



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR MATNEY VARIANCE

Item No:	C3	Application No:	VR 08-9
Applicant:	Don Gross	Owner:	James and Carol Matney
Property Address:	13 Teaberry Lane Tiburon	Assessor's Parcel:	058-091-10
Hearing Date:	July 31, 2008	Planner:	Scott Greeley

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	August 14, 2008
LAST DATE FOR ACTION:	July 31, 2008

PROJECT DESCRIPTION:

The applicant is requesting Variance approval to construct a 288 square-foot addition on two levels to an existing 2,424 square-foot single-family residence in Tiburon. The proposed floor area ratio of the residence would be 15.9 percent on the 17,022 square foot lot and the additions would attain a maximum height of 27 feet. A Variance is required because the proposed additions will maintain a minimum setback of 14 feet from the front property line, where 30 feet is required by the R-1:B-4 zoning district. The residence with the proposed addition would maintain the following approximate setbacks from the nearest corresponding property lines: (1) 14 feet from the westerly front property line; (2) 31 feet from the easterly rear property line; (3) 27 feet from the northerly side property line; and (4) 61 feet from the southerly side property line.

GENERAL INFORMATION:

Countywide Plan:	SF3 (Single-family, 1 to 5 acre minimum lot area, 1 unit/1-5 acres)
Zoning:	R-1:B-4 (Residential, Single-family, 1 acre minimum lot size)
Community Plan Area:	N/A
Lot size:	17,022 square feet
Adjacent Land Uses:	Residential
Vegetation:	Pine trees as well as non-native urban landscaping
Topography and Slope:	Moderate to steeply sloping
Environmental Hazards:	Steep slopes

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15301, Class 1 of the CEQA Guidelines because it entails an addition of 288 square feet on two levels of an existing residence and should not result in a potentially significant impact to the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property. No comments, adverse or otherwise have been received by staff in response to the public notice for the proposed project.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan, Titles 22 (Zoning) and 24 (Development Standards) of the Marin County Code, and the Single Family Residential Design Guidelines because it will not result in tree removal, significant grading, or other adverse impacts on the environment and surrounding property owners. Please refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

Due to site constraints, including lot slope, the first 20 feet of the property's westerly front and northerly side is encumbered by a 20 foot wide access easement, and substandard lot size, the property underwent variance proceedings in 1961, allowing the bulk of the residence to be situated within 15 feet of the front property line as well as portions of it to be within 5 feet of the front property line. Another variance finding was necessary in 2003 to allow a 160 square foot addition to encroach into the 30 foot front setback.

Due to increasingly steeper rear lot slope conditions for this parcel, an addition of similar size at the rear of the residence would require a substantially larger amount of grading, creating both a financial and environmental hardship for the property owner not shared by other property owners in the vicinity that have topographic conditions better suited for development within the permitted building envelop.

The proposed project would result in an additional 288 square feet built on two levels to encroach within 14 feet into what would otherwise be the 30 foot front yard setback, in the R-1:B-4 zone. The lot is a 17,022 square foot (0.39-acre) parcel, where the minimum lot size for the zoning district is 43,560 square feet (1.0-acre).

Based on these factors, the proposed project would not result in adverse impacts to the public welfare or surrounding properties, and the requisite Variance findings can be made.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Matney Variance.

- Attachments:**
1. *Proposed Resolution recommending approval of the Matney Variance*
 2. *CEQA Exemption*
 3. *Location Map*
 4. *Assessor's Parcel Map*
 5. *Project Plans*
 6. *Marin County Department of Public Works Memo, dated 1/18/08*
 7. *Marin Municipal Water District Memo, dated 1/18/08*
 8. *Tiburon Fire Protection District Memo, dated 1/14/08*
 9. *Letter from Don Gross, dated 7/10/2008*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 08-___

A RESOLUTION APPROVING THE MATNEY VARIANCE
13 TEABERRY LANE, TIBURON
ASSESSOR'S PARCEL 058-091-10

SECTION I: FINDINGS

- I. WHEREAS, Don Gross, on behalf of owners James and Carol Matney is seeking Variance approval to construct a 288 square-foot addition on two levels to an existing 2,424 square-foot single-family residence in Tiburon. The proposed floor area ratio of the residence would be 15.9 percent on the 17,022 square foot lot and the additions would attain a maximum height of 27 feet. A Variance is required because the proposed additions will maintain a minimum setback of 14 feet from the front property line, where 30 feet is required by the R-1:B-4 zoning district. The residence with the proposed addition would maintain the following approximate setbacks from the nearest corresponding property lines: (1) 14 feet from the westerly front property line; (2) 31 feet from the easterly rear property line; (3) 27 feet from the northerly side property line; and (4) 61 feet from the southerly side property line. **The subject property is located at 13 Teaberry Lane, Tiburon, and is further identified as Assessor's Parcel 058-091-10.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing July 31, 2008, to consider the merits of the project and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 of the CEQA Guidelines because it entails an addition of 288 square feet on two levels of an existing residence and should not result in a potentially significant impact to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project would be consistent with the SF3 (Single-family, 1 to 5 acre minimum lot area, 1 unit/1-5 acres) land use designation;
 - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies Noise Policies NO-1.1, NO-1.3, NO-2.1, NO-2.4);
 - C. The project has been designed to avoid hazards from earthquake, erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-2.1, EH-2.3, EH-3.1, EH-4.1, Community Design Policies DES-4.1, DES-5.1);

- D. The project will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (Environmental Quality Policies EQ-2.19, EQ-2.20, Environmental Hazards Policy EH-8.6);
 - E. The project will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Tiburon Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers. The Marin Municipal Water District has sufficient water to service the proposed project. (Environmental Quality Policy EQ-3.9);
 - F. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (Energy and Green Building Policies *EN-1.b*, *EN-1.c*);
 - G. No wetlands or stream conservation areas will be affected by the project (Biological Resources BIO-3.1, BIO-4.1);
 - H. The project will not result in impacts to special-status species (Biological Resources, BIO-1.1, BIO-2.1);
- V. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Variance per Section 22.54.050 of the Marin County Development Code can be made.

- A. **There are special circumstances applicable to the property (e.g. location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts;**

As noted in the "Project Analysis" section of the Staff Report, the lot is a 17,022 square foot parcel (0.39-acres), whereas the minimum lot size for the zoning district is 43,560 square feet (1.0-acres). Additionally, the property is subject to steep slopes and a 20 foot access easement runs through the westerly front and northerly side yards. Variances were granted in 1961 and 2003 on this site allowing encroachment into the front setback due to these constraints. The proposed addition would not encroach further into the front setback than was permitted in 1961. Therefore, the project is consistent with this finding.

- B. **That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel;**

The applicant is proposing a 288 square foot addition on the main and upper floors of the residence, as well as 114 square feet of new upper floor decking. The property is zoned R-1:B-4, which is a single family residential zoning district. Therefore, the project is consistent with this finding.

- C. **That granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located;**

As noted above in Section V, subsection B, the addition is residentially based and complies with the standard permitted uses allowed in the R-1:B-4 zoning district. In addition, based on site visits, staff has found that other homes in the community also have a similar frontage to the street. Therefore, the project is consistent with this finding.

- D. **That granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located;**

With exception to the front yard setback, the proposed addition would comply with all development standards applicable to the governing zoning district. The residence would be of comparable height, size, and scale with other residences in the community. The addition would also be subject to review and compliance with the most current Uniform Building Code. Therefore, the project would be consistent with this finding.

SECTION II: ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Matney Variance (VR 08-9) for construction of a 288 square-foot addition on two levels to an existing 2,424 square-foot single-family residence in Tiburon. The approved floor area ratio of the residence would be 15.9 percent on the 17,022 square foot lot and the additions are approved to attain a maximum height of 27 feet. The residence with the proposed addition would maintain the following approximate setbacks from the nearest corresponding property lines: (1) 14 feet from the westerly front property line; (2) 31 feet from the easterly rear property line; (3) 27 feet from the northerly side property line; and (4) 61 feet from the southerly side property line. The subject property is located at 13 Teaberry Lane, Tiburon, and is further identified as Assessor's Parcel 058-091-10.

SECTION III: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A.2," entitled, "MATNEY RESIDENCE 13 Teaberry Lane Tiburon CA 94920," consisting of five sheets prepared by Don Gross Design Associates, dated December 5, 2007 and received December 28, 2007, with revisions with no specified date received February 25, 2008 with revised Sheet 3 inserted on April 18, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call-out the approved building setbacks on the Building Permit plans indicating the minimum front yard, the distance of the building from the nearest property line at the closest point.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit either: 1) a Statement of Conformance, signed by a certified or licensed landscape design professional confirming that the landscape design requirements of Chapter 23.10 of the Marin County Code have been met; or 2) a letter from the Marin Municipal Water District indicating that the proposed landscaping complies with all conditions of the District's Water Conservation Ordinance.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a "Certified" or better rating under the Marin Green Home: Remodeling Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Certified" or better rating.
7. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: Remodeling Green Building Residential Design Guidelines.
8. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
9. All construction activities shall comply with the following standards:
 - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**.. No construction shall be permitted on Sundays and the following holidays (New

Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

- b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
10. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
11. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Matney Variance, for which action is brought within the applicable statute of limitations.
12. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Marin County Department of Public Works - Land Use and Water Resources Division

13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide an erosion and sediment control plan for the site. This plan shall include a 24-hour contact number.
14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a drainage plan. Drainage shall include an area and downspout drainage management plan. Direct discharge of collected water should be dissipated on the subject property.

Tiburon Fire Protection District

15. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Chief that in accordance with NFPA Standard 13-D, an automatic sprinkler system has been installed throughout the residence, as well as the proposed addition. The sprinkler system must be monitored by an alarm company using a UL listed monitoring station.

SECTION IV: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Variance approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before July 31, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on August 14, 2008.**

SECTION V: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 31st day of July 2008.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary