



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Renati Variance (VR 10-7)

Item No:	C2	Application No:	VR 10-7
Applicant:	Susan Renati	Owner:	Susan Renati
Property Address:	6 Roosevelt Ave., San Rafael	Assessor's Parcel:	179-174-12
Hearing Date:	December 17, 2009	Planner:	Veronica Corella-Pearson

RECOMMENDATION:

Approve with Conditions

APPEAL PERIOD:

January 2, 2009

LAST DATE FOR ACTION:

December 28, 2009

PROJECT DESCRIPTION:

The applicant and owner, Susan Renati, has requested Variance approval for modifications to the existing roof line to allow for a new dormer, and interior modifications and construction of a new stairway to access attic space, and would legalize the conversion of attic space to a bedroom. The existing residence contains 821.4 square feet of approved floor area on a 3,000 square foot lot. The proposed project would legalize 317 square feet of upper floor area. The new stairs and landing that would be 74.6 square feet in size would be constructed in what was formerly the garage and would now be a storage and utility room. The project would result in a new floor area of 1,462.7 square feet, and a floor area ratio of 48.8 percent. The residence would maintain the existing setbacks from property lines: 5 feet front (southwest); 5 feet, 6 inches side (northwest); 10 feet, 10 inches rear (northeast); and 20 feet side (southeast). The residence would also maintain its existing height of 23 feet, 6 inches. Variance approval is required for an encroachment of the stairs 2 feet into the 25 foot minimum front yard setback, and for an exceedance of 18.8 percent over the 30 percent maximum FAR allowed under the R-A:B-1 zoning district. The residence will also be finished in the following colors: stucco and siding in sage green; trim in off-white; windows in white; and roofing composite shingles in gray.

GENERAL INFORMATION:

Countywide Plan:	SF6 (Single-family, 4-7 units/acre)
Zoning:	R-A:B-1 (Residential Single-family, 6,000 sq. ft. minimum lot area)
Community Plan:	None
Lot size:	3,000 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	ornamental landscaping

Topography and Slope: level lot
Environmental Hazards: None

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(e), Class 1 of the CEQA Guidelines because it entails additions that would not change the existing footprint of an existing single-family residence and construction that would not result in potentially significant impacts to the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property. No comments have been received since the date of this staff report.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan. Please refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

Background

Staff conducted a permit history search on the subject property to determine the extent of nonconformity. The only building information found was in the Marin County Assessor's Records. Assessor's Records indicate that the residence was constructed in 1945, with improvements made in 1962 and 1967. No building permits have been found for the subject property. It appears that the residence was originally 825 square feet in size, and in 1962 the attic was converted to an upper bedroom, and stairs constructed in the existing garage. The total estimated square footage shown in Assessor's Records is approximately 1,017 square feet. Staff has determined that the existing lower level is legal, non-conforming and the upper level requires legalization.

Setting

The subject property is 3,000 square feet in size. It is surrounded by other single-family residences, and Santa Venetia School is located to the east. Staff conducted a search of all properties within 600 feet of the subject property and found that the average lot size is 40,520 square feet. A majority of the residences on Roosevelt Avenue are constructed within the 25 foot front yard setback. All lots within 600 feet are relatively level and a number of residences contain an upper story, and the neighborhood varies in architectural style.

Setback Encroachments

The existing lower level is legal nonconforming, and encroaches 20 feet into the required 25 foot front yard setback. Marin County Code Section 22.112.020 allows the continued use of nonconforming structures as long as no structural alterations are made, and work does not exceed 25 percent of the fair market value of the structures for the fiscal year. Additional work is to not increase the extent of the nonconformity. Structural alterations to a nonconforming structure that are clearly intended to eliminate or correct hazards to life and safety, and those required in compliance with the Uniform Housing Code, shall not be subject to the 25 percent limitation. Staff has made a preliminary determination that the project will not exceed the fair market value of the residence. A condition of approval has been added

that requires the owner to provide an assessment of the residence and an estimate of the construction cost. Staff also finds that the stairs that are encroaching into the 25 foot front yard setback are allowable and exempt from the 25 percent limitation, since they are necessary to safely access the upper level, and findings for Variance approval can be made, as discussed further below.

Floor Area

The subject residence was formerly constructed at approximately 821.4 square feet in size, and is shown on Assessor's Records as 825 square feet in size. The subject residence currently has a total existing floor area of 1,388.1 square feet, which includes 249.2 square feet of the former garage being used for storage and a utility room, resulting in an existing floor area ratio of 46 percent. The proposed stairs and landing would add an additional 74.6 square feet of floor area to the existing residence, and would result in a floor area ratio of 49 percent.

Parking

The Department of Public Works has reviewed the project and found that the property does not meet the minimum driveway requirements per Marin County Code 24.04.260(a) and Marin County Code 24.04.380(a). The Department of Public Works has verbally indicated that it is possible for the applicant to meet these requirements with minor modifications to their submitted plans. Therefore a condition of approval has been added regarding this issue.

Conclusions

Staff finds that variance findings can be made for the proposed project that includes additions to the upper story of an existing legal nonconforming residence built within the front yard setback because of physical constraints due to the size of the lot. The subject property is 3,000 square feet in size, and is 75% less than the average lot size of 40,520 square feet. The constructed additions would be located within the footprint of the existing residence, and would not add additional cubical contents. The existing residence was constructed in 1945, and Assessor's Records show that the lot has been in its existing size and configuration prior to 1956. The proposed project is necessary to improve access to the improved attic space and is required by the Uniform Building Code. Further, the project would not result in special privileges since it is the only parcel within 600 feet with such a lot configuration, and the original footprint of the structure and setbacks from the front property line is similar to other residences on Roosevelt Avenue. Lastly, with the conditions of approval, the project would be able to meet all code requirements for alterations of a nonconforming structure and for access and parking. Therefore, staff finds that the project site has unique physical circumstances that constrain the development, and the proposed project as conditioned would not result in a detriment to the public, and would be in keeping with the existing community character.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Renati Variance (VR 10-7)

- Attachments:
1. Proposed Resolution recommending approval of the Renati Variance (VR 10-7)
 2. CEQA Exemption
 3. Location Map
 4. 2009 Assessor's Parcel Map
 5. 1956 Assessor's Parcel Map
 6. Project Plans, 2 Sheets
 7. Exterior Colors
 8. Department of Public Works, Land Use Division, memo dated 10/22/09
 9. San Rafael Fire Prevention Bureau, memo dated 10/13/09
 10. Marin Municipal Water District Letter, letter dated 10/16/09

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE RENATI VARIANCE
6 ROOSEVELT AVENUE, SAN RAFAEL
ASSESSOR'S PARCEL 179-174-12

SECTION I: FINDINGS

- I. WHEREAS the applicant and owner, Susan Renati, has requested Variance approval for modifications to the existing roof line to allow for a new dormer, and interior modifications and construction of a new stairway to access attic space, and would legalize the conversion of attic space to a bedroom. The existing residence contains 821.4 square feet of approved floor area on a 3,000 square foot lot. The proposed project would legalize 317 square feet of upper floor area. The new stairs and landing that would be 74.6 square feet in size would be constructed in what was formerly the garage and would now be a storage and utility room. The project would result in a new floor area of 1,462.7 square feet, and a floor area ratio of 48.8 percent. The residence would maintain the existing setbacks from property lines: 5 feet front (southwest); 5 feet, 6 inches side (northwest); 10 feet, 10 inches rear (northeast); and 20 feet side (southeast). The residence would also maintain its existing height of 23 feet, 6 inches. Variance approval is required for an encroachment of the stairs 2 feet into the 25 foot minimum front yard setback, and for an exceedance of 18.8 percent of the 30 percent maximum FAR allowed under the R-A:B-1 zoning district. The residence will also be finished in the following colors: stucco and siding in sage green; trim in off-white; windows in white; and roofing composite shingles in gray. The subject property is located at 6 Roosevelt Avenue, San Rafael, and is further identified as Assessor's Parcel 179-174-12.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing December 17, 2009 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(e), Class 1 because it entails an addition to an existing single-family residence that would be within the existing footprint and would result in no site disturbance that would negatively impact the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:
 - A. The project is consistent with *CWP* natural systems policies and proposes work that would enhance, protect, and manage native habitats and would protect woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
 - B. The project requires no work that proposes requires the removal of native vegetation and would increase native vegetation, and therefore complies with *CWP* natural

systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).

- C. The project would not result in impacts to special-status species since no new development would occur and no habitats supporting listed species would be removed (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - D. The project would not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site, or impact corridors for wildlife movement since no native vegetation removal or new development is proposed (*CWP Policies BIO-2.3 and BIO-2.4*).
 - E. No wetlands or stream conservation areas would be affected by the project since the project proposes no new development or work within these areas (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - F. The project would not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff since no grading or excavation is proposed (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - G. The project avoids hazardous geological areas and would be designed to County earthquake standards through review of the Building Permit application review (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
 - H. The project design and improvements would ensure adequate fire protection (*CWP Policy EH-4.1*), water for fire suppression (*CWP Policy EH-4.c*), defensible space, and would be reviewed during the building permit process to be in compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - I. The project is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (*CWP Policy DES-1.2*).
 - J. The project as conditioned will minimize exterior lighting to reduce light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
 - K. The project would preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).
- V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Variance with modifications (Section 22.54.050 of the Marin County Code).
- A. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other**

properties in the vicinity under an identical zoning district.

The subject property contains 3,000 square feet of area, where the governing R-A:B-1 zoning district requires a minimum lot area of 6,000 square feet. The substandard lot size of 50% of the minimum required imposes a unique physical constraint to the development of the property.

B. The granting of a Variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.

The proposed additions are not detrimental with respect to light, air, privacy, and views to surrounding properties. The proposed addition would be located entirely within the footprint of the existing residence, with a minor change to the roofline that is in keeping with the community character and does not increase the mass and bulk of the residence. No new encroachments into the setbacks are proposed and therefore no impacts to light, air, privacy, or views would result. The conditions of approval would require that the applicant revise their plans to meet the minimum driveway requirement so that onsite parking is provided for the owners, and there would be no impacts to rights-of-way.

C. The granting of a Variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.

Staff finds that variance approval would not constitute a grant of special privileges since the subject property has special physical circumstances in that it is 3,000 square feet in size, and is 75% less than the average lot size of 40,520 square feet, and half of the minimum required lot size of 6,000 square feet. Further, the constructed additions would be located within the footprint of the existing residence, and would not add additional cubical contents. The existing residence was constructed in 1945, and Assessor's Records show that the lot has been in its existing size and configuration prior to 1956. The proposed project is necessary to improve access to the improved attic space and is required by the Uniform Building Code. Further, the property is the only parcel within 600 feet with such a lot configuration. Also, the floor area would not exceed 1,800 square feet, which is the maximum square footage of a residence that meets the 30% floor area ratio for a standard sized lot of 6,000 square feet.

D. The granting of a Variance for the property does not authorize a use or activity that is not otherwise expressly authorized by the particular zoning district regulations governing such property.

The granting of this Variance would not allow or authorize a use or activity that is not otherwise expressly authorized by the governing R-1:B-3 zoning district regulations because it involves additions to a single-family residence, which is a permitted use.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Renati Variance (VR 10-7) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Section 22.54 (Variances), the Renati Variance is approved for modifications to the existing roof line to allow for a new dormer, and interior modifications and construction of a new stairway to access attic space, and would legalize the conversion of attic space to living space. The project will legalize 317 square feet of upper floor area. The new stairs and landing is also approve and will be 74.6 square feet in size and will be constructed in what was formerly the garage, which will now be a storage and utility room. The project will result in a new floor area of 1,462.7 square feet, and a floor area ratio of 48.8 percent. The residence will maintain the existing setbacks from property lines: 5 feet front (southwest); 5 feet, 6 inches side (northwest); 10 feet, 10 inches rear (northeast); and 20 feet side (southeast). The residence will also maintain its existing height of 23 feet, 6 inches. Variance approval is approved for an encroachment of the stairs 1.5 feet into the 25 foot minimum front yard setback, and for an exceedance of 18.8 percent over the 30 percent maximum FAR allowed under the R-A:B-1 zoning district. The subject property is located at 6 Roosevelt Avenue, San Rafael, and is further identified as Assessor's Parcel 179-174-12.
2. Plans submitted for a Building Permit shall substantially conform to the following plans on file with the Marin County Community Development Agency and identified as "Exhibit A," entitled, "Renati Residence and Remodel" consisting of 2 sheets prepared by Marcy Jones, dated October 29, 2009 and received November 2, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. All flashing, metal work, and trim shall be painted or coated with an appropriately subdued, nonreflective color.
4. Any exterior lighting shall be directed downward, located and/or shielded so as not to cast glare on nearby properties, and the minimum necessary for safety purposes.
5. 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.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide the Community Development Agency – Planning Division with an assessment of the current fair market price of the existing residence, and an estimate of the construction cost of the project. The construction cost, excluding the stairs and landing, shall not exceed 25% of the assessed value of the residence.
7. All construction activities shall comply with the following standards:
 - a. Except for such non-noise generating activities, including but not limited to, painting, sanding, and sweeping, 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 or the following holidays (New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving, Christmas). If the

holiday falls on a weekend, the prohibition on noise-generating construction activities shall apply to the ensuing weekday during which the holiday is observed. 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.
8. 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 Renati Variance 10-7, for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
9. 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.
10. 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 Gold" or better rating under the Marin Green Building Residential Certification.
11. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the conversion of the attic to living space. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
12. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
13. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

Department of Public Works

BEFORE ISSUANCE OF A BUILDING PERMIT:

14. The applicant shall revise plan to provide a minimum of two compliant on-site parking spaces. The parking spaces shown are not accessed by a driveway of compliant width. Marin County Code (MCC) 24.04.260(a) requires a minimum driveway width of 12 feet; site plan only provides roughly 8 feet. Additionally, there is inadequate back out space for the right most parking stall.
15. Erosion control measures shall be installed prior to site disturbing activities, and shall be maintained or modified to remain effective for the duration of the work.
16. An Encroachment Permit will be required for any work within the County's road right of way.
17. A drainage plan will need to be prepared and reviewed by this office. The applicant shall explore options to discharge storm water on site.

Marin Municipal Water District

18. All landscape and irrigation plans must be designed in accordance with District landscape Ordinance #385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems.
19. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing, and maintenance.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by obtaining a Building Permit for the approved work and approval of a final inspection by the Building and Safety Division within the time limits specified in the conditions of approval. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, in consultation with the Code Enforcement Section, for good cause, such as delays beyond the applicant's control. In no event may such extensions be granted beyond two years from the effective date of this approval. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 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 January 6, 2009.**

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of December, 2009.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary