



Town of Tiburon

STAFF REPORT

the house by 289 square feet, and would result in a total floor area of 2,934 square feet, which is below the maximum floor area permitted for a lot of this size.

ANALYSIS

Zoning

Besides the requested variance for excess lot coverage and reduced rear yard setback, the project appears to be in conformance with the remaining development regulations of the RO-2 zoning district.

Design Issues

The subject residence was built in a subdivision which required terracing of the residences over the hillside to maximize views and privacy. The heavily vegetated rear and side yards provide privacy and would serve to mitigate potential privacy and mass/bulk issues associated with the project. Due to the one-story design, view impacts from the project will be avoided. The subject property's rear yard would be reduced in size with the proposed addition. However, the expansion into the yard would not appear to negatively impact neighbors.

Staff does not foresee any other design issues with this project.

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the RO-2 zone with the exception of the previously noted variance for excess lot coverage and reduced rear yard setback.

Variance

In order to grant the requested variances, the Board must make the findings as required by Section 4.03.05 of the Tiburon Zoning Ordinance. Staff suggests that the following findings may be made in support of the requested 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.**

Special circumstances that apply to this property include the substandard size of the lot and the siting of the original residence. The parcel is approximately one-half the size required in the RO-2 zone limiting the size of development allowed by Code. The siting of the original residence makes it difficult to locate the addition while complying with the regulations of the RO-2 zoning district.

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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.

Variances for a reduced rear yard set back and excess lot coverage were approved in 1965 and in 1976 for 49 Upper North Terrace and 37 Terrace Court, respectively. In addition, several other variances have been granted for similar requests in the RO-2 zone. This particular variance was granted by the Design Review Board in 2001. These examples indicate that the subject project would not constitute a special privilege and is consistent with development in the area.

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

Requiring the owner to maintain the rear yard setback at the expense of constructing a minor addition would impose an unnecessary hardship on the property owners. Requiring the property owner to utilize permitted floor area allowances at the expense of neighboring property owners' views would create a practical difficulty.

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

The proposed addition would create a one-story addition which would allow the property owner to enjoy the permitted floor area without negatively impacting neighboring property owners. The siting of the residence, the topography of the lot and the existing mature vegetation serve to mitigate potential impacts associated with proposed project.

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

Public Comment

To date, no public comment has been received regarding the subject 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) 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 agrees with Staff's conclusions, Staff would recommend that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Minutes from the December 7, 2000 DRB meeting

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- 4. Applicant's Variance findings
- 5. Submitted plans

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CONDITIONS OF APPROVAL

33 TERRACE COURT

FILE #20606

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 February 6, 2006 or as amended by these conditions of approval. Any modifications to the plans of February 6, 2006, 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 shielded down light type fixtures.
6. 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.