



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
September 17, 2009
Agenda Item: **E1**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 13 Roseville Court; File #20915
Site Plan and Architectural Review to Legalize As-Built Construction of Retaining Walls for an Existing Single-Family Dwelling, with a Variance for Excess Wall Height

Reviewed By: _____

PROJECT DATA

ADDRESS: 13 ROSEVILLE COURT
ASSESSOR'S PARCEL: 039-212-07
FILE NUMBER: 20918
PROPERTY OWNERS: STEPHEN AND KATHERINE VAN DUSEN
APPLICANT: JAMES BRADANINI (LANDSCAPE ARCHITECT)
LOT SIZE: 48,000 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL - OPEN)
GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
FLOOD ZONE: X
DATE COMPLETE: AUGUST 25, 2009

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

The applicant is requesting Design Review approval to legalize the as-built construction of retaining walls for the existing single-family dwelling on property located at 13 Roseville Court. Portions of the walls within the required setbacks for this lot exceed the 6 foot maximum height limit, with a maximum height of 12 feet. A variance is therefore requested for excess wall height.

BACKGROUND

In May, 2007, the property submitted a Staff-level Site Plan and Architectural Review application (File #707062) to expand the existing driveway for this property. The project included a circular turnaround area, a series of retaining walls, landscape improvements, paths and an open-air garden pavilion. At that time, the uphill neighbors at 182 Stewart Drive objected to the size of the turnaround because the additional area could increase the amount of driveway exterior lighting that could be visible from their home. Staff approved the application on June 11, 2007 with a condition of approval requiring submittal of a detailed lighting plan and installation of downlight fixtures. A building permit was subsequently issued for this project.

During an inspection of the site, the Building Division determined that the forms for the retaining walls adjacent to south and eastern sides of the driveway turnaround would result in walls longer and taller than shown on the approved plans. A review of as-built plans for these walls revealed that the walls would exceed 6 feet in height for a long section. A stop work order has been issued for the project and the applicants have submitted the subject application to attempt to legalize the as-built retaining wall configuration.

The applicant submitted an application (File #20915) to legalize the as-built walls with a variance for excess wall height. At that time, the applicant estimated that the wall had a maximum height of 10 feet. The Design Review Board reviewed the application at the August 6, 2009 meeting and found that the height and location of the wall was necessary to support a driveway turnaround area required by the Tiburon Fire Protection District. The Board voted unanimously (5-0) to approve the as-built wall and variance.

The applicants subsequently submitted plans to the Building Division for this wall. The Town Building Inspector visited the site and measured the maximum height of the as-built wall as 12 feet above the original grade on the site. Since the previously approved variance only allowed a wall height of 10 feet, the applicant was required to submit another variance application to request approval for the 12 foot height of the wall.

ANALYSIS

Design Issues

The appearance and location of the subject retaining wall is no different than that previously approved by the Design Review Board on August 6, 2009. The only difference is the actual height measurement from the top of the wall to the original grade below. The visual appearance of the wall will be identical to that previously reviewed by both the Board and the neighboring property owners.

As previously noted, the subject property is connected to Roseville Court by a narrow strip containing the driveway for this lot and the adjacent home at 12 Roseville Court. A circular turnaround area is situated beyond a driveway gate, with a driveway then leading to the garage and residence on the site. The Tiburon Fire Protection District has required a 60 foot diameter driveway turnaround on this property, primarily due to the length of the driveway leading to the house. The retaining wall is necessary to support a the required turnaround.

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 previously noted variance for excess wall height.

In order to grant the requested variance, 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 a very long leg providing access to Roseville Court. The length of the driveway is a special circumstance that necessitates the provision of the additional emergency vehicle turnaround area that must be located in areas that slope sharply away from the existing driveway. These physical characteristics are therefore special circumstances that would deprive the owners of this property of the driveway and circulation privileges enjoyed by other properties in the vicinity if the subject variance is 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.***

Other sloping properties in the RO-2 and similar zones have been granted variances for excess fence heights to allow proper fencing for deer protection, sound mitigation, privacy or to support required improvements on the site, such as the required emergency vehicle turnaround area.

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

As noted above, the Tiburon Fire Protection District has required that a 60 diameter emergency vehicle turnaround on the site. The location of the existing driveway and the slope of the adjacent area necessitate support walls that would be more than 6 feet above the existing grade. Therefore the strict application of the maximum wall height requirement would be result in a practical difficulty for 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 retaining walls do not extend into the views for any nearby residents.

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 this application. The applicant submitted plans as part of the previous application that were signed by the owners of 12 Roseville Court, supporting the project.

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, the Board should approve the project and apply the attached conditions of approval.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Design Review Board Staff Report dated August 6, 2009
4. Minutes of the August 6, 2009 Design Review Board meeting
5. Submitted plans

CONDITIONS OF APPROVAL

13 ROSEVILLE COURT

FILE #20918

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 August 24, 2009, or as amended by these conditions of approval. Any modifications to the plans of August 24, 2009 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 other than those approved by the Design Review Board must be down light type fixtures.
7. All requirements of the Town Engineer and the Tiburon Public Works Department 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
September 17, 2009
Agenda Item: **E2**

STAFF REPORT

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

From: **Assistant Planner Phillips**

Subject: **83 Claire Way; File #709093
Site Plan and Architectural Review to Legalize the
As-built Conversion of a Garage into Living Space**

Reviewed By: _____

PROJECT DATA

ADDRESS: 83 CLAIRE WAY
OWNER/APPLICANT: SOMSAK KAMLOONWASARAJ
ASSESSOR'S PARCEL: 034-114-15
FILE NUMBER: 709093
LOT SIZE: 7,503 SQUARE FEET
ZONING: R-1-BA (BEL AIRE SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN: MEDIUM-HIGH DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: AUGUST 25, 2009

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 conversion of the garage into living space and various exterior modifications at an existing single-family dwelling on property located at 83 Claire Way. The original one-car garage developed with this house has been converted into a bedroom, bathroom and laundry room. Two windows on the right side of the home and the garage door were eliminated during the conversion process.

The legalization of the garage conversion would add 248 square feet of floor area to the existing home, resulting in a total floor area of 1,295 square feet, which is 1,411 square feet less than the

maximum allowed floor area of 2,750 square feet. The lot coverage on the site would remain unchanged.

The proposed garage conversion does not meet the standards set forth within the Town's garage conversion policy. Therefore, in accordance with that policy, this application has been referred to the Design Review Board.

ANALYSIS

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1-BA zone with regard to setbacks, lot coverage, floor area and height limits. The proposed legalization of the as-built garage conversion would not be in conformance with the parking requirements for a single-family dwelling, as there is only one off-street parking space currently available.

Design Issues

The existing home is similar to most others in this portion of the Bel Aire Subdivision. Many of these homes were originally constructed with an attached one-car garage and approximately 1,000 square feet of living space. Over the years, numerous homeowners in this neighborhood have converted their garages into additional living space. Various converted garages are present along Claire Way and Karen Way, although most of the homes appear to still have the original garage space.

Because of the number of garage conversions which have occurred in Tiburon, the Town has established a policy regarding garage conversions. The policy states that when an application is submitted to convert an existing garage into living space, "it is the policy of the Town of Tiburon that a replacement garage or carport of equal or greater capacity be provided on the property." However, the policy states that a replacement garage or carport may not be required if the following criteria are met:

- 1. There is adequate space on the property to provide an improved but uncovered parking area of equal or greater capacity than that being converted, while meeting all setback requirements.***

The driveway which provides access to the existing garage is 32 feet in depth, and is 12 feet wide, leaving enough space to park one car in front of the garage. With the 20 foot front yard setback required in the R-1-BA zone, an 18 foot deep garage would extend approximately 6 feet into the required front yard.

- 2. There is adequate screening of that parking area provided as part of the proposal, either by a structure, trellis, existing and/or proposed landscaping, lattice or other means.***

One parking spot currently exists in the driveway and is partially screened by means of landscaping. The applicant has indicated a willingness to add additional

landscaping on the sides of the driveway, if so desired by the Design Review Board.

3. ***There is an adequate, screened storage area provided for items typically stored in a garage or carport (i.e. gardening equipment, bicycles, etc.).***

No additional storage area is included with this application. Currently, there are a number of small temporary storage units in the rear yard. The Board could require that the applicant install a screened storage shed or other storage container for additional storage and in order to comply with this requirement.

4. ***The proposal allows for the future construction of a replacement garage or carport in a credible location on the property without the need for a Variance (i.e. a future garage or carport would conform to all zoning requirements regarding setbacks, lot coverage, height limits, etc.). [The term "credible" is used to describe a location that is compatible with the layout of the site and provides safe, convenient, and legal vehicular access to the property.]***

As noted above, a future replacement garage would encroach 6 feet into the required front yard setback.

The subject application does not appear to generally comply with the Town's policy regarding garage conversions. However the Board has approved similar garage conversion requests, particularly in this neighborhood, in areas where numerous other garage conversions have occurred and abundant street parking is available. Staff does not foresee any other design issues with this project.

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 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 15301. If the Board finds the design to be acceptable and in conformance with the Town's Policy regarding garage and carport conversions, Staff recommends that the attached conditions of approval be applied.

ATTACHMENTS:

1. Conditions of approval
2. Application and supplemental material
3. Submitted plans

CONDITIONS OF APPROVAL

83 CLAIRE WAY

FILE #709093

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 August 18, 2009, or as amended by these conditions of approval. Any modifications to the plans of August 18, 2009, 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 requirements of the Director of Public Works/Town Engineer shall be met. An encroachment permit shall be filed and issued with the Town of Tiburon Public Works Department, for all work to be conducted within Town right-of-way, or Town-owned land, as defined in Chapter 19 of the Tiburon Municipal Code.
6. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
7. The project shall comply with the requirements of the California Fire Code and the Southern Marin Fire Protection District.
8. 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.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board
September 17, 2009
Agenda Item: **E3**

STAFF REPORT

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

From: **Assistant Planner Phillips**

Subject: **77 Round Hill Road; File #709098
Site Plan and Architectural Review to Modify
an Approved New Single-Family Dwelling,
with a Variance for Reduced Front Yard Setback**

Reviewed By: _____

PROJECT DATA

ADDRESS: 77 ROUND HILL ROAD
OWNER/APPLICANT: CARL WEISSENSEE
ASSESSOR'S PARCEL: 058-301-47
FILE NUMBER: 20921
LOT SIZE: 21,891 SQUARE FEET
ZONING: RO-2 (RESIDENTIAL OPEN)
GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: AUGUST 31, 2009

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

The applicant is requesting Design Review approval for modifications to the approved new two-story single-family home on property located at 77 Round Hill Road. The subject property is currently vacant. A new single family dwelling with a variance for reduced front yard setback was previously approved for this property in 2005 (file #20507).

The upper level of the approved home includes a master bedroom suite, three additional bedrooms and two more bathrooms. The lower level includes a living room, kitchen, dining room, family room, study, laundry room and 1½ bathrooms. The proposed modifications include

relocating the garage footprint, garage doors and driveway access. The approved building footprint would be shifted and expanded to allow for modified living space. Various windows and doors would be modified as well.

The proposed modifications to the approved new home would cover 314 square feet (1.4 %) resulting in a total lot coverage of 3,157 square feet (13.8%) of the site, which is less than the 15.0% maximum lot coverage permitted in the RO-2 zone. The 356 square feet proposed expansion and modification to the approved new home would result in a total floor area of 4,256 square feet, which is less than the maximum floor area permitted for a lot of this size.

The proposed relocated home would place additional floor area within 15 feet of the roadway easement at the front of the property, which is defined as the front property line for zoning purposes. As a 30 foot front yard setback is required in the RO-2 zone, a variance is requested for reduced front yard setback.

A color and materials board was submitted with the original application for the new home, and will be present at the Design Review Board meeting. The exterior color and materials remain unchanged with the current application. The home would be finished with light brown cedar shingle and light brown colored stucco siding, with green trim. Dark grey composition shingle roofing is proposed for the house.

BACKGROUND

During the 2004 review of an application (File # 704119) for construction of a new single-family dwelling on the property at 79 Round Hill Road, Charles Sofnas, the owner of 75 Round Hill Road, raised concerns over the potential view blockage that would be caused by the location of the proposed house. The applicant gave a more detailed history of the subdivision of which this lot is a part, and stated that the views across this property from Mr. Sofnas' home were recent in nature.

A lot line adjustment involving the subject property and three other lots (79, 81 & 83 Round Hill Road) was approved by the Community Development Director in 2002. State law does not allow conditions of approval to be attached to lot line adjustments. However, Staff realized that the potential for view conflicts might arise during the development of these lots. As a result, the following language was included in the approved lot line adjustment:

“These lots are the final vacant lots in the vicinity and are surrounded by other homes. As such, any homes constructed on these lots have the potential to create view and privacy impacts in greater proportion than would normally be the case. While the property owner will not voluntarily agree to certain other conditions that have been suggested by affected neighbors and Town Staff, and the Town lacks the legal authority to impose such conditions on a lot line adjustment, please be advised that the Town Staff will be closely scrutinizing future Site Plan and Architectural Review applications for the following elements:

“Any applications filed for Site Plan and Architectural Review approval for residences at 79 Round Hill Road and 81 Round Hill Road will be expected to reasonably minimize view blockage from existing residences at 85 Round Hill Road and 75 Round Hill Road.”

The Design Review Board reviewed this language and determined that all views need not be protected to “reasonably minimize” view blockage. The Board determined that the view across the property at 79 Round Hill Road from the Mr. Sofnas’ house was a “borrowed” view; in other words, this was a view across a vacant lot, with the expectation that this view would be compromised by the eventual development of the property.

The Design Review Board also considered the potential view impacts from the existing residence at 85 Round Hill Road. The owner of this adjacent property indicated to the Board that the current configuration of the lots at 77 and 79 Round Hill Road were created at the request of Mr. Sofnas, and resulted in the subject property being wider at the bottom and the lot at 77 Round Hill Road being wider at the top. The Board determined that the requested house location for the subject property was the most appropriate to “reasonably minimize” the view impacts for the residence at 85 Round Hill Road.

The applicant submitted information that Mr. Sofnas came onto the then-undeveloped property at 79 Round Hill Road without permission and trimmed branches of several trees that substantially improved the views through this area from his home. Mr. Sofnas claimed that this work was required for fire protection purposes, but no evidence has been found that the Tiburon Fire Protection District gave any such direction to Mr. Sofnas, nor authorized any trespass or destruction of property in the name of fire safety. The Board considered this information in its evaluation of the current views across the subject property compared to those lesser views that had historically been enjoyed by Mr. Sofnas.

The Design Review Board considered the history and future development potential of the surrounding lots and the nature of the Mr. Sofnas’ views across the site, and determined that the design of the proposed house did “reasonably minimize” the view blockage from the appellants’ house. Mr. Sofnas subsequently appealed the Board’s decision to the Town Council.

On March 2, 2005, the Town Council adopted Resolution No. 10-2005 (Exhibit 12) partially granting the appeal. The Council determined that “views that are the result of unlawful action are not subject to the same protections given by the Tiburon Hillside Design Guidelines and the Guidelines for Site Plan and Architectural Review as views that have been lawfully obtained.” Nevertheless, the Council agreed that “the trimming and/or removal of several trees under the control of the applicants would help improve the long-term views across [79 Round Hill Road] from [Mr. Sofnas’] home at 75 Round Hill Road” and added a condition of approval that states:

“The applicants shall trim and/or remove trees to create a window view for the property at 75 Round Hill Road in conformance with the View Enhancement Report prepared by Moritz Arboricultural Consulting, dated March 2, 2005. The amount of tree trimming and/or removal shall be determined by Planning Division Staff after consultation with an arborist hired by the applicants. The required tree trimming and/or removal shall be completed within thirty (30) days of the issuance of a building permit for this project.”

The tree trimming has since been performed in accordance with this condition of approval.

In 2005, the applicant submitted an application (File #20507) for construction of a new single-family dwelling on the vacant lot at 77 Round Hill Road, directly adjacent to Mr. Sofnas’ home at

75 Round Hill Road. During that review, Mr. Sofnas raised concerns that the proposed house would create unwanted view and privacy impacts on the adjacent home. The owner of the adjacent property at 85 Round Hill Road indicated that moving the proposed house up the hill could result in undesirable view and visual impacts on that nearby home as well, and also noted that the revised design protected an existing oak tree that helps screen the house from the roadway. The house design was modified several times to move the building further uphill out of Mr. Sofnas' view, ultimately pulling the lower portion of the house above the line of sight bounded by the lower portion of the house at 79 Round Hill Road.

On September 1, 2005, the Design Review Board determined that Mr. Sofnas' expectations for additional views across the subject property were unreasonable and an attempt to maintain "borrowed" views across a vacant lot to which he was not entitled. The Board then voted unanimously (4-0) to approve the project. Mr. Sofnas subsequently appealed this decision to the Town Council.

The Town Council determined that the Design Review Board had appropriately found that the proposed house design would be consistent with the Tiburon Hillside Design Guidelines and the Guidelines for Site Plan and Architectural Review. The Council agreed that Mr. Sofnas was not entitled to "borrowed" views across the vacant lot, and that the proposed house would not substantially impact views that the Town had previously protected for Mr. Sofnas in the review of the house at 79 Round Hill Road. On November 16, 2005 the Council adopted Resolution No. 58-2005 (Exhibit 13) denying the appeal.

ANALYSIS

Design Issues

The subject property is located along a private roadway off of Round Hill Road that also serves the existing homes at 75, 79, 81, 83, 85 & 95 Round Hill Road. A single-family home on the westernmost of these lots (81 Round Hill Road) and another home on the lot immediately west of the subject property (79 Round Hill Road) were approved in 2004 and are currently under construction.

The proposed modifications to the approved new home appear to decrease potential privacy and visual impacts on the surrounding neighbors. The house would be generally shifted slightly downhill on the site. With the repositioned and splitting up of the garage doors, the off-street parking area closest to the neighboring property at 75 Round Hill Road would be replaced by landscaping. The revised design would replace a driveway turnaround close to the side property line with a driveway that would eliminate any headlight intrusion into the neighboring home.

Many of the previously approved windows and a sliding glass door facing this neighbor would be eliminated with this application. The overall mass and bulk of the approved home would not substantially change from the perspective of this neighboring property. The proposed relocation of the building footprint would decrease the proximity of the new home to the private roadway easement and decrease the overall crowding of the roadway by the new home. Although a variance to encroach into the front yard setback is required, the overall distance of the encroachment into the front yard setback would be decreased by the building footprint

reconfiguration, from the 1 foot 3 inch setback approved in 2005 to the 15 feet requested by this application.

The adjacent home to the east at 75 Round Hill Road currently has some views toward the Belvedere Lagoon and Richardson Bay across the site, most of which would be limited by the location of the approved house at 79 Round Hill Road. The applicant has indicated that the lower edge of the proposed home relocation is intended to not intrude into the view corridor that was established for the adjacent home at 75 Round Hill Road by the Town Council in 2005 by the location of the approved house at 79 Round Hill Road.

The Design Review Board is encouraged to visit the home at 75 Round Hill Road to view the story poles and evaluate the visibility of the mass and bulk of the proposed house from that location. The Board is also encouraged to view the story poles from the home above the site at 85 Round Hill Road.

Zoning

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 subject property slopes sharply down from the shared driveway access. The lower portions of the site also represent a view corridor for the adjacent residence at 75 Round Hill Road that would be impacted if a house was sited on the subject property in conformance with the required front yard setback. 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 variance is 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 vicinity and in the RO-2 zone in Tiburon have received variances for reduced front yard setbacks, particularly on lots with steep frontages similar to that on the subject property.

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

The strict application of the required front yard setback would unnecessarily push the house down the hill on the site, resulting in additional grading and potential

view impacts on the residence at 75 Round Hill Road. Such design concerns would create practical difficulties for the development of this lot.

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 location of the house within the required front yard setback would avoid any detrimental view impacts on the adjacent home at 75 Round Hill Road.

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 this project.

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 can make the necessary findings and wishes to approve the application, it is recommended that the attached conditions of approval be applied.

ATTACHMENTS:

1. Conditions of approval
2. Application and supplemental material
3. Minutes of the September 16, 2004 Design Review Board meeting
4. Minutes of the October 7, 2004 Design Review Board meeting
5. Minutes of the May 19, 2005 Design Review Board meeting
6. Minutes of the August 4, 2005 Design Review Board meeting
7. Minutes of the September 1, 2005 Design Review Board meeting
8. Minutes of the November 3, 2004 Town Council meeting
9. Minutes of the November 17, 2004 Town Council meeting
10. Minutes of the March 2, 2005 Town Council meeting
11. Minutes of the November 2, 2005 Town Council meeting
12. Town Council Resolution No. 10-2005
13. Town Council Resolution No. 58-2005
14. Submitted plans

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

CONDITIONS OF APPROVAL

77 ROUND HILL ROAD

FILE #20921

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. Construction shall conform with the application and plans dated by the Town of Tiburon on August 20, 2009, or as amended by these conditions of approval and plans of August 20, 2009. Any modifications to the plans must receive Design Review approval.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not "deemed approved" if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. Guardrails approved as part of this application shall contain no horizontal elements other than the top and bottom rails.
6. All skylights shall be bronzed or tinted in a non-reflective manner (minimum 25%) 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. 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.
9. 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.

10. The project shall comply with the requirements of the California Fire Code and the Tiburon Fire Protection District.
11. All requirements of the Director of Public Works/Town Engineer shall be met. An encroachment permit shall be filed and issued with the Town of Tiburon Public Works Department, for all work to be conducted within Town right-of-way, or Town-owned land, as defined in Chapter 19 of the Tiburon Municipal Code.
12. 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.
13. 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.
14. 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.
10. 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.

11. 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.

12. 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.

13. A tree protection plan shall be filed with the Planning Division prior to issuance of a building permit for this project. The plan shall indicate any trees that are to be removed on the site, and include detailed measures to protect remaining trees on the site during and after construction.

14. The project shall comply with the landscape plan approved with the new single family dwelling (file #20507). A landscape plan shall be submitted with the building permit, to be reviewed by Planning Staff.