



Town of Tiburon

STAFF REPORT

maximum lot coverage permitted in the RO-2 zone, a variance is not required as Town policy does not require such a variance for lot coverage increases less than 1.0%.

The existing house extends to within 10 feet of the western side property line, which is less than the 15 foot minimum side yard setback required in the RO-2 zone. The proposed lower level floor space would increase the building area within the required side yard setback. Therefore, a variance is requested for reduced side yard setback.

A color and materials board has not been submitted, as the proposed additions would match the colors and materials of the existing house.

ANALYSIS

Design Issues

The rear and side of the subject property are heavily landscaped. A fence and trees along the west side property line separate the subject house from the neighboring residence to the west at 198 Stewart Drive. As a result, the proposed addition would not be visible from the adjacent home.

Trees and other vegetation along the rear property line would make the proposed addition only marginally visible from the neighboring home below the site at 140 Geldert Drive. The applicant has indicated that the owner has spoken to this neighbor about relocating the pool equipment to a location closer to the rear property line, and the adjacent owner has no issues with this proposal. The location of the equipment closer to the property line would still be screened by vegetation to the rear, and the new more efficient equipment would likely be quieter than existing equipment, which is located in exposed area under upper level of house which allows noise to bounce outward.

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 reduced side yard setback.

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.***



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The 14,500 square foot lot size is substantially smaller than the 20,000 square foot minimum lot size for the RO-2 zone. The existing house is situated within the required western side yard setback. These physical conditions create special circumstances that would deprive the owners of this property of development 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.***

Numerous other properties in the same or similar zones have received variances for reduced side yard setbacks to extend an addition along the line of an existing building legally constructed within the side yard setbacks. 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.***

The strict interpretation of the required side yard setback would force the proposed addition to be set back from the line of the house above, resulting in cantilevered space that would now meet the definition of floor area. As a result, an unnecessary hardship would be placed on the applicant by being unable to use this additional space even though the area would count against the floor area ratio for the property.

- 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 proposed changes would not appear to 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

To date, no letters have been received regarding the subject application.

RECOMMENDATION

The Board should 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 agrees with Staff's conclusions, it is recommended that the attached conditions of approval be applied.

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ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Submitted plans

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CONDITIONS OF APPROVAL

140 PORTO MARINO

FILE #20610

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 April 21, 2006, or as amended by these conditions of approval. Any modifications to the plans of May 8, 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. 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.
5. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
6. All exterior lighting fixtures must be down light type fixtures.
7. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.