



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
February 5, 2009
Agenda Item: **D1**

STAFF REPORT

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

From: **Community Development Department**

Subject: **NOTICE OF WITHDRAWAL**
1 MAIN STREET; FILE NO. 50804
Sign Permit for Installation of an "A" Frame Sign for Caffe Acre in
Downtown Tiburon

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
- The applicant has requested a continuance to:
- Other: **The item has been withdrawn.**

Prepared By: **Laurie Tyler, Associate Planner**



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
February 5, 2009
Agenda Item: **D2**

STAFF REPORT

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

From: **Community Development Department**

Subject: **NOTICE OF WITHDRAWL**
9 MAIN STREET; FILE NO. 50803
Sign Permit for Installation of an "A" Frame Sign for Servino
Ristorante in Downtown Tiburon

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
- The applicant has requested a continuance to:
- Other: **The item has been withdrawn.**

Prepared By: **Laurie Tyler, Associate Planner**



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
February 5, 2009
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 a Variances for Reduced Front
Yard Setback (Continued from December 18, 2008)**

BACKGROUND

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. Variances for reduced front yard setback and excess lot coverage were requested, along with a floor area exception.

The application was first reviewed at the December 18, 2008 Design Review Board meeting. At that meeting, the applicant agreed to shorten the depth of the proposed family room deck at the request of the adjacent property owners at 1 Rolling Hills Road. The Design Review Board had concerns with the overall size of the project, particularly the combination of a request for a lot coverage variance and a floor area exception. The Board could not make the findings necessary to approve the requested variances and objected to the increased size of the house, noting that the previously approved plans already exceeded the maximum lot coverage and floor area ratio for a property of this size. The application was continued to allow the applicant time to address these concerns.

The applicant has now submitted revised plans for the proposed project. The dining room addition has been reduced in size and the lower level addition has been modified to qualify as basement area that does not count toward the floor area ratio for this property. The upper level decks have been reduced in size. As a result, the subject application no longer requests additional floor area or lot coverage beyond that previously approved for this property, and a variance for excess lot coverage and a floor area exception are not required for this application.

Portions of the proposed upper level deck extensions still extend to within 20 feet, 9 inches of the designated front property line, which is less than the 30 foot front yard setback required in the RO-2 zone. As a result, a variance is still requested for reduced front yard setback. The applicant has obtained a permit for the previously approved main level deck off the living room, and that deck is no longer considered to be part of this application.

ANALYSIS

Design Issues

As previously noted, 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 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 family room deck has been reduced in depth to comply with the request of the adjacent property owners at 1 Rolling Hills Road. The proposed lower level floor area would be buried below the existing house and would be only minimally visible from off-site.

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 variance for reduced front yard setback.

Variance

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 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 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 RO-2 and similar zones have been granted variances for reduced setbacks.

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

The existing house is situated an appropriate distance from the roadway for Rolling Hills Road. However, the house is situated closer to the roadway easement along the front of the site. This creates a shallow front yard that leaves very little area in which to construct decks facing the primary view from the house that would normally be associated with a house in such a location. The strict application of the front yard setback requirement would prevent the applicant from constructing improvements typical of homes in this area and would therefore result in an unnecessary hardship.

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.

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 since the previous meeting.

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 attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Supplemental application material
3. Design Review Board Staff report dated December 18, 2008
4. Minutes of the December 18, 2008 Design Review Board meeting
5. 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 January 27, 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 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
February 5, 2009
Agenda Item: **E4**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

**Subject: NOTICE OF CONTINUANCE
22 Mercury Avenue; File #708189
Site Plan and Architectural Review for the Construction of A New
Single-Family Dwelling**

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
- The applicant has requested a continuance to: **March 5, 2009**
- Other:



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
February 5, 2009
Agenda Item: **F5**

STAFF REPORT

To: Members of the Design Review Board

From: Associate Planner Tyler

Subject: 42 Reed Ranch Road; File No. 20816; Site Plan and Architectural Review for Construction of Additions to an Existing Single-Family Dwelling With Variances for Reduced Front and Side Yard Setbacks, Excess Lot Coverage, Excess Wall and Fence Height, and a Floor Area Exception

Reviewed By: _____

PROJECT DATA

OWNER: FRANK & LISA TRUSHEIM
APPLICANT/ARCHITECT: STADELMAN BUILDING DESIGN
ADDRESS: 42 REED RANCH ROAD
ASSESSOR'S PARCEL NUMBER: 034-303-04
FILE NUMBER: 20816
LOT SIZE: 11,618 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)
GENERAL PLAN: M (MEDIUM DENSITY RESIDENTIAL)
FLOOD ZONE: C
DATE COMPLETE: JANUARY 16, 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 has submitted a request for construction of additions to an existing single-family dwelling, with variances for reduced front and side yard setbacks, excess lot coverage, excess fence and wall height, and a floor area exception. Currently the property is improved with a single-family dwelling.

The existing structure contains two stories, and includes a living room, dining room, family room, kitchen, and two-car garage on the main level. An existing deck extends off the living, family and dining rooms. The lower level includes the master bedroom suite, two bedrooms, one

bathroom and a laundry area. An existing deck extends off the master bedroom suite and two bedrooms and includes a spa.

The proposal incorporates a new two-story addition to the right side of the home, which would include a guest bedroom and bathroom on the main level and a third bedroom with bathroom on the upper level. New decks would extend off both of these rooms, and would be integrated into the existing decks on both levels of the home.

A new swimming pool and spa are also proposed, as well as new fencing and walls and overall landscape improvements to the front and right side of the property. The swimming pool is proposed to be located five feet, four inches (5'4") from the front property line. As the minimum front yard setback in the RO-2 zone is thirty feet (30'), a variance for reduced front yard setback has been requested. The spa is proposed to be located below the swimming pool, three feet, eight inches (3'8") from the right side yard property line. As the minimum side yard setback in the RO-2 zone is fifteen feet (15'), a variance for reduced side yard setback has also been requested.

Several of the proposed fences and walls exceed the maximum wall height of six feet (6') within the required setbacks. One fence and wall combination in particular, adjacent to the proposed spa, is proposed at a height of eleven feet (11'); therefore, a variance for excess wall and fence height has also been requested.

The existing structure currently exceeds the maximum lot coverage. The proposal would additionally increase the lot coverage by 413 square feet, for a total lot coverage of 2,379 square feet (20.5%), which additionally exceeds the maximum permitted lot coverage in the RO-2 zoning district (15.0%). A variance for excess lot coverage has been requested.

The proposed two-story addition to the home would result a gross floor area of 3,290 square feet, which exceeds the maximum permitted floor area for a parcel of this size (3,162 sq. ft.). A floor area exception has also been requested.

The existing dwelling is also proposed to undergo an extensive interior remodel, as well as replacement of a majority of the existing windows. The applicant has provided a color/materials board which indicates some new materials to be utilized as part of the overall remodel and addition, and some to match the existing colors and materials of the home. The color/materials board will be available for review by the Board at the meeting.

ANALYSIS

Design Issues

The existing home is designed to take advantage of a viewshed similar to the viewsheds of the other homes surrounding the subject site. These viewsheds include portions of Richardson Bay, Belvedere, downtown San Francisco and Sausalito. The subject site is steeply sloped from north to south, which results in a fairly difficult site to build upon. Most of the surrounding properties have similar topographical constraints.

The proposed addition would not appear to affect privacy or major viewsheds of any of the surrounding neighbors. However, the neighbor across the street and uphill from the subject site at

41 Reed Ranch Road has expressed several concerns with the proposal. The first concern is with the proposed color of the proposed dark brown composition shingle roofing material, which the neighbor feels should better match the light gray composition shingle roofing material of the immediately adjacent homes. The second concern regards potential visibility of the existing house and proposed addition that would be caused by the removal of a mature tree at the front of the property, in order to install the proposed swimming pool, and the possibility of planting mature replacement trees adjacent to the property to aid in screening the existing home and proposed addition. The third concern deals with the proposed two-story addition and its impact on a slot view of Blackie's Pasture. Currently the house at 41 Reed Ranch Road has a panoramic view from Angel Island to Sausalito, which includes the Bay Bridge, Belvedere, downtown San Francisco, and Richardson Bay. The proposed addition would block a slot view of Blackie's Pasture between the existing home and 40 Reed Ranch Road.

The proposal indicates several new fences and walls that exceed the maximum fence/wall heights of six feet (6'). While some of the excess fence and wall heights proposed may be necessary for engineering reasons, others do not seem to warrant a need for an over height fence. An example would be the eight foot (8') high fencing located at the proposed entry trellis adjacent to the driveway, leading down towards the home within the front yard setback. The fencing and walls adjacent to the proposed swimming pool and spa are individually not higher than six feet (6'), but proposed with less than three feet (3') between each, result in over height fence/wall combinations of nine (9') to eleven (11') feet. This creates an extremely massive wood and concrete wall that would most affect the neighbor to the west at 40 Reed Ranch Road. Vegetation is proposed adjacent to this overheight wall, but it is unclear whether or not it would adequately screen the wall over time. If the swimming pool or perhaps only the spa were proposed in another location on the property, and not in such close proximity to the property line, there may not be a need for the overheight fence/wall combination. It should be noted that the home currently has a spa, but it would have to be removed in order to construct the two-story addition to the dwelling.

In addition, extension of the existing decks and proposed decking may have a looming affect on the neighbors below the subject site along Upper North Terrace. However, most of the homes in the vicinity of the subject site are similarly constructed with decks which extend far beyond the limits of the structure in order to take advantage of the viewsheds to the south. Staff is not aware of any complaints from neighboring residences below the subject site of the pending proposal.

Staff recommends that the Board visit the site and surrounding properties in order to determine the extent of this proposal, specifically for the potential for a minor view blockage and the over height fence/wall combinations on the west side (right) of the property.

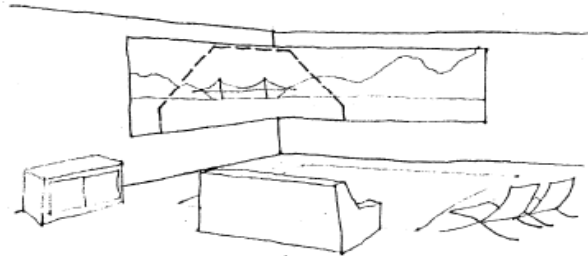
Tiburon Hillside Design Guidelines

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

- *Goal 3, Principle 7 (a) states that view protection is more important for the primary living areas of a dwelling, than for less actively used areas of a dwelling.*

NO

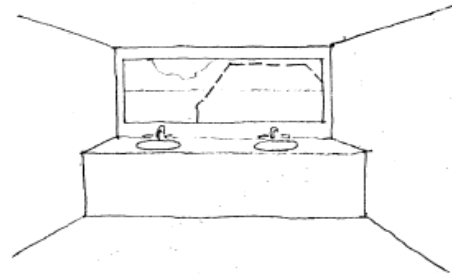
• PROPOSED STRUCTURE
BLOCKS LIVING ROOM VIEW -



• GREAT IMPACT ON
LIVABILITY

YES

• PROPOSED STRUCTURE
BLOCKS BATHROOM VIEW



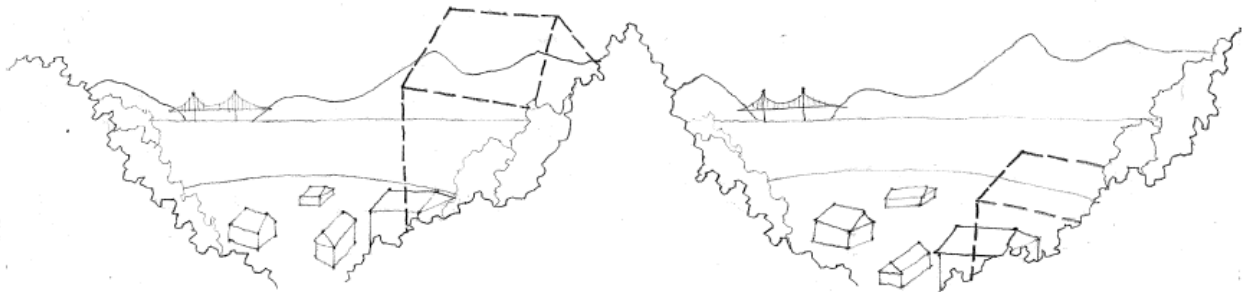
• LITTLE IMPACT ON
LIVABILITY

The proposed addition would block a slot view of Blackie's Pasture when viewed from the living room of 41 Reed Ranch Road.

- *Goal 3, Principle 7 (b) states that the horizon line is the most sensitive part of a view; then foreground, then middle ground. If possible, avoid cutting the horizon line of a neighbor's view.*

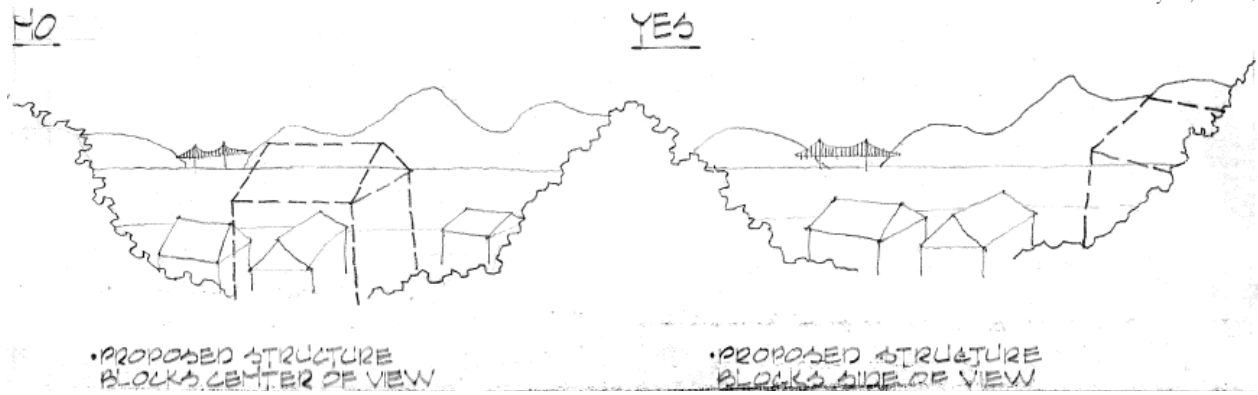
NO

YES



The addition would not affect the horizon line of the viewshed for 41 Reed Ranch Road, but would only minimally affect the foreground of the viewshed.

- *Goal 3, Principle 7 (c) states that blockage of the center of a view is more damaging than blockage of a side view.*



The proposed addition would not block the center of the viewshed for 41 Reed Ranch Road, but would block a side view in the foreground of the viewshed.

- Goal 3, Principle 7 (d) states that blockage of important objects in the view is more difficult to accept than blockage of other, less well-known landmarks.



A slot view of Blackie's Pasture would be impacted for the neighbor at 41 Reed Ranch Road, but views of other important objects would be unaffected.

- Goal 3, Principle 7 (e) states that a wide panoramic view can accept more view blockage than the smaller slot view.



41 Reed Ranch Road has a panoramic view spanning from Angel Island to Sausalito, which includes the Bay Bridge, Belvedere, downtown San Francisco and Richardson Bay. The proposed addition would be a minor side slot view blockage of Blackie's Pasture in the foreground of the viewshed.

Zoning

In order to grant the requested variances, the Board must make all of the following findings required by Section 16-4.3 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.**

Front Yard Setback: The subject site is steeply sloped from the front of the property down to the rear of the property. A majority of the homes on Reed Ranch Road and in the immediate vicinity have similar topographical constraints, which result in difficult parcels to build upon. Most of the homes are located partially within their front yard setbacks, in order to take advantage of relatively level areas of their properties. This is special circumstance applicable to the property.

Side Yard Setback: As with the front yard setback, many homes in the vicinity are also located within the side yard setback, due to steep topographical constraints of the property.

Excess Wall and Fence Height: It is not uncommon for an over height fence or wall to be needed for soil stability reasons on parcels which are steeply sloped downward from the front of the property; however, in this instance, the need for an overheight fence and wall is a situation created by the applicant in order to retain the soil for a proposed swimming pool/spa.

Excess Lot Coverage: The subject site can be considered a substandard sized parcel, as the minimum lot size in the RO-2 zone is 20,000 square feet. The subject site is only 11,618 square feet. This is a special circumstance applicable to the property.

- 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.**

Front Yard Setback: It is quite common for properties within the Reed Heights subdivision to have minimal front yard setbacks in order for structures to utilize the area of the property closest to the street which are more relatively level than the lower portions of the property. However, this variance request is for the encroachment of a swimming pool, not an addition to the home.

Side Yard Setback: Again as with the front yard setback, many properties specifically within the Reed Heights subdivision have encroachments into side yard setbacks, but for purposes of structures, not landscaping features.

Excess Wall and Fence Height: Overheight walls and fences have often been approved for other properties with similarly steep topography to provide appropriate screening or deer protection. However, such overheight walls and fences have not often been approved to support swimming pool or spa locations.

Excess Lot Coverage: Many properties within the vicinity of Reed Ranch Road exceed their lot coverage maximums due to substandard lot sizes.

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

Front Yard Setback: The existing structure is currently partially located within the front yard setback. The addition of a swimming pool would further reduce the front yard setback. Requiring the applicant to relocate the pool below the dwelling could result in extremely expensive engineered walls to support the pool, which can be considered an unnecessary hardship. However, the applicant has chosen to propose the swimming pool within the front yard setback.

Side Yard Setback: Similar to the swimming pool, the applicant has proposed to locate the spa within the side yard setback, when there are other areas on the property that could be utilized for its placement without the need to encroach into a setback.

Excess Wall and Fence Height: There is no practical difficulty or unnecessary hardship for the excess wall and fence height, because there is no reason why the swimming pool and spa have to be located on the property as proposed. There are other areas below the existing structure that could accommodate the pool and spa.

Excess Lot Coverage: Elimination of the additional lot coverage created by the extended decks and a room addition that exceeds the floor area ratio for the house would not result in 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.

Front Yard Setback: Granting the front yard setback variance could be injurious to the property at 41 Reed Ranch Road, as installation of the swimming pool would result in a loss of vegetative screening of the home, and the proposed addition would block a minor slot view of Blackie's Pasture.

Side Yard Setback: Granting the side yard setback variance for placement of a spa could result in privacy impacts on the residence to the west at 40 Reed Ranch Road.

Excess Wall and Fence Height: As with the side yard setback variance, granting a variance for excess wall and fence height could result in unattractive visual mass for the neighbors at 40 Reed Ranch Road.

Excess Lot Coverage: The excess lot coverage caused by the addition to the home could be injurious to the neighbor at 41 Reed Ranch Road as the addition would block a minor slot view of Blackie's Pasture.

There is insufficient evidence to support the findings for any of the variances requested. If the applicant relocated the proposed swimming pool and spa to the rear of the property where pools and spas are generally located, there wouldn't be a need for a front or side yard setback variance, or a need for an excess wall and fence height variance. As for lot coverage, even if the house already exceeds the lot coverage maximum, there is still no practical difficulty or unnecessary hardship to allow the applicant to additionally exceed the lot coverage.

Floor Area Exception

In order to grant the requested floor area exception, the Design Review Board must make the following findings as required by Section 16-4.2.8 of the Tiburon Zoning Ordinance:

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.

Most of the homes in the immediate vicinity of the subject site and within the Reed Heights subdivision are constructed in a similar fashion as the existing dwelling and proposed addition. This is largely due to the steep topography of the site. The two-story addition to the home as proposed would be adequately integrated into the larger dwelling, and would not appear overly massive from the street. In addition, the rear of the home with the incorporation of the proposed addition would also be similar to many of the homes along Reed Ranch Road which have downward sloping parcels from the street. The colors and materials chosen for the remodel and addition would be mostly similar to what currently exists, with only a few changes. Overall, the visual size and scale of the home would be compatible with the predominant pattern established by the existing structures within the surrounding neighborhood.

2. The applicant has demonstrated that the proposed structure is compatible with the physical characteristics 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.

The proposed addition would be adequately integrated into the existing dwelling and the overall dwelling would remain in the same location on the site, with the additional living area added to the right side of the home. The site is steeply sloped from north to south, resulting in a difficult site to build upon; however, the proposed addition would cut into the hillside in a similar fashion as the existing structure. With the amount of vegetation existing and proposed on the site, the physical characteristics of the site would not noticeably change.

From the evidence provided, Staff believes there is sufficient evidence to support the findings for the requested floor area exception.

Public Comment

As of the date of this report, one letter has been received from the neighbor at 41 Reed Ranch Road regarding the subject application.

CONCLUSION

The general design of the addition and the decks do not cause substantial view or privacy impacts on neighboring homes. The location of the pool and spa within the required front and side yard setbacks would result in wall improvements that are excessively tall and could create unwanted visual mass when viewed from the home at 40 Reed Ranch Road. Staff is unable to make the findings necessary to approve the requested variances, particularly the findings for practical difficulty or unnecessary hardship.

RECOMMENDATION

Staff recommends that the Design Review Board:

1. Review the project with respect to Zoning Ordinance Section 16-4.2.7 (Guiding Principles), Section 16-4.3 (Variances), Section 16-4.2.8 (Floor Area Ratio Guidelines) and the Hillside Design Guidelines; and
2. Determine that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301; and
3. Continue the project, with direction given to the applicant to modify the proposal in order to eliminate the need for the front and side yard setback variances and the excess wall and fence height variance. If the Board wishes to approve the project, then findings for all of the variances should be articulated, and Staff would recommend that the attached conditions of approval be applied.

Exhibits:

1. Conditions of Approval
2. Application and Supplemental Materials
3. Letter dated January 28, 2009 from Farideh Petri
3. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

EXHIBIT 1

CONDITIONS OF APPROVAL
42 REED RANCH ROAD
FILE NO. 20816

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 December 16, 2008 and January 15, 2009, or as amended by these conditions of approval. 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. 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.
11. The project shall comply with the applicable green building standard for compliance as set forth by resolution of the Town Council. Failure to explicitly impose the condition on an approval shall not release a project from otherwise meeting applicable requirements of section 16-8 et seq. of this article.