



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

Design Review Board Meeting  
February 2, 2012  
Agenda Item: **1**

## **STAFF REPORT**

**To:** Members of the Design Review Board  
**From:** Associate Planner Tyler  
**Subject:** 428 Greenwood Beach Road; File No. 21202; Site Plan and Architectural Review for Construction of an Addition to an Existing Single-Family Dwelling with a Variance for Reduced Side Yard Setback and a Floor Area Exception  
**Reviewed By:** \_\_\_\_\_

### **PROJECT DATA**

**ADDRESS:** 428 GREENWOOD BEACH ROAD  
**OWNER:** LOU GERKEN  
**APPLICANT:** MILES BERGER, ARCHITECT  
**ASSESSOR'S PARCEL:** 055-031-07  
**FILE NUMBER:** 21202  
**LOT SIZE:** 6,634 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL-OPEN)  
**GENERAL PLAN:** MH (MEDIUM-HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X/VE  
**DATE COMPLETE:** DECEMBER 20, 2011

### **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 is requesting to construct a minor addition to an existing single-family dwelling with a variance for reduced side yard setback and a floor area exception, located at 428 Greenwood Beach Road. Currently the property is improved with a three-story dwelling and a detached garage/office.

The lower level of the home includes a bedroom, bathroom, study and storage area. The main level includes the kitchen, dining and living rooms, breakfast nook, bathroom and entry foyer. The upper level includes the master bedroom suite and a small deck that extends off the bedroom

towards the south east. The proposal would incorporate a 160 square foot office/bedroom at the upper level of the home, adjacent to the master closet and bathroom.

The proposal would not increase the lot coverage for the property, as the addition would be located above the main level of the home. Therefore, the lot coverage would remain 2,338 square feet (35.2%) which exceeds the maximum permitted lot coverage in the R-1 zone (30%). The proposal would result in a gross floor area of 2,401 square feet, which exceeds the maximum permitted gross floor area for the property (2,322 sq. ft.). Therefore, the applicant has requested a floor area exception.

The existing dwelling is currently located within the required eight foot (8') left side yard setback, as are many of the dwelling units along Greenwood Beach Road. The proposal would maintain the existing reduced left side yard setback of five feet (5'), which requires a reduced side yard setback variance.

The proposed color and materials of the addition would match the existing dwelling.

## **ANALYSIS**

### Design Issues

The subject site is moderately level at the front of the site, and then steeply drops off into Richardson Bay as many of the surrounding properties along Greenwood Beach Road do. The existing structure is also very tall, as most of the existing houses in the vicinity were constructed in this fashion back in the 1940's and 1950's. When the Town incorporated in 1964, the R-1 zoning designation was placed over the Greenwood Beach Road neighborhood, which has resulted in a majority of the structures being located within setbacks and exceeding lot coverage. Many of the homes also exceed the maximum gross floor area ratios, which were established by the Town in 1991.

The existing structure is currently located approximately three feet (3') into the left side yard setback. A small bay window in the kitchen area at the main level projects approximately 1.5' further into the left side yard setback than the rest of the structure. The applicant is proposing to maintain the five foot (5') setback by locating the area of addition directly above the kitchen in order to utilize the existing wall for structural support.

While the proposed 160 square foot addition is relatively minor, the proposed window sizes and locations for the addition have been a source of concern for the adjacent neighbor located at 430 Greenwood Beach Road. After several discussions between the applicant and the neighbor, the applicant has modified the proposed windows which remedy the neighbor's concern. The east facing window is proposed as a 2'x2' "dormer" window and is located 5'6" above finished floor, so that the only view out of this window would be the roof of the adjacent neighbor's home and above. The window to the north, facing the front of the property, would be somewhat larger to meet egress requirements, but would only be 2'6" x 5'. A large redwood tree in front of the dwelling would provide screening/privacy between the two properties. The neighbor has submitted an email supporting these modifications to the windows, which has been included as Exhibit 3.

According to recent flood hazard maps, this property is a tidal lot and is therefore located within a flood hazard zone. Staff has reviewed the proposed project in relation to the Town's Flood Damage Prevention ordinance (Tiburon Municipal Code Chapter 13D), and has found that the project would not require any additional elevation above the base flood elevations, nor require special construction materials or methods. However, if the cost of this proposal equals or exceeds fifty percent of the market value of the structure before the start of construction, then this project would need to comply with the Town's Flood Damage Prevention ordinance.

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

### Zoning

Staff has reviewed the proposal and finds that it is in conformance with the remaining development standards for the R-1 zone, with the exception of the previously noted variance for reduced side yard setback and a floor area exception.

In order to grant the requested variances for reduced side yard setback, 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 substantially the same zone.**

The existing site is very narrow and slopes north to south toward Richardson Bay. The existing structure was constructed prior to the Town's incorporation in 1964, and therefore does not comply with the R-1 zoning standard for side yard setbacks. This results in a site that is much more compressed in terms of building area. The narrowness of the lot is a special circumstance applicable to the property.

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

Many of the properties along Greenwood Beach Road were built in the 1940's and 1950's, prior to the Town's incorporation in 1964. Therefore, these properties do not comply with the required side yard setbacks, as well as other R-1 zoning standards. This variance request would not constitute a grant of special privileges, as many of the other properties in the vicinity along Greenwood Beach Road are currently located within side yard setbacks and have in the past been granted reduced side yard setback variances in order to expand structures within the same or similar reduced side yard.

- 3. The strict application of this Ordinance would result in practical difficulty or unnecessary physical hardship. Self-created hardships may not be considered among the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that**

**consciously create the very difficulties or hardships claimed as the basis for an application for a variance.**

The strict application of this ordinance would result in a practical difficulty if the applicant were required to shift the area of addition out of the side yard setback (4-5'). The area of addition is proposed directly above the main level kitchen area, which has a pitched ceiling. The existing kitchen walls would provide support for the addition above. Shifting the addition to the west and out of the left side yard setback would require major structural enhancements to the existing dwelling, which would be costly and disrupt the current aesthetic charm of the pitched ceiling in the kitchen area.

**4. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity.**

While it would appear that the minor addition could result in privacy and/or lighting impacts on the adjacent neighbor to the east, located at 430 Greenwood Beach Road, the applicant has worked with this neighbor to come up with a window solution in order to avoid any potential privacy and lighting impacts.

There would appear to be sufficient evidence to support the findings for the variance requested for reduced side yard setback.

In order to grant the requested floor area exception, the Design Review Board must make the following findings as required by Section 16-52.020(I[4]) 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.**

The proposed minor addition would not significantly alter the visual size and scale of the existing dwelling, as the area of addition it is not visually prominent from Greenwood Beach Road due to the existing detached garage and office area at the front of the property in addition to mature trees and vegetation between the two structures. Many of the homes along Greenwood Beach Road are constructed in a narrow and tall fashion, similar to the subject dwelling. Therefore the subject dwelling would remain compatible with the predominant pattern of existing dwellings in 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, shape and steepness of the lot, ease of access, and the presence of natural features worthy of retention, such as trees, rock outcroppings, stream courses and landforms.**

The subject site is very steep and mostly located over and above Richardson Bay. The proposed addition would be a minor infill addition, which would not significantly alter the appearance of the dwelling, nor alter the functionality of the existing yard areas. The dwelling would therefore remain compatible with the physical characteristics of the site.

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, no letters have been received regarding the subject application, with the exception of the email received by the owner of 430 Greenwood Beach Road in support of the modifications to the windows for the addition.

**RECOMMENDATION**

Staff recommends that the Board:

1. Review the project with respect to Zoning Ordinance Section 16-52.020(H) (Guiding Principles) and Section 16-52.030(E) (Variances) and Section 16-52.020(I) (Floor Area Ratio Guidelines); 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 conditions of approval.

- Exhibits:
1. Conditions of Approval
  2. Application and Supplemental Materials
  3. Email dated January 19, 2012 from John Soden
  4. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

**Exhibit 1**

**CONDITIONS OF APPROVAL  
428 GREENWOOD BEACH ROAD  
FILE NO. 21202**

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 January 25, 2012, 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. All skylights shall be bronzed or tinted in a non-reflective manner (minimum 25%) and no lights shall be placed in the wells.
6. All exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
7. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney’s fees that might result from the third party challenge.
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 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.
10. A copy of the Planning Division’s “Notice of Action” including the attached “Conditions of Approval” for this project shall be copied onto a plan sheet at the beginning of the plan set(s) submitted for building permits.
11. The project shall comply with the Town’s Flood Damage Prevention Ordinance (13D), if the cost of the project equals or exceeds fifty percent of the market value of the structure, before the start of construction of this project.