

# Town of Tiburon STAFF REPORT

AGENDA ITEM   E5  



.....

TO:                   **DESIGN REVIEW BOARD**

FROM:               **PLANNING MANAGER WATROUS**

SUBJECT:           **747 TIBURON BOULEVARD; FILE #20553**  
**SITE PLAN AND ARCHITECTURAL REVIEW TO LEGALIZE THE AS-**  
**BUILT CONSTRUCTION OF A FENCE AND WALL, WITH A VARIANCE**  
**FOR EXCESS WALL AND FENCE HEIGHT**

MEETING DATE:   **MARCH 2, 2006** \_\_\_\_\_

.....

**PROJECT DATA:**

<b>ADDRESS:</b>	<b>747 TIBURON BOULEVARD</b>
<b>ASSESSOR'S PARCEL:</b>	<b>055-222-02</b>
<b>FILE NUMBER:</b>	<b>20553</b>
<b>PROPERTY OWNERS:</b>	<b>JOHN SWEENEY</b>
<b>APPLICANT:</b>	<b>MOHAMAD SADRIEH (ARCHITECT)</b>
<b>LOT SIZE:</b>	<b>7,504 SQUARE FEET</b>
<b>ZONING:</b>	<b>R-1 (SINGLE--FAMILY RESIDENTIAL)</b>
<b>GENERAL PLAN:</b>	<b>MEDIUM HIGH DENSITY RESIDENTIAL</b>
<b>FLOOD ZONE:</b>	<b>C</b>
<b>DATE COMPLETE:</b>	<b>FEBRUARY 10, 2006</b>

**PRELIMINARY ENVIRONMENTAL DETERMINATION**

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303.

**PROPOSAL**

Construction of a new single-family dwelling has recently been completed on property located at 747 Tiburon Boulevard. Construction of fences and walls along the side and rear property lines were approved as part of the Site Plan and Architectural Review application (File #20401) for this residence. During the review of that application, a condition of approval was added requiring that the fence on the right (south) of the property be replaced with a fence of approximately the same design, in approximately the same location.

As constructed, the fence on along the right side property line now has a maximum height of nine feet (9'). As the maximum fence height within the required side yard setback is 6 feet, a variance is requested to legalize the as-built construction of a fence and wall of excess height.



# Town of Tiburon

## STAFF REPORT

---

### ANALYSIS

#### Design Issues

The applicant has indicated that the design of the subject fence came as a result of discussions with the adjacent property owner at 757 Tiburon Boulevard. As the approved 6 foot tall wall and fence were being constructed, the neighbor indicated to the applicant that the new deck on top of the detached garage at the front of the property would have unobstructed views into her home. The applicant then added a three foot (3') section of wood lattice on top of the fence to provide screening between the deck and the neighboring residence.

The height of the subject wall and fence is primarily visible only from the subject property and the adjacent home at 757 Tiburon Boulevard. The new garage structure and the increasing slope along the property line as it moves away from Tiburon Boulevard help to disguise the overall height of the fence. The additional fence height does not intrude into the views from any other nearby residences.

The wall and fence constructed along the rear property line also exceeds a height of 6 feet when measured from the inside of the subject property. However, the difference in grade with the adjacent lot result in a fence height that does not exceed 6 feet when measured on the adjacent property; therefore, a variance was not required for that structure. Although there is some difference in grade elevation between the subject property and the adjacent lot at 757 Tiburon Boulevard, the fence and wall height still exceeds a height of 6 feet when measured on the adjacent lot.

#### 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 variance for excess wall and fence height.

#### Variance

In order to grant the requested variances, 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 approved location of the recently constructed detached garage and rooftop deck on the subject property places this structure in close visual proximity to the adjacent home at 757 Tiburon Boulevard. The strict application of the fence height requirements would deprive the applicant and adjacent property owner of the privacy privileges enjoyed by other properties in the vicinity and in the same or similar zones.

# Town of Tiburon

## STAFF REPORT

---



- 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 in the R-1 zone in Tiburon have received variances for excess fence and wall heights to address privacy issues that would not be adequately mitigated by a 6 foot tall fence.

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

The construction of a 6 foot tall fence would result in undesirable privacy impacts on the neighboring residence due to the approved location of the recently built detached garage and rooftop deck. The strict application of the fence height requirement would therefore place an unnecessary hardship on the owners of the adjacent home at 757 Tiburon Boulevard.

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

As noted above, the design of the subject wall and fence does not result in unwanted view or visual impacts on neighboring properties, but does address a potential privacy impact on the adjacent home at 757 Tiburon Boulevard.

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

### **Public Comment**

As of the date of this report, 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 15303. 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 Board Staff report dated March 18, 2004
4. Minutes of the March 18, 2004 Design Review Board meeting
5. Submitted plans

# Town of Tiburon

## STAFF REPORT

---



### CONDITIONS OF APPROVAL

#### 747 TIBURON BOULEVARD

#### FILE #20553

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 to the application received by the Town of Tiburon on December 2, 2005, or as amended by these conditions of approval. Any modifications to the plans of December 2, 2005 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.