



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 18, 2008
Agenda Item: **D1**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Planning Manager Watrous**

Subject: **661 Hilary Drive; File #20813
Site Plan and Architectural Review for the Construction of A New
Single-Family Dwelling, with Variances for Reduced Side Yard Setbacks
(Continued from November 20, 2008)**

Reviewed By: _____

BACKGROUND

The applicant is requesting Design Review approval for the construction of additions to an existing two-story single-family dwelling on property located at 661 Hilary Drive. As more than 50% of the existing house would be demolished as part of this project, the application has been deemed to be a request to construct a new single-family dwelling.

The application was first reviewed at the November 20, 2008 Design Review Board meeting. At that time, several neighbors raised concerns about the visual mass and bulk of the proposed house, the extent of windows and lighting to the rear of the building and the location of the air conditioning unit along the side of the house. The Board shared some of these concerns, specifically requesting that the air conditioning compressor be moved away from the neighbor's property, that the rear windows be reduced and a different treatment for the north side of the house, including the deck off of the bathroom, to minimize its effect on the neighbor. The application was continued to the December 18, 2008 meeting to allow the applicant to address these concerns.

The applicant has submitted revised plans for the project. The architect has indicated that the applicant has met with the adjacent homeowner at 653 Hilary Drive, who has withdrawn his objections to the design of the side of the building. The air conditioning compressor has been eliminated from the side of the house, although an alternate location for this equipment has not been indicated on the revised plans. A 3 foot, 2 inch wide metal frame trellis is proposed to be installed above the rear family room and gallery windows facing the uphill home at 14 Francisco Vista Court to mitigate light and glare from these windows. The kitchen window facing the home at 667 Hilary Drive has been reduced in size at the request of that adjacent neighbor, who has written a letter supporting the revised project design.

No other substantial changes have been made to the proposed project. The proposed floor area would remain at 3,799 square feet and the proposed lot coverage is unchanged at 3,480 square feet (15.9%). Variances are still requested for encroachment into both side yard setbacks.

ANALYSIS

Design Issues

The changes made as part of the revised project plans appear to be substantially responsive to the direction given by the Design Review Board at the last meeting on this application. The applicant has met with the neighbors to either side of the project and has made changes in response to their previously raised concerns. The metal trellis above the rear windows would help screen any light from the taller rear windows proposed as part of this house.

The Design Review Board previously determined that the proposed house would not substantially interfere with any views. The Board should review the revised plans and determine if the previously raised visual mass and bulk, lighting and privacy issues have been adequately addressed by the revised plans.

Zoning

As discussed in the previous report, Staff believes that there is sufficient evidence to support the findings for the requested variance as follows:

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 has an unusual flag-shaped configuration and a narrow width in the location of the house. This lot configuration creates special circumstances which would cause the strict application of the R-1 development standards to 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 and similar zones have been granted variances for reduced setbacks to accommodate a house design intended to increase visual separation between neighboring homes.

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

As noted above, a variance was approved in 1972 for portions of the existing house to extend into the required 8 foot side yard setbacks for this lot. The proposed project would extend the height of the walls at the locations currently within the required setbacks but would not extend further into the setbacks than the footprint of the existing house. The strict interpretation of the required side yard setbacks for this lot would create an unnecessary hardship, as the owner would be able to extend the walls of the remainder of the house, but would be forced to maintain the existing walls of the house at the points where the house encroaches into the setback.

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 house location would be properly screened from the adjacent homes to each side and would not substantially intrude into the views for the neighboring home uphill from the site.

PUBLIC COMMENT

As of the date of this report, three letters have been received regarding this application from the owners of the adjacent homes at 653, 665 and 667 Hilary Drive and one letter has been received from the architect representing the owner of the adjacent home at 14 Francisco Vista Court.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 16-4.2.7 (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 Design Review Board agrees with Staff's conclusions, it is recommended that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Supplemental materials from applicant dated December 10 & 11, 2008
3. Design Review Board Staff report dated November 20, 2008
4. Minutes of the November 20, 2008 Design Review Board meeting
5. Letter from Jim and Diane Hannum
6. Letter from Jose-Maria and Luciana Castro, dated December 8, 2008
7. Letter from Michael Heckmann, dated December 8, 2008
8. Letter from Gerald Romain, dated December 9, 2008
9. Submitted plans

CONDITIONS OF APPROVAL

661 HILARY DRIVE

FILE #20813

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 October 15, 2008, or as amended by these conditions of approval. Any modifications to the plans of December 4, 2008 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.

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. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24" x 24" in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city, state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site.
12. 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. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (CFC 903.2).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (CFC 907.2.10).
 - c. The vegetation on this parcel shall comply with the requirements of the Tiburon Fire Protection District and the recommendations of Fire Safe Marin. A vegetation management plan shall be submitted and approved prior to work being performed (CFC 304.1.2).
13. 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.
 - 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.
14. The applicants shall obtain a sewer permit from the Richardson Bay Sanitary District 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.
 15. All requirements of the Town Engineer shall be met. An encroachment permit shall be required for all improvements and landscaping within Town right-of-way.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 18, 2008
Agenda Item: **D2**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Planning Manager Watrous**

Subject: **22 Mercury Avenue; File #708189**
Site Plan and Architectural Review for the Construction of A New
Single-Family Dwelling (Continued from November 20, 2008)

Reviewed By: _____

BACKGROUND

The applicant is requesting Design Review approval for the construction of a new two-story single-family dwelling on property located at 22 Mercury Avenue. The subject property is currently developed with a one-story residence that would be demolished as part of this project.

The application was first reviewed at the November 20, 2008 Design Review Board meeting. At that time, several neighbors raised concerns about the visual mass and bulk of the proposed house and possible privacy and sunlight impacts that would be caused by the new two-story house. The Board shared some of these concerns and felt that the overall mass and bulk of the proposed dwelling was inconsistent with the character of the surrounding Belveron East neighborhood. The Board recommended that the extent of the second story portion of the house be reduced in size and the height of the house be lowered somewhat, and the Board encouraged the applicant to spread the house out more on the site. The application was continued to the December 18, 2008 meeting to allow the applicant to address these concerns.

The applicant has submitted revised plans for the project. The footprint of the house and the floor plans for both levels of the house remain unchanged. The height of the proposed house has been reduced by between 4 and 5.5 feet by reducing the ceiling heights from 10 feet to 9 feet, lowering the roof pitch and building the house on a slab. The rear roof deck off the master bedroom and the raised first floor deck at the rear of the house have been eliminated. The supplemental project description submitted by the applicant indicates that the location and heights of windows have been modified, but the size and location of the windows show on the exterior elevation drawings appear to be unchanged.

ANALYSIS

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-1 zone.

Design Issues

The reduced height of the proposed house would reduce the overall volume of the house and should lessen any intrusion into the views of the surrounding hillsides from several nearby homes. The elimination of the rear deck areas should alleviate most potential privacy concerns raised by the immediately adjacent neighbors. The second story would not appear to substantially block any sunlight for nearby homes.

As noted in the previous Staff report for this project, the Belveron East neighborhood is developed with predominantly single-story dwellings, and the homes that have added second story living space have upper levels that are much smaller than the existing ground floor portions of the houses, often the equivalent of an upstairs master bedroom suite. This reflects a development pattern where two-story homes can blend in with the other one-story homes in the vicinity by maintaining a two-story building profile that does not overwhelm the other one-story homes nearby. The Board has previously indicated that two-story homes are clearly welcome in this neighborhood, as long as their design “bear[s] a reasonable relationship to the character of existing buildings in the vicinity,” as called for in Section 16-4.2.7 (c) of the Tiburon Zoning Ordinance.

The four bedrooms and three bathrooms of the second story of the proposed house would be inconsistent with the development pattern of the neighborhood. Although the substantial height reduction would make the second story appear less “top heavy” than the previous house design, the ratio of second story floor area to ground floor area for this house would be much greater than other two-story homes in this neighborhood. Most of the photographs submitted by the applicant of other Belveron East homes reflect the more modest second story additions that have been successfully developed in this neighborhood. Many residences in the Belveron West neighborhood (along Jefferson Drive and Washington and Irving Courts) have larger second story elements, but few homes in the immediately surrounding Belveron East neighborhood have similar two-story home designs.

The applicant’s supplemental materials also refer to a request to expand the subject house made by the previous property owners. In 2001, the Design Review Board approved a request for a one-story addition to the rear of the existing house. This application did not involve either the demolition of the existing house or any second story additions to the house. A building permit was never issued in conjunction with this application and the Design Review approval for that project has expired.

The existing house contains four bedrooms, two bathrooms, a family room, living room, kitchen and a two-car garage. The proposed house would contain four bedrooms, 3½ bathrooms, a family room, living room, kitchen and a two-car garage, along with a laundry room, play room and pantry. Although the new rooms are larger and more livable than those in the existing dwelling, the project would essentially involve a net increase of 1½ bathrooms, a play room, a laundry room and a pantry.

There appear to be other development options for including the amount of floor area requested by the applicant. The proposed house would have a 40 foot rear yard setback and additional space between the front of the house and the front yard setback. There is adequate space to move several of the bedrooms to the lower level of the house while still maintaining a large rear yard for the property. However, the applicant has indicated a desire for a floor plan with all bedrooms on the same level (as found in the existing house), and a one-story house would likely exceed the 30.0% maximum lot coverage for this property.

As noted above, the reduced height of the proposed house would reduce the overall volume of the house and the Design Review Board may find that the revised plans bring the design of the house into conformance with the predominant pattern of homes in the Belveron East neighborhood. However, if the Design Review Board determines that the volume of the proposed second story still does not bear a reasonable relationship to the character of existing homes in the vicinity, the Board should direct the applicant to redesign the proposed project to reduce the size of the second story of this dwelling.

The Design Review Board is encouraged to visit the subject site to view the story poles and observe the relationship between the proposed house and the neighboring homes. The Board is also encouraged to drive around the Belveron East neighborhood to better evaluate whether the volume of the second story of the proposed house is compatible with the character of the surrounding neighborhood.

PUBLIC COMMENT

As of the date of this report, four letters have been received from neighboring property owners at objecting to the revised design of the proposed house and two letters from neighbor supporting the project. The applicants have submitted several petitions signed by other property owners in the neighborhood supporting the revised project design.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 16-4.2.7 (Guiding Principles) and make one of the following determinations:

1. If the Board feels that the proposed house design is inconsistent with the character of the surrounding Belveron East neighborhood, the Board should give clear direction to the applicant regarding changes that should be made to the house design and continue the application to a future meeting date. Prior to continuing the application, the Board must determine if the applicant is willing to consider a continuance for this purpose and the Town must receive an assurance that the applicant would be willing to grant an extension to the Permit Streamlining Act deadline for this application.
2. If the applicant is unwilling to make the changes necessary to comply with the requirements of the Zoning Ordinance requirements to make the house design compatible with the character of the surrounding neighborhood, the Board should

direct Staff to prepare a resolution denying the application, to be acted upon at the January 15, 2008 Board meeting.

3. If the Design Review Board finds that the revised plans result in a house design that would be compatible with the character of the surrounding neighborhood, the Board should determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303 and approve the application with the attached conditions of approval.

ATTACHMENTS

1. Conditions of approval
2. Supplemental materials submitted by the applicant, dated December 8, 2008
3. Design Review Board Staff report dated November 20, 2008
4. Minutes of the November 20, 2008 Design Review Board meeting
5. Letter from Jeff and Jennifer Barnes, dated December 8, 2008
6. Letter from Albert and Shirley Anne Lettrich, dated December 9, 2008
7. Letter from Rich and Christi Mc Elreath, dated December 10, 2008
8. Letter from Mr. & Mrs. James O'Neal, dated December 10, 2008
9. Letter from Mel and Anna Belle Pearce, dated December 10, 2008
10. Letter from Rod McLeod, dated December 10, 2008
11. Letter from Satoko and Jeff Boris, dated December 11, 2008
12. Submitted plans

CONDITIONS OF APPROVAL

22 MERCURY AVENUE

FILE #708189

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 October 21, 2008, or as amended by these conditions of approval. Any modifications to the plans of December 8, 2008 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.
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. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24" x 24" in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city, state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site.
12. 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. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (CFC 903.2).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (CFC 907.2.10).
13. 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.
 - 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.
14. The applicants shall obtain a sewer permit from the Richardson Bay Sanitary District 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.

15. All requirements of the Town Engineer shall be met. An encroachment permit shall be required for all improvements and landscaping within Town right-of-way. No new walls, fences or similar structures shall be built within Town right-of-way.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 18, 2008
Agenda Item: **E3**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 5 Rolling Hills Road; File #20815
Site Plan and Architectural Review for the Construction of Additions to an Existing Single-Family Dwelling, with Variances for Reduced Front Yard Setback and Excess Lot Coverage and a Floor Area Exception

Reviewed By: _____

PROJECT DATA

ADDRESS: 5 ROLLING HILLS ROAD
ASSESSOR'S PARCEL: 058-141-21
FILE NUMBER: 20815
PROPERTY OWNERS: CHRIS HEDEN/WESTERN LIABILITY INSURANCE
APPLICANT: HANK BRUCE ARCHITECTS
LOT SIZE: 21,852 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)
GENERAL PLAN: MEDIUM HIGH DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: NOVEMBER 25, 2008

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 15301.

PROPOSAL

The applicant is requesting Design Review approval for the construction of additions to an existing one-story single-family dwelling on property located at 5 Rolling Hills Road. The project would involve modifications and additions to expansion plans previously approved for this property.

A dining room previously approved on the main level of the house would be converted into an office/media room and a new dining room would be added at the western end of the house.

Decks off the previously approved second story master bedroom and family room would be enlarged. A hallway and wine cellar would be added adjacent to the existing lower level garage.

The proposed project would increase the size of the house from the previously approved 3,525 square feet to a total floor area of 3,851 square feet, which is greater than the 3,450 square foot floor area ratio for a lot of this size. Therefore, a floor area exception is requested. The proposed additions would also increase the lot coverage of this property by 155 square feet to a total of 2,771 square feet (19.1%), which is greater than the 15.0% maximum lot coverage permitted in the RO-2 zone. A variance is therefore requested for excess lot coverage.

Portions of the dining room addition and proposed deck extensions, including the main level deck off the living room, would extend within the 30 foot front yard setback required in the RO-2 zone, and as close as four feet from the roadway easement line along the front of the property, which is defined as the front property line by the Tiburon Zoning Ordinance. As a result, a variance is requested for reduced front 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.

BACKGROUND

Two separate Site Plan and Architectural Review and variance applications were approved for this property in 2006. A variance (File #20545) was requested to extend the existing main level living room deck into the front yard setback, install a bay window, and add 10 new skylights. There were no objections from any neighbors and the Design Review Board approved this request on January 19, 2006.

A more substantial request (File #20631) was submitted later that year to add a new second story addition (including a master bedroom suite, two more bedrooms, one more bathroom and a study) along with adding a breakfast nook to the main level of the house, extending decks from two portions of the master bedroom and from one of the other new bedrooms and installing three more skylights. This request entailed a variance for excess lot coverage and a floor area exception. During the review of that application, the neighboring property owner at 1 Rolling Hills Road raised concerns about potential privacy impacts from several east-facing windows. On November 16, 2006, the Design Review Board approved the application, with a requirement that the sill heights be raised to 5 feet, 6 inches on the east-facing windows.

Since 2006, the applicant has not submitted applications for building permits for construction subsequent to either Site Plan and Architectural Review application. These Design Review approvals will expire three years after the date of approval by the Board. The extended living room deck approved as part of File #20545 is included as part of the subject application.

ANALYSIS

Design Issues

The house on the subject property is situated on a relatively level portion of the site. The property slopes down to Rolling Hills Road below the house.

The proposed dining room addition would be situated at the western end of the house, away from the home at 1 Rolling Hills Road. The previously approved decks would be situated on the northern side of the house, facing the street. The proposed deck extensions would not intrude into the views from the home at 1 Rolling Hills Road. The level of the decks above the roadway and the horizontal distance from the homes across the street should minimize any potential privacy impacts from the extended deck areas. The proposed lower level floor area would be buried below the existing house and would be only minimally visible from off-site.

A business license application has recently been received to operate a small family daycare center serving six or fewer children at this location. It is unclear whether the requested additions are related to this proposed use.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the RO-2 zone, with the exception of the requested variances for reduced front yard setback and excess lot coverage and the requested floor area exception.

Variances

In order to grant the requested variances, the Board must make all of the following findings required by Section 16-4.3.5 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 subject property has an unusual configuration which includes a roadway easement across the front of the site, which leaves a relatively shallow area in which to locate structures on the property. These physical characteristics are therefore special circumstances that would deprive the owners of this property of development privileges enjoyed by other properties in the vicinity if the subject variances are not granted.

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 RO-2 and similar zones have been granted variances for reduced setbacks and/or excess lot coverage.

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

In previously approving the variance for reduced front yard setback for the living room deck extension, the Design Review Board found that the strict interpretation of the front yard setback would require eliminating the deck altogether, and that since the primary view from the property is to the south and west, the elimination of any deck on this level of the house would be an unnecessary hardship on the property owners. The subject application includes not only the previously approved main level deck, but also extensions of the previously approved upper level decks off the family room and master bedroom and a dining room addition, all of which would extend into the required front yard setback. There is no practical difficulty or unnecessary hardship involved in scaling back the upper level decks to their previously approved configurations. Similarly, there is no practical difficulty or unnecessary hardship involved with keeping the previously approved main level floor plan and eliminating the proposed office/media room from the proposed plans.

The strict application of the lot coverage requirement would not allow the applicant to expand the lot coverage on the site by converting the previously approved dining room area into an office/media room and constructing a new dining room addition. As noted above, reverting to the previously approved plan and not adding an office/media room that would exceed both the allowable lot coverage and floor area ratio for this site would not impose a practical difficulty or unnecessary hardship on the applicant.

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 addition and deck extensions would be properly sited to avoid any substantial view or privacy impacts on neighboring residents.

Floor Area Exception

Section 16-4.2.8 of the Tiburon Zoning Code states that the Design Review Board may grant exceptions to the required floor area ratio requirements if it makes the following two findings:

1. The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood; and
2. The applicant has demonstrated that the proposed structure is compatible with the physical layout of the site. The characteristics include, but are not limited to, the scale of trees, rock outcroppings, stream courses, land forms, and the dimensions of the lot.

Many of the homes in the surrounding neighborhood have two or more floor levels with relatively vertical house designs. The articulation provided by the proposed dining room addition and deck

extensions would help provide a house design that conforms to the overall slope characteristics of the site.

It should be noted that the Design Review Board has often determined that applications which request both a variance for excess lot coverage and a floor area exception represent a fundamental overbuilding of the property. In reviewing the application for a variance for excess lot coverage and a floor area exception in 2006, the Design Review Board characterized the request as minor and found that the design did not result in problems for neighboring homes. The additional floor area requested to essentially add an office/media room to the previously approved house, combined with the previously granted floor area exception, represents an attempt to seek piecemeal approvals of a larger amount of floor area, essentially disguising a larger floor area exception as separate incremental additions to the overall floor area of the house.

From the evidence provided, Staff believes that there is insufficient evidence to support the findings for the requested variances and floor area exception.

PUBLIC COMMENT

As of the date of this report, no letters have been received regarding this application.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 16-4.2.7 (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 Design Review Board agrees with Staff's conclusions, it is recommended that the Board either continue the application to allow the applicant to modify the project design or direct Staff to prepare a resolution denying the application. If the Board can articulate the findings necessary to approve the requested variances and floor area exception, it is recommended 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 January 16, 2006
4. Design Review Board Staff report dated November 16, 2006
5. Minutes of the January 16, 2006 Design Review Board meeting
6. Minutes of the November 16, 2006 Design Review Board meeting
7. Submitted plans

CONDITIONS OF APPROVAL

5 ROLLING HILLS ROAD

FILE #20815

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 November 13, 2008, or as amended by these conditions of approval. Any modifications to the plans of November 19, 2008 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. 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. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (CFC 903.2).
- b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (CFC 907.2.10).
- c. The vegetation on this parcel shall comply with the requirements of the Tiburon Fire Protection District and the recommendations of Fire Safe Marin. A vegetation management plan shall be submitted and approved prior to work being performed (CFC 304.1.2).



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 18, 2008
Agenda Item: **E4**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Assistant Planner Phillips**

Subject: **NOTICE OF CONTINUANCE**
30 Pamela Court; File #708197
Site Plan and Architectural Review to Construct Additions to an Existing Single-Family Dwelling

Reviewed By: _____

Staff recommends that this item be continued for the following reason(s):

- No story poles have been erected/no certification received
- Requested information has not been received
- Item not properly advertised
- This item has been continued to **January 15, 2009** Design Review Board meeting
- Other:

Prepared By: **Scott Phillips, Assistant Planner**