





# Town of Tiburon

## STAFF REPORT

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The fence would be stepped down with the slope. Since the maximum height for a fence within any required setback is six feet, a variance for excess fence height is therefore requested (9 feet in lieu of the maximum 6 feet).

### **ANALYSIS:**

#### **Design Issues**

In an attempt to enhance privacy with the property to the south, the applicants have requested to construct a fence with lattice along the southern property line to connect with the rear yard fence and across the front entry to connect with the existing residence. The fence would reach 11 feet in height with the tallest point running along the low point of the southern property line. The subject fence would be constructed of redwood with two feet of wood lattice above. The gradual stepping of the fence with the slope will provide an improved aesthetic appearance for the southern neighbors as well as from the street.

The subject fence is highly visible to properties along Southridge West Road; however, the fence should not interfere with any significant views from nearby homes. The Design Review Board should determine whether the location of the over height fence would result in an unwanted visual streetside appearance for this property.

#### **Zoning**

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the RO-2 zoning district with the exception of the previously noted variance for excess fence height.

#### **Variance**

In order to grant the requested variance, 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 subject property slopes from east to west. The need for the excess fence height stems from the down-sloping portion of the property where excess fence height is necessary to provide adequate privacy from the southern neighbors' windows. This condition creates special circumstances that would deprive the owners of the property of development privileges enjoyed by other properties in the vicinity.



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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.**

Numerous other properties in the vicinity and other properties in the RO-2 zone have received variances for excess fence height in areas where the topography of the site would make a six foot fence inadequate to meet the normal privacy needs enjoyed by other residential property owners.

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

In order to achieve adequate privacy for the property the fence height needs to be increased above the six foot height limit. Imposing the six foot fence height limit would place an 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 design of the subject fence would not appear to result in unwanted view or visual impacts on neighboring properties and would not result in significant impacts detrimental to the public welfare or injurious to other properties in the vicinity.

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

### **Public Comment**

To date no public comment has been received regarding the subject project.

### **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 agrees with staff's conclusions, 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 5, 2005.
3. Plans for the proposed project.

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### EXHIBIT 1

#### **CONDITIONS OF APPROVAL 34 SOUTHRIDGE ROAD FILE #20554**

1. This approval shall be used within 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 received by the Town of Tiburon on December 5, 2005, or as amended by these conditions of approval. Any modifications to the approved plans received January 11, 2006 must receive further design review and approvals.
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.
4. 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.