



Town of Tiburon

STAFF REPORT

Since the meeting of March 15, 2007 staff visited the residence at 56 Hacienda to consider the issues raised by the residents. The proposed addition above the garage at the subject home would impact a small portion of the water views of Richardson Bay from the primary living space at 56 Hacienda Drive. Currently the large Elm and Pine trees to the left of the subject home block the views of the Golden Gate bridge from the primary living space at 56 Hacienda Drive. The combination of the addition and the surrounding trees amounts to a substantial view blockage. Individually, the addition and the surrounding trees make for marginal view blockage from the residences at 56 and 66 Hacienda Drive.

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 variances for reduced front and side yard setback.

Variances

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 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 and the front 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 variances 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 and front yard setbacks to extend an addition along the line of an existing building legally constructed within the side or front yard setbacks. Therefore, the granting of these variances 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.***

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The strict interpretation of the required side and front yard setback would force the proposed addition to be set back from the line of the existing garage below, resulting in cantilevered space that would now meet the required front and side yard setbacks but would have an unusual jog in the building that would serve no practical purpose. Such an unusual jog would be difficult to tie into the existing building as well. The strict application of the front and side yard setback requirements would result in an unnecessary hardship in this case because the shape of the lot and the position of the home create a unique situation that makes it more difficult to comply with the front and side yard setback requirements.

4. *The granting of the variances 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 substantial 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 variances.

Public Comment

To date, one letter has been received from the neighbors at 56 and 66 Hacienda Drive regarding the subject application. No additional letters have been received since the previous meeting.

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.

ATTACHMENTS

1. Conditions of approval
2. Design Review Board Staff report dated March 15, 2007
3. Submitted plans

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CONDITIONS OF APPROVAL

140 PORTO MARINO

FILE #20707

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 15, 2007, or as amended by these conditions of approval. Any modifications to the plans of February 15, 2007, 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.