient evidence to support the findings for a variance.

Floor Area Exception

As previously mentioned, the proposed dwelling would not comply with the Town's floor area regulations. 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:

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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 proposed addition would make the subject house even larger than other homes on the vicinity, the house would be visually consistent with the development of properties in the vicinity. Since the additional square footage would not increase the visual size and scale of the existing structure, the relationship of the size of the building to the neighborhood would not change.

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.

The applicant has stated the proposed project would be compatible with the physical characteristics of the site because the building envelope would not be altered.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested floor area exception. However, the Design Review Board should consider the overall floor area of the house in comparison to the size of other homes in the surrounding neighborhood.

Public Comment

To date, no public comment has been submitted regarding the subject application.

RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) 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, findings should be articulated for the requested variance and floor area exception, and Staff would recommend that the attached conditions of approval be applied.

EXHIBITS:

1. Conditions of Approval
2. Application and supplemental materials submitted by Dan Hunter dated June 29, 2005
3. Application and supplemental materials submitted by Preston Smart dated July 6, 2005
4. Applicant's findings for the floor area exception
5. Staff Report from the March 2, 1995 Board meeting
6. Plans for the "as built" cabana project
7. Plans for the proposed project

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EXHIBIT 1

CONDITIONS OF APPROVAL ONE TANFIELD ROAD FILE #705109/705111

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 June 29, 2005 and June 30, 2005, 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.
5. If the lower level of the cabana is approved as living space, the existing kitchen shall be removed.
6. The additional "as-built" variance fee of \$800 shall be paid at the time the building permit is issued.
7. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.