



Town of Tiburon

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would increase by 839 square feet to a total of 2,734 square feet, which is less than the maximum allowed floor area of 2,756 square feet.

The proposed addition would extend to within 15 feet, 11 inches of the rear property line, in lieu of the 25 foot rear yard setback required in the R-1 zone. Therefore, a variance is requested for reduced rear yard setback.

ANALYSIS

Design Issues

This application was initially scheduled for review at the April 19, 2007 Design Review Board meeting. Upon visiting the site, several neighbors and Board members raised concerns that there were not enough story poles to accurately depict what was proposed. The application was therefore continued until the meeting on May 3, 2007.

The subject home is located towards the end and on the uphill side of Hawthorne Drive. The rectangular lot is on a fairly steep slope and backs up to property on Hilary Drive. Mature landscaping exists between the subject home and the adjacent properties.

The neighboring uphill home at 666 Hilary Drive would have the most direct view of the proposed additions to the upper floor and the expansion of the roofline of the subject home. Staff has observed that the story poles indicate that the proposed addition would not affect the water views of a large panoramic view of San Francisco, the Golden Gate Bridge and the bay from the primary living areas on the upper level of this neighboring residence. The proposed upper level expansion would, however, impact the water views from the lower level of the neighboring home more substantially, especially from the lower level study.

The following portions of the Tiburon Hillside Design Guidelines should be used to evaluate the hillside design of the addition as proposed:

- Goal 3, Principle 7 (A) that the “view protection is more important for the primary living areas of a dwelling (e.g. living room, dining room, family room, great room, kitchen, and decks associated with these rooms) than for less actively used areas of a dwelling (e.g. bedroom, bathroom, study, office, den).” The proposed upper level additions would potentially affect views from lower level study of the home at 666 Hilary Drive. It should be noted that the Design Review Board has often discouraged projects that would gain views for a secondary portion of a home, such as a bedroom or study, at the expense of views from less actively used areas of other neighboring homes.
- Goal 3, Principle 7 (B) that the “horizon line is [the] most sensitive part of [a] view, then foreground, then middle ground.” The proposed addition would be situated generally in the foreground views of the neighboring home.



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- Goal 3, Principle 7 (C) of the Hillside Design Guidelines that “blockage of [the] center of [a] view is more damaging than blockage of [the] side of [a] view.” The proposed addition would intrude into the lower portion of the center of the views for the neighboring home.
- Goal 3, Principle 7 (D) that “blockage of important objects in the view (Golden Gate Bridge, Belvedere lagoon, Sausalito, Angel Island) is more difficult to accept than blockage of other, less well-known landmarks.” No views of important objects would be blocked by the proposed addition from the primary living space.
- Goal 3, Principle 7 (E) of the Hillside Design Guidelines that “a wide panoramic view can accept more view blockage than the smaller slot view.” The proposed addition would intrude into a relatively small portion of the panoramic views currently enjoyed by the lower level of the nearby home.

The owner at 666 Hilary Drive has also expressed concerns that the proposed spa within the rear yard setback of the subject property would impact their privacy. The proposed location of the spa is 5 feet away from the property line separating the two properties. This neighbor submitted letters on April 11, 13, and 25, 2007 stating his concerns of privacy and view impacts.

The Design Review Board is encouraged to view the story poles from the home at 666 Hilary Drive.

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 variances for excess lot coverage and reduced rear yard setback.

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:

Rear Yard Setback

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 existing structure does not conform to the required rear yard setback. Furthermore, the significant property slope creates special circumstances applicable to the property to which strict application of the rear yard setback would deprive the applicant of the development potential enjoyed by other residents in the vicinity.

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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.***

Numerous other properties in the same or similar zones with similar slope characteristics have been granted variances for reduced setbacks when the project would not have proximity, privacy, or view blockage have effects on adjacent residences.

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

The strict application of the rear yard setback requirement would force the design of the addition to be more vertical, likely resulting in increased view impacts for uphill neighbors. The rear yard encroachment, if not allowed, eliminates a practical location for the lower level bedroom.

- 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 proposed upper level addition does not appear to result in substantial view or privacy impacts on primary living space of neighboring homes. The rear yard deck and lower level improvements would be separated from adjacent neighbors by vegetation and vertical and horizontal distances that decrease the potential impact.

Lot Coverage

- 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 subject property is substandard in lot area for the R-1 zoning district. The property size is a special circumstance 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 R-1 or similar zones with similar site characteristics have been granted variances for excess lot coverage in order to accommodate the most appropriate home design on the property.



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

The strict application of the lot coverage requirement would force the design of the addition to be more vertical, likely resulting in increased view impacts for uphill neighbors.

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 proposed house design does not appear to result in substantial view or privacy impacts on the primary living space from neighboring homes.

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

Public Comment

As of the date of this report, three letters have been submitted to Staff from 666 Hilary Drive concerning potential view impacts from the proposed addition and privacy issues related to the proposed spa in the rear yard.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Section 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 finds the design to be acceptable and in conformance with the Town's Design Guidelines, Staff recommends that the attached conditions of approval be applied.

ATTACHMENTS:

1. Conditions of approval
2. Application and supplemental materials
3. Letters from David A. Eklund, dated April 11, 13 and 25, 2007
4. Submitted plans

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CONDITIONS OF APPROVAL

673 HAWTHORNE DRIVE

FILE #20711

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 March 19, 2007, or as amended by these conditions of approval. Any modifications to the plans of March 19, 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. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.
6. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
7. 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.