



## STAFF REPORT

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

**From:** Associate Planner Tyler

**Subject:** 2351 Spanish Trail; File No. 21006; Site Plan and Architectural Review for Construction of a Deck Extension with a Variance for Reduced Side Yard Setback  
*Continued from May 20, 2010*

**Reviewed By:** \_\_\_\_\_

## BACKGROUND

On May 20, 2010 the Design Review Board reviewed a proposal to extend an existing upper level deck into the right side yard setback a distance of 4' 5 1/16", which would result in a reduced side yard setback of 10' 6". Decks are permitted to encroach into a side yard setback no more than three feet (3'). The applicant requested to extend the deck further than the three foot permitted encroachment, resulting in a variance request for the reduced side yard setback.

During the meeting, the Board agreed with Staff that the proposed deck expansion would not affect any of the adjacent neighbors, in terms of privacy or views. However, the Board struggled to make the practical difficulty or unnecessary hardship finding for the requested side yard setback variance.

After much deliberation, the Board continued the project, and suggested that the applicant provide written evidence for the practical difficulty or unnecessary hardship finding. The Board also suggested providing a letter from a structural engineer indicating that the engineering or cost of construction may be a significant factor in pulling the deck extension back to the permitted three foot encroachment.

## 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.

## PROJECT DESCRIPTION

The applicant has submitted revised plans, which indicate compliance with the three foot (3') permitted encroachment into the side yard setback. The applicant is therefore no longer requesting a side yard setback variance. Currently the property is improved with a single-family

dwelling. The existing deck provides outdoor living space for the dwelling, as the subject site is steeply sloped with minimal useable yard area.

The proposed expansion of the deck would not result in increased floor area, as decks are not counted towards the gross floor area of a parcel. The current dwelling has a gross floor area of 2,599 square feet, which is below the maximum permitted floor area for a parcel of this size (3,129 sq. ft.).

The proposed deck expansion would result in a lot coverage of 2,021.8 square feet (17.9%) which exceeds the maximum lot coverage in the RO-2 zoning district (15.0%). The square footage of a deck higher than three feet (3') above grade is counted half towards lot coverage. The existing lot coverage of the structure and decks combined is 1,959 square feet (17.4%). The proposed deck expansion would increase the lot coverage by 62.8 square feet. As the existing structure currently exceeds the maximum lot coverage in the RO-2 zone, and the request to expand the deck is a less than 1% increase, a variance is not required for excess lot coverage.

## **ANALYSIS**

### Design Issues

The extension of a structure, such as a deck, is permitted to encroach into a side yard setback no more than three feet (3'). As the applicant has reduced the side yard setback encroachment to the maximum permitted, the side yard setback variance is not longer requested.

Due to the subject dwelling's location at the far end of Spanish Trail, combined with the steep terrain and mature vegetation, the proposed deck extension would not appear to affect any of the adjacent neighbor's viewsheds or privacy.

Staff does not foresee any other design issues with the proposal.

### Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the RO-2 zone.

### Public Comment

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

## **RECOMMENDATION**

Staff recommends that the Design Review Board:

1. Review the project with respect to Zoning Ordinance Section 16-52.020 (H) (Guiding Principles); and
2. Determine that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301; and
3. Approve the project, subject to the attached draft conditions of approval.

- Exhibits:
1. Conditions of Approval
  2. Application and Supplemental Materials
  3. Minutes of the May 20, 2010 Design Review Board Meeting
  4. Design Review Board Staff Report dated May 20, 2010
  5. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

Exhibit 1

CONDITIONS OF APPROVAL  
2351 SPANISH TRAIL  
FILE NO. 21006

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 March 22, 2010, or as amended by these conditions of approval and plans of June 9, 2010. 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 exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
7. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.
8. 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.

9. All requirements of the Tiburon Fire Protection District shall be met.



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Design Review Board Meeting  
June 17, 2010  
Agenda Item: **3**

## **STAFF REPORT**

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

**From:** Planning Manager Watrous

**Subject:** 347 Ridge Road; File #21010  
Site Plan and Architectural Review for the Construction of an Addition to an Existing Single-Family Dwelling with a Variance for Reduced Front Yard Setback

**Reviewed By:** \_\_\_\_\_

### **PROJECT DATA**

**ADDRESS:** 347 RIDGE ROAD  
**ASSESSOR'S PARCEL:** 059-041-01  
**FILE NUMBER:** 21010  
**PROPERTY OWNERS:** MEL AND RUTH RONICK  
**APPLICANT:** MILES BERGER (ARCHITECT)  
**LOT SIZE:** 22,003 SQUARE FEET  
**ZONING:** RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)  
**GENERAL PLAN:** MEDIUM DENSITY RESIDENTIAL  
**FLOOD ZONE:** X  
**DATE COMPLETE:** MAY 26, 2010

### **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 an addition to an existing single-family dwelling on property located at 347 Ridge Road. An existing bedroom within the house would be expanded by 26 square feet. A fence extension and new pedestrian gate would be situated adjacent to the proposed addition.

The proposed addition would increase the calculated floor area of the property to 3,920 square feet, which is less than the floor area ratio for this site. The proposed addition would increase the previously approved lot coverage of the site by 26 square feet to a total of 3,920 square feet (17.8%), which would be greater than the 15.0% maximum lot coverage permitted in the RO-2

zone. However, as the property already exceeds the lot coverage requirement and the proposed project would increase the lot coverage by less than 1.0%, a variance is not required for excess lot coverage.

The proposed addition would extend to within 28 feet, 8 inches of the front property line. 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 has not been submitted, as the exterior of the proposed addition would match the colors and materials of the existing house on the site.

## ANALYSIS

### Design Issues

The house on the site is generally situated downhill from Ridge Road. The subject property is accessed by a shared driveway that also leads to the homes at 345 & 349 Ridge Road.

The location of the existing bedroom and the proposed addition face a rocky slope adjacent to the shared driveway. The addition would only be visible when viewed from a portion of the driveway and would not appear to be visible from any nearby residences. The addition therefore would not result in any view or privacy impacts for neighboring homes.

### 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 16-52.030 (E) 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 existing house on the site is situated at an angle from the roadway, causing a portion of the structure to protrude into the required setbacks for this lot. This physical layout creates special circumstances that would deprive the owners of this property of development privileges enjoyed by other properties in the vicinity.

- 2. The variance will not constitute a grant of special privileges, inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.***

Numerous other properties in the RO-2 or similar zones have received variances for reduced front yard setbacks. Therefore, the granting of this variance would be consistent with the limitations upon other properties in the vicinity and in the same or similar zones.

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

Although the proposed addition is very small and adds little utility to the existing bedroom, the applicant maintains that a revised project design that complies with the required front yard setback would leave an impractical, unfurnishable area for this room. The applicant has also indicated that the small size of the existing bedroom is insufficient for its intended use as a room for a live-in caregiver. As a result, the strict application of the front yard setback requirement would create a practical difficulty and 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 would not project into the views of or create privacy impacts for any neighboring residences.

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.

## **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (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. Application and supplemental materials
3. Submitted plans

## CONDITIONS OF APPROVAL

### 347 RIDGE ROAD

#### FILE #21010

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 May 25, 2010, or as amended by these conditions of approval. Any modifications to the plans of May 25, 2010 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. The project shall comply with the following requirements of the Tiburon Fire Protection District:
  - a. Approved smoke alarms shall be installed to provide protection to all sleeping areas (CFC 907.2.10).

- b. The vegetation on this parcel shall comply with the requirements of the Tiburon Fire Protection District and the recommendations of Fire Safe Marin. (CFC 304.1.2).
8. All requirements of the Marin Municipal Water District shall be met.
9. The applicants shall obtain any necessary sewer permits 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.
10. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:
  - a. A Public Works encroachment permit will be needed to control construction staging and parking.
  - b. The public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Design Review Board Meeting  
June 17, 2010  
Agenda Item: **2**

## **STAFF REPORT**

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

**From:** Planning Manager Watrous

**Subject:** 301 Karen Way; File #21008  
Site Plan and Architectural Review for the Construction of Additions to an Existing Single-Family Dwelling with a Variance for Excess Lot Coverage

**Reviewed By:** \_\_\_\_\_

### **PROJECT DATA**

**ADDRESS:** 301 KAREN WAY  
**ASSESSOR'S PARCEL:** 034-122-07  
**FILE NUMBER:** 21008  
**PROPERTY OWNERS:** VINCENT VALVERDE AND MARY TWIGGS  
**APPLICANT:** MALOTT ARCHITECTS  
**LOT SIZE:** 7,633 SQUARE FEET  
**ZONING:** R-1-BA (SINGLE-FAMILY RESIDENTIAL-BEL AIRE)  
**GENERAL PLAN:** MEDIUM HIGH DENSITY RESIDENTIAL  
**FLOOD ZONE:** X  
**DATE COMPLETE:** MAY 26, 2010

### **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 single-family dwelling on property located at 301 Karen Way. The project would extend two existing bedrooms and an office toward the front of the house. A new entry would be provided and a new wood trellis would be installed along the front of the building. A new clerestory roof extension would be added across the center of the house.

The proposed additions would increase the calculated floor area of the property by 320 square feet to 2,648 square feet, which is less than the floor area ratio for this site. The proposed addition would increase the previously approved lot coverage of the site by 325 square feet to a

total of 2,733 square feet (35.8%), which would be greater than the 30.0% maximum lot coverage permitted in the R-1-BA zone. Therefore a variance is requested for excess lot coverage.

A color and materials board has not been submitted, as the exterior of the proposed addition would match the colors and materials of the existing house on the site.

## **ANALYSIS**

### **Design Issues**

The subject property is situated on the north side of Karen Way. The rear of the site slopes up toward the old railroad right-of-way adjacent to Bel Aire School. A dense hedge along the front of the property screens much of the house from view from the street.

The Bel Aire neighborhood consists of predominantly single-story homes originally built in the 1950s. Although many of the homes in this subdivision have been updated, no full second story additions have been approved in many years. In the past ten years, several requests to construct two-story additions have been met with considerable resistance from residents who valued the single-story character of the neighborhood. As a result, most applications to expand homes in this neighborhood have either been strictly one-story designs or have included only small, attic-type upper level improvements. Many of the approved additions have received variances for excess lot coverage and/or reduced setbacks in order to accommodate a one-story house design that approaches the floor area ratio for the lot.

The addition to the front of the house would comply with the front yard setback. The hedge along the front of the site would screen this addition from view from the street.

The clerestory roof addition would project 2 feet, 8 inches above the ridgeline of the existing house. This marginal height increase would not create a dramatic change to the mass and bulk of the existing house. The clerestory windows are only intended to provide additional light for the house and their height would preclude any potential privacy impacts on adjacent homes. The raised railroad right-of-way behind the site would block views of the clerestory windows from any uphill neighbors.

### **Zoning**

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-1-BA zone, with the exception of the requested variance for excess lot coverage.

### Variance

In order to grant the requested variance, the Board must make all of the following findings required by Section 16-52.030 (E) 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 7,633 square foot size of the subject property is considerably smaller than the 10,000 square foot minimum lot size in the R-1-BA zone. The historical reluctance to approve second story additions in the Bel Aire neighborhood limits the development of two-story construction projects. These situations create special circumstances that would deprive the owners of this property of development privileges enjoyed by other properties in the vicinity.

2. ***The variance will not constitute a grant of special privileges, inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.***

Numerous other properties in the R-1-BA or similar zones have received variances for excess lot coverage when second story additions are inappropriate. Therefore, the granting of this variance would be consistent with the limitations upon other properties in the vicinity and in the same or similar zones.

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

The strict application of the maximum lot coverage requirement for this property would either require the construction of a second story addition that would be inconsistent with the character of the surrounding Bel Aire neighborhood or would limit the floor area for a house on this lot to a level substantially below the allowable floor area ratio for a lot of this size. These building limitations would result in a practical difficulty 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 additions would not project into the views of or create privacy impacts for any neighboring residences.

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 has submitted a petition signed by several neighboring property owners in support of the subject application.

## **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (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. Application and supplemental materials
3. Petition in support of application
4. Submitted plans

## CONDITIONS OF APPROVAL

### 301 KAREN WAY

#### FILE #21008

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 May 13, 2010, or as amended by these conditions of approval. Any modifications to the plans of May 13, 2010 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. The project shall comply with all requirements of the Southern Marin Fire Protection District
8. All requirements of the Marin Municipal Water District shall be met.
9. The applicants shall obtain any necessary sewer permits 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.

10. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:
  - a. A Public Works encroachment permit will be needed to control construction staging and parking.
  - b. The public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.