

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 11-131
A RESOLUTION APPROVING THE ROXON VARIANCE
14 CEDAR AVENUE, KENTFIELD
ASSESSOR'S PARCEL 074-013-14

SECTION I: FINDINGS

- I. WHEREAS, Dana Roxon, is seeking Variance approval to construct a 120 square foot, main floor addition, to an existing, two level, 1,509 square foot residence on a 4,845 square foot lot. The addition would involve the partial conversion and enclosing of an existing deck space on the main level. The resulting 1,629 square foot residence would result in the floor area ratio increasing from 31.1% to 33.4%. The addition would reach a maximum height of approximately 16 feet 5 inches and have the following minimum setbacks: 1) 61 feet from the southwesterly front property line; 2) 36 feet from the northeasterly rear property line; 3) 6 feet 2 inches from the easterly side property line; and 4) 37 feet from the westerly side property line. **The subject property is located at 14 Cedar Avenue in Kentfield, and is further identified as Assessor's Parcel 074-013-14.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing October 13, 2011, 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 to an existing residence and would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the following Marin Countywide Plan policies:
 - A. The project is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*) because the project would not entail the removal of a substantial number of mature, native trees and the project site was previously developed.
 - B. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because the project would not entail the removal of a substantial number of healthy, mature, native trees.
 - C. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the subject property is located far enough from the shoreline to avoid being constrained by ecotones.
 - D. No wetlands or stream conservation areas would be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*) because there are no wetlands or streams on or adjacent to the subject property.

- E. The project would not result in significant storm water runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*) because the proposed drainage system complies with the standards and best management practices required by the Department of Public Works.
 - F. The project would be constructed in conformance County earthquake standards, as verified during review of the Building Permit application (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*) and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
 - G. The project design and conditions of approval ensure adequate fire protection (*CWP Policy EH-4.1*), removal of hazardous vegetation (*CWP Policy EH-4.2*), water for fire suppression (*CWP Policy EH-4.c*), defensible space and 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.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - H. The project would meet energy efficient standards for exterior lighting, and would not result in excessive lighting and glare (*CWP Policy DES-1.h*) because exterior up-lighting is not proposed, and standard conditions of project approval require that lighting be downward directed.
 - I. 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*) because the proposed development, modified by the Conditions of Approval, would be consistent with the Marin County Single-family Residential Design Guidelines, as discussed below in Design Review findings E.
 - J. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (*CWP Policy EN-1.c*) because the Energy Efficiency Ordinance requirements would be implemented during the Building Permit review process to ensure that the project minimizes energy use.
 - K. The project would comply with Kentfield-Greenbrae Community Plan policies established for residences regarding maintaining adequate setbacks, heights of no greater than 30 feet, consistency with community character, and floor area ratios not to exceed 35%.
- 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 Zoning Code can be made for the for Floor Area Ratio, based on the following findings:
- 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.**

Further development of the subject property is constrained by the size of the lot and the R-1:B-1 zoning district's maximum permitted floor area ratio of 30%. The size of the lot, at 4,875 square feet, is approximately 81% of the minimum lot size of 6,000 square feet required by the zoning district. The lot is smaller in relation to every other lot within the surrounding community, which range in size from approximately 6,350 square feet to 21,000

square feet. Based on the Roxon's lot size, the maximum floor area permitted without a Variance for the Roxon's property would be 1,463 square feet. If the Roxon's lot were the minimum lot size required by the zoning district, the maximum floor area allowed without a Variance would be 1,800 square feet. The proposed 120 square foot addition would increase the total floor area of the Roxon's residence to 1,629 square feet. Further, as noted in Finding IV(K), the Kentfield-Greenbrae Community Plan allows for consideration of residences with a floor area ratio of 35%. As such, strict application of the R-1:B-1 zoning district's floor area ratio of 30% would limit development of the Roxon's property which would otherwise be available to residences within the same zoning district in the surrounding neighborhood. 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 Variance is limited to the main level addition to the existing single-family residence and is intended for residential use. The property is zoned R-1:B-1, which is a single family residential zoning district, allowing residential use. Therefore, the granting of the Variance does not allow a use or activity which is not authorized by the zoning district and the proposed 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 Variance Finding A, the Kentfield-Greenbrae Community Plan allows for consideration of residences with a floor area ratio of up to 35%, or 1,706 square feet based on the Roxon's lot size. In addition, if the Roxon's property met the minimum lot size standard for the R-1:B-1 zoning district, the Roxon's would be allowed a floor area up to 1,800 square feet with a floor area ratio of 30% and 2,100 square feet with a floor area ratio of 35%. The addition being requested would bring the existing residence up to a size of 1,629 square feet and a total floor area ratio of 33.4%, which is below both the 30% floor area ratio for a lot meeting the minimum lot size requirements for the zoning district as well as less than 35% of the floor area ratio permitted by the community plan.

- 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 the exception of exceeding the permitted floor area ratio based on the lot size for the zoning district, the project 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 project would also be subject to review and compliance with the most current Uniform Building Code during the building permit review process. Therefore, the project would be consistent with this finding.

SECTION II: ACTION

WHEREAS the Marin County Deputy Zoning Administrator hereby approves the Roxon Variance subject to the conditions of approval listed below. This approval authorizes the construction of a 120 square foot, main floor addition, to an existing, two level, 1,509 square foot residence on a 4,845 square foot lot. The addition shall involve the partial conversion and enclosing of an existing deck space on the main level. The resulting 1,629 square foot residence shall result in the floor area ratio increasing from 31.1% to 33.4%. The addition shall reach a maximum height of approximately 16 feet 5 inches and have the following minimum setbacks: 1) 61 feet from the southwesterly front property line; 2) 36 feet from the northeasterly rear property line; 3) 6 feet 2 inches from the easterly side property line; and 4) 37 feet from the westerly side property line. The subject property is located at 14 Cedar Avenue in Kentfield, and is further identified as Assessor's Parcel 074-013-14.

SECTION III: CONDITIONS OF APPROVAL

CONDITIONS OF APPROVAL

Community Development Agency – Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Office Addition," consisting of six sheets prepared by Dana and Laura Roxon, received July 29, 2011, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. Approved exterior building materials and colors shall substantially conform to the color/materials photos identified as "Exhibit B," and on file with the Marin County Community Development Agency including:
 - a. Brown cedar shingles to match the existing residence
 - b. Red/gray composite shingle roof to match the existing roof

All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.

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 Variance conditions of approval as notes.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall make the following modifications:
 - a. The east window of the addition shall have a sill height that is a minimum height of five (5) feet above the finish floor elevation.
5. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
6. 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.

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

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

10. Cedar Avenue is a County Maintained Road. An encroachment permit will be required for any work within the County's right of way. Note that Cedar Avenue was resurfaced in the Spring of 2008, and that there is a 5 year moratorium on road opening excavations after the County resurfaces a road. As such, no work within the paved surface of the road will be allowed, though work may be permitted in the area behind the rolled curb to the property line.

11. If construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.
12. Any construction contractor performing work in the county shall implement appropriate best management practices (BMPs) to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain system. In addition, all construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.
13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall label all existing and proposed drainage improvements. The project shall maintain existing drainage patterns.

Kentfield Fire Protection District

14. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Kentfield Fire Protection District have been met.

Marin Municipal Water District

15. Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Sanitary District

16. If not already installed, side sewer shall be equipped with an appropriate backwater prevention device (e.g. Contra Consta valve).
17. After the project is approved, the applicant shall contact the sanitary district to arrange for a District inspector to approved the installation (or approve the plans for the proposed installation) of the backwater prevention device and any work done on the side sewer lateral.

SECTION IV: VESTING, PERMIT DURATION, 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 October 13, 2013, or all rights granted in this approval shall lapse.

The Building Permit approval expires if the building or work authorized in this approval does not commence within one year from issuance of such permits. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of the permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the approval, and no extensions have been granted, the Building Permit may become null and void. Should you have difficulties in meeting deadlines for completing the work pursuant for a Building Permit, the applicant may apply for an extension at least ten days before the expiration.

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 October 27, 2011.


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 13th day of October 2011.



BEN BERTO
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:



Joyce Evans
DZA Secretary

