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The floor area of the proposed house would be 2,632 square feet, which is less than the maximum floor area for a lot of this size. The lot coverage on the site would remain at 2,967 square feet (39.3%), for which a variance was previously granted for excess lot coverage.

The proposed house would extend to within 3 feet, 8 inches of the southern side property line (with a 3 foot, 11 inch variance previously approved), within 6 feet, 2 inches of the northern side property line (with a 6 foot, 9 inch variance previously approved) and within 6 feet, 11 inches of the rear property line (with an 8 foot variance previously approved). As the R-1 zone requires side and rear yards of 8 and 18 feet, respectively, variances are also requested for reduced side and rear yard setbacks.

A color and materials board has been submitted for this project, and will be present at the meeting for review. The house will utilize grey painted wood siding with white trim, and dark grey composition shingle roofing intended to match the design of the original house on the site.

BACKGROUND

A Site Plan and Architectural Review application (File #20105) was approved on June 21, 2001 to construct additions to the existing one-story residence on the site, with variances for reduced side and rear yard setbacks and excess lot coverage. That application expired, and a subsequent application (File #20438) for essentially the same project was approved by the Design Review Board on November 4, 2004. A review of the minutes for these previous applications indicates little or no opposition to the request.

Building permits were subsequently issued and construction began on the project. During construction, a survey was completed that showed that the front property line was closer to the Hilary Drive roadway than had been indicated on approved Design Review plans. As a result, the front of the building appears to be approximately 2 feet closer to the street than was previously represented for this project.

The survey also indicated that the foundation was constructed closer to the side and rear property lines than was approved by the previous variances for this project. These additional encroachments necessitated the new variance requests that are part of the subject application.

The previously approved plans had indicated that less than 50% of the perimeter of the existing house would be demolished as part of the construction of this project. However, additional wall length was removed by the contractor, resulting in demolition of more than 50% of the existing house. Per the requirements of the Tiburon Zoning Ordinance, the project was halted and a Site Plan and Architectural Review application for construction of a new residence has been submitted.

ANALYSIS

Design Issues

The roofline of the proposed house would be at or below the ridgeline of the previously existing roof of the house on this site. The subject property currently has a 6 foot tall wooden fence



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along the rear property line. This fence, as well as some of the landscaping on both sides of this property line, would help screen much of the proposed rear addition from view from the neighboring homes behind the subject property along Hilary Drive.

The adjacent residence at 730 Hilary Drive has views of the proposed master bedroom suite addition from a second story master bedroom. The proposed addition would not interrupt any water, San Francisco or Sausalito views from this or any ceremonial rooms in the house, primarily due to the lower roofline level and the existing configuration of the subject home and the adjacent residence at 757 Hawthorne Drive.

The proposed additions would maintain the existing single-story character of the subject residence. This would be consistent with recent Design Review approvals in the vicinity, which have attempted to maintain the generally single-story character of this neighborhood.

Other properties in the Hawthorne Terrace subdivision have previously received approvals for reduced side yard setbacks, including homes at 682 & 698 Hawthorne Drive (Files #27923 & 27026), 646, 647, 661, 684 & 688 Hilary Drive (Files #26127, 37339, 27210, 200050 & 27022), 93 & 146 Rock Hill Drive (Files #26926 & 299021). Variances have previously been granted for reduced rear yard setbacks on properties in the vicinity located at 670, 687 & 695 Hawthorne Drive (Files #26213, 25401 & 25201) and 646 & 720 Hilary Drive (Files #26127 & 26311).

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1 zone with the exception of the previously noted side and rear yard setback variances.

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.***

The surrounding neighborhood around the subject residence consists of predominantly one-story homes. A previous development application to construct a low two-story addition to the subject home was denied in 1998 as being out of character with other homes in the vicinity. The inability to add a second story to this home therefore creates special circumstances which force the proposed additions to violate the required side and rear yard setbacks requirements for this property.



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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.***

As stated above, several other homes in the vicinity have received variances for reduced side and rear yard setbacks similar to that proposed for this property.

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

The strict application of the side and rear yard setback requirements for this property, combined with the previously documented one-story character of the surrounding neighborhood, would impose an unnecessary hardship on the property owner by severely limiting the amount of floor area that could be constructed on this property while maintaining a one-story design that also complies with these zoning requirements.

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

As stated previously, the proposed construction should not result in significant view or privacy impacts on neighboring property owners.

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

Public Comment

One letter has been received from the owners of the adjacent property at 757 Hawthorne Drive raising objections regarding potential privacy and visual impacts associated with the proposed house.

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 wishes to approve the project, Staff would recommend that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Design Review Staff report dated June 21, 2001
4. Design Review Staff report dated November 4, 2004
5. Minutes of the June 21, 2001 Design Review Board meeting

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6. Minutes of the November 4, 2004 Design Review Board meeting
7. Letter from Gus and Delores Ezcurra, dated February 6, 2006
8. Submitted plans

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CONDITIONS OF APPROVAL

735 HAWTHORNE DRIVE

FILE #20604

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 1, 2006, or as amended by these conditions of approval. Any modifications to the plans of February 1, 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 skylights shall be bronzed or tinted and no lights shall be placed in the wells.
7. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
8. Prior to the issuance of building permits, the applicant shall submit verification from a licensed landscape architect that the proposed landscape plan conforms to M.M.W.D. landscape regulations, as required by Town Council Ordinance.



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9. Prior to the issuance of final building inspection approval, all landscaping and irrigation shall be installed in accordance with approved plans. The installation of plantings and irrigation shall be verified by a Planning Division field inspection prior to the issuance of occupancy permits.
10. Prior to underfloor inspection, a certified survey of the structure foundation will be required. Required documents shall include graphic documentation locating the building on a site plan and including specific dimensions from property lines and other reference points as appropriate, and elevations relative to sea level of the foundation walls and slabs. No inspections will be provided until the survey results have been verified.
11. The project shall comply with the following requirements of the Tiburon Fire Protection District:
 - a. The structure shall have installed throughout an automatic fire sprinkler system in accordance with NFPA standard 13-D. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (UFC 1003).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (UBC 1210).
 - c. Approved spark arresters shall be installed on chimneys (UFC 1101).
 - d. A greenbelt shall be provided by cutting and clearing all combustible vegetation within 30 feet of the structure (UFC 1103).
 - e. A "Jones" model 3740 fire hydrant shall be located on the street within 350 feet of the project along the fire apparatus access route. The final location of the hydrant shall be approved by the Fire District. The fire hydrant shall be capable of flowing a minimum of 1,000 gallons per minute at 20 psi residual pressure for a duration of two hours (UFC 903).
 - f. The access road shown on the improvement plans is not of adequate width to allow for any parking outside of the designated parking spaces. If this is to be a public road then appropriate signs shall be installed to indicate the parking restrictions. If this is to remain a private access then enforceable CC&R's or deed restrictions shall be placed to maintain the area free for emergency vehicle access at all times.
12. The following requirements of the Marin Municipal Water District shall be met:
 - a. A High Water Pressure Water Service application shall be completed.
 - b. A copy of the building permit shall be submitted.

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- c. Appropriate fees shall be paid.
 - d. The structure's foundation shall be completed within 120 days of the date of application.
 - e. The applicant shall comply with the District's rules and regulations in effect at the time service is requested.
13. The applicants shall obtain a sewer permit from the Sanitary District No. 5 and pay all applicable fees prior to construction of a side sewer and connection to the sewer main. After connection to the sewer main but prior to commencement of discharge and prior to covering of the pipe, the District shall be contacted and allowed to inspect the connection for conformance to standards.
14. All requirements of the Town Engineer shall be met.