

ACTION MINUTES #4

**TIBURON DESIGN REVIEW BOARD
THURSDAY, MARCH 1, 2007
1505 TIBURON BOULEVARD**

- A. ROLL CALL: Present:** Chair Doyle, Boardmembers Frymier and Teiser
Absent: None
Ex-Officio: Planning Manager Watrous, Associate Planner Tyler and Minutes Clerk Hennessy
- B. PUBLIC COMMENTS (FOR ITEMS NOT ON THE AGENDA)**
- C. STAFF BRIEFING**
- D. OLD BUSINESS BEFORE THE BOARD**
1. 116 Hacienda Drive Maier Additions/Variance/Floor Area Exception
APPROVED
2. 2135 Vistazo East Quirk New Dwelling/Variations **APPROVED**
- E. NEW BUSINESS BEFORE THE BOARD**
3. 1893 Centro West Harb New Dwelling/Floor Area Exception
CONTINUED TO 3/15/07
4. Potential Amendment to Building Height Requirements **RECOMMENDED APPROVAL**
5. Potential Amendment to the Hillside Design Guidelines for "Borrowed Views"
RECOMMENDED APPROVAL
- F. MINUTES OF THE 2/15/07 D.R.B. MEETING - APPROVED AS AMENDED**
- G. ADJOURNMENT - 10:00 PM**

**MINUTES #4
TIBURON DESIGN REVIEW BOARD
MEETING OF MARCH 1, 2007**

The meeting was opened at 7:00 P.M. by Chair Doyle.

A. ROLL CALL

Present: Chair Doyle, Boardmembers Frymier and Teiser

Absent: None

Ex-Officio: Planning Manager Watrous, Associate Planner Tyler and Minutes Clerk
Hennessy

B. PUBLIC COMMENTS There were none.

C. STAFF BRIEFING There was none.

D. OLD BUSINESS BEFORE THE BOARD

**1. 116 HACIENDA DRIVE MAIER, ADDITIONS/VARIANCE/FLOOR
AREA EXCEPTION**

The applicant is requesting Design Review approval for the construction of additions to an existing single-family dwelling on property located at 116 Hacienda Drive, with a variance requested for excess lot coverage, along with a floor area exception. This application was reviewed at the February 1, 2007 Design Review Board meeting. At that time, concerns were raised by the owner of the adjacent downhill residence at 18 Noche Vista Lane regarding potential visual mass and bulk and privacy impacts that could result from the proposed second story addition. The Design Review Board shared the concerns raised by the downhill neighbors, and also expressed concerns about the overall size of the house, as both a variance for excess lot coverage and a floor area exception were requested. The Board recommended that the second story addition be pulled back from the rear of the house and made smaller in size to address these concerns. The application was continued to the March 1 meeting to allow the applicant time to modify the plans for the project. The applicant has now submitted revised plans for the project.

Kurt Maier, applicant, stated that as a result of concerns expressed at the February 1 Board meeting, they had revised the plans and moved the second story back by 6' 9" further from the rear of the building and eliminated the den. The requested lot coverage remains the same at 26.6%, still necessitating a variance for excess lot coverage. The proposed floor area has been reduced by 152 square feet to a total of 3,372 square feet. The requested floor area exception has been reduced from 404 sq. ft. to 252 sq. ft. He stated he had received support from two neighbors; however, two other neighbors still sought more changes. He noted that an effort to appease one neighbor would not appease the other and the further back he moves the project, the more it would diminish the view from the upstairs rooms. He felt that he had taken the Board's direction into consideration and have reached a compromise which would be augmented by landscaped screening.

In response to Boardmember Teiser, Mr. Maier confirmed the story poles depicting a potential hedge were not located on his property but on his neighbor Mr. Breen's property. Planning Manager Watrous confirmed that if this potential hedge was not on Mr. Maier's property it would not be part of the project and the Board could not require something to be installed on someone else's property.

The Chair opened the public hearing.

Marvin Breen, owner of the home below the site, reviewed the history of Board's approval of a second story addition at 118 Hacienda Drive which had a negative impact on his property. When added together with the proposed project, he felt that the environment of his house would be totally changed. He stated that the addition would diminish and narrow their view. He did not think that a hedge would provide adequate screening, and that Mr. Maier suggested planting a hedge 6 to 8 feet inside their small yard, which was more than they were willing to do. He said that he has tried to reach a reasonable agreement with his neighbors. He requested that the second floor be moved further from his house to reduce the intrusion on his home.

Mr. Maier noted that Mr. Green had a view of Sausalito and Mt. Tam and that the view he was referring to was from his kitchen, which would be looking backwards. Mr. Maier added that if the structure was moved back it would impact others.

In response to Boardmember Frymier, Mr. Maier stated they had room to move the second story but it would make two people unhappy and diminish the view from the new upstairs area.

The Chair closed the public hearing.

Boardmember Teiser stated that the applicant had done what was requested by eliminating the upstairs den and reducing the floor area exception. He said that he had visited the Breen residence and agreed that the intrusion of 118 Hacienda Drive was significant, but the Board was not ruling on that property. He recognized that the Breens felt it was a privacy issue and something would be looming over them, but he felt it was far enough back and away from the property line. He hoped that screening could be worked between the neighbors.

Boardmember Frymier acknowledged that the addition at 118 Hacienda Drive was penalizing this application. She agreed that the applicant has done what was requested by moving the addition back. She felt that the second story did not seem to be that large an encroachment on the Breen residence, adding that the distance from their kitchen to the addition made this feel not as extreme as the condition with 118 Hacienda Drive. She did not believe that the addition would look down on the home below, but encouraged the applicant to take care of the screening issue with the Breens.

Chairman Doyle stated that the Board is tasked with preserving views and had suggested moving a portion of the upper story back. He said that some form of visual break at the rear would be helpful, but he was unsure if the second story should be moved back any further.

There was a brief discussion regarding screening techniques and Planning Manager Watrous noted that the Town discourages conditions of approval that require approval by neighbors, however, staff would be happy to work with the neighbors to try to reach a screening compromise.

M/S, (Frymier/Teiser) (passed 3-0) to determine that the project is categorically exempt from the provisions of CEQA and approve the application subject to the conditions of approval as set forth in the Staff report, with a recommendation that the applicant work with the neighbors to try to come up with landscape screening.

2. 2135 VISTAZO EAST QUIRK, NEW DWELLING/VARIANCES

The Board reviewed this application at the February 15, 2007 meeting for construction of a new single-family dwelling and guest house with variances for reduced front and side yard setbacks and excess lot coverage, and heard concerns from neighbors regarding layout of the house and guest house as well as layout of fruit trees and view and privacy impacts. The Board continued the item so each member could visit the site and view the story poles from inside the neighbor's residence. In response to neighbors' concerns, the applicant had agreed to frost a window in the master bathroom and that the master bathroom skylight is eliminated.

In response to a request from Chair Doyle, Planning Manager Watrous summarized discussions regarding the existing fence along the rear property line and preserving the open space character of the property. He stated that Staff has determined that although the Board could encourage or request the applicant to move the fence, the Board could not require changes to the fence as a condition of approval of this application. He explained planning law which provides that there needs to be reasonable nexus between a condition of approval and the requested changes to the property in order to give the Board jurisdiction.

Jared Polsky, architect, stated that his client has always been willing to talk to the neighbors about the fence but at this time did not want to include this with the application.

Chris Armstrong, also representing his wife, stated he was not present to criticize the project but to note the unusual characteristics of Vistazo East. He stated that this is not a town maintained street, with a private sewer system, no storm drain system, and the Fire District has concerns because of the width of the street and the fact there is no turnaround. He noted that there are severe drainage problems in heavy rains. He asked the Board to consider street parking during construction and possible drainage impacts from the proposed project and suggested that upslope neighbors will want undergrounding of light poles and lines.

Planning Manager Watrous stated those are issues that are dealt with during the building permit plan check process and Staff would bring them to the attention of the Building Official.

Miles Berger praised the architect and stated he was totally in favor of the project being approved. He stated that in his opinion the fence can be considered by the Board as part of the totality of the project design. He stated that the Board looks at material, bulk, landscape and how the project affects the neighborhood and noted that most of the other homes in the neighborhood have made a definite statement and voted with their lack of

fencing on their properties. Mr. Berger stated he thought the Board had jurisdiction to preserve the open character of the hillside and he pointed out that the applicant's plans referred to a "natural hillside" at the rear of the property. He stated that a fence in the area destroys the natural hillside for the neighbors. He acknowledged that the applicant had a lot of exotic plantings and a reason to fence it, but suggested that they get rid of the rear fence and join the rest of the neighborhood.

Patrick Armitage questioned the need for the fence along the rear property line. He said that the Fire District had concerns about getting equipment through the area with the fence in place.

Masa Murata reinforced the comments made about drainage, and using the site plan illustrated to the Board the drainage problems he has experienced in the past and concerns he had with the addition of this house.

Fred Hannahs asked the Board to avoid tunnel vision and consider constructive planning for the Peninsula. He felt that the Board had been over lenient and had overused the variance procedures in the past. He stated that the Board had an obligation to preserve amenities of privacy and views.

Jerry Reynolds, speaking for Katherine Halpern, stated that if the Board approves the project without addressing the fence they will appeal the decision to the Town Council. He stated he thought the Board had the authority to address the fence. He recognized the Board was ready to approve the project, however, he requested that the main roofline be lowered by one foot and enumerated reasons why he did not feel that this change would have a major impact on the applicant. He stated that he would lose a view of the Golden Gate Bridge while the applicant would gain views. He felt that the roofline was not a requirement but an elective part of the house design, and they should not have to sacrifice their view for an architectural preference.

Laura Halpern stated that the proposed house would affect her family's view and privacy. She stated that the house would block 85% of their water view beneath the Golden Gate Bridge from their lower level and would have a significant monetary affect. She stated that staff report did not accurately identify their windows and side door. She was also concerned about privacy regarding the proposed terrace off the master bedroom, noting that one Monterey pine on their property provides screening between the houses. She asked that a wall be added on the side of the terrace facing their property to block sound. She stated that the skylights in the master bedroom closets will also be visible and asked that these skylights be eliminated.

Fani Hanson stated that the process should be improved to eliminate hostility between neighbors. She stated that they were not notified of the fence application and asked to maintain the open space meadow at the top of the site. She requested that the fence be lowered 3 feet, the chimneys eliminated and that plantings be no taller than the guest house. She also asked that netting be installed on the story poles for the house.

Angela Danadjieva stated that all the uphill neighbors were against what is happening with this project and noted that numerous letters of objection had been delivered to the Town. She showed photos of fruit trees and fencing and stated that much of her water view would be eliminated. She reiterated her previous suggestion that the guest house be rotated. She asked that the fence be removed, the house be lowered, the size of the retaining walls be reduced and that the existing trees be topped.

Mike Figour supported the project as proposed, adding that its design was driven by the needs of people. He said that he was baffled by the pettiness of the neighbors. He noted the changes in the area during the past 60 years and gave his historical perspective. He also pointed out that the site would be developed at the bottom of the property instead of the top.

Katherine Halpern stated that she did not want the house to obstruct her views, adding that the project would reduce the value of her property. She said that there has been a house on this property for 50 years that did not impact her views, with no fence to bother people uphill. She stated that this project did not fit in with the neighborhood and that the house was much too large.

Jared Polsky stated there was a misconception that a solid fence was being proposed at the rear of the site, noting that it is a wire fence. He said that if the project moves forward his client will work with the staff to make improvements to the fence. He noted that the sole reason for the continuance was to address the house itself and they had already lowered it two feet.

In response to Boardmember Frymier, Mr. Polsky stated that the roofline had already been lowered several times in order to compromise.

The Chair closed the public hearing.

Boardmember Teiser stated that he had been in the Halpern house and seen the view blockage and characterized it as pretty minimal. He noted that they have a panoramic view to Angel Island from the lower floor and even more extensive views from the main floor. He stated that the possible view impacts would be consistent with the Hillside Guidelines. He stated that property owners have a right to fence their property, and this fence is not on open space. He encouraged the applicant to consider the concerns of the neighbors, but stated that the Board could not force them to change the fence.

Boardmember Frymier noted she was in a quandary about the fence, as Mr. Berger and Staff had different opinions. She felt that the fence should be moved closer to the structure of the guest house, but noted that the fence was already approved, and she did not know how to deal with it.

Mr. Watrous further explained the concept of “nexus” in planning law, stating that the Town can make requirements for items that are reasonably related to what is being requested. In this case the applicant is proposing nothing to do with the character of the upper hillside and the concerns with the fence are about the open character of the hillside,

when nothing in the application is related to the area. He noted that the Town had made changes to a previous application which would have blocked views by making changes to the existing structure which already blocked views. He reiterated that there is no nexus to allow the Board to require changes to the fence as part of this application.

Boardmember Frymier stated she could approve the project with the applicant encouraged to move the fence.

Chair Doyle stated he joined to Board to do the right thing. He said that he had no problem with the house at the last meeting. He said that if he were the architect, he would change the location of the guest house and think about dropping the roofline about a foot. He said that the fence is not the right thing to have there. Although it was the property owner's right and it is on their property, the fence visually impacts the fabric of the community. He stated that if he was the applicant, he would go home tonight and take the fence down, as it feels like a scar on the hillside. He stated that he could support the house. In the realm of good neighborliness, he felt that this was a spite fence, however, he did not think that the Board has the jurisdiction to change it. He suggested the applicant move the fence back to the plan proposed by Ms. Danadjieva, or some of the ideas suggested by Mr. Berger.

Joe Quirk, applicant, stated he had tried to work with the neighbors about the fence and came up with suggestions to use landscaping to obscure the fence. He asked the Board to approve the house with the condition to work with staff to come up with a solution more palpable to the neighbors. Planning Manager Watrous suggested language for the condition of approval, if the applicant was willing, to state that the fence along the rear property line be modified to address the concerns of the neighbors and to be approved by Town staff.

M/S, Teiser/Frymier (passed 3-0) to determine that the project is categorically exempt from the provisions of CEQA and approve the application subject to the conditions of approval as set forth in the Staff report, with the additional conditions of approval that the dressing room windows facing east use obscure glass, and that the rear fence be modified to address the concerns of the neighbors to preserve the open appearances of the hillside, subject to approval of staff.

E. NEW BUSINESS BEFORE THE BOARD

3. 1893 CENTRO WEST STREET HARB, NEW DWELLING/FLOOR AREA EXCEPTION

The applicant has submitted a request for construction of a new single-family dwelling with a floor area exception, on the property located at 1893 Centro West Street. Currently a duplex exists on the property, which was in the process of being renovated for conversion into a single-family dwelling. The applicant subsequently demolished over 50% of the existing walls of the structure. By demolishing more than 50% of the structure, the project is therefore classified as "new construction." The proposed single-family dwelling would be a two-story structure. The lower level would include a two-car garage, the master bedroom and bathroom, two bedrooms, a guest room, and a laundry

room. A small wood deck would be located adjacent to the right side of the structure, with access from the guest room and one of the bedrooms. The upper level would include the living room, family room, dining area, kitchen and a large deck. The deck would be located above the garage with access from the family room. A variance for reduced side yard setback has been requested, but a notice was not able to be sent out in order for that request to be heard at this meeting.

Luis Baez, project manager, reviewed the history of the application. He noted that the Board received a letter which described the reasons due to structural dry rot why more than 50% of the house was demolished, adding that this did not happen with the owner's consent. He said that they are trying to take all issues into consideration and move forward to get the project started. He stated they have tried to mitigate the neighbors' concerns and are willing to drop the house 30 inches to give back a portion of the view to 1895 Centro East. He noted that this change is not reflected in the submitted plans.

Ricardo Royo, designer, reviewed the previous application and indicated their intent to eliminate the pitched roof and maximize views on south end, along with their willingness to lower the house into the ground.

Charles Harb, applicant, stated that he had been on the deck of the neighboring home at 1985 Centro West Street and there was no view except of huge trees. He noted that the original proposed height of the roofline would block their view of the bridge.

The Chair opened the public hearing.

Bill Lukens noted that the lots along Centro West are very steep and the neighbors can hear each other very clearly and see each other's lights. He stated that the proposed windows will look right into the sun and become nuisances, noting that most other homes in the area have awnings to cover their windows. He noted that downhill neighbors will be able to see their lights. He said that the neighbors want to keep floor areas down as much as possible. He suggested trying to mitigate the bulk of the house, possibly by stepping into the slope.

Brooke Halsey stated the building at 1895 Centro West has always only had a view from the top unit. She did not see any problem with the plans and urged the Board to approve the project.

Mr. Baez stated they would like to keep the design as is, but will redesign if they have to do it.

Mr. Rayo noted that the upper windows would be used for ventilation.

The Chair closed the public hearing.

Boardmember Teiser stated that he liked the idea of dropping the roof pitch and either reducing the size or eliminating the upper windows. He suggested dropping the roof 15 inches, but felt that the house did not have to be dug into the ground. He said that the

lower unit at 1895 Centro West did not seem to previously have much of a view, but lowering the roof pitch would open up their views.

Chair Doyle noted that lowering the roof pitch would make the upper windows smaller.

Boardmember Frymier expressed some concern about the overall floor area of the house.

M/S, Teiser/Frymier (passed 3-0) that the application be continued to the March 15 meeting.

4. POTENTIAL AMENDMENT TO BUILDING HEIGHT REQUIREMENTS

Mr. Watrous stated that concerns have been raised regarding the language and interpretation of the Tiburon Zoning Ordinance requirements for measuring building height. In particular, concerns have been raised about how building height is measured at the perimeter of a building where the bottom of the structure is situated below the finished and natural grade. The height measurement method in the Zoning Ordinance would be changed to refer to measuring height from the perimeter of the exterior surface of the building, structure, fence, or wall.

Boardmember Frymier requested that Exhibit A be more clearly identified.

It was the consensus of the Board that the Town proceed with this amendment to the Hillside Guidelines.

5. POTENTIAL AMENDMENT TO THE HILLSIDE DESIGN GUIDELINES FOR "BORROWED VIEWS"

Mr. Watrous reviewed the proposed amendment to the Hillside Design Guidelines with regard to "borrowed views" which involve situations in which an existing home has views across a vacant neighboring lot.

M/S, (Frymier/Teiser) (passed 3-0) to adopt the Resolution recommending Approval to the Town Council this amendment to the Tiburon Hillside Design Guidelines.

F. APPROVAL OF MINUTES #3 OF THE 2/15/07 DESIGN REVIEW BOARD MEETING

Boardmember Teiser amended the minutes on page 5, last sentence of first paragraph, to read: "...disappear; a lower flat roof and the color to be more earthy tone."

M/S, Teiser/Frymier (passed 3-0) to approve the Minutes of February 15, 2007 as amended.

G. ADJOURNMENT

The meeting was adjourned at 10:00 P.M.