



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
 Bank Variance

Item No:	C-1	Application No:	VR 10-9
Applicant:	Jo Ann Bank	Owner:	Jo Ann Bank
Property Address:	610 Edgewood Ave, Mill Valley	Assessor's Parcel:	046-320-08
Hearing Date:	June 17, 2010	Planner:	Kristina Tierney

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	July 1, 2010
LAST DATE FOR ACTION:	July 12, 2010

PROJECT DESCRIPTION:

The applicant Jo Ann Bank is requesting Variance approval to construct a new walkway connecting the street to her residence and to modify to the existing flat roof to incorporate two gables with a maximum height of 30 feet above grade to prevent leaking. In order to construct the walkway, one redwood tree, measuring 5 inches in diameter would be removed. Variance approval is required because the project is within the front yard setback and the road right-of-way of Edgewood Avenue. The property is addressed as 610 Edgewood Avenue, Mill Valley, and is further identified as Assessor's Parcel Number 046-320-08.

GENERAL INFORMATION:

Countywide Plan:	SF5 (Single-family residential, 10,000 to 20,000-square foot minimum lot area)
Zoning:	R1:B2 (Single-family residential, 10,000-square foot minimum lot area)
Lot size:	6,746 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	Redwoods
Topography and Slope:	Steeply sloped
Environmental Hazards:	None identified

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 the project would entail a minor additions and alterations to an existing single family residence and would not result in any 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. One letter of support was received from the neighbor across the way, directly affected by the proposed changes.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan, Tamalpais Area Community Plan, and the Marin County Development Code. It is consistent principally permitted uses in the R-1:B-2 (Single-family residential, 10,000-square foot minimum lot area) zoning district. The granting of a Variance would ensure that the project meets the development standards relative to height and setbacks. Please refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

Setting

The subject property is a steeply sloped lot at the terminus of Edgewood Avenue. The property extends downhill from Edgewood with an average slope of approximately 30 percent. According to data extracted from the County's Geographic Information Systems database, the slope of the parcel ranges from 26% on the rear (northern) portion of the property to 40.5% on the front (southern) portion along Edgewood Avenue. Most homes in the neighborhood are located on steep lots, with 3 homes on the block situated within the required 25-foot front yard setback. A Variance for encroachment into the front yard setback was approved for the subject property on November 5, 1962, allowing the residence to be located within 4 feet of the front property line with the front deck and driveway apron extending to the property line. Variances for encroachment into the front setback were also approved for 600 Edgewood (APN 046-320-27) in July of 1967, 555 Edgewood (APN 046-320-04) in June of 1960 and 530 Edgewood (APN 046-320-02) in February of 1966 and October of 1968. The neighborhood is characterized by single-family residences with varied sizes and architectural styles. While some homes along Edgewood Avenue have flat-roofs, most have pitched roofs.

Encroachments into Setbacks

The front of the existing residence extends into the right-of-way approximately 3 feet and therefore any improvements to this portion of the residence would require a Variance and encroachment permit. Variance review is limited to construction within the front yard setback. The following project elements require Variance approval:

1. *Increased roof height within front yard setback*

The project site is located on a steeply sloping hillside in Mill Valley with frontage along Edgewood Avenue. As discussed above, a Variance for encroachment into the front yard

setback was approved for the subject property on November 5, 1962 allowing the residence to be located within 4 feet of the front property line. The 1,195 square foot single-family residence and garage were originally constructed in 1984 with the existing encroachment into the front yard setback and road right-of-way. The top floor of the existing residence is at street level with a maximum height of 38 feet. The proposed project would replace the existing flat tar and gravel roof with an updated gabled composition shingle roof. The portion of the new roof within the front yard setback would attain a maximum height of 30 feet and only raise the roofline by approximately 3.5 feet. This modest increase in roof height will improve the appearance of the residence and the functionality of the roof. The residence is located downhill from all homes across the street from the subject property and therefore there would be no visual impacts from the increased roof height within the setback to the uphill neighbors. A letter of support was received from the uphill neighbor, expressing his approval of the roof modifications. The project is only minimally visible to neighbors on either side of the residence as they are located on or around road bends and due to the minor nature of the project.

The front entry would be modified within the front setback in a manner that would be compatible with the neighborhood. There would be no increase in living area within the front setback. Further, front yard setback Variances are not unusual in the neighborhood due to the steep slope, therefore the front yard Variance would not be a special privilege.

2. *Construction of a walkway within the southerly front yard setback*

As discussed above, the subject property is characterized by a steep (approximately 30 percent) slope that descends sharply from Edgewood Avenue, making pedestrian access to the residence via ground level infeasible. At the residence, grade is approximately 12 feet below the front door. The new walkway would enhance access to the residence from Edgewood Avenue, which is currently limited to the existing narrow driveway. The walkway would extend approximately 17 feet from the shoulder of Edgewood to the residence and would require the removal of one 5 inch redwood tree. Through design changes made during the planning process, tree removal has been reduced from 3 redwoods measuring 4, 6, and 10 inches in diameter to one 5 inch redwood.

The granting of a Variance to allow the applicant to construct a modest walkway not constitute a granting of special privilege that is inconsistent with the limitations placed upon other properties in the vicinity due to the property's extremely steep slope and the location of the existing residence within the road right-of-way.

Conclusion

Staff finds the proposal to increase the roof height by 3.5 feet within the front yard setback and construct a new walkway to the front door within the front yard setback and the road right-of-way would comply with the Countywide Plan policy for minimizing grading, vegetation removal, and visual mass and bulk. Variance findings can be made to allow these modifications because of physical constraints including the very steep slope and location of other houses in the neighborhood within the front yard setback (*See Variance Findings*). The project would not result in any substantial adverse impact or detriment to surrounding properties. Additionally, the special districts in the area and the Department of Public Works have reviewed the application and have indicated that it is acceptable as presented.

The granting of a Variance to allow the applicant to construct a modest walkway and amend the existing roof does not constitute a granting of special privileges that is inconsistent with the limitations placed upon other properties in the vicinity due to the property's extremely steep slope.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Bank Variance (VR 10-9).

- Attachments:
1. Proposed Resolution recommending approval of the Bank Variance
 2. CEQA exemption
 3. Assessor's Parcel Map
 4. Department of Public Works Memo, 2/24/10
 5. Tamalpais Design Review Board Memo, 12/2/2009
 6. Email from Scott Warren, 6/4/2010
 7. Reduced Plan Sets, marked "Exhibit A"

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION

A RESOLUTION APPROVING THE BANK VARIANCE
610 EDGEWOOD AVENUE, MILL VALLEY
ASSESSOR'S PARCEL 046-320-08

SECTION I: FINDINGS

- I. WHEREAS Jo Ann Bank submitted a Variance application to allow for the addition of two gables to the existing flat roof and the construction of a new walkway within the front yard setback and Edgewood Avenue road right-of-way. The gables would have a maximum height above existing grade of 30 feet and the walkway would extend approximately 17 feet from the road shoulder to the residence. Variance approval is required because the improvements would be located within the front yard setback and the road right-of-way where a 25 foot front setback is normally required by the R1:B2 zoning district. The property is addressed as 610 Edgewood Avenue in Mill Valley and can be further identified as Assessor's Parcel number 046-329-081.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on June 17, 2010, 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 because it consists of minor additions to an existing single family residence would not result in any potentially significant impacts 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 comply with the SF-5 land use designation (single family residential) and R1:B2 zone district regulations with approval of the proposed Variance to setbacks.
 - B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
 - C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works.
 - D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
 - E. The project would minimize soil disturbance and maximize retention of natural vegetation.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Tamalpais Area Community Plan because:

- A. The proposed project would retain the residential character that is representative of the Tamalpais community.
 - B. The proposed project would include minimal removal of vegetation and trees.
 - C. The project would not require any grading.
- VI. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Variance (Section 22.54.050 of Marin County Code and Section 65906 of the California Government Code), as specified below:

A. There are special circumstances applicable to the property (e.g. locations, 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.

The steep slope of the lot constitutes special circumstances so that strict application of the front yard setback requirements would deny the property owner privileges enjoyed by other property owners in the vicinity. The topography descends steeply from Edgewood Avenue to such a degree that the front of the residence, which is located within the Edgewood Avenue road right-of way, is approximately 12 feet above grade. As a result of the steep slope, pedestrian access to the residence is very limited and the new walkway would improve access. The Variance for the revised roof pitch would allow the applicant to raise the existing flat roof to minimize leaks in the future. As the residence is located substantially downhill from any neighbors across Edgewood, the additional height from the gables would not cause any visual impacts. Further, the majority of residences in the area have gable roofs and adequate pedestrian access to Edgewood. Additionally, a substantial number of residences enjoy reduced front yard setbacks due to the steep topography. Therefore granting the Variance would allow the property owners to enjoy the existing privileges of the neighbors.

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 granting of the Variance would allow the property owner to improve their flat roof and improve pedestrian access to the property. The project would support the continued use of the property as a single-family residence, a use that is authorized by the governing R1:B2 zoning district.

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.

The proposed alteration to the roof and construction of the walkway would allow the owner to improve the functionality of her roof and improve pedestrian access to her property, both of which are consistent with development patterns in the area. The steep downward slope of the property from the street makes it extremely difficult to make any improvements to the existing residence without a Variance. Were another parcel to face similar topographic and locational limitations, it would receive similar considerations. Therefore, the proposed Variance does not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

D. That granting the Variance will not be detrimental to the public interest, health, safety, conveniences, 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.

The surrounding neighborhood is developed with a mix of single-family homes of various sizes and styles. The proposed modifications would be compatible with the character of this area, and would improve the appearance of the residence by reducing the mass and bulk of the roof. Therefore, the granting of the Variance will not be detrimental to the public interest, health, safety, conveniences, or welfare.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Bank Variance subject to the following conditions:

Community Development Agency – Planning Division

STANDARD CONDITIONS

1. Pursuant to Marin County Code Sections 22.54.050 (Variance) the Bank Variance is approved for the following: 1) construction of a new walkway extending 17 feet from the shoulder of Edgewood Avenue to the residence; 2) construction of two gables to the existing roof with a maximum height of 30 feet above grade to prevent leaking; and 3) the removal of one 5 inch redwood tree. Variance approval is required because the project is within the front yard setback and the road right-of-way of Edgewood Avenue.

The subject property is located at 610 Edgewood Avenue, Mill Valley, and is further identified as Assessor's Parcel 046-320-08.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," and received February 9, 2010, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. 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 VR 10-9 conditions of approval as notes.
4. 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.
5. 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.

6. 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.
 - c. 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.
7. 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 this application, for which action is brought within the applicable statute of limitations.
8. 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.

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 substantially completing all approved work by June 17, 2012 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 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 Marin County Planning Commission. A Petition for Appeal and a \$600 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 July 1, 2010**.

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 June, 2010.

JEREMY TEJIRIAN
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary